



IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

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

v.

- (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, INC.;
- (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  
Honorable Thad Balkman

William C. Hetherington  
Special Discovery Master

STATE OF OKLAHOMA }  
CLEVELAND COUNTY } S.S.

FILED

OCT 04 2018

In the office of the  
Court Clerk MARILYN WILLIAMS

**DEFENDANT WATSON LABORATORIES, INC.'S**  
**MOTION TO COMPEL DISCOVERY**

Defendant Watson Laboratories, Inc. (“Watson”) respectfully moves to compel discovery from Plaintiff the State of Oklahoma (“Plaintiff” or “the State”) pursuant to Okla. Stat. tit. 12, § 3237. As demonstrated herein, Plaintiff’s responses to Watson’s First Set of Requests for Production of Documents from Plaintiff (the “Requests”) are deficient. Accordingly, Watson respectfully asks the Court to order the State to produce the documents demanded in the Requests within ten days of the entry of the Court’s order.

{S478299;}

## I. INTRODUCTION

The State contends that Watson and the other defendants in this case should be held liable for the effects of *every* medically unnecessary or excessive prescription opioid medication written in the State of Oklahoma for the past twenty years, notwithstanding that the State has brought criminal, civil and administrative proceedings against prescribing physicians, clinic owners, and other healthcare providers *for their own independent misconduct in writing unnecessary or excessive prescriptions*. By prosecuting, investigating, and sanctioning these individuals and entities, the State has necessarily discovered information—and made statements and admissions—that defeat causation in this case. This information demonstrates that rather than any alleged false marketing by Watson and other defendants, responsibility for the damages alleged in this action falls squarely at the feet of others, including healthcare providers who engaged in criminal and improper conduct.

There is thus no doubt that documents and information related to those proceedings is relevant and has been placed at issue by the State. Indeed, the State seeks to hold Watson and the other defendants responsible for “substantial social and economic costs *including criminal justice costs*,” and it has routinely used the independent criminal and improper conduct of healthcare providers to try to support its case, including asking specific questions, about specific prosecutions and administrative proceedings, involving specific doctors and specific prescriptions, during depositions of defense witnesses.

To obtain this relevant information, Watson served document requests, which consist of 12 specific and tailored requests—each aimed at obtaining documents related to disciplinary, civil, or criminal proceedings brought by the State against eight specific physicians, one specific medical center, and other unknown (to Watson and the other defendants, but not the State) healthcare providers. Yet, despite conceding the relevance of this information, the State—which

is the only party with access to it—has objected to producing it, based on the Health Insurance Portability and Accountability Act (“HIPAA”) and various state statutes, including the Oklahoma Anti-Drug Diversion Act, the Multi-County Grand Jury Act (Okla. Stat. tit. 22, § 355), and the Oklahoma Medicaid Program Integrity Act (Okla. Stat. tit. 56, § 1004(d)).<sup>1</sup> The State’s objections are meritless in the first instance because it has waived any purported privilege or other protection by putting this information at issue in this case. Further, any privilege or confidentiality objections the State has are baseless and unfounded in any event, given the Protective Order in place.

Put simply, without any basis, the State has refused to produce concededly relevant documents and information that is in its possession and that it has placed at issue in this case. It should be compelled to produce them.

## **II. BACKGROUND**

### **A. Document Requests**

Watson has requested documents and information specifically tailored to identify the documents, information and knowledge in the State’s possession regarding criminal, civil and administrative proceedings involving opioids brought by the State against healthcare providers. The Requests are attached as Exhibit A and are summarized below.

Requests Nos. 1-8 seek “All documents, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program

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<sup>1</sup> While the State has also objected generally on proportionality grounds, it fails to articulate how or why the requests are not proportional to the needs of the case. Nor can it: the State’s general objection to proportionality is clearly unfounded in light of the magnitude of this case and the important public policy concerns at issue. These documents are critical to Watson’s defenses.

records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments, concerning any disciplinary, civil, or criminal proceedings brought by” the State against the following healthcare providers:

- **Harvey Clarke Jenkins Jr.**, who was charged by the State with 14 counts of conspiracy to illegally possess/distribute controlled dangerous substances, six counts of making or causing to be made false claims under the Oklahoma Medicaid program, five counts of conspiracy to fraudulently obtain a personal identity of another, one misdemeanor count of conspiracy to practice medicine without a license and four counts of illegally practicing medicine without a license. See: <https://okcfox.com/news/local/warrant-issued-for-metro-doctor-accused-of-running-pill-mill>.
- **Regan Ganoung Nichols**, who was charged by the State with 5 counts of second-degree murder for overprescribing controlled dangerous substances, including opioids. See <https://kfor.com/2018/06/27/oklahoma-doctor-charged-with-5-counts-of-second-degree-murder-bound-over-for-trial/>.
- **William Martin Valuck**, who pleaded guilty to eight counts of second-degree murder related to the over-prescription of opioid medications. See <https://newsok.com/article/5192381/former-oklahoma-city-doctor-pleads-guilty-to-eight-counts-of-murder>
- **Roger Kinney**, who was disciplined by the Oklahoma Medical Licensure Board after two patient deaths resulted from a combination of opioid and benzodiazepine prescriptions. The State called Dr. Kinney’s prescribing practices, “At best slipshod, at worst reckless.” See: <https://newsok.com/article/5564304/sapulpa-doctor-disciplined-after-two-overdose-deaths>.
- **Tamerlane Rozsa**, whose license was suspended by the State for allegedly overprescribing opioid medications. See <https://newsok.com/article/5419244/tulsa-physician-was-known-as-queen-of-lean-for-purple-drunk-prescriptions-board-says>.
- **Joshua Livingston**, whose license was suspended by the State after prescribing nearly 25,000 prescriptions for narcotic medications in a three-month period in 2012. See <https://newsok.com/special/article/3949859/addicted-oklahoma-probation-continues-for-prolific-prescriber-linked-to-deaths>.
- **Joseph Knight**, who lost his license to practice medicine in Oklahoma after at least three of his patients died of suspected opioid overdoses. See: <https://newsok.com/special/article/3949866/addicted-oklahoma-tulsa-physician-has-most-patient-overdose-deaths>.
- **Christopher Moses**, who is allegedly tied to eight overdose deaths of his patients and is accused of writing the equivalent of *seven opioid prescriptions per hour*. The U.S. Drug Enforcement Agency has accused Moses of illegal diversion of opioids. See: <https://www.tulsaworld.com/news/crimewatch/eight-overdose->

[deaths-spur-dea-investigation-of-south-tulsa-doctor/article\\_64a1bfab-3fba-5e8e-91d2-f7052d68beaf.html](https://www.wrtv.com/story/news/2019/04/11/deaths-spur-dea-investigation-of-south-tulsa-doctor/article_64a1bfab-3fba-5e8e-91d2-f7052d68beaf.html).

Likewise, Request No. 9 seeks the same information but for “any other HCP not previously requested related to the prescription of Opioids.” Finally, Request Nos. 10 through 12 seek similar information about complaints, investigations, and other records regarding prescribers of opioids:

- **Request Nos. 10** - All documents concerning any complaints or investigations by You concerning the prescribing practices of any HCP that did not result in the initiation of a disciplinary, civil, or criminal proceeding.
- **Request No. 11** - All documents concerning any complaints or investigations by You concerning the prescription of Opioids at Vista Medical Center<sup>2</sup>, 3700 S. Western Avenue, Oklahoma City, Oklahoma.
- **Request No. 12** - All Prescription Monitoring Program records related to the Opioids prescribed by HCPs employed by Vista Medical Center.

**B. State’s Responses**

In response to Requests 1 through 8 (involving specific doctors), the State objected to the production of confidential and/or privileged information under HIPAA, Part 2, the Anti-Drug Diversion Act, the Multi-County Grand Jury Act and the Oklahoma Medicaid Program Integrity Act, but agreed to produce any non-privileged documents within its possession. In response to Requests 9 through 12, the State raised the same objections and refused to produce any responsive documents.

The State’s Responses are attached as Exhibit B. To date, the State has not produced any documents in response to the Requests.

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<sup>2</sup> Vista Medical Center was the clinic at which Dr. William Valuck practiced and was cited by the State as a “problem” because it was owned by non-physicians and therefore not subject to State oversight. At least four doctors practicing at Vista, in addition to Valuck, were disciplined by the State. See: <https://newsok.com/special/article/5373925/addicted-oklahoma-profitting-from-pain>.

### C. The Parties' Meet And Confer

The parties held a meet and confer on September 27, 2018. During the meet and confer, the State clarified its position with respect to the Requests, indicating that it is only willing to produce documents that are subject to disclosure under the Oklahoma Open Public Records Act ("OPRA"), and nothing more. But the OPRA only provides access to very limited information related to Law Enforcement Agency records. Okla. Stat. Ann. tit. 51, § 24A.8(A). This Court has the authority to order the release of all of the records, *id.* § 24A.8(B), and, as demonstrated below, it should do so.

### III. LEGAL STANDARD<sup>3</sup>

The legal standard governing this discovery dispute is set forth in section 3226 of the Oklahoma Discovery Code:

Parties may obtain discovery regarding any matter, not privileged, *which is relevant to any party's claim or defense*, reasonably calculated to lead to the discovery of admissible evidence and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Okla. Stat. Ann. tit. 12, § 3226(B)(1)(a). A party "may move for an order compelling an answer, or a designation, or an order compelling inspection and copying" when a party "fails to produce documents or respond that the inspection or copying will be permitted as requested or fails to permit the inspection or copying as requested." *Id.* § 3237(A)(2).

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<sup>3</sup> The Oklahoma Discovery Code closely tracks the Federal Rules of Civil Procedure, so federal decisions provide guidance. *See State ex rel. Protective Health Servs. v. Billings Fairchild Ctr., Inc.*, 158 P.3d 484, 489 (Okla. Ct. Civ. App. 2006) (analyzing completeness of a party's interrogatories).

The purpose of discovery is to “provide[] for the parties to obtain the fullest possible knowledge of the issues and facts before trial.” *State ex rel. Protective Health Servs. v. Billings Fairchild Ctr., Inc.*, 158 P.3d 484, 489 (Okla. Ct. Civ. App. 2006) (internal citations and quotations omitted). “A lawsuit is not a contest in concealment, and the discovery process was established so that ‘*either party may compel the other to disgorge whatever facts he has in his possession.*’” *Cowen v. Hughes*, 1973 OK 11, 509 P.2d 461, 463 (quoting *S. Ry. Co. v. Lanham*, 403 F.2d 119 (5th Cir. 1968), quoting *Hickman v. Taylor*, 329 U.S. 495, 507 (1947)). ““Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation.”” *Metzger v. Am. Fidelity Assur. Co.*, 245 F.R.D. 727, 728 (W.D. Okla. 2007) (quoting *Hickman*, 329 U.S. at 507). “The aim of these liberal discovery rules is to make a trial less a game of blind man’s bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent.” *Id.*

Here, evidence of the State’s criminal, civil and administrative proceedings involving opioids against healthcare providers is relevant and, indeed, critical to the claims and defenses in this case. Despite the State’s contentions, this information is not protected by any privilege, and it is reasonably calculated to lead to the discovery of admissible evidence and proportional to the needs of the case. *See* Okla. Stat. Ann. tit. 12, § 3226(B)(1)(a). This discovery is important, *inter alia*, to: (1) demonstrate that allegedly unnecessary or excessive prescriptions were caused by intervening conduct by non-parties unrelated to the allegations against the defendants, (2) understand whether the State made statements, admissions and uncovered evidence in the course of its investigations that exculpates the defendants, and (3) examine the veracity of the State’s claim for law enforcement-related damages.

The State’s refusal to produce this information, while at the same time acknowledging its

relevance, deprives Watson and other defendants of the ability to fully and fairly address these critical issues and mount their defenses. The State should be ordered to produce it.

A. **Evidence of Criminal, Civil and Disciplinary Proceedings Is Relevant to the Claims and Defenses in This Case.**

Evidence of criminal, civil and disciplinary proceedings brought by the State against healthcare providers regarding opioids speaks directly to both the State's claims and the Defendants' defenses in this case. The State alleges Defendants "knowingly caused to be presented false or fraudulent claims," and "knowingly made or used, or caused to be made or used, false statements material to a false or fraudulent claim." Pet. ¶¶ 75, 83. Because the State does not allege that Defendants directly submitted claims themselves, the State must prove that Defendants' misrepresentations either (1) caused a provider to submit each alleged false claim, (2) caused a provider to make a false statement material to each alleged false claim; or (3) caused the State to reimburse a particular prescription.

Under each of those theories, a break in the causal chain, such as criminal diversion by healthcare providers or others, defeats the State's claims. For instance, in *Ironworkers Local Union No. 68 v. AstraZeneca Pharmaceuticals LP*, plaintiffs brought RICO and state-law tort claims against the maker of an antipsychotic drug, claiming that the defendant had misrepresented its safety and efficacy. 585 F. Supp. 2d 1339, 1341 (M.D. Fla. 2008). The district court dismissed their claims, holding that the plaintiffs had failed to plausibly plead proximate cause because the "independent medical judgment" of prescribing physicians was a "key independent factor" separating the alleged misconduct from the injury. *Id.* at 1344. Notably, this is true even where the plaintiffs allege, as the State does here, that the defendants' tortious conduct was intended to deceive doctors about the dangers and benefits of the drug in question. *See, e.g., Ironworkers*, 585 F. Supp. 2d at 1341-42; *Yasmin & Yaz (Drospirenone)*



*Mktg., Sales Practices & Prods. Liab. Litig. v. Bayer Healthcare Pharm. Inc.*, No. 3:09-md-02100-DRH-PMF, 2010 U.S. Dist. LEXIS 80758, at \*7 (S.D. Ill. Aug. 5, 2010).

Defendants are therefore entitled to obtain evidence concerning the chain of causation between any allegedly wrongful conduct by any party or non-party, on the one hand, and any injury or damages suffered by the State, on the other, to demonstrate that the defendants' conduct did not cause the harm the State claims. Illegal acts like diversion, willful ignorance of prescribing guidelines by doctors, and pill mills, break the causal chain that is crucial to the State's case.

