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*Attorneys for the Individual Respondents Richard Sackler
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**BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE UTAH DEPARTMENT OF COMMERCE**

IN THE MATTER OF:

PURDUE PHARMA L.P., a Delaware limited partnership; PURDUE PHARMA INC., a New York Corporation; THE PURDUE FREDERICK COMPANY INC., a Delaware corporation; RICHARD SACKLER, M.D., individually and as an owner, officer, director, member, principal, manager, and/or key employee of the above named entities; and KATHE SACKLER, M.D., individually and as an owner, officer, director, member, principal, manager, and/or key employee of the above named entities;

Respondents.

**RESPONDENTS RICHARD SACKLER'S
AND KATHE SACKLER'S MOTION TO
STAY, EXTEND, OR CONTINUE
DISCOVERY UNTIL THE MOTION TO
DISMISS HAS BEEN DECIDED**

DCP Legal File No. CP-2019-005

DCP Case No. 107102

The Individual Respondents move to stay, extend, or continue discovery against them, including the imminent deadline on July 12, 2019 for expert disclosures, pending a determination by this Tribunal whether it and the Utah Division of Consumer Protection (the “**Division**”) have personal and subject matter jurisdiction over each Individual Respondent.¹

BACKGROUND

1. On January 30, 2019, the Division issued an Administrative Citation against Purdue Pharma L.P., Purdue Pharma Inc., The Purdue Frederick Company (the “**Purdue Respondents**”), and the Individual Respondents (together, the “**Respondents**”).

2. By order dated February 26, 2019, the Tribunal ordered the Respondents to appear at a prehearing conference on April 23, 2019.

3. On March 8, 2019, the Division issued its Notice of Agency Action alleging that the Respondents violated the Utah Consumer Sales Practices Act.

4. On April 9, 2019, the Individual Respondents filed a Motion to Dismiss the Division’s Notice of Agency Action and Citation (the “**Motion to Dismiss**”) asserting, *inter alia*, that the Division and this Tribunal lacked personal jurisdiction over the Individual Respondents. The Purdue Respondents also moved to dismiss on April 9, 2019.

5. After filing the Motion to Dismiss, the Individual Respondents responded to the

¹ The “**Individual Respondents**” are Richard Sackler and Kathe Sackler. The Individual Respondents object to the Division’s attempt to assert personal jurisdiction over them and the adjudication of the Division’s claims in this Administrative Action. Both violate the Individual Respondents’ constitutional due process rights. The Individual Respondents have moved to dismiss this Administrative Action on that basis and others set forth in (1) the Individual Respondents’ Motion to Dismiss and supporting memorandum of law and affidavits, and (2) Purdue’s Response to the Citation and its Motion to Dismiss and supporting papers, which the Individual Respondents have incorporated and adopted. By filing this Motion to Stay, the Individual Respondents specifically preserve those arguments, seek to preserve all their rights, are not making a general appearance in these proceedings and do not consent to the jurisdiction of this Tribunal or the Utah Division of Consumer Protection.

Notice of Agency Action, noting that, unlike the Utah Rules of Civil Procedure, the Department of Commerce Administrative Procedures Act Rules did not excuse a party from filing a response to the Notice of Agency Action (the “**Response**”) by filing the Motion to Dismiss. The Response specifically preserved all jurisdictional arguments.

6. Following the prehearing conference on April 23, 2019, the Tribunal entered a *Scheduling Order and Notice of Hearing* (the “**Scheduling Order**”), attached hereto as **Exhibit A**. The Scheduling Order provides, for example, that initial expert reports are due on July 12, 2019, and discovery is to be completed by August 28, 2019. The Individual Respondents objected to the entry of the Scheduling Order.

7. On May 9, 2019, the Division requested leave to serve requests for production of documents on the Individual Respondents (the “**Request**”) and on the Purdue Respondents.

8. On May 10, 2019, the Individual Respondents objected to the Request because the Division had not yet established that the Tribunal may exercise personal jurisdiction over each Individual Respondent and that the claims set forth against each Individual Respondent in the Notice of Agency Action should be dismissed on other grounds.

