



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

Plaintiff,

vs.

PURDUE PHARMA L.P., et al,

Defendants.)
)
)

FILED
DEC 08 2018
In the office of the Case No. CJ-2017-816
Court Clerk MARILYN WILLIAMS

**PURDUE’S MOTION TO COMPEL PRODUCTION OF STATE
CUSTODIAL FILES AND DEPOSITION DATES**

Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company Inc. (“Purdue”) respectfully move this Court for an Order compelling Plaintiff the State of Oklahoma to produce custodial files of State employees and deposition dates for those witnesses. The custodial files are a necessary precursor to productive depositions and should have been produced long ago as a matter of course so Purdue can continue to meaningfully engage in the discovery process and prepare its defenses for trial. Because the State failed to timely or meaningfully respond to Purdue’s multiple requests for their production, as well as for deposition dates pursuant to the Court’s deposition protocol, Purdue must again seek judicial relief to obtain key discovery and to avoid further delay.

The factual background and legal basis for this motion is virtually identical to that of Purdue’s October 4, 2018 Motion to Compel Custodial Files – and the outcome should be the same here. In that instance, Purdue identified State employees it wanted to depose and requested

their custodial files be produced in advance of depositions. The State simply ignored the request. The Court granted Purdue's motion to compel and ordered the documents to be produced.¹

This time around, on October 30, 2018, Purdue requested the State produce custodial files from key State employees who are likely to have information relevant to the State's claims, including the chief medical director of the Oklahoma Health Care Authority, the State's Chief Medical Examiner, and the President of the Oklahoma State Board of Pharmacy. Exhibit A, Oct. 30, 2018 ltr. The State ignored Purdue's request and did not respond. On November 26, 2018, Purdue renewed its request and, pursuant to the deposition protocol established by the Court at the August 31st hearing, also requested deposition dates for the identified custodians. Exhibit B, Nov. 26, 2018 ltr. Once again, the State disregarded Purdue's request and failed to respond. On December 4, over a week after the second letter was sent, and five days beyond the expiration of the meet and confer period set by the deposition protocol, the State made a delinquent request to meet and confer on the subject. Exhibit C, December 4 email discussion. Purdue immediately agreed to meet and confer that day. *Id.* The State declined and provided availability only after the deadline for motions to be heard at the next December 20th hearing.² *Id.* With expert discovery and the close of general discovery rapidly approaching, this issue cannot wait until the January hearing. As of this filing, the State has produced custodial documents from only one of the 42 identified deponents.

¹ The Court ordered the depositions to take place within 30 working days of the Order and for the documents to be produced sufficiently in advance to provide for meaningful preparation. Although the State did not produce the documents within that time frame, Purdue has agreed to extend the deadline for production to December 7, 2018.

² Purdue also offered to meet and confer the following day, December 5th, but the State ignored Purdue's request. Purdue has agreed to find a mutually agreeable time to confer the week of December 10th but is forced to file the instant motion to preserve its right to be heard at the upcoming hearing and avoid further delay.

The State's continued refusal to meaningfully participate in discovery in this case is egregious and is causing Purdue severe prejudice. The State's productions to-date have largely consisted of publicly available documents or irrelevant collections of miscellaneous documents with no apparent connection to this case.³ The last time Purdue was able to depose a witness for the State, the State produced key documents the morning of the deposition. The State is not keeping up with its discovery obligations.

In light of the State's meager productions, Purdue independently identified the State employees most likely to have access to relevant documents. The identified witnesses hold key offices in the State's various agencies and would have been the individuals making key decisions at the agencies and drafting relevant documents and communications in this case. Their custodial files, which include email discussions and drafts of public documents, are necessary prior to deposing them in this matter. As the Court has recognized, "[you have] got to have document production and proper preparation before that for witnesses to be prepared." Ex. D, (8/31/18 Hearing Tr.) at 24:20-22. The State, however, not only failed to produce those materials, it refused to even engage with Purdue on the subject in a timely and meaningful fashion. *The State's refusal has caused incredible delay and is simply inexcusable.*

This is not an isolated incident. It is clear that the State's intent is to refuse and obstruct discovery at every turn, causing delay as Purdue repeatedly files motions seeking commonplace discovery. The State knows Purdue needs custodial files in advance of depositions, and this Court previously ordered the State to produce custodial files in advance of depositions. *The only reason the files have not been produced is to cause delay and prejudice Purdue's ability to defend itself in this case.* The State engages in these dilatory practices because it has so far

³ As but one example, the State's production contains three identical copies of a 500-page manuscript on the "Sovereign Citizen" anti-government movement.

worked to its tactical advantage. For example, in the case of the Department of Corrections witnesses, Purdue notified the State on September 7th that it intended to take those depositions. The State ignored requests for custodial files and forced Purdue to move. The Court ruled in Purdue's favor, and the State has continued its delay. Now, *three months later*, the State has still not provided the custodial files and those depositions have yet to take place.⁴ The Court must take steps now to prevent the State from repeating this scenario.

Custodial files are especially important given the State's failure to properly conduct its document collection. For example, just this week, the State informed the Court that it had "substantially complied" with its discovery production obligations, and yet a review of those productions finds glaring deficiencies. For example, the State notes that it collected 50 documents in total from the Oklahoma Bureau of Narcotics & Dangerous Drugs ("OBN"). The OBN is responsible for enforcing Oklahoma's drug laws, compiling drug statistics, and publishing Oklahoma's yearly Drug Threat Assessment.⁵ The OBN runs Oklahoma's Prescription Drug Monitoring Program that tracks all opioid prescriptions in the state. It has an *entire division* dedicated to investigating the misuse of legal pharmaceutical products through diversion. And yet the State *only collected 50 documents* from the OBN. Purdue's list of witnesses for which it seeks custodial files includes, among others, the OBN's Chief Agent of Diversion as well as the Administrator of Oklahoma's Prescription Drug Monitoring Program. Those two deponents, combined, appear in less than ten of the documents produced by the State, none of which are emails or documents authored by the employees. It is clear that the State's production has gaps that must be filled through collection of custodial files.

