

**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 10:32 a.m.  
District Court Case No. Brown  
CV18-01895 of Supreme Court

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**PETITIONERS' APPENDIX  
VOLUME II**

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PAT LUNDVALL (NSBN 3761)  
AMANDA C. YEN (NSBN 9726)  
McDONALD CARANO LLP  
2300 West Sahara Avenue, Suite 1200  
Las Vegas, Nevada 89102  
Telephone: (702) 873-4100  
Fax: (702) 873-9966  
plundvall@mcdonaldcarano.com  
ayen@mcdonaldcarano.com

JOHN D. LOMBARDO  
JAKE R. MILLER  
ARNOLD & PORTER KAYE SCHOLER LLP  
777 S. Figueroa Street, 44th Floor  
Los Angeles, CA 90017-5844  
Telephone: (213) 243-4000  
Fax: (213) 243-4199  
john.lombardo@arnoldporter.com  
jake.miller@arnoldporter.com  
*Pro Hac Vice*

*Attorneys for Petitioners*  
*Endo Pharmaceuticals Inc. and Endo Health Solutions Inc.*

## 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 |

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| 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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| 1/8/2020    | Transcript of Proceedings  | XXI           | PA02872     | PA03034      |

## **AFFIRMATION**

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

Dated this 1st day of May, 2020.

McDONALD CARANO LLP

By: /s/Pat Lundvall  
PAT LUNDVALL (NSBN 3761)  
AMANDA C. YEN (NSBN 9726)  
2300 West Sahara Avenue, Suite 1200  
Las Vegas, Nevada 89102  
Telephone: (702) 873-4100  
Fax: (702) 873-9966  
plundvall@mcdonaldcarano.com  
[ayen@mcdonaldcarano.com](mailto:ayen@mcdonaldcarano.com)

John D. Lombardo  
Jake R. Miller  
ARNOLD & PORTER  
KAYE SCHOLER LLP  
777 S. Figueroa Street, 44th Floor  
Los Angeles, CA 90017-5844  
Telephone: (213) 243-4000  
Fax: (213) 243-4199  
[john.lombardo@arnoldporter.com](mailto:john.lombardo@arnoldporter.com)  
[jake.miller@arnoldporter.com](mailto:jake.miller@arnoldporter.com)  
*Pro Hac Vice*

*Attorneys for Petitioners  
Endo Pharmaceuticals Inc. and  
Endo Health Solutions Inc.*

## 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 II 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:

Robert T. Eglet  
Robert Adams  
Richard K. Hy  
Cassandra S.M. Cummings  
Eglet Prince  
400 S. 7th Street, 4th Floor  
Las Vegas, Nevada 89101

Bill Bradley  
Bradley, Drendel & Jeanney  
6900 S. McCarran Blvd., Suite 2000  
Reno, Nevada 89509

*Attorneys for Plaintiff City of Reno*

Rand Family Care, LLC  
c/o Robert Gene Rand, M.D.  
3901 Klein Blvd.  
Lompoc, California 93436

Steve Morris  
Rosa Solis-Rainey  
Morris Law Group  
411 E. Bonneville Ave., Suite 360  
Las Vegas, Nevada 89101

Nathan E. Shafroth  
Covington & Burling LLP  
Salesforce Tower  
415 Mission Street, Suite 5400  
San Francisco, California 94105-2533

*Attorneys for Defendant McKesson Corporation*

Robert Gene Rand, M.D.  
3901 Klein Blvd.  
Lompoc, California 93436

Philip M. Hymanson, Esq.  
Hymanson & Hymanson PLLC  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148

Steven A. Reed, Esq.  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103

Collie F. James, IV, Esq.  
Adam D. Teichter, Esq.  
Morgan, Lewis & Bockius LLP  
600 Anton Blvd., Ste. 1800  
Costa Mesa, CA 92626-7653

Brian M. Ercole, Esq.  
Morgan, Lewis & Bockius LLP  
200 South Biscayne Blvd., Suite 5300  
Miami, FL 33131

*Attorneys for Teva Pharmaceuticals USA,  
Inc.; Cephalon, Inc.; Watson Laboratories,  
Inc.; Actavis LLC; and Actavis Pharma,  
Inc. f/k/a Watson Pharma, Inc.*

Lawrence J. Semenza III  
Christopher D. Kircher  
Jarrod L. Rickard  
Katie L. Cannata  
SEMENZA KIRCHER RICKARD  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145

Steven J. Boranian  
Reed Smith LLP  
101 Second Street, Suite 1800  
San Francisco, California 94105

Sarah B. Johansen, Esq.  
Reed Smith LLP  
355 South Grand Avenue, Suite 2900  
Los Angeles, California 90071

Rachel B. Weil  
Reed Smith LLP  
Three Logan Square  
1717 Arch Street. Suite 3100  
Philadelphia, Pennsylvania 19103

*Attorneys for Defendant  
AmerisourceBergen Drug  
Corporation*

Steven E. Guinn  
Ryan W. Leary  
Laxalt & Nomura, LTD.  
9790 Gateway Dr., Suite 200  
Reno, Nevada 89521

Rocky Tsai  
Ropes & Gray LLP  
Three Embarcadero Center  
San Francisco, California 94111-4006

*Attorneys for Defendant Mallinckrodt  
LLC; Mallinckrodt US Holdings, Inc.*

Daniel F. Polsenberg  
J. Christopher Jorgensen  
Joel D. Henriod  
Abraham G. Smith  
Lewis Roca Rothgerber Christie LLP  
3993 Howard Hughes Pkwy  
Suite 600  
Las Vegas, Nevada 89169-5996

Suzanne Marguerite Salgado  
Williams & Connolly LLP  
725 Twelfth Street, N.W.  
Washington D.C. 20005

*Attorneys for Defendants Cardinal  
Health, Inc.; Cardinal Health 6 Inc.;  
Cardinal Health Technologies LLC;  
Cardinal Health 108 LLC d/b/a Metro  
Medical Supply*

Max E. Corrick II  
Olson Cannon Gormley &  
Stoberski  
9950 W. Cheyenne Avenue  
Las Vegas, Nevada 89129

*Attorney for Defendants Allergan Finance,  
LLC f/k/a Actavis, Inc. f/k/a Watson  
Pharmaceuticals, Inc. and Allergan USA,  
Inc.*

In addition, in compliance with NRAP 21(a)(1) and Administrative Order 2020-05, a copy of this Petitioners' Appendix Volume II 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



1 **COMP**

2 ROBERT T. EGLET, ESQ.

3 Nevada Bar No. 3402

4 ROBERT M. ADAMS, ESQ.

5 Nevada Bar No. 6551

6 RICHARD K. HY, ESQ.

7 Nevada Bar No. 12406

8 **EGLET PRINCE**

9 400 S. 7th Street, 4th Floor

10 Las Vegas, NV 89101

11 Tel.: (702) 450-5400

12 Fax: (702) 450-5451

13 E-Mail: [eservice@egletlaw.com](mailto:eservice@egletlaw.com)

14 -and-

15 BILL BRADLEY, ESQ.

16 Nevada Bar No. 1365

17 **BRADLEY, DRENDEL & JEANNEY**

18 6900 S. McCarran Blvd., Suite 2000

19 Reno, Nevada 89509

20 Telephone: (775) 335-9999

21 Email: [office@bdjlaw.com](mailto:office@bdjlaw.com)

22 *Attorneys for Plaintiff, the City of Reno*

23 **IN THE SECOND JUDICIAL DISTRICT COURT OF**  
24 **THE STATE OF NEVADA IN AND FOR THE**  
25 **COUNTY OF WASHOE**

26 CITY OF RENO,

27 Plaintiff,

28 v.

29 PURDUE PHARMA, L.P.; PURDUE  
30 PHARMA, INC.; THE PURDUE  
31 FREDERICK COMPANY, INC. d/b/a THE  
32 PURDUE FREDERICK COMPANY, INC.;  
33 PURDUE PHARMACEUTICALS, L.P.;  
34 TEVA PHARMACEUTICALS USA, INC.;  
35 McKESSON CORPORATION;  
36 AMERISOURCEBERGEN DRUG  
37 CORPORATION; CARDINAL HEALTH,  
38 INC.; CARDINAL HEALTH 6 INC.;  
39 CARDINAL HEALTH TECHNOLOGIES  
40 LLC; CARDINAL HEALTH 108 LLC d/b/a

) Case No.:

) Dept No.:

**COMPLAINT**

1 METRO MEDICAL SUPPLY; ABBVIE, )  
2 INC.; ABBVIE US, LLC; DEPOMED, INC.; )  
3 DAIICHI SANKYO, INC.; CEPHALON, )  
4 INC.; JOHNSON & JOHNSON; JANSSEN )  
5 PHARMACEUTICALS, INC.; JANSSEN )  
6 PHARMACEUTICA, INC. n/k/a JANSSEN )  
7 PHARMACEUTICALS, INC.; ORTHO- )  
8 MCNEIL-JANSSEN PHARMACEUTICALS, )  
9 INC. n/k/a JANSSEN PHARMACEUTICALS, )  
10 INC.; ENDO HEALTH SOLUTIONS INC.; )  
11 ENDO PHARMACEUTICALS, INC.; )  
12 ALLERGAN PLC f/k/a ACTAVIS PLC; )  
13 ACTAVIS, INC. f/k/a WATSON )  
14 PHARMACEUTICALS, INC.; WATSON )  
15 LABORATORIES, INC.; INSYS )  
16 THERAPEUTICS, INC., MALLINCKRODT, )  
17 LLC; MALLINCKRODT BRAND )  
18 PHARMACEUTICALS INC.; and )  
19 MALLINCKRODT US HOLDINGS, INC.; )  
20 ACTAVIS LLC; AND ACTAVIS PHARMA, )  
21 INC. f/k/a WATSON PHARMA, INC.; )  
22 ROBERT GENE RAND, M.D. AND RAND )  
23 FAMILY CARE, LLC; DOES 1 through 100; )  
24 ROE CORPORATIONS 1 through 100; and )  
25 ZOE PHARMACIES 1 through 100, inclusive, )  
26 )  
27 Defendants. )  
28 )

18 Plaintiff City of Reno, 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. The abuse of opioids is a widespread problem in the State of Nevada as well as the  
25 City of Reno specifically.

26 3. Nevada ranked as the sixth highest state for the number of milligrams of opioids  
27 distributed per adult, in 2016.  
28

1           4.     In 2016, Nevadans were prescribed opioids at a rate of 87 prescriptions per 100  
2 residents.

3           5.     In that same year, the rate of overdose deaths in Nevada exceeded the national  
4 average.

5           6.     Nevada has had the fourth highest drug overdose mortality rate in the United States.

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

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

12          9.     Defendant drug companies named herein, manufacture, market, and sell  
13 prescription opioids (hereinafter “opioids”), including brand-name drugs like Oxycontin, Vicodin  
14 and Percocet, as well as generics like oxycodone and hydrodone, which are powerful narcotic  
15 painkillers.

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

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

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

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

28          14.    While Americans represent only 4.6% of the world’s population, they consume  
over 80% of the world’s opioids.



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

5           16.     By 2014, nearly two million Americans either abused or were dependent upon  
6 opioids.

7           17.     On March 22, 2016, the Food and Drug Administration (FDA) recognized opioid  
8 abuse as a “public health crisis” that has a “profound impact on individuals, families and  
9 communities across our country.”

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

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

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

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

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

25          23.     Defendants broke these simple rules and helped unleash a healthcare crisis that has  
26 had far-reaching financial, social, and deadly consequences in the City of Reno and throughout  
27 Nevada.

1           24. Defendants falsely touted the benefits of long-term opioid use, including the  
2 supposed ability of opioids to improve function and quality of life, even though there was no  
3 “good evidence” to support their claims.

4           25. Defendants disseminated these common messages to reverse the popular and  
5 medical understanding of opioids.

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

8           27. As a result of the drug companies’ marketing campaign, the fatalities continued to  
9 mount while the living continue to suffer.

10          28. In 2017, a record number of drug overdoses claimed the lives of about 72,000  
11 Americans, a 10.2 percent increase from 2016. According to the CDC the death toll from drug  
12 overdoses was higher than the peak yearly death totals from H.I.V., gun deaths, or car crashes.  
13 The increase of deaths related to drug overdoses was linked to two major factors: (i) a growing  
14 number of Americans are using opioids, and (ii) drugs are becoming deadlier.

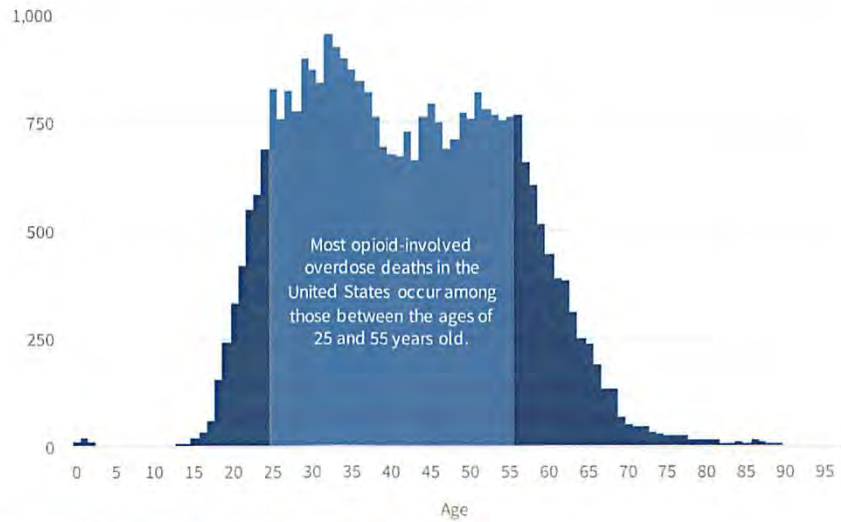
15          29. This trend of increased opioid abuse has been well documented in the last several  
16 years. In 2015, over 33,000 Americans died of a drug overdose involving opioids with studies  
17 suggesting that these fatalities are statistically underreported. And in 2016, 2.1 million Americans  
18 had opioid use disorders, according to a government survey, but that figure could be as high as 4  
19 million.

20          30. Most opioid related deaths occur among those between the ages of approximately  
21 25 and 55 years old. Studies have shown that the overall fatality rate was 10.3 deaths per 100,000  
22 population, and in the 25 to 55 year old age group, fatality rates were much higher, ranging from  
23 16.1 to 22.0 deaths per 100,000 population.

24          31. In 2015, the estimated economic impact of the opioid crisis was \$504 billion, or  
25 2.8 % of our U.S.’s gross domestic product that same year. Previous estimates of the economic  
26 cost of the opioid crisis greatly understate it by undervaluing the most important component of  
27 the loss—fatalities resulting from overdoses.

