

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

TEVA PHARMACEUTICALS USA, INC.,  
MCKESSON CORPORATION,  
AMERISOURCEBERGEN DRUG  
CORPORATION, CARDINAL HEALTH, INC.,  
CARDINAL HEALTH 6 INC., CARDINAL  
HEALTH TECHNOLOGIES LLC, CARDINAL  
HEALTH 108 LLC d/b/a METRO MEDICAL  
SUPPLY, CEPHALON, INC., ENDO HEALTH  
SOLUTIONS INC., ENDO PHARMACEUTICALS  
INC., ALLERGAN USA, INC., ALLERGAN  
FINANCE, LLC f/k/a ACTAVIS, INC. f/k/a  
WATSON PHARMACEUTICALS, INC.,  
WATSON LABORATORIES, INC., ACTAVIS  
PHARMA, INC. f/k/a WATSON PHARMA, INC.,  
ACTAVIS LLC, and MALLINCKRODT, LLC,

Petitioners,

v.

SECOND JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA, in and for the County of  
Washoe, and the HONORABLE BARRY L.  
BRESLOW, DISTRICT JUDGE,

Respondents,

and

CITY OF RENO,

Real Party in Interest.

Supreme Court Case No.

— Electronically Filed  
May 04 2020 10:31 a.m.  
District Court Case No. Brown  
CV18-01895 of Supreme Court

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**PETITIONERS' APPENDIX  
VOLUME I**

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## CHRONOLOGICAL INDEX TO PETITIONERS' APPENDIX

DATE	DOCUMENT	VOLUME	PAGE	RANGE
12/7/2017	Complaint and Demand for Jury Trial (Case No. A-17-765828-C)	I	PA00001	PA00050
5/15/2018	First Amended Complaint and Demand for Jury Trial (Case No. A-17-765828-C)	I	PA00051	PA00109
9/18/2018	Complaint (Case No. CV18-01895)	II	PA00110	PA00167
12/03/2018	First Amended Complaint (Case No. CV18-01895)	II	PA00168	PA00226
3/4/2019	Manufacturer Defendants' Joint Motion to Dismiss First Amended Complaint	III	PA00227	PA00264
3/5/2019	Distributors' Joint Motion to Dismiss First Amended Complaint	III	PA00265	PA00386
4/26/2019	City of Reno's Opposition to Manufacturer Defendants' Joint Motion to Dismiss and All Joinders Thereto	IV-V	PA00387	PA00709
4/26/2019	City of Reno's Opposition to Distributor Defendants' Joint Motion to Dismiss and All Joinders	VI-VII	PA00710	PA00958
5/28/2019	Reply in Support of Manufacturer Defendants' Joint Motion to Dismiss First Amended Complaint	VIII-IX	PA00959	PA01214
5/28/2019	Distributors' Joint Reply in Support of Motion to Dismiss First Amended Complaint	X	PA01215	PA01285

<b>DATE</b>	<b>DOCUMENT</b>	<b>VOLUME</b>	<b>PAGE</b>	<b>RANGE</b>
6/17/2019	Complaint (Case No. A-19-796755-B)	XI-XII	PA01286	PA01535
6/27/2019	First Amended Complaint (Case No. A-19-796755-B)	XIII-XV	PA01536	PA02049
7/3/2019	Order Directing Answer (Case No. 79002)	XVI	PA02050	PA02052
8/22/2019	Complaint (Case No. A-19-800695-B)	XVI	PA02053	PA02144
8/22/2019	Complaint (Case No. A-19-800697-B)	XVI	PA02145	PA02235
8/22/2019	Complaint (Case No. A-19-800699-B)	XVII	PA02236	PA02326
9/12/2019	Third Amended Complaint and Demand for Jury Trial (Case No. A-17-76828-C)	XVII	PA02327	PA02423
9/13/2019	City of Reno's Supplemental Briefing in Support of Oppositions to Defendants' Motions to Dismiss	XVIII	PA02424	PA02560
10/4/2019	Distributors' Response to Plaintiff's Supplemental Briefing re Motions to Dismiss	XVIII	PA02561	PA02566
10/4/2019	Manufacturer Defendants' Response to Plaintiff's Supplemental Briefing re Motions to Dismiss	XVIII	PA02567	PA02587
10/21/2019	Order Dismissing Petition (Case No. 79002)	XVIII	PA02588	PA02591



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1/4/2020	City of Reno's Supplemental Briefing in Support of Oppositions to Distributors' Joint Motion to Dismiss	XVIII	PA02592	PA02602
1/7/2020	Transcript of Proceedings	XIX-XX	PA02603	PA02871
1/8/2020	Transcript of Proceedings	XXI	PA02872	PA03034
2/14/2020	Omnibus Order Granting In Part and Denying in Part Defendants' Motions to Dismiss; and Granting Leave to Amend	XXI	PA03035	PA03052

#### **ALPHABETICAL INDEX TO PETITIONERS' APPENDIX**

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1/7/2020	Transcript of Proceedings	XIX-XX	PA02603	PA02871
1/8/2020	Transcript of Proceedings	XXI	PA02872	PA03034

## **AFFIRMATION**

Pursuant to NRS 239B.030, the undersigned does hereby affirm that Petitioners' Appendix Volume I does not contain the social security number of any person.

Dated this 1st day of May, 2020.

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on this 1st day of May, 2020, a copy of the foregoing Petitioners' Appendix Volume I was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex) and served via U.S. Mail, postage prepaid, on the following individuals:

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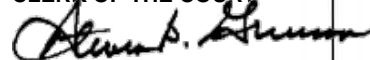
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In addition, in compliance with NRAP 21(a)(1) and Administrative Order 2020-05, a copy of this Petitioners' Appendix Volume I was served upon the Honorable Barry Breslow, District Judge via electronic service and email to Christine.Kuhl@washoecourts.us.

By: /s/ Pat Lundvall  
An Employee of McDonald Carano LLP





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14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

17 CLARK COUNTY,

18 Plaintiff,

20 v.

) Case No.:

) Dept No.:

A-17-765828-C

Department 16

21 **COMPLAINT**

22 **AND DEMAND FOR JURY TRIAL**

23 PURDUE PHARMA, L.P.; PURDUE

24 PHARMA, INC.; THE PURDUE

25 FREDERICK COMPANY, INC. d/b/a THE

26 PURDUE FREDERICK COMPANY, INC.;

27 PURDUE PHARMACEUTICALS, L.P.;

28 TEVA PHARMACEUTICALS USA, INC.;

CEPHALON, INC.; JOHNSON & JOHNSON;

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

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.

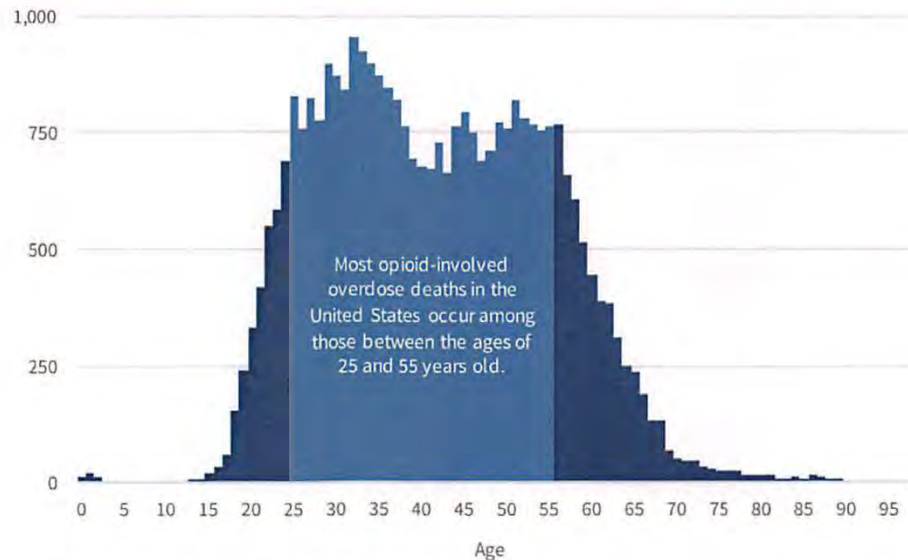
20           22. As a result of the drug companies' marketing campaign, the fatalities continued  
21 to mount while the living continue to suffer.

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

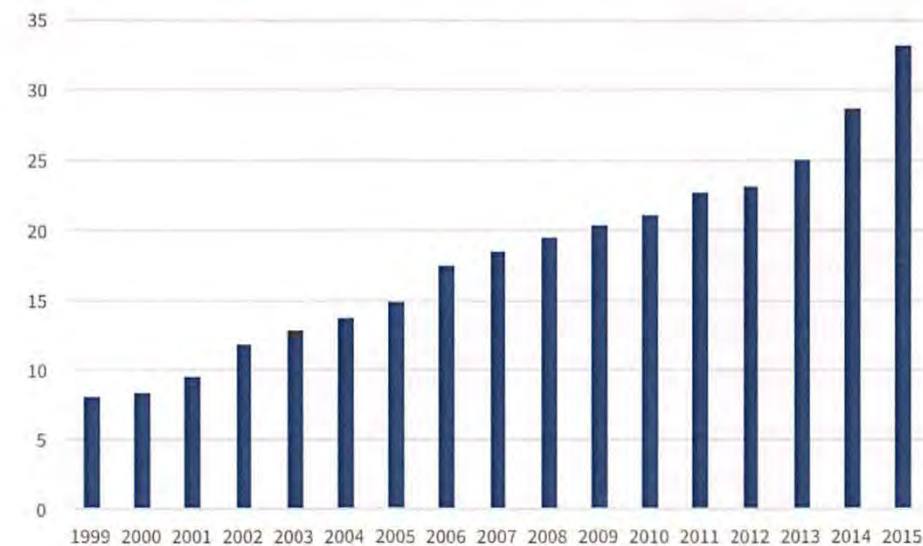
25. In addition to the cost of fatalities each year, opioid misuse among the living imposes important costs as well. It is estimated that prescription opioid misuse increases healthcare and substance abuse treatment costs in the United States by \$29.4 billion, increases criminal justice costs by \$7.8 billion, and reduces productivity among those who do not die of overdose by \$20.8 billion (in 2015 \$). The total nonfatal cost of \$58.0 billion divided by the 1.9 million individuals with a prescription opioid disorder in 2013 results in an average cost of approximately \$30,000.<sup>1</sup> And when patients can no longer afford or legitimately obtain opioids, they often turn to the street to buy prescription opioids or even heroin, fueling the secondary drug market.

<sup>1</sup> 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.



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

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



Source: CDC Wonder database, multiple cause of death files

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

28. Apart from the toll on human life, the crisis has financially strained the services Clark County provides its residents and employees. Human services, social services, court services, law enforcement services, the office of the coroner/medical examiner and health services, including hospital, emergency and ambulatory services, have all been severely impacted by the crisis. For example, as a direct and foreseeable consequence of Defendants' egregious conduct, Clark County paid, and continues to pay, a significant amount for health care costs that stem from prescription opioid dependency. These costs include unnecessary and 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.<sup>2</sup> 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  
against diversion of controlled substances. On June 22, 2007, AmerisourceBergen  
entered into a settlement which resulted in the suspension of its DEA registration;

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

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

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

27  
28  

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<sup>2</sup> *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.

