

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMGEN, INC.
Plaintiff-Counterclaim-Defendant,
v.
F. HOFFMANN-LA ROCHE LTD, a Swiss
Company, ROCHE DIAGNOSTICS GmbH, a
German Company, and HOFFMANN-LA ROCHE
INC., a New Jersey Corporation
Defendants-Counterclaim-Plaintiffs.
C.A. No. 05-12337-WGY

DECLARATION OF DAVID L. COUSINEAU IN
SUPPORT OF ROCHE’S OPPOSITION TO
AMGEN’S MOTION FOR SUMMARY JUDGMENT ON
ROCHE’S ANTITRUST AND STATE LAW COUNTERCLAIMS

I, David L. Cousineau, hereby declare that:

1. I am an attorney admitted to practice in this Court pro hac vice and an associate with the law firm of Kaye Scholer LLP, counsel for defendants F. Hoffmann-La Roche LTD, Roche Diagnostics GmbH, and Hoffmann-La Roche Inc (“Roche”). I am submitting this declaration in support of Roche’s Opposition to Amgen’s Motion for Summary Judgment on Roche’s Antitrust and State Law Counterclaims.

2. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from Exhibit 11 to the March 27, 2007 deposition of Kevin Sharer.

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from document bates stamped AM44 0214744 - AM44 0214776 as produced in the course of this litigation by Amgen.

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the March 9, 2007 transcript of the deposition of Maureen Michael.

5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the March 20, 2007 transcript of the deposition of Helen Torley.

6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from document bates stamped AM44 0215886 - AM44 0215888 as produced in the course of this litigation by Amgen.

7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from document bates stamped ITC-R-BLA-00000194 - ITC-R-BLA-00000691 as produced in the course of this litigation by Roche.

8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the May 11, 2007 Expert Report of Steven Fishbane.

9. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the March 22, 2007 transcript of the deposition of George Abercrombie.

10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from document bates stamped R10-004974841 - R10-004975230 as produced in the course of this litigation by Roche.

11. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the March 13, 2007 transcript of the deposition of Suzann Duncan.

12. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the March 20, 2007 transcript of the deposition of Sonders Beimfohr.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Declaration of Sonders Beimfohr.

14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from document bates stamped AM44 0087234 - AM44 0087267 as produced in the course of this litigation by Amgen.

15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from document bates stamped AM44 0245613 - AM44 0245622 as produced in the course of this litigation by Amgen.

16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from document bates stamped AM44 0208076 - AM44 0208088 as produced in the course of this litigation by Amgen.

17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from document bates stamped AM44 1437916 - AM44 1437931 as produced in the course of this litigation by Amgen.

18. Attached hereto as Exhibit 17 is a true and correct copy of excerpts from document bates stamped AM44 0715533 - AM44 0715534 as produced in the course of this litigation by Amgen.

19. Attached hereto as Exhibit 18 is a true and correct copy of excerpts from document bates stamped AM44 1440662 - AM44 1440694 as produced in the course of this litigation by Amgen.

20. Attached hereto as Exhibit 19 is a true and correct copy of excerpts from document bates stamped AM44 0216383 - AM44 0216441 as produced in the course of this litigation by Amgen.

21. Attached hereto as Exhibit 20 is a true and correct copy of excerpts from document bates stamped AM44 1421485 - AM44 1421500 as produced in the course of this litigation by Amgen.

22. Attached hereto as Exhibit 21 is a true and correct copy of excerpts from the May 11, 2007 Expert Rebuttal Report of B. Douglas Bernheim.

23. Attached hereto as Exhibit 22 is a true and correct copy of excerpts from document bates stamped AM44 0007603 - AM44 0007623 as produced in the course of this litigation by Amgen.

24. Attached hereto as Exhibit 23 is a true and correct copy of excerpts from document bates stamped AM44 0200967 - AM44 0200989 as produced in the course of this litigation by Amgen.

25. Attached hereto as Exhibit 24 is a true and correct copy of excerpts from document bates stamped AM44 1951328 - AM44 1951333 as produced in the course of this litigation by Amgen.

26. Attached hereto as Exhibit 25 is a true and correct copy of excerpts from document bates stamped AM44 1951353 - AM44 1951359 as produced in the course of this litigation by Amgen.

27. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from document bates stamped AM44 0007126 - AM44 0007166 as produced in the course of this litigation by Amgen.

28. Attached hereto as Exhibit 27 is a true and correct copy of excerpts from the April 6, 2007 Expert Report of B. Douglas Bernheim.

29. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from document bates stamped AM44 0185363 - AM44 0185363 as produced in the course of this litigation by Amgen.

30. Attached hereto as Exhibit 29 is a true and correct copy of excerpts from document bates stamped AM44 0185364 - AM44 0185365 as produced in the course of this litigation by Amgen.

31. Attached hereto as Exhibit 30 is a true and correct copy of excerpts from the May 11, 2007 Expert Rebuttal Report of Einer Elhauge.

32. Attached hereto as Exhibit 31 is a true and correct copy of excerpts from Microsoft Excel Spreadsheet bates stamped R11-000517435, Institutional Provider Worksheet as produced in the course of this litigation by Roche.

33. Attached hereto as Exhibit 32 is a true and correct copy of excerpts from Microsoft Excel Spreadsheet R11-000517435, Medicare Reimb. Worksheet as produced in the course of this litigation by Roche.

