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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

PIERCE COUNTY,

Plaintiff,

v.

PURDUE PHARMA, L.P.; PURDUE
PHARMA, INC.; THE PURDUE FREDERICK
COMPANY, INC.; ENDO HEALTH
SOLUTIONS INC.; ENDO
PHARMACEUTICALS, INC.; JANSSEN
PHARMACEUTICALS, INC.; JOHNSON &
JOHNSON; TEVA PHARMACEUTICALS
INDUSTRIES, LTD.; TEVA
PHARMACEUTICALS USA, INC.;
CEPHALON, INC.; ALLERGAN PLC f/k/a
ACTAVIS PLC; WATSON
PHARMACEUTICALS, INC n/k/a ACTAVIS,
INC.; WATSON LABORATORIES, INC.;
ACTAVIS LLC; ACTAVIS PHARMA, INC.
f/k/a WATSON PHARMA, INC;
MALLINCKRODT PLC; MALLINCKRODT,
LLC; CARDINAL HEALTH, INC.;
MCKESSON CORPORATION;
AMERISOURCEBERGEN DRUG
CORPORATION; and JOHN AND JANE
DOES 1 THROUGH 100, INCLUSIVE,

Defendants.

3:18-cv-05086
MDL No. 2804 (N.D. Ohio)
Judge Dan Aaron Polster

Civil Action No. 1:18-op-45195

AMENDED COMPLAINT

JURY DEMAND

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I. INTRODUCTION¹

1
2 1. The United States is experiencing the worst man-made epidemic in modern
3 medical history—the misuse, abuse, and over-prescription of opioids.

4 2. Since 2000, more than 300,000 Americans have lost their lives to an opioid
5 overdose, more than five times as many American lives as were lost in the entire Vietnam War.
6 On any given day, 145 people will die from opioid overdoses in the United States. Drug
7 overdoses are now the leading cause of death for Americans under age fifty.

8 3. The opioid crisis has become a public health emergency of unprecedented levels.
9 Plaintiff Pierce County, one of the largest counties in Washington State with more than 860,000
10 residents, has been deeply affected by the crisis. The opioid abuse prevalent throughout the
11 County has affected Plaintiff in numerous ways, not only through the need for increased
12 emergency medical services, but also through increased drug-related offenses affecting law
13 enforcement, jails, and courts, higher workers' compensation costs for prescription opioids and
14 opioid-related claims, prevalent drug use throughout Pierce County including in streets, buses,
15 and parks, and through additional resources spent on community and social programs, including
16 for the next generation of Pierce residents, who are growing up in the shadow of the opioid
17 epidemic.

18 4. Pierce County has been working to confront the emergency caused by
19 Defendants' reckless promotion and distribution of prescription opioids. In May 2017, Pierce
20 County convened an Opioid Use Task Force, a multidisciplinary group of twenty-five leaders
21 from various sectors and communities, to identify existing practices that should be expanded and
22 new practices that should be implemented in order to address the opioid-use public health crisis
23

24
25 ¹ Plaintiff files this Amended Complaint without leave of Court pursuant to Paragraph 6.b. of the Court's Case
26 Management Order One in *In Re: National Prescription Opiate Litigation*, Case No. 1:17-CV-2804 (ECF No. 232). Plaintiff reserves the right to seek leave to amend or correct this Complaint based upon analysis of ARCOS data not yet available, and upon further investigation and discovery. Plaintiff also reserves all rights to amend this Complaint to the fullest extent permitted by the Federal Rules and the Local Rules of the Court.

1 in Pierce County. The Task Force introduced its recommended actions at the Pierce Countywide
2 Opioid Summit in February 2018.

3 5. But although Pierce County has committed considerable resources to confront the
4 opioid crisis, to implement the Task Force’s recommendations and to fully address the crisis will
5 require the County to spend resources it does not have. It would be unfair to require Pierce
6 County to bear all the costs of addressing an epidemic caused by Defendants’ intentional
7 conduct. Rather, those responsible for the opioid crisis should pay to abate the nuisance and
8 harms they have created in Pierce County.

9 6. The opioid epidemic is no accident. On the contrary, it is the foreseeable
10 consequence of Defendants’ reckless promotion and distribution of potent opioids for chronic
11 pain while deliberately downplaying the significant risks of addiction and overdose.

12 7. Defendant Purdue set the stage for the opioid epidemic, through the production
13 and promotion of its blockbuster drug, OxyContin. Purdue introduced a drug with a narcotic
14 payload many times higher than that of previous prescription painkillers, while executing a
15 sophisticated, multi-pronged marketing campaign to change prescribers’ perception of the risk of
16 opioid addiction and to portray opioids as effective treatment for chronic pain. Purdue pushed its
17 message of opioids as a low-risk panacea on doctors and the public through every available
18 avenue, including through direct marketing, front groups, key opinion leaders, unbranded
19 advertising, and hundreds of sales representatives who visited doctors and clinics on a regular
20 basis.

21 8. As sales of OxyContin and Purdue’s profits surged, Defendants Endo, Janssen,
22 Cephalon, Actavis, and Mallinckrodt—as explained in further detail below—added additional
23 prescription opioids, aggressive sales tactics, and dubious marketing claims of their own to the
24 deepening crisis. They paid hundreds of millions of dollars to market and promote the drugs,
25 notwithstanding their dangers, and pushed bought-and-paid-for “science” supporting the safety
26 and efficacy of opioids that lacked any basis in fact or reality. Obscured from the marketing was

1 the fact that prescription opioids are not much different than heroin—indeed on a molecular
2 level, they are virtually indistinguishable.

3 9. The opioid epidemic simply could not have become the crisis it is today without
4 an enormous supply of pills. Defendants McKesson, Cardinal Health, and AmerisourceBergen
5 raked in huge profits from the distribution of opioids around the United States. These companies
6 knew precisely the quantities of potent narcotics they were delivering to communities across the
7 country, including Pierce County. Yet not only did they intentionally disregard their monitoring
8 and reporting obligations under federal law, they also actively sought to evade restrictions and
9 obtain higher quotas to enable the distribution of even larger shipments of opioids.

10 10. Defendants' efforts were remarkably successful: since the mid-1990s, opioids
11 have become the most prescribed class of drugs in America. Between 1991 and 2011, opioid
12 prescriptions in the U.S. tripled from 76 million to 219 million per year.² In 2016, health care
13 providers wrote more than 289 million prescriptions for opioid pain medication, enough for
14 every adult in the United States to have more than one bottle of pills.³ In terms of annual sales,
15 the increase has been ten-fold; before the FDA approved OxyContin in 1995, annual opioid sales
16 hovered around \$1 billion. By 2015, they increased to almost \$10 billion. By 2020, revenues are
17 projected to grow to \$18 billion.⁴

18 11. But Defendants' profits have come at a steep price. Opioids are now the leading
19 cause of accidental death in the U.S., surpassing deaths caused by car accidents. Opioid overdose
20 deaths (which include prescription opioids as well as heroin) have risen steadily every year, from
21
22

23 ² Nora D. Volkow, MD, *America's Addiction to Opioids: Heroin and Prescription Drug Abuse*, Appearing before
24 the Senate Caucus on International Narcotics Control, NIH Nat'l Inst. on Drug Abuse (May 14, 2014),
<https://www.drugabuse.gov/about-nida/legislative-activities/testimony-to-congress/2016/americas-addiction-to-opioids-heroin-prescription-drug-abuse>.

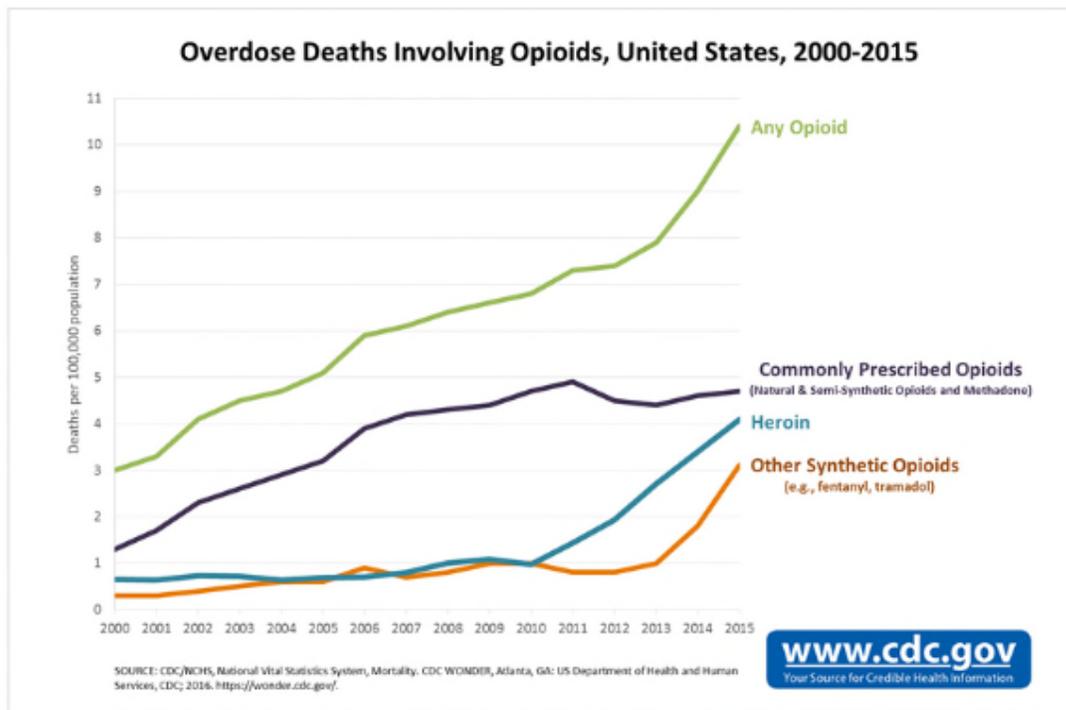
25 ³ *Prevalence of Opioid Misuse*, BupPractice, <https://www.buppractice.com/node/15576> (last updated Mar. 16,
26 2018).

⁴ *Report: Opioid pain sales to hit \$18.4B in the U.S. by 2020*, CenterWatch (July 17, 2017),
<https://www.centerwatch.com/news-online/2017/07/17/report-opioid-pain-sales-hit-18-4b-u-s-2020/#more-31534>.

1 approximately 8,048 in 1999, to 20,422 in 2009, to 33,091 in 2015. In 2016, that toll climbed to
 2 42,249.⁵

3 12. To put these numbers in perspective: in 1970, when a heroin epidemic swept the
 4 U.S., there were fewer than 3,000 heroin overdose deaths. And in 1988, around the height of the
 5 crack epidemic, there were fewer than 5,000 crack overdose deaths recorded. In 2005, at its peak,
 6 methamphetamine was involved in approximately 4,500 deaths.

7 13. As shown in the graph below, the recent surge in opioid-related deaths involves
 8 prescription opioids, heroin, and other synthetic opioids. Nearly half of all opioid overdose
 9 deaths involve a prescription opioid like those manufactured by Defendants,⁶ and the increase in
 10 overdoses from non-prescription opioids is directly attributable to Defendants' success in
 11 expanding the market for opioids of any kind.



5 *Overdose Death Rates*, NIH Nat'l Inst. on Drug Abuse, <https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates> (revised Sept. 2017); *Drug Overdose Death Data*, Ctrs. for Disease Control and Prevention, <https://www.cdc.gov/drugoverdose/data/statedeaths.html> (last updated December 19, 2017).

6 *Understanding the Epidemic*, Ctrs. for Disease Control and Prevention, <https://www.cdc.gov/drugoverdose/epidemic/index.html> (last updated Aug. 30, 2017).

1 14. Just as it has nationally, the opioid epidemic in Pierce County has exacted a grim
2 toll. From 2012 to 2016, 423 residents of Pierce County have died from opioid-related
3 overdoses,⁷ including eighty-one deaths in 2016 alone.⁸ The rate of opioid-related overdose
4 deaths in Pierce County during this time period was higher than the state average.

5 15. Since 2007, the number of people admitted into treatment programs for
6 prescription opioids and heroin in Pierce County has more than doubled. In addition, first-time
7 opioid treatment admissions tripled from 2002 to 2015, with the biggest spike among people
8 ages eighteen to twenty-nine.⁹

9 16. Faced with the effects of opioid-related overdoses, deaths, and crime, Pierce
10 County declared a “State of Opioid Crisis” in August 2017, in a letter signed by all seven
11 members of the County Council to Washington Governor Jay Inslee.

12 17. Beyond the human cost, the CDC recently estimated that the total economic
13 burden of prescription opioid abuse costs the United States \$78.5 billion per year, which includes
14 increased costs for health care and addiction treatment, increased strains on human services and
15 criminal justice systems, and substantial losses in workforce productivity.¹⁰

16 18. But even these estimates are conservative. The Council of Economic Advisers—
17 the primary advisor to the Executive Office of the President—recently issued a report estimating
18 that “in 2015, the economic cost of the opioid crisis was \$504.0 billion, or 2.8% of GDP that
19 year. This is over six times larger than the most recently estimated economic cost of the
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23 ⁷ *Opioid-related Deaths in Washington State, 2006-2016*, Washington State Department of Health (May 2017),
24 <https://www.doh.wa.gov/Portals/1/Documents/Pubs/346-083-SummaryOpioidOverdoseData.pdf>.

25 ⁸ Matt Driscoll, *Noah's story shows why the region's desperate fight against opioids is worth waging*, The News
26 Tribune (Jan. 26, 2018, 7:00am), [http://www.thenewstribune.com/news/local/news-columns-blogs/matt-
driscoll/article196749979.html](http://www.thenewstribune.com/news/local/news-columns-blogs/matt-driscoll/article196749979.html).

⁹ *Id.*

¹⁰ *CDC Foundation's New Business Pulse Focuses on Opioid Overdose Epidemic*, Ctrs. for Disease Control and
Prevention (Mar. 15, 2017), <https://www.cdc.gov/media/releases/2017/a0315-business-pulse-opioids.html>.

1 epidemic.”¹¹ Whatever the final tally, there is no doubt that this crisis has had a profound
2 economic impact.

3 19. Defendants orchestrated this crisis. Despite knowing about the true hazards of
4 their products, Defendants misleadingly advertised their opioids as safe and effective for treating
5 chronic pain and pushed hundreds of millions of pills into the marketplace for consumption.
6 Through their sophisticated and well-orchestrated campaign, Defendants touted the purported
7 benefits of opioids to treat pain and downplayed the risks of addiction. Moreover, even as the
8 deadly toll of prescription opioid use became apparent to Defendants in years following
9 OxyContin’s launch, Defendants persisted in aggressively selling and distributing prescription
10 opioids, while evading their monitoring and reporting obligations, so that massive quantities of
11 addictive opioids continued to pour into Pierce County and other communities around the United
12 States.

13 20. Defendants consistently, deliberately, and recklessly made and continue to make
14 false and misleading statements regarding, among other things, the low risk of addiction to
15 opioids, opioids’ efficacy for chronic pain and ability to improve patients’ quality of life with
16 long-term use, the lack of risk associated with higher dosages of opioids, the need to prescribe
17 more opioids to treat withdrawal symptoms, and that risk-mitigation strategies and abuse-
18 deterrent technologies allow doctors to safely prescribe opioids.

19 21. Because of Defendants’ misconduct, Pierce County is experiencing a severe
20 public health crisis and has suffered significant economic damages, including but not limited to
21 increased costs related to public health, opioid-related crimes and emergencies, health care,
22 criminal justice, and public safety. Pierce County has incurred substantial costs in responding to
23 the crisis and will continue to do so in the future.

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¹¹ *The Underestimated Cost of the Opioid Crisis*, The Council of Econ. Advisers (Nov. 2017),
<https://static.politico.com/1d/33/4822776641cfbac67f9bc7dbd9c8/the-underestimated-cost-of-the-opioid-crisis-embargoed.pdf>.

1 **Endo**

2 28. Defendant Endo Pharmaceuticals, Inc. is a wholly owned subsidiary of Defendant
3 Endo Health Solutions Inc. Both are Delaware corporations with their principal place of business
4 in Malvern, Pennsylvania. Collectively, these entities are referred to as “Endo.”

5 29. Each Endo entity acted in concert with one another and acted as agents and/or
6 principals of one another in connection with the conduct described herein.

7 30. Endo manufactures, promotes, sells, markets, and distributes opioids such as
8 Percocet, Opana, and Opana ER in the United States, including in Pierce County.

9 31. Endo generates substantial sales from its opioids. For example, opioids accounted
10 for more than \$400 million of Endo’s overall revenues of \$3 billion in 2012, and Opana ER
11 generated more than \$1 billion in revenue for Endo in 2010 and 2013.

12 **Janssen and Johnson & Johnson**

13 32. Defendant Janssen Pharmaceuticals, Inc. is a Pennsylvania corporation with its
14 principal place of business in Titusville, New Jersey, and is a wholly owned subsidiary of
15 Defendant Johnson & Johnson, a New Jersey corporation with its principal place of business in
16 New Brunswick, New Jersey. Collectively, these entities are referred to as “Janssen.”

17 33. Both entities above acted in concert with one another and acted as agents and/or
18 principals of one another in connection with the conduct described herein.

19 34. Johnson & Johnson is the only company that owns more than 10% of Janssen
20 Pharmaceuticals, Inc., and corresponds with the FDA regarding the drugs manufactured by
21 Janssen Pharmaceuticals, Inc. Johnson & Johnson also paid prescribers to speak about opioids
22 manufactured by Janssen Pharmaceuticals, Inc. In short, Johnson & Johnson controls the sale and
23 development of the drugs manufactured by Janssen Pharmaceuticals, Inc.

24 35. Janssen manufactures, promotes, sells, markets, and distributes opioids such as
25 Duragesic, Nucynta, and Nucynta ER in the United States, including in Pierce County. Janssen
26 stopped manufacturing Nucynta and Nucynta ER in 2015.

1 36. Janssen generates substantial sales revenue from its opioids. For example,
2 Duragesic accounted for more than \$1 billion in sales in 2009, and Nucynta and Nucynta ER
3 accounted for \$172 million in sales in 2014.

4 **Cephalon and Teva**

5 37. Defendant Cephalon, Inc. (“Cephalon”) is a Delaware corporation with its
6 principal place of business in Frazer, Pennsylvania. Defendant Teva Pharmaceutical Industries,
7 Ltd. (“Teva Ltd.”) is an Israeli corporation with its principal place of business in Petah Tikva,
8 Israel. In 2011, Teva Ltd. acquired Cephalon. Defendant Teva Pharmaceuticals USA, Inc. (“Teva
9 USA”) is a Delaware corporation which is registered to do business in Ohio and is a wholly
10 owned subsidiary of Teva Ltd. in Pennsylvania. Teva USA acquired Cephalon in October 2011.

11 38. Cephalon manufactures, promotes, sells, and distributes opioids, including Actiq
12 and Fentora, in the United States.

13 39. Teva Ltd., Teva USA, and Cephalon work together closely to market and sell
14 Cephalon products in the United States. Teva Ltd. conducts all sales and marketing activities for
15 Cephalon in the United States through Teva USA and has done so since its October 2011
16 acquisition of Cephalon. Teva Ltd. and Teva USA hold out Actiq and Fentora as Teva products
17 to the public. Teva USA sells all former Cephalon-branded products through its “specialty
18 medicines” division. The FDA-approved prescribing information and medication guide, which
19 are distributed with Cephalon opioids, disclose that the guide was submitted by Teva USA, and
20 directs physicians to contact Teva USA to report adverse events.

21 40. All of Cephalon’s promotional websites, including those for Actiq and Fentora,
22 display Teva Ltd.’s logo.¹² Teva Ltd.’s financial reports list Cephalon’s and Teva USA’s sales as
23 its own, and its year-end report for 2012—the year following the Cephalon acquisition in
24 October 2011—attributed a 22% increase in its specialty medicine sales to “the inclusion of a
25

26 _____
¹² Actiq, <http://www.actiq.com/> (last visited May 22, 2018).

1 full year of Cephalon’s specialty sales,” including sales of Fentora.¹³ Through interrelated
2 operations like these, Teva Ltd. operates in the United States through its subsidiaries Cephalon
3 and Teva USA. The United States is the largest of Teva Ltd.’s global markets, representing 53%
4 of its global revenue in 2015, and, were it not for the existence of Teva USA and Cephalon, Teva
5 Ltd. would conduct those companies’ business in the United States itself.

6 41. Upon information and belief, Teva Ltd. directs the business practices of Cephalon
7 and Teva USA, and their profits inure to the benefit of Teva Ltd. as controlling shareholder.

8 Collectively, these entities are referred to as “Cephalon.”

9 **Allergan, Actavis, and Watson**

10 42. Defendant Allergan PLC is a public limited company incorporated in Ireland with
11 its principal place of business in Dublin, Ireland. Actavis PLC acquired Allergan PLC in March
12 2015, and the combined company changed its name to Allergan PLC in January 2013.

13 43. Defendant Actavis, Inc. was acquired by Watson Pharmaceuticals, Inc. in October
14 2012, and the combined company changed its name to Actavis, Inc. as of January 2013 and then
15 Actavis PLC in October 2013.

16 44. Defendant Watson Laboratories, Inc. is a Nevada corporation with its principal
17 place of business in Corona, California, and is a wholly owned subsidiary of Allergan PLC (f/k/a
18 Actavis, Inc., f/k/a Watson Pharmaceuticals, Inc.).

19 45. Defendant Actavis Pharma, Inc. is registered to do business with the Ohio
20 Secretary of State as a Delaware corporation with its principal place of business in New Jersey
21 and was formerly known as Watson Pharma, Inc.

22 46. Defendant Actavis LLC is a Delaware limited liability company with its principal
23 place of business in Parsippany, New Jersey.

24
25
26 ¹³ *Teva Pharm. Indus. Ltd. Form 20-F*, U.S. Sec. and Exchange Commission (Feb. 12, 2013),
http://annualreports.com/HostedData/AnnualReportArchive/t/NASDAQ_TEVA_2012.pdf.

1 47. Each of these defendants and entities is owned by Defendant Allergan PLC,
2 which uses them to market and sell its drugs in the United States. Upon information and belief,
3 Defendant Allergan PLC exercises control over these marketing and sales efforts and profits
4 from the sale of Allergan/Actavis/Watson products ultimately inure to its benefit. Collectively,
5 these defendants and entities are referred to as “Actavis.”

6 48. Actavis manufactures, promotes, sells, and distributes opioids, including the
7 branded drugs Kadian and Norco and generic versions of Kadian, Duragesic, and Opana in the
8 United States. Actavis acquired the rights to Kadian from King Pharmaceuticals, Inc. on
9 December 30, 2008, and began marketing Kadian in 2009.

10 **Mallinckrodt**

11 49. Mallinckrodt plc is an Irish public limited company headquartered in Staines-
12 upon-Thames, United Kingdom, with its U.S. headquarters in St. Louis, Missouri. Mallinckrodt
13 plc was incorporated in January 2013 for the purpose of holding the pharmaceuticals business of
14 Covidien plc, which was fully transferred to Mallinckrodt in June of that year. Mallinckrodt,
15 LLC is a limited liability company organized and existing under the laws of the State of
16 Delaware and licensed to do business in Washington. Mallinckrodt, LLC is a wholly owned
17 subsidiary of Mallinckrodt plc. Mallinckrodt plc and Mallinckrodt, LLC are referred to as
18 “Mallinckrodt.”

19 50. Mallinckrodt manufactures, markets, and sells drugs in the United States. As of
20 2012, it was the largest U.S. supplier of opioid pain medications. In particular, it is one of the
21 largest manufacturers of oxycodone in the U.S.

22 51. Mallinckrodt manufactures and markets two branded opioids: Exalgo, which is
23 extended-release hydromorphone, sold in 8, 12, 16, and 32 mg dosage strengths, and
24 Roxicodone, which is oxycodone, sold in 15 and 30 mg dosage strengths.

25 52. While it has sought to develop its branded opioid products, Mallinckrodt has long
26 been a leading manufacturer of generic opioids. Mallinckrodt estimated that in 2015 it received

1 approximately 25% of the U.S. Drug Enforcement Administration’s (“DEA”) entire annual quota
2 for controlled substances that it manufactures. Mallinckrodt also estimated, based on IMS Health
3 data for the same period, that its generics claimed an approximately 23% market share of DEA
4 Schedules II and III opioid and oral solid dose medications.

5 53. Mallinckrodt operates a vertically integrated business in the United States: (1)
6 importing raw opioid materials, (2) manufacturing generic opioid products, primarily at its
7 facility in Hobart, New York, and (3) marketing and selling its products to drug distributors,
8 specialty pharmaceutical distributors, retail pharmacy chains, pharmaceutical benefit managers
9 that have mail-order pharmacies, and hospital buying groups.

10 54. In 2017, Mallinckrodt agreed to settle for \$35 million the Department of Justice’s
11 allegations regarding excessive sales of oxycodone in Florida. The Department of Justice alleged
12 that even though Mallinckrodt knew that its oxycodone was being diverted to illicit use, it
13 nonetheless continued to incentivize and supply these suspicious sales, and it failed to notify the
14 DEA of the suspicious orders in violation of its obligations as a registrant under the Controlled
15 Substances Act, 21 U.S.C. § 801 *et seq.* (“CSA”).

16 55. Defendants Purdue, Endo, Janssen, Cephalon, Actavis, and Mallinckrodt are
17 collectively referred to as the “Manufacturing Defendants.”

18 **AmerisourceBergen**

19 56. Defendant AmerisourceBergen Drug Corporation (“AmerisourceBergen”) is a
20 Delaware corporation with its principal place of business located in Chesterbrook, Pennsylvania.

21 57. According to its 2016 Annual Report, AmerisourceBergen is “one of the largest
22 global pharmaceutical sourcing and distribution services companies” with “over \$145 billion in
23 annual revenue.”

24 58. AmerisourceBergen is licensed as a “wholesale distributor” to sell prescription
25 and non-prescription drugs in Washington State, including opioids. It operates a warehouse in
26 Kent, Washington.

1 **Cardinal Health**

2 59. Defendant Cardinal Health, Inc. (“Cardinal Health”) is an Ohio Corporation with
3 its principal place of business in Dublin, Ohio.

4 60. According to its 2017 Annual Report, Cardinal Health is “a global, integrated
5 healthcare services and products company serving hospitals, healthcare systems, pharmacies,
6 ambulatory surgery centers, clinical laboratories and physician offices worldwide . . .
7 deliver[ing] medical products and pharmaceuticals.” In 2017 alone, Cardinal Health generated
8 revenues of nearly \$130 billion.

9 61. Cardinal Health is licensed as a “wholesale distributor” to sell prescription and
10 non-prescription drugs in Washington State, including opioids. It operates a warehouse in Fife,
11 Washington.

12 **McKesson**

13 62. Defendant McKesson Corporation (“McKesson”) is a Delaware Corporation with
14 its principal place of business in San Francisco, California.

15 63. McKesson is the largest pharmaceutical distributor in North America, delivering
16 nearly one-third of all pharmaceuticals used in this region.

17 64. According to its 2017 Annual Report, McKesson “partner[s] with pharmaceutical
18 manufacturers, providers, pharmacies, governments and other organizations in healthcare to help
19 provide the right medicines, medical products and healthcare services to the right patients at the
20 right time, safely and cost-effectively.” Additionally, McKesson’s pharmaceutical distribution
21 business operates and serves thousands of customer locations through a network of twenty-seven
22 distribution centers, as well as a primary redistribution center, two strategic redistribution centers
23 and two repackaging facilities, serving all fifty states and Puerto Rico.

24 65. For the fiscal year ending March 31, 2017, McKesson generated revenues of
25 \$198.5 billion.

1 opioids produce multiple effects on the human body, the most significant of which are analgesia,
2 euphoria, and respiratory depression. In addition, opioids cause sedation and constipation.

3 72. Most of these effects are medically useful in certain situations, but respiratory
4 depression is the primary limiting factor for the use of opioids. While the body develops
5 tolerance to the analgesic and euphoric effects of opioids relatively quickly, this is not true with
6 respect to respiratory depression. At high doses, opioids can and often do arrest respiration
7 altogether. This is why the risk of opioid overdose is so high, and why many of those who
8 overdose simply go to sleep and never wake up.

9 73. Natural opioids are derived from the opium poppy and have been used since
10 antiquity, going as far back as 3400 B.C. The opium poppy contains various opium alkaloids,
11 three of which are used commercially today: morphine, codeine, and thebaine.

12 74. A 16th-century European alchemist, Paracelsus, is generally credited with
13 developing a tincture of opium and alcohol called laudanum, but it was a British physician a
14 century later who popularized the use of laudanum in Western medicine. “Sydenham’s
15 laudanum” was a simpler tincture than Paracelsus’s and was widely adopted as a treatment not
16 only for pain, but for coughs, dysentery, and numerous other ailments. Laudanum contains
17 almost all of the opioid alkaloids and is still available by prescription today.

18 75. Chemists first isolated the morphine and codeine alkaloids in the early 1800s, and
19 the pharmaceutical company Merck began large-scale production and commercial marketing of
20 morphine in 1827. During the American Civil War, field medics commonly used morphine,
21 laudanum, and opium pills to treat the wounded, and many veterans were left with morphine
22 addictions. It was upper and middle class white women, however, who comprised the majority of
23 opioid addicts in the late 19th-century United States, using opioid preparations widely available
24 in pain elixirs, cough suppressants, and patent medicines. By 1900, an estimated 300,000 people
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26

1 were addicted to opioids in the United States,¹⁵ and many doctors prescribed opioids solely to
2 prevent their patients from suffering withdrawal symptoms.

3 76. Trying to develop a drug that could deliver opioids' potent pain relief without
4 their addictive properties, chemists continued to isolate and refine opioid alkaloids. Heroin, first
5 synthesized from morphine in 1874, was marketed commercially by the Bayer Pharmaceutical
6 Company beginning in 1898 as a safe alternative to morphine. Heroin's market position as a safe
7 alternative was short-lived, however; Bayer stopped mass-producing heroin in 1913 because of
8 its dangers. German chemists then looked to the alkaloid thebaine, synthesizing oxymorphone
9 and oxycodone from thebaine in 1914 and 1916, respectively, with the hope that the different
10 alkaloid source might provide the benefits of morphine and heroin without the drawbacks.

11 77. But each opioid was just as addictive as the one before it, and eventually the issue
12 of opioid addiction could not be ignored. The nation's first Opium Commissioner, Hamilton
13 Wright, remarked in 1911, "The habit has this nation in its grip to an astonishing extent. Our
14 prisons and our hospitals are full of victims of it, it has robbed ten thousand businessmen of
15 moral sense and made them beasts who prey upon their fellows . . . it has become one of the
16 most fertile causes of unhappiness and sin in the United States."¹⁶

17 78. Concerns over opioid addiction led to national legislation and international
18 agreements regulating narcotics: the International Opium Convention, signed at the Hague in
19 1912, and, in the U.S., the Harrison Narcotics Tax Act of 1914. Opioids were no longer marketed
20 as cure-alls and instead were relegated to the treatment of acute pain.

21 79. Throughout the twentieth century, pharmaceutical companies continued to
22 develop prescription opioids, but these opioids were generally produced in combination with
23 other drugs, with relatively low opioid content. For example, Percodan, produced by Defendant
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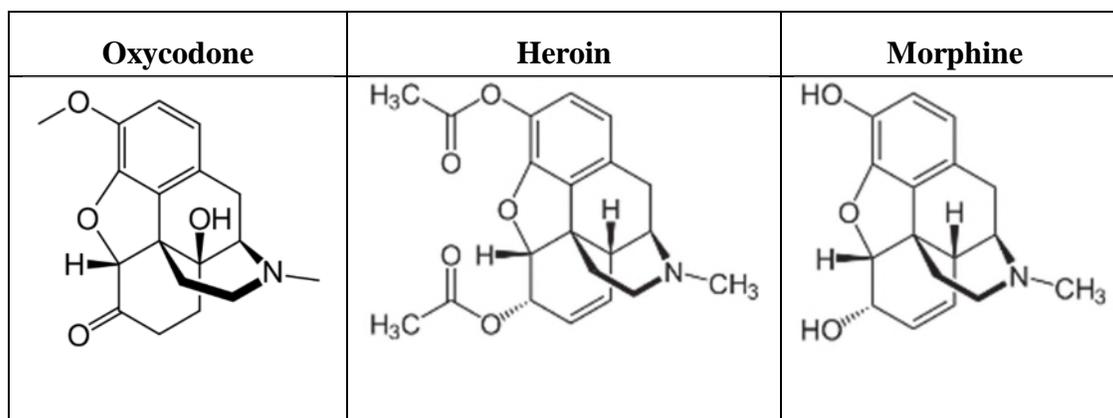
25 ¹⁵ Nick Miroff, *From Teddy Roosevelt to Trump: How drug companies triggered an opioid crisis a century ago*,
26 Washington Post (Oct. 17, 2017), https://www.washingtonpost.com/news/retropolis/wp/2017/09/29/the-greatest-drug-fiends-in-the-world-an-american-opioid-crisis-in-1908/?utm_term=.7832633fd7ca.

¹⁶ *Id.*

1 Endo since 1950, is oxycodone and aspirin, and contains just under 5 mg of oxycodone.
 2 Percocet, manufactured by Endo since 1971, is the combination of oxycodone and
 3 acetaminophen, with dosage strengths delivering between 2.5 mg and 10 mg of oxycodone.
 4 Vicodin, a combination of hydrocodone and acetaminophen, was introduced in the U.S. in 1978
 5 and is sold in strengths of 5 mg, 7.5 mg, and 10 mg of hydrocodone. Defendant Janssen also
 6 manufactured a drug with 5 mg of oxycodone and 500 mg of acetaminophen, called Tylox, from
 7 1984 to 2012.

8 80. In contrast, OxyContin, the product with the dubious honor of the starring role in
 9 the opioid epidemic, is pure oxycodone. Purdue initially made it available in the following
 10 dosage strengths: 10 mg, 15 mg, 20 mg, 30 mg, 40 mg, 60 mg, 80 mg, and 160 mg. In other
 11 words, the weakest OxyContin delivers as much narcotic as the strongest Percocet, and some
 12 OxyContin tablets delivered sixteen times as much as that.

13 81. Prescription opioids are essentially pharmaceutical heroin; they are synthesized
 14 from the same plant, have similar molecular structures, and bind to the same receptors in the
 15 human brain. It is no wonder then that there is a straight line between prescription opioid abuse
 16 and heroin addiction. Indeed, studies show that over 80% of new heroin addicts between 2008
 17 and 2010 started with prescription opioids.¹⁷



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¹⁷ Jones CM, *Heroin use and heroin use risk behaviors among nonmedical users of prescription opioid pain relievers - United States, 2002-2004 and 2008-2010*, 132(1-2) Drug Alcohol Depend. 95-100 (Sept. 1, 2013), <https://www.ncbi.nlm.nih.gov/pubmed/23410617>.

1 82. Medical professionals describe the strength of various opioids in terms of
2 “morphine milligram equivalents” (“MME”). According to the CDC, dosages at or above 50
3 MME/day double the risk of overdose compared to 20 MME/day, and one study found that
4 patients who died of opioid overdose were prescribed an average of 98 MME/day.

