



IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

Case No. CJ-2017-816

vs.)

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.,)

STATE OF OKLAHOMA }
CLEVELAND COUNTY } S.S.
FILED In The
Office of the Court Clerk

APR 17 2019

In the office of the
Court Clerk MARILYN WILLIAMS

Defendants.)

ORDER OF SPECIAL DISCOVERY MASTER

NOW, on this 16th day of April, 2019, the above and entitled matter comes on for ruling by the undersigned having heard argument thereon on April 12, 2019.

Argument was heard regarding Teva and Janssen Defendants' adoption of Purdue's Emergency Motion to Compel filed March 6, 2019 and the merits of this motion. The undersigned allowed State to submit a second response by email, received by the undersigned at 11:29pm April 14, 2019.

The following findings and **Orders** are entered:

1. Jurisdiction

The undersigned made a record and entered an Order during the hearing regarding State's jurisdiction argument challenging the undersigned's jurisdiction to hear this motion in the first instance. That challenge was Overruled and merits argument followed per the record made on April 12th. State re-urges this argument in its e-mail response and again the same is Overruled.

2. Purdue's Emergency Motion To Compel

The Teva and Janssen Defendants' adopted and reasserted Purdue's Emergency Motion to Compel. This motion again speaks to a request to compel production of documents and custodial file content previously Ordered by the undersigned out of witness custodial files for witnesses "likely to be witnesses at trial", and document production from within State agencies possessing relevant information necessary for fair defense of remaining State claims as argued by Defendants. The same production requests have been ruled on twice previously. During the December 20, 2018 hearing, State represented at page 94, line 7, State was searching for responsive documents that Defendants were asking for and they were going to produce them.

Regarding the "custodial files", State was Ordered in the undersigned's December 26, 2018 Order to produce the custodial files agreed to in a meet and confer that were first referred to in Purdue's Appendix A. State agreed to and was Ordered to provide "targeted" custodial file "core" document production in a sufficient time prior to each deposition for reasonable deposition preparation. "Targeted" documentation is defined as production of all custodial file documents relevant or potentially relevant to known topics to be explored through each witness. The October 22, 2018 Order dealt with six specific agencies to which State filed a Notice of Compliance with regard to this Order stating there was "a little bit more to go".

The record reviewed and argument sufficiently establishes that custodial file content Ordered produced for witnesses to be deposed was substantially complied with. Again, the undersigned must accept State's argument as true that State searched all files for witnesses and produced all custodial content ordered to be produced that were identified by Defendants producing all that existed and was

available to be produced, or, responded that for certain witnesses none existed, or, none fit the definition of targeted core documentation to be used as a basis for any State claim, expert opinion or resulting Topic. As argued by State the record shows that Defendants continually amended these lists and "moved the goalposts" for whatever strategic reason. Therefore, I find the record supports State's substantial compliance and the Defendants re-asserted motion to compel is **Overruled**.

Regarding "document production", review of the record (to include the March 14th email chain) establishes some remaining deficiencies as to production of certain categories of documents that were previously Ordered to be produced first on April 25, 2018 and again January 17, 2019 and that State has not fully complied. As previously found by the undersigned, State has been producing documents under the "rolling production" procedure to include massive production on February 21, 2019 which may satisfy some of the deficiencies found in this Order. It appears to the undersigned document production has not been completed, nor has there been sufficient answers as to the February 21st production (or previous production) or sufficient production or answers as to why no production possible for the following:

Oklahoma Department of Public Safety Documents (As Ordered on October 4, 2018);

Oklahoma Drug Threat Assessments;

Medical examiner summaries relied upon in compiling statistics related to overdose deaths in Oklahoma. (Purdue LP's RFPs No. 6 & 8) that are not deemed confidential;

Oklahoma Health Care Authority Desk Audits 2010 – 2017;

All contracts between the Oklahoma Health Care Authority and Pharmacy Management Consultants;

E-mails relevant to specific cases involving possible fraud, waste or abuse from CVS Caremark to EGID abuse committee where action was taken as a result of this data being received;

Relevant documents from the Oklahoma Health Care Authority regarding the determination to cease coverage and reimbursement for topical medications (RFP No. 4 Purdue Inc. & No. 6 Purdue LP);

Mandatory quarterly reports for the Centers for Disease Control on opioid prescribing statistics, including statistics on high prescribers, doctor shoppers, PDMP alters on conflicting and dangerous prescriptions, not to include individualized patient data;

The balance of Oklahoma Bureau of Narcotics & Dangerous Drugs Control's diversion reports;

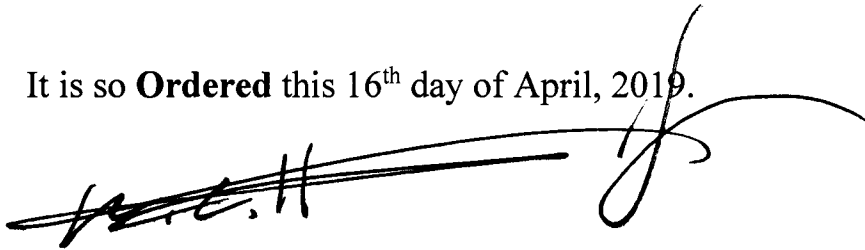
All Drug Utilization Review Board Reports for the relevant period;

Remaining documents from the Employee's Group Insurance Dept.;

The last four (only) Mark Woodward Power Point education presentations.

Teva and Janssen Defendant Group's reassertion of Purdue's Emergency Motion to Compel is **Sustained** in part consistent with this Order. State is Ordered to comply on or before April 30, 2019.

It is so **Ordered** this 16th day of April, 2019.

A handwritten signature in black ink, appearing to read "W.C.H.", with a long horizontal line extending to the right and a large, stylized flourish at the end.

William C. Hetherington, Jr.

Special Discovery Master