



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.)

STATE OF OKLAHOMA }
CLEVELAND COUNTY } S.S.

FILED

SEP 27 2018

In the office of the
Court Clerk MARILYN WILLIAMS

**FIRST AMENDED AGREED QUALIFIED PROTECTIVE ORDER FOR PROTECTED
HEALTH INFORMATION**

Pursuant to 12 O.S. § 3226(C) and the Privacy Act of 1974, 5 U.S.C. § 552a, by 45 C.F.R. §§ 164.102-164.534, and specifically, 45 C.F.R. § 164.512(e)(1), by 42 U.S.C. § 1306, 42 C.F.R. §2.63-67, or by other privacy protections, the Court finds good cause for the issuance of this qualified protective order and ORDERS as follows:

1. This Protective Order will apply to documents produced in this Action. Plaintiff the State of Oklahoma (“the State”), its attorneys, the Defendants, and the attorneys for Defendants are hereby authorized to receive, subpoena, and securely transmit “Protected Health Information” pertaining to the above-captioned litigation (the “Action”).

2. For purposes of this Agreed Qualified Protective Order for Protected Health Information (the “Order”), “Protected Health Information” shall encompass information within the scope and definition set forth in 45 C.F.R. § 160.103 that is provided to the parties by a covered entity as defined by 45 C.F.R. § 160.103 (“Covered Entities”) or by a business associate of a Covered Entity as defined by 45 C.F.R. § 160.103 (“Business Associate”) in the course of the Action. “Patient Identifying Information” shall encompass information within the scope and definition set forth in 42 C.F.R. § 2.11 that is provided to the parties by a program as defined by 42 C.F.R. § 2.11 (“Program”) or by a qualified service organization as defined by 42 C.F.R. § 2.11 (“Qualified Service Organization”).

3. Any Party who produces Protected Health Information or Patient Identifying Information in this Action shall designate such discovery material “Confidential Protected Health Information” in accordance with the provisions of this Protective Order.

4. Unless otherwise agreed between counsel for the Parties, the designation of discovery material as “Confidential Protected Health Information” shall be made at the following times: (a) for documents or things at the time of the production of the documents or things; (b) for declarations, correspondence, expert witness reports, written discovery responses, court filings, pleadings, and other documents, at the time of the service or filing, whichever occurs first; and (c) for testimony, at the time such testimony is given by a statement designating the testimony as “Confidential Protected Health Information” made on the record or within 30 days after receipt of

the transcript of the deposition. The designation of discovery material as “Confidential Protected Health Information” shall be made in the following manner: (a) for documents, by placing the notation “Confidential Protected Health Information” or similar legend on each page of such document; (b) for tangible things, by placing the notation “Confidential Protected Health Information” on the object or container thereof or if impracticable, as otherwise agreed by the parties; (c) for declarations, correspondence, expert witness reports, written discovery responses, court filings, pleadings, and any other documents containing Protected Health Information, by placing the notation “Confidential Protected Health Information” both on the face of such document and on any particular designated pages of such document; and (d) for testimony, by orally designating such testimony as being “Confidential Protected Health Information” at the time the testimony is given or by written notice within 30 days after receipt of the transcript.

5. The Parties may show deponents documents that are designated as being subject to this order. However, efforts should first be made, if practicable, to conceal the Patient Identifying Information in the record by redacting and coding the information in the document to substitute a numerical or other designation for the patient’s name or other identifying information. Deposition transcripts that contain Confidential Protected Health Information will be subject to this Protective Order.

6. The procedures for use of designated confidential documents during any hearing or the trial of this matter shall be determined by the Parties and the Court in advance of the hearing or trial. The Parties shall consider redacting Confidential Protected Health Information to remove Patient Identifying Information, request the court to submit such documents under seal, code the documents to substitute a numerical or other designation for the patient's name or other identifying information, request that any exhibit be placed under seal, introduce summary evidence where

practicable which may be more easily redacted, and assure that all Social Security and HIC numbers associated with the names of individual patients have been removed. No disclosure of designated Confidential Protected Health Information in open Court shall occur without prior consideration by the Court.

7. The Clerk shall accept for filing under seal any documents or filings so marked by the Parties pursuant to the above paragraphs.

8. Nothing in this Order shall prevent any Party from seeking modification of this Protective Order or from objecting to discovery that it believes to be otherwise improper.

9. The failure to designate any materials as provided in paragraph 2 shall not constitute a waiver of a Party's assertion that the materials are covered by this Protective Order.

10. This Protective Order does not constitute a ruling on the question of whether any particular material is properly discoverable or admissible and does not constitute any ruling on any potential objection to the discoverability of any material.

11. All Covered Entities and their Business Associates (as defined in 45 C.F.R. § 160.103) and Programs and Qualified Service Organizations (as defined in 42 C.F.R. § 2.11) are hereby authorized to disclose Protected Health Information pertaining to the Action to counsel representing the parties in this Action.

12. The Protected Health Information disclosed under this Protective Order is necessary for litigation in the above styled action.

13. The public interest and need for this disclosure outweigh any potential injury to the patient, the physician-patient relationship, and treatment services.

14. The Parties shall not use or disclose Protected Health Information for any purpose other than the Action, including any appeals. Accordingly, the Parties may, inter alia, disclose

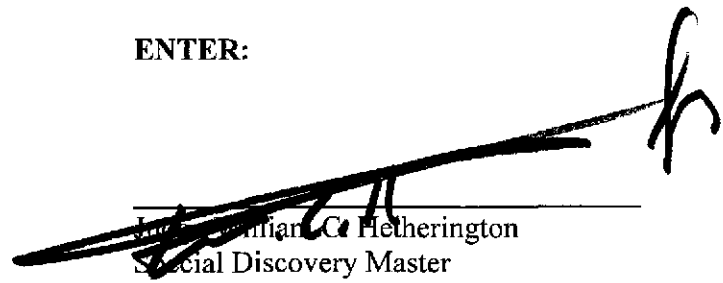
Protected Health Information to (a) Counsel for the Parties and employees of counsel who have responsibility for the Action; (b) the Court and its personnel; (c) Court reporters; (d) experts and consultants; and (e) other entities or persons involved in the Action.

15. Prior to disclosing the Protected Health Information to persons involved in this litigation, counsel shall inform each such person that the Protected Health Information may not be used or disclosed for any purpose other than this litigation.

16. Within sixty-three days after dismissal or entry of final judgment not subject to further appeal, the Parties, their counsel, and any person or entity in possession of Protected Health Information received pursuant to this Order shall return the Protected Health Information to the Covered Entity or destroy all copies of Protected Health Information pertaining to the Action. Any Protected Health Information destroyed pursuant to this paragraph must be rendered unusable, unreadable, or indecipherable consistent with the United States Department of Health and Human Services Guidance to Render Unsecured Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals.

17. Nothing in this Order authorizes the Parties to obtain Protected Health Information through means other than formal discovery requests, subpoenas, depositions, pursuant to a patient authorization, or any other lawful process.

ENTER:



Julian C. Hetherington
Special Discovery Master