

IN THE SUPREME COURT OF NEVADA

CITY OF RENO, )  
)  
Appellant, )  
)  
vs. )  
)  
TEVA PHARMACEUTICALS USA, )  
INC.; CEPHALON, INC.; ENDO )  
PHARMACEUTICALS, INC.; )  
ALLERGAN USA, INC.; )  
ALLERGAN FINANCE, LLC K/K/A )  
ACTAVIS INC. F/K/A WATSON )  
PHARMACEUTICALS, INC.; )  
ACTAVIS PHARMACY, INC. F/K/A )  
WATSON PHARMA, INC.; AND )  
ACTAVIS LLC, )  
)  
Respondents. )

Electronically Filed  
Jun 05 2023 05:04 PM  
Elizabeth A. Brown  
Clerk of Supreme Court  
Supreme Court No. 85412  
District Court Case No.: CV18-01895

**APPENDIX TO RESPONDENTS' ANSWERING BRIEF**  
**Volume 1 of 5, Pages Supp.App.001-190**

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**APPENDIX TABLE OF CONTENTS**  
**(CHRONOLOGICAL)**

**Pages**

*Volume 1 of 5, Pages Supp.App.001-190*

Third Amended Complaint and Demand for Jury Trial,  
No. A-17-76828-C, Filed September 12, 2018 (Clark County) ..... Supp.App.002

Complaint, No. A-19-800695-B, Filed August 22, 2019  
(Henderson)..... Supp.App.099

*Volume 2 of 5, Pages Supp.App.191-372*

Complaint, No. A-19-800697-B, Filed August 22, 2019 (Las  
Vegas) ..... Supp.App.191

Complaint, No. A-19-800699-B, Filed August 22, 2019  
(North Las Vegas)..... Supp.App.282

*Volumes 3-4 of 5, Pages Supp.App.373-699*

Second Amended Complaint, Case No.: A-19-79655-B, Filed  
March 9, 2021 (State of Nevada) ..... Supp.App.373

*Volume 5 of 5, Pages Supp.App.700-736*

Docket Sheet, No. CV-1801895, As Of June 2, 2023 (City of  
Reno) ..... Supp.App.700

**APPENDIX TABLE OF CONTENTS**  
**(ALPHABETICAL)**

**Pages**

Complaint, No. A-19-800695-B, Filed August 22, 2019  
(Henderson)..... Supp.App.099

Complaint, No. A-19-800697-B, Filed August 22, 2019 (Las  
Vegas) ..... Supp.App.191

Complaint, No. A-19-800699-B, Filed August 22, 2019  
(North Las Vegas)..... Supp.App.282

Docket Sheet, No. CV-1801895, As Of June 2, 2023 (City of Reno) .....	Supp.App.700
Second Amended Complaint, Case No.: A-19-79655-B, Filed March 9, 2021 (State of Nevada) .....	Supp.App.373
Third Amended Complaint and Demand for Jury Trial, No. A-17-76828-C, Filed September 12, 2018 (Clark County) .....	Supp.App.002

**CERTIFICATION OF COMPLIANCE WITH RULE 809.19(13) FOR**  
**ELECTRONIC APPENDIX**

I hereby certify that:

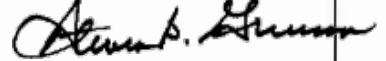
I have submitted an electronic copy of this appendix, which complies with the requirements of s. 809.19(13). I further certify that:

This electronic appendix is identical in content to the printed form of the appendix filed as of this date.

A copy of this certificate has been served with the paper copies of this appendix filed with the court and served on all opposing parties.

Dated: June 5, 2023

By: Philip M. Hymanson  
Philip M. Hymanson  
State Bar No. 2253



**ACOM**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CLARK COUNTY,

Plaintiff,

v.

PURDUE PHARMA, L.P.; PURDUE  
PHARMA, INC.; THE PURDUE  
FREDERICK COMPANY, INC. d/b/a THE  
PURDUE FREDERICK COMPANY, INC.;  
PURDUE PHARMACEUTICALS, L.P.;  
RICHARD S. SACKLER; JONATHAN D.  
SACKLER; MORTIMER D.A. SACKLER;  
KATHE A. SACKLER; ILENE SACKLER  
LEFCOURT; DAVID A. SACKLER;  
BEVERLY SACKLER; THERESA  
SACKLER; PLP ASSOCIATES HOLDINGS  
L.P.; ROSEBAY MEDICAL COMPANY

) Case No.: A-17-765828-C

) Dept No.: Department 16

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

1	L.P.; BEACON COMPANY; TEVA	)
	PHARMACEUTICALS USA, INC.;	)
2	CEPHALON, INC.; ENDO HEALTH	)
	SOLUTIONS INC.; ENDO	)
3	PHARMACEUTICALS, INC.; PAR	)
4	PHARMACEUTICAL, INC.; PAR	)
	PHARMACEUTICAL COMPANIES, INC.;	)
5	ALLERGAN INC.; ALLERGAN USA INC.;	)
	ACTAVIS, INC. f/k/a WATSON	)
6	PHARMACEUTICALS, INC.; WATSON	)
7	LABORATORIES, INC.; INSYS	)
	THERAPEUTICS, INC.; JOHN KAPOOR;	)
8	RICHARD M. SIMON; SUNRISE LEE;	)
	JOSEPH A. ROWAN; MICHAEL J. GURRY;	)
9	MICHAEL BABICH; ALEC BURLAKOFF;	)
10	MALLINCKRODT LLC; SPECGX LLC;	)
	ACTAVIS LLC; AND ACTAVIS PHARMA,	)
11	INC. f/k/a WATSON PHARMA, INC.;	)
	AMERISOURCEBERGEN DRUG	)
12	CORPORATION; CARDINAL HEALTH,	)
13	INC.; CARDINAL HEALTH 6 INC.;	)
	CARDINAL HEALTH TECHNOLOGIES	)
14	LLC; CARDINAL HEALTH 414 LLC;	)
	CARDINAL HEALTH 200 LLC;	)
15	MCKESSON CORPORATION;	)
16	WALGREENS BOOTS ALLIANCE, INC.;	)
	WALGREEN CO.; WALGREEN EASTERN	)
17	CO., INC.; WALMART INC.; CVS HEALTH	)
	CORPORATION; CVS PHARMACY, INC.;	)
18	CVS INDIANA L.L.C.; CVS RX SERVICES,	)
19	INC.; CVS TENNESSEE DISTRIBUTION,	)
	L.L.C.; MASTERS PHARMACEUTICAL,	)
20	LLC f/k/a MASTERS PHARMACEUTICAL,	)
21	INC.; C & R PHARMACY d/b/a KEN'S	)
	PHARMACY f/k/a LAM'S PHARMACY,	)
22	INC.; EXPRESS SCRIPTS HOLDING	)
	COMPANY; EXPRESS SCRIPTS, INC.;	)
23	AIDA B MAXSAM; STEVEN A HOLPER	)
24	MD; STEVEN A. HOLPER, M.D.,	)
	PROFESSIONAL CORPORATION;	)
25	HOLPER OUT-PATIENTS MEDICAL	)
	CENTER, LTD.; DOES 1 through 100; ROE	)
26	CORPORATIONS 1 through 100 and ZOE	)
27	PHARMACIES 1 through 100, inclusive,	)
		)
28	Defendants.	)

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

4 **INTRODUCTION**

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

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

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

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

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

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

20 7. From 2000 to 2015, more than half a million people died from drug overdoses  
21 (including prescription opioids and heroin). The most recent figures from the CDC suggest that  
22 175 Americans die everyday from an opioid overdose (prescription and heroin).

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

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

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

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

5           12. Defendant drug companies named herein, manufacture, market, and sell  
6 prescription opioids (hereinafter "opioids"), including brand-name drugs like Oxycontin,  
7 Vicodin and Percocet, as well as generics like oxycodone and hydrocodone, which are powerful  
8 narcotic painkillers.

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

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

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

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

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

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



1           19. 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           20. Defendants disseminated these common messages to reverse the popular and  
5 medical understanding of opioids.

6           21. As a result of the drug companies’ marketing campaign, opioids are now the  
7 most prescribed class of drugs generating over \$11 billion in revenue for drug companies in  
8 2014 alone.

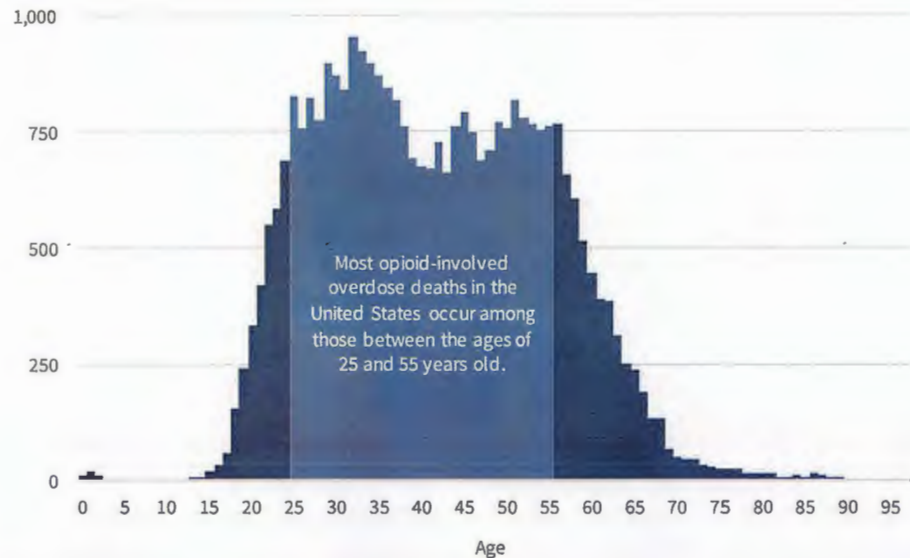
9           22. As a result of the drug companies’ marketing campaign, the fatalities continued  
10 to mount while the living continue to suffer.

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

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

21  
22  
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**Figure 2. Opioid-involved Overdose Deaths by Age in 2015**  
(Number of deaths)



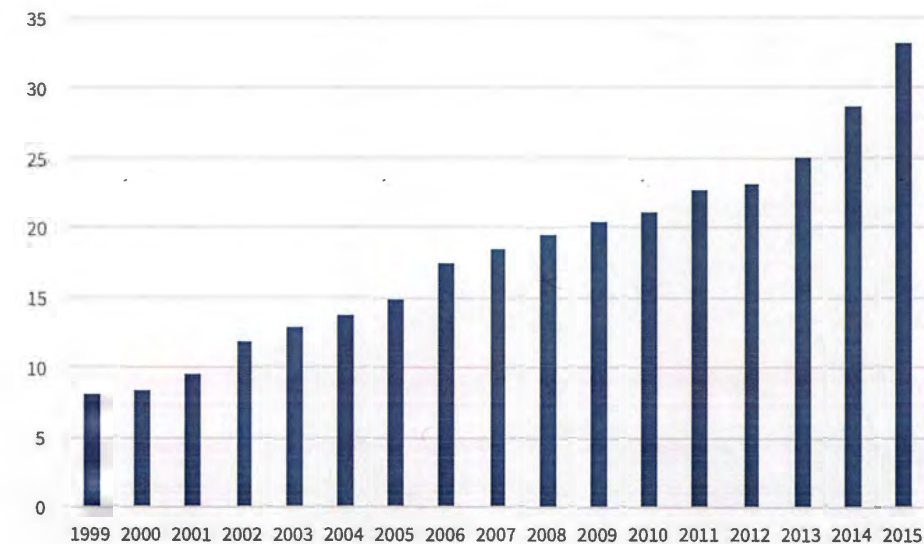
Source: CDC Wonder database, multiple cause of death files

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

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

<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

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

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

1 protective services costs, lost productivity costs, and education and prevention program costs  
2 among others.

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

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

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

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

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



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

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

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

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

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

27           42. In 2007, Purdue settled criminal and civil charges against it for misbranding  
28 OxyContin and agreed to pay a \$635 million fine – at the time, one of the largest settlements  
with a drug company for marketing misconduct. None of this stopped Purdue. In fact, Purdue

1 continued to create the false perception that opioids were safe and effective for long-term use,  
2 even after being caught, by using unbranded marketing methods to circumvent the system. On  
3 May 8, 2007, as part of these settlements, Purdue entered into a consent judgment with the State  
4 of Nevada, in which it agreed to a number of terms intended to prevent any further misleading  
5 marketing in the State of Nevada. In short, Purdue paid the fine when caught and then continued  
6 business as usual, deceptively marketing and selling billions of dollars of opioids each year.

7 43. At all relevant times, Purdue, which is a collection of private companies, has  
8 been controlled by members of the extended Sackler family, who are the ultimate intended  
9 beneficiaries of virtually all of Purdue's profit distributions. The individual Defendants named  
10 in this action are the remaining living Sackler family members who served on the board of  
11 Purdue Pharma, Inc. (the "Purdue board"), which functioned as the nexus of decision-making  
12 for all of Purdue.

13 44. Defendant RICHARD S. SACKLER became a member of the Purdue board in  
14 1990 and became its co-chair in 2003, which he remained until he left the board in 2018. He was  
15 also Purdue's head of research and development from at least 1990 through 1999, and its  
16 president from 1999 through 2003. He resides in New York, Florida, and Texas. He currently  
17 holds an active license to practice medicine issued by the New York State Education  
18 Department. He is a trustee of the Sackler School of Medicine, a director and the vice president  
19 of the Raymond and Beverly Sackler Foundation, and a director and the president and treasurer  
20 of the Richard and Beth Sackler Foundation, Inc., all three of which are New York Not-for-  
21 Profit Corporations.

22 45. Defendant JONATHAN D. SACKLER was a member of Purdue's board from  
23 1990 through 2018. He resides in Connecticut. He is a trustee of the Sackler School of Medicine,  
24 the president and CEO of the Raymond and Beverly Sackler Foundation, and the vice president  
25 of the Richard and Beth Sackler Foundation Inc., all three of which are New York Not-for-Profit  
26 Corporations.

27 46. Defendant MORTIMER D.A. SACKLER has been a member of Purdue's  
28 Board since 1993. He resides in New York. Mortimer is a director and the president of the

1 Mortimer and Jacqueline Sackler Foundation, and a director and the vice president and treasurer  
2 of the Mortimer D. Sackler Foundation, Inc., both of which are New York Not-for-Profit  
3 Corporations.

4 47. Defendant KATHE A. SACKLER was a member of Purdue's board from 1990  
5 through 2018. She resides in New York and Connecticut. Kathe is a director and president of  
6 the Shack Sackler Foundation, a director and vice president and secretary of the Mortimer D.  
7 Sackler Foundation Inc. and is a governor of the New York Academy of Sciences, all three of  
8 which are New York Not-for-Profit Corporations.

9 48. Defendant ILENE SACKLER LEFCOURT was a member of Purdue's board  
10 between 1990 and 2018. She resides in New York. She is a director of Columbia University and  
11 is the president of the Sackler Lefcourt Center for Child Development Inc., both of which are  
12 New York Not-for-Profit Corporations.

13 49. Defendant DAVID A. SACKLER was a member of Purdue's board from 2012  
14 through 2018. He resides in New York.

15 50. Defendant BEVERLY SACKLER was a member of Purdue's board from 1993  
16 through 2017. She resides in Connecticut. Beverly Sackler serves as a Director and the Secretary  
17 and Treasurer of the Raymond and Beverly Sackler Foundation, a New York Not-for-Profit  
18 Corporation.

19 51. Defendant THERESA SACKLER was a member of Purdue's board from 1993  
20 through 2018. She resides in New York and the United Kingdom.

21 52. These individual Defendants used a number of known and unknown entities,  
22 named as Defendants herein as vehicles to transfer funds from Purdue directly or indirectly to  
23 themselves. These include the following:

24 53. Defendant PLP ASSOCIATES HOLDINGS L.P., which is a Delaware limited  
25 partnership and a limited partner of Purdue Holdings L.P. Its partners are PLP Associates  
26 Holdings Inc. and BR Holdings Associates L.P.

27 54. Defendant ROSEBAY MEDICAL COMPANY L.P., which is a Delaware  
28 limited partnership ultimately owned by trusts for the benefit of one or more of the individual



1 Defendants. Its general partner is Rosebay Medical Company, Inc., a citizen of Delaware and  
2 Connecticut. The Board of Directors of Rosebay medical Company, Inc. includes board  
3 members Richard S. Sackler and Jonathan D. Sackler.

4 55. Defendant BEACON COMPANY, which is a Delaware general partnership  
5 ultimately owned by trusts for the benefit of members of one or more of the individual  
6 Defendants.

7 56. The foregoing individual Defendants are referred to collectively as “the  
8 Sacklers.” The foregoing entities they used as vehicles to transfer funds from Purdue directly  
9 or indirectly to themselves are referred to as “the Sackler Entities.” Together, the Sacklers and  
10 the Sackler Entities are referred to collectively as “the Sackler Defendants.”

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

16 58. Defendant CEPHALON, INC., is Delaware corporation with its principal place  
17 of business located in Frazer, Pennsylvania. In 2011, Teva Ltd. acquired CEPHALON, INC.

18 59. Defendant ENDO HEALTH SOLUTIONS INC., is a Delaware corporation with  
19 its principal place of business located in Malvern, Pennsylvania. ENDO  
20 PHARMACEUTICALS, INC., is a wholly-owned subsidiary of Endo Health Solutions Inc.,  
21 and is a Delaware corporation with its principal place of business in Malvern, Pennsylvania.

22 60. Defendant PAR PHARMACEUTICAL, INC. is a Delaware corporation with its  
23 principal place of business located in Chestnut Ridge, New York. Par Pharmaceutical, Inc. is a  
24 wholly- owned subsidiary of Par Pharmaceutical Companies, Inc. f/k/a Par Pharmaceutical  
25 Holdings, Inc. Defendant PAR PHARMACEUTICAL COMPANIES, INC. is a Delaware  
26 corporation with its principal place of business located in Chestnut Ridge, New York. Par  
27 Pharmaceutical Companies, Inc. (and by extension its subsidiary, Par Pharmaceutical, Inc.,)  
28 (collectively, “Par Pharmaceutical”) was acquired by Endo International plc in September 2015  
and is currently an operating company of Endo International plc. Endo Health Solutions Inc.,

1 Endo Pharmaceuticals, Inc., Par Pharmaceutical, and their DEA registrant subsidiaries and  
2 affiliates, (collectively, "Endo"), manufacture opioids sold nationally, and in Clark County,  
3 Nevada.

4 61. Defendants ALLERGAN INC. and ALLERGAN USA INC. are Delaware  
5 corporations with headquarters in Madison, New Jersey. ALLERGAN INC. and ALLERGAN  
6 USA INC. (ALLERGAN INC. and ALLERGAN USA INC., collectively are referred to herein  
7 as "Allergan.") Prior to that, WATSON PHARMACEUTICALS, INC., acquired ACTAVIS,  
8 INC. in October 2012; the combined company changed its name to ACTAVIS, INC.  
9 SUBSEQUENTLY, ACTAVIS, INC. acquired ALLERGAN and changed the parent company  
10 to ALLERGAN.

11 62. Defendant WATSON LABORATORIES, INC. is, and was at all times relevant  
12 herein, a Nevada corporation with its principal place of business in Corona, California, and is a  
13 wholly owned subsidiary of Allergan PLC, the parent company of Defendants ALLERGAN  
14 INC. and ALLERGAN USA INC., (f/k/a ACTAVIS, INC., f/k/a WATSON  
15 PHARMACEUTICALS, INC.). At all times relevant herein, Watson Laboratories, Inc. takes  
16 and took advantage of the legislative, regulatory and tax schemes of the State of Nevada to own,  
17 maintain and defend drug patents. ACTAVIS PHARMA, INC. (f/k/a ACTAVIS, INC.), is a  
18 Delaware corporation with its principal place of business in New Jersey, and was formerly  
19 known as WATSON PHARMA, INC. ACTAVIS LLC is a Delaware limited liability company  
20 with its principal place of business in Parsippany, New Jersey.

21 63. Defendant INSYS THERAPEUTICS, INC.<sup>2</sup>, is, and was at all times relevant  
22 herein, a Delaware corporation with its principal place of business located in Chandler, Arizona.  
23 At all times relevant herein, Defendant INSYS THERAPEUTICS, INC. was in the business of  
24 designing, testing, manufacturing, labeling, advertising, promoting, marketing, selling and/or  
25 distributing Subsys, a transmucosal immediate-release formulation of fentanyl, packed in a  
26 single-dose spray device intended for oral sublingual administration, and has done so to and  
27 within in the State of Nevada. At all times relevant herein, INSYS THERAPEUTICS, INC.

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<sup>2</sup> Defendant Insys Therapeutics, Inc. recently filed for Chapter 11 Bankruptcy and, thus, in accordance with the automatic stay, has not been served with these papers.

1 hired "Detailers" in Clark County, Nevada to make personal contact with physicians and clinics  
2 to advocate for the purchase and use of opioid medications which were contrary to known safety  
3 concerns and sound medical advice. At all times relevant herein, INSYS THERAPEUTICS,  
4 INC., used deceptive tactics to gain authorization for Subsys prescriptions from health insurance  
5 providers for off-label, high dosage uses.

6 64. Defendant JOHN KAPOOR, the founder of Insys Therapeutics, Inc. and former  
7 Executive Chairman, was a member of Insys's board between 1990 and 2017. He resides in  
8 Phoenix, Arizona.

9 65. Defendant RICHARD M. SIMON was a former National Director of Sales for  
10 Insys during the time relevant to the allegations of this action. He resides in Seal Beach,  
11 California.

12 66. Defendant SUNRISE LEE was a former Regional Sales Director of Insys. He  
13 resides in Bryant City, Michigan.

14 67. Defendant JOSEPH A. ROWAN was a former Regional Sales Director of Insys  
15 during the time relevant to the allegations of this action. He resides in Panama City, Florida.

16 68. Defendant MICHAEL J. GURRY was a former Vice President of Managed  
17 Markets for Insys during the time relevant to the allegations of this action. He resides in  
18 Scottsdale, Arizona.

19 69. Defendant MICHAEL BABICH was the former president and CEO of Insys  
20 during the time relevant to the allegations of this action. He resides in Scottsdale, Arizona.

21 70. Defendant ALEC BURLAKOFF was the former vice president of sales for  
22 Insys during the time relevant to the allegations of this action. He resides in Charlotte, North  
23 Carolina.

24 71. The foregoing individual Defendants associated with Insys are referred to  
25 collectively as "the Insys Executives."  
26  
27  
28

1           72.     Insys's founder and owner, John Kapoor, was recently convicted of criminal  
2 racketeering in a case brought by the Massachusetts Department of Justice. Insys executives,  
3 Richard M. Simon, Sunrise Lee, Joseph A. Rowan, and Michael J. Gurry, were all convicted in  
4 the same case. Michael L. Babich, former Insys chief executive, pleaded guilty to conspiracy  
5 and mail fraud charges. Alec Burlakoff pled guilty to one count of racketeering conspiracy.  
6

7           73.     MALLINCKRODT LLC is a Delaware corporation with its principal place of  
8 business in Hazelwood, Missouri. MALLINCKRODT operates in the United States under the  
9 name Mallinckrodt Pharmaceuticals, with its United States headquarters are located in  
10 Hazelwood, Missouri. At all times relevant herein, Defendant MALLINCKRODT was in the  
11 business of designing, testing, manufacturing, labeling, advertising, promoting, marketing,  
12 selling, and/or distributing opioid products known as Exalgo, Roxicodone, and Xartemis XR,  
13 and has done so to and within the State of Nevada.

14           74.     Defendant SPECGX LLC is a Delaware limited liability company with its  
15 headquarters in Clayton, Missouri, and is registered with the Nevada Secretary of State to do  
16 business in Nevada. SpecGx LLC is a subsidiary of Mallinckrodt plc that operates its specialty  
17 generics business. Defendants Mallinckrodt LLC and SpecGx LLC, together with their DEA  
18 and Nevada registrant and licensee subsidiaries and affiliates (collectively, "Mallinckrodt"),  
19 manufacture, market, sell, and distribute pharmaceutical drugs throughout the United States,  
20 and in Clark County, Nevada.

21           75.     That at all times relevant herein, PURDUE PHARMA, L.P.; PURDUE  
22 PHARMA, INC.; THE PURDUE FREDERICK COMPANY, INC. dba THE PURDUE  
23 FREDERICK COMPANY, INC.; PURDUE PHARMACEUTICALS, L.P.; RICHARD S.  
24 SACKLER; JONATHAN D. SACKLER, MORTIMER D.A. SACKLER; KATHE A.  
25 SACKLER; ILENE SACKLER LEFCOURT; DAVID A. SACKLER; BEVERLY SACKLER;  
26 THERESA SACKLER; PLP ASSOCIATES HOLDINGS L.P.; ROSEBAY MEDICAL  
27 COMPANY L.P.; BEACON COMPANY; TEVA PHARMACEUTICALS USA, INC.; TEVA  
28 PHARMACEUTICALS INDUSTRIES LTD; CEPHALON, INC.; ENDO HEALTH  
SOLUTIONS INC.; ENDO PHARMACEUTICALS, INC.; PAR PHARMACEUTICAL, INC.;

1 PAR PHARMACEUTICAL COMPANIES, INC.; ALLERGAN INC.; ALLERGAN USA  
2 INC.; ACTAVIS, INC. f/k/a WATSON PHARMACEUTICALS, INC.; WATSON  
3 LABORATORIES, INC.; ACTAVIS LLC; ACTAVIS PHARMA, INC. f/k/a WATSON  
4 PHARMA, INC., INSYS THERAPEUTICS, INC.; JOHN KAPOOR; RICHARD M. SIMON,  
5 SUNRISE LEE, JOSEPH A. ROWAN; MICHAEL J. GURRY; MICHAEL BABICH; ALEC  
6 BURLAKOFF; MALLINCKRODT, LLC and SPECGX LLC, (collectively "Defendant  
7 Manufacturers" or "Defendants") were, and currently are, regularly engaged in business in  
8 Clark County. More specifically, Defendants were, and currently are, in the business of  
9 designing, testing, manufacturing, labeling, advertising, promoting, marketing, and/or selling  
10 opioids throughout Clark County.

11 **C. Defendants, Wholesale Distributors.**

12 76. Defendant, AMERISOURCEBERGEN DRUG CORPORATION, is, and at all  
13 times pertinent hereto, was, a foreign corporation authorized to do business in the County of  
14 Clark, State of Nevada. Upon information and belief, and at all times relevant hereto,  
15 AMERISOURCEBERGEN DRUG CORPORATION's principal place of business is located in  
16 Chesterbrook, Pennsylvania, operating distribution centers in Ohio.

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

21 78. Upon information and belief, and at all times relevant hereto, CARDINAL  
22 HEALTH, INC.'s principal office is located in Dublin, Ohio, operating, distribution centers in  
23 Ohio. CARDINAL HEALTH 6 INC. is a Nevada Domestic Corporation. CARDINAL  
24 HEALTH TECHNOLOGIES LLC is a Nevada Domestic LLC. At all times relevant herein,  
25 CARDINAL HEALTH TECHNOLOGIES LLC takes and took advantage of the legislative,  
26 regulatory and tax schemes of the State of Nevada to own, maintain and defend patents,  
27 including those relating to drug labeling, coding and distribution.

28 79. CARDINAL HEALTH 414 LLC is an LLC incorporated under the laws of the  
state of Delaware and headquartered in Dublin, Ohio, and registered and authorized to conduct

1 business within the State of Nevada. At all times relevant herein, CARDINAL HEALTH 414  
2 LLC takes and took advantage of the legislative, regulatory and tax schemes of the State of  
3 Nevada to own, maintain and defend medical patents. Further, CARDINAL HEALTH 414  
4 LLC operates a pharmacy within the physical confines of the County of Clark. CARDINAL  
5 HEALTH 200 LLC is an LLC incorporated under the laws of the state of Delaware and  
6 headquartered in Dublin, Ohio, and registered and authorized to conduct business within the  
7 State of Nevada. To Wit, CARDINAL HEALTH 200 LLC has obtained a business license in  
8 the County of Clark to register as a "Procurement Vendor," which is a company registered to  
9 submit bids to sell products to Nevada and Clark County government entities, such as to sell  
10 medical goods or drugs to the County-operated hospital.  
11

12  
13 80. Defendant, McKESSON CORPORATION, is, and at all times pertinent hereto,  
14 was, foreign corporation authorized to do business in the County of Clark, State of Nevada.  
15 Upon information and belief, and at all times relevant hereto, McKESSON CORPORATION's  
16 principal place of business is located in San Francisco, California, operating distribution centers  
17 in Ohio. At all times relevant herein, McKESSON CORPORATION takes and took advantage  
18 of the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and  
19 defend patents, including those relating to drug labeling, coding and distribution.  
20

21 81. Defendant WALGREENS BOOTS ALLIANCE, INC. is a Delaware  
22 corporation with its principal place of business in Illinois.  
23

24 82. Defendant WALGREEN CO. is and was registered to do business with the  
25 Nevada Secretary of State as an Illinois corporation with its principal place of business in  
26 Deerfield, Illinois. Walgreen Co. is a subsidiary of Walgreens Boots Alliance, Inc. and does  
27 business under the trade name Walgreens.  
28

83. Defendant WALGREEN EASTERN CO., INC. is a New York corporation with

1 its principal place of business in Deerfield, Illinois.

2 84. Defendants Walgreens Boots Alliance, Inc., Walgreen Eastern Co., and  
3 Walgreen Co. are collectively referred to as "Walgreens". Walgreens, through its various DEA  
4 registered subsidiaries and affiliated entities, conducts business as a licensed wholesale  
5 distributor. At all times relevant to this Complaint, Walgreens distributed prescription opioids  
6 throughout the United States, including in Clark County, Nevada. At all relevant times, this  
7 Defendant operated as a licensed pharmacy wholesaler in the State of Nevada, and in Clark  
8 County, Nevada.  
9

10 85. Defendant WALMART INC., ("Walmart") formerly known as Wal-Mart  
11 Stores, Inc., is and was registered to do business with the Nevada Secretary of State as a  
12 Delaware corporation with its principal place of business in Arkansas. Walmart, through its  
13 various DEA registered subsidiaries and affiliated entities, conducts business as a licensed  
14 wholesale distributor under named business entities including Wal-Mart Warehouse #6045 a/k/a  
15 Wal-Mart Warehouse #45. At all times relevant to this Complaint, Walmart distributed  
16 prescription opioids throughout the United States, including in Clark County, Nevada. At all  
17 relevant times, this Defendant operated as a licensed pharmacy wholesaler in the State of  
18 Nevada, and in Clark County, Nevada.  
19

20 86. Defendant CVS HEALTH CORPORATION ("CVS HC") is a Delaware  
21 corporation with its principal place of business in Woonsocket, Rhode Island. CVS HC conducts  
22 business as a licensed wholesale distributor under the following named business entities, among  
23 others: CVS Orlando FL Distribution L.L.C. and CVS Pharmacy, Inc. (collectively "CVS"). At  
24 all times relevant to this Complaint, CVS distributed prescription opioids throughout the United  
25 States, including in Clark County, Nevada.  
26

27 87. Defendant CVS PHARMACY, INC. ("CVS Pharmacy") is a Rhode Island  
28

1 corporation with its principal place of business in Woonsocket, Rhode Island. CVS Pharmacy is  
2 a subsidiary of CVS HC. At all times relevant to this Complaint, CVS Pharmacy operated as a  
3 licensed pharmacy wholesaler, distributor and controlled substance facility in Clark County,  
4 Nevada.

5  
6 88. Defendant CVS Pharmacy, Inc. distributed prescription opioids to Plaintiffs'  
7 Community through the following wholly owned subsidiaries that are alter-egos of CVS  
8 Pharmacy, Inc.:

9 a. Defendant CVS INDIANA L.L.C., an Indiana limited liability company with its  
10 principal place of business in Indianapolis, Indiana;

11 b. Defendant CVS RX SERVICES, INC. d/b/a CVS Pharmacy Distribution  
12 Center, a New York corporation with its principal place of business in Woonsocket,  
13 RI; and  
14

15 c. Defendant CVS TENNESSEE DISTRIBUTION, L.L.C. a Tennessee corporation  
16 with its principal place of business in Woonsocket, Rhode Island.  
17

18 89. Defendant CVS Pharmacy, Inc. instituted set-up, ran, directed, and staffed with  
19 its own employees, the majority of the Suspicious Order Monitoring and diversion control  
20 functions for CVS Indiana, LLC, CVS Rx Services, Inc., and CVS TN Distribution LLC.

21 90. Collectively, CVS Health Corporation, CVS Pharmacy, Inc., CVS Indiana, LLC,  
22 CVS Rx Services, Inc., and CVS TN Distribution, LLC are referred to as "CVS." CVS conducts  
23 business as a licensed wholesale distributor. At all times relevant to this Complaint, CVS  
24 distributed prescription opioids throughout the United States, including in Clark County,  
25 Nevada; CVS pharmacies located in Clark County supplemented their supply of Schedule 3  
26 controlled substances including prescription opioids through purchases made by CVS from  
27 outside vendors; and CVS pharmacies located in Clark County were supplied with Schedule 2  
28



1 controlled substances including prescription opioids through purchases made by CVS from  
2 outside vendors.

