



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

OCT 07 2019

In the office of the
Court Clerk MARILYN WILLIAMS

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

**PURDUE'S RESPONSE TO DR. REGAN NICHOLS' MOTION FOR
THIRD-PARTY EXCEPTION TO PROTECTIVE ORDER**

Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company Inc. (collectively, "Purdue") respectfully submit this Response to the Motion for Third-Party Exception to Protective Order ("Motion") filed by Dr. Regan Nichols ("Nichols"). Simply put, the Motion is premature and constitutes pure overreach, by requesting more than what the criminal trial court ordered and more than what the State even possesses.

Initially, Purdue has no issue with Nichols obtaining documents subject to the protective order, so long as they remain as such. In very basic terms, Nichols should not be able to obtain more than what the State possesses. The State *only* holds the documents at issue subject to the protective order. As a result, that is *all* that Nichols may obtain - the documents subject to the protective order.

Presumably in recognition of this basic principle, that is precisely what the criminal trial court ordered. Specifically, on August 13, 2019, Judge Natalie Mai entered an order that required the State to make discovery documents available to Nichols. *However*, the trial court made clear that Nichols would *only* receive access to those documents subject to the terms of the protective order in this case. Judge Mai concluded her order by holding that "[a]ll orders

contained herein are *subject to the protective order filed in CJ-2017-816.*" (8/13/19 Order (attached hereto as **Exhibit A**) (emphasis added).)

Apparently dissatisfied with this result, Nichols comes to this Court seeking unfettered access to discovery documents. This Court did not see fit to give the State unfettered access to these documents. There is no reason why that result should change for a third party. The rationales for protection are the same now as they were when the Court entered the protective order. Purdue merely asks that this Court adopt Judge Mai's view and allow Nichols to take the documents subject to these protections.

Moreover, to the extent that Nichols is concerned about how she will be able to use documents in her defense at her criminal trial, that issue is premature. Nichols should access the documents subject to the protective order, determine whether there is anything that she would like to use at her trial, and then either negotiate use of those documents with the producing parties or file a motion with respect to those documents. As this Court is aware, that is precisely what the parties did in advance of the State's trial against the Johnson & Johnson Defendants - and it worked.

There is absolutely no reason to eviscerate the confidentiality protection of hundreds, thousands, or millions of documents when Nichols may not use any - or at most a handful - of those documents.¹ There is a process in place under the protective order for de-designation of

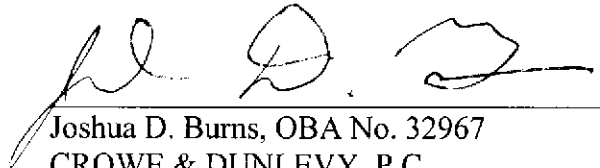
¹ It is unclear if Nichols appreciates the magnitude of that for which she asks. The number of *Purdue* documents in the State's possession should be relatively limited. The State has represented to Purdue that, as required by the protective order and the settlement agreement between Purdue and the State, the State has destroyed all Purdue documents in its possession, subject to certain exceptions for documents such as deposition transcripts, deposition exhibits, and trial exhibits. *However*, the State is presumably still in possession of *millions* of co-defendants' documents. The fact that Nichols is demanding wholesale de-designation of documents suggests that perhaps she does not appreciate the ramifications of that request.

confidential documents, the parties used that procedure in advance of the trial before this Court, and Nichols can and should do the same.

WHEREFORE, Purdue respectfully requests that this Court enter an order consistent with that of Judge Mai in the criminal trial court, allowing Nichols access to the documents at issue, but DENYING her request that her access be unfettered - *i.e.*, not subject to this Court's prior protective order. Purdue further respectfully requests such other and further relief as this Court deems just and proper.

Dated: October 7, 2019

Respectfully submitted,



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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA OKLAHOMA COUNTY

THE STATE OF OKLAHOMA,)
)
 Plaintiff,)
)
 vs.)
)
 REGAN GANOUNG NICHOLS,)
)
 Defendant.)

AUG 13 2019

RICK WARREN
COURT CLERK

Case No. 77
CF-2017-3954

**ORDER FOR PRODUCTION OF DISCOVERY MATERIALS SUBJECT TO
PROTECTIVE ORDER**

Pursuant to the specific discovery request made by defendants seeking documents relating to *State of Oklahoma, ex rel., Mike Hunter, Attorney General of Oklahoma v. Purdue, et al*, CASE No. CJ-2017-816 in the District Court of Cleveland County, the Court hereby orders the State to make available all the documents produced in the *Purdue* case in the State's possession currently being stored by Legility LLC. The Defendant shall provide the necessary equipment to the State to allow the State to copy the documents to comply with this Discovery Order.

All orders contained herein are subject to the protective order filed in CJ-2017-816.



JUDGE OF THE DISTRICT COURT
HONORABLE JUDGE NATALIE MAI

CERTIFICATE OF MAILING

This is to certify that on October 7, 2019, a true and correct copy of the above and foregoing has been served via e-mail to the following:

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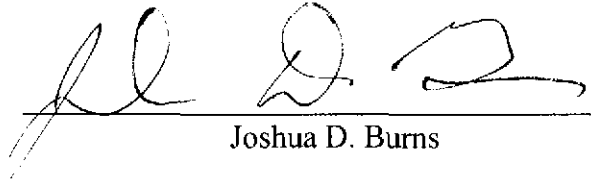
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