



A. Kimberly Deem-Eshleman

Kimberly Deem-Eshleman is employed by Janssen Pharmaceuticals as a Region Business Director for the Southeast in the neuroscience division. Ms. Deem-Eshleman resides in Pennsylvania and was presented as a corporate representative on several topics requested by the State during discovery. She was deposed in that capacity for seven (7) total days: December 18 and 19, 2018, in Oklahoma City; January 25, 2019, in Princeton, NJ; February 5, 6, and 7, 2019, in Oklahoma City; and February 25, 2019, in Oklahoma City. Her eighth and final day of deposition testimony was scheduled for February 26, 2019, in Oklahoma City. On that day, Ms. Deem-Eshleman and defense counsel appeared for the deposition at 9:00 a.m., pursuant to the notice of deposition that had been issued by the State. However, upon entering the room, the court reporter and videographer were packing up their equipment and advised that they had been informed by counsel for the State that the deposition was cancelled. One of the attorneys for the State then handed Ms. Deem-Eshleman a subpoena, purporting to command her attendance at trial to testify as a witness in her individual capacity. (See, **Exhibit 1**).

B. Corporate Representative Trial Subpoena

At the same time Ms. Deem-Eshleman was served with a trial subpoena in her individual capacity, she was also handed a trial subpoena that purported to command the “J&J Defendants” to produce a corporate representative witness to testify at trial on 49 separately enumerated topics. (See, **Exhibit 2**). Ms. Deem-Eshleman is not an officer of any of the Janssen Defendants, and she is not authorized to accept service of a subpoena on their behalf.

C. Frank Mashett

Frank Mashett works as Director of Trade Operations for Janssen Pharmaceuticals and, like Ms. Deem-Eshleman, he lives in Pennsylvania. He was deposed as a corporate representative related to Janssen Defendants' relationship and business dealings with other opioid manufacturers on January 30, 2019, in Oklahoma City. His deposition was continued and completed on March 12, 2019, in Oklahoma City. During his continued deposition, counsel for the State attempted to hand a subpoena (see, **Exhibit 3**) to Mr. Mashett, and the following exchange was had on the record:

Q (BY MR. CUTLER) I've got one more document for you, sir, and this isn't an exhibit. This is a trial subpoena for you to come in May and join us for trial and answer for your company –

MR. ALLAN: You may provide that to me, and we object to the service of this document.

Q (BY MR. CUTLER) – and answer on behalf of your company to the people of Oklahoma. I'll pass the witness.

(See, **Exhibit 4**, 3/12/19 Depo. of Frank Mashett, 407:6-14).

All three of these trial subpoenas (**Exhibits 1, 2, and 3**) are invalid for lack of proper service, for causing undue burden and expense on the witnesses, and for the complete absence of legal authority in the case of the corporate representative trial subpoena. Accordingly, Janssen Defendants seek a protective order quashing the subpoenas and preventing these improper attempts to compel non-resident witnesses to attend trial in this state.

## II. ARGUMENTS AND AUTHORITY

Title 12 O.S. 2004.1 of the Oklahoma Pleading Code governs the issuance, form, and service of subpoenas in this state, as well as the protections afforded to persons that are subject to subpoenas. While § 2004.1 does provide that a subpoena “may be served at any place within the state” and that a witness shall be obligated upon service of a subpoena to attend a trial or hearing at any place within the state (see 12 O.S. § 2004.1(A)(2)-(3)), whether a witness is physically within the state at the time they are served with a subpoena is not the only issue that must be considered.

For example, Section 2004.1 also requires, under penalty of sanction, the party or attorney responsible for the issuance and service of the subpoena to take “reasonable steps to avoid imposing undue burden or expense on a person subject to a subpoena.” 12 O.S. § 2004.1(C)(1). The State took no such “reasonable steps” here when attempting to compel witnesses who live nearly 1,500 miles from the courthouse to attend a trial that may last several weeks, if not months.

Further, Oklahoma law has long followed the great majority of jurisdictions in holding that nonresident witnesses are immune or privileged from service while in the state for the purpose of court proceedings, including depositions. Both witnesses were only in Oklahoma to give depositions pursuant to notices issued to Janssen Defendants in this litigation.

