



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

APR 23 2019

In the office of the
Court Clerk MARILYN WILLIAMS

**DEFENDANTS' MOTION TO EXCLUDE THE TESTIMONY
OF STATE EXPERT JESSICA HAWKINS**

Pursuant to 12 O.S. § 2702 and *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), Defendants¹ move to exclude the testimony of State expert Jessica Hawkins.

INTRODUCTION

Ms. Jessica Hawkins, a sociologist, is Senior Director of Prevention Services at the Oklahoma Department of Mental Health and Substance Abuse (“ODMHSA”). The State proffers Ms. Hawkins as an expert on the following topics:

- The scope of the Oklahoma opioid crisis, and its impact on the health and safety of Oklahoma citizens;
- The State’s Abatement Plan, which is summarized in more detail in the Report prepared by Dr. Christopher J. Ruhm;
- The length of time for which the services and programs in the Abatement Plan need to be in effect to abate the Oklahoma opioid crisis;
- Past actions the State has taken to abate the Oklahoma opioid crisis; and
- The programs and services ODMHSAS provides to Oklahoma citizens in the areas of the promotion of mental health and the prevention and treatment of mental illness and substances abuse.

(Ex. 1, Exhibit I to Disclosures.) Ms. Hawkins’s may be qualified to opine about past actions the State has taken to abate the epidemic, and programs and services ODMHSA provides, but her testimony on the other three topics is inadmissible for two independent reasons. First, Ms. Hawkins is not qualified to opine about the State’s abatement plan or the length of time required for abatement. Second, her opinions lack any reliable evidentiary basis.

To start, Ms. Hawkins lacks the knowledge, skill, experience, training, or education required to qualify her as an expert on abatement of the opioid epidemic in Oklahoma. She is not

¹“Defendants” includes Defendants Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Inc., Actavis LLC, Actavis Pharma, Inc., Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen, Pharmaceuticals, Inc., N/K/A Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc., N/K/A Janssen Pharmaceuticals, Inc.

an epidemiologist – a public health professional specially trained to investigate patterns and causes of disease and injury. She has never developed nor implemented any abatement program, let alone one specific to opioid abuse. As Senior Director of Prevention Services for the Oklahoma Department of Mental Health, Ms. Hawkins has experience with only general matters of mental health promotion and oversight of general prevention services. (Ex. 1, Exhibit I to Disclosures.) She has no experience with opioid-specific abatement programs. Ms. Hawkins’s generalized knowledge of various public health programs does not qualify her to opine on opioid-related issues.

Ms. Hawkins’s opinions also lack any reliable evidentiary basis because they are purely speculative. As became clear from her deposition, the extent of Ms. Hawkins’s involvement in “preparing” the State’s Abatement Plan consisted of funneling information from various Oklahoma agencies to a different expert, Christopher Ruhm, who then purported to calculate the overall cost of the State’s Abatement Plan.² (Ex. 2, Hawkins Dep. Tr. at 86:13–25.) Ms. Hawkins did *no independent analysis* of the various components of the Abatement Plan and was even bypassed in many of the communications between the various departments and Dr. Ruhm. (Ex. 2, Hawkins Dep. Tr. at 86:13-25.) She could not provide even cursory information about individual components of the plan, stating she could not “recall all the different forms” that the underlying data took. (Ex. 2, Hawkins Dep. Tr. at 86:1–12.) Nor has she offered any data or analysis whatsoever to support her claim that it will take 30 years to abate Oklahoma’s opioid-related issues, apart from speculation that 30 years “seems reasonable to [her]” because it allegedly took that long to “create the problem.” (Ex. 2, Hawkins Dep. Tr. at 298:18–299:5.) She was even

² Dr. Ruhm’s testimony likewise must be excluded to the extent that he relies on Ms. Hawkins, because an expert whose proffered testimony relies on another expert’s testimony that has been excluded must be excluded too. *See, e.g., Sims v. Kia Motors of Am., Inc.*, 839 F.3d 393, 404-06 (5th Cir. 2016); *Rink v. Cheminova, Inc.*, 400 F.3d 1286, 1294 (11th Cir. 2005).

unable to provide an explanation for her assumption that the epidemic and corresponding abatement costs would remain constant and not decline for the first twenty-nine years of the proposed program, or even suggest a method to measure the Abatement Plan's success.

Finally, Ms. Hawkins's opinions – and Dr. Ruhm's related opinions – should be excluded because the State failed to produce the documents she funneled to Dr. Ruhm for his opinions. Essentially, Ms. Hawkins collected information about each component of the Abatement Plan, concluded each was necessary and reasonable in her opinion, and passed the information on to Dr. Ruhm to summarize and calculate the total cost. But nobody – not Ms. Hawkins, not Dr. Ruhm and not the State – produced the underlying information to the Defendants to independently evaluate and cross-examine the experts. Accordingly, the State has not satisfied its burden to provide the factual bases for their opinions.

In sum, merely compiling and transmitting information from various Oklahoma agencies to Dr. Ruhm does not make Ms. Hawkins an abatement expert. Further, the State's failure to produce the information Ms. Hawkins relied upon for the factual bases of her opinions has precluded the Defendants from challenging them. As a result, Ms. Hawkins's purported expert testimony fails to satisfy the basic requirements of 12 O.S. § 2702 and *Daubert* and, therefore, should be excluded in its entirety.

I. LEGAL STANDARD³

Oklahoma evaluates the admissibility of expert testimony pursuant to the standards established by the United States Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*,

³ Because Oklahoma's statutes governing expert testimony, 12 O.S. §§ 2702, 2703, 2704, and 2705, parallel the language of Federal Rules of Evidence 702, 703, 704, and 705 in all relevant respects, both state and federal jurisprudence on the subject is instructive. *See, e.g., Nelson v. Enid Med. Assocs., Inc.*, 2016 OK 69, ¶¶ 10–61, 376 P.3d 212, 217–31; *Christian v. Gray*, 2003 OK 10, ¶ 9, 65 P.3d 591, 598–99.

509 U.S. 579 (1993), and its progeny. *Christian v. Gray*, 2003 OK 10, ¶ 14, 65 P.3d 591, 600.

The Oklahoma statute governing expert testimony, 12 O.S. § 2702, is “identical in substance” to Federal Rule 702, *id.*, 2003 OK 10, ¶ 6, 65 P.3d 591, 597, and provides that:

If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify in the form of an opinion or otherwise, if (1) [t]he testimony is based on sufficient facts or data; (2) [t]he testimony is the product of reliable principles and methods; and (3) [t]he witness has applied the principles and methods reliably to the facts of the case.

12 O.S. § 2702. These three requirements to admissibility are commonly known as “qualification,” “reliability,” and “fit.” The State, as the party offering the expert testimony, has the burden of proving admissibility by a preponderance of the evidence. *Daubert*, 509 U.S. at 592.

Daubert requires this Court to perform a “screening function” to ensure that Ms. Hawkins’s testimony is “not only relevant, but reliable.” *Id.* at 589, 592. The purpose of the reliability analysis is to “make certain that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field.” *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 152 (1999). In order to survive this requirement, the “proposed testimony must be supported by appropriate validation—*i.e.*, ‘good grounds,’ based on what is known.” *Daubert*, 509 U.S. at 590. Thus, an expert’s opinion must “rest on a reliable foundation.” *Id.* at 662. When the expert opinion is inadequately supported by reliable data, methodology, or studies, “[a] court may conclude that there is simply too great an analytical gap between the data and the opinion proffered,” and thus may exclude the expert testimony. *Gen. Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997).

In performing its gatekeeping role, the trial court also must determine whether the proffered expert testimony is relevant; that is, whether it has “any tendency to make the existence of any fact

that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” 12 O.S. § 2402; *Ross v. Otis Elevator*, 1975 OK 105, 539 P.2d 731, 733-34. Evidence that does not affect an issue in dispute is irrelevant and inadmissible. *Id.* Additionally, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice and confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. 12 O.S. § 2403; see *Madill Bank & Trust Co. v. Hermann*, 738 P.2d 567, 571 (Okla. Civ. App. 1987).

Ms. Hawkins’ testimony fails the basic requirements of 12 O.S. § 2702 and *Daubert*.

ARGUMENT

A. Ms. Hawkins’s Testimony About The State’s Abatement Plan Must Be Excluded Because She Is Not An Expert In Abating Opioid Epidemics.

To start, Ms. Hawkins’s experience as a bureaucrat in prevention services and general mental health promotion does not qualify her as an expert on the scope of the opioid epidemic in Oklahoma. There are public-health professionals and experts in the United States and Oklahoma with extensive experience addressing opioid addiction and the opioid epidemic specifically. Ms. Hawkins is not one of them. Even within the realm of her experience Ms. Hawkins has never been involved with a grant over \$3 million a year, let alone the \$870 million proposed for the statewide, multi-program Abatement Plan’s first year. (Ex. 2, Hawkins Dep. Tr. at 142:15–19.)

Ms. Hawkins is likewise unqualified to opine about the State’s Abatement Plan. She is not an epidemiologist and has no expertise in opioid-specific abatement programs. To the contrary, Ms. Hawkins acknowledges that the only thing qualifying her to testify about the State’s Abatement Plan was her role as “lead coordinator of compiling” the information that went into the Abatement Plan. (Ex. 2, Hawkins Dep. Tr. at 17:6–15.) She goes on to explain that compiling the information entailed simply passing along information from the various departments to Dr. Ruhm

so he could calculate the supposed overall cost of the State's Abatement Plan. (Ex. 2, Hawkins Dep. Tr. at 86:13–25.) Based solely on this, Ms. Hawkins seeks to opine about the necessity of \$17 billion worth of programs and services to abate the opioid epidemic in Oklahoma. Ms. Hawkins's "knowledge, skill, experience, training[, and] education" do not qualify her to offer that testimony. 12 O.S. § 2702. Her opinion, in other words, is lay speculation disguised as "expert" testimony.

While Ms. Hawkins has experience overseeing prevention services generally, she has never been an epidemiologist creating or executing abatement programs, especially relating specifically to opioids. An expert in one field is not qualified to opine as an expert about "an entirely different field or discipline," even through reading and preparation. *Lappe v. Am. Honda Motor Co., Inc.*, 857 F. Supp. 222, 227 (N.D.N.Y. 1994). Instead, the expert must "stay within the reasonable confines of his subject area." *Id.*; accord *Ralston v. Smith & Nephew Richards, Inc.*, 275 F.3d 965, 970 (10th Cir. 2001). Indeed, courts routinely exclude expert testimony that goes beyond the witness's area of expertise, even where the testimony is in some way related to the area in which he or she is an expert.⁴

⁴ See, e.g., *Avila v. Willits Env'tl. Remediation Trust*, 633 F.3d 828, 839 (9th Cir. 2011) (plaintiff's expert on exposure and causation, with degrees in chemistry but no special training in or knowledge of metalworking industries, lacked expertise to opine on whether burning solvents at defendant company's site could or did result in creation of toxicologically significant amounts of dioxins); *Ralston*, 275 F.3d at 970 (board certified orthopedic surgeon could not opine about the adequacy of warning labels for an intramedullary nail because, even though she had expertise in the "treatment or the healing and problems with healing of" related medical issues, the nail's labeling fell outside her area of expertise); *Trilink Saw Chain, LLC v. Blount, Inc.*, 583 F. Supp. 2d 1293, 1304-07 (N.D. Ga. 2008) (excluding mechanical engineer's opinions about saw chain consumer research data despite his expertise in product reliability investigations, failure analysis, product testing, and engineering consultations, given his lack of expertise in consumer surveys or market research specifically).

Moreover, an expert must be qualified in the specific subject on which he or she seeks to opine. “Just as a lawyer is not by general education and experience qualified to give an expert opinion on every subject of the law, so too a scientist or medical doctor is not presumed to have expert knowledge about every conceivable scientific principle or disease.” *Whiting v. Boston Edison Co.*, 891 F. Supp. 12, 24 (D. Mass. 1995); *see also Freeland v. Ameristep, Inc.*, No. 13-cv-08-JHP, 2014 WL 1646948, at *3 (E.D. Okla. Apr. 24, 2014) (relying on *Whiting*, and concluding that an engineer’s “general engineering knowledge [wa]s insufficient to qualify him as an expert with regard to [a specific engineering] issue” with which he had no experience).

The court’s decision in *Cuesta-Rodriguez v. State*, 2010 OK CR 23, 241 P.3d 214, is instructive. There, the court held that a psychologist with a Ph.D. was not qualified to opine on the interaction between two different drugs because he did not have “specialized knowledge or training in toxicology or medicine.” 2010 OK CR 23, ¶ 16, 241 P.3d at 225; *see also City of Hobbs v. Hartford Fire Ins. Co.*, 162 F.3d 576, 587 (10th Cir. 1998) (although witness had experience with first-party insurance disputes, he was not qualified to testify as an expert on third-party insurance disputes, given that he “lacked specialized knowledge” about third-party disputes); *Roe v. St. Louis Univ.*, 746 F.3d 874, 885 (8th Cir. 2014) (a university physician was not qualified to testify about an athletic trainer’s standard of care because he lacked specific expertise in sports injury treatment). Ms. Hawkins likewise has no such specialized expertise. Her experience overseeing substance use prevention services and programs does not equate to the epidemiological training and experience necessary to serve as an expert on the State’s Abatement Plan.

The State may argue Ms. Hawkins is qualified because of her general education and experience in the broader field of public health, or because of her specific experience overseeing department prevention services. Neither argument is availing. Ms. Hawkins’s general experience

in public health does not give her the specialized expertise necessary to opine about the State's opioid epidemic abatement programming. Even her current role has not provided her with the experience necessary to qualify as an expert on the Abatement Plan. For example, when asked whether she had prepared a grant application for any of the proposed programs she contends are necessary, Ms. Hawkins could not provide any, became defensive and refused to answer the question. (Ex. 2, Hawkins Dep. Tr. at 167:4-15.)

