



STATE CLEVELAND  
\*1041631259\*  
Document split into multiple parts

Office of the Court Clerk  
**PART D**

**NOV 27 2018**

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.

In the office of the  
Court Clerk **MARILYN WILLIAMS**

Case No. CJ-2017-816

Judge Thad Balkman

**DEFENDANTS' JOINT RESPONSE TO THE STATE'S  
REQUEST FOR STATUS CONFERENCE**



# **EXHIBIT N**

**From:** Drew Pate <dpate@nixlaw.com>

**Sent:** Monday, October 29, 2018 7:59 PM

**To:** sbrody@omm.com; Roberts, David K. (DC) <droboters2@omm.com>; Strong, Sabrina H. <sstrong@omm.com>; sbaglin@omm.com

**Cc:** mburrage@whittenburrage.com; rwhitten@whittenburrage.com; cnorman@whittenburrage.com; Brad Beckworth <bbeckworth@nixlaw.com>; Jeff Angelovich <jangelovich@nixlaw.com>; Lisa Baldwin <lbaldwin@nixlaw.com>; Trey Duck <tduck@nixlaw.com>; Ross Leonoudakis <rossl@nixlaw.com>; Winn Cutler <winncutler@nixlaw.com>; Brooke Churchman <bchurchman@nixlaw.com>; Nathan Hall <nhall@nixlaw.com>; Brittany Kellogg <bkellogg@nixlaw.com>

**Subject:** Oklahoma v Purdue Pharma et al - Depositions

Steve,

Under the protocol by Judge Hetherington, we intend to depose the following individuals:

- Robyn Kohn
- Gary Vorsanger
- Kathleen Chupa
- Bruce Moskovitz
- Ronald Kuntz
- Patricia Yap
- Greg Panico
- Fred Tewell
- Roxanne McGregor-Beck
- Larry Westfall
- Jeff Buel
- Frank DeMiro
- Jason Day

Please let us know if you represent these individuals and, if so, dates they are available for their depositions. If you do not represent any of these individuals, please let us know.

Thanks,

Drew

Drew Pate



NIX PATTERSON, LLP

3600 N. Capital of Texas Hwy.

Building B, Suite 350

Austin, TX 78746

512-328-5333

[Dpate@nixlaw.com](mailto:Dpate@nixlaw.com)

**From:** Drew Pate <[dpate@nixlaw.com](mailto:dpate@nixlaw.com)>

**Date:** Monday, Oct 29, 2018, 18:58

**To:** Bartle IV, Harvey <[harvey.bartle@morganlewis.com](mailto:harvey.bartle@morganlewis.com)>

**Cc:** Brad Beckworth <[bbeckworth@nixlaw.com](mailto:bbeckworth@nixlaw.com)>, Trey Duck <[tduck@nixlaw.com](mailto:tduck@nixlaw.com)>, Lisa Baldwin <[lbaldwin@nixlaw.com](mailto:lbaldwin@nixlaw.com)>, Ross Leonoudakis <[rossl@nixlaw.com](mailto:rossl@nixlaw.com)>, Winn Cutler <[winncutler@nixlaw.com](mailto:winncutler@nixlaw.com)>, [mburrage@whittenburrage.com](mailto:mburrage@whittenburrage.com) <[mburrage@whittenburrage.com](mailto:mburrage@whittenburrage.com)>, [rwhitten@whittenburrage.com](mailto:rwhitten@whittenburrage.com) <[rwhitten@whittenburrage.com](mailto:rwhitten@whittenburrage.com)>, Amanda Thompson <[athompson@nixlaw.com](mailto:athompson@nixlaw.com)>, [cnorman@whittenburrage.com](mailto:cnorman@whittenburrage.com) <[cnorman@whittenburrage.com](mailto:cnorman@whittenburrage.com)>, [nmerkley@gablelaw.com](mailto:nmerkley@gablelaw.com) <[nmerkley@gablelaw.com](mailto:nmerkley@gablelaw.com)>, [rmccampbell@gablelaw.com](mailto:rmccampbell@gablelaw.com) <[rmccampbell@gablelaw.com](mailto:rmccampbell@gablelaw.com)>

**Subject:** Oklahoma v Purdue Pharma et al - Depositions

[EXTERNAL EMAIL]

Harvey,

Under the protocol by Judge Hetherington, we intend to depose the following individuals:

- Christine Baeder

- Deborah Bearer
- Joseph Caminiti
- Cynthia Condodina
- Chuck DeWildt
- Dolly Judge
- James King
- Susan Larijani
- Kate Reedy
- Jim Reilly
- Michael Richardson
- Randy Spokane
- Jerri Ann Thatcher
- Jamie Warner
- Paula Williams

Please let us know if you represent these individuals and, if so, dates they are available for their depositions. If you do not represent any of these individuals, please let us know.

