

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
OF WISCONSIN**

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| STATE OF WISCONSIN, | : | |
| | : | |
| Plaintiff, | : | Case No.: 05 C 408 C |
| | : | |
| - against - | : | |
| | : | |
| AMGEN INC., <i>et al.</i> , | : | |
| | : | |
| Defendants. | : | |
| | : | |
| ----- | X | |

**ASTRAZENECA PHARMACEUTICALS LP'S AND
ASTRAZENECA LP'S RESPONSES TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant AstraZeneca Pharmaceuticals LP and AstraZeneca LP (“AstraZeneca”), by its attorneys, hereby assert the following responses and objections to the First Set of Interrogatories of Plaintiff, the State of Wisconsin, by its Attorney General, Peggy Lautenschlager (the “State”), as follows:

GENERAL OBJECTIONS

1. These responses are made without in any way waiving or intending to waive: (i) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information or documents produced in response to these Interrogatories; (ii) the right to object on any ground to the use of the documents or information produced in response to the Interrogatories at any hearings or at trial; (iii) the right to object on any ground at any time to a demand for further responses to the Interrogatories; or (iv) the right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.

2. AstraZeneca has not completed its investigation and discovery relating to this case. The specific responses set forth below and any production made pursuant to the accompanying document requests are based upon, and necessarily limited by, information now available to AstraZeneca.

3. The information and documents supplied herein are for use in this litigation and for no other purpose and are supplied subject to that limitation.

4. AstraZeneca objects to these Interrogatories to the extent that they seek documents and information that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, or are overly broad, unduly burdensome, ambiguous, or vague.

5. AstraZeneca objects to these Interrogatories to the extent that they call for the production of documents or information protected from disclosure under the attorney-client privilege, the work product doctrine, or any other legally recognized privilege, immunity, or exemption from discovery. To the extent that any such protected documents or information are inadvertently produced in response to these Interrogatories, the production of such documents or information shall not constitute a waiver of AstraZeneca's right to assert the applicability of any privilege or immunity to the documents or information, and AstraZeneca demands that any such documents or information be returned to AstraZeneca's counsel immediately upon discovery thereof.

6. AstraZeneca objects to these Interrogatories to the extent they call for the production of trade secret, proprietary, commercially sensitive, or other confidential information.

AstraZeneca will not produce any responsive information, including confidential business, trade secret or proprietary information, until an appropriate Protective Order or Confidentiality Agreement has been entered in this case. However, AstraZeneca is willing to produce the documents and data referenced below if the State agrees to be bound by either: (a) the Temporary Qualified Protective Order entered in the State court action, *State of Wisconsin v. Amgen Inc. et al.*, No 04 CV 1709, (*Wis. Cir. Ct., Dane County*), on or about May 11, 2005, or (b) the Protective Order entered in the Multidistrict Litigation, *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, No. 01 CV 12257 (PBS) (D. Mass.), on or about December 13, 2002.

7. AstraZeneca objects to these Interrogatories to the extent that they seek documents and information not within AstraZeneca's possession, custody, or control.

8. AstraZeneca objects to these Interrogatories to the extent that they seek to impose discovery obligations that are broader than, or inconsistent with, AstraZeneca's obligations under the Federal Rules of Civil Procedure, Wisconsin statutes, or other applicable law.

9. AstraZeneca objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the Interrogatories. AstraZeneca's response that it will produce documents in connection with a particular request, or that it has no responsive documents, is not intended to indicate that AstraZeneca agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Interrogatories or that such implications or characterizations are relevant to this action.

10. AstraZeneca objects to the definition of "Average Manufacturer Price" and "AMP" as set forth in Definition No. 1 on the grounds that it is vague and ambiguous.

AstraZeneca incorporates by reference its objection (set forth below) to the definition of the term “Pharmaceutical.” AstraZeneca further objects to this definition to the extent that it purports to state an accurate or legally significant definition of AMP.

11. AstraZeneca objects to the definition of “Chargeback” as set forth in Definition No. 2 on the grounds that it is vague and ambiguous. AstraZeneca incorporates by reference its objection to the definition of the term “Pharmaceutical.”

12. AstraZeneca objects to the definition of “Defined Period of Time” as set forth in Definition No. 3 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous, and incorporates by reference its objection to the definition of the term “Document.” AstraZeneca objects to this definition to the extent that it seeks information from outside the statute of limitations applicable to the claims in this litigation, or beyond the time period relevant to this litigation.

13. AstraZeneca objects to the definition of “Document” as set forth in Definition No. 4 on the grounds that it is vague and ambiguous. AstraZeneca also objects to this definition to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, AstraZeneca’s obligations under the Federal Rules of Civil Procedure, Wisconsin statutes, or other applicable law. AstraZeneca further objects to this definition to the extent that it requires or seeks to require AstraZeneca: (i) to produce documents or data in a particular form or format; (ii) to convert documents or data into a particular or different file format; (iii) to produce data, fields, records, or reports about produced documents or data; (iv) to produce documents or data on any particular media; (v) to search for and/or produce any documents or

data on back-up tapes; (vi) to produce any proprietary software, data, programs, or databases; or (vii) to violate any licensing agreement or copyright laws.

