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14 **DISTRICT COURT**  
15 **CLARK COUNTY, NEVADA**

17 CLARK COUNTY, )  
18 )  
19 Plaintiff, )

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

20 v. )

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

**COMPLAINT**  
**AND DEMAND FOR JURY TRIAL**

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

17 Defendants.

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

### 21 INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

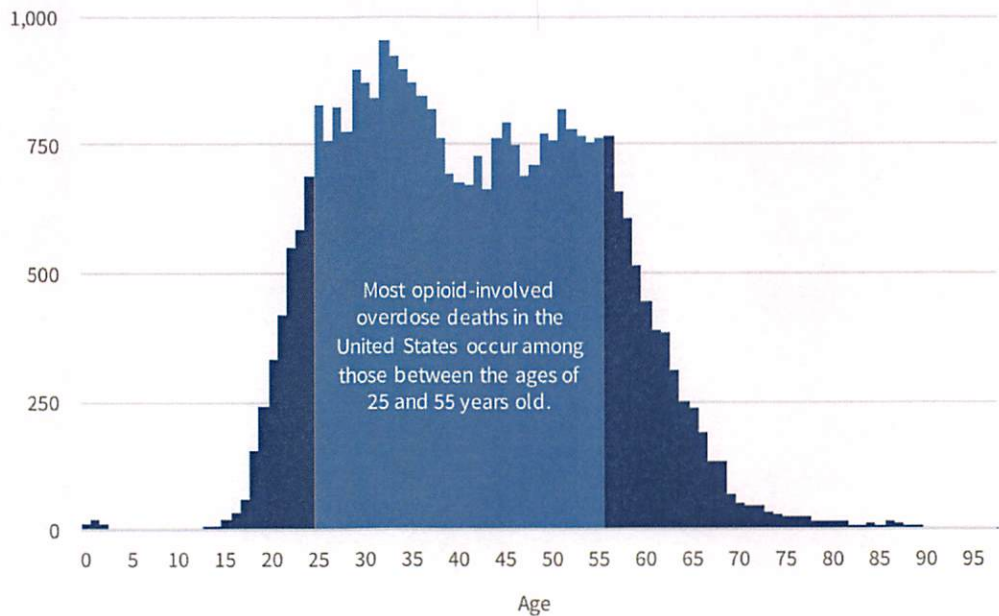
20           22. As a result of the drug companies' marketing campaign, the fatalities continued  
21 to mount while the living continue to suffer.

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

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

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

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



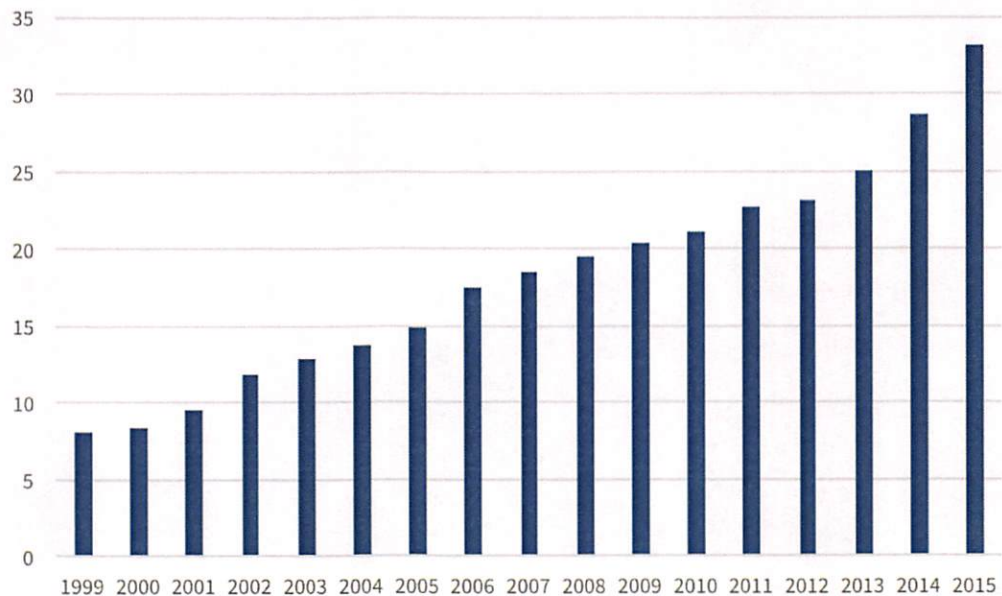
16 Source: CDC Wonder database, multiple cause of death files