Finally, with respect to the purported “corporate representative” trial subpoena, there is no legal authority for such a subpoena under Oklahoma law. Therefore, as discussed in more detail below, the trial subpoenas are contrary to Oklahoma law and practice and should be quashed.

### **A. Service of the Trial Subpoenas Is Invalid**

The subpoena power outlined in 12 O.S. § 2004.1 is clear: there is no authority to subpoena a nonresident witness outside of the state to attend trial in Oklahoma. See, 12 O.S. § 2004.1(A); see also, *Craft v. Chopra*, 1995 OK CIV APP 135, 907 P.2d 1109, 1111 (finding that “neither the Oklahoma Pleading Code, § 2004.1, nor the comments thereto, extend the reach of Oklahoma discovery process (including ‘the limits of Oklahoma courts’ subpoena powers’) beyond state boundaries.”). The State was well aware of this limitation, which is why it waited to attempt service upon Ms. Deem-Eshleman and Mr. Mashett (both residents of Pennsylvania) until they were present in Oklahoma to give deposition testimony as corporate representatives in this case.

The State’s effort to find a loophole in § 2004.1’s clearly delineated subpoena power, however, has been foreclosed by Oklahoma law. Courts in this state have long recognized the policy that “all nonresidents, while they are attending court proceedings, either as suitors, or as witnesses, are privileged from service of summons while there on that business.” *Ada Dairy Products Co. v. Superior Court*, 258 P.2d 939, 944 (Okla. 1953) (citing *Burroughs v. Cocke & Willis*, 1916 OK 130, 156 P. 196, 197); see also, *Commercial Bank & Tr. Co. v. Dist. Court of Fourteenth Judicial Dist. In & For Tulsa Cnty.*, 1980 OK 3, 605 P.2d 1323, 1326 (“When a non-resident party to an action, or a witness, comes into the state or the county for the sole purpose of attending a trial, he is immune from the service of process during his attendance and for a reasonable time thereafter to enable him to return to his residence.” (citing *Stewart v. Ramsay*, 242 U.S. 128, 129 (1916))). An analogous Oklahoma Statute, 12 O.S. § 399, is also consistent with the policy discussed in the cases, stating that a witness cannot be served with a summons in a county in which he does not reside, while appearing in that county to respond to a subpoena. The policy

of immunity from service applies equally to those participating in depositions as well as trial. *See, Burroughs*, 1916 OK 130, 156 P. at 198.

Here, Ms. Deem-Eshleman and Mr. Mashett were present in Oklahoma solely because of a deposition notice issued to their employer, Janssen. As such, they were immune from service while in the state for that purpose. It should also be noted that both witnesses were made available to the State for depositions in Princeton, NJ, which is a much more convenient location for Ms. Deem-Eshleman and Mr. Mashett and is where many fact witnesses were deposed in the case. With only one exception,<sup>1</sup> the State declined those offers and insisted on the witnesses being presented in Oklahoma instead.

Especially under these circumstances, the State's attempt to effect service upon witnesses in such a manner should fail based on the long-standing doctrine that protects litigants and witnesses from service while in a jurisdiction to attend official civil proceedings. This policy is "neither unique nor novel." *Ada Dairy Products Co.*, 258 P.2d at 943-44. It is "a principal of law of ancient vintage (and) has always been well settled and favorably enforced." *Id.* Based on this long-standing policy, the Court should enter an order quashing the trial subpoenas for lack of proper service.

In addition to the improper service, the subpoenas should be quashed for imposing an undue burden on the witnesses. "A party or an attorney responsible for the issuance and service of a subpoena *shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.* The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney, or both, in breach of this duty an appropriate

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<sup>1</sup> One of Ms. Deem-Eshleman's seven total days of corporate representative deposition testimony was taken in Princeton by agreement of the parties.

sanction....” 12 O.S. § 2004.1(C)(1) (emphasis added). Further, a court “*shall* quash or modify the subpoena if it...subjects a person to undue burden.” 12 O.S. § 2004.1(C)(3)(a)(4) (emphasis added).

