

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 IN THE MATTER OF: THE
3 BEATRICE B. DAVIS FAMILY
4 HERITAGE TRUST, DATED JULY
5 28, 2000, AS AMENDED ON
6 FEBRUARY 24, 2014.

7 CHRISTOPHER D. DAVIS,

8 Appellant,

9 vs.

10 CAROLINE DAVIS; BLACKROCK
11 LEGAL, LLC, F/K/A GOODSSELL &
12 OLSEN, LLP; DUNHAM TRUST
13 COMPANY; STEPHEN K.
14 LEHNARDT; -ROLAND LAW
15 FIRM; AND PARTIES RECEIVING
16 NOTICE,

17 Respondents.

Supreme Court No. 79080

District Court Case No. 19-0093867
Electronically Filed
Oct 11 2019 02:17 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

18 **APPENDIX TO RESPONDENT DUNHAM TRUST COMPANY'S**
19 **RESPONSE TO APPELLANT'S MOTION TO STAY**

EXHIBIT	DOCUMENT	BATES NOS.
A	<i>Order (Granting Petition for Instruction Regarding Surrender of Assets) (April 26, 2019)</i>	DUNHAM000001- DUNHAM000003
B	<i>Minute Order (April 11, 2019)</i>	DUNHAM000004- DUNHAM000005
C	<i>Corres. to Walter Keenan, Advantage Insurance (April 26, 2019)</i>	DUNHAM000006- DUNHAM000014
D	<i>Email to Christopher Davis and Winfield Davis (April 26, 2019)</i>	DUNHAM000015

EXHIBIT	DOCUMENT	BATES NOS.
E	<i>Court Minute Order</i> (August 30, 2019)	DUNHAM000016
F	<i>Corres. from Walter Keenan, Advantage Insurance</i> (September 20, 2019)	DUNHAM000017- DUNHAM000024
G	<i>Attorney General Phil Weiser expands Purdue Pharma lawsuit to include Sackler family members and company executives who created the opioid epidemic in Colorado - Colorado Attorney General,</i> https://coag.gov/press-releases/07-01-19/ (July 1, 2019)	DUNHAM000025- DUNHAM000028
H	<i>Complaint and Demand for Jury Trial, Clark County v. Purdue Pharma, L.P., et al.</i> (December 7, 2017)	DUNHAM000029- DUNHAM000078
I	<i>Promissory Notes and Loan Tracking Summary</i> (September 1, 2011, March 26, 2013, April 4, 2013)	DUNHAM000079- DUNHAM000091
J	<i>Policy Statement</i> , July 1, 2018 to September 30, 2018	DUNHAM000092- DUNHAM000095
K	<i>PharmService LLC Statement of Assets, Liabilities, and Equity - Tax Basis</i> (June 30, 2018)	DUNHAM000096- DUNHAM000123
L	<i>Various Correspondence to Davis Family Office re: relinquishment of tangible assets</i>	DUNHAM000124- DUNHAM000128
M	<i>Summary of Tangible Assets of Value</i> (December 31, 2016)	DUNHAM000129- DUNHAM000130
N	<i>Caroline Davis' Response to Petition re: Distributions from Trust to Primary Beneficiary</i> (June 6, 2019)	DUNHAM000131- DUNHAM000139

ADDENDUM	AUTHORITY
1	NRAP 8
2	<u>Hansen v. Eighth Judicial Dist. Court ex rel. County of Clark</u> , 116 Nev. 650, 657, 6 P.3d 982, 986 (2000)
3	<u>Kress v. Corey</u> , 65 Nev. 1, 189 P.2d 352 (1948)).
4	<u>Mikohn Gaming Corp. v. McCrea</u> , 120 Nev. 248, 251, 89 P.3d 36, 38 (2004)
5	3 Code of Colorado Regulations, 719-1, Rule 5.00.40.

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CERTIFICATE OF COMPLIANCE

I hereby certify that:

1. I have read the foregoing Appendix;
2. To the best of my knowledge, information and belief, the foregoing Appendix is not frivolous or interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
3. The foregoing Appendix complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e) (1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that we may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure; and

///

///

1 4. The Appendix complies with the formatting requirements of Rule
2 32(a)(4)-(6), and the page- or type-volume limitations stated in Rule
3 32(a)(7).

4 **LEE, HERNANDEZ, LANDRUM**
5 **& CARLSON, APC**

6
7 By: 

8 CHARLENE N. RENWICK, ESQ.
9 Nevada Bar No. 10165
10 7575 Vegas Drive, Suite 150
11 Las Vegas, NV 89128
12 Attorney for Dunham Trust
13 Company
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CERTIFICATE OF SERVICE

On the 11th day of October, 2019, the undersigned, an employee of Lee, Hernandez, Landrum & Carlson, APC, hereby served a true copy of **APPENDIX TO RESPONDENT DUNHAM TRUST COMPANY'S RESPONSE TO APPELLANT'S MOTION TO STAY**, to the parties listed below via the electronic service through the Nevada Supreme Court's website (or, if necessary, by U.S. Mail, first class, postage pre-paid):

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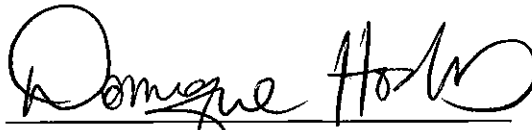
Anthony L. Barney, Esq.
Tiffany S. Barney, Esq.
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Chris Davis
514 West 26th Street, #3E
Kansas City, MO 64108

Chris Davis
2934 1/2 North Beverly Glen Circle,
Apt. 506
Los Angeles, CA 90077

1 Caroline D. Davis
2 2501 Nob Hill Place North
3 Seattle, WA 98109
4 Phone: (206) 284-0837
5 Cddavis1@comcast.net

Honorable Gloria Sturman
District Court Judge, Dept XXVI
Eighth Judicial District Court
200 Lewis Ave.
Las Vegas, NV 89155

6
7 

8 An Employee of Lee, Hernandez,
9 Landrum & Carlson, APC
10
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Exhibit “A”

Exhibit “A”



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10 office@anthonybarney.com
11 Prior Attorneys for Christopher D. Davis

8 EIGHTH JUDICIAL DISTRICT COURT
9 CLARK COUNTY, NEVADA

11 In the matter of:

Case No.: P-15-083867-T

12 The BEATRICE B. DAVIS FAMILY HERITAGE
13 TRUST, dated July 28, 2000, as amended on
14 February 24, 2014.

Dept. No.: 26

16 ORDER

17 This matter having come for hearing on the 11th day of April 2019 at 9:30 a.m., after
18 being continued from the original hearing date of January 31, 2019, an subsequent hearing date
19 of March 14, 2019, the Honorable Gloria Sturman presiding, Charlene Renwick, Esq. appearing
20 on behalf of Dunham Trust Company, Joshua Hood, Esq. appearing on behalf of Caroline
21 Davis, Jason Sadow, Esq., on behalf of Roland Law Firm; Anthony Barney, Esq. on behalf of
22 Anthony Barney, Ltd.; Thomas Grover, Esq. on behalf of Blackrock Legal, LLC; and
23 beneficiary Christopher Davis, and his spouse Tara Davis, appearing telephonically. Dunham
24 Trust company having petitioned the court for instructions regarding surrender of the assets held
25 by Beatrice B. Davis Family Heritage Trust, termination of said Trust, and distribution to the
26
27
28

1 beneficiaries, the court having reviewed all pleadings and papers on file herein, and having
2 heard oral argument of the parties, and good cause appearing therefore,
3

4 IT IS HEREBY ORDERED ADJUDGED AND DECREED that Dunham Trust
5 Company's ("Trustee") Petition is GRANTED, and said Trustee is directed to surrender the
6 primary asset of the Beatrice B. Davis Family Heritage Trust (hereafter "Trust"), which is life
7 insurance policy number ACLI 11058007 (ALIP 000081031)(the "Policy"); and,
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that beneficiaries of the
10 Trust are directed to immediately turn over any tangible assets in their possession, which are
11 owned by the Policy, to Advantage Insurance, the insurer; and,
12

13 IT IS FURTHER ORDERED ADJUDGED AND DECREED, that the Trustee is
14 directed to liquidate all assets owned by the Policy, for the purpose of satisfying the judgments
15 already entered in favor of the Roland Law Firm, Anthony L. Barney, Ltd., and BlackRock
16 Legal, LLC. The remaining funds of the liquidation are also for the ultimate distribution to the
17 beneficiaries, the allocation of which is to be later determined by the Court.
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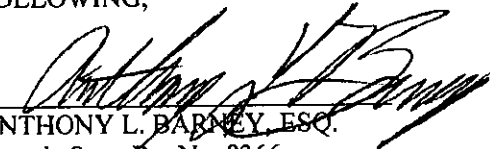
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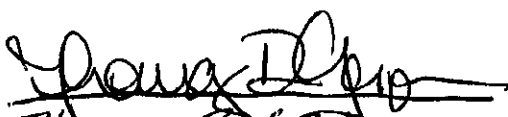
1 IT IS FURTHER ORDERED ADJUDGED AND DECREED, that no distribution shall
2 be made from the Trust to any beneficiary until further Order of the Court directing such
3 distribution. However, this does not in any way prevent execution on the judgments entered in
4 favor of the Roland Law Firm, Anthony L. Barney, Ltd. And BlackRock Legal, LLC.
5

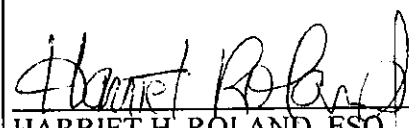
6 DATED this 25th day of April 2019.

7
8 
DISTRICT COURT JUDGE

9 RESPECTFULLY SUBMITTED BY THE
10 FOLLOWING,

11 
12 ANTHONY L. BARNEY, ESQ.
13 Nevada State Bar No. 8366
14 TIFFANY S. BARNEY, ESQ.
15 Nevada State Bar No. 9754
16 ANTHONY L. BARNEY, LTD.
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Former Attorney for Christopher D. Davis


THOMAS R. GREVER
NSB 12387
BLACKROCK LEGAL

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18 HARRIET H. ROLAND, ESQ.
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22 Telephone: (702) 452-1500
23 Facsimile: (702) 920-8903
Former Attorney for Christopher D. Davis

24
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Exhibit “B”

Exhibit “B”

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Probate - Trust/Conservatorships**COURT MINUTES****April 11, 2019**

P-15-083867-T In the Matter of the Trust of:
The Beatrice Davis Heritage Trust

April 11, 2019 09:30 AM All Pending Motions

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Shell, Lorna

PARTIES PRESENT:

Caroline Davis, Petitioner, Not Present Joshua M. Hood, Attorney, Present

The Beatrice Davis Heritage Trust, Trust, Not Present

**Christopher D Davis, Other, Present Anthony L. Barney, Attorney, Present
Thomas R Grover, Attorney, Present**

Dunham Trust Company, Other, Not Present Charlene Renwick, Attorney, Present

Stephen Lehnardt, Other, Not Present Jonathan W. Barlow, Attorney, Not Present

Parties Receiving Notice, Other, Not Present Anthony L. Barney, Attorney, Present

Roland Law Firm, Other, Not Present Jason M. Sadow, Attorney, Present

JOURNAL ENTRIES

Also present was Mrs. Christopher Davis. Mr. and Mrs. Davis present telephonically.

EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR CAROLINE D. DAVIS, WITHOUT SUBSTITUTION:
Court stated it did not appear there was proper service and the order did not include all the required information.

Mr. Hood agreed to renote the parties and place the matter back on calendar in the ordinary course.

AT THE HOUR OF 9:45 AM the Court Clerk received notification of a request by Mr. and Mrs. Christopher Davis to appear telephonically. CourtCall was contacted and all parties now present.

PETITION: DUNHAM TRUST CO.'S PETITION FOR INSTRUCTIONS REGARDING SURRENDER OF ASSETS, TERMINATION OF TRUST AND DISTRIBUTION ON ORDER SHORTENING TIME:

Ms. Renwick stated supplemental briefing was filed and Christopher Davis responded, and that she would file a supplemental reply. Ms. Renwick argued the insurance policy was not sustainable, the report filed included the projected costs and it indicated the policy would be depleted in 10-11 years. Ms. Renwick argued pursuant to Article 12 Section 11, Dunham Trust had determined the policy could not be sustained as it was not economically feasible.

Mr. Hood stated Caroline Davis' position was on the record.

Mrs. Christopher Davis stated her opposition was filed last night and further argued Dunham Trust had not provided evidence that the policy was not feasible, that the Pharmacy was able to make \$2 million a year, and she was able to supply that information. Mrs. Davis requested Dunham Trust prove there wasn't enough money.

Court READ IN OPEN COURT the document filed by Mr. Christopher Davis.

Ms. Renwick stated it was not clear what this data from Mr. Davis represented and further argued the information she had provided was from the insurance company and it included the Pharmacy income, that the insurance company would continue to accept payments; however they realize the funds would be depleted within 10-11 years.

COURT FINDS it appears the request was for liquidation of the assets only, that distribution would happen later, and that Mr. Davis would have to prove what he did with the assets later. The insurance company would be seeking the tangible assets and if they don't get them, it was possible a police report may be filed. The plan was not viable as the money would run out before the policy expires; however there may be a way to recover something before this goes away. COURT THEREFORE ORDERED, Petition GRANTED; Trust TERMINATED; Assets to be RECOVERED AND LIQUIDATED; Ms. Renwick to prepare the order.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Exhibit “C”

Exhibit “C”



CHARLENE N. RENWICK
ASSOCIATE
CRENWICK@LEE-LAWFIRM.COM

April 26, 2019

VIA EMAIL

Mr. Walter Keenan
Advantage Insurance
250 Munoz Rivera Avenue, Suite 710
San Juan, Puerto Rico 00918
w.keenan@advantagelife.com

RE: In the Matter of: The Beatrice Davis Heritage Family Trust
Clark County Nevada District Court Case No.: P-15-083867-T

Dear Mr. Keenan,

Attached herein please find the Notice of Entry of Order Granting Dunham Trust Company's Petition for Instructions. The District Court Order directs Dunham Trust Company ("DTC") to surrender the primary asset of The Beatrice B. Davis Family Heritage Trust (the "Trust"), which is life insurance policy number ACLI 11058007 (ALIP 00081031) (the "Policy"). DTC is further directed to liquidate all assets owned by the Policy. On behalf of DTC, request is hereby made that the policy be immediately surrendered, and all of the policy assets liquidated, in accordance with the Court's Order.

Further, please be advised that DTC has been ordered by the Court to provide security by way of either bond or a cash account, in order to secure the total amount of the attorneys' fees' judgments (\$107,741.63) entered against beneficiary Christopher Davis and the Trust, jointly and severally, pending DTC's appeals of said judgments. DTC will also be required to secure two years of interest on those judgments, however, the Court has not yet determined the applicable interest amount, and we will advise as to the total amount once the Court decides the same. Please note that DTC is required to provide the referenced security within two weeks of today, which is **May 10, 2019**. If any issues arise with respect to liquidating the policy assets in order to meet this timeline, please advise the undersigned immediately.

Sincerely,

LEE, HERNANDEZ, LANDRUM, &
CARLSON, APC

/s/ Charlene N. Renwick

Encl.: As stated

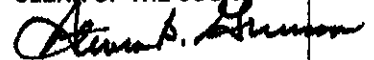
cc: All Parties and All Beneficiaries (via electronic service and email)

7575 VEGAS DRIVE, SUITE 150
LAS VEGAS, NEVADA 89128
T 702.880.9750 F 702.314.1210

ARIZONA + NEVADA + FLORIDA + CALIFORNIA + COLORADO + UTAH + WASHINGTON
WWW.LEE-LAWFIRM.COM

DUNHAM000006

Case Number: P-15-083867-T



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office@anthonybarney.com
7 *Prior Attorneys for Christopher D. Davis*

8 EIGHTH JUDICIAL DISTRICT COURT
9 CLARK COUNTY, NEVADA

10
11 In the matter of:

Case No.: P-15-083867-T

12
13 The BEATRICE B. DAVIS FAMILY HERITAGE
14 TRUST, dated July 28, 2000, as amended on
February 24, 2014.

Dept. No.: 26

15
16
17 NOTICE OF ENTRY OF ORDER

18 TO: CAROLINE DAVIS, Petitioner, by and through her attorneys, MARK SOLOMON,
19 ESQ., and JOSHUA HOOD, ESQ., of SOLOMON DWIGGINS & FREER, LTD.

20
21 TO: DUNHAM TRUST, by and through its attorney, CHARLENE RENWICK, ESQ., of
22 LEE HERNANDEZ LANDRUM & GAROFALO

23 TO: STEPHEN LENHARDT by and through his attorney, JONATHAN W. BARLOW,
24 ESQ., of CLEAR COUNSEL LAW GROUP

25
26 TO: FHT HOLDINGS LLC, A Nevada Limited Liability Company, Respondent through
27 Respondent through Dunham Trust Company

28 TO: WINFIELD B. DAVIS

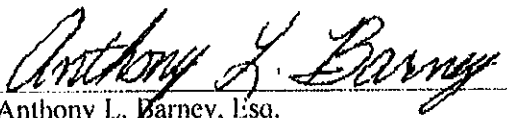
1 TO: ACE DAVIS
2 TO: CHERYL DAVIS
3 TO: TARJA DAVIS
4

5 **PLEASE TAKE NOTICE EACH OF YOU**, of the following:

6 An **Order** was entered and filed on April 26, 2019 in the above-entitled matter. A copy
7 of said Order is attached hereto and incorporated herein as Exhibit 1.

8 DATED this 26th day of April 2019.
9

10 Respectfully Submitted,
11 ANTHONY L. BARNEY, LTD.

12 
13 Anthony L. Barney, Esq.
14 Nevada Bar No. 8366
15 3317 W. Charleston Blvd., Suite B
16 Las Vegas, NV 89102-1835
17 (702) 438-7878
18 *Attorneys for Petitioner*
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to
3 this action. I further certify that on January 23rd, 2019 I served the foregoing **NOTICE OF**
4 **ENTRY OF ORDER**, by first class US mail, postage prepaid, upon the following persons or
5
6 entities:

7 Tarja Davis
8 3005 North Beverly Glen Circle
9 Los Angeles, California 90077
10 And
11 514 West 26th Street, #3E
12 Kansas City, Missouri 64108

13 Christopher Davis
14 3005 North Beverly Glen Circle
15 Los Angeles, California 90077
16 And
17 514 West 26th Street, #3E
18 Kansas City, Missouri 64108

19 Winfield B. Davis
20 Skyline Terrace Apts.
21 930 Figueroa Terr. Apt. 529
22 Los Angeles, California 90012-3072

23 Ace Davis
24 c/o Winfield B. Davis
25 Skyline Terrace Apts.
26 930 Figueroa Terr. Apt. 529
27 Los Angeles, California 90012-3072

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4 Attorneys for Caroline Davis

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9 Crenwick@lee-lawfirm.com
10 Attorneys for Dunham Trust Company

11 JONATHAN W. BARLOW, ESQ.
12 CLEAR COUNSEL LAW GROUP
13 50 Stephanie Street, Suite 101
14 Henderson, Nevada 89012
15 Jonathan@clearcounsel.com
16 Attorneys for Stephen K. Lenhardt

17 FHT Holdings LLC, A Nevada Limited Liability Company, Respondent
18 Dunham Trust Company
19 241 Ridge Street, Suite 100
20 Reno, Nevada 89501

21 MICHAEL OLSEN, ESQ.
22 BLACKROCK LEGAL, LLC
23 10155 W. Twain Ave., Suite 100
24 Las Vegas, Nevada 89147

25 Cheryl Davis
26 5403 West 134 Terrace Unit 1525
27 Overland Park, Kansas 66209
28

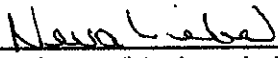

Employee of Anthony L. Barney, Ltd.

EXHIBIT 1

DUNHAM000011



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7 Prior Attorneys for Christopher D. Davis

8 **EIGHTH JUDICIAL DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10
11 In the matter of:

Case No.: P-15-083867-T

12
13 The BEATRICE B. DAVIS FAMILY HERITAGE
14 TRUST, dated July 28, 2000, as amended on
February 24, 2014.

Dept. No.: 26

15
16 **ORDER**

17 This matter having come for hearing on the 11th day of April 2019 at 9:30 a.m., after
18 being continued from the original hearing date of January 31, 2019, an subsequent hearing date
19 of March 14, 2019, the Honorable Gloria Sturman presiding, Charlene Renwick, Esq. appearing
20 on behalf of Dunham Trust Company, Joshua Hood, Esq. appearing on behalf of Caroline
21 Davis, Jason Sadow, Esq., on behalf of Roland Law Firm; Anthony Barney, Esq. on behalf of
22 Anthony Barney, Ltd.; Thomas Grover, Esq. on behalf of Blackrock Legal, LLC; and
23 beneficiary Christopher Davis, and his spouse Tara Davis, appearing telephonically. Dunham
24 Trust company having petitioned the court for instructions regarding surrender of the assets held
25 by Beatrice B. Davis Family Heritage Trust, termination of said Trust, and distribution to the
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27
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1 beneficiaries, the court having reviewed all pleadings and papers on file herein, and having
2 heard oral argument of the parties, and good cause appearing therefore,
3

4 IT IS HEREBY ORDERED ADJUDGED AND DECREED that Dunham Trust
5 Company's ("Trustee") Petition is GRANTED, and said Trustee is directed to surrender the
6 primary asset of the Beatrice B. Davis Family Heritage Trust (hereafter "Trust"), which is life
7 insurance policy number ACLI 11058007 (ALIP 000081031)(the "Policy"); and,
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that beneficiaries of the
10 Trust are directed to immediately turn over any tangible assets in their possession, which are
11 owned by the Policy, to Advantage Insurance, the insurer; and,
12

13 IT IS FURTHER ORDERED ADJUDGED AND DECREED, that the Trustee is
14 directed to liquidate all assets owned by the Policy, for the purpose of satisfying the judgments
15 already entered in favor of the Roland Law Firm, Anthony L. Barney, Ltd., and BlackRock
16 Legal, LLC. The remaining funds of the liquidation are also for the ultimate distribution to the
17 beneficiaries, the allocation of which is to be later determined by the Court.
18

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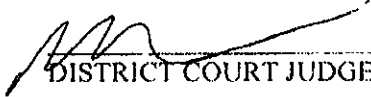
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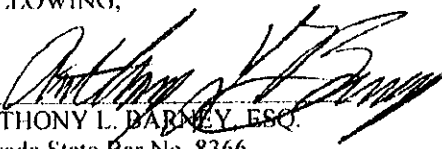
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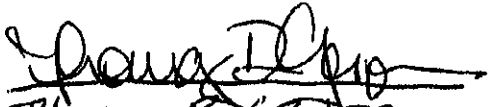
1 IT IS FURTHER ORDERED ADJUDGED AND DECREED, that no distribution shall
2 be made from the Trust to any beneficiary until further Order of the Court directing such
3 distribution. However, this does not in any way prevent execution on the judgments entered in
4 favor of the Roland Law Firm, Anthony L. Barney, Ltd. And BlackRock Legal, L.L.C.

5
6 DATED this 25th day of April 2019.

7
8 
DISTRICT COURT JUDGE

9
10 RESPECTFULLY SUBMITTED BY THE
FOLLOWING,

11
12 
13 ANTHONY L. BARNEY, ESQ.
Nevada State Bar No. 8366
14 TIFFANY S. BARNEY, ESQ.
Nevada State Bar No. 9754
15 ANTHONY L. BARNEY, LTD.
3317 W. Charleston Blvd., Suite B
16 Las Vegas, Nevada 89102
Former Attorney for Christopher D. Davis

17
18 
19 THOMAS R. GROVER
NSB 12387
BLACKROCK LEGAL

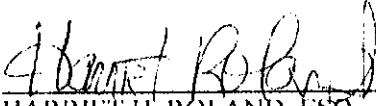
20
21 
22 HARRIET H. ROLAND, ESQ.
NV Bar No. 5471
23 ROLAND LAW FIRM
24 2470 E. St. Rose Pkwy, Ste. 105
Henderson, NV 89074
25 Telephone: (702) 452-1500
26 Facsimile: (702) 920-8903
27 Former Attorney for Christopher D. Davis
28

Exhibit “D”

Exhibit “D”

Dominique Hoskins

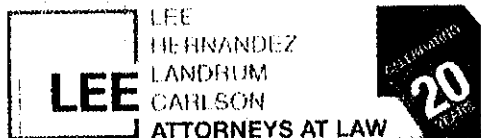
From: Christina M. Ablahani
Sent: Friday, April 26, 2019 2:30 PM
To: winsane@gmail.com; cdavis4108@gmail.com
Cc: Charlene Renwick
Subject: In the Matter of The Beatrice Davis Heritage Family Trust
Attachments: W. Keenan_Advantage Ins. 4.26.19 (inst. to surrender policy).pdf

Good afternoon,

Please see the attached correspondence.

Thank you.

Tina Ablahani
LEGAL ASSISTANT



7575 VEGAS DRIVE, SUITE 150
LAS VEGAS, NV 89128
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CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication, or any attachments thereto, was not written to be used and cannot be used for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

Exhibit “E”

Exhibit “E”

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate -
Trust/Conservatorships**

COURT MINUTES

August 30, 2019

P-15-083867-T

**In the Matter of the Trust of:
Beatrice Davis Heritage Trust**

August 30, 2019

3:00 AM

Status Check

HEARD BY: Sturman, Gloria

COURTROOM:

COURT CLERK: Lorna Shell

PARTIES:

Anthony L. Barney Ltd., Other, not present
Beatrice Davis Trust, Trust, not present
Blackrock Legal LLC, Other, not present
Caroline Davis, Petitioner, not present
Christopher Davis, Other, not present
Dunham Trust Company, Other, not present
Parties Receiving Notice, Other, not present
Roland Law Firm, Other, not present
Stephen Lehnardt, Other, not present

Anthony Barney, Attorney, not present
Michael Olsen, Attorney, not present
Pro Se
Thomas Grover, Attorney, not present
Charlene Renwick, Attorney, not present
Anthony Barney, Attorney, not present
Jason Sadow, Attorney, not present
Jonathan Barlow, Attorney, not present

JOURNAL ENTRIES

- Christopher Davis filed a Notice of Appeal on May 28, 2019 and a motion to Stay was filed August 1, 2019. Although the document was captioned in the supreme Court of the State of Nevada, it was electronically filed in the Eighth Judicial District Court under the Probate case number. No hearing was requested; however the Motion was Opposed by Dunham Trust Company on August 9, 2019 and by Caroline Davis on August 11, 2019. Having reviewed both the Motion for Stay and the Oppositions thereto, the COURT FINDS the Motion to Stay untimely, further, pursuant to NRAP 8 the request for is moot given the delay. COURT THEREFORE ORDERED, Motion for Stay is hereby DENIED.

PRINT DATE:	08/30/2019	Page 1 of 2	Minutes Date:	August 30, 2019
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

Exhibit “F”

Exhibit “F”

Advantage Insurance

September 20, 2019

VIA EMAIL: ann.rosevear@dunham.com

Ann Rosevear
Dunham Trust Company
241 Ridge Street Suite 100
Reno, Nevada 89501

Re: Advantage Life Puerto Rico A.I. Policy ACLI 1105-8007 PC

Dear Ms. Rosevear:

This letter is to confirm the cancellation of the life insurance policy referenced above ("Policy") effective June 27, 2019. The Policy was issued by Advantage Life Puerto Rico A.I. ("Advantage Life") and owned by the Beatrice B. Davis Family Heritage Trust dated July 28, 2000 ("Davis Trust") through FHT Holdings LLC. Please find attached the Cancellation Endorsement for your records.

Upon cancellation, Advantage Life has initiated the return of all Policy assets to the ultimate owner, Dunham Trust Company ("Dunham"). As discussed, we have returned most of the cash held in the Policy to Dunham Trust Company. As of today, the total cash balance remaining is approximately \$45,000, of which approximately \$15,000 will be needed to pay direct costs and expenses to complete the liquidation and wind-up of the complex investment structure held by the Policy. The remaining \$30,000 is available to be distributed to you.

The Policy held numerous non-cash assets that we are seeking to liquidate in the near term. Some of the assets are illiquid, or appear to have no value. The following is a summary of the remaining illiquid assets that will take some time to be liquidated and/or transferred in-kind to the Davis Trust:

Private Equity Investments

The Policy holds three private equity investments, two of which appear to have value and one that is worthless. The largest investment by value is a 95% interest in PharmService, LLC. We

Advantage Life Puerto Rico A.I.

American International Plaza
250 Muñoz Rivera Avenue, Suite 710
San Juan, Puerto Rico 00918

Phone: +1 (787) 705 2900
www.advantagelife.com

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have engaged a business broker, Frontier Investment Banking of Kansas City, to sell this investment and hope to have a buyer identified before year-end. This is a regulated business and will take some time to complete a sale transaction. We hope to have liquid proceeds in hand in early 2020. The amount will likely be within a range of \$1 to \$2 million, depending on market conditions and the performance of the business. Please note that PharmService, LLC has significant debt due to Bank of Kansas City and is operating under a forbearance agreement with BOKC.

The second PE investment held by the Policy is 565 common shares of Blue Ridge Bancshares, Inc., parent company of Blue Ridge Bank & Trust Co. of Independence, MO. We believe these shares have significant value, perhaps as much as \$500,000, and have contacted the bank management to determine if they know of any market for the shares. The issuer is profitable and has positive tangible book value, and is currently paying a dividend

The third PE investment is a long-bankrupt company, Eleos Inc. We do not believe these shares hold any value, and may have been cancelled in 2010. We are researching them further to determine if there is any successor entity or any chance of realizing value.

Real Property

The Policy notionally owned works of art, jewelry and a rare book that had been collected by Mrs. Beatrice Davis and held for safekeeping by The Davis Family Office, LLC in Kansas City and overseen by Mr. Terry Watts. This real property, which is identified on the attached inventory list, is missing and presumed lost. We have made numerous attempts to collect the property and store it with a qualified custodian in Kansas City. The Davis Family Office has been closed and we are unable to locate Mr. Watts, or the missing property.

We expect to deliver to you a claim to recover the missing property, which we will need to have drafted by legal counsel in Kansas City. Please advise us if you do not want to have the legal work done, as it will be at the expense of the Policy and is included in the \$15,000 reserve amount for wind-up costs.

Promissory Notes

The Policy holds approximately six (6) promissory notes totaling approximately \$5 million of face value. We are not certain of the exact face amount at this time, as there were a number of amendments and extensions made over the years that need to be traced and confirmed. The obligors of these notes are all Davis family entities and one individual family member, Chris Davis. We do not believe these promissory notes are collectable, and the terms of the notes vary as to the ability of the lender to compel repayment from the obligor. We have engaged a Certified Public Accountant to compile a complete inventory of the promissory notes and

calculate the accrued interest due. We expect to deliver these promissory notes to you in-kind, when the inventory and accrued interest calculations are completed.

Policy Loan

There is an outstanding policy loan to the owner in the amount of \$2,998,602, plus interest. As this amount is payable by the owner to the Policy, it is offset against the cash surrender amount and no cash will change hands to settle this loan.

Finally, we should point out that there are tax implications to the cancellation of indebtedness related to the promissory notes. We are consulting tax counsel as to our obligations to make any tax filings with respect to the promissory notes, and will share with you any relevant information we have prior to delivering the promissory notes to you.

As always, we are pleased to help you with any information we can provide about the Policy, its remaining assets and the timing of delivery of these assets to you. Please contact us any time by email or telephone if we can be of service.

Kind regards,

A handwritten signature in black ink, appearing to read "Walter C. Keenan", with a stylized, flowing script.

Walter C. Keenan
Director

Advantage Insurance

Endorsement No. 5

Forming part of and attached to policy ACLI 1105-8007 PC issued to:

FHT Holdings LLC c/o Dunham Trust Company

CANCELLATION OF POLICY

Further to the instructions received from the Policy Owner dated 27th June 2019, with effect from midnight on the 27st June 2019, the above-referenced policy is hereby cancelled.



Director

Advantage Life Puerto Rico A.I.

American International Plaza
250 Muñoz Rivera Avenue, Suite 710
San Juan, Puerto Rico 00918

Phone: +1 (787) 705 2900
www.advantagelife.com

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SCHEDULE A

(A) Assets held by Norfolk City Investment Ltd (and contributed to North American Fund on its dissolution)

Artwork	Per Financial Statements (1) US\$	Value per Appraisal (2) US\$	Value Per Insurance Policy (3) US\$
Adam Brehm, Wood Carving - 14" x 50", French Style	1,162.00	-	1,162.00
Antique Chest of Drawers - French, 19th Century, Marble Top, 4 Drawers	863.00	-	863.00
Giorgio de Chirico, <i>Il poeta solitario</i> , Sculpture - 20.5" High - Bronze with Silver Plating	126,048.00	115,000.00	115,000.00
Chinese Ancestor Portrait	1,000.00	-	1,277.00
Terracotta Oinochoe Figurine of a Woman's Face - 16.5" High - 350 B.C.	11,508.00	19,000.00	19,000.00
Glass Panel # 69 from Ship Normandie	25,058.00	-	25,000.00
18th Century French Fauteuil	1,897.00	-	2,422.00
Book - <i>Description de l'Egypte ou Recueil des Observations</i>	41,753.00	80,000.00	80,000.00
Eishi, Four Beautiful Women, One with umbrella, Japanese Print	4,100.00	-	5,232.00
Paley, Floor lamp	17,036.00	40,000.00	40,000.00
Chihuly, <i>Red Orcre</i> , Chandelier	79,856.00	185,000.00	185,000.00
Serrier, <i>Le Monde d'Amour</i> , Oil Painting	5,800.00	-	5,800.00
Hasui, <i>Tree in Moonlight</i> , Japanese Wood Block Print, (Brookside Antiques)	800.00	-	1,021.00
Choki, <i>Courtesans & Trees</i> , Japanese Wood Block Print, (Brookside Antiques)	2,150.00	-	2,746.00
Charlecote, Painting, Mid 19th Century French Painting, Gilt Frame	1,045.00	-	1,335.00
Steinberg, Carpet - 7' x 9'	31,596.00	7,000.00	7,000.00
Belzoni, <i>Exterior View of the Two Temples at Ybsambul</i> , Egyptian Print	500.00	-	638.00
Csaky, <i>Tete Or et Argent</i> , 1924, Bronze Fonte Blanchet	49,000.00	50,000.00	50,000.00
Marc Chagall, <i>Derriere le Miroir</i> - Lithographs	1,472.00	-	1,472.00
Pablo Picasso, <i>Pique</i> , 1959, LinoGravure original	46,013.00	60,000.00	60,000.00
Henri Matisse, <i>Odalisque Debout Au Plateau de Fruits</i>	31,356.00	35,000.00	35,000.00
Antique Oushak 14.7 x 10.4 (Reference is 10.4 x 13.6)	45,000.00	25,000.00	25,000.00
Antique Oushak 5.8 x 8.8	9,000.00	-	9,000.00
Antique Karabagh 4.4 x 7.11	6,200.00	-	6,200.00
Anatolian Kilim 8 x 10.7	7,200.00	-	7,200.00
Antique Oushak 9.5 x 12.5	26,623.00	7,000.00	7,000.00
GIACOMO BALLA (1871-1958) <i>Linea-forza del pugno di Boccioni II</i> - Sculpture	500.00	90,000.00	90,000.00
China Napoleon Figure	35,956.00	-	-
Marble Head of a Lady of Classical Period - Sold 12-06-14	70,000.00	-	-
Nolde Meer mit Qualmenden Dampfer, 1946 Watercolor	-	-	-
	680,492.00	713,000.00	784,368.00

(1) Value carried on Financial Statements - based upon original value on assumption

(2) Larger value items appraised in 2015

(3) Value for Insurance purposes as arranged by Davis Family Office

DUNHAM000021

(B) Assets held by The North American Fund Ltd

Artwork	Per Financial Statements (1)	Assumption Value (2)
	US\$	CAD\$
Albert Payley, Chrysallis Vessel, Sculpture 1994	22,798.00	22,725.75
Antique Chest of Drawers – American Victorian Walnut – Three Drawers	574.00	572.18
Antique Syrian Table with Inlaid Ivory	2,000.00	1,993.66
Antique Vienna Art Deco Style Chairs from Christie's	1,980.00	1,973.73
Art Deco 1930's Style Armchair	2,000.00	1,993.66
Arthur & Bond Japanese Meiji Sterling Silver Repousse Tea Set	12,000.00	11,961.97
Belzoni, Tableau, Egyptian Print, Plate 3	460.00	458.54
Brandt, Railing	16,000.00	15,949.30
Bruce Wolfe – IWD Maquette	4,740.00	4,724.98
Canosan Terracotta Statute of a Muse – Greek – 3rd century B.C.	18,000.00	17,942.96
Copies of Vienna Art Deco Style Chairs – laquered arm chairs by Juls Lelue 900€	1,216.00	1,212.15
Dubowski, Dresser	17,811.00	17,754.56
Dubowski, Peonies, Free standing magnesium plate sculpture – 27 x 42.5	17,000.00	16,946.13
Edgar Brandt, His Highness, 1924, Painted wrought iron & marbel occasional table	175,000.00	174,445.43
Egyptian Print, from "Description De l'Egypte" Vol. 4 Plate 12	1,500.00	1,495.25
F. Leger, Decorated Plates – 9.5" Diameter	1,500.00	1,495.25
Façade Denderah, from "Description de 'Egypte'", Approx 32" x 17.5"	450.00	448.57
Fernand Leger print, Tete de Femme	3,750.00	3,738.12
Gustav Klimt, Beethoven Frieze Fragments, collotype prints + framing	10,620.00	10,586.35
Gustav Klimt, Judith I, Color Collotypes, 1918	35,000.00	34,889.09
Gustav Klimt, Pallas Athena, 1918 – Portfolio Number 11 of 230	17,500.00	17,444.54
Gustav Klimt, Rooser Parade, Multicolor collotype prints + framing	10,000.00	9,968.31
Gustav Klimt, Studies of the Frieze at Palais Stoclet, four collotype prints	6,000.00	5,980.99
Herman Max Pechstein, Head of a Fisherman, Woodcut (Kopf eines Seemannes)	3,500.00	3,488.91
Iznik Flask	9,000.00	8,971.48
Japanese Paper Mache Figures	2,500.00	2,492.08
Jean Cocteau, Ceramic Plate – 5.75" diameter -1960	5,000.00	4,984.16
Jean Fautrier, La Boite en Fer Blanche, 1950 – Print	6,071.00	6,051.76
Kikugawa Eizan, Five Holidays of a Green House, Japanese Print	10,240.00	10,207.55
Kitagawa Shikimaro, Poetess Series, Courtesan Karuta of Chojiya, c. 1817	8,960.00	8,931.61
Kitagawa Utamaro, (1754-1867) drinking Sake from the series: Eight views of things we are fond of	9,000.00	8,971.48
Lighton, Orange Zinnia, clay, China Paint, Soda Glaze, 2008	3,800.00	3,787.96
Marini, From Color to Form X, Lithograph 1969	9,000.00	8,971.48
Max Bill Serigraphs	1,500.00	1,495.25
Mother of Pearl Commode from Syria, 46w x 21d x 48.5" h, from Leon Amar Inc	35,000.00	34,889.09
Pair of Turkish tabouret tables, late 18th Century, 17.25" diam by 16" high	16,000.00	15,949.30
Perrault, Palaces of the Kings, Colored Engraving of Paris – 29" x 19"	2,000.00	1,993.66
Pierre le Faguys, Woman in stylized African style, bronze, 1925 1600€	3,200.00	3,189.86
Pilleau, Koum Ombou, 1845 Lithograph 10.75" x 16.75"	450.00	448.57
Pilleau, Ruins at Luxor, 1845, Lithograph – 10.75" x 16.75"	450.00	448.57
Richard Brown, Photographs – C Prints (Color) – 20" x 30"	3,198.00	3,187.87
Richard Brown, Photographs – Silver Gelatins (B&W) – 20" x 30"	3,198.00	3,187.87
Roberts, Approach to the Fortress of Ibrim, Nubia, Pub. 1847. Tintstone Lithograph – 14.75" x 19"	1,580.00	1,574.99
Roberts, Descent Upon the Valley of the Jordan, Pub 1841, Tintstone Lithograph – 14" x 19"	850.00	847.31
Roberts, Entrance to the Temple of Amun, Thebes, Pub. 1844, Tintstone Lithograph – 14.75" x 16.75"	1,200.00	1,196.20
Roberts, Entrance to the Tombs of the Kings of Thebes, Pub. 1848, Tintstone Lithograph – 14" x 19"	1,000.00	996.83
Roberts, Fragments of the Great Colossi at the Mennonian, Pub 1847. Tintstone Lithograph – 14.75" x 20"	1,100.00	1,096.51
Roberts, Interior of the Mosque of the Meltways, Pub. 1848, Tintstone Lithograph – 20.5" x 14"	2,800.00	2,791.13
Roberts, Interior of the Mosque of the Sultan El Ghoree, Pub. 1848, Tintstone Lithograph – 13.5" x 19"	2,800.00	2,791.13
Roberts, Medinet Abou Thebes, Pub. 1847, Tintstone Lithograph – 14" x 19"	1,780.00	1,774.36
Roberts, Mosque of Sultan Hassan, Cairo, Pub 1848, Tintstone Lithograph – 14.5" x 20"	2,800.00	2,791.13
Roberts, Mount Cavalry, Pub. 1841, Tintstone Lithograph – 14" x 19"	1,200.00	1,196.20
Roberts, Sabaste Ancient Samaria, Pub 1847, Tintstone Lithograph, 14.75" x 16.75"	1,000.00	996.83
Roberts, Tombs of the Caliphs, Cairo. Pub. 1849, Tintstone Lithograph – 9.75" x 13.75"	500.00	498.42
Suzuki Harunobu, Parading Courtesan from Yoshiwara, c. 1768, Japanese Print	11,200.00	11,164.51

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Syrian tabouret table from Damascus, mid 18th Century, 15.5" diam by 19.5" tall	14,000.00	13,955.63
Utagawa Yoshitora, ca. Bijin 1862, Pillar Print of two joined pages	5,280.00	5,263.27
Valdes Manolo – Untitled Prints – graphite on tracing paper mounted	9,000.00	8,971.48
Van Millet, Landscape	1,500.00	1,495.25
Venetian Bombay Chest with Chinoiserie Painted Decoration and Trompe l'oeil Marble Top	4,313.00	4,299.33
Voice – 1996 Multi Media	1,500.00	1,495.25
Wilbur Niewald, Swope Park I – 39 7/16 x 50 3/16 – 1963	9,662.00	9,631.38
Wilbur Niewald, Trees, 34 ¼ x 43 11/16 - 1962	8,588.00	8,560.78
Zsolnay – Small Bowl w Red Lillies	16,000.00	15,949.30
Subtotal	609,619.00	607,687.12

In addition, following assets assigned from Norfolk City Investments in period 2014 to 2016

Archipenko, Bronze Statuette (Statue on a Triangular Base) 30" High - Signed & Dated Provenance- Weintraub	- to confirm valuation
Archpenko, <i>Torso</i> , 1914, Bronze Sculpture with Silver Plating - 14.5" High	- to confirm valuation
Oskar Schlemmer, Groteske	- to confirm valuation
William Wauer, Harwarth Walden	- to confirm valuation

Jewelry

One Pair of 18K Y/G Heart Motif Earrings with Scalloped Edges
18K Y/G Five Petal Flower Brooch with Double Stem
Fabricated Cluster Ring: 18K Y/G Split wire Shank with Fingermate Hinged shank and
Platinum Wire Gallery with a Golden Sapphire Weighing 22.74CTS with 40 Round Cut
Diamonds
18K Y/G Rolex Gentlemen's Watch SN 8524976
18K W/G 5 Petal Flower Brooch with 5 Carved Peridot Pedals
18K Y/G Zinna Motif Earrings with Omega Clip Backs and Frosted Finish
18K Y/G Earrings with Omega Clip/Posts Designated by Henry Dunay
18K Y/G Black-Eyed Susan Brooch, Designed by Jean Vitau
18K Y/G Twin Lion's Head Bypass Style Ring
18K Yellow, White, and Pink Flexible Cuff Bracelet, Designed by Gregg Ruth
18K Y/G Black-Eyed Susan Motif Earrings with Clip Backs by Jean Vitau
18K Y/G Mabe Pearl and Diamond Ring designed by Kurt Guam
18K Y/G Doomed Fashion Ring (Paloma Picasso 1981 Tiffany & Co) with Amethyst & Citrine
Jewels
Total

Per Financial Statements (1)

US\$

10,900.00
26,400.00

Assumption Value (2)

CAD\$

10,865.46
26,316.34

66,500.00

66,289.26

24,600.00

24,522.04

21,900.00

21,830.60

6,300.00

6,280.04

6,000.00

5,980.99

19,500.00

19,438.20

2,700.00

2,691.44

24,300.00

24,222.99

11,400.00

11,363.87

4,400.00

4,386.06

4,800.00

4,784.79

229,700.00**228,972.08****Rare Book****Per Financial Statements (1)**

US\$

Belzoni, Giovanni Battista. *Narrative of the Operations and Recent Discoveries within the
Pyramids, Temples, Tombs and Excavations in Egypt & Nubia*, Book - 1820

17,550.00

17,550.00

(1) Value carried on Financial Statements - based upon original value on assumption

(2) Artwork and Jewelry also assigned a CAD\$ equivalent value on assumption

DUNHAM000024

Exhibit “G”

Exhibit “G”

Phil Weiser
COLORADO ATTORNEY GENERAL



FILE A COMPLAINT

Attorney General Phil Weiser expands Purdue Pharma lawsuit to include Sackler family members and company executives who created the opioid epidemic in Colorado

July 1, 2019 (DENVER, Colo.)—To hold those responsible for the opioid epidemic accountable for their actions, Attorney General Phil Weiser has filed an updated lawsuit against opioid manufacturer Purdue Pharma. This lawsuit adds former company executives and members of the Sackler Family, who owned and still own Purdue, for their roles in the opioid epidemic that has killed thousands of Coloradans, left thousands more struggling with addiction, and devastated communities throughout the state.

The amended complaint filed in Denver District Court expands an earlier lawsuit the State filed in September 2018. It includes allegations that the Defendants' fraudulent and reckless conduct violated the Colorado Consumer Protection Act, the Colorado Organized Crime Control Act, and the Colorado Uniform Fraudulent Transfer Act. It also details the significant public impacts that the opioid epidemic has had on some of Colorado's most vulnerable populations, and includes new details on the extreme lengths the Defendants went to market and sell their drugs. In addition, the amended complaint seeks to recover the money that the Sacklers and corporate executives drained from the company after they were well aware of the damage their products caused.

- Through front groups, opinion leaders, and their sales force, Purdue and the Sacklers sponsored and distributed misleading studies claiming that prescription opioids were effective long-term treatments for chronic pain, and they ignored expert warnings about the dangers of opioids;
- Purdue's marketing campaign misrepresented and deliberately undermined the medical community's trust in opioid alternatives like over-the-counter acetaminophen or NSAIDs;
- To counter evidence-based, peer-reviewed studies showing that opioids are addictive, Purdue and the Sacklers created a false medical condition called "pseudoaddiction" to sell more opioids and increase corporate profits and personal fortunes;
- The Sacklers capitalized on the epidemic by directing corporate staff to expand the use of Purdue's savings card program as a means to increase the dosages and the duration of patients' opioid use; and
- Purdue and the Sacklers maintained a list of medical professionals in Colorado who prescribed the most opioids and made them the most money, and rewarded sales representatives with top bonuses and prizes for pushing these prescribers to write more opioid prescriptions. Nearly one out of ten healthcare providers who were listed as Purdue top prescribers were later disciplined for reasons related to opioid prescribing.

"Opioid addiction affects all Coloradans and poses a serious threat to the state's public health, safety, and economy. Purdue Pharma, executives of the company, and the Sackler family worked together to create, fuel, and profit from the crisis we are dealing with today," said Weiser. "Furthermore, the Sackler family drained Purdue of money and assets, depriving the company of funds that could be used to remedy the wrongs it perpetrated. In this action, we are working to hold them responsible for their unscrupulous behavior so that the state can recover funds necessary to support crucial drug treatment and recovery pathways."

The Defendants named in the amended complaint include: Purdue Pharma, L.P.; Purdue Pharma, Inc.; Rhodes Pharmaceuticals, L.P.; MNP Consulting Limited; and Richard Sackler; Mortimer D.A. Sackler; Jonathan Sackler; Kathe Sackler; Ilene Sackler Lefcourt; Beverly Sackler; Theresa Sackler; David Sackler; Russell Gasdia; Mark Timney; Craig Landau; and James David Haddox, individually.

Because of a confidentiality agreement between the State and Purdue Pharma, the State was required to file its amended complaint under seal. The State is asking the court to release the amended complaint in its entirety because the public interest far outweighs any of Purdue's privacy concerns, particularly since much of the information has been disclosed in similar lawsuits around the country.

According to the most recent data from the Colorado Department of Public Health and Environment, nearly 4,500 people died from overdose deaths in Colorado from 2000 through 2018 related to natural or semi-synthetic opioids, and more than 5,200 people died (excluding heroin) if synthetic opioids, such as Fentanyl, are included.