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

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

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

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



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Source: CDC Wonder database, multiple cause of death files

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

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

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

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

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

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

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

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

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

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

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

#### 21 PARTIES AND JURISDICTION

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **Defendants, Pharmacies.**

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

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

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

28

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

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

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

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

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

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

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

3 **E. Jurisdiction & Venue.**

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

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

11 **GENERAL FACTUAL ALLEGATIONS**

12 **A. Opioids Generally**

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

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

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

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

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

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

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

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

### 17 **Direct Marketing Efforts**

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

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

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

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

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

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

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

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



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

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

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

17 **Key Opinion Leaders (KOLs)**

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

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

1                                    **Front Groups**

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

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

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

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

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

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

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

7 **Continuing Medical Education (CMEs)**

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

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

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

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

25 **Marketing Targeting the Elderly and Veterans**

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

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

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

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

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

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

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

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

1           **C. Defendants' Misrepresentations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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, I-2014-003 (May 2014).



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

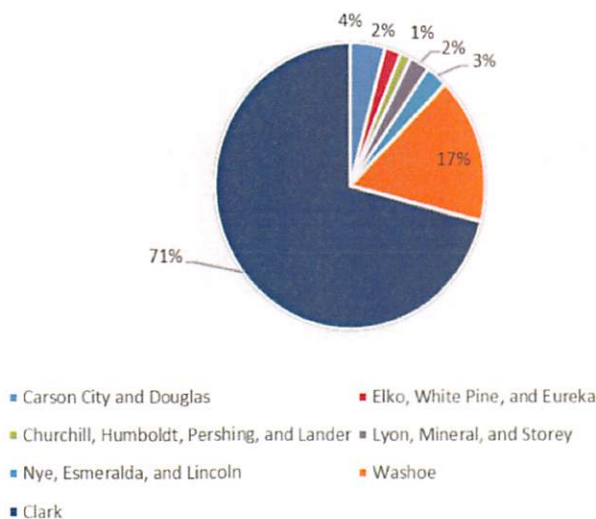
28 135. Yet, Defendants ignored the law, paid the fines, and continued to unlawfully fill  
suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or

