

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

**DECLARATION OF THOMAS F. FLEMING IN SUPPORT OF DEFENDANTS’
OPPOSITION TO PLAINTIFF’S MOTION *IN LIMINE* NO. 3: TO EXCLUDE
REFERENCES TO DOCUMENTS AND EXPERIMENTS FROM DR. BARBER**

I, Thomas F. Fleming, declare under penalty of perjury that:

1. I am an attorney admitted to the Bars of the Commonwealth of Massachusetts and the State of New York and this Court. I am an associate at the law firm of Kaye Scholer LLP, counsel for Defendants in the above-referenced case.

2. I make this declaration in support of the Roche’s Opposition to Plaintiff’s Motion *In Limine* No. 3 To Exclude References To Documents and Experiments From Dr. Barber.

3. Exhibit A is a true and correct copy of a letter dated May 9, 2007 sent from Hank Heckel of Roche’s counsel Kaye Scholer to Peter Day of Amgen’s counsel Day Casebeer.

4. Exhibit B is a true and correct copy of a letter dated July 27, 2007 sent from Jeremy Protas of Amgen's counsel Marshall, Gerstein & Borun to Peter Fratangelo of Roche's counsel Kaye Scholer.

Dated: September 1, 2007
Boston, Massachusetts

/s/ Thomas F. Fleming
Thomas F. Fleming

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/ Thomas F. Fleming

Thomas F. Fleming