As the State is well aware, Ms. Deem-Eshleman and Mr. Mashett are both residents of the state of Pennsylvania. *No steps*, let alone any reasonable ones, were taken by the State or its counsel to prevent the obvious and undue burden and expense that would be incurred by residents of Pennsylvania travelling over 1,000 miles to attend a trial that is scheduled to last several weeks. Even payment for travel expenses and time missed from work (which the State did not offer to do) would fail to alleviate the undue burden imposed by complying with the trial subpoenas under the circumstances presented here. This is especially true where the two witnesses at issue have already been deposed on video for a combined total of nine (*9*) *days* as corporate representatives during this litigation. The State never even requested their depositions as individual fact witnesses, but now it attempts to compel their attendance at trial to testify in their individual capacities. Because the subpoenas will subject witnesses to undue burden and expense, and because no reasonable steps were taken to avoid the same, the trial subpoenas must be quashed pursuant to § 2004.1.

**B. There Is No Legal Authority for a Corporate Representative Trial Subpoena**

“As a general rule, a party is not required to attend court during trial unless the opposite party has secured his or her attendance as a witness by process of the court, in the same manner as any other witness.” *Waddle v. Waddle*, 1994 OK CIV APP 1, 868 P.2d 751, 753. Here, the State cannot follow the process set forth in § 2004.1 with regard to Janssen Defendants, and thus, it attempted to fashion its own process by borrowing from a discovery statute and serving a subpoena on an employee who was not authorized to accept service on its behalf.

At the same time it attempted to personally serve Ms. Deem-Eshleman with a trial subpoena in her personal capacity, it also handed her a document purporting to compel Janssen Defendants to present a corporate representative to testify at trial on 49 separate topics. (See **Exhibit 2**). Presumably, the State seeks to use the same procedure set forth in the Oklahoma Discovery Code for corporate discovery depositions to subpoena a witness to testify at trial. Title 12 O.S. § 3235(C)(5) allows for a party to notice and subpoena a public or private corporation, partnership, or governmental agency as a *deponent*. The statute clearly applies to discovery depositions only and says nothing of trial subpoenas being allowed under the same procedure.

The application of Oklahoma's discovery deposition procedure for a trial subpoena is not only unprecedented, it would also result in the same undue burden and expense discussed above. Any corporate representative of Janssen Defendants would be an individual who does not reside in the State of Oklahoma and would thus be forced to travel here from out of state and stay for an undetermined amount of time. This is not contemplated by either § 2004.1 or § 3230, and it should not be allowed here.



The Federal Rules of Civil Procedure<sup>2</sup> specifically address how a party can compel the attendance at trial of a corporate representative. While there was formerly a split of authority on the issue, the 2013 amendments to Federal Rule of Civil Procedure Rule 45(c)(1) resolved the question. As stated in Rule 45(c)(1), a party can require a person to appear:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

The Advisory Committee Notes to Subdivision (c) state that the amendment resolves a split in authority. Now, “Rule 45(c)(1)(A) ***does not authorize a subpoena for trial to require a party or party officer to travel more than 100 miles unless the party or party officer resides, is employed, or regularly transacts business in person in the state.***” See Fed. R. Civ. P. 45 (Advisory Committee Notes) (emphasis added). No officer of Janssen Defendants resides, is employed, or regularly transacts business in person in Oklahoma. Thus, even under the federal procedure for compelling a corporate representative’s attendance at trial, which is arguably broader than Oklahoma’s procedure, the State’s attempt would fail.

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<sup>2</sup> Section 2004.1 was modeled after its federal counterpart, Rule 45 of the Federal Rules of Civil Procedure, and as such, federal jurisprudence can be instructive in the interpretation of the state statute. *Adams v. Continental Carbon Co.*, 2012 OK CIV APP 74, ¶10, 285 P. 3d 703, 706 (citing *Barnett v. Simmons*, 2008 OK 100, ¶16, 197 P.3d 12, 18 and *Payne v. Dewitt*, 1999 OK 93, ¶¶8-9, 995 P.2d 1088, 1092-93).

