PART B

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

Plaintiff,

v.

PURDUE PHARMA L.P., *et al.*,

Defendants.

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

CEPHALON'S EMERGENCY MOTION FOR STATE TO SHOW CAUSE FOR ITS NON-COMPLIANCE WITH COURT ORDER

IN THE DISTRICT COURT OF CLEVELAND COUNTY

STATE OF OKLAHOMA

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

Plaintiff,

-vs- 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.

* * * * *

MEET-AND-CONFER CONFERENCE CALL
ON JUNE 8, 2018
COMMENCING AT 10:49 A.M., CST

* * * * *

instaScript, L.L.C.
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REPORTED BY: BETH A. McGINLEY, CSR, RPR

EXHIBIT C

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(The Meet-and-Confer Conference Call commenced at 10:49 p.m., CST, as follows:)

MR. BARTLE: This is Harvey Bartle from Morgan, Lewis & Bockius on behalf of the Teva Defendants.

MR. MERKLEY: This is Nick Merkley from GableGotwals on behalf of the Teva Defendants.

MR. BRODY: Steve Brody for the Janssen Defendants.

MR. RIDGEWAY: Michael Ridgeway for the Janssen and Johnson Defendants.

MR. LAFATA: Good morning, everyone. This is Paul LaFata for Purdue.

MR. PATE: This is Drew Pate, Nix Patterson, for the State.

MR. DUCK: Trey Duck, Nix Patterson, for the State.

MR. CUTLER: Winn Cutler, Nix Patterson, for the State.

MR. MERKLEY: Okay. I believe that's everybody.

MR. BARTLE: This is Harvey.

This is the Teva defendants' request for a meet-and-confer on two things:

First, the State's corporate designee topic that was issued for June 12th, 2018, and it was signed by Mr. Duck on May 24th, 2018, and then, as well, is the

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State's Responses and Objections to Defendant Cephalon, Inc.'s Second Set of Interrogatories.

If it's all right, Drew, Trey, and, Winn, we'll -- I guess, we'll start with the deposition notice.

MR. PATE: This is Drew. That's fine with us. I think that makes the most sense. That will be, probably --

MR. BARTLE: Okay.

MR. PATE: -- a shorter conversation.

MR. BARTLE: I would think so.

So, with regard to the -- the topic, itself, we had some questions about -- about certain of the subtopics within the topic.

Specifically, we're unclear as to what you mean by "lobbying efforts, campaign contributions, scheduling of opioids, opposing the rescheduling hydrocodone combination products from Schedule III to Schedule II, legislative efforts or activities, law enforcement, and prosecution of any individual or entity related to the use, misuse, diversion, supply and prescription."

And I can -- we can take those in turn. I'm just trying to get a -- a more clear sense of what you meant by "lobbying efforts."

MR. PATE: I -- this -- so, this is Drew.

We -- I think "lobbying efforts" is a pretty

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well-understood term, so I'm not really sure I understand the question. I mean, any -- and this goes for any of the defendants, you know. It's -- it's y'all's lobbying efforts concerning opioids. I mean, I think that's -- we think that's pretty clear.

MR. BARTLE: And --

MR. PATE: In Oklahoma. In Oklahoma, I'm sorry.

MR. BARTLE: And -- in Oklahoma. And the same way -- same way for "campaign contributions." As they relate, solely, to opioids?

MR. PATE: Yeah. I mean -- this is Drew. Yeah.

MR. BARTLE: Okay. Does Oklahoma schedule opioids? I'm just wondering about (d), "scheduling of opioids." I thought that was entirely a DEA matter.

MR. DUCK: Yeah, hey, sorry. This is Trey. Harvey, give us just a -- a sec.

MR. BARTLE: Okay.

MR. PATE: This is Drew. So -- sorry about that.

I mean, I think that the intent here is if y'all had efforts and activities that impact for the scheduling of opioids, that, for topics, subparts (d) and (e), that would impact how those would be scheduled, which includes in Oklahoma, then that falls within what we're asking about here.

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MR. BARTLE: But if we didn't take any efforts or activities in Oklahoma to those effect -- to that effect, then there wouldn't be -- see, what I'm saying?

The way this is written, it wouldn't seem, to me, that that -- anything that -- that's taken -- that's taken place outside of Oklahoma, would be encompassed by (d) or (e).

MR. PATE: Right, it -- but -- okay, this is Drew, and -- and you asked for clarification on the topic and what we meant by it, so that's what I'm trying to do.

So, with respect to the scheduling of opioids and opposing the rescheduling of hydrocodone, I think you guys know what we're getting at and what we're asking about, and so that's how we -- as affecting Oklahoma.

MR. BARTLE: Okay. So that mainly relates more to our efforts federally, dealing with the scheduling of opioids?

MR. DUCK: This is Trey. I don't know the answers to these questions. It's why we're wanting to ask somebody under oath about these things.

But to the extent that Teva, or the other defendants, with respect to their notices, took any efforts in Oklahoma that were intended to affect the scheduling of drugs, whether that was at the federal level or DEA, or otherwise, the treatment of drugs in Oklahoma,

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then that's what we want to ask about.

The answer may be as simple as, "We didn't do anything," but, you know, we want an answer under oath on that.

MR. BARTLE: Well -- well, I get it, Trey, but that's a little different than what Drew just said. So that's why I'm trying to figure this out.

Because you will -- I know you say you don't know, but I -- you will admit that drugs are scheduled by the -- by the DEA --

MR. DUCK: Yes.

MR. BARTLE: -- right? I mean, that's -- Oklahoma doesn't have its own separate schedules, right?

So that -- that's -- I mean, you guys just gave me two different answers, so that's what it means -- why I wanted to have this meet-and-confer. Because it doesn't seem that you guys are -- I'm unclear about it and it doesn't seem as if you're, necessarily, clear about it.

MR. DUCK: No, we're clear about it. It's just that -- I mean, we're trying to keep this topic narrow for you guys. What's -- I mean, what -- do you have an objection to it involving national lobbying efforts that would affect Oklahoma?

MR. BARTLE: But it's not national lobbying efforts. We're talking about scheduling.

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MR. PATE: Efforts to oppose the scheduling or any efforts or activities related to the scheduling, on how they should be scheduled.

MR. BARTLE: Opioids, generally. But that would -- but that's a -- that's a federal issue, right?

MR. DUCK: This is Trey. That affects Oklahoma.

MR. BARTLE: I know. But as if -- you were talking about scheduling, we're talking about what we did with -- you're asking about things we did with the DEA, right? I mean, if you're not, that's fine.

MR. PATE: Yes, that's what -- that's part of what we're asking about.

MR. BARTLE: What else could there be for (d) and (e) that would relate to things, other than the DEA?

See, I want to be able to prepare a witness on this topic and I need to know, because it's unclear to me, what this actually means.

MR. PATE: I want to be able to -- I mean, I want to be able to ask a witness those questions, Harvey.

Like, I -- it's what Trey just said earlier, you know, we -- we don't know the answers to these questions. I don't know what all your company did or any of the defendants did on this topic. But that's why we want to ask the question.

So if there's nothing, outside of what you did

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on the DEA, then maybe that's the answer. But we need to ask the question.

MR. BARTLE: Oh, okay. Well, I -- we'll just agree to disagree on that one.

MR. BRODY: Oh, the -- Harvey, before you go on -- this is Steve Brody -- just so I'm clear.

Is it -- is it the State's expectation, with this topic, that the defendants will prepare witnesses to talk about their interactions with the DEA and any of -- I guess, what they would define as lobbying efforts with respect to the DEA, at the federal level, such that the topic is not really focused on Oklahoma, it's focused on the company's interactions with the federal government?

MR. PATE: Steve, could you say that again? I'm sorry.

MR. BRODY: Sure. Just -- I -- you know, I just want to be clear, as we're trying to identify and prepare a witness.

You know, is it the State's intention, here, to have a witness designated and take testimony on the defendants' interactions with the DEA or the federal government, with respect to the scheduling of opioid medications, such that the topic, here, as it relates to scheduling, is not focused on Oklahoma, but, rather, it is focused on federal efforts?

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MR. PATE: Our focus is, certainly, on Oklahoma, just like our focus on the marketing is -- that you all did, is in Oklahoma. But the issue is that you guys did things at a -- your clients did things at a national level that impact Oklahoma and so, to the extent they did that in a way that impacts Oklahoma in the same way it impacts other states, we need to ask questions about that, and what the -- so that we can understand how that affected Oklahoma.

MR. BRODY: So -- so this is, I guess, then, going, very broadly, toward federal petitioning activity?

MR. PATE: All right. Look, let me try to simplify this.

For purposes of this topic, we will just focus -- we're not saying we won't ever need to know about this, but, to simplify it, for purposes of this topic and the one we're looking at today, we will just talk about or want to know about actual efforts or activities in Oklahoma, Oklahoma lobbying efforts for these, rather than federal lobbying efforts related to these topics. And if there are none, then there are none.

