

IN THE DISTRICT COURT OF CLEVELAND COUNTY APR 16 2019  
STATE OF OKLAHOMA

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

Plaintiff,

v.

- (1) PURDUE PHARMA L.P.;
- (2) PURDUE PHARMA, INC.;
- (3) THE PURDUE FREDERICK COMPANY;
- (4) TEVA PHARMACEUTICALS USA, INC.;
- (5) CEPHALON, INC.;
- (6) JOHNSON & JOHNSON;
- (7) JANSSEN PHARMACEUTICALS, INC.;
- (8) ORTHO-McNEIL-JANSSEN PHARMACEUTICALS, INC., n/k/a JANSSEN PHARMACEUTICALS, INC.;
- (9) JANSSEN PHARMACEUTICA, INC., n/k/a JANSSEN PHARMACEUTICALS, INC.;
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC, f/k/a ACTAVIS, INC., f/k/a WATSON PHARMACEUTICALS, INC.;
- (11) WATSON LABORATORIES, INC.;
- (12) ACTAVIS LLC; and
- (13) ACTAVIS PHARMA, INC., f/k/a WATSON PHARMA, INC.,

Defendants.

In the office of the  
Court Clerk MARILYN WILLIAMS

**For Judge Balkman's  
Consideration**

Case No. CJ-2017-816  
Honorable Thad Balkman

William C. Hetherington  
Special Discovery Master

**DEFENDANTS' PROPOSED SCHEDULE**

Come now the defendants and submit a proposed Schedule as directed by the Court. This filing is made on behalf of (a) the Teva and Actavis defendants and (b) the Janssen defendants. On April 16, 2019, the parties met and conferred on scheduling issues, but were unable to agree. The State will submit its proposal separately.

The defendants hereby renew their objections that this case cannot be ready for trial on May 28, 2019, and a continuance is necessary. Anticipating that the Court does not want to entertain further argument regarding the trial date in this brief, this brief turns to additional issues.

**A. THE ATTACHMENTS**

The defendants provide the Court with three attachments:

1. Exhibit 1 is a proposed Updated Scheduling Order. This proposal seeks to balance the goals of (a) getting the parties and the Court prepared for trial, (b) providing the parties with a meaningful opportunity to be heard, and (c) starting trial on May 28, 2019 as the Court has ordered.

2. Exhibit 2 is a blank Updated Scheduling Order. If the Court does not want to enter the order as set forth in Exhibit 1, the Court can interlineate the dates it wants on Exhibit 1 or use Exhibit 2 to set forth the schedule the Court wants to order.

3. Exhibit 3 is a calendar for April and May and notes the dates the parties had previously been informed by the Court were available for hearings in this case. This may assist the Court in analyzing the schedule.

**B. CONDITIONS**

The proposal below assumes the following conditions are acceptable to the Court:

1. The State, as it has previously announced twice, will not have Daubert motions.

2. The parties will email everything to each other the same day it is filed, and filings will be made on or before the due date.

3. Exhibit lists will include bates numbers or copies of each exhibit.

4. At the hearing on April 11, the Court indicated that the parties' witness lists, including witnesses to be called live, would be due April 19 at 4:00 p.m. The context of the discussion regarding April 19 was the need for the parties to know which witnesses were coming live so they would not need to designate deposition testimony. The defendants' proposed schedule, Exhibit 1 attached, includes that deadline of April 19 at 4:00 p.m. for the witnesses to be called live, but also retains the original April 26 deadline for full scale final witness lists.

### **C. THE STATE'S PROPOSED ORDER**

The State's proposed scheduling order is unworkable.

1. As previously briefed, Daubert and In Limine motions are important and can eliminate days of unnecessary testimony. Further, in the interest of providing a meaningful opportunity to be heard, the Court should take briefing and argument in advance, instead of having to decide such issues in the middle of a trial in a rushed atmosphere and in front of the cameras.

2. The State's proposal to not be limited to its exhibit list is also not tenable. The State's idea that it could just pull out in the middle of trial some document a defendant produced is unworkable, particularly since the State chose to obtain millions of pages during discovery. The trial by ambush envisioned by the State is exactly what the Discovery Code and modern pretrial practice is designed to prevent.

3. The State's proposal to strike virtually all of the pretrial hearings is also inappropriate. This case demands a meaningful opportunity to be heard in the pretrial process. In a trial of the size and complexity of the case the State chose to bring, it is particularly necessary that the Court and parties work together to get this trial prepared. Once again, trial by ambush should be avoided.

### **CONCLUSION**

The Court's object should be to have a trial likely to be decided on the merits, not a trial decided based on which party benefits most from confusion and disorder. The defendants seek a schedule which (a) is commensurate with the size and complexity of the case the State chose to bring, (b) allows for meaningful consideration of the pretrial motions, and (c) provides a practical path for the lawyers and the Court to get this massive and complicated case ready for trial.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was emailed this 16<sup>th</sup> day of April, 2019, to the following:

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Robert G. McCampbell



# **EXHIBIT 1**

**IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA**

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

v.

