



IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

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

Plaintiff,

v.

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

Defendants.

Case No. CJ-2017-816

Judge Thad Balkman

STATE OF OKLAHOMA } S.S.  
CLEVELAND COUNTY }

**FILED**

JUN 04 2019

In the office of the  
Court Clerk MARILYN WILLIAMS

**DEFENDANTS JANSSEN PHARMACEUTICALS, INC. AND JOHNSON AND  
JOHNSON'S MOTION TO EXCLUDE VIDEO DEPOSITION DESIGNATIONS FOR  
MATTHEW MARTIN AND FRANK MASHETT**

Defendants Janssen Pharmaceuticals, Inc. ("Janssen")<sup>1</sup> and Johnson & Johnson ("J&J," and together with Janssen, "Defendants") hereby move to exclude certain designations for the deposition videos of Frank Mashett and Matthew Martin identified in Appendix A and Appendix B. These designations merely read into the record documents related to Noramco or Tasmanian Alkaloids that the State already read into the record in its examination of Kimberly Deem-Eshleman during the afternoon trial session of Wednesday, May 29. Because this is obviously cumulative and a waste of time, and is prejudicial to Defendants, the Court should exclude the designations under 12 O.S. § 2403.

The designated video deposition testimony of Frank Mashett includes discussions of three documents admitted during Kimberly Deem-Eshleman's trial testimony: S-0006, S-0340, and S-

<sup>1</sup> "Janssen" also refers to Janssen Pharmaceuticals, Inc.'s predecessors, Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc.

1048. In many instances, these discussions—which involve the State reading the documents into the record and asking the witness to acknowledge their accuracy—are nearly verbatim to the trial testimony, e.g.:

5/29 PM Trial Transcript (60:9-20)	Mashett Video Designation (51:3-51:14; 51:16-51:19; 51:21)
<p>Q. Okay. Now, if we turn to the next page, 07, we look to the second paragraph, let's just go over that for a moment. There we see something. <b>The development of the Norman poppy coincided with the release of a slow-release formulation of oxycodone in the USA. Do you see that?</b></p> <p>A: I do.</p> <p>Q. <b>Oxycodone is used in treatment of strong pain, mostly in terminally ill patients. The new formulation was very successful and there was greatly increased demand for the thebaine raw material used for its manufacture. Do you see that?</b></p> <p>A. I do.</p>	<p>Q Okay. Let's look at this next paragraph. It states <b>"The development of the Norman poppy coincided with the release of a slow release formulation of oxycodone in the USA."</b></p> <p><b>Do you see that?</b></p> <p>A Yes.</p> <p>Q It says it right there?</p> <p>MR. ALLAN: Object to the form.</p> <p>THE WITNESS: Correct.</p> <p>Q (BY MR. BECKWORTH) It says <b>"Oxycodone is used in treatment of strong pain, mostly in terminally ill patients."</b></p> <p>Q And it further states <b>"The new formulation was very successful, and there was greatly increased demand for the thebaine raw material used for its manufacture";</b> correct?</p> <p>THE WITNESS: That's what it says.</p>

The designated Matthew Martin video deposition also involves a discussion of S-1048 that was covered at trial, e.g.:

5/29 PM Trial Transcript (70:24-71:8)	Martin Video Designation (45:9-17)
<p>Q. Okay. If you'll turn to the next page, it says, <b>Opportunity For Purchaser</b>. It says, <b>Acquire the No. 1 supplier of narcotic APIs in the United States, the world's largest market.</b> Do you see that?</p> <p>A. I do.</p>	<p>Q. All right. Turn the page. <b>"Opportunity for Purchaser"</b> is the title of the next slide. Can you please read the first line of this slide?</p> <p>A. <b>"Acquire the number one supplier of narcotic APIs in the United States, the world's largest market."</b></p> <p>Q. All right. That's referring to Noramco, isn't it?</p> <p>A. That is referring to Noramco.</p>


Appendices A and B contain a full listing of cumulative video testimony that should be excluded.

This Court has been sensitive to the need to move trial along to finish in a reasonable amount of time. Preventing the State from reading documents into the record for a second or even a third time will further that goal with no evidentiary cost. Additionally, allowing the State to replay its chosen testimony would prejudice Defendants by adding undue emphasis to the State's affirmative case.

The Court should grant this motion and enforce Rule 2403's prohibitions against cumulative and prejudicial evidence. As identified in Appendix A, the following lines should be excluded from the Mashett video designation: 33:17-33:25; 34:3-14; 34:21-34:22; 34:24-34:25; 40:16-41:2; 42:13-24, 43:2-7; 43:10-18; 46:10-17; 47:4-11; 51:3-51:14; 51:16-51:19; 51:21; 52:1-6; 52:9; 54:20-55:04; 58:11-18; 58:25-59:12; 59:16-60:17; 62:3-8; 62:14-17; 62:18-20, 62:23-24; 62:25-63:10, 63:12-16, 63:22-64:6; 64:9-10; 104:25-105:18; 105:19-21; 115:5-12; 115:16-22; 116:9-23; 125:25-126:10; 388:18-25; 390:13-391:12; 392:5-13; 393:1-7; 393:17-23; and 394:1-12. As identified in Appendix B, the following lines should be excluded from the Martin video designation: 37:11-17, 45:9-17, 92:2-10; 92:14; 92:16-93:10; and 93:14-23.

