IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

PART J

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.

For Judge Balkman's Consideration

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

DEFENDANTS TEVA PHARMACEUTICALS USA, INC., CEPHALON, INC., WATSON LABORATORIES, INC., ACTAVIS LLC, AND ACTAVIS PHARMA, INC., f/k/a WATSON PHARMA, INC.'S MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT

REDACTED VERSION

THIS DOCUMENT WAS FILED IN ITS ENTIRETY UNDER SEAL ON APRIL 23, 2019

EXHIBIT 75

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

TRANSCRIPT OF PROCEEDINGS
HAD ON MARCH 29, 2018
AT THE CLEVELAND COUNTY COURTHOUSE
BEFORE THE HONORABLE WILLIAM C. HETHERINGTON, JR.
RETIRED ACTIVE JUDGE AND SPECIAL DISCOVERY MASTER

REPORTED BY: ANGELA THAGARD, CSR, RPR

trial date.

And you can see that very clearly in the Purdue defendants' responses in particular or their response brief, your Honor, where the vast majority of the categories of information, they simply say, Well, we want a meet and confer further on that, we want to have another meet and confer, let's meet and confer again, and then we'll talk about this later.

And we don't think that's good enough, and we think those decisions are ripe for resolution, that they haven't identified what they're withholding, and so we're in a position where we have to move to compel.

As far as the arguments themselves in their response brief, I just want to frame the issue a little bit. All of the defendants' arguments that you see related to their objections for things like the geographic scope of our request or the time period that we've requested, all of their arguments ignore what dictates the actual -- all of their arguments -- can you still see the screen, your Honor? I know we're not using it yet. I think we brought a large enough one.

THE COURT: No, that's fine.

MR. PATE: All of the defendants' arguments ignore what dictates the scope of discovery, and that's what are the claims and the defenses at issue. There are a lot of big numbers that the defendants throw out in their opposition briefs where they say we're asking for discovery from a more

than 20-year time period, 20 years is a really long time, we've produced 800,000 pages of documents, that's a lot of documents.

All of those numbers in a vacuum sound big and they sound convincing. Twenty years does sound like a long time. But what matters is 20 years by itself is irrelevant to determining what the scope of discovery is, because it depends on what the claims and defenses are.

And our claim is that they have engaged in a nationwide fraudulent marketing scheme for the last 20 years, more than 20 years. And so that's why we defined that relevant time period. It's defined according to the claims and defenses that are at issue in the case.

We've had cases where we've gotten documents going back to the 1890s. We had a case in federal court here in Oklahoma that involved the federal government's management and trust obligations to the tribe's timberlands. And it related to allegations dating back all the way to the 1800s.

So we got documents from the 1800s, and we looked at documents from the 1890s. And a hundred years is a long time, over a hundred years is a long time to be asking for documents for. But that's what we got because that's what was at issue in the case. And that's what we're asking for here.

And none of the cases that the defendants cite and none of their arguments acknowledge that the allegations in this case are about a 20-year marketing campaign related to opioids

generally as a category of drugs. It wasn't just a marketing campaign for OxyContin or a marketing campaign for Actiq or Nucynta or any of the other drugs the defendants make.

They made a choice to market opioids generally as a class of drug to try to change prescribers' understanding of how that entire class of drugs should be prescribed. And so that's why we're entitled to discovery for the last 20 years about that marketing campaign.

So with that, your Honor, I would like to move into a little bit more about the marketing campaign itself and the facts that we've alleged in this case. Again -- and we've pared this down from the motion to dismiss hearing a little bit, your Honor, but I do think it's important to give you some of the high points.

MR. ODOM: Your Honor, at this point I object to -- anything they have that's a direct aid to the Court for their brief that they filed here is perhaps fine to show on a screen, but if this is going to be the same thing or even cut down from what we've all seen earlier, it wasn't particularly relevant to the legal issues that were before the Court when we saw it last time.

We have not seen what's in this presentation here this morning in terms of preparation for this hearing. We don't know what all's in it, whether it's just these things. It's making us respond on the fly again to something that may be in

But all of that is determined and whether or not our claims -- or excuse me -- our requests are appropriate is determined by what our allegations are and what our claims are. So it's absolutely relevant to what we're deciding today and what your Honor's deciding today to know what our claims are and what the facts we've alleged are. And so I can skip through -- I know you said you're familiar with the allegations, your Honor, so I can --

THE COURT: Yeah. I mean, the details, obviously I haven't seen these demonstrative aids before, but I mean, go ahead.

MR. PATE: Yes, your Honor. I understand. I think it's important. Here's what I think is important to point out, which is highly relevant for what we've asked for today. The difference between unbranded and branded marketing.

You can see on the screen the allegation of how the defendants conspired and acted in concert to change the historical perception of opioids, and we talked about that already, by minimizing the risk of addiction and touting unsubstantiated benefits.

And they did that in two primary ways: Unbranded marketing and branded marketing. Unbranded marketing is all of the stuff that we talked about or that we're going to get into today relating to KOLs, key opinion leaders, these doctors who are paid by the defendants to go tout industry friendly lines

and opinions about how opioids should be used, front groups who appear to be impartial.

THE COURT: Yeah, here's an example. That's all in the written pleadings.

MR. PATE: Yes, your Honor.

THE COURT: I've seen it. I understand it.

MR. PATE: I understand that, your Honor, but they've objected to producing a lot of it.

