IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., MIKE HUNTER, ATTORNEY GENERAL OF OKLAHOMA,	)	In the office of the Court Clerk MARILYN WILLIAMS
Plaintiff,	)	Case No. CJ-2017-816
vs.	)	CONFIDENTIAL FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER DATED APRIL 16, 2018
PURDUE PHARMA L.P., et al,	)	
Defendants.	)	

SUPPLEMENT TO DEFENDANTS' EMERGENCY MOTION TO COMPEL AND FOR EXTENSION OF TIME FOR DEFENDANTS' EXPERT DISCLOSURES

Defendants respectfully submit this Supplement to their Emergency Motion to Compel and for Extension of Time, filed on January 7, 2019, in order to notify the Court of relevant information just learned by Defendants. Specifically, Defendants have just come to learn that since as early as May 2018, the State has been collecting hundreds of thousands of pages of patient medical records, which are well within the parameters of the general fact discovery served by Defendants *and* on which the State's experts rely. But the State did not begin to share these records until December 28, 2018. At that time, the state dumped 325,000 pages on Defendants, in undifferentiated form, without any way for Defendants to timely review – let alone analyze – the vast trove of relevant information on which the State is staking its claims.

It is clear from the State's expert disclosures that Dr. Jason Beaman is one of the State's key experts. Dr. Beaman purports to review a sample of SoonerCare opioid patient medical records in order to determine which prescriptions are "medically unnecessary":

> Dr. Beaman is expected to testify that he reviewed a total of 1,612 individual records composing of 38,498 unique opioid prescriptions. Dr. Beaman is further expected to testify that upon review of these medical records and applying the methodology described below, Dr. Beaman concluded that 8,059 opioid prescriptions out of the 1,612 individual records composing of 38,498 unique prescriptions reviewed were medically unnecessary.

Other of the State's experts, in turn, use and rely on Dr. Beaman's analysis to compute the State's request for damages, rendering Dr. Beaman's analysis a core component of the State's case.

In order to test the validity of Dr. Beaman's analysis and opinions and to prepare their own expert disclsoures, Defendants need and are entitled to a meaningful opportunity to review and analyze, among other things, the underlying medical records that Dr. Beaman relied on. But through its refusal and failure to timely produce these materials (including the State's medical claims database that houses medical information directly related to the prescriptions Dr. Beaman

now puts at issue) and other documents as part of basic fact discovery, the State has effectively deprived Defendants of that opportunity, raising serious due process concerns.

The State's opposition seeks to misdirect the Court's attention to avoid the salient point. There are many pages of records that should have been produced months ago, as part of basic fact discovery. While the State and its experts have been analyzing these underlying factual materials for many months, the State wants Defendants and their experts to do it in just a matter of a few weeks. Defendants are being sandbagged by design.

We now know that the State issued litigation requests for and began receiving copies of the underlying factual records, which total over 325,000 pages, for purposes of this litigation, as early as ***May 2018***. For example, [redacted] There can be no serious question that such documents are discoverable. The State should have – but failed to – produce these documents and others to Defendants on a rolling basis as part of general fact discovery.

Instead, the State decided to wait until December 28, 2018, to begin dumping an undifferentiated mass of raw documents on Defendants, including documents produced as "OKAGSS_001-OKAGSS_005." These belated productions consist of more than 325,000 pages containing decades of patient medical information, much of which is handwritten and thus difficult to read, let alone synthesize into any usable format. While Defendants are reviewing these documents, their various experts need to time to analyze these dilatory productions (in a

usable format) – and the additional expert-related documents that the State continues to produce.[1]

Finally, the State has failed to produce any worksheet, other document, or other information that identifies ***which*** opioid prescriptions were (according to Dr. Beaman) medically unnecessary. All Defendants have been told is that he believes "8,059 opioid prescriptions" out of "38,498 unique prescriptions" were "medically unnecessary." But they have not been told ***which*** "8,059 opioid prescriptions" the State is putting at issue. Without having those 8,059 prescriptions identified as part of the State's expert interrogatory responses, there is no way to audit Dr. Beaman's work. Zero. The State is hiding the ball on a core issue in this case. That is neither fair nor the way the discovery system is designed to work.