Thanks,

Drew

Drew Pate



NIX PATTERSON, LLP

3600 N. Capital of Texas Hwy.  
Building B, Suite 350  
Austin, TX 78746  
512-328-5333  
[Dpate@nixlaw.com](mailto:Dpate@nixlaw.com)

**From:** Drew Pate <[dpate@nixlaw.com](mailto:dpate@nixlaw.com)>

**Date:** October 29, 2018 at 7:58:58 PM EDT

**To:** "LaFata, Paul" <[Paul.LaFata@dechert.com](mailto:Paul.LaFata@dechert.com)>, "Coleman, Hayden" <[Hayden.Coleman@dechert.com](mailto:Hayden.Coleman@dechert.com)>, "Tam, Jonathan" <[Jonathan.Tam@dechert.com](mailto:Jonathan.Tam@dechert.com)>, "Cheffo, Mark" <[Mark.Cheffo@dechert.com](mailto:Mark.Cheffo@dechert.com)>

**Cc:** Brad Beckworth <[bbeckworth@nixlaw.com](mailto:bbeckworth@nixlaw.com)>, Trey Duck <[tduck@nixlaw.com](mailto:tduck@nixlaw.com)>, Lisa Baldwin <[lbaldwin@nixlaw.com](mailto:lbaldwin@nixlaw.com)>, Ross Leonoudakis <[rossl@nixlaw.com](mailto:rossl@nixlaw.com)>, Winn Cutler <[winncutler@nixlaw.com](mailto:winncutler@nixlaw.com)>, "[mburrage@whittenburragelaw.com](mailto:mburrage@whittenburragelaw.com)" <[mburrage@whittenburragelaw.com](mailto:mburrage@whittenburragelaw.com)>, "[rwhitten@whittenburragelaw.com](mailto:rwhitten@whittenburragelaw.com)" <[rwhitten@whittenburragelaw.com](mailto:rwhitten@whittenburragelaw.com)>, Amanda Thompson <[athompson@nixlaw.com](mailto:athompson@nixlaw.com)>, "[cnorman@whittenburragelaw.com](mailto:cnorman@whittenburragelaw.com)" <[cnorman@whittenburragelaw.com](mailto:cnorman@whittenburragelaw.com)>, "Sanford C. Coats"

<[sandy.coats@crowedunlevy.com](mailto:sandy.coats@crowedunlevy.com)>

**Subject: Oklahoma v Purdue Pharma et al - Depositions**

Paul,

Under the protocol by Judge Hetherington, we intend to depose the following individuals:

- Burt Rosen
- Phil Cramer
- Richard Sackler
- David Sackler
- Jonathan Sackler
- Mortimer Sackler
- Kathe Sackler
- Ilene Sackler Lefcourt
- Samantha Sackler Hunt
- Mortimer Sacker Jr.
- David Haddox
- Wendell Fisher
- Russell Gasdia
- Jim Lang
- Mark Alfonso
- Michael Carraturo
- Pamela Bennet
- Robert Kaiko
- Robin Hogen

Please let us know if you represent these individuals and, if so, dates they are available for their depositions. If you do not represent any of these individuals, please let us know.

Thanks,

Drew

Drew Pate



**NIX PATTERSON, LLP**

3600 N. Capital of Texas Hwy.  
Building B, Suite 350  
Austin, TX 78746  
512-328-5333  
[Dpate@nixlaw.com](mailto:Dpate@nixlaw.com)

---

This e-mail is from Dechert LLP, a law firm, and may contain information that is confidential or privileged. If you are not the intended recipient, do not read, copy or distribute the e-mail or any attachments. Instead, please notify the sender and delete the e-mail and any attachments. Thank you.





# EXHIBIT O

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex reo, )  
MIKE HUNTER, ATTORNEY GENERAL )  
OF OKLAHOMA, )  
Plaintiff )  
VS. ) NO. CJ-2017-816  
(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., a/k/a )  
JANSSEN PHARMACEUTICALS, INC.; )  
(9) JANSSEN PHARMACEUTICALS, )  
INC., a/k/a JANSSEN )  
PHARMACEUTICALS, INC.; )  
(10) ALLERGAN, PLC, f/k/a )  
ACTAVIS, PLC f/k/a ACTAVIS, )  
INC.; )  
(11) WATSON LABORATORIES, INC.)  
(12) ACTAVIS, LLC; and )  
(13) ACTAVIS PHARMA, INC., )  
f/k/a WATSON PHARMA, INC. )

\*\*\*\*\*

ORAL DEPOSITION OF RICHARD BYRON PONDER  
NOVEMBER 9, 2018

\*\*\*\*\*

ANSWERS AND DEPOSITION OF RICHARD BYRON PONDER, a  
witness called by Plaintiff, taken before Janalyn  
Elkins, Certified Shorthand Reporter for the State of  
Texas, on the 9th day of November, 2018, between the  
hours of 8:00 a.m. and 4:17 p.m., in the offices of  
Scott, Douglass & McConnico, 303 Colorado, Suite 2400,  
Austin, Texas, pursuant to the agreement of counsel for  
the respective parties as hereinafter set forth.

