



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

vs.)

Case No. CJ-2017-816

Judge Thad Balkman

- (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.)

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

FILED

DEC 26 2018

In the office of the
Court Clerk MARILYN WILLIAMS

ORDER OF SPECIAL DISCOVERY MASTER

NOW, on this 26th day of December, 2018, the above and entitled matter comes on for ruling by the undersigned having heard argument thereon on December 20, 2018.

The undersigned being fully advised in the premises and having considered submitted pleadings, enters the following findings and Orders:

Purdue's Motion To Quash Deposition Notices And For Protective Orders Re: Burt Rosen and Jonathan and Mortimer Sackler

Burt Rosen

Counsel announce an agreement for the terms and conditions regarding this witness's deposition and Purdue withdraws its Motion to Quash Deposition Notice and Request for Protective Order.

Jonathan and Mortimer Sackler

Neither of these witnesses are properly subject to deposition notices on behalf of Purdue Pharma LP or the Purdue Frederick Company. They do not hold positions in these companies. However, both were members of the Board of Directors for Purdue, Inc. Mortimer still is a member with Jonathan Sackler resigning from the Board of Directors December 8, 2018, after State's deposition Notice was issued. State's argument is both were members of the Purdue Inc. Board for many years actively involved in the decision-making process fully knowledgeable of all policy decisions and both likely to disclose claim relevant and admissible evidence.

Purdue argues Jonathan Sackler's resignation from the Board of Directors was a planned resignation and transition that began months before State's Notice and he therefore is not a party or anyone who at the time of the Notice or the taking of the deposition is an officer, director or managing agent subject to deposition notice as a designated corporate witness. Purdue argues both notices should be quashed as neither witness has any relevant, unique or personal knowledge and, any evidence State seeks to obtain can be explored through witnesses already designated, already deposed, or through other witnesses to be designated. Purdue argues several witnesses have already been deposed with nine former or current Purdue employees currently scheduled and that State will be taking depositions on over 40 topics with Purdue offering witnesses to testify in December on 20 identified topics as stated in their brief and an additional 18 in January.

Purdue argues State does not identify any specific or particular knowledge regarding any topic but State counters these witnesses do have close, careful and active control of all Purdue entities through the Board of Directors of Purdue, Inc. While for the most part, State provides general and conclusory statements about these witnesses likely knowledge, State points specifically to State's inability to obtain adequate testimony from any Purdue designated witnesses to this point or likely in the future, relevant to APIs and other product components and component sources and methods; that with regard to Tasmanian Alkaloids and Rhodes Pharmaceutical, Purdue witnesses are evasive or totally lack knowledge regarding just this one area of highly relevant information known to the Sacklers. State supports this argument by attached redacted Exhibits that demonstrate both were routinely included as Purdue Inc. Board members in e-mail chains and provided copies of other corporate documents, including detailed board minutes, financial statements, and particularly "Quarterly Reports to the Board" that provides detailed and specific information for all Purdue entities regarding sales and marketing, supply chain management, quality control, drug safety evaluations, analytical sciences and pharmaceutical testing results, outsource management and project management strategies, clinical research and development, risk management and health policy initiatives and many others. What is also clear from the evidence is the same facts State is entitled to explore can be done through other witnesses and this knowledge is not entirely "unique" to the Sackler's.

At this point, it is premature to find that either Sackler has unique and independent knowledge of the claim related conduct that cannot be explored through witnesses Purdue has already designated or witnesses Purdue represents in its brief it will produce in both December and January for the described topics. We will see if witnesses are timely set and adequately prepared with meaningful discovery depositions conducted on these described topics. If not, for various reasons, adequate grounds could exist to compel the Sackler depositions into specific areas of relevant factual knowledge State may demonstrate has not been forthcoming as promised by Purdue. If necessary, Notices will issue and any requests to quash set to be heard on February 14, 2019.

Therefore, Purdue's Motion To Quash these Notices is **Sustained** subject to future consideration into specific topic areas identified by State not adequately provided by Purdue.

Purdue's Response and Objection to Plaintiffs Statement Regarding Its Purported Compliance With October 22, 2018 Order, And, Purdue's Motion to Compel Production of Custodial Files Prior to Depositions

Counsel announce and agree there will be a meet and confer by 4pm December 28th for State to provide and set as many witness depositions as possible from Purdue's "Appendix A" to be agreed to and set to the extent possible within the next 30 days. State is to provide "targeted" custodial file "core" document production in a sufficient time prior to each deposition for reasonable deposition preparation. "Targeted" documentation is defined as production of all custodial file documents relevant or potentially relevant to known topics to be explored through each witness. To the extent counsel are not able to agree on any "Appendix A" witnesses, the undersigned has agreed to a telephone hearing on an agreeable date and time to resolve any remaining witness or document production issues.

Janssen's Motion for Partial Reconsideration and Modification of Discovery Master's December 6, 2018 Order

Janssen's motion for partial reconsideration and modification is **Sustained** in part and **OVERRULED** in part pursuant to a separate Amended Order of Special Discovery Master. The undersigned will not file the Amended Order until Friday, December 28, 2018.

Janssen's Motion for Protection Filed on November 26, 2018 and Supplemental Filed November 27, 2018

The undersigned heard argument on Janssen's motions and acknowledged Janssen has yet to file its requested Reply which the undersigned allowed and has considered prior to entering this Order. The documents and slides at issue have been reviewed and regarding the documents still at issue, Janssen states they fall into three described categories. Exhibit documents numbered 10, 11 and 12 are described as "Policy Issues"; Exhibit documents numbered 15, 16, 17, 18, 19 and 20 are described as "Internal Sales and Marketing Proposals and Guidelines" containing alleged confidential commercial information; and, Exhibit documents numbered 21, 22 and 25 are described as "Scientific or Competitor Protected" information containing alleged internal policy discussions and not publicly available information.

The second Janssen motion for protection involves designation of two (2) slides in a twelve (12) slide internal slide presentation.

Group I Documents

Ex. 10 – Motion Sustained-Document Protected

Ex. 11 – Motion Overruled

Ex. 12 – Motion Sustained-Document Protected

Group II Documents

Ex. 15 – Motion Overruled

Ex. 16 – Motion Sustained-Document Protected

Ex. 17 – Motion Sustained-Document Protected

Ex. 18 – Motion Sustained-Document Protected

Ex. 19 – Motion Sustained-Document Protected

Ex. 20 – Motion Overruled

Group III Documents

Ex. 21 – Motion Overruled

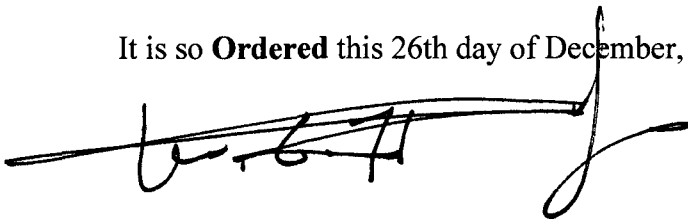
Ex. 22 – Motion Sustained-Document Protected

Ex. 25 - Motion Sustained-Document Protected

Slides 5 & 6

Motion Overruled

It is so **Ordered** this 26th day of December, 2018.

A handwritten signature in black ink, appearing to read 'W. C. Hetherington, Jr.', with a long horizontal stroke extending to the left and a large flourish on the right.

William C. Hetherington, Jr.

Special Discovery Master