**B. Documents Related to Criminal, Civil and Disciplinary Proceedings Are Not Privileged.**

The State contends that the Requests seek privileged information subject to HIPAA, Part 2, the Anti-Drug Diversion Act, the Multi-County Grand Jury Act, and the Oklahoma Medicaid Program Integrity Act. As set forth below, the State has waived any claim of privilege and/or confidentiality by putting this information at issue, and none of these privilege claims otherwise have merit under the circumstances of this case.

**1. The State Waived Any Claim of Privilege or Confidentiality by Putting This Information Directly At Issue in the Case.**

While, as demonstrated *infra*, there is no privilege or other protection that precludes disclosure of the requested documents and information, even if there were, the State has waived them because it put that material "at issue." Courts applying Oklahoma law have applied the test set forth in *Hearn v. Rhay*, 68 F.R.D. 574, 581 (E.D. Wash. 1975), to determine whether a party has waived privilege or other protection by putting a matter "at issue." *Seneca Ins. Co. v. W. Claims, Inc.*, 774 F.3d 1272, 1276 (10th Cir. 2014) (applying Oklahoma law) (citing *Gilson v. State*, 2000 OK CR 14, 8 P.3d 883, 908-09 (Okla. Crim. App. 2000) (applying version of *Hearn*

test)); *see also Lindley v. Life Invs. Ins. Co. of Am.*, 267 F.R.D. 382, 392-393 (N.D. Okla. 2010) (applying *Hearn* test). Under that test, “at-issue” waiver requires:

- (1) the assertion of the privilege or protection was the result of some affirmative act, such as filing suit, by the asserting party;
- (2) through this affirmative act, the asserting party put the protected information at issue by making it relevant to the case; *and*
- (3) application of the privilege would have denied the opposing party access to information vital to its defense.

*Seneca Ins. Co.*, 774 F.3d at 1281-82.

All three *Hearn* factors are clearly satisfied here. First, the State asserted the protections as a result of seeking to hold Watson and the defendants liable for criminal and improper conduct of intermediaries such as prescribing healthcare providers. Second, the State put the allegedly protected information at issue by making it relevant to and using it in this case. Indeed, allowing the State to access and use materials that the defendants cannot violates due process. And, third, application of the privileges or confidentiality claimed by the State denies the defendants access to information vital to their defenses. Accordingly, the State has waived any purported privilege or protection for the documents and information sought by the Requests and it should be compelled to fully respond to them.

**2. The Protective Order in this Case Addresses the State’s HIPAA and Part 2 Concerns.**

The State objects to each of the Requests as “seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act

(“HIPAA”), 42 C.F.R. Part 2, and other State and federal statutes, rules and regulations.” *See* Responses at 1-12. This objection is without merit.

The Amended Protective Order, entered by this Court on September 27, 2018 (the “Protective Order”), defeats this objection in the first instance. It applies to all documents produced in this case and prohibits any party or witness from disclosing protected health information subject to HIPAA and Part 2. By its very terms, the Protective Order ensures that patients’ privacy rights are safeguarded, and the State’s objections are therefore unfounded. “The [HIPAA] requirement that documents not be produced without a court order presumes that the court, in drafting any production order, will balance the patients’ privacy and confidentiality interests with the documents’ relevance and a party’s need for the documents, before determining whether the documents should be produced and, if so, with what constraints.” *Hussein v. Duncan Reg’l Hosp., Inc.*, 2009 WL 10672479 (W.D. Okla. Apr. 28, 2009) (ordering production of private patient information where “no other discoverable sources . . . could provide the information needed.”).

Consistent with the Protective Order, the Court already has determined that relevant HIPAA-protected and other confidential information cannot be withheld. The Protective Order provides the appropriate measure to protect patient privacy. Indeed, the need for this information is the very reason the Protective Order was entered. The State’s HIPAA objection is therefore baseless.

**3. The Anti-Drug Diversion Act Contains No Privilege and Expressly Authorizes the State to Release Information in the Central Repository.**

The State also asserts that each of the Requests seeks “information that is privileged or otherwise prohibited from disclosure under 63 O.S. § 2-309D.” *See* Responses at 1-12. But that objection too lacks merit. The Anti-Drug Diversion Act contains no privilege provision and

expressly authorizes the State to release information contained in its central repository, which is the subject of the Requests at issue here.

Oklahoma's Anti-Drug Diversion Act (Okla. Stat. tit. 63, § 2-309, *et seq.*) requires dispensers of Schedule II, III, IV or V controlled dangerous substances (including opioid medications) dispensed pursuant to a valid prescription to transmit certain proscribed information to a central repository designated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. *See id.* § 309C. The information required to be submitted to the database for each dispensation includes: Recipient's and recipient's agent's name, address, date of birth, and identification number; National Drug Code number of the substance dispensed; Date of dispensation; Quantity of the substance dispensed; Prescriber's United States Drug Enforcement Agency registration number; Dispenser's registration number; and other information as required by rule. *Id.*

Although access to repository information is limited to certain enumerated Federal and State agencies, it may be disclosed for law enforcement and other purposes as determined by the Director of Bureau of Narcotics and Dangerous Drugs Control, including disclosure to the Attorney General of Oklahoma. *Id.* § 309D. This defeats the State's assertion of privilege. In other words, the State possesses this information, has utilized this information to identify and prosecute high-prescribers and other wrong-doers with respect to opioid medication, and now seeks to withhold this very same information because it undercuts the State's theory of causation and damages. This is improper.

Even more troubling, the State is the only party with access to the information contained in the database, and has apparently been utilizing this information to question defense witnesses at depositions without first providing this information to the defendants. For example, the

following exchange, which is representative of nearly every sales representative deposition to occur in this case thus far, occurred during the recent deposition of Teva Pharmaceuticals USA, Inc. Sales Manager Brian Vaughan:

11 Q (BY MR. PATE) You're aware that  
12 Dr. Harvey Jenkins has been charged with 29  
13 felonies and a misdemeanor for running a pill  
14 mill?  
15 A I wasn't aware of the number, but I did  
16 see in the media where he was -- he was charged.

...

7 Q You're aware that he was the largest  
8 prescriber of prescription opioids in 2014;  
9 correct?

10 MR. FIORE: Object to form.

11 THE WITNESS: I was not aware of that.

12 Q (BY MR. PATE) Are you aware that at  
13 least three of his former patients have died?

14 MR. FIORE: Same objection.

15 THE WITNESS: I don't have any knowledge  
16 of that.

...

13 Q Are you aware that Dr. Pope has been  
14 accused of writing 19 prescriptions over less  
15 than a 12-month period for a 27-year-old patient  
16 who complained of back pain and was also on  
17 Xanax at the same time?

18 MR. FIORE: Objection to the form of the  
19 question.

20 THE WITNESS: I don't have -- I was not  
21 aware of that. I don't have that knowledge.

*Deposition of Brian Vaughan*, 190: 11-16; 191:7-16; 211:13-21, September 19, 2018, attached hereto as Exhibit C.

The State cannot be permitted to continue to use information solely in its possession and also refuse to provide it in response to appropriate discovery requests. Nothing in the Anti-Drug Diversion Act indicates that information in the central repository is privileged and, to the extent

that the information is confidential, the Protective Order in this case sufficiently safeguards the information.

**4. The Confidentiality Provision of the Multi-County Grand Jury Act Does Not Apply When the State Puts the Information Directly at Issue.**

Next, the State objects to each of the Requests on the basis that they seek, “information that is privileged or otherwise prohibited from disclosure under... the Multicounty [sic] Grand Jury Act, 22 O.S. § 350, et seq. (including specifically id. at § 355).” Responses at 1-12. This, too, is incorrect.

The Oklahoma Multi-County Grand Jury Act provides, in pertinent part,

Disclosure of matters occurring before the multicounty grand jury other than its deliberations and the vote of any juror may be used by the Attorney General in the performance of his duties. The Attorney General may disclose so much of the multicounty grand jury proceedings to law enforcement agencies as he considers essential to the public interest and effective law enforcement.

Okla. Stat. tit. 22, § 355. The Attorney General may use this information in the “performance of his duties.” As part of his “duties,” the Attorney General has brought this lawsuit. The State must therefore disclose this information.

The State has put this information directly at issue by seeking to hold the defendants responsible for every “unnecessary or excessive prescription” for opioid medication written in the State of Oklahoma for the past twenty years, including those for which the State has brought criminal proceedings against prescribing physicians through the Multi-County Grand Jury. Oklahoma Courts have required disclosure of this information in an analogous situation, holding that an accused was entitled to sworn statements and transcripts of grand jury proceedings once a legal proceeding was commenced against him. *See Rush v. Blasdel*, 1991 OK CR 2, 804 P.2d 1140. Here, the State has instituted legal proceedings against Watson and the other defendants

to hold them liable for the criminal conduct of others. The State's refusal to produce information pertaining to this independent criminal conduct violates due process. This objection should be rejected as well.

**5. The State Has Brought Claims Under the Oklahoma Medicaid Program Integrity Act While Simultaneously Attempting to Claim its Privilege Protections.**

The State also objects to each of the Requests on the basis that they seek "information that is privileged or otherwise prohibited from disclosure under... the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, et seq. (including specifically id. at § 1004(d))." Responses at 1-12. As an initial matter, the State has *expressly brought claims under the Oklahoma Medicaid Program Integrity Act*. Its reliance on that statute as a means to avoid disclosure is therefore preposterous.

Furthermore, the plain language of the Act provides that the Attorney General may authorize the release of confidential information for use in legal proceedings, and there is nothing prohibiting the State from doing so here. The Oklahoma Medicaid Program Integrity Act provides, in pertinent part:

**D. Records obtained or created by the Authority or the Attorney General pursuant to the Oklahoma Medicaid Program Integrity Act shall be classified as confidential information and shall not be subject to the Oklahoma Open Records Act or to outside review or release by any individual *except, if authorized by the Attorney General, in relation to legal, administrative, or judicial proceeding.***

Okla. Stat. tit. 56, § 1004(d) (emphasis added).

The Attorney General has the power to authorize the disclosure of this information "in relation" to this case, but he has refused to do so even though he has sued Watson and the other

defendants under this Act. The State's conduct cannot be countenanced by the Court, and this objection should be overruled.

**C. Every Balancing Factor Weighs in Favor of Discoverability.**

As described above, the evidence in the State's possession related to criminal, civil and administrative enforcement actions against healthcare providers related to opioids is non-privileged and relevant. The only remaining question is whether this information is proportional to the needs of the case. In making this determination, the Court should consider, "the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Okla. Stat. tit. 12, § 3226(B)(1)(a).

The State has not, and cannot, meaningfully contest any of these factors, and each weighs in favor of discoverability. First, although the State continues to refuse to disclose its damages information, it has asserted that every prescription written for anything other than "end-of-life palliative care or for a three-day supply to treat acute pain" was false or fraudulent—and reimbursed in violation of Oklahoma law. *See* Pl.'s Resp. to Cephalon, Inc.'s Second Intros. at 1, attached hereto as Exhibit D. Therefore, the amount in controversy alone warrants a thorough fact-finding process.

Likewise, the information at issue here also should be produced because it implicates significant public policy questions. The information relates directly to the State's conduct in addressing, or failing to address, the opioid epidemic through its law enforcement and regulatory agencies. It helps disprove the State's causation theory and its efforts to blame defendants.

The remaining factors also support disclosure. Only the State has access to criminal, civil and administrative proceeding files against healthcare providers. This information is critical to

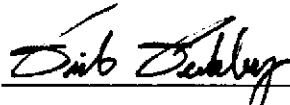


Watson's and the other defendants' affirmative defenses, and to evaluate the prescribers' actions and role in contributing to the opioid epidemic. Finally, the State has not identified any undue burden related to the production of this information. There is no reason why the State should not be ordered to produce it.

## II. CONCLUSION

The State's Responses to the Requests are deficient because the records at issue are not privileged or otherwise subject to any grounds for withholding. Watson respectfully requests the Court issue an Order compelling the State to fully and adequately respond to Watson's lawfully propounded discovery.

Dated: October 4, 2018.



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Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was emailed this 4th day of October, 2018, to the following:

***Attorneys for  
Plaintiff***

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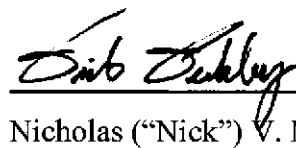
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Nicholas ("Nick") V. Merkley

# **EXHIBIT A**

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

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

Plaintiff,

v.

- (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, INC.;
- (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  
Honorable Thad Balkman

William C. Hetherington  
Special Discovery Master

**DEFENDANT WATSON LABORATORIES, INC.'S FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS FROM PLAINTIFF**

Pursuant to 12 O.S. § 3234, Defendant Watson Laboratories, Inc. ("Watson") requests that the Plaintiff State of Oklahoma ("the State") respond to Watson within 30 days to this request to produce the below-described documents which are in the State's possession, custody, or control.

{S444602;}



## INSTRUCTIONS

1. Unless otherwise set forth, the documents requested include all documents created within the Relevant Time Period and continuing through the date of this request.

2. The documents requested shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the request.

3. You should produce electronically stored information (“ESI”) and hardcopy documents in a single-page TIFF-image format with extracted or OCR text and associated metadata—a standard format in e-discovery—known as TIFF-plus. Produce electronic spreadsheets (e.g., Excel), electronic presentations (e.g., PowerPoint), desktop databases (e.g., Access), and audio or video multimedia in native format with a slip sheet identifying Bates labels and confidentiality designations.

4. These requests are directed toward all documents known or available to the State, including records and documents in its custody or control or available to it upon reasonable inquiry. Your response must state, with respect to each item or category, that inspection and related activities shall be permitted, unless the request is objected to, in which event you must state your reasons for objecting. If you object to part of an item or category, specify the part.