1 able to proceed with witnesses -- I mean, the big  
2 concern I have here -- and this is not the first time.  
3 The big concern I have is that, you know, we tear down  
4 scope, we tear down procedure for providing a full -- I  
5 don't know how many times in my orders I say that the  
6 witness to be presented and designated is to be fully  
7 informed, fully advised, fully prepared, and ready to  
8 testify. Well, it continues not to happen. And that's  
9 a concern. And it's a huge concern for me because it --  
10 it clearly violates specific orders I've been given.

11 I mean -- I mean, for this witness to answer I  
12 don't know, I have no idea is ridiculous. If he's been  
13 given the documents and is supposed to be prepared  
14 pursuant to the notice on this particular topic, he  
15 should be prepared. He appears not to be. So, you  
16 know, how do I fix that? Well, the only way to fix it  
17 is to just order that this witness answer fully, and if  
18 he doesn't answer any better than he is now, then  
19 they're going to get another -- the state is going to  
20 get another shot at another witness, and it's not going  
21 to count against their time and -- and have another  
22 three hours to explore that specific topic, the Pain  
23 Care Forum.

24 So finish this deposition and have this witness  
25 answer fully as capable as he is to answer and you're

1 going to get the answers you're going to get,  
2 Mr. Beckworth, and we'll see where that leads us.

3 MR. BECKWORTH: Yes, sir.

4 HONORABLE HETHERING: But it's clear that there  
5 needs to be another witness provided that is prepared to  
6 answer as to Pain Care Forum and get it done within the  
7 next five or six days at most. I mean, it's the end of  
8 the week now. So let's say by the end of the week next  
9 week. And if it has to be here in Norman, it's here in  
10 Norman.

11 MR. BECKWORTH: Yes, sir.

12 HONORABLE HETHERING: Anything else?

13 MR. GALIN: No, Your Honor.

14 MR. BECKWORTH: Thank you for accommodating us,  
15 Judge.

16 MR. MERKLEY: Thank you, Judge.

17 HONORABLE HETHERING: You're welcome. Good  
18 luck.

19 VIDEOGRAPHER: This will mark the beginning of  
20 videotape No. 2 in the deposition of Richard Byron  
21 Ponder on November 9, 2018. We're going to go back on  
22 the record at 10:54.

23 BY MR. BECKWORTH:

24 Q. Okay, sir. We're on Exhibit 5. I would like  
25 for you to turn to the last page with text on it, which

1 released of any further responsibility with regard to  
2 the original.

3 ( ) That the Witness shall have thirty (30) days for  
4 review and signature of the original transcript and if  
5 any corrections returned are attached hereto.

6 ( ) That the signed transcript ( ) was ( ) was not received  
7 from the Witness within 30 days.

8 ( ) That the examination and signature of the Witness is  
9 waived by the Witness and the parties;

10 That the amount of time used by each party at the  
11 deposition is as follows:

12 MR. BRADLEY BECKWORTH (5:56)  
13 MR. ROSS GALIN (2 minutes)

14 I further certify that I am neither counsel for, related  
15 to, nor employed by any of the parties in the action in  
16 which this proceeding was taken, and further that I am  
17 not financially or otherwise interested in the outcome  
18 of the action.

19 WITNESS MY HAND, this the \_\_\_\_\_ day  
20 of \_\_\_\_\_, A.D. 2018.

21 *Janalyne Elkins*

22 JANALYN ELKINS  
23 Cert. No. 3631  
24 Expires Dec. 31, 2018  
25 US Legal Support, Inc.  
Firm Registration No. 344  
701 Brazos, Suite 380  
Austin, Texas 78701  
(512) 292-4249



# **EXHIBIT P**



that it would “limit its productions to information and/or documents from and about the Purdue defendants that are named in this lawsuit.” (Ex. B: Excerpt of Purdue Res. to Req. for Production at 8.) The evidentiary record for the underlying motion was undisputed: Purdue does not own Rhodes (in whole or part), and Rhodes does not own Purdue (in whole or part). (Ex. C: Darragh Decl. ¶¶ 4-7.) The State, during oral argument, acknowledged that its motion does not turn on whether Purdue and Rhodes are affiliates because the State sought documents in Purdue’s possession.<sup>1</sup> Thus, the State did not argue and the undisputed record did not show that Purdue and Rhodes are affiliates.

Although the October 22 Order refers to Rhodes as an “affiliate” of Purdue, Oklahoma law on corporate form cannot be rewritten by way of a discovery definition. To serve a discovery request on one company, like Purdue Pharma L.P., and define it to include another independent and separate company, like The Coca-Cola Co., cannot have any effect on the corporate separateness of the distinct entities. A discovery definition cannot override Oklahoma law on corporate form and cannot make one company produce documents under the control of another.