5 83. Different opioids provide varying levels of MMEs. For example, just 33 mg of
6 oxycodone provides 50 MME. Thus, at OxyContin’s twice-daily dosing, the 50 MME/day
7 threshold is reached by a prescription of 15 mg twice daily. One 160 mg tablet of OxyContin,
8 which Purdue took off the market in 2001, delivered 240 MME.¹⁸

9 84. As journalist Barry Meier wrote in his 2003 book *Pain Killer: A “Wonder”*
10 *Drug’s Trail of Addiction and Death*, “In terms of narcotic firepower, OxyContin was a nuclear
11 weapon.”¹⁹

12 85. Fentanyl, an even more potent and more recent arrival in the opioid tale, is a
13 synthetic opioid that is 100 times stronger than morphine and 50 times stronger than heroin. First
14 developed in 1959 by Dr. Paul Janssen under a patent held by Janssen Pharmaceutica, fentanyl is
15 increasingly prevalent in the market for opioids created by Defendants’ promotion, with
16 particularly lethal consequences. In many instances, illicit fentanyl is manufactured to look like
17 oxycodone tablets, in the light blue color and with the “M” stamp of Defendant Mallinckrodt’s
18 30mg oxycodone pills. These lookalike pills have been found around the country, including in
19 Washington State.²⁰

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22 ¹⁸ The wide variation in the MME strength of prescription opioids renders misleading any effort to capture “market
23 share” by the number of pills or prescriptions attributed to Purdue or other manufacturers. Purdue, in particular,
24 focuses its business on branded, highly potent pills, causing it to be responsible for a significant percent of the total
amount of MME in circulation even though it currently claims to have a small percent of the market share in terms
of pills or prescriptions.

25 ¹⁹ Barry Meier, *Pain Killer: A “Wonder” Drug’s Trail of Addiction and Death* (Rodale 2003).

26 ²⁰ See e.g., Sharon Bogan, *Illicit fentanyl found locally in fake opioid pills*, Public Health Insider (Oct. 2, 2017),
<https://publichealthinsider.com/2017/10/02/illicit-fentanyl-found-locally-in-fake-opioid-pills/>; *Mislabeled
painkillers “a fatal overdose waiting to happen,”* CBS News (Feb. 29, 2016, 10:46am),
<https://www.cbsnews.com/news/mislabeled-painkillers-a-fatal-overdose-waiting-to-happen/>.

1 **2. The Sackler family pioneered the integration of advertising and medicine.**

2 86. Given the history of opioid use in the U.S. and the medical profession's resulting
3 wariness, the commercial success of Defendants' prescription opioids would not have been
4 possible without a fundamental shift in prescribers' perception of the risks and benefits of long-
5 term opioid use.

6 87. As it turned out, Purdue was uniquely positioned to execute just such a maneuver,
7 thanks to the legacy of a man named Arthur Sackler. The Sackler family is the sole owner of
8 Purdue and one of the wealthiest families in America, surpassing the wealth of storied families
9 like the Rockefellers, the Mellons, and the Busches.²¹ Because of Purdue and, in particular,
10 OxyContin, the Sacklers' net worth was \$13 billion as of 2016. Today, all nine members of the
11 Purdue board are family members, and all of the company's profits go to Sackler family trusts
12 and entities.²² Yet the Sacklers have avoided publicly associating themselves with Purdue, letting
13 others serve as the spokespeople for the company.

14 88. The Sackler brothers—Arthur, Mortimer, and Raymond—purchased a small
15 patent-medicine company called The Purdue Frederick Company in 1952. While all three
16 brothers were accomplished psychiatrists, it was Arthur, the oldest, who directed the Sackler
17 story, treating his brothers more as his protégés than colleagues, putting them both through
18 medical school and essentially dictating their paths. It was Arthur who created the Sackler
19 family's wealth, and it was Arthur who created the pharmaceutical advertising industry as we
20 know it—laying the groundwork for the OxyContin promotion that would make the Sacklers
21 billionaires.

22 89. Arthur Sackler was both a psychiatrist and a marketing executive, and, by many
23 accounts, a brilliant and driven man. He pursued two careers simultaneously, as a psychiatrist at

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25 ²¹ Alex Morrell, *The OxyContin Clan: The \$14 Billion Newcomer to Forbes 2015 List of Richest U.S. Families*,
Forbes (July 1, 2015, 10:17am), <https://www.forbes.com/sites/alexmorrell/2015/07/01/the-oxycontin-clan-the-14-billion-newcomer-to-forbes-2015-list-of-richest-u-s-families/#382ab3275e02>.

26 ²² David Armstrong, *The man at the center of the secret OxyContin files*, Stat News (May 12, 2016),
<https://www.statnews.com/2016/05/12/man-center-secret-oxycontin-files/>.

1 Creedmoor State Hospital in New York and the president of an advertising agency called
2 William Douglas McAdams. Arthur pioneered both print advertising in medical journals and
3 promotion through physician “education” in the form of seminars and continuing medical
4 education courses. He understood intuitively the persuasive power of recommendations from
5 fellow physicians, and did not hesitate to manipulate information when necessary. For example,
6 one promotional brochure produced by his firm for Pfizer showed business cards of physicians
7 from various cities as if they were testimonials for the drug, but when a journalist tried to contact
8 these doctors, he discovered that they did not exist.²³

9 90. It was Arthur who, in the 1960s, made Valium into the first \$100-million drug, so
10 popular it became known as “Mother’s Little Helper.” His expertise as a psychiatrist was key to
11 his success; as his biography in the Medical Advertising Hall of Fame notes, it “enabled him to
12 position different indications for Roche’s Librium and Valium—to distinguish for the physician
13 the complexities of anxiety and psychic tension.”²⁴ When Arthur’s client, Roche, developed
14 Valium, it already had a similar drug, Librium, another benzodiazepine, on the market for
15 treatment of anxiety. So Arthur invented a condition he called “psychic tension”—essentially
16 stress—and pitched Valium as the solution.²⁵ The campaign, for which Arthur was compensated
17 based on volume of pills sold,²⁶ was a remarkable success.

18 91. Arthur’s entrepreneurial drive led him to create not only the advertising for his
19 clients but also the vehicle to bring their advertisements to doctors—a biweekly newspaper
20 called the *Medical Tribune*, which he distributed for free to doctors nationwide. Arthur also
21 conceived a company now called IMS Health Holdings Inc., which monitors prescribing
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24 ²³ Meier, *supra* note 19, at 204.

25 ²⁴ MAHF Inductees, Arthur M. Sackler, Med. Advert. Hall of Fame, <https://www.mahf.com/mahf-inductees/> (last
visited May 22, 2018).

26 ²⁵ Meier, *supra* note 19, at 202; *One Family Reaped Billions From Opioids*, WBUR On Point (Oct. 23, 2017),
<http://www.wbur.org/onpoint/2017/10/23/one-family-reaped-billions-from-opioids>.

²⁶ WBUR On Point interview, *supra* note 25.

1 practices of every doctor in the U.S. and sells this valuable data to pharmaceutical companies
2 like Defendants, who utilize it to tailor their sales pitches to individual physicians.

3 92. Even as he expanded his business dealings, Arthur was adept at hiding his
4 involvement in them. When, during a 1962 Senate hearing about deceptive pharmaceutical
5 advertising, he was asked about a public relations company called Medical and Science
6 Communications Associates, which distributed marketing from drug companies disguised as
7 news articles, Arthur was able to truthfully testify that he never was an officer for nor had any
8 stock in that company. But the company's sole shareholder was his then-wife. Around the same
9 time, Arthur also successfully evaded an investigative journalist's attempt to link the Sacklers to
10 a company called MD Publications, which had funneled payments from drug companies to an
11 FDA official named Henry Welch, who was forced to resign when the scandal broke.²⁷ Arthur
12 had set up such an opaque and layered business structure that his connection to MD Publications
13 was only revealed decades later when his heirs were fighting over his estate.

14 93. Arthur Sackler did not hesitate to manipulate information to his advantage. His
15 legacy is a corporate culture that prioritizes profits over people. In fact, in 2007, federal
16 prosecutors conducting a criminal investigation of Purdue's fraudulent advertising of OxyContin
17 found a "corporate culture that allowed this product to be misbranded with the intent to defraud
18 and mislead."²⁸ Court documents from the prosecution state that "certain Purdue supervisors and
19 employees, with the intent to defraud or mislead, marketed and promoted OxyContin as less
20 addictive, less subject to abuse and diversion, and less likely to cause tolerance and withdrawal
21 than other pain medications . . ."²⁹ Half a century after Arthur Sackler wedded advertising and
22 medicine, Purdue employees were following his playbook, putting product sales over patient
23 safety.

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25 ²⁷ Meier, *supra* note 19, at 210-14.

26 ²⁸ Naomi Spencer, *OxyContin manufacturer reaches \$600 million plea deal over false marketing practices*, World Socialist Web Site (May 19, 2007), <http://www.wsws.org/en/articles/2007/05/oxy-m19.html>.

²⁹ Agreed Statement of Facts, *United States v. Purdue Frederick Co.*, No. 1:07-cr-00029 (W.D. Va. May 10, 2007).

1 **3. Purdue and the development of OxyContin**

2 94. After the Sackler brothers acquired The Purdue Frederick Company in 1952,
3 Purdue sold products ranging from earwax remover to antiseptic, and it became a profitable
4 business. As an advertising executive, Arthur Sackler was not involved, on paper at least, in
5 running Purdue because that would have been a conflict of interest. Raymond Sackler became
6 Purdue's head executive while Mortimer Sackler ran Purdue's UK affiliate.

7 95. In the 1980s, Purdue, through its UK affiliate, acquired a Scottish drug producer
8 that had developed a sustained-release technology suitable for morphine. Purdue marketed this
9 extended-release morphine as MS Contin. It quickly became Purdue's best seller. As the patent
10 expiration for MS Contin loomed, Purdue searched for a drug to replace it. Around that time,
11 Raymond Sackler's oldest son, Richard Sackler, who was also a trained physician, became more
12 involved in the management of the company. Richard Sackler had grand ambitions for the
13 company; according to a long-time Purdue sales representative, "Richard really wanted Purdue
14 to be big—I mean *really* big."³⁰ Richard Sackler believed Purdue should develop another use for
15 its "Contin" timed-release system.

16 96. In 1990, Purdue's VP of clinical research, Robert Kaiko, sent a memo to Richard
17 Sackler and other executives recommending that the company work on a pill containing
18 oxycodone. At the time, oxycodone was perceived as less potent than morphine, largely because
19 it was most commonly prescribed as Percocet, the relatively weak oxycodone-acetaminophen
20 combination pill. MS Contin was not only approaching patent expiration but had always been
21 limited by the stigma associated with morphine. Oxycodone did not have that problem, and
22 what's more, it was sometimes mistakenly called "oxycodone," which also contributed to the
23 perception of relatively lower potency, because codeine is weaker than morphine. Purdue
24 acknowledged using this to its advantage when it eventually pled guilty to criminal charges of
25

26 ³⁰ Christopher Glazek, *The Secretive Family Making Billions from the Opioid Crisis*, Esquire (Oct. 16, 2017),
<http://www.esquire.com/news-politics/a12775932/sackler-family-oxycontin/>.

1 “misbranding” in 2007, admitting that it was “well aware of the incorrect view held by many
2 physicians that oxycodone was weaker than morphine” and “did not want to do anything ‘to
3 make physicians think that oxycodone was stronger or equal to morphine’ or to ‘take any steps . .
4 . that would affect the unique position that OxyContin’” held among physicians.³¹

5 97. For Purdue and OxyContin to be “*really big*,” Purdue needed to both distance its
6 new product from the traditional view of narcotic addiction risk, and broaden the drug’s uses
7 beyond cancer pain and hospice care. A marketing memo sent to Purdue’s top sales executives in
8 March 1995 recommended that if Purdue could show that the risk of abuse was lower with
9 OxyContin than with traditional immediate-release narcotics, sales would increase.³² As
10 discussed below, Purdue did not find or generate any such evidence, but this did not stop Purdue
11 from making that claim regardless.

12 98. Despite the fact that there has been little or no change in the amount of pain
13 reported in the U.S. over the last twenty years, Purdue recognized an enormous untapped market
14 for its new drug. As Dr. David Haddox, a Senior Medical Director at Purdue, declared on the
15 Early Show, a CBS morning talk program, “There are 50 million patients in this country who
16 have chronic pain that’s not being managed appropriately every single day. OxyContin is one of
17 the choices that doctors have available to them to treat that.”³³

18 99. In pursuit of these 50 million potential customers, Purdue poured resources into
19 OxyContin’s sales force and advertising. The graph below shows how promotional spending in
20 the first six years following OxyContin’s launch dwarfed Purdue’s spending on MS Contin or
21 Defendant Janssen’s spending on Duragesic:³⁴

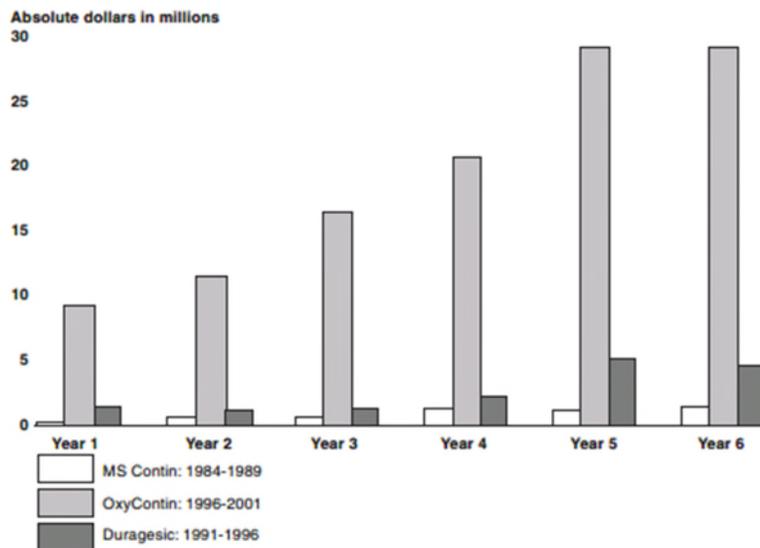
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24 ³¹ *United States v. Purdue Frederick Co.*, *supra* note 29.

25 ³² Meier, *supra* note 19, at 269.

26 ³³ *Id.* at 156.

³⁴ *OxyContin Abuse and Diversion and Efforts to Address the Problem*, U.S. Gen. Acct. Off. Rep. to Cong. Requesters at 22 (Dec. 2003), <http://www.gao.gov/new.items/d04110.pdf>.

Figure 1: Promotional Spending for Three Opioid Analgesics in First 6 Years of Sales



Source: DEA and IMS Health, Integrated Promotional Service Audit.

Note: Dollars are 2002 adjusted.

100. Prior to Purdue's launch of OxyContin, no drug company had ever promoted such a pure, high-strength Schedule II narcotic to so wide an audience of general practitioners. Today, one in every five patients who present themselves to physicians' offices with non-cancer pain symptoms or pain-related diagnoses (including acute and chronic pain) receives an opioid prescription.³⁵

101. Purdue has generated estimated sales of more than \$35 billion from opioids since 1996, while raking in more than \$3 billion in 2015 alone. Remarkably, its opioid sales continued to climb even after a period of media attention and government inquiries regarding OxyContin abuse in the early 2000s and a criminal investigation culminating in guilty pleas in 2007. Purdue proved itself skilled at evading full responsibility and continuing to sell through the controversy.

³⁵ Deborah Dowell, M.D., Tamara M. Haegerich, Ph.D., and Roger Chou, M.D., *CDC Guideline for Prescribing Opioids for Chronic Pain — United States, 2016*, Ctrs. for Disease Control and Prevention (Mar. 18, 2016), <https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm> [hereinafter 2016 CDC Guideline].

1 The company's annual opioid sales of \$3 billion in 2015 represent a four-fold increase from its
2 2006 sales of \$800 million.

3 102. One might imagine that Richard Sackler's ambitions have been realized. But in
4 the best tradition of family patriarch Arthur Sackler, Purdue has its eyes on even greater profits.
5 Under the name of Mundipharma, the Sacklers are looking to new markets for their opioids—
6 employing the exact same playbook in South America, China, and India as they did in the United
7 States.

8 103. In May 2017, a dozen members of Congress sent a letter to the World Health
9 Organization, warning it of the deceptive practices Purdue is unleashing on the rest of the world
10 through Mundipharma:

11 We write to warn the international community of the deceptive and dangerous
12 practices of Mundipharma International—an arm of Purdue Pharmaceuticals. The
13 greed and recklessness of one company and its partners helped spark a public health
14 crisis in the United States that will take generations to fully repair. We urge the
15 World Health Organization (WHO) to do everything in its power to avoid allowing
the same people to begin a worldwide opioid epidemic. Please learn from our
experience and do not allow Mundipharma to carry on Purdue's deadly legacy on
a global stage. . . .

16 Internal documents revealed in court proceedings now tell us that since the early
17 development of OxyContin, Purdue was aware of the high risk of addiction it
18 carried. Combined with the misleading and aggressive marketing of the drug by its
19 partner, Abbott Laboratories, Purdue began the opioid crisis that has devastated
American communities since the end of the 1990s. Today, Mundipharma is using
many of the same deceptive and reckless practices to sell OxyContin abroad. . . .

20 In response to the growing scrutiny and diminished U.S. sales, the Sacklers have
21 simply moved on. On December 18, the Los Angeles Times published an extremely
22 troubling report detailing how in spite of the scores of lawsuits against Purdue for
23 its role in the U.S. opioid crisis, and tens of thousands of overdose deaths,
24 Mundipharma now aggressively markets OxyContin internationally. In fact,
Mundipharma uses many of the same tactics that caused the opioid epidemic to
flourish in the U.S., though now in countries with far fewer resources to devote to
the fallout.³⁶

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26 ³⁶ Letter from Cong. of the U.S., to Dr. Margaret Chan, Dir.-Gen., World Health Org. (May 3, 2017),
<http://katherineclark.house.gov/cache/files/a577bd3c-29ec-4bb9-bdba-1ca71c784113/mundipharma-letter-signatures.pdf>.

1 104. Purdue's pivot to untapped markets, after extracting substantial profits from
2 communities like Pierce County and leaving the County to address the resulting damage,
3 underscores that its actions have been knowing, intentional, and motivated by profits throughout
4 this entire tragic story.

5 **B. The Booming Business of Addiction**

6 **1. Other Manufacturing Defendants leapt at the opioid opportunity.**

7 105. Purdue created a market in which the prescription of powerful opioids for a range
8 of common aches and pains was not only acceptable but encouraged—but it was not alone.
9 Defendants Endo, Janssen, Cephalon, and Actavis, each of which already produced and sold
10 prescription opioids, positioned themselves to take advantage of the opportunity Purdue created,
11 developing both branded and generic opioids to compete with OxyContin while misrepresenting
12 the safety and efficacy of their products.

13 106. Endo, which for decades had sold Percocet and Percodan, both containing
14 relatively low doses of oxycodone, moved quickly to develop a generic version of extended-
15 release oxycodone to compete with OxyContin, receiving tentative FDA approval for its generic
16 version in 2002. As Endo stated in its 2003 Form 10-K, it was the first to file an application with
17 the FDA for bioequivalent versions of the 10, 20, and 40 mg strengths of OxyContin, which
18 potentially entitled it to 180 days of generic marketing exclusivity—"a significant advantage."³⁷
19 Purdue responded by suing Endo for patent infringement, litigating its claims through a full trial
20 and a Federal Circuit appeal—unsuccessfully. As the trial court found, and the appellate court
21 affirmed, Purdue obtained the oxycodone patents it was fighting to enforce through "inequitable
22 conduct"—namely, suggesting that its patent applications were supported by clinical data when
23 in fact they were based on an employee's "insight and not scientific proof."³⁸ Endo began selling
24 its generic extended-release oxycodone in 2005.

25
26 ³⁷ *Endo Pharm. Holdings, Inc. Form 10-K*, U.S. Sec. and Exchange Comm'n, at 4 (Mar. 15, 2004),
http://media.corporate-ir.net/media_files/irol/12/123046/reports/10K_123103.pdf.

³⁸ *Purdue Pharma L.P. v. Endo Pharm. Inc.*, 438 F.3d 1123, 1131 (Fed. Cir. 2006).

1 107. At the same time as Endo was battling Purdue over generic OxyContin—and as
2 the U.S. was battling increasingly widespread opioid abuse—Endo was working on getting
3 another branded prescription opioid on the market. In 2002, Endo submitted applications to the
4 FDA for both immediate-release and extended-release tablets of oxymorphone, branded as
5 Opana and Opana ER.

6 108. Like oxycodone, oxymorphone is not a new drug; it was first synthesized in
7 Germany in 1914 and sold in the U.S. by Endo beginning in 1959 under the trade name
8 Numorphan, in injectable, suppository, and oral tablet forms. But the oral tablets proved highly
9 susceptible to abuse. Called “blues” after the light blue color of the 10 mg pills, Numorphan
10 provoked, according to some users, a more euphoric high than heroin, and even had its moment
11 in the limelight as the focus of the movie *Drugstore Cowboy*. As the National Institute on Drug
12 Abuse observed in its 1974 report, “*Drugs and Addict Lifestyle*,” Numorphan was extremely
13 popular among addicts for its quick and sustained effect.³⁹ Endo withdrew oral Numorphan from
14 the market in 1979, reportedly for “commercial reasons.”⁴⁰

15 109. Two decades later, however, as communities around the U.S. were first sounding
16 the alarm about prescription opioids and Purdue executives were being called to testify before
17 Congress about the risks of OxyContin, Endo essentially reached back into its inventory, dusted
18 off a product it had previously shelved after widespread abuse, and pushed it into the
19 marketplace with a new trade name and a potent extended-release formulation.

20 110. The clinical trials submitted with Endo’s first application for approval of Opana
21 were insufficient to demonstrate efficacy, and some subjects in the trials overdosed and had to be
22 revived with naloxone, an opioid antagonist used to counter the effects of an overdose. Endo
23 then submitted new “enriched enrollment” clinical trials, in which trial subjects who do not
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26 ³⁹ John Fauber and Kristina Fiore, *Abandoned Painkiller Makes a Comeback*, MedPage Today (May 10, 2015),
<https://www.medpagetoday.com/psychiatry/addictions/51448>.

⁴⁰ *Id.*

1 respond to the drug are excluded from the trial, and obtained approval. Endo began marketing
2 Opana and Opana ER in 2006.

3 111. Like Numorphan, Opana ER was highly susceptible to abuse. On June 8, 2017,
4 the FDA sought removal of Opana ER. In its press release, the FDA indicated that “the agency is
5 seeking removal based on its concern that the benefits of the drug may no longer outweigh its
6 risks. This is the first time the agency has taken steps to remove a currently marketed opioid pain
7 medication from sale due to the public health consequences of abuse.”⁴¹ On July 6, 2017, Endo
8 agreed to withdraw Opana ER from the market.⁴²

9 112. Janssen, which already marketed the Duragesic (fentanyl) patch, developed a new
10 opioid compound called tapentadol in 2009, marketed as Nucynta for the treatment of moderate
11 to severe pain. Janssen launched the extended-release version, Nucynta ER, for treatment of
12 chronic pain in 2011.

13 113. Cephalon also manufactures Actiq, a fentanyl lozenge, and Fentora, a fentanyl
14 tablet. As noted above, fentanyl is an extremely powerful synthetic opioid. According to the
15 DEA, as little as two milligrams is a lethal dosage for most people. Actiq has been approved by
16 the FDA only for the “management of breakthrough cancer pain in patients 16 years and older
17 with malignancies who are already receiving and who are tolerant to around-the-clock opioid
18 therapy for the underlying persistent cancer pain.”⁴³ Fentora has been approved by the FDA only
19 for the “management of breakthrough pain in cancer patients 18 years of age and older who are
20 already receiving and who are tolerant to around-the-clock opioid therapy for their underlying
21 persistent cancer pain.”⁴⁴

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23 ⁴¹ Press Release, U.S. Food & Drug Administration, *FDA requests removal of Opana ER for risks related to abuse*
(June 8, 2017), <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm562401.htm>.

24 ⁴² *Endo pulls opioid as U.S. seeks to tackle abuse epidemic*, Reuters (July 6, 2017, 9:59am),
<https://www.reuters.com/article/us-endo-intl-opana-idUSKBN19R2II>.

25 ⁴³ *Prescribing Information, ACTIQ®*, U.S. Food & Drug Admin.,
https://www.accessdata.fda.gov/drugsatfda_docs/label/2009/020747s030lbl.pdf (last visited May 22, 2018).

26 ⁴⁴ *Prescribing Information, FENTORA®*, U.S. Food & Drug Admin.,
https://www.accessdata.fda.gov/drugsatfda_docs/label/2012/021947s015lbl.pdf (last visited May 22, 2018).

1 114. In 2008, Cephalon pled guilty to a criminal violation of the Federal Food, Drug
2 and Cosmetic Act for its misleading promotion of Actiq and two other drugs and agreed to pay
3 \$425 million.

4 115. Actavis acquired the rights to Kadian, extended-release morphine, in 2008, and
5 began marketing Kadian in 2009. Actavis's opioid products also include Norco, a brand-name
6 hydrocodone and acetaminophen pill, first approved in 1997. But Actavis, primarily a generic
7 drugmaker, pursued opioid profits through generics, selling generic versions of OxyContin,
8 Opana, and Duragesic. In 2013, it settled a patent lawsuit with Purdue over its generic version of
9 "abuse-deterrent" OxyContin, striking a deal that would allow it to market its abuse-deterrent
10 oxycodone formulation beginning in 2014. Actavis anticipated over \$100 million in gross profit
11 from generic OxyContin sales in 2014 and 2015.

12 116. Mallinckrodt's generic oxycodone achieved enough market saturation to have its
13 own street name, "M's," based on its imprint on the pills. As noted above, Mallinckrodt was the
14 subject of a federal investigation based on diversion of its oxycodone in Florida, where 500
15 million of its pills were shipped between 2008 and 2012. Federal prosecutors alleged that 43,991
16 orders from distributors and retailers were excessive enough to be considered suspicious and should
17 have been reported to the DEA.

18 117. Mallinckrodt also pursued a share of the branded opioid market. In 2009,
19 Mallinckrodt acquired the U.S. rights to Exalgo, a potent extended-release hydromorphone
20 tablet, and began marketing it in 2012. Mallinckrodt further expanded its branded opioid
21 portfolio in 2012 by purchasing Roxicodone from Xanodyne Pharmaceuticals. In addition,
22 Mallinckrodt developed Xartemis XR, an extended-release combination of oxycodone and
23 acetaminophen, which the FDA approved in March 2014. In anticipation of Xartemis XR's
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1 approval, Mallinckrodt hired approximately 200 sales representatives to promote it, and CEO
2 Mark Trudeau said the drug could generate “hundreds of millions in revenue.”⁴⁵

3 118. All told, the Manufacturing Defendants have reaped enormous profits from the
4 addiction crisis they spawned. For example, Opana ER alone generated more than \$1 billion in
5 revenue for Endo in 2010 and again in 2013. Janssen earned more than \$1 billion in sales of
6 Duragesic in 2009, and Nucynta and Nucynta ER accounted for \$172 million in sales in 2014.

7 **2. Distributor Defendants knowingly supplied dangerous quantities of opioids**
8 **while advocating for limited oversight and enforcement.**

9 119. The Distributor Defendants track and keep a variety of information about the
10 pharmacies and other entities to which they sell pharmaceuticals. For example, the Distributor
11 Defendants use “know your customer” questionnaires that track the number and types of pills
12 their customers sell, absolute and relative amounts of controlled substances they sell, whether the
13 customer purchases from other distributors, and types of medical providers in the areas, among
14 other information.

15 120. These questionnaires and other sources of information available to the Distributor
16 Defendants provide ample data to put the Distributor Defendants on notice of suspicious orders,
17 pharmacies, and doctors.

18 121. Nevertheless, the Distributor Defendants refused or failed to identify, investigate,
19 or report suspicious orders of opioids to the DEA. Even when the Distributor Defendants had
20 actual knowledge that they were distributing opioids to drug diversion rings, they refused or
21 failed to report these sales to the DEA.

22 122. By not reporting suspicious opioid orders or known diversions of prescription
23 opioids, not only were the Defendants able to continue to sell opioids to questionable customers,
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26 ⁴⁵ Samantha Liss, *Mallinckrodt banks on new painkillers for sales*, St. Louis Bus. Journal (Dec. 30, 2013),
<http://argencapital.com/mallinckrodt-banks-on-new-painkillers-for-sales/>.

1 Defendants ensured that the DEA had no basis for decreasing or refusing to increase production
2 quotas for prescription opioids.

3 123. The Distributor Defendants collaborated with each other and with the
4 Manufacturing Defendants to maintain distribution of excessive amounts of opioids. One
5 example of this collaboration came to light through Defendants' work in support of legislation
6 called the Ensuring Patient Access and Effective Drug Enforcement (EPAEDE) Act, which was
7 signed into law in 2016 and limited the DEA's ability to stop the flow of opioids. Prior to this
8 law, the DEA could use an "immediate suspension order" to halt suspicious shipments of pills
9 that posed an "imminent" threat to the public. The EPAEDE Act changed the required showing
10 to an "immediate" threat—an impossible standard given the fact that the drugs may sit on a shelf
11 for a few days after shipment. The law effectively neutralized the DEA's ability to bring
12 enforcement actions against distributors.

13 124. The legislation was drafted by a former DEA lawyer, D. Linden Barber, who is
14 now a senior vice president at Defendant Cardinal Health. Prior to leaving the DEA, Barber had
15 worked with Joseph Rannazzisi, then the chief of the DEA's Office of Diversion Control, to plan
16 the DEA's fight against the diversion of prescription drugs. So when Barber began working for
17 Cardinal Health, he knew just how to neutralize the effectiveness of the DEA's enforcement
18 actions. Barber and other promoters of the EPAEDE Act portrayed the legislation as maintaining
19 patient access to medication critical for pain relief. In a 2014 hearing on the bill, Barber testified
20 about the "unintended consequences in the supply chain" of the DEA's enforcement actions. But
21 by that time, communities across the United States, including Plaintiff Pierce County, were
22 grappling with the "unintended consequences" of Defendants' reckless promotion and
23 distribution of narcotics.

24 125. Despite egregious examples of drug diversion from around the country, the
25 promoters of the EPAEDE Act were successful in characterizing the bill as supporting patients'
26 rights. One of the groups supporting this legislation was the Alliance for Patient Access, a "front

1 group” as discussed further below, which purports to advocate for patients’ rights to have access
2 to medicines, and whose 2017 list of “associate members and financial supporters” included
3 Defendants Purdue, Endo, Johnson & Johnson, Actavis, Mallinckrodt, and Cephalon. In a 2013
4 “white paper” titled “Prescription Pain Medication: Preserving Patient Access While Curbing
5 Abuse,” the Alliance for Patient Access asserted multiple “unintended consequences” of
6 regulating pain medication, including a decline in prescriptions as physicians feel burdened by
7 regulations and stigmatized.⁴⁶

8 126. The Distributor Defendants are also part of the activities of the Alliance for
9 Patient Access, although their involvement is hidden. One example of their involvement was
10 revealed by the metadata of an electronic document: the letter from the Alliance for Patient
11 Access in support of the EPAEDE Act. That document was created by Kristen Freitas, a
12 registered lobbyist and the vice president for federal government affairs of the Healthcare
13 Distributors Alliance (HDA)—the trade group that represents Defendants McKesson, Cardinal
14 Health, and AmerisourceBergen.

15 127. Upon information and belief, the collaboration on the EPAEDE Act is just one
16 example of how the Manufacturing Defendants and the Distributor Defendants, through third-
17 party “front groups” like the Alliance for Patient Access and trade organizations like HDA,
18 worked together behind the scenes to ensure that the flow of dangerous narcotics into
19 communities across the country would not be restricted, and Defendants collaborated in other
20 ways that remain hidden from public view.

21 128. The Distributor Defendants have been the subject of numerous enforcement
22 actions by the DEA. In 2008, for example, McKesson was fined \$13.3 million and agreed to
23 strengthen its controls by implementing a three-tiered system that would flag buyers who
24 exceeded monthly thresholds for opioids. As the opioid crisis deepened, the DEA’s Office of

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26 ⁴⁶ *Prescription Pain Medication: Preserving Patient Access While Curbing Abuse*, Inst. for Patient Access (Oct. 2013), http://1yh21u3cjptv3xjder1dco9mx5s.wpengine.netdna-cdn.com/wp-content/uploads/2013/12/PT_White-Paper_Finala.pdf.

1 Diversion Control, led by Rannazzisi, stepped up enforcement, filing fifty-two immediate
2 suspension orders against suppliers and pill mills in 2010 alone. Defendant Cardinal Health was
3 fined \$34 million by the DEA in 2013 for failing to report suspicious orders.

4 129. The Distributor Defendants were not simply passive transporters of opioids. They
5 intentionally failed to report suspicious orders and actively pushed back against efforts to enforce
6 the law and restrict the flow of opioids into communities like Pierce County.

7 **3. Pill mills and overprescribing doctors also placed their financial interests**
8 **ahead of their patients' interests.**

9 130. Prescription opioid manufacturers and distributors were not the only ones to
10 recognize an economic opportunity. Around the country, including in Pierce County, certain
11 doctors or pain clinics ended up doing brisk business dispensing opioid prescriptions. As Dr.
12 Andrew Kolodny, cofounder of Physicians for Responsible Opioid Prescribing, observed, this
13 business model meant doctors would “have a practice of patients who’ll never miss an
14 appointment and who pay in cash.”⁴⁷

15 131. Moreover, the Manufacturing Defendants’ sales incentives rewarded sales
16 representatives who happened to have pill mills within their territories, enticing those
17 representatives to look the other way even when their in-person visits to such clinics should have
18 raised numerous red flags. In one example, a pain clinic in South Carolina was diverting massive
19 quantities of OxyContin. People traveled to the clinic from towns as far as 100 miles away to get
20 prescriptions. Eventually, the DEA’s diversion unit raided the clinic, and prosecutors filed
21 criminal charges against the doctors. But Purdue’s sales representative for that territory, Eric
22 Wilson, continued to promote OxyContin sales at the clinic. He reportedly told another local
23 physician that this clinic accounted for 40% of the OxyContin sales in his territory. At that time,
24 Wilson was Purdue’s top-ranked sales representative.⁴⁸ In response to news stories about this
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26 ⁴⁷ Sam Quinones, *Dreamland: The True Tale of America’s Opiate Epidemic* 314 (Bloomsbury Press 2015).

⁴⁸ Meier, *supra* note 19, at 298-300.

1 clinic, Purdue issued a statement, declaring that “if a doctor is intent on prescribing our
2 medication inappropriately, such activity would continue regardless of whether we contacted the
3 doctor or not.”⁴⁹

4 132. Another pill mill, this one in Los Angeles, supplied OxyContin to a drug dealer in
5 Everett, Washington. Purdue was alerted to the existence of this pill mill by one of its regional
6 sales managers, who in 2009 reported to her supervisors that when she visited the clinic with her
7 sales representative, “it was packed with a line out the door, with people who looked like gang
8 members,” and that she felt “very certain that this an organized drug ring[.]” She wrote, “This is
9 clearly diversion. Shouldn’t the DEA be contacted about this?” But her supervisor at Purdue
10 responded that while they were “considering all angles,” it was “really up to [the wholesaler] to
11 make the report.” This clinic was the source of 1.1 million pills trafficked to Everett, which is a
12 city of around 100,000 people. Purdue waited until after the clinic was shut down in 2010 to
13 inform the authorities.⁵⁰ Similarly, Purdue received repeated reports in 2008 from a sales
14 representative who visited a family practice doctor in Bothell, Washington; the sales
15 representative informed Purdue that many of this doctor’s patients were men in their twenties
16 who did not appear to be in pain, who sported diamond studs and \$350 sneakers, and who always
17 paid for their 80 mg OxyContin prescriptions in cash. Despite being repeatedly alerted to the
18 doctor’s conduct, Purdue did not take any action to report it until three years later.

