

IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

PART B

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

vs.

- (1) PURDUE PHARMA L.P.;
- (2) PURDUE PHARMA, INC.;
- (3) THE PURDUE FREDERICK COMPANY,
- (4) TEVA PHARMACEUTICALS USA, INC.;
- (5) CEPHALON, INC.;
- (6) JOHNSON & JOHNSON;
- (7) JANSSEN PHARMACEUTICALS, INC,
- (8) ORTHO-MCNEIL-JANSSEN  
PHARMACEUTICALS, INC., n/k/a  
JANSSEN PHARMACEUTICALS;
- (9) JANSSEN PHARMACEUTICA, INC.,  
n/k/a JANSSEN PHARMACEUTICALS, INC.;
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,  
f/k/a ACTAVIS, INC., f/k/a WATSON  
PHARMACEUTICALS, INC.;
- (11) WATSON LABORATORIES, INC.;
- (12) ACTAVIS LLC; and
- (13) ACTAVIS PHARMA, INC.,  
f/k/a WATSON PHARMA, INC.,

Defendants.

For Judge Balkman's

Consideration

STATE OF OKLAHOMA } S.S.  
CLEVELAND COUNTY }

FILED In The  
Office of the Court Clerk

FEB 01 2019

In the office of the  
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816  
Honorable Thad Balkman

William C. Hetherington  
Special Discovery Master

**DEFENDANT WATSON LABORATORIES, INC.'S OPPOSITION TO THE STATE'S  
MOTION FOR PROTECTIVE ORDER REGARDING MATTERS OCCURRING  
BEFORE THE MULTICOUNTY GRAND JURY**

Defendant Watson Laboratories, Inc. ("Watson") by and through undersigned counsel, respectfully submit this response in opposition to the State of Oklahoma's ("Plaintiff" or "State") Motion for Protective Order dated January 17, 2019. ("Motion"). The Court ruled on this issue on November 29 and memorialized its ruling in a Journal Entry entered on December 20. Attached as Exhibit A. There is no reason for the Court to change its mind.

# **EXHIBIT F**

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

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

v.

- (1) PURDUE PHARMA L.P.;
- (2) PURDUE PHARMA, INC.;
- (3) THE PURDUE FREDERICK COMPANY;
- (4) TEVA PHARMACEUTICALS USA, INC.;
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PHARMACEUTICALS, INC., n/k/a  
JANSSEN PHARMACEUTICALS, INC.;
- (9) JANSSEN PHARMACEUTICA, INC.,  
n/k/a JANSSEN PHARMACEUTICALS, INC.;
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,  
f/k/a ACTAVIS, INC., f/k/a WATSON  
PHARMACEUTICALS, INC.;
- (11) WATSON LABORATORIES, INC.;
- (12) ACTAVIS LLC; and
- (13) ACTAVIS PHARMA, INC.,  
f/k/a WATSON PHARMA, INC.,  
Defendants.

Case No. CJ-2017-816  
Honorable Thad Balkman

William C. Hetherington  
Special Discovery Master

**JOURNAL ENTRY ON DISCOVERY OF CRIMINAL,  
CIVIL AND ADMINISTRATIVE PROCEEDINGS**

On the 29<sup>th</sup> day of November, defendant Watson Laboratories, Inc.'s ("Watson") Objection to the Special Discovery Master's Order on Watson's Motion to Compel Discovery Regarding Criminal and Administrative Proceedings (filed November 13, 2018) came on for hearing. Present for the parties were:

Plaintiff: Trey Duck, Abby Dillsaver, Drew Pate, Reggie Whitten, Brad Beckworth, Ethan Shaner, Dawn Cash, Ross Leonoudakis, Lisa Baldwin and Brooke Churchman  
Watson: Robert McCampbell and Harvey Bartle  
Purdue: Paul LaFata and Trey Cox  
Janssen: Larry Ottaway, Amy Fischer, John Sparks and Steve Brody

Having reviewed the briefs of the parties and received argument of counsel, this Court finds that the motion is granted in part as specified below:

1. The plaintiff shall produce ~~non-sealed~~ charging documents, petitions, informations, indictments, motions, briefs, orders, transcripts in the relevant agency or board's possession, docket sheets and other documents filed with a tribunal in all civil, criminal or administrative proceedings brought by a state prosecuting or regulatory authority against any Health Care Professional relating to the prescription of opioids, including but not limited to Harvey Jenkins, Regan Nichols, William Valuck, Roger Kinney, Tamerlane Rozsa, Joshua Livingston, Joseph Knight, and Christopher Moses. For purposes of this Order "Health Care Professional" includes doctors licensed by the Oklahoma Board of Medical Licensure and Supervision, doctors licensed by the Oklahoma Board of Osteopathic Examiners, and dentists licensed by the Oklahoma Board of Dentistry.