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

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

21 93. Defendant Distributors purchased opioids from manufacturers, including the  
22 named Defendants herein, and distributed them to pharmacies throughout Clark County, and  
23 the State of Nevada.

24 94. Defendant Distributors played an integral role in the chain of opioids being  
25 distributed throughout Clark County, and the State of Nevada.

26 **D. Defendants, Detailers.**  
27  
28

1           95. Defendant AIDA B MAXSAM (hereinafter "DETAILER") is a natural person  
2 who is, and at all relevant times herein was, a resident of Clark County, Nevada, who is or was  
3 engaged in specialty drug sales on behalf of Defendant Manufacturer and Distributor PURDUE.

4           96. Defendant DETAILER was trained to, and did in fact, make personal contact  
5 with physicians and clinics within Clark County, Nevada for the purpose, and with the result,  
6 of encouraging them to prescribe opioid medications in a manner inconsistent with known  
7 safety concerns and contrary to sound medical practice.

8           **E. Defendants, Pharmacies, and Pharmacy Benefit Managers.**

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

18           98. Defendant LAM'S PHARMACY and other pharmacies (collectively  
19 "Defendant Pharmacies" or "Defendants") sold opioids to residents of Clark County giving rise  
20 to the opioid crisis.

21           99. Pharmacy Benefit Managers ("PBMs") administer benefit contracts and riders  
22 that determine coverage for some or all of the costs of pharmaceutical products and/or provide  
23 access to such products, sometimes through the PBM's own mail-order pharmacy. PBMs  
24 establish formularies which govern which drugs are reimbursed and how. PBMs also determine  
25 pre-authorization requirements and negotiate with drug manufacturers to offer preferred drug  
26 formulary placement for drugs. Additionally, PBMs establish reimbursement rates for drugs  
27 dispensed and can earn revenue from fees from health plans and insurers, rebates and other  
28 incentives from drug manufacturers, including administrative fees and volume bonuses, and

1 fees from maintaining pharmacy networks. Given their “gatekeeper” role, PBMs exercise  
2 significant power over the quantity of prescription opioids that enter the market.

3 100. PBMs also have massive quantities of data regarding the opioid prescribing and  
4 usage of the doctors and patients who participate in their plans. As a result, PBMs can  
5 identify: (a) patients who receive, and doctors who prescribe opioids in excessive volumes,  
6 frequency, or dosage; (b) patients who receive, and doctors who prescribe opioids in  
7 combination with other drugs indicative of diversion; (c) patients who receive opioids after  
8 having been treated or while being treated for opioid overdoses and addiction; and (d) patients  
9 who receive opioids who are at higher risk for overdose, for example, because they also receive  
10 benzodiazepines. This information, and their representations about their efforts to manage and  
11 improve patients’ health, created an obligation for PBMs to identify, report, and otherwise  
12 address potential diversion or other dangerous instances of opioid use and prescribing.

13 101. In addition, PBMs distribute opioids directly through their mail order  
14 pharmacies, and, like other pharmacies, are DEA and state registrants. In distributing opioids,  
15 PBMs are obligated to prevent diversion and to identify, report, and not ship suspicious orders  
16 of opioids. Upon information and belief, to be confirmed by transaction data in the exclusive  
17 possession of the PBMs, PBMs failed to carry out these duties.

18 102. Defendant EXPRESS SCRIPTS HOLDING COMPANY (“ESHC”) is a  
19 Delaware corporation with its principal place of business in St. Louis, Missouri. Defendant  
20 EXPRESS SCRIPTS, INC. (“ESI”) is a wholly-owned subsidiary of ESHC and is incorporated  
21 in the State of Delaware with its principal place of business located in St. Louis, Missouri. In  
22 2012, ESI acquired its rival, Medco Health Solutions Inc., otherwise known as Merck Medco,  
23 in a \$29.1 billion deal. As a result of the merger, ESHC was formed and became the largest  
24 PBM in the nation, filing a combined 1.4 billion prescriptions for employers and  
25 insurers. ESHC and ESI are collectively referred to as “Express Scripts.”

26 103. Upon information and belief, Express Scripts derived and continues to derive  
27 substantial revenue as a result of managing pharmacy benefits throughout Nevada, including  
28 within Clark County.

1           104. Defendant Pharmacies and PBMs played an integral role in the chain of opioids  
2 being sold throughout Clark County.

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

4           105. Defendant STEVEN A HOLPER MD is, and was at all times relevant herein, a  
5 resident of Clark County, Nevada and was a licensed medical doctor in the State of Nevada.  
6 Upon information and belief, and at all times relevant hereto, Defendant STEVEN A HOLPER  
7 MD, conducted business and provided medical services as STEVEN A. HOLPER, M.D., PC, a  
8 Nevada Domestic Professional Corporation in Clark County, Nevada. Defendant HOLPER  
9 OUT-PATIENTS MEDICAL CENTER, LTD. (collectively, with STEVEN A HOLPER MD  
10 and STEVEN A. HOLPER M.D., PC, "Defendant Providers" or "HOLPER"), is, and was at all  
11 times relevant herein, a Nevada Domestic Corporation with its principal place of business in  
12 Clark County, Nevada, and served as the location from which Defendant STEVEN A HOLPER  
13 MD provided his medical services.

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

18           107. HOLPER participated in a deceptive scheme to obtain authorization for such  
19 prescriptions from health insurance providers.

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

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

26           109. That the true names and the capacities, whether individual, agency, corporate,  
27 associate or otherwise, of Defendant ROE CORPORATIONS I through 100, are unknown to  
28 Plaintiff. These Defendants include the manufacturer(s), distributor(s) and any third party that

1 may have developed, manufactured, produced, sold, altered or otherwise distributed the subject  
2 drug, which caused Plaintiff's injuries as complained herein. Plaintiff will ask to leave of the  
3 Court to amend this Complaint to show the true names and capacities of these Defendants, when  
4 they become known to Plaintiff. Plaintiff believes each Defendant named as ROE  
5 CORPORATION was responsible for contributing to the misconduct alleged herein.

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

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

17 112. Plaintiff is informed and believes and thereon alleges that at all relevant times  
18 herein mentioned Defendants, and each of them, were the agents and/or servants and/or partners  
19 and/or joint venture partners and/or employers and/or employees and/or contractors of the  
20 remaining Defendants and were acting within the course and scope of such agency,  
21 employment, partnership, contract or joint venture and with the knowledge and consent of the  
22 remaining Defendants at the time of the event leading to the misconduct alleged herein.

23 **H. Jurisdiction & Venue.**

24 113. That exercise of the jurisdiction by this Court over each and every Defendant in  
25 this action is appropriate because each and every Defendant has done, and continues to do,  
26 business in the State of Nevada, and committed a tort in the State of Nevada. Additionally, this  
27 Court has jurisdiction over the claims alleged herein as they arise under Nevada statutes and  
28 Nevada common law.

1 114. Venue is proper in the District Court of Clark County, Nevada where part of the  
2 claims alleged herein occurred.

3 **GENERAL FACTUAL ALLEGATIONS**

4 **A. Opioids Generally**

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

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

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

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

28 **B. Defendants' Fraudulent Marketing**

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

5           120. Yet these statements were not only unsupported by or contrary to the scientific  
6 evidence, they were also contrary to pronouncements by and guidance from federal agencies  
7 such as the Food and Drug Administration (“FDA”) and Centers for Disease Control and  
8 Prevention (“CDC”) based on that evidence. They also targeted susceptible prescribers and  
9 vulnerable patient populations, including the elderly and veterans.

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

12           **Direct Marketing Efforts**

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

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

1 doctors is effective. By establishing close relationships with prescribing physicians,  
2 Defendants' sales representatives are able to disseminate their misrepresentations in targeted,  
3 one-on-one settings that allowed them to differentiate their opioids and to address individual  
4 prescribers' concerns about prescribing opioids for chronic pain.

5 124. These direct techniques were also accompanied by kickbacks, prior  
6 authorization systems, and the use of other incentives to encourage health care providers, to  
7 prescribe the opioid medication for chronic pain.

8 125. Numerous studies indicate that marketing impacts prescribing habits, with face-  
9 to-face detailing having the greatest influence. Defendants devoted, and continues to devote,  
10 massive resources to direct sales contacts with doctors.

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

17 127. Upon information and belief and at all times relevant herein, Defendants  
18 ensured, and continue to ensure, marketing consistency nationwide through national and  
19 regional sales representative training; national training of local medical liaisons, the company  
20 employees who respond to physician inquiries; centralized speaker training; single sets of visual  
21 aids, speaker slide decks, and sales training materials; and nationally coordinated advertising.  
22 Upon information and belief, Defendants' sales representatives and physician speakers were  
23 required to adhere to prescribed talking points, sales messages, and slide decks, and supervisors  
24 rode along with them periodically to both check on their performance and compliance.

25 128. Upon information and belief and at all times relevant herein, Defendants  
26 employed, and continue to employ, the same marketing plans and strategies and deployed the  
27 same messages in Nevada as they did nationwide.

28 129. As the opioid epidemic spread, many health care providers recognized the  
dangers of opioid medication, including health risks and the risk of addiction. Others, however,



1 continued to prescribe such medication for off-label purposes without adequately warning  
2 patients of the dangers associated with opioids.

3 130. Upon information and belief, Defendant Providers received financial incentives  
4 to continue writing prescriptions for such opioid medication despite the dangers associated with  
5 same.

6 131. Across the pharmaceutical industry, “core message” development is funded and  
7 overseen on a national basis by corporate headquarters. This comprehensive approach ensures  
8 that Defendants’ messages are accurately and consistently delivered across marketing channels  
9 – including detailing visits, speaker events, and advertising – and in each sales territory.  
10 Defendants consider this high level of coordination and uniformity crucial to successfully  
11 marketing their drugs.

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

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

25 133. Using “Key Opinion Leaders” (KOLs) and “Front Groups,” Defendants  
26 disseminated their false and misleading statements regarding the efficacy of opioids. These  
27 KOLs and Front Groups were important elements of Defendants’ marketing plans, because they  
28 appeared independent and therefore outside of FDA oversight. However, Defendants did so  
knowing that unbranded materials typically were not submitted or reviewed by the FDA. By

1 acting through third parties, Defendants was able both to avoid FDA scrutiny and to give the  
2 false appearance that these messages reflected the views of independent third parties.  
3 Afterwards, Defendants would cite to these sources as corroboration of their own statements.

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

9 **Key Opinion Leaders (KOLs)**

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

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

21 **Front Groups**

22 137. Defendants also entered into arrangements with seemingly unbiased and  
23 independent patient and professional organizations to promote opioids for the treatment of  
24 chronic pain. Under their direction and control, these "Front Groups" generated treatment  
25 guidelines, unbranded materials, and programs that favored chronic opioid therapy. They also  
26 assisted Defendants by refuting negative articles, by advocating against regulatory changes that  
27 would limit opioid prescribing in accordance with the scientific evidence, and by conducting  
28 outreach to vulnerable patient populations targeted by Defendants.

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

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

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

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

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

28           **Continuing Medical Education (CMEs)**

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

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

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

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

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

19           147. Upon information and belief, Defendants utilized a system of kickbacks to  
20 encourage health care providers to write prescriptions for, and deliver, the opioid medications.  
21 Kickbacks took the form of "speaker fees" paid to health care providers that spoke at programs  
22 regarding the purported benefits and safety of using opioid medications to treat chronic pain.  
23 Such speakers were recruited by Defendants based upon the number of prescriptions the  
24 providers wrote for opioid medications. The more prescriptions written, the more times the  
25 speaker was asked to appear at a program, and the more "speaker fees" were paid to the provider.  
26 Defendants' employees were rewarded when their "speakers" increased the prescriptions they  
27 wrote. These speaking programs did not result in other health care providers writing a  
28 significant number of prescriptions for Defendants' products, but the "speakers" continued to  
be paid to speak so long as they increased their own prescriptions. Many of the speaker

1 programs had few or no attendees that would actually be able to write prescriptions for  
2 Defendants' products. Upon information and belief, Defendant Providers, benefitted from such  
3 programs.

4 **Prior Authorization Programs**

5 148. Upon information and belief, Defendants developed prior authorization  
6 programs in order to gain authorization and approval from insurance companies to cover the  
7 costly opioid products for off-label uses. These programs involved representatives from  
8 Defendants contacting insurance companies and representing that they are from a health care  
9 provider's office rather than from the Defendant manufacturer or distributor; providing  
10 inaccurate diagnosis information on the authorization requests; and drafting Letters of Medical  
11 Necessity for health care providers to sign-off on for purposes of receiving authorization from  
12 health insurance providers. Upon information and belief, Defendant Providers also participated  
13 in misleading the health insurance providers to authorize the numerous prescriptions written for  
14 opioid medications, including, but not limited to, Subsys.

15 **Medication Switch Programs**

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

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

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

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

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

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

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

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

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

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

### **C. Defendants' Misrepresentations**

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

6           158. These misrepresentations regarding opioids include but are not limited to:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

6           174. Notwithstanding this duty and obligation, the DEA has been required to take  
7 administrative action against Defendant Distributors to force compliance. The United States  
8 Department of Justice, Office of the Inspector General, Evaluation and Inspections Division,  
9 reported that the DEA issued final decisions in 178 registrant actions between 2008 and 2012.  
10 The Office of Administrative Law Judges issued a recommended decision in a total of 117  
11 registrant actions before the DEA issued its final decision, including 76 actions involving orders  
12 to show cause and 41 actions involving immediate suspension orders.<sup>3</sup> Some of these actions  
13 include the following:

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

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

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

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

27           (e) On January 30, 2008, the DEA issued an *Order to Show Cause and*  
28

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<sup>3</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 *Immediate Suspension Order* against the Cardinal Health Stafford, Texas Distribution  
2 Center ("Stafford Facility") for failure to maintain effective controls against diversion  
of hydrocodone;

3 (f) On May 2, 2008, McKesson Corporation entered into an *Administrative*  
4 *Memorandum of Agreement* ("2008 MOA") with the DEA which provided that  
5 McKesson would "maintain a compliance program designed to detect and prevent the  
6 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;"

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

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

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

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

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

25 175. In another example, on August 9, 2013, the DEA issued an Order to Show Cause  
26 for Defendant MASTERS PHARMACEUTICALS, LLC to consider whether to revoke its  
27 distributor license for failing to monitor, report, and prevent the distribution of suspicious orders  
28 under federal law. *See, Masters Pharmaceuticals, Inc.; Decision and Order*, 80 FR 55418, 55419

1 (2015). The Order *inter alia* made allegations regarding Masters suspicious distributions of  
2 oxycodone to various pharmacies across the country, including 1.7 million dosage units . . . to  
3 a pharmacy located in Clark County from January 1, 2009 through November 30, 2010. *Id.*  
4 The registration was ultimately revoked and Masters appealed.

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

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

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

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

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

26 181. Defendant Pharmacies must exercise reasonable care under the circumstances.  
27 This involves a duty not to create a foreseeable risk of harm to others. Additionally, one who  
28 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.

3 182. 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  
5 be 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  
7 a doctor if the prescription is not for a legitimate medical purpose.

8 183. 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  
11 suspicious origin the Defendant Pharmacies have subsequently breached that duty.

12 184. Upon information and belief and at all times relevant herein, questionable or  
13 suspicious prescriptions issued by Defendant Pharmacies include: (1) prescriptions written by  
14 a 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  
17 antagonistic drugs, such as depressants and stimulants, at the same time; (4) prescriptions with  
18 quantities or dosages that differ from usual medical usage; (5) prescriptions that do not comply  
19 with standard abbreviations and/or contain no abbreviations; (6) photocopied prescriptions;  
20 and/or (7) prescriptions containing different handwritings.

21 185. 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.

25 186. 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           187. 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;  
4 (c) invoice number and date for the transaction of which the pedigree is part; (d) purchase  
5 order number and date for the transaction of which the pedigree is part; (e) order number and  
6 date (if one) for the transaction of which the pedigree is part; (f) the business name, address,  
7 and telephone number of each preceding seller of the drug; (g) the business name, address, and  
8 telephone number of the customer to whom the reporting wholesaler sold the drug; (h) the date  
9 of each preceding or subsequent sale; (i) name of the drug; (j) strength of the drug; (k) size of  
10 the container; and/or (l) number of containers.

11           188. 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  
14 to maintain effective controls to prevent diversion of controlled substances. Should Defendants  
15 deviate from these checks and balances, the closed system collapses.

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

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

28

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

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

8           193. Additionally, PMBs were gate keepers with the duty to prevent the flood of  
9 opioids into the market. Instead of fulfilling their duties to Clark County residents, these  
10 Defendants further exacerbated the flood of opioids into the market.

11           194. Pharmacy Benefit Managers (PBMs) are companies that administer prescription  
12 drug plans for entities that include insurers, self-insured employers, and state and federal  
13 government agencies (collectively, these entities are referred to as “plan sponsors”). PBMs  
14 review and pay claims; PBMs also review and decide the medications that are most effective  
15 for any given therapeutic use. In effect, a PBM’s plan can determine what medications will (or  
16 will not) be available, at what quantity, and how difficult it may be for a prescriber to receive  
17 that medication (e.g., by requiring pre-authorization).

18           195. In essence, because PBMs choose which drugs appear on their formularies, they  
19 wield significant influence over which drugs are disseminated throughout Plaintiffs’  
20 communities and how those drugs are paid for.

21           196. Upon information and belief, PBM Defendants colluded with manufacturers  
22 who offer financial incentives, such as rebates and administrative fees, in exchange for benefit  
23 plan design, formulary placement, and drug utilization management that would result in more  
24 opioids entering the marketplace. PBMs earnings were maximized when manufacturers charged  
25 high list prices then paid large rebates and discounts to lower the actual price of the transaction.

26           197. In addition to rebates, PBMs negotiate the payment of administrative fees,  
27 volume bonuses and other forms of consideration from manufacturers. The PBMs’ ability to  
28 negotiate these incentives from drug manufacturers derives from their control of the factors  
driving utilization, including formulary development and plan design.

1           198. PBMs require, and receive, incentives from Manufacturer Defendants to keep  
2 certain drugs on and off formularies.

3           199. These incentives include the payment of rebates by Manufacturer Defendants to  
4 PBMs based on utilization, bonuses for moving product and hitting volume targets, and the  
5 payment of lucrative administrative fees to maximize PBM profits. Much of this activity is not  
6 transparent to anyone, including those who in good faith hire PBMs to manage their benefits.

7           200. Upon information and belief, when PBMs were asked by their clients to  
8 implement greater safeguards that limited access to opioids, PBMs refused. Instead, the PBMs  
9 opted to receive lucrative rebates from drug manufacturers in exchange for making the  
10 manufacturers' prescription opioids as available and accessible as possible.

11           201. By placing prescription opioids on their formularies and declining to impose  
12 appropriate limits on approval for its use, the PBM Defendants facilitated the proliferation and  
13 subsequent diversion of prescription opioids throughout Nevada and within Clark County, in  
14 particular.

15           202. Upon information and belief, the practice of negotiating certain rebate  
16 percentages, maintaining opioids on a certain tier, lowering co-pays, and preventing prior  
17 authorizations was prevalent for all PBM Defendants and Manufacturer Defendants. This  
18 practice was consistent nationwide: manufacturers provide financial incentives and, in return,  
19 the PBM Defendants agreed to make certain prescription opioids available without prior  
20 authorization and with low copayments.

21           203. PBMs' complicity in the overall deceptive scheme is knowing and purposeful.  
22 Manufacturers compete for PBM formulary placement (preferred placement results in greater  
23 utilization and greater profits) and pay PBMs incentives to avoid pre-authorization requirements  
24 and other hurdles that would slow down flow. Upon information and belief, the defendant PBM  
25 formularies include the majority of the opioids at issue in this case, often in preferred tiers,  
26 without quantity limits or prior authorization requirements.

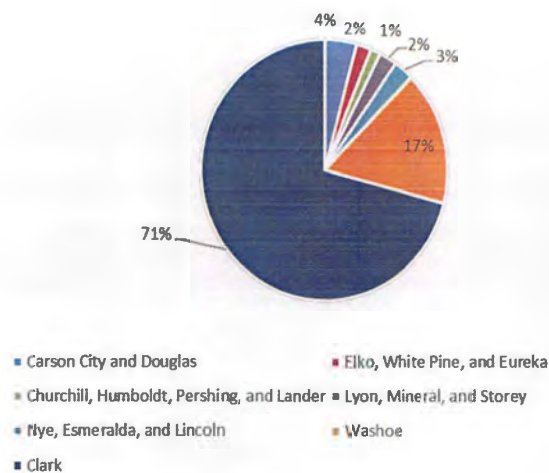
27           204. Moreover, at the same time that PBMs made it easier to obtain prescription  
28 opioids, they made it more difficult to receive treatment for addiction.

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



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

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



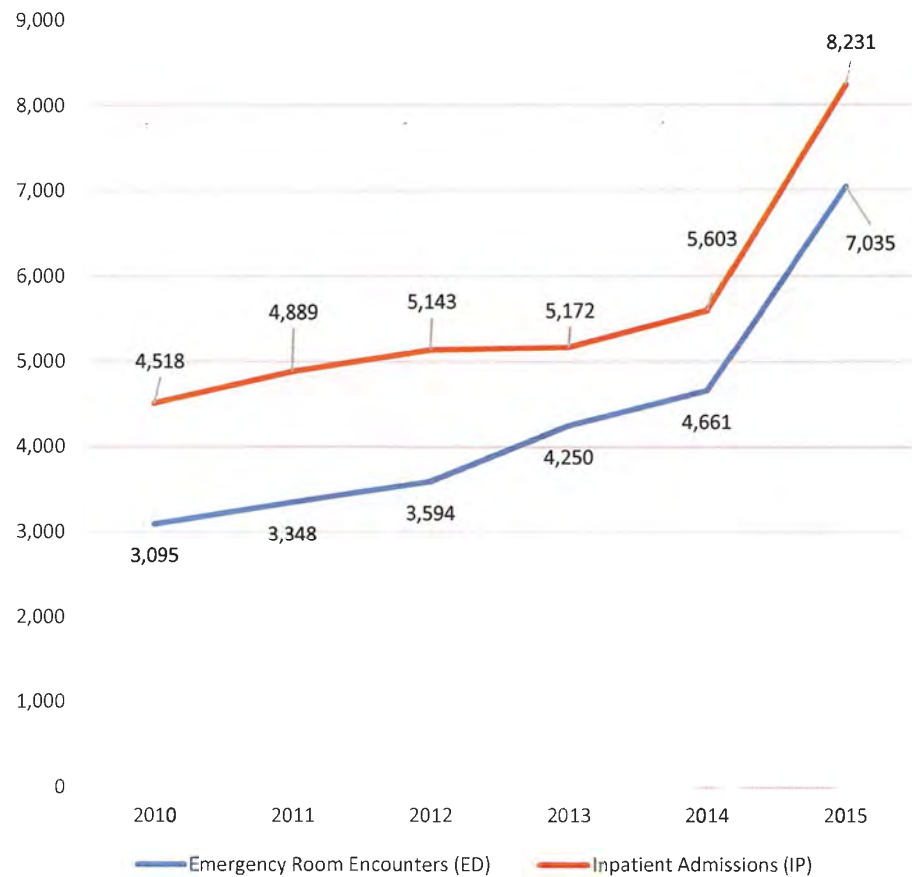
14                               ■ Carson City and Douglas                               ■ Elko, White Pine, and Eureka  
15                               ■ Churchill, Humboldt, Pershing, and Lander                               ■ Lyon, Mineral, and Storey  
16                               ■ Nye, Esmeralda, and Lincoln                               ■ Washoe  
17                               ■ Clark

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

27           207. Opioid-induced hospitalizations and emergency room visits are a significant area  
28 of health expenditure. For instance in 2012, over \$40 million was billed for opioid-induced

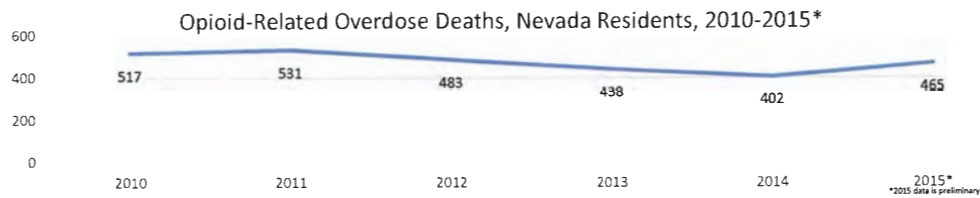
1 hospitalizations and over \$7 million for similar emergency room visits in Southern Nevada  
2 alone.

3 Opioid-Related Hospitalizations, Nevada Residents,  
4 2010-2015



21  
22 208. In addition to hospitalizations, the total number of opioid-related deaths  
23 continues to mount. According to the Centers for Disease Control, nearly half of all U.S. opioid  
24 overdose deaths involve a prescription opioid. In 2015, more than 15,000 people in the U.S.  
25 died from overdoses involving prescription opioids.

26 209. Nevada has the fourth highest drug overdose mortality rate in the United States.  
27 From 2010 to 2015, approximately 2,800 deaths in Nevada have been attributed to opioid-  
28 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

210. 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.

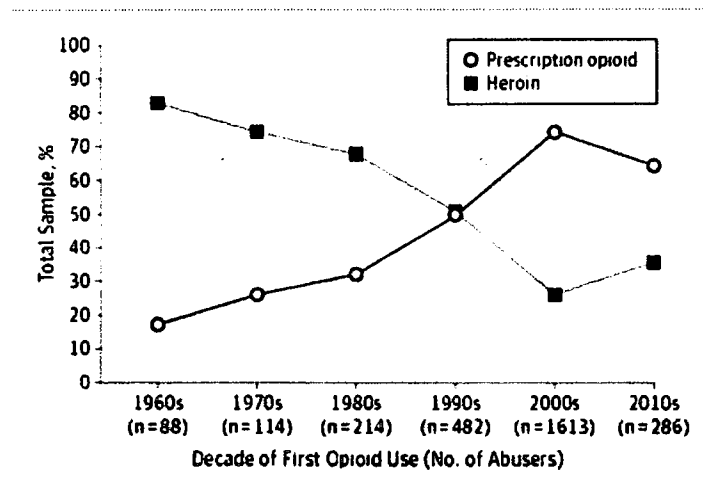
211. But for the misleading information disseminated by Defendants, prescribing physicians would not, in most instances, have prescribed opioids as medically necessary or reasonably required to address chronic pain. The impact of Defendants' fraudulent marketing on doctors' prescribing and patients' 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

212. 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.

213. 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.

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



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

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

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

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

#### 22 *(Public Nuisance Against All Defendants)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

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

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

- 1 f. Defendants' failure to maintain effective controls against diversion of  
2 dangerously addictive prescription opioids for non-medical use and abuses has  
3 created an abundance of drugs available for criminal use and fueled a new wave  
4 of addiction, abuse, and injury.
- 5 g. Defendants' dereliction of duties resulted in a diverted supply of narcotics to  
6 sell, and the ensuing demand of addicts to buy them. Increased supply, due to  
7 Defendants' conduct, led to more addiction, with many addicts turning from  
8 prescription opioids to heroin. People addicted to opioids frequently require  
9 increasing levels of opioids, and many turned to heroin as a foreseeable result.
- 10 h. The diversion of opioids into the secondary, criminal market and the increase in  
11 the number of individuals who abuse or are addicted to opioids has increased the  
12 demands on health care services and law enforcement in the County.
- 13 i. The significant unreasonable interference with the public rights caused by  
14 Defendants' conduct has taxed the human, medical, public health, law  
15 enforcement, and financial resources of Clark County.
- 16 j. Defendants' interference with the comfortable enjoyment of life in Clark County  
17 is unreasonable because there is little social utility to opioid diversion and abuse,  
18 and any potential value is outweighed by the gravity of the harm inflicted by  
19 Defendants' actions.

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

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



239. 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.

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

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

## **SECOND CAUSE OF ACTION**

*(Common Law Public Nuisance against all Defendants)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 266. 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.

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

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

### 20 **THIRD CAUSE OF ACTION**

#### 21 *(Negligent Misrepresentation against all Defendants)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

281. 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.

282. 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.

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

284. 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)*

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

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

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

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

8           289. Defendant Providers owed a duty to exercise reasonable care in the prescription  
9 of opioids.

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

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

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

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

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



1           295. Defendant Distributors and Pharmacies were negligent in disclosing to Plaintiff  
2 suspicious orders for opioids.

3           296. Defendant Providers were negligent in writing improper prescriptions for  
4 opioids.

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

8           298. A negligent violation of this trust poses distinctive and significant dangers to the  
9 County and its residents from the diversion of opioids for non-legitimate medical purposes and  
10 addiction to the same by consumers.

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

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

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

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

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

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

26           305. Defendant Providers were active in providing patients within Clark County with  
27 the prescriptions for opioids that were supplied by the Defendant Distributors and Pharmacies  
28

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

307. 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.

308. 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.

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

310. 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)*

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

312. 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.

313. 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.

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

315. Defendants made substantial profits while fueling the prescription drug epidemic into Clark County.

1           316. Defendants continue to receive considerable profits from the distribution of  
2 controlled substances into Clark County.

3           317. Defendants have been unjustly enriched by their negligent, malicious,  
4 oppressive, illegal and unethical acts, omissions, and wrongdoing.

5           318. It would be inequitable to allow Defendants to retain benefit or financial  
6 advantage.

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

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

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

16           322. 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           323. That Plaintiff has been required to prosecute this action and is entitled to  
20 attorneys' fees and costs as provided by Nevada statute.

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

23                           **SIXTH CAUSE OF ACTION**

24                   *(Violation of the Nevada Racketeering Act against Defendants Purdue and the Sackler*  
25                   *Defendants, Endo, Par Pharmaceutical, Mallinckrodt, SpecGx, Actavis, Teva, McKesson,*  
                      *Cardinal, Amerisourcebergen, and Express Scripts)*

26           325. Clark County, both as a "person" who has sustained injury brings this claim for  
27 civil remedies under the Racketeering Act, NRS §§ 207.350 to 207.520, against the following  
28 Defendants, as defined above: Purdue and the Sackler Defendants, Endo, Par Pharmaceutical,

1 Mallinckrodt, SpecGX, Actavis, Teva, McKesson, Cardinal, AmerisourceBergen, and Express  
2 Scripts (collectively, for purposes of this Count, the “Racketeering Defendants”).

3 326. The Racketeering Defendants conducted and continue to conduct their business  
4 through legitimate and illegitimate means in the form of a criminal syndicate or enterprise as  
5 defined by NRS §§ 207.370 and 207.380. At all relevant times, the Racketeering Defendants  
6 were “persons” under NRS § 0.039 and are included in the definition stating that a person is  
7 “any form of business or social organization...including, but not limited to, a corporation,  
8 partnership, association, trust or unincorporated organization.”

9 327. Section 207.400 of the Racketeering Act makes it unlawful “for a  
10 person....employed by or associated with any enterprise to conduct or participate, directly or  
11 indirectly, in: (1) The affairs of the enterprise through racketeering activity; or (2) Racketeering  
12 activity through the affairs of the enterprise.” NRS § 207.400(1)(c).

13 328. The term “enterprise” is defined as including a “sole proprietorship, partnership,  
14 corporation, business trust or other legal entity” as well as a “union, association or other group  
15 of persons associated in fact although not a legal entity.” The definition includes “illicit as well  
16 as licit enterprises and governmental as well as other entities.” NRS § 207.380.

17 329. For over a decade, the Racketeering Defendants aggressively sought to bolster  
18 their revenue, increase profit, and grow their share of the prescription painkiller market by  
19 unlawfully and surreptitiously increasing the volume of opioids they sold. However, the  
20 Racketeering Defendants are not permitted to engage in a limitless expansion of their market  
21 through the unlawful sales of regulated painkillers. As “registrants,” the Racketeering  
22 Defendants operated and continue to operate within the nationwide “closed-system” created  
23 under the Controlled Substances Act, 21 USC § 821, *et seq.* (the “CSA”) and the Nevada  
24 Controlled Substances Act, §§ 453.005 to 453.730. Together, the CSA and Nevada Controlled  
25 Substances Act restrict the Racketeering Defendants’ ability to manufacture or distribute  
26 Schedule II substances like opioids nationally and in Nevada by requiring them to: (1) register  
27 to manufacture or distribute opioids; (2) maintain effective controls against diversion of the  
28 controlled substances that they manufacturer or distribute; (3) design and operate a system to  
identify suspicious orders of controlled substances, halt such unlawful sales, and report them

1 to the DEA, the Nevada Pharmacy Board, and the FDA; and (4) make sales within a limited  
2 quota set by the DEA for the overall production of Schedule II substances like opioids.