Importantly, when asked to provide the basis for her expertise, Ms. Hawkins stated with circular logic that it was derived from her role in developing this particular Abatement Plan. (Ex. 2, Hawkins Dep. Tr. at 17:6-15.) Yet, she went on to explain that this role entailed acting largely as a conduit, passing along information to Dr. Ruhm without providing any expert experience or knowledge. Ms. Hawkins even acknowledged her limited role, stating that she was simply "forwarding material from other agencies." (Ex. 2, Hawkins Dep. Tr. at 85:22-25.) In various instances she was not even included:

Q: Did you simply provide [Dr. Ruhm] with what those other agencies or third parties had given to you or did you change or alter the data in any way?

A: Oh, so if the material was coming to me, I was forwarding it, in some cases, to Dr. Ruhm and/or they were talking directly with Dr. Ruhm.

Q: The agencies would talk directly with Dr. Ruhm?

A: Yes, that's my understanding.

Q: Did you participate in those calls or meetings?

A: Not all.

(Ex. 2, Hawkins Dep. Tr. at 86:13-25.)

Even for the communications and information that Ms. Hawkins was included on, her role appears to have been cursory at best. She simply relied upon the various agencies to provide cost data for the Abatement Plan. (Ex. 2, Hawkins Dep. Tr. at 152:13-153:4 (acknowledging that she

“relied upon the professionals in these agencies to provide this information.”.) While initially claiming to analyze the data, Ms. Hawkins later admitted she never made any changes or provided any substantive input.

Q: What I am trying to understand is, for any of the cost data that you provided, do you recall independently evaluating and validating that cost data?

A: So in my role with the plan, I absolutely was involved in reviewing what was provided as was Commissioner White, and in that review role, you know, asking clarifying questions in any case where, you know, we didn't understand what was being provided or it hadn't been, you know, summarized, you know, in a way that could be understood, you know, things like that.

(Ex. 2, Hawkins Dep. Tr. at 145:16-146:2.)

Q: Did you modify any of the numbers, cost numbers provided to you by other State agencies?

A: I can't think of situations where I modified what was provided to me...

(Ex. 2, Hawkins Dep. Tr. at 154:12-20.)

Ms. Hawkins' testimony confirms that she is not qualified to offer it. Ms. Hawkins was unable to provide any meaningful method to evaluate the success of the proposed Abatement Plan despite intending to testify regarding its necessity and the amount of time it would need to be in place. She admitted she is not experienced in creating or applying program evaluation plans. (Ex. 2, Hawkins Dep. Tr. at 198:7-10.) Consequently she did not put forward any formal evaluation plan for the Abatement Plan. (Ex. 2, Hawkins Dep. Tr. at 204:19-205:1.) A qualified abatement expert would certainly understand the need for a metric of determining success. Likewise, she was unable to provide even a skeletal framework for how the State would implement her proposed Abatement Plan. (Ex. 2, Hawkins Dep. Tr. at 209:1-2). Nor was Ms. Hawkins able to state where the money would go and who would be in charge of distribution and execution of the programs she is requesting. (Ex. 2, Hawkins Dep. Tr. at 234:22-236:22)

Ms. Hawkins' explanation for her claim that the alleged Oklahoma opioid epidemic would be abated in 30 years makes clear she is not an expert on that topic either. Rather, she speculated that 30 years "seems reasonable" because it allegedly took that long to "create the problem." (Ex. 2, Hawkins Dep. Tr. at 298:18-299:5.) And Ms. Hawkins assumed that the costs of abatement would remain constant over that 30-year period, failing to even consider the basic fact that if the Abatement Plan were successful its costs would decrease over time, instead of continuing at largely the same levels for twenty-nine of the thirty years, before suddenly resulting in a complete abatement of the opioid epidemic. (Ex. 2, Hawkins Dep. Tr. at 213:3-9.)

All of these examples make clear that Ms. Hawkins's proposed testimony is lay speculation and not expert testimony. There are public-health professionals and experts in the United States and Oklahoma with extensive experience addressing opioid addiction and analyzing epidemic abatement plans. The State did not retain one. That strategic choice demonstrates the shallowness and emptiness of the State's case against Defendants and the casual and unstudied nature of its proposed abatement plan. These tactical decisions by the State are no reason to loosen the standards on expert testimony or to disregard black-letter law on their qualification. Ms. Hawkins is, quite simply, not an expert on abatement, and the Court should not cloak her with the false authority of an expert witness.

B. Ms. Hawkins's Testimony Also Must Be Excluded Because She Provides No Reliable Basis For Her Opinions.

Ms. Hawkins's testimony also is inadmissible for the independent reason that it is not "based upon sufficient facts or data" and is not "the product of reliable principles and methods." See 12 O.S. § 2702. Having no training or experience in opioid-epidemic abatement or analyzing the need for and costs of specific abatement programs, Ms. Hawkins uses none of the tools a qualified expert would use to analyze an opioid abatement plan. There is thus "simply too great

an analytical gap” in Ms. Hawkins’s testimony for it to be reliable. *Joiner*, 522 U.S. at 146. The gap here, in fact, cannot be bridged, because Ms. Hawkins offers no data, studies, or experience to support her proffered opinions.

To satisfy the requirement of a reliable method, courts consistently require an expert to provide empirical data or analysis to support his or her assertions. In *Reger v. A.I. duPont Hospital for Children of Nemours Foundation*, for instance, the Third Circuit held that an expert’s testimony was properly excluded where his opinions were “not supported by citation or reference to any scientific data or texts,” but rather were based on “subjective beliefs.” 259 F. App’x 499, 500 (3d Cir. 2008); *see also Smith v. Sears Roebuck & Co.*, 232 F. App’x 780, 783 (10th Cir. 2007) (expert’s opinion was speculative, unreliable, and inadmissible because he did not support his theories with scientific studies); *Kolesar v. United Agri Prods., Inc.*, 246 F. App’x 977, 980-81 (6th Cir. 2007) (expert opinion based on methodology was not supported by literature or studies properly excluded as unreliable).

Here, Ms. Hawkins provides no data or scientific analysis to support her opinions. Instead, she says simply that she forwarded material from other agencies to Dr. Ruhm. Parroting another’s evidence is not “expert testimony.” That is why courts consistently reject attempts by supposed “experts” to act merely as a party’s mouthpiece. *See, e.g., United States v. Alisal Water Corp.*, 431 F.3d 643, 659-60 (9th Cir. 2005) (exclusion of expert testimony warranted where “report was . . . simply cumulative of [another expert’s] testimony and viewed as a whole, [the excluded expert’s] opinions concerned facts known to and litigated by the parties at trial” (citations and internal quotation marks omitted)); *Huawei Tech., Co. v. Samsung Elec. Co.*, 340 F. Supp. 3d 934, 993-94

(N.D. Cal. 2018) (rejecting expert opinion that another expert’s analysis was “better designed” because that opinion “would be unhelpful, or even confusing” for the trier of fact).⁵

Further, despite mostly “forwarding material from other agencies” to Dr. Ruhm, Ms. Hawkins could not provide even cursory information on this material, stating that she could not “recall all the different forms” that were used. (Ex. 2, Hawkins Dep. Tr. at 86:1-12.) Without identifying the data on which Ms. Hawkins supposedly relied, the State has not and cannot satisfy its *Daubert* burden of demonstrating that there is a reliable basis for her opinions. The Defendants cannot possibly test Ms. Hawkins’s opinions because she has no knowledge of the underlying data.

Beyond her inability to provide an explanation on the underlying data for the Abatement Plan itself, Ms. Hawkins’s testimony also is riddled with numerous analytical and methodological flaws. As noted, Ms. Hawkins was unable to provide even a skeletal framework for how the State would implement her proposed Abatement Plan. (Ex. 2, Hawkins Dep. Tr. at 209:1-2.) Nor could Ms. Hawkins provide a meaningful method to evaluate the success of the proposed Abatement Plan despite intending to testify regarding its necessity and the amount of time it would need to be in place. (Ex. 2, Hawkins Dep. Tr. at 198:7-10, 204:19-205:1.) Without a formal blueprint for evaluating the Abatement Plan, and thus no metric of determining success, there can be no reliable

⁵ See also *United States v. Charley*, 189 F.3d 1251, 1267 (10th Cir. 1999) (“In general, expert testimony which does nothing but vouch for the credibility of another witness . . . does not ‘assist the trier of fact’ as required.”); *In re Rezulin Prods. Liab. Litig.*, 309 F. Supp. 2d 531, 546 (S.D.N.Y. 2004) (expert testimony that merely repeats “facts or opinions stated by other potential witnesses” is inadmissible); *In re Prempro Prods. Liab. Litig.*, 554 F. Supp. 2d 871, 880 (E.D. Ark. 2008) (excluding expert testimony that “was simply a regurgitation of an exhibit, absent any expert analysis or opinion” because the expert “simply read and summarized the documents, as any layperson could have done”), *rev’d in part on other grounds*, 586 F.3d 547 (8th Cir. 2009); *Tunis Bros. Co. v. Ford Motor Co.*, 124 F.R.D. 95, 98 (E.D. Pa. 1989) (“It is the [trier of fact]’s function to determine the validity of [an expert’s] opinions and not to judge [another expert’s] opinions of [the expert’s] opinions.”).

basis for her speculation that the Abatement Plan will “succeed” and will do so after exactly thirty years.

Likewise, Ms. Hawkins’s failure to consider the basic fact that if the Abatement Plan were successful its costs would decrease over time, instead of continuing at largely the same levels for twenty-nine of the thirty years, is further indicative of the speculation inherent throughout. (Ex. 2, Hawkins Dep. Tr. at 213:3-9.) Ms. Hawkins cannot testify regarding the length of time that the Abatement Plan must be in effect if she is unable to provide a metric for measuring and adjusting such a time frame. She was not even able to articulate where the money would go and who would be in charge of distribution and execution of the programs she claims are necessary. (Ex. 2, Hawkins Dep. Tr. at 234:22-236:22.)

C. Ms. Hawkins’s Testimony Should Also Be Excluded Because The State Failed To Produce The Information On Which Her Testimony Is Based.

Throughout her deposition, Ms. Hawkins testified she did not have the documents she collected and relied upon to support her opinions about the necessity and reasonableness of the individual components of the Abatement Plan and she was unaware of whether they had even been provided to the State’s attorneys. (Ex. 2, Hawkins Dep. Tr. at 74:7-75:5, 85:4-86:19, 87:20-88:2, 89:3-24, 92:5-10, 93:3-95:6, 110:6-111:4, 111:25-112:11, 124:5-125:21.) Those documents have not been produced by the State. Thus, the Defendants have been unable to independently evaluate Ms. Hawkins’s opinions based on those documents and thoroughly cross-examine her at her deposition. The State’s failure to produce the underlying information Ms. Hawkins relied upon is a blatant and unacceptable violation of the Oklahoma Discovery Code and this Court’s Scheduling Order. *See* 12 O.S. § 3226(B)(4)(a)(3) (requiring production of, among other things, “the substance of the facts and opinions to which [its proffered] expert is expected to testify.”); Sept. 11, 2018, Am. Scheduling Order at 1.

Courts nationwide regularly exclude an expert witness's testimony where the party proffering that witness fails to provide the factual bases for her opinion. *See, e.g., Kern River Gas Transmission Co. v. 6.17 Acres of Land, More or Less, in Salt Lake Cty.*, 156 F. App'x 96, 102 (10th Cir. 2005) (expert's testimony properly excluded where only incomplete expert report was provided); *Nw. Pipeline Corp. v. Ross*, No. C05-1605RSL, 2008 WL 1744617, at *9-10 (W.D. Wash. Apr. 11, 2008) (excluding plaintiff's expert's opinions due to plaintiff's untimely disclosures); *Koppell v. N.Y. State Bd. of Elections*, 97 F. Supp. 2d 477, 481-82 (S.D.N.Y. 2000) (“[T]his Court grants plaintiffs’ motion to strike Dr. Chapin’s report on the grounds that . . . defendants have failed to provide adequately the bases of Dr. Chapin’s opinions . . .”).⁶

Without producing the information on which Ms. Hawkins supposedly relied, the State has not and cannot satisfy its *Daubert* burden of demonstrating that there is a reliable basis for her opinions. And Oklahoma law specifically provides that, when a party fails to comply with a court's discovery order, the court may “make such orders in regard to the failure as are just,” including “prohibiting the [disobedient] party from introducing designated matters into evidence.” *Barnett v. Simmons*, 2008 OK 100, ¶15, 197 P.3d 12, 18 (citing 12 O.S. § 3237(B)(2)). Given the State's disobedience of Oklahoma's rules and this Court's directive, justice requires the exclusion of Ms. Hawkins's testimony. No other remedy would be sufficient at this late date. Trial is mere weeks away. And even if the State produced Ms. Hawkins's data now, the Defendants still would be severely prejudiced, because they would not have time to evaluate that data, let alone re-depose

⁶ Given the similarities between the Oklahoma Discovery Code and the Federal Rules of Civil Procedure, Oklahoma courts look to both Oklahoma and federal cases when interpreting Oklahoma's discovery rules. *See, e.g., Hall v. Goodwin*, 1989 OK 88, ¶7, 775 P.2d 291, 293; *State ex rel. Protective Health Servs. v. Billings Fairchild Ctr., Inc.*, 2007 OK CIV APP 24, ¶18, 158 P.3d 484, 490; *McCoy v. Black*, 1997 OK CIV APP 78, ¶6, 949 P.2d 689, 692.

Ms. Hawkins, before trial. The Court should exclude Ms. Hawkins's testimony in its entirety for this reason alone.

II. CONCLUSION

For the multiple, independent reasons described above, Defendants respectfully request that this Court exclude the testimony of Ms. Hawkins in its entirety.