2. The plaintiff shall also produce all documents produced to the attorney for the defendant, respondent, or licensee in all civil, criminal or administrative proceedings commenced by a state prosecuting or regulatory authority against any Health Care Professional relating to the prescription of opioids, including but not limited to Harvey Jenkins, Regan Nichols, William Valuck, Roger Kinney, Tamerlane Rozsa, Joshua Livingston, Joseph Knight, and Christopher Moses.

2.3. Notwithstanding the forgoing, the State is not required to produce any materials that have been sealed by the tribunal or for which disclosure is prohibited by 22 O.S. §355 (multi-county grand jury), 56 O.S. §1004 (Medicaid), 63 O.S. §2-309D (OBN), and 74 O.S. §150.5 (OSBI). If any documents subject to production under this Order are also subject to a Protective Order in another tribunal, such documents~~However, if such documents are sealed or otherwise~~

~~statutorily protected from disclosure to non parties to the proceedings are grand jury transcripts, such documents need not be produced or will be produced consistent with the Protective Orders currently in place, as appropriate. In items 1 and 2 above, if a document is withheld because it is sealed, a copy of the sealing order will be provided to counsel for the defendants, unless the sealing order itself is sealed.~~

4. The plaintiff shall also produce to Judge William Hetherington *in camera* a list identifying all Health Care Professionals previously investigated by the State relating to the prescription of opioids where the investigation did not result in a civil, criminal or administrative proceeding with the reasons why not. Judge Hetherington shall make a ruling on whether or not materials from any of those investigations should be shared with the defendants. The list shall be produced to Judge Hetherington by January 2, 2019 and shall remain *in camera* and not be part of any production to defendants.

~~3.5. The plaintiff shall produce the documents required in items 1 and 2 to the defendants as part of the State's rolling production to be completed by January 2 March 15, 2019 in accordance with the Court' scheduling order.~~

IT IS SO ORDERED this \_\_\_\_\_ 20<sup>th</sup> day date of December, 2018.

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THAD BALKMAN, DISTRICT JUDGE

APPROVED AS TO FORM:

*Defendant: Watson Laboratories, Inc.*

*Plaintiff: State of Oklahoma*

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# **EXHIBIT G**

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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 DECEMBER 20, 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



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22 **JANSSEN PHARMACEUTICA, INC.; JANSSEN PHARMACEUTICALS, INC.; AND**  
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15 **ON BEHALF OF TEVA PHARMACEUTICALS USA, INC.; CEPHALON, INC.;**  
16 **ACTAVIS LLC; ACTAVIS PHARMA, INC.; AND WATSON LABORATORIES,**  
17 **INC.:**

18 MR. ROBERT MCCAMPBELL  
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1 from what I filed with the Court last week, because Mr. Duck  
2 and I have continued to work through issues.

3 My request today is that the Court not change its mind and  
4 the Court simply enter an order reflecting what the Court  
5 ordered on November 29th. The Court asked me to prepare a  
6 journal entry reflecting the Court's rulings. That's what I've  
7 done. That's all I'm asking today. Let's not relitigate.  
8 Let's not back up. Let's just enter an order on what the Court  
9 has already done.

10 There are two issues that I think are separating the  
11 parties here. One, is the plaintiff wants to insert language  
12 about they can keep documents out based on various statutes;  
13 the Antidrug Drug Diversion Act, the Multicounty Grand Jury  
14 Act, the Medicaid Program Integrity Act.

15 These are the exact issues that we argued on November  
16 29th. This is the exact same argument that plaintiff had.  
17 Their brief, page 13, page 15, and page 17, is the exact same  
18 argument. And the Court ruled against the State.

19 And it's important to remember what the Court did. You  
20 didn't give me everything I wanted. It was a measured and  
21 careful ruling. But remember the logic of it. If documents  
22 are already public, they are publicly available documents, they  
23 cannot possibly be secret, they cannot possibly be privileged.  
24 That's one category the State has to produce.

