



IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

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

Plaintiff, STATE OF OKLAHOMA  
CLEVELAND COUNTY )

Case No. CJ-2017-816

Honorable Thad Balkman

v.

FILED

PURDUE PHARMA L.P., et al.,

NOV 26 2018

Defendants.

In the office of the  
Court Clerk MARILYN WILLIAMS

**PURDUE'S OBJECTIONS TO THE SPECIAL DISCOVERY MASTER'S ORDER  
OVERRULING PURDUE'S OBJECTIONS TO THE STATE'S  
CORPORATE REPRESENTATIVE TOPICS**

Purdue Pharma, L.P., Purdue Pharma Inc., and The Purdue Frederick Co. (collectively "Purdue") respectfully object to a hurried and extraordinary ruling issued by the Discovery Master during a last-minute Saturday morning call that allows the State unilaterally to define the scope of depositions noticed pursuant to OKLA. STAT. TIT. 12 § 3230(C)(5), without any judicial check as required by any reasonable interpretation of law or equity.

As background, Purdue has devoted significant resources in a good-faith effort to comply with the tight deadlines and expansive discovery requests in this case. Purdue has striven to meet the State's requests to depose witnesses, agreeing with limited objections to 34 of the 41 proposed topics, and testimony by written response for 5 additional topics. For those 39 topics, Purdue objected to the scope and vagueness of the requests, and proposed narrower, non-objectionable topics for which it could prepare witnesses to testify. Purdue also offered to meet and confer about the proposal as required by the deposition protocol established at the August

31, 2018 hearing before the Discovery Master. The State ignored the offer to meet and confer and months passed.

Then, on Saturday, November 17, 2018, the Discovery Master held an emergency telephonic hearing in response to an *ex parte* request from the State two days before. In response to the State's complaint that depositions of Purdue witnesses had not yet begun, the Discovery Master issued a blanket ruling that denies Purdue's objections, sight unseen, as they relate to topics of depositions noticed pursuant to OKLA. STAT. TIT. 12 § 3230(C)(5). Nov. 17, 2018 Tr. at 36:24-37:4 (attached as Ex. A). The Discovery Master decided without basis that the State has the "right" to define relevant deposition topics "the way they choose," so any objection is "overruled."

This extraordinary ruling, issued without the benefit of argument by both sides on the merits of the objections, ignores due process, principles of fundamental fairness, and the separation of powers. It also eliminates the requirement that a party—even the State—must engage in a good faith meet and confer to try to resolve discovery disputes. The ruling sets up a no-win situation for Purdue, for the State will have the unlimited right to demand testimony on any topic, no matter how far afield, speculative, argumentative, or abusive. If the State uses the same "playbook" it has followed with respect to another defendant's witness, it then will accuse Purdue's counsel and witnesses of bad faith and seek extreme sanctions, even after Purdue's witnesses make a good-faith effort to prepare for and respond to the State's improper topics and questioning. This is a transparent and prejudicial ploy to litigate by sanctions, rather than to seek discovery aimed at the merits of this dispute. The Court should overrule the Discovery Master. In the ordinary course, an appropriate remedy would be to order the State to meet and confer in good faith, and thereafter Purdue can present any remaining objections to the Court for

individualized consideration and ruling. Here, however, because the State has made it clear it has no intention to meet and confer on this issue, it also would be appropriate for the Court simply to adjudicate Purdue's objections to the topics. Purdue attaches its response and objections as Exhibit B.

### **BACKGROUND**

Pursuant to OKLA. STAT. TIT. 12 § 3230(C)(5), the State demanded testimony about 41 deposition topics. Many of these topics were overbroad, vague, not reasonably likely to lead to the discovery of admissible evidence, or otherwise improper. Nevertheless, after receiving the State's Deposition Notices, Purdue agreed to provide witnesses to present oral or written testimony on 39 of the 41 topics. Purdue identified the objectionable portions of the proposed topics, and offered compromises that would provide responsive discovery to the State. Purdue offered a range of dates between October 29 and November 15 when it would produce witnesses for 28 of the topics, and offered to find witnesses or provide written responses for ten additional topics. Purdue objected to two topics: Topic 24, which requests testimony not within Purdue's possession about profits derived from criminally indicted doctors; and Topic 40, which requests testimony about the bases of Purdue's defenses. Finally, Purdue offered to meet and confer about its objections generally, and specifically about Topic 31, which sought Purdue's sales projections or research related to reimbursement for Oklahoma opioid prescriptions paid by Medicare or Medicaid. That particular topic was vague and potentially overbroad so Purdue attempted to seek clarification from the State prior to preparing a witness on the topic. Purdue made clear it was willing to negotiate on providing responses to all of the State's topics.

In response to these objections, the State represented to the Discovery Master that the State and Purdue were "going to get together and see if we can reach a resolution on those

deposition issues; scope, topic, amount of time, and so forth ... [a]nd if we can't reach a resolution on those noticed depositions, then we will ask that you take it up and help us along with that." (Aug. 31, 2018 Hr. Tr. at 26:4-11) (attached as Exhibit C). This meet and confer process also is specifically required by the deposition protocol that governs this case. *Id.* at 23:21-33:24.

Notwithstanding the State's representation and the Court's deposition protocol, the State simply ignored Purdue's objections and invitation to meet and confer. Instead, the State filed a motion to compel depositions, but did not seek to resolve Purdue's objections to the scope of the deposition topics, either with Purdue or with the Court. The Discovery Master ordered the parties to create a "matrix" that identified the witnesses who would address groupings of topics. In compliance with this order, Purdue submitted its proposed matrix on November 13, 2018. Because the State had never taken issue with Purdue's objections and proposed narrowed topics, Purdue used them to identify responsive witnesses and topic groupings. Following receipt of Purdue's proposed groupings, however, the State made an *ex parte* request to the Discovery Master for an emergency Saturday morning hearing on November 17 to address Purdue's grouping matrix.

The Discovery Master held the Saturday hearing even though Purdue requested a short postponement to Monday or Tuesday, given that Purdue's counsel on this issue was unavailable and there was no emergency that required expediency. At that hearing, in addition to complaining about Purdue's proposed groupings of topics, the State complained about Purdue's "redefining" of the State's topics—an objection the State raised for the first time by e-mail just two days before the hearing.

At the time of the November 17 telephonic hearing, the Discovery Master had never seen the objections or Purdue's proposed compromise. Nevertheless, despite lacking any framework to understand the basis for Purdue's objections to the State's topics, and the complete lack of effort by the State to meet and confer in good faith on the subject, the Discovery Master issued a blanket dismissal of Purdue's objections, sight unseen, and granted the State permission to conduct depositions on the State's chosen topics, as drafted, and without limitation as objected to by Purdue. *See* Nov. 17, 2018 Hr. Tr. at 31:14, 31:20-22, 32:6-7, 32:24-33:1. When counsel for Purdue requested the Discovery Master at least consider Purdue's objections prior to granting the State unilateral power to define the terms of discovery, the Discovery Master would not entertain them:

- “[Y]ou can file all the objections you want, but it’s not going to help much ... there’s not going to be any argument about it. The State moves on with the topic as defined by the State.” (Nov. 17, 2018 Hr. Tr. at 35:7-23).
- “[I]n the event that the – that a Defendant or Defendant Group has an objection to a topic, and the State will not agree by the meet and confer to the redefined topic, then you proceed as the State defines it – and the objection is overruled.” (Nov. 17, 2018 Hr. Tr. at 36:24-37:4).

Purdue respectfully objects to the Discovery Master's blanket ruling dismissing all existing or future objections to the scope of the State's corporate representative deposition discovery, and requests this Court engage in a fair and individualized review of Purdue's objections and rule to limit the scope of the State's discovery as appropriate.

