



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

Plaintiff,

v.

- (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, INC.;
 - (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.

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

APR 12 2018

In the office of the
Court Clerk MARILYN WILLIAMS

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 OBJECTION TO, AND/OR MOTION TO AMEND, THE SPECIAL DISCOVERY MASTER'S ORDER ON PLAINTIFF'S MOTION TO COMPEL

Defendants Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc., f/k/a Watson Pharma, Inc., (collectively "Defendants") respectfully object to, and/or move to amend, the Order of Special Discovery Master on State's

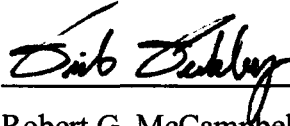
First Motion to Compel entered on April 4, 2019 (the “Order”). The Order implements exceptionally overbroad temporal and geographic scopes for discovery in this case without any analysis of the potential benefit to the Plaintiff versus the increased burden on the Defendants. *See, e.g.*, 12 O.S. § 3226 (providing discovery must be “proportional to the needs of the case, considering the importance of the issues at stake in the action,” and is improper where “the burden or expense of the proposed discovery outweighs its likely benefit.”); *Farmers Ins. Co., Inc. v. Peterson*, 2003 OK 99, 81 P.3d 659 (holding trial court abused its discretion by ordering discovery that was excessively burdensome).

As demonstrated by the arguments and authorities included in Defendants’ Response in Opposition to Plaintiff’s Motion to Compel filed March 22, 2018, which is adopted and incorporated herein by reference, Plaintiff’s discovery to Defendants to produce voluminous documents, data, and information covering not just Oklahoma but the entire nation, including separate litigations, dating back nearly 22 years (well beyond any statute of limitations) is both irrelevant and grossly disproportionate to the needs of the case given the claims and defenses at issue. Plaintiff has admitted in its complaint that it reimbursed only **245** prescriptions over a 10-year span for the Teva Defendants’ branded pharmaceuticals at issue here – Actiq and Fentora. Petition at ¶ 37. That is about **25 prescriptions per year** for the entire State of Oklahoma. Further, according to Plaintiff, the last time it reimbursed a prescription for Actiq was 2008 when it reimbursed **one**. Petition Ex. 3. Similarly, for all of Oklahoma in 2016, it reimbursed **one** prescription of Fentora (for \$143.98) and none in the first six months of 2017. *Id.* Yet, the Order compels Defendants to search for, obtain, and produce all documents from 1999 to the present related to marketing for Actiq and Fentora, and all documents produced in other opioid-related litigations nationwide, including “all discovery responses, investigative demand responses,

deposition transcripts, witness statements, hearing transcripts, expert reports, trial exhibits and trial transcripts from litigations,” among other things. *See* Pl. RFPs 1 and 2. Given the number of Actiq and Fentora prescriptions at issue, Plaintiff’s discovery requests are both irrelevant and grossly disproportionate to the Oklahoma-specific claims against Defendants.

Accordingly, any potential benefit (which has not been demonstrated) of increasing the temporal scope of discovery beyond 2006 and the geographic scope to activities having no logical connection to Oklahoma is drastically outweighed by the corresponding burden to the Defendants. Accordingly, Defendants respectfully request the Court enter an amended order limiting the temporal and geographic scopes of documents ordered produced to those (1) created or used in or after 2006 that (2) are logically connected to the claims and defenses of this case, which are necessarily limited to actions occurring in or otherwise connected to Oklahoma.¹

¹ As noted in Defendants’ brief opposing the motion to compel, this scope includes documents regarding practices, policies and procedures which on their face do not solely relate to Oklahoma and would cover any alleged “nationwide strategy” that purportedly “blanketed the nation.” Teva Opposition (filed 3-22-18), p. 11.



Robert G. McCampbell, OBA No. 10390
Nicholas ("Nick") V. Merkley, OBA No. 20284
Ashley E. Quinn, OBA No. 33251
GABLEGOTWALS
One Leadership Square, 15th Fl.
211 North Robinson
Oklahoma City, OK 73102-7255
T: +1.405.235.3314
E-mail: RMcCampbell@Gablelaw.com
E-mail: NMerkley@Gablelaw.com
E-mail: AQuinn@Gablelaw.com

OF COUNSEL:

Steven A. Reed
Harvey Bartle IV
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921
T: +1.215.963.5000
E-mail: steven.reed@morganlewis.com
E-mail: harvey.bartle@morganlewis.com

Brian M. Ercole
MORGAN, LEWIS & BOCKIUS LLP
200 S. Biscayne Blvd., Suite 5300
Miami, FL 33131
T: +1.305.415.3416
E-mail: brian.ercole@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.*

CERTIFICATE OF MAILING

I certify that a true and correct copy of the foregoing was emailed on this 12th day of April, 2018, to:

*Attorneys for
Plaintiff*

Mike Hunter, Attorney General
Abby Dillsaver, General Counsel
Ethan Shaner, Dep. Gen. Counsel
**ATTORNEY GENERAL'S
OFFICE**
313 N.E. 21st Street
Oklahoma City, OK 73105

Bradley E. Beckworth
Jeffrey J. Angelovich
Lloyd N. Duck
Lisa Baldwin
NIX, PATTERSON & ROACH
512 N. Broadway Ave., Suite 200
Oklahoma City, OK 73102

Michael Burrage
Reggie Whitten
WHITTEN BURRAGE
512 N. Broadway Ave., Suite 300
Oklahoma City, OK 73102

Andrew G. Pate
NIX PATTERSON & ROACH
3600 N. Capital of Texas Hwy.
Suite 350
Austin, TX 78746

Glenn Coffee
**GLENN COFFEE &
ASSOCIATES**
915 N. Robinson Ave.
Oklahoma City, OK 73102

*Attorneys for
Purdue Pharma,
LP,
Purdue Pharma,
Inc. and The
Purdue Frederick
Company*

Patrick Joseph Fitzgerald
R. Ryan Stoll
**SKADDEN ARPS SLATE
MEAGHER & FLOM**
155 N. Wacker Drive
Suite 2700
Chicago, IL 60606

Sheila L. Birnbaum
Mark S. Cheffo
Hayden Adam Coleman
**QUINN EMANUEL
URQUHART & SULLIVAN**
51 Madison Avenue, 22nd Floor
New York, NY 10010

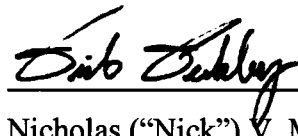
Sandy Coats
Cullen Sweeney
CROWE & DUNLEVY
324 N. Robinson Ave., Suite 100
Oklahoma City, OK 73102

*Attorneys for
Johnson &
Johnson, Janssen
Pharmaceutica,
Inc., N/K/A
Janssen
Pharmaceuticals,
Inc., and Ortho-
McNeil-Janssen
Pharmaceuticals,
Inc. N/K/A
Janssen
Pharmaceuticals,
Inc.*

John Sparks
Ben Odom
ODOM SPARKS & JONES
2500 McGee Drive, Suite 140
Norman, OK 73072

Charles C. Lifland
Jennifer D. Cardelus
O'MELVENY & MEYERS
400 S. Hope Street, 18th Floor
Los Angeles, CA 90071

Stephen D. Brody
O'MELVENY & MEYERS
1625 Eye Street NW
Washington, DC 20006



Nicholas ("Nick") V. Merkley