3 330. The nationwide closed-system, including the establishment of quotas, was  
4 specifically intended to reduce or eliminate the diversion of Schedule II substances like opioids  
5 from “legitimate channels of trade” to the illicit market by controlling the quantities of the basic  
6 ingredients needed for the manufacture of [controlled substances].”<sup>4</sup>

7 331. Finding it impossible to legally achieve their ever increasing sales ambitions,  
8 members of the Opioid Diversion Enterprise (as defined below) systematically and fraudulently  
9 violated their duty under Nevada law to maintain effective controls against diversion of their  
10 drugs, to design and operate a system to identify suspicious orders of their drugs, to halt  
11 unlawful sales of suspicious orders, and to notify the DEA, the Nevada Board of Pharmacy,  
12 and the FDA of suspicious orders.<sup>5</sup> As discussed in detail below, through the Racketeering  
13 Defendants’ scheme, members of the Opioid Diversion Enterprise repeatedly engaged in  
14 unlawful sales of painkillers which, in turn, artificially and illegally increased the annual  
15 production quotas throughout the United States for opioids allowed by the DEA.<sup>282</sup> In doing  
16 so, the Racketeering Defendants allowed hundreds of millions of pills to enter the illicit market  
17 which allowed them to generate obscene profits.

18 332. Defendants’ illegal scheme was hatched by an association-in-fact enterprise  
19 between the Manufacturer Defendants and the Distributor Defendants, and executed in perfect  
20 harmony by each of them. In particular, each of the Racketeering Defendants were associated  
21 with, and conducted or participated in, the affairs of the racketeering enterprise (defined below  
22 and referred to collectively as the “Opioid Diversion Enterprise”), whose purpose was to engage  
23 in the unlawful sales of opioids, and to deceive the public, and federal and state regulators into  
24 believing that the Racketeering Defendants were faithfully fulfilling their statutory obligations.  
25 The Racketeering Defendants’ scheme allowed them to make billions in unlawful sales of  
26 opioids and, in turn, increase and/or maintain high production quotas with the purpose of  
27

28 <sup>4</sup> 1970 U.S.C.C.A.N. 4566 at 5490; *see also* Testimony of Joseph T. Rannazzisi before the Caucus on International  
Narcotics Control, United States Senate, May 5, 2015 (available at  
[https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).

<sup>5</sup> 21 USC § 823(a)(1), (b)(1); 21 CFR § 1301.74(b)-(c).

1 ensuring unlawfully increasing revenues, profits, and market share. As a direct result of the  
2 Racketeering Defendants' deceptive scheme, course of conduct, and pattern of racketeering  
3 activity, they were able to extract billions of dollars of revenue from the addicted American  
4 public, while entities like Clark County, Nevada experienced tens of millions of dollars of injury  
5 caused by the reasonably foreseeable consequences of the prescription opioid addiction  
6 epidemic. As explained in detail below, the Racketeering Defendants' misconduct violated §  
7 207.400 of the Racketeering Act and Plaintiff is entitled to treble damages for its injuries under  
8 NRS § 207.410.

9         333. Alternatively, the Racketeering Defendants were members of a legal entity  
10 enterprise within the meaning of NRS § 207.380 through which the Racketeering  
11 Defendants conducted their pattern of racketeering activity in Nevada and throughout the  
12 United States. Specifically, the Healthcare Distribution Alliance (the "HDA")<sup>6</sup> is a distinct legal  
13 entity that satisfies the definition of a racketeering enterprise. The HDA is a non-profit  
14 corporation formed under the laws of the District of Columbia and doing business in Virginia.  
15 As a non-profit corporation, HDA qualifies as an "enterprise" within the definition set out in §  
16 207.380 because it is a corporation and a legal entity.

17         334. On information and belief, each of the Racketeering Defendants is a member,  
18 participant, and/or sponsor of the HDA and utilized the HDA to conduct the Opioid Diversion  
19 Enterprise and to engage in the pattern of racketeering activity that gives rise to the Count.

20         335. Each of the Racketeering Defendants is a legal entity separate and distinct from  
21 the HDA. And, the HDA serves the interests of distributors and manufacturers beyond the  
22 Racketeering Defendants. Therefore, the HDA exists separately from the Opioid Diversion  
23 Enterprise, and each of the Racketeering Defendants exists separately from the HDA.  
24 Therefore, the HDA may serve as a racketeering enterprise.

25         336. The legal and association-in-fact enterprises alleged in the previous and  
26 subsequent paragraphs were each used by the Racketeering Defendants to conduct the Opioid  
27 Diversion Enterprise by engaging in a pattern of racketeering activity. Therefore, the legal and  
28

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<sup>6</sup> Health Distribution Alliance, History, Health Distribution Alliance, (last accessed on September 15, 2017),  
<https://www.healthcaredistribution.org/about/hda-history>.

1 association- in-fact enterprises alleged in the previous and subsequent paragraphs are pleaded  
2 in the alternative and are collectively referred to as the “Opioid Diversion Enterprise.”

3 **A. THE OPIOID DIVERSION ENTERPRISE**

4 337. Throughout the United States—and within the Clark County, Nevada—the  
5 Racketeering Defendants have operated at all relevant times under a “closed distribution  
6 system” of quotas that governs the production and distribution of prescription opioid drugs.  
7 The Opioids Diversion Enterprise is an ongoing and continuing business organization that  
8 created and maintained systemic links for a common purpose: To protect and maximize their  
9 profitability under this quota system through the unlawful sale of opioids. The Racketeering  
10 Defendants participated in the Opioids Diversion Enterprise through a pattern of racketeering  
11 activity, which includes multiple violations of Nevada state criminal law.

12 338. Recognizing that there is a need for greater scrutiny over controlled substances  
13 due to their potential for abuse and danger to public health and safety, the United States  
14 Congress enacted the Controlled Substances Act in 1970.<sup>7</sup> The CSA and its implementing  
15 regulations created a closed-system of distribution for all controlled substances and listed  
16 chemicals.<sup>8</sup> Congress specifically designed the closed chain of distribution to prevent the  
17 diversion of legally produced controlled substances into the illicit market.<sup>9</sup> As reflected in  
18 comments from United States Senators during deliberation on the CSA, the “[CSA] is designed  
19 to crack down hard on the narcotics pusher and the illegal diverters of pep pills and goof  
20 balls.”<sup>10</sup> Congress was concerned with the diversion of drugs out of legitimate channels of  
21 distribution when it enacted the CSA and acted to halt the “widespread diversion of [controlled  
22 substances] out of legitimate channels into the illegal market.”<sup>11</sup> Moreover, the closed-system  
23 was specifically designed to ensure that there are multiple ways of identifying and preventing  
24

25 <sup>7</sup> Joseph T. Rannazzisi Decl. ¶4, *Cardinal Health, Inc. v. Eric Holder, Jr., Attorney General*,  
26 D.D.C. Case No. 12-cv-185 (Document 14-2 February 10, 2012).

<sup>8</sup> See H.R. Rep. No. 91-1444, 1970 U.S.C.C.A.N. at 4566.

27 <sup>9</sup> *Gonzalez v. Raich*, 545 U.S. 1, 12-14 (2005); 21 USC § 801(20); 21 USC §§ 821-824, 827,  
28 880; H.R. Rep. No. 91-1444, 1970 U.S.C.C.A.N. 4566, 4572 (Sept. 10, 1970).

<sup>10</sup> See H.R. Rep. No. 91-1444, 1970 U.S.C.C.A.N. at 4566; 116 Cong. Rec. 977-78 (Comments  
of Sen. Dodd, Jan 23, 1970).

<sup>11</sup> See Testimony of Joseph T. Rannazzisi before the Caucus on International Narcotics Control, United State Senate,  
May 5, 2015 (available at [https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).

1 diversion through active participation by registrants within the drug delivery chain.<sup>12</sup> All  
2 registrants – manufacturers and distributors alike – must adhere to the specific security,  
3 recordkeeping, monitoring and reporting requirements that are designed to identify or prevent  
4 diversion.<sup>13</sup> When registrants at any level fail to fulfill their obligations, the necessary checks  
5 and balances collapse.<sup>14</sup> The result is the scourge of addiction that has occurred.

6 339. Central to the closed-system created by the CSA was the directive that the DEA  
7 determine quotas of each basic class of Schedule I and II controlled substances each year. The  
8 quota system was intended to reduce or eliminate diversion from “legitimate channels of trade”  
9 by controlling the “quantities of the basic ingredients needed for the manufacture of  
10 [controlled substances], and the requirement of order forms for all transfers of these drugs.”<sup>15</sup>  
11 When evaluating production quotas, the DEA was instructed to consider the following  
12 information:

- 13 a. Information provided by the United States Department of Health and Human  
14 Services;
- 15 b. Total net disposal of the basic class by all manufacturers;
- 16 c. Trends in the national rate of disposal of the basic class;
- 17 d. An applicant’s production cycle and current inventory position;
- 18 e. Total actual or estimated inventories of the class and of all substances  
19 manufactured from the class and trends in inventory accumulation; and
- 20 f. Other factors such as: changes in the currently accepted medical use of  
21 substances manufactured for a basic class; the economic and physical  
22

23 <sup>12</sup> See Statement of Joseph T. Rannazzisi before the Caucus on International Narcotics Control United States  
24 Senate, July 18, 2012 (available at  
25 [https://www.justice.gov/sites/default/files/testimonies/witnesses/attachments/07/18/12/07-18-12-dea-](https://www.justice.gov/sites/default/files/testimonies/witnesses/attachments/07/18/12/07-18-12-dea-rannazzisi.pdf)  
26 [rannazzisi.pdf](https://www.justice.gov/sites/default/files/testimonies/witnesses/attachments/07/18/12/07-18-12-dea-rannazzisi.pdf)).

27 <sup>13</sup> *Id.*; 16.19.8.13(F) NMAC (requiring anyone licensed to distribute Schedule II controlled substances in Nevada to  
28 “report any theft, suspected theft, diversion or other significant loss of any prescription drug or device to the board  
and where applicable, to the DEA.”); 16.19.20.48(A) NMSA (“All applicants and registrants shall provide effective  
controls and procedures to guard against theft and diversion of controlled substances.”).

<sup>14</sup> Joseph T. Rannazzisi Decl. ¶ 10, *Cardinal Health, Inc. v. Eric Holder, Jr., Attorney General*, Case No. 12-cv-  
185 (Document 14-2 February 10, 2012).

<sup>15</sup> 1970 U.S.C.A.N. 4566 at 5490; *see also* Testimony of Joseph T. Rannazzisi before the Caucus on International  
Narcotics Control, United States Senate, May 5, 2015 (available at  
[https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).



1           availability of raw materials; yield and sustainability issues; potential  
2           disruptions to production; and unforeseen emergencies.<sup>16</sup>

3           340. Under the CSA, as incorporated into Nevada law, it is unlawful for a registrant to  
4           manufacture a controlled substance in Schedule II, like prescription opioids, that is (1) not  
5           expressly authorized by its registration and by a quota assigned to it by DEA, or (2) in excess  
6           of a quota assigned to it by the DEA.<sup>17</sup>

7           341. At all relevant times, the Racketeering Defendants operated as an enterprise  
8           formed for the purpose of unlawfully increasing sales, revenues and profits by disregarding  
9           their duty under Nevada law to identify, investigate, halt or report suspicious orders of opioids  
10          and diversion of their drugs into the illicit market, *see generally* IV.E.1 *supra*, in order to  
11          unlawfully increase the quotas set by the DEA and allow them to collectively benefit from the  
12          unlawful formation of a greater pool of prescription opioids from which to profit. The  
13          Racketeering Defendants conducted their pattern of racketeering activity in Clark County,  
14          Nevada and throughout the United States through this enterprise.

15          342. The Racketeering Defendants hid from the general public and suppressed and/or  
16          ignored warnings from third parties, whistleblowers and governmental entities, about the  
17          reality of the suspicious orders that the Racketeering Defendants were filling on a daily basis -  
18          - leading to the diversion of a tens of millions of doses of prescriptions opioids into the illicit  
19          market.

20          343. The Racketeering Defendants, with knowledge and intent, agreed to the overall  
21          objective of their fraudulent scheme and participated in the common course of conduct to  
22          commit acts of fraud and illegal trafficking in and distribution of prescription opioids, in  
23          violation of Nevada law.

24          344. Indeed, for the Defendants' fraudulent scheme to work, each of the Defendants

25  
26 <sup>16</sup> See Testimony of Joseph T. Rannazzisi before the Caucus on International Narcotics Control, United State  
Senate, May 5, 2015 (available at  
27 [https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).

28 <sup>17</sup> *Id.* (citing 21 USC 842(b)); NRS § 453.385 (regulations must ensure "compliance with, but may be more  
stringent than required by, applicable federal law governing controlled substances and the rules, regulations and  
orders of any federal agency administering such law."); NRS § 453.146 (the Nevada Board of Pharmacy may  
consider findings of "the federal Food and Drug Administration or the Drug Enforcement Administration as *prima*  
*facie* evidence relating to one or more of the determinative factors.").

1 had to agree to implement similar tactics regarding reports and representations about their  
2 systems for controlling against diversion, and refusal to report suspicious orders.

3 345. The opioid epidemic has its origins in the mid-1990s when, between 1997 and  
4 2007, nationwide per capita purchases of methadone, hydrocodone, and oxycodone increased  
5 13-fold, 4- fold, and 9-fold, respectively. By 2010, enough prescription opioids were sold in the  
6 United States to medicate every adult in the county with a dose of 5 milligrams of hydrocodone  
7 every 4 hours for 1 month.<sup>18</sup> On information and belief, the Opioid Diversion Enterprise has  
8 been ongoing nationally and in Clark County, Nevada for at least the last decade.<sup>19</sup>

9 346. The Opioid Diversion Enterprise was and is a shockingly successful endeavor.  
10 The Opioid Diversion Enterprise has been conducting business uninterrupted since its genesis.  
11 But, it was not until recently that State and federal regulators finally began to unravel the extent  
12 of the enterprise and the toll that it exacted on the American public and Clark County, Nevada  
13 and its citizens.

14 347. At all relevant times, the Opioid Diversion Enterprise: (a) had an existence  
15 separate and distinct from each Racketeering Defendant; (b) was separate and distinct from the  
16 pattern of racketeering in which the Racketeering Defendants engaged; (c) was an ongoing and  
17 continuing organization consisting of legal entities, including each of the Racketeering  
18 Defendants; (d) characterized by interpersonal relationships among the Racketeering  
19 Defendants; (e) had sufficient longevity for the enterprise to pursue its purpose; and (f)  
20 functioned as a continuing unit. Each member of the Opioid Diversion Enterprise participated  
21 in the conduct of the enterprise, including patterns of racketeering activity, and shared in the  
22 astounding growth of profits supplied by fraudulently inflating opioid sales generated as a  
23 result of the Opioid Diversion Enterprise's disregard for their duty to prevent diversion of their  
24 drugs into the illicit market and then requesting the DEA increase production quotas, all so that  
25 the Racketeering Defendants would have a larger pool of prescription opioids from which to  
26

27 <sup>18</sup> Keyes KM, Cerdá M, Brady JE, Havens JR, Galea S. *Understanding the rural-urban differences in nonmedical*  
28 *prescription opioid use and abuse in the United States*. Am J Public Health. 2014;104(2):e52-9.

<sup>19</sup> Matthew Perrone, *Pro-Painkiller echo chamber shaped policy amid drug epidemic*, The Center for Public Integrity (September 19, 2017, 12:01 a.m.), <https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy- amid-drug-epidemic>.

1 profit.

2 348. The Opioid Diversion Enterprise functioned by selling prescription opioids.  
3 While there may be some legitimate uses and/or needs for prescription opioids, the  
4 Racketeering Defendants, through their illegal enterprise, engaged in a pattern of racketeering  
5 activity that involves a fraudulent scheme to increase revenue by violating State and Federal  
6 laws requiring the maintenance of effective controls against diversion of prescription opioids,  
7 and the identification, investigation, and reporting of suspicious orders of prescription opioids  
8 destined for the illicit drug market. The goal of Defendants' scheme was to increase profits  
9 from opioid sales. But, Defendants' profits were limited by the production quotas set by the  
10 DEA, so the Defendants refused to identify, investigate and/or report suspicious orders of their  
11 prescription opioids being diverted into the illicit drug market. The end result of this strategy  
12 was to increase and maintain artificially high production quotas of opioids so that there was a  
13 larger pool of opioids for Defendants to manufacture and distribute for public consumption.

14 349. Within the Opioid Diversion Enterprise, there were interpersonal relationships  
15 and common communication by which the Racketeering Defendants shared information on a  
16 regular basis. These interpersonal relationships also formed the organization of the Opioid  
17 Diversion Enterprise. The Opioid Diversion Enterprise used their interpersonal relationships  
18 and communication network for the purpose of conducting the enterprise through a pattern of  
19 racketeering activity.

20 350. Each of the Racketeering Defendants had a systematic link to each other through  
21 joint participation in lobbying groups, trade industry organizations, contractual relationships  
22 and continuing coordination of activities. The Racketeering Defendants participated in the  
23 operation and management of the Opioid Diversion Enterprise by directing its affairs, as  
24 described herein. While the Racketeering Defendants participated in, and are members of, the  
25 enterprise, they each have a separate existence from the enterprise, including distinct legal  
26 statuses, different offices and roles, bank accounts, officers, directors, employees, individual  
27 personhood, reporting requirements, and financial statements.

28 351. The Racketeering Defendants exerted substantial control over the Opioid

1 Diversion Enterprise by their membership in the Pain Care Forum (“PCF”), the HDA, and  
2 through their contractual relationships.

3 352. PCF has been described as a coalition of drugmakers, trade groups and dozens  
4 of non-profit organizations supported by industry funding. The PCF recently became a national  
5 news story when it was discovered that lobbyists for members of the PCF quietly shaped federal  
6 and state policies regarding the use of prescription opioids for more than a decade.

7 353. The Center for Public Integrity and The Associated Press obtained “internal  
8 documents shed[ding] new light on how drugmakers and their allies shaped the national  
9 response to the ongoing wave of prescription opioid abuse.”<sup>20</sup> Specifically, PCF members spent  
10 over \$740 million lobbying in the nation’s capital and in all 50 statehouses on an array of issues,  
11 including opioid-related measures.<sup>21</sup>

12 354. Not surprisingly, each of the Racketeering Defendants who stood to profit from  
13 lobbying in favor of prescription opioid use is a member of and/or participant in the PCF.<sup>22</sup> In  
14 2012, membership and participating organizations included the HDA (of which all  
15 Racketeering Defendants are members), Purdue, Actavis, and Teva.<sup>23</sup> Each of the Manufacturer  
16 Defendants worked together through the PCF to advance the interests of the enterprise. But,  
17 the Manufacturer Defendants were not alone. The Distributor Defendants actively participated,  
18 and continue to participate in the PCF, at a minimum, through their trade organization, the  
19 HDA.<sup>24</sup> Plaintiff is informed and believes that the Distributor Defendants participated directly  
20 in the PCF as well.

21 355. The 2012 Meeting Schedule for the Pain Care Forum is particularly revealing  
22 on the subject of the Defendants’ interpersonal relationships. The meeting schedule indicates  
23 that meetings were held in the D.C. office of Powers Pyles Sutter & Verville on a monthly basis,  
24

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25 <sup>20</sup> Matthew Perrone, *Pro-Painkiller echo chamber shaped policy amid drug epidemic*, The Center for Public  
26 Integrity (September 19, 2017, 12:01 a.m.), <https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-amid-drug-epidemic> (emphasis added).

27 <sup>21</sup> *Id.*

<sup>22</sup> PAIN CARE FORUM 2012 Meetings Schedule, (last updated December 2011),

<https://assets.documentcloud.org/documents/3108982/PAIN-CARE-FORUM-Meetings-Schedule-amp.pdf>.

28 <sup>23</sup> *Id.* Plaintiff is informed and believes that Mallinckrodt became an active member of the PCF sometime after 2012.

<sup>24</sup> *Id.*

1 unless otherwise noted. Local members were “encouraged to attend in person” at the monthly  
2 meetings. And, the meeting schedule indicates that the quarterly and year-end meetings  
3 included a “Guest Speaker.”

4 356. The 2012 Pain Care Forum Meeting Schedule demonstrates that each of the  
5 Defendants participated in meetings on a monthly basis, either directly or through their trade  
6 organization, in a coalition of drugmakers and their allies whose sole purpose was to shape  
7 the national response to the ongoing prescription opioid epidemic, including the concerted  
8 lobbying efforts that the PCF undertook on behalf of its members.

9 357. Second, the HDA – or Healthcare Distribution Alliance – led to the formation  
10 of interpersonal relationships and an organization between the Racketeering Defendants.  
11 Although the entire HDA membership directory is private, the HDA website confirms that each  
12 of the Distributor Defendants and the Manufacturer Defendants named in the Complaint,  
13 including Actavis, Purdue, and Mallinckrodt, were members of the HDA.<sup>25</sup> The HDA and each  
14 of the Distributor Defendants eagerly sought the active membership and participation of the  
15 Manufacturer Defendants by advocating that one of the benefits of membership included the  
16 ability to develop direct relationships between Manufacturers and Distributors at high executive  
17 levels.

18 358. In fact, the HDA touted the benefits of membership to the Manufacturer  
19 Defendants, advocating that membership included the ability to, among other things, “network  
20 one on one with manufacturer executives at HDA’s members-only Business and Leadership  
21 Conference,” “networking with HDA wholesale distributor members,” “opportunities to host  
22 and sponsor HDA Board of Directors events,” “participate on HDA committees, task forces  
23 and working groups with peers and trading partners,” and “make connections.”<sup>26</sup> Clearly, the  
24 HDA and the Distributor Defendants believed that membership in the HDA was an opportunity  
25 to create interpersonal and ongoing organizational relationships between the Manufacturers and  
26 Distributors.

27  
28 <sup>25</sup> Manufacturer Membership, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/about/membership/manufacturer>.

<sup>26</sup> Manufacturer Membership Benefits, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/~media/pdfs/membership/manufacturer-membership-benefits.ashx?la=en>.

1           359. The application for manufacturer membership in the HDA further indicates the  
2 level of connection that existed between the Racketeering Defendants.<sup>27</sup> The manufacturer  
3 membership application must be signed by a “senior company executive,” and it requests that  
4 the manufacturer applicant identify a key contact and any additional contacts from within its  
5 company. The HDA application also requests that the manufacturer identify its current  
6 distribution information and its most recent year end net sales through any HDA distributors,  
7 including but not limited to, Defendants AmerisourceBergen, Cardinal Health, and  
8 McKesson.<sup>28</sup>

9           360. After becoming members, the Distributors and Manufacturers were eligible to  
10 participate on councils, committees, task forces and working groups, including:

- 11           a. Industry Relations Council: “This council, composed of distributor and  
12 manufacturer members, provides leadership on pharmaceutical distribution and  
supply chain issues.”<sup>29</sup>
- 13           b. Business Technology Committee: “This committee provides guidance to HDA  
14 and its members through the development of collaborative e-commerce  
15 business solutions. The committee’s major areas of focus within pharmaceutical  
16 distribution include information systems, operational integration and the impact  
of e- commerce.” Participation in this committee includes distributors and  
17 manufacturer members.<sup>30</sup>
- 18           c. Health, Beauty and Wellness Committee: “This committee conducts research,  
19 as well as creates and exchanges industry knowledge to help shape the future of  
the distribution for health, beauty and wellness/consumer products in the  
20 healthcare supply chain.” Participation in this committee includes distributors  
and manufacturer members.<sup>31</sup>
- 21           d. Logistics Operation Committee: “This committee initiates projects designed to  
22 help members enhance the productivity, efficiency and customer satisfaction  
23 within the healthcare supply chain. Its major areas of focus include process  
automation, information systems, operational integration, resource management  
24 and quality improvement.” Participation in this committee includes distributors

25  
26 <sup>27</sup> Manufacturer Membership Application, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
[https://www.healthcaredistribution.org/~media/pdfs/membership/manufacturer-membership-](https://www.healthcaredistribution.org/~media/pdfs/membership/manufacturer-membership-application.ashx?la=en)  
27 [application.ashx?la=en](https://www.healthcaredistribution.org/~media/pdfs/membership/manufacturer-membership-application.ashx?la=en).

28 <sup>28</sup> *Id.*

<sup>29</sup> Councils and Committees, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/about/councils-and-committees>.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

and manufacturer members.<sup>32</sup>

- e. Manufacturer Government Affairs Advisory Committee: “This committee provides a forum for briefing HDA’s manufacturer members on federal and state legislative and regulatory activity affecting the pharmaceutical distribution channel. Topics discussed include such issues as prescription drug traceability, distributor licensing, FDA and DEA regulation of distribution, importation and Medicaid/Medicare reimbursement.” Participation in this committee includes manufacturer members.<sup>33</sup>
- f. Bar Code Task Force: Participation includes Distributor, Manufacturer and Service Provider Members.<sup>34</sup>
- g. eCommerce Task Force: Participation includes Distributor, Manufacturer and Service Provider Members.<sup>35</sup>
- h. ASN Working Group: Participation includes Distributor, Manufacturer and Service Provider Members.<sup>36</sup>
- i. Contracts and Chargebacks Working Group: “This working group explores how the contract administration process can be streamlined through process improvements or technical efficiencies. It also creates and exchanges industry knowledge of interest to contract and chargeback professionals.” Participation includes Distributor and Manufacturer Members.<sup>37</sup>

361. The councils, committees, task forces and working groups provided the Manufacturer and Distributor Defendants with the opportunity to work closely together in shaping their common goals and forming the enterprise’s organization.

362. The HDA also offers a multitude of conferences, including annual business and leadership conferences. The HDA and the Distributor Defendants advertise these conferences to the Manufacturer Defendants as an opportunity to “bring together high-level executives, thought leaders and influential managers . . . to hold strategic business discussions on the most pressing industry issues.”<sup>38</sup> The conferences also gave the Manufacturer and Distributor

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Business and Leadership Conference – Information for Manufacturers, Healthcare Distribution Alliance, (accessed on September 14, 2017), <https://www.healthcaredistribution.org/events/2015-business-and-leadership-conference/blc-for-manufacturers>.

1 Defendants “unmatched opportunities to network with [their] peers and trading partners at all  
2 levels of the healthcare distribution industry.”<sup>39</sup> The HDA and its conferences were significant  
3 opportunities for the Manufacturer and Distributor Defendants to interact at a high-level of  
4 leadership. And, it is clear that the Manufacturer Defendants embraced this opportunity by  
5 attending and sponsoring these events.<sup>40</sup>

6 363. Third, the Racketeering Defendants maintained their interpersonal relationships  
7 by working together and exchanging information and driving the unlawful sales of their opioids  
8 through their contractual relationships, including chargebacks and vault security programs.

9 364. The Manufacturer Defendants engaged in an industry-wide practice of paying  
10 rebates and/or chargebacks to the Distributor Defendants for sales of prescription opioids.<sup>41</sup> As  
11 reported in the Washington Post, identified by Senator McCaskill, and acknowledged by the  
12 HDA, there is an industry-wide practice whereby the Manufacturers paid the Distributors  
13 rebates and/or chargebacks on their prescription opioid sales.<sup>42</sup> On information and belief, these  
14 contracts were negotiated at the highest levels, demonstrating ongoing relationships between  
15 the Manufacturer and Distributor Defendants. In return for the rebates and chargebacks, the  
16 Distributor Defendants provided the Manufacturer Defendants with detailed information  
17 regarding their prescription opioid sales, including purchase orders, acknowledgements, ship  
18 notices, and invoices.<sup>43</sup> The Manufacturer Defendants used this information to gather high-  
19 level data regarding overall distribution and direct the Distributor Defendants on how to most  
20 effectively sell the prescription opioids.

21 365. The contractual relationships among the Racketeering Defendants also include  
22

<sup>39</sup> *Id.*

<sup>40</sup> 2015 Distribution Management Conference and Expo, Healthcare Distribution Alliance, (accessed on September 14, 2017), <https://www.healthcaredistribution.org/events/2015-distribution-management-conference>.

<sup>41</sup> Lenny Bernstein & Scott Higham, *The government’s struggle to hold opioid manufacturers accountable*, The Washington Post, (April 2, 2017), [https://www.washingtonpost.com/graphics/investigations/dea-mallinckrodt/?utm\\_term=.b24cc81cc356](https://www.washingtonpost.com/graphics/investigations/dea-mallinckrodt/?utm_term=.b24cc81cc356); *see also*, Letter from Sen. Claire McCaskill, (July 27, 2017), <https://www.mccaskill.senate.gov/imo/media/image/july-opioid-investigation-letter-manufacturers.png>; Letter from Sen. Claire McCaskill, (July 27, 2017), <https://www.mccaskill.senate.gov/imo/media/image/july-opioid-investigation-letter-manufacturers.png>; Letters From Sen. Claire McCaskill, (March 28, 2017), <https://www.mccaskill.senate.gov/opioid-investigation>; Purdue Managed Markets, Purdue Pharma, (accessed on September 14, 2017), <http://www.purduepharma.com/payers/managed-markets/>.

<sup>42</sup> *Id.*

<sup>43</sup> Webinars, Healthcare Distribution Alliance, (accessed on September 14, 2017), <https://www.healthcaredistribution.org/resources/webinar-leveraging-edu>.



1 vault security programs. The Racketeering Defendants are required to maintain certain  
2 security protocols and storage facilities for the manufacture and distribution of their opiates.  
3 Plaintiff is informed and believes that manufacturers negotiated agreements whereby the  
4 Manufacturers installed security vaults for Distributors in exchange for agreements to maintain  
5 minimum sales performance thresholds. Plaintiff is informed and believes that these  
6 agreements were used by the Racketeering Defendants as a tool to violate their reporting and  
7 diversion duties under Nevada law,<sup>44</sup> in order to reach the required sales requirements.

8         366. Taken together, the interaction and length of the relationships between and  
9 among the Manufacturer and Distributor Defendants reflects a deep level of interaction and  
10 cooperation between two groups in a tightly knit industry. The Manufacturer and Distributor  
11 Defendants were not two separate groups operating in isolation or two groups forced to work  
12 together in a closed system. The Racketeering Defendants operated together as a united entity,  
13 working together on multiple fronts, to engage in the unlawful sale of prescription opioids. The  
14 HDA and the Pain Care Forum are but two examples of the overlapping relationships and  
15 concerted joint efforts to accomplish common goals and demonstrate that the leaders of each  
16 of the Racketeering Defendants were in communication and cooperation.

17         367. According to articles published by the Center for Public Integrity and The  
18 Associated Press, the Pain Care Forum – whose members include the Manufacturers and the  
19 Distributors’ trade association – has been lobbying on behalf of the Manufacturers and  
20 Distributors for “more than a decade.”<sup>45</sup> From 2006 to 2016 the Distributors and  
21 Manufacturers worked together through the Pain Care Forum to spend over \$740 million  
22 lobbying in the nation’s capital and in all 50 statehouses on issues including opioid-related  
23 measures.<sup>46</sup> Similarly, the HDA has continued its work on behalf of Distributors and  
24 Manufacturers, without interruption, since at least 2000, if not longer.<sup>47</sup>

25  
26 <sup>44</sup> See, e.g., NRS § 453.231(a).

27 <sup>45</sup> Matthew Perrone & Ben Wieder, *Pro-Painkiller Echo Chamber Shaped Policy Amid Drug Epidemic*, The Ctr.  
for Pub. Integrity, [https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-](https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-amid-drug-epidemic)  
amid-drug-epidemic (last updated Dec. 15, 2016, 9:09 AM).

28 <sup>46</sup> *Id.*

<sup>47</sup> HDA History, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/about/hda-history>.

1           368. Defendants, individually and collectively through trade groups in the industry,  
2 pressured the U.S. Department of Justice to “halt” prosecutions and lobbied Congress to strip  
3 the DEA of its ability to immediately suspend distributor registrations. The result was a “sharp  
4 drop in enforcement actions” and the passage of the “Ensuring Patient Access and Effective  
5 Drug Enforcement Act” which, ironically, raised the burden for the DEA to revoke a distributor’s  
6 license from “imminent harm” to “immediate harm” and provided the industry the right to  
7 “cure” any violations of law before a suspension order can be issued.<sup>48</sup>

8           369. As described above, the Racketeering Defendants began working together as  
9 early as 2006 through the Pain Care Forum and/or the HDA to further the common purpose of  
10 their enterprise. Plaintiff is informed and believes that the Racketeering Defendants worked  
11 together as an ongoing and continuous organization throughout the existence of their enterprise.

12           **CONDUCT OF THE OPIOID DIVERSION ENTERPRISE**

13           370. The Racketeering Defendants conducted the Opioids Diversion Enterprise, and  
14 participated in the enterprise, by engaging in a pattern of racketeering activity, as prohibited by  
15 NRS § 207.400.

16           371. During the time period alleged in this Complaint, the Racketeering Defendants  
17 exerted control over, conducted and/or participated in the Opioid Diversion Enterprise by  
18 fraudulently failing to comply with their obligations under Nevada law (and federal law, as  
19 incorporated into Nevada law) to identify, investigate and report suspicious orders of opioids in  
20 order to prevent diversion of those highly addictive substances into the illicit market, to halt  
21 such unlawful sales as set forth below. In doing so, the Racketeering Defendants increased  
22 production quotas and generated unlawful profits.