28

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



Source: CDC Wonder database, multiple cause of death files

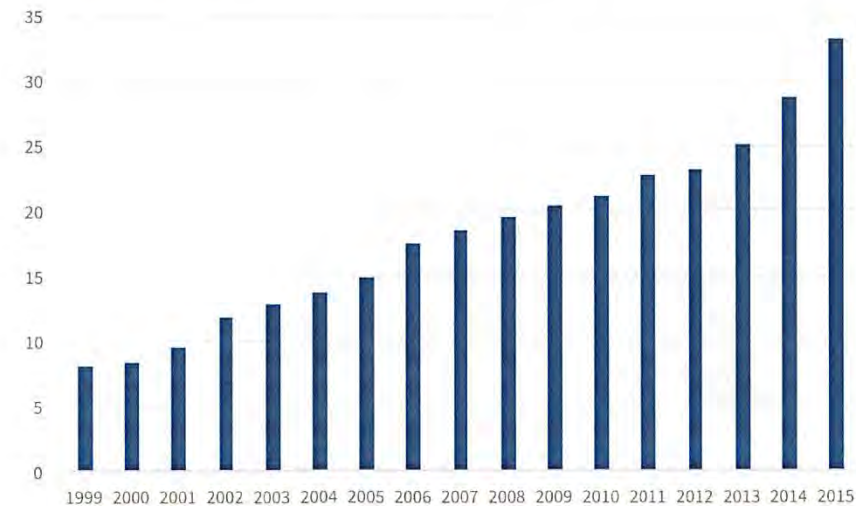
32. In addition to the cost of fatalities each year, opioid misuse among the living imposes important costs as well. It is estimated that prescription opioid misuse increases healthcare and substance abuse treatment costs in the United States by \$29.4 billion, increases criminal justice costs by \$7.8 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.

33. Further compounding issue 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.

<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.



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



Source: CDC Wonder database, multiple cause of death files

34. The crisis that Defendants caused has directly impacted the City of Reno as it bears the financial brunt of this epidemic as it unfolds in our community.

35. Apart from the toll on human life, the crisis has financially strained the services the City of Reno 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, the City of Reno 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' conduct also caused the City of Reno to incur substantial economic, administrative and social costs relating to opioid addiction and abuse, including criminal justice costs, victimization costs, child protective services costs, lost productivity costs, and education and prevention program costs among others.

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

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

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

20           39. Plaintiff files this Complaint naming the drug companies herein as Defendants and  
21 placing the industry on notice that the City of Reno is taking action to abate the public nuisance  
22 that plagues our community.

23           40. By its Complaint, the City of Reno seeks to recover from Defendants its damages  
24 as a result of the opioid public-health crisis Defendants caused. Namely, this action is brought by  
25 this Plaintiff pursuant to constitutional, statutory, common law and/or equitable authority for  
26 purposes of, *inter alia*:

- 27           a. recovering restitution and reimbursement for all the costs the City of Reno  
28           has incurred in paying excessive and unnecessary prescription costs related  
             to opioids;



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

12           41.    However, Plaintiff does not bring claims, as part of this action, for products  
13                 liability nor does the City seek compensatory damages for death, physical injury to person,  
14                 emotional distress, or physical damage to property.

15                                 **PARTIES AND JURISDICTION**

16           **A. Plaintiff, City of Reno.**

17           42.    Plaintiff, City of Reno ("Reno" or "Plaintiff"), is a municipality organized under  
18                 the laws of the State of Nevada.

19           43.    Plaintiff provides a wide range of services on behalf of its residents, including  
20                 services for families and children, public health, public assistance, law enforcement, and  
21                 emergency care.

22           44.    Plaintiff has all the powers possible for a municipality to have under the  
23                 constitution of the State of Nevada, the laws of the State of Nevada, and its city charter.

24           45.    Plaintiff has standing to bring this litigation to provide for the orderly government  
25                 of Reno and to address matters of local concern including the public health, safety, prosperity,  
26                 security, comfort, convenience and general welfare of its citizens.

27           46.    Reno declares that the unlawful distribution of prescription opiates, by the  
28                 Defendants named herein, has created a serious public health crisis of opioid abuse, addiction,  
                    morbidity and mortality and is a public nuisance.

1           47. Plaintiff is authorized by law to abate any nuisance and prosecute in any court of  
2 competent jurisdiction, any person who creates, continues, contributes to, or suffers such nuisance  
3 to exist and prevent injury and annoyance from such nuisance.

4           **B. Defendants, Drug Manufacturers.**

5           48. Defendant PURDUE PHARMA L.P. is a limited partnership organized under the  
6 laws of Delaware, and registered and authorized to do business in the State of Nevada, under the  
7 laws thereof. At all times relevant herein, PURDUE PHARMA L.P. takes and took advantage of  
8 the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
9 drug patents. PURDUE PHARMA INC. is a corporation organized under the laws of both  
10 Delaware and New York, with its principal place of business in Stamford, Connecticut, and THE  
11 PURDUE FREDERICK COMPANY, INC. is a Delaware corporation with its principal place of  
12 business in Stamford, Connecticut. Defendant PURDUE PHARMACEUTICALS, L.P., (“Purdue  
13 Pharmaceuticals”) is and was a limited partnership organized under the laws of the State of  
14 Delaware. At all times relevant hereto, the foregoing, (collectively, “PURDUE”) are and were  
15 in the business of designing, testing, manufacturing, labeling, advertising, promoting, marketing,  
16 selling and/or distributing OxyContin and have done so to and within the State of Nevada. At all  
17 times relevant herein, PURDUE hired “Detailers” in Reno, Nevada, to make personal contact with  
18 physicians and clinics to advocate for the purchase and use of opioid medications which were  
19 contrary to known safety concerns and sound medical advice.

20           49. Defendant ABBVIE, INC. is a corporation organized under the laws of the state  
21 of Delaware. ABBVIE, INC. is the surviving corporation which embodies the specialty drugs  
22 arm which was formerly a part of Abbot Laboratories, prior to a 2013 split. Abbot Laboratories  
23 was the father, originator and disseminator of the aggressive, deceptive and fraudulent marketing  
24 program which lies at the heart of the opioid crisis.

25           50. Defendant ABBVIE US, LLC is an LLC organized under the laws of Delaware,  
26 and at all relevant times herein was registered and authorized to do business within the State of  
27 Nevada. ABBVIE US, LLC conducts drug research, manufactures drugs, and distributes drugs.  
28 ABBVIE US, LLC is a wholly-owned subsidiary of ABBVIE, INC., and ABBVIE, INC. and its  
subsidiaries continue to patent, manufacture and sell opioids into and within Reno, Nevada. At



1 all times relevant herein, ABBVIE, INC. and ABBVIE US, LLC take and took advantage of the  
2 legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend drug  
3 patents. Defendant ABBVIE, INC. also hires lobbyists specifically to lobby the Nevada State  
4 Legislature to strengthen laws protecting their profits, and to weaken laws protecting the health  
5 and welfare of Nevada citizens, including the citizens of Reno.

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

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

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

1           54. 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           55. 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           56. 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           57. 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           58. 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           59. 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           60. 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 single-  
15 dose spray device intended for oral sublingual administration, and has done so to and within in  
16 the State of Nevada. At all times relevant herein, INSYS THERAPEUTICS, INC. hired “Detailers”  
17 in Washoe County, Nevada to make personal contact with physicians and clinics to advocate for  
18 the purchase and use of opioid medications which were contrary to known safety concerns and  
19 sound medical advice. At all times relevant herein, INSYS THERAPEUTICS, INC., used  
20 deceptive tactics to gain authorization for Subsys prescriptions from health insurance providers  
21 for off-label, high dosage uses.

22           61. Defendant MALLINCKRODT LLC is a Delaware corporation with its principal  
23 place of business in Hazelwood, Missouri. Defendant MALLINCKRODT BRAND  
24 PHARMACEUTICALS INC. is a Delaware corporation with its principal place of business in  
25 Hazelwood, Missouri. Defendant MALLINCKRODT US HOLDINGS, INC. is a Nevada  
26 corporation with its principal place of business in Hazelwood, Missouri. At all times relevant  
27 herein, Mallinckrodt US Holdings, Inc. takes and took advantage of legislative, regulatory and  
28 tax schemes in Nevada for the purpose of holding, protecting and defending Mallinckrodt assets  
related to their pharmaceutical business.

1           62. Defendants Mallinckrodt LLC, Mallinckrodt Brand Pharmaceuticals Inc., and  
2 Mallinckrodt US Holdings, Inc. (collectively "MALLINCKRODT") operate in the United States  
3 under the name Mallinckrodt Pharmaceuticals, with its United States headquarters located in  
4 Hazelwood, Missouri. At all times relevant herein, Defendant MALLINCKRODT was in the  
5 business of designing, testing, manufacturing, labeling, advertising, promoting, marketing, selling,  
6 and/or distributing opioid products known as Exalgo, Roxicodone, and Xartemis XR, and has  
7 done so to and within the State of Nevada.

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

25           **C. Defendants, Wholesale Distributors.**

26           64. Defendant, AMERISOURCEBERGEN DRUG CORPORATION, is, and at all  
27 times pertinent hereto, was, a foreign corporation authorized to do business in the County of  
28 Washoe, State of Nevada. Upon information and belief, and at all times relevant hereto,



1 AMERISOURCEBERGEN DRUG CORPORATION's principal place of business is located in  
2 Chesterbrook, Pennsylvania, operating distribution centers in Ohio.

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

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

14 67. CARDINAL HEALTH 108 LLC d/b/a Metro Medical Supply is a foreign limited  
15 liability company incorporated under the laws of the state of Delaware and headquartered in  
16 Dublin, Ohio, and registered and authorized to conduct business within the State of Nevada.  
17 CARDINAL HEALTH 108 LLC d/b/a Metro Medical Supply operates a drug distribution center  
18 within the physical confines of the Washoe County, specifically at 6640 Echo Ave, Ste J, Reno,  
19 Nevada 89506.

20 68. Defendant, McKESSON CORPORATION, is, and at all times pertinent hereto,  
21 was, foreign corporation authorized to do business in the County of Washoe, State of Nevada.  
22 Upon information and belief, and at all times relevant hereto, McKESSON CORPORATION's  
23 principal place of business is located in San Francisco, California, operating distribution centers  
24 in Ohio. At all times relevant herein, McKESSON CORPORATION takes and took advantage  
25 of the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
26 patents, including those relating to drug labeling, coding and distribution.

27 69. AMERISOURCEBERGEN DRUG CORPORATION, CARDINAL HEALTH,  
28 INC., CARDINAL HEALTH 6 INC.; and CARDINAL HEALTH TECHNOLOGIES LLC;  
(collectively "Defendant Distributors" or "Defendants") distributed opioids or facilitated the

1 distribution of opioids into Reno. The United States Drug Enforcement Administration has found  
2 it necessary to levy disciplinary action against these and each of these including large fines and  
3 suspension or permanent cancellation of their licenses for distribution of controlled substances,  
4 based on dangerous and abusive distribution practices as detailed herein and below.

5 70. Defendant Distributors purchased opioids from manufacturers, including the  
6 named Defendants herein, and distributed them to pharmacies throughout Reno, and the State of  
7 Nevada.

8 71. Defendant Distributors played an integral role in the chain of opioids being  
9 distributed throughout Reno, and the State of Nevada.

10 **D. Defendants, Detailers.**

11 72. Defendants AIDA B MAXSAM; ALLISON FOSTER; and JAMES KUMLE;  
12 (hereinafter "Detailers") are natural persons who are, and at all relevant times herein were,  
13 residents of Washoe County, Nevada, who are or were engaged in specialty drug sales on behalf  
14 of Defendant Manufacturers and Distributors PURDUE; DAIICHI SANKYO, INC.; and/or  
15 DEPOMED.

16 73. Defendant Detailers were trained to, and did in fact, make personal contact with  
17 physicians and clinics within Washoe County, Nevada for the purpose, and with the result, of  
18 encouraging them to prescribe opioid medications in a manner inconsistent with known safety  
19 concerns and contrary to sound medical practice.

20 **E. Defendants, Pharmacies.**

21 74. Defendant pharmacies (collectively "Defendant Pharmacies" or "Defendants")  
22 sold opioids to residents of Reno giving rise to the opioid crisis.

23 75. Upon information and belief, Defendant Pharmacies played an integral role in the  
24 chain of opioids being sold throughout Reno.

25 76. That the true names and the capacities, whether individual, agency, corporate,  
26 associate or otherwise, of Defendant Pharmacies, are unknown to Plaintiff. Plaintiff will ask leave  
27 of the Court to amend this Complaint to show the true names and capacities of these Defendants,  
28 when they become known to Plaintiff.



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

2           77. Defendant ROBERT GENE RAND, M.D. is, and was at all times relevant herein,  
3 a resident of Washoe County, Nevada and was a licensed medical doctor in the State of Nevada.  
4 Upon information and belief, and at all times relevant hereto, Defendant ROBERT GENE RAND,  
5 M.D., conducted business and provided medical services as RAND FAMILY CARE, LLC, a  
6 Nevada Domestic Limited Liability Company in Gardnerville, Nevada.

7           78. Defendants ROBERT GENE RAND, M.D. AND RAND FAMILY CARE, LLC  
8 (collectively “Defendant Providers” or “RAND”) diverted and distributed addictive and  
9 potentially lethal opioid medications, including, but not limited to, OxyContin, to residents of  
10 Washoe County, Nevada (including the City of Reno), operating a “pill mill” out of a local car  
11 dealership.

12           79. Defendant RAND prescribed an excessive amount of opioid medication in  
13 reckless regard for his patients’ lives. For example, Defendant RAND prescribed approximately  
14 23,645 pills of opioid medication to a single patient.<sup>2</sup> Unfortunately, this was not an isolated  
15 incident.

16           80. Defendant RAND was investigated by the Board of Medical Examiners (“BME or  
17 Board”). The Board discovered that Defendant RAND constantly, and on a regular basis, over-  
18 prescribed opioid medication to his patients, increased opioid medication doses to patients  
19 without appropriate medical examinations, and on a regular basis prescribed additional opioid  
20 medication to patients who, due to one reason or another, needed extra medication.<sup>3</sup>

21           81. On November 20, 2018, Defendant RAND and several of his associates, and/or  
22 individuals under his employment, pleaded guilty to various criminal counts in the United States  
23  
24  
25  
26

27 <sup>2</sup> UNITED STATES ATTORNEY’S OFFICE, DISTRICT OF NEVADA, *Reno Doctor Sentenced To 10 Years In Prison For*  
28 *Involuntary Manslaughter Of Patient And Unlawful Distribution Of Large Quantities Of Prescription Drugs*  
(November 20, 2017), available at [http:// www.justice.gov/usao-nv/pr/reno-doctor-sentenced-10-years-prison-](http://www.justice.gov/usao-nv/pr/reno-doctor-sentenced-10-years-prison-involuntary-manslaughter-patient-and-unlawful)  
[involuntary-manslaughter-patient-and-unlawful](http://www.justice.gov/usao-nv/pr/reno-doctor-sentenced-10-years-prison-involuntary-manslaughter-patient-and-unlawful) (last visited on 2018-08-22).

<sup>3</sup> *In the Matter of Charges and Complaint Against Robert Rand, M.D.*, No. 17-25704-1 (February 02, 2017),  
available at [http://www.medboard.nv.gov/Resources/Public/2017\\_Public\\_Filings/](http://www.medboard.nv.gov/Resources/Public/2017_Public_Filings/) (last visited on 2018-08-22).

1 District Court, District of Nevada for their involvement in illegal activities. Defendant RAND  
2 was sentenced to ten (10) years in prison.<sup>4</sup>

3 82. Defendant RAND was able to over-prescribe copious amounts of opioid  
4 medication due to the abundant supply from Defendant Manufacturers and Defendant Distributors.