MR. BRODY: All right. This is Steve. Thank you. That's helpful.

MR. BARTLE: All right. Let's move on to "law enforcement," (h).

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I don't -- "your efforts or activities concerning opioids related to law enforcement"? It doesn't --

MR. PATE: Yes.

MR. BARTLE: -- seem to make that much sense.

MR. DUCK: This is Trey. Can you elaborate, you know, where -- where the confusion is?

MR. BARTLE: Well, I read the sentence, "your efforts or activities, in Oklahoma, concerning opioids, related to law enforcement." If you --

MR. DUCK: Right.

MR. BARTLE: -- read it that way, I -- I don't know what that means.

MR. PATE: Well, did your com- -- I mean, did -- I mean, did the company do anything or have any efforts related to opioids and law -- you know, concerning law enforcement in Oklahoma?

MR. BARTLE: Are you --

MR. PATE: Did you --

MR. BARTLE: -- talking about --

MR. DUCK: With anything --

MR. PATE: Did you -- I mean --

MR. BARTLE: Are you talking about police or are you talking -- what are you talking -- with local police departments, with the AG's office, which, presumably, you

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would know?

Like, what -- what -- when you say "law enforcement", does it mean the enforcement of law? Does it mean a government entity? What does it mean?

MR. PATE: It means law enforcement, Harvey. You may think it's broad, but that's -- that's a different question.

MR. BARTLE: Drew, I have to prepare a witness and I want to prepare a witness and I'm just trying to figure out what that means. And if you don't know what it means and you can't tell me what it means, and you're just going to repeat the word back to me, then we'll move on.

MR. PATE: I can tell you what it means, but I think everyone on the phone knows what it means. I mean, it means law enforcement. It means any group in Oklahoma, or entity or agency in Oklahoma that your company dealt with, concerning opioids, that performs a law enforcement function.

I mean, I can say it a bunch of different ways, but, you know, I think you, definitely, know what law enforcement is.

MR. BARTLE: Okay. Move on.

And, similarly, I'm unclear about (i). Are you talking about whether or not our company was involved in the "prosecution of any individual or entity related to

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the use, misuse, abuse, diversion, supply and prescription of opioids"?
MR. PATE: Yes.
MR. BARTLE: Then that was, like, assisted a prosecutor?
MR. PATE: Prosecution or a defense.
MR. BARTLE: All right. We can move on from that, unless -- unless you have anything else you want to talk about with regard to that.
MR. PATE: So are you all going to produce witnesses on June 12th for any of the defendants?
MR. BARTLE: Teva is not, as we said -- as I said in my email the other day.
MR. DUCK: We're going to be there, ready to take the deposition, so you all need to move to quash if you're not going to be there.
MR. BARTLE: All right.
MR. BRODY: We sent you an email -- I sent you an email, saying that we're not going to have a witness available to testify on Tuesday.
Are you now telling me that that email, telling you that we're trying to identify the right witness, to prepare that witness, and -- and we're going to be providing different options on dates -- that that's not sufficient, that I have to file a motion to quash?

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Because, if that's the case, I'll do that.
MR. PATE: Are you -- this is Drew. Are you going to commit to provide a date, prior to June 22nd?
MR. BRODY: We will not have a witness available, prior to June 22nd, for that deposition. And one of the reasons is that I expect that the witness, who will, ultimately, be designated on the June 12th topic, is very likely to be somebody who will be addressing other topics that were noticed, as well, amongst the 40 topics.
What we're trying to do is -- is get our arms around whether there's going to be overlap, where we're going to have the same witness addressing different things, so that we can, you know, for efficiency's sake, have a situation where, you know, we may tell you, "Well, this week, we want to address these six topics -- six, seven topics," whatever it is, "it's going to be the same witness on them and so, you know, let's set up a situation where we can just go back-to-back days, as long as it takes to knock it out."
That's -- that's the intention. It will not be before June 22nd. So if -- I mean, if you're -- if you're telling me that -- that there is no flexibility on scheduling, that you're going to, you know, show up and -- and -- and note a nonappearance, notwithstanding the fact that we communicated -- I think I sent my email out on

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Tuesday of this week -- I'm, you know, happy to put together a motion to quash and get that on file, if I have to. Just let me know.
MR. PATE: We need -- look, what we're trying to do is -- and what we've been asked to do by you -- is to prioritize depositions, as we can, based on where we're at in discovery. And so that's what we've done, that's why we've rolled out notices, in different orders, the way we have.
And so I understand what you're saying about topics, but this is a deposition that we're ready to take now, we believe we're entitled to take now. And if you can't provide a witness by June 22nd, then you need to move to quash the notice.
Now, if you tell me you're not going to be there on June 12th, we're not going to waste everybody's time and money and show up, just to take a certificate of nonappearance, if you're telling me you're definitely not going to be there. But if you're not going to be there, then you need to -- you do need to file a motion to quash, so that we can take this up with the Court.
MR. BRODY: All right. I'll file a motion -- I'll file a motion to quash. I mean, we're -- we're going to get you a witness on this topic, but it's -- you know, it's not a -- it's not a situation where you can just, you

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know, snap your fingers and, magically, a witness appears, who's going to be ready to provide the information requested, in a very broad topic, that covers a number of different areas, as we've covered today.
But I -- I hear you, I have to file a motion to quash. We'll file a motion to quash. I think it's a waste of our time. I think it's a waste of the Court's time. But, you know, you've been clear on that. We'll do it. We'll -- we'll waste the time. I'm --
MR. DUCK: This is Trey --
MR. BRODY: -- happy to do it.
MR. DUCK: This is Trey, and just to address some of those things.
We didn't ask you to snap your fingers and produce a witness to you (sic). We just offered you 10 additional days to identify somebody and prepare them. So, you refused that. We'd ask that you file a motion to quash, so it can be taken up.
We think you all are wasting time, not us. But since you're -- you're going to refuse to cooperate, file your motion, we'll take it up with the Court. That's the way these things work.
MR. BARTLE: Teva --
MR. DUCK: Before --
MR. BARTLE: In this situation, Teva will be

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filing a motion to quash, too.
MR. DUCK: It's all about you.
MR. LAFATA: I suppose I have to be in that position. I think it would -- this is Paul, for the -- for the court reporter.
I think it would be a lot better to do what Steve was suggesting, which is to allow the parties to get witnesses that can be prepared on topics that have similarity and then have the topics and the witnesses kind of lined up, so they get knocked out. That's a -- usually, the way these things work, when we have a lot of topics to cover, and there might be a witness that can cover three or four of them and one that can only cover one, and then we cut -- we get the preparation done.
But all of that assumes we can understand what the subjects are in the notice. And I'm afraid, from this discussion, it's really hard to understand several of these topics, by the way they've been written and explained in this call.
But, putting that aside, even if we did understand what they were, as written, I -- I don't think this is the best way to go about it, in terms of actually getting the discovery done. But if that's what is being insisted upon, then I suppose there's no alternative being made available.

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MR. DUCK: Well, we disagree with the characterization, Paul -- this is Trey, by the way.
We believe we've given you -- been cooperative in giving you 10 additional days after the notice date, it's plenty of time for you all to get this done, and you all refuse that.
I mean, I -- well, never mind. I mean, it sounds like you've got -- you've identified and -- each of you -- reasons to file a motion to quash, so we'll respond to your motion.
MR. BRODY: For purposes of, you know, in- -- in forming that motion a little bit, can you tell us when the State will complete its production of documents from the programs and agencies that are implicated by the June 12th topic?
MR. DUCK: I don't understand the question.
MR. BRODY: Well, you're -- you're asking about presentations that may have been made by defendants to certain offices. You know, take law enforcement, as an example, agencies and the like, at the state level.
Can -- so can you -- I mean, can you tell us when the State will complete its production of documents from the agencies and programs that are implicated by the deposition that you want to take of defendants?
MR. DUCK: So there's a -- there's an assumption

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or something implicit in that question that I'd like to clarify, first.
Steve, is it your position that, prior to taking a deposition, that the party taking a deposition must produce documents, to the party presenting a witness, any documents that that taking party believes may be relevant to the topic?
MR. BRODY: No, I was just -- I'm just trying to get a sense, so that I -- you know, that I can assess. I mean, I want to know, you know, when I'm producing the witness, am I going to get sandbagged with documents that we have requested from these programs and agencies, that have not yet been produced, that are going to be introduced, and that a witness is going to be confronted with, that I'm not going to be able to prepare that witness, potentially, to talk about.
MR. PATE: Steve -- this is Drew -- as you know, as a corporate designee -- is charged with coming in, prepared to talk about the knowledge that the corporation has or reasonably has available to it, and so that's what we're expecting with the witness. It's not informed by our production of documents to you.
It's -- you say that they're -- if the witness says that there's something that the corp- -- the company didn't have or didn't know about, that's -- that's your,

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you know, option to do that, if the company really didn't have this. But, you know, these are your efforts and your ac- -- your company's efforts and activities, so... and their own presenta- -- any presentations they make.
MR. BRODY: All right. So I guess I can take that as a -- as a -- I'm not going to get an answer to the question.
MR. DUCK: You can --
MR. BRODY: Harvey, I'll let you move on. I'll --
MR. DUCK: -- take it as a question that we don't believe is -- has a reasonable basis. I mean, you're asking us to produce, back to you, information that your company already has, which is a waste of time and something that's not required by the rules.
So, to the extent that's what you're asking to do, yeah, we're not going to do that, because it's not required and it's not done --
MR. BRODY: But that --
MR. DUCK: So you're -- you're --
MR. BRODY: But --
MR. DUCK: -- making it sound like this is some, you know, run-of-the-mill thing that everyone does in litigation; but, no, it's not. No one does that.
MR. BRODY: This is Steve. That -- that wasn't

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my question, but let's -- I mean, I'm -- I'm not going to get an answer to my question, so let's -- let's move on.

