

produce responsive documents and/or make them available for inspection and designation for copying at a mutually-agreeable time and location.

3. Respondents object to the Request to the extent that it demands production of any document covered by the attorney-client privilege or the work product doctrine, third-party confidentiality agreements or protective orders, or any other applicable privilege, immunity or protection. In the event any document subject to a privilege, immunity or protection is produced by Respondents, its production is inadvertent and does not constitute a waiver of any privilege, immunity or protection.

4. Respondents object to the Request to the extent that it calls upon Respondents for, and/or to reveal, legal conclusions to Plaintiff. Respondents' responses shall not be deemed to constitute admissions (i) that any particular document or thing exists, is relevant, or admissible in evidence, or (ii) that any statement or characterization in the Request is accurate or complete.

5. Respondents have not completed their investigation and discovery relating to this case. The specific responses set forth below and any production made pursuant to the responses are based upon, and necessarily limited by, information now available to Respondents. Respondents reserve the right, at any time, to revise, correct, and to supplement, modify, or clarify the specific responses set forth below or the information disclosed therein. By this reservation, Respondents do not, however, assume a continuing responsibility to update its responses beyond the requirements of the Wisconsin Rules of Civil Procedure and the local rules of this Court, and they object to the Request to the extent it seeks to impose any such continuing obligation.

6. In the responses that follow, a statement that responsive documents will be produced does not mean that: (a) any documents exist; or (b) they are in Respondents' possession, custody, or control.

7. Respondents undertake to answer the Request only to the extent required by the Wisconsin Rules of Civil Procedure, the local rules of this Court, and other applicable law (collectively, "Rules"), and Respondents object to the Request to the extent that it purports to exceed, expand upon or conflict with those Rules. For example, and without limitation, Respondents object to Plaintiff's "definitions" and "instructions" to the extent Plaintiff intends to expand upon or alter the Rules. Respondents further object to the definitions of "you," "your," "your company," "document," and "documents" as set forth in Definitions No. 1 and 2 on the grounds that they are overly broad, unduly burdensome, vague, ambiguous, and to the extent they seek to impose discovery obligations that are broader than, or inconsistent with, Respondents' obligations under the Rules.

8. Respondents object to the Request (i) to the extent it calls for information generated after the date this action was commenced, or (ii) to the extent it calls for information pertaining to any time outside of the limitations periods applicable to any of Plaintiff's claims; because the Request is to this extent overly broad and unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

9. Respondents object to the Request as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent that it

purports to require production of documents or seek information relating to Respondents' drugs that have not been identified in the Amended Complaint.

10. Respondents object to each Request as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent that it purports to require production of documents or seek information relating to a period of time prior to June 16, 1998 (which is outside of any applicable statute of limitations) and/or after January 9, 2002 (as of which date Warrick was, on its own accord, regularly furnishing the State of Wisconsin with a letter reporting their high and low contract prices, net of described discounts, for each of their three main classes of trade for the previous month). Except as specifically stated below, and subject to and without waving any objection, Respondents' responses herein shall be limited to the period between June 16, 1998, and January 9, 2002.

11. Respondents object to each numbered paragraph in the "Instructions" section as overly broad and unduly burdensome, and further object to each such paragraph to the extent it purports to impose on Respondents obligations that exceed, expand upon or conflict with the requirements of the Wisconsin Rules of Civil Procedure.

12. Respondents object to each request to the extent that it may be construed as calling for the production of confidential information relating to a patient. Respondents will not produce any such material to the extent they are under any obligation to maintain the patient information in confidence. Respondents will not disclose such material unless the patient grants permission to do so.

13. Respondents object to the Request as unduly burdensome to the extent that it seeks documents that are available, in a way that would be less burdensome or expensive, from a public source or some other source available to the Plaintiff.

14. Respondents object to the Request to the extent that it purports to require Respondents to search through an unduly large number of documents or to search for documents that are not accessible, available or locatable without imposing an undue burden upon Respondents. Subject to and without waiving any objection, Respondents will conduct a reasonable search for responsive documents that are reasonably accessible, available and locatable.

15. Respondents object to the Request to the extent it seeks information regarding drugs other than the drugs that are at issue in this litigation or concern matters not related to Wisconsin, because such information is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

16. Any production of documents or information responsive to requests to which Respondents have objected is not intended to and does not waive those or any other objections.

17. Respondents object to this Request to the extent it seeks confidential or proprietary information, and will not produce documents containing confidential or proprietary information unless and until an appropriate protective order is entered. Respondents' production and responses to the Request are supplied for use in this litigation and for no other purpose.

