IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

DEFENDANT JANSSEN PHARMACEUTICALS, INC.'S ADOPTION OF 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

Pursuant to Oklahoma Stat. tit. 12 Section 2010(C), Defendant Janssen Pharmaceuticals, Inc. ("Janssen") respectfully adopts as its own the August 17, 2018 Motion to Compel Discovery filed by Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc., f/k/a Watson Pharma, Inc. (the "Teva Motion"), which is incorporated herein. Janssen also hereby adopts, as its own motion, the dispositive arguments and

authorities filed herein and argued by all other defendants at any time prior and through the time of the hearing on said motion.

Defendant Janssen served its Second Set of Interrogatories to Plaintiff (the "Janssen Interrogatories") on April 24, 2108. Interrogatory One of the Janssen Interrogatories asks the State to "[i]dentify which of the 'over 2,600 prescriptions' that You claim 'Janssen Defendants have caused to be submitted . . . to the Oklahoma Health Care Authority' were 'unnecessary or excessive'" (internal citations omitted). Interrogatory Two of the Janssen Interrogatories asks the State to "describe [its] basis for alleging that [each prescription identified in response to Interrogatory One] was 'unnecessary or excessive" (internal citations omitted). Instead of providing the information requested by these Interrogatories, however, the State responded that "it is more likely than not that [] opioid prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare, other than those written for end-of-life palliative care or for a three-day supply to treat acute pain, were 'unnecessary,' 'excessive,' and/or 'false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act.'"[1] This vague and incomplete answer is the same response the State gave to Interrogatories One and Two of Defendant Cephalon's Second Set of Interrogatories to Plaintiff (the "Cephalon Interrogatories,") and it is deficient for the reasons set forth in the Teva Motion. Teva Mot. at 4–8.

Moreover, instead of responding to Interrogatories Seven through Twelve of the Janssen Interrogatories, the State argued that it was not required to do so based on its claim that Janssen had "exceed[ed] t[he] presumptive limit on interrogatories, which is 30, without leave of Court." But prior to propounding the Janssen Interrogatories, Janssen had propounded just 5 interrogatories on the State. Accordingly, to date, Janssen has propounded just 17 interrogatories

[1] Plaintiff's Responses and Objections to Defendant Janssen's Second Set of Interrogatories to Plaintiff are attached hereto as Exhibit A.

on the State. In arguing that Janssen has propounded more than 30 interrogatories, the State improperly counted all interrogatories served by all defendants. This argument, which the State also asserted in its response to Cephalon Interrogatories Seven through Sixteen, fails for the reasons set forth in the Teva Motion. Teva Mot. at 8–11.

WHEREFORE, Defendant Janssen respectfully moves the Court to issue an Order compelling Plaintiff to fully and adequately respond to the Janssen Interrogatories.

Dated: August 17, 2018

By: _____

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CERTIFICATE OF MAILING

Pursuant to Okla. Stat. tit. 12, § 2005(D), this is to certify on August 20, 2018, a true and correct copy of the above and foregoing has been served via the United States Postal Service, First Class postage prepaid, to the following:

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Exhibit A

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., MIKE HUNTER, ATTORNEY GENERAL OF OKLAHOMA,	§	
Plaintiff,	§	
vs.	§	
(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.,	§	Case No. CJ-2017-816 The Honorable Thad Balkman JURY TRIAL DEMANDED
Defendants.	§	

PLAINTIFF'S RESPONSES AND OBJECTIONS TO DEFENDANT JANSSEN'S SECOND SET OF INTERROGATORIES TO PLAINTIFF

Pursuant to 12 OKLA. STAT. §3233, Plaintiff, the State of Oklahoma (the "State" or "Plaintiff"), hereby submits its Responses and Objections to Defendant Johnson & Johnson and Janssen Pharmaceuticals, Inc.'s ("Janssen" or "Defendant") Second Set of Interrogatories to Plaintiff. The State specifically reserves the right to supplement, amend and/or revise these Responses and Objections in accordance with 12 OKLA. STAT. §3226.