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Weiser said this lawsuit is one facet of the Department of Law's commitment to combating the opioid epidemic, and that the Attorney General's Office will continue to work with partners across the state to address the crisis.

"While we fight in court to hold those responsible who created and fueled the opioid epidemic, we'll also support the development of new treatment alternatives and work to improve access to treatment, particularly in rural parts of the state that lack sufficient options. This is a statewide challenge that requires a statewide response," concluded Weiser.

###

CONTACT

Lawrence Pacheco, Director of Communications
(720) 508-6553 office | (720) 245-4689 cell
Email: Lawrence.pacheco@coag.gov

Attachments

2018CV33300_16_2019-08-20_FIRST_AMENDED_COMPLAINT_AND_JURY_DEMAND_5848790077512882290

Most Recent

Safe2Tell continues to see record number of tip submissions in September

Oct. 10, 2019 (DENVER, Colo.)— Safe2Tell released its monthly report today. In September, the program received 2,664 tips, a 45 percent increase in monthly tip volume compared to September 2018. To date for the 2019-20 school year (SY), Safe2Tell has [...]

Additions to Attorney General's leadership team will focus on performance excellence, talent recruitment and development

Oct. 9, 2019 (DENVER, Colo.)— Colorado Attorney General Phil Weiser has appointed Anne Lee as
<https://coag.gov/press-releases/07-01-19/>

DONHAM000027

Director of Performance and Practice Excellence and Sam Walker as Executive in Residence to his leadership team at the Department of Law. These new roles [...]

Social media campaign launches to raise awareness about teen mental health, highlight available resources

Oct. 8, 2019 (DENVER, Colo.) – Continuing the conversation from September’s National Suicide Awareness Month, several state offices and partners hosted a teen-to-teen conversation this morning to raise awareness about youth suicide prevention. The event featured a dialogue and the [...]

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Colorado Department of Law
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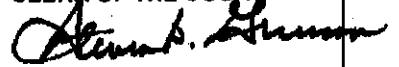
CONTACT

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CORA | WEBSITE PRIVACY POLICY

Exhibit “H”

Exhibit “H”



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19 Attorneys for Plaintiff, Clark County

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

17 CLARK COUNTY,

18 Plaintiff,

20 v.

21 PURDUE PHARMA, L.P.; PURDUE
22 PHARMA, INC.; THE PURDUE
23 FREDERICK COMPANY, INC. d/b/a THE
24 PURDUE FREDERICK COMPANY, INC.;
25 PURDUE PHARMACEUTICALS, L.P.,
26 TEVA PHARMACEUTICALS USA, INC.;
27 CEPHALON, INC.; JOHNSON & JOHNSON;
28 JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA, INC. n/k/a
JANSSEN PHARMACEUTICALS, INC.;
ORTHO-MCNEIL-JANSSEN
PHARMACEUTICALS, INC. n/k/a JANSSEN
PHARMACEUTICALS, INC.; ENDO
HEALTH SOLUTIONS INC.; ENDO

) Case No.:

) Dept No.:

A-17-765828-C

Department 16

COMPLAINT
AND DEMAND FOR JURY TRIAL

DUNHAM000029

1 PHARMACEUTICALS, INC.; ALLERGAN)
2 PLC f/k/a ACTAVIS PLC; ACTAVIS, INC.)
3 f/k/a WATSON PHARMACEUTICALS,)
4 INC.; WATSON LABORATORIES, INC.;)
5 ACTAVIS LLC; AND ACTAVIS PHARMA,)
6 INC. f/k/a WATSON PHARMA, INC.;)
7 AMERISOURCEBERGEN DRUG)
8 CORPORATION; CARDINAL HEALTH,)
9 INC.; McKESSON CORPORATION;)
10 MASTERS PHARMACEUTICAL, LLC f/k/a)
11 MASTERS PHARMACEUTICAL, INC.; C &)
12 R PHARMACY d/b/a KEN'S PHARMACY)
13 f/k/a LAM'S PHARMACY, INC.; DOES 1)
14 through 100; ROE CORPORATIONS 1)
15 through 100 and ZOE PHARMACIES 1)
16 through 100, inclusive,)

17 Defendants.

18 Plaintiff Clark County, by and through the undersigned attorneys, files this Complaint
19 against the named Defendants seeking to recover its damages as a result of the opioid epidemic
20 Defendants caused, and alleges as follows:

21 INTRODUCTION

- 22 1. Opioid addiction and overdose in the United States as a result of prescription
23 opioid use has reached epidemic levels over the past decade.
- 24 2. While Americans represent only 4.6% of the world's population, they consume
25 over 80% of the world's opioids.
- 26 3. Since 1999, the amount of prescription opioids sold in the U.S. has nearly
27 quadrupled. In 2010, 254 million prescriptions were filled in the U.S. – enough to medicate
28 every adult in America around the clock for a month. In that year, 20% of all doctors' visits
resulted in the prescription of an opioid (nearly double the rate in 2000).
4. By 2014, nearly two million Americans either abused or were dependent upon
opioids.
5. On March 22, 2016, the Food and Drug Administration (FDA) recognized opioid
abuse as a "public health crisis" that has a "profound impact on individuals, families and
communities across our country."

1 6. The Centers for Disease Control (CDC) reports that overdoses from prescription
2 opioids are a driving factor in the 15-year increase in opioid overdose deaths.

3 7. From 2000 to 2015, more than half a million people died from drug overdoses
4 (including prescription opioids and heroin). The most recent figures from the CDC suggest that
5 175 Americans die everyday from an opioid overdose (prescription and heroin).

6 8. Many addicts, finding painkillers too expensive or too difficult to obtain, have
7 turned to heroin. According to the American Society of Addiction Medicine, four out of five
8 people who try heroin today started with prescription painkillers.

9 9. County and city governments and the services they provide their citizens have
10 been strained to the breaking point by this public health crisis.

11 10. The dramatic increase in prescription opioid use over the last two decades, and
12 the resultant public-health crisis, is no accident.

13 11. The crisis was precipitated by Defendants, who, through deceptive means, and
14 using one of the biggest pharmaceutical marketing campaigns in history, carefully engineered
15 and continue to support a dramatic shift in the culture of prescribing opioids by falsely
16 portraying both the risks of addiction and abuse and the safety and benefits of long-term use.

17 12. Defendant drug companies named herein, manufacture, market, and sell
18 prescription opioids (hereinafter "opioids"), including brand-name drugs like Oxycontin,
19 Vicodin and Percocet, as well as generics like oxycodone and hydrodone, which are powerful
20 narcotic painkillers.

21 13. Historically, because they were considered too addictive and debilitating for the
22 treatment of chronic pain (like back pain, migraines and arthritis), opioids were used only to
23 treat short-term acute pain or for palliative (end-of-life) care.

24 14. Defendants' goal was simple: to dramatically increase sales by convincing
25 doctors that it was safe and efficacious to prescribe opioids to treat not only the kind of severe
26 and short-term pain associated with surgery or cancer, but also for a seemingly unlimited array
27 of less severe, longer-term pain, such as back pain, headaches and arthritis.

28 15. Defendants knew that their opioid products were addictive, subject to abuse, and
not safe or efficacious for long-term use.

1 16. Defendants' nefarious plan worked and they dramatically increased their sales
2 and reaped billions upon billions of dollars of profit at the expense of millions of people who
3 are now addicted and the thousands who have died as a result.

4 17. Defendant drug companies should never place their desire for profits above the
5 health and well being of their customers or the communities where those customers live,
6 because they know prescribing doctors and other health-care providers rely on their statements
7 in making treatment decisions, and drug companies must tell the truth when marketing their
8 drugs and ensure that their marketing claims are supported by science and medical evidence.

9 18. Defendants broke these simple rules and helped unleash a healthcare crisis that
10 has had far-reaching financial, social, and deadly consequences in Clark County and throughout
11 Nevada.

12 19. Defendants falsely touted the benefits of long-term opioid use, including the
13 supposed ability of opioids to improve function and quality of life, even though there was no
14 "good evidence" to support their claims.

15 20. Defendants disseminated these common messages to reverse the popular and
16 medical understanding of opioids.

17 21. As a result of the drug companies' marketing campaign, opioids are now the
18 most prescribed class of drugs generating \$11 billion in revenue for drug companies in 2014
19 alone.

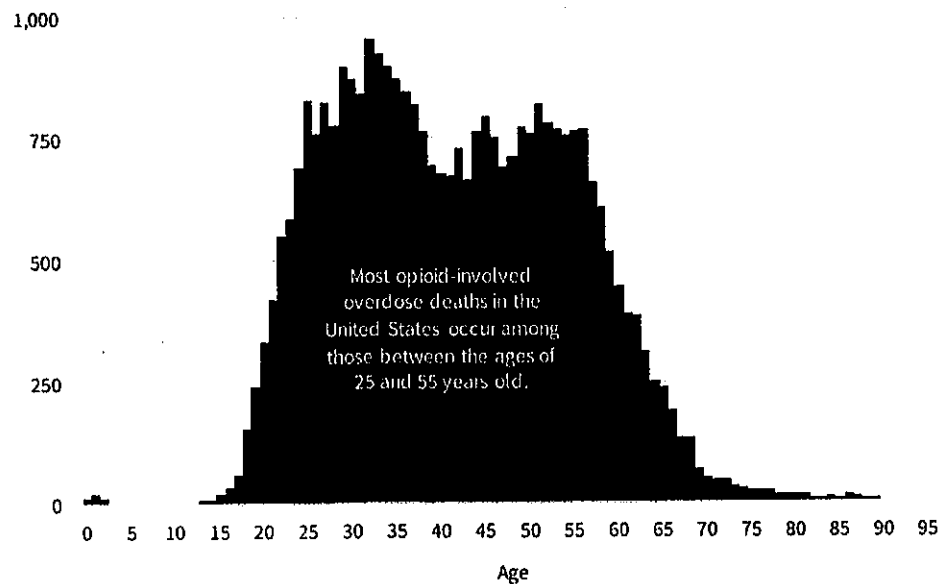
20 22. As a result of the drug companies' marketing campaign, the fatalities continued
21 to mount while the living continue to suffer.

22 23. In 2015, over 33,000 Americans died of a drug overdose involving opioids with
23 studies suggesting that these fatalities are statistically underreported. In 2015, the estimated
24 economic impact of the opioid crisis was \$504.0 billion, or 2.8 % of our U.S.'s gross domestic
25 product that same year. Previous estimates of the economic cost of the opioid crisis greatly
26 understate it by undervaluing the most important component of the loss—fatalities resulting
27 from overdoses.

28 24. Most opioid related deaths occur among those between the ages of approximately
25 and 55 years old. Studies have shown that the overall fatality rate was 10.3 deaths per

1 100,000 population, and in the 25 to 55 year old age group, fatality rates were much higher,
2 ranging from 16.1 to 22.0 deaths per 100,000 population.

3
4 **Figure 2. Opioid-involved Overdose Deaths by Age in 2015**
(Number of deaths)



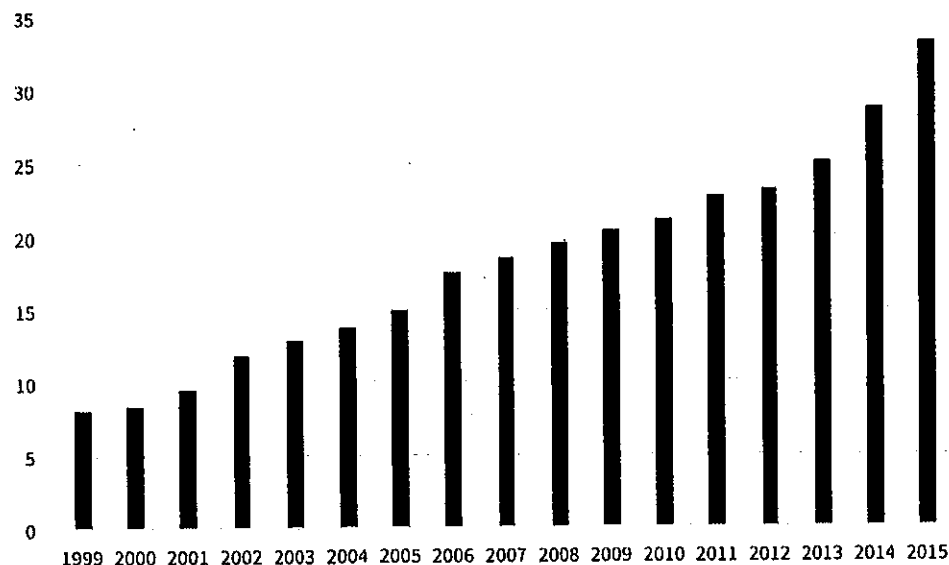
Source: CDC Wonder database, multiple cause of death files

17 25. In addition to the cost of fatalities each year, opioid misuse among the living
18 imposes important costs as well. It is estimated that prescription opioid misuse increases
19 healthcare and substance abuse treatment costs in the United States by \$29.4 billion, increases
20 criminal justice costs by \$7.8 billion, and reduces productivity among those who do not die of
21 overdose by \$20.8 billion (in 2015 \$). The total nonfatal cost of \$58.0 billion divided by the 1.9
22 million individuals with a prescription opioid disorder in 2013 results in an average cost of
23 approximately \$30,000.¹ And when patients can no longer afford or legitimately obtain opioids,
24 they often turn to the street to buy prescription opioids or even heroin, fueling the secondary
25 drug market.

26
27
28 ¹ Florence, C., Zhou, C., Luo, F. and Xu, L. 2016. "The Economic Burden of Prescription Opioid Overdose, Abuse, and Dependence in the United States, 2013." *Medical Care*, 54(10): 901-906.

1 26. Further compounding issues is that this problem is worsening at an alarming rate.
2 According to a report published by the White House Council of Economic Advisors (CEA),
3 opioid-involved overdose deaths have doubled in the past ten years and quadrupled in the past
4 sixteen.

5
6 **Figure 1. Opioid-involved Overdose Deaths, 1999-2015**
7 (Thousands of Deaths)



18 Source: CDC Wonder database, multiple cause of death files

19 27. The crisis that Defendants caused has directly impacted Clark County as it bears
20 the financial brunt of this epidemic as it unfolds in our community.

21 28. Apart from the toll on human life, the crisis has financially strained the services
22 Clark County provides its residents and employees. Human services, social services, court
23 services, law enforcement services, the office of the coroner/medical examiner and health
24 services, including hospital, emergency and ambulatory services, have all been severely
25 impacted by the crisis. For example, as a direct and foreseeable consequence of Defendants'
26 egregious conduct, Clark County paid, and continues to pay, a significant amount for health care
27 costs that stem from prescription opioid dependency. These costs include unnecessary and
28 excessive opioid prescriptions, substance abuse treatment services, ambulatory services,
emergency department services, and inpatient hospital services, among others. Defendants'

1 conduct also caused Clark County to incur substantial economic, administrative and social costs
2 relating to opioid addiction and abuse, including criminal justice costs, victimization costs, child
3 protective services costs, lost productivity costs, and education and prevention program costs
4 among others.

5 29. After creating a public health crisis, Defendants have not pulled their opioid
6 products from the market, acknowledged the very real dangers of addiction and abuse even if
7 the opioids are taken as prescribed, or acknowledged that opioids are inappropriate for long-
8 term pain management. Instead, Defendants have taken the position that their opioid products
9 are not dangerous and continue to sell these dangerous and addictive drugs, thereby continuing
10 to fuel the crisis.

11 30. As a result, physicians, pharmacists and patients are not able to appropriately and
12 adequately evaluate the relevant risks associated with opioids use, particularly the risks to
13 patients who have been and are being exposed to, unnecessarily, including but not limited to the
14 risk of severe and disabling addiction, actual addiction, the consequences of addiction, and other
15 adverse medical conditions. Additionally, the rising numbers of persons addicted to opioids
16 have led to a dramatic increase of social problems, including drug abuse and diversion and the
17 commission of criminal acts to obtain opioids. Consequently, public health and safety have been
18 significantly and negatively impacted due to the misrepresentations and omissions by
19 Defendants regarding the appropriate uses and risks of opioids, ultimately leading to widespread
20 inappropriate use of the drug.

21 31. As a result of Defendants' misconduct, physicians, pharmacists and patients have
22 not been provided with accurate information about the appropriate uses, risks and safety of these
23 drugs, thus causing the crisis before us as well as giving rise to this lawsuit.

24 32. Plaintiff files this Complaint naming the drug companies herein as Defendants
25 and placing the industry on notice that Clark County is taking action to abate the public
26 nuisance that plagues our community.

27 33. By its Complaint, Clark County seeks to recover from Defendants its damages as
28 a result of the opioid public-health crisis Defendants caused. Namely, this action is brought by

1 this Plaintiff pursuant to constitutional, statutory, common law and/or equitable authority for
2 purposes of, *inter alia*:

- 3 a. recovering restitution and reimbursement for all the costs Clark County
4 has incurred in paying excessive and unnecessary prescription costs
5 related to opioids;
- 6 b. recovering restitution and reimbursement for all the costs expended by
7 Clark County for health care services and programs associated with the
8 diagnosis and treatment of adverse health consequences of opioids use,
9 including but not limited to, addiction;
- 10 c. recovering restitution and reimbursement for all the costs consumers have
11 incurred in excessive and unnecessary prescription costs related to
12 opioids;
- 13 d. disgorgement;
- 14 e. recovering damages for all costs incurred and likely to be incurred in an
15 effort to combat the abuse and diversion of opioids in Clark County;
- 16 f. recovering damages incurred as costs associated with the harm done to
17 the public health and safety.

18 34. However, Plaintiff does not bring claims, as part of this action, for products
19 liability nor does the County seek compensatory damages for death, physical injury to person,
20 emotional distress, or physical damage to property.

21 PARTIES AND JURISDICTION

22 **A. Plaintiff, Clark County.**

23 35. Plaintiff, Clark County ("CLARK COUNTY" or "Plaintiff"), is an
24 unincorporated county organized under the laws of the State of Nevada.

25 36. Plaintiff provides a wide range of services on behalf of its residents, including
26 services for families and children, public health, public assistance, law enforcement, and
27 emergency care.

28 37. Plaintiff has all the powers possible for a county to have under the constitution of
the State of Nevada, and the laws of the State of Nevada.

1 38. Plaintiff has standing to bring this litigation to provide for the orderly
2 government of Clark County and to address matters of local concern including the public health,
3 safety, prosperity, security, comfort, convenience and general welfare of its citizens.

4 39. Clark County declares that the unlawful distribution of prescription opiates, by
5 the Defendants named herein, has created a serious public health crisis of opioid abuse,
6 addiction, morbidity and mortality and is a public nuisance.

7 40. Plaintiff is authorized by law to abate any nuisance and prosecute in any court of
8 competent jurisdiction, any person who creates, continues, contributes to, or suffers such
9 nuisance to exist and prevent injury and annoyance from such nuisance.

10 **B. Defendants, Drug Manufacturers.**

11 41. Defendant PURDUE PHARMA L.P. is a limited partnership organized under the
12 laws of Delaware. PURDUE PHARMA INC. is a Delaware corporation with its principal place
13 of business in Stamford, Connecticut, and THE PURDUE FREDERICK COMPANY, INC. is a
14 Delaware corporation with its principal place of business in Stamford, Connecticut. Defendant
15 PURDUE PHARMACEUTICALS, L.P., ("Purdue Pharmaceuticals") is and was a limited
16 partnership organized under the laws of the State of Nevada. At all times relevant hereto,
17 Purdue Pharmaceuticals is and was authorized to do business in the State of Nevada. Purdue
18 Pharmaceuticals is and was in the business of designing, testing, manufacturing, labeling,
19 advertising, promoting, marketing, selling and/or distributing OxyContin. (collectively,
20 "Purdue").

21 42. Defendant TEVA PHARMACEUTICALS USA, INC., is a Delaware corporation
22 with its principal place of business located in North Wales, Pennsylvania. Teva USA is a
23 wholly owned subsidiary of Teva Pharmaceutical Industries, Ltd. ("Teva Ltd."), an Israeli
24 corporation.

25 43. Defendant CEPHALON, INC., is Delaware corporation with its principal place
26 of business located in Frazer, Pennsylvania. In 2011, Teva Ltd. acquired CEPHALON, INC.

27 44. JANSSEN PHARMACEUTICALS, INC., is a Pennsylvania corporation with its
28 principal place of business in Titusville, New Jersey, and is a wholly owned subsidiary of
JOHNSON & JOHNSON, a New Jersey corporation with its principal place of business in New

1 Brunswick, New Jersey. JANSSEN PHARMACEUTICALS, INC., was formerly known as
2 ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., which in turn was formerly
3 known as Janssen Pharmaceutica Inc. Defendant ORTHO-MCNEIL-JANSSEN
4 PHARMACEUTICALS, INC., now known as JANSSEN PHARMACEUTICALS, INC., is a
5 Pennsylvania corporation with its principal place of business in Titusville, New Jersey. Janssen
6 Pharmaceutica, Inc., now known as JANSSEN PHARMACEUTICALS, INC., is a
7 Pennsylvania corporation with its principal place of business in Titusville, New Jersey. Johnson
8 & Johnson is the only company that owns more than 10% of Janssen Pharmaceuticals, Inc.'s
9 stock, and it corresponds with the FDA regarding Janssen's products.

10 45. Upon information and belief, Johnson & Johnson controls the sale and
11 development of Janssen Pharmaceutical's drugs, and Janssen Pharmaceuticals, Inc.'s profits
12 inure to JOHNSON & JOHNSON's benefit. (JANSSEN PHARMACEUTICALS, INC.,
13 ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., JANSSEN PHARMACEUTICA,
14 INC., AND JOHNSON & JOHNSON collectively are referred to herein as "Janssen.")

15 46. Defendant ENDO HEALTH SOLUTIONS INC., is a Delaware corporation with
16 its principal place of business located in Malvern, Pennsylvania. ENDO
17 PHARMACEUTICALS, INC., is a wholly-owned subsidiary of Endo Health Solutions Inc., and
18 is a Delaware corporation with its principal place of business in Malvern, Pennsylvania. (Endo
19 Health Solutions Inc., and Endo Pharmaceuticals, Inc., collectively are referred to herein as
20 "Endo").

21 47. ALLERGAN PLC is a public limited company incorporated in Ireland with its
22 principal place of business in Dublin, Ireland formerly known as ACTAVIS PLC. Prior to that,
23 WATSON PHARMACEUTICALS, INC., acquired ACTAVIS, INC. in October 2012; the
24 combined company changed its name to ACTAVIS, INC., in January 2013 and then to
25 ACTAVIS PLC in October 2013.

26 48. WATSON LABORATORIES, INC. is, and was at all times relevant herein, a
27 Nevada corporation with its principal place of business in Corona, California, and is a wholly
28 owned subsidiary of ALLERGAN PLC (f/k/a ACTAVIS, INC., f/k/a WATSON
PHARMACEUTICALS, INC.). ACTAVIS PHARMA, INC. (f/k/a ACTAVIS, INC.), is a

1 Delaware corporation with its principal place of business in New Jersey, and was formerly
2 known as WATSON PHARMA, INC. ACTAVIS LLC is a Delaware limited liability company
3 with its principal place of business in Parsippany, New Jersey.

4 49. That at all times relevant herein, PURDUE PHARMA, L.P.; PURDUE
5 PHARMA, INC.; THE PURDUE FREDERICK COMPANY, INC. dba THE PURDUE
6 FREDERICK COMPANY, INC.; PURDUE PHARMACEUTICALS, L.P.; TEVA
7 PHARMACEUTICALS USA, INC.; CEPHALON, INC.; JOHNSON & JOHNSON; JANSSEN
8 PHARMACEUTICALS, INC.; JANSSEN PHARMACEUTICA, INC. n/k/a JANSSEN
9 PHARMACEUTICALS, INC.; ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC.
10 n/k/a JANSSEN PHARMACEUTICALS, INC.; ENDO HEALTH SOLUTIONS INC.; ENDO
11 PHARMACEUTICALS, INC.; ALLERGAN PLC f/k/a ACTAVIS PLC; ACTAVIS, INC. f/k/a
12 WATSON PHARMACEUTICALS, INC.; WATSON LABORATORIES, INC.; ACTAVIS
13 LLC; and ACTAVIS PHARMA, INC. f/k/a WATSON PHARMA, INC. (collectively
14 "Defendant Manufacturers" or "Defendants") are, and currently are, regularly engaged in
15 business in Clark County. More specifically, Defendants were, and currently are, in the
16 business of designing, testing, manufacturing, labeling, advertising, promoting, marketing,
17 and/or selling opioids throughout Clark County.

18 **C. Defendants, Wholesale Distributors.**

19 50. Defendant, AMERISOURCEBERGEN DRUG CORPORATION, is, and at all
20 times pertinent hereto, was, a foreign corporation authorized to do business in the County of
21 Clark, State of Nevada. Upon information and belief, and at all times relevant hereto,
22 AMERISOURCEBERGEN DRUG CORPORATION's principal place of business is located in
23 Chesterbrook, Pennsylvania, operating distribution centers in Ohio.

24 51. Defendant, CARDINAL HEALTH, INC. is, and at all times pertinent hereto,
25 was, a foreign corporation authorized to do business in the County of Clark, State of Nevada.
26 Upon information and belief, and at all times relevant hereto, CARDINAL HEALTH, INC.'s
27 principal office is located in Dublin, Ohio, operating, distribution centers in Ohio.

28 52. Defendant, McKESSON CORPORATION, is, and at all times pertinent hereto,
was, foreign corporation authorized to do business in the County of Clark, State of Nevada.

1 Upon information and belief, and at all times relevant hereto, McKESSON CORPORATION's
2 principal place of business is located in San Francisco, California, operating distribution centers
3 in Ohio.

4 53. Defendant, MASTERS PHARMACEUTICAL, LLC f/k/a MASTERS
5 PHARMACEUTICAL, INC., is, and at all times pertinent hereto, was, foreign corporation
6 authorized to do business in the County of Clark, State of Nevada. Upon information and
7 belief, and at all times relevant hereto, MASTERS PHARMACEUTICAL, LLC f/k/a
8 MASTERS PHARMACEUTICAL, INC.'s, operates distribution centers in Ohio.

9 54. AMERISOURCEBERGEN DRUG CORPORATION, CARDINAL HEALTH,
10 INC., McKESSON CORPORATION, and MASTERS PHARMACEUTICAL, LLC f/k/a
11 MASTERS PHARMACEUTICAL, INC. (collectively "Defendant Distributors" or
12 "Defendants") distributed opioids into Clark County.

13 55. Defendant Distributors purchased opioids from manufacturers, such as the
14 named Defendants herein, and sold them to pharmacies throughout Clark County.

15 56. Defendant Distributors played an integral role in the chain of opioids being
16 distributed throughout Clark County.

17 **Defendants, Pharmacies.**

18 57. Defendant C & R PHARMACY d/b/a KEN'S PHARMACY f/k/a LAM'S
19 PHARMACY, INC. ("LAM'S PHARMACY") is and was at all times pertinent hereto a
20 domestic corporation authorized to do business in the County of Clark, State of Nevada. Upon
21 information and belief, and at all times relevant hereto, KEN'S PHARMACY f/k/a LAM'S
22 PHARMACY, INC.'s principal place of business was in Las Vegas, Nevada.

23 58. Defendant LAM'S PHARMACY and other pharmacies (collectively "Defendant
24 Pharmacies" or "Defendants") sold opioids to residents of Clark County giving rise to the
25 opioid crisis.

26 59. Defendant Pharmacies played an integral role in the chain of opioids being sold
27 throughout Clark County.

28

1 **D. Defendants, Does, Roes and Zoes.**

2 60. That the true names and the capacities, whether individual, agency, corporate,
3 associate or otherwise, of Defendant DOES 1 through 100, inclusive, are unknown to Plaintiff.
4 Plaintiff will ask leave of the Court to amend this Complaint to show the true names and
5 capacities of these Defendants, when they become known to Plaintiff. Plaintiff believes each
6 Defendant named as DOE was responsible for the misconduct alleged herein.

7 61. That the true names and the capacities, whether individual, agency, corporate,
8 associate or otherwise, of Defendant ROE CORPORATIONS I through 100, are unknown to
9 Plaintiff. These Defendants include the manufacturer(s), distributor(s) and any third party that
10 may have developed, manufactured, produced, sold, altered or otherwise distributed the subject
11 drug, which caused Plaintiff's injuries as complained herein. Plaintiff will ask to leave of the
12 Court to amend this Complaint to show the true names and capacities of these Defendants, when
13 they become known to Plaintiff. Plaintiff believes each Defendant named as ROE
14 CORPORATION was responsible for contributing to the misconduct alleged herein.

15 62. That the true names and the capacities, whether individual, agency, corporate,
16 associate or otherwise, of Defendant ZOE PHARMACIES I through 100, are unknown to
17 Plaintiff. These Defendants include the pharmacies or similarly situated retailers that may have
18 developed, manufactured, produced, sold, altered or otherwise distributed opioids which caused
19 Plaintiff's injuries as complained herein. Plaintiff will ask to leave of the Court to amend this
20 Complaint to show the true names and capacities of these Defendants, when they become
21 known to Plaintiff. Plaintiff believes each Defendant named as ZOE PHARMACY was
22 responsible for contributing to the misconduct alleged herein.

23 63. That Plaintiff is informed and believes, and based upon such information and
24 belief, alleges that each of the Defendants herein designated as DOES, ROES and/or ZOES are
25 in some manner responsible for the misconduct alleged herein.

26 64. Plaintiff is informed and believes and thereon alleges that at all relevant times
27 herein mentioned Defendants, and each of them, were the agents and/or servants and/or partners
28 and/or joint venture partners and/or employers and/or employees and/or contractors of the
 remaining Defendants and were acting within the course and scope of such agency,

1 employment, partnership, contract or joint venture and with the knowledge and consent of the
2 remaining Defendants at the time of the event leading to the misconduct alleged herein.

3 **E. Jurisdiction & Venue.**

4 65. That exercise of the jurisdiction by this Court over each and every Defendant in
5 this action is appropriate because each and every Defendant has done, and continues to do,
6 business in the State of Nevada, and committed a tort in the State of Nevada. Additionally, this
7 Court has jurisdiction over the claims alleged herein as they arise under Nevada statutes and
8 Nevada common law.

9 66. Venue is proper in the District Court of Clark County, Nevada where part of the
10 claims alleged herein occurred.

11 **GENERAL FACTUAL ALLEGATIONS**

12 **A. Opioids Generally**

13 67. Defendants design, manufacture, distribute, sell, market, and advertise
14 prescription opioids, including brand-name drugs like Oxycontin, and generics like oxycodone,
15 which are powerful narcotic painkillers. Historically, because they were considered too
16 addictive and debilitating for the treatment of chronic pain (like back pain, migraines and
17 arthritis), opioids were used only to treat short-term acute pain cancer patients or for palliative
18 (end-of-life) care.

19 68. Due to the lack of evidence that opioids improved patients' ability to overcome
20 pain and function, coupled with evidence of greater pain complaints as patients developed
21 tolerance to opioids over time and the serious risk of addiction and other side effects, the use of
22 opioids for chronic pain was discouraged or prohibited. As a result, doctors generally did not
23 prescribe opioids for chronic pain.

24 69. In the 1970s and 1980s, studies were conducted that made clear the reasons to
25 avoid opioids. By way of example, the World Health Organization ("WHO") in 1986 published
26 an "analgesic ladder" for the treatment of cancer pain. The WHO recommended treatment with
27 over-the-counter or prescription acetaminophen or non-steroidal anti-inflammatory drugs
28 ("NSAIDs") first, then use of unscheduled or combination opioids, and then stronger (Schedule
II or III) opioids if pain persisted. The WHO ladder pertained only to the treatment of cancer

1 pain, and did not contemplate the use of narcotic opioids for chronic pain - because the use of
2 opioids for chronic pain was not considered appropriate medical practice at the time.

3 70. Due to concerns about their addictive qualities, opioids have been regulated as
4 controlled substances by the U.S. Drug Enforcement Administration ("DEA") since 1970. The
5 labels for scheduled opioid drugs carry black box warnings of potential addiction and "[s]erious,
6 life-threatening, or fatal respiratory depression," as a result of an excessive dose.

7 **B. Defendants' Fraudulent Marketing**

8 71. To take advantage of the lucrative market for chronic pain patients, Defendants
9 developed a well-funded marketing scheme based on deception. Defendants used both direct
10 marketing and unbranded advertising disseminated by purported independent third parties to
11 spread false and deceptive statements about the risks and benefits of long-term opioid use.

12 72. Yet these statements were not only unsupported by or contrary to the scientific
13 evidence, they were also contrary to pronouncements by and guidance from federal agencies
14 such as the Food and Drug Administration ("FDA") and Centers for Disease Control and
15 Prevention ("CDC") based on that evidence. They also targeted susceptible prescribers and
16 vulnerable patient populations, including the elderly and veterans.

17 **Direct Marketing Efforts**

18 73. Defendants' direct marketing of opioids generally proceeded on two tracks. First,
19 Defendants conducted, and continue to conduct, promotional campaigns extolling the purported
20 benefits of their branded drugs. Advertisements were branded to deceptively portray the
21 benefits of opioids for chronic pain. For instance, Defendant Purdue commissioned series of
22 ads in medical journals, called "Pain vignettes," for Oxycontin in 2012. These ads featured
23 chronic pain patients and recommended opioids for each. One ad described a "54-year-old
24 writer with osteoarthritis of the hands" and implied that Oxycontin would help the writer work
25 more effectively. Purdue agreed in late 2015 and 2016 to halt these misleading representations
26 in New York, but no similar order has been issued in Nevada.

27 74. Second, Defendants promoted, and continue to promote, the use of opioids for
28 chronic pain through "detailers" – sales representatives who visited individual doctors and
medical staff in their offices – and small-group speaker programs. Defendants' detailing to

1 doctors is effective. By establishing close relationships with prescribing physicians, Defendants'
2 sales representatives are able to disseminate their misrepresentations in targeted, one-on-one
3 settings that allowed them to differentiate their opioids and to address individual prescribers'
4 concerns about prescribing opioids for chronic pain. Numerous studies indicate that marketing
5 impacts prescribing habits, with face-to-face detailing having the greatest influence. Defendants
6 devoted, and continues to devote, massive resources to direct sales contacts with doctors.

7 75. Upon information and belief and at all times relevant herein, Defendants ensured,
8 and continue to ensure, marketing consistency nationwide through national and regional sales
9 representative training; national training of local medical liaisons, the company employees who
10 respond to physician inquiries; centralized speaker training; single sets of visual aids, speaker
11 slide decks, and sales training materials; and nationally coordinated advertising. Upon
12 information and belief, Defendants' sales representatives and physician speakers were required
13 to adhere to prescribed talking points, sales messages, and slide decks, and supervisors rode
14 along with them periodically to both check on their performance and compliance.

15 76. Upon information and belief and at all times relevant herein, Defendants
16 employed, and continue to employ, the same marketing plans and strategies and deployed the
17 same messages in Nevada as they did nationwide.

18 77. Across the pharmaceutical industry, "core message" development is funded and
19 overseen on a national basis by corporate headquarters. This comprehensive approach ensures
20 that Defendants' messages are accurately and consistently delivered across marketing channels
21 – including detailing visits, speaker events, and advertising – and in each sales territory.
22 Defendants consider this high level of coordination and uniformity crucial to successfully
23 marketing their drugs.

24 **Unbranded/Third-Party Marketing by Defendants**

25 78. In addition to direct communications, Defendants utilized third-party marketing
26 to promote their line of prescription opiates. This "unbranded" marketing refers not to a
27 specific drug, but more generally to a disease state or treatment. For instance, these marketing
28 materials generally promoted opioid use but did not name a specific opioid. Through these
unbranded materials, Defendants presented information and instructions concerning opioids that

1 were generally contrary to, or at best, inconsistent with, information and instructions listed on
2 Defendants' branded marketing materials and drug labels and with Defendants' own knowledge
3 of the risks, benefits and advantages of opioids.

4 79. Using "Key Opinion Leaders" (KOLs) and "Front Groups," Defendants
5 disseminated their false and misleading statements regarding the efficacy of opioids. These
6 KOLs and Front Groups were important elements of Defendants' marketing plans, because they
7 appeared independent and therefore outside of FDA oversight. However, Defendants did so
8 knowing that unbranded materials typically were not submitted or reviewed by the FDA. By
9 acting through third parties, Defendants was able both to avoid FDA scrutiny and to give the
10 false appearance that these messages reflected the views of independent third parties.
11 Afterwards, Defendants would cite to these sources as corroboration of their own statements.

12 80. Defendants worked, and continue to work, in concert with the Front Groups and
13 KOLs which they funded and directed to carry out a common scheme to deceptively market the
14 risks, benefits, and superiority of opioids to treat chronic pain. Although participants knew this
15 information was false and misleading, these misstatements were nevertheless disseminated to
16 Nevada prescribers and patients.

17 **Key Opinion Leaders (KOLs)**

18 81. Upon information and belief and at all times relevant herein, Defendants
19 recruited, as part of its unbranded marketing efforts, a cadre of doctors who were financially
20 sponsored because of their preference to aggressively treat chronic pain with opioids. KOLs
21 were retained by Defendants to influence their peers' medical practice, including but not limited
22 to their prescribing behavior. KOLs gave lectures, conducted clinical trials and occasionally
23 made presentations at regulatory meetings or hearings. KOLs were carefully vetted to ensure
24 that they were likely to remain on message and supportive of Defendant' agenda.

25 82. Defendants' financial support helped these doctors become respected industry
26 experts. Upon information and belief, these doctors repaid Defendants by extolling the benefits
27 of opioids to treat chronic pain as quid pro quo. Defendants would cite to these sources later on
28 as corroboration of their own false and misleading statements regarding opioids.

1 **Front Groups**

2 83. Defendants also entered into arrangements with seemingly unbiased and
3 independent patient and professional organizations to promote opioids for the treatment of
4 chronic pain. Under their direction and control, these “Front Groups” generated treatment
5 guidelines, unbranded materials, and programs that favored chronic opioid therapy. They also
6 assisted Defendants by refuting negative articles, by advocating against regulatory changes that
7 would limit opioid prescribing in accordance with the scientific evidence, and by conducting
8 outreach to vulnerable patient populations targeted by Defendants.

9 84. These Front Groups depended on Defendants for funding and, in some cases, for
10 survival. Defendants exercised significant control over programs and materials created by these
11 groups by collaborating on, editing, and approving their content, and by funding their
12 dissemination. In so doing, Defendants made sure that these Front Groups would generate only
13 favorable messages. Despite this, the Front Groups held themselves out as independent and
14 serving the needs of their members – whether patients suffering from pain or doctors treating
15 those patients.

16 85. While Defendants utilized many Front Groups, one of the most prominent of was
17 the American Pain Foundation (“APF”). APF received more than \$10 million in funding from
18 opioid manufacturers from 2007 until it closed its doors in May 2012. Upon information and
19 belief, Defendant Purdue was one of its primary financial backers.

20 86. APF issued education guides for patients, reporters, and policymakers that touted
21 the benefits of opioids for chronic pain and trivialized their risks, particularly the risk of
22 addiction. APF also launched a campaign to promote opioids for returning veterans, which has
23 contributed to high rates of addiction and other adverse outcomes – including death – among
24 returning soldiers. APF also engaged in a significant multimedia campaign – through radio,
25 television and the internet – to educate patients about their “right” to pain treatment, namely
26 opioids. All of the programs and materials were available nationally and were intended to reach
27 Nevadans.

28 87. In or about May 2012, the U.S. Senate Finance Committee began investigating
APF to determine the relationship, financial and otherwise, between the organization and the

1 manufacturers of opioid analgesics. The investigation caused considerable damage to APF's
2 credibility as an objective and neutral third party, and Purdue, upon information and belief,
3 stopped financially supporting the organization.

4 88. Within days of being targeted by Senate investigation, APF's board voted to
5 dissolve the organization "due to irreparable economic circumstances." APF "cease[d] to exist,
6 effective immediately."

7 **Continuing Medical Education (CMEs)**

8 89. CMEs are ongoing professional education programs required for physicians.
9 Physicians must attend a certain number and, often, type of CME programs each year as a
10 condition of their licensure. These programs are delivered in person, often in connection with
11 professional organizations' conferences, and online, or through written publications. Doctors
12 rely on CMEs not only to satisfy licensing requirements, but to get information on new
13 developments in medicine or to deepen their knowledge in specific areas of practice. Because
14 CMEs are typically delivered by KOLs who are highly-respected in their fields and are thought
15 to reflect their medical expertise, they can be especially influential with doctors.

16 90. By utilizing CMEs, Defendants sought to reach general practitioners, whose
17 broad area of focus and lack of specialized training in pain management made them particularly
18 dependent upon CMEs and, as a result, especially susceptible to Defendants' deceptions.
19 Defendants sponsored CMEs promoted chronic opioid therapy.

20 91. These CMEs, while often generically titled to relate to the treatment of chronic
21 pain, focused on opioids to the exclusion of alternative treatments, inflated the benefits of
22 opioids, and frequently omitted or downplayed their risks and adverse effects.

23 92. Upon information and belief and at all times relevant herein, CMEs paid for or
24 sponsored by Defendants were intended to reach prescribing physicians in Nevada.

25 **Marketing Targeting the Elderly and Veterans**

26 93. In its pursuit of profit, Defendants targeted vulnerable segments of the
27 population suffering from chronic pain including veterans and the elderly.

28 94. Defendants' targeted marketing to the elderly and the absence of cautionary
language in their promotional materials creates a heightened risk of serious injury. Studies have

1 shown that elderly patients who used opioids had a significantly higher rate of death, heart
2 attacks, and strokes than users of NSAIDs. Additionally, elderly patients taking opioids have
3 been found to suffer elevated fracture risks, greater risk for hospitalizations, and increased
4 vulnerability to adverse drug effects and interactions, such as respiratory depression.

5 95. Defendants' efforts were successful. Since 2007, opioid prescriptions for the
6 elderly have grown at twice the rate of prescriptions for adults between the ages of 40 and 59.
7 Based on anecdotal evidence, many of these elderly patients started on opioids for chronic back
8 pain or arthritis.

9 96. Veterans are also suffering greatly from the effects of Defendants' targeted
10 marketing. Opioids are particularly dangerous to veterans. According to a study published in
11 the 2013 Journal of American Medicine, veterans returning from Iraq and Afghanistan who
12 were prescribed opioids have a higher incidence of adverse clinical outcomes, like overdoses
13 and self-inflicted and accidental injuries, than the general U.S. population.

14 97. *Exit Wounds*, a 2009 publication sponsored by Defendant Purdue and distributed
15 by APF, written as a personal narrative of one veteran, describes opioids as "underused" and the
16 "gold standard of pain medications" and fails to disclose the risk of addiction, overdose, or
17 injury. It notes that opioid medications "increase a person's level of functioning" and that
18 "[l]ong experience with opioids shows that people who are not predisposed to addiction are
19 unlikely to become addicted to opioid pain medications."

20 98. *Exit Wounds* downplays and minimizes the risks from chronic opioid therapy and
21 does not disclose the risk that opioids may cause fatal interactions with benzodiazepines taken
22 by a significant number of veterans. It is not the unbiased narrative of a returning war veteran. It
23 is another form of marketing, sponsored by Defendant Purdue.

24 99. The deceptive nature of *Exit Wounds* is made obvious in comparing it to
25 guidance on opioids published by the U.S. Department of Veterans Affairs and the Department
26 of Defense in 2010 and 2011. The VA's Taking Opioids Responsibly describes opioids as
27 "dangerous." It cautions against taking extra doses and mentions the risk of overdose and the
28 dangers of interactions with alcohol.

1 **C. Defendants' Misrepresentations**

2 100. To convince prescribing physicians and prospective patients that opioids are safe,
3 Defendants deceptively concealed the risks of long-term opioid use, particularly the risk of
4 addiction, through a series of misrepresentations. Defendants manipulated their promotional
5 materials and the scientific literature to make it appear that these items were accurate, truthful,
6 and supported by objective evidence when they were not.

7 101. These misrepresentations regarding opioids include but are not limited to:

- 8 a. Starting patients on opioids was low-risk because most patients would not
9 become addicted, and because those who were at greatest risk of addiction could
10 be readily identified and managed;
11 b. Patients who displayed signs of addiction probably were not addicted and, in any
12 event, could easily be weaned from the drugs;
13 c. The use of higher opioid doses, which many patients need to sustain pain relief
14 as they develop tolerance to the drugs, do not pose special risks; and
15 d. Abuse-deterrent opioids both prevent abuse and overdose and are inherently less
16 addictive.

17 102. Upon information and belief, Defendants have not only failed to correct these
18 misrepresentations, they continue to make them today.

19 103. For example, Defendant Purdue misrepresented, and continues to misrepresent,
20 Oxycontin as providing 12 continuous hours of pain relief with one dose. However, studies
21 have shown, as well as Purdue's own internal research, that the effects of the drug wear off in or
22 about six (6) hours in one quarter of its patients and in or about ten (1) hours in one-half of its
23 patients.

24 104. Defendants also misrepresented the benefits of chronic opioid therapy. For
25 example, Defendant Purdue falsely claimed that long-term opioid use improved patients'
26 function and quality of life in advertisements for Oxycontin in medical journals entitled, "Pain
27 Vignettes" which were case studies featuring patients with pain conditions persisting over
28 several months and recommending Oxycontin for them. These advertisements implied that
Oxycontin improves patients' function.

1 105. However, these claims find no support in the scientific literature. In 2008, the
2 FDA sent a warning letter to an opioid manufacturer, making it clear “that [the claim that]
3 patients who are treated with the drug experience an improvement in their overall function,
4 social function, and ability to perform daily activities . . . has not been demonstrated by
5 substantial evidence or substantial clinical experience.” Most recently, the 2016 CDC
6 Guideline approved by the FDA concluded that “there is no good evidence that opioids improve
7 pain or function with long-term use, and . . . complete relief of pain is unlikely.”

8 106. Upon information and belief and at all times relative herein, Defendants made
9 and/or disseminated deceptive statements related to opioids, including, but not limited to, in the
10 following ways:

- 11 a. Creating, sponsoring, and assisting in the distribution of patient education
12 materials distributed to Nevada consumers that contained deceptive statements;
- 13 b. Creating and disseminating advertisements that contained deceptive statements
14 concerning the ability of opioids to improve function long-term and concerning
15 the evidence supporting the efficacy of opioids long-term for the treatment of
16 chronic non-cancer pain;
- 17 c. Assisting in the distribution of guidelines that contained deceptive statements
18 concerning the use of opioids to treat chronic non-cancer pain and
19 misrepresented the risks of opioid addiction;
- 20 d. Developing and disseminating scientific studies that misleadingly concluded
21 opioids are safe and effective for the long-term treatment of chronic non-cancer
22 pain and that opioids improve quality of life, while concealing contrary data;
- 23 e. Targeting the elderly and veterans by assisting in the distribution of guidelines
24 that contained deceptive statements concerning the use of opioids to treat chronic
25 non-cancer pain and misrepresented the risks of opioid addiction in this
26 population;
- 27 f. Exclusively disseminating misleading statements in education materials to
28 Nevada hospital doctors and staff while purportedly educating them on new pain
standards; and

1 g. Making deceptive statements concerning the use of opioids to treat chronic non-
2 cancer pain to Nevada prescribers through in-person detailing.

3 **D. Duty of Drug Distributors and Pharmacies as Gate Keepers**

4 107. In Nevada, opioids are a controlled substance and are categorized as "dangerous
5 drugs." Therefore, Defendant Distributors have a duty to exercise reasonable care under the
6 circumstances.

7 108. That this involves a duty not to create a foreseeable risk of harm to others.
8 Additionally, one who engages in affirmative conduct-and thereafter realizes or should realize
9 that such conduct has created an unreasonable risk of harm to another-is under a duty to exercise
10 reasonable care to prevent the threatened harm.

11 109. All opioid distributors are required and have a duty to maintain effective controls
12 against opioid diversion. They are also required and have a duty to create and use a system to
13 identify and report downstream suspicious orders of controlled substances to law enforcement.
14 Suspicious orders include orders of unusual size, orders deviating substantially from the normal
15 pattern, and orders of unusual frequency.

16 110. To comply with these requirements, distributors must know their customers,
17 report suspicious orders, conduct due diligence, and terminate orders if there are indications of
18 diversion.

19 111. Defendant Distributors each have an affirmative duty to act as a gatekeeper
20 guarding against the diversion of the highly addictive, dangerous opioid drugs.

21 112. Defendant Distributors each have a non-delegable duty to identify and track
22 suspicious orders of controlled substances.

23 113. In addition, Defendant Distributors must also stop shipment on any order which
24 is flagged as suspicious and only ship orders which were flagged as potentially suspicious if,
25 after conducting due diligence, the distributor can determine that the order is not likely to be
26 diverted into illegal channels.

27 114. Defendant Distributors have a duty to detect questionable and suspicious orders
28 to prevent the diversion of opioids into Clark County, which include orders of unusual size,
orders deviating substantially from a normal pattern, and orders of an unusual frequency.

1 115. Defendant Distributors not only have a duty to detect and prevent diversion of
2 controlled prescription drugs, but undertake such efforts as responsible members of society.

3 116. In so doing, this is intended to reduce the widespread diversion of these drugs out
4 of legitimate channels into the illicit market, while at the same time providing the legitimate
5 drug industry with a unified approach to narcotic and dangerous drug control.