⁴ The State has agreed to produce the custodial files by December 7th. The depositions of Dr. McCurdy and Ms. Murphy are scheduled for December 13th and December 18th, respectively. However, Purdue is still waiting on a date from the State for Mr. Brown's deposition.

⁵ https://www.ok.gov/obnidd/About_OBNDD/index.html

Further, the State's refusal to timely and meaningfully engage with Purdue on the subject of production of custodial files is incompatible with the trial schedule and the State's duties in discovery and contrary to the State's prior representations to this Court regarding productions:

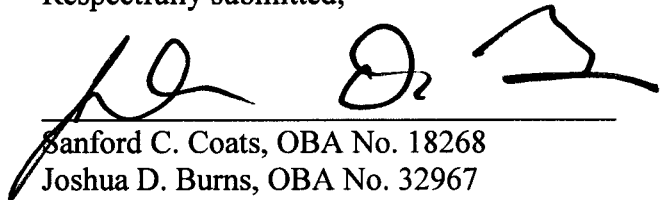
If there is a specific item or area they want us to focus on to try to move an item or category more quickly, we will endeavor to focus our efforts on that. They will have what they need in abundant time to take the depositions they need to take of our folks.

Ex. E, (4/19/18 Hearing Tr.) at 20:17-22 (Beckworth).

Purdue has made a routine request for necessary discovery and has been met with silence. The State's eleventh hour offer to meet and confer about the issues *after* the deadline for motions to be addressed on December 20th should be seen for what it is: an attempt to delay discovery to which Purdue is entitled and that is long overdue. Accordingly, the Court should compel the State to produce the custodial files for the witnesses identified in Appendix A and deposition dates for those witnesses **within 5 days** of the Court's order on this motion.

Date: December 6, 2018

Respectfully submitted,



Sanford C. Coats, OBA No. 18268
Joshua D. Burns, OBA No. 32967
CROWE & DUNLEVY, P.C.
Braniff Building
324 N. Robinson Ave., Ste. 100
Oklahoma City, OK 73102
Tel: (405) 235-7700
Fax: (405) 272-5269
sandy.coats@crowedunlevy.com
joshua.burns@crowedunlevy.com

Of Counsel:

Sheila Birnbaum
Mark S. Cheffo
Hayden A. Coleman
Paul A. LaFata
Benjamin McAnaney

Erik Snapp
Jonathan S. Tam
DECHERT, LLP
Three Bryant Park
1095 Avenue of the Americas
New York, New York 10036
Tel: (212) 698-3500
Fax: (212) 698-3599
sheila.birnbaum@dechert.com
mark.cheffo@dechert.com
hayden.coleman@dechert.com
paul.lafata@dechert.com
benjamin.mcananey@dechert.com
erik.snapp@dechert.com
jonathan.tam@dechert.com

*Counsel for Purdue Pharma L.P.,
Purdue Pharma Inc., and The Purdue
Frederick Company Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December 2018, I caused a true and correct copy of the following:

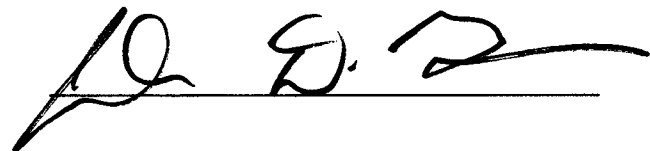
**PURDUE'S MOTION TO COMPEL PRODUCTION OF STATE CUSTODIAL FILES
AND DEPOSITION DATES**

to be served via email upon the counsel of record listed on the attached Service List.

A handwritten signature in black ink, consisting of three distinct, stylized characters, positioned above a horizontal line.

CERTIFICATE OF COMPLIANCE WITH 12 OKLA. STAT. § 3237(A)(2)

I hereby certify that counsel for Purdue has attempted in good faith to confer with counsel for the State in an effort to secure the information that is the subject of this motion without court action. Although Purdue first requested to meet and confer on the issue in October, the State was not able to make anyone available to discuss the subject until December 7th, which was past the deadline for motion practice in advance of the Court's hearing.

A handwritten signature in black ink, consisting of three distinct, stylized characters, positioned above a horizontal line.

SERVICE LIST

WHITTEN BURRAGE
Michael Burrage
Reggie Whitten
512 N. Broadway Avenue, Suite 300
Oklahoma City, OK 73102
mburrage@whittenburrage.com
rwhitten@whittenburrage.com
Counsel for Plaintiff the State of Oklahoma

OKLAHOMA OFFICE OF THE
ATTORNEY GENERAL
Mike Hunter
Abby Dillsaver
Ethan A. Shaner
313 NE 21st St
Oklahoma City, OK 73105
abby.dillsaver@oag.ok.gov
ethan.shaner@oag.ok.gov
*Counsel for Plaintiff the State of
Oklahoma*

NIX, PATTERSON & ROACH, LLP
Bradley E. Beckworth
Jeffrey J. Angelovich
Lloyd "Trey" Nolan Duck, III
Andrew Pate
Lisa Baldwin
512 N. Broadway Ave., Suite 200
Oklahoma City, OK 73102
bbeckworth@nixlaw.com
jangelovich@npraustin.com
tduck@nixlaw.com
dpate@nixlaw.com
lbaldwin@nixlaw.com
Counsel for Plaintiff the State of Oklahoma

GLENN COFFEE & ASSOCIATES,
PLLC
Glenn Coffee
915 N. Robinson Ave.
Oklahoma City, OK 73102
gcoffee@glenncoffee.com
*Counsel for Plaintiff the State of
Oklahoma*

