

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

THE STATE OF WISCONSIN,

Plaintiff,

Case No. 06-C-0582-C

v.

AMGEN INC., ET AL.,

Defendants.

**BEN VENUE LABORATORIES, INC.'S ANSWERS AND OBJECTIONS TO
PLAINTIFF'S SECOND SET OF INTERROGATORIES TO ALL DEFENDANTS**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, defendant Ben Venue Laboratories, Inc. ("Ben Venue"), by its attorneys, objects and responds to Plaintiff's Second Set of Interrogatories to All Defendants (the "Interrogatories") as follows:

PRELIMINARY STATEMENT

1. As to all matters referred to in these answers and objections to the Interrogatories, Ben Venue's investigation and discovery continues. The specific responses set forth below, and any production made consistent with the accompanying interrogatories, are based upon, and necessarily limited by, information now available to Ben Venue. Because of the over breadth of the Interrogatories at this early stage in the litigation and the vague, nonspecific nature of the claims against Ben Venue in the Second Amended Complaint, it is not possible for Ben Venue to anticipate all possible grounds for objection with respect to the particular Interrogatories set forth herein. Ben Venue reserves the right to modify or supplement these responses and objections, to raise any additional objections deemed necessary and appropriate in light of the results of any further review, and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 6: Do you contend that during the Defined Period of Time the State of Wisconsin was not prohibited by federal law from determining, and could have determined, the AMPs of the targeted drugs based on the Unit Rebate Amount for such drugs provided to the State by the federal government pursuant to the Medicaid rebate statute, 42 U.S.C. § 1396r-8?

ANSWER TO INTERROGATORY NO. 6:

Ben Venue objects to Interrogatory No. 6 on the grounds that it is vague, ambiguous, and calls for a legal conclusion. Subject to and without waiving its objections, Ben Venue states that federal law does not prohibit and did not prohibit during the Defined Period of Time the State of Wisconsin from estimating or determining AMP. In fact, for some drugs, the State can derive and could have derived during the Defined Period of Time the AMP from the Unit Rebate Amount.

INTERROGATORY NO. 7. If the answer to Interrogatory No. 1 [sic] is anything other than an unqualified “no,”:

- a. state all bases for such contention, and
- b. identify all documents that support such contention.

ANSWER TO INTERROGATORY NO. 7:

Ben Venue objects to Interrogatory No. 7 on the grounds that it is vague, ambiguous, overbroad, and unduly burdensome. Ben Venue further objects to this interrogatory to the extent it seeks information that is publicly available to the Plaintiff. Subject to and without waiving its objections, Ben Venue incorporates by reference its answer to Interrogatory No. 6.

GENERAL OBJECTIONS

1. Ben Venue objects to the definition of “Defined Period of Time” as set forth in Definition 2 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous and purports to require the production of documents or information that are neither relevant to

the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence. Ben Venue further objects to this definition to the extent it seeks documents or information from outside the statute of limitations applicable to the claims in this litigation, or beyond the time period relevant to this litigation.

2. Ben Venue objects to the Interrogatories to the extent they seek information outside the knowledge of Ben Venue, its agents or employees, or information not within the possession, custody or control of Ben Venue, its agents or employees.

3. Ben Venue objects to the Interrogatories to the extent that they seek information or documents covered by the attorney-client privilege, work product privilege, or any other applicable privilege. In the event that Ben Venue supplies information or produces a documents that is privileged, its production is inadvertent and does not constitute waiver of any privilege.

4. Ben Venue objects to any implications and to any explicit or implicit characterization of the facts, events, circumstances, or issues contained in the Interrogatories. Ben Venue's response that it will produce documents in connection with a particular request, or that it has no responsive document, does not indicate that any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Interrogatories is accurate, relevant to this litigation, or that Ben Venue agrees with such implications or characterizations.

5. Ben Venue objects to the Interrogatories to the extent that they are unreasonably cumulative or duplicative or that they call for information or documents that are publicly available, or are obtainable from some other source that is more convenient, less burdensome or less expensive.

6. Ben Venue objects to the Interrogatories to the extent that they call for information that is confidential, proprietary, and/or a trade secret of a third party.

7. Ben Venue objects to the Interrogatories as overly broad and unduly burdensome to the extent that they call for the identification of “all” documents or items of information when relevant information can be obtained from fewer than “all” documents or information. Ben Venue objects to the Interrogatories to the extent they seek information or documents other than information or documents that can be located upon a search of files or other sources where such information or documents reasonably can be expected to be found.

8. Ben Venue objects to the Interrogatories to the extent they purport to impose upon Ben Venue duties and/or obligations broader than or inconsistent with those imposed by the Federal Rules of Civil Procedure, the Court’s Local Rules, and, to the extent applicable, Wisconsin Rules of Procedure.

9. Ben Venue objects to the Interrogatories to the extent that they are unreasonably burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties’ resources, and the importance of the issues at stake in the litigation.

10. Ben Venue objects to the Interrogatories to the extent that they call for the identification or production of documents or information not relevant to the issues in this action and are not reasonably calculated to lead to the discovery of admissible evidence.

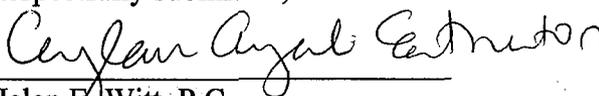
11. Ben Venue objects to the Interrogatories to the extent they seek information or documents generated or compiled in the course of the defense of this action or any other AWP litigation.

12. The documents and information provided in response to the Interrogatories are for use in this litigation and for no other purpose.

13. Ben Venue's answers to the Interrogatories contain information subject to the Protective Order in this matter and must be treated accordingly.

14. Ben Venue expressly incorporates these General Objections into each specific response to the interrogatories set forth above as if set forth in full therein. The response to an interrogatory shall not operate as a waiver of any applicable specific or general objection to a request.

Respectfully submitted,



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*Attorneys for Defendant Ben Venue
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December 14, 2006

CERTIFICATE OF SERVICE

I, Ceylan Ayasli Eatherton, hereby certify that on this 14th day of December, 2006, a true and correct copy of the foregoing BEN VENUE LABORATORIES, INC.'S ANSWERS AND OBJECTIONS TO PLAINTIFF'S SECOND SET OF INTERROGATORIES TO ALL DEFENDANTS was served on all counsel of record via Lexis Nexis File & Serve®.

Dated: December 14, 2006



Ceylan Ayasli Eatherton