



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA
CLEVELAND COUNTY } S.S.
FILED In The
Office of the Court Clerk

MAY 03 2018

In the office of the
Court Clerk MARILYN WILLIAMS

STATE OF OKLAHOMA, ex rel.,
MIKE HUNTER,
ATTORNEY GENERAL OF OKLAHOMA,

Plaintiff,

v.

- (1) PURDUE PHARMA L.P.;
- (2) PURDUE PHARMA, INC.;
- (3) THE PURDUE FREDERICK COMPANY;
- (4) TEVA PHARMACEUTICALS
USA, INC.;
- (5) CEPHALON, INC.;
- (6) JOHNSON & JOHNSON;
- (7) JANSSEN PHARMACEUTICALS, INC.;
- (8) ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS, INC.;
- (9) JANSSEN PHARMACEUTICA, INC.,
n/k/a JANSSEN PHARMACEUTICALS,
INC.;
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,
f/k/a ACTAVIS, INC., f/k/a WATSON
PHARMACEUTICALS, INC.;
- (11) WATSON LABORATORIES, INC.;
- (12) ACTAVIS LLC; and
- (13) ACTAVIS PHARMA, INC.,
f/k/a WATSON PHARMA, INC.,

Defendants.

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

**DEFENDANTS TEVA PHARMACEUTICALS USA, INC., CEPHALON, INC., WATSON
LABORATORIES, INC., ACTAVIS LLC, AND ACTAVIS PHARMA, INC., f/k/a
WATSON PHARMA, INC.'S MOTION TO COMPEL DISCOVERY**

Defendants Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc., f/k/a Watson Pharma, Inc. (collectively, the “Teva Defendants”) respectfully move to compel discovery from Plaintiff the State of Oklahoma (“Plaintiff” or “the State”) pursuant to Okla. Stat. tit. 12 § 3237. For the reasons described herein, Plaintiff has not provided sufficient initial disclosures as required by the Oklahoma Discovery

Code and this Court's January 29, 2018 Scheduling Order. Thus, the Teva Defendants respectfully ask the Court to order Plaintiff to supplement its initial disclosures in accordance with its discovery obligations.

I. INTRODUCTION

Plaintiff filed suit against 13 defendants to recover for the "opioid crisis" in Oklahoma. Plaintiff's Petition alleges that, along with the other named opioid manufacturing Defendants, the Teva Defendants have submitted to the government false claims for payment of their opioid products, engaged in fraud related to their marketing of those products, and created an opioid epidemic in Oklahoma that constitutes a public nuisance. *See* Petition at ¶¶ 73-133. According to the Petition, all of the Defendants' alleged misconduct has caused "catastrophic" damage to the state of Oklahoma resulting from Plaintiff having to pay "substantial" "health care costs" and "social and economic costs" including, for example, "criminal justice costs, and lost work productivity costs." *See id.* at ¶¶ 5-6.

Pursuant to their obligations under the Oklahoma Discover Code, 12 § 3226(A)(2)(a), and this Court's January 29, 2018 Scheduling Order, the parties were required to exchange initial disclosures containing information related to damages and identifying the individuals likely to have discoverable information. Plaintiff's initial disclosures are deficient in two key respects. First, Plaintiff's disclosures fail to provide a "computation" of the categories of damages Plaintiff claims it is entitled to, as required by the discovery rules. More specifically, the State fails to identify the types of damages it seeks for each count in the Petition and it fails to provide any monetary quantification of actual damages. Second, Plaintiff's initial disclosures do not adequately identify the individual employees at various state agencies on whom Plaintiff may rely to support its claims. Because Plaintiff fails to provide adequate information in its initial

disclosures, the Teva Defendants bring the present motion and respectfully request the Court order Plaintiff to supplement its initial disclosures promptly.¹

II. ARGUMENTS AND AUTHORITIES²

A. Plaintiff's Initial Disclosures Fail to Provide a Computation of the Damages Sought by Plaintiff.

Under the Oklahoma Discovery Code, “a party...shall provide to other parties a computation of any category of damages claimed by the disclosing party, making available for inspection and copying the documents or other evidentiary material...on which such computation is based, including materials bearing on the nature and extent of injuries suffered.” *See* Okla. Stat. tit. 12 § 3226(A)(2)(a). Moreover, a party is not excused from making its disclosures because it has not fully investigated the case. *Id.* § (A)(2)(c).

