



OF OKLAHOMA } S.S.  
CLEVELAND COUNTY }  
**FILED**

JAN 16 2019

In the office of the  
Court Clerk MARILYN WILLIAMS

IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

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

Plaintiff,

v.

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

Defendants.

Case No. CJ-2017-816

Judge Thad Balkman

**THE TEVA DEFENDANTS' RESPONSE TO THE STATE'S MOTION  
TO QUASH NOTICES TO TAKE 3230(C)(5) VIDEOTAPED  
DEPOSITIONS OF CORPORATE REPRESENTATIVES OF THE STATE**

Defendants Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Inc., Actavis, LLC, and Actavis Pharma, Inc. f/k/a Watson Pharma, Inc. (collectively, the “Teva Defendants”) by and through their undersigned counsel, file their Response to the State of Oklahoma’s (the “State”) Motion to Quash Notices to Take 3230(C)(5) Videotaped Depositions of Corporate Representatives of the State (the “Motion”) and respectfully show the Court as follows:

**I. INTRODUCTION**

Notwithstanding that the State seeks billions of dollars of damages against the Teva Defendants, the discovery period is set to close in less than two months, and the Court has given the State up to 80 hours of Rule 3230(c)(5) testimony as to each family of Defendants, the State remarkably seeks to prevent the Teva Defendants from taking virtually any deposition testimony of the State on fundamental issues in this case. Indeed, the Teva Defendants’ Notice seeks critical information regarding the State’s claims against the Teva Defendants and their defenses to those claims. At this stage in the proceedings, the State cannot hide behind its pleadings. It must provide a Rule 3230(c)(5) witnesses to testify about topics relevant to its broad and sweeping claims against the Teva Defendants, including any evidence in support of those claims. As a matter of well-settled Oklahoma law and fundamental due process, the State’s Motion should be summarily denied.

On December 19, 2018, pursuant to the deposition protocol established by the Court, the Teva Defendants sent a letter to the State identifying the topics and dates on which it sought testimony from the State’s corporate representatives. On December 28, 2019, the State requested to meet and confer on the deposition topics, and on January 3, 2019, the parties held a telephonic conference to discuss the State’s objections. On January 8, 2019, the Teva Defendants properly

noticed depositions of the State's representatives on 38 discrete topics tailored to elicit testimony specific to the Teva Defendants. *See* Motion at Ex. A (the "Notice"). On January 11, 2019, the State moved to quash 32 of the 38 noticed deposition topics.<sup>1</sup> *Id.* The State argues that the Notice is improper because: (a) it seeks to depose witnesses "twice"; (b) it seeks information that is precluded by prior rulings and/or privilege; (c) it seeks expert testimony; (d) it seeks "contention" depositions; and (e) it seeks information that is "irrelevant" and "overbroad".

Each of the State's arguments lacks merit, and the Court should deny the State's Motion for the following reasons. *First*, the Oklahoma Discovery Code, and the Oklahoma and United States Constitutions, permit broad discovery and guarantee the Teva Defendants the right to fully vet the State's sweeping claims and establish their defenses to those claims. The State's argument that it does not have to sit witnesses "twice" in a litigation in which it seeks billions of dollars, is preposterous and violates the Teva Defendants' due process rights.

*Second*, the topics are narrowly tailored to elicit testimony specific to the State's claims *against Teva* and Teva's defenses to those claims. The State's argument that it has already produced witnesses to testify on these topics is based on an incorrect, and intentionally overbroad, interpretation of the topics. The State has not provided any testimony on any of the topics at issue because each is designed to apply specifically to Teva.

*Third*, none of the Court's prior rulings precludes Teva from seeking testimony regarding criminal and administrative proceedings, or patient and provider information. With regard to the former, the Court has ordered the State to produce materials related to those proceedings. As to the latter, Teva does not seek to obtain the identity of any prescribers or patients in those

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<sup>1</sup> The State did not move to quash Topics 11, 12, 13, 31, 32 and 33, and the Teva Defendants are therefore proceeding with those depositions accordingly.

depositions.<sup>2</sup> To the extent the State has privilege or relevance objections to the other questions Teva may ask, the State may make those objections on the record, during the deposition. That is not a ground to deny a deposition outright.

*Fourth*, the State's claim that certain topics are "expert witness topics" is not a valid basis on which to deny a fact deposition. If the State intends to offer fact witnesses or evidence at trial on any subject about which an expert also will testify, the Teva Defendants are entitled to depose a fact witness on those subjects. Denial of such depositions denies the Teva Defendants their rights under the Oklahoma Discovery Code. Further, the State's experts have offered opinions and reports based, in part, upon facts and data provided to the experts by the State. The Oklahoma Discovery Code requires the State to provide testimony regarding the facts and data that the State provided to its experts, including how it developed, ascertained, derived and produced such facts and data. The Teva Defendants are entitled to depositions from the State related to those *facts*.

*Fifth*, the State's argument that "contention" topics are "premature" is in fact no objection at all. Teva will agree to take these purported "contention" depositions near the end of the discovery period, but the State offers no basis to quash these topics altogether. Likewise, the State's argument that certain topics are "irrelevant" and "overbroad", on one hand, while seeking to hold Teva jointly and several liable for billions of dollars in damages, penalties and fines, on the other hand, is farcical.

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<sup>2</sup> By agreeing not to ask questions during these depositions about the specific identities of those prescribers and patients, the Teva Defendants do not waive their objections to this Court's rulings that the defendants are not entitled to that information and that it is not relevant to the case.

Put simply, the Notice seeks relevant and essential testimony as to the Teva Defendants—and is entirely proper under the Oklahoma Discovery Code and the deposition protocol set by this Court. Thus, the State’s Motion should be denied in its entirety.

## II. ARGUMENT

### A. **The Teva Defendants’ Ability To Conduct Discovery Is Guaranteed By The Oklahoma Discovery Code.**

The Oklahoma Discovery Code and due process require that Teva be afforded the opportunity to fully defend itself against the State’s sweeping allegations. The State is required to produce representatives to testify regarding relevant, non-privileged information pursuant to Teva’s properly issued deposition notices, and the State has not demonstrated good cause to quash 32 depositions topics. The Oklahoma Discovery Code entitles the Teva Defendants to “obtain discovery regarding any matter, not privileged, *which is relevant to any party’s claim or defense*, reasonably calculated to lead to the discovery of admissible evidence and proportional to the needs of the case.” Okla. Stat. Ann. tit. 12, § 3226(B)(1)(a) (emphasis added).

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

discovery rules is to make a trial less a game of blind man's bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent." *United States v. Proctor & Gamble Co.*, 356 U.S. 677, 683 (1958).

Moreover, "it is not a ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." *Id.* A party opposing discovery bears the burden to show "good cause" why the requested discovery should not be disclosed. *See YMCA of Okla. City v. Melon*, 1997 OK 81, at 15, 944 P.2d 304, 308-09. And, the Court may only limit the frequency or extent of discovery if: (1) the discovery sought is *unreasonably* cumulative or duplicative, or can be obtained from a source that is more convenient, less burdensome, or less expensive; (2) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or (3) the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues. Okla. Stat. Ann. tit. 12, § 3226(B)(2)(c) (emphasis added). The State cannot satisfy any of these factors.

