

9/26/2007 9/26/2007 Trial Day 11

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

Civil Action
No. 05-12237-WGY

3 * * * * *
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5 AMGEN, INC.,

6 Plaintiff,

7 v.

* DAILY TRANSCRIPT
* OF THE EVIDENCE
* (Volume 11)

8 F. HOFFMANN-LA ROCHE LTD,
9 ROCHE DIAGNOSTICS GmbH and
HOFFMANN-LA ROCHE, INC.,

10 Defendants.

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13
14 BEFORE: The Honorable William G. Young,
District Judge, and a Jury

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24 1 Courthouse Way
Boston, Massachusetts
25 September 26, 2007

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1 MS. FISHMAN: -- may I make one point?

2 THE COURT: Yes.

3 MS. FISHMAN: And not to get crosswise with
4 anything. But we disclosed Mr. Browne more than two months
5 ago in our pretrial memo, and at no time that I'm aware of,
6 and I've searched my documents pretty extensively, has Roche
7 ever followed up and requested a date for his deposition.

8 THE COURT: Well, they are now. And --

9 MS. FISHMAN: Okay.

10 THE COURT: -- it's difficult. If they want to
11 talk to him first, they can talk to him. Then you can put
12 him on the stand. The deposition is not to exceed seven
13 hours and he can be called.

14 MR. GOTTFRIED: Your Honor, in light of our case
15 schedule, we would want to make him available either this
16 evening or tomorrow afternoon so we could call him in our
17 case.

18 THE COURT: Absolutely. And, I mean, I know -- I
19 do the best I can. He can be made -- if you'll make him
20 available, they're to take it this evening, no more than
21 three hours, because I want him fresh, and another four
22 tomorrow, and then you can call him the next day.

23 MR. GOTTFRIED: On Thursday.

24 THE COURT: Or, or seven hours tomorrow. It's one
25 seven hour deposition. But I expect cooperation on getting

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1 a court reporter -- in getting a stenographer on short
2 notice so his deposition can be taken.

3 Yes?

4 MR. GOTTFRIED: Thank you, your Honor.

5 MR. FLEMING: If I could just say one thing. I
6 hope this procedure commends itself to the Court because it
7 seems so much more productive for the jury's time to have
8 these discussions about witnesses in the afternoon rather
9 than at side bar in front of the jury.

10 THE COURT: I must say I've invited it. And I
11 don't know what more I can do in being transparent. Ms.
12 Smith and I are talking among ourselves and saying, boy,
13 they're really picking up on it now. Now I get these bench
14 memoranda that are real time, they have something to do with
15 the case that I'm about to be wrestling with. And, yes,
16 I've got piles of things which I'm still working through,
17 and you get these odd orders at odd times which means that
18 something's surfaced in my consciousness and I think I'm
19 able to rule on it. I've said I was available in the
20 afternoon. But don't think that all of these things warrant
21 oral hearing. This is about the most you are going to get.

22 MR. FLEMING: Your Honor, if --

23 THE COURT: Though I've whetted Mr. Fleming's
24 appetite, because I was going to deny it and now I've given
25 him something.