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**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 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.

**RESPONDENT KATHE SACKLER'S
JOINDER IN PURDUE'S OPPOSITION
TO THE DIVISION'S MOTION TO
BIFURCATE PROCEEDINGS**

DCP Legal File No. CP-2019-005

DCP Case No. 107102

Respondent Kathe Sackler joins and adopts as her own *Purdue's Opposition to the Division's Motion to Bifurcate* ("**Purdue's Opposition**") filed by Respondents Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company Inc. (collectively, "**Purdue**"), in opposition to *Motion to Bifurcate Proceedings Pursuant to R.151-4-704* (the "**Motion**") brought

by the Division of Consumer Protection of the Department of Commerce of Utah (the “**Division**”).

In addition to the compelling reasons set forth in Purdue’s Opposition regarding why the Division’s attempt to revisit the scheduling order issued by the Tribunal should be rejected, the Division’s Motion should also be denied because the bifurcation requested would be extremely prejudicial to Kathe Sackler. As background, the Division brought this administrative action on January 30, 2019, but the proceeding did not commence until the Division filed its Notice of Agency Action and Administrative Citation initiating the proceeding on March 8, 2019. Kathe Sackler’s motion to dismiss for lack of personal and subject matter jurisdiction, and for failure to state a claim, was not decided until July 15, 2019. Discovery was effectively stayed in this action as to Kathe Sackler until the dismissal decision was rendered. The Division’s responses to Kathe Sackler’s July 23, 2019 requests for production are due today, August 12, 2019.

Given that discovery as to Kathe Sackler has effectively been proceeding for less than a month, the Division’s proposal to close fact discovery by August 30, 2019 is untenable. The Division itself will not be able to complete discovery as to Kathe Sackler by that date. The Division has not yet specifically identified the allegedly deceptive acts or practices in which Kathe Sackler allegedly directly participated and upon which the Citation is based. Kathe Sackler has not received a listing of the alleged misrepresentations that the Division claims have been made by Kathe Sackler in violation of the Utah Consumer Sales Practices Act and is not aware of the specific misrepresentations she must defend against. Nor has the Division identified any evidence which substantiates its claim that Kathe Sackler has “controlled” or “directed” Purdue’s prescription opioid marketing activities.

In light of the Division’s inability to set forth any meaningful details regarding its case

against Kathe Sackler, it is entirely unrealistic to propose that in just over two weeks the Division will set forth all the specific details regarding Kathe Sackler's alleged conduct and Kathe Sackler will have the opportunity to obtain the discovery from the Division necessary to defend herself against the Division's claims. The Division's proposal for bifurcation would thus interfere with Kathe Sackler's ability to be afforded a reasonable and fair opportunity to conduct discovery before any hearing in this matter can take place.

For the reasons stated in the Opposition and above, the Division's Motion to Bifurcate should be denied.

DATED this 12th day of August, 2019.

COHNE KINGHORN, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of August, 2019, I served the above-captioned document on the parties of record in this proceeding set forth below by delivering a copy thereof by electronic means and U.S. Mail and/or as more specifically designated below, to:

By first class mail, postage prepaid:

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