6 117. Notwithstanding this duty and obligation, the DEA has been required to take
7 administrative action against Defendant Distributors to force compliance. The United States
8 Department of Justice, Office of the Inspector General, Evaluation and Inspections Division,
9 reported that the DEA issued final decisions in 178 registrant actions between 2008 and 2012.
10 The Office of Administrative Law Judges issued a recommended decision in a total of 117
11 registrant actions before the DEA issued its final decision, including 76 actions involving orders
12 to show cause and 41 actions involving immediate suspension orders.² Some of these actions
13 include the following:

14
15 (a) On April 24, 2007, the DEA issued an *Order to Show Cause and*
16 *Immediate Suspension Order* against the AmerisourceBergen Orlando, Florida
17 distribution center ("Orlando Facility") alleging failure to maintain effective controls
18 against diversion of controlled substances. On June 22, 2007, AmerisourceBergen
19 entered into a settlement which resulted in the suspension of its DEA registration;

20 (b) On November 28, 2007, the DEA issued an *Order to Show Cause and*
21 *Immediate Suspension Order* against the Cardinal Health Auburn, Washington
22 Distribution Center ("Auburn Facility") for failure to maintain effective controls against
23 diversion of hydrocodone;

24 (c) On December 5, 2007, the DEA issued an *Order to Show Cause and*
25 *Immediate Suspension Order* against the Cardinal Health Lakeland, Florida Distribution
26 Center ("Lakeland Facility") for failure to maintain effective controls against diversion
27 of hydrocodone;

28 (d) On December 7, 2007, the DEA issued an *Order to Show Cause and*
Immediate Suspension Order against the Cardinal Health Swedesboro, New Jersey
Distribution Center ("Swedesboro Facility") for failure to maintain effective controls
against diversion of hydrocodone;

² *The Drug Enforcement Administration's Adjudication of Registrant Actions*, United States Department of Justice, Office of the Inspector General, Evaluation and Inspections Divisions, 1-2014-003 (May 2014).

1 (e) On January 30, 2008, the DEA issued an *Order to Show Cause and*
2 *Immediate Suspension Order* against the Cardinal Health Stafford, Texas Distribution
3 Center ("Stafford Facility") for failure to maintain effective controls against diversion of
hydrocodone;

4 (f) On May 2, 2008, McKesson Corporation entered into an *Administrative*
5 *Memorandum of Agreement* ("2008 MOA") with the DEA which provided that
6 McKesson would "maintain a compliance program designed to detect and prevent the
7 diversion of controlled substances, inform DEA of suspicious orders required by 21
CFR § 1301.74(b), and follow the procedures established by its Controlled Substance
Monitoring Program;"

8 (g) On September 30, 2008, Cardinal Health entered into a *Settlement and*
9 *Release Agreement and Administrative Memorandum of Agreement* with the DEA
10 related to its Auburn Facility, Lakeland Facility, Swedesboro Facility and Stafford
11 Facility. The document also referenced allegations by the DEA that Cardinal failed to
12 maintain effective controls against the diversion of controlled substances at its
distribution facilities located in McDonough, Georgia; Valencia, California; and Denver,
Colorado;

13 (h) On February 2, 2012, the DEA issued an *Order to Show Cause and*
14 *Immediate Suspension Order* against the Cardinal Health Lakeland, Florida Distribution
Center for failure to maintain effective controls against diversion of oxycodone;

15 (i) On December 23, 2016, Cardinal Health agreed to pay a \$44 million fine
16 to the DEA to resolve the civil penalty portion of the administrative action taken against
17 its Lakeland, Florida Distribution Center; and

18 (j) On January 5, 2017, McKesson Corporation entered into an
19 *Administrative Memorandum Agreement* with the DEA wherein it agreed to pay a
20 \$150,000,000 civil penalty for violation of the 2008 MOA as well as failure to identify
21 and report suspicious orders at its facilities in Aurora CO, Aurora IL, Delran NJ,
LaCrosse WI, Lakeland FL, Landover MD, La Vista NE, Livonia MI, Methuen MA,
Santa Fe Springs CA, Washington Courthouse OH and West Sacramento CA.

22 118. In another example, on August 9, 2013, the DEA issued an Order to Show Cause
23 for Defendant MASTERS PHARMACEUTICALS, LLC to consider whether to revoke its
24 distributor license for failing to monitor, report, and prevent the distribution of suspicious orders
25 under federal law. *See, Masters Pharmaceuticals, Inc.; Decision and Order*, 80 FR 55418,
26 55419 (2015). The Order *inter alia* made allegations regarding Masters suspicious distributions
27 of oxycodone to various pharmacies across the country, including 1.7 million dosage units . . .
28

1 to a pharmacy located in Clark County from January 1, 2009 through November 30, 2010. *Id.*
2 The registration was ultimately revoked and Masters appealed.

3 119. On June 30, 2017, the Court of Appeals for the D.C. Circuit issued an order in
4 denying MASTERS PHARMACEUTICAL, INC.'s, Petition for Review seeking to overturn the
5 DEA's revocation of Masters' DEA registration finding that there was substantial evidence
6 which supported revocation because suspicious orders were not investigated. *See, Masters*
7 *Pharmaceutical, Inc. v. Drug Enforcement Administration* (No. 15-1335).

8 120. Because Defendant Distributors handle such large volumes of controlled
9 substances, and are the first major line of defense in the movement of legal pharmaceutical
10 controlled substances from legitimate channels into the illicit market, it is incumbent on these
11 distributors to maintain effective controls to prevent diversion of controlled substances. Should
12 a distributor deviate from these checks and balances, the closed system collapses.

13 121. The sheer volume of prescription opioids distributed to pharmacies in Clark
14 County is excessive for the medical need of the community and facially suspicious. Some red
15 flags are so obvious that no one who engages in the legitimate distribution of controlled
16 substances can reasonably claim ignorance of them.

17 122. Over the course of a decade, Defendant Distributors and Pharmacies failed to
18 detect suspicious orders of prescription opioids which Defendants knew or should have known
19 were likely to be delivered and/or diverted into Clark County.

20 123. Defendants ignored the law, paid the fines, and continued to unlawfully fill
21 suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or
22 orders of unusual frequency in Clark County, and/or orders which Defendants knew or should
23 have known were likely to be delivered and/or diverted into Clark County.

24 124. Like all people, Defendant Pharmacies must exercise reasonable care under the
25 circumstances. This involves a duty not to create a foreseeable risk of harm to others.
26 Additionally, one who engages in affirmative conduct, and thereafter realizes or should realize
27 that such conduct has created an unreasonable risk of harm to another, is under a duty to
28 exercise reasonable care to prevent the threatened harm.

1 125. Like Defendant Distributors, Defendant Pharmacies also serve as gatekeepers in
2 keeping drugs from entering the illicit market. As the "last line of defense," they are meant to be
3 the drug experts in the healthcare delivery system and as such have considerable duties and
4 responsibility in the oversight of patient care. They cannot blindly fill prescriptions written by a
5 doctor if the prescription is not for a legitimate medical purpose.

6 126. Therefore, Defendant Pharmacies are required to ensure that prescriptions for
7 controlled substances are valid, and that they are issued for a legitimate medical purpose by
8 practitioners acting in their usual course. But by filling prescriptions of questionable or
9 suspicious origin the Defendant Pharmacies have subsequently breached that duty.

10 127. Upon information and belief and at all times relevant herein, questionable or
11 suspicious prescriptions issued by Defendant Pharmacies include: (1) prescriptions written by a
12 doctor who writes significantly more prescriptions (or in larger quantities) for controlled
13 substances compared to other practitioners in the area; (2) prescriptions which should last for a
14 month in legitimate use, but are being refilled on a shorter basis; (3) prescriptions for
15 antagonistic drugs, such as depressants and stimulants, at the same time; (4) prescriptions with
16 quantities or dosages that differ from usual medical usage; (5) prescriptions that do not comply
17 with standard abbreviations and/or contain no abbreviations; (6) photocopied prescriptions;
18 and/or (7) prescriptions containing different handwritings.

19 128. In addition to having common law duties, Defendant Pharmacies have a statutory
20 duty under state law to track and report certain information to the Nevada State Board of
21 Pharmacy. The Nevada State Board of Pharmacy has been licensing and regulating the
22 practices of pharmaceutical wholesalers in Nevada since 1967.

23 129. State law requires that statements of prior sales ("pedigrees") must be in
24 "electronic form, if the transaction occurs on or after January 1, 2007 and also when one of two
25 things is true: (1) the selling wholesaler is not an authorized distributor for the manufacturer of
26 the drug, or (2) The selling wholesaler bought the drug from another wholesaler.

27 130. In addition, the mandatory data to be reported must include, but is not limited to
28 as follows: (a) name, address, telephone number, and Nevada license number of the wholesaler
making the pedigree; (b) name and title of person certifying the pedigree's accuracy;

1 (c) invoice number and date for the transaction of which the pedigree is part; (d) purchase
2 order number and date for the transaction of which the pedigree is part; (e) order number and
3 date (if one) for the transaction of which the pedigree is part; (f) the business name, address, and
4 telephone number of each preceding seller of the drug; (g) the business name, address, and
5 telephone number of the customer to whom the reporting wholesaler sold the drug; (h) the date
6 of each preceding or subsequent sale; (i) name of the drug; (j) strength of the drug; (k) size of
7 the container; and/or (l) number of containers.

8 131. Because Defendant Pharmacies handle such large volumes of controlled
9 substances, and are a last line of defense in the movement of legal pharmaceutical controlled
10 substances from legitimate channels into the illicit market, it is incumbent on these distributors
11 to maintain effective controls to prevent diversion of controlled substances. Should Defendants
12 deviate from these checks and balances, the closed system collapses.

13 132. For instance, on August 9, 2013, the DEA issued an Order to Show Cause for
14 Defendant MASTERS PHARMACEUTICALS, LLC to consider whether to revoke its
15 distributor license for failing to monitor, report, and prevent the distribution of suspicious orders
16 under federal law. *See, Masters Pharmaceuticals, Inc.; Decision and Order*, 80 FR 55418,
17 55419 (2015). The Order *inter alia* made allegations regarding Masters suspicious distributions
18 of oxycodone to various pharmacies across the country, including 1.7 million dosage units . . .
19 to a pharmacy located in Clark County, Defendant KEN'S PHARMACY f/k/a LAM'S
20 PHARMACY, from January 1, 2009 through November 30, 2010. *Id.*

21 133. The sheer volume of prescription opioids distributed to pharmacies in Clark
22 County is excessive for the medical need of the community and facially suspicious. Some red
23 flags are so obvious that no one who engages in the legitimate distribution of controlled
24 substances can reasonably claim ignorance of them.

25 134. Over the course of a decade, Defendant Pharmacies failed to detect suspicious
26 orders of prescription opioids which Defendants knew or should have known were likely to be
27 delivered and/or diverted into Clark County.

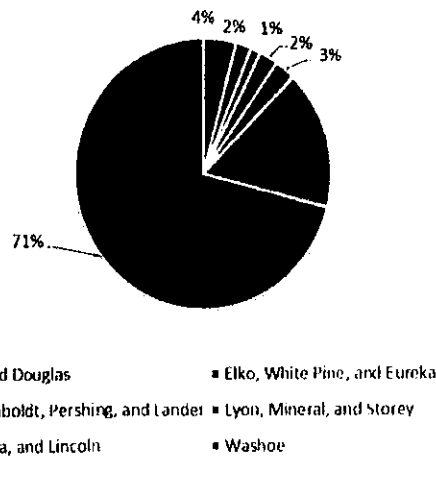
28 135. Yet, Defendants ignored the law, paid the fines, and continued to unlawfully fill
suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or

1 orders of unusual frequency in Clark County, and/or orders which Defendants knew or should
2 have known were likely to be delivered and/or diverted into Clark County.

3 **D. Opioid Addiction in Nevada**

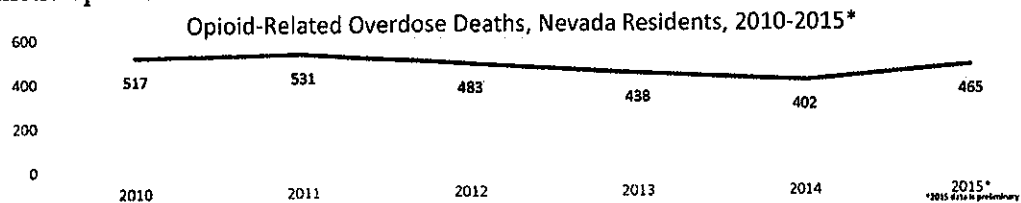
4 136. In Nevada, the opioid epidemic is widespread, not localized to any particular city
5 or county. In 2016, Nevada was ranked as the sixth highest state for the number of milligrams
6 of opioids distributed per adult according to a study by the DEA. From 2009 to 2013, hospitals
7 across the State had patients presenting to emergency rooms for heroin or opioid dependence,
8 abuse, or poisoning. Of those visits, 71% occurred in Clark County.

9 **Heroin or Opioid Dependence, Abuse, or Poisoning**
10 **Among Hospital Emergency Department Visitors for**
11 **Nevada Residents in 2009-2013 by Region**



17
18
19
20 137. According to data from the Nevada Division of Public and Behavioral Health,
21 the total number of opioid-related hospitalizations in Nevada nearly doubled from 2010 to 2015.
22 In 2010, the number of opioid-related emergency room hospitalizations in Nevada totaled about
23 4,518 patients. By comparison, that number rose steeply to about 8,231 visits in a mere five
24 years. Similarly, in 2010, the number of opioid-related inpatient admissions statewide totaled
25 3,095 hospitalizations. However, in a span of only five years, that number exponentially
26 increased to 7,035 visits in 2015. From 2010 to 2015, over 26% of opioid-related emergency
27 room hospitalizations in Nevada were among patients aged 55 years and older. Over 36% of
28 opioid-related inpatient admissions in the State were among that same age group.

1 related overdose. It is estimated that 55% of those deaths were caused by natural and semi-
2 synthetic opioids.



7 **E. The Consequences of Defendants' Fraudulent Scheme**

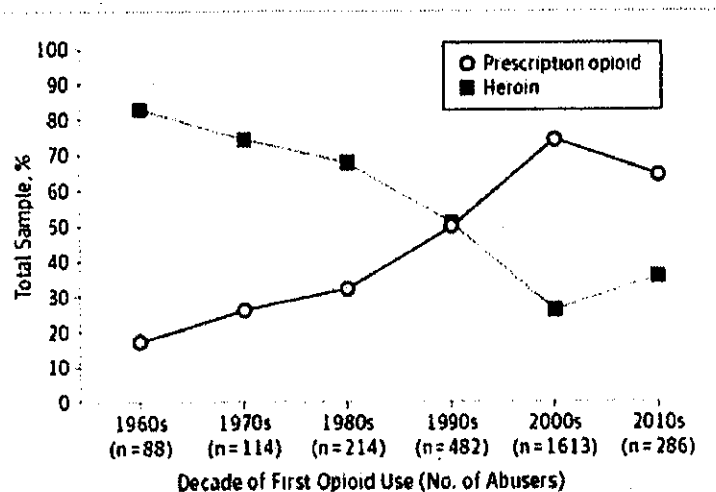
8 141. Through direct promotional marketing, in conjunction with third-party Front
9 Groups and KOLs, Defendants accomplished exactly what they set out to do: change the
10 institutional and public perception of the risk-benefit assessments and standard of care for
11 treating patients with chronic pain. As a result, Nevada doctors began prescribing opioids long-
12 term to treat chronic pain - something most would never have considered prior to Defendants'
13 extensive marketing campaign.

14 142. But for the misleading information disseminated by Defendants, prescribing
15 physicians would not, in most instances, have prescribed opioids as medically necessary or
16 reasonably required to address chronic pain. The impact of Defendants' fraudulent marketing on
17 doctors' prescribing and patients' use of opioids is evidenced by the increase in opioid
18 prescribing nationally in concert with Defendants' marketing, and the consequences of opioid
19 over-prescription - including addiction, overdose, and death.

20 **F. Prescription Opioids Fueling Secondary Market of Illegal Drugs**

21 143. Defendants' successful efforts in expanding the market for opioids to new
22 patients and chronic conditions has created an abundance of drugs available for criminal use and
23 fueled a new wave of addiction and abuse. Defendants' behavior supplies both ends of the
24 secondary market for opioids - producing both the inventory of narcotics to sell and the addicts
25 to buy them. It has been estimated that the majority of the opioids that are abused come, directly
26 or indirectly, through doctors' prescriptions. Because heroin is cheaper than prescription
27 painkillers, many prescription opioid addicts migrate to heroin. Thus, prescription drug abuse is
28 fueling the rise of heroin usage in Nevada.

1 144. As a result, self-reported heroin use nearly doubled in the U.S. between 2007 and
2 2012, from 373,000 to 669,000 individuals and, in 2010, more than 3,000 people in the U.S.
3 died from heroin overdoses, also nearly double the rate in 2006; nearly 80% of those who used
4 heroin in the past year previously abused prescription opioids.



16 145. While the use of opioids continues to take an enormous toll on Clark County and
17 its residents, pharmaceutical companies reap blockbuster profits.

18 146. In 2014 alone, opioids generated \$11 billion in revenue for drug companies,
19 Defendants experienced a material increase in sales, revenue, and profits from their fraudulent
20 advertising and other unlawful and unfair conduct as described above.

21 147. Defendants should be held accountable for their misrepresentations and the
22 harms caused to Clark County as well as its residents thus giving rise to this lawsuit.

23 **FIRST CAUSE OF ACTION**

24 *(Public Nuisance Against All Defendants)*

25 148. Plaintiff repeats and reiterates the allegations previously set forth herein.

26 149. This action is brought by Clark County for violations of statutory provisions
27 concerning public nuisance under NRS 202 *et seq.* Nevada law provides that a where a
28 controlled substance, including but not limited to opioids, is "unlawfully sold, served, stored,
kept, manufactured, used or given away" constitutes a public nuisance.

1 150. The public nuisance created by Defendants' actions is substantial and
2 unreasonable. It has caused, and continues to cause, significant harm to the community. The
3 rates of opioid use resulting from Defendants' deceptive marketing efforts have caused harm to
4 the community

5 151. As a result of Defendants' conduct, Plaintiff has incurred substantial costs
6 including but not limited to law enforcement action opioid-related to drug crimes, for addiction
7 treatment, and other services necessary for the treatment of people addicted to prescription
8 opioids.

9 152. Defendants, and each of them, have contributed to, and/or assisted in creating
10 and maintaining a condition that is harmful to the health of Clark County citizens, "renders a
11 considerable number of persons insecure in life" and/or interferes with the comfortable
12 enjoyment of life in violation of Nevada law.

13 153. Defendants knew or should have known that their marketing of opioid use would
14 create a public nuisance.

15 154. Defendants' actions were, and continue to be, a substantial factor in opioids
16 becoming widely available and widely used. Defendants' actions were, and continue to be, a
17 substantial factor in prescribing physicians and prospective patients not accurately assessing and
18 weighing the risks and benefits of opioids for chronic pain. Without Defendants' actions, opioid
19 use would not have become so widespread, and the enormous public health hazard of opioid
20 overuse, abuse, and addiction that now exists would have been averted.

21 155. The health and safety of the citizens of Clark County, including those who use,
22 have used or will use opioids, as well as those affected by users of opioids, is a matter of great
23 public interest and of legitimate concern.

24 156. Defendants' conduct has affected and continues to affect a considerable number
25 of people within the physical boundaries of Clark County and is likely to continue to cause
26 significant harm to people who take opioids, their families, and the community at large.

27 157. Defendants' conduct constitutes a public nuisance and, if unabated, will continue
28 to threaten the health, safety and welfare of the County's residents, creating an atmosphere of

1 fear and addiction that tears at the residents' sense of well-being and security. Clark County has
2 a clearly ascertainable right to abate conduct that perpetuates this nuisance.

3 158. Defendants created an absolute nuisance. Defendants' actions created and
4 expanded the abuse of opioids, which are dangerously addictive, and the ensuing associated
5 plague of prescription opioid and heroin addiction. Defendants knew the dangers to public
6 health and safety that diversion of opioids would create in Clark County, however, Defendants
7 intentionally and/or unlawfully failed to maintain effective controls against diversion through
8 proper monitoring, reporting and refusal to fill suspicious orders of opioids. Defendants
9 intentionally and/or unlawfully distributed opioids without reporting or refusing to fill
10 suspicious orders or taking other measures to maintain effective controls against diversion.
11 Defendants intentionally and/or unlawfully continued to ship and failed to halt suspicious orders
12 of opioids. Such actions were inherently dangerous.

13 159. Defendants knew the prescription opioids have a high likelihood of being
14 diverted. It was foreseeable to Defendants that where Defendants distributed prescription
15 opioids without maintain effective controls against diversion, including monitoring, reporting,
16 and refusing shipment of suspicious orders, that the opioids would be diverted, and create an
17 opioid abuse nuisance in Clark County.

18 160. Defendants' actions also created a qualified nuisance. Defendants acted
19 recklessly, negligently and/or carelessly, in breach of their duties to maintain effective controls
20 against diversion, thereby creating an unreasonable risk of harm.

21 161. Defendants acted with actual malice because Defendants acted with a conscious
22 disregard for the rights and safety of other persons, and said actions have a great probability of
23 causing substantial harm.

24 162. The damages available to the Plaintiff include, inter alia, recoupment of
25 governmental costs, flowing from an "ongoing and persistent" public nuisance which the
26 government seeks to abate.

27 163. Defendants' conduct is ongoing and persistent, and the Plaintiff seeks all
28 damages flowing from Defendants' conduct. Plaintiff further seeks to abate the nuisance and
harm created by Defendants' conduct.

1 164. As a direct result of Defendants' conduct, the County has suffered actual injury
2 and damages including, but not limited to, significant expenses for police, emergency, health,
3 prosecution, corrections and other services. The County here seeks recovery for its own harm.

4 165. The County has sustained specific and special injuries because its damages
5 include, *inter alia*, health services, law enforcement expenditures, costs related to opioid
6 addiction treatment and overdose prevention, and related costs.

7 166. The County further seeks to abate the nuisance created by the Defendants'
8 unreasonable, unlawful, intentional, ongoing, continuing, and persistent interference with a right
9 common to the public.

10 167. The public nuisance created by Defendants' actions is substantial and
11 unreasonable – it has caused and continues to cause significant harm to the community, and the
12 harm inflicted outweighs any offsetting benefit. The staggering rates of prescription opioid
13 abuse and heroin use resulting from Defendants' abdication of their gate-keeping duties has
14 caused harm to the entire community that includes, but is not limited to:

- 15 a. The high rates of use have led to unnecessary opioid abuse, addiction, overdose,
16 injuries, and deaths.
- 17 b. Nor have children escaped the opioid epidemic unscathed. Easy access to
18 prescription opioids has made opioids a recreational drug of choice among
19 teenagers; opioid use among teenagers is only outpaced by marijuana use. Even
20 infants have been born addicted to opioids due to prenatal exposure, causing
21 severe withdrawal symptoms and lasting developmental impacts.
- 22 c. Even those County residents who have never taken opioids have suffered from
23 the public nuisance arising from Defendants' abdication of their gate-keeper
24 duties. Many have endured both the emotional and financial costs of caring for
25 loved ones addicted to or injured by opioids, and the loss of companionship,
26 wages, or other support from family members who have used, abused, become
27 addicted to, overdosed on, or been killed by opioids.
- 28 d. The opioid epidemic has increased health care costs.
- e. Employers have lost the value of productive and healthy employees.

1 f. Defendants' failure to maintain effective controls against diversion of
2 dangerously addictive prescription opioids for non-medical use and abuses has
3 created an abundance of drugs available for criminal use and fueled a new wave
4 of addiction, abuse, and injury.

5 g. Defendants' dereliction of duties resulted in a diverted supply of narcotics to sell,
6 and the ensuing demand of addicts to buy them. Increased supply, due to
7 Defendants' conduct, led to more addiction, with many addicts turning from
8 prescription opioids to heroin. People addicted to opioids frequently require
9 increasing levels of opioids, and many turned to heroin as a foreseeable result.

10 h. The diversion of opioids into the secondary, criminal market and the increase in
11 the number of individuals who abuse or are addicted to opioids has increased the
12 demands on health care services and law enforcement in the County.

13 i. The significant unreasonable interference with the public rights caused by
14 Defendants' conduct has taxed the human, medical, public health, law
15 enforcement, and financial resources of Clark County.

16 j. Defendants' interference with the comfortable enjoyment of life in Clark County
17 is unreasonable because there is little social utility to opioid diversion and abuse,
18 and any potential value is outweighed by the gravity of the harm inflicted by
19 Defendants' actions.

20 168. Plaintiff seeks all legal and equitable relief as allowed by law, including *inter*
21 *alia* abatement, compensatory damages, and punitive damages from the Defendant Wholesale
22 Distributors for the creation of a public nuisance, attorney fees and costs, and pre- and post-
23 judgment interest.

24 169. The continued tortious conduct by the Defendants causes a repeated or
25 continuous injury. The damages have not occurred all at once but have increased as time
26 progresses. The tort is not completed nor have all the damages been incurred until the
27 wrongdoing ceases. The wrongdoing has not ceased. The public nuisance remains unabated.

28

1 170. Therefore, Plaintiff's claims are subject to equitable tolling, stemming from
2 Defendants' wrongful concealment and from Plaintiff's inability to obtain vital information
3 underlying its claims.

4 171. That Plaintiff has been required to prosecute this action and is entitled to
5 attorneys' fees and costs as provided by Nevada statute.

6 172. That Plaintiff's general, special and punitive damages are in amounts in excess of
7 \$15,000.00.

8 SECOND CAUSE OF ACTION

9 *(Common Law Public Nuisance against all Defendants)*

10 173. Plaintiff repeats and reiterates the allegations previously set forth herein.

11 174. Defendants, each of them, have contributed to, and/or assisted in creating and
12 maintaining a condition that is harmful to the health of Clark County citizens or interferes with
13 the comfortable enjoyment of life.

14 175. The public nuisance created by Defendants' actions is substantial and
15 unreasonable. It has caused and continues to cause significant harm to the community and the
16 harm inflicted outweighs any offsetting benefit. The staggering rates of opioid use resulting
17 from Defendants' marketing efforts have caused harm to the community.

18 176. Defendants, and each of them, knew or should have known that their promotion
19 of opioid use would create a public nuisance.

20 177. Defendants' actions were, at the least, a substantial factor in opioids becoming
21 widely available and widely used.

22 178. Defendants' actions were, at the least, a substantial factor in doctors and patients
23 not accurately assessing and weighing the risks and benefits of opioids for chronic pain.

24 179. Without Defendants' actions, opioid use would not have become so widespread,
25 and the enormous public health hazard of opioid overuse, abuse, and addiction that now exists
26 would have been averted.

27 180. The health and safety of those individuals in Clark County, including those who
28 use, have used or will use opioids, as well as those affected by users of opioids, is a matter of
great public interest and of legitimate concern.

1 181. The public nuisance created, perpetuated, and maintained by Defendants can be
2 abated and further reoccurrence of such harm and inconvenience can be prevented.

3 182. Defendants' conduct has affected and continues to affect a considerable number
4 of people within the State is likely to continue to cause significant harm to chronic pain patients
5 who take opioids, their families, and the community at large.

6 183. That at all times hereinafter mentioned, upon information and belief, the above-
7 described culpable conduct by Defendants was a proximate cause of injuries sustained by
8 Plaintiff.

9 184. That as a result of the aforesaid occurrence, Plaintiff has suffered extensive
10 monetary and pecuniary losses and other compensatory damages were also incurred and paid,
11 including necessary medical, hospital, and concomitant expenses.

12 185. Defendants' conduct constitutes a public nuisance and, if unabated, will continue
13 to threaten the health, safety and welfare of the County's residents, creating an atmosphere of
14 fear and addiction that tears at the residents' sense of well-being and security. The County has a
15 clearly ascertainable right to abate conduct that perpetuates this nuisance.

16 186. Defendants created an absolute nuisance. Defendants' actions created and
17 expanded the abuse of opioids, which are dangerously addictive, and the ensuing associated
18 plague of prescription opioid and heroin addiction. Defendants knew the dangers to public
19 health and safety that diversion of opioids would create in Clark County, however, Defendants
20 intentionally and/or unlawfully failed to maintain effective controls against diversion through
21 proper monitoring, reporting and refusal to fill suspicious orders of opioids. Defendants
22 intentionally and/or unlawfully distributed opioids without reporting or refusing to fill
23 suspicious orders or taking other measures to maintain effective controls against diversion.
24 Defendants intentionally and/or unlawfully continued to ship and failed to halt suspicious orders
25 of opioids. Such actions were inherently dangerous.

26 187. Defendants knew the prescription opioids have a high likelihood of being
27 diverted. It was foreseeable to Defendants that where Defendants distributed prescription
28 opioids without maintain effective controls against diversion, including monitoring, reporting,

1 and refusing shipment of suspicious orders, that the opioids would be diverted, and create an
2 opioid abuse nuisance in Clark County.

3 188. Defendants' actions also created a qualified nuisance. Defendants acted
4 recklessly, negligently and/or carelessly, in breach of their duties to maintain effective controls
5 against diversion, thereby creating an unreasonable risk of harm.

6 189. Defendants acted with actual malice because Defendants acted with a conscious
7 disregard for the rights and safety of other persons, and said actions have a great probability of
8 causing substantial harm.

9 190. The damages available to the Plaintiff include, *inter alia*, recoupment of
10 governmental costs, flowing from an "ongoing and persistent" public nuisance which the
11 government seeks to abate. Defendants' conduct is ongoing and persistent, and the Plaintiff
12 seeks all damages flowing from Defendants' conduct. Plaintiff further seeks to abate the
13 nuisance and harm created by Defendants' conduct.

14 191. As a direct result of Defendants' conduct, the County has suffered actual injury
15 and damages including, but not limited to, significant expenses for police, emergency, health,
16 prosecution, corrections and other services. The County here seeks recovery for its own harm.

17 192. The County has sustained specific and special injuries because its damages
18 include, *inter alia*, health services, law enforcement expenditures, costs related to opioid
19 addiction treatment and overdose prevention, and related costs.

20 193. The County further seeks to abate the nuisance created by the Defendants'
21 unreasonable, unlawful, intentional, ongoing, continuing, and persistent interference with a right
22 common to the public.

23 194. The public nuisance created by Defendants' actions is substantial and
24 unreasonable – it has caused and continues to cause significant harm to the community, and the
25 harm inflicted outweighs any offsetting benefit. The staggering rates of prescription opioid
26 abuse and heroin use resulting from Defendants' abdication of their gate-keeping duties has
27 caused harm to the entire community that includes, but is not limited to:

28 a. The high rates of use have led to unnecessary opioid abuse, addiction, overdose,
injuries, and deaths.

- 1 b. Nor have children escaped the opioid epidemic unscathed. Easy access to
2 prescription opioids has made opioids a recreational drug of choice among Clark
3 County teenagers; opioid use among teenagers is only outpaced by marijuana
4 use. Even infants have been born addicted to opioids due to prenatal exposure,
5 causing severe withdrawal symptoms and lasting developmental impacts.
- 6 c. Even those County residents who have never taken opioids have suffered from
7 the public nuisance arising from Defendants' abdication of their gate-keeper
8 duties. Many have endured both the emotional and financial costs of caring for
9 loved ones addicted to or injured by opioids, and the loss of companionship,
10 wages, or other support from family members who have used, abused, become
11 addicted to, overdosed on, or been killed by opioids.
- 12 d. The opioid epidemic has increased health care costs.
- 13 e. Employers have lost the value of productive and healthy employees.
- 14 f. Defendants' failure to maintain effective controls against diversion of
15 dangerously addictive prescription opioids for non-medical use and abuses has
16 created an abundance of drugs available for criminal use and fueled a new wave
17 of addiction, abuse, and injury.
- 18 g. Defendants' dereliction of duties resulted in a diverted supply of narcotics to sell,
19 and the ensuing demand of addicts to buy them. Increased supply, due to
20 Defendants' conduct, led to more addiction, with many addicts turning from
21 prescription opioids to heroin. People addicted to opioids frequently require
22 increasing levels of opioids, and many turned to heroin as a foreseeable result.
- 23 h. The diversion of opioids into the secondary, criminal market and the increase in
24 the number of individuals who abuse or are addicted to opioids has increased the
25 demands on health care services and law enforcement in the County.
- 26 i. The significant unreasonable interference with the public rights caused by
27 Defendants' conduct has taxed the human, medical, public health, law
28 enforcement, and financial resources of Clark County.

1 j. Defendants' interference with the comfortable enjoyment of life in Clark County
2 is unreasonable because there is little social utility to opioid diversion and abuse,
3 and any potential value is outweighed by the gravity of the harm inflicted by
4 Defendants' actions.

5 195. Plaintiff seeks all legal and equitable relief as allowed by law, including *inter*
6 *alia* abatement, compensatory damages, and punitive damages from the Defendant Wholesale
7 Distributors for the creation of a public nuisance, attorney fees and costs, and pre- and post-
8 judgment interest.

9 196. The continued tortious conduct by the Defendants causes a repeated or
10 continuous injury. The damages have not occurred all at once but have increased as time
11 progresses. The tort is not completed nor have all the damages been incurred until the
12 wrongdoing ceases. The wrongdoing has not ceased. The public nuisance remains unabated.

13 197. Therefore, Plaintiff's claims are subject to equitable tolling, stemming from
14 Defendants' wrongful concealment and from Plaintiff's inability to obtain vital information
15 underlying its claims.

16 198. That Plaintiff has been required to prosecute this action and is entitled to
17 attorneys' fees and costs as provided by Nevada statute.

18 199. That Plaintiff's general, special and punitive damages are in amounts in excess of
19 \$15,000.00.

20 THIRD CAUSE OF ACTION

21 *(Negligent Misrepresentation against all Defendants)*

22 200. Plaintiff repeats and reiterates the allegations previously set forth herein.

23 201. Defendants had a duty to exercise reasonable care in the marketing of opioids.

24 202. Defendants were aware of the potentially dangerous situation involving opioids.

25 203. Defendants marketed opioids in an improper manner by:

- 26 a. overstating the benefits of chronic opioid therapy, promising improvement in
27 patients' function and quality of life, and failing to disclose the lack of evidence
28 supporting long-term use;

- b. trivializing or obscuring opioids' serious risks and adverse outcomes, including the risk of addiction, overdose, and death;
- c. overstating opioids' superiority compared with other treatments, such as other non-opioid analgesics, physical therapy, and other alternatives;
- d. mischaracterizing the difficulty of withdrawal from opioids and the prevalence of withdrawal symptoms; and
- e. marketing opioids for indications and benefits that were outside of the opioids' labels and not supported by substantial evidence.

204. It was Defendants' marketing — and not any medical breakthrough— that rationalized prescribing opioids for chronic pain and opened the floodgates of opioid use and abuse. The result has been catastrophic.

205. Defendants disseminated many of their false, misleading, imbalanced, and unsupported statements indirectly, through KOLs and Front Groups, and in unbranded marketing materials. These KOLs and Front Groups were important elements of Defendants' marketing plans, which specifically contemplated their use, because they seemed independent and therefore outside FDA oversight. Through unbranded materials, Defendants, with their own knowledge of the risks, benefits and advantages of opioids, presented information and instructions concerning opioids generally that were contrary to, or at best, inconsistent with information and instructions listed on Defendants' branded marketing materials and drug labels. Defendants did so knowing that unbranded materials typically are not submitted to or reviewed by the FDA.

206. Defendants also marketed opioids through the following vehicles: (a) KOLs, who could be counted upon to write favorable journal articles and deliver supportive CMEs; (b) a body of biased and unsupported scientific literature; (c) treatment guidelines; (d) CMEs; (e) unbranded patient education materials; and (f) Front Group patient-advocacy and professional organizations, which exercised their influence both directly and through Defendant-controlled KOLs who served in leadership roles in those organizations.

207. Defendants knew or should have known that opioids were unreasonably dangerous and could cause addiction.

208. Defendants' marketing was a factor in physicians, patients, and others to
prescribe or purchase opioids.

209. As a direct and proximate result of Defendants' negligence, Plaintiff has suffered and continues to suffer injury, including but not limited to incurring excessive costs related to diagnosis, treatment, and cure of addiction to opioids, bearing the massive costs of these illnesses and conditions by having to provide necessary resources for care, treatment facilities, and law enforcement services for its residents and using County resources in relation to opioid use and abuse.

210. However, Defendants continued to design manufacture, market, distribute and sell opioids so as to maximize sales and profits at the expense of the health and safety of the public, in conscious disregard of the foreseeable harm caused by the opioid drug.

211. Defendants' conduct exhibits such an entire want of care as to establish that their actions were a result of fraud, ill will, recklessness, or willful and intentional disregard of Plaintiff's rights, and, therefore, Plaintiff is entitled to punitive damages.

212. The continued tortious conduct by the Defendants causes a repeated or continuous injury. The damages have not occurred all at once but have increased as time progresses. The tort is not completed nor have all the damages been incurred until the wrongdoing ceases. The wrongdoing has not ceased. The public nuisance remains unabated.

213. Therefore, Plaintiff's claims are subject to equitable tolling, stemming from Defendants' wrongful concealment and from Plaintiff's inability to obtain vital information underlying its claims.

22 214. That Plaintiff has been required to prosecute this action and is entitled to
23 attorneys' fees and costs as provided by Nevada statute.

24 215. That Plaintiff's general, special and punitive damages are in amounts in excess of
25 \$15,000.00.

FOURTH CAUSE OF ACTION

(Negligence against Defendant Distributors & Defendant Pharmacies)

28 216. Plaintiff incorporates the allegations within all prior paragraphs within this Complaint as if they were fully set forth herein.

1 217. Defendant Distributors and Pharmacies owed a non-delegable duty to exercise
2 reasonable care in the distribution and/or sale of opioids.

3 218. Defendants further owe a non-delegable duty to Plaintiff to conform their
4 behavior to the legal standard of reasonable conduct under the circumstances, in the light of the
5 apparent risks.

6 219. Defendant Distributors and Pharmacies breached this duty by failing to take any
7 action to prevent or reduce the distribution of the opioids.

8 220. As a proximate result, Defendant Distributors and Pharmacies and its agents
9 have caused Plaintiff to incur significant damages, including but not limited to costs related to
10 diagnosis, treatment, and cure of addiction or risk of addiction to opioids. Clark County has
11 borne the massive costs of these illnesses and conditions by having to provide necessary
12 medical care, facilities, and services for treatment of County residents.

13 221. Defendant Distributors and Pharmacies were negligent in failing to monitor and
14 guard against third-party misconduct and participated and enabled such misconduct.

15 222. Defendant Distributors and Pharmacies were negligent in disclosing to Plaintiff
16 suspicious orders for opioids.

17 223. Defendant Distributors and Pharmacies' acts and omissions imposed an
18 unreasonable risk of harm to others separately and/or combined with other Defendants.

19 224. A negligent violation of this trust poses distinctive and significant dangers to the
20 County and its residents from the diversion of opioids for non-legitimate medical purposes and
21 addiction to the same by consumers.

22 225. Defendant Distributors and Pharmacies were negligent in not acquiring and
23 utilizing special knowledge and special skills that relate to the dangerous activity in order to
24 prevent and/or ameliorate such distinctive and significant dangers.

25 226. Defendant Distributors and Pharmacies are required to exercise a high degree of
26 care and diligence to prevent injury to the public from the diversion of opioids during
27 distribution.

28

227. Defendant Distributors and Pharmacies breached their duty to exercise the degree of care, prudence, watchfulness, and vigilance commensurate to the dangers involved in the transaction of its business.

228. Defendant Distributors and Pharmacies are in exclusive control of the distribution management of opioids that it distributed and/or sold in Clark County.

229. Plaintiff is without fault and the injuries to the County and its residents would not have occurred in the ordinary course of events had Defendants used due care commensurate to the dangers involved in the distribution of opioids.

230. The continued tortious conduct by the Defendants causes a repeated or continuous injury. The damages have not occurred all at once but have increased as time progresses. The tort is not completed nor have all the damages been incurred until the wrongdoing ceases. The wrongdoing has not ceased. The public nuisance remains unabated.

231. Therefore, Plaintiff's claims are subject to equitable tolling, stemming from Defendants' wrongful concealment and from Plaintiff's inability to obtain vital information underlying its claims.

232. That Plaintiff has been required to prosecute this action and is entitled to attorneys' fees and costs as provided by Nevada statute.

233. That Plaintiff's general, special and punitive damages are in amounts in excess of \$15,000.00.

FIFTH CAUSE OF ACTION

(Unjust Enrichment against all Defendants)

234. Plaintiff has expended substantial amounts of money to fix or mitigate the societal harms caused by Defendants' conduct.

235. The expenditures by Plaintiff in providing healthcare services to people who use opioids have added to Defendants' wealth. These expenditures have helped sustain Defendants' businesses.

1 236. Plaintiff has conferred a benefit upon Defendants, by paying for what may be
2 called Defendants' externalities- the costs of the harm caused by Defendants' negligent
3 distribution and sales practices.

4 237. Defendants are aware of this obvious benefit, and that retention of this benefit is
5 unjust.

6 238. Defendants made substantial profits while fueling the prescription drug epidemic
7 into Clark County.

8 239. Defendants continue to receive considerable profits from the distribution of
9 controlled substances into Clark County.

10 240. Defendants have been unjustly enriched by their negligent, malicious,
11 oppressive, illegal and unethical acts, omissions, and wrongdoing.

12 241. It would be inequitable to allow Defendants to retain benefit or financial
13 advantage.

14 242. Plaintiff demands judgment against each Defendant for restitution, disgorgement,
15 and any other relief allowed in law or equity.

16 243. Plaintiff is without fault and the injuries to the County and its residents would
17 not have occurred in the ordinary course of events had Defendants used due care commensurate
18 to the dangers involved in the distribution of opioids.

19 244. The continued tortious conduct by the Defendants causes a repeated or
20 continuous injury. The damages have not occurred all at once but have increased as time
21 progresses. The tort is not completed nor have all the damages been incurred until the
22 wrongdoing ceases. The wrongdoing has not ceased. The public nuisance remains unabated.

23 245. Therefore, Plaintiff's claims are subject to equitable tolling, stemming from
24 Defendants' wrongful concealment and from Plaintiff's inability to obtain vital information
25 underlying its claims.

26 246. That Plaintiff has been required to prosecute this action and is entitled to
27 attorneys' fees and costs as provided by Nevada statute.

28 247. That Plaintiff's general, special and punitive damages are in amounts in excess of
\$15,000.00.

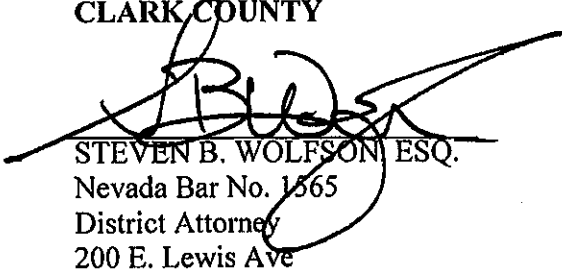
- 1 3. For punitive damages in such amount as will sufficiently punish Defendants for
2 their wrongful conduct in Nevada as well as serve as an example to prevent a
3 repetition of such conduct in Nevada in the future;
- 4 4. For a fund establishing a medical monitoring program due to the increased
5 susceptibility to injuries and irreparable threat to the health of opioid users
6 resulting from their exposure to opioids, which can only be mitigated or addressed
7 by the creation of a Court-supervised fund, financed by Defendants, and which
8 will:
 - 9 a. Notify individuals who use or used opioids of the potential harm from
10 opioids;
 - 11 b. Aid in the early diagnosis and treatment of resulting injuries through
12 ongoing testing and monitoring of opioid use;
 - 13 c. Fund studies and research of the short and long term effects of opioids and
14 the possible cures and treatments for the detrimental effects of using
15 opioids;
 - 16 d. Accumulate and analyze relevant medical and demographic information
17 from opioid users, including but not limited to the results of testing
18 performed on them;
 - 19 e. Gather and forward to treating physicians information related to the
20 diagnosis and treatment of injuries which may result from using opioids.
- 21
- 22 5. For restitution and reimbursement sufficient to cover all prescription costs the
23 County has incurred related to opioids due to Defendants' wrongful conduct, with
24 said amount to be determined at trial;
- 25 6. For restitution and reimbursement sufficient to cover all costs expended for health
26 care services and programs associated with the diagnosis and treatment of adverse
27 health consequences of opioids use, including but not limited to addiction due to
28 Defendants ' wrongful conduct, with said amount to be determined at trial;
7. For restitution and reimbursement for all prescription costs incurred by consumers

1 related to opioids;

- 2 8. For such other and further extraordinary equitable, declaratory and/or injunctive
3 relief as permitted by law as necessary to assure that the Plaintiffs have an
4 effective remedy and to stop Defendants' promotion and marketing of opioids for
5 inappropriate uses in Nevada, currently and in the future;
6 9. For disgorgement;
7 10. Costs of suit, reasonable attorney fees, interest incurred herein; and
8 11. For such other and further relief as is just and proper.

9 DATED this 6th day of December, 2017.

10 CLARK COUNTY

11 
12 STEVEN B. WOLFSON, ESQ.

13 Nevada Bar No. 1565

14 District Attorney

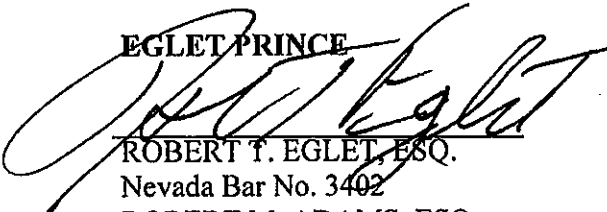
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19 EGLET PRINCE

20 
21 ROBERT T. EGLET, ESQ.

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24 Nevada Bar No. 6551

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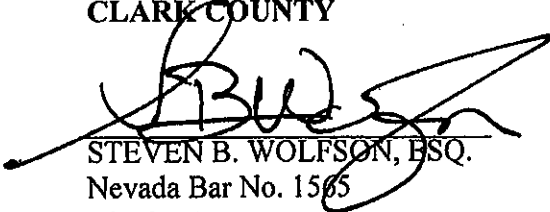
Attorneys for Plaintiff, Clark County

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, by and through her attorneys of record, hereby demands a jury trial of all of the
3 issues in the above matter.

4 DATED this 6th day of December, 2017.

5 **CLARK COUNTY**

6 
7
8 STEVEN B. WOLFSON, ESQ.

9 Nevada Bar No. 1565

10 District Attorney

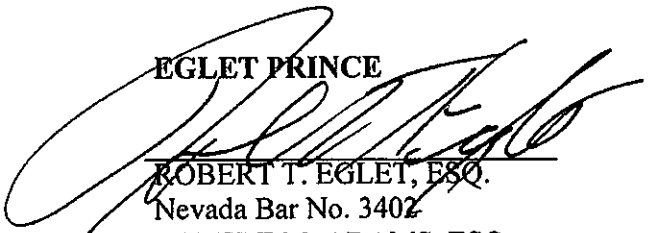
200 E. Lewis Ave

Las Vegas, NV 89101

11 Tel.: 702-671-2700

12 Email: steven.wolfson@clarkcountynvda.com

13 **EGLET PRINCE**

14 
15 ROBERT T. EGLET, ESQ.

16 Nevada Bar No. 3402

17 ROBERT M. ADAMS, ESQ.

Nevada Bar No. 6551

400 S. 7th Street, 4th Floor

18 Las Vegas, NV 89101

19 Tel.: (702) 450-5400

Fax: (702) 450-5451

20 E-Mail eservice@egletlaw.com

21 Attorneys for Plaintiff, Clark County

Exhibit “I”

Exhibit “I”

PROMISSORY NOTE

September 1, 2011

\$802,775.00

PROMISE TO PAY. BEATRICE B. DAVIS REVOCABLE TRUST INDENTURE, DATED APRIL 4, 1990 ("Borrower"), whose address is 1001 West 59th Terrace, Kansas City, Missouri 64113, promises to pay to ALASKA USA TRUST COMPANY, Trustee, or its successors in trust, under the BEATRICE B. DAVIS FAMILY HERITAGE TRUST, dated July 28, 2000, ("Lender"), whose address is 300 W. 36th Avenue, Suite 200, Anchorage, AK 99503, or order, the principal amount of EIGHT HUNDRED TWO THOUSAND SEVEN HUNDRED SEVENTY FIVE AND 00/100 (\$82,775.00), or the aggregate unpaid principal amount of all advances made by Lender to Borrower hereunder, whichever is greater, together with interest at the rate equal to the 1.630% per annum, compounded annually, until said principal and all accrued interest shall have been paid and satisfied in full. The rate charged hereunder is intended to be the Applicable Federal Rate for mid-term quarterly rates published by the Internal Revenue Service, pursuant to Section 1274(d)(1) of the Internal Revenue Code of 1986, as amended, as of the date of this Note.

ADVANCES. During the period from the date hereof until the payment date set forth below, Lender, in its sole and absolute discretion, may make advances hereunder and Borrower may borrow, repay and reborrow; provided, however, that Lender's obligation to make advances and Borrower's right to borrow, repay and reborrow are subject to the terms, conditions and limitations contained in this Note. If any advances are made during the period from the date of this Note until the payment date, the outstanding principal balance of all advances hereunder plus accrued but unpaid interest thereon, and all other indebtedness under this Note, if not sooner paid, shall be due and payable on the payment date. Lender's books and records shall evidence all advances made by Lender to Borrower, which shall be conclusive absent manifest error.

