

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
AMGEN INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL ACTION No.: 05-CV-12237WGY
F. HOFFMANN-LA ROCHE LTD)	
ROCHE DIAGNOSTICS GmbH)	
and HOFFMANN-LA ROCHE INC.)	
)	
Defendants.)	
_____)	

**DEFENDANTS’ MOTION *IN LIMINE* TO PRECLUDE AMGEN FROM
OFFERING EXPERT OPINIONS BASED ON
STATEMENTS MADE DURING PRIOR LEGAL PROCEEDINGS BY
WITNESSES WHO WILL NOT TESTIFY AT TRIAL IN THIS CASE**

Defendants F. Hoffmann-La Roche, Ltd, Roche Diagnostics GmbH and Hoffmann-La Roche Inc. (collectively “Roche”) submit this motion *in limine* to preclude Amgen’s experts from offering opinions at trial based on statements -- such as declarations, deposition testimony and trial testimony -- made during prior legal proceedings by witnesses who will not testify at trial in this case. Such statements, made outside of this court, would be inadmissible hearsay and do not qualify as evidence “of a type reasonably relied upon by experts in the particular field” as required by Federal Rule of Evidence 703. Therefore, they are not a proper basis for expert testimony in this case.

Roche respectfully requests that the Court preclude Amgen from offering expert opinion testimony based on statements made during prior legal proceedings by witnesses

who will not testify at trial in this case. This information is inadmissible hearsay and does not qualify as evidence “of a type reasonably relied upon by experts in the particular field” as required to serve as the basis for an expert opinion under Federal Rule of Evidence 703.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1

I certify that counsel for the parties have conferred in an attempt to resolve or narrow the issues presented by this motion and that no agreement could be reached.

Dated: August 14, 2007
Boston, Massachusetts

Respectfully submitted,

F. HOFFMANN-LA ROCHE LTD,
ROCHE DIAGNOSTICS GMBH, and
HOFFMANN-LA ROCHE INC.

By their Attorneys

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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 on the above date.

/s/ Keith E. Toms
Keith E. Toms

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