IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

PART G

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 36

IN THE DISTRICT COURT FOR 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., et al.,	)	
Defendants.	)	

VOLUME I

DEPOSITION OF JASON W. BEAMAN, D.O.

TAKEN ON BEHALF OF THE DEFENDANTS

ON MARCH 14, 2019

IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: KIMI GEORGE, CSR

Q. Okay. And, Doctor, I don't -- If you'll try to let me finish and I'll try to let you finish. We don't want to make the court reporter's life any more difficult --

A. Sure.

Q. -- than it already is, listening to us talk about these -- these things.

Okay. So -- and I -- and I -- I can actually -- I think I can show you something in the petition that might give you some comfort with that last answer. If you'll go to page 5 of the petition?

A. (Witness complies.)

Q. And you'll see a section there toward the middle lower case Roman numeral 3. It says, "The Cephalon Defendants." Do you see that?

A. I do.

Q. That paragraph 17 there refers to Cephalon, Inc., and it also refers to the Teva Pharmaceuticals USA, Inc. Do you see that?

A. I do.

Q. And down below, in paragraph 18, "The state has alleged Defendant Cephalon, Inc., manufactures several opioids, including Actiq and Fentora."

Do you see that?

A. I do.

Q. Okay. Okay. Let me go ahead and have you look back at the first page of the petition again. And if you'll go down to the Defendant No. 11, Watson Laboratories, Inc. Have you ever heard of Watson Laboratories, Inc.?

A. Just as a -- as a listed defendant in -- in the case.

Q. Okay. Do you know, as a corporate representative on behalf of the state, what opioid medications, if any, have been manufactured at any time by Watson Laboratories, Inc.?

A. Again, I would say that if they are a subsidiary of Teva, then it would be in this document. Outside of that, I would say no.

Q. Well, and again, when you refer to this document, you're referring to the Exhibits 1 and 2 from --

A. Right.

Q. -- from Exhibit 1, and neither of those documents reference Watson Laboratories, do they?

A. No.

Q. Okay. So all I'm trying to find out is, as the corporate representative for the state here today, do you know what, if any, opioid medications have been manufactured at any time by Watson

Laboratories?

A. Again, I would refer you to my previous answer, that if they are -- So, the Exhibits 1 and 2 that are located within Binder 1 -- Exhibit 1. Exhibits 1 and 2 represent the state's knowledge of all opioids that have been produced by Teva and their subsidiary companies. I am not aware of whether or not Watson is one of those subsidiaries, but when the State of Oklahoma requested information, it's my understanding from Teva Pharmaceuticals, on which opioids they manufactured, they produced Exhibits 1 and 2 that would list those opioids.

So, if Watson is one of those entities, and it would be my understanding then, that based on information from the -- that the state received from Teva, that those opioids would be listed in this document.

Q. But do you know if Watson is one of those entities?

A. I do not.

Q. Okay. The next defendant that's listed in the front page of the petition is an entity called Actavis LLC. Do you see that?

A. I do.

Q. On behalf of the state as its corporate

representative here today, do you know what, if any, opioid medications Actavis LLC has ever produced?

A. And I would refer you to my previous answer, that if it's a subsidiary of Teva Pharmaceuticals, then it would be -- and I used the word subsidiary in a lay physician term.

Q. I understand.

A. I don't want to misspeak. But if it's an entity of Teva, then I would say that the state would believe that opioids manufactured by them would be located in Exhibits 1 and 2 located within Binder 1.

Q. Again -- again, I think your answer would be the same, is you don't know whether or not Actavis LLC has actually manufactured any of the medications on Exhibits 1 and 2, do you?

A. Well, I would say that if they are an entity of Teva, then based on information from Teva, that it would be located in Exhibits 1 and 2.

Q. Well, is it your -- Is it the state's belief that every entity that you just -- as you said, every entity of Teva manufactures opioid medications?

A. It's the state's position that every opioid manufactured by Teva and its entities are located within Documents 1 and 2.

Q. Okay, all right. The last entity listed on

the front page of the original petition is No. 13, Actavis Pharma, Inc., formerly known as Watson Pharma, Inc. Do you see that?

A. I do.

Q. Again, if you want -- I know you're going to probably give me the same answer, but I need to ask you the question.

A. Sure.

Q. Do you know what, if any, opioid medications have ever been manufactured, branded or generic, by Actavis Pharma, Inc., formerly known as Watson Pharma, Inc.?

A. Again, it would be the state's position that if Actavis Pharma, Inc., formerly known as Watson Pharma, is an entity of Teva, than any opioids manufactured by them would be located in Exhibit 1 and 2 located within Binder 1.

Q. Okay. But you, as a representative of the state here today, do not know whether or not Actavis Pharma, Inc., formerly known as Watson Pharma, if that particular entity has produced any opioid medications, do you?

A. Again, I would say if they're an entity of Teva, then their opioids would be listed here.

Q. Okay. All right. Let -- Okay. So, let me

just back it up a little bit, make -- make it clear to you. There are obviously some other defendants listed as Nos. 6 through 10 on this front page of the petition. There's the Johnson & Johnson at No. 6, Janssen Pharmaceuticals; No. 7, Ortho-McNeil-Janssen Pharmaceuticals, 8; Janssen Pharmaceuticals, Inc.; and then Janssen Pharmaceutica, now known as Janssen Pharmaceuticals, Inc. Those entities, I do not represent, and I'm not asking you questions about those entities today, nor am I asking questions about the Purdue entities.

Continuing on to the one remaining defendant that's listed here, is No. 10, Allergan PLC, formerly known at Actavis PLC, formerly known as Actavis, Inc., formerly known at Watson Pharmaceuticals, Inc.

Do you see that?

A. I do.

Q. Okay. I also do not represent that entity. It's my understanding that entity was named as a defendant in this case but never served in this case and is not being actively pursued as a defendant, at least in this case, by the state. Is that your understanding, or do you know one way or the other?

A. I -- I do not know --

Q. Okay.

A. Well, I believe that the state is seeking damages for the overprescribing of opioids in the relevant time period of -- of all opioids. So, we're -- we're not going to separate out, necessarily, damages specific to Actiq, that it's an indivisible injury.

Q. What's an indivisible injury, Doctor?

A. As -- as I read it, it is -- or as I understand it, it's that this injury was caused, and you can't separate out and say that Actiq caused this one overdose so the damage is related to that one overdose is going to be assigned to that prescription of Actiq.

Q. And where did you -- Or how did you come to that understanding of the term indivisible injuries?

MR. ANGELOVICH: And just to the extent it calls for -- for privileged communication, I'm going to ask that he not disclose that. But other than that, you can answer it.

BY MS. PATTERSON:

Q. If you can -- Again, certainly follow his instructions. Can you -- can you answer my question without divulging privileged communications?

A. No.

Q. So, am I correct, that everything you know

about what constitutes an individual injury is based on what you have learned from counsel for the state?

A. Yes.

Q. You are not a lawyer, are you?

A. I am not a lawyer.

Q. Okay. So, while I -- I certainly understand you've had discussions with the state and I'm not entitled to know about those discussions, I am entitled to ask you some questions about what the state's position is on certain things, and from a factual --

A. Okay.

Q. -- standpoint, okay? So, I -- I want to find out, Are you aware of any determination which has been made by the state of the number of prescriptions for Actiq, in particular, which have been made during the relevant time period?

A. Yeah. I think that number is approximately 2700.

Q. Okay.

A. And that number actually may combine Actiq and Fentora during the relevant time period.

Q. So, do you know one way or the other if it's a combined number or --

A. I do not.

Q. Okay. And where did you come up with the number 2700?

A. Through -- I believe that number is derived from the MMIS data.

Q. Okay. And what is the MMIS data?

A. That is the Medicaid database that is maintained by the State of Oklahoma in which this kind of information would be kept.

Q. That's the Oklahoma Health Care Authority's database?

A. Yes.

Q. Okay. And so, it's your testimony on behalf of the state here today, that during the relevant time period, there have been approximately 2700 prescriptions for Actiq and Fentora?

A. And/or Fentora, yes.

Q. So you don't know if that's just Actiq or if it's a combined number?

A. Correct.

Q. Okay. Who at the state would know that?

A. I mean, I think that that number could be ascertained by any number of individuals. We would just have to look for that specific question. I think it would be the Oklahoma Health Care Authority, since the data is in their system.

Q. Okay. Have -- have you, for any purpose in connection with this case, reviewed the MMIS data regarding prescriptions reimbursed by the Oklahoma Health Care Authority?

A. Yes.

Q. Okay. I thought so. Have you reviewed data from the Health Care Authority related to prescriptions that have been reimbursed for Actiq and Fentora?

A. Yes.

Q. All right. And you said -- So you have some familiar -- some familiarity with how that data is kept and maintained in the electronic system, correct?

A. Yes.

Q. All right. Is it your belief that it would be possible to essentially run a query to separate out prescriptions for Actiq from prescriptions for Fentora or prescriptions for some other opioid?

A. Yes, I believe that would be possible.

Q. Okay. So, the number of prescriptions which have been reimbursed for Actiq during the relevant time period is a knowable number based on the MMIS data you referred to, correct?

A. Yes.

Q. Okay. Same question for Fentora: The number of Fentora prescriptions that have been prescribed in Oklahoma during the relevant time period is also a knowable number?

A. Yes, I believe so.

Q. Okay. Can you confirm, as you sit here today as a representative of the state on the various topics that we're here about today, whether or not the majority of the prescriptions for Actiq during the relevant time period have been made for chronic non-cancer pain?

A. I cannot, other than relying on the testimony provided by Dr. Kolodny, who was speaking as a representative of the state.

Q. Okay. Other than relying on the testimony of Dr. Kolodny -- Well, strike that.

Let me ask a different question. Did Dr. Kolodny provide any testimony that you're aware of regarding prescriptions of Fentora?

A. I'm not aware.

Q. Okay. Do you know if there have been any prescriptions of Fentora that have been made during the relevant time period for chronic non-cancer pain?

A. Have there been -- And so the question is, Have there been any Fentora prescriptions in the

state of Oklahoma since 1996 for non-chronic cancer pain?

Q. Of Fentora.

A. It is my understanding that there have been, but to quantify that, I'm not able to.

Q. Why not?

A. Because I think the state would rely on Dr. Kolodny for that information.

Q. The state would rely on Dr. Kolodny to determine whether or not a prescription for Fentora was made --

A. Well, it's my understanding as the corporate representative that Dr. Kolodny was analyzing that data set as a corporate rep.