5. This request is continuing in character, and Watson requests that you amend or supplement your response in accordance with the Oklahoma Rules of Civil Procedure if you obtain new or additional information.

6. If any document is withheld for any reason, including but not limited to any alleged claim of privilege, confidentiality, or trade secret, or for any other reason or objection, provide a description of the document being withheld which includes the following:

- a. The date of the document;

- b. The author of the document;
- c. The recipient of the document;
- d. All Persons to whom copies of the document have been furnished;
- e. The subject matter of the document;
- f. The file in which the document is kept in the normal course of business;
- g. The current custodian of the document; and
- h. The nature of the privilege or other reason for not producing the document and sufficient description of the facts surrounding the contents of the document to justify withholding the document under said privilege or reason.

7. Where you have a good faith doubt as to the meaning or intended scope of a request, and your sole objection would be to its vagueness, please contact counsel for Watson in advance of asserting an unnecessary objection. The undersigned counsel will provide additional clarification or explanation as needed.

#### **DEFINITIONS**

1. "Claim" is any request for payment or reimbursement.
2. The term "chronic pain" is used herein consistent with the meaning of "non-cancer related pain" or "long term pain" as those terms are used in the Petition, e.g., ¶¶ 3, 22, 51, 67, 122.
3. "Communication(s)" is any unilateral, bilateral, or multilateral assertion, disclosure, statement, conduct, transfer, or exchange of information or opinion, including omissions, however made, whether oral, written, telephonic, photographic, or electronic.
4. "Petition" refers to your Original Petition filed June 30, 2017, and exhibits, as well as any subsequent amendments.



5. “Defendants” are the individual Defendants named in the Petition.

6. “Document(s)” is used in the broadest sense permissible under 12 O.S. § 3234(A)(1), and includes without limitation “writings,” “recordings,” “photographs,” “original[s],” “duplicate[s],” “image[s],” and “record[s],” as those terms are set forth in 12 O.S. § 3001.

7. The term “document(s)” includes all drafts and all copies that differ in any respect from the original; information stored in, or accessible through, computer or other information retrieval systems (including any computer archives or back-up systems), together with instructions and all other materials necessary to use or interpret such data compilations; all other Electronically Stored Information; and the file-folder, labeled-box, or notebook containing the document, as well as any index, table of contents, list, or summaries that serve to organize, identify, or reference the document.

8. “Drug Utilization Review Board” is used herein consistent with its meaning in Section 317:1-3-3.1 of the Oklahoma Administrative Code.

9. “Educational Activity” refers to publications, programs, continuing medical education, or other forms of communicating unbranded, educational information about Opioids or treatment of chronic pain.

10. “Electronically Stored Information” is used in the broadest sense permissible by the Oklahoma Rules of Civil Procedure and includes without limitation all electronic data (including active data, archival data, backup data, backup tapes, distributed data, electronic mail, forensic copies, metadata, and residual data) stored in any medium from which information can be obtained.

11. The term “employee” includes all current and former employees, independent contractors, and individuals performing work as temporary employees.

12. “Healthcare Professional(s),” “Health Care Provider(s)” or “HCP(s)” is any Person who prescribes, administers, or dispenses any Relevant Medication or Medication Assisted Treatment to any Person or animal.

13. “Interrogatories” refers to Watson’s First Set of Interrogatories served on you contemporaneously herewith.

14. “Key Opinion Leader(s)” or “KOL(s)” is used herein consistent with its meaning in the Petition, ¶ 58.

15. “Medication Assisted Treatment” is the use of medications with counseling and behavioral therapies to treat substance abuse disorders and prevent Opioid overdose.

16. “Medical Necessity” has the same meaning as defined in Section 317:30-3-1(f) of the Oklahoma Administrative Code.

17. “Oklahoma Agency” or “Oklahoma Agencies” collectively refers to any State entity involved in regulating, monitoring, approving, reimbursing, or prosecuting the prescription, dispensing, purchase, sale, use, or abuse of controlled substances in Oklahoma, including, but not limited to, the Oklahoma Office of the Governor, Oklahoma Legislature, Oklahoma Office of the Attorney General, Oklahoma Department of Corrections, Oklahoma Department of Public Safety, Oklahoma State Department of Health, Oklahoma State Bureau of Investigation, Oklahoma Bureau of Narcotics and Dangerous Drugs Control, Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma Health Care Authority, Oklahoma State Board of Dentistry, Oklahoma State Board of Medical Licensure and Supervision, Oklahoma State Board of Nursing, Oklahoma State Board of Pharmacy, Oklahoma

State Board of Veterinary Medical Examiners, Oklahoma Workers' Compensation Commission, Office of the Medical Examiner of the State of Oklahoma, and their respective predecessors, supervisory and subordinate organizations, and current or former employees.

18. "Opioid(s)" refers to FDA-approved pain-reducing medications consisting of natural or synthetic chemicals that bind to receptors in a Patient's brain or body to produce an analgesic effect.

19. "Patient(s)" is any human being to whom an Opioid is prescribed or dispensed.

20. "Person(s)" is any natural or legal person.

21. Pharmacy and Therapeutics Committee ("P & T Committee") or formulary committee means any committee, group, board, Person or Persons with responsibility for determining which drugs will be placed on any prescription drug formulary created, developed or utilized by the State of Oklahoma or any Program, the conditions and terms under which the State of Oklahoma or any Program will authorize purchase of, coverage of, or reimbursement for those drugs, who can prescribe specific drugs, policies and procedures regarding drug use (including pharmacy policies and procedures, standard order sets, and clinical guidelines), quality assurance activities (e.g., drug utilization review/drug usage evaluation/medication usage evaluation), adverse drug reactions/medication errors, dealing with product shortages, and/or education in drug use.

22. "Prescription Monitoring Program" is used herein consistent with its meaning in the Petition, ¶ 47.

23. "Prior Authorization" is any program that implements scope, utilization, or product based controls for drugs or medications.

24. "Program(s)" is every program administered by an Oklahoma Agency that reviews, authorizes, and determines the conditions for payment or reimbursement for Opioids, including, but not limited to, the Oklahoma Medicaid Program, as administered by the Oklahoma Health Care Authority, and the Oklahoma Workers Compensation Commission.

25. "Relevant Time Period" means January 1, 1999 to the present, or such other time period as the parties may later agree or the Court determines should apply to each side's discovery requests in this action.

26. "Relevant Medication(s)" includes any and all drugs, branded or generic, consisting of natural or synthetic chemicals that bind to Opioid receptors in a Patient's brain or body to produce an analgesic effect, whether or not listed in the Petition, including, but not limited to, codeine, fentanyl, hydrocodone, hydromorphone, methadone, morphine, oxycodone, oxymorphone, tapentadol, and tramadol.

27. "Third-Party Group(s)" is used herein consistent with its meaning in the Petition, including any "seemingly unaffiliated and impartial organizations to promote opioid use." Petition, ¶¶58, 63, 72.

28. "Vendor" means any third-party claims administrator, pharmacy benefit manager, HCP, or Person involved in overseeing, administering, or monitoring any Program.

29. "You," "Your," "State," "Oklahoma," and "Plaintiff" refer to the sovereign State of Oklahoma and all its departments, agencies, and instrumentalities, including current and former employees, any Vendor, and other Persons or entities acting on the State's behalf.

30. The words "and" and "or" shall be construed conjunctively as well as disjunctively, whichever makes the request more inclusive.

31. "Any" includes "all" and vice versa.

32. "Each" includes "every" and vice versa.
33. The term "including" shall be construed to mean "including but not limited to."
34. The singular of each word includes its plural and vice versa.

### **DOCUMENTS REQUESTED**

1. All documents, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments, concerning any disciplinary, civil, or criminal proceedings brought by You against Harvey Clarke Jenkins Jr., including the matter of the *State of Oklahoma v. Harvey Clarke Jenkins Jr.*, No. CF-2016-2325 (Oklahoma County).

2. All documents, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments, concerning any disciplinary, civil, or criminal proceedings brought by You against Regan Ganoung Nichols, including the matter of the *State of Oklahoma v. Regan Ganoung Nichols*, No. CF-2017-3953 (Oklahoma County).

3. All documents, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments, concerning any disciplinary, civil, or criminal proceedings brought by You against William Martin Valuck,

including the matter of the *State of Oklahoma v. William Martin Valuck*, No. CF-2014-185 (Oklahoma County).

4. All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Roger Kinney, M.D., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments.

5. All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Tamerlane Rozsa, M.D., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments.

6. All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Joshua Livingston, D.O., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments.

7. All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Joseph Knight, M.D., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments.

8. All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Christopher Moses, D.O., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments.

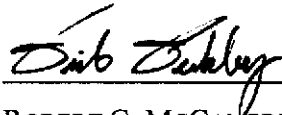
9. All documents concerning any disciplinary, civil, or criminal proceedings brought by You against any other HCP not previously requested related to the prescription of Opioids, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments.

10. All documents concerning any complaints or investigations by You concerning the prescribing practices of any HCP that did not result in the initiation of a disciplinary, civil, or criminal proceeding.

11. All documents concerning any complaints or investigations by You concerning the prescription of Opioids at Vista Medical Center, 3700 S. Western Avenue, Oklahoma City, Oklahoma.

12. All Prescription Monitoring Program records related to the Opioids prescribed by HCPs employed by Vista Medical Center.

Dated: May 10, 2018



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NICHOLAS V. MERKLEY, OBA No. 20284  
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**CERTIFICATE OF MAILING**

I certify that a true and correct copy of the foregoing was emailed this 10th day of May,

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# **EXHIBIT B**



specifically reserves the right to supplement, amend and/or revise these Responses and Objections in accordance with 12 O.S. 3226.

### **GENERAL OBJECTIONS**

1. By responding to Defendant's discovery requests, the State concedes neither the relevance nor admissibility of any information provided or documents or other materials produced in response to such requests. The production of information or documents or other materials in response to any specific interrogatory does not constitute an admission that such information is probative of any particular issue in this case. Such production or response means only that, subject to all conditions and objections set forth herein and the requirements of 12 O.S. 3234, following a reasonably diligent investigation of reasonably accessible and non-privileged information, the State will produce or permit the inspection and copying of the reasonably accessible, responsive, non-privileged documents within the State's possession, custody or control that the State is reasonably able to locate at a time and place mutually agreeable to the parties.

2. To the extent the State is able to locate responsive, non-privileged documents, the State will produce or permit inspection of such documents in the forms in which they are ordinarily maintained by the State in the regular course of business. *See* 12 O.S. 3234.

3. The State provides the responses and objections set forth herein solely based upon information presently known to and within the possession, custody or control of the State. Subsequent discovery, information produced by Defendant and/or the other named Defendants in this litigation and/or third parties, investigation, expert discovery, third-party discovery, depositions and further analysis may result in additions to, changes or modifications in, and/or variations from the responses and objections set forth herein. Accordingly, the State specifically

and expressly reserves the right to supplement, amend and/or revise the responses and objections set forth herein in due course and in accordance with 12 O.S. 3226.

### **OBJECTIONS TO INSTRUCTIONS**

1. The State objects to Defendant's Instruction Number 1, which purports to require the State's Responses to "include all documents created within the Relevant Time Period and continuing through the date of this request" as overbroad, unduly burdensome, disproportionate to the needs of the case and improperly seeking information created after this lawsuit was filed that is protected from disclosure as attorney work product or trial preparation materials.

2. The State objects to the part of Defendant's Instruction Number 2 that purports to require the State to organize and label any documents the State produces "to correspond with the categories in the request." Any responsive, non-privileged documents that the State produces will be produced in the form in which they are kept in the usual course of business.

3. The State objects to Defendant's Instruction Number 3 as overly broad, unduly burdensome, disproportionate to the needs of the case and an effort to impose a greater burden on the State than what is permitted under 12 OKLA. STAT. §3234 by requiring the State to create new information or convert information in the State's possession, custody or control into forms in which such information is not maintained by the State in its usual course of business. The State will produce electronically stored information ("ESI") in accordance with the ESI protocol agreed to by the parties.

4. The State objects to Defendant's Instruction Number 4 as vague, ambiguous, overly broad, disproportionate to the needs of the case and seeking to impose a burden on the State that exceeds what is permissible under Oklahoma law by instructing the State to produce "all documents known or available to the State," on top of and in addition to any documents within the

State's possession, custody or control. Subject to all conditions and objections set forth herein and the requirements of 12 O.S. 3234, following a reasonably diligent investigation, the State will produce or permit inspection and copying of the responsive, non-privileged documents within the State's possession, custody or control that the State is reasonably able to locate and access at a time and place mutually agreeable to the parties.

5. The State objects to Defendant's Instruction Number 5, which states that Defendants' requests are "continuing in character," as seeking to impose a burden upon the State that is beyond what is permissible under Oklahoma law, and as inconsistent with Defendant's Instruction Number 1. The State will reasonably construe this ambiguity to mean that the requests seek documents created through the date the requests were served (excluding documents created to assist in the prosecution of this case under the attorney-client and/or work-product privileges), and the State will amend or supplement its responses, if necessary, in accordance with 12 O.S. 3226.

6. The State objects to Defendant's Instruction Number 6 as ambiguous, vague, unreasonable, overbroad, unduly burdensome and an impermissible attempt to impose a burden upon the State beyond what is allowable under Oklahoma law. To the extent the State withholds otherwise discoverable information from production on the basis of any claim of privilege or work-product trial material, the State will supply Defendant with the information required under Oklahoma law related to such information at the appropriate time and/or in accordance with the orders of the Court. *See* 12 O.S. 3226(B)(5)(a). To the extent the State withholds any document "for any other reason or objection," the State will state its objection or "other reason" for withholding the document with specificity at the appropriate time and as required by Oklahoma law.

7. The State objects to Defendant's Instruction Number 7 because it seeks to impose a burden on the State beyond those permitted or contemplated under Oklahoma law. The State will respond to Defendant's requests according to how they are written. To the extent Defendant chose to use vague or indecipherable terms, the State will reasonably construe such term based upon their plain and ordinary meaning.