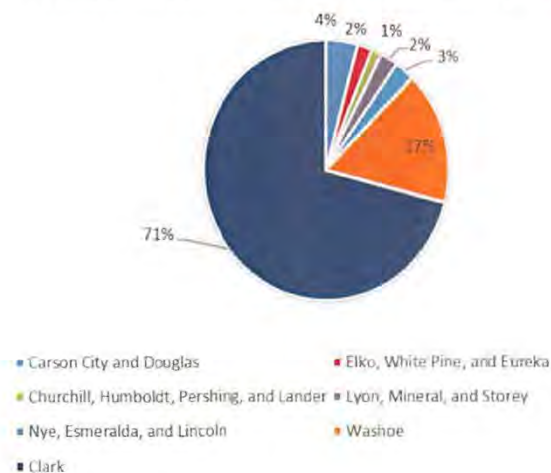
28 135. Yet, Defendants ignored the law, paid the fines, and continued to unlawfully fill  
suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or

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

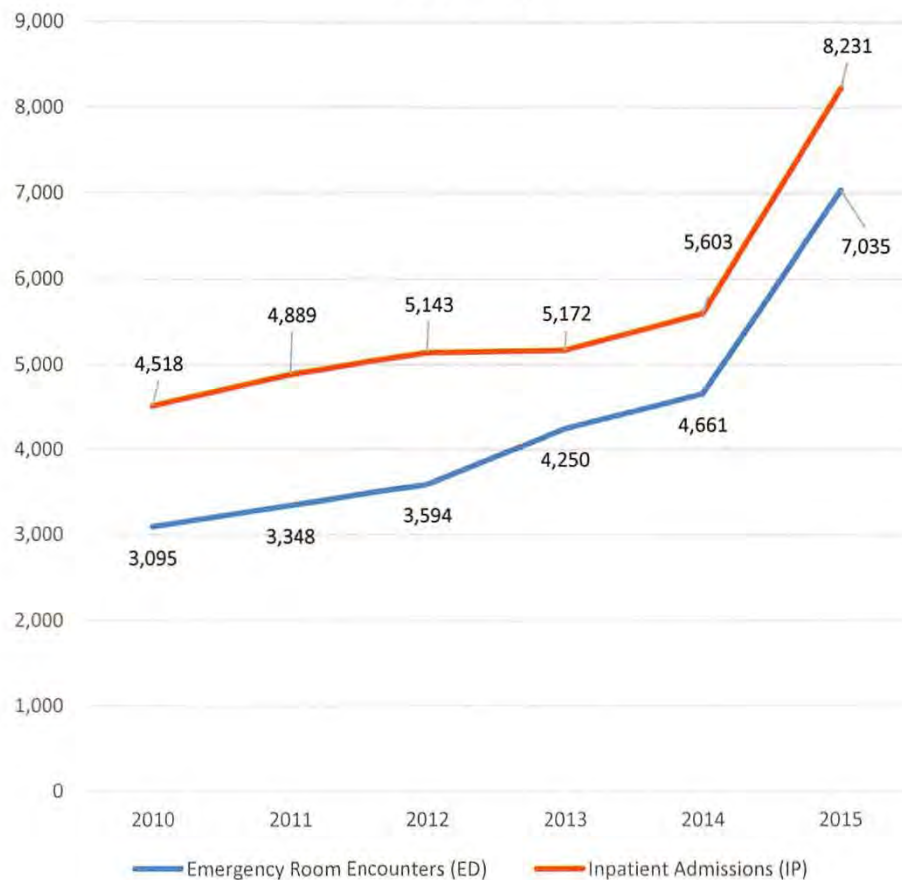


17 137. According to data from the Nevada Division of Public and Behavioral Health,  
18 the total number of opioid-related hospitalizations in Nevada nearly doubled from 2010 to 2015.  
19 In 2010, the number of opioid-related emergency room hospitalizations in Nevada totaled about  
20 4,518 patients.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



138. Opioid-induced hospitalizations and emergency room visits are a significant area of health expenditure. For instance in 2012, over \$40 million was billed for opioid-induced hospitalizations and over \$7 million for similar emergency room visits in Southern Nevada alone.

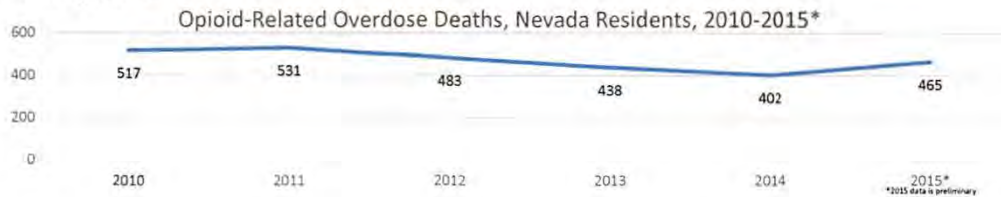
Opioid-Related Hospitalizations, Nevada Residents,  
2010-2015



139. In addition to hospitalizations, the total number of opioid-related deaths continues to mount. According to the Centers for Disease Control, nearly half of all U.S. opioid overdose deaths involve a prescription opioid. In 2015, more than 15,000 people in the U.S. died from overdoses involving prescription opioids.

140. Nevada has the fourth highest drug overdose mortality rate in the United States. From 2010 to 2015, approximately 2,800 deaths in Nevada have been attributed to opioid-

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**

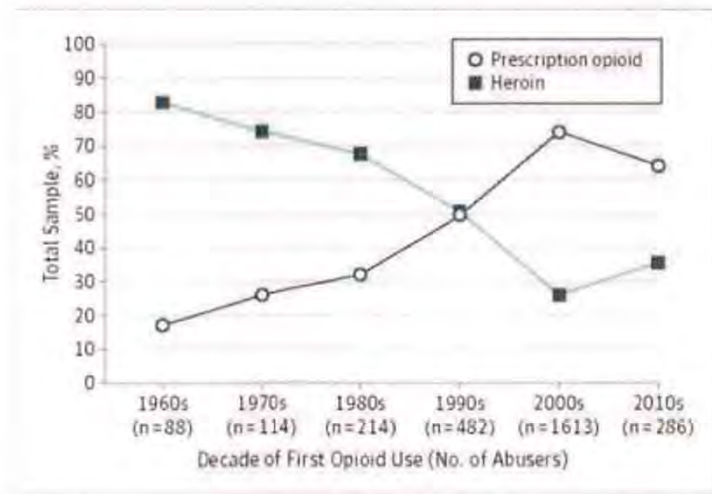
8 141. Through direct promotional marketing, in conjunction with third-party Front  
9 Groups and KOLs, Defendants accomplished exactly what they set out to do: change the  
10 institutional and public perception of the risk-benefit assessments and standard of care for  
11 treating patients with chronic 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.

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



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

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

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

#### **FIRST CAUSE OF ACTION**

*(Public Nuisance Against All Defendants)*

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

149. This action is brought by Clark County for violations of statutory provisions concerning public nuisance under NRS 202 *et seq.* Nevada law provides that a where a 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.

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.



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 **SIXTH CAUSE OF ACTION**

2 *(Punitive Damages against all Defendants)*

3 248. Plaintiff repeats and reiterates the allegations previously set forth herein.

4 249. The acts, conduct and omissions of Defendants, as alleged throughout this  
5 complaint, were willful, malicious, oppressive and/or were done with conscious disregard of the  
6 rights and safety of Plaintiff and for the primary purpose of increasing Defendants' profits from  
7 the sale and distribution of the subject drug.

8 250. Defendants' outrageous and unconscionable conduct warrants an award of  
9 exemplary and punitive damages against each Defendant in an amount appropriate to punish  
10 and make an example of each Defendant.

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

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

18 253. Defendants' conduct was despicable, and so contemptible that it would be looked  
19 down upon and despised by ordinary, decent people, and was carried on by Defendants with  
20 willful and conscious disregard for the safety of Plaintiff, entitling Plaintiff to exemplary  
21 damages.

22 254. Plaintiff is entitled to punitive damages, for the sake of example and by way of  
23 punishing Defendants in an amount in excess of \$15,000.00.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, the Plaintiff prays for judgment against the Defendants as follows:

- 26 1. General damages in an amount in excess of \$15,000.00;  
27 2. Special damages in an amount 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 6<sup>th</sup> day of December, 2017.

10  
11 **CLARK COUNTY**

12  
13   
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14 Nevada Bar No. 1565

15 District Attorney

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Attorneys for Plaintiff, Clark County

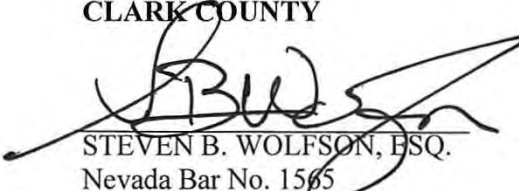


**DEMAND FOR JURY TRIAL**

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

DATED this 6<sup>th</sup> day of December, 2017.

**CLARK COUNTY**

  
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Nevada Bar No. 1565

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*Attorneys for Plaintiff, Clark County*

DISTRICT COURT  
CLARK COUNTY, NEVADA

CLARK COUNTY,

Plaintiff,

 $V_1$ 

PURDUE PHARMA, L.P.; PURDUE  
PHARMA, INC.; THE PURDUE  
FREDERICK COMPANY, INC. d/b/a THE  
PURDUE FREDERICK COMPANY, INC.;  
PURDUE PHARMACEUTICALS, L.P.;  
ADARE PHARMACEUTICALS INC.;  
ABBVIE, INC.; ABBVIE US, LLC; MYLAN  
PHARMACEUTICALS, INC.; MYLAN  
TECHNOLOGIES, INC; DEPOMED, INC.;  
DAIICHI SANKYO, INC.; TEVA  
PHARMACEUTICALS USA, INC.;  
CEPHALON, INC.; JOHNSON & JOHNSON;

) Case No.: A-17-765828-C  
) Dept No.: Department 16

**FIRST AMENDED COMPLAINT**  
**AND DEMAND FOR JURY TRIAL**

1 JANSSEN PHARMACEUTICALS, INC.; )  
2 JANSSEN PHARMACEUTICA, INC. n/k/a )  
3 JANSSEN PHARMACEUTICALS, INC.; )  
4 ORTHO-MCNEIL-JANSSEN )  
5 PHARMACEUTICALS, INC. n/k/a JANSSEN )  
6 PHARMACEUTICALS, INC.; ENDO )  
7 HEALTH SOLUTIONS INC.; ENDO )  
8 PHARMACEUTICALS, INC.; ALLERGAN )  
9 PLC f/k/a ACTAVIS PLC; ACTAVIS, INC. )  
10 f/k/a WATSON PHARMACEUTICALS, )  
11 INC.; WATSON LABORATORIES, INC.; )  
12 INSYS THERAPEUTICS, INC., )  
13 MALLINCKRODT PLC, MALLINCKRODT )  
14 LLC; ACTAVIS LLC; AND ACTAVIS )  
15 PHARMA, INC. f/k/a WATSON PHARMA, )  
16 INC.; AMERISOURCEBERGEN DRUG )  
17 CORPORATION; CARDINAL HEALTH, )  
18 INC.; CARDINAL HEALTH 6 INC.; )  
19 CARDINAL HEALTH TECHNOLOGIES )  
20 LLC; CARDINAL HEALTH 414 LLC; )  
21 CARDINAL HEALTH 200 LLC; McKESSON )  
22 CORPORATION; MASTERS )  
23 PHARMACEUTICAL, LLC f/k/a MASTERS )  
24 PHARMACEUTICAL, INC.; C & R )  
25 PHARMACY d/b/a KEN'S PHARMACY )  
26 f/k/a LAM'S PHARMACY, INC.; AIDA B )  
27 MAXSAM; ALLISON FOSTER; JAMES )  
28 KUMLE; STEVEN A HOLPER MD; )  
STEVEN A. HOLPER, M.D., )  
PROFESSIONAL CORPORATION; )  
HOLPER OUT-PATIENTS MEDICAL )  
CENTER, LTD.; DOES 1 through 100; ROE )  
CORPORATIONS 1 through 100 and ZOE )  
PHARMACIES 1 through 100, inclusive,

Defendants.