PAYMENT. Payment in respect of the principal and accrued interest shall be made by the Borrower without demand or notice to the Lender on March 31, 2015. All payments due and payable hereunder shall be paid in lawful money of the United States of America; provided, however, that payment may be made in foreign currency or in kind with the prior written consent of Lender. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. The annual interest rate for this Note is computed on a 365/360 basis, that is, by applying the ratio of the annual interest rate over a year of 365 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

PREPAYMENT. Partial or full payment of this Note will be accepted at anytime with the pro-rated interest due to the date of any such payment without penalty or premium for such prepayment.

INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the Interest Rate on this Note three (3.000) percentage points. The Interest Rate will not exceed the maximum rate permitted by applicable law.

COLLATERAL. Borrower acknowledges this Note is secured by an existing Security Agreement (the "Security Agreement") executed on April 1, 2004 in favor of Lender for certain personal property owned by Borrower, all the terms and conditions of which are hereby incorporated and made a part of this Note.

RELATED DOCUMENTS. The term "Related Documents", as used herein, means and includes without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, and all other instruments, agreements, and documents, whether now or hereafter existing, and all renewals, extensions, modifications, refinancings, consolidations, and substitutions thereof, executed in connection with this Note and the Security Agreement.

DEFAULT. Each of the following shall constitute an event of default ("Event of Default") under this Note:

Payment Default. Borrower fails to make any payment when due under this Note.

Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or any Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Death or Insolvency. The Borrower's death, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

Adverse Change. A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

Insecurity. Lender in good faith believes itself insecure.

LENDER'S RIGHTS. Upon default, Lender may declare the entire unpaid Principal Balance on this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

ATTORNEYS' FEES, EXPENSES. Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

SUCCESSOR INTERESTS. The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

GENERAL PROVISIONS. If any provision of this Note shall, for any reason, be held to be invalid or unenforceable, such shall not affect any other provision hereof, but this Note shall be construed as if such invalid or unenforceable provision had never been contained herein. Any interest paid or agreed to be paid by Borrower to Lender shall not exceed the maximum amount permitted under applicable law and, in any contingency whatsoever, if Lender shall receive anything of value deemed interest under applicable law which would exceed the maximum amount of interest under applicable law, the excessive amount of interest shall be applied to reduce the unpaid principal amount of this Note or refunded to Borrower. The paragraph headings in this Note are for convenience only and they will not limit any of the provisions of this Note. Any notice mailed postage prepaid to Borrower's address shown at the beginning of this Note at least five (5) calendar days before the time of the event to which such notice relates shall be deemed reasonable. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party, partner, or guarantor or collateral or impair; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. Lender may assign or transfer to another person or entity this Note (or any part of it including the Outstanding Balance) at any time. The person or entity to whom Lender transfers or assigns the Note will have all of Lender's

rights under this Agreement. Borrower cannot assign or transfer any of its rights or responsibilities under this Note. Use of the neuter gender shall be deemed to include the masculine and feminine, and reference to the singular shall include the plural and vice versa, as the parties and context require.

GOVERNING LAW. This Note will be governed by, construed and enforced in accordance with federal law and the laws of the State of Alaska. This Note has been accepted by Lender in the State of Alaska.

JURY WAIVER. Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other.

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FOREBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, TO PROTECT YOU (BORROWER(S)) AND US (LENDER) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US, EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

BORROWER:

BEATRICE B. DAVIS REVOCABLE TRUST,
dated April 4, 1990

By: _____

Christopher D. Davis, co-trustee

**PROMISSORY NOTE
(With Revolving Line of Credit)**

Dated: March 26, 2013
Kansas City, Missouri

\$75,391.20

FOR VALUE RECEIVED, Christopher D. Davis, a, individual ("Borrower"), hereby promises to pay to the order of Alaska USA Trust Company, Trustee, or its successors in trust, under the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("Lender"), at Lender's address at 500 W. 36th Avenue, Suite 20, Anchorage, AK 99503, the principal sum of SEVENTY FIVE THOUSAND THREE HUNDRED NINETY ONE DOLLARS AND 20/100 (\$75,391.20) or the aggregate unpaid principal amount of all advances made by Lender to Borrower hereunder, whichever is greater, together with interest thereon from the date of advance at a rate per annum equal to the Base Rate (as hereinafter defined) until said principal sum and all accrued interest shall have been paid and satisfied in full:

During the period from the date hereof until March 26, 2020 (the "Termination Date"), Lender, in its sole and absolute discretion, may make advances hereunder and Borrower may borrow, repay and reborrow; provided, however, that Lender's obligation to make advances and Borrower's right to borrow, repay and reborrow are subject to the terms, conditions and limitations contained in this Note. If any advances are made during the period from the date of this Note until the Termination Date, the outstanding principal balance of all advances hereunder plus accrued but unpaid interest thereon, and all other indebtedness under this Note, if not sooner paid, shall be due and payable on the Termination Date. Lender's books and records shall evidence all advances made by Lender to Borrower, which shall be conclusive absent manifest error.

The term "Base Rate" as used herein shall mean the lesser of (i) the Applicable Federal Rate, for mid-term rates, pursuant to section 1274(d)(1) of the Internal Revenue Code of 1986, as amended, as such rate is published by the Internal Revenue Service from time to time, or (ii) the highest rate permitted by law on the date that this Note is issued.

Interest shall be computed on the basis of a three hundred and sixty-five (365) day year and actual days elapsed. All outstanding amounts owing under this Note, including unpaid interest and principal, shall be paid in full on or before the Termination Date.

Lender shall have the right, in its sole and absolute discretion, to extend the Termination Date by delivering written notice to Borrower. All payments shall be payable at Lender's address or at such other place as Lender may designate by delivering written notice to Borrower, in such coin or currency of the United States of America which, at the time of payment, shall be legal tender for the payment of public and private debts, or in money's worth.

Borrower may prepay this Note at any time, in whole or in part, or from time to time, without premium or penalty, but with accrued interest on the principal amount so prepaid.

All payments hereunder shall be applied first to the payment of interest on the unpaid principal of all advances outstanding under this Note, and then to the balance on account of the principal of all advances due under this Note.

Lender may collect a late charge not to exceed ten percent (10.00%) of any payment of interest or principal, or of any other amount due to Lender which is not paid or reimbursed by Borrower within twenty (20) days after demand therefor is made by Lender to defray the extra cost and expense involved in handling such delinquent payment and the increased risk of non-collection.

If at any time, the rate of interest, together with all amounts which constitute interest and which are reserved, charged or taken by Lender as compensation for fees, services or expenses incidental to the making, negotiating or collection of any advance evidenced hereby, shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum of rate of interest permitted to be charged by Lender to Borrower, then, during such time as such rate of interest would be deemed excessive, that portion of each sum paid attributable to that portion of such interest rate that exceeds the maximum rate of interest so permitted shall be deemed a voluntary prepayment of principal.

Upon the happening of any Event of Default (as hereafter defined), all advances outstanding hereunder, together with accrued interest thereon, shall, at the option of Lender, accelerate and become immediately due and payable and any privilege of Borrower to take or request advances hereunder shall terminate without demand or notice of any kind. Failure to exercise such option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. Lender may retain the services of a third party for the collection of this Note upon any Event of Default. Borrower agrees to pay Lender such amounts in connection with such collection. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law. This Note has been delivered to Lender and accepted by Lender in the State of Alaska. If there is a lawsuit, Borrower agrees, upon Lender's request, to submit to the jurisdiction of any court, state or federal, located in the 3rd Judicial District of the State of Alaska.

Each of the following shall constitute an Event of Default ("Event of Default") hereunder:

- (a) Failure or refusal by Borrower to make any payment of principal or interest due under this Note when due;
- (b) Failure by Borrower to observe or perform any other obligation, covenant, or condition of Borrower to Lender contained in this Note;
- (c) Failure by Borrower to observe or perform any obligations of Borrower to Lender on with respect to any transactions, debts, undertakings or agreements other than the transaction evidenced by this Note;
- (d) Any warranty, representation or statement made or furnished to Lender by or on or on behalf of Borrower under this Note, any agreement related to this Note, or in any other agreement or loan Borrower has with Lender shall prove to have been false or misleading in any material respect;
- (e) Filing by Borrower of a voluntary petition in bankruptcy or filing by Borrower of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition,

readjustment, liquidation, or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the seeking, consenting to, or acquiescing by Borrower in the appointment of any trustee, receiver, custodian, conservator or liquidator for Borrower or the making by Borrower of any general assignment for the benefit of creditors, or the inability of or failure by Borrower to pay the debts generally as they become due, or the insolvency on a balance sheet basis or business failure of Borrower, or the making or suffering of a preference within the meaning of federal bankruptcy law or the making of a fraudulent transfer under applicable federal or state law, or concealment by Borrower of any of its property in fraud of creditors, or the giving of notice by Borrower to any governmental body of insolvency or suspension of operations;

(f) A material adverse change occurs in the assets, liabilities or net worth of Borrower or any guarantors of the indebtedness evidenced by this Note from the assets, liabilities or net worth of Borrower or any guarantors of the indebtedness evidenced by this Note previously disclosed to Lender; or

(g) Lender in good faith deems itself insecure.

Borrower agrees to pay all taxes levied or assessed upon the outstanding principal against any holder of this Note and to pay all reasonable costs, including attorneys' fees, costs relating to the appraisal and/or valuation of assets and all other costs and expenses incurred in the collection, protection, defense, preservation, or enforcement of this Note or any endorsement of this Note or in any litigation arising out of the transactions of which this Note or any endorsement of this Note is a part.

LENDER AND BORROWER IRREVOCABLY WAIVE ALL RIGHT TO A TRIAL BY JURY IN ANY PROCEEDING HEREAFTER INSTITUTED BY OR AGAINST LENDER OR BORROWER IN RESPECT OF THIS NOTE OR ARISING OUT OF ANY DOCUMENT, INSTRUMENT OR AGREEMENT EVIDENCING, GOVERNING OR SECURING THIS NOTE.

BORROWER, TO THE EXTENT PERMITTED BY ANY STATE OR FEDERAL LAW, WAIVES THE RIGHT BORROWER MAY HAVE TO PRIOR NOTICE OF AND A HEARING ON THE RIGHT OF ANY HOLDER OF THIS NOTE TO ANY REMEDY OR COMBINATION OF REMEDIES THAT ENABLES SAID HOLDER, BY WAY OF ATTACHMENT, FOREIGN ATTACHMENT, GARNISHMENT OR REPLEVIN, TO DEPRIVE BORROWER OF ANY OF ITS PROPERTY, AT ANY TIME, PRIOR TO FINAL JUDGMENT IN ANY LITIGATION INSTITUTED IN CONNECTION WITH THIS NOTE.

Borrower hereby waives diligence, demand, presentment for payment, notice of nonpayment, protest and notice of protest, and notice of any renewals or extensions of this Note, and all rights under any statute of limitations, and agrees that the time for payment of this Note may be changed and extended in Lender's sole discretion, without impairing Borrower's liability hereon. Any delay on the part of Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted for one occasion shall not operate as a waiver in the event of any subsequent default.

The making of an advance at any time shall not be deemed a waiver of, or consent, agreement or commitment by Lender to the making of any future advance to Borrower.

If any provision of this Note shall, to any extent, be held invalid or unenforceable, then only such provision shall be deemed ineffective and the remainder of this Note shall not be affected.

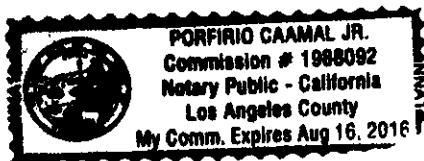
This Note shall bind the successors and assigns of Borrower and shall inure to the benefit of Lender and its successor and assigns.

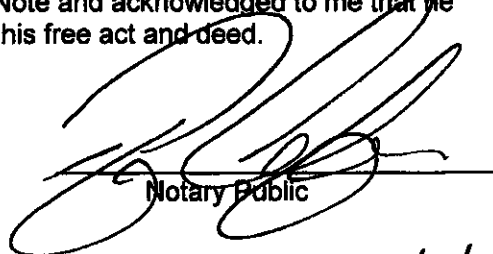
This Note shall be governed by and construed in accordance with the laws of the State of Alaska.

By: 
Christopher D. Davis

STATE OF California)
COUNTY OF Los Angeles) ss.

On this 24 day of July, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher D. Davis, known to me to be the person described in and who executed the within Promissory Note and acknowledged to me that he executed the same for the purposes therein stated, as his free act and deed.




Notary Public

My Commission Expires: 8/16/16

**PROMISSORY NOTE
(With Revolving Line of Credit)**

Dated: April 4, 2013
Kansas City, Missouri

\$20,000.00

FOR VALUE RECEIVED, Davis Family Office, LLC, a Missouri limited liability company ("Borrower"), hereby promises to pay to the order of Alaska USA Trust Company, Trustee, or its successors in trust, under the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("Lender"), at Lender's address at 500 W. 36th Avenue, Suite 20, Anchorage, AK 99503, the principal sum of TWENTY THOUSAND AND 00/100 (\$20,000.00) or the aggregate unpaid principal amount of all advances made by Lender to Borrower hereunder, whichever is greater, together with interest thereon from the date of advance at a rate per annum equal to the Base Rate (as hereinafter defined) until said principal sum and all accrued interest shall have been paid and satisfied in full.

During the period from the date hereof until April 4, 2020 (the "Termination Date"), Lender, in its sole and absolute discretion, may make advances hereunder and Borrower may borrow, repay and reborrow; provided, however, that Lender's obligation to make advances and Borrower's right to borrow, repay and reborrow are subject to the terms, conditions and limitations contained in this Note. If any advances are made during the period from the date of this Note until the Termination Date, the outstanding principal balance of all advances hereunder plus accrued but unpaid interest thereon, and all other indebtedness under this Note, if not sooner paid, shall be due and payable on the Termination Date. Lender's books and records shall evidence all advances made by Lender to Borrower, which shall be conclusive absent manifest error.

The term "Base Rate" as used herein shall mean the lesser of (i) the Applicable Federal Rate, for mid-term rates, pursuant to section 1274(d)(1) of the Internal Revenue Code of 1986, as amended, as such rate is published by the Internal Revenue Service from time to time, or (ii) the highest rate permitted by law on the date that this Note is issued.

Interest shall be computed on the basis of a three hundred and sixty-five (365) day year and actual days elapsed. All outstanding amounts owing under this Note, including unpaid interest and principal, shall be paid in full on or before the Termination Date.

Lender shall have the right, in its sole and absolute discretion, to extend the Termination Date by delivering written notice to Borrower. All payments shall be payable at Lender's address or at such other place as Lender may designate by delivering written notice to Borrower, in such coin or currency of the United States of America which, at the time of payment, shall be legal tender for the payment of public and private debts, or in money's worth.

Borrower may prepay this Note at any time, in whole or in part, or from time to time, without premium or penalty, but with accrued interest on the principal amount so prepaid.

All payments hereunder shall be applied first to the payment of interest on the unpaid principal of all advances outstanding under this Note, and then to the balance on account of the principal of all advances due under this Note.

Lender may collect a late charge not to exceed ten percent (10.00%) of any payment of interest or principal, or of any other amount due to Lender which is not paid or reimbursed by Borrower within twenty (20) days after demand therefor is made by Lender to defray the extra cost and expense involved in handling such delinquent payment and the increased risk of non-collection.

If at any time, the rate of interest, together with all amounts which constitute interest and which are reserved, charged or taken by Lender as compensation for fees, services or expenses incidental to the making, negotiating or collection of any advance evidenced hereby, shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum of rate of interest permitted to be charged by Lender to Borrower, then, during such time as such rate of interest would be deemed excessive, that portion of each sum paid attributable to that portion of such interest rate that exceeds the maximum rate of interest so permitted shall be deemed a voluntary prepayment of principal.

Upon the happening of any Event of Default (as hereafter defined), all advances outstanding hereunder, together with accrued interest thereon, shall, at the option of Lender, accelerate and become immediately due and payable and any privilege of Borrower to take or request advances hereunder shall terminate without demand or notice of any kind. Failure to exercise such option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. Lender may retain the services of a third party for the collection of this Note upon any Event of Default. Borrower agrees to pay Lender such amounts in connection with such collection. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law. This Note has been delivered to Lender and accepted by Lender in the State of Alaska. If there is a lawsuit, Borrower agrees, upon Lender's request, to submit to the jurisdiction of any court, state or federal, located in the 3rd Judicial District of the State of Missouri.

Each of the following shall constitute an Event of Default ("Event of Default") hereunder:

- (a) Failure or refusal by Borrower to make any payment of principal or interest due under this Note when due;
- (b) Failure by Borrower to observe or perform any other obligation, covenant, or condition of Borrower to Lender contained in this Note;
- (c) Failure by Borrower to observe or perform any obligations of Borrower to Lender on with respect to any transactions, debts, undertakings or agreements other than the transaction evidenced by this Note;
- (d) Any warranty, representation or statement made or furnished to Lender by or on or on behalf of Borrower under this Note, any agreement related to this Note, or in any other agreement or loan Borrower has with Lender shall prove to have been false or misleading in any material respect;
- (e) Filing by Borrower of a voluntary petition in bankruptcy or filing by Borrower of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition,

readjustment, liquidation, or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the seeking, consenting to, or acquiescing by Borrower in the appointment of any trustee, receiver, custodian, conservator or liquidator for Borrower or the making by Borrower of any general assignment for the benefit of creditors, or the inability of or failure by Borrower to pay the debts generally as they become due, or the insolvency on a balance sheet basis or business failure of Borrower, or the making or suffering of a preference within the meaning of federal bankruptcy law or the making of a fraudulent transfer under applicable federal or state law, or concealment by Borrower of any of its property in fraud of creditors, or the giving of notice by Borrower to any governmental body of insolvency or suspension of operations;

(f) A material adverse change occurs in the assets, liabilities or net worth of Borrower or any guarantors of the indebtedness evidenced by this Note from the assets, liabilities or net worth of Borrower or any guarantors of the indebtedness evidenced by this Note previously disclosed to Lender; or

(g) Lender in good faith deems itself insecure.

Borrower agrees to pay all taxes levied or assessed upon the outstanding principal against any holder of this Note and to pay all reasonable costs, including attorneys' fees, costs relating to the appraisal and/or valuation of assets and all other costs and expenses incurred in the collection, protection, defense, preservation, or enforcement of this Note or any endorsement of this Note or in any litigation arising out of the transactions of which this Note or any endorsement of this Note is a part.

LENDER AND BORROWER IRREVOCABLY WAIVE ALL RIGHT TO A TRIAL BY JURY IN ANY PROCEEDING HEREAFTER INSTITUTED BY OR AGAINST LENDER OR BORROWER IN RESPECT OF THIS NOTE OR ARISING OUT OF ANY DOCUMENT, INSTRUMENT OR AGREEMENT EVIDENCING, GOVERNING OR SECURING THIS NOTE.

BORROWER, TO THE EXTENT PERMITTED BY ANY STATE OR FEDERAL LAW, WAIVES THE RIGHT BORROWER MAY HAVE TO PRIOR NOTICE OF AND A HEARING ON THE RIGHT OF ANY HOLDER OF THIS NOTE TO ANY REMEDY OR COMBINATION OF REMEDIES THAT ENABLES SAID HOLDER, BY WAY OF ATTACHMENT, FOREIGN ATTACHMENT, GARNISHMENT OR REPLEVIN, TO DEPRIVE BORROWER OF ANY OF ITS PROPERTY, AT ANY TIME, PRIOR TO FINAL JUDGMENT IN ANY LITIGATION INSTITUTED IN CONNECTION WITH THIS NOTE.

Borrower hereby waives diligence, demand, presentment for payment, notice of nonpayment, protest and notice of protest, and notice of any renewals or extensions of this Note, and all rights under any statute of limitations, and agrees that the time for payment of this Note may be changed and extended in Lender's sole discretion, without impairing Borrower's liability hereon. Any delay on the part of Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted for one occasion shall not operate as a waiver in the event of any subsequent default.

The making of an advance at any time shall not be deemed a waiver of, or consent, agreement or commitment by Lender to the making of any future advance to Borrower.

If any provision of this Note shall, to any extent, be held invalid or unenforceable, then only such provision shall be deemed ineffective and the remainder of this Note shall not be affected.

This Note shall bind the successors and assigns of Borrower and shall inure to the benefit of Lender and its successor and assigns.

This Note shall be governed by and construed in accordance with the laws of the State of Alaska.

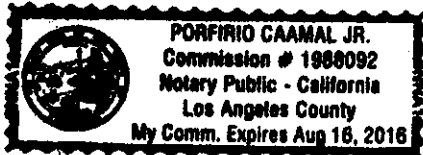
Davis Family Office, LLC

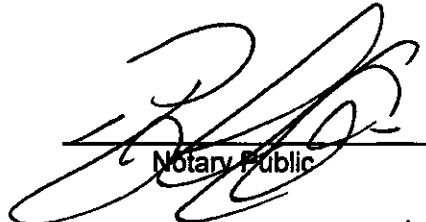
By: 

Christopher D. Davis,
Sole Member

STATE OF California)
COUNTY OF Los Angeles) ss.

On this 24 day of July, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher D. Davis, Sole Member of the Davis Family Office, LLC, known to me to be the person described in and who executed the within Promissory Note and acknowledged to me that he executed the same for the purposes therein stated, as his free act and deed.




Notary Public

My Commission Expires: 8/16/16

Tracking of Loans to and From the FHT

Date: Enter date that funds are received or disbursed from the account on TrustRite.

Policy Loan (debt of the trust): There is a loan outstanding btw the FHT and the Policy which contains a Line of Credit upon which the trust can draw at any time by submitting a Draw Request.

Beatrice's RLT note dated 9/1/11 (asset of the trust).

Chris note dated 3/26/13 (asset of the trust).

LLC note dated 4/4/13 (asset of the trust).

Date	Policy Loan	Beatrice RLT	Chris	LLC	Comments
05/09/11	\$600,000.00				This is the principal balance of the policy loan at the time AUTC took over as trustee and does not include accrued interest. See schedule provided by Advantage on 8/18/11.
09/01/11		\$802,775.00			This is the balance, at the time AUTC took over as trustee, of the accumulated loans previously made by the FHT to the RLT. The 3 prior loans were rolled into one new loan dated 9/1/11, which new loan also included the draw of \$170,000 made on 9/8/11 and accrued interest of \$32,775.
09/07/11	\$170,000.00				
12/01/11		-\$96,749.00			Payment in kind (artwork, collectibles, jewelry per Bill of Sale dated 12/1/11.
12/14/11	\$18,000.00				
12/15/11		\$18,000.00			
02/10/12	\$75,000.00				
02/10/12		\$75,000.00			
03/30/12	\$100,000.00				
04/02/12		\$100,000.00			
03/06/13	\$50,000.00				
03/06/13		\$50,000.00			
03/14/13	\$53,000.00				
03/14/13		\$53,000.00			
03/25/13	\$94,239.00				
03/26/13			\$75,391.20		
03/26/13			\$18,847.80		This loan was intended for the LLC but since we had not rec'd info on the LLC, we were instructed to instead forward these funds to Chris.
03/28/13	\$70,000.00				
04/04/13				\$20,000.00	
04/04/13			\$50,000.00		
05/09/13	\$150,000.00				
05/13/13			\$125,000.00		
05/13/13				\$25,000.00	
06/26/13	\$290,700.00				From this draw, \$15,000 was retained by AUTC to replenish cash on its system.
07/03/13				\$79,900.00	
07/03/13		\$69,500.00			
07/03/13			\$126,300.00		
09/17/13	\$134,000.00				
09/19/13			\$134,000.00		
10/08/13	\$200,750.00				
11/14/13			\$128,000.00		
11/14/13				\$50,250.00	
11/14/13		\$22,500.00			
TOTALS	\$2,005,689.00	\$1,094,026.00	\$657,539.00	\$175,150.00	

Summary Of Investment Holdings

Shares or Par Value	Investment Category	Cost Basis	Unit Value	Market Value	Estimated Ann Inc	Curr Yield	% Port
Short Term Investment Funds							
15,480.68	FEDERATED GOVAMT OBLIGATIONS FD - ISS	15,480.68	100.00	15,480.68	1.55	0.01%	0.12%
Totals		15,480.68		15,480.68	1.55	0.01%	0.12%
Notes - Secured							
802,775	NR1 BDAVISREVTR 802,775	802,775.00	1.00	802,775.00	13,085.23	1.63%	6.33%
Note Receivable 1; Payor Beatrice B Davis Revocable Trust. This note rolls the 3 promissory notes received from ATC into 1, and permits a revolving line of credit wherein the Payor may request additional "advances" periodically. Future "advances" pursuant							
18,000	NR2 BDAVISREVTR 18,000	18,000.00	1.00	18,000.00	293.40	1.63%	0.14%
Note Receivable 2, Payor Beatrice B Davis Revocable Trust, First "Advance" pursuant to Cusip NR1BDRTR's line of credit.							
75,000	NR3 BDAVISREVTR 75,000	75,000.00	1.00	75,000.00	1,222.50	1.63%	0.59%
NOTE RECEIVABLE 3; PAYOR BEATRICE B DAVIS REVOCABLE TRUST; THRS ADVANCE PURSUANT TO CUSIP NR1BDRTR'S LINE OF CREDIT							
Totals		895,775.00		895,775.00	14,601.13	1.63%	7.06%
Liabilities							
-170,000	NP1 BBDAVISFAMHTR 170,000	-170,000.00	1.00	-170,000.00	-6,562.00	-3.86%	-1.34%
Note payable 1; Payor B.B.Davis Family Heritage Trust, First policy loan pursuant to revolving line of credit of 09/02/2011 from Policy ACL1105-8007PC. Unlike subsequent policy loans, this amount was incorporated into the original note receivable amount							
-18,000	NP2 BBDAVISFAMHTR 18,000	-18,000.00	1.00	-18,000.00	-694.80	-3.86%	-0.14%
Note Payable 2; Payor B.B.Davis Family Heritage Trust terms pursuant to revolving line of credit with Ashley Cooper of Sept. 2, 2011; Draw request sent 12/9/11; funds received 12/14/2011							
-75,000	NP3 BBDAVISFAMHTR 75,000	-75,000.00	1.00	-75,000.00	-2,895.00	-3.86%	-0.59%
NOTE PAYABLE 3; PAYOR B.B DAVIS FAMILY HERITAGE TRUST; TERMS PURSUANT TO REVOLVING LINE OF CREDIT WITH ASHLEY COOPER OF 09/02/11; DRAW REQUEST SENT 02/07/12; FUNDS RECEIVED 02/10/12.							
Totals		-263,000.00		-263,000.00	-10,151.80	-3.86%	-2.07%

Exhibit “J”

Exhibit “J”

Advantage Insurance

Advantage Life Puerto Rico A.I.
Policy Statement
From 1 July 2018 to 30 September 2018

FHT Holdings LLC c/o Dunham Trust Company
241 Ridge Street, Suite 100
Reno, Nevada 89501
United States

Policy Number	ACU 1105-8007 (ALIP 0008-1031)	Client Service Manager	Monica Perez, Esq.
Policy Issue Date	9 May 2011	Contact Details	+1 (787) 705 9811
Policy Effective Date	9 May 2011	Advisor	To be Determined
Policy Type	Flexible Premium Variable Life		
Coverage Type	Single Life		
Death Benefit Option	Option A - Specified Amount		
Assured	Cheryl L. Davis		
Underwriting Class	Female / Standard / Non-Smoker		

Specified Amount of Insurance	\$35,000,000.00	Segregated Assets Plan Value	\$7,398,830.81
Total Death Benefit	\$32,106,476.16	Contingent Surrender Charges	-\$73,988.31
Premiums Paid	\$10,885,385.85	Unpaid Policy Charges	-\$3,578.85
Policy Withdrawals	\$0.00	Surrender Value	\$7,321,263.65
Currency	USD	Outstanding Policy Loan Balance	-\$2,889,944.99
		Cash Surrender Value	\$4,431,318.66

Policy/Assets Summary	Opening Balance	Contributions	Withdrawals	Adjustments	Change in Value	Ending Balance
Scottiabank Policy Cash Account	\$1,004.36	\$125,000.00	-\$77,129.54	\$0.00	-\$949,072.05	\$48,874.82
Loan Account	\$2,862,076.04				\$27,868.95	\$2,889,944.99
Advantage Life Small Cap Fund C3	\$798,915.00				-\$368.00	\$798,547.00
Advantage Life Small Cap LLC, Series C1	\$2,065,748.00				-\$419,952.00	\$1,645,796.00
Advantage Life Small Cap LLC, Series C2	\$392,619.00				-\$103,791.00	\$288,828.00
Advantage Life Small Cap LLC, Series G2	\$692,564.00				-\$147,500.00	\$545,064.00
Advantage Life Small Cap LLC, Series T1	\$1,487,106.00				-\$305,330.00	\$1,181,776.00
Segregated Assets Plan Value	\$8,300,032.40	\$125,000.00	-\$77,129.54	\$0.00	-\$949,072.05	\$7,398,830.81

Advantage Life Puerto Rico A.I.

Policy Statement - From 1 July 2018 to 30 September 2018

Page 2
Policy Number ACLI 1105-8007 (AUP 0008-1031)**Policy Assets - Actuary**

Scotiabank Policy Cash Account	
<i>Opening Balance - 1 July 2018</i>	\$1,004.36
Members Distribution C2	\$31,250.00
Members Distribution T1	\$31,250.00
Members Distribution G2	\$31,250.00
Members Distribution C1	\$31,250.00
Payment on behalf of North American Fund C3	-\$35,561.09
COI Fees Q3 2018	-\$41,518.45
Bank Fees	-\$50.00
<i>Ending Balance - 30 September 2018</i>	\$48,874.82
Advantage Life Small Cap Fund C3	
<i>Opening Balance - 1 July 2018</i>	\$798,915.00
Change in Value	-\$368.00
<i>Ending Balance - 30 September 2018</i>	\$798,547.00 *
Advantage Life Small Cap LLC, Series C1	
<i>Opening Balance - 1 July 2018</i>	\$2,065,748.00
Change in Value	-\$419,952.00
<i>Ending Balance - 30 September 2018</i>	\$1,645,796.00 *

Advantage Life Puerto Rico A.L.

Policy Statement - From 1 July 2018 to 30 September 2018

Page 3
Policy Number ACLI 1105-8007 (AUP 0008-1031)**Advantage Life Small Cap LLC, Series C2**

Opening Balance - 1 July 2018	\$392,619.00
Change in Value	-\$103,791.00
Ending Balance - 30 September 2018	* \$288,828.00

Advantage Life Small Cap LLC, Series G2

Opening Balance - 1 July 2018	\$692,564.00
Change in Value	-\$147,500.00
Ending Balance - 30 September 2018	* \$545,064.00

Advantage Life Small Cap LLC, Series T1

Opening Balance - 1 July 2018	\$1,487,106.00
Change in Value	-\$305,330.00
Ending Balance - 30 September 2018	* \$1,181,776.00

Loan Account

Opening Balance - 1 July 2018	\$2,862,076.04
Interest Capitalized	\$27,868.95
Ending Balance - 30 September 2018	\$2,889,944.99

Unpaid Policy Charges

Opening Balance - 1 July 2018	\$0.00
Ins Fees - Q3 2018	\$3,578.85
Ending Balance - 30 September 2018	\$3,578.85

* LLC ending balances are based on 06/30/2018 FMV valuations.

Advantage Life Puerto Rico A.I.

Policy Statement - From 1 July 2018 to 30 September 2018

Page 4
Policy Number ACLI 1105-8007 (AUP 0008-1031)

Legal Notices

Advantage Life Puerto Rico A.I. ("Advantage", "we" or "Company") does not and will not make any recommendation as to selection or retention of an investment advisor, allocation of assets among investment funds or investments in particular securities or categories of securities, nor will we evaluate the investment performance of any investment advisor or investment fund. We make no claims, guarantees, representations, warranties or projections concerning any investments, expected returns or future performance.

The Segregated Assets Plan Value and Death Benefit may increase or decrease at any time depending on the performance of the investments in which the Segregated Assets Plan is invested and no minimum investment performance or value is guaranteed. Segregated Assets Plan Values, Surrender Values and Death Benefit amounts are based on the investment experience of the Segregated Assets Plan linked to this particular Policy and are entirely variable in nature. None of the values under the Policy are guaranteed. The Owners and Beneficiaries bear the entire risks of investment performance.

The Company is incorporated as an International Insurance Company under the Insurance Law of the Commonwealth of Puerto Rico. It is further authorized to operate as a Class 5 Segregated Assets Plan company under the same law. The Company is authorized to conduct insurance business only in the Commonwealth of Puerto Rico for legal persons resident outside of the Commonwealth of Puerto Rico.

A Segregated Assets Plan will be established for this Policy and no claim against the Segregated Assets Plan of this Policy may be paid from the general account of the Company or from the assets of another Segregated Assets Plan that is not linked to this Policy.

A Segregated Assets Plan and all assets of a Segregated Assets Plan are the property of the Company and are not owned by the Policy Owner. The assets of a Segregated Assets Plan shall be kept separate and independent of our general assets and all other Segregated Assets Plans in accordance with the Governing Law of the Commonwealth of Puerto Rico.

A Withdrawal from the Policy will result in a permanent reduction on the Surrender Value, the Segregated Assets Plan Value and the Death Benefit. Certain penalties or other negative effects on the Segregated Assets Plan Value may result from the liquidation process or premature termination of a particular investment to accommodate a Withdrawal or Surrender.

Exhibit “K”

Exhibit “K”

June 30, 2018

PharmService LLC
6590 Holman Street, Suite 203
Arvada, CO 80004

DUNHAM000096

PharmService LLC
Statement of Assets, Liabilities, and Equity - Tax Basis
As of June 30, 2018

Assets

Current Assets

102 Cash in Bank - Ward Rd	\$ 204,067.70
103 Cash in Bank - Home Care	267,586.35
104 Cash in Bank - Bank of Kansas City #0735	25,000.00
106 Accounts Receivable - WR	289,078.88
106.1 Accounts Receivable - HC	446,738.98
108 Acct/Rec Carol Hackl	756.08
130 Inventory - WR	235,867.16
130.1 Inventory HC	308,114.03
135 Advances to Affiliate	<u>696,258.28</u>

Total Current Assets 2,473,467.46

Property and Equipment

142 Leasehold Improvements	132,270.80
146 Fixtures & Equipment	42,203.70
147 Computer/Software Equipment	62,980.68
149 Less: Accum. Depreciation	<u>(52,897.75)</u>

Net Property and Equipment 184,557.43

Non Current Assets

185 Goodwill	7,096,613.96
189 Less: Accum. Amortization	<u>(815,785.46)</u>

Total Non Current Assets 6,280,828.50

Total Assets \$ 8,938,853.39

Liabilities and Stockholders' Equity

Current Liabilities

205.1 Accounts Payable - HC	\$ <u>258,826.49</u>
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Total Current Liabilities 258,826.49

Long-Term Liabilities

266 Minimum Earnout Liability	375,000.00
267 Note Payable - BOKC #6508	2,464,290.00
267.1 Note Payable - BOKC #6859	440,631.03
268 Bonus Earnout Liability	700,000.00
269 Note Payable - Seller	<u>1,000,000.00</u>

Total Long-Term Liabilities 4,979,921.03

Total Liabilities 5,238,747.52

Stockholders' Equity

282 PharmServices LLC Capital	2,082,032.11
283 Retained Earnings	1,419,679.43
Net Income	<u>198,394.33</u>

Total Stockholders' Equity 3,700,105.87

Total Liabilities and Stockholders' Equity \$ 8,938,853.39

PharmService LLC
Statement of Revenues & Expenses

	1 Month Ended June 30, 2018	Percent	6 Months Ended June 30, 2018	Percent
Sales				
301 Sales - Ward Rd.	\$ 565,511.11	66.92 %	\$ 3,582,060.37	69.23 %
310 Miscellaneous Income/Rebates	6,546.31	0.77	47,119.24	0.91
311 Sales - Home Care	272,979.32	32.30	1,545,305.08	29.86
Total Sales	845,036.74	100.00	5,174,484.69	100.00
Cost of Goods Sold				
401 COGS - WR	384,547.55	45.51	2,435,801.04	47.07
411 COGS - HC	163,787.59	19.38	927,183.04	17.92
412 Purchases - Adjustment	0.00	0.00	110,301.00	2.13
420 Delivery Expense	3,393.65	0.40	20,414.48	0.39
Total Cost of Goods Sold	551,728.79	65.29	3,493,699.56	67.52
Gross Profit	293,307.95	34.71	1,680,785.13	32.48
Operating Expenses				
505 Moving Expenses	6,186.15	0.73	17,723.86	0.34
509 Outside Services	0.00	0.00	550.00	0.01
510 Operating Supplies	212.75	0.03	14,499.51	0.28
512 Freight & Postage	568.21	0.07	35,027.75	0.68
515 Office Salaries	87,821.76	10.39	565,002.03	10.92
518 Health - Employees - S-Corp Owner	7,756.10	0.92	19,921.87	0.39
519 401K Employer Match	3,600.67	0.43	13,798.17	0.27
520 Rent	13,468.00	1.59	99,010.70	1.91
522 Security Systems	0.00	0.00	437.50	0.01
526 Utilities	0.00	0.00	2,927.14	0.06
529 Telephone	272.71	0.03	5,691.59	0.11
530 Repairs & Maintenance	0.00	0.00	11,724.38	0.23
534 Advertising & Promotion	0.00	0.00	25.00	0.00
535 Insurance-General	5,075.01	0.60	17,086.06	0.33
536 Worker's Compensation	0.00	0.00	2,311.12	0.04
539 Meals Expenset 50%	0.00	0.00	2,575.11	0.05
540 Property Tax	0.00	0.00	763.04	0.01
542 Payroll Taxes	6,745.31	0.80	45,826.82	0.89
544 Other Tax	300.00	0.04	300.00	0.01
548 Permits & Licenses	0.00	0.00	1,856.00	0.04
549 Computer Processing Fees	0.00	0.00	7,932.25	0.15
550 Interest	11,592.86	1.37	65,574.43	1.27
563 Bank & Merchant Fees	2,002.67	0.24	6,952.79	0.13
564 Legal & Accounting	5,671.08	0.67	47,034.85	0.91
565 Consulting Expense	25,374.18	3.00	199,806.51	3.86
566 Office Expense	4,517.88	0.53	31,375.83	0.61
574 Amortization Expense	39,425.60	4.67	236,206.50	4.56
575 Depreciation	8,028.99	0.95	21,105.18	0.41
580 Dues & Subscriptions	0.00	0.00	1,680.00	0.03
595 Miscellaneous	153.26	0.02	5,087.66	0.10
597 Cash Over & Short	2.08	0.00	2.05	0.00
Total Operating Expenses	228,775.27	27.07	1,479,815.70	28.60
Operating Income (Loss)	64,532.68	7.64	200,969.43	3.88
Other Income (Expenses)				
959 Meals Expense 50%	0.00	0.00	(2,575.10)	(0.05)
Total Other Income (Expenses)	0.00	0.00	(2,575.10)	(0.05)

PharmService LLC
Statement of Revenues & Expenses

	1 Month Ended June 30, 2018	Percent	6 Months Ended June 30, 2018	Percent
Net Income (Loss) Before Taxes	<u>64,532.68</u>	<u>7.64</u>	<u>198,394.33</u>	<u>3.83</u>
Net Income (Loss)	<u>\$ 64,532.68</u>	<u>7.64 %</u>	<u>\$ 198,394.33</u>	<u>3.83 %</u>

**PharmService LLC
Income Statement**

		1 Month Ended June 30, 2018	Percent	1 Month Ended June 30, 2017	Percent	6 Months Ended June 30, 2018	Percent	6 Months Ended June 30, 2017	Percent
Sales									
301 Sales - Ward Rd.	\$	555,511.11	66.92 %	528,628.13	67.41 %	3,582,060.37	69.23 %	3,315,095.66	66.44 %
310 Miscellaneous Income/Rebates		6,546.31	0.77	5,018.14	0.64	47,119.24	0.91	36,622.56	0.73
311 Sales - Home Care		272,979.32	32.30	250,571.84	31.95	1,545,305.08	29.86	1,637,718.17	32.82
380 Returns & Allowances		0.00	0.00	(5.00)	0.00	0.00	0.00	(5.00)	0.00
Total Sales		845,036.74	100.00	784,213.11	100.00	5,174,484.69	100.00	4,989,431.39	100.00
Cost of Goods Sold									
401 COGS - WR		384,547.55	45.51	348,365.94	44.42	2,435,801.04	47.07	2,184,648.05	43.79
404 Packaging		0.00	0.00	0.00	0.00	0.00	0.00	300.00	0.01
411 COGS - HC		163,787.59	19.38	140,570.80	17.93	927,183.04	17.92	918,759.89	18.41
412 Purchases - Adjustment		0.00	0.00	0.00	0.00	110,301.00	2.13	0.00	0.00
420 Delivery Expense		3,393.65	0.40	4,709.03	0.60	20,414.48	0.39	17,934.17	0.36
Total Cost of Goods Sold		551,728.79	65.29	493,645.77	62.95	3,493,699.56	67.52	3,121,642.11	62.57
Gross Profit		293,307.95	34.71	290,567.34	37.05	1,680,785.13	32.48	1,867,789.28	37.43
Operating Expenses									
505 Moving Expenses		6,186.15	0.73	0.00	0.00	17,723.86	0.34	0.00	0.00
509 Outside Services		0.00	0.00	0.00	0.00	550.00	0.01	0.00	0.00
510 Operating Supplies		212.75	0.03	634.06	0.08	14,499.51	0.28	14,713.37	0.29
512 Freight & Postage		568.21	0.07	8,006.13	1.02	35,027.75	0.68	40,967.39	0.82
515 Office Salaries		87,821.76	10.39	73,342.44	9.35	565,002.03	10.92	518,017.97	10.38
518 Health - Employees - S-Corp Owner		7,756.10	0.92	3,995.69	0.51	19,921.87	0.39	27,880.01	0.56
519 Health - Employer Match		3,600.67	0.43	1,950.29	0.25	13,798.17	0.27	5,648.71	0.11
520 Rent		13,468.00	1.59	7,007.54	0.89	99,010.70	1.91	42,051.54	0.84
522 Security Systems		0.00	0.00	0.00	0.00	437.50	0.01	227.00	0.00
526 Utilities		0.00	0.00	694.31	0.09	2,927.14	0.06	2,060.60	0.04
529 Telephone		272.71	0.03	284.21	0.04	5,691.59	0.11	3,825.47	0.08
530 Repairs & Maintenance		0.00	0.00	1,112.50	0.14	11,724.38	0.23	10,137.25	0.20
534 Advertising & Promotion		0.00	0.00	0.00	0.00	25.00	0.00	1,264.96	0.03
535 Insurance-General		5,075.01	0.60	5,412.51	0.69	17,086.06	0.33	19,332.49	0.39
536 Worker's Compensation		0.00	0.00	0.00	0.00	2,311.12	0.04	0.00	0.00
538 Travel		0.00	0.00	0.00	0.00	0.00	0.00	6,228.36	0.12
539 Meals Expenset 50%		0.00	0.00	0.00	0.00	2,575.11	0.05	1,915.85	0.04
540 Property Tax		0.00	0.00	0.00	0.00	763.04	0.01	844.56	0.02
542 Payroll Taxes		6,745.31	0.80	5,699.79	0.73	45,826.82	0.89	42,403.31	0.85
544 Other Tax		300.00	0.04	0.00	0.00	300.00	0.01	0.00	0.00
548 Permits & Licenses		0.00	0.00	50.00	0.01	1,856.00	0.04	50.00	0.00
549 Computer Processing Fees		0.00	0.00	2,010.49	0.26	7,932.25	0.15	9,928.03	0.20

**PharmService LLC
Income Statement**

	1 Month Ended June 30, 2018	Percent	1 Month Ended June 30, 2017	Percent	6 Months Ended June 30, 2018	Percent	6 Months Ended June 30, 2017	Percent
550 Interest	11,592.86	1.37	12,194.82	1.56	65,574.43	1.27	82,647.96	1.66
552 Vehicle Expense	0.00	0.00	1.00	0.00	0.00	0.00	5.00	0.00
563 Bank & Merchant Fees	2,002.67	0.24	1,272.34	0.16	6,952.79	0.13	2,370.79	0.05
564 Legal & Accounting	5,671.08	0.67	5,086.80	0.65	47,034.85	0.91	47,203.03	0.95
565 Consulting Expense	25,374.18	3.00	11,638.85	1.48	199,806.51	3.86	100,098.20	2.01
566 Office Expense	4,517.88	0.53	1,370.96	0.17	31,375.83	0.61	16,928.84	0.34
567 Credit Card Charges	0.00	0.00	0.00	0.00	0.00	0.00	1,116.57	0.02
574 Amortization Expense	39,425.60	4.67	38,731.19	4.94	236,206.50	4.56	230,998.23	4.63
575 Depreciation	8,028.99	0.95	2,470.37	0.32	21,105.18	0.41	2,470.37	0.05
580 Dues & Subscriptions	0.00	0.00	0.00	0.00	1,680.00	0.03	1,305.00	0.03
595 Miscellaneous	153.26	0.02	0.00	0.00	5,087.66	0.10	83.13	0.00
597 Cash Over & Short	2.08	0.00	0.01	0.00	2.05	0.00	285.26	0.01
Total Operating Expenses	228,775.27	27.87	182,966.30	23.33	1,479,815.70	28.60	1,233,009.25	24.71
Operating Income (Loss)	64,532.68	7.64	107,601.04	13.72	200,969.43	3.88	634,780.03	12.72
Other Income (Expenses)	0.00	0.00	0.00	0.00	(2,575.10)	(0.05)	(1,915.85)	(0.04)
959 Meals Expense 50%								
Total Other Income (Expenses)	0.00	0.00	0.00	0.00	(2,575.10)	(0.05)	(1,915.85)	(0.04)
Net Income (Loss) Before Taxes	64,532.68	7.64	107,601.04	13.72	198,394.33	3.83	632,864.18	12.68
Net Income (Loss)	\$ 64,532.68	7.64 %	\$ 107,601.04	13.72 %	\$ 198,394.33	3.83 %	\$ 632,864.18	12.68 %

PharmService LLC
Statement of Revenues and Expenses
12 Month Comparison for 2018

	01/31/18	02/28/18	03/31/18	04/30/18	05/31/18	06/30/18	07/31/18	08/31/18	09/30/18	10/31/18	11/30/18	12/31/18	Total
Sales													
301 Sales - Ward Rd.	\$ 667,382.61	\$ 541,245.54	\$ 580,956.03	\$ 565,875.52	\$ 668,089.56	\$ 565,511.11	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 5,582,060.37
310 Miscellaneous Income/Rebates	11,254.04	4,227.89	8,336.39	4,089.96	12,664.65	6,546.31	0.00	0.00	0.00	0.00	0.00	0.00	47,119.24
311 Sales - Home Care	277,120.97	242,659.19	258,151.10	243,792.05	257,602.45	272,979.32	0.00	0.00	0.00	0.00	0.00	0.00	1,545,305.08
Total Sales	944,757.62	788,132.62	847,443.52	813,757.53	938,356.66	845,036.74	0.00	0.00	0.00	0.00	0.00	0.00	5,174,484.69
Cost of Goods Sold													
401 COGS - WR	449,060.17	368,046.97	395,050.10	384,795.35	454,300.90	384,547.55	0.00	0.00	0.00	0.00	0.00	0.00	2,435,801.04
411 COGS - HC	162,072.58	145,595.51	154,890.66	146,275.23	154,561.47	163,787.59	0.00	0.00	0.00	0.00	0.00	0.00	927,183.04
412 Purchases - Adjustment	112,301.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	110,301.00
420 Delivery Expense	4,982.71	768.93	4,677.45	2,537.06	4,054.68	3,393.65	0.00	0.00	0.00	0.00	0.00	0.00	20,414.48
Total Cost of Goods Sold	725,416.46	514,411.41	554,618.21	533,607.64	612,917.05	551,728.79	0.00	0.00	0.00	0.00	0.00	0.00	3,493,699.56
Gross Profit	215,341.16	273,721.21	292,825.31	280,149.89	325,439.61	293,307.95	0.00	0.00	0.00	0.00	0.00	0.00	1,680,785.13
Operating Expenses													
505 Moving Expenses	0.00	7,330.00	1,456.00	1,200.00	1,551.71	6,186.15	0.00	0.00	0.00	0.00	0.00	0.00	17,723.86
509 Outside Services	0.00	0.00	550.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	550.00
510 Operating Supplies	412.72	4,068.19	0.00	5,466.31	4,339.54	212.75	0.00	0.00	0.00	0.00	0.00	0.00	14,499.51
512 Freight & Postage	8,403.06	8,275.18	458.72	16,760.36	562.22	568.21	0.00	0.00	0.00	0.00	0.00	0.00	35,027.75
515 Office Salaries	80,091.87	82,848.25	131,790.15	92,356.28	90,093.72	87,821.76	0.00	0.00	0.00	0.00	0.00	0.00	565,002.03
518 Health - Employees - S-Corp Owner	2,950.64	2,853.24	(770.15)	8,028.65	(896.61)	7,756.10	0.00	0.00	0.00	0.00	0.00	0.00	19,921.87
519 401K Employer Match	1,838.91	1,912.36	2,912.11	1,206.08	2,328.04	3,600.67	0.00	0.00	0.00	0.00	0.00	0.00	13,796.17
520 Rent	10,511.31	20,612.31	27,483.08	13,468.00	13,468.00	13,468.00	0.00	0.00	0.00	0.00	0.00	0.00	99,010.70
522 Security Systems	0.00	166.50	0.00	271.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	437.50
526 Utilities	0.00	890.90	313.63	458.38	1,264.23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,927.14
529 Telephone	1,459.89	1,500.82	852.57	1,540.84	64.76	272.71	0.00	0.00	0.00	0.00	0.00	0.00	5,691.59
530 Repairs & Maintenance	0.00	2,675.00	0.00	2,675.00	6,374.38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	11,724.38
534 Advertising & Promotion	0.00	0.00	25.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25.00
535 Insurance-General	6,720.01	77.51	80.01	5,058.51	75.01	5,075.01	0.00	0.00	0.00	0.00	0.00	0.00	17,086.06
536 Worker's Compensation	1,155.71	1,155.41	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,311.12
539 Meals Expensat 50%	11.43	2,498.25	25.54	0.00	39.79	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,575.11
540 Property Tax	0.00	0.00	0.00	763.04	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	763.04
542 Payroll Taxes	7,115.10	7,041.62	10,652.49	7,267.60	7,004.70	6,745.31	0.00	0.00	0.00	0.00	0.00	0.00	45,826.82
544 Other Tax	0.00	0.00	0.00	0.00	0.00	300.00	0.00	0.00	0.00	0.00	0.00	0.00	300.00
548 Permits & Licenses	0.00	1,000.00	125.00	0.00	731.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,856.00
549 Computer Processing Fees	188.75	2,732.17	687.40	2,344.83	1,979.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	7,932.25
550 Interest	11,298.11	11,399.61	9,771.64	10,182.77	11,329.44	11,592.86	0.00	0.00	0.00	0.00	0.00	0.00	65,574.43
563 Bank & Merchant Fees	427.55	787.45	1,340.41	839.72	1,554.99	2,002.67	0.00	0.00	0.00	0.00	0.00	0.00	6,952.79

