

Elisabeth M. McOmber (10615)  
Katherine R. Nichols (16711)  
Annika L. Jones (16483)  
Snell & Wilmer L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101  
801.257.1900  
[emcomber@swlaw.com](mailto:emcomber@swlaw.com)  
[knichols@swlaw.com](mailto:knichols@swlaw.com)  
[aljones@swlaw.com](mailto:aljones@swlaw.com)

*Attorneys for Respondents Purdue Pharma  
L.P., Purdue Pharma Inc., and The Purdue  
Frederick Company*

---

**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 PURDUE PHARMA  
L.P.'S, PURDUE PHARMA INC.'S, AND  
THE PURDUE FREDERICK  
COMPANY INC.'S *EX PARTE* MOTION  
TO FILE A MOTION TO DISMISS IN  
EXCESS OF PAGE LIMITS IN THE  
UTAH RULES OF CIVIL PROCEDURE**

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

**DCP Case No. 107102**

---

Respondents Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company Inc. (collectively, "Purdue"), through counsel, hereby submit this *Ex Parte Motion to File a Motion to Dismiss in Excess of Page Limits in the Utah Rules of Civil Procedure*.

The administrative rules governing the current administrative proceeding do not expressly provide for any page limits on motions or memoranda submitted by parties to the action. However, the Utah Rules of Civil Procedure are considered to be persuasive authority in this proceeding. *See* R151-4-106; *see also* Utah Code Ann. § 63G-4-102(4)(b) (recognizing a presiding officer may grant a motion to dismiss if it meets the requirements of Rule 12(b)). It is therefore Purdue's understanding that the 25-page limit of Utah Rule of Civil Procedure 7(c)(3) does not govern Purdue's forthcoming Motion to Dismiss.

However, in an abundance of caution and to the extent it is even required, Purdue respectfully requests that the Presiding Officer permit Purdue to file a motion that is in excess of the page limitations provided by the Utah Rules of Civil Procedure. Good cause exists for this request. The issues presented in this proceeding and addressed in Purdue's Motion to Dismiss are significant, complex, and of a constitutional and substantive dimension. Indeed, the Division's Citation itself is nearly 70 pages long. Purdue has meritorious arguments in response to the Agency Action and Citation, including that its due process and other constitutional rights are being infringed. Likewise, it is Purdue's position that the Division's claims must be dismissed for a host of substantive reasons under Rule 12(b). Purdue should be permitted the full ability to properly brief the numerous and complex issues before the Presiding Officer.

Therefore, good cause exists for, and Purdue respectfully requests, leave to file a motion of 15 additional pages, for a total of 40 pages, not counting attachments. A proposed order is filed concurrently herewith.

Dated this 9th day of April, 2019.

SNELL & WILMER L.L.P.

/s/ Elisabeth M. McOmber

Elisabeth M. McOmber

Katherine R. Nichols

Annika L. Jones

*Attorneys for Respondents Purdue LP, Purdue Inc.,  
and the Purdue Frederick Company*

CERTIFICATE OF SERVICE

I hereby certify that on this the 9th day of April, 2019, I served the foregoing 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:

Bruce L. Dibb, Presiding Officer  
Administrative Law Judge  
Heber M. Wells Building, 2<sup>nd</sup> Floor  
160 East 300 South  
Salt Lake City, Utah 84114  
[bdibb@utah.gov](mailto:bdibb@utah.gov)

Robert G. Wing, AAG  
Kevin McLean, AAG  
Assistant Attorneys General  
Utah Attorney General's Office  
160 East 300 South, 5<sup>th</sup> Floor  
PO Box 140872  
Salt Lake City, Utah 84114-0872  
[rgwing@agutah.gov](mailto:rgwing@agutah.gov)  
[kmclean@agutah.gov](mailto:kmclean@agutah.gov)

Patrick E. Johnson  
Paul T. Moxley  
Cohne Kinghorn, P.C.  
111 E. Broadway, 11<sup>th</sup> Floor  
Salt Lake City, Utah 84111  
[pjohnson@ck.law.com](mailto:pjohnson@ck.law.com)  
[pmoxley@ck.law.com](mailto:pmoxley@ck.law.com)  
*Attorneys for Respondents Richard Sackler, M.D. and Kathe Sackler, M.D.*

Service via hand delivery upon:

Daniel R. S. O'Bannon – Director  
Utah Division of Consumer Protection  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, Utah 84111

/s/ Elisabeth M. McOmber