



Document split into multiple parts

IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

**PART A**

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

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

FEB 25 2019

In the office of the  
Court Clerk MARILYN WILLIAMS

CONFIDENTIAL  
**EXHIBIT D**  
FILED UNDER SEAL  
PURSUANT TO  
PROTECTIVE ORDER  
DATED APRIL 16, 2018

**DEFENDANT JANSSEN'S OBJECTION TO THE SPECIAL DISCOVERY  
MASTER'S ORDER ON DEFENDANT JANSSEN'S MOTION TO COMPEL  
RESPONSES TO ITS THIRD SET OF INTERROGATORIES**

**EXHIBIT D**  
**SEALED PER COURT ORDER**  
**DATED APRIL 16, 2018,**  
**THAD BALKMAN DISTRICT JUDGE**

**-CONFIDENTIAL-**  
**TO BE FILED ONLY UNDER SEAL**

---

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

CONFIDENTIAL

**EXHIBIT D**

FILED UNDER SEAL

PURSUANT TO

PROTECTIVE ORDER

DATED APRIL 16, 2018

---

**DEFENDANT JANSSEN'S OBJECTION TO THE SPECIAL DISCOVERY MASTER'S  
ORDER ON DEFENDANT JANSSEN'S MOTION TO COMPEL RESPONSES TO ITS  
THIRD SET OF INTERROGATORIES**

At the heart of its case, the State alleges that Janssen misled doctors about the risks and benefits of its opioid medications. In discovery responses, the State contends that it can identify the doctors that Janssen allegedly misled. But the State refuses to tell Janssen who those doctors are. It should be compelled to do so. For this reason, Janssen objects to the Special Discovery Master's February 18, 2019 Order ("Order"), Ex. A, denying Defendant Janssen's Motion to Compel ("Mot."), Ex. B, as it pertains to Janssen's Third Set of Interrogatories.

The Court's review of the Special Discovery Master's Order is *de novo*. Due to the urgency of Janssen's objection—fact discovery in this case closes in less than three weeks—Janssen requests that the Court decide this objection at the earliest possible time, even if that means it is decided without oral argument.

In its Third Set of Interrogatories ("Interrogatories"), Ex. C, Janssen requested that the State identify facts at the core of the State's pleadings—which doctors the State alleges Janssen

misled and which statements were allegedly misleading; which doctors the State alleges could not accurately counsel their patients regarding opioid medications because of Janssen's allegedly misleading statements; and which, if any, opioids claims the State declined to reimburse while the prescribing doctor was facing prosecution or investigation for her prescribing behavior.<sup>1</sup>

The Special Discovery Master decided that the State does not need to identify these facts, reasoning that because the State intends to prove its case using statistical methods, the State does not need to identify any doctors who were misled by Janssen or the statements from Janssen that supposedly misled them. Order, Ex. A, at 3. The Special Discovery Master's Order is erroneous. In a situation where the State alleges that Janssen misled the State's doctors and contends that it can identify the doctors Janssen misled, it is not just relevant but essential that Janssen be able to test the State's allegations. There is no basis in Oklahoma law to deny Janssen this discovery.

Indeed, based on statements made by its counsel when this issue was argued before Judge Hetherington, answering these core questions is likely to be easy. The State said that it is "alleging that all the defendants misled *all* the doctors" in Oklahoma. February 14, 2019 Hearing Transcript ("Tr."), Ex. D, at 126 (emphasis added). Judge Hetherington noted the State's position in his Order

---

<sup>1</sup> Janssen's Interrogatory No. 20 reads: "To the extent Your response to Request for Admission No. 1 is anything other than an unqualified admission, Identify all Oklahoma Doctors who were misled, and for each, the specific Janssen Communication(s) that misled the Doctor." Interrogatories, Ex. C., at 5.

Janssen's Interrogatory No. 21 reads: "To the extent Your response to Request for Admission No. 2 is anything other than an unqualified admission, Identify all Oklahoma Doctors who were unable to accurately counsel their patients about the risks or benefits of prescription Opioid medications as a result of any Communication made, sponsored, or supported by Janssen." *Id.*

Janssen's Interrogatory No. 22 reads: "Identify all Claims for reimbursement of Opioid prescriptions, if any, that were denied by You after they were written by a Doctor who was subject to a civil, criminal, or administrative proceeding or subject to investigation, the existence of which is public record or not privileged or confidential, for their Prescribing Behaviors." Email of January 30, 2019, Ex. E.

on Janssen's Motion to Compel, writing that "the allegations pled and proof model elected by State raise allegations that all Defendants misled all physicians in a joint marketing and promotion effort." Order, Ex. A, at 3. If the State can provide that answer in open court, it is inexplicable why the State would be allowed to escape the obligation to provide that same answer in a verified interrogatory response. In other words, if that is truly the State's contention, it needs to say so. The Court should order the State to respond immediately to Janssen's Interrogatories.

**I. BACKGROUND**

On December 10, 2018, Janssen served Interrogatories on the State (along with related Requests for Admission not at issue here) seeking discovery into facts forming the core of the State's pleadings against Janssen. *See* Interrogatories, Ex. C.

On January 9, 2019, the State served its responses and objections on Janssen. *See* Plaintiff's Responses and Objections to Defendant Janssen's Third Set of Interrogatories to Plaintiff, Ex. F. The State did not actually respond to Janssen's Interrogatories. Rather, the State served a laundry list of objections and refused to provide the key information Janssen requested. The State's objections lacked merit and only served to further delay Janssen's discovery into the facts underlying the State's pleadings.

On January 24, 2019, Janssen and the State met and conferred regarding the State's objections. As a result of this meet and confer, Janssen agreed to narrow the scope of its Interrogatory No. 22 in an effort to come to a negotiated compromise with the State. Email of January 30, 2019, Ex. E.

On January 29, 2019, in supplemental responses to Requests for Admission from Janssen, the State admitted that it can identify doctors that it alleges Janssen misled and that it can identify doctors that it alleges could not accurately counsel their patients regarding opioids due to Janssen's

allegedly misleading statements. Plaintiff's First Supplemental Responses and Objections to Defendant Janssen's First Requests for Admission to Plaintiff ("Supplemental Responses"), Ex. G, at 8. Despite admitting that it *can* identify such doctors, the State continues to refuse to identify any doctors that it alleges Janssen misled or any doctors who were unable to counsel patients accurately about opioid medications because of Janssen's allegedly misleading statements.

Janssen filed its Motion to Compel the State's responses on January 31, 2019. Mot., Ex. B. On February 7, 2019, the State filed its Response. Response, Ex. H. On February 11, 2019, Janssen filed its Reply. Reply, Ex. I. The Court heard oral arguments on Janssen's Motion to Compel on February 14, 2019, Tr., Ex. D, and issued its Order on February 18, 2019, Order, Ex. A.

## **II. ARGUMENT**

Janssen's Interrogatories seek properly discoverable information. "Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation." *Metzger v. Am. Fid. Assur. Co.*, 245 F.R.D. 727, 728 (W.D. Okla. 2007) (quoting *Hickman v. Taylor*, 329 U.S. 495, 507 (1947)). Under Oklahoma law, discovery is proper into "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." 12 Okla. Stat. § 3226(B)(1)(a).

Janssen's Interrogatories are proper under Oklahoma law. The State must respond, even if its response is that Janssen misled "all" doctors in Oklahoma.

### **A. Janssen's Interrogatories are Relevant, Proportional to the Needs of the Case, and Do Not Seek Privileged Information**

Janssen's Interrogatories are clearly relevant. *See* Mot., Ex. B, at 5-7. The State put the identity of the doctors Janssen allegedly misled, Janssen's allegedly misleading statements, and the State's reimbursement of opioids claims directly at issue by pleading that Janssen made alleged misrepresentations to doctors who then wrote medically unnecessary and inappropriate

prescriptions to Oklahoma Medicaid patients. *See, e.g.*, Petition, Ex. J ¶¶ 34, 80-81, 88-89, 97-98, 124-26. There can be no question that asking for facts that underlie the State’s pleadings is relevant to this case.

Janssen’s Interrogatories are also proportional to the needs of this case. Janssen does not seek discovery into the identities of any Oklahoma doctors or the identification of any opioids claims other than those that the State has made relevant through its pleadings—Janssen limited its Interrogatories to only those doctors who were allegedly misled by Janssen, not all doctors who wrote opioid prescriptions or all claims for reimbursement. And Janssen’s alleged misrepresentations to Oklahoma doctors form the core of the State’s theories of Janssen’s liability. *See, e.g., id.* Furthermore, the State has admitted that it *can* identify doctors that it alleges Janssen misled and doctors that it alleges were not able to counsel their patients accurately regarding opioid medications because of Janssen’s allegedly misleading statements. Supplemental Responses, Ex. G, at 8. The State thus possesses the information it needs to answer Janssen’s Interrogatories, and it must do so. These are not excessive or disproportionate discovery requests—they are, in fact, cabined in their scope by the State’s own pleadings.

Janssen’s Interrogatories also do not seek any privileged information. Janssen revised its Interrogatory No. 22 in an effort to come to a compromise with the State regarding the State’s concerns about confidential and privileged information. Janssen’s Interrogatory No. 22 seeks information only to the extent that the information is “public record or not privileged or confidential.” Email of January 30, 2019, Ex. E.<sup>2</sup>

---

<sup>2</sup> Privacy concerns also provide no reason to deny Janssen this relevant discovery. In its Interrogatories, Janssen seeks (1) the identities of certain doctors, (2) the identification of misleading statements that the State alleges Janssen made, and (3) the identification of certain opioids claims, if any, that the State denied. Janssen does not seek the names of or identifying information for any patients. To whatever extent the State’s responses to these Interrogatories

The material Janssen seeks in its Interrogatories is thus properly subject to discovery under Oklahoma law. *See* 12 Okla. Stat. § 3226(B)(1)(a).

**B. The State’s Intended Method of Proof Does Not Alter Its Discovery Obligations**

As the basis for his decision denying Janssen’s Motion, the Special Discovery Master noted that the “State has elected not to prove through individualized proof and adopts a statistical proof model.” Order, Ex. A, at 3. This may be how the State intends to try to prove its case, but that does not affect Janssen’s right to discovery.

Our civil adversarial system does not permit a plaintiff to dictate how a defendant may defend itself. For this reason, the scope of discovery is not limited to one party’s claim. Rather, “[p]arties may obtain discovery regarding any matter . . . which is relevant to any party’s claim *or defense*.” 12 Okla. Stat. § 3226(B)(1)(a) (emphasis added). Oklahoma discovery law allows no exception to the scope of discovery based on how one party may choose to prove its claims.<sup>3</sup>

Put simply, even if the State is allowed to try to prove its case with statistical or aggregate proof (and Janssen will show that those methods are legally inadequate, entitling Janssen to judgment), Janssen is still entitled to obtain evidence necessary to rebut the State’s contentions.

---

implicate protected health information (“PHI”), the parties have executed a protective order that meets HIPAA’s requirements in full. *See* Agreed Qualified Protective Order for Protected Health Information (filed Apr. 11, 2018). HIPAA permits disclosure of PHI in response to a court order, subpoena, or discovery request, so long as a qualified protective order is in place. *See* 45 CFR § 164.512(e)(1).

<sup>3</sup> The Court has never decided the sufficiency of the State’s intended method of proof, and that issue is not properly before the Court now, although many courts have held that “sampling” or statistical approaches fail, as a matter of law. *See, e.g., Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 367 (2011) (rejecting sampling approach in class certification context); *United States v. Vista Hospice Care, Inc.*, No. 3:07-CV-00604-M, 2016 WL 3449833, at \*12-13 (N.D. Tex. June 20, 2016) (rejecting statistical approach where claims involved “*the subjective clinical judgment* of a number of certifying physicians”) (emphasis in original); *In re Zyprexa Prod. Liab. Litig.*, 671 F. Supp. 2d 397, 457 (E.D.N.Y. 2009) (same). Rather, the point for the sake of this objection is that how the State intends to prove its claims cannot dictate the discovery that Janssen is entitled to in order to develop its defenses.

That starts with requiring the State to identify which doctors it contends Janssen misled and how Janssen did so.


**C. If the State Contends that Janssen Deceived “All” Oklahoma Doctors, It Must Say So**

Although the State refuses to respond to Janssen’s Interrogatory No. 20, asking which doctors the State contends Janssen misled, the State said in open court that Janssen has misled “all the doctors in Oklahoma.” Tr., Ex. D, at 126. If the State really contends that Janssen misled “all” Oklahoma doctors, it should respond that way to Janssen’s Interrogatory No. 20, which directly asks the State to identify which doctors it alleges Janssen misled. Presumably, the State would respond in similar fashion to Janssen’s Interrogatory No. 21, which asks the State to identify the doctors that the State contends could not accurately counsel their patients regarding opioid medications because of Janssen’s alleged misrepresentations. What is clear is that Janssen is entitled to a response. There is no basis to excuse the State’s failure to respond to this discovery.

**III. CONCLUSION**

For the reasons stated above, the Court should sustain Janssen’s objections and order the State to respond immediately to Janssen’s Interrogatories.