Here, the State seeks to hold the Teva Defendants jointly and severally liable for billions of dollars in damages, penalties and fines related to every conceivable harm opioids have caused Oklahoma, yet it takes the position that each of the three defendant families are not entitled to take their own properly-noticed depositions; instead, they must jointly share one, six-hour deposition of the State between them on distinct topics. The State's attorneys have called this case "the most important litigation in the history of Oklahoma", and the State has noticed over 240 hours of corporate representative testimony from the defendants' representatives. Indeed,

Teva's representative will be required to sit for over 14 days of depositions. Yet, the State claims that Teva is not entitled to its own reciprocal discovery. The State's position is preposterous, and plainly violates Teva's due process rights. As demonstrated below, none of the State's arguments in support of its Motion have merit, and it has not demonstrated good cause sufficient to quash Teva's properly issued Notice. The Motion seeks relief that would deny Teva due process of the law and violate the Oklahoma Discovery Code, and this Court should deny it in full.

**B. The Notice Is Narrowly Tailored to the Teva Defendants and Does Not Seek Duplicative Testimony.**

The State argues that it has already produced a witness for topics 15, 18, 22, 23, 25, 26, 28, 29, 30 and 35. Motion at 2. However, the State's position that it need only produce a single witness, for a single day, on any given topic – despite having sued thirteen separate defendants for billions of dollars – is fundamentally inconsistent with the Oklahoma Discovery Code, which permits each party to conduct its own discovery. *See generally* Okla. Stat. Ann. tit. 12, § 3226(B)(1)(a). It also is inconsistent with this Court's prior rulings that the State is entitled to 80 hours of deposition testimony from each defendant family. This Court may only quash a duly noticed deposition if it finds that a topic is *unreasonably* duplicative or cumulative. Okla. Stat. Ann. tit. 12, § 3226(B)(2)(c). Given the breadth and scope of this case, and the damages and relief sought by the State, the Teva Defendants' deposition notices are more than reasonable.

The cases relied upon by the State in support of this argument are inapposite. First, the State cites to *Chechele v. Ward*, 2012 WL 4383405 (W.D. Okla. Sept. 25, 2012), as an example of a court granting a motion to quash corporate representative testimony as unreasonably cumulative. Motion at 2. However, the State omits the reason for the Court's finding. In *Chechele*, the Court found that the noticed deposition topics were unreasonably cumulative

because the subject matter at issue was available from other witnesses that the plaintiff had deposed or intended to depose in the future. *Chechele*, 2012 WL 4383405 at \*3. Such is not the case here. Contrary to the State's assertion, the State's witnesses have not previously testified as to these topics with respect to the Teva Defendants, and the information is not available from any other source or witness. The State's reliance on *Pittman v. American Airlines*, 2016 WL 375138 (N.D. Okla. Feb. 1, 2016) also provides no support to the State's position. The *Pittman* court quashed a two topics as duplicative on the basis that the defendant had already provided responsive information in an interrogatory response, and that other witnesses were better suited to provide the testimony. *Id.* at 2-3. Such is not the case here.

A careful review of these topics demonstrates that, even if they were deemed duplicative of previously noticed topics by different parties (which they are not), they are not unreasonably so, given the amount in controversy, the proportional needs of the parties to mount their own defenses, and the stakes of "the most important litigation in Oklahoma history." Indeed, the State did not even attach to its motion the alleged topics that it claims the Teva Defendants' notices duplicate. Nor does it even make an effort to compare and explain why they are duplicative. Since the State failed to do so, the Teva Defendants attach them as Exhibits C, D, E and F.<sup>3</sup>

Given the forgoing, the State's arguments that the topics are both duplicative *and* unreasonable, must be rejected. The Teva Defendants do not intend to waste time or needlessly ask repetitive questions. The topics are narrowly tailored to elicit testimony specific to the Teva

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<sup>3</sup> Specifically, Exhibits C and E include topics noticed by Purdue to which State representative Jessica Hawkins testified; Exhibit D is a subpoena to Nancy Nesser, Pharmacy Director for the Oklahoma Healthcare Authority; and Exhibit F includes topics noticed by Janssen to which State representative Jeffrey Stoneking testified.



Defendants. To the extent the Court will consider it, the Teva Defendants are amenable to conducting the depositions of the State's representatives in Court before the Discovery Master, in order to help ensure that the questioning is not *unreasonably* duplicative of prior testimony.

In addition, the State's interpretation of these topics as duplicative of topics noticed by other parties is intentionally overbroad and incorrect. As was communicated to the State during the meet and confer on this issue, Teva has no interest or intention to ask duplicative questions that waste the limited time and resources of the parties. The Notice was narrowly tailored to specifically address topics *as they relate to the Teva Defendants*, the claims against the Teva Defendants, and the Teva Defendants' defenses thereto. Further, the Notices are not duplicative because Teva has not previously deposed any representative of the State on any topic.

The State also argues that, since Teva received notice of and attended prior depositions on similar topics, it should not be permitted to conduct its own discovery. Motion at 3. This argument is contrary to the Oklahoma Discovery Code, as well as the position that the State has taken at nearly every prior deposition of its representatives wherein a party that did not issue the notice attempted to question the witness, or leave the deposition open for further questioning at a later date.

For instance, at the May 16, 2018, deposition of State's witness Jeffrey Stoneking, which was noticed by the Janssen defendants, Purdue sought to preserve its right to question the witness at a later date. The State responded, on the record, "Purdue...has not filed a notice, a cross notice for this deposition, so you guys don't have the right to keep this deposition open. We didn't receive them...That's our response to that." Stoneking Dep. 289: 9-15, May 16, 2018, attached as Exhibit "A". The State took the same position regarding cross-noticing at the deposition of Nate Brown. Brown Dep. 49: 10-16; 54: 14-19, Dec. 18, 2018, attached as Exhibit

“B” (objecting to questioning based upon failure of Janssen and Teva to cross-notice).

Accordingly, the Court should find that the Teva Defendants are entitled to proceed with topics 15, 18, 22, 23, 25, 26, 28, 29, 30 and 35 because they are neither duplicative, nor unreasonably so, and deny the State’s Motion in full.

**C. The State’s Claim Of Privilege Is Incorrect And Not A Legitimate Basis To Quash The Depositions.**

The State’s argument that topics 1, 17, 5, 20 and 36 are privileged is not a legitimate basis to quash a deposition. Indeed, the Oklahoma Discovery Code expressly addresses privilege objections during the course of a deposition. *See* Okla. Stat. Ann. tit. 12, § 3230(E)(1) (“Any objection to evidence during a deposition shall be stated concisely and in a nonargumentative and nonsuggestive manner. A party may instruct a deponent not to answer only when necessary to preserve a privilege or work product protection). Accordingly, the State’s recourse if it has privilege objections is to object during the deposition, not quash the Notice entirely.