- (1) PURDUE PHARMA L.P.;
  - (2) PURDUE PHARMA, INC.;
  - (3) THE PURDUE FREDERICK COMPANY;
  - (4) TEVA PHARMACEUTICALS USA, INC.;
  - (5) CEPHALON, INC.;
  - (6) JOHNSON & JOHNSON;
  - (7) JANSSEN PHARMACEUTICALS, INC.;
  - (8) ORTHO-McNEIL-JANSSEN  
PHARMACEUTICALS, INC., n/k/a  
JANSSEN PHARMACEUTICALS, INC.;
  - (9) JANSSEN PHARMACEUTICA, INC.,  
n/k/a JANSSEN PHARMACEUTICALS, INC.;
  - (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,  
f/k/a ACTAVIS, INC., f/k/a WATSON  
PHARMACEUTICALS, INC.;
  - (11) WATSON LABORATORIES, INC.;
  - (12) ACTAVIS LLC; and
  - (13) ACTAVIS PHARMA, INC.,  
f/k/a WATSON PHARMA, INC.,
- Defendants.

**For Judge Balkman's  
Consideration**

Case No. CJ-2017-816  
Honorable Thad Balkman

William C. Hetherington  
Special Discovery Master

**UPDATED SCHEDULING ORDER**

<b>Event</b>	<b>Deadline</b>
Daubert motions for April 26 hearing due	April 16, 2019
Parties to exchange list of witnesses to be called live to testify in court including whether the parties will have a representative witness available during the opposing party's case in chief, with copy to Court	April 19, 2019 at 4:00 p.m.
Responses due for Daubert motions to be heard April 26	April 23, 2019
Dispositive motions deadline	April 23, 2019
Any additional Daubert motions due	April 23, 2019

Hearing	April 26, 2019
Witness lists deadline	April 26, 2019
Motions in limine deadline	April 26, 2019
Responses to remaining Daubert motions due	April 30, 2019
Responses to in limine due	May 3, 2019
Responses to dispositive motions due	May 3, 2019
Deposition Designations due	May 3, 2019
Hearing	May 6, 2019
Exhibit lists deadline	May 6, 2019
Hearing (Afternoon Only)	May 9, 2019
Deposition counter designations and objections to initial designations due	May 13, 2019
Stipulations to be filed by the parties	May 13, 2019
Hearing	May 14, 2019
In limine based on Exhibit and Witness lists due	May 15, 2019
Hearing	May 15, 2019
Hearing	May 16, 2019
Hearing	May 17, 2019
Objections to deposition counter designations due	May 17, 2019
In limine responses (Exhibit and Witness lists) due	May 21, 2019
Trial briefs due	May 21, 2019
Hearing	May 23, 2019
Hearing	May 24, 2019
Trial	May 28, 2019

IT IS SO ORDERED April \_\_\_, 2019.

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JUDGE OF THE DISTRICT COURT

# **EXHIBIT 2**

**IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA**

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

v.

- (1) PURDUE PHARMA L.P.;
  - (2) PURDUE PHARMA, INC.;
  - (3) THE PURDUE FREDERICK COMPANY;
  - (4) TEVA PHARMACEUTICALS USA, INC.;
  - (5) CEPHALON, INC.;
  - (6) JOHNSON & JOHNSON;
  - (7) JANSSEN PHARMACEUTICALS, INC.;
  - (8) ORTHO-McNEIL-JANSSEN  
PHARMACEUTICALS, INC., n/k/a  
JANSSEN PHARMACEUTICALS, INC.;
  - (9) JANSSEN PHARMACEUTICA, INC.,  
n/k/a JANSSEN PHARMACEUTICALS, INC.;
  - (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,  
f/k/a ACTAVIS, INC., f/k/a WATSON  
PHARMACEUTICALS, INC.;
  - (11) WATSON LABORATORIES, INC.;
  - (12) ACTAVIS LLC; and
  - (13) ACTAVIS PHARMA, INC.,  
f/k/a WATSON PHARMA, INC.,
- Defendants.

**For Judge Balkman's  
Consideration**

Case No. CJ-2017-816  
Honorable Thad Balkman

William C. Hetherington  
Special Discovery Master

**UPDATED SCHEDULING ORDER**

<b>Event</b>	<b>Deadline</b>
Daubert motions for April 26 hearing due	
Parties to exchange list of witnesses to be called live to testify in court including whether the parties will have a representative witness available during the opposing party's case in chief, with copy to Court	
Responses due for Daubert motions to be heard April 26	
Dispositive motions deadline	
Any additional Daubert motions due	

Hearing	
Witness lists deadline	
Motions in limine deadline	
Responses to remaining Daubert motions due	
Responses to in limine due	
Responses to dispositive motions due	
Deposition Designations due	
Hearing	
Exhibit lists deadline	
Hearing (Afternoon Only)	
Deposition counter designations and objections to initial designations due	
Stipulations to be filed by the parties	
Hearing	
In limine based on Exhibit and Witness lists due	
Hearing	
Hearing	
Hearing	
Objections to deposition counter designations due	
In limine responses (Exhibit and Witness lists) due	
Trial briefs due	
Hearing	
Hearing	
Trial	

IT IS SO ORDERED April \_\_\_, 2019.

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JUDGE OF THE DISTRICT COURT



# **EXHIBIT 3**

**April 2019**

**Hearing Schedule**

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11 HEARING • Severance	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26 HEARING	27
28	29	30				

# May 2019

# Hearing Schedule

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 HEARING	7	8	9 HEARING Afternoon Only	10	11
12	13	14 HEARING	15 HEARING	16 HEARING • Pretrial Conference	17 HEARING	18
19	20	21	22	23 HEARING	24 HEARING	25
26	27	28 TRIAL	29	30	31	