34. Attached hereto as Exhibit 33 is a true and correct copy of excerpts from document bates stamped AM44 0007312 - AM44 0007371 as produced in the course of this litigation by Amgen.

35. Attached hereto as Exhibit 34 is a true and correct copy of excerpts from document bates stamped R11-000638018 - R11-000638237 as produced in the course of this litigation by Roche.

36. Attached hereto as Exhibit 35 is a true and correct copy of excerpts from document bates stamped AM44 0242607 - AM44 0242647 as produced in the course of this litigation by Amgen.

37. Attached hereto as Exhibit 36 is a true and correct copy of excerpts from document bates stamped AM44 0236640 - AM44 0236699 as produced in the course of this litigation by Amgen.

38. Attached hereto as Exhibit 38 is a true and correct copy of excerpts from document bates stamped R10-000719872 - R10-000719953 as produced in the course of this litigation by Roche.

39. Attached hereto as Exhibit 39 is a true and correct copy of excerpts from the March 16, 2007 transcript of the deposition of Susan Graf.

40. Attached hereto as Exhibit 40 is a true and correct copy of excerpts from document bates stamped R003907910 - R003908004 as produced in the course of this litigation by Roche.

41. Attached hereto as Exhibit 41 is a true and correct copy of excerpts from a Microsoft Excel Spreadsheet entitled ASP Model_v133 (native file) EpoLEDR Worksheet as produced in the course of this litigation by Amgen.

42. Attached hereto as Exhibit 42 is a true and correct copy of excerpts from document bates stamped AM44 1951186 - AM44 1951187 as produced in the course of this litigation by Amgen.

43. Attached hereto as Exhibit 43 is a true and correct copy of excerpts from a Microsoft Excel Spreadsheet bates stamped R005181636, 5-SDI analysis as produced in the course of this litigation by Roche.

44. Attached hereto as Exhibit 44 is a true and correct copy of excerpts from a document entitled “GAO-07-77 End Stage Renal Disease Bundling Medicare’s Payment for Drugs with Payment for All ESRD Services would Promote Efficiency and Clinical Flexibility.”

45. Attached hereto as Exhibit 45 is a true and correct copy of the Declaration of Steve Platt.

46. Attached hereto as Exhibit 46 is a true and correct copy of the Declaration of Susan Graf.

47. Attached hereto as Exhibit 47 is a true and correct copy of excerpts from the March 30, 2007 transcript of the deposition of Richard Hinson.

48. Attached hereto as Exhibit 48 is a true and correct copy of excerpts from Defendant’s First Supplemental Responses and Objections to Plaintiff Amgen Inc.’s Second Set of Interrogatories (Nos. 16-25) as served in the course of this litigation by Roche.

49. Attached hereto as Exhibit 49 is a true and correct copy of excerpts from the May 25, 2007 transcript of the deposition of Einer Elhauge.

50. Attached hereto as Exhibit 50 is a true and correct copy of excerpts from document bates stamped AM44 0011388 - AM44 0011416 as produced in the course of this litigation by Amgen.

51. Attached hereto as Exhibit 51 is a true and correct copy of excerpts from document bates stamped AM44 0094966 - AM44 0095013 as produced in the course of this litigation by Amgen.

52. Attached hereto as Exhibit 52 is a true and correct copy of excerpts from the March 22, 2007 transcript of the deposition of Alex Lyons.

53. Attached hereto as Exhibit 53 is a true and correct copy of excerpts from document bates stamped AM44 0006952 - AM44 0006987 as produced in the course of this litigation by Amgen.

54. Attached hereto as Exhibit 54 is a true and correct copy of excerpts from document bates stamped AM44 0664015 - AM44 0664020 as produced in the course of this litigation by Amgen.

55. Attached hereto as Exhibit 55 is a true and correct copy of excerpts from document bates stamped AM44 0061052 - AM44 0061053 as produced in the course of this litigation by Amgen.

56. Attached hereto as Exhibit 56 is a true and correct copy of excerpts from document bates stamped AM44 0007864 - AM44 0007933 as produced in the course of this litigation by Amgen.

57. Attached hereto as Exhibit 57 is a true and correct copy of excerpts from document bates stamped AM44 0392145 - AM44 0392211 as produced in the course of this litigation by Amgen.

58. Attached hereto as Exhibit 58 is a true and correct copy of excerpts from document bates stamped AM44 1516870 - AM44 1516870 as produced in the course of this litigation by Amgen.

59. Attached hereto as Exhibit 59 is a true and correct copy of document bates stamped AM44 1934908 as produced in the course of this litigation by Amgen.

60. Attached hereto as Exhibit 60 is a true and correct copy of excerpts from document bates stamped AM44 1951163 - AM44 1951164 as produced in the course of this litigation by Amgen.

61. Attached hereto as Exhibit 61 is a true and correct copy of excerpts from the March 27, 2007 transcript of the deposition of Kevin Sharer.

62. Attached hereto as Exhibit 62 is a true and correct copy of excerpts from the March 26, 2007 transcript of the deposition of George Morrow.

63. Attached hereto as Exhibit 63 is a true and correct copy of excerpts from document bates stamped AM44 1027895 - AM44 1027896 as produced in the course of this litigation by Amgen.