The State’s arguments that these topics have already been ruled upon or are otherwise privileged is also incorrect. The State first argues that Topics 1 and 17 seek “testimony of the State’s investigatory files, [and] was already determined by this Court to be privileged, non-discoverable information”. Motion at 3. That is just wrong. Topic 1 seeks information regarding the State’s pre-suit investigation in support of its claims for billions of dollars in this case. As has become clear throughout the course of this litigation, the State did virtually no pre-suit investigative work, and this topic will likely help to establish this fact. The State’s “ready, fire, aim” approach to the “most important litigation in this history of Oklahoma” is certainly relevant and appropriate for deposition. Moreover, Topic 17, which seeks testimony regarding criminal and administrative investigations, was ruled by this Court to be both discoverable and relevant, as demonstrated by the fact that the State was ordered to produce to the defendants all

discovery and publicly available documents that it has produced in criminal or administrative proceedings. *See* Journal Entry On Discovery of Criminal, Civil, and Administrative Proceedings. Teva certainly has the right to depose the State on materials that it has expressly been ordered to produce after lengthy motion practice.

The State next objects to Topics 5 and 20 as “requesting testimony on patient data which this Court also determined was privileged.” *Id.* However, Topics 5 and 20 seek testimony regarding the nature and circumstances regarding any Oklahoma patient that was harmed by a product manufactured by a Teva Defendant, and the State’s knowledge of individuals who overdosed on, or became addicted to, an opioid product manufactured by a Teva Defendant. Motion at Ex. A. Contrary to the State’s assertion, neither of these topics requires to disclose specific patient identities. It does, however, seek the State’s knowledge regarding harm caused by Teva’s products to Oklahoma residents. Nothing could be more relevant than that.

Finally, the State argues that Topic 36 was previously ruled on and “will be addressed in the State’s statistical sample.” Motion at 3. Once again, the State is incorrect. Topic 36 expressly seeks the State’s *factual* basis and knowledge regarding the 245 prescriptions of Actiq and Fentora, which the State identified in its own Petition, were medically unnecessary. If the State has no factual basis to support those assertions, it should say so under oath. The Teva Defendants are entitled to fact witness testimony on this subject. Further, the basic information sought by this notice is nowhere to be found in the State’s “statistical sample” from its expert disclosures, and the Teva Defendants are entitled to it.

**D. The Notice Seeks Fact, Not Expert, Testimony.**

The State objects to Topics 6, 7 and 9 on the basis that they are “more appropriate for an expert witness”. Motion at 4. The notice exclusively seeks factual testimony as to the State’s

damages claim as it relates to Teva's products, its decision to reimburse any claims made to Soonercare for Teva's products, and the identification of any false or fraudulent claims for Teva's products made to Soonercare. Although the State's experts may testify and/or offer opinions on these topics, expert opinions and reports do not exist in a vacuum. The State presumably provided the facts, data and information upon which the experts relied in forming their opinions. And while the State's experts may be asked about the facts, data and information that the State provided to them, the experts are not fact witnesses, and have no independent duty to verify the sources, bases and genesis of the information that the State provided to them. Moreover, the identification of the harm caused to the State, the State's decision to reimburse prescriptions written for Teva's products, and the State's identification of false or fraudulent claims for Teva's products were presumably determined independently by the State before it filed its claim seeking to hold Teva liable billions of dollars in purported damages.

For example, crucial to the analysis of whether a claim to Soonercare was reimbursable or fraudulent, is the State's coverage decision in the first instance. The State repeatedly claims in its Petition that Teva's medications were "unnecessary." *See e.g.* Petition ¶ 6. Teva is entitled to determine by which metric the State made its decision to reimburse a Teva medication in the first place and why it now contends that decision was based on a misrepresentation by a Teva Defendant. The Oklahoma Administrative Code clearly states that the State has established standards, policies, practices and procedures by which it determines whether a claim is reimbursable. *See Okla. Admin. Code 317:30-3-1(f)* (defining medical necessity under Oklahoma's Medicaid Program). The notices seek testimony related to the factual basis for this coverage decision, the resulting harm the State claims related to that decision, and the State's basis for determining whether any claims made for Teva's products were false or fraudulent.

That is demonstrably *fact* testimony. Accordingly, the State's objections that these topics seek expert testimony is incorrect, and the State's Motion should be denied.

**E. The State's Claim That Certain Topics Seek "Contention" Depositions Is Not A Legitimate Basis To Quash The Depositions.**

The State's next complaint is that Topics 2, 3, 4, 10, 14, 16, 24, 34, 37 and 38 are "contention" depositions and therefore improper and/or premature. *See Motion* at 4-5. As a threshold matter, to the extent that the Court determines these topics to be premature and more appropriate once the discovery record is more fully developed, as the State argues, Teva has no objection to taking these depositions of the State near the close of the discovery period.

Notwithstanding the ripeness issue, a review of the topics at issue demonstrates that they are not contention topics, but rather information that the State should currently have in its possession, and information that the State certainly should have ascertained before filing a lawsuit seeking billions of dollars. And the State's reliance upon *BB & T Corp. v. U.S.*, 233 F.R.D. 447 (2006), is misplaced. The *BB & T* court addressed whether a taxpayer could take depositions of Internal Revenue Service attorneys. *BB & T Corp.*, 233 F.R.D. at 447 (emphasis added). The Court found that contention interrogatories were not appropriate in that case because, (1) they were seeking to depose attorneys, not corporate representatives, and (2) because the plaintiff had not yet served interrogatories aimed at obtaining the same information. *Id.* at 449. Indeed, the *BB & T* Court did not hold that contention depositions are improper, only that they are disfavored. *Id.* The State points to the fact that the contention depositions are disfavored because they may "add considerable expense" to this litigation, in which the State is claiming billions of dollars in damages. That is nonsense. As set forth below, these topics are entirely appropriate.

For example, Topics 2, 3 and 4 and 24 seek information regarding the State's knowledge of false, misleading, deceptive or unlawful statements or communications made by the Teva Defendants regarding its products. The State could not have filed its Petition in good faith, alleging a grand conspiracy and scheme designed to defraud, if it did not possess at that time a factual basis to support its claims. These topics are designed squarely to address the State's basis for the facts alleged in its Petition, and are entirely appropriate deposition topics. Topic 10, similarly, seeks the State's factual basis for the claims made in its Petition. The State has propounded this exact same deposition topic on all defendants in this matter, yet it now objects to providing reciprocal discovery. To the extent the State's objection to Topic 10 is sustained, the Court must likewise sustain the objection of all defendants to the same topic propounded by the State. Topics 14 and 16 seek the factual basis for the harm alleged by the State in its Petition, including non-monetary and injunctive relief, as well as the factual nexus between harm alleged by the State and any of Teva's products, actions or omissions. To the extent that the State intends to proffer expert testimony on these topics, it is still required to provide a factual basis for its experts' opinions, as set forth in Section D, *supra*. The State otherwise provides no reasonable basis to object to these topics. Finally, Topics 34, 37 and 38 go to the core of the State's allegations, including its understanding of the causes of the opioid epidemic, its factual basis for its allegation that Teva caused false payments to be made by Soonercare, and its factual basis for its allegation that Teva agreed with other defendants to engage in a false marketing campaign. To the extent the State did not possess an understanding of the basis for those claims at the time of its filing, it has had over a year to develop that understanding and the Teva Defendants are entitled to depose a representative of the State to find out. The State offers no

reasonable basis to quash these topics other than that they may be premature, and its Motion should be denied in full.