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

**INTRODUCTION**

1. Opioid addiction and overdose in the United States as a result of prescription opioid use has reached epidemic levels over the past decade.

1           2.     While Americans represent only 4.6% of the world's population, they consume  
2 over 80% of the world's opioids.

3           3.     Since 1999, the amount of prescription opioids sold in the U.S. has nearly  
4 quadrupled. In 2010, 254 million prescriptions were filled in the U.S. – enough to medicate every  
5 adult in America around the clock for a month. In that year, 20% of all doctors' visits resulted in  
6 the prescription of an opioid (nearly double the rate in 2000).

7           4.     By 2014, nearly two million Americans either abused or were dependent upon  
8 opioids.

9           5.     On March 22, 2016, the Food and Drug Administration (FDA) recognized opioid  
10 abuse as a "public health crisis" that has a "profound impact on individuals, families and  
11 communities across our country."

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

14          7.     From 2000 to 2015, more than half a million people died from drug overdoses  
15 (including prescription opioids and heroin). The most recent figures from the CDC suggest that  
16 175 Americans die everyday from an opioid overdose (prescription and heroin).

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

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

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

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

28          12.    Defendant drug companies named herein, manufacture, market, and sell  
prescription opioids (hereinafter "opioids"), including brand-name drugs like Oxycontin, Vicodin

1 and Percocet, as well as generics like oxycodone and hydrodone, which are powerful narcotic  
2 painkillers.

3 13. Historically, because they were considered too addictive and debilitating for the  
4 treatment of chronic pain (like back pain, migraines and arthritis),<sup>1</sup> opioids were used only to treat  
5 short-term acute pain or for palliative (end-of-life) care.

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

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

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

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

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

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

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

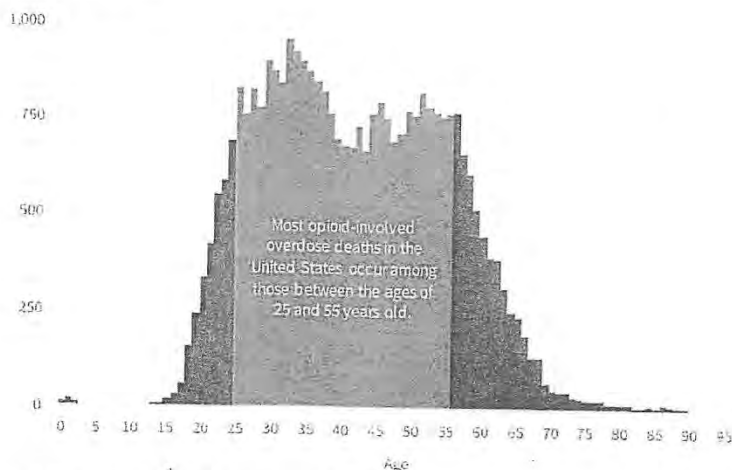
28 21. As a result of the drug companies' marketing campaign, opioids are now the most  
prescribed class of drugs generating over \$11 billion in revenue for drug companies in 2014 alone.

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

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

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

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



Source: CDC Wonder database, multiple cause of death files

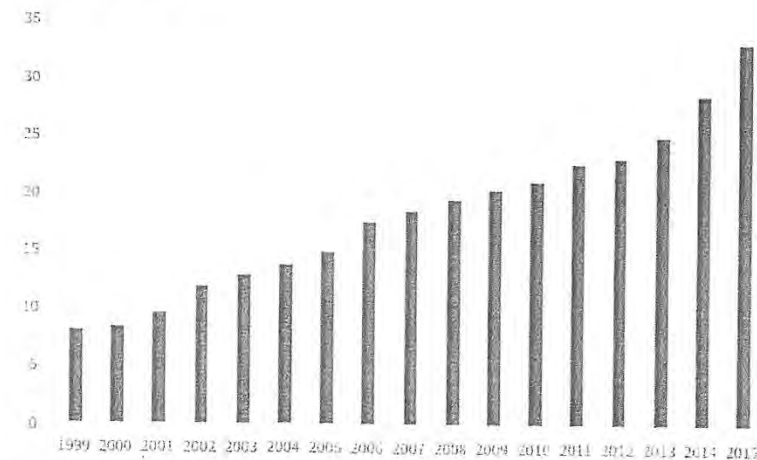
25. In addition to the cost of fatalities each year, opioid misuse among the living imposes important costs as well. It is estimated that prescription opioid misuse increases healthcare and substance abuse treatment costs in the United States by \$29.4 billion, increases



1 criminal justice costs by \$7.8 billion, and reduces productivity among those who do not die of  
2 overdose by \$20.8 billion (in 2015 \$). The total nonfatal cost of \$58.0 billion divided by the 1.9  
3 million individuals with a prescription opioid disorder in 2013 results in an average cost of  
4 approximately \$30,000.<sup>1</sup> And when patients can no longer afford or legitimately obtain opioids,  
5 they often turn to the street to buy prescription opioids or even heroin, fueling the secondary drug  
6 market.

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

11  
12 **Figure 1. Opioid-involved Overdose Deaths, 1999-2015**  
13 (Thousands of Deaths)



Source: CDC Wonder database, multiple cause of death files

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

27  
28 <sup>1</sup> 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           28.     Apart from the toll on human life, the crisis has financially strained the services  
2 Clark County provides its residents and employees. Human services, social services, court  
3 services, law enforcement services, the office of the coroner/medical examiner and health services,  
4 including hospital, emergency and ambulatory services, have all been severely impacted by the  
5 crisis. For example, as a direct and foreseeable consequence of Defendants' egregious conduct,  
6 Clark County paid, and continues to pay, a significant amount for health care costs that stem from  
7 prescription opioid dependency. These costs include unnecessary and excessive opioid  
8 prescriptions, substance abuse treatment services, ambulatory services, emergency department  
9 services, and inpatient hospital services, among others. Defendants' conduct also caused Clark  
10 County to incur substantial economic, administrative and social costs relating to opioid addiction  
11 and abuse, including criminal justice costs, victimization costs, child protective services costs,  
12 lost productivity costs, and education and prevention program costs among others.

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

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

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

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

7       33. By its Complaint, Clark County seeks to recover from Defendants its damages as  
8 a result of the opioid public-health crisis Defendants caused. Namely, this action is brought by  
9 this Plaintiff pursuant to constitutional, statutory, common law and/or equitable authority for  
10 purposes of, *inter alia*:

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

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

28

1 **PARTIES AND JURISDICTION**

2 **A. Plaintiff, Clark County.**

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

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

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

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

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

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

19 **B. Defendants, Drug Manufacturers.**

20 41. Defendant PURDUE PHARMA L.P. is a limited partnership organized under the  
21 laws of Delaware, and registered and authorized to do business in the State of Nevada, under the  
22 laws thereof. At all times relevant herein, PURDUE PHARMA L.P. takes and took advantage of  
23 the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
24 drug patents. PURDUE PHARMA INC. is a corporation organized under the laws of both  
25 Delaware and New York, with its principal place of business in Stamford, Connecticut, and THE  
26 PURDUE FREDERICK COMPANY, INC. is a Delaware corporation with its principal place of  
27 business in Stamford, Connecticut. Defendant PURDUE PHARMACEUTICALS, L.P., ("Purdue  
28 Pharmaceuticals") is and was a limited partnership organized under the laws of the State of  
Delaware. At all times relevant hereto, the foregoing, (collectively, "PURDUE") are and were

1 in the business of designing, testing, manufacturing, labeling, advertising, promoting, marketing,  
2 selling and/or distributing OxyContin and have done so to and within the State of Nevada. At all  
3 times relevant herein, PURDUE hired "Detailers" in Clark County, Nevada, to make personal  
4 contact with physicians and clinics to advocate for the purchase and use of opioid medications  
5 which were contrary to known safety concerns and sound medical advice.

6 42. Defendant ABBVIE, INC. is a corporation organized under the laws of the state  
7 of Delaware. ABBVIE, INC. is the surviving corporation which embodies the specialty drugs  
8 arm which was formerly a part of Abbot Laboratories, prior to a 2013 split. Abbot Laboratories  
9 was the father, originator and disseminator of the aggressive, deceptive and fraudulent marketing  
10 program which lies at the heart of the opioid crisis.

11 43. Defendant ABBVIE US, LLC is an LLC organized under the laws of Delaware,  
12 and at all relevant times herein was registered and authorized to do business within the State of  
13 Nevada. ABBVIE US, LLC conducts drug research, manufactures drugs, and distributes drugs.  
14 ABBVIE US, LLC is a wholly-owned subsidiary of ABBVIE, INC. and ABBVIE, INC. and its  
15 subsidiaries continue to patent, manufacture and sell opioids into and within Clark County,  
16 Nevada. At all times relevant herein, ABBVIE, INC. and ABBVIE US, LLC take and took  
17 advantage of the legislative, regulatory and tax schemes of the State of Nevada to own, maintain  
18 and defend drug patents. Defendant ABBVIE, INC. also hires lobbyists specifically to lobby the  
19 Nevada State Legislature to strengthen laws protecting their profits, and to weaken laws  
20 protecting the health and welfare of Nevada citizens, including the citizens of Clark County.

21 44. Defendant ADARE PHARMACEUTICALS, INC. is a Nevada domestic  
22 corporation headquartered in New Jersey, which, among other things, produces an oral delivery  
23 system for a combination of opioid and non-opioid pain medications. At all times relevant herein,  
24 ADARE PHARMACEUTICALS, INC. takes and took advantage of the legislative, regulatory  
25 and tax schemes of the State of Nevada to own, maintain and defend drug patents.

26 45. Defendant MYLAN PHARMACEUTICALS, INC. is a corporation organized  
27 under the laws of West Virginia, and at all relevant times herein was registered and authorized to  
28 do business in the State of Nevada. MYLAN TECHNOLOGIES INC. is a corporation organized  
under the laws of West Virginia, and registered and authorized to do business in the State of



1 Nevada. At all times relevant herein, MYLAN PHARMACEUTICALS, INC. and MYLAN  
2 TECHNOLOGIES INC. were and are engaged in the manufacturing, distribution and the sale of  
3 opioid drugs into and within Clark County, Nevada. At all times relevant herein, MYLAN  
4 PHARMACEUTICALS, INC. and MYLAN TECHNOLOGIES INC. take and took advantage of  
5 the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
6 drug patents.

7 46. Defendant DEPOMED, INC. is a corporation organized under the laws of the State  
8 of California and headquartered in Newark, California. At all times relevant herein, DEPOMED  
9 INC. was and is engaged in the manufacturing, distribution and the sale of opioid drugs into and  
10 within Clark County, Nevada. At all times relevant herein, DEPOMED INC. hired "Detailers"  
11 in Clark County, Nevada, to make personal contact with physicians and clinics to advocate for  
12 the purchase and use of opioid medications which were contrary to known safety concerns and  
13 sound medical advice.