14. AstraZeneca objects to the definition of “Incentive” as set forth in Definition No. 5 on the grounds that it is overly broad, unduly burdensome, ambiguous, and vague.

AstraZeneca incorporates by reference its objection to the definition of the term “Chargeback.” AstraZeneca further objects to this definition to the extent that it seeks information from beyond the time period relevant to this litigation.

15. AstraZeneca objects to the definition of “National Sales Data” in Definition No. 6 on the grounds that it is overly broad and unduly burdensome. AstraZeneca incorporates by reference its objection to the definition of the terms “Targeted Drugs” and “Incentives.”

AstraZeneca objects to this definition to the extent that it refers to information not relevant to the State’s claims, which are limited to Wisconsin. AstraZeneca further objects to this definition to the extent that it seeks information from beyond the time period relevant in this litigation, or information about drugs not named in the Amended Complaint on the grounds that such information is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

16. AstraZeneca objects to the definition of “Pharmaceutical” in Definition No. 7 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. AstraZeneca objects to this Definition to the extent that it refers to information not relevant to the State’s claims, which are limited to Wisconsin. AstraZeneca further objects to this definition to the extent that it seeks information from beyond the time period relevant in this litigation, or information about drugs not named in the Amended Complaint on the grounds that such

information is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

17. AstraZeneca objects to the definition of “Spread” as set forth in Definition No. 8 on the grounds that it is overly broad, vague, and ambiguous. AstraZeneca incorporates by reference its objection to the definition of the term “Pharmaceutical.”

18. AstraZeneca objects to the definition of “Targeted Drugs” in the Interrogatories and in the State’s letter from Robert Libman dated May 20, 2005 on the grounds that it is overly broad and unduly burdensome. AstraZeneca also objects to the definition in the Interrogatories on the grounds that it is vague and ambiguous, particularly with respect to the language “you” and “total utilization.” AstraZeneca incorporates by reference its objection to the definition of the term “Defined Period of Time.” AstraZeneca further objects to this definition to the extent that it refers to information not relevant to the State’s claims, which are limited to Wisconsin. AstraZeneca also objects to this definition to the extent that it seeks information from beyond the time period relevant in this litigation, or information about drugs not named in the Amended Complaint on the grounds that such information is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

SPECIFIC RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1: Have you ever determined an average sales price or other composite price net of any or all Incentives for a Targeted Drug during the Defined Period of Time? If so, for each Targeted Drug for which you have made such a determination, identify:

- (a) **the beginning and ending dates of each period applicable to each such determination;**

- (b) **the applicable class(es) of trade for which each determination was made;**
- (c) **each average sales price or composite price determined;**
- (d) **the person(s) most knowledgeable regarding the determinations;**
- (e) **the methodology used to determine such prices;**
- (f) **your purpose(s) in making such determinations;**
- (g) **whether you disclosed any average sales price or composite price so determined to any publisher, customer, or governmental entity. If so, identify each publisher, customer or governmental entity to whom each such price was disclosed and the corresponding date of the disclosure; and**
- (h) **whether any such average sales price or composite price was treated as confidential or commercially sensitive financial information.**

RESPONSE TO INTERROGATORY NO. 1: In addition to the General Objections set forth above, AstraZeneca objects to Interrogatory No. 1 on the grounds that it is not relevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. AstraZeneca further objects to this Interrogatory on the grounds that it is vague and ambiguous with respect to the language “average sales price or other composite price net of any or all Incentives.” Subject to and without waiving the foregoing objections or the General Objections, prior to 2003 AstraZeneca did not calculate an average sales price for Zoladex, the drug mentioned in the Amended Complaint. Since 2003, AstraZeneca has reported an “Average Sale Price” (as that term is defined in the Corporate Integrity Agreement (CIA) between the Office of the Inspector General of the Department of Health and Human Services and AstraZeneca dated June 2003) on a quarterly basis to the Wisconsin Medicaid Program pursuant to the terms of the CIA. In addition, since the new Part B regulations have become

effective pursuant to the Medicare Modernization Act, AstraZeneca also reports an ASP for Zoladex pursuant to this Act.

INTERROGATORY NO. 2: Identify each electronic database, data table or data file that you now maintain or have maintained during the Defined Period of Time in the ordinary course of business which contains a price for a Targeted Drug. For each such electronic data entity, identify, describe or produce the following:

- (a) the name or title of each such database, data table, or data file;
- (b) the software necessary to access and utilize such data entities;
- (c) describe the structure of each database, data table, or data file identified in response to Request No. 2(a) above and identify all files or tables in each such database, data table, or data file. For each such file or table, identify all fields and for each field describe its contents, format and location within each file or table, record or row.
- (d) the current or former employee(s) with the most knowledge of the operation or use of each data entity identified above; and
- (e) the custodian(s) of such data entity.