**F. The Noticed Topics Are Neither Irrelevant Nor Overbroad.**

Finally, the State's objections to Topics 8, 19, 21, 24, 25, 26 and 27 as "irrelevant" and/or "overbroad" are preposterous considering the stakes of the litigation, the proportional needs of the parties, and the amount in controversy. The Oklahoma Discovery Code entitles the Teva Defendants to "obtain discovery regarding any matter, not privileged, *which is relevant to any party's claim or defense*, reasonably calculated to lead to the discovery of admissible evidence and proportional to the needs of the case." Okla. Stat. Ann. tit. 12, § 3226(B)(1)(a) (emphasis added). Under the Oklahoma Discovery Code, "'relevant' mean those materials either (1) admissible as evidence or (2) which might lead to the disclosure of admissible evidence." *Stone v. Coleman*, 1976 OK 182 (1976).

The State objects to Topics 19 and 27 as "irrelevant". Motion at 6. Topic 19 seeks testimony regarding the use and abuse in Oklahoma of controlled substances other than prescription opioids. Indeed, the State is seeking relief for abuse in Oklahoma of non-prescription opioids that it claims was caused by misrepresentations made by the Teva Defendants. Pet. ¶ 29 ("As the State passed stricter legislation to combat opioid over-prescription, Oklahomans addicted to prescription opioids are turning to illicit opioids such as heroin as a cheaper and more accessible alternative."). This topic therefore is specifically designed to lead to disclosure of evidence regarding the State's regulatory, administrative, abatement and enforcement efforts related to controlled substances other than opioids. That information is relevant because the State claims that the Teva Defendants' alleged conduct contributed to the use and abuse of controlled substances other than prescription opioids.

Topic 27 seeks testimony related to the State's communications with third-party insurers, payors or pharmacy benefit managers regarding prescription opioids. The State is seeking reimbursement of billions of dollars in allegedly false claims for prescription opioids reimbursed by its Soonercare program. The State's communications with third-party insurers, payors and pharmacy benefit managers regarding prescription opioids will demonstrate whether the State has previously taken positions on opioid reimbursement and coverage decisions inconsistent with its litigation position, including what steps, if any, the State took to limit reimbursement for prescriptions of Actiq, Fentora, and other opioids medications over time and whether the State paid for such prescriptions with knowledge of their risks and approved indications. Both Topics 19 and 27 are plainly designed to elicit relevant information, as that term is defined by *Stone*, and the State's objection should be overruled.

Finally, in a Hail-Mary attempt to avoid its discovery obligations, the State objects to Topics 8, 19, 21, 22, 24, 25, 26 and 27 as "overly broad and unduly burdensome". Motion at 6-7. The State's burden arguments should be dismissed with alacrity given its astronomical damages claims in this case. The State cannot argue that this is the biggest litigation in the history of the State and seek billions of dollars from the Teva Defendants, on one hand, while claiming that a handful of depositions are burdensome, on the other. And, similarly, the State's overbroad argument must also fail. These topics seek testimony regarding the State's communications with the Oklahoma public regarding opioid abuse, and the State's communications with Healthcare Providers, third-party insurers, payors and pharmacy benefit managers regarding opioids manufactured by the Teva Defendants. Those communications are undoubtedly relevant and narrowly tailored to the State's claims in this case, which relate to alleged misrepresentations regarding all prescription opioids prescribed in Oklahoma for the past



25 years. The State's burden arguments regarding the production of its communications with the Oklahoma public and healthcare providers on this subject should therefore not be countenanced.

## II. CONCLUSION

In sum, the Notice is proper under the Oklahoma Discovery Code and the deposition protocol set by this Court, and the State's Motion should be denied in its entirety.

Dated: January 15, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was emailed this 15th day of January, 2019, to the following:

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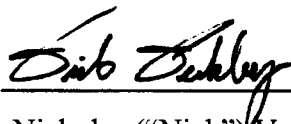
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---



Nicholas ("Nick") V. Merkley

# **EXHIBIT A**

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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 Number  
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., f/k/a  
JANSSEN PHARMACEUTICALS, INC.;
- (9) JANSSEN PHARMACEUTICA, INC.,  
f/k/a JANSSEN PHARMACEUTICALS, INC.;
- (10) ALLERGAN, PLC, 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.

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VIDEO DEPOSITION OF JEFFREY EDWARD STONEKING  
TAKEN ON BEHALF OF THE DEFENDANTS  
ON MAY 16, 2018, BEGINNING AT 10:37 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

Reported by:  
Cheryl D. Rylant, CSR, RPR  
Job No. 2913004  
Pages 1 - 291

1 process easier. There -- basic example, but there 05:22  
2 are times where I -- I -- I may disagree with the 05:22  
3 direction they want to move, but ultimately it's not 05:22  
4 my call. I may make an argument and offer advice or 05:23  
5 a recommendation, but it's counsel's choice to take 05:23  
6 that advice or recommendation. 05:23  
7 Q. (By Mr. Brody) And have there been instances 05:23  
8 where you've disagreed with the direction of counsel 05:23  
9 in this case? 05:23  
10 MR. DUCK: Objection to the form. 05:23  
11 THE WITNESS: No. We haven't had a -- had 05:23  
12 a disagreement on to the direction that we're moving. 05:23  
13 Q. (By Mr. Brody) You were asked whether you 05:23  
14 thought it would be right for the taxpayers of 05:23  
15 Oklahoma to have to bear the cost of DSI's efforts to 05:23  
16 respond to Defendants' discovery requests by taking 05:23  
17 action to identify and collect potentially relevant 05:23  
18 materials before document requests were served. 05:23  
19 Do you recall that question? 05:23  
20 A. I do. 05:23  
21 Q. Do you know whether the taxpayers of Oklahoma 05:23  
22 are ultimately going to bear the cost of DSI's 05:23  
23 services in this case? 05:23  
24 MR. DUCK: Objection to form. 05:23  
25 THE WITNESS: They may not be physically 05:23  
Page 286