Q. Okay. I'm not sure what Dr. Kolodny was told about what he was doing, and I'm -- I'm -- I'm not asking you about what he did. Again, you are here today to testify on the topics that you're here to testify on, as we pointed out in the notice.

So my question is -- And I'll -- I'll ask it again. As a representative of the state here today, are you able to identify any prescription of Fentora during the relevant time period that was prescribed to a patient for chronic non-cancer pain?

A. It is -- it's not the state's position that

IN THE DISTRICT COURT OF CLEVELAND COUNTY
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(2) PURDUE PHARMA, INC.;
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(4) TEVA PHARMACEUTICALS USA, INC.;
(5) CEPHALON, INC.;
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(7) JANSSEN PHARMACEUTICALS, INC,
(8) ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., n/k/a JANSSEN PHARMACEUTICALS;
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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

EXHIBITS 37-40 FILED UNDER SEAL

EXHIBIT 41

Attorney General Hunter Charges Doctor with Five Counts of Second Degree Murder

OKLAHOMA CITY – Oklahoma Attorney General Mike Hunter today charged Dr. Regan Nichols with five counts of second degree murder in relation to the death of at least five patients during her time working at a Midwest City clinic.

According to the probable cause affidavit, Nichols, an osteopathic physician, knowingly prescribed controlled dangerous substances to patients without a legitimate medical need, in quantities and circumstances that are considered an extreme disregard of human life.

Attorney General Hunter thanked the work of the Drug Enforcement Administration, Oklahoma Bureau of Narcotics, the Oklahoma County District Attorney's Office and the investigating agents and attorneys who worked the case. He said attorneys in his office will do whatever it takes to ensure justice is served to the victims.

"I appreciate the effort from everyone who worked as a team and put this case together," Attorney General Hunter said. "The dangers associated with opioid drugs have been well documented and most doctors follow strict guidelines when prescribing opioids to their patients. Nichols prescribed patients, who entrusted their well-being to her, a horrifyingly excessive amount of opioid medications. Nichols' blatant disregard for the lives of her patients is unconscionable."

The Oklahoma Medical Examiner's reports stated all five deaths were the result of multi-drug toxicity.

Through the investigation, agents found the five individuals who died were prescribed more than 1,800 opioid pills in the same months as their deaths. Three of the five individuals were prescribed a deadly three drug combination of a narcotic opioid pain reliever, an anti-anxiety drug and a muscle relaxer. All of the prescriptions were signed by Nichols.

In addition, data gathered by agents through the Oklahoma Bureau of Narcotics and Dangerous Drugs Control Prescription Monitoring Program indicates that from Jan. 1, 2010 to Oct. 7, 2014, Nichols prescribed in excess of 3 million dosage units of controlled dangerous substances.

After a September 2015 hearing before the Oklahoma State Board of Osteopathic Examiners, the board stripped Nichols of her prescribing authority of controlled dangerous substances. She voluntarily surrendered her credentials with the Drug Enforcement Administration and Oklahoma Bureau of Narcotics.

An Oklahoma County judge has issued a warrant for her arrest. Nichols will be held in lieu of $50,000 bond.

View the counts against Nichols, here (/Websites/oag/images/Counts%20-%20Regan%20Nichols.pdf).

View the probable cause affidavit, here (/Websites/oag/images/Affidavit%20-%20Regan%20Nichols.pdf).

View a copy of the arrest warrant, here (/Websites/oag/images/Warrant%20-%20Regan%20Nichols.pdf).

All individuals charged with a crime are presumed innocent until proven guilty in a court of law.

Posted on Fri, June 23, 2017 by Alex

Go Back (/)

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Oklahoma Constitution (http://www.oklegislature.gov/ok_constitution.aspx)

Oklahoma Statutes (http://www.oklegislature.gov/osStatuesTitle.aspx)

Oklahoma State Courts Network (http://www.oscn.net/v4/)

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,
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(1) PURDUE PHARMA L.P.;
(2) PURDUE PHARMA, INC.;
(3) THE PURDUE FREDERICK COMPANY,
(4) TEVA PHARMACEUTICALS USA, INC.;
(5) CEPHALON, INC.;
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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

EXHIBITS 42-46 FILED UNDER SEAL

EXHIBIT 47

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.;
CEPHALON, INC.;
JOHNSON & JOHNSON;
JANSSEN PHARMACEUTICALS, INC.;
ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA,
INC., n/k/a JANSSEN
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 MARK WOODWARD
TAKEN ON BEHALF OF THE DEFENDANTS
ON FEBRUARY 12, 2019, BEGINNING AT 9:05 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Jim Herzig
REPORTED BY: Jane McConnell, CSR RPR CMR CRR

Q (BY MS. RYAN) Sure. The last sentence of the first paragraph says, "OBN spokesman Mark Woodward says..."

A I see.

Q "...says his agency's prescription monitoring program (PMP) identified Simmons as Oklahoma's number one drug seeker."

A Yes.

Q So in Deposition Exhibit 1 you identified Mr. Simmons in 2009 as Oklahoma's number one drug seeker?

A That is correct.

Q And Mr. Simmons' criminal activity was doctor shopping?

MR. LEONOUDAKIS: Objection.

A I would have to ask the agent exactly what Simmons was doing that they believe it was fraud and abuse and doctor shopping. Those were the terms that they used to describe him, and that was and still is today kind of the definition of a doctor shopper is exactly what he was doing, going to multiple doctors to obtain prescription medication.

Q (BY MS. RYAN) So then, yes, Mr. Simmons was doctor shopping?

A He was, yes.

Q And in his case it gave rise -- the doctor shopping gave rise to criminal activity?

A That's what our agent who investigated the case concluded.

Q The press release that's in Deposition Exhibit 1 makes no mention of any pharmaceutical manufacturers, does it?

A No.

Q What's a pill mill?

MR. LEONOUDAKIS: Objection.

A I think people would have different opinions on that.

Q (BY MS. RYAN) What's yours?

A I really don't have an opinion on it.

Q You don't have a definition of what a pill mill is?

A No, I don't. I have used that term before, but I use it based on other people calling it that. But why they chose to call it that when one of our agents might say I'm investigating a pill mill, I can't say why they're using that term.

Q What have your agents told you about what a pill mill is?

A Some of the cases that they've worked that they've called it a pill mill would be cases where

they -- again, the agents have described to me that they would see various infractions of the law when it came to prescribing. They would see large volumes of people at these particular places that they've described as pill mills. Those are the types of things that they've used to describe why they would call a place they're investigating a pill mill.

Q You said that your agents at OBN described to you various infractions of law at these medical clinics?

A Correct.

Q What were the various infractions of law that your agents described to you?

A Some of the places had pre-signed prescriptions that were handed to patients according to their -- to our investigators without the doctor being present.

They've also, the agents, have described in some cases no examination took place between the doctor and the patients.

Q Anything else?

A Those are two of the most popular ones that the agents described to me as the types of things that they would see in a case where they

claim that it's a pill mill.

Q Do you know how many pill mills OBN has investigated during your time at the bureau?

A I do not.

Q Do you think that the State of Oklahoma is doing everything that it can to crack down on pill mills?

MR. LEONOUDAKIS: Objection.

A I would have no way to know how to answer that.

Q (BY MS. RYAN) In 2014 weren't you involved in the drafting of legislation that would have placed stricter ownership requirements on pain clinics?

MR. LEONOUDAKIS: Objection.

A I can't remember the legislation or the year. I do know that we have looked at that.

(Exhibit 2 marked for identification.)

Q (BY MS. RYAN) Let me hand you Deposition Exhibit 2.

A Okay.

Q Deposition Exhibit 2 is a rather long news article. So please take your time to review it, Mr. Woodward.

If it helps, Mr. Woodward, I'm not going

reduction programs, what do you discuss?

A If somebody asks me what is the role of OBN's demand reduction programs, it would be to do as many education programs to the public as we can get to get the word out about the different threats in Oklahoma.

Q How many programs do you think you do in a year?

A It varies. I've probably done in the neighborhood of probably a little over 3,000 in my 24 years. I've probably done as few as 66 I think one year, I couldn't tell you what year, to as many as maybe 133 another year.

It really varies especially when I was doing it by myself versus now we've got three others, and that's their full-time position as education officers or instructors.

Q Do you remember in what year you added content about the abuse and misuse of prescription opioids to your presentation about drug abuse within Oklahoma?

A Approximately 2004.

Q Is it safe to say approximately 2004 is when prescription drug abuse and misuse, including the abuse and misuse of prescription opioids, is the

year that that problem really came on OBN's radar?

A I can't say that for sure. When I was going back and reviewing my education programs, I went as far back as I could find, and I found a PowerPoint CD that was dated 2004, and it had a slide in there similar to my slides now. I've changed pictures and stuff, but basically it's a slide on prescription drugs.

Now, whether I was doing that in '98, '99 whenever PowerPoint came out and I went from the old click or Grandma's slide show of the Hoover Dam to an actual PowerPoint. I may have had it in '98 or '99. I just couldn't find any CDs or any programs.

'04 is the oldest I could find where I had a presentation, and in that presentation was my section on opioid prescription concerns.

Q If I understand your testimony, 2004 is the earliest year in which you could find an actual presentation that dealt with abuse and misuse of prescription opioids, but it's possible that you had earlier presentations and that OBN knew about the problem before 2004?

MR. LEONOUDAKIS: Objection.

A We've known about the problem. We've had diversion and compliance investigators dealing with

prescription and issues going back to the '80s long before I started at the bureau.

I'm not sure what you mean by when we became known of the problem. What problem, I guess? I'm not sure how to answer.

Q (BY MS. RYAN) If I understand you correctly, prescription drug abuse and misuse has been a problem in Oklahoma since the '80s?

A Well, we've had compliance agents, which are now today's diversion investigators, working doctors or patients committing fraud and dealing with prescriptions going back to at least the '80s, if not -- we were started in '75.

I can't say exactly what our agents worked in the '70s and early '80s, but by the mid '80s I've talked to agents who were working doctors back then and also patients who were trying to obtain illegally.

Q For most of OBN's existence as a bureau, the diversion of prescription narcotics and the abuse and misuse of prescription narcotics has been a problem for the state of Oklahoma?

MR. LEONOUDAKIS: Objection.

A I can say going back to the mid '80s is the farthest back of my knowledge of when our guys

were already -- our compliance agents were already working those types of cases. But it could be, I just can't answer for sure, it could be since day one in 1975.

May 8, I believe it was in '75 when we were started, they may have started, but I don't have that information.