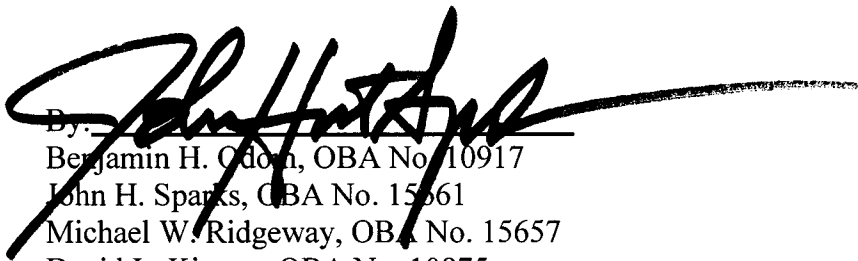
Finally, handing a copy of a purported subpoena issued to Janssen Defendants to Ms. Deem-Eshleman while she is in the state for a deposition is not proper service. In addition to the reasons set forth above, Ms. Deem-Eshleman is an *employee* of Janssen, she is not a corporate officer and is not authorized to receive service of a subpoena on its behalf.

Because there is no legal authority for the issuance of a topic-specific, corporate representative trial subpoena, because it would require undue burden and expense on the part of any responsive witnesses, and because it was not properly served, the State's trial subpoena to Janssen Defendants should be quashed.

### III. CONCLUSION

Based on the above arguments and authorities, Janssen Defendants respectfully request that the trial subpoenas be quashed and that a protective order be entered relieving the witnesses and parties subject to said subpoenas from any obligation to comply therewith.

Respectfully submitted,



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**CERTIFICATE OF MAILING**

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

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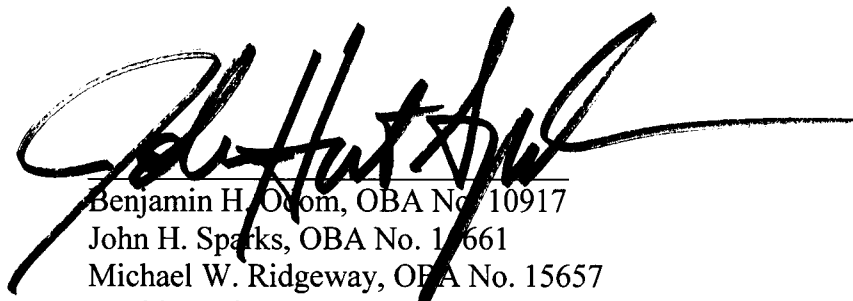
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IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

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Plaintiff, )

vs. )

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- (3) THE PURDUE FREDERICK COMPANY; )
- (4) TEVA PHARMACEUTICALS USA, INC.; )
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- (7) JANSSEN PHARMACEUTICALS, INC; )
- (8) ORTHO-MCNEIL-JANSSEN )  
PHARMACEUTICALS, INC., n/k/a )  
JANSSEN PHARMACEUTICALS; )
- (9) JANSSEN PHARMACEUTICA, INC., )  
n/k/a JANSSEN PHARMACEUTICALS, INC.; )
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC, )  
f/k/a ACTAVIS, INC., f/k/a WATSON )  
PHARMACEUTICALS, INC.; )
- (11) WATSON LABORATORIES, INC.; )
- (12) ACTAVIS LLC; and )
- (13) ACTAVIS PHARMA, INC., )  
f/k/a WATSON PHARMA, INC., )

Defendants. )

Case No. CJ-2017-816  
Judge Thad Balkman

Special Master:  
William Hetherington

SUBPOENA TO TESTIFY AT TRIAL

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF CLEVELAND )

TO: **KIMBERLY DEEM-ESHLEMAN**  
As corporate representative for **Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutics, Inc. (the "J&J Defendants")**  
c/o FOLIART, HUFF, OTTAWAY & BOTTOM  
201 Robert S. Kerr Avenue, 12<sup>th</sup> Floor  
Oklahoma City, OK 73102

GREETINGS – You are Hereby Commanded to appear before the District Court of Cleveland County, Oklahoma, at the courthouse therein, on the 30<sup>th</sup> day of May, 2019 at 9:00am, to testify as a witness in a the above-named action pending in said Court and not depart without leave of the court.

