Declaration of Michael L. Baum

I, Michael L. Baum, hereby depose and state as follows:

1. I am an attorney with the law firm Baum Hedlund Aristei and Goldman ("Baum Hedlund"). If called to testify I could and would testify competently of my own personal knowledge to the following facts.

2. Baum Hedlund acted as co-lead counsel for plaintiffs' trial team in *K.D.D. Smith et al vs. Alpha Therapeutics, Armour Pharmaceutical Company, Cutter Biological et al, Hyland Therapeutics, a division of Baxter et al.*, Case. No. 93-8088, Civil District Court for the Parish of Orleans, New Orleans, Louisiana. ("*K.D.D.*") (Cutter merged into Bayer and all references herein to Cutter also refer to Bayer.) That case was tried over a period of approximately 32 days between December 8, 1998, and March 15, 1999. *K.D.D.* involved wrongful death and survivor claims for an HIV-infected hemophiliac against the above four manufacturers of factor concentrates ("AHF"), which the plaintiff alleged had infected him with HIV.

3. In my capacity as co-lead counsel in *K.D.D.*, I was directly involved in strategizing, preparing for trial, and litigating the case.

4. A jury ruled in favor of the *K.D.D.* plaintiffs, finding that Bayer and Alpha were at fault and awarding plaintiffs $35.5 million in damages.

5. I have reviewed the documents and testimony plaintiffs presented in that case to determine what evidence would be used to litigate the Taiwan plaintiffs' claims.

6. I limited my determination of evidence to litigation against Bayer (Cutter).

7. Additionally, I have reviewed evidence contained in the MDL 986 document depository related to heat treatment of AHF, plasma donations, lot records, manufacturing,

marketing, litigation strategy, damage control, and dumping in the Far East, particularly Taiwan.

8. Based on those reviews, I have determined approximate numbers of witnesses and documentary evidence from the 4,100 exhibits on the *K.D.D.* exhibit list and other MDL 986 document depository evidence, which plaintiffs will use to prove their claims as follows:

a. 28 fact/expert witnesses, either by deposition or live, totaling approx. 12,000 pages including:

(1) Tom Asher, Ph.D. - Testimony regarding the plasma fractionation market;

(2) Abe Andes, M.D. - Testimony regarding his personal studies of hemophiliacs infected with HIV;

(3) Geni Bennetts, M.D. - Testimony as a treating hematologist for hemophiliacs in the 1980s and not knowing about the use of high risk donors or failure to virally deactivate AHF;

(4) Michael Decker, M.D. - Testimony regarding his study of Hepatitis B in prison populations and associated plasma-collection risks;

(5) Tom Drees, Ph.D. - Testimony regarding business operations of plasma fractionation, plasma collection practices; the industry's response to the AIDS crisis; agreements between the four US fractionator companies and the industries' relationship with government regulators and the hemophilia community worldwide;

(6) Jay Geller, Esq. - Testimony regarding government regulation in general and FDA regulations specific to pharmaceuticals and medical devices, and defendants manufacturing and plasma collection practices;

(7) Roger Grimson, Ph.D.- (Biostastician) - Testimony regarding the HIV rate of infection in Taiwan as opposed to the United States;

(8) Clark C. Havighurst - (Professor of Law) - Testimony regarding anti-trust laws, including price fixing and other anti-competitive measures employed by companies operating within the market place, fixed price contracts and violations of price fixing regulations;

(9)James W. Mosley, M.D. - Testimony regarding the Transfusion Safety Study ("TSS") that he conducted at the University of Southern California, plasma collection donor issues. The TSS study offers insight into what the fractionators knew and should have known during the emerging AIDS crisis and how they should have reacted for the safety and well-being of those dependent upon their factor products;

(10) J. Kay Noel, Ph.D. - Testimony regarding plasma fractionation market and manufacturing processes, industry's knowledge of transmission of viruses through factor concentrates, responsible plasma collection practices, industry reaction to the AIDS crisis, and international marketing of pharmaceutical products, including factor concentrates;

(11) Andew T. Pavia, M.D. - Testimony regarding progression of HIV infection, aggravation of HIV through further exposure and exposure to other viruses such as HCV, seroconversion;

(12) William Robinson, M.D. - Testimony regarding availability of viral deactivation steps that would have prevented the HIV epidemic amongst hemophiliacs, impropriety of using high risk donors for AHF products, and seroconversion of each Taiwan plaintiff, based on a review of their medical records and other factors;