PharmService LLC
Statement of Revenues and Expenses
12 Month Comparison for 2018

	01/31/18	02/28/18	03/31/18	04/30/18	05/31/18	06/30/18	07/31/18	08/31/18	09/30/18	10/31/18	11/30/18	12/31/18	Total
564 Legal & Accounting	1,405.60	2,640.25	11,968.18	1,676.12	23,673.62	5,671.08	0.00	0.00	0.00	0.00	0.00	0.00	47,034.85
565 Consulting Expense	32,662.90	17,711.33	50,391.67	38,508.50	35,157.93	25,374.18	0.00	0.00	0.00	0.00	0.00	0.00	199,806.51
566 Office Expense	9,249.16	7,218.35	2,452.42	3,470.42	4,467.60	4,517.88	0.00	0.00	0.00	0.00	0.00	0.00	31,375.83
574 Amortization Expense	39,309.86	39,333.00	39,356.30	39,379.29	39,402.45	39,425.60	0.00	0.00	0.00	0.00	0.00	0.00	236,206.50
575 Depreciation	510.72	510.73	2,410.94	2,458.49	7,185.31	8,028.99	0.00	0.00	0.00	0.00	0.00	0.00	21,105.18
580 Dues & Subscriptions	0.00	90.00	0.00	90.00	1,500.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,680.00
595 Miscellaneous	1,015.08	3,006.17	784.41	128.74	0.00	153.26	0.00	0.00	0.00	0.00	0.00	0.00	5,087.66
597 Cash Over & Short	0.00	0.00	(0.03)	0.00	0.00	2.08	0.00	0.00	0.00	0.00	0.00	0.00	2.05
Total Operating Expenses	216,738.38	230,334.60	295,117.59	255,598.93	253,250.93	228,775.27	0.00	0.00	0.00	0.00	0.00	0.00	1,479,815.76
Operating Income (Loss)	(1,397.22)	43,386.61	(2,292.28)	24,550.96	72,188.68	64,532.68	0.00	0.00	0.00	0.00	0.00	0.00	200,969.43
Other Income (Expenses)													
959 Meals Expense 50%	(11.43)	(2,498.25)	(25.64)	0.00	(39.78)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(2,575.10)
Total Other Income (Expenses)	(11.43)	(2,498.25)	(25.64)	0.00	(39.78)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(2,575.10)
Net Income (Loss) Before Taxes	(1,408.65)	40,888.36	(2,317.92)	24,550.96	72,148.90	64,532.68	0.00	0.00	0.00	0.00	0.00	0.00	198,394.33
Net Income (Loss)	\$ (1,408.65)	\$ 40,888.36	\$ (2,317.92)	\$ 24,550.96	\$ 72,148.90	\$ 64,532.68	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 198,394.33

**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
99 VOIDED CHECKS				0.00		
Totals for 99					<u>0.00</u>	<u>0.00</u>
101 Cash on Hand				0.00		
06/30/18	2.01		Argus Deposits		3,127.79	
06/30/18	2.01		Argus Deposits		207.40	
06/30/18	2.01		Argus Deposits		5,277.33	
06/30/18	2.01		Argus Deposits		251.08	
06/30/18	2.01		Argus Deposits		0.16	
06/30/18	2.01		Argus Deposits		10,779.58	
06/30/18	2.01		Argus Deposits		2,763.19	
06/30/18	2.03		Deposits In Transit		(121.98)	
06/30/18	2.03		Deposits in Transit		(150.47)	
06/30/18	2.06		CO Medicaid		(98,930.90)	
06/30/18	2.06		CO Medicaid		(119,506.90)	
06/30/18	2.06		CO Medicaid		(70,364.64)	
06/30/18	2.06		CO Medicaid		(84,403.13)	
06/30/18	2.35		Daily & Visa deposits		(102,345.88)	
06/30/18	2.36		Argus Deposits		(22,406.53)	
06/30/18	9.06		Jun WR Sales		593,379.88	
06/30/18	9.06		Jun WR Sales		94,720.66	
06/30/18	9.06		Jun WR Sales		7,897.67	
06/30/18	9.07		Reclass COH		(220,174.31)	
Totals for 101					<u>0.00</u>	<u>0.00</u>
102 Cash in Bank - Ward Rd				308,142.21		
06/06/17	15530	Keysource Medical Inc.	Keysource Medical Inc.		(3,948.94)	
06/06/17	15531	Parmed Pharmacy	Parmed Pharmacy		(12,457.28)	
06/06/17	15532	RX Systems Inc	RX Systems Inc		(212.75)	
06/01/18	15527	Beam-Ward Kruse	Beam-Ward Kruse		(770.00)	
06/01/18	15528	Mesa Commercaill	Mesa Commercial		(5,499.50)	
06/04/18	2.18		Rebate Deposits		184.55	
06/04/18	2.18		Rebate Deposits		36.10	
06/04/18	2.34		2013/2014 Equipment		2,420.04	
06/06/18	15529	Colorado Shower Door	Colorado Shower Door		(254.13)	
06/06/18	15533	Xerox	Xerox		(412.72)	
06/07/18	15534	Jensen Infor	Jensen Infor		(5,874.75)	
06/08/18	89.01		Payroll WR 06/08/18		(19,286.64)	
06/08/18	89.01		Payroll WR 06/08/18		(8,382.16)	
06/08/18	89.01		Payroll WR 06/08/18		(124.29)	
06/11/18	15535	58th & Ward Self	58th & Ward Self		(300.00)	
06/11/18	15536	Morgan A. Hackl	Morgan A. Hackl		(378.48)	
06/11/18	15537	Lehnardt & Lehnardt Assoc	Lehnardt & Lehnardt Assoc		(1,794.00)	
06/12/18	15538	Now CFO, LLC	Now CFO, LLC		(595.00)	
06/12/18	15539	UPS	UPS		(397.29)	
06/21/18	15540	Office Depot	Office Depot		(164.03)	
06/21/18	15541	Carol Hackl	Carol Hackl		(12,874.18)	
06/21/18	15542	WRP Holding Inc.	WRP Holding Inc.		(16,666.67)	
06/22/18	89.01		Payroll WR 06/22/18		(19,536.30)	
06/22/18	89.01		Payroll WR 06/22/18		(8,280.94)	
06/22/18	89.01		Payroll WR 06/22/18		(124.29)	
06/22/18	15543	All American Window tinting	All American Window tinting		(432.52)	
06/25/18	15544	MoBank	MoBank		(45,624.75)	
06/25/18	15545	MoBank	MoBank		(1,682.11)	
06/25/18	15546	Northbeach LLC	Northbeach LLC		(13,468.00)	
06/28/18	15547	MW Construction	MW Construction		(2,211.00)	
06/28/18	15548	Ward Road Pharmacy	Ward Road Pharmacy		(38,374.24)	
06/28/18	15549	Ward Road Pharmacy	Ward Road Pharmacy		(46,351.11)	

PharmService LLC
General Ledger

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/28/18	15550	Ward Road Pharmacy	Ward Road Pharmacy		(29,838.78)	
06/28/18	15551	Ward Road Pharmacy	Ward Road Pharmacy		(23,306.22)	
06/29/18	15552	Ward Road Pharmacy	Ward Road Pharmacy		(1,463.88)	
06/29/18	15553	Moline & Mehan, LLC	Moline & Mehan, LLC		(87.50)	
06/30/18	2.02		Idaho Medicaid Deposit		136.05	
06/30/18	2.02		Idaho Medicaid Deposit		519.21	
06/30/18	2.02		Idaho Medicaid Deposit		86.56	
06/30/18	2.03		Deposits in Transit		121.98	
06/30/18	2.03		Deposits in Transit		150.47	
06/30/18	2.04		Cardinal Health		(79,030.86)	
06/30/18	2.04		Cardinal Health		(84,351.96)	
06/30/18	2.04		Cardinal Health		(107,111.22)	
06/30/18	2.04		Cardinal Health		(84,939.49)	
06/30/18	2.04		Cardinal Health		(75,207.17)	
06/30/18	2.06		CO Medicaid		98,930.90	
06/30/18	2.06		CO Medicaid		119,506.90	
06/30/18	2.06		CO Medicaid		70,364.64	
06/30/18	2.06		CO Medicaid		84,403.13	
06/30/18	2.08		RX Options		46,055.70	
06/30/18	2.08		RX Options		25,378.56	
06/30/18	2.08		RX Options		56,551.25	
06/30/18	2.08		RX Options		65,876.65	
06/30/18	2.09		MPS CC FEE		(260.91)	
06/30/18	2.11		Assoc Pharmacies API		(3,169.88)	
06/30/18	2.11		Assoc Pharmacies API		(3,225.55)	
06/30/18	2.11		Assoc Pharmacies API		(2,809.97)	
06/30/18	2.11		Assoc Pharmacies API		(1,667.91)	
06/30/18	2.11		Assoc Pharmacies API		(1,856.14)	
06/30/18	2.11		Assoc Pharmacies API		(3,076.88)	
06/30/18	2.11		Assoc Pharmacies API		(277.87)	
06/30/18	2.11		Assoc Pharmacies API		(278.16)	
06/30/18	2.11		Assoc Pharmacies API		(535.41)	
06/30/18	2.11		Assoc Pharmacies API		(3,210.67)	
06/30/18	2.11		Assoc Pharmacies API		(219.07)	
06/30/18	2.13		Nordstrom Bank		(12,404.53)	
06/30/18	2.14		United Health Care		(8,693.78)	
06/30/18	2.16		Mass Mutual		(2,168.63)	
06/30/18	2.16		Mass Mutual		(733.55)	
06/30/18	2.16		Mass Mutual		(2,130.10)	
06/30/18	2.17		Pharmacists Life		(75.01)	
06/30/18	2.20		Continuum EFT Deposit		325.00	
06/30/18	2.20		Continuum EFT Deposit		65.00	
06/30/18	2.20		Continuum EFT Deposit		130.00	
06/30/18	2.20		Continuum EFT Deposit		195.00	
06/30/18	2.23		Tricare EFT		156.00	
06/30/18	2.23		Tricare EFT		34.10	
06/30/18	2.23		Tricare EFT		129.50	
06/30/18	2.23		Tricare EFT		33.00	
06/30/18	2.23		Tricare EFT		461.55	
06/30/18	2.23		Tricare EFT		669.17	
06/30/18	2.26		WRRRC EFT		965.48	
06/30/18	2.28		Trx to Mo Bank		(25,000.00)	
06/30/18	2.29		Deluxe Check Order		(121.10)	
06/30/18	2.31		Bank Activity Charge		(24.54)	
06/30/18	2.32		E-Check ED ECorp tax		(300.00)	
06/30/18	2.33		Dyateck LLC Webpay		(300.00)	
06/30/18	2.35		Daily & Visa deposits		102,345.88	
06/30/18	2.36		Argus Deposits		22,406.53	

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**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/30/18	2.36		WRP HC to R		21,641.40	
			Totals for 102		<u>(104,074.51)</u>	<u>204,067.70</u>
103	Cash in Bank - Home Care			210,250.29		
06/08/18	89.02		Payroll HC 06/08/18		(12,214.27)	
06/08/18	89.02		Payroll HC 06/08/18		(4,802.12)	
06/11/18	13609	McKesson	McKesson		(77,788.95)	
06/11/18	13610	Change Healthcare	Change Healthcare		(105.00)	
06/11/18	13611	Baxter Healthcare Corp	Baxter Healthcare Corp		(349.20)	
06/11/18	13613	Uline	Uline		(1,587.33)	
06/11/18	13614	NUTR	NUTR		(20,482.83)	
06/11/18	13615	Mead Johnson	Mead Johnson		(848.00)	
06/12/18	13612	Denver Syrup	Denver Syrup		(387.25)	
06/12/18	13616	UPS	UPS		(2,175.76)	
06/20/18	13618	Polsinelli PC	Polsinelli PC		(2,176.00)	
06/20/18	13619	Humana	Humana		(3,384.00)	
06/20/18	13620	Lucas Gallegos	Lucas Gallegos		(18.54)	
06/22/18	89.02		Payroll HC 06/22/18		(12,426.89)	
06/22/18	89.02		Payroll HC 06/22/18		(4,879.01)	
06/22/18	13621	Uline	Uline		(1,503.46)	
06/28/18	13622	King Soopers	King Soopers		(52.33)	
06/29/18	2.05		Deposits		226,381.16	
06/29/18	13623	Home Depot	Home Depot		(133.31)	
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		(21,641.40)	
06/30/18	2.16		Mass Mutual		(701.06)	
06/30/18	2.16		Mass Mutual		(683.57)	
06/30/18	2.16		Mass Mutual		(704.82)	
			Totals for 103		<u>57,336.06</u>	<u>267,586.35</u>
104	Cash in Bank - Bank of Kansas City #0735			1,086.19		
06/30/18	2.28		Trx to Mo Bank		25,000.00	
06/30/18	4.01		Analysis Charge MoBank		(108.12)	
06/30/18	4.02		ACBS Debit		(1,609.10)	
06/30/18	4.03		Loan Advance		631.03	
			Totals for 104		<u>23,913.81</u>	<u>25,000.00</u>
106	Accounts Receivable - WR			276,328.21		
06/28/18	15548	Ward Road Pharmacy	Ward Road Pharmacy		38,374.24	
06/28/18	15549	Ward Road Pharmacy	Ward Road Pharmacy		46,351.11	
06/28/18	15550	Ward Road Pharmacy	Ward Road Pharmacy		29,838.78	
06/28/18	15551	Ward Road Pharmacy	Ward Road Pharmacy		23,306.22	
06/29/18	15552	Ward Road Pharmacy	Ward Road Pharmacy		1,463.88	
06/30/18	2.01		Argus Deposits		(3,127.79)	
06/30/18	2.01		Argus Deposits		(207.40)	
06/30/18	2.01		Argus Deposits		(5,277.33)	
06/30/18	2.01		Argus Deposits		(251.08)	
06/30/18	2.01		Argus Deposits		(0.16)	
06/30/18	2.01		Argus Deposits		(10,779.58)	
06/30/18	2.01		Argus Deposits		(2,763.19)	
06/30/18	2.08		RX Options		(46,055.70)	
06/30/18	2.08		RX Options		(25,378.56)	
06/30/18	2.08		RX Options		(56,551.25)	
06/30/18	2.08		RX Options		(65,876.65)	
06/30/18	9.05		Billing Audit Log		559,346.43	
06/30/18	9.06		Jun WR Sales		573.00	
06/30/18	9.06		Jun WR Sales		(550,339.94)	
06/30/18	9.06		Jun WR Sales		(140,068.67)	
06/30/18	9.07		Reclass COH		<u>220,174.31</u>	

PharmService LLC
General Ledger

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
Totals for 106					<u>12,750.67</u>	<u>289,078.88</u>
106.1 Accounts Receivable - HC				396,756.82		
06/20/18	13619	Humana	Humana		3,384.00	
06/29/18	2.05		Deposits		(226,381.16)	
06/30/18	9.06		Sales HC		260,833.48	
06/30/18	9.07		Adj A/R HC		<u>12,145.84</u>	
Totals for 106.1					<u>49,982.16</u>	<u>446,738.98</u>
107 Due From Officers				0.00		
Totals for 107					<u>0.00</u>	<u>0.00</u>
108 Acct/Rec Carol Hackl				756.08		
Totals for 108					<u>0.00</u>	<u>756.08</u>
109 Employee Advances				0.00		
Totals for 109					<u>0.00</u>	<u>0.00</u>
110 Due From Home Health Care				0.00		
Totals for 110					<u>0.00</u>	<u>0.00</u>
111 Note R'ble - Connie Crumbaker				0.00		
Totals for 111					<u>0.00</u>	<u>0.00</u>
130 Inventory - WR				370,050.50		
06/06/17	15530	Keysource Medical Inc.	Keysource Medical Inc.		3,948.94	
06/06/17	15531	Parmed Pharmacy	Parmed Pharmacy		12,457.28	
06/30/18	2.04		Cardinal Health		79,030.86	
06/30/18	2.04		Cardinal Health		84,351.96	
06/30/18	2.04		Cardinal Health		107,111.22	
06/30/18	2.04		Cardinal Health		84,939.49	
06/30/18	2.04		Cardinal Health		75,207.17	
06/30/18	2.11		Assoc Pharmacies API		3,169.88	
06/30/18	2.11		Assoc Pharmacies API		3,225.55	
06/30/18	2.11		Assoc Pharmacies API		2,809.97	
06/30/18	2.11		Assoc Pharmacies API		1,667.91	
06/30/18	2.11		Assoc Pharmacies API		1,856.14	
06/30/18	2.11		Assoc Pharmacies API		3,076.88	
06/30/18	2.11		Assoc Pharmacies API		277.87	
06/30/18	2.11		Assoc Pharmacies API		278.16	
06/30/18	2.11		Assoc Pharmacies API		535.41	
06/30/18	2.11		Assoc Pharmacies API		3,210.67	
06/30/18	2.11		Assoc Pharmacies API		219.07	
06/30/18	2.13		Nordstrom Bank		3,420.65	
06/30/18	2.36		WRP HC to R		(3,420.65)	
06/30/18	9.08		Adj WR inventory Per WIS		(217,010.22)	
06/30/18	40.02		COGS 68% Ward Rd		<u>(384,547.55)</u>	
Totals for 130					<u>(134,183.34)</u>	<u>235,867.16</u>
130.1 Inventory HC				90,807.06		
06/11/18	13609	McKesson	McKesson		77,448.64	
06/11/18	13610	Change Healthcare	Change Healthcare		105.00	
06/11/18	13611	Baxter Healthcare Corp	Baxter Healthcare Corp		349.20	
06/11/18	13613	Uline	Uline		1,357.50	
06/11/18	13614	NUTR	NUTRICIA NORTH AMERICA		20,482.83	
06/11/18	13615	Mead Johnson	Mead Johnson		848.00	
06/12/18	13612	Denver Syrup	Denver Syrup		387.25	

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**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/22/18	13621	Uline	Uline		1,253.00	
06/28/18	13622	King Soopers	King Soopers		52.33	
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		3,420.65	
06/30/18	9.08		Bal A/P HC Per aging		58,379.94	
06/30/18	9.08		Adj WR Inventory Per WIS		217,010.22	
06/30/18	40.01		COGS 60.% Home Care		(163,787.59)	
			Totals for 130.1		<u>217,306.97</u>	<u>308,114.03</u>
135 Advances to Affiliate				696,258.28		
			Totals for 135		<u>0.00</u>	<u>696,258.28</u>
142 Leasehold Improvements				130,059.80		
06/28/18	15547	MW Construction	MW Construction		2,211.00	
06/30/18	20.01		Depreciation Expense		2,211.00	
06/30/18	20.01		Depreciation Expense		(2,211.00)	
			Totals for 142		<u>2,211.00</u>	<u>132,270.80</u>
146 Fixtures & Equipment				42,203.70		
06/30/18	20.01		Depreciation Expense		5,874.75	
06/30/18	20.01		Depreciation Expense		(5,874.75)	
			Totals for 146		<u>0.00</u>	<u>42,203.70</u>
147 Computer/Software Equipment				57,105.93		
06/07/18	15534	Jensen Infor	Jensen Infor		5,874.75	
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		2,937.37	
06/30/18	2.36		WRP HC to R		(2,937.37)	
			Totals for 147		<u>5,874.75</u>	<u>62,980.68</u>
148 Transportation Equipment				0.00		
			Totals for 148		<u>0.00</u>	<u>0.00</u>
149 Less: Accum. Depreciation				(44,868.76)		
06/30/18	20.01		Amortization Expense		(1,723.13)	
06/30/18	20.01		Depreciation Expense		(1,223.53)	
06/30/18	20.01		Depreciation Expense		(4,813.61)	
06/30/18	20.01		Depreciation Expense		(268.72)	
			Totals for 149		<u>(8,028.99)</u>	<u>(52,897.75)</u>
180 Purchase Closing Costs				0.00		
			Totals for 180		<u>0.00</u>	<u>0.00</u>
183 Security Deposits				0.00		
			Totals for 183		<u>0.00</u>	<u>0.00</u>
184 Computer Software				0.00		
			Totals for 184		<u>0.00</u>	<u>0.00</u>
185 Goodwill				7,092,447.29		
06/21/18	15542	WRP Holding Inc.	WRP Holding Inc.		4,166.67	
06/30/18	20.01		Amortization Expense		4,166.67	
06/30/18	20.01		Amortization Expense		(4,166.67)	
			Totals for 185		<u>4,166.67</u>	<u>7,096,613.96</u>
187 Computer Software				0.00		
			Totals for 187		<u>0.00</u>	<u>0.00</u>

**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
189	Less: Accum. Amortization			(776,359.86)		
06/30/18	20.01		Amortization Expense		(39,425.60)	
			Totals for 189		<u>(39,425.60)</u>	<u>(815,785.46)</u>
190	Stock Purchase			0.00		
			Totals for 190		<u>0.00</u>	<u>0.00</u>
202	Payroll Clearing Account			0.00		
			Totals for 202		<u>0.00</u>	<u>0.00</u>
204	Deferred Income			0.00		
			Totals for 204		<u>0.00</u>	<u>0.00</u>
205.1	Accounts Payable - HC			(200,446.55)		
06/30/18	9.08		Bal A/P HC Per aging		(58,379.94)	
			Totals for 205.1		<u>(58,379.94)</u>	<u>(258,826.49)</u>
206	Note Payable - MO Bank LOC			0.00		
			Totals for 206		<u>0.00</u>	<u>0.00</u>
207	Accrued Employer Share			0.00		
			Totals for 207		<u>0.00</u>	<u>0.00</u>
208	Accrued Manager Compensation			0.00		
			Totals for 208		<u>0.00</u>	<u>0.00</u>
210	Account Payable-Medicaid			0.00		
			Totals for 210		<u>0.00</u>	<u>0.00</u>
211	Current Portion - L.T. Debt			0.00		
			Totals for 211		<u>0.00</u>	<u>0.00</u>
232	Accrued Payroll Tax - Federal			0.00		
			Totals for 232		<u>0.00</u>	<u>0.00</u>
233	Accrued Payroll Tax - State			0.00		
			Totals for 233		<u>0.00</u>	<u>0.00</u>
234	Accrued Payroll Tax - City			0.00		
			Totals for 234		<u>0.00</u>	<u>0.00</u>
235	Accrued Unemployment Tax			0.00		
			Totals for 235		<u>0.00</u>	<u>0.00</u>
236	Accrued Sales Tax			0.00		
			Totals for 236		<u>0.00</u>	<u>0.00</u>
237	Accrued 401K Plan			0.00		
06/08/18	89.01		Payroll WR 06/08/18		(1,490.51)	
06/08/18	89.01		Payroll WR 06/08/18		(97.99)	
06/08/18	89.01		Payroll WR 06/08/18		(580.13)	
06/08/18	89.02		Payroll HC 06/08/18		(127.47)	
06/08/18	89.02		Payroll HC 06/08/18		(223.12)	
06/08/18	89.02		Payroll HC 06/08/18		(350.47)	
06/22/18	89.01		Payroll WR 06/22/18		(1,439.43)	
06/22/18	89.01		Payroll WR 06/22/18		(94.38)	

**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/22/18	89.01		Payroll WR 06/22/18		(596.29)	
06/22/18	89.02		Payroll HC 06/22/18		(127.45)	
06/22/18	89.02		Payroll HC 06/22/18		(220.71)	
06/22/18	89.02		Payroll HC 06/22/18		(356.66)	
06/30/18	2.16		Mass Mutual		2,168.63	
06/30/18	2.16		Mass Mutual		733.55	
06/30/18	2.16		Mass Mutual		712.98	
06/30/18	2.16		Mass Mutual		701.06	
06/30/18	2.16		Mass Mutual		683.57	
06/30/18	2.16		Mass Mutual		704.82	
			Totals for 237		<u>0.00</u>	<u>0.00</u>
238	Garnishment			0.00		
			Totals for 238		<u>0.00</u>	<u>0.00</u>
239	Garnishment - Porras			0.00		
			Totals for 239		<u>0.00</u>	<u>0.00</u>
240	Accrued Equipment Purchase			0.00		
			Totals for 240		<u>0.00</u>	<u>0.00</u>
263	Due to Officer			0.00		
			Totals for 263		<u>0.00</u>	<u>0.00</u>
264	Transaction Costs Payable			0.00		
			Totals for 264		<u>0.00</u>	<u>0.00</u>
265	Note Payable - Carol Hackl			0.00		
			Totals for 265		<u>0.00</u>	<u>0.00</u>
266	Minimum Earnout Liability			(375,000.00)		
			Totals for 266		<u>0.00</u>	<u>(375,000.00)</u>
267	Note Payable - BOKC #6508			(2,500,004.00)		
06/25/18	15544	MoBank	MoBank		35,714.00	
			Totals for 267		<u>35,714.00</u>	<u>(2,464,290.00)</u>
267.1	Note Payable - BOKC #6859			(440,000.00)		
06/30/18	4.03		Loan Advance		(631.03)	
			Totals for 267.1		<u>(631.03)</u>	<u>(440,631.03)</u>
268	Bonus Earnout Liability			(700,000.00)		
			Totals for 268		<u>0.00</u>	<u>(700,000.00)</u>
269	Note Payable - Seller			(1,000,000.00)		
			Totals for 269		<u>0.00</u>	<u>(1,000,000.00)</u>
271	Note Payable - First Bank			0.00		
			Totals for 271		<u>0.00</u>	<u>0.00</u>
275	Note payable - 1st Bank			0.00		
			Totals for 275		<u>0.00</u>	<u>0.00</u>
277	Less: Current Portion			0.00		
			Totals for 277		<u>0.00</u>	<u>0.00</u>

**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
280	Working Capital	Chris Davis		0.00		
			Totals for 280		<u>0.00</u>	<u>0.00</u>
281	Issued Capital	Stock		0.00		
			Totals for 281		<u>0.00</u>	<u>0.00</u>
282	PharmServices LLC	Capital		(2,082,032.11)		
			Totals for 282		<u>0.00</u>	<u>(2,082,032.11)</u>
283	Retained Earnings			(1,419,679.43)		
			Totals for 283		<u>0.00</u>	<u>(1,419,679.43)</u>
284	Stockholder's	Distribution		0.00		
			Totals for 284		<u>0.00</u>	<u>0.00</u>
285	Stockholder Distribution	Davis Fam Off		0.00		
			Totals for 285		<u>0.00</u>	<u>0.00</u>
298	Payroll Suspense	Account		0.00		
			Totals for 298		<u>0.00</u>	<u>0.00</u>
299	Accounting Suspense	Account		0.00		
			Totals for 299		<u>0.00</u>	<u>0.00</u>
301	Sales - Ward Rd.			(3,016,549.26)		
06/30/18	9.05		Billing Audit Log		(559,346.43)	
06/30/18	9.06		Jun WR Sales		(5,591.68)	
06/30/18	9.06		Jun WR Sales		(573.00)	
			Totals for 301		<u>(565,511.11)</u>	<u>(3,582,060.37)</u>
302	Sales - Taxable			0.00		
			Totals for 302		<u>0.00</u>	<u>0.00</u>
303	Sales - Candy			0.00		
			Totals for 303		<u>0.00</u>	<u>0.00</u>
304	Resale - Home Care			0.00		
			Totals for 304		<u>0.00</u>	<u>0.00</u>
305	Returns & Allowances			0.00		
			Totals for 305		<u>0.00</u>	<u>0.00</u>
306	Sales - J Ryan			0.00		
			Totals for 306		<u>0.00</u>	<u>0.00</u>
310	Miscellaneous	Income/Rebates		(40,572.93)		
06/04/18	2.18		Rebate Deposits		(184.55)	
06/04/18	2.18		Rebate Deposits		(36.10)	
06/04/18	2.34		2013/2014 Equipment		(2,420.04)	
06/30/18	2.02		Idaho Medicaid Deposit		(136.05)	
06/30/18	2.02		Idaho Medicaid Deposit		(519.21)	
06/30/18	2.02		Idaho Medicaid Deposit		(86.56)	
06/30/18	2.20		Continuum EFT Deposit		(325.00)	
06/30/18	2.20		Continuum EFT Deposit		(65.00)	
06/30/18	2.20		Continuum EFT Deposit		(130.00)	
06/30/18	2.20		Continuum EFT Deposit		(195.00)	

**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/30/18	2.23		Tricare EFT		(156.00)	
06/30/18	2.23		Tricare EFT		(34.10)	
06/30/18	2.23		Tricare EFT		(129.50)	
06/30/18	2.23		Tricare EFT		(33.00)	
06/30/18	2.23		Tricare EFT		(461.55)	
06/30/18	2.23		Tricare EFT		(669.17)	
06/30/18	2.26		WRRC EFT		(965.48)	
			Totals for 310		<u>(6,546.31)</u>	<u>(47,119.24)</u>
311 Sales - Home Care				(1,272,325.76)		
06/30/18	9.06		Sales HC		(260,833.48)	
06/30/18	9.07		Adj A/R HC		(12,145.84)	
			Totals for 311		<u>(272,979.32)</u>	<u>(1,545,305.08)</u>
312 Sales - Disposables				0.00		
			Totals for 312		<u>0.00</u>	<u>0.00</u>
313 Sales - D.M.E.				0.00		
			Totals for 313		<u>0.00</u>	<u>0.00</u>
314 Sales - Urologicals				0.00		
			Totals for 314		<u>0.00</u>	<u>0.00</u>
380 Returns & Allowances				0.00		
			Totals for 380		<u>0.00</u>	<u>0.00</u>
399 Miscellaneous Income				0.00		
			Totals for 399		<u>0.00</u>	<u>0.00</u>
401 COGS - WR				2,051,253.49		
06/30/18	40.02		COGS 68% Ward Rd		384,547.55	
			Totals for 401		<u>384,547.55</u>	<u>2,435,801.04</u>
402 Purchases-Other				0.00		
			Totals for 402		<u>0.00</u>	<u>0.00</u>
403 Delivery & Postage				0.00		
			Totals for 403		<u>0.00</u>	<u>0.00</u>
404 Packaging				0.00		
			Totals for 404		<u>0.00</u>	<u>0.00</u>
405 Purchases-J Ryan				0.00		
			Totals for 405		<u>0.00</u>	<u>0.00</u>
406 Commission, Fees, Service - J Ryan				0.00		
			Totals for 406		<u>0.00</u>	<u>0.00</u>
411 COGS - HC				763,395.45		
06/30/18	40.01		COGS 60.% Home Care		163,787.59	
			Totals for 411		<u>163,787.59</u>	<u>927,183.04</u>
412 Purchases - Adjustment				110,301.00		
			Totals for 412		<u>0.00</u>	<u>110,301.00</u>
413 Purchases - D.M.E.				0.00		

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PharmService LLC
General Ledger

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
Totals for 413					<u>0.00</u>	<u>0.00</u>
420 Delivery Expense				17,020.83		
06/11/18	13609	McKesson	McKesson		340.31	
06/11/18	13613	Uline	Uline		229.83	
06/12/18	13616	UPS	UPS		2,175.76	
06/12/18	15539	UPS	UPS		397.29	
06/22/18	13621	Uline	Uline		<u>250.46</u>	
Totals for 420					<u>3,393.65</u>	<u>20,414.48</u>
505 Moving Expenses				11,537.71		
06/01/18	15528	Mesa Commercial	Mesa Commercial		5,499.50	
06/06/18	15529	Colorado Shower Door	Colorado Shower Door		254.13	
06/22/18	15543	All American Window tinting	All American Window tinting		<u>432.52</u>	
Totals for 505					<u>6,186.15</u>	<u>17,723.86</u>
509 Outside Services				550.00		
Totals for 509					<u>0.00</u>	<u>550.00</u>
510 Operating Supplies				14,286.76		
06/06/17	15532	RX Systems Inc	RX Systems Inc		<u>212.75</u>	
Totals for 510					<u>212.75</u>	<u>14,499.51</u>
512 Freight & Postage				34,459.54		
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		128.35	
06/30/18	2.13		Nordstrom Bank		568.21	
06/30/18	2.36		WRP HC to R		<u>(128.35)</u>	
Totals for 512					<u>568.21</u>	<u>35,027.75</u>
515 Office Salaries				477,180.27		
06/08/18	89.01		Payroll WR 06/08/18		27,376.91	
06/08/18	89.02		Payroll HC 06/08/18		16,350.19	
06/22/18	89.01		Payroll WR 06/22/18		27,477.64	
06/22/18	89.02		Payroll HC 06/22/18		<u>16,617.02</u>	
Totals for 515					<u>87,821.76</u>	<u>565,002.03</u>
516 Officer's Salaries				0.00		
Totals for 516					<u>0.00</u>	<u>0.00</u>
518 Health - Employees - S-Corp Owner				12,165.77		
06/08/18	89.01		Payroll WR 06/08/18		(233.33)	
06/08/18	89.02		Payroll HC 06/08/18		(235.51)	
06/22/18	89.01		Payroll WR 06/22/18		(233.33)	
06/22/18	89.02		Payroll HC 06/22/18		(235.51)	
06/30/18	2.14		United Health Care		<u>8,693.78</u>	
Totals for 518					<u>7,756.10</u>	<u>19,921.87</u>
519 401K Employer Match				10,197.50		
06/08/18	89.01		Payroll WR 06/08/18		580.13	
06/08/18	89.02		Payroll HC 06/08/18		350.47	
06/22/18	89.01		Payroll WR 06/22/18		596.29	
06/22/18	89.02		Payroll HC 06/22/18		356.66	
06/30/18	2.16		Mass Mutual		1,417.12	
06/30/18	2.33		Dyateck LLC Webpay		<u>300.00</u>	
Totals for 519					<u>3,600.67</u>	<u>13,798.17</u>
520 Rent				85,542.70		

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**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/25/18	15546	Northbeach LLC	Northbeach LLC		13,468.00	
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		6,734.00	
06/30/18	2.36		WRP HC to R		(6,734.00)	
Totals for 520					<u>13,468.00</u>	<u>99,010.70</u>
521 Equipment Rental				0.00		
Totals for 521					<u>0.00</u>	<u>0.00</u>
522 Security Systems				437.50		
Totals for 522					<u>0.00</u>	<u>437.50</u>
526 Utilities				2,927.14		
Totals for 526					<u>0.00</u>	<u>2,927.14</u>
529 Telephone				5,418.88		
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		136.35	
06/30/18	2.13		Nordstrom Bank		272.71	
06/30/18	2.36		WRP HC to R		(136.35)	
Totals for 529					<u>272.71</u>	<u>5,691.59</u>
530 Repairs & Maintenance				11,724.38		
Totals for 530					<u>0.00</u>	<u>11,724.38</u>
534 Advertising & Promotion				25.00		
Totals for 534					<u>0.00</u>	<u>25.00</u>
535 Insurance-General				12,011.05		
06/30/18	2.13		Nordstrom Bank		5,000.00	
06/30/18	2.17		Pharmacists Life		75.01	
Totals for 535					<u>5,075.01</u>	<u>17,086.06</u>
536 Worker's Compensation				2,311.12		
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		1,489.64	
06/30/18	2.36		WRP HC to R		(1,489.64)	
Totals for 536					<u>0.00</u>	<u>2,311.12</u>
538 Travel				0.00		
Totals for 538					<u>0.00</u>	<u>0.00</u>
539 Meals Expenset 50%				2,575.11		
Totals for 539					<u>0.00</u>	<u>2,575.11</u>
540 Property Tax				763.04		
Totals for 540					<u>0.00</u>	<u>763.04</u>
542 Payroll Taxes				39,081.51		
06/08/18	89.01		Payroll WR 06/08/18		2,075.44	
06/08/18	89.01		Payroll WR 06/08/18		9.29	
06/08/18	89.01		Payroll WR 06/08/18		28.99	
06/08/18	89.02		Payroll HC 06/08/18		1,226.82	
06/08/18	89.02		Payroll HC 06/08/18		4.11	
06/08/18	89.02		Payroll HC 06/08/18		21.37	
06/22/18	89.01		Payroll WR 06/22/18		2,084.20	
06/22/18	89.01		Payroll WR 06/22/18		3.37	
06/22/18	89.01		Payroll WR 06/22/18		19.17	
06/22/18	89.02		Payroll HC 06/22/18		1,249.46	

**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/22/18	89.02		Payroll HC 06/22/18		23.09	
			Totals for 542		<u>6,745.31</u>	<u>45,826.82</u>
544 Other Tax				0.00		
06/30/18	2.32		E-Check ED ECorp tax		300.00	
			Totals for 544		<u>300.00</u>	<u>300.00</u>
547 Compounding Expense				0.00		
			Totals for 547		<u>0.00</u>	<u>0.00</u>
548 Permits & Licenses				1,856.00		
			Totals for 548		<u>0.00</u>	<u>1,856.00</u>
549 Computer Processing Fees				7,932.25		
			Totals for 549		<u>0.00</u>	<u>7,932.25</u>
550 Interest				53,981.57		
06/25/18	15544	MoBank	MoBank		9,910.75	
06/25/18	15545	MoBank	MoBank		<u>1,682.11</u>	
			Totals for 550		<u>11,592.86</u>	<u>65,574.43</u>
552 Vehicle Expense				0.00		
			Totals for 552		<u>0.00</u>	<u>0.00</u>
560 Bad Debts				0.00		
			Totals for 560		<u>0.00</u>	<u>0.00</u>
563 Bank & Merchant Fees				4,950.12		
06/30/18	2.09		MPS CC FEE		260.91	
06/30/18	2.31		Bank Activity Charge		24.54	
06/30/18	4.01		Analysis Charge MoBank		108.12	
06/30/18	4.02		ACBS Debit		<u>1,609.10</u>	
			Totals for 563		<u>2,002.67</u>	<u>6,952.79</u>
564 Legal & Accounting				41,363.77		
06/01/18	15527	Bearn-Ward Kruse	Bearn-Ward Kruse		770.00	
06/08/18	89.01		Payroll WR 06/08/18		124.29	
06/11/18	15537	Lehnardt & Lehnardt Assoc	Lehnardt & Lehnardt Assoc		1,794.00	
06/12/18	15538	Now CFO, LLC	Now CFO, LLC		595.00	
06/20/18	13618	Polsinelli PC	Polsinelli PC		2,176.00	
06/22/18	89.01		Payroll WR 06/22/18		124.29	
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		1,579.50	
06/29/18	15553	Moline & Mehan, LLC	Moline & Mehan, LLC		87.50	
06/30/18	2.36		WRP HC to R		<u>(1,579.50)</u>	
			Totals for 564		<u>5,671.08</u>	<u>47,034.85</u>
565 Consulting Expense				174,432.33		
06/21/18	15541	Carol Hackl	Carol Hackl		12,874.18	
06/21/18	15542	WRP Holding Inc.	WRP Holding Inc.		<u>12,500.00</u>	
			Totals for 565		<u>25,374.18</u>	<u>199,806.51</u>
566 Office Expense				26,857.95		
06/06/18	15533	Xerox	Xerox		412.72	
06/11/18	15535	58th & Ward Self	58th & Ward Self		300.00	
06/11/18	15536	Morgan A. Hackl	Morgan A. Hackl		378.48	
06/20/18	13620	Lucas Gallegos	Lucas Gallegos		18.54	
06/21/18	15540	Office Depot	Office Depot		<u>164.03</u>	

**PharmService LLC
General Ledger**

June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
06/29/18	13623	Home Depot	Home Depot		133.31	
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		2,465.79	
06/30/18	2.13		Nordstrom Bank		2,989.70	
06/30/18	2.29		Deluxe Check Order		121.10	
06/30/18	2.36		WRP HC to R		(2,465.79)	
Totals for 566					<u>4,517.88</u>	<u>31,375.83</u>
567 Credit Card Charges				0.00		
Totals for 567					<u>0.00</u>	<u>0.00</u>
568 Continuing Education				0.00		
Totals for 568					<u>0.00</u>	<u>0.00</u>
574 Amortization Expense				196,780.90		
06/30/18	20.01		Amortization Expense		39,425.60	
Totals for 574					<u>39,425.60</u>	<u>236,206.50</u>
575 Depreciation				13,076.19		
06/30/18	20.01		Depreciation Expense		268.72	
06/30/18	20.01		Depreciation Expense		4,813.61	
06/30/18	20.01		Depreciation Expense		1,223.53	
06/30/18	20.01		Amortization Expense		1,723.13	
Totals for 575					<u>8,028.99</u>	<u>21,105.18</u>
580 Dues & Subscriptions				1,680.00		
Totals for 580					<u>0.00</u>	<u>1,680.00</u>
581 Laundry				0.00		
Totals for 581					<u>0.00</u>	<u>0.00</u>
585 Donations				0.00		
Totals for 585					<u>0.00</u>	<u>0.00</u>
595 Miscellaneous				4,934.40		
06/29/18	13624	Ward Road Pharmacy	Ward Road Pharmacy		2,749.75	
06/30/18	2.13		Nordstrom Bank		153.26	
06/30/18	2.36		WRP HC to R		(2,749.75)	
Totals for 595					<u>153.26</u>	<u>5,087.66</u>
597 Cash Over & Short				(0.03)		
06/30/18	9.06		Jun WR Sales		2.08	
Totals for 597					<u>2.08</u>	<u>2.05</u>
901 Gain/Loss on Sale of Assets				0.00		
Totals for 901					<u>0.00</u>	<u>0.00</u>
905 Gain/Loss on Sale of Assets				0.00		
Totals for 905					<u>0.00</u>	<u>0.00</u>
910 Interest Income				0.00		
Totals for 910					<u>0.00</u>	<u>0.00</u>
911 Dividend Income				0.00		
Totals for 911					<u>0.00</u>	<u>0.00</u>
939 Entertainment Expense				0.00		

PharmService LLC
General Ledger
June 1, 2018 - June 30, 2018

Date	Reference	Vendor	Description	Beginning Balance	Current Amount	Period End Balance
			Totals for 939		<u>0.00</u>	<u>0.00</u>
954		Manager Compensation - Penalty		0.00		
			Totals for 954		<u>0.00</u>	<u>0.00</u>
955		Manager Compensation		0.00		
			Totals for 955		<u>0.00</u>	<u>0.00</u>
956		Employer Share		0.00		
			Totals for 956		<u>0.00</u>	<u>0.00</u>
959		Meals Expense 50%		2,575.10		
			Totals for 959		<u>0.00</u>	<u>2,575.10</u>
960		Stckhldr's Health Ins		0.00		
			Totals for 960		<u>0.00</u>	<u>0.00</u>
961		Stckhldr's Life Ins		0.00		
			Totals for 961		<u>0.00</u>	<u>0.00</u>
962		Stckhldr's Disabil'y Ins		0.00		
			Totals for 962		<u>0.00</u>	<u>0.00</u>
963		Mgr Life Insurance		0.00		
			Totals for 963		<u>0.00</u>	<u>0.00</u>
964		Additional Legal & Accounting		0.00		
			Totals for 964		<u>0.00</u>	<u>0.00</u>
971		Disability Insurance		0.00		
			Totals for 971		<u>0.00</u>	<u>0.00</u>
981		Penalty		0.00		
			Totals for 981		<u>0.00</u>	<u>0.00</u>
999		BALANCING ACCOUNT		0.00		
			Totals for 999		<u>0.00</u>	<u>0.00</u>
EXPR		EXPRESS MESSENGER		0.00		
			Totals for EXPR		<u>0.00</u>	<u>0.00</u>
			Report Total			<u>0.00</u>
Net Profit/(Loss)						
Current Period				64,532.68		
Year-to-Date				<u>198,394.33</u>		

Distribution count = 343

DUNHAM000117

**PharmService LLC
Transaction List**

June 1, 2018 - June 30, 2018

Date	Reference	Account	Payee ID	Description	1099	Amount
06/06/17	15530	102	Key	Keysource Medical Inc.		(3,948.94)
06/06/17	15530	130	Key	Keysource Medical Inc.		3,948.94
06/06/17	15531	102	Parmed	Parmed Pharmacy		(12,457.28)
06/06/17	15531	130	Parmed	Parmed Pharmacy		12,457.28
06/06/17	15532	102	RXsy	RX Systems Inc		(212.75)
06/06/17	15532	510	RXsy	RX Systems Inc		212.75
06/01/18	15527	102	Beam-Ward K	Beam-Ward Kruse		(770.00)
06/01/18	15527	564	Beam-Ward K	Beam-Ward Kruse		770.00
06/01/18	15528	102	MEsa	Mesa Commercial		(5,499.50)
06/01/18	15528	505	MEsa	Mesa Commercial		5,499.50
06/04/18	2.18	310		Rebate Deposits		(184.55)
06/04/18	2.18	102		Rebate Deposits		184.55
06/04/18	2.18	310		Rebate Deposits		(36.10)
06/04/18	2.18	102		Rebate Deposits		36.10
06/04/18	2.34	102		2013/2014 Equipment		2,420.04
06/04/18	2.34	310		2013/2014 Equipment		(2,420.04)
06/06/18	15529	102	Colorado Sh	Colorado Shower Door		(254.13)
06/06/18	15529	505	Colorado Sh	Colorado Shower Door		254.13
06/06/18	15533	102	Xerox	Xerox		(412.72)
06/06/18	15533	566	Xerox	Xerox		412.72
06/07/18	15534	102	Jensen Info	Jensen Infor		(5,874.75)
06/07/18	15534	147	Jensen Info	Jensen Infor		5,874.75
06/08/18	89.01	102		Payroll WR 06/08/18		(19,286.64)
06/08/18	89.01	102		Payroll WR 06/08/18		(8,382.16)
06/08/18	89.01	102		Payroll WR 06/08/18		(124.29)
06/08/18	89.01	515		Payroll WR 06/08/18		27,376.91
06/08/18	89.01	542		Payroll WR 06/08/18		2,075.44
06/08/18	89.01	542		Payroll WR 06/08/18		9.29
06/08/18	89.01	542		Payroll WR 06/08/18		28.99
06/08/18	89.01	237		Payroll WR 06/08/18		(1,490.51)
06/08/18	89.01	237		Payroll WR 06/08/18		(97.99)
06/08/18	89.01	518		Payroll WR 06/08/18		(233.33)
06/08/18	89.01	237		Payroll WR 06/08/18		(580.13)
06/08/18	89.01	519		Payroll WR 06/08/18		580.13
06/08/18	89.01	564		Payroll WR 06/08/18		124.29
06/08/18	89.02	103		Payroll HC 06/08/18		(12,214.27)
06/08/18	89.02	103		Payroll HC 06/08/18		(4,802.12)
06/08/18	89.02	515		Payroll HC 06/08/18		16,350.19
06/08/18	89.02	542		Payroll HC 06/08/18		1,226.82
06/08/18	89.02	542		Payroll HC 06/08/18		4.11
06/08/18	89.02	542		Payroll HC 06/08/18		21.37
06/08/18	89.02	237		Payroll HC 06/08/18		(127.47)
06/08/18	89.02	237		Payroll HC 06/08/18		(223.12)
06/08/18	89.02	518		Payroll HC 06/08/18		(235.51)
06/08/18	89.02	237		Payroll HC 06/08/18		(350.47)
06/08/18	89.02	519		Payroll HC 06/08/18		350.47
06/11/18	13609	103	MCKE	McKesson		(77,788.95)
06/11/18	13609	130.1	MCKE	McKesson		77,448.64
06/11/18	13609	420	MCKE	McKesson		340.31
06/11/18	13610	103	chan	Change Healthcare		(105.00)
06/11/18	13610	130.1	chan	Change Healthcare		105.00
06/11/18	13611	103	BAXt	Baxter Healthcare Corp		(349.20)
06/11/18	13611	130.1	BAXt	Baxter Healthcare Corp		349.20
06/11/18	13613	103	Ulin	Uline		(1,587.33)
06/11/18	13613	130.1	Ulin	Uline		1,357.50
06/11/18	13613	420	Ulin	Uline		229.83
06/11/18	13614	103	NUTR	NUTR		(20,482.83)
06/11/18	13614	130.1	NUTR	NUTRICIA NORTH AMERICA		20,482.83
06/11/18	13615	103	MEAD	Mead Johnson		(848.00)