14 47. Defendant DAIICHI SANKYO, INC. is a corporation organized under the laws of  
15 the State of Delaware and headquartered in Basking Ridge, New Jersey. At all times relevant  
16 herein, DAIICHI SANKYO, INC. was and is engaged in the manufacturing, distribution and the  
17 sale of opioid drugs into and within Clark County, Nevada. At all times relevant herein, DAIICHI  
18 SANKYO INC. was and is registered and authorized to do business within the State of Nevada.  
19 At all times relevant herein, DAIICHI SANKYO, INC. hired "Detailers" in Clark County, Nevada,  
20 to make personal contact with physicians and clinics to advocate for the purchase and use of  
21 opioid medications which were contrary to known safety concerns and sound medical advice. A  
22 known deceptive marketing practice for opioids, is the labeling of them as "abuse-deterrent." In  
23 2017, DAIICHI SANKYO, INC. released their own line of "abuse deterrent" Oxycodone  
24 formulations for sale.

25 48. Defendant TEVA PHARMACEUTICALS USA, INC., is a Delaware corporation  
26 with its principal place of business located in North Wales, Pennsylvania. Teva USA is a wholly  
27 owned subsidiary of TEVA PHARMACEUTICALS INDUSTRIES LTD., an Israeli Corporation.  
28 TEVA develops, makes, manufactures, and distributes generic opioid medications worldwide,  
including within Clark County, Nevada.

1           49. Defendant CEPHALON, INC., is Delaware corporation with its principal place of  
2 business located in Frazer, Pennsylvania. In 2011, Teva Ltd. acquired CEPHALON, INC.

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

15           51. Upon information and belief, Johnson & Johnson controls the sale and  
16 development of Janssen Pharmaceutical's drugs, and Janssen Pharmaceuticals, Inc.'s profits inure  
17 to JOHNSON & JOHNSON's benefit. (JANSSEN PHARMACEUTICALS, INC., ORTHO-  
18 MCNEIL-JANSSEN PHARMACEUTICALS, INC., JANSSEN PHARMACEUTICA, INC.,  
19 AND JOHNSON & JOHNSON collectively are referred to herein as "Janssen.")

20           52. Defendant ENDO HEALTH SOLUTIONS INC., is a Delaware corporation with  
21 its principal place of business located in Malvern, Pennsylvania. ENDO PHARMACEUTICALS,  
22 INC., is a wholly-owned subsidiary of Endo Health Solutions Inc., and is a Delaware corporation  
23 with its principal place of business in Malvern, Pennsylvania. (Endo Health Solutions Inc., and  
24 Endo Pharmaceuticals, Inc., collectively are referred to herein as "Endo.").

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

1           54. Defendant WATSON LABORATORIES, INC. is, and was at all times relevant  
2 herein, a Nevada corporation with its principal place of business in Corona, California, and is a  
3 wholly owned subsidiary of ALLERGAN PLC (f/k/a ACTAVIS, INC., f/k/a WATSON  
4 PHARMACEUTICALS, INC.). At all times relevant herein, Watson Laboratories, Inc. takes and  
5 took advantage of the legislative, regulatory and tax schemes of the State of Nevada to own,  
6 maintain and defend drug patents. ACTAVIS PHARMA, INC. (f/k/a ACTAVIS, INC.), is a  
7 Delaware corporation with its principal place of business in New Jersey, and was formerly known  
8 as WATSON PHARMA, INC. ACTAVIS LLC is a Delaware limited liability company with its  
9 principal place of business in Parsippany, New Jersey.

10           55. Defendant INSYS THERAPEUTICS, INC., is, and was at all times relevant herein,  
11 a Delaware corporation with its principal place of business located in Chandler, Arizona. At all  
12 times relevant herein, Defendant INSYS THERAPEUTICS, INC. was in the business of  
13 designing, testing, manufacturing, labeling, advertising, promoting, marketing, selling and/or  
14 distributing Subsys, a transmucosal immediate-release formulation of fentanyl, packed in a  
15 single-dose spray device intended for oral sublingual administration, and has done so to and  
16 within in the State of Nevada. At all times relevant herein, INSYS THERAPEUTICS, INC. hired  
17 "Detailers" in Clark County, Nevada to make personal contact with physicians and clinics to  
18 advocate for the purchase and use of opioid medications which were contrary to known safety  
19 concerns and sound medical advice. At all times relevant herein, INSYS THERAPEUTICS, INC.,  
20 used deceptive tactics to gain authorization for Subsys prescriptions from health insurance  
21 providers for off-label, high dosage uses.

22           56. Defendant MALLINKRODT PLC, is a public limited company incorporated in  
23 Ireland with its headquarters in Derbyshire, United Kingdom. MALLINCKRODT PLC was  
24 incorporated in Ireland on January 9, 2013 for the purpose of holding the pharmaceutical business  
25 of its parent company, Covidien PLC, and was spun off and separated from Covidien PLC on  
26 June 28, 2013. MALLINCKRODT LLC is a Delaware corporation with its principal place of  
27 business in Hazelwood, Missouri (collectively, with MALLINCKRODT PLC,  
28 "MALLINCKRODT"). MALLINCKRODT operates in the United States under the name  
Mallinckrodt Pharmaceuticals, with its United States headquarters are located in Hazelwood,

1 Missouri. At all times relevant herein, Defendant MALLINCKRODT was in the business of  
2 designing, testing, manufacturing, labeling, advertising, promoting, marketing, selling, and/or  
3 distributing opioid products known as Exalgo, Roxicodone, and Xartemis XR, and has done so to  
4 and within the State of Nevada.

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

23 **C. Defendants, Wholesale Distributors.**

24 58. Defendant, AMERISOURCEBERGEN DRUG CORPORATION, is, and at all  
25 times pertinent hereto, was, a foreign corporation authorized to do business in the County of Clark,  
26 State of Nevada. Upon information and belief, and at all times relevant hereto,  
27 AMERISOURCEBERGEN DRUG CORPORATION's principal place of business is located in  
28 Chesterbrook, Pennsylvania, operating distribution centers in Ohio.

1           59. Defendant, CARDINAL HEALTH, INC. is, and at all times pertinent hereto, was,  
2 a foreign corporation with multiple wholly-owned subsidiaries incorporated under the laws of the  
3 State of Nevada and/or authorized to do business in said state, and conducting business in the  
4 County of Clark, State of Nevada.

5           60. Upon information and belief, and at all times relevant hereto, CARDINAL  
6 HEALTH, INC.'s principal office is located in Dublin, Ohio, operating, distribution centers in  
7 Ohio. CARDINAL HEALTH 6 INC. is a Nevada Domestic Corporation. CARDINAL HEALTH  
8 TECHNOLOGIES LLC is a Nevada Domestic LLC. At all times relevant herein, CARDINAL  
9 HEALTH TECHNOLOGIES LLC takes and took advantage of the legislative, regulatory and tax  
10 schemes of the State of Nevada to own, maintain and defend patents, including those relating to  
11 drug labeling, coding and distribution.

12           61. CARDINAL HEALTH 414 LLC is an LLC incorporated under the laws of the  
13 state of Delaware and headquartered in Dublin, Ohio, and registered and authorized to conduct  
14 business within the State of Nevada. At all times relevant herein, CARDINAL HEALTH 414  
15 LLC takes and took advantage of the legislative, regulatory and tax schemes of the State of  
16 Nevada to own, maintain and defend medical patents. Further, CARDINAL HEALTH 414 LLC  
17 operates a pharmacy within the physical confines of the County of Clark. CARDINAL HEALTH  
18 200 LLC is an LLC incorporated under the laws of the state of Delaware and headquartered in  
19 Dublin, Ohio, and registered and authorized to conduct business within the State of Nevada. To  
20 wit, CARDINAL HEALTH 200 LLC has obtained a business license in the County of Clark to  
21 register as a "Procurement Vendor," which is a company registered to submit bids to sell products  
22 to Nevada and Clark County government entities, such as to sell medical goods or drugs to the  
23 County-operated hospital.

24           62. Defendant, McKESSON CORPORATION, is, and at all times pertinent hereto,  
25 was, foreign corporation authorized to do business in the County of Clark, State of Nevada. Upon  
26 information and belief, and at all times relevant hereto, McKESSON CORPORATION's  
27 principal place of business is located in San Francisco, California, operating distribution centers  
28 in Ohio. At all times relevant herein, McKESSON CORPORATION takes and took advantage



1 of the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
2 patents, including those relating to drug labeling, coding and distribution.

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

8 64. AMERISOURCEBERGEN DRUG CORPORATION, CARDINAL HEALTH,  
9 INC., CARDINAL HEALTH 6 INC.; CARDINAL HEALTH TECHNOLOGIES LLC;  
10 CARDINAL HEALTH 414 LLC; CARDINAL HEALTH 200 LLC; McKESSON  
11 CORPORATION, and MASTERS PHARMACEUTICAL, LLC f/k/a MASTERS  
12 PHARMACEUTICAL, INC.; (collectively "Defendant Distributors" or "Defendants")  
13 distributed opioids or facilitated the distribution of opioids into Clark County. The United States  
14 Drug Enforcement Administration has found it necessary to levy disciplinary action against these  
15 and each of these including large fines and suspension or permanent cancellation of their licenses  
16 for distribution of controlled substances, based on dangerous and abusive distribution practices  
17 as detailed herein and below.

18 65. Defendant Distributors purchased opioids from manufacturers, including the  
19 named Defendants herein, and distributed them to pharmacies throughout Clark County, and the  
20 State of Nevada.

21 66. Defendant Distributors played an integral role in the chain of opioids being  
22 distributed throughout Clark County, and the State of Nevada.

23 **D. Defendants, Detailers.**

24 67. Defendants AIDA B MAXSAM; ALLISON FOSTER; and JAMES KUMLE;  
25 (hereinafter "DETAILERS") are natural persons who are, and at all relevant times herein were,  
26 residents of Clark County, Nevada, who are or were engaged in specialty drug sales on behalf of  
27 Defendant Manufacturers and Distributors PURDUE; DAIICHI SANKYO, INC.; and/or  
28 DEPOMED.

1       68. Defendant DETAILERS were trained to, and did in fact, make personal contact  
2 with physicians and clinics within Clark County, Nevada for the purpose, and with the result, of  
3 encouraging them to prescribe opioid medications in a manner inconsistent with known safety  
4 concerns and contrary to sound medical practice.

5       **E. Defendants, Pharmacies.**

6       69. Defendant C & R PHARMACY d/b/a KEN'S PHARMACY f/k/a LAM'S  
7 PHARMACY, INC. ("LAM'S PHARMACY") is and was at all times pertinent hereto a domestic  
8 corporation authorized to do business in the County of Clark, State of Nevada. Upon information  
9 and belief, and at all times relevant hereto, KEN'S PHARMACY f/k/a LAM'S PHARMACY,  
10 INC.'s principal place of business was and is in Las Vegas, Nevada. Plaintiff is informed,  
11 believes, and alleges that C & R PHARMACY d/b/a KEN'S PHARMACY purchased and is the  
12 possessor and controller of all of the assets of the former LAM'S PHARMACY including drugs,  
13 premises, prescription records, customer lists, telephone numbers, goodwill, and all other business  
14 assets.

15       70. Defendant LAM'S PHARMACY and other pharmacies (collectively "Defendant  
16 Pharmacies" or "Defendants") sold opioids to residents of Clark County giving rise to the opioid  
17 crisis.

18       71. Defendant Pharmacies played an integral role in the chain of opioids being sold  
19 throughout Clark County.

