

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AMGEN, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05 CV 12237 WGY
	)	
F. HOFFMANN-LAROCHE LTD.,	)	
a Swiss Company, ROCHE DIAGNOSTICS	)	
GMBH, a German Company, and	)	
HOFFMANN LAROCHE INC., a New	)	
Jersey Corporation,	)	
	)	
Defendants.	)	

**DECLARATION OF DEBORAH E. FISHMAN IN SUPPORT OF AMGEN’S MOTION  
IN LIMINE NO. 13: EXCLUDE EVIDENCE AND ARGUMENT REGARDING  
ROCHE’S FDA FILINGS AND COMMUNICATIONS WITHHELD THROUGHOUT  
FACT DISCOVERY**

I, Deborah E. Fishman, declare as follows:

1. I am a partner at the law firm of Day Casebeer Madrid & Batchelder LLP, counsel for plaintiff Amgen Inc. I am admitted to practice law before this Court (*pro hac vice*) and all of the Courts of the State of California.

2. I make this declaration of my own personal knowledge. If called to testify as to the truth of the matters stated herein, I could and would testify competently.

3. Attached hereto as Exhibit 1 is a true and correct copy of excerpts of the Expert Report of Professor Jeffrey S. Borer, M.D., May 11, 2007, designated by Roche as “Highly Confidential”.

4. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of the Expert Report of Joachim Vollmar, May 11, 2007, designated by Roche as “Highly Confidential”.

5. Attached hereto as Exhibit 3 is a true and correct copy of excerpts of the Expert Report of Kenneth V. Lieberman, M.D., May 11, 2007, designated by Roche as “Highly Confidential”.

6. Attached hereto as Exhibit 4 is a true and correct copy of excerpts of the Expert Report of Professor Steven Fishbane, M.D., May 11, 2007, designated by Roche as “Highly Confidential”.

7. Attached hereto as Exhibit 5 is a true and correct copy of excerpts of the Third Expert Statement of Dr. Bruce Spinowitz, M.D., June 13, 2007, designated by Roche as “Confidential/Restricted Access”.

8. Attached hereto as Exhibit 6 is a true and correct copy of a letter from Mario Moore to Thomas F. Fleming, dated May 22, 2007.

9. Attached hereto as Exhibit 7 is a true and correct copy of excerpts of the Deposition of Professor Jeffrey S. Borer, M.D., May 22, 2007, designated by Roche as “Confidential/Restricted Access.”

Signed this 22<sup>nd</sup> day of August, 2007.

By: /s/ Deborah E. Fishman  
Deborah E. Fishman

**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 and paper copies will be sent to those indicated as on-registered participants.

*/s/ Michael R. Gottfried*  
Michael R. Gottfried