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*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.**

**DIVISION'S OPPOSITION TO THE  
SACKLER RESPONDENTS'  
MOTION TO FILE SEPARATE REPLY  
MEMORANDA IN EXCESS OF PAGE  
LIMITS IN SUPPORT OF THEIR  
JOINT MOTION TO DISMISS**

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

**DCP Case No. 107102**

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On May 6, 2019, Respondents Dr. Richard Sackler and Dr. Kathe Sackler (collectively, “the Sackler Respondents” or the “Sacklers”) jointly submitted a Motion to File Separate Reply Memoranda in Support of Motion to Dismiss in Excess of Page Limits in the Utah Rules of Civil Procedure (the “Motion”). The Division of Consumer Protection (“Division”) has sought to be accommodating to the Sackler Respondents in connection with the briefing on the motions to dismiss in this action. First, the Division, upon request, worked with the Sacklers to submit an agreed-upon extended briefing schedule. Second, the Division also consented to the Sacklers’ request to jointly submit an over-length memorandum in support of their Motion to Dismiss the Division’s Citation and Notice of Agency Action (“Motion to Dismiss”). Third, on Friday, May 3, 2019, the Division consented to a proposed request by the Sackler Respondents to file an over-length reply memorandum of 35 pages (more than twice the length of replies ordinarily contemplated under Utah Rule of Civil Procedure 7(e), and more than three times the length of replies contemplated under U.A.C. R305-7-211 or U.A.C. R305-7-312). A 35-page reply brief would have provided more than enough space for any reply to the Division’s response to the arguments raised in their joint Motion to Dismiss. The Sacklers, however, elected not to follow through with this proposed request to the Presiding Officer last week.

While the Division seeks to be courteous, the Sacklers’ current request goes too far. After the Sackler Respondents jointly submitted a single Motion to Dismiss, to which the Division submitted a single response, to now file separate replies creates a needless asymmetry and would be unfair to the Division, which did not have the option to file separate opposition memoranda. Further, allowing the Sackler Respondents a total of up to sixty (60) pages in reply would allow them more pages, by far, in reply than the Division had for its Response. That is not how any of the relevant rules, whether applied directly or by analogy, are designed to work. Had the Sackler

Respondents decided they preferred separate briefs at the outset of the process, rather than the day that that their reply brief was due, the parties could have worked out a fair and mutually agreeable approach. The Division would ordinarily not oppose a request of this nature, but the circumstances require it here. Accordingly, the Division respectfully requests that the Sackler Respondents' Motion for Excess Pages be denied.

DATED this 6<sup>th</sup> day of May, 2019.

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## CERTIFICATE OF SERVICE

I certify that I have served or will serve the foregoing document on the parties of record in this proceeding set forth below:

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Dated this 6<sup>th</sup> day of May, 2019.

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