64. Attached hereto as Exhibit 64 is a true and correct copy of excerpts from the Expert Report of David J. Teece.

65. Attached hereto as Exhibit 65 is a true and correct copy of excerpts from document bates stamped AM44 1513443 - AM44 1513461 as produced in the course of this litigation by Amgen.

66. Attached hereto as Exhibit 66 is a true and correct copy of excerpts from document bates stamped AM44 1513464 - AM44 1513470 as produced in the course of this litigation by Amgen.

67. Attached hereto as Exhibit 67 is a true and correct copy of excerpts from the April 2, 2007 transcript of the deposition of Leslie Mirani.

68. Attached hereto as Exhibit 68 is a true and correct copy of excerpts from document bates stamped AM44 0231755 - AM44 0231777 as produced in the course of this litigation by Amgen.

69. Attached hereto as Exhibit 69 is a true and correct copy of excerpts from the March 30, 2007 transcript of the deposition of Robert McGorty.

70. Attached hereto as Exhibit 70 is a true and correct copy of excerpts from document bates stamped FMCNA 002516 - FMCNA 002539 as produced in response to a subpoena in the course of this litigation by Fresenius.

71. Attached hereto as Exhibit 71 is a true and correct copy of document bates stamped AM44 1934907 as produced in the course of this litigation by Amgen.

72. Attached hereto as Exhibit 72 is a true and correct copy of excerpts from the March 27, 2007 transcript of the deposition of Tracey Mooney.

73. Attached hereto as Exhibit 73 is a true and correct copy of excerpts from the April 2, 2007 transcript of the deposition of Dennis Kogod.

74. Attached hereto as Exhibit 74 is a true and correct copy of excerpts from the March 30, 2007 transcript of the deposition of Robert Brenner.

75. Attached hereto as Exhibit 75 is a true and correct copy of excerpts from document bates stamped AM44 0188476 - AM44 0188516 as produced in the course of this litigation by Amgen.

76. Attached hereto as Exhibit 76 is a true and correct copy of excerpts from document bates stamped FMCNA 000001 - FMCNA 000047 as produced in response to a subpoena in the course of this litigation by Fresenius.

77. Attached hereto as Exhibit 77 is a true and correct copy of excerpts from document bates stamped FMCNA 002485 - FMCNA 002491 as produced in response to a subpoena in the course of this litigation by Fresenius.

78. Attached hereto as Exhibit 78 is a true and correct copy of excerpts from document bates stamped R10-000112381 - R10-000112384 as produced in the course of this litigation by Roche.

79. Attached hereto as Exhibit 79 is a true and correct copy of excerpts from document bates stamped R10-003342773 - R10-003342774 as produced in the course of this litigation by Roche.

80. Attached hereto as Exhibit 80 is a true and correct copy of excerpts from document bates stamped R10-004721744 - R10-004721763 as produced in the course of this litigation by Roche.

81. Attached hereto as Exhibit 81 is a true and correct copy of excerpts from document bates stamped R10-003516218 - R10-003516244 as produced in the course of this litigation by Roche.

82. Attached hereto as Exhibit 82 is a true and correct copy of excerpts from document bates stamped R10-000814800 - R10-000814844 as produced in the course of this litigation by Roche.

83. Attached hereto as Exhibit 83 is a true and correct copy of excerpts from the March 14, 2007 transcript of the deposition of John Keefe.

84. Attached hereto as Exhibit 84 is a true and correct copy of excerpts from the March 15, 2007 transcript of the deposition of Chrys Kokino.

85. Attached hereto as Exhibit 85 is a true and correct copy of excerpts from the April 6, 2007 Expert Report of Einer Elhauge.

86. Attached hereto as Exhibit 86 is a true and correct copy of document bates stamped FMCNA 002859 as produced in response to a subpoena in the course of this litigation by Fresenius.

87. Attached hereto as Exhibit 87 is a true and correct copy of excerpts from document bates stamped AM44 0533506 - AM44 0533538 as produced in the course of this litigation by Amgen.

88. Attached hereto as Exhibit 88 is a true and correct copy of excerpts from document bates stamped AM44 1910640 - AM44 1910686 as produced in the course of this litigation by Amgen.

89. Attached hereto as Exhibit 89 is a true and correct copy of excerpts from the June 7, 2007 transcript of the deposition of David Teece.

90. Attached hereto as Exhibit 91 is a true and correct copy of excerpts from document bates stamped AM44 0000986 - AM44 0000987 as produced in the course of this litigation by Amgen.

91. Attached hereto as Exhibit 92 is a true and correct copy of excerpts from document bates stamped AM44 0309732 - AM44 0309733 as produced in the course of this litigation by Amgen.

92. Attached hereto as Exhibit 93 is a true and correct copy of document bates stamped AM44 0104161 as produced in the course of this litigation by Amgen.

93. Attached hereto as Exhibit 94 is a true and correct copy of excerpts from document bates stamped AM44 0045149 - AM44 0045208 as produced in the course of this litigation by Amgen.

94. Attached hereto as Exhibit 95 is a true and correct copy of excerpts from document bates stamped AM44 0265693 - AM44 0265752 as produced in the course of this litigation by Amgen.

95. Attached hereto as Exhibit 96 is a true and correct copy of excerpts from document bates stamped AM44 0007721 - AM44 0007755 as produced in the course of this litigation by Amgen.