Respectfully submitted,



By: \_\_\_\_\_  
Benjamin H. Odom, OBA No. 10917  
John H. Sparks, OBA No. 15661  
Michael W. Ridgeway, OBA No. 15657  
David L. Kinney, OBA No. 10875  
ODOM, SPARKS & JONES, PLLC  
Suite 140  
HiPoint Office Building  
2500 McGee Drive  
Norman, OK 73072  
Telephone: (405) 701-1863



Facsimile: (405) 310-5394  
Email: odomb@odomsparks.com  
Email: sparksj@odomsparks.com  
Email: ridgewaym@odomsparks.com  
Email: kinneyd@odomsparks.com

Larry D. Ottaway, OBA No. 6816  
Amy Sherry Fischer, OBA No. 16651  
Andrew Bowman, OBA No. 22071  
Jordyn L. Cartmell, OBA No. 31043  
FOLIART, HUFF, OTTAWAY & BOTTOM  
12<sup>th</sup> Floor  
201 Robert S. Kerr Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 232-4633  
Facsimile: (405) 232-3462  
Email: larryottaway@oklahomacounsel.com  
Email: amyfischer@oklahomacounsel.com  
Email: andrewbowman@oklahomacounsel.com  
Email: jordyncartmell@oklahomacounsel.com

Of Counsel:

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

Stephen D. Brody  
David 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

**ATTORNEYS 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.**

**CERTIFICATE OF MAILING**

Pursuant to Okla. Stat. tit. 12, § 2005(D), and by agreement of the parties, this is to certify on February 25, 2019, a true and correct copy of the above and foregoing has been served via electronic mail, to the following:

Mike Hunter  
ATTORNEY GENERAL FOR  
THE STATE OF OKLAHOMA  
Abby Dillsaver  
Ethan Shaner  
GENERAL COUNSEL TO  
THE ATTORNEY GENERAL  
313 NE 21<sup>st</sup>  
Oklahoma City, OK 73105  
Telephone: (405)521-3921  
Facsimile: (405) 521-6246  
Email: mike.hunter@oag.ok.gov  
Email: abby.dillsaver@oag.ok.gov  
Email: ethan.shaner@oag.ok.gov

Michael Burrage  
Reggie Whitten  
J. Revell Parrish  
WHITTEN BURRAGE  
Suite 300  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: mburrage@whittenburragelaw.com  
Email: rwhitten@whittenburragelaw.com  
Email: rparrish@whittenburragelaw.com

Bradley Beckworth  
Jeffrey Angelovich  
Lloyd Nolan Duck, III  
Andrew Pate  
Lisa Baldwin  
Brooke A. Churchman  
Nathan Hall  
Suite 200  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: bbeckworth@nixlaw.com  
Email: jangelovich@nixlaw.com  
Email: tduck@nixlaw.com  
Email: dpate@nixlaw.com  
Email: lbaldwin@nixlaw.com  
Email: bchurchman@nixlaw.com  
Email: nhall@nixlaw.com

Robert Winn Cutler  
Ross Leonoudakis  
Cody Hill  
NIX, PATTERSON, LLP  
Suite B350  
3600 North Capital of Texas Highway  
Austin, TX 78746  
Telephone: (512) 328-5333  
Facsimile: (512) 328-5335  
Email: winncutler@nixlaw.com  
Email: rossl@nixlaw.com  
Email: codyhill@nixlaw.com

Glenn Coffee  
GLENN COFFEE & ASSOCIATES, PLLC  
915 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 601-1616  
Email: gcoffee@glenncoffee.com

**ATTORNEYS FOR PLAINTIFF**

Sanford C. Coats  
Joshua D. Burns  
CROWE & DUNLEVY, PC  
Suite 100  
Braniff Building  
324 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 235-7700  
Facsimile: (405) 272-5269  
Email: sandy.coats@crowedunlevy.com  
Email: joshua.burns@crowedunlevy.com

Of Counsel:

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Lindsay N. Zanello  
Bert L. Wolff  
Mara C. Cusker Gonzalez  
DECHERT, LLP  
Three Bryant Park  
1095 Avenue of Americas  
New York, NY 10036-6797  
Telephone: (212) 698-3500  
Facsimile: (212) 698-3599  
Email: sheila.birnbaum@dechert.com  
Email: mark.cheffo@dechert.com  
Email: hayden.coleman@dechert.com  
Email: paul.lafata@dechert.com  
Email: lindsay.zanello@dechert.com  
Email: bert.wolff@dechert.com  
Email: maracusker.gonzalez@dechert.com

Benjamin F. McAnaney  
Hope S. Freiwald  
Will W. Sachse  
Chelsea M. Nichols  
Cory A. Ward  
Meghan R. Kelly  
DECHERT, LLP  
2929 Arch Street  
Philadelphia, PA 19104  
Telephone: (215) 994-4000  
Facsimile: (215) 655-2043

Email: benjamin.mcananey@dechert.com  
Email: hope.freiwald@dechert.com  
Email: will.sachse@dechert.com  
Email: chelsea.nichols@dechert.com  
Email: cory.ward@dechert.com  
Email: megghan.kelly@dechert.com

Erik W. Snapp  
DECHERT, LLP  
Suite 3400  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone: (212)849-7000  
Facsimile: (212) 849-7100  
Email: erik.snapp@dechert.com

Jonathan S. Tam  
Jae Hong Lee  
DECHERT, LLP  
16<sup>th</sup> Floor  
One Bush Street  
San Francisco, CA 94104  
Telephone: (415) 262-4500  
Facsimile: (415) 262-4555  
Email: jonathan.tam@dechert.com  
Email: jae.lee@dechert.com

William W. Oxley  
DECHERT, LLP  
Suite 4900  
US Bank Tower  
633 West 5<sup>th</sup> Street  
Los Angeles, CA 90071  
Telephone: (213) 808-5760  
Facsimile: (213) 808-5760  
Email: william.oxley@dechert.com

Britta E. Stanton  
John D. Volney  
John T. Cox, III  
Eric W. Pinker  
Jared D. Eisenberg  
Jervonne D. Newsome  
Elizabeth Yvonne Ryan  
Andrea MeShonn Evans Brown  
Ruben A. Garcia

Russell G. Herman  
Samuel B. Hardy, IV  
LYNN PINKER COX & HURST, LLP  
Suite 2700  
2100 Ross Avenue  
Dallas, TX 75201  
Telephone: (214) 981-3800  
Facsimile: (214) 981-3839  
Email: bstanton@lynnllp.com  
Email: jvolney@lynnllp.com  
Email: tcox@lynnllp.com  
Email: epinker@lynnllp.com  
Email: jeisenberg@lynnllp.com  
Email: jnewsome@lynnllp.com  
Email: eryan@lynnllp.com  
Email: sbrown@lynnllp.com  
Email: rgarcia@lynnllp.com  
Email: rherman@lynnllp.com  
Email: shardy@lynnllp.com

Robert S. Hoff  
WIGGIN & DANA, LLP  
265 Church Street  
New Haven, CT 06510  
Telephone: (203) 498-4400  
Facsimile: (203) 363-7676  
Email: rhoff@wiggin.com

Michael T. Cole  
NELSON MULLINS RILEY & SCARBOROUGH, LLP  
Suite 600  
151 Meeting Street  
Charleston, SC 29401  
Telephone: (843) 853-5200  
Facsimile: (843) 722-8700  
Email: mike.cole@nelsonmullins.com

**ATTORNEYS FOR DEFENDANTS  
PURDUE PHARMA, LP,  
PURDUE PHARMA, INC., AND THE  
PURDUE FREDERICK  
COMPANY, INC.**

Robert G. McCampbell  
Travis V. Jett  
Ashley E. Quinn  
Nicholas V. Merkley  
GABLEGOTWALS  
15<sup>th</sup> Floor  
One Leadership Square  
211 North Robinson  
Oklahoma City, OK 73102-7255  
Telephone: (405) 235-5567  
Email: rmccampbell@gablelaw.com  
Email: tjett@gablelaw.com  
Email: aquinn@gablelaw.com  
Email: nmerkley@gablelaw.com

Of Counsel:

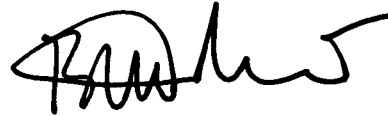
Steven A. Reed  
Rebecca J. Hillyer  
MORGAN, LEWIS & BOCKIUS, LLP  
1701 Market Street  
Philadelphia, PA 19103-2321  
Telephone: (215) 963-5000  
Email: steven.reed@morganlewis.com  
Email: rebecca.hillyer@morganlewis.com

Harvey Bartle, IV  
Mark A. Fiore  
MORGAN, LEWIS & BOCKIUS, LLP  
502 Carnegie Center  
Princeton, NJ 08540-6241  
Telephone: (609) 919-6600  
Email: harvey.bartle@morganlewis.com  
Email: mark.fiore@morganlewis.com

Brian M. Ercole  
Melissa M. Coates  
Martha A. Leibell  
MORGAN, LEWIS & BOCKIUS, LLP  
Suite 5300  
200 South Biscayne Boulevard  
Miami, FL 33131  
Email: brian.ercole@morganlewis.com  
Email: melissa.coates@morganlewis.com  
Email: martha.leibell@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.**



---

Benjamin H. Odom, OBA No. 10917  
John H. Sparks, OBA No. 15661  
Michael W. Ridgeway, OBA No. 15657  
David L. Kinney, OBA No. 10875  
ODOM, SPARKS & JONES, PLLC  
Suite 140  
HiPoint Office Building  
2500 McGee Drive  
Norman, OK 73072  
Telephone: (405) 701-1863  
Facsimile: (405) 310-5394  
Email: odomb@odomsparks.com  
Email: sparksj@odomsparks.com  
Email: ridgewaym@odomsparks.com  
Email: kinneyd@odomsparks.com

**ATTORNEYS 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.**

IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

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

Plaintiff, )

vs. )

Case No. CJ-2017-816

Judge Thad Balkman

- (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. )

**ORDER OF SPECIAL DISCOVERY MASTER**

NOW, on this 18<sup>th</sup> day of February, 2019 the above and entitled matter comes on for ruling by the undersigned having heard argument thereon on February 14, 2019.

Argument was heard and Orders are entered as to the following motions:

**State's Motion to De-Designate Confidential Documents**

Counsel announced an agreement to strike confidential designations that were the subject of this motion, however, argument was heard regarding State's concern that "this is a systemic problem with blanket designations." Blanket and inappropriate confidential designations can rise

to the level of an abuse of discovery process and subject to sanctions. In the context of this motion, there was no affirmative sanction relief requested and this motion is found to be moot.

**Defendants' Motions to Compel Regarding Requests for Admissions and Interrogatories**

Janssen Group

RFAs 1, 2 and 3 requests to compel are **Sustained** with a finding that State is only compelled to admit or deny the requests made without identifying any doctors or patient personal information, or ongoing, past or present investigatory information or confidential investigative file content.

Interrogatories 20, 21 and 22 requests to compel are **Overruled**.

Teva, Cephalon Requests for Admissions

RFA No. 4 - **Sustained** with State compelled only to admit or deny.

RFA No. 9 - **Sustained** with State compelled only to admit or deny.

RFA No. 10 - **Sustained** with State compelled only to admit or deny.

FRA No. 11 - **Sustained** with State compelled only to admit or deny.

Watson & Actavis Requests for Admissions

RFA No. 3 – **Sustained** with State compelled only to admit or deny.

RFA No. 8 – **Sustained** with State compelled only to admit or deny.

RFA No. 9 – **Sustained** with State compelled only to admit or deny.

RFA No. 10 - **Sustained** with State compelled only to admit or deny.

Purdue

Purdue's motion asks the undersigned to review State responses to produce request for admissions number 1, 3, 6, 7, 8, 9, 16, 17, 18, 19 & 20, make findings that they are insufficient, deem the requests admitted and awarded attorney fees.

RFAs Numbered 1, 3, 6, 7, 8 & 9 are announced agreed-to by the parties.

RFA No. 16 – Purdue's Motion is **Overruled**.

RFA No. 17 - **Sustained** with State compelled only to admit or deny.

RFA No. 18 – Purdue's Motion is **Overruled**.

RFA No. 19 – **Sustained** with State compelled only to admit or deny.

RFA No. 20 - **Sustained** with State compelled only to admit or deny.

As indicated in previous Orders, the allegations pled and proof model elected by State raise allegations that all Defendants misled all physicians in a joint marketing and promotion effort. State has elected not to prove through individualized proof and adopts a statistical proof model. As previously Ordered, State is required to continue to produce all public, non-privileged requests. State has timely submitted written answers or objections and under Title 12 O.S. §3236(A), Purdue's request to deem admitted and for attorney fees is **Denied**.

**State's Motion for Order Permitting Service of Requests for Admission to Authenticate Documents Produced in Discovery**

The parties, with argument from Purdue and Teva Group, announced an agreement to permit service of requests for admissions in order to authenticate as many documents that have been produced by the parties as possible. The agreement indicates it does not cover documents produced by third parties, not a party to the litigation. Purdue argued that authentication is premature and that we should not consider authenticating documents until after parties have completed and exchanged exhibit lists. A record was made that similar to designating portions of depositions and getting rulings for admission at trial, a document authentication process for the tremendous volume of documents to be admitted in this case is critical. A process for obtaining deposition designation rulings and rulings on authentication of documents must be addressed as soon as possible and to the extent necessary, deposition designation objections and objected-to document authentication would be presented to the undersigned for consideration and ruling. With this reality in mind, the undersigned entered an Order that allowed the State to proceed with RFA requests to authenticate documents and exceed the thirty limit to do so, with the understanding that we should be dealing with documents that will be trial exhibits anyway and do so in an effort to get the process started and continue after exhibit lists are completed.

**Janssen's Emergency Motion To Compel**

Argument was heard regarding Janssen's emergency motion to compel and State agreed the undersigned could rule without the benefit of a State response.

Janssen moves the undersigned to compel (1) State to complete its claims data production in fully "cross-walked form" within seven days; (2) immediately certify that State has produced data dictionaries, field definition tables and user manuals that identify all fields and codes in its claims databases or produce all such materials within seven days accompanied by a certification of completion that identifies by Bates number.

Argument indicated the databases that can be linked up or cross-referenced have been produced by State, and again, to the extent State can provide identification numbers or link information in any form, State continues to be **Ordered** and compelled to provide the "cross-walked" information. Certain diagnosis codes, procedural codes and detail status codes can be publicly accessed by Defendants, if not, State is **Ordered** to produce. Argument is that some databases such as the Medical Examiner's database and Health Choice database (which as argued, is relevant to State's fraud and public nuisance claims) cannot be so identified.

Defendants make reference in their brief to the “MDL” Special Discovery Master and Judge’s Orders regarding these issues. State argues that part of the basis for the MDL’s decision was the fact that, based on what the Plaintiffs had already provided, Defendants were unable to match patients across databases. State argues the Defendants in this case have already been provided with a set of unique identifiers which will facilitate the cross reference across State databases. The plaintiffs in the MDL did not use a de-identified numbering scheme as is being attempted in this case. Pharmacies and distributors are not defendants in this case however, patient-level claims data and description codes, are relevant and argument indicates necessary for Defendants to complete their expert analysis in defense, and there arguably remains an inability to link to some relevant databases.

Therefore, as to the identified databases Defendants cannot access by any “cross-walked” link method or by unique identifiers and, data code dictionaries and field definition tables, State continues to be **Ordered** to produce and Janssen's emergency motion is **Sustained** to the extent State is Ordered to complete database and code production pursuant to statute in a form that is either ordinarily maintained or in a de-identified form which is reasonably usable with Defendants able to obtain the relevant information. If Defendants continue to be denied access to necessary databases, while delay may be the result, the undersigned will revisit and consider further Defendant requests to compel and a different database identifying scheme.

State is **Ordered** to complete this identification process on or before March 1, 2019 at 4pm.

It is so **Ordered** this 18th day of February, 2019.

William C. Hetherington, Jr.