Q (BY MS. RYAN) In the mid 1980s there was a diversion division within OBN?

A Yes. It was called "compliance" at the time. It has since changed to "diversion."

Q In the mid 1980s what was then called compliance but is now diversion division of OBN investigated doctors for prescription fraud?

A That's what agents back then have told me.

Q Do you know which prescriptions were being abused in the 1980s?

A They weren't real specific.

Q Were there prescription painkillers on the market in the 1980s?

A I couldn't say for sure. I mean, I'm assuming you had morphine or codeine, but, again, that would be outside something I'd be comfortable articulating about what we had back then.

Q But Oklahoma's problem with prescription

Q That paragraph that references how prescription pills are easy and have historically been easy to obtain from the medical community and then lists several categories of diversion, does that paragraph make any reference to prescription drug manufacturers?

A It does not.

Q Did the first paragraph on Page 5 of the "diverted pharmaceuticals" section make any reference to prescription drug manufacturers?

A No.

Q The next paragraph back on Page 6 notes that, "Opioid pain relievers (e.g., hydrocodone and oxycodone) and benzodiazepines (alprazolam and diazepam) are the most common prescriptions obtained by fraud or forgery."

Did I read that correctly?

A Yes.

Q Fraud or forgery would be illegal activity?

A Correct.

Q And then where it says, "The CDC ranked Oklahoma number one for nonmedical use of opioid pain relievers in 2009."

Is that a correct statement?

A That is correct.

Q Nonmedical use of opioid pain relievers would be the people that we talked about before that are using opioid pain relievers for something other than pain treatment?

A Correct.

MR. LEONOUDAKIS: Objection.

Q (BY MS. RYAN) People are using them to get high?

MR. LEONOUDAKIS: Objection.

A Potentially.

Q (BY MS. RYAN) This second paragraph on Page 6 of the 2017 threat assessment under the "diverted pharmaceuticals" section, does it make any reference to any pharmaceutical manufacturers?

A It does not.

Q The next paragraph continues, "Employee theft is another method of obtaining prescription pills. In fact, employee theft is a significant problem for pharmacies, hospitals and long-term care facilities."

Is that a correct statement?

A It is.

Q Employee theft is illegal conduct, correct?

A Correct.

Q Again, there's no mention of pharmaceutical manufacturers in this paragraph, is there?

MR. LEONOUDAKIS: Objection.

A Correct.

Q (BY MS. RYAN) The report goes on to discuss fentanyl, including illegal fentanyl?

A Yes.

Q There's an enforcement effort section under the "diverted pharmaceuticals" section of the 2017 threat assessment, correct?

A Yes.

Q Then there's also a "treatment" section, correct?

A That is correct.

Q Under the enforcement efforts it lists some of the activities that OBN has been doing with respect to enforcing diverted pharmaceutical laws?

A Correct.

Q Is there anything on Page 7 or Page 8 of the 2017 threat assessment with respect to diverted pharmaceuticals that is a reference to pharmaceutical manufacturers?

MR. LEONOUDAKIS: Objection.

methamphetamine and now we're talking about marijuana, correct?

A Yes.

Q It says, "Marijuana remains the most widely available and commonly used illicit drug in Oklahoma."

Is that a true statement?

A That is correct.

Q This report notes that, "While marijuana remains illegal under federal law, many states - including Oklahoma - have passed legislation (or voted on referendums/initiatives) approving the cultivation, possession and use of marijuana for medicinal or recreational purposes." Correct?

A Correct.

Q Notwithstanding the fact that marijuana is the most widely available and commonly used illicit drug in Oklahoma, Oklahoma decided to make it legal for Oklahoma residents to use marijuana for medicinal purposes?

A That --

MR. LEONOUDAKIS: Objection.

A That is correct.

Q (BY MS. RYAN) And even though marijuana is now legal for medicinal purposes, it remains an

enormous concern for the Oklahoma Bureau of Narcotics in terms of its illicit use, correct?

A Yes.

Q On Page 10 we see the section on diverted pharmaceutical drugs. It follows the meth section and the marijuana section. Do you see that?

A Yes.

Q We see a description of, "Common diversion methods of prescription drugs include doctor shopping, visiting emergency rooms, stealing prescription pads and calling pharmacies with fraudulent phone orders."

Are those all accurate descriptions of common diversion methods?

A Yes.

Q I want to drop down to the third paragraph and it says, "In the 1990s health care providers began prescribing opioid pain relievers at a high rate; consequently, the practice of overprescribing opioids led to the widespread diversion and abuse of these medications."

Did I read that sentence correctly?

A Yes.

Q That sentence did not appear in the 2017 OBN drug threat assessment report, did it?

A That's correct.

Q It does appear in the 2018 OBN drug threat assessment report which was compiled after the AG filed its lawsuit in this case, correct?

A That's correct.

Q You've told me several times today that in all your years working with OBN and working with agents and directors at OBN, you have not had conversations with them about the role that any pharmaceutical companies played in the opioid abuse and misuse problems in Oklahoma, correct?

A That's correct.

Q You have had discussions with them about the role that prescribers played, correct?

A Yes.

Q And, in fact, this paragraph that we're looking at about the conduct of health care providers in the 1990s does not make any reference to the conduct of prescription drug manufacturers, does it?

A That is correct.

Q There's no mention of marketing of opioids in this paragraph on Page 10 of the 2018 thread assessment report, is there?

A That's correct.

Q In fact, the term used is overprescribing, correct?

A Correct.

Q Then it notes that, "In response to the prescription opioid epidemic in Oklahoma, lawmakers passed more restrictive prescribing laws for opioids."

Did I read that correctly?

A Yes.

Q When did OBN start using the term "prescription opioid epidemic"?

A I couldn't say for sure.

Q Was it in 2018?

MR. LEONOUDAKIS: Objection.

A I've used it earlier than that.

Q (BY MS. RYAN) When did you first use it?

A I couldn't say for sure. Probably 10 years ago, again, just I couldn't say for sure.

Q In 2009 you began referring to it as a prescription opioid epidemic?

A Possibly.

Q But even 2009 going forward, once you started calling it a prescription opioid epidemic, you didn't have any conversations with anyone at OBN about any conduct on behalf of the manufacturers

that might have caused or contributed to it, did you?

A No. That's correct.

Q In 2009 when you began using the term "prescription opioid epidemic," you were aware of the conduct that led to Purdue's guilty plea in 2007, correct?

A Can you restate that?

Q Sure. We looked at the exhibit earlier where you forwarded --

A Yes.

Q -- the article about Purdue's guilty plea to all the employees in OBN?

A Yes.

Q And the article detailed all of the allegations against Purdue?

A Correct.

Q Including allegations involving Purdue's marketing?

A Correct.

Q And statements that Purdue allegedly made about OxyContin being less addictive than other prescription opioids?

A Correct.

Q Or misleading prescribers about the

addictiveness of OxyContin?

A Correct.

Q You were aware of all of those statements in 2009 when you began using the term "prescription opioid epidemic"?

A Correct.

Q And notwithstanding that, at no point in 2007 or 2009 or any time since have you had any conversations with anyone at OBN about any responsibility that manufacturers may or may not bear for what you call a prescription opioid epidemic in Oklahoma?

A Correct.

Q And you similarly have not had such conversations with anyone from the Attorney General's Office for the State of Oklahoma?

A I have not, no.

Q The last paragraph on Page 10 says, "Hydrocodone is the most frequently diverted opioid in Oklahoma."

Is that a true statement?

A Yes.

Q Again, hydrocodone is different than oxycodone?

A Correct.

EXHIBIT 48

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.;
CEPHALON, INC.;
JOHNSON & JOHNSON;
JANSSEN PHARMACEUTICALS, INC.;
ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA,
INC., n/k/a JANSSEN
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 BUREAU OF NARCOTICS 3230(C)(5) WITNESS
MARK STEWART

TAKEN ON BEHALF OF THE DEFENDANTS
ON JANUARY 22, 2019, BEGINNING AT 9:06 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Kaleb Pianalto
REPORTED BY: Jane McConnell, CSR RPR CMR CRR

A Yes.
Q How many?
MR. HILL: Objection; scope.
You're asking him individually?
A That would be hard to quantify. I don't know. Over my years -- I can't answer that without giving you a ballpark figure.
Q (BY MR. COX) What are the types of situations where there is a diversion from a pharmacy?
A I'm sorry. One more time.
Q What are the types of situations or scenarios in which you've been involved with a diversion from a pharmacy?
A Where an employee there is -- again, your definition of diversion and my definition of theft, I would consider that a theft where we have -- or in a nursing home where people who work in nursing homes steal from patients or theft of a controlled substance. That would be my description of a theft.
Q Okay. Well, again, I don't care whether it's a diversion or a theft. How does the -- how do prescription opioids move from the legal to illegal market with respect to pharmacies?
MR. HILL: Objection; form; beyond the

scope.

A Mostly I would suggest by theft.

Q (BY MR. COX) And by theft do you mean I smashed in a window and I stole money from a pharmacy?

A No. You can have somebody that employs -- that works inside the pharmacy. You don't have to smash in a window to steal it.

Q Employee theft. Anything other than employee theft is a way that things are diverted or stolen from pharmacies?

MR. HILL: Objection; form.

A Well, pharmacies have an obligation to guard against theft and diversion. If they see a prescription, whether or not -- they decide whether or whether or not they will or won't fill a prescription, so if they suspect that a prescription is forged or there's some other irregularity with that prescription, they're not required to fill it.

So the diversion or theft didn't actually occur because they chose not to fill that script.

Q (BY MR. COX) Okay. But my question is how does diversion or theft occur involving a pharmacy?

A I thought I just told you. Either by

theft from somebody outside the pharmacy, theft from somebody inside the pharmacy.

Again, that's the best I can think of because they're filling what is otherwise a script provided to them by a practitioner. If they suspect that there's anything wrong with that script, they'll either call the practitioner or they won't fill it.

Q Let me ask you this. What is the greatest source of diversion in Oklahoma?

MR. HILL: Objection; form; scope. Diversion of --

MR. COX: Of prescription opioids.

MR. HILL: Prescription opioids? I'm sorry.

MR. COX: Yes.

MR. HILL: My objection is to form and scope.

A Again, we're talking about diversion, right, not theft? Are we talking about two different -- because you're calling them the same thing, and I'm calling them two different things.

Q (BY MR. COX) I'm trying my best to use your definition, use your definition of diversion. What is the greatest diversion problem in the state

of Oklahoma today?

MR. HILL: Objection; form; scope.

We're still with respect to prescription opioids?