18. Respondents object to the Request to the extent that it is indefinite and/or fails to describe the categories of documents to be produced with reasonable particularity, and to the extent that it employs terms or definitions that render the Request vague or ambiguous. Except as otherwise stated, Respondents will interpret any such term based on its understanding of the term's usage, if any, by Respondents and/or in the pharmaceutical industry.

19. Respondents object to the Request to the extent that it requests documents not within Respondents' possession, custody or control.

20. Respondents object to each and every Request to the extent that it purports to require it to search through an unduly large number of documents or to search for documents that are not accessible, available or locatable without imposing an undue burden upon the Respondents. Respondents have already reviewed and produced a significant quantity of documents concerning the drugs involved in this case in connection with a related case, *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.) ("MDL production"). Subject to and without waiving any objection, Respondents are willing to produce responsive documents from the MDL production as stated in the responses that follow. Any further obligation to search and review documents is unduly burdensome.

21. Respondents expressly incorporate by reference as if fully set forth herein their objections and reservations to Plaintiff's prior sets of interrogatories and document production requests, as well as any objection or reservation of rights made by any co-defendant in this action to the extent such objections or reservation of rights is not inconsistent with Respondents' position in this litigation.

22. Respondents expressly incorporate these General Objections into each specific response to the request set forth below as if set forth in full therein. These General Objections form a part of the response to each and every request and are set forth here to avoid the unnecessary duplication and repetition that would result from restating them for each response below. The response to a request shall not operate as a waiver of any applicable specific or general objection to a request.

RESPONSES TO DOCUMENT PRODUCTION REQUESTS

DOCUMENT REQUEST NO. 12:

Produce each document identified in response to Interrogatory Nos. 7, 9, and 11.

RESPONSE:

In addition to the General Objections set forth above, and the objections to Interrogatories Nos. 7, 9 and 11, which are incorporated herein, Respondents object to Request No. 12 on the ground that it is overly broad and unduly burdensome. Respondents further object to this Request to the extent it seeks documents that are publicly available or outside Respondents' possession, custody and control.

Respondents have not identified any documents in response to Interrogatories Nos. 7 and 9, because those interrogatories are, *inter alia*, overly broad, unduly burdensome, harassing, and intended to multiply the costs of Respondents defense. Subject to and without waiving these specific objections or their General Objections, Respondents agree to produce non-privileged documents identified in its Answers to Interrogatory No. 11, if any, in a manner to be negotiated and agreed upon between the parties. Respondents also direct Plaintiff to its own production and productions by third-parties.

DOCUMENT REQUEST NO. 13:

Produce any document commenting, on concerning or about how or to what extent wholesalers mark up drugs for resale including, but not limited to, any documents relating to the case of Brand Name Prescription Drugs Antitrust Litigation, 94 C 897 (N.D. Ill.)

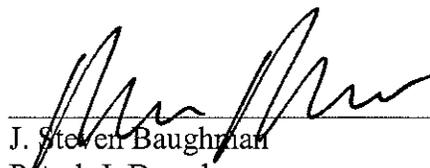
RESPONSE:

In addition to the General Objections set forth above, Respondents object to Request No. 13 on the ground that it is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence because, *inter alia*, (i) it purports to require

information relating to "drugs" without specification as to which "drugs," thus including drugs that are not manufactured, marketed, or distributed by Respondents and/or drugs not at issue in this litigation, and (ii) to the extent it purports to require Respondents to produce all documents "relating to the case of Brand Name Prescription Drugs Antitrust Litigation, 94 C 897 (N.D. Ill.)" regardless of whether such documents relate to any issues in this case, belong to Respondents, or are otherwise protected from disclosure pursuant to applicable privileges or work product doctrines. Respondents further object to this Request to the extent it seeks information in the possession of Plaintiff or more appropriately sought from third parties.

Subject to and without waiving these specific objections or their General Objections, Respondents state that they have searched for, and will continue to undertake a reasonable search for, documents in their possession, custody, or control, commenting on, concerning, or about how or to what extent wholesalers mark up the Respondents' drugs at issue in this litigation – including the documents produced in the *Brand Name Prescription Drugs Antitrust Litigation* to the extent that such documents are reasonably available, and – to the extent that Respondents find any – they will produce non-privileged documents responsive to Request No. 13 in a manner to be negotiated and agreed upon between the parties.

Dated: March 19, 2007



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*Attorneys for Defendants Schering-Plough Corp., and
Warrick Pharmaceuticals Corp.*

CERTIFICATE OF SERVICE

I hereby certify that on this 19 day of March 2007, a true and correct copy of Schering-Plough Corporation's and Warrick Pharmaceuticals Corporation's Response to Plaintiff's Fourth Request for Production of Documents was served upon all counsel of record via Lexis Nexis File & Serve electronic service.



Patrick J. Drescher