

July 12, 2007

***Via First Class Mail***

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Re: *State of Wisconsin v. Amgen Inc., et al.*  
Case No. 04 CV 1709

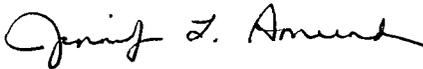
Dear Counsel:

Enclosed please find Novartis Pharmaceuticals Corporation's Supplemental Responses and Objections to Plaintiff State of Wisconsin's Interrogatories No. 3 (to All Defendants) and Requests for Production of Documents No. 4 (to All Defendants), being served to all counsel via LexisNexis File and Serve as shown below. The original has been retained pursuant to the statute.

If you have any questions, don't hesitate to call.

Sincerely,

SOLHEIM BILLING &amp; GRIMMER, S.C.

By 

Jennifer L. Amundsen

JLA/jck  
Enclosure

cc: All Counsel of record (*via LNFS; w/ enclosure*)  
Atty. Christine Braun (*via email; w/ enclosure*)  
Atty. Kim Grimmer (*via email; w/ enclosure*)

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**STATE OF WISCONSIN,**

Plaintiff,

Case No. 04-CV-1709  
Unclassified - Civil: 30703

v.

**AMGEN INC., et al.,**

Defendants.

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**NOVARTIS PHARMACEUTICALS CORPORATION'S SUPPLEMENTAL  
RESPONSES AND OBJECTIONS TO PLAINTIFF STATE OF WISCONSIN'S  
INTERROGATORIES NO. 3 (TO ALL DEFENDANTS) AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS NO. 4 (TO ALL DEFENDANTS)**

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Pursuant to Wisconsin Statutes §§ 804.01, 804.08, and 804.09, the Wisconsin Supreme Court Rules, and the Dane County Circuit Court Rules (collectively, the "Wisconsin Rules"), Defendant Novartis Pharmaceuticals Corporation ("NPC"), by its undersigned counsel, incorporates by reference its General Objections, Objections to Definitions, and Specific Responses and Objections to Plaintiff State of Wisconsin's Interrogatories No. 3 (To All Defendants) and Request for Production of Documents No. 4 (To All Defendants), served on March 14, 2007, and submits the following supplemental responses and objections:

**SUPPLEMENTAL RESPONSES AND OBJECTIONS TO INTERROGATORIES**

**INTERROGATORY NO. 11:** If the answer to Interrogatory No. 10 is yes, identify all such communications by date, time, and purpose, the persons who communicated this information, the persons to whom this information was communicated, who said what to whom or who wrote what to whom, and identify documents containing or describing the information communicated to Wisconsin officials.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:** Subject to and without waiving the foregoing objections, NPC states that, since 1997, when NPC began doing business in its current form as result of the merger of Ciba-Geigy Corporation and Sandoz Corporation, it has communicated directly with officials of the state of Wisconsin when it announced the

availability of NPC's new drugs to state Medicaid agencies, including the state Medicaid agency of Wisconsin. With respect to each new product introduction, NPC sent a letter to Wisconsin Medicaid officials that provided the product's National Drug Code, strength, package size if applicable, wholesale price (referred to in some letters as "cost to wholesaler" or "wholesaler cost"), and the benchmark known as "Average Wholesale Price" ("AWP"). With each letter, NPC enclosed copies of (i) the U.S. Food and Drug Administration's letter approving the product for sale in the United States and (ii) the product's Prescribing Information. In addition to the product approval and prescribing information identified above, new product introduction letters generally also included a statement relating to AWP (the "AWP statement") that was the same as, or similar to, the statement relating to AWP that appeared on NPC's broadcast faxes to wholesalers and price reporting agencies. Although the exact wording changed slightly over the years, the central message communicated by NPC in its new product introduction letters remained the same. Each AWP statement expressly provided that AWP is not intended to represent an actual price charged by NPC to any customer. For example, NPC's October 28, 1999 letter to state Medicaid agencies announcing the introduction of Comtan, an NPC product at issue in this lawsuit, states:

As used in this letter, the term AWP of Average Wholesale Price constitutes a reference for each Novartis product, and in keeping with current industry practices, is set as a percentage above the price at which each product is offered generally to wholesalers. Notwithstanding the inclusion of the term price, in Average Wholesale Price, AWP is not intended to be a price charged by Novartis for any product to any customer.

NPC further states that it has entered into two supplemental Medicaid rebate agreements with Plaintiff (that were signed by both NPC and Plaintiff). NPC's supplemental response to this Interrogatory includes communications between employees of NPC and employees of Plaintiff

but excludes communications between NPC and Plaintiff via agents of Plaintiff, such as Provider Synergies, and other third parties.

**SUPPLEMENTAL RESPONSES AND OBJECTIONS TO  
DOCUMENT REQUESTS**

**DOCUMENT REQUEST NO. 12:** Produce each document identified in response to Interrogatory Nos. 7, 9 and 11.

**SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 12:** NPC incorporates by reference its Response to Document Request No. 12, including objections stated therein. Subject to and without waiving the foregoing objections, NPC states that it will produce copies of the new product introduction letters that it sent to Plaintiff, as identified in NPC's Supplemental Response to Interrogatory No. 11, or evidence concerning the existence of such letters, for the relevant period of January 1, 1997 through September 30, 2003. NPC further states that it will produce the two supplemental Medicaid rebate agreements that are identified in NPC's Supplemental Response to Interrogatory No. 11 – despite the fact that these agreements were created outside of the relevant period of January 1, 1997 through September 30, 2003 – because the burden of doing so is *de minimis*.

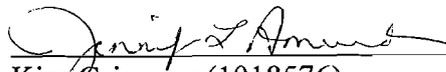
**AS TO OBJECTIONS:**

Dated this 12 th day of July, 2007.

Respectfully submitted,

Novartis Pharmaceuticals Corporation

By its attorneys,

  
\_\_\_\_\_  
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Of counsel:

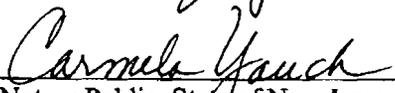
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**VERIFICATION**

I, Richard Knapp, am Executive Director, State Government Affairs for Novartis Pharmaceuticals Corporation. I have been authorized by Novartis Pharmaceuticals Corporation to provide this verification on its behalf. I have reviewed the above supplemental interrogatory response, which was prepared in reliance on information from officers, agents, employees and/or records of Novartis Pharmaceuticals Corporation. The response is true and correct to the best of my knowledge, information, and belief.

  
RICHARD KNAPP

Subscribed and sworn to before me  
this 16<sup>th</sup> day of July, 2007.

  
Notary Public, State of New Jersey

**CARMELA YAUCH**  
A NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Jan. 3, 2009