MR. COX: Yes.

A Based on my experience, it's been patients who for whatever reason either obtain a script by doctor shopping, by going to multiple practitioners. It can be by the practitioner himself.

It can be -- I mean, my focus in Oklahoma and OBN's focus has been from the pharmacy to the doctor to the patient. That's where our focus has been. I have not looked beyond that. I don't know beyond the pharmacy because we don't keep count of the amount of controlled substances that come to a pharmacy. When we audit a pharmacy, we're auditing it from that point forward, not from that point back.

So we've been so overwhelmed with this problem, the opioid addiction problem, that we've spent so much time focusing on the problem that's staring us right in the face which is the patient who is dying and has an addiction to these controlled substances and from the pharmacy where there's a theft of a controlled substance. That's

Q (BY MR. COX) Yes, indeed. Let's go through a few of those things.

Like, for example, is allowing the continued use of paper prescriptions for prescription opioids a contributor to the opioid problem here in Oklahoma?

MR. HILL: Objection; form; scope; seeking expert testimony beyond the notice topics.

A I know that historically based on conferences that I've attended and discussions that I have had, any time that you can take a paper prescription out of the equation, you potentially remove one method or form of diversion.

Q (BY MR. COX) So paper prescriptions have contributed to the prescription opioid problem here in Oklahoma?

MR. HILL: Objection; form; scope.

A It is a contributor.

Q (BY MR. COX) And a contributor, that's all I'm asking.

Is or are unethical or unlawful doctors a contributor to the prescription opioid problem here in Oklahoma?

MR. HILL: Objection; form; scope; seeking a opinion beyond what this witness is here to

testify about.

A Say that one more time, please.

Q (BY MR. COX) Sure. Just to keep doing this, the same thing, during the last 20 years, while you have been in OBN enforcement, have unethical or unlawful doctors overprescribing prescription opioids contributed to the opioid -- the prescription opioid problem here in Oklahoma?

MR. HILL: Objection; form; scope.

A That calls for a professional -- I mean, I can't -- I'm a lay person and can't tell you whether or not a doctor overprescribing, it requires another practitioner to review patient files to determine whether or not a doctor is overprescribing.

So that's kind of outside my authority and ability to investigate a practitioner.

Q (BY MR. COX) How about this. During the course of the last 20 years, have pill mills contributed to the prescription opioid problems here in Oklahoma?

MR. HILL: Objection; form; scope; seeking a causation opinion from a witness noticed and prepared to talk about four really specific topics.

A It is one of several contributors.

Q (BY MR. COX) Is the absence of any pill

mill legislation or restrictions here in Oklahoma something that has been a contributor to the prescription opioid problems here in Oklahoma?

MR. HILL: Objection; form; scope.

A I know that there's been a discussion about pill mill legislation. To be honest with you, I thought there was some. I could be wrong. So...

Q (BY MR. COX) It's my understanding Oklahoma doesn't have any pill mill restrictions.

A That may be true. I know that pill mills have over the years been on the rise.

Q Has the reduction or lack of funding to OBN contributed in any way to or it's been a contributor to the prescription opioid issues here in Oklahoma?

MR. HILL: Objection; form; scope; seeking expert testimony.

A Well, it's difficult to talk about what you don't have. I mean, I know what we do have, and I know what we have been able to do with the assets that we do have, and I think it's significant.

I think any time anybody would want to provide me with more investigators, I certainly wouldn't hesitate to take them.

Q (BY MR. COX) Has allowing non-doctors to

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.

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 49 FILED UNDER SEAL

EXHIBIT 50

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.;
CEPHALON, INC.;
JOHNSON & JOHNSON;
JANSSEN PHARMACEUTICALS, INC.;
ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA,
INC., n/k/a JANSSEN
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.
_____/

VOLUME I

VIDEOTAPED DEPOSITION OF JAMES GIBSON, PhD
TAKEN ON BEHALF OF THE DEFENDANTS
ON MARCH 11, 2019, BEGINNING AT 9:14 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Jim Herzig
REPORTED BY: Jane McConnell, CSR RPR CMR CRR

of the record, that's a double negative.

Q (BY MS. FREIWALD) Have you ever studied epidemics?

A No, I have not.

Q Have you ever studied the cause of any adverse public health effect?

A Yes.

Q What would that be?

A That would be the Cambodian study, and that's why I stumbled on epidemics. Mass murderers, killing of people, both in South Africa and Cambodia, I don't think is an epidemic. I won't call it an epidemic, but I have studied the causes of that in Cambodia.

Q Studied the cause of what in Cambodia? PTSD?

A (Witness shakes head negatively.)

Q Of what?

A No. One component of the Cambodian project was to try to assess the magnitude of the Khmer Rouge genocide in Cambodia.

Q Other than that, you haven't studied health effects?

A No.

Q You've never prescribed a pharmaceutical?

A No.
Q You're not licensed to do so?
A No.
Q Your academic work doesn't have you interacting with sales representatives from pharmaceuticals?
A No.
MS. STRONG: Again, these are double negatives.
Q (BY MS. FREIWALD) I'm sorry. Does your academic work have you interacting in any way with sales representatives for pharmaceutical companies?
A It does not.
Q Have you studied the impact of sales or marketing practices on prescription pharmaceutical use?
A I've read the literature on it.
Q That's not what I'm asking.
A No. I have not done anything more than read the literature on it.
Q When you read the literature in connection with this case?
A That's correct.
Q Before that had you read the literature on it?

A No.

Q And the literature that you read, was that supplied to you by somebody?

A No.

Q Is the literature that you read on the subject of pharmaceutical sales and marketing something that you included in your reference materials?

A No. And may I correct the last question?

Q Sure.

A It was supplied to me by a student. A student wrote a paper on it, and I read all the literature that was in the student's paper.

Q Okay. So I thought you had said that you read this in connection with this case. Did you have a student look at this issue after you were engaged in this litigation?

A No. The student decided to look at this issue, and when the student looked at all of the literature on the effect of detailing on the behavior of physicians, I read that literature.

Q This is an undergraduate student?

A Undergraduate student.

Q That was about a couple months ago or something like that?

a band can trademark its name, for instance.

Q Putting aside the trademark one, are all of these surveys you've done in the area of political science?

A Writ large, yes.

Q And these are all, largely speaking, opinion surveys?

A Well, you might call them that, but I would say opinions, values, attitudes and behaviors.

Q Okay.

MR. WHITTEN: We've been going for over an hour. Is this a good time for a restroom break?

MS. FREIWALD: Sure.

VIDEOGRAPHER: We are going off the record at 10:28 a.m.

(Break taken from 10:28 a.m. to 10:43 a.m.)

VIDEOGRAPHER: We are back on the record at 10:43 a.m.

Q (BY MS. FREIWALD) Sir, have you ever designed a random sample for purposes of determining the effect of a prescription medication?

A Outside of this litigation?

Q Outside of this litigation.

A No.

Q Outside of this litigation, have you ever designed a random sample for purposes of determining a health effect in the United States?

A No.

Q Outside of this litigation, have you ever designed a random sample for the purposes of making any kind of public health policy recommendation in the United States?

A No.

Q Outside of this litigation, have you ever studied the impact or lack thereof of prescription pharmaceutical marketing on health care provider prescribing?

A Have I studied it myself or have I read the literature?

Q Studied it yourself.

A I have not.

Q Outside of this litigation, have you ever studied the effects of prescription pharmaceutical labeling on health care provider prescribing?

A No.

Q I assume you do not consider yourself an expert on how doctors read or interpret prescription pharmaceutical labels?

A I do not consider myself an expert on that

topic.

Q And you do not consider yourself an expert on how doctors integrate information that they get from various sources in making health care prescribing decisions?

A I'm not an expert on that topic.

Q And you're not an expert in how doctors respond to changing information about prescription pharmaceuticals over time?

A Outside the context of this litigation, I am not.

Q And outside the context of this litigation, I assume you have never studied how doctors may respond to the information about the risks and benefits of a prescription pharmaceutical that they get from their own clinical experience working with their own patients as opposed to what they get from other sources?

A I'm not an expert on that topic.

Q It's not something you've ever done any of your academic work in?

A That's correct.

Q And you've never before studied or written or taught or published on whether doctors -- what the time is that it takes for doctors to interpret

A I did not.

Q So did you discuss with anybody whether it would be relevant to a determination of medically unnecessary whether there was different information in the product labeling at different points in that time period versus a later time period?

A No.

Q Do you consider whether it would be relevant to the ratio of medically unnecessary claims how frequently doctors were selecting an opioid for the treatment of pain?

A No.

Q Did it consider whether there was information that might have reflected negatively about the companies in or about that time period; for example, litigation that might have affected prescribing behaviors?

A You mean in like 1998 or 1999?

Q Or 2007.

A One year, ten months out of 2007, no.

Q 2006, 2007?

A No.

Q Did it consider whether there was additional warning language that was introduced and that led doctors to receive directly letters about

risk information?

A Now, correct me if I'm wrong, but I think -- isn't the logic of this line of questioning that medically unnecessary would have been higher in the earlier period?

Q I'm trying to understand what you considered in understanding what would have driven or not driven the level of medically unnecessary claims.

A Okay.

Q Okay. So did you consider any changes in marketing to physicians?

A No.

Q Did you consider any changes in medical board policies or recommendations?

A No.

Q Did you consider any litigation that was publicly known?

A I think you asked me that already, but I'll reply again, no.

Q Did you consider whether there were new products introduced into the market, new opioids, additional opioids that were becoming introduced into the market that might have had different properties?

A No.

Q Did you consider whether there was -- there were specific efforts undertaken by any of the companies with regard to advising doctors about the risks of abuse and diversion of opioid products?

A Again, I'm a little surprised by this line of questioning because all of the logic suggests that it would have been higher prior to 2007.

Q I'm asking you in this 2007 time period, 1996 to 2007, did you consider whether any of these things were going on at this time period?

A I did not.

Q And I assume that your answers would be the same in the later time period, you didn't consider any of those variables in the later time period once Dr. Beaman had his sample?

A That's correct.

Q Did you at any point prior to today ever inquire of the Oklahoma Health Care Authority whether they had a definition of medically unnecessary?

A No.

Q Do you know whether they had any process in place for reviewing claims as medically

at seven hours -- I mean at 6:57.

MS. FREIWALD: What time is it now?

MR. ANGELOVICH: It's 20 minutes to go.

Q (BY MS. FREIWALD) Does your calculation assume anything driving the medically unnecessary prescriptions?