## ARGUMENT

***I. The Discovery Master's blanket ruling was contrary to Oklahoma discovery rules, violates Purdue's due process rights, and prejudices Purdue's ability to litigate the merits of the claims.***

The Oklahoma Rules of Civil Procedure impose limits on the discovery a party can get. Although generally a party is entitled to seek discovery of non-privileged matter that is relevant

or reasonably likely to lead to the discovery of admissible evidence, there are several checks to ensure discovery is proportional and not abusive. *See generally* OKLA. STAT. TIT. 12 §§ 3226-3226.1. To this end, “the district courts should not neglect their power to restrict discovery where justice requires protection for a party or person from annoyance, embarrassment, oppression, or undue burden or expense. With this authority at hand, judges should not hesitate to exercise appropriate control over the discovery process.” *Quinn v. City of Tulsa*, 1989 OK 112, 777 P.2d 1331, 1342 (internal citations omitted). That did not happen here. Instead, the Discovery Master issued a blanket ruling denying objections without ever seeing or hearing them, and in the process abdicated control to the State unilaterally to decide the appropriate scope of its discovery.

In the normal course of affairs, the burden rests upon the party opposing discovery to demonstrate why it deserves protection from improper or abusive discovery. That rule, however, presupposes that a party will be afforded the *opportunity* to make such a showing. In this instance, however, the Discovery Master overruled Purdue’s objections without review, argument, or hearing on the matters raised by those objections. Nov. 17, 2018 Hr. Tr. at 35:7-23; 36:24-37:4. Purdue can therefore not be found to have failed to meet its burden when it was not provided a procedural means to do so or an opportunity to be heard on the substance of its objections. This not only was contrary to Oklahoma rules; it also was a violation of Purdue’s fundamental Due Process right to be heard. *See, e.g.*, OKLA. STAT. TIT. 5, ch. 1, app. 4, CJC Rule 2.6(A) (“A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.”); *see also Towne v. Hubbard*, 2000 OK 30, ¶ 19, 3 P.3d 154, 162 (“A party’s opportunity to present its case is an essential element

of due process. Due process requires an orderly proceeding in which the parties are given an opportunity to be heard, and to defend, enforce and protect their rights.”).

Similarly, a proper adjudication of rights normally requires findings and an explanation of the decision because “findings assures that justice is administered according to facts and law, and not through [procedural] techniques . . . a democratic government must practice fairness and fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights.” *Jackson v. Indep. Sch. Dist. No. 16 of Payne Cty.*, 1982 OK 74, 648 P.2d 26, 32; *Green Bay Packaging, Inc. v. Preferred Packaging, Inc.*, 1996 OK 121, 932 P.2d 1091, 1099 (Court abdicates responsibility to adjudicate even collateral matter where it simply “bless[es]” a questionable submission without “specifically stat[ing] the basis for its determination.”). Discovery disputes are no exception to this fundamental constitutional principle. Indeed, just last year, an Oklahoma appellate court held that a judge’s reflexive discovery decisions in favor of one party violated due process. *Okmulgee Cty. Family Res. Ctr., Inc. v. Mackey*, 2017 OK CIV APP 37, ¶¶ 46-47, 400 P.3d 908, 919. There, the Court of Civil Appeals held that the judge’s decision to grant discovery relief without considering the facts violated due process. *Id.*; see also *Cent. State Cmty. Serv. v. Anderson*, 2012 OK CIV APP 110, ¶ 11, 292 P.3d 36, 39 (denying defendant key deposition violated defendant’s due process right to defend itself).

Purdue is presently participating in active discovery in the nationwide MDL, as well as dozens of state and municipality suits across the country. While discovery may become contentious, the procedural safeguards in each jurisdiction nevertheless allow the parties to protect themselves and advocate for their respective positions, first by written objections, then in meet and confers, and ultimately—if necessary—before the Court. Zealous advocacy is fully compatible with efficient and orderly litigation when supervised by the tribunal. The Oklahoma

case, however, is now unique in that it is the *only instance* where an adjudicator has ruled that a plaintiff seeking corporate testimony from Purdue has an unlimited right to demand testimony on any topic of its choosing, no matter how broad, irrelevant, or abusive. The ruling is unfairly prejudicial, for it obligates Purdue to locate or create witnesses who have knowledge on topics so broad in scope that they encompass the entirety of Purdue's business over decades of operation, and in some instances, implicate improper subjects for discovery, such as information not known by Purdue (*see, e.g.*, Topic 24), and privileged matters, attorney work product, and mental impressions formed during this litigation (*see, e.g.*, Topic 40).

A ruling of this scope also has predictable consequences that greatly prejudice Purdue. Indeed, this is the State's end-game tactic: a Purdue corporate witness will be unable or unwilling to answer the State's abusive, argumentative, and speculative questions, and the State will attack the witness and counsel as unprepared and obstructionist. The State will then demand more depositions, more delay, and harsh sanctions. This never-ending cycle of discovery abuse is intended to inflict pain and support sanctions requests, not get at the merits. Indeed, the State already has put this strategy into practice. *See*, State's Nov. 15, 2018 Emergency Motion for Sanctions Against Johnson & Johnson Defendants, asking the Court to strike defenses, revoke *pro hac vice* appointments, and impose monetary sanctions. The Discovery Master's ruling ensures that the pattern repeats.

***II. The Discovery Master's blanket ruling gives the State the power to abuse the discovery process without judicial checks, which violates the separation of powers.***

The Discovery Master's ruling allows the State unilaterally to determine whether Purdue's objections to the scope of depositions have merit. This abdicates the Discovery Master's role and effectively cedes the adjudicative function of the judiciary to the executive branch, in violation of the Oklahoma Constitution. OKLA. CONST., art. 4; *see also Hill v. Am.*



*Med. Response*, 2018 OK 57, ¶ 21, 423 P.3d 1119, 1128, reh'g denied (July 25, 2018) (“the judiciary is invested with an adjudicative function that requires it to hear and determine forensic disputes.”).

It violates the foundational principle of separation of powers when a court's responsibility to adjudicate disputes is encroached on, abdicated, or delegated to another branch of government. See *Conaghan v. Riverfield Country Day Sch.*, 2007 OK 60, ¶ 21, 163 P.3d 557, 564 (Legislature's attempt to “predetermine the range of adjudicative facts” on which to base a workers' compensation decision encroaches on judicial branch, violating separation of powers); *Lee v. State*, 1982 OK CR 201, 655 P.2d 1046, 1048 (delegation to counsel of court's duty to read law to jury amounts to “an abdication of the trial court's duty and an interference with its judicial function”); *In re Collyar*, 1970 OK CR 48, 476 P.2d 354, 356-58 (delegating decision to revoke suspended sentence to corrections department improperly delegates power); *Kilpatrick v. Kilpatrick*, 2008 OK CIV APP 94, ¶ 16, 198 P.3d 406, 410 (“[T]he trial court's order that a parenting coordinator's ‘recommendations should be observed as orders of the Court’ must be stricken”); see generally *Wilson v. Oklahoma Horse Racing Comm'n*, 1996 OK 3, 910 P.2d 1020, 1023 (fundamental fairness violated where party involved in investigation and prosecution also makes adjudicative decisions that are supposed to be impartial).

This is particularly true when the party taking control of the adjudicatory process has a stake in the outcome. In an analogous situation, the Oklahoma Supreme Court rejected a statutory interpretation that would have made the occurrence of an appealable event depend “entirely upon the will and whim of the aggrieved party's victorious opponent.” The Court found that placing this power in the hands of an interested party would be an “abdication” of control “offend[ing] the law's basic principle of neutrality in the administration of judicial

process.” *Bushert v. Hughes*, 1996 OK 21, 912 P.2d 334, 338-39 & n.21. “[The Court’s] extant jurisprudence condemns all standardless delegation of power.” *Id.*

The direct involvement of the executive branch here only heightens the concern. For example, the Oklahoma Court of Criminal Appeals condemned a trial court’s evidentiary ruling that relied exclusively on the State’s representation that the evidence was admissible because “the State knows that if they’re wrong, this case will be reversed.” *Goode v. State*, 2010 OK CR 10, ¶ 20, 236 P.3d 671, 677. The court concluded that sole reliance on the State’s representation to determine admissibility “abdicates [the court’s] gatekeeping responsibility.” *Id.* As the Oklahoma Supreme Court explained in *State ex rel. York v. Turpen*, 1984 OK 26, 681 P.2d 763, 767, “[t]he true import of the doctrine of separation of powers is . . . that no one department ought to possess *directly* or *indirectly* an overruling influence over the others.” (emphasis in original). There the State violated separation of powers when it issued an opinion that a state law was unconstitutional, for the opinion encroached on “the unique duty of the courts.” *Id.* at 767. The Oklahoma State Constitution simply does not permit the State to play the role of both party and judge in this proceeding.