Dated: June 4, 2019

Respectfully submitted,

By:   
Benjamin H. Odom, OBA No. 10917  
John H. Sparks, OBA No. 15661  
Michael W. Ridgeway, OBA No. 15657  
ODOM, SPARKS & JONES PLLC  
HiPoint Office Building  
2500 McGee Drive Ste. 140  
Norman, OK 73072

Telephone: (405) 701-1863  
Facsimile: (405) 310-5394  
Email: odomb@odomsparks.com  
Email: sparksj@odomsparks.com  
Email: ridgewaym@odomsparks.com

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

Stephen D. Brody  
David K. Roberts  
O'MELVENY & MYERS LLP  
1625 Eye Street NW  
Washington, DC 20006  
Telephone: (202) 383-5300  
Facsimile: (202) 383-5414  
Email: sbrody@omm.com

*Counsel for Janssen Pharmaceuticals,  
Inc., Johnson & Johnson, Janssen  
Pharmaceutica, Inc. n/k/a Janssen  
Pharmaceuticals, Inc., and Ortho-McNeil-  
Janssen Pharmaceuticals, Inc. n/k/a/  
Janssen Pharmaceuticals, Inc.*

**CERTIFICATE OF MAILING**

Pursuant to OKLA. STAT. tit. 12, § 2005(D), this is to certify on June 4, 2019, a true and correct copy of the above and foregoing has been served via email to the following:

Mike Hunter  
Attorney General for  
The State of Oklahoma  
Abby Dillsaver  
Ethan Shaner  
General Counsel to  
The Attorney General  
313 NE 21<sup>st</sup>  
Oklahoma City, OK 73105  
Telephone: (405)521-3921  
Facsimile: (405) 521-6246  
Email: mike.hunter@oag.ok.gov  
Email: abby.dillsaver@oag.ok.gov  
Email: ethan.shaner@oag.ok.gov

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

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

Email: dpate@nixlaw.com  
Email: lbaldwin@nixlaw.com  
Email: bchurchman@nixlaw.com  
Email: nhall@nixlaw.com

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

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

#### **ATTORNEYS FOR PLAINTIFF**

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

#### **Of Counsel:**

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Lindsay N. Zanello  
Bert L. Wolff  
Mara C. Cusker Gonzalez  
Jenna C. Newmark  
DECHERT, LLP

Three Bryant Park  
1095 Avenue of Americas  
New York, NY 10036-6797  
Telephone: (212) 698-3500  
Facsimile: (212) 698-3599  
Email: sheila.birnbaum@dechert.com  
Email: mark.cheffo@dechert.com  
Email: hayden.coleman@dechert.com  
Email: paul.lafata@dechert.com  
Email: lindsay.zanello@dechert.com  
Email: bert.wolff@dechert.com  
Email: maracusker.gonzalez@dechert.com  
Email: jenna.newmark@dechert.com

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

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

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

Email: jonathan.tam@dechert.com  
Email: jae.lee@dechert.com

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

Lindsey B. Cohan  
DECHERT, LLP  
Suite 2010  
300 West 6<sup>th</sup> Street  
Austin, TX 78701-2961  
Telephone: (212) 394-3000  
Facsimile: (512) 394-3001  
Email: lindsey.cohan@dechert.com

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



Email: [rgarcia@lynnllp.com](mailto:rgarcia@lynnllp.com)  
Email: [rherman@lynnllp.com](mailto:rherman@lynnllp.com)  
Email: [shardy@lynnllp.com](mailto:shardy@lynnllp.com)  
Email: [dcoale@lynnllp.com](mailto:dcoale@lynnllp.com)  
Email: [adabdoub@lynnllp.com](mailto:adabdoub@lynnllp.com)

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

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

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

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

**Of Counsel:**

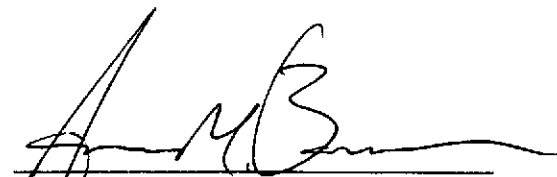
Steven A. Reed  
Rebecca J. Hillyer  
Evan J. Jacobs  
Morgan, Lewis & Bockius, LLP  
1701 Market Street  
Philadelphia, PA 19103-2321  
Telephone: (215) 963-5000  
Email: steven.reed@morganlewis.com  
Email: rebecca.hillyer@morganlewis.com