25 The second category the Court ordered was if the document

1 was produced to your adversary in discovery, it can't possibly  
2 be secret. It can't possibly be privileged. It was produced  
3 to your adversary. If it was produced to your adversary in  
4 that case, it can be produced to your adversary in this case.  
5 And all I'm asking the Court is to stick with that ruling,  
6 those two categories, where the Court ended up on documents  
7 that can't possibly be privileged.

8 The other issue separating the parties is the time when  
9 the documents have to be produced. In our motion, we asked the  
10 Court to order 30 days to produce the documents. That's our  
11 motion to this Court.

12 The State, in their brief, did not make a single objection  
13 that 30 days was insufficient. In all of the argument we had  
14 before the Court on November 29th, the State did not make a  
15 single objection that 30 days was insufficient. And I think  
16 it's way too late now, after all of this litigation, to say,  
17 Wait, let's start again now with a new round of objections. I  
18 think it's way too late.

19 Further, the Court ordered this on November 29th. The  
20 issue's been coming a long time. The Court ordered it on  
21 November 29th. The State's already had three weeks to be  
22 working on this. And not unreasonable for the Court to, again,  
23 as the Court did, order production.

24 Now, the State is proposing March 15th as the date they  
25 would do the production, and that's just running out the clock.

1 And so the State has objected. The State has refused to  
2 produce the documents. The State has delayed, and they're  
3 trying to run out the clock.

4 March 15th is discovery cutoff. If we don't get the  
5 documents until then, what do we do when we get the document  
6 production and find out there are documents missing. What do  
7 we do if there's depositions we need to take. What do we do if  
8 there's additional discovery we find based on the documents  
9 produced. The Court should not let them just run out the  
10 clock.

11 So my order suggests January 2nd, which will be slightly  
12 more than 30 days from when the Court ordered this on November  
13 29th. And I will tell the Court, I don't know if January 22nd  
14 is a magic day, but it needs to be pretty close to January 2nd.  
15 And if the Court doesn't like January 2nd -- excuse me, January  
16 2nd -- the Court can just strike that out and write in the date  
17 the Court wants. But the Court should not let the State just  
18 run out the clock.

19 So I ask the Court, as the Court intended, to have a  
20 journal entry reflecting what the Court already did on November  
21 29th, and the Court should not change its mind. Thank you.

22 THE COURT: Thank you, Mr. McCampbell.

23 Let's hear from the State.

24 MR. DUCK: Good morning, Judge Balkman. Trey Duck on  
25 behalf of the State.

1           Before I address Mr. McCampbell's arguments, I think it  
2 would be helpful for the Court to see a redline of the State's  
3 draft of the minute order so you can see exactly what it is  
4 that we changed from the draft of Mr. McCampbell.

5           THE COURT: Sure.

6           MR. DUCK: May I approach?

7           THE COURT: Yes.

8           MR. DUCK: Thank you. First, your Honor, I would  
9 like to start by saying that the State agreed to a number of  
10 the issues that we initially disputed with Mr. McCampbell's  
11 minute order, and we made some concessions here.

12           But first, we have to remember where we started with this  
13 minute order. And the minute order was something that your  
14 Honor asked Mr. McCampbell to put together, not as a result of  
15 an order or ruling by the Court, at least as far as the State  
16 reads the transcript and remembers, but as a result of the  
17 State's agreement, which was made in open court.

18           And the transcript shows that your Honor said, we've made  
19 some agreements here today, Mr. McCampbell will you put  
20 together an order that reflects those agreements, not the  
21 orders of the Court. In fact, we're drafting the order of the  
22 Court.

23           And so, your Honor, we did agree to some things, and we  
24 want to make sure that exactly what we agreed to is what is  
25 reflected in the order, because that will be what we have to

1 abide by.

2 So I actually agree with most of what Mr. McCampbell said  
3 as far as what the State has agreed to produce. I just don't  
4 think that the order reflects what he said the State has to  
5 produce, because there are a number of statutory obligations  
6 preventing disclosure, and that is different than voluntarily  
7 waiving privilege by sending a defense attorney some materials.

8 The attorneys in these cases don't get the things that are  
9 protected by statutory protections, and the State must withhold  
10 those things. So on the second page of this redline, you'll  
11 see a paragraph 3. That is what that's intended to do.

