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. 81121

District Court Case No. CV18-01895

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

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 South Figueroa Street, 44th Floor
Los Angeles, California 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.

[Counsel for Additional Petitioners Identified In Signature Pages]

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

Other Authorities

I. INTRODUCTION

This Court requested supplemental briefing on "whether the phrase 'may sue and be sued' in the Reno City Charter provides the City with authority to file the pending action." Jan. 26, 2021 Order at 1-2. Under this Court's longstanding precedent and straightforward principles of statutory interpretation, the answer to that question is "no."

Section 1.020 of the City's charter states that all inhabitants of the City "shall constitute a political and corporate body by the name of 'City of Reno' and by that name they and their successors shall be known in law . . . and may sue and be sued in all courts." Reno City Charter, Art. I, § 1.020. This provision establishes the City's "capacity" to sue and be sued generally—*i.e.*, the City's right to appear in court, in its own name, as a juridical person and party litigant. It is *not* a grant of power to bring any particular lawsuit or cause of action. Just as the City's right to pass local ordinances does not empower the City to enact any ordinance it wants, its capacity to sue does not allow the City to bring any lawsuit it wants.

As this Court has long recognized, "[t]here is a decided difference between capacity to sue and the right to maintain an action," and "a plaintiff with capacity to sue may have no right of action." *Withers v. Rockland Mines Co.*, 58 Nev. 98, 71 P.2d 156, 161 (1937) (citation omitted). "The *capacity* to 'sue and be sued' must not be confused with *ability* to sue," and "more [is] required to authorize" a civil

action "than the mere *capacity to sue*." *State Bar v. Sexton*, 64 Nev. 459, 476, 184 P.2d 356, 365 (1947) (emphases in original). The City may only exercise its capacity to sue pursuant to the powers affirmatively granted to it by state law: "Dillon's Rule provides that [cities] possess[] and may exercise *only* the following powers *and no others*." NRS 268.001(3) (emphases added). In other words, the City's mere capacity to sue cannot fill the void left by the absence of any affirmative grant of power authorizing the City's lawsuit here. Indeed, other state high courts have rejected arguments that substantively identical "sue and be sued" provisions constitute an affirmative grant of power permitting a local government to bring a particular lawsuit or claim, including for public nuisance. *See Premium Standard Farms, Inc. v. Lincoln Twp. of Putnam Cnty.*, 946 S.W.2d 234, 240-41 (Mo. 1997); *Bd. of Cnty. Comm'rs of Dolores Cnty. v. Love*, 172 Colo. 121, 126-27, 470 P.2d 861, 863 (1970).

A contrary conclusion would render myriad Nevada statutes superfluous. The Nevada Constitution has provided that municipalities may "sue and be sued in all courts" since 1864. Nev. Const. Art. 8, § 5. If such capacity to sue affirmatively granted municipalities the power to file any lawsuit they wished, then there would have been no need for the Legislature to enact numerous detailed statutes, as it has done, providing cities with limited grants of power to bring particular civil actions

subject to specific procedural requirements. These statutes would serve no purpose unless they provided cities with powers they did not already possess.

In short, the City's mere capacity to "sue and be sued" in its own name does not answer the question presented by the pending writ. Petitioners have never contested that the City is a juridical person that may appear in its name as a party litigant in court as a general matter. The question is whether there has been an affirmative grant of power authorizing the City to bring these claims, and the case-dispositive fact is that the City does not and cannot identify any such grant of power. Indeed, the City itself has never argued that its capacity to "sue and be sued" constitutes a grant of power authorizing this lawsuit, and it plainly is not. Petitioners respectfully request that the Court grant this writ and dismiss the City's lawsuit as *ultra vires*.

II. ARGUMENT

A. The Charter Grants The City Capacity To Appear In Court To Bring Civil Claims Authorized By Other Provisions Of Nevada Law, Not Power To Bring Any Particular Lawsuit

The Nevada Constitution provides that municipal corporations like the City "may sue and be sued in all courts." Nev. Const. Art. 8, § 5. Tracking this language nearly verbatim, the Reno Charter provides that the City "by that name . . . may sue and be sued in all courts." Reno City Charter, Art. I, § 1.020. This charter provision, like the constitutional provision, establishes the City's capacity to sue generally—

its basic right to come into court as a party litigant. It does not affirmatively authorize the City to bring any particular lawsuit or cause of action.

