

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

AMGEN INC., )  
 )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 F. HOFFMANN-LA ROCHE LTD, )  
 ROCHE DIAGNOSTICS GMBH, )  
 AND HOFFMANN-LA ROCHE INC., )  
 )  
 Defendants )

---

CIVIL ACTION No.: 05-CV-12237WGY

**ROCHE’S RESPONSE TO AMGEN’S MOTION *IN LIMINE* NO. 23: EXCLUDE  
TESTIMONY OF DANIEL SHOVAL REGARDING ERYTHROPOIETIN-  
PRODUCING CELL LINES AND HIS WORK ON EPO MRNA**

In light of Roche’s present intention not to present the testimony of Daniel Shouval in its case-in-chief, Amgen’s Motion *in Limine* No. 23 is moot. As such, Roche will not be submitting a separate opposition. Roche reserves its rights with respect to the issues raised in Amgen’s motion.

Dated: September 18, 2007  
Boston, Massachusetts

Respectfully submitted,

F. HOFFMANN-LA ROCHE LTD,  
ROCHE DIAGNOSTICS GMBH, and  
HOFFMANN-LA ROCHE INC.

*By their Attorneys*

/s/ Kimberly J. Seluga  
Lee Carl Bromberg (BBO# 058480)  
Robert L. Kann (BBO# 258025)  
Julia Huston (BBO# 562160)  
Keith E. Toms (BBO# 663369)  
Nicole A. Rizzo (BBO# 663853)  
Kimberly J. Seluga (BBO# 667655)

BROMBERG & SUNSTEIN LLP  
125 Summer Street  
Boston, MA 02110  
Tel. (617) 443-9292  
kseluga@bromsun.com

Leora Ben-Ami (*pro hac vice*)  
Mark S. Popofsky (*pro hac vice*)  
Patricia A. Carson (*pro hac vice*)  
Thomas F. Fleming (*pro hac vice*)  
Howard S. Suh (*pro hac vice*)  
Peter Fratangelo (BBO# 639775)  
Vladimir Drozdoff (*pro hac vice*)  
David L. Cousineau (*pro hac vice*)  
KAYE SCHOLER LLP  
425 Park Avenue  
New York, New York 10022  
Tel. (212) 836-8000

#### **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 (NEF). Pursuant to agreement of counsel dated September 9, 2007, paper copies will not be sent to those indicated as non registered participants.

/s/ Kimberly J. Seluga  
Kimberly J. Seluga

03099/00501 741946.1