(13-16) Drs. London, Mitchell, Tedder and Putnam - Testimony regarding viral inactivation of AHF, AHF infectivity and ability to transmit fatal viruses, regulations for the manufacture of AHF, defendants' obligations and knowledge concerning viral inactivation;

(17) Don Francis, M.D. - Testimony regarding impropriety of using high risk donors, his work

at the U.S. CDC, the CDC's role in the emerging AIDS crisis, the January 4, 1983 CDC meeting;

(18-20) David Grillette, Richard Vinson and Odell Davis (Louisiana State Penitentiary at Angola, Louisiana, prisoners) - Percipient witness testimony as participants in prison plasma collection programs for purchasing plasma from prison inmates incarcerated there and in other Louisiana prisons during the 1980's when the AIDS and hepatitis viruses were endemic in this population, plasma collection practices at Angola;

(21) Oscar Ratnoff, M.D. - Testimony regarding his decision as a hemophilia treater to switch his patients to cryoprecipitate and avoid contaminated AHF;

(22-26) Other witnesses on the defendants' liability will include Dr. Harry Meyer, head of the FDA Office of Biologics, Dr. Dennis Donahue, Dr. Bruce Evatt and Dr. David Aaronson on the topics of transmission of HIV to hemophiliacs and use of high risk donors;

(27) Michael Gottlieb, M.D. - Testimony regarding plaintiffs' seroconversion profile.

(28) Peter Levine, M.D. - Testimony regarding HIV transmission and use of high risk donors.

b. 700 exhibits, totaling approximately 26,000 pages (attached hereto as Exhibit A.)

9. From Bayer's discovery responses herein, I have also determined that at least 25 different lots of Bayer's AHF were shipped to Taiwan during the relevant time period. Although Bayer refused to produce these lots in MDL 986 second generation core discovery, I obtained lot records for some Bayer lots in *K.D.D.* Based on the lots previously produced, the average lot record contains 1,600 pages. Thus, plaintiffs intend to prove their infection with Bayer's product by introducing approximately 40,000 pages of lot records into the record.

10. I have reviewed the plaintiffs' medical records, most of which are English-language documents. These records total approximately 5,600 pages and are currently in the

defendants' possession.

11. The evidence from the *K.D.D.* and the MDL 986 document depository which I have considered in my evaluation is English-language evidence.

12. Based on my foregoing analysis, I have determined that approximately 83,600 pages of English-language evidence will be required by plaintiffs to prove their claims.

13. I have further analyzed what case-specific evidence is located outside of the United States. This includes the testimony of the Taiwanese plaintiff/family members.

14. Further, plaintiffs would introduce the testimony of Prof. Arthur Chen, either by deposition or live testimony. Prof Chen has personally advised me that he is willing to travel to the United States and will submit to the jurisdiction of the U.S. courts. It is unknown at this time how many pages his testimony will contain but his testimony will be in English.

15. In connection with analyzing the amount of plaintiff/family member testimony that will likely be introduced in each plaintiff's case, I reviewed the case-specific testimony introduced in *K.D.D.* Eight case-specific witnesses testified, including plaintiff and four family members, one family friend, and two treaters. This evidence totaled approximately 1,600 pages of testimony/depositions.

16. I have determined that approximately four-five family members will testify in each Taiwan plaintiff's case. I do not anticipate that any treating physician's testimony will be required to prove each plaintiff's case. Estimating that case specific evidence in *K.D.D.* is similar to what will be produced in each Taiwan plaintiff's case, I have determined that approximately 1,600 pages of case specific testimony/depositions will be introduced.

17. I have compared the amount of United States-based evidence with the amount of

Taiwan-based evidence. To summarize that comparison, approximately 83,600 pages of evidence is located in the United States. Approximately 1,600 pages of evidence will be located in Taiwan. Percentage-wise this means that over 98% of plaintiffs' case will be based on English-language documents located in the United States. Less than 2% of plaintiff's case will be based on evidence located in Taiwan.

18. I have reviewed the humanitarian aid agreements signed by the Taiwan plaintiffs and determined that the agreements were signed between 1998 and 2002.

19. Attached hereto as Exhibit B to this declaration is an index of documents which are submitted in support of Plaintiff's Opposition to Defendants' Motion to Dismiss Plaintiffs from Taiwan on Grounds of *Forum Non Conveniens*. I certify that the exhibits identified on the attached index are true and correct copies of same.

I declare under penalty of perjury under the laws of the United Sates of America that the foregoing is true and correct.

Executed this 18th day of August, 2008, at Los Angeles, California.

/s/ Michael L. Baum
Michael L. Baum, Esq.