As this Court has observed, a statute granting the capacity to sue confers only "the right to come into court, and differs from the cause of action, which is the right to relief in court." *Withers v. Rockland Mines Co.*, 58 Nev. 98, 71 P.2d 156, 161 (1937) (citation omitted). "There is a decided difference between capacity to sue and the right to maintain an action," and "a plaintiff with capacity to sue may have no right of action." *Id.* (citation omitted). Thus, "[t]he *capacity* to 'sue and be sued' must not be confused with *ability* to sue," and "more [is] required to authorize" a particular lawsuit "than the mere *capacity to sue*." *State Bar v. Sexton*, 64 Nev. 459, 476, 184 P.2d 356, 365 (1947) (dismissing action brought by the State Bar as *ultra vires*) (emphases in original). It is hornbook law that capacity to sue "refers to the status of a person or group as an entity that can sue . . . and is not dependent on the character of the specific claim alleged in the lawsuit." 59 Am. Jur. 2d Parties § 26 (2020). Absent capacity to sue, the City would be "deprive[d] . . . of the right to come into court" *at all*, regardless of the claim it wanted to bring. *Id.*

Similarly, this Court has construed the constitutional provision authorizing municipalities to "sue and be sued"—embodied in the substantively identical provision of the City's charter—to mean only that "a similar method of procedure" applies in municipal lawsuits as applies in actions involving private individuals.

Derouen v. City of Reno, 87 Nev. 606, 608, 491 P.2d 989, 990 (1971). In *Derouen*, the plaintiff filed a damages suit against Reno for false arrest. *Id.* at 607, 491 P.2d at 989. The plaintiff argued that the constitutional provision providing that municipalities "may sue and be sued in all courts" established his right of action against Reno, and that a statute that imposed a pre-suit notice requirement was "unconstitutional" because it "conflict[ed]" with that right of action. *Id.* at 607-08, 491 P.2d at 989-90. This Court rejected the plaintiff's argument, holding that the constitutional provision does not establish "the existence of a cause of action" by or against municipalities, but only the method of procedure that applies to actions properly authorized by other provisions of state law. *Id.* at 608, 491 P.2d at 990.

Likewise, in other states, courts have held that substantively identical provisions stating that localities may "sue and be sued" do not empower localities to bring any particular claim, but merely provide capacity to bring claims authorized by other provisions of state law. As Colorado's highest court has held, such capacity-to-sue provisions "do[] not grant a general power to sue in any and all situations," but instead "relate[] to the [locality's] function as a body corporate and can only be exercised within the framework of the specific powers granted" to the locality by other provisions of law. *Bd. of Cnty. Comm'rs of Dolores Cnty. v. Love*, 172 Colo. 121, 126, 470 P.2d 861, 863 (1970). In other words, a "general provision" declaring "that the residents of a municipality are a body corporate which may sue

and be sued merely declares a city's . . . legal capacity" to come into court as a party litigant, and "does not speak to the question whether the [c]ity . . . has a cause of action." *City of South Portland v. State*, 476 A.2d 690, 696 n.8 (Me. 1984) (internal quotation marks omitted). To that end, courts have dismissed civil claims brought by localities as *ultra vires* even though the localities possessed the capacity to "sue and be sued." *See Love*, 172 Colo. at 125-26, 470 P.2d at 863; *Premium Standard Farms, Inc. v. Lincoln Twp. of Putnam Cnty.*, 946 S.W.2d 234, 240-41 (Mo. 1997); *see also Bd. of Cnty. Comm'rs of Cnty. of Boulder v. Rocky Mtn. Christian Church*, 481 F. Supp. 2d 1181, 1185-86 (D. Colo. 2007).