19 133. Whenever examples of opioid diversion and abuse have drawn media attention,
20 the Manufacturing Defendants have consistently blamed “bad actors.” For example, in 2001,
21 during a Congressional hearing, Purdue’s attorney Howard Udell answered pointed questions
22 about how it was that Purdue could utilize IMS Health data to assess their marketing efforts but
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24 ⁴⁹ *Id.*

25 ⁵⁰ Harriet Ryan, Scott Glover, and Lisa Girion, *How black-market OxyContin spurred a town's descent into crime,*
addiction and heartbreak, Los Angeles Times (July 10, 2016), [http://www.latimes.com/projects/la-me-oxycotin-](http://www.latimes.com/projects/la-me-oxycotin-everett/)
26 <http://www.latimes.com/projects/la-me-oxycotin-part2/>;
Harriet Ryan, Lisa Girion, and Scott Glover, *More than 1 million OxyContin pills ended up in the hands*
of criminals and addicts. What the drugmaker knew, Los Angeles Times (July 10, 2016),
<http://www.latimes.com/projects/la-me-oxycotin-part2/>.

1 not notice a particularly egregious pill mill in Pennsylvania run by a doctor named Richard
2 Paolino. Udell asserted that Purdue was “fooled” by the “bad actor” doctor: “The picture that is
3 painted in the newspaper [of Dr. Paolino] is of a horrible, bad actor, someone who preyed upon
4 this community, who caused untold suffering. And he fooled us all. He fooled law enforcement.
5 He fooled the DEA. He fooled local law enforcement. He fooled us.”⁵¹

6 134. But given the closeness with which all Defendants monitored prescribing patterns,
7 including through IMS Health data, it is highly improbable that they were “fooled.” In fact, a
8 local pharmacist had noticed the volume of prescriptions coming from Paolino’s clinic and
9 alerted authorities. Purdue had the prescribing data from the clinic and alerted no one. Rather, it
10 appears Purdue and other Defendants used the IMS Health data to target pill mills and sell more
11 pills. Indeed, a Purdue executive referred to Purdue’s tracking system and database as a “gold
12 mine” and acknowledged that Purdue could identify highly suspicious volumes of prescriptions.

13 135. Sales representatives making in-person visits to such clinics were likewise not
14 fooled. But as pill mills were lucrative for the manufacturers and individual sales representatives
15 alike, Defendants and their employees turned a collective blind eye, allowing certain clinics to
16 dispense staggering quantities of potent opioids and feigning surprise when the most egregious
17 examples eventually made the nightly news.

18 **4. Widespread prescription opioid use broadened the market for heroin and**
19 **fentanyl.**

20 136. Defendants’ scheme achieved a dramatic expansion of the U.S. market for
21 opioids, prescription and non-prescription alike. Heroin and fentanyl use has surged—a
22 foreseeable consequence of Defendants’ successful promotion of opioid use coupled with the
23 sheer potency of their products.

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⁵¹ Meier, *supra* note 19, at 179.

1 137. In his book *Dreamland: The True Tale of America's Opiate Epidemic*, journalist
2 Sam Quinones summarized the easy entrance of black tar heroin in a market primed by
3 prescription opioids:

4 His black tar, once it came to an area where OxyContin had already tenderized the
5 terrain, sold not to tapped-out junkies but to younger kids, many from the suburbs,
6 most of whom had money and all of whom were white. Their transition from Oxy
7 to heroin, he saw, was a natural and easy one. Oxy addicts began by sucking on and
8 dissolving the pills' timed-release coating. They were left with 40 or 80 mg of pure
9 oxycodone. At first, addicts crushed the pills and snorted the powder. As their
10 tolerance built, they used more. To get a bigger bang from the pill, they liquefied it
11 and injected it. But their tolerance never stopped climbing. OxyContin sold on the
12 street for a dollar a milligram and addicts very quickly were using well over 100
13 mg a day. As they reached their financial limits, many switched to heroin, since
14 they were already shooting up Oxy and had lost any fear of the needle.⁵²

15 138. In a study examining the relationship between the abuse of prescription opioids
16 and heroin, researchers found that 75% of those who began their opioid abuse in the 2000s
17 reported that their first opioid was a prescription drug.⁵³ As the graph below illustrates,
18 prescription opioids replaced heroin as the first opioid of abuse beginning in the 1990s.
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25 ⁵² Quinones, *supra* note 47, at 165-66.

26 ⁵³ Theodore J. Cicero, PhD, Matthew S. Ellis, MPE, Hilary L. Surratt, PhD, *The Changing Face of Heroin Use in the United States: A Retrospective Analysis of the Past 50 Years*, 71(7) *JAMA Psychiatry* 821-826 (2014), <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/1874575>.



From: **The Changing Face of Heroin Use in the United States: A Retrospective Analysis of the Past 50 Years**

JAMA Psychiatry. 2014;71(7):821-826. doi:10.1001/jamapsychiatry.2014.366

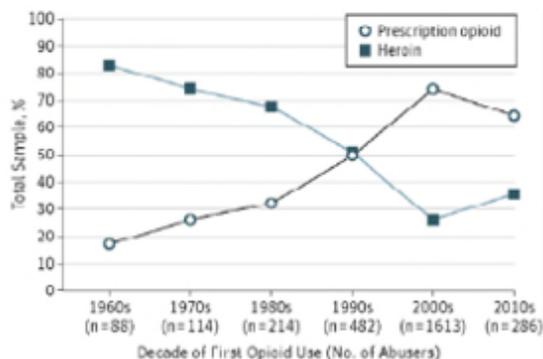


Figure Legend:

Percentage of the Total Heroin-Dependent Sample That Used Heroin or a Prescription Opioid as Their First Opioid of Abuse Data are plotted as a function of the decade in which respondents initiated their opioid abuse.

139. The researchers also found that nearly half of the respondents who indicated that their primary drug was heroin actually preferred prescription opioids, because the prescription drugs were legal, and perceived as “safer and cleaner.” But, heroin’s lower price point is a distinct advantage. While an 80 mg OxyContin might cost \$80 on the street, the same high can be had from \$20 worth of heroin.

140. As noted above, there is little difference between the chemical structures of heroin and prescription opioids. Between 2005 and 2009, Mexican heroin production increased by over 600%. And between 2010 and 2014, the amount of heroin seized at the U.S.-Mexico border more than doubled.

1 141. From 2002 to 2016, fatal overdoses related to heroin in the U.S. increased by
2 **533%**—from 2,089 deaths in 2002 to 13,219 deaths in 2016.⁵⁴

3 142. Along with heroin use, fentanyl use is on the rise, as a result of America's
4 expanded appetite for opioids. But fentanyl, as noted above, is fifty times more potent than
5 heroin, and overdosing is all too easy. Fentanyl is expected to cause over 20,000 overdoses in
6 2017.⁵⁵

7 143. As Dr. Caleb Banta-Green, senior research scientist at the University of
8 Washington's Alcohol and Drug Abuse Institute, told The Seattle Times in August 2017, "The
9 bottom line is opioid addiction is the overall driver of deaths. People will use whatever opioid
10 they can get. It's just that which one they're buying is changing a bit."⁵⁶

11 **C. The Manufacturing Defendants Promoted Prescription Opioids Through Several**
12 **Channels.**

13 144. Despite knowing the devastating consequences of widespread opioid use, the
14 Manufacturing Defendants engaged in a sophisticated and multi-pronged promotional campaign
15 designed to achieve just that. By implementing the strategies pioneered by Arthur Sackler, these
16 Defendants were able to achieve the fundamental shift in the perception of opioids that was key
17 to making them blockbuster drugs.

18 145. The Manufacturing Defendants disseminated their deceptive statements about
19 opioids through several channels.⁵⁷ First, these Defendants aggressively and persistently pushed
20 opioids through sales representatives. Second, these Defendants funded third-party organizations
21 that appeared to be neutral but which served as additional marketing departments for drug
22 companies. Third, these Defendants utilized prominent physicians as paid spokespeople—"Key

23 ⁵⁴ Niall McCarthy, *U.S. Heroin Deaths Have Increased 533% Since 2002*, Forbes (Sept. 11, 2017, 8:26am),
24 [https://www.forbes.com/sites/niallmccarthy/2017/09/11/u-s-heroin-deaths-have-increased-533-since-2002-
infographic/#13ab9a531abc](https://www.forbes.com/sites/niallmccarthy/2017/09/11/u-s-heroin-deaths-have-increased-533-since-2002-infographic/#13ab9a531abc).

25 ⁵⁵ *Id.*

26 ⁵⁶ *Opioids: The Leading Cause of Drug Deaths in Seattle Area*, U. of Wash. Sch. of Pub. Health (Aug. 25, 2017),
http://sph.washington.edu/news/article.asp?content_ID=8595.

⁵⁷ The specific misrepresentations and omissions are discussed below in Section D.

1 Opinion Leaders”—to take advantage of doctors’ respect for and reliance on the
2 recommendations of their peers. Finally, these Defendants also used print and online advertising,
3 including unbranded advertising, which is not reviewed by the FDA.

4 146. The Manufacturing Defendants spent substantial sums and resources in making
5 these communications. For example, Purdue spent more than \$200 million marketing OxyContin
6 in 2001 alone.⁵⁸

7 **1. The Manufacturing Defendants aggressively deployed sales representatives**
8 **to push their products.**

9 147. The Manufacturing Defendants communicated to prescribers directly in the form
10 of in-person visits and communications from sales representatives.

11 148. The Manufacturing Defendants’ tactics through their sales representatives—also
12 known as “detailers”—were particularly aggressive. In 2014, Manufacturing Defendants
13 collectively spent well over \$100 million on detailing branded opioids to doctors.

14 149. Each sales representative has a specific sales territory and is responsible for
15 developing a list of about 105 to 140 physicians to call on who already prescribe opioids or who
16 are candidates for prescribing opioids.

17 150. When Purdue launched OxyContin in 1996, its 300-plus sales force had a total
18 physician call list of approximately 33,400 to 44,500. By 2000, nearly 700 representatives had a
19 total call list of approximately 70,500 to 94,000 physicians. Each sales representative was
20 expected to make about thirty-five physician visits per week and typically called on each
21 physician every three to four weeks, while each hospital sales representative was expected to
22 make about fifty physician visits per week and call on each facility every four weeks.⁵⁹

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25 ⁵⁸ *Oxycontin: Balancing Risks and Benefits: Hearing of the S. Comm. on Health, Education, Labor and Pensions*,
26 107th Cong. 2 (Feb. 12, 2002) (testimony of Paul Goldenheim, Vice President for Research, Purdue Pharma),
<https://www.gpo.gov/fdsys/pkg/CHRG-107shrg77770/html/CHRG-107shrg77770.htm>.

⁵⁹ *OxyContin Abuse and Diversion and Efforts to Address the Problem*, *supra* note 34, at 20.

1 151. One of Purdue’s early training memos compared doctor visits to “firing at a
2 target,” declaring that “[a]s you prepare to fire your ‘message,’ you need to know where to aim
3 and what you want to hit!”⁶⁰ According to the memo, the target is physician resistance based on
4 concern about addiction: “The physician wants pain relief for these patients without addicting
5 them to an opioid.”⁶¹

6 152. Former sales representative Steven May, who worked for Purdue from 1999 to
7 2005, explained to a journalist that the most common objection he heard about prescribing
8 OxyContin was that “it’s just too addictive.”⁶² In order to overcome that objection and hit their
9 “target,” May and other sales representatives were taught to say, “The delivery system is
10 believed to reduce the abuse liability of the drug.”⁶³ May repeated that line to doctors even
11 though he “found out pretty fast that it wasn’t true.”⁶⁴ He and his coworkers learned quickly that
12 people were figuring out how to remove the time-releasing coating, but they continued making
13 this misrepresentation until Purdue was forced to remove it from the drug’s label.

14 153. Purdue trained its sales representatives to misrepresent the addiction risk in other
15 ways. May explained that he and his coworkers were trained to “refocus” doctors on “legitimate”
16 pain patients, and to represent that “legitimate” patients would not become addicted. In addition,
17 they were trained to say that the 12-hour dosing made the extended-release opioids less “habit-
18 forming” than painkillers that need to be taken every four hours. Similarly, former Purdue sales
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22 ⁶⁰ Meier, *supra* note 19, at 102.

23 ⁶¹ *Id.*

24 ⁶² David Remnick, *How OxyContin Was Sold to the Masses* (Steven May interview with Patrick Radden Keefe),
New Yorker (Oct. 27, 2017), <https://www.newyorker.com/podcast/the-new-yorker-radio-hour/how-oxycontin-was-sold-to-the-masses>.

25 ⁶³ Patrick Radden Keefe, *The Family That Built an Empire of Pain*, New Yorker (Oct. 30, 2017),
<https://www.newyorker.com/magazine/2017/10/30/the-family-that-built-an-empire-of-pain>; see also Meier, *supra*
26 note 19, at 102 (“Delayed absorption, as provided by OxyContin tablets, is believed to reduce the abuse liability of
the drug.”).

⁶⁴ Keefe, *supra* note 63.

1 manager William Gergely told a Florida state investigator in 2002 that sales representatives were
2 instructed to say that OxyContin was “virtually non-addicting” and “non-habit-forming.”⁶⁵

3 154. As Shelby Sherman, a Purdue sales representative from 1974 to 1998, told a
4 reporter regarding OxyContin promotion, “It was sell, sell, sell. We were directed to lie. Why
5 mince words about it?”⁶⁶

6 155. The Manufacturing Defendants utilized lucrative bonus systems to encourage
7 their sales representatives to stick to the script and increase opioid sales in their territories.
8 Purdue paid \$40 million in sales incentive bonuses to its sales representatives in 2001 alone, with
9 annual bonuses ranging from \$15,000 to nearly \$240,000.⁶⁷ The training memo described above,
10 in keeping with a Wizard of Oz theme, reminded sales representatives: “A pot of gold awaits you
11 ‘Over the Rainbow’!”⁶⁸

12 156. As noted above, these Defendants have also spent substantial sums to purchase,
13 manipulate, and analyze prescription data available from IMS Health, which allows them to track
14 initial prescribing and refill practices by individual doctors, and in turn to customize their
15 communications with each doctor. The Manufacturing Defendants’ use of this marketing data
16 was a cornerstone of their marketing plan,⁶⁹ and continues to this day.

17 157. The Manufacturing Defendants also aggressively pursued family doctors and
18 primary care physicians perceived to be susceptible to their marketing campaigns. The
19 Manufacturing Defendants knew that these doctors relied on information provided by
20 pharmaceutical companies when prescribing opioids, and that, as general practice doctors seeing
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23 ⁶⁵ Fred Schulte and Nancy McVicar, *Oxycontin Was Touted As Virtually Nonaddictive, Newly Released State*
24 *Records Show*, Sun Sentinel (Mar. 6, 2003), [http://articles.sun-sentinel.com/2003-03-](http://articles.sun-sentinel.com/2003-03-06/news/0303051301_1_purdue-pharma-oxycontin-william-gergely)
25 [06/news/0303051301_1_purdue-pharma-oxycontin-william-gergely](http://articles.sun-sentinel.com/2003-03-06/news/0303051301_1_purdue-pharma-oxycontin-william-gergely).

26 ⁶⁶ Glazek, *supra* note 30.

⁶⁷ Art Van Zee, M.D., *The Promotion and Marketing of OxyContin: Commercial Triumph, Public Health Tragedy*,
99(2) *Am J Public Health* 221-27 (Feb. 2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2622774/>.

⁶⁸ Meier, *supra* note 19, at 103.

⁶⁹ Van Zee, *The Promotion and Marketing of OxyContin*, *supra* note 67.

1 a high volume of patients on a daily basis, they would be less likely to scrutinize the companies’
2 claims.

3 158. Furthermore, the Manufacturing Defendants knew or should have known the
4 doctors they targeted were often poorly equipped to treat or manage pain comprehensively, as
5 they often had limited resources or time to address behavioral or cognitive aspects of pain
6 treatment or to conduct the necessary research themselves to determine whether opioids were as
7 beneficial as these Defendants claimed. In fact, the majority of doctors and dentists who
8 prescribe opioids are not pain specialists. For example, a 2014 study conducted by pharmacy
9 benefit manager Express Scripts reviewing narcotic prescription data from 2011 to 2012
10 concluded that of the more than 500,000 prescribers of opioids during that time period, *only* 385
11 were identified as pain specialists.⁷⁰

12 159. When the Manufacturing Defendants presented these doctors with sophisticated
13 marketing material and apparently scientific articles that touted opioids’ ability to easily and
14 safely treat pain, many of these doctors began to view opioids as an efficient and effective way to
15 treat their patients.

16 160. In addition, sales representatives aggressively pushed doctors to prescribe
17 stronger doses of opioids. For example, one Purdue sales representative in Florida wrote about
18 working for a particularly driven regional manager named Chris Sposato and described how
19 Sposato would drill the sales team on their upselling tactics:

20 It went something like this. “Doctor, what is the highest dose of OxyContin you
21 have ever prescribed?” “20mg Q12h.” “Doctor, if the patient tells you their pain
22 score is still high you can increase the dose 100% to 40mg Q12h, will you do that?”
23 “Okay.” “Doctor, what if that patient then came back and said their pain score was
24 still high, did you know that you could increase the OxyContin dose to 80mg Q12h,
25 would you do that?” “I don’t know, maybe.” “Doctor, but you do agree that you
26 would at least Rx the 40mg dose, right?” “Yes.”

The next week the rep would see that same doctor and go through the same
discussion with the goal of selling higher and higher doses of OxyContin. Miami

⁷⁰ *A Nation in Pain*, Express Scripts (Dec. 9, 2014), <http://lab.express-scripts.com/lab/publications/a-nation-in-pain>.

1 District reps have told me that on work sessions with [Sposato] they would sit in
2 the car and role play for as long as it took until [Sposato] was convinced the rep
was delivering the message with perfection.

3 161. The Manufacturing Defendants used not only incentives but competitive pressure
4 to push sales representatives into increasingly aggressive promotion. One Purdue sales
5 representative recalled the following scene: “I remember sitting at a round table with others from
6 my district in a regional meeting while everyone would stand up and state the highest dose that
7 they had suckered a doctor to prescribe. The entire region!”

8 162. Sales representatives also quickly learned that the prescription opioids they were
9 promoting were dangerous. For example, May had only been at Purdue for two months when he
10 found out that a doctor he was calling on had just lost a family member to an OxyContin
11 overdose.⁷¹ And as another sales representative wrote on a public forum:

12 Actions have consequences - so some patient gets Rx'd the 80mg OxyContin when
13 they probably could have done okay on the 20mg (but their doctor got “sold” on
14 the 80mg) and their teen son/daughter/child's teen friend finds the pill bottle and
15 takes out a few 80's... next they're at a pill party with other teens and some kid
16 picks out a green pill from the bowl... they go to sleep and don't wake up (because
they don't understand respiratory depression) Stupid decision for a teen to
make...yes... but do they really deserve to die?

17 163. These sales representatives targeted their efforts at local doctors in Washington
18 State, such as, for example, Dr. Frank Li, the former medical director of several pain clinics
19 (including one in Everett, Washington) who eventually had his medical license suspended for
20 improperly prescribing opioids. Indeed, during detailers' frequent visits to Dr. Li, they often
21 noted circumstances that should have led them to discontinue sales calls and report Dr. Li and his
22 staff to the appropriate authorities. Instead, they continued to target him for detailing visits that
23 incited him to prescribe even more opioids, with disastrous consequences for public health.

24 164. In addition, detailers told providers at Dr. Li's clinic that the Washington State
25 opioid prescription guidelines were wrong and overly conservative, including those related to

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⁷¹ Remnick, *supra* note 62.

1 calculating the relative strength of different brands of opioids. These detailers often urged
2 Dr. Li's staff to give patients more opioids, and particular brands of opioids, even when this was
3 incorrect or conflicted with Washington State guidelines or other medical information.

4 165. Purdue's sales call notes also repeatedly reference how busy Dr. Li and his staff
5 were—which, combined with the exceptionally high number of opioid prescriptions written by
6 Dr. Li, should have been another red flag that OxyContin and other opioids were likely being
7 abused.

8 166. The Manufacturing Defendants' sales representatives also provided health care
9 providers with pamphlets, visual aids, and other marketing materials designed to increase the rate
10 of opioids prescribed to patients. These sales representatives knew the doctors they visited relied
11 on the information they provided, and that the doctors had minimal time or resources to
12 investigate the materials' veracity independently.

13 167. Sales representatives were also given bonuses when doctors whom they had
14 detailed wrote prescriptions for their company's drug. Because of this incentive system, sales
15 representatives stood to gain significant bonuses if they had a pill mill in their sales region.⁷²
16 Sales representatives could be sure that doctors and nurses at pill mills would be particularly
17 receptive to their messages and incentives, and receive "credit" for the many prescriptions these
18 pill mills wrote.

19 168. The Manufacturing Defendants applied this combination of intense competitive
20 pressure and lucrative financial incentives because they knew that sales representatives, with
21 their frequent in-person visits with prescribers, were incredibly effective. In fact, manufacturers'
22 internal documents reveal that they considered sales representatives their "most valuable
23 resource."

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26 ⁷² Indeed, Defendants often helped their sales representatives find and target such pill mills. As recently as 2016, Purdue commissioned a marketing study to help target Washington prescribers and spread its deceptive message regarding opioids, and on information and belief, utilized its sale representatives to carry out these strategies.

1 **2. The Manufacturing Defendants bankrolled seemingly independent “front**
2 **groups” to promote opioid use and fight restrictions on opioids.**

3 169. The Manufacturing Defendants funded, controlled, and operated third-party
4 organizations that communicated to doctors, patients, and the public the benefits of opioids to
5 treat chronic pain. These organizations—also known as “front groups”—appeared independent
6 and unbiased. But in fact, they were but additional paid mouthpieces for the drug manufacturers.
7 These front groups published prescribing guidelines and other materials that promoted opioid
8 treatment as a way to address patients’ chronic pain. The front groups targeted doctors, patients,
9 and lawmakers, all in coordinated efforts to promote opioid prescriptions.

10 170. The Manufacturing Defendants spent significant financial resources contributing
11 to and working with these various front groups to increase the number of opioid prescriptions
12 written.

13 171. The most prominent front group utilized by the Manufacturing Defendants was
14 the **American Pain Foundation** (APF), which received more than \$10 million from opioid drug
15 manufacturers, including Defendants, from 2007 through 2012. For example, Purdue contributed
16 \$1.7 million and Endo also contributed substantial sums to the APF.⁷³

17 172. Throughout its existence, APF’s operating budget was almost entirely comprised
18 of contributions from prescription opioid manufacturers. For instance, nearly 90% of APF’s \$5
19 million annual budget in 2010 came from “donations” from some of the Manufacturing
20 Defendants, and by 2011, APF was entirely dependent on grants from drug manufacturers,
21 including from Purdue and Endo. Not only did Defendants control APF’s purse strings, APF’s
22 board of directors was comprised of doctors who were on Defendants’ payrolls, either as
23 consultants or speakers at medical events.⁷⁴

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26 ⁷³Charles Ornstein and Tracy Weber, *The Champion of Painkillers*, ProPublica (Dec. 23, 2011, 9:15am),
<https://www.propublica.org/article/the-champion-of-painkillers>.

⁷⁴ *Id.*

1 173. Although holding itself out as an independent advocacy group promoting patient
2 well-being, APF consistently lobbied against federal and state proposals to limit opioid use.

3 174. Another prominent front group was the **American Academy of Pain Medicine**
4 (AAPM), which has received over \$2.2 million in funding since 2009 from opioid drug
5 manufacturers, including Defendants. Like APF, AAPM presented itself as an independent and
6 non-biased advocacy group representing physicians practicing in the field of pain medicine, but
7 in fact was just another mouthpiece the Manufacturing Defendants used to push opioids on
8 doctors and patients.⁷⁵

9 175. Both the APF and the AAPM published treatment guidelines and sponsored and
10 hosted medical education programs that touted the benefits of opioids to treat chronic pain while
11 minimizing and trivializing their risks. The treatment guidelines the front groups published—
12 many of which are discussed in detail below—were particularly important to Defendants in
13 ensuring widespread acceptance for opioid therapy to treat chronic pain. Defendants realized,
14 just as the CDC has, that such treatment guidelines can “change prescribing practices,” because
15 they appear to be unbiased sources of evidence-based information, even when they are in reality
16 marketing materials.

17 176. For instance, the AAPM, in conjunction with the **American Pain Society** (APS),
18 issued comprehensive guidelines in 2009 titled “Guideline for the Use of Chronic Opioid
19 Therapy in Chronic Noncancer Pain – Evidence Review” (“2009 Guidelines”). The 2009
20 Guidelines promoted opioids as “safe and effective” for treating chronic pain, despite
21 acknowledging limited evidence to support this statement. Unsurprisingly, the Manufacturing
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26 ⁷⁵ Tracy Weber and Charles Ornstein, *Two Leaders in Pain Treatment Have Long Ties to Drug Industry*, ProPublica
(Dec. 23, 2011, 9:14am), <https://www.propublica.org/article/two-leaders-in-pain-treatment-have-long-ties-to-drug-industry>.

1 Defendants have widely referenced and promoted these guidelines, issued by front groups these
2 Defendants funded and controlled. These 2009 Guidelines are still available online today.⁷⁶

3 177. The **Alliance for Patient Access** (APA), discussed above, was established in
4 2006, along with the firm that runs it, Woodberry Associates LLC. The APA describes itself as
5 “a national network of physicians dedicated to ensuring patient access to approved therapies and
6 appropriate clinical care,” but its list of “Associate Members and Financial Supporters” contains
7 thirty drug companies, including each of the Manufacturing Defendants named in this lawsuit. In
8 addition, the APA’s board members include doctors who have received hundreds of thousands of
9 dollars in payments from drug companies. As discussed above, the APA has been a vocal critic
10 of policies restricting the flow of opioids and has supported efforts to curtail the DEA’s ability to
11 stop suspicious orders of prescription drugs.

12 178. The “white paper” issued by the APA in 2013 also echoed a favorite narrative of
13 the Manufacturing Defendants, the supposed distinction between “legitimate patients” on the one
14 hand and “addicts” on the other, asserting that one “unintended consequence” of regulating pain
15 medication would be that “[p]atients with legitimate medical needs feel stigmatized, treated like
16 addicts.”⁷⁷

17 179. Another group utilized by the Manufacturing Defendants to encourage opioid
18 prescribing practices, a University of Wisconsin-based organization known as the **Pain & Policy**
19 **Studies Group**, received \$2.5 million from pharmaceutical companies to promote opioid use and
20 discourage the passing of regulations against opioid use in medical practice. The Pain & Policy
21 Studies Group wields considerable influence over the nation’s medical schools as well as within
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25 ⁷⁶ *Clinical Guideline for the Use of Chronic Opioid Therapy in Chronic Noncancer Pain*, Am. Pain Soc’y,
26 <http://americanpainsociety.org/uploads/education/guidelines/chronic-opioid-therapy-cnccp.pdf> (last visited May 22,
2018).

⁷⁷ *Prescription Pain Medication: Preserving Patient Access While Curbing Abuse*, *supra* note 46.

1 the medical field in general.⁷⁸ Purdue was the largest contributor to the Pain & Policy Studies
2 Group, paying approximately \$1.6 million between 1999 and 2010.⁷⁹

3 180. The **Federation of State Medical Boards** (FSMB) of the United States is a
4 national non-profit organization that represents the seventy-state medical and osteopathic boards
5 of the United States and its territories and co-sponsors the United States Medical Licensing
6 Examination. Beginning in 1997, FSMB developed model policy guidelines around the treatment
7 of pain, including opioid use. The original initiative was funded by the Robert Wood Johnson
8 Foundation, but subsequently AAPM, APS, the University of Wisconsin Pain & Policy Studies
9 Group, and the American Society of Law, Medicine, & Ethics all made financial contributions to
10 the project.

11 181. FSMB's 2004 *Model Policy* encourages state medical boards "to evaluate their
12 state pain policies, rules, and regulations to identify *any regulatory restrictions or barriers that*
13 *may impede the effective use of opioids* to relieve pain."⁸⁰ (Emphasis added).

14 182. One of the most significant barriers to convincing doctors that opioids were safe
15 to prescribe to their patients for long-term treatment of chronic pain was the fact that many of
16 those patients would, in fact, become addicted to opioids. If patients began showing up at their
17 doctors' offices with obvious signs of addiction, the doctors would, of course, become concerned
18 and likely stop prescribing opioids. And, doctors might stop believing the Manufacturing
19 Defendants' claims that addiction risk was low.

20 183. To overcome this hurdle, the Manufacturing Defendants promoted a concept
21 called "pseudoaddiction." These Defendants told doctors that when their patients appeared to be
22 addicted to opioids—for example, asking for more and higher doses of opioids, increasing doses

23 ⁷⁸ *The Role of Pharmaceutical Companies in the Opioid Epidemic*, Addictions.com,
24 <https://www.addictions.com/opiate/the-role-of-pharmaceutical-companies-in-the-opioid-epidemic/> (last visited
25 May 22, 2018).

⁷⁹ John Fauber, *UW group ends drug firm funds*, Journal Sentinel (Apr. 20, 2011),
26 <http://archive.jsonline.com/watchdog/watchdogreports/120331689.html>.

⁸⁰ *Model Policy for the Use of Controlled Substances for the Treatment of Pain*, Fed'n of St. Med. Boards of the
U.S., Inc. (May 2004), <http://www.painpolicy.wisc.edu/sites/www.painpolicy.wisc.edu/files/model04.pdf>.

1 themselves, or claiming to have lost prescriptions in order to get more opioids—this was not
2 actual addiction. Rather, the Manufacturing Defendants told doctors what appeared to be classic
3 signs of addiction were actually just signs of undertreated pain. The solution to this
4 “pseudoaddiction”: more opioids. Instead of warning doctors of the risk of addiction and helping
5 patients to wean themselves off of powerful opioids and deal with their actual addiction, the
6 Manufacturing Defendants pushed even more dangerous drugs onto patients.

7 184. The FSMB’s *Model Policy* gave a scientific veneer to this fictional and overstated
8 concept. The policy defines “pseudoaddiction” as “[t]he iatrogenic syndrome resulting from the
9 misinterpretation of relief seeking behaviors as though they are drug-seeking behaviors that are
10 commonly seen with addiction” and states that these behaviors “resolve upon institution of
11 effective analgesic therapy.”⁸¹

12 185. In May 2012, Senate Finance Committee Chairman Max Baucus and senior
13 Committee member Chuck Grassley initiated an investigation into the connections of the
14 Manufacturing Defendants with medical groups and physicians who have advocated increased
15 opioid use.⁸² In addition to Purdue, Endo, and Janssen, the senators sent letters to APF, APS,
16 AAPM, FSMB, the University of Wisconsin Pain & Policy Studies Group, the Joint Commission
17 on Accreditation of Healthcare Organization, and the Center for Practical Bioethics, requesting
18 from each “a detailed account of all payments/transfers received from corporations and any
19 related corporate entities and individuals that develop, manufacture, produce, market, or promote
20 the use of opioid-based drugs from 1997 to the present.”⁸³

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23 ⁸¹ *Id.*

24 ⁸² *Baucus, Grassley Seek Answers about Opioid Manufacturers’ Ties to Medical Groups*, U.S. Senate Comm. on
25 Fin. (May 8, 2012), [https://www.finance.senate.gov/chairmans-news/baucus-grassley-seek-answers-about-opioid-
manufacturers-ties-to-medical-groups](https://www.finance.senate.gov/chairmans-news/baucus-grassley-seek-answers-about-opioid-manufacturers-ties-to-medical-groups).

26 ⁸³ Letter from U.S. Senate Comm. on Fin. to Am. Pain Found. (May 8, 2012),
[https://www.finance.senate.gov/imo/media/doc/05092012%20Baucus%20Grassley%20Opioid%20Investigation%
20Letter%20to%20American%20Pain%20Foundation2.pdf](https://www.finance.senate.gov/imo/media/doc/05092012%20Baucus%20Grassley%20Opioid%20Investigation%20Letter%20to%20American%20Pain%20Foundation2.pdf).

1 186. On the same day as the senators' investigation began, APF announced that it
2 would "cease to exist, effective immediately."⁸⁴

3 **3. "It was pseudoscience": the Manufacturing Defendants paid prominent**
4 **physicians to promote their products.**

5 187. The Manufacturing Defendants retained highly credentialed medical professionals
6 to promote the purported benefits and minimal risks of opioids. Known as "Key Opinion
7 Leaders" or "KOLs," these medical professionals were often integrally involved with the front
8 groups described above. The Manufacturing Defendants paid these KOLs substantial amounts to
9 present at Continuing Medical Education ("CME") seminars and conferences, and to serve on
10 their advisory boards and on the boards of the various front groups.

11 188. The Manufacturing Defendants also identified doctors to serve as speakers or
12 attend all-expense-paid trips to programs with speakers.⁸⁵ The Manufacturing Defendants used
13 these trips and programs—many of them lavish affairs—to incentivize the use of opioids while
14 downplaying their risks, bombarding doctors with messages about the safety and efficacy of
15 opioids for treating long-term pain. Although often couched in scientific certainty, the
16 Manufacturing Defendants' messages were false and misleading, and helped to ensure that
17 millions of Americans would be exposed to the profound risks of these drugs.

18 189. It is well documented that this type of pharmaceutical company symposium
19 influences physicians' prescribing, even though physicians who attend such symposia believe
20 that such enticements do not alter their prescribing patterns.⁸⁶ For example, doctors who were
21 invited to these all-expenses-paid weekends in resort locations like Boca Raton, Florida, and
22 Scottsdale, Arizona, wrote twice as many prescriptions as those who did not attend.⁸⁷

23 ⁸⁴ Charles Ornstein and Tracy Weber, *American Pain Foundation Shuts Down as Senators Launch Investigation of*
24 *Prescription Narcotics*, ProPublica (May 8, 2012, 8:57pm), [https://www.propublica.org/article/senate-panel-](https://www.propublica.org/article/senate-panel-investigates-drug-company-ties-to-pain-groups)
[investigates-drug-company-ties-to-pain-groups](https://www.propublica.org/article/senate-panel-investigates-drug-company-ties-to-pain-groups).

25 ⁸⁵ Van Zee, *The Promotion and Marketing of OxyContin*, *supra* note 67.

26 ⁸⁶ *Id.*

⁸⁷ Harriet Ryan, Lisa Girion and Scott Glover, *OxyContin goes global — "We're only just getting started"*, Los
Angeles Times (Dec. 18, 2016), <http://www.latimes.com/projects/la-me-oxycontin-part3/>.

1 190. The KOLs gave the impression they were independent sources of unbiased
2 information, while touting the benefits of opioids through their presentations, articles, and books.
3 KOLs also served on committees and helped develop guidelines such as the 2009 Guidelines
4 described above that strongly encouraged the use of opioids to treat chronic pain.