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

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

11 84. That the true names and the capacities, whether individual, agency, corporate,  
12 associate or otherwise, of Defendant ROE CORPORATIONS 1 through 100, are unknown to  
13 Plaintiff. These Defendants include the manufacturer(s), distributor(s) and any third party that  
14 may have developed, manufactured, produced, sold, altered or otherwise distributed the subject  
15 drug, which caused Plaintiff's injuries as complained herein. Plaintiff will ask leave of the Court  
16 to amend this Complaint to show the true names and capacities of these Defendants, when they  
17 become known to Plaintiff. Plaintiff believes each Defendant named as ROE CORPORATION  
18 was responsible for contributing to the misconduct alleged herein.

19 85. That the true names and the capacities, whether individual, agency, corporate,  
20 associate or otherwise, of Defendant ZOE PHARMACIES 1 through 100, are unknown to  
21 Plaintiff. These Defendants include the pharmacies or similarly situated retailers that may have  
22 developed, manufactured, produced, sold, altered or otherwise distributed opioids which caused  
23 Plaintiff's injuries as complained herein. Plaintiff will ask leave of the Court to amend this  
24 Complaint to show the true names and capacities of these Defendants, when they become known  
25 to Plaintiff. Plaintiff believes each Defendant named as ZOE PHARMACY was responsible for  
26 contributing to the misconduct alleged herein.

27  
28  

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<sup>4</sup> *Reno Doctor Sentenced To 10 Years In Prison For Involuntary Manslaughter Of Patient And Unlawful Distribution Of Large Quantities Of Prescription Drugs*, supra note 2.



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

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

10           **H. Jurisdiction & Venue.**

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

16           89. Venue is proper in the Second Judicial District Court of Washoe County, Nevada  
17 where part of the claims alleged herein occurred.

18                           **GENERAL FACTUAL ALLEGATIONS**

19           **A. Opioids Generally**

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

26           91. Due to the lack of evidence that opioids improved patients' ability to overcome  
27 pain and function, coupled with evidence of greater pain complaints as patients developed  
28 tolerance to opioids over time and the serious risk of addiction and other side effects, the use of

1 opioids for chronic pain was discouraged or prohibited. As a result, doctors generally did not  
2 prescribe opioids for chronic pain.

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

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

#### 15 **B. Defendants' Fraudulent Marketing**

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

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

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

#### 27 **Direct Marketing Efforts**

28 97. Defendants' direct marketing of opioids generally proceeded on two tracks. First,  
Defendants conducted, and continue to conduct, promotional campaigns extolling the purported



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

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

20         99. These direct techniques were also accompanied by kickbacks, prior authorization  
21 systems, and the use of other incentives to encourage health care providers, to prescribe the opioid  
22 medication for chronic pain.

23         100. Numerous studies indicate that marketing impacts prescribing habits, with face-  
24 to-face detailing having the greatest influence. Defendants devoted, and continue to devote,  
25 massive resources to direct sales contacts with doctors.

26         101. Defendants paid sham “speaker fees” to doctors to run educational events to  
27 discuss the use of their products, but the fees were actually intended to reward those doctors for  
28 prescribing Defendants’ products and incentivize them to prescribe more of those products to  
patients. In fact, often times the speakers spoke at events with minimal to no attendance simply

1 to collect the fee. These kickbacks increased as the number of prescriptions written by the  
2 speakers increased.

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

11 103. Upon information and belief and at all times relevant herein, Defendants employed,  
12 and continue to employ, the same marketing plans and strategies and deployed the same messages  
13 in Nevada as they did nationwide.

14 104. As the opioid epidemic spread, many health care providers recognized the dangers  
15 of opioid medication, including health risks and the risk of addiction. Others, however, continued  
16 to prescribe such medication for off-label purposes without adequately warning patients of the  
17 dangers associated with opioids.

18 105. Upon information and belief, Defendant Providers received financial incentives to  
19 continue writing prescriptions for such opioid medication despite the dangers associated with  
20 same.

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

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

28 107. In addition to direct communications, Defendants utilized third-party marketing to  
promote their line of prescription opiates. This "unbranded" marketing refers not to a specific



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

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

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

23 **Key Opinion Leaders (KOLs)**

24 110. Upon information and belief and at all times relevant herein, Defendants recruited,  
25 as part of its unbranded marketing efforts, a cadre of doctors who were financially sponsored  
26 because of their preference to aggressively treat chronic pain with opioids. KOLs were retained  
27 by Defendants to influence their peers' medical practice, including but not limited to their  
28 prescribing behavior. KOLs gave lectures, conducted clinical trials and occasionally made

1 presentations at regulatory meetings or hearings. KOLs were carefully vetted to ensure that they  
2 were likely to remain on message and supportive of Defendant' agenda.

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

7 **Front Groups**

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

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

22 114. While Defendants utilized many Front Groups, one of the most prominent of was  
23 the American Pain Foundation ("APF"). APF received more than \$10 million in funding from  
24 opioid manufacturers from 2007 until it closed its doors in May 2012. Upon information and  
25 belief, Defendant Purdue was one of its primary financial backers.

26 115. APF issued education guides for patients, reporters, and policymakers that touted  
27 the benefits of opioids for chronic pain and trivialized their risks, particularly the risk of addiction.  
28 APF also launched a campaign to promote opioids for returning veterans, which has contributed  
to high rates of addiction and other adverse outcomes – including death – among returning soldiers.



1 APF also engaged in a significant multimedia campaign – through radio, television and the  
2 internet – to educate patients about their “right” to pain treatment, namely opioids. All of the  
3 programs and materials were available nationally and were intended to reach Nevadans.

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

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

12 **Continuing Medical Education (CMEs)**

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

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

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

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

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

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

15                   **Prior Authorization Programs**

16           123. Upon information and belief, Defendants developed prior authorization programs  
17 in order to gain authorization and approval from insurance companies to cover the costly opioid  
18 products for off-label uses. These programs involved representatives from Defendants contacting  
19 insurance companies and representing that they are from a health care provider’s office rather  
20 than from the Defendant manufacturer or distributor; providing inaccurate diagnosis information  
21 on the authorization requests; and drafting Letters of Medical Necessity for health care providers  
22 to sign-off on for purposes of receiving authorization from health insurance providers. Upon  
23 information and belief, Defendant Providers also participated in misleading the health insurance  
24 providers to authorize the numerous prescriptions written for opioid medications, including, but  
25 not limited to, Subsys.

26                   **Medication Switch Programs**

27           124. Upon information and belief, Defendants encouraged and incentivized detailers  
28 and sales people to convince health care providers to substitute stronger, more expensive opioid  
medications for medications that patients were already prescribed. Detailers and sales people were



1 informed that they would receive higher pay and/or bonuses by convincing health care providers  
2 to change prescriptions. These programs ignored any warnings that one opioid drug could not be  
3 substituted on a one-for-one basis with another opioid medication. Each opioid medication is  
4 unique in its dosing and has a different approved dosage level. Switch programs encouraged a  
5 one-for-one substitution despite the differences in the original and substitute medication.

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

7 125. In their pursuit of profit, Defendants targeted vulnerable segments of the  
8 population suffering from chronic pain including veterans and the elderly.

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

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

19 128. Veterans are also suffering greatly from the effects of Defendants' targeted  
20 marketing. Opioids are particularly dangerous to veterans. According to a study published in the  
21 2013 Journal of American Medicine, veterans returning from Iraq and Afghanistan who were  
22 prescribed opioids have a higher incidence of adverse clinical outcomes, like overdoses and self-  
23 inflicted and accidental injuries, than the general U.S. population.

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

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

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

10           **C. Defendants' Misrepresentations**

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

16           133. These misrepresentations regarding opioids include but are not limited to:

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

26           134. Upon information and belief, Defendants have not only failed to correct these  
27 misrepresentations, they continue to make them today.

28           135. For example, Defendant Purdue misrepresented, and continues to misrepresent,  
Oxycontin as providing 12 continuous hours of pain relief with one dose. However, studies have



1 shown, as well as Purdue's own internal research, that the effects of the drug wear off in or about  
2 six (6) hours in one quarter of its patients and in or about ten (1) hours in one-half of its patients.

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

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

16 138. Upon information and belief and at all times relative herein, Defendants made  
17 and/or disseminated deceptive statements related to opioids, including, but not limited to, in the  
18 following ways:

- 19 a. Creating, sponsoring, and assisting in the distribution of patient education  
20 materials distributed to Nevada consumers that contained deceptive statements;
- 21 b. Creating and disseminating advertisements that contained deceptive statements  
22 concerning the ability of opioids to improve function long-term and concerning  
23 the evidence supporting the efficacy of opioids long-term for the treatment of  
24 chronic non-cancer pain;
- 25 c. Assisting in the distribution of guidelines that contained deceptive statements  
26 concerning the use of opioids to treat chronic non-cancer pain and misrepresented  
27 the risks of opioid addiction;

- d. Developing and disseminating scientific studies that misleadingly concluded opioids are safe and effective for the long-term treatment of chronic non-cancer pain and that opioids improve quality of life, while concealing contrary data;
- e. Targeting the elderly and veterans by assisting in the distribution of guidelines that contained deceptive statements concerning the use of opioids to treat chronic non-cancer pain and misrepresented the risks of opioid addiction in this population;
- f. Exclusively disseminating misleading statements in education materials to Nevada hospital doctors and staff while purportedly educating them on new pain standards; and
- g. Making deceptive statements concerning the use of opioids to treat chronic non-cancer pain to Nevada prescribers through in-person detailing.

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

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

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

141. All opioid distributors are required and have a duty to maintain effective controls 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. Suspicious orders include orders of unusual size, orders deviating substantially from the normal pattern, and orders of unusual frequency.

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

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



1           144. Defendant Distributors each have a non-delegable duty to identify and track  
2 suspicious orders of controlled substances.

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

7           146. Defendant Distributors have a duty to detect questionable and suspicious orders to  
8 prevent the diversion of opioids into Reno, which include orders of unusual size, orders deviating  
9 substantially from a normal pattern, and orders of an unusual frequency.

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

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

15          149. Notwithstanding this duty and obligation, the DEA has been required to take  
16 administrative action against Defendant Distributors to force compliance. The United States  
17 Department of Justice, Office of the Inspector General, Evaluation and Inspections Division,  
18 reported that the DEA issued final decisions in 178 registrant actions between 2008 and 2012.  
19 The Office of Administrative Law Judges issued a recommended decision in a total of 117  
20 registrant actions before the DEA issued its final decision, including 76 actions involving orders  
21 to show cause and 41 actions involving immediate suspension orders.<sup>5</sup> Some of these actions  
22 include the following:

23           (a) On April 24, 2007, the DEA issued an *Order to Show Cause and*  
24 *Immediate Suspension Order* against the AmerisourceBergen Orlando, Florida  
25 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;

26           (b) On November 28, 2007, the DEA issued an *Order to Show Cause and*  
27 *Immediate Suspension Order* against the Cardinal Health Auburn, Washington  
28 Distribution Center ("Auburn Facility") for failure to maintain effective controls against

<sup>5</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 diversion of hydrocodone;

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

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

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

11 (f) On May 2, 2008, McKesson Corporation entered into an *Administrative*  
12 *Memorandum of Agreement* ("2008 MOA") with the DEA which provided that McKesson  
13 would "maintain a compliance program designed to detect and prevent the diversion of  
14 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;"

15 (g) On September 30, 2008, Cardinal Health entered into a *Settlement and*  
16 *Release Agreement and Administrative Memorandum of Agreement* with the DEA related  
17 to its Auburn Facility, Lakeland Facility, Swedesboro Facility and Stafford Facility. The  
18 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;

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

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

24 (j) On January 5, 2017, McKesson Corporation entered into an *Administrative*  
25 *Memorandum Agreement* with the DEA wherein it agreed to pay a \$150 million civil  
26 penalty for violation of the 2008 MOA as well as failure to identify and report suspicious  
27 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

28 (k) On July 11, 2017, Mallinckrodt agreed to pay the DEA \$35 million to settle  
allegations for the company's failure to report suspicious orders of opioids and allegations



1 of faulty record keeping. The investigation originally began in 2011 and federal  
2 investigators reportedly found 44,000 violations potentially exposing Mallinckrodt to \$2.3  
3 billion in fines.

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

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

13 152. Over the course of a decade, Defendant Distributors and Pharmacies failed to  
14 detect suspicious orders of prescription opioids which Defendants knew or should have known  
15 were likely to be delivered and/or diverted into Reno.

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

20 154. Defendant Pharmacies must exercise reasonable care under the circumstances.  
21 This involves a duty not to create a foreseeable risk of harm to others. Additionally, one who  
22 engages in affirmative conduct, and thereafter realizes or should realize that such conduct has  
23 created an unreasonable risk of harm to another, is under a duty to exercise reasonable care to  
24 prevent the threatened harm.

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

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

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

14           158. In addition to having common law duties, Defendant Pharmacies have a statutory  
15 duty under state law to track and report certain information to the Nevada State Board of  
16 Pharmacy. The Nevada State Board of Pharmacy has been licensing and regulating the practices  
17 of pharmaceutical wholesalers in Nevada since 1967.

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

22           160. In addition, the mandatory data to be reported must include, but is not limited to  
23 as follows: (a) name, address, telephone number, and Nevada license number of the wholesaler  
24 making the pedigree; (b) name and title of person certifying the pedigree's accuracy; (c) invoice  
25 number and date for the transaction of which the pedigree is part; (d) purchase order number and  
26 date for the transaction of which the pedigree is part; (e) order number and date (if one) for the  
27 transaction of which the pedigree is part; (f) the business name, address, and telephone number  
28 of each preceding seller of the drug; (g) the business name, address, and telephone number of the  
customer to whom the reporting wholesaler sold the drug; (h) the date of each preceding or

1 subsequent sale; (i) name of the drug; (j) strength of the drug; (k) size of the container; and/or  
2 (l) number of containers.

3 161. Because Defendant Pharmacies handle such large volumes of controlled  
4 substances, and are a last line of defense in the movement of legal pharmaceutical controlled  
5 substances from legitimate channels into the illicit market, it is incumbent on these Defendants to  
6 maintain effective controls to prevent diversion of controlled substances. Should Defendants  
7 deviate from these checks and balances, the closed system collapses.

8 162. The sheer volume of prescription opioids distributed to pharmacies in Reno is  
9 excessive for the medical need of the community and facially suspicious. Some red flags are so  
10 obvious that no one who engages in the legitimate distribution of controlled substances can  
11 reasonably claim ignorance of them.

12 163. Over the course of a decade, Defendant Pharmacies failed to detect suspicious  
13 orders of prescription opioids which Defendants knew or should have known were likely to be  
14 delivered and/or diverted into Reno.

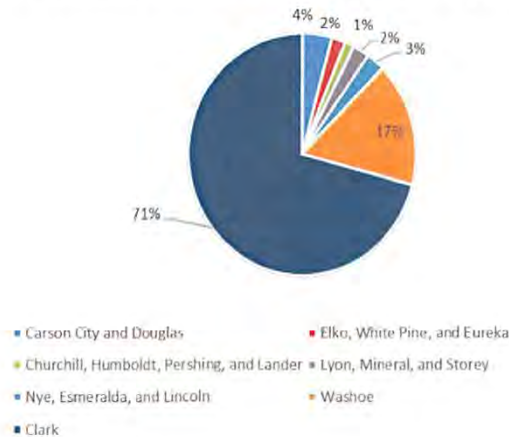
15 164. Yet, Defendants ignored the law, paid the fines, and continued to unlawfully fill  
16 suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or  
17 orders of unusual frequency in Reno, and/or orders which Defendants knew or should have known  
18 were likely to be delivered and/or diverted into Reno.