To begin with, Plaintiff’s initial disclosures fail to identify which actual damages and other monetary and non-monetary relief Plaintiff seeks with respect to each count in its Petition. Plaintiff brings a six-count Petition alleging various types of statutory and common law claims and seeking various types of relief against numerous parties for the “harm caused by Defendants’ unlawful actions.” *See* The State of Oklahoma’s Initial Disclosures to Defendants (hereinafter “State’s Initial Disclosures” and attached hereto as Exhibit A) at p. 2. That relief includes, “(1) damages caused by Defendants’ wrongdoings in the form of past and future compensatory damages, statutory penalties, and punitive damages; (2) restitution and disgorgement of Defendants’ ill-gotten gains; (3) injunctive relief and other forms of non-monetary remediation and abatement; (4)

¹ The parties met and conferred on these issues prior to the conference on April 19, 2018.

² The language of the Oklahoma rule regarding initial disclosures, 12 § 3226(A)(2)(a), mirrors that of Federal Rule of Civil Procedure 26(a)(1)(A)(iii). Accordingly, courts in Oklahoma look to federal case law when construing similar language in the Oklahoma discovery rules. *See Crest Infiniti, II, LP v. Swinton*, 174 P.3d 996, 999 (Okla. 2007).

the costs of bringing this action, including litigation costs and attorney's fees; and (5) all other appropriate relief to which the State is entitled." *Id.* Yet Plaintiff's initial disclosures fail to specify for each claim the type of damages the State is seeking, and whether it be some or all of these categories of damages, and from which Defendants. The Defendants are entitled to know this information.

Second, the State fails to provide a "computation" of its purported actual damages. Instead, the disclosures contain a list of vague categories such as "medical expenses," "addiction treatment services," "loss of productivity," and "criminal-justice related costs." *See* State's Initial Disclosures at pp. 3-4, 6. What is missing, and what the Teva Defendants are entitled to know, is a quantifiable computation of damages.

"A defendant generally is entitled to a specific computation of a plaintiff's damages." *Isom v. Midwest Div.-OPPMC, LLC*, No. 13-2602-RDR, 2014 WL 3541842, at *3 (D. Kan. July 17, 2014) (finding plaintiff's original disclosures insufficient as they failed to provide a corresponding dollar computation with each type of damages sought); *see also State of Okla. ex rel Edmondson v. Tyson Foods, Inc.*, No. 05-cv-329-GKF-SAJ, 2007 WL 649332, at *5 (N.D. Okla. Feb. 26, 2007) ("Plaintiffs are obligated to provide damage quantification to the extent it exists within Plaintiff's possession or knowledge."). Indeed, principles of fairness and due process require a plaintiff to inform the defendant of how much exposure it faces. *See McKinney v. Reassure America Life Ins. Co.*, No. 06-civ-271-RAW, 2006 WL 3228791, at *2 (E.D. Okla. Nov. 2, 2006) ("[T]he Court believes that due process requires a plaintiff to specify *how much* they are requesting in damages. It is simply unfair for any defendant to remain in forced ignorance regarding this number until the rebuttal portion of a plaintiff's closing argument.") (emphasis in original).

The Defendants are not only entitled to this information from a fairness standpoint, but also from a practical perspective so that it can aid each of their decision-making related to discovery, settlement and trial preparation. *See id.* at *1 (“The purpose of [initial disclosures] is to ‘accelerate the exchange of basic information’ that is ‘needed in most cases to prepare for trial or make an informed decision about settlement.’ *Early Disclosure* also assists the parties ‘in focusing and prioritizing their organization of discovery.’”) (emphasis added) (internal citations omitted). Common sense dictates – particularly in a case like this where Plaintiff’s alleged claims and multiple forms of relief are so expansive and nebulous – that a party cannot properly assess the case against it or efficiently challenge the plaintiff’s claims without the type of early disclosures that the rules require.

As such, Plaintiff should be foreclosed from claiming that it cannot, at this time, provide Defendants with this information. Indeed, the rules specifically prohibit plaintiffs from excusing themselves of their obligations because investigation is ongoing. *See Okla. Stat. tit. 12 § 3226(A)(2)(c)*. The Petition alleges that, throughout the relevant time period, the Teva Defendants caused to be submitted 245 prescriptions of Cephalon’s FDA-approved medication for breakthrough pain in cancer patients for reimbursement to the Oklahoma Health Care Authority. *See* Petition at ¶ 37; *see also* Petition, Exhibit 3. The State specifies in its Petition the amount that it allegedly paid for those 245 prescriptions, but, as discussed above, the State seeks to recover a broad and ill-defined range of supposed consequential damages related to the opioid crisis in Oklahoma. There is no reason the State should not be able to provide a figure for the downstream harm allegedly attributable to whatever subset of those prescriptions the State contends were medically improper or otherwise inappropriate, as well as the other alleged misconduct committed by the Teva Defendants, as the rules require.