Harvey, I don't mean to -- apologize --

MR. BARTLE: All right. Well --

MR. BRODY: -- for interrupting your meet-and-confer, here.

MR. BARTLE: All right. Can we talk about the responses and objections to the -- Cephalon's second set of interrogatories?

MR. DUCK: Sure.

MR. BARTLE: I guess, the first thing I'd like to address is your objection based on the 30-interrogatory limit.

Cephalon has not issued 30 interrogatories. Each party is entitled to 30 interrogatories. You decided to sue 13 defendants and, thus, they're each entitled to 30. I don't -- I don't see how you can refuse to answer certain interrogatories that Cephalon has propounded, based upon interrogatories that have been offered by other parties.

MR. PATE: This is Drew. So I think we explained our position on this, both at the hearing with Judge Hetherington on discovery limits and in the objections to these requests, as far as how we get to the fact that you guys, in our view, have exceed -- far

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exceeded the 30-interrogatory level or 30-interrogatory limit, by our count.

But, by your own count, you all served joint interrogatories, that was your choice and you can do that, but those -- our view is that those count against each of you and that's how we get to the 30. I mean...

MR. BARTLE: Okay. Well --

MR. PATE: I understand that, you know, you all have chosen to divide up your discovery requests amongst all the different subsidiaries. But, as you guys know, we've told you, from the start, we view each defendant as a -- as three different families of defendants and that you all should not be entitled, and aren't entitled, to 30 per subsidiary, it's -- should be treated as 30 per family. And then, as I explained, we believe the joint interrogatories count against each of you guys.

MR. BARTLE: Well, obvious- -- obviously, we'll disagree with that, but we'll address that with Judge Hetherington further.

MR. BRODY: Drew --

MR. BARTLE: Let's talk about --

MR. BRODY: This is -- this is Steve. We'll be moving on that, too, the Janssen -- the Janssen second set.

MR. BARTLE: With regard to Interrogatory No. 1,

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you didn't identify any of the 245 prescriptions that were unnecessary or excessive and we're wondering why you didn't identify them.

MR. PATE: This is Drew. Harvey, you know, we've gone over this, I think, a few different times, in a few different contexts and, right now, the answer we've given you is the answer -- the best answer that we can provide, and sufficiently answers the interrogatory. And when we are in a position to provide more information or a supplemental answer, including when expert reports are due, we're going to do that.

MR. BARTLE: So, before you filed your complaint, did you identify any of those 245 prescriptions as unnecessary or excessive?

MR. PATE: Harvey, I'm not going to engage in a back-and-forth like that with you on a -- on a meet-and-confer, just about the adequacy of the response.

MR. BARTLE: Well, you had to have some basis, Drew, to allege that they were unnecessary or excessive.

So I'm asking if you did and, if you did, you should be able to identify at least certain of them that you believe are unnecessary or excessive.

MR. PATE: The basis that's alleged -- the basis is alleged in the petition, which has defeated your motion to dismiss on this very same point, and that -- and we've

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provided multiple answers to these interrogatories, at this point, across all the different defendants.

So you can keep asking the question, but we're going to continue to give you the same answer, until, as we've said in our responses, we're in a position to provide more information.

MR. BARTLE: So you didn't have any good faith basis to allege that any of them were unnecessary or excessive before you filed your complaint?

MR. PATE: That is -- this is Drew. That is absolutely not what I said and the record reflects that. I'm not -- like I told you at the beginning, Harvey, I'm not going to get into a back-and-forth with you like that. If you want to talk about the adequacy of our response, we'll do that.

MR. BARTLE: Well, it should --

MR. PATE: I'm not --

MR. BARTLE: -- identify them, and you didn't identify any.

MR. PATE: You have the answer.

MR. BARTLE: Okay. Is -- is your answer going to be based on expert discovery that you're going to provide to us in November?

MR. PATE: That's certainly part of it.

MR. BARTLE: Okay. And then you allege, in your

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answer, that "opioid prescriptions written in the State of Oklahoma since 1996 and reimbursed by Sooner Care, other than those written for end-of-life palliative care or for a three-day supply to treat acute pain, were unnecessary or excessive and/or false, fraudulent or otherwise reimbursed, in violation of the Oklahoma Medicaid Fraud Act." That's in your response to Interrogatory No. 1.

Is it your position that, for example, for Actiq and Fentora, an -- an opioid for oncology patients, suffering from breakthrough cancer pain -- has to get a prescription every three days?

MR. PATE: Is that a different interrogatory, Harvey? This is Drew.

MR. BARTLE: The same one. We're talking about Actiq and Fentora. We're talking about 245 prescriptions for Actiq and Fentora and you're saying, in your response, that "unless it's for end-of-life palliative care or for a three-day supply to treat acute pain," that "it's unnecessary or excessive," and I'm just asking, Actiq and Fentora, indicated for breakthrough pain for oncology patients.

Is it your -- is what you're saying, here, that -- that an oncology patient needs to go back every three days for an Actiq or Fentora prescription?

MR. PATE: I think you need to read the entire

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answer. There's a No. 2, also. And I'm not going to be able to -- I'm not going to, you know, give a deposition on the answer, obviously. The answer is what it is. And I think --

MR. BARTLE: You think --

MR. PATE: -- we've identified everything about the position that -- go ahead. What were you saying?

MR. BARTLE: Well, I mean, I'm trying to figure this out. I mean, I'm trying to figure out if I have to move to compel or not.

Interrogatory 2. You haven't provided the basis for alleging that it was unnecessary or excessive, except to say, "The State will produce and disclose expert information, in accordance with the scheduling order entered by the Court."

I mean, is this -- is that -- is whether or not something is unnecessary or excessive subject to expert testimony that you intend to provide to us in November?

MR. PATE: There's a three-or-four-page answer to this interrogatory. You're on No. 2 now?

MR. BARTLE: Uh-huh.

MR. PATE: Okay. So it's incorrect to say that our answer is just, "We're going to provide expert testimony," so --

There's a three-to-four-page answer to this

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interrogatory that provides the answer that we can provide right now.

MR. BARTLE: So you can't provide any other answer than what's in this interrogatory?

MR. PATE: Every -- Harvey, everything you're saying is that you disagree with the answer, and that's fine, I'm not surprised by that, but that's not -- you and I don't need to waste time meeting and conferring about how we disagree about the answer.

MR. BARTLE: Well, I understand, but the -- the question was, for each one that you identified as an unnecessary or excessive, to describe the basis, and you haven't identified, one, any of them and, two, described the basis for your position.

MR. PATE: And we believe -- we believe we have described the basis. If we -- if you think our answer is inadequate and is not responsive, you can -- you can take that up with the Court, so -- we believe we've answered the interrogatory.

MR. BARTLE: All right. Interrogatory No. 3. Do you still refuse to identify the name and address of -- of doctors who had issued prescriptions?

MR. PATE: Yes.

MR. BARTLE: And then you, also, object to this one on HIPAA grounds and I'm wondering why that is.

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MR. PATE: Why did we object on HIPAA grounds?

MR. BARTLE: Yeah, a HIPAA protective order.

MR. PATE: They're still -- there's still -- I mean, we preserve our objection. There's, I mean, HIPAA-protected information in here and so that's why -- that's being requested -- and so that's why we objected.

MR. BRODY: Are you claiming -- this is Steve. I'm sorry. I want to be sure I'm catching this correctly.

Are you claiming that the HIPAA protective order is inadequate to provide the protections that HIPAA requires?

If -- because, if that's the case, we can go back and we can amend the protective order, but tell us how it's --

MR. DUCK: This is Trey --

MR. BRODY: -- tell us how it's inadequate.

MR. DUCK: This is Trey. Two points, there. First, a HIPAA protective order does not require the production of protected health information. It, simply, you know, provides protection in the event that a party chooses to provide protected health information. So, that's Point 1.

Point 2. Actually, I'll be sending you all an email later today with a proposed amendment to the protective order, to include some additional protections

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under 42 CFR Part 2, which provides heightened security requirements for people who are receiving addiction treatment. So we actually do need to strengthen the protective order.