23           372. The Racketeering Defendants disseminated statements that were false and  
24 misleading – either affirmatively or through half-truths and omissions – to the general public,  
25 Clark County, Clark County consumers, and the Nevada Board of Pharmacy, claiming that  
26 they were complying with their obligations to maintain effective controls against diversion of  
27

28 <sup>48</sup> See Bernstein & Higham, *Investigation: The DEA Slowed Enforcement While the Opioid Epidemic Grew Out of Control*, *supra*; Bernstein & Higham, *Investigation: U.S. Senator Calls for Investigation of DEA Enforcement Slowdown Amid Opioid Crisis*, *supra*; Eyre, *supra*.

1 their prescription opioids.

2 373. The Racketeering Defendants disseminated statements that were false and  
3 misleading – either affirmatively or through half-truths and omissions – to the general public  
4 Clark County, Clark County consumers, and the Nevada Board of Pharmacy, claiming that  
5 they were complying with their obligations to design and operate a system to disclose to the  
6 registrant suspicious orders of their prescription opioids.

7 374. The Racketeering Defendants disseminated statements that were false and  
8 misleading – either affirmatively or through half-truths and omissions – to the general public,  
9 Clark County, Clark County consumers, and the Nevada Board of Pharmacy claiming that  
10 they were complying with their obligation to notify the DEA of any suspicious orders or  
11 diversion of their prescription opioids.

12 375. The Opioid Diversion Enterprise worked to scale back regulatory oversight by  
13 the DEA that could interfere with the Racketeering Defendants' ability to distribute their opioid  
14 drugs in Clark County, Nevada. To distribute controlled substances in Nevada, the Racketeering  
15 Defendants had to be able to demonstrate possession of a current Nevada registration. *See* NRS  
16 § 453.226. Even if they held a current registration, the Racketeering Defendants' ability to  
17 obtain a Nevada registration could be jeopardized by past suspension or revocation of their DEA  
18 registration. NRS § 453.231(1)(g).

19 376. The Racketeering Defendants paid nearly \$800 million dollars to influence  
20 local, state and federal governments throughout the United States and in Nevada, through joint  
21 lobbying efforts as part of the Pain Care Forum. The Racketeering Defendants were all  
22 members of the Pain Care Forum either directly or indirectly through the HDA. The lobbying  
23 efforts of the Pain Care Forum and its members included efforts to pass legislation making it  
24 more difficult for the DEA to suspend and/or revoke the Manufacturers' and Distributors'  
25 registrations for failure to report suspicious orders of opioids—protecting the Racketeering  
26 Defendants' ability to distribute prescription opioids in Nevada.

27 377. The Racketeering Defendants exercised control and influence over the  
28 distribution industry by participating and maintaining membership in the HDA.

1           378. The Racketeering Defendants applied political and other pressure on the DOJ  
2 and DEA to halt prosecutions for failure to report suspicious orders of prescription opioids and  
3 lobbied Congress to strip the DEA of its ability to immediately suspend registrations pending  
4 investigation by passing the “Ensuring Patient Access and Effective Drug Enforcement Act.”<sup>49</sup>

5           379. The Racketeering Defendants engaged in an industry-wide practice of paying  
6 rebates and chargebacks to incentivize unlawful opioid prescription sales. Plaintiff is informed  
7 and believes that the Manufacturer Defendants used the chargeback program to acquire detailed  
8 high-level data regarding sales of the opioids they manufactured. And, Plaintiff is informed  
9 and believes that the Manufacturer Defendants used this high-level information to direct the  
10 Distributor Defendants’ sales efforts to regions where prescription opioids were selling in  
11 larger volumes.

12           380. The Manufacturer Defendants lobbied the DEA to increase Aggregate  
13 Production Quotas, year after year by submitting net disposal information that the  
14 Manufacturer Defendants knew included sales that were suspicious and involved the diversion  
15 of opioids that had not been properly investigated or reported by the Racketeering Defendants.

16           381. The Distributor Defendants developed “know your customer” questionnaires  
17 and files. This information, compiled pursuant to comments from the DEA in 2006 and 2007,  
18 was intended to help the Racketeering Defendants identify suspicious orders or customers who  
19 were likely to divert prescription opioids.<sup>50</sup> On information and belief, the “know your  
20 customer” questionnaires informed the Racketeering Defendants of the number of pills that the  
21 pharmacies sold, how many non-controlled substances are sold compared to controlled  
22 substances, whether the pharmacy buys from other distributors, the types of medical providers  
23 in the area, including pain clinics, general practitioners, hospice facilities, cancer treatment

24  
25 <sup>49</sup> See HDMA is now the Healthcare Distribution Alliance, Pharmaceutical Commerce, (June 13, 2016, updated  
26 July 6, 2016), [http://pharmaceuticalcommerce.com/business-and-finance/hdma-now-healthcare-distribution-](http://pharmaceuticalcommerce.com/business-and-finance/hdma-now-healthcare-distribution-alliance/)  
27 [alliance/](http://pharmaceuticalcommerce.com/business-and-finance/hdma-now-healthcare-distribution-alliance/); Bernstein & Higham, *Investigation: The DEA Slowed Enforcement While the Opioid Epidemic Grew Out*  
28 *of Control*, *supra*; Bernstein & Higham, *Investigation: U.S. Senator Calls for Investigation of DEA Enforcement*  
*Slowdown Amid Opioid Crisis*, *supra*; Eyre, *supra*.

<sup>50</sup> Suggested Questions a Distributor should ask prior to shipping controlled substances, Drug Enforcement  
Administration (available at [https://www.deadiversion.usdoj.gov/mtgs/pharm\\_industry/14th\\_pharm/](https://www.deadiversion.usdoj.gov/mtgs/pharm_industry/14th_pharm/levinl_ques.pdf)  
[levinl\\_ques.pdf](https://www.deadiversion.usdoj.gov/mtgs/pharm_industry/14th_pharm/levinl_ques.pdf)); Richard Widup, Jr., Kathleen H. Dooley, Esq. Pharmaceutical Production Diversion: Beyond the  
PDMA, Purdue Pharma and McQuite Woods LLC, (available at [https://www.mcguirewoods.com/news-](https://www.mcguirewoods.com/news-resources/publications/lifesciences/product_diversion_beyond_pdma.pdf)  
[resources/publications/lifesciences/product\\_diversion\\_beyond\\_pdma.pdf](https://www.mcguirewoods.com/news-resources/publications/lifesciences/product_diversion_beyond_pdma.pdf)).

1 facilities, among others, and these questionnaires put the recipients on notice of suspicious  
2 orders.

3 382. The Racketeering Defendants refused to identify, investigate and report  
4 suspicious orders to the DEA, the Nevada Board of Pharmacy, and the FDA when they became  
5 aware of the same despite their actual knowledge of drug diversion rings. The Racketeering  
6 Defendants refused to identify suspicious orders and diverted drugs despite the DEA issuing  
7 final decisions against the Distributor Defendants in 178 registrant actions between 2008 and  
8 2012<sup>51</sup> and 117 recommended decisions in registrant actions from The Office of Administrative  
9 Law Judges. These numbers include 76 actions involving orders to show cause and 41 actions  
10 involving immediate suspension orders – all for failure to report suspicious orders.<sup>52</sup>

11 383. Defendants' scheme had decision-making structure that was driven by the  
12 Manufacturer Defendants and corroborated by the Distributor Defendants. The Manufacturer  
13 Defendants worked together to control the State and Federal Government's response to the  
14 manufacture and distribution of prescription opioids by increasing production quotas through  
15 a systematic refusal to maintain effective controls against diversion and to identify suspicious  
16 orders and report them to the DEA and State governments, including the State of Nevada.

17 384. The Racketeering Defendants also worked together to ensure that the Aggregate  
18 Production Quotas, Individual Quotas and Procurement Quotas allowed by the DEA stayed  
19 high and to ensure that suspicious orders were not reported to the DEA. By not reporting  
20 suspicious orders or diversion of prescription opioids, the Racketeering Defendants ensured  
21 that the DEA had no basis for refusing to increase, or to decrease, the production quotas for  
22 prescription opioids due to diversion of suspicious orders. The Racketeering Defendants  
23 influenced the DEA production quotas in the following ways:

- 24 a. The Distributor Defendants assisted the enterprise and the Manufacturer  
25 Defendants in their lobbying efforts through the Pain Care Forum;
- 26 b. The Distributor Defendants invited the participation, oversight and control of  
27 the Manufacturer Defendants by including them in the HDA, including on the

28 <sup>51</sup> Evaluation and Inspections Div., Office of the Inspector Gen., U.S. Dep't of Justice, *The Drug Enforcement Administration's Adjudication of Registrant Actions* 6 (2014), <https://oig.justice.gov/reports/2014/e1403.pdf>.

<sup>52</sup> *Id.*

councils, committees, task forces, and working groups;

- c. The Distributor Defendants provided sales information to the Manufacturer Defendants regarding their prescription opioids, including reports of all opioid prescriptions filled by the Distributor Defendants;
- d. The Manufacturer Defendants used a chargeback program to ensure delivery of the Distributor Defendants' sales information;
- e. The Manufacturer Defendants obtained sales information from QuintilesIMS (formerly IMS Health) that gave them a "stream of data showing how individual doctors across the nation were prescribing opioids."<sup>53</sup>
- f. The Distributor Defendants accepted rebates and chargebacks for orders of prescription opioids;
- g. The Manufacturer Defendants used the Distributor Defendants' sales information and the data from QuintilesIMS to instruct the Distributor Defendants to focus their distribution efforts to specific areas where the purchase of prescription opioids was most frequent;
- h. The Racketeering Defendants identified suspicious orders of prescription opioids and then continued filling those unlawful orders, without reporting them, knowing that they were suspicious and/or being diverted into the illicit drug market;
- i. The Racketeering Defendants refused to report suspicious orders of prescription opioids despite repeated investigation and punishment of the Distributor Defendants by the DEA for failure to report suspicious orders; and
- j. The Racketeering Defendants withheld information regarding suspicious orders and illicit diversion from the DEA because it would have revealed that the "medical need" for and the net disposal of their drugs did not justify the production quotas set by the DEA.

385. The scheme devised and implemented by the Racketeering Defendants amounted to a common course of conduct characterized by a refusal to maintain effective controls against diversion, in intentional violation of Nevada law, and all designed and operated to ensure the continued unlawful sale of controlled substances.

<sup>53</sup> Harriet Ryan, et al., *More than 1 million OxyContin pills ended up in the hands of criminals and addicts. What the drugmaker knew*, Los Angeles Times, (July 10, 2016), <http://www.latimes.com/projects/la-me-oxycontin-part2/>.

1       **PATTERN OF RACKETEERING ACTIVITY**

2           386.   The Racketeering Defendants conducted and participated in the conduct of the  
3   Opioid Diversion Enterprise through a pattern of racketeering activity as defined in NRS §  
4   207.390, by at least two crimes related to racketeering (NRS § 207.360), trafficking in  
5   controlled substances (NRS §§ 207.360(22); 453.3395), multiple transactions involving deceit  
6   in the course of an enterprise (NRS §§ 207.360(35); 205.377) and distribution of controlled  
7   substances or controlled substance analogues (NRS § 453.331), and punishable by  
8   imprisonment of at least one year, with the intent of accomplishing activities prohibited by §  
9   207.400 of the Racketeering Act.

10          387.   The Racketeering Defendants committed, conspired to commit, and/or aided  
11   and abetted in the commission of at least two predicate acts of racketeering activity (i.e.  
12   violations of NRS §§ 207.360), within a five-year period. The multiple acts of racketeering  
13   activity that the Racketeering Defendants committed, or aided and abetted in the commission  
14   of, were related to each other, posed a threat of continued racketeering activity, and therefore  
15   constitute a “pattern of racketeering activity.” The racketeering activity was made possible by  
16   the Racketeering Defendants’ regular use of the facilities, services, distribution channels, and  
17   employees of the Opioid Diversion Enterprise.

18          388.   The Racketeering Defendants committed these predicate acts, which number in  
19   the thousands, intentionally and knowingly with the specific intent to advance the Opioids  
20   Diversion Enterprise by conducting activities prohibited by NRS §§ 207.360, 207.390, 207.400.

21          389.   The predicate acts all had the purpose of generating significant revenue and  
22   profits for the Racketeering Defendants while Clark County was left with substantial injury to  
23   its business through the damage that the prescription opioid epidemic caused. The predicate  
24   acts were committed or caused to be committed by the Racketeering Defendants through their  
25   participation in the Opioid Diversion Enterprise and in furtherance of its fraudulent scheme.  
26   The predicate acts were related and not isolated events.

27          390.   The pattern of racketeering activity alleged herein and the Opioid Diversion  
28   Enterprise are separate and distinct from each other. Likewise, the Racketeering Defendants

1 are distinct from the enterprise.

2 391. The pattern of racketeering activity alleged herein is continuing as of the date  
3 of this Third Amended Complaint and, upon information and belief, will continue into the  
4 future unless enjoined by this Court.

5 392. Many of the precise dates of the Racketeering Defendants' criminal actions at  
6 issue here have been hidden and cannot be alleged without access to Defendants' books and  
7 records. Indeed, an essential part of the successful operation of the Opioid Diversion Enterprise  
8 alleged herein depended upon secrecy.

9 393. Each instance of racketeering activity alleged herein was related, had similar  
10 purposes, involved the same or similar participants and methods of commission, and had  
11 similar results affecting similar victims, including consumers in the Clark County, Nevada.  
12 Defendants calculated and intentionally crafted the Opioid Diversion Enterprise and their  
13 scheme to increase and maintain their increased profits, without regard to the effect such  
14 behavior would have on Clark County, Nevada, Clark County, Nevada consumers, or other  
15 Clark County, Nevada citizens. In designing and implementing the scheme, at all times  
16 Defendants were cognizant of the fact that those in the manufacturing and distribution chain  
17 rely on the integrity of the pharmaceutical companies and ostensibly neutral third parties to  
18 provide objective and reliable information regarding Defendants' products and their  
19 manufacture and distribution of those products. The Racketeering Defendants were also aware  
20 that Clark County and the citizens of this jurisdiction rely on the Racketeering Defendants to  
21 maintain a closed system and to protect against the non-medical diversion and use of their  
22 dangerously addictive opioid drugs.

23 394. By intentionally refusing to report and halt suspicious orders of their  
24 prescription opioids, the Racketeering Defendants engaged in a deceptive scheme and unlawful  
25 course of conduct constituting a pattern of racketeering activity.

26 395. It was foreseeable to Defendants that refusing to report and halt suspicious  
27 orders would harm Clark County by allowing the flow of prescription opioids from appropriate  
28 medical channels into the illicit drug market.



1           396. The Racketeering Defendants did not undertake the predicate acts described  
2 herein in isolation, but as part of a common scheme. Various other persons, firms, and  
3 corporations, including third-party entities and individuals not named as defendants in this Third  
4 Amended Complaint, may have contributed to and/or participated in the scheme with the  
5 Racketeering Defendants in these offenses and have performed acts in furtherance of the  
6 scheme to increase revenues, increase market share, and /or minimize the losses for the  
7 Racketeering Defendants.

8           397. The Racketeering Defendants aided and abetted others in the violations of NRS  
9 §§ 207.360, 207.390, and 207.400, while sharing the same criminal intent as the principals who  
10 committed those violations, thereby rendering them indictable as principals in the offenses.

11           398. The last racketeering incident occurred within five years of the commission of  
12 a prior incident of racketeering.

13           **1. The Racketeering Defendants Conducted the Opioid Diversion Enterprise**  
14           **through Acts of Fraud.**

15           399. Fraud consists of the intentional misappropriation or taking of anything of value  
16 that belongs to another by means of fraudulent conduct, practices or representations.

17           400. The Racketeering Defendants' fraudulent conduct, practices, and  
18 representations include, but are not limited to:

- 19           a. Misrepresentations to facilitate Defendants' DEA registrations, which could be a bar  
20           to their registrations with the Nevada Board of Pharmacy;
- 21           b. Requests for higher aggregate production quotas, individual production quotas, and  
22           procurement quotas to support Defendants' manufacture and distribution of  
23           controlled substances they knew were being or would be unlawfully diverted;
- 24           c. Misrepresentations and misleading omissions in Defendants' records and reports  
25           that were required to be submitted to the DEA and the Nevada Board of Pharmacy  
26           pursuant to Nevada Administrative Code provisions;
- 27           d. Misrepresentations and misleading omissions in documents and communications  
28           related to the Defendants' mandatory DEA reports that would affect Nevada  
            registrant status; and
- e. Rebate and chargeback arrangements between the Manufacturers and the

1 Distributors that Defendants used to facilitate the manufacture and sale of controlled  
2 substances they knew were being or would be unlawfully diverted into and from  
3 Nevada.

4 401. Specifically, the Racketeering Defendants made misrepresentations about their  
5 compliance with Federal and State laws requiring them to identify, investigate and report  
6 suspicious orders of prescription opioids and/or diversion of the same into the illicit market, all  
7 while Defendants were knowingly allowing millions of doses of prescription opioids to divert  
8 into the illicit drug market. The Racketeering Defendants' scheme and common course of  
9 conduct was intended to increase or maintain high production quotas for their prescription  
10 opioids from which they could profit.

11 402. At the same time, the Racketeering Defendants misrepresented the superior  
12 safety features of their order monitoring programs, their ability to detect suspicious orders,  
13 their commitment to preventing diversion of prescription opioids, and that they complied with  
14 all state and federal regulations regarding the identification and reporting of suspicious orders  
15 of prescription opioids.

16 403. The Racketeering Defendants intended to and did, through the above-described  
17 fraudulent conduct, practices, and representations, intentionally misappropriate funds from  
18 Clark County and from private insurers, in excess of \$500, including, for example:

- 19 a. Costs incurred by and resources diverted from Clark County infrastructure and health  
20 care providers;  
21 b. Any and all cost or payments related to benefits of Clark County employees;

22 404. Many of the precise dates of the fraudulent acts and practices have been  
23 deliberately hidden and cannot be alleged without access to Defendants' books and records.  
24 But, Plaintiff has described the types of, and in some instances, occasions on which the  
25 predicate acts of fraud occurred.

26 **The Racketeering Defendants Unlawfully Trafficked in and Distributed Controlled  
Substances.**

27 405. Defendants' racketeering activities also included violations of the Nevada  
28 Controlled Substances Act, § 453.3395, and each act is chargeable or indictable under the laws  
of Nevada and punishable by imprisonment for more than one year. *See* NRS § 207.360(22).

1           406. Under Nevada law (NRS § 453.3395), it is unlawful to “knowingly or  
2 intentionally sell[], manufacture[], deliver[] or bring[] into this state”— prescription opioids,  
3 which are Schedule II controlled substances that are narcotic drugs, except as authorized by the  
4 Nevada Controlled Substances Act.

5           407. The Racketeering Defendants intentionally trafficked in prescription opioid  
6 drugs, in violation of Nevada law, by manufacturing, selling, and/or distributing those drugs in  
7 Nevada in a manner not authorized by the Nevada Controlled Substances Act. The  
8 Racketeering Defendants failed to act in accordance with the Nevada Controlled Substances  
9 Act because they did not act in accordance with registration requirements as provided in that  
10 Act.

11           408. Among other infractions, the Racketeering Defendants did not comply with 21  
12 USC § 823 and its attendant regulations (*e.g.*, 21 CFR § 1301.74)<sup>54</sup> which are incorporated into  
13 Nevada state law, or the Nevada Pharmacy Board regulations. The Racketeering Defendants  
14 failed to furnish notifications and omitted required reports to the Nevada Board.

15           409. Plaintiff is informed and believes that the Racketeering Defendants failed to  
16 furnish required notifications and make reports as part of a pattern and practice of willfully and  
17 intentionally omitting information from their mandatory reports to the DEA, as required by 21  
18 CFR § 1301.74, throughout the United States.

19           410. For example, the DEA and DOJ began investigating McKesson in 2013  
20 regarding its monitoring and reporting of suspicious controlled substances orders. On April 23,  
21 2015, McKesson filed a Form-8-K announcing a settlement with the DEA and DOJ wherein it  
22 admitted to violating the CSA and agreed to pay \$150 million and have some of its DEA  
23 registrations suspended on a staggered basis. The settlement was finalized on January 17,  
24 2017.<sup>55</sup>

25  
26 <sup>54</sup> Once again, throughout this Count and in this Complaint Plaintiff cites federal statutes and federal regulations to  
27 state the duty owed under Nevada tort law, *not* to allege an independent federal cause of action or substantial  
federal question. *See, e.g., Herrera*, 2003-NMSC-018, ¶7.

28 <sup>55</sup> McKesson, McKesson Finalizes Settlement with U.S. Department of Justice and U.S. Drug Enforcement  
Administration to Resolve Past Claims, About McKesson / Newsroom / Press Releases, (January 17, 2017),  
[http://www.mckesson.com/about-mckesson/newsroom/press-releases/2017/mckesson-finalizes-settlement-with-](http://www.mckesson.com/about-mckesson/newsroom/press-releases/2017/mckesson-finalizes-settlement-with-doj-and-dea-to-resolve-past-claims/)  
[doj-and-dea-to-resolve-past-claims/](http://www.mckesson.com/about-mckesson/newsroom/press-releases/2017/mckesson-finalizes-settlement-with-doj-and-dea-to-resolve-past-claims/).

1           411. Purdue’s experience in Los Angeles is another striking example of Defendants’  
2 willful violation of their duty to report suspicious orders of prescription opioids. In 2016, the  
3 Los Angeles Times reported that Purdue was aware of a pill mill operating out of Los  
4 Angeles yet failed to alert the DEA.<sup>56</sup> The LA Times uncovered that Purdue began tracking a  
5 surge in prescriptions in Los Angeles, including one prescriber in particular. A Purdue sales  
6 manager spoke with company officials in 2009 about the prescriber, asking “Shouldn’t the  
7 DEA be contacted about this?” and adding that she felt “very certain this is an organized drug  
8 ring.”<sup>57</sup> Despite knowledge of the staggering amount of pills being issued in Los Angeles, and  
9 internal discussion of the problem, “Purdue did not shut off the supply of highly addictive  
10 OxyContin and did not tell authorities what it knew about Lake Medical until several years  
11 later when the clinic was out of business and its leaders indicted. By that time, 1.1 million pills  
12 had spilled into the hands of Armenian mobsters, the Crips gang and other criminals.”<sup>58</sup>

13           412. Finally, Mallinckrodt was recently the subject of a DEA and Senate  
14 investigation for its opioid practices. Specifically, in 2011, the DEA targeted Mallinckrodt,  
15 arguing that it ignored its responsibility to report suspicious orders as 500 million of its pills  
16 ended up in Florida between 2008 and 2012.<sup>59</sup> After six years of DEA investigation,  
17 Mallinckrodt agreed to a settlement involving a \$35 million fine. Federal prosecutors  
18 summarized the case by saying that Mallinckrodt’s response was that everyone knew what was  
19 going on in Florida, but they had no duty to report it.<sup>60</sup>

20           413. The Racketeering Defendants’ pattern and practice of willfully and intentionally  
21 omitting information from their mandatory reports is evident in the sheer volume of  
22 enforcement actions available in the public record against the Distributor Defendants.<sup>61</sup> For  
23 example:

24  
25 <sup>56</sup> Harriet Ryan, et al., *More than 1 million OxyContin pills ended up in the hands of criminals and addicts. What*  
*the drugmaker knew*, Los Angeles Times, (July 10, 2016), [http://www.latimes.com/projects/la-me-oxycotin-](http://www.latimes.com/projects/la-me-oxycotin-part2/)  
26 [part2/](http://www.latimes.com/projects/la-me-oxycotin-part2/).

27 <sup>57</sup> *Id.*

28 <sup>58</sup> *Id.*

<sup>59</sup> Bernstein & Higham, *The government’s struggle to hold opioid manufacturers accountable*, *supra*. This number  
accounted for 66% of all oxycodone sold in the state of Florida during that time.

<sup>60</sup> *Id.*

<sup>61</sup> Evaluation and Inspections Div., Office of the Inspector Gen., U.S. Dep’t of Justice, *The Drug Enforcement*  
*Administration’s Adjudication of Registrant Actions* 6 (2014), <https://oig.justice.gov/reports/2014/e1403.pdf>.

- 1
- 2 a. On April 24, 2007, the DEA issued an *Order to Show Cause and Immediate*
- 3 *Suspension Order* against the AmerisourceBergen Orlando, Florida distribution
- 4 center ("Orlando Facility") alleging failure to maintain effective controls
- 5 against diversion of controlled substances. On June 22, 2007,
- 6 AmerisourceBergen entered into a settlement that resulted in the suspension of
- 7 its DEA registration;
- 8
- 9 b. On November 28, 2007, the DEA issued an *Order to Show Cause and*
- 10 *Immediate Suspension Order* against the Cardinal Health Auburn, Washington
- 11 Distribution Center ("Auburn Facility") for failure to maintain effective
- 12 controls against diversion of hydrocodone;
- 13
- 14 c. On December 5, 2007, the DEA issued an *Order to Show Cause and Immediate*
- 15 *Suspension Order* against the Cardinal Health Lakeland, Florida Distribution
- 16 Center ("Lakeland Facility") for failure to maintain effective controls against
- 17 diversion of hydrocodone;
- 18
- 19 d. On December 7, 2007, the DEA issued an *Order to Show Cause and Immediate*
- 20 *Suspension Order* against the Cardinal Health Swedesboro, New Jersey
- 21 Distribution Center ("Swedesboro Facility") for failure to maintain effective
- 22 controls against diversion of hydrocodone;
- 23
- 24 e. On January 30, 2008, the DEA issued an *Order to Show Cause and Immediate*
- 25 *Suspension Order* against the Cardinal Health Stafford, Texas Distribution
- 26 Center ("Stafford Facility") for failure to maintain effective controls against
- 27 diversion of hydrocodone;
- 28
- 29 f. On May 2, 2008, McKesson Corporation entered into an *Administrative*
- 30 *Memorandum of Agreement* ("2008 MOA") with the DEA which provided that
- 31 McKesson would "maintain a compliance program designed to detect and
- 32 prevent the diversion of controlled substances, inform DEA of suspicious orders
- 33 required by 21 CFR § 1301.74(b), and follow the procedures established by its
- 34 Controlled Substance Monitoring Program";
- 35
- 36 g. On September 30, 2008, Cardinal Health entered into a *Settlement and Release*
- 37 *Agreement and Administrative Memorandum of Agreement* with the DEA
- 38 related to its Auburn Facility, Lakeland Facility, Swedesboro Facility and
- 39 Stafford Facility. The document also referenced allegations by the DEA that
- 40 Cardinal failed to maintain effective controls against the diversion of controlled
- 41 substances at its distribution facilities located in McDonough, Georgia
- 42 ("McDonough Facility"), Valencia, California ("Valencia Facility") and
- 43 Denver, Colorado ("Denver Facility");

- 1 h. On February 2, 2012, the DEA issued an *Order to Show Cause and Immediate*  
2 *Suspension Order* against the Cardinal Health Lakeland, Florida Distribution  
3 Center (“Lakeland Facility”) for failure to maintain effective controls against  
4 diversion of oxycodone;
- 5 i. On December 23, 2016, Cardinal Health agreed to pay a \$44 million fine to the  
6 DEA to resolve the civil penalty portion of the administrative action taken  
7 against its Lakeland, Florida Distribution Center; and
- 8 j. On January 5, 2017, McKesson Corporation entered into an *Administrative*  
9 *Memorandum Agreement* with the DEA wherein it agreed to pay a \$150,000,000  
10 civil penalty for violation of the 2008 MOA as well as failure to identify and  
11 report suspicious orders at its facilities in Aurora CO, Aurora IL, Delran NJ,  
12 LaCrosse WI, Lakeland FL, Landover MD, La Vista NE, Livonia MI, Methuen  
13 MA, Santa Fe Springs CA, Washington Courthouse OH and West Sacramento  
14 CA.

15 414. These actions against the Distributor Defendants confirm that the Distributors  
16 knew they had a duty to maintain effective controls against diversion, design and operate a  
17 system to disclose suspicious orders, and to report suspicious orders to the DEA. These actions  
18 also demonstrate, on information and belief, that the Manufacturer Defendants were aware of  
19 the enforcement against their Distributors and the diversion of the prescription opioids and a  
20 corresponding duty to report suspicious orders.

21 415. Many of the precise dates of Defendants’ criminal actions at issue herein were  
22 hidden and cannot be alleged without access to Defendants’ books and records. Indeed, an  
23 essential part of the successful operation of the Opioid Diversion Enterprise depended upon  
24 the secrecy of the participants in that enterprise.

### 25 **SEVENTH CAUSE OF ACTION**

26 *(Violation of the Nevada Racketeering Act against the Insys Executives)*

27 416. Clark County, as a “person” who has sustained injury brings this claim for civil  
28 remedies under the Racketeering Act, NRS §§207.350 to 207.520, against the Insys  
29 Executives.

30 417. The Insys Executives conducted business through legitimate and illegitimate  
31 means in the form of a criminal syndicate defined by NRS §207.370.

1           418. Section 207.400 of the Racketeering Act makes it unlawful “for a person . . .  
2 employed by or associated with any enterprise to conduct or participate, directly or indirectly,  
3 in: (1) The affairs of the enterprise through racketeering activity; or (2) Racketeering activity  
4 through the affairs of the enterprise.” NRS § 207.400(1)(c).

5           419. Section 207.400 of the Racketeering Act also makes it unlawful “for a person . . .  
6 to conspire to violate any of the provisions” of the Racketeering Act. NRS §207.400(1)(j).

7           420. The term “criminal syndicate” is defined as “any combination of persons, so  
8 structured that the organization will continue its operation even if individual members enter or  
9 leave the organization, which engages in or has the purpose of engaging in racketeering  
10 activity.”

11           421. Over a period years, the Insys Executives developed a scheme to bribe  
12 physicians around the country, including in Clark County, to prescribe the Insys product,  
13 Subsys, which is a Fentanyl product delivered by an oral spray. Subsys was developed and  
14 approved solely for use by cancer patients with breakthrough pain. The Insys Executives  
15 bribed doctors using Insys money, kickbacks, and other “speaker fees,” to encourage increased  
16 Subsys prescriptions. If a doctor did not prescribe sufficient quantities of Subsys, as  
17 determined by the Insys Executives, the Insys Executives would threaten the doctors that they  
18 would withhold bribe money previously promised.

19           422. The Insys Executives falsely informed doctors and other healthcare professionals  
20 that Subsys was not addictive and could be used for off-label purposes, such as long-term  
21 management of moderate pain.

22           423. The Insys Executive’s scheme violated NRS§ 205.377(1), which prohibits any  
23 person from, “in the course of an enterprise or occupation, knowingly and with the intent to  
24 defraud, engage in an act, practice or course of business or employ a . . . scheme which  
25 operates or would operate as a fraud or deceit upon a person by means of a false representation  
26 or omission of a material fact” on two (2), or more, occasions, utilizing the same or similar  
27 pattern, intents, or results, with an aggregate loss or intended loss of over \$650. The Insys  
28 Executives knew that their representations or omissions of material facts related to the  
approved uses and dangers of Subsys were false or omitted. NRS § 205.377(1)(a). The Insys

1 Executives intended doctors, patients, and communities, to rely upon those false  
2 representations or omissions. NRS § 205.377(1)(b). The Insys Executives' deceptive scheme  
3 resulted in a loss to the County who relied upon the false representations or omissions. NRS §  
4 205.377(1)(c).

5 424. Each individual act of deception by the Insys Executives constitutes a separate  
6 violation of NRS §205.377. NRS § 205.377(2).

7 425. The bribes provided by the Insys Executives to prescribing doctors took many  
8 forms, including, but not limited to, paying for speaking engagements that did not actually  
9 occur; paying for the salaries of the doctor's office staff; and providing doctors with exotic  
10 dances performed by Insys employees, including Sunrise Lee.

11 426. The Insys Executives pushed sales representatives to get at least one prescription  
12 per day from doctors in their sales areas and to be sure that prescriptions were for high dosages.

13 427. If there was ever an issue with prescription approval through insurance, the Insys  
14 Executives developed a scheme involving a call-center where the sales representatives would  
15 call insurance companies to lie in whatever way was necessary to convince the insurance  
16 companies to authorize payment for the prescriptions.

17 428. The Insys Executives instructed their sales representatives to not include  
18 "cancer" in their sales pitches when discussing the appropriate use of the medication.  
19 Defendant, Michael Babich, led training seminars in which sales representatives were told to  
20 encourage pain management physicians to prescribe Subsys for off-label purposes in any way  
21 they wanted and, thus, the representatives should not discuss the Subsys use for "cancer pain."

22 429. Upon reports of "pill-mills" from concerned sales representatives, the Insys  
23 Executives directed the sales representatives to increase their visits with the doctors operating  
24 the "pill-mills," to offer them additional kickbacks and bribes, and to provide additional  
25 benefits related to the increased number of Subsys prescriptions.