Plaintiff treats initial disclosures as a mere formality, failing to provide a meaningful analysis of the extent of damages sought, which includes providing a specific dollar computation, or at least an estimated range. *See McKinney*, 2006 WL 3228791, at *2 (“Counsel who make the mistake of treating [initial] disclosures as a technical formality, rather than as an efficient start to relevant discovery, do their clients no service and necessarily risk the imposition of sanctions.”) (internal citations omitted). Because Plaintiff’s initial disclosures fail to include a quantifiable computation of damages, the Court should order Plaintiff to amend its initial disclosures promptly.

B. Plaintiff Has Not Adequately Identified All Individuals Likely to Have Discoverable Information.

The Court’s January 29, 2018 Scheduling Order set forth a March 15, 2018 deadline by which the parties were required to “disclose the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses.” Yet Plaintiff’s initial disclosures are materially incomplete; they fail to identify the *name* of all persons who may have information relevant to Plaintiff’s claims.

Instead, Plaintiff includes the following “individuals” on its list: Employees of the Department of Mental Health and Substance Abuse, Employees of the Oklahoma Health Care Authority, Employees of the Oklahoma Bureau of Narcotics, Employees of the Oklahoma Pharmacy Board, Employees of the Oklahoma Department of Corrections, and Employees of the Oklahoma State Department of Health. *See Plaintiff’s Initial Disclosure of Individuals Likely to Have Discoverable Information That May Be Used to Support the Claims or Defenses* (attached hereto as Exhibit B) at pp. 2-3. It is impossible for the Teva Defendants to identify who at any of these departments would have the relevant discovery, as this information is within Plaintiff’s custody and control. As a result, the practical effect of Plaintiff’s limited disclosure is to force the

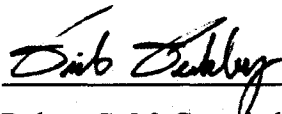
Teva Defendants to serve 3230(C)(5) corporate representative deposition notices on each of the six listed departments which then allows Plaintiff to select which witness it wants to offer for the deposition with perhaps little or no notice to Defendants. This it cannot do.

Because Plaintiff's initial disclosures do not adequately provide the names of the individuals likely to have discoverable information, the Teva Defendants respectfully request an order compelling Plaintiff to supplement its disclosures promptly.

III. CONCLUSION

At the State's request, the Court has set an accelerated schedule in this action. The State's failure to comply with its initial disclosure obligations under the rules and the Court's order is causing unnecessary delay and impeding the Teva Defendants' efforts to prepare their defense. For this reason and those set forth above, the Teva Defendants respectfully request that this Court grant their Motion to Compel.

Dated: May 3, 2018



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CERTIFICATE OF MAILING

I certify that a true and correct copy of the foregoing was mailed this 3rd day of May 2018,
by depositing it in the U.S. Mail, postage prepaid to:

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becomes available. The State also reserves the right to produce additional information during the course of discovery in fulfillment of its disclosure obligations, and to rely on such information as evidence in this case.

These disclosures are made subject to and without waiving any applicable privileges or exemptions from discovery, including, without limitation, the attorney-client privilege and the attorney work-product doctrine. The State will supplement these disclosures to the extent required by 12 O.S. § 3226(E). The State further reserves the right to object to production and/or introduction into evidence of any document within the categories described herein or any testimony of the witnesses identified herein on the basis of privilege, relevance, or otherwise as appropriate.

As compensation, restitution, and relief for the harm caused by Defendants' unlawful actions, the State seeks the following: (1) damages caused by Defendants' wrongdoings in the form of past and future compensatory damages, statutory penalties, and punitive damages; (2) restitution and disgorgement of Defendants' ill-gotten gains; (3) injunctive relief and other forms of non-monetary remediation and abatement; (4) the costs of bringing this action, including litigation costs and attorney's fees; and (5) all other appropriate relief to which the State is entitled.

The State intends to rely on expert testimony in calculating past and future damages and in addressing other forms of monetary and non-monetary relief including, but not limited to, abating the nuisance Defendants created and other injunctive relief. No scheduling order has been entered. When a scheduling order is entered, the Court will set a date for the designation of expert witnesses and/or the exchange of expert reports. The State will comply with any such order and provide damages testimony and other information that is the subject of expert testimony. Until such time, however, any such calculation is premature and not required.