1 paying our invoices, so to speak, in this particular 05:23  
2 matter, but cost comes in other forms outside of 05:23  
3 dollars. Time. I've always been told by our CFOs, 05:23  
4 time and money, and you can't have both. And I know 05:23  
5 that we're working with a high number of individuals 05:24  
6 who operate in state roles and taxpayer dollars who  
7 are being pulled away from other priorities and 05:24  
8 initiatives to help us deal with the broad discovery 05:24  
9 requests that we're facing right now. So, you know, 05:24  
10 are they going to physically pay DSI's bills? I 05:24  
11 don't believe so. But is there a cost that the 05:24  
12 taxpayers are incurring by me having to be involved 05:24  
13 and communicating with them among dozens of other 05:24  
14 individuals from outside counsel and DSI? 05:24  
15 Absolutely. 05:24  
16 Q. (By Mr. Brody) Do you believe that it's 05:24  
17 right for the taxpayers of -- well, do you believe 05:24  
18 it's right for the State of Oklahoma to have to pay 05:24  
19 up to 25 percent of any recovery in this case to 05:24  
20 outside contingency counsel? 05:24  
21 MR. DUCK: Objection to form. 05:24  
22 THE WITNESS: Again, I don't know enough 05:24  
23 from the landscape of this to have an opinion 05:24  
24 at least as to the damages or whatever it may be or 05:24  
25 how things work out. All I know is, through my 05:24  
Page 287

1 experiences, working with groups like the state of 05:24  
2 Tennessee -- you know, I'm a taxpayer in Tennessee, 05:24  
3 and it's frustrating when I see Open Records requests 05:24  
4 or unnecessary discovery requests that are so broad 05:24  
5 and so out of left field that we have to even take 05:25  
6 the time to respond to it. 05:25  
7 So my comment about burdening them with time 05:25  
8 is just come -- it's just coming from my personal 05:25  
9 experience in dealing with these same issues in the 05:25  
10 state of Tennessee. 05:25  
11 Q. (By Mr. Brody) So I think you answered the 05:25  
12 question, that you do not have an opinion as to 05:25  
13 whether the State of Oklahoma should have to pay up 05:25  
14 to 25 percent of any recovery in this case to outside 05:25  
15 contingency counsel? 05:25  
16 MR. DUCK: No. Objection to form. 05:25  
17 THE WITNESS: I don't have an opinion on 05:25  
18 that. 05:25  
19 MR. DUCK: Outside the scope. To the 05:25  
20 extent you're really asking him this question, Steve, 05:25  
21 which is -- 05:25  
22 MR. BRODY: That's my -- 05:25  
23 MR. DUCK: -- frankly --  
24 MR. BRODY: -- last question. I have no -- 05:25  
25 MR. DUCK: -- unprofessional. 05:25  
Page 288

1 MR. BRODY: -- further questions.  
2 MR. DUCK: You're asking him as a -- a 05:25  
3 person at DSI. You understand that, right, Steve? 05:25  
4 MR. BRODY: I have no further questions. 05:25  
5 MR. DUCK: I'll take that as a yes. 05:25  
6 All right. We're done.  
7 MR. LAFATA: Purdue reserves its --  
8 VIDEO TECHNICIAN: We are off the record.  
9 MR. DUCK: Purdue has -- has not -- has not  
10 filed a notice, a cross notice for this deposition,  
11 so you guys don't have a right to keep this  
12 deposition open. We didn't receive them, you guys  
13 were welcome to attend. I know you all have got some  
14 kind of joint defense agreement, but noted. That's  
15 our response to that.  
16 (Record concluded, 5:26 p.m.)  
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Page 289



1 JURAT PAGE  
2 STATE OF OKLAHOMA VS. PURDUE PHARMA, ET AL.  
3  
4 I, Jeffrey Edward Stoneking, do hereby state under  
5 oath that I have read the above and foregoing  
6 deposition in its entirety and that the same is a  
7 full, true and correct transcript of my testimony so  
8 given at said time and place, except for the  
9 corrections noted.  
10  
11 \_\_\_\_\_  
12 Jeffrey Edward Stoneking  
13  
14 Subscribed and sworn to before me, the undersigned  
15 Notary Public in and for the State of Oklahoma, by  
16 said witness \_\_\_\_\_, on this \_\_\_\_\_ day  
17 of \_\_\_\_\_, 2018.  
18  
19 \_\_\_\_\_  
20 Notary Public  
21  
22 My Commission Expires: \_\_\_\_\_  
23  
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25

1 CERTIFICATE  
2  
3 I, Cheryl D. Rylant, Certified Shorthand Reporter,  
4 certify that the above-named witness was sworn, that  
5 the deposition was taken in shorthand and thereafter  
6 transcribed; that it is true and correct; and that it  
7 was taken on May 16, 2018, in Oklahoma City, county  
8 of Oklahoma, state of Oklahoma, pursuant to Notice  
9 and the Oklahoma Rules of Civil Procedure and under  
10 the stipulations set out, and that I am not an  
11 attorney for nor relative of any of said parties or  
12 otherwise interested in the event of said action.  
13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 and official seal this 18th day of May, 2018.  
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25 \_\_\_\_\_  
26 CHERYL D. RYLANT, CSR, RPR  
Certificate No. 1448

# EXHIBIT B

1           IN THE DISTRICT COURT OF CLEVELAND COUNTY  
2                                 STATE OF OKLAHOMA

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

Case Number  
CJ-2017-816

6         VS.

7         PURDUE PHARMA L.P. ;  
8         PURDUE PHARMA, INC. ;  
9         THE PURDUE FREDERICK COMPANY ;  
10         TEVA PHARMACEUTICALS USA, INC. ;  
11         CEPHALON, INC. ;  
12         JOHNSON & JOHNSON ;  
13         JANSSEN PHARMACEUTICALS, INC. ;  
14         ORTHO-McNEIL-JANSSEN  
15         PHARMACEUTICALS, INC., f/k/a  
16         JANSSEN PHARMACEUTICALS, INC. ;  
17         JANSSEN PHARMACEUTICA, INC.,  
18         f/k/a JANSSEN PHARMACEUTICALS, INC. ;  
19         ALLERGAN, PLC, f/k/a WATSON  
20         PHARMACEUTICALS, INC. ;  
21         WATSON LABORATORIES, INC. ;  
22         ACTAVIS, LLC; and  
23         ACTAVIS PHARMA, INC.,  
24         f/k/a WATSON PHARMA, INC.,

25                                 Defendants.

---

VIDEOTEPED DEPOSITION OF NATHAN DANIEL BROWN  
TAKEN ON BEHALF OF THE DEFENDANTS  
ON DECEMBER 18, 2018, BEGINNING AT 9:08 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

Reported by: Cheryl D. Rylant, CSR, RPR  
Video Technician: Greg Brown

1 MR. CUTLER: Sounds good.

2 VIDEO TECHNICIAN: We're off the record at  
3 9:52 a.m.

4 (Break was taken.)

5 VIDEO TECHNICIAN: We are back on the  
6 record at 10:03 a.m.

7 MR. VOLNEY: So, Mr. Brown, I appreciate  
8 your time. I'm going to pass you as a witness to  
9 Harvey here.

10 MR. CUTLER: Harvey, before you go, did  
11 you all cross-notice this deposition?

12 MR. BARTLE: We did not. But I'm happy to  
13 call him back if you'd like me to.

14 MR. CUTLER: No. We'll object to the  
15 questioning, but we're not going to -- I'm not going  
16 to not let you do it.