HEREOF FAIL NOT, UNDER PENALTY OF LAW

Issued February 26, 2019



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

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WHITTEN BURRAGE

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**ATTORNEYS FOR PLAINTIFF**



**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was emailed on February 26, 2019 to:

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Bradley E. Beckworth

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 )
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- JANSSEN PHARMACEUTICALS; )
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- (13) ACTAVIS PHARMA, INC., )
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Defendants. )

Case No. CJ-2017-816  
Judge Thad Balkman

Special Master:  
William Hetherington

SUBPOENA TO TESTIFY AT TRIAL

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF CLEVELAND )

TO: **Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen  
Pharmaceuticals, Inc., and Janssen Pharmaceutics, Inc. (the "J&J  
Defendants")**  
c/o FOLIART, HUFF, OTTAWAY & BOTTOM  
201 Robert S. Kerr Avenue, 12<sup>th</sup> Floor  
Oklahoma City, OK 73102

GREETINGS – You are Hereby Commanded to produce a corporate representative(s) to appear on behalf of the J&J Defendants before the District Court of Cleveland County, Oklahoma, at the courthouse therein, on the 30<sup>th</sup> day of May, 2019 at 9:00am, to testify as a witness in a the above-named action pending in said Court on the topics identified in Appendix A, and not depart without leave of the court.

HEREOF FAIL NOT, UNDER PENALTY OF LAW

Issued February 26, 2019



Bradley E. Beckworth, OBA No. 19982

Jeffrey J. Angelovich, OBA No. 19981

Lisa Baldwin, OBA No. 32947

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Mark A. Fiore  
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502 Carnegie Center  
Princeton, NJ 08540

  
Bradley E. Beckworth

## Appendix A

1. Your involvement with, and contributions to, non-profit organizations and professional societies, including the Front Groups.
2. Your involvement with, and contributions to, KOLs regarding opioids and/or pain treatment.
3. Your use of branded marketing for opioids nationally and in Oklahoma, including the scope, strategy, purpose and goals with respect to such branded marketing.
4. Your use of unbranded marketing for opioids nationally and in Oklahoma, including the scope, strategy, purpose and goals with respect to such unbranded marketing.
5. Your use of continuing medical education regarding opioids nationally and in Oklahoma, including the scope, strategy, purpose and goals with respect to such continuing medical education.
6. Research conducted, funded, directed and/or influenced by You, in whole or in part, related to opioid risks and/or efficacy.
7. Your scientific support for Your marketing statements and representations regarding the risks and benefits of opioids.
8. Your research conducted, funded, directed and/or influenced, in whole or in part, related to pseudoaddiction.
9. Your scientific support for Your marketing statements and representations regarding pseudoaddiction.
10. The scope, strategy, purpose, and goals for Your opioids sales forces, including without limitation: training policies and practices; sales tactics; compensation structures; incentive programs; award programs; sales quotas; methods for assigning sales representatives to particular regions; facilities and/or physicians; and Your use of such sales forces in Oklahoma.
11. Your practices and processes for identifying and prioritizing physicians to detail.
12. Your research of Oklahoma Healthcare Professionals' and/or pharmacies' opioid prescribing habits, history, trends, sales, practices and/or abuse and diversion of opioids.
14. Your use of 'do not call' lists or any similar list of prescribers that your sales representatives do not contact.