Throughout general fact discovery, the State skirted its discovery obligations on the grand promise that its expert disclosures would cure its deficiencies. But we now know that promise rings hollow. Not only do the State's expert disclosures and recent productions uncover greater deficiencies, but they also raise more questions than they answer. The result is that Defendants have been deprived of their due process right to a meaningful opportunity to mount a defense.

Accordingly, among other things, Defendants respectfully request the Court to compel the State to produce Dr. Beaman's worksheets or other documents that specify ***which*** "8,059 opioid prescriptions" out of "38,498 unique prescriptions" were (according to him) "medically unnecessary." Defendants cannot be expected to "Go Fish." Defendants further request that the medical records (OKAGSS_001-OKAGSS_005) be produced in the same format in which Dr. Beaman and the State's other experts had access. For example, if the medical records were loaded into a sortable and searchable database, the State should be required to produce the

[1] The State has continued to produce expert-related documents as recently as January 11, 2019.

records in that format to Defendants so that Defendants have the same functionality. Defendants also reiterate their request that Defendants' expert disclosure deadline be extended for at least 60 days from the Court's certification that the State's production is complete so that Defendants and their experts can properly analyze the hundreds of thousands of underlying factual records that the State has withheld from production for many months.

Date: January 16, 2019

Respectfully submitted,

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

Of Counsel:

Sheila Birnbaum
Mark S. Cheffo
Hayden A. Coleman
Paul A. LaFata
DECHERT, LLP
Three Bryant Park
1095 Avenue of the Americas
New York, New York 10036
Tel: (212) 698-3500
Fax: (212) 698-3599
sheila.birnbaum@dechert.com
mark.cheffo@dechert.com
hayden.coleman@dechert.com
paul.lafata@dechert.com

Eric Wolf Pinker
John Thomas Cox III

Lynn Pinker Cox & Hurst, LLP
2100 Ross Avenue, Suite 2700
Dallas, TX 75201
epinker@lynnllp.com
tcox@lynnllp.com

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

Benjamin H. Odom, OBA No. 10917
John H. Sparks, OBA No. 15661
ODOM, SPARKS & JONES PLLC
HiPoint Office Building
2500 McGee Drive Ste. 140
Norman, OK 73072
Telephone: (405) 701-1863
Facsimile: (405) 310-5394
Email: odomb@odomsparks.com
Email: sparksj@odomsparks.com

Larry D. Ottaway, OBA No. 6816
Amy Sherry Fischer, OBA No. 16651
FOLIART, HUFF, OTTAWAY & BOTTOM
201 Robert S. Kerr Avenue, 12th Floor
Oklahoma City, OK 73102
larryottaway@oklahomacounsel.com
amyfischer@oklahomacounsel.com

Charles C. Lifland
O'MELVENY & MYERS LLP
400 S. Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
Email: clifland@omm.com

Stephen D. Brody
David K. Roberts
O'MELVENY & MYERS LLP
1625 Eye Street NW
Washington, DC 20006
Telephone: (202) 383-5300
Facsimile: (202) 383-5414

Email: sbrody@omm.com
Email: droberts2@omm.com

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

Robert G. McCampbell, OBA No. 10390
Nicholas ("Nick") V. Merkley, OBA No. 20284
Ashley E. Quinn, OBA No. 33251
GABLEGOTWALS
One Leadership Square, 15th Fl.
211 North Robinson
Oklahoma City, OK 73102-7255
T: +1.405.235.3314
E-mail: RMcCampbell@Gablelaw.com
E-mail: NMerkley@Gablelaw.com
E-mail: AQuinn@Gablelaw.com

OF COUNSEL:

Steven A. Reed
Harvey Bartle IV
Mark A. Fiore
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921
T: +1.215.963.5000
E-mail: steven.reed@morganlewis.com
E-mail: harvey.bartle@morganlewis.com
E-mail: mark.fiore@morganlewis.com