The Discovery Master’s abdication was not the action of a judicial referee, assigned to weigh all of the evidence before it and make recommendations based on the merits of the case. This ruling violates Purdue’s constitutional rights to due process and a fair judicial tribunal.

### **CONCLUSION**

The State claims it is eager to try this case. Yet throughout the discovery process the State has focused entirely on setting up and litigating discovery deficiencies of the State’s own invention, and has avoided the merits. The State no longer appears interested in discovering truth, but instead has been allowed to apply unprecedented and unlawful discovery pressure on

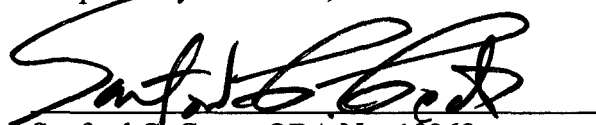
the Defendants, while at the same time evading or ignoring the State's own discovery obligations. All of these tactics disrupt Purdue's trial preparation. In the normal course, Purdue could seek relief from the Discovery Master, but after the Discovery Master's ruling, the State has been granted the power unilaterally to rule on objections to the scope of Purdue's depositions.

Given the truncated trial schedule in this case, Purdue would like nothing more than to complete discovery promptly and prepare for summary judgment and trial. But Purdue has the constitutional right to protect itself from the discovery abuses of the State, and tilted playing field the State continues to demand. To do so, Purdue has the right to seek judicial relief to fairly adjudicate legitimate objections with an even hand, and to obtain equal access to discovery. A blanket denial of Purdue's rights and a lack of meaningful oversight is not adjudication—it is a relinquishment of judicial power to the State, and a fundamental denial of due process rights.

Purdue therefore respectfully requests this Court to adjudicate Purdue's objections to the State's proposed deposition topics to determine the appropriate scope of discovery in this matter.

Date: November 26, 2018

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of November, 2018, I caused a true and correct copy of the following:

**PURDUE'S OBJECTIONS TO THE SPECIAL DISCOVERY MASTER'S ORDER  
OVERRULING PURDUE'S OBJECTIONS TO THE STATE'S CORPORATE  
REPRESENTATIVE TOPICS**

to be served via email upon the counsel of record listed on the attached Service List.

A handwritten signature in black ink, appearing to read "Sandra B. G. B.", is written over a horizontal line.

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1 IN THE DISTRICT COURT OF CLEVELAND COUNTY

2 STATE OF OKLAHOMA

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

5 Plaintiff,

Case Number  
CJ-2017-816

6 VS.

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

26 TELEPHONE HEARING  
27 ON NOVEMBER 17, 2018, BEGINNING AT 10:02 A.M.  
28 IN OKLAHOMA CITY, OKLAHOMA  
29 BEFORE HON. BILL HETHERINGTON

30 Reported by: Cheryl D. Rylant, CSR, RPR

EXHIBIT A

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(Appearances Continued on Page 3)

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(Appearances Continued on Page 4)

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1 that have not been resolved by the Court is the  
2 problem.

3 MR. HETHERINGTON: Well, I'm trying to  
4 resolve it right now. The way the State has defined  
5 the topic is the way it's going to be. That's the  
6 order. And I --

7 MR. BURNS: So if we have not --

8 MR. HETHERINGTON: -- am --

9 MR. BURNS: I'm sorry. We have to present  
10 a witness on the topics as defined by the State  
11 without any adjudication of our pending objections to  
12 those?

13 MR. HETHERINGTON: Well, yeah. I mean,  
14 that -- I mean, that's what the October 22nd order  
15 was to take care of. I mean, it --

16 MR. BURNS: Your Honor --

17 MR. HETHERINGTON: -- I mean, we can spend  
18 the next two years dealing with objections on topics.  
19 That's what I'm trying to eliminate. I mean -- I  
20 mean, again, to me, I -- I see this as a -- a kind of  
21 a -- you know, I mean, you -- I don't want us to be  
22 faced with objection after objection to every topic,  
23 which is what we have kind of. And so that's why I  
24 did it the way I did it. And in the event that  
25 the -- that a Defendant or Defendant Group has an

1 objection to a topic, and the State will not agree by  
2 the meet and confer to the redefined topic, then you  
3 proceed as the State defines it and -- and the  
4 objection is overruled. And -- and by these comments  
5 and my October 22nd order, I don't know how more  
6 clear I can be.

7           Now -- now, again, my comment earlier is the  
8 same as I make now. By the nature -- very nature of  
9 that, the State could end up with a rather  
10 meaningless deposition. That could happen. I mean,  
11 I -- I recognize that. And it could be, in effect, a  
12 waste of time. Maybe. I don't know. But that's the  
13 best way I figured out to cure all of this. I mean,  
14 I'm not going spend, and don't want to spend, day  
15 after day on telephone calls and in court dealing  
16 with objections to the defined dep -- deposition  
17 topics. That's what the October 22nd order and again  
18 today is supposed to cure.

19           MR. PATE: Your Honor, this is Drew. May I  
20 -- may I respond to one -- one thing?

21           MR. HETHERINGTON: Certainly.

22           MR. PATE: We understand everything you've  
23 said regarding the -- the topics, and I think that's  
24 helpful. And I just want to make clear that there  
25 are some additional ways that we believe Purdue --



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September 10, 2018

**BY ELECTRONIC MAIL**

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**Re: *State of Oklahoma ex rel. Mike Hunter v. Purdue Pharma, LP, CJ -2017-816***

Dear Counsel:

Pursuant to the deposition protocol set forth by Judge Hetherington on August 31, 2018, Purdue Pharma LP, Purdue Pharma Inc. and The Purdue Frederick Company Inc. ("Purdue") hereby respond to the State's 41 Amended Notices for 3230(C)(5) Videotaped Depositions (dated August 6, 2018).

Subject to and without waiving any of Purdue's objections, which are enclosed with this letter, Purdue intends to produce a witness for a deposition on a day during the week of October 29, 2018, on the following topic:

- Topic 34: The source of active ingredients, compounds or components utilized by Purdue in the manufacture of its opioid medications sold in the United States.

Subject to and without waiving any of Purdue's objections, Purdue intends to produce a witness for a deposition on a day during the week of November 5, 2018, on the following topics:

- Topics 3 and 4: Purdue's use of marketing for its FDA-approved opioid medications, nationally and in Oklahoma.
- Topic 10: The organization, training, and compensation structure for, and sales activities of, Purdue sales employees in Oklahoma.
- Topic 11: Purdue's practices and processes for identifying and prioritizing physicians in Oklahoma for sales employees to contact or meet.
- Topic 12: Purdue's research, if any, of Oklahoma health care professionals' and/or pharmacies' opioid prescribing history, sales, or practices and/or abuse and diversion of opioids.
- Topic 14: Purdue's use of "do not call" lists or any similar list of prescribers that sales representatives do not contact.
- Topics 15 and 16: Purdue's efforts, if any, to identify health care providers in the State of Oklahoma who prescribed Purdue's FDA-approved opioid medications and their prescribing rates.
- Topic 28: Purdue's use of data provided by IMS, IQVIA or any similar data service for purposes of marketing and/or sales strategies.



- Topic 32: Purdue's efforts and actions, if any, to obtain and/or increase coverage and/or reimbursement of its opioid medications by public payers in Oklahoma, including SoonerCare.

In addition, Purdue is available to meet and confer with Plaintiff about Topic 31: Purdue's sales projections and/or research related to the amount of reimbursement for prescriptions for its opioid medications that would be paid by Medicare and/or Oklahoma's Medicaid Program.

Subject to and without waiving any of Purdue's objections, Purdue intends to produce a witness for a deposition on a day during the week of November 12, 2018, on the following topics:

- Topic 13: Purdue's use and/or establishment of any opioid abuse and diversion program Purdue established and implemented to identify Healthcare Professionals' and/or pharmacies' potential abuse or diversion of opioids.
- Topic 38: Policies, practices, and procedures regarding complaints Purdue received related to addiction or abuse of its opioid medications in Oklahoma.