96. Attached hereto as Exhibit 97 is a true and correct copy of excerpts from document bates stamped AM44 0727620 - AM44 0727639 as produced in the course of this litigation by Amgen.

97. Attached hereto as Exhibit 99 is a true and correct copy of excerpts from the March 28, 2007 transcript of the deposition of Fred Manak.

98. Attached hereto as Exhibit 100 is a true and correct copy of excerpts from document bates stamped AM44 0095167 - AM44 0095175 as produced in the course of this litigation by Amgen.

99. Attached hereto as Exhibit 101 is a true and correct copy of excerpts from document bates stamped AM44 0019536 - AM44 0019596 as produced in the course of this litigation by Amgen.

100. Attached hereto as Exhibit 102 is a true and correct copy of excerpts from document bates stamped AM44 0095176 - AM44 0095180 as produced in the course of this litigation by Amgen.

101. Attached hereto as Exhibit 103 is a true and correct copy of document bates stamped AM44 0123862 as produced in the course of this litigation by Amgen.

102. Attached hereto as Exhibit 104 is a true and correct copy of excerpts from document bates stamped AM44 0393892 - AM44 0393909 as produced in the course of this litigation by Amgen.

103. Attached hereto as Exhibit 105 is a true and correct copy of excerpts from document bates stamped AM44 1583727 - AM44 1583733 as produced in the course of this litigation by Amgen.

104. Attached hereto as Exhibit 106 is a true and correct copy of excerpts from document bates stamped AM44 1532833 - AM44 1532857 as produced in the course of this litigation by Amgen.

105. Attached hereto as Exhibit 107 is a true and correct copy of document bates stamped AM44 1970278 as produced in the course of this litigation by Amgen.

106. Attached hereto as Exhibit 108 is a true and correct copy of excerpts from document bates stamped AM44 0125608 - AM44 0125647 as produced in the course of this litigation by Amgen.

107. Attached hereto as Exhibit 109 is a true and correct copy of excerpts from document bates stamped AM44 2023589 - AM44 2023633 as produced in the course of this litigation by Amgen.

108. Attached hereto as Exhibit 110 is a true and correct copy of excerpts from document bates stamped AM44 0434172 - AM44 0434181 as produced in the course of this litigation by Amgen.

109. Attached hereto as Exhibit 111 is a true and correct copy of excerpts from document bates stamped AM44 0192555 - AM44 0192573 as produced in the course of this litigation by Amgen.

110. Attached hereto as Exhibit 112 is a true and correct copy of excerpts from document bates stamped AM44 1528356 - AM44 1528369 as produced in the course of this litigation by Amgen.

111. Attached hereto as Exhibit 113 is a true and correct copy of excerpts from document bates stamped AM44 1118690 - AM44 1118697 as produced in the course of this litigation by Amgen.

112. Attached hereto as Exhibit 114 is a true and correct copy of excerpts from document bates stamped AM44 0318370 - AM44 0318411 as produced in the course of this litigation by Amgen.

113. Attached hereto as Exhibit 115 is a true and correct copy of excerpts from document bates stamped AM44 1574952 - AM44 1574993 as produced in the course of this litigation by Amgen.

114. Attached hereto as Exhibit 116 is a true and correct copy of excerpts from document bates stamped AM44 1999994 - AM44 2000178 as produced in the course of this litigation by Amgen.

115. Attached hereto as Exhibit 117 is a true and correct copy of excerpts from document bates stamped AM47 078497 - AM47 078498 as produced in the course of this litigation by Amgen.

116. Attached hereto as Exhibit 118 is a true and correct copy of excerpts from document bates stamped AM47 080690 - AM47 080693 as produced in the course of this litigation by Amgen.

117. Attached hereto as Exhibit 119 is a true and correct copy of excerpts from document bates stamped AM47 091845 - AM47 091883 as produced in the course of this litigation by Amgen.

118. Attached hereto as Exhibit 120 is a true and correct copy of excerpts from document bates stamped AM44 0218813 - AM44 0218818 as produced in the course of this litigation by Amgen.

119. Attached hereto as Exhibit 121 is a true and correct copy of excerpts from document bates stamped R10-001238943 - R10-001238992 as produced in the course of this litigation by Roche.

120. Attached hereto as Exhibit 122 is a true and correct copy of excerpts from document bates stamped R10-001734584 - R10-001734629 as produced in the course of this litigation by Roche.

121. Attached hereto as Exhibit 123 is a true and correct copy of excerpts from document bates stamped AM44 0211096 - AM44 0211175 as produced in the course of this litigation by Amgen.

122. Attached hereto as Exhibit 124 is a true and correct copy of excerpts from document bates stamped R11-000637547 - R11-000637760 as produced in the course of this litigation by Roche.

123. Attached hereto as Exhibit 125 is a true and correct copy of excerpts from document bates stamped R005312290 - R005312412 as produced in the course of this litigation by Roche.

124. Attached hereto as Exhibit 126 is a true and correct copy of excerpts from the April 6, 2007 Expert Report of Lauren Stiroh.

125. Attached hereto as Exhibit 127 is a true and correct copy of excerpts from document bates stamped R005178638 - R005180083 as produced in the course of this litigation by Roche.