ODOM, SPARKS & JONES PLLC
Benjamin H. Odom
John H. Sparks
HiPoint Office Building
2500 McGee Drive Ste. 140
Oklahoma City, OK 73072
odomb@odomsparks.com
sparksj@odomsparks.com
*Counsel for Defendants Janssen Pharmaceuticals,
Inc., Johnson & Johnson, Janssen Pharmaceutica,
Inc. n/k/a/ Janssen Pharmaceuticals, Inc., and
Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/
Janssen Pharmaceuticals, Inc.*

DECHERT, LLP
Sheila Birnbaum
Mark S. Cheffo
Hayden A. Coleman
Paul A. LaFata
Jonathan S. Tam
Three Bryant Park
1095 Avenue of the Americas
New York, New York 10036
sheila.birnbaum@dechert.com
mark.cheffo@dechert.com
hayden.coleman@dechert.com
paul.lafata@dechert.com
jonathan.tam@dechert.com
*Counsel for Purdue Pharma L.P.,
Purdue Pharma Inc., and The Purdue
Frederick Company Inc.*

O'MELVENY & MYERS LLP

Charles C. Lifland
Jennifer D. Cardelus
David K. Roberts
400 S. Hope Street
Los Angeles, CA 90071
clifland@omm.com
jcardelus@omm.com
droberts2@omm.com

Counsel for Defendants Janssen Pharmaceuticals, Inc., Johnson & Johnson, Janssen Pharmaceutica, Inc. n/k/a/ Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc.

GABLEGOTWALS

Robert G. McCampbell
Nicholas V. Merkley
One Leadership Square, 15th Fl.
211 North Robinson
Oklahoma City, OK 73102-7255
RMcCampbell@Gablelaw.com
NMerkley@Gablelaw.com

Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a/ Watson Pharma, Inc.

MORGAN, LEWIS & BOCKIUS LLP

Brian M. Ercole
200 S. Biscayne Blvd., Suite 5300
Miami, FL 33131
brian.ercole@morganlewis.com

Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a/ Watson Pharma, Inc.

O'MELVENY & MYERS LLP

Stephen D. Brody
1625 Eye Street NW
Washington, DC 20006
sbrody@omm.com

Counsel for Defendants Janssen Pharmaceuticals, Inc., Johnson & Johnson, Janssen Pharmaceutica, Inc. n/k/a/ Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc.

MORGAN, LEWIS & BOCKIUS LLP

Steven A. Reed
Harvey Bartle IV
Rebecca Hillyer
1701 Market Street
Philadelphia, PA 19103-2921
steven.reed@morganlewis.com
harvey.bartle@morganlewis.com
rebecca.hillyer@morganlewis.com

Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a/ Watson Pharma, Inc.

PAUL LAFATA

paul.lafata@dechert.com
+1 212 698 3539 Direct
+1 212 698 3599 Fax

October 30, 2018

BY ELECTRONIC MAIL

Bradley E. Beckworth
Jeffrey J. Angelovich
Lloyd "Trey" Nolan Duck, III
Andrew Pate
Lisa Baldwin
Nix Patterson & Roach LLP
512 N. Broadway Avenue, Suite 200
Oklahoma City, OK 73102
bbeckworth@nixlaw.com
jangelovich@nixlaw.com
tduck@nixlaw.com
dpate@nixlaw.com
lbaldwin@nixlaw.com

Glenn Coffee
Glenn Coffee & Associates, PLLC
915 North Robinson Avenue
Oklahoma City, OK 73102
gcoffee@glenncoffee.com

Michael Burrage
Reggie Whitten
Whitten Burrage
512 N. Broadway Ave., Suite 300
Oklahoma City, OK 73102
mburrage@whittenburragelaw.com
rwhitten@whittenburragelaw.com

Mike Hunter
Abby Dillsaver
Ethan A. Shaner
Attorney General's Office
313 N.E. 21st Street
Oklahoma City, OK 73105
abby.dillsaver@oag.ok.gov
ethan.shaner@oag.ok.gov

Re: *Oklahoma ex rel. Hunter v. Purdue Pharma, LP, CJ -2017-816*

Dear Counsel:

To date, the State has not produced any custodial files. The State represented at the last hearing before Special Discovery Master Hetherington that it is in the process of collecting and producing custodial files. Can you please let us know whether you are collecting or will be producing the custodial files for the individuals listed below and, if so, when you expect to produce them? In any event, we hereby request that you produce them within the next 30 days.

- **Ferris Barger**, State Purchasing Director, Office of Management & Enterprise Services
- **Jenny Barnhouse**, Peer Assistance Program Coordinator, Oklahoma Board of Nursing
- **Dr. Jason Beaman**, Assistant Clinical Professor, Oklahoma State University-Center for Health Sciences
- **Burl Beasley**, Assistant Pharmacy Director, Oklahoma Healthcare Authority
- **Deborah Bruce**, Board of Osteopathic Examiners
- **Steven Buck**, Executive Director, Oklahoma Office of Juvenile Affairs
- **Ellen Buettner**, Director, Human Resources Development, Oklahoma Department of Mental Health and Substance Abuse Services
- **Terry Cothran, Ph.D.**, Director of Pharmacy Management Consultants, University of Oklahoma College of Pharmacy
- **Steven A. Crawford, M.D.**, Chairman, Oklahoma Health Care Authority, Medical Advisory Committee
- **Durand Crosby**, Chief of Staff and Operations, Oklahoma Department of Mental Health and Substance Abuse Services
- **Carrie Daniels**, State Epidemiological Outcomes Workgroups Coordinator, Oklahoma Department of Mental Health and Substance Abuse Services
- **Melton Edminsten**, Investigator, Oklahoma Veterinary Board
- **Dr. Mike Herndon**, Chief Medical Director, Oklahoma Healthcare Authority
- **Jessica Hawkins**, Senior Director, Prevention Services, Oklahoma Department of Mental Health and Substance Abuse Services
- **Nichole King**, Director, Third Party Administrator Management, Employees Group Insurance Division, Office of Management & Enterprise Services
- **Paul King**, Compliance and Industry Practice Director, Office of Management & Enterprise Services
- **Cathy Kirkpatrick**, Executive Director, Oklahoma Veterinary Board