26 430. The Insys Executives arranged speaking engagements for doctors who would be  
27 paid for their appearance. The doctors invited to speak were those with high Subsys  
28 prescription levels. Oftentimes, the speaking engagement was nothing more than a lunch or  
dinner with Insys Executives.



431. The Insys Executives' actions were regular and ongoing over a period of years. Many of the precise dates of the Insys Executives' actions at issue herein were hidden and cannot be alleged without access to the Insys Executives' books and records. The full extent of the Insys Executives' fraudulent and deceptive behavior cannot be known without the benefit of discovery and is information within the Insys Executives' possession.

432. Each violation of NRS § 205.377 was a violation of Nevada's Racketeering Act. NRS § 207.360(35).

433. The Insys Executives' scheme in which they bribed doctors to prescribe Subsys, provided false information as to the dangerous and addictive nature of Subsys, and concealed Subsys' actual, approved purpose, caused harm to the citizens of Clark County who relied upon the representations that the drug they were prescribe was safe and appropriate for use, and harmed the County through the increase costs of law enforcement, public health, and health care services.

### **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 by the creation of a Court-supervised fund, financed by Defendants, and which will:
  - a. Notify individuals who use or used opioids of the potential harm from opioids;
  - b. Aid in the early diagnosis and treatment of resulting injuries through ongoing testing and monitoring of opioid use;

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



1 **DEMAND FOR JURY TRIAL**

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

4 DATED this 11<sup>th</sup> day of September, 2019

6  
7 **EGLET ADAMS**

8  
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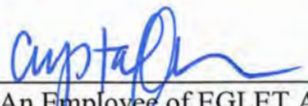
19 Tel.: 702-671-2700

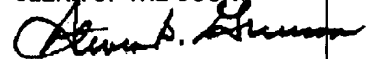
20 Email: [steven.wolfson@clarkcountynvda.com](mailto:steven.wolfson@clarkcountynvda.com)

*Attorneys for Plaintiff, Clark County*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET ADAMS, and that on September 12<sup>th</sup>, 2019, I caused the foregoing document entitled **THIRD AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

  
An Employee of EGLET ADAMS



CASE NO: A-19-800695-B  
Department 11

**COMJD**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CITY OF HENDERSON,

Plaintiff,

v.

PURDUE PHARMA, L.P.; PURDUE

PHARMA, INC.; THE PURDUE

FREDERICK COMPANY, INC.; PURDUE

PHARMACEUTICALS, L.P.; RICHARD S.

SACKLER; JONATHAN D. SACKLER,

MORTIMER D.A. SACKLER; KATHE A.

SACKLER; ILENE SACKLER LEFCOURT;

) Case No.:

) Dept No.:

**COMPLAINT**

**REQUEST FOR BUSINESS COURT**

**EXEMPT FROM ARBITRATION**

1 DAVID A. SACKLER; BEVERLY )  
 SACKLER; THERESA SACKLER; PLP )  
 2 ASSOCIATES HOLDINGS L.P.; ROSEBAY )  
 MEDICAL COMPANY L.P.; BEACON )  
 3 COMPANY; TEVA PHARMACEUTICALS )  
 4 USA, INC.; CEPHALON, INC.; ENDO )  
 HEALTH SOLUTIONS INC.; ENDO )  
 5 PHARMACEUTICALS, INC.; PAR )  
 PHARMACEUTICAL, INC.; PAR )  
 6 PHARMACEUTICAL COMPANIES, INC.; )  
 7 ALLERGAN INC.; ALLERGAN USA INC.; )  
 ACTAVIS, INC. f/k/a WATSON )  
 8 PHARMACEUTICALS, INC.; WATSON )  
 LABORATORIES, INC.; MALLINCKRODT )  
 9 LLC; SPECGX LLC; ACTAVIS LLC; )  
 10 ACTAVIS PHARMA, INC. f/k/a WATSON )  
 PHARMA, INC.; JOHNSON & JOHNSON; )  
 11 JANSSEN PHARMACEUTICALS, INC.; )  
 NORAMCO, INC.; )  
 12 AMERISOURCEBERGEN DRUG )  
 CORPORATION; CARDINAL HEALTH, )  
 13 INC.; CARDINAL HEALTH 6 INC.; )  
 14 CARDINAL HEALTH TECHNOLOGIES )  
 LLC; CARDINAL HEALTH 414 LLC; )  
 15 CARDINAL HEALTH 200 LLC; )  
 MCKESSON CORPORATION; )  
 16 WALGREENS BOOTS ALLIANCE, INC.; )  
 17 WALGREEN CO.; WALGREEN EASTERN )  
 CO., INC.; WALMART INC.; CVS HEALTH )  
 18 CORPORATION; CVS PHARMACY, INC.; )  
 19 CVS INDIANA L.L.C.; CVS RX SERVICES, )  
 INC.; CVS TENNESSEE DISTRIBUTION, )  
 20 L.L.C.; MASTERS PHARMACEUTICAL, )  
 21 LLC f/k/a MASTERS PHARMACEUTICAL, )  
 INC.; C & R PHARMACY d/b/a KEN'S )  
 22 PHARMACY f/k/a LAM'S PHARMACY, )  
 INC.; EXPRESS SCRIPTS HOLDING )  
 23 COMPANY; EXPRESS SCRIPTS, INC.; )  
 24 AIDA B MAXSAM; STEVEN A HOLPER )  
 MD; STEVEN A. HOLPER, M.D., )  
 25 PROFESSIONAL CORPORATION; )  
 HOLPER OUT-PATIENTS MEDICAL )  
 26 CENTER, LTD.; DOES 1 through 100; ROE )  
 27 CORPORATIONS 1 through 100 and ZOE )  
 PHARMACIES 1 through 100, inclusive,

Defendants.

1 Plaintiff the City of Henderson, Nevada, by and through the undersigned attorneys, files  
2 this Complaint against the named Defendants seeking to recover its damages as a result of the  
3 opioid epidemic Defendants caused, and alleges as follows:

4 **INTRODUCTION**

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

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

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

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

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

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

20 7. From 2000 to 2015, more than half a million people died from drug overdoses  
21 (including prescription opioids and heroin). The most recent figures from the CDC suggest that  
22 175 Americans die everyday from an opioid overdose (prescription and heroin).

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

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

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



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

5           12. Defendant drug companies named herein, manufacture, market, and sell  
6 prescription opioids (hereinafter "opioids"), including brand-name drugs like Oxycontin, Vicodin  
7 and Percocet, as well as generics like oxycodone and hydrocodone, which are powerful narcotic  
8 painkillers.

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

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

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

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

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

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

1           19. 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           20. Defendants disseminated these common messages to reverse the popular and  
5 medical understanding of opioids.

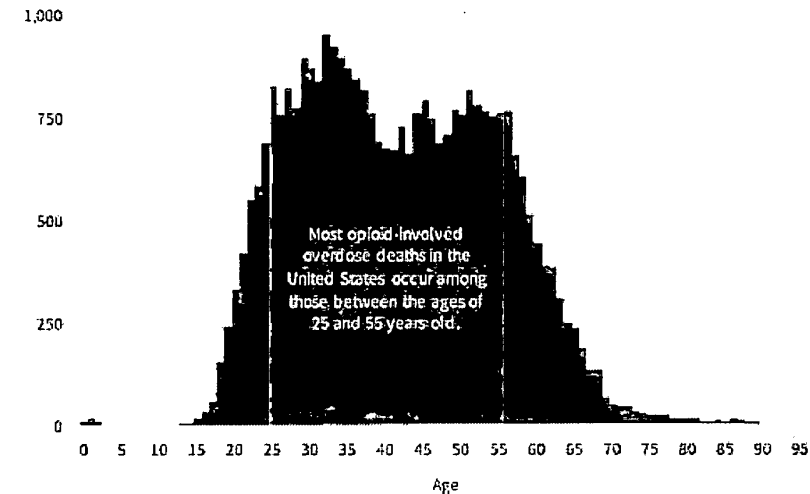
6           21. As a result of the drug companies’ marketing campaign, opioids are now the most  
7 prescribed class of drugs generating over \$11 billion in revenue for drug companies in 2014 alone.

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

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

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

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



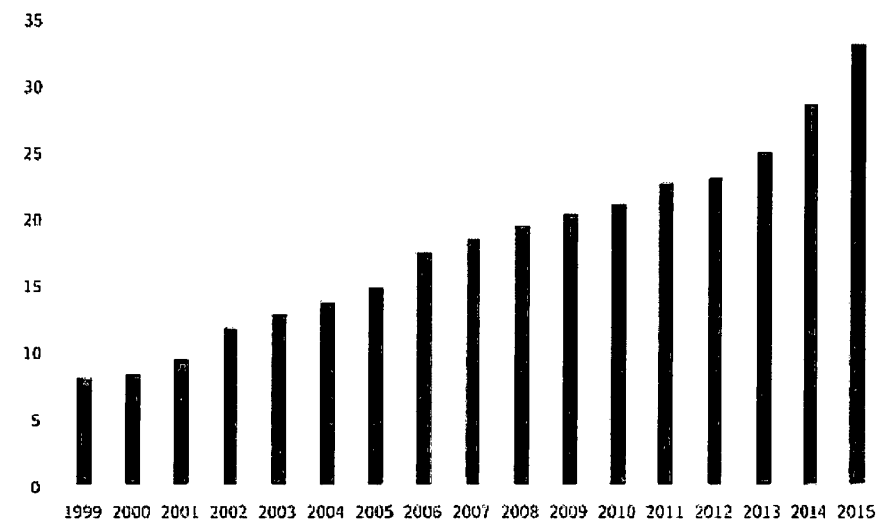
Source: CDC Wonder database, multiple cause of death files

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

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

<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

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

28. Apart from the toll on human life, the crisis has financially strained the services the City of Henderson provides its residents and employees. Human services, social services, court services, law enforcement services, health services, have all been severely impacted by the crisis. For example, as a direct and foreseeable consequence of Defendants' egregious conduct, the City of Henderson paid, and continues to pay, a significant amount for health care costs that stem from prescription opioid dependency. These costs include results of the unnecessary and excessive opioid prescriptions, substance abuse treatment services, first responder and emergency services, and health and treatment services, among others. Defendants' conduct also caused the City of Henderson 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.

29. After creating a public health crisis, Defendants have not pulled their opioid products from the market, acknowledged the very real dangers of addiction and abuse even if the

1 opioids are taken as prescribed, or acknowledged that opioids are inappropriate for long-term pain  
2 management. Instead, Defendants have taken the position that their opioid products are not  
3 dangerous and continue to sell these dangerous and addictive drugs, thereby continuing to fuel  
4 the crisis.

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

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

18 32. Plaintiff files this Complaint naming the drug companies herein as Defendants and  
19 placing the industry on notice that the City of Henderson is taking action to abate the public  
20 nuisance that plagues our community.

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

- 25 a. recovering restitution and reimbursement for all the costs expended by the  
26 City of Henderson for health care services and programs associated with  
27 the diagnosis and treatment of adverse health consequences of opioids use,  
28 including but not limited to, addiction;

- b. recovering restitution and reimbursement for all the costs consumers have incurred in excessive and unnecessary prescription costs related to opioids;
- c. disgorgement;
- d. 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 Henderson;
- e. recovering damages incurred as costs associated with the harm done to the public health and safety.

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

#### PARTIES AND JURISDICTION

##### **A. Plaintiff, the City of Henderson.**

35. Plaintiff, the City of Henderson ("HENDERSON" or "Plaintiff"), is a municipal corporation incorporated in Clark County, Nevada under the laws of the State of Nevada, including but not limited to Article 8 of the Nevada Constitution.

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

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

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

39. The City of Henderson 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           40. 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           41. 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 Henderson, Nevada, to make personal  
18 contact with physicians and clinics to advocate for the purchase and use of opioid medications  
19 which were contrary to known safety concerns and sound medical advice.

20           42. In 2007, Purdue settled criminal and civil charges against it for misbranding  
21 OxyContin and agreed to pay a \$635 million fine – at the time, one of the largest settlements with  
22 a drug company for marketing misconduct. None of this stopped Purdue. In fact, Purdue continued  
23 to create the false perception that opioids were safe and effective for long-term use, even after being  
24 caught, by using unbranded marketing methods to circumvent the system. On May 8, 2007, as  
25 part of these settlements, Purdue entered into a consent judgment with the State of Nevada, in  
26 which it agreed to a number of terms intended to prevent any further misleading marketing in the  
27 State of Nevada. In short, Purdue paid the fine when caught and then continued business as usual,  
28 deceptively marketing and selling billions of dollars of opioids each year.

          43. At all relevant times, Purdue, which is a collection of private companies, has been

1 controlled by members of the extended Sackler family, who are the ultimate intended beneficiaries  
2 of virtually all of Purdue's profit distributions. The individual Defendants named in this action are  
3 the remaining living Sackler family members who served on the board of Purdue Pharma, Inc.  
4 (the "Purdue board"); which functioned as the nexus of decision-making for all of Purdue.

5 44. Defendant RICHARD S. SACKLER became a member of the Purdue board in  
6 1990 and became its co-chair in 2003, which he remained until he left the board in 2018. He was  
7 also Purdue's head of research and development from at least 1990 through 1999, and its president  
8 from 1999 through 2003. He resides in New York, Florida, and Texas. He currently holds an active  
9 license to practice medicine issued by the New York State Education Department. He is a trustee  
10 of the Sackler School of Medicine, a director and the vice president of the Raymond and Beverly  
11 Sackler Foundation, and a director and the president and treasurer of the Richard and Beth Sackler  
12 Foundation, Inc., all three of which are New York Not-for-Profit Corporations.

13 45. Defendant JONATHAN D. SACKLER was a member of Purdue's board from  
14 1990 through 2018. He resides in Connecticut. He is a trustee of the Sackler School of Medicine,  
15 the president and CEO of the Raymond and Beverly Sackler Foundation, and the vice president  
16 of the Richard and Beth Sackler Foundation Inc., all three of which are New York Not-for-Profit  
17 Corporations.

18 46. Defendant MORTIMER D.A. SACKLER has been a member of Purdue's Board  
19 since 1993. He resides in New York. Mortimer is a director and the president of the Mortimer and  
20 Jacqueline Sackler Foundation, and a director and the vice president and treasurer of the Mortimer  
21 D. Sackler Foundation, Inc., both of which are New York Not-for-Profit Corporations.

22 47. Defendant KATHE A. SACKLER was a member of Purdue's board from 1990  
23 through 2018. She resides in New York and Connecticut. Kathe is a director and president of the  
24 Shack Sackler Foundation, a director and vice president and secretary of the Mortimer D. Sackler  
25 Foundation Inc. and is a governor of the New York Academy of Sciences, all three of which are  
26 New York Not-for-Profit Corporations.

27 48. Defendant ILENE SACKLER LEFCOURT was a member of Purdue's board  
28 between 1990 and 2018. She resides in New York. She is a director of Columbia University and



1 is the president of the Sackler Lefcourt Center for Child Development Inc., both of which are New  
2 York Not-for-Profit Corporations.

3 49. Defendant DAVID A. SACKLER was a member of Purdue's board from 2012  
4 through 2018. He resides in New York.

5 50. Defendant BEVERLY SACKLER was a member of Purdue's board from 1993  
6 through 2017. She resides in Connecticut. Beverly Sackler serves as a Director and the Secretary  
7 and Treasurer of the Raymond and Beverly Sackler Foundation, a New York Not-for-Profit  
8 Corporation.

9 51. Defendant THERESA SACKLER was a member of Purdue's board from 1993  
10 through 2018. She resides in New York and the United Kingdom.

11 52. These individual Defendants used a number of known and unknown entities  
12 named as Defendants herein as vehicles to transfer funds from Purdue directly or indirectly to  
13 themselves. These include the following:

14 53. Defendant PLP ASSOCIATES HOLDINGS L.P., which is a Delaware limited  
15 partnership and a limited partner of Purdue Holdings L.P. Its partners are PLP Associates Holdings  
16 Inc. and BR Holdings Associates L.P.

17 54. Defendant ROSEBAY MEDICAL COMPANY L.P., which is a Delaware limited  
18 partnership ultimately owned by trusts for the benefit of one or more of the individual Defendants.  
19 Its general partner is Rosebay Medical Company, Inc., a citizen of Delaware and Connecticut. The  
20 Board of Directors of Rosebay medical Company, Inc. includes board members Richard S. Sackler  
21 and Jonathan D. Sackler.

22 55. Defendant BEACON COMPANY, which is a Delaware general partnership  
23 ultimately owned by trusts for the benefit of members of one or more of the individual Defendants.

24 56. The foregoing individual Defendants are referred to collectively as "the Sacklers."  
25 The foregoing entities they used as vehicles to transfer funds from Purdue directly or indirectly  
26 to themselves are referred to as "the Sackler Entities." Together, the Sacklers and the Sackler  
27 Entities are referred to collectively as "the Sackler Defendants."  
28

1           57. Defendant TEVA PHARMACEUTICALS USA, INC., is a Delaware corporation  
2 with its principal place of business located in North Wales, Pennsylvania. Teva USA is a wholly  
3 owned subsidiary of TEVA PHARMACEUTICALS INDUSTRIES LTD., an Israeli Corporation.  
4 TEVA develops, makes, manufactures, and distributes generic opioid medications worldwide,  
5 including within the City of Henderson, Nevada.

6           58. Defendant CEPHALON, INC., is Delaware corporation with its principal place of  
7 business located in Frazer, Pennsylvania. In 2011, Teva Ltd. acquired CEPHALON, INC.

8           59. Defendant ENDO HEALTH SOLUTIONS INC., is a Delaware corporation with  
9 its principal place of business located in Malvern, Pennsylvania. ENDO PHARMACEUTICALS,  
10 INC., is a wholly-owned subsidiary of Endo Health Solutions Inc., and is a Delaware corporation  
11 with its principal place of business in Malvern, Pennsylvania.

12           60. Defendant PAR PHARMACEUTICAL, INC. is a Delaware corporation with its  
13 principal place of business located in Chestnut Ridge, New York. Par Pharmaceutical, Inc. is a  
14 wholly- owned subsidiary of Par Pharmaceutical Companies, Inc. f/k/a Par Pharmaceutical  
15 Holdings, Inc. Defendant PAR PHARMACEUTICAL COMPANIES, INC. is a Delaware  
16 corporation with its principal place of business located in Chestnut Ridge, New York. Par  
17 Pharmaceutical Companies, Inc. (and by extension its subsidiary, Par Pharmaceutical, Inc.)  
18 (collectively, "Par Pharmaceutical") was acquired by Endo International plc in September 2015  
19 and is currently an operating company of Endo International plc. Endo Health Solutions Inc.,  
20 Endo Pharmaceuticals, Inc., Par Pharmaceutical, and their DEA registrant subsidiaries and  
21 affiliates, (collectively, "Endo"), manufacture opioids sold nationally, and in the City of  
22 Henderson, Nevada.

23           61. Defendants ALLERGAN INC. and ALLERGAN USA INC. are Delaware  
24 corporations with headquarters in Madison, New Jersey. ALLERGAN INC. and ALLERGAN  
25 USA INC. (ALLERGAN INC. and ALLERGAN USA INC., collectively are referred to herein  
26 as "Allergan.") Prior to that, WATSON PHARMACEUTICALS, INC., acquired ACTAVIS,  
27 INC. in October 2012; the combined company changed its name to ACTAVIS, INC.  
28 SUBSEQUENTLY, ACTAVIS, INC. acquired ALLERGAN and changed the parent company to  
ALLERGAN.

1           62. 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, the parent company of Defendants ALLERGAN INC.  
4 and ALLERGAN USA INC., (f/k/a ACTAVIS, INC., f/k/a WATSON PHARMACEUTICALS,  
5 INC.). At all times relevant herein, Watson Laboratories, Inc. takes and took advantage of the  
6 legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend drug  
7 patents. ACTAVIS PHARMA, INC. (f/k/a ACTAVIS, INC.), is a Delaware corporation with its  
8 principal place of business in New Jersey, and was formerly known as WATSON PHARMA,  
9 INC. ACTAVIS LLC is a Delaware limited liability company with its principal place of business  
10 in Parsippany, New Jersey.

11           63. MALLINCKRODT LLC is a Delaware corporation with its principal place of  
12 business in Hazelwood, Missouri. MALLINCKRODT operates in the United States under the  
13 name Mallinckrodt Pharmaceuticals, with its United States headquarters are located in  
14 Hazelwood, Missouri. At all times relevant herein, Defendant MALLINCKRODT was in the  
15 business of designing, testing, manufacturing, labeling, advertising, promoting, marketing,  
16 selling, and/or distributing opioid products known as Exalgo, Roxicodone, and Xartemis XR, and  
17 has done so to and within the State of Nevada.

18           64. Defendant SPECGX LLC is a Delaware limited liability company with its  
19 headquarters in Clayton, Missouri, and is registered with the Nevada Secretary of State to do  
20 business in Nevada. SpecGx LLC is a subsidiary of Mallinckrodt plc that operates its specialty  
21 generics business. Defendants Mallinckrodt LLC and SpecGx LLC, together with their DEA and  
22 Nevada registrant and licensee subsidiaries and affiliates (collectively, "Mallinckrodt"),  
23 manufacture, market, sell, and distribute pharmaceutical drugs throughout the United States, and  
24 in the City of Henderson, Nevada.

25           65. Defendant JOHNSON & JOHNSON is a New Jersey corporation with its principal  
26 place of business in New Brunswick, New Jersey. Defendant JANSSEN PHARMACEUTICALS,  
27 INC. is a Pennsylvania corporation with its principal place of business in Titusville, New Jersey,  
28 and is a wholly-owned subsidiary of Johnson & Johnson. Johnson & Johnson corresponds with  
the Food and Drug Administration ("FDA") regarding Janssen Pharmaceuticals, Inc.'s products.

1 Janssen Pharmaceuticals, Inc. was formerly known as Ortho-McNeil Janssen Pharmaceuticals,  
2 Inc., which in turn was formerly known as Janssen Pharmaceutica, Inc. Defendant NORAMCO,  
3 INC. is a Delaware company headquartered in Wilmington, Delaware and was a wholly owned  
4 subsidiary of Johnson & Johnson and its manufacturer of active pharmaceutical ingredients until  
5 July 2016 when Johnson & Johnson sold its interests to SK Capital. Johnson & Johnson, Janssen  
6 Pharmaceuticals, Inc., and Noramco, Inc., together with their DEA and Nevada registrant and  
7 licensee subsidiaries and affiliates (collectively, "Janssen"), are or have been engaged in the  
8 manufacture, promotion, distribution, and sale of opioids nationally, and in the City of Henderson.

9 66. That at all times relevant herein, PURDUE PHARMA, L.P.; PURDUE PHARMA,  
10 INC.; THE PURDUE FREDERICK COMPANY, INC. dba THE PURDUE FREDERICK  
11 COMPANY, INC.; PURDUE PHARMACEUTICALS, L.P.; RICHARD S. SACKLER;  
12 JONATHAN D. SACKLER, MORTIMER D.A. SACKLER; KATHE A. SACKLER; ILENE  
13 SACKLER LEFCOURT; DAVID A. SACKLER; BEVERLY SACKLER; THERESA  
14 SACKLER; PLP ASSOCIATES HOLDINGS L.P.; ROSEBAY MEDICAL COMPANY L.P.;  
15 BEACON COMPANY; TEVA PHARMACEUTICALS USA, INC.; TEVA  
16 PHARMACEUTICALS INDUSTRIES LTD; CEPHALON, INC.; ENDO HEALTH  
17 SOLUTIONS INC.; ENDO PHARMACEUTICALS, INC.; PAR PHARMACEUTICAL, INC.;  
18 PAR PHARMACEUTICAL COMPANIES, INC.; ALLERGAN INC.; ALLERGAN USA INC.;  
19 ACTAVIS, INC. f/k/a WATSON PHARMACEUTICALS, INC.; WATSON LABORATORIES,  
20 INC.; ACTAVIS LLC; ACTAVIS PHARMA, INC. f/k/a WATSON PHARMA, INC.;  
21 MALLINCKRODT, LLC; SPECGX LLC; JOHNSON & JOHNSON; JANSSEN  
22 PHARMACEUTICALS, INC.; and NORAMCO, INC.; (collectively "Defendant  
23 Manufacturers" or "Defendants") were, and currently are, regularly engaged in business in the  
24 City of Henderson. More specifically, Defendants were, and currently are, in the business of  
25 designing, testing, manufacturing, labeling, advertising, promoting, marketing, and/or selling  
26 opioids throughout the City of Henderson, Nevada.

27 **C. Defendants, Wholesale Distributors.**

28 67. All Defendant Wholesale Distributors are "wholesalers" as that term is defined in  
NRS 639.016.

1           68. Defendant, AMERISOURCEBERGEN DRUG CORPORATION, is, and at all  
2 times pertinent hereto, was, a foreign corporation authorized to do business in the County of  
3 Clark, State of Nevada. Upon information and belief, and at all times relevant hereto,  
4 AMERISOURCEBERGEN DRUG CORPORATION's principal place of business is located in  
5 Chesterbrook, Pennsylvania, operating distribution centers in Ohio.

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

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

17          71. CARDINAL HEALTH 414 LLC is an LLC incorporated under the laws of the  
18 state of Delaware and headquartered in Dublin, Ohio, and registered and authorized to conduct  
19 business within the State of Nevada. At all times relevant herein, CARDINAL HEALTH 414  
20 LLC takes and took advantage of the legislative, regulatory and tax schemes of the State of  
21 Nevada to own, maintain and defend medical patents. Further, CARDINAL HEALTH 414 LLC  
22 operates a pharmacy within the physical confines of the County of Clark. CARDINAL HEALTH  
23 200 LLC is an LLC incorporated under the laws of the state of Delaware and headquartered in  
24 Dublin, Ohio, and registered and authorized to conduct business within the State of Nevada. To  
25 wit, CARDINAL HEALTH 200 LLC has obtained a business license in the County of Clark to  
26 register as a "Procurement Vendor," which is a company registered to submit bids to sell products  
27  
28

1 to Nevada and Clark County government entities, such as to sell medical goods or drugs to the  
2 County-operated hospital.

3 72. Defendant, McKESSON CORPORATION, is, and at all times pertinent hereto,  
4 was, foreign corporation authorized to do business in the County of Clark, State of Nevada. Upon  
5 information and belief, and at all times relevant hereto, McKESSON CORPORATION's  
6 principal place of business is located in San Francisco, California, operating distribution centers  
7 in Ohio. At all times relevant herein, McKESSON CORPORATION takes and took advantage  
8 of the legislative, regulatory and tax schemes of the State of Nevada to own, maintain and defend  
9 patents, including those relating to drug labeling, coding and distribution.  
10

11 73. Defendant WALGREENS BOOTS ALLIANCE, INC. is a Delaware corporation  
12 with its principal place of business in Illinois.  
13

14 74. Defendant WALGREEN CO. is and was registered to do business with the Nevada  
15 Secretary of State as an Illinois corporation with its principal place of business in Deerfield,  
16 Illinois. Walgreen Co. is a subsidiary of Walgreens Boots Alliance, Inc. and does business under  
17 the trade name Walgreens.  
18

19 75. Defendant WALGREEN EASTERN CO., INC. is a New York corporation with  
20 its principal place of business in Deerfield, Illinois.

21 76. Defendants Walgreens Boots Alliance, Inc., Walgreen Eastern Co., and Walgreen  
22 Co. are collectively referred to as "Walgreens". Walgreens, through its various DEA registered  
23 subsidiaries and affiliated entities, conducts business as a licensed wholesale distributor. At all  
24 times relevant to this Complaint, Walgreens distributed prescription opioids throughout the  
25 United States, including in Clark County, Nevada. At all relevant times, this Defendant operated  
26 as a licensed pharmacy wholesaler in the State of Nevada, and in Clark County, Nevada.  
27

28 77. Defendant WALMART INC., ("Walmart") formerly known as Wal-Mart Stores,

1 Inc., is and was registered to do business with the Nevada Secretary of State as a Delaware  
2 corporation with its principal place of business in Arkansas. Walmart, through its various DEA  
3 registered subsidiaries and affiliated entities, conducts business as a licensed wholesale distributor  
4 under named business entities including Wal-Mart Warehouse #6045 a/k/a Wal-Mart Warehouse  
5 #45. At all times relevant to this Complaint, Walmart distributed prescription opioids throughout  
6 the United States, including in Clark County, Nevada. At all relevant times, this Defendant  
7 operated as a licensed pharmacy wholesaler in the State of Nevada, and in Clark County, Nevada.

9 78. Defendant CVS HEALTH CORPORATION ("CVS HC") is a Delaware  
10 corporation with its principal place of business in Woonsocket, Rhode Island. CVS HC conducts  
11 business as a licensed wholesale distributor under the following named business entities, among  
12 others: CVS Orlando FL Distribution L.L.C. and CVS Pharmacy, Inc. (collectively "CVS"). At  
13 all times relevant to this Complaint, CVS distributed prescription opioids throughout the United  
14 States, including in Clark County, Nevada.

16 79. Defendant CVS PHARMACY, INC. ("CVS Pharmacy") is a Rhode Island  
17 corporation with its principal place of business in Woonsocket, Rhode Island. CVS Pharmacy is  
18 a subsidiary of CVS HC. At all times relevant to this Complaint, CVS Pharmacy operated as a  
19 licensed pharmacy wholesaler, distributor and controlled substance facility in Clark County,  
20 Nevada.

22 80. Defendant CVS Pharmacy, Inc. distributed prescription opioids to Plaintiffs'  
23 Community through the following wholly owned subsidiaries that are alter-egos of CVS  
24 Pharmacy, Inc.:

- 26 a. Defendant CVS INDIANA L.L.C., an Indiana limited liability company with its  
27 principal place of business in Indianapolis, Indiana;  
28 b. Defendant CVS RX SERVICES, INC. d/b/a CVS Pharmacy Distribution Center,

1 a New York corporation with its principal place of business in Woonsocket, RI; and

2 c. Defendant CVS TENNESSEE DISTRIBUTION, L.L.C. a Tennessee corporation  
3 with its principal place of business in Woonsocket, Rhode Island.

4 81. Defendant CVS Pharmacy, Inc. instituted set-up, ran, directed, and staffed with its  
5 own employees, the majority of the Suspicious Order Monitoring and diversion control functions  
6 for CVS Indiana, LLC, CVS Rx Services, Inc., and CVS TN Distribution LLC.

7  
8 82. Collectively, CVS Health Corporation, CVS Pharmacy, Inc., CVS Indiana, LLC,  
9 CVS Rx Services, Inc., and CVS TN Distribution, LLC are referred to as "CVS." CVS conducts  
10 business as a licensed wholesale distributor. At all times relevant to this Complaint, CVS  
11 distributed prescription opioids throughout the United States, including in Clark County, Nevada;  
12 CVS pharmacies located in Clark County supplemented their supply of Schedule 3 controlled  
13 substances including prescription opioids through purchases made by CVS from outside vendors;  
14 and CVS pharmacies located in Clark County were supplied with Schedule 2 controlled  
15 substances including prescription opioids through purchases made by CVS from outside vendors.  
16

17  
18 83. Defendant, MASTERS PHARMACEUTICAL, LLC f/k/a MASTERS  
19 PHARMACEUTICAL, INC., is, and at all times pertinent hereto, was, foreign corporation  
20 authorized to do business in the County of Clark, State of Nevada. Upon information and belief,  
21 and at all times relevant hereto, MASTERS PHARMACEUTICAL, LLC f/k/a MASTERS  
22 PHARMACEUTICAL, INC.'s, operates distribution centers in Ohio.

23 84. AMERISOURCEBERGEN DRUG CORPORATION; CARDINAL HEALTH,  
24 INC.; CARDINAL HEALTH 6 INC.; CARDINAL HEALTH TECHNOLOGIES LLC;  
25 CARDINAL HEALTH 414 LLC; CARDINAL HEALTH 200 LLC; McKESSON  
26 CORPORATION; WALGREENS BOOTS ALLIANCE, INC.; WALGREEN CO.;  
27 WALGREEN EASTERN CO., INC.; WALMART INC.; CVS HEALTH CORPORATION; CVS  
28 PHARAMCY, INC.; CVS INDIANA, LLC; CVS RX SERVICES, INC.; CVS TN  
DISTRIBUTION, LLC; and MASTERS PHARMACEUTICAL, LLC f/k/a MASTERS



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

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

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

12 **D. Defendants, Detailers.**

13 87. Defendant AIDA B MAXSAM (hereinafter "DETAILER") is a natural person  
14 who is, and at all relevant times herein was, a resident of Clark County, Nevada, who is or was  
15 engaged in specialty drug sales on behalf of Defendant Manufacturer and Distributor PURDUE.