Special Discovery Master

FILED

IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

JAN 31 2019

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

Plaintiff,

v.

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

Defendants.

In the office of the  
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816

Judge Thad Balkman

William C. Hetherington  
Special Discovery Master

**DEFENDANT JANSSEN'S MOTION TO COMPEL PLAINTIFF'S RESPONSES TO ITS  
FIRST REQUESTS FOR ADMISSION AND THIRD SET OF INTERROGATORIES  
AND BRIEF IN SUPPORT**

Fact discovery in this case closes in just six weeks. Yet despite the rapidly narrowing window of opportunity, the State continues to drag its feet and obstruct Janssen's proper discovery requests regarding details surrounding the State's allegations. Specifically, Janssen's First Requests for Admission ("RFAs") and Third Set of Interrogatories ("Interrogatories") seek details regarding the State's central claims, including the core allegation that Janssen misled Oklahoma doctors and the alleged consequences of those alleged misrepresentations. Janssen is entitled to this information, and without it cannot properly rebut the State's allegations and prepare its defenses. The Court should order the State to respond immediately to Janssen's RFA No. 3 and Janssen's Interrogatories.<sup>1</sup>

<sup>1</sup> On January 29, 2019, the State denied Janssen's RFA Nos. 1 and 2 in a supplemental response to Janssen's RFAs. Plaintiff's First Supplemental Responses and Objections to Defendant Janssen's First Requests for Admission to Plaintiff, Ex. G. The State has not responded to Janssen's other RFA and Interrogatories.



## I. BACKGROUND

The State alleges in this case that Janssen misled Oklahoma doctors about opioids, that Oklahoma doctors made certain prescription decisions because of Janssen's alleged misrepresentations, and that the State reimbursed unnecessary or excessive opioid claims through Oklahoma's Medicaid program. On December 10, 2018, Janssen served its RFAs and Interrogatories on the State, seeking documents and information related to those allegations.

Specifically, the RFAs and Interrogatories include requests for:

- An admission that the State cannot identify any Oklahoma doctors whom Janssen misled, RFA No. 1, Ex. A at 3, and, if the State does not admit that, the identities of the doctors whom the State alleges Janssen misled and the misleading communications, Interrogatory No. 20, Ex. B at 5.
- An admission that the State cannot identify any Oklahoma doctors who were unable to counsel their patients accurately regarding opioids as a result of communications from Janssen, RFA No. 2, Ex. A at 3, and, if the State does not admit that, the identity of the Oklahoma doctors who were unable to counsel their patients accurately, Interrogatory No. 21, Ex. B at 5.
- An admission that the State reimbursed claims for opioid prescriptions from Oklahoma doctors while the State was aware that those doctors were subject to pending civil, criminal, or administrative proceedings or investigation for their prescribing behaviors, RFA No. 3, Ex. A at 3, and, if the State does not admit that, the identity of the claims that the State denied from those doctors, Interrogatory No. 22, Ex. B at 5. *See also*

Email of January 30, 2019, Ex. F (narrowing Janssen's RFA No. 3 and Interrogatory No. 22 in an effort to arrive at a compromise with the State).<sup>2</sup>

On January 9, 2019, the State served its responses and objections on Janssen. *See* Plaintiff's Responses and Objections to Defendant Janssen's First Requests for Admission to Plaintiff, Ex. C; Plaintiff's Responses and Objections to Defendant Janssen's Third Set of Interrogatories to Plaintiff, Ex. D.

But the State did not actually *respond* to Janssen's RFAs or Interrogatories. Rather, the State served a laundry list of objections and refused to provide the key information Janssen requested. The State's objections lack merit and only serve to further delay Janssen's discovery into the State's allegations.

On January 24, 2019, Janssen and the State met and conferred regarding the State's objections. As a result of this meet and confer, Janssen agreed to narrow the scope of its RFA No. 3 and Interrogatory No. 22 in an effort to come to a negotiated compromise with the State. The State continues to stand on its objections.

---

<sup>2</sup> In an effort to compromise with the State, Janssen narrowed this RFA and Interrogatory to focus on doctors subject to a civil, criminal, or administrative proceeding or subject to investigation, the existence of which is public record or not privileged or confidential, for their prescribing behaviors. The State continues to stand on its objections.

Janssen's RFA No. 3 now reads: "Admit that the State of Oklahoma reimbursed Claims for Opioid prescriptions that were written by Doctors and submitted for reimbursement while the State of Oklahoma was aware that the Doctor was subject to a pending civil, criminal, or administrative proceeding or subject to an investigation for their Prescribing Behaviors." Email of January 30, 2019, Ex. F.

Janssen's Interrogatory No. 22 now reads: "Identify all Claims for reimbursement of Opioid prescriptions, if any, that were denied by You after they were written by a Doctor who was subject to a civil, criminal, or administrative proceeding or subject to investigation, the existence of which is public record or not privileged or confidential, for their Prescribing Behaviors." *Id.*



On January 29, 2019, the State served supplemental responses to Janssen's RFAs. Plaintiff's First Supplemental Responses and Objections to Defendant Janssen's First Requests for Admission to Plaintiff, Ex. G. The supplemental responses were identical to the State's first responses, with the exception of denying RFA Nos. 1 and 2. *Id.* at 8. That is, despite denying the two RFAs, the State refused to identify a single doctor that it alleges to have been misled by Janssen or unable to counsel patients accurately about the risks of the opioid medications Janssen used to promote.

## II. ARGUMENT

Oklahoma law allows discovery into "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." 12 Okla. Stat. § 3226(B)(1)(a). "Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation." *Metzger v. Am. Fid. Assur. Co.*, 245 F.R.D. 727, 728 (W.D. Okla. 2007) (quoting *Hickman v. Taylor*, 329 U.S. 495, 507 (1947)).

Here, the State makes no claims of privilege, and Janssen's RFAs and Interrogatories are not only directly relevant to Janssen's understanding of the State's claims, they are crucial to Janssen's ability to prepare its defenses. For example, Janssen's Interrogatory No. 20 requests information relevant to the State's claim that Janssen misled Oklahoma doctors about the risks or benefits of Janssen's opioids. *See, e.g.*, Petition ¶¶ 4, 51, 53, 54, 55, 56, 58, 59, 63 (among other paragraphs). Janssen's Interrogatory No. 21, which seeks discovery regarding any Oklahoma doctors the State claims were "unable to accurately counsel their patients about the risks or benefits" of Janssen's opioids, is relevant to the State's allegations that Janssen improperly affected Oklahoma doctors' prescription decisions. *See, e.g., id.* ¶¶ 88, 97 (among other

paragraphs). And Janssen's RFA No. 3 and Interrogatory No. 22, regarding the State's decision to reimburse opioid prescriptions written by doctors who were under active investigation or facing civil, criminal or administrative proceedings for their prescription behaviors, are directly relevant to the propriety of the State's payments, and thus its alleged damages. Responding to Janssen's RFAs and Interrogatories also imposes minimal burdens on the State. Indeed, the information Janssen seeks constitutes the basic facts the State would need to know in order to bring its allegations against Janssen in the first place.

**A. Janssen's RFAs and Interrogatories are Timely, as Fact Discovery Closes in Just Six Weeks**

The state objects that Janssen's RFAs and Interrogatories are a "premature" attempt "to force the State to marshal all of its evidence before required or appropriate under the Oklahoma Code of Civil Procedure or the Court's scheduling Order." *See, e.g.*, Response to Interrogatory No. 20, Ex. D at 8.

These objections are baseless. The State filed its Petition on June 30, 2017, Janssen served these discovery requests on December 10, 2018, and the parties have engaged in extensive discussions regarding the proper scope of discovery. Indeed, fact discovery *closes* on March 15, 2019, approximately six weeks from the date of this Motion. Amended Scheduling Order, *State of Oklahoma ex rel. Hunter v. Purdue Pharma L.P. et al.*, CJ-2017-816 (September 11, 2018). Furthermore, the State served its expert disclosures on December 21, 2018, so any discovery that implicates the State's expert opinions is timely. The discovery is not "premature;" rather, it is long overdue and must be provided immediately.

**B. Janssen's RFAs and Interrogatories Properly Seek Information Regarding the State's Allegations as Part of the Normal Discovery Process**

The State further objects that Janssen's Interrogatories and RFAs improperly impose burdens of proof on the State by "assum[ing] Defendant must have made a misrepresentation

directly to an Oklahoma doctor to be liable for the State's claims under the Oklahoma Medicaid False Claims Act." *See, e.g.*, Response to Interrogatory No. 20, Ex. D at 9. The State further objects that it is not required to "to show individual misrepresentations or false statements" to satisfy its burden of proof in this case. *See, e.g.*, Response to Interrogatory No. 20, Ex. D at 9.

The State's objections miss the point. Janssen's discovery requests make no assumptions about what the State must prove at trial (and even if they did, a party's "assumption" would have no impact on the elements of the case).

Rather, Janssen's discovery seeks details regarding allegations the State made in its Petition. For example, in its Petition, the State repeatedly accuses Janssen of misleading Oklahoma doctors in way that affected the doctors' prescription decisions. *See, e.g.*, Petition ¶¶ 4, 51, 53, 54, 55, 56, 58, 59, 63, 88, 97. Janssen's RFAs and Interrogatories properly seek details about these allegations, such as the identity of any doctors to whom Janssen made misrepresentations. Interrogatory No. 20, Ex. B at 5. The State admits that it knows the identities of Oklahoma doctors whom it alleges Janssen misled about the risks or benefits of Janssen's opioid medications. Supplemental Response to RFA No. 1, Ex. G at 8. The State cannot allege that Janssen misled doctors and then cry foul when asked to identify any misrepresentations or doctors that were allegedly misled.

Nor are Janssen's Interrogatories "overbroad, unduly burdensome, vague, ambiguous, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case." *See, e.g.*, Response to Interrogatory No. 20, Ex. D at 8. As demonstrated above, Janssen's Interrogatories are directly relevant to the allegations the State made in its Petition. Further, the RFAs and Interrogatories are structured such that they do not assume that the

State has possession of *any* information. For example, Janssen asks the State to either (i) identify the misrepresentations it alleges Janssen made or (ii) admit that it cannot identify any such misrepresentations. In response, the State takes the position that it *can* identify doctors it claims Janssen misled. Supplemental Response to RFA No. 1, Ex. G at 8. Asking the State to identify the factual basis for this admission is entirely relevant, proper, and proportional to the needs of this case.

**C. The Court Has Not Held that the Information Sought By Janssen’s RFAs and Interrogatories is Outside of the Scope of Proper Discovery**

The State further objects that Janssen’s RFAs and Interrogatories seek information that the Court has held to be outside of the scope of proper discovery. Janssen’s discovery requests are proper under the Court’s orders.

First, the State objects to Janssen’s Interrogatories No. 20 and 21 by stating (incorrectly) that “on October 10, 2018, the Court ordered that the State need not identify physicians.” Response to Interrogatories Nos. 20 & 21, Ex. D at 9, 11. The Court’s October 10, 2018 Order says nothing of the sort. Rather, that Order addresses Defendants’ request for the State to produce opioids *claims data*. See Order, *State of Oklahoma ex rel. Hunter v. Purdue Pharma L.P. et al.*, CJ-2017-816 (October 10, 2018), at 2; Request No. 6, Janssen’s First Set of Requests for Production, Ex. E at 7. In its October 10, 2018 Order, the Court found that the State need not produce a “full disclosure of all claims data information . . . in the scope sought to be compelled by Defendants.” Order, *State of Oklahoma ex rel. Hunter v. Purdue Pharma L.P. et al.*, CJ-2017-816 (October 10, 2018), at 3. The Court did not rule that the State need not prove its claims or support the allegations in its Petition, nor did it relieve the State of the obligation to provide relevant discovery.

Here, the scope and focus of Janssen’s Interrogatories are entirely different from the requests addressed in the Court’s October 10, 2018 Order—Janssen’s Interrogatories focus on

obtaining the identity of doctors who the State has *pleaded* were misled or who could not properly counsel their patients. Janssen's current request is different in type and dramatically narrower than the material addressed in the Court's October 10, 2018 Order.

Second, the State also objects that Janssen's RFA No. 3 and Interrogatory No. 22 seek information "regarding ongoing investigations or confidential investigatory files that the Court has held to be outside of the scope of proper discovery" in orders dated October 22, 2018, December 3, 2018, and December 20, 2018.<sup>3</sup> Supplemental Response to RFA No. 3, Ex. G at 9; Response to Interrogatory No. 22, Ex. D at 12. In an effort at finding common ground with the State, Janssen narrowed RFA No. 3 and Interrogatory No. 22 to address the State's concerns. The narrowed RFA and Interrogatory mirror information the Court *has already ordered the State to produce*. In its December 20, 2018 Order, the Court ordered the State to "produce non-sealed charging documents, petitions, informations, indictments, motions, briefs, orders, transcripts, docket sheets and other documents filed with a tribunal *in all civil, criminal or administrative proceedings* brought by a state prosecuting or regulatory authority against any Health Care Professional relating to the prescription of opioids . . . ." Order, *State of Oklahoma ex rel. Hunter v. Purdue Pharma L.P. et al.*, CJ-2017-816 (December 20, 2018), at 2 (emphasis added). In its January 17, 2019 Order, the Court reiterated that the State must "produce materials from [investigatory] files that are of public record or are not privileged or confidential." Order, *State of Oklahoma ex rel. Hunter v. Purdue Pharma L.P. et al.*, CJ-2017-816 (January 17, 2019), at 2. Here, Janssen's RFA No. 3

---

<sup>3</sup> The State declines to provide details regarding which portions of the Orders it relies on. Not a single part of the Orders supports the State's position.

and Interrogatory No. 22 are limited in focus to material the Court has already explicitly held to be within the scope of proper discovery.<sup>4</sup>

**D. Janssen Does Not Have Custody of Information Responsive to Its RFAs and Interrogatories**

The State repeatedly objects that Janssen already has the information it requests. According to the State, Janssen “is aware of the providers who prescribe their medications,” and, as such, Janssen already knows the answers to its RFAs and Interrogatories. *See, e.g.*, Response to Interrogatory No. 20, Ex. D at 8.

The State’s objections misstate the nature of Janssen’s RFAs and Interrogatories, which are facially apparent. Janssen seeks factual information about the State’s allegations against Janssen and the State’s treatment of claims from doctors under investigation or facing civil, criminal, or administrative proceedings for their prescription behavior. For example, Janssen’s Interrogatory No. 20 asks the State to identify doctors the State alleges Janssen misled about its opioid prescriptions. There is no way for Janssen to know whom the State alleges those doctors are. Indeed, Janssen denies that it misled Oklahoma doctors and denies that they were unable to counsel their patients accurately.