- **Frank Lawler, M.D.**, Medical Director, Office of Management & Enterprise Services
- **Mark Liotta**, Chairman, Oklahoma Workers' Compensation Commission
- **Liz Massey**, Vice President, Oklahoma Board of Nursing
- **Lynn Mitchell, M.D., M.P.H.**, former Chief Medical Officer and Deputy Commissioner for Prevention and Preparedness Services, Oklahoma State Department of Health
- **Steven M. Montgomery**, Chairman, Oklahoma Employees Insurance and Benefits Board
- **Nancy Nesser**, Pharmacy Director, Oklahoma Healthcare Authority
- **Diana O'Neal**, Deputy Administrator, Office of Management and Enterprise Systems
- **Becky Pasternik-Ikard**, Chief Executive Officer, Oklahoma Health Care Authority
- **Eric Pfeifer, M.D.**, Chief Medical Examiner
- **Bob Ricks**, Interim Director, Oklahoma State Bureau of Investigation
- **Mark Reynolds**, Oklahoma Department of Mental Health and Substance Abuse Services
- **Susan Rodgers**, Executive Director, Oklahoma State Dental Board
- **Carrie Slatton-Hodges**, Deputy Commissioner, Treatment and Recovery Services, Oklahoma Department of Mental Health and Substance Abuse Services
- **Teresa South**, Network Management Director, Office of Management & Enterprise Services
- **Mark St. Cyr, D.Ph.**, President, Oklahoma State Board of Pharmacy
- **Patricia Sommer**, Interim Executive Director, Oklahoma Workers' Compensation Commission
- **Mark Stewart**, Chief Agent of Diversion, Oklahoma Bureau of Narcotics and Dangerous Drugs Control

- **Travis Tate**, Pharm.D., Pharmacy Unit Director, Office of Management & Enterprise Services
- **Stephanie U'ren**, Director, Oklahoma Department of Health Center for Chronic Disease Prevention and Health Promotion
- **Reji Varghese**, Deputy Director, Oklahoma Board of Medical Licensure and Supervision
- **Don Vogt**, PMP Administrator, Oklahoma Bureau of Narcotics and Dangerous Drugs Control
- **Terri Watkins**, Director of Communications, Oklahoma Attorney General
- **Terri White**, Commissioner, Oklahoma Department of Mental Health and Substance Abuse Services
- **Frank Wilson**, Employees Group Insurance Division Administrator, Office of Management & Enterprise Services
- **Mark Woodward**, Spokesman for Oklahoma Bureau of Narcotics

If you would like to meet and confer about this, please let us know.

Very truly yours,

/s/ Paul LaFata

Paul LaFata

Cc: Counsel of record for Defendants (via email)



Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036-6797
+1 212 698 3500 Main
+1 212 698 3599 Fax
www.dechert.com

November 26, 2018

PAUL LAFATA

paul.lafata@dechert.com
+1 212 698 3539 Direct
+1 212 698 3599 Fax

BY ELECTRONIC MAIL

Bradley E. Beckworth
Jeffrey J. Angelovich
Lloyd "Trey" Nolan Duck, III
Andrew Pate
Lisa Baldwin
Nix Patterson & Roach LLP
512 N. Broadway Avenue, Suite 200
Oklahoma City, OK 73102
bbeckworth@nixlaw.com
jangelovich@nixlaw.com
tduck@nixlaw.com
dpate@nixlaw.com
lbaldwin@nixlaw.com

Glenn Coffee
Glenn Coffee & Associates, PLLC
915 North Robinson Avenue
Oklahoma City, OK 73102
gcoffee@glenncoffee.com

Michael Burrage
Reggie Whitten
Whitten Burrage
512 N. Broadway Ave., Suite 300
Oklahoma City, OK 73102
mburrage@whittenburragelaw.com
rwhitten@whittenburragelaw.com

Mike Hunter
Abby Dillsaver
Ethan A. Shaner
Attorney General's Office
313 N.E. 21st Street
Oklahoma City, OK 73105
abby.dillsaver@oag.ok.gov
ethan.shaner@oag.ok.gov

Re: *Oklahoma ex rel. Hunter v. Purdue Pharma, LP, CJ -2017-816*

Dear Counsel:

I write in regard to Purdue's October 30, 2018 letter to the State, requesting custodial files from the individuals listed below. We never received a response to our letter, and it appears that the State has only produced one custodial file out of those requested. Please let us know if we are mistaken, and when we can expect to see the rest of the requested custodial files. Additionally, please let us know when the witnesses are available to be deposed. A witness's custodial file should be produced at least 14 days in advance of his/her deposition.

EXHIBIT B

- **Ferris Barger**, State Purchasing Director, Office of Management & Enterprise Services
- **Jenny Barnhouse**, Peer Assistance Program Coordinator, Oklahoma Board of Nursing
- **Dr. Jason Beaman**, Assistant Clinical Professor, Oklahoma State University-Center for Health Sciences
- **Burl Beasley**, Assistant Pharmacy Director, Oklahoma Healthcare Authority
- **Deborah Bruce**, Board of Osteopathic Examiners
- **Steven Buck**, Executive Director, Oklahoma Office of Juvenile Affairs
- **Ellen Buettner**, Director, Human Resources Development, Oklahoma Department of Mental Health and Substance Abuse Services
- **Terry Cothran, Ph.D.**, Director of Pharmacy Management Consultants, University of Oklahoma College of Pharmacy
- **Steven A. Crawford, M.D.**, Chairman, Oklahoma Health Care Authority, Medical Advisory Committee
- **Durand Crosby**, Chief of Staff and Operations, Oklahoma Department of Mental Health and Substance Abuse Services
- **Carrie Daniels**, State Epidemiological Outcomes Workgroups Coordinator, Oklahoma Department of Mental Health and Substance Abuse Services
- **Melton Edminsten**, Investigator, Oklahoma Veterinary Board
- **Dr. Mike Herndon**, Chief Medical Director, Oklahoma Healthcare Authority
- **Jessica Hawkins**, Senior Director, Prevention Services, Oklahoma Department of Mental Health and Substance Abuse Services
- **Nichole King**, Director, Third Party Administrator Management, Employees Group Insurance Division, Office of Management & Enterprise Services
- **Paul King**, Compliance and Industry Practice Director, Office of Management & Enterprise Services