9. On May 17, 2019, the Division and the Individual Respondents stipulated that (1) if the Tribunal grants the Individual Respondents’ Motions to Dismiss, no response to the Request will be due; (2) if the Tribunal denies the Individual Respondents’ Motions to Dismiss the Individual Respondents’ responses to the Request will be due twenty days after the decision issues; and (3) if no decision issues by May 31, 2019, the parties will meet and confer regarding the Request. To date, the Individual Respondents have not participated in discovery, except that Richard Sackler agreed (subject to his jurisdictional reservation) that his production of

documents in the MDL may be deemed produced in these proceedings.² Kathe Sackler has produced no documents in the MDL, and therefore has no documents to deem produced in these proceedings.³

10. Oral argument on the Respondents' Motions to Dismiss was held on May 21, 2019. On June 20, 2019, the Purdue Respondents' Motion to Dismiss was denied in part and granted in part.

11. The Individual Respondents' Motions to Dismiss have not been decided, and the Division has not yet established that this Tribunal has personal jurisdiction over the Individual Respondents or that the Notice of Agency Action should not be dismissed.⁴

ARGUMENT

The Individual Respondents Should Not Be Required to Further Participate in This Proceeding Unless and Until the Tribunal Determines It Has Personal Jurisdiction

It is axiomatic that, until it has been established that a tribunal has personal jurisdiction a party, he or she should not be compelled to further participate in a proceeding before that tribunal. The concept is built into Utah Rule of Civil Procedure 12(a)(1), which provides that the filing of a dispositive motion pursuant to Rule 12 excuses the defendant from filing an answer to the complaint until the court decides the motion, thereby pausing the proceedings. In Utah

² Discovery is proceeding between the Division and the Purdue Respondents and, on June 26, 2019, the Division requested that depositions of various Purdue employees and other fact witnesses be scheduled for July 9-11 and July 16-18.

³ Purdue produced Kathe Sackler's custodial documents in the MDL. The State therefore has access to those documents.

⁴ Counsel for Richard Sackler asked counsel for the Division for an extension of time to file the expert report on July 8, 2019, pending this Court's decision on the Individual Respondents' Motions to Dismiss. On July 9, 2019, counsel for the Division responded that an extension would not likely be forthcoming, though promised to provide a final answer later. In light of the imminent deadline on July 12, 2019 for expert disclosures, the Individual Respondents bring this motion on an expedited basis.

District Courts, it is the filing of an answer that triggers an obligation to provide initial disclosures, which, in turn, commences the standard discovery schedule. *See* Utah R. Civ. P. 26(a)(2) & (c)(5).⁵

Reinforcing the common sense principle that a defendant is not required to participate discovery while a motion to dismiss on personal jurisdiction grounds is pending, courts routinely limit even a plaintiff's request for *jurisdictional* discovery absent a prima facie showing in support of personal jurisdiction. *See ClearOne, Inc. v. Revolabs, Inc.*, 2016 UT 16, ¶42 (Sup. Ct. Utah, 2016) (affirming denial of request for jurisdictional discovery); *VidAngel, Inc. v. Sullivan Entm't Grp., Inc.*, No. 2:17cv989, 2018 WL 3611068, at *7 (D. Utah July 27, 2018) (denying request for jurisdictional discovery); *Franklin Covey Co. v. Commercial Metals Co.*, No. 2:16cv1221, 2017 WL 3503366, at *5 (D. Utah Aug. 15, 2017) (same); *Cent. States, Se. & Sw. Areas Pension Fund v. Reimer Express World Corp.*, 230 F.3d 934, 946 (7th Cir. 2000) (affirming denial of jurisdictional discovery, stating "plaintiff must establish a colorable or prima facie showing of personal jurisdiction before discovery should be permitted").

The issue is not technical. A party's participation in broad discovery may be deemed to effect a general appearance that waives his or her personal jurisdiction defense. *See Barlow v. Cappo*, 821 P.2d 465, 466 (Utah Ct. App. 1991) ("[A]n appearance by the defendant for any purpose except to object to personal jurisdiction constitutes a general appearance"); *Downey*

⁵ Similarly, it is common practice for the United State District Court for the District of Utah to delay the requirement that parties file an Attorney Planning Meeting Report and a proposed Scheduling Order when a Rule 12 motion has been filed, *see, e.g.*, CM/ECF Docket for *VidAngel, LLC v. Sullivan Entm't Group*, Case No. 2:17cv989; CM/ECF Docket for *Alter v. FDIC Corp. Capacity, et al.*, Case No. 2:13cv456, or to stay discovery during the pendency of a dispositive jurisdictional challenge. *Gena Golden v. Mentor Capital Inc.*, 2:15-cv-176 (D. Utah July 12, 2017) (granting stay as pending jurisdictional challenge as "appropriate and efficient") (quoting *Am. Tradition Inst. v. Colorado*, 2011 WL 3705108, at *2 (D. Colo. Aug. 23, 2011) (attached hereto as **Exhibit B**).