Janssen simply does not have details regarding the State’s allegations against it—that is what it seeks to clarify through these discovery requests. The same goes for Janssen’s other RFAs

---

<sup>4</sup> Janssen’s RFA No. 3 now reads: “Admit that the State of Oklahoma reimbursed Claims for Opioid prescriptions that were written by Doctors and submitted for reimbursement while the State of Oklahoma was aware that the Doctor was subject to a pending civil, criminal, or administrative proceeding or subject to an investigation for their Prescribing Behaviors.” Email of January 30, 2019, Ex. F.

Janssen’s Interrogatory No. 22 now reads: “Identify all Claims for reimbursement of Opioid prescriptions, if any, that were denied by You after they were written by a Doctor who was subject to a civil, criminal, or administrative proceeding or subject to investigation, the existence of which is public record or not privileged or confidential, for their Prescribing Behaviors.” *Id.*

and Interrogatories—Janssen cannot know which doctors *the State alleges* were unable to counsel accurately their patients due to Janssen’s alleged misrepresentations, and Janssen does not possess information regarding the State’s treatment of claims for doctors the State is investigating or subjecting to civil, criminal, or administrative proceedings.

**E. The State Should Respond Now and Supplement Its Answers Later, If Necessary**

The State also claims that Janssen’s Interrogatories seek materials that the State is “collecting, searching, reviewing, and producing,” and the State will provide its responses later. *See, e.g.*, Response to Interrogatory No. 20, Ex. D at 8. Although the State may later supplement its responses if it becomes aware of new relevant information, it has an obligation under Oklahoma law to respond in good faith to Janssen’s Interrogatories and RFAs within thirty days of their service. 12 Okla. Stat. §§ 3233(A), 3236(A). The State’s time to respond thus expired on January 9, 2019. The Court should order the State to respond to the best of its ability currently and supplement its responses later if necessary. Of course, with discovery closing, “later” will be too late and will prejudice Janssen’s ability to defend against the State’s claims.

**F. Janssen’s Interrogatories are Proper in Form and not Compound**

The State also mischaracterizes Janssen’s Interrogatories as impermissibly compound. *See, e.g.*, Response to Interrogatory No. 20, Ex. D at 9–10. But Janssen’s interrogatories merely seek interrelated sets of information in response to the single question posed by each interrogatory. For example, Interrogatory No. 20 seeks clarity regarding Janssen’s alleged misrepresentations, including the substance of the misrepresentations and to whom Janssen made them. These two pieces of information are not distinct questions. Rather, they are “components of information” requested in a single question. *See Therrien v. Target Corp.*, No. 06-CV-217-JHP-FHM, 2008 WL 11394322, at \*1 (N.D. Okla. Jan. 10, 2008) (holding that a question seeking “name, title, dates of

employment, job responsibilities, and whether the person is still employed” constituted a single Interrogatory).

**G. The State Has Not Responded to Janssen’s RFAs or Interrogatories**

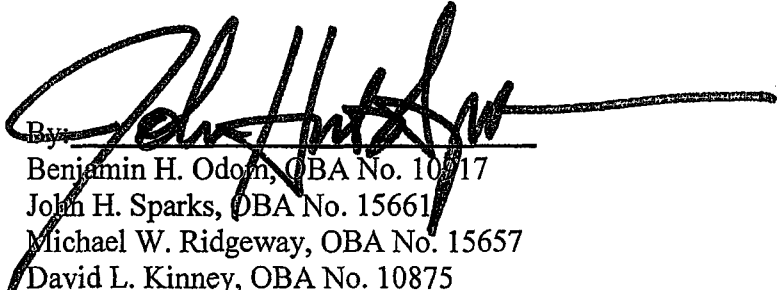
Although the State has now denied Janssen’s RFA Nos. 1 and 2, the State has not responded substantively to Janssen’s other RFA and Interrogatories. The lack of responses further underscore the State’s game plan in the litigation: to delay Janssen’s access to discovery as long as possible and hamper Janssen’s ability to prepare a defense before trial.

It is past time for the State to respond fully and substantively, and the Court should order to State to do so.

**III. CONCLUSION**

For the foregoing reasons, Janssen requests that this Court compel the State to respond fully to Janssen’s outstanding RFA and Interrogatories with seven days.

Respectfully submitted,

By: 

Benjamin H. Odom, OBA No. 10817

John H. Sparks, OBA No. 15661

Michael W. Ridgeway, OBA No. 15657

David L. Kinney, OBA No. 10875

ODOM, SPARKS & JONES, PLLC

Suite 140

HiPoint Office Building

2500 McGee Drive

Norman, OK 73072

Telephone: (405) 701-1863

Facsimile: (405) 310-5394

Email: odomb@odomsparks.com

Email: sparksj@odomsparks.com

Email: ridgewaym@odomsparks.com

Email: kinneyd@odomsparks.com



Larry D. Ottaway, OBA No. 6816  
Amy Sherry Fischer, OBA No. 16651  
Andrew Bowman, OBA No. 22071  
Jordyn L. Cartmell, OBA No. 31043  
FOLIART, HUFF, OTTAWAY & BOTTOM  
12<sup>th</sup> Floor  
201 Robert S. Kerr Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 232-4633  
Facsimile: (405) 232-3462  
Email: larryottaway@oklahomacounsel.com  
Email: amyfischer@oklahomacounsel.com  
Email: andrewbowman@oklahomacounsel.com  
Email: jordyncartmell@oklahomacounsel.com

Of Counsel:

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

Stephen D. Brody  
David 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.**

**CERTIFICATE OF MAILING**

Pursuant to Okla. Stat. tit. 12, § 2005(D), and by agreement of the parties, this is to certify on January 31, 2019, a true and correct copy of the above and foregoing has been served via electronic mail, to the following:

Mike Hunter  
ATTORNEY GENERAL FOR  
THE STATE OF OKLAHOMA  
Abby Dillsaver  
Ethan Shaner  
GENERAL COUNSEL TO  
THE ATTORNEY GENERAL  
313 NE 21<sup>st</sup>  
Oklahoma City, OK 73105  
Telephone: (405)521-3921  
Facsimile: (405) 521-6246  
Email: mike.hunter@oag.ok.gov  
Email: abby.dillsaver@oag.ok.gov  
Email: ethan.shaner@oag.ok.gov

Michael Burrage  
Reggie Whitten  
J. Revell Parrish  
WHITTEN BURRAGE  
Suite 300  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: mburrage@whittenburragelaw.com  
Email: rwhitten@whittenburragelaw.com  
Email: rparrish@whittenburragelaw.com

Bradley Beckworth  
Jeffrey Angelovich  
Lloyd Nolan Duck, III  
Andrew Pate  
Lisa Baldwin  
Brooke A. Churchman  
Nathan Hall  
Suite 200  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: bbeckworth@nixlaw.com  
Email: jangelovich@nixlaw.com  
Email: tduck@nixlaw.com  
Email: dpate@nixlaw.com  
Email: lbaldwin@nixlaw.com  
Email: bchurchman@nixlaw.com  
Email: nhall@nixlaw.com

Robert Winn Cutler  
Ross Leonoudakis  
NIX, PATTERSON, LLP  
Suite B350  
3600 North Capital of Texas Highway  
Austin, TX 78746  
Telephone: (512) 328-5333  
Facsimile: (512) 328-5335  
Email: winncutler@nixlaw.com  
Email: rossl@nixlaw.com

Glenn Coffee  
GLENN COFFEE & ASSOCIATES, PLLC  
915 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 601-1616  
Email: gcoffee@glenncoffee.com

**ATTORNEYS FOR PLAINTIFF**

Sanford C. Coats  
Joshua D. Burns  
CROWE & DUNLEVY, PC  
Suite 100  
Braniff Building  
324 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 235-7700  
Facsimile: (405) 272-5269  
Email: sandy.coats@crowedunlevy.com  
Email: joshua.burns@crowedunlevy.com

Of Counsel:

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Lindsay N. Zanello  
Bert L. Wolff  
Mara C. Cusker Gonzalez  
DECHERT, LLP  
Three Bryant Park  
1095 Avenue of Americas  
New York, NY 10036-6797  
Telephone: (212) 698-3500  
Facsimile: (212) 698-3599  
Email: sheila.birnbaum@dechert.com  
Email: mark.cheffo@dechert.com  
Email: hayden.coleman@dechert.com  
Email: paul.lafata@dechert.com  
Email: lindsay.zanello@dechert.com  
Email: bert.wolff@dechert.com  
Email: maracusker.gonzalez@dechert.com

Benjamin F. McAnaney  
Hope S. Freiwald  
Will W. Sachse  
Chelsea M. Nichols  
Cory A. Ward  
Meghan R. Kelly  
DECHERT, LLP  
2929 Arch Street  
Philadelphia, PA 19104  
Telephone: (215) 994-4000  
Facsimile: (215) 655-2043  
Email: benjamin.mcananey@dechert.com  
Email: hope.freiwald@dechert.com  
Email: will.sachse@dechert.com  
Email: chelsea.nichols@dechert.com  
Email: cory.ward@dechert.com  
Email: meghan.kelly@dechert.com

Erik W. Snapp  
DECHERT, LLP  
Suite 3400  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone: (212)849-7000  
Facsimile: (212) 849-7100  
Email: erik.snapp@dechert.com

Jonathan S. Tam  
Jae Hong Lee  
DECHERT, LLP  
16<sup>th</sup> Floor  
One Bush Street  
San Francisco, CA 94104  
Telephone: (415) 262-4500  
Facsimile: (415) 262-4555  
Email: jonathan.tam@dechert.com  
Email: jae.lee@dechert.com

William W. Oxley  
DECHERT, LLP  
Suite 4900  
US Bank Tower  
633 West 5<sup>th</sup> Street  
Los Angeles, CA 90071  
Telephone: (213) 808-5760  
Facsimile: (213) 808-5760

Email: [william.oxley@dechert.com](mailto:william.oxley@dechert.com)

Britta E. Stanton  
John D. Volney  
John T. Cox, III  
Eric W. Pinker  
Jared D. Eisenberg  
Jervonne D. Newsome  
Elizabeth Yvonne Ryan  
Andrea MeShonn Evans Brown  
Ruben A. Garcia  
Russell G. Herman  
Samuel B. Hardy, IV  
LYNN PINKER COX & HURST, LLP  
Suite 2700  
2100 Ross Avenue  
Dallas, TX 75201  
Telephone: (214) 981-3800  
Facsimile: (214) 981-3839  
Email: [bstanton@lynnllp.com](mailto:bstanton@lynnllp.com)  
Email: [jvolney@lynnllp.com](mailto:jvolney@lynnllp.com)  
Email: [tcox@lynnllp.com](mailto:tcox@lynnllp.com)  
Email: [epinker@lynnllp.com](mailto:epinker@lynnllp.com)  
Email: [jeisenberg@lynnllp.com](mailto:jeisenberg@lynnllp.com)  
Email: [jnewsome@lynnllp.com](mailto:jnewsome@lynnllp.com)  
Email: [eryan@lynnllp.com](mailto:eryan@lynnllp.com)  
Email: [sbrown@lynnllp.com](mailto:sbrown@lynnllp.com)  
Email: [rgarcia@lynnllp.com](mailto:rgarcia@lynnllp.com)  
Email: [rherman@lynnllp.com](mailto:rherman@lynnllp.com)  
Email: [shardy@lynnllp.com](mailto:shardy@lynnllp.com)

Robert S. Hoff  
WIGGIN & DANA, LLP  
265 Church Street  
New Haven, CT 06510  
Telephone: (203) 498-4400  
Facsimile: (203) 363-7676  
Email: [rhoff@wiggin.com](mailto:rhoff@wiggin.com)

**ATTORNEYS FOR DEFENDANTS  
PURDUE PHARMA, LP,  
PURDUE PHARMA, INC., AND THE  
PURDUE FREDERICK COMPANY,  
INC.**

Robert G. McCampbell  
Travis V. Jett  
Ashley E. Quinn  
Nicholas V. Merkley  
GABLEGOTWALS  
15<sup>th</sup> Floor  
One Leadership Square  
211 North Robinson  
Oklahoma City, OK 73102-7255  
Telephone: (405) 235-5567  
Email: rmccampbell@gablelaw.com  
Email: tjett@gablelaw.com  
Email: aquinn@gablelaw.com  
Email: nmerkley@gablelaw.com

Of Counsel:

Steven A. Reed  
Rebecca J. Hillyer  
MORGAN, LEWIS & BOCKIUS, LLP  
1701 Market Street  
Philadelphia, PA 19103-2321  
Telephone: (215) 963-5000  
Email: steven.reed@morganlewis.com  
Email: rebecca.hillyer@morganlewis.com

Harvey Bartle, IV  
Mark A. Fiore  
MORGAN, LEWIS & BOCKIUS, LLP  
502 Carnegie Center  
Princeton, NJ 08540-6241  
Telephone: (609) 919-6600  
Email: harvey.bartle@morganlewis.com  
Email: mark.fiore@morganlewis.com



Brian M. Ercole  
Melissa M. Coates  
Martha A. Leibell  
MORGAN, LEWIS & BOCKIUS, LLP  
Suite 5300  
200 South Biscayne Boulevard  
Miami, FL 33131  
Email: brian.ercole@morganlewis.com  
Email: melissa.coates@morganlewis.com  
Email: martha.leibell@morganlewis.com

**ATTORNEYS FOR DEFENDANTS  
CEPHALON, INC., TECA  
PHARMACEUTICALS USA, INC.,  
WATSON LABORATORIES, INC.,  
ACTAVIS, LLC, AND ACTAVIS  
PHARMA, INC. F/K/A WATSON  
PHARMA, INC.**



John H. Sparks

**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.**

IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

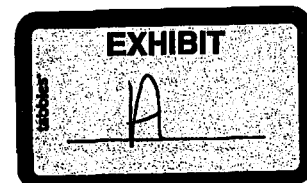
STATE OF OKLAHOMA, ex rel., MIKE HUNTER, ATTORNEY GENERAL OF OKLAHOMA,	Case No. CJ-2017-816
Plaintiff,	Judge Thad Balkman
v.	William C. Hetherington Special Discovery Master
PURDUE PHARMA L.P., <i>et al.</i> ,	
Defendants.	

**DEFENDANT JANSSEN'S FIRST REQUESTS FOR ADMISSION TO PLAINTIFF**

Pursuant to 12 O.S. § 3236, Defendant Janssen Pharmaceuticals, Inc. ("Janssen") requests that the Plaintiff State of Oklahoma ("the State") respond to Janssen within thirty (30) days of the date of service of these discovery requests.