20       **F. Defendants, Health Care Providers**

21       72. Defendant STEVEN A HOLPER MD is, and was at all times relevant herein, a  
22 resident of Clark County, Nevada and was a licensed medical doctor in the State of Nevada. Upon  
23 information and belief, and at all times relevant hereto, Defendant STEVEN A HOLPER MD,  
24 conducted business and provided medical services as STEVEN A. HOLPER, M.D., PC, a Nevada  
25 Domestic Professional Corporation in Clark County, Nevada. Defendant HOLPER OUT-  
26 PATIENTS MEDICAL CENTER, LTD. (collectively, with STEVEN A HOLPER MD and  
27 STEVEN A. HOLPER M.D., PC, "Defendant Providers" or "HOLPER"), is, and was at all times  
28 relevant herein, a Nevada Domestic Corporation with its principal place of business in Clark

1 County, Nevada, and served as the location from which Defendant STEVEN A HOLPER MD  
2 provided his medical services.

3 73. HOLPER habitually prescribed and delivered highly addictive and potentially  
4 lethal opioid medications, including, but not limited to, Subsys, to patients in Clark County,  
5 Nevada who did not meet the qualifications for such medication, specifically, were not cancer  
6 patients experiencing break-through cancer pain.

7 74. HOLPER participated in a deceptive scheme to obtain authorization for such  
8 prescriptions from health insurance providers.

9 **G. Defendants, Does, Roes and Zoes.**

10 75. That the true names and the capacities, whether individual, agency, corporate,  
11 associate or otherwise, of Defendant DOES I through 100, inclusive, are unknown to Plaintiff.  
12 Plaintiff will ask leave of the Court to amend this Complaint to show the true names and capacities  
13 of these Defendants, when they become known to Plaintiff. Plaintiff believes each Defendant  
14 named as DOE was responsible for the misconduct alleged herein.

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

23 77. That the true names and the capacities, whether individual, agency, corporate,  
24 associate or otherwise, of Defendant ZOE PHARMACIES I through 100, are unknown to Plaintiff.  
25 These Defendants include the pharmacies or similarly situated retailers that may have developed,  
26 manufactured, produced, sold, altered or otherwise distributed opioids which caused Plaintiff's  
27 injuries as complained herein. Plaintiff will ask to leave of the Court to amend this Complaint to  
28 show the true names and capacities of these Defendants, when they become known to Plaintiff.

1 Plaintiff believes each Defendant named as ZOE PHARMACY was responsible for contributing  
2 to the misconduct alleged herein.

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

6 79. Plaintiff is informed and believes and thereon alleges that at all relevant times  
7 herein mentioned Defendants, and each of them, were the agents and/or servants and/or partners  
8 and/or joint venture partners and/or employers and/or employees and/or contractors of the  
9 remaining Defendants and were acting within the course and scope of such agency, employment,  
10 partnership, contract or joint venture and with the knowledge and consent of the remaining  
11 Defendants at the time of the event leading to the misconduct alleged herein.

12 **H. Jurisdiction & Venue.**

13 80. That exercise of the jurisdiction by this Court over each and every Defendant in  
14 this action is appropriate because each and every Defendant has done, and continues to do,  
15 business in the State of Nevada, and committed a tort in the State of Nevada. Additionally, this  
16 Court has jurisdiction over the claims alleged herein as they arise under Nevada statutes and  
17 Nevada common law.

18 81. Venue is proper in the District Court of Clark County, Nevada where part of the  
19 claims alleged herein occurred.

20 **GENERAL FACTUAL ALLEGATIONS**

21 **A. Opioids Generally**

22 82. Defendants design, manufacture, distribute, sell, market, and advertise  
23 prescription opioids, including brand-name drugs like Oxycontin and Subsys, and generics like  
24 oxycodone, which are powerful narcotic painkillers. Historically, because they were considered  
25 too addictive and debilitating for the treatment of chronic pain (like back pain, migraines and  
26 arthritis), opioids were used only to treat short-term acute pain cancer patients or for palliative  
27 (end-of-life) care.

28 83. Due to the lack of evidence that opioids improved patients' ability to overcome  
pain and function, coupled with evidence of greater pain complaints as patients developed

1 tolerance to opioids over time and the serious risk of addiction and other side effects, the use of  
2 opioids for chronic pain was discouraged or prohibited. As a result, doctors generally did not  
3 prescribe opioids for chronic pain.

4 84. In the 1970s and 1980s, studies were conducted that made clear the reasons to  
5 avoid opioids. By way of example, the World Health Organization ("WHO") in 1986 published  
6 an "analgesic ladder" for the treatment of cancer pain. The WHO recommended treatment with  
7 over-the-counter or prescription acetaminophen or non-steroidal anti-inflammatory drugs  
8 ("NSAIDs") first, then use of unscheduled or combination opioids, and then stronger (Schedule  
9 II or III) opioids if pain persisted. The WHO ladder pertained only to the treatment of cancer pain,  
10 and did not contemplate the use of narcotic opioids for chronic pain - because the use of opioids  
11 for chronic pain was not considered appropriate medical practice at the time.

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

16 **B. Defendants' Fraudulent Marketing**

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

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

26 88. Defendants also used kickback systems, prior authorization systems, and  
27 incentives to encourage health care providers to prescribe the opioid medications.  
28



1                   Direct Marketing Efforts

2           89. Defendants' direct marketing of opioids generally proceeded on two tracks. First,  
3 Defendants conducted, and continue to conduct, promotional campaigns extolling the purported  
4 benefits of their branded drugs. Advertisements were branded to deceptively portray the benefits  
5 of opioids for chronic pain. For instance, Defendant Purdue commissioned series of ads in  
6 medical journals, called "Pain vignettes," for Oxycontin in 2012. These ads featured chronic pain  
7 patients and recommended opioids for each. One ad described a "54-year-old writer with  
8 osteoarthritis of the hands" and implied that Oxycontin would help the writer work more  
9 effectively. Purdue agreed in late 2015 and 2016 to halt these misleading representations in New  
10 York, but no similar order has been issued in Nevada. Defendant Mallinckrodt marketed its  
11 products, Exalgo and Xartemis as specially formulated to reduce abuse and published information  
12 on its website minimizing addition risk as well as advocating access to opioids. Defendant Insys  
13 provided health care providers with false and misleading information in order to deceive such  
14 providers into believing the FDA had approved Subsys for more uses than the FDA had actually  
15 approved.

16           90. Second, Defendants promoted, and continue to promote, the use of opioids for  
17 chronic pain through "detailers" – sales representatives who visited individual doctors and  
18 medical staff in their offices – and small-group speaker programs. Defendants' detailing to  
19 doctors is effective. By establishing close relationships with prescribing physicians, Defendants'  
20 sales representatives are able to disseminate their misrepresentations in targeted, one-on-one  
21 settings that allowed them to differentiate their opioids and to address individual prescribers'  
22 concerns about prescribing opioids for chronic pain.

23           91. These direct techniques were also accompanied by kickbacks, prior authorization  
24 systems, and the use of other incentives to encourage health care providers, to prescribe the opioid  
25 medication for chronic pain.

26           92. Numerous studies indicate that marketing impacts prescribing habits, with face-  
27 to-face detailing having the greatest influence. Defendants devoted, and continues to devote,  
28 massive resources to direct sales contacts with doctors.

1           93. Defendants paid sham "speaker fees" to doctors to run educational events to  
2 discuss the use of their products, but the fees were actually intended to reward those doctors for  
3 prescribing Defendants' product and incentivize them to prescribe more of those products to  
4 patients. In fact, often times the speakers spoke at events with minimal to no attendance simply  
5 to collect the fee. These kickbacks increased as the number of prescriptions written by the  
6 speakers increased.

7           94. 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 along  
14 with them periodically to both check on their performance and compliance.

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

18           96. As the opioid epidemic spread, many health care providers recognized the dangers  
19 of opioid medication, including health risks and the risk of addiction. Others, however, continued  
20 to prescribe such medication for off-label purposes without adequately warning patients of the  
21 dangers associated with opioids.

22           97. Upon information and belief, Defendant Providers received financial incentives to  
23 continue writing prescriptions for such opioid medication despite the dangers associated with  
24 same.

25           98. Across the pharmaceutical industry, "core message" development is funded and  
26 overseen on a national basis by corporate headquarters. This comprehensive approach ensures  
27 that Defendants' messages are accurately and consistently delivered across marketing channels –  
28 including detailing visits, speaker events, and advertising – and in each sales territory. Defendants

1 consider this high level of coordination and uniformity crucial to successfully marketing their  
2 drugs.

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

4 99. In addition to direct communications, Defendants utilized third-party marketing to  
5 promote their line of prescription opiates. This "unbranded" marketing refers not to a specific  
6 drug, but more generally to a disease state or treatment. For instance, these marketing materials  
7 generally promoted opioid use but did not name a specific opioid. Through these unbranded  
8 materials, Defendants presented information and instructions concerning opioids that were  
9 generally contrary to, or at best, inconsistent with, information and instructions listed on  
10 Defendants' branded marketing materials and drug labels and with Defendants' own knowledge  
11 of the risks, benefits and advantages of opioids. An example of such unbranded marketing  
12 techniques is Defendant Mallinckrodt's Collaborating and Acting Responsible to Ensure Safety  
13 (C.A.R.E.S.) Alliance, which promoted a book "Defeat Chronic Pain Now!" minimizing the risk  
14 of opioid addiction and emphasizing opioid therapy for regular use for moderate chronic pain.

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

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

28

1                   **Key Opinion Leaders (KOLs)**

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

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

13                   **Front Groups**

14           104. Defendants also entered into arrangements with seemingly unbiased and  
15 independent patient and professional organizations to promote opioids for the treatment of chronic  
16 pain. Under their direction and control, these "Front Groups" generated treatment guidelines,  
17 unbranded materials, and programs that favored chronic opioid therapy. They also assisted  
18 Defendants by refuting negative articles, by advocating against regulatory changes that would  
19 limit opioid prescribing in accordance with the scientific evidence, and by conducting outreach  
20 to vulnerable patient populations targeted by Defendants.

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

28           106. While Defendants utilized many Front Groups, one of the most prominent of was  
the American Pain Foundation ("APF"). APF received more than \$10 million in funding from

1 opioid manufacturers from 2007 until it closed its doors in May 2012. Upon information and  
2 belief, Defendant Purdue was one of its primary financial backers.

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

10 108. In or about May 2012, the U.S. Senate Finance Committee began investigating  
11 APF to determine the relationship, financial and otherwise, between the organization and the  
12 manufacturers of opioid analgesics. The investigation caused considerable damage to APF’s  
13 credibility as an objective and neutral third party, and Purdue, upon information and belief,  
14 stopped financially supporting the organization.

15 109. Within days of being targeted by Senate investigation, APF’s board voted to  
16 dissolve the organization “due to irreparable economic circumstances.” APF “cease[d] to exist,  
17 effective immediately.”

18 Continuing Medical Education (CMEs)

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

27 111. By utilizing CMEs, Defendants sought to reach general practitioners, whose broad  
28 area of focus and lack of specialized training in pain management made them particularly



1 dependent upon CMEs and, as a result, especially susceptible to Defendants' deceptions.  
2 Defendants sponsored CMEs promoted chronic opioid therapy.