THE COURT: I clearly know that.

MR. PATE: Here's an example of one of the key opinion leaders here today -- or not here today, but who we've alleged that the defendants have all paid, your Honor. And part of their objections relate to communications.

Certain defendants, and particularly the Purdue defendants, have objected to producing communications with various key opinion leaders. And so we provided the slide just to demonstrate why we need this information, because the different defendants have all paid, for example, Dr. Portenoy.

He's involved with, you can see up here -- and we're just starting to scratch the surface on this, your Honor. We're obviously early in discovery. But he's also involved in all these additional front groups.

That's why this information matters; that's why the information we're asking for on a nationwide scope. Dr. Portenoy's not from Oklahoma, but he's influenced Oklahoma

through the defendants' scheme. That's why we're entitled to this information. And Dr. Portenoy himself --

And Trey, if you'll go to the next slide. Just go ahead and skip ahead, Trey, to his video.

This is important I think for your Honor to hear, because it shows exactly why we need this information.

(The video was played at this time.)

MR. PATE: That's important, your Honor, education to destigmatize, because we're talking about an entire class of drugs. We're talking about opioids generally. And that's important for all of the issues that we're going to talk about today.

I'll just briefly point out, we talked about this report, your Honor, at the last hearing, and I know you have a copy of it. This is the homeland security and governmental affairs most recent report on the connections between these different front groups that Dr. Portenoy participates in and that are funded by the defendants and the connection between those front groups, the financial connection, and the defendants and the influence that that has on the message that they distribute, your Honor, which again is key for the scope of what we're asking for.

Not all these front groups are in Oklahoma, but we believe we're entitled to the information about them, and as well as certain specific requests that we will get into, again, mainly

as it pertains to the Purdue defendants, for information that we've asked for about these front groups.

Moving to the specific RFPs that we've alleged. We've got some more slides, your Honor, but I think that it will be best to hold off on those until we get to the specific section of our argument rather than moving through all of them.

But Request for Production No. 1 and 2, we talked about those at the last hearing. Those are the requests for documents that have been produced by the defendants in other opioid cases.

And as I said at the beginning, we thought we dealt with this at the last hearing. We thought your order was clear. We thought you said produce it or specifically identify -- produce it, or if there's something specific that you don't think you need to produce, then identify it for us and for you so that we can have a conversation about it.

The Janssen defendants did that for us. They identified three categories of documents that they have currently identified that they are not producing in response to those requests. We can agree on two of them with some slight exceptions, and we don't agree on the third. So we can address that today.

The Teva defendants sort of complied with that, identified two categories of information I believe that they're not producing. But then they said, We're not responding to Request

that now. I think the call notes are protected. I don't -- I think that's what I did, and I did that based upon the fact that by what I read, you had stipulated that they --

MR. PATE: I'm not arguing about the call notes, your Honor. We put the -- I don't know if it's set out in the protective order. I'm trying to lay out what we agree and don't agree with, and call notes they've identified, and in our motion, we said, We're okay with that for now. We're okay with them not producing the call notes.

THE COURT: All right. Okay.

MR. PATE: With the exception that I gave as far as call notes talking about what they refer to as Region Zero.

THE COURT: That they refer to as what?

MR. PATE: There's a term they use -- there's a term at least the Purdue defendants use called Region Zero, and that refers to doctors who they believe may be running pill mills or overprescribing opioids. So they would put them in a box labeled, Region Zero. And that had significant implications for this scheme.

First of all, it disincentivized their sales reps to even report pill mills, because it would take a high paying doctor who they were getting a large commission of out of their commission pool. And so we believe that there's a lot of relevant information that relates to this Region Zero concept.

And so we think -- that's why if that's being discussed in

these call notes -- I don't know if it is, but if it is, we believe that stuff should be produced and not excluded. And I just wanted to make that clear.

THE COURT: Okay.

MR. PATE: The third -- I talked about J & J identifying three categories. The third category, the one that we don't agree with, however, your Honor, is documents related to their speaker programs and key opinion leaders and payments to those people and other healthcare professionals outside the state of Oklahoma.

As I already said, and your Honor said you're already familiar with our allegations, we're alleging a nationwide conspiracy. They have not identified any reason or any difference in their tactics in Arkansas, Louisiana, California, or anywhere else in the country that differed from Oklahoma.

We're entitled to all of this information. We need to know who they paid and how much they paid them and what that was for. So we don't think it's fair and we don't think that that information should be excluded just because a certain doctor or certain key opinion leader wasn't necessarily in Oklahoma.

So we think that with respect to Request for Production Nos. 1 and 2, they should not be allowed to exclude that material from their production.

THE COURT: Before you go on, give me just a second

on that particular topic, the scope of that.

MR. PATE: Yes, your Honor.

THE COURT: I forget, have they objected to the geographic limitations narrowed to the request to Oklahoma?

MR. PATE: Yes, your Honor. All defendants have made a geographic scope objection, and they have all applied that objection I think slightly differently. These are kind of related on what they're -- as far as Request Nos. 1 and 2 touch on those geographic limitations, but then there's a broader geographic scope objection that covers multiple requests.

THE COURT: As it relates to RFP No. 16 related to compensation plans for Oklahoma sales representatives, and 19, research related to Oklahoma prescriber behavior, they've objected to all of that?