Dated: April 23, 2019

Respectfully submitted,



~~Robert G. McCampbell, OBA No. 10390~~
Nicholas ("Nick") V. Merkley, OBA No. 20284
Leasa M. Stewart, OBA No. 18515
Jeffrey A. Curran, OBA No. 12255
Kyle D. Evans, OBA No. 22135
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: NMerkeley@Gablelaw.com
E-mail: LStewart@gablelaw.com
E-mail: JCurran@Gablelaw.com
E-mail: KEvans@gablelaw.com
E-mail: AQuinn@Gablelaw.com

OF COUNSEL:

Steven A. Reed
Harvey Bartle IV
Mark A. Fiore
Rebecca Hillyer
Evan K. Jacobs
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
E-mail: mark.fiore@morganlewis.com
E-mail: rebecca.hillyer@morganlewis.com

E-mail : evan.jacobs@morganlewis.com

Nancy L. Patterson

MORGAN, LEWIS & BOCKIUS LLP

1000 Louisiana St., Suite 4000

Houston, TX 77002-5006

T: +1.713.890.5195

E-mail: nancy.patterson@morganlewis.com

Brian M. Ercole

Melissa M. Coates

Martha A. Leibell

MORGAN, LEWIS & BOCKIUS LLP

200 S. Biscayne Blvd., Suite 5300

Miami, FL 33131

T: +1.305.415.3000

E-mail: brian.ercole@morganlewis.com

E-mail: melissa.coates@morganlewis.com

E-mail: martha.leibell@morganlewis.com

Collie T. James, IV

MORGAN, LEWIS & BOCKIUS LLP

600 Anton, Blvd., Suite 1800

Costa Mesa, CA 92626

T: +1.714.830.0600

E-mail: collie.james@morganlewis.com

Tinos Diamantatos

MORGAN, LEWIS & BOCKIUS LLP

77 W. Wacker Dr.

Chicago, IL 60601

T: +1.312.324.1000

E-mail: tinos.diamantatos@morganlewis.com

Steven A. Luxton

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Ave., NW

Washington, DC 20004

T: +1.202.739.3000

E-mail: steven.luxton@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.*

/s/ John H. Sparks

John H. Sparks, OBA No. 15661
Benjamin H. Odom, OBA No. 10917
Michael W. Ridgeway, OBA No. 15657
David L. Kinney, OBA No. 10875
ODOM, SPARKS & JONES PLLC
HiPoint Office Building
2500 McGee Drive Ste. 140
Norman, OK 73072
Telephone: (405) 701-1863
Facsimile: (405) 310-5394
Email: odomb@odomsparks.com
Email: sparksj@odomsparks.com
Email: ridgewaym@odomsparks.com
Email: kinneyd@odomsparks.com

Larry D. Ottaway, OBA No. 6816
Amy Sherry Fischer, OBA No. 16651
Andrew Bowman, OBA No. 22071
Jordyn L. Cartmell, OBA No. 31043
Kaitlyn Dunn, OBA No. 32770
FOLIART, HUFF, OTTAWAY & BOTTOM
12th Floor
201 Robert S. Kerr Avenue
Oklahoma City, OK 73102
Telephone: (405) 232-4633
Facsimile: (405) 232-3462
Email: larryottaway@oklahomacounsel.com
Email: amyfischer@oklahomacounsel.com
Email: andrewbowman@oklahomacounsel.com
Email: jordyncartmell@oklahomacounsel.com
Email: kaitlyndunn@oklahomacounsel.com

Of Counsel:

Charles C. Lifland (admitted *pro hac vice*)
Wallace Moore Allan
Sabrina H. Strong
O'MELVENY & MYERS LLP
400 S. Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
clifland@omm.com
Email: tallan@omm.com
Email: sstrong@omm.com

Stephen D. Brody
David Roberts
O'MELVENY & MYERS, LLP
1625 Eye Street NW
Washington, DC 20006
Telephone: (202) 383-5300
Facsimile: (202) 383-5414
Email: sbrody@omm.com
Email: droberts2@omm.com

*Counsel for Johnson & Johnson; Janssen
Pharmaceuticals, Inc.; Ortho-McNeil-Janssen
Pharmaceuticals, Inc. n/k/a Janssen
Pharmaceuticals, Inc.; and Janssen Pharmaceutica
Inc. n/k/a Janssen Pharmaceuticals, Inc.*

CERTIFICATE OF MAILING

Pursuant to 12 O.S. § 2005(D), and by agreement of the parties, this is to certify on April 23, 2019, a true and correct copy of the above and foregoing has been served via electronic mail, to the following:

<i>Attorneys for Plaintiff</i>	Mike Hunter, Attorney General	Michael Burrage
	Abby Dillsaver, General Counsel	Reggie Whitten
	Ethan Shaner, Dep. Gen. Counsel	J. Revell Parrish
	ATTORNEY GENERAL'S OFFICE	WHITTEN BURRAGE
	313 N.E. 21st Street	512 N. Broadway Ave., Ste. 300
	Oklahoma City, OK 73105	Oklahoma City, OK 73102
	Bradley Beckworth	Robert Winn Cutler
	Jeffrey Angelovich	Ross E Leonoudakis
	Lloyd Nolan Duck, III	NIX PATTERSON & ROACH
	Andrew G. Pate	3600 N. Capital of Texas Hwy.
	Lisa Baldwin	Suite B350
	Brooke A. Churchman	Austin, TX 78746
	Nathan B. Hall	
	NIX, PATTERSON & ROACH	
	512 N. Broadway Ave., Ste. 200	
	Oklahoma City, OK 73102	
	Glenn Coffee	
	GLENN COFFEE & ASSOCIATES, PLLC	
	915 N. Robinson Ave.	
	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 H. Sparks
Benjamin H. Odom
Michael W. Ridgeway
David L. Kinney
ODOM SPARKS & JONES
2500 McGee Drive, Suite 140
Norman, OK 73072

Charles C. Lifland
Jennifer D. Cardelus
Wallace M. Allan
Sabrina H. Strong
Houman Ehsan
Esteban Rodriguez
Justine M. Daniels
O'MELVENY & MEYERS
400 S. Hope Street, 18th Floor
Los Angeles, CA 90071

Stephen D. Brody
David Roberts
Emilie K. Winckel
O'MELVENY & MEYERS
1625 Eye Street NW
Washington, DC 20006

Daniel J. Franklin
Ross B Galin
Desirae Krislie Cubero Tongco
Vincent S. Weisband
O'MELVENY & MEYERS
7 Times Square
New York, NY 10036

Amy R. Lucas
Lauren S. Rakow
Jessica L. Waddle
O'MELVENY & MEYERS
1999 Ave. of the Stars, 8th Fl.
Los Angeles, CA 90067

Jeffrey A. Barker
Amy J. Laurendeau
Michael Yoder
O'MELVENY & MEYERS
610 Newport Center Drive
Newport Beach, CA 92660

Larry D. Ottaway
Amy Sherry Fischer
Andrew Bowman
Steven J. Johnson
Kaitlyn Dunn
Jordyn L. Cartmell
FOLIART, HUFF, OTTAWAY & BOTTOM
201 Robert S. Kerr Ave., 12th Fl.
Oklahoma City, OK 73102

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

Sheila L. Birnbaum
Mark S. Cheffo
Hayden Adam Coleman
Paul LaFata
Jonathan S. Tam
Lindsay N. Zanello
Bert L. Wolff
Mara C. Cusker Gonzalez
DECHERT, LLP
Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036

William W. Oxley
DECHERT LLP
U.S. Bank Tower
633 West 5th Street, Suite 4900
Los Angeles, CA 90071

Britta E. Stanton
John D. Volney
John T. Cox, III
Eric W. Pinker
Jared D. Eisenberg
Jervonne D. Newsome
Ruben A. Garcia
Russell Guy Herman
Samuel Butler Hardy, IV
Alan Dabdoub
David S. Coale

LYNN PINKER COX & HURST
2100 Ross Avenue, Suite 2700
Dallas, TX 75201

Erik W. Snapp
DECHERT, LLP
35 W. Wacker Drive, Ste. 3400
Chicago, IL 60601

Meghan R. Kelly
Benjamin F. McAnaney
Hope S. Freiwald
Will W. Sachse
DECHERT, LLP
2929 Arch Street
Philadelphia, PA 19104

Jonathan S. Tam
Jae Hong Lee
DECHERT, LLP
One Bush Street, 16th Floor
San Francisco, CA 94104

Robert S. Hoff
WIGGIN & DANA, LLP
265 Church Street
New Haven, CT 06510

Sanford C. Coats
Joshua Burns
CROWE & DUNLEVY
324 N. Robinson Ave., Ste. 100
Oklahoma City, OK 73102



EXHIBIT 1

1

Exhibit I - Jessica Hawkins, Senior Director of Prevention Services, Oklahoma Department of Mental Health and Substance Abuse

A. Ms. Hawkins is expected to testify about the following subject matters:

- The scope of the Oklahoma opioid crisis, and its impact on the health and safety of Oklahoma citizens.
- Ms. Hawkins will testify regarding the Abatement Plan, which is summarized in more detail in the Report prepared by Dr. Christopher J. Ruhm.
- The length of time for which the services and programs in the Abatement Plan need to be in effect to abate the Oklahoma opioid crisis.
- Past actions the State has taken to abate the Oklahoma opioid crisis.
- The programs and services ODMHSAS provides to Oklahoma citizens in the areas of the promotion of mental health and the prevention and treatment of mental illness and substance abuse.

B. Ms. Hawkins is expected to testify about the following facts and/or opinions:

The opioid crisis Oklahoma has resulted in a dangerous and deadly crisis that takes the lives of numerous Oklahomans every year and negatively affects the lives of adults and children, State agencies, and other stakeholders across the State. Extensive and expensive efforts must be undertaken to abate and reverse this sweeping crisis. Ms. Hawkins will opine that the programs and services in the Abatement Plan are necessary to abate the opioid crisis in the State of Oklahoma.

The individual costs of the services and programs in the Abatement Plan were provided to the State's expert, Christopher J. Ruhm, Ph.D., so he could calculate the net present value of each program and service in the Abatement Plan.

With the limited resources it has available, the State of Oklahoma has provided certain programs and services aimed at addressing the opioid crisis in Oklahoma. However, the State currently does not possess the necessary resources to fund the programs and services in the Abatement Plan, which are necessary to fully abate the opioid crisis in Oklahoma.

As discovery is ongoing, additional programs and services may be added to the Abatement Plan before trial. Ms. Hawkins reserves the right to supplement her opinions as needed to reflect those additional programs and services and their associated costs.

C. Summary of the grounds for each opinion

The basis for Ms. Hawkins' testimony is her education, knowledge, experience, training, and expertise on mental health and substance use prevention services, the treatment and prevention services ODMHSAS provides, the State's effort to abate the Oklahoma opioid crisis, and the impact of the opioid crisis on the health and safety of Oklahoma citizens.

Ms. Hawkins has 20 years of professional experience overseeing and implementing substance use prevention services and programs. As a 20-year professional in the field of behavioral health prevention, ODMHSAS employee for approximately 12 years and Director of Prevention Services at ODMHSAS for approximately 10 years, Ms. Hawkins has developed professional experience and expertise writing, developing, overseeing and administering grants for prevention services, directing mental health, alcohol and other drug prevention services, developing policy recommendations relating to State and community level substance use prevention and mental health promotion, providing testimony and technical assistance in the areas of alcohol, other drug use, mental health, suicide, adolescent/life course development, evidence-based practices, integrated health, and public health and safety, among other areas related to mental

health promotion and substance use prevention. Ms. Hawkins has given hundreds of presentations on prevention, including to the Oklahoma Commission on Opioid Abuse.

D. Ms. Hawkins' Compensation

Ms. Hawkins is not seeking compensation for her time spent in expert preparation or for expert testimony.

E. Ms. Hawkins' Qualifications

Ms. Hawkins' qualifications are reflected in the *curriculum vitae* attached as Exhibit I-1.

F. Ms. Hawkins' Publications

A list of Ms. Hawkins' publications is contained in the *curriculum vitae*, see Exhibit I-1.

G. Ms. Hawkins' Prior Testimony

Ms. Hawkins has not testified or been deposed as an expert in the previous four (4) years.

2

EXHIBIT 2

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 rel.,
MIKE HUNTER, ATTORNEY GENERAL
OF OKLAHOMA,
Plaintiff,

vs. No. CJ-2017-816

PURDUE PHARMA L.P.;
PURDUE PHARMA, INC.;
THE PURDUE FREDERICK
COMPANY;
TEVA PHARMACEUTICALS
USA, INC.;
CEPHALON, INC.;
JOHNSON & JOHNSON;
JANSSEN PHARMACEUTICALS, INC.;
ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA,
INC., n/k/a JANSSEN
PHARMACEUTICALS, INC.;
ALLERGAN, PLC, f/k/a
ACTAVIS PLC, f/k/a ACTAVIS, INC.,
f/k/a WATSON PHARMACEUTICALS, INC.;
WATSON LABORATORIES, INC.;
ACTAVIS LLC; and
ACTAVIS PHARMA, INC.,
f/k/a WATSON PHARMA, INC.,

Defendants.

VIDEOTAPED DEPOSITION OF JESSICA HAWKINS
TAKEN ON BEHALF OF THE DEFENDANTS
ON MARCH 6, 2019, BEGINNING AT 9:03 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Gabriel Pack
REPORTED BY: Lacy Antle, CSR, RPR

Page 14

1 A My understanding that I've been designated
2 to testify on the scope of the opioid crisis in
3 Oklahoma, programs and services within the
4 Department of Mental Health and Substance Abuse
5 Services, and also the Abatement Plan, which was
6 submitted by expert Christopher Ruhm, and also the
7 length of time for which services within that plan
8 would be required.

9 Q You testified that the subjects of your
10 expert designation are four things: Number 1, scope
11 of the crisis; Number 2, programs and services
12 within the Oklahoma Department of Mental Health and
13 Substance Abuse; Number 3, the Abatement Plan as set
14 forth by Mr. Ruhm; and Number 4, the length of the
15 services that will be required.

16 Did I hear that correctly?

17 A One additional, I'm sorry. Also the past
18 actions the State has taken to abate the crisis.

19 Q With that addition, are those the five
20 topics on which you understand you've been
21 designated as an expert?

22 A Yes.

23 Q What qualifies you to be an expert on the
24 scope of the crisis, as you say it?

25 A In my role at the Department of Mental

Page 15

1 Health and Substance Abuse Services, since at least
2 2012, in my work experience and my day-to-day duties
3 in that role have been as the prevention director to
4 oversee certain programs and services related to the
5 prevention of opioid use and also in a coordinating
6 role for the State's prescription drug work group.