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

3 **D. Opioid Addiction in Nevada**

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

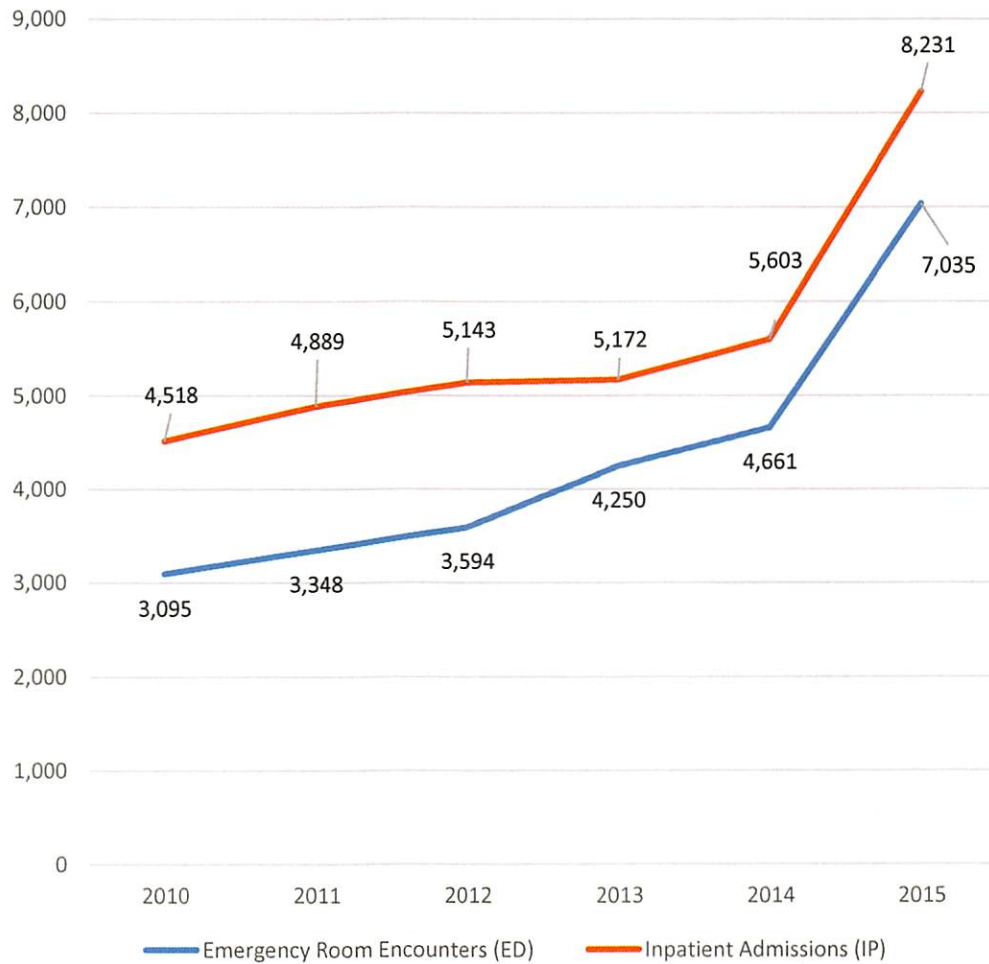
9 Heroin or Opioid Dependence, Abuse, or Poisoning  
10 Among Hospital Emergency Department Visitors for  
11 Nevada Residents in 2009-2013 by Region



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

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

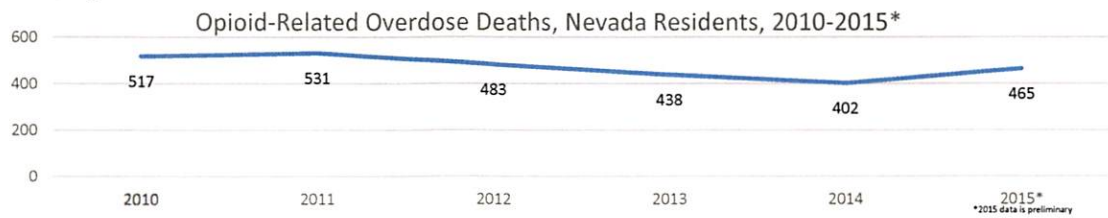
5 Opioid-Related Hospitalizations, Nevada Residents,  
6 2010-2015



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

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

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



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

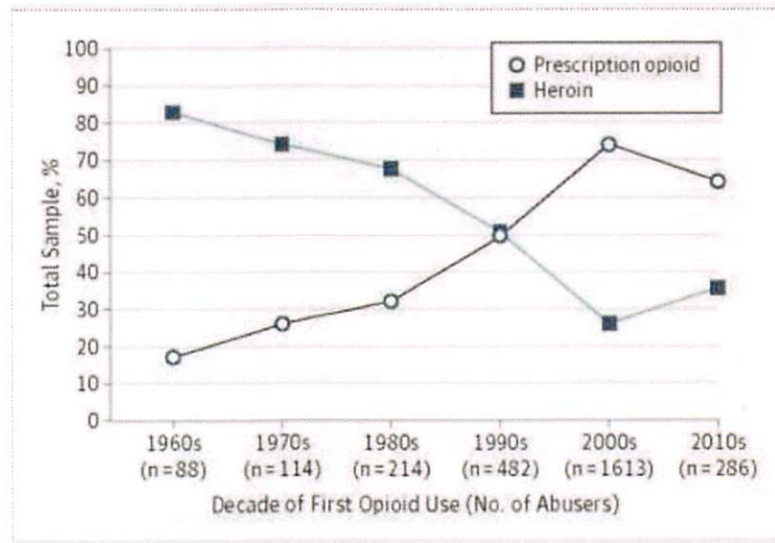
8 141. Through direct promotional marketing, in conjunction with third-party Front  
9 Groups and KOLs, Defendants accomplished exactly what they set out to do: change the  
10 institutional and public perception of the risk-benefit assessments and standard of care for  
11 treating patients with chronic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