### **OBJECTIONS TO DEFINITIONS**

1. The State objects to Defendant's Definition Number 1 of the term "Claim" as vague, overbroad, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, irrelevant and unworkable. "[A]ny request for payment or reimbursement" encompasses an infinitely unlimited amount of information that has no bearing whatsoever on the parties to this action or the claims or defenses asserted in this action. Based on the claims and defenses at issue in this case, the State will reasonably interpret the term "claim" to mean a request for payment or reimbursement submitted to the Oklahoma Health Care Authority pursuant to Oklahoma's Medicaid Program as related to the claims and defenses at issue in this litigation.

2. The State objects to Defendant's Definition Number 3 of the term "Communication(s)" as vague, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, unworkable and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. Specifically, the State objects to the terms "conduct" and "omissions" in Defendant's purported Definition Number 3. The State will reasonably interpret the term "communication(s)" to mean the transmittal of information between two or more persons, whether spoken or written.

3. The State objects to Defendant's Definition Number 7—Defendant's second purported definition of the term "document(s)"—as overly broad, unduly burdensome,



disproportionate to the needs of the case, irrelevant and attempting to impose a burden on the State beyond what is permissible under Oklahoma law. The State will not create “instructions” or “other materials” that do not otherwise exist. Nor will the State produce: (i) “file-folder[s], labeled-box[es], or notebook[s]”; and (ii) “ind[ices], table[s] of contents, list[s], or summaries that serve to organize, identify, or reference” a document simply because a responsive document is related to or contained within such information. Pursuant to 12 O.S. §§3233-3234, following a reasonably diligent investigation, the State will permit inspection of the reasonably accessible, responsive, non-privileged documents, as that term is defined in 12 O.S. 3234(A)(1), within the State’s possession, custody or control that the State is reasonably able to locate at a time and place mutually agreeable to the parties. To the extent a folder, label, container, index, table of contents, list or summary is otherwise responsive to a request and satisfies these conditions, it will be made available for inspection or produced.

4. The State objects to Defendant’s Definition Number 9 of the term “Educational Activity” as vague and ambiguous because it fails to rationally indicate what is meant by “other forms of” communication. The State further incorporates its objections to Definition Number 18 (“Opioid(s)”) as if fully set forth in this objection to Definition Number 9.

5. The State objects to Defendant’s Definition Number 10 of “Electronically Stored Information” as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant to the claims and defenses at issue, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. The State will not produce ESI from sources that are not reasonably accessible or over which the State does not have sufficient custody and/or control. The State will produce or permit the inspection of ESI in the manner set forth in the parties’ agreed ESI protocol.

6. The State objects to Defendant's Definition Number 11 of the term "Employee" as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant to the claims and defenses at issue, calling for information beyond what is within the State's possession, custody and control, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. The State will reasonably construe the term "employee" to mean an individual employed by the State during the inquired-about time period over whom the State maintains sufficient custody and control to enable the State to possess or access responsive records or information pertaining to the individual.

7. The State objects to Defendant's Definition Number 12 of the terms "Healthcare Professional(s)," "Health Care Provider(s)" or "HCP(s)." Defendant's proposed definition is overly broad, irrelevant to the claims and defenses at issue, unduly burdensome and disproportionate to the needs of the case in that the definition is not limited in any way to the State of Oklahoma or any particular time period. The State will reasonably construe the use of these terms to mean healthcare professionals or providers who provided medical or health care services in the State of Oklahoma to citizens—not "animals"—in the State of Oklahoma from January 1, 1999 to the date Defendant's requests were served. The State further incorporates each of its objection to Definition Numbers 15 (the term "Medical Assisted Treatment") as if fully set forth in this objection to Definition Number 12.

8. The State objects to Defendant's Definition Number 15 of the term "Medication Assisted Treatment." Defendant's purported definition is overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, and disproportionate to the needs of this case, because it attempts to encompass treatment related to any "substance abuse disorder[]" and any effort to "prevent Opioid overdose." The State incorporates its objections to Defendant's

Definition Number 18 of the term “Opioid(s)” as if fully set forth in this objection to Definition Number 15. The State will reasonably construe the term “Medication Assisted Treatment” to mean substance abuse treatment related to the claims and defenses at issue in this litigation.

9. The State objects to Defendant’s Definition Number 17 of the terms “Oklahoma Agency” or “Oklahoma Agencies” as overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, disproportionate to the needs of the case, and improperly calling for information that is not in the possession, custody or control of the State. The State will reasonably construe the terms “Oklahoma Agency” or “Oklahoma Agencies” to mean agencies of the State of Oklahoma reasonably calculated to have information or materials relevant to the claims or defenses asserted in this litigation and over whom the State of Oklahoma, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

10. The State objects to Defendant’s Definition Number 18 of the term “Opioid(s)” as misleading because of its use of the terms “FDA-approved” and “pain-reducing” and because it is defined without regard to any of the pharmaceutical products or drugs at issue in this case. The State will reasonably construe the terms “Opioid(s)” to mean the opioid medications or drugs related to the claims and defenses at issue in this litigation.

11. The State objects to Defendant’s Definition Number 19 of the term “Patient(s).” This definition—“any human being to whom an Opioid is prescribed or dispensed”—is overly broad, unduly burdensome, irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of the case on its face because it lacks any geographical or temporal limitation that has any bearing on this case, and could be construed to seek information outside the State’s possession, custody, or control. The State will reasonably construe the term “patient” to

mean an individual who was prescribed an Opioid in the State of Oklahoma from January 1, 1999 through the date these requests were served.

12. The State objects to Defendant's Definition Number 24 of the term "Program(s)" and incorporates its objections to Definition Numbers 17 ("Oklahoma Agency") and 18 ("Opioids") as if fully set forth herein. Defendant's purported definition of "Program" is similarly overly broad, irrelevant to the claims and defenses at issue in this action, unduly burdensome and disproportionate to the needs of the case, because it includes no temporal limitations and is entirely untethered to the issues involved in this litigation. The State will reasonably construe the term "Program" to mean a program administered by the State of Oklahoma that reviews, authorizes, and/or determines the conditions for payment or reimbursement for the opioid medications or drugs and related treatment relevant to the claims and defenses at issue in this litigation and over which the State possesses control.

13. The State objects to Defendant's Definition Number 28 of the term "Vendor" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control. The State further incorporates its objections to and reasonable constructions of the terms defined in Definition Numbers 12 ("HCP") and 24 ("Program") as if fully set forth herein.

14. The State objects to Defendant's Definition Number 29 of the terms "You," "Your," "State," "Oklahoma," and "Plaintiff" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control because the definition attempts to require the State to not simply

respond on its own behalf, but also on behalf of “all its departments, agencies, and instrumentalities” without regard for whether the State represents such entities in this litigation and maintains sufficient control over such entities to enable the State to have reasonable access to or possession, custody or control of such entities’ records. The State will respond on behalf of the State and those State agencies reasonably calculated to have information or materials relevant to the claims or defenses asserted in this litigation and over whom the State of Oklahoma, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

### **RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** All documents, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments, concerning any disciplinary, civil, or criminal proceedings brought by You against Harvey Clarke Jenkins Jr., including in the matter of the *State of Oklahoma v. Harvey Clarke Jenkins Jr.*, No. CF-2016-2325 (Oklahoma County).

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

The State incorporates its general objections and objections to Defendant’s instructions and definitions above, including the State’s objections to Defendant’s definitions of the terms “You,” as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable

document ever created with respect to an identified criminal proceeding, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified "disciplinary" or "civil" proceedings.

The State further objects to this Request because it seeks information that is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent the identified criminal matter has any limited degree of relevance to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies' investigation of this criminal matter (e.g., "witness statements," "reports," "evidence receipts," "video and audio recordings"), law enforcement attorneys' protected attorney work product or trial preparation materials (e.g., "witness interview notes"), and information that is immune from discovery in this matter (e.g., "grand jury transcripts"). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks publicly available information that is equally available to Defendants (e.g., "pleadings, motions, orders, and judgments"). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants' defenses on the State, most especially when that burden is the same for

all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act (“HIPAA”), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Harvey Clarke Jenkins, Jr., including in the matter of the *State of Oklahoma v. Harvey Clarke Jenkins Jr.*, No. CF-2016-2325 (Oklahoma County), if any.

**REQUEST FOR PRODUCTION NO. 2:** All documents, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments, concerning any disciplinary, civil, or criminal proceedings brought by You

against Regan Ganoung Nichols, including in the matter of the *State of Oklahoma v. Regan Ganoung Nichols*, No. CF-2017-3953 (Oklahoma County).

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to an identified criminal proceeding, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified "disciplinary" or "civil" proceedings.

The State further objects to this Request because it seeks information that is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent the identified criminal matter has any limited degree of relevance to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies' investigation of this criminal matter (e.g., "witness statements," "reports," "evidence receipts," "video and audio recordings"), law enforcement attorneys' protected attorney work product or trial preparation materials (e.g., "witness interview notes"), and information that is immune from



discovery in this matter (e.g., “grand jury transcripts”). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks publicly available information that is equally available to Defendants (e.g., “pleadings, motions, orders, and judgments”). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants’ defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act (“HIPAA”), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of

reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Regan Ganoung Nichols., including in the matter of the *State of Oklahoma v. Regan Ganoung Nichols*, No. CF-2017-3953 (Oklahoma County).

**REQUEST FOR PRODUCTION NO. 3:** All documents, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders, and judgments, concerning any disciplinary, civil, or criminal proceedings brought by You against William Martin Valuck, including in the matter of the *State of Oklahoma v. William Martin Valuck*, No. CF-2014-185 (Oklahoma County).

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to an identified criminal proceeding, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified "disciplinary" or "civil" proceedings.

The State further objects to this Request because it seeks information that is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent the identified criminal matter has any limited degree of relevance to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies' investigation of this criminal matter (e.g., "witness statements," "reports," "evidence receipts," "video and audio recordings"), law enforcement attorneys' protected attorney work product or trial preparation materials (e.g., "witness interview notes"), and information that is immune from discovery in this matter (e.g., "grand jury transcripts"). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks publicly available information that is equally available to Defendants (e.g., "pleadings, motions, orders, and judgments"). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants' defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Harvey Clarke Jenkins, Jr., including in the matter of the *State of Oklahoma v. William Martin Valuck*, No. CF-2014-185 (Oklahoma County).

**REQUEST FOR PRODUCTION NO. 4:** All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Roger Kinney, M.D., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders and judgments.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to unidentified criminal, disciplinary or civil proceedings, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified "disciplinary" or "civil" proceedings.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified proceedings against the identified individual are in any way relevant to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies' investigations (e.g., "witness statements," "reports," "evidence receipts," "video and audio recordings"), protected attorney work product or trial preparation materials (e.g., "witness interview notes"), and information that is immune from discovery in this matter (e.g., "grand jury transcripts"). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks information that, to the extent it exists, is publicly available information and, thus, equally available to Defendants (e.g., "pleadings, motions, orders, and judgments"). Because this information is equally available to

Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants' defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Roger Kinney, M.D.

**REQUEST FOR PRODUCTION NO. 5:** All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Tamerlane Rozsa, M.D., including but not

limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders and judgments.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to unidentified criminal, disciplinary or civil proceedings, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified "disciplinary" or "civil" proceedings.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified proceedings against the identified individual are in any way relevant to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining

to law enforcement agencies' investigations (e.g., "witness statements," "reports," "evidence receipts," "video and audio recordings"), protected attorney work product or trial preparation materials (e.g., "witness interview notes"), and information that is immune from discovery in this matter (e.g., "grand jury transcripts"). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks information that, to the extent it exists, is publicly available information and, thus, equally available to Defendants (e.g., "pleadings, motions, orders, and judgments"). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants' defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including



specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Tamerlane Rozsa, M.D., if any.

**REQUEST FOR PRODUCTION NO. 6:** All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Joshua Livingston, D.O., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders and judgments.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to unidentified criminal, disciplinary or civil proceedings, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or

control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified “disciplinary” or “civil” proceedings.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified proceedings against the identified individual are in any way relevant to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies’ investigations (e.g., “witness statements,” “reports,” “evidence receipts,” “video and audio recordings”), protected attorney work product or trial preparation materials (e.g., “witness interview notes”), and information that is immune from discovery in this matter (e.g., “grand jury transcripts”). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks information that, to the extent it exists, is publicly available information and, thus, equally available to Defendants (e.g., “pleadings, motions, orders, and judgments”). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants’ defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Joshua Livingston, D.O., if any.

**REQUEST FOR PRODUCTION NO. 7:** All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Joseph Knight, M.D., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders and judgments.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to unidentified criminal, disciplinary or civil proceedings, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified "disciplinary" or "civil" proceedings.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified proceedings against the identified individual are in any way relevant to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies' investigations (e.g., "witness statements," "reports," "evidence receipts," "video and audio recordings"), protected attorney work product or trial preparation materials (e.g., "witness interview notes"), and information that is immune from discovery in this

matter (e.g., "grand jury transcripts"). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks information that, to the extent it exists, is publicly available information and, thus, equally available to Defendants (e.g., "pleadings, motions, orders, and judgments"). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants' defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of

reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Joseph Knight, M.D., if any.

**REQUEST FOR PRODUCTION NO. 8:** All documents concerning any disciplinary, civil, or criminal proceedings brought by You against Christopher Moses, D.O., including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders and judgments.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to unidentified criminal, disciplinary or civil proceedings, is not tailored to the subject matter of the specific claims and defenses at issue in this action. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified "disciplinary" or "civil" proceedings.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified proceedings against the identified individual are in any way relevant to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies' investigations (e.g., "witness statements," "reports," "evidence receipts," "video and audio recordings"), protected attorney work product or trial preparation materials (e.g., "witness interview notes"), and information that is immune from discovery in this matter (e.g., "grand jury transcripts"). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks information that, to the extent it exists, is publicly available information and, thus, equally available to Defendants (e.g., "pleadings, motions, orders, and judgments"). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants' defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

Subject to and without waiving the foregoing objections (including those incorporated by reference in this response), the State responds as follows: After a reasonably diligent search of reasonably accessible sources over which the State maintains possession, custody or control, the State will produce or permit the inspection and copying of non-privileged documents pertaining to proceedings by the State against Christopher Moses, D.O., if any.