Subject to and without waiving any of Purdue's objections, Purdue intends to produce a witness for a deposition on November 15, 2018, on the following topics:

- Topic 1: Purdue's involvement with, and contributions to, non-profit organizations and professional societies regarding opioids and/or pain treatment.
- Topic 2: Purdue's involvement with, and contributions to, KOLs regarding opioids and/or pain treatment.
- Topic 6: Research conducted or funded by Purdue, in whole or in part, related to Purdue's FDA-approved opioid medications' risks and/or efficacy.

- Topic 7: Scientific support for Purdue's marketing statements and representations regarding the risks and benefits of opioids.
- Topic 8: Research, if any, conducted or funded by Purdue, in whole or in part, related to pseudoaddiction.
- Topic 9: Purdue's scientific support for marketing statements and representations, if any, regarding pseudoaddiction.
- Topic 20: Purdue's actions and/or efforts in response to the FDA's September 10, 2013 response to the PROP Petition from July 25, 2012.
- Topic 22: Purdue's communications and relationships, if any, with medical schools in Oklahoma.
- Topic 23: Purdue's use of public relation firms, if any, in connection with media and public communications regarding opioids and/or pain management and any such communications with the American Enterprise Institute, Cancer Action Network, Center for Lawful Access & Abuse Deterrence, Pinney Associates, Conrad & Associates LLC, and Sense About Science USA.
- Topic 25: Purdue's use, if any, of medical education communication companies (MECCs) in which Purdue was involved in content regarding opioids and/or pain management.
- Topic 26: Purdue's use of speakers' bureaus, advisory boards, or other similar programs regarding opioids and/or pain management in Oklahoma.
- Topic 33: Purdue's relationship with other opioid manufacturers who are co-Defendants in this action related to opioids and/or pain management and any co-promotion or ownership agreements relating to Purdue's opioid medications.
- Topic 35: The nature and intended use of opioid medicines manufactured and sold by Purdue.

- Topic 36: The nature and intended use of drugs for opioid use disorder, if any, manufactured and sold by Purdue.
- Topic 37: The nature and intended use of drugs for the treatment of opioid overdose, if any, manufactured and sold by Purdue.

Purdue is willing to respond in writing to the following topics:

- Topic 17: Actual marketing expenses by brand and by year for OxyContin®, Butrans®, and Hysingla ER®.
- Topic 18: Amounts spent by Purdue on research and development for opioids.
- Topic 19: Purdue's educational and/or research grants to individuals or entities regarding opioids and/or pain treatment.
- Topic 29: Purdue's use of clinical trial companies regarding opioid and/or pain management.
- Topic 30: Clinical trials funded, sponsored, and/or conducted by Purdue regarding opioids and/or pain management.

Purdue is continuing to work in good faith to identify witness(es) who can testify about the following topics:

- Topic 5: Continuing medical education, if any, in which Purdue was involved in content regarding Purdue's FDA-approved opioid medications, nationally and in Oklahoma.
- Topic 21: Purdue's role in or support for, if any, any research and published statements in support of the view of pain as the "Fifth Vital Sign."
- Topic 27: Purdue's use of medical liaisons to communicate about opioids and/or pain treatment in Oklahoma.
- Topic 39: Purdue's involvement and participation in the Pain Care Forum.

- Topic 41: Purdue's activities in Oklahoma concerning opioids and legislation, law enforcement, scheduling of opioid medications, and medical guidelines.

We hope to have this information for you in the near future. As always, we are of course willing to meet and confer regarding any of these issues.

Sincerely,

/s/ Mark S. Cheffo

Cc: Counsel of record for Defendants (via email)

Enclosure

**IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel., MIKE HUNTER, ATTORNEY GENERAL OF OKLAHOMA,	)	
	)	
Plaintiff,	)	Case No. CJ-2017-816
	)	
v.	)	Honorable Thad Balkman
	)	
PURDUE PHARMA L.P., et al.,	)	Special Discovery Master
	)	William C. Hetherington, Jr.
Defendants.	)	

**PURDUE’S RESPONSES AND OBJECTIONS TO PLAINTIFF’S AMENDED NOTICES  
FOR VIDEOTAPED DEPOSITIONS PURSUANT TO RULE 3230(C)(5)**

Pursuant to Rule 3230(C)(5), Purdue Pharma LP, Purdue Pharma Inc., and The Purdue Frederick Company Inc. (“Purdue” and “You” or “Your” herein) make the following responses and objections to Plaintiff’s Amended Notices for 3230(C)(5) Videotaped Depositions of Purdue Pharma L.P., Purdue Pharma Inc. and The Purdue Frederick Company, Inc. (the “Requests”).

Purdue makes these responses and objections in good faith, based on presently available information and documentation, and without prejudice to Purdue’s right to conduct further investigation and utilize any additional evidence that may be developed. Purdue’s discovery and investigations are ongoing and not complete as of the date of these objections. Purdue does not waive any right to modify or supplement its responses and objections and expressly reserves all such rights.

**GENERAL OBJECTIONS**

Purdue asserts the following General Objections. Each objection to a Request is subject to, and is limited in accordance with, the following General Objections, which are incorporated

therein as if fully set forth and are not waived or in any way limited by the Specific Objections set forth below.

1. Purdue objects to the Requests to the extent that Plaintiff and Plaintiff's counsel have not used reasonable efforts to coordinate the Requests and the taking of depositions with similar activities in the multi-district litigation *In re: National Prescription Opiate Litigation*, No. 1:17-MD-2804 ("MDL 2804"). The State's Requests overlap with the Amended Notice of Deposition Pursuant to Rule 30(b)(6) and Document Request Pursuant to Rule 30(b)(2) and Rule 34 to Purdue ("MDL Notice") served by MDL Plaintiff's counsel on Purdue on June 29, 2018, and Purdue objects to the Requests to the extent that Plaintiff seeks duplicative and burdensome discovery. Purdue reserves its rights to seek appropriate coordination, including through the cross-noticing of depositions.

2. Purdue objects to the time and place of the depositions set forth in the Requests. Purdue will produce one or more witnesses at a time and place to be mutually agreed upon by the parties.

3. Purdue objects to Plaintiff's instructions requiring it to "designate one or more officers, directors, managing agents, or other persons" to the extent that instruction purports to impose obligations on Purdue that are inconsistent with Rule 3230(C)(5), and any other applicable rule, law, or order of this Court. Purdue will fully comply with its obligations under the applicable state rules and case law. Purdue further objects on the ground that the term "other persons" is vague, ambiguous, and undefined.

4. Purdue objects to the Requests to the extent that they purport to impose obligations on Purdue that are broader than, inconsistent with, not authorized under, or not reasonable pursuant

to the Oklahoma Code of Civil Procedure and the Local Rules of the District Court of Cleveland County.

5. Purdue objects to providing testimony or any other discovery that is protected from disclosure by the attorney-client privilege, the work product doctrine, joint-defense privilege, common interest privilege, the self-investigative privilege, or any other legally-recognized privilege, immunity, or exemption (collectively, "Privileged Information"). Privileged Information will not be knowingly disclosed. Any disclosure of Privileged Information in response to any of the Requests is inadvertent and not intended to waive any privileges or protections. Purdue reserves the right to demand that Plaintiff return or destroy any Privileged Information inadvertently produced, including all copies and summaries thereof.

6. Purdue objects to the Requests to the extent that they are cumulative, irrelevant, overbroad, oppressive, and unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and not proportional to the needs of the case, in part because they are not limited by an appropriate time period tied to the claims at issue in this case.

7. Purdue objects to the Requests on the grounds that they seek information that is irrelevant, overbroad, oppressive, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and not proportional to the needs of the case because they are not limited to events or issues in or affecting Oklahoma.

8. Purdue objects to the Requests to the extent that the expense or burden of discovery outweighs the likely benefit, taking into account the needs of the case, the amount in controversy, the importance of the issues in the litigation, and the importance of the requested discovery in resolving the issues.

9. Purdue objects to the Requests to the extent they purport to require Purdue to provide “all” information or “any” information relating to a given subject matter as overbroad, oppressive, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, not proportional to the needs of the case, and include too many subcategories to have meaning.