A I'm having trouble with that because something that drives the medically unnecessary would pertain to Beaman, not to me.

Q Okay. Well, I just -- I just really want to understand. I'm not suggesting you should have an opinion where you don't. I just really want to know what the boundaries are here.

A I understand.

Q For your purposes, are you linking in any way medically unnecessary prescriptions as you calculate them with any conduct by any or all of the defendants in this lawsuit?

A I'm stumbling on that because that seems to me to be a legal issue, not a statistical issue.

Q Well, it's a factual issue. Did you do, for example, anything to try to determine what portion of medically unnecessary claims were the result of some conduct that would be wrongful by any definition you might want to apply?

MR. WHITTEN: Objection to the form; especially the statement that it's a factual issue.

A I did no such analysis, but this is your driver's question of medically unnecessary which I answered a little bit back. This is a Beaman issue. This isn't a Gibson issue.

Q (BY MS. FREIWALD) Okay. So for purposes of Dr. Gibson, there's no component of the medically unnecessary analysis that's looking at anything having to do with the defendants' marketing practices, correct?

A That's correct.

Q Anything having to do with how the risk information of the product was conveyed to physicians?

A Others may address such issues, but not I.

Q Okay. Anything having to do with the amount of marketing that any of the companies did with regard to their products?

A No.

Q Anything having to do with the role of other groups that the defendants might be alleged to have relationships, whether they're medical organizations or medical societies or anything like

that, that's not part of what you looked at?

A Just to be clear, I think you're asking me about my opinions as expressed on Page 50, on all of these questions.

Q Uh-huh.

A And I agree. The answer is no.

Q So for purposes of this analysis, it didn't matter to you at all whether the defendants' conduct was entirely lawful, proper, appropriate within FDA regulations or not?

A I made no assessment of that at all.

Q So we've been talking about your opinions with regard to the statutory penalties, right?

A Yes.

Q We haven't spent time yet talking about your opinions with regard to rates of OUD and death yet or any of the future damages calculations you do, but I want to ask the questions I've been asking broadly with regard to all of your opinions.

With regard to all of the opinions in the case, have you factored in any way any supposed wrongful conduct by defendants?

A I think the answer is no. I make -- in the calculation of damages, I'm agnostic as to the behavior of the companies.

Q So to be clear, and I'm sure we're going to spend more time on this tomorrow, you're not linking rates of the OUD as you calculate them to any wrongful conduct by any of the defendants?

A No.

Q Meaning I'm correct?

A That's correct.

Q And similarly with regard to death rates, you're not linking those to any conduct by any of the defendants?

A I'm taking OUD and death as given and not linking. I'm agnostic to the behavior of the companies.

Q And if I were to expand my question to foster care, neonatal abstinence syndrome, lost human capital, the prison system, law enforcement, I may be forgetting one, but any of the buckets that you have in your report, on all of those you're agnostic as to the appropriateness or inappropriateness of the defendants' conduct?

A Yes. As I've said before, my lawyers have -- the State's lawyers have advised me to assume joint and several liability and indivisibility, indivisibility of the damage.

So, no, I'm not making such judgments.

EXHIBIT 51

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.; et al., Defendants.	)	

* * * * *

VIDEOTAPED DEPOSITION OF SAMUEL MARTIN, M.D., FASAM

TAKEN ON BEHALF OF THE DEFENDANTS

IN OKLAHOMA CITY, OKLAHOMA

ON MARCH 6, 2019

COMMENCING AT 9:15 A.M.

* * * * *

instaScript, L.L.C.
101 Park Avenue, Suite 910
Oklahoma City, Oklahoma 73102
405.605.6880
schedule@instascript.net

REPORTED BY: BETH A. McGINLEY, CSR, RPR

Q Oh, were you finished, sir?
A Yeah.
Q Okay.
A I was just making -- making sure...
Q Do you -- do you know whether -- and when you said you "signed some documents," would that be an agreement with the State, saying you're going to provide expert services?
A Yes.
MS. REEVES: I'm going to instruct him not to --
THE WITNESS: Okay.
MS. REEVES: I don't know that you get to get into all that. I would instruct you not to answer that.
THE WITNESS: Okay.
MS. REEVES: You already did, but -- I would strike his answer.
Q (By Mr. Ercole) Okay. Do you know whether that document, one way or the other, has been produced in this case?
A (Moved head from side to side).
Q You need to --
MS. REEVES: You have to answer out loud.
Q (By Mr. Ercole) So you need to --
A Okay.
Q You have to verbalize the response.

MS. REEVES: You can --

A Okay.

MS. REEVES: You can answer that out -- out loud.

A I do not know.

Q (By Mr. Ercole) Okay. Dr. Martin, do you know who the defendants are in this particular lawsuit?

A I know some of them -- I read the -- I read the complaint, so there was a list of multiple defendants.

Q Okay. And can you list those --

A The ones --

Q -- for me?

A -- I know of. Purdue, Janssen, Teva, Teeva -- I'm not sure if I'm saying all the names right. I saw Watson on there, Ac- -- Ac- -- Activa. I may be saying that wrong, but -- those are the ones I can recall, off the top of my head.

Q Any other compa- -- any other defendants that you can recall, sitting -- just sitting here today?

A Oh. No.

Q Okay. When were you retained to -- you talked about the -- the agreement that you signed with the -- with the State, correct?

A Uh-huh.

Q Do you know when you signed that agreement?

MS. REEVES: I would instruct him not to answer that. I don't know that it's pertinent to his expert opinions.

MR. ERCOLE: You're going to -- so I just want to make clear: You're instructing him not to answer when he was retained by the State to provide expert testimony in this case?

MS. REEVES: Yeah, I think I am.

MR. ERCOLE: What's the basis for that?

MS. REEVES: That it's not discoverable.

MR. ERCOLE: The -- when -- when -- I just want -- I just want to make it clear because, obviously --

MS. REEVES: Well, I think the discovery code sets out, you know, what's discoverable, what's not discoverable, in the context of an expert deposition, and I -- I don't think that that falls within the exceptions, as far as what has to be disclosed.

MR. ERCOLE: Putting aside what has to be disclosed, in terms of what's relevant and what's not relevant, I just -- so it -- it's fine if you're going to instruct him not to answer, we'll -- we'll have to address it after the deposition, but my -- let me reask the question.

If you want to instruct him not to answer when he was retained by the State to provide expert services,

MS. REEVES: Object to the form.

A For medical purposes, yes, sir.

Q (By Mr. Ercole) Fair enough. Thank you for that qualification, for medical purposes.

And do the -- given these differences between opioids, do different opioids carry different types of risks?

A Quantify by -- what you mean, "risk"?

Q Sure. Well, are there -- well, do all --

A Specify.

Q Sure. Do all opioids carry risks?

A Yes, sir, they all have potential risks and -- all medications have potential risks and adverse effects.

Q And one of those potentials for -- one of the potential risks for opioids, given how the -- the -- the -- the -- given how the -- the -- the drug impacts the brain, is the risk of addiction; is that fair to say?

A Yes, sir.

Q And another is the risk of misuse; is that fair to say?

MS. REEVES: Object to the form.

A Yes, sir.

Q (By Mr. Ercole) And the risk of abuse, is that another risk of opioids?

A Yes, sir.

MS. REEVES: Object to the form.

Q (By Mr. Ercole) Potential death or overdose, is that another risk associated with opioids?

A Yes, sir.

Q Okay. Is it fair to say that those -- the risks we just talked about have always been disclosed in the FDA-approved labels, at least for FDA-approved opioids?

MS. REEVES: Object to the form.

A From the opioids I have seen. I cannot say that I've read every label for every opioid that's on the market.

Q (By Mr. Ercole) But is it fair to say, at least for the opioids you've seen, the risks we just talked about have always been in those FDA-approved labels for those medicines?

MS. REEVES: Object to the form.

A Yes, sir.

Q (By Mr. Ercole) Okay. And I assume, as a -- as a medical doctor, you've -- you're familiar with a -- a number of different types of opioids, correct?

A Yes, sir.

Q Okay. In addition to FDA-approved opioids, are there -- is there a category of opioids we can call illicit opioids?

A Yes, sir.

Q Okay. And what -- and I'm using that term, but what would -- what would fall within that category of illicit opioids?

MS. REEVES: Object to the form.

A The primary opioid in the United States that would fall into that category is diacetylmorphine or heroin.

Q (By Mr. Ercole) Okay. Other illicit opioids that you -- you can think of?

MS. REEVES: Object to the form.

A Desomorphine.

Q (By Mr. Ercole) And -- and what is desomorphine?

A It's a -- an opioid -- illicit opioid that is mostly -- more common in -- in Russia, and I think there have been a couple cases of it reported in the United States.

Q How about carfentanil, would that be one?

A Carfentanil is a -- I'm aware of carfentanil. I have never seen it. I've never heard of it being used by an illicit user in the United States, personally.

Q Do you -- I mean, being familiar with research on illicit opioids, you understand that there -- there is a -- a -- a carfentanil problem in the United States?

MS. REEVES: Object to the form.

A I am unaware that there's a carfentanil problem

quickly it escalated, if it -- assuming it would have by the time they're seeing me, and -- and how did it escalate in terms of how -- the way they used it, did it -- a lot of people start off orally, of course, and then they -- they progress to injectable or snorting.

So I'd -- I'd take that kind of history and how much they would be using, generally, as well as have they had times when they've been off of that.

So I'd look for periods of sobriety, as wear -- as well as previous treatment, as well as previous withdrawal that they've had from the medication, and then I ask them -- you know, one way I start to try to get DSM criteria is I ask them, "What kind of problems has this caused you in your life?" And then I let them tell me and then I fill in the gaps of any other criteria that I would be concerned might be there, that they haven't -- they haven't displayed to me. And then I want to know their date of last use because I want to make sure they're not going into -- going to go into withdrawal on me right now or within the next few hours.

Q And do you ask the -- the patient whether or not -- strike that.

Do you get into detail about the -- the particular -- for FDA-approved opioids that patients you see may have taken in the past, do you get into detail

about what -- what opi- -- what specific opioid medicine they -- they either took or were prescribed?

A Yes, sir. I will ask them what their medication was.

Q Okay. Have you ever heard of the -- the medicine Actiq?

A I -- can you use the generic name for that, for me? Is it a fentanyl?

Q It -- it is a -- a -- a fentanyl-based --

A Yeah, so that -- I -- I have to correlate, but --

Q Okay.

A -- it sounds like the fentanyl-based.

Q Okay.

A And I apologize, I have to think through my memory banks.