**REQUEST FOR PRODUCTION NO. 9:** All documents concerning any disciplinary, civil, or criminal proceedings brought by You against any other HCP not previously requested related to the prescription of Opioids, including but not limited to initiating documents, witness interview notes and transcripts, witness statements, reports, documentary evidence, evidence receipts, video and audio recordings, Prescription Monitoring Program records, hearing transcripts, grand jury transcripts, pleadings, motions, orders and judgments.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "HCP," and "Opioids" as if fully set forth herein.



The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to an unlimited amount of unidentified criminal, disciplinary or civil proceedings, is not tailored to the subject matter of the specific claims and defenses at issue in this action. This vague, open-ended "catch-all" Request fails entirely to identify with any degree of particularity the universe of purported "disciplinary, civil, or criminal proceedings" brought by the State since the beginning of time for which the Request seeks information. As such, on its face, the Request is too overbroad and vague to enable the State to attempt to respond to it. By purporting to seek information related to any conceivable "proceeding[]" brought by" the State against a healthcare professional "related to the prescription of Opioids," the Request fails to identify with any degree of particularity the type of proceedings contemplated by the Request. Moreover, this overbroad Request is not narrowly tailored to the claims or defenses at issue in this litigation because the Request seeks a vast amount of information related to unidentified "proceedings" that somehow "related to the prescription of Opioids[.]" Any number of "proceedings" or matters that tangentially could be characterized as "relat[ing] to the prescription of Opioids," but that have nothing to do with this litigation, could therefore fall within the all-encompassing scope of this Request. As such, the Request seeks information that is irrelevant.

Further, due to the expansive and unreasonable scope of this Request, to the extent any responsive information exists and actually has any marginal degree of relevance to the claims and defenses at issue in this litigation, this minimal degree of relevance is vastly outweighed by the substantial burden the State would incur to gather, collect, review and produce such information.

Accordingly, the State objects that this Request is unduly burdensome and disproportionate to the needs of this case.

The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State, including but not limited to, for example, information pertaining to unidentified “disciplinary” or “civil” proceedings that could conceivably fall within the expansive scope of this Request.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified proceedings against the unidentified healthcare professionals inquired about in this Request are in any way relevant to this litigation, the Request is plainly overbroad because it seeks confidential and sensitive information pertaining to law enforcement agencies’ investigations (e.g., “witness statements,” “reports,” “evidence receipts,” “video and audio recordings”), protected attorney work product or trial preparation materials (e.g., “witness interview notes”), and information that is immune from discovery in this matter (e.g., “grand jury transcripts”). The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request because it seeks information that, to the extent it exists, is publicly available information and, thus, equally available to Defendants (e.g., “pleadings, motions, orders, and judgments”). Because this information is equally available to Defendants, the Request is unduly burdensome and disproportionate to the needs of the case in that Defendants are attempting to shift the burden of gathering and collecting publicly available

information that Defendants appear to believe could somehow relate to this litigation on the State. Defendants cannot shift the burden associated with investigating Defendants' defenses on the State, most especially when that burden is the same for all parties due to the public availability of certain of the information Defendants seek with this Request.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

**REQUEST FOR PRODUCTION NO. 10:** All documents concerning any complaints or investigations by You concerning the prescribing practices of any HCP that did not result in the initiation of a disciplinary, civil, or criminal proceeding.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You" and "HCP" as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this

action and disproportionate to the needs of this case. This Request, which seeks every conceivable document ever created with respect to an unlimited amount of unidentified “complaints or investigations” that specifically did not lead to the initiation of criminal, disciplinary or civil proceedings, is not tailored to the subject matter of the specific claims and defenses at issue in this action. This vague, open-ended “catch-all” Request fails entirely to identify with any degree of particularity the universe of purported “complaints or investigations” by the State since the beginning of time for which the Request seeks information. As such, on its face, the Request is too overbroad and vague to enable the State to attempt to respond to it. By purporting to seek information related to any conceivable “complaint[] or investigation[]” by the State against a healthcare professional concerning that individual’s vaguely-described “prescribing practices,” the Request is overbroad and untethered to the claims and defenses at issue in this litigation. Any number of “prescribing practices” that have nothing to do with this litigation could lead to a “complaint or investigation” that has no relation to the claims and defenses at issue in this litigation. Moreover, the Request fails to articulate with any particularity how a “complaint[] or investigation[]” related to the undefined universe of “prescribing practices of any HCP” that “did not result in the initiation of a disciplinary, civil, or criminal proceeding” could conceivably bear upon the claims and defenses at issue in this litigation.

Further, due to the expansive and unreasonable scope of this Request, to the extent any responsive information exists and actually has any marginal degree of relevance to the claims and defenses at issue in this litigation, this minimal degree of relevance is vastly outweighed by the substantial burden the State would incur to gather, collect, review and produce such information. Specifically, the Request purports to require the State to search and account for every conceivable “complaint[] or investigation[]” related to any “prescribing practice” of an “HCP” since the

beginning of time, regardless whether such practice relates to this litigation. Accordingly, the State objects that this Request is unduly burdensome and disproportionate to the needs of this case.

The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State. The State further objects to this Request to the extent it seeks to force the State to disclose information that is protected from disclosure under pertinent statutes intended to protect the confidentiality and/or anonymity of whistleblowers or others who submit confidential "complaints" to the State and/or its agencies.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified "complaints or investigations" against the unidentified healthcare professionals inquired about in this Request are in any way relevant to this litigation, the Request is plainly overbroad because it appears to seek confidential and sensitive information pertaining to law enforcement agencies' investigations, protected attorney work product or trial preparation materials, and information that is immune from discovery in this matter pertaining to such unidentified "complaints or investigations." Moreover, to the extent this Request seeks information about ongoing investigations, the State objects to Request as improper. The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

**REQUEST FOR PRODUCTION NO. 11:** All documents concerning any complaints or investigations by You concerning the prescription of Opioids at Vista Medical Center, 3700 S. Western Avenue, Oklahoma City, Oklahoma.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You" and "Opioids" as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case.

The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State. The State further objects to this Request to the extent it seeks to force the State to disclose

information that is protected from disclosure under pertinent statutes intended to protect the confidentiality and/or anonymity of whistleblowers or others who submit confidential “complaints” to the State and/or its agencies.

The State further objects to this Request because it seeks information that, to the extent it exists, is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. To the extent any unidentified “complaints or investigations” against the unidentified healthcare professionals inquired about in this Request are in any way relevant to this litigation, the Request is plainly overbroad because it appears to seek confidential and sensitive information pertaining to law enforcement agencies’ investigations, protected attorney work product and mental impressions or trial preparation materials, and information that is immune from discovery in this matter pertaining to such unidentified “complaints or investigations.” Moreover, to the extent this Request seeks information about ongoing investigations, the State objects to Request as improper. The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act (“HIPAA”), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure

under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

**REQUEST FOR PRODUCTION NO. 12:** All Prescription Monitoring Program records related to the Opioids prescribed by HCPs employed by Vista Medical Center.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "HCPs" and "Opioids" as if fully set forth herein.

The State further objects that this Request is vague, ambiguous, overly broad, unduly burdensome and seeks information that is irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of this case. The State further objects to this Request as seeking information outside the possession, custody or control of the State and/or information that is not reasonably accessible by the State.

The State further objects to this Request because it seeks information, including "Prescription Monitoring Program records" that is protected from disclosure under pertinent State and federal statutes, rules, regulations, privileges and immunities, including but not limited to, the deliberative process privilege, the work-product or trial preparation privilege, and/or the attorney-client privilege. The State further objects to this Request because it seeks information pertaining to law enforcement agencies' investigations, protected attorney work product and mental impressions or trial preparation materials, and information that is immune from discovery in this matter. Moreover, to the extent this Request seeks information about ongoing investigations, the



State objects to Request as improper. The State will not jeopardize ongoing criminal and/or disciplinary investigations initiated or pursued by certain agencies of the State.

The State further objects to this Request to the extent that it seeks materials or information that are the subject of any other confidentiality, protective or non-disclosure Orders entered in other proceedings, investigations or litigation.

The State further objects to this Request as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations. The State also objects to this Request as seeking information that is privileged or otherwise prohibited from disclosure under 63 O.S. §2-309D; the Multicounty Grand Jury Act, 22 O.S. §350, *et seq.* (including specifically *id.* at §355; and the Oklahoma Medicaid Program Integrity Act, 56 O.S. §1001, *et seq.* (including specifically *id.* at §1004(d)).

DATED: June 11, 2018.

Respectfully submitted,



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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, on June 11, 2018 to:

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\_\_\_\_\_  
Michael Burrage

# **EXHIBIT C**

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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, INC.;
- (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.

VIDEOTAPED DEPOSITION OF BRIAN VAUGHN

TAKEN ON BEHALF OF THE PLAINTIFF

ON SEPTEMBER 19, 2018, BEGINNING AT 1:03 P.M.

IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: C. J. Shelton  
REPORTED BY: D. Luke Epps, CSR, RPR



1 THE WITNESS: If prescriptions go up, we  
2 are compensated on prescriptions.

3 Q (BY MR. PATE) Right. And you wouldn't  
4 have gone to see Dr. Jenkins if Teva hadn't put  
5 him on your target list; right?

6 MR. FIORE: Objection. Assumes facts  
7 not in evidence.

8 THE WITNESS: No. It would require me  
9 to speculate. I would only see somebody that  
10 was on the list provided to me by the company.

11 Q (BY MR. PATE) You're aware that  
12 Dr. Harvey Jenkins has been charged with 29  
13 felonies and a misdemeanor for running a pill  
14 mill?

15 A I wasn't aware of the number, but I did  
16 see in the media where he was -- he was charged.

17 Q When did you see that?

18 A I can't recall.

19 Q When you saw that, did you recall having  
20 visited him during your time as a sales  
21 representative?

22 A He was familiar. I recognized his face  
23 from seeing him on TV.

24 Q You saw him on TV recently?

25 A No, not recently. Back when the news

1 story was, and I don't recall when that was.

2 Q Whenever the news story broke about him  
3 running a pill mill, you saw it and recalled  
4 him?

5 A When the news story about his, I guess,  
6 indictment or legal action was, yes.

7 Q You're aware that he was the largest  
8 prescriber of prescription opioids in 2014;  
9 correct?

10 MR. FIORE: Object to form.

11 THE WITNESS: I was not aware of that.

12 Q (BY MR. PATE) Are you aware that at  
13 least three of his former patients have died?

14 MR. FIORE: Same objection.

15 THE WITNESS: I don't have any knowledge  
16 of that.

17 Q (BY MR. PATE) It wasn't right for Teva  
18 to send you to this doctor, was it?

19 MR. FIORE: Objection to the form of the  
20 question.

21 THE WITNESS: I can't answer that.

22 Q (BY MR. PATE) It wasn't right for Teva  
23 to send you to this doctor with an opioid to  
24 sell him, was it?

25 MR. FIORE: Same objection.



1 speculation.

2 THE WITNESS: Well, again, I can only  
3 speak to my experience, and, again, any family  
4 practitioner that I would have seen would have  
5 had some affiliation with a hospice or saw  
6 patients that experienced breakthrough cancer  
7 pain, again, those appropriate and consistent  
8 with what's in the label.

9 Q (BY MR. PATE) Otherwise, you wouldn't  
10 have gone to see him; correct?

11 A I don't believe I would have had any --  
12 any reason to.

13 Q Are you aware that Dr. Pope has been  
14 accused of writing 19 prescriptions over less  
15 than a 12-month period for a 27-year-old patient  
16 who complained of back pain and was also on  
17 Xanax at the same time?

18 MR. FIORE: Objection to the form of the  
19 question.

20 THE WITNESS: I don't have -- I was not  
21 aware of that. I don't have that knowledge.

22 Q (BY MR. PATE) That's not something you  
23 heard about in the media?

24 A Not that I recall, no, sir.

25 Q You weren't aware that they found this

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JURAT

STATE OF OKLAHOMA, EX REL.,

VS.

PURDUE PHARMA, ET AL.

I, Brian Vaughn, do hereby state under  
oath that I have read the above and foregoing  
deposition in its entirety and that the same is  
a full, true and correct transcription of my  
testimony so given at said time and place,  
except for the corrections noted.

\_\_\_\_\_

BRIAN VAUGHN

Subscribed and sworn to before me, the  
undersigned Notary Public in and for the State  
of \_\_\_\_\_, by said witness, on this, the  
\_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Job No. 132744

# **EXHIBIT D**

**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, INC.; §  
(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

The Honorable Thad Balkman

JURY TRIAL DEMANDED

**PLAINTIFF'S RESPONSES AND OBJECTIONS TO DEFENDANT TEVA  
PHARMACEUTICALS USA, INC.'S SECOND SET OF INTERROGATORIES TO  
PLAINTIFF**

Pursuant to 12 OKLA. STAT. §3233, Plaintiff, the State of Oklahoma (the "State" or "Plaintiff"), hereby submits its Responses and Objections to Defendant Teva Pharmaceuticals USA, Inc.'s ("Teva" or "Defendant") Second Set of Interrogatories to Plaintiff. The State



specifically reserves the right to supplement, amend and/or revise these Responses and Objections in accordance with 12 OKLA. STAT. §3226.

### **GENERAL OBJECTIONS**

1. By responding to Defendant's interrogatories, the State concedes neither the relevance nor admissibility of any information provided or documents or other materials produced in response to such requests. The production of information or documents or other materials in response to any specific interrogatory does not constitute an admission that such information is probative of any particular issue in this case. Such production or response means only that, subject to all conditions and objections set forth herein and following a reasonably diligent investigation of reasonably accessible and non-privileged information, the State believes the information provided is responsive to the request.