For example, in *Love*, the court addressed whether a county had "legal authority to maintain [an] action" against the Board of Equalization for allegedly abusing its discretion in reviewing property appraisals. 172 Colo. at 125, 470 P.2d at 862. The court explained that, "[a]s a political subdivision, a county . . . possess[es] only such powers as are expressly conferred upon [it] by the constitution and statutes, and such incidental implied powers as are reasonably necessary to carry out such express powers." *Id.* (citations omitted). The county argued that its claims were authorized "under the general grant of power . . . 'to sue and be sued'," and under its power to maintain "the care of the county property and the management of the business and concerns of the county." *Id.* at 125-26, 470 P.2d at 863 (internal citations omitted). The court rejected the county's argument and affirmed dismissal

of the county's claims as *ultra vires*. *Id.* at 126-27, 470 P.2d at 863. It explained that the county's capacity to "sue and be sued" "d[id] not grant a general power to sue in any and all situations" and "c[ould] only be exercised within the framework of the specific powers granted to counties." *Id.* at 126, 470 P.2d at 863. Because "the legislature ha[d] not seen fit to grant" the county authority to bring its action, the court affirmed dismissal of the suit as *ultra vires*. *Id.* at 126-27, 470 P.2d at 863; *see also Rocky Mtn. Christian Church*, 481 F. Supp. 2d at 1185 (rejecting argument that capacity to "sue and be sued" authorized a county to bring a declaratory judgment action, explaining that mere capacity to sue "does not amount to a blanket power to sue in any situation the county so deems").

The Missouri Supreme Court's decision in *Premium Standard Farms*, 946 S.W.2d at 234, is in accord. The court explained that, under Dillon's Rule, "local governments possess only those powers expressly granted or that are necessary to execute the express powers so granted," *id.* at 240, and the question was whether state law authorized a township to "commence a public nuisance action." *Id.* at 235. Under state statutes, the township possessed (1) the capacity to "sue and be sued"; (2) the power to "impose regulations for the purpose of promoting health, safety, morals, comfort or the general welfare"; and (3) the power to bring civil actions "to enforce . . . zoning regulations[.]" *Id.* at 240 (internal quotation marks omitted). But the court held that none of these statutes—including the one providing the capacity

to "sue and be sued"—authorized the township's claim. *Id.* The powers affirmatively granted by statute, the court explained, authorized only "enforcement of township regulations," not public nuisance claims. *Id.* at 241. The court thus affirmed dismissal of the township's public nuisance claim as *ultra vires*. *Id.*

As these authorities in Nevada and elsewhere make plain, a locality's mere capacity to sue and be sued is not a self-executing power authorizing the locality to sue on any cause of action, but rather a grant of procedural capacity that may be exercised only pursuant to an affirmative grant of power. Because no grant of power authorizes the City's lawsuit, the suit is *ultra vires*.

B. The Nevada Legislature's Selective Grant Of Municipal Causes Of Action Confirms That The City's Mere Capacity To Sue Does Not Authorize The City To Bring This Lawsuit

If the City's mere capacity to "sue and be sued" constituted an affirmative grant of power to bring any lawsuit the City wanted, it would render numerous Nevada statutes superfluous, contrary to basic principles of statutory interpretation.

Courts presume that legislatures do not enact "vain or meaningless legislation." *Int'l Ass'n of Machinists & Aerospace Workers, Local Lodge 964 v. BF Goodrich Aerospace Aerostructures Grp.*, 387 F.3d 1046, 1057 (9th Cir. 2004) (citation omitted). The import of that principle is clear: if the Legislature invests time to draft, debate, and enact a statute, it does so because it intends to effect some change in existing law, absent enumerated intent to the contrary; otherwise, there

would be no need for the new statute. *See Karcher Firestopping v. Meadow Valley Contractors, Inc.*, 125 Nev. 111, 113, 204 P.3d 1262, 1263 (2009) ("This court generally avoids statutory interpretation that renders language meaningless or superfluous." (citation omitted)).

As noted above, since 1864, Nevada's Constitution has provided that municipal corporations may "sue and be sued in all courts." Nev. Const. Art. 8, § 5. If this 157-year-old constitutional provision empowered cities to bring any civil claim they wished, then there would be no reason for the Legislature to enact statute after statute, year after year, selectively granting cities the power to bring particular civil claims. Yet that is precisely what the Legislature has done.