7 Q How long have you been serving in this
8 role?

9 A Which one, the director role or the work
10 group role?

11 Q Well, you, as I heard you, said that your
12 role as prevention director is what qualifies you to
13 be an expert on that topic, is that right?

14 MS. BALDWIN: Objection. Mischaracterizes
15 testimony.

16 THE WITNESS: In my role as the senior
17 director of prevention at the Department of Mental
18 Health and Substance Abuse Services, I've been in
19 that or a similar role for about 10 years.

20 Q (BY MR. PINKER) All at the State of
21 Oklahoma?

22 A Yes.

23 Q Is there anything else which you believe
24 qualifies you to serve as an expert in connection
25 with the alleged scope of the opioid crisis?

Page 16

1 A My day-to-day work experience, also the
2 projects and responsibilities I've had in that role
3 to oversee those programs requires me to do a
4 certain amount of research and stay established, and
5 trends and also best practices around the prevention
6 of opioid use disorder. So in that way, my
7 training, work experience, and education put me in a
8 position that I would be able to testify to those,
9 to the scope.

10 Q What projects, in particular, do you
11 believe qualify you to serve as an expert on that
12 topic?

13 A Which topic?

14 Q The topic we're talking about, the scope
15 of the alleged opioid crisis.

16 A So specifically, my role as staff and
17 coordinator for the State Prescription Drug
18 Workgroup, in addition to that, serving as project
19 director and also manager across several program
20 areas related to prevention of substance use and
21 also prevention of opioid use disorder.

22 Q The second topic that you identified that
23 you will be an expert on is programs and services
24 within the Department of Mental Health and Substance
25 Abuse, correct?

Page 17

1 A Yes.

2 Q I want to skip that for the moment.

3 The third topic was the Abatement Plan as
4 set forth by Mr. Ruhm, correct?

5 A Correct.

6 Q What do you believe qualifies you to serve
7 as an expert with regard to an abatement plan?

8 A So in my role with the State, and also
9 with my day-to-day experience, expertise in this
10 area, I served in a -- in a lead role of developing
11 recommendations for the Abatement Plan and also was
12 a lead coordinator of compiling that information for
13 the Abatement Plan.

14 Q Anything else?

15 A That's my answer.

16 Q The next topic on which you identified
17 yourself as an expert was on services required to
18 abate the alleged opioid crisis, correct?

19 MS. BALDWIN: Object to the form.

20 Mischaracterizes prior testimony.

21 THE WITNESS: If I recall, I described the
22 expectations of my testimony as that, what we just
23 previously talked about with regard to the Abatement
24 Plan, and then services within the Abatement Plan to
25 be the same item.

Page 74

1 Q So did you --
2 A Exhibits within Appendix B.
3 Q So did you -- are those exhibits within
4 Appendix B things that you began drafting on your
5 own?
6 A Ask that again?
7 Q Yeah, are those exhibits within Dr. Ruhm's
8 report, are those things that you began drafting on
9 your own?
10 A So in the initial stages of developing
11 recommendations, for example, where it says service
12 and there's a title, a service type, and then
13 there's a description, this would be an example of
14 the listing that -- that was compiled.
15 Q And how --
16 A Between our recommendations and those from
17 other agencies.
18 Q And how did you communicate that to him,
19 by e-mail?
20 A We had -- we had on at least one occasion
21 a meeting, and what I'm saying is that there is
22 probably at least a listing of these things that
23 were submitted to Dr. Ruhm.
24 Q Other than simply listing the title, what
25 other information would have been on that document?

Page 75

1 A As I mentioned --
2 MS. BALDWIN: Object to the form.
3 THE WITNESS: As I mentioned, the title of
4 the type of service and then also the description of
5 the service.
6 Q (BY MR. PINKER) So which one are you
7 looking at just by way of example, T1?
8 A I'm looking at Exhibit T1 in Appendix B.
9 Q Okay. So you're saying that the
10 highlighted title, Service: Addiction Treatment
11 Services (TREAT) is something you would have
12 provided to him?
13 A In this example the -- the term "Addiction
14 Treatment Services" was probably the title that I
15 gave it, I can't say exactly if it was changed, but
16 this acronym of TREAT is Dr. Ruhm's treatment of
17 material.
18 Q And you provided him with that title or
19 something very similar to it, is what you're saying?
20 A Yes.
21 Q And then did you provide him with the
22 description as well?
23 A I can't speak to whether every description
24 is exactly as I had provided it either in the
25 meeting or otherwise, but yes, I began an initial

Page 76

1 drafting of the description of these services.
2 Q And did you provide that to him -- you've
3 described that there were in-person meetings, did
4 you also give him the document, either in physical
5 or electronic form?
6 MS. BALDWIN: Object to the form.
7 THE WITNESS: I said that I think I must
8 have, at least on an initial recommendation, given
9 him a listing.
10 Q (BY MR. PINKER) Do you still have that
11 document?
12 A I don't know.
13 Q In your possession?
14 A In my possession now, no.
15 Q No, do you have it at your office?
16 A I don't know.
17 Q Have you looked for it?
18 A Have I looked for it?
19 Q Yeah, in connection with today's
20 deposition.
21 A No.
22 Q Do you know whether you've provided it to
23 the State's attorneys in this case?
24 MS. BALDWIN: Object to the form.
25 Everything that she has relied on is in that

Page 77

1 Abatement Plan, so I'm not really sure what you're
2 getting at here.
3 Q (BY MR. PINKER) Go ahead and answer the
4 question, please.
5 A Okay. Repeat your question for me,
6 please.
7 Q Did you provide that document to the
8 State's attorneys?
9 MS. BALDWIN: Object to the form.
10 THE WITNESS: So to the extent that the
11 attorneys served as a conduit between those
12 conversations, it's likely that, yes, the attorney
13 received a listing of the services in the
14 descriptions.
15 Q (BY MR. PINKER) Were the attorneys involved
16 in the meetings between you and Dr. Ruhm? That's
17 just a yes or no, please.
18 A Yes.
19 Q Okay. Was any other person --
20 A Well --
21 Q -- involved?
22 A -- so let me clarify. The meeting I'm
23 referencing, yes.
24 Q Okay. Was any other person involved?
25 A Commissioner White.

Page 82

1 Q (BY MR. PINKER) Did you make any notes of
2 your conversations with him?
3 MS. BALDWIN: Object to the form.
4 THE WITNESS: Not that I'm aware of, like
5 a separate set of notes.
6 Q (BY MR. PINKER) Did you exchange e-mails
7 with him?
8 A Yes.
9 MS. BALDWIN: Object to the form.
10 Q (BY MR. PINKER) Did you exchange e-mails
11 with Commissioner White relating to what you've
12 described as this Abatement Plan in Dr. Ruhm's
13 report?
14 MS. BALDWIN: Object to the form.
15 THE WITNESS: I'm actually not sure if I
16 had e-mails with Commissioner White. She and I had
17 a series of face-to-face working sessions together
18 and pretty intentionally structured our time
19 together as face-to-face meetings.
20 Q (BY MR. PINKER) Did you provide Dr. Ruhm
21 with more than one written document listing
22 potential services, programs and interventions or
23 descriptions of them?
24 MS. BALDWIN: Object to the form.
25 THE WITNESS: Did I provide Dr. Ruhm with

Page 83

1 more than one document of a listing? So a couple of
2 things. Well, I -- are you -- do you think I'm not
3 understanding the question? I'm sorry.
4 Q (BY MR. PINKER) It's a yes or no question,
5 did you provide more than one document?
6 MS. BALDWIN: Object to the form. You
7 don't have to ask -- answer in yes or no.
8 THE WITNESS: So we would exchange drafts,
9 if that's what you're asking.
10 Q (BY MR. PINKER) You described how you gave
11 him a document that listed certain services,
12 programs and interventions along with certain
13 descriptions, did you provide more than one document
14 like that?
15 MS. BALDWIN: Objection to the form.
16 Repetitive.
17 THE WITNESS: There's not more than one
18 plan, so through the process of working the plan,
19 there are drafts with -- with, you know, different
20 revisions or discussions about items in that plan.
21 MR. PINKER: Move to strike,
22 nonresponsive.
23 Q (BY MR. PINKER) Did you provide him with
24 more than one listing?
25 MS. BALDWIN: Object to the form.

Page 84

1 Repetitive.
2 THE WITNESS: If you're asking if I've
3 provided him with more than one listing of
4 recommendations in the Abatement Plan, I don't think
5 so.
6 Q (BY MR. PINKER) How did you provide him
7 with cost data?
8 MS. BALDWIN: Object to the form.
9 THE WITNESS: So there are a couple of
10 different ways that Dr. Ruhm got cost data. If you
11 look at the footnotes, Dr. Ruhm had got cost
12 information directly from State agencies that
13 provided the recommendations, and then in some cases
14 I provided cost data for recommendations on certain
15 items related to the Department of Mental Health and
16 Substance Abuse Services. So he got cost data from
17 various sources.
18 MR. PINKER: Move to strike,
19 nonresponsive.
20 Q (BY MR. PINKER) I'm not asking you what he
21 did. I'm asking what you did.
22 MS. BALDWIN: Object to the form.
23 Q (BY MR. PINKER) Do you understand the
24 difference?
25 MS. BALDWIN: Object to the form.

Page 85

1 Harassing and repetitive.
2 THE WITNESS: Can you repeat your
3 question?
4 Q (BY MR. PINKER) Yeah. How did you provide
5 him with cost data?
6 A I provided him with cost data specific to
7 some of the items. I did -- I was not responsible
8 for providing cost data for each one of these, so
9 when I provided him cost data I provided it to him
10 either in meetings or as part of drafts.
11 Q And when you provided him with cost data
12 in meetings, did you hand him documents or
13 materials?
14 MS. BALDWIN: Object to the form.
15 THE WITNESS: No.
16 Q (BY MR. PINKER) You just orally told him
17 what you thought things would cost?
18 A We had many different phone meetings. He
19 doesn't -- we don't see each other face-to-face.
20 Q Did you send him cost data over the
21 internet, by e-mail?
22 A Yes, in some cases I was forwarding
23 material from other agencies that I had requested
24 from them, that they provided to me or I was sending
25 him cost data from our agency.

Page 86

1 Q When you sent him cost data, was it
2 summary cost data in an e-mail or did you send him
3 full budgets and Excel spreadsheets?
4 MS. BALDWIN: Object to the form.
5 THE WITNESS: I don't recall all the
6 different forms that were -- that were used. As you
7 can imagine, each of these items have costs that
8 were provided by different professionals within
9 these agencies. In some cases it may have come in
10 in sort of a spreadsheet format, and in other cases
11 it was done more in a bulleted form or through
12 discussions with Chris, Dr. Ruhm, excuse me.
13 Q (BY MR. PINKER) Did you simply provide him
14 with what those other agencies or third parties had
15 given to you or did you change or alter the data in
16 any way?
17 A Oh, so if the material was coming to me, I
18 was forwarding it, in some cases, to Dr. Ruhm and/or
19 they were talking directly with Dr. Ruhm.
20 Q The agencies would talk directly with
21 Dr. Ruhm?
22 A Yes, that's my understanding.
23 Q Did you participate in those calls or
24 meetings?
25 A Not all.

Page 87

1 Q So are you still looking at his report?
2 A Yes.
3 Q Are you looking at Exhibit T1?
4 A No. Yes.
5 Q Exhibit T1 is titled service addiction
6 treatment services, correct?
7 A Yes.
8 Q And then there is a listing of 2018 costs
9 that total approximately \$233 million, correct?
10 A I think what you're referencing is the
11 2019 cost.
12 Q I just said there's a total of 233 -- of
13 approximately 233 million, correct?
14 A You said for 2018, it's 2019.
15 Q I apologize if I said that.
16 So the total costs are \$233 million,
17 approximately, right?
18 MS. BALDWIN: Object to the form.
19 THE WITNESS: For the year 2019, yes.
20 Q (BY MR. PINKER) And Dr. Ruhm indicates that
21 the primary source for the information here is your
22 department, which is the Department of Mental Health
23 and Substance Abuse Services?
24 A Yes.
25 Q So I want to just get some idea of how

Page 88

1 this process worked, because I don't have any of the
2 documents.
3 MS. BALDWIN: Object to the form.
4 Q (BY MR. PINKER) The first item is early
5 intervention. Do you see that?
6 A Yes.
7 Q \$5 million is listed there. Do you see
8 that?
9 A Yes.
10 Q Is that a number that you provided to
11 Dr. Ruhm?
12 A Not entirely. So the -- the calculations
13 were done by Dr. Ruhm or, for example, he took data
14 from our agency about how much an early intervention
15 service would cost per person and then calculated
16 that as a total annual cost.
17 Q So how -- what documents did you provide
18 to him which you claim let him calculate an early
19 intervention cost of \$5 million?
20 A So we provided him with these different
21 levels of intensity of treatment services and the
22 number of persons and/or slots for each of these
23 services that would be required to abate the
24 problem.
25 Q That doesn't answer my question.

Page 89

1 A Can you repeat your question?
2 MS. BALDWIN: Object to the form.
3 Q (BY MR. PINKER) What documentation did you
4 provide to him that enabled him to calculate a
5 \$5 million amount for early intervention?
6 A So what we provided him was our estimation
7 of the number of people who would require these
8 services multiplied by the cost of those services to
9 our agency.
10 Q What document did you provide him that
11 estimated the cost per person?
12 A The cost per person is based off of our
13 cost per services, per person, for the same types of
14 services at the Department of Mental Health and
15 Substance Abuse Services.
16 Q What document did you provide him that
17 gave him the estimated cost per person?
18 MS. BALDWIN: Object to the form.
19 Repetitive.
20 THE WITNESS: I mean, I think I answered
21 that question. It's a document that has the rate of
22 pay for that service, times the number of people
23 estimated to need that service for this Abatement
24 Plan.
25 Q (BY MR. PINKER) What's that document

Page 90

1 called?

2 A I don't recall that it has a name.

3 Q Did you prepare it for this particular

4 Abatement Plan exercise?

5 A Staff within the Department of Mental

6 Health and Substance Abuse Services provided him

7 with that document.