Oklahoma courts view corporate affiliates as including a parent company and its subsidiaries, *see, e.g., Postal Fin. Co. v. Okla. Tax. Comm’n*, 594 P.2d 1205, 1205 (Okla. 1977) (tax form filed by parent of an Oklahoma company is filed by an affiliate), and Oklahoma courts respect the corporate separateness of affiliated companies, *see, e.g., Tulsa Tribune v. Okla. Tax Comm’n*, 768 P. 2d 891, 895 (Okla. 1989) (tax on Oklahoma company does not reach income of its subsidiaries and affiliates). Courts respect the distinctiveness of separate corporate entities even where a parent owns all the stock of its subsidiary. *See, e.g., Cont’l Oil Co. v. Jones*, 113

---

<sup>1</sup> As of the filing of this motion, the argument transcript was not available from the court reporter.

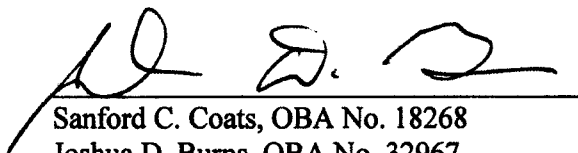


F.2d 557, 562 (10th Cir. 1940) (“The mere fact that a parent corporation owns all of the stock in a subsidiary, standing alone and without more, is not enough to warrant the disregard of their separate juridical entities.”).

Quite simply, Purdue is producing documents in its possession, custody, and control, including regarding Rhodes, but cannot force a separate non-party to produce anything. Regardless, as the State acknowledged at argument, whether Purdue and Rhodes are “affiliates” is immaterial to resolving the underlying discovery motion. The undisputed record shows that Purdue and Rhodes are separate companies that do not control each other. Accordingly, Purdue respectfully requests that the Special Discovery Master reconsider in part the Order by rescinding its statement that Purdue and Rhodes are “affiliates” and making clear that the Order does not require Purdue to produce documents from non-party Rhodes.

DATED: November 2, 2018

Respectfully submitted,



Sanford C. Coats, OBA No. 18268  
Joshua D. Burns, OBA No. 32967  
CROWE & DUNLEVY, P.C.  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102  
Tel: (405) 235-7700  
Fax: (405) 272-5269  
sandy.coats@crowedunlevy.com  
joshua.burns@crowedunlevy.com

Of Counsel:

Sheila Birnbaum  
Mark S. Cheffo  
Hayden A. Coleman  
Paul A. LaFata  
Erik Snapp

Jonathan S. Tam  
DECHERT, LLP  
Three Bryant Park  
1095 Avenue of the Americas  
New York, New York 10036  
Tel: (212) 698-3500  
Fax: (212) 698-3599  
sheila.birnbaum@dechert.com  
mark.cheffo@dechert.com  
hayden.coleman@dechert.com  
paul.lafata@dechert.com  
erik.snapp@dechert.com  
jonathan.tam@dechert.com

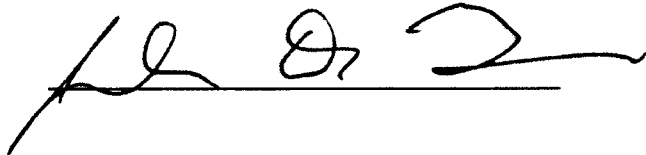
*Counsel for Purdue Pharma L.P.,  
Purdue Pharma Inc., and The Purdue  
Frederick Company Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of November 2018, I caused a true and correct copy of the following:

**PURDUE'S MOTION FOR PARTIAL RECONSIDERATION  
OF OCTOBER 22, 2018 ORDER RE: RHODES**

to be served via email upon the counsel of record listed on the attached Service List.

A handwritten signature in black ink, appearing to be 'Jonathan S. Tam', written over a horizontal line.

**SERVICE LIST**

Mike Hunter  
Abby Dillsaver  
Ethan A. Shaner  
Attorney General's Office  
313 N.E. 21st Street  
Oklahoma City, OK 73105  
*Attorneys for Plaintiff*

Bradley E. Beckworth  
Jeffrey J. Angelovich  
Lloyd "Trey" Duck, III  
Andrew Pate  
Lisa Baldwin  
Nix, Patterson & Roach, LLP  
512 North Broadway Avenue, Suite 200  
Oklahoma City, OK 73102  
*Attorneys for Plaintiff*

Robert G. McCampbell  
Nicholas V. Merkle  
GableGotwals  
One Leadership Square, 15th Floor  
211 North Robinson  
Oklahoma City, OK 73102  
*Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a Watson Pharma, Inc*

Larry D. Ottaway  
Amy Sherry Fischer  
Foliart, Huff, Ottaway & Bottom  
201 Robert S. Kerr Avenue, 12th Floor  
Oklahoma City, OK 73102  
*Attorneys for Defendants Johnson & Johnson, Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.*

Michael Burrage  
Reggie Whitten  
J. Revell Parrish  
Whitten Burrage  
512 North Broadway Avenue, Suite 300  
Oklahoma City, OK 73102  
*Attorneys for Plaintiff*

Glenn Coffee  
Glenn Coffee & Associates, PLLC  
915 North Robinson Avenue  
Oklahoma City, OK 73102  
*Attorneys for Plaintiff*