MR. PATE: We believe we're entitled to all of that. We believe we're entitled to all of that, and I think 16 and 19 -- well, 16, we requested that for everyone, including Oklahoma, and 19 I believe is limited to Oklahoma already.

Yes, your Honor, 19, as you point out, is our request for research related to -- specific to Oklahoma healthcare professionals' prescribing habits. So that's a slightly different issue than what we're getting into with RFP Nos. 1 and 2, and it's different than the speaker programs I was referring to and the payments to those doctors and to the key opinion leaders.

also in charge of the marketing program, Richard Sackler. We need that deposition and we need those documents.

And it is disingenuous I think to come in here and say you don't even know what that case is about after we've asked for it three times now and we've identified it in our list of cases that we put in our discovery responses.

And I also want to address two other points raised by counsel. First, they've said that we have received day one documents related to OxyContin. That's true for documents that they provided to the FDA. Up until this week, the only documents we have been produced from Purdue are the new drug application files that they provided to the FDA. There's a lot more at issue than just what Purdue told the FDA and what they provided to the FDA.

And so those are the -- just to be clear, and I think that their objection is clear on this also -- that they haven't and aren't agreeing to produce everything prior to 2006. They've produced what they told the FDA back in 1996 for OxyContin, but so far, we haven't received anything else.

And I want to address the Tyson case just because it's been raised multiple times. I think it's clear from reading that case that that case is completely distinguishable. That case dealt with separate water -- that was a poultry contamination case that I'm sure your Honor's familiar with, and it related to cases that related to two separate

watersheds, two separate poultry farms completely different -- similar conduct, but different circumstances.

This is a nationwide same conduct that we have alleged between these different cases and that all these cases we're asking for documents on are based on. They're based on the same conduct. Not similar conduct. Not related conduct. The same conduct that Purdue engaged and blanketed the entire country with.

THE COURT: All right. Thank you.

MR. PATE: Your Honor, I want to make one more point that hasn't come up today, because I think it's important again for this 1996 issue and as far as what Purdue has agreed to provide us that far back and what they haven't.

We mentioned this in our motion. But prior to 2006 and back in 1996, Purdue subcontracted a lot of its sales efforts to another company named Abbott. Basically recruited and subcontracted over a thousand, we understand, sales reps over to their company to help them promote OxyContin and basically adopted their sales force to drive it up.

They carpeted the entire country with their misrepresentations about opioids using not only their own sales reps, but contracting with other companies' sales reps. We need to know how they trained those people. We need to know what they gave those people. We need to know this information as far back as 1996; not just what they told the FDA about

their drugs in 1996.

THE COURT: All right. Thank you. Anything else from defense table?

MR. LAFATA: No, your Honor. Thank you.

THE COURT: Anything else from plaintiff's side of things? Mr. Burrage?

MR. BURRAGE: Your Honor, with regard to proportionality, this epidemic started in 1996. They started addicting people in Oklahoma, started killing people in Oklahoma, started putting the tax burden on the State of Oklahoma, and that started in 1996. And that's why we need the documents. We need the genesis of this and how it came forward.

THE COURT: Thank you.

All right. Thank you. What I intend to do is, is get out -- I'll draft an order as best I can ruling on each of the objections and the State's motion to compel as soon as I can.

I'll work on this e-mail first as it relates to narrowing down the protective order issues that I would like to hear about. I'll get that out first, so you can expect that pretty quickly I hope. And that I think is it.

Anything else?

MR. BURRAGE: Thank you, your Honor.

MR. DUCK: I'm sorry, your Honor. I hate to be the straggler. I know it's been a really long morning, but we do

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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MIKE HUNTER,
ATTORNEY GENERAL OF OKLAHOMA,

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(2) PURDUE PHARMA, INC.;
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(4) TEVA PHARMACEUTICALS USA, INC.;
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Defendants.

For Judge Balkman's Consideration

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

DEFENDANTS TEVA PHARMACEUTICALS USA, INC., CEPHALON, INC., WATSON LABORATORIES, INC., ACTAVIS LLC, AND ACTAVIS PHARMA, INC., f/k/a WATSON PHARMA, INC.'S MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT

EXHIBIT 76 FILED UNDER SEAL

EXHIBIT 77

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,
MIKE HUNTER, ATTORNEY GENERAL
OF OKLAHOMA,
Plaintiff,
vs. No. CJ-2017-816
PURDUE PHARMA L.P.;
PURDUE PHARMA, INC.;
THE PURDUE FREDERICK
COMPANY;
TEVA PHARMACEUTICALS
USA, INC.;
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ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
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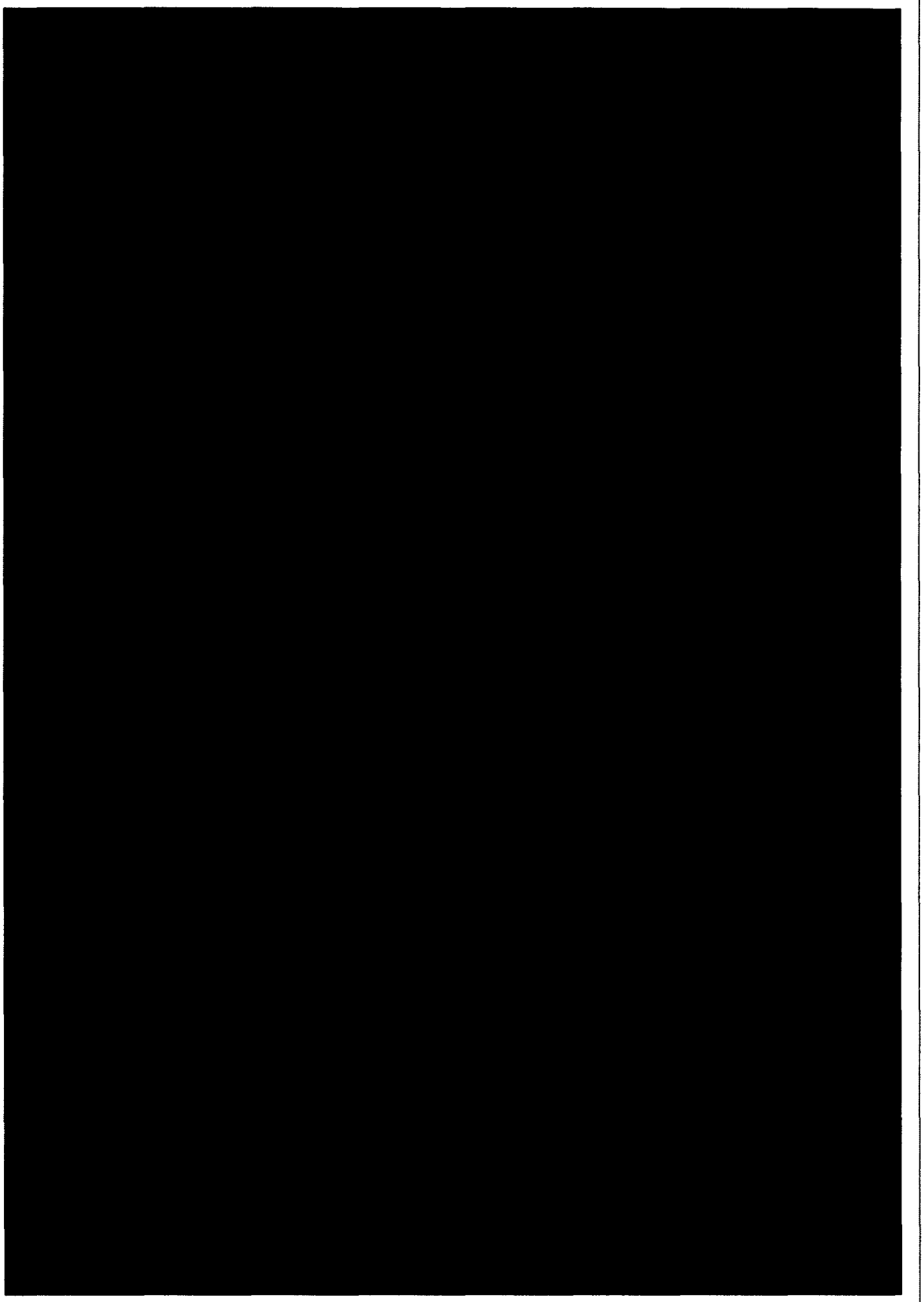
PHARMACEUTICALS, INC.;
ALLERGAN, PLC, f/k/a
ACTAVIS PLC, f/k/a ACTAVIS, INC.,
f/k/a WATSON PHARMACEUTICALS, INC.;
WATSON LABORATORIES, INC.;
ACTAVIS LLC; and
ACTAVIS PHARMA, INC.,
f/k/a WATSON PHARMA, INC.,

Defendants.
_____/

VIDEOTAPED DEPOSITION OF JESSICA HAWKINS
TAKEN ON BEHALF OF THE DEFENDANTS
ON MARCH 6, 2019, BEGINNING AT 9:03 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Gabriel Pack
REPORTED BY: Lacy Antle, CSR, RPR



[redacted]

Q Did you prepare it for this particular Abatement Plan exercise?

A Staff within the Department of Mental Health and Substance Abuse Services provided him with that document.

Q Okay. So this was not an existing or historical document within your agency correct?

MS. BALDWIN: Object to the form.

THE WITNESS: The information contained within the document represents the rates that are paid for these services, so those were not new or original for this Abatement Plan, but the rationale of this particular service is related to the persons in Oklahoma who require these services for opioid use disorder treatment and so those costs that already exist for the Department of Mental Health and Substance Abuse Services were applied to those numbers of persons.

MR. PINKER: Move to strike, nonresponsive.

Q (BY MR. PINKER) I'm not asking about rationales. I'm trying to understand where the numbers on this piece of paper came from and how I

can investigate those numbers. Okay?

MS. BALDWIN: Object to the form. Repetitive.

THE WITNESS: So, as I said --

Q (BY MR. PINKER) So let me ask the question, I'm trying to frame for you what I'm trying to understand.

MS. BALDWIN: Let her finish because you just interrupted her.

Q (BY MR. PINKER) No, we need to understand one another. And I'll let you -- I'll let you say what you want, it's not responsive but I'll let you say. I'm trying to understand numbers, not rationales, not what the services are right now, simply where these numbers are coming from.

So you can say what you want now, it's not going to be responsive, but go ahead and say what you want.

MS. BALDWIN: I object to commentary by counsel.

Did you have -- were you in the middle of saying something, Ms. Hawkins?

THE WITNESS: You're asking me where these numbers come from. The numbers are rates that are paid for by the Department of Mental Health and

to what extent, with what resources and how fully each one of those things have been implemented.