126. Attached hereto as Exhibit 127 is a true and correct copy of excerpts from document bates stamped R005178638 - R005180083 as produced in the course of this litigation by Roche.

127. Attached hereto as Exhibit 128 is a true and correct copy of document bates stamped AM44 1226831 as produced in the course of this litigation by Amgen.

128. Attached hereto as Exhibit 129 is a true and correct copy of excerpts from document bates stamped AM44 0192047 - AM44 0192078 as produced in the course of this litigation by Amgen.

129. Attached hereto as Exhibit 130 is a true and correct copy of excerpts from document bates stamped AM44 1517130 - AM44 1517136 as produced in the course of this litigation by Amgen.

130. Attached hereto as Exhibit 131 is a true and correct copy of excerpts from document bates stamped AM44 0237504 - AM44 0237548 as produced in the course of this litigation by Amgen.

131. Attached hereto as Exhibit 132 is a true and correct copy of excerpts from the March 27, 2007 transcript of the deposition of James Daly.

132. Attached hereto as Exhibit 133 is a true and correct copy of excerpts from document bates stamped AM-ITC 00189148 - AM-ITC 00189203 as produced in the course of this litigation by Amgen.

133. Attached hereto as Exhibit 134 is a true and correct copy of excerpts from document bates stamped AM-ITC 00101091 - AM-ITC 00101144 as produced in the course of this litigation by Amgen.

134. Attached hereto as Exhibit 135 is a true and correct copy of excerpts from document bates stamped AM44 1228092 - AM44 1228110 as produced in the course of this litigation by Amgen.

135. Attached hereto as Exhibit 136 is a true and correct copy of excerpts from document bates stamped AM44 1454320 - AM44 1454499 as produced in the course of this litigation by Amgen.

136. Attached hereto as Exhibit 137 is a true and correct copy of excerpts from document bates stamped AM44 1430229 - AM44 1430308 as produced in the course of this litigation by Amgen.

137. Attached hereto as Exhibit 138 is a true and correct copy of excerpts from document bates stamped AM44 0008143 - AM44 0008147 as produced in the course of this litigation by Amgen.

138. Attached hereto as Exhibit 139 is a true and correct copy of excerpts from document bates stamped R001477148 - R001477168 as produced in the course of this litigation by Roche.

139. Attached hereto as Exhibit 140 is a true and correct copy of excerpts from the May 30, 2007 transcript of the deposition of B. Douglas Bernheim.

140. Attached hereto as Exhibit 141 is a true and correct copy of excerpts from the March 27, 2007 transcript of the deposition of Philip Marinelli.

141. Attached hereto as Exhibit 142 is a true and correct copy of excerpts from document bates stamped AM44 0230289 - AM44 0230328 as produced in the course of this litigation by Amgen.

142. Attached hereto as Exhibit 143 is a true and correct copy of excerpts from document bates stamped AM47 093658 - AM47 039687 as produced in the course of this litigation by Amgen.

143. Attached hereto as Exhibit 144 is a true and correct copy of excerpts from document bates stamped AM44 0017982 - AM44 0017983 as produced in the course of this litigation by Amgen.

144. Attached hereto as Exhibit 145 is a true and correct copy of document bates stamped AM44 0117980 as produced in the course of this litigation by Amgen.

145. Attached hereto as Exhibit 146 is a true and correct copy of excerpts from document bates stamped AM44 0204184 - AM44 0204222 as produced in the course of this litigation by Amgen.

146. Attached hereto as Exhibit 147 is a true and correct copy of excerpts from document bates stamped AM44 0289735 - AM44 0289739 as produced in the course of this litigation by Amgen.

147. Attached hereto as Exhibit 148 is a true and correct copy of excerpts from document bates stamped AM44 0439677 - AM44 0439693 as produced in the course of this litigation by Amgen.

148. Attached hereto as Exhibit 149 is a true and correct copy of excerpts from document bates stamped AM44 1083239 - AM44 1083259 as produced in the course of this litigation by Amgen.

149. Attached hereto as Exhibit 150 is a true and correct copy of excerpts from document bates stamped AM44 1444222 - AM44 1444226 as produced in the course of this litigation by Amgen.

150. Attached hereto as Exhibit 151 is a true and correct copy of excerpts from document bates stamped AM44 1947819 - AM44 1947820 as produced in the course of this litigation by Amgen.

151. Attached hereto as Exhibit 152 is a true and correct copy of excerpts from document bates stamped AM47 083947 - AM47 083966 as produced in the course of this litigation by Amgen.

152. Attached hereto as Exhibit 153 is a true and correct copy of excerpts from document bates stamped AM44 0080103 - AM44 0080104 as produced in the course of this litigation by Amgen.

153. Attached hereto as Exhibit 154 is a true and correct copy of excerpts from document bates stamped AM-ITC 00252414 - AM-ITC 00252447 as produced in the course of this litigation by Amgen.

154. Attached hereto as Exhibit 155 is a true and correct copy of document bates stamped AM44 0214446 as produced in the course of this litigation by Amgen.

155. Attached hereto as Exhibit 156 is a true and correct copy of excerpts from document bates stamped AM47 081187 - AM47 081201 as produced in the course of this litigation by Amgen.

156. Attached hereto as Exhibit 157 is a true and correct copy of excerpts from document bates stamped R000231067 - R000231073 as produced in the course of this litigation by Roche.