GENERAL OBJECTIONS

1. By responding to Defendant's interrogatories, the State concedes neither the relevance nor admissibility of any information provided or documents or other materials produced in response to such requests. The production of information or documents or other materials in response to any specific interrogatory does not constitute an admission that such information is probative of any particular issue in this case. Such production or response means only that, subject to all conditions and objections set forth herein and following a reasonably diligent investigation of reasonably accessible and non-privileged information, the State believes the information provided is responsive to the request.

2. The State objects that much of the requests sought are premature and, as such, provides the responses set forth herein solely based upon information presently known to and within the possession, custody or control of the State. Discovery has only just begun in this action. Subsequent discovery, information produced by Defendant or the other named Defendants in this litigation, investigation, expert discovery, third-party discovery, depositions and further analysis may result in additions to, changes or modifications in, and/or variations from the responses and objections set forth herein. Accordingly, the State specifically and expressly reserves the right to supplement, amend and/or revise the responses and objections set forth herein in due course and in accordance with 12 OKLA. STAT. §3226.

3. The State objects to the inappropriate manner by which Defendants attempt or may attempt in the future to increase the number of interrogatories to which the State must respond, as Defendants have purported to serve separate interrogatories from subsidiaries and affiliates of related entities. The Oklahoma Code of Civil Procedure states, "[t]he number of interrogatories to a party shall not exceed thirty in number." 12 O.S. 3233(A). As such, absent an order to the

contrary modifying these limitations, each party to this litigation, including the State, is only required to respond to a sum total of 30 interrogatories, regardless of the number of parties purporting to serve such interrogatories. However, to avoid dispute, the State will agree to respond to 30 interrogatories from each Defendant Family—(1) the Purdue Defendants, (2) the Janssen Defendants, and (3) the Teva Defendants—for a total of 90 interrogatories.

4. The State further objects that Defendants have exceeded their respective 30-interrogatory limit. The Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' first interrogatories were divided into six sets from separate named Defendants, these first interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the "First Interrogatories"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. The State will respond to the first 6 interrogatories served by each Defendant Family since the First Interrogatories, and the State will stand on its objections and decline to answer any additional interrogatories. The State expressly reserves any and all objections to those interrogatories that exceed Defendants' limits which are not answered herein.

5. The State further objects to the compound nature of Defendant's Second Interrogatories and will appropriately construe any compound Interrogatories as consisting of separate Interrogatories that count towards the total of 30 interrogatories to which the State has

agreed to respond for each Defendant Family. However, any response to a compound interrogatory herein shall not constitute a waiver of the State's objection to the Interrogatory's compound nature or the State's right to refuse to respond to any interrogatories that exceed the number of interrogatories to which the State must respond under Section 3233(A).

OBJECTIONS TO INSTRUCTIONS

1. The State objects to Defendant's Instruction Number 1 as vague, ambiguous, overly broad, disproportionate to the needs of the case, seeking to impose a burden on the State that exceeds what is permissible under Oklahoma law, seeking information protected from disclosure by privilege and/or the work product doctrine, and calling for information that is not in the possession, custody or control of and is not reasonably accessible to the State. To the extent the State can and does provide a response to any interrogatory, the State's response is based on the information known to and within the possession, custody and control of the State following a reasonably diligent investigation. The State further objects to Defendant's Instruction Number 1 to the extent that it attempts to require the State to describe or identify sources of information outside the State's possession, custody or control. The State will object and/or respond to each interrogatory in accordance with 12 OKLA. STAT. §3233.

2. The State objects to Defendant's Instruction Number 2, which states that Defendant's requests are "continuing," as seeking to impose a burden upon the State that is beyond what is permissible under Oklahoma law. The State will respond to Defendant's interrogatories based on a reasonably diligent investigation of the information currently known to and within the possession, custody and control of the State, and the State will amend or supplement its responses, if necessary, in accordance with 12 OKLA. STAT. §3226.

3. The State objects to Defendant's Instruction Number 3 as ambiguous, vague, unreasonable, overbroad, unduly burdensome and an impermissible attempt to impose a burden upon the State beyond what is allowable under Oklahoma law. To the extent the State withholds otherwise discoverable information on the basis of any claim of privilege or work-product trial preparation material, the State will supply Defendant with the information required under Oklahoma law related to such information at the appropriate time and/or in accordance with the orders of the Court. *See* 12 OKLA. STAT. §3226(B)(5)(a). To the extent the State withholds any information for any other reasons, the State will comply with its obligations under Oklahoma law.