Q (BY MR. PINKER) Do you believe that the State has made a good faith effort to adopt and implement the CDC guidance?

MS. BALDWIN: Object to the form. Outside the scope.

THE WITNESS: Are you speaking to the whole universe of guidance from the CDC or are you talking about the guidelines?

Q (BY MR. PINKER) The guidelines as it relates to opioid use disorder.

A Are you talking about the guidelines for pain management released by the CDC in 2016 or are you talking about guidance that the CDC has provided about this crisis?

Q You're the one that began by citing the CDC to me as being an entity that provides guidance that gives you comfort that the Abatement Plan is effective, right?

A Uh-huh.

Q Right?

A And you just called them guidelines which is a different thing.

Q Okay. So using the guidance?

A Uh-huh.
Q Which is the term you used?
A Uh-huh.
Q Has the State made a good faith effort to implement the existing CDC guidelines?
MS. BALDWIN: Object to the form.
THE WITNESS: The guidance provided by the CDC --
Q (BY MR. PINKER) The guidance.
A Yes.
Q And it has done that already?
A I can't --
MS. BALDWIN: Object to the form.
THE WITNESS: My same answer, I'm not going to speak to what level of implementation has been done. For example, there are many areas in which, due to resources, where we are simply responding as fast and as effectively as we can to this crisis, but lack the resources to do something, for example, statewide. But absolutely I believe the State has taken many of those actions and has undertaken good faith effort.
Q (BY MR. PINKER) Has the State tried to, in good faith, adopt the guidance provided by the CDC?
MS. BALDWIN: Object to the form.

THE WITNESS: I think I just answered that.

Q (BY MR. PINKER) Is that yes?

A Yes.

Q You think the State's obligated to do that, don't you?

MS. BALDWIN: Object to the form.

THE WITNESS: What do you mean by obligated?

Q (BY MR. PINKER) You think it has a responsibility to the citizens of this state to adopt that guidance, don't you?

MS. BALDWIN: Object to the form. Outside the scope of the witness's expert testimony.

THE WITNESS: So having not prepared for that topic in my testimony today, but telling you as a professional who works in this field for the State, yes, I believe the State has made tremendous efforts to implement that guidance.

Q (BY MR. PINKER) Well, one of the topics on which you have been designated is the programs and services that the State has implemented to address what you called the opioid crisis, right?

MS. BALDWIN: Object to the form.

Q (BY MR. PINKER) It's on the top of page 2.

So I'll focus on Department of Mental Health where I'm most familiar. I would say, as general categories these fit -- these are pretty consistent with what continues to occur in Oklahoma. There are some numbers in here that likely have increased, for example, the number of people who have been treated with opioid use disorder. In addition to that, there have been some initiation of an Opioid Overdose Fatality Review Board.

Also, I'm looking for, in particular, reference to practices that have been enrolled in practice dissemination programs in the last several months that has -- that has expanded slightly.

Q (BY MR. PINKER) Let me just say, I understand that the number of persons served and dollars spent will have gone up in the months between late 2018 and today. What I'm really asking is whether there are additional programs, services or interventions, in addition to the one that you've mentioned for me, which is the Opioid Overdose Fatality Review Board?

MS. BALDWIN: Object to the form.

THE WITNESS: I have no doubt that there are additional interventions that have begun or commenced since the time that I developed this chart

by other agencies. I can't speak to specifically, and I don't want to misspeak, but there is a lot of activity in the State of Oklahoma related to addressing the opioid crisis and I would expect that there would be additional items on here from other agencies if I were to create this today.

Q (BY MR. PINKER) Okay. But all I can do is ask you for your testimony now.

Do you know of specific services, programs or interventions that the State is implementing in addition to those which are listed on Exhibit 2?

MS. BALDWIN: Object to the form.

THE WITNESS: There have been receipt of new grants during this time, for example, I believe the Bureau of Narcotics and Dangerous Drug Control, during this time, has received -- a new opioid related grant has initiated new work in that area.

Q (BY MR. PINKER) Do you know what the grant relates to?

A It's related to opioids.

Q More specifically, do you know what it relates to?

A No, I don't have that information with me.

Q Do you know how much the grant was for?

A I don't. There have been additional

continuing medical education courses, and I would say, generally speaking, a lot of these interventions continue to be implemented.

Q I had assumed that.

Okay. You've gone through it?

A I have.

Q Okay. Other than the Opioid Overdose Fatality Review Board and the grant that you mentioned to me, you're not presently aware of anything else that would need to be added in terms of a line item to Exhibit 2, right?

A Well, those are the -- I'm sorry.

MS. BALDWIN: Object to the form.

THE WITNESS: Those would be the two things I would identify that I'm aware of.

Q (BY MR. PINKER) Yeah, that's what I asked.

A And I'm --

Q Okay.

A -- also trying to recall the month that I completed this. But yeah, it would have been the last couple of months.

Q Do you know the total cost of the actions that are listed in Exhibit 2 to the State of Oklahoma?

MS. BALDWIN: Object to the form. Outside

the scope of Ms. Hawkins' expert testimony. We actually have an expert testifying on past damages to the State of Oklahoma and it's not Ms. Hawkins.

THE WITNESS: I don't have that information.

MR. PINKER: All right. I'm going to pass the witness. I know some other people have questions. I want to note that I am specifically reserving some time. We will be filing a motion to compel with regard to some of the topics that answers were not given on.