12 At first, we had just -- we just had language in there  
13 that said, except for documents that are protected by -- from  
14 disclosure by statute. As part of an agreement with  
15 Mr. McCampbell, the State actually listed out the statutes that  
16 we think apply, so there's no confusion there.

17 They are the Multicounty Grand Jury Act, Medicaid, OBN  
18 regulations, and OSBI regulations. All of those that -- they  
19 prohibit disclosure of certain things. Now, they don't  
20 prohibit disclosure of everything. And if there are materials  
21 from any of those agencies that are public or have been shared  
22 with opposing counsel, we're producing those.

23 So honestly, I hate to quibble over language, but we just  
24 don't think the minute order that Mr. McCampbell proposed  
25 reflects our agreement that we reached at the last hearing.



1 And we would ask that the Court enter the State's proposed  
2 minute order, which I have a clean copy of.

3 There are some other edits you'll see in this draft. The  
4 one in paragraph 1 is agreed to by Mr. McCampbell. I learned  
5 that this morning. I believe the end of paragraph 3 is agreed  
6 to as well. And so that just leaves the timing of when the  
7 State must comply with the production.

8 Now, there are two dates in this order. The first is  
9 January 2nd. Your Honor asked us -- ordered us to produce a  
10 list of investigations which the State ended up not pursuing or  
11 not filing charges on by January 1st.

12 Mr. McCampbell and I agreed, since the Court may be  
13 closed, why don't we do that on -- and the parties will be --  
14 offices will be closed, why don't we do that on the 2nd. If  
15 that's okay with your Honor, we would ask to move it to the  
16 2nd.

17 THE COURT: Sure.

18 MR. DUCK: That date that your Honor gave us  
19 specifically applied to the list of investigations. It's very  
20 clear in the transcript. A conversation Mr. McCampbell and I  
21 had this week about that date, we agreed that your Honor's date  
22 of January 1st only applied to the investigation list.

23 Now, as far as producing all of the documents from all of  
24 these agencies, there's simply no way that the State can  
25 produce all of the documents by January 2nd, especially in

1 light of the holidays, and especially in light of holiday  
2 closures, so -- office closures.

3 So we never said, and I don't believe that the proposed  
4 minute order the State has submitted, states that we will  
5 produce everything on March 15th. That is the end of  
6 discovery.

7 Paragraph 5 of the State's proposed minute order states  
8 that the plaintiff shall produce documents required in this  
9 order to the defendants as part of the State's rolling  
10 production to be completed by March 15th, which is exactly what  
11 the scheduling order in this case requires, and at all times in  
12 this litigation with few exceptions, the parties have been  
13 operating under a rolling production.

14 We see no reason why this should be different, especially  
15 since prior to the hearing last month on the 29th, the State  
16 had not agreed to produce any of this and was standing on its  
17 objections. Only on the 29th, after we consulted with our  
18 clients and consulted with Mr. McCampbell, did the State reach  
19 agreements to produce these things at all.

20 So we would ask that this just be part of the normal  
21 schedule, like everything else, and not subject to an  
22 unreasonably close deadline.

23 I think with those things, I've covered everything that I  
24 would like to cover. I do have a clean copy of the proposed  
25 minute order that the State just gave you if you would like

1 that as well.

2 THE COURT: Sure. And my question to you is you're  
3 wanting to include in this paragraph 3 specific statutes that  
4 would I guess protect production of those documents. Is that  
5 correct?

6 MR. DUCK: And actually, the word prohibit in this  
7 sentence is important, because some of these statutes don't --  
8 there are statutes within all of these agencies' regulations  
9 that allow withholding, but they don't prohibit disclosure, if  
10 that makes sense.

11 We're only talking about those statutory provisions that  
12 prohibit us from disclosing things, because we think it would  
13 be a violation of the statutes to do so.

14 THE COURT: Was that -- did we talk about that before  
15 on November 29th?

16 MR. DUCK: My recollection of our discussions on the  
17 29th was essentially, the State agreed to produce the two  
18 categories of information that Mr. McCampbell referenced in his  
19 argument today; public documents and documents that had been  
20 disclosed to opposing counsel. We're still in agreement there.

21 But that does not -- there could be some things that might  
22 be prohibited from disclosure to third parties that we just  
23 want to have protection on. In addition to that, there could  
24 be some things that were, for instance, given to opposing  
25 counsel in another case that are still prohibited from

1 disclosure to a third party.