16 88. Defendant DETAILER was trained to, and did in fact, make personal contact with  
17 physicians and clinics within the City of Henderson, Nevada for the purpose, and with the result,  
18 of 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 and Pharmacy Benefit Managers.**

21 89. Defendant C & R PHARMACY d/b/a KEN'S PHARMACY f/k/a LAM'S  
22 PHARMACY, INC. ("LAM'S PHARMACY") is and was at all times pertinent hereto a domestic  
23 corporation authorized to do business in Clark County, Nevada. Upon information and belief,  
24 and at all times relevant hereto, KEN'S PHARMACY f/k/a LAM'S PHARMACY, INC.'s  
25 principal place of business was and is in Las Vegas, Nevada. Plaintiff is informed, believes, and  
26 alleges that C & R PHARMACY d/b/a KEN'S PHARMACY purchased and is the possessor and  
27 controller of all of the assets of the former LAM'S PHARMACY including drugs, premises,  
28 prescription records, customer lists, telephone numbers, goodwill, and all other business assets.

1           90. Defendant LAM'S PHARMACY and other pharmacies (collectively "Defendant  
2 Pharmacies" or "Defendants") sold opioids to residents of the City of Henderson, Nevada giving  
3 rise to the opioid crisis.

4           91. Pharmacy Benefit Managers ("PBMs") administer benefit contracts and riders that  
5 determine coverage for some or all of the costs of pharmaceutical products and/or provide access  
6 to such products, sometimes through the PBM's own mail-order pharmacy. PBMs establish  
7 formularies which govern which drugs are reimbursed and how. PBMs also determine pre-  
8 authorization requirements and negotiate with drug manufacturers to offer preferred drug  
9 formulary placement for drugs. Additionally, PBMs establish reimbursement rates for drugs  
10 dispensed and can earn revenue from fees from health plans and insurers, rebates and other  
11 incentives from drug manufacturers, including administrative fees and volume bonuses, and fees  
12 from maintaining pharmacy networks. Given their "gatekeeper" role, PBMs exercise significant  
13 power over the quantity of prescription opioids that enter the market.

14           92. PBMs also have massive quantities of data regarding the opioid prescribing and  
15 usage of the doctors and patients who participate in their plans. As a result, PBMs can  
16 identify: (a) patients who receive, and doctors who prescribe opioids in excessive volumes,  
17 frequency, or dosage; (b) patients who receive, and doctors who prescribe opioids in combination  
18 with other drugs indicative of diversion; (c) patients who receive opioids after having been treated  
19 or while being treated for opioid overdoses and addition; and (d) patients who receive opioids  
20 who are at higher risk for overdose, for example, because they also receive benzodiazepines. This  
21 information, and their representations about their efforts to manage and improve patients' health,  
22 created an obligation for PBMs to identify, report, and otherwise address potential diversion or  
23 other dangerous instances of opioid use and prescribing.

24           93. In addition, PBMs distribute opioids directly through their mail order pharmacies,  
25 and, like other pharmacies, are DEA and state registrants. In distributing opioids, PBMs are  
26 obligated to prevent diversion and to identify, report, and not ship suspicious orders of  
27 opioids. Upon information and belief, to be confirmed by transaction data in the exclusive  
28 possession of the PBMs, PBMs failed to carry out these duties.

1           94. Defendant EXPRESS SCRIPTS HOLDING COMPANY ("ESHC") is a Delaware  
2 corporation with its principal place of business in St. Louis, Missouri. Defendant EXPRESS  
3 SCRIPTS, INC. ("ESI") is a wholly-owned subsidiary of ESHC and is incorporated in the State  
4 of Delaware with its principal place of business located in St. Louis, Missouri. In 2012, ESI  
5 acquired its rival, Medco Health Solutions Inc., otherwise known as Merck Medco, in a \$29.1  
6 billion deal. As a result of the merger, ESHC was formed and became the largest PBM in the  
7 nation, filling a combined 1.4 billion prescriptions for employers and insurers. ESHC and ESI are  
8 collectively referred to as "Express Scripts."

9           95. Upon information and belief, Express Scripts derived and continues to derive  
10 substantial revenue as a result of managing pharmacy benefits throughout Nevada, including  
11 within the City of Henderson.

12           96. Defendant Pharmacies and PBMs played an integral role in the chain of opioids  
13 being sold in the City of Henderson, Nevada.

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

15           97. Defendant STEVEN A HOLPER MD is, and was at all times relevant herein, a  
16 resident of Clark County, Nevada and was a licensed medical doctor in the State of Nevada. Upon  
17 information and belief, and at all times relevant hereto, Defendant STEVEN A HOLPER MD,  
18 conducted business and provided medical services as STEVEN A. HOLPER, M.D., PC, a Nevada  
19 Domestic Professional Corporation in Clark County, Nevada. Defendant HOLPER OUT-  
20 PATIENTS MEDICAL CENTER, LTD. (collectively, with STEVEN A HOLPER MD and  
21 STEVEN A. HOLPER M.D., PC, "Defendant Providers" or "HOLPER"), is, and was at all times  
22 relevant herein, a Nevada Domestic Corporation with its principal place of business in Clark  
23 County, Nevada, and served as the location from which Defendant STEVEN A HOLPER MD  
24 provided his medical services.

25           98. HOLPER habitually prescribed and delivered highly addictive and potentially  
26 lethal opioid medications to patients in the City of Henderson, Nevada who did not meet the  
27 qualifications for such medications.  
28

1           99.     HOLPER participated in a deceptive scheme to obtain authorization for such  
2     prescriptions from health insurance providers.

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

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

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

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

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

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

7           **H. Jurisdiction & Venue.**

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

13           106. Venue is proper in the District Court of Clark County, Nevada where part of the  
14 claims alleged herein occurred.

15           **GENERAL FACTUAL ALLEGATIONS**

16           **A. Opioids Generally**

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

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

27           109. In the 1970s and 1980s, studies were conducted that made clear the reasons to  
28 avoid opioids. By way of example, the World Health Organization ("WHO") in 1986 published  
an "analgesic ladder" for the treatment of cancer pain. The WHO recommended treatment with

1 over-the-counter or prescription acetaminophen or non-steroidal anti-inflammatory drugs  
2 ("NSAIDs") first, then use of unscheduled or combination opioids, and then stronger (Schedule  
3 II or III) opioids if pain persisted. The WHO ladder pertained only to the treatment of cancer pain,  
4 and did not contemplate the use of narcotic opioids for chronic pain - because the use of opioids  
5 for chronic pain was not considered appropriate medical practice at the time.

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

10 **B. Defendants' Fraudulent Marketing**

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

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

20 113. Pursuant to Nevada law, specifically NRS 639.570, Defendants were, at all  
21 relevant times hereto, required to adopt a marketing code of conduct; adopt a training program to  
22 provide appropriate training to employees as to the code of conduct; conduct annual audits to  
23 monitor compliance with the code of conduct; adopt policies and procedures for investigating  
24 instances of noncompliance with the code of conduct; and identify a compliance officer for such  
25 purposes. Additionally, Defendants were, at all relevant times hereto, required submit reports  
26 related to the marketing code of conduct on an annual basis.

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

**Direct Marketing Efforts**

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

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

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

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

25           119. Defendants paid sham "speaker fees" to doctors to run educational events to  
26 discuss the use of their products, but the fees were actually intended to reward those doctors for  
27 prescribing Defendants' product and incentivize them to prescribe more of those products to  
28 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.

3 120. 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.

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

14 122. 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.

18 123. 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.

21 124. 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**

28 125. 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.

10 126. 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 was able both to avoid FDA scrutiny and to give the false  
16 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.

18 127. 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)**

24 128. 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.

3 129. 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**

8 130. 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.

15 131. 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.

22 132. 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.

26 133. 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

1 soldiers. APF also engaged in a significant multimedia campaign – through radio, television and  
2 the 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.

4 134. 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.

9 135. 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)

13 136. 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.

21 137. 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.

25 138. 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

1 139. Upon information and belief and at all times relevant herein, CMEs paid for or  
2 sponsored by Defendants were intended to reach prescribing physicians in the City of Henderson,  
3 Nevada.

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

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

18 **Prior Authorization Programs**

19 141. Upon information and belief, Defendants developed prior authorization programs  
20 in order to gain authorization and approval from insurance companies to cover the costly opioid  
21 products for off-label uses. These programs involved representatives from Defendants contacting  
22 insurance companies and representing that they are from a health care provider’s office rather  
23 than from the Defendant manufacturer or distributor; providing inaccurate diagnosis information  
24 on the authorization requests; and drafting Letters of Medical Necessity for health care providers  
25 to sign-off on for purposes of receiving authorization from health insurance providers. Upon  
26 information and belief, Defendant Providers also participated in misleading the health insurance  
27 providers to authorize the numerous prescriptions written for opioid medications.

28 **Medication Switch Programs**

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

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

10           143. In its pursuit of profit, Defendants targeted vulnerable segments of the population  
11 suffering from chronic pain including veterans and the elderly.

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

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

22           146. Veterans are also suffering greatly from the effects of Defendants' targeted  
23 marketing. Opioids are particularly dangerous to veterans. According to a study published in the  
24 2013 Journal of American Medicine, veterans returning from Iraq and Afghanistan who were  
25 prescribed opioids have a higher incidence of adverse clinical outcomes, like overdoses and self-  
26 inflicted and accidental injuries, than the general U.S. population.

27           147. *Exit Wounds*, a 2009 publication sponsored by Defendant Purdue and distributed  
28 by APF, written as a personal narrative of one veteran, describes opioids as "underused" and the  
"gold standard of pain medications" and fails to disclose the risk of addiction, overdose, or injury.

1 It notes that opioid medications "increase a person's level of functioning" and that "[l]ong  
2 experience with opioids shows that people who are not predisposed to addiction are unlikely to  
3 become addicted to opioid pain medications."

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

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

### 13 C. Defendants' Misrepresentations

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

19 151. These misrepresentations regarding opioids include but are not limited to:

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

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

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

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

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

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

- 23           a. Creating, sponsoring, and assisting in the distribution of patient education  
24 materials distributed to Nevada and Henderson consumers that contained  
25 deceptive statements;
- 26           b. Creating and disseminating advertisements that contained deceptive statements  
27 concerning the ability of opioids to improve function long-term and concerning  
28 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 and Henderson 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 and Henderson prescribers through in-person detailing.

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

157. 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.

158. Additionally, pursuant to Nevada law, specifically NRS 639.570, Defendant Wholesale Distributors were, at all relevant times hereto, required to adopt a marketing code of conduct; adopt a training program to provide appropriate training to employees as to the code of conduct; conduct annual audits to monitor compliance with the code of conduct; adopt policies and procedures for investigating instances of noncompliance with the code of conduct; and identify a compliance officer for such purposes. Additionally, Defendants were, at all relevant times hereto, required submit reports related to the marketing code of conduct on an annual basis.

159. 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           160. 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           161. 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           162. 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          163. Defendant Distributors each have a non-delegable duty to identify and track  
11 suspicious orders of controlled substances.

12          164. 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          165. Defendant Distributors have a duty to detect questionable and suspicious orders to  
17 prevent the diversion of opioids into the City of Henderson, which include orders of unusual size,  
18 orders deviating substantially from a normal pattern, and orders of an unusual frequency.

19          166. 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          167. 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          168. 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>2</sup> Some of these actions  
2 include the following:

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

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

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

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

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

19  
20 (f) On May 2, 2008, McKesson Corporation entered into an *Administrative*  
21 *Memorandum of Agreement* ("2008 MOA") with the DEA which provided that McKesson  
22 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;"

23  
24 (g) On September 30, 2008, Cardinal Health entered into a *Settlement and*  
25 *Release Agreement and Administrative Memorandum of Agreement* with the DEA related  
26 to its Auburn Facility, Lakeland Facility, Swedesboro Facility and Stafford Facility. The  
document also referenced allegations by the DEA that Cardinal failed to maintain effective  
controls against the diversion of controlled substances at its distribution facilities located  
in McDonough, Georgia; Valencia, California; and Denver, Colorado;

27  
28 (h) On February 2, 2012, the DEA issued an *Order to Show Cause and*

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

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

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

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

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

17        169.    In another example, on August 9, 2013, the DEA issued an Order to Show Cause  
18        for Defendant MASTERS PHARMACEUTICALS, LLC to consider whether to revoke its  
19        distributor license for failing to monitor, report, and prevent the distribution of suspicious orders  
20        under federal law. *See, Masters Pharmaceuticals, Inc.*; Decision and Order, 80 FR 55418, 55419  
21        (2015). The Order *inter alia* made allegations regarding Masters suspicious distributions of  
22        oxycodone to various pharmacies across the country, including 1.7 million dosage units . . . to a  
23        pharmacy located in Clark County from January 1, 2009 through November 30, 2010. *Id.* The  
24        registration was ultimately revoked and Masters appealed.

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

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

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

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

7 173. Not only did Defendants fail to maintain effective controls to prevent diversion of  
8 controlled substances, they invested time, research, and funds to ensure the supply would be large  
9 enough for the excessive demand. Upon information and belief, Janssen created and supplied a  
10 more potent strand of poppy that ultimately propped up the excessive, illegitimate, and harmful  
11 demand of opioids across the nation and in the City of Henderson, specifically.

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

15 175. 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 the City of Henderson, and/or orders which Defendants knew or  
18 should have known were likely to be delivered and/or diverted into the City of Henderson.

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

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

1           178. 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           179. 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           180. 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           181. 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" as well as 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           182. 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.

3 183. 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.

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

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

20 186. 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 the City of Henderson, Nevada.

23 187. 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 the City of Henderson, Nevada, and/or orders which Defendants  
26 knew or should have known were likely to be delivered and/or diverted into the City of  
27 Henderson, Nevada.

1           188. Additionally, PMBs were gate keepers with the duty to prevent the flood of opioids  
2 into the market. Instead of fulfilling their duties to Henderson residents, these Defendants further  
3 exacerbated the flood of opioids into the market.

4           189. Pharmacy Benefit Managers (PBM) are companies that administer prescription  
5 drug plans for entities that include insurers, self-insured employers, and state and federal  
6 government agencies (collectively, these entities are referred to as "plan sponsors"). PBMs  
7 review and pay claims; PBMs also review and decide the medications that are most effective for  
8 any given therapeutic use. In effect, a PBM's plan can determine what medications will (or will  
9 not) be available, at what quantity, and how difficult it may be for a prescriber to receive that  
10 medication (e.g., by requiring pre-authorization).

11           190. In essence, because PBMs choose which drugs appear on their formularies, they  
12 wield significant influence over which drugs are disseminated throughout Plaintiffs' communities  
13 and how those drugs are paid for.

14           191. Upon information and belief, PBM Defendants colluded with manufacturers who  
15 offer financial incentives, such as rebates and administrative fees, in exchange for benefit plan  
16 design, formulary placement, and drug utilization management that would result in more opioids  
17 entering the marketplace. PBMs earnings were maximized when manufacturers charged high list  
18 prices then paid large rebates and discounts to lower the actual price of the transaction.

19           192. In addition to rebates, PBMs negotiate the payment of administrative fees, volume  
20 bonuses and other forms of consideration from manufacturers. The PBMs' ability to negotiate  
21 these incentives from drug manufacturers derives from their control of the factors driving  
22 utilization, including formulary development and plan design.

23           193. PBMs require, and receive, incentives from Manufacturer Defendants to keep  
24 certain drugs on and off formularies.

25           194. These incentives include the payment of rebates by Manufacturer Defendants to  
26 PBMs based on utilization, bonuses for moving product and hitting volume targets, and the  
27 payment of lucrative administrative fees to maximize PBM profits. Much of this activity is not  
28 transparent to anyone, including those who in good faith hire PBMs to manage their benefits.

1           195. Upon information and belief, when PBMs were asked by their clients to implement  
2 greater safeguards that limited access to opioids, PBMs refused. Instead, the PBMs opted to  
3 receive lucrative rebates from drug manufacturers in exchange for making the manufacturers'  
4 prescription opioids as available and accessible as possible.

5           196. By placing prescription opioids on their formularies and declining to impose  
6 appropriate limits on approval for its use, the PBM Defendants facilitated the proliferation and  
7 subsequent diversion of prescription opioids throughout Nevada and within the City of  
8 Henderson, Nevada, in particular.

9           197. Upon information and belief, the practice of negotiating certain rebate  
10 percentages, maintaining opioids on a certain tier, lowering co-pays, and preventing prior  
11 authorizations was prevalent for all PBM Defendants and Manufacturer Defendants. This  
12 practice was consistent nationwide: manufacturers provide financial incentives and, in return, the  
13 PBM Defendants agreed to make certain prescription opioids available without prior  
14 authorization and with low copayments.

15           198. PBMs' complicity in the overall fraudulent scheme is knowing and purposeful.  
16 Manufacturers compete for PBM formulary placement (preferred placement results in greater  
17 utilization and greater profits) and pay PBMs incentives to avoid pre-authorization requirements  
18 and other hurdles that would slow down flow. Upon information and belief, the defendant PBM  
19 formularies include the majority of the opioids at issue in this case, often in preferred tiers, without  
20 quantity limits or prior authorization requirements.

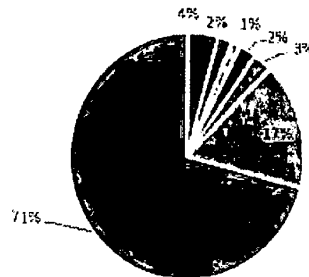
21           199. Moreover, at the same time that PBMs made it easier to obtain prescription  
22 opioids, they made it more difficult to receive treatment for addiction.

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

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



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

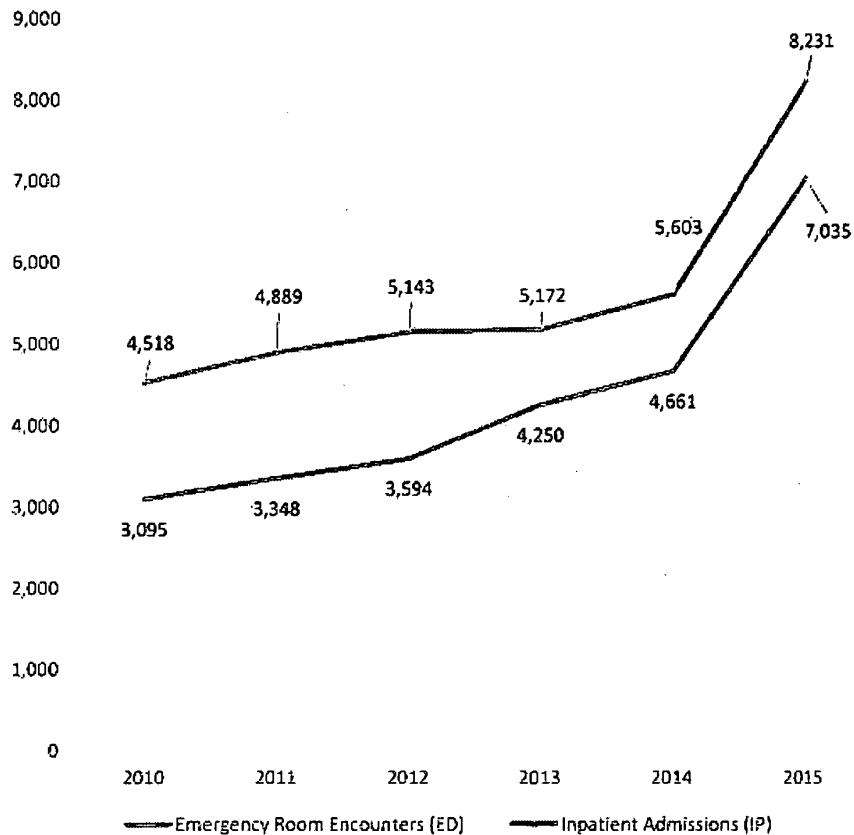


- Carson City and Douglas
- Clark
- Elko, White Pine, and Esmeralda
- Churchill, Humboldt, Pershing, and Lander
- Lyon, Mineral, and Storey
- Nye, Esmeralda, and Lincoln
- Washoe

201. 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.

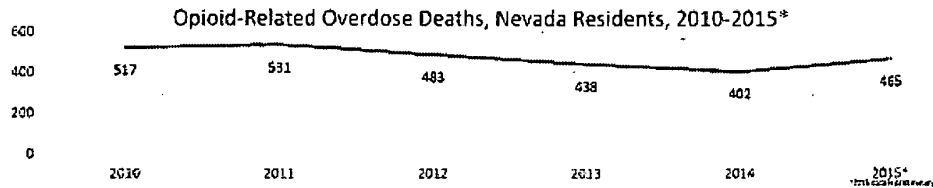
202. Opioid-induced hospitalizations and emergency room visits are a significant area of health expenditure. For instance in 2012, over \$40 million was billed for opioid-induced hospitalizations and over \$7 million for similar emergency room visits in Southern Nevada alone.

Opioid-Related Hospitalizations, Nevada Residents,  
2010-2015



203. 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.

204. 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**

205. 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.

206. 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.

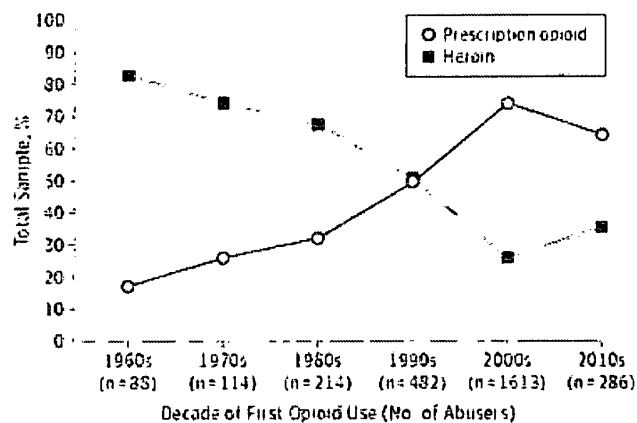
#### **F. Prescription Opioids Fueling Secondary Market of Illegal Drugs**

207. All Defendants were, at all relevant times hereto, pursuant to NRS 453.400, required to establish and maintain effective controls and procedures to prevent or guard against theft and misuse of controlled substances. Defendants failed to comply with Nevada law, thus breaching their duties as set forth in the law, and causing the influx of opioids into the market in the City of Las Vegas.

208. 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

1 prescription opioid addicts migrate to heroin. Thus, prescription drug abuse is fueling the rise of  
2 heroin usage in the City of Henderson, Nevada.

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



18 210. While the use of opioids continues to take an enormous toll on the City of  
19 Henderson, Nevada, and its residents, pharmaceutical companies reap blockbuster profits.

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

23 212. Defendants should be held accountable for their misrepresentations and the harms  
24 caused to the City of Henderson, Nevada, as well as its residents thus giving rise to this lawsuit.

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

26 *(Public Nuisance Against All Defendants)*

27 213. Plaintiff repeats and reiterates the allegations previously set forth herein.

28 214. This action is brought by the City of Henderson, Nevada, for violations of statutory  
provisions concerning public nuisance under NRS 202 *et seq.* Nevada law provides that a where

1 a controlled substance, including but not limited to opioids, is “unlawfully sold, served, stored,  
2 kept, manufactured, used or given away” constitutes a public nuisance.

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

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

11 217. Defendants, and each of them, have contributed to, and/or assisted in creating and  
12 maintaining a condition that is harmful to the health of Henderson citizens, “renders a  
13 considerable number of persons insecure in life” and/or interferes with the comfortable enjoyment  
14 of life in violation of Nevada law.

15 218. Defendants knew or should have known that their marketing of opioid use would  
16 create a public nuisance.

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

23 220. The health and safety of the citizens of Henderson, including those who use, have  
24 used or will use opioids, as well as those affected by users of opioids, is a matter of great public  
25 interest and of legitimate concern.

26 221. Defendants’ conduct has affected and continues to affect a considerable number  
27 of people within the physical boundaries of the City of Henderson and is likely to continue to  
28 cause significant harm to people who take opioids, their families, and the community at large.

1           222. Defendants' conduct constitutes a public nuisance and, if unabated, will continue  
2 to threaten the health, safety and welfare of Henderson residents, creating an atmosphere of fear  
3 and addiction that tears at the residents' sense of well-being and security. The City of Henderson,  
4 Nevada, has a clearly ascertainable right to abate conduct that perpetuates this nuisance.

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

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

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

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

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

1           228. Defendants' conduct is ongoing and persistent, and the Plaintiff seeks all damages  
2 flowing from Defendants' conduct. Plaintiff further seeks to abate the nuisance and harm created  
3 by Defendants' conduct.

4           229. As a direct result of Defendants' conduct, the City of Henderson, Nevada has  
5 suffered actual injury and damages including, but not limited to, significant expenses for police,  
6 fire, health, prosecution, corrections and other services. The City of Henderson here seeks  
7 recovery for its own harm.

8           230. The City of Henderson, Nevada has sustained specific and special injuries because  
9 its damages include, *inter alia*, health services, law enforcement expenditures, costs related to  
10 opioid addiction treatment and overdose prevention, and related costs.

11           231. The City of Henderson further seeks to abate the nuisance created by the  
12 Defendants' unreasonable, unlawful, intentional, ongoing, continuing, and persistent interference  
13 with a right common to the public.

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

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

1 support from family members who have used, abused, become addicted to,  
2 overdosed on, or been killed by opioids.

- 3 d. The opioid epidemic has increased health care costs.
- 4 e. Employers have lost the value of productive and healthy employees.
- 5 f. Defendants' failure to maintain effective controls against diversion of dangerously  
6 addictive prescription opioids for non-medical use and abuses has created an  
7 abundance of drugs available for criminal use and fueled a new wave of addiction,  
8 abuse, and injury.
- 9 g. Defendants' dereliction of duties resulted in a diverted supply of narcotics to sell,  
10 and the ensuing demand of addicts to buy them. Increased supply, due to  
11 Defendants' conduct, led to more addiction, with many addicts turning from  
12 prescription opioids to heroin. People addicted to opioids frequently require  
13 increasing levels of opioids, and many turned to heroin as a foreseeable result.
- 14 h. The diversion of opioids into the secondary, criminal market and the increase in  
15 the number of individuals who abuse or are addicted to opioids has increased the  
16 demands on health care services and law enforcement in the City of Henderson.
- 17 i. The significant unreasonable interference with the public rights caused by  
18 Defendants' conduct has taxed the human, medical, public health, law  
19 enforcement, and financial resources of City of Henderson.
- 20 j. Defendants' interference with the comfortable enjoyment of life in Henderson is  
21 unreasonable because any potential value is outweighed by the gravity of the harm  
22 inflicted by Defendants' actions.

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

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



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

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

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

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

## 10 SECOND CAUSE OF ACTION

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

12 238. Plaintiff repeats and reiterates the allegations previously set forth herein.

13 239. Defendants, each of them, have contributed to, and/or assisted in creating and  
14 maintaining a condition that is harmful to the health of Henderson citizens or interferes with the  
15 comfortable enjoyment of life.

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

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

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

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

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

1           245. The health and safety of those individuals in the City of Henderson, including  
2 those who use, have used or will use opioids, as well as those affected by users of opioids, is a  
3 matter of great public interest and of legitimate concern.

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

6           247. Defendants' conduct has affected and continues to affect a considerable number  
7 of people within the City of Henderson and is likely to continue to cause significant harm to  
8 chronic pain patients who take opioids, their families, and the community at large.

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

12           249. That as a result of the aforesaid occurrence, Plaintiff has suffered extensive  
13 monetary and pecuniary losses and other compensatory damages were also incurred and paid,  
14 including necessary medical, hospital, and concomitant expenses.

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

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

1           252. Defendants knew the prescription opioids have a high likelihood of being diverted.  
2 It was foreseeable to Defendants that where Defendants distributed prescription opioids without  
3 maintain effective controls against diversion, including monitoring, reporting, and refusing  
4 shipment of suspicious orders, that the opioids would be diverted, and create an opioid abuse  
5 nuisance in the City of Henderson.

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

9           254. Defendants acted with actual malice because Defendants acted with a conscious  
10 disregard for the rights and safety of other persons, and said actions have a great probability of  
11 causing substantial harm.

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

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

21           257. The City of Henderson has sustained specific and special injuries because its  
22 damages include, *inter alia*, health services, law enforcement expenditures, costs related to opioid  
23 addiction treatment and overdose prevention, and related costs.

24           258. The City of Henderson further seeks to abate the nuisance created by the  
25 Defendants' unreasonable, unlawful, intentional, ongoing, continuing, and persistent interference  
26 with a right common to the public.

27           259. The public nuisance created by Defendants' actions is substantial and  
28 unreasonable – it has caused and continues to cause significant harm to the community, and the  
harm inflicted outweighs any offsetting benefit. The staggering rates of prescription opioid abuse

1 and heroin use resulting from Defendants' abdication of their gate-keeping duties has caused harm  
2 to the entire community that includes, but is not limited to:

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

1 i. The significant unreasonable interference with the public rights caused by  
2 Defendants' conduct has taxed the human, medical, public health, law  
3 enforcement, and financial resources of City of Henderson.

4 j. Defendants' interference with the comfortable enjoyment of life in City of  
5 Henderson is unreasonable because any potential value is outweighed by the  
6 gravity of the harm inflicted by Defendants' actions.

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

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

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

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

20 264. That Plaintiff's general, special and punitive damages are in amounts in excess of  
21 \$15,000.00.

### 22 THIRD CAUSE OF ACTION

23 *(Negligent Misrepresentation against all Defendants)*

24 265. Plaintiff repeats and reiterates the allegations previously set forth herein.

25 266. Defendants had a duty to exercise reasonable care in the marketing of opioids.

26 267. Defendants were aware of the potentially dangerous situation involving opioids.

27 268. Defendants marketed opioids in an improper manner by:  
28

- a. overstating the benefits of chronic opioid therapy, promising improvement in patients' function and quality of life, and failing to disclose the lack of evidence supporting long-term use;
- b. trivializing or obscuring opioids' serious risks and adverse outcomes, including the risk of addiction, overdose, and death;
- c. overstating opioids' superiority compared with other treatments, such as other non-opioid analgesics, physical therapy, and other alternatives;
- d. mischaracterizing the difficulty of withdrawal from opioids and the prevalence of withdrawal symptoms; and
- e. marketing opioids for indications and benefits that were outside of the opioids' labels and not supported by substantial evidence.

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

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

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

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

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

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

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

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

277. 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.

278. 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.

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

280. 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)*

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

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

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

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

10          285. Defendant Providers owed a duty to exercise reasonable care in the prescription of  
11 opioids.

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

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

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

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



1           290. 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           291. Defendant Distributors and Pharmacies were negligent in disclosing to Plaintiff  
5 suspicious orders for opioids.

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

7           293. 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          294. A negligent violation of this trust poses distinctive and significant dangers to the  
11 City of Henderson and its residents from the diversion of opioids for non-legitimate medical  
12 purposes and addiction to the same by consumers.

13          295. 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          296. 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          297. 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          298. 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          299. Defendant Providers breached their duty to exercise the degree of care required to  
24 protect their patients and their communities.

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

27          301. Defendant Providers were active in providing patients within the City of  
28 Henderson with the prescriptions for opioids that were supplied by the Defendant Distributors  
and Pharmacies

1           302. Plaintiff is without fault and the injuries to the City of Henderson and its residents  
2 would not have occurred in the ordinary course of events had Defendants used due care  
3 commensurate to the dangers involved in the distribution of opioids.

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

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

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

13           306. That Plaintiff's general, special and punitive damages are in amounts in excess of  
14 \$15,000.00.

15                                   **FIFTH CAUSE OF ACTION**

16                                   *(Unjust Enrichment against all Defendants)*

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

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

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

25           310. Defendants are aware of this obvious benefit, and that retention of this benefit is  
26 unjust.

27           311. Defendants made substantial profits while fueling the prescription drug epidemic  
28 into the City of Henderson.

1 312. Defendants continue to receive considerable profits from the distribution of  
2 controlled substances into the City of Henderson.

3 313. Defendants have been unjustly enriched by their negligent, malicious, oppressive,  
4 illegal and unethical acts, omissions, and wrongdoing.

5 314. It would be inequitable to allow Defendants to retain benefit or financial  
6 advantage.

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

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

12 317. 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.

16 318. 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.

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

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

23 **SIXTH CAUSE OF ACTION**

24 *(Violation of the Nevada Racketeering Act against Defendants Purdue and the Sackler*  
25 *Defendants, Endo, Mallinckrodt, Actavis, McKesson, Cardinal, Amerisourcebergen, and*  
26 *Express Scripts)*

27 321. The City of Henderson, both as a "person" who has sustained injury *and* on behalf  
28 of Henderson citizens who have been injured, brings this claim for civil remedies under the  
Racketeering Act, NRS §§ 207.350 to 207.520, against the following Defendants, as defined

1 above: Purdue and the Sackler Defendants, Endo, Mallinckrodt, Actavis, McKesson, Cardinal,  
2 AmerisourceBergen, and Express Scripts (collectively, for purposes of this Count, the  
3 “Racketeering Defendants”).

4 322. The Racketeering Defendants conducted and continue to conduct their business  
5 through legitimate and illegitimate means in the form of a criminal syndicate or enterprise as  
6 defined by NRS §§ 207.370 and 207.380. At all relevant times, the Racketeering Defendants were  
7 “persons” under NRS § 0.039 and are included in the definition stating that a person is “any form  
8 of business or social organization...including, but not limited to, a corporation, partnership,  
9 association, trust or unincorporated organization.”