Brian M. Ercole
MORGAN, LEWIS & BOCKIUS LLP
200 S. Biscayne Blvd., Suite 5300
Miami, FL 33131
T: +1.305.415.3416
E-mail: brian.ercole@morganlewis.com

Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories Inc., Actavis LLC, and *Actavis*

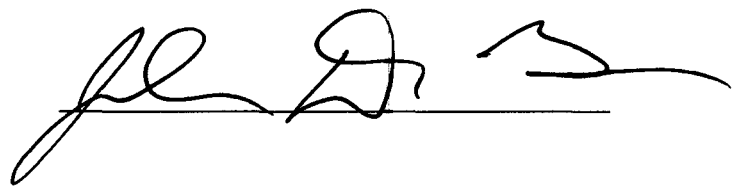
Pharma, Inc. f/k/a, Watson Pharma, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January 2019, I caused a true and correct copy of the following:

SUPPLEMENT TO DEFENDANTS' EMERGENCY MOTION TO COMPEL AND FOR EXTENSION OF TIME FOR DEFENDANTS' EXPERT DISCLOSURES

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



SERVICE LIST

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

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

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

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

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

FOLIART, HUFF, OTTAWAY & BOTTOM
Larry D. Ottaway
Amy Sherry Fischer
201 Robert S. Kerr Avenue, 12th Floor
Oklahoma City, OK 73102
larryottaway@oklahomacounsel.com
amyfischer@oklahomacounsel.com
Attorneys for Defendants Johnson & Johnson, Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc.

Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc.

O'MELVENY & MYERS LLP
Stephen D. Brody
David K. Roberts
1625 Eye Street NW
Washington, DC 20006
sbrody@omm.com
droberts2@omm.com
Counsel for Defendants Janssen Pharmaceuticals, Inc., Johnson & Johnson, Janssen Pharmaceutica, Inc. n/k/a/ Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc.

O'MELVENY & MYERS LLP
Charles C. Lifland
Jennifer D. Cardelús
400 S. Hope Street
Los Angeles, CA 90071
clifland@omm.com
jcardelus@omm.com
Counsel for Defendants Janssen Pharmaceuticals, Inc., Johnson & Johnson, Janssen Pharmaceutica, Inc. n/k/a/ Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a/ Janssen Pharmaceuticals, Inc.

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

LYNN PINKER COX & HURST, LLP
Eric Wolf Pinker
John Thomas Cox III
Lynn Pinker Cox & Hurst, LLP
2100 Ross Avenue, Suite 2700
Dallas, TX 75201
epinker@lynnllp.com
tcox@lynnllp.com
Counsel for Purdue Pharma L.P., Purdue Pharma Inc. and The Purdue Frederick Company Inc.

GABLEGOTWALS
Robert G. McCampbell
Nicholas V. Merkley
Ashley E. Quinn
One Leadership Square, 15th Fl.
211 North Robinson
Oklahoma City, OK 73102-7255
RMcCampbell@Gablelaw.com
NMerkley@Gablelaw.com
AQuinn@Gablelaw.com
Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a/ Watson Pharma, Inc.

MORGAN, LEWIS & BOCKIUS LLP
Brian M. Ercole
200 S. Biscayne Blvd., Suite 5300
Miami, FL 33131
brian.ercole@morganlewis.com
Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a/ Watson Pharma, Inc.

MORGAN, LEWIS & BOCKIUS LLP
Steven A. Reed
Harvey Bartle IV
Rebecca Hillyer
Lindsey T. Mills
1701 Market Street
Philadelphia, PA 19103-2921
steven.reed@morganlewis.com
harvey.bartle@morganlewis.com
rebeccahillyer@morganlewis.com
lindsey.mills@morganlewis.com
Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a/ Watson Pharma, Inc.

EXHIBIT A

FILED UNDER SEAL PER COURT ORDER DATED APRIL 16, 2018, THAD BALKMAN DISTRICT JUDGE