8 Q Okay. So this was not an existing or

9 historical document within your agency correct?

10 MS. BALDWIN: Object to the form.

11 THE WITNESS: The information contained

12 within the document represents the rates that are

13 paid for these services, so those were not new or

14 original for this Abatement Plan, but the rationale

15 of this particular service is related to the persons

16 in Oklahoma who require these services for opioid

17 use disorder treatment and so those costs that

18 already exist for the Department of Mental Health

19 and Substance Abuse Services were applied to those

20 numbers of persons.

21 MR. PINKER: Move to strike,

22 nonresponsive.

23 Q (BY MR. PINKER) I'm not asking about

24 rationales. I'm trying to understand where the

25 numbers on this piece of paper came from and how I

Page 91

1 can investigate those numbers. Okay?

2 MS. BALDWIN: Object to the form.

3 Repetitive.

4 THE WITNESS: So, as I said --

5 Q (BY MR. PINKER) So let me ask the question.

6 I'm trying to frame for you what I'm trying to

7 understand.

8 MS. BALDWIN: Let her finish because you

9 just interrupted her.

10 Q (BY MR. PINKER) No, we need to understand

11 one another. And I'll let you -- I'll let you say

12 what you want, it's not responsive but I'll let you

13 say. I'm trying to understand numbers, not

14 rationales, not what the services are right now,

15 simply where these numbers are coming from.

16 So you can say what you want now, it's not

17 going to be responsive, but go ahead and say what

18 you want.

19 MS. BALDWIN: I object to commentary by

20 counsel.

21 Did you have -- were you in the middle of

22 saying something, Ms. Hawkins?

23 THE WITNESS: You're asking me where these

24 numbers come from. The numbers are rates that are

25 paid for by the Department of Mental Health and

Page 92

1 Substance Abuse Services for these services.

2 Q (BY MR. PINKER) So you currently provide

3 early intervention services?

4 A Yes.

5 Q And what document shows me what the cost

6 of those current services are?

7 A The document that was provided to Dr. Ruhm

8 has those costed out by the number of persons

9 estimated by professionals in our agency who require

10 these services.

11 Q What document shows me what the cost of

12 those services currently are?

13 MS. BALDWIN: Object to the form.

14 THE WITNESS: The Department of Mental

15 Health and Substance Abuse Services, as other

16 agencies, have costs, they've line itemed costs out

17 their services.

18 Q (BY MR. PINKER) I'm asking what you

19 document?

20 A I'm not sure I'm understanding.

21 Q Is it your -- is it your operating budget?

22 It your --

23 A Our operating budget --

24 Q Is there a proposal, is there a grant?

25 MS. BALDWIN: Just wait until he's

Page 93

1 finished.

2 THE WITNESS: I'm sorry, go ahead.

3 Q (BY MR. PINKER) What document am I going to

4 find that has your per person cost for early

5 intervention on it?

6 A What document are you going to find? I am

7 not -- I am not certain if there is a document that

8 shows every single rate that was provided here. I

9 don't know.

10 Q I'm not asking about every single one

11 right now, I'm asking about early intervention. You

12 said that this number, \$5 million, represents a

13 number of people multiplied by a per person rate?

14 A That's right.

15 Q Correct?

16 Where will I find that per person rate, if

17 anywhere?

18 A Those per person rates are established so

19 the rates that we pay on any given day for these

20 services. I don't know if they exist, as I sit here

21 today, as some sort of comprehensive document that I

22 can point you to a certain page on our website that

23 you're going to see all of those rates.

24 Q Can you point me anywhere for a document

25 that has this per person rate that was used to

Page 94

1 calculate \$5 million?
2 A Everything that was provided for Dr. Ruhm
3 to estimate this is here in this report.
4 Q When you say here, are you saying in that
5 report?
6 A Well, yes, the information that was
7 provided to Dr. Ruhm is what he took and synthesized
8 and created these totals.
9 Q Right. But the information he used
10 obviously isn't here, correct?
11 MS. BALDWIN: Object to the form.
12 THE WITNESS: Are you asking me -- I'm
13 sorry, I don't want to --
14 Q (BY MR. PINKER) The information he used to
15 calculate the \$5 million number, obviously, is not
16 here in this report, correct?
17 A Do you want to know --
18 MS. BALDWIN: Object to the form.
19 THE WITNESS: Are you interested in
20 knowing how many people are estimated to need these
21 services, is that what you're asking for?
22 Q (BY MR. PINKER) I'm going to get there.
23 Not right now.
24 A Okay.
25 Q What I'm asking you is where do I look to

Page 95

1 see the per person cost estimate? It's a really
2 basic question.
3 A Yeah, I --
4 MS. BALDWIN: Object to the commentary.
5 THE WITNESS: I do not have the per person
6 cost estimate here today.
7 Q (BY MR. PINKER) Do you know what it is?
8 A No.
9 Q Do you know how it's changed over the past
10 five years?
11 A No.
12 Q Do you know who calculates it?
13 A Well, our agency utilizes -- utilizes
14 established rates for these types of services.
15 Q I need the name of a person who calculates
16 it, if you know it.
17 MS. BALDWIN: Object to the form.
18 THE WITNESS: Who calculates it?
19 Q (BY MR. PINKER) Who calculates the rates,
20 is it a financial person, an accountant, the
21 bookkeeper?
22 A So many of these rates are established
23 through rules, through -- whether it be, you know,
24 federal Medicaid payments or other sort of rates
25 that are produced for state appropriated funds that

Page 96

1 are used for treatment services, so the -- there
2 were likely several people involved in compiling
3 information that got submitted to Dr. Ruhm.
4 Q Do you know who they are?
5 A Our director of treatment services.
6 Q Who's that?
7 A Carrie Slatton-Hodges.
8 Q Anyone else?
9 A I don't know.
10 Q Is there a fixed rate that is set by
11 statute, rule or regulation for early intervention
12 per person cost?
13 A I don't know the answer to that.
14 Q How many people are purportedly served by
15 this \$5 million early intervention figure?
16 A So the number of persons that fit into
17 each one of these categories in total was
18 extrapolated from the number of people who received
19 opioid use disorder treatment services in the state
20 last year.
21 Q 2017 or '18?
22 A 2017.
23 Q Okay.
24 A Excuse me, you're right, thank you.
25 Which -- and an additional percentage was

Page 97

1 applied to that to include family based services for
2 those persons, so it's approximately 30,000, 35,000
3 persons.
4 Q Okay. So you've told me the process, but
5 the number of people that are being served by this
6 early intervention \$5 million number is 30 to
7 35,000?
8 A I'm sorry, I misunderstood you. No, the
9 total of these cat- -- the total number of slots for
10 all of these categories, not for early intervention
11 alone.
12 Q So my question is how many are being
13 served through this early intervention line item?
14 A I do not have that.
15 Q Do you have the number being served for
16 any of these items; outpatient services, ambulatory
17 intensive, outpatient partial hospitalization,
18 resident care, medically managed detoxification and
19 medication?
20 A I have the total.
21 Q I do too.
22 A I don't for each category.
23 Q Do you -- so there's 30 to 35,000 people
24 spread out in some manner amongst these eight line
25 items?

Page 110

1 The cost appears to be the product of
2 number of people multiplied by cost, is that your
3 understanding?
4 MS. BALDWIN: Object to the form.
5 THE WITNESS: That is my understanding.
6 Q (BY MR. PINKER) Do you know the number of
7 people for any of these seven line items?
8 MS. BALDWIN: Object to the form.
9 THE WITNESS: No, I've already said that
10 today I don't have the individual numbers for each
11 line.
12 Q (BY MR. PINKER) Do you have the costs for
13 any of these seven line items?
14 MS. BALDWIN: Object to the form.
15 THE WITNESS: I don't have that here.
16 Q (BY MR. PINKER) Do you -- can you identify
17 for me the specific document that the Oklahoma
18 Department of Mental Health and Substance Abuse
19 Services provided to Dr. Ruhm that contained those
20 per person cost numbers?
21 A Can I identify it by name?
22 Q Yes.
23 A I think I already said I don't -- I don't
24 know that it has a name.
25 Q Is it a document that you have available

Page 111

1 to you at your office?
2 A It was -- the information was communicated
3 by our director of treatment, so -- and compiled for
4 this purpose, for Dr. Ruhm.
5 Q And it was compiled by your director of
6 treatment and then provided to him by you, correct?
7 MS. BALDWIN: Object to the form.
8 THE WITNESS: If I were to recall
9 correctly, they had a direct conversation.
10 Q (BY MR. PINKER) Okay. But --
11 A They had direct communication.
12 Q Not -- I'm intending to ask you about
13 conversations, I'm asking you about --
14 A Okay.
15 Q -- the document that has this cost
16 information.
17 A I don't know how they translated that
18 document.
19 Q Did you provide it or did some other
20 person provide it?
21 A Some other person provided it.
22 Q And that other person, you believe, is the
23 director of treatment?
24 A Yes.
25 Q Do you have, in your office, a copy of the

Page 112

1 document that contains the cost information that the
2 director of treatment provided to Dr. Ruhm?
3 A Maybe, I'm not sure.
4 Q Do you know whether that document has been
5 provided to the State's lawyers in this case?
6 A I don't know.
7 Q Did you personally provide it to any of
8 the State's lawyers in this case?
9 MS. BALDWIN: Object to the form.
10 THE WITNESS: Not that I'm aware of. I
11 don't think so.
12 Q (BY MR. PINKER) Go back to -- keep that
13 page open, if you would, and go back to your report,
14 please.
15 Do you have Exhibit I in front of you, as
16 well?
17 A Yes.
18 Q All right. Last paragraph on the first
19 page says, "The individual costs of the services and
20 programs in the Abatement Plan were provided to the
21 State's expert, Christopher Ruhm."
22 Do you see that?
23 A Yes.
24 Q And so those costs were in some cases
25 provided by you and in some cases provided by other

Page 113

1 persons?
2 A Yes.
3 Q Do you know what costs you personally
4 provided to him?
5 A Yes.
6 Q Can you list -- and I'm not looking for an
7 explanation, I'm just looking for a listing of what
8 costs you provided for him right now.
9 MS. BALDWIN: Object to the form.
10 THE WITNESS: I believe the costs that I
11 provided to him included T3, which is addiction and
12 mental health helpline. A component of T8,
13 universal screening, but not in its entirety.
14 Q (BY MR. PINKER) All right. And I'm going
15 to go to each one of these after you give me the
16 list.
17 A T12, K12 supplementary prevention, at
18 least in part. M7, behavioral help workforce
19 development, in part. N2 prenatal screening, in
20 part. D1, opioid overdose review board. D3,
21 program management monitoring evaluation, in part.
22 D6 data collection, in part. So those are the ones
23 where I was directly involved in determining cost.
24 Q Okay. That's very helpful. Thank you.
25 I'm going to go through those that you

Page 122

1 for both the Do No Harm and the Healthy Hearts
 2 programs?
 3 A Well, those models were used to estimate
 4 this cost.
 5 Q I understand.
 6 A So that team used those models to provide
 7 this cost to us.
 8 Q So you're not testifying that the per site
 9 cost for Do Not Harm primary practice dissemination
 10 is 25,000?
 11 MS. BALDWIN: Object to the form.
 12 THE WITNESS: I'm testifying that the
 13 organization that implements those similar programs
 14 were asked to help provide the cost information and
 15 they did so using those two models to determine what
 16 the costs would be for this program.
 17 Q (BY MR. PINKER) I understand that.
 18 A Uh-huh.
 19 Q And my question is, do you know, though,
 20 how much the per site cost is for the Do No Harm
 21 program?
 22 MS. BALDWIN: Object to the form.
 23 Repetitive.
 24 THE WITNESS: The costs for the Do No Harm
 25 program are similar to this.

Page 123

1 Q (BY MR. PINKER) Do you know what they are?
 2 A I don't have that information with me
 3 today.
 4 Q Do you know what they are for the Healthy
 5 Hearts program?
 6 MS. BALDWIN: Object to the form.
 7 THE WITNESS: I don't have that
 8 information today.
 9 Q (BY MR. PINKER) Did the same person provide
 10 you with the -- well, I guess they provided you one
 11 number, the 25,000?
 12 MS. BALDWIN: Object to the form.
 13 THE WITNESS: For the first year.
 14 Q (BY MR. PINKER) Okay. And then it scales
 15 down in years --
 16 A Yes.
 17 Q -- two through five to 6250?
 18 A Yes.
 19 Q And then it goes back up to 25,000 in year
 20 six and it repeats the practice?
 21 A Yes, as the practices reenroll.
 22 Q How did they provide you with the data of
 23 25,000 and 6250?
 24 A I don't recall.
 25 Q I mean is there a document they gave you?

Page 124

1 A I don't recall how that came to me,
 2 either --
 3 Q Did they just --
 4 A -- phone call for e-mail, I don't know.
 5 Q Did you keep all of the e-mails that you
 6 assembled with cost information and suggested
 7 programs, service and intervention ideas?
 8 MS. BALDWIN: Object to the form.
 9 THE WITNESS: Did I keep all the e-mails?
 10 Q (BY MR. PINKER) Yeah, are they in your
 11 system?
 12 A I don't know that.
 13 Q Did you --
 14 A I don't know.
 15 Q Did you provide all of the information
 16 that you had assembled during this exercise to the
 17 State's lawyers in this case?
 18 MS. BALDWIN: Object to the form.
 19 THE WITNESS: Did I provide it to them?
 20 Q (BY MR. PINKER) Yes.
 21 A I provided it to Dr. Ruhm.
 22 Q Okay. Did you provide it to the State's
 23 attorneys?
 24 MS. BALDWIN: Object to the form.
 25 Repetitive.