In addition, multiple categories of information the State and its experts need to compute the State's damages are not in the State's possession or control and will be obtained through discovery, which has only just begun. Consequently, the State is unable at this time to provide a precise computation of all its damages; however, the State reserves the right to supplement these Disclosures at the appropriate time in accordance with the Oklahoma Code of Civil Procedure and the Court's orders. Subject to the foregoing, the State provides the following information that is currently and readily available regarding damages:

1. Past and Future Compensatory Damages

The State seeks to recover all actual damages, both past and future, resulting from Defendants' unlawful actions that caused the opioid epidemic and related public nuisance, including: opioid prescription costs, opioid addiction treatment costs, increased health care costs, criminal justice costs, opioid-overdose prevention costs, opioid-related education costs, lost work productivity, and abatement costs, among others. The State of Oklahoma would not have spent substantial public resources and funding on opioid use and abuse treatment, education, prevention and intervention programs but for Defendants' false and deceptive prescription opioid marketing campaign.

a. Prescription Reimbursement. The State seeks to recover all monies wrongfully paid for prescription opioids through government-payor programs. For example, and without limitation, Oklahoma Medicaid would not have incurred the costs associated with paying for opioid prescription claims that were not medically necessary but for Defendants' false representations and omissions regarding the risks, efficacy, and medical necessity of Defendants' opioids.

b. Medical Expenses. Oklahomans that use, abuse or misuse opioids are more likely to utilize medical services, such as emergency departments, ambulatory services, substance abuse treatment

services, physician outpatient visits, and inpatient hospital stays. Further, opioid users and abusers are also substantial users of medical services at higher costs and for longer duration than non-users and require chronic medical, psychiatric, and addiction care. The State seeks to recover these costs, both past and future, for providing medical care and other treatments for patients suffering from opioid-related addiction or disease, including overdoses and deaths, which were caused by Defendants' creation of the opioid epidemic and related public nuisance.

c. Addiction Treatment Services. As a result of the opioid crisis, the State's addiction treatment program, which pays for the cost of substance abuse and addiction treatment for qualifying indigent citizens, has been overwhelmed. There is currently a wait-list of qualifying Oklahomans seeking entry into the state addiction-treatment program. Opioid abuse and addiction treatment facilities are often managed and treated by a team of trained health care professionals, including physicians, psychologists, licensed counselors, social workers, physician assistants, nurses and nurse practitioners who specialize in addiction care. Addiction treatment can be provided in inpatient, outpatient, or residential sessions. Treatment typically occurs within specialty facilities for substance use disorder treatment, facilities with a broader behavioral health focus, or by specialized units within hospitals. These programs focus on helping individuals change their behaviors in a highly structured setting.

An alternative to inpatient or residential treatment is partial hospitalization or intensive outpatient treatment. These programs have people attend very intensive and regular treatment sessions multiple times a week early in their treatment for an initial period. After completing partial hospitalization or intensive outpatient treatment, individuals often step down into regular outpatient treatment which meets less frequently and for fewer hours per week to help sustain their recovery.

Medication can also be used to treat addiction. Using medication to treat substance use disorders is often referred to as Medication-Assisted Treatment (MAT). Medication-assisted treatment with methadone, buprenorphine, or extended-release injectable naltrexone plays a critical role in the treatment of opioid use disorders.

For those enrolled in the State's addiction-treatment program, the State pays the costs associated with some or all of the above programs and services. The State seeks to recover those costs, both past and future, for providing addiction treatment to individuals with opioid use disorders. The State has already expended substantial amounts in treating opioid-addicted Oklahomans in the past, and the State will continue to spend significant sums treating opioid-addicted Oklahomans for years, if not decades, in the future.

d. Children at Risk. Children are at high risk in opioid-using environments. The incidence of children born with opioid-related medical conditions is increasing and carries an enormous burden in terms of hospital days and costs. For example, pregnant women who continue to use opioids throughout the gestational period are likely to deliver a newborn with neonatal abstinence syndrome (NAS). Children born with NAS require longer hospital stays and more specialized care compared to non-affected infants. The State seeks to recover costs for providing treatment of infants born with opioid-related medical conditions.

Further, children whose parents abuse opioids may be neglected or even require removal to foster care. Indeed, the State of Oklahoma has seen an increase in the number of children who have entered foster care due to parental drug use. Child welfare agencies have seen an increase in their caseloads and are burdened with limited resources, *e.g.*, funds to support drug treatment or parenting classes and community-based support for these children. The State seeks to recover costs

for providing welfare or protective services for children whose parents suffer from opioid-related disability or incapacitation.

e. Loss of Productivity. Prescription opioid overdose, abuse, and dependence carry high costs in terms of loss of productivity. Studies show that the increase in opioid prescriptions can account for a decline in the labor force participation. Employers all over the State of Oklahoma have felt some effect of the opioid crisis among their employees, including absenteeism, incarceration, decreased job performance, or even death. The State seeks to recover costs for loss of productivity for reasons related to the opioid epidemic.