- **Cathy Kirkpatrick**, Executive Director, Oklahoma Veterinary Board
- **Frank Lawler, M.D.**, Medical Director, Office of Management & Enterprise Services
- **Mark Liotta**, Chairman, Oklahoma Workers' Compensation Commission
- **Liz Massey**, Vice President, Oklahoma Board of Nursing
- **Lynn Mitchell, M.D., M.P.H.**, former Chief Medical Officer and Deputy Commissioner for Prevention and Preparedness Services, Oklahoma State Department of Health
- **Steven M. Montgomery**, Chairman, Oklahoma Employees Insurance and Benefits Board
- **Nancy Nesser**, Pharmacy Director, Oklahoma Healthcare Authority
- **Diana O'Neal**, Deputy Administrator, Office of Management and Enterprise Systems
- **Becky Pasternik-Ikard**, Chief Executive Officer, Oklahoma Health Care Authority
- **Eric Pfeifer, M.D.**, Chief Medical Examiner
- **Bob Ricks**, Interim Director, Oklahoma State Bureau of Investigation
- **Mark Reynolds**, Oklahoma Department of Mental Health and Substance Abuse Services
- **Susan Rodgers**, Executive Director, Oklahoma State Dental Board
- **Carrie Slatton-Hodges**, Deputy Commissioner, Treatment and Recovery Services, Oklahoma Department of Mental Health and Substance Abuse Services
- **Teresa South**, Network Management Director, Office of Management & Enterprise Services
- **Mark St. Cyr, D.Ph.**, President, Oklahoma State Board of Pharmacy
- **Patricia Sommer**, Interim Executive Director, Oklahoma Workers' Compensation Commission

- **Mark Stewart**, Chief Agent of Diversion, Oklahoma Bureau of Narcotics and Dangerous Drugs Control
- **Travis Tate**, Pharm.D., Pharmacy Unit Director, Office of Management & Enterprise Services
- **Stephanie U'ren**, Director, Oklahoma Department of Health Center for Chronic Disease Prevention and Health Promotion
- **Reji Varghese**, Deputy Director, Oklahoma Board of Medical Licensure and Supervision
- **Don Vogt**, PMP Administrator, Oklahoma Bureau of Narcotics and Dangerous Drugs Control
- **Terri Watkins**, Director of Communications, Oklahoma Attorney General
- **Terri White**, Commissioner, Oklahoma Department of Mental Health and Substance Abuse Services
- **Frank Wilson**, Employees Group Insurance Division Administrator, Office of Management & Enterprise Services
- **Mark Woodward**, Spokesman for Oklahoma Bureau of Narcotics

Very truly yours,

/s/ Paul LaFata

Paul LaFata

Cc: Counsel of record for Defendants (via email)

McAnaney, Benjamin

From: McAnaney, Benjamin
Sent: Tuesday, December 4, 2018 1:03 PM
To: 'Drew Pate'
Cc: Rosenberg, Rachel; 'Abby Dillsaver'; Brad Beckworth; 'Ethan A. Shaner'; gcoffee@glenncoffee.com; Lisa Baldwin; Trey Duck; mburrage@whittenburrage.com; rwhitten@whittenburrage.com; Cc: "'Ashley E. Quinn'; EXT Brian Ercole; EXT Harvey Bartle IV; 'Nicholas V. Merkley'; 'Rebecca Hillyer'; 'Robert G. McCampbell'; EXT Steven A. Reed; 'Benjamin H. Odom'; 'Charles C. Lifland'; 'David K. Roberts'; 'David L. Kinney'; EXT Jen Cardelus; 'John H. Sparks'; 'Michael W. Ridgeway'; EXT sbrody@omm.com; Coleman, Hayden; Joshua Burns; LaFata, Paul; 'Robert S. Hoff'; Sanford C. Coats; Tam, Jonathan; Snapp, Erik; Cheffo, Mark; Birnbaum, Sheila; Cheffo, Mark; Cusker Gonzalez, Mara; Schwarz, Marina
Subject: RE: State of Oklahoma ex rel. Mike Hunter v. Purdue: Letter from P. LaFata

Drew,

Our request for custodial files has been pending since October 30 and our request for deposition dates since November 26. We are disappointed that the State is not available to meet and confer until Friday afternoon, which does not work for us. To be clear, we can also be available tomorrow. If that does not work for the State, and it appears it does not, we can try to find a time on Monday. This is important discovery and we are simply running out of time given the State's insistence that the existing schedule is workable. We will raise these related issues with Judge Hetherington as appropriate.

