

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: The People of the State of California, acting by and through Santa Clara County Counsel Orry P. Korb and Orange County District Attorney Tony Rackauckas vs. Purdue Pharma L.P.

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

CASE NUMBER:
30-2014-00725287-CU-BT-CXC

I certify that I am not a party to this cause. I certify that a true copy of the above Minute Order dated 02/13/18 has been placed for collection and mailing so as to cause it to be mailed in a sealed envelope with postage fully prepaid pursuant to standard court practice and addressed as indicated below. This certification occurred at Santa Ana, California on 2/13/18. Following standard court practice the mailing will occur at Sacramento, California on 2/14/18.

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Clerk of the Court, by: Stacie Jumer, Deputy

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 02/13/18, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on February 13, 2018, at 9:26:50 AM PST. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

MINUTE ORDER

DATE: 02/13/2018

TIME: 09:15:00 AM

DEPT: CX104

JUDICIAL OFFICER PRESIDING: Kim G. Dunning

CLERK: Stacie Turner

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: None

CASE NO: **30-2014-00725287-CU-BT-CXC** CASE INIT.DATE: 05/21/2014

CASE TITLE: **The People of the State of California, acting by and through Santa Clara County Counsel Orry P. Korb and Orange County District Attorney Tony Rackauckas vs. Purdue Pharma L.P.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Business Tort

EVENT ID/DOCUMENT ID: 72753682

EVENT TYPE: Under Submission Ruling

APPEARANCES

There are no appearances by any party.

The demurrers filed by defendants were all argued January 26, 2018. At the hearing, the court advised counsel that none of the documents the parties asked this court to judicially notice had been received by the court. Counsel subsequently electronically filed the documents and each side provided the court with thumb drives containing those documents. The court received the last set of documents on February 2, 2018, and the demurrers were taken under submission on that date.

The court now rules as follows:

All demurrers are overruled. Defendants have 45 days to answer.

The parties did not ask this court to take judicial notice of facts; rather, they sought judicial notice of more than 2,000 pages of *documents*. Having carefully reviewed the requests for judicial notice, the Fourth Amended Complaint, and all the demurrers, this court has determined no purpose can be served by taking judicial notice. Even as to those matters where judicial notice may be required, this court is not required to consider them in ruling on the demurrers. (*StorMedia Inc. v. Superior Court* (1999) 20 Cal.4th 449, 457 , fn. 9 ["In ruling on a demurrer, a court may consider facts of which it has taken judicial notice. (Code Civ. Proc., Section 430.30, subd. (a).) This includes the existence of a document. When judicial notice is taken of a document, however, the truthfulness and proper interpretation of the document are disputable".]) Moreover, as the Court of Appeal has held, "[A] court ruling on a demurrer cannot decide a question that may depend on disputed facts by means of judicial notice. (*Fremont Indemnity Co. v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 115, 55 Cal.Rptr.3d 621.) On a

demurrer a court's function is limited to testing the legal sufficiency of the complaint. [Citation.] A demurrer is simply not the appropriate procedure for determining the truth of disputed facts. [Citation.] The hearing on demurrer may not be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of documents whose truthfulness or proper interpretation are disputable. . . . [J]udicial notice of matters upon demurrer will be dispositive only in those instances where there is not or cannot be a factual dispute concerning that which is sought to be judicially noticed." (*Richtek USA, Inc. v. uPI Semiconductor Corporation* (2015) 242 Cal.App.4th 651, 660.)

The court minutes of January 26, 2018, are corrected nunc pro tunc as follows: The sentence, "Demurrer as to the UCL cause of action is sustained only insofar as the People of the State of California" is stricken.

The clerk is directed to electronically serve all counsel with a copy of this minute order.