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

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

8 **Drug Manufacturer Defendants—Kickbacks to Encourage Prescriptions**

9 114. Upon information and belief, Defendants utilized a system of kickbacks to  
10 encourage health care providers to write prescriptions for, and deliver, the opioid medications.  
11 Kickbacks took the form of "speaker fees" paid to health care providers that spoke at programs  
12 regarding the purported benefits and safety of using opioid medications to treat chronic pain. Such  
13 speakers were recruited by Defendants based upon the number of prescriptions the providers  
14 wrote for opioid medications. The more prescriptions written, the more times the speaker was  
15 asked to appear at a program, and the more "speaker fees" were paid to the provider. Defendants'  
16 employees were rewarded when their "speakers" increased the prescriptions they wrote. These  
17 speaking programs did not result in other health care providers writing a significant number of  
18 prescriptions for Defendants' products, but the "speakers" continued to be paid to speak so long  
19 as they increased their own prescriptions. Many of the speaker programs had few or no attendees  
20 that would actually be able to write prescriptions for Defendants' products. Upon information and  
21 belief, Defendant Providers, benefitted from such programs.

22 **Prior Authorization Programs**

23 115. Upon information and belief, Defendants developed prior authorization programs  
24 in order to gain authorization and approval from insurance companies to cover the costly opioid  
25 products for off-label uses. These programs involved representatives from Defendants contacting  
26 insurance companies and representing that they are from a health care provider's office rather  
27 than from the Defendant manufacturer or distributor; providing inaccurate diagnosis information  
28 on the authorization requests; and drafting Letters of Medical Necessity for health care providers  
to sign-off on for purposes of receiving authorization from health insurance providers. Upon

1 information and belief, Defendant Providers also participated in misleading the health insurance  
2 providers to authorize the numerous prescriptions written for opioid medications, including, but  
3 not limited to, Subsys.

4 **Medication Switch Programs**

5 116. Upon information and belief, Defendants encouraged and incentivized detailers  
6 and sales people to convince health care providers to substitute stronger, more expensive opioid  
7 medications for medications that patients were already prescribed. Detailers and sales people were  
8 informed that they would receive higher pay and/or bonuses by convincing health care providers  
9 to change prescriptions. These programs ignored any warnings that one opioid drug could not be  
10 substituted on a one-for-one basis with another opioid medication. Each opioid medication is  
11 unique in its dosing and has a different approved dosage level. Switch programs encouraged a  
12 one-for-one substitution despite the differences in the original and substitute medication.

13 **Drug Manufacturer Defendants—Marketing Targeting the Elderly and Veterans**

14 117. In its pursuit of profit, Defendants targeted vulnerable segments of the population  
15 suffering from chronic pain including veterans and the elderly.

16 118. Defendants' targeted marketing to the elderly and the absence of cautionary  
17 language in their promotional materials creates a heightened risk of serious injury. Studies have  
18 shown that elderly patients who used opioids had a significantly higher rate of death, heart attacks,  
19 and strokes than users of NSAIDs. Additionally, elderly patients taking opioids have been found  
20 to suffer elevated fracture risks, greater risk for hospitalizations, and increased vulnerability to  
21 adverse drug effects and interactions, such as respiratory depression.

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

26 120. Veterans are also suffering greatly from the effects of Defendants' targeted  
27 marketing. Opioids are particularly dangerous to veterans. According to a study published in the  
28 2013 Journal of American Medicine, veterans returning from Iraq and Afghanistan who were

1 prescribed opioids have a higher incidence of adverse clinical outcomes, like overdoses and self-  
2 inflicted and accidental injuries, than the general U.S. population.

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

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

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

### 18 C. Defendants' Misrepresentations

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

24 125. These misrepresentations regarding opioids include but are not limited to:

- 25 a. Starting patients on opioids was low-risk because most patients would not become  
26 addicted, and because those who were at greatest risk of addiction could be readily  
27 identified and managed;
- 28 b. Patients who displayed signs of addiction probably were not addicted and, in any  
event, could easily be weaned from the drugs;

- 1           c. The use of higher opioid doses, which many patients need to sustain pain relief as
- 2           they develop tolerance to the drugs, do not pose special risks; and
- 3           d. Abuse-deterrent opioids both prevent abuse and overdose and are inherently less
- 4           addictive.

5           126. Upon information and belief, Defendants have not only failed to correct these  
6 misrepresentations, they continue to make them today.

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

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

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

24          130. Upon information and belief and at all times relative herein, Defendants made  
25 and/or disseminated deceptive statements related to opioids, including, but not limited to, in the  
26 following ways:

- 27           a. Creating, sponsoring, and assisting in the distribution of patient education
- 28           materials distributed to Nevada consumers that contained deceptive statements;

- 1 b. Creating and disseminating advertisements that contained deceptive statements  
2 concerning the ability of opioids to improve function long-term and concerning  
3 the evidence supporting the efficacy of opioids long-term for the treatment of  
4 chronic non-cancer pain;  
5 c. Assisting in the distribution of guidelines that contained deceptive statements  
6 concerning the use of opioids to treat chronic non-cancer pain and misrepresented  
7 the risks of opioid addiction;  
8 d. Developing and disseminating scientific studies that misleadingly concluded  
9 opioids are safe and effective for the long-term treatment of chronic non-cancer  
10 pain and that opioids improve quality of life, while concealing contrary data;  
11 e. Targeting the elderly and veterans by assisting in the distribution of guidelines that  
12 contained deceptive statements concerning the use of opioids to treat chronic non-  
13 cancer pain and misrepresented the risks of opioid addiction in this population;  
14 f. Exclusively disseminating misleading statements in education materials to Nevada  
15 hospital doctors and staff while purportedly educating them on new pain standards;  
16 and  
17 g. Making deceptive statements concerning the use of opioids to treat chronic non-  
18 cancer pain to Nevada prescribers through in-person detailing.

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

20 131. In Nevada, opioids are a controlled substance and are categorized as "dangerous  
21 drugs." Therefore, Defendant Distributors have a duty to exercise reasonable care under the  
22 circumstances.

23 132. This involves a duty not to create a foreseeable risk of harm to others. Additionally,  
24 one who engages in affirmative conduct-and thereafter realizes or should realize that such conduct  
25 has created an unreasonable risk of harm to another-is under a duty to exercise reasonable care to  
26 prevent the threatened harm.

27 133. All opioid distributors are required and have a duty to maintain effective controls  
28 against opioid diversion. They are also required and have a duty to create and use a system to  
identify and report downstream suspicious orders of controlled substances to law enforcement.



1 Suspicious orders include orders of unusual size, orders deviating substantially from the normal  
2 pattern, and orders of unusual frequency.

3 134. To comply with these requirements, distributors must know their customers, report  
4 suspicious orders, conduct due diligence, and terminate orders if there are indications of diversion.

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

7 136. Defendant Distributors each have a non-delegable duty to identify and track  
8 suspicious orders of controlled substances.

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

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

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

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

21 141. Notwithstanding this duty and obligation, the DEA has been required to take  
22 administrative action against Defendant Distributors to force compliance. The United States  
23 Department of Justice, Office of the Inspector General, Evaluation and Inspections Division,  
24 reported that the DEA issued final decisions in 178 registrant actions between 2008 and 2012.  
25 The Office of Administrative Law Judges issued a recommended decision in a total of 117  
26 registrant actions before the DEA issued its final decision, including 76 actions involving orders  
27  
28

1 to show cause and 41 actions involving immediate suspension orders.<sup>2</sup> Some of these actions  
2 include the following:

3  
4 (a) On April 24, 2007, the DEA issued an *Order to Show Cause and*  
5 *Immediate Suspension Order* against the AmerisourceBergen Orlando, Florida  
6 distribution center ("Orlando Facility") alleging failure to maintain effective controls  
7 against diversion of controlled substances. On June 22, 2007, AmerisourceBergen entered  
8 into a settlement which resulted in the suspension of its DEA registration;

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

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

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

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

25 (f) On May 2, 2008, McKesson Corporation entered into an *Administrative*  
26 *Memorandum of Agreement* ("2008 MOA") with the DEA which provided that McKesson  
27 would "maintain a compliance program designed to detect and prevent the diversion of  
28 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;"

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

(h) On February 2, 2012, the DEA issued an *Order to Show Cause and*

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

1 *Immediate Suspension Order* against the Cardinal Health Lakeland, Florida Distribution  
2 Center for failure to maintain effective controls against diversion of oxycodone;

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

5 (j) On January 5, 2017, McKesson Corporation entered into an *Administrative*  
6 *Memorandum Agreement* with the DEA wherein it agreed to pay a \$150,000,000 civil  
7 penalty for violation of the 2008 MOA as well as failure to identify and report suspicious  
8 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; and

9 (k) On July 11, 2017, Mallinckrodt agreed to pay the DEA \$35 million to settle  
10 allegations for the company's failure to report suspicious orders of opioids and allegations  
11 of faulty record keeping. The investigation originally began in 2011 and federal  
12 investigators reportedly found 44,000 violations potentially exposing Mallinckrodt to \$2.3  
billion in fines.

13 142. In another example, on August 9, 2013, the DEA issued an Order to Show Cause  
14 for 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, 55419  
17 (2015). The Order *inter alia* made allegations regarding Masters suspicious distributions of  
18 oxycodone to various pharmacies across the country, including 1.7 million dosage units . . . to a  
19 pharmacy located in Clark County from January 1, 2009 through November 30, 2010. *Id.* The  
20 registration was ultimately revoked and Masters appealed.

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

26 144. Because Defendant Distributors handle such large volumes of controlled  
27 substances, and are the first major line of defense in the movement of legal pharmaceutical  
28 controlled substances from legitimate channels into the illicit market, it is incumbent on these

1 distributors to maintain effective controls to prevent diversion of controlled substances. Should a  
2 distributor deviate from these checks and balances, the closed system collapses.

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

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

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

14 148. Defendant Pharmacies must exercise reasonable care under the circumstances.  
15 This involves a duty not to create a foreseeable risk of harm to others. Additionally, one who  
16 engages in affirmative conduct, and thereafter realizes or should realize that such conduct has  
17 created an unreasonable risk of harm to another, is under a duty to exercise reasonable care to  
18 prevent the threatened harm.

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

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

28 151. Upon information and belief and at all times relevant herein, questionable or  
suspicious prescriptions issued by Defendant Pharmacies include: (1) prescriptions written by a

1 doctor who writes significantly more prescriptions (or in larger quantities) for controlled  
2 substances compared to other practitioners in the area; (2) prescriptions which should last for a  
3 month in legitimate use, but are being refilled on a shorter basis; (3) prescriptions for antagonistic  
4 drugs, such as depressants and stimulants, at the same time; (4) prescriptions with quantities or  
5 dosages that differ from usual medical usage; (5) prescriptions that do not comply with standard  
6 abbreviations and/or contain no abbreviations; (6) photocopied prescriptions; and/or (7)  
7 prescriptions containing different handwritings.

8 152. In addition to having common law duties, Defendant Pharmacies have a statutory  
9 duty under state law to track and report certain information to the Nevada State Board of  
10 Pharmacy. The Nevada State Board of Pharmacy has been licensing and regulating the practices  
11 of pharmaceutical wholesalers in Nevada since 1967.

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

16 154. In addition, the mandatory data to be reported must include, but is not limited to  
17 as follows: (a) name, address, telephone number, and Nevada license number of the wholesaler  
18 making the pedigree; (b) name and title of person certifying the pedigree's accuracy; (c) invoice  
19 number and date for the transaction of which the pedigree is part; (d) purchase order number and  
20 date for the transaction of which the pedigree is part; (e) order number and date (if one) for the  
21 transaction of which the pedigree is part; (f) the business name, address, and telephone number  
22 of each preceding seller of the drug; (g) the business name, address, and telephone number of the  
23 customer to whom the reporting wholesaler sold the drug; (h) the date of each preceding or  
24 subsequent sale; (i) name of the drug; (j) strength of the drug; (k) size of the container; and/or  
25 (l) number of containers.