John H. Sparks  
Benjamin H. Odom  
Michael W. Ridgeway  
David Kinney  
Odom, Sparks & Jones, PLLC  
Suite 140  
HiPoint Office Building  
2500 McGee Drive  
Norman, OK 73072  
*Attorneys for Defendants Johnson & Johnson, Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.*

Steven A. Reed  
Harvey Bartle IV  
Jeremy A. Menkowitz  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
*Attorneys for Defendants Cephalon, Inc., Teva Pharmaceuticals USA, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.*

Brian M. Ercole  
MORGAN, LEWIS & BOCKIUS LLP  
200 S. Biscayne Blvd., Suite 5300  
Miami, FL 33131  
Telephone: (305) 415-3416  
*Attorneys for Defendants Cephalon, Inc., Teva  
Pharmaceuticals USA, Inc., Watson Laborato-  
ries, Inc., Actavis LLC, and Actavis Pharma,  
Inc. f/k/a Watson Pharma, Inc*

Stephen D. Brody  
O'MELVENY & MYERS LLP  
1625 Eye Street NW  
Washington, DC 20006  
*Attorneys for Defendants Johnson & Johnson,  
Janssen Pharmaceuticals, Inc., Janssen  
Pharmaceutica, Inc. n/k/a Janssen  
Pharmaceuticals, Inc., and Ortho-McNeil-  
Janssen Pharmaceuticals, Inc. n/k/a Janssen  
Pharmaceuticals, Inc.*

Charles C. Lifland  
Jennifer D. Cardelús  
O'MELVENY & MYERS LLP  
400 S. Hope Street  
Los Angeles, CA 90071  
*Attorneys for Defendants Johnson & Johnson,  
Janssen Pharmaceuticals, Inc., Janssen  
Pharmaceutica, Inc. n/k/a Janssen  
Pharmaceuticals, Inc., and Ortho-McNeil-  
Janssen Pharmaceuticals, Inc. n/k/a Janssen  
Pharmaceuticals, Inc.*

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, 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.

Case No. CL-2017-816  
JURY TRIAL DEMANDED

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS, AND  
FIRST SET OF INTERROGATORIES**

*Everett v. Purdue Pharma et al.*, No. 17 2-00469 31, Superior Court of the State of Washington In and For Snohomish County; *The Town of Kermit v. McKesson Corporation, et al.*, No. 17-C-13, Circuit Court of Mingo County, WV; *The City of Huntington v. AmersourceBergen Drug Corp., et al.*, No. 17-C-38, Cabell County Circuit Court, WV; *County of Broome v. Purdue Pharma, LP, et al.*, No. EFCA2017-000252, Supreme Court of the State of New York, County of Broome; *The County Commission of Lincoln County v. West Virginia Board of Pharmacy, et al.*, Case No. 17-C-46; Circuit Court of Lincoln County, West Virginia; *County of Orange v. Purdue Pharma LP, et al.*, No. EF003572-2017, New York State Supreme Court, Orange County; *State of Mississippi v. Purdue Pharma, LP, et al.*, Case No. 15-cv-1814 (25CH1:15-cv-001814); 5th Chancery Court, Hinds Chancery Court, Jackson; *State of Ohio, ex rel. Mike DeWine, Ohio Attorney General v. Purdue Pharma L.P., et al.*, Case No. 17-CI-000261, Common Pleas Court of Ross County, Ohio – Civil Division; *City of Dayton v. Purdue Pharma, et al.*, Case No. 2017-cv-02647, Court of Common Pleas, Montgomery County, Ohio; and *Barry Staubus, Tony Clark, Dan Armstrong and Baby Doe v. Purdue Pharma, et al.*, Case No. C-41916, Circuit Court of Sullivan County, Kingsport, TN.

g. "PBM" means any pharmacy benefits manager.

h. "Purdue" shall mean Purdue Pharma L.P., Purdue Pharma Inc., and the Purdue Frederick Company and any and all predecessors, merged entities, subsidiaries and affiliates, whether individuals, corporations, LLC's or partnerships. The term "affiliate" shall include any entity owned in whole or in part by Purdue or any entity which owns Purdue in whole or in part. The term "Purdue," where appropriate, shall also include entities and individuals, such as officer, directors, sales representatives, medical liaisons, etc., who are employed by Purdue or who provide services on behalf of Purdue.

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

**PURDUE'S RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS AND FIRST SET OF INTERROGATORIES**

Pursuant to 12 O.S. §§ 3233 and 3234 of the Oklahoma Rules of Civil Procedure, Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company Inc. (together "Purdue") hereby respond and object to Plaintiffs' First Set of Requests for Production of Documents to the Purdue Defendants (the "Requests") and Plaintiffs' First Set of Interrogatories to the Purdue Defendants (the "Interrogatories").