4. The State objects to Defendant's Instruction Number 5 because it seeks to impose a burden on the State beyond those permitted or contemplated under Oklahoma law. The State will respond to Defendant's requests according to how they are written. To the extent Defendant chose to use vague or indecipherable terms, the State will reasonably construe such term based upon their plain and ordinary meaning.

5. The State objects to Defendant's Instruction Number 6 because it seeks to impose a burden on the State beyond what is permitted under Oklahoma law. If the State answers an interrogatory by reference to its business records, the State will do so in the manner permitted under 12 OKLA. STAT. §3233(C) and provide the information called for by that statute.

OBJECTIONS TO DEFINITIONS

1. The State objects to Defendant's Definition Number 1 of the term "Claim" as vague, overbroad, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, irrelevant and unworkable. "[A]ny request for payment or reimbursement" encompasses an infinitely unlimited amount of information that has no bearing whatsoever on the parties to this action or the claims or defenses asserted in this action. Based on the claims and

defenses at issue in this case, the State will reasonably interpret the term "claim" to mean a request for payment or reimbursement submitted to the Oklahoma Health Care Authority pursuant to Oklahoma's Medicaid Program as related to the claims and defenses at issue in this litigation.

2. The State objects to Defendant's Definition Number 2 of the term "Communication(s)" as vague, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, unworkable and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. Specifically, the State objects to the terms "conduct" and "omissions" in Defendant's purported Definition Number 3. The State will reasonably interpret the term "communication(s)" to mean the transmittal of information between two or more persons, whether spoken or written.

3. The State objects to Defendant's Definition Number 4—Defendant's second purported definition of the term "document(s)"—as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant and attempting to impose a burden on the State beyond what is permissible under Oklahoma law. The State will not create "instructions" or "other materials" that do not otherwise exist. Nor will the State produce: (i) "file-folder[s], labeled-box[es], or notebook[s]"; and (ii) "ind[ices], table[s] of contents, list[s], or summaries that serve to organize, identify, or reference" a document simply because a responsive document is related to or contained within such information. Pursuant to 12 OKLA. STAT. §§3233-3234, following a reasonably diligent investigation, the State will permit inspection of the reasonably accessible, responsive, non-privileged documents, as that term is defined in 12 OKLA. STAT. §3234(A)(1), within the State's possession, custody or control that the State is reasonably able to locate at a time and place mutually agreeable to the parties. To the extent a folder, label, container, index, table of

contents, list or summary is otherwise responsive to a request and satisfies these conditions, it will be made available for inspection or produced.

4. The State objects to Defendant's Definition Number 5 of "Electronically Stored Information" as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant to the claims and defenses at issue, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. The State will not produce ESI from sources that are not reasonably accessible or over which the State does not have sufficient custody and/or control. The State will produce or permit the inspection of ESI in the manner set forth in the State's Responses and Objections to Defendant's First Set of Requests for Production of Documents to Plaintiff.

5. The State objects to Defendant's Definition Number 6 of the term "Employee" as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant to the claims and defenses at issue, calling for information beyond what is within the State's possession, custody and control, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. The State will reasonably construe the term "employee" to mean an individual employed by the State during the inquired-about time period over whom the State maintains sufficient custody and control to enable the State to possess or access responsive records or information pertaining to the individual.

6. The State objects to Defendant's Definition Number 7 of the terms "Healthcare Professional(s)," "Health Care Provider(s)" or "HCP(s)." Defendant's proposed definition is overly broad, irrelevant to the claims and defenses at issue, unduly burdensome and disproportionate to the needs of the case in that the definition is not limited in any way to the State of Oklahoma or any particular time period. The State will reasonably construe the use of these

terms to mean healthcare professionals or providers who provided medical or health care services in the State of Oklahoma to citizens—not "animals"—in the State of Oklahoma from January 1, 2007 to the date Defendant's requests were served. The State further incorporates each of its objections to Definition Numbers 13 (the term "Medical Assisted Treatment") and 21 (the term "Relevant Medication") as if fully set forth in this objection to Definition Number 11.

