

Robert G. Wing (4445)  
Kevin M. McLean (16101)  
Assistant Attorneys General  
SEAN D. REYES (7969)  
Utah Attorney General  
Utah Attorney General's Office  
160 East 300 South, 5th Floor  
PO Box 140872  
Salt Lake City, UT 84114-0872  
Ph. (801) 366-0310  
rgwing@agutah.gov  
kmclean@agutah.gov  
*Attorneys for the Utah Division of Consumer Protection*

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

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**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.**

**MOTION TO CONVERT INFORMAL  
HEARING**

**DCP Legal File No. CP-2019-005**

**DCP Case No. 107102**

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On January 30, 2019, the Utah Division of Consumer Protection (Division) issued an Administrative Citation against Purdue Pharma L.P., Purdue Pharma Inc., The Purdue Frederick Company, Dr. Richard Sackler, and Dr. Kathe Sackler (Respondents) alleging violations of the *Utah Consumer Sales Practices Act*. Utah Code § 13-11-1 *et seq.* The

Division hereby moves to convert any review that may be requested by any or all Respondents to a formal adjudicative proceeding pursuant to Utah Code § 63G-4-202(3) and Utah Admin. Code R152-6-1(B). Conversion is in the public interest, and does not unfairly prejudice the rights of any party.

**I. Conversion is in the public interest.**

It is in the public interest to hear any request for review of this Citation through a formal proceeding. The agency's decision after an informal hearing may be challenged in a trial *de novo*. In contrast, judicial review of formal adjudicative proceedings occurs "on the basis of the agency's record[.]" Utah Code § 63G-4-403(4). If a judicial challenge is likely, conversion to formal proceedings may prevent duplicative work by the Division, save unnecessary expenses ultimately borne by Utah's taxpayers, and result in a more timely final decision. In this case, Respondents are facing similar allegations and lawsuits in other jurisdictions across the country, and they have aggressively fought every case, even when their arguments have failed elsewhere. Therefore, there is good cause to anticipate a judicial challenge in this case. For reasons of convenience, general efficiency, timeliness, and actual cost, it is in the public interest to hear any request for review in a formal proceeding.

**II. Conversion will not unfairly prejudice the parties.**

The Respondents' rights will not be prejudiced by converting this proceeding. "Given the additional procedural safeguards that attend a formal proceeding, it would be an unusual case indeed where conversion *to* a formal proceeding would prejudice a party sought to be sanctioned by an administrative agency." *Johnson-Bowles Co. v. Div. of Sec. of Dep't of Commerce of State of Utah*, 829 P.2d 101, 117 n.7 (Utah Ct. App. 1992) (emphasis original). The procedural safeguards available to Respondents in a formal adjudicative proceeding are

similar to those available to a party in a trial, including the ability to conduct discovery, Utah Code § 63G-4-205, and “the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence.” Utah Code § 63G-4-206(1)(d). All testimony in a formal hearing is given under oath. *See id.* at (1)(f). A formal administrative proceeding would give full effect to the parties’ due process rights.

**III. Relief.**

For the foregoing reasons, the Division respectfully asks the presiding officer, upon the receipt of any request to review the Citation, to enter an order:

1. Converting the requested review of the Citation from an informal to a formal proceeding; and
2. Requiring Respondents to file a written response to the Citation within thirty days of the mailing date of the conversion order, as required by Utah Code § 63G-4-204(1).

DATED this 30<sup>th</sup> day of January 2019.

SEAN D. REYES  
UTAH ATTORNEY GENERAL

/s/ Kevin McLean  
Kevin McLean  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I certify that I have this day served the foregoing document on the parties of record in this proceeding by sending a copy thereof to the parties, as set forth below, as well as courtesy copies by e-mail to the parties' counsel.

<p><u>By certified U.S. mail:</u> Purdue Pharma L.P. One Stamford Forum 201 Tresser Boulevard Stamford, CT 06901</p> <p>Purdue Pharma Inc. One Stamford Forum 201 Tresser Boulevard Stamford, CT 06901</p> <p>The Purdue Frederick Company One Stamford Forum 201 Tresser Boulevard Stamford, CT 06901</p> <p>Richard Sackler, M.D. 9901 E. Powder Run Road Alta, UT 84092</p> <p>Richard Sackler, M.D. 25 Windrose Way Greenwich, CT 06830-7232</p> <p>Kathe Sackler, M.D. 136 Wells Hill Road Easton, CT 06612-1556</p>	<p><u>By e-mail:</u> Mark Cheffo <a href="mailto:Mark.Cheffo@dechert.com">Mark.Cheffo@dechert.com</a>;</p> <p>Will Sachse <a href="mailto:Will.Sachse@dechert.com">Will.Sachse@dechert.com</a>;</p> <p>Sara Roitman <a href="mailto:Sara.Roitman@dechert.com">Sara.Roitman@dechert.com</a>;</p> <p>Paul LaFata <a href="mailto:Paul.LaFata@dechert.com">Paul.LaFata@dechert.com</a></p> <p>Elisabeth McOmber <a href="mailto:emcomber@swlaw.com">emcomber@swlaw.com</a></p>
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Dated this 30<sup>th</sup> day of January 2019.

/s/ Kevin McLean  
Kevin McLean  
Assistant Attorney General