MS. BALDWIN: Okay. Exactly what topics do you believe answers were not given on? I disagree. You've had ample time to depose Ms. Hawkins, so can you -- can you tell me --

MS. BALDWIN: No, it's in the record.

MS. BALDWIN: -- tell me specifically what you believe is deficient?

MR. PINKER: There are a host of things on which she declined to answer.

MS. BALDWIN: She answered all of your questions.

MR. PINKER: That's factually false.

MS. BALDWIN: There's not one question this witness has been directed not to answer, so I'm

EXHIBIT 78

I. Dr. Rosenblatt is expected to testify about the following subject matter:

Dr. Rosenblatt is expected to offer an expert opinion on matters related to pain management and addiction, including the significance of chronic non-cancer pain ("CNCP") and the use of opioids to treat CNCP, as well as breakthrough and other types of non-cancer pain. Dr. Rosenblatt's expert opinion is expected to address the brand opioid medicines, Actiq and Fentora, manufactured and sold by Cephalon, Inc.,[1] the individualized nature of the decision whether to prescribe Actiq and Fentora, and/or other opioids for patients experiencing pain, with respect to cancer, CNCP, and other types of non-cancer pain. Dr. Rosenblatt's expert opinion will also address the many factors that physicians consider other than marketing by pharmaceutical companies when making a prescription decision.

Dr. Rosenblatt is also expected to testify about the flaws in Dr. Beaman's methodology for determining what is and what is not a medically unnecessary opioid prescription reimbursed by the Oklahoma Medicaid Program (or otherwise) and the failure of Dr. Beaman to identify a single Actiq or Fentora prescription that was medically unnecessary. Additionally, Dr. Rosenblatt is expected to testify about addiction with respect to opioids, including the nature of addiction, the manageability of the risk of addiction with appropriate screening and monitoring protocols, the difference between physiological dependence and addiction, the many factors (independent of pharmaceutical marketing) that can cause addiction of opioid medicines, and the treatment of opioid use disorder.

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[1] Cephalon, Inc. ("Cephalon") and Teva Pharmaceuticals USA, Inc. ("Teva USA") are referred to as the "Teva Defendants." Actavis Pharma, Inc. ("Actavis Pharma"), Watson Laboratories, Inc. ("Watson"), and Actavis LLC ("Actavis LLC") are referred to as the "Actavis Generic Defendants."

Dr. Rosenblatt is also expected to testify regarding the diversion of opioid medicines and the role of illicit drugs in creating addiction. Dr. Rosenblatt is also expected to testify that marketing materials developed by Cephalon or Teva USA that she has reviewed are consistent with the labels for Actiq and Fentora, and that she does not find the materials she has reviewed deceptive or misleading.

II. Dr. Rosenblatt is expected to testify about the following facts and opinions, among others:

CNCP is a pervasive and serious condition that often requires medical intervention. Historically, CNCP, breakthrough non-cancer pain, and other types of non-cancer pain, have been undertreated and has resulted in added economic, personal, and other costs borne by the patient, state, and community.

Actiq and Fentora are both transmucosal immediate-release fentanyl ("TIRF") medicines. They are different from long-acting opioids. Actiq and Fentora have an acceptable and manageable risk of misuse, abuse, and addiction when used to treat breakthrough cancer and non-cancer pain in opioid-tolerant patients when properly prescribed and in conjunction with thorough monitoring. Moreover, the FDA-approved labels for Actiq and Fentora disclose the various risks, including addiction, associated with the use of these medicines. In addition to mandating warnings on the labels of Actiq and Fentora, the FDA has long implemented safeguards to inform physicians and patients about the potential risk of abuse for TIRF medicines like Actiq and Fentora. Since approval, Actiq and Fentora have always been subject to an FDA-approved risk management program. In addition, since early 2012, the TIRF REMS Program (applicable to all TIRF medicines) has imposed additional and rigorous obligations on prescribers before any Actiq or Fentora prescription can be written, including, but not limited to, passing a knowledge assessment, reviewing the FDA-approved medication guide for Actiq or Fentora with the patient, and signing

an agreement that the prescriber understands and has counseled her or his patient about the risks and approved uses of Actiq and Fentora. Follow-up assessments also are mandated.

Like countless other medications, opioids can be appropriate and effective for purposes other than the FDA-approved indication. There are many different types of opioids, with many different indications. Patients experiencing CNCP and other types of non-cancer pain can benefit from opioids, including immediate-release opioids, when such medicines are prescribed appropriately and the patients are appropriately screened and monitored. Patients experiencing breakthrough non-cancer pain may benefit from prescriptions of Actiq and Fentora when prescribed appropriately and the patients are appropriately screened and monitored.

The decision to prescribe Actiq, Fentora, or any other opioid for the treatment of CNCP and other types of non-cancer pain, rests with the treating physician and entails individualized decisions based on many patient- and pain-specific factors. These factors include, but are not limited to, the patient's entire medical history and chart, including the history with respect to other pain therapies, the health care provider's experience with the particular opioid product in the past, the physician's individual assessment of the benefits of using opioid therapy versus the risks of taking it, input from the patient, appropriate monitoring for aberrant behaviors including urine drug screening, and influence by third party payors, such as insurance companies.

