



STATE OF OKLAHOMA  
IN THE DISTRICT COURT OF CLEVELAND COUNTY VS. S.  
STATE OF OKLAHOMA  
CLEVELAND COUNTY

FILED  
MAR 11 2019

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, 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.

In the office of the  
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816  
The Honorable Thad Balkman

Discovery Motion Submitted to:  
Special Discovery Master  
William C. Hetherington

**STATE'S MOTION TO QUASH JANSSEN'S ADDITIONAL ATTEMPT TO CROSS-  
NOTICE DEA DEPOSITIONS UNDER MDL DEPOSITION PROTOCOL**

Janssen once again improperly cross-noticed a deposition of a DEA agent in the MDL, under the MDL's deposition protocol, a week after Your Honor quashed a similar attempt. Janssen's Cross-Notice pursuant to the MDL protocol is ineffective and this Court should once again quash Janssen's defective attempt to drag the State into the MDL proceedings.

On March 4, the State received the Janssen Defendants' Cross-Notice of Deposition for Joe Rannazzisi, another DEA agent, set to occur in the MDL litigation on March 12, 2019, in Washington DC. Ex. 1. On March 6, the State received the Janssen Defendants' Cross-Notice of Deposition for Demetra Ashley, yet another DEA agent, set to occur in the MDL litigation on March 15, 2019, in Washington DC. Ex. 2. Janssen withdrew its notice of Mr. Rannazzisi on March 7. Ms. Ashley's notice remains.

As an initial matter, Defendants' transmittal email inaccurately states that the Cross-Notice was in some way issued pursuant to this Court's deposition protocol. *See id.* The first step in this Court's deposition protocol is a meet and confer to pick deposition dates. Janssen didn't even make it to Step 1. Nor did it try. Instead, Janssen went straight to issuing a deposition notice under the MDL procedure. Janssen even attached the MDL Protocol to their Cross-Notice. *Id.*

This Court has repeatedly and consistently stated that the MDL protocol does not apply to this case and further "made clear that [this case] was a separate and independent matter, independent of the MDL and any other actions that are filed in other jurisdictions." 10.28.18 Hearing Tr., 35:16–18 (Balkman). Ms. Ashley, like Mr. Wright, is a non-party. Her testimony in this case would therefore require a *subpoena* from the appropriate jurisdiction (*i.e.* the Superior Court for the District of Columbia). Once again, Janssen did not do that. And, once again, the "Cross-Notice" is therefore procedurally improper and completely ineffective under the Rules and the deposition protocol in this case.

While Janssen has produced no documents or information specific to Ms. Ashley, they have now added her to their witness list. If they control this individual, they can call her as a witness at trial. If not, they need to subpoena her under the procedures of the states where she resides—just as the State has subpoenaed every single one of the dozens of third parties it has

deposed and included on its witness list. As Your Honor found to be the case with Janssen's last

MDL cross-notice attempt:

A practice of cross-noticing State in an attempt to require State to participate in an MDL deposition under these conditions would create a burdensome and potentially time-consuming task and would likely restrict State's fair opportunity for discovery with respect to relevant witnesses and testimony for this case.

2.26.2019 Order (Hetherington).

Janssen's attempted maneuver illustrates the defects in trying to force the MDL protocol to work in this case, demonstrates why this Court has repeatedly stated that this case is not subject to the MDL, and demonstrates why this Court has previously held MDL cross-notice efforts ineffective here. The MDL is on a wholly different schedule, involves different witnesses and legal theories, and, as Your Honor noted just last week, "includes many more party Defendants participating in this deposition, to include pharmaceutical distributors and pharmacies which makes the deposition discovery content and focus different from this case." *Id.* Accordingly, Janssen's current MDL Cross-Notice, like its prior MDL cross-notices, should be quashed.