17 MR. BARTLE: Okay.

18 CROSS EXAMINATION

19 By Mr. Bartle:

20 Q. Mr. Brown, I just want to ask you a couple of  
21 questions about some of the things you've said today.

22 First, one of the things you mentioned earlier was  
23 when -- when an inmate was discharged, he or she  
24 could be discharged to supervision under the DOC --

25 A. Uh-huh.

1 programming include any substance abuse treatment?

2 A. No.

3 Q. Does substance -- does the DOC's substance  
4 abuse treatment programming include cognitive  
5 programming?

6 A. It can, yes, but it's not necessarily  
7 required for all substance abuse treatment.

8 MR. BARTLE: I don't have any further  
9 questions.

10 CROSS EXAMINATION

11 By Mr. Bowman:

12 Q. Mr. Brown, my name is Andy Bowman. I  
13 represent Janssen.

14 MR. CUTLER: And, Andy, before you get into  
15 it, you all didn't cross-notice this deposition  
16 either?

17 MR. BOWMAN: That's correct.

18 MR. CUTLER: Then we'll just object to the  
19 testimony and the questioning.

20 MR. BOWMAN: Okay.

21 Q. (By Mr. Bowman) Mr. Brown, I just have a  
22 couple of quick follow-up questions for you. And you  
23 may have done this towards the beginning, but I  
24 didn't catch all of them.

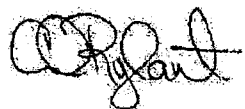
25 Can you give me, as best you can, a list of the

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CERTIFICATE

I, Cheryl D. Rylant, Certified Shorthand Reporter, certify that the above-named witness was sworn, that the deposition was taken in shorthand and thereafter transcribed; that it is true and correct; and that it was taken on December 18, 2018, in Oklahoma City, county of Oklahoma, state of Oklahoma, pursuant to Notice and under the stipulations set out, and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 20th day of December, 2018.



CHERYL D. RYLANT, CSR, RPR  
Certificate No. 1448

# EXHIBIT C

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

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

Plaintiff,

v.

PURDUE PHARMA L.P.; PURDUE  
PHARMA, INC.; THE PURDUE  
FREDERICK COMPANY; TEVA  
PHARMACEUTICALS USA, INC.;  
CEPHALON, INC.; JOHNSON &  
JOHNSON; JANSSEN  
PHARMACEUTICALS, INC.; ORTHO-  
McNEIL-JANSSEN  
PHARMACEUTICALS, INC., n/k/a  
JANSSEN PHARMACEUTICALS, INC.;  
JANSSEN PHARMACEUTICA, INC.,  
n/k/a JANSSEN PHARMACEUTICALS,  
INC.; ALLERGAN, PLC, f/k/a ACTAVIS  
PLC, f/k/a ACTAVIS, INC., f/k/a  
WATSON PHARMACEUTICALS, INC.;  
WATSON LABORATORIES, INC.;  
ACTAVIS LLC; and ACTAVIS PHARMA,  
INC., f/k/a WATSON PHARMA, INC.,

Defendants.

Case No. CJ-2017-816

Honorable Thad Balkman

Special Discovery Master:  
William C. Hetherington, Jr.

**NOTICE TO TAKE VIDEOTAPED DEPOSITION OF  
CORPORATE REPRESENTATIVE PURSUANT TO  
SECTION 3230(C)(5) OF THE DISCOVERY CODE**

To: **Corporate Representative  
State of Oklahoma**

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Please take notice that, pursuant to OKLA. STAT. TIT. 12 § 3230(C), Purdue Pharma L.P., Purdue Pharma, Inc., and the Purdue Frederick Company (collectively, "Purdue") will by agreement take the deposition upon oral examination of one or more corporate representative(s) of Plaintiff the State of Oklahoma (the "State") on the matters described on **Exhibit A** on **September 27, 2018, starting at 9:00 AM**, at the offices of Whitten Burrage, 512 North Broadway Avenue, Suite 300, Oklahoma City, OK 73102. The parties have agreed that where there is a reasonable and good faith basis to request additional time at the close of one day of deposition testimony, the deposition can continue on another date that is agreeable to the parties.

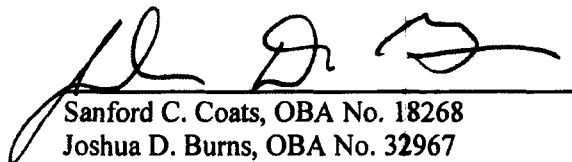
This deposition is to be used as evidence in the trial of the above action, and the deposition will be taken before an officer authorized by law to administer oaths. It will be recorded by stenographic means and will be videotaped, and it will continue from day to day until completed.

Pursuant to OKLA. STAT. TIT. 12, § 3230(C)(5), the State is hereby notified of its obligation to designate one or more officers, directors, managing agents, or other persons who consent to testify on the State's behalf about all matters embraced in the "Description of Matters on Which Examination is Requested" that is attached as **Exhibit A** pursuant to the parties' agreements during the meet-and-confer process.

PLEASE TAKE FURTHER NOTICE that each such officer, director, managing agent, or other person produced by the State to testify under OKLA. STAT. TIT. 12, § 3230(C)(5) has an affirmative duty to have first reviewed all documents, reports, and other matters known or reasonably available to the State, along with speaking to all potential witnesses known or reasonably available to the State, in order to provide informed and binding answers at the deposition.

DATED: September 24, 2018.

Respectfully submitted,



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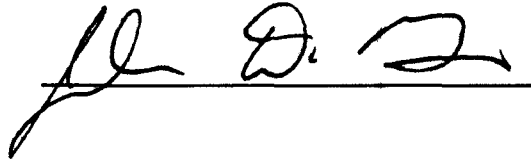
*Counsel for Purdue Pharma L.P.,  
Purdue Pharma Inc., and The Purdue  
Frederick Company Inc..*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of September 2018, I caused a true and correct copy of the following:

**NOTICE TO TAKE VIDEOTAPED DEPOSITION OF CORPORATE REPRESENTATIVE PURSUANT TO SECTION 3230(C)(5) OF THE DISCOVERY CODE**

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

A handwritten signature in black ink, appearing to read "J. D. Z.", is written over a horizontal line.

