

DAY CASEBEER
MADRID & BATCHELDER LLP

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February 9, 2007

VIA EMAIL & FACSIMILE

Mark J. Hebert, Esq.
Fish & Richardson, P.C.
225 Franklin Street
Boston, MA 02110-2804

Re: *Amgen Inc. v. Hoffmann-La Roche, et. al.*
Civil Action No. 05-CV-12237 WGY

Dear Mr. Hebert:

Thank you for your letter dated January 26 to Sandip Patel. I am an attorney at the law offices of Day Casebeer, a law firm also representing Amgen in the pending litigation against Roche.

We understand that your firm represents FMCNA as well as FMCNA's current affiliates. We accept your letter as an objection on behalf of FMCNA and FMCNA's current affiliates to Amgen's production of information which may be regarded as confidential information of FMCNA or its affiliates in accordance with the contract(s) between Amgen and your clients. Rest assured that it is Amgen's desire to cooperate with you to afford FMCNA the opportunity, if it so chooses, to seek the intervention of the Court to protect information which FMCNA regards as confidential. Please be advised, though, that the deadline for Amgen to produce documents is March 2, 2007.

As you are aware from the prior correspondence, Roche served Amgen with requests for production of documents in the above-identified lawsuit that call for the production of information which may be regarded as confidential to FMCNA and/or its affiliates, including for example the following:

Request for Production No. 114:

All Documents and Electronic Data Concerning contracts, agreements, negotiations or discussions between Amgen and any third party, including any Health Care Provider, concerning the purchase, manufacture, source or supply of any ESA product, including requirements contracts, exclusive dealing arrangements, discounts, bundled discounts across product lines, rebates and/or pricing.

Amgen objected to producing documents responsive to Request No. 114 based on the confidentiality provisions of the agreements that Amgen has with third parties. Dissatisfied with Amgen's objection, Roche moved the Court to compel production of the documents and, on

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January 29, 2007, the Court granted Roche's motion. The Court's order compels Amgen to produce by March 2, 2007, responsive documents dating back to January 1, 2000. A copy of the Court's order is enclosed for your convenience. Through a series of negotiations between the parties, Roche agreed to limit Amgen's obligation to produce responsive documents to those generated after January 1, 2003. Accordingly, **Amgen has until March 2, 2007, to produce these documents.**

To further assist you in appreciating the scope of discovery sought by Roche from Amgen concerning FMCNA and its affiliates, I note the following document requests which specifically refer to Fresenius:

Request for Production No. 60:

All Documents and Electronic Data Concerning any agreement between Amgen and Fresenius Medical Care to supply Epogen® or Aranesp®.

Request for Production No. 104:

All Documents and Electronic Data Concerning any communications between or Concerning Amgen and Fresenius Medical Care Concerning Roche, Amgen's EPO Patents or any Pegylated Compound.

Request for Production No. 126:

All Documents and Electronic Data Concerning contracts, agreements, negotiations or discussions between Amgen and Fresenius between 1999 and the present Concerning the purchase, manufacture, source, or of any ESA product, Including supply Epogen®, Procrit®, Aranesp® or CERA.

Request for Production No. 292:

All contracts and agreements with Fresenius and DaVita from 1999 to the present.

To the extent that these requests seek the production of information subsumed in Request 114, we understand the date limitation of January 1, 2003, would apply. Amgen objected to producing documents responsive to Request No. 60 based on the confidentiality provisions of the agreements that Amgen has with FMCNA. Amgen has not served responses to Requests 126 and 292. **While there is no order compelling production of responsive information, absent a protective order, Amgen has until March 2, 2007 to produce responsive documents to Request Nos. 126 and 292.**

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You have requested that Amgen provide you with copies of any documents containing information that FMCNA and/or its affiliates may regard as confidential prior to production to Roche. Please advise whether or not this is necessary with regard to final contracts entered into between Amgen and FMCNA or its affiliates since January 1, 2003. Please bear in mind that between January 1, 2003 and today, Amgen may have contracted with entities that are now affiliated with FMCNA but were not at the time of the contract or vice versa. With regard to documents that may concern contract negotiations or discussions between Amgen and FMCNA or affiliates, please advise what content your client would like Amgen to attempt to identify in these documents and we will consider whether or not we can segregate for your advanced review.