157. Attached hereto as Exhibit 158 is a true and correct copy of excerpts from document bates stamped R000232806 - R000232810 as produced in the course of this litigation by Roche.

158. Attached hereto as Exhibit 159 is a true and correct copy of excerpts from document bates stamped R001517534 - R001517700 as produced in the course of this litigation by Roche.

159. Attached hereto as Exhibit 160 is a true and correct copy of excerpts from document bates stamped R001958707 - R001958805 as produced in the course of this litigation by Roche.

160. Attached hereto as Exhibit 161 is a true and correct copy of document bates stamped R003680608 - R003680680 as produced in the course of this litigation by Roche.

161. Attached hereto as Exhibit 162 is a true and correct copy of excerpts from document bates stamped R000232110 - R000232168 as produced in the course of this litigation by Roche.

162. Attached hereto as Exhibit 163 is a true and correct copy of excerpts from document bates stamped R003917523 - R003917621 as produced in the course of this litigation by Roche.

163. Attached hereto as Exhibit 164 is a true and correct copy of excerpts from the Amgen 2006 10-K.

164. Attached hereto as Exhibit 165 is a true and correct copy of excerpts from document bates stamped AM44 0052389 - AM44 0052391 as produced in the course of this litigation by Amgen.

165. Attached hereto as Exhibit 166 is a true and correct copy of excerpts from document bates stamped R000186704 - R000186719 as produced in the course of this litigation by Roche.

166. Attached hereto as Exhibit 167 is a true and correct copy of document bates stamped R006532273 as produced in the course of this litigation by Roche.

167. Attached hereto as Exhibit 168 is a true and correct copy of excerpts from document bates stamped AM44 0007093 - AM44 0007125 as produced in the course of this litigation by Amgen.

168. Attached hereto as Exhibit 169 is a true and correct copy of excerpts from document bates stamped AM44 0231710 - AM44 0231732 as produced in the course of this litigation by Amgen.

169. Attached hereto as Exhibit 171 is a true and correct copy of excerpts from document bates stamped AM44 0232880 - AM44 0232922 as produced in the course of this litigation by Amgen.

170. Attached hereto as Exhibit 172 is a true and correct copy of excerpts from document bates stamped AM44 0235091 - AM44 0235097 as produced in the course of this litigation by Amgen.

171. Attached hereto as Exhibit 173 is a true and correct copy of excerpts from document bates stamped AM44 0057336 - AM44 0057339 as produced in the course of this litigation by Amgen.

172. Attached hereto as Exhibit 174 is a true and correct copy of excerpts from document bates stamped AM44 0063320 - AM44 0063341 as produced in the course of this litigation by Amgen.

173. Attached hereto as Exhibit 175 is a true and correct copy of excerpts from document bates stamped AM44 0318004 - AM44 0318016 as produced in the course of this litigation by Amgen.

174. Attached hereto as Exhibit 176 is a true and correct copy of excerpts from document bates stamped AM47 062214 - AM47 062239 as produced in the course of this litigation by Amgen.

175. Attached hereto as Exhibit 177 is a true and correct copy of excerpts from document bates stamped AM44 1609537 - AM44 1609538 as produced in the course of this litigation by Amgen.

176. Attached hereto as Exhibit 178 is a true and correct copy of excerpts from the March 22, 2007 transcript of the deposition of Anthony Messana.

177. Attached hereto as Exhibit 180 is a true and correct copy of document bates stamped AM44 0233655 as produced in the course of this litigation by Amgen.

178. Attached hereto as Exhibit 181 is a true and correct copy of excerpts from document bates stamped AM44 1905578 - AM44 1905647 as produced in the course of this litigation by Amgen.

179. Attached hereto as Exhibit 182 is a true and correct copy of excerpts from document bates stamped AM44 0133383 - AM44 0133416 as produced in the course of this litigation by Amgen.

180. Attached hereto as Exhibit 183 is a true and correct copy of excerpts from document bates stamped AM47 061346 - AM47 061347 as produced in the course of this litigation by Amgen.

181. Attached hereto as Exhibit 184 is a true and correct copy of excerpts from document bates stamped AM44 1335693 - AM44 1335706 as produced in the course of this litigation by Amgen.

182. Attached hereto as Exhibit 185 is a true and correct copy of excerpts from document bates stamped R11-000637988 - R11-000638017 as produced in the course of this litigation by Roche.

183. Attached hereto as Exhibit 186 is a true and correct copy of excerpts from document bates stamped AM44 0000036 - AM44 0000037 as produced in the course of this litigation by Amgen.

184. Attached hereto as Exhibit 187 is a true and correct copy of excerpts from document bates stamped AM44 0191198 - AM44 0191276 as produced in the course of this litigation by Amgen.

185. Attached hereto as Exhibit 188 is a true and correct copy of document bates stamped AM44 1223286 as produced in the course of this litigation by Amgen.

186. Attached hereto as Exhibit 189 is a true and correct copy of excerpts from document bates stamped AM44 1925394 - AM44 1925413 as produced in the course of this litigation by Amgen.

187. Attached hereto as Exhibit 190 is a true and correct copy of excerpts from document bates stamped AM44 0000819 - AM44 0000850 as produced in the course of this litigation by Amgen.

188. Attached hereto as Exhibit 191 is a true and correct copy of excerpts from document bates stamped AM44 0245240 - AM44 0245267 as produced in the course of this litigation by Amgen.