10 323. Section 207.400 of the Racketeering Act makes it unlawful “for a  
11 person....employed by or associated with any enterprise to conduct or participate, directly or  
12 indirectly, in: (1) The affairs of the enterprise through racketeering activity; or (2) Racketeering  
13 activity through the affairs of the enterprise.” NRS § 207.400(1)(c).

14 324. The term “enterprise” is defined as including a “sole proprietorship, partnership,  
15 corporation, business trust or other legal entity” as well as a “union, association or other group of  
16 persons associated in fact although not a legal entity.” The definition includes “illicit as well as  
17 licit enterprises and governmental as well as other entities.” NRS § 207.380.

18 329. For over a decade, the Racketeering Defendants aggressively sought to bolster their  
19 revenue, increase profit, and grow their share of the prescription painkiller market by unlawfully  
20 and surreptitiously increasing the volume of opioids they sold. However, the Racketeering  
21 Defendants are not permitted to engage in a limitless expansion of their market through the  
22 unlawful sales of regulated painkillers. As “registrants,” the Racketeering Defendants operated  
23 and continue to operate within the nationwide “closed-system” created under the Controlled  
24 Substances Act, 21 USC § 821, *et seq.* (the “CSA”) and the Nevada Controlled Substances Act,  
25 §§ 453.005 to 453.730. Together, the CSA and Nevada Controlled Substances Act restrict the  
26 Racketeering Defendants’ ability to manufacture or distribute Schedule II substances like opioids  
27 nationally and in the City of Henderson by requiring them to: (1) register to manufacture or  
28 distribute opioids; (2) maintain effective controls against diversion of the controlled substances  
that they manufacturer or distribute; (3) design and operate a system to identify suspicious orders

1 of controlled substances, halt such unlawful sales, and report them to the DEA, the Nevada  
2 Pharmacy Board, and the FDA; and (4) make sales within a limited quota set by the DEA for the  
3 overall production of Schedule II substances like opioids.

4 330. The nationwide closed-system, including the establishment of quotas, was  
5 specifically intended to reduce or eliminate the diversion of Schedule II substances like opioids  
6 from "legitimate channels of trade" to the illicit market by controlling the quantities of the basic  
7 ingredients needed for the manufacture of [controlled substances]."<sup>3</sup>

8 331. Finding it impossible to legally achieve their ever increasing sales ambitions,  
9 members of the Opioid Diversion Enterprise (as defined below) systematically and fraudulently  
10 violated their duty under Nevada law to maintain effective controls against diversion of their  
11 drugs, to design and operate a system to identify suspicious orders of their drugs, to halt unlawful  
12 sales of suspicious orders, and to notify the DEA, the Nevada Board of Pharmacy, and the FDA  
13 of suspicious orders.<sup>4</sup> As discussed in detail below, through the Racketeering Defendants'  
14 scheme, members of the Opioid Diversion Enterprise repeatedly engaged in unlawful sales of  
15 painkillers which, in turn, artificially and illegally increased the annual production quotas  
16 throughout the United States for opioids allowed by the DEA. In doing so, the Racketeering  
17 Defendants allowed hundreds of millions of pills to enter the illicit market which allowed them  
18 to generate obscene profits.

19 332. Defendants' illegal scheme was hatched by an association-in-fact enterprise  
20 between the Manufacturer Defendants and the Distributor Defendants, and executed in perfect  
21 harmony by each of them. In particular, each of the Racketeering Defendants were associated with,  
22 and conducted or participated in, the affairs of the racketeering enterprise (defined below and  
23 referred to collectively as the "Opioid Diversion Enterprise"), whose purpose was to engage in  
24 the unlawful sales of opioids, and to deceive the public, and federal and state regulators into  
25 believing that the Racketeering Defendants were faithfully fulfilling their statutory obligations.  
26 The Racketeering Defendants' scheme allowed them to make billions in unlawful sales of opioids

27 <sup>3</sup> 1970 U.S.C.C.A.N. 4566 at 5490; *see also* Testimony of Joseph T. Rannazzisi before the Caucus on International  
28 Narcotics Control, United States Senate, May 5, 2015 (available at  
[https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).

<sup>4</sup> 21 USC § 823(a)(1), (b)(1); 21 CFR § 1301.74(b)-(c).

1 and, in turn, increase and/or maintain high production quotas with the purpose of ensuring  
2 unlawfully increasing revenues, profits, and market share. As a direct result of the Racketeering  
3 Defendants' fraudulent scheme, course of conduct, and pattern of racketeering activity, they were  
4 able to extract billions of dollars of revenue from the addicted American public, while entities  
5 like the City of Henderson, Nevada experienced tens of millions of dollars of injury caused by the  
6 reasonably foreseeable consequences of the prescription opioid addiction epidemic. As explained  
7 in detail below, the Racketeering Defendants' misconduct violated § 207.400 of the Racketeering  
8 Act and Plaintiff is entitled to treble damages for its injuries under NRS § 207.410.

9       333. Alternatively, the Racketeering Defendants were members of a legal entity  
10 enterprise within the meaning of NRS § 207.380 through which the Racketeering Defendants  
11 conducted their pattern of racketeering activity in the City of Henderson and throughout the  
12 United States. Specifically, the Healthcare Distribution Alliance (the "HDA")<sup>5</sup> is a distinct legal  
13 entity that satisfies the definition of a racketeering enterprise. The HDA is a non-profit corporation  
14 formed under the laws of the District of Columbia and doing business in Virginia. As a non-profit  
15 corporation, HDA qualifies as an "enterprise" within the definition set out in § 207.380 because  
16 it is a corporation and a legal entity.

17       334. On information and belief, each of the Racketeering Defendants is a member,  
18 participant, and/or sponsor of the HDA and utilized the HDA to conduct the Opioid Diversion  
19 Enterprise and to engage in the pattern of racketeering activity that gives rise to the Count.

20       335. Each of the Racketeering Defendants is a legal entity separate and distinct from  
21 the HDA. And, the HDA serves the interests of distributors and manufacturers beyond the  
22 Racketeering Defendants. Therefore, the HDA exists separately from the Opioid Diversion  
23 Enterprise, and each of the Racketeering Defendants exists separately from the HDA. Therefore,  
24 the HDA may serve as a racketeering enterprise.

25       336. The legal and association-in-fact enterprises alleged in the previous and  
26 subsequent paragraphs were each used by the Racketeering Defendants to conduct the Opioid  
27 Diversion Enterprise by engaging in a pattern of racketeering activity. Therefore, the legal and  
28

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<sup>5</sup> Health Distribution Alliance, History, Health Distribution Alliance, (last accessed on September 15, 2017),  
<https://www.healthcaredistribution.org/about/hda-history>.

1 association- in-fact enterprises alleged in the previous and subsequent paragraphs are pleaded in  
2 the alternative and are collectively referred to as the “Opioid Diversion Enterprise.”

3 **THE OPIOID DIVERSION ENTERPRISE**

4 337. Throughout the United States—and within the City of Henderson, Nevada—the  
5 Racketeering Defendants have operated at all relevant times under a “closed distribution system”  
6 of quotas that governs the production and distribution of prescription opioid drugs. The Opioids  
7 Diversion Enterprise is an ongoing and continuing business organization that created and  
8 maintained systemic links for a common purpose: To protect and maximize their profitability  
9 under this quota system through the unlawful sale of opioids. The Racketeering Defendants  
10 participated in the Opioids Diversion Enterprise through a pattern of racketeering activity, which  
11 includes multiple violations of Nevada state criminal law.

12 338. Recognizing that there is a need for greater scrutiny over controlled substances due  
13 to their potential for abuse and danger to public health and safety, the United States Congress  
14 enacted the Controlled Substances Act in 1970.<sup>6</sup> The CSA and its implementing regulations  
15 created a closed-system of distribution for all controlled substances and listed chemicals.<sup>7</sup>  
16 Congress specifically designed the closed chain of distribution to prevent the diversion of legally  
17 produced controlled substances into the illicit market.<sup>8</sup> As reflected in comments from United  
18 States Senators during deliberation on the CSA, the “[CSA] is designed to crack down hard on  
19 the narcotics pusher and the illegal diverters of pep pills and goof balls.”<sup>9</sup> Congress was  
20 concerned with the diversion of drugs out of legitimate channels of distribution when it enacted  
21 the CSA and acted to halt the “widespread diversion of [controlled substances] out of legitimate  
22 channels into the illegal market.”<sup>10</sup> Moreover, the closed-system was specifically designed to  
23 ensure that there are multiple ways of identifying and preventing diversion through active  
24

25 <sup>6</sup> Joseph T. Rannazzisi Decl. ¶4, *Cardinal Health, Inc. v. Eric Holder, Jr., Attorney General*,  
26 D.D.C. Case No. 12-cv-185 (Document 14-2 February 10, 2012).

<sup>7</sup> See H.R. Rep. No. 91-1444, 1970 U.S.C.C.A.N. at 4566.

27 <sup>8</sup> *Gonzalez v. Raich*, 545 U.S. 1, 12-14 (2005); 21 USC § 801(20); 21 USC §§ 821-824, 827,  
880; H.R. Rep. No. 91-1444, 1970 U.S.C.C.A.N. 4566, 4572 (Sept. 10, 1970).

28 <sup>9</sup> See H.R. Rep. No. 91-1444, 1970 U.S.C.C.A.N. at 4566; 116 Cong. Rec. 977-78 (Comments  
of Sen. Dodd, Jan 23, 1970).

<sup>10</sup> See Testimony of Joseph T. Rannazzisi before the Caucus on International Narcotics Control, United State Senate,  
May 5, 2015 (available at [https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).

1 participation by registrants within the drug delivery chain.<sup>11</sup> All registrants – manufacturers and  
2 distributors alike must adhere to the specific security, recordkeeping, monitoring and reporting  
3 requirements that are designed to identify or prevent diversion.<sup>12</sup> When registrants at any level  
4 fail to fulfill their obligations, the necessary checks and balances collapse.<sup>13</sup> The result is the  
5 scourge of addiction that has occurred.

6 339. Central to the closed-system created by the CSA was the directive that the DEA  
7 determine quotas of each basic class of Schedule I and II controlled substances each year. The  
8 quota system was intended to reduce or eliminate diversion from “legitimate channels of trade”  
9 by controlling the “quantities of the basic ingredients needed for the manufacture of  
10 [controlled substances], and the requirement of order forms for all transfers of these drugs.”<sup>14</sup>  
11 When evaluating production quotas, the DEA was instructed to consider the following  
12 information:

- 13 a. Information provided by the United States Department of Health and Human  
14 Services;
- 15 b. Total net disposal of the basic class by all manufacturers;
- 16 c. Trends in the national rate of disposal of the basic class;
- 17 d. An applicant’s production cycle and current inventory position;
- 18 e. Total actual or estimated inventories of the class and of all substances manufactured  
19 from the class and trends in inventory accumulation; and
- 20 f. Other factors such as: changes in the currently accepted medical use of substances  
21 manufactured for a basic class; the economic and physical availability of raw  
22 materials; yield and sustainability issues; potential disruptions to production; and

23 <sup>11</sup> See Statement of Joseph T. Rannazzisi before the Caucus on International Narcotics Control United States Senate,  
24 July 18, 2012 (available at <https://www.justice.gov/sites/default/files/testimonies/witnccscs/attachments/07/18/12/07-18-12-dea-rannazzisi.pdf>).

25 <sup>12</sup> *Id.*; 16.19.8.13(F) NMAC (requiring anyone licensed to distribute Schedule II controlled substances in Nevada to  
26 “report any theft, suspected theft, diversion or other significant loss of any prescription drug or device to the board  
and where applicable, to the DEA.”); 16.19.20.48(A) NMSA (“All applicants and registrants shall provide effective  
controls and procedures to guard against theft and diversion of controlled substances.”).

27 <sup>13</sup> Joseph T. Rannazzisi Decl. ¶ 10, *Cardinal Health, Inc. v. Eric Holder, Jr., Attorney General*, Case No. 12-cv-185  
28 (Document 14-2 February 10, 2012).

<sup>14</sup> 1970 U.S.C.A.N. 4566 at 5490; *see also* Testimony of Joseph T. Rannazzisi before the Caucus on International  
Narcotics Control, United States Senate, May 5, 2015 (available at  
[https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).



unforeseen emergencies.<sup>15</sup>

340. Under the CSA, as incorporated into Nevada law, it is unlawful for a registrant to manufacture a controlled substance in Schedule II, like prescription opioids, that is (1) not expressly authorized by its registration and by a quota assigned to it by DEA, or (2) in excess of a quota assigned to it by the DEA.<sup>16</sup>

341. At all relevant times, the Racketeering Defendants operated as an enterprise formed for the purpose of unlawfully increasing sales, revenues and profits by disregarding their duty under Nevada law to identify, investigate, halt or report suspicious orders of opioids and diversion of their drugs into the illicit market in order to unlawfully increase the quotas set by the DEA and allow them to collectively benefit from the unlawful formation of a greater pool of prescription opioids from which to profit. The Racketeering Defendants conducted their pattern of racketeering activity in the City of Henderson, Nevada and throughout the United States through this enterprise.

342. The Racketeering Defendants hid from the general public and suppressed and/or ignored warnings from third parties, whistleblowers and governmental entities, about the reality of the suspicious orders that the Racketeering Defendants were filling on a daily basis -- leading to the diversion of a tens of millions of doses of prescriptions opioids into the illicit market.

343. The Racketeering Defendants, with knowledge and intent, agreed to the overall objective of their fraudulent scheme and participated in the common course of conduct to commit acts of fraud and illegal trafficking in and distribution of prescription opioids, in violation of Nevada law.

344. Indeed, for the Defendants' fraudulent scheme to work, each of the Defendants had to agree to implement similar tactics regarding reports and representations about their systems for controlling against diversion, and refusal to report suspicious orders.

<sup>15</sup> See Testimony of Joseph T. Rannazzisi before the Caucus on International Narcotics Control, United State Senate, May 5, 2015 (available at [https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony\\_0.pdf](https://www.drugcaucus.senate.gov/sites/default/files/Rannazzisi%20Testimony_0.pdf)).

<sup>16</sup> *Id.* (citing 21 USC 842(b)); NRS § 453.385 (regulations must ensure "compliance with, but may be more stringent than required by, applicable federal law governing controlled substances and the rules, regulations and orders of any federal agency administering such law."); NRS § 453.146 (the Nevada Board of Pharmacy may consider findings of "the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.").

1           345. The opioid epidemic has its origins in the mid-1990s when, between 1997 and  
2 2007, nationwide per capita purchases of methadone, hydrocodone, and oxycodone increased 13-  
3 fold, 4- fold, and 9-fold, respectively. By 2010, enough prescription opioids were sold in the  
4 United States to medicate every adult in the country with a dose of 5 milligrams of hydrocodone  
5 every 4 hours for 1 month.<sup>17</sup> On information and belief, the Opioid Diversion Enterprise has  
6 been ongoing nationally and in the City of Henderson, Nevada for at least the last decade.<sup>18</sup>

7           346. The Opioid Diversion Enterprise was and is a shockingly successful endeavor. The  
8 Opioid Diversion Enterprise has been conducting business uninterrupted since its genesis. But,  
9 it was not until recently that State and federal regulators finally began to unravel the extent of  
10 the enterprise and the toll that it exacted on the American public and the City of Henderson,  
11 Nevada and its citizens.

12           347. At all relevant times, the Opioid Diversion Enterprise: (a) had an existence separate  
13 and distinct from each Racketeering Defendant; (b) was separate and distinct from the pattern of  
14 racketeering in which the Racketeering Defendants engaged; (c) was an ongoing and continuing  
15 organization consisting of legal entities, including each of the Racketeering Defendants; (d)  
16 characterized by interpersonal relationships among the Racketeering Defendants; (e) had  
17 sufficient longevity for the enterprise to pursue its purpose; and (f) functioned as a continuing  
18 unit. Each member of the Opioid Diversion Enterprise participated in the conduct of the  
19 enterprise, including patterns of racketeering activity, and shared in the astounding growth of  
20 profits supplied by fraudulently inflating opioid sales generated as a result of the Opioid  
21 Diversion Enterprise's disregard for their duty to prevent diversion of their drugs into the illicit  
22 market and then requesting the DEA increase production quotas, all so that the Racketeering  
23 Defendants would have a larger pool of prescription opioids from which to profit.

24           348. The Opioid Diversion Enterprise functioned by selling prescription opioids.  
25 While there may be some legitimate uses and/or needs for prescription opioids, the Racketeering  
26

27 <sup>17</sup> Keyes KM, Cerdá M, Brady JE, Havens JR, Galea S. *Understanding the rural-urban differences in nonmedical*  
28 *prescription opioid use and abuse in the United States.* Am J Public Health. 2014;104(2):e52-9.

<sup>18</sup> Matthew Perrone, *Pro-Painkiller echo chamber shaped policy amid drug epidemic*, The Center for Public Integrity  
(September 19, 2017, 12:01 a.m.), <https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-amid-drug-epidemic>.

1 Defendants, through their illegal enterprise, engaged in a pattern of racketeering activity that  
2 involves a fraudulent scheme to increase revenue by violating State and Federal laws requiring the  
3 maintenance of effective controls against diversion of prescription opioids, and the identification,  
4 investigation, and reporting of suspicious orders of prescription opioids destined for the illicit drug  
5 market. The goal of Defendants' scheme was to increase profits from opioid sales. But,  
6 Defendants' profits were limited by the production quotas set by the DEA, so the Defendants  
7 refused to identify, investigate and/or report suspicious orders of their prescription opioids being  
8 diverted into the illicit drug market. The end result of this strategy was to increase and maintain  
9 artificially high production quotas of opioids so that there was a larger pool of opioids for  
10 Defendants to manufacture and distribute for public consumption.

11 349. Within the Opioid Diversion Enterprise, there were interpersonal relationships and  
12 common communication by which the Racketeering Defendants shared information on a regular  
13 basis. These interpersonal relationships also formed the organization of the Opioid Diversion  
14 Enterprise. The Opioid Diversion Enterprise used their interpersonal relationships and  
15 communication network for the purpose of conducting the enterprise through a pattern of  
16 racketeering activity.

17 350. Each of the Racketeering Defendants had a systematic link to each other through  
18 joint participation in lobbying groups, trade industry organizations, contractual relationships and  
19 continuing coordination of activities. The Racketeering Defendants participated in the operation  
20 and management of the Opioid Diversion Enterprise by directing its affairs, as described herein.  
21 While the Racketeering Defendants participated in, and are members of, the enterprise, they each  
22 have a separate existence from the enterprise, including distinct legal statuses, different offices and  
23 roles, bank accounts, officers, directors, employees, individual personhood, reporting  
24 requirements, and financial statements.

25 351. The Racketeering Defendants exerted substantial control over the Opioid  
26 Diversion Enterprise by their membership in the Pain Care Forum ("PCF"), the HDA, and  
27 through their contractual relationships.

28 352. PCF has been described as a coalition of drugmakers, trade groups and dozens of

1 non-profit organizations supported by industry funding. The PCF recently became a national news  
2 story when it was discovered that lobbyists for members of the PCF quietly shaped federal and  
3 state policies regarding the use of prescription opioids for more than a decade.

4 353. The Center for Public Integrity and The Associated Press obtained “internal  
5 documents shed[ding] new light on how drugmakers and their allies shaped the national response  
6 to the ongoing wave of prescription opioid abuse.”<sup>19</sup> Specifically, PCF members spent over \$740  
7 million lobbying in the nation’s capital and in all 50 statehouses on an array of issues, including  
8 opioid-related measures.<sup>20</sup>

9 354. Not surprisingly, each of the Racketeering Defendants who stood to profit from  
10 lobbying in favor of prescription opioid use is a member of and/or participant in the PCF.<sup>21</sup> In  
11 2012, membership and participating organizations included the HDA (of which all Racketeering  
12 Defendants are members), Purdue, Actavis, and Teva.<sup>22</sup> Each of the Manufacturer Defendants  
13 worked together through the PCF to advance the interests of the enterprise. But, the Manufacturer  
14 Defendants were not alone. The Distributor Defendants actively participated, and continue to  
15 participate in the PCF, at a minimum, through their trade organization, the HDA.<sup>23</sup> Plaintiff is  
16 informed and believes that the Distributor Defendants participated directly in the PCF as well.

17 355. The 2012 Meeting Schedule for the Pain Care Forum is particularly revealing on  
18 the subject of the Defendants’ interpersonal relationships. The meeting schedule indicates that  
19 meetings were held in the D.C. office of Powers Pyles Sutter & Verville on a monthly basis, unless  
20 otherwise noted. Local members were “encouraged to attend in person” at the monthly meetings.  
21 And, the meeting schedule indicates that the quarterly and year-end meetings included a “Guest  
22 Speaker.”

23 356. The 2012 Pain Care Forum Meeting Schedule demonstrates that each of the  
24 Defendants participated in meetings on a monthly basis, either directly or through their trade  
25

26 <sup>19</sup> Matthew Perrone, *Pro-Painkiller echo chamber shaped policy amid drug epidemic*, The Center for Public Integrity  
(September 19, 2017, 12:01 a.m.), [https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-](https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-amid-drug-epidemic)  
27 [shaped-policy- amid-drug-epidemic](https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-amid-drug-epidemic) (emphasis added).

28 <sup>20</sup> *Id.*

<sup>21</sup> PAIN CARE FORUM 2012 Meetings Schedule, (last updated December 2011),

[https://assets.documentcloud.org/documents/3108982/PAIN-CARE-FORUM-Meetings- Schedule-amp.pdf](https://assets.documentcloud.org/documents/3108982/PAIN-CARE-FORUM-Meetings-Schedule-amp.pdf).

<sup>22</sup> *Id.* Plaintiff is informed and believes that Mallinckrodt became an active member of the PCF sometime after 2012.

<sup>23</sup> *Id.*

1 organization, in a coalition of drugmakers and their allies whose sole purpose was to shape the  
2 national response to the ongoing prescription opioid epidemic, including the concerted lobbying  
3 efforts that the PCF undertook on behalf of its members.

4 357. Second, the HDA – or Healthcare Distribution Alliance – led to the formation of  
5 interpersonal relationships and an organization between the Racketeering Defendants. Although  
6 the entire HDA membership directory is private, the HDA website confirms that each of the  
7 Distributor Defendants and the Manufacturer Defendants named in the Complaint, including  
8 Actavis, Purdue, and Mallinckrodt, were members of the HDA.<sup>24</sup> The HDA and each of the  
9 Distributor Defendants eagerly sought the active membership and participation of the  
10 Manufacturer Defendants by advocating that one of the benefits of membership included the ability  
11 to develop direct relationships between Manufacturers and Distributors at high executive levels.

12 358. In fact, the HDA touted the benefits of membership to the Manufacturer  
13 Defendants, advocating that membership included the ability to, among other things, “network one  
14 on one with manufacturer executives at HDA’s members-only Business and Leadership  
15 Conference,” “networking with HDA wholesale distributor members,” “opportunities to host and  
16 sponsor HDA Board of Directors events,” “participate on HDA committees, task forces and  
17 working groups with peers and trading partners,” and “make connections.”<sup>25</sup> Clearly, the HDA  
18 and the Distributor Defendants believed that membership in the HDA was an opportunity to create  
19 interpersonal and ongoing organizational relationships between the Manufacturers and  
20 Distributors.

21 359. The application for manufacturer membership in the HDA further indicates the  
22 level of connection that existed between the Racketeering Defendants.<sup>26</sup> The manufacturer  
23 membership application must be signed by a “senior company executive,” and it requests that  
24 the manufacturer applicant identify a key contact and any additional contacts from within its  
25 company. The HDA application also requests that the manufacturer identify its current  
26

27 <sup>24</sup> Manufacturer Membership, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/about/membership/manufacturer>.

28 <sup>25</sup> Manufacturer Membership Benefits, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/~media/pdfs/membership/manufacturer-membership-benefits.ashx?la=en>.

<sup>26</sup> Manufacturer Membership Application, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/~media/pdfs/membership/manufacturer-membership-application.ashx?la=en>.

1 distribution information and its most recent year end net sales through any HDA distributors,  
2 including but not limited to, Defendants AmerisourceBergen, Cardinal Health, and McKesson.<sup>27</sup>

3 360. After becoming members, the Distributors and Manufacturers were eligible to  
4 participate on councils, committees, task forces and working groups, including:

- 5 a. Industry Relations Council: "This council, composed of distributor and  
6 manufacturer members, provides leadership on pharmaceutical distribution and  
7 supply chain issues."<sup>28</sup>
- 8 b. Business Technology Committee: "This committee provides guidance to HDA  
9 and its members through the development of collaborative e-commerce business  
10 solutions. The committee's major areas of focus within pharmaceutical  
11 distribution include information systems, operational integration and the impact  
12 of e-commerce." Participation in this committee includes distributors and  
13 manufacturer members.<sup>29</sup>
- 14 c. Health, Beauty and Wellness Committee: "This committee conducts research, as  
15 well as creates and exchanges industry knowledge to help shape the future of the  
16 distribution for health, beauty and wellness/consumer products in the healthcare  
17 supply chain." Participation in this committee includes distributors and  
18 manufacturer members.<sup>30</sup>
- 19 d. Logistics Operation Committee: "This committee initiates projects designed to  
20 help members enhance the productivity, efficiency and customer satisfaction  
21 within the healthcare supply chain. Its major areas of focus include process  
22 automation, information systems, operational integration, resource management  
23 and quality improvement." Participation in this committee includes distributors  
24 and manufacturer members.<sup>31</sup>
- 25 e. Manufacturer Government Affairs Advisory Committee: "This committee  
26 provides a forum for briefing HDA's manufacturer members on federal and state  
27 legislative and regulatory activity affecting the pharmaceutical distribution  
28 channel. Topics discussed include such issues as prescription drug traceability,  
29 distributor licensing, FDA and DEA regulation of distribution, importation and  
30 Medicaid/Medicare reimbursement." Participation in this committee includes  
31 manufacturer members.<sup>32</sup>
- 32 f. Bar Code Task Force: Participation includes Distributor, Manufacturer and

27 <sup>27</sup> *Id.*

28 <sup>28</sup> Councils and Committees, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
29 <https://www.healthcaredistribution.org/about/councils-and-committees>.

30 <sup>29</sup> *Id.*

31 <sup>30</sup> *Id.*

32 <sup>31</sup> *Id.*

<sup>32</sup> *Id.*

Service Provider Members.<sup>33</sup>

g. eCommerce Task Force: Participation includes Distributor, Manufacturer and Service Provider Members.<sup>34</sup>

h. ASN Working Group: Participation includes Distributor, Manufacturer and Service Provider Members.<sup>35</sup>

i. Contracts and Chargebacks Working Group: "This working group explores how the contract administration process can be streamlined through process improvements or technical efficiencies. It also creates and exchanges industry knowledge of interest to contract and chargeback professionals." Participation includes Distributor and Manufacturer Members.<sup>36</sup>

361. The councils, committees, task forces and working groups provided the Manufacturer and Distributor Defendants with the opportunity to work closely together in shaping their common goals and forming the enterprise's organization.

362. The HDA also offers a multitude of conferences, including annual business and leadership conferences. The HDA and the Distributor Defendants advertise these conferences to the Manufacturer Defendants as an opportunity to "bring together high-level executives, thought leaders and influential managers . . . to hold strategic business discussions on the most pressing industry issues."<sup>37</sup> The conferences also gave the Manufacturer and Distributor Defendants "unmatched opportunities to network with [their] peers and trading partners at all levels of the healthcare distribution industry."<sup>38</sup> The HDA and its conferences were significant opportunities for the Manufacturer and Distributor Defendants to interact at a high-level of leadership. And, it is clear that the Manufacturer Defendants embraced this opportunity by attending and sponsoring these events.<sup>39</sup>

363. Third, the Racketeering Defendants maintained their interpersonal relationships

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Business and Leadership Conference – Information for Manufacturers, Healthcare Distribution Alliance, (accessed on September 14, 2017), <https://www.healthcaredistribution.org/events/2015-business-and-leadership-conference/bld-for-manufacturers>.

<sup>38</sup> *Id.*

<sup>39</sup> 2015 Distribution Management Conference and Expo, Healthcare Distribution Alliance, (accessed on September 14, 2017), <https://www.healthcaredistribution.org/events/2015-distribution-management-conference>.

1 by working together and exchanging information and driving the unlawful sales of their opioids  
2 through their contractual relationships, including chargebacks and vault security programs.

3 364. The Manufacturer Defendants engaged in an industry-wide practice of paying  
4 rebates and/or chargebacks to the Distributor Defendants for sales of prescription opioids.<sup>40</sup> As  
5 reported in the Washington Post, identified by Senator McCaskill, and acknowledged by the HDA,  
6 there is an industry-wide practice whereby the Manufacturers paid the Distributors rebates and/or  
7 chargebacks on their prescription opioid sales.<sup>41</sup> On information and belief, these contracts were  
8 negotiated at the highest levels, demonstrating ongoing relationships between the Manufacturer  
9 and Distributor Defendants. In return for the rebates and chargebacks, the Distributor Defendants  
10 provided the Manufacturer Defendants with detailed information regarding their prescription  
11 opioid sales, including purchase orders, acknowledgements, ship notices, and invoices.<sup>42</sup> The  
12 Manufacturer Defendants used this information to gather high-level data regarding overall  
13 distribution and direct the Distributor Defendants on how to most effectively sell the prescription  
14 opioids.

15 365. The contractual relationships among the Racketeering Defendants also include  
16 vault security programs. The Racketeering Defendants are required to maintain certain security  
17 protocols and storage facilities for the manufacture and distribution of their opiates. Plaintiff is  
18 informed and believes that manufacturers negotiated agreements whereby the Manufacturers  
19 installed security vaults for Distributors in exchange for agreements to maintain minimum sales  
20 performance thresholds. Plaintiff is informed and believes that these agreements were used by  
21 the Racketeering Defendants as a tool to violate their reporting and diversion duties under  
22 Nevada law,<sup>43</sup> in order to reach the required sales requirements.

23  
24 <sup>40</sup> Lenny Bernstein & Scott Higham, *The government's struggle to hold opioid manufacturers accountable*, The  
Washington Post, (April 2, 2017), [https://www.washingtonpost.com/graphics/investigations/dea-](https://www.washingtonpost.com/graphics/investigations/dea-mallinckrodt/?utm_term=.b24cc81cc356)  
25 [mallinckrodt/?utm\\_term=.b24cc81cc356](https://www.washingtonpost.com/graphics/investigations/dea-mallinckrodt/?utm_term=.b24cc81cc356); *see also*, Letter from Sen. Claire McCaskill, (July 27, 2017),  
26 [https://www.mccaskill.senate.gov/imo/media/image/july-opioid-investigation-letter-](https://www.mccaskill.senate.gov/imo/media/image/july-opioid-investigation-letter-manufacturers.png)  
[manufacturers.png](https://www.mccaskill.senate.gov/imo/media/image/july-opioid-investigation-letter-manufacturers.png); Letters From Sen. Claire McCaskill, (March 28, 2017),  
27 <https://www.mccaskill.senate.gov/opioid-investigation>; *Purdue Managed Markets*, Purdue Pharma, (accessed on  
September 14, 2017), <http://www.purduepharma.com/payers/managed-markets/>.

28 <sup>41</sup> *Id.*

<sup>42</sup> *Webinars*, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/resources/webinar-leveraging-edi>.

<sup>43</sup> *See, e.g.*, NRS § 453.231(a).



1           366. Taken together, the interaction and length of the relationships between and among  
2 the Manufacturer and Distributor Defendants reflects a deep level of interaction and cooperation  
3 between two groups in a tightly knit industry. The Manufacturer and Distributor Defendants were  
4 not two separate groups operating in isolation or two groups forced to work together in a closed  
5 system. The Racketeering Defendants operated together as a united entity, working together on  
6 multiple fronts, to engage in the unlawful sale of prescription opioids. The HDA and the Pain Care  
7 Forum are but two examples of the overlapping relationships and concerted joint efforts to  
8 accomplish common goals and demonstrate that the leaders of each of the Racketeering  
9 Defendants were in communication and cooperation.

10           367. According to articles published by the Center for Public Integrity and The  
11 Associated Press, the Pain Care Forum – whose members include the Manufacturers and the  
12 Distributors’ trade association – has been lobbying on behalf of the Manufacturers and Distributors  
13 for “more than a decade.”<sup>44</sup> From 2006 to 2016 the Distributors and Manufacturers worked  
14 together through the Pain Care Forum to spend over \$740 million lobbying in the nation’s capital  
15 and in all 50 statehouses on issues including opioid-related measures.<sup>45</sup> Similarly, the HDA has  
16 continued its work on behalf of Distributors and Manufacturers, without interruption, since at least  
17 2000, if not longer.<sup>46</sup>

18           368. Defendants, individually and collectively through trade groups in the industry,  
19 pressured the U.S. Department of Justice to “halt” prosecutions and lobbied Congress to strip the  
20 DEA of its ability to immediately suspend distributor registrations. The result was a “sharp drop  
21 in enforcement actions” and the passage of the “Ensuring Patient Access and Effective Drug  
22 Enforcement Act” which, ironically, raised the burden for the DEA to revoke a distributor’s license  
23 from “imminent harm” to “immediate harm” and provided the industry the right to “cure” any  
24  
25  
26

27 <sup>44</sup> Matthew Perrone & Ben Wieder, *Pro-Painkiller Echo Chamber Shaped Policy Amid Drug Epidemic*, The Ctr. for  
28 Pub. Integrity, [https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-amid-](https://www.publicintegrity.org/2016/09/19/20201/pro-painkiller-echo-chamber-shaped-policy-amid-drug-epidemic)  
drug-epidemic (last updated Dec. 15, 2016, 9:09 AM).