Email: [evan.jacobs@morganlewis.com](mailto:evan.jacobs@morganlewis.com)

Harvey Bartle, IV  
Mark A. Fiore  
Morgan, Lewis & Bockius, LLP  
502 Carnegie Center  
Princeton, NJ 08540-6241  
Telephone: (609) 919-6600  
Email: [harvey.bartle@morganlewis.com](mailto:harvey.bartle@morganlewis.com)  
Email: [mark.fiore@morganlewis.com](mailto:mark.fiore@morganlewis.com)

Brian M. Ercole  
Melissa M. Coates  
Martha A. Leibell  
Morgan, Lewis & Bockius, LLP  
Suite 5300  
200 South Biscayne Boulevard  
Miami, FL 33131  
Email: [brian.ercole@morganlewis.com](mailto:brian.ercole@morganlewis.com)  
Email: [melissa.coates@morganlewis.com](mailto:melissa.coates@morganlewis.com)  
Email: [martha.leibell@morganlewis.com](mailto:martha.leibell@morganlewis.com)

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



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

**ATTORNEYS FOR DEFENDANTS  
JANSSEN PHARMACEUTICALS, INC.,  
JOHNSON & JOHNSON, JANSSEN  
PHARMACEUTICA, INC. N/K/A  
JANSSEN PHARMACEUTICALS, INC.,  
AND ORTHO-MCNEIL-JANSSEN  
PHARMACEUTICALS, INC. N/K/A/  
JANSSEN PHARMACEUTICALS, INC.**

# APPENDIX A

## Appendix A: Cumulative Mashett Deposition Video Designations<sup>1</sup>

### Deem-Eshleman Examination

Q. (By Mr. Beckworth) I'm going to hand you State 0006<sup>2</sup>. It's a document I think you may have seen before. We will go over just a few things today. We will come back to it. You see here at the top of this document, it is written by **A.J. Fist, Tasmanian Alkaloids, PTY LTD, Westbury, Tasmania**. Do you see that?

A. I see that, yes.

Q. And this document is entitled, **A Tasmanian Poppy Industry: A Case Study of the Application of Science and Technology**. Do you see that?

A. I do.

Q. Okay. This is a document where Mr. Fist writes quite a bit about the growth of the Tasmanian poppy industry. Now, if you'll look down to the middle of the first page, there's a bolded part that says **The Tasmanian Poppy Industry**. Do you see that?

Do you see that?

...  
Do you see there where it says, **The Tasmanian Poppy Industry?** It says, **The Tasmanian poppy industry is based on the opium poppy**. Do you see that?

A. I see that, yes.

5/29 PM 55:13-56:18

Q. We can skip a sentence. This is the important part. **The company was purchased by Johnson & Johnson in 1982, who moved the codeine plant to the Westbury site. Johnson**

### Mashett Video Dep. Designation

Sir, this is a document authored by a gentleman by the name of **A. J. Fist**. Do you see that on Plaintiff's Exhibit 3<sup>3</sup>? (Plaintiff's Exhibit 3 marked for identification.)

A Yes.

Q And do you see at the top, it says "**The Tasmanian Poppy Industry: A Case Study of the Application of Science and Technology**"?

A Yes.

...  
You understand that Johnson & Johnson owned Noramco and Tasmanian Alkaloids?

A Yes.

Q Okay. So let's just go through this paper and we'll do our best, and you can agree or disagree with what it says. So let's just start here with the "Introduction." Here in Mr. Fist's paper, it says "This paper discusses the role of science and technology in the poppy industry from the perspective of one scientist who has been involved in the industry since 1981." Do you see that?

A Yes.

...  
Q Under the heading "**The Tasmanian Poppy Industry**."

...  
THE WITNESS: "**The Tasmanian poppy industry is based on the opium poppy**."

33:17-33:25; 34:3-14; 34:21-34:22; 34:24-34:25

And it goes on to say **the company was purchased by Johnson & Johnson in 1982**. Do you see that?

A Yes.

<sup>1</sup> All emphasis in trial transcript and deposition designation testimony is added.

<sup>2</sup> S-0006 is a document titled "The Tasmanian Poppy Industry: A Case Study of the Application of Science and Technology" by A.J. Fist. Duplicates of this document are found on the State's exhibit list at S-0328, S-1046, and S-1298.

<sup>3</sup> Exhibit 3 to Mashett's deposition is S-1046, a duplicate of S-0006.

**& Johnson are manufacturers of the Tylenol-range of pain medication, and purchase of Tasmanian Alkaloids was made through a reliable source of raw materials. Do you see that?**

A. I do.

5/29 PM 57:9-16

Q. (By Mr. Beckworth) Look down at the bottom of this document, you see where it says, Growth of Industry, and then below it it has this graph, **Tasmanian poppy crop area. Do you see that?**

A. I do.

Q. Okay. This graph shows that the area hectares involved in the Tasmanian poppy crop, something happened between **1987 and 2000**.