PharmService LLC

Transaction List

June 1, 2018 - June 30, 2018

Date	Reference	Account	Payee ID	Description	1099	Amount
06/11/18	13615	130.1	MEAD	Mead Johnson		848.00
06/11/18	15535	102	58th	58th & Ward Self		(300.00)
06/11/18	15535	566	58th	58th & Ward Self		300.00
06/11/18	15536	102	Morg	Morgan A. Hackl		(378.48)
06/11/18	15536	566	Morg	Morgan A. Hackl		378.48
06/11/18	15537	102	lehn	Lehnardt & Lehnardt Assoc		(1,794.00)
06/11/18	15537	564	lehn	Lehnardt & Lehnardt Assoc	1099-MISC (7)	1,794.00
06/12/18	13612	103	Denv	Denver Syrup		(387.25)
06/12/18	13612	130.1	Denv	Denver Syrup		387.25
06/12/18	13616	103	UPS	UPS		(2,175.76)
06/12/18	13616	420	UPS	UPS		2,175.76
06/12/18	15538	102	Now CFO, LL	Now CFO, LLC		(595.00)
06/12/18	15538	564	Now CFO, LL	Now CFO, LLC		595.00
06/12/18	15539	102	UPS	UPS		(397.29)
06/12/18	15539	420	UPS	UPS		397.29
06/20/18	13618	103	Pols	Polsinelli PC		(2,176.00)
06/20/18	13618	564	Pols	Polsinelli PC	1099-MISC (7)	2,176.00
06/20/18	13619	103	Humana	Humana		(3,384.00)
06/20/18	13619	106.1	Humana	Humana		3,384.00
06/20/18	13620	103	luca	Lucas Gallegos		(18.54)
06/20/18	13620	566	luca	Lucas Gallegos		18.54
06/21/18	15540	102	OFFI	Office Depot		(164.03)
06/21/18	15540	566	OFFI	Office Depot		164.03
06/21/18	15541	102	Carol Hackl	Carol Hackl		(12,874.18)
06/21/18	15541	565	Carol Hackl	Carol Hackl	1099-MISC (7)	12,874.18
06/21/18	15542	102	Wrp	WRP Holding Inc.		(16,666.67)
06/21/18	15542	565	Wrp	WRP Holding Inc.		12,500.00
06/21/18	15542	185	Wrp	WRP Holding Inc.		4,166.67
06/22/18	89.01	102		Payroll WR 06/22/18		(19,536.30)
06/22/18	89.01	102		Payroll WR 06/22/18		(8,280.94)
06/22/18	89.01	102		Payroll WR 06/22/18		(124.29)
06/22/18	89.01	515		Payroll WR 06/22/18		27,477.64
06/22/18	89.01	542		Payroll WR 06/22/18		2,084.20
06/22/18	89.01	542		Payroll WR 06/22/18		3.37
06/22/18	89.01	542		Payroll WR 06/22/18		19.17
06/22/18	89.01	237		Payroll WR 06/22/18		(1,439.43)
06/22/18	89.01	237		Payroll WR 06/22/18		(94.38)
06/22/18	89.01	518		Payroll WR 06/22/18		(233.33)
06/22/18	89.01	237		Payroll WR 06/22/18		(596.29)
06/22/18	89.01	519		Payroll WR 06/22/18		596.29
06/22/18	89.01	564		Payroll WR 06/22/18		124.29
06/22/18	89.02	103		Payroll HC 06/22/18		(12,426.89)
06/22/18	89.02	103		Payroll HC 06/22/18		(4,879.01)
06/22/18	89.02	515		Payroll HC 06/22/18		16,617.02
06/22/18	89.02	542		Payroll HC 06/22/18		1,249.46
06/22/18	89.02	542		Payroll HC 06/22/18		23.09
06/22/18	89.02	237		Payroll HC 06/22/18		(127.45)
06/22/18	89.02	237		Payroll HC 06/22/18		(220.71)
06/22/18	89.02	518		Payroll HC 06/22/18		(235.51)
06/22/18	89.02	237		Payroll HC 06/22/18		(356.66)
06/22/18	89.02	519		Payroll HC 06/22/18		356.66
06/22/18	13621	103	Ulin	Uline		(1,503.46)
06/22/18	13621	130.1	Ulin	Uline		1,253.00
06/22/18	13621	420	Ulin	Uline		250.46
06/22/18	15543	102	All America	All American Window tinting		(432.52)
06/22/18	15543	505	All America	All American Window tinting		432.52
06/25/18	15544	102	MoBank	MoBank		(45,624.75)
06/25/18	15544	267	MoBank	MoBank		35,714.00
06/25/18	15544	550	MoBank	MoBank		9,910.75

DUNHAM000119

**PharmService LLC
Transaction List**

June 1, 2018 - June 30, 2018

Date	Reference	Account	Payee ID	Description	1099	Amount
06/25/18	15545	102	MoBank	MoBank		(1,682.11)
06/25/18	15545	550	MoBank	MoBank		1,682.11
06/25/18	15546	102	Northbeach	Northbeach LLC		(13,468.00)
06/25/18	15546	520	Northbeach	Northbeach LLC		13,468.00
06/28/18	13622	103	KING	King Soopers		(52.33)
06/28/18	13622	130.1	KING	King Soopers		52.33
06/28/18	15547	102	MW Cons	MW Construction		(2,211.00)
06/28/18	15547	142	MW Cons	MW Construction		2,211.00
06/28/18	15548	102	WARD	Ward Road Pharmacy		(38,374.24)
06/28/18	15548	106	WARD	Ward Road Pharmacy		38,374.24
06/28/18	15549	102	WARD	Ward Road Pharmacy		(46,351.11)
06/28/18	15549	106	WARD	Ward Road Pharmacy		46,351.11
06/28/18	15550	102	WARD	Ward Road Pharmacy		(29,838.78)
06/28/18	15550	106	WARD	Ward Road Pharmacy		29,838.78
06/28/18	15551	102	WARD	Ward Road Pharmacy		(23,306.22)
06/28/18	15551	106	WARD	Ward Road Pharmacy		23,306.22
06/29/18	2.05	106.1		Deposits		(226,381.16)
06/29/18	2.05	103		Deposits		226,381.16
06/29/18	13623	103	Home	Home Depot		(133.31)
06/29/18	13623	566	Home	Home Depot		133.31
06/29/18	13624	103	WARD	Ward Road Pharmacy		(21,641.40)
06/29/18	13624	520	WARD	Ward Road Pharmacy		6,734.00
06/29/18	13624	566	WARD	Ward Road Pharmacy		2,465.79
06/29/18	13624	130.1	WARD	Ward Road Pharmacy		3,420.65
06/29/18	13624	512	WARD	Ward Road Pharmacy		128.35
06/29/18	13624	536	WARD	Ward Road Pharmacy		1,489.64
06/29/18	13624	529	WARD	Ward Road Pharmacy		136.35
06/29/18	13624	564	WARD	Ward Road Pharmacy		1,579.50
06/29/18	13624	595	WARD	Ward Road Pharmacy		2,749.75
06/29/18	13624	147	WARD	Ward Road Pharmacy		2,937.37
06/29/18	15552	102	WARD	Ward Road Pharmacy		(1,463.88)
06/29/18	15552	106	WARD	Ward Road Pharmacy		1,463.88
06/29/18	15553	102	Moli	Moline & Mehan, LLC		(87.50)
06/29/18	15553	564	Moli	Moline & Mehan, LLC		87.50
06/30/18	2.01	101		Argus Deposits		3,127.79
06/30/18	2.01	106		Argus Deposits		(3,127.79)
06/30/18	2.01	101		Argus Deposits		207.40
06/30/18	2.01	106		Argus Deposits		(207.40)
06/30/18	2.01	101		Argus Deposits		5,277.33
06/30/18	2.01	106		Argus Deposits		(5,277.33)
06/30/18	2.01	101		Argus Deposits		251.08
06/30/18	2.01	106		Argus Deposits		(251.08)
06/30/18	2.01	101		Argus Deposits		0.16
06/30/18	2.01	106		Argus Deposits		(0.16)
06/30/18	2.01	101		Argus Deposits		10,779.58
06/30/18	2.01	106		Argus Deposits		(10,779.58)
06/30/18	2.01	101		Argus Deposits		2,763.19
06/30/18	2.01	106		Argus Deposits		(2,763.19)
06/30/18	2.02	310		Idaho Medicaid Deposit		(136.05)
06/30/18	2.02	102		Idaho Medicaid Deposit		136.05
06/30/18	2.02	310		Idaho Medicaid Deposit		(519.21)
06/30/18	2.02	102		Idaho Medicaid Deposit		519.21
06/30/18	2.02	310		Idaho Medicaid Deposit		(86.56)
06/30/18	2.02	102		Idaho Medicaid Deposit		86.56
06/30/18	2.03	101		Deposits in Transit		(121.98)
06/30/18	2.03	102		Deposits in Transit		121.98
06/30/18	2.03	101		Deposits in Transit		(150.47)
06/30/18	2.03	102		Deposits in Transit		150.47
06/30/18	2.04	102		Cardinal Health		(79,030.86)

PharmService LLC

Transaction List

June 1, 2018 - June 30, 2018

Date	Reference	Account	Payee ID	Description	1099	Amount
06/30/18	2.04	130		Cardinal Health		79,030.86
06/30/18	2.04	102		Cardinal Health		(84,351.96)
06/30/18	2.04	130		Cardinal Health		84,351.96
06/30/18	2.04	102		Cardinal Health		(107,111.22)
06/30/18	2.04	130		Cardinal Health		107,111.22
06/30/18	2.04	102		Cardinal Health		(84,939.49)
06/30/18	2.04	130		Cardinal Health		84,939.49
06/30/18	2.04	102		Cardinal Health		(75,207.17)
06/30/18	2.04	130		Cardinal Health		75,207.17
06/30/18	2.06	101		CO Medicaid		(98,930.90)
06/30/18	2.06	102		CO Medicaid		98,930.90
06/30/18	2.06	101		CO Medicaid		(119,506.90)
06/30/18	2.06	102		CO Medicaid		119,506.90
06/30/18	2.06	101		CO Medicaid		(70,364.64)
06/30/18	2.06	102		CO Medicaid		70,364.64
06/30/18	2.06	101		CO Medicaid		(84,403.13)
06/30/18	2.06	102		CO Medicaid		84,403.13
06/30/18	2.08	102		RX Options		46,055.70
06/30/18	2.08	106		RX Options		(46,055.70)
06/30/18	2.08	102		RX Options		25,378.56
06/30/18	2.08	106		RX Options		(25,378.56)
06/30/18	2.08	102		RX Options		56,551.25
06/30/18	2.08	106		RX Options		(56,551.25)
06/30/18	2.08	102		RX Options		65,876.65
06/30/18	2.08	106		RX Options		(65,876.65)
06/30/18	2.09	563		MPS CC FEE		260.91
06/30/18	2.09	102		MPS CC FEE		(260.91)
06/30/18	2.11	130		Assoc Pharmacies API		3,169.88
06/30/18	2.11	102		Assoc Pharmacies API		(3,169.88)
06/30/18	2.11	130		Assoc Pharmacies API		3,225.55
06/30/18	2.11	102		Assoc Pharmacies API		(3,225.55)
06/30/18	2.11	130		Assoc Pharmacies API		2,809.97
06/30/18	2.11	102		Assoc Pharmacies API		(2,809.97)
06/30/18	2.11	130		Assoc Pharmacies API		1,667.91
06/30/18	2.11	102		Assoc Pharmacies API		(1,667.91)
06/30/18	2.11	130		Assoc Pharmacies API		1,856.14
06/30/18	2.11	102		Assoc Pharmacies API		(1,856.14)
06/30/18	2.11	130		Assoc Pharmacies API		3,076.88
06/30/18	2.11	102		Assoc Pharmacies API		(3,076.88)
06/30/18	2.11	130		Assoc Pharmacies API		277.87
06/30/18	2.11	102		Assoc Pharmacies API		(277.87)
06/30/18	2.11	130		Assoc Pharmacies API		278.16
06/30/18	2.11	102		Assoc Pharmacies API		(278.16)
06/30/18	2.11	130		Assoc Pharmacies API		535.41
06/30/18	2.11	102		Assoc Pharmacies API		(535.41)
06/30/18	2.11	130		Assoc Pharmacies API		3,210.67
06/30/18	2.11	102		Assoc Pharmacies API		(3,210.67)
06/30/18	2.11	130		Assoc Pharmacies API		219.07
06/30/18	2.11	102		Assoc Pharmacies API		(219.07)
06/30/18	2.13	512		Nordstrom Bank		568.21
06/30/18	2.13	130		Nordstrom Bank		3,420.65
06/30/18	2.13	529		Nordstrom Bank		272.71
06/30/18	2.13	566		Nordstrom Bank		2,989.70
06/30/18	2.13	535		Nordstrom Bank		5,000.00
06/30/18	2.13	595		Nordstrom Bank		153.26
06/30/18	2.13	102		Nordstrom Bank		(12,404.53)
06/30/18	2.14	518		United Health Care		8,693.78
06/30/18	2.14	102		United Health Care		(8,693.78)
06/30/18	2.16	237		Mass Mutual		2,168.63

DUNHAM000121

PharmService LLC

Transaction List

June 1, 2018 - June 30, 2018

Date	Reference	Account	Payee ID	Description	1099	Amount
06/30/18	2.16	102		Mass Mutual		(2,168.63)
06/30/18	2.16	237		Mass Mutual		733.55
06/30/18	2.16	102		Mass Mutual		(733.55)
06/30/18	2.16	237		Mass Mutual		712.98
06/30/18	2.16	102		Mass Mutual		(2,130.10)
06/30/18	2.16	519		Mass Mutual		1,417.12
06/30/18	2.16	237		Mass Mutual		701.06
06/30/18	2.16	103		Mass Mutual		(701.06)
06/30/18	2.16	237		Mass Mutual		683.57
06/30/18	2.16	103		Mass Mutual		(683.57)
06/30/18	2.16	237		Mass Mutual		704.82
06/30/18	2.16	103		Mass Mutual		(704.82)
06/30/18	2.17	535		Pharmacists Life		75.01
06/30/18	2.17	102		Pharmacists Life		(75.01)
06/30/18	2.20	102		Continuum EFT Deposit		325.00
06/30/18	2.20	310		Continuum EFT Deposit		(325.00)
06/30/18	2.20	102		Continuum EFT Deposit		65.00
06/30/18	2.20	310		Continuum EFT Deposit		(65.00)
06/30/18	2.20	102		Continuum EFT Deposit		130.00
06/30/18	2.20	310		Continuum EFT Deposit		(130.00)
06/30/18	2.20	102		Continuum EFT Deposit		195.00
06/30/18	2.20	310		Continuum EFT Deposit		(195.00)
06/30/18	2.23	102		Tricare EFT		156.00
06/30/18	2.23	310		Tricare EFT		(156.00)
06/30/18	2.23	102		Tricare EFT		34.10
06/30/18	2.23	310		Tricare EFT		(34.10)
06/30/18	2.23	102		Tricare EFT		129.50
06/30/18	2.23	310		Tricare EFT		(129.50)
06/30/18	2.23	102		Tricare EFT		33.00
06/30/18	2.23	310		Tricare EFT		(33.00)
06/30/18	2.23	102		Tricare EFT		461.55
06/30/18	2.23	310		Tricare EFT		(461.55)
06/30/18	2.23	102		Tricare EFT		669.17
06/30/18	2.23	310		Tricare EFT		(669.17)
06/30/18	2.26	102		WRRRC EFT		965.48
06/30/18	2.26	310		WRRRC EFT		(965.48)
06/30/18	2.28	104		Trx to Mo Bank		25,000.00
06/30/18	2.28	102		Trx to Mo Bank		(25,000.00)
06/30/18	2.29	566		Deluxe Check Order		121.10
06/30/18	2.29	102		Deluxe Check Order		(121.10)
06/30/18	2.31	563		Bank Activity Charge		24.54
06/30/18	2.31	102		Bank Activity Charge		(24.54)
06/30/18	2.32	544		E-Check ED ECorp tax		300.00
06/30/18	2.32	102		E-Check ED ECorp tax		(300.00)
06/30/18	2.33	519		Dyateck LLC Webpay		300.00
06/30/18	2.33	102		Dyateck LLC Webpay		(300.00)
06/30/18	2.35	102		Daily & Visa deposits		102,345.88
06/30/18	2.35	101		Daily & Visa deposits		(102,345.88)
06/30/18	2.36	102		Argus Depsoits		22,406.53
06/30/18	2.36	101		Argus Depsoits		(22,406.53)
06/30/18	2.36	102		WRP HC to R		21,641.40
06/30/18	2.36	520		WRP HC to R		(6,734.00)
06/30/18	2.36	566		WRP HC to R		(2,465.79)
06/30/18	2.36	130		WRP HC to R		(3,420.65)
06/30/18	2.36	512		WRP HC to R		(128.35)
06/30/18	2.36	536		WRP HC to R		(1,489.64)
06/30/18	2.36	529		WRP HC to R		(136.35)
06/30/18	2.36	564		WRP HC to R		(1,579.50)
06/30/18	2.36	595		WRP HC to R		(2,749.75)

DUNHAM000122

PharmService LLC
Transaction List

June 1, 2018 - June 30, 2018

Date	Reference	Account	Payee ID	Description	1099	Amount
06/30/18	2.36	147		WRP HC to R		(2,937.37)
06/30/18	4.01	563		Analysis Charge MoBank		108.12
06/30/18	4.01	104		Analysis Charge MoBank		(108.12)
06/30/18	4.02	563		ACBS Debit		1,609.10
06/30/18	4.02	104		ACBS Debit		(1,609.10)
06/30/18	4.03	267.1		Loan Advance		(631.03)
06/30/18	4.03	104		Loan Advance		631.03
06/30/18	9.05	106		Billing Audit Log		559,346.43
06/30/18	9.05	301		Billing Audit Log		(559,346.43)
06/30/18	9.06	301		Jun WR Sales		(5,591.68)
06/30/18	9.06	301		Jun WR Sales		(573.00)
06/30/18	9.06	106		Jun WR Sales		573.00
06/30/18	9.06	106		Jun WR Sales		(550,339.94)
06/30/18	9.06	106		Jun WR Sales		(140,068.67)
06/30/18	9.06	101		Jun WR Sales		593,379.88
06/30/18	9.06	101		Jun WR Sales		94,720.66
06/30/18	9.06	101		Jun WR Sales		7,897.67
06/30/18	9.06	597		Jun WR Sales		2.08
06/30/18	9.06	311		Sales HC		(260,833.48)
06/30/18	9.06	106.1		Sales HC		260,833.48
06/30/18	9.07	106.1		Adj A/R HC		12,145.84
06/30/18	9.07	311		Adj A/R HC		(12,145.84)
06/30/18	9.07	101		Reclass COH		(220,174.31)
06/30/18	9.07	106		Reclass COH		220,174.31
06/30/18	9.08	205.1		Bal A/P HC Per aging		(58,379.94)
06/30/18	9.08	130.1		Bal A/P HC Per aging		58,379.94
06/30/18	9.08	130		Adj WR inventory Per WIS		(217,010.22)
06/30/18	9.08	130.1		Adj WR inventory Per WIS		217,010.22
06/30/18	20.01	142		Depreciation Expense		2,211.00
06/30/18	20.01	146		Depreciation Expense		5,874.75
06/30/18	20.01	185		Amortization Expense		4,166.67
06/30/18	20.01	574		Amortization Expense		39,425.60
06/30/18	20.01	575		Depreciation Expense		268.72
06/30/18	20.01	575		Depreciation Expense		4,813.61
06/30/18	20.01	575		Depreciation Expense		1,223.53
06/30/18	20.01	575		Amortization Expense		1,723.13
06/30/18	20.01	149		Amortization Expense		(1,723.13)
06/30/18	20.01	149		Depreciation Expense		(1,223.53)
06/30/18	20.01	149		Depreciation Expense		(4,813.61)
06/30/18	20.01	149		Depreciation Expense		(268.72)
06/30/18	20.01	189		Amortization Expense		(39,425.60)
06/30/18	20.01	142		Depreciation Expense		(2,211.00)
06/30/18	20.01	146		Depreciation Expense		(5,874.75)
06/30/18	20.01	185		Amortization Expense		(4,166.67)
06/30/18	40.01	411		COGS 60.% Home Care		163,787.59
06/30/18	40.01	130.1		COGS 60.% Home Care		(163,787.59)
06/30/18	40.02	401		COGS 68% Ward Rd		384,547.55
06/30/18	40.02	130		COGS 68% Ward Rd		(384,547.55)
Transaction Balance						0.00

Transaction Totals

Total Debits	<u>4,603,964.10</u>
Total Credits	<u>4,603,964.10</u>
Account Hash Total	<u>81992.9000</u>

Exhibit “L”

Exhibit “L”

From: Elijanna Dixon
To: "twatts@dfokc.com"
Cc: Stuart Jessop; Eric Miller; Bernice Rodriguez
Subject: Davis | Tangible Assets
Date: Thursday, December 28, 2017 2:10:49 PM
Attachments: Davis - Tangible Assets of Value 12312016.xls
Importance: High

Good day Mr. Watts,

It was a pleasure speaking with you this morning.

Following up on our conversation regarding tangible assets, find attached the asset inventory list.

Please note the physical address of each item listed by updating the spreadsheet, alternatively provide your list with this information.

We appreciate this information by the end of the day today as discussed.

Kind regards,

Elijanna Dixon, BBA
President

P +1 (345) 814 3203 **M** +1 (345) 325 6712
Skype [edixon.aih](https://www.skype.com/user/edixon.aih)

Advantage Insurance
Advantage International Management (Cayman) Ltd.
Suite 5304, 18 Forum Lane, Camana Bay
P.O. Box 453, Grand Cayman
KY1-9006, Cayman Islands
www.aimcl.com.ky

DUNHAM000124

Advantage Insurance

29 December 2017

Terry Watts
Davis Family Office
514 West 26th Street Suite 3
East Kansas City, Missouri 64108

Dear Mr. Watts,

Custody of Physical Assets

Further to our conversation yesterday and my subsequent email I am writing to confirm that it is our intention to have all physical, tangible assets held under policy ACLI 1105-8007 ("**the Policy**"), as listed in the Asset Inventory sent to you by email on 28 December 2017 ("**the Assets**") placed in the custody of:

Artworks of Kansas City
3017 Gilham Rd
Kansas City
MO 64108
("**the Custodian**")

The Custodian was appointed with effect from 28 December 2017.

If you have previously disposed of any of the Assets, please provide us with evidence of sale showing the sale price and date. The proceeds of sale will be required to be held in an account for the Policy, in order that the value of these assets can be reflected in the next Policy Statement.

As discussed yesterday, we would appreciate your cooperation as representative of the Davis Family Office and therefore as representative of the Beatrice B. Davis Family Heritage Trust and FHT Holdings LLC in delivering all tangible Assets to the Custodian.

Yours faithfully,



Elinjanna Dixon
President

Advantage International Management (Cayman) Ltd.

Suite 5304, 18 Forum Lane, Camana Bay
10 Market Street, P.O. Box 453
Grand Cayman KY1-9006
Cayman Islands

Phone: +1 (345) 949 1599
Fax: +1 (345) 949 0520
info@aimcl.com.ky
www.aimcl.com.ky

DUNHAM000125

North American Fund, LDC
(the "Company")
Suite 5304, 18 Forum Lane, Camana Bay
P.O. Box 453, Grand Cayman
KY1-9006, Cayman Islands

February 1, 2018

Mr. T Watts and Mr. C Davis
C/O Davis Family Office
514 West 26th Street Suite 3
East Kansas City, Missouri 64108
twatts@dfokc.com
cdavis4108@gmail.com

Via Email & Registered Mail

Dear Sirs,

Re: Custody transfer of tangible assets

We refer to our letter of December 29, 2017, and the subsequent email from Elljanna Dixon dated January 11, 2018.

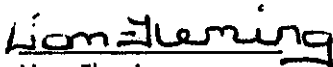
Both communications were addressed to Mr. Terry Watts at the Davis Family Office and requested that the custody of tangible assets held under Advantage Life Puerto Rico A.I. policy ACLI 1105-8007 (the "policy") be to Artworks of Kansas City (the "custodian") on or before January 31, 2018.

Having made reasonable attempts to contact Mr. Watts asking for assistance with the transfer and delivery of tangible assets to the custodian but having received no reply, we hereby provide you with (10) days' notice to comply with our request to transfer the tangible assets to the custodian on or before February 10, 2018.

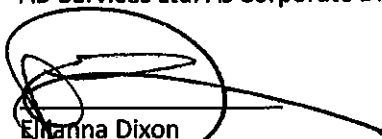
Should we not receive confirmation of receipt of all tangible assets held under the policy from the custodian on or before February 10, 2018, we will have no option but to deem these assets to be missing and file a report with the Kansas City Police Department. We will also concurrently file an insurance claim relating to the missing assets.

Should you have any questions please contact Elljanna Dixon at e.dixon@aimcl.com.ky or 1 (345) 814 3203.

Sincerely,



Liam Fleming
Director
AD Services Ltd. As Corporate Director to the Company



Elljanna Dixon
Authorized Signatory
ND Services Ltd. As Corporate Director to the Company

DUNHAM000126

From: Eljanna Dixon
To: twatts@dfokc.com
Cc: Francis Donoghue
Subject: Physical assets held under policy ALCI 1105-8007
Date: Thursday, January 11, 2018 4:33:00 PM
Importance: High

Dear Mr. Watts,

As per my letter dated December 29th, the custody of physical assets held under policy ALCI 1105-8007 are to be transferred to the newly-appointed Custodian, Artworks of Kansas City.

These assets are to be transferred to Artworks of Kansas City on or before **January 31, 2018**. All costs associated with said transfer and delivery will be reimbursed upon receipt of the invoice. Please confirm that you will assist us in this exercise, and provide details of the current whereabouts of the assets, along with anticipated dates of delivery of those assets to the Custodian.

Regards,

Eljanna Dixon, BBA
President

P +1 (345) 814 3203 **M** +1 (345) 325 6712
Skype edixon.aih

Advantage Insurance
Advantage International Management (Cayman) Ltd.
Suite 5304, 18 Forum Lane, Camana Bay
P.O. Box 453, Grand Cayman
KY1-9006, Cayman Islands
www.aimcl.com.ky

DUNHAM000127

**North American Fund, LDC
(the "Company")**
Suite 5304, 18 Forum Lane, Camana Bay
P.O. Box 453, Grand Cayman
KY1-9006, Cayman Islands

November 29, 2018

Mr. T Watts and Mr. C Davis
C/O Davis Family Office
514 West 26th Street Suite 3
East Kansas City, Missouri 64108
twatts@dfokc.com
cdavis4108@gmail.com

Via Email & Registered Mail

Dear Sirs,

Re: Custody transfer of tangible assets

We refer to our letter of December 29, 2017, and the subsequent email from Elljanna Dixon dated January 11, 2018.

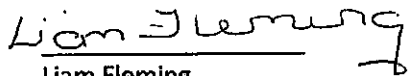
Both communications were addressed to Mr. Terry Watts at the Davis Family Office and requested that the custody of tangible assets held under Advantage Life Puerto Rico A.I. policy ACLI 1105-8007 (the "policy") be to Artworks of Kansas City (the "custodian") on or before January 31, 2018.

Having made reasonable attempts to contact Mr. Watts asking for assistance with the transfer and delivery of tangible assets to the custodian but having received no reply, we hereby provide you with (10) days' notice to comply with our request to transfer the tangible assets to the custodian on or before December 31, 2018.

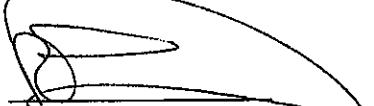
Should we not receive confirmation of receipt of all tangible assets held under the policy from the custodian on or before December 31, 2018, we will have no option but to deem these assets to be missing and file a report with the Kansas City Police Department. We will also concurrently file an insurance claim relating to the missing assets.

Should you have any questions please contact Elljanna Dixon at e.dixon@aimcl.com.ky or 1 (345) 814 3203.

Sincerely,



Liam Fleming
Director
AD Services Ltd. As Corporate Director to the Company



Elljanna Dixon
Authorized Signatory
ND Services Ltd. As Corporate Director to the Company

DUNHAM000128

Exhibit “M”

Exhibit “M”

North American Fund, LDC. Other Tangible Assets - Artwork #REF!

Per Dec 31, 2016 Financials

Art	US
Albert Payley, Chrysalis Vessel, Sculpture 1994	22,798.00
Antique Chest of Drawers - American Victorian Walnut - Three Drawers	574.00
Antique Syrian Table with Inlaid Ivory	2,000.00
Antique Vienna Art Deco Style Chairs from Christie's	1,980.00
Art Deco 1930's Style Armchair	2,000.00
Arthur & Bond Japanese Meiji Sterling Silver Repousse Tea Set	12,000.00
Balcani, Attila, Egyptian Print, Plate 3	480.00
Brandt, Railing	16,000.00
Bruce Wolfe - WMD Marquette	4,750.00
Caracalla, Statuette of a Muse, 3rd century B.C.	18,000.00
Charles Vignat, Art Deco Style Chairs, lacquered arm chairs by Jules Lallu 800E	12,600.00
Donald Dubowski (American, 1937-2010), Red Lacquered Dresser, 1993, 35 1/2 x 73 w x 21-1/4 d	17,815.00
Dutowski, Peonies, 1993, etched magnesium plate sculpture, 27 x 42 x 12 1/4	17,000.00
Edgar Brandt, (French, 1890-1960), Occasional Table (Titled His Highness), 1924, marble and wrought iron, 26-3/4 x 23 (diameter)	175,000.00
Edgar Brandt, (French, 1890-1960), Fabricator and Jacques-Emile Ruhlmann (French, 1879-1933), Designer, Balcony Railing, CA	1,500.00
Egyptian Print, from "Description de l'Egypte" Vol. 4 Plate 12	1,500.00
F. Leger, Decorated Plates - 9.5" Diameter	450.00
Facade Denderah, from "Description de l'Egypte" - Approx 32 x 17.5"	3,750.00
Fernand Leger print, Teie de Femme	
Gustav Klimt, Beethoven Frieze Fragments, color type prints, framing	10,620.00
Gustav Klimt, Judith II, Color Collotype, 1918	35,000.00
Gustav Klimt, Pallas Athena, 1918 - Portfolio Number 11 of 280	17,500.00
Gustav Klimt, Rooster Parade (Multiple color type prints), framing	10,000.00
Gustav Klimt, Studies of the Frieze at Palais Stoclet, four color type prints	6,000.00
Herman Max Pechstein, Head of a Fisherman, Woodcut (Kopf eines Seemannes)	3,600.00
Isak Flask	9,000.00
Japanese Paper Marche Figure	2,500.00
Jean Cocteau, Ceramic Plate - 6.75" diameter -1960	5,000.00
Jean Fautner, La Belle en Fer Blanche, 1950 - Print	9,071.00
Kikugawa Eizan, Five Holders of a Green House, Japanese Print	10,240.00
Kikugawa Shikamaro, Poetess Series, Courtesan Karuta of Chogyu, c. 1817	8,980.00
Kikugawa Umamaro, (1754-1867) drinking Sake from the series, Eight views of things we are fond of	9,000.00
Lighton, Orange Zrima, clay, China Paint, Soda Glaze, 2008	3,800.00
Marini, From Color to Form X, Lithograph 1989	9,000.00
Max Bill Serigraphs	1,500.00
Mothe of Pearl, Coromandel from Syria, 49w x 21 d x 48.6" h, from Leon Amar, Inc.	35,000.00
Pair of Turkish labour tables, late 18th Century, 17.25" diam by 16" High	16,000.00
Perrault, Palaces of the Kings, Colored Engraving of Paris - 25" x 19"	2,200.00

Latest List

Albert Payley, Chrysalis Vessel, Sculpture 1994	85,800.00
Antique Chest of Drawers - American Victorian Walnut - Three Drawers	733.00
Antique Syrian Table with Inlaid Ivory	2,000.00
Antique Vienna Art Deco Style Chairs from Christie's	1,980.00
Art Deco 1930's Style Armchair	2,000.00
Arthur & Bond Japanese Meiji Sterling Silver Repousse Tea Set	20,000.00
Balcani, Attila, Egyptian Print, Plate 3	480.00
Brandt, Railing	7,500.00
Bruce Wolfe - WMD Marquette	4,750.00
Unknown Greek Artist (Hellenistic Period) Statue of a Muse, terracotta with traces of pigment, 13-3/4 h (35 cm.) 3rd Century, B.C.E., from Southern Italy (perhaps Capri)	39,000.00
Copies of Vienna Art Deco Style Chairs - lacquered arm chairs by Jules Lallu 800E	4,888.00
Donald Dubowski (American, 1937-2010), Red Lacquered Dresser, 1993, 35 1/2 x 73 w x 21-1/4 d	10,000.00
Donald Dubowski, Peonies, 1993, etched magnesium plate sculpture, 27 x 42-1/2 x 11/4, signed and dated on the base	5,000.00
Edgar Brandt, (French, 1890-1960), Occasional Table (Titled His Highness), 1924, marble and wrought iron, 26-3/4 x 23 (diameter)	25,000.00
Edgar Brandt, (French, 1890-1960), Fabricator and Jacques-Emile Ruhlmann (French, 1879-1933), Designer, Balcony Railing, CA	7,500.00
Egyptian Print, from "Description de l'Egypte" Vol. 4 Plate 12	1,500.00
F. Leger, Decorated Plates - 9.5" Diameter	230.00
Facade Denderah, from "Description de l'Egypte" - Approx 32 x 17.5"	450.00
Fernand Leger print, Teie de Femme	2,500.00
Gustav Klimt, Beethoven Frieze Fragments, from Das Werk von Gustav Klimt, each image size 358 x 306 mm, both in unembellished white wood frames 510 x 460 mm	5,000.00
Gustav Klimt, Judith I, from Das Werk von Gustav Klimt, image size 315 x 158 mm, in an elaborate tooled gold leaf frame, 750 x 730 mm, signed lower left in the plate with the artist's square signed monogram bottom margin.	6,000.00
Gustav Klimt, Pallas Athena, from Das Werk von Gustav Klimt, image size 295 x 300 mm, in a gold leaf frame with "Pallas Sibene" at top, 570 x 550 mm, signed upper left in the plate with the artist's square signed monogram bottom margin.	5,000.00
Gustav Klimt, Rooster Parade, from Gustav Klimt, An Aftermath, ed. Max Elster, Vienna, Osterreichischer Staatdruckerei, 1931, 11-1/2 x 11-3/4, framed.	4,000.00
Gustav Klimt, Studies of the Frieze at Palais Stoclet, four color type prints	6,000.00
Herman Max Pechstein, Head of a Fisherman, Woodcut (Kopf eines Seemannes)	3,500.00
Isak Flask	9,000.00
Japanese Paper Marche Figure	2,500.00
Jean Cocteau, Ceramic Plate - 5.75" diameter -1960	5,000.00
Jean Fautner, La Belle en Fer Blanche, 1950 - Print	7,554.00
Kikugawa Eizan, (Japanese, 1787-1867), Bijin Tagasode of the Tamaya, from the series, five days of moon (crests) in the green houses (seiro utusisu month), circa 1830s, color wood block print, vertical open, 13 1/2 x 8 3/4 inches	5,000.00
Kikugawa Shikamaro, Poetess Series, Courtesan Karuta of Chogyu, c. 1817	2,800.00
Kikugawa Umamaro, (1754-1867) drinking Sake from the series, Eight views of things w	9,000.00
Lighton, Orange Zrima, clay, China Paint, Soda Glaze, 2008	3,800.00
Marini, From Color to Form X, Lithograph 1989	9,000.00
Max Bill Serigraphs	1,500.00
UNIDENTIFIED SYRIAN ARTS, Chest of Drawers, 19th century, hard wood with inlaid bone and mother of pearl, 42 h x 34 w x 21-1/2	30,000.00
Pair of Turkish labour tables, late 18th Century, 17.25" diam by 16" High	7,500.00
Perrault, Palaces of the Kings, Colored Engraving of Paris - 25" x 19"	1,277.00

Pierre le Faguy, Woman in stylized African style, bronze, 1928/1906	3,200.00
Pillau, Koun Ombou, 1845 Lithograph 10.75" x 16.75"	450.00
Pillau, Ruins at Luxor, 1845 Lithograph - 10.75" x 16.75"	450.00
Pillau, Ruins at Luxor, 1845 Lithograph - 10.75" x 16.75"	450.00
Richard Brown, Photographs - Silver Gelatins (83W) - 20" x 30"	3,198.00
Richard Brown, Photographs - Silver Gelatins (83W) - 20" x 30"	3,198.00
Roberts, Approach to the Fortress of Ibrim, Nubia, Pub. 1847, Tintstone Lithograph - 14.75" x 18.75"	1,680.00
Roberts, Descent Upon the Valley of the Jordan, Pub. 1841, Tintstone Lithograph - 14"	850.00
Roberts, Entrance to the Temple of Amun, Thebes, Pub. 1844, Tintstone Lithograph - 14"	1,200.00
Roberts, Entrance to the Temple of Amun, Thebes, Pub. 1844, Tintstone Lithograph - 14"	1,000.00
Roberts, Fragments of the Great Colossi at the Memnonian, Pub. 1847, Tintstone Lithograph - 14"	1,100.00
Roberts, Interior of the Mosque of the Melways, Pub. 1848, Tintstone Lithograph - 20.5" x 14.5"	2,800.00
Roberts, Interior of the Mosque of the Sultan El Ghorei, Pub. 1848, Tintstone Lithograph - 20.5" x 14.5"	2,800.00
Roberts, Medinet Abou Thebes, Pub. 1847, Tintstone Lithograph - 14.5" x 19"	1,780.00
Roberts, Mosque of Sultan Hassan, Cairo, Pub. 1848, Tintstone Lithograph - 14.5" x 21"	2,800.00
Roberts, Mount Cavalry, Pub. 1841, Tintstone Lithograph - 14" x 19"	1,200.00
Roberts, Sebaste Ancient Samaria, Pub. 1847, Tintstone Lithograph - 14.75" x 16.75"	1,000.00
Roberts, Tombs of the Califfs, Cairo, Pub. 1849, Tintstone Lithograph - 9.75" x 13.75"	500.00
Suzuki Harunobu, (Japanese, 1724-1770), Biji Parading, ca. 1760s, color wood block print, pillar print of two vertically joined pages, 26 3/4 x 5 1/2 inches	8,000.00
UNKNOWN SYRIAN ARTIST, Tabouret Table, 19th century, Damascus, hardwood with ivory and mother of pearl inlay designs, 19-3/8 x 16-1/2 (diameter)	10,000.00
Utagawa Yoshitora, ca. Biji, 1882, Pillar Print of two joined pages	1,550.00
Valdes Mando - Untitled Prints - graphite on tracing paper mounted	1,500.00
Van Millie, Landscape	1,725.00
Venetian Bombay Chest with Chinoiserie Painted Decoration and Trompe l'oeil Marble Top	1,500.00
Voice - 1986 Multi Media	1,500.00
Willour Niewald, Snopce Park I - 39 7/16 x 50 3/16 - 1983	10,340.00
Willour Niewald, Trees, 34 1/2 x 43 11/16 - 1982	9,304.00
VILMOS ZSOLNAY (Hungarian, 1828-1900), Vase with Lilies, ca. 1900, porcelain falence, 14-1/2 x 12-7/8 (diameter), from Zsolnay Porcelain manufacture (Pecs, Hungary, founded 1852)	12,000.00
Zsolnay, Steel Bowl w/ Red Lilies	437,948.00
Subtotal	609,619.00

Pierre le Faguy, Woman in stylized African style, bronze, 1928/1906	3,200.00
Pillau, Koun Ombou, 1845 Lithograph 10.75" x 16.75"	450.00
Pillau, Ruins at Luxor, 1845 Lithograph - 10.75" x 16.75"	450.00
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Roberts, Entrance to the Temple of Amun, Thebes, Pub. 1844, Tintstone Lithograph - 14"	1,200.00
Roberts, Entrance to the Temple of Amun, Thebes, Pub. 1844, Tintstone Lithograph - 14"	1,000.00
Roberts, Fragments of the Great Colossi at the Memnonian, Pub. 1847, Tintstone Lithograph - 14"	1,100.00
Roberts, Interior of the Mosque of the Melways, Pub. 1848, Tintstone Lithograph - 20.5" x 14.5"	2,800.00
Roberts, Interior of the Mosque of the Sultan El Ghorei, Pub. 1848, Tintstone Lithograph - 20.5" x 14.5"	2,800.00
Roberts, Medinet Abou Thebes, Pub. 1847, Tintstone Lithograph - 14.5" x 19"	1,780.00
Roberts, Mosque of Sultan Hassan, Cairo, Pub. 1848, Tintstone Lithograph - 14.5" x 21"	2,800.00
Roberts, Mount Cavalry, Pub. 1841, Tintstone Lithograph - 14" x 19"	1,200.00
Roberts, Sebaste Ancient Samaria, Pub. 1847, Tintstone Lithograph - 14.75" x 16.75"	1,000.00
Roberts, Tombs of the Califfs, Cairo, Pub. 1849, Tintstone Lithograph - 9.75" x 13.75"	500.00
Suzuki Harunobu, (Japanese, 1724-1770), Biji Parading, ca. 1760s, color wood block print, pillar print of two vertically joined pages, 26 3/4 x 5 1/2 inches	8,000.00
UNKNOWN SYRIAN ARTIST, Tabouret Table, 19th century, Damascus, hardwood with ivory and mother of pearl inlay designs, 19-3/8 x 16-1/2 (diameter)	10,000.00
Utagawa Yoshitora, ca. Biji, 1882, Pillar Print of two joined pages	1,550.00
Valdes Mando - Untitled Prints - graphite on tracing paper mounted	1,500.00
Van Millie, Landscape	1,725.00
Venetian Bombay Chest with Chinoiserie Painted Decoration and Trompe l'oeil Marble Top	1,500.00
Voice - 1986 Multi Media	1,500.00
Willour Niewald, Snopce Park I - 39 7/16 x 50 3/16 - 1983	10,340.00
Willour Niewald, Trees, 34 1/2 x 43 11/16 - 1982	9,304.00
VILMOS ZSOLNAY (Hungarian, 1828-1900), Vase with Lilies, ca. 1900, porcelain falence, 14-1/2 x 12-7/8 (diameter), from Zsolnay Porcelain manufacture (Pecs, Hungary, founded 1852)	12,000.00
Zsolnay, Steel Bowl w/ Red Lilies	437,948.00
Subtotal	417,948.00

GOVANA BAWISABEZHONIN NAWO GHOZOLNAY 1828-1900
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 BAWISABEZHONIN NAWO GHOZOLNAY 1828-1900
 BAWISABEZHONIN NAWO GHOZOLNAY 1828-1900

Exhibit “N”

Exhibit “N”

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**In the Matter of
The Beatrice B. Davis Family
Heritage Trust**

CASE NO P15-083867-T

Dept. No. 26

**Response to Petition re
Distributions From Trust to Primary
Beneficiary**

I Caroline D. Davis, declare the following to be true and correct.

I am over the age of 18.

My brother Chris Davis and I are the two primary beneficiaries of the Beatrice B. Davis Family Heritage Trust. My brother has filed a Petition seeking monthly distributions from this Trust. He failed to indicate that I recently purchased a 3 bedroom condominium in Sherman Oaks, California so that he and his wife and her teenage son would have stable housing. The closing was on June 4, 2019. (Exhibit #1). We entered into a written agreement allowing them to live there rent free. (Exhibit #2). I am also paying the Home Owners Dues which includes their water bill. As part of the purchase, I paid for inspections and also am paying for the addition of railings and grab bars to make the unit safer for Chris. So their biggest monthly expense has been removed.

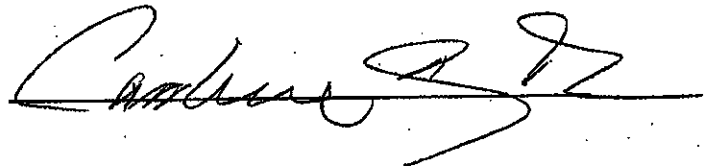
To date I have received \$0 from this Trust. Chris has received significant sums (several million dollars) in the past which were deemed "loans" although clearly he will not be paying them back. Chris has been reimbursed for his attorney's fees in connection with our litigation on this Trust. I have paid my fees out of pocket.

We are both primary beneficiaries of the Trust. As noted in Chris's Petition, his Exhibit 2, the Trust provides that a beneficiary can be given assistance for "The purchase of a residence which is modest and commensurate with the Primary Beneficiary's lifestyle." I have attached the Escrow Closing document for the condo I purchased for Chris. It cost \$853,654.23. The monthly HOA dues alone are \$575. (See Exhibit #1). The bank has advised me the monthly mortgage payment will run about \$3440.

If this Court is inclined to grant Chris any funds for distributions, I would ask that it match me dollar for dollar on monthly distributions so that I can receive a benefit from this Trust as well. We are both primary beneficiaries of the Trust.

I Caroline D. Davis declare under penalty of perjury that the above statement is true and correct. Signed in Seattle, Washington.

June 6, 2019

A handwritten signature in black ink, appearing to read 'Caroline D. Davis', written over a horizontal line.

Caroline D. Davis

CHARTWELL
 ESCROW

 Chartwell Escrow, Inc.
 150 S. Rodeo Dr. #120 Beverly Hills CA 90212
 Phone: (310) 246-1272
 Fax: (310) 246-1276
 Escrow Officer: Anthony Leonard


CWB32548-AL

Buyer's / Borrower's Settlement Statement - Final
Property: 14235 Dickens Street 7
 (Sherman Oaks Area) Los Angeles, CA 91423

Closed Date: 6/4/2019

Loan Number:
Disbursement Date: 6/4/2019

Escrow Number: CWB32548-AL

Buyer: Caroline D. Davis

	<u>Debits</u>	<u>Credits</u>
Purchase Price		
Purchase Price	\$849,000.00	
Deposits		
Earnest Money		\$25,470.00
Deposit by Buyer		\$826,684.23
Prorations		
County Taxes (Paid) 3,981.50/6 mos 6/4/2019 to 7/1/2019	\$597.23	
May HOA Monthly Dues 575.00/mo for 6/4/2019 to 7/1/2019	\$517.50	
Seller Credits Buyer		\$1,500.00
Escrow Charges		
Settlement or Closing fee	\$1,948.00	
HOA Processing	\$75.00	
Digital Archiving Fee	\$49.00	
FedEx/Overnight Fee	\$45.00	
Document Preparation	\$180.00	
Title Charges		
Sub-Escrow Fee	\$62.50	
Electronic Recording Fee	\$14.00	
Recording Fees / Transfer Taxes		
Recording Grant Deed	\$25.00	
Additional Settlement Fees		
HOA Dues July (Buyer) to 14235 Dickens Homeowners Association	\$575.00	
Proceeds or Balance Due		
Cash From/To Borrower	\$566.00	
Balance Due		\$0.00
Totals:	\$853,654.23	\$853,654.23

Save this Statement for Income Tax purposes.

Exhibit #1

DUNHAM000133

AGREEMENT FOR POSSESSION AND USE OF REAL PROPERTY

This Agreement for Possession of Use and Real Property is by and between Caroline Davis on the one hand and Chris and Tarja Davis on the other hand. The intent of this Agreement is to provide a residence for Chris and Tarja Davis to occupy and use for so long as Chris Davis is residing at the Subject Property (defined below).

Caroline Davis agrees that she will buy the real estate located at 14235 Dickens Street, #7, Sherman Oaks, California 91423 (the "Subject Property") for the use and enjoyment of Chris and Tarja Davis so long as Chris Davis is residing at such property and is neither deceased, nor living in an assisted living facility full time. At no time may Chris or Tarja Davis sublet the Subject Property. Caroline Davis will use her best efforts to purchase the Subject Property within sixty (60) days of this Agreement so as to facilitate the orderly transition with respect to Chris and Tarja Davis' current living conditions.

It is specifically agreed to by all parties herein that upon such time as Chris Davis is deceased or no longer resides in the Subject Property, (the "Triggering Event") that Tarja Davis' use of the property shall terminate subject to a grace period of sixty (60) days from the Triggering Event to find an alternative place to live. Tarja Davis specifically agrees that she hereby waives any and all rights to the contest the ability of Caroline Davis to cause her to leave within such sixty (60) day period and will not claim any sort of legal, equitable or other interest in the Subject Property. Tarja Davis further agrees that she will notify Caroline Davis within 24 Hours of a Triggering Event.

