

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GENENTECH, INC. and CITY OF HOPE,)	
)	
Plaintiffs,)	
)	
v.)	
)	
AMGEN INC.)	C.A. No. 17-1471-GMS
)	
Defendant.)	
)	
)	

**PLAINTIFFS’ MOTION TO
DISMISS AND TO STRIKE DEFENDANT’S COUNTERCLAIMS AND
THIRD, FOURTEENTH, AND FIFTEENTH AFFIRMATIVE DEFENSES**

Pursuant to Federal Rule of Civil Procedure 12(b)(1), 12(b)(6), and 12(f), Plaintiffs Genentech, Inc. and City of Hope (jointly, “Plaintiffs”) respectfully move for dismissal of and/or to strike Defendant Amgen’s Inc.’s Counterclaims and Third, Fourteenth, and Fifteenth Affirmative Defenses. The bases for this motion are set forth in the Opening Brief contemporaneously filed herewith.

DATED: May 22, 2018

MCCARTER & ENGLISH, LLP

/s/ Daniel M. Silver
Michael P. Kelly (# 2295)
Daniel M. Silver (# 4758)
Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, Delaware 19801
Tel.: (302) 984-6300
Fax: (302) 984-6399
mkelly@mccarter.com
dsilver@mccarter.com

*Attorneys for Plaintiffs Genentech, Inc.
and City of Hope*

OF COUNSEL:

Paul B. Gaffney
David I. Berl
Thomas S. Fletcher
Teagan J. Gregory
Jonathan S. Sidhu
Williams & Connolly LLP
725 Twelfth St. NW
Washington, DC 20005
(202) 434-5000

Attorneys for Plaintiff Genentech, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GENENTECH, INC. and CITY OF HOPE,)	
)	
Plaintiffs,)	
)	
v.)	
)	
AMGEN INC.)	C.A. No. 17-1471-GMS
)	
Defendant.)	
)	
)	
)	
)	

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION TO
DISMISS AND TO STRIKE DEFENDANT'S COUNTERCLAIMS AND
THIRD, FOURTEENTH, AND FIFTEENTH AFFIRMATIVE DEFENSES**

IT IS HEREBY ORDERED, this _____ day of _____, 2018,
pursuant to Federal Rule of Civil Procedure 12(b)(1), 12(b)(6), and 12(f), Defendant Amgen's
Inc.'s Counterclaims and Third, Fourteenth, and Fifteenth Affirmative Defenses are hereby
DISMISSED and STRICKEN.

UNITED STATES DISTRICT JUDGE