



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;)
- (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
Judge Thad Balkman

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }
FILED
NOV 15 2018
In the office of the
Court Clerk MARILYN WILLIAMS

**THE STATE’S RESPONSE TO JANSSEN’S OBJECTION AND MOTION FOR
PROTECTIVE ORDER AND TO QUASH DEPOSITION NOTICES TO PATRICK
VERHEYEN AND MIKE D’AGATI**

The State tries to notice a deposition. Defendants try to delay it. The Court Orders a deposition. Janssen shows up with a wholly unprepared witness. Like Pavlov’s dogs, Defendants can’t seem to help but file dilatory motions when they smell relevant discovery approaching. As the Court is well aware, for months the State has tried to depose several Janssen corporate representatives,. Recently, the Court had to Order Janssen—mid-deposition—to present a

prepared witness within the week to testify due to Janssen's failure to prepare its witness. Seemingly, depositions of specifically named fact witnesses would be less controversial and easier to schedule. Not so.

Instead, Janssen is using the State's request to depose two specific fact witnesses as yet another opportunity to delay. Janssen's latest argument, without evidence, is that the witnesses requested would only offer duplicative testimony and Janssen's lawyers do not believe their testimony would be "substantive." *See* Motion, Exhibit B at 2. Janssen's delay efforts are not surprising. Janssen knows the State intends to question these two witnesses about Janssen's role as the primary supplier of opioid active pharmaceutical ingredients (or "APIs") to opioid manufacturers in the United States, including Defendants. Janssen desperately wants to conceal the answers to such questions from discovery.

At bottom, however, this is a simple issue. The State has not previously deposed these two witnesses. The State properly requested their depositions under the protocol. The State properly served deposition notices under the protocol and Rules. No basis exists for quashing these depositions. They must proceed, and should proceed as noticed on November 19 and 20. Thus, the State requests an immediate telephonic hearing on this issue.

Because so much time has passed since the Court previously ruled on the Tasmanian Alkaloids issue, a brief procedural history on why the State noticed these two depositions is important. In April, the State noticed a deposition on the topic of Janssen's relationship with a company called Tasmanian Alkaloids. Janssen moved to quash that deposition in its entirety, claiming it was wholly irrelevant to the issues in this case. *See* April 9, 2018 Janssen Defendants' Motion for Protective Order and to Quash Depositions at 13-14. The Court disagreed and held:

As a former subsidiary of Johnson & Johnson, Tasmanian Alkaloids manufactured the poppy-based opiate ingredient used in many of the United States marketed and

distributed opioids. *The J&J Defendants had a direct financial interest in the sale of the opioid products generally, not just limited to their own branded opioids.* That places J&J Defendants in a position of having a financial interest in opioids generally and possible motive relevant to issues raised in this case.

April 25, 2018 Order at 4 (emphasis added). The State deposed Janssen's corporate representative on this topic. During his deposition, he identified two other people as having additional knowledge related to this issue: Patrick Verheyen (his boss) and Mike D'Agati (his colleague). As such, the State requested Janssen provide dates for these to witnesses' depositions.

[REDACTED]

Janssen next boldly proclaims that its original corporate representative [REDACTED]

[REDACTED] Motion at 4. This is false. First,

¹ The State is filing its response with redacted portions under seal but notes that it intends to continue to challenge the ridiculous and overbroad efforts of Defendants to hide documents and testimony. And, Janssen's Motion does not comply with the Amended Protective Order's requirement to file a publicly redacted version. Amended Protective Order ¶13. Instead, Janssen, as has become common, filed its entire brief under seal to avoid disclosure to the public. This is improper. And, if this testimony and issue is so inconsequential, what does Janssen have to hide?

the witness was not designated to testify nor was he asked to testify about the entirety of “Janssen’s knowledge about Noramco and Tasmanian Alkaloids.” Second, the witness admitted he did not have all of Janssen’s knowledge about Noramco and Tasmanian Alkaloids. For example:

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Janssen’s

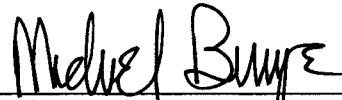
Motion is nothing more than a ploy to avoid further discovery into Janssen’s role as the primary API supplier to opioid manufacturers including Defendants for many years.

Finally, Janssen claims the State does not need these depositions because it also intends to depose current Noramco employees. Motion at 5. This is, frankly, ridiculous. It is by no means a foregone conclusion that Noramco will agree to present the three witnesses for depositions that Janssen claims will provide all the answers it thinks the State needs. Given the history in this case, the State will likely receive some objections from those non-parties. And, there is no indication that the Noramco employees have or know the same things that the Janssen employees do. Regardless, the Rules permit these depositions. Asserting that discovery would be too burdensome for a party and less burdensome for a non-party is a new one.

The intentional roadblocks to discovery in this case are unprecedented. The State requests discovery from parties and is met with objections and motions to quash at every turn. The State

requests discovery from non-parties and is told: you should get this information from a party before burdening us. The State requests information from parties and is told the exact opposite: you are trying to depose non-parties about this issue so do not burden us, a party to the case. The depositions have been noticed under those Rules and the Court's protocol. They should proceed. If the witnesses, as Janssen contends, really have no knowledge on this issue, then their depositions will be brief.

Respectfully submitted,



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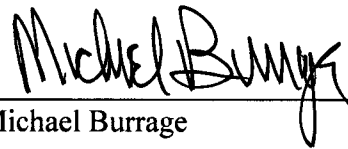
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EXHIBIT A

(Filed Under Seal)