189. Attached hereto as Exhibit 192 is a true and correct copy of excerpts from the March 23, 2007 transcript of the deposition of Robert Azelby.

190. Attached hereto as Exhibit 193 is a true and correct copy of excerpts from document bates stamped AM44 0009433 AM44 0009452 as produced in the course of this litigation by Amgen.

191. Attached hereto as Exhibit 194 is a true and correct copy of excerpts from document bates stamped AM44 0937196 - AM44 0937197 as produced in the course of this litigation by Amgen.

192. Attached hereto as Exhibit 195 is a true and correct copy of document bates stamped AM44 0163983 as produced in the course of this litigation by Amgen.

193. Attached hereto as Exhibit 196 is a true and correct copy of excerpts from document bates stamped AM44 0091390 - AM44 0091506 as produced in the course of this litigation by Amgen.

194. Attached hereto as Exhibit 197 is a true and correct copy of excerpts from document bates stamped AM44 0007385 - AM44 0007470 as produced in the course of this litigation by Amgen.

195. Attached hereto as Exhibit 198 is a true and correct copy of excerpts from document bates stamped AM44 0387704 - AM44 0387716 as produced in the course of this litigation by Amgen.

196. Attached hereto as Exhibit 199 is a true and correct copy of excerpts from document bates stamped AM44 0366107 - AM44 0366114 as produced in the course of this litigation by Amgen.

197. Attached hereto as Exhibit 200 is a true and correct copy of excerpts from document bates stamped AM44 1919049 - AM44 1919068 as produced in the course of this litigation by Amgen.

198. Attached hereto as Exhibit 201 is a true and correct copy of excerpts from document bates stamped AM44 0425505 - AM44 0425515 as produced in the course of this litigation by Amgen.

199. Attached hereto as Exhibit 202 is a true and correct copy of document bates stamped AM44 0230640 as produced in the course of this litigation by Amgen.

200. Attached hereto as Exhibit 203 is a true and correct copy document bates stamped AM44 0230638 as produced in the course of this litigation by Amgen.

201. Attached hereto as Exhibit 204 is a true and correct copy of excerpts from document bates stamped R000250710 - R000250737 as produced in the course of this litigation by Roche.

202. Attached hereto as Exhibit 205 is a true and correct copy of excerpts from document bates stamped AM44 0230636 - AM44 0230637 as produced in the course of this litigation by Amgen.

203. Attached hereto as Exhibit 206 is a true and correct copy of excerpts from Plaintiff's Supplemental Response to Defendant's First Set of Interrogatories (No. 13) as served in the course of this litigation by Amgen.

204. Attached hereto as Exhibit 207 is a true and correct copy of document bates stamped AM44 0163985 as produced in the course of this litigation by Amgen.

205. Attached hereto as Exhibit 208 is a true and correct copy of document bates stamped DVA-ROCHE0000341 as produced in response to a subpoena in the course of this litigation by DaVita.

206. Attached hereto as Exhibit 209 is a true and correct copy of excerpts from document bates stamped AM44 1948561 - AM44 1948563 as produced in the course of this litigation by Amgen.

207. Attached hereto as Exhibit 210 is a true and correct copy of document bates stamped DVA-ROCHE0000338 as produced in response to a subpoena in the course of this litigation by DaVita.

208. Attached hereto as Exhibit 211 is a true and correct copy of excerpts from document bates stamped AM44 0192447 - AM44 0192452 as produced in the course of this litigation by Amgen.

209. Attached hereto as Exhibit 213 is a true and correct copy of excerpts from document bates stamped AM44 0215000 - AM44 0215004 as produced in the course of this litigation by Amgen.

210. Attached hereto as Exhibit 214 is a true and correct copy of excerpts from document bates stamped R000126880 - R000126882 as produced in the course of this litigation by Roche.

211. Attached hereto as Exhibit 215 is a true and correct copy of excerpts from document bates stamped R000126965 - R000126966 as produced in the course of this litigation by Roche.

212. Attached hereto as Exhibit 216 is a true and correct copy of excerpts from document bates stamped AM44 0145693 - AM44 0145754 as produced in the course of this litigation by Amgen.

213. Attached hereto as Exhibit 217 is a true and correct copy of excerpts from document bates stamped AM44 0109871 - AM44 0109913 as produced in the course of this litigation by Amgen.

214. Attached hereto as Exhibit 218 is a true and correct copy of excerpts from document bates stamped AM44 1003399 - AM44 1003423 as produced in the course of this litigation by Amgen.

215. Attached hereto as Exhibit 219 is a true and correct copy of excerpts from document bates stamped R008012011 - R008012067 as produced in the course of this litigation by Roche.

216. Attached hereto as Exhibit 220 is a true and correct copy of excerpts from document bates stamped R10-000720247 - R10-000720248 as produced in the course of this litigation by Roche.

217. Attached hereto as Exhibit 221 is a true and correct copy of excerpts from document dated April 25, 2006, entitled "Role of Competition in the Pharmaceutical Market and Its Potential Impact in the ESRD Program."

218. Attached hereto as Exhibit 222 is a true and correct copy of excerpts from document bates stamped R005184416 - R005184421 as produced in the course of this litigation by Roche.

