

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**AMGEN, INC.,**

**Plaintiff,**

v.

**CIVIL ACTION No.: 05-CV-12237-WGY**

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

**Defendants.**

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**DAVITA'S MOTION TO RECONSIDER JULY 9, 2007,  
ORDER DENYING DAVITA'S MOTION TO SEAL, OR IN THE ALTERNATIVE, TO  
STAY THE ORDER PENDING APPEAL**

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Non-party DaVita Inc. ("DaVita") hereby moves this Court to reconsider its order denying DaVita's Assented-to Motion for Leave to File Under Seal Documents Containing DaVita's Trade Secrets (the "Order"). As explained more fully in DaVita's contemporaneously filed memorandum in support, the Order reflected manifest error, in that it did not reflect a weighing of the prejudice to DaVita that will result if the documents requested to be sealed are filed publicly, versus the public's interest in access to the documents.

Should the Court decline to reconsider, DaVita seeks a stay of the Order pending appeal, because enforcement of the Order prior to appellate review will irreparably harm DaVita and destroy its rights to secure meaningful review.

**REQUEST FOR ORAL ARGUMENT**

In accordance with Local Rule 7.1, DaVita hereby respectfully requests that the Court schedule an oral argument with respect to the instant motion.

WHEREFORE, DaVita respectfully requests that the Court reconsider the Order and reverse its prior ruling, or alternatively, impose a stay pending DaVita's appeal of the Order.

Respectfully submitted,

Dated: July 13, 2007

**DAVITA INC.**

By: /s/ Christopher J. Petrini  
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*Counsel for Non-Party DaVita Inc.*

**CERTIFICATE PURSUANT TO LOCAL RULE 7.1(a)(2)**

Undersigned counsel for DaVita certifies that DaVita has conferred in good faith with counsel for Amgen and Roche in an effort to resolve or narrow the issues raised by this motion.

/s/ Michelle T. McGuinness  
MICHELLE T. McGUINNESS

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**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 paper copies will be sent to those indicated as non registered participants.

/s/ Peter L. Mello

Peter L. Mello