Q That's fine. But have -- have you heard that -- have you -- well, let me ask -- so putting aside the -- the fentanyl-based nature of it --

A Uh-huh.

Q Well, let me go back.

Are there -- there are a lot -- are there a number of opioids that are fentanyl-based?

A Yes, there's different formulations of fentanyl that's available --

Q Okay. And --
A -- on the market.
Q And have you -- have you heard the name Actiq before?
A I have heard it. Not from a patient.
Q Okay. So -- and -- and since you haven't heard it from a patient, is it fair to say that you're -- at least for the patients you've treated, you're not aware of -- of any patients who became addicted to opioids as a result of prescriptions of Actiq?
A Just the fentanyl patch.
Q Any other fentanyl-based products that you're aware of that your patients have become addicted to?
MS. REEVES: Object to the form.
A I think we mentioned the -- the hand- -- just the hand- -- less than a handful of people who have gotten illicit fentanyl in their heroin, but fentanyl would be -- a small percentage of the individuals I treat would be related to complaints about fentanyl.
Q (By Mr. Ercole) Okay. And when you say "small percentage," do you have a sense of what that would be? Un- -- under one percent?
A I would -- I don't know percentage, per se, but I'd say five or 10 a year, and I take care of quite a few people.

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.

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

EXHIBITS 52-59 FILED UNDER SEAL

EXHIBIT 60

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., MIKE HUNTER, ATTORNEY GENERAL OF OKLAHOMA,
Plaintiffs,
vs.) 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;
(9) JANSSEN PHARMACEUTICALS, INC., a/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.

The videotaped deposition of CARLY REISNER, called for examination, taken before KAREN PILEGGI, a Notary Public within and for the County of DuPage, State of Illinois, and a Certified Realtime Reporter of said state, at 10 South LaSalle Street, Chicago, Illinois, December 11, 2018, at the approximate hour of 10:04 a.m.

by a panel of medical professional members with varying viewpoints on opioid use for treating chronic pain."

Do you see that?

A. Yes.

Q. Is that an accurate statement as the corporate representative for APS?

A. As I understand it, yes.

Q. It also goes on to say, "This panel followed rigorous standards of evaluating evidence before they made their recommendations."

Do you see that?

A. Yes.

Q. Is that an accurate statement as the corporate representative of APS?

A. Yes.

Q. I appreciate the state's counsel did not show you the 2009 guidelines for the use of chronic opioid therapy in chronic noncancer pain, but do you know whether or not those guidelines identify the particular standards that were used in coming up with those recommendations?

MR. LEONOUDAKIS: Objection. Form.

BY THE WITNESS:

A. I believe the methodology is part of the

guideline.

BY MR. ERCOLE:

Q. Do you recall that the state's counsel asked you questions about the annual scientific meetings held by APS?

A. Yes.

Q. If you take a look at paragraph 8 of this declaration. It says, "Over the years pharmaceutical companies have had exhibit booths at the APS annual scientific meeting and the opportunity to provide medical liaisons to answer attendee questions about their drugs."

Is that accurate?

A. Yes.

Q. It says then, "Their exhibit fee and any educational grant support for APS helps to keep the cost to attendees at a reasonable level."

Is that also accurate?

A. Yes.

Q. It then goes on to say, "The accredited program for the APS annual scientific meeting was created by the scientific program committee free of influence from any company or organization."

Is that an accurate statement that any -- that the accredited program for the APS annual

scientific meeting is free of influence from any company or organization?

MR. LEONOUDAKIS: Objection. Form.

BY THE WITNESS:

A. Yes.

BY MR. ERCOLE:

Q. You provided some testimony earlier about information provided by pharmaceutical companies at the annual scientific meetings. Do you recall that?

A. Yes.

Q. I think you also provided some testimony about room drops; is that right?

A. Yes.

Q. Are you aware of any false statement made by any pharmaceutical manufacturer in connection with any APS annual scientific meeting?

MR. LEONOUDAKIS: Objection. Form.

BY THE WITNESS:

A. No.

BY MR. ERCOLE:

Q. Are you familiar with any false statement provided by any manufacturer in connection with any room drop information?

MR. LEONOUDAKIS: Objection. Form.

BY THE WITNESS:

A. No.

BY MR. ERCOLE:

Q. Are you familiar with any misleading information provided by any pharmaceutical manufacturer, including the defendants that are here, in connection with any APS-related program?

MR. LEONOUDAKIS: Objection. Form.

BY THE WITNESS:

A. No.

BY MR. ERCOLE:

Q. If you look at paragraph 9 of the exhibit, it states, "While pharmaceutical companies have given donation and grants to APS, those companies have no control over how APS used the funding."

Did I read that correctly?

A. Yes.

Q. That's the CEO of the American Pain Society providing that statement?

A. Former, yes.

Q. Former. Sorry.

Sitting here as the corporate representative for APS, do you agree with that statement?

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.

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

EXHIBITS 61-62 FILED UNDER SEAL

EXHIBIT 63

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

PURDUE PHARMA, LP,
et al.,

Defendants.

= =

Videotaped Deposition of:

AARON M. GILSON, PH.D.

Madison, Wisconsin
December 20, 2018

Reporter: Taunia Northouse, RDR, CRR, CRC

collaboratives, yes.

Q And again, those multidisciplinary collaboratives were for educational purposes?

A Research purposes and educational purposes, communications, yes.

Q When you performed research, that was with the hope to use that research to educate the parties you just mentioned; correct?

A That is true.

Q That holds true for your work with the World Health Organization as well?

A That same principle would carry over, yes.

Q So if somebody takes your educational materials, the information you disseminate through presentations and passes that on to other healthcare providers, to other organizations, to other policymakers, that fulfills your goals; correct?

A That would be consistent with the intent.

Q So if a manufacturer were to take materials that you created and pass them out to healthcare professionals, that would be in accordance with the intentions of why you created those materials; correct?

A If it were being done for educational or

communicative purposes, yes.

Q And we discussed many subjects today. Have any of those subjects made you question any of the materials that you prepared as part of the PPSG?

A Any of the research-based tools that we constructed? Question what aspect of them?

Q The truthfulness, the veracity, the accuracy of any of the materials that PPSG has put together and disseminated.

A No.

Q So you stand by everything that the PPSG did from its inception to when you left?

A The materials that we developed reflected what we perceived as accurate for the topic that we were examining, yes.

Q And you still stand by those today; correct?

A Accurate for the time that they were -- that they were developed, yes.

Q So Mr. Beckworth showed you numerous internal documents from several of the manufacturers who are defendants in this action; correct?

A Yes.

Q Did any of those internal documents change any of your opinions about the veracity and truthfulness of the PPSG documents, materials, and speakers

that were reflected in those documents?
A No. I would -- I would amend that by saying that putting someone from the University of Wisconsin under a patient advocacy label would be inconsistent with university policy. But that's it.
Q And to the extent that the PPSG received unrestricted educational grants from any of the defendant manufacturers, did any of those unrestricted educational grants affect the outcome of any of the PPSG's research?
A No.
Q Did it affect any of the speakers or presentations from the PPSG to various healthcare organizations or policymakers?
A Do you mean affect the messages? No.
Q I do. Thank you. And in fact, that's a requirement to accept those grants; correct?
A Is that there would be no influence by any funder who provides an unrestricted educational grant, that's correct.
Q There can be no influence to the output; correct?
A That is correct.
Q It doesn't even have to be an output; correct?
A Deliverables are not necessary.

Q And if something was delivered, the intellectual property would belong to the University of Wisconsin and not to whoever gave the unrestricted educational grant, correct?
A That is correct. In terms of the grant that PPSG or I have received, yes.
Q So if a grant was -- strike that. Let me turn real quickly to the question of addiction, and if you could please revisit Exhibit 4, which was an excerpt. You can look at the one your attorney has. It doesn't have to be the official one.
A Thank you.
Q So this excerpt was part of a larger book; correct?
A Yes.
Q You worked on that book?
A Yes.
Q And although we have the -- looks like the copyright page, we don't have the table of contents to this book, do we?
A No, the table of contents is not provided.
Q Do you recall other segments of this book?
A Yes.
Q What other segments from this book are not included in this short excerpt here?

EXHIBIT 64

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel, MIKE HUNTER, ATTORNEY GENERAL OF OKLAHOMA,	)	
Plaintiffs,	)	No. CJ-2017-816
vs.	)	
PURDUE PHARMA, LP, et al.,	)	
Defendants.	)	

The videotaped discovery deposition of PHILIP A. SAIGH, called by the Plaintiff, for examination, pursuant to notice, taken before LAURA MUKAHIRN, CSR, a notary public within and for the County of Cook and State of Illinois, at 233 South Wacker Drive, Chicago, Illinois, on January 8, 2019, scheduled to commence at 10:00 o'clock a.m.

activity or its related materials must promote improvements or quality in health care and not a specific proprietary business interest of a commercial interest."

Q. And the AAPM has adhered, again, to this standard in its operations?

A. Yes.

Q. Okay. And we talked a bit earlier -- or you were asked a few questions earlier about CMEs. Do you recall that testimony?

A. No.

Q. It's been a long day.

A. Yeah.

Q. Let me ask you this: Turn to Standard 1, please. Do you see Standard 1, it's titled Independence?

A. Yes.

Q. Can you read for me what 1.1 says?

A. "A CME provider must ensure that the following decisions were made free of the control of a commercial interest. See" --

Q. And there's a list there of decisions that have to be made free of commercial interest and such as the selection and presentation of CME content, correct?

A. Correct.

Q. And when AA -- when the AAPM serves as a presenter of CME material, it is the one to select and determine the presentation of the content, correct?

A. To clarify, when the American Academy of Pain Medicine accredits a CME activity, it must observe these standards.

Q. So they're followed completely?

A. Yes.

Q. An industry, for instance, for those CMEs doesn't select and present the content?

A. No.

Q. An industry doesn't identify the CME needs?

A. Correct.

Q. Nor would AAPM permit that to happen for any CME that it was accrediting, correct?

A. That is correct.

Q. And the same goes for the selection of the presenters. The AAPM is the one who decides the presenters who will be selected, correct?

A. Correct.

Q. Not industry?

A. Correct.

Q. And industry has no influence over any of those decisions regarding CME content, presentation, or presenters, correct?

A. Correct.

Q. Okay. Do you remember being asked some questions by Ross earlier about certain marketing materials made available at presentations, CMEs, for instance, or drop -- I don't remember the exact terminology, but drop-offs or whatever?