15. Your efforts to identify high-prescribing health care providers in the State of Oklahoma.
16. Your efforts to identify low-prescribing health care providers in the State of Oklahoma.
17. Amounts spent by You on advertising and marketing related to opioids.
18. Amounts spent by You on research and development for opioids.
21. Your role, influence, or support for any campaign or movement to declare pain as the "Fifth Vital Sign."
22. Your interactions and communications with medical schools in Oklahoma, including without limitation, financial contributions, speeches, presentations, scholarships, event sponsorship, research grants, educational materials, and/or branded promotional materials.
23. Your use of public relations firms and communication with journalists regarding opioids and/or pain management marketing, including without limitation, the American Enterprise Institute, Cancer Action Network, Center for Lawful Access & Abuse Deterrence, Pinney Associates, Conrad & Associates LLC, and Sense About Science USA.
24. The amount of revenue and profits earned by You attributable to and/or derived from the prescription of opioids by any Oklahoma doctor criminally investigated, charged, indicted, and/or prosecuted for prescribing practices related to opioids. For purposes of this topic, "prosecution" includes any administrative proceeding.
25. Your use of medical education communication companies (MECCs) regarding opioids and/or pain management marketing.
26. Your use of speakers' bureaus, advisory boards, or other similar programs regarding opioids and/or pain management marketing.
27. Your use of medical liaisons to communicate with Healthcare Professionals, KOLs, and/or Front Groups regarding opioids and/or pain treatment.
28. Your use of data provided by IMS, IQVIA or any similar data service for purposes of marketing and/or sales strategies.
30. Clinical trials funded, sponsored, and/or conducted by You regarding opioids and/or pain management.

31. Your sales projections and/or research related to the amount of reimbursement for Your opioids prescriptions that would be paid by Medicare and/or Oklahoma's Medicaid Program.
32. Your efforts and actions, both internally and in conjunction with third parties, to obtain and/or increase coverage and/or reimbursement of their opioids by public payers, including SoonerCare.
33. Your relationship and business dealings with other opioid manufacturers related to opioids and/or pain management, including without limitations any co-promotion or ownership agreements.
34. The source of ingredients, compounds or components, such as Thebaine (CPS-T), utilized by You in the manufacture of any opioids sold by You in the United States, including without limitation the amount of money paid to purchase such opioid compounds or components and U.S. distribution and sale of CPS-T.\*
35. All opioids manufactured, owned, contemplated, developed, and/or in-development by You including the nature of each such opioid, its intended use, and the stage of development of each (e.g. released to market, in development, abandoned).
36. All drugs for opioid use disorder manufactured, owned, contemplated, developed, and/or in-development by You including the nature of each such opioid use disorder drug, its intended use, the stage of development of each (e.g. released to market, in development, abandoned), and profits earned by You from the sale of any such drug in Oklahoma.
37. All drugs for the treatment of opioid overdose manufactured, owned, contemplated, developed, and/or in-development by You including the nature of each such opioid overdose drug, its intended use, the stage of development of each (e.g. released to market, in development, abandoned), and profits earned by You from the sale of any such drug in Oklahoma.
38. Policies, practices, and procedures regarding complaints You received related to addiction or abuse of Your opioids in Oklahoma.
39. Your involvement and participation in the Pain Care Forum.
40. The factual bases supporting Your defenses to Plaintiff's claims as set forth in Your Answer.
41. Your efforts or activities in Oklahoma concerning opioids related to: (a) lobbying efforts; (b) campaign contributions; (c) presentations made to the Oklahoma Health Care Authority's Drug Utilization Review Board; (d) scheduling of opioids; (e) opposing the rescheduling hydrocodone combination products from Schedule III to Schedule II; (f) pain management guidelines in Oklahoma statutes; (g) legislative

efforts or activities; (h) law enforcement; and (i) prosecution of any individual or entity related to use, misuse, abuse, diversion, supply, and prescription.

42. Total compensation paid to employees and contractors who detailed and/or promoted to any health care practitioners and/or pharmacies in Oklahoma, including but not limited to salaries, bonuses, and monetary and non-monetary incentives, and the methodology and metrics used to calculate the compensation paid to those employees and contractors.
43. Total amount spent annually, including directly and through reimbursement, on all promotional efforts related to Oklahoma and/or nationwide, including but not limited to leave behinds, direct mail materials, journal advertising, speaker engagements, conventions, samples, cards, vouchers, food, drinks, gifts, and swag.
44. Revenues and profits earned by Noramco from the sale of any opioid APIs during the Relevant Time Period, including revenues and profits earned from transactions with any Defendants, and any contract(s) between any Defendant(s) and Noramco during the Relevant Time Period for the delivery of goods or the performance of services.
45. Any scientific support, research, or basis for Your claims that there is an epidemic, problem, or issue related to the undertreatment of pain during the Relevant Time Period.
46. Your relationship and business dealings with Purdue prior to 1996 related to the "anticipated demand" described by your scientist, AJ Fist, in his article, The Tasmanian Poppy Industry: A Case Study of the Application of Science and Technology.
47. Your response to any Senate inquiries related to opioids during the Relevant Time Period.
48. The organizational structure and legal and working relationship between the Johnson and Johnson Defendants.
49. Your relationship with McKinsey & Company including but not limited to the amount of money you have paid McKinsey & Company, the purposes for which you engaged McKinsey & Company, and the work performed by McKinsey & Company on Your behalf.