5 191. One of the most prominent KOLs for the Manufacturing Defendants' opioids was
6 Dr. Russell Portenoy. A respected leader in the field of pain treatment, Dr. Portenoy was highly
7 influential. Dr. Andrew Kolodny, cofounder of Physicians for Responsible Opioid Prescribing,
8 described him "lecturing around the country as a religious-like figure. The megaphone for
9 Portenoy is Purdue, which flies in people to resorts to hear him speak. It was a compelling
10 message: 'Docs have been letting patients suffer; nobody really gets addicted; it's been
11 studied.'"⁸⁸

12 192. As one organizer of CME seminars, who worked with Portenoy and Purdue,
13 pointed out, "had Portenoy not had Purdue's money behind him, he would have published some
14 papers, made some speeches, and his influence would have been minor. With Purdue's millions
15 behind him, his message, which dovetailed with their marketing plans, was hugely magnified."⁸⁹

16 193. In recent years, some of the Manufacturing Defendants' KOLs have conceded that
17 many of their past claims in support of opioid use lacked evidence or support in the scientific
18 literature.⁹⁰ Dr. Portenoy himself specifically admitted that he overstated the drugs' benefits and
19 glossed over their risks, and that he "gave innumerable lectures in the late 1980s and '90s about
20 addiction that weren't true."⁹¹ He mused, "Did I teach about pain management, specifically about
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23 ⁸⁸ Quinones, *supra* note 47, at 314.

24 ⁸⁹ *Id.* at 136.

25 ⁹⁰ See, e.g., John Fauber, *Painkiller boom fueled by networking*, Journal Sentinel (Feb. 18, 2012),
<http://archive.jsonline.com/watchdog/watchdogreports/painkiller-boom-fueled-by-networking-dp3p2rn-139609053.html> (finding that a key Endo KOL acknowledged that opioid marketing went too far).

26 ⁹¹ Thomas Catan and Evan Perez, *A Pain-Drug Champion Has Second Thoughts*, Wall Street Journal (Dec. 17,
2012, 11:36am), <https://www.wsj.com/articles/SB10001424127887324478304578173342657044604>.

1 opioid therapy, in a way that reflects misinformation? Well, against the standards of 2012, I
2 guess I did . . . We didn't know then what we know now."⁹²

3 194. Dr. Portenoy did not need "the standards of 2012" to discern evidence-based
4 science from baseless claims, however. When interviewed by journalist Barry Meier for his 2003
5 book, *Pain Killer*, Dr. Portenoy was more direct: "It was pseudoscience. I guess I'm going to
6 have always to live with that one."⁹³

7 195. Dr. Portenoy was perhaps the most prominent KOL for prescription opioids, but
8 he was far from the only one. In fact, Dr. Portenoy and a doctor named Perry Fine co-wrote *A*
9 *Clinical Guide to Opioid Analgesia*, which contained statements that conflict with the CDC's
10 2016 *Guideline for Prescribing Opioids for Chronic Pain*, such as the following examples
11 regarding respiratory depression and addiction:

12 At clinically appropriate doses, . . . respiratory rate typically does not decline.
13 Tolerance to the respiratory effects usually develops quickly, and doses can be
steadily increased without risk.

14 Overall, the literature provides evidence that the outcomes of drug abuse and
15 addiction are rare among patients who receive opioids for a short period (ie, for
acute pain) and among those with no history of abuse who receive long-term
16 therapy for medical indications.⁹⁴

17 196. Dr. Fine is a Professor of Anesthesiology at the University of Utah School of
18 Medicine's Pain Research Center. He has served on Purdue's advisory board, provided medical
19 legal consulting for Janssen, and participated in CME activities for Endo, along with serving in
20 these capacities for several other drug companies. He co-chaired the APS-AAPM Opioid
21 Guideline Panel, served as treasurer of the AAPM from 2007 to 2010 and as president of that
22 group from 2011 to 2013, and was also on the board of directors of APF.⁹⁵

23 ⁹² *Id.*

24 ⁹³ Meier, *supra* note 19, at 277.

25 ⁹⁴ Perry G. Fine, MD and Russell K. Portenoy, MD, *A Clinical Guide to Opioid Analgesia* 20 and 34, McGraw-Hill
Companies (2004), <http://www.thblack.com/links/RSD/OpioidHandbook.pdf>.

26 ⁹⁵ Scott M. Fishman, MD, *Incomplete Financial Disclosures in a Letter on Reducing Opioid Abuse and Diversion*,
306 (13) JAMA 1445 (Sept. 20, 2011), [https://jamanetwork.com/journals/jama/article-
abstract/1104464?redirect=true](https://jamanetwork.com/journals/jama/article-abstract/1104464?redirect=true).

1 197. In 2011, he and Dr. Scott Fishman, discussed below, published a letter in *JAMA*
2 called “Reducing Opioid Abuse and Diversion,” which emphasized the importance of
3 maintaining patient access to opioids.⁹⁶ The editors of *JAMA* found that both doctors had
4 provided incomplete financial disclosures and made them submit corrections listing all of their
5 ties to the prescription painkiller industry.⁹⁷

6 198. Dr. Fine also failed to provide full disclosures as required by his employer, the
7 University of Utah. For example, Dr. Fine told the university that he had received under \$5,000
8 in 2010 from Johnson & Johnson for providing “educational” services, but Johnson & Johnson’s
9 website states that the company paid him \$32,017 for consulting, promotional talks, meals and
10 travel that year.⁹⁸

11 199. In 2012, along with other KOLs, Dr. Fine was investigated for his ties to drug
12 companies as part of the Senate investigation of front groups described above. When Marianne
13 Skolek, a reporter for the online news outlet Salem-News.com and a critic of opioid overuse,
14 wrote an article about him and another KOL being investigated, Dr. Fine fired back, sending a
15 letter to her editor accusing her of poor journalism and saying that she had lost whatever
16 credibility she may have had. He criticized her for linking him to Purdue, writing, “I have never
17 had anything to do with Oxycontin development, sales, marketing or promotion; I have never
18 been a Purdue Pharma speaker”—neglecting to mention, of course, that he served on Purdue’s
19 advisory board, as the *JAMA* editors had previously forced him to disclose.⁹⁹

20 200. Another Utah physician, Dr. Lynn Webster, was the director of Lifetree Clinical
21 Research & Pain Clinic in Salt Lake City from 1990 to 2010, and in 2013 was the president of
22 AAPM (one of the front groups discussed above). Dr. Webster developed a five-question survey

23 ⁹⁶ Perry G. Fine, MD and Scott M. Fishman, MD, *Reducing Opioid Abuse and Diversion*, 306 (4) *JAMA* 381 (July
24 27, 2011), <https://jamanetwork.com/journals/jama/article-abstract/1104144?redirect=true>.

25 ⁹⁷ *Incomplete Financial Disclosures in: Reducing Opioid Abuse and Diversion*, 306 (13) *JAMA* 1446 (Oct. 5,
2011), <https://jamanetwork.com/journals/jama/fullarticle/1104453>.

26 ⁹⁸ Weber and Ornstein, *Two Leaders in Pain Treatment*, *supra* note 75.

⁹⁹ Marianne Skolek, *Doctor Under Senate Investigation Lashes Out at Journalist*, Salem News (Aug. 12, 2012,
8:45pm), <http://www.salem-news.com/articles/august122012/perry-fine-folo-ms.php>.

1 he called the Opioid Risk Tool, which he asserted would “predict accurately which individuals
2 may develop aberrant behaviors when prescribed opioids for chronic pain.”¹⁰⁰ He published
3 books titled *The Painful Truth: What Chronic Pain Is Really Like and Why It Matters to Each of*
4 *Us* and *Avoiding Opioid Abuse While Managing Pain*.

5 201. Dr. Webster and the Lifetree Clinic were investigated by the DEA for
6 overprescribing opioids after twenty patients died from overdoses. In keeping with the opioid
7 industry’s promotional messages, Dr. Webster apparently believed the solution to patients’
8 tolerance or addictive behaviors was more opioids: he prescribed staggering quantities of pills.
9 Tina Webb, a Lifetree patient who overdosed in 2007, was taking as many as thirty-two pain
10 pills a day in the year before she died, all while under doctor supervision.¹⁰¹ Carol Ann Bosley,
11 who sought treatment for pain at Lifetree after a serious car accident and multiple spine
12 surgeries, quickly became addicted to opioids and was prescribed increasing quantities of pills; at
13 the time of her death, she was on seven different medications totaling approximately 600 pills a
14 month.¹⁰² Another woman, who sought treatment from Lifetree for chronic low back pain and
15 headaches, died at age forty-two after Lifetree clinicians increased her prescriptions to fourteen
16 different drugs, including multiple opioids, for a total of 1,158 pills a month.¹⁰³

17 202. By these numbers, Lifetree resembles the pill mills and “bad actors” that the
18 Manufacturing Defendants blame for opioid overuse. But Dr. Webster was an integral part of
19 Defendants’ marketing campaigns, a respected pain specialist who authored numerous CMEs
20 sponsored by Endo and Purdue. And the Manufacturing Defendants promoted his Opioid Risk
21

22 ¹⁰⁰ Lynn Webster and RM Webster, *Predicting aberrant behaviors in opioid-treated patients: preliminary*
23 *validation of the Opioid Risk Tool* 6 (6) Pain Med. 432 (Nov.-Dec. 2005),
24 <https://www.ncbi.nlm.nih.gov/pubmed/16336480>.

25 ¹⁰¹ Jesse Hyde and Daphne Chen, *The untold story of how Utah doctors and Big Pharma helped drive the national*
opioid epidemic, Deseret News (Oct. 26, 2017, 12:01am), [https://www.deseretnews.com/article/900002328/the-](https://www.deseretnews.com/article/900002328/the-untold-story-of-how-utah-doctors-and-big-pharma-helped-drive-the-national-opioid-epidemic.html)
[untold-story-of-how-utah-doctors-and-big-pharma-helped-drive-the-national-opioid-epidemic.html](https://www.deseretnews.com/article/900002328/the-untold-story-of-how-utah-doctors-and-big-pharma-helped-drive-the-national-opioid-epidemic.html).

26 ¹⁰² Stephanie Smith, *Prominent pain doctor investigated by DEA after patient deaths*, CNN (Dec. 20, 2013,
7:06am), <http://www.cnn.com/2013/12/20/health/pain-pillar/index.html>.

¹⁰³ *Id.*

1 Tool and similar screening questionnaires as measures that allow powerful opioids to be
2 prescribed for chronic pain.

3 203. Even in the face of patients' deaths, Dr. Webster continues to promote a pro-
4 opioid agenda, even asserting that alternatives to opioids are risky because "[i]t's not hard to
5 overdose on NSAIDs or acetaminophen."¹⁰⁴ He argued on his website in 2015 that DEA
6 restrictions on the accessibility of hydrocodone harm patients, and in 2017 tweeted in response to
7 CVS Caremark's announcement that it will limit opioid prescriptions that "CVS Caremark's new
8 opioid policy is wrong, and it won't stop illegal drugs."¹⁰⁵

9 204. Another prominent KOL is Dr. Scott M. Fishman, the Chief of the Department of
10 Pain Medicine at University of California, Davis. He has served as president of APF and AAPM,
11 and as a consultant and a speaker for Purdue, in addition to providing the company grant and
12 research support. He also has had financial relationships with Endo and Janssen. He wrote a
13 book for the FSMB called *Responsible Opioid Use: A Physician's Guide*, which was distributed
14 to over 165,000 physicians in the U.S.

15 205. Dr. Fishman and Dr. Fine, along with Dr. Seddon Savage, published an editorial
16 in the Seattle Times in 2010, arguing that Washington legislation proposed to combat
17 prescription opioid abuse would harm patients, in particular by requiring chronic pain patients to
18 consult with a pain specialist before receiving a prescription for a moderate to high dose of an
19 opioid.¹⁰⁶

20 206. These KOLs and others—respected specialists in pain medicine—proved to be
21 highly effective spokespeople for the Manufacturing Defendants.

23 ¹⁰⁴ APF releases opioid medication safety module, Drug Topics (May 10, 2011),
24 <http://drugtopics.modernmedicine.com/drug-topics/news/modernmedicine/modern-medicine-news/apf-releases-opioid-medication-safety-module>.

25 ¹⁰⁵ Lynn Webster, MD (@LynnRWebsterMD), Twitter (Dec. 7, 2017, 5:45pm),
26 <https://twitter.com/LynnRWebsterMD/status/938887130545360898>.

¹⁰⁶ Perry G. Fine, Scott M. Fishman, and Seddon R. Savage, *Bill to combat prescription abuse really will harm patients in pain*, Seattle Times (Mar. 16, 2010, 4:39pm),
http://old.seattletimes.com/html/opinion/2011361572_guest17fine.html.

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2 **4. The Manufacturing Defendants used “unbranded” advertising as a platform**
3 **for their misrepresentations about opioids.**

4 207. The Manufacturing Defendants also aggressively promoted opioids through
5 “unbranded advertising” to generally tout the benefits of opioids without specifically naming a
6 particular brand-name opioid drug. Instead, unbranded advertising is usually framed as “disease
7 awareness”—encouraging consumers to “talk to your doctor” about a certain health condition
8 without promoting a specific product. A trick often used by pharmaceutical companies,
9 unbranded advertising gives the pharmaceutical companies considerable leeway to make
10 sweeping claims about health conditions or classes of drugs. In contrast, a “branded”
11 advertisement that identifies a specific medication and its indication (i.e., the condition which the
12 drug is approved to treat) must also include possible side effects and contraindications—what the
13 FDA Guidance on pharmaceutical advertising refers to as “fair balance.” Branded advertising is
14 also subject to FDA review for consistency with the drug’s FDA-approved label.

15 208. Unbranded advertising allows pharmaceutical manufacturers to sidestep those
16 requirements; “fair balance” and consistency with a drug’s label are not required.

17 209. By engaging in unbranded advertising, the Manufacturing Defendants were and
18 are able to avoid FDA review and issue general statements to the public including that opioids
19 improve function, that addiction usually does not occur, and that withdrawal can easily be
20 managed. The Manufacturing Defendants’ unbranded advertisements either did not disclose the
21 risks of addiction, abuse, misuse, and overdose, or affirmatively denied or minimized those risks.

22 210. Through the various marketing channels described above—all of which the
23 Manufacturing Defendants controlled, funded, and facilitated, and for which they are legally
24 responsible—these Defendants made false or misleading statements about opioids despite the
25 lack of scientific evidence to support their claims, while omitting the true risk of addiction and
26 death.

1 **D. Specific Misrepresentations Made by the Manufacturing Defendants.**

2 211. All the Manufacturing Defendants have made and/or continue to make false or
3 misleading claims in the following areas: (1) the low risk of addiction to opioids, (2) opioids'
4 efficacy for chronic pain and ability to improve patients' quality of life with long-term use, (3)
5 the lack of risk associated with higher dosages of opioids, (4) the need to prescribe more opioids
6 to treat withdrawal symptoms, and (5) that risk-mitigation strategies and abuse-deterrent
7 technologies allow doctors to safely prescribe opioids for chronic use. These illustrative but non-
8 exhaustive categories of the Manufacturing Defendants' misrepresentations about opioids are
9 described in detail below.

10 **1. The Manufacturing Defendants falsely claimed that the risk of opioid abuse**
11 **and addiction was low.**

12 212. Collectively, the Manufacturing Defendants have made a series of false and
13 misleading statements about the low risk of addiction to opioids over the past twenty years. The
14 Manufacturing Defendants have also failed to take sufficient remedial measures to correct their
15 false and misleading statements.

16 213. The Manufacturing Defendants knew that many physicians were hesitant to
17 prescribe opioids other than for acute or cancer-related pain because of concerns about addiction.
18 Because of this general perception, sales messaging about the low risk of addiction was a
19 fundamental prerequisite misrepresentation.

20 214. Purdue launched OxyContin in 1996 with the statement that OxyContin's
21 patented continuous-release mechanism "is believed to reduce the abuse liability." This
22 statement, which appeared in OxyContin's label and which sales representatives were taught to
23 repeat verbatim, was unsupported by any studies, and was patently false. The continuous-release
24 mechanism was simple to override, and the drug correspondingly easy to abuse. This fact was
25 known, or should have been known, to Purdue prior to its launch of OxyContin, because people
26 had been circumventing the same continuous-release mechanism for years with MS Contin,

1 which in fact commanded a high street price because of the dose of pure narcotic it delivered. In
2 addition, with respect to OxyContin, Purdue researchers notified company executives, including
3 Raymond and Richard Sackler, by email that patients in their clinical trials were abusing the drug
4 despite the timed-release mechanism.¹⁰⁷

5 215. In 2007, as noted above, Purdue pleaded guilty to misbranding a drug, a felony
6 under the Food, Drug, and Cosmetic Act. 21 U.S.C. § 331(a)(2). As part of its guilty plea,
7 Purdue agreed that certain Purdue supervisors and employees had, “with the intent to defraud or
8 mislead, marketed and promoted OxyContin as less addictive, less subject to abuse and
9 diversion, and less likely to cause tolerance and withdrawal than other pain medications” in the
10 following ways:

11 Trained PURDUE sales representatives and told some health care providers that it
12 was more difficult to extract the oxycodone from an OxyContin tablet for the
13 purpose of intravenous abuse, although PURDUE’s own study showed that a drug
14 abuser could extract approximately 68% of the oxycodone from a single 10mg
15 OxyContin tablet by crushing the tablet, stirring it in water, and drawing the
16 solution through cotton into a syringe;

17 Told PURDUE sales representatives they could tell health care providers that
18 OxyContin potentially creates less chance for addiction than immediate-release
19 opioids;

20 Sponsored training that taught PURDUE sales supervisors that OxyContin had
21 fewer “peak and trough” blood level effects than immediate-release opioids
22 resulting in less euphoria and less potential for abuse than short-acting opioids;

23 Told certain health care providers that patients could stop therapy abruptly without
24 experiencing withdrawal symptoms and that patients who took OxyContin would
25 not develop tolerance to the drug; and

26 Told certain health care providers that OxyContin did not cause a “buzz” or
euphoria, caused less euphoria, had less addiction potential, had less abuse
potential, was less likely to be diverted than immediate-release opioids, and could
be used to “weed out” addicts and drug seekers.¹⁰⁸

¹⁰⁷ WBUR On Point interview, *supra* note 25.

¹⁰⁸ *United States v. Purdue Frederick Co.*, *supra* note 29; *see also*, Plea Agreement, *United States v. Purdue Frederick Co.*, No. 1:07-cr-00029 (W.D. Va. May 10, 2007).

1 216. All of these statements were false and misleading. But Purdue had not stopped
2 there. Purdue—and later the other Defendants—manipulated scientific research and utilized
3 respected physicians as paid spokespeople to convey its misrepresentations about low addiction
4 risk in much more subtle and pervasive ways, so that the idea that opioids used for chronic pain
5 posed a low addiction risk became so widely accepted in the medical community that Defendants
6 were able to continue selling prescription opioids for chronic pain—even after Purdue’s criminal
7 prosecution.

8 217. When it launched OxyContin, Purdue knew it would need data to overcome
9 decades of wariness regarding opioid use. It needed some sort of research to back up its
10 messaging. But Purdue had not conducted any studies about abuse potential or addiction risk as
11 part of its application for FDA approval for OxyContin. Purdue (and, later, the other Defendants)
12 found this “research” in the form of a one-paragraph letter to the editor published in the *New*
13 *England Journal of Medicine* (NEJM) in 1980.

14 218. This letter, by Dr. Hershel Jick and Jane Porter, declared the incidence of
15 addiction “rare” for patients treated with opioids.¹⁰⁹ They had analyzed a database of hospitalized
16 patients who were given opioids in a controlled setting to ease suffering from acute pain. These
17 patients were not given long-term opioid prescriptions or provided opioids to administer to
18 themselves at home, nor was it known how frequently or infrequently and in what doses the
19 patients were given their narcotics. Rather, it appears the patients were treated with opioids for
20 short periods of time under in-hospital doctor supervision.

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¹⁰⁹ Jane Porter and Herschel Jick, MD, *Addiction Rare in Patients Treated with Narcotics*, 302(2) N Engl J Med.
123 (Jan. 10, 1980), <http://www.nejm.org/doi/pdf/10.1056/NEJM198001103020221>.

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**ADDICTION RARE IN PATIENTS TREATED
WITH NARCOTICS**

To the Editor: Recently, we examined our current files to determine the incidence of narcotic addiction in 39,946 hospitalized medical patients¹ who were monitored consecutively. Although there were 11,882 patients who received at least one narcotic preparation, there were only four cases of reasonably well documented addiction in patients who had no history of addiction. The addiction was considered major in only one instance. The drugs implicated were meperidine in two patients,² Percodan in one, and hydromorphone in one. We conclude that despite widespread use of narcotic drugs in hospitals, the development of addiction is rare in medical patients with no history of addiction.

JANE PORTER
HERSHEL JICK, M.D.
Boston Collaborative Drug
Surveillance Program

Waltham, MA 02154

Boston University Medical Center

1. Jick H, Miettinen OS, Shapiro S, Lewis GP, Siskind Y, Slone D. Comprehensive drug surveillance. JAMA. 1970; 213:1455-60.
2. Miller RR, Jick H. Clinical effects of meperidine in hospitalized medical patients. J Clin Pharmacol. 1978; 18:180-8.

13 219. As Dr. Jick explained to a journalist years later, he submitted the statistics to
14 NEJM as a letter because the data were not robust enough to be published as a study, and that
15 one could not conclude anything about long-term use of opioids from his figures.¹¹⁰ Dr. Jick also
16 recalled that no one from drug companies or patient advocacy groups contacted him for more
17 information about the data.¹¹¹

18 220. Nonetheless, the Manufacturing Defendants regularly invoked this letter as proof
19 of the low addiction risk in connection with taking opioids despite its obvious shortcomings.
20 These Defendants' egregious misrepresentations based on this letter included claims that *less*
21 *than one percent* of opioid users become addicted.

22 221. The limited facts of the study did not deter the Manufacturing Defendants from
23 using it as definitive proof of opioids' safety. The enormous impact of the Manufacturing
24 Defendants' misleading amplification of this letter was well documented in another letter
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26 ¹¹⁰ Meier, *supra* note 19, at 174.

¹¹¹ *Id.*

1 published in NEJM on June 1, 2017, describing the way the one-paragraph 1980 letter had been
2 irresponsibly cited and in some cases “grossly misrepresented.” In particular, the authors of this
3 letter explained:

4 [W]e found that a five-sentence letter published in the *Journal* in 1980 was heavily
5 and uncritically cited as evidence that addiction was rare with long-term opioid
6 therapy. We believe that this citation pattern contributed to the North American
opioid crisis by helping to shape a narrative that allayed prescribers’ concerns about
the risk of addiction associated with long-term opioid therapy . . .¹¹²

7 222. Unfortunately, by the time of this analysis and the CDC’s findings in 2016, the
8 damage had already been done. “It’s difficult to overstate the role of this letter,” said Dr. David
9 Juurlink of the University of Toronto, who led the analysis. “It was the key bit of literature that
10 helped the opiate manufacturers convince front-line doctors that addiction is not a concern.”¹¹³

11 223. The Manufacturing Defendants successfully manipulated the 1980 Porter and Jick
12 letter as the “evidence” supporting their fundamental misrepresentation that the risk of opioid
13 addiction was low when opioids were prescribed to treat pain. For example, in its 1996 press
14 release announcing the release of OxyContin, Purdue advertised that the “fear of addiction is
15 exaggerated” and quoted the chairman of the American Pain Society Quality of Care Committee,
16 who claimed that “there is very little risk of addiction from the proper uses of these [opioid]
17 drugs for pain relief.”¹¹⁴

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23 ¹¹² Pamela T.M. Leung, B.Sc. Pharm., Erin M. Macdonald, M.Sc., Matthew B. Stanbrook, M.D., Ph.D., Irfan Al
24 Dhalla, M.D., David N. Juurlink, M.D., Ph.D., *A 1980 Letter on the Risk of Opioid Addiction*, 376 N Engl J Med
2194-95 (June 1, 2017), <http://www.nejm.org/doi/full/10.1056/NEJMc1700150#t=article>.

25 ¹¹³ *Painful words: How a 1980 letter fueled the opioid epidemic*, STAT News (May 31, 2017),
<https://www.statnews.com/2017/05/31/opioid-epidemic-nejm-letter/>.

26 ¹¹⁴ Press Release, OxyContin, *New Hope for Millions of Americans Suffering from Persistent Pain: Long-Acting
OxyContin Tablets Now Available to Relieve Pain* (May 31, 1996, 3:47pm),
<http://documents.latimes.com/oxycontin-press-release-1996/>.

PR Newswire

May 31, 1996, Friday - 15:47 Eastern Time

NEW HOPE FOR MILLIONS OF AMERICANS SUFFERING FROM PERSISTENT

The fear of addiction is exaggerated.

One cause of patient resistance to appropriate pain treatment – the fear of addiction – is largely unfounded. According to Dr. Max, "Experts agree that most pain caused by surgery or cancer can be relieved, primarily by carefully adjusting the dose of opioid (narcotic) pain reliever to each patient's need, and that there is very little risk of addiction from the proper uses of these drugs for pain relief."

Paul D. Goldenheim, M.D., Vice President of **Purdue Pharma** L.P. in Norwalk, Connecticut, agrees with this assessment. "Proper use of medication is an essential weapon in the battle against persistent pain. But too often fear, misinformation and poor communication stand in the way of their legitimate use."

224. Dr. Portenoy, the Purdue KOL mentioned previously, also stated in a promotional video from the 1990s that "the likelihood that the treatment of pain using an opioid drug which is prescribed by a doctor will lead to addiction is extremely low."¹¹⁵



¹¹⁵ Catan and Perez, *supra* note 91.

1 225. Purdue also specifically used the Porter and Jick letter in its 1998 promotional
2 video, “I got my life back,” in which Dr. Alan Spanos says, “In fact, the rate of addiction
3 amongst pain patients who are treated by doctors is *much less than 1%*.”¹¹⁶



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12 226. The Porter and Jick letter was also used on Purdue’s “Partners Against Pain”
13 website, which was available in the early 2000s, where Purdue claimed that the addiction risk
14 with OxyContin was very low.¹¹⁷

15 227. The Porter and Jick letter was used frequently in literature given to prescribing
16 physicians and to patients who were prescribed OxyContin.¹¹⁸

17 228. In addition to the Porter and Jick letter, the Manufacturing Defendants
18 exaggerated the significance of a study published in 1986 regarding cancer patients treated with
19 opioids. Conducted by Dr. Portenoy and another pain specialist, Dr. Kathleen Foley, the study
20 involved only 38 patients, who were treated for non-malignant cancer pain with low doses of
21 opioids (the majority were given less than 20 MME/day, the equivalent of only 13 mg of
22
23

24 ¹¹⁶ Our Amazing World, *Purdue Pharma OxyContin Commercial*, <https://www.youtube.com/watch?v=Er78Dj5hveI>
(last visited May 22, 2018) (emphasis added).

25 ¹¹⁷ Van Zee, *The Promotion and Marketing of OxyContin*, *supra* note 67.

26 ¹¹⁸ Art Van Zee, M.D., *The OxyContin Abuse Problem: Spotlight on Purdue Pharma’s Marketing* (Aug. 22, 2001),
[https://web.archive.org/web/20170212210143/https://www.fda.gov/ohrms/dockets/dockets/01n0256/c000297-
A.pdf](https://web.archive.org/web/20170212210143/https://www.fda.gov/ohrms/dockets/dockets/01n0256/c000297-A.pdf).

1 oxycodone).¹¹⁹ Of these thirty-eight patients, only two developed problems with opioid abuse,
2 and Dr. Portenoy and Dr. Foley concluded that “opioid maintenance therapy can be a safe,
3 salutary and more humane alternative to the options of surgery or no treatment in those patients
4 with intractable non-malignant pain and no history of drug abuse.”¹²⁰ Notwithstanding the small
5 sample size, low doses of opioids involved, and the fact that all the patients were cancer patients,
6 the Manufacturing Defendants used this study as “evidence” that high doses of opioids were safe
7 for the treatment of chronic non-cancer pain.

8 229. The Manufacturing Defendants’ repeated misrepresentations about the low risk of
9 opioid addiction were so effective that this concept became part of the conventional wisdom. Dr.
10 Nathaniel Katz, a pain specialist, recalls learning in medical school that previous fears about
11 addiction were misguided, and that doctors should feel free to allow their patients the pain relief
12 that opioids can provide. He did not question this until one of his patients died from an overdose.
13 Then, he searched the medical literature for evidence of the safety and efficacy of opioid
14 treatment for chronic pain. “There’s not a shred of research on the issue. All these so-called
15 experts in pain are dedicated and have been training me that opioids aren’t as addictive as we
16 thought. But what is that based on? It was based on nothing.”¹²¹

17 230. At a hearing before the House of Representatives’ Subcommittee on Oversight
18 and Investigations of the Committee on Energy and Commerce in August 2001, Purdue
19 continued to emphasize “legitimate” treatment, dismissing cases of overdose and death as
20 something that would not befall “legitimate” patients: “Virtually all of these reports involve
21 people who are abusing the medication, not patients with legitimate medical needs under the
22 treatment of a healthcare professional.”¹²²

23 _____
24 ¹¹⁹ Russell K. Portenoy and Kathleen M. Foley, *Chronic Use of Opioid Analgesics in Non-Malignant Pain: Report*
25 *of 38 Cases*, 25 Pain 171-86 (1986), <https://www.ncbi.nlm.nih.gov/pubmed/2873550>.

26 ¹²⁰ *Id.*

¹²¹ Quinones, *supra* note 47, at 188-89.

¹²² *Oxycontin: Its Use and Abuse: Hearing Before the H. Subcomm. on Oversight and Investigations of the Comm. on Energy and Commerce*, 107th Cong. 1 (Aug. 28, 2001) (statement of Michael Friedman, Executive Vice

1 231. Purdue spun this baseless “legitimate use” distinction out even further in a patient
2 brochure about OxyContin, called “A Guide to Your New Pain Medicine and How to Become a
3 Partner Against Pain.” In response to the question, “Aren’t opioid pain medications like
4 OxyContin Tablets ‘addicting’? Even my family is concerned about this,” Purdue claimed that
5 there was no need to worry about addiction if taking opioids for legitimate, “medical” purposes:

6 Drug addiction means using a drug to get “high” rather than to relieve pain. You
7 are taking opioid pain medication for medical purposes. The medical purposes are
8 clear and the effects are beneficial, not harmful.

9 232. Similarly, Dr. David Haddox, Senior Medical Director for Purdue, cavalierly
10 stated, “[w]hen this medicine is used appropriately to treat pain under a doctor’s care, it is not
11 only effective, it is safe.”¹²³ He went so far as to compare OxyContin to celery, because even
12 celery would be harmful if injected: “If I gave you a stalk of celery and you ate that, it would be
13 healthy for you. But if you put it in a blender and tried to shoot it into your veins, it would not be
14 good.”¹²⁴

15 233. Purdue sales representatives also repeated these misstatements regarding the low
16 risk for addiction to doctors across the country.¹²⁵ Its sales representatives targeted primary care
17 physicians in particular, downplaying the risk of addiction and, as one doctor observed,
18 “promot[ing] among primary care physicians a more liberal use of opioids.”¹²⁶

19 234. Purdue sales representatives were instructed to “distinguish between iatrogenic
20 addiction (<1% of patients) and substance abusers/diversion (about 10% of the population abuse
21 something: weed; cocaine; heroin; alcohol; valium; etc.).”¹²⁷

22
23 President, Chief Operating Officer, Purdue Pharma, L.P.), <https://www.gpo.gov/fdsys/pkg/CHRG-107hhrg75754/html/CHRG-107hhrg75754.htm>.

24 ¹²³ Roger Alford, *Deadly OxyContin abuse expected to spread in the U.S.*, Charleston Gazette, Feb. 9, 2001.

25 ¹²⁴ *Id.*

26 ¹²⁵ Barry Meier, *In Guilty Plea, OxyContin Maker to Pay \$600 Million*, New York Times (May 10, 2007),
<http://www.nytimes.com/2007/05/10/business/11drug-web.html>.

¹²⁶ Van Zee, *The Promotion and Marketing of OxyContin*, *supra* note 67.

¹²⁷ Meier, *supra* note 19, at 269.

1 235. Purdue also marketed OxyContin for a wide variety of conditions and to doctors
2 who were not adequately trained in pain management.¹²⁸

3 236. As of 2003, Purdue's Patient Information guide for OxyContin contained the
4 following language regarding addiction:

5 Concerns about abuse, addiction, and diversion should not prevent the proper management of pain.
6 The development of addiction to opioid analgesics in properly managed patients with pain has been
7 reported to be rare. However, data are not available to establish the true incidence of addiction in
8 chronic pain patients.

9 237. Although Purdue has acknowledged it has made some misrepresentations about
10 the safety of its opioids,¹²⁹ it has done nothing to address the ongoing harms of their
11 misrepresentations; in fact, it continues to make those misrepresentations today.

12 238. Defendant Endo also made dubious claims about the low risk of addiction. For
13 instance, it sponsored a website, PainKnowledge.com, on which in 2009 it claimed that “[p]eople
14 who take opioids as prescribed usually do not become addicted.”¹³⁰ The website has since been
15 taken down.

16 239. In another website, PainAction.com—which is still currently available today—
17 Endo also claimed that “most chronic pain patients do not become addicted to the opioid
18 medications that are prescribed for them.”¹³¹

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22 ¹²⁸ *OxyContin Abuse and Diversion and Efforts to Address the Problem*, *supra* note 34.

23 ¹²⁹ Following the conviction in 2007 of three of its executives for misbranding OxyContin, Purdue released a
24 statement in which they acknowledged their false statements. “Nearly six years and longer ago, some employees
25 made, or told other employees to make, certain statements about OxyContin to some health care professionals that
26 were inconsistent with the F.D.A.-approved prescribing information for OxyContin and the express warnings it
containing about risks associated with the medicine. The statements also violated written company policies
requiring adherence to the prescribing information.”

¹³⁰ German Lopez, *The growing number of lawsuits against opioid companies, explained*, Vox (Feb. 27, 2018,
2:25pm), <https://www.vox.com/policy-and-politics/2017/6/7/15724054/opioid-companies-epidemic-lawsuits>.

¹³¹ *Opioid medication and addiction*, Pain Action (Aug. 17, 2017), <https://www.painaction.com/opioid-medication-addiction/>.

1 240. In a pamphlet titled “Understanding Your Pain: Taking Oral Opioid Analgesics,”
2 Endo assured patients that addiction is something that happens to people who take opioids for
3 reasons other than pain relief, “such as unbearable emotional problems”¹³²:

4 Some questions you may have are:

5 *Is it wrong to take opioids for pain?*

6 ◆ No. Pain relief is an important medical
7 reason to take opioids as prescribed
8 by your doctor. Addicts take opioids
9 for other reasons, such as unbearable
10 emotional problems. Taking opioids as
11 prescribed for pain relief is not addiction.

12 *How can I be sure I’m not addicted?*

13 ◆ Addiction to an opioid would mean that
14 your pain has gone away but you still
15 take the medicine regularly when you
16 don’t need it for pain, maybe just to
17 escape from your problems.
18 ◆ Ask yourself: Would I want to take this
19 medicine if my pain went away? If you
20 answer no, you are taking opioids for
21 the right reasons—to relieve your pain
22 and improve your function. You are not
23 addicted.

24 241. In addition, Endo made statements in pamphlets and publications that most health
25 care providers who treat people with pain agree that most people do not develop an addiction
26 problem. These statements also appeared on websites sponsored by Endo, such as Opana.com.

¹³² *Understanding Your Pain: Taking Oral Opioid Analgesics*, Endo Pharms. (2004),
http://www.thblack.com/links/RSD/Understand_Pain_Opioid_Analgesics.pdf.