2 For instance, sealed documents. We've all, I think,  
3 always agreed that sealed documents should not be disclosed by  
4 the State. Well, obviously, there are many instances in other  
5 proceedings where both parties have access to the documents.  
6 But the Court has sealed them and they can't be disclosed to  
7 anybody else.

8 In that situation, the documents aren't public, and though  
9 they've been disclosed to counsel, they're protected either by  
10 a sealing order or by statute. For instance, as well, we've  
11 got the Medicaid statute in here. There's an exchange of  
12 documents with opposing counsel that may have Medicaid  
13 information in it in criminal proceedings related to opioid  
14 prescriptions. Even though they've been exchanged, it's still  
15 prohibited for us to provide those.

16 So I don't know exactly how much we covered this at the  
17 last hearing. I can't remember. But our position is simple.  
18 It is if the documents are public or have been provided to  
19 opposing counsel, we will produce them unless it's prohibited  
20 by statute for us to do that.

21 THE COURT: Mr. McCampbell, respond to that.

22 MR. MCCAMPBELL: Your Honor, I do know how much of  
23 this was discussed at the last hearing and this was covered and  
24 the plaintiff lost. So they briefed this exact issue, pages  
25 13, 15, and 17 in their brief. I briefed it back. We

1 discussed it before your Honor, and your Honor came up with a  
2 solution. If it's already public, or if it's already been  
3 produced to your adversary in litigation, it can't possibly be  
4 secret, it can't possibly be privileged.

5       There is no reason for the Court to change its mind. We  
6 talked. We talked at the time about if it contains patient  
7 information, the Court's already issued an order patient  
8 information doesn't get disclosed; they just redact that. That  
9 was never an issue.

10       We already talked about grand jury transcript. I already  
11 agreed if it's a grand jury transcript, they don't have to  
12 produce it. So it's exactly what happened at the last hearing.  
13 The Court should not change its mind.

14       I would also respectfully disagree with Mr. Duck when he  
15 says it wasn't an order at the last hearing. It was an order  
16 at the last hearing, and we discussed it and I was the one  
17 asking for an order at page 110.

18       Mr. McCampbell: We're here, we've litigated it in front  
19 of Judge Hetherington, we've litigated with you, I think we're  
20 entitled to an order on that.

21       And we get to the hearing and we have the whole discussion  
22 about, Do we need to change Judge Hetherington's order. This  
23 Court ordered, Yes, we do.

24       The Court: -- this is now page 121 -- We modified Judge  
25 Hetherington -- his order. And then the Court also says:

1 Let's record what the amendments are to the order.

2 The Court follows up a few days later with a document the  
3 Court calls an order reflecting once again that we're amending  
4 what had happened before. It was an order on November 29th.  
5 It ought to be in writing. And they ought to have to produce  
6 it.

7 Lastly, Mr. Duck says, Gee, we can produce it on March  
8 15th because that's the ordinary course. That's not the  
9 ordinary course. Discovery, you produce the documents. Then  
10 you get the documents, you find out what else you need, you  
11 conduct depositions based on the documents. You try to get all  
12 that done before discovery cutoff.

13 The State's the one that wants to go fast in this case.  
14 Not unreasonable to ask them to go ahead and produce the  
15 documents so we can look at them and have the ability to do  
16 something before discovery cutoff.

17 THE COURT: Thank you.

18 Mr. Duck?

19 MR. DUCK: Yes, your Honor, very quickly.

20 We did modify and amend Judge Hetherington's order by  
21 agreement at the last hearing. And I think it's important for  
22 us to remember that we won this entire issue whenever Judge  
23 Hetherington ruled on it. And the defendants appealed that to  
24 your Honor. In the course of those proceedings, the State  
25 agreed to produce some documents, and we did.

1           We agreed to amend Judge Hetherington's order. So we  
2 believe that what we've proposed to you reflects accurately  
3 what the State agreed to do. If Mr. McCampbell believes that  
4 it doesn't, then I believe we may have had a misunderstanding  
5 of what it is the State agreed to do, which I thought we were  
6 really clear about it last hearing. But I could be wrong. And  
7 if not, then I suspect we need the Court to step in and make a  
8 decision here today.

9           But there are just certain things the State cannot produce  
10 by statute. And Mr. McCampbell has agreed to not seek  
11 multicounty grand jury transcripts. But it's all -- he wants  
12 all the other material, even that stuff that's been provided to  
13 opposing counsel.