State Bank v. Major-Blakeney Corp., 545 P.2d 507, 510 (Utah 1976) (“[G]enerally, if [a party] asks the court for affirmative relief, he thereby submits himself to that court's jurisdiction.”); *Koerber v. Mismash*, 2015 UT App 237, ¶ 30, 359 P.3d 701, 710 (finding appearance and defense of action constituted waiver of personal jurisdiction); *Bel Courtyard Investments, Inc. v. Wolfe*, 2013 UT App 217, ¶ 14, 310 P.3d 747, 751 (same).

As the Tribunal has not yet issued a decision on the Individual Respondents’ Motions, the Individual Respondents should not be required to comply with the provisions of R151-4-504 regarding expert disclosures, which are currently due on Friday, July 12, 2019 — before the Individual Respondents will have engaged in any factual discovery. Discovery against the Individual Respondents in related proceedings has been stayed pending resolution of their jurisdictional motions. *See Mayor and the City of Baltimore v. Purdue Pharma L.P.*, No. 24-C-18-000515, March 22, 2019 Transcript, at pp. 51:10-52:6 (Md. Cir. Ct. Mar. 22, 2019), attached as **Exhibit C**; *Carpenters Health & Welfare Fund v. Purdue Pharma L.P.*, No. 2018-8920, Order (Pa. Super. Ct. June 10, 2019), attached as **Exhibit D**.

The Division will also not be prejudiced by a short stay or continuance that delays discovery against the Individual Respondents. *See Entyce Grp., LLC v. Moon Dance 2009, LLC*, No. 2:09-cv-548, 2010 WL 465835, at *1 (D. Utah Feb. 9, 2010) (staying discovery where no prejudice). Millions of pages of documents have been produced in the MDL Case *In Re: National Prescription Opiate Litigation*, 1:17-md-2804 (N.D. Ohio) in which the Division’s outside attorneys (Motley Rice) are co-lead plaintiffs’ counsel, and discovery against the Purdue Respondents is ongoing. Therefore, the Division has ample discovery to build its case while the Tribunal decides the Individual Respondents’ Motions to Dismiss.

CONCLUSION

Accordingly, the Individual Respondents move the Tribunal to stay, extend or continue discovery against them, including the imminent deadline on July 12, 2019 for expert disclosures, until the Individual Respondents' Motions to Dismiss are decided.

Dated this 10th day of July, 2019.

COHNE KINGHORN, P.C.

/s/ Patrick E. Johnson

Paul T. Moxley

Hal L. Reiser

Patrick E. Johnson

*Attorneys for Respondents Richard Sackler,
M.D. and Kathe Sackler, M.D.*

CERTIFICATE OF SERVICE

I hereby certify that on this the 10th day of July, 2019, I served the above-captioned document on the parties of record in this proceeding set forth below by delivering a copy thereof by hand-delivery, U.S. Mail, electronic means and/or as more specifically designated below, to:

By hand-delivery and first class mail, postage prepaid:

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EXHIBIT A

DEPARTMENT OF COMMERCE
Heber M. Wells Building, 2ND Floor
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SALT LAKE CITY, UTAH 84114

BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF:

PURDUE PHARMA, L.P., a Delaware limited partnership; **PURDUE PHARMA, INC.**, a New York corporation; **THE PURDUE FREDERICK COMPANY**, a Delaware corporation; **RICHARD SACKLER, M.D.**, individually and as an owner, officer director, member, principal, manager and/or key employee of the above named entities; and **KATHE SACKLER, M.D.**, individually and as an owner, officer, director, member, principal, manager and/or key employee of the above named entities,

Respondents.

SCHEDULING ORDER AND NOTICE OF HEARING

Case No. **CP-2019-005**

DCP Case No. 107102

On March 8, 2019, the Division filed a Notice of Agency Action in the above entitled adversary proceeding. A prehearing conference was held on Tuesday, April 23, 2019. All parties were represented by counsel at the prehearing conference.