However, that said, just because we have a strong protective order, that we believe is sufficient to allow us to produce sensitive or protected health information, the existence of that order does not require us to produce it and, in certain instances, we still may decide that it's not appropriate to produce protected health information.

MR. BARTLE: But not on the basis of a HIPAA objection?

MR. DUCK: (Indiscernible).

MR. MERKLEY: What did you say, Trey? I'm sorry.

MR. BARTLE: But that was --

MR. MERKLEY: Harvey, hold on. The court reporter -- neither the court reporter, nor I, could hear what Trey said.

MR. DUCK: Starting when, Nick?

MR. MERKLEY: Just --

MR. BARTLE: Let me ask my question.

MR. MERKLEY: Okay.

MR. BARTLE: So my understanding is you can --

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you cannot produce -- I think your argument is you cannot produce HIPAA-protected information for other reasons; but if we have a HIPAA protective order, HIPAA isn't a reason not to produce it.

MR. DUCK: Here's the -- here's the point. We're still going to preserve objections where we feel it's necessary. I mean, if -- if that bothers you and you don't want us to have objections to our responses, then you can file a motion to ask for the Court to overrule it.

MR. BARTLE: Well, are you -- are you -- are you withholding information based upon HIPAA?

MR. PATE: Say that again, Harvey. We're -- we're going to -- look, like we told you guys at the beginning --

MR. BARTLE: I just want to know if you're withholding information based on HIPAA. I understand you might be preserving objections, and I get it, but are you withholding information, documents and/or interrogatory answers based upon a HIPAA object- -- based upon a HIPAA objection?

MR. PATE: Subject to what Trey just said about strengthening the protective order with those provisions, then, on this interrogatory, we are withholding it based on HIPAA objections, but we preserve the objection.

And as we informed you guys, you know, before --

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I think at the last hearing -- we aren't producing the doctors' names and the patients' names.

MR. BARTLE: Are you also -- are you withholding -- are you -- are there any other interrogatories in this set, which you -- on which you've asserted the HIPAA objection, that you're withholding information based on HIPAA?

MR. PATE: The answer is the same for all of them.

MR. BARTLE: Okay.

MR. PATE: We're preserving the objection.

MR. BARTLE: Okay.

MR. BRODY: Let me ask, just to be clear, then. Then what is the basis for the refusal to identify patient and doctor names?

MR. DUCK: I -- I might be able to answer the question, Steve -- this is Trey -- but, first, I've -- I've got to ask you a couple of questions.

You have the -- the names, the identities of -- of patients. Is it your intention to contact those patients about their protected health information?

MR. BRODY: I mean, I'm not going to rule anything in or out. I just want to know what the basis is for withholding the information. I mean, if the basis is --

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MR. DUCK: Is it your intention to contact --

MR. BRODY: If the basis -- let me -- let me ask you this. Let me finish, Trey.

If -- I mean, if the basis is, "You guys might contact them and talk to them about their protected health information," you know, you can tell me, "That's the basis."

If -- if your -- you know, if you tell me that -- "Well, if defendants would agree that they wouldn't affirmatively reach out to and speak to any patient at all, we would produce the patient identities" -- I mean, you know, tell me if that's the case, and -- and, you know, what the basis is for that position.

You guys raised the objection. You guys said you're not going to produce this stuff. We requested it. We need to know the basis.

And all I'm asking you for is, if you're not refusing to -- I -- to produce the patient and doctor identities based on HIPAA, what is the basis for your refusal to produce and provide that information that was requested?

MR. PATE: This -- this is Drew. And we need to know why you're asking for something, in order to answer the question, and that's part of the meet-and-confer process.

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MR. BRODY: No, you -- you don't. You don't need to know why we're asking for it. You need -- you need to -- you need to tell us the basis for your refusal.

We -- we requested it; you've objected. You're refusing to produce it. You indicated, in your written responses, that the basis was HIPAA. You've told us, on this meet-and-confer, on the record, that it's not HIPAA.

We need to know what the basis is for your refusal to produce that information.

MR. PATE: I think Reggie already explained this to you at the meet-and-confer we had prior to the last hearing.

MR. BRODY: So there's no additional -- there's no additional information, beyond what Reggie said at the hearing, that would explain the basis for your refusal to produce this information? Although we now know that it is not HIPAA.

MR. DUCK: Well, back --

MR. BRODY: Now --

MR. DUCK: Let's back up for a second, because, you know, you all are trying to make this very simple and clear, in black and white, about the HIPAA-protected information point, and it's not quite as simple and black and white as you'd like for it to be, Steve. I -- I wish it was simple, too.

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It's a complex case, that has a lot of moving parts and a lot of sensitive information about a lot of citizens in the State of Oklahoma. So, it's not simple. It's not black and white.

We are tying our very best to provide you with what you need, without unnecessarily providing protected health information. We're trying to provide you with the -- the minimum amount necessary to do what you need to do. So, you know, that's all that -- that HIPAA really allows us.

And I -- you're saying that we have said, on the record, that there's no HIPAA aspect to our objection. That's just not true.

The -- there is -- the reason that we don't want to provide you these names is because you -- Steve specifically, and Harvey, you, too -- have said, at prior meet-and-confer's, that you all intend to contact patients, that you intend to contact physicians. We don't think that's appropriate; we don't believe it's necessary; we don't think it's relevant.

So, under HIPAA, we provided you a minimum amount necessary of protected health information that you need in this case.

If you all are willing to stipulate and agree to not contact the patients and to not contact the physicians

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that are identified, we will consider that. That may well appease our concerns.

But, so far, we haven't heard you all say that, and maybe we can have a discussion about that in the future, if you would like.

MR. BRODY: So -- just so -- so I'm clear. You're refusing to provide the patient -- any patient identifying information, you're refusing to provide identifying information for the physicians who, allegedly, wrote these false and fraudulent prescriptions for opioids, and the basis for your refusal to do that is "maybe HIPAA, maybe not HIPAA, maybe some part of HIPAA."

You're not willing to say that it's not HIPAA. "It -- it might be." Your position is, "It's complicated." Is there any other reason?

MR. DUCK: We don't think it's relevant.

MR. BARTLE: Trey, can I ask you a question? This is Harvey. Who did --

MR. DUCK: Yes.

MR. BARTLE: Who was -- who was the -- who received the alleged fraudulent misrepresentations that led to these prescriptions being written? Did the doctors receive them? Are you -- are you claiming no doctor was -- received a fraudulent misrepresentation?

MR. DUCK: Harvey, of course, I'm not claiming

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that. But, listen, we can sit here and argue about the merits of the case or the elements of the claims. If you all think you need the information and we haven't provided it to you, file a motion. I mean --

MR. BARTLE: Okay. All right.

MR. BRODY: That --

MR. DUCK: You know.

MR. BRODY: That -- yeah, this is Steve. Trey, that's fine, we'll -- we'll file a motion.

MR. DUCK: And, as far as I can tell -- you know, Harvey has made his point about physicians before.

But, as far as I can tell, Steve -- and I don't want to put words in anybody's mouth -- but out of the parties and out of the representatives for the parties, I think you're the only one who's really pushing on the patient names. If I'm wrong about that, then -- then we can talk about it.

Maybe you all are, all of you, pushing for the patient names. But my sense was that other defendants, and, even, some of the lawyers representing Johnson & Johnson, might be okay with not ever receiving the patient names, so long as there is a common identifier.

So, you know, maybe you can help us there. I don't -- if we're arguing about something we don't need to be arguing about, then we are wasting time.

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MR. BARTLE: And so, guys, I got a hard stop for a 1:00 o'clock call with the Court, so I got to move on, on these interrogatories.

MR. DUCK: Well, Steve, I was just asking, maybe you confer with some of your colleagues and see if this sticking point on patient names is really something that you want to dig in on.

MR. BRODY: I mean, you guys have been clear on your objections. We're going to evaluate what we need to do and -- and I think you can expect a motion on it.

MR. DUCK: Fair enough. I just ask that you make sure your -- your team members agree with you.

MR. BRODY: I don't think you need to worry about our teams' disagreement about what we need and do not need for discovery in this case in order to properly and -- and, as we have a right to do, defend the case.

MR. DUCK: Well, I should worry about it, because you all are giving us two different messages, but, you know, file a motion, if you feel like you need to.

MR. BARTLE: All right. Let's move to Interrogatory No. 4, saying you will provide business records related to this.

So you're going to provide records related to the misrepresentations to the healthcare providers?

MR. PATE: This is Drew. We're going to

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provide -- I mean, yes, we're going to provide the -- the documents that we have, to -- that will answer this interrogatory.

MR. BARTLE: And, similarly, for No. 5, you're going to identify the misrepresentations, made to the Oklahoma state employees, by providing documents?

MR. PATE: The doc- -- for whatever documents the State has, we will certainly provide them.

MR. BARTLE: Okay. And you're not going to go through and identify the misrepresentation per prescription, right?