14           But the statute expressly says that that material cannot  
15 be provided, even if it has been given to opposing counsel, to  
16 third parties outside of the litigation absent an order from  
17 the grand jury judge.

18           So the State's kind of in a pickle here, because we don't  
19 think we ever agreed to produce that, but now there's a minute  
20 order on your desk that could be read to compel the State to  
21 produce that. And the State will have to choose whether it  
22 should operate in violation of a statute that very clearly  
23 applies to the office of the attorney general or an order of  
24 this Court. And that was certainly not a position that we  
25 agreed to put ourselves in at the last hearing.

1           So, your Honor, you know, we would ask that the  
2           protections that are already in the statutes simply be carried  
3           over into an order of this Court.

4           MR. MCCAMPBELL: Your Honor, it was not an agreement  
5           on November 29th. We were in disagreement. We briefed  
6           opposing sides. We argued opposing sides. The Court made a  
7           ruling because there wasn't an agreement. All I'm asking is  
8           that ruling be reduced to writing.

9           I do agree with Mr. Duck, we ought to get this resolved  
10          today. And I would agree with him, let's get it resolved,  
11          let's get an order in place.

12          And just one last thing. Right at the end of my draft  
13          where I say the documents are produced January 2nd. If the  
14          Court wants to pick a different date, pick a different date.  
15          Let's write it in, let's get the order in place. And I'll say  
16          again it shouldn't be long after January 22nd. The State's the  
17          one that wants to go -- it shouldn't be long after January 2nd.  
18          The State's the one that wants to go fast; they ought to be  
19          able to produce the documents.

20          THE COURT: All right. Thanks, gentlemen.

21          The Court's well informed about what it is that the  
22          defendants are seeking from the State. You briefed it, we  
23          discussed it in depth on November 29th. The defendants made  
24          the request for these documents a significant amount of time  
25          before the court hearing.



1 I'll just try to be more clear. I expect the State to  
2 produce documents that have already been produced. If they're  
3 sealed, I expect the State to produce them. I understand that  
4 you're saying that there are statutes that you cannot violate.  
5 I understand that.

6 But I -- where you think there's a judgment call or  
7 discretion, I expect you to air on the side of liberal  
8 discovery and to produce it. And if you feel so strongly that  
9 you're not supposed to, then you can come and seek specific  
10 relief from this Court. Otherwise, I expect you to produce it.

11 I think that's in keeping with what I decided back on  
12 November 29th in response to Mr. McCampbell's arguments. And  
13 so I'm going to order that the journal entry not include  
14 specific reference to those statutes. I think it's implied  
15 that you're going to follow the law, but at the same time, I  
16 want it to be clear that the State's going to produce the  
17 documents that may be sealed; that if they were produced to  
18 other parties before, I expect them to be produced to the  
19 defendant. Okay?

20 MR. MCCAMPBELL: I would ask that your Honor give us  
21 a ruling on the date the documents have to be produced.

22 THE COURT: Well, I'm going to pick Monday, January  
23 21st.

24 MR. MCCAMPBELL: Thank you, your Honor.

25 THE COURT: We've had a request -- yeah, go ahead.

1           MR. MCCAMPBELL: If I could ask, your Honor. We  
2 could interlineate on the draft I presented and just strike  
3 through January 2nd, write in January 21. And I would ask that  
4 the Court go ahead and enter that journal entry with the  
5 Court's edit.

6           THE COURT: Done.

7           MR. MCCAMPBELL: Thank you, your Honor.

8           THE COURT: This Court has had request from  
9 nonparties for transcripts. I know that Angie sent everybody  
10 an e-mail, asking for you to state a concern before it was made  
11 available to third parties. I suspect we're only going to get  
12 more requests, so I need your help.

13           I propose that there be a hard and fast timeline to allow  
14 both sides to redact protected information before a transcript  
15 request is fulfilled. You know, I guess as a starting point, I  
16 think once the court reporter has completed the transcript and  
17 a request is made by a third party, I propose the parties are  
18 given 15 days to review that transcript and to let us know if  
19 you believe that there's protected information that needs to be  
20 redacted before that is made available to third parties.

21           What are your thoughts on that? Is that fair? Is that  
22 reasonable?

23           MR. LAFATA: Seems reasonable to me, yes.

24           THE COURT: Okay.

25           MR. MERKLEY: Yes, your Honor.