26 155. Because Defendant Pharmacies handle such large volumes of controlled  
27 substances, and are a last line of defense in the movement of legal pharmaceutical controlled  
28 substances from legitimate channels into the illicit market, it is incumbent on these Defendants to



1 maintain effective controls to prevent diversion of controlled substances. Should Defendants  
2 deviate from these checks and balances, the closed system collapses.

3 156. For instance, on August 9, 2013, the DEA issued an Order to Show Cause for  
4 Defendant MASTERS PHARMACEUTICALS, LLC to consider whether to revoke its distributor  
5 license for failing to monitor, report, and prevent the distribution of suspicious orders under  
6 federal law. *See*, Masters Pharmaceuticals, Inc.; Decision and Order, 80 FR 55418, 55419 (2015).  
7 The Order *inter alia* made allegations regarding Masters suspicious distributions of oxycodone  
8 to various pharmacies across the country, including 1.7 million dosage units . . . to a pharmacy  
9 located in Clark County, LAM'S PHARMACY, from January 1, 2009 through November 30,  
10 2010. *Id.*

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

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

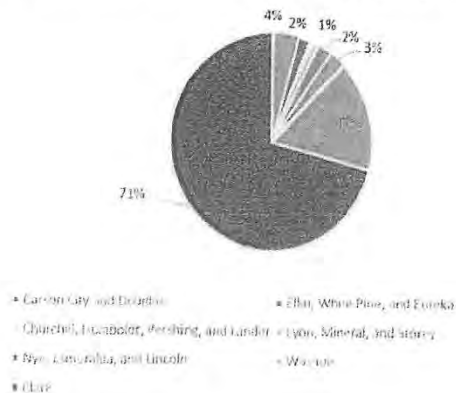
18 159. Yet, Defendants ignored the law, paid the fines, and continued to unlawfully fill  
19 suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or  
20 orders of unusual frequency in Clark County, and/or orders which Defendants knew or should  
21 have known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

#### 22 **D. Opioid Addiction in Nevada**

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

28

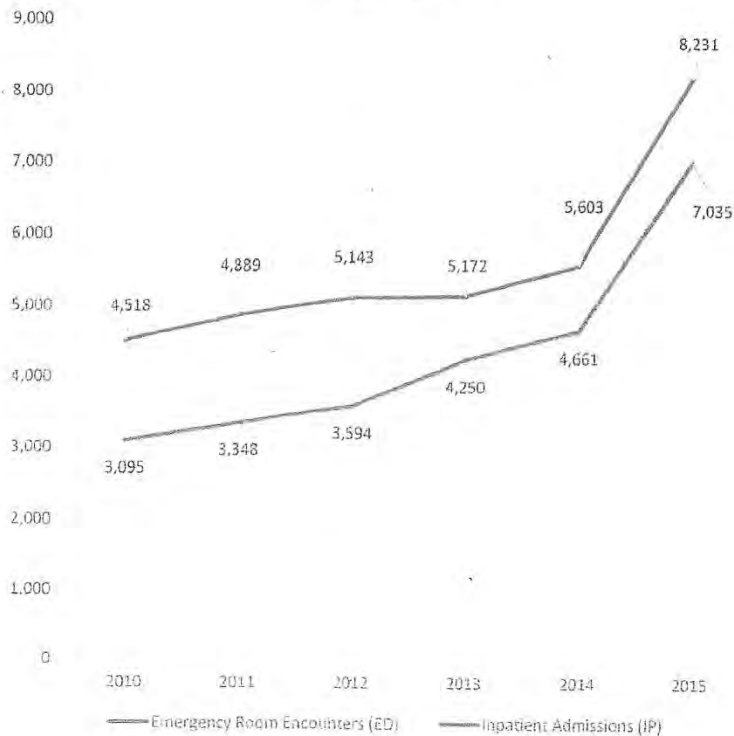
Heroin or Opioid Dependence, Abuse, or Poisoning  
Among Hospital Emergency Department Visitors for  
Nevada Residents in 2009-2013 by Region



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

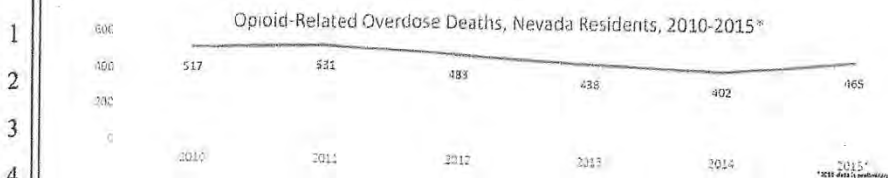
162. Opioid-induced hospitalizations and emergency room visits are a significant area of health expenditure. For instance in 2012, over \$40 million was billed for opioid-induced hospitalizations and over \$7 million for similar emergency room visits in Southern Nevada alone.

Opioid-Related Hospitalizations, Nevada Residents,  
2010-2015



163. In addition to hospitalizations, the total number of opioid-related deaths continues to mount. According to the Centers for Disease Control, nearly half of all U.S. opioid overdose deaths involve a prescription opioid. In 2015, more than 15,000 people in the U.S. died from overdoses involving prescription opioids.

164. Nevada has the fourth highest drug overdose mortality rate in the United States. From 2010 to 2015, approximately 2,800 deaths in Nevada have been attributed to opioid-related overdose. It is estimated that 55% of those deaths were caused by natural and semi-synthetic opioids.



### 5 **E. The Consequences of Defendants' Fraudulent Scheme**

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

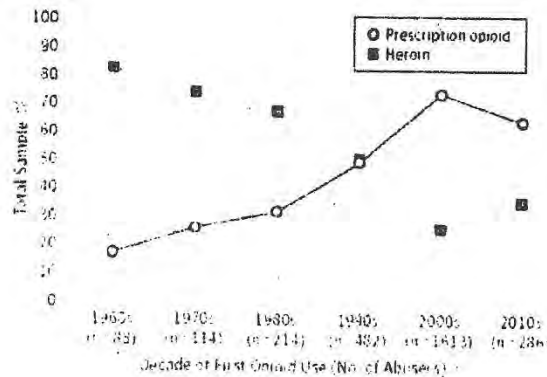
12 166. But for the misleading information disseminated by Defendants, prescribing  
13 physicians would not, in most instances, have prescribed opioids as medically necessary or  
14 reasonably required to address chronic pain. The impact of Defendants' fraudulent marketing on  
15 doctors' prescribing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

### 18 **F. Prescription Opioids Fueling Secondary Market of Illegal Drugs**

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

27 168. As a result, self-reported heroin use nearly doubled in the U.S. between 2007 and  
28 2012, from 373,000 to 669,000 individuals and, in 2010, more than 3,000 people in the U.S. died

1 from heroin overdoses, also nearly double the rate in 2006; nearly 80% of those who used heroin  
 2 in the past year previously abused prescription opioids.



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

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

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

### 21 **FIRST CAUSE OF ACTION**

22 *(Public Nuisance Against All Defendants)*

23 172. Plaintiff repeats and reiterates the allegations previously set forth herein.

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

28 174. The public nuisance created by Defendants' actions is substantial and  
 unreasonable. It has caused, and continues to cause, significant harm to the community. The rates



1 of opioid use resulting from Defendants' deceptive marketing efforts have caused harm to the  
2 community

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

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

10 177. Defendants knew or should have known that their marketing of opioid use would  
11 create a public nuisance.

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

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

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

24 181. Defendants' conduct constitutes a public nuisance and, if unabated, will continue  
25 to threaten the health, safety and welfare of the County's residents, creating an atmosphere of fear  
26 and addiction that tears at the residents' sense of well-being and security. Clark County has a  
27 clearly ascertainable right to abate conduct that perpetuates this nuisance.

28 182. Defendants created an absolute nuisance. Defendants' actions created and  
expanded the abuse of opioids, which are dangerously addictive, and the ensuing associated

1 plague of prescription opioid and heroin addiction. Defendants knew the dangers to public health  
2 and safety that diversion of opioids would create in Clark County, however, Defendants  
3 intentionally and/or unlawfully failed to maintain effective controls against diversion through  
4 proper monitoring, reporting and refusal to fill suspicious orders of opioids. Defendants  
5 intentionally and/or unlawfully distributed opioids without reporting or refusing to fill suspicious  
6 orders or taking other measures to maintain effective controls against diversion. Defendants  
7 intentionally and/or unlawfully continued to ship and failed to halt suspicious orders of opioids.  
8 Such actions were inherently dangerous.

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

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

17 185. Defendants acted with actual malice because Defendants acted with a conscious  
18 disregard for the rights and safety of other persons, and said actions have a great probability of  
19 causing substantial harm.

20 186. The damages available to the Plaintiff include, inter alia, recoupment of  
21 governmental costs, flowing from an "ongoing and persistent" public nuisance which the  
22 government seeks to abate.

23 187. Defendants' conduct is ongoing and persistent, and the Plaintiff seeks all damages  
24 flowing from Defendants' conduct. Plaintiff further seeks to abate the nuisance and harm created  
25 by Defendants' conduct.

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

1           189. The County has sustained specific and special injuries because its damages include,  
2 *inter alia*, health services, law enforcement expenditures, costs related to opioid addiction  
3 treatment and overdose prevention, and related costs.

4           190. The County further seeks to abate the nuisance created by the Defendants'  
5 unreasonable, unlawful, intentional, ongoing, continuing, and persistent interference with a right  
6 common to the public.

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

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

1 abundance of drugs available for criminal use and fueled a new wave of addiction,  
2 abuse, and injury.

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

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

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

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

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

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

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

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

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

### SECOND CAUSE OF ACTION

*(Common Law Public Nuisance against all Defendants)*

197. Plaintiff repeats and reiterates the allegations previously set forth herein.

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

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

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

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

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

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

204. The health and safety of those individuals in Clark County, including those who 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.

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



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

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

6           208. That as a result of the aforesaid occurrence, Plaintiff has suffered extensive  
7 monetary and pecuniary losses and other compensatory damages were also incurred and paid,  
8 including necessary medical, hospital, and concomitant expenses.

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

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

23           211. Defendants knew the prescription opioids have a high likelihood of being diverted.  
24 It was foreseeable to Defendants that where Defendants distributed prescription opioids without  
25 maintain effective controls against diversion, including monitoring, reporting, and refusing  
26 shipment of suspicious orders, that the opioids would be diverted, and create an opioid abuse  
27 nuisance in Clark County.

28

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

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

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

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

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

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

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

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27 injuries, and deaths.  
28           b. Nor have children escaped the opioid epidemic unscathed. Easy access to  
prescription opioids has made opioids a recreational drug of choice among Clark

1 County teenagers; opioid use among teenagers is only outpaced by marijuana use.  
2 Even infants have been born addicted to opioids due to prenatal exposure, causing  
3 severe withdrawal symptoms and lasting developmental impacts.

4 c. Even those County residents who have never taken opioids have suffered from the  
5 public nuisance arising from Defendants' abdication of their gate-keeper duties.  
6 Many have endured both the emotional and financial costs of caring for loved ones  
7 addicted to or injured by opioids, and the loss of companionship, wages, or other  
8 support from family members who have used, abused, become addicted to,  
9 overdosed on, or been killed by opioids.

10 d. The opioid epidemic has increased health care costs.