<sup>45</sup> *Id.*

<sup>46</sup> HDA History, Healthcare Distribution Alliance, (accessed on September 14, 2017),  
<https://www.healthcaredistribution.org/about/hda-history>.

1 violations of law before a suspension order can be issued.<sup>47</sup>

2 369. As described above, the Racketeering Defendants began working together as early  
3 as 2006 through the Pain Care Forum and/or the HDA to further the common purpose of their  
4 enterprise. Plaintiff is informed and believes that the Racketeering Defendants worked together  
5 as an ongoing and continuous organization throughout the existence of their enterprise.

6 **CONDUCT OF THE OPIOID DIVERSION ENTERPRISE**

7 370. The Racketeering Defendants conducted the Opioids Diversion Enterprise, and  
8 participated in the enterprise, by engaging in a pattern of racketeering activity, as prohibited by  
9 NRS § 207.400.

10 371. During the time period alleged in this Complaint, the Racketeering Defendants  
11 exerted control over, conducted and/or participated in the Opioid Diversion Enterprise by  
12 fraudulently failing to comply with their obligations under Nevada law (and federal law, as  
13 incorporated into Nevada law) to identify, investigate and report suspicious orders of opioids in  
14 order to prevent diversion of those highly addictive substances into the illicit market, to halt such  
15 unlawful sales as set forth below. In doing so, the Racketeering Defendants increased production  
16 quotas and generated unlawful profits.

17 372. The Racketeering Defendants disseminated statements that were false and misleading – either  
18 affirmatively or through half-truths and omissions – to the general public, the City of Henderson,  
19 Henderson consumers, and the Nevada Board of Pharmacy, claiming that they were complying  
20 with their obligations to maintain effective controls against diversion of their prescription  
21 opioids.

22 373. The Racketeering Defendants disseminated statements that were false and  
23 misleading – either affirmatively or through half-truths and omissions – to the general public, the  
24 City of Henderson, Henderson consumers, and the Nevada Board of Pharmacy, claiming that  
25 they were complying with their obligations to design and operate a system to disclose to the  
26 registrant suspicious orders of their prescription opioids.

27  
28 <sup>47</sup> See Bernstein & Higham, *Investigation: The DEA Slowed Enforcement While the Opioid Epidemic Grew Out of Control*, *supra*; Bernstein & Higham, *Investigation: U.S. Senator Calls for Investigation of DEA Enforcement Slowdown Amid Opioid Crisis*, *supra*; Eyre, *supra*.

1           374. The Racketeering Defendants disseminated statements that were false and  
2 misleading – either affirmatively or through half-truths and omissions – to the general public, the  
3 City of Henderson, Henderson consumers, and the Nevada Board of Pharmacy claiming that  
4 they were complying with their obligation to notify the DEA of any suspicious orders or  
5 diversion of their prescription opioids.

6           375. The Opioid Diversion Enterprise worked to scale back regulatory oversight by the  
7 DEA that could interfere with the Racketeering Defendants' ability to distribute their opioid drugs  
8 in the City of Henderson, Nevada. To distribute controlled substances in Nevada, the  
9 Racketeering Defendants had to be able to demonstrate possession of a current Nevada  
10 registration. See NRS § 453.226. Even if they held a current registration, the Racketeering  
11 Defendants' ability to obtain a Nevada registration could be jeopardized by past suspension or  
12 revocation of their DEA registration. NRS § 453.231(1)(g).

13           376. The Racketeering Defendants paid nearly \$800 million dollars to influence local,  
14 state and federal governments throughout the United States and in Nevada, through joint lobbying  
15 efforts as part of the Pain Care Forum. The Racketeering Defendants were all members of the  
16 Pain Care Forum either directly or indirectly through the HDA. The lobbying efforts of the Pain  
17 Care Forum and its members included efforts to pass legislation making it more difficult for the  
18 DEA to suspend and/or revoke the Manufacturers' and Distributors' registrations for failure to  
19 report suspicious orders of opioids—protecting the Racketeering Defendants' ability to distribute  
20 prescription opioids in Nevada.

21           377. The Racketeering Defendants exercised control and influence over the distribution  
22 industry by participating and maintaining membership in the HDA.

23           378. The Racketeering Defendants applied political and other pressure on the DOJ and  
24 DEA to halt prosecutions for failure to report suspicious orders of prescription opioids and lobbied  
25 Congress to strip the DEA of its ability to immediately suspend registrations pending investigation  
26 by passing the "Ensuring Patient Access and Effective Drug Enforcement Act."<sup>48</sup>

27  
28 <sup>48</sup> See HDMA is now the Healthcare Distribution Alliance, Pharmaceutical Commerce, (June 13, 2016, updated July 6, 2016), <http://pharmaceuticalcommerce.com/business-and-finance/hdma-now-healthcare-distribution-alliance/>; Bernstein & Higham, *Investigation: The DEA Slowed Enforcement While the Opioid Epidemic Grew Out of Control*,

1           379. The Racketeering Defendants engaged in an industry-wide practice of paying  
2 rebates and chargebacks to incentivize unlawful opioid prescription sales. Plaintiff is informed  
3 and believes that the Manufacturer Defendants used the chargeback program to acquire detailed  
4 high-level data regarding sales of the opioids they manufactured. And, Plaintiff is informed and  
5 believes that the Manufacturer Defendants used this high-level information to direct the Distributor  
6 Defendants' sales efforts to regions where prescription opioids were selling in larger volumes.

7           380. The Manufacturer Defendants lobbied the DEA to increase Aggregate Production  
8 Quotas, year after year by submitting net disposal information that the Manufacturer Defendants  
9 knew included sales that were suspicious and involved the diversion of opioids that had not been  
10 properly investigated or reported by the Racketeering Defendants.

11           381. The Distributor Defendants developed "know your customer" questionnaires and  
12 files. This information, compiled pursuant to comments from the DEA in 2006 and 2007, was  
13 intended to help the Racketeering Defendants identify suspicious orders or customers who were  
14 likely to divert prescription opioids.<sup>49</sup> On information and belief, the "know your customer"  
15 questionnaires informed the Racketeering Defendants of the number of pills that the pharmacies  
16 sold, how many non-controlled substances are sold compared to controlled substances, whether  
17 the pharmacy buys from other distributors, the types of medical providers in the area, including  
18 pain clinics, general practitioners, hospice facilities, cancer treatment facilities, among others, and  
19 these questionnaires put the recipients on notice of suspicious orders.

20           382. The Racketeering Defendants refused to identify, investigate and report  
21 suspicious orders to the DEA, the Nevada Board of Pharmacy, and the FDA when they became  
22 aware of the same despite their actual knowledge of drug diversion rings. The Racketeering  
23 Defendants refused to identify suspicious orders and diverted drugs despite the DEA issuing final  
24  
25

26 *supra*; Bernstein & Higham, *Investigation: U.S. Senator Calls for Investigation of DEA Enforcement Slowdown Amid*  
27 *Opioid Crisis*, *supra*; Eyre, *supra*.

28 <sup>49</sup> Suggested Questions a Distributor should ask prior to shipping controlled substances, Drug Enforcement  
Administration (available at [https://www.deadiversion.usdoj.gov/mtgs/pharm\\_industry/14th\\_pharm/levinl\\_ques.pdf](https://www.deadiversion.usdoj.gov/mtgs/pharm_industry/14th_pharm/levinl_ques.pdf)); Richard Widup, Jr., Kathleen H. Dooley, Esq. Pharmaceutical Production Diversion: Beyond the PDMA, Purdue Pharma and McQuite Woods LLC, (available at [https://www.mcguirewoods.com/news-resources/publications/lifesciences/product\\_diversion\\_beyond\\_pdma.pdf](https://www.mcguirewoods.com/news-resources/publications/lifesciences/product_diversion_beyond_pdma.pdf)).

1 decisions against the Distributor Defendants in 178 registrant actions between 2008 and 2012<sup>50</sup>  
2 and 117 recommended decisions in registrant actions from The Office of Administrative Law  
3 Judges. These numbers include 76 actions involving orders to show cause and 41 actions  
4 involving immediate suspension orders – all for failure to report suspicious orders.<sup>51</sup>

5 383. Defendants' scheme had decision-making structure that was driven by the  
6 Manufacturer Defendants and corroborated by the Distributor Defendants. The Manufacturer  
7 Defendants worked together to control the State and Federal Government's response to the  
8 manufacture and distribution of prescription opioids by increasing production quotas through a  
9 systematic refusal to maintain effective controls against diversion and to identify suspicious orders  
10 and report them to the DEA and State governments, including within the City of Henderson.

11 384. The Racketeering Defendants also worked together to ensure that the Aggregate  
12 Production Quotas, Individual Quotas and Procurement Quotas allowed by the DEA stayed high  
13 and to ensure that suspicious orders were not reported to the DEA. By not reporting suspicious  
14 orders or diversion of prescription opioids, the Racketeering Defendants ensured that the DEA  
15 had no basis for refusing to increase, or to decrease, the production quotas for prescription opioids  
16 due to diversion of suspicious orders. The Racketeering Defendants influenced the DEA  
17 production quotas in the following ways:

- 18 a. The Distributor Defendants assisted the enterprise and the Manufacturer  
19 Defendants in their lobbying efforts through the Pain Care Forum;
- 20 b. The Distributor Defendants invited the participation, oversight and control of the  
21 Manufacturer Defendants by including them in the HDA, including on the councils,  
22 committees, task forces, and working groups;
- 23 c. The Distributor Defendants provided sales information to the Manufacturer  
24 Defendants regarding their prescription opioids, including reports of all opioid  
25 prescriptions filled by the Distributor Defendants;
- 26 d. The Manufacturer Defendants used a chargeback program to ensure delivery of  
27 the Distributor Defendants' sales information;

28 <sup>50</sup> Evaluation and Inspections Div., Office of the Inspector Gen., U.S. Dep't of Justice, *The Drug Enforcement  
Administration's Adjudication of Registrant Actions* 6 (2014), <https://oig.justice.gov/reports/2014/e1403.pdf>.

<sup>51</sup> *Id.*

- 1 e. The Manufacturer Defendants obtained sales information from QuintilesIMS  
2 (formerly IMS Health) that gave them a “stream of data showing how individual  
3 doctors across the nation were prescribing opioids.”<sup>52</sup>  
4  
5 f. The Distributor Defendants accepted rebates and chargebacks for orders of  
6 prescription opioids;  
7  
8 g. The Manufacturer Defendants used the Distributor Defendants’ sales information  
9 and the data from QuintilesIMS to instruct the Distributor Defendants to focus their  
10 distribution efforts to specific areas where the purchase of prescription opioids was  
11 most frequent;  
12  
13 h. The Racketeering Defendants identified suspicious orders of prescription opioids  
14 and then continued filling those unlawful orders, without reporting them, knowing  
15 that they were suspicious and/or being diverted into the illicit drug market;  
16  
17 i. The Racketeering Defendants refused to report suspicious orders of prescription  
18 opioids despite repeated investigation and punishment of the Distributor  
19 Defendants by the DEA for failure to report suspicious orders; and  
20  
21 j. The Racketeering Defendants withheld information regarding suspicious orders  
22 and illicit diversion from the DEA because it would have revealed that the “medical  
23 need” for and the net disposal of their drugs did not justify the production quotas  
24 set by the DEA.  
25  
26  
27  
28

385. The scheme devised and implemented by the Racketeering Defendants amounted to a common course of conduct characterized by a refusal to maintain effective controls against diversion, in intentional violation of Nevada law, and all designed and operated to ensure the continued unlawful sale of controlled substances.

#### **PATTERN OF RACKETEERING ACTIVITY**

386. The Racketeering Defendants conducted and participated in the conduct of the Opioid Diversion Enterprise through a pattern of racketeering activity as defined in NRS § 207.390, by at least two crimes related to racketeering (NRS § 207.360), trafficking in controlled substances (NRS §§ 207.360(22); 453.3395), multiple transactions involving deceit in the course of an enterprise (NRS §§ 207.360(35); 205.377) and distribution of controlled substances or

<sup>52</sup> Harriet Ryan, et al., *More than 1 million OxyContin pills ended up in the hands of criminals and addicts. What the drugmaker knew*, Los Angeles Times, (July 10, 2016), <http://www.latimes.com/projects/la-me-oxycontin-part2/>.

1 controlled substance analogues (NRS § 453.331), and punishable by imprisonment of at least one  
2 year, with the intent of accomplishing activities prohibited by § 207.400 of the Racketeering Act.

3 387. The Racketeering Defendants committed, conspired to commit, and/or aided and  
4 abetted in the commission of at least two predicate acts of racketeering activity (i.e. violations of  
5 NRS §§ 207.360), within a five-year period. The multiple acts of racketeering activity that the  
6 Racketeering Defendants committed, or aided and abetted in the commission of, were related to  
7 each other, posed a threat of continued racketeering activity, and therefore constitute a “pattern  
8 of racketeering activity.” The racketeering activity was made possible by the Racketeering  
9 Defendants’ regular use of the facilities, services, distribution channels, and employees of the  
10 Opioid Diversion Enterprise.

11 388. The Racketeering Defendants committed these predicate acts, which number in  
12 the thousands, intentionally and knowingly with the specific intent to advance the Opioids  
13 Diversion Enterprise by conducting activities prohibited by NRS §§ 207.360, 207.390, 207.400.

14 389. The predicate acts all had the purpose of generating significant revenue and profits  
15 for the Racketeering Defendants while City of Henderson was left with substantial injury to its  
16 business through the damage that the prescription opioid epidemic caused. The predicate acts  
17 were committed or caused to be committed by the Racketeering Defendants through their  
18 participation in the Opioid Diversion Enterprise and in furtherance of its fraudulent scheme. The  
19 predicate acts were related and not isolated events.

20 390. The pattern of racketeering activity alleged herein and the Opioid Diversion  
21 Enterprise are separate and distinct from each other. Likewise, the Racketeering Defendants are  
22 distinct from the enterprise.

23 391. The pattern of racketeering activity alleged herein is continuing as of the date of  
24 this Complaint and, upon information and belief, will continue into the future unless enjoined by  
25 this Court.

26 392. Many of the precise dates of the Racketeering Defendants’ criminal actions at issue  
27 here have been hidden and cannot be alleged without access to Defendants’ books and records.  
28 Indeed, an essential part of the successful operation of the Opioid Diversion Enterprise alleged

1 herein depended upon secrecy.

2 393. Each instance of racketeering activity alleged herein was related, had similar  
3 purposes, involved the same or similar participants and methods of commission, and had similar  
4 results affecting similar victims, including consumers in the City of Henderson, Nevada.  
5 Defendants calculated and intentionally crafted the Opioid Diversion Enterprise and their scheme  
6 to increase and maintain their increased profits, without regard to the effect such behavior would  
7 have on the City of Henderson, Nevada, Henderson consumers, or other Henderson citizens. In  
8 designing and implementing the scheme, at all times Defendants were cognizant of the fact that  
9 those in the manufacturing and distribution chain rely on the integrity of the pharmaceutical  
10 companies and ostensibly neutral third parties to provide objective and reliable information  
11 regarding Defendants' products and their manufacture and distribution of those products. The  
12 Racketeering Defendants were also aware that the City of Henderson and the citizens of this  
13 jurisdiction rely on the Racketeering Defendants to maintain a closed system and to protect  
14 against the non-medical diversion and use of their dangerously addictive opioid drugs.

15 394. By intentionally refusing to report and halt suspicious orders of their prescription  
16 opioids, the Racketeering Defendants engaged in a fraudulent scheme and unlawful course of  
17 conduct constituting a pattern of racketeering activity.

18 395. It was foreseeable to Defendants that refusing to report and halt suspicious orders  
19 would harm City of Henderson by allowing the flow of prescription opioids from appropriate  
20 medical channels into the illicit drug market.

21 396. The Racketeering Defendants did not undertake the predicate acts described  
22 herein in isolation, but as part of a common scheme. Various other persons, firms, and  
23 corporations, including third-party entities and individuals not named as defendants in this  
24 Complaint, may have contributed to and/or participated in the scheme with the Racketeering  
25 Defendants in these offenses and have performed acts in furtherance of the scheme to increase  
26 revenues, increase market share, and /or minimize the losses for the Racketeering Defendants.

27 397. The Racketeering Defendants aided and abetted others in the violations of NRS  
28 §§ 207.360, 207.390, and 207.400, while sharing the same criminal intent as the principals who



1 committed those violations, thereby rendering them indictable as principals in the offenses.

2 398. The last racketeering incident occurred within five years of the commission of a  
3 prior incident of racketeering.

4 **The Racketeering Defendants Conducted the Opioid Diversion Enterprise through**  
5 **Acts of Fraud.**

6 399. Fraud consists of the intentional misappropriation or taking of anything of value  
7 that belongs to another by means of fraudulent conduct, practices or representations.

8 400. The Racketeering Defendants' fraudulent conduct, practices, and representations  
9 include, but are not limited to:

- 10 a. Misrepresentations to facilitate Defendants' DEA registrations, which could be a bar  
11 to their registrations with the Nevada Board of Pharmacy;
- 12 b. Requests for higher aggregate production quotas, individual production quotas, and  
13 procurement quotas to support Defendants' manufacture and distribution of  
14 controlled substances they knew were being or would be unlawfully diverted;
- 15 c. Misrepresentations and misleading omissions in Defendants' records and reports that  
16 were required to be submitted to the DEA and the Nevada Board of Pharmacy  
17 pursuant to Nevada Administrative Code provisions;
- 18 d. Misrepresentations and misleading omissions in documents and communications  
19 related to the Defendants' mandatory DEA reports that would affect Nevada  
20 registrant status; and
- 21 e. Rebate and chargeback arrangements between the Manufacturers and the Distributors  
22 that Defendants used to facilitate the manufacture and sale of controlled substances  
23 they knew were being or would be unlawfully diverted into and from Nevada.

24 401. Specifically, the Racketeering Defendants made misrepresentations about their  
25 compliance with Federal and State laws requiring them to identify, investigate and report  
26 suspicious orders of prescription opioids and/or diversion of the same into the illicit market, all  
27 while Defendants were knowingly allowing millions of doses of prescription opioids to divert into  
28 the illicit drug market. The Racketeering Defendants' scheme and common course of conduct was  
intended to increase or maintain high production quotas for their prescription opioids from which  
they could profit.

402. At the same time, the Racketeering Defendants misrepresented the superior safety

1 features of their order monitoring programs, their ability to detect suspicious orders, their  
2 commitment to preventing diversion of prescription opioids, and that they complied with all state  
3 and federal regulations regarding the identification and reporting of suspicious orders of  
4 prescription opioids.

5 403. The Racketeering Defendants intended to and did, through the above-described  
6 fraudulent conduct, practices, and representations, intentionally misappropriate funds from the  
7 City of Henderson and from private insurers, in excess of \$500, including, for example:

- 8 a. Costs incurred by and resources diverted from the City of Henderson infrastructure and  
9 health care providers;
- 10 b. Any and all cost or payments related to benefits of the City of Henderson employees;

11 404. Many of the precise dates of the fraudulent acts and practices have been deliberately  
12 hidden and cannot be alleged without access to Defendants' books and records. But, Plaintiff has  
13 described the types of, and in some instances, occasions on which the predicate acts of fraud  
14 occurred.

15 **The Racketeering Defendants Unlawfully Trafficked in and Distributed Controlled**  
16 **Substances.**

17 405. Defendants' racketeering activities also included violations of the Nevada  
18 Controlled Substances Act, § 453.3395, and each act is chargeable or indictable under the laws of  
19 Nevada and punishable by imprisonment for more than one year. *See* NRS § 207.360(22).

20 406. Under Nevada law (NRS § 453.3395), it is unlawful to "knowingly or  
21 intentionally sell[], manufacture[], deliver[] or bring[] into this state"— prescription opioids,  
22 which are Schedule II controlled substances that are narcotic drugs, except as authorized by the  
23 Nevada Controlled Substances Act.

24 407. The Racketeering Defendants intentionally trafficked in prescription opioid drugs,  
25 in violation of Nevada law, by manufacturing, selling, and/or distributing those drugs in the City  
26 of Henderson in a manner not authorized by the Nevada Controlled Substances Act. The  
27 Racketeering Defendants failed to act in accordance with the Nevada Controlled Substances Act  
28 because they did not act in accordance with registration requirements as provided in that Act.

408. Among other infractions, the Racketeering Defendants did not comply with 21

1 USC § 823 and its attendant regulations (e.g., 21 CFR § 1301.74)<sup>53</sup> which are incorporated into  
2 Nevada state law, or the Nevada Pharmacy Board regulations. The Racketeering Defendants failed  
3 to furnish notifications and omitted required reports to the Nevada Board.

4 409. Plaintiff is informed and believes that the Racketeering Defendants failed to  
5 furnish required notifications and make reports as part of a pattern and practice of willfully and  
6 intentionally omitting information from their mandatory reports to the DEA, as required by 21  
7 CFR § 1301.74, throughout the United States.

8 410. For example, the DEA and DOJ began investigating McKesson in 2013 regarding  
9 its monitoring and reporting of suspicious controlled substances orders. On April 23, 2015,  
10 McKesson filed a Form-8-K announcing a settlement with the DEA and DOJ wherein it admitted  
11 to violating the CSA and agreed to pay \$150 million and have some of its DEA registrations  
12 suspended on a staggered basis. The settlement was finalized on January 17, 2017.<sup>54</sup>

13 411. Purdue's experience in Los Angeles is another striking example of Defendants'  
14 willful violation of their duty to report suspicious orders of prescription opioids. In 2016, the Los  
15 Angeles Times reported that Purdue was aware of a pill mill operating out of Los Angeles  
16 yet failed to alert the DEA.<sup>55</sup> The LA Times uncovered that Purdue began tracking a surge in  
17 prescriptions in Los Angeles, including one prescriber in particular. A Purdue sales manager spoke  
18 with company officials in 2009 about the prescriber, asking "Shouldn't the DEA be contacted  
19 about this?" and adding that she felt "very certain this is an organized drug ring."<sup>56</sup> Despite  
20 knowledge of the staggering amount of pills being issued in Los Angeles, and internal discussion  
21 of the problem, "Purdue did not shut off the supply of highly addictive OxyContin and did not  
22 tell authorities what it knew about Lake Medical until several years later when the clinic was out  
23 of business and its leaders indicted. By that time, 1.1 million pills had spilled into the hands of

24  
25 <sup>53</sup> Once again, throughout this Count and in this Complaint Plaintiff cites federal statutes and federal regulations to  
26 state the duty owed under Nevada tort law, *not* to allege an independent federal cause of action or substantial federal  
27 question. See, e.g., *Herrera*, 2003-NMSC-018, ¶7.

28 <sup>54</sup> McKesson, McKesson Finalizes Settlement with U.S. Department of Justice and U.S. Drug Enforcement  
Administration to Resolve Past Claims, About McKesson / Newsroom / Press Releases, (January 17, 2017),  
<http://www.mckesson.com/about-mckesson/newsroom/press-releases/2017/mckesson-finalizes-settlement-with-doj-and-dea-to-resolve-past-claims/>.

<sup>55</sup> Harriet Ryan, et al., *More than 1 million OxyContin pills ended up in the hands of criminals and addicts. What the drugmaker knew*, Los Angeles Times, (July 10, 2016), <http://www.latimes.com/projects/la-me-oxycontin-part2/>.

<sup>56</sup> *Id.*

1 Armenian mobsters, the Crips gang and other criminals.”<sup>57</sup>

2 412. Finally, Mallinckrodt was recently the subject of a DEA and Senate investigation  
3 for its opioid practices. Specifically, in 2011, the DEA targeted Mallinckrodt, arguing that it  
4 ignored its responsibility to report suspicious orders as 500 million of its pills ended up in Florida  
5 between 2008 and 2012.<sup>58</sup> After six years of DEA investigation, Mallinckrodt agreed to a  
6 settlement involving a \$35 million fine. Federal prosecutors summarized the case by saying that  
7 Mallinckrodt’s response was that everyone knew what was going on in Florida, but they had no  
8 duty to report it.<sup>59</sup>

9 413. The Racketeering Defendants’ pattern and practice of willfully and intentionally  
10 omitting information from their mandatory reports is evident in the sheer volume of enforcement  
11 actions available in the public record against the Distributor Defendants.<sup>60</sup> For example:

- 12
- 13 a. On April 24, 2007, the DEA issued an *Order to Show Cause and Immediate*  
14 *Suspension Order* against the AmerisourceBergen Orlando, Florida distribution  
15 center (“Orlando Facility”) alleging failure to maintain effective controls against  
16 diversion of controlled substances. On June 22, 2007, AmerisourceBergen  
17 entered into a settlement that resulted in the suspension of its DEA registration;
- 18 b. On November 28, 2007, the DEA issued an *Order to Show Cause and Immediate*  
19 *Suspension Order* against the Cardinal Health Auburn, Washington Distribution  
20 Center (“Auburn Facility”) for failure to maintain effective controls against  
21 diversion of hydrocodone;
- 22 c. On December 5, 2007, the DEA issued an *Order to Show Cause and Immediate*  
23 *Suspension Order* against the Cardinal Health Lakeland, Florida Distribution  
24 Center (“Lakeland Facility”) for failure to maintain effective controls against  
25 diversion of hydrocodone;
- 26 d. On December 7, 2007, the DEA issued an *Order to Show Cause and Immediate*  
27 *Suspension Order* against the Cardinal Health Swedesboro, New Jersey  
28 Distribution Center (“Swedesboro Facility”) for failure to maintain effective  
controls against diversion of hydrocodone;

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<sup>57</sup> *Id.*

<sup>58</sup> Bernstein & Higham, *The government’s struggle to hold opioid manufacturers accountable*, *supra*. This number accounted for 66% of all oxycodone sold in the state of Florida during that time.

<sup>59</sup> *Id.*

<sup>60</sup> Evaluation and Inspections Div., Office of the Inspector Gen., U.S. Dep’t of Justice, *The Drug Enforcement Administration’s Adjudication of Registrant Actions* 6 (2014), <https://oig.justice.gov/reports/2014/e1403.pdf>.

- 1 e. On January 30, 2008, the DEA issued an *Order to Show Cause and Immediate*  
2 *Suspension Order* against the Cardinal Health Stafford, Texas Distribution Center  
3 ("Stafford Facility") for failure to maintain effective controls against diversion of  
4 hydrocodone;
- 5 f. On May 2, 2008, McKesson Corporation entered into an *Administrative*  
6 *Memorandum of Agreement* ("2008 MOA") with the DEA which provided that  
7 McKesson would "maintain a compliance program designed to detect and prevent  
8 the diversion of controlled substances, inform DEA of suspicious orders required  
9 by 21 CFR § 1301.74(b), and follow the procedures established by its Controlled  
10 Substance Monitoring Program";
- 11 g. On September 30, 2008, Cardinal Health entered into a *Settlement and Release*  
12 *Agreement and Administrative Memorandum of Agreement* with the DEA related  
13 to its Auburn Facility, Lakeland Facility, Swedesboro Facility and Stafford  
14 Facility. The document also referenced allegations by the DEA that Cardinal  
15 failed to maintain effective controls against the diversion of controlled substances  
16 at its distribution facilities located in McDonough, Georgia ("McDonough  
17 Facility"), Valencia, California ("Valencia Facility") and Denver, Colorado  
18 ("Denver Facility");
- 19 h. On February 2, 2012, the DEA issued an *Order to Show Cause and Immediate*  
20 *Suspension Order* against the Cardinal Health Lakeland, Florida Distribution  
21 Center ("Lakeland Facility") for failure to maintain effective controls against  
22 diversion of oxycodone;
- 23 i. On December 23, 2016, Cardinal Health agreed to pay a \$44 million fine to the  
24 DEA to resolve the civil penalty portion of the administrative action taken against  
25 its Lakeland, Florida Distribution Center; and
- 26 j. On January 5, 2017, McKesson Corporation entered into an *Administrative*  
27 *Memorandum of Agreement* with the DEA wherein it agreed to pay a \$150,000,000  
28 civil penalty for violation of the 2008 MOA as well as failure to identify and report  
suspicious orders at its facilities in Aurora CO, Aurora IL, Delran NJ, LaCrosse  
WI, Lakeland FL, Landover MD, La Vista NE, Livonia MI, Methuen MA, Santa  
Fe Springs CA, Washington Courthouse OH and West Sacramento CA.

414. These actions against the Distributor Defendants confirm that the Distributors knew they had a duty to maintain effective controls against diversion, design and operate a system to disclose suspicious orders, and to report suspicious orders to the DEA. These actions also

1 demonstrate, on information and belief, that the Manufacturer Defendants were aware of the  
2 enforcement against their Distributors and the diversion of the prescription opioids and a  
3 corresponding duty to report suspicious orders.

4 415. Many of the precise dates of Defendants' criminal actions at issue herein were  
5 hidden and cannot be alleged without access to Defendants' books and records. Indeed, an  
6 essential part of the successful operation of the Opioid Diversion Enterprise depended upon the  
7 secrecy of the participants in that enterprise.

8 **PRAYER FOR RELIEF**

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

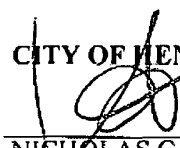
- 10 1. General damages in an amount in excess of \$15,000.00;
- 11 2. Special damages in an amount in excess of \$15,000.00;
- 12 3. For punitive damages in such amount as will sufficiently punish Defendants for  
13 their wrongful conduct in the City of Henderson as well as serve as an example to  
14 prevent a repetition of such conduct in the City of Henderson in the future;
- 15 4. For a fund establishing a medical monitoring program due to the increased  
16 susceptibility to injuries and irreparable threat to the health of opioid users  
17 resulting from their exposure to opioids, which can only be mitigated or addressed  
18 by the creation of a Court-supervised fund, financed by Defendants, and which  
19 will:
  - 20 a. Notify individuals who use or used opioids of the potential harm from  
21 opioids;
  - 22 b. Aid in the early diagnosis and treatment of resulting injuries through  
23 ongoing testing and monitoring of opioid use;
  - 24 c. Fund studies and research of the short and long term effects of opioids and  
25 the possible cures and treatments for the detrimental effects of using  
26 opioids;
  - 27 d. Accumulate and analyze relevant medical and demographic information  
28 from opioid users, including but not limited to the results of testing  
performed on them;

- 1 e. Gather and forward to treating physicians information related to the  
2 diagnosis and treatment of injuries which may result from using opioids.
- 3 5. For restitution and reimbursement sufficient to cover all prescription costs the City  
4 of Henderson has incurred related to opioids due to Defendants' wrongful conduct  
5 with said amount to be determined at trial;
- 6 6. For restitution and reimbursement sufficient to cover all costs expended for health  
7 care services and programs associated with the diagnosis and treatment of adverse  
8 health consequences of opioids use, including but not limited to addiction due to  
9 Defendants' wrongful conduct, with said amount to be determined at trial;
- 10 7. For restitution and reimbursement for all prescription costs incurred by consumers  
11 related to opioids;
- 12 8. For such other and further extraordinary equitable, declaratory and/or injunctive  
13 relief as permitted by law as necessary to assure that the Plaintiffs have an  
14 effective remedy and to stop Defendants' promotion and marketing of opioids for  
15 inappropriate uses in the City of Henderson, currently and in the future;
- 16 9. For disgorgement;
- 17 10. Costs of suit, reasonable attorney fees, interest incurred herein; and
- 18  
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1 11. For such other and further relief as is just and proper.

2 DATED this 22<sup>nd</sup> day of August, 2019.

3  
4 **CITY OF HENDERSON**

5  
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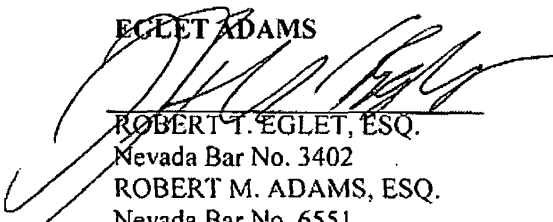
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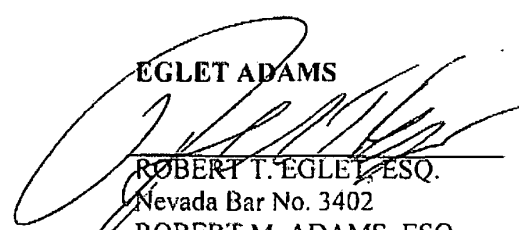
**DEMAND FOR JURY TRIAL**

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

DATED this 22<sup>nd</sup> day of August, 2019.

  
**CITY OF HENDERSON**

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