

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AMGEN INC.,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No.: 05 Civ. 12237 WGY
	)	
F. HOFFMANN-LA ROCHE LTD, ROCHE	)	
DIAGNOSTICS GmbH, and HOFFMANN-	)	
LA ROCHE INC.,	)	
Defendants.	)	
	)	
	)	

**DECLARATION OF JANE Y.C. MATHEWS IN OPPOSITION TO AMGEN'S  
EMERGENCY MOTION TO OVERRULE ROCHE'S OBJECTIONS TO  
AMGEN'S DESIGNATION OF ECONOMICS EXPERTS**

I, Jane Y.C. Mathews, declare under penalty of perjury that:

1. I am Senior Counsel and Managing Attorney for Hoffmann-La Roche Inc. ("Roche") in Nutley, New Jersey. In that capacity I oversee the involvement of Roche in various cases that have been brought against it relating to pharmaceutical pricing and price reporting (the "AWP litigations"). I make this declaration based upon my personal knowledge and information provided to me by others.

2. Roche was a member of a joint defense group of defendants initially formed to defend private federal AWP class action litigation and related matters (the AWP Joint Defense Group"), that retained and continues to retain the services of Dr. Eric Gaier, Dr. Christopher Stomberg, and Mr. Benjamin Scher of the firm of Bates White LLC ("Bates White"). The January 29, 2004 retention agreement between the

AWP Joint Defense Group and Bates White, attached as Exhibit A below, specified that the team of Bates White employees consulting for the group -- that is, Drs. Gaier and Stomberg and Mr. Scher -- would not be involved in a concurrent adverse representation against any member of the AWP Joint Defense Group. That limitation on those individuals' representations adverse to Roche was not limited to related matters or conditional on those individual's receipt of Roche confidential information. It is, rather, an absolute prohibition. This was Roche's understanding of Bates White commitment at the time and that commitment by Bates White was important to Roche in agreeing to the groups' retention of Bates White to prevent a situation in which we would have our own expert testifying or consulting against Roche.

3. Roche won dismissal from the federal class action in March 2004. However, it remained a defendant in two related matters, and recognized that it could be named in later-filed suits. Therefore, Roche decided to continue to participate in the funds set up by the AWP joint defense group to pay experts and other litigation-related expenses (the "AWP Defense Funds"), although the amount contributed by it decreased as a result of the March, 2004 dismissal. Attached below as Exhibit B is a June 30, 2004 letter that reflects Roche's reduced participation. Roche remained then, and remains today, a member of the AWP Joint Defense Group and a payor into the AWP Defense Funds.

4. Presently, Roche is a defendant in various AWP litigations commenced by state Attorneys General and other entities (the "State AG suits"). These cases are:

*State of Alabama v. Abbott Laboratories, Inc., et al.*

Circuit Court, Montgomery, Alabama

Civil Action No.: 2005-219-PR

*State of Hawaii v. Abbott Laboratories, Inc., et al.*

Circuit Court, First Circuit, State of Hawaii

Civil Action No.: 06-1-0720-04-EEH

*State of Mississippi v. Abbott Laboratories, Inc., et al.*

Chancery Court, Hinds County, Mississippi, First Judicial District

Civil Action No.: G2005-2021

Removed on 10.11.2006 to:

United States District Court, Southern District of Mississippi, Jackson Division

Civil Action No.: 3:06CV566 HTW-LRA

Transferred to:

United States District Court, District of Massachusetts

MDL No.: 1456

*International Union of Operating Engineers, Local No. 68 Welfare Fund v.*

*AstraZeneca PLC, et al.*

Superior Court of New Jersey, Monmouth County

Civil Action No.: MON-L-3136-06

*The City of New York v. Abbott Laboratories, Inc., et al.*

United States District Court, Southern District of New York

Civil Action No.: 04-CV-6054

Transferred on 11.08.2006 to:

United States District Court, District of Massachusetts

MDL No.: 1456

*The County of Nassau v. Abbott Laboratories, Inc., et al.*

United States District Court, Eastern District of New York

Civil Action No.: 04-CV-5126

Transferred on 1.04.2005 to:

United States District Court, District of Massachusetts

MDL No.: 1456

*The County of Erie v. Abbott Laboratories, Inc., et al.*

Supreme Court of the State of New York, County of Erie

Index No.: I2005-2439

Removed on 10.11.2006 to:  
United States District Court, Western District of New York  
Civil Action No.: 06-CV-6505-MAT

*The County of Oswego v. Abbott Laboratories, Inc., et al.*  
Supreme Court of the State of New York, County of Oswego  
Index No.: 06-0697

Removed on 10.11.2006 to:  
United States District Court, Northern District of New York  
Civil Action No.: 5:06-CV-1240-GLS/RFT

*The County of Schenectady v. Abbott Laboratories, Inc., et al.*  
Supreme Court of the State of New York, County of Schenectady  
Index No.: 2006-886

Removed on 10.11.2006 to:  
United States District Court, Northern District of New York  
Civil Action No.: 1:06-CV-1239-GLS/RFT

5. Roche, along with almost every other defendant named in any State AG case, participates in the AWP Joint Defense Group , which includes all participants in the AWP Defense Funds from which Drs. Gaier and Stomberg, and Mr. Scher are paid for their services on all AWP cases, including State AG cases, pursuant to the terms of the January 29, 2004 retention agreement. Roche understands that consistent with Bates White's work for the AWP Joint Defense Group in the federal AWP class action and related actions, Bates White will continue to provide testimony and services for the AWP Joint Defense Group in the State AG cases, including the Alabama case and other cases in which Roche is a defendant.

6. Roche pays into the AWP Defense Funds as an investment in future Bates White reports and Dr. Gaier's testimony to be provided on behalf of Roche and others in these cases. To date, Roche has paid about \$172,000 into a fund used to

pay experts regarding the State AG cases. In addition, Roche has paid about \$80,000 into a fund to cover general expenses of the AWP Joint Defense Group.

7. Roche also pays into the AWP Defense Funds with the understanding that it is a member of the AWP Joint Defense Group that retained Drs. Gaier and Stomberg, and Mr. Scher and that Drs. Gaier and Stomberg, and Mr. Scher will not undertake a concurrent consultation directly adverse to Roche.

Executed this 12th day of January 2007 at Nutley, New Jersey.

/s/ Jane Y.C. Mathews  
Jane Y.C. Mathews

### **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) and, due to the federal holiday, paper copies will be sent to those indicated as non-registered participants on January 16, 2007.

/s/ Keith E. Toms  
Keith E. Toms

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