19 **D. Opioid Addiction in Nevada**

20 165. In Nevada, the opioid epidemic is widespread, not localized to any particular city  
21 or county. In 2016, Nevada was ranked as the sixth highest state for the number of milligrams of  
22 opioids distributed per adult according to a study by the DEA. From 2009 to 2013, hospitals  
23 across the State had patients presenting to emergency rooms for heroin or opioid dependence,  
24 abuse, or poisoning. Of those visits, 17% occurred in Washoe County.



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

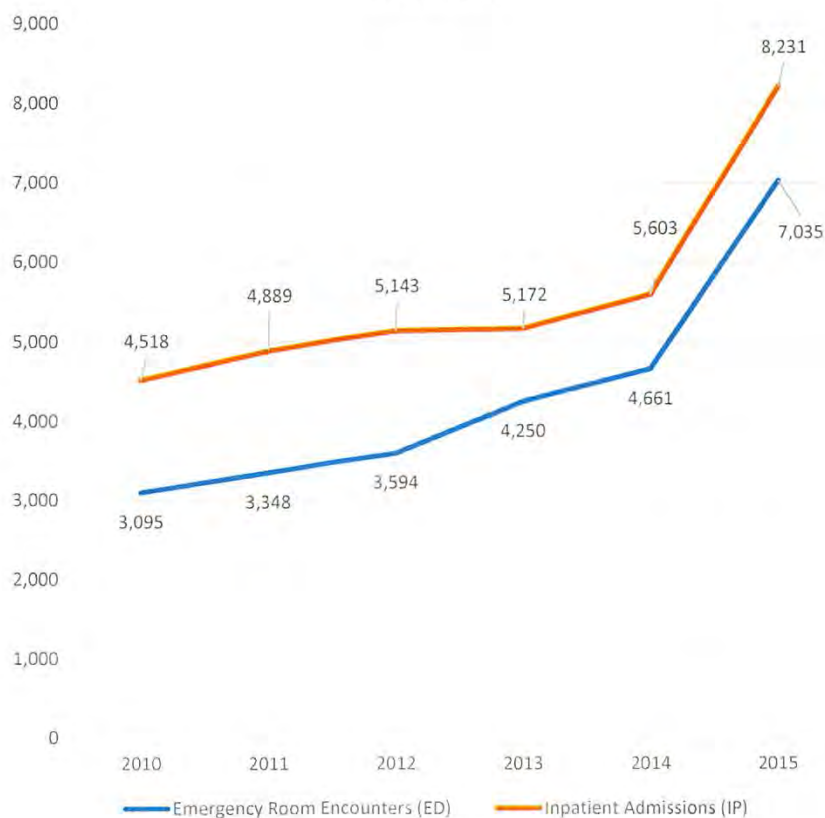


166. According to data from the Nevada Division of Public and Behavioral Health, the total number of opioid-related hospitalizations in Nevada nearly doubled from 2010 to 2015. In 2010, the number of opioid-related emergency room hospitalizations in Nevada totaled about 4,518 patients. By comparison, 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.

167. 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.

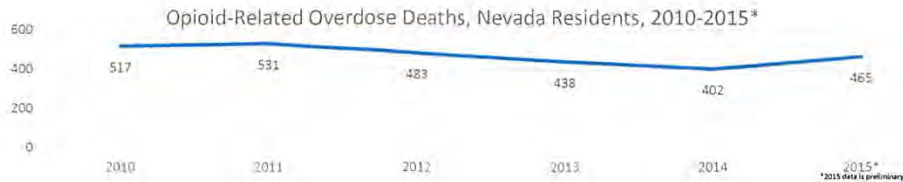


Opioid-Related Hospitalizations, Nevada Residents,  
2010-2015



168. 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.

169. 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.



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

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

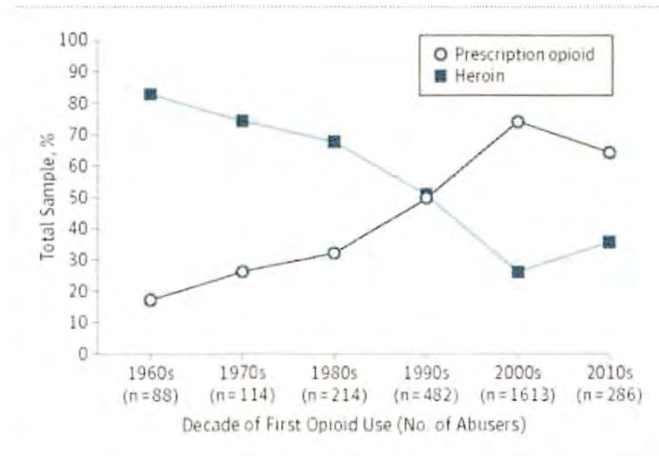
171. But for the misleading information disseminated by Defendants, prescribing physicians would not, in most instances, have prescribed opioids as medically necessary or reasonably required to address chronic pain. The impact of Defendants' fraudulent marketing on doctors' prescribing and patients'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

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

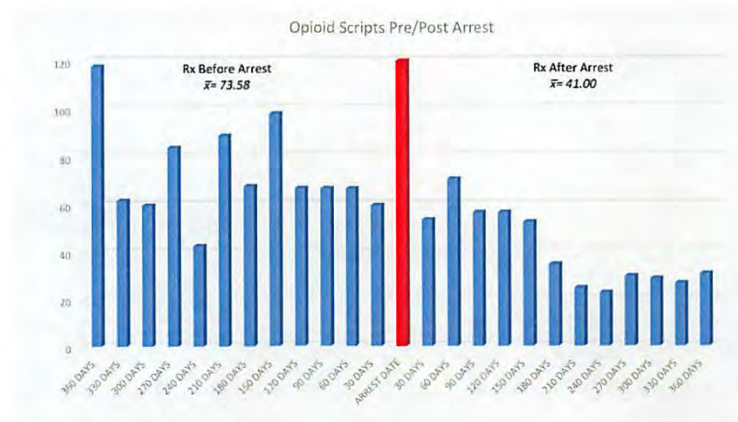
172. Defendants' successful efforts in expanding the market for opioids to new patients and chronic conditions has created an abundance of drugs available for criminal use and fueled a new wave of addiction and abuse. Defendants' behavior supplies both ends of the secondary market for opioids - producing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

173. 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

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.



14 174. Between 2011 to 2015, the Reno Police Department arrested approximately 735  
 15 individuals related to heroin use. Of those arrested, 53% were prescribed opioids. While records  
 16 indicate that aggregate opioid prescriptions for those arrested decreased following their arrests,  
 17 opioid addiction and illegal heroin use persist.





1 175. While the use of opioids continues to take an enormous toll on Reno and its  
2 residents, pharmaceutical companies reap blockbuster profits.

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

6 177. Defendants should be held accountable for their misrepresentations and the harms  
7 caused to Reno as well as its residents thus giving rise to this lawsuit.

8 **FIRST CAUSE OF ACTION**

9 *(Public Nuisance Against All Defendants)*

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

11 179. This action is brought by the City for violations of statutory provisions concerning  
12 public nuisance under NRS 202 *et seq.* Nevada law provides that a where a controlled substance,  
13 including but not limited to opioids, is “unlawfully sold, served, stored, kept, manufactured, used  
14 or given away” constitutes a public nuisance.

15 180. The public nuisance created by Defendants’ actions is substantial and  
16 unreasonable. It has caused, and continues to cause, significant harm to the community. The rates  
17 of opioid use resulting from Defendants’ deceptive marketing efforts have caused harm to the  
18 community

19 181. As a result of Defendants’ conduct, Plaintiff has incurred substantial costs  
20 including but not limited to law enforcement action opioid-related to drug crimes, for addiction  
21 treatment, and other services necessary for the treatment of people addicted to prescription opioids.

22 182. Defendants, and each of them, have contributed to, and/or assisted in creating and  
23 maintaining a condition that is harmful to the health of Reno citizens, “renders a considerable  
24 number of persons insecure in life” and/or interferes with the comfortable enjoyment of life in  
25 violation of Nevada law.

26 183. Defendants knew or should have known that their marketing of opioid use would  
27 create a public nuisance.

28 184. Defendants’ actions were, and continue to be, a substantial factor in opioids  
becoming widely available and widely used. Defendants’ actions were, and continue to be, a



1 substantial factor in prescribing physicians and prospective patients not accurately assessing and  
2 weighing the risks and benefits of opioids for chronic pain. Without Defendants' actions, opioid  
3 use would not have become so widespread, and the enormous public health hazard of opioid  
4 overuse, abuse, and addiction that now exists would have been averted.

5 185. The health and safety of the citizens of Reno, including those who use, have used  
6 or will use opioids, as well as those affected by users of opioids, is a matter of great public interest  
7 and of legitimate concern.

8 186. Defendants' conduct has affected and continues to affect a considerable number  
9 of people within the physical boundaries of Reno and is likely to continue to cause significant  
10 harm to people who take opioids, their families, and the community at large.

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

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

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

1           190. 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           191. 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           192. 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.

10          193. Defendants' conduct is ongoing and persistent, and the Plaintiff seeks all damages  
11 flowing from Defendants' conduct. Plaintiff further seeks to abate the nuisance and harm created  
12 by Defendants' conduct.

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

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

19          196. Reno further seeks to abate the nuisance created by the Defendants' unreasonable,  
20 unlawful, intentional, ongoing, continuing, and persistent interference with a right common to the  
21 public.

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

- 27           a. The high rates of use have led to unnecessary opioid abuse, addiction, overdose,  
28           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  
3 teenagers; opioid use among teenagers is only outpaced by marijuana use. Even  
4 infants have been born addicted to opioids due to prenatal exposure, causing severe  
5 withdrawal symptoms and lasting developmental impacts.
- 6 c. Even those City residents who have never taken opioids have suffered from the  
7 public nuisance arising from Defendants' abdication of their gate-keeper duties.  
8 Many have endured both the emotional and financial costs of caring for loved ones  
9 addicted to or injured by opioids, and the loss of companionship, wages, or other  
10 support from family members who have used, abused, become addicted to,  
11 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 dangerously  
15 addictive prescription opioids for non-medical use and abuses has created an  
16 abundance of drugs available for criminal use and fueled a new wave of addiction,  
17 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 City.
- 26 i. The significant unreasonable interference with the public rights caused by  
27 Defendants' conduct has taxed the human, medical, public health, law enforcement,  
28 and financial resources of the City.

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

5 198. Plaintiff seeks all legal and equitable relief as allowed by law, including *inter alia*  
6 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.

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

13 200. 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.

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

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

## 20 **SECOND CAUSE OF ACTION**

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

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

23 204. Defendants, each of them, have contributed to, and/or assisted in creating and  
24 maintaining a condition that is harmful to the health of Reno citizens or interferes with the  
25 comfortable enjoyment of life.

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



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

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

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

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

10          210. The health and safety of those individuals in Reno, including those who use, have  
11 used or will use opioids, as well as those affected by users of opioids, is a matter of great public  
12 interest and of legitimate concern.

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

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

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

20          214. That as a result of the aforesaid occurrence, Plaintiff has suffered extensive  
21 monetary and pecuniary losses and other compensatory damages were also incurred and paid,  
22 including necessary medical, hospital, and concomitant expenses.

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

27          216. Defendants created an absolute nuisance. Defendants' actions created and  
28 expanded the abuse of opioids, which are dangerously addictive, and the ensuing associated  
plague of prescription opioid and heroin addiction. Defendants knew the dangers to public health

1 and safety that diversion of opioids would create in Reno, however, Defendants intentionally  
2 and/or unlawfully failed to maintain effective controls against diversion through proper  
3 monitoring, reporting and refusal to fill suspicious orders of opioids. Defendants intentionally  
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5 taking other measures to maintain effective controls against diversion. Defendants intentionally  
6 and/or unlawfully continued to ship and failed to halt suspicious orders of opioids. Such actions  
7 were inherently dangerous.

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

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

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

19         220. The damages available to the Plaintiff include, *inter alia*, recoupment of  
20 governmental costs, flowing from an "ongoing and persistent" public nuisance which the  
21 government seeks to abate. Defendants' conduct is ongoing and persistent, and the Plaintiff seeks  
22 all damages flowing from Defendants' conduct. Plaintiff further seeks to abate the nuisance and  
23 harm created by Defendants' conduct.

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

27         222. The City has sustained specific and special injuries because its damages include,  
28 *inter alia*, health services, law enforcement expenditures, costs related to opioid addiction  
treatment and overdose prevention, and related costs.



1           223. The City further seeks to abate the nuisance created by the Defendants'  
2 unreasonable, unlawful, intentional, ongoing, continuing, and persistent interference with a right  
3 common to the public.

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

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



1 Defendants' conduct, led to more addiction, with many addicts turning from  
2 prescription opioids to heroin. People addicted to opioids frequently require  
3 increasing levels of opioids, and many turned to heroin as a foreseeable result.

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

7 i. The significant unreasonable interference with the public rights caused by  
8 Defendants' conduct has taxed the human, medical, public health, law enforcement,  
9 and financial resources of Reno.

10 j. Defendants' interference with the comfortable enjoyment of life in Reno is  
11 unreasonable because there is little social utility to opioid diversion and abuse, and  
12 any potential value is outweighed by the gravity of the harm inflicted by  
13 Defendants' actions.

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

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

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

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

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

1 **THIRD CAUSE OF ACTION**

2 *(Negligent Misrepresentation against all Defendants)*

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

4 231. Defendants had a duty to exercise reasonable care in the marketing of opioids.

5 232. Defendants were aware of the potentially dangerous situation involving opioids.

6 233. Defendants marketed opioids in an improper manner by:

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

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

12 c. overstating opioids' superiority compared with other treatments, such as other  
13 non-opioid analgesics, physical therapy, and other alternatives;

14 d. mischaracterizing the difficulty of withdrawal from opioids and the prevalence of  
15 withdrawal symptoms; and

16 e. marketing opioids for indications and benefits that were outside of the opioids'  
17 labels and not supported by substantial evidence.

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

21 235. Defendants disseminated many of their false, misleading, imbalanced, and  
22 unsupported statements indirectly, through KOLs and Front Groups, and in unbranded marketing  
23 materials. These KOLs and Front Groups were important elements of Defendants' marketing  
24 plans, which specifically contemplated their use, because they seemed independent and therefore  
25 outside FDA oversight. Through unbranded materials, Defendants, with their own knowledge of  
26 the risks, benefits and advantages of opioids, presented information and instructions concerning  
27 opioids generally that were contrary to, or at best, inconsistent with information and instructions  
28 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.

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

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

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

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

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

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

22           242. 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           243. 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.



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

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

#### **FOURTH CAUSE OF ACTION**

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

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

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

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

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

250. Defendant Providers owed a duty to exercise reasonable care in the prescription of opioids.

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

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

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

1           254. As a proximate result, Defendant Distributors and Pharmacies, as well as  
2 Defendant Providers, and their agents have caused Plaintiff to incur significant damages,  
3 including but not limited to costs related to diagnosis, treatment, and cure of addiction or risk of  
4 addiction to opioids. Reno has borne the massive costs of these illnesses and conditions by having  
5 to provide necessary medical care, facilities, and services for treatment of City residents.

