

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN INC.
Plaintiff,
v.
F. HOFFMAN-LA ROCHE LTD., a Swiss
Company, ROCHE DIAGNOSTICS GmbH, a
German Company, and HOFFMAN-LA ROCHE
INC., a New Jersey Corporation
Defendants.
C.A. No. 05-12237-WGY

DECLARATION OF DANIEL A. CURTO IN SUPPORT OF AMGEN'S BENCH
MEMORANDUM THAT IT IS IMPROPER FOR DR. RICHARD A. FLAVELL TO
OFFER OPINIONS BASED ON HIS IMPROPER REJECTION OF THIS COURT'S
CLAIM CONSTRUCTION OF THE TERM "HUMAN ERYTHROPOIETIN"

I, Daniel A. Curto, hereby declare under penalty of perjury that I am an attorney admitted
to practice in the Commonwealth of Massachusetts, and am a partner at the law firm of
McDermott Will & Emery LLP, counsel for Plaintiff Amgen Inc. in the above-captioned case.
I submit this affidavit to accompany Amgen's Bench Memorandum that it is Improper for Dr.
Richard A. Flavell to Offer Opinions Based on His Improper Rejection of this Court's Claim
Construction of the Term "Human Erythropoietin."

1. Exhibit A hereto contains true and correct excerpts from the Fourth Expert
Statement of Richard A. Flavell, PH.D. in Response to Various Arguments Raised By Amgen's
Experts.

Dated September 14, 2007

/s/ Daniel A. Curto
Daniel A. Curto

**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of electronic filing and paper copies will be sent to those indicated as non-registered participants.

*/s/ Michael R. Gottfried* \_\_\_\_\_

Michael R. Gottfried