DATED: March 11, 2019

Respectfully submitted,



Michael Burrage, OBA No. 1350  
Reggie Whitten, OBA No. 9576  
J. Revell Parish, OBA No. 30205  
WHITTEN BURRAGE  
512 N. Broadway Avenue, Suite 300  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Emails: mburrage@whittenburrage.com  
rwhitten@whittenburrage.com  
rparish@whittenburrage.com

Mike Hunter, OBA No. 4503  
ATTORNEY GENERAL FOR  
THE STATE OF OKLAHOMA  
Abby Dillsaver, OBA No. 20675  
GENERAL COUNSEL TO  
THE ATTORNEY GENERAL  
Ethan A. Shaner, OBA No. 30916  
DEPUTY GENERAL COUNSEL  
313 N.E. 21<sup>st</sup> Street  
Oklahoma City, OK 73105  
Telephone: (405) 521-3921  
Facsimile: (405) 521-6246  
Emails: abby.dillsaver@oag.ok.gov  
ethan.shaner@oag.ok.gov

Bradley E. Beckworth, OBA No. 19982  
Jeffrey J. Angelovich, OBA No. 19981  
Lisa Baldwin, OBA No. 32947  
Trey Duck, OBA No. 33347  
Drew Pate, *pro hac vice*  
Brooke A. Churchman, OBA No. 31946  
Nathan B. Hall, OBA No. 32790  
Ross Leonoudakis, *pro hac vice*  
Robert Winn Cutler, *pro hac vice*  
NIX PATTERSON, LLP  
512 N. Broadway Avenue, Suite 200  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Emails: bbeckworth@nixlaw.com  
jangelovich@nixlaw.com

lbaldwin@nixlaw.com  
tduck@nixlaw.com  
dpate@nixlaw.com  
bchurchman@nixlaw.com  
nhall@nixlaw.com  
rossl@nixlaw.com  
winncutler@nixlaw.com

Glenn Coffee, OBA No. 14563  
GLENN COFFEE & ASSOCIATES, PLLC  
915 N. Robinson Ave.  
Oklahoma City, OK 73102  
Telephone: (405) 601-1616  
Email: gcoffee@glenncoffee.com

*Attorneys for Plaintiff*

## **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was emailed on March 11, 2019 to:

Sanford C. Coats  
Joshua D. Burns  
Cullen D. Sweeney  
**CROWE & DUNLEVY, P.C.**  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102  
[sandy.coats@crowedunlevy.com](mailto:sandy.coats@crowedunlevy.com)  
[joshua.burns@crowedunlevy.com](mailto:joshua.burns@crowedunlevy.com)

Robert G. McCampbell  
Nicholas Merkley  
Ashley E. Quinn  
Jeffrey A. Curran  
Leasa M. Steward  
**GABLEGOTWALS**  
One Leadership Square, 15th Floor  
211 North Robinson  
Oklahoma City, OK 73102-7255  
[RMcCampbell@Gablelaw.com](mailto:RMcCampbell@Gablelaw.com)  
[NMerkley@Gablelaw.com](mailto:NMerkley@Gablelaw.com)  
[aquinn@gablelaw.com](mailto:aquinn@gablelaw.com)  
[jcurran@gablelaw.com](mailto:jcurran@gablelaw.com)  
[lstewart@gablelaw.com](mailto:lstewart@gablelaw.com)

Steven A. Reed  
Harvey Bartle IV  
Mark A. Fiore  
Evan K. Jacobs  
Lindsey T. Mills  
**MORGAN, LEWIS & BOCKIUS LLP**  
1701 Market Street  
Philadelphia, PA 19103-2921  
[steven.reed@morganlewis.com](mailto:steven.reed@morganlewis.com)  
[harvey.bartle@morganlewis.com](mailto:harvey.bartle@morganlewis.com)  
[mark.fiore@morganlewis.com](mailto:mark.fiore@morganlewis.com)  
[evan.jacobs@morganlewis.com](mailto:evan.jacobs@morganlewis.com)  
[lindsey.mills@morganlewis.com](mailto:lindsey.mills@morganlewis.com)

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. Lafata  
Benjamin McAnaney  
Eric Snapp  
Jonathan S. Tam  
Lindsay N. Zanello  
Bert L. Wolff  
Marina L. Schwartz  
Mara C. Cusker Gonzalez  
**DECHERT, LLP**  
Three Byant Park  
1095 Avenue of Americas  
New York, NY 10036-6797  
[sheila.birnbaum@dechert.com](mailto:sheila.birnbaum@dechert.com)  
[mark.cheffo@dechert.com](mailto:mark.cheffo@dechert.com)  
[hayden.coleman@dechert.com](mailto:hayden.coleman@dechert.com)  
[paul.lafata@dechert.com](mailto:paul.lafata@dechert.com)  
[jonathan.tam@dechert.com](mailto:jonathan.tam@dechert.com)  
[lindsay.zanello@dechert.com](mailto:lindsay.zanello@dechert.com)  
[bert.wolff@dechert.com](mailto:bert.wolff@dechert.com)  
[Erik.snapp@dechert.com](mailto:Erik.snapp@dechert.com)  
[Benjamin.mcananey@dechert.com](mailto:Benjamin.mcananey@dechert.com)  
[marina.schwarz@dechert.com](mailto:marina.schwarz@dechert.com)  
[maracusker.gonzalez@dechert.com](mailto:maracusker.gonzalez@dechert.com)