Purdue makes these responses and objections in good faith, based on presently available information and documentation, and without prejudice to Purdue's right to conduct further investigation and utilize any additional evidence that may be developed. Purdue's discovery and investigations are ongoing and not complete as of the date of these responses and objections. Purdue does not waive any right to modify or supplement its responses and objections to any Request or Interrogatory and expressly reserves all such rights. Purdue reserves the right to present additional information, as may be disclosed through continuing investigation and discovery and reserves the right to supplement or modify these responses and objections at any time in light of subsequently discovered information.

EXHIBIT B

5. Purdue objects to the Definitions of "Purdue," "You," and "Your" on the grounds that they are overbroad, unduly burdensome, and not likely to lead to the discovery of admissible evidence, including to the extent that they purport to seek the discovery of information or documents that are in the possession, custody, or control of Purdue's affiliates, subsidiaries, predecessors, successors, parents and assigns, and/or any employees, agents, directors or independent contractors acting on behalf of any of those entities, acting individually or in concert. Purdue will limit its productions to information and/or documents from and about the Purdue defendants that are named in this lawsuit.

6. Purdue objects to the definition of "document" on the grounds that it is overbroad, unduly burdensome, and not likely to lead to the discovery of admissible evidence. Purdue further objects to the definition of "document" to the extent it seeks documents "known to You wherever located" on the grounds that such definition is inconsistent with Applicable Rules. Purdue will produce responsive, non-privileged documents in its possession, custody, or control. Purdue also objects to the definition of "document" to the extent it requests from Purdue all duplicate originals and copies of the same document. Purdue also objects to the definition of "document" to the extent that it seeks metadata, however, Purdue is willing to meet and confer with Plaintiffs to discuss production of certain metadata.

7. Purdue objects to the instruction that "[d]ocuments not otherwise responsive to this discovery request shall be produced if such documents mention, discuss, refer to, or explain the documents that are called for by this discovery request" on the grounds that such instruction is overbroad, unduly burdensome, and not likely to lead to the discovery of admissible evidence.



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

Honorable Thad Balkman

Special Discovery Master  
William C. Hetherington, Jr.

DECLARATION OF KEITH DARRAGH

STATE OF CONNECTICUT

COUNTY OF FAIRFIELD

§  
§  
§

I, Keith Darragh, declare under penalty of perjury that the following is true and correct:

1. I provide this declaration based either on my personal knowledge and/or information provided to me.
2. I am an employee and the Controller of Purdue Pharma L.P. ("PPLP") in Stamford, Connecticut.
3. I am providing this Declaration in connection with Purdue's Response in Opposition to the State's Motion to Show Cause.
4. PPLP is a Delaware limited partnership. PPLP is not owned by and does not own Rhodes Pharmaceuticals L.P. ("Rhodes").

5. Purdue Pharma Inc. ("PPI") is a New York corporation. PPI is not owned by and does not own Rhodes.

6. The Purdue Frederick Company Inc. ("PF") is a New York Corporation. PF is not owned by and does not own Rhodes.

7. Rhodes is not a shareholder of Purdue, and Purdue is not a shareholder of Rhodes.

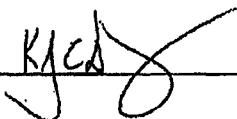
8. Since Rhodes formation, Rhodes and Purdue have been separate corporate entities and maintain the formalities of separate corporations. Purdue maintains its own corporate governance procedures and records and does not maintain such for Rhodes. Further, Purdue and Rhodes maintain their principal places of business in different states.

9. Purdue does not prepare or maintain Rhodes' financial statements. Rhodes and Purdue are separately capitalized.

10. Rhodes is not a division or department of Purdue.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3<sup>rd</sup> day of October 2018.

  
\_\_\_\_\_



# **EXHIBIT Q**



O'Melveny & Myers LLP  
400 South Hope Street  
18<sup>th</sup> Floor  
Los Angeles, CA 90071-2899

T: +1 213 430 6000  
F: +1 213 430 6407  
omm.com

File Number:

November 19, 2018

**Seth Baglin**  
D: +1 213 430 7553  
sbaglin@omm.com

## VIA E-MAIL

Trey Duck  
Nix Patterson, LLP  
3600 N Capital of Texas Highway  
Suite B350  
Austin, Texas 78746

**Re: RFP No. 6181**

Dear Trey:

On October 30, 2018, you asked O'Melveny & Myers LLP to respond to several questions concerning Request for Proposal No. 6181 ("RFP"), which offered funding for a medical education program about opioid abuse, misuse, diversion, or addiction. We provide responses to each of your questions below.

### Why did Johnson & Johnson initiate the RFP process?

Johnson & Johnson continually evaluates ways to provide medical education to healthcare providers (HCPs) and promote the health and wellness of their patients. In this instance, J&J believed that HCPs who treat acute and chronic pain, as well as their patients, would benefit from an education program that seeks to improve HCP awareness of opioid prescription risks by gathering existing relevant information, identifying any presently existing gaps in that information, and developing a program that will provide up-to-date resources and tools for responsible prescribing, safe management of pain issues, and identification of potential opioid abuse, misuse, and addiction.

