



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

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

Plaintiff,

vs.

PURDUE PHARMA L.P., et al,

Defendants.

**OCT 04 2018**  
 In the office of the  
 Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816

**PURDUE'S MOTION TO SHOW CAUSE  
 FOR PLAINTIFF'S NON-COMPLIANCE WITH  
THE COURT'S AUGUST 31, 2018 ORDER**

Defendant Purdue Pharma Inc. respectfully moves for an Order requiring Plaintiff the State of Oklahoma ("the State") to show cause for its failure to comply with this Court's August 31, 2018 order, which required the State to answer Purdue Pharma Inc.'s First Set of Interrogatories Nos. 7, 8, and 9, pursuant to Section 3237 of the Oklahoma Discovery Code. The Court should admonish the State for its non-compliance and order the State to answer the Interrogatories within 7 days of this Court's decision on this motion.

The Interrogatories concern core issues in this case – including the prescriptions that were allegedly medically unnecessary and the alleged reliance on Purdue's marketing by doctors when prescribing opioids – and the State has yet to answer them.<sup>1</sup> Ex. A. The Interrogatories

<sup>1</sup> INTERROGATORY NO. 7: Identify each instance in which You or any other Oklahoma Agency or entity that provides or administers benefits for Your Programs denied payment or reimbursement for a prescription of any Opioid sold by Purdue Defendants as "unnecessary or excessive," and describe the details of the denial, including the date, claim number, the Opioid prescribed, the identify the name and address of the HCP, identify the name and address of the Patient, the reason(s) given for the denial, and associated records or other documentation.

were initially served on April 18, 2018. The State refused to answer them, erroneously contending that the Defendants as a group collectively exceeded the number of interrogatories allowed permitted under the law. Purdue accordingly moved to compel responses. On August 31, 2018, this Court ruled that the State's refusal to answer was improper and that the State was required to answer 30 interrogatories from each Defendant. Ex. B (8/31/18 Hr'g Tr.) at 65:6-12.

On September 19, 2018, Purdue emailed the State, asking the State to let Purdue know by September 24, 2018, whether the State would answer the Interrogatories by October 1, 2018. Ex. C. The State never responded, necessitating this Motion. Although the Court did not set a deadline for the State to respond, it has now been more than 30 days since this Court's ruling, the default amount of time for interrogatory responses under section 3233 of the Oklahoma Discovery Code, and the State has still not answered the Interrogatories.

For these reasons, this Court should issue an Order for the State to show cause for its failure to respond to Purdue's interrogatories and compelling the State to respond to Purdue's

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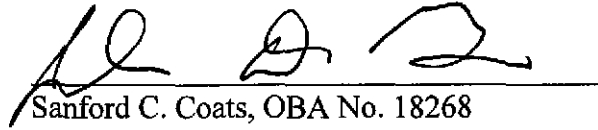
INTERROGATORY NO. 8: Identify the prescriptions of Opioids sold by Purdue Defendants that were issued to Oklahoma Patients as a result of Purdue Defendants' allegedly false representations about the risks and benefits of Opioids and/or omission of information (see, e.g., Compl. ¶ 53), including the date of each prescription, the identity of the HCP who wrote the prescription, the misrepresentation and/or omission by Purdue Defendants that caused that HCP to write the prescription, the name and address of the Patient who received the prescription, the diagnosis of the Patient receiving the prescription, the amount of the prescription, and any harm to the Patient that allegedly resulted from the prescription.

INTERROGATORY NO. 9: Identify the prescriptions of Opioids sold by Purdue Defendants that were issued to Oklahoma Patients as a result of Purdue Defendants' sale representatives "who spoke directly to doctors and repeated their misrepresentations, falsely representing the risk of addiction was low and touting unsubstantiated benefits of long term opioid treatment," as alleged in paragraph 54 of the Complaint, including the date of each prescription, the identity of the HCP who wrote the prescription, the misrepresentation and/or omission by Purdue Defendants that caused that HCP to write the prescription, the name and address of the Patient who received the prescription, the diagnosis of the patient receiving the prescription, the amount of the prescription, and any harm to the Patient that allegedly resulted from the prescription.

Interrogatories within 7 days of this Court's ruling on this motion or be held in contempt of the Court.