10. Purdue objects to the Requests to the extent they purport to require Purdue to produce information relating to any opioid other than the FDA approved opioid medications manufactured by Purdue, as such Requests are overbroad, oppressive, unduly burdensome, and call for information that is neither relevant to the claims or defenses in this action nor reasonably calculated to lead to the discovery of admissible evidence.

11. The offer to present responsive information in writing is without waiver of the discovery limits set forth in the Oklahoma Code of Civil Procedure or orders by the Court or Special Master.

12. Purdue’s assertion of objections in these responses is not a waiver of other objections.

**OBJECTIONS AND RESPONSES TO SUBJECT MATTERS FOR TESTIMONY**

Subject to the objections set forth above, Purdue further objects and responds as follows:

1. Your involvement with, and contributions to, non-profit organizations and professional societies, including the Front Groups.

**RESPONSE TO TOPIC NO. 1:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 1 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to Purdue’s relationship with non-profit organizations and professional



societies outside the context of Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 1 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the term "Front Groups" is vague, ambiguous, and undefined. Purdue also objects as the subject of Topic No. 1 is in the public domain and available to Plaintiff.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your involvement with, and contributions to, non-profit organizations and professional societies regarding opioids and/or pain treatment.

2. Your involvement with, and contributions to, KOLs regarding opioids and/or pain treatment.

**RESPONSE TO TOPIC NO. 2:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 2 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to Purdue's relationship with KOLs outside the context of Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 2 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue also objects that the subject of Topic No. 2 is in the public domain and available to Plaintiff.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 2.

3. Your use of branded marketing for opioids nationally and in Oklahoma, including the scope, strategy, purpose and goals with respect to such branded marketing.

**RESPONSE TO TOPIC NO. 3:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 3 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 3 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your use of branded marketing for Purdue's FDA-approved opioid medications, nationally and in Oklahoma.

4. Your use of unbranded marketing for opioids nationally and in Oklahoma, including the scope, strategy, purpose and goals with respect to such unbranded marketing.

**RESPONSE TO TOPIC NO. 4:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 4 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 4 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the term "unbranded marketing" is vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your use of marketing for Purdue's FDA-approved opioid medications, nationally and in Oklahoma.

5. Your use of continuing medical education regarding opioids nationally and in Oklahoma, including the scope, strategy, purpose and goals with respect to such continuing medical education.

**RESPONSE TO TOPIC NO. 5:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 5 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 5 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Continuing medical education, if any, in which You were involved in the content regarding Purdue's FDA-approved opioid medications, nationally and in Oklahoma.

6. Research conducted, funded, directed and/or influenced by You, in whole or in part, related to opioid risks and/or efficacy.

**RESPONSE TO TOPIC NO. 6:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 6 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 6 as it is vague, ambiguous, and undefined with respect to the term "influenced by" and as to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Research conducted or funded by You, in whole or in part, related to Purdue's FDA-approved opioid medications' risks and/or efficacy.

7. Your scientific support for Your marketing statements and representations regarding the risks and benefits of opioids.

**RESPONSE TO TOPIC NO. 7:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 7 on the grounds that it is overbroad, including because the topic fails to refer to any particular statement or representation, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 7 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further objects to the extent this Topic calls for expert testimony. Also, Purdue objects on the ground that the terms "scientific support" and "representations" are vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 7.

8. Your research conducted, funded, directed and/or influenced, in whole or in part, related to pseudoaddiction.

**RESPONSE TO TOPIC NO. 8:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 8 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action

nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 8 as it is vague, ambiguous, and undefined with respect to the term "influenced" and as to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Research, if any, conducted or funded by You, in whole or in part, related to pseudoaddiction.

9. Your scientific support for Your marketing statements and representations regarding pseudoaddiction.

**RESPONSE TO TOPIC NO. 9:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 9 on the grounds that it is overbroad, including because the topic fails to refer to any particular statement or representation, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 9 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further objects to the extent this Topic calls for expert testimony. Also, Purdue objects on the ground that the terms "scientific support" and "representations" are vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your scientific support for Your marketing statements and representations, if any, regarding pseudoaddiction.

10. The scope, strategy, purpose, and goals for Your opioids sales forces, including without limitation: training policies and practices; sales tactics; compensation structures; incentive programs; award programs; sales quotas; methods for assigning sales representatives to particular regions; facilities and/or physicians; and Your use of such sales forces in Oklahoma.

**RESPONSE TO TOPIC NO. 10:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 10 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 10 to the extent it requests compensation information because that constitutes sensitive personal information that is not reasonably calculated to lead to the discovery of admissible evidence and not proportional to the needs of the case. Purdue further objects to Topic No. 10 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further objects to Topic No. 10 to the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: The organization, training, and compensation structure for, and sales activities of, Your sales employees in Oklahoma.

11. Your practices and processes for identifying and prioritizing physicians to detail.

**RESPONSE TO TOPIC NO. 11:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 11 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports

to seek testimony related to detailing in regards to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 11 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further objects to Topic No. 11 to the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your practices and processes for identifying and prioritizing physicians in Oklahoma for sales employees to contact or meet.

12. Your research of Oklahoma Healthcare Professionals' and/or pharmacies' opioid prescribing habits, history, trends, sales, practices and/or abuse and diversion of opioids.

**RESPONSE TO TOPIC NO. 12:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 12 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 12 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your research, if any, of Oklahoma Healthcare Professionals' and/or pharmacies' opioid prescribing history, sales, or practices and/or abuse and diversion of opioids.

13. Your use and/or establishment of any opioid abuse and diversion program You established and implemented to identify Healthcare Professionals' and/or pharmacies' potential abuse or diversion of opioids.

**RESPONSE TO TOPIC NO. 13:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 13 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 13 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 13.

14. Your use of 'do not call' lists or any similar list of prescribers that your sales representatives do not contact.

**RESPONSE TO TOPIC NO. 14:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 14 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to prescribers of medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 14 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the term "any similar lists" is vague, ambiguous, and undefined.



Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 14.

15. Your efforts to identify high-prescribing health care providers in the State of Oklahoma.

**RESPONSE TO TOPIC NO. 15:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 15 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to prescribers of medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 15 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the term "high-prescribing" is vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your efforts, if any, to identify health care providers in the State of Oklahoma who prescribed Purdue's FDA-approved opioid medications and their prescribing rates.

16. Your efforts to identify low-prescribing health care providers in the State of Oklahoma.

**RESPONSE TO TOPIC NO. 16:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 16 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports

to seek testimony related to prescribers of medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 16 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the term "low-prescribing" is vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your efforts, if any, to identify health care providers in the State of Oklahoma who prescribed Purdue's FDA-approved opioid medications and their prescribing rates.

17. Amounts spent by You on advertising and marketing related to opioids.

**RESPONSE TO TOPIC NO. 17:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 17 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 17 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further objects to Topic No. 17 to the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will provide a written response addressing actual marketing expenses by brand and by year for OxyContin®, Butrans®, and Hysingla ER.

18. Amounts spent by You on research and development for opioids.

**RESPONSE TO TOPIC NO. 18:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 18 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 18 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further objects to Topic No. 18 to the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will provide a written response to Topic No. 18.

19. Your educational and/or research grants provided by You to individuals or entities regarding opioids and/or pain treatment.

**RESPONSE TO TOPIC NO. 19:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 19 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 19 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue also objects that the subject of Topic No. 19 is in the public domain and available to Plaintiff. Purdue further objects to Topic No. 19 to the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will provide a written response to Topic No. 19.

20. Your actions and/or efforts in response to the FDA's September 10, 2013 response to the PROP Petition from July 25, 2012.

**RESPONSE TO TOPIC NO. 20:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 20 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to actions and/or efforts in regard to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 20 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue also objects that the subject of Topic No. 20 is in the public domain and available to Plaintiff.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 20.

21. Your role, influence, or support for any campaign or movement to declare pain as the "Fifth Vital Sign."

**RESPONSE TO TOPIC NO. 21:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 21 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 21 as it is vague and ambiguous, including with respect to time, place, and circumstances. Also, Purdue objects on the ground that the terms "campaign or movement" are vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your role in or support for, if any, any research and published statements in support of the view of pain as the “Fifth Vital Sign.”