Page 125

1 THE WITNESS: On this item? I don't know.
 2 Q (BY MR. PINKER) Well, what I'm asking you
 3 is, you assembled a lot of information?
 4 A Yes.
 5 Q In terms of both recommendations for
 6 programs?
 7 A Yes.
 8 Q And cost information?
 9 A Yes.
 10 Q Some of that you got orally?
 11 A Uh-huh.
 12 Q Some of it you got in writing through
 13 e-mails or other documents?
 14 A Yes.
 15 Q Did you provide to the State's lawyers all
 16 of the information that you had collected in
 17 writing?
 18 MS. BALDWIN: Object to the form.
 19 THE WITNESS: And my -- my answer is I
 20 don't know if all the of the information was
 21 provided to the attorneys.
 22 Q (BY MR. PINKER) All right. Have you told
 23 me -- you've told me how you got the \$25,000 and the
 24 \$6,250 numbers --
 25 A Yes.

Page 142

1 MS. BALDWIN: Object to form.
2 THE WITNESS: Overseen?
3 Q (BY MR. PINKER) Yeah.
4 A No.
5 Q What is the largest single grant that you
6 have ever designed, largest dollar amount of any
7 grant you've ever designed?
8 MS. BALDWIN: Object to form.
9 THE WITNESS: I didn't bring the costs
10 with me today, but in the course of my time as
11 director of prevention services, the single largest
12 would be about, let's see how many years, 10,
13 probably \$30 million over 10 years, which is the
14 block grant.
15 Q (BY MR. PINKER) The largest single grant is
16 the block grant for about \$30 million over a 10-year
17 period?
18 A In my capacity as a director of
19 prevention.
20 MS. BALDWIN: Counsel, can we take a
21 break?
22 MR. PINKER: Yeah, let's go off the
23 record.
24 THE VIDEOGRAPHER: Off the record at
25 12:19 p.m.

Page 143

1 (Break taken from 12:19 p.m. to 12:32
2 p.m.)
3 THE VIDEOGRAPHER: Back on the record at
4 12:32 p.m.
5 Q (BY MR. PINKER) Ms. Hawkins, we spent the
6 last few minutes going through the cost data that
7 you provided to Dr. Ruhm, correct?
8 A Yes.
9 Q And you've now identified for me all of
10 the cost data that you've provided to him?
11 A I--
12 MS. BALDWIN: Object to the form.
13 THE WITNESS: I believe so. The costs
14 that I was involved in originating, you know in some
15 cases, somebody may have sent me costs that I then
16 forwarded on or something.
17 Q (BY MR. PINKER) That's exactly where I was
18 going to go next.
19 A Okay.
20 Q So at least we've talked about the cost
21 data that you were in any manner responsible for
22 creating, we've talked about that, right?
23 A Yes, I believe so.
24 Q Is there some cost data which you
25 assembled from other parties and then provided to

Page 144

1 Dr. Ruhm?
2 A Yes, there could be, although I don't know
3 that I would be able to identify each individual
4 occasion.
5 Q Okay. When you got cost data from another
6 person or agency and provided it to him, did you do
7 anything to independently evaluate or validate that
8 data?
9 A The only example of that would be where I
10 had staff on my own team put together costing
11 information where I was a direct reviewer in looking
12 and giving feedback about, you know, how was that
13 done, are you certain that's, you know, the correct
14 number, we go back and forth and discuss about that,
15 so on my own team of staff.
16 Q And I assume that any time where you would
17 have done that would have been the examples that
18 we've already discussed where you provided the data
19 yourself?
20 A Not --
21 MS. BALDWIN: Object to the form.
22 THE WITNESS: Not necessarily.
23 Q (BY MR. PINKER) Okay.
24 A Dr. Ruhm had direct communication with
25 other agencies and with other staff at our agency.

Page 145

1 Q Okay. So what I'm trying to understand
2 then is you've identified for me the cost data that
3 you were in some way involved in generating, I'm
4 moving now beyond that to the cost data that you
5 collected and forwarded to him?
6 A Right.
7 Q And you've explained to me that you, as
8 you sit here now, don't know whether you could
9 identify all of those pieces of cost data, fair?
10 MS. BALDWIN: Object to the form.
11 Mischaracterizes testimony.
12 THE WITNESS: Yes, I said I -- I don't
13 know that I would be able to identify individually
14 under which -- which one of these I would have sent
15 or...
16 Q (BY MR. PINKER) What I'm trying to
17 understand is, for any of the cost data that you
18 provided, do you recall independently evaluating and
19 validating that cost data?
20 A So in my role with the plan, I absolutely
21 was involved in reviewing what was provided as was
22 Commissioner White, and in that review role, you
23 know, asking clarifying questions in any case where,
24 you know, we didn't understand what was being
25 provided or it hadn't been, you know, summarized,

Page 146

1 you know, in a way that could be understood, you
2 know, things like that.

3 Q So let's -- let's go and take one for
4 example, we've talked about T1, let's go to T2.

5 A Okay.

6 Q You did not provide any of the cost data
7 for T2, right?

8 MS. BALDWIN: Object to the form.

9 THE WITNESS: I did not provide the cost
10 data.

11 Q (BY MR. PINKER) Do you know who did?

12 A I don't know everyone that was involved in
13 putting that together, no, but the first -- the
14 first half services came from the Department of
15 Mental Health and substance abuse services, and then
16 for personnel with -- that came from the Office of
17 Juvenile Affairs.

18 Q Do you know what cost data was provided in
19 connection with the first half of the services?

20 A So that was provided by our director of
21 treatment services in the very similar methodology
22 as was T1.

23 Q Okay. So that -- okay. I assume these
24 numbers, halfway house 18 and a quarter million
25 dollars is -- well, tell me, what numbers are in

Page 147

1 there that add up to or multiply to get to
2 \$18 million and change?

3 A So I don't have the specific multipliers
4 but similar to T1, as we discussed, these services
5 are also determined with the exception of the one
6 time building, so I'm going to exclude that from my
7 response here, but halfway house, recovery housing,
8 housing first and IPS are services that somebody
9 would, for lack of a better term, qualify for or
10 meet the criteria for during the assessment process
11 of their condition. And so certain slots were
12 estimated for what would be needed for each one of
13 those.

14 Q Do you know the number of people
15 purportedly being served with halfway house services
16 for this \$18 million and change?

17 A I don't have the multiplier.

18 Q Do you know the per person cost? Yeah,
19 the --

20 A Yeah.

21 Q The other half of the equation?

22 A I don't have that, no.

23 Q Do you have that for any of these four
24 items?

25 A That was provided by our director of

Page 148

1 treatment services.

2 Q Okay. So do you have it for any of these
3 four items?

4 A The per item cost?

5 Q Yes.

6 A I saw it, yes.

7 Q So you've seen the document pursuant to
8 which it was provided?

9 A Yes.

10 Q You don't remember the specific numbers
11 now?

12 A I do not.

13 Q Do you know whether that document was
14 provided to the State's lawyers in this case?

15 A I don't know. I don't know. It was
16 provided to Dr. Ruhm.

17 Am I saying his name right?

18 Q I believe -- we're both saying it the same
19 way --

20 MS. BALDWIN: That is correct.

21 Q (BY MR. PINKER) -- so we're either both
22 guilty or innocent?

23 A Thank you.

24 MS. BALDWIN: I can confirm that that's
25 correct.

Page 149

1 MR. PINKER: Thank you.

2 Q (BY MR. PINKER) How about the personnel
3 costs?

4 A The personnel costs and the recommendation
5 for this came from the Office of Juvenile Affairs.

6 Q Who's in charge of that?

7 A Who's in charge of the agency?

8 Q Yeah.

9 A Steven Buck.

10 Q Is that within your organization or is
11 that a parallel organization?

12 A That is a different state agency.

13 Q Let's go to T4, you did not provide any of
14 this cost data?

15 A I did not.

16 Q Who did?

17 A This was provided by the Oklahoma Bureau
18 of Narcotics and Dangerous Drugs Control Agency.

19 Q Do you know who?

20 A I believe it was Craig Williams.

21 Q Did you do anything to validate or check
22 those numbers?

23 A I reviewed these numbers and I asked
24 clarifying questions on them, so with respect to
25 checking, yes, I was a reviewer.

Page 150

1 Q And what did you review when you reviewed
2 these numbers?
3 A Uh-huh. So, as I mentioned before, you
4 know, looking for clarity, asking questions about
5 rationale, so your recommendation is for 177 boxes,
6 you know, how did you arrive at that, you know,
7 those sort of things.
8 Q Is your --
9 A What is a consumable.
10 Q Is your review of these numbers documented
11 anywhere?
12 A What do you mean, like --
13 Q Did you produce any written materials that
14 either documented or memorialized or evidenced your
15 review of these numbers that were provided by other
16 parties?
17 A So I don't think there was any, like,
18 contemporaneous, like, minute taking, you know,
19 during these calls or meetings.
20 Q I don't want to limit it as narrowly as
21 you just did.
22 A Okay.
23 Q With contemporaneous and other things.
24 You have now said, I think twice, that you
25 did review all of these numbers in connection with

Page 151

1 your role of -- in compiling information?
2 A Yes.
3 Q And my question is, during your review,
4 did you generate any documentation whatsoever to
5 memorialize that review, to evidence your review, to
6 document what you were doing?
7 MS. BALDWIN: Object to the form.
8 THE WITNESS: So in the course of
9 reviewing for -- you know, example, you know,
10 looking at a listing of services and descriptions
11 and costs are provided, you know, maybe note taking
12 or something like that on the side to get -- when
13 I'm getting information from people.
14 In some cases people provided, you know,
15 written rationale from their agency, like I said,
16 this took various forms during this process of
17 compiling information.
18 Q (BY MR. PINKER) And I understand that
19 people provided you with various things and I'm
20 really not asking you about that right now.
21 A Okay.
22 Q I'm asking whether you created
23 documentation in connection with what you've now
24 described as a review of this material?
25 A I mean, I wouldn't --

Page 152

1 MS. BALDWIN: Object to the form.
2 THE WITNESS: I wouldn't classify it that
3 way, I wasn't creating documentation on each -- each
4 piece, each conversation.
5 Q (BY MR. PINKER) I mean, did you -- for
6 example, on T4, the disposal boxes, did you do
7 anything to investigate what the actual cost of
8 those boxes are or did you rely on the Oklahoma
9 Bureau of Narcotics and Dangerous Drug Controls?
10 A Well, yes, I relied on the professionals
11 there who purchased these services and who provided
12 their justification of their need and their cost.
13 Q And that's what I've been trying to get
14 to. When other people provided you with cost data?
15 A Yes.
16 Q Did you attempt to investigate or audit
17 that material or did you rely on those agencies when
18 they told you what the cost was?
19 MS. BALDWIN: Object to the form.
20 Repetitive.
21 THE WITNESS: So we made contact with
22 these agencies for the persons who are responsible
23 for overseeing either these programs or like
24 programs or who are professionals in their field and
25 use other models and research in order to provide

Page 153

1 this, I'll get to one in particular that's a really
2 good example here in a second. But, yes, I relied
3 upon the professionals in these agencies to provide
4 this information. Now, as State agencies, if this
5 is a service that they're currently purchasing,
6 that's public information. And, you know, there may
7 be any number of -- anyway, I'm sorry, I can tell
8 you think I'm not answering your question.
9 Q (BY MR. PINKER) I do but I'm not going to
10 interrupt you, so finish your answer and then we'll
11 move on.
12 A I'm finished.
13 Q All right. What I'm trying to understand
14 is whether you accepted the numbers that were given
15 to you by these other agencies, and it sounds like
16 you did and you didn't try to recalculate the
17 numbers?
18 MS. BALDWIN: I object to form.
19 Q (BY MR. PINKER) You know, that's actually a
20 good objection so let me rephrase it.
21 Did you accept the cost data provided to
22 you by the various State agencies that provided
23 data?
24 A So there are some cases in which
25 information was provided that was not clear, or that

Page 154

1 was revised at some point; an agency submitted a
2 piece of cost data and then maybe revised that
3 information at one point, and so in the process of
4 getting information from these professionals and
5 these agencies, reviewing them, asking clarifying
6 questions, asking for information about these
7 models, helping, you know, for whatever form or
8 fashion, having a review of this material; yeah, I
9 mean, that was the process.
10 MR. PINKER: Move to strike.
11 Nonresponsive.
12 Q (BY MR. PINKER) Did you modify any of the
13 numbers, cost numbers provided to you by other State
14 agencies?
15 MS. BALDWIN: Object to the form.
16 THE WITNESS: I can't think of situations
17 where I modified what was provided to me unless,
18 through the course of a review and a discussion with
19 them, that a modification was required or was needed
20 or discovered.
21 Q (BY MR. PINKER) Did you double check the
22 math of any of these agencies that were providing
23 numbers to you?
24 A So generally speaking, the -- the process
25 was to provide the unit costs and the multipliers

Page 155

1 based on these recommendations to Dr. Ruhm for
2 calculations.
3 Q Okay. And did you do anything to
4 investigate or verify the unit costs?
5 MS. BALDWIN: Object to the form.
6 Repetitive.
7 THE WITNESS: Our review process was
8 designed to investigate and review unit costs that
9 were provided to us.
10 Q (BY MR. PINKER) Did you personally do
11 anything to review unit costs?
12 MS. BALDWIN: Object to the form.
13 Repetitive.
14 THE WITNESS: Yes.
15 Q (BY MR. PINKER) What?
16 A Had meetings with Commissioner White and
17 with these agencies and discussed what was provided.
18 Q And during that review process, did you
19 modify any of the unit costs provided to you by
20 others?
21 MS. BALDWIN: Object to the form.
22 Repetitive.
23 THE WITNESS: I -- I already answered that
24 question and what I said was -- is I don't recall
25 any individual item where I, you know, made

Page 156

1 modifications to items.
2 Q (BY MR. PINKER) So I'm going to -- you'll
3 probably need Exhibit 3 still, but I'm going to go
4 back to your report, Exhibit 1.
5 A Okay.
6 Q The second to last paragraph, last
7 sentence states, Ms. Hawkins will opine that the
8 programs and services in the Abatement Plan are
9 necessary to abate the opioid crisis in the state of
10 Oklahoma.
11 Do you see where I've read?
12 A Yes.
13 Q I presume that is a reference to the
14 services that are listed in a summary fashion on
15 page 8 of Dr. Ruhm's report?
16 MS. BALDWIN: Object to form.
17 THE WITNESS: Yes, this is a listing of
18 the service types.
19 Q (BY MR. PINKER) How did you determine that
20 each one of those programs and services was
21 necessary?
22 A So the way that we determined that they
23 were necessary is through several different methods,
24 one that I described is relying on recommendations
25 of professionals from other agencies that provided