A. Yeah. It offices its --

Q. Well, let's look at Standard 4. It's titled Appropriate Management of Associated Commercial Promotion. Can you read that for me, 4.1?

A. "Arrangements for commercial exhibits or advertisements cannot influence planning or interfere with the presentation nor can they be a condition of the provision of commercial sport for CME activities."

Q. Has any industry, organization, or entity ever conditioned the provision of commercial support for a CME accredited by the AAPM upon planning as directed by an industry or organization?

MR. LEONOUDAKIS: Objection.

MR. BIERIG: Objection.

BY MR. EISENBERG:

Q. That was a terrible question. Let me ask it this way.

Would the AAPM ever permit any influence by the -- Actually, strike that. It's been a long day.

Has the AAPM for any CME its accredited allowed arrangements for commercial exhibits or advertisements to influence planning or interfere with the presentation of any CME activities?

A. No.

MR. LEONOUDAKIS: Objection.

BY MR. EISENBERG:

Q. That's what I wanted to ask. I got there finally.

Do you recall a statement from the AAPM published on April 23rd, 2018, titled AAPM Statement on National Decline in Opioid Prescribing?

A. I need to see it.

Q. Let me give it to you.

THE WITNESS: In my job I like to verify facts rather than confirm that I don't have a reason to disagree. So I'd like to -- My instinct would be to go back and check that, but there's no reason other than that -- that native caution on my part -- to disagree with what you've read.

BY MR. EISENBERG:

Q. But certainly the AAPM endeavors to put forward correct information on its website --

A. Absolutely.

Q. -- correct? So if Purdue and Janssen were members of the corporate relations council, presumably they would be identified on the website of corporate relations council profiles, correct?

A. Presumably, yes.

Q. So if they're not there, we can reasonably assume that Purdue and Janssen are not members of the corporate relations council; is that right?

A. That's a fair assumption.

Q. No further questions for me.

Examination

By Mr. Ercole

Q. My name is Brian Ercole, and I represent the Teva defendants in this litigation. I know it's been a long day, so I will do what I can to expedite things.

Mr. Saigh, have we ever met before?

A. I don't recall ever meeting you.

Q. Have you ever met any of the counsel for the manufacturers in this case before?

A. I don't recall ever meeting any of you.

Q. When was the -- And when I refer to the AAPM, I'm referring to the American Academy of Pain Medicine. Do you understand that?

A. I do.

Q. When was the AAPM first formed? Do you recall?

A. 1982, '3, '4, somewhere in that timeframe.

Q. That would have been before the approval of OxyContin for instance, correct?

A. I don't remember when OxyContin was approved, although I know we talked about it earlier today. I believe that is correct.

Q. In this litigation, the State of

Oklahoma contends that the AAPM was a front group for opioid manufacturers including the defendants here. Do you -- Is that accurate?

A. No.

MR. LEONOUDAKIS: Objection.

THE WITNESS: No. That is not accurate.

BY MR. ERCOLE:

Q. And why is that not accurate, sir?

A. Because the AAPM is an independent organization, 501(c)(6) organization, with a mission statement of its own and it follows its mission.

Q. And does the AAPM take steps to ensure that it operates independently from pharmaceutical manufacturers?

MR. LEONOUDAKIS: Objection.

THE WITNESS: Yes, it does.

BY MR. ERCOLE:

Q. And can you sort of describe what some of those steps are?

A. Well, in my testimony a few minutes ago, we talked about educational materials that were developed and the Accreditation Council for Continuing Medical Education. We have conflict of interest reports -- sorry -- not reports, but

conflict of interest data that is produced on a regular basis before the board meets and deliberates over issues or the executive committee of the board meets and deliberates over any issues of that sort. The academy is acutely aware of -- for lack of a better word -- reputation, especially in -- for the last decade and wants to maintain its status as a recognized, bona fide, professional medical association -- is very cautious of that.

Q. We have heard -- There's been some testimony today about funding that was received -- and funding is probably a wrong word -- but at least money that has been provided to the AAPM by certain opioid manufacturers. Do you recall some of that testimony?

A. I do.

Q. Has that -- and should I use -- Has that money ever influenced any publications that the AAPM has put out?

MR. LEONOUDAKIS: Objection.

THE WITNESS: I can't describe what any individual would have thought when he or she wrote a publication and submitted it, for

example, to our journal, how that person formed his or her opinions. But I can say to you that the academy has never published anything on behalf of the academy that was influenced by pharmaceutical company dollars or industry dollars, I should say.

BY MR. ERCOLE:

Q. Does the AAPM have a board of directors?

A. Yes, it does.

Q. And what is the role of the board of directors at AAPM?

A. Broadly decision-making governance, oversight, guiding the organization.

Q. Does --

A. Excuse me. Establishing policy.

Q. Okay. Does the board of directors for the AAPM operate independently from pharmaceutical manufacturers?

MR. LEONOUDAKIS: Objection.

THE WITNESS: Yes, it does. To the best of my knowledge the board as an entity does.

BY MR. ERCOLE:

Q. Are you aware of any instance where a pharmaceutical manufacturer has influenced the

decision-making of the board of directors for AAPM?

A. No. I'm not aware of any instance where that has happened.

Q. Does AAPM have committees?

A. Yes, it does.

Q. Can you describe some of those types of committees?

A. We have an education -- educations and CME accreditation committee which basically develops educational content, principally CME content -- continuing medical education content -- it's accredited by the ACCME. We have a behavioral health committee which is made up of -- primarily of clinicians who are nonphysicians, but psychologists and the like, who focus on behavioral health as a method of treating -- of addressing pain issues. We have a -- we have -- Well, we used to have a government relations committee -- we no longer do -- but we've sort of substituted for that the Pain Care Coalition activities that were described earlier. The -- We have a bunch of other committees. I mean there's a finance committee that oversees the finances and makes

recommendations to the board about financial policies. There's an annual meeting program committee which develops the content or oversees the development of the content for our annual education meeting. There's a scientific review and guidelines committee which reviews the types of statements that we've looked at here today, if I can say that proudly, and makes recommendations and submits those to the board and says this is what the statement should say or should not say.

Q. Do the committees that you just identified for AAPM operate independently from pharmaceutical manufacturers?

A. Yes.

MR. LEONOUDAKIS: Objection.

THE WITNESS: I'm sorry. Yes.

BY MR. ERCOLE:

Q. Are you aware of any instance where a pharmaceutical manufacturer, including the defendants here, have influenced the decision-making of one of those committees?

A. No.

Q. Can you, sir, turn to what is -- has been marked -- previously marked as Exhibit 13.

EXHIBIT 65

RENZI STONE - MARCH 15, 2019

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

* * * * *

VIDEOTAPED DEPOSITION OF RENZI STONE

TAKEN ON BEHALF OF THE DEFENDANTS

ON MARCH 15, 2019

IN OKLAHOMA CITY, OKLAHOMA

COMMENCING AT 8:58 A.M.

* * * * *

REPORTED BY: KORTNEY V. HOUTS, CSR

one minute with a doctor, they are 16 percent more likely to prescribe that rep's drug. And when they spend three minutes with a rep, they're 52 percent more likely to prescribe that rep's drug.

In the review of doctors -- the review of doctors' attitudes and beliefs versus their actions is that they are more influenced by the information they receive, both the promotional products as well as the unbranded communication, as well as the direct one-on-one sales rep. They -- they believe they're not. The interesting part of this study that I reviewed was they don't believe that they are influenced, but they really are.

And that falls within my expert opinion and my experience in my agency that -- you know, we have a rule of seven, that you have to impress a message upon somebody seven times to make an impact on them. And it fell within -- you know, we all have, you know, subconscious -- subconscious -- we take subconscious action based on what we're influenced with, which explains to me the volume of these calls.

Q Okay. So is it your testimony, then -- and the study that you're referring to -- what is the study that you're referring to?

A It was -- it was -- I believe it was a Purdue

document. I'm almost positive it was a Purdue document, one of the thousand pages I read. I -- I couldn't tell you what the -- Why Lunch Matters may have been one of the documents that I reviewed. That makes sense, that it might have been from that document.

Q Sitting here today, can you identify the particular document that you're referring to --

A I just told you.

Q -- with respect to that study?

A Yeah. I just told you my -- the document that I think it is.

Q Okay. Do you know for sure whether it's that document or some other document?

A I -- I told you I didn't know for sure if it was 16 percent and 52. But I'm pretty good with numbers. I think I'm correct.

Q Okay. My question was a little bit different, which is, do you know for sure whether the study you just referenced in your answer was that particular Purdue document or some other document?

A I'm not certain, but I'm -- I'm --

Q Okay.

A -- more than 50 percent confident.

Q Have you reviewed any academic peer-reviewed

articles regarding the effect, if any, of marketing on physician prescribing?

A I have.

Q Okay. What are the names of those peer-reviewed articles that you've reviewed?

A I have reviewed a number of peer-reviewed articles about the effectiveness. I -- I -- you know, without having notes in front of me to pull open the name and the authors of those publications, I couldn't tell you what the names were or when I -- you know, what batch of information that I reviewed them from. But I absolutely -- I -- I view that as -- as central to my testimony, understanding the effects of marketing on -- on -- on this -- on this action in Oklahoma.

Q Sitting here today, can you identify one peer-reviewed article that you've reviewed that was published on the effect of marketing, if any, on pharmaceutical prescribing?

A Not -- not specifically, no.

Q Okay. Is it your view -- going back to the doctors that were identified in call notes that you reviewed, do you recall mentioning those?

A Uh-huh.

Q And I think I asked, could you identify -- do you recall identifying -- well, let me ask this. Do

you recall, sitting here today, the names of any of those particular doctors?

A They weren't relevant for the work that I was asked to have an opinion on. The doctors' names weren't relevant.

Q Okay. Do you know one way or the other whether any of those doctors were influenced by any marketing into writing an opioid prescription in Oklahoma?

MR. CUTLER: Object to the form. Vague. Asked and answered.

THE WITNESS: Yeah. I've already answered that.

Q (By Mr. Ercole) In fairness, sir, I don't think you have, but I appreciate the objection. So let me ask it again, and I can write down my notes.

With respect to those specific doctors that -- strike that.

Let me ask this question. Sitting here today, can you identify one specific doctor by name that was influenced by any marketing by any defendant in this case into writing an opioid prescription?

MR. CUTLER: Object to the form.

THE WITNESS: Yeah. They were all influenced.

Q (By Mr. Ercole) So is it your testimony -- I just want to make sure this is clear. Your testimony is that every doctor who wrote an opioid prescription in the state of Oklahoma since 1996 was influenced by marketing by these pharmaceutical defendants?