Do you see that?

A. I see that, yes.

Q. It went up. **And then when we get to 1996, what happens to it between there and 2000?**

A. **It appears to go up.**

Q. Sharply?

A. It goes up.

5/29 PM 58:19-59:7

Q. (By Mr. Beckworth) **Do you see where it says, Development of the thebaine poppy?**

A. I do.

Q **Johnson & Johnson moved the codeine plant to the Westbury site; correct?**

A Correct.

Q **"Johnson & Johnson are manufacturers of the Tylenol range of pain medication, and the purchase of Tasmanian Alkaloids was made to ensure a reliable source of raw materials." It's all right there; right?**

40:16-41:2

Q (BY MR. BECKWORTH) Now, if you'll look at the bottom of that page, do you see a graph there?

A Yes.

Q **And it's labeled "Tasmanian Poppy Crop Area"?**

A Correct.

Q **And it shows a range of dates from 1987 to 2001; correct?**

A Correct.

Q **And on the left-hand side, it's area measured in hectares, as I pronounce it, per 1,000; correct?**

...  
THE WITNESS: Correct.

Q (BY MR. BECKWORTH) Now, we see in 1995 on this graph it's somewhere between probably 5 and 10. Do you see that?

A Yeah.

Q **And after 1995, does it go up or down?**

...  
THE WITNESS: **The line goes up.**

Q (BY MR. BECKWORTH) And if you look at the far right, the last plot we have on the line for 2000, it's at its highest point on that graph; correct? A That's what's indicated on the graph.

Q **And that graph is right under 20,000 hectares; correct?** A That is what's shown on the graph.

42:13-24, 43:2-7; 43:10-18

**Do you see where it says "Example 3. Development of the Thebaine Poppy"?**

A Yes.

Q. It says, **Until 1996, Tasmania was a small producer of thebaine which was extracted from poppies grown primarily for morphine.**

Do you see that?

A. I do.

5/29 PM 59:11-18

Q. Okay. Now, if you'll go down below that graph, something happens. It says, **A research project was established at Tasmanian Alkaloids in 1994 in order to develop a high thebaine poppy variety to meet the anticipated demand.**

Do you see that?

A. I do.

5/29 PM 59:19-24

Q. Okay. Now, if we turn to the next page, 07, we look to the second paragraph, let's just go over that for a moment. There we see something. **The development of the Norman poppy coincided with the release of a slow-release formulation of oxycodone in the USA. Do you see that?**

A. I do.

Q. **Oxycodone is used in treatment of strong pain, mostly in terminally ill patients. The new formulation was very successful and there was greatly increased demand for the thebaine raw material used for its manufacture. Do you see that?**

A. I do.

5/29 PM 60:9-20.

It goes on to say in the next sentence that **thebaine can be converted into codeine, which is currently the largest volume API produced for opium alkaloids. So perhaps virtually all of the world's opium alkaloids will eventually come from**

Q It says **"Until 1996, Tasmania was a small producer of thebaine, which was extracted from poppies grown primarily for morphine"; right?**

A That's what it states. Correct.

46:10-17

Q Thank you. So if you'll skip down below that box, we see that it states **"A research project was established at Tasmanian Alkaloids in 1994 in order to develop a high thebaine poppy variety to meet the anticipated demand."** Do you see that?

A: Yes

47:4-11

Q Okay. Let's look at this next paragraph. It states **"The development of the Norman poppy coincided with the release of a slow release formulation of oxycodone in the USA."** Do you see that? A Yes.

Q It says it right there?

MR. ALLAN: Object to the form.

THE WITNESS: Correct.

Q (BY MR. BECKWORTH) It says **"Oxycodone is used in treatment of strong pain, mostly in terminally ill patients."**

Q And it further states **"The new formulation was very successful, and there was greatly increased demand for the thebaine raw material used for its manufacture"; correct?**

THE WITNESS: That's what it says.

51:3-51:14; 51:16-51:19; 51:21

At the bottom, it says **"Thebaine can be converted into codeine, which is currently the largest volume API produced from opium alkaloids, so perhaps virtually all of the world's opium alkaloids will eventually come from poppies having the Norman mutation"; correct?**



**poppies having the Norman mutation.** Did I read all of that right?  
A. Yes.

5/29 PM 61:21-62:2.

Q. (By Mr. Beckworth) Ma'am, I'm going to hand you State's Exhibit 0340<sup>4</sup>. 0340 is an e-mail from **Mike Kindergan**, Noramco. We just saw his name on the supplier agreement.

Correct?