Chris and Tarja agree that they will abide by any rules of the condo association for the property where they are living. Caroline agrees she will provide them a copy of any such rules. Caroline will pay the Condo Association monthly fees and Chris and Tarja will be responsible

Exhibit #2

for any other utility costs for the Subject Property. Chris and Tarja agree they will not do any structural changes to the Subject Property nor will they do anything to damage or decrease the value of the property. If the Subject Property suffers damage from any cause, they will immediately notify Caroline. Chris and Tarja understand that any insurance Caroline has on the Subject Property does not cover their personal belongings and they are solely responsible for any renters' insurance they wish to obtain.

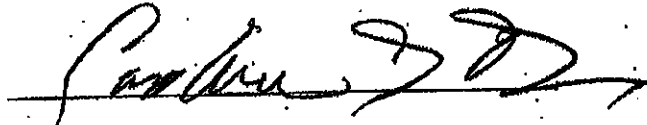
Tarja agrees that at the time she vacates the Subject Property she will leave it in as good a condition as it was when they moved into the Subject Property.

The Parties acknowledge that they have had a full and complete opportunity to have this Agreement reviewed by counsel of their choice and are fully competent to enter into the Agreement herein.

The Parties further agree that this Agreement may not be modified by any oral means and that any modification to this Agreement must be in writing and executed by all Parties to this

Agreement. The foregoing terms and conditions shall constitute the full terms and conditions of the Parties' Agreement regarding real and personal property and there are no other written or oral agreements between the Parties.

May 24, 2019



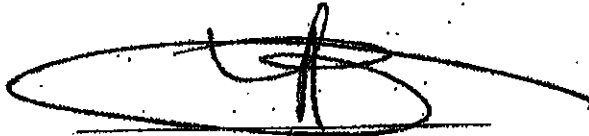
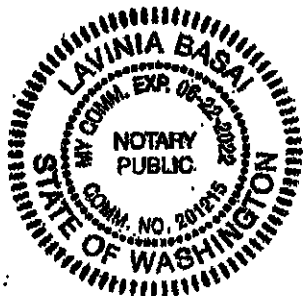
Caroline D. Davis

State of Washington

County of King

On this day personally appeared before me Caroline D. Davis and, to me known to be this individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the purposes therein mentioned.

Given under my hand and official seal this 24 day of May, 2019.



Notary Public in and for the State of

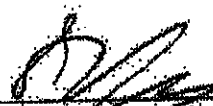
Washington, residing at

Washington

My commission expires

06-22-2022

Dated: May 24, 2019

By: 
Christopher Davis

State of California

County of

On this day personally appeared before me Christopher D. Davis and, to me known to be this individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the purposes therein mentioned.

Given under my hand and official seal this _____ day of May, 2019.

See attached acknowledgment

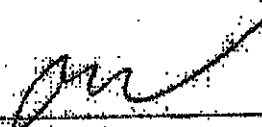
Notary Public in and for the State of California,

at

California

My commission expires

May 24 2019


Tarja Davis

State of California

County of

On this day personally appeared before me Tarja Davis and, to me known to be this individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the purposes therein mentioned. Given under my hand and official seal this day of May, 2019.

See attached acknowledgment

Notary Public in and for the State of California,

at

California

My commission expires

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

On May 20th, 2019 before me,

Trevor Ro, Notary Public

Here Insert Name and Title of the Officer

personally appeared

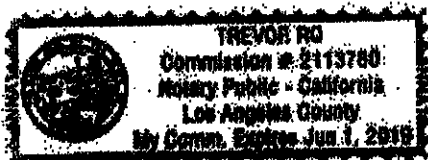
Christopher Davis and Tarja Davis

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Trevor Ro

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document:

Agreement

Document Date:

Number of Pages:

5

Signer(s) Other Than Named Above:

NONE

Capacity(ies) Claimed by Signer(s)

Signer's Name:

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other:

Signer is Representing:

Signer's Name:

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other:

Signer is Representing:

EXHIBIT "1"

Exhibit "1"

Rule 8. Stay or Injunction Pending Appeal or Resolution of..., NV ST RAP Rule 8

West's Nevada Revised Statutes Annotated

Nevada Rules of Court

Rules of Appellate Procedure (Refs & Annos)

II. Appeals from Judgments and Orders of District Courts

Nevada Rules of Appellate Procedure, Rule 8

Rule 8. Stay or Injunction Pending Appeal or Resolution of Original Writ Proceedings

Currentness

(a) Motion for Stay.

(1) *Initial Motion in the District Court.* A party must ordinarily move first in the district court for the following relief:

(A) a stay of the judgment or order of, or proceedings in, a district court pending appeal or resolution of a petition to the Supreme Court or Court of Appeals for an extraordinary writ;

(B) approval of a supersedeas bond; or

(C) an order suspending, modifying, restoring or granting an injunction while an appeal or original writ petition is pending.

(2) *Motion in the Court; Conditions on Relief.* A motion for the relief mentioned in Rule 8(a)(1) may be made to the Supreme Court or the Court of Appeals or to one of its justices or judges.

(A) The motion shall:

(i) show that moving first in the district court would be impracticable; or

(ii) state that, a motion having been made, the district court denied the motion or failed to afford the relief requested and state any reasons given by the district court for its action.

(B) The motion shall also include:

- (i) the reasons for granting the relief requested and the facts relied on;
- (ii) originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and
- (iii) relevant parts of the record.

(C) The moving party must give reasonable notice of the motion to all parties.

(D) In an exceptional case in which time constraints make consideration by a panel impracticable, the motion may be considered by a single justice or judge.

(E) The court may condition relief on a party's filing a bond or other appropriate security in the district court.

(b) Proceedings Against Sureties. If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the district court and irrevocably appoints the district court clerk as the surety's agent on whom any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the district court without the necessity of an independent action. The motion and any notice that the district court prescribes may be served on the district court clerk, who shall promptly mail a copy to each surety whose address is known.

(c) Stays in Civil Cases Not Involving Child Custody. In deciding whether to issue a stay or injunction, the Supreme Court or Court of Appeals will generally consider the following factors: (1) whether the object of the appeal or writ petition will be defeated if the stay or injunction is denied; (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay or injunction is denied; (3) whether respondent/real party in interest will suffer irreparable or serious injury if the stay or injunction is granted; and (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or writ petition.

(d) Stays in Civil Cases Involving Child Custody. In deciding whether to issue a stay in matters involving child custody, the Supreme Court or Court of Appeals will consider the following factors: (1) whether the child(ren) will suffer hardship or harm if the stay is either granted or denied; (2) whether the nonmoving party will suffer hardship or harm if the stay is granted; (3) whether movant is likely to prevail on the merits in the appeal; and (4) whether a determination of other existing equitable considerations, if any, is warranted.

(e) Stays in Criminal Cases; Admission to Bail. Stays in criminal cases shall be had in accordance with the provisions of NRS 177.095 et seq. Admission to bail shall be as provided in NRS 178.4873 through 178.488.

(f) Stay of Execution of Death Penalty. Immediately upon entry of an order of the Supreme Court staying execution of the death penalty, the clerk shall deliver copies thereof to the Governor of Nevada and to the warden of the Nevada State Prison.

Credits

Amended effective June 7, 2000; July 1, 2009; January 20, 2015.

Editors' Notes

ADVISORY COMMITTEE NOTES

The federal rule is revised to delete references to the federal courts and judges and substitute therefor reference to the Supreme Court of Nevada and its justices. The last sentence of subdivision (a) is revised to delete reference to the panel or division of the court, and to provide for an application for stay pending appeal normally to be considered by the court or a quorum thereof but in exceptional cases by a single justice.

Notes of Decisions (15)

Rules App. Proc., Rule 8, NV ST RAP Rule 8
Current with amendments received through June 1, 2019.

End of Document

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EXHIBIT "2"

Exhibit "2"

116 Nev. 650
Supreme Court of Nevada.

Fritz HANSEN A/S, Petitioner,
v.

The EIGHTH JUDICIAL DISTRICT COURT of the
State of Nevada, In and For the COUNTY OF
CLARK, and the Honorable Gary L. Redmon,
District Judge, Respondents,
and

Robert P. Gustavson, Ramparts, Inc., and
International Contract Furnishings, Inc., Real
Parties in Interest.

No. 35252.

|
Aug. 21, 2000.

Synopsis

Alleged tortfeasor petitioned for writ of prohibition challenging a district court order that denied its motion to quash service of process for lack of personal jurisdiction, and moved to stay district court proceedings pending resolution of the petition. The Supreme Court held that: (1) it would abrogate general/special appearance doctrine, and (2) petitioner was not entitled to stay.

Motion denied.

Attorneys and Law Firms

****983 *651** Hunterton & Associates and Terry John Care, Las Vegas; and Jones Day Reavis & Pogue and Jeffrey G. Close, Chicago, Illinois, for Petitioner.

Smith Larsen & Wixom and Stewart C. Fitts, Las Vegas; Law Office of V. Andrew Cass and Michael R. Hall, Las Vegas; and Amesbury & Schutt, Las Vegas, for Real Parties in Interest.

***652** BEFORE THE COURT EN BANC.

OPINION

PER CURIAM:

This is an original petition for a writ of prohibition challenging a district court order that denied a motion to quash service of process for lack of personal jurisdiction. Petitioner has filed a motion for a stay of the district court proceedings pending resolution of the petition so that it will not be forced to risk making a general appearance by answering the complaint filed against it. We conclude that the special/general appearance doctrine should be abrogated in light of the 1998 amendments to NRCP 12(b) and several recent decisions of this court, and that a stay is not warranted.

Real party in interest Robert P. Gustavson filed a complaint in the district court against real party in interest Ramparts, Inc., alleging that he was injured when a chair broke at its property, the Luxor Hotel and Casino. Ramparts then filed a third-party complaint against real party in interest International Contract Furnishings, Inc. ("ICF"), the vendor of the chair. ICF subsequently filed its own third-party complaint against the chair's manufacturer, petitioner Fritz Hansen A/S. Fritz Hansen moved to quash service of process, arguing that the district court lacked personal jurisdiction over it. Without holding an evidentiary hearing, the district court denied the motion. Shortly thereafter, ICF served a notice of its intention to take default; that same day, Fritz Hansen filed its petition in this court. Fritz Hansen later filed a motion in the district court for a stay of proceedings, pending resolution of the writ petition, which the district court denied. Fritz Hansen now seeks a stay in this court.

Fritz Hansen is understandably concerned that if the litigation proceeds and it answers the complaint to avoid entry of default, it ***653** will have been deemed to have made a general appearance, thus waiving its contention that the district court lacks jurisdiction over it. This court has long endorsed the special/general appearance doctrine, which is the basis for much confusion and complexity regarding jurisdictional defenses and procedures in Nevada.

Previously, we have explained that "[a] general appearance is entered when a person (or the person's attorney) comes into court as party to a suit and submits to the jurisdiction of the court. A special appearance is entered when a person comes into court to test the court's jurisdiction or the sufficiency of service." *Milton v. Gesler*, 107 Nev. 767, 769, 819 P.2d 245, 247 (1991). More specifically, "when a defendant requests a remedy in addition to relief from jurisdictional defects or defective service of process, the defendant enters a

general appearance and submits to the jurisdiction of the court.” *Id.* at 771 n. 6, 819 P.2d at 248 n. 6. On many occasions, we have held that litigants have undertaken some act that is inconsistent with appearing specially, thus subjecting themselves to the jurisdiction of the district court. *See, e.g., Davis v. District Court*, 97 Nev. 332, 629 P.2d 1209 (1981) (holding that objecting to a motion for leave to file a second amended complaint and seeking attorney’s fees as a condition for leave to amend the complaint was a general appearance); *Havas v. Long*, 85 Nev. 260, 454 P.2d 30 (1969) **984 (noting that filing a motion for summary judgment was a general appearance); *Rahn v. Searchlight Mercantile Co.*, 56 Nev. 289, 49 P.2d 353 (1935) (holding that signing a stipulation extending the time to answer or otherwise respond to a complaint was a general appearance).

The federal courts have concluded that the special/general appearance doctrine was abolished when they adopted Federal Rule of Civil Procedure 12, the origin of NRCP 12. The leading treatise on federal procedure observes:

Prior to the federal rules, the practice was to appear specially for the purpose of objecting by motion to the jurisdiction of the court, the venue of the action, or an insufficiency of process or service of process; a failure to follow the correct procedure for doing so often resulted in a waiver of the defense. There no longer is any necessity for appearing specially to challenge personal jurisdiction, venue, or service of process. This is made clear by the absence in Rule 12 of any reference to either a general or special appearance and the express provisions in subdivision (b) to the effect that every defense may be made either in the responsive pleading or by motion, and that no defense or objection is waived by being joined with any other defense or objection in a responsive pleading or motion. Thus, technical distinctions between general and special appearances have been abolished and no *654 end is accomplished by retaining the terms in federal practice.

5A Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1344 (1990) (footnotes omitted); *accord S.E.C. v. Wencke*, 783 F.2d 829, 832 n. 3 (9th Cir.1986) (noting that “Federal Rule of Civil Procedure 12 abolished the distinction between general and special appearances when the Federal Rules were adopted in 1938”).

When the Nevada Rules of Civil Procedure were adopted, however, NRCP 12 was modified from the federal rule so that it could co-exist with the special/general appearance doctrine. At that time, and until amendments in 1998, NRCP 12(b) provided that

[n]o defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion, except defenses numbered (2)-(4) [lack of jurisdiction over the person, insufficiency of process, and insufficiency of service of process] are waived if joined with one or more defenses other than defenses (2)-(4), or by further pleading after denial of such defenses.

Barnato v. Dist. Court, 76 Nev. 335, 338, 353 P.2d 1103, 1104 (1960). The *Barnato* court expressly rejected the notion that NRCP 12’s adoption abrogated the special/general appearance doctrine: “Rule 12(b) as adopted in this state has not changed the general rule in existence at the time of its adoption which is to the effect that a defendant who requests relief additional to that necessary to protect him from defective service of process renders his appearance general.” *Id.* at 340, 353 P.2d at 1105. Consequently, *Barnato* concluded that a defendant who had moved to dismiss on jurisdiction and insufficiency of service grounds had made a general appearance, thereby waiving the jurisdiction defense. *Id.*

Although this court strictly adhered to the reasoning in *Barnato* for many years,¹ we have more recently limited the application of the special/general appearance doctrine. For example, *Barnato* and its progeny were overruled by *Indiana Insurance Co. v. District Court*, 112 Nev. 949, 920 P.2d 514 (1996), which held that personal jurisdiction could be challenged by a motion to dismiss under NRCP 12(b)(2).² Similarly, *655 *Doyle v. Jorgensen*, 82 Nev. 196, 414 P.2d 707 (1966), which held that a motion under

****985** NRCP 60(b)(1) to set aside a judgment that was void for ineffective service was a general appearance, was later overruled by *Gassett v. Snappy Car Rental*, 111 Nev. 1416, 906 P.2d 258 (1995), which held that filing a motion to set aside a void judgment was not a general appearance.

Additionally, in another recent opinion, we determined that once the personal jurisdiction issue has been initially raised, the district court need not resolve it completely until trial. *Trump v. District Court*, 109 Nev. 687, 692–93, 857 P.2d 740, 743–45 (1993). In *Trump*, we explained that if a defendant challenges personal jurisdiction, the plaintiff may demonstrate jurisdiction in one of two ways. First, the plaintiff may establish personal jurisdiction over the defendant by preponderance of the evidence at an evidentiary hearing. Alternatively, the plaintiff may make a prima facie showing of jurisdiction before trial commences, and then must prove jurisdiction at trial by a preponderance of the evidence. *Id.*

Although we did not address the special/general appearance doctrine in *Trump*, we later stated that “so long as the personal jurisdiction issue is properly presented to the district court prior to trial, a defendant does not waive the right to challenge jurisdiction by making an appearance at trial and arguing the case on the merits.” *Hospital Corp. of America v. Dist. Court*, 112 Nev. 1159, 1161 n. 2, 924 P.2d 725, 726 n. 2 (1996).³ Thus, a conflict was created with respect to the procedure outlined in *Trump* and the doctrine of special/general appearances, as reflected in NRCP 12(b) as it then existed.

In 1998, following our decision in *Trump*, we amended NRCP 12(b) so that it became consistent with the federal rule. In particular, NRCP 12(b) was revised to provide that the defenses of lack of jurisdiction and insufficient process and service of process are *not* waived by being joined with other defenses and objections in a responsive pleading or pre-pleading motion. The rule now provides, in pertinent part, as follows:

Every defense, in law or fact ... shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:(2) lack of jurisdiction over the person, (3) insufficiency of process, (4) insufficiency of service of process No defense or objection is

waived by being ***656** joined with one or more other defenses or objections in a responsive pleading or motion.

NRCP 12(b).

In light of these changes to Rule 12(b), we now abrogate the doctrine of special/general appearances. As the Ninth Circuit has recognized, “the express language and purpose of Rule 12 ... seeks to consolidate all pre-trial defenses and objections by eliminating the distinction between general and special appearances.” *Martens v. Winder*, 341 F.2d 197, 200 (9th Cir.1965). The amendments to NRCP 12 have abolished

the age-old distinction between general and special appearances. A defendant need no longer appear specially to attack the court’s jurisdiction over him. He is no longer required at the door of the ... courthouse to intone that ancient abracadabra of the law, *de bene esse*, in order by its magic power to enable himself to remain outside even while he steps within. He may now enter openly in full confidence that he will not thereby be giving up any keys to the courthouse door which he possessed before he came in. This, of course, is not to say that such keys must not be used promptly.

Orange Theatre Corp. v. Rayherstz Amusement Corp., 139 F.2d 871, 874 (3d Cir.1944), *quoted in* Wright & Miller, § 1344, at 171. Because any technical differences between general and special appearances no longer exist under Rule 12, the doctrine has no remaining vitality in Nevada. It will no longer serve as a “trap for the unwary.” See Paul A. Bible, *Special Appearances[:] Trap for the Unwary*, 43 Inter Alia 16 (1978). Our conclusion today is consistent with the procedure ****986** outlined in *Trump* and *Hospital Corp.*, as well as our prior retreat from a rigid application of the general/special appearance doctrine.

Now, before a defendant files a responsive pleading such as an answer, that defendant may move to dismiss for lack

of personal jurisdiction, insufficiency of process, and/or insufficiency of service of process, and such a defense is not "waived by being joined with one or more other defenses." Alternatively, a defendant may raise its defenses, including those relating to jurisdiction and service, in a responsive pleading. Objections to personal jurisdiction, process, or service of process are waived, however, if not made in a timely motion or not included in a responsive pleading such as an answer.⁴ See NRCP 12(g) and (h)(1). Thus, to avoid waiver *657 of a defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process, the defendant should raise its defenses either in an answer or pre-answer motion. See NRCP 12; *Dougan v. Gustaveson*, 108 Nev. 517, 835 P.2d 795 (1992), *abrogated in part on other grounds by Scrimmer v. District Court*, 116 Nev. 507, 998 P.2d 1190 (2000).

Fritz Hansen's stay motion

This court's rules generally require a party to seek a stay in the district court before seeking a stay in this court. NRAP 8(a). While this rule applies on its face to appeals, the requirement is a sound one that should also apply to writ petitions when the order the petition seeks to challenge is one issued by a district court. Fritz Hansen fulfilled this requirement by unsuccessfully moving for a stay in the district court.

In deciding whether to issue a stay, this court generally considers the following factors:

- (1) Whether the object of the appeal or writ petition will be defeated if the stay is denied;
- (2) Whether appellant/petitioner will suffer irreparable or serious injury if the stay is denied;
- (3) Whether respondent/real party in interest will suffer irreparable or serious injury if the stay is granted; and
- (4) Whether appellant/petitioner is likely to prevail on the merits in the appeal or writ petition.

See NRAP 8(c); *Kress v. Corey*, 65 Nev. 1, 189 P.2d 352 (1948).

The object of the writ petition

First, the object of the writ petition will not be defeated if

the stay is denied. Fritz Hansen will not waive its jurisdictional defense by answering after its motion to quash was denied; as Fritz Hansen timely challenged jurisdiction, Rule 12's waiver provisions do not apply. Additionally, in denying Fritz Hansen's motion to quash without an evidentiary hearing, the district court presumably applied a prima facie standard of review, and the district *658 court implicitly ordered that the hearing and determination of personal jurisdiction be deferred to trial. See *Hospital Corp.*, 112 Nev. at 1161 n. 2, 924 P.2d at 726 n. 2; *Trump*, 109 Nev. at 692-93, 857 P.2d at 743-45. Hence, Fritz Hansen's appearance, after its motion to quash was denied, would not amount to a waiver of its challenge to the district court's jurisdiction. Accordingly, the first stay factor does not suggest that a stay is warranted.

Irreparable or serious harm

Fritz Hansen would not suffer irreparable or serious injury if the stay is denied. It argues that it should not be required to participate "needlessly" in the expense of lengthy and time-consuming discovery, trial preparation, and trial. Such litigation expenses, while potentially substantial, are neither **987 irreparable nor serious. See, e.g., *Dixon v. Thatcher*, 103 Nev. 414, 415, 742 P.2d 1029, 1029-30 (1987) (noting that, with respect to injunctive relief, irreparable harm is harm for which compensatory damages would be inadequate, such as the sale of a home at trustee's sale, because real property is unique); *Berryman v. Int'l Bhd. Elec. Workers*, 82 Nev. 277, 280, 416 P.2d 387, 389 (1966) (stating that with respect to harm, there should be a "reasonable probability that real injury will occur if the injunction does not issue"); see *Wisconsin Gas Co. v. F.E.R.C.*, 758 F.2d 669, 674 (D.C.Cir.1985) (noting that "[m]ere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay are not enough" to show irreparable harm) (quoting *Virginia Petroleum Job. Ass'n v. Federal Power Com'n*, 104 U.S.App.D.C. 106, 259 F.2d 921, 925 (D.C.Cir.1958)); cf. *Sobol v. Capital Management*, 102 Nev. 444, 446, 726 P.2d 335, 337 (1986) (concluding, in the context of an injunction, that "acts committed without just cause which unreasonably interfere with a business or destroy its credit or profits, may do an irreparable injury").

Additionally, it does not appear from the documents before us that ICF would suffer irreparable or serious injury if the stay were granted. Nevertheless, the underlying proceedings could be unnecessarily delayed by a stay, particularly where the district court has made only

a preliminary determination as to personal jurisdiction, and the issue remains for trial.

Likelihood of success on the merits

Finally, we conclude that Fritz Hansen has not shown that it is likely to prevail on the merits. Its argument, that this court may have erred in its discussion of certain personal jurisdiction principles in *Judas Priest v. District Court*, 104 Nev. 424, 760 P.2d 137 (1988), runs contrary to this court's well-established case law. *659 Thus, Fritz Hansen cannot be deemed likely to demonstrate that extraordinary relief is warranted. Although, when moving for a stay pending an appeal or writ proceedings, a

movant does not always have to show a probability of success on the merits, the movant must "present a substantial case on the merits when a serious legal question is involved and show that the balance of equities weighs heavily in favor of granting the stay." *Ruiz v. Estelle*, 650 F.2d 555, 565 (5th Cir.1981). Here, Fritz Hansen has not demonstrated that its writ petition raises a substantial legal question; additionally, the other stay factors do not militate in Fritz Hansen's favor. Accordingly, we deny Fritz Hansen's motion for a stay.⁵

All Citations

116 Nev. 650, 6 P.3d 982

Footnotes

- 1 See, e.g., *Silver v. Telerent Leasing*, 105 Nev. 30, 768 P.2d 879 (1989); *Deros v. Stern*, 87 Nev. 148, 483 P.2d 648 (1971); *Benson v. District Court*, 85 Nev. 327, 454 P.2d 892 (1969).
- 2 Even though in *Indiana Insurance* we held that a motion to dismiss for lack of personal jurisdiction was no longer a general appearance, we also continued to embrace the special/general appearance doctrine and stated that "[a] request for relief other than a challenge to the court's jurisdiction, ... such as a request for relief premised on the court's having jurisdiction over the parties, still constitutes a general appearance." *Indiana Insurance*, 112 Nev. at 951, 920 P.2d at 516.
- 3 The approach in *Trump and Hospital Corp.* is consistent with NRCP 12(d), which provides that "[t]he defenses specifically enumerated [in NRCP 12(b)(1)-(6)], whether made in a pleading or by motion ... shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial."
- 4 Defenses under NRCP 12(b) are subject to waiver if not raised promptly. NRCP 12(g) provides that any Rule 12 motion may be joined with any other Rule 12 motion, but that if a defense or objection is omitted from a motion, the movant may not later make a motion based on the omitted defense or objection. NRCP 12(h)(1) explains that defenses relating to jurisdiction and sufficiency of process or service of process are generally waived if not raised "by motion under this rule [or] included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course."
- 5 On January 31, 2000, we granted a temporary stay in order to consider Fritz Hansen's motion. In light of our decision, we vacate the temporary stay.

EXHIBIT "3"

Exhibit "3"

65 Nev. 1
Supreme Court of Nevada.

KRESS
v.
COREY et al.

No. 3423.
|
Jan. 12, 1948.

Synopsis

Appeal from District Court, Eighth District, Clark County; George E. Marshall, Judge.

Action by M. C. Kress against Gus D. Corey and others for a declaratory judgment, and other relief. From a judgment dismissing the complaint, plaintiff appeals.

Reversed and case remanded with instructions.

Attorneys and Law Firms

****353** *3 Morse & Graves, of Las Vegas, for appellant.

Thruston & McNamee, of Las Vegas, for Gus D. and John D. Corey, respondents.

Lewis & Hawkins, of Las Vegas, for Arthur C. and Harry C. Pauff, respondents.

Opinion

BADT, Justice.

Plaintiff in the court below, M. C. Kress, has appealed to this court from the order and judgment of the lower court dismissing his complaint for a declaratory judgment, ****354** assigning error, among other things, in the sustaining of the general and special demurrers of the defendants Gus D. Corey and John D. Corey and of the defendants Arthur C. Pauff and Harry C. Pauff. Other errors are assigned and will be discussed later. The case is the first one to reach this court in which there has been brought into question the right of a plaintiff to seek relief under the uniform declaratory judgment ***4** act by reason of the various relationships existing between the parties as alleged by the plaintiff.¹

Plaintiff's original complaint, denominated 'complaint for a declaratory judgment,' sought a declaration of plaintiff's rights and liabilities under an executory written contract set forth as an exhibit wherein the defendants Corey undertook to sell and the plaintiff and one C. B. Turner, not named as a party to the action, undertook to buy a going restaurant and cafe business, the merchandise, personal property and fixtures appertaining thereto and the unexpired term of the lease of the premises held by defendant Gus D. Corey as assignee of the original lessee of the defendants Pauff.

Plaintiff prayed for a declaration determining the validity of this contract and the respective rights of the parties thereto as against the claim of the defendants Pauff that said contract was in breach of a purported covenant in their lease with defendant Gus Corey, prohibiting assignment or underletting without the written ***5** consent of the lessors. Declaration of the rights and liabilities of the parties under ****355** the lease was also sought. Injunctive relief and general equitable relief were also prayed.

Upon application of plaintiff, the district court issued a preliminary injunction, enjoining the defendants, pendente lite, from interfering with plaintiff's peaceful use and occupation of the premises in controversy and the personal property located thereon, and restraining the defendants from negotiating or otherwise hypothecating a certain promissory note in the sum of \$17,442.48, payable at the rate of \$1,000.00 per month, which had been executed by plaintiff in part payment of the purchase price under the disputed agreement, the note then being in the possession of defendant bank as security for a ***6** certain indebtedness of the Coreys to the bank. On the same day, the district court made its order, providing that, pending the further order of the court, the plaintiff should deposit with the clerk of the court, certain sums falling due each month under the provisions of the contract of sale between plaintiff and the defendants Corey in lieu of making such payments to them.

Thereafter, plaintiff having by leave of court filed an amended complaint, the defendants Corey and the defendants Pauff separately filed their general and special demurrers thereto. In substance, the demurrer of the defendants Corey was directed to the sufficiency of the complaint to state a cause of action against them for declaratory or equitable relief or otherwise, in view of the asserted absence of a justiciable controversy. The Pauff demurrer averred in addition a misjoinder of parties defendant and a misjoinder of causes of action, in the absence of a showing of privity of contract between

plaintiff and said defendants or community of interest in any question of fact or law. The defendants Corey also filed their notice of motion to strike certain portions of the amended complaint and their notice of motion to dissolve the preliminary injunction and to vacate or set aside or modify the order directing deposit in court. The defendants Pauff filed their separate notice of motion to dissolve the preliminary injunction. Defendant First National Bank of Nevada failed to appear or plead and its default was duly entered. Plaintiff filed a notice of motion to continue in full force and effect, pendente lite, the preliminary injunction and the order directing the deposit of monies with the clerk of the court, which motion the court granted. After hearing, the court made its order and judgment sustaining the demurrers of the defendants Corey and the defendants Pauff to plaintiff's amended complaint without leave to amend, dismissing the action, dissolving the temporary injunction, and releasing the deposits paid into court by plaintiff.

*7 The amended complaint alleged that on or about March 26, 1940, defendants, Arthur C. Pauff, and Harry C. Pauff, as fee owners of the real property in controversy, entered into a ten year lease of the premises with one G. C. Christopher, terminating May 1, 1950, and providing for a rental of \$170 per month, this lease being embodied in a written instrument, pleaded in haec verba as plaintiff's Exhibit 'A'; that plaintiff had never been furnished with an original or duplicate original of the lease, but only with what purported to be a typewritten copy of said lease bearing the typewritten signature of said G. C. Christopher but bearing no signature of the Pauffs whatsoever; that this typewritten copy does not contain as a term or condition that the lessee shall not 'let or underlet the whole or any part of said premises,' but that plaintiff has been informed that such term was included in the original lease; that in view of these facts, plaintiff does not know whether or not this alleged term is in fact one of the terms of the lease; that on or about December 25, 1940, Christopher made a written assignment of the lease to defendant Gus D. Corey with the written consent of defendants Pauff; that, thereafter, defendants Gus D. Corey and John D. Corey entered into possession and occupation of the demised premises, operating thereon a restaurant and cafe business.

That on April 5, 1943, defendants Corey entered into an instrument in writing with plaintiff and with defendant C. B. Turner, to whose interest thereunder plaintiff has since succeeded; that by the terms of this instrument, pleaded in haec verba as plaintiff's Exhibit 'B,' plaintiff and Turner, as **356 buyers, paid to defendants Corey, as sellers, the sum of \$7,000 cash, signed a promissory note in favor of defendants Corey in the sum of \$17,442.48, payable at the rate of \$1,000 per month with interest at the rate of 5 per

cent per annum, and agreed to pay, on account of defendants Corey, the sum of \$1,067.52 to the First Industrial Loan Company *8 of California, or a total consideration of \$25,510; that it was mutually understood and agreed by the parties to this instrument that the consideration for this \$25,510 paid, and agreed to be paid, by the buyers, consisted solely of the value of the unexpired term of the lease, and of the value of the restaurant and cafe business being conducted upon said premises together with such merchandise, furniture, furnishings, fixtures and equipment as pertained thereto, which it was contemplated that the buyers would take over as a going concern and operate as such for the full unexpired term of the lease; that 'the entire consideration of \$25,510.00 was mutually predicated upon the mutually assumed fact that the defendants, Gus D. Corey and John D. Corey, could legally contract to sell and plaintiff could legally contract to purchase the entire unexpired term of said lease and said business as a going concern, and that plaintiff could legally continue to operate the same as a going business and have legal and peaceful possession of said premises to and until May 1, 1950 at a rental of \$170 per month, being the unexpired term of the said Gus Corey lease.'

That by the further terms of the agreement of April 5, 1943, the sellers undertook to have the lease of the demised premises assigned to the buyers, but with the further proviso that in the event that the owners should refuse to consent to such assignment 'nevertheless, in such event, it shall not affect, diminish, or nullify this agreement or the terms thereof, but the sellers shall allow the buyers to occupy the said premises under the terms of said lease without further consideration to sellers as if buyers were the assignees thereof, provided buyers pay to said Gus Corey the rentals in amount, time and manner provided for therein, which sellers agree to pay to the person or persons entitled thereto under said lease'; that the sellers undertook further, within sixty days, to deliver to the escrow holder, *9 defendant First National Bank of Nevada, a corporation, either the lease of the demised premises assigned to the buyers, or, in lieu thereof, the affidavit of the sellers that the owners of the premises refused to consent to an assignment of the lease; that the promissory note executed by the buyers in part payment of the consideration should be deposited with defendant corporation for collection, with the proviso that when said note had been paid in full, defendant corporation, as escrow holder, should deliver to the buyers sellers' bill of sale, affidavit showing compliance with the Bulk Sales Law, and the assigned lease, or in lieu thereof, the affidavit of sellers above mentioned; that it was further provided in said agreement that time should be the essence of the contract, that 'the property in the business, lease and goods sold' should vest in the buyers only upon

payment in full of the purchase price and complete performance by them of all other terms and conditions by them agreed to be performed, and that should any default be made in said payments or performance by the buyers of other terms and conditions, the sellers might at their option, either enforce payment of the entire unpaid balance under said agreement, or forfeit the interest of buyers under said agreement, reenter upon said premises, and retain as liquidated damages all sums theretofore paid by buyers under said agreement.

The amended complaint alleged performance by plaintiff, as well as his continuous possession and payment of rent; that after the order referred to all payments were deposited with the clerk of the court, and that he was ready, able and willing to continue to perform.

The amended complaint further alleged breach by the defendants Corey, and/or failure of consideration thereunder, in the following particulars: that they did not within the time specified notify the land lords, defendants Pauff, concerning the sales transaction between *10 themselves and plaintiff, but did, at some later date, make a colorable request upon said defendants Pauff to consent to an assignment of the lease to plaintiff; that prior to said request, however, and at times subsequent thereto, **357 defendants Corey asked defendants Pauff to disregard their formal request for consent to assignment of the lease and to refuse to give their consent thereto; that to influence the defendants Pauff to withhold their consent to assignment of the lease, defendants Pauff falsely represented that plaintiff was irresponsible, was running down the business, and that defendants Corey would be compelled to repossess said business and premises; that defendants Pauff were influenced by said representation to withhold their consent to assignment of the lease; that consequently there has been a partial failure of consideration, consisting of the reasonable value of eighteen months of the unexpired term of said lease which plaintiff will lose in the event that plaintiff should be compelled to enter into a new lease with defendants Pauff, as thereafter alleged; that the reasonable value thereof, and plaintiff's damage therein, is the sum of \$30,000; that by reason of said actions of defendants Corey, in breach of their agreement with plaintiff, there has been a failure of consideration in regard to so much of the agreement of April 5, 1943, as provided that in the event of refusal of the owners of the demised premises to agree to assignment of the lease, the sellers, defendants Corey, would nevertheless permit the buyers to occupy said premises 'provided buyers pay to said Gus Corey the rentals, in the time and manner provided therein, which sellers agree to pay to the person or persons entitled thereto under said lease'; that the terms and provisions of the agreement of April 5, 1943, aforesaid, have been

rendered impossible of performance by reason of the refusal of the defendants Pauff to accept such rentals from defendants Corey, and that in consequence thereof said agreement should be reformed in this regard; that the Coreys refused to *11 accept the August, 1943 rent and instructed plaintiff to send it to the Pauffs, who in turn refused to accept it, but served the Coreys with a notice of termination of their lease upon the ground that they had assigned or sublet without the prior written consent of defendants Pauff, in violation of the lease; that, after receiving said notice of termination from defendants Pauff, defendants Corey nevertheless demanded that plaintiff pay to them the sum of \$340 as rental upon said premises for the months of August and September and informed plaintiff that unless said rentals were immediately paid to them they would declare a forfeiture of their agreement of April 5, 1943; that, pursuant to this demand and threat, plaintiff paid the Coreys \$340, which they kept; that they did not within sixty days deposit in escrow their affidavit of refusal of defendants Pauff to consent to assignment of the lease, but did, at some subsequent date unknown to plaintiff, and after their acts and conduct had influenced defendants Pauff to refuse to give their consent thereto, deposit said affidavit, in escrow; that by reason of said acts and conduct of defendants Corey, said affidavit was meaningless and ineffectual.

That at a time subsequent to serving upon defendants Corey their notice of termination of the lease, to wit, on or about October 4, 1943, defendants Pauff orally offered to enter into a new lease with plaintiff for a five year term commencing October 1, 1943, at a monthly rental of \$225 per month; that said offer is still subsisting; that plaintiff, although willing to enter into such new lease with defendants Pauff, cannot safely do so without the determination of the court that his contract with defendants Corey is no longer valid and binding, inasmuch as defendants Corey, in the absence of such judicial determination, will attempt to pursue the remedies of forfeiture and reentry provided in their agreement, and it will become necessary for plaintiff to contest their right so to do in protracted litigation *12 with the ultimate decision in doubt; that on October 14, 1943, defendants Pauff served upon plaintiff their three day notice, demanding that plaintiff surrender to them the immediate possession of said premises, and notifying plaintiff of their intention, in the event of his failure to do so, to institute legal proceedings for recovery of possession of the same.

The amended complaint further alleged that 'all questions and controversies that have arisen between the parties to this action * * * can be and should be settled, adjudged and adjudicated in this one action, and that it is essential

to promote **358 the ends of justice that this entire controversy should be determined in this one proceeding so that the rights and duties of all parties interested may be finally settled and adjudicated.' The amended complaint also alleged lack of an adequate remedy at law. By reason of the facts alleged, the following relief was prayed: 1. Continuance of the restraining order pendente lite. 2. Continuance pendente lite, of the order for payment into court. 3. For an injunction, pendente lite, to restrain defendants Corey and defendant bank from assigning or otherwise hypothecating the promissory note executed by plaintiff and Turner. 4. That after hearing upon the merits, the temporary injunction be made permanent, and that plaintiff be adjudged to be in lawful and peaceful possession of the premises either 'under the terms and conditions of the instruments in writing hereinbefore referred to or under the proposed lease agreement' between plaintiff and defendants Pauff. That the court 'determine the liability of said plaintiff to the respective defendants herein, and construe and determine the instruments set forth and described herein, and terminate the uncertainty and controversy giving rise to the proceedings herein,' and determine all equities and liabilities as between plaintiff and defendants and as among the defendants themselves. 5. That in the event that total failure of consideration should be adjudged, *13 that the agreement between plaintiff and defendants Corey should be canceled and annulled, and that in the event that partial failure of consideration should be adjudged, the extent thereof should be ascertained and set off against the remaining indebtedness of plaintiff to defendants Corey, if any. 6. For a money judgment against defendants Corey in the sum of \$25,000. 7. For other and further relief and costs of suit against such defendant or defendants as may be proper.

The record on appeal discloses sundry additional motions and proceedings attacking the amended complaint and having to do with the temporary restraining order above referred to. At one state of the proceedings the defendants Corey served and filed a 'Notice of Motion to abate or dismiss' the action upon the ground that the dispute controversy or question asserted in the amended complaint had become moot, for the reason that after the filing of said amended complaint the said defendants Corey had, as plaintiffs, commenced an action against Kress and Turner growing out of the matters embraced in the amended complaint, and that such action was still pending; that the matters alleged in the amended complaint herein were in any event of a defensive nature, and could be asserted in defense of the said subsequent action. This motion was thereafter denied by the court, but solely upon the ground that the same had not been noticed in compliance with the requirements of Rule X of the Rules of the District Court, and without prejudice. The

record discloses that the respective demurrers to the amended complaint were orally argued at length and supported by written briefs. The record does not disclose any formal opinion or decision by the learned district judge in support of the orders complained of other than the clerk's minutes from which it appears that the court ordered that the demurrer of the defendants Corey to the amended complaint be sustained without leave to amend 'upon the ground that the amended complaint *14 does not state facts sufficient to constitute a cause of action against the defendants or either of them and upon the further grounds that there is a defect or misjoinder of parties in that it appears that the First National Bank of Nevada, a corporation, has no community of interest whatever in said litigation, and that joinder of the defendant Arthur C. Pauff and Harry C. Pauff, if there is a cause of action against either of them, it is upon entirely different grounds, and that there is a misjoinder by joining said Arthur C. Pauff and Harry C. Pauff * * *.' In all other particulars the demurrer was overruled. The court further ordered that the demurrer of defendants Pauff 'upon the grounds that the amended complaint does not state facts sufficient to constitute a cause of action against them or either of them, is sustained without leave to amend.' The same minutes indicate the court's order made at the same time that all monies theretofore deposited with the clerk under the former order be released **359 and returned to the plaintiff, and that the injunction theretofore issued be dissolved. The same minutes also show the following: 'Further Ordered that this action be, and the same is hereby dismissed and the defendants may have their costs of suit incurred.' Notice of these orders was given by quoting the same in full.

The notice of appeal recites that the appeal is taken from such order 'and the whole thereof, and each and every part thereof' and thereupon again recites in full the order complained of.

As there is no appeal from an order sustaining a demurrer, the purported appeal from the order sustaining the demurrers is hereby dismissed. N.C.L., 1931-1941 Supp., § 9385.60.

Counsel's opening brief (apparently in compliance with the requirement of § 9385.93, N.C.L., to the effect that appellant shall in his opening brief state his points and such errors as he shall rely on) recites: 'This appeal is taken from the order of the court of *15 August 11, 1944, sustaining defendants' demurrers to plaintiff's amended complaint without leave to amend and dismissing plaintiff's action.' This leaves for the consideration of this court the appeal from the judgment of dismissal, with consideration, of course, of the error assigned in the sustaining of the demurrers without leave to amend. The

appeal from that part of the order that dissolves the temporary injunction and releases to the plaintiff the funds deposited with the clerk under the prior order of the district court, will, accordingly, not require attention except insofar as it is affected by the order of this court heretofore made denying the application of the appellant for an order for a writ of supersedeas.

The statement contained in appellant's opening brief to all intents and purposes limits the appeal to the judgment of dismissal. However, the court made its order denying plaintiff's application for a writ of supersedeas, upon the stipulation of counsel that an order might be made and the court's opinion filed later. Such opinion, prepared by Honorable Harry M. Watson, district judge, commissioned by the Governor to sit with the court in this case by reason of the disqualification of Honorable Charles Lee Horsey, associate justice, is hereby adopted by the court in support of the order denying the application for supersedeas.

OPINION ON MOTION FOR SUPERSEDEAS.

'As to the Notice of Motion to Dismiss the motion for a writ of supersedeas and the Demurrer to such motion, it not having been pointed out wherein appellant Notice of Motion is in violation of any Supreme Court Rule, or is contrary to precedent, and a motion to strike a motion being unusual procedure to say the least, they are given consideration as is the Response, only as they bear upon whether the appellant's motion should or should not be granted.

'It is contended by appellant that the perfecting of *16 the appeal and providing the \$300.00 appeal undertaking stays all proceedings in the case, and that the preliminary injunction issued and later dissolved by the trial court therefore remains in full force and effect, thereby enjoining the action of Arthur C. and Harry C. Pauff against appellant and respondents. In support of this he relies largely on *Gottwals v. Rencher*, 60 Nev. 35, 92 P.2d 1000, decided in 1939. It would naturally follow, it seems, that appellant would have the same contention apply to the other cases pending or threatened, which he asks to be stayed.

'The action appealed from was for a declaratory judgment, determining the legality and effect of, variously; a lease, or leases, agreement of sale, or proposed lease agreement, and various conduct of various parties, the rights and obligations of the various parties

plaintiff and defendant and each of them, and praying consequential or corrective relief.

'By order of the trial court appellant and plaintiff paid to the clerk of the court installments and ground rents as of the due dates alleged in the complaint for declaratory relief. The court order provided these payments should be in lieu of payments to be made the Coreys by agreement of April 5, 1943. The Coreys were likewise restrained from endorsing or assigning the note in question.

****360** 'Defendants were enjoined by temporary injunction from doing any act to disturb the peaceful possession of plaintiff appellant and the conduct of his business at the cafe. This was dissolved when the demurrers were sustained without leave to amend.

'The question here to be determined is whether appellant is entitled to writ of supersedeas as prayed. 'Except where the court is bound to allow a supersedeas or stay as a matter of right (as where supersedeas or stay is the subject of express statutory provisions (3 C. J., Appeal and Error, § 1397, page 1274), an order *17 for a supersedeas or stay will only be granted on good cause shown and where a proper case for exercise of the court's discretion is made out.' 3 C. J., § 1411, page 1290. *Idem*: 'As a rule a supersedeas or stay should be granted, if the court has the power to grant it, whenever it appears that without it the objects of the appeal or writ of error may be defeated, or that it is reasonably necessary to protect appellant or plaintiff in error from irreparable or serious injury in the case of reversal, and it does not appear that appellee or defendant in error will sustain irreparable or disproportionate injury, in case of affirmance * * * on the other hand, as a rule, a supersedeas or stay will not be granted * * * unless it appears to be necessary to prevent irreparable injury or a miscarriage of justice.' [See, also, 4 C.J.S., Appeal and Error § 636].

'The contention of appellant that the preventive temporary injunction dismissed by the trial court had the breath of life breathed into its dead lungs, by the mere formality of providing necessary undertaking for, and perfecting an appeal, does not find support by the authorities reviewed. In *Hicks v. Michael et al.*, 15 Cal. 107, in an appeal from an order refusing an injunction, the simple question is presented, whether an appeal from an order of this character can operate to create an injunction, or prolong a restraining order, until the ruling of the judge can be reviewed by the appellate court. 'It is clear that no such effect can be given to an appeal, even when the most ample bond of indemnity is tendered. Where an injunction has been refused, there is nothing operative. A stay can only be sought of that which has an existence, and by its operation is supposed to work injury to appellant. It is

therefore, from the nature of the case, only of orders or judgments which command or permit some acts to be done, that a stay of proceedings can be had. (Merced Mining Co. v. Fremont, 7 Cal. 130, 132.) Nor can an appeal operate *18 to create an injunction under any circumstances. * * * We think the restraining order expired by its own limitation; but for the purposes of the argument, we will regard the order as a temporary injunction and the appeal as being made from an order dissolving the same. The plaintiff is in no better condition upon this hypothesis. An appeal does not revive an injunction once dissolved. * * * if the injunction could be revived by the mere act of the party in filing an appeal, it would be giving to him, not only a power of control over the orders of the court, but of creating an injunction. (citing Wood v. Dwight, 7 Johns. Ch., N.Y., 295) * * * Supposing (an appeal) can be sustained, it is impossible that a process that is duly discharged, and functus officio, can be revived by the mere act of the party. How could this court undertake to enforce the process, and punish contempts of it, in the very face of the order dissolving it? (citing Hoyt v. Gelston, 13 Johns. N.Y., 139) When a process is once discharged and dead it is gone forever; and it can never be revived, but by a new exertion of judicial power.'

'An order dissolving an injunction is self-executing, and is not superseded by filing an appeal bond. 32 C.J., Injunctions, § 735, n. 18; 43 C.J.S., Injunctions, § 255; Manning v. Poling, 144 Iowa 20, 83 N.W. 985.

'A judgment not requiring or permitting, the doing of any act will not be superseded, there being nothing on which the writ can operate in the relief or aid of appellate jurisdiction. Lickley v. Board of Education of Los Angeles County, 62 Cal.App. 527, 217 P. 133; Southern Pacific Co. v. Smith, 171 Cal. 8, 151 P. 426; Tyler v. Presley, 72 Cal. 290, 13 P. 856; **361 Erickson v. Municipal Court, 131 Cal.App. 327, 21 P.2d 480. When the judgment is rendered, and no process is required to be issued for its enforcement, no supersedeas is allowed. In fact, there is no necessity for such writ. There is nothing to stay or supersede.

*19 'To the same effect is, In the Matter of M. O. Graves, 62 Cal.App. 168, 216 P. 386, 387, ' * * * The general rule, therefore, is that supersedeas will not issue where the judgment does not command or permit any act to be done, or where it is not of a nature to be actively and affirmatively enforced by execution or otherwise.'

'Nor do we feel that Gottwals v. Rencher, supra, would sustain appellant's contention. The receiver appointed in the court below made sale as ordered by the court, and filed his return and account of sale and petitioned for order confirming and approving said sale. Appellant there

moved the court below for an order staying the hearing of return, account and petition, vacating the order setting said hearing, vacating said sale and for writ of supersedeas, which motion was denied. The appeal had been perfected before the sale, and notice thereof given respondents and the receiver through their attorneys, with a demand that they desist from further acts and proceedings with reference to said sale. Upon this state of facts the Supreme Court ordered a stay of proceedings for confirmation of sale, and vacated the order for such hearing, pending the appeal. In that case the order below required the doing of some act, i. e., that the receiver have the sale confirmed, as required by law. There was something on which the writ could operate and stay, something to be actively and affirmatively enforced, unless stayed. We point out that the court did not vacate the sale, as prayed, even though made after appeal had been perfected, there being nothing with reference to the actual sale then pending, on which the writ could operate. A writ of supersedeas will not function as a writ of certiorari or writ of mandamus. The remedy of supersedeas is usually regarded as injunctive or prohibitive in character and not corrective. Craig v. Stansbury, 37 Cal. App. 668, 174 P. 404.