A I would make the argument that any pharmaceutical -- any doctor who was called on with any amount of frequency by pharmaceutical reps was influenced subconsciously or consciously and potentially financially into writing prescriptions for these drugs.

Q What about doctors who were not called on -- strike that.

Do you know whether or not there were doctors in the state of Oklahoma who were not called on by pharmaceutical representatives?

MR. CUTLER: Object to the form.

THE WITNESS: I found it interesting that the doctors that were called on tended to be family medicine doctors and not pain management specialists, to the tune of two-to-one. I found it interesting that the marketing and sales strategy was to connect -- was to connect to family doctors for this expansion of this marketplace. Which if I was directing the marketing strategy, outside of ethical and moral concerns, it was

wildly successful in -- in approaching these types of physicians. You know, 60 some percent is my recollection of the number. And no. I don't have the study that came from. But yeah.

Q (By Mr. Ercole) Do you recall my initial question, sir?

A Go ahead and ask it again.

Q Do you -- I'm just asking, do you recall what it was?

MR. CUTLER: Object to the form.

THE WITNESS: Feel free to ask it again, and I'll -- I'll answer it whatever --

Q (By Mr. Ercole) I mean, in fairness, I'm here to ask you questions. And I'm just asking, do you recall what my initial question was?

A If you'll ask it specifically, I'll answer it.

Q Okay. So my question was, do you know whether or not there were doctors in the state of Oklahoma who were not called on by pharmaceutical representatives?

A I am not aware of the total number of doctors in the state of Oklahoma. I don't know what that number is. And I am not aware of the total amount of volume of calls made to doctors in the state of

Oklahoma. So making a blanket statement of, am I aware of whether there are doctors who have prescribed opioids that haven't been called on by pharmaceutical reps, I have no idea. That's outside of my knowledge.

Q Fair enough. That's the only question -- that's exactly -- I was just trying to get an --

A Okay.

Q -- answer to that question.

So with respect to -- I appreciate your testimony that it's your belief that all doctors called upon by sales reps were influenced by marketing into writing opioid prescriptions in the state of Oklahoma. Is that -- I just want to make sure that that's your testimony.

A I -- I believe, subconsciously or consciously or financially, they were all influenced.

Q Okay.

A Now, whether they were influenced to write prescriptions is a -- is asking me to know how that influence played out in action.

Q Okay.

A I know from the data that the sales went up, so I think you can make the assumption that they were influenced to write prescriptions. But it would be impossible for me to say based on an individual doctor

unless you had them sitting right here and I could ask them. But were they influenced? I know they were influenced, either consciously or subconsciously or financially, because a number of them were incentivized financially as well.

Q Okay. And just so I -- and I appreciate that clarification. And just so I know -- my -- you know, my notes are clear, you are -- your belief is that with respect to doctors that were called on by sales representatives, they were influenced, whether consciously or subconsciously, but you're not giving a specific opinion as to whether or not any particular doctor was influenced into writing an opioid prescription.

MR. CUTLER: Object to --

Q (By Mr. Ercole) Is that fair?

MR. CUTLER: Object to the form. Vague. Mischaracterizes his testimony.

THE WITNESS: I'll just say what I said before. I'm not -- I can't make a judgment on a per-doctor basis.

Q (By Mr. Ercole) Okay. And when you say judgment -- you can't make a judgment on a per-doctor basis as to whether or not any particular doctor was influenced by marketing into writing an opioid

prescription?

MR. CUTLER: Object to the form.

Q (By Mr. Ercole) Is that what you're saying?

MR. CUTLER: Object to the form.

THE WITNESS: I'm not sure what else to say on it.

Q (By Mr. Ercole) I'm -- sir, I'm just trying really hard to understand what you're saying and make sure I'm clear, because what I don't want to have happen is we get to trial and then some opinion comes out that I'm not aware of. Okay. Do you -- I mean, so that's -- that's the rationale for -- my rationale for asking all these questions.

And so I'm just trying to say -- you said, I can't -- I can't make a judgment on a per-doctor basis. Do you recall saying that?

A Yes.

Q And my -- my question is, because you can't make a judgment on a per-doctor basis, is it fair to say that you are not giving an opinion on whether or not any particular doctor was influenced by marketing into writing an opioid prescription?

MR. CUTLER: Object to the form. Asked and answered, vague, and mischaracterizes his testimony.

MR. ERCOLE: With all due respect, I would

disagree, but I understand your objection.

THE WITNESS: I mean, I've said -- I've said what I believe. I believe that these doctors were influenced, and I believe that opioid prescriptions went up. And that's my testimony. I -- I believe they were influenced. Every single doctor that was called on by a sales rep was influenced.

Q (By Mr. Ercole) So I'm just trying to understand, sir. And I'm not -- I don't mean to debate this with you unnecessarily. I'm not trying to do that. But I go back to your statement that you're not making a judgment on a per-doctor basis. Correct?

A I am not making a judgment on a per-doctor basis.

Q Right. And by judgment, you're referring to whether that particular doctor was influenced by marketing into writing a particular opioid prescription. Correct?

A I'm not making a judgment on -- you will have to depose individual doctors to find out how influenced they were to write a prescription. My testimony will say that it was a well-orchestrated, well-coordinated, well-researched, well-funded effort to reach out and communicate effective messages to the right doctor at the right time to influence them to write more opioid

Laboratories?

A Absolutely.

Q Okay. Would it surprise you that Watson Laboratories doesn't have any marketing materials with respect to -- strike that.

Would it surprise you if Watson Laboratories doesn't have any -- any marketing plans with respect to its opioid medicines because they're generic medicines?

MR. CUTLER: Object to the form.

Are you distinguishing them from their parent company, Teva, in that question?

Q (By Mr. Ercole) You can answer the question.

A You know, I see where you're going with this. And, you know, the interesting thing -- and I know this just from -- I was told from a deposition from a couple of days ago where -- where the subject of generic drugs versus branded drugs came up. And somebody in another deposition made comment of, the generics ride the wave of the branded drugs. And it was -- it stuck in my mind, because in my preparation, I thought to myself, as I reviewed these plans, that a rising tide lifts all ships.

And so the remarkable thing for me, as I was reviewing these plans -- and it feels like you caught me up in whether or not -- whether or not Watson had a

specific marketing and sales plan, that these plans are indistinguishable from each other. And agencies like Ketchum were used for multiple companies, and people like me were hired to help develop these plans, and -- and lots of money was spent developing plans that all had similar elements.

So the Watson sales process versus one of the other drug sales process -- they were all -- in my mind, as an expert in marketing and sales, they all benefited from the branded and unbranded efforts of the competitors in the space.

And I said it earlier today, but there wasn't a huge -- in the marketing sales materials, you would think that there would be competitive differences listed in these drugs as core -- you know, doctor do this one because it's better than the other one. But that generally wasn't where I saw a lot of the sales materials.

Q Do you know whether Actavis Pharma is a defendant in this case?

A Actavis Pharma?

Q Yes.

A I'm not -- I'm not aware of -- if they're a defendant or not.

Q Are you aware of whether Actavis, LLC, is a

defendant in this case?

A I am not aware.

Q Okay. Are you aware of whether a company by the name of Cephalon is a defendant in this case?

A I am -- I am aware.

Q Do you know what medicines -- opioid medicines Cephalon manufactures?

A Actiq.

Q How -- how would you spell that?

A A-C-T-I-Q -- V, something like that.

Q Any other opioid medicine?

A That's just the one that popped in my head.

Q Do you know what that medicine is -- what condition that medicine is FDA approved to treat?

MR. CUTLER: Object to the form. Outside the scope of his --

THE WITNESS: I'm not --

MR. CUTLER: -- expert testimony.

THE WITNESS: -- a doctor.

Q (By Mr. Ercole) You mentioned Teva. Is that correct?

A Yeah.

Q Okay. And what Teva entity is a -- strike that.

Do you know the -- the name -- the full name

of -- of Teva that's a defendant in this case?

A No.

Q Okay. Do you know whether Teva manufactures generic or brand opioids?

A I'm unaware.

Q Do you know whether or not manufacturers of generic opioids actually market their opioid products?

MR. CUTLER: Object to the form.

THE WITNESS: I -- I -- I -- I am not clear on a breakdown per company of the -- per company, per drug efforts on generic or branded drugs. I'm unaware specifically of those -- of those differentiations.

Q (By Mr. Ercole) And I appreciate that. Thank you. I appreciate that.

Do you -- you don't consider yourself an expert on generic medicines, do you?

A I am not.

Q Okay. And -- but as a marketing expert or someone who's --

A Yeah.

Q -- been offered as a marketing -- do you know whether or not manufacturers of generic medicines do or do not market those medicines?

MR. CUTLER: Excuse me. Object to the form. Vague.

THE WITNESS: Do you want to be more specific?

Q (By Mr. Ercole) I'm trying to be specific. I mean, do you have any view on whether or not manufacturers of generic medicines do or do not market those medicines?

MR. CUTLER: Same objection.

THE WITNESS: My expertise is not in the specific generic and branded marketing of individual drugs. That's not where I've spent my time preparing.

Q (By Mr. Ercole) Okay. And you haven't looked into specifically whether or not manufacturers of generic medicines actually do not promote their generic medicines because of a whole range of considerations?

A I --

MR. CUTLER: Object to the form. Vague.

THE WITNESS: I haven't spent any time really thinking about -- about the broader marketing goals of these companies.

Q (By Mr. Ercole) Okay. Sitting -- I mean, with re -- do you -- can you identify -- could you identify for me which defendants in this case manufacture generic medicines and which do not?

A I could not.

Q And with respect to -- is it fair to say, then, with respect to companies that manufacture generic medicines that are in this case, you don't -- do not -- you do not know of any particular marketing materials that -- strike that.

With respect to any companies that manufacture generic medicines in this case, are you aware of any particular marketing materials with respect to those medicines?

MR. CUTLER: Object to the form. Vague.

THE WITNESS: What I can tell you about the marketing materials that I've reviewed from multiple companies for multiple drugs, that they all follow a similar framework.

Q (By Mr. Ercole) But is it fair to say you can't tell me whether or not any of those marketing plans that you reviewed were for generic medicines as opposed to branded medicines? Is that fair?

MR. CUTLER: Object to the form.

THE WITNESS: If you -- if you put -- if you put the materials in front of me, I could talk to you about the difference between a genetic -- generic and a branded drug. But I am not -- I'm not sitting here in front of you today as an expert on which drugs are generic and which drugs are branded and which company