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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

NO. 17-2-25505-0 SEA

Plaintiff,

**ORDER DENYING SEALING / REDACTING
OF PORTIONS OF THE STATE'S
COMPLAINT**

v.

PURDUE PHARMA L.P.; PURDUE
PHARMA INC.; and THE PURDUE
FREDERICK COMPANY,

Defendants.

THIS MATTER, having come before the Court on State's Motion Regarding Redactions in State's Complaint, and the Court having reviewed the foregoing Motion, responses, if any, and considered the following material:

1. The State's Motion Regarding Redactions in State's Complaint;
2. The Declaration of Tad Robinson O'Neill and the exhibits thereto;
3. Defendants' Response to State's Motion Regarding Redactions in State's Complaint;
4. Declaration of Ed Mahony In Support of Defendants' Response to State's Motion Regarding Redactions in State's Complaint; and
5. State's Reply in Support of Its Motion Regarding Redactions in the Complaint.

The Court hereby enters the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

- 1 1. The Washington State Constitution, Art. 1, §10, states: “Justice in all cases
2 shall be administered openly, and without unnecessary delay.” However, only
3 material that is relevant to a decision actually made by the court is
4 presumptively public under this constitutional standard. Because none of the
5 documents excerpted in the Complaint are presently part of the Court’s
6 decision-making process, the Art. 1, §10-based presumption does not apply to
7 the State’s Motion. *Bennett v. Smith Bundy Berman Britton, PS*, 176 Wn.2d
8 303, 310, 291 P.3d 886 (2013).
- 9 2. GR 15(c)(2) empowers this Court to find that the redactions appearing in the
10 State’s Complaint be maintained provided the redactions are justified by
11 identified compelling privacy concerns that outweigh the public interest in
12 access to the redacted information.
- 13 3. As the party seeking to maintain the redactions, Purdue Pharma carries the
14 burden to identify compelling privacy concerns. Purdue must show “for each
15 particular document . . . [a] specific prejudice or harm will result” from the
16 disclosure of trade secrets, supported by “affidavits and concrete examples.”
17 *Dreiling v. Jain*, 151 Wnd.2d 900, 916, 93 P.3d 861 (2004).
- 18 4. Purdue Pharma has failed to provide particularized analysis regarding how
19 specific redactions in the complaint would create a competitive advantage, how
20 its processes are novel or different from those of its competitors, how the
21 secrecy of its prior marketing plans remain currently valuable in the changed
22 regulatory and public relations environment of 2017, and how the secrecy of
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1 sales calls and notes with identified and publicly disciplined health care
2 providers have current economic value.

3 5. Under GR 15 (c) (2) and case law, Purdue has failed to meet its burden to
4 justify maintaining the redactions in the complaint filed by the State in this
5 matter.

6 6. CR 26(c) is inapplicable as it address disclosure outside of pleadings, not
7 redactions per GR 15(c) (2). Even so, CR 26(c) requires a showing of good
8 cause to keep trade secrets undisclosed and, as set forth above, Purdue Pharma
9 has failed to meet its burden of establishing trade secrets and good cause.
10

11 Having entered the above FINDINGS OF FACT AND CONCLUSIONS OF LAW, it is
12 hereby ORDERED, ADJUDGED, and DECREED that the State's Motion Regarding Redactions
13 in the State's Complaint is GRANTED. The State is hereby directed to file an unredacted copy
14 of the Complaint with the Clerk's Office by January 5, 2018, and no portion of the pleadings
15 shall be sealed or redacted by the Clerk's Office.
16

17 DATED this 22nd day of December, 2017.

18
19 
20 HONORABLE CATHERINE MOORE
King County Superior Court

21 Presented by:

22 ROBERT W. FERGUSON
23 Attorney General

24 /s/ Tad Robinson O'Neill
25 TAD ROBINSON O'NEILL, WSBA #37153
26 KATHARINE F. BARACH, WSBA #51766
Assistant Attorneys General
Attorneys for Plaintiff State of Washington