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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA and THE PEOPLE OF THE STATE OF CALIFORNIA, Acting by and Through San Francisco City Attorney DENNIS J. HERRERA, *Plaintiff,* vs. PURDUE PHARMA L.P., et al. *Defendants.*	Case No. 3:18-CV-07591-CRB **ALLERGAN'S SECOND AMENDED AND SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES TO ALLERGAN (NO. 6)** Hon. Judge Charles R. Breyer

PLAINTIFFS TRIAL EXHIBIT
P-04799_00001

Pursuant to Federal Rules of Civil Procedure 26 and 33, and in accordance with the Court's August 30, 2021 *Order Following August 30, 2021 Discovery Conference* (Dkt. No. 644), Defendants Allergan plc,[1] Allergan Finance, LLC,[2] Allergan Sales, LLC, and Allergan USA, Inc. (together, "Allergan") hereby provide this second amended and supplemental response to Interrogatory No. 6 from Plaintiff's First Set of Interrogatories to Allergan (the "Interrogatories").

In addition to Allergan, Plaintiff's Interrogatories are directed to (1) Actavis LLC f/k/a Actavis Inc.; (2) Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; (3) Watson Laboratories, Inc.; (4) Warner Chilcott Company LLC; (5) Actavis South Atlantic LLC; (6) Actavis Elizabeth LLC; (7) Actavis Mid Atlantic LLC; (8) Actavis Totowa LLC; (9) Actavis Kadian LLC; (10) Actavis Laboratories UT, Inc. f/k/a Watson Laboratories, Inc.-Salt Lake City; and (11) Actavis Laboratories FL, Inc. f/k/a Watson Laboratories, Inc.-Florida (collectively, the "Actavis Generics Defendants"). None of the Actavis Generics Defendants is affiliated with Allergan. In August 2016, Allergan plc and its subsidiaries divested 215 separate and distinct corporate entities, including the eleven Actavis Generic Defendants, to Teva Pharmaceutical Industries Ltd. in a multi-billion dollar stock sale (collectively, the "Divested Entities"). Accordingly, Allergan is not responding to Plaintiff's Interrogatories on behalf of these other entities. Nonetheless, Allergan confirms (notwithstanding the objections below) that it is not withholding information within its possession, custody, or control on this basis and that its responses include information reasonably accessible to Allergan regarding Schedule II generic opioids manufactured and/or sold by Divested Entities, as in the MDL.

[1] Defendant Allergan plc, which was formerly known as Actavis plc and is now known as Allergan Limited, does not waive but rather expressly preserves its objection to the Court's personal jurisdiction over it.

[2] Defendant Allergan Finance, LLC was formerly known as Actavis, Inc., which was formerly known as Watson Pharmaceuticals, Inc.

OBJECTIONS TO DEFINITIONS

1. Allergan objects to the Definitions of "You" and "Your" to the extent they purport to include entities beyond Allergan and its current affiliates that have had involvement with Kadian® and Norco®.[3] In particular, Allergan cannot respond on behalf of the Actavis Generics Defendants.

2. Allergan objects to the terms "Identity" and "identify" in this context as vague, ambiguous, overly broad, unduly burdensome, and as not proportional to the needs of this case. Allergan will interpret those terms consistent with their common meanings and does not intend to withhold responsive documents on this basis.

3. Allergan objects to the term "Opioid(s)" as vague, ambiguous, overly broad, unduly burdensome and not proportional in this context. Allergan will interpret this term to refer Kadian®, Norco®, and, to the extent information about them is within Allergan's possession, custody, or control and reasonably accessible, Schedule II generic opioids manufactured and/or sold by the Actavis Generics Defendants, as in the MDL.

4. Allergan objects to the term "Person" to the extent it includes entities other than natural persons such as "any business, legal or governmental entity or association." Allergan will interpret the term "person" to mean natural person but nonetheless does not intend to withhold responsive information on this basis.