MR. PATE: Correct.

MR. BARTLE: No. 6.

MR. PATE: We don't -- and we don't -- just to be clear, we don't believe that's required, and our answer has laid -- laid that out.

MR. BARTLE: I know, we -- we disagree about that, but I don't think I'm going to convince you otherwise today.

No. 6. You refuse to answer this interrogatory on a number of bases, but you, also, say it's a "premature contention interrogatory." And all we're asking to do here is "Identify each instance in which you and any other entity, that provides or administers benefits for your programs, denied payment or reimbursement for a

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prescription of Actiq or Fentora as unnecessary or excessive."

Now, "unnecessary or excessive" is -- is a direct quote from your complaint; you guys wrote that. So I don't think it's a contention interrogatory. It's just asking you for factual information about when a -- Oklahoma denied reimbursement for a claim.

MR. PATE: It's a contention interrogatory, in our view, among other reasons, because you're asking for each and every instance in which this occurred, and, regardless, we told you that we'll produce business records related to this interrogatory. We'll produce documents.

MR. BARTLE: But, now, again, Trey -- I mean, I'm sorry, Drew -- I'm only talking about 245 prescriptions, here.

MR. PATE: I'm well aware that that's what you're talking about, Harvey. You say it every time we talk.

MR. BARTLE: I know you are. I know you are.

So you're going to -- you're going to provide documents to me for when Actiq or Fentora prescriptions were denied by the State of Oklahoma and the basis for those denials?

MR. PATE: Yes, the documents that the State has

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in its possession, we'll provide on that.

MR. BARTLE: Okay. No. 7. Now, I think we get into the -- is this when you start saying...

MR. PATE: Yes.

MR. BARTLE: ...the limit it to 30?

So you're not going to provide any -- any response to 7 through 14, based upon your assertion that it's over the 30-interrogatory limit; is that right? 7 through 16, I'm sorry.

MR. PATE: This is Drew. That's -- that's correct at this time.

And, look, if you guys have a proposal that you want us to consider, for how to address discovery limits, if you all want to revisit that -- you know, Steve, I know, had thrown out some ideas at the hearing at one point -- then we will, of course, consider any proposal that you have and get back to you on it, but that's our position right now.

MR. BARTLE: But you wouldn't consider those proposals then, Drew. Why would you consider them now?

MR. PATE: I don't recall ever getting an actual proposal from you guys on discovery limits, other than, "We get to issue 30 per subsidiary," which that proposal didn't work for us.

If -- if I missed a propose- -- an actual

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proposal of how to deal with joint interrogatories and discovery limits, other than that, then I apologize, and -- and presend it -- please send it to me, but I don't think there was, ever, an actual proposal, other than "every single defendant entity and subsidiary, wholly-owned or operated or not, gets its own set of 30 interrogatories," regardless of whether you all submit them jointly or not.

MR. BARTLE: Well, Steve did give -- I mean, Steve did -- Steve did make a proposal on the record and you guys responded, I believe, that we're -- that the 13 defendants are entitled to 30 and you're entitled to 30, as the State.

I don't even think there was any indication at that hearing that you guys would even consider that and Judge Hetherington said he's going to leave well enough alone.

MR. PATE: I think what the judge said is if our -- I'm paraphrasing, obviously, but our view of that hearing was, if we believe that there were joint requests, then once they hit their limits, in you all -- in your view, then make your objection and we can take it up then.

And all I'm telling you is that if you all have a different proposal for us to consider, if you'd like us to consider about how to deal with limits, we will --

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we'll do that.

I don't know what you mean by 30 -- if you're just saying -- if what you just said, Harvey, was 30 for each of the defendants, then, yeah, we don't agree with that, 30 -- where each subsidiary entity gets its own set of 30. So if that's your proposal --

MR. BARTLE: So you oppose --

MR. PATE: -- that's -- you're right, we don't agree with that and you can file a motion. If you all have something else for us to consider, then we'll do that.

MR. BARTLE: So --

MR. PATE: This --

MR. BARTLE: I said that was what the position was at the last hearing, when you guys said we get, as collective defendants, 30, total, 13 defendants get 30, total, interrogatories, and then you get 30 for the State.

MR. PATE: No, that's not -- no, that was never our proposal. Our proposal was that each family get 30: Teva gets 30, Purdue gets 30 and Janssen gets 30. And that's the same position we've taken in these responses, even though, in our view, you guys have all -- as we state in our objections -- served more than 30.

MR. BARTLE: Okay.

MR. LAFATA: Harvey, may I -- this is Paul. May

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I clarify a question with, Drew?

MR. BARTLE: Yes.

MR. LAFATA: Drew, you used a -- you referred a couple of times to "joint interrogatories" and I wasn't sure if I understood the same thing you did, when you're using that term.

Will you explain what you mean when you use the term "joint interrogatory"?

MR. PATE: Sure. We mean joint interrog- -- this is Drew. We mean joint interrogatories in the same sense that -- I think it was Steve described them at that -- at that hearing, which are, basically, interrogatories that, in our view, apply across all the defendants, where you're not asking about something specific to a defendant and you all are, you know, working on them together to send an interrogatory -- for an answer that applies to all of the -- all of the defendants.

Which you can do. We have no problem with you sending us a joint interrogatory. And I think we've answered all of the ones that -- that you have sent, until we got more than 30.

But that's -- that's how we view a joint interrogatory.

MR. LAFATA: That's helpful. Thank you.

MR. BARTLE: All right. Well, I don't think I

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have anything else. Thanks, everybody. I've got to run.

Thanks, everybody, for taking the time to today and -- and we'll see you in a week or two -- or, I guess, three weeks, we'll see you.

MR. PATE: Okay. Thanks, everyone.

MR. BRODY: Thanks, everyone.

MR. BARTLE: All right. Thanks.

(The Meet-and-Confer Conference Call concluded at 11:44 a.m., CST)

(Time on the record: 1 hour, 8 minutes.)

CERTIFICATE

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)

I, BETH A. McGINLEY, CSR for the State of Oklahoma, certify that the MEET-AND-CONFER CONFERENCE CALL AMONG COUNSEL was taken by me in stenotype and thereafter transcribed and is a true and correct transcript of the proceedings; that the Meet-and-Confer Conference was taken on the 8th day of June, 2018, via conference call among the attorneys, and at the GableGotwals Law Firm, One Leadership Square, 15th Floor, 211 North Robinson, Oklahoma City, Oklahoma; that I am not an attorney for nor a relative of any party, nor otherwise interested in this action.

Witness my hand and seal of office on this the 9th day of June, 2018.

Beth A. McGinley, CSR
Oklahoma CSR No. 357
Expires December 31, 2018

IN THE DISTRICT COURT OF CLEVELAND COUNTY

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., MIKE HUNTER ATTORNEY GENERAL OF OKLAHOMA,	)	
Plaintiff,	)	
vs.	)	Case No. CJ-2017-816
(1) PURDUE PHARMA L.P.; (2) PURDUE PHARMA, INC.; (3) THE PURDUE FREDERICK COMPANY; (4) TEVA PHARMACEUTICALS USA, INC; (5) CEPHALON, INC.; (6) JOHNSON & JOHNSON; (7) JANSSEN PHARMACEUTICALS, INC.; (8) ORTHO-McNEIL-JANSSEN PHARMACEUTICALS, INC., n/k/a JANSSEN PHARMACEUTICALS; (9) JANSSEN PHARMACEUTICA, INC. n/k/a JANSSEN PHARMACEUTICALS, INC.; (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC, f/k/a ACTAVIS, INC., f/k/a WATSON PHARMACEUTICALS, INC.; (11) WATSON LABORATORIES, INC.; (12) ACTAVIS LLC; AND (13) ACTAVIS PHARMA, INC., f/k/a WATSON PHARMA, INC.,	)	
Defendants.	)	

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

REPORTED BY: ANGELA THAGARD, CSR, RPR

deposition. I don't necessarily have to take a deposition if they answer the interrogatory. So the only thing I would ask, and I appreciate Mr. Whitten's concern, just order the State to answer interrogatory. That's it.

THE COURT: But I've already done that, and it isn't working. See, that's the problem.

MR. BARTLE: Well, I don't know if you have before. This is the first motion to compel on this. We would just ask you to sustain the objection, sustain the motion to compel, and order the State to provide the information the best they can. If they can't, then it says that in its interrogatory.

MR. WHITTEN: I can live with that if you're simply ordering us -- which I heard that part and we don't quarrel -- you have sustained 1 through 6 and you said, quote, To the extent possible. And we will answer it.

THE COURT: Let's leave it at that. Let's end it with Extent possible and leave it at that, because what that does, I guess, is to the extent possible and leaving it at that, you're going to get what you're going to get.

MR. BARTLE: If it's inappropriate, I'll come back to you. We'll deal with it later. But I would like the answer.

THE COURT: Well, of course, I'm trying to avoid some of that, but --

MR. BARTLE: I understand, your Honor.