7. The State objects to Defendant's Definition Number 8 of the term "Medication Assisted Treatment." Defendant's purported definition is overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, and disproportionate to the needs of this case, because it attempts to encompass treatment related to any "substance abuse disorder[]" and any effort to "prevent Opioid overdose." The State incorporates its objections to Defendant's Definition Number 16 of the term "Opioid(s)" as if fully set forth in this objection to Definition Number 13. The State will reasonably construe the term "Medication Assisted Treatment" to mean substance abuse treatment related to the claims and defenses at issue in this litigation.

8. The State objects to Defendant's Definition Number 10 of the terms "Oklahoma Agency" or "Oklahoma Agencies" as overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, disproportionate to the needs of the case, and improperly calling for information that is not in the possession, custody or control of the State. The State will reasonably construe the terms "Oklahoma Agency" or "Oklahoma Agencies" to mean agencies of the State of Oklahoma represented in this action and over whom the State of Oklahoma, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

9. The State objects to Defendant's Definition Number 11 of the term "Opioid(s)" as misleading because of its use of the terms "FDA-approved" and "pain-reducing" and because it is

defined without regard to any of the pharmaceutical products or drugs at issue in this case. The State will reasonably construe the terms "Opioid(s)" to mean the opioid medications or drugs related to the claims and defenses at issue in this litigation.

10. The State objects to Defendant's Definition Number 12 of the term "Patient(s)." This definition—"any human being to whom an Opioid is prescribed or dispensed"—is overly broad, unduly burdensome, irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of the case on its face because it lacks any geographical or temporal limitation that has any bearing on this case, and could be construed to seek information outside the State's possession, custody, or control. The State will reasonably construe the term "patient" to mean an individual who was prescribed an Opioid in the State of Oklahoma from January 1, 2007 through the date these requests were served.

11. The State objects to Defendant's Definition Number 15 of the term "Program(s)" and incorporates its objections to Definition Numbers 10 ("Oklahoma Agency") and 11 ("Opioids") as if fully set forth herein. Defendant's purported definition of "Program" is similarly overly broad, irrelevant to the claims and defenses at issue in this action, unduly burdensome and disproportionate to the needs of the case, because it includes no temporal limitations and is entirely untethered to the issues involved in this litigation. The State will reasonably construe the term "Program" to mean a program administered by the State of Oklahoma that reviews, authorizes, and/or determines the conditions for payment or reimbursement for the opioid medications or drugs and related treatment relevant to the claims and defenses at issue in this litigation and over which the State possesses control.

12. The State objects to Defendant's Definition Number 17 of the term "Vendor" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a

burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control. The State further incorporates its objections to and reasonable constructions of the terms defined in Definition Numbers 7 ("HCP") and 15 ("Program") as if fully set forth herein.

13. The State objects to Defendant's Definition Number 18 of the terms "You," "Your," "State," "Oklahoma," and "Plaintiff" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control because the definition attempts to require the State to not simply respond on its own behalf, but also on behalf of "all its departments, agencies, and instrumentalities" without regard for whether the State represents such entities in this litigation and maintains sufficient control over such entities to enable the State to have reasonable access to or possession, custody or control of such entities' records. The State will respond on behalf of the State and those State agencies represented in this litigation and over which the State, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1: Identify which of the "over 2,600 prescriptions" that You claim "Janssen Defendants have caused to be submitted . . . to the Oklahoma Health Care Authority" (Pet. ¶ 38, Ex. 4) were "unnecessary or excessive" (*id.* ¶ 34), including, but not limited to, the prescription date, quantity, refills (if any), cost, and the amount of that cost paid or reimbursed by You.

RESPONSE TO INTERROGATORY NO. 1:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects to this Interrogatory because it attempts to force the State to marshal all of its evidence, including expert evidence, prior to the deadlines set forth in the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Moreover, because this Interrogatory implicates the content and subject matter of potentially relevant documents and materials that the State is reasonably collecting, searching for, reviewing, and producing, the State will supplement and/or amend its response to this Interrogatory in accordance with 12 OKLA. STAT. §3226 and 12 OKLA. STAT. §3233(C). Further, the State will produce and disclose expert information called for by this Interrogatory in accordance with the scheduling Order entered by the Court.