1 242. In its currently active website, PrescribeResponsibly.com, Defendant Janssen
2 states that concerns about opioid addiction are “overestimated” and that “true addiction occurs
3 only in a small percentage of patients.”¹³³
4

5 Use of Opioid Analgesics in 6 Pain Management



14 *Other Opioid Analgesic Concerns*

15 Aside from medical issues related to opioid analgesics, there are nonmedical
16 issues that may have an impact on prescribing patterns and patient use of
17 these drugs. Practitioners are often concerned about prescribing opioid
18 analgesics due to potential legal issues and questions of addiction.^{15,16} By
19 the same token, patients report similar concerns about developing an
20 addiction to opioid analgesics.¹⁷ While these concerns are not without some
21 merit, it would appear that they are often overestimated. According to clinical
22 opinion polls, true addiction occurs only in a small percentage of patients
with chronic pain who receive chronic opioid analgesics analgesic therapy.¹⁸



26 243. Similarly, in a 2009 patient education video titled “Finding Relief: Pain
Management for Older Adults,” Janssen sponsored a video by the American Academy of Pain

¹³³ Keith Candiotti, M.D., *Use of Opioid Analgesics in Pain Management*, Prescribe Responsibly,
<http://www.prescriberesponsibly.com/articles/opioid-pain-management> (last modified July 2, 2015).

1 Medicine that indicated that opioids are rarely addictive. The video has since been taken
2 down.¹³⁴

3 244. Janssen also approved and distributed a patient education guide in 2009 that
4 attempted to counter the “myth” that opioids are addictive, claiming that “[m]any studies show
5 that opioids are rarely addictive when used properly for the management of chronic pain.”¹³⁵

6 245. In addition, all the Manufacturing Defendants used third parties and front groups
7 to further their false and misleading statements about the safety of opioids.

8 246. For example, in testimony for the Hearing to Examine the Effects of the Painkiller
9 OxyContin, Focusing on Risks and Benefits, in front of the Senate Health, Education, Labor and
10 Pensions Committee in February 2002, Dr. John D. Giglio, Executive Director of the APF, the
11 organization which, as described above, received the majority of its funding from opioid
12 manufacturers, including Purdue, stated that “opioids are safe and effective, and only in rare
13 cases lead to addiction.”¹³⁶ Along with Dr. Giglio’s testimony, the APF submitted a short
14 background sheet on “the scope of the undertreatment of pain in the U.S.,” which asserted that
15 “opioids are often the best” treatment for pain that hasn’t responded to other techniques, but that
16 patients and many doctors “lack even basic knowledge about these options and fear that powerful
17 pain drugs will [c]ause addiction.” According to the APF, “most studies show that less than 1%
18 of patients become addicted, which is medically different from becoming physically
19 dependent.”¹³⁷

20 247. The APF further backed up Purdue in an amicus curiae brief filed in an Ohio
21 appeals court in December 2002, in which it claimed that “medical leaders have come to
22

23 ¹³⁴ Molly Huff, *Finding Relief: Pain Management for Older Adults*, Ctrs. for Pain Mgmt. (Mar. 9, 2011),
24 <http://www.managepains.com/news/-Finding-Relief-Pain-Management-for-Older-Adults>.

¹³⁵ Lopez, *supra* note 130.

25 ¹³⁶ *Oxycontin: Balancing Risks and Benefits: Hearing of the S. Comm. on Health, Education, Labor and Pensions*,
107th Cong. 2 (Feb. 12, 2002) (testimony of John D. Giglio, M.A., J.D., Executive Director, American Pain
26 Foundation), <https://www.help.senate.gov/imo/media/doc/Giglio.pdf>.

¹³⁷ *Id.*

1 understand that the small risk of abuse does not justify the withholding of these highly effective
2 analgesics from chronic pain patients.”¹³⁸

3 248. In a 2007 publication titled “Treatment Options: A Guide for People Living with
4 Pain,” APF downplayed the risk of addiction and argued that concern about this risk should not
5 prevent people from taking opioids: “Restricting access to the most effective medications for
6 treating pain is not the solution to drug abuse or addiction.”¹³⁹ APF also tried to normalize the
7 dangers of opioids by listing opioids as one of several “[c]ommon drugs that can cause physical
8 dependence,” including steroids, certain heart medications, and caffeine.¹⁴⁰

9 249. The Manufacturing Defendants’ repeated statements about the low risk of
10 addiction when taking opioids as prescribed for chronic pain were blatantly false and were made
11 with reckless disregard for the potential consequences.

12 **2. The Manufacturing Defendants falsely claimed that opioids were proven**
13 **effective for chronic pain and would improve quality of life.**

14 250. Not only did the Manufacturing Defendants falsely claim that the risk of addiction
15 to prescription opioids was low, these Defendants represented that there was a significant upside
16 to long-term opioid use, including that opioids could restore function and improve quality of
17 life.¹⁴¹

18 251. Such claims were viewed as a critical part of the Manufacturing Defendants’
19 marketing strategies. For example, an internal Purdue report from 2001 noted the lack of data
20 supporting improvement in quality of life with OxyContin treatment:

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23 ¹³⁸ Brief Amici Curiae of American Pain Foundation, National Foundation for the Treatment of Pain, and The Ohio
24 Pain Initiative, in Support of Defendants/Appellants, *Howland v. Purdue Pharma, L.P.*, Appeal No. CA 2002 09
0220 (Butler Co., Ohio 12th Court of Appeals, Dec. 23, 2002), [https://ia801005.us.archive.org/23/items/279014-
howland-apf-amicus/279014-howland-apf-amicus.pdf](https://ia801005.us.archive.org/23/items/279014-howland-apf-amicus/279014-howland-apf-amicus.pdf).

25 ¹³⁹ *Treatment Options: A Guide for People Living with Pain*, Am. Pain Found.,
<https://assets.documentcloud.org/documents/277605/apf-treatmentoptions.pdf> (last visited May 22, 2018).

26 ¹⁴⁰ *Id.*

¹⁴¹ This case *does not* request or require the Court to specifically adjudicate whether opioids are appropriate for the
treatment of chronic, non-cancer pain—though the scientific evidence strongly suggests they are not.

1 Janssen has been stressing decreased side effects, especially constipation, as well
2 as patient quality of life, as supported by patient rating compared to sustained
3 release morphine . . . We do not have such data to support OxyContin promotion. .
4 . . In addition, Janssen has been using the “life uninterrupted” message in promotion
5 of Duragesic for non-cancer pain, stressing that Duragesic “helps patients think less
6 about their pain.” This is a competitive advantage based on our inability to make
7 any quality of life claims.¹⁴²

8 252. Despite the lack of data supporting improvement in quality of life, Purdue ran a
9 full-page ad for OxyContin in the Journal of the American Medical Association in 2002,
10 proclaiming, “There Can Be Life With Relief,” and showing a man happily fly-fishing alongside
11 his grandson.¹⁴³ This ad earned a warning letter from the FDA, which admonished, “It is
12 particularly disturbing that your November ad would tout ‘Life With Relief’ yet fail to warn that
13 patients can die from taking OxyContin.”¹⁴⁴

14 253. Purdue also consistently tried to steer any concern away from addiction and focus
15 on its false claims that opioids were effective and safe for treating chronic pain. At a hearing
16 before the House of Representatives’ Subcommittee on Oversight and Investigations of the
17 Committee on Energy and Commerce in August 2001, Michael Friedman, Executive Vice
18 President and Chief Operating Officer of Purdue, testified that “even the most vocal critics of
19 opioid therapy concede the value of OxyContin in the legitimate treatment of pain,” and that
20 “OxyContin has proven itself an effective weapon in the fight against pain, returning many
21 patients to their families, to their work, and to their ability to enjoy life.”¹⁴⁵

22 254. Purdue sponsored the development and distribution of an APF guide in 2011
23 which claimed that “multiple clinical studies have shown that opioids are effective in improving
24 daily function, psychological health, and health-related quality of life for chronic pain patients.”
25 This guide is still available today.

26 ¹⁴² Meier, *supra* note 19, at 281.

¹⁴³ *Id.* at 280.

¹⁴⁴ Chris Adams, *FDA Orders Purdue Pharma To Pull Its OxyContin Ads*, Wall Street Journal (Jan. 23, 2003,
12:01am), <https://www.wsj.com/articles/SB1043259665976915824>.

¹⁴⁵ *Oxycontin: Its Use and Abuse*, *supra* note 122.

1 255. Purdue also ran a series of advertisements of OxyContin in 2012 in medical
2 journals titled “Pain vignettes,” which were styled as case studies of patients with persistent pain
3 conditions and for whom OxyContin was recommended to improve their function.

4 256. Purdue and Endo also sponsored and distributed a book in 2007 to promote the
5 claim that pain relief from opioids, by itself, improved patients’ function. The book remains for
6 sale online today.

7 257. Endo’s advertisements for Opana ER claimed that use of the drug for chronic pain
8 allowed patients to perform demanding tasks like construction and portrayed Opana ER users as
9 healthy and unimpaired.

10 258. Endo’s National Initiative on Pain Control (NIPC) website also claimed in 2009
11 that with opioids, “your level of function should improve; you may find you are now able to
12 participate in activities of daily living, such as work and hobbies, that you were not able to enjoy
13 when your pain was worse.”

14 259. Endo further sponsored a series of CME programs through NIPC which claimed
15 that chronic opioid therapy has been “shown to reduce pain and depressive symptoms and
16 cognitive functioning.”

17 260. Through PainKnowledge.org, Endo also supported and sponsored guidelines that
18 stated, among other things, that “Opioid Medications are a powerful and often highly effective
19 tool in treating pain,” and that “they can help restore comfort, function, and quality of life.”¹⁴⁶

20 261. In addition, Janssen sponsored and edited patient guides which stated that
21 “opioids may make it easier for people to live normally.” The guides listed expected functional
22 improvements from opioid use, including sleeping through the night, and returning to work,
23 recreation, sex, walking, and climbing stairs.

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¹⁴⁶*Informed Consent for Using Opioids to Treat Pain*, Painknowledge.org (2007),
[https://www.mainequalitycounts.org/image_upload/Opioid%20Informed%20Consent%20Formatted_1_23_2008.p
df.](https://www.mainequalitycounts.org/image_upload/Opioid%20Informed%20Consent%20Formatted_1_23_2008.pdf)

1 262. Janssen also sponsored, funded, and edited a website which featured an interview
2 edited by Janssen that described how opioids allowed a patient to “continue to function.” This
3 video is still available today.

4 263. Furthermore, sales representatives for the Manufacturing Defendants
5 communicated and continue to communicate the message that opioids will improve patients’
6 function, without appropriate disclaimers.

7 264. The Manufacturing Defendants’ statements regarding opioids’ ability to improve
8 function and quality of life are false and misleading. As the CDC’s *Guideline for Prescribing*
9 *Opioids for Chronic Pain* (the “2016 CDC Guideline” or “Guideline”)¹⁴⁷ confirms, not a single
10 study supports these claims.

11 265. In fact, to date, there have been no long-term studies that demonstrate that opioids
12 are effective for treating long-term or chronic pain. Instead, reliable sources of information,
13 including from the CDC in 2016, indicate that there is “[n]o evidence” to show “a long-term
14 benefit of opioids in pain and function versus no opioids for chronic pain.”¹⁴⁸ By contrast,
15 significant research has demonstrated the colossal dangers of opioids. The CDC, for example,
16 concluded that “[e]xtensive evidence shows the possible harms of opioids (including opioid use
17 disorder, overdose, and motor vehicle injury)” and that “[o]pioid pain medication use presents
18 serious risks, including overdose and opioid use disorder.”¹⁴⁹

19 **3. The Manufacturing Defendants falsely claimed doctors and patients could**
20 **increase opioid usage indefinitely without added risk.**

21 266. The Manufacturing Defendants also made false and misleading statements
22 claiming that there is no dosage ceiling for opioid treatment. These misrepresentations were
23 integral to the Manufacturing Defendants’ promotion of prescription opioids for two reasons.
24 First, the idea that there was no upward limit was necessary for the overarching deception that

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¹⁴⁷ 2016 CDC Guideline, *supra* note 35.

26 ¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

1 opioids are appropriate treatment for chronic pain. As discussed above, people develop a
2 tolerance to opioids' analgesic effects, so that achieving long-term pain relief requires constantly
3 increasing the dose. Second, the dosing misrepresentation was necessary for the claim that
4 OxyContin and competitor drugs allowed 12-hour dosing.

5 267. Twelve-hour dosing is a significant marketing advantage for any medication,
6 because patient compliance is improved when a medication only needs to be taken twice a day.
7 For prescription painkillers, the 12-hour dosing is even more significant because shorter-acting
8 painkillers did not allow patients to get a full night's sleep before the medication wore off. A
9 Purdue memo to the OxyContin launch team stated that "OxyContin's positioning statement is
10 'all of the analgesic efficacy of immediate-release oxycodone, with convenient q12h dosing,'"
11 and further that "[t]he convenience of q12h dosing was emphasized as the most important
12 benefit."¹⁵⁰

13 268. Purdue executives therefore maintained the messaging of 12-hour dosing even
14 when many reports surfaced that OxyContin did not last 12 hours. Instead of acknowledging a
15 need for more frequent dosing, Purdue instructed its representatives to push higher-strength pills.

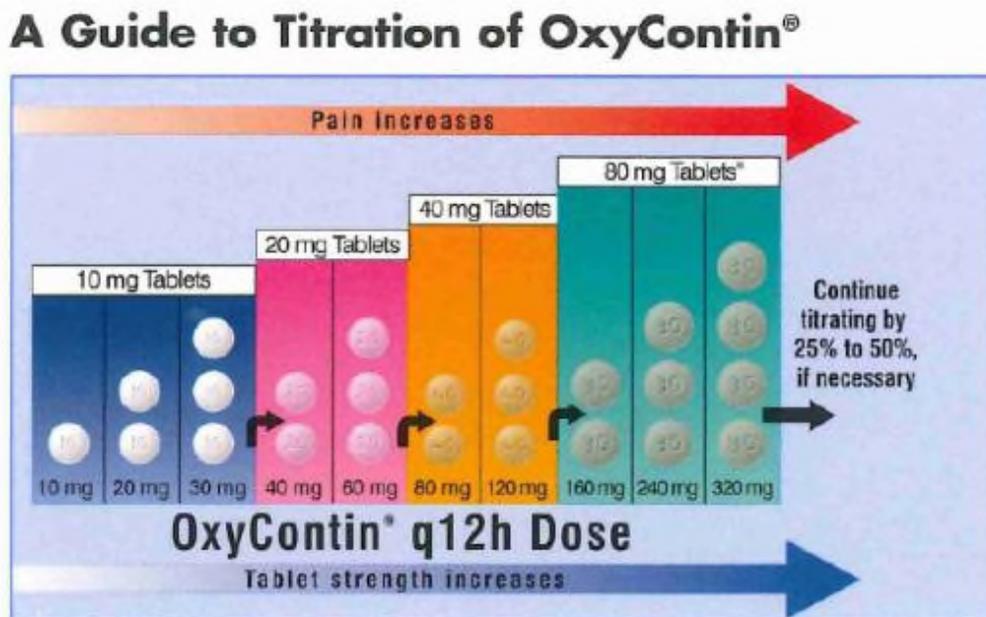
16 269. For example, in a 1996 sales strategy memo from a Purdue regional manager, the
17 manager emphasized that representatives should "convinc[e] the physician that there is no need"
18 for prescribing OxyContin in shorter intervals than the recommended 12-hour interval, and
19 instead the solution is prescribing higher doses. The manager directed representatives to discuss
20 with physicians that there is "no[] upward limit" for dosing and ask "if there are any reservations
21 in using a dose of 240mg-320mg of OxyContin."¹⁵¹

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25 ¹⁵⁰ *OxyContin launch*, Los Angeles Times (May 5, 2016), <http://documents.latimes.com/oxycontin-launch-1995/>.

26 ¹⁵¹ *Sales manager on 12-hour dosing*, Los Angeles Times (May 5, 2016), <http://documents.latimes.com/sales-manager-on12-hour-dosing-1996/>.

270. As doctors began prescribing OxyContin at shorter intervals in the late 1990s, Purdue directed its sales representatives to “refocus” physicians on 12-hour dosing. One sales manager instructed her team that anything shorter “needs to be nipped in the bud. NOW!”¹⁵²

271. These misrepresentations were incredibly dangerous. As noted above, opioid dosages at or above 50 MME/day double the risk of overdose compared to 20 MME/day, and 50 MME is equal to just 33 mg of oxycodone. Notwithstanding the risks, the 2003 Conversion Guide for OxyContin contained the following diagram for increasing dosage up to 320 mg:



272. In a 2004 response letter to the FDA, Purdue tried to address concerns that patients who took OxyContin more frequently than 12 hours would be at greater risk of side effects or adverse reactions. Purdue contended that the peak plasma concentrations of oxycodone would not increase with more frequent dosing, and therefore no adjustments to the package labeling or 12-hour dosing regimen were needed.¹⁵³ But these claims were false, and Purdue’s

¹⁵² Harriet Ryan, Lisa Girion, and Scott Glover, ‘You Want a Description of Hell?’ *OxyContin’s 12-Hour Problem* (May 5, 2016), <http://www.latimes.com/projects/oxycotin-part1/>.

¹⁵³ *Purdue Response to FDA, 2004*, Los Angeles Times (May 5, 2016), <http://documents.latimes.com/purdue-response-fda-2004/>.

1 suggestion that there was no upper limit or risk associated with increased dosage was incredibly
2 misleading.

3 273. Suggesting that it recognized the danger of its misrepresentations of no dose
4 ceiling, Purdue discontinued the OxyContin 160 mg tablet in 2007 and stated that this step was
5 taken “to reduce the risk of overdose accompanying the abuse of this dosage strength.”¹⁵⁴

6 274. But still Purdue and the other Manufacturing Defendants worked hard to protect
7 their story. In March 2007, Dr. Gary Franklin, Medical Director for the Washington State
8 Department of Labor & Industries, published the *Interagency Guideline on Opioid Dosing for*
9 *Chronic Non-Cancer Pain*. Developed in collaboration with providers in Washington State who
10 had extensive experience in the evaluation and treatment of patients with chronic pain, the
11 guideline recommended a maximum daily dose of opioids to protect patients.

12 275. In response, Purdue sent correspondence to Dr. Franklin specifically indicating,
13 among other things, that “limiting access to opioids for persons with chronic pain is not the
14 answer” and that the “safety and efficacy of OxyContin doses greater than 40 mg every 12 hours
15 in patients with chronic nonmalignant pain” was well established. Purdue even went so far as to
16 represent to Dr. Franklin that even if opioid treatment produces significant adverse effects in a
17 patient, “this does not preclude a trial of another opioid.”

18 276. In 2010, Purdue published a Risk Evaluation and Mitigation Strategy (“REMS”)
19 for OxyContin, but even the REMS does not address concerns with increasing dosage, and
20 instead advises prescribers that “dose adjustments may be made every 1-2 days”; “it is most
21 appropriate to increase the q12h dose”; the “total daily dose can usually be increased by 25% to
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26 ¹⁵⁴ *OxyContin Tablets Risk Management Program*, Purdue Pharma L.P.,
<https://web.archive.org/web/20170215064438/https://www.fda.gov/ohrms/dockets/DOCKETS/07p0232/07p-0232-cp00001-03-Exhibit-02-Part-1-vol1.pdf> (revised May 18, 2007).

1 50%”; and if “significant adverse reactions occur, treat them aggressively until they are under
2 control, then resume upward titration.”¹⁵⁵

3 277. In 2012, APF claimed on its website that there was no “ceiling dose” for opioids
4 for chronic pain.¹⁵⁶ APF also made this claim in a guide sponsored by Purdue, which is still
5 available online.

6 278. Accordingly, Purdue continued to represent both publicly and privately that
7 increased opioid usage was safe and did not present additional risk at higher doses.

8 279. Janssen also made the same misrepresentations regarding the disadvantages of
9 dosage limits for other pain medicines in a 2009 patient education guide, while failing to address
10 the risks of dosage increases with opioids.

11 280. Endo, on a website it sponsors, PainKnowledge.com, also made the claim in 2009
12 that opioid dosages could be increased indefinitely.

13 281. In the “Understanding Your Pain” pamphlet discussed above, Endo assures opioid
14 users that concern about developing tolerance to the drugs’ pain-relieving effect is “not a
15 problem,” and that “[t]he dose can be increased” and “[y]ou won’t ‘run out’ of pain relief.”¹⁵⁷

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23 ¹⁵⁵ *OxyContin Risk Evaluation and Mitigation Strategy*, Purdue Pharma L.P.,
24 [https://web.archive.org/web/20170215190303/https://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrug
SafetyInformationforPatientsandProviders/UCM220990.pdf](https://web.archive.org/web/20170215190303/https://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/UCM220990.pdf) (last modified Nov. 2010).

25 ¹⁵⁶ Noah Nesin, M.D., FAAFP, *Responsible Opioid Prescribing*, PCHC
26 [https://www.mainequalitycounts.org/image_upload/Keynote-
%20Managing%20Chronic%20Pain%20and%20Opioids_Nesin.pdf](https://www.mainequalitycounts.org/image_upload/Keynote-%20Managing%20Chronic%20Pain%20and%20Opioids_Nesin.pdf) (last visited May 22, 2018).

¹⁵⁷ *Understanding Your Pain: Taking Oral Opioid Analgesics*, *supra* note 132.

282. Dosage limits with respect to opioids are particularly important not only because of the risk of addiction but also because of the potentially fatal side effect of respiratory depression. Endo’s “Understanding Your Pain” pamphlet minimized this serious side effect, calling it “slowed breathing,” declaring that it is “very rare” when opioids are used “appropriately,” and never stating that it could be fatal:

“Slowed breathing”

- ◆ The medical term for “slowed breathing” is “respiratory depression.”
- ◆ This is very rare when oral opioids are used appropriately for pain relief.
- ◆ If you become so sleepy that you cannot make yourself stay awake, you may be in danger of slowed breathing. Stop taking your opioid and call your doctor immediately.

1 **4. The Manufacturing Defendants falsely instructed doctors and patients that**
2 **more opioids were the solution when patients presented symptoms of**
3 **addiction.**

4 283. Not only did the Manufacturing Defendants hide the serious risks of addiction
5 associated with opioids, they actively worked to prevent doctors from taking steps to prevent or
6 address opioid addiction in their patients.

7 284. One way that the Manufacturing Defendants worked to obstruct appropriate
8 responses to opioid addiction was to push a concept called “pseudoaddiction.” Dr. David
9 Haddox—who later became a Senior Medical Director for Purdue—published a study in 1989
10 coining the term, which he characterized as “the iatrogenic syndrome of abnormal behavior
11 developing as a direct consequence of inadequate pain management.”¹⁵⁸ (“Iatrogenic” describes a
12 condition induced by medical treatment.) In other words, he claimed that people on prescription
13 opioids who exhibited classic signs of addiction—“abnormal behavior”—were not addicted, but
14 rather simply suffering from under-treatment of their pain. His solution for pseudoaddiction?
15 More opioids.

16 285. Although this concept was formed based on a single case study, it proved to be a
17 favorite trope in the Manufacturing Defendants’ marketing schemes. For example, using this
18 study, Purdue informed doctors and patients that signs of addiction are actually the signs of
19 under-treated pain which should be treated with even more opioids. Purdue reassured doctors and
20 patients, telling them that “chronic pain has been historically undertreated.”¹⁵⁹

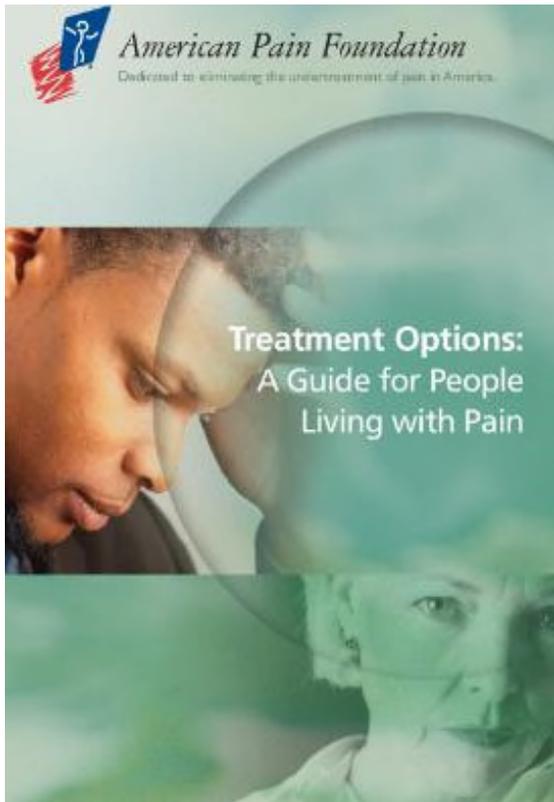
21 286. The Manufacturing Defendants continued to spread the concept of
22 pseudoaddiction through the APF, which even went so far as to compare opioid addicts to coffee
23 drinkers. In a 2002 court filing, APF wrote that “[m]any pain patients (like daily coffee drinkers)
24 claim they are ‘addicted’ when they experience withdrawal symptoms associated with physical

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26 ¹⁵⁸ David E. Weissman and J. David Haddox, *Opioid pseudoaddiction--an iatrogenic syndrome*, 36(3) Pain 363-66
(Mar. 1989), <https://www.ncbi.nlm.nih.gov/pubmed/2710565>.

¹⁵⁹ *Oxycontin: Its Use and Abuse*, *supra* note 122.

1 dependence as they decrease their dose. But unlike actual addicts, such individuals, if they
2 resume their opioid use, will only take enough medication to alleviate their pain . . .”¹⁶⁰

3 287. In a 2007 publication titled “Treatment Options: A Guide for People Living with
4 Pain,” the APF claimed: “Physical dependence is normal; any patient who is taking an opioid on
5 a regular basis for a few days should be assumed to be physically dependent. This does NOT
6 mean you are addicted.”¹⁶¹ In this same publication, the APF asserted that “people who are not
7 substance abusers” may also engage in “unacceptable” behaviors such as “increasing the dose
8 without permission or obtaining the opioid from multiple sources,” but that such behaviors do
9 not indicate addiction and instead reflect a “desire to obtain pain relief.”¹⁶²



Side effects

The most common side effects of opioids include constipation, nausea and vomiting, dizziness (sleepiness), mental clouding and itching. Some people may also experience drowsiness or difficulty urinating. Illegitimate depression, a decreased rate and depth of breathing, is a serious side effect associated with overdose.

The good news is that most side effects go away after a few days. However, side effects may continue in some people. Constipation is most likely to persist. Some pain experts believe all patients started on an opioid also should be taking a stool softener or a laxative. Others believe that this treatment is appropriate only if a patient is prone to developing significant constipation because of advanced age, prior diet, other diseases, or the use of other constipating drugs. Your healthcare provider can give advice on what to eat and what medicines to use to treat constipation. Always make certain to drink plenty of fluids and be as active as possible.

If any of the other side effects don't go away, they can also be treated. Be certain to tell your provider if you are having any problems. Serious side effects such as delirium or respiratory depression can occur if the dose is increased too quickly, especially in someone who is just starting to take opioids. Tell your provider if you are unable to concentrate or think clearly after you have been taking an opioid for a few days. Report other medications you may be taking that make you sleepy. Do not drive when you first start taking these drugs or immediately after the dose has been increased. Most persons will adapt to these medicines over time and can drive safely while taking them for pain control. If side effects remain troublesome, your provider may switch you to a different opioid. The amount of pain relief can be maintained after such a switch and often the side effects can be reduced.

Common drugs that can cause physical dependence

- Opioids
- Stimulants
- Sedatives
- Steroids
- Certain Antidepressants
- Certain Heart Medications
- Caffeine

Tolerance, physical dependence and addiction

You and your healthcare provider may worry about tolerance, physical dependence and addiction. It's sometimes easy to confuse the meaning of these words. Tolerance refers to the situation in which a drug becomes less effective over time. However, many persons with persistent pain don't develop tolerance and stay on the same dose of opioid for a long time. Many times when a person needs a larger dose of a drug, it's because their pain is worse or the problem causing their pain has changed.

Physical dependence means that a person will develop symptoms and signs of withdrawal (e.g., sweating, rapid heart rate, nausea, diarrhea, goosebumps, anxiety) if the drug is suddenly stopped or the dose is lowered too quickly. Physical dependence is normal; any patient who is taking an opioid on a regular basis for a few days should be assumed to be physically dependent. This does NOT mean you are addicted. In fact, many non-addictive drugs can produce physical dependence. To prevent withdrawal from occurring, the dose of the medication must be decreased slowly.

If you believe that you no longer need to take the opioid medication or want to reduce the dose, it is essential to speak to your provider. They will guide you on how to decrease your dose over time to prevent the experience of withdrawal.

160 APF Brief Amici Curiae, *supra* note 138, at 10-11.

161 *Treatment Options: A Guide for People Living with Pain*, *supra* note 139.

162 *Id.*

1 288. Purdue published a REMS for OxyContin in 2010, and in the associated
2 Healthcare Provider Training Guide stated that “[b]ehaviors that suggest drug abuse exist on a
3 continuum, and pain-relief seeking behavior can be mistaken for drug-seeking behavior.”¹⁶³

4 289. Purdue worked, and continues to work, to create confusion about what addiction
5 is. For example, Purdue continues to emphasize that abuse and addiction are separate and distinct
6 from physical dependence. Regardless of whether these statements may be technically correct,
7 they continue to add ambiguity over the risks and benefits of opioids.

8 290. Endo sponsored an NIPC CME program in 2009 which promoted the concept of
9 pseudoaddiction by teaching that a patient’s aberrant behavior was the result of untreated pain.
10 Endo substantially controlled NIPC by funding its projects, developing content, and reviewing
11 NIPC materials.

12 291. A 2001 paper which was authored by a doctor affiliated with Janssen stated that
13 “[m]any patients presenting to a doctor’s office asking for pain medications are accused of drug
14 seeking. In reality, most of these patients may be undertreated for their pain syndrome.”¹⁶⁴

15 292. In 2009, on a website it sponsored, Janssen stated that pseudoaddiction is different
16 from true addiction “because such behaviors can be resolved with effective pain
17 management.”¹⁶⁵

18 293. Indeed, on its currently active website PrescribeResponsibly.com, Janssen defines
19 pseudoaddiction as “a syndrome that causes patients to seek additional medications due to
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¹⁶³ *OxyContin Risk Evaluation and Mitigation Strategy*, *supra* note 155.

24 ¹⁶⁴ Howard A. Heit, MD, FACP, FASAM, *The truth about pain management: the difference between a pain patient*
25 *and an addicted patient*, 5 *European Journal of Pain* 27-29 (2001),
<http://www.med.uottawa.ca/courses/totalpain/pdf/doc-34.pdf>.

26 ¹⁶⁵ Chris Morran, *Ohio: Makers Of OxyContin, Percocet & Other Opioids Helped Fuel Drug Epidemic By*
Misleading Doctors, Patients, *Consumerist* (May 31, 2017, 2:05pm), [https://consumerist.com/2017/05/31/ohio-](https://consumerist.com/2017/05/31/ohio-makers-of-oxycontin-percocet-other-opioids-helped-fuel-drug-epidemic-by-misleading-doctors-patients/)
[makers-of-oxycontin-percocet-other-opioids-helped-fuel-drug-epidemic-by-misleading-doctors-patients/](https://consumerist.com/2017/05/31/ohio-makers-of-oxycontin-percocet-other-opioids-helped-fuel-drug-epidemic-by-misleading-doctors-patients/).

1 inadequate pharmacotherapy being prescribed. Typically, when the pain is treated appropriately,
2 the inappropriate behavior ceases.”¹⁶⁶

3 What a Prescriber Should 4 Know Before Writing the 5 First Prescription



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13 **TABLE 1: Definitions**

14 8. **Pseudoaddiction** is a syndrome that causes patients to seek additional
15 medications due to inadequate pharmacotherapy being prescribed.
16 Typically when the pain is treated appropriately, the inappropriate
17 behavior ceases.²⁵



18 294. As set forth in more detail below, these statements were false and misleading as
19 evidenced by, *inter alia*, the findings made by the CDC in 2016. Indeed, there is simply no
20 evidence that pseudoaddiction is a real phenomenon. As research compiled by the CDC and
21 others makes clear, pseudoaddiction is pseudoscience—nothing more than a concept Defendants
22 seized upon to help sell more of their actually addicting drugs.

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25 ¹⁶⁶ Howard A. Heit, MD, FACP, FASAM and Douglas L. Gourlay, MD, MSc, FRCPC, FASAM, *What a Prescriber*
26 *Should Know Before Writing the First Prescription, Prescribe Responsibly*,
<http://www.prescriberesponsibly.com/articles/before-prescribing-opioids#pseudoaddiction> (last modified July 2,
2015).

1 **5. The Manufacturing Defendants falsely claimed that risk-mitigation**
2 **strategies, including tapering and abuse-deterrent technologies, made it safe**
3 **to prescribe opioids for chronic use.**

4 295. Even when the Manufacturing Defendants acknowledge that opioids pose some
5 risk of addiction, they dismiss these concerns by claiming that addiction can be easily avoided
6 and addressed through simple steps. In order to make prescribers feel more comfortable about
7 starting patients on opioids, the Manufacturing Defendants falsely communicated to doctors that
8 certain screening tools would allow them to reliably identify patients at higher risk of addiction
9 and safely prescribe opioids, and that tapering the dose would be sufficient to manage cessation
10 of opioid treatment. Both assertions are false.

11 296. For instance, as noted above, Purdue published a REMS for OxyContin in 2010,
12 in which it described certain steps that needed to be followed for safe opioid use. Purdue stressed
13 that all patients should be screened for their risk of abuse or addiction, and that such screening
14 could curb the incidence of addiction.¹⁶⁷

15 297. The APF also proclaimed in a 2007 booklet, sponsored in part by Purdue, that
16 “[p]eople with the disease of addiction may abuse their medications, engaging in unacceptable
17 behaviors like increasing the dose without permission or obtaining the opioid from multiple
18 sources, among other things. Opioids get into the hands of drug dealers and persons with an
19 addictive disease as a result of pharmacy theft, forged prescriptions, Internet sales, and even
20 from other people with pain. It is a problem in our society that needs to be addressed through
21 many different approaches.”¹⁶⁸

22 298. On its current website for OxyContin,¹⁶⁹ Purdue acknowledges that certain
23 patients have higher risk of opioid addiction based on history of substance abuse or mental
24 illness—a statement which, even if accurate, obscures the significant risk of addiction for all

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¹⁶⁷ *Oxycontin Risk Evaluation and Mitigation Strategy*, *supra* note 155.

26 ¹⁶⁸ *Treatment Options: A Guide for People Living with Pain*, *supra* note 139.

¹⁶⁹ OxyContin, <https://www.oxycontin.com/index.html> (last visited May 22, 2018).

1 patients, including those without such a history, and comports with statements it has recently
2 made that it is “bad apple” patients, and not the opioids, that are arguably the source of the
3 opioid crisis:

4
5 Assess each patient’s risk for opioid addiction,
6 abuse, or misuse prior to prescribing
7 OxyContin, and monitor all patients receiving
8 OxyContin for the development of these
9 behaviors and conditions. Risks are increased
10 in patients with a personal or family history of
11 substance abuse (including drug or alcohol
12 abuse or addiction) or mental illness (e.g.,
13 major depression). The potential for these risks
14 should not, however, prevent the proper
management of pain in any given patient.
Patients at increased risk may be prescribed
opioids such as OxyContin, but use in such
patients necessitates intensive counseling
about the risks and proper use of OxyContin
along with intensive monitoring for signs of
addiction, abuse, and misuse.