### Why did J&J make the statements included in the RFP?

The statements were merely meant to provide context for the educational program proposal being sought, and were drafted based on a layperson's understanding of information found in various public resources about opioids, including the CDC's *Guideline for Prescribing Opioids for Chronic Pain* (2016) ("CDC Guidelines") and a number of materials from the National Institute of Health's (NIH) website. The RFP itself cites numerous materials as support for the various statements made, specifically:

- Hughes, Rhonda. *Patient Safety and Quality: An Evidence-Based Handbook for Nurses*. Rockville: AHRQ Publication, April 2008.

- Pasero C, Paice JA, McCaffery M. Basic mechanisms underlying the causes and effects of pain. In: McCaffery M, Pasero C. Pain: clinical manual. 2nd ed. St. Louis, MO: Mosby; 1999. p. 15-34
- Dineen KK, Dubois JM. Between a rock and a hard place: can physicians prescribe opioids to treat pain adequately while avoiding legal sanction? Am J Law Med. 2016; 42:7–52
- About Prescription Opioids. (2018, May 22). <https://www.cdc.gov/drugoverdose/opioids/prescribed.html>
- Opioid Basics. (2018, May 22). <https://www.cdc.gov/drugoverdose/opioids/index.html>
- Summary of the Issue (2018, May 22). <https://www.drugabuse.gov/drugs-abuse/opioids>
- Banta-Green CJ, Merrill JO, Doyle SR, Boudreau DM, Calsyn DA. Opioid use behaviors, mental health and pain—development of a typology of chronic pain patients. Drug Alcohol Depend 2009; 104:34–42.
- Boscarino JA, Rukstalis M, Hoffman SN, et al. Risk factors for drug dependence among out-patients on opioid therapy in a large US health-care system. Addiction 2010; 105:1776–82.
- Fleming MF, Balousek SL, Klessig CL, Mundt MP, Brown DD. Substance use disorders in a primary care sample receiving daily opioid therapy. J Pain 2007; 8:573–82
- Kaltenbach K, Finnegan L. Neonatal abstinence syndrome. Opioid-Use Disorders in Pregnancy: Management Guidelines for Improving Outcomes. 2018 May 31:113
- Opioid Overdose Crisis (2018, May 22). <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis>

Copies of the foregoing materials have been produced at JAN-OK-00145270–JAN-OK-00146784. In your October 30 email, you ask for clarification concerning the following statement:

Opioid pain relievers are generally safe when taken for a short time and as prescribed by a doctor, but because they produce euphoria in addition to pain relief, they can be misused (taken in a different way or in a larger quantity than prescribed, or taken without a doctor's prescription). Regular use—even as prescribed by a doctor—can lead to dependence and, when misused, opioid pain relievers can lead to addiction (current DSM5 term is opioid use disorder), overdose incidents, and deaths.

In fact, as many as one in four patients receiving long-term opioid therapy in a primary care setting struggles with opioid addiction. This issue has become a public health crisis with devastating consequences including increases in opioid misuse and related overdoses, as well as the rising incidence of neonatal abstinence syndrome due to opioid use and misuse during pregnancy.

The RFP takes much of the language in the first paragraph above from the NIH's website, as updated in March 2018, copying some language and paraphrasing others.<sup>1</sup> Most notably, in the second sentence of the first paragraph, the RFP mistakenly conflates “regular use” with “long term use” and “tolerance” with “dependence.” Whereas the NIH wrote that “[l]ong term use of

---

<sup>1</sup> See <https://www.drugabuse.gov/publications/drugfacts/prescription-opioids>.

prescription opioids, even as prescribed by a doctor, can cause some people to develop a tolerance, which means that they need higher and/or more frequent doses of the drug to get the desired effects," the RFP states "[r]egular use—even as prescribed by a doctor—can lead to dependence..." The mistaken paraphrasing was not caught in review.

Three articles cited in the 2016 CDC *Guidelines* were cited in support of the first sentence of the second paragraph, none of which support the erroneous statement that "as many as one in four patients receiving long-term opioid therapy in a primary care setting struggles with opioid addiction." Banta-Green (2009) identified an 11.6% subgroup of chronic opioid users with "addictive behaviors."<sup>2</sup> The Fleming study (2007) reported that 9.7% of patients met the DSM-IV definition of current substance abuse or dependence for any substance and that 3.8% met the definition of an opioid-use disorder.<sup>3</sup> Lastly, the Boscarino study (2010) stated that, among self-reporting patients receiving long-term opioid therapy, "[p]reliminary analyses suggested that current opioid *dependence* might be as high as 26%."<sup>4</sup> The RFP's reference to "as many as one in four" is a reference to this 26% figure, but the RFP mistakenly substituted the term "addiction" for "dependence"—and, again, the mistake was not caught in review. The second sentence of the second paragraph comes verbatim from another part of the NIH's website,<sup>5</sup> except the reference being made in the original source to "this issue" concerned opioid misuse and abuse generally, not any supposed incidence of prescription opioid addiction. Again, this grammatical and factual mistake was not caught in review.