Jae Hong Lee  
**DECHERT, LLP**  
One Bush Street, 16<sup>th</sup> Floor  
San Francisco, CA 94104  
[jae.lee@dechert.com](mailto:jae.lee@dechert.com)

Rachel M. Rosenberg  
Chelsea M. Nichols  
Cory A. Ward  
Meghan R. Kelly  
**DECHERT LLP**  
Cira Centre, 2929 Arch Street  
Philadelphia, PA 19104  
[Rachel.rosenberg@dechert.com](mailto:Rachel.rosenberg@dechert.com)  
[Chelsea.nichols@dechert.com](mailto:Chelsea.nichols@dechert.com)  
[Corey.ward@dechert.com](mailto:Corey.ward@dechert.com)  
[Meghan.kelly@dechert.com](mailto:Meghan.kelly@dechert.com)

Brian M. Ercole  
Melissa M. Coates  
Martha A. Leibell  
**MORGAN, LEWIS & BOCKIUS LLP**  
200 S. Biscayne Blvd., Suite 5300  
Miami, FL 33131  
[brian.ercole@morganlewis.com](mailto:brian.ercole@morganlewis.com)  
[melissa.coates@morganlewis.com](mailto:melissa.coates@morganlewis.com)  
[martha.leibell@morganlewis.com](mailto:martha.leibell@morganlewis.com)

Nancy Patterson  
**MORGAN, LEWIS & BOCKIUS LLP**  
1000 Louisiana Street, Suite 4000  
Houston, TX 77002  
[Nancy.patterson@morganlewis.com](mailto:Nancy.patterson@morganlewis.com)

Robert S. Hoff  
**Wiggin & Dana, LLP**  
265 Church Street  
New Haven, CT 06510  
[rhoff@wiggin.com](mailto:rhoff@wiggin.com)

Stephen D. Brody  
David Roberts  
Jessica L. Waddle  
**O'MELVENY & MYERS LLP**  
1625 Eye Street NW  
Washington, DC 20006  
[sbrody@omm.com](mailto:sbrody@omm.com)  
[droberts2@omm.com](mailto:droberts2@omm.com)  
[jwaddle@omm.com](mailto:jwaddle@omm.com)

Daniel J. Franklin  
Ross Galin  
Desirae Krislie Cubero Tongco  
**O'MELVENY & MYERS LLP**  
7 Time Square  
New York, NY 10036  
Telephone: (212) 326-2000  
[dfranklin@omm.com](mailto:dfranklin@omm.com)  
[rgalin@omm.com](mailto:rgalin@omm.com)  
[dtongco@omm.com](mailto:dtongco@omm.com)

William W. Oxley  
**DECHERT LLP**  
US Bank Tower  
633 West 5th Street  
Suite 4900  
Los Angeles, CA 90071  
[William.oxley@dechert.com](mailto:William.oxley@dechert.com)

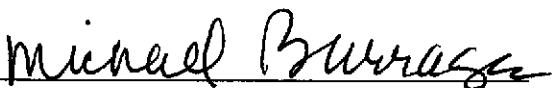
Benjamin H. Odom  
John H. Sparks  
Michael Ridgeway  
David L. Kinney  
**ODOM, SPARKS & JONES PLLC**  
HiPoint Office Building  
2500 McGee Drive Ste. 140  
Oklahoma City, OK 73072  
[odomb@odomsparks.com](mailto:odomb@odomsparks.com)  
[sparksj@odomsparks.com](mailto:sparksj@odomsparks.com)  
[ridgewaym@odomsparks.com](mailto:ridgewaym@odomsparks.com)  
[kinneyd@odomsparks.com](mailto:kinneyd@odomsparks.com)