Dr. Rosenblatt is also expected to testify that Dr. Beaman's categorization of what opioid prescriptions are medically appropriate is unduly narrow, flawed, arbitrary, and unreliable for many reasons. For example, Dr. Beaman's methodology does not appear to take into consideration the individualized circumstances of any particular prescribing decision, including the needs of the patient, the doctor's experience, evidence of monitoring, or whether the patient benefited over time from the prescription. He also appears to group all opioids together, despite the many differences

among them. He likewise uses an unduly narrow list of diagnoses where prescriptions of opioids may be medically appropriate to treat and manage CNCP. Likewise, it does not appear that Dr. Beaman has sufficient information to make a determination as to whether the opioid prescriptions identified in his disclosure were medically unnecessary. And, in fact, Dr. Beaman does not identify a single prescription of Actiq or Fentora that was medically unnecessary. Nor has Dr. Beaman's disclosure identified any allegedly false marketing by the Teva Defendants or the Actavis Generic Defendants linked to any medically inappropriate prescription for which the State reimbursed or that caused the State some harm. Dr. Rosenblatt is expected to testify that marketing materials developed by Cephalon or Teva USA that she has reviewed are consistent with the labels for Actiq and Fentora. Dr. Rosenblatt is also expected to testify that she does not find the materials she has reviewed deceptive or misleading.

In addition, before writing a prescription for an opioid medicine, prescribers must be aware of the associated risks. These risks are disclosed in many places, including on the labels for opioid medicines and through FDA-mandated REMS Programs. Prescribers should be, and are generally, aware that Schedule II controlled substances, such as the opioids at issue here, present a known risk of addiction and abuse. The associated risks can be minimized and managed through an appropriate screening and monitoring protocol. Adequate screening procedures and ongoing, thorough monitoring of patients is a vital component to managing pain in complex patients who require opioid therapy. When patients who are prescribed opioids are appropriately screened and monitored on an ongoing basis, the risk of addiction is significantly lowered.

Addiction is a complex phenomenon to which many factors contribute. For those patients who experience opioid addiction in the form of opioid use disorder, there are many possible contributing factors, such as genetic predisposition, history of substance abuse, and social factors.

Patient-specific factors contribute to the risk of developing opioid use disorder. Opioid use disorder can be effectively treated through pharmacologic and non-pharmacologic methods.

There is a distinction between addiction and dependence. Physiological dependence involves the presence of tolerance and withdrawal symptoms, whereas addiction is a primary, chronic, neurobiologic disease, whose developments and manifestations are influenced by genetic, psychosocial, and environmental factors. Some patients who are prescribed opioid therapy may experience the need for more pain relief without showing signs of addiction. Patients exhibiting relief-seeking behavior can be misinterpreted as exhibiting drug-seeking, aberrant behaviors. This has been called "pseudoaddiction." Individuals who are dependent on opioids taken under clinical supervision may safely benefit from the monitored use of opioids to treat CNCP and other types of non-cancer pain, even though they are physiologically dependent on them.

Dr. Rosenblatt is expected to testify about the potential for diversion of prescription opioids. This is commonly highlighted in clinical articles on opioid prescribing and is discussed in the labels of opioid medicines and prescribing guidelines. Moreover, many people who misuse, abuse, or become addicted to opioids often do not have a prescription for them (and lack an appropriate diagnosis) and obtained them improperly or illegally, such as through friends, family, or a dealer. Many people also misuse, abuse, or become addicted to illegally made or "illicit" opioids, which are not manufactured by pharmaceutical companies.

III. Summary of the grounds for each opinion

The grounds for the facts and opinions that Dr. Rosenblatt will testify about are her extensive education, training, and certification in the fields of pain management and addiction medicine and the knowledge, skill, and experience she has acquired treating patients suffering from CNCP, breakthrough non-cancer pain, and other types of non-cancer pain, as well as opioid

dependency throughout her career as a pain management and addiction specialist. Dr. Rosenblatt will base her opinion upon a review of the TIRF REMS Program information made available by the FDA, the FDA-approved labels for Actiq and Fentora, and opioid prescribing guidelines. Dr. Rosenblatt will also base her opinions on relevant academic literature and articles on the topics of pain management and addiction, and a review of the deposition testimony, documents, and data produced in this case.

For additional experience, training, education, and other grounds for Dr. Rosenblatt's testimony, see Dr. Rosenblatt's *curriculum vitae*, attached hereto.

IV. Dr. Rosenblatt's Compensation

Dr. Rosenblatt is being compensated at the following rates: $600 per hour.

V. Dr. Rosenblatt's Qualifications

Dr. Rosenblatt's qualification are reflected in her *curriculum vitae*.

VI. Dr. Rosenblatt's Publications

Dr. Rosenblatt's publications are listed in her *curriculum vitae*.

VII. Dr. Rosenblatt's Prior Testimony

Dr. Rosenblatt has not testified as an expert in any litigation in the previous four years.

VIII. Reservation of Rights

Discovery is ongoing, and the Teva and Actavis Defendants have not had an opportunity to depose Plaintiff's experts or review all documents that the State recently produced (or may still produce). As a result, the Teva and Actavis Defendants reserve the right to amend these disclosures following the deposition of Plaintiff's experts and the review of all document productions by the State.

