



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

Plaintiff,)

vs.)

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

Defendants.)

Case No. CJ-2017-816
Judge Thad Balkman

Special Master:
William Hetherington

STATE OF OKLAHOMA }
CLEVELAND COUNTY } S.S.

FILED

OCT 05 2018

In the office of the
Court Clerk MARILYN WILLIAMS

**THE STATE'S REPLY IN SUPPORT OF SECOND MOTION TO SHOW CAUSE FOR
PURDUE'S NON-COMPLIANCE WITH COURT ORDER**

Purdue is nothing if not consistent. In 2007, it pled guilty to lying about its drugs. Its CEO
pled guilty. Its General Counsel pled guilty. And its Medical Director pled guilty. It continued
this conduct after 2007. It has continued to withhold information in this case as demonstrated by

its Response and the documents it withheld prior to the State's first Show Cause Motion. As explained below, Purdue's conduct is continuing in this litigation, and the State's Motion to Show Cause should be granted.

On October 3, 2018, the Court entered an Order granting the State's Second Motion to Show Cause for Purdue's Non-Compliance with Court Order related to Rhodes Pharma based on the argument it previously heard. At the hearing on October 3, Purdue requested the Court review the Response it filed that day before issuing such ruling. The Court granted that request and withdrew the Order as it pertained to the State's Second Show Cause Motion. Counsel for the State predicted at the hearing that the Response would contain no new information and no indication that Purdue had somehow actually not withheld information about Rhodes Pharma. Having now reviewed Purdue's Response, the State's prediction was correct. *See generally* Purdue's Response in Opposition to the State's Motion to Show Cause. There is nothing new justifying a different ruling. Instead, the Response is filled with excuses and finger-pointing at the State to try to distance Purdue from its discovery abuses. Purdue admits it did not provide information about Rhodes Pharma and, instead, desperately argues it was not required to do so. The Court already addressed this. The State respectfully requests the Court not await ruling on this matter until the next hearing and re-enter its original order regarding the State's Second Show Cause Motion.

Purdue's Response contains two parts. First, Purdue complains that Rhodes Pharma is not a defendant and is a separate, independent company. Response at 1-2. So what? The State's discovery requests and deposition notice sought information from Purdue, which was defined to include: "any and all predecessors, merged entities, subsidiaries and affiliates, whether individuals, corporations, LLC's or partnerships. *The term 'affiliate' shall include any entity owned in whole*

or in part by Purdue or any entity which owns Purdue in whole or in part. See Motion at 3. Purdue admits that Rhodes Pharma is owned by the same parent (*i.e.*, the Sacklers), which makes it an affiliate as stated in the State's discovery requests. Purdue's entire response about corporate veil-piercing is misguided. That is not the issue right now. The issue right now is whether Purdue withheld discoverable information in documents and deposition testimony, and Purdue's Response confirms it did.

More significantly, Purdue's claim that Rhodes is a completely separate entity is just not true. As the State discussed at length with the Court on September 27, [REDACTED] [REDACTED] See Sept. 27, 2018 Hearing Exhibit 2 at 28. This one document alone—which Purdue only produced *after* the State's first show cause motion—says, in a "Quarterly Report" to the Purdue Board:

[REDACTED]

[REDACTED]

Id. To be clear, Purdue and the Court saw this document at the hearing on September 27, *a week before Purdue filed its Response in which it claims Purdue and Rhodes are completely separate.* That is inexcusable.

But, it gets worse. One need look no further than the very next quarterly board report from the same year, July 2008, that states, among other things:

[REDACTED]

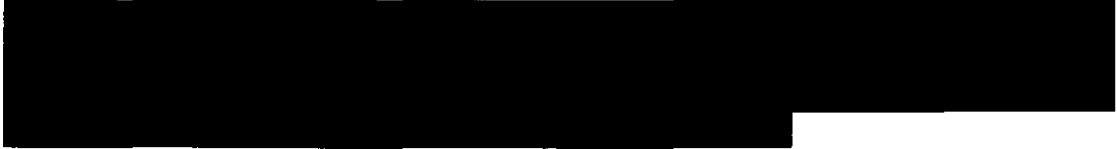


Exhibit A at 30. The idea that Purdue and Rhodes are completely separate entities that have nothing to do with each other is simply unsupportable. This is a conspiracy to profit from opioids through a web of related entities. Purdue does not want that web revealed.

Purdue’s own Response further confirms it withheld information from depositions. Purdue’s Response relies on a new affidavit from the *same witness* who did not say anything about Rhodes Pharma in his deposition, to support their statements about Rhodes Pharma’s structure. See Response at Exhibit B. Either Mr. Darragh learned everything he now knows about Rhodes that is included in this affidavit since his deposition, or he withheld that information during his deposition.

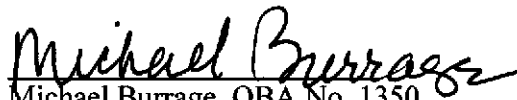
Regardless, **Purdue** knew about Rhodes and knew it was responsive to the State’s requests but did not want to disclose it.

Second, Purdue’s only other argument is to point fingers at the State with the audacity that the State should be admonished for even raising this issue. Response at 5. The State filed a Motion. The Court heard argument. The Court originally granted that Motion. Under that sequence of events, stating that the State’s Motion is so far afield to warrant admonishment under this scenario is improper. It is nothing more than an attempt to distract the Court from the relevant issues and the significance of the information that was withheld.

As stated above, the Response contains no new information warranting further argument.

The State respectfully requests the Court re-enter its original Order with respect the State's Second Show Cause Motion.

Dated: October 5, 2018



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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was emailed on October 5, 2018 to:

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EXHIBIT 2

(FILED UNDER SEAL)