6           255. Defendant Distributors and Pharmacies and Defendant Providers were negligent  
7 in failing to monitor and guard against third-party misconduct and participated and enabled such  
8 misconduct.

9           256. Defendant Distributors and Pharmacies were negligent in disclosing to Plaintiff  
10 suspicious orders for opioids.

11           257. Defendant Providers were negligent in writing improper prescriptions for opioids.

12           258. Defendant Distributors and Pharmacies' and Defendant Providers' acts and  
13 omissions imposed an unreasonable risk of harm to others separately and/or combined with other  
14 Defendants.

15           259. A negligent violation of this trust poses distinctive and significant dangers to the  
16 City and its residents from the diversion of opioids for non-legitimate medical purposes and  
17 addiction to the same by consumers.

18           260. Defendant Distributors and Pharmacies and Defendant Providers were negligent  
19 in not acquiring and utilizing special knowledge and special skills that relate to the dangerous  
20 activity in order to prevent and/or ameliorate such distinctive and significant dangers.

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

23           262. Defendant Providers are required to exercise a high degree of care to prescribe  
24 appropriate medications in appropriate dosages to avoid harm to patients and their communities.

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

28           264. Defendant Providers breached their duty to exercise the degree of care required to  
protect their patients and their communities.



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

266. Defendant Providers were active in providing patients within Reno with the prescriptions for opioids that were supplied by the Defendant Distributors and Pharmacies.

267. Plaintiff is without fault and the injuries to the City 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.

268. 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.

269. 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.

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

271. 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)*

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

273. 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.

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



1           275. Defendants are aware of this obvious benefit, and that retention of this benefit is  
2 unjust.

3           276. Defendants made substantial profits while fueling the prescription drug epidemic  
4 into Reno.

5           277. Defendants continue to receive considerable profits from the distribution of  
6 controlled substances into the City.

7           278. Defendants have been unjustly enriched by their negligent, malicious, oppressive,  
8 illegal and unethical acts, omissions, and wrongdoing.

9           279. It would be inequitable to allow Defendants to retain benefit or financial advantage.

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

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

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

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

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

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

26                                   **SIXTH CAUSE OF ACTION**

27                                   *(Punitive Damages against all Defendants)*

28          286. Plaintiff repeats and reiterates the allegations previously set forth herein.

287. 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.

288. 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.

289. 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.

290. 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.

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

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

### **PRAYER FOR RELIEF**

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

1. General damages in an amount in excess of \$15,000.00;
2. Special damages in an amount in excess of \$15,000.00;
3. For punitive damages in such amount as will sufficiently punish Defendants for their wrongful conduct in Nevada as well as serve as an example to prevent a repetition of such conduct in Nevada in the future;
4. For a fund establishing a medical monitoring program due to the increased susceptibility to injuries and irreparable threat to the health of opioid users resulting from their exposure to opioids, which can only be mitigated or addressed

1 by the creation of a Court-supervised fund, financed by Defendants, and which  
2 will:

- 3 a. Notify individuals who use or used opioids of the potential harm from  
4 opioids;
- 5 b. Aid in the early diagnosis and treatment of resulting injuries through  
6 ongoing testing and monitoring of opioid use;
- 7 c. Fund studies and research of the short and long term effects of opioids and  
8 the possible cures and treatments for the detrimental effects of using  
9 opioids;
- 10 d. Accumulate and analyze relevant medical and demographic information  
11 from opioid users, including but not limited to the results of testing  
12 performed on them;
- 13 e. Gather and forward to treating physicians information related to the  
14 diagnosis and treatment of injuries which may result from using opioids.

- 15 5. For restitution and reimbursement sufficient to cover all prescription costs the City  
16 has incurred related to opioids due to Defendants' wrongful conduct, with said  
17 amount to be determined at trial;
- 18 6. For restitution and reimbursement sufficient to cover all costs expended for health  
19 care services and programs associated with the diagnosis and treatment of adverse  
20 health consequences of opioids use, including but not limited to addiction due to  
21 Defendants' wrongful conduct, with said amount to be determined at trial;
- 22 7. For restitution and reimbursement for all prescription costs incurred by consumers  
23 related to opioids;
- 24 8. For such other and further extraordinary equitable, declaratory and/or injunctive  
25 relief as permitted by law as necessary to assure that the Plaintiff has an effective  
26 remedy and to stop Defendants' promotion and marketing of opioids for  
27 inappropriate uses in Nevada, currently and in the future;
- 28 9. For disgorgement;
10. Costs of suit, reasonable attorney fees, interest incurred herein; and



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

2 DATED this 18<sup>th</sup> day of September, 2018.

3  
4 **EGLET PRINCE**

5  
6   
7 **ROBERT T. EGLET, ESQ.**

8 Nevada Bar No. 3402

9 **ROBERT M. ADAMS, ESQ.**

10 Nevada Bar No. 6551

11 **RICHARD K. HY, ESQ.**

12 Nevada Bar No. 12406

13 400 S. 7th Street, 4th Floor

14 Las Vegas, NV 89101

15 Tel.: (702) 450-5400

16 Fax: (702) 450-5451

17 E-Mail [eservice@egletlaw.com](mailto:eservice@egletlaw.com)

18 -and-

19 **BILL BRADLEY, ESQ.**

20 Nevada Bar No. 1365

21 6900 S. McCarran Blvd., Suite 2000

22 Reno, Nevada 89509

23 Telephone: (775) 335-9999

24 Email: [office@bdjlaw.com](mailto:office@bdjlaw.com)

25 *Attorneys for Plaintiff, City of Reno*

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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030 and 603A.040

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Complaint

(Title of Document)

filed in case number: \_\_\_\_\_

☒

Document does not contain the personal information of any person.

- OR -

☐

Document contains the social security number of a person as required by:

☐

A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

- or -

☐

For the administration of a public program

- or -

☐

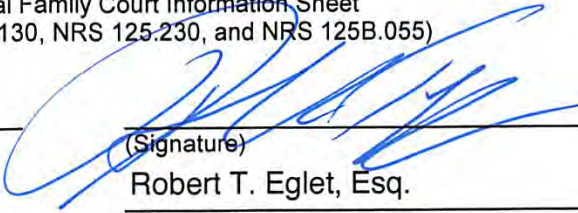
For an application for a federal or state grant

- or -

☐

Confidential Family Court Information Sheet  
(NRS 123.130, NRS 125.230, and NRS 125B.055)

Date: September 18, 2018

  
(Signature)

Robert T. Eglet, Esq.

(Print Name)

City of Reno

(Attorney for)

## EGLET PRINCE

E-Mail: [eservice@egletlaw.com](mailto:eservice@egletlaw.com)

BRADLEY, DRENDEL &amp; JEANNEY

Email: [office@bdjlaw.com](mailto:office@bdjlaw.com)



1 INC.; CEPHALON, INC.; JOHNSON & )  
JOHNSON; JANSSEN )  
2 PHARMACEUTICALS, INC.; JANSSEN )  
PHARMACEUTICA, INC. n/k/a JANSSEN )  
3 PHARMACEUTICALS, INC.; ORTHO- )  
MCNEIL-JANSSEN PHARMACEUTICALS, )  
4 INC. n/k/a JANSSEN PHARMACEUTICALS, )  
INC.; ENDO HEALTH SOLUTIONS INC.; )  
5 ENDO PHARMACEUTICALS, INC.; )  
6 ALLERGAN USA, INC.; ALLERGAN )  
FINANCE, LLC f/k/a ACTAVIS, INC. f/k/a )  
7 WATSON PHARMACEUTICALS, INC.; )  
WATSON LABORATORIES, INC.; )  
8 ACTAVIS PHARMA, INC f/k/a WATSON )  
9 PHARMA, INC.; ACTAVIS LLC; INSYS )  
THERAPEUTICS, INC., MALLINCKRODT, )  
10 LLC; MALLINCKRODT BRAND )  
PHARMACEUTICALS INC.; and )  
11 MALLINCKRODT US HOLDINGS, INC.; )  
ROBERT GENE RAND, M.D. AND RAND )  
12 FAMILY CARE, LLC; DOES 1 through 100; )  
13 ROE CORPORATIONS 1 through 100; and )  
ZOE PHARMACIES 1 through 100, inclusive, )  
14 )  
15 Defendants. )  
16 )

17 Plaintiff City of Reno, by and through the undersigned attorneys, files this First Amended  
18 Complaint against the named Defendants seeking to recover its damages as a result of the opioid  
19 epidemic Defendants caused, and alleges as follows:

20 **INTRODUCTION**

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

23 2. The abuse of opioids is a widespread problem in the State of Nevada as well as the  
24 City of Reno specifically.

25 3. Nevada ranked as the sixth highest state for the number of milligrams of opioids  
26 distributed per adult, in 2016.

27 4. In 2016, Nevadans were prescribed opioids at a rate of 87 prescriptions per 100  
28 residents.

1           5.     In that same year, the rate of overdose deaths in Nevada exceeded the national  
2 average.

3           6.     Nevada has had the fourth highest drug overdose mortality rate in the United States.

4           7.     The dramatic increase in prescription opioid use over the last two decades, and the  
5 resultant public-health crisis, is no accident.

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

10          9.     Defendant drug companies named herein, manufacture, market, and sell  
11 prescription opioids (hereinafter “opioids”), including brand-name drugs like Oxycontin, Vicodin  
12 and Percocet, as well as generics like oxycodone and hydrodone, which are powerful narcotic  
13 painkillers.

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

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

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

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

26          14.    While Americans represent only 4.6% of the world’s population, they consume  
27 over 80% of the world’s opioids.

28          15.    Since 1999, the amount of prescription opioids sold in the U.S. has nearly  
quadrupled. In 2010, 254 million prescriptions were filled in the U.S. – enough to medicate every

1 adult in America around the clock for a month. In that year, 20% of all doctors' visits resulted in  
2 the prescription of an opioid (nearly double the rate in 2000).

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

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

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

10 19. From 2000 to 2015, more than half a million people died from drug overdoses  
11 (including prescription opioids and heroin). The most recent figures from the CDC suggest that  
12 175 Americans die every day from an opioid overdose (prescription and heroin).

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

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

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

23 23. Defendants broke these simple rules and helped unleash a healthcare crisis that has  
24 had far-reaching financial, social, and deadly consequences in the City of Reno and throughout  
25 Nevada.

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



1           25. Defendants disseminated these common messages to reverse the popular and  
2 medical understanding of opioids.

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

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

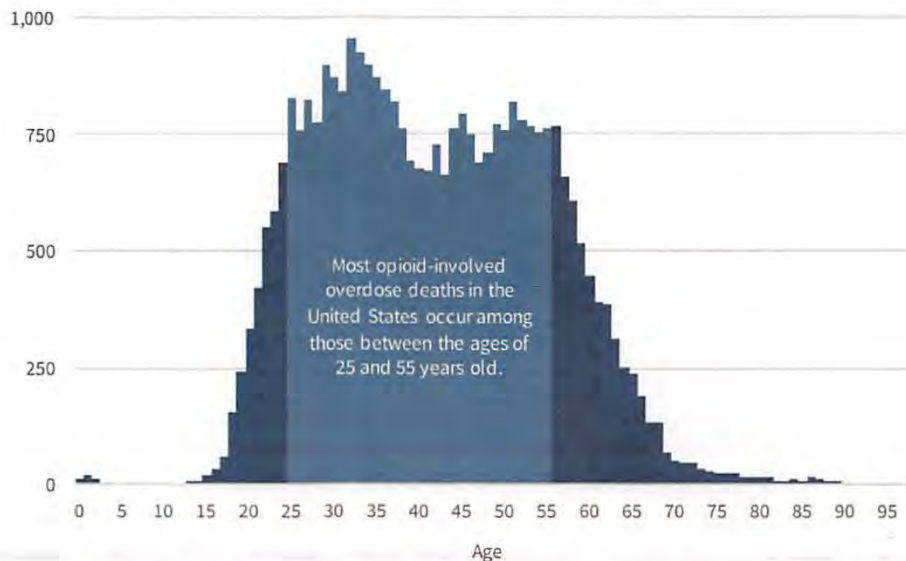
7           28. In 2017, a record number of drug overdoses claimed the lives of about 72,000  
8 Americans, a 10.2 percent increase from 2016. According to the CDC the death toll from drug  
9 overdoses was higher than the peak yearly death totals from H.I.V., gun deaths, or car crashes.  
10 The increase of deaths related to drug overdoses was linked to two major factors: (i) a growing  
11 number of Americans are using opioids, and (ii) drugs are becoming deadlier.

12           29. This trend of increased opioid abuse has been well documented in the last several  
13 years. In 2015, over 33,000 Americans died of a drug overdose involving opioids with studies  
14 suggesting that these fatalities are statistically underreported. And in 2016, 2.1 million Americans  
15 had opioid use disorders, according to a government survey, but that figure could be as high as 4  
16 million.

17           30. Most opioid related deaths occur among those between the ages of approximately  
18 25 and 55 years old. Studies have shown that the overall fatality rate was 10.3 deaths per 100,000  
19 population, and in the 25 to 55 year old age group, fatality rates were much higher, ranging from  
20 16.1 to 22.0 deaths per 100,000 population.

21           31. In 2015, the estimated economic impact of the opioid crisis was \$504 billion, or  
22 2.8 % of our U.S.'s gross domestic product that same year. Previous estimates of the economic  
23 cost of the opioid crisis greatly understate it by undervaluing the most important component of  
24 the loss—fatalities resulting from overdoses.

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



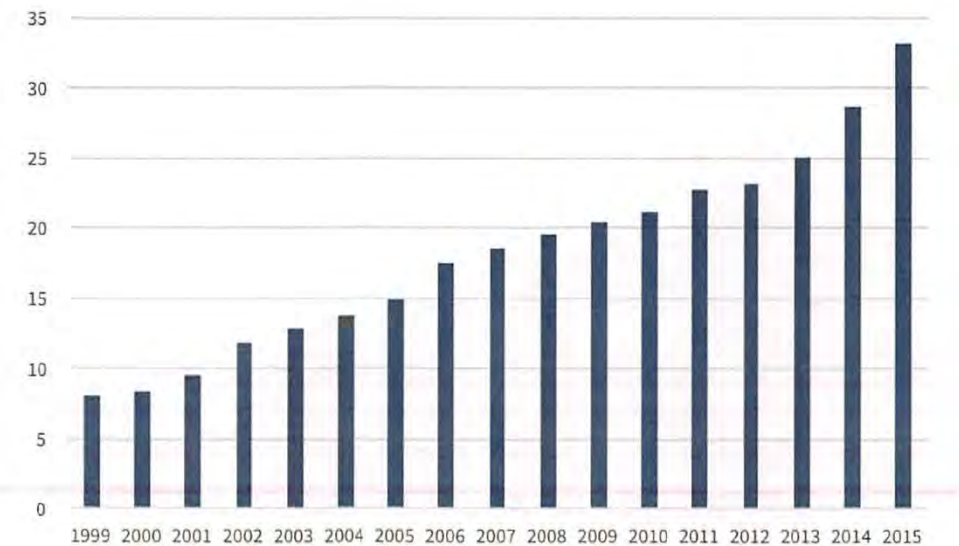
Source: CDC Wonder database, multiple cause of death files

32. 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.