Finally, your letter has highlighted some confusion that has existed with regard to FMCNA affiliated entities that directly received the notification letter dated January 12, 2007. Enclosed is a document entitled FMCNA AFFILIATED ENTITIES PER CONTRACT NO. 200600447 (Version January 5, 2007), which we understand lists entities currently affiliated with FMCNA. Using this list, we identified the following entities that directly received the January 12, 2007 notification letter from Amgen:

Brevard County Dialysis	4940 Stack Boulevard, Suite C3-7	Melbourne, FL
Cape County Regional Dialysis Center	3250 Gordonville Road, Suite 259	Cape Girardeau, MO
Cartersville Dialysis Center	203 South Tennessee Street	Cartersville, GA
Clayton County Dialysis	335 Upper Riverdale Road, Suite A-1	Jonesboro, GA
Clermont Dialysis Center	312 Mohawk Road	Minneola, FL
Cobb County Dialysis	506 Roswell Street	Marrietta, GA
Danville Urologic Clinic -Dialysis Clinic	129 Broad Street, Suite C	Danville, VA
Dialysis Center of the Wabash Valley, Inc.	615 Eighth Avenue	Terre Haute, IN
Douglas County Dialysis, LLC	4645 Timber Ridge Drive, Building 200, Suite 140	Douglasville, GA
Dunn Memorial Hospital Dialysis (FMS Bedford)	1520 23rd Street, Suite C	Bedford, IN
Henry County Dialysis	1070 Eagles Landing Pkw	Stockbridge, GA
Renal Care Group Joplin West (Joplin Nephrology)	1800 West 30th Street	Joplin, MO
Kennett Dialysis Center	715 Teaco Road	Kennett, MO
Kidney Center of Terre Haute, L.L.C.	615 Eighth Avenue	Terre Haute, IN
Lithonia Dialysis Center, Inc.	5255 Snapfinger Park Drive, Suite 110	Decatur, GA
Meadow Dialysis Facility	12931 Oak Hill Avenue	Hagerstown, MD
Mid - Michigan Regional Dialysis Center	2601 Coolidge Road, Suite A	East Lansing, MI
Muskogee Dialysis Center	3371 West Broadway	Muskogee, OK
Nephrology Associates, P.C.	28 White Bridge Road, Suite 300	Nashville, TN
Nephrology Specialty Group, Inc., dba: Porter Dialysis Center	7939 Honeygo Boulevard, Building III, Suite #131	Baltimore, MD
Norcross Dialysis Center, LLP	4650 Jimmy Carter Boulevard, Suites 111-113	Norcross, GA
Northeast Louisiana Kidney Specialists	711 Wood Street, Suite A	Monroe, LA

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Ochsner Clinic Foundation	1514 Jefferson Highway	New Orleans, LA
Renal Care Group Nevada Las Vegas	1750 East Desert Inn Road Suite 100	Las Vegas, NV
Smyrna Dialysis Center	2700 Highlands Parkway	Smyrna, GA
St. Louis Connectcare's Dialysis Unit	5535 Delmar Boulevard, 3rd Floor	St. Louis, MO
Stone Mountain Dialysis Center	5723 Memorial Drive	Stone Mountain, GA
Tristate Dialysis	517 Third Avenue	Chesapeake, OH
West Palm Dialysis	1522 North Dixie Highway	West Palm Beach, F

The following eight entities which we understand to be currently affiliated with FMCNA may have also received the January 12, 2007 notification letter under another name.

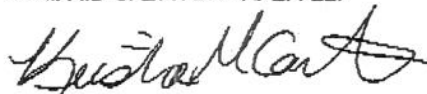
Fmc Lebanon	1 Medical Center Drive	Lebanon, NH, 03756
Renal Care Group	1015 Fair Road	Sidney, OH, 45365
Danville Urologic Clinic	1040 Main Street	Danville, VA
NMC Cheyenne	1111 Logan Avenue	Cheyenne, WY, 82001
Rcg Atlanta Hemodialysis	231 Northwest 14th Street	Atlanta, GA, 30318
Renal Care Group	2311 Eugene Boulevard	Poplar Bluff, MO, 63901
Renal Care Group- East Peoria	3300 North Main Street	East Peoria, IL, 61611
Riverside Kidney Center	806 B. Riverside Drive	Franklinton, LA, 70438

If you can provide me with all names under which these entities have contracted with Amgen effective on or after January 1, 2003, we can confirm whether or not they were sent the January 12, 2007 notification letter.

Please advise at your earliest convenience whether or not you FMCNA will be filing papers with the Court to secure a protective order. If we can be of any further assistance, please do not hesitate to contact me.

Very Truly Yours,

DAY CASEBEER
MADRID & BATCHELDER LLP



Krista M. Carter

KMC:rlp

Enclos.

cc: Kim Morcly, Esq.
Mr. Scott Larson, Esq