'It follows therefore that supersedeas could not *20 function to effect a revival or reinstatement of a temporary, prohibitive injunction, once dissolved.

'The contention that the injunction enjoined the bringing of any action against appellant concerning matters involved in the case appealed is likewise, we think, untenable. An injunction should be so clear and certain that a party may readily know what he is restrained from doing and that he must obey it at his peril. 32 C.J., Injunction, § 620, p. 369, 43 C.J.S., Injunctions, § 206; Summers v. Farish, 10 Cal. 347. The restraining order here makes no reference to litigation, multitudinous, vexatious or otherwise. If the temporary injunction could be restored, it would therefore have no such effect as contended for by appellant.

'We think that Dodge Brothers, Inc. v. General Petroleum Corporation of Nevada, 54 Nev. 245, 10 P.2d 341, 13 P.2d 218; Lovelock Mercantile Co. v. Lovelock Irr. Dist., 51 Nev. 179, 272 P. 1; State v. Ducker, 35 Nev. 214, 127 P. 990; and Silver Peak Mines Co. v. Second Judicial District Court, 33 Nev. 97, 110 P. 503, Ann.Cas.1913D, 587, clearly distinguish between preventive and mandatory injunctions, determining that on an appeal from the temporary 'mandatory' injunction the appellant is entitled as a matter of right to a stay of proceedings under the injunction upon the filing of a proper stay bond. See also Gottwals v. Rencher, supra,

deciding that stay bond be required only when necessary to protect appellee against damages he might sustain by reason of an unsuccessful appeal.'

The application for an order for a writ of supersedeas was accordingly denied.

We emphasize the opening paragraph of the foregoing opinion of Honorable Harry M. Watson with reference to the motion of the respondents to dismiss the notice of motion of appellant for a writ of supersedeas. This court has, on several occasions, condemned the practice of submitting a motion to dismiss a motion. *21 With as much propriety, or perchance with greater propriety, could the original movent notice a motion to dismiss the motion to dismiss the motion. The very statement indicates the confusion that is bound to ensue. **362 If there is a good reason why a motion should not be entertained by the court, such reason may be advanced as a ground in support of the denial of the motion. The confusion is not confined to the mere records of this court, but to the orderly presentation of oral argument to the court. If a litigant has a right to move to dismiss a motion, he would presumably have a right to open and close the argument on his motion to dismiss the motion, and such argument, followed in turn by the arguments on the motion proper, would seriously affect the orderly and dignified presentation of matters to this court.

OPINION ON THE MERITS.

Certain provisions of the Corey-Kress contract amounted substantially to this: The Coreys would obtain the consent of the Pauuffs to the assignment of the lease; but, failing this, the Coreys nevertheless covenanted for the quiet and peaceable possession by Kress for the remainder of the term.

Eliminating for the moment all consideration of the subsequent suits brought by the Pauuffs and the Coreys, as indicated in appellant's petition for a writ of supersedeas, and as indicated by respondents' contention that the subsequent suit by the Coreys made declaratory action moot, and having in mind only the situation as it appeared to the district court at the time of the submission of the general and special demurrers to the amended complaint filed by the respective groups of the defendants, we find the following situation: The Pauuffs had served on the Coreys a notice of termination of lease by reason of a

breach of the covenant against assignment and subletting without written consent. Less than two months later the Pauuffs served on Kress *22 a three day notice to quit 'or the undersigned will institute legal proceedings against you to recover possession of said premises.' Kress tried to pay the current rentals to the Pauuffs. They refused to accept. Kress paid the rentals to the Coreys, who in turn tried to pay the same to the Pauuffs. Again the Pauuffs refused to accept—apparently abstaining from any act that would constitute a waiver of their asserted right to terminate the Pauuff-Christopher-Corey lease, or as a waiver of their asserted right to maintain an appropriate action against Kress pursuant to the three day notice to quit. Despite this situation the Coreys insisted that Kress continue to pay the accruing monthly rentals, which he did, and which rentals the Coreys appropriated to their own use. The Coreys also insisted that Kress pay the accruing monthly payments of \$1,000 and interest under the contract and as evidenced by his promissory note.

There has been much discussion by respondents of the asserted rule that an action for a declaratory judgment is not a substitute for other and ordinary actions open to a party as a matter of right, but respondents have not indicated what these actions or defenses would be under the situation presented by the amended complaint. Let us explore the question as to whether such other and ordinary actions or defenses were effectively open to him without resort to the declaratory judgment act for relief. Independently of his contract with the Coreys, he faced an unlawful detainer action as threatened by the Pauuffs. Against such action his analysis of possible defenses might include: (1) 'My information is that your lease to Corey does not contain a covenant against assignment or subletting; therefore, I am safe in my assignment of the lease. (2) The instrument, under which I am holding, creates only a license in me to occupy the premises and is therefore not a violation of a covenant against assignment and subletting. (3) The covenant against assignment and subletting is so unreasonable as not to be enforceable—at least to the extent *23 of terminating the tenancy. (4) You have waived the right to enforce this covenant by your prior consent to the assignment by Christopher to Corey. (5) You are estopped from asserting this right by impliedly accepting my assignment or subtenancy. (6) The Coreys have put me in possession of these premises and have given me what amounts to a covenant for peaceful possession so long as I pay my rentals; therefore, I may call them in to defend against your action, which you say is a breach of their covenant with you.'

But whatever position Kress might be taking as to the foregoing situation, he was confronted with the very imminent possibility **363 that the threatened action by the Pauuffs would result in a restitution of the premises to

them. Was he compelled to await this outcome, and in the meantime continue to make monthly payments of rental to the Coreys and monthly \$1,000 payments to them on his promissory note? Or was he not entitled in some way to effect a suspension of such payments to the Coreys until it could be judicially determined that such payments were not on account of a consideration that had materially failed? If entitled to relief of this nature, how could he accomplish it? In filing his complaint for a declaratory judgment determining the rights and liabilities of the several parties, is he simply, as asserted by respondents, asking the advice of the court? The prayer of his complaint is for a temporary injunction or injunction pendente lite to preserve the status quo, that he be permitted pendente lite to make his monthly payments into court, that pendente lite the Coreys be restrained from negotiating the promissory note, and that upon the hearing upon the merits, he be adjudged to be in the lawful possession of the property, or, otherwise, that the financial situation between him and the Coreys, including credits for the failure of consideration of the Corey-Kress contract and including damages suffered by him by reason thereof, be determined.

*24 One more element should probably be first considered. The consideration for the payment by Kress of \$25,510 was the sale of the restaurant business, the delivery of the furniture, fixtures and supplies and the assignment of the remainder of the term of the Pauff-Corey lease. That term had eighteen months to run. Trial courts are daily considering far more difficult questions than the solution of the question of the extent to which the consideration actually passed from the Coreys to Kress and the extent to which it would have failed if Kress were dispossessed by the Pauffs. We consider this then a question that the trial court might well have been able to determine.

If we accept the allegations of the amended complaint as true, then it would appear that no controversy would have arisen either between the Pauffs and the Coreys (see notice of cancellation of lease) or between the Pauffs and Kress (see three day notice to quit) or between the Coreys and Kress (threatened failure of consideration to Kress if he is dispossessed, and threatened forfeiture of his contract if he fails to make his payments promptly), if the Pauffs had consented to the assignment from the Coreys to Kress. Kress would then have been protected in his tenancy to the end of the term, the rentals would have been paid to the Pauffs, the monthly payments made to the bank for the Coreys and duly credited on the note, and the bill of sale in due course delivered out of escrow by the bank to Kress—all subject to the exercise by any of the parties of their remedies in case of breach of the covenants of their contracts. The controversies arose, and

the present impasse was reached, when the Pauffs refused to consent to the assignment. Not only had the Coreys covenanted to procure such consent (with the alternative heretofore mentioned) and not only had they failed to obtain it, but, again accepting the allegations of the amended complaint as true, they wrongfully and by *25 misrepresentation of facts prevailed upon the Pauffs to withhold it. It was under these circumstances that Kress, who had made a \$7,000 downpayment to the Coreys, met all covenants for payment of rent, made all accruing \$1,000 monthly payments on his note, paid an obligation of \$1,067.52 on behalf of the Coreys as he had agreed, and was ready, able and willing to continue to perform, asked, not the advice of the court, but a declaration of his rights and liabilities in the premises and the protection of his rights by injunction, set-off, reformation of his contract, etc.

The foregoing analysis of the situation appears to us to be essential before laying alongside of appellant's claims for relief the yardstick of the declaratory judgment act and the construction placed upon that act under similar or analogous situations by the courts and the text writers.

The State of Nevada adopted the Uniform Declaratory Judgment Act in **364 1929. It was first adopted in Tennessee and Wyoming in 1923. Code Tenn.1932, § 8835 et seq., Comp.St.Wyo.1945, § 3-5801 et seq. The federal Declaratory Judgment Act was passed in 1934. 28 U.S.C.A. § 400. At the present time only five states in the union have failed to incorporate such an act into their statute law. For many years prior to the adoption of any such statutes courts have nonetheless been rendering declaratory judgments, that is, the declaration of the pre-existing rights of the litigants without any coercive decree, in such cases as quiet title suits, the construction of wills and the interpretation of deeds, the determination of marriage relations, the validity of instruments, interpleader suits, etc. Under the Uniform Declaratory Judgment Act the door has been opened to the 'adjudication of innumerable complaints and controversies not theretofore capable of judicial relief,' Borchard, *Declaratory Judgments* (1934) Preface, and courts may now function to vindicate challenged rights, clarify and stabilize unsettled *26 legal relations and remove legal clouds which create insecurity and fear. Id.

In the many hundreds of cases that have reached the courts of last resort in the various states (which have not hesitated to draw upon the decisions of the courts of England, Scotland, Canada, Australia and others) there has naturally been built up a structure of case law prescribing the conditions and defining the limits under and within which declaratory relief may be obtained. Appellant and respondents have both cited *State ex rel. La Follette v. Dammann*, 220 Wis. 17, 264 N.W. 627, 628,

103 A.L.R. 1089, which, citing Borchard, *supra*, crystalized the requirements for declaratory relief as follows:

'The requisite precedent facts or conditions which the courts generally hold must exist in order that declaratory relief may be obtained may be summarized as follows: (1) there must exist a justiciable controversy; that is to say, a controversy in which a claim of right is asserted against one who has an interest in contesting it; (2) the controversy must be between persons whose interests are adverse; (3) the party seeking declaratory relief must have a legal interest in the controversy, that is to say, a legally protectible interest; and (4) the issue involved in the controversy must be ripe for judicial determination. Declaratory Judgments, Borchard, pp. 26-57.'

Respondents insist that none of these conditions has been met by the amended complaint, while appellant insists that the pleading shows the existence of all of them. With the latter view we are in accord.

Respondents rely on the La Follette case above cited, and in which relief was denied on the ground that only the advice of the court was sought, but the case is clearly distinguishable. The Governor of Wisconsin desired to make various appointments (a) in cases where the incumbents' terms had expired and they were holding over, (b) in cases where the incumbent had died and a *27 vacancy existed, (c) in cases where the vacancy occurred before the 1935 session of the legislature but were not filled during that session, (d) in cases where the vacancy occurred during that session but had not been filled, and (e) in cases where the vacancy might occur the following year while the legislature was not in session. The Secretary of State insisted that the appointments could not be made and that he would not honor the commissions which the governor was about to issue, nor would he audit or pay the salaries. The court held that 'difference of opinion is not enough to make a justiciable controversy,' citing *Garden City News v. Hurst*, 129 Kan. 365, 282 P. 720, and *Williams v. Flood*, 124 Kan. 728, 262 P. 563. It held that as no appointments had been made, there was none who could assert a legally protectible interest; that no rights had become fixed but were possible future or contingent rights; that there was no justiciable controversy between the governor and the secretary of state, and the prospective appointees were not before the court so that their rights could not be prejudiced by any ruling made and the controversy terminated. We are unable to conclude that the La Follette case governs the instant one.

The same applies to **365 *City and County of Denver v.*

Lynch, 92 Colo. 102, 18 P.2d 907, 86 A.L.R. 907. As to the thirteen interrogatories propounded, the court held that they were but remotely connected with the litigation, many of them were abstract and many of them involved the settlement of mere academic questions.

Respondents rely strongly on *Washington-Detroit Theater Co. v. Moore*, 249 Mich. 673, 229 N.W. 618, 68 A.L.R. 105, which upheld the constitutionality of the Michigan Declaratory Judgment Act—the original Act having been held unconstitutional by the same court in *Anway v. Grand Rapids Ry. Co.*, 211 Mich. 592, 179 N.W. 350, 12 A.L.R. 26. The court recited numerous holdings as to conditions under which declaratory relief *28 would not be given, stating frankly however that the rules and citations were taken from the notes in 12 A.L.R. 52, 19 A.L.R. 1124, and 50 A.L.R. 42, and were not to be taken as advance notice as to the future position of the court. The purpose of the citations was to support the court's view that the amended act was constitutional and did not violate accepted concepts. It is significant that the court sustained the lower court in entertaining jurisdiction of the complaint for declaratory relief. Plaintiff in that case had a ninety-nine year lease on defendant's building and claimed the right to demolish it and erect a new one for other than theatre purposes. Defendant denied plaintiff's construction of the lease and threatened to forfeit it if plaintiff commenced destruction of the building or used it for other than theatre purposes. With these facts appearing from the complaint, the Michigan Supreme Court held that the Circuit Court had properly refused to dismiss the bill. The plaintiff Theater Company sought not only a declaration of its rights under the lease but an injunction restraining defendant from interfering with destruction of the building or attempting to forfeit the lease. Here appellant sought a declaration of his rights under the two instruments referred to and an injunction 'restraining * * * the defendants * * * from interfering with the (his) peaceful possession, use and freedom of the real property and the improvements thereon * * *.' So far as concerns the defendants Pauff, the ultimate ruling in the case supports appellant's view.

Before leaving the *Washington-Detroit Theater* case it should be noted that Borchard criticizes the recited conditions mentioned in this dictum and says that the quoted A.L.R. notes are not sustained by all of the authorities cited—a number of the cases not being actions for a declaratory judgment at all. He also criticizes the limitation, though it applies in most cases, that the declaration may not be had when the danger *29 'is merely apprehended or feared,' citing the example of the clearing of clouds on title through documents on record though no claim has been asserted under such documents. Borchard, *Declaratory Judgments* (1941) 165. In any

event, we are satisfied that the limitation does not apply here where the claims, demands and threats of both groups of defendants have been alleged.

Respondents also place great reliance on the case of Millard County et al. v. Millard County Drainage District No. 1 et al., 86 Utah 475, 46 P.2d 423, 425. In that case plaintiff filed a quiet title suit against certain named defendants claiming some interest in the land. Millard County attempted to join as a plaintiff against other defendants claiming interests in other lands not described, 'so that not only have we two parallel and independent suits in the same action in which the only cohesive is the fact that there are law points in common which will be controlling in both cases, but we have one of the law suits without any definite subject-matter upon which a judgment can operate. * * * The statute did not intend to dispense with the necessity of having a particular and specific subject-matter such as a particular piece of real estate, chattel, person, written instrument, chose in action, debt, estate, fund, or other definite subject in respect to which the litigation applied or upon or in regard to which a judgment could operate.' Here both the Kress-Corey controversy and the Kress-Pauff controversy operate upon the same thing—the right to the possession of the cafe property. The two controversies are more in the nature of those described as ***366** being 'hooked up in series,' in regard to which the same court says: 'In some cases controversies may also be hooked up in series. This is when they are so connected as to make it imperative to determine one as a condition for determining the other.' This problem is peculiarly present in the instant case. See also in this regard: Webb-Boone Paving Co. v. State Highway Commission et al., 1943, 351 Mo. 922, 173 S.W.2d 580; ***30** Maryland Casualty Co. v. Hubbard, D.C., 1938, 22 F.Supp. 697; Alfred E. Joy Co., Inc. v. New Amsterdam Casualty Co., 98 Conn. 794, 120 A. 684.

Respondents insist that rather than a present controversy, appellant's amended complaint simply pleads a fear that certain controversies will or may arise in the future, that they are remote and contingent and may not be reached by a declaratory suit. In support of this contention respondent relies upon Nashville Trust Co. v. Dake, 162 Tenn. 356, 36 S.W.2d 905, which approves earlier Tennessee cases to the effect that the statute does not contemplate declarations upon remote contingencies or abstract or incidental questions. Most other authorities agree with this principle under the general theory that an actual controversy must exist—or at least the ripening seeds of a controversy. In the Nashville Trust Company case, however, it appears that declaratory relief was sought by a judgment creditor of a beneficiary of a trust estate for life in order to determine what the rights of such judgment creditor would be after the decease of the beneficiary. The

suit was brought during the lifetime of the beneficiary who had a life expectancy of over twenty years, and it was under such situation that the Tennessee court held that a construction or declaration of an issue so remote should not be made. To like purport is In re Straus' Estate, 307 Pa. 454, 161 A. 547. During the lifetime of the life tenants of a testamentary trust the executors of the decedent's estate sought a declaration as to the rights of the remaindermen. It was alleged by the executors that it was important to determine whether the decedent's interests constituted a vested remainder so that certain tax liabilities could be determined. The court held, however, that such determination would have to await the filing of the accounts of the trustees upon the death of the life tenants. In support of such rule against declaration of future remote and contingent controversies, respondents also rely upon ***31** Mulcahy v. Johnson, 80 Colo. 499, 252 P. 816; Gorham v. Gorham, 99 Conn. 187, 121 A. 349, and other cases. We do not consider them in point, although we may note in passing that in some of these cases the facts approach closely to cases in which declaratory relief has been awarded in later cases giving a broader scope and greater liberality to the purposes of the statute.

Respondents say: 'Appellant would like to continue on with the Corey-Kress contract except that he *fears* what defendants Pauuffs, the landlords, might do to him if he so continues; i. e., he *fears* that if he does so, the Pauuffs will carry out *what he considers* their threat to remove him from the premises, * * * or, as an alternative, he would like to fail to perform the unperformed portion of the Corey-Kress contract by retaining the balance of the money that he owes the Coreys and enter into a new lease contract with defendants Pauuff, except that he *fears* what the Coreys might do to him for breach of his contract with them if he does so.' This is perhaps not a strained picture of the situation, which is however a little more complicated. The Pauuffs' three day notice to quit, with the further notice that legal proceedings will otherwise be taken, is, however, not accurately characterized as something which 'the appellant considers a threat to remove him.' Anyone would consider it a threat. It was not only a threat, it was a definite notice that a dispossessory action would be commenced, and it was also a definite statutory prerequisite to the bringing of such an action. It followed the notice by the Pauuffs to the Coreys of termination of the tenancy by reason of the breach of the covenant against assignment and subletting. The 'fear' of what the Coreys might do was of just as present a controversy as witnessed by the action brought against Kress by the Coreys, as disclosed by the supersedeas record herein to which both parties have referred.

****367** The cases are full of examples in which actions for declaratory relief have been entertained to determine ***32** the rights of landlords, lessees and sublessees under various contentions as to what acts or conditions might constitute a breach of certain covenants of the lease. In *Levco Theatre Corporation v. Mandy Amusement Corporation*, 262 App.Div. 776, 27 N.Y.S.2d 785, a sublessee was permitted to sue the original lessee for a declaratory judgment upon the plaintiff's claim that it was entitled to a reduction in rent under its sublease equal to that obtained by the original lessee from his lessor, the court saying: 'There is a real issue as to whether the agreement that the rentals under the two leases should be the same is not to be read into the sublease. Since plaintiff faces the hazard of losing its lease through dispossession proceedings if it refuses to pay its original rent, which is still being exacted, the case is a proper one for a declaratory judgment.' In *Leibowitz v. Bickford's Lunch System*, 241 N.Y. 489, 150 N.E. 525, a sublessee, in order to induce the original lessor to consent to a sublease from the original lessee to the sublessee, guaranteed the payment of the lessee's rent to the lessor. The sublessee, as a matter of convenience, paid rental directly to the successor of the original lessor, from whom the sublessee subsequently demanded a renewal or extension of the term, under the provisions of a three party agreement that had been executed. The original lessor's successor refused but continued to collect the rents from the sublessee. The suit for declaratory judgment was filed by the sublessee against both the lessor's successor and the original lessee, and the court rendered a judgment defining the rights of the parties. This involved the mutual rights and obligations of the defendants as well as those existing between the plaintiff and the defendants. In *Webb-Boone Paving Co. v. State Highway Commission*, 351 Mo. 922, 173 S.W.2d 580, 584, the original contractor sued the State Highway Commission and also the subcontractor for a declaration of the rights of the subcontractor, if any, against the plaintiff and of the plaintiff, if any, against ***33** the Commission. This grew out of the demand of the subcontractor for approximately \$10,000 additional compensation because certain theretofore undisclosed structures had been encountered in its excavation work. The court reviewed the authorities at some length, and stated: 'If, as charged in plaintiff's petition, the rights arise out of an interrelated transaction and are interdependent, the proceeding under the declaratory judgment Act may settle the rights of the several parties to the transactions and avoid the necessity of separate suits. * * * the reasoning is applicable here of cases holding that the Act may be invoked to declare the rights of an insurer and an insured with respect to whether a policy of insurance protects the insured against liability to a third person.' Like the insurance cases hereinafter mentioned,

the plaintiff in the action sought to determine his rights against the one defendant which were contingent upon his liability to the other defendant. The court found the case analogous to *Alfred E. Joy Inc. v. New Amsterdam Casualty Co.*, 98 Conn. 794, 120 A. 684, abstracting that case as follows:

'Joy Company contracted to paint a Grace Hospital Society building for \$10,995. It subcontracted the painting to one Hawley for \$10,000. The subcontract authorized Joy Company to complete the work under certain contingencies and, in such event, to deduct the expense incurred from moneys due or to become due Hawley, with Hawley also agreeing to pay any expense so incurred in excess of moneys due him as well as any liens arising out of his default. The New Amsterdam Casualty Company entered into a surety bond on behalf of Hawley to the Joy Company. Hawley defaulted. Joy Company completed the painting. Two lien claims, aggregating \$1,670, were filed. The Hospital Society refused to pay Joy Company a balance of \$1,890 and Hawley and his surety refused to discharge or take action with respect to the lien claims. Joy Company's ***34** action for a declaration of the rights between itself, Hawley and his surety, the lienors and the Hospital Society was upheld. The declaration of the rights of the Joy Company against the Hospital Society was contingent upon the declaration of the rights of ****368** the lienors, and against Hawley's surety was contingent upon the rights of said lienors.'

In *Tolle v. Struve*, 124 Cal.App. 263, 12 P.2d 61, 63, defendants Struve had executed a ten year lease to plaintiffs and covenanted to build a theatre and store building on the premises. Plaintiffs subleased to defendant Clark who entered into a partnership with defendant Atkinson. The Clark and Atkinson interests thereafter vested in Sutton, the appellant. Defendants Struve had conveyed to defendants Lavery and Gustin. Thereafter Sutton claimed the construction to be faulty and the building to be deteriorating and for such reasons attempted to terminate her tenancy under her sublease. The plaintiffs refused to agree to such cancellation, but on the same ground attempted to terminate their liability under their original lease. The owners refused and plaintiffs brought their action for declaratory judgment, joining as defendants the original lessors and assignees, the present sublessees and the intermediate sublessees, asking for a construction of the two leases involved and the rights of the parties thereunder. The court declared the rights of all of the parties, holding them all bound by the lease and the rentals due between the parties respectively. Sutton appealed, contending that there was no justiciable controversy. The court said, adopting the opinion of the trial judge:

"I do not believe a pleading fatally defective which states facts from which it is manifest that there is such a controversy, though the pleading does not label it a controversy, or say, in so many words that, as to a given issue of law, one party has thrown down the gauntlet. But, however that may be, it does appear, from the complaint, that the defendants, Clark, Sonneman, *35 and Sutton became obligated to the plaintiffs upon the sublease; that, having succeeded to the interests of the rest, the Suttons undertook, under claim of right based on the alleged condition of the building, to cancel the sublease, and refuse to pay rentals thereunder and claim no longer to be bound thereby, and that the plaintiffs refuse to acquiesce in such cancellation. This, I think, is tantamount to saying that the plaintiffs dispute the legal right of the Suttons to do what they have undertaken to do. It further appears from the complaint that the plaintiffs, under claim of right based on the alleged condition of the building and the alleged failure of their lessors to properly maintain it, undertook to cancel the basic lease, and that Mrs. Lavery and Gustin refused to acquiesce in that cancellation, and claim that the plaintiffs had no right to terminate the lease. It cannot be gainsaid, therefore, that the complaint shown an actual controversy between the plaintiffs and Mrs. Lavery and Gustin, and that the two controversies are very intimately connected together. The complaint, therefore, does show on its face that there are 'actual controversies relating to the legal rights and duties of the respective parties.'"

"We are satisfied that appellant is arguing for too narrow a construction of our declaratory relief statute, and one which, if adopted, would seriously impair a statute which has already proved, and should hereafter increasingly prove, a valuable enlargement of the judicial power of our courts. It was a defect of the judicial procedure which developed under the common law that the doors of the courts were invitingly opened to a plaintiff whose legal rights had already been violated, but were rigidly closed upon a party who did not wish to violate the rights of another nor to have his own rights violated, thus compelling him, where a controversy arose with his fellow, to run the risk of a violation of his fellow's rights or to wait until the anticipated wrong had been done to himself before an adjudication *36 of their differences could be obtained. Thus was a penalty placed upon the party who wished to act lawfully and in good faith which the statute providing for declaratory relief has gone far to remove. We feel that the courts should construe the statute with reasonable liberality so that, in the language quoted, *supra*, from *Hess v. Country Club Park*, [213 Cal. 613, 2 P.2d 782] it may not 'lose a large part of the value which, upon its enactment was supposed to attach to it.'"

**369 The opinion of Judge Yankwich, in *Maryland*

Casualty Co. v. Hubbard, D.C., 22 F.Supp. 697, 700, has been cited with approval in a great many cases. He held that an insurer issuing a non-ownership public liability policy to an employer whose employee, while operating an automobile with the consent of an owner protected by a public liability policy containing omnibus clauses, caused injuries, could maintain a bill for declaratory relief against the owner's insurer based on the theory that the employer's insurer's policy was merely excess coverage, that the automobile owner's insurer's policy was primary coverage, and that the owner's insurer had the duty of defending the injured party's action against the alleged employee and employer, notwithstanding the automobile owner was not a party to such action. Quoting *Borchard*, the opinion emphasizes the fact that the trend is to extend the benefit of the declaratory judgment acts to the interests of parties which are jeopardized or challenged even before a right of action exists or a cause of action accrues. The cases are collected and digested, including many of the cases referred to in this opinion, and the learned district judge agrees with the cases cited to the effect that 'the benevolent purposes of the statute should not be thwarted by narrow and technical construction,' and that the declaration should be made 'whether there be a cause of action or not' (other appropriate facts appearing). The court held 'that the preventive character of declaratory relief permits the adjudication of the relationship between the *37 two insurers here and of their conflicting legal interest, when it is necessary in order to define the plaintiff's obligation to the other defendants * * * (the plaintiff) may seek only an adjudication of freedom from claim.' The court conceded a lack of privity and conceded that the defendant-insurer might not be liable to the plaintiff at the time of filing the complaint. It becomes unnecessary to cite the numerous insurance cases in which this theory has been generally upheld. Many of these cases will be found cited in the *Maryland Casualty Co.* case and in the case notes therein referred to and in the later cases in which the *Maryland Casualty Co.* case has been cited. There is, in our opinion, a complete analogy between the lessor-lessee-sublessee cases, the liability insurance cases, the owner-contractor-subcontractor-surety cases, and the instant case.

In a timely article entitled 'Atrocities of Declaratory Judgments Law' by William P. S. Breese (31 *Minnesota Law Review*, 575, published in May, 1947), the author refers to many 'basic misconceptions and misapplications' of the declaratory judgment acts as revealed in recent decisions. These are declared to result from (1) failure to appreciate the declaratory judgment as an alternative remedy, (2) failure to recognize it as a remedy based on a justiciable controversy, and (3) failure to recognize it as a remedy *sui generis*. Numerous cases

are cited in which the author claims that the remedy was erroneously withheld (1) because another remedy was available, (2) where the coercive effect of other available relief was believed preferable, (3) where further administrative relief was available, (4) where the trial court was held not to have abused its discretionary powers in denying relief, (5) where the court failed to distinguish the declaration asked from a mere advisory opinion, and (6) where it failed to distinguish justiciable controversies. Although it is to be regretted that the apparent limitations of the purpose of the article did not permit citation and discussion of cases *38 denouncing the narrow limits thus placed on the application of the act by these decisions, and stated only that their failure to understand the basic fundamentals of the remedy was 'despite the learned and repeated efforts of the proponents of the declaratory judgment to educate and correct the bar and the judiciary' we are in accord with the view that many of the decisions thus criticized gave too narrow and limited construction to the purposes of the act. This attitude on our part is, we think, clear from our adoption and approval of the broader and more liberal concept found in the cases cited supra. We disavow, however, any intention to 'correct and educate' those courts that disagree with us, and for whose opinions we have the greatest respect.

Professor Edwin Borchard, whose 1934 and 1941 editions of his work on Declaratory **370 Judgments have been quite generally cited by the courts, has in a more recent article said: 'The declaration has opened the shutters of the forensic camera much wider (than the limits of equity jurisdiction) and admits to judicial cognizance an entirely new group of interests, including aggrieved persons who, being prospective defendants to ordinary actions, were not theretofore perceived by the law until they were sued. They were not allowed to initiate proceedings. As already observed, the disquietude and uncertainty of a prospective defendant and obligor, like an alleged infringer of patents, the covenantors of a building restriction, lessees equally with lessors, justify judicial relief.' The Next Step Beyond Equity—The Declaratory Action. 13 The University of Chicago Law Review, 145, 159 (Feb. 1946). The views there expressed are likewise followed in a still more recent article by Mr. Duke Duvall of the Oklahoma Bar. The Declaratory Action, 21 Tulane Law Review, 559 (June, 1947). Respondents will find reference in these articles to many cases, in addition to the ones respondents have cited, in which declaratory relief was denied for the same reasons here urged by respondents—that *39 there was no justiciable controversy, that the controversy was not ripe, that other remedies were available, that plaintiff sought simply relief from his fears, that he was in effect asking only for the advice of the court, that the matter lay in the discretion of the trial court, that the instruments in question were unambiguous in their terms and needed no

judicial construction, that the declaration was sought on a remote contingency, that there was a misjoinder of defendants on account of the lack of privity, that the case would involve the trial of disputed facts, etc. Such of those cases as are in point and are opposed to the views we have indicated, we have decided to reject in favor of the more liberal view.

Appellant and respondents both discuss at great length in their briefs questions dealing with the question of the propriety of the action of the court in 'dismissing' the amended complaint upon sustaining the general and special demurrers thereto. In our view that the amended complaint states a cause of action for a declaratory judgment coupled with the other relief sought (though not necessarily all of it) and that the defendants are properly joined, it becomes unnecessary to pass on the points raised in such discussion.

Both parties likewise discuss at length the action of the court in issuing the original restraining order. It purported to restrain the defendants 'pendente lite,' but contained provisions permitting prompt hearing and determination of motions to dissolve or modify it or keep it in effect. It was comparable to the better practice of issuing a show-cause order why an injunction pendente lite should not issue and temporarily restraining the defendants (proper bond having been given) pending the return of the order to show cause. It seems clear, in any event, that injunctive relief may properly be coupled with a prayer for a declaratory judgment. If this be so, we see no reason why, under the recognized practices and usages of equity, and under *40 statutory provisions, the status quo may not in a proper case be preserved in the meantime to prevent irreparable injury. So many months have elapsed since the issuance of the restraining order and the order for deposit of funds in court and since the dismissal of the action and the order of this court denying a supersedeas; and the appeal being limited, by the assignment of appellant's brief, to the judgment of dismissal, no ruling by this court appears to be in order affecting the proceedings had in connection with the injunction pendente lite.

A great deal of discussion is had by both parties with reference to the province of equity practice, and with reference to actions under the Uniform Declaratory Judgment Act, to award relief to prevent a multiplicity of actions. As we are satisfied that under Sec. 11 of the Act, and under the provisions of our civil practice act (N.C.L. § 8556, as amended, Stats.1939, p. 32) all defendants have been properly joined, we do not find it necessary to determine the applicability to the present action of the equitable remedy of preventing a multiplicity of actions.

**371 Neither the Coreys nor the Pauuffs were prejudiced

in making the bank a defendant. As the holder in escrow of certain documents and as the holder for collection of the note described it found itself subject to the conflicting demands of the parties and could probably have interpleaded them and been relieved from further responsibility. Virtually the same effect was achieved when it refused to answer and permitted its default to be entered. It thus remained subject to the orders of the court with reference to the disposition of documents still in its hands.

The parties briefed at length the propriety of that part of the trial court's order sustaining the demurrer which denied the plaintiff the right to amend. As it is our view that the amended complaint stated a cause of *41 action, and that it was error to sustain the respective demurrers, it is unnecessary to pass on this question.

That part of the order and judgment appealed from which purports to dismiss the action is hereby reversed, with costs, and the case is remanded with instructions to overrule the said demurrers and permit the respective respondents to answer, subject to the right in plaintiff further to amend his petition if he so desires, and for such further proceedings as may appear proper in conformity

with this opinion.

EATHER, C. J., and WATSON, District Judge, concur.

At the time of the argument and submission of the above case the Court comprised TABER, C. J., DUCKER, J., and HORSEY, J. HORSEY, J., being disqualified, the Governor commissioned Honorable HARRY M. WATSON, District Judge of the Seventh Judicial District, to sit in his place. Thereafter, EATHER, C. J., was appointed to fill the vacancy caused by the death of DUCKER, J., and BADT, J., was appointed to fill the vacancy caused by the death of TABER, C. J. Thereafter, by stipulation of the parties, the case was resubmitted to EATHER, C. J., BADT, J., and WATSON, District Judge.

All Citations

65 Nev. 1, 189 P.2d 352

Footnotes

- 1 Uniform Declaratory Judgments Act, Stats.1929, Chap. 22, p. 28. The applicable portions are as follows:
 'Section 1. Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; such declarations shall have the force and effect of a final judgment or decree.
 'Sec. 2. Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.
 'Sec. 3. A contract may be construed either before or after there has been a breach thereof.'
 'Sec. 5. The enumeration in sections 2, 3 and 4 does not limit or restrict the exercise of the general powers conferred in section 1 in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.
 'Sec. 6. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.
 'Sec. 7. All orders, judgments and decrees under this act may be reviewed as other orders, judgments and decrees.
 'Sec. 8. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.
 'Sec. 9. When a proceeding under this act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.
 'Sec. 10. In any proceeding under this act the court may make such award of costs as may seem equitable and just.
 'Sec. 11. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the right of persons not parties to the proceeding. * * *
 'Sec. 12. This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.'

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EXHIBIT "4"

Exhibit "4"

120 Nev. 248
Supreme Court of Nevada.

MIKOHN GAMING CORPORATION, a Nevada
Corporation, Appellant,
v.
Charles H. McCREA, Jr., Respondent.

No. 41822.
|
May 12, 2004.

Synopsis

Background: Former employer brought action against former employee, who was general counsel and secretary, for breach of promissory note. Former employee filed answer and counterclaim. Former employer moved to dismiss or compel arbitration of counterclaims. The Eighth Judicial District Court, Clark County, Kathy A. Hardcastle, J., granted the motion in part and denied the motion in part. Former employer sought stay pending appeal, and the District Court denied the stay. Former employer appealed denial of stay.

After grant of temporary stay, the Supreme Court held that stay was warranted.

Motion granted, stay extended.

Attorneys and Law Firms

****37** Littler Mendelson and Patrick H. Hicks, Jeffrey S. Judd, and Rick D. Roskelley, Las Vegas, for Appellant.

Campbell & Williams and Donald J. Campbell and J. Colby Williams, Las Vegas, for Respondent.

Before BECKER, AGOSTI and GIBBONS, JJ.

***250** OPINION

PER CURIAM.

This is an appeal from a district court order that denied in part a motion to compel arbitration. Appellant seeks a stay of the district court proceedings pending consideration of this appeal. We granted a temporary stay on October 14, 2003.

Although our general stay factors, articulated in NRAP 8(c), apply in an appeal from an order refusing to compel arbitration, our stay analysis necessarily reflects arbitration's unique policies and purposes and the interlocutory nature of the appeal. Consequently, the first stay factor—whether the object of the appeal will be defeated if the stay is ****38** denied—takes on added significance and generally warrants a stay of lower court proceedings pending resolution of the appeal. The other stay factors remain relevant, but absent a strong showing that the appeal lacks merit or that irreparable harm will result if a stay is granted, a stay should issue to avoid defeating the object of an appeal from an order refusing to compel arbitration.

FACTS

This controversy arises from appellant Mikohn Gaming Corporation's employment and subsequent termination of respondent Charles McCrea. Mikohn employed McCrea as general counsel and secretary from May 1994 until March 2003. When Mikohn hired McCrea, the parties entered into separate employment and indemnification agreements. The employment agreement included an arbitration clause, which subjected certain controversies arising from McCrea's employment to binding arbitration. The indemnification agreement purported to indemnify McCrea from any liability in his official capacity as an officer of Mikohn. The indemnification agreement did not contain an arbitration clause.

On March 13, 2003, Mikohn brought a "collection action" in the district court against McCrea for a breach of promissory notes.¹ McCrea filed an answer and counterclaim. His counterclaim asserted seven causes of action against Mikohn. Subsequently, ***251** Mikohn moved to dismiss and/or compel arbitration of all of McCrea's claims.

The district court concluded that McCrea's first five

claims arose from the indemnification agreement. Consequently, the district court granted the motion to compel arbitration as to McCrea's sixth and seventh causes of action, and denied the motion as to his first five causes of action. Mikohn appealed and sought a stay in the district court.² The district court denied the stay motion, and Mikohn now seeks a stay from this court. We granted a temporary stay on October 14, 2003, to preserve the status quo while we considered the interplay of NRAP 8(c)'s stay factors in an appeal from an order refusing to compel arbitration.

DISCUSSION

Generally, in determining whether to issue a stay pending disposition of an appeal, this court considers the following factors: (1) whether the object of the appeal will be defeated if the stay is denied, (2) whether appellant will suffer irreparable or serious injury if the stay is denied, (3) whether respondent will suffer irreparable or serious injury if the stay is granted, and (4) whether appellant is likely to prevail on the merits in the appeal.³ We have not indicated that any one factor carries more weight than the others, although *Fritz Hansen A/S v. District Court*⁴ recognizes that if one or two factors are especially strong, they may counterbalance other weak factors.

Our stay analysis in an appeal from an order refusing to compel arbitration necessarily reflects the unique policies and purposes of arbitration and the interlocutory nature of the appeal. As a result, the first stay factor takes on added significance and generally warrants a stay of trial court proceedings pending resolution of the appeal. The other stay factors remain relevant, but absent a strong showing that the appeal lacks merit or that irreparable harm will *252 result if a stay is granted, a stay should issue to avoid defeating the object of the appeal.

Object of the appeal

Initially, we define the object of an appeal from an order refusing to compel arbitration. **39 In this case, the parties offer conflicting views on the object of Mikohn's appeal. Mikohn argues that the object of its appeal is to enforce the employment agreement's arbitration clause and attain the bargained-for benefits of arbitration.

According to Mikohn, allowing the district court proceedings to continue while its appeal is pending will render the arbitration clause meaningless, and any victory on appeal will be hollow. McCrea counters that Mikohn's appeal simply seeks to determine whether all of McCrea's claims are subject to arbitration, and if this court grants Mikohn relief in this appeal, the claims currently before the district court can be consolidated into the arbitration proceedings.

Nevada's version of the Uniform Arbitration Act⁵ (UAA) clearly favors arbitration.⁶ And we have previously recognized a strong policy in favor of arbitration, stating that "[c]ourts are not to deprive the parties of the benefits of arbitration they have bargained for, and arbitration clauses are to be construed liberally in favor of arbitration."⁷ Further, and particularly relevant to this discussion, are the reasons parties choose arbitration over traditional litigation. Arbitration, as an alternative dispute resolution mechanism, is generally designed to avoid the higher costs and longer time periods associated with traditional litigation.⁸ Adopting McCrea's definition of the object of this appeal would ignore arbitration's purposes and benefits. The benefits of arbitration would likely be lost or eroded if it were necessary for an appellant to simultaneously or sequentially proceed in both judicial and arbitral forums.⁹

In addition, the Legislature has provided for an interlocutory appeal of an order denying a motion to compel arbitration,¹⁰ which demonstrates an intent to secure review of an order refusing to compel arbitration before trial. In doing so, the Legislature has implicitly recognized that an appellant who is forced to defend the action in district court pending appeal, possibly even to final judgment, *253 loses arbitration's monetary and timesaving benefits. Otherwise, the Legislature could have required the appellant to wait to appeal from any adverse final judgment.

Given the interlocutory nature of an appeal seeking to compel arbitration, and the purposes of arbitration, the first stay factor takes on added significance. The object of an appeal seeking to compel arbitration is to enforce the arbitration agreement and attain the bargained-for benefits of arbitration. As a result, because the object of an appeal seeking to compel arbitration will likely be defeated if a stay is denied, a stay is generally warranted. A stay is not automatic, however. NRAP 8(c)'s other stay factors also apply in the stay analysis.

Irreparable or serious harm

Although irreparable or serious harm remains part of the stay analysis, this factor will not generally play a significant role in the decision whether to issue a stay. Normally, the only cognizable harm threatened to the parties is increased litigation costs and delay. We have previously explained that litigation costs, even if potentially substantial, are not irreparable harm.¹¹ Similarly, a mere delay in pursuing discovery and litigation normally does not constitute irreparable harm.¹² Of course, in certain cases, a party may face actual irreparable harm, and in such cases the likelihood of irreparable harm should be considered in the stay analysis. Neither Mikohn nor McCrea have demonstrated irreparable or serious harm in this case.

****40 Likelihood of success on the merits**

Because the object of an appeal seeking to compel arbitration will be defeated if a stay is denied, and irreparable harm will seldom figure into the analysis, a stay is generally warranted. However, we recognize the potential for abuse of a rule that requires an automatic stay in this context. Therefore, the party opposing the stay motion can defeat the motion by making a strong showing

that appellate relief is unattainable. In particular, if the appeal appears frivolous or if the appellant apparently filed the stay motion purely for dilatory purposes, the court should deny the stay. Under this approach, a stay should be denied when arbitration is clearly not warranted, but a stay should generally be granted in other cases.

***254** In this case, the merits are unclear at this stage. Without a full appellate review of the record, we cannot determine if Mikohn's appeal is likely to succeed. As a result, because it is not clear if arbitration of McCrea's claims is required by the employment agreement's arbitration clause and Mikohn will be forced to spend money and time preparing for trial, thus potentially losing the benefits of arbitration, we grant Mikohn's motion and extend the stay for the duration of this appeal.¹³

In view of this opinion, and to the extent our docket permits, we will expedite appeals from orders denying motions to compel arbitration.

All Citations

120 Nev. 248, 89 P.3d 36, 21 IER Cases 468

Footnotes

- 1 The stay motion does not explain the facts or circumstances surrounding the "collection action."
- 2 NRS 38.205(1)(a) (repealed 2001) (current version at NRS 38.247(1)(a)) allows an immediate appeal of an order denying a motion to compel arbitration. Because Mikohn and McCrea entered into the employment agreement before October 1, 2001, the prior version of the Uniform Arbitration Act (UAA), codified at NRS 38.015 to 38.205, governs this dispute. For purposes of this opinion, however, the differences between the prior and current version of the UAA are irrelevant.
- 3 NRAP 8(c); see also *Fritz Hansen A/S v. Dist. Ct.*, 116 Nev. 650, 6 P.3d 982 (2000).
- 4 116 Nev. at 659, 6 P.3d at 987.
- 5 NRS 38.015 to 38.205 (repealed 2001) (current version at NRS 38.206 to 38.248).
- 6 See *Phillips v. Parker*, 106 Nev. 415, 417, 794 P.2d 716, 718 (1990).
- 7 *Id.*
- 8 See *Bradford-Scott Data v. Physician Computer Network*, 128 F.3d 504, 506 (7th Cir.1997).
- 9 *Id.*

- 10 *See* NRS 38.205(1)(a) (repealed 2001) (current version at NRS 38.247).
- 11 *Fritz Hansen A/S*, 116 Nev. at 658, 6 P.3d at 986–87.
- 12 *See id.* at 658, 6 P.3d at 987.
- 13 In light of this opinion, we deny McCrea’s December 3, 2003 motion to vacate our temporary stay.

End of Document

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EXHIBIT "5"

Exhibit "5"



DEPARTMENT OF REGULATORY AGENCIES

State Board of Pharmacy

3 CCR 719-1

STATE BOARD OF PHARMACY RULES

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.00.00 RULES OF PROFESSIONAL CONDUCT.

- 1.00.11 A pharmacist shall at all times conduct his/her profession in conformity with all federal and state drug laws, rules and regulations; and shall uphold the legal standards of the current official compendia.
- 1.00.12 A pharmacist shall not be a party or accessory to nor engage in any fraudulent or deceitful practice or transaction in pharmacy, nor knowingly participate in any practice which detrimentally affects the patient, nor discredit his/her profession.
- 1.00.13 A pharmacist shall not enter into any agreement or arrangement with anyone for the compounding of secret formula or coded orders, except for investigational drugs.
- 1.00.16 Confidentiality.
- a. A pharmacist shall not exhibit, discuss, or reveal the contents of any order or prescription, the therapeutic effect thereof, the nature, extent, or degree of illness suffered by any patient or any medical information furnished by the practitioner with any person other than the patient or his authorized representative, the practitioner or another licensed practitioner then caring for the patient, another pharmacist or intern serving the patient, or a person duly authorized by law or by the patient to receive such information.
 - b. A pharmacist may disclose patient information to pharmacy technicians, authorized law enforcement personnel, another pharmacist acquiring and maintaining the records, third party entities responsible for payment and any other parties allowed by federal privacy regulations.
 - c. The pharmacist shall exercise his professional judgment in the release of patient information to a patient or his authorized agent.
- 1.00.17 A pharmacist or prescription drug outlet shall not pay or offer to pay or imply that payment might be made of any sum of money or other thing of value to a practitioner, health care facility, nursing care or assisted living facility, or any other health care provider or entity as consideration for any referral to, or promotion of, a prescription drug outlet.
- 1.00.18 Patient Counseling. When the patient seeks advice, or when, in the pharmacist's professional judgment, the best interest of the patient will be served, the pharmacist shall offer to advise the patient regarding the prescription.
- 1.00.21 Violation of Board Orders or Negotiated Stipulations or Diversion Program Contracts. It shall be considered unprofessional conduct for a Colorado-licensed pharmacist or intern to violate a lawful Board order or negotiated stipulation issued in result of a formal complaint against the licensee or to violate a peer health assistance diversion program contract.

- c. A copy of the most recent report detailing an inspection of the nonresident prescription drug outlet by either its resident state board of pharmacy or the National Association of Boards of Pharmacy's Verified Pharmacy Program dated within the previous two years of submission of the application; and
- d. An affidavit attesting that the nonresident prescription drug outlet shall not ship compounded or other prescription drugs into the State of Colorado without a prescription order for a specific patient, except as provided pursuant to Rule 21.00.20.

5.00.20 Applications. The Board, or its agent, may require any applicant or pharmacist manager of an outlet to meet with the Board, or its agent, before the Board takes action on any registration.

5.00.30 No two registered in-state or non-resident prescription drug outlets may occupy the same physical space. If there are two (or more) registrants co-located within the same building or at the same address, each must have its own area, separated by floor to ceiling walls, and separate entrances.

5.00.40 Transfer of Ownership. Application to transfer registration of an in-state or non-resident prescription drug outlet shall be submitted to the Board as provided in section 12-280-118, C.R.S., immediately upon the transfer of ownership. A transfer of ownership shall be deemed to have occurred:

- a. In the event the in-state or non-resident prescription drug outlet is owned by a corporation, upon sale or transfer of twenty percent or more of the shares of said corporation to a single individual or entity.
- b. In the event the in-state or non-resident prescription drug outlet is owned by a partnership, upon sale or transfer of twenty percent or more of any ownership interest.
- c. In the event the in-state or non-resident prescription drug outlet is owned by a limited liability company (LLC), upon sale or transfer of twenty percent or more of the membership interests.
- d. Upon incorporation of an existing in-state or non-resident prescription drug outlet.

5.00.50 Relocation.

- a. In the event of a relocation of an in-state or non-resident prescription drug outlet, the outlet shall submit an application provided by the board along with the prescribed fee at least thirty days prior to the effective date of relocation.
- b. The registration of a non-resident prescription drug outlet shall become void and shall be cancelled if the non-resident prescription drug outlet relocates to a state other than that which appears on its registration. In the event the non-resident prescription drug outlet wishes to continue shipping prescriptions into Colorado, it must apply for and receive a new Colorado registration prior to such shipment.

5.00.55 Reinstatement of an In-State or Non-Resident Prescription Drug Outlet Registration.

- a. In-state Prescription Drug Outlet. If a registration has expired, a facility seeking to reinstate such registration shall submit the following:
 - (1) The current reinstatement application with the required fee;