Finally, the State objects to this Interrogatory to the extent it wrongly assumes that: (a) Defendant is liable solely for the prescriptions identified in paragraph 38 and Exhibit 4 of the Petition; and (b) Defendant's liability is limited to a per prescription basis as opposed to unnecessary or excessive MMEs and/or pills.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See The State's Response to Janssen Pharmaceuticals Inc.'s Interrogatory No. 1. At this time and based on the information reviewed to date, and subject to ongoing discovery and expert disclosures, the State's position is that it is more likely than not that (1) opioid prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare, other than those written for end-of-life palliative care or for a three-day supply to treat acute pain, were "unnecessary," "excessive," and/or "false, fraudulent, or otherwise reimbursed in violation of the Oklahoma

Medicaid False Claims Act," and (2) opioids prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare for end-of-life palliative care or for a three-day supply to treat acute pain were *not* "unnecessary," "excessive," and/or "false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act." The State will continue to supplement this response as expert review continues for these claims.

The State refers Defendant to OHCA-00000001 – OHCA-00000002, produced on May 8, 2018, which constitute the Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996–2017. These databases (which are identical in content but were produced in two different formats for Defendants' convenience) can be queried and sorted by Defendants for use in this litigation and to identify those prescriptions responsive to this request.

INTERROGATORY NO. 2: For each prescription You identified as "unnecessary or excessive" in response to Interrogatory No. 1, describe Your basis for alleging that it was "unnecessary or excessive."

RESPONSE TO INTERROGATORY NO. 2:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the term "You," as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before required or appropriate under the Oklahoma Code of Civil Procedure and/or the Court's scheduling Order . *See* 12 OKLA. STAT. §3233(B). The State will respond based on the information currently known to and within the possession, custody and control of the State following a reasonably diligent investigation and will supplement and/or amend its response in

due course according to 12 OKLA. STAT. §3226. The State will produce and disclose expert information in accordance with the scheduling Order entered by the Court.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See The State's Response to Janssen Pharmaceuticals Inc.'s Interrogatory No. 1. At this time and based on the information reviewed to date, and subject to ongoing discovery and expert disclosures, the State's position is that it is more likely than not that (1) opioid prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare, other than those written for end-of-life palliative care or for a three-day supply to treat acute pain, were "unnecessary," "excessive," and/or "false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act," and (2) opioids prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare for end-of-life palliative care or for a three-day supply to treat acute pain were *not* "unnecessary," "excessive," and/or "false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act." The State will continue to supplement this response as expert review continues for these claims.

The State refers Defendant to OHCA-00000001 – OHCA-00000002, produced on May 8, 2018, which constitute the Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996–2017. These databases (which are identical in content but were produced in two different formats for Defendants' convenience) can be queried and sorted by Defendants for use in this litigation and to identify those prescriptions responsive to this request.

The State's principal methods and criteria for determining whether medical treatment is medically necessary and, thus, whether a claim is reimbursable by SoonerCare are set forth in the Oklahoma Administrative Code and require the consideration of the following standards:

> **(1)** Services must be medical in nature and must be consistent with accepted health care practice standards and guidelines for the prevention, diagnosis or treatment of symptoms of illness, disease or disability;
> **(2)** Documentation submitted in order to request services or substantiate previously provided services must demonstrate through adequate objective medical records, evidence sufficient to justify the client's need for the service;
> **(3)** Treatment of the client's condition, disease or injury must be based on reasonable and predictable health outcomes;
> **(4)** Services must be necessary to alleviate a medical condition and must be required for reasons other than convenience for the client, family, or medical provider;
> **(5)** Services must be delivered in the most cost-effective manner and most appropriate setting; and
> **(6)** Services must be appropriate for the client's age and health status and developed for the client to achieve, maintain or promote functional capacity.

OKLA. ADMIN. CODE §317:30-3-1(f). However, when parties engage in and conspire to engage in a widespread misinformation campaign, such as Defendants did here, such conduct corrupts the informed consideration of these criteria and, thus, the certification of these determinations.