Date: October 4, 2018

Respectfully submitted,



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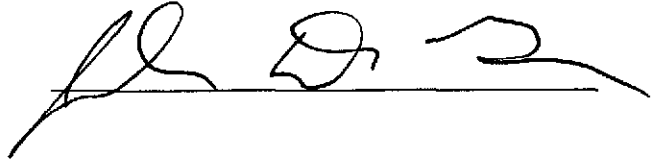
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Purdue Pharma Inc., and The Purdue  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of October 2018, I caused a true and correct copy of the following:

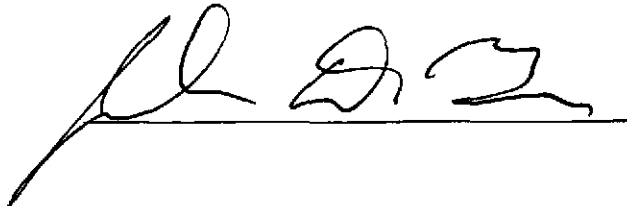
**PURDUE'S MOTION TO SHOW CAUSE FOR PLAINTIFF'S NON-COMPLIANCE  
WITH THE COURT'S AUGUST 31, 2018 ORDER**

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

A handwritten signature in black ink, consisting of three distinct, stylized characters, positioned above a horizontal line.

**CERTIFICATE OF COMPLIANCE WITH 12 OKLA. STAT. § 3237(A)(2)**

I hereby certify that counsel for Purdue has in good faith conferred with counsel for the State in an effort to secure the information that is the subject of this motion without court action. The parties were unable to reach a resolution.

A handwritten signature in black ink, consisting of three distinct, stylized characters, positioned above a horizontal line.

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# **EXHIBIT A**





interrogatory, including an identification or description of all other sources of more complete or accurate information.

2. Pursuant to 12 O.S. § 3226(E), these interrogatories shall be deemed continuing so as to require amended answers if You obtain information on the basis of which You know that any response made was incorrect when made or, although correct when made, is no longer true.

3. As to every interrogatory which You fail to answer in whole or in part on the ground that the information sought involves a document or oral communication which You contend to be privileged or otherwise protected from disclosure, state in detail:

- a. the portion of the interrogatory to which the response is claimed to be privileged;
- b. the identification of the document, as defined below;
- c. the general subject matter of the document or communication;
- d. the author and all recipients of any document, and the persons involved in any oral communication;
- e. the identity of any other persons having knowledge of the document or communication involved;
- f. the nature of the privilege claimed; and
- g. every fact on which You base the claim of privilege or that the information need not be disclosed.

4. Each Interrogatory relates to the Relevant Time Period unless otherwise specified.

5. Where You have a good faith doubt as to the meaning or intended scope of an interrogatory, and Your sole objection would be to its vagueness, please contact counsel for

Purdue Pharma Inc. in advance of asserting an unnecessary objection. The undersigned counsel will provide additional clarification or explanation as needed.

6. If You answer an Interrogatory by reference to Documents from which the answer may be derived or ascertained, please: (i) describe the Documents or things to be provided in sufficient detail to permit the location and ascertainment of the answer, including any document production number; (ii) provide any relevant compilations, abstracts, or summaries of the Documents or things in Your possession, custody, or control; (3) state the identity of the file or files in which each such Document or thing is or was found; and (4) produce the Documents or things for inspection and copying.

#### **DEFINITIONS**

1. “Complaint” refers to your Original Petition filed June 30, 2017, and exhibits, as well as any subsequent amendments.

2. The term “employee” includes all current and former employees, independent contractors, and individuals performing work as temporary employees.

3. “Healthcare Professional(s)” or “HCP(s)” is any person who prescribes, administers, or dispenses any Relevant Medication or Medication Assisted Treatment to any person or animal.

4. “Key Opinion Leader(s)” or “KOL(s)” is used herein consistent with its meaning in the Complaint ¶ 58.

5. “Oklahoma Agency” or “Oklahoma Agencies” collectively refers to any State entity involved in regulating, monitoring, approving, reimbursing, or prosecuting the prescription, dispensing, purchase, sale, use, or abuse of controlled substances in Oklahoma, including, but not limited to, the Oklahoma Office of the Governor, Oklahoma Legislature,

Oklahoma Office of the Attorney General, Oklahoma Department of Corrections, Oklahoma Department of Public Safety, Oklahoma State Department of Health, Oklahoma State Bureau of Investigation, Oklahoma Bureau of Narcotics and Dangerous Drugs Control, Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma Health Care Authority, Oklahoma State Board of Dentistry, Oklahoma State Board of Medical Licensure and Supervision, Oklahoma State Board of Nursing, Oklahoma State Board of Pharmacy, Oklahoma State Board of Veterinary Medical Examiners, Oklahoma Workers' Compensation Commission, Office of the Medical Examiner of the State of Oklahoma, and their respective predecessors, supervisory and subordinate organizations, and current or former employees.