OBJECTIONS TO INSTRUCTIONS

1. Allergan objects to Plaintiff's statement that "[t]o the extent an Interrogatory herein calls, in whole or in part, for responsive documents produced in discovery in any MDL proceeding, please specifically reference the Bates stamp range of responsive documents" as overly broad, unduly

[3] As the parties previously agreed, marketing of Norco® is not at issue in this case; Norco® is only relevant as it relates to Plaintiff's suspicious order monitoring allegations. All responses and objections herein regarding Norco® are so limited.

burdensome, vague, ambiguous, as not proportional to the needs of this case, and as impermissibly shifting the burden to review Allergan's production from Plaintiff to Allergan.

2. Allergan objects to Plaintiff's statement that "[n]othing in these Interrogatories shall limit or replace Defendants' obligations to comply with discovery rulings in the MDL transferee court pertaining to common discovery or with the Federal Rules of Civil Procedure" and that "[t]o the extent such productions have not been completed or need to be updated, that should be done promptly" as vague and ambiguous in this context. Nonetheless, Allergan has complied and will continue to comply with all applicable orders issued in the MDL. Moreover, for the avoidance of doubt, Allergan has voluntarily agreed to comply with Discovery Ruling No. 4 in the MDL to the extent information about Schedule II generic opioids manufactured and/or sold by the Actavis Generics Defendants is within Allergan's possession, custody, or control and reasonably accessible.

GENERAL OBJECTIONS

Allergan asserts the following General Objections. These General Objections are incorporated by reference in the specific responses set forth below and are neither waived nor limited by the specific responses.

1. Allergan objects to these Interrogatories to the extent they seek information that is not proportional to the needs of this case.

2. Allergan objects to the extent the Interrogatories seek information publicly available or otherwise equally available to Plaintiff, or already in the Plaintiff's possession, custody, or control.

3. Allergan objects to the Interrogatories to the extent that they seek information that is protected by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege or any other applicable doctrine or privilege. Inadvertent disclosure of any such information shall not be deemed a waiver of any privilege or immunity.

4. Allergan objects to the Interrogatories to the extent that they seek to impose any requirements or obligations on Allergan in addition to or different from those imposed by the Federal Rules of Civil Procedure, any order that this Court has or will enter, any stipulation or agreement of the Parties, or any other applicable source of governing law.

5. Allergan expressly reserves the right to amend or supplement these responses as necessary.

6. Allergan objects to the Interrogatories to the extent that the Interrogatories, or any word or term used therein, are vague, ambiguous, subject to different interpretations, and/or lacking in definition. Allergan will respond to the extent possible based on the most objectively reasonable interpretation of the Interrogatories

7. By answering, responding or objecting to any interrogatory or part thereof, Allergan does not admit the existence of any information described or assumed or any allegations set forth or assumed by such interrogatory or that such answer or response or objection constitutes admissible evidence. The fact that Allergan has answered or responded to any interrogatory or any part thereof is not intended and shall not be construed as a waiver of all or any part of any objection to any interrogatory.

8. Allergan's responses are made solely for the purpose of this action.

9. Allergan reserves all evidentiary objections. All documents and information produced are subject to all objections as to competence, relevance, privilege, materiality, propriety and admissibility.

10. Allergan objects to the extent that these Interrogatories purport to call for information and documents solely relating to geographical areas that are irrelevant and that are not proportional to the needs of this litigation.

SPECIFIC OBJECTIONS AND RESPONSES

INTERROGATORY NO. 6: For each opioid (branded or generic) product you manufactured, marketed, promoted, sold or distributed in, or to residents in, the State of California, provide a quarterly and annual sales summary, including for each opioid product: (a) the product name; (b) MME; (c) all

NDC codes used with the product and the time frame in which each of the codes was in use; (d) the NDA or ANDA number(s) for the product; (e) your role with regard to the product (i.e., manufacturer, marketer, seller, distributor, retailer); (f) gross dollar sales for that opioid; (g) the gross profit for that opioid; (h) sales volume by number of individual units for that opioid; (i) sales volume by number of SKU units/bottles for that opioid; (j) annual sales by script volume for that opioid; (k) annual sales by opioid by MME; (l) your market share for that opioid; (m) the parties to whom you sold the opioids, along with the number of MME and individual units each party purchased and the revenue you received from each party; (n) the pharmacies that received the opioids, along with the number of MME and individual units each pharmacy received; (o) the hospitals that received the opioids, along with the number of MME and individual units each hospital received; (p) the health care provider who wrote prescriptions for the opioids, along with the number of MME and individual units each health care provider prescribed; and (q) the documents relied upon to generate the summary. Where you are unable to provide any of the subcategories of requested information for an opioid product, please state that fact.