219. Attached hereto as Exhibit 223 is a true and correct copy of excerpts from document bates stamped ITC-R-BLA-00075601 - ITC-R-BLA-00078440 as produced in the course of this litigation by Roche.

220. Attached hereto as Exhibit 224 is a true and correct copy of excerpts from document bates stamped AM44 0255366 - AM44 0255397 as produced in the course of this litigation by Amgen.

221. Attached hereto as Exhibit 225 is a true and correct copy of excerpts from document bates stamped AM44 0014032 - AM44 0014059 as produced in the course of this litigation by Amgen.

222. Attached hereto as Exhibit 226 is a true and correct copy of excerpts from document bates stamped AM44 0724036 - AM44 0724069 as produced in the course of this litigation by Amgen.

223. Attached hereto as Exhibit 227 is a true and correct copy of excerpts from document bates stamped AM47 061599 - AM47 061621 as produced in the course of this litigation by Amgen.

224. Attached hereto as Exhibit 228 is a true and correct copy of excerpts from document bates stamped AM44 1115423 - AM44 1115469 as produced in the course of this litigation by Amgen.

225. Attached hereto as Exhibit 229 is a true and correct copy of excerpts from May 11, 2007 Third Expert Statement of Dr. Bruce Spinowitz.

226. Attached hereto as Exhibit 230 is a true and correct copy of excerpts from document bates stamped AM44 0010091 - AM44 0010113 as produced in the course of this litigation by Amgen.

227. Attached hereto as Exhibit 231 is a true and correct copy of excerpts from document bates stamped AM44 0257843 - AM44 0257896 as produced in the course of this litigation by Amgen.

228. Attached hereto as Exhibit 232 is a true and correct copy of excerpts from document bates stamped R10-002909705 - R10-002909775 as produced in the course of this litigation by Roche.

229. Attached hereto as Exhibit 233 is a true and correct copy of excerpts from document bates stamped R10-002243142 - R10-002243184 as produced in the course of this litigation by Roche.

230. Attached hereto as Exhibit 234 is a true and correct copy of excerpts from document bates stamped AM44 0420347 - AM44 0420348 as produced in the course of this litigation by Amgen.

231. Attached hereto as Exhibit 235 is a true and correct copy of excerpts from the July 13, 2006 Statement of Herb B. Kuhn, Directory, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services before the Subcommittee on Health of the House Committee on Ways and Means.

232. Attached hereto as Exhibit 236 is a true and correct copy of excerpts from the Federal Register, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005, 66 Fed. Reg. 66236 (November 15, 2004).

233. Attached hereto as Exhibit 237 is a true and correct copy of excerpts from document bates stamped AM44 0237736 - AM44 0237760 as produced in the course of this litigation by Amgen.

234. Attached hereto as Exhibit 239 is a true and correct copy of excerpts from document bates stamped AM44 0234061 - AM44 0234066 as produced in the course of this litigation by Amgen.

235. Attached hereto as Exhibit 240 is a true and correct copy of excerpts from document bates stamped AM44 0170626 - AM44 0170659 as produced in the course of this litigation by Amgen.

236. Attached hereto as Exhibit 241 is a true and correct copy of excerpts from document bates stamped AM44 0435746 - AM44 0435754 as produced in the course of this litigation by Amgen.

237. Attached hereto as Exhibit 243 is a true and correct copy of excerpts from document bates stamped AM44 1026841 - AM44 1026918 as produced in the course of this litigation by Amgen.

238. Attached hereto as Exhibit 244 is a true and correct copy of excerpts from the March 29, 2007 transcript of the deposition of Peter Schupbach.

239. Attached hereto as Exhibit 245 is a true and correct copy of excerpts from the May 31, 2007 transcript of the deposition of Lauren Stiroh.

240. Attached hereto as Exhibit 246 is a true and correct copy of excerpts from document bates stamped AM44 0086362 - AM44 0086411 as produced in the course of this litigation by Amgen.

241. Attached hereto as Exhibit 247 is a true and correct copy of excerpts from document bates stamped AM44 0024343 - AM44 0024357 as produced in the course of this litigation by Amgen.

242. Attached hereto as Exhibit 249 is a true and correct copy of excerpts from document bates stamped R11-000638246 - R11-000638248 as produced in the course of this litigation by Roche.

243. Attached hereto as Exhibit 250 is a true and correct copy of document bates stamped R005196525 as produced in the course of this litigation by Roche.

244. Attached hereto as Exhibit 251 is a true and correct copy of the Declaration of Patricia Rocha-Tramaloni, Esq.

245. Attached hereto as Exhibit 252 is a true and correct copy of excerpts from document bates stamped AM44 0216327 - AM44 0216358 as produced in the course of this litigation by Amgen.

246. Attached hereto as Exhibit 253 is a true and correct copy of excerpts from Exhibit 2 to the May 31, 2007 Deposition of Lauren Stiroh.

247. Attached hereto as Exhibit 254 is a true and correct copy of excerpts from document bates stamped AM44 1828892 - AM44 1828915 as produced in the course of this litigation by Amgen.

248. Attached hereto as Exhibit 256 is a true and correct copy of excerpts from document bates stamped AM44 1516903 - AM44 1516917 as produced in the course of this litigation by Amgen.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of June 2007 at Washington, D.C.

/s/ David L. Cousineau
David L. Cousineau