33. Further compounding issue 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.

<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.

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



Source: CDC Wonder database, multiple cause of death files

34. The crisis that Defendants caused has directly impacted the City of Reno as it bears the financial brunt of this epidemic as it unfolds in our community.

35. Apart from the toll on human life, the crisis has financially strained the services the City of Reno 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, the City of Reno 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' conduct also caused the City of Reno to incur substantial economic, administrative and social costs relating to opioid addiction and abuse, including criminal justice costs, victimization costs, child protective services costs, lost productivity costs, and education and prevention program costs among others.



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

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

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

20           39. Plaintiff files this Complaint naming the drug companies herein as Defendants and  
21 placing the industry on notice that the City of Reno is taking action to abate the public nuisance  
22 that plagues our community.

23           40. By its Complaint, the City of Reno seeks to recover from Defendants its damages  
24 as a result of the opioid public-health crisis Defendants caused. Namely, this action is brought by  
25 this Plaintiff pursuant to constitutional, statutory, common law and/or equitable authority for  
26 purposes of, *inter alia*:

- 27           a. recovering restitution and reimbursement for all the costs the City of Reno  
28 has incurred in paying excessive and unnecessary prescription costs related  
to opioids;

- b. recovering restitution and reimbursement for all the costs expended by the City of Reno for health care services and programs associated with the diagnosis and treatment of adverse health consequences of opioids use, including but not limited to, addiction;
- c. recovering restitution and reimbursement for all the costs consumers have incurred in excessive and unnecessary prescription costs related to opioids;
- d. disgorgement;
- e. recovering damages for all costs incurred and likely to be incurred in an effort to combat the abuse and diversion of opioids in the City of Reno;
- f. recovering damages incurred as costs associated with the harm done to the public health and safety.

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

#### **PARTIES AND JURISDICTION**

##### **A. Plaintiff, City of Reno.**

42. Plaintiff, City of Reno ("Reno" or "Plaintiff"), is a municipality organized under the laws of the State of Nevada.

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

44. Plaintiff has all the powers possible for a municipality to have under the constitution of the State of Nevada, the laws of the State of Nevada, and its city charter.

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

46. Reno declares that the unlawful distribution of prescription opiates, by the Defendants named herein, has created a serious public health crisis of opioid abuse, addiction, morbidity and mortality and is a public nuisance.

1           47. Plaintiff is authorized by law to abate any nuisance and prosecute in any court of  
2 competent jurisdiction, any person who creates, continues, contributes to, or suffers such nuisance  
3 to exist and prevent injury and annoyance from such nuisance.

4           **B. Defendants, Drug Manufacturers.**

5           48. Defendant PURDUE PHARMA L.P. is a limited partnership organized under the  
6 laws of Delaware and registered, and authorized, to do business in the State of Nevada, under the  
7 laws thereof. At all times relevant herein, PURDUE PHARMA L.P. takes and took advantage of  
8 the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
9 drug patents. PURDUE PHARMA INC. is a corporation organized under the laws of both  
10 Delaware and New York, with its principal place of business in Stamford, Connecticut, and THE  
11 PURDUE FREDERICK COMPANY, INC. is a Delaware corporation with its principal place of  
12 business in Stamford, Connecticut. Defendant PURDUE PHARMACEUTICALS, L.P. is and was  
13 a limited partnership organized under the laws of the State of Delaware. At all times relevant  
14 hereto, the foregoing, (collectively, "PURDUE") are and were in the business of designing, testing,  
15 manufacturing, labeling, advertising, promoting, marketing, selling and/or distributing  
16 OxyContin and have done so to and within the State of Nevada. At all times relevant herein,  
17 PURDUE hired "Detailers" in Reno, Nevada, to make personal contact with physicians and  
18 clinics to advocate for the purchase and use of opioid medications which were contrary to known  
19 safety concerns and sound medical advice.

20           49. Defendant TEVA PHARMACEUTICALS USA, INC. ("TEVA"), is a Delaware  
21 corporation with its principal place of business located in North Wales, Pennsylvania. Teva  
22 develops, makes, manufactures, and distributes generic opioid medications worldwide, including  
23 within Washoe County, Nevada.

24           50. Defendant DEPOMED, INC. is a corporation organized under the laws of the State  
25 of California and headquartered in Newark, California. At all times relevant herein, DEPOMED  
26 INC. was and is engaged in the manufacturing, distribution and the sale of opioid drugs into and  
27 within Washoe County, Nevada. At all times relevant herein, DEPOMED INC. hired "Detailers"  
28 in Washoe County, Nevada, to make personal contact with physicians and clinics to advocate for



1 the purchase and use of opioid medications which were contrary to known safety concerns and  
2 sound medical advice.

3 51. Defendant CEPHALON, INC., is Delaware corporation with its principal place of  
4 business located in Frazer, Pennsylvania. In 2011, Teva Ltd. acquired CEPHALON, INC.

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

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

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

27 55. Defendant ALLERGAN USA, INC. is a Delaware corporation with its principal  
28 place of business in Pennsylvania. Defendant ALLERGAN FINANCE, LLC f/k/a Actavis Inc.

1 f/k/a Watson Pharmaceuticals, Inc. is a Nevada limited liability company. (ALLERGAN USA,  
2 INC. and ALLERGAN FINANCE, LLC collectively are referred to herein as "ALLERGAN").

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

10 57. 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 single-  
15 dose spray device intended for oral sublingual administration, and has done so to and within in  
16 the State of Nevada. At all times relevant herein, INSYS THERAPEUTICS, INC. hired "Detailers"  
17 in Washoe County, Nevada to make personal contact with physicians and clinics to advocate for  
18 the purchase and use of opioid medications which were contrary to known safety concerns and  
19 sound medical advice. At all times relevant herein, INSYS THERAPEUTICS, INC., used  
20 deceptive tactics to gain authorization for Subsys prescriptions from health insurance providers  
21 for off-label, high dosage uses.

22 58. Defendant MALLINCKRODT LLC is a Delaware corporation with its principal  
23 place of business in Hazelwood, Missouri. Defendant MALLINCKRODT BRAND  
24 PHARMACEUTICALS INC. is a Delaware corporation with its principal place of business in  
25 Hazelwood, Missouri. Defendant MALLINCKRODT US HOLDINGS, INC. is a Nevada  
26 corporation with its principal place of business in Hazelwood, Missouri. At all times relevant  
27 herein, Mallinckrodt US Holdings, Inc. takes and took advantage of legislative, regulatory and  
28 tax schemes in Nevada for the purpose of holding, protecting and defending Mallinckrodt assets  
related to their pharmaceutical business.

1           59. Defendants Mallinckrodt LLC, Mallinckrodt Brand Pharmaceuticals Inc., and  
2 Mallinckrodt US Holdings, Inc. (collectively "MALLINCKRODT") operate in the United States  
3 under the name Mallinckrodt Pharmaceuticals, with its United States headquarters located in  
4 Hazelwood, Missouri. At all times relevant herein, Defendant MALLINCKRODT was in the  
5 business of designing, testing, manufacturing, labeling, advertising, promoting, marketing, selling,  
6 and/or distributing opioid products known as Exalgo, Roxicodone, and Xartemis XR, and has  
7 done so to and within the State of Nevada.

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

25           **C. Defendants, Wholesale Distributors.**

26           61. Defendant, AMERISOURCEBERGEN DRUG CORPORATION, is, and at all  
27 times pertinent hereto, was, a foreign corporation authorized to do business in the County of  
28 Washoe, State of Nevada. Upon information and belief, and at all times relevant hereto,



1 AMERISOURCEBERGEN DRUG CORPORATION's principal place of business is located in  
2 Chesterbrook, Pennsylvania, operating distribution centers in Ohio.

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

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

14 64. CARDINAL HEALTH 108 LLC d/b/a Metro Medical Supply is a foreign limited  
15 liability company incorporated under the laws of the state of Delaware and headquartered in  
16 Dublin, Ohio, and registered and authorized to conduct business within the State of Nevada.  
17 CARDINAL HEALTH 108 LLC d/b/a Metro Medical Supply operates a drug distribution center  
18 within the physical confines of the Washoe County, specifically at 6640 Echo Ave, Ste J, Reno,  
19 Nevada 89506.

20 65. Defendant, McKESSON CORPORATION, is, and at all times pertinent hereto,  
21 was, foreign corporation authorized to do business in the County of Washoe, State of Nevada.  
22 Upon information and belief, and at all times relevant hereto, McKESSON CORPORATION's  
23 principal place of business is located in San Francisco, California, operating distribution centers  
24 in Ohio. At all times relevant herein, McKESSON CORPORATION takes and took advantage  
25 of the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
26 patents, including those relating to drug labeling, coding and distribution.

27 66. McKESSON CORPORATION, AMERISOURCEBERGEN DRUG  
28 CORPORATION, CARDINAL HEALTH, INC., CARDINAL HEALTH 6 INC.; and  
CARDINAL HEALTH TECHNOLOGIES LLC; CARDINAL HEALTH 108 LLC d/b/a Metro

1 Medical Supply (collectively “Defendant Distributors” or “Defendants”) distributed opioids or  
2 facilitated the distribution of opioids into Reno. The United States Drug Enforcement  
3 Administration has found it necessary to levy disciplinary action against these and each of these  
4 including large fines and suspension or permanent cancellation of their licenses for distribution  
5 of controlled substances, based on dangerous and abusive distribution practices as detailed herein  
6 and below.

7 67. Defendant Distributors purchased opioids from manufacturers, including the  
8 named Defendants herein, and distributed them to pharmacies throughout Reno, and the State of  
9 Nevada.

10 68. Defendant Distributors played an integral role in the chain of opioids being  
11 distributed throughout Reno, and the State of Nevada.

12 **D. Defendants, Detailers.**

13 69. Defendant Detailers (hereinafter “Detailers”) are natural persons, and at all  
14 relevant times herein, were residents of Washoe County, Nevada and who are or were engaged in  
15 specialty drug sales on behalf of Defendant Manufacturers and Distributors named herein.

16 70. Upon information and belief, Defendant Detailers played an integral role in the  
17 chain of opioids being sold throughout Reno.

18 71. Defendant Detailers were trained to, and did in fact, make personal contact with  
19 physicians and clinics within Washoe County, Nevada for the purpose, and with the result, of  
20 encouraging them to prescribe opioid medications in a manner inconsistent with known safety  
21 concerns and contrary to sound medical practice.

22 72. That the true names and the capacities, whether individual, agency, corporate,  
23 associate or otherwise, of Defendant Detailers, are unknown to Plaintiff. Plaintiff will ask leave  
24 of the Court to amend this Complaint to show the true names and capacities of these Defendants,  
25 when they become known to Plaintiff.

26 **E. Defendants, Pharmacies.**

27 73. Defendant pharmacies (collectively “Defendant Pharmacies” or “Defendants”)   
28 sold opioids to residents of Reno giving rise to the opioid crisis.

1           74.     Upon information and belief, Defendant Pharmacies played an integral role in the  
2 chain of opioids being sold throughout Reno.

3           75.     That the true names and the capacities, whether individual, agency, corporate,  
4 associate or otherwise, of Defendant Pharmacies, are unknown to Plaintiff. Plaintiff will ask leave  
5 of the Court to amend this Complaint to show the true names and capacities of these Defendants,  
6 when they become known to Plaintiff.

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

8           76.     Defendant ROBERT GENE RAND, M.D. is, and was at all times relevant herein,  
9 a resident of Washoe County, Nevada and was a licensed medical doctor in the State of Nevada.  
10 Upon information and belief, and at all times relevant hereto, Defendant ROBERT GENE RAND,  
11 M.D., conducted business and provided medical services as RAND FAMILY CARE, LLC, a  
12 Nevada Domestic Limited Liability Company in Gardnerville, Nevada.

13           77.     Defendants ROBERT GENE RAND, M.D. AND RAND FAMILY CARE, LLC  
14 (collectively “Defendant Providers” or “RAND”) diverted and distributed addictive and  
15 potentially lethal opioid medications, including, but not limited to, OxyContin, to residents of  
16 Washoe County, Nevada (including the City of Reno), operating a “pill mill” out of a local car  
17 dealership.

18           78.     Defendant RAND prescribed an excessive amount of opioid medication in  
19 reckless regard for his patients’ lives. For example, Defendant RAND prescribed approximately  
20 23,645 pills of opioid medication to a single patient.<sup>2</sup> Unfortunately, this was not an isolated  
21 incident.

22           79.     Defendant RAND was investigated by the Board of Medical Examiners (“BME or  
23 Board”). The Board discovered that Defendant RAND constantly, and on a regular basis, over-  
24 prescribed opioid medication to his patients, increased opioid medication doses to patients  
25

26  
27  
28           <sup>2</sup> UNITED STATES ATTORNEY’S OFFICE, DISTRICT OF NEVADA, *Reno Doctor Sentenced To 10 Years In Prison For  
Involuntary Manslaughter Of Patient And Unlawful Distribution Of Large Quantities Of Prescription Drugs*  
(November 20, 2017), available at [http:// www.justice.gov/usao-nv/pr/reno-doctor-sentenced-10-years-prison-  
involuntary-maslaughter-patient-and-unlawful](http://www.justice.gov/usao-nv/pr/reno-doctor-sentenced-10-years-prison-involuntary-maslaughter-patient-and-unlawful) (last visited on 2018-08-22).



1 without appropriate medical examinations, and on a regular basis prescribed additional opioid  
2 medication to patients who, due to one reason or another, needed extra medication.<sup>3</sup>

3 80. On November 20, 2018, Defendant RAND and several of his associates, and/or  
4 individuals under his employment, pleaded guilty to various criminal counts in the United States  
5 District Court, District of Nevada for their involvement in illegal activities. Defendant RAND  
6 was sentenced to ten (10) years in prison.<sup>4</sup>

7 81. Defendant RAND was able to over-prescribe copious amounts of opioid  
8 medication due to the abundant supply from Defendant Manufacturers and Defendant Distributors.

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

10 82. That the true names and the capacities, whether individual, agency, corporate,  
11 associate or otherwise, of Defendant DOES 1 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 83. That the true names and the capacities, whether individual, agency, corporate,  
16 associate or otherwise, of Defendant ROE CORPORATIONS 1 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 leave of the Court  
20 to amend this Complaint to show the true names and capacities of these Defendants, when they  
21 become known to Plaintiff. Plaintiff believes each Defendant named as ROE CORPORATION  
22 was responsible for contributing to the misconduct alleged herein.

23 84. That the true names and the capacities, whether individual, agency, corporate,  
24 associate or otherwise, of Defendant ZOE PHARMACIES 1 through 100, are unknown to  
25 Plaintiff. These Defendants include the pharmacies or similarly situated retailers that may have  
26 developed, manufactured, produced, sold, altered or otherwise distributed opioids which caused  
27

28 <sup>3</sup> *In the Matter of Charges and Complaint Against Robert Rand, M.D.*, No. 17-25704-1 (February 02, 2017),  
available at [http://www.medboard.nv.gov/Resources/Public/2017\\_Public\\_Filings/](http://www.medboard.nv.gov/Resources/Public/2017_Public_Filings/) (last visited on 2018-08-22).

<sup>4</sup> *Reno Doctor Sentenced To 10 Years In Prison For Involuntary Manslaughter Of Patient And Unlawful Distribution Of Large Quantities Of Prescription Drugs*, *supra* note 2.