22. Your interactions and communications with medical schools in Oklahoma, including without limitation, financial contributions, speeches, presentations, scholarships, event sponsorship, research grants, educational materials, and/or branded promotional materials.

**RESPONSE TO TOPIC NO. 22:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 22 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue’s FDA approved opioid medications. Purdue further objects to Topic No. 22 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue also objects that Topic No. 22 is in the public domain and available to Plaintiff.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your communications and relationships, if any, with medical schools in Oklahoma.

23. Your use of public relation firms and communication with journalists regarding opioids and/or pain management marketing, including without limitation, the American Enterprise Institute, Cancer Action Network, Center for Lawful Access & Abuse Deterrence, Pinney Associates, Conrad & Associates LLC, and Sense About Science USA.

**RESPONSE TO TOPIC NO. 23:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 23 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 23 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your use of public relation firms in connection with media and public communications regarding opioids and/or pain management and any such communications with the American Enterprise Institute, Cancer Action Network, Center for Lawful Access & Abuse Deterrence, Pinney Associates, Conrad & Associates LLC, and Sense About Science USA.

24. The amount of revenue and profits earned by You attributable to and/or derived from the prescription of opioids by any Oklahoma doctor criminally investigated, charged, indicted, and/or prosecuted for prescribing practices related to opioids. For purposes of this topic, "prosecution" includes any administrative proceeding.

**RESPONSE TO TOPIC NO. 24:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 24 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to prescriptions of medications other than Purdue's FDA approved opioid

medications. Purdue further objects to Topic No. 24 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further incorporates its response and objections from its Supplemental Response to Interrogatory No. 2 (dated June 8, 2018), which explains in pertinent part that “Purdue does not track or possess gross profit or net profit figures for its pharmaceutical sales in Oklahoma.” Also, Purdue objects on the ground that Topic No. 24 is vague in that it fails to refer to any specific Oklahoma doctor.

25. Your use of medical education communication companies (MECCs) regarding opioids and/or pain management marketing.

**RESPONSE TO TOPIC NO. 25:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 25 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue’s FDA approved opioid medications. Purdue further objects to Topic No. 25 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your use, if any, of medical education communication companies (MECCs) in which You were involved in the content regarding opioids and/or pain management.

26. Your use of speakers’ bureaus, advisory boards, or other similar programs regarding opioids and/or pain management marketing.

**RESPONSE TO TOPIC NO. 26:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 26 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 26 as it is vague and ambiguous, including as to the term "other similar programs" and with respect to time, place, and circumstances. Purdue further objects to Topic No. 26 to the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your use of speakers' bureaus, advisory boards, or other similar programs regarding opioids and/or pain management in Oklahoma.

27. Your use of medical liaisons to communicate with Healthcare Professionals, KOLs, and/or Front Groups regarding opioids and/or pain treatment.

**RESPONSE TO TOPIC NO. 27:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 27 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 27 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the terms "medical liaisons" and "Front Groups" are vague, ambiguous, and undefined. Purdue further objects to Topic No. 27 to



the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your use of medical liaisons to communicate about opioids and/or pain treatment in Oklahoma.

28. Your use of data provided by IMS, IQVIA or any similar data service for purposes of marketing and/or sales strategies.

**RESPONSE TO TOPIC NO. 28:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 28 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to data about medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 28 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 28.

29. Your use of clinical trial companies regarding opioid and/or pain management.

**RESPONSE TO TOPIC NO. 29:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 29 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications.

Purdue further objects to Topic No. 29 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will respond in writing to Topic No. 29 and will be available to meet and confer with Plaintiff thereafter about any further request for a deposition relating to this topic.

30. Clinical trials funded, sponsored, and/or conducted by You regarding opioids and/or pain management.

**RESPONSE TO TOPIC NO. 30:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 30 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 30 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue also objects on the ground that Topic No. 30 is vague in that it fails to identify any specific clinical trials.

Subject to and without waiving any objections, Purdue will respond in writing to Topic No. 30 and will be available to meet and confer with Plaintiff thereafter about any further request for a deposition relating to clinical trials.

31. Your sales projections and/or research related to the amount of reimbursement for Your opioids prescriptions that would be paid by Medicare and/or Oklahoma's Medicaid Program.

**RESPONSE TO TOPIC NO. 31:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 31 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 31 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue is available to meet and confer with Plaintiff about the requested topic.

32. Your efforts and actions, both internally and in conjunction with third parties, to obtain and/or increase coverage and/or reimbursement of their opioids by public payers, including SoonerCare.

**RESPONSE TO TOPIC NO. 32:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 32 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 32 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the terms "public payers" and "their opioids" are vague, ambiguous, and undefined. Purdue further objects to Topic No. 32 to the extent it seeks discovery of activities outside of Oklahoma or that have no nexus to activities in Oklahoma.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your efforts and actions, if any, to obtain and/or increase coverage and/or reimbursement of Your opioid medications by public payers in Oklahoma, including SoonerCare.

33. Your relationship and business dealings with other opioid manufacturers related to opioids and/or pain management, including without limitations any co-promotion or ownership agreements.

**RESPONSE TO TOPIC NO. 33:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 33 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 33 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further objects to the extent Topic No. 33 seeks information regarding third parties over which Purdue has no control and from whom Plaintiff can more easily and appropriately obtain the requested information. Purdue also objects on the ground that the term "ownership agreement" is vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your relationship with other opioid manufacturers who are co-Defendants in this action related to opioids and/or pain management and any co-promotion or ownership agreements relating to Your opioid medications.

34. The source of ingredients, compounds or components, such as Thebaine (CPS-T), utilized by You in the manufacture of any opioids sold by You in the United States, including without limitation the amount of money paid to purchase such opioid compounds or components and U.S. distribution and sale of CPS-T.

**RESPONSE TO TOPIC NO. 34:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 34 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 34 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: The source of active ingredients, compounds or components utilized by You in the manufacture of Your opioid medications sold in the United States.

35. All opioids manufactured, owned, contemplated, developed, and/or in-development by You including the nature of each such opioid, its intended use, and the stage of development of each (e.g. released to market, in development, abandoned).

**RESPONSE TO TOPIC NO. 35:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 35 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications.

Purdue further objects to Topic No. 35 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: The nature and intended use of opioid medicines manufactured and sold by Purdue.

36. All drugs for opioid use disorder manufactured, owned, contemplated, developed, and/or in-development by You including the nature of each such opioid use disorder drug, its intended use, the stage of development of each (e.g. released to market, in development, abandoned), and profits earned by You from the sale of any such drug in Oklahoma.

**RESPONSE TO TOPIC NO. 36:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 36 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 36 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further incorporates its response and objections from its Supplemental Response to Interrogatory No. 2 (dated June 8, 2018), which explains in pertinent part that "Purdue does not track or possess gross profit or net profit figures for its pharmaceutical sales in Oklahoma."

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: The nature and intended use of drugs for opioid use disorder, if any, manufactured and sold by Purdue.

37. All drugs for the treatment of opioid overdose manufactured, owned, contemplated, developed, and/or in-development by You including the nature of each such opioid use disorder drug, its intended use, the stage of development of each (e.g. released to market, in development, abandoned), and profits earned by You from the sale of any such drug in Oklahoma.

**RESPONSE TO TOPIC NO. 37:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 37 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 37 as it is vague and ambiguous with respect to time, place, and circumstances. Purdue further incorporates its response and objections from its Supplemental Response to Interrogatory No. 2 (dated June 8, 2018), which explains in pertinent part that "Purdue does not track or possess gross profit or net profit figures for its pharmaceutical sales in Oklahoma."

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: The nature and intended use of drugs for the treatment of opioid overdose, if any, manufactured and sold by Purdue.

38. Policies, practices, and procedures regarding complaints You received related to addiction or abuse of Your opioids in Oklahoma.

**RESPONSE TO TOPIC NO. 38:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 38 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action

nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 38 as it is vague and ambiguous with respect to time, place, and circumstances. Also, Purdue objects on the ground that the term "complaints" is vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 38.