A. Yes.

Q. And it's to Rick Blockinger at J-A-N-U-S. Correct?

A. Yes.

Q. And can you tell the Court what J-A-N-U-S means in your e-mail world there at Johnson & Johnson and Janssen?

A. Again, it means Janssen US.

Q. Okay. This e-mail is dated May 30th, 2003?

A. Yes.

Q. And it says, **By way of introduction, I am the VP Worldwide Bulk Analgesics for Noramco.** Do you see that?

A. I do.

5/29 PM 62:9-23

Q. Now, you'll see, if you'll turn to the next page, there's a PowerPoint attached to this e-mail. Right?

A. Yes.

Q. And on it it says, **Organizational Alignment.** Do you see that?

A. I do.

Q. At the top, it lists something, what does it list?

**A. Johnson & Johnson.**

THE WITNESS: Correct.

52:1-6; 52:9

Exhibit 4 is an email bearing JAN-MS-00725218.

Okay. Exhibit 4<sup>5</sup> starts with an email from **Mike Kindergan** to Rick Blockinger on May 30th, 2003. Do you see that email, sir? (Plaintiff's Exhibit 4 marked for identification.)

A Yes.

Q And Mr. Kindergan states, "**By way of introduction, I am the VP Worldwide Bulk Analgesics for Noramco.**" Do you see that?

A Yes.

54:20-55:04

Q So according to this **organizational alignment** chart, with respect to Noramco, we go Johnson & Johnson, Noramco, Tasmanian Alkaloids; correct?

A That's what the org chart shows.

Q And they all show this falling under **Johnson & Johnson Worldwide**; correct?

A Correct.

58:11-18

<sup>4</sup> S-0340 is an email from Mike Kindergan attaching a Noramco presentation. Duplicates of S-0340 can be found on the State's exhibit list at S-1047 and S-1297.

<sup>5</sup> Exhibit 4 to Mashett's deposition is S-1047, a duplicate of S-0340.

Q. And then under that it says, World Wide?

A. **World Wide Chemical Production.**

Q. If we go under there, we see Janssen on one side and Noramco on the other side. Correct?

A. Yes.

Q. And under Noramco, we see Tasmanian Alkaloids and two additional Noramco entities. Correct?

A. Correct.

5/29 PM 63:21-64:11

Now, we're going to go through this just real quickly. If you'll turn to the next page. It says, **Noramco has three franchises. Do you see that?**

A. I see that, yes.

Q. And there, at the second yellow line, it says, **Opiate, narcotic, raw materials/API's.** Do you see that?

A. I do.

Q. It says, **Only global, vertically integrated company.** Do you see that?

A. I do.

...

Q. (By Mr. Beckworth) Right here it says, **Have played a significant role influencing INCB, comma, DEA, policies.** Do you see that?

A. I see that, yes.

5/29 PM 65:18-66:2, 66:19-22

Q. Okay. Now, if you'll turn to the next page. It lists **Pain Management APIs.** Do you see that?

A. Yes.

Q. And it lists quite a few, doesn't it?

A. It does, yes.

Q. **Oxycodone hydrochloride. Codeine, morphine sulfate.**

**Hydrocodone. Oxymorphone and others.** Right?

A. Yes.

Page 2 of Exhibit 4, it says "**Noramco Has Three Franchises.**" Do you see that?

A Yes.

Q And there's one that says "Affiliate Supply"?

A Yes.

Q And then underneath it, it says "**Opiate Narcotic Raw Materials/APIs**"; correct?

A Yes.

Q It says "**Only global, vertically integrated company. Have played a significant role influencing INCB, DEA policies.**" Do you see that?

A Yes.

58:25-59:12

Q Let's turn to the next page. Here, Exhibit 4, Noramco lists several different APIs for **pain management**; correct?

A Correct.

Q We have **oxycodone hydrochloride**; correct?

A Correct.

Q **Hydrocodone**, best I can say it, bitartrate?

A Correct.

Q **Codeine**?

5/29 PM 67:4-11

Q. Okay. Now, if you'll turn two more pages, we'll see a picture of Tasmanian Alkaloids. Now, there's a poppy field on the left and I guess a facility on the right. And at the top it says, Tasmanian Alkaloids, **The Poppy is the Foundation of the Opiates Business.** Do you see that?

A: I see that, yes.

5/29 PM 67:12-18.

Q. If we go to the next page, we see what Dr. Portenoy was talking about. Here, we have a statement: **Tasmanian Alkaloids Leads the World in Poppy Technology.**

Do you see that?

A. I see that, yes.

5/29 PM 67:19-23

Q. Okay. Read for the Court what -- what it says under the poppy technology part, that first two sentences.

A Correct.

Q **Morphine sulfate?**

A Correct.

Q Buprenorphine?

A Correct.

Q Tilidine?

A Correct.

Q Vortex, which is tapentadol?

A Correct.

Q Naltrexone?

A Correct.

Q Fentanyl?

A Correct.

Q Sufentanil?

A Correct.

Q And **oxymorphone?**

A Correct.