SEPTEMBER 17, 2021 SECOND AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6: Allergan incorporates by reference the General Objections, Objections to Instructions, and Objections to Definitions. Allergan further objects to the extent this Interrogatory is not limited to Kadian® and Norco® as overly broad, unduly burdensome, as calling for irrelevant information, and as not proportional to the needs of the case. In addition, Allergan objects to this Interrogatory as overly burdensome to the extent it asks Allergan to summarize documents and data that Allergan has previously produced. Further, Allergan objects to the number of discrete subparts of this Interrogatory as not proportional to the needs of the case and a failure to comply with the limit on the number of interrogatories a party may serve absent leave of court. Allergan also objects to the phrase "where you are unable to provide" as vague.

Subject to and without waiving its objections, and subject to further investigation, discovery and proceedings in this matter, Allergan answers as follows, providing the information required by the Court's August 30, 2021, *Order Following August 30, 2021, Discovery Conference* (Dkt. No. 644):

With respect to Kadian® and Norco®, Allergan states that none of the Allergan entities manufactured, distributed, marketed, or sold Kadian® and Norco® in San Francisco, in California or elsewhere, except Allergan USA, Inc. sold Kadian® and Norco® in San Francisco, in California and/or elsewhere starting in about March 2016 through 2020 when both products were voluntarily discontinued. Nonetheless, Allergan provides the following information in compliance with the Court's August 30, 2021, *Order Following August 30, 2021, Discovery Conference* (Dkt. No. 644), using reasonably available direct and indirect sales data, for each of the four items in the Court's Order:

"(1) product name": The product name appears in Column A in the "Direct sales" and "Indirect sales" tabs in Exhibit 1 hereto.

"(2) FDA NDC code": The National Drug Codes appear in Column B in the "Direct sales" and "Indirect sales" tabs in Exhibit 1 hereto.

"(3) gross dollar sales for each opioid by year": This information appears in Columns F (for California) and H (for San Francisco) in the "Direct sales" and "Indirect sales" tabs in Exhibit 1 hereto.

"(4) San Francisco and California sales volume by number of individual units": This information appears in Columns G (for California) and I (San Francisco) in the "Direct sales" and "Indirect sales" tabs in Exhibit 1 hereto.

With respect to the Schedule II generic opioids, Allergan states that none of the Allergan entities manufactured, distributed, marketed, or sold the Schedule II generic opioids in San Francisco, in California or elsewhere. As explained above, in August 2016, Allergan plc and its subsidiaries divested 215 separate and distinct corporate entities, including the Actavis Generic Defendants, to Teva Pharmaceuticals Industries Ltd. Nonetheless, pursuant to the Court's Order permitting Defendants to

"produce a joint response to avoid duplication" so long as "both Defendants [] fully comply with their discovery obligations and produce all reasonably available information" (*see* Dkt. No. 644 at 4-5), Allergan incorporates by reference herein the Actavis Generics Defendants' response to Interrogatory No. 8 (incorrectly labeled as Interrogatory No. 6) in *Plaintiff's First Set of Interrogatories to the Teva Family of Defendants* to the extent it provides the ordered information regarding the Schedule II generic opioids sold by the Divested Entities, as reflected in Tabs "Actavis - Direct" and "Actavis - Indirect" in Exhibit 1 to the Actavis Generic Defendants' response, prior to August 2016.

Dated: September 17, 2021

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CERTIFICATE OF SERVICE

I, Karl Stampfl, certify that on September 17, 2021, I caused the foregoing to be served via electronic mail on the individuals on the attached service list.

/s/ *Karl Stampfl*
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P-04799 _ 00012

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P-04799 _ 00014

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