Page 157

1 recommendations to us about what was needed to abate
2 this crisis. Another is through sourcing outside
3 material like federal plans, best practice guidance
4 documents, academic literature, reviewing other
5 models in other states that have shown some form of
6 effectiveness in order to determine if something
7 should be included in the plan.
8 Q Anything else?
9 A Those are the two main methods.
10 Q Did you, during that process, eliminate
11 any suggestion made to you by any party?
12 A I told you earlier about the -- the items
13 sent by the state health department that was not
14 included, I would not classify that as elimination.
15 Q I wouldn't either.
16 A Okay. I don't believe I eliminated any
17 items.
18 Q Every item suggested to you by any agency
19 of the State was included in this Abatement Plan,
20 correct?
21 MS. BALDWIN: Object to the form.
22 THE WITNESS: Through the process of
23 talking with these agencies, there are situations in
24 which through those conversations, line of
25 questioning, thinking about the structure of a

Page 166

1 THE WITNESS: So I'm not -- you know,
2 that's not my testimony for today.
3 Q (BY MR. PINKER) Okay. My question stands,
4 will you answer it?
5 MS. BALDWIN: Object to the form.
6 Repetitive.
7 THE WITNESS: So --
8 MS. BALDWIN: Outside the scope.
9 THE WITNESS: My -- my answer is the same,
10 that, you know, I am here expected to testify about
11 these items.
12 Q (BY MR. PINKER) So you're not going to list
13 for me any of the grant applications that you either
14 have received or have pending at the moment that
15 relate to these programs listed on page 8?
16 MS. BALDWIN: Objection. And same
17 objection. Mischaracterizes testimony.
18 THE WITNESS: What I said was that I'm
19 expected to testify on these things.
20 Q (BY MR. PINKER) Well, you --
21 A Not the question that you're asking.
22 Q You and I have a different understanding
23 of what you are testifying about and so all I can do
24 is ask you the questions and if you're not going to
25 answer them, then I can't make you answer them, at

Page 167

1 least right now.
2 MS. BALDWIN: Move to strike counsel's
3 comments.
4 Q (BY MR. PINKER) My question is, with regard
5 to the programs listed on page 8 of Dr. Ruhm's
6 report, are there any for which you have prepared a
7 current grant application?
8 MS. BALDWIN: Objection.
9 Q (BY MR. PINKER) To any state or federal
10 agency?
11 MS. BALDWIN: Sorry. Are you finished?
12 Objection. Outside the scope.
13 THE WITNESS: So my question is -- I mean
14 my answer is the same, I'm -- I'm not going to
15 testify to that -- to that fact.
16 Q (BY MR. PINKER) Okay. And my next question
17 is similar but not -- modestly different.
18 With regard to the programs listed on page
19 8 of Dr. Ruhm's report, are there any for which the
20 State currently has been awarded a grant?
21 MS. BALDWIN: I'm going to object.
22 Outside the scope of Ms. Hawkins testimony. And I'm
23 also going to state for the record that Ms. Hawkins
24 testified in the capacity of a corporate
25 representative on the private and federal grants

Page 168

1 that the State has applied for and/or received
2 related to the use of opioids. She has already
3 testified to that on behalf of the State. Again,
4 outside the scope.
5 THE WITNESS: Yeah, I have already
6 testified to that.
7 Q (BY MR. PINKER) It's not an answer to my
8 question.
9 Can you identify for me or will you
10 identify for me any of these programs listed on page
11 8 of the report for which the State has a current
12 grant that's been awarded?
13 MS. BALDWIN: Objection. Outside the
14 scope of Ms. Hawkins' expert testimony.
15 THE WITNESS: I don't have that
16 information with me today.
17 Q (BY MR. PINKER) If you claim that each and
18 every one of these programs is necessary, why isn't
19 the State making application every day for a grant
20 for these programs?
21 MS. BALDWIN: Objection. Outside the
22 scope.
23 THE WITNESS: So I'm not here, my
24 understanding, representing the State and the
25 decisions that state government makes about grant

Page 169

1 writing. I can tell you in my professional
2 capacity, I think you're overstating the -- the
3 grants that would be available for all of these
4 types of services. And yes, a core function of my
5 job professionally is to seek funding for best
6 practices to intervene on this problem and we do
7 that consistently.
8 Q (BY MR. PINKER) As director of prevention,
9 what portion of your job is spent applying for
10 grants?
11 MS. BALDWIN: Objection. Outside the
12 scope.
13 THE WITNESS: I don't know what percent
14 over the course of the year is spent on that task
15 exactly.
16 Q (BY MR. PINKER) Is it a significant --
17 A But we --
18 Q -- part of the your job?
19 A I am continuously looking for funding
20 opportunities, partnerships and identifying methods
21 to implement best practices, yes.
22 Q If all of these are necessary, why have
23 you not lobbied the legislature for the state of
24 Oklahoma to do this?
25 MS. BALDWIN: Objection. Outside the

Page 198

1 One really good example is that within this plan
2 there's -- there is a comprehensive approach to data
3 and surveillance reporting and research, and part of
4 that is because there has to be a monitoring
5 evaluation plan set up around implementation of
6 these interventions.
7 Q Are you, in your profession, experienced
8 in preparing evaluation measurement plans?
9 A I am part of producing evaluation plans,
10 but I am not an evaluator.
11 Q Okay. And I'm honestly not asking this in
12 any sort of pejorative way, I'm just trying to
13 understand your background. Are you qualified to
14 prepare an evaluation measurement plan?
15 MS. BALDWIN: Object to the form.
16 THE WITNESS: It is not my typical role
17 that I would do that independently, but absolutely,
18 as part of a team, that I would be part of
19 developing a program evaluation.
20 Q (BY MR. PINKER) And have you done that
21 during the course of your career as a senior
22 director or director within this agency?
23 A Been part of a team to do that?
24 Q Yes.
25 A Yes, I have.

Page 199

1 Q Have you done it on more than one
2 occasion?
3 A Yes.
4 Q Is that something which is often done in
5 connection with grant applications?
6 A In the application process, typically we
7 are required to outline what I'll call a skeleton of
8 expected measures. Oftentimes with grant
9 applications the funder has measures that they
10 expect or will require you to collect; independent
11 of what you choose to collect, they have measures
12 you're going to collect. In the application stage,
13 typically a full comprehensive program evaluation
14 plan is not developed in the application stage, it's
15 time consuming, you have to develop a certain level
16 of expertise and have the right team together in
17 order to do it. Applications typically don't
18 require that that be completed totally during the
19 application phase.
20 Q When would you typically prepare an
21 evaluation measurement plan during the course of
22 your work duties?
23 A Prior to implementation.
24 Q So after you receive a grant but before
25 you actually spend the dollars that are earmarked by

Page 200

1 the grant?
2 A Yes.
3 Q And that evaluation measurement plan would
4 set forth objective indicia of what you're trying to
5 achieve, is that the way I understand it?
6 A Yes, part of -- yes.
7 Q In other words you have to know --
8 A Generally.
9 Q You have to know what you're trying to
10 accomplish and then you measure whether or not
11 you've accomplished it?
12 A You're right, yes.
13 Q And that's something that you would do in
14 connection with your work duties in seeking and then
15 implementing federal and state grants?
16 A Yes. As I described in seeking the funds,
17 you're often not completing a comprehensive
18 evaluation plan, you're looking at required measures
19 and thinking about how you will measure those
20 things. After award is when you're -- and before
21 implementation is when you're putting together a
22 comprehensive evaluation plan.
23 Q And the things you would be measuring are
24 things like a reduction in hospitalization or
25 reduction in severity of hospitalization, things of

Page 201

1 that type?
2 A It really depends on the purpose of the
3 grant program and the intervention.
4 Q But it's something objective that can be
5 measured typically, right?
6 A Yes, that's ideal.
7 Q That's the point?
8 A It's ideal, yes.
9 Q And another way you do that is to define
10 expected measures, did I hear that expression
11 correctly?
12 A Excepted outcomes and those typically come
13 from the evidence that follows the research. So for
14 example, you know, any number of these things that
15 have research behind them; we talked about one
16 today, SBIRT, 150 randomized control trials, they
17 give the implementer some sort of idea about what
18 sort of outcomes they might expect from implementing
19 a service like that and then the implementer is able
20 to put together a plan for measuring those things
21 and in some cases you're able to measure everything
22 and some cases you are not, but yes.
23 Q Do you have an expected outcome or an
24 expected measure for this Abatement Plan taken as a
25 whole?

Page 202

1 MS. BALDWIN: Object to the form.
2 THE WITNESS: As part of putting together
3 this Abatement Plan and the recommendations, that
4 was not part of my process to identify a single
5 outcome measure for this.
6 Q (BY MR. PINKER) Or a series of outcomes or
7 measures?
8 A Well, I gave you some examples of the ones
9 that in my professional opinion I expect to see
10 changed.
11 Q And my question maybe was then not well
12 framed. Do you have -- have you formally prepared
13 some document which shows what the expected outcomes
14 or expected measures of this Abatement Plan might
15 be?
16 A We have not formally put together an
17 evaluation plan on the Abatement Plan; however, as
18 I've said in the review process, looking at each of
19 these interventions about their likelihood of
20 improving the outcomes around the opioid crisis of
21 which I've named some examples, yes, we've reviewed
22 for that as we've gone along.
23 Q But my question is: Have you formalized
24 in any written document expected outcomes or
25 expected measures?

Page 203

1 MS. BALDWIN: Object to the form.
2 Repetitive.
3 THE WITNESS: No, I would say this process
4 is not at this stage. As I've described with
5 federal grants, one of the things that is necessary
6 is to have the second part of this, which is the
7 implementation plan; how will these things be
8 implemented, among whom, very detailed. And so part
9 of that is important in developing a comprehensive
10 evaluation plan.
11 Q (BY MR. PINKER) Have you prepared an
12 initial draft of expected outcomes or expected
13 measures?
14 MS. BALDWIN: Object to the form.
15 Repetitive.
16 THE WITNESS: I think I've already
17 answered that. We certainly have an idea about the
18 expected outcomes from this plan but there is not a
19 formal evaluation plan in place.
20 Q (BY MR. PINKER) And the reason --
21 A Yet.
22 Q -- I'm asking again is because you
23 inserted a word "formal." And so I'm asking, is
24 there a document in existence, an initial draft of a
25 document, that memorializes the expected outcomes or

Page 204

1 measures of this Abatement Plan taken as a whole?
2 MS. BALDWIN: Object to the form.
3 Repetitive.
4 THE WITNESS: No, that's why I used the
5 word "formal," because you asked about documented
6 and so that's my interpretation of that.
7 Q (BY MR. PINKER) Okay. Is there one or more
8 documents that identify or list expected outcomes or
9 expected measures for any single line item of this
10 Abatement Plan?
11 MS. BALDWIN: Object to the form.
12 THE WITNESS: So to my knowledge, there's
13 not an original document that has done that for
14 every single item, but as I described, many of these
15 items have literature citations with them and/or,
16 you know, back sourced documents that justify their
17 selection and within those documents we can easily
18 identify the expected outcomes.
19 Q (BY MR. PINKER) Has the State, to your
20 knowledge, prepared an evaluation measurement plan
21 for the Abatement Plan taken as a whole?
22 MS. BALDWIN: Object to the form.
23 Repetitive.
24 THE WITNESS: My answer is the same, no,
25 there is not a formal evaluation plan yet for this

Page 205

1 **Abatement Plan.**
2 Q (BY MR. PINKER) And when you insert the
3 word "formal" in your answer --
4 A Yes.
5 Q -- you're just meaning to say that there's
6 nothing in writing?
7 A You're referencing, like, a documented
8 plan, which is what you asked about, and I said not
9 to my knowledge.
10 Q It could be on a paper napkin for all I
11 care. Is it written down somewhere?
12 MS. BALDWIN: Object to the form.
13 THE WITNESS: Not that I'm aware of.
14 Q (BY MR. PINKER) Okay.
15 A Other than the individual items I
16 described already.
17 Q Okay. And I just don't want to get caught
18 up in a misunderstanding --
19 A Okay.
20 Q -- by what you mean by the word "formal."
21 I'm just asking if there's a document that you can
22 point me to that has the stuff, and there isn't?
23 MS. BALDWIN: Object to the form.
24 THE WITNESS: There's a compilation of
25 documents which we've talked a lot about already

Page 206

1 that do outline expected outcomes for many of these
2 strategies. If I were to hand you right now the CDC
3 guidance document, for example, on drug overdose,
4 the literature review is there on many of these
5 items.
6 Q (BY MR. PINKER) Right. That's a CDC
7 document?
8 A Right.
9 Q And my question is, has the State --
10 A I'm not aware of that.
11 Q -- prepared any? Thank you.
12 Has -- and you're not aware of it either
13 for the plan as a whole or for any of the individual
14 line items contained in the plan, right?
15 MS. BALDWIN: Object to the form.
16 THE WITNESS: It's my same answer that I'm
17 not aware of a formal documented evaluation plan for
18 this yet.
19 Q (BY MR. PINKER) Now, one of the things you
20 said in the last few minutes is that there also is
21 not an implementation plan for any of these items,
22 did I hear that correctly?
23 A So my use of the word "implementation
24 plan" means that, certainly through the proposal of
25 some of these recommendations and these

Page 207

1 interventions there -- there is a vision around what
2 is needed, for whom and why, and I think that's
3 articulated here. What an implementation means --
4 plan means to me is, once you identify the resources
5 that are available, you can certainly start to make
6 plans about how many of these services you can
7 purchase, how many people can be served, what area
8 of the state, you can start to make prioritization
9 decisions.
10 Many of these interventions are
11 recommended to be statewide. You wouldn't
12 necessarily do an implementation plan at this phase,
13 not knowing if the resources will be there to do
14 such an intervention statewide.
15 Q Ma'am, my question to you is different.
16 Is there an implementation plan for any of
17 the line item proposals or programs in this
18 Abatement Plan?
19 MS. BALDWIN: Objection. Object to the
20 form. Repetitive.
21 THE WITNESS: So I just told you what my
22 definition of an implementation plan is, and I'm not
23 aware that there is a comprehensive implementation
24 plan on every single one of these items.
25 Q (BY MR. PINKER) Is there a comprehensive