59:16-60:17

Q (BY MR. BECKWORTH) So let's turn to the next page because Noramco has to get its base ingredients from somewhere. Here it says "Tasmanian Alkaloids." It says "**The Poppy is the Foundation of the Opiates Business.**"

A What page?

...

Q And we see a slide that's represented by a manufacturing facility and some folks out in a poppy field?

A That's what it appears to be, yes.

62:3-8; 62:14-17

Q If you'll turn to the next page. It says "**Tasmanian Alkaloids Leads the World in Poppy Technology**"; correct?

THE WITNESS: That's what it states.

Correct.

62:18-20, 62:23-24.

Q (BY MR. BECKWORTH) Now, if you'll look at this first part of this slide, it says "**Patented, high thebaine poppy was a transformational technology that enabled**

A. Starting with "patented"?

Q. Yes, ma'am.

A. **Patented high thebaine poppy was a transformational technology that enabled the growth of oxycodone. Dr. Fist was awarded the Johnson Medal.**

Q. Patented high thebaine poppy was a transformational technology.

5/29 PM 68:7-15

Q. Okay. If you'll turn to the next page<sup>6</sup>, it says, **Opportunity For Purchaser. It says, Acquire the No. 1 supplier of narcotic APIs in the United States, the world's largest market.** Do you see that?

A. I do.

**the growth of oxycodone.**" It says that; right?

A That's what it states.

Q Let's break that down. "Transformational technology." It says that; correct?

A That's what it states, correct.

Q "That enabled the growth of oxycodone"; correct?

THE WITNESS: That's what's stated on the slide. Correct.

Q (BY MR. BECKWORTH) And it then goes to say that "**Dr. Fist was awarded a Johnson Medal**"?

A That's what it says.

...  
Q So here we've got Noramco stating that Dr. Fist was awarded a Johnson Medal; correct?

A Correct.

Q Related to the creation of a high thebaine poppy; correct?

A Correct.

Q That was in Noramco's words, a wholly-owned subsidiary of Johnson & Johnson, a transformational technology that enabled the growth of oxycodone; correct?

...  
THE WITNESS: That's what's stated on the slide. Correct.

62:25-63:10, 63:12-16, 63:22-64:6; 64:9-10

Q (BY MR. BECKWORTH) Sir, we're back with Exhibit 5,<sup>7</sup> the Noramco World Wide Narcotics Franchise PowerPoint. If you'll turn to page 6, we'll go through this as quickly as we can. Page 6 is titled "**Opportunity For Purchaser.**" Do you see that?

A Yes.

Q And the first line says what?

<sup>6</sup> S-1048 is introduced at 69:13-22. It is a presentation titled Noramco World Wide Narcotics Franchise. Duplicates of S-1048 can be found on the State's exhibit list at S-0329 and S-1095, and S-1563. A shorter alternative version of the same presentation, including the same information referenced by the State here, can be found at S-1292 and S-1459. S-503 is a four page excerpt (pp. 1, 18, 22, 28) of the same presentation.

<sup>7</sup> Exhibit 5 of Mashett's deposition is S-1048.

Q. And if you go down to the fourth line, it says, **Become a key supplier to the world's largest multi-source generics**. Do you see that?

A. I see that, yes.

5/29 PM 70:24-71:8

Q. Now, if you will turn to page 7, the next page, it lists some examples there of the global product portfolio. And

5/29 PM 71:9-10

Q. Okay. Now, if you'll turn with me, please, a few more, to page 18. There, it says, **Over 80 percent of Noramco sales are via long-term supply agreements**. Do you see that?

I would be happy to help you, if you don't mind.

A. I see that, yes.

Q. Okay. It says, **Noramco has long-term agreements and/or majority-controlled substance share with all seven of the top US generic companies**. Do you see that?

A. I do.

5/29 PM 71:23-72:6

Q. And then it talks about **typical supply agreement terms**. And one of the things it says is they cover **multiple controlled substances, products or more**. And then it goes on to say that the agreements are for -- for

A **"Acquire the #1 supplier of Narcotic APIs in the United States, the world's largest market."**

Q And this was referring to a purchaser acquiring Noramco who was the number one supplier; correct?

A Correct. It's the opportunity for the purchaser. Correct.

Q And then in the fourth line, it says the purchaser can **"Become a key supplier to the world's largest multi-source generics"**; right?

A Correct.

104:25-105:18

Q If you'll turn to the next page, page 7, this lists the **"Noramco Global Product Portfolio"**?

A Correct.

105:19-21

Q All right. Turn to the next page, page 18. **"Over 80% of Noramco's Sales are via Long-Term Supply Agreements"**?

A Correct.

Q **"Noramco has long-term agreements and/or majority controlled substance share with all 7 of the top US generic companies"**; correct?

A That's what it states. Correct.

115:5-12

Q Now, it says **"Typical supply agreement terms: Covers multiple controlled substance products"**; right?