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

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

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

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



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

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

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

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

24 *(Public Nuisance Against All Defendants)*

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

## 8 SECOND CAUSE OF ACTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

20 **THIRD CAUSE OF ACTION**

21 *(Negligent Misrepresentation against all Defendants)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 **FOURTH CAUSE OF ACTION**

27 *(Negligence against Defendant Distributors & Defendant Pharmacies)*

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

9 230. 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.

13 231. 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.

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

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

20 **FIFTH CAUSE OF ACTION**

21 *(Unjust Enrichment against all Defendants)*

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

24 235. The expenditures by Plaintiff in providing healthcare services to people who use  
25 opioids have added to Defendants' wealth. These expenditures have helped sustain Defendants'  
26 businesses.  
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1           236. Plaintiff has conferred a benefit upon Defendants, by paying for what may be  
2 called Defendants' externalities- the costs of the harm caused by Defendants' negligent  
3 distribution and sales practices.

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

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

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

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

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

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

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

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

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

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

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

1 **SIXTH CAUSE OF ACTION**

2 *(Punitive Damages against all Defendants)*

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

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

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

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

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

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

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

24 **PRAYER FOR RELIEF**

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

- 26 1. General damages in an amount in excess of \$15,000.00;  
27 2. Special damages in an amount in excess of \$15,000.00;

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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;
  - c. Fund studies and research of the short and long term effects of opioids and the possible cures and treatments for the detrimental effects of using opioids;
  - d. Accumulate and analyze relevant medical and demographic information from opioid users, including but not limited to the results of testing performed on them;
  - e. Gather and forward to treating physicians information related to the diagnosis and treatment of injuries which may result from using opioids.
5. For restitution and reimbursement sufficient to cover all prescription costs the County has incurred related to opioids due to Defendants' wrongful conduct, with said amount to be determined at trial;
6. For restitution and reimbursement sufficient to cover all costs expended for health care services and programs associated with the diagnosis and treatment of adverse health consequences of opioids use, including but not limited to addiction due to Defendants ' wrongful conduct, with said amount to be determined at trial;
7. For restitution and reimbursement for all prescription costs incurred by consumers



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related to opioids;

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

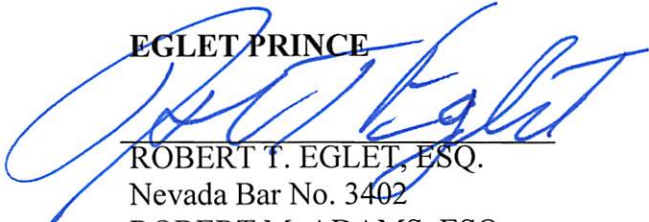
DATED this 6<sup>th</sup> day of December, 2017.

**CLARK COUNTY**



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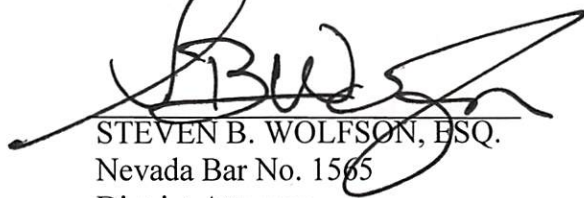
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**DEMAND FOR JURY TRIAL**

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

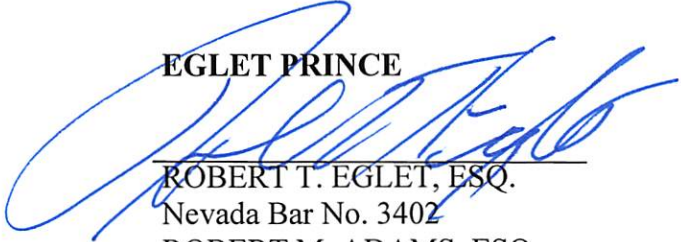
DATED this 6<sup>th</sup> day of December, 2017.

**CLARK COUNTY**



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