#### Which J&J employees were involved in RFP No. 6181?

Vinod Subramonian was the primary drafter of RFP No. 6181, managed by Michael Varlotta and Jeffrey Smith. Dr. John Peppin provided medical review, Vicki McCormick provided health care compliance review, and the RFP received a privileged legal review by the Law Department. Steven Gallagher and Mr. Varlotta were primarily responsible for administering the RFP grant process.

#### Who responded to RFP No. 6181?

The following entities responded to RFP No. 6181:

- Albert Einstein College of Medicine & Montefiore Medical Center
- American Academy of Physical Medicine and Rehabilitation
- American College of Osteopathic Emergency Physicians

---

<sup>2</sup> Banta-Green CJ, Merrill JO, Doyle SR, Boudreau DM, Calsyn DA. Opioid use behaviors, mental health and pain—development of a typology of chronic pain patients. *Drug Alcohol Depend* 2009; 104:34–42, at 36.

<sup>3</sup> Fleming MF, Balousek SL, Klessig CL, Mundt MP, Brown DD. Substance use disorders in a primary care sample receiving daily opioid therapy. *J Pain* 2007; 8:573–82, at 576.

<sup>4</sup> Boscarino JA, Rukstalis M, Hoffman SN, et al. Risk factors for drug dependence among out-patients on opioid therapy in a large US health-care system. *Addiction* 2010; 105:1776–82, at 1776 (emphasis added).

<sup>5</sup> See <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis>

- Columbia University Department of Surgery
- University of Louisville Research Foundation, Inc.
- Hackensack Meridian Health - Jersey Shore University Medical Center
- Indiana University School of Medicine
- Johns Hopkins University Office of Continuing Medical Education and Medscape
- National Jewish Health, Office of Professional Education
- New Jersey Academy of Family Physicians
- Purdue University College of Pharmacy Office
- University of Alabama at Birmingham
- University of Arkansas for Medical Sciences
- University of Cincinnati and Vindico Medical Education
- University of Chicago, UChicago Medicine, American Chronic Pain Association, and Miller Consulting
- University of North Texas, Health Science Center
- University of Southern California, Keck School of Medicine
- University of Southern Florida Health and CME Outfitters, LLC
- University of Texas Health Science Center at San Antonio

Who were the finalists and award recipient of RFP No. 6181?

The following entities were considered as finalists for RFP No. 6181:

- American Academy of Physical Medicine and Rehabilitation
- University of Louisville Research Foundation, Inc.
- University of Alabama at Birmingham
- University of Arkansas for Medical Sciences
- Johns Hopkins University Office of Continuing Medical Education and Medscape
- University of Chicago, American Chronic Pain Association, and Miller Consulting
- University of Southern Florida Health and CME Outfitters, LLC

In October 2018, J&J selected University of Southern Florida Health and CME Outfitters, LLC as the recipients of the grant.

Why did J&J reject certain applicants?

A number of applicants were rejected for not meeting specified eligibility requirements. With respect to the rest, J&J used the following criteria to evaluate applicant responses:

- Is there any conflict of interest disclosure with J&J?
- Does the proposal scope out pain as an issue; the issues around treating it; and tools for pain identification and management?
- Does it share information on driving awareness on opioid-related abuse, morbidity & mortality, and attributes influencing opioid-related harm?
- Does it reflect the importance of referring to appropriate guidelines (i.e. refers to guidelines such as CDC or AAFP and/or federal and state requirements)?

- Proposal is not uni-dimensional on physicians or patients only and understands the importance of developing patient tools is as important as developing tools for HCPs.
- Does it reflect stakeholder feedback as a significant input to help ground the initiative on comprehensive content focusing on both physicians & patients?
- Is there appropriate effort shown in the proposal to develop a comprehensive plan in developing appropriate content and continuous refinement of the content when appropriate?
- Is the thinking reflected long-term i.e. not short-term implementation and execution plan?
- Does it clearly articulate a plan in driving awareness for a more active uptake of the educational content?
- Overall – Does the proposal align with the J&J objective of comprehensive medical education as a critical means to address the opioid health crisis?
- Highly respected CME provider and preferably one or more provider
- Willingness to work with associations such as AMA, AAFP, and Surgical groups to disseminate

In responding to your request, J&J has used its best efforts to be as accurate and responsive as possible. The representations herein are based on J&J's current information and belief. In providing information in response to your request, J&J does not waive, nor does it intend to waive, any rights or privileges, including any applicable attorney-client, work product, other evidentiary privilege, or any objection to a discovery request.

J&J will produce documents concerning RFP No. 6181 on or before November 26, 2018. If you have any further questions before we produce relevant documents, please let us know.

Respectfully,

*/s/ Seth Baglin*

Seth Baglin  
Counsel  
for O'MELVENY & MYERS LLP

SB