11 e. Employers have lost the value of productive and healthy employees.

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

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

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

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

27 j. Defendants' interference with the comfortable enjoyment of life in Clark County  
28 is unreasonable because there is little social utility to opioid diversion and abuse,

1 and any potential value is outweighed by the gravity of the harm inflicted by  
2 Defendants' actions.

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

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

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

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

16 223. That Plaintiff's general, special and punitive damages are in amounts in excess of  
17 \$15,000.00.

### 18 THIRD CAUSE OF ACTION

19 *(Negligent Misrepresentation against all Defendants)*

20 224. Plaintiff repeats and reiterates the allegations previously set forth herein.

21 225. Defendants had a duty to exercise reasonable care in the marketing of opioids.

22 226. Defendants were aware of the potentially dangerous situation involving opioids.

23 227. Defendants marketed opioids in an improper manner by:

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

27 b. trivializing or obscuring opioids' serious risks and adverse outcomes, including  
28 the risk of addiction, overdose, and death;

- 1 c. overstating opioids' superiority compared with other treatments, such as other
- 2 non-opioid analgesics, physical therapy, and other alternatives;
- 3 d. mischaracterizing the difficulty of withdrawal from opioids and the prevalence of
- 4 withdrawal symptoms; and
- 5 e. marketing opioids for indications and benefits that were outside of the opioids'
- 6 labels and not supported by substantial evidence.

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

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

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

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

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



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

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

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

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

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

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

22          239. That Plaintiff's general, special and punitive damages are in amounts in excess of  
23 \$15,000.00.

24                                   **FOURTH CAUSE OF ACTION**

25                   *(Negligence against Defendant Distributors, Defendant Pharmacies, & Defendant Providers)*

26          240. Plaintiff incorporates the allegations within all prior paragraphs within this  
27 Complaint as if they were fully set forth herein.

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

1           242. Defendants Distributors and Pharmacies further owe a non-delegable duty to  
2 Plaintiff to conform their behavior to the legal standard of reasonable conduct under the  
3 circumstances, in the light of the apparent risks.

4           243. Defendant Distributors and Pharmacies breached this duty by failing to take any  
5 action to prevent or reduce the distribution of the opioids.

6           244. Defendant Providers owed a duty to exercise reasonable care in the prescription of  
7 opioids.

8           245. Defendant Providers further owe a duty to Plaintiff to conform their behavior to  
9 the legal standard of reasonable conduct under the circumstances, in light of the apparent risks,  
10 and in light of Defendant Providers' knowledge as it relates to the inherent dangers in the use of  
11 opioids.

12           246. Defendant Providers breached this duty by, not only failing to recognize the risk  
13 of writing increased numbers of prescriptions for opioids, but by actively disregarding the dangers  
14 associated with opioid use, particularly for off-label purposes and in dosages far exceeding those  
15 recommended.

16           247. Defendant Providers further breached their duty by providing false information to  
17 health insurance providers in order to obtain authorization and coverage for the opioid  
18 prescriptions.

19           248. As a proximate result, Defendant Distributors and Pharmacies, as well as  
20 Defendant Providers, and their agents have caused Plaintiff to incur significant damages,  
21 including but not limited to costs related to diagnosis, treatment, and cure of addiction or risk of  
22 addiction to opioids. Clark County has borne the massive costs of these illnesses and conditions  
23 by having to provide necessary medical care, facilities, and services for treatment of County  
24 residents.

25           249. Defendant Distributors and Pharmacies and Defendant Providers were negligent  
26 in failing to monitor and guard against third-party misconduct and participated and enabled such  
27 misconduct.

28           250. Defendant Distributors and Pharmacies were negligent in disclosing to Plaintiff  
suspicious orders for opioids.

1           251. Defendant Providers were negligent in writing improper prescriptions for opioids.

2           252. Defendant Distributors and Pharmacies' and Defendant Providers' acts and  
3 omissions imposed an unreasonable risk of harm to others separately and/or combined with other  
4 Defendants.

5           253. A negligent violation of this trust poses distinctive and significant dangers to the  
6 County and its residents from the diversion of opioids for non-legitimate medical purposes and  
7 addiction to the same by consumers.

8           254. Defendant Distributors and Pharmacies and Defendant Providers were negligent  
9 in not acquiring and utilizing special knowledge and special skills that relate to the dangerous  
10 activity in order to prevent and/or ameliorate such distinctive and significant dangers.

11           255. Defendant Distributors and Pharmacies are required to exercise a high degree of  
12 care and diligence to prevent injury to the public from the diversion of opioids during distribution.

13           256. Defendant Providers are required to exercise a high degree of care to prescribe  
14 appropriate medications in appropriate dosages to avoid harm to patients and their communities.

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

18           258. Defendant Providers breached their duty to exercise the degree of care required to  
19 protect their patients and their communities.

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

22           260. Defendant Providers were active in providing patients within Clark County with  
23 the prescriptions for opioids that were supplied by the Defendant Distributors and Pharmacies

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

27           262. The continued tortious conduct by the Defendants causes a repeated or continuous  
28 injury. The damages have not occurred all at once but have increased as time progresses. The tort

1 is not completed nor have all the damages been incurred until the wrongdoing ceases. The  
2 wrongdoing has not ceased. The public nuisance remains unabated.

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

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

8 265. That Plaintiff's general, special and punitive damages are in amounts in excess of  
9 \$15,000.00.

10 **FIFTH CAUSE OF ACTION**

11 *(Unjust Enrichment against all Defendants)*

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

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

17 268. Plaintiff has conferred a benefit upon Defendants, by paying for what may be  
18 called Defendants' externalities- the costs of the harm caused by Defendants' negligent  
19 distribution and sales practices.

20 269. Defendants are aware of this obvious benefit, and that retention of this benefit is  
21 unjust.

22 270. Defendants made substantial profits while fueling the prescription drug epidemic  
23 into Clark County.

24 271. Defendants continue to receive considerable profits from the distribution of  
25 controlled substances into Clark County.

26 272. Defendants have been unjustly enriched by their negligent, malicious, oppressive,  
27 illegal and unethical acts, omissions, and wrongdoing.

28 273. It would be inequitable to allow Defendants to retain benefit or financial advantage.

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

275. 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.

276. 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.

277. 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.

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

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

### SIXTH CAUSE OF ACTION

*(Punitive Damages against all Defendants)*

280. Plaintiff repeats and reiterates the allegations previously set forth herein.

281. The acts, conduct and omissions of Defendants, as alleged throughout this complaint, were willful, malicious, oppressive and/or were done with conscious disregard of the rights and safety of Plaintiff and for the primary purpose of increasing Defendants' profits from the sale and distribution of the subject drug.

282. Defendants' outrageous and unconscionable conduct warrants an award of exemplary and punitive damages against each Defendant in an amount appropriate to punish and make an example of each Defendant.

283. 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



1 is not completed nor have all the damages been incurred until the wrongdoing ceases. The  
2 wrongdoing has not ceased. The public nuisance remains unabated.

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

6 285. Defendants' conduct was despicable, and so contemptible that it would be looked  
7 down upon and despised by ordinary, decent people, and was carried on by Defendants with  
8 willful and conscious disregard for the safety of Plaintiff, entitling Plaintiff to exemplary damages.

9 286. Plaintiff is entitled to punitive damages, for the sake of example and by way of  
10 punishing Defendants in an amount in excess of \$15,000.00.

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, the Plaintiff prays for judgment against the Defendants as follows:

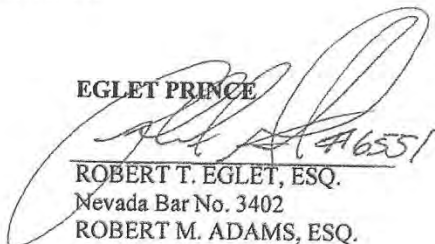
- 13 1. General damages in an amount in excess of \$15,000.00;
- 14 2. Special damages in an amount in excess of \$15,000.00;
- 15 3. For punitive damages in such amount as will sufficiently punish Defendants for  
16 their wrongful conduct in Nevada as well as serve as an example to prevent a  
17 repetition of such conduct in Nevada in the future;
- 18 4. For a fund establishing a medical monitoring program due to the increased  
19 susceptibility to injuries and irreparable threat to the health of opioid users  
20 resulting from their exposure to opioids, which can only be mitigated or addressed  
21 by the creation of a Court-supervised fund, financed by Defendants, and which  
22 will:
  - 23 a. Notify individuals who use or used opioids of the potential harm from  
24 opioids;
  - 25 b. Aid in the early diagnosis and treatment of resulting injuries through  
26 ongoing testing and monitoring of opioid use;
  - 27 c. Fund studies and research of the short and long term effects of opioids and  
28 the possible cures and treatments for the detrimental effects of using  
opioids;

- 1 d. Accumulate and analyze relevant medical and demographic information
- 2 from opioid users, including but not limited to the results of testing
- 3 performed on them;
- 4 e. Gather and forward to treating physicians information related to the
- 5 diagnosis and treatment of injuries which may result from using opioids.
- 6 5. For restitution and reimbursement sufficient to cover all prescription costs the
- 7 County has incurred related to opioids due to Defendants' wrongful conduct, with
- 8 said amount to be determined at trial;
- 9 6. For restitution and reimbursement sufficient to cover all costs expended for health
- 10 care services and programs associated with the diagnosis and treatment of adverse
- 11 health consequences of opioids use, including but not limited to addiction due to
- 12 Defendants' wrongful conduct, with said amount to be determined at trial;
- 13 7. For restitution and reimbursement for all prescription costs incurred by consumers
- 14 related to opioids;
- 15 8. For such other and further extraordinary equitable, declaratory and/or injunctive
- 16 relief as permitted by law as necessary to assure that the Plaintiffs have an
- 17 effective remedy and to stop Defendants' promotion and marketing of opioids for
- 18 inappropriate uses in Nevada, currently and in the future;
- 19 9. For disgorgement;
- 20 10. Costs of suit, reasonable attorney fees, interest incurred herein; and
- 21 ///
- 22 ///
- 23 ///
- 24 ///
- 25 ///
- 26
- 27
- 28

1 11. For such other and further relief as is just and proper.

2 DATED this 16<sup>th</sup> day of May, 2018.

3  
4  
5 **EGLET PRINCE**

6  **ROBERT T. EGLET, ESQ.**

7 Nevada Bar No. 3402

8 **ROBERT M. ADAMS, ESQ.**

9 Nevada Bar No. 6551

10 **RICHARD K. HY, ESQ.**

11 Nevada Bar No. 12406

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17 -and-

18 **STEVEN B. WOLFSON, ESQ.**

19 Nevada Bar No. 1565

20 Clark County District Attorney

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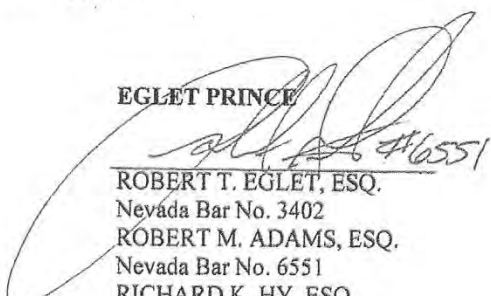
25 *Attorneys for Plaintiff, Clark County*

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 16<sup>th</sup> day of May, 2018.

5  
6  
7 **EGLET PRINCE**

8  #6551  
9 **ROBERT T. EGLET, ESQ.**

10 Nevada Bar No. 3402

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28 *Attorneys for Plaintiff, Clark County*