## SERVICE LIST

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*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.*

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*Counsel for Plaintiff the State of Oklahoma*

### GLENN COFFEE & ASSOCIATES, PLLC

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## EXHIBIT A

### DESCRIPTION OF MATTERS ON WHICH THE STATE WILL DESIGNATE ITS WITNESS

1. **Abatement:** All actions You<sup>1</sup> have taken, as well as all actions that You considered but did not take, during the relevant time period to address, counter, abate, and/or reverse what You allege in Your Complaint to be the opioid epidemic, including the staffing and resources that You spent doing so, any steps You have taken to educate physicians and other healthcare providers and facilities about opioid medications, any treatment programs for opioid addiction, and any regulatory and law enforcement steps to detect and prevent the misuse of opioid medications (both legal and illicit opioids, including heroin and fentanyl).
2. **Topic 6:** Communications between You and members of Your community regarding opioid abuse.
3. **Topic 11:** The consideration, development, and formation of the Oklahoma Commission on Opioid Abuse and all comments, notes, submissions, testimony, draft papers, actions taken, and actions considered but not taken—including any proposed legislation and drafts of proposed legislation—during the Relevant Time Period, by the Oklahoma Commission on Opioid Abuse to address the abuse of prescription or illegal opioids.
  - a. The State designates this witness on this topic at a “high level” and will designate one or more witnesses on the remainder of the topic.
4. **Topic 12:** Federal or private grants applied for and/or received on a state or local level by Oklahoma entities during the Relevant Time Period, including but not limited to law enforcement and rehabilitation facilities, related in any way to securing funds to address the abuse of prescription or illegal opioids.
5. **Topic 15:** Steps You have taken to identify each individual alleged to have developed an addiction to or to have abused Prescription Opioids during the Relevant Time Period.
6. **September 19 topic:** The standards, practices, and procedures during the Relevant Time Period for the use of opioid medications and opioid alternative medications for persons in the care and custody of State healthcare facilities, including hospitals, teaching hospitals, psychiatric facilities, university hospitals, medical schools, nursing schools, pharmacy schools, clinics, and emergency rooms.
  - a. The State designates this witness on this topic with respect to psychiatric facilities and will designate one or more witnesses on the remainder of the topic.
7. **September 20 topic:** The standards, practices, and procedures during the Relevant Time Period of the diagnosis and treatment of pain that have been taught and applied in State healthcare facilities, including hospitals, teaching hospitals, psychiatric facilities,

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<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the meanings assigned to them in Purdue’s January 12, 2018 discovery requests to the State.

university hospitals, medical schools, nursing schools, pharmacy schools, clinics, and emergency rooms.

- a. The State designates this witness on this topic with respect to psychiatric facilities and will designate one or more witnesses on the remainder of the topic.



# EXHIBIT D

IN THE DISTRICT COURT of CLEVELAND COUNTY  
STATE OF OKLAHOMA

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

Plaintiff,

v.

(1) PURDUE PHARMA L.P.;  
(2) PURDUE PHARMA, INC.;  
(3) THE PURDUE FREDERICK COMPANY;  
(4) TEVA PHARMACEUTICALS USA, INC.;  
(5) CEPHALON, INC.;  
(6) JOHNSON & JOHNSON;  
(7) JANSSEN PHARMACEUTICALS, INC.;  
(8) ORTHO-McNEIL-JANSSEN  
PHARMACEUTICALS, INC., n/k/a JANSSEN  
PHARMACEUTICALS;  
(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

Judge Thad Balkman

**NOTICE TO TAKE DEPOSITION**

Please take notice that, pursuant to 12 O.S. § 3230(A)(1), Defendant Janssen Pharmaceuticals, Inc., through their counsel of record, will take the oral deposition of **Nancy Jane Nesser, Pharm.D., J.D.**

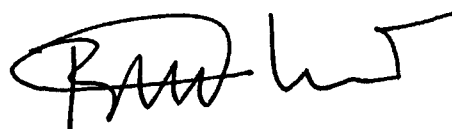
The deposition will take place at the law offices of **Whitten Burrage, 512 N. Broadway Ave, Suite 300, Oklahoma City, OK 73102, on December 12, 2018, commencing at 9:00 a.m.,**

before an officer authorized by the laws of the State of Oklahoma to administer oaths, for the purpose of discovery and/or for trial. A stenographic record of the deposition will be made.

You are invited to attend and examine the witnesses.

Dated: November 29, 2018

Respectfully submitted,



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ORTHO-MCNEIL-JANSSEN  
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**CERTIFICATE OF MAILING**

Pursuant to Okla. Stat. tit. 12, § 2005(D), this is to certify on November 29th 2018, a true and correct copy of the above and foregoing has been served via electronic mail, to the following:

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PHARMA, INC.**



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AND ORTHO-MCNEIL-JANSSEN  
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# EXHIBIT E

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

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

Plaintiff,

v.

PURDUE PHARMA L.P.; PURDUE  
PHARMA, INC.; THE PURDUE  
FREDERICK COMPANY; TEVA  
PHARMACEUTICALS USA, INC.;  
CEPHALON, INC.; JOHNSON &  
JOHNSON; JANSSEN  
PHARMACEUTICALS, INC.; ORTHO-  
McNEIL-JANSSEN  
PHARMACEUTICALS, INC., n/k/a  
JANSSEN PHARMACEUTICALS, INC.;  
JANSSEN PHARMACEUTICA, INC.,  
n/k/a JANSSEN PHARMACEUTICALS,  
INC.; ALLERGAN, PLC, f/k/a ACTAVIS  
PLC, f/k/a ACTAVIS, INC., f/k/a  
WATSON PHARMACEUTICALS, INC.;  
WATSON LABORATORIES, INC.;  
ACTAVIS LLC; and ACTAVIS PHARMA,  
INC., f/k/a WATSON PHARMA, INC.,

Defendants.

Case No. CJ-2017-816

Honorable Thad Balkman

Special Discovery Master:  
William C. Hetherington, Jr.

**NOTICE TO TAKE VIDEOTAPED DEPOSITION OF  
CORPORATE REPRESENTATIVE PURSUANT TO  
SECTION 3230(C)(5) OF THE DISCOVERY CODE**

To: **Corporate Representative  
State of Oklahoma**

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Please take notice that, pursuant to OKLA. STAT. TIT. 12 § 3230(C), Purdue Pharma L.P., Purdue Pharma, Inc., and the Purdue Frederick Company (collectively, "Purdue") will by agreement take the deposition upon oral examination of one or more corporate representative(s) of Plaintiff the State of Oklahoma (the "State") on the matters described on **Exhibit A** on **December 13, 2018, starting at 9:00 AM**, and continuing as needed, at the offices of Whitten Burrage, 512 North Broadway Avenue, Suite 300, Oklahoma City, OK 73102.

This deposition is to be used as evidence in the trial of the above action, and the deposition will be taken before an officer authorized by law to administer oaths. It will be recorded by stenographic means and will be videotaped, and it will continue from day to day until completed.


Pursuant to OKLA. STAT. TIT. 12, § 3230(C)(5), the State is hereby notified of its obligation to designate one or more officers, directors, managing agents, or other persons who consent to testify on the State's behalf about all matters embraced in the "Description of Matters on Which Examination is Requested" that is attached as **Exhibit A**.

PLEASE TAKE FURTHER NOTICE that each such officer, director, managing agent, or other person produced by the State to testify under OKLA. STAT. TIT. 12, § 3230(C)(5) has an affirmative duty to have first reviewed all documents, reports, and other matters known or reasonably available to the State, along with speaking to all potential witnesses known or

reasonably available to the State, in order to provide informed and binding answers at the deposition.