f. Criminal Justice System. The public health crisis caused by Defendants' deceptive marketing campaign also is overwhelming Oklahoma's criminal justice system. The opioid epidemic costs Oklahoma millions of dollars a year on criminal justice-related costs. Oklahoma spends 50 percent of its annual criminal justice system budget on substance abuse-related costs. The State seeks to recover criminal justice-related costs, both past and future, caused by the sale and consumption of opioids. These costs include reduced productivity for incarcerated individuals.

g. Law Enforcement and Public Safety. The State seeks to recover costs directly associated with law enforcement and public safety relating to the opioid epidemic. The opioid epidemic has required substantial resources of Oklahoma law enforcement agencies to work to combat the crime spike associated with rising opioid sales and addiction. For example, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control has been forced to dedicate significant sums and man-hours to investigating and preventing opioid diversion, opioid thefts, illicit opioid drug use, and unintentional overdoses. In addition, the State has expended substantial amounts of taxpayer dollars updating and expanding the State's Prescription Monitoring Program ("PMP"), which tracks prescriptions of dangerous and controlled substances. The primary need for the PMP is to

track opioid prescriptions. The State has been forced to train its law enforcement officers regarding how to identify opioid overdose, what procedures should be taken thereafter, and how to administer Naloxone or Narcan. Further, the State needs to provide more law enforcement with more Naloxone or Narcan and the requisite training. The State seeks to recover the increased law enforcement and public safety costs, both past and future, related to the State's efforts to combat the opioid epidemic and public nuisance caused by Defendants.

h. Opioid Education and Drug Take Back Programs. Oklahoma has taken great strides to provide information to the public on the appropriate disposal and storage of medications through the state media campaigns and local education through community coalitions and stakeholders. For example, the State has sponsored drug Take-Back programs that allow for safe, anonymous disposal of opioids at convenient locations. These programs and other similar initiatives are helping to keep opioids out of the home, and lessening the chance that individuals may use them inappropriately. There are now more than 175 drop boxes across the state, including at least one in every county. The State also sponsors drug "Take-Back Days" throughout the year to further help this effort and to help promote, encourage, and educate local communities on the use of drop boxes and other appropriate disposal mechanisms. These services are free and anonymous, no questions asked. As a result, the State has incurred, and continues to incur, significant costs creating, implementing, and operating these take-back programs all across the State.

i. Other Preventative Programs. The State has also initiated programs and expended significant resources to educate prescribers and dispensers of prescription opioids including working to develop an online pain management curriculum and creating and distributing opioid prescribing and dispensing guidelines. The State also worked to educate providers on the Oklahoma Prescription Monitoring Program (PMP) which requires dispensers of Schedule II, III,

IV and V controlled substances to submit prescription dispensing information to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control within 24 hours of dispensing a scheduled narcotic and allows prescribers to check the prescription history of their patients.

In 2015, the Oklahoma Legislature passed a bill requiring prescribers to check the PMP the first time they prescribe opiate painkillers and two other classes of drugs and to check every 180 days thereafter. The State has also worked to establish hospital emergency department discharge databases, and implement public health surveillance of neonatal abstinence syndrome. The State seeks to recover costs associated with these other opioid-related preventative programs.

2. Statutory Penalties

The State seeks all statutory penalties as permitted under the Oklahoma Medicaid False Claims Act including but not limited to civil penalties plus three times the amount of damages which the state sustains because of the act of that person. *See* 63 O.S. § 5053.1.¹ The State has alleged that it has paid for over 6 million pills for Defendants' named brand drugs, totaling at least \$52,920,146, and Defendants have caused the State to pay millions more for millions of pills of generic opioids. The State will seek the full amount of each available statutory penalty multiplied by the number of false or fraudulent claims Defendants presented, caused to be presented, or conspired to present or cause to be presented for payment by Oklahoma Medicaid that would not have been submitted and would not have been paid by the Oklahoma Medicaid program but for

¹ The civil penalties permitted under the Oklahoma Medicaid False Claims Act range as follows: A civil penalty of not less than Five Thousand Dollars (\$ 5,000.00) and not more than Ten Thousand Dollars (\$ 10,000.00). *See* 63 O.S. § 5053.1 (2007); A civil penalty of not less than Five Thousand Five Hundred Dollars (\$ 5,500.00) and not more than Eleven Thousand Dollars (\$ 11,000.00). *See* 63 O.S. § 5053.1 (2016); Consistent with the civil penalty provisions of the Federal False Claims Act, as adjusted by the Federal Civil Penalties Inflation adjustment Act of 1990, and as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. *See* 63 O.S. § 5053.1 (2017).

