

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

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STATE OF WISCONSIN,	)	
	)	
Plaintiff,	)	Case No.: 06-C-0582-C
	)	
v.	)	
	)	
ABBOTT LABORATORIES, INC., et al.,	)	
	)	
Defendants.	)	

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**PFIZER INC.'S RESPONSES 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, the Local Rules of the United States District Court for the Western District of Wisconsin, and, to the extent applicable, Wisconsin Rule of Civil Procedure 804.08, defendant Pfizer Inc. ("Pfizer"), by its attorneys, objects and responds to Plaintiff's Second Set of Interrogatories 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, 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; or (iii) the right to object on any ground at any time for further responses to the Interrogatories; or (iv) its right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.

2. Pfizer 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 Pfizer.

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

4. Pfizer 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, are overly broad, unduly burdensome, ambiguous and vague.

5. Pfizer objects to these Interrogatories to the extent 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 Pfizer's right to assert the applicability of any privilege or immunity to the documents or information, and any such documents or information shall be returned to Pfizer's counsel immediately upon discovery thereof. Pfizer further 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.

6. Pfizer objects to these Interrogatories to the extent that they seek documents and information not within Pfizer's possession, custody, or control or are more appropriately sought from third parties to whom requests have been or may be directed.

7. Pfizer objects to these Interrogatories to the extent that they seek production of publicly available documents or information, or that which plaintiff can obtain from other sources.

8. Pfizer objects to these Interrogatories to the extent they call for the production of trade secret, proprietary, commercially sensitive, or other confidential information. Pfizer's Responses and Objections to Plaintiff's Second Set of Interrogatories contain information subject to the Protective Order in this matter and must be treated accordingly.

9. Pfizer objects to these Interrogatories to the extent that they seek to impose discovery obligations that are broader than, or inconsistent with, Pfizer's obligations under the Federal Rules of Civil Procedure, and other applicable federal and state laws.

10. Pfizer objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the Interrogatories. Pfizer'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 Pfizer 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.

11. Pfizer objects to the Interrogatories to the extent that they purport to require Pfizer to provide a compilation, abstract, audit, and/or other document summary that does not currently exist.

12. Because of the nonspecific nature of the claims against Pfizer in the Second Amended Complaint, it is not possible for Pfizer to anticipate all possible grounds for objection with respect to the particular Interrogatories set forth herein. Pfizer reserves the right to

supplement or correct these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

13. Pfizer objects to Plaintiff's "Definitions" to the extent Plaintiff intends to expand upon or alter Pfizer's obligations under the Federal Rules of Civil Procedure, the Court's Local Rules, and, to the extent applicable, the Wisconsin Rules of Civil Procedure, in responding to the Interrogatories. Pfizer will comply with applicable rules of civil procedure in providing its Responses and Objections to Plaintiff's Second Set of Interrogatories.

14. Pfizer objects to Plaintiffs' definition of "Average Manufacturer Price" or "AMP" on the ground that it is vague and ambiguous. Pfizer further objects to this definition to the extent it purports to state an accurate or legally significant definition.

15. Pfizer objects to Plaintiff's definition of "Defined Period of Time" on the grounds that the phrase as defined is overbroad and burdensome, 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. Pfizer 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.

16. Pfizer expressly incorporates the above General Objections into each specific response to the interrogatories set forth below 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.

## RESPONSES 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?

### RESPONSE TO INTERROGATORY NO. 6:

In addition to the General Objections set forth above, Pfizer objects to Interrogatory No. 6 on the grounds that it is vague, ambiguous and calls for a legal conclusion. Pfizer incorporates by reference its objections to the Plaintiff's definitions of the terms "Defined Period of Time" and "AMP." Pfizer further objects to this Interrogatory on the grounds that it is vague and ambiguous with respect to the term "you."

Without waiving and subject to these objections, Pfizer 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. Pfizer also is unaware of any federal or other prohibition during the Defined Period of Time that would have prevented the State from requesting AMP or enacting a state statute that would have required its submission.

### 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.

### RESPONSE TO INTERROGATORY NO. 7:

In addition to the General Objections set forth above, Pfizer objects to Interrogatory No. 7 on the grounds that it is overly broad and unduly burdensome, vague and ambiguous.

Pfizer further objects to this Interrogatory to the extent it seeks information that is publicly available to the Plaintiff.

Without waiving and subject to these objections, Pfizer incorporates by reference its Response to Interrogatory No. 6 and further states that 42 U.S.C. § 1396r-8 and the state Medicaid statutes and regulations for those states that require manufacturers to submit AMP data provide support for Pfizer's Response to Interrogatory No. 7.

December 14, 2006

By:



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**Certificate of Service**

I, Kimberly K. Heuer, hereby certify that on this 14th day of December, 2006, a true and correct copy of Defendant Pfizer Inc.'s Responses to Plaintiff's Second Set of Interrogatories to all Defendants was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Kimberly K. Heuer  
Kimberly K. Heuer