The Presiding Officer now enters the following Scheduling Order:

1. The parties shall file a proposed and stipulated protective order in this matter by Monday, April 29, 2019.
2. The parties shall make the disclosures required by the Utah Admin. Code R151-4-503(1) by May 7, 2019. The Division shall provide in its disclosures a good faith, but non-binding, listing of the alleged misrepresentations that it claims have been made by the

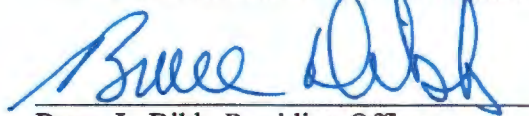
Respondents, as addressed in the Notice of Agency Action in this matter. Nothing provided herein shall preclude the Respondents from further formal discovery on the issue of alleged misrepresentations or shall preclude the Division from making supplemental disclosures of additional alleged misrepresentations as may be revealed by the Division's discovery procedures.

3. By May 21, 2019, each of the parties shall make a good faith effort to prepare an agreed schedule of interviews/depositions of any of the fact witnesses disclosed in the initial disclosures as referred to in the preceding paragraph. Such schedule shall not preclude other persons named in the initial disclosures from being interviewed or deposed at a later date. Further, other witnesses may subsequently be identified by supplemental disclosures, and such witnesses may be subsequently interviewed or deposed within the time limitation set in paragraph 7 below.
4. Any motion to amend the pleadings shall be made by May 29, 2018.
5. The parties shall comply with the provisions of R151-4-504 regarding expert witnesses by July 12, 2019.
6. The parties shall comply with the provisions of R151-4-504 regarding rebuttal expert witnesses by August 20, 2019.
7. The parties shall complete discovery by August 28, 2019.
8. The parties shall exchange final disclosures by August 30, 2019, as provided in Utah Admin. Code R151-4-504(2) and Rule 26(a)(5) URCP. These disclosures are mandatory. A party must make a new written filing to comply with these rules, and may not rely on its initial disclosures under R151-4-503, its supplemental disclosures under R151-4-509 or the disclosures of an opposing party.

9. Any dispositive motions shall be filed no later than September 4, 2019.
10. Any expert witness motions, including Daubert motions, shall be filed by September 9, 2019.
11. Any motions *in limine* unrelated to expert witnesses or their testimony shall be filed by September 11, 2019.
12. The adjudicative hearing shall take place before the presiding officer beginning on Tuesday, October 15, 2019 at 9:00 a.m. in hearing room 403 on the fourth floor of the Heber M. Wells Building. Anticipated hearing time will be fifteen or fewer days. Barring an appropriate motion to the presiding officer based upon extenuating circumstances, and the concurring order of the Executive Director of the Department of Commerce pursuant to U.A.C. R151-4-109(2)(c), the last day of the hearing will be on or before Monday, November 4, 2019.

DATED April 23rd, 2019.

UTAH DEPARTMENT OF COMMERCE



Bruce L. Dibb, Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that I have the 3rd day of April, 2019, served the foregoing by email on:

Chris Parker, Acting Director/Presiding Officer
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/s/ Bruce L. Dibb

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

GENA GOLDEN et al.,

Plaintiffs,

v.

MENTOR CAPITAL, INC. et al.,

Defendants.

MEMORANDUM DECISION AND ORDER
GRANTING MOTION TO QUASH AND TO
STAY DISCOVERY

Case No. 2:15-cv-176 JNP

District Judge Jill Parrish

Magistrate Judge Brooke Wells

Counter-claim Defendant Scott Van Rixel moves to quash discovery served upon him by Defendants because “jurisdiction before this Court has not been established.”¹ On December 5, 2016, Van Rixel filed a motion to dismiss asserting a lack of personal jurisdiction.² That motion is still pending before the Court.

Van Rixel argues he is not a party to this action until jurisdiction is established and presumably until after the motion to dismiss is resolved. In the motion to dismiss Van Rixel asserts that service was untimely and beyond the time allowed by Rule 4(m).³ A third party complaint was filed against Van Rixel on May 4, 2016.⁴ A summons was issued on that same date and that summons was personally served on Van Rixel November 15, 2016.⁵ Third-Party Plaintiff Mentor Capital, Inc. argues service of a summons “establishes personal jurisdiction over the served party.”⁶

¹ Motion to Quash p. 2, [docket no. 97](#).

² [Docket no. 79](#).

³ Motion to Dismiss p. 2, [docket no. 79](#).