Defendants' wrongdoing. The State also seeks to recover the costs of this action brought to recover any such penalty or damages. *Id.*

The State also seeks all statutory penalties as permitted under the Oklahoma Medicaid Program Integrity Act including but not limited to: Full restitution of all funds or payments received in violation of the Act, investigative costs, litigation fees, and attorney fees, plus (a) a civil penalty of two (2) times the amount of restitution and interest thereon from date of judgment; or (b) a civil penalty in the sum of Two Thousand Dollars (\$2,000.00) and interest thereon from date of judgment for each false or fraudulent claim, statement, or representation submitted for providing goods or services. *See* 56 O.S. § 1007. The penalty under subsection (b) will then be multiplied by the number of false or fraudulent claims Defendants presented or caused to be presented for payment by Oklahoma Medicaid that would not have been submitted and would not have been paid by the Oklahoma Medicaid program but for Defendants' wrongdoing.

3. Injunctive Relief

The State seeks all necessary injunctive relief to abate the nuisance Defendants created including all costs associated with implementing such abatement procedures. Such abatement relief should include, but is not limited to:

a. Change in Defendants' Marketing Behavior. The Defendants' deceptive and misleading prescription opioid marketing campaign has caused a devastating public health crisis in Oklahoma. Defendants must be forced to change the way they promote, market, and sell their prescription drugs so that this can never happen again. It is premature to say exactly what preventative measures are appropriate, but the State expects to learn through discovery the types of systematic wrongdoing that led to this crisis.

b. Media Campaigns. The State anticipates that expansive multi-media campaigns will be required to fight this health emergency. These campaigns will include aggressive television and social media outreach, and must focus on telling our children of the dangers of these drugs and addiction and to educate the public on risks and consequences of opioids.

c. Opioid Education and Drug Take-Back Programs. As discussed above, drug Take-Back programs are one way in which the State focused efforts on reducing access to opioids by instituting programs that provide for safe and anonymous opioid disposal for the public and for providers. Preventative programs like Take-Back programs will be needed in the future to continue to educate the public and increase awareness of prescription drug misuse/abuse and remove unused medications from homes.

d. Addiction Treatment Services. As mentioned above a direct result of the opioid crisis facing the State of Oklahoma is the increased need for addiction treatment services. The need for these addiction treatment services will continue for the foreseeable future.

e. Recovery Support Services. Recovery support services are non-clinical services that are used with treatment to support individuals in their recovery goals. Recovery support can include:

- Transportation to and from treatment and recovery-oriented activities
- Employment or educational supports
- Specialized living situations (Recovery Support Housing)
- Peer-to-peer services, mentoring, coaching
- Spiritual and faith-based support
- Parenting education
- Self-help and support groups
- Outreach and engagement
- Staffing drop in centers, clubhouses, respite/crisis services, or warmlines (peer-run listening lines staffed by people in recovery themselves)
- Education about strategies to promote wellness and recovery
- Recovery coach programs

The need for these types of recovery support services will continue for the foreseeable future.

f. Other Effective Opioid Related Programs. The State of Oklahoma must continue to create strategies and programs aimed at prevention, education, and treatment related to opioid abuse. One example would be Screening, Brief Intervention and Referral to Treatment (SBIRT). SBIRT is a program that uses a screening tool by trained staff to identify at-risk youth who may need treatment. This should be deployed for adolescents in middle school, high school and college levels. This is a significant prevention tool. Other programs will be required in the future to continue to combat this health emergency.

g. Necessary Injunctive Relief. The State seeks all necessary injunctive relief to abate the nuisance Defendants created including all costs associated with implementing such abatement procedures.

4. Restitution

Under the Oklahoma Medicaid Program Integrity Act, the State seeks full restitution of all funds or payments Defendants received in violation of the Oklahoma Medicaid Program Integrity Act. More investigation and discovery is needed before Plaintiff is able to calculate the full amount of restitution because documents and information necessary for the computation of such damages are currently unavailable to Plaintiff at this early stage in the case.

a. Unjust Enrichment. Due to Defendants' wrongful conduct, Defendants were unjustly enriched at the expense of the State. The State is entitled to recover Defendants' ill-gotten gains. More investigation and discovery is needed before Plaintiff is able to ascertain the extent to which the Defendants profited from their wrongful conduct because documents and information necessary for the computation of such profits are currently unavailable to Plaintiff at this early stage in the case.