For example, as relevant to the City's claims here, the Legislature has enacted statutes granting cities the power to bring specified claims, with specific procedural requirements, to recover (1) unreimbursed expenses for medical care provided to patients injured by third-party tortfeasors, and (2) expenses for housing inmates in city-owned detention facilities—two categories of alleged damages the City seeks in the underlying action. *See* Reply in Supp. of Pet. for Writ of Mandamus at 10-11 (discussing hospital-owner lien statutes, NRS 108.590 *et seq.*, and prisoner reimbursement statutes, NRS 211.2415 and 211.245). But it is undisputed that the City has not brought any claim under these statutes. *Id.*

The Legislature has also enacted statutes providing cities carefully delineated authority to bring civil claims to abate enumerated public nuisances. For instance, the Legislature has granted cities the power to enact ordinances establishing "procedures" for "fil[ing] an action" to "[s]eek the abatement of a chronic nuisance"—a narrowly defined category of nuisance that exists only when specified conditions exist on "property" or in a "building or place." NRS 268.4124(1), (7)(a). Such ordinances must "[p]rovide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition." NRS 268.4124(2)(c). The Legislature has provided certain cities with similar authority to enact ordinances establishing procedures for bringing actions to "recover money expended for labor and materials used to . . . [a]bate [an] abandoned nuisance on . . . property." NRS 268.4126(2)(c)(1).[1] The Legislature has enacted other statutes empowering cities to bring civil actions to recover damages stemming from the placement of graffiti on city-owned property, NRS 268.408(2), and to enact ordinances establishing procedures for bringing civil damages actions against "[a]ny member

[1] None of these limited grants of power to abate specified nuisances on property—which a city must abate pursuant to procedures set forth in duly enacted local ordinances—authorizes the City's sweeping claims here, and the City does not contend otherwise.

of a criminal gang that is engaging in criminal activities within the city," NRS 268.4128(1)(b)(1).

The Legislature's selective enactment of these limited grants of municipal powers to sue speaks volumes about a municipality's *baseline* litigation powers. If cities could freely bring civil claims merely by virtue of their capacity to "sue and be sued"—something cities have possessed since 1864—then all of these statutes would be superfluous. There would have been no reason for the Legislature to enact them, and no reason for cities to navigate their limitations and requirements. This leads inexorably to only one conclusion: a city's capacity to sue does not empower the city to bring any particular lawsuit or claim; such authority must come from another provision of state law. Allowing a city to circumvent the procedural requirements set forth in these statutes by bringing sweeping tort claims untethered to any grant of power would not only usurp the Legislature's considered judgment that cities possess only those powers granted to them, NRS 268.001(3), but also the settled principle that, where a statute "requir[es] the governing body of an incorporated city to exercise a power . . . in a specific manner, the governing body may exercise the power only in that specific manner." NRS 268.0035(2).

III. CONCLUSION

Nevada cities may exercise only those powers granted to them by state law. Here, no grant of power authorizes the City's underlying claims. The capacity-to-

sue language in the City's charter does not represent such a grant of power, as underscored by *the City's* decision never to argue otherwise. Accordingly, for the reasons stated herein and in the Petition and supporting Reply, Petitioners respectfully request a writ of mandamus compelling the district court to dismiss the underlying lawsuit in its entirety as *ultra vires*.

RESPECTFULLY SUBMITTED this 16th day of February, 2021.

McDONALD CARANO LLP

By: */s/ Pat Lundvall*

PAT LUNDVALL (NSBN 3761)
AMANDA C. YEN (NSBN 9726)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 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.

OLSON CANNON GORMLEY & STOBERSKI

By: */s/ Max E. Corrick, II*

MAX E. CORRICK, II (NSBN 6609)
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Telephone: (702) 384-4012
Fax: (702) 383-0701
mcorrick@ocgas.com

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

HYMANSON & HYMANSON PLLC

By: */s/ Adam D. Teitcher*

PHILIP M. HYMANSON (NSBN 2253)
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
Telephone: (702) 629-3300
Fax: (702) 629-3332
phil@hymansonlawnv.com

Collie F. James, IV
Adam D. Teitcher
MORGAN, LEWIS & BOCKIUS LLP
600 Anton Boulevard, Suite 1800
Costa Mesa, CA 92626
Telephone: (714) 830-0600
Fax: (714) 830-0700
collie.james@morganlewis.com
Pro Hac Vice