From: Drew Pate [mailto:dpate@nixlaw.com]
Sent: Tuesday, December 4, 2018 11:45 AM
To: McAnaney, Benjamin <Benjamin.McAnaney@dechert.com>
Cc: Rosenberg, Rachel <rachel.rosenberg@dechert.com>; 'Abby Dillsaver' <abby.dillsaver@oag.ok.gov>; Brad Beckworth <bbeckworth@nixlaw.com>; 'Ethan A. Shaner' <ethan.shaner@oag.ok.gov>; gcoffee@glenncoffee.com; Lisa Baldwin <lbaldwin@nixlaw.com>; Trey Duck <tduck@nixlaw.com>; mburrage@whittenburrage.com; rwhitten@whittenburrage.com; Cc: "'Ashley E. Quinn' <aquinn@gablelaw.com>; EXT Brian Ercole <brian.ercole@morganlewis.com>; EXT Harvey Bartle IV <harvey.bartle@morganlewis.com>; 'Nicholas V. Merkley' <nmerkley@gablelaw.com>; 'Rebecca Hillyer' <rebecca.hillyer@morganlewis.com>; 'Robert G. McCampbell' <rmccampbell@gablelaw.com>; EXT Steven A. Reed <steven.reed@morganlewis.com>; 'Benjamin H. Odom' <odomb@odomsparks.com>; 'Charles C. Lifland' <clifland@omm.com>; 'David K. Roberts' <droboterts2@omm.com>; 'David L. Kinney' <kinneyd@odomsparks.com>; EXT Jen Cardelus <jcardelus@omm.com>; 'John H. Sparks' <sparksj@odomsparks.com>; 'Michael W. Ridgeway' <ridgewaym@odomsparks.com>; EXT sbrody@omm.com <sbrody@omm.com>; Coleman, Hayden <Hayden.Coleman@dechert.com>; Joshua Burns <joshua.burns@crowedunlevy.com>; LaFata, Paul <Paul.LaFata@dechert.com>; 'Robert S. Hoff' <rhoff@wiggin.com>; Sanford C. Coats <sandy.coats@crowedunlevy.com>; Tam, Jonathan <Jonathan.Tam@dechert.com>; Snapp, Erik <Erik.Snapp@dechert.com>; Cheffo, Mark <Mark.Cheffo@dechert.com>; Birnbaum, Sheila <Sheila.Birnbaum@dechert.com>; Cheffo, Mark <Mark.Cheffo@dechert.com>; Cusker Gonzalez, Mara <MaraCusker.gonzalez@dechert.com>; Schwarz, Marina <Marina.Schwarz@dechert.com>
Subject: Re: State of Oklahoma ex rel. Mike Hunter v. Purdue: Letter from P. LaFata

Ben,

I'm tied up today but can discuss on Friday afternoon if that works for you.

Thanks,

Drew

Drew Pate



3600 N. Capital of Texas Hwy.
Building B, Suite 350
Austin, TX 78746
512-328-5333
Dpate@nixlaw.com

From: "McAnaney, Benjamin" <Benjamin.McAnaney@dechert.com>
Date: Tuesday, December 4, 2018 at 10:22 AM
To: Drew Pate <dpate@nixlaw.com>
Cc: "Rosenberg, Rachel" <rachel.rosenberg@dechert.com>, 'Abby Dillsaver' <abby.dillsaver@oag.ok.gov>, Brad Beckworth <bbeckworth@nixlaw.com>, "Ethan A. Shaner" <ethan.shaner@oag.ok.gov>, "gcoffee@glenncoffee.com" <gcoffee@glenncoffee.com>, Lisa Baldwin <lbaldwin@nixlaw.com>, Trey Duck <tduck@nixlaw.com>, "mburrage@whittenburrage.com" <mburrage@whittenburrage.com>, "rwhitten@whittenburrage.com" <rwhitten@whittenburrage.com>, "Cc: "Ashley E. Quinn" <aguinn@gablelaw.com>, EXT Brian Ercole <brian.ercole@morganlewis.com>, EXT Harvey Bartle IV <harvey.bartle@morganlewis.com>, "Nicholas V. Merkley" <nmerkley@gablelaw.com>, 'Rebecca Hillyer' <rebecca.hillyer@morganlewis.com>, "Robert G. McCampbell" <rmccampbell@gablelaw.com>, "EXT Steven A. Reed" <steven.reed@morganlewis.com>, "Benjamin H. Odom" <odomb@odomsparks.com>, "Charles C. Lifland" <clifland@omm.com>, "David K. Roberts" <droberts2@omm.com>, "David L. Kinney" <kinneyd@odomsparks.com>, EXT Jen Cardelus <jcardelus@omm.com>, "John H. Sparks" <sparksj@odomsparks.com>, "Michael W. Ridgeway" <ridgewaym@odomsparks.com>, "EXT sbrody@omm.com" <sbrody@omm.com>, "Coleman, Hayden" <Hayden.Coleman@dechert.com>, Joshua Burns <joshua.burns@crowedunlevy.com>, "LaFata, Paul" <Paul.LaFata@dechert.com>, "Robert S. Hoff" <rhoff@wiggins.com>, "Sanford C. Coats" <sandy.coats@crowedunlevy.com>, "Tam, Jonathan" <Jonathan.Tam@dechert.com>, "Snapp, Erik" <Erik.Snapp@dechert.com>, "Cheffo, Mark" <Mark.Cheffo@dechert.com>, "Birnbau, Sheila" <Sheila.Birnbau@dechert.com>, "Cheffo, Mark" <Mark.Cheffo@dechert.com>, "Cusker Gonzalez, Mara" <MaraCusker.gonzalez@dechert.com>, "Schwarz, Marina" <Marina.Schwarz@dechert.com>
Subject: FW: State of Oklahoma ex rel. Mike Hunter v. Purdue: Letter from P. LaFata

Drew,

I am available to meet and confer this afternoon. Please let me know when you are available and I will circulate a dial-in for anybody who wishes to attend.