15 299. Additionally, on its current website, Purdue refers to publicly available tools that
16 can assist with prescribing compliance, such as patient-prescriber agreements and risk
17 assessments.¹⁷⁰

18 300. Purdue continues to downplay the severity of addiction and withdrawal and
19 claims that dependence can easily be overcome by strategies such as adhering to a tapering
20 schedule to successfully stop opioid treatment. On the current website for OxyContin, it instructs
21 that “[w]hen discontinuing OxyContin, gradually taper the dosage. Do not abruptly discontinue
22 OxyContin.”¹⁷¹ And on the current OxyContin Medication Guide, Purdue also states that one
23 should “taper the dosage gradually.”¹⁷² As a general matter, tapering is a sensible strategy for

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25 ¹⁷⁰ *ER/LA Opioid Analgesics REMS*, Purdue, <http://www.purduepharma.com/healthcare-professionals/responsible-use-of-opioids/remis/> (last visited May 22, 2018).

26 ¹⁷¹ Oxycontin.com, *supra* note 169.

¹⁷² *OxyContin Full Prescribing Information*, Purdue Pharma LP, <http://app.purduepharma.com/xmlpublishing/pi.aspx?id=o> (last visited May 22, 2018).

1 cessation of treatment with a variety of medications, such as steroids or antidepressants. But the
2 suggestion that tapering is sufficient in the context of chronic use of potent opioids is misleading
3 and dangerous, and sets patients up for withdrawal and addiction.

4 301. In its “Dear Healthcare Professional” letter in 2010, Purdue instructed doctors to
5 gradually taper someone off OxyContin to prevent signs and symptoms of withdrawal in patients
6 who were physically dependent.¹⁷³ Nowhere does Purdue warn doctors or patients that tapering
7 may be inadequate to safely end opioid treatment and avoid addiction.

8 302. Other Manufacturing Defendants make similar claims. For instance, Endo
9 suggests that risk-mitigation strategies enable the safe prescription of opioids. In its currently
10 active website, Opana.com, Endo states that assessment tools should be used to assess addiction
11 risk, but that “[t]he potential for these risks should not, however, prevent proper management of
12 pain in any given patient.”¹⁷⁴

13 303. On the same website, Endo makes similar statements about tapering, stating
14 “[w]hen discontinuing OPANA ER, gradually taper the dosage.”¹⁷⁵

15 304. Janssen also states on its currently active website, PrescribeResponsibly.com, that
16 the risk of opioid addiction “can usually be managed” through tools such as “opioid agreements”
17 between patients and doctors.¹⁷⁶

18 305. Each Manufacturing Defendant’s statements about tapering misleadingly implied
19 that gradual tapering would be sufficient to alleviate any risk of withdrawal or addiction while
20 taking opioids.

21 306. The Manufacturing Defendants have also made and continue to make false and
22 misleading statements about the purported abuse-deterrent properties of their opioid pills to
23
24

25 ¹⁷³ *OxyContin Risk Evaluation and Mitigation Strategy*, *supra* note 155.

26 ¹⁷⁴ Opana ER, Endo Pharmaceuticals, Inc., <http://www.opana.com> (last visited May 22, 2018).

¹⁷⁵ *Id.*

¹⁷⁶ Heit & Gourlay, *supra* note 166.

1 suggest these reformulated pills are not susceptible to abuse. In so doing, the Manufacturing
2 Defendants have increased their profits by selling more pills for substantially higher prices.

3 307. For instance, since at least 2001, Purdue has contended that “abuse resistant
4 products can reduce the incidence of abuse.”¹⁷⁷ Its current website touts abuse-deterrent
5 properties by saying they “can make a difference.”¹⁷⁸

6 308. On August 17, 2015, Purdue announced the launch of a new website, “Team
7 Against Opioid Abuse,” which it said was “designed to help healthcare professionals and
8 laypeople alike learn about different abuse-deterrent technologies and how they can help in the
9 reduction of misuse and abuse of opioids.”¹⁷⁹ This website appears to no longer be active.

10 309. A 2013 study which was authored by at least two doctors who at one time
11 worked for Purdue stated that “[a]buse-deterrent formulations of opioid analgesics can reduce
12 abuse.”¹⁸⁰ In another study from 2016 with at least one Purdue doctor as an author, the authors
13 claimed that abuse decreased by as much as 99% in some situations after abuse-deterrent
14 formulations were introduced.¹⁸¹

15 310. Interestingly, one report found that the original safety label for OxyContin, which
16 instructed patients not to crush the tablets because it would have a rapid release effect, may have
17 inadvertently given opioid users ideas for techniques to get high from these drugs.¹⁸²

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20 ¹⁷⁷ *Oxycontin: Its Use and Abuse*, *supra* note 122.

21 ¹⁷⁸ *Opioids with Abuse-Deterrent Properties*, Purdue, <http://www.purduepharma.com/healthcare-professionals/responsible-use-of-opioids/opioids-with-abuse-deterrent-properties/> (last visited May 22, 2018).

22 ¹⁷⁹ *Purdue Pharma L.P. Launches TeamAgainstOpioidAbuse.com*, Purdue (Aug. 17, 2015),
<http://www.purduepharma.com/news-media/2015/08/purdue-pharma-l-p-launches-teamagainstopioidabuse-com/>.

23 ¹⁸⁰ Paul M. Coplan, Hrishikesh Kale, Lauren Sandstrom, Craig Landau, and Howard D. Chilcoat, *Changes in*
oxycodone and heroin exposures in the National Poison Data System after introduction of extended-release
oxycodone with abuse-deterrent characteristics, 22 (12) *Pharmacoepidemiol Drug Saf.* 1274-82 (Sept. 30, 2013),
24 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4283730/>.

25 ¹⁸¹ Paul M. Coplan, Howard D. Chilcoat, Stephen Butler, Edward M. Sellers, Aditi Kadakia, Venkatesh
Harikrishnan, J. David Haddox, and Richard C. Dart, *The effect of an abuse-deterrent opioid formulation*
(OxyContin) on opioid abuse-related outcomes in the postmarketing setting, 100 *Clin. Pharmacol. Ther.* 275-86
26 (June 22, 2016), <http://onlinelibrary.wiley.com/doi/10.1002/cpt.390/full>.

¹⁸² *OxyContin Abuse and Diversion and Efforts to Address the Problem*, *supra* note 34.

1 311. In 2012, Defendant Endo replaced the formula for Opana ER with a new formula
2 with abuse-deterrent properties that it claimed would make Opana ER resistant to manipulation
3 from users to snort or inject it. But the following year, the FDA concluded:

4 While there is an increased ability of the reformulated version of Opana ER to resist
5 crushing relative to the original formulation, study data show that the reformulated
6 version's extended-release features can be compromised when subjected to other
7 forms of manipulation, such as cutting, grinding, or chewing, followed by
8 swallowing.

9 Reformulated Opana ER can be readily prepared for injection, despite Endo's claim
10 that these tablets have "resistance to aqueous extraction (i.e., poor syringeability)."
11 It also appears that reformulated Opana ER can be prepared for snorting using
12 commonly available tools and methods.

13 The postmarketing investigations are inconclusive, and even if one were to treat
14 available data as a reliable indicator of abuse rates, one of these investigations also
15 suggests the troubling possibility that a higher percentage of reformulated Opana
16 ER abuse is via injection than was the case with the original formulation.¹⁸³

17 312. Despite the FDA's determination that the evidence did not support Endo's claims
18 of abuse-deterrence, Endo advertised its reformulated pills as "crush resistant" and directed its
19 sales representatives to represent the same to doctors. Endo improperly marketed Opana ER as
20 crush-resistant, when Endo's own studies showed that the pill could be crushed and ground. In
21 2016, Endo reached an agreement with the Attorney General of the State of New York that
22 required Endo to discontinue making such statements.¹⁸⁴

23 313. The Manufacturing Defendants' assertions that their reformulated pills could curb
24 abuse were false and misleading, as the CDC's 2016 Guideline, discussed below, confirm.

25 314. Ultimately, even if a physician prescribes opioids after screening for abuse risk,
26 advising a patient to taper, and selecting brand-name, abuse-deterrent formulations, chronic

24 ¹⁸³ *FDA Statement: Original Opana ER Relisting Determination*, U.S. Food & Drug Admin. (May 10, 2013),
25 <https://wayback.archive-it.org/7993/20171102214123/https://www.fda.gov/Drugs/DrugSafety/ucm351357.htm>.

26 ¹⁸⁴ Press Release, Attorney General Eric T. Schneiderman, *A.G. Schneiderman Announces Settlement with Endo Health Solutions Inc. & Endo Pharmaceuticals Inc. Over Marketing of Prescription Opioid Drugs* (Mar. 3, 2016),
<https://ag.ny.gov/press-release/ag-schneiderman-announces-settlement-endo-health-solutions-inc-endo-pharmaceuticals>.

1 opioid use still comes with significant risks of addiction and abuse. The Manufacturing
2 Defendants' statements to the contrary were designed to create a false sense of security and
3 assure physicians that they could safely prescribe potent narcotics to their patients.

4 **E. Research by Washington State's Department of Labor and Industries Highlights the**
5 **Falseness of the Manufacturing Defendants' Claims.**

6 315. Contrary to the Manufacturing Defendants' misrepresentations about the benefits
7 and risks of opioids, growing evidence suggests that using opioids to treat chronic pain leads to
8 overall negative outcomes, delaying or preventing recovery and providing little actual relief, all
9 while presenting serious risks of overdose.

10 316. One place where this evidence surfaced is the Washington State Department of
11 Labor and Industries ("L&I"). The Department of L&I runs the state's workers' compensation
12 program, which covers all employees in the state, other than those who work for large companies
13 and government entities. In 2000, L&I's new chief pharmacist, Jaymie Mai, noticed an increase
14 in prescription of opioids for chronic pain, approximately 50 to 100 cases a month.¹⁸⁵ As she
15 took a closer look at the prescription data, she discovered some of these same workers were
16 dying from opioid overdoses. That workers suffered back pain or sprained knees on the job was
17 nothing new, but workers dying from their pain medication was assuredly not business as usual.
18 Mai reported what she was seeing to L&I's Medical Director, Dr. Gary Franklin.¹⁸⁶

19 317. In addition to being L&I's Medical Director, Dr. Franklin is a research professor
20 at the University of Washington in the departments of Environmental Health, Neurology, and
21 Health Services. Dr. Franklin and Mai undertook a thorough analysis of all recorded deaths in
22 the state's workers' comp system. In 2005, they published their findings in the American Journal
23 of Industrial Medicine.¹⁸⁷

24 _____
¹⁸⁵ Quinones, *supra* note 47, at 203.

25 ¹⁸⁶ *Id.*

26 ¹⁸⁷ Gary M. Franklin, M.D., MPH, Jaymie Mai, Pharm.D., Thomas Wickizer, Ph.D., Judith A. Turner, Ph.D.,
Deborah Fulton-Kehoe, Ph.D., MPH, and Linda Grant, BSN, MBA, *Opioid dosing trends and mortality in
Washington State Workers' Compensation, 1996-2002*, 48 Am J Ind Med 91-99 (2005).

1 318. Their research showed that the total number of opioid prescriptions paid for by
2 the Workers' Compensation Program tripled between 1996 and 2006.¹⁸⁸ Not only did the number
3 of prescriptions balloon, so too did the doses; from 1996 to 2002 the mean daily morphine
4 equivalent dose ("MED") nearly doubled, and remained that way through 2006.¹⁸⁹ As injured
5 Washington workers were given more prescriptions of higher doses of opioids, the rates of
6 opioid overdoses among that population jumped, from zero in 1996 to more than twenty in 2005.
7 And in 2009, over thirty people receiving opioid prescriptions through the Workers'
8 Compensation Program died of an opioid overdose.¹⁹⁰

9 319. Armed with these alarming statistics, Dr. Franklin, in conjunction with other
10 doctors in Washington, set out to limit the doses of opioids prescribed through the workers'
11 compensation program. As part of that effort, in 2007 the Agency Medical Directors Group
12 launched an Interagency Guideline on Opioid Dosing, aimed at reducing the numbers of opioid
13 overdoses. Through this, and other related efforts, both the rates of opioid prescriptions and the
14 sizes of doses have declined in Washington, beginning in 2009. As opioid prescriptions rates for
15 injured workers have declined, so too has the death rate among this population.¹⁹¹

16 320. Moreover, additional research from L& I showed that the use of opioids to treat
17 pain after an injury actually prevents or slows a patient's recovery.

18 321. In a study of employees who had suffered a low back injury on the job, Dr.
19 Franklin showed that if an injured worker was prescribed opioids soon after the injury, high
20 doses of opioids, or opioids for more than a week, the employee was far more likely to
21 experience negative health outcomes than the same employee who was not prescribed opioids in
22 these manners.

23 ¹⁸⁸ Gary M. Franklin, M.D., MPH, Jaymie Mai, Pharm.D., Thomas Wickizer, Ph.D., Judith Turner, Ph.D., Mark
24 Sullivan, M.D., Ph.D., Thomas Wickizer, Ph.D., and Deborah Fulton-Kehoe, Ph.D., *Bending the Prescription*
25 *Opioid Dosing and Mortality Curves: Impact of the Washington State Opioid Dosing Guideline*, 55 Am J Ind Med
325, 327 (2012).

26 ¹⁸⁹ *Id.* at 327-28.

¹⁹⁰ *Id.* at 328.

¹⁹¹ *Id.*

1 322. Specifically, the study showed that, after adjusting for the baseline covariates,
2 injured workers who received a prescription opioid for more than seven days during the first six
3 weeks after the injury were 2.2 times more likely to remain disabled a year later than workers
4 with similar injuries who received no opioids at all. Similarly, those who received two
5 prescriptions of opioids for the injury were 1.8 times more likely to remain disabled a year after
6 their injury than workers who received no opioids at all, and those receiving daily doses higher
7 than 150 MED were over twice as likely to be on disability a year later, relative to workers who
8 received no opioids.¹⁹²

9 323. In sum, not only do prescription opioids present significant risks of addiction and
10 overdose, but they also hinder patient recovery after an injury.

11 324. This dynamic presents problems for employers, too, who bear significant costs
12 when their employees do not recover quickly from workplace injuries. Employers are left
13 without their labor force and may be responsible for paying for the injured employee's disability
14 for long periods of time.

15 **F. The 2016 CDC Guideline and Other Recent Studies Confirm That the**
16 **Manufacturing Defendants' Statements About the Risks and Benefits of Opioids**
17 **Are Patently False.**

18 325. Contrary to the statements made by the Manufacturing Defendants in their well-
19 orchestrated campaign to tout the benefits of opioids and downplay their risks, recent studies
20 confirm the Manufacturing Defendants' statements were false and misleading.

21 326. The CDC issued its *Guideline for Prescribing Opioids for Chronic Pain* on March
22 15, 2016.¹⁹³ The 2016 CDC Guideline, approved by the FDA, "provides recommendations for
23 primary care clinicians who are prescribing opioids for chronic pain outside of active cancer
24

25 ¹⁹² Franklin, GM, Stover, BD, Turner, JA, Fulton-Kehoe, D, Wickizer, TM, *Early opioid prescription and*
26 *subsequent disability among workers with back injuries: the Disability Risk Identification Study Cohort*, 33 *Spine*
199, 201-202.

¹⁹³ 2016 CDC Guideline, *supra* note 35.

1 treatment, palliative care, and end-of-life care.” The Guideline also assesses the risks and harms
2 associated with opioid use.

3 327. The 2016 CDC Guideline is the result of a thorough and extensive process by the
4 CDC. The CDC issued the Guideline after it “obtained input from experts, stakeholders, the
5 public, peer reviewers, and a federally chartered advisory committee.” The recommendations in
6 the 2016 CDC Guideline were further made “on the basis of a systematic review of the best
7 available evidence . . .”

8 328. The CDC went through an extensive and detailed process to solicit expert
9 opinions for the Guideline:

10 CDC sought the input of experts to assist in reviewing the evidence and providing
11 perspective on how CDC used the evidence to develop the draft recommendations.
12 These experts, referred to as the “Core Expert Group” (CEG) included subject
13 matter experts, representatives of primary care professional societies and state
14 agencies, and an expert in guideline development methodology. CDC identified
15 subject matter experts with high scientific standing; appropriate academic and
16 clinical training and relevant clinical experience; and proven scientific excellence
17 in opioid prescribing, substance use disorder treatment, and pain management.
18 CDC identified representatives from leading primary care professional
19 organizations to represent the audience for this guideline. Finally, CDC identified
20 state agency officials and representatives based on their experience with state
21 guidelines for opioid prescribing that were developed with multiple agency
22 stakeholders and informed by scientific literature and existing evidence-based
23 guidelines.

24 329. The 2016 Guideline was also peer-reviewed pursuant to “the final information
25 quality bulletin for peer review.” Specifically, the Guideline describes the following independent
26 peer-review process:

[P]eer review requirements applied to this guideline because it provides influential
scientific information that could have a clear and substantial impact on public- and
private-sector decisions. Three experts independently reviewed the guideline to
determine the reasonableness and strength of recommendations; the clarity with
which scientific uncertainties were clearly identified; and the rationale, importance,
clarity, and ease of implementation of the recommendations. CDC selected peer
reviewers based on expertise, diversity of scientific viewpoints, and independence
from the guideline development process. CDC assessed and managed potential
conflicts of interest using a process similar to the one as described for solicitation
of expert opinion. No financial interests were identified in the disclosure and review

1 process, and nonfinancial activities were determined to be of minimal risk; thus, no
2 significant conflict of interest concerns were identified.

3 330. The findings in the 2016 CDC Guideline both confirmed the existing body of
4 scientific evidence regarding the questionable efficacy of opioid use and contradicted
5 Defendants' statements about opioids.

6 331. For instance, the Guideline states “[e]xtensive evidence shows the possible harms
7 of opioids (including opioid use disorder, overdose, and motor vehicle injury)” and that “[o]pioid
8 pain medication use presents serious risks, including overdose and opioid use disorder.” The
9 Guideline further confirms there are significant symptoms related to opioid withdrawal,
10 including drug cravings, anxiety, insomnia, abdominal pain, vomiting, diarrhea, sweating,
11 tremor, tachycardia (rapid heartbeat), spontaneous abortion and premature labor in pregnant
12 women, and the unmasking of anxiety, depression, and addiction. These findings contradict
13 statements made by Defendants regarding the minimal risks associated with opioid use,
14 including that the risk of addiction from chronic opioid use is low.

15 332. The Guideline also concludes that there is “[n]o evidence” to show “a long-term
16 benefit of opioids in pain and function versus no opioids for chronic pain . . .” Furthermore, the
17 Guideline indicates that “continuing opioid therapy for 3 months substantially increases the risk
18 of opioid use disorder.” Indeed, the Guideline indicates that “[p]atients who do not experience
19 clinically meaningful pain relief early in treatment . . . are unlikely to experience pain relief with
20 longer-term use,” and that physicians should “reassess[] pain and function within 1 month” in
21 order to decide whether to “minimize risks of long-term opioid use by discontinuing opioids”
22 because the patient is “not receiving a clear benefit.” These findings flatly contradict claims
23 made by the Defendants that there are minimal or no adverse effects of long-term opioid use, or
24 that long-term opioid use could actually improve or restore a patient’s function.

25 333. In support of these statements about the lack of long-term benefits of opioid use,
26 the CDC concluded that “[a]lthough opioids can reduce pain during short-term use, the clinical

1 evidence review found insufficient evidence to determine whether pain relief is sustained and
2 whether function or quality of life improves with long-term opioid therapy.” The CDC further
3 found that “evidence is limited or insufficient for improved pain or function with long-term use
4 of opioids for several chronic pain conditions for which opioids are commonly prescribed, such
5 as low back pain, headache, and fibromyalgia.”

6 334. With respect to opioid dosing, the Guideline reports that “[b]enefits of high-dose
7 opioids for chronic pain are not established” while the “risks for serious harms related to opioid
8 therapy increase at higher opioid dosage.” The CDC specifically explains that “there is now an
9 established body of scientific evidence showing that overdose risk is increased at higher opioid
10 dosages.” The CDC also states that there is an “increased risk[] for opioid use disorder,
11 respiratory depression, and death at higher dosages.” As a result, the CDC advises doctors to
12 “avoid increasing dosage” above 90 MME per day. These findings contradict statements made
13 by Defendants that increasing dosage is safe and that under-treatment is the cause for certain
14 patients’ aberrant behavior.

15 335. The 2016 CDC Guideline also contradicts statements made by Defendants that
16 there are reliable risk-mitigation tactics to reduce the risk of addiction. For instance, the
17 Guideline indicates that available risk screening tools “show insufficient accuracy for
18 classification of patients as at low or high risk for [opioid] abuse or misuse” and counsels that
19 doctors “should not overestimate the ability of these tools to rule out risks from long-term opioid
20 therapy.”

21 336. Finally, the 2016 CDC Guideline states that “[n]o studies” support the notion that
22 “abuse-deterrent technologies [are] a risk mitigation strategy for deterring or preventing abuse,”
23 noting that the technologies—even when they work—“do not prevent opioid abuse through oral
24 intake, the most common route of opioid abuse, and can still be abused by nonoral routes.” In
25 particular, the CDC found as follows:

26 The “abuse-deterrent” label does not indicate that there is no risk for abuse. No
studies were found in the clinical evidence review assessing the effectiveness of

1 abuse-deterrent technologies as a risk mitigation strategy for deterring or
2 preventing abuse. In addition, abuse-deterrent technologies do not prevent
3 unintentional overdose through oral intake. Experts agreed that recommendations
4 could not be offered at this time related to use of abuse-deterrent formulations.

5 Accordingly, the CDC's findings regarding "abuse-deterrent technologies" directly contradict
6 Purdue and Endo's claims that their new pills deter or prevent abuse.

7 337. Notably, in addition to the findings made by the CDC in 2016, the Washington
8 State Agency Medical Directors' Group (AMDG)—a collaboration among several Washington
9 State Agencies—published its *Interagency Guideline on Prescribing Opioids for Pain* in 2015.
10 The AMDG came to many of the same conclusions as the CDC did. For example, the AMDG
11 found that "there is little evidence to support long term efficacy of [chronic opioid analgesic
12 therapy, or "COAT"] in improving function and pain, [but] there is ample evidence of its risk for
13 harm . . ." ¹⁹⁴

14 338. In addition, as discussed above, in contrast to Defendants' statements that the
15 1980 Porter and Jick letter provided evidence of the low risk of opioid addiction in pain patients,
16 the NEJM recently published a letter largely debunking the use of the Porter and Jick letter as
17 evidence for such a claim. ¹⁹⁵ The researchers demonstrated how the Porter and Jick letter was
18 irresponsibly cited and, in some cases, "grossly misrepresented," when in fact it did not provide
19 evidence supporting the broad claim of low addiction risk for all patients prescribed opioids for
20 pain. As noted above, Dr. Jick reviewed only files of patients administered opioids in a hospital
21 setting, rather than patients sent home with a prescription for opioids to treat chronic pain.

22 339. The authors of the 2017 letter described their methodology as follows:

23 We performed a bibliometric analysis of this [1980] correspondence from its
24 publication until March 30, 2017. For each citation, two reviewers independently
25 evaluated the portrayal of the article's conclusions, using an adaptation of an
26 established taxonomy of citation behavior along with other aspects of
27 generalizability . . . For context, we also ascertained the number of citations of

¹⁹⁴ *Interagency Guideline on Prescribing Opioids for Pain*, Agency Med. Directors' Group (June 2015),
<http://www.agencymeddirectors.wa.gov/Files/2015AMDGOpioidGuideline.pdf>.

¹⁹⁵ Leung, et al., *supra* note 112.

1 other stand-alone letters that were published in nine contemporaneous issues of the
2 *Journal* (in the index issue and in the four issues that preceded and followed it).

3 We identified 608 citations of the index publication and noted a sizable increase
4 after the introduction of OxyContin (a long-acting formulation of oxycodone) in
5 1995 . . . **Of the articles that included a reference to the 1980 letter, the authors
6 of 439 (72.2%) cited it as evidence that addiction was rare in patients treated
7 with opioids. Of the 608 articles, the authors of 491 articles (80.8%) did not
8 note that the patients who were described in the letter were hospitalized at the
9 time they received the prescription, whereas some authors grossly
10 misrepresented the conclusions of the letter . . .** Of note, affirmational citations
11 have become much less common in recent years. In contrast to the 1980
12 correspondence, 11 stand-alone letters that were published contemporaneously by
13 the *Journal* were cited a median of 11 times.¹⁹⁶ (Emphasis added).

14 340. The researchers provided examples of quotes from articles citing the 1980 letter,
15 and noted several shortcomings and inaccuracies with the quotations. For instance, the
16 researchers concluded that these quotations (i) “overstate[] conclusions of the index publication,”
17 (ii) do[] not accurately specify its study population,” and (iii) did not adequately address
18 “[I]mitizations to generalizability.”¹⁹⁷

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¹⁹⁶ *Id.* (emphasis added).

25 ¹⁹⁷ Supplementary Appendix to Pamela T.M. Leung, B.Sc. Pharm., Erin M. Macdonald, M.Sc., Matthew B.
26 Stanbrook, M.D., Ph.D., Irfan Al Dhalla, M.D., David N. Juurlink, M.D., Ph.D., *A 1980 Letter on the Risk of
Opioid Addiction*, 376 N Engl J Med 2194-95 (June 1, 2017),
http://www.nejm.org/doi/suppl/10.1056/NEJMc1700150/suppl_file/nejmc1700150_appendix.pdf.

Quote	Reference	Comment
"This pain population with no abuse history is literally at no risk for addiction."	Kowal N. What is the issue?: pseudoaddiction or undertreatment of pain. <i>Nurs Econ</i> 1998;17(6):348-9	
"In truth, however, the medical evidence overwhelmingly indicates that properly administered opioid therapy rarely if ever results in "accidental addiction" or "opioid abuse"."	Libby RT. Treating Doctors as Drug Dealers: The Drug Enforcement Administration's War on Prescription Painkillers. <i>The Independent Review</i> 2006;10(4):511-545.	
"Fear of addiction may lead to reluctance by the physician to prescribe. [...] However, there is no evidence that this occurs when prescribing opioids for pain."	Iles S, Catterall JR, Hanks G. Use of opioid analgesics in a patient with chronic abdominal pain. <i>Int J Clin Pract</i> 2002;56(3):227-8.	
"In reality, medical opioid addiction is very rare. In Porter and Jick's study on patients treated with narcotics, only four of the 11,882 cases showed psychological dependency."	Liu W, Xie S, Yue L, et al. Investigation and analysis of oncologists' knowledge of morphine usage in cancer pain treatment. <i>Onco Targets Ther</i> 2014;7:729-37.	Overstates conclusions of the index publication does not accurately specify its study population. Limitations to generalizability are not otherwise explicitly mentioned.
"Physicians are frequently concerned about the potential for addiction when prescribing opiates; however, there have been studies suggesting that addiction rarely evolves in the setting of painful conditions."	Curtis LA, Morrell TD, Todd KH. Pain Management in the Emergency Department 2006;8(7).	
"Although medicine generally regards anecdotal information with disdain (rigorously controlled double-blind clinical trials are the "gold standard"), solid data on the low risk of addiction to opioid analgesics and the manageability of adverse side effects have been ignored or discounted in favor of the anecdotal, the scientifically unsupported, and the clearly fallacious."	Rich BA. Prioritizing pain management in patient care. Has the time come for a new approach. <i>Postgrad Med</i> 2001;110(3):15-7.	
"The Boston Drug Surveillance Program reviewed the charts of nearly 12,000 cancer pain patients treated over a decade and found only four of them could be labeled as addicts."	Levy MH. Pharmacologic management of cancer pain. <i>Semin Oncol</i> 1994;21(6):718-39.	Incorrectly identifies the index study population as cancer patients; does not otherwise address limitations to generalizability.

341. Based on this review, the researchers concluded as follows:

[W]e found that a five-sentence letter published in the *Journal* in 1980 was heavily and uncritically cited as evidence that addiction was rare with long-term opioid therapy. We believe that this citation pattern contributed to the North American opioid crisis by helping to shape a narrative that allayed prescribers' concerns about the risk of addiction associated with long-term opioid therapy. In 2007, the manufacturer of OxyContin and three senior executives pleaded guilty to federal criminal charges that they misled regulators, doctors, and patients about the risk of addiction associated with the drug. Our findings highlight the potential consequences of inaccurate citation and underscore the need for diligence when citing previously published studies.¹⁹⁸

¹⁹⁸ Leung, et al., *supra* note 112.

1 342. These researchers' careful analysis demonstrates the falsity of Defendants' claim
2 that this 1980 letter was evidence of a low risk of addiction in opioid-treated patients. By casting
3 this letter as evidence of low risk of addiction, Defendants played fast and loose with the truth,
4 with blatant disregard for the consequences of their misrepresentations.

5 **G. Pierce County Has Been Directly Affected by the Opioid Epidemic Caused By**
6 **Defendants.**

7 343. Pierce County is one of the most populous counties in Washington State, with
8 approximately 861,312 residents.¹⁹⁹

9 344. Much like the rest of the United States, Pierce County has felt the profound
10 consequences of this epidemic. As a direct result of Defendants' aggressive marketing scheme,
11 Pierce County has suffered significant and ongoing harms—harms that will continue well into
12 the future. Each day that Defendants continue to evade responsibility for the epidemic they
13 caused, the County must continue allocating substantial resources to address it.

14 345. Opioid use has reached crisis levels in Pierce County. Between 2005 and 2014,
15 there were 704 fatal opioid overdoses in Pierce County.²⁰⁰ The overall trend is that the number of
16 opioid-related deaths in Pierce County continues to climb. For example, from 2008 to 2010,
17 there were 156 opioid-related deaths in Pierce County,²⁰¹ while from 2012 to 2016, that number
18 rose to 423.²⁰²

19 346. Treatment admissions for prescription opioids have also increased significantly in
20 the last decade. For example, in 1999, Pierce County had twenty-six treatment admissions for
21 prescription opioids. By 2010, the number of prescription opioid admissions rose to 510.²⁰³

22 ¹⁹⁹ *Quick Facts: Pierce County, Washington*, United States Census Bureau,
23 <https://www.census.gov/quickfacts/fact/table/piercecountywashington,US/PST045216> (last visited May 22, 2018).

24 ²⁰⁰ Tacoma-Pierce County Health Department, *Pierce County Hit Hard by Heroin and Prescription Painkiller Use*,
The Suburban Times (July 12, 2016), <https://thesubtimes.com/2016/07/12/pierce-county-hit-hard-by-heroin-and-prescription-painkiller-use/> (citing report from University of Washington's Alcohol and Drug Abuse Institute).

25 ²⁰¹ *Prescription Opiates and Heroin – Pierce County*, University of Washington Alcohol & Drug Abuse Institute,
http://adai.uw.edu/wastate/opiates/pierce_opiates_2010.pdf (last visited May 22, 2018).

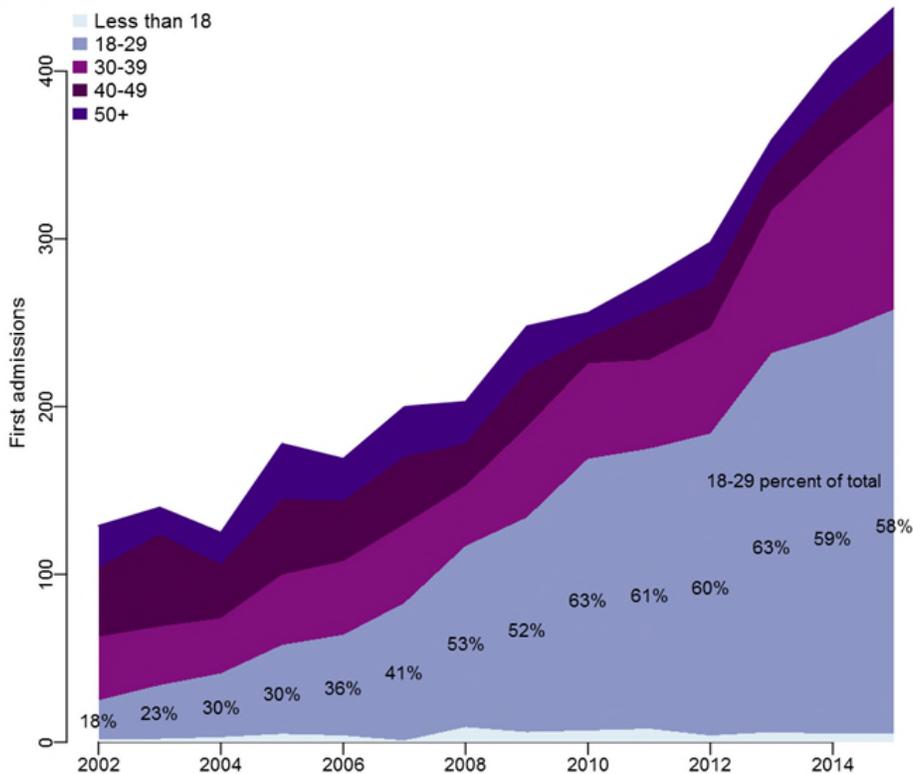
26 ²⁰² *Opioid-related Deaths in Washington State, 2006-2016*, *supra* note 7.

²⁰³ *Prescription Opiates and Heroin – Pierce County*, *supra* note 201.

1 Similarly, the number of people entering treatment for any opioid rose at a dramatic rate.
 2 Between 2002-2004 and 2011-2013, publicly funded treatment admissions involving any opioid
 3 grew 152.6%.²⁰⁴ Overall, from 2002 to 2015, there were 3,424 first-time admissions for opioid
 4 addiction in Pierce County.²⁰⁵

5 347. The graph below shows how first-time admissions to treatment in Pierce County
 6 with any opioid as the primary drug of choice have tripled from 2002 to 2015. This increase is
 7 driven primarily by those ages eighteen to twenty-nine.²⁰⁶

8 *Figure 4. First time admissions to treatment with any opioid as the primary drug of choice*



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22 348. From 2008 onward, over half of those entering treatment for the first time were
 23 young adults. The growing number of young adults seeking treatment corresponds to rates of

24 ²⁰⁴ *Opioid Trends Across Washington State*, University of Washington Alcohol and Drug Abuse Institute (Apr.
 25 2015), <http://adai.uw.edu/pubs/infobriefs/ADAI-IB-2015-01.pdf>.

26 ²⁰⁵ *Id.*; See also, *Pierce County Hit Hard by Heroin and Prescription Painkiller Use*, *supra* note 200.

²⁰⁶ *Opioid Trends in Pierce County*, prepared by the Alcohol and Drug Abuse Institute, University of Washington,
 and commissioned by Tacoma-Pierce County Health Department (Feb. 23, 2017).

1 misuse of opioids among adolescents in Pierce County. Between 2006 and 2014, 5-10% of tenth
2 graders in Pierce County reported using painkillers to get high within the last month.²⁰⁷

3 349. As observed in a report commissioned by the Tacoma-Pierce County Health
4 Department, it is possible that approximately 25% of these youth who use misuse prescription-
5 type-opioids will eventually develop opioid use disorder, based on evidence that 25% of those
6 who try heroin develop opioid use disorder, and the fact that heroin and prescription opioids are
7 chemical equivalents.²⁰⁸ Thus, “a substantial minority of those who misuse prescription-type
8 opioids may develop opioid use disorder and in turn need recovery supports (social,
9 psychological, and/or medicine) for the rest of their life.”²⁰⁹

10 350. Underlying these data on opioid misuse, overdoses, and treatment admissions is
11 the fact that the rate of opioid prescriptions in Pierce County exploded in the early 2000s. While
12 the number of opioid prescriptions has tapered off in recent years, the data indicate that millions
13 of prescription opioids flooded Pierce County during the last two decades.

14 351. As is true around the country, the increase in prescription opioid use in Pierce
15 County was followed closely by an increase in heroin use. Many individuals using prescription
16 opioids turned to heroin when they could no longer obtain those prescriptions.