5. Punitive Damages

The State seeks to recover punitive damages sufficient to set an example that Defendants' wrongful conduct will not be tolerated in the State of Oklahoma and to punish the Defendants based upon the following factors outlined in 23 O.S. § 9.1:

1. The seriousness of the hazard to the public arising from the defendant's misconduct;
2. The profitability of the misconduct to the defendant;
3. The duration of the misconduct and any concealment of it;
4. The degree of the defendant's awareness of the hazard and of its excessiveness;
5. The attitude and conduct of the defendant upon discovery of the misconduct or hazard;
6. In the case of a defendant which is a corporation or other entity, the number and level of employees involved in causing or concealing the misconduct; and
7. The financial condition of the defendant.

6. Joint & Several Liability

Under Oklahoma law, joint liability is available in "actions brought by or on behalf of the State." 23 O.S. § 15(B). The State contends that Defendants are jointly and severally liable for the damages described herein.

Dated: January 10, 2018

Respectfully submitted,



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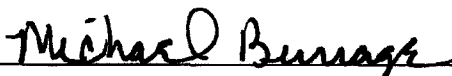
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IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,)
MIKE HUNTER,)
ATTORNEY GENERAL OF OKLAHOMA,)

Plaintiff,)

vs.)

Case No. CJ-2017-816
Judge Thad Balkman

- (1) PURDUE PHARMA L.P.;)
(2) PURDUE PHARMA, INC.;)
(3) THE PURDUE FREDERICK COMPANY;)
(4) TEVA PHARMACEUTICALS USA, INC.;)
(5) CEPHALON, INC.;)
(6) JOHNSON & JOHNSON;)
(7) JANSSEN PHARMACEUTICALS, INC;)
(8) ORTHO-MCNEIL-JANSSEN)
PHARMACEUTICALS, INC., n/k/a)
JANSSEN PHARMACEUTICALS;)
(9) JANSSEN PHARMACEUTICA, INC.,)
n/k/a JANSSEN PHARMACEUTICALS, INC.;)
(10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,)
f/k/a ACTAVIS, INC., f/k/a WATSON)
PHARMACEUTICALS, INC.;)
(11) WATSON LABORATORIES, INC.;)
(12) ACTAVIS LLC; and)
(13) ACTAVIS PHARMA, INC.,)
f/k/a WATSON PHARMA, INC.,)

Defendants.)

**PLAINTIFF'S INITIAL DISCLOSURE OF INDIVIDUALS LIKELY TO HAVE
DISCOVERABLE INFORMATION THAT MAY BE USED TO SUPPORT THE
CLAIMS OR DEFENSES**



Plaintiff, the State of Oklahoma, provides these Initial Disclosures of Individuals Likely to Have Discoverable Information That May Be Used to Support the Claims or Defenses pursuant to the Court's January 29, 2018 Scheduling Order (the "Scheduling Order"). Under the Scheduling Order, the parties must "disclose the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses."

These Initial Disclosures are based upon information presently known to Plaintiff, and are made without prejudice to Plaintiff's ability to produce information, documentation, or data that is subsequently discovered. Discovery is ongoing and Plaintiff's investigation is continuing. As such, Plaintiff anticipates it will learn of additional persons that may have such information. Plaintiff further incorporates into these Initial Disclosures all individuals identified by all other parties to this action in their respective Initial Disclosures, and reserves the right to depose and rely upon the testimony of all such individuals. Plaintiff reserves the right to amend and/or supplement these Initial Disclosures at any time, and further reserves the right to use any information provided or produced by Defendant who may join this action subsequent to these Initial Disclosures.

By making these Initial Disclosures, Plaintiff does not concede the relevance of any of the information provided or waive any protections available pursuant to any applicable privileges, such as the attorney-client and/or work product privileges.

| Individuals | Area of Knowledge | Contact Information |
|--|---|--|
| Terri White | Likely possesses knowledge regarding the OMDHSAS, its processes, practices and procedures utilized by OMDHSAS for claims submitted for treatment under OMDHSAS' programs. Also likely possesses knowledge regarding the courses of action, programs, or other efforts the State has considered or implemented regarding preventing unnecessary opioid prescriptions. | To be contacted through Plaintiff's undersigned counsel. |
| Nancy Nesser | Likely possesses knowledge regarding the processes, practices and procedures utilized by the OHCA regarding claims, including any claims for medication assisted treatment, submitted for reimbursement from SoonerCare. Also likely possesses knowledge regarding the courses of action, programs, or other efforts the State has considered or implemented regarding preventing unnecessary opioid prescriptions. | To be contacted through Plaintiff's undersigned counsel. |
| Mark Reynolds | Likely possesses knowledge regarding the OMDHSAS, its processes, practices and procedures utilized by OMDHSAS for claims submitted for treatment under OMDHSAS' programs and the OMDHSAS data storage systems. | To be contacted through Plaintiff's undersigned counsel. |
| Burl Beasley | Likely possesses knowledge regarding the OHCA, its processes, practices and procedures utilized by the OHCA regarding claims, including any claims for medication assisted treatment, submitted for reimbursement from SoonerCare. | To be contacted through Plaintiff's undersigned counsel. |
| Don Vogt | Likely possesses knowledge of the State's prescription monitoring program. | To be contacted through Plaintiff's undersigned counsel. |
| Employees of the Department of Mental Health and Substance Abuse | Likely possess knowledge regarding the OMDHSAS, its processes, practices and procedures utilized by OMDHSAS for claims submitted for treatment under OMDHSAS' programs. | To be contacted through Plaintiff's undersigned counsel. |