Regards,

Benjamin McAnaney
Associate

Dechert LLP

Cira Centre
2929 Arch Street
Philadelphia, PA 19104-2808
+1 215 994 2043 Direct
+1 215 655 2043 Fax
benjamin.mcananey@dechert.com
dechert.com

From: Drew Pate <dpate@nixlaw.com>
Date: December 4, 2018 at 8:59:15 AM EST
To: "Rosenberg, Rachel" <rachel.rosenberg@dechert.com>, 'Abby Dillsaver' <abby.dillsaver@oag.ok.gov>, Brad Beckworth <bbeckworth@nixlaw.com>, "Ethan A. Shaner" <ethan.shaner@oag.ok.gov>, "gcoffee@glenncoffee.com" <gcoffee@glenncoffee.com>, Lisa Baldwin <lbaldwin@nixlaw.com>, Trey Duck <tduck@nixlaw.com>, "mburrage@whittenburrage.com" <mburrage@whittenburrage.com>, "rwhitten@whittenburrage.com" <rwhitten@whittenburrage.com>
Cc: "Ashley E. Quinn" <aquinn@gablelaw.com>, EXT Brian Ercole <brian.ercole@morganlewis.com>, EXT Harvey Bartle IV <harvey.bartle@morganlewis.com>, "Nicholas V. Merkley" <nmerkley@gablelaw.com>, 'Rebecca Hillyer' <rebecca.hillyer@morganlewis.com>, "Robert G. McCampbell" <rmccampbell@gablelaw.com>, "EXT Steven A. Reed" <steven.reed@morganlewis.com>, "Benjamin H. Odom" <odomb@odomsparks.com>, "Charles C. Lifland" <clifland@omm.com>, "David K. Roberts" <droberts2@omm.com>, "David L. Kinney" <kinneyd@odomsparks.com>, "EXT Jen Cardelus" <jcardelus@omm.com>, "John H. Sparks" <sparksj@odomsparks.com>, "Michael W. Ridgeway" <ridgewaym@odomsparks.com>, "EXT sbrody@omm.com" <sbrody@omm.com>, "Coleman, Hayden" <hayden.coleman@dechert.com>, "Snapp, Erik" <Erik.Snapp@dechert.com>, "Tam, Jonathan" <Jonathan.Tam@dechert.com>, Joshua Burns <joshua.burns@crowedunlevy.com>, "LaFata, Paul" <paul.lafata@dechert.com>, "Robert S. Hoff" <rhoff@wiggin.com>, "Sanford C. Coats" <sandy.coats@crowedunlevy.com>, "Cheffo, Mark" <mark.cheffo@dechert.com>, "Birnbaum, Sheila" <sheila.birnbaum@dechert.com>, "Cusker Gonzalez, Mara" <MaraCusker.gonzalez@dechert.com>, "Schwarz, Marina" <Marina.Schwarz@dechert.com>
Subject: Re: State of Oklahoma ex rel. Mike Hunter v. Purdue: Letter from P. LaFata

Paul,

When are you available to meet and confer regarding this letter?

Thanks,

Drew

Drew Pate



3600 N. Capital of Texas Hwy.
Building B, Suite 350
Austin, TX 78746
512-328-5333
Dpate@nixlaw.com

From: "Rosenberg, Rachel" <rachel.rosenberg@dechert.com>
Date: Monday, November 26, 2018 at 9:18 PM
To: 'Abby Dillsaver' <abby.dillsaver@oag.ok.gov>, Drew Pate <dpate@nixlaw.com>, Brad Beckworth <bbeckworth@nixlaw.com>, "Ethan A. Shaner" <ethan.shaner@oag.ok.gov>, "gcoffee@glenncoffee.com" <gcoffee@glenncoffee.com>, Lisa Baldwin <lbaldwin@nixlaw.com>, Trey Duck <tduck@nixlaw.com>, "mburrage@whittenburragelaw.com" <mburrage@whittenburragelaw.com>, "rwhitten@whittenburragelaw.com" <rwhitten@whittenburragelaw.com>
Cc: "Ashley E. Quinn" <aquinn@gablelaw.com>, EXT Brian Ercole <brian.ercole@morganlewis.com>, EXT Harvey Bartle IV <harvey.bartle@morganlewis.com>, "Nicholas V. Merkley" <nmerkley@gablelaw.com>, 'Rebecca Hillyer' <rebecca.hillyer@morganlewis.com>, "Robert G. McCampbell" <rmccampbell@gablelaw.com>, "EXT Steven A. Reed" <steven.reed@morganlewis.com>, "Benjamin H. Odom" <odomb@odomsparks.com>, "Charles C. Lifland" <clifland@omm.com>, "David K. Roberts" <droberts2@omm.com>, "David L. Kinney" <kinneyd@odomsparks.com>, EXT Jen Cardelus <jcardelus@omm.com>, "John H. Sparks" <sparksj@odomsparks.com>, "Michael W. Ridgeway" <ridgewaym@odomsparks.com>, "EXT sbrody@omm.com" <sbrody@omm.com>, "Coleman, Hayden" <hayden.coleman@dechert.com>, "Snapp, Erik" <Erik.Snapp@dechert.com>, "Tam, Jonathan" <Jonathan.Tam@dechert.com>, Joshua Burns <joshua.burns@crowedunlevy.com>, "LaFata, Paul" <paul.lafata@dechert.com>, "Robert S. Hoff" <rhoff@wiggins.com>, "Sanford C. Coats" <sandy.coats@crowedunlevy.com>, "Cheffo, Mark" <mark.cheffo@dechert.com>, "Birnbaum, Sheila" <sheila.birnbaum@dechert.com>, "Cusker Gonzalez, Mara" <MaraCusker.gonzalez@dechert.com>, "Schwarz, Marina" <Marina.Schwarz@dechert.com>
Subject: State of Oklahoma ex rel. Mike Hunter v. Purdue: Letter from P. LaFata

Counsel,

Attached please find a letter from Paul LaFata.