1 Plaintiff's injuries as complained herein. Plaintiff will ask leave of the Court to amend this  
2 Complaint to show the true names and capacities of these Defendants, when they become known  
3 to Plaintiff. Plaintiff believes each Defendant named as ZOE PHARMACY was responsible for  
4 contributing to the misconduct alleged herein.

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

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

14 **H. Jurisdiction & Venue.**

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

20 88. Venue is proper in the Second Judicial District Court of Washoe County, Nevada  
21 where part of the claims alleged herein occurred.

22 **GENERAL FACTUAL ALLEGATIONS**

23 **A. Opioids Generally**

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

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

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

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

#### 18           **B. Defendants' Fraudulent Marketing**

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

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

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



1           **Direct Marketing Efforts**

2           96. 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 addiction 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           97. 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           98. 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           99. Numerous studies indicate that marketing impacts prescribing habits, with face-  
27 to-face detailing having the greatest influence. Defendants devoted, and continue to devote,  
28 massive resources to direct sales contacts with doctors.

1           100. 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’ products 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           101. 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           102. 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           103. 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           104. 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           105. 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**

4 106. 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.

15 107. 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 were able both to avoid FDA scrutiny and to give the  
21 false 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.

23 108. 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 **Key Opinion Leaders (KOLs)**



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

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

12           **Front Groups**

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

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

27           113. While Defendants utilized many Front Groups, one of the most prominent of was  
28 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.

3 114. 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.

10 115. 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.

15 116. 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)**

19 117. 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.

27 118. 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.

3 119. 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.

6 120. 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**

9 121. 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**

23 122. 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**

5 123. 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**

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

16 125. 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.

22 126. 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.

26 127. 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.

3 128. *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."

9 129. *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.

13 130. 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**

19 131. 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.

24 132. 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;

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

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

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

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

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

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

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



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

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

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

139. Under NAC 453.400, Distributors like McKesson must establish and maintain effective controls and procedures to prevent or guard against theft and misuse of controlled substances.

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

1           141. All opioid distributors are required and have a duty to maintain effective controls  
2 against opioid diversion. They are also required and have a duty to create and use a system to  
3 identify and report downstream suspicious orders of controlled substances to law enforcement.  
4 Suspicious orders include orders of unusual size, orders deviating substantially from the normal  
5 pattern, and orders of unusual frequency.

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

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

10          144. Defendant Distributors each have a non-delegable duty to identify and track  
11 suspicious orders of controlled substances.

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

16          146. Defendant Distributors have a duty to detect questionable and suspicious orders to  
17 prevent the diversion of opioids into Reno, which include orders of unusual size, orders deviating  
18 substantially from a normal pattern, and orders of an unusual frequency.

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

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

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

1 to show cause and 41 actions involving immediate suspension orders.<sup>5</sup> Some of these actions  
2 include the following:

3 (a) On April 24, 2007, the DEA issued an *Order to Show Cause and*  
4 *Immediate Suspension Order* against the AmerisourceBergen Orlando, Florida  
5 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;

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

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

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

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

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

21 (g) On September 30, 2008, Cardinal Health entered into a *Settlement and*  
22 *Release Agreement and Administrative Memorandum of Agreement* with the DEA related  
23 to its Auburn Facility, Lakeland Facility, Swedesboro Facility and Stafford Facility. The  
24 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;

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

28  

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<sup>5</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 (i) On December 23, 2016, Cardinal Health agreed to pay a \$44 million fine  
2 to the DEA to resolve the civil penalty portion of the administrative action taken against  
its Lakeland, Florida Distribution Center;

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

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

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

16 151. The sheer volume of prescription opioids distributed to pharmacies in Reno is  
17 excessive for the medical need of the community and facially suspicious. Some red flags are so  
18 obvious that no one who engages in the legitimate distribution of controlled substances can  
19 reasonably claim ignorance of them.

20 152. Over the course of a decade, Defendant Distributors and Pharmacies failed to  
21 detect suspicious orders of prescription opioids which Defendants knew or should have known  
22 were likely to be delivered and/or diverted into Reno.

23 153. Defendants ignored the law, paid the fines, and continued to unlawfully fill  
24 suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or  
25 orders of unusual frequency in Reno, and/or orders which Defendants knew or should have known  
26 were likely to be delivered and/or diverted into Reno.

27 154. Defendant Pharmacies must exercise reasonable care under the circumstances.  
28 This involves a duty not to create a foreseeable risk of harm to others. Additionally, one who  
engages in affirmative conduct, and thereafter realizes or should realize that such conduct has

1 created an unreasonable risk of harm to another, is under a duty to exercise reasonable care to  
2 prevent the threatened harm.

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

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

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

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

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

1           160. In addition, the mandatory data to be reported must include, but is not limited to  
2 as follows: (a) name, address, telephone number, and Nevada license number of the wholesaler  
3 making the pedigree; (b) name and title of person certifying the pedigree's accuracy; (c) invoice  
4 number and date for the transaction of which the pedigree is part; (d) purchase order number and  
5 date for the transaction of which the pedigree is part; (e) order number and date (if one) for the  
6 transaction of which the pedigree is part; (f) the business name, address, and telephone number  
7 of each preceding seller of the drug; (g) the business name, address, and telephone number of the  
8 customer to whom the reporting wholesaler sold the drug; (h) the date of each preceding or  
9 subsequent sale; (i) name of the drug; (j) strength of the drug; (k) size of the container; and/or  
10 (l) number of containers.

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

16           162. The sheer volume of prescription opioids distributed to pharmacies in Reno is  
17 excessive for the medical need of the community and facially suspicious. Some red flags are so  
18 obvious that no one who engages in the legitimate distribution of controlled substances can  
19 reasonably claim ignorance of them.

20           163. Over the course of a decade, Defendant Pharmacies failed to detect suspicious  
21 orders of prescription opioids which Defendants knew or should have known were likely to be  
22 delivered and/or diverted into Reno.

23           164. Yet, Defendants ignored the law, paid the fines, and continued to unlawfully fill  
24 suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or  
25 orders of unusual frequency in Reno, and/or orders which Defendants knew or should have known  
26 were likely to be delivered and/or diverted into Reno.

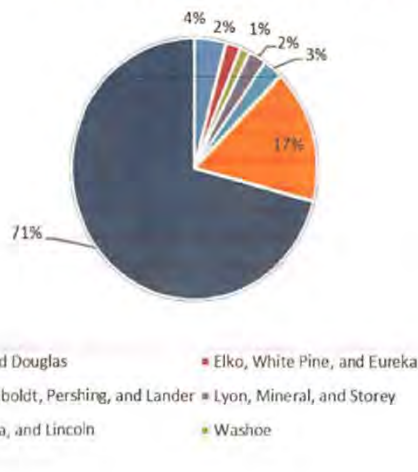
27           **E. Opioid Addiction in Nevada**

28           165. In 2016, Nevada was ranked as the sixth highest state for the number of milligrams  
of opioids distributed per adult according to a study by the DEA. From 2009 to 2013, hospitals



1 across the State had patients presenting to emergency rooms for heroin or opioid dependence,  
2 abuse, or poisoning. Of those visits, 17% occurred in Washoe County.

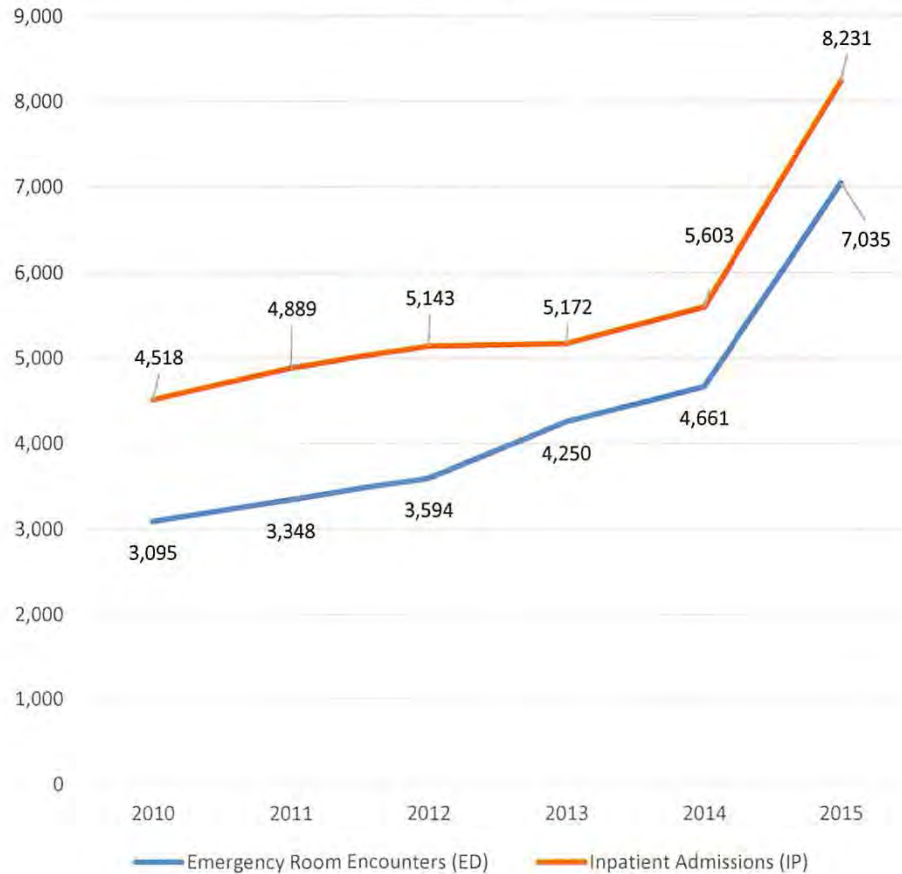
### 3 4 Heroin or Opioid Dependence, Abuse, or Poisoning 5 Among Hospital Emergency Department Visitors for 6 Nevada Residents in 2009-2013 by Region



166. 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.

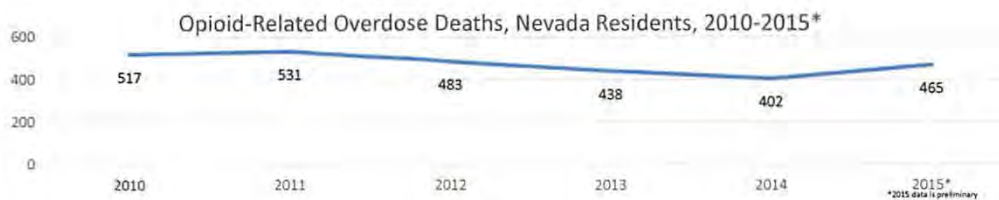
167. Opioid-induced hospitalizations and emergency room visits are a significant area of health expenditure. For instance in 2012, over \$40 million was billed for opioid-induced hospitalizations and over \$7 million for similar emergency room visits in Southern Nevada alone.

Opioid-Related Hospitalizations, Nevada Residents,  
2010-2015



168. 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.

169. 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.



#### F. The Consequences of Defendants' Fraudulent Scheme

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

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

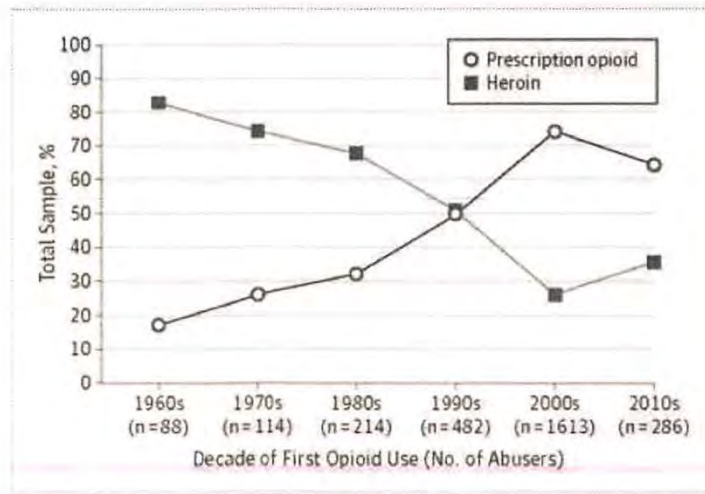
#### G. Prescription Opioids Fueling Secondary Market of Illegal Drugs

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

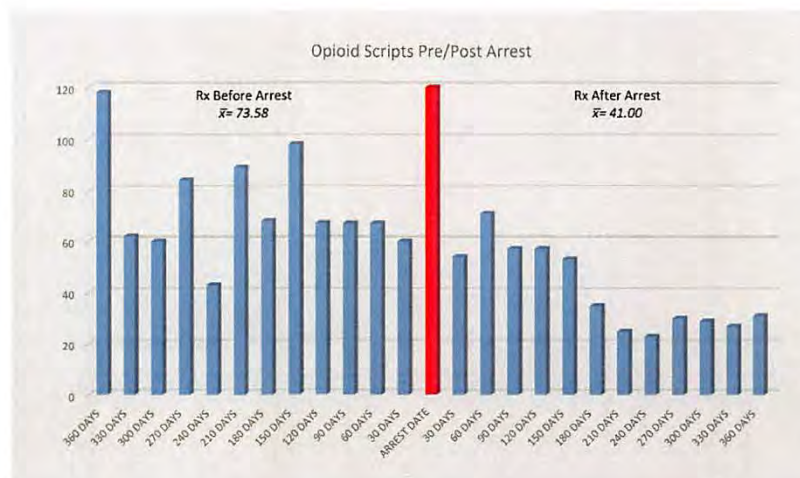
173. As a result, self-reported heroin use nearly doubled in the U.S. between 2007 and 2012, from 373,000 to 669,000 individuals and, in 2010, more than 3,000 people in the U.S. died



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.



174. Between 2011 to 2015, the Reno Police Department arrested approximately 735 individuals related to heroin use. Of those arrested, 53% were prescribed opioids. While records indicate that aggregate opioid prescriptions for those arrested decreased following their arrests, opioid addiction and illegal heroin use persist.



1           175. While the use of opioids continues to take an enormous toll on Reno and its  
2 residents, pharmaceutical companies reap blockbuster profits.

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

6           177. Defendants should be held accountable for their misrepresentations and the harms  
7 caused to Reno as well as its residents thus giving rise to this lawsuit.

8                                   **FIRST CAUSE OF ACTION**

9                                   *(Public Nuisance Against All Defendants)*

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

11          179. This action is brought by the City for violations of statutory provisions concerning  
12 public nuisance under NRS 202 *et seq.* Nevada law provides that a where a controlled substance,  
13 including but not limited to opioids, is “unlawfully sold, served, stored, kept, manufactured, used  
14 or given away” constitutes a public nuisance.

15          180. The public nuisance created by Defendants’ actions is substantial and  
16 unreasonable. It has caused, and continues to cause, significant harm to the community. The rates  
17 of opioid use resulting from Defendants’ deceptive marketing efforts have caused harm to the  
18 community

19          181. As a result of Defendants’ conduct, Plaintiff has incurred substantial costs  
20 including but not limited to law enforcement action opioid-related to drug crimes, for addiction  
21 treatment, and other services necessary for the treatment of people addicted to prescription opioids.

22          182. Defendants, and each of them, have contributed to, and/or assisted in creating and  
23 maintaining a condition that is harmful to the health of Reno citizens, “renders a considerable  
24 number of persons insecure in life” and/or interferes with the comfortable enjoyment of life in  
25 violation of Nevada law.

