



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA
Attorney General,

Plaintiff,

v.

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

STATE OF OKLAHOMA
CLEVELAND COUNTY
FILED
MAR 25 2019
In the office of the
Court Clerk MARILYN WILSON

For Judge Balkman

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

**TEVA DEFENDANTS' RESPONSE TO STATE'S LATEST
DISREGARD FOR COURT ORDERS AND REQUEST FOR ORDER
GRANTING CONFESSED MOTION FOR SEVERANCE**

The State of Oklahoma has a practice in this case of disregarding Court orders it finds inconvenient. "The State's Motion to Extend Briefing Deadlines" filed on March 22, 2019, is another blatant example.¹ On March 14, 2019, the Court ordered the parties to submit on March 22, 2019 further briefing on the Teva and Actavis Defendants' motion for severance. On the Court-ordered deadline for the parties to submit briefs on severance (a deadline the Teva and Actavis Defendants, as well as the Janssen Defendants, met), the State filed a one-paragraph notice telling the Court that it was not going to comply with the order and instead will submit further briefing ten days later, when it is convenient for it. Boldly, the State **does not even try** to justify its failure to comply with the deadline.

¹ The State's recent refusal to provide witnesses for depositions is another example. Since the Court ruled on February 14th that the Teva and Actavis Defendants have the right to take depositions of the State (as permitted by Oklahoma Discovery Code, the Due Process Clauses of the United States and Oklahoma Constitutions, and principles of fundamental fairness), the State has repeatedly acted as if that ruling never occurred, thereby forcing the Teva and Actavis Defendants to file multiple motions to compel and to request multiple emergency telephonic hearings with Judge Hetherington.

It is clear that the State believes it can pick and choose the deadlines with which it will comply. Unfortunately for the State, Oklahoma law provides otherwise:

ENLARGEMENT. When by this title or by a notice given thereunder by order of court an act is required or allowed to be done at or within a specified time, the court *for cause shown* may at any time in its discretion:

1. With or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or
2. Upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

Okla. Stat. tit. 12, § 2006(B) (emphasis added). The State's one-paragraph notice telling the Court that it will not comply is not a "motion . . . made before the expiration of the period originally prescribed." The State makes *no attempt* to justify its failure to meet the deadline or otherwise demonstrate "cause" for an extension. Instead, the notice just advises the Court that it will not comply with the Court's order without any justification whatsoever. As such, the State's "motion" should be denied.

Accordingly, the Teva Defendants respectfully request the Court deny the State's request and grant the Teva and Actavis Defendants' confessed motion for severance. *See* Rule 4(e) of the Rules for District Courts, Okla. Stat. tit. 12, ch. 2, app. ("Any party opposing a motion . . . shall serve and file a brief . . . within fifteen (15) days after service of the motion, or the motion may be deemed confessed."); *Woods v. Computer Sciences Corp.*, 2011 OK CIV APP 17, ¶ 21, 247 P.3d 1201, 1206 ("After Plaintiff's time to respond to the motion . . . had expired, the trial court was authorized pursuant to Rule 4(e) to deem the motion confessed.").

Respectfully submitted,



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CERTIFICATE OF SERVICE

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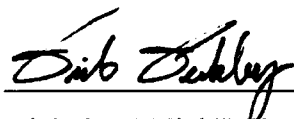
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