



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.)

Case No. CJ-2017-816
Judge Thad Balkman

Special Master:
William Hetherington

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

FILED

SEP 05 2018

In the office of the
Court Clerk MARILYN WILLIAMS

PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

This issue is very simple. The State has never refused to put up witnesses in response to the topics at issue. The State has never moved to quash or limit the scope of those depositions. To the contrary, the State diligently worked to schedule the deposition Purdue requested regarding the State's abatement efforts and repeatedly accommodated Purdue's requests to reschedule that deposition. See Motion at 2. The State offered multiple dates, and the State rescheduled the

deposition at Purdue's request. *Id.* Then, after the deposition was finally set to proceed, Purdue removed the case, which prevented the deposition from proceeding as scheduled.

Following Remand, the State has continued to diligently work to schedule these depositions after receiving Purdue's notices. The State offered dates in response to one notice and, in the near future, anticipates providing potential dates for Purdue's remaining notices regarding the practices at State healthcare facilities. In other words, the State is working to provide Purdue exactly what it seeks.

Indeed, regarding another deposition notice served by Purdue for the deposition to occur on September 5, the State requested Purdue move the deposition 1-2 days to accommodate the witness. *See* Motion at 3. In a similar retaliatory response, Purdue refused.

I'm writing to follow-up on the call yesterday. It is probably not a surprise that, being guided by the State's conduct when Purdue witnesses had genuine scheduling issues – going so far as to seek sanctions – that Purdue is not presently agreeable to reschedule the 9/5 deposition.

Motion at Ex. 7. The State, nevertheless, complied with Purdue's request and presented a witness on September 5.

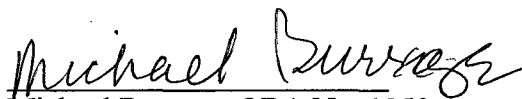
This entire Motion and Purdue's response is the result of Purdue's retaliation against the Court's August 10 Order requiring that the State's previously scheduled depositions proceed as noticed. There is no other basis for it, and Purdue has offered none in its Response. Purdue does not say that the dates offered for the abatement deposition do not work. In fact, Purdue's Response agrees that Purdue is willing to move the depositions. Rather, in its response to the State's request, Purdue's counsel denied a date change and stated, in a disrespectful manner:

We would normally entertain courtesy requests, but that has to be a two way street. I'm pulling a witness away from his family on their family vacation for the Thursday dep. I'd entertain the request below if the state agreed today to withdraw the Thursday notice and renote the dep to one of the dates that were offered for him (they were offered in the response and objection to the notice topic).

Motion at Ex. 6. This response confirms Purdue's motive is purely retaliatory.

On August 10, the Court ordered that depositions (1) previously argued, (2) addressed by Judge Hetherington, and (3) scheduled prior to August 30 should proceed as noticed. The deposition notices at issue in this Motion and served by Purdue do not fit any of those three criteria. Purdue did not raise these deposition notices at the August 10 hearing or seek any relief related to them. Now, as of August 31, a deposition scheduling protocol exists, as ordered by Judge Hetherington, and the State will follow such protocol. To be clear, the State's Motion that Purdue references was filed at 8:30am *before* the August 31 Hearing. There was no need to address it at the August 31 Hearing because Judge Hetherington entered a deposition protocol at the Hearing, which provides the process the parties must follow to schedule these depositions. Specifically, as stated at the Hearing following the Court's recommended protocol, for "deposition notices that have been issued," the parties agreed to try to resolve any issues by September 10. Hearing Transcript at 25:10-26:12. Further, the Court provided the deposition protocol the Parties must follow going forward for any new depositions sought. The State will comply with that protocol and the agreement regarding these depositions. No further hearing is necessary as the Court's ruling on August 31 mooted the issues.

Dated: September 5, 2018



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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was emailed on September 5, 2018 to:

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