**DEFINITIONS**

1. "Claim" is any request for payment or reimbursement.
2. "Communication(s)" is any unilateral, bilateral, or multilateral assertion, disclosure, statement, conduct, transfer, or exchange of information or opinion, including omissions, however made, whether oral, written, telephonic, photographic, or electronic.
3. "Doctor(s)" refers to any healthcare provider who is authorized to prescribe any controlled substance in Schedule II-V.
4. "Identify" with respect to individuals shall mean, and shall require You to identify specific individuals by name.



5. "Oklahoma Agency" or "Oklahoma Agencies" collectively refers to any State entity involved in regulating, monitoring, approving, reimbursing, or prosecuting the prescription, dispensing, purchase, sale, use, or abuse of controlled substances in Oklahoma, including, but not limited to, the Oklahoma Office of the Governor, Oklahoma Legislature, 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, Office of the Medical Examiner of the State of Oklahoma, University of Oklahoma College of Pharmacy, and their respective predecessors, supervisory and subordinate organizations, and current or former employees.

6. "Opioid" refers to any FDA-approved pain-reducing medications consisting of natural or synthetic chemicals that bind to opioid receptors in a patient's brain or body to produce an analgesic effect.

7. "Patient(s)" is any human being to whom an Opioid is prescribed or dispensed.

8. "Person(s)" is any natural or legal person.

9. "Prescribing Behaviors" refers to a Doctor's compliance, or lack of compliance, with all federal and state laws and regulations pertaining to the prescribing of controlled substances.

10. "Relevant Time Period" means May 1, 1996 to the present, per the Discovery Master's Order of April 4, 2018.

11. “You,” “Your,” “State,” “Oklahoma,” and “Plaintiff” refer to the Plaintiff in this litigation, and the sovereign State of Oklahoma and all its departments, agencies, and instrumentalities, including current and former employees, any Vendor, and other persons or entities acting on the State’s behalf.

12. The words “and” and “or” shall be construed conjunctively as well as disjunctively, whichever makes the request more inclusive.

13. “Any” includes “all” and vice versa.

14. “Each” includes “every” and vice versa.

15. The term “including” shall be construed to mean “including but not limited to.”

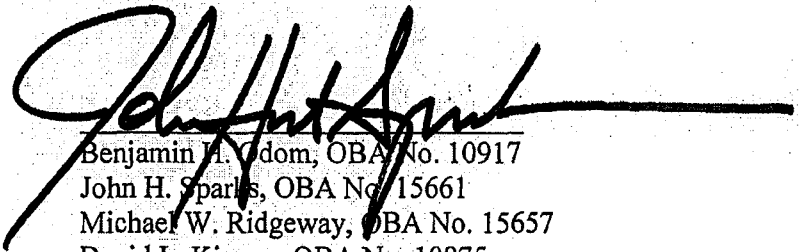
16. The singular of each word includes its plural and vice versa.

#### **REQUESTS FOR ADMISSION**

1. Admit that You cannot Identify any Oklahoma Doctors who were misled about the risks or benefits of prescription Opioid medications by any Communication made, sponsored, or supported by Janssen.

2. Admit that You cannot Identify any Oklahoma Doctors who were unable to accurately counsel their patients about the risks or benefits of prescription Opioid medications as a result of any Communication made, sponsored, or supported by Janssen.

3. Admit that, for every Doctor who has been investigated or prosecuted by the State of Oklahoma for their Prescribing Behaviors, You reimbursed Claims for Opioid prescriptions that were written by that Doctor and submitted for reimbursement while such investigation or prosecution was ongoing.



Benjamin H. Odom, OBA No. 10917  
John H. Sparks, OBA No. 15661  
Michael W. Ridgeway, OBA No. 15657  
David L. Kinney, OBA No. 10875  
ODOM, SPARKS & JONES, PLLC  
Suite 140  
HiPoint Office Building  
2500 McGee Drive  
Norman, OK 73072  
Telephone: (405) 701-1863  
Facsimile: (405) 310-5394  
Email: odomb@odomsparks.com  
Email: sparksj@odomsparks.com  
Email: ridgewaym@odomsparks.com  
Email: kinneyd@odomsparks.com

Larry D. Ottaway, OBA No. 6816  
Amy Sherry Fischer, OBA No. 16651  
Andrew Bowman, OBA No. 22071  
FOLIART, HUFF, OTTAWAY & BOTTOM  
12th Floor  
201 Robert S. Kerr Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 232-4633  
Facsimile: (405) 232-3462  
Email: larryottaway@oklahomacounsel.com  
Email: amyfischer@oklahomacounsel.com  
Email: andrewbowman@oklahomacounsel.com

Of Counsel:

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

Stephen D. Brody  
David 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.**

**CERTIFICATE OF MAILING**

Pursuant to Okla. Stat. tit. 12, § 2005(D), and by agreement of the parties this is to certify on December 10th, 2018, a true and correct copy of the above and foregoing has been served via electronic mail, to the following:

Mike Hunter  
ATTORNEY GENERAL FOR  
THE STATE OF OKLAHOMA  
Abby Dillsaver  
Ethan Shaner  
GENERAL COUNSEL TO  
THE ATTORNEY GENERAL  
313 NE 21st  
Oklahoma City, OK 73105  
Telephone: (405)521-3921  
Facsimile: (405) 521-6246  
Email: mike.hunter@oag.ok.gov  
Email: abby.dillsaver@oag.ok.gov  
Email: ethan.shaner@oag.ok.gov

Michael Burrage  
Reggie Whitten  
J. Revell Parrish  
WHITTEN BURRAGE  
Suite 300  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: mburrage@whittenburrage.com  
Email: rwhitten@whittenburrage.com  
Email: rparrish@whittenburrage.com

Bradley Beckworth  
Jeffrey Angelovich  
Lloyd Nolan Duck, III  
Andrew Pate  
Lisa Baldwin  
Brooke A. Churchman  
Nathan Hall  
NIX, PATTERSON, LLP  
Suite 200  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: bbeckworth@nixlaw.com  
Email: jangelovich@nixlaw.com  
Email: tduck@nixlaw.com  
Email: dpate@nixlaw.com  
Email: lbaldwin@nixlaw.com  
Email: bchurchman@nixlaw.com  
Email: nhall@nixlaw.com

Glenn Coffee  
GLENN COFFEE & ASSOCIATES, PLLC  
915 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 601-1616  
Email: gcoffee@glenncoffee.com

**ATTORNEYS FOR PLAINTIFF**



Sanford C. Coats  
Joshua D. Burns  
CROWE & DUNLEVY, PC  
Suite 100  
Braniff Building  
324 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 235-7700  
Facsimile: (405) 272-5269  
Email: sandy.coats@crowedunlevy.com  
Email: joshua.burns@crowedunlevy.com

Of Counsel:

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Lindsay N. Zanello  
Bert L. Wolff  
DECHERT, LLP  
Three Bryant Park  
1095 Avenue of Americas  
New York, NY 10036-6797  
Telephone: (212) 698-3500  
Facsimile: (212) 698-3599  
Email: sheila.birnbaum@dechert.com  
Email: mark.cheffo@dechert.com  
Email: hayden.coleman@dechert.com  
Email: paul.lafata@dechert.com  
Email: lindsay.zanello@dechert.com  
Email: bert.wolff@dechert.com

Benjamin F. McAnaney  
DECHERT, LLP  
2929 Arch Street  
Philadelphia, PA 19104  
Telephone: (215) 994-4000  
Facsimile: (215) 655-2043  
Email: benjamin.mcananey@dechert.com

Erik W. Snapp  
DECHERT, LLP  
Suite 3400  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone: (212)849-7000  
Facsimile: (212) 849-7100  
Email: erik.snapp@dechert.com

Jonathan S. Tam  
Jae Hong Lee  
DECHERT, LLP  
16th Floor  
One Bush Street  
San Francisco, CA 94104  
Telephone: (415) 262-4500  
Facsimile: (415) 262-4555  
Email: jonathan.tam@dechert.com  
Email: jae.lee@dechert.com

Britta E. Stanton  
John D. Volney  
John T. Cox, III  
Eric W. Pinker  
Jared D. Eisenberg  
Jervonne D. Newsome  
LYNN PINKER COX & HURST, LLP  
Suite 2700  
2100 Ross Avenue  
Dallas, TX 75201  
Telephone: (214) 981-3800  
Facsimile: (214) 981-3839  
Email: bstanton@lynnllp.com  
Email: jvolney@lynnllp.com  
Email: tcox@lynnllp.com  
Email: epinker@lynnllp.com  
Email: jeisenberg@lynnllp.com  
Email: jnewsome@lynnllp.com

Robert S. Hoff  
WIGGIN & DANA, LLP  
265 Church Street  
New Haven, CT 06510  
Telephone: (203) 498-4400  
Facsimile: (203) 363-7676  
Email: rhoff@wiggin.com

**ATTORNEYS FOR DEFENDANTS PURDUE PHARMA, LP,  
PURDUE PHARMA, INC., AND THE PURDUE FREDERICK  
COMPANY, INC.**

Robert G. McCampbell  
Travis V. Jett  
Ashley E. Quinn  
Nicholas V. Merkle  
GABLEGOTWALS  
15th Floor  
One Leadership Square  
211 North Robinson  
Oklahoma City, OK 73102-7255  
Telephone: (405) 235-5567  
Email: rmccampbell@gablelaw.com  
Email: tjett@gablelaw.com  
Email: aquinn@gablelaw.com  
Email: nmerkle@gablelaw.com

Of Counsel:

Steven A. Reed  
Rebecca J. Hillyer  
MORGAN, LEWIS & BOCKIUS, LLP  
1701 Market Street  
Philadelphia, PA 19103-2321  
Telephone: (215) 963-5000  
Email: steven.reed@morganlewis.com  
Email: rebecca.hillyer@morganlewis.com

Harvey Bartle, IV  
Mark A. Fiore  
MORGAN, LEWIS & BOCKIUS, LLP  
502 Carnegie Center  
Princeton, NJ 08540-6241  
Telephone: (609) 919-6600  
Email: harvey.bartle@morganlewis.com  
Email: mark.fiore@morganlewis.com

Brian M. Ercole  
MORGAN, LEWIS & BOCKIUS, LLP  
Suite 5300  
200 South Biscayne Boulevard  
Miami, FL 33131  
Email: brian.ercole@morganlewis.com

**ATTORNEYS FOR DEFENDANTS CEPHALON, INC., TECA  
PHARMACEUTICALS USA, INC., WATSON LABORATORIES, INC.,  
ACTAVIS, LLC, AND ACTAVIS PHARMA, INC. F/K/A WATSON  
PHARMA, INC.**



John H. Sparks

**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.**

---

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

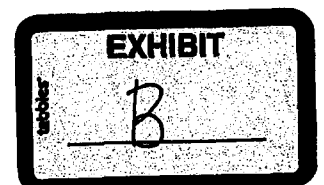
William C. Hetherington  
Special Discovery Master

**DEFENDANT JANSSEN'S THIRD SET OF INTERROGATORIES TO PLAINTIFF**

Pursuant to 12 O.S. § 3233, Defendants Johnson & Johnson and Janssen Pharmaceuticals, Inc. ("Janssen") submit the following interrogatories to the Plaintiff State of Oklahoma ("the State"). You are required to answer each interrogatory separately and fully under oath, and to serve a copy of the answers upon counsel for Janssen within 30 days of service of these interrogatories.

**INSTRUCTIONS**

1. These interrogatories are directed toward all knowledge or information known or available to the State, including knowledge or information in the possession, custody, or control of the State's employees, agents, investigators, consultants, representatives, attorneys (subject to any otherwise applicable privileges), or any other person or entity within the State's control, or available to it upon reasonable inquiry. Where interrogatories cannot be answered in full, they shall be answered as completely as possible, and incomplete answers shall be accompanied by a specification of the reasons for the incompleteness of the answer and of whatever knowledge,



information, or belief You possess with respect to each unanswered or incompletely answered interrogatory, including an identification or description of all other sources of more complete or accurate information.

2. Pursuant to 12 O.S. § 3226(E), these interrogatories shall be deemed continuing so as to require amended answers if You obtain information on the basis of which You know that any response made was incorrect when made or, although correct when made, is no longer true.

3. As to every interrogatory which You fail to answer in whole or in part on the ground that the information sought involves a document or oral communication which You contend to be privileged or otherwise protected from disclosure, state in detail:

- a. the portion of the interrogatory to which the response is claimed to be privileged;
- b. the identification of the document, as defined below;
- c. the general subject matter of the document or communication;
- d. the author and all recipients of any document, and the persons involved in any oral communication;
- e. the identity of any other persons having knowledge of the document or communication involved;
- f. the nature of the privilege claimed; and
- g. every fact on which You base the claim of privilege or that the information need not be disclosed.

4. Each Interrogatory relates to the Relevant Time Period unless otherwise specified.

5. Where You have a good faith doubt as to the meaning or intended scope of an interrogatory, and Your sole objection would be to its vagueness, please contact counsel for

Janssen in advance of asserting an unnecessary objection. The undersigned counsel will provide additional clarification or explanation as needed.

6. If You answer an Interrogatory by reference to Documents from which the answer may be derived or ascertained, please: (i) describe the Documents or things to be provided in sufficient detail to permit the location and ascertainment of the answer, including any document production number; (ii) provide any relevant compilations, abstracts, or summaries of the Documents or things in Your possession, custody, or control; (3) state the identity of the file or files in which each such Document or thing is or was found; and (4) produce the Documents or things for inspection and copying.

#### DEFINITIONS

1. "Claim" is any request for payment or reimbursement.
2. "Communication(s)" is any unilateral, bilateral, or multilateral assertion, disclosure, statement, conduct, transfer, or exchange of information or opinion, including omissions, however made, whether oral, written, telephonic, photographic, or electronic.
3. "Doctor(s)" refers to any healthcare provider who is authorized to prescribe any controlled substance in Schedule II-V.
4. "Identify" with respect to individuals shall mean, and shall require You to identify specific individuals by name.
5. "Oklahoma Agency" or "Oklahoma Agencies" collectively refers to any State entity involved in regulating, monitoring, approving, reimbursing, or prosecuting the prescription, dispensing, purchase, sale, use, or abuse of controlled substances in Oklahoma, including, but not limited to, the Oklahoma Office of the Governor, Oklahoma Legislature, 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, Office of the Medical Examiner of the State of Oklahoma, University of Oklahoma College of Pharmacy, and their respective predecessors, supervisory and subordinate organizations, and current or former employees.