The State notes that Defendants have pled the learned intermediary doctrine in an attempt to blame physicians for the fallout of the opioid addiction epidemic. The State disagrees that such a defense is legally or factually applicable to this case. In Oklahoma, the learned intermediary defense is only available in products liability cases. *See McKee v. Moore*, 1982 OK 71, ¶¶6–8, 648 P.2d 21; *Brown v. Am. Home Prods. Corp.*, No. 1203, 2009 U.S. Dist. LEXIS 30298, at *24 (E.D. Pa. Apr. 2, 2009). This case is not a products liability case. Therefore, the learned intermediary doctrine is not applicable. Moreover, even if it were applicable, the doctrine only shields manufacturers of prescription drugs from liability "if the manufacturer adequately warns the prescribing physicians of the dangers of the drug." Edwards, 1997 OK 22, ¶8. "To invoke a defense to liability under the learned intermediary doctrine, a manufacturer seeking its protection must provide sufficient information to the learned intermediary of the risk subsequently shown to be the proximate cause of a plaintiff's injury." *Tortorelli v. Mercy Health Ctr., Inc.*, 2010 OK CIV APP 105, ¶27, 242 P.3d 549. Here, Defendants intentionally *misrepresented* the risks of opioid

addiction—often contradicting their own labeling—in a sprawling and coordinated marketing campaign targeting doctors and others throughout Oklahoma and the country. Defendants initiated a scheme to change the way physicians think about opioids. Defendants cannot falsely market their drugs to physicians and, at the same time, claim physicians should have known better. As such, even if the learned intermediary doctrine were applicable here (which it is not), Defendants cannot take advantage of the doctrine because they failed to adequately warn of the true risks of opioids, which risks caused the opioid addiction epidemic in Oklahoma.

Other information related to the State's consideration of the medical necessity of opioid-related treatments, includes, but is not limited to, information which is incorporated herein by reference, as identified by citation or reference in: (i) the State's Original Petition, filed on June 30, 2017; (ii) The State's Omnibus Response to Defendants' Motions to Dismiss, filed on October 30, 2017; and (iii) the State's Responses to Defendants' First Interrogatories, specifically Cephalon Interrogatory Nos. 1-2, and Purdue Pharma Interrogatory No. 4.

In addition, the State refers Defendant to OHCA-00000001 – OHCA-00000002, which were produced on May 8, 2018 and constitute Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996–2017.

The State will supplement its Response to this Interrogatory as additional documents, information, reports, studies and research is gathered, reviewed and produced as a part of the State's ongoing investigation and reasonably diligent search for information responsive to Defendants' Interrogatories and Requests for Production of Documents.

INTERROGATORY NO. 3: For each prescription You identified as "unnecessary or excessive" in response to Interrogatory No. 1, identify the name and address of the HCP who issued the prescription, the name and address of the patient to whom the prescription was issued,

the diagnosis of the patient receiving the prescription, and the name of the employee(s) or Vendor who approved Your payment or reimbursement of each such prescription.

RESPONSE TO INTERROGATORY NO. 3:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "HCP," "Patient," "Employee(s)," "Vendor," and "You" as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The Interrogatory is overbroad and unreasonable on its face because it seeks addresses of individuals, both healthcare providers and patients, that are not readily accessible to the State. To the extent the State is in possession of current names and addresses of healthcare providers and patients that have participated in the SoonerCare program, despite the number of years spanned by the pharmacy claims at issue, such names and addresses must be cross-referenced through several data sets or information repositories. Many such names and addresses would likely be stale. Further, the names and addresses of healthcare providers and patients are irrelevant to the claims and defenses in this action and/or any minimal relevance of this information is substantially outweighed by the burden of providing it, especially if Defendant's request is interpreted as requesting *current* names and addresses, which change over time.

The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed,

Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law.

The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

The State refers Defendant to OHCA-00000001 – OHCA-00000002, which were produced on May 8, 2018 and constitute de-identified Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996–2017. The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

INTERROGATORY NO. 4: For each HCP You identified in response to Interrogatory No. 3, identify each misrepresentation to that HCP that caused the HCP to prescribe the "unnecessary or excessive" prescription You identified in response to Interrogatory No. 1, including the date the HCP received the misrepresentation and the means by which the misrepresentation was communicated to the HCP.