⁴ [Docket no. 65](#).

⁵ [Docket no. 72](#).

⁶ Op. p. 2, [docket no. 102](#).

The court agrees with Mentor that the presumption is service of a summons establishes personal jurisdiction over a served party, but this presumption relies upon timely service in accordance with Rule 4(m) and is rebuttable. “Questions of jurisdiction should be resolved at the earliest stages of litigation, so as to conserve the time and resources of the Court and the parties. Thus, a stay of discovery during the pendency of a dispositive motion asserting a jurisdictional challenge may be appropriate and efficient.”⁷ The Supreme Court has noted the burdens that discovery may cause when there are outstanding questions regarding absolute immunity.⁸ Here, there are no questions regarding absolute immunity but there are jurisdictional questions and those questions from time to time may also warrant a stay of discovery.⁹

Although the undersigned believes there are some serious questions regarding whether or not Van Rixel attempted to avoid service, based upon the instant facts the court finds a temporary stay of discovery toward Van Rixel is proper until the jurisdictional question is resolved. The court will therefore grant the motion to quash and to stay discovery.¹⁰ When the question regarding jurisdiction is resolved Mentor may move the court to extend discovery as to Van Rixel.

ORDER

It is therefore ordered that Counter-claim Defendant Scott Van Rixel’s Motion to Quash and Stay Discovery until jurisdiction has been decided is GRANTED.

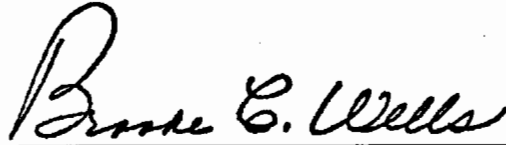
⁷ *Am. Tradition Inst. v. Colorado*, 2011 WL 3705108, at *2 (D. Colo. Aug. 23, 2011).

⁸ *See Behrens v. Pelletier*, 516 U.S. 399, 308 (1996).

⁹ *See Twin City Fire Ins. Co. v. Employers Ins. of Wausau*, 124 F.R.D. 652, 653 (D. Nev. 1989) (“[A] pending Motion to Dismiss is not ordinarily a situation that in and of itself would warrant a stay of discovery. Common examples of such situations, however, occur when jurisdiction, venue, or immunity are preliminary issues.”).

¹⁰ *See Wyatt v. Kaplan*, 686 F.2d 276 (5th Cir.1982) (district judge properly granted defendants’ protective order barring discovery prior to a decision on a pending motion to dismiss for jurisdictional defects); *Sperberg v. Firestone Tire & Rubber Co.*, 61 F.R.D. 70 (N.D. Ohio 1973) (discovery as to defendant partially stayed in patent infringement case where venue would be improper if defendant had not been guilty of infringement in that particular district).

DATED this 12 July 2017.

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive style with a large initial "B".

Brooke C. Wells
United States Magistrate Judge

EXHIBIT C

MAYOR AND CITY COUNCIL OF BALTIMORE v. PURDUE PHARMA, LP, et al.
March 22, 2019 BEFORE LAWRENCE P. FLETCHER-HILL, JUDGE

MAYOR AND CITY COUNCIL OF	*	
BALTIMORE,	*	IN THE
	*	
Plaintiff,	*	CIRCUIT COURT
	*	
V	*	FOR
	*	
PURDUE PHARMA, LP, et al.,	*	BALTIMORE CITY
	*	
Defendants.	*	24-C-18-000515
	*	
* * * * *	*	* * * * *

TRANSCRIPT OF OFFICIAL PROCEEDINGS
(Motions Hearing)

-- -- -- -- --

BEFORE: HONORABLE LAWRENCE P. FLETCHER-HILL, JUDGE

-- -- -- -- --

HEARING DATE: March 22, 2019

-- -- -- -- --

APPEARANCES:

For Plaintiff: Sylvanus Polky, Esquire
 Jillian Hewitt, Esquire
 Max Strauss, Esquire
 Arun Subramanian, Esquire
 Bill Carmody, Esquire
 Suzanne Sangree, Esquire

For Defendants:

Sacklers: Melissa H. Maxman, Esquire
 Gregory P. Joseph, Esquire
 Maura K. Monaghan, Esquire