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

SEMENZA KIRCHER RICKARD

By: */s/ Jarrod L. Rickard*

LAWRENCE J. SEMENZA, III (NSBN 7174)
CHRISTOPHER D. KIRCHER (NSBN 11176)
JARROD L. RICKARD (NSBN 10203)
10161 Park Run Dr., Ste. 150
Las Vegas, Nevada 89145
Telephone: (702) 835-6803
ljs@skrlawyers.com
cdk@skrlawyers.com
jlr@skrlawyers.com

Rachel B. Weil (PA. Bar No. 49844)
REED SMITH LLP
Three Logan Square
1717 Arch Street, Suite 3100
Philadelphia, PA 19103
Telephone: (215) 851-8100
rweil@reedsmith.com
Pro Hac Vice

Steven J. Boranian (CA. Bar No. 174183)
REED SMITH LLP
101 Second Street, Suite 1800
San Francisco, CA 94105
Telephone: (415) 543-8700
sboranian@reedsmith.com
Pro Hac Vice

Attorneys for Petitioner AmerisourceBergen Drug Corporation

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Daniel F. Polsenberg*
DANIEL F. POLSENBERG (NSBN 2376)
JOEL D. HENRIOD (NSBN 8492)
J. CHRISTOPHER JORGENSEN (NSBN 5382)
ABRAHAM G. SMITH (NSBN 13250)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
Telephone: (702) 949-8200
dpolsenberg@lrrc.com
jhenriod@lrrc.com
cjorgensen@lrrc.com
asmith@lrrc.com

Suzanne M. Salgado
Joseph S. Bushur
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, NW
Washington, DC 20005
Telephone: (202) 434-5232
ssalgado@wc.com
jbushur@wc.com
Pro Hac Vice

Attorneys for Petitioners Cardinal Health, Inc., Cardinal Health 6 Inc., Cardinal Health Technologies LLC, and Cardinal Health 108 LLC d/b/a Metro Medical Supply

MORRIS LAW GROUP

By: */s/ Steve Morris*

STEVE MORRIS (NSBN 1543)
ROSA SOLIS-RAINEY (NSBN 7921)
801 S. Rancho Dr., Ste. B4
Las Vegas, NV 89106
Telephone: (702) 474-9400
sm@morrislawgroup.com
rsr@morrislawgroup.com

Nathan Shafroth
COVINGTON & BURLING LLP
One Front Street
San Francisco, CA 94111
Telephone: (415) 591-6000
nshafroth@cov.com
Pro Hac Vice

Attorneys for Petitioner McKesson Corporation

Verification

STATE OF NEVADA)

) ss.

COUNTY OF CLARK)

Pat Lundvall, being first duly sworn, deposes and says:

1. I am over the age of 18 years and am personally familiar with the facts stated in this verification. Pursuant to NRAP 21(a)(5), NRS 15.010 and NRS 34.170, I am co-counsel for Petitioners Endo Pharmaceuticals Inc. and Endo Health Solutions Inc. I know the contents of this supplemental brief in support of Petitioners' writ petition.

2. The facts stated herein are true and correct to the best of my knowledge or based on information and belief. The relevant facts are largely procedural and drawn from the proceedings before the district court and therefore are within my knowledge as co-counsel for Petitioners Endo Pharmaceuticals Inc. and Endo Health Solutions Inc.

DATED this 16th day of February, 2021.

Pat Lundvall

Pat Lundvall

Subscribed and sworn to before me
this 16th of February, 2021.

Notary Public

TUBOU NELSON
Notary Public, State of Nevada
No. 93-1487-1
My Appt. Exp. May 15, 2022

Certificate of Compliance

I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word with 14-point, double-spaced Times New Roman font. I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7). Excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 2,885 words.

I further certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand

that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

RESPECTFULLY SUBMITTED this 16th day of February, 2021.

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

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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on this 16th day of February, 2021, a copy of the foregoing Supplemental Brief In Support Of Petition for Writ of Mandamus 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

Steve Morris
Rosa Solis-Rainey
Morris Law Group
801 S. Rancho Dr., Ste. B4
Las Vegas, NV 89106

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

Attorneys for Defendant McKesson Corporation

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

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, CA 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

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 Supplemental Brief in Support of Petition for Writ of Mandamus 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