

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 04 2018

In the office of the  
 Court Clerk MARILYN WILLIAMS

**PLAINTIFF'S MOTION TO COMPEL DEPOSITIONS**

The State first noticed 41 Rule 3230(c)(5) deposition topics in April 2018. The State re-noticed these depositions following the remand order. To date, the State has not deposed any witnesses on these topics. The State has only been able to schedule two topics to take place for one of the Defendants. The State noticed these depositions prior to the Court's new deposition protocol. They are not subject to that protocol. August 31, 2018 Hearing Transcript at 25:25-

27:08. Nevertheless, the State agreed to work with Defendants regarding scheduling. *Id.* The State has not required Defendants to file motions for protection regarding those already noticed as the Parties attempted to work out dates by agreement. Defendants, however, have taken such unreasonable positions with scheduling these depositions that the State is forced to seek further relief from this Court.

While Defendants have taken the same or similar positions with respect to these depositions, the State will address each Defendant separately for clarity.

### **Janssen Defendants**

Janssen originally proposed squeezing 27 of the 41 topics noticed into just two depositions. *See* Exhibit A. This is plainly unworkable and unreasonable. Janssen proposed fitting as many as 18 topics into a single deposition across two days. The topics Janssen attempted to lump into a two-day deposition ranged from such significant issues as Front Group funding, to KOL funding, branded marketing strategies, unbranded marketing strategies, and Janssen's sales force. *Id.* Following a meet and confer, as requested by Defendants, the State proposed a reasonable grouping of the topics based on those it believed it could likely complete within 6 hour sessions. *See* Exhibit B. Janssen rejected that proposal. Instead, Janssen proposed proceeding across two days and, if Janssen afterwards agreed that the State was diligent with its questions and more time was appropriate for all topics, then Janssen would potentially agree to two more days to cover these 18 topics. That is simply unreasonable and not what the Rules require. The State is not required to wait and see if Janssen believes the State has efficiently asked its questions regarding

some of the most substantive topics in this case. The KOL deposition alone will likely take 6 hours, as set forth on the State's chart. *See id.*<sup>1</sup>

Janssen is also attempting to force the State to take such significant depositions prior to the dates the State actually noticed those depositions. The State intentionally noticed these depositions in the order it did based on the status of Janssen's document production. Janssen should not be permitted to force the State to take a deposition early regarding, for example, KOL funding by grouping it with another topic that the State noticed for an earlier date.

The State will agree to logically group certain topics, as it has done in the past. Certain topics may take 30 minutes, while others may take 6 hours. The State made a reasonable proposal of deposition topics it believes it can complete within 6 hours sessions. While Janssen can choose the witness it designates for these topics, it must be reasonable in the number of hours and days it will require to take these depositions. The State is not going to preemptively limit itself to 12 hours or 24 hours on some of the most significant topics at issue in the case. And that is not how the Rules work for corporate representative testimony. Thus, the State requests the Court grant, at a minimum, the number of hours requested for these depositions as set forth in the State's chart. *Id.*

### **Purdue Defendants**

Purdue's proposal was even worse. Purdue originally proposed fitting 15 topics into a single deposition on a single day and did not even offer the mere two days Janssen offered. *See* Exhibit C. The State met and conferred with Purdue at the same time as Janssen. The State provided the same proposal for grouping the topics into 6 hour sessions as it provided to Janssen.

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<sup>1</sup> The only two topics that have been scheduled are Topics 39 and 41, which are scheduled to take place on November 9 for Janssen.


Purdue has not responded to that proposal. As such, the State requests the Court grant, at a minimum, the number of hours requested for these depositions as set forth in the State's chart for Purdue as well. Exhibit B.

**Teva Defendants**

Teva's proposal is worst of all. Teva first took the position that the State was only entitled to one corporate representative deposition lasting a total of six hours. See Exhibit D. Teva immediately backed off from that position and claimed it would agree to some proposal regarding how the topics could be grouped into 6 hour sessions. Then, *after* the Parties met and conferred, Teva sent a letter nearly identical to the ones Janssen and Purdue had previously sent proposing such unreasonable groupings. Indeed, Teva's letter proposed 21 topics to take place in two days. See Exhibit E.

To the extent Defendants provide reasonable proposals for scheduling these deposition prior to the October 18 hearing, the State will consider them and advise the Court as needed. At this point, the State simply cannot delay in filing this Motion so that these depositions may be scheduled. The State tried to put a schedule in place for these depositions in April. As it stands, only *two topics* are currently scheduled by agreement for *one defendant*. The State requests the Court address all issues regarding the scheduling and scope of these depositions on October 18 (or earlier) so that the State may put a schedule in place regarding these depositions that it first began noticing in April.

Dated: October 4, 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 4, 2018 to:

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