Dr. Kapoor: Vernon W. Johnson, Esquire
 Jamie Lee, Esquire

Rhodes Pharm: Paul N. Farquharson, Esquire
 Steven F. Napolitano, Esquire

CVS: Conor B. O'Croinin, Esquire
 J. Michael Pardoe, Esquire
 Gregg L. Bernstein, Esquire

MAYOR AND CITY COUNCIL OF BALTIMORE v. PURDUE PHARMA, LP, et al.
March 22, 2019 BEFORE LAWRENCE P. FLETCHER-HILL, JUDGE

1 APPEARANCES: (continued)

2 For Defendants:

3

4 Walgreen's: Les House, Esquire

5 Justin A. Redd, Esquire

6 Andrew J. Graham, Esquire

7

8 Rite Aid: Colleen M. Meehan, Esquire

9

10 Endo: John Krugman, Esquire

11

12

13 Transcriptionist: Karen Ehatt, CET D-574

14 Jennifer Murray, CET-812

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16 Transcription

17 Service: ACCUSCRIBES TRANSCRIPTION SERVICE

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19 Towson, Maryland 21286

20 410-466-2033 Fax: 667-210-2925

21

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24 Proceedings recorded on digital media with video,

25 transcript produced by transcription service.

ACCUSCRIBES TRANSCRIPTION SERVICE

410-466-2033

410-494-7015

1 throw them out the window. The argument on the motion for
2 stay is another example of that where they say well, this
3 case isn't like Heffington because he doesn't have to
4 defend himself. He can just decide not to participate and
5 preserve his Fifth Amendment privilege. After making all
6 of these allegations against him, they're suggesting that
7 it's somehow feasible, appropriate, permissible for him to
8 defend the case in absentia and not testify on his own
9 behalf, not provide information on his own behalf. That's
10 not the law. The Court of Special Appeals made it very
11 clear in Heffington that the Fifth Amendment privilege is
12 a very important one and it's sacrosanct and that a
13 litigant is entitled to protection.

14 And there's no prejudice that would result to
15 the City. As you correctly pointed out, this overall
16 litigation would still continue, and they'd just have to
17 have a stay as to Dr. Kapoor until the criminal
18 proceedings are concluded. That's been the result in
19 every other case that we have cited including the case in
20 the federal court that Judge Chasanow decided where you
21 give somebody the benefit of the doubt even if they're a
22 defendant. In the Hughley case, Judge Chasanow found even
23 though there was a very slim prospect of the Fifth
24 Amendment issue coming up because the criminal case was
25 over, and they were on appeal, she said still on balance

1 we need to protect those rights and give a stay.

2 But as a basic threshold premise here, you don't
3 have allegations that satisfy the long-arm statute that is
4 the gatekeeper essentially for you trying to bring
5 somebody in from out of state, and the claims against
6 Dr. Kapoor should be dismissed with prejudice.

7 THE COURT: All right. Thank you very much.

8 MR. JOHNSON: Thank you, Your Honor.

9 FINDINGS OF THE COURT

10 THE COURT: I will tell the parties that
11 discovery against the individual Defendants will be stayed
12 temporarily until I decide the issue of personal
13 jurisdiction. I see no reason to subject Defendants who
14 have asserted substantial arguments against personal
15 jurisdiction to discovery in the interim period while the
16 motions are pending. Once I decide the issue of personal
17 jurisdiction, then I'll decide further if those motions to
18 dismiss are denied whether discovery should still be
19 stayed as to Dr. Kapoor based on the pending criminal
20 proceedings. As to the Sackler Defendants, it obviously
21 would go forward if those motions are denied. But if
22 they're granted then there wouldn't be any basis for
23 individual discovery anyway.

24 Now I think it goes without saying that that
25 doesn't mean, for example, that the Sacklers are immune

1 from depositions as non-parties. But they wouldn't be
2 subject to interrogatories and individual document
3 requests. But I will issue orders that grant those
4 motions on a temporary basis for the interim period. You
5 should still file your reply memorandum because it will
6 apply to the longer period.

7 I also would be interested to hear -- you may
8 not have this information soon. But I think the calculus
9 on that issue would change if Dr. Kapoor chooses to
10 testify in his criminal trial because I think he would
11 then be waiving any Fifth Amendment right and would be
12 subject to discovery civilly, that is, he couldn't assert
13 it civilly at the same time. So there may or may not be a
14 decision before then. But that is one subsequent fact
15 that would be important to me.

