



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
Judge Thad Balkman

- (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.,)

William C. Hetherington
Special Discovery Master

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

FILED
DEC 05 2018

In the office of the
Court Clerk MARILYN WILLIAMS

Defendants.)

**STATE'S RESPONSE TO PURDUE'S MOTION TO QUASH AND MOTION FOR
PROTECTIVE ORDER FOR DEPOSITION NOTICE OF PURDUE VIA BURT ROSEN**

Burt Rosen was the genesis of the Pain Care Forum. Every distribution list for the Pain Care Forum lists Purdue; and every time Purdue is listed, so is Burt Rosen. Burt Rosen's direct contact for the work the Pain Care Forum did was Howard Udell—the former Chief Legal Officer for Purdue that pleaded guilty along with Purdue for its misbranding of OxyContin—who, in

response to an update from Rosen [REDACTED]

[REDACTED] said:

[REDACTED]
[REDACTED]
[REDACTED]

The Pain Care Forum became a force because of Purdue and Burt Rosen's leadership and direction. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] While J&J's witnesses claim they didn't know much, J&J did know Purdue was an, if not the, originator of the Pain Care Forum. And we know that Burt Rosen was Purdue's man running the enterprise.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The Pain Care Form was an echo chamber devised and maintained by Purdue. The Pain Care Forum's stated goal was to provide a dark money scheme through which its members could collaborate to influence public policy, media, medical and consumer beliefs surrounding opioids and opioid prescribing. Burt Rosen's title at Purdue is Vice President of Federal Policy and Legislative Affairs. The overlap is not a coincidence. Purdue is the Pain Care Forum. Burt Rosen is the Pain Care Forum. We know who knows about the Pain Care Forum. His name is Burt Rosen. We also know, just like the Ives deposition, that where an agent of Purdue puts up a smoke screen there is definitely a fire. This deposition must go forward.

ARGUMENT AND AUTHORITIES

"A party may name a specific individual in a notice to take the deposition of a party corporation provided that the individual is a director, officer, managing agent, or some other individual who is authorized to speak for the corporation." *Crest Infiniti, II, LP v. Swinton*, 2007 OK 77, ¶ 5, 174 P.3d 996, 1000. The party moving for a protective order bears the burden to show that a deposition of a corporate official is for the purpose of annoyance, harassment, embarrassment, oppression or undue delay, burden, or expense. *Crest Infiniti*, 174 P.3d at 1004-1005. Blanket statements that a corporate official lacks relevant information are insufficient to satisfy the burden for a protective order. *Id.* at 1005.

Purdue cannot meet their burden for a protective order here. Rosen's deposition—an attempt to gather information from the man that directed the Pain Care Forum *and* lobbies on behalf of Purdue—could not be more relevant to this case, and Purdue has provided zero evidence to support their claims of duplicity or harassment. They can't. Rosen's involvement with Purdue and the Pain Care Forum makes him uniquely qualified to testify on the depth and breadth of Defendants' conspiracy to profit off the addiction of Oklahomans. Moreover, as demonstrated by

the sheer dearth of knowledge from the J&J corporate representatives the State has deposed regarding the Pain Care Forum, Rosen may prove the only corporate representative adequately prepared to testify on those issues.

Accordingly, as set forth below, the Court should deny Purdue's Motion because (1) Rosen is an officer of both Purdue Pharma, Inc. and Purdue Pharma L.P., and thus may serve as a corporate representative; and (2) Rosen possesses unique knowledge relevant to the State's claims, and his testimony will go to the heart of this case.

Purdue's Motion should be denied.

A. Rosen is a corporate representative for Purdue Pharma, Inc. and Purdue Pharma L.P.

Purdue claims that because Rosen does not hold a position for Purdue Frederick Co., he is unable to give a deposition on behalf of Purdue Pharma, Inc. or Purdue Pharma L.P. Motion at 3. This is absurd. Purdue admits in their Motion that Rosen is the Vice President of Federal Policy and Legislative Affairs for Purdue Pharma, L.P, and that he is employed by Purdue Pharma Inc. Motion at 2-3. Therefore, at the very least, Rosen can give a deposition as a corporate representative on behalf of those entities. In short, whatever relationship Rosen may lack with respect to Purdue Frederick is no reason for Purdue or Rosen to avoid sitting for this deposition.

B. Rosen's testimony is unique and critical to this litigation.

Purdue further asserts that Rosen's testimony would be duplicative and harassing. Motion at 3-4. Nothing could be further from the truth. Rosen's testimony goes to the heart of this case. Rosen has been a Vice President of Purdue Pharma L.P. for several years. As show above, Rosen started the Pain Care Forum. Through the Pain Care Forum, Purdue conspired and collaborated with key opinion leaders, front groups, and the other Defendants to influence the prescribing habits of Oklahoma doctors and to increase the State's appetite for their narcotics. Because of Rosen's

unique role and experience at Purdue, there is quite possibly no one else who possesses the same knowledge and information.

Moreover, just to demonstrate how involved Rosen was in the subjects of this litigation, in the documents produced by Purdue alone, Rosen's name appears in 20,814 of them.

That's right: Rosen's name appears on at least 20,814 Purdue documents.

And Rosen's name appears on thousands of documents produced by the third party members of the Pain Care Forum. And these are not just random instances of Burt Rosen's name in an e-mail listserv; [REDACTED]

[REDACTED]

Any argument that he is not a central figure in this case, or that the value of his testimony can be achieved elsewhere, is simply baseless.

Purdue has provided no evidence to show that Rosen's testimony will be duplicative or harassing. To the contrary, the evidence shows Rosen's testimony is critical to this litigation. This Court should reject Purdue's attempt to further shroud the workings of the Pain Care Forum from the public.

C. Purdue has not clearly requested relief from this Court.

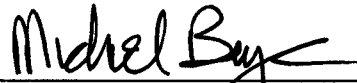
Lastly, it is unclear whether Purdue objects solely to Rosen being designated as a corporate representative, or whether it objects to any deposition of Rosen at all. One way or another, given Rosen's unique knowledge of issues central to this litigation, Rosen must be required to sit for a deposition in this case.

[REDACTED]

CONCLUSION

For the reasons herein, the State respectfully requests that the Court deny Purdue's Motion to Quash and for Protective Order, and requests the court compel Purdue to produce Rosen as a witness consistent with the November 7, 2018, Notice.

Respectfully submitted,



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EXHIBIT

1

**CONFIDENTIAL
FILED UNDER SEAL
PURSUANT TO PROTECTIVE ORDER
DATED APRIL 16, 2018**

EXHIBIT

2

**CONFIDENTIAL
FILED UNDER SEAL
PURSUANT TO PROTECTIVE ORDER
DATED APRIL 16, 2018**

EXHIBIT

3

**CONFIDENTIAL
FILED UNDER SEAL
PURSUANT TO PROTECTIVE ORDER
DATED APRIL 16, 2018**

EXHIBIT

4

**CONFIDENTIAL
FILED UNDER SEAL
PURSUANT TO PROTECTIVE ORDER
DATED APRIL 16, 2018**