2. The State objects that much of the requests sought are premature and, as such, provides the responses set forth herein solely based upon non-privileged information presently known to and within the possession, custody or control of the State. Subsequent discovery, information produced by Defendant or the other named Defendants in this litigation, investigation, expert discovery, third-party discovery, depositions and further analysis may result in additions to, changes or modifications in, and/or variations from the responses and objections set forth herein. Accordingly, the State specifically and expressly reserves the right to supplement, amend and/or revise the responses and objections set forth herein in due course and in accordance with 12 OKLA. STAT. §3226.

3. The State objects to the inappropriate manner by which Defendants attempt or may attempt in the future to increase the number of interrogatories to which the State must respond, as Defendants have purported to serve separate interrogatories from subsidiaries and affiliates of

related entities. The Oklahoma Code of Civil Procedure states, “[t]he number of interrogatories to a party shall not exceed thirty in number.” 12 OKLA. STAT. §3233(A). As such, absent an order to the contrary modifying these limitations, each party to this litigation, including the State, is only required to respond to a sum total of 30 interrogatories, regardless of the number of parties purporting to serve such interrogatories. However, to avoid dispute, the State will agree to respond to 30 interrogatories from each Defendant, without waiving, but rather expressly reserving, this objection.

4. The State further objects that Defendants have exceeded their respective 30-interrogatory limit. The Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants’ first interrogatories were divided into six sets from separate named Defendants, these first interrogatories were “joint requests” that sought information related to all Defendants simultaneously and were not limited to the serving Defendant (the “First Interrogatories”). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories, to which the State will respond in these Responses and Objections. Moreover, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State’s count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories. Thereafter, Defendant improperly served multiple additional interrogatories (not including separate and distinct subparts). The State restates and incorporates herein the same objections related to discovery limits raised in the State’s previous responses and

objections to Defendants' interrogatories and expressly reserves any and all objections to those interrogatories that exceed Defendant's limits which are not answered herein.

5. The State further objects to the compound nature of Defendant's Interrogatories and will appropriately construe any compound Interrogatories as consisting of separate Interrogatories that count towards the total of 30 interrogatories to which the State has agreed to respond for each Defendant. *See* 12 OKLA. STAT. §3233(A). However, any response to a compound interrogatory herein shall not constitute a waiver of the State's objection to the Interrogatory's compound nature or the State's right to refuse to respond to any interrogatories that exceed the number of interrogatories to which the State must respond under Section 3233(A).

#### **OBJECTIONS TO INSTRUCTIONS**

1. The State objects to Defendant's Instruction Number 1 as vague, ambiguous, overly broad, disproportionate to the needs of the case, seeking to impose a burden on the State that exceeds what is permissible under Oklahoma law, seeking information protected from disclosure by privilege and/or the work product doctrine, and calling for information that is not in the possession, custody or control of and is not reasonably accessible to the State. To the extent the State can and does provide a response to any interrogatory, the State's response is based on the information known to and within the possession, custody and control of the State following a reasonably diligent investigation. The State further objects to Defendant's Instruction Number 1 to the extent that it attempts to require the State to describe or identify sources of information outside the State's possession, custody or control. The State will object and/or respond to each interrogatory in accordance with 12 OKLA. STAT. §3233.

2. The State objects to Defendant's Instruction Number 2, which states that Defendant's requests are "continuing," as seeking to impose a burden upon the State that is beyond

what is permissible under Oklahoma law. The State will respond to Defendant's interrogatories based on a reasonably diligent investigation of the information currently known to and within the possession, custody and control of the State, and the State will amend or supplement its responses, if necessary, in accordance with 12 OKLA. STAT. §3226.

3. The State objects to Defendant's Instruction Number 3 as ambiguous, vague, unreasonable, overbroad, unduly burdensome and an impermissible attempt to impose a burden upon the State beyond what is allowable under Oklahoma law. To the extent the State withholds otherwise discoverable information on the basis of any claim of privilege or work-product trial preparation material, the State will supply Defendant with the information required under Oklahoma law related to such information at the appropriate time and/or in accordance with the orders of the Court. *See* 12 OKLA. STAT. §3226(B)(5)(a). To the extent the State withholds any information for any other reasons, the State will comply with its obligations under Oklahoma law.

4. The State objects to Defendant's Instruction Number 5 because it seeks to impose a burden on the State beyond those permitted or contemplated under Oklahoma law. The State will respond to Defendant's requests according to how they are written. To the extent Defendant chose to use vague or indecipherable terms, the State will reasonably construe such term based upon their plain and ordinary meaning.

5. The State objects to Defendant's Instruction Number 6 because it seeks to impose a burden on the State beyond what is permitted under Oklahoma law. If the State answers an interrogatory by reference to its business records, the State will do so in the manner permitted under 12 OKLA. STAT. §3233(C) and provide the information called for by that statute.



## **OBJECTIONS TO DEFINITIONS**

1. The State objects to Defendant's Definition of the term "Claim" as vague, overbroad, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, irrelevant and unworkable. "[A]ny request for payment or reimbursement" encompasses an infinitely unlimited amount of information that has no bearing whatsoever on the parties to this action or the claims or defenses asserted in this action. Based on the claims and defenses at issue in this case, the State will reasonably interpret the term "claim" to mean a request for payment or reimbursement submitted to the Oklahoma Health Care Authority pursuant to Oklahoma's Medicaid Program as related to the claims and defenses at issue in this litigation.

2. The State objects to Defendant's Definition of the term "Communication(s)" as vague, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, unworkable and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. Specifically, the State objects to the terms "conduct" and "omissions" in Defendant's purported definition. The State will reasonably interpret the term "communication(s)" to mean the transmittal of information between two or more persons, whether spoken or written.

3. The State objects to Defendant's Definition second purported definition of the term "document(s)" as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant and attempting to impose a burden on the State beyond what is permissible under Oklahoma law. The State will not create "instructions" or "other materials" that do not otherwise exist. Nor will the State produce: (i) "file-folder[s], labeled-box[es], or notebook[s]"; and (ii) "ind[ices], table[s] of contents, list[s], or summaries that serve to organize, identify, or reference" a document simply because a responsive document is related to or contained within such information. Pursuant to 12 OKLA. STAT. §§3233-3234, following a reasonably diligent

investigation, the State will permit inspection of the reasonably accessible, responsive, non-privileged documents, as that term is defined in 12 OKLA. STAT. §3234(A)(1), within the State's possession, custody or control that the State is reasonably able to locate at a time and place mutually agreeable to the parties. To the extent a folder, label, container, index, table of contents, list or summary is otherwise responsive to a request and satisfies these conditions, it will be made available for inspection or produced.

4. The State objects to Defendant's Definition of "Electronically Stored Information" as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant to the claims and defenses at issue, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. The State will not produce ESI from sources that are not reasonably accessible or over which the State does not have sufficient custody and/or control. The State will produce or permit the inspection of ESI in the manner set forth in the State's Responses and Objections to Defendant's First Set of Requests for Production of Documents to Plaintiff, and/or according to any agreements between the parties.

5. The State objects to Defendant's Definition of the term "Employee" as overly broad, unduly burdensome, disproportionate to the needs of the case, irrelevant to the claims and defenses at issue, calling for information beyond what is within the State's possession, custody and control, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. The State will reasonably construe the term "employee" to mean an individual employed by the State during the inquired-about time period over whom the State maintains sufficient custody and control to enable the State to possess or access responsive records or information pertaining to the individual.

6. The State objects to Defendant's Definition of the terms "Healthcare Professional(s)" or "HCP(s)." Defendant's proposed definition is overly broad, irrelevant to the claims and defenses at issue, unduly burdensome and disproportionate to the needs of the case in that the definition is not limited in any way to the State of Oklahoma or any particular time period. The State will reasonably construe the use of these terms to mean healthcare professionals or providers who provided medical or health care services in the State of Oklahoma to citizens in the State of Oklahoma. The State further incorporates each of its objections to the Definition of "Medical Assisted Treatment" below as if fully set forth in this objection to the Definitions of "Healthcare Professional(s)" or "HCP(s)."

7. The State objects to Defendant's Definition of the term "Medication Assisted Treatment." Defendant's purported definition is overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, and disproportionate to the needs of this case, because it attempts to encompass treatment related to any "substance abuse disorder[]" and any effort to "prevent Opioid overdose." The State incorporates its objections to Defendant's Definition of the term "Opioid(s)" below as if fully set forth in this objection to the Definition of Medication Assisted Treatment." The State will reasonably construe the term "Medication Assisted Treatment" to mean substance abuse treatment related to the claims and defenses at issue in this litigation.

8. The State objects to Defendant's Definition of the terms "Oklahoma Agency" or "Oklahoma Agencies" as overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, disproportionate to the needs of the case, and improperly calling for information that is not in the possession, custody or control of the State. The State will reasonably construe the terms "Oklahoma Agency" or "Oklahoma Agencies" to mean agencies of the State of Oklahoma

represented in this action and over whom the State of Oklahoma, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

9. The State objects to Defendant's Definition of the term "Opioid(s)" as misleading because of its use of the terms "FDA-approved" and "pain-reducing" and because it is defined without regard to any of the pharmaceutical products or drugs at issue in this case. The State will reasonably construe the terms "Opioid(s)" to mean the opioid medications or drugs related to the claims and defenses at issue in this litigation.

10. The State objects to Defendant's Definition of the term "Patient(s)." This definition—"any human being to whom an Opioid is prescribed or dispensed"—is overly broad, unduly burdensome, irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of the case on its face because it lacks any geographical or temporal limitation that has any bearing on this case, and could be construed to seek information outside the State's possession, custody, or control. The State will reasonably construe the term "patient" to mean an individual who was prescribed an Opioid in the State of Oklahoma.

11. The State objects to Defendant's Definition of the term "Program(s)" and incorporates its objections to the Definitions of "Oklahoma Agency" and "Opioids" as if fully set forth herein. Defendant's purported definition of "Program" is similarly overly broad, irrelevant to the claims and defenses at issue in this action, unduly burdensome and disproportionate to the needs of the case, because it includes no temporal limitations and is entirely untethered to the issues involved in this litigation. The State will reasonably construe the term "Program" to mean a program administered by the State of Oklahoma that reviews, authorizes, and/or determines the conditions for payment or reimbursement for the opioid medications or drugs and related treatment

relevant to the claims and defenses at issue in this litigation and over which the State possesses control.

12. The State objects to Defendant's Definition of the term "Vendor" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control. The State further incorporates its objections to and reasonable constructions of the terms defined in the Definitions of "HCP" and "Program" as if fully set forth herein.

13. The State objects to Defendant's Definition of the terms "You," "Your," "State," "Oklahoma," and "Plaintiff" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control because the definition attempts to require the State to not simply respond on its own behalf, but also on behalf of "all its departments, agencies, and instrumentalities" without regard for whether the State represents such entities in this litigation and maintains sufficient control over such entities to enable the State to have reasonable access to or possession, custody or control of such entities' records. The State will respond on behalf of the State and those State agencies represented in this litigation and over which the State, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

#### **RESPONSES AND OBJECTIONS TO INTERROGATORIES**

**INTERROGATORY NO. "5":** Identify all Opioids manufactured by Teva and prescribed in Oklahoma that You claim were "unnecessary" or "excessive," including, but not

limited to, the date of the prescription, the amount of the prescription, the cost of the prescription, and the amount of that cost paid for or reimbursed by You.

**RESPONSE TO INTERROGATORY NO. "5":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "Opioids" and "You," as if fully set forth herein.

The State further objects to this Interrogatory because it attempts to force the State to marshal all of its evidence, including expert evidence, prior to the deadlines set forth in the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Moreover, because this Interrogatory implicates the content and subject matter of potentially relevant documents and materials that the State is reasonably collecting, searching for, reviewing, and producing, the State will supplement and/or amend its response to this Interrogatory in accordance with 12 OKLA. STAT. §3226 and 12 OKLA. STAT. §3233(C). Further, the State will produce and disclose expert information called for by this Interrogatory in accordance with the scheduling Order entered by the Court.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous questions under the guise of a single interrogatory. In reality, this Interrogatory is actually at least five (5) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

The State objects to this Interrogatory to the extent it wrongly assumes that: (a) Defendant is liable solely for the prescriptions identified in paragraph 38 and Exhibit 4 of the Petition; and (b) Defendant's liability is limited to a per prescription basis as opposed to unnecessary or excessive MMEs and/or pills.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories. The State objects on the grounds that Defendant has exceeded the 30 interrogatories it is permitted to send. However, subject to and without waiving that objection, the State will agree to answer the first 6 additional interrogatories from Defendant, to the extent such interrogatories are appropriate and capable of being answered.

Subject to the above general and specific objections, the State responds as follows:

*See* State's Objections and Responses to Defendant Cephalon Inc.'s Second set of Interrogatories, at Interrogatories Nos. 1 and 2, which are incorporated herein by reference. *See* State's Objections and Responses to Defendant Janssen Pharmaceuticals, Inc.'s Interrogatories Nos. 1 and 2, which are incorporated herein by reference.

At this time and based on the information reviewed to date, and subject to ongoing discovery and expert disclosures, the State's position is that it is more likely than not that (1) opioid prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare, other than those written for end-of-life palliative care or for a three-day supply to treat acute pain, were

“unnecessary,” “excessive,” and/or “false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act,” and (2) opioids prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare for end-of-life palliative care or for a three-day supply to treat acute pain were *not* “unnecessary,” “excessive,” and/or “false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act.” The State will continue to supplement this response as expert review continues for these claims.

The State refers Defendant to OHCA-00000001 – OHCA-00000002, produced on May 8, 2018, which constitute the Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996–2017. These databases (which are identical in content but were produced in two different formats for Defendants’ convenience) can be queried and sorted by Defendants for use in this litigation and to identify those prescriptions responsive to this request.