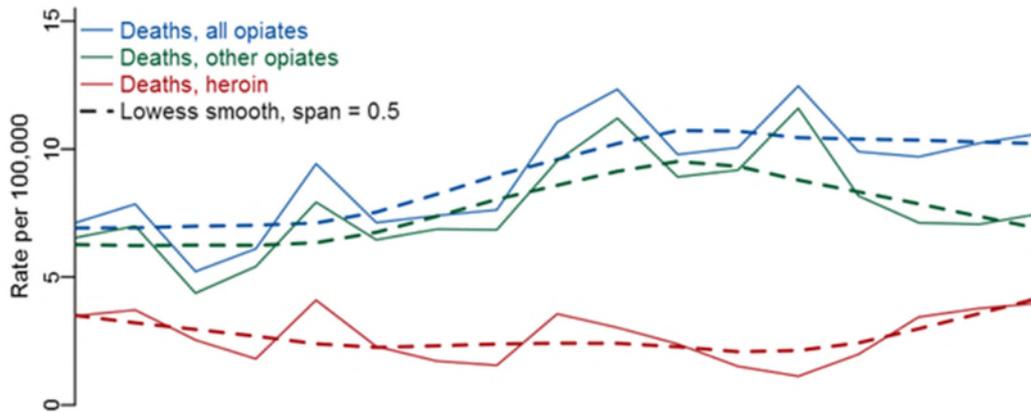
17 352. The below graph shows rates of opioid-related deaths in Pierce County.²¹⁰ While
18 deaths attributable to any opioid appear to have leveled off over the last several years in Pierce
19 County, the overall trend reflects an increase in heroin-involved deaths—a trend similar to
20 Washington State as a whole.

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25 ²⁰⁷ *Id.*

26 ²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Opioid Trends in Pierce County, supra* note 206.



353. Increased heroin use is also behind a recent rise in police evidence testing cases and drug overdose deaths.²¹¹ Correspondingly, treatment admissions in Pierce County for heroin and first admissions for heroin have risen precipitously since 2013.

354. Furthermore, a 2015 survey of seventy-seven syringe-exchange participants in Pierce County found that heroin was the most common primary drug used (74%), and most heroin users (57%) reported that they were “hooked on” prescription-type opioids before they began using heroin.²¹² Twenty-two percent of those surveyed reported having an overdose in the previous year and 40% reported witnessing an overdose. Seventy-seven percent of those surveyed reported interest in “getting help to stop or reduce” their drug use.

355. Pierce County also has a number of opioid addiction clinics and opioid treatment programs (OTPs) that dispense methadone and buprenorphine.²¹³ Like methadone, buprenorphine is a proven opioid-use-disorder medication that cuts the odds of dying in half compared to no treatment or counseling only. OTPs can provide buprenorphine, but—unlike methadone—it can also be prescribed by a physician in an office-based setting and obtained at a pharmacy. Treatment capacity for buprenorphine is limited and far exceeded by demand.

²¹¹ *Id.*

²¹² *Id.*

²¹³ *Methadone and Buprenorphine Clinics in Pierce County, WA*, Clermont Counseling, <http://www.clermontcounseling.org/methadone-buprenorphine-clinics/Pierce-county-WA/programs.html> (last visited May 22, 2018).

1 356. In addition to these clinics and OTPs, Pierce County also has resources for opioid
2 rehabilitation. For example, the Pierce County Alliance, established in 1994 in cooperation with
3 Pierce County Superior Court, the County Prosecutor, and the Department of Assigned Counsel,
4 provides court supervised drug treatment services for eligible, non-violent offenders.²¹⁴ In
5 addition to mental health, alcoholism and dual-diagnosis treatment, the Pierce County Alliance
6 focuses on opiate addiction and supporting individuals recovering from opioid addiction. The
7 Pierce County Alliance treats individuals suffering from addiction to illegal opioids like heroin,
8 as well as prescription drugs like oxycodone. The center combines physical and emotional
9 support to help stop addiction. The rehab services include Medication-Assisted Treatment with
10 medications like buprenorphine and naloxone. The Pierce County Alliance offers both inpatient
11 and outpatient services.

12 357. Pierce County also has eighteen locations throughout the County, primarily at law
13 enforcement sites, and at two pharmacies, that are drug-take-back sites.²¹⁵ These drug-take-back
14 sites are essential in providing a safe, convenient, and responsible way to dispose of prescription
15 opioids and minimize the potential for abuse and diversion.

16 358. In addition, the Tacoma Needle Exchange Program provides access to sterile
17 syringes and other injecting equipment in Pierce County. The Tacoma Needle Exchange
18 Program provides new, sterile syringes and clean injection equipment for people who use drugs
19 by injection. The program also provides referrals to social, health, and welfare services including
20 opioid abuse prevention and naloxone distribution. While the Tacoma Needle Exchange Program
21 serves individuals who use a variety of drugs, a substantial percentage of participants use
22 opioids.

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25 ²¹⁴ *Pierce County Alliance*, Rehab.com, <https://www.rehab.com/pierce-county-alliance/6182570-r> (last visited May
22, 2018).

26 ²¹⁵ Take Back Your Meds, <http://www.takebackyourmeds.org/22679-2/> (last visited May 22, 2018).

1 359. Pierce County has also invested resources into efforts that, it hopes, will bring an
2 end to the opioid epidemic here. As noted above, Pierce County convened an Opioid Use Task
3 Force (“Task Force”) in May of 2017, bringing together a group of twenty-five leaders from
4 various sectors of the community, representing multiple disciplines, such as community based
5 organizations (including syringe exchange and homeless shelters), public health, social service
6 agencies, hospitals, law enforcement, criminal justice, emergency departments, treatment
7 providers, and others working together to expand the region’s capacity for treatment and
8 prevention capacity. The Task Force is a collaboration of efforts established under the
9 Washington Prescription Drug Overdose (PDO)/Substance Abuse and Mental Health Services
10 Administration (SAMSHA) Grant, the Pierce County Accountable Community of Health, and
11 the Pierce County Health and Human Services Committee. The purpose of the Task Force is to
12 prevent and reduce opioid-related morbidity and mortality through strategies that target
13 prevention, treatment, and recovery supports.

14 360. The Task Force charter indicates that the Task Force is striving to develop
15 measures that address opioid-related deaths, non-fatal overdoses involving prescription opioids,
16 substance use disorder treatment penetration, new opioid users that become chronic users,
17 patients on high-dose chronic opioid therapy, patients with concurrent sedatives prescriptions,
18 and Medication Assisted Therapy (MAT) with both buprenorphine and methadone.

19 361. The Task Force strategy includes developing a regional Opioid Working Plan that
20 addresses opioid prevention, treatment, and overdose prevention.²¹⁶ A Task Force project
21 includes developing a sustainability strategy for funding syringe exchange supplies and
22 improving awareness of the Good Samaritan law. The common goal is to work together to
23 reduce the impact of the opioid use public health crisis.

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²¹⁶ *Opioid Task Force*, Pierce County ACH (June 2017), http://www.piercecountyach.org/wp-content/uploads/2017/05/June2017_-Opioid-Task-Force-Presentation.pdf.

1 362. As these circumstances reflect, Pierce County has devoted enormous resources in
2 dealing with this epidemic, and has been saddled with enormous financial and economic costs as
3 a direct result of Defendants' misconduct.

4 363. Furthermore, Pierce County is served by an array of different departments,
5 agencies, and offices, which provide essential services to the County's residents. The costs
6 incurred by the following departments provide an illustrative but non-exhaustive picture of the
7 many ways in which Pierce County is impacted by the crisis caused by Defendants.

8 **1. The Department of Human Services has incurred enormous costs in dealing**
9 **with the crisis caused by Defendants.**

10 364. Pierce County's Department of Human Services (PCHS) is responsible for
11 services to the most vulnerable citizens in Pierce County. PCHS and the people and communities
12 it serves are also at the center of the opioid crisis. PCHS provides the County some of the most
13 critical services to address, mitigate, and potentially reverse the opioid epidemic.

14 365. PCHS manages a wide range of programs and services to assist the County's most
15 vulnerable residents and strengthen its communities. These include services for aging and
16 disability resources, career and employment, developmental disabilities, housing assistance,
17 behavioral health (mental health and substance use disorder) prevention and treatment, veterans'
18 services, and youth and community development services.

19 366. PCHS also works to ensure all of Pierce County has equitable access to
20 community-based services. Providers in Pierce County contract through the Optum Pierce
21 Behavioral Health Organization (BHO), which in turn contracts with local service providers.
22 Optum Pierce BHO provides crisis services to the entire Pierce County population and partners
23 with providers to offer services, programs, and resources for mental health and substance abuse
24 disorders to Medicaid members in the Pierce County public behavioral health system.

1 **a. Community Health Services**

2 367. Optum Pierce BHO spends considerable resources providing substance-use
3 disorder services. It contracts with several agencies to provide outpatient services to adults,
4 including: Asian Counseling, Consejo, Greater Lakes, MDC, Multicare, Northwest Integrated
5 Health, Olalla, Pierce County Alliance, Pioneer, Prosperity, and SeaMar. Optum Pierce BHO's
6 annual funding for outpatient services is approximately \$8 million. Optum Pierce BHO also
7 contracts with Olalla, Prosperity, SeaMar, and Pioneer to provide residential services in Pierce
8 County, with annual funding of approximately \$3.9 million. Optum Pierce BHO also allocates
9 over half a million dollars to outpatient services for youth clientele.

10 368. Considerable resources are also devoted specifically to opioid treatment services.
11 Optum Pierce BHO contracts with Tacoma Pierce County Department of Health and Northwest
12 Integrated Health to provide methadone clinics. BHO also contracts with the Tacoma Needle
13 Exchange Program, described in detail above and managed by the Point Defiance AIDS Project,
14 to offer for community outreach, education, and referrals to health and social services. Optum
15 Pierce BHO spends nearly \$6 million annually on these services.

16 369. Optum Pierce BHO also provides outpatient and residential services for mental
17 health treatment as well as crisis services which include the following: Mobile Crisis Teams,
18 Crisis Triage and Stabilization Facility, Crisis Line Support, Substance Use Detoxification
19 Facility, and Acute Mental Health Inpatient Treatment Services, Mental-Health Post-
20 Hospitalization, and Peers in Emergency Rooms.

21 370. Optum Pierce BHO also contracts to provide six adult Residential Treatment
22 Facilities (RTF) specific to substance abuse, and three RTFs for youth to treat substance abuse.
23 The RTFs are operated by MDC, Prosperity, SeaMar, Olalla Recovery Centers, Pioneer, and
24 Lakeside-Milam.

25 371. As explained in further detail below, homelessness is also a significant issue in
26 Pierce County, and a significant percentage of the County's homeless population is addicted to

1 prescription opioids and/or heroin. PCHS obviously expends significant resources in serving this
2 segment of the County's homeless population.

3 **b. Justice-Involved Services**

4 372. Optum Pierce BHO also allocates resources to therapeutic courts in Pierce
5 County. BHO contracts with Pierce County Superior Court and Greater Lakes to operate a felony
6 mental health court. BHO contracts with Pierce County Superior Court and the Pierce County
7 Alliance to fund the Adult Drug Court, and Family Drug Court. Services are also devoted to
8 Pierce County Jail (contractors Greater Lakes and Pierce County Alliance) as well as the
9 Department of Corrections for Substance Use Disorder and Outpatient Services (contractor
10 Pierce County Alliance).

11 373. BHO also contracts with Catholic Community Services to provide homeless
12 outreach services; annual funding estimates are nearly \$350,000. Because of the link between the
13 opioid crisis and homelessness, discussed below, these funds are spent in part to address the
14 consequences of Defendants' conduct.

15 **2. Emergency Management Services has borne substantial costs as a result of**
16 **the opioid epidemic.**

17 374. Pierce County's Emergency Management Services (EMS) provides essential
18 emergency medical and life-saving services to the County and in an area spanning 1,806 square
19 miles. Any time residents of Pierce County call 9-1-1 for an emergency, they use EMS which
20 partners with fire departments, paramedic agencies, dispatch centers, and hospitals.

21 375. EMS is at the front line of the opioid crisis, as they are the first responders to
22 overdoses, deaths, and injuries related to opioid abuse. Both in terms of responding to these
23 emergencies and in training and preparing for them, EMS has incurred substantial costs as a
24 result of Defendants' conduct.

25 376. In most cases, a paramedic or Emergency Medical Technician (EMT) responding
26 to a 9-1-1 call about an opioid overdose will administer naloxone—a costly medication used to

1 block and reverse the effects of an opioid overdose. Naloxone reverses opioid overdoses by
2 binding to opioid receptors and thereby blocking the effects of the opioid substance, including
3 respiratory depression. If naloxone is administered in time, it will restore the patient's airway
4 reflexes, respiratory drive, and level of consciousness. Naloxone is expensive, and EMS spends
5 considerable sums purchasing and distributing naloxone to its EMTs and fire departments, and
6 will continue to do so well into the foreseeable future.

7 377. In 2011, Pierce County EMS responded to 116 overdoses where naloxone was
8 administered. In 2017, that number rose to 167 responses. Each time EMS responds to an
9 overdose call where naloxone is administered, EMS must devote significant personnel resources;
10 for example, medic, emergency vehicles (ladder and engine), dispatch, and command are all
11 involved.

12 378. The annual cost of responding to overdoses in 2011 was approximately
13 \$53,808.72. In 2017, County EMS spent \$80,718.99 on responses to overdoses with naloxone
14 administration alone.

15 379. Over 500 staff hours per year are devoted to overdose responses. Notably, when
16 EMS responds to an overdose, it places emergency response units out of service for other
17 emergencies in the community.

18 380. In addition to the financial costs, the opioid epidemic has also affected the first
19 responders themselves. The Assistant Chief of EMS in Pierce County indicated that "running
20 into these types of incidents day after day is demoralizing" and no doubt adds to the "burnout"
21 type symptoms for their EMTs and paramedics.

22 381. Overdoses are not the only opioid-related health emergencies to which EMS must
23 respond. For example, opioids have helped to drive a wave of new health problems that EMS
24 must deal with. Many of these health problems, including infections and infectious diseases, fall
25 outside the typical emergencies for which EMS was designed to respond or address. As a result,
26 opioids have had subtler effects on EMS and its budget.

1 382. Accordingly, EMS has shouldered and continues to shoulder a burden on its
2 resources in responding to the opioid crisis caused by Defendants.

3 **3. The Pierce County Sheriff’s Department also devotes significant resources to**
4 **handle the consequences of the opioid epidemic.**

5 383. The Pierce County Sheriff’s Department (PCSD) provides law enforcement, jail,
6 court security, and civil processing services to all areas of unincorporated Pierce County and the
7 contract cities of Edgewood and University Place. PCSD ensures the safety of the entire County
8 through its approximately 300 commissioned officers who serve unincorporated areas, 6
9 commissioned officers in the City of Edgewood and 16 commissioned officers in the City of
10 University Place, 309 commissioned corrections officers, and 61 civilian employees.

11 384. PCSD expends enormous resources fulfilling its critical missions. A significant
12 portion of these resources are devoted to addressing and responding to the crisis caused by
13 Defendants. The astounding and devastating rise of opioids—both “legal” and illegal—has
14 profoundly affected public safety issues in the County, and the PCSD’s work and resources.

15 385. For example, the opioid epidemic has forced PCSD to expend significant
16 resources fighting drug trafficking in the County. In addition, crimes associated with illicit drug
17 use, including violent and property crimes, have grown significantly. And the number of people
18 involved in drug-related activities has reached new levels.

19 386. Not only has drug use increased in the County, drug trafficking is now more
20 complex. Pills and heroin arrive in the County through large, difficult-to-untangle networks that
21 stretch across state lines. Combatting this rise in drug trafficking has forced the County to put
22 more officers in the community and assign more detectives to investigate these drug cases.

23 387. Because many of the sources of illegal opioids in Pierce County come from large
24 criminal networks, PCSD has spent considerable time and effort coordinating law enforcement
25 efforts with other jurisdictions.

1 388. PCSD deputies also are equipped with naloxone—which as described herein is a
2 costly medication utilized to reverse an opioid overdose—and the County has incurred
3 significant costs to ensure this life-saving drug is available to its deputies.

4 **4. The Pierce County Prosecuting Attorney’s Office and Pierce County District**
5 **and Superior Courts have incurred substantial costs in responding to the**
6 **epidemic caused by Defendants.**

7 389. The Pierce County Prosecuting Attorney’s Office (PAO) represents the County in
8 both criminal and civil matters. It employs over 200 people, more than 115 of whom are
9 attorneys.

10 390. The Criminal Division represents the state and the county in criminal matters in
11 Pierce County District and Superior Courts, the state and federal courts of appeal, and the
12 Washington and U.S. Supreme Courts. The Criminal Division, the largest division at the PAO, is
13 responsible for prosecuting all felonies in Pierce County and all misdemeanors in unincorporated
14 areas of Pierce County, including crimes related to opioids.

15 391. The Civil Division of the PAO provides legal advice to county officials and
16 represents the County’s interest in court.

17 392. The Family Support Division is also an integral part of the federal and state child
18 support system. This division represents the Division of Child Support, a Department of Social
19 and Health Services (DSHS) agency, and works with child support agencies throughout
20 Washington State, the United States, and abroad to establish and enforce child support and to
21 protect the best interests of children.

22 393. The opioid epidemic has had a deep impact on the PAO. The opioid problem in
23 Pierce County has been ongoing and persistent and is reflected in the criminal cases in the PAO.

24 394. In 2015, 191 opioid cases were referred to the drug unit and 171 opioid cases
25 were charged in the Drug Unit. In 2015, 10.87% of the total cases in the Drug Unit were opioid-
26 related, and the estimated total staff costs for Drug Unit cases associated with opioids were
\$172,083.33.

1 395. In 2016, there were 574 opiate related referrals in the Drug Unit, and 585 opioid-
2 related cases were charged. Notably, cases can be charged that were initially referred in a
3 different year. In 2016, the percentage of charged Drug Unit cases that were opioid-related rose
4 to 49.91%, with an approximate staff costs for those cases of \$864,505.25. The quick rise in the
5 percentage of opioid-related drug cases is indicative of the opioid problem in Pierce County.

6 396. In the Drug Unit specifically, there were 443 opioid-related referrals and 464
7 opioid-related charged cases. In 2017, the number of charged opioid-related cases remained at
8 49% of total Drug Unit cases, with an associated cost of prosecution for those cases of
9 \$783,955.72.

10 397. The numerical change in charged drug cases as a percentage of total crimes,
11 however, does not reflect the entire picture. In some of these cases, opioids are directly involved
12 in the illegal activity; for example, the PAO routinely prosecutes people who sell heroin or
13 prescription opioids on the illegal market. Yet opioids play a role in other cases, too, even when
14 the charges are not related to controlled substances violations. Many of these cases are time
15 intensive and cost the PAO significant resources to prosecute.

16 398. The criminal impact is broader than the simple drug possession or destruction
17 case. For example, many cases charged in other PAO units (Robbery, Gang, Elder Abuse,
18 Domestic Violence, Property/ID Theft, Special Assault, Murder/Manslaughter, and the Vehicular
19 unit) involved drugs, including opioids. Opioid consumption gone awry, or acts committed to
20 fuel illicit drug use, are frequently at the heart of many violent and non-violent crimes. For
21 example, an individual charged with identity theft (non-violent property crime) may be convicted
22 of theft when the underlying motivation was fueling his or her drug addiction, or someone may
23 be convicted of an assault when he or she also had heroin on his or her person.

24 399. The Civil and Family Support Divisions, too, have not been immune to the
25 impacts of the opioid epidemic. And the Family Support Division's work becomes more
26 complex when parents are addicted to opioids.

1 400. In addition, PAO has made efforts to provide alternatives to prosecution and an
2 opportunity for substance use disorder treatment, to non-violent eligible defendants.

3 401. The rise in cases handled by the PAO has also had an obvious impact on the
4 County's court system. The Courts have had to process and handle more cases involving opioid-
5 related crimes.

6 402. The PAO and District and Superior Courts have engaged in efforts to provide
7 alternatives to felony prosecution for possession of controlled substance charges. In 2016, the
8 PAO, along with the Pierce County Superior and District Courts, formed the Drug Abuse
9 Reduction Team (DART). DART is a two-year deferred sentencing program designed to help
10 individuals who would otherwise be charged with felony possession of a controlled substance,
11 who are willing to remain sober, change their lifestyle, actively participate in treatment, and
12 engage in monitoring by probation. After the filing of felony charges, DART participant cases
13 are refiled into District Court and resolved as a gross misdemeanor charge (solicitation to possess
14 a controlled substance); if the defendant appears in District Court and pleads guilty, the felony
15 case is dismissed and the defendant is admitted into the District Court DART program.

16 403. If the participant successfully completes the two-year DART deferred sentencing
17 program, the misdemeanor is dismissed and there are no convictions on their record arising from
18 that offense. This program has directly impacted District Court case filings. The prosecuting
19 attorney's district court unit has prioritized processing DART cases and monitoring compliance
20 as a top priority.

21 404. Pierce County also has a Drug Court that was established in 1994 through
22 collaboration between Superior Court, the Prosecutor's Office, the Department of Assigned
23 Counsel and the Pierce County Alliance. The program is an alternative to imprisonment and
24 provides court supervised drug and alcohol treatment services for non-violent felony offenders.

1 **5. Defendants' conduct has increased Pierce County's health care costs.**

2 405. Defendants' misrepresentations regarding the purported safety and efficacy of
3 opioids have also substantially increased the County's health care costs. Pierce County provides
4 health insurance to 2,900 employees and their dependents. The County offers a self-insured
5 medical program, which means that when anyone covered by this health insurance program visits
6 a doctor or fills a prescription or otherwise incurs covered health-related costs—including, for
7 example, opioid-related medical claims—the County pays for those costs directly.

8 406. Pierce County, like other entities and corporations across the country who are
9 self-insured, has incurred significant costs for prescription opioids. For example, across the
10 United States, people who are prescribed opioid painkillers cost health insurers approximately
11 \$16,000 more than those who do not have such prescriptions.²¹⁷ Those costs, including those
12 borne by the County, would have been avoided had Defendants not hidden the truth about the
13 risks and benefits of opioids.

14 407. Pierce County has also incurred opioid-related costs in administering its own
15 workers' compensation program.

16 408. Had Defendants told the truth about the risks and benefits of opioids, Pierce
17 County would not have had to pay for these drugs or the costs associated with opioid-related
18 claims.

19 **6. The opioid epidemic has also contributed to the homelessness crisis in Pierce**
20 **County.**

21 409. Another particularly visible effect of the opioid epidemic in Pierce County is the
22 growing homeless population.
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26 ²¹⁷ *The Impact of the Opioid Crisis on the Healthcare System: A Study of Privately Billed Services*, FAIR Health
(Sept. 2016), http://www.khi.org/assets/uploads/news/14560/the_impact_of_the_opioid_crisis.pdf.

1 410. The 2016 Homeless Point-in-Time Count indicated that there were 1,762
2 homeless persons in Pierce County, a 37% increase from 2015.²¹⁸ Forty-six percent more people
3 were unsheltered or living somewhere not meant for human habitation. In 2017, those numbers
4 decreased slightly; the Point-in-Time Count indicated that 1,321 people were homeless.²¹⁹

5 411. Notwithstanding fluctuations in the numbers, homelessness is a persistent
6 problem in Pierce County. In the last five years, unsheltered homelessness (i.e., sleeping outside
7 or in places not meant for human habitation) increased by 157%. This statistic is consistent with
8 what has been observed in the County—more encampments and people sleeping on sidewalks
9 and in door steps. In Pierce County, and across the state, there are increases in unsheltered
10 homelessness; even where total homelessness has declined, unsheltered homelessness has
11 increased.

12 412. The number of people who are chronically homeless—i.e., homeless for longer
13 than one year—has increased 97% over the last five years.

14 413. Although the causes of homelessness are multi-faceted and complex, substance
15 abuse is both a contributing cause and result of homelessness. In Pierce County, the rise in
16 homelessness is linked to the opioid epidemic. In fact, recent surveys in Tacoma estimated that at
17 least 50% of its homeless population is addicted to opioids. In addition, a significant portion of
18 the calls received by Pierce County EMS relates to opioid-related emergencies from the
19 County's homeless population.

20 414. Prescription opioids have not only helped to fuel homelessness, but have also
21 made it immeasurably more difficult for Pierce County to address. For example, mental health
22 services are critical for many in the homeless population, but opioid use and addiction can make
23 it more difficult to provide effective mental health treatment. Opioids provide a way to self-

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25 ²¹⁸ 2016 Homeless Point In Time Count Results, Pierce County, <http://co.pierce.wa.us/DocumentCenter/View/41015>
(last visited May 22, 2018).

26 ²¹⁹ Homelessness 2017, Pierce County, <http://co.pierce.wa.us/DocumentCenter/View/58187> (last visited May 22,
2018).

1 medicate and avoid getting the treatment that might lead to long-term success and more positive
2 outcomes. Whether opioid addiction was a contributing cause or a result of homelessness, opioid
3 addictions now prevent many individuals from regaining permanent housing.

4 415. Additionally, while the leading cause of death among homeless Americans used
5 to be HIV, it is now drug overdose. A study published in *JAMA Internal Medicine* found that
6 overdoses were the leading cause of death among individuals experiencing homelessness in the
7 Boston area. Of the overdose deaths, 81% involved opioids.²²⁰

8 **7. Individual stories of Pierce County residents demonstrate the devastating**
9 **impacts of opioids.**

10 416. A resident of Fircrest in Pierce County recently wrote a letter to Pierce County
11 regarding the opioid epidemic. She shared that after a 2007 surgery she was “almost instantly
12 addicted to the pain medication [she] was sent home with.” She took them several times a day for
13 three months until she was “cut off.” She described going into withdrawals and then looking for
14 more pain medication. For eight years, she struggled with her addiction. In 2015, she began
15 taking Suboxone, a combination of buprenorphine and naloxone designed to treat narcotic
16 withdrawal symptoms.

17 417. But Suboxone and similar opioid-addiction treatments such as methadone do not
18 “cure” opioid addiction; they are themselves opioids. Some individuals in recovery may stay on
19 Suboxone or other maintenance medications for the rest of their lives. As the Fircrest resident
20 indicated, “now, here I am a little over 2 years later still addicted to suboxone . . . All I have done
21 is switched one for another.”

22 418. Her addiction negatively affected multiple aspects of her life; she has spent
23 thousands of dollars on prescriptions and doctor bills, has had her vehicle impounded, and almost
24 lost her marriage and family.

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26 ²²⁰ Travis P. Baggett, MD, MPH, Stephen W. Hwang, MD, MPH, James J. O’Connell, MD, et al., *Mortality Among Homeless Adults in Boston, Shifts in Causes of Death Over a 15-Year Period*, 173 (3) *JAMA Intern Med.* 189-95 (2013), <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/1556797#qundefined>.

1 419. Her story is an example of how individuals become addicted to opioids through
2 lawfully prescribed medications, following routine medical procedures. What it also
3 demonstrates, however, is how difficult it is to fully recover from opioid addiction, even when
4 actively undergoing treatment for it. Opioid addiction casts a long shadow, affecting individuals'
5 lives, families, and communities for years.

6 420. Another all-too-familiar story of how the opioid epidemic has affected individual
7 lives in Pierce County was recently highlighted in the Tacoma News Tribune, as a thirty-four-
8 year-old Pierce County man shared his story of addiction and recovery with the newspaper. His
9 addiction began with abusing prescription pain pills during adolescence, and he then “moved
10 from crushing and snorting OxyContin to smoking the powerful pain medication. When money
11 got tight, his tolerance high and obtaining the pills on the street increasingly difficult, he
12 graduated to shooting heroin—crossing a line he always told himself he wouldn't.”²²¹

13 421. As a result of his addiction, he committed crimes, was homeless, and “betrayed
14 everyone who would give him their trust.”²²² He “spent years living in cheap hotel rooms,
15 stealing and dealing drugs to afford the heroin he needed to ‘get well.’”²²³

16 422. In 2014, his older brother died in an incident the family believes was an
17 addiction-related suicide. The medical examiner’s account described “multiple blunt force
18 injuries” after the brother crashed his car, climbed over a barrier, and fell twenty-seven feet onto
19 the pavement. The brothers had a history of prescription opioid abuse together. The thirty-four-
20 year-old also acknowledged introducing his brother to methamphetamine.

21 423. His grief and guilt following his brother’s suicide propelled him further into
22 addiction. Then he himself almost died, exactly one year after his brother’s death, when he
23 overdosed on heroin. That near-fatal experience, along with his mother’s urging and the threat of
24 prison hanging over his head, compelled him to seek help. Today, he is enrolled in community

25 ²²¹ Driscoll, *supra* note 8.

26 ²²² *Id.*

²²³ *Id.*

1 college and working as a behavioral health technician at a recovery center. He also launched an
2 online support community, “Can’t Go Back,” ten months after getting clean. The online group,
3 which provides support and inspiration for individuals in recovery, has since grown to over 2,500
4 members.

5 424. He describes the ongoing work of recovery as a book that is “never closed,”
6 adding that “freedom from active addiction is never owned, it’s rented. And the rent is due every
7 day.”²²⁴ His story and the Fircrest resident’s story reflect the experiences of many others in
8 Pierce County. Even for those fortunate enough to survive the opioid epidemic, there are
9 enormous personal and societal costs associated with survival and recovery.

10 **H. No Federal Agency Action, Including by the FDA, Can Provide the Relief Pierce**
11 **County Seeks Here.**

12 425. The injuries Pierce County has suffered and will continue to suffer cannot be
13 addressed by agency or regulatory action. There are no rules the FDA could make or actions the
14 agency could take that would provide Pierce County the relief it seeks in this litigation.

15 426. Even if prescription opioids were entirely banned today or only used for the
16 intended purpose, millions of Americans, including Pierce County residents, would remain
17 addicted to opioids, and overdoses will continue to claim lives. The Sheriff’s Department will
18 continue to spend extraordinary resources combatting illegal opioid sales, and the Prosecuting
19 Attorney’s Office and Pierce County courts will remain burdened with opioid-related crimes and
20 dependency hearings. Social services and public health efforts will be stretched thin.

21 427. Regulatory action would do nothing to compensate the County for the money and
22 resources it has already expended addressing the impacts of the opioid epidemic and the
23 resources it will need in the future. Only this litigation has the ability to provide the County with
24 the relief it seeks.

25
26

²²⁴ *Id.*

1 representations about the use of opioids to treat chronic and non-cancer pain, including to
2 physicians and consumers in Pierce County. Each Manufacturing Defendant also omitted or
3 concealed material facts and failed to correct prior misrepresentations and omissions about the
4 purported benefits and risks of opioids. In addition, each Manufacturing Defendant's silence
5 regarding the full risks of opioid use constitutes deceptive conduct prohibited by the CPA.

6 433. Distributor Defendants, at all times relevant to this Complaint, directly and/or
7 through their control of third parties, violated the CPA by making unfair and/or deceptive
8 representations about their compliance with their obligations to maintain effective controls
9 against diversion of prescription opioids and to report suspicious orders. Distributor Defendants
10 concealed the extent of their opioid distribution in order to avoid the issuance of restrictive
11 quotas, and manipulated the political process to shield themselves from enforcement actions that
12 would have stopped shipments of opioids.

13 434. These unfair methods of competition and unfair and/or deceptive acts or practices
14 in the conduct of trade or commerce were reasonably calculated to deceive Pierce County and its
15 consumers, and did in fact deceive the County and its consumers. Each Manufacturing
16 Defendant's misrepresentations, concealments, and omissions continue to this day.

17 435. Pierce County has paid money for health care costs associated with prescription
18 opioids for chronic pain. The County has also paid significant sums of money treating those
19 covered by its health insurance for other opioid-related health costs. The Defendants'
20 misrepresentations have further caused the County to spend substantial sums of money on
21 increased law enforcement, emergency services, social services, public safety, and other human
22 services in Pierce County, as described above.

23 436. But for these unfair methods of competition and unfair and/or deceptive acts or
24 practices in the conduct of trade or commerce, Pierce County would not have incurred the costs
25 related to the epidemic caused by Defendants, as fully described above.

26 437. Logic, common sense, justice, policy, and precedent indicate Manufacturing

1 Defendants' unfair and deceptive conduct has caused the damage and harm complained of
2 herein. Manufacturing Defendants knew or reasonably should have known that their statements
3 regarding the risks and benefits of opioids were false and misleading, and that their statements
4 were causing harm. Distributor Defendants knew or reasonably should have known that the
5 proliferation of prescription opioids was causing damage to the County. Thus, the harms caused
6 by Defendants' unfair and deceptive conduct to Pierce County were reasonably foreseeable,
7 including the financial and economic losses incurred by the County.

8 438. Furthermore, Pierce County brings this cause of action in its sovereign capacity
9 for the benefit of the State of Washington. The CPA expressly authorizes local governments to
10 enforce its provisions and to recover damages for violations of the CPA, and this action is
11 brought to promote the public welfare of the state and for the common good of the state.

12 439. As a direct and proximate cause of each Defendant's unfair and deceptive
13 conduct, (i) Pierce County has sustained and will continue to sustain injuries, and (ii) pursuant to
14 RCW 19.86.090, Pierce County is entitled to actual and treble damages in amounts to be
15 determined at trial, attorneys' fees and costs, and all other relief available under the CPA.

16 440. The Court should also grant injunctive relief enjoining Defendants from future
17 violations of the CPA. Defendants' actions, as complained of herein, constitute unfair
18 competition or unfair, deceptive, or fraudulent acts or practices in violation of the CPA.

19 **COUNT TWO — PUBLIC NUISANCE**

20 441. Plaintiff repeats, reasserts, and incorporates the allegations contained above as if
21 fully set forth herein.

22 442. Pursuant to RCW 7.48.010, an actionable nuisance is defined as, *inter alia*,
23 "whatever is injurious to health or indecent or offensive to the senses . . ."

24 443. Pursuant to RCW 7.48.130, "A public nuisance is one which affects equally the
25 rights of an entire community or neighborhood, although the extent of the damage may be
26 unequal."

1 444. Pursuant to Pierce County Code, Chapter 8.08.040(A), “A public nuisance
2 consists of performing an unlawful act, or omitting to perform a duty, or permitting an action or
3 condition to occur or exist which . . . [u]nreasonably annoys, injures, or endangers the comfort,
4 repose, health, or safety of others.” The County can also assess civil penalties for these violations
5 “in an amount up to \$1,000 for each violation” pursuant to Pierce County Code Chapter
6 8.08.090(A).

7 445. Pierce County and its residents have a right to be free from conduct that
8 endangers their health and safety. Yet Defendants have engaged in conduct which endangers or
9 injures the health and safety of the residents of the County by their production, promotion,
10 distribution, and marketing of opioids for use by residents of Pierce County and in a manner that
11 substantially interferes with the welfare of Pierce County.

12 446. Each Defendant has created or assisted in the creation of a condition that is
13 injurious to the health and safety of Pierce County and its residents, and interferes with the
14 comfortable enjoyment of life and property of entire communities and/or neighborhoods in the
15 County.

16 447. Defendants’ conduct has directly caused deaths, serious injuries, and a severe
17 disruption of the public peace, order, and safety. Defendants’ conduct is ongoing and continues
18 to produce permanent and long-lasting damage.

19 448. The health and safety of the residents of Pierce County, including those who use,
20 have used, or will use opioids, as well as those affected by others’ opioid use, are matters of
21 substantial public interest and of legitimate concern to the County’s citizens and its residents.

22 449. Defendants’ conduct has affected and continues to affect a substantial number of
23 people within Pierce County and is likely to continue causing significant harm.