39. Your involvement and participation in the Pain Care Forum.

**RESPONSE TO TOPIC NO. 39:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 39 on the grounds that it is overbroad, oppressive, unduly burdensome, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 39 as it is vague and ambiguous with respect to time, place, and circumstances.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to Topic No. 39.

40. The factual bases supporting Your defenses to Plaintiff's claims as set forth in Your Answer.

**RESPONSE TO TOPIC NO. 40:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 40 on the grounds that it is overbroad, oppressive, unduly



burdensome, and premature as discovery is ongoing. Purdue further objects to Topic No. 40 as it is vague and ambiguous with respect to time, place, and circumstances.

41. Your efforts or activities in Oklahoma concerning opioids related to:
- a. lobbying efforts;
  - b. campaign contributions;
  - c. presentations made to the Oklahoma Health Care Authority's Drug

Utilization Review Board;

- d. scheduling of opioids;
- e. opposing the rescheduling hydrocodone combination products from

Schedule III to Schedule II;

- f. pain management guidelines in Oklahoma statutes;
- g. legislative efforts or activities;
- h. law enforcement; and
- i. prosecution of any individual or entity related to use, misuse, abuse,

diversion, supply, and prescription.

**RESPONSE TO TOPIC NO. 41:** Purdue incorporates by reference the General Objections. Purdue objects to Topic No. 41 on the grounds that it is overbroad, oppressive, unduly burdensome, seeks information about political activities that is protected from disclosure, and calls for testimony that is neither relevant to the claims or defenses in the action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to seek testimony related to medications other than Purdue's FDA approved opioid medications. Purdue further objects to Topic No. 41 as it is vague and ambiguous with respect to time, place, and

circumstances. Purdue also objects on the ground that the terms “lobbying efforts,” “legislative efforts or activities,” and “law enforcement” are vague, ambiguous, and undefined.

Subject to and without waiving any objections, Purdue will designate a witness or witnesses to testify in response to the following topic: Your activities in Oklahoma concerning opioids and legislation, law enforcement, scheduling of opioid medications, and medical guidelines.

Dated: September 10, 2018

*Mark Cheffo / Att (w/express permission)*

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 10, 2018, the foregoing was served via email upon the counsel of record listed on the attached Service List.

Andrew Henderson

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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

- (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. )

**TRANSCRIPT OF PROCEEDINGS**  
**HAD ON AUGUST 31, 2018**  
**AT THE CLEVELAND COUNTY COURTHOUSE**  
**BEFORE THE HONORABLE WILLIAM C. HETHERINGTON, JR.,**  
**RETIRED ACTIVE JUDGE AND SPECIAL DISCOVERY MASTER**

REPORTED BY: ANGELA THAGARD, CSR, RPR

**EXHIBIT C**

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1 person and will also testify in 30(b)(6) topics. But there  
2 will also be discreet 30(b)(6) topics where we just want to  
3 have time to educate someone, prepare them on those topics.  
4 Some of them go back 10, 15 years. And that should be the  
5 focus unless the party designates.

6 And what I'm suggesting is bilateral. I'm not trying to  
7 say this should only apply to the defendants, your Honor.

8 MR. BURRAGE: Well, but what he just said, Judge, is  
9 that they decide what they want the witness to testify to  
10 outside the 30(b)(6) designation. If something comes up in  
11 that deposition, the law says we're allowed to ask about it,  
12 and they don't get to be the arbiter or the ruler of what  
13 they're going to let them testify about on facts outside the  
14 30(b)(6) notice. It's not right.

15 THE COURT: Okay.

16 MR. BURRAGE: So you know, I'm for a process, Judge.  
17 We've issued these notices. We haven't heard anything. And  
18 we're willing to talk to them about them and discuss them,  
19 discuss time limits, and discuss all those things. I'm not  
20 saying that we just issue notices.

21 THE COURT: I'm going to sort of shortcut it here a  
22 little bit, and I'm going to -- I started out to enter an  
23 order. But I think what I'm going to do is tell you what I  
24 would like to do and ask you to take notes here. And then I'm  
25 going to take a break and ask you all to visit about this a

1 little bit. Take about a ten-minute break, maybe 15 minutes at  
2 the most, and ask you to sort of get together to visit about  
3 this.

4 One, I think before noticing a deposition, I think you  
5 should confer and each other -- you know, and try to pick dates  
6 if you can for the depositions and topic, scope, 30(b)(6),  
7 fact, testimony getting discussed.

8 And if you cannot arrive at a conclusion and an agreement,  
9 what I'm going to do, what I would like to do is ask that the  
10 notice is limited to five business days, you know, which  
11 expands it from our 3-day notice provision, objection within 3  
12 days, business days, of the notice, and a response, if  
13 required, within two days of an objection.

14 Then I want to put in place a way to where you can contact  
15 me day or night by cell phone, 405-413-2250, if there's an  
16 objection or we need discussion or rulings on topics and  
17 expanding things, and then I'll rule or ask for oral argument  
18 if I think I need it. Then the deposition is to be held within  
19 ten working days after a ruling.

20 Now, that doesn't -- you know, we've got to have document  
21 production and proper preparation before that for witnesses to  
22 be prepared, and I know that's an issue. But that gets a  
23 process structure started that I think is fair, speeds up  
24 things, helps things along a little.

25 And I want to sort of take a break and let you all talk

1 about that a minute. All right? Let's take a break and see if  
2 that would be helpful. Let's get back in here by a quarter  
3 till.

4 MR. BURRAGE: Thank you, your Honor.

5 MR. BECKWORTH: The ten days, is that business days  
6 also?

7 THE COURT: Yes. Ten business days.

8 (A recess was taken, after which the following  
9 transpired in open court, all parties present:)

10 THE COURT: All right. We're back on the record and  
11 I guess what we're trying to do is limit this to where stuff  
12 that comes to me can get to me quickly, but pretty much  
13 limited, I would hope, to topic and scope. And by the way, I  
14 think six hours is not unreasonable, and I don't mind saying  
15 six-hour limit. I'll go ahead and say that now. That's a long  
16 time, and I would think for most of these witnesses, you don't  
17 need six hours.

18 And even yesterday, I heard some questions that to me are  
19 obviously not questions that should be asked, period. That's  
20 just a waste of time. I can't stop that. I mean, it's going  
21 to happen during depositions, I guess. But I don't think  
22 that's unreasonable.

23 All right. Judge, you want to start with you and see what  
24 you think?

25 MR. BURRAGE: I think we've got some basic concepts

1 agreed upon, your Honor, that I would like to tell the Court  
2 about and then maybe get your guidance.

3 THE COURT: Okay.

4 MR. BURRAGE: But we've got all of these deposition  
5 notices that have been issued and that we're going to get  
6 together and see if we can reach a resolution on those  
7 deposition issues; scope, topic, amount of time, and so forth  
8 before May the -- or not May -- the 10th of next month.

9 And if we can't reach a resolution on those noticed  
10 depositions, then we will ask that you take it up and help us  
11 along with that.

12 THE COURT: All right. Yeah, of course.

13 MR. BURRAGE: With regard to depositions in the  
14 future, the protocol that you laid out we're agreeable to. The  
15 only thing that we will need to narrow it down is just meet and  
16 confer time. I mean, we would like some structure in that that  
17 we haven't talked about. But you know, either they or we send  
18 them an e-mail about it, they respond. We can't have an  
19 indefinite meet and confer time.

20 THE COURT: All right. Stop. That is a problem. I  
21 mean, he's right, because you all are busy, you've got things  
22 going on. And so it results in them sending a notice and here  
23 we go. How can we cure that?

24 MR. BURRAGE: We maybe can -- have agreed on a  
25 structure that may help that some, your Honor, is that we'll

1 designate someone on our side to be the contact person on this  
2 with an alternate. Each one of the defendants do the same  
3 thing so that we know who we can contact and get a response  
4 from. And that may help some, but it's still going to need to  
5 be addressed how long that period can go on and how it's done.

6 MR. CHEFFO: I think the good news is we're thinking  
7 we're in agreement on these topics. I think your Honor's  
8 proposal makes a lot of sense. We talked about it amongst  
9 ourselves and with the plaintiffs. They expressed the concern  
10 about this scheduling issue. Again, it works on both sides. I  
11 think we agreed to have a primary person, as the Judge said,  
12 and a secondary person.