CURRICULUM VITAE

Melanie Rosenblatt, MD
1 West Sample Road, Suite 104
Pompano Beach, FL 33064
(954) 941-5556

Personal Data:

DOB: August 9, 1965
Place of birth: Brooklyn, NY

Education:

MD – State University of New York at Stony Brook
Stony Brook, NY
August 1987-May 1991
BS – State University of New York at Stony Brook
Stony Brook, NY
September 1983-December 1986

Hospital Training:

Residency- Anesthesiology- St. Joseph's Hospital Health Center
Syracuse, NY
July, 1992- June 1995
Internship- Obstetrics and Gynecology- Nassau County Medical Center
East Meadow, NY
July 1991- June 1992

Practice/Employment History:

Pain Management Strategies, Inc
1 West Sample Road, Suite #106
Pompano Beach, FL 33064
(954) 941-5556
April 2002- present

Pain Management Strategies, Inc. (2nd location)
Twin Lakes Professional Center
2900 N. Military Trail, Suite 241
Boca Raton, FL 33431
(561) 998-5100
June 2006- present

Medical Director of Pain Management
Broward Health North
July 2002- Oct 2017

Medical Director of Acute Pain Management
Holy Cross Hospital
Nov 2014- present
Imperial Point Medical Center
August 2014- present

Affiliate Faculty member of University of Miami
August 2016-present

Melrose Pain Solutions-Founding Partner
2016-present

Monitor for the Florida Board of Medicine
Probationers Committee
On-site visits to physician offices
July 2010- August 2012

Park Creek Surgical Center
6806 North State Road 7 (Route 441)
Coconut Creek, FL 33073
2007- 2012

Physicians Outpatient Surgery Center
1000 Northeast 56th St
Fort Lauderdale, FL 33334
2008- Present

Anesthesiologist for the North Broward Hospital District
APA/ANESCO
1995-2000

Director of Anesthesia
Atlantic Surgical Center
August 2002- September 2004

Clinical Instructor- Department of Surgery
Nova Southeastern University
College of Osteopathic Medicine
1997-2000

Committees:

C & Q chairperson
Broward Health North
2007-2016

Medical Executive Board Member
Broward Health North
2007- 2016

Publications:	*Newsmax Health Weekly Blog (2 million viewers)* *May 2015-present* *Everyday Health- interview June 2014* *Revolving Door of Opioid Addiction Jan 2017* *Pain Medicine News* *October 2016* *Why CMS Should Not Remove Pain Questions From Payment Calculations* *December 2016* *DEA Ratchet's Down Opioid Production-Contributor* *Future Medicine* *November 2018* *Tapering opioid therapy: clinical strategies* *Joseph V Pergolizzi Jr, Melanie Rosenblatt, Dean J Mariano & John Bisney*
Television/Film:	*"Pain Matters"- the Discovery Channel Nov+ Dec 2015* *Satellite Media Tour- San Francisco Sept 2014* *Discovery Health Channel, Beacon TV April +May 2015*
Appearances/Lectures:	*CME lectures, multiple* *Legislative Congress, Williamsburg PA June 2015* *Legislative Congress, Sacramento CA Sept 2015* *Legislative Congress, Salt Lake City UT Oct 2015* *Complex Spine & Interventional Pain Symposium* *Palm Beach, Fl Nov 2017*
Faculty Training/ Key Speaker:	*Alpharma 2004-2006* *KOL, Speaker/Speaker Training* *National Sales Meeting, 2005* *Medtronic 2005-2008* *Trained surgeons on Intrathecal Baclofen implantation technique* *St Jude Medical 2009-2013* *Lectures, Cadaver Workshops, Round Tables* *Peer-to-Peer Trainings* *Collegium Conferences, Regional & National, multiple* *Virtual WebEx, April 2016* *Virtual WebEx, May 2016* *Chicago IL June 2016*

Orlando FL Aug 2016
Dallas TX Oct 2016
Virtual WebEx, Oct 2016
Orlando FL Oct 2016
Boca Raton FL Nov 2016
Palm Beach FL Nov 2016
Denver CO Dec 2016
Delray Beach FL Jan 2017

Pfizer Conferences, Regional & National, multiple
Pain Week, Los Vegas NV Sept 2016
Vero Beach FL Oct 2016
Palm Beach FL Nov 2016
West Palm FL Dec 2016

Depomed Conference, Regional & National, multiple
Ft Worth TX Mar 2017
West Palm FL Apr 2017
Tampa FL May 2017
Boca Raton FL June 2017
Naples FL July 2017

Daiichi Sankyo, Inc, Regional & National, multiple
Orlando FL Nov 2017
Boca Raton Nov 2017
Palm Beach Nov 2017
Pembroke Pines Jan 2018
Louisville, KY Feb 2018
Malabar, FL Apr 2018
Birmingham, AL June 2018
Evansville, IN Sept 2018

Bio Delivery Conference, Regional
Fort Lauderdale June 2018

Nevro Conference, Regional & National, multiple
Palm Beach, FL Nov 2017
Las Vegas, NV Jan 2018
Naples, FL June 2018
NY, NY Oct 2018

Professional Memberships: *American Society of Anesthesiologists*
Florida Society of Anesthesiologists
Society for Pain Practice Management
American Academy of Pain Management
American Society of Addiction Medicine

- *Board Certified in Anesthesiology, 10/96, certification No. 28498*
- *Board Certified in Pain Medicine, 4/11-4/21, certification No. 12511*
- *Board Certified in Addiction Medicine, 12/10-12/20, certification No. 2010401*
- *Board Certified in Preventive Medicine, 1/18-1/28, certification No. 61-1592*

References available upon request