**INTERROGATORY NO. “6”:** For each prescription You identified as “unnecessary or excessive” in response to Interrogatory No. 5, describe Your basis for alleging that it was “unnecessary or excessive.”

**RESPONSE TO INTERROGATORY NO. “6”:**

The State incorporates its general objections and objections to Defendant’s instructions and definitions above, including the State’s objections to Defendant’s definitions of the terms “Opioids” and “You,” as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before required or appropriate under the Oklahoma Code of Civil Procedure and/or the Court’s scheduling Order. *See* 12 OKLA. STAT. §3233(B). The State will respond based on the information currently known to and within the possession, custody and control of the State



following a reasonably diligent investigation and will supplement and/or amend its response in due course according to 12 OKLA. STAT. §3226. The State will produce and disclose expert information in accordance with the scheduling Order entered by the Court.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or are inconsistent with Oklahoma law.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories. The State objects on the grounds that Defendant has exceeded the 30 interrogatories it is permitted to send. However, subject to and without waiving that objection, the State will agree to answer the first 6 additional interrogatories from Defendant, to the extent such interrogatories are appropriate and capable of being answered.

Subject to the above general and specific objections, the State responds as follows:

*See State's Objections and Responses to Defendant Cephalon Inc.'s Second set of Interrogatories, at Interrogatory No. 2, which are incorporated herein by reference. See State's*

Objections and Responses to Defendant Janssen Pharmaceuticals, Inc.'s Interrogatories Nos. 1 and 2, which are incorporated herein by reference. *See* State's Objections and Responses to Defendant Purdue Pharma Inc.'s Interrogatory No. 3, which are incorporated herein by reference.

At this time and based on the information reviewed to date, and subject to ongoing discovery and expert disclosures, the State's position is that it is more likely than not that (1) opioid prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare, other than those written for end-of-life palliative care or for a three-day supply to treat acute pain, were "unnecessary," "excessive," and/or "false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act," and (2) opioids prescriptions written in the State of Oklahoma since 1996 and reimbursed by SoonerCare for end-of-life palliative care or for a three-day supply to treat acute pain were *not* "unnecessary," "excessive," and/or "false, fraudulent, or otherwise reimbursed in violation of the Oklahoma Medicaid False Claims Act." The State will continue to supplement this response as expert review continues for these claims.

The State refers Defendant to OHCA-00000001 – OHCA-00000002, produced on May 8, 2018, which constitute the Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996–2017. These databases (which are identical in content but were produced in two different formats for Defendants' convenience) can be queried and sorted by Defendants for use in this litigation and to identify those prescriptions responsive to this request.

The State's principal methods and criteria for determining whether medical treatment is medically necessary and, thus, whether a claim is reimbursable by SoonerCare are set forth in the Oklahoma Administrative Code and require the consideration of the following standards:

- (1) Services must be medical in nature and must be consistent with accepted health care practice standards and guidelines for the prevention, diagnosis or treatment of symptoms of illness, disease or disability;

- (2) Documentation submitted in order to request services or substantiate previously provided services must demonstrate through adequate objective medical records, evidence sufficient to justify the client's need for the service;
- (3) Treatment of the client's condition, disease or injury must be based on reasonable and predictable health outcomes;
- (4) Services must be necessary to alleviate a medical condition and must be required for reasons other than convenience for the client, family, or medical provider;
- (5) Services must be delivered in the most cost-effective manner and most appropriate setting; and
- (6) Services must be appropriate for the client's age and health status and developed for the client to achieve, maintain or promote functional capacity.

OKLA. ADMIN. CODE §317:30-3-1(f). However, when parties engage in and conspire to engage in a widespread misinformation campaign, such as Defendants did here, such conduct corrupts the informed consideration of these criteria and, thus, the certification of these determinations.

The State notes that Defendants have pled the learned intermediary doctrine in an attempt to blame physicians for the fallout of the opioid epidemic. The State disagrees that such a defense is legally or factually applicable to this case. In Oklahoma, the learned intermediary defense is only available in products liability cases. *See McKee v. Moore*, 1982 OK 71, ¶¶6–8, 648 P.2d 21; *Brown v. Am. Home Prods. Corp.*, No. 1203, 2009 U.S. Dist. LEXIS 30298, at \*24 (E.D. Pa. Apr. 2, 2009). This case is not a products liability case. Therefore, the learned intermediary doctrine is not applicable. Moreover, “[t]o invoke a defense to liability under the learned intermediary doctrine, a manufacturer seeking its protection must provide sufficient information to the learned intermediary of the risk subsequently shown to be the proximate cause of a plaintiff's injury.” *Tortorelli v. Mercy Health Ctr., Inc.*, 2010 OK CIV APP 105, ¶27, 242 P.3d 549. Here, Defendants intentionally *misrepresented* the risks of opioid addiction in a sprawling and coordinated marketing campaign targeting doctors and others throughout Oklahoma and the country. Defendants initiated a scheme to change the way physicians think about opioids. Defendants cannot falsely market their drugs to physicians and, at the same time, claim physicians should have

known better. As such, even if the learned intermediary doctrine were applicable here (which it is not), Defendants cannot take advantage of the doctrine because they intentionally misrepresented the true risks of opioids, which risks caused the opioid epidemic in Oklahoma.

Other information related to the State's consideration of the medical necessity of opioid-related treatments, includes, but is not limited to, information which is incorporated herein by reference, as identified by citation or reference in: (i) the State's Original Petition, filed on June 30, 2017; (ii) The State's Omnibus Response to Defendants' Motions to Dismiss, filed on October 30, 2017; and (iii) the State's Responses to Defendants' First Interrogatories, specifically Cephalon Interrogatory Nos. 1-2, and Purdue Pharma Interrogatory No. 4.

In addition, the State refers Defendant to OHCA-00000001 – OHCA-00000002, which were produced on May 8, 2018 and constitute Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996--2017.

The State will supplement its Response to this Interrogatory as additional documents, information, reports, studies and research is gathered, reviewed and produced as a part of the State's ongoing investigation and reasonably diligent search for information responsive to Defendants' Interrogatories and Requests for Production of Documents.

**INTERROGATORY NO. "7":** For each prescription You identified as "unnecessary or excessive" in response to Interrogatory No. 5, identify the name and address of the HCP who issued the prescription, the name and address of the Patient to whom the prescription was issued, the diagnosis of the Patient receiving the prescription, and the name of the Oklahoma Agency employee(s) who approved Your payment or reimbursement of each such prescription.

**RESPONSE TO INTERROGATORY NO. "7":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "HCP," "Patient," "Oklahoma Agency," "Employee(s)," and "You" as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The Interrogatory is overbroad and unreasonable on its face because it seeks addresses of individuals, both healthcare providers and patients, that are not readily accessible to the State. To the extent the State is in possession of current names and addresses of healthcare providers and patients that have participated in the SoonerCare program, despite the number of years spanned by the pharmacy claims at issue, such names and addresses must be cross-referenced through several data sets or information repositories. Many such names and addresses would likely be stale. Further, the names and addresses of healthcare providers and patients are irrelevant to the claims and defenses in this action and/or any minimal relevance of this information is substantially outweighed by the burden of providing it, especially if Defendant's request is interpreted as requesting *current* names and addresses, which change over time.

The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed, Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law.

The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous questions under the guise of a single interrogatory. In reality, this Interrogatory is actually at least four (4) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories. The State objects on the grounds that Defendant has exceeded the 30 interrogatories it is permitted to send. However, subject to

and without waiving that objection, the State will agree to answer the first 6 additional interrogatories from Defendant, to the extent such interrogatories are appropriate and capable of being answered.

Subject to the above general and specific objections, the State responds as follows:

*See* State's Objections and Responses to Defendant Cephalon Inc.'s Second set of Interrogatories, at Interrogatory No. 3, which are incorporated herein by reference. *See* State's Objections and Responses to Defendant Janssen Pharmaceuticals, Inc.'s Interrogatories Nos. 1 and 2, which are incorporated herein by reference. *See* State's Objections and Responses to Defendant Purdue Pharma Inc.'s Interrogatory No. 4, which are incorporated herein by reference. Further, the State's response to this interrogatory depends, in part, upon the Court's future rulings regarding patient privacy and other related issues, and the State reserves the right to amend or supplement this response based upon such rulings. *See* August 31, 2018 Hearing Transcript at 86.

The State refers Defendant to OHCA-00000001 – OHCA-00000002, which were produced on May 8, 2018 and constitute de-identified Oklahoma Medicaid claims data for all opioid prescriptions for the years 1996–2017. The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

**INTERROGATORY NO. "8":** For each HCP You identified in response to Interrogatory No. 7, identify each misrepresentation to that HCP that caused the HCP to prescribe the "unnecessary or excessive" prescription You identified in response to Interrogatory No. 5, including the date the HCP received the misrepresentation and the means by which the misrepresentation was communicated to the HCP.

**RESPONSE TO INTERROGATORY NO. "8":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You" and "HCP," as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before any meaningful discovery has taken place in this action. *See* 12 OKLA. STAT. §3233(B). To the extent the State can respond to this Interrogatory at this preliminary stage, the State will do so based on the information currently known to and within the possession, custody and control of the State following a reasonably diligent investigation and will supplement and/or amend its response in due course according to 12 OKLA. STAT. §3226. Moreover, because this Interrogatory primarily seeks the identity of documents and materials at this preliminary stage of discovery while the State is reasonably collecting, gathering, investigating, reviewing and searching for such responsive documents, the State will supplement and/or amend its response to this Interrogatory in accordance with 12 OKLA. STAT. §3226 and 12 OKLA. STAT. §3233(C). Further, the State will produce and disclose expert information, including the expert "methods, criteria, information, reports, studies, and medical or scientific research" called for by this Interrogatory, in accordance with the scheduling Order entered by the Court.

The State further objects to this interrogatory as overbroad, unduly burdensome, vague, ambiguous, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The request to identify each and every misrepresentation made by Defendants related to both branded opioids and opioids generally—all of which misrepresentations



were intended to change the way healthcare providers thought about opioids and to encourage over-prescribing of opioids—for a period of over two decades is overbroad and unduly burdensome on its face. Further, the State is not required in this litigation to identify each and every misrepresentation made by defendants or to tie specific misrepresentations to each false or fraudulent claim reimbursed by the State. The State will prove its claims as required by Oklahoma law and in accordance with the applicable rules of evidence.

The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed, Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. Specifically, the State objects to this interrogatory to the extent it suggests or assumes Defendant must have made a misrepresentation directly to an Oklahoma healthcare provider to be liable for the State's claims under the Oklahoma Medicaid False Claims Act.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted

of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories. The State objects on the grounds that Defendant has exceeded the 30 interrogatories it is permitted to send. However, subject to and without waiving that objection, the State will agree to answer the first 6 additional interrogatories from Defendant, to the extent such interrogatories are appropriate and capable of being answered.

Subject to the above general and specific objections, the State responds as follows:

*See State's Objections and Responses to Defendant Cephalon Inc.'s Second set of Interrogatories, at Interrogatory No. 4, which are incorporated herein by reference. See State's Objections and Responses to Defendant Janssen Pharmaceuticals, Inc.'s Interrogatories Nos. 1, 2 and 3, which are incorporated herein by reference. See State's Objections and Responses to Defendant Johnson & Johnson's Interrogatory No. 2, which are incorporated herein by reference.*

The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

**INTERROGATORY NO. "9":** For each Oklahoma Agency employee You identified in response to Interrogatory No. 7, identify each misrepresentation that caused that employee to approve the payment for or reimbursement of each "unnecessary or excessive" prescription You identified in response to Interrogatory No. 5, including the date the employee

received that misrepresentation and the means by which that misrepresentation was communicated to that employee.

**RESPONSE TO INTERROGATORY NO. "9":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "Oklahoma Agency," and "Employee" as if fully set forth herein.

*See* Objections and Response to Interrogatory No. 4 above, which are hereby incorporated by this reference as if fully set forth herein. The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. Specifically, the State objects to this interrogatory to the extent it suggests or assumes Defendant must have made a misrepresentation directly to an employee of an Oklahoma Agency to be liable for the State's claims under the Oklahoma Medicaid False Claims Act.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct

subparts are properly counted through the First Interrogatories. The State objects on the grounds that Defendant has exceeded the 30 interrogatories it is permitted to send. However, subject to and without waiving that objection, the State will agree to answer the first 6 additional interrogatories from Defendant, to the extent such interrogatories are appropriate and capable of being answered.

Subject to the above general and specific objections, the State responds as follows:

*See State's Objections and Responses to Defendant Cephalon Inc.'s Second set of Interrogatories, at Interrogatory No. 5, which are incorporated herein by reference. See State's Objections and Responses to Defendant Janssen Pharmaceuticals, Inc.'s Interrogatories Nos. 1, 2 and 3, which are incorporated herein by reference. See State's Objections and Responses to Defendant Johnson & Johnson's Interrogatory No. 2, which are incorporated herein by reference. See generally State's Objections and Responses to Defendant Purdue Pharma, L.P.'s First Set of Interrogatories, which are incorporated herein by reference. See State's Objections and Responses to Defendant Purdue Pharma Inc.'s Interrogatory No. 5, which are incorporated herein by reference.*

The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

**INTERROGATORY NO. "10":** Identify each instance in which You or any other entity that provides or administers benefits for Your Programs denied payment or reimbursement for a prescription of an Opioid manufactured by Teva as "unnecessary or excessive," and describe the details of the denial, including the date, claim number, name and address of the HCP, name

and address of the Patient, reason(s) given for the denial, and associated records or other documentation.

**RESPONSE TO INTERROGATORY NO. "10":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "Program," "Opioid" "HCP," and "Patient" as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The Interrogatory is overbroad and unreasonable on its face because it seeks addresses of individuals, both healthcare providers and patients, that are not readily accessible to the State, and because it seeks identification of "each instance" a claim was denied. To the extent the State is in possession of current names and addresses of healthcare providers and patients that have participated in the SoonerCare program, despite the number of years spanned by the pharmacy claims at issue, such names and addresses must be cross-referenced through several data sets or information repositories. Many such names and addresses would likely be stale. Further, the names and addresses of healthcare providers and patients are irrelevant to the claims and defenses in this action and/or any minimal relevance of this information is substantially outweighed by the burden of providing it, especially if Defendant's request is interpreted as requesting *current* names and addresses, which change over time.