RESPONSE TO INTERROGATORY NO. 4:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You" and "HCP," as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before any meaningful discovery has taken place in this action. *See* 12 OKLA. STAT. §3233(B). To the extent the State can respond to this Interrogatory at this preliminary stage, the State will do so based on the information currently known to and within the possession, custody and control of the State following a reasonably diligent investigation and will supplement and/or amend its response in due course according to 12 OKLA. STAT. §3226. Moreover, because this Interrogatory primarily seeks the identity of documents and materials at this preliminary stage of discovery while the State is reasonably collecting, gathering, investigating, reviewing and searching for such responsive documents, the State will supplement and/or amend its response to this Interrogatory in accordance with 12 OKLA. STAT. §3226 and 12 OKLA. STAT. §3233(C). Further, the State will produce and disclose expert information, including the expert "methods, criteria, information, reports, studies, and medical or scientific research" called for by this Interrogatory, in accordance with the scheduling Order entered by the Court.

The State further objects to this interrogatory as overbroad, unduly burdensome, vague, ambiguous, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The request to identify each and every misrepresentation made by Defendants related to both branded opioids and opioids generally—all of which misrepresentations

were intended to change the way healthcare providers thought about opioids and to encourage over-prescribing of opioids—for a period of over two decades is overbroad and unduly burdensome on its face. Further, the State is not required in this litigation to identify each and every misrepresentation made by defendants or to tie specific misrepresentations to each false or fraudulent claim reimbursed by the State. The State will prove its claims as required by Oklahoma law and in accordance with the applicable rules of evidence.

The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed, Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. Specifically, the State objects to this interrogatory to the extent it suggests or assumes Defendant must have made a misrepresentation directly to an Oklahoma healthcare provider to be liable for the State's claims under the Oklahoma Medicaid False Claims Act.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See Response to Interrogatory No. 3 above. The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

INTERROGATORY NO. 5: For each employee or Vendor You identified in response to Interrogatory No. 3, identify and describe the misrepresentation to the employee or Vendor, if any, that caused that employee or Vendor to approve the payment for or reimbursement of each "unnecessary or excessive" prescription You identified in response to Interrogatory No. 1, including the date the employee or Vendor received the misrepresentation and the means by which that misrepresentation was communicated to the employee or Vendor.

RESPONSE TO INTERROGATORY NO. 5:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "Employee," and "Vendor," as if fully set forth herein.

See Objections and Response to Interrogatory No. 4 above, which are hereby incorporated by this reference as if fully set forth herein. The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. Specifically, the State objects to this interrogatory to the extent it suggests or assumes Defendant must have made a misrepresentation directly to an employee of an Oklahoma Agency or "Vendor" to be liable for the State's claims under the Oklahoma Medicaid False Claims Act.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See Response to Interrogatories Nos. 3 and 4 above. The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of

this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

INTERROGATORY NO. 6: Identify and describe each instance in which You or any other entity that provides or administers benefits for Your Programs denied payment or reimbursement for a Duragesic, Nucynta, or Nucynta ER prescription as "unnecessary or excessive," including the date, claim number, name and address of the HCP, name and address of the patient, reason(s) given for the denial, and associated records or other documentation.

RESPONSE TO INTERROGATORY NO. 6:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "Program," "HCP," and "Patient" as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The Interrogatory is overbroad and unreasonable on its face because it seeks addresses of individuals, both healthcare providers and patients, that are not readily accessible to the State, and because it seeks identification of "each instance" a claim was denied. To the extent the State is in possession of current names and addresses of healthcare providers and patients that have participated in the SoonerCare program, despite the number of years spanned by the pharmacy claims at issue, such names and addresses must be cross-referenced through several data sets or information repositories. Many such names and addresses would likely be stale. Further, the names and addresses of healthcare providers and patients are irrelevant to the claims and defenses in this action and/or any minimal relevance of this information is substantially

outweighed by the burden of providing it, especially if Defendant's request is interpreted as requesting *current* names and addresses, which change over time.