6. "Opioid(s)" refers to FDA-approved pain-reducing medications consisting of natural or synthetic chemicals that bind to receptors in a patient's brain or body to produce an analgesic effect.

7. "Patient(s)" is any human being to whom an Opioid is prescribed or dispensed.

8. "Program(s)" is every program administered by an Oklahoma Agency that reviews, authorizes, and determines the conditions for payment or reimbursement for Opioids, *including, but not limited to, the Oklahoma Medicaid Program, as administered by the Oklahoma Health Care Authority, and the Oklahoma Workers Compensation Commission.*

9. "Purdue Defendants" shall refer to Purdue Pharma L.P., Purdue Pharma, Inc., and The Purdue Frederick Company, Inc.

10. "Relevant Medication(s)" includes any and all drugs, branded or generic, consisting of natural or synthetic chemicals that bind to opioid receptors in a Patient's brain or body to produce an analgesic effect, whether or not listed in the Complaint, including, but not

limited to codeine, fentanyl, hydrocodone, hydromorphone, methadone, morphine, oxycodone, oxymorphone, tapentadol, and tramadol.

11. "Relevant Time Period" means January 1, 2007 to the present, or such other time period as the parties may later agree or the Court determines should apply to each side's discovery requests in this action.

12. "Vendor" means any third-party claims administrator, pharmacy benefit manager, HCP, or person involved in overseeing, administering, or monitoring any Program.

13. "You," "Your," "State," "Oklahoma," and "Plaintiff" refer to the sovereign State of Oklahoma and all its departments, agencies, and instrumentalities, including current and former employees, any Vendor, and other persons or entities acting on the State's behalf.

14. The words "and" and "or" shall be construed conjunctively as well as disjunctively, whichever makes the request more inclusive.

15. "Any" includes "all" and vice versa.

16. The term "including" shall be construed to mean "including but not limited to."

17. The singular of each word includes its plural and vice versa.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Describe the complete public nuisance abatement and the complete injunctive relief that You seek, if any, including in Your description the nature, terms, and scope of the relief sought, any conduct that You seek to prohibit, and any affirmative conduct that You seek to compel.

**INTERROGATORY NO. 2:** For the 95,499 prescriptions identified in paragraph 35 and Exhibit 1 of the Complaint, identify which of those prescriptions were "unnecessary" or "excessive" as alleged in paragraph 34 of the Complaint, including, but not limited to, the date of

the prescription, the amount of the prescription, the cost of the prescription, and the amount of that cost paid for or reimbursed by You.

**INTERROGATORY NO. 3:** For each prescription You identified as “unnecessary or excessive” in response to Interrogatory No. 2, describe Your basis for alleging that it was “unnecessary or excessive.”

**INTERROGATORY NO. 4:** For each prescription You identified as “unnecessary or excessive” in response to Interrogatory No. 2, identify the name and address of the HCP who issued the prescription, the name and address of the Patient to whom the prescription was issued, the diagnosis of the Patient receiving the prescription, and the name of the State or Oklahoma Agency employee(s) who approved Your payment or reimbursement of each such prescription.

**INTERROGATORY NO. 5:** For each State or Oklahoma Agency employee You identified in response to Interrogatory No. 4, identify each misrepresentation that caused that employee to approve the payment for or reimbursement of each “unnecessary or excessive” prescription You identified in response to Interrogatory No. 2, including the date the employee received that misrepresentation and the means by which that misrepresentation was communicated to that employee.

**INTERROGATORY NO. 6:** Identify each instance in which You or any other entity that provides or administers benefits for Your Programs denied payment or reimbursement for a prescription of any Opioid sold by Purdue Defendants as “unnecessary or excessive,” and describe the details of the denial, including the date, claim number, the Opioid prescribed, the identify the name and address of the HCP, identify the name and address of the Patient, the reason(s) given for the denial, and associated records or other documentation.

**INTERROGATORY NO. 7:** Identify each instance in which You or any other Oklahoma Agency or entity that provides or administers benefits for Your Programs denied payment or reimbursement for a prescription of any Opioid sold by Purdue Defendants as “unnecessary or excessive,” and describe the details of the denial, including the date, claim number, the Opioid prescribed, the identify the name and address of the HCP, identify the name and address of the Patient, the reason(s) given for the denial, and associated records or other documentation.