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; )
- (9) JANSSEN PHARMACEUTICA, INC., )  
n/k/a JANSSEN PHARMACEUTICALS, INC.; )
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC, )  
f/k/a ACTAVIS, INC., f/k/a WATSON )  
PHARMACEUTICALS, INC.; )
- (11) WATSON LABORATORIES, INC.; )
- (12) ACTAVIS LLC; and )
- (13) ACTAVIS PHARMA, INC., )  
f/k/a WATSON PHARMA, INC., )

Defendants. )

Case No. CJ-2017-816  
Judge Thad Balkman

Special Master:  
William Hetherington

**SUBPOENA TO TESTIFY AT TRIAL**

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF CLEVELAND )

TO: **FRANK MASHETT**  
As corporate representative for **Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceuticals, Inc. (the "J&J Defendants")**  
c/o FOLIART, HUFF, OTTAWAY & BOTTOM  
201 Robert S. Kerr Avenue, 12<sup>th</sup> Floor  
Oklahoma City, OK 73102

GREETINGS – You are Hereby Commanded to appear before the District Court of Cleveland County, Oklahoma, at the courthouse therein, on the 30<sup>th</sup> day of May, 2019 at 9:00am, to testify as a witness in a the above-named action pending in said Court and not depart without leave of the court.

HEREOF FAIL NOT, UNDER PENALTY OF LAW

Issued March 12, 2019



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Trey Duck, OBA No. 33347  
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**ATTORNEYS FOR PLAINTIFF**

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I certify that a true and correct copy of the above and foregoing was emailed on March 12, 2019 to:

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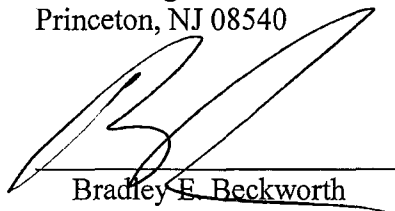
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Bradley E. Beckworth



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

- (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.

VIDEOTAPED DEPOSITION OF JOHNSON & JOHNSON  
3230(c)(5) WITNESS FRANK MASHETT, VOL. II  
TAKEN ON BEHALF OF THE PLAINTIFF  
ON MARCH 12, 2019, BEGINNING AT 9:09 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Gabe Pack

REPORTED BY: D. Luke Epps, CSR, RPR

1           Q     Have you ever heard of cause and effect,  
2 Mr. Mashett?

3           MR. ALLAN:   Object to form.   Beyond the  
4 scope.

5           THE WITNESS:   Not sure in what context.

6           Q     (BY MR. CUTLER)   I've got one more  
7 document for you, sir, and this isn't an exhibit.  
8 This is a trial subpoena for you to come in May and  
9 join us for trial and answer for your company --

10          MR. ALLAN:   You may provide that to me,  
11 and we object to the service of this document.

12          Q     (BY MR. CUTLER)   -- and answer on behalf  
13 of your company to the people of Oklahoma.   I'll  
14 pass the witness.

15          MR. ALLAN:   Okay.   We'll take a break at  
16 this point before I begin my questions.

17          THE VIDEOGRAPHER:   Off the videotape  
18 record.   The time is 10:19 a.m.

19          (Short break at 10:19 a.m., resumed at 10:33 a.m.)

20          THE VIDEOGRAPHER:   Back on the record at  
21 10:33 a.m.

22                                   CROSS-EXAMINATION

23 BY MR. ALLAN:

24          Q     Good morning, Mr. Mashett.

25          A     Good morning.