THE COURT: You're going to get what you're going to

IN THE DISTRICT COURT OF CLEVELAND COUNTY

STATE OF OKLAHOMA

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

Plaintiff,

vs. 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.

* * * * *

TRANSCRIPT OF PROCEEDINGS

TELEPHONIC MEET AND CONFER

ON SEPTEMBER 21, 2018

BEGINNING AT 2:05 P.M.

* * * * *

REPORTED BY: Jane McConnell, CSR RPR CMR CRR

EXHIBIT 4

in our letter.

MR. BARTLE: This is Harvey.

If we're done talking about the depositions, I don't know if everybody else wants to stick on for this, but I'd like to talk about, as I mentioned earlier, some of the plaintiff's discovery responses to the Teva defendants.

MR. BECKWORTH: Drew, can you handle that? I need to run. You all can handle it and let me know if you need me.

MR. PATE: Yes. Trey and I will handle that.

MR. BECKWORTH: Okay. I appreciate it. Everybody have a nice weekend. Thank you.

MR. BARTLE: Trey, I mentioned this in a call with Purdue earlier this week. Do you guys have a date by which you're going to respond to Cephalon's second set of interrogatories?

MR. DUCK: Yeah. This is Trey.

Yeah. I think that we're still looking at the interrogatories and determining exactly what it is we need to do in accordance with Judge Hetherington's rulings from the bench on the 31st.

I think that the earliest they could be or we would be required to respond to them is 30 days

from that, from the order on the 31st.

Right now we're thinking that we'll have you supplemented responses, to the extent we need to supplement any of them, on the 1st of October.

Now, I assume that would be okay with you. But as I said, we're currently looking at them and deciding what we need to do to supplement them.

And, Harvey, I don't think either of us wants to be back in court arguing about these exact same interrogatories again. So if we need a few extra days, is it okay for us to reach out to you and reasonably discuss that?

MR. BARTLE: Yes, absolutely, of course.

One of the other things I want to talk to you about was did the responses to the Actavis, LLC, Actavis Pharma and Teva Pharmaceuticals' second interrogatories which you provided on the 17th -- on the 7th of September, all the questions were similar to the ones from the second Cephalon set, and the answers that you gave to those interrogatories were almost word for word the same that you originally answered for Cephalon on which we moved to compel.

So I would ask you to take a look at those interrogatories that you provided to me on

Pamela K. Edmonds

From: Trey Duck <tduck@nixlaw.com>
Sent: Tuesday, October 2, 2018 3:42 PM
To: Bartle IV, Harvey; Drew Pate
Cc: Nicholas V. Merkley; Fiore, Mark
Subject: Re: Oklahoma v Purdue

Harvey, sorry for the delay. I mentioned in the meet and confer that the State may need a few extra days to answer. Then, the hearing regarding whether the State has to reveal the identities of patients and physicians was delayed. That hearing is now happening tomorrow afternoon. As you know, the interrogatories at issue seek patient and physician identities. We will supplement the interrogatories as soon as practicable after we get some clarification from the Court on revealing identities. Happy to chat more about this with y'all tomorrow at the hearing.

Thanks guys. Safe travels to OKC.

Trey Duck

NIX PATTERSON, LLP

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Austin, TX 78746
Phone: (512) 328-5333
Direct: (512) 599-5704
tduck@nixlaw.com

From: "Bartle IV, Harvey" <harvey.bartle@morganlewis.com>
Date: Tuesday, October 2, 2018 at 2:54 PM
To: Trey Duck <tduck@nixlaw.com>, Drew Pate <dpate@nixlaw.com>
Cc: "nmerkley@gablelaw.com" <nmerkley@gablelaw.com>, "Fiore, Mark" <mark.fiore@morganlewis.com>
Subject: Oklahoma v Purdue

Trey and Drew,

At the end of the September 21, 2018 meet & confer, you said that the State would be providing on October 1 updated responses to Cephalon's Second Set of Interrogatories, for which Judge Hetherington granted our motion to compel on August 31st. When do you intend to provide those responses?

EXHIBIT 5

Thanks

Harvey

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IN THE DISTRICT COURT OF CLEVELAND COUNTY

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., MIKE HUNTER ATTORNEY GENERAL OF OKLAHOMA,	)	
Plaintiff,	)	
vs.	)	Case No. CJ-2017-816
(1) PURDUE PHARMA L.P.; (2) PURDUE PHARMA, INC.; (3) THE PURDUE FREDERICK COMPANY; (4) TEVA PHARMACEUTICALS USA, INC; (5) CEPHALON, INC.; (6) JOHNSON & JOHNSON; (7) JANSSEN PHARMACEUTICALS, INC.; (8) ORTHO-McNEIL-JANSSEN PHARMACEUTICALS, INC., n/k/a JANSSEN PHARMACEUTICALS; (9) JANSSEN PHARMACEUTICA, INC. n/k/a JANSSEN PHARMACEUTICALS, INC.; (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC, f/k/a ACTAVIS, INC., f/k/a WATSON PHARMACEUTICALS, INC.; (11) WATSON LABORATORIES, INC.; (12) ACTAVIS LLC; AND (13) ACTAVIS PHARMA, INC., f/k/a WATSON PHARMA, INC.,	)	
Defendants.	)	

PORTIONS OF TRANSCRIPT MAY BE COVERED UNDER PROTECTIVE ORDER

TRANSCRIPT OF PROCEEDINGS

HAD ON OCTOBER 3, 2018

AT THE CLEVELAND COUNTY COURTHOUSE

BEFORE THE HONORABLE THAD BALKMAN

DISTRICT JUDGE

AND WILLIAM C. HETHERINGTON, JR.,

RETIRED ACTIVE JUDGE AND SPECIAL DISCOVERY MASTER

REPORTED BY: ANGELA THAGARD, CSR, RPR

hearing.

THE COURT: I don't have a problem with that. That's okay.

MR. PATE: I obviously don't know what their response is going to say, your Honor. I find it hard to believe that they're going to file a response that says that they actually produced all this information to us about Rhodes Pharma that they weren't able to explain or talk about at the last hearing, so I don't know what impact it would have on the order.

But if your Honor's going to allow them to file a response, I think the first plan that you set forth makes the most sense to us, that they file a response, and if you need to -- if you feel like you need to modify the order you just entered, then you can modify it. Otherwise, it stands.

THE COURT: I think it is best to withdraw that part of the order, and let me just go ahead and consider the objection and I'll enter an order separate and relevant only to that.

MR. PATE: Only on our second motion to show cause for Rhodes Pharma?

THE COURT: That's correct.

MR. COATS: Thank you, your Honor.

MR. MERKLEY: Your Honor, if I may. I have one real small thing, and it relates to the motion you've heard today.

We don't want to file, you know, motions for sanctions or

anything like that. And I think the Court can give us some guidance right now on this one particular issue to clear it up.

As you may recall on August 31st, you heard our Cephalon motion to compel responses to a number of interrogatories, and you ordered the State to respond. The State didn't respond. We had a motion. We had a subsequent meet and confer, and the State told us they would get us responses by October 1st. We said fine.

We followed up yesterday when we didn't get responses by October 1st, and we were told by the State that, Well, some of the issues that you're going to deal with today with respect to the doctor and patient information affects some of the responses, so we don't have the responses yet.

Your Honor, what we would like from the Court is some guidance. First of all, not all of those interrogatories -- matter of fact, the majority of them did not deal with the doctor and patient information, don't relate whatsoever.

So we would like some guidance from the Court on giving the State a hard deadline to go ahead and respond. You've already ordered them to respond subject to a -- on a motion to compel.

THE COURT: When was that entered?

MR. MERKLEY: That was from the hearing on August 31st, and you made that ruling on the record.

And then to the extent the State believes that your ruling

from today's hearing actually affects the responses to one or two of those interrogatories, we would ask that you order the State to respond to those one or two within, say, three days, five days of your ruling on the issue that you heard today.

THE COURT: Who's dealing with that?

MR. MERKLEY: Not asking for any admonishments or sanctions or anything like that; just some guidance so we can get the information to get on with this case.

MR. DUCK: Couple of things. I don't think Nick will disagree with anything I'm about to tell you. We had a very amicable meet and confer on this. That meet and confer was before the hearing got moved. We didn't know this hearing was going to get moved, so we thought this hearing was going to occur last week.

We had a meet and confer before that. And I told Nick and Harvey we anticipated getting answers to these interrogatories to them by October 1st, but I might need to ask for a little extra time, and they agreed with that.

Then the hearing got moved after the meet and confer. It didn't occur to me then, but then when they sent the e-mail yesterday, I probably should have said to them, Hey, since the hearing got moved, we need to reassess the timing on these interrogatories. I didn't do that.

But we will answer these interrogatories. The truth of the matter is the interrogatories specifically request -- not

all of them, but some of them -- request patient names and physician names.

So we really can't answer those interrogatories that do involve that because we haven't gotten your Honor's ruling yet. Our thought was, Why answer a set of interrogatories twice. Why not just wait to hear what you've got to say, and we'll then give our answers.