**INTERROGATORY NO. 8:** Identify the prescriptions of Opioids sold by Purdue Defendants that were issued to Oklahoma Patients as a result of Purdue Defendants’ allegedly false representations about the risks and benefits of Opioids and/or omission of information (*see, e.g.,* Compl. ¶ 53), including the date of each prescription, the identity of the HCP who wrote the prescription, the misrepresentation and/or omission by Purdue Defendants that caused that HCP to write the prescription, the name and address of the Patient who received the prescription, the diagnosis of the Patient receiving the prescription, the amount of the prescription, and any harm to the Patient that allegedly resulted from the prescription.

**INTERROGATORY NO. 9:** Identify the prescriptions of Opioids sold by Purdue Defendants that were issued to Oklahoma Patients as a result of Purdue Defendants’ sale representatives “who spoke directly to doctors and repeated their misrepresentations, falsely representing the risk of addiction was low and touting unsubstantiated benefits of long term opioid treatment,” as alleged in paragraph 54 of the Complaint, including the date of each prescription, the identity of the HCP who wrote the prescription, the misrepresentation and/or omission by Purdue Defendants that caused that HCP to write the prescription, the name and address of the Patient who received the prescription, the diagnosis of the patient receiving the

prescription, the amount of the prescription, and any harm to the Patient that allegedly resulted from the prescription.

Dated April 18, 2018

Respectfully submitted,



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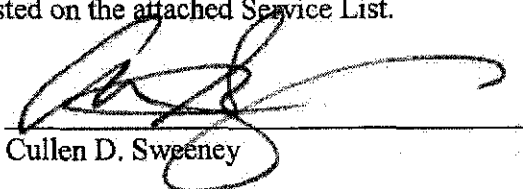
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of April 2018, I caused a true and correct copy of the following:

**DEFENDANT PURDUE PHARMA INC.'S FIRST SET OF INTERROGATORIES  
TO PLAINTIFF**

to be served by e-mail upon the counsel of record listed on the attached Service List.

  
Cullen D. Sweeney



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# **EXHIBIT B**

1           THE COURT: Thank you. The order is as follows: As  
2 to 1 through 6, that request is sustained. And this is  
3 important wording, I think, please: To be produced by the  
4 State with sufficient particularity and to the extent possible  
5 in order to establish a prima facie case for each element of  
6 each claim to be tried in this case. As to the balance ~~and~~  
7 ~~generally as to interrogatories, the State has filed litigation~~  
8 ~~against all of these pharmaceutical companies. Under our~~  
9 ~~discovery code, the State cannot limit their production or~~  
10 ~~answers to interrogatories to 30 as a group. The State is~~  
11 ~~required to answer interrogatories, 30 per defendant, that has~~  
12 ~~been sued, and is not entitled to a limit by group.~~

13           Anything else?

14           MR. BARTLE: No, your Honor. Thank you.

15           MR. DUCK: Just one point from us, your Honor,  
16 because I don't want to be back here again and being accused of  
17 not having explained this to your Honor before.

18           Our position is we tried to reach a compromise on the  
19 limitations themselves. That's not the only part of our  
20 position on that. And so since we're probably going to stand  
21 on this point absent a ruling today, I would like to raise it  
22 now so that we're not accused of not resolving this issue.

23           THE COURT: Okay.

24           MR. DUCK: Your Honor, we received joint  
25 interrogatories from the defendants. All of the defendants in

# **EXHIBIT C**

**Rosen, Sam**

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**From:** Tam, Jonathan  
**Sent:** Wednesday, September 19, 2018 5:35 PM  
**To:** Trey Duck; Drew Pate  
**Cc:** LaFata, Paul  
**Subject:** OK v. Purdue -- Discovery

Dear Trey and Drew,

We write to discuss two categories of outstanding discovery from the State.

First, the State has yet to respond to Purdue Pharma Inc.'s interrogatories 7-9 (served on April 18, 2018), despite Judge Hetherington's August 31, 2018 ruling compelling the State to do so. Please let us know by Monday (9/24) whether the State can provide answers to the outstanding interrogatories by October 1.

Second, it does not appear that any documents have been produced by the following Oklahoma Agencies, as defined in Purdue's document requests:

- Oklahoma Office of the Governor;
- Oklahoma Legislature;
- Oklahoma Department of Public Safety;
- Oklahoma State Bureau of Investigation;
- Oklahoma State Board of Dentistry;
- Oklahoma State Board of Nursing;
- Oklahoma State Board of Pharmacy;
- Oklahoma State Board of Veterinary Medical Examiners;
- Oklahoma Workers' Compensation Commission; and
- Office of the Medical Examiner of the State of Oklahoma.

Please let us know by Monday (9/24) whether the State can start a rolling production of documents from these agencies by October 1.

Thanks,  
Jonathan

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