13 You know, I think the rule of reason is going to have to  
14 apply here as we all get busy, right. If someone's dragging  
15 their feet, they don't respond, then obviously, you're one  
16 phone call away. We're going to endeavor in good faith. I  
17 think they are hopefully as well.

18 The goal here should really be ripe that by having this  
19 process, this meet and confer, far fewer things ever get to  
20 your Honor, right, because they come and say we want to depose  
21 Mr. Smith, and we're like, Okay, Mr. Smith's available on these  
22 dates. They're like, Fine, put him on the calendar and we're  
23 done.

24 THE COURT: All right. Good enough. That's done. I  
25 think that's a great idea. So we're going to designate folks,

1 maybe one alternate to deal with this. I'm going to set a  
2 three day limit working day.

3 MR. BURRAGE: On the meet and confer, your Honor?

4 THE COURT: Right.

5 MR. BURRAGE: That's reasonable. All right.

6 THE COURT: That's sort of our provision anyway. And  
7 let me give you another number in case I'm in a hearing or  
8 doing something else where my cell phone doesn't answer.  
9 405-329-6600 is my office number, and Jaime, J-A-I-M-E,  
10 different spelling from this Jami, is the person that will get  
11 to me.

12 All right. Anything else on that?

13 MR. BURRAGE: No. The only other thing is that we  
14 don't want to be told that a certain witness is going to be in  
15 the MDL giving a deposition, we have to go up to the MDL to  
16 take the deposition. We don't want to have to do that. I  
17 think Judge Balkman and you have made it pretty clear we're not  
18 going to -- involved in that process.

19 THE COURT: It is clear, but, you know, there's  
20 nothing that comes good after the but part. But by the very  
21 nature of that, if there is a witness that's involved in the  
22 MDL giving depositions, you're going to end up waiting. It's  
23 gonna take time.

24 MR. BURRAGE: I don't know if we will or not. I  
25 mean --



1 THE COURT: If they're in a deposition, obviously,  
2 you've got to wait until they're through.

3 MR. BURRAGE: Yeah, I see what you're saying. I  
4 mean, we can talk about a date that we want to take it and  
5 notice it and so forth. And then whatever -- however the  
6 process works out. We just say we want all witnesses to follow  
7 this process. We don't want to have to be told that a certain  
8 witness is giving a deposition in the MDL a certain date and  
9 you've got to go to the MDL deposition if you want to depose  
10 them.

11 THE COURT: Right.

12 MR. CHEFFO: I think we understand the process here.  
13 I think it's good faith, and we're going to do that. And I  
14 know you're not -- I think the issue of how people get deposed  
15 is probably another day, another time, for some protocol. We  
16 understand completely.

17 It's been clear that this Court's not bound by the MDL.  
18 But there is -- and so again, I don't want to get into a snatch  
19 defeat here from the jaws of victory. There are just some  
20 practicalities, and those are things that ultimately will in  
21 some situations come before the Court. So I just want to make  
22 sure that we're previewing it.

23 If there is a person who is, you know, a retired person  
24 who is -- or working at some other company, and there's issues  
25 or they are being deposed -- there are 50, you know, states.

1 This is an important state.

2 THE COURT: Well, Counsel, that's the case with every  
3 single witness. I mean, we could -- all witnesses have issues.  
4 I mean, we just have to work around it the best we can, and I'm  
5 not going to be too sympathetic to, Well, he's got to work on  
6 his farm this week and can't, you know, he's got to -- I mean,  
7 if he's in another deposition or his wife's having a baby or  
8 something, fine. But we're in litigation here, and these  
9 witnesses have been identified pretty much by now or should be,  
10 and they need to get in and get a deposition and let's get this  
11 done.

12 MR. CHEFFO: And we do understand that. My only  
13 point, your Honor -- and I'm sorry if I was not clear. We  
14 understand it, we really do. My only point is that many of  
15 these depositions, like, for example, right now, I'll pick on  
16 my own client, Purdue, has about 250 employees left. The same  
17 witnesses, Mr. Smith, Mrs. Jones, whoever, are the same people  
18 this Court wants and the plaintiff wants but in 50 other states  
19 in the MDL. So again, we have to balance. We understand that  
20 you're not bound, but the rule of reason has to apply --

21 THE COURT: Of course.

22 MR. CHEFFO: -- so that we can -- because the idea of  
23 having somebody being deposed a hundred times on the same topic  
24 is just not workable in this Court or in any court. So we  
25 understand that they want to have an ability to schedule things

1 that work with the schedule here, and I just want to -- I'm  
2 just putting down a placeholder that that's a two-way street;  
3 that in order for someone to continue to do their job, they  
4 can't spend, you know, the next two years in dep prep to be  
5 deposed in every state. That's the only point. So we're  
6 trying to figure out how to work that with them.

7 And their claims may be different. It doesn't apply to a  
8 vast number of people. There's a lot of sales reps that  
9 they've been taking in Oklahoma. No issue. There will be  
10 people who have Oklahoma specific. They will be nonparties.

11 But there will be certain people who have national  
12 information, right, that is not specific only to Oklahoma; it  
13 applies to 50 States. And to basically require that person,  
14 him or her, to be deposed 50 times, I think, would just be  
15 frankly impossible for us.

16 MR. BURRAGE: Your Honor, we want to notice witnesses  
17 pursuant to the protocol we've agreed upon. We don't want to  
18 have to be told that this witness is giving a deposition in the  
19 MDL, if you want to depose them, you've got to participate in  
20 that process. We want to follow the schedule that we've agreed  
21 to.

22 THE COURT: What I'm hearing is, is that you're going  
23 to cooperate in this process that we're now agreeing to here,  
24 and as long as they don't have a deposition scheduled somewhere  
25 else, they can schedule it in this case.

1 MR. BURRAGE: That's fine, your Honor.

2 MR. CHEFFO: Again, I think what you're hearing is  
3 what you're saying. Look, I don't want to do hypotheticals  
4 right now, your Honor. I think part of the process is we take  
5 facts as they come. All I'm suggesting is if they notice it --

6 THE COURT: We'll be trying this case after I'm dead  
7 if that happens.

8 MR. CHEFFO: I understand. There's a process in  
9 place. I think I understand your Honor's guidance. We also  
10 have to accommodate where -- all of the other cases as well.

11 THE COURT: That's what I just said. Yeah. All  
12 right. Thank you.

13 MR. BURRAGE: We're agreeing on this process, your  
14 Honor, right here.

15 THE COURT: Yes.

16 MR. BURRAGE: Okay.

17 THE COURT: All right. Thank you.

18 Anything else on protocol for moving us along? All right.  
19 Thank you.

20 I think what we have next is -- and what we just did may  
21 modify this some, but I have I think Purdue's motion to compel  
22 next. Is that right?

23 MR. BURRAGE: There's one other -- could I back up  
24 just a second? There's one other thing that needs to be  
25 addressed, and that's the time of the appeal to Judge Balkman

1 to make a ruling.

2 THE COURT: Okay. Time of the appeal. Now, I don't  
3 have anything, I haven't read anything about that.

4 MR. BURRAGE: Three business days, five business  
5 days?

6 THE COURT: Oh, I see what you're saying. Yeah.  
7 Well, I'm trying to eliminate that, so I just didn't even think  
8 about it. That was his --

9 MR. BURRAGE: Me too. You know how Reggie is.

10 THE COURT: That was his --

11 MR. WHITTEN: Blame it on Reggie. It's the last  
12 point in our letter, Judge, and we're hoping there are no  
13 appeals but we've got to, you know, dot every i. You know I'm  
14 a detail guy.

15 THE COURT: And he will -- I mean, Judge Balkman --  
16 he doesn't want them, and he's been real clear, don't ever let  
17 them happen. But I'll tell you what I'm going to say is get it  
18 to Judge Balkman within five working days.

19 MR. WHITTEN: Very good.

20 THE COURT: If that happens. Then it'll have to be  
21 Jami and Judge Balkman's decision as to how that happens, I  
22 guess.

23 MR. BURRAGE: Thank you, your Honor.

24 THE COURT: I can't control that.

25 Are we to Purdue's motion to compel? What do you think?