Larry D. Ottaway  
Amy Sherry Fischer  
Andrew M. Bowman  
Steven J. Johnson  
Jordyn L. Cartmell  
**FOLIART, HUFF, OTTAWAY & BOTTOM**  
201 Robert S. Kerr Ave, 12<sup>th</sup> Floor  
Oklahoma City, OK 73102  
[larryottaway@oklahomacounsel.com](mailto:larryottaway@oklahomacounsel.com)  
[amyfischer@oklahomacounsel.com](mailto:amyfischer@oklahomacounsel.com)  
[andrewbowman@oklahomacounsel.com](mailto:andrewbowman@oklahomacounsel.com)  
[stevenjohnson@oklahomacounsel.com](mailto:stevenjohnson@oklahomacounsel.com)  
[jordyncartmell@oklahomacounsel.com](mailto:jordyncartmell@oklahomacounsel.com)

Jeffrey Allen Barker  
**O'MELVENY & MYERS, LLP**  
610 Newport Center Drive  
Newport Beach, CA 92660  
Tel: 949-823-6900  
Fax: 949-823-6994  
[jbarker@omm.com](mailto:jbarker@omm.com)

Amy Riley Lucas  
Lauren S. Rakow  
**O'MELVENY & MYERS LLP**  
1999 Avenue of the Stars, 8th Floor  
Los Angeles, California 90067  
[alucas@omm.com](mailto:alucas@omm.com)  
[lrakow@omm.com](mailto:lrakow@omm.com)

Britta Erin Stanton  
John D. Volney  
John Thomas Cox III  
Eric Wolf Pinker  
Jared D. Eisenburg  
Jervonne D. Newsome  
Patrick B. Disbennett  
Elizabeth Y. Ryan  
Andrea M. Evans Brown  
Samuel B. Hardy IV  
Ruben A. Garcia  
**LYNN PINKER COX & HURST LLP**  
2100 Ross Avenue, Suite 2700  
Dallas, TX 75201  
[bstanton@lynnllp.com](mailto:bstanton@lynnllp.com)  
[jvolney@lynnllp.com](mailto:jvolney@lynnllp.com)  
[tcox@lynnllp.com](mailto:tcox@lynnllp.com)  
[epinker@lynnllp.com](mailto:epinker@lynnllp.com)  
[jeisenberg@lynnllp.com](mailto:jeisenberg@lynnllp.com)  
[jnewsome@lynnllp.com](mailto:jnewsome@lynnllp.com)  
[pdisbennett@lynnllp.com](mailto:pdisbennett@lynnllp.com)  
[eryan@lynnllp.com](mailto:eryan@lynnllp.com)  
[sbrown@lynnllp.com](mailto:sbrown@lynnllp.com)  
[rgarcia@lynnllp.com](mailto:rgarcia@lynnllp.com)

  
Michael Burrage



# **EXHIBIT**

**1**

**Subject:** J&J and Janssen Notice of Intent to Cross-Notice the Deposition of Joe Rannazzisi  
**Date:** Monday, March 4, 2019 at 7:27:03 PM Central Standard Time  
**From:** Larry Ottaway  
**To:** Abby Dillsaver, Drew Pate, Brad Beckworth, Ethan A. Shaner, gcoffee@glenncoffee.com, Jeff Angelovich, Lisa Baldwin, Trey Duck, mburrage@whittenburrage.com, rwhitten@whittenburrage.com, Ashley E. Quinn, Brian M. Ercole, Harvey Bartle IV, Nicholas V. Merkley, Rebecca Hillyer, Robert G. McCampbell, Steven A. Reed, Amy Sherry Fischer, Benjamin H. Odom, Charles C. Lifland, David K. Roberts, David L. Kinney, Jennifer D. Cardelus, John H. Sparks, Jordyn Eckert Cartmell, Larry D. Ottaway, Michael W. Ridgeway, Stephen D. Brody, cc: Benjamin Franklin McAnaney, Bert Wolff, Daniel Goldberg-Gradess, Elizabeth Ryan, Eric Wolf Pinker, Erik Snapp, Hayden A. Coleman, Jae Hong Lee, Jenn Cilingin, Jervonne Newsome, John Thomas Cox III, John Volney, Jonathan Tam, Joshua Burns, Lindsay Zanello, Mara Cusker Gonzalez, Mark S. Cheffo, Mary Kim, Michelle Yeary, Patrick Disbennett, Paul A. LaFata, Rachel Rosenberg, Robert S. Hoff, Sam Rosen, Sanford C. Coats, Sheila Birnbaum, Wendy Cassidy

**Attachments:** 2018-10-09 [1029] Protocol for State and Federal Court Coordination.pdf

Counsel:

Pursuant to this Court's deposition protocol and the attached MDL Protocol for State and Federal Coordination, ECF No. 1029, entered in the federal opioids MDL proceeding on October 9, 2018, Johnson & Johnson and Janssen Pharmaceuticals, Inc. (collectively, "Janssen") hereby give notice of their intent to cross-notice the following depositions in *State of Oklahoma, ex rel., Mike Hunter, Attorney General of Oklahoma v. Purdue Pharma L.P., et al.*, No. CJ-2017-816.