A Correct.

Q And the **"Agreements are for more than 80% of the customer's volume"**; right?

**more than 80 percent of a customer's volume.** You see that?  
A. I do.

A Correct.  
115:16-22

5/29 PM 72:7-12

This one says **82 percent of the world's oxycodone, do you see that, is consumed in North America?**

A. I see that.

Q. **99 percent of the hydrocodone, 99 percent of the oxymorphone, 79 percent of the hydromorphone.** Do you see all of those?

A. I do.

Q Over on the right, it says "**North America consumes 82% of the world's oxycodone**"?

A Correct.

Q "**99% of the hydrocodone**"?

A Correct.

Q "**99% of the oxymorphone**"?

A Correct.

Q "**79% of the hydromorphone**"?

A Correct.

Q "**66% of the buprenorphine**"?

A Correct.

Q "**61% of the morphine**"?

A Correct.

Q And "**14% of the codeine**"?

A Correct.

5/29 PM 73:21-74:2

116:9-23

Q. Now, the last one will be on page 48. Mr. Fist, who got this medal, created the Norman strain of poppy. Here we see something titled, **The Value of Agricultural Research.** Do you see that?

A. Yes.

Q. It says, Narcotic raw material is the single biggest contributor to API costs.

A. I see that.

Q. Tasmanian Alkaloids has increased the alkaloid content by 300 percent over the last 15 years.

A. It says that, yes.

Q. And we see a graph showing that the percent thebaine and poppy average has done something from 1999 to 2015.

Has it gone up or has it gone down?

A. **The percent thebaine in poppy has gone up.**

Q And here it says "**The Value of Agricultural Research,**" and we see a chart that says "**Percent Thebaine in Poppy (Average).**" Do you see that?

A Yes.

Q And in 1999, it shows it at 1.0 percent?

A Correct.

Q **In each year, it goes up; correct?**

A Yes.

Q All the way up to 4 in 2015?

A Correct.

5/29 PM 75:2-16

125:25-126:10

This document says, Noramco World Wide Narcotics

Franchise on the top. And it says, Overview prepared for the sale of Noramco World Wide Narcotics Franchise, Global Product Portfolio, including Noramco, Wilmington, Tasmanian Alkaloids and Athens Technical Center.

Do you see that?

A. I do.

MR. BECKWORTH: Now, Your Honor, at this time we would offer 1048. **This is a document created by Noramco in anticipation of its potential sale.**

5/29 PM 69:18-70:2

Q. Now, if you will turn to page 7, the next page, it lists some examples there of the global product portfolio. And there, at the top, we see oxycodone. And beside it, it lists a

representative brand and one of them is OxyContin; one is Percocet. And one is Roxycodone. Do you see that?

A. I do.

Q. **And it shows Net Trade Sales out here of 94 million in 2014.** Do you see that?

A. I do.

Q. **On the left it says, hydrocodone, Vicodin, Lortab. And it shows 52 million in that trade sales.** Do you see that?

5/29 PM 71:9-19

Q Okay. I'm going to hand you another document that you have seen before, and this was marked Exhibit 5 to your deposition previously, and this is a Noramco slide deck produced to us by Janssen at JAN-OK-00149992 that we previously marked as Exhibit 5, **and I think you'll recall this was created at the time that Janssen was trying to sell Noramco;** is that right?

388:18-25

Q (BY MR. CUTLER) **All right. So on page 7, we can see the sales of your ingredients. If you flip to that page, it's slide -- it's titled "Noramco Global Product Portfolio"?**

A Yes, I see that.

Q **And it lists out a number of Noramco family of active ingredients.** Do you see that?

A Yes, I do.

Q Got **oxycodone**?

A Yes. That's on there.

Q Got **hydrocodone**?

A That's on the slide.

Q Buprenorphine?

A That's on the slide.

Q Morphine?

A That's also on the slide.

Q Codeine?

A Yes. That's all on the slide.

Q Hydromorphone?

A That's on the slide also.

Q Naloxone?

A That's on the slide.

Q Okay. And then we have narcotic raw materials?

A That's on the slide.

Q All right. Now, if we look back at this document, we can see the net trade sale numbers for 2014 alone. Do you see that? Far right column?

A Yes. I see that on the slide.

Q For oxycodone, Noramco had sales of \$94 million in 2014 alone; would you agree with that?

A That's what's on the slide.

Q \$52 million for hydrocodone in 2014 alone?

A That's what's on the slide.

Q And then we see a combined \$43 million from other intermediates and narcotic raw materials in 2014 alone; correct?

A That is on the slide.

Q And that's a total of \$258 million in opioid API sales in 2014 alone; correct?

A That is the total number on the slide.

390:13-391:12; 392:5-13; 393:1-7.

Q (BY MR. CUTLER) And if you flip to page 33 of this document, there's a bar graph titled "Wilmington API Volume Growth 2006-2019." Do you see that?