6. "Opioid(s)" refers to FDA-approved pain-reducing medications consisting of natural or synthetic chemicals that bind to receptors in a patient's brain or body to produce an analgesic effect.

7. "Patient(s)" is any human being to whom an Opioid is prescribed or dispensed.

8. "Person(s)" is any natural or legal person.

9. "Prescribing Behaviors" refers to a Doctor's compliance, or lack of compliance, with all federal and state laws and regulations pertaining to the prescribing of controlled substances.

10. "Relevant Time Period" means May 1, 1996 to the present, per the Discovery Master's Order of April 4, 2018.

11. "You," "Your," "State," "Oklahoma," and "Plaintiff" refer to the sovereign State of Oklahoma and all its departments, agencies, and instrumentalities, including current and former employees, any Vendor, and other persons or entities acting on the State's behalf.

12. The words "and" and "or" shall be construed conjunctively as well as disjunctively, whichever makes the request more inclusive.

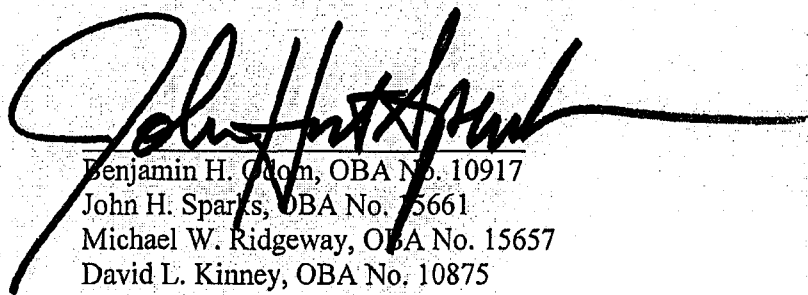
13. "Any" includes "all" and vice versa.
14. "Each" includes "every" and vice versa.
15. The term "including" shall be construed to mean "including but not limited to."
16. The singular of each word includes its plural and vice versa.

#### **INTERROGATORIES**

20. To the extent Your response to Request for Admission No. 1 is anything other than an unqualified admission, Identify all Oklahoma Doctors who were misled, and for each, the specific Janssen Communication(s) that misled the Doctor.

21. To the extent Your response to Request for Admission No. 2 is anything other than an unqualified admission, Identify all Oklahoma Doctors who were unable to accurately counsel their patients about the risks or benefits of prescription Opioid medications as a result of any Communication made, sponsored, or supported by Janssen.

22. To the extent Your response to Request for Admission No. 3 is anything other than an unqualified admission, Identify all Claims for reimbursement of Opioid prescriptions that were denied by You after they were written by a Doctor who was under investigation or prosecution for their Prescribing Behaviors.



Benjamin H. Odom, OBA No. 10917  
John H. Sparks, OBA No. 75661  
Michael W. Ridgeway, OBA No. 15657  
David L. Kinney, OBA No. 10875  
ODOM, SPARKS & JONES, PLLC  
Suite 140  
HiPoint Office Building  
2500 McGee Drive  
Norman, OK 73072  
Telephone: (405) 701-1863  
Facsimile: (405) 310-5394  
Email: odomb@odomsparks.com  
Email: sparksj@odomsparks.com  
Email: ridgewaym@odomsparks.com  
Email: kinneyd@odomsparks.com

Larry D. Ottaway, OBA No. 6816  
Amy Sherry Fischer, OBA No. 16651  
Andrew Bowman, OBA No. 22071  
FOLIART, HUFF, OTTAWAY & BOTTOM  
12th Floor  
201 Robert S. Kerr Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 232-4633  
Facsimile: (405) 232-3462  
Email: larryottaway@oklahomacounsel.com  
Email: amyfischer@oklahomacounsel.com  
Email: andrewbowman@oklahomacounsel.com

Of Counsel:

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

Stephen D. Brody  
David 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.**

**CERTIFICATE OF MAILING**

Pursuant to Okla. Stat. tit. 12, § 2005(D), and by agreement of the parties this is to certify on December 10th, 2018, a true and correct copy of the above and foregoing has been served via electronic mail, to the following:

Mike Hunter  
ATTORNEY GENERAL FOR  
THE STATE OF OKLAHOMA  
Abby Dillsaver  
Ethan Shaner  
GENERAL COUNSEL TO  
THE ATTORNEY GENERAL  
313 NE 21st  
Oklahoma City, OK 73105  
Telephone: (405) 521-3921  
Facsimile: (405) 521-6246  
Email: mike.hunter@oag.ok.gov  
Email: abby.dillsaver@oag.ok.gov  
Email: ethan.shaner@oag.ok.gov

Michael Burrage  
Reggie Whitten  
J. Revell Parrish  
WHITTEN BURRAGE  
Suite 300  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: mburrage@whittenburragelaw.com  
Email: rwhitten@whittenburragelaw.com  
Email: rparrish@whittenburragelaw.com

Bradley Beckworth  
Jeffrey Angelovich  
Lloyd Nolan Duck, III  
Andrew Pate  
Lisa Baldwin  
Brooke A. Churchman  
Nathan Hall  
NIX, PATTERSON, LLP  
Suite 200  
512 North Broadway Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 516-7800  
Facsimile: (405) 516-7859  
Email: bbeckworth@nixlaw.com  
Email: jangelovich@nixlaw.com  
Email: tduck@nixlaw.com  
Email: dpate@nixlaw.com  
Email: lbaldwin@nixlaw.com  
Email: bchurchman@nixlaw.com  
Email: nhall@nixlaw.com

Glenn Coffee  
GLENN COFFEE & ASSOCIATES, PLLC  
915 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 601-1616  
Email: gcoffee@glenncoffee.com

**ATTORNEYS FOR PLAINTIFF**

Sanford C. Coats  
Joshua D. Burns  
CROWE & DUNLEVY, PC  
Suite 100  
Braniff Building  
324 North Robinson Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 235-7700  
Facsimile: (405) 272-5269  
Email: sandy.coats@crowedunlevy.com  
Email: joshua.burns@crowedunlevy.com

Of Counsel:

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Lindsay N. Zanello  
Bert L. Wolff  
DECHERT, LLP  
Three Bryant Park  
1095 Avenue of Americas  
New York, NY 10036-6797  
Telephone: (212) 698-3500  
Facsimile: (212) 698-3599  
Email: sheila.birnbaum@dechert.com  
Email: mark.cheffo@dechert.com  
Email: hayden.coleman@dechert.com  
Email: paul.lafata@dechert.com  
Email: lindsay.zanello@dechert.com  
Email: bert.wolff@dechert.com

Benjamin F. McAnaney  
DECHERT, LLP  
2929 Arch Street  
Philadelphia, PA 19104  
Telephone: (215) 994-4000  
Facsimile: (215) 655-2043  
Email: benjamin.mcananey@dechert.com

Erik W. Snapp  
DECHERT, LLP  
Suite 3400  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone: (212)849-7000  
Facsimile: (212) 849-7100  
Email: erik.snapp@dechert.com

Jonathan S. Tam  
Jae Hong Lee  
DECHERT, LLP  
16th Floor  
One Bush Street  
San Francisco, CA 94104  
Telephone: (415) 262-4500  
Facsimile: (415) 262-4555  
Email: jonathan.tam@dechert.com  
Email: jae.lee@dechert.com

Britta E. Stanton  
John D. Volney  
John T. Cox, III  
Eric W. Pinker  
Jared D. Eisenberg  
Jervonne D. Newsome  
LYNN PINKER COX & HURST, LLP  
Suite 2700  
2100 Ross Avenue  
Dallas, TX 75201  
Telephone: (214) 981-3800  
Facsimile: (214) 981-3839  
Email: bstanton@lynnllp.com  
Email: jvolney@lynnllp.com  
Email: tcox@lynnllp.com  
Email: epinker@lynnllp.com  
Email: jeisenberg@lynnllp.com  
Email: jnewsome@lynnllp.com

Robert S. Hoff  
WIGGIN & DANA, LLP  
265 Church Street  
New Haven, CT 06510  
Telephone: (203) 498-4400  
Facsimile: (203) 363-7676  
Email: rhoff@wiggins.com



**ATTORNEYS FOR DEFENDANTS PURDUE PHARMA, LP,  
PURDUE PHARMA, INC., AND THE PURDUE FREDERICK  
COMPANY, INC.**

Robert G. McCampbell  
Travis V. Jett  
Ashley E. Quinn  
Nicholas V. Merkley  
GABLEGOTWALS  
15th Floor  
One Leadership Square  
211 North Robinson  
Oklahoma City, OK 73102-7255  
Telephone: (405) 235-5567  
Email: rmccampbell@gablelaw.com  
Email: tjett@gablelaw.com  
Email: aquinn@gablelaw.com  
Email: nmerkley@gablelaw.com

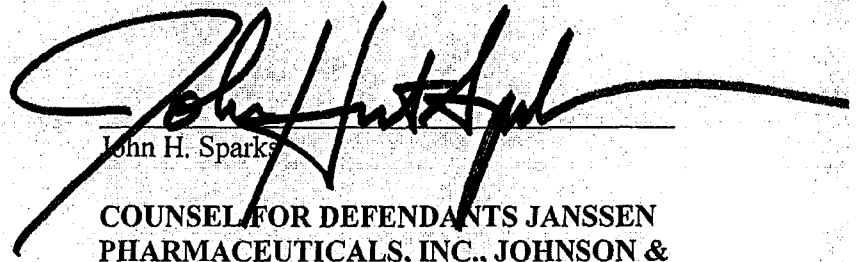
Of Counsel:

Steven A. Reed  
Rebecca J. Hillyer  
MORGAN, LEWIS & BOCKIUS, LLP  
1701 Market Street  
Philadelphia, PA 19103-2321  
Telephone: (215) 963-5000  
Email: steven.reed@morganlewis.com  
Email: rebecca.hillyer@morganlewis.com

Harvey Bartle, IV  
Mark A. Fiore  
MORGAN, LEWIS & BOCKIUS, LLP  
502 Carnegie Center  
Princeton, NJ 08540-6241  
Telephone: (609) 919-6600  
Email: harvey.bartle@morganlewis.com  
Email: mark.fiore@morganlewis.com

Brian M. Ercole  
MORGAN, LEWIS & BOCKIUS, LLP  
Suite 5300  
200 South Biscayne Boulevard  
Miami, FL 33131  
Email: brian.ercole@morganlewis.com

**ATTORNEYS FOR DEFENDANTS CEPHALON, INC., TECA  
PHARMACEUTICALS USA, INC., WATSON LABORATORIES, INC.,  
ACTAVIS, LLC, AND ACTAVIS PHARMA, INC. F/K/A WATSON  
PHARMA, INC.**



John H. Sparks

**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.**

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

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. §

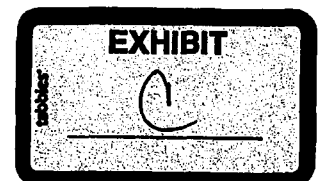
Case No. CJ-2017-816

The Honorable Thad Balkman

JURY TRIAL DEMANDED

**PLAINTIFF'S RESPONSES AND OBJECTIONS TO DEFENDANT JANSSEN'S FIRST  
REQUESTS FOR ADMISSION TO PLAINTIFF**

Pursuant to 12 OKLA. STAT. §3236, Plaintiff, the State of Oklahoma (the "State" or "Plaintiff"), hereby submits its Responses and Objections to Defendant Janssen Pharmaceuticals, Inc.'s ("Janssen" or "Defendant") First Requests for Admission to Plaintiff ("Requests"). The State specifically reserves the right to supplement, amend and/or revise these Responses and Objections in accordance with 12 OKLA. STAT. §3226.



## GENERAL OBJECTIONS

1. By responding to Defendant's Requests, the State concedes neither the relevance nor admissibility of any information provided or documents or other materials produced in response to such Requests. The production of information or documents or other materials in response to any specific Request does not constitute an admission that such information is probative of any particular issue in this case. Such production or response means only that, subject to all conditions and objections set forth herein and following a reasonably diligent investigation of reasonably accessible and non-privileged information, the State believes the information provided is responsive to the Request.

2. The State objects that much of the Requests sought are premature and, as such, provides the responses set forth herein solely based upon information presently known to and within the possession, custody or control of the State. Discovery is ongoing in this action. Subsequent discovery, information produced by Defendant or the other named Defendants in this litigation, investigation, expert discovery, third-party discovery, depositions and further analysis may result in additions to, changes or modifications in, and/or variations from the responses and objections set forth herein. Accordingly, the State specifically and expressly reserves the right to supplement, amend and/or revise the responses and objections set forth herein in due course and in accordance with 12 OKLA. STAT. §3226.

3. The State objects to Defendant's Requests as ambiguous, overly broad, disproportionate to the needs of the case, seeking to impose a burden on the State that exceeds what is permissible under Oklahoma law, seeking information protected from disclosure by privilege and/or the work product doctrine, and calling for information that is not in the possession,

custody or control of and is not reasonably accessible to the State. To the extent the State can and does provide a response to any Request, the State's response is based on the information known to and within the possession, custody and control of the State following a reasonably diligent investigation.

4. The State objects to Defendant's Requests as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe its medications. Indeed, Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy and is aware of the identity of Oklahoma doctors receiving communications made, sponsored, and/or supported by Defendant.

5. The State objects to Defendant's Requests to the extent they attempt to suggest or assume the elements of any of the State's causes of action or otherwise seek to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law.

6. The State objects to Defendant's Requests as seeking confidential and sensitive information protected from disclosure under both State and federal statutes, rules, regulations. Specifically, the State objects to Defendant's Requests as seeking protected health information prohibited from disclosure under the Health Insurance Portability and Accountability Act ("HIPAA"), 42 C.F.R. Part 2, and other State and federal statutes, rules, and regulations.

7. The State objects to Defendant's Requests as seeking information regarding health care providers that the Court has held to be outside of the scope of proper discovery. *See* October 10, 2018 Order.

8. The State further objects to the Defendant's Requests as calling for information regarding ongoing investigations or confidential criminal investigatory files that the Court has held to be outside of the scope of proper discovery. *See* October 22, 2018 Order; December 3, 2018 Order; December 20, 2018 Order.

### **OBJECTIONS TO DEFINITIONS**

1. The State objects to Defendant's Definition Number 1 of the term "Claim" as vague, overbroad, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, irrelevant and unworkable. "[A]ny request for payment or reimbursement" encompasses an infinitely unlimited amount of information that has no bearing whatsoever on the parties to this action or the claims or defenses asserted in this action. Based on the claims and defenses at issue in this case, the State will reasonably interpret the term "claim" to mean a request for payment or reimbursement submitted to the Oklahoma Health Care Authority pursuant to Oklahoma's Medicaid Program as related to the claims and defenses at issue in this litigation.