The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed, Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy.

The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See Objections and Response to Interrogatories Nos. 3, 4 and 5 above, which are hereby incorporated by this reference as if fully set forth herein. The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

INTERROGATORY NO. 7: Identify and describe all disciplinary proceedings, civil actions, or criminal charges brought or initiated by You related to the prescribing practices of any HCP identified in Your responses to these Interrogatories.

RESPONSE TO INTERROGATORY NO. 7:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "HCP" and "You" as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least four (4) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this interrogatory as it exceeds to presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' first interrogatories were divided into six sets from separate named Defendants, these first

interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the "First Interrogatories"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 8: For each disciplinary proceeding, civil action, or criminal charge identified by You in response to Interrogatory No. 7, identify the Oklahoma Agency and employee(s) responsible for conducting and supervising the investigation.

RESPONSE TO INTERROGATORY NO. 8:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "Oklahoma Agency," "employee(s)," and "You," as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State

further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least four (4) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this interrogatory as it exceeds to presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' first interrogatories were divided into six sets from separate named Defendants, these first interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the "First Interrogatories"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 9: State whether You have received any complaints regarding the prescribing practices of any HCP identified in your responses to these Interrogatories, and identify the HCP(s) against whom the complaints were made, the Oklahoma Agency that received the complaint, the employee(s) who was responsible for investigating the complaint, the date of the complaint, and the name and address of the person making the complaint, and describe the substance of the complaint.

RESPONSE TO INTERROGATORY NO. 9:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "HCP," "Oklahoma Agency," and "employee(s)" as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least seven (7) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this interrogatory as it exceeds to presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' first interrogatories were divided into six sets from separate named Defendants, these first interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the "First Interrogatories"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 10: State whether any You initiated any investigation concerning the opioid prescribing practices of any HCP identified in your responses to these Interrogatories that did not result in disciplinary proceedings, civil actions, or criminal charges against the HCP, identifying the HCP(s) investigated and the dates of the investigation(s), and describing the findings and conclusions of each investigation.

RESPONSE TO INTERROGATORY NO. 10:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You" and "HCP," as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least five (5) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this interrogatory as it exceeds to presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' first interrogatories were divided into six sets from separate named Defendants, these first

interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the "First Interrogatories"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 11: For each investigation identified by You in response to Interrogatory No. 10, identify the employee(s) responsible for conducting and supervising the investigation.

RESPONSE TO INTERROGATORY NO. 11:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You" and "employee(s)," as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State

further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this interrogatory as it exceeds to presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' first interrogatories were divided into six sets from separate named Defendants, these first interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the "First Interrogatories"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 12: Identify all Janssen conduct You seek to prohibit or Janssen actions you seek to compel to abate the "public nuisance" alleged in Section VII.K of Your Petition.

RESPONSE TO INTERROGATORY NO. 12:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects to this Interrogatory because it requests "all" conduct the State seeks to prohibit or compel. Such a request is overbroad and unduly burdensome.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before meaningful discovery has taken place in this action. *See* 12 OKLA. STAT. §3233(B). To the extent the State is required to respond to this Interrogatory at this preliminary stage, the State will do so based on the information currently known to and within the possession, custody and control of the State following a reasonably diligent investigation and will supplement and/or amend its response in due course according to 12 OKLA. STAT. §3226. Further, the State will produce and disclose expert information, including the expert "methods, criteria, information, reports, studies, and medical or scientific research" called for by this Interrogatory, in accordance with the scheduling Order entered by the Court.

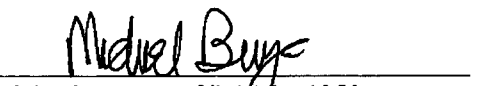
The State further objects to this Interrogatory as seeking discovery of information that is the subject of confidential settlement negotiations for which the Court has appointed a Settlement Master.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory.

Finally, the State objects to this interrogatory as it exceeds to presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' first interrogatories were divided into six sets from separate named Defendants, these first interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the "First Interrogatories"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

DATED: May 29, 2018.

Respectfully submitted,



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