RESPONSE TO INTERROGATORY NO. 2: In addition to the General Objections set forth above, AstraZeneca objects to Interrogatory No. 2 on the grounds that it is not relevant, overly broad, and unduly burdensome. AstraZeneca further objects to this Interrogatory on the grounds that it is vague and ambiguous. Subject to and without waiving the foregoing objections or the General Objections, and following the production of the Zoladex documents and data which were produced in the Multidistrict Litigation, *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, No. 01 CV 12257 (PBS) (D. Mass.), AstraZeneca is willing to provide relevant information in response to this request as it relates to Zoladex.

INTERROGATORY NO. 3: Describe each type of Incentive you have offered in conjunction with the purchase of any Targeted Drug. For each such Incentive, identify:

- (a) the type(s) of Incentive(s) offered for each Targeted Drug;
- (b) the class(es) of trade eligible for each Incentive;
- (c) the general terms and conditions of each Incentive; and
- (d) the beginning and ending dates of each period during which the Incentive was offered.

RESPONSE TO INTERROGATORY NO. 3: In addition to the General Objections set forth above, AstraZeneca objects to Interrogatory No. 3 on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 4: Describe in detail how you determined each price you used in the ordinary course of business of each Targeted Drug for each year during the Defined Period of Time and identify the person(s) most knowledgeable in making such determinations for each Targeted Drug for each year.

RESPONSE TO INTERROGATORY NO. 4: In addition to the General Objections set forth above, AstraZeneca objects to Interrogatory No. 4 on the grounds that it is vague, ambiguous, overly broad, and unduly burdensome. Subject to and without waiving the foregoing objections or the General Objections, AstraZeneca refers to the Zoladex documents which were produced in the Multidistrict Litigation *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, No. 01 CV 12257 (PBS) (D. Mass.), which it intends to produce in this matter.

INTERROGATORY NO. 5: Have you ever included in your marketing of a Targeted Drug to any customer reference to the difference (or spread) between an AWP or WAC published by First DataBank, Redbook or Medi-span and the list or actual price (to any customer) of any Targeted Drug? If so, provide the following information for each Targeted Drug:

- (a) the drug name and NDC;

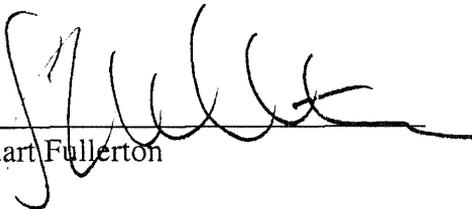
- (b) **the beginning and ending dates during which such marketing occurred;**
- (c) **the name, address and telephone number of each customer to whom you marketed a Targeted Drug in whole or in part by making a reference to such difference(s) or spread(s); and**
- (d) **identify any document published or provided to a customer which referred to such difference(s) or spread(s).**

RESPONSE TO INTERROGATORY NO. 5: In addition to the General Objections set forth above, AstraZeneca objects to Interrogatory No. 5 on the grounds that it is vague, ambiguous, overly broad, and unduly burdensome. Subject to and without waiving the foregoing objections or the General Objections, AstraZeneca refers to the Zoladex documents which were produced in the Multidistrict Litigation *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, No. 01 CV 12257 (PBS) (D. Mass.), which it intends to produce in this matter.

VERIFICATION

I, Stuart Fullerton, am the Senior Litigation Counsel for AstraZeneca Pharmaceuticals LP. I have been authorized by AstraZeneca Pharmaceuticals LP and AstraZeneca LP to provide this verification on their behalf. I have reviewed the above interrogatory answers, which were prepared in reliance on information from officers, agents, employees and/or records of

AstraZeneca Pharmaceuticals LP and AstraZeneca LP. The answers are true and correct to the best of my knowledge, information and belief.


Stuart Fullerton

Subscribed and sworn to before me this 15th day of July, 2005.


Notary Public, State of Delaware
My Commission _____

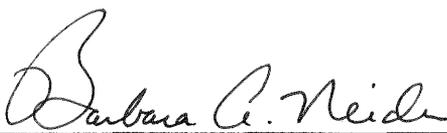
NOELLE M. CARR
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires June 18, 2006

AS TO OBJECTIONS:

Dated: July 15, 2005.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2005, I served true and correct copies of Astrazeneca Pharmaceuticals LP's and Astrazeneca LP's Responses to Plaintiff's First Set of Documents Requests and Astrazeneca Pharmaceuticals LP's and Astrazeneca LP's Responses to Plaintiff's First Set of Interrogatories upon plaintiff's counsel listed below by U.S. Mail and/or by hand (as indicated) and upon defendants' counsel by electronic mail.

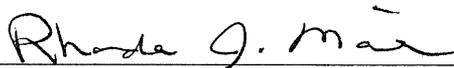
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