2. The State objects to Defendant's Definition Number 2 of the term "Communication(s)" as vague, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, unworkable and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. Specifically, the State objects to the terms "conduct" and "omissions" in Defendant's purported Definition Number 3. The State will reasonably interpret the term "communication(s)" to mean the transmittal of information between two or more persons, whether spoken or written.

3. The State objects to Defendant's Definition Number 3 of the term "Doctor(s)". Defendant's proposed definition is overly broad, irrelevant to the claims and defenses at issue, unduly burdensome and disproportionate to the needs of the case in that the definition is not limited

in any way to the State of Oklahoma or any particular time period. The State will reasonably construe the use of these terms to mean doctors who provided medical or health care services in the State of Oklahoma to citizens—not “animals”—in the State of Oklahoma from the relevant time period as ordered by the Court to the date Defendant’s Requests were served.

4. The State objects to Defendant’s Definition Number 4 of the term “Identify” as overly broad, irrelevant to the claims and defenses at issue, unduly burdensome, disproportionate to the needs of the case, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law and in violation of the Court’s October 10, 2018 Order.

5. The State objects to Defendant’s Definition Number 5 of the terms “Oklahoma Agency” or “Oklahoma Agencies” as overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, disproportionate to the needs of the case, and improperly calling for information that is not in the possession, custody or control of the State. The State will reasonably construe the terms “Oklahoma Agency” or “Oklahoma Agencies” to mean agencies of the State of Oklahoma represented in this action and over whom the State of Oklahoma, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

6. The State objects to Defendant’s Definition Number 6 of the term “Opioid(s)” as misleading because of its use of the terms “FDA-approved” and “pain-reducing” and because it is defined without regard to any of the pharmaceutical products or drugs at issue in this case. The State will reasonably construe the terms “Opioid(s)” to mean the opioid medications or drugs related to the claims and defenses at issue in this litigation.

7. The State objects to Defendant’s Definition Number 7 of the term “Patient(s).” This definition—“any human being to whom an Opioid is prescribed or dispensed”—is overly



broad, unduly burdensome, irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of the case on its face because it lacks any geographical or temporal limitation that has any bearing on this case, and could be construed to seek information outside the State's possession, custody, or control. The State will reasonably construe the term "patient" to mean an individual who was prescribed an Opioid in the State of Oklahoma from the relevant time period as ordered by the Court to the date Defendant's Requests were served.

8. The State objects to Defendant's Definition Number 9 of the term "Prescribing Behaviors" as vague, ambiguous, overly broad, unduly burdensome, irrelevant to the claims and defenses at issue in this action, and disproportionate to the needs of the case. The State will reasonably interpret the term "Prescribing Behaviors" to relate to investigation or prosecution by the State of Oklahoma of a doctor licensed in Oklahoma related to opioids during the relevant time period as ordered by the Court.

9. The State objects to Defendant's Definition Number 11 of the terms "You," "Your," "State," "Oklahoma," and "Plaintiff" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control because the definition attempts to require the State to not simply respond on its own behalf, but also on behalf of "all its departments, agencies, and instrumentalities" without regard for whether the State represents such entities in this litigation and maintains sufficient control over such entities to enable the State to have reasonable access to or possession, custody or control of such entities' records. The State will respond on behalf of the State and those State agencies represented in this litigation and over which the State, through the

Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

### **RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Admit that You cannot Identify any Oklahoma Doctors who were misled about the risks or benefits of prescription Opioid medications by any Communication made, sponsored, or supported by Janssen.

#### **RESPONSE:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definition of the terms "You," "Identify", "Doctor", "Opioid", and "Communication", as if fully set forth herein.

The State further objects to this Request because it is a premature attempt to force the State to marshal all of its evidence before required or appropriate under the Oklahoma Code of Civil Procedure or the Court's scheduling Order.

The State objects to this Request as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe its medications. Indeed, Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy and is aware of the identity of Oklahoma doctors receiving communications made, sponsored, and/or supported by Defendant.

The State objects to this Request to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. Specifically, the State objects to this Request to the extent it suggests or assumes Defendant must have made a

misrepresentation directly to an Oklahoma doctor to be liable for the State's claims under the Oklahoma Medicaid False Claims Act.

The State objects to this Request as it seeks information regarding healthcare providers that the Court has held to be outside of the scope of proper discovery. *See* October 10, 2018, Order (order by Judge Hetherington denying Defendants' motion to compel); December 4, 2018, Order (order by Judge Balkman affirming October 10 order).

**REQUEST FOR ADMISSION NO. 2:** Admit that You cannot Identify any Oklahoma Doctors who were unable to accurately counsel their patients about the risks or benefits of prescription Opioid medications as a result of any Communication made, sponsored, or supported by Janssen.

**RESPONSE:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definition of the terms "You", "Identify", "Doctor", "Opioid", and "Communication", as if fully set forth herein.

See objections and response to Request for Admission No. 1 above, which are hereby incorporated by this reference as if fully set forth herein.

The State further objects to this Request as it seeks information regarding healthcare providers that the Court has held to be outside of the scope of proper discovery. *See* October 10, 2018, Order (order by Judge Hetherington denying Defendants' motion to compel); December 4, 2018, Order (order by Judge Balkman affirming October 10 order).

**REQUEST FOR ADMISSION NO. 3:** Admit that, for every Doctor who has been investigated or prosecuted by the State of Oklahoma for their Prescribing Behaviors, You reimbursed Claims for Opioid prescriptions that were written by that Doctor and submitted for reimbursement while such investigation or prosecution was ongoing.

**RESPONSE:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definition of the terms "You," "Doctor", "Opioid", "Claim", and "Prescribing Behaviors", as if fully set forth herein.

See objections and response to Request for Admission No. 1 above, which are hereby incorporated by this reference as if fully set forth herein.

The State further objects to this Request as calling for information, in violation of the Court's orders, regarding ongoing investigations or confidential investigatory files that the Court has held to be outside of the scope of proper discovery. *See* October 22, 2018, Order; December 3, 2018, Order; December 20, 2018, Order.

DATED: January 9, 2019

Respectfully submitted,

*/s/ Michael Burrage*

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@whittenburragelaw.com

rwhitten@whittenburragelaw.com

rparish@whittenburragelaw.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 January 9, 2019 to:

**Purdue Pharma LP, Purdue Pharma Inc, Purdue Frederick Company:**

Sanford C. Coats  
Joshua D. Burns  
CROWE & DUNLEVY, P.C.  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Marina L. Schwarz  
Lindsay Zanello  
Erik Snapp  
DECHERT LLP  
Three Bryant Park  
1095 Avenue of the Americas  
New York, NY 10036

Jonathan S. Tam  
Jae Hong Lee  
DECHERT LLP  
One Bush Drive, Suite 1600  
San Francisco, CA 94104

Benjamin Franklin McAnaney  
DECHERT LLP  
2929 Arch Street  
Philadelphia, PA 19104

Britta Erin Stanton  
John D. Volney  
John Thomas Cox III  
Eric Wolf Pinker  
Jervonne Denise Newsome  
Jared Daniel Eisenberg  
John Thomas Cox III  
Elizabeth Ryan  
Andrea Brown  
LYNN PINKER COX & HURST LLP  
2100 Ross Avenue, Suite 2700  
Dallas, TX 75201

Robert S. Hoff  
WIGGIN AND DANA LLP  
265 Church Street  
New Haven, CT 06510

**Johnson & Johnson, Janssen Pharmaceuticals Inc, Ortho McNeil Janssen Pharmaceuticals Inc., Janssen Pharmaceuticals Inc., Janssen Pharmaceutica Inc.:**

Benjamin H. Odom  
John H. Sparks  
Michael W. Ridgeway  
David L. Kinney  
ODOM, SPARKS & JONES PLLC  
HiPoint Office Building  
2500 McGee Drive Ste. 140  
Norman, OK 73072

Larry D. Ottaway

Amy Sherry Fischer  
FOLIART, HUFF, OTTAWAY & BOTTOM  
201 Robert S. Kerr Avenue, 12<sup>th</sup> Floor  
Oklahoma City, OK 73102

Stephen D. Brody  
David K. Roberts  
O'MELVENY & MYERS LLP  
1625 Eye Street NW  
Washington, DC 20006

Charles C. Lifland  
Jennifer D. Cardelus  
Wallace M. Allan  
Sabrina H. Strong  
Esteban Rodriguez  
Houman Ehsan  
O'MELVENY & MYERS LLP  
400 S. Hope Street  
Los Angeles, CA 90071

Jeffrey Barker  
O'MELVENY & MYERS LLP  
610 Newport Center Drive  
Newport Beach, CA 92660

Daniel J. Franklin  
Ross Galin

**Allergan Plc, Actavis Plc, Actavis Inc., Watson Laboratories Inc., Watson Pharmaceuticals Inc., Actavis Llc, Actavis Pharma Inc., Watson Pharma Inc.:**

Robert G. McCampbell  
Travis J. Jett  
Nicholas V. Merkley  
Ashley E. Quinn  
GABLEGOTWALS  
One Leadership Square, 15th Floor  
211 North Robinson  
Oklahoma City, OK 73102-7255

Brian M. Ercole  
Martha Leibell  
Melissa Coates  
MORGAN, LEWIS & BOCKIUS LLP  
200 S. Biscayne Blvd., Suite 5300  
Miami, FL 33131

Desirae Krislie Cubero Tongco  
O'MELVENY & MYERS LLP  
7 Times Square  
New York, NY 10036

Amy Riley Lucas  
Jessica Waddle  
O'MELVENY & MYERS LLP  
1999 Avenue of the Stars, 8<sup>th</sup> Floor  
Los Angeles, California 9006

Steven A. Reed  
Harvey Bartle IV  
Jeremy A. Menkowitz  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

Mark A. Fiore  
MORGAN, LEWIS & BOCKIUS LLP  
502 Carnegie Center  
Princeton, NJ 08540

/s/ Michael Burrage  
Michael Burrage





## **GENERAL OBJECTIONS**

1. By responding to Defendant's interrogatories, the State concedes neither the relevance nor admissibility of any information provided or documents or other materials produced in response to such requests. The production of information or documents or other materials in response to any specific interrogatory does not constitute an admission that such information is probative of any particular issue in this case. Such production or response means only that, subject to all conditions and objections set forth herein and following a reasonably diligent investigation of reasonably accessible and non-privileged information, the State believes the information provided is responsive to the request.

2. The State objects that much of the requests sought are premature and, as such, provides the responses set forth herein solely based upon information presently known to and within the possession, custody or control of the State. Discovery has only just begun in this action. Subsequent discovery, information produced by Defendant or the other named Defendants in this litigation, investigation, expert discovery, third-party discovery, depositions and further analysis may result in additions to, changes or modifications in, and/or variations from the responses and objections set forth herein. Accordingly, the State specifically and expressly reserves the right to supplement, amend and/or revise the responses and objections set forth herein in due course and in accordance with 12 OKLA. STAT. §3226.

3. The State further objects to the compound nature of Defendant's Third Interrogatories and will appropriately construe any compound Interrogatories as consisting of separate Interrogatories that count towards the total number of interrogatories to which the State must respond. However, any response to a compound interrogatory herein shall not constitute a

waiver of the State's objection to the Interrogatory's compound nature or the State's right to refuse to respond to any interrogatories that exceed the number of interrogatories to which the State must respond under Section 3233(A).

### **OBJECTIONS TO INSTRUCTIONS**

1. The State objects to Defendant's Instruction Number 1 as vague, ambiguous, overly broad, disproportionate to the needs of the case, seeking to impose a burden on the State that exceeds what is permissible under Oklahoma law, seeking information protected from disclosure by privilege and/or the work product doctrine, and calling for information that is not in the possession, custody or control of and is not reasonably accessible to the State. To the extent the State can and does provide a response to any interrogatory, the State's response is based on the information known to and within the possession, custody and control of the State following a reasonably diligent investigation. The State further objects to Defendant's Instruction Number 1 to the extent that it attempts to require the State to describe or identify sources of information outside the State's possession, custody or control. The State will object and/or respond to each interrogatory in accordance with 12 OKLA. STAT. §3233.

2. The State objects to Defendant's Instruction Number 2, which states that Defendant's requests are "continuing," as seeking to impose a burden upon the State that is beyond what is permissible under Oklahoma law. The State will respond to Defendant's interrogatories based on a reasonably diligent investigation of the information currently known to and within the possession, custody and control of the State, and the State will amend or supplement its responses, if necessary, in accordance with 12 OKLA. STAT. §3226.

3. The State objects to Defendant's Instruction Number 3 as ambiguous, vague, unreasonable, overbroad, unduly burdensome and an impermissible attempt to impose a burden

upon the State beyond what is allowable under Oklahoma law. To the extent the State withholds otherwise discoverable information on the basis of any claim of privilege or work-product trial preparation material, the State will supply Defendant with the information required under Oklahoma law related to such information at the appropriate time and/or in accordance with the orders of the Court. *See* 12 OKLA. STAT. §3226(B)(5)(a). To the extent the State withholds any information for any other reasons, the State will comply with its obligations under Oklahoma law.

4. The State objects to Defendant's Instruction Number 5 because it seeks to impose a burden on the State beyond those permitted or contemplated under Oklahoma law. The State will respond to Defendant's requests according to how they are written. To the extent Defendant chose to use vague or indecipherable terms, the State will reasonably construe such term based upon their plain and ordinary meaning.

5. The State objects to Defendant's Instruction Number 6 because it seeks to impose a burden on the State beyond what is permitted under Oklahoma law. If the State answers an interrogatory by reference to its business records, the State will do so in the manner permitted under 12 OKLA. STAT. §3233(C) and provide the information called for by that statute.

#### **OBJECTIONS TO DEFINITIONS**

1. The State objects to Defendant's Definition Number 1 of the term "Claim" as vague, overbroad, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, irrelevant and unworkable. "[A]ny request for payment or reimbursement" encompasses an infinitely unlimited amount of information that has no bearing whatsoever on the parties to this action or the claims or defenses asserted in this action. Based on the claims and defenses at issue in this case, the State will reasonably interpret the term "claim" to mean a request

for payment or reimbursement submitted to the Oklahoma Health Care Authority pursuant to Oklahoma's Medicaid Program as related to the claims and defenses at issue in this litigation.