The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed,

Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy.

The State further objects that this Interrogatory is a premature contention interrogatory, which seeks to force the State to marshal all of its evidence, including expert evidence, before required or appropriate under the Rules of the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). To the extent the State can respond to this Interrogatory at this stage, the State will do so based on the information currently known to and within the possession, custody and control of the State following a reasonably diligent investigation and will supplement and/or amend its response in due course according to 12 OKLA. STAT. §3226. Further, the State will produce and disclose expert information in accordance with the scheduling Order entered by the Court.

The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. By the State's

count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories. The State objects on the grounds that Defendant has exceeded the 30 interrogatories it is permitted to send. However, subject to and without waiving that objection, the State will agree to answer the first 6 additional interrogatories from Defendant, to the extent such interrogatories are appropriate and capable of being answered.

Subject to the above general and specific objections, the State responds as follows:

*See State's Objections and Responses to Defendant Cephalon Inc.'s Second set of Interrogatories, at Interrogatory No. 6, which are incorporated herein by reference. See State's Objections and Responses to Defendant Janssen Pharmaceuticals, Inc.'s Interrogatories Nos. 1, 2 and 3, which are incorporated herein by reference. See State's Objections and Responses to Defendant Johnson & Johnson's Interrogatory No. 2, which are incorporated herein by reference. See generally State's Objections and Responses to Defendant Purdue Pharma, L.P.'s First Set of Interrogatories, which are incorporated herein by reference. See State's Objections and Responses to Defendant Purdue Pharma Inc.'s Interrogatory No. 6, which are incorporated herein by reference.*

The State will produce non-privileged, responsive and relevant business records from which the answer to this interrogatory or parts of this interrogatory may be derived or ascertained, and the burden of deriving or ascertaining the answer is substantially the same for Defendant as it is for the State.

**INTERROGATORY NO. "11":** Identify the prescriptions of Opioids manufactured by Teva that were issued to Oklahoma Patients as a result of Teva's allegedly false representations about the risks and benefits of Opioids and/or omission of information, as alleged in paragraph 53

of the Petition, including the date of each prescription, the identity of the HCP who wrote the prescription, the misrepresentation by Teva that caused that HCP to write the prescription, the name and address of the Patient who received the prescription, the diagnosis of the Patient receiving the prescription, the amount of the prescription, and any harm to the Patient that allegedly resulted from the prescription.

**RESPONSE TO INTERROGATORY NO. "11":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "HCP," "Patient," and "Opioid," as if fully set forth herein.

The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The Interrogatory purportedly seeks information outside of the State's possession, custody or control for patients not subject to SoonerCare. To the extent the State is in possession of current names and addresses of healthcare providers and patients who have participated in the SoonerCare program, despite the number of years spanned by the pharmacy claims at issue, such names and addresses must be cross-referenced through several data sets or information repositories. Many such names and addresses would likely be stale. Further, the names and addresses of healthcare providers and patients are irrelevant to the claims and defenses in this action and/or any minimal relevance of this information is substantially outweighed by the burden of providing it, especially if Defendant's request is interpreted as requesting *current* names and addresses, which change over time.



The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed, Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or are inconsistent with Oklahoma law. The State further objects to this Interrogatory to the extent that it assumes the State must prove "harm to the Patient that allegedly resulted from the prescription" for any particular prescription or patient at issue in the case.

The State further objects to this Interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules and regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules and regulations.

The State further objects to this Interrogatory because it is a premature contention interrogatory that seeks to force the State to marshal all of its evidence, including expert evidence before required or appropriate under the Rules and the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). The State will produce and disclose expert information in accordance with the scheduling Order entered by the Court.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of

a single interrogatory. In reality, this Interrogatory is actually at least four (4) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

**INTERROGATORY NO. "12":** Identify and describe all disciplinary proceedings, civil actions, or criminal charges brought or initiated by an Oklahoma Agency related to the opioid prescribing practices of any HCP identified in Your responses to these Interrogatories.

**RESPONSE TO INTERROGATORY NO. "12":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "HCP," "Oklahoma Agency," "Opioid" and "Your" as if fully set forth herein.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations, including information related to litigation and investigations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least four (4) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First

Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

Subject to the above general and specific objections, the State responds as follows:

*See* State's Production of documents labeled OBN-00000174 - OBN-00001780; OKMB-00000001 - OKMB-00003529.

**INTERROGATORY NO. "13":** For each disciplinary proceeding, civil action, or criminal charge identified by You in response to Interrogatory No. 12, identify the Oklahoma Agency employee(s) responsible for conducting and supervising the investigation that preceded each disciplinary proceeding, civil action, or criminal charge.

**RESPONSE TO INTERROGATORY NO. "13":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "Oklahoma Agency," "Employee(s)," "Your" and "You," as if fully set forth herein.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations, including information related to litigation and investigations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least four (4) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First

Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were “joint requests” that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State’s count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

**INTERROGATORY NO. “14”:** State whether You have received any complaints regarding the Opioid prescribing practices of any HCP identified in your responses to these interrogatories, and identify the HCP(s) against whom the complaints were made, the Oklahoma Agency that received the complaint, the Oklahoma Agency employee who was responsible for investigating the complaint, the date of the complaint, and the name and address of the person making the complaint, and describe the substance of the complaint.

**RESPONSE TO INTERROGATORY NO. “14”:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "Your," "HCP," "Oklahoma Agency," and "Employee(s)" as if fully set forth herein.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations, including information related to litigation and investigations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it *indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory*. In reality, this Interrogatory is actually at least seven (7) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First

Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were “joint requests” that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State’s count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

**INTERROGATORY NO. “15”:** State whether any Oklahoma Agency initiated any investigation concerning the Opioid prescribing practices of any HCP identified in your responses to these interrogatories that did not result in disciplinary proceedings, civil actions, or criminal charges against that HCP, and identify the HCP(s) investigated and the dates of the investigation(s), and describe the findings and conclusions of each investigation.

**RESPONSE TO INTERROGATORY NO. “15”:**

The State incorporates its general objections and objections to Defendant’s instructions and definitions above, including the State’s objections to Defendant’s definitions of the terms “You,” “Your,” “Oklahoma Agency,” and “HCP,” as if fully set forth herein.



The State further objects to this interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations, including litigation and investigations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least five (5) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First

Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

**INTERROGATORY NO. "16":** For each investigation identified by You in response to Interrogatory No. 15, identify the Oklahoma Agency employee(s) responsible for conducting and supervising the investigation.

**RESPONSE TO INTERROGATORY NO. "16":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," "Oklahoma Agency" and "Employee(s)," as if fully set forth herein.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or

element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations, including litigation and investigations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act (“HIPAA”), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants’ First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were “joint requests” that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State’s count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already

responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

**INTERROGATORY NO. "17":** Identify each "misrepresentation" or "omission" by Teva regarding Opioids, as alleged in paragraph 118 of the Petition, each "condition" "created" by each identified misrepresentation and omission, *id.*, and identify each individual "communit[y], neighborhood[,]," and "person[]," *id.*, affected by the misrepresentations and omissions You identified.

**RESPONSE TO INTERROGATORY NO. "17":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You" and "Opioids" as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before required or appropriate under the Oklahoma Code of Civil Procedure and the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Further, the State will produce and disclose expert information, including the information sought in this Interrogatory, in accordance with the scheduling Order entered by the Court.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The request to identify each and every misrepresentation made by Defendants related to both branded opioids and opioids generally—all of which misrepresentations were

intended to change the way healthcare providers thought about opioids and to encourage over-prescribing of opioids—for a period of over two decades is overbroad and unduly burdensome on its face. Further, the State is not required in this litigation to identify each and every misrepresentation made by Defendants or to tie specific misrepresentations to each false or fraudulent claim reimbursed by the State. The request to identify each and every “ ‘condition’ ‘created’ ” by Defendants’ false marketing and misrepresentations and each individual, community, neighborhood, and person affected by Defendants’ behavior and products—all for a period of over two decades—is overbroad and unduly burdensome on its face, as the opioid addiction and overdose epidemic has ravaged this State, its families, and its citizens with unimaginable loss, tragedy and expense. The State will prove its claims as required by Oklahoma law and in accordance with the applicable rules of evidence.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State’s causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. The State further objects to this Interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules and regulations. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act (“HIPAA”), 42 C.F.R. Part 2, and other State and federal statutes, rules and regulations.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is actually at least six (6) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

**INTERROGATORY NO. "18":** Describe any injunctive relief that You are seeking to abate the "public nuisance," Petition, Prayer ¶ K, including all Teva conduct You seek to prohibit to abate the "public nuisance" and all conduct You seek to compel from Teva to abate the "public nuisance."

**RESPONSE TO INTERROGATORY NO. "18":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before required or appropriate under the Oklahoma Code of Civil Procedure and/or the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Further, the State will produce and disclose expert information, including information sought in this Interrogatory, in accordance with the scheduling Order entered by the Court.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The State will prove its claims and present its evidence in support of the remedies it seeks as required by Oklahoma law and in accordance with the applicable rules of procedure and evidence.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action and remedies therefor or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or are inconsistent with Oklahoma law. The State further objects to this Interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations and common-law protections for attorney-work product and/or trial preparation materials. Further, the State objects to this Interrogatory as seeking protected health information prohibited from

disclosure under the Health Insurance Portability and Accountability Act (“HIPAA”), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is at least 3 separate and distinct interrogatories disguised as a single interrogatory.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants’ First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were “joint requests” that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State’s count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.



**INTERROGATORY NO. "19":** Identify all money recovered or planned to be recovered to abate the "public nuisance," Petition, Prayer ¶ K, alleged in Your Petition from any source derived, including but not limited to settlements with and/or judgments against manufacturers, distributors, pharmacies, pharmacy benefit management companies, insurance companies, third-party payers, illegal drug dealers, illegal pill mills, and/or physicians. In responding to this interrogatory, identify each source of funds recovered and the amount recovered from each source.

**RESPONSE TO INTERROGATORY NO. "19":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before required or appropriate under the Oklahoma Code of Civil Procedure and/or the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Further, the State will produce and disclose expert information, including information sought in this Interrogatory, in accordance with the scheduling Order entered by the Court.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The State will prove its claims and present its evidence in support of the remedies it seeks as required by Oklahoma law and in accordance with the applicable rules of procedure and evidence. This Interrogatory is further overbroad because it seeks information

irrelevant to the claims and defenses at issue and ignores the fact that Defendants are subject to joint and several liability for the claims at issue in this case under Oklahoma law.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action and remedies therefor or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or are inconsistent with Oklahoma law. The State further objects to this Interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations and common-law protections for attorney-work product and/or trial preparation materials. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this Interrogatory because it seeks information that is protected from disclosure under the attorney-client privilege, the work-product doctrine for trial materials, and other recognized privileges and immunities.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is at least a *minimum* of 4 separate and distinct interrogatories disguised as a single interrogatory.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants

simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. *See* 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

**INTERROGATORY NO. "20":** For all money recovered or planned to be recovered that You identified in response to Interrogatory No. 19, describe how those funds were or are planned to be expended. To the extent any portion of the money recovered or planned to be recovered is not being used to abate the "public nuisance," Petition, Prayer ¶ K, identify the amount of funds that is not being utilized to abate the nuisance and the reasons those funds were not allocated to address abatement.

**RESPONSE TO INTERROGATORY NO. "20":**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definitions of the terms "You," as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence, including expert evidence, before required or appropriate under the Oklahoma Code of Civil Procedure and/or the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Further, the State will produce and disclose expert information, including information sought in this Interrogatory, in accordance with the scheduling Order entered by the Court.

The State further objects to this Interrogatory as overbroad, unduly burdensome, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The State will prove its claims and present its evidence in support of the remedies it seeks as required by Oklahoma law and in accordance with the applicable rules of procedure and evidence. This Interrogatory is further overbroad because it seeks information irrelevant to the claims and defenses at issue and ignores the fact that Defendants are subject to joint and several liability for the claims at issue in this case under Oklahoma law.

The State further objects to this Interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action and remedies therefor or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or are inconsistent with Oklahoma law. The State further objects to this Interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations and

common-law protections for attorney-work product and/or trial preparation materials. Further, the State objects to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

The State further objects to this Interrogatory because it seeks information that is protected from disclosure under the attorney-client privilege, the work-product doctrine for trial materials, and other recognized privileges and immunities.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups separate topics, subjects, questions and tasks under the guise of a single interrogatory. In reality, this Interrogatory is at least a *minimum* of 3 separate and distinct interrogatories disguised as a single interrogatory.

Finally, the State objects to this Interrogatory because it exceeds the presumptive limit on interrogatories, which is 30, without leave of Court. Defendants are defending this litigation and conducting discovery pursuant to a joint defense agreement. As such, though Defendants' First Interrogatories were divided into six sets from separate named Defendants, these First Interrogatories were "joint requests" that sought information related to all Defendants simultaneously and were not limited to the serving Defendant. The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant was left with, at most, 6 unused interrogatories. Thus, the State has responded to the first 6 interrogatories from Defendant in this Response. However, the manner in which Defendants purportedly combined separate and distinct subparts into single interrogatories was improper and already far exceeded the presumptive 30-interrogatory limit. By the State's count, Defendants collectively served 66 Joint Interrogatories when all separate and

distinct subparts are properly counted through the First Interrogatories—far more interrogatories than is allowed under Oklahoma law. See 12 OKLA. STAT. §3233(A). The State has already responded to more than 30 interrogatories propounded by Defendant. Because the State already has responded to more than 30 interrogatories served by Defendant, this interrogatory is improper under Oklahoma law.

DATED: September 7, 2018.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, on September 7, 2018 to:

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