We want to give them the answers. I told them we'd do it as soon as practical after we got your ruling. But we'll do whatever you tell us to do, Judge.

THE COURT: All but the patient and doctor information, I take it, you're prepared, and the interrogatory answers are ready to go?

MR. DUCK: Yeah, we are. I mean, you know, it's kind of one of those things where what you say in your ruling could materially change even some of those answers, because it relates to expert information.

So a lot of the arguments you heard from Mr. Whitten and me today are part of the substantive responses that we're going to give to Teva in those interrogatories.

So what I'm envisioning is having to rewrite the majority of the interrogatories after we provide these answers, and I'm also envisioning new motion practice getting set up based on our old answers when it could have just been cleared up by getting a ruling from you today and we just answer once.

But that said, if you want us to answer the interrogatories we can answer now, we'll do it. I would like to have a few days to look them over and make sure that we're not doing something we don't want to do.

THE COURT: I think what I would ask is that the ones you can answer, let's go ahead and get those done by, how about Tuesday, 4:00 p.m., the 9th.

MR. DUCK: Okay.

THE COURT: And then just make note of the ones -- I mean, specifically say in your responses that you're reserving these until after my ruling on the claim data.

MR. DUCK: Yes, sir. We'll do it. Thank you. Does that work for you, Nick?

MR. MERKLEY: That works.

Thank you, your Honor.

THE COURT: Anything else?

MR. WHITTEN: No, your Honor.

THE COURT: All right. Thank you all very much. Very good argument. And if we could, come up here and let's go through these with Angie, and let's get these marked the way she needs to have them marked, and then I'll wait for you all to just let the process take its course that we've created, and call me if I'm needed.

(End of proceedings)

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

<u>STATE'S RESPONSES AND OBJECTIONS TO DEFENDANT CEPHALON, INC.'S SECOND SET OF INTERROGATORIES</u>

Pursuant to 12 OKLA. STAT. §3233, Plaintiff, the State of Oklahoma (the "State" or "Plaintiff"), hereby submits its Responses and Objections to Defendant Cephalon, Inc.'s ("Defendant") Second Set of Interrogatories to Plaintiff ("Second Interrogatories"). The State specifically reserves the right to supplement, amend and/or revise these Responses and Objections in accordance with 12 OKLA. STAT. §3226.

EXHIBIT
7

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 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 or agreement 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 Family—(1) the Purdue Defendants, (2) the Janssen Defendants, and (3) the Teva Defendants—for a total of 90 interrogatories.

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 Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. The State will respond to the first 6 interrogatories served by each Defendant Family since the First Interrogatories, and the State will stand on its objections and decline to answer any additional interrogatories. The State expressly reserves any and all objections to those interrogatories that exceed Defendants' limits which are not answered herein.

5. The State further objects to the compound nature of Defendant's Second 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 Family. 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 hereby incorporates by this reference its Objections to Defendants First Interrogatories as if fully set forth herein.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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 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 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 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 Number 9 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.

5. The State objects to Defendant's Definition Number 10 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 Number 11 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, 2007 to the date Defendant's requests were served. The State further incorporates each of its objections to Definition Numbers 13 (the term "Medical Assisted Treatment") and 21 (the term "Relevant Medication") as if fully set forth in this objection to Definition Number 11.

7. The State objects to Defendant's Definition Number 13 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 16 of the term "Opioid(s)" as if fully set forth in this objection to Definition Number 13. 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 Number 15 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.

9. The State objects to Defendant's Definition Number 16 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 Number 17 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, 2007 through the date these requests were served.

11. The State objects to Defendant's Definition Number 19 of the term "Program" and incorporates its objections to Definition Numbers 15 ("Oklahoma Agency") and 16 ("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 Number 21 of the term "Relevant Medication(s)" as misleading to the extent it suggests each listed drug is relevant to the claims or

defenses at issue in this action. Therefore, the State will reasonably construe the term "Relevant Medication(s)" to mean opioid medications or drugs related to the claims and defenses at issue in this litigation.

13. The State objects to Defendant's Definition Number 22 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 11 ("HCP") and 19 ("Program") as if fully set forth herein.

14. The State objects to Defendant's Definition Number 24 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. The State will respond on behalf of the Office of the Attorney General and those State agencies reasonably calculated to have information or materials relevant to the claims or defenses asserted in this litigation.

RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1: For the 245 prescriptions identified in paragraph 37 and Exhibit 3 of the Petition, identify which of those prescriptions were "unnecessary" or "excessive" as alleged in paragraph 34 of the Petition, 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. 1:

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definition of the term "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).

Finally, the State objects to this Interrogatory to the extent it assumes that: (a) Defendant is liable solely for the prescriptions identified in paragraph 37 and Exhibit 3 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.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See The State's Response to Janssen Pharmaceuticals Inc.'s Interrogatory No. 1. 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 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. Additional databases and information the State intends to produce contain substantial identifying information; therefore, the State will produce these databases after the Court has ruled on Defendants' Motion to Compel patient and physician identities.

The State will provide additional information, from which answers to this interrogatory can be determined, in the form of expert opinion(s) and in accordance with the expert disclosure deadlines set out in the Court's scheduling order. Without waiving any objections or rights related to the timing of expert disclosures, the State's expert(s) will opine as to the medical necessity of opioid prescription—both branded and generic—covered by SoonerCare through a statistical

analysis. The Court has not required the State to provide Defendants with this information earlier than as provided in the scheduling order, as was made clear at the August 31, 2018 hearing:

> MR. WHITTEN: ... You're not compelling us to turn over our expert witness statistical sample early or in response to this interrogatory?
>
> THE COURT: Not at all.
>
> MR. WHITTEN: Because we cannot.
>
> THE COURT: Of course not, and not at all. No. This goes just to these -- I mean, this was specific as just to this Request 1 through 6, you know, today. But it has nothing to do with the expert model. I understand that. And I understand the distinction in terms of what you expect to present at trial.

August 31, 2018 Hearing Transcript at 73:15-25.

Further, the State's position is that Cephalon is jointly and severally liable not only for any medically unnecessary prescriptions of Cephalon branded drugs, but for *all* medically unnecessary opioids—both branded and generic—reimbursed by the State, which prescriptions were a result of Cephalon's role in a conspiracy involving both branded and unbranded marketing efforts related to opioids. But for Defendants' aggressive marketing campaign—which included not only traditional and direct forms of marketing, but also indirect marketing and biased "education" through third-party Front Groups and KOLs—the State of Oklahoma would not have been inundated with Defendants' harmful opioids and SoonerCare would not have paid for unnecessary opioid prescriptions. In short, Cephalon's liability in this action for causing the present public nuisance, for committing violations of the Oklahoma Medicaid False Claims Act, and for the State's other causes of actions, is not limited to the 245 Cephalon-branded prescriptions covered by SoonerCare. Nor is that what the Petition alleges. Along with the other Defendants, Cephalon is jointly and severally liable (under the causes of action pled) for causing and contributing to the opioid addiction epidemic in Oklahoma. The State intends to use expert opinion(s) to establish

certain elements of its case, including much of the information sought in this Interrogatory. The State has answered this Interrogatory to the extent possible without disclosing expert information and opinions prior to the expert disclosure deadlines. *See* August 31, 2018 Hearing Transcript at 84:16-19.

INTERROGATORY NO. 2: For each prescription You identified as "unnecessary or excessive" in response to Interrogatory No. 1, describe your basis for alleging that it was "unnecessary or excessive."

RESPONSE TO INTERROGATORY 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 definition of the term "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 that are inconsistent with Oklahoma law.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See The State's Response to Janssen Pharmaceuticals Inc.'s Interrogatory No. 1. 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, even if it were applicable, the doctrine only shields manufacturers of prescription drugs from liability "if the manufacturer adequately warns the prescribing physicians of the dangers of the drug." Edwards, 1997 OK 22, ¶8. "To 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—often contradicting their own labeling—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 failed to adequately warn of 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. Additional databases and information the State intends to produce contain substantial identifying information; therefore, the State will produce these databases after the Court has ruled on Defendants' Motion to Compel patient and physician identities.

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.

See also the State's Objections and Response to Interrogatory No. 1 above. Without waiving any objections or rights related to the timing of expert disclosures, and in accordance with the Court's scheduling order, the State intends to provide Defendants with expert opinion(s) from which answers to this Interrogatory can be determined. Specifically, subject to the objections above, the State's expert(s) will opine as to the opioid prescription that are/were medically unnecessary and will describe the parameters used to make those determinations. The State has answered this Interrogatory to the extent possible without disclosing expert information and opinions prior to the expert disclosure deadlines. *See* August 31, 2018 Hearing Transcript at 84:16-19.