Deponent Name	Requesting Parties	Responding Party	Proposed Deposition Date	Anticipated Location	Anticipated Start Time
Joe Rannazzisi	Track One Defendants	DEA	Day 1: Mar. 12, 2019	Washington, DC <i>Exact location TBD</i>	9:00 AM

Janssen will update all parties should the date, time, or location change. Janssen will serve a formal notice when the location for this deposition is confirmed, but is giving notice of its intent to cross-notice this deposition now in order to afford the State the maximum amount of time to prepare.

Thank you.

--

Larry D. Ottaway  
 Foliart, Huff, Ottaway & Bottom  
 201 Robert S. Kerr Avenue, 12th Floor  
 Oklahoma City, OK 73102  
 Telephone: 405-232-4633  
 Facsimile: 405-232-3462  
[www.oklahomacounsel.com](http://www.oklahomacounsel.com)

# **EXHIBIT**

**2**

**Subject:** J&J and Janssen Notice of Intent to Cross-Notice the Deposition of Demetra Ashley

**Date:** Wednesday, March 6, 2019 at 7:20:54 PM Central Standard Time

**From:** Larry Ottaway

**To:** Abby Dillsaver, Drew Pate, Brad Beckworth, Ethan A. Shaner, gcoffee@glenncoffee.com, Jeff Angelovich, Lisa Baldwin, Trey Duck, mburrage@whittenburrage.com, rwhitten@whittenburrage.com, Ashley E. Quinn, Brian M. Ercole, Harvey Bartle IV, Nicholas V. Merkley, Rebecca Hillyer, Robert G. McCampbell, Steven A. Reed, Amy Sherry Fischer, Benjamin H. Odom, Charles C. Lifland, David K. Roberts, David L. Kinney, Jennifer D. Cardelus, John H. Sparks, Jordyn Eckert Cartmell, Larry D. Ottaway, Michael W. Ridgeway, Stephen D. Brody, cc: Benjamin Franklin McAnaney, Bert Wolff, Daniel Goldberg-Gradess, Elizabeth Ryan, Eric Wolf Pinker, Erik Snapp, Hayden A. Coleman, Jae Hong Lee, Jenn Cilingin, Jervonne Newsome, John Thomas Cox III, John Volney, Jonathan Tam, Joshua Burns, Lindsay Zanello, Mara Cusker Gonzalez, Mark S. Cheffo, Mary Kim, Michelle Yeary, Patrick Disbennett, Paul A. LaFata, Rachel Rosenberg, Robert S. Hoff, Sam Rosen, Sanford C. Coats, Sheila Birnbaum, Wendy Cassidy

Counsel:

Pursuant to this Court's deposition protocol and the attached MDL Protocol for State and Federal Coordination, ECF No. 1029, entered in the federal opioids MDL proceeding on October 9, 2018, Johnson & Johnson and Janssen Pharmaceuticals, Inc. (collectively, "Janssen") hereby give notice of their intent to cross-notice the following depositions in *State of Oklahoma, ex rel., Mike Hunter, Attorney General of Oklahoma v. Purdue Pharma L.P., et al.*, No. CJ-2017-816.

Deponent Name	Requesting Parties	Responding Party	Agreed Depo. Date(s)	Anticipated Location	Anticipated Start Time
Demetra Ashley	Track One Defendants	DEA	Day 1: Mar. 15, 2019	Washington, DC <i>Exact location TBD</i>	9:00 AM

Janssen will update all parties should the date, time, or location change. Janssen will serve a formal notice when the location for this deposition is confirmed, but is giving notice of its intent to cross-notice this deposition now in order to afford the State the maximum amount of time to prepare.

Thank you.

--

Larry D. Ottaway  
Foliant, Huff, Ottaway & Bottom  
201 Robert S. Kerr Avenue, 12th Floor  
Oklahoma City, OK 73102  
Telephone: 405-232-4633  
Facsimile: 405-232-3462

[www.oklahomacounsel.com](http://www.oklahomacounsel.com) Preview attachment 2018-10-09 [1029] Protocol for State and Federal Court Coordination.pdf

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