26          183. Defendants knew or should have known that their marketing of opioid use would  
27 create a public nuisance.

28          184. Defendants’ actions were, and continue to be, a substantial factor in opioids  
becoming widely available and widely used. Defendants’ actions were, and continue to be, a

1 substantial factor in prescribing physicians and prospective patients not accurately assessing and  
2 weighing the risks and benefits of opioids for chronic pain. Without Defendants' actions, opioid  
3 use would not have become so widespread, and the enormous public health hazard of opioid  
4 overuse, abuse, and addiction that now exists would have been averted.

5 185. The health and safety of the citizens of Reno, including those who use, have used  
6 or will use opioids, as well as those affected by users of opioids, is a matter of great public interest  
7 and of legitimate concern.

8 186. Defendants' conduct has affected and continues to affect a considerable number  
9 of people within the physical boundaries of Reno and is likely to continue to cause significant  
10 harm to people who take opioids, their families, and the community at large.

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

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

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



1           190. 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           191. 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           192. 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.

10           193. Defendants' conduct is ongoing and persistent, and the Plaintiff seeks all damages  
11 flowing from Defendants' conduct. Plaintiff further seeks to abate the nuisance and harm created  
12 by Defendants' conduct.

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

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

19           196. Reno further seeks to abate the nuisance created by the Defendants' unreasonable,  
20 unlawful, intentional, ongoing, continuing, and persistent interference with a right common to the  
21 public.

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

- 27           a. The high rates of use have led to unnecessary opioid abuse, addiction, overdose,  
28 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  
3 teenagers; opioid use among teenagers is only outpaced by marijuana use. Even  
4 infants have been born addicted to opioids due to prenatal exposure, causing severe  
5 withdrawal symptoms and lasting developmental impacts.
- 6 c. Even those City residents who have never taken opioids have suffered from the  
7 public nuisance arising from Defendants' abdication of their gate-keeper duties.  
8 Many have endured both the emotional and financial costs of caring for loved ones  
9 addicted to or injured by opioids, and the loss of companionship, wages, or other  
10 support from family members who have used, abused, become addicted to,  
11 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 dangerously  
15 addictive prescription opioids for non-medical use and abuses has created an  
16 abundance of drugs available for criminal use and fueled a new wave of addiction,  
17 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 City.
- 26 i. The significant unreasonable interference with the public rights caused by  
27 Defendants' conduct has taxed the human, medical, public health, law enforcement,  
28 and financial resources of the City.

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

5 198. Plaintiff seeks all legal and equitable relief as allowed by law, including *inter alia*  
6 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.

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

13 200. 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.

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

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

## 20 **SECOND CAUSE OF ACTION**

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

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

23 204. Defendants, each of them, have contributed to, and/or assisted in creating and  
24 maintaining a condition that is harmful to the health of Reno citizens or interferes with the  
25 comfortable enjoyment of life.

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



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

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

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

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

10          210. The health and safety of those individuals in Reno, including those who use, have  
11 used or will use opioids, as well as those affected by users of opioids, is a matter of great public  
12 interest and of legitimate concern.

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

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

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

20          214. That as a result of the aforesaid occurrence, Plaintiff has suffered extensive  
21 monetary and pecuniary losses and other compensatory damages were also incurred and paid,  
22 including necessary medical, hospital, and concomitant expenses.

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

27          216. Defendants created an absolute nuisance. Defendants' actions created and  
28 expanded the abuse of opioids, which are dangerously addictive, and the ensuing associated  
plague of prescription opioid and heroin addiction. Defendants knew the dangers to public health

1 and safety that diversion of opioids would create in Reno, however, Defendants intentionally  
2 and/or unlawfully failed to maintain effective controls against diversion through proper  
3 monitoring, reporting and refusal to fill suspicious orders of opioids. Defendants intentionally  
4 and/or unlawfully distributed opioids without reporting or refusing to fill suspicious orders or  
5 taking other measures to maintain effective controls against diversion. Defendants intentionally  
6 and/or unlawfully continued to ship and failed to halt suspicious orders of opioids. Such actions  
7 were inherently dangerous.

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

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

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

19         220. The damages available to the Plaintiff include, *inter alia*, recoupment of  
20 governmental costs, flowing from an "ongoing and persistent" public nuisance which the  
21 government seeks to abate. Defendants' conduct is ongoing and persistent, and the Plaintiff seeks  
22 all damages flowing from Defendants' conduct. Plaintiff further seeks to abate the nuisance and  
23 harm created by Defendants' conduct.

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

27         222. The City has sustained specific and special injuries because its damages include,  
28 *inter alia*, health services, law enforcement expenditures, costs related to opioid addiction  
treatment and overdose prevention, and related costs.

1           223. The City further seeks to abate the nuisance created by the Defendants'  
2 unreasonable, unlawful, intentional, ongoing, continuing, and persistent interference with a right  
3 common to the public.

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

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



1 Defendants' conduct, led to more addiction, with many addicts turning from  
2 prescription opioids to heroin. People addicted to opioids frequently require  
3 increasing levels of opioids, and many turned to heroin as a foreseeable result.

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

7 i. The significant unreasonable interference with the public rights caused by  
8 Defendants' conduct has taxed the human, medical, public health, law enforcement,  
9 and financial resources of Reno.

10 j. Defendants' interference with the comfortable enjoyment of life in Reno is  
11 unreasonable because there is little social utility to opioid diversion and abuse, and  
12 any potential value is outweighed by the gravity of the harm inflicted by  
13 Defendants' actions.

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

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

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

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

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

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1 **FOURTH CAUSE OF ACTION**

2 *(Negligent Misrepresentation against all Defendants)*

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

4 240. Defendants had a duty to exercise reasonable care in the marketing of opioids.

5 241. Defendants were aware of the potentially dangerous situation involving opioids.

6 242. In the course and furtherance of Defendants' business in Reno, Defendants  
7 marketed opioids in an improper manner by:

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

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

13 c. overstating opioids' superiority compared with other treatments, such as other  
14 non-opioid analgesics, physical therapy, and other alternatives;

15 d. mischaracterizing the difficulty of withdrawal from opioids and the prevalence of  
16 withdrawal symptoms; and

17 e. marketing opioids for indications and benefits that were outside of the opioids'  
18 labels and not supported by substantial evidence.

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

22 244. Defendants disseminated many of their false, misleading, imbalanced, and  
23 unsupported statements indirectly, through KOLs and Front Groups, and in unbranded marketing  
24 materials. These KOLs and Front Groups were important elements of Defendants' marketing  
25 plans, which specifically contemplated their use, because they seemed independent and therefore  
26 outside FDA oversight. Through unbranded materials, Defendants, with their own knowledge of  
27 the risks, benefits and advantages of opioids, presented information and instructions concerning  
28 opioids generally that were contrary to, or at best, inconsistent with information and instructions



1 listed on Defendants' branded marketing materials and drug labels. Defendants did so knowing  
2 that unbranded materials typically are not submitted to or reviewed by the FDA.

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

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

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

13 248. Defendants made these false representations and concealed facts with knowledge  
14 of the falsity of their representations. These Defendants' false representations and concealed facts  
15 were material to the conduct and actions at issue.

16 249. Defendants intended and had reason to expect under the operative circumstances  
17 that the Plaintiff would be deceived by Defendants' statements, concealments, and conduct as  
18 alleged herein and that Plaintiff would act or fail to act in reasonable reliance thereon.

19 250. Plaintiff did rightfully, reasonably, and justifiably rely upon Defendants'  
20 representations and/or concealments both directly and indirectly. Defendants knew or should  
21 have known Plaintiff was directly and proximately injured as a result of this reliance, Plaintiff's  
22 injuries were directly and proximately caused by this reliance.

23 251. As a result of these representations and/or omissions, Plaintiff proceeded under  
24 the misapprehension that the opioid crisis was simply the result of conduct by persons other than  
25 Defendants and as a consequence, these Defendants prevented Plaintiff from a more timely and  
26 effective response to the opioid crisis.

27 252. By reason of its reliance on Defendants' misrepresentations and omissions of  
28 material fact, Plaintiff suffered damages.

1           253. 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 City resources in relation to opioid use and abuse.

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

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

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

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

19           258. Should the court finds that Plaintiff must state these or any other allegations with  
20 more particularity, plaintiff is currently unable to do so because the required information is in the  
21 possession of Defendants or third parties, and Plaintiff should therefore be allowed an opportunity  
22 to conduct discovery and amend its complaint to conform with NRCP 9(b)

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

25           260. That Plaintiff's general, special and punitive damages are in amounts in excess of  
26 \$15,000.00.

1 **FIFTH CAUSE OF ACTION**

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

3 261. Plaintiff incorporates the allegations within all prior paragraphs within this  
4 Complaint as if they were fully set forth herein.

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

7 263. Defendants Distributors and Pharmacies further owe a non-delegable duty to  
8 Plaintiff to conform their behavior to the legal standard of reasonable conduct under the  
9 circumstances, in the light of the apparent risks.

10 264. Defendant Distributors and Pharmacies breached this duty by failing to take any  
11 action to prevent or reduce the distribution of the opioids.

12 265. Defendant Providers owed a duty to exercise reasonable care in the prescription of  
13 opioids.

14 266. Defendant Providers further owe a duty to Plaintiff to conform their behavior to  
15 the legal standard of reasonable conduct under the circumstances, in light of the apparent risks,  
16 and in light of Defendant Providers' knowledge as it relates to the inherent dangers in the use of  
17 opioids.

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

22 268. Defendant Providers further breached their duty by providing false information to  
23 health insurance providers in order to obtain authorization and coverage for the opioid  
24 prescriptions.

25 269. As a proximate result, Defendant Distributors and Pharmacies, as well as  
26 Defendant Providers, and their agents have caused Plaintiff to incur significant damages,  
27 including but not limited to costs related to diagnosis, treatment, and cure of addiction or risk of  
28 addiction to opioids. Reno has borne the massive costs of these illnesses and conditions by having  
to provide necessary medical care, facilities, and services for treatment of City residents.



1           270. Defendant Distributors and Pharmacies and Defendant Providers were negligent  
2 in failing to monitor and guard against third-party misconduct and participated and enabled such  
3 misconduct.

4           271. Defendant Distributors and Pharmacies were negligent in disclosing to Plaintiff  
5 suspicious orders for opioids.

6           272. Defendant Providers were negligent in writing improper prescriptions for opioids.

7           273. Defendant Distributors and Pharmacies' and Defendant Providers' acts and  
8 omissions imposed an unreasonable risk of harm to others separately and/or combined with other  
9 Defendants.

10          274. A negligent violation of this trust poses distinctive and significant dangers to the  
11 City and its residents from the diversion of opioids for non-legitimate medical purposes and  
12 addiction to the same by consumers.

13          275. Defendant Distributors and Pharmacies and Defendant Providers were negligent  
14 in not acquiring and utilizing special knowledge and special skills that relate to the dangerous  
15 activity in order to prevent and/or ameliorate such distinctive and significant dangers.

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

18          277. Defendant Providers are required to exercise a high degree of care to prescribe  
19 appropriate medications in appropriate dosages to avoid harm to patients and their communities.

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

23          279. Defendant Providers breached their duty to exercise the degree of care required to  
24 protect their patients and their communities.

25          280. Defendant Distributors and Pharmacies are in exclusive control of the distribution  
26 management of opioids that it distributed and/or sold in Reno.

27          281. Defendant Providers were active in providing patients within Reno with the  
28 prescriptions for opioids that were supplied by the Defendant Distributors and Pharmacies.

282. Plaintiff is without fault and the injuries to the City 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.

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

284. 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.

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

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

### SIXTH CAUSE OF ACTION

*(Unjust Enrichment against all Defendants)*

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

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

289. 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.

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

291. Defendants are aware of this obvious benefit, and that retention of this benefit is unjust.

1           292. Defendants made substantial profits while fueling the prescription drug epidemic  
2 into Reno.

3           293. Defendants continue to receive considerable profits from the distribution of  
4 controlled substances into the City.

5           294. Defendants have been unjustly enriched by their negligent, malicious, oppressive,  
6 illegal and unethical acts, omissions, and wrongdoing.

7           295. It would be inequitable to allow Defendants to retain benefit or financial advantage.

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

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

13          298. 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          299. 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          300. That Plaintiff has been required to prosecute this action and is entitled to attorneys'  
21 fees and costs as provided by Nevada statute.

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

24                                   **SEVENTH CAUSE OF ACTION**

25                                   *(Punitive Damages against all Defendants)*

26          302. Plaintiff repeats and reiterates the allegations previously set forth herein.

27          303. The acts, conduct and omissions of Defendants, as alleged throughout this  
28 complaint, were willful, malicious, oppressive and/or were done with conscious disregard of the



1 rights and safety of Plaintiff and for the primary purpose of increasing Defendants' profits from  
2 the sale and distribution of the subject drug.

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

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

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

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

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

18 **PRAYER FOR RELIEF**

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

- 20 1. General damages in an amount in excess of \$15,000.00;
- 21 2. Special damages in an amount in excess of \$15,000.00;
- 22 3. For punitive damages in such amount as will sufficiently punish Defendants for  
23 their wrongful conduct in Nevada as well as serve as an example to prevent a  
24 repetition of such conduct in Nevada in the future;
- 25 4. For a fund establishing a medical monitoring program due to the increased  
26 susceptibility to injuries and irreparable threat to the health of opioid users  
27 resulting from their exposure to opioids, which can only be mitigated or addressed  
28 by the creation of a Court-supervised fund, financed by Defendants, and which  
will:

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

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

2 DATED this 3RD day of December, 2018.

3  
4 **EGLET PRINCE**

5  
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

12 400 S. 7th Street, 4th Floor

13 Las Vegas, NV 89101

14 Tel.: (702) 450-5400

15 Fax: (702) 450-5451

16 E-Mail [eservice@egletlaw.com](mailto:eservice@egletlaw.com)

17 -and-

18 BILL BRADLEY, ESQ.

19 Nevada Bar No. 1365

20 6900 S. McCarran Blvd., Suite 2000

21 Reno, Nevada 89509

22 Telephone: (775) 335-9999

23 Email: [office@bdjlaw.com](mailto:office@bdjlaw.com)

24 *Attorneys for Plaintiff, City of Reno*



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030 and 603A.040

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

First Amended Complaint

(Title of Document)

filed in case number: CV18-01895

☒ Document does not contain the personal information of any person.

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

- or -

☐ For the administration of a public program

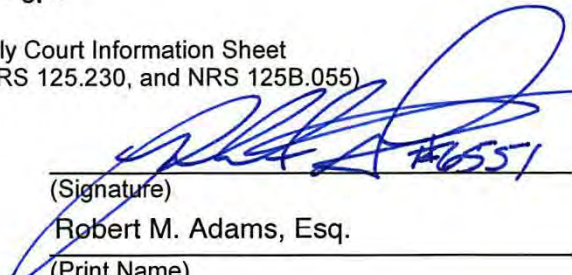
- or -

☐ For an application for a federal or state grant

- or -

☐ Confidential Family Court Information Sheet  
(NRS 123.130, NRS 125.230, and NRS 125B.055)

Date: December 03, 2018

  
(Signature)

Robert M. Adams, Esq.

(Print Name)

City of Reno

(Attorney for)