DATED: November 28, 2018

Respectfully submitted,

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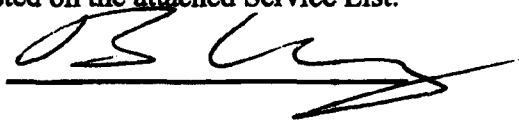
*Counsel for Purdue Pharma L.P.,  
Purdue Pharma Inc., and The Purdue  
Frederick Company Inc..*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of November 2018, I caused a true and correct copy of the following:

**NOTICE TO TAKE VIDEOTAPED DEPOSITION OF CORPORATE REPRESENTATIVE PURSUANT TO SECTION 3230(C)(5) OF THE DISCOVERY CODE**

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

A handwritten signature in black ink, appearing to be "J. L. ...", is written over a horizontal line.



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## **EXHIBIT A**

### **DESCRIPTION OF MATTERS ON WHICH THE STATE WILL DESIGNATE ITS WITNESS**

1. Topic 3: Your knowledge of and access to data concerning prescription opioid manufacturing, prescribing, distribution, or dispensing.
2. Topic 16: Your design, development, and implementation of Oklahoma's Prescription Monitoring Program ("PMP"), including any and all opposition, criticism, or delay to the PMP, as well as all statistics on participation rates and success and/or failures of the PMP.

# EXHIBIT F

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IN THE DISTRICT COURT of CLEVELAND COUNTY  
STATE OF OKLAHOMA

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

Plaintiff,

v.

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

Defendants,

Case No. CJ-2017-816

Judge Thad Balkman

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**AMENDED NOTICE TO TAKE DEPOSITION**

Please take notice that, pursuant to 12 O.S. § 3230(C)(5), Defendant Janssen Pharmaceuticals, Inc., through their counsel of record, will take the oral deposition of Plaintiff the State of Oklahoma (“the State”).

The deposition will take place at Whitten Burrage, 512 North Broadway Ave. Suite 300, Oklahoma City, OK 73102, on **May 16, 2018**, commencing at **10:30 a.m.** and continuing from day-to-day until concluded, before an officer authorized by the laws of the State of Oklahoma to administer oaths, for the purpose of discovery and/or for trial. A stenographic record of the deposition will be made.

Please take further notice that, pursuant to 12 O.S. § 3230(C)(5), the State is requested to designate one or more officers, directors, managing agents or other persons who consent to testify on the State’s behalf with respect to each of the subjects set forth in the attached Schedule A. In addition, the State is requested to provide Defendants’ counsel with written notice, at least five (5) business days in advance of the deposition, of: (1) the name(s) and employment position(s) of each

designee who has consented to testify on behalf of the State, and (2) the matters set forth in the attached Schedule A as to which each such designee has agreed to testify.

The State is hereby further requested to produce at the deposition all documents concerning the topics listed in Schedule A not produced to Defendants prior to the deposition.

You are invited to attend and examine the witnesses.

Respectfully submitted,

By: 

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ORTHO-MCNEIL-JANSSEN  
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JANSSEN PHARMACEUTICALS, INC.**

## **SCHEDULE A**

### **DEFINITIONS**

Unless otherwise defined, all words and phrases used herein shall be accorded their usual meaning and shall be interpreted in their common, ordinary sense. As used herein, the following terms shall have the meanings set forth below:

1. "You" and "Your(s)" refer collectively to the State of Oklahoma, Oklahoma Office of the Governor, Oklahoma Office of the Attorney General, Oklahoma Department of Corrections, Oklahoma Department of Public Safety, Oklahoma State Department of Health, Oklahoma State Bureau of Investigation, Oklahoma Bureau of Narcotics and Dangerous Drugs Control, Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma Health Care Authority, Oklahoma State Board of Dentistry, Oklahoma State Board of Medical Licensure and Supervision, Oklahoma State Board of Nursing, Oklahoma State Board of Pharmacy, Oklahoma State Board of Veterinary Medical Examiners, Oklahoma Workers' Compensation Commission, and Office of the Medical Examiner of the State of Oklahoma; their sub-organizations, including but not limited to boards, commissions, committees, departments, divisions, offices, programs, and task forces; their predecessors-in-interest and successors-in-interest, and any of their past or present officers, directors, current and former employees, counsel, agents, consultants, representatives, and any other persons acting on behalf of any of the foregoing, pursuant to their authority and control.

2. "Document(s)" is used in the broadest sense permissible under 12 O.S. § 3234(A)(1), and includes without limitation "writings," "recordings," "photographs," "original[s]," "duplicate[s]," "image[s]," and "record[s]," as those terms are set forth in 12 O.S. § 3001. The term "document(s)" includes all drafts and all copies that differ in any respect from the original; information stored in, or accessible through, computer or other information retrieval



systems (including any computer archives or back-up systems), together with instructions and all other materials necessary to use or interpret such data compilations; all other Electronically Stored Information; and the file-folder, labeled-box, or notebook containing the document, as well as any index, table of contents, list, or summaries that serve to organize, identify, or reference the document.

3. “Instant Litigation” means *State ex rel. Hunter v. Purdue Pharma, L.P. et al.*, No. CJ-2017-816.

4. “Relevant Medications” includes any and all drugs, branded or generic, consisting of natural or synthetic chemicals that bind to opioid receptors in a Patient’s brain or body to produce an analgesic effect, whether or not listed in the Complaint, including but not limited to, codeine, fentanyl, hydrocodone, methadone, morphine, oxycodone, oxymorphone, tapentadol, and tramadol.

5. “Relevant Time Period” means January 1, 2007 to the present, or such other time period as the parties may later agree or the Court determines should apply to each side’s discovery requests in this action.

## TOPICS

1. The existence, location, storage, retention and destruction of Your Documents related to the Relevant Medications, including:

- a. The existence and location of Your Documents related to the Relevant Medications, including, but not limited to, electronic Documents and databases, and Your policies and procedures for the creation, distribution, storage, retention, and destruction of Documents and databases related to those Documents during the Relevant Time Period.

- b. All databases, systems, or other repositories for claims for reimbursement of the Relevant Medications or other claims for reimbursement of Medical Care, Emergency Services, or treatment for or prevention of addiction, overdose, or abuse of the Relevant Medications.
- c. Documents related to efforts by You to limit the number of Opioid medications illegally distributed or obtained in Oklahoma.
- d. The existence and location of all of Your other documents related to the Relevant Medications.
- e. Changes, if any, instituted to Your policies and procedures for the making, distributing, storing, retaining, and destruction of Documents and databases related to the Relevant Medications since the time that You first contemplated filing the Instant Litigation against Defendants.
- f. Your efforts to retain, store, or preserve Documents and records related to the Instant Litigation.
- g. Methods You have undertaken to monitor compliance with Your policies and procedures for retaining, storing, or preserving Documents and records related to the Relevant Medications since the time You first contemplated filing the Instant Litigation against Defendants.

**CERTIFICATE OF MAILING**

Pursuant to Okla. Stat. tit. 12, § 2005(D), this is to certify on April 27<sup>th</sup>, 2018, a true and correct copy of the above and foregoing has been served via the United State Postal Service, First Class postage prepaid, and by agreement via electronic service, to the following:

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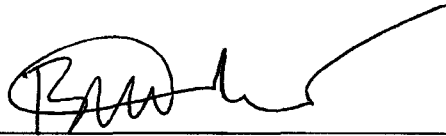
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