16 MR. JOHNSON: If there is a development like that
17 it clearly would be relevant, and we would advise the
18 Court we have the parties -- and they'd probably hear
19 about it on the news anyway. But we would certainly tell
20 the Court.

21 THE COURT: All right. Thank you very much.

22 MALE ATTORNEY: Thank you, Your Honor.

23 THE COURT: Appreciate you all moving a little
24 bit faster than blocked out time. Perhaps we'll take a
25 5-minute, 10-minute break. You can reset the Defendants

1 who are going to be arguing the merits motion to dismiss
2 issues, and then we'll continue then. All right. Just
3 about a 5- or 10-minute break.

4 THE CLERK: All rise.

5 (Off the record - 02:37:34 p.m.)

6 (On the record - 02:47:57 p.m.)

7 THE COURT: Thank you. Be seated, please. All
8 right. I assume you have some agreement on the order of
9 Defendants.

10 MS. MAXMAN: Yes, Your Honor. We've agreed that
11 the Individual Former Defendants -- Former Director to
12 Purdue will go first. And then, forgive me, I need to
13 pull out the order. Oh, it's right here. Second will be
14 --

15 THE COURT: I don't need to know the order, just
16 as long as you've --

17 MS. MAXMAN: Okay.

18 THE COURT: -- worked it out.

19 MS. MAXMAN: Second is drugs, third is
20 Mallinckrodt, and fourth are the pharmacy Defendants, and
21 we'll be splitting it up the same way. Each argument will
22 have about 23 minutes for both --

23 THE COURT: All right. Thank you.

24 INDIVIDUAL FORMER DIRECTOR DEFENDANTS' ORAL ARGUMENT

25 MS. MONAGHAN: Good afternoon, Your Honor. I'm

EXHIBIT D

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

DELAWARE COUNTY,
PENNSYLVANIA,

Plaintiff,
v.
PURDUE PHARMA L.P., *et al.*,

Defendants.

: IN THE COURT OF COMMON PLEAS
: OF DELAWARE COUNTY,
: PENNSYLVANIA
:
: CIVIL ACTION
:
: No. 2017-008095
:
: Coordinated Civil Proceedings
:
:

CARPENTERS HEALTH AND
WELFARE FUND OF PHILADELPHIA
AND VICINITY

Plaintiff,
v.
PURDUE PHARMA L.P., *et al.*,

Defendants.

: No. 2018-8920 (Del. Co. Ct. C.P.)
:
: (transferee docket)
:
: No. 1803-2264 (Phila. Co. Ct. C.P.)
:
: (transferor docket)
:
:
:

ORDER

AND NOW, this 10 day June, 2019, upon consideration of the Motion for Protective Order and Stay of Discovery of the Individual Former Directors and the Alleged Trustees Pending Resolution of Their Preliminary Objections, and any response thereto, it is hereby ORDERED and DECREED that said Motion is GRANTED and discovery is STAYED as to the Individual Former Directors and Alleged Trustees until 30 days after resolution of their Preliminary Objections to Plaintiff Carpenters Health and Welfare Fund of Philadelphia and Vicinity's First Amended Complaint.ⁱ

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

DELAWARE COUNTY, PENNSYLVANIA,	:	IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
	:	
Plaintiff,	:	CIVIL ACTION
v.	:	
PURDUE PHARMA L.P., <i>et al.</i> ,	:	No. 2017-008095
	:	
Defendants.	:	Coordinated Civil Proceedings
	:	

CARPENTERS HEALTH AND WELFARE FUND OF PHILADELPHIA AND VICINITY	:	No. 2018-8920 (Del. Co. Ct. C.P.)
	:	(transferee docket)
Plaintiff,	:	
v.	:	No. 1803-2264 (Phila. Co. Ct. C.P.)
	:	(transferor docket)
PURDUE PHARMA L.P., <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

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BY THE COURT:



J. BARRY C. DOZOR

The Individual Former Directors are defined in the Motion as Defendants Richard S. Sackler, Jonathan D. Sackler, Mortimer D.A. Sackler, Kathe A. Sackler, Ilene Sackler Lefcourt, Beverly Sackler, Theresa Sackler, and David A. Sackler. The Alleged Trustees are defined in the Motion as Defendants Richard S. Sackler, Jonathan D. Sackler, and Beverly Sackler in their purported capacity as the alleged trustees of the alleged "Trust for the Benefit of the Members of the Raymond Sackler Family."