A Yes, I see the slide.

Q And Wilmington is the location of Noramco's API facility; right?

...

A I believe they -- that's where there's a facility, yes.

Q Okay. So you see listed here a number of different opioids that are being reflected in the graph?

A That's what it shows on the graph.

Q And from 2006 all the way up into -- all the way up to 2015 when this slide deck was created, there is an increase in the volume of those API with a planing out on 2014 and 2015; yes?

A That's what the graph would depict on the slide.

393:17-23; 394:1-12

Now, if you'll turn to page 33. I think it will be the last one we cover. Oh, we have one more after this. This is **Wilmington API Volume Growth**.

You can just -- it speaks for itself. You can see that from 2006 to 2019, the growth of volume grew on a steady, upward curve according to Noramco. Correct?

A. The title says, The API Volume Growth.

Q. And you see that graph going up from the left to the right from 2006 to 2019?

A. I do, yes.

5/29 PM 74:17-75:1



# APPENDIX B

## Appendix B: Cumulative Martin Deposition Video Designations<sup>1</sup>

### Deem-Eshleman Examination

This document says, **Noramco World Wide Narcotics Franchise<sup>2</sup>** on the top. And it says, **Overview prepared for the**

**sale of Noramco World Wide Narcotics Franchise, Global Product Portfolio, including Noramco, Wilmington, Tasmanian Alkaloids and Athens Technical Center.** Do you see that?

A. I do.

5/29 PM 69:18-24

Q. Okay. If you'll turn to the next page, it says, **Opportunity For Purchaser.** It says, **Acquire the No. 1 supplier of narcotic APIs in the United States, the world's largest market.** Do you see that?

A. I do.

5/29 PM 70:24-71:8

Q. Now, the last one will be on page 48. Mr. Fist, who got this medal, created the Norman strain of poppy. Here we see something titled, **The Value of Agricultural Research.** Do you see that?

A. Yes.

Q. It says, Narcotic raw material is the single biggest contributor to API costs.

A. I see that.

### Martin Video Dep. Designation

Q. Okay. The first page says, "**Noramco Worldwide Narcotics Franchise Overview prepared for the sale of Noramco Worldwide Narcotics Franchise Global Product Portfolio, Including Noramco Wilmington, Tasmanian Alkaloids and Athens Technical Center,**" right?<sup>3</sup>

A. That's right

37:11-17

Q. All right. Turn the page. "**Opportunity for Purchaser**" is the title of the next slide. Can you please read the first line of this slide?

A. "**Acquire the number one supplier of narcotic APIs in the United States, the world's largest market.**"

Q. All right. That's referring to Noramco, isn't it?

A. That is referring to Noramco.

45:9-17

Q. All right. This is a slide entitled, "**The Value of Agricultural Research,**" right?

A. Yes, that's correct.

Q. And it contains a chart titled, "**Percent Thebaine in Poppy Average,**" right?

A. Yes, that's what it says.

Q. And from **1999 to 2015,** this shows a general trend increasing in the percentage of thebaine found in the poppy, right?

...

A. Yes, that's what it depicts.

<sup>1</sup> All emphasis in trial transcript and deposition designation testimony is added.

<sup>2</sup> S-1048. See explanatory note in Appendix A.

<sup>3</sup> S-1292 is introduced at 36:22-25, 37:4-7. S-1292 is a shortened alternative version of S-1048.

**Q. Tasmanian Alkaloids has increased the alkaloid content by 300 percent over the last 15 years.**

A. It says that, yes.

Q. And we see a graph showing that the **percent thebaine and poppy average** has done something from **1999 to 2015**. Has it gone up or has it gone down?

A. The percent thebaine in poppy has gone up.

5/29 PM 75:2-21

Q. In 1999, the value on the Y axis is -- Y axis is 1.0, right?

A. 1 percent.

Q. Yep. And then on the -- in 2015 it's up to 4 percent, right?

A. That's what it says, yeah.

Q. Okay. And it says at the bottom, "Narcotic raw material is the single biggest contributor to API cost," correct?

A. It's a very broad statement. I would -- it doesn't actually tell me what APIs that they're referring to.

Q. But that's what it says.

A. That's what it says.

Q. Second bullet point says, "**Tasmanian Alkaloids has increased the alkaloid content by 300 percent over the last 15 years,**" right?

A. That's what it says.

Q. And that means that more thebaine can be derived from each poppy, right?

...

A. It may not be from each poppy, but in what they have tested from any harvest, that's what it looks like. There's an increase of 3 percent.

BY MR. DUCK:

Q. 300.

A. From 1 percent to 3 percent -- to 4 percent is an increase of three, right?

Q. Three percentage points.

A. Yes.

Q. But it's an increase of 300 percent?

92:2-10; 92:14; 92:16-93:10; 93:14-23