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|--|--|--|
| Employees of the Oklahoma Health Care Authority | Likely possess knowledge regarding the OHCA, its processes, practices and procedures utilized by the OHCA regarding claims, including any claims for medication assisted treatment, submitted for reimbursement from SoonerCare. | To be contacted through Plaintiff's undersigned counsel. |
| Employees of the Oklahoma Bureau of Narcotics | Likely possess knowledge regarding the State's prescription monitoring program. | To be contacted through Plaintiff's undersigned counsel. |
| Employees of the Oklahoma Pharmacy Board | Likely possess knowledge regarding Drug Utilization Review Board and approved pharmaceuticals under SoonerCare. | To be contacted through Plaintiff's undersigned counsel. |
| Employees of the Oklahoma Department of Corrections | Likely possess knowledge regarding incarcerations related to opioids and/or opioid prescriptions and addiction treatment for incarcerated individuals. | To be contacted through Plaintiff's undersigned counsel. |
| Employees of the Oklahoma State Department of Health | Likely possess knowledge regarding the effect of the opioid epidemic on Oklahomans and their health. | To be contacted through Plaintiff's undersigned counsel. |
| Employees and former employees of the Purdue Defendants | Likely possess knowledge regarding, <i>inter alia</i> , the Purdue Defendants' opioids, false marketing campaigns, and financial information. | |
| Employees and former employees of the Janssen Defendants | Likely possess knowledge regarding, <i>inter alia</i> , the Janssen Defendants' opioids, false marketing campaigns, and financial information. | |
| Employees and former employees of the Teva/Cephalon Defendants | Likely possess knowledge regarding, <i>inter alia</i> , the Teva/Cephalon Defendants' opioids, false marketing campaigns, and financial information. | |
| Representatives of the American Academy of Pain Medicine | Likely possess knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Representatives of the American Chronic Pain Association | Likely possess knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |

| | | |
|--|---|--|
| Representatives of the American Pain Society | Likely possess knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Representatives of the Federation of State Medical Boards | Likely possess knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Representatives of the National Pain Foundation/Global Pain Initiative | Likely possess knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Representatives of the Pain & Policy Studies Group | Likely possess knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Richard Sackler | Likely possesses knowledge regarding the Purdue Defendants' misrepresentations and fraudulent marketing campaign regarding opioids. | |
| Perry Fine | Likely possesses knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Scott Fishman | Likely possesses knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Kathleen Foley | Likely possesses knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| David Haddox | Likely possesses knowledge regarding Defendants' marketing campaigns, particularly the Purdue Defendants. | |
| Russell Portenoy | Likely possesses knowledge regarding Defendants' marketing campaigns, including Defendants' involvement with the American Pain Foundation and American Academy of Pain Medicine, and funding from Defendants. | |

| | | |
|------------------|--|--|
| Lynn Webster | Likely possesses knowledge regarding Defendants' marketing campaigns, including Defendants' involvement with the American Academy of Pain Medicine, and funding from Defendants. | |
| Daniel Alford | Likely possesses knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants. | |
| Myra Christopher | Likely possesses knowledge regarding Defendants' marketing campaigns, including Defendants' involvement with the Center for Practical Bioethics and American Pain Foundation, and funding from Defendants. | |
| Aaron Gilson | Likely possesses knowledge regarding Defendants' marketing campaigns, including Defendants' involvement with the Pain & Policy Studies Group, and funding from Defendants. | |
| Bob Twillman | Likely possesses knowledge regarding Defendants' marketing campaigns, including Defendants' use of the Academy of Integrative Pain Management (formerly the American Academy of Pain Management), and funding from Defendants. | |
| Charles Argoff | Likely possesses knowledge regarding, <i>inter alia</i> , Defendants' marketing campaigns and funding from Defendants, and funding from Defendants. | |

Dated: March 15, 2018

/s/ Michael Burrage

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