



IN THE DISTRICT COURT OF CLEVELAND COUNTY

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

FILED

MAY 21 2019

In the office of the
Court Clerk MARILYN WILLIAMS

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

Plaintiff,)

vs.)

Case No.: CJ-2017-816
Judge Thad Balkman

- (1) PURDUE PHARMA L.P.;)
- (2) PURDUE PHARMA, INC.;)
- (3) THE PURDUE FREDERICK COMPANY;)
- (4) TEVA PHARMACEUTICALS USA, INC.;)
- (5) CEPHALON, INC.;)
- (6) JOHNSON & JOHNSON;)
- (7) JANSSEN PHARMACEUTICALS, INC:)
- (8) ORTHO-McNEIL-JANSSEN)
- PHARMACEUTICALS, INC., n/k/a)
- JANSSEN PHARMACEUTICALS)
- (9) JANSSEN PHARMACEUTICA, INC.,)
- n/k/a JANSSEN PHARMACEUTICALS, INC.;)
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,)
- f/k/a ACTAVIS, INC., f/k/a WATSON)
- PHARMACEUTICALS, INC.;)
- (11) WATSON LABORATORIES, INC.;)
- (12) ACTAVIS LLC; and)
- (13) ACTAVIS PHARMA, INC.,)
- f/k/a WATSON PHARMA, INC.,)

Defendants.)

ORDER

Defendants Janssen Pharmaceuticals, Inc. and Johnson and Johnson (“Janssen”) filed their Motion for Evidentiary Sanctions Based on the State’s Failure to Comply with Discovery Orders April 25, 2019. The Teva and Actavis (“Teva”) Defendants filed their Motion in Limine #7 to exclude evidence regarding the alleged consequences of these Defendants' medicines on April

26, 2019 and at hearing orally announced they adopted Janssen's Motion and asked for the same relief. The State filed responses to both briefs and Janssen filed a reply brief on the sanctions motion. On May 16, 2019, the Court heard oral arguments from counsel on both of these motions together as they both relate to similar evidence and testimony. Because the Janssen reply brief was filed the same day as oral argument, the Court took the motions under advisement.

After review of the briefs and the oral arguments made by the parties, the Court finds as follows:

The State was ordered by Discovery Master Judge Hetherington to produce two sets of data to the Defendants in a manner allowing the Defendants to obtain discovery regarding connections between prescriptions for Defendants' products and overdose deaths in Oklahoma. The State provided two categories of evidence to the Defendants. The first category, prescription claims data, included SoonerCare (Medicaid) and HealthChoice (State employee) data. The second category produced by the State was opioid overdose death data from the Office of the Chief Medical Examiner and the Fatal Unintentional Poisoning Surveillance System.

Defendants filed their motions to exclude testimony and for evidentiary sanctions based upon the State's failure to provide data that is cross walked or indexed across databases. However the State's failure to provide this discovery in the precise indexed manner was not a willful violation of this Court's or Judge Hetherington's orders.

The State complied with Judge Hetherington's orders to produce data in a reasonably usable format that allowed the Defendants to track that data indexed across databases. For example the overdose death data from the Office of the Chief Medical Examiner includes the names of both decedents and doctors as well as what drugs were found in the decedents. Furthermore, the State produced records as they were either ordinarily maintained or in a de-identified format in compliance with its obligation to protect the privacy rights of those receiving opioid prescriptions and in accordance with Judge Hetherington's orders.

The record also reflects that the Defendants have in their possession, or they can obtain by other means, the information they sought but were not provided by the State.

Finally, the Defendants have not demonstrated that the State's failure to provide the requested discovery in the indexed format they requested unduly prejudices them. Therefore the Janssen Motion for Evidentiary Sanctions and the Teva Motion in Limine #7 are both denied.

IT IS SO ORDERED this 21st day of May, 2019.

A handwritten signature in black ink, appearing to read "Thad Balkman", written over a horizontal line.

THAD BALKMAN, District Judge

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of May, 2019, a true and correct copy of the above and foregoing instrument was emailed to the following:

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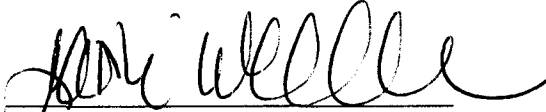
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