2. The State objects to Defendant's Definition Number 2 of the term "Communication(s)" as vague, ambiguous, unduly burdensome, disproportionate to the needs of the case, unreasonable, unworkable and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law. Specifically, the State objects to the terms "conduct" and "omissions" in Defendant's purported Definition Number 3. The State will reasonably interpret the term "communication(s)" to mean the transmittal of information between two or more persons, whether spoken or written.

3. The State objects to Defendant's Definition Number 3 of the term "Doctor(s)". Defendant's proposed definition is overly broad, irrelevant to the claims and defenses at issue, unduly burdensome and disproportionate to the needs of the case in that the definition is not limited in any way to the State of Oklahoma or any particular time period. The State will reasonably construe the use of these terms to mean doctors who provided medical or health care services in the State of Oklahoma to citizens—not "animals"—in the State of Oklahoma from the relevant time period as ordered by the Court to the date Defendant's Interrogatories were served.

4. The State objects to Defendant's Definition Number 4 of the term "Identify" as overly broad, irrelevant to the claims and defenses at issue, unduly burdensome, disproportionate to the needs of the case, and seeking to impose a burden upon the State beyond what is permissible under Oklahoma law and in violation of the Court's October 10, 2018 Order.

5. The State objects to Defendant's Definition Number 5 of the terms "Oklahoma Agency" or "Oklahoma Agencies" as overly broad, unduly burdensome, irrelevant to the claims and defenses in this action, disproportionate to the needs of the case, and improperly calling for

information that is not in the possession, custody or control of the State. The State will reasonably construe the terms “Oklahoma Agency” or “Oklahoma Agencies” to mean agencies of the State of Oklahoma represented in this action and over whom the State of Oklahoma, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

6. The State objects to Defendant’s Definition Number 6 of the term “Opioid(s)” as misleading because of its use of the terms “FDA-approved” and “pain-reducing” and because it is defined without regard to any of the pharmaceutical products or drugs at issue in this case. The State will reasonably construe the terms “Opioid(s)” to mean the opioid medications or drugs related to the claims and defenses at issue in this litigation.

7. The State objects to Defendant’s Definition Number 7 of the term “Patient(s).” This definition—“any human being to whom an Opioid is prescribed or dispensed”—is overly broad, unduly burdensome, irrelevant to the claims and defenses at issue in this action and disproportionate to the needs of the case on its face because it lacks any geographical or temporal limitation that has any bearing on this case, and could be construed to seek information outside the State’s possession, custody, or control. The State will reasonably construe the term “patient” to mean an individual who was prescribed an Opioid in the State of Oklahoma from the relevant time period as ordered by the Court to the date Defendant’s Interrogatories were served.

8. The State objects to Defendant’s Definition Number 9 of the term “Prescribing Behaviors” as vague, ambiguous, overly broad, unduly burdensome, irrelevant to the claims and defenses at issue in this action, and disproportionate to the needs of the case. The State will reasonably interpret the term “Prescribing Behaviors” to relate to investigation or prosecution by

the State of Oklahoma of a doctor licensed in Oklahoma related to opioids during the relevant time period as ordered by the Court.

9. The State objects to Defendant's Definition Number 11 of the terms "You," "Your," "State," "Oklahoma," and "Plaintiff" as overly broad, unduly burdensome, disproportionate to the needs of the case, seeking to impose a burden upon the State that exceeds what is permitted under Oklahoma law, and calling for information that is not within the State's possession, custody or control because the definition attempts to require the State to not simply respond on its own behalf, but also on behalf of "all its departments, agencies, and instrumentalities" without regard for whether the State represents such entities in this litigation and maintains sufficient control over such entities to enable the State to have reasonable access to or possession, custody or control of such entities' records. The State will respond on behalf of the State and those State agencies represented in this litigation and over which the State, through the Office of the Attorney General, maintains sufficient control to allow the State to have reasonable access to and possession of responsive information maintained by the agency.

#### **RESPONSES AND OBJECTIONS TO INTERROGATORIES**

**INTERROGATORY NO. 20:** To the extent Your response to Request for Admission No. 1 is anything other than an unqualified admission, Identify all Oklahoma Doctors who were misled, and for each, the specific Janssen Communication(s) that misled the Doctor.

#### **RESPONSE TO INTERROGATORY NO. 20:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definition of the term "Your", "Identify", "Doctor", and "Communication" as if fully set forth herein.

The State further objects to this Interrogatory because it is a premature contention interrogatory that attempts to force the State to marshal all of its evidence before required or appropriate under the Oklahoma Code of Civil Procedure or the Court's scheduling Order. *See* 12 OKLA. STAT. §3233(B). Because this Interrogatory seeks the identity of documents and materials while the State may be reasonably collecting, searching, reviewing, and producing, the State will supplement and/or amend its response to this Interrogatory in accordance with 12 OKLA. STAT. §3226 and 12 OKLA. STAT. §3233(C).

The State further objects to this interrogatory as overbroad, unduly burdensome, vague, ambiguous, disproportionate to the needs of the case, calling for information that is not within the State's possession, custody or control, and seeking information that is irrelevant to the claims and defenses at issue in this case. The request to identify every doctor misled by Defendants and each and every communication made by Defendants related to both branded opioids and opioids generally that misled doctors in Oklahoma—all of which misrepresentations were intended to change the way healthcare providers thought about opioids and to encourage over-prescribing of opioids—for a period of over two decades is overbroad and unduly burdensome on its face. Further, the State is not required in this litigation to identify each and every misleading communication made by Defendants or to tie specific misleading communications to specific doctors in Oklahoma or each false or fraudulent claim reimbursed by the State. The State will prove its claims as required by Oklahoma law and in accordance with the applicable rules of evidence.

The State further objects to this Interrogatory as seeking information within Defendant's possession, custody or control. Specifically, Defendant monitors and tracks healthcare providers' prescribing practices and is aware of the providers who prescribe their medications. Indeed,

Defendant utilizes such information to strategically determine which doctors to attack with its sales force and what sales tactics to deploy and is aware of the identity of Oklahoma doctors receiving communications made, sponsored, and/or supported by Defendant.

The State further objects to this interrogatory to the extent it attempts to suggest or assume the elements of any of the State's causes of action or otherwise seeks to impose any burden(s) or element(s) of proof that do not exist under or that are inconsistent with Oklahoma law. Specifically, the State objects to this interrogatory to the extent it suggests or assumes Defendant must have made a misrepresentation directly to an Oklahoma doctor to be liable for the State's claims under the Oklahoma Medicaid False Claims Act.

The State is not required to answer this Interrogatory as posed because it seeks information not relevant to the case and mischaracterizes the elements of the State's causes of action and the nature of the State's burden of proof. In the same vein, the requested information is not relevant to Defendants' defenses, or any small amount of relevance is far outweighed by the burden to the State. Indeed, the State simply is not required to show individual misrepresentations or false statements that directly and independently caused a particular unnecessary prescription of a Defendant opioid to be written by a physician, filled by a pharmacy, and/or covered by SoonerCare. The fact that Defendant wishes this were the case does not change the scope of permissible discovery. The State intends to prove the causes of action it has alleged in accordance with the applicable law. The State expects Defendants will only defend themselves against the allegations and claims the State has actually asserted. Further, on October 10, 2018, the Court ordered that the State need not identify physicians. This Order was affirmed on December 3, 2018.

The State further objects to this Interrogatory as impermissibly compound because it indiscriminately groups numerous separate topics, subjects, questions and tasks under the guise of



a single interrogatory. In reality, this Interrogatory is actually at least two (2) separate interrogatories improperly disguised as one. *See* 12 OKLA. STAT. §3233(A).

**INTERROGATORY NO. 21:** To the extent Your response to Request for Admission No. 2 is anything other than an unqualified admission, Identify all Oklahoma Doctors who were unable to accurately counsel their patients about the risks or benefits of prescription Opioid medications as a result of any Communication made, sponsored, or supported by Janssen.

**RESPONSE TO INTERROGATORY NO. 21:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definition of the term "Your", "Identify", "Doctor", "Opioid", and "Communication" as if fully set forth herein.

*See* Objections and Response to Interrogatory No. 20 above, which are hereby incorporated by this reference as if fully set forth herein.

Subject to and without waiving the foregoing objections, the State responds as follows:

*See* Objections and Response to Interrogatory No. 20. Further, based on the unprecedented scope of the misinformation campaign at issue in this litigation and given the fact that the totality of information that was available was conflated with the misleading, false, and deceptive information disseminated by Defendants and their coconspirators, neither medical providers nor patients had the benefit of all material information regarding Defendants' drugs. As such, it was not possible for Oklahoma doctors to accurately counsel their patients about the risks or benefits of Defendants' drugs. Defendants flooded the medical community with false and misleading information—and omitted material information—as part of a scheme and conspiracy designed to make doctors and the public believe that opioids were more effective and less addictive than they

actually were. Without the benefit of all material information, and given the fact that the totality of information that was available was conflated with the misleading, false, and deceptive information disseminated by Defendants and their co-conspirators, it was not possible for doctors to accurately counsel their patients regarding Defendants' opioids.

The State is not required to answer this Interrogatory as posed because it seeks information not relevant to the case and mischaracterizes the elements of the State's causes of action and the nature of the State's burden of proof. In the same vein, the requested information is not relevant to Defendants' defenses, or any small amount of relevance is far outweighed by the burden to the State. Indeed, the State simply is not required to show individual misrepresentations or false statements that directly and independently caused a particular unnecessary prescription of a Defendant opioid to be written by a physician, filled by a pharmacy, and/or covered by SoonerCare. The fact that Defendant wishes this were the case does not change the scope of permissible discovery. The State intends to prove the causes of action it has alleged in accordance with the applicable law. The State expects Defendants will only defend themselves against the allegations and claims the State has actually asserted. Further, on October 10, 2018, the Court ordered that the State need not identify physicians. This Order was affirmed on December 3, 2018.

**INTERROGATORY NO. 22:** To the extent Your response to Request for Admission No. 3 is anything other than an unqualified admission, Identify all Claims for reimbursement of Opioid prescriptions that were denied by You after they were written by a Doctor who was under investigation or prosecution for their Prescribing Behaviors.

**RESPONSE TO INTERROGATORY NO. 22:**

The State incorporates its general objections and objections to Defendant's instructions and definitions above, including the State's objections to Defendant's definition of the term "Your", "Identify", "Doctor", "Opioid", "Claim", and "Prescribing Behaviors" as if fully set forth herein.

See Objections and Response to Interrogatory Nos. 20 and 21 above, which are hereby incorporated by this reference as if fully set forth herein.

The State further objects to this Interrogatory to because it calls for information regarding ongoing investigations or confidential criminal investigatory files that the Court has held to be outside of the scope of proper discovery. See October 22, 2018 Order; December 3, 2018 Order; December 20, 2018 Order.

DATED: January 9, 2019

Respectfully submitted,

/s/ Michael Burrage

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 January 9, 2019 to:

**Purdue Pharma LP, Purdue Pharma Inc, Purdue Frederick Company:**

Sanford C. Coats  
Joshua D. Burns  
CROWE & DUNLEVY, P.C.  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Marina L. Schwarz  
Lindsay Zanello  
Erik Snapp  
DECHERT LLP  
Three Bryant Park  
1095 Avenue of the Americas  
New York, NY 10036

Jonathan S. Tam  
Jae Hong Lee  
DECHERT LLP  
One Bush Drive, Suite 1600  
San Francisco, CA 94104

Benjamin Franklin McAnaney  
DECHERT LLP  
2929 Arch Street  
Philadelphia, PA 19104

Britta Erin Stanton  
John D. Volney  
John Thomas Cox III  
Eric Wolf Pinker  
Jervonne Denise Newsome  
Jared Daniel Eisenberg  
John Thomas Cox III  
Elizabeth Ryan  
Andrea Brown  
LYNN PINKER COX & HURST LLP  
2100 Ross Avenue, Suite 2700  
Dallas, TX 75201

Robert S. Hoff  
WIGGIN AND DANA LLP  
265 Church Street  
New Haven, CT 06510

**Johnson & Johnson, Janssen Pharmaceuticals Inc, Ortho McNeil Janssen Pharmaceuticals Inc., Janssen Pharmaceuticals Inc., Janssen Pharmaceutica Inc.:**

Benjamin H. Odom  
John H. Sparks  
Michael W. Ridgeway  
David L. Kinney  
ODOM, SPARKS & JONES PLLC  
HiPoint Office Building  
2500 McGee Drive Ste. 140  
Norman, OK 73072

Larry D. Ottaway  
Amy Sherry Fischer  
FOLIART, HUFF, OTTAWAY &  
BOTTOM

201 Robert S. Kerr Avenue, 12<sup>th</sup> Floor  
Oklahoma City, OK 73102

Stephen D. Brody  
David K. Roberts  
O'MELVENY & MYERS LLP  
1625 Eye Street NW  
Washington, DC 20006

Charles C. Lifland  
Jennifer D. Cardelus

Wallace M. Allan  
Sabrina H. Strong  
Esteban Rodriguez  
Houman Ehsan  
O'MELVENY & MYERS LLP  
400 S. Hope Street  
Los Angeles, CA 90071

Jeffrey Barker  
O'MELVENY & MYERS LLP  
610 Newport Center Drive  
Newport Beach, CA 92660

Daniel J. Franklin  
Ross Galin  
Desirae Krislie Cubero Tongco

**Allergan Plc, Actavis Plc, Actavis Inc., Watson Laboratories Inc., Watson Pharmaceuticals Inc., Actavis Llc, Actavis Pharma Inc., Watson Pharma Inc.:**

Robert G. McCampbell  
Travis J. Jett  
Nicholas V. Merkley  
Ashley E. Quinn  
GABLEGOTWALS  
One Leadership Square, 15th Floor  
211 North Robinson  
Oklahoma City, OK 73102-7255

Brian M. Ercole  
Martha Leibell  
Melissa Coates  
MORGAN, LEWIS & BOCKIUS LLP  
200 S. Biscayne Blvd., Suite 5300  
Miami, FL 33131

O'MELVENY & MYERS LLP  
7 Times Square  
New York, NY 10036

Amy Riley Lucas  
Jessica Waddle  
O'MELVENY & MYERS LLP  
1999 Avenue of the Stars, 8<sup>th</sup> Floor  
Los Angeles, California 9006

Steven A. Reed  
Harvey Bartle IV  
Jeremy A. Menkowitz  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

Mark A. Fiore  
MORGAN, LEWIS & BOCKIUS LLP  
502 Carnegie Center  
Princeton, NJ 08540

/s/ Michael Burrage  
Michael Burrage