Thank you,
Rachel

Rachel Rosenberg
Associate

Dechert LLP
+1 215 994 2932 Direct
rachel.rosenberg@dechert.com
dechert.com

This e-mail is from Dechert LLP, a law firm, and may contain information that is confidential or privileged. If you are not the intended recipient, do not read, copy or distribute the e-mail or any attachments. Instead, please notify the sender and delete the e-mail and any attachments. Thank you.

This e-mail is from Dechert LLP, a law firm, and may contain information that is confidential or privileged. If you are not the intended recipient, do not read, copy or distribute the e-mail or any attachments. Instead, please notify the sender and delete the e-mail and any attachments. Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

EXHIBIT D

1 person and will also testify in 30(b)(6) topics. But there
2 will also be discreet 30(b)(6) topics where we just want to
3 have time to educate someone, prepare them on those topics.
4 Some of them go back 10, 15 years. And that should be the
5 focus unless the party designates.

6 And what I'm suggesting is bilateral. I'm not trying to
7 say this should only apply to the defendants, your Honor.

8 MR. BURRAGE: Well, but what he just said, Judge, is
9 that they decide what they want the witness to testify to
10 outside the 30(b)(6) designation. If something comes up in
11 that deposition, the law says we're allowed to ask about it,
12 and they don't get to be the arbiter or the ruler of what
13 they're going to let them testify about on facts outside the
14 30(b)(6) notice. It's not right.

15 THE COURT: Okay.

16 MR. BURRAGE: So you know, I'm for a process, Judge.
17 We've issued these notices. We haven't heard anything. And
18 we're willing to talk to them about them and discuss them,
19 discuss time limits, and discuss all those things. I'm not
20 saying that we just issue notices.

21 THE COURT: I'm going to sort of shortcut it here a
22 little bit, and I'm going to -- I started out to enter an
23 order. But I think what I'm going to do is tell you what I
24 would like to do and ask you to take notes here. And then I'm
25 going to take a break and ask you all to visit about this a

1 little bit. Take about a ten-minute break, maybe 15 minutes at
2 the most, and ask you to sort of get together to visit about
3 this.

4 One, I think before noticing a deposition, I think you
5 should confer and each other -- you know, and try to pick dates
6 if you can for the depositions and topic, scope, 30(b)(6),
7 fact, testimony getting discussed.

8 And if you cannot arrive at a conclusion and an agreement,
9 what I'm going to do, what I would like to do is ask that the
10 notice is limited to five business days, you know, which
11 expands it from our 3-day notice provision, objection within 3
12 days, business days, of the notice, and a response, if
13 required, within two days of an objection.

14 Then I want to put in place a way to where you can contact
15 me day or night by cell phone, 405-413-2250, if there's an
16 objection or we need discussion or rulings on topics and
17 expanding things, and then I'll rule or ask for oral argument
18 if I think I need it. Then the deposition is to be held within
19 ten working days after a ruling.

20 Now, that doesn't -- you know, we've got to have document
21 production and proper preparation before that for witnesses to
22 be prepared, and I know that's an issue. But that gets a
23 process structure started that I think is fair, speeds up
24 things, helps things along a little.

25 And I want to sort of take a break and let you all talk

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 APRIL 19, 2018
AT THE CLEVELAND COUNTY COURTHOUSE
BEFORE THE HONORABLE WILLIAM C. HETHERINGTON, JR.
RETIRED ACTIVE JUDGE AND SPECIAL DISCOVERY MASTER
AND THE HONORABLE THAD BALKMAN
DISTRICT JUDGE

REPORTED BY: ANGELA THAGARD, CSR, RPR

EXHIBIT E

1 But so long as there is a clear order and ruling on what
2 must be produced -- so far, I think the rolling production on
3 an informal basis has worked. I say that with a little bit of
4 hesitation, because the things we've received so far with
5 respect to most of the defendants is not the core issue
6 discovery that we're looking for.

7 So perhaps that rolling production can break down once
8 they're ordered to produce the highly relevant, important
9 documents that we're after. But right now the process, which
10 is kind of an informal produce when you're ready to produce
11 situation, I think it seems to be working.

12 That's what our plan is as well for the State. We'll
13 produce when documents are ready. We're moving forward with as
14 much haste as we can, and we can address those issues later.
15 But our view is I think we don't want to have a strict rolling
16 production schedule, and at this point in time, haven't
17 requested that of the defendants. But it's certainly something
18 we can entertain.

19 THE COURT: Okay. I'm encouraged by the comments.

20 MR. BECKWORTH: Your Honor, may I just -- what
21 Trey -- Mr. Duck mentioned one thing about our side of this. I
22 just want -- we can go ahead and hit that too on rolling
23 production. What we said in our papers is true. Other than
24 privilege, we're not standing on any objections.

25 And the State is making a good faith effort to produce

1 everything we believe is responsive to what they're asking for.
2 And I know you know this because you've been part of it, but
3 the State has a lot of different subparts, so at least our part
4 of it. We're not requiring or asking the defendants to go
5 subpoena different agencies. And as we understand it, other
6 states are doing that. Not all of them, but some are saying,
7 if you want to go to the healthcare authority, for example, you
8 go subpoena them. We're not doing that.

9 We're responding on behalf of everyone that we believe has
10 responsive information to give them what they've asked for.
11 And we have had a lot less time to contemplate and respond
12 because of when we were served. But we're in that process. We
13 are going to produce the documents. There's nothing to compel
14 from us.

15 And the defendants haven't done this yet, as I understand
16 it, but if they -- we talked a little bit about it this
17 morning. If there is a specific item or area they want us to
18 focus on to try to move an item or category more quickly, we
19 will endeavor to focus our efforts on that.

20 As it stands, it's a very broad request for us, and we're
21 moving it along. They will have what they need in abundant
22 time to take the depositions they need to take of our folks.
23 So I hope that answers the question.

24 THE COURT: Any brave soul, hop up.

25 MR. LAFATA: Number of things. Paul LaFata, Quinn