Page 208

1 implementation plan on any of these items?
2 MS. BALDWIN: Object to the form.
3 THE WITNESS: In my professional opinion,
4 I don't know how you could do a comprehensive
5 implementation plan not knowing the level of
6 resources that would come for each of these.
7 Q (BY MR. PINKER) So then the answer --
8 A It's a --
9 Q Go ahead. I'm sorry.
10 A Yeah. It can be -- it is a very time
11 consuming process, it takes many staff people in
12 order to develop an implementation plan, and not
13 knowing some of the key factors around resources,
14 timing, any of those things, there are not
15 assumptions in here about, you know, when resources
16 might be attached to these things, if resources
17 would be attached to these things, how much.
18 Q So you've given me all of the reasons why
19 it doesn't exist, but I am entitled to and I need an
20 answer to my question, which is: Is there a
21 comprehensive implementation plan for any of these
22 programs listed on page 8 of the Abatement Plan?
23 MS. BALDWIN: Object to the form.
24 Repetitive. Argumentative. And harassing.
25 THE WITNESS: I think I've already

Page 209

1 answered that I'm not aware of a comprehensive
2 implementation plan for these items.
3 Q (BY MR. PINKER) Is there an initial draft
4 of any such plan for any of these programs?
5 MS. BALDWIN: Object to the form.
6 Repetitive.
7 THE WITNESS: I can't speak to whether
8 individual agencies or individuals who put forward
9 these ideas have started to draft implementation
10 plans.
11 Q (BY MR. PINKER) Fair enough. Are you
12 presently aware of an initial draft of any
13 implementation plan for these programs?
14 MS. BALDWIN: Object to the form.
15 THE WITNESS: I don't believe I've
16 received any formal implementation plans for these
17 items.
18 Q (BY MR. PINKER) And you certainly haven't
19 prepared any, correct?
20 MS. BALDWIN: Object to the form.
21 THE WITNESS: I would say, to the extent
22 that they're -- in making these recommendations at
23 all, there have been discussions about what is
24 needed, where it's needed, for whom it's needed, how
25 much would be needed, but your question to a

Page 210

1 documented implementation plan, I'm not aware of
2 that.
3 Q (BY MR. PINKER) And the documented
4 implementation plan would contain the details of how
5 this money would be spent, correct?
6 MS. BALDWIN: Object to the form.
7 THE WITNESS: I would say, in my
8 definition of an implementation plan, yes, a
9 considerable amount of detail.
10 Q (BY MR. PINKER) Is one of the --
11 A Which is -- may I add something please?
12 Which is why I would say in consideration of that,
13 that there was recognition that there would need to
14 be some sort of infrastructure around this plan,
15 meaning in the management, monitoring and evaluation
16 oversight of implementing this plan, if it were to,
17 you know, be something that the State were to
18 implement.
19 Q One attribute of success would be a
20 reduced number of adverse consequences from opioid
21 use, do you agree?
22 A Yes.
23 Q One consequence or one attribute of
24 success would be a reduced number of people who have
25 opioid use disorder, would you agree?

Page 211

1 A Yes.
2 Q One attribute of success would be reduced
3 imposition on the criminal justice system of persons
4 who suffer from opioids, would you agree?
5 MS. BALDWIN: Object to form.
6 THE WITNESS: Can you repeat the last one
7 for me?
8 Q (BY MR. PINKER) Yeah, one attribute of
9 success would be reduced imposition on the criminal
10 system of people with opioids?
11 MS. BALDWIN: Object to the form.
12 THE WITNESS: I don't know that I would
13 use that word "imposition" or agree to that term. I
14 think what you're getting at is a reduction in
15 justice involved people related to their opioid use,
16 and I would say yes to that.
17 Q (BY MR. PINKER) Your phrasing is fine.
18 A Okay.
19 Q Another attribute of success would be
20 reduced use of the medical system by persons with
21 opioid related crises, would you agree?
22 A Again, I don't know that I would phrase --
23 I definitely wouldn't phrase it that way. But I
24 would say one attribute would be reduce the burden
25 and healthcare costs, emergency room visits,

Page 212

1 hospitalization, I would agree with that.
2 Q So if your Abatement Plan is going to be
3 successful, wouldn't you expect the costs to
4 decrease over time?
5 MS. BALDWIN: Object to the form.
6 THE WITNESS: The costs of the
7 interventions to reduce over time?
8 Q (BY MR. PINKER) The costs of the program as
9 a whole.
10 MS. BALDWIN: Same objection.
11 THE WITNESS: It depends. Some
12 interventions cost what they cost and are enduring
13 activities for long periods of time. Some have an
14 anticipated reduction, yes.
15 Q (BY MR. PINKER) For example, you would
16 assume that if your program was successful, medical
17 costs relating to opioids would decrease over time,
18 right?
19 MS. BALDWIN: Object to the form.
20 THE WITNESS: I would say that, in my
21 capacity here today, I wasn't asked to necessarily
22 bring forward a return on investment type cost
23 analysis, but rather present costs for these
24 interventions to the State, which is a different
25 level of analysis.

Page 213

1 Q (BY MR. PINKER) That doesn't answer my
2 question.
3 My question is: You would assume that if
4 your program was successful, medical costs relating
5 to opioids would go down over time, wouldn't you?
6 MS. BALDWIN: Object to the form.
7 THE WITNESS: I don't want to speculate on
8 that because I haven't done preparations about cost
9 returns.
10 Q (BY MR. PINKER) You would assume that costs
11 relating to the justice system for opioids would go
12 down over time, if your program was successful,
13 wouldn't you?
14 MS. BALDWIN: Object to the form.
15 THE WITNESS: My answer is the same for
16 the last in that --
17 Q (BY MR. PINKER) You don't know?
18 MS. BALDWIN: Object to -- object to the
19 form.
20 THE WITNESS: That I don't have that
21 information with me.
22 Q (BY MR. PINKER) You would assume that the
23 costs of neonatal and child-related cares as it
24 relates to opioids would go down over time, wouldn't
25 you?

Page 234

1 State funds a K through 12 public school system or
2 do cities and counties, is that what you're asking?
3 Q (BY MR. PINKER) Yeah.
4 MS. BALDWIN: Same objection.
5 THE WITNESS: I'm not prepared to testify
6 on that today.
7 Q (BY MR. PINKER) Turn to page 14 and keep
8 this page sort of dog eared if you can.
9 A Fourteen?
10 Q Yeah, this is the T1 addiction treatment
11 services?
12 A Yes.
13 Q So just looking at some of these, does --
14 ambulatory detoxification, would that typically be
15 provided by the counties and municipalities in the
16 state of Oklahoma?
17 MS. BALDWIN: Object to the form.
18 Q (BY MR. PINKER) As opposed to the State, I
19 mean?
20 MS. BALDWIN: Object to the form. Outside
21 the scope.
22 THE WITNESS: Again, the recommendations
23 in this plan don't speak to the specific
24 implementation or roll out or contracting of these
25 services. I'm not testifying today to who provides

Page 235

1 those services in the state of Oklahoma.
2 Q (BY MR. PINKER) Okay. And are you
3 similarly not testifying about who would provide it
4 if this were somehow to be approved and funded?
5 MS. BALDWIN: Object to the form. Outside
6 the scope.
7 THE WITNESS: I don't have assumptions
8 about who would provide it.
9 Q (BY MR. PINKER) Okay. And I just want to
10 be clear, you just testified a moment ago you were
11 not prepared to testify about who currently provides
12 these types of services?
13 A That's right.
14 Q My question is, as the proponent of this
15 plan, do you have a current understanding or
16 expectation as to who would provide the services if
17 somehow they were funded and were implemented?
18 MS. BALDWIN: I'm going to object because
19 I didn't get an opportunity to the prior question,
20 but it mischaracterizes prior testimony. And I'm
21 also going to object to form on the second question.
22 THE WITNESS: Could you repeat your
23 question?
24 Q (BY MR. PINKER) Yeah. Do you have a
25 current understanding or expectation, as the

Page 236

1 proponent of this Abatement Plan, as to who would
2 provide the services and programs listed in this
3 abatement program?
4 MS. BALDWIN: Object to the form.
5 THE WITNESS: I don't have a current
6 expectation.
7 Q (BY MR. PINKER) Again, I hope you'll excuse
8 the question, do you have the authority in your
9 current role to make decisions as to how this money,
10 if it was funded, would get spent?
11 MS. BALDWIN: Object to the form. Outside
12 the scope.
13 THE WITNESS: I don't -- I'm not
14 testifying on the implementation or decision making
15 around funds related to this plan.
16 Q (BY MR. PINKER) Who would be required to be
17 involved in making those decisions?
18 MS. BALDWIN: Object to the form. Outside
19 the scope. She's not an attorney, she's not a
20 judge.
21 THE WITNESS: I don't have the answer to
22 that. I don't know.
23 MR. PINKER: Let's take a break.
24 THE VIDEOGRAPHER: Off the videotape
25 record the time is 3:30 p.m.

Page 237

1 (Break taken from 3:30 p.m. to 3:47 p.m.)
2 THE VIDEOGRAPHER: Back on the record at
3 3:47 p.m.
4 Q (BY MR. PINKER) Ms. Hawkins, I wanted to
5 ask you to look for a moment at Exhibit 2. This is
6 a spreadsheet that you prepared several months ago,
7 is that right?
8 A Yes.
9 Q And this spreadsheet summarized the
10 actions that the State of Oklahoma has taken or had
11 taken as of late 2018 to address the opioid
12 addiction epidemic, as you put it?
13 A Yes.
14 Q Are there additional things that have been
15 done by the State since the time that you prepared
16 this document, Exhibit 2?
17 A There probably are, but I have not -- I
18 have not put them into this chart.
19 Q Are you --
20 A Or gone through that process.
21 Q As you sit here today, are you aware of
22 any additional actions taken by the State to address
23 the so-called opioid addiction epidemic?
24 MS. BALDWIN: Object to the form.
25 THE WITNESS: Allow me to look through it.

Page 298

1 A The commissioner of mental health and the
2 commissioner of health at the time in 2012 asked for
3 a state plan to be developed. And so a workgroup
4 was convened in order to develop that plan and
5 oversee and monitor the implementation of that plan.
6 Q The chief medical officer, you said, has
7 indicated that he has difficulty with hiring and
8 retention currently?
9 A Yes.
10 Q Due to these issues, are you aware that
11 the -- longstanding problems with hiring and
12 retention at the medical examiner's office going
13 back literally decades?
14 MS. BALDWIN: Object to the form.
15 THE WITNESS: In the context of getting
16 information for this plan, no, I'm not aware of
17 that.
18 Q (BY MS. FISCHER) Did I understand you to
19 say that opioids have been an issue for at least 30
20 years?
21 MS. BALDWIN: Object to the form.
22 THE WITNESS: No, I said that 30 years, up
23 to 30 years seems reasonable to me and could be
24 conservative. So what I've said was that, in order
25 to abate or fully mitigate these problems, we would

Page 299

1 need at least the same number of years that it took
2 to create the problem, and so the "at least" in my
3 mind could be around the 20-year mark.
4 Q (BY MS. FISCHER) Twenty-year?
5 A Yes.
6 Q You said that -- you've referenced just
7 now, and I think you may have referenced it earlier,
8 about children removed from the home due to opioids?
9 A Due to substance use.
10 Q Okay. I think you actually said opioids
11 but --
12 A Okay.
13 Q -- whatever, it's late, so whatever the
14 record said it said.
15 So if you said something about children
16 being removed from the home due to opioid substance
17 abuse, do you have statistics that would bear out
18 what the numbers of those children actually are?
19 MS. BALDWIN: Object to the form.
20 THE WITNESS: I have estimates for the
21 removal and involvement in child welfare due to
22 abuse and neglect related to parental substance use.
23 Earlier, much earlier in the day, I was speaking to
24 the number of people that we serve in our system
25 with opioid use disorder who are likely also the

Page 300

1 same population, not in all cases, but could be the
2 same population, and often is, in child welfare
3 cases. And so as I sit here, I do not have opioid
4 involved removals. Around 70 percent is the number
5 for removals due to parental substance use.
6 Q (BY MS. FISCHER) And you used two words
7 there, you used "estimate" and "likely." What I
8 want to know is, can you say with certainty the
9 number of children removed due to opioids?
10 MS. BALDWIN: Object to the form.
11 THE WITNESS: As I sit here --
12 MS. BALDWIN: Repetitive.
13 THE WITNESS: No, I don't have that
14 number. I have removals due to substance use.
15 Q (BY MS. FISCHER) Would you agree with me
16 that different ways of treating pain, and you've
17 referenced several, is a medical decision that
18 should be made by a patient and their health care
19 professionals, such as a doctor and not lawyers or
20 mental health care professionals?
21 MS. BALDWIN: Object to the form. Outside
22 the scope.
23 THE WITNESS: Did I say that it should be
24 --
25 Q (BY MS. FISCHER) No, I'm just --

Page 301

1 A -- made by lawyers?
2 Q No.
3 A Okay.
4 Q We've been -- you've been talking about,
5 though, today --
6 A Uh-huh.
7 Q -- you were talking about different ways
8 to treat pain. Would you agree with me that the
9 treatment of pain is a decision that should be made
10 by a patient and his or her health care
11 professional, such as the doctor?
12 MS. BALDWIN: Object to the form. Outside
13 the scope.
14 MS. FISCHER: That's clearly within the
15 scope of your examination and her testimony.
16 MS. BALDWIN: Well, you're -- you're
17 twisting her words. She's talking about pain
18 treatment as part of the abatement program, which is
19 very different from what you're asking her, so your
20 question is very much outside the scope and also
21 very confusing.
22 MS. FISCHER: Respectively disagree and
23 would just like an answer to my question.
24 THE WITNESS: So --
25 Q (BY MS. FISCHER) You want me to ask it