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APR 14 2017

CASE #:

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
5th DIVISION

MCKESSON MEDICAL-SURGICAL INC.

PLAINTIFF

V.

Case No. CV 17 - 1921

STATE OF ARKANSAS; ARKANSAS
DEPARTMENT OF CORRECTION;
ASA HUTCHINSON, Governor of the State
of Arkansas, in his official capacity; and
WENDY KELLEY, Director,
Arkansas Department of Correction, in
her official capacity.

DEFENDANTS

TEMPORARY RESTRAINING ORDER

Before the Court is Plaintiff McKesson Medical-Surgical, Inc.'s ("McKesson's"), motion for a temporary restraining order or preliminary injunction against Defendant State of Arkansas, Arkansas Department of Corrections, Governor Asa Hutchinson, in his official capacity, and Director Wendy Kelly in her official capacity. The Court having considered the evidence submitted in support thereof, good cause appearing, and in accordance with Rule 65 of the Arkansas Rules of Civil Procedure and the common law, makes the following Order:

IT IS HEREBY ORDERED AND ADJUGED as follows:

- (1) This Court has subject matter jurisdiction under Amendment 80 to the Arkansas Constitution and Ark. Code Ann. § 16-13-201.
- (2) This Court has personal jurisdiction over the Defendants.
- (3) Plaintiff has demonstrated a clear showing based on specific facts found in its Verified Complaint and attached exhibit, as well as in its motion and brief in support and

attached exhibits, that it has a likelihood of success on the merits of its claims in the Verified Complaint and that immediate and irreparable injury will be caused to Plaintiff if a temporary restraining order is not granted.

(4) Unless the Court takes immediate action, Plaintiff's property will be used by the Defendants and cannot be returned to Plaintiff. Plaintiff will suffer a series of irreparable harms including loss of property and forced participation in a procedure that is likely to cause reputational injury and related harms as set forth in greater detail in the pleadings.

(5) The forgoing harms cannot be remedied later. In contrast, any harm to the Defendants can be remedied through later acquisition of a replacement product.

(6) Weighing the equities and considering Plaintiff's likelihood of ultimate success, and the effect on Plaintiff if the Court takes no action, a temporary restraining order is in the public interest.

(7) Plaintiff has adequately demonstrated the necessity of proceeding without notice to Defendants of this *ex parte* application in order to preserve and protect the status quo.

(8) Based on the foregoing, the Court determines that no security is required at this time because Plaintiff has already refunded to Defendants the price of the property at issue.

(9) Therefore, this Court finds that Plaintiff has established good cause for the issuance of a Temporary Restraining Order issued *ex parte* as more particularly described herein.

IT IS THEREFORD ORDERED THAT:

1. Defendant having actual notice of this Order (by personal service, U.S. Mail, electronic mail, or otherwise) shall not use the vercuronium bromide obtained from Plaintiff until ordered otherwise by this Court. The Court shall address the final disposition of the property, including ownership of it, at a future hearing.

2. Should Defendant object to any part of this Order, or from it being entered as a Preliminary Injunction, then Defendant should appear on April^{18th}, 2017, at ~~7:00~~^{9:00 a.m.} in the Pulaski County Courthouse. Should Defendant desire an earlier hearing, then pursuant to Rule 65(b) of the Arkansas Rules of Civil Procedure, Defendant should make an application to this Court.

IT IS SO ORDERED THIS 14th day of April, 2017, at April 4:25 p.m. [time].

Wendell Griffen by:
Honorable _____
Circuit Court Judge, 5th Division, Pulaski County

Catrina Compton
3rd Division