INTERROGATORY NO. 3: For each prescription You identified as "unnecessary or excessive" in response to Interrogatory No. 1, 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. 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 "HCP," "Oklahoma Agency," "You," 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 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 objects to this interrogatory as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Specifically, 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.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

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. Additional databases and information the State intends to produce contain substantial identifying information; therefore, the State will produce these databases after the Court has ruled on Defendants' Motion to Compel patient and physician identities.

See also the State's Objections and Responses to Interrogatories Nos. 1 and 2 above. The State cannot further answer or supplement this Interrogatory until the Court has ruled on Defendants' Motion to Compel patient and physician identities.

INTERROGATORY NO. 4: For each HCP You identified in response to Interrogatory No. 3, identify each misrepresentation to that HCP that caused the HCP to prescribe an "unnecessary or excessive" prescription You identified in response to Interrogatory No. 1, including the date the HCP received that misrepresentation and the means by which that misrepresentation was communicated to that HCP.

RESPONSE TO INTERROGATORY 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 "HCP" 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 or the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Because this Interrogatory seeks the identity of documents and materials while the State may be reasonably collecting, searching, 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 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.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See Objections and Response to Interrogatory Nos. 1-4 above. 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. Additional databases and information the State intends to produce contain substantial identifying information; therefore, the State will produce these databases after the Court has ruled on Defendants' Motion to Compel patient and physician identities.

Further, the State is not required to answer this Interrogatory as posed because it seeks information not relevant to the case and mischaracterizes the elements of the State's causes of action and the nature of the State's burden of proof. In the same vein, the requested information is not relevant to Defendants' defenses, or any small amount of relevance is far outweighed by the burden to the State. Indeed, the State simply is not required to show individual misrepresentations or false statements that directly and independently caused a particular unnecessary prescription of a Cephalon opioid to be written by a physician, filled by a pharmacy, and/or covered by SoonerCare. The fact that Cephalon wishes this were the case does not change the scope of

permissible discovery. The State intends to prove the causes of action it has alleged in accordance with the applicable law. The State expects Defendants only defend themselves against the allegations and claims the State has actually asserted.

Without waiving any objections or rights related to the timing of expert disclosures, the State further states that it intends prove parts of its case through the statistical analyses and the use of a statistically valid sample of SoonerCare claims, the particulars of which will be provided to Defendants in accordance with the Court's scheduling order. The State has answered this Interrogatory to the extent possible without disclosing expert information and opinions prior to the expert disclosure deadlines. *See* August 31, 2018 Hearing Transcript at 84:16-19.

INTERROGATORY NO. 5: For each Oklahoma Agency You identified in response to Interrogatory No. 3, 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. 1, including the date the employee received that misrepresentation and the means by which that misrepresentation was communicated to that employee.

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 "HCP" and "You," 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 Oklahoma healthcare provider to be liable for the State's claims under the Oklahoma Medicaid False Claims Act.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See Objections and Responses to Interrogatories Nos. 1-4 above. 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. Additional databases and information the State intends to produce contain substantial identifying information; therefore, the State will produce these databases after the Court has ruled on Defendants' Motion to Compel patient and physician identities.

Further, the State is not required to answer this Interrogatory as posed because it seeks information not relevant to the case and mischaracterizes the elements of the State's causes of action and the nature of the State's burden of proof. In the same vein, the requested information is not relevant to Defendants' defenses, or any small amount of relevance is far outweighed by the burden to the State. Indeed, the State simply is not required to show individual misrepresentations or false statements that directly and independently caused an unnecessary prescription of a Cephalon opioid to be written by a physician, filled by a pharmacy, and/or covered by SoonerCare. The fact that Cephalon wishes this were the case does not change the scope of permissible discovery. The State intends to prove the causes of action it has alleged in accordance with the

applicable law. The State expect Defendants only defend themselves against the allegations and claims the State has actually asserted.

Without waiving any objections or rights related to the timing of expert disclosures, the State further states that it intends prove its case (or parts of its case) through the statistical analyses and the use of a statistically valid sample of SoonerCare claims, the particulars of which will be provided to Defendants in accordance with the Court's scheduling order. The State has answered this Interrogatory to the extent possible without disclosing expert information and opinions prior to the expert disclosure deadlines. *See* August 31, 2018 Hearing Transcript at 84:16-19.

INTERROGATORY NO. 6: Identify each instance in which you and any other entity that provides or administers benefits for Your Programs denied payment or reimbursement for a prescription of Actiq or Fentora as "unnecessary or excessive," and describe the details of the denial, including the date, claim number, the identify the name and address of the HCP, identify the name and address of the patient, the reason(s) given for the denial, and associated records or other documentation.

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 "HCP" and "Your," "Program," and "HCP," as if fully set forth herein.

The State further objects to this Interrogatory because it is unclear and confusing in its wording, though the State will reasonably attempt to construe its intended meaning. Further, the Interrogatory 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 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 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 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 to this Interrogatory as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"). The State has provided Defendants with an acceptable version of a protective order covering HIPAA-protected documents and information. The State will not produce or otherwise disclose any protected health information until that protective order, or a substantially similar protective order, is agreed to by Defendants and entered by the Court.

Subject to and without waiving the foregoing objections (including those incorporated into this response), the State responds as follows:

See Objections and Response to Interrogatories Nos. 1-5 above, which are hereby incorporated by this reference as if fully set forth herein. 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. Additional databases and information the State intends to produce contain substantial identifying information; therefore, the State will produce these databases after the Court has ruled on Defendants' Motion to Compel patient and physician identities.

Having incorporated the above Objections and Responses to Interrogatories Nos. 1-5, the State has answered this Interrogatory to the extent possible without disclosing expert information and opinions prior to the expert disclosure deadlines. *See* August 31, 2018 Hearing Transcript at 84:16-19.

INTERROGATORY NO. 7: Identify the prescriptions of Actiq or Fentora that were issued to Oklahoma patients as a result of Cephalon's sales force misrepresenting "Actiq and Fentor as being appropriate for non-cancer pain and non-opioid-tolerant individuals, despite their labels' contrary warnings," 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 and/or omission by Cephalon 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. 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," 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 possessions, 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 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 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, 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 of the Court's scheduling Order. *See* 12 OKLA.

STAT. §3233(B). 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 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

Interrogatory No. 8: Describe in detail Cephalon's "other marketing" misrepresenting "Actiq and Fentor as being appropriate for non-cancer pain and non-opioid-tolerant individuals, despite their labels' contrary warnings," 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 and/or omission by Cephalon 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. 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 "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 possessions, 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 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 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, 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 of the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). 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 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 9: Identify all opioid prescriptions that you contend were caused to be written as a result of the 2007 "APF treatment guide" alleged in paragraph 64 of the Petition, and for each such prescription identify the HCP who wrote 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. 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 "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 possessions, 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 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 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, 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 of the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). 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 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As

such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 10: 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 response to these Interrogatories.

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 "HCP" and "Oklahoma Agency," 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. 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 11: For each disciplinary proceeding, civil actions, or criminal charge identified by You in response to Interrogatory No. 10, identify the Oklahoma Agency employee(s) responsible for conducting and supervising the investigation that preceded each disciplinary proceeding, civil actions, or criminal charge.

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 "You," "Your," and "Oklahoma Agency," 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. 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 12: State whether You have received any complaints regarding the opioid prescribing practices of any HCP identified in your responses to these Interrogatories, 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. 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 "You," "Your," "HCP," and "Oklahoma Agency," 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. 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 13: 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 the HCP, and identify the Oklahoma Agency, the HCP(s) investigated and the dates of the investigation(s), and describe the findings and conclusions of each investigation.

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 "You," "Your," and "Oklahoma Agency," 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. 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 14: For each investigation identified by You in response to Interrogatory No. 13, identify the Oklahoma Agency employee(s) responsible for conducting and supervising the investigation.

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," and "Oklahoma Agency," 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. 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 15: Identify each "misrepresentation" or "omission" by Cephalon 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. 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 term "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 Cody of Civil Procedure or the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). 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, 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 misrepresentation and each individual, community, neighborhood, and person affected by Defendants' behavior and deadline 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 family, 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, 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 as it exceeds to 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"). The First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

INTERROGATORY NO. 16: Described any injunctive relief that You are seeking to abate the "public nuisance," Petition, Prayer ¶ K, including all Cephalon conduct You seek to

prohibit to abate the "public nuisance" and all conduct You seek to compel from Cephalon to abate the "public nuisance."

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," 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 Cody of Civil Procedure or the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). 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, 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 misrepresentation and each individual, community, neighborhood, and person affected by Defendants' behavior and deadline 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 family, 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, 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.

Finally, the State objects to this interrogatory as it exceeds to 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"). The

First Interrogatories consisted of at least 24 Joint Interrogatories, to which the State responded. As such, following the First Interrogatories, each Defendant Family was left with, at most, 6 unused interrogatories. Indeed, 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 have collectively served 66 Joint Interrogatories when all separate and distinct subparts are properly counted. Nevertheless, the State has already responded to 6 additional interrogatories by each Defendant family.

DATED: October 9, 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 October 9, 2018 to:

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