24 450. But for Defendants’ actions, opioid use—and, ultimately, misuse and abuse—
25 would not be as widespread as it is today, and the opioid epidemic that currently exists would
26 have been averted.

1 451. Logic, common sense, justice, policy, and precedent indicate Defendants' unfair
2 and deceptive conduct has caused the damage and harm complained of herein. Manufacturing
3 Defendants knew or reasonably should have known that their statements regarding the risks and
4 benefits of opioids were false and misleading, and that their false and misleading statements
5 were causing harm from their continued production and marketing of opioids. Distributor
6 Defendants knew that the widespread distribution of opioids would endanger the health and
7 safety of residents of Pierce County. Thus, the public nuisance caused by Defendants to Pierce
8 County was reasonably foreseeable, including the financial and economic losses incurred by the
9 County.

10 452. Furthermore, Pierce County brings this cause of action in its sovereign capacity
11 for the benefit of the State of Washington. The applicable RCW with respect to a public nuisance
12 expressly prohibits the conduct complained of herein, and this action is brought to promote the
13 public welfare of the state and for the common good of the state.

14 453. In addition, engaging in any business in defiance of a law regulating or
15 prohibiting the same is a nuisance per se under Washington law. Each Defendant's conduct
16 described herein of deceptively marketing or excessively distributing opioids violates RCW
17 7.48.010 and therefore constitutes a nuisance per se.

18 454. As a direct and proximate cause of Defendants' conduct creating or assisting in
19 the creation of a public nuisance, Pierce County, its community, and its residents have sustained
20 and will continue to sustain substantial injuries.

21 455. Pursuant to RCW 7.48.020 and Pierce County Code, Chapter 8.08.080, Pierce
22 County requests an order providing for abatement of the public nuisance that each Defendant has
23 created or assisted in the creation of, and enjoining Defendants from future violations of RCW
24 7.48.010 and Pierce County Code, Chapter 8.08.040(A).

25 456. Pierce County also seeks the maximum statutory and civil penalties permitted by
26 law as a result of the public nuisance created by Defendants.

COUNT THREE — NEGLIGENCE

1
2 457. Plaintiff repeats, reasserts, and incorporates the allegations contained above as if
3 fully set forth herein.

4 458. Under Washington law, a cause of action arises for negligence when a defendant
5 owes a duty to a plaintiff and breaches that duty, and proximately causes the resulting injury.
6 *Iwai v. State*, 129 Wn. 2d 84, 96, 915 P.2d 1089 (1996).

7 459. Each Defendant owed a duty of care to Pierce County, including but not limited to
8 taking reasonable steps to prevent the misuse, abuse, and over-prescription of opioids.

9 460. In violation of this duty, Defendants failed to take reasonable steps to prevent the
10 misuse, abuse, and over-prescription of opioids in Pierce County by misrepresenting the risks
11 and benefits associated with opioids and by distributing dangerous quantities of opioids.

12 461. As set forth above, Manufacturing Defendants' misrepresentations include falsely
13 claiming that the risk of opioid addiction was low, falsely instructing doctors and patients that
14 prescribing more opioids was appropriate when patients presented symptoms of addiction,
15 falsely claiming that risk-mitigation strategies could safely address concerns about addiction,
16 falsely claiming that doctors and patients could increase opioid doses indefinitely without added
17 risk, deceptively marketing that purported abuse-deterrent technology could curb misuse and
18 addiction, and falsely claiming that long-term opioid use could actually restore function and
19 improve a patient's quality of life. Each of these misrepresentations made by Defendants violated
20 the duty of care to Pierce County.

21 462. Distributor Defendants negligently distributed enormous quantities of potent
22 narcotics and failed to report such distributions. Distributor Defendants violated their duty of
23 care by moving these dangerous products into Pierce County in such quantities, facilitating
24 diversion, misuse, and abuse of opioids.

25 463. As a direct and proximate cause of Defendants' unreasonable and negligent
26 conduct, Plaintiff has suffered and will continue to suffer harm, and is entitled to damages in an

1 amount determined at trial.

2 **COUNT FOUR — GROSS NEGLIGENCE**

3 464. Plaintiff repeats, reasserts, and incorporates the allegations contained above as if
4 fully set forth herein.

5 465. As set forth above, each Defendant owed a duty of care to Pierce County,
6 including but not limited to taking reasonable steps to prevent the misuse, abuse, and over-
7 prescription of opioids.

8 466. In violation of this duty, each Defendant failed to take reasonable steps to prevent
9 the misuse, abuse, and over-prescription of opioids in Pierce County by misrepresenting the risks
10 and benefits associated with opioids.

11 467. In addition, each Defendant knew or should have known, and/or recklessly
12 disregarded, that the opioids they manufactured, promoted, and distributed were being used for
13 unintended uses.

14 468. For instance, Defendants failed to exercise slight care to Pierce County by, *inter*
15 *alia*, failing to take appropriate action to stop opioids from being used for unintended purposes.
16 Furthermore, despite each Defendant's actual or constructive knowledge of the wide
17 proliferation of prescription opioids in Pierce County, Defendants took no action to prevent the
18 abuse and diversion of these drugs. In fact, Manufacturing Defendants promoted and actively
19 targeted doctors and their patients through training their sales representatives to encourage
20 doctors to prescribe more opioids.

21 469. Manufacturing Defendants' misrepresentations include falsely claiming that the
22 risk of opioid addiction was low, falsely instructing doctors and patients that prescribing more
23 opioids was appropriate when patients presented symptoms of addiction, falsely claiming that
24 risk-mitigation strategies could safely address concerns about addiction, falsely claiming that
25 doctors and patients could increase opioid doses indefinitely without added risk, deceptively
26 marketing that purported abuse-deterrent technology could curb misuse and addiction, and

1 falsely claiming that long-term opioid use could actually restore function and improve a patient's
2 quality of life. Each of these misrepresentations made by Manufacturing Defendants violated the
3 duty of care to Pierce County, in a manner that is substantially and appreciably greater than
4 ordinary negligence.

5 470. Distributor Defendants continued to funnel enormous quantities of opioids into
6 Pierce County, long after they knew that these products were being misused, abused, and
7 diverted. By permitting the movement of such excessive quantities of dangerous narcotics into
8 Pierce County, Distributor Defendants endangered the health and safety of Pierce County
9 residents, in a manner that is substantially and appreciably greater than ordinary negligence.

10 471. As a direct and proximate cause of each Defendant's gross negligence, Pierce
11 County has suffered and will continue to suffer harm, and is entitled to damages in an amount
12 determined at trial.

13 **COUNT FIVE — UNJUST ENRICHMENT**

14 472. Plaintiff repeats, reasserts, and incorporates the allegations contained above as if
15 fully set forth herein.

16 473. Each Defendant was required to take reasonable steps to prevent the misuse,
17 abuse, and over-prescription of opioids.

18 474. Rather than prevent or mitigate the wide proliferation of opioids into Pierce
19 County, each Defendant instead chose to place its monetary interests first and each Defendant
20 profited from prescription opioids sold in Pierce County.

21 475. Each Defendant also failed to maintain effective controls against the unintended
22 and illegal use of the prescription opioids it manufactured or distributed, again choosing instead
23 to place its monetary interests first.

24 476. Each Defendant therefore received a benefit from the sale and distribution of
25 prescription opioids to and in Pierce County, and these Defendants have been unjustly enriched
26 at the expense of Pierce County.

1 477. As a result, Pierce County is entitled to damages on its unjust enrichment claim in
2 an amount to be proven at trial.

3 **COUNT SIX — VIOLATIONS OF THE RACKETEER INFLUENCED AND**
4 **CORRUPT ORGANIZATIONS ACT (“RICO”), 18 U.S.C. § 1961, ET SEQ.**

5 478. Plaintiff hereby incorporates by reference the allegations contained in the
6 preceding paragraphs of this complaint.

7 479. This claim is brought by Pierce County against each Defendant for actual
8 damages, treble damages, and equitable relief under 18 U.S.C. § 1964 for violations of 18 U.S.C.
9 § 1961, *et seq.*

10 480. At all relevant times, each Defendant is and has been a “person” within the
11 meaning of 18 U.S.C. § 1961(3), because they are capable of holding, and do hold, “a legal or
12 beneficial interest in property.”

13 481. Plaintiff is a “person,” as that term is defined in 18 U.S.C. § 1961(3), and has
14 standing to sue as it was and is injured in its business and/or property as a result of the
15 Defendants’ wrongful conduct described herein.

16 482. Section 1962(c) makes it “unlawful for any person employed by or associated
17 with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce,
18 to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through
19 a pattern of racketeering activity . . .” 18 U.S.C. § 1962(c).

20 483. Section 1962(d) makes it unlawful for “any person to conspire to violate” Section
21 1962(c), among other provisions. *See* 18 U.S.C. § 1962(d).

22 484. Each Defendant conducted the affairs of an enterprise through a pattern of
23 racketeering activity, in violation of 18 U.S.C. § 1962(c) and § 1962(d).

24 **A. Description of the Defendants’ Enterprises**

25 485. RICO defines an enterprise as “any individual, partnership, corporation,
26 association, or other legal entity, and any union or group of individuals associated in fact

1 although not a legal entity.” 18 U.S.C. § 1961(4).

2 486. Under 18 U.S.C. § 1961(4) a RICO “enterprise” may be an association-in-fact
3 that, although it has no formal legal structure, has (i) a common purpose, (ii) relationships among
4 those associated with the enterprise, and (iii) longevity sufficient to pursue the enterprise’s
5 purpose. *See Boyle v. United States*, 556 U.S. 938, 946 (2009).

6 487. Defendants formed two such association-in-fact enterprises—referred to herein as
7 “the Promotion Enterprise” and “the Diversion Enterprise.”

8 488. The Promotion Enterprise consists of the Manufacturing Defendants, Front
9 Groups, and KOLs. In particular, the Enterprise consists of (a) Defendant Purdue, including its
10 employees and agents, (b) Defendant Endo, including its employees and agents, (c) Defendant
11 Janssen, including its employees and agents, (d) Defendant Cephalon, including its employees
12 and agents, (e) Defendant Actavis, including its employees and agents, and (f) Defendant
13 Mallinckrodt, including its employees and agents (collectively, “Manufacturing Defendants”);
14 certain front groups described above, including but not limited to (a) the American Pain
15 Foundation, including its employees and agents, (b) the American Academy of Pain Medicine,
16 including its employees and agents, and (c) the American Pain Society, including its employees
17 and agents (collectively, the “Front Groups”); and certain Key Opinion Leaders, including but
18 not limited to (a) Dr. Russell Portenoy, (b) Dr. Perry Fine, (c) Dr. Lynn Webster, and (d) Dr.
19 Scott Fishman (collectively, the “KOLs”). The entities in the Promotion Enterprise acted in
20 concert to create demand for prescription opioids.

21 489. Alternatively, each of the above-named Manufacturing Defendants and Front
22 Groups constitutes a single legal entity “enterprise” within the meaning of 18 U.S.C. § 1961(4),
23 through which the members of the enterprise conducted a pattern of racketeering activity. The
24 separate legal status of each member of the Enterprise facilitated the fraudulent scheme and
25 provided a hoped-for shield from liability for Defendants and their co-conspirators.

26 490. Alternatively, each of the Manufacturing Defendants, together with the

1 Distributor Defendants, the Front Groups, and the KOLs, constitute separate, associated-in-fact
2 Enterprises within the meaning of 18 U.S.C. § 1961(4).

3 491. The Diversion Enterprise consists of all Defendants. In particular, the Enterprise
4 consists of (a) Defendant Purdue, including its employees and agents, (b) Defendant Endo,
5 including its employees and agents, (c) Defendant Janssen, including its employees and agents,
6 (d) Defendant Cephalon, including its employees and agents, (e) Defendant Actavis, including its
7 employees and agents, (f) Defendant Mallinckrodt, including its employees and agents, (g)
8 Defendant AmerisourceBergen, including its employees and agents, (h) Defendant Cardinal
9 Health, including its employees and agents, and (i) Defendant McKesson, including its
10 employees and agents (collectively, “Defendants”).

11 492. The CSA and its implementing regulations require all manufacturers and
12 distributors of controlled substances, including opioids, to maintain a system to identify and
13 report suspicious orders, including orders of unusual size or frequency, or orders deviating from
14 a normal pattern, and maintain effective controls against diversion of controlled substances. *See*
15 21 U.S.C. § 823; 21 C.F.R. §1301.74(b). The Manufacturing Defendants and the Distributor
16 Defendants alike are required to become “registrants” under the CSA, 21 U.S.C. § 823(a)-(b),
17 and its implementing regulations, which provide that “[e]very person who manufactures,
18 distributes, dispenses, imports, or exports any controlled substance. . . shall obtain a
19 registration[.]” 21 C.F.R. § 1301.11(a). Defendants’ duties as registrants include reporting
20 suspicious orders of controlled substances, which are defined as including “orders of unusual
21 size, orders deviating substantially from a normal pattern, and orders of unusual frequency.” 21
22 C.F.R. § 1301.74(b).

23 493. The Manufacturing Defendants carried out the Diversion Enterprise by
24 incentivizing and supplying suspicious sales of opioids, despite their knowledge that their
25 opioids were being diverted to illicit use, and by failing to notify the DEA of such suspicious
26 orders as required by law. The Distributor Defendants carried out the Diversion Enterprise by

1 failing to maintain effective controls against diversion, intentionally evading their obligation to
2 report suspicious orders to the DEA, and conspiring to prevent limits on the prescription opioids
3 they were oversupplying to communities like Plaintiff.

4 494. The Promotion Enterprise is an ongoing and continuing business organization
5 consisting of “persons” within the meaning of 18 U.S.C. § 1961(3) that created and maintained
6 systematic links for a common purpose: to sell highly addictive opioids for treatment of chronic
7 pain while knowing that opioids have little or no demonstrated efficacy for such pain and have
8 significant risk of addiction, overdose, and death.

9 495. The Distribution Enterprise is an ongoing and continuing business organization
10 consisting of “persons” within the meaning of 18 U.S.C. § 1961(3) that created and maintained
11 systematic links for a common purpose: to distribute highly addictive opioids in quantities that
12 far exceeded amounts that could reasonably be considered medically necessary.

13 496. To accomplish these purposes, the Promotion Enterprise engaged in a
14 sophisticated, well-developed, and fraudulent marketing scheme designed to increase the
15 prescription rate for Defendants’ opioid medications (the “Promotion Scheme”), and the
16 Diversion Enterprise carried out a scheme to systematically disregard, avoid, or frustrate the
17 monitoring and reporting requirements intended to prevent the widespread distribution of
18 dangerous controlled substances (the “Diversion Scheme”). The Promotion Scheme and the
19 Diversion Scheme are collectively referred to as the “Schemes.”

20 **B. The Enterprises Sought to Fraudulently Increase Defendants’ Profits and Revenues**

21 497. At all relevant times, each Defendant was aware of the conduct of the Enterprises,
22 was a knowing and willing participant in that conduct, and reaped profits from that conduct in
23 the form of increased sales and distribution of prescription opioids. In addition, the Front Groups
24 and KOLs received direct payments from the Manufacturing Defendants in exchange for their
25 role in the Promotion Enterprise, and to advance the Promotion Enterprise’s fraudulent
26 marketing scheme.

1 498. The Enterprises engaged in, and their activities affected, interstate and foreign
2 commerce because they involved commercial activities across state boundaries, including but not
3 limited to: (1) the marketing, promotion, and distribution of prescription opioids; (2) advocacy at
4 the state and federal level for change in the law governing the use and prescription of
5 prescription opioids; (3) the issuance of prescriptions and prescription guidelines for opioids; (4)
6 the issuance of fees, bills, and statements demanding payment for prescriptions of opioids; (5)
7 payments, rebates, and chargebacks between Defendants; and (6) the creation of documents,
8 reports, and communications related to Defendants' reporting requirements under the CSA and
9 its implementing regulations.

10 499. The persons engaged in the Enterprises are systematically linked through
11 contractual relationships, financial ties, and continuing coordination of activities, as spearheaded
12 by Defendants. With respect to the Promotion Enterprise, each Manufacturing Defendant funded
13 and directed the operations of the KOLs and the Front Groups; in fact, the board of directors of
14 each of the Front Groups are and were full of doctors who were on the Manufacturing
15 Defendants' payrolls, either as consultants or speakers at medical events. Moreover, each
16 Manufacturing Defendant coordinated and, at times, co-funded their activities in furtherance of
17 the goals of the Enterprise. This coordination can also be inferred through the consistent
18 misrepresentations described below. With respect to the Diversion Enterprise, Defendants were
19 financially linked through a system of payments, rebates, and chargebacks.

20 500. In the Promotion Enterprise, there is regular communication between each
21 Manufacturing Defendant, each of the Front Groups, and each KOL in which information
22 regarding the Defendants' scheme to increase opioid prescriptions is shared. Typically, this
23 communication occurred, and continues to occur, through the use of the wires and the mail in
24 which Manufacturing Defendants, the Front Groups, and the KOL share information regarding
25 the operation of the Promotion Enterprise.

26 501. In the Diversion Enterprise, there is regular communication between each

1 Defendant in which information regarding the Defendants' scheme to oversupply opioids and
2 avoid restrictive regulations or quotas is shared. Typically, this communication occurred, and
3 continues to occur, through the use of the wires and the mail in which Defendants share
4 information regarding the operation of the Diversion Enterprise.

5 502. The Enterprises functioned as continuing units for the purposes of executing the
6 Schemes, and when issues arose during the Schemes, each member of the Enterprises agreed to
7 take actions to hide the Schemes and the existence of the Enterprises.

8 503. Each Defendant participated in the operation and management of the Enterprises
9 by directing its affairs as described herein.

10 504. While Defendants participate in, and are members of, the Enterprises, they have
11 an existence separate from the Enterprises, including distinct legal statuses, affairs, offices and
12 roles, officers, directors, employees, and individual personhood.

13 505. Each Manufacturing Defendant orchestrated the affairs of the Promotion
14 Enterprise and exerted substantial control over the Promotion Enterprise by, at least: (1) making
15 misleading statements about the purported benefits, efficacy, and risks of opioids to doctors,
16 patients, the public, and others, in the form of telephonic and electronic communications, CME
17 programs, medical journals, advertisements, and websites; (2) employing sales representatives to
18 promote the use of opioid medications; (3) purchasing and utilizing sophisticated marketing data
19 (e.g., IMS data) to coordinate and refine the Promotion Scheme; (4) employing doctors to serve
20 as speakers at or attend all-expense paid trips to programs emphasizing the benefits of
21 prescribing opioid medications; (5) funding, controlling, and operating the Front Groups,
22 including the American Pain Foundation and the Pain & Policy Studies Group; (6) sponsoring
23 CME programs that claimed that opioid therapy has been shown to reduce pain and depressive
24 symptoms; (7) supporting and sponsoring guidelines indicating that opioid medications are
25 effective and can restore patients' quality of life; (8) retaining KOLs to promote the use of
26 opioids; and (9) concealing the true nature of their relationships with the other members of the

1 Promotion Scheme, and the Promotion Enterprise, including the Front Groups and the KOLs.

2 506. The Front Groups orchestrated the affairs of the Promotion Enterprise and exerted
3 substantial control over the Promotion Enterprise by, at least: (1) making misleading statements
4 about the purported benefits, efficacy, and low risks of opioids described herein; (2) holding
5 themselves out as independent advocacy groups, when in fact their operating budgets are entirely
6 comprised of contributions from opioid drug manufacturers; (3) publishing treatment guidelines
7 that advised the prescription of opioids; (4) sponsoring medical education programs that touted
8 the benefits of opioids to treat chronic pain while minimizing and trivializing their risks; and (5)
9 concealing the true nature of their relationship with the other members of the Promotion
10 Enterprise.

11 507. The KOLs orchestrated the affairs of the Promotion Enterprise and exerted
12 substantial control over the Promotion Enterprise by, at least: (1) making misleading statements
13 about the purported benefits, efficacy, and low risks of opioids; (2) holding themselves out as
14 independent, when in fact they are systematically linked to and funded by opioid drug
15 manufacturers; and (3) concealing the true nature of their relationship with the other members of
16 the Promotion Enterprise.

17 508. Without the willing participation of each member of the Promotion Enterprise, the
18 Promotion Scheme and the Promotion Enterprise's common course of conduct would not have
19 been successful.

20 509. Each Distributor Defendant orchestrated the affairs of the Diversion Enterprise
21 and exerted substantial control over the Diversion Enterprise by, at least: (1) refusing or failing
22 to identify, investigate, or report suspicious orders of opioids to the DEA; (2) providing the
23 Manufacturing Defendants with data regarding their prescription opioid sales, including purchase
24 orders and ship notices; (3) accepting payments from the Manufacturing Defendants in the form
25 of rebates and/or chargebacks; (4) filling suspicious orders for prescription opioids despite
26 having identified them as suspicious and knowing opioids were being diverted into the illicit

1 drug market; (5) working with other members of the Enterprise through groups like the
2 Healthcare Distribution Alliance to ensure the free flow of opioids, including by supporting
3 limits on the DEA's ability to use immediate suspension orders; and (6) concealing the true
4 nature of their relationships with the other members of the Diversion Enterprise.

5 510. Each Manufacturing Defendant orchestrated the affairs of the Diversion
6 Enterprise and exerted substantial control over the Diversion Enterprise by, at least: (1) refusing
7 or failing to identify, investigate, or report suspicious orders of opioids to the DEA; (2) obtaining
8 from the Distributor Defendants data regarding their prescription opioid sales, including
9 purchase orders and ship notices; (3) providing payments to the Distributor Defendants in the
10 form of rebates and/or chargebacks; (4) working with other members of the Diversion Enterprise
11 through groups like the Healthcare Distribution Alliance to ensure the free flow of opioids,
12 including by supporting limits on the DEA's ability to use immediate suspension orders; and (5)
13 concealing the true nature of their relationships with the other members of the Diversion
14 Enterprise.

15 511. Without the willing participation of each member of the Diversion Enterprise, the
16 Diversion Scheme and the Diversion Enterprise's common course of conduct would not have
17 been successful.

18 **C. Predicate Acts: Mail and Wire Fraud**

19 512. To carry out, or attempt to carry out, the Schemes, the members of the
20 Enterprises, each of whom is a person associated-in-fact with the Enterprises, did knowingly
21 conduct or participate in, directly or indirectly, the affairs of the Enterprises through a pattern of
22 racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c), and
23 employed the use of the mail and wire facilities, in violation of 18 U.S.C. § 1341 (mail fraud)
24 and § 1343 (wire fraud).

25 513. Specifically, the members of the Enterprises have committed, conspired to
26 commit, and/or aided and abetted in the commission of, at least two predicate acts of

1 racketeering activity (i.e., violations of 18 U.S.C. §§ 1341 and 1343), within the past ten years.

2 514. The multiple acts of racketeering activity which the members of the Enterprises
3 committed, or aided or abetted in the commission of, were related to each other, posed a threat of
4 continued racketeering activity, and therefore constitute a “pattern of racketeering activity.”

5 515. The racketeering activity was made possible by the Enterprises’ regular use of the
6 facilities, services, distribution channels, and employees of the Enterprises.

7 516. The members of the Enterprises participated in the Schemes by using mail,
8 telephone, and the internet to transmit mailings and wires in interstate or foreign commerce.

9 517. The members of the Enterprises used, directed the use of, and/or caused to be
10 used, thousands of interstate mail and wire communications in service of their Schemes through
11 common misrepresentations, concealments, and material omissions.

12 518. In devising and executing the illegal Schemes, the members of the Enterprises
13 devised and knowingly carried out a material scheme and/or artifice to defraud Plaintiff and the
14 public to obtain money by means of materially false or fraudulent pretenses, representations,
15 promises, or omissions of material facts.

16 519. For the purpose of executing the illegal Schemes, the members of the Enterprises
17 committed these racketeering acts, which number in the thousands, intentionally and knowingly
18 with the specific intent to advance the illegal Schemes.

19 520. The Enterprises’ predicate acts of racketeering (18 U.S.C. § 1961(1)) include, but
20 are not limited to:

21 A. Mail Fraud: The members of the Enterprises violated 18 U.S.C. § 1341 by
22 sending or receiving, or by causing to be sent and/or received, fraudulent materials
23 via U.S. mail or commercial interstate carriers for the purpose of selling and
distributing excessive quantities of highly addictive opioids.

24 B. Wire Fraud: The members of the Enterprises violated 18 U.S.C. § 1343 by
25 transmitting and/or receiving, or by causing to be transmitted and/or received,
26 fraudulent materials by wire for the purpose of selling and distributing excessive
quantities of highly addictive opioids.

1 521. The Manufacturing Defendants falsely and misleadingly used the mails and wires
2 in violation of 18 U.S.C. § 1341 and § 1343. Illustrative and non-exhaustive examples include
3 the following: Defendant Purdue’s (1) May 31, 1996 press release announcing the release of
4 OxyContin and indicating that the fear of OxyContin’s addictive properties was exaggerated; (2)
5 1990 promotional video in which Dr. Portenoy, a paid Purdue KOL, understated the risk of
6 opioid addiction; (3) 1998 promotional video which misleadingly cited a 1980 NEJM letter in
7 support of the use of opioids to treat chronic pain; (4) statements made on its 2000 “Partners
8 Against Pain” website which claimed that the addiction risk of OxyContin was very low; (5)
9 literature distributed to physicians which misleadingly cited a 1980 NEJM letter in support of the
10 use of opioids to treat chronic pain; (6) August 2001 statements to Congress by Purdue
11 Executive Vice President and Chief Operating Officer Michael Friedman regarding the value of
12 OxyContin in treating chronic pain; (7) patient brochure entitled “A Guide to Your New Pain
13 Medicine and How to Become a Partner Against Pain” indicating that OxyContin is non-
14 addicting; (8) 2001 statement by Senior Medical Director for Purdue, Dr. David Haddox,
15 indicating that the ‘legitimate’ use of OxyContin would not result in addiction; (9) multiple sales
16 representatives’ communications regarding the low risk of addiction associated with opioids;
17 (10) statements included in promotional materials for opioids distributed to doctors via the mail
18 and wires; (11) statements in a 2003 Patient Information Guide distributed by Purdue indicating
19 that addiction to opioid analgesics in properly managed patients with pain has been reported to
20 be rare; (12) telephonic and electronic communications to doctors and patients indicating that
21 signs of addiction in the case of opioid use are likely only the signs of under-treated pain; (13)
22 statements in Purdue’s Risk Evaluation and Mitigation Strategy for OxyContin indicating that
23 drug-seeking behavior on the part of opioid patients may, in fact, be pain-relief seeking behavior;
24 (14) statements made on Purdue’s website and in a 2010 “Dear Healthcare Professional” letter
25 indicating that opioid dependence can be addressed by dosing methods such as tapering; (15)
26 statements included in a 1996 sales strategy memo indicating that there is no ceiling dose for

1 opioids for chronic pain; (16) statements on its website that abuse-resistant products can prevent
2 opioid addiction; (17) statements made in a 2012 series of advertisements for OxyContin
3 indicating that long-term opioid use improves patients' function and quality of life; (18)
4 statements made in advertising and a 2007 book indicating that pain relief from opioids improve
5 patients' function and quality of life; (19) telephonic and electronic communications by its sales
6 representatives indicating that opioids will improve patients' function; and (20) electronic and
7 telephonic communications concealing its relationship with the other members of the
8 Enterprises.

9 522. Defendant Endo Pharmaceuticals, Inc. also made false or misleading claims in
10 violation of 18 U.S.C. § 1341 and § 1343 including but not limited to: (1) statements made,
11 beginning in at least 2009, on an Endo-sponsored website, PainKnowledge.com, indicating that
12 patients who take opioids as prescribed usually do not become addicted; (2) statements made on
13 another Endo-sponsored website, PainAction.com, indicating that most chronic pain patients do
14 not become addicted to opioid medications; (3) statements in pamphlets and publications
15 described by Endo indicating that most people who take opioids for pain relief do not develop an
16 addiction; (4) statements made on the Endo-run website, Opana.com, indicating that opioid use
17 does not result in addiction; (5) statements made on the Endo-run website, Opana.com,
18 indicating that opioid dependence can be addressed by dosing methods such as tapering; (6)
19 statements made on its website, PainKnowledge.com, that opioid dosages could be increased
20 indefinitely; (7) statements made in a publication entitled "Understanding Your Pain: Taking
21 Oral Opioid Analgesics" suggesting that opioid doses can be increased indefinitely; (8)
22 electronic and telephonic communications to its sales representatives indicating that the formula
23 for its medicines is 'crush resistant;' (9) statements made in advertisements and a 2007 book
24 indicating that pain relief from opioids improves patients' function and quality of life; (10)
25 telephonic and electronic communications by its sales representatives indicating that opioids will
26 improve patients' function; and (11) telephonic and electronic communications concealing its

1 relationship with the other members of the Enterprises.

2 523. Defendant Janssen made false or misleading claims in violation of 18 U.S.C. §
3 1341 and § 1343 including but not limited to: (1) statements on its website,
4 PrescribeResponsibly.com, indicating that concerns about opioid addiction are overestimated; (2)
5 statements in a 2009 patient education guide claiming that opioids are rarely addictive when used
6 properly; (3) statements included on a 2009 Janssen-sponsored website promoting the concept of
7 opioid pseudoaddiction; (4) statements on its website, PrescribeResponsibly.com, advocating the
8 concept of opioid pseudoaddiction; (5) statements on its website, PrescribeResponsibly.com,
9 indicating that opioid addiction can be managed; (6) statements in its 2009 patient education
10 guide indicating the risks associated with limiting the dosages of pain medicines; (7) telephonic
11 and electronic communications by its sales representatives indicating that opioids will improve
12 patients' function; and (8) telephonic and electronic communications concealing its relationship
13 with the other members of the Enterprises.

14 524. The American Academic of Pain Medicine made false or misleading claims in
15 violation of 18 U.S.C. § 1341 and § 1343 including but not limited to: (1) statements made in a
16 2009 patient education video entitled "Finding Relief: Pain Management for Older Adults"
17 indicating the opioids are rarely addictive; and (2) telephonic and electronic communications
18 concealing its relationship with the other members of the Promotion Enterprise.

19 525. The American Pain Society Quality of Care Committee made a number of false or
20 misleading claims in violation of 18 U.S.C. § 1341 and § 1343 including but not limited to: (1) a
21 May 31, 1996 press release in which the organization claimed there is very little risk of addiction
22 from the proper use of drugs for pain relief; and (2) telephonic and electronic communications
23 concealing its relationship with the other members of the Promotion Enterprise.

24 526. The American Pain Foundation ("APF") made a number of false and misleading
25 claims in violation of 18 U.S.C. § 1341 and § 1343 including but not limited to: (1) statements
26 made by an APF Executive Director to Congress indicating that opioids only rarely lead to

1 addiction; (2) statements made in a 2002 amicus curiae brief filed with an Ohio appeals court
2 claiming that the risk of abuse does not justify restricting opioid prescriptions for the treatment
3 of chronic pain; (3) statements made in a 2007 publication entitled “Treatment Options: A Guide
4 for People Living with Pain” indicating that the risks of addiction associated with opioid
5 prescriptions have been overstated; (4) statements made in a 2002 court filing indicating that
6 opioid users are not “actual addicts”; (5) statements made in a 2007 publication entitled
7 “Treatment Options: A Guide for People Living with Pain” indicating that even physical
8 dependence on opioids does not constitute addiction; (6) claims on its website that there is no
9 ceiling dose for opioids for chronic pain; (7) statements included in a 2011 guide indicating that
10 opioids can improve daily function; and (8) telephonic and electronic communications
11 concealing its relationship with the other members of the Promotion Enterprise.

12 527. The KOLs, including Drs. Russell Portenoy, Perry Fine, Scott Fishman, and Lynn
13 Webster, made a number of misleading statements in the mail and wires in violation of 18 U.S.C.
14 § 1341 and § 1343, described above, including statements made by Dr. Portenoy in a
15 promotional video indicating that the likelihood of addiction to opioid medications is extremely
16 low. Indeed, Dr. Portenoy has since admitted that his statements about the safety and efficacy of
17 opioids were false.

18 528. The Manufacturing Defendants and Distributor Defendants falsely and
19 misleadingly used the mails and wires in violation of 18 U.S.C. § 1341 and § 1343. Illustrative
20 and non-exhaustive examples include the following: (1) the transmission of documents and
21 communications regarding the sale, shipment, and delivery of excessive quantities of
22 prescription opioids, including invoices and shipping records; (2) the transmission of documents
23 and communications regarding their requests for higher aggregate production quotas, individual
24 manufacturing quotas, and procurement quotas; (3) the transmission of reports to the DEA that
25 did not disclose suspicious orders as required by law; (4) the transmission of documents and
26 communications regarding payments, rebates, and chargebacks; (5) the transmission of the actual

1 payments, rebates, and chargebacks themselves; (6) correspondence between Defendants and
2 their representatives in front groups and trade organizations regarding efforts to curtail
3 restrictions on opioids and hobble DEA enforcement actions; (7) the submission of false and
4 misleading certifications required annually under various agreements between Defendants and
5 federal regulators; and (8) the shipment of vast quantities of highly addictive opioids. Defendants
6 also communicated by U.S. mail, by interstate facsimile, and by interstate electronic mail and
7 with various other affiliates, regional offices, regulators, distributors, and other third-party
8 entities in furtherance of the scheme.

9 529. In addition, the Distributor Defendants misrepresented their compliance with laws
10 requiring them to identify, investigate, and report suspicious orders of prescription opioids and/or
11 diversion into the illicit market. At the same time, the Distributor Defendants misrepresented the
12 effectiveness of their monitoring programs, their ability to detect suspicious orders, their
13 commitment to preventing diversion of prescription opioids, and their compliance with
14 regulations regarding the identification and reporting of suspicious orders of prescription opioids.

15 530. The mail and wire transmissions described herein were made in furtherance of
16 Defendants' Schemes and common course of conduct designed to sell drugs that have little or no
17 demonstrated efficacy for the pain they are purported to treat in the majority of persons
18 prescribed them; increase the prescription rate for opioid medications; and popularize the
19 misunderstanding that the risk of addiction to prescription opioids is low when used to treat
20 chronic pain, and to deceive regulators and the public regarding Defendants' compliance with
21 their obligations to identify and report suspicious orders of prescription opioids, while
22 Defendants intentionally enabled millions of prescription opioids to be deposited into
23 communities across the United States, including in Pierce County. Defendants' scheme and
24 common course of conduct was intended to increase or maintain high quotas for the manufacture
25 and distribution of prescription opioids and their corresponding high profits for all Defendants.

26 531. Many of the precise dates of the fraudulent uses of the U.S. mail and interstate

1 wire facilities have been deliberately hidden, and cannot be alleged without access to
2 Defendants' books and records. However, Plaintiff has described the types of predicate acts of
3 mail and/or wire fraud, including certain specific fraudulent statements and specific dates upon
4 which, through the mail and wires, Defendants engaged in fraudulent activity in furtherance of
5 the Schemes.

6 532. The members of the Enterprises have not undertaken the practices described
7 herein in isolation, but as part of a common scheme and conspiracy. In violation of 18 U.S.C. §
8 1962(d), the members of the Enterprises conspired to violate 18 U.S.C. § 1962(c), as described
9 herein. Various other persons, firms, and corporations, including third-party entities and
10 individuals not named as defendants in this Complaint, have participated as co-conspirators with
11 Defendants and the members of the Enterprises in these offenses and have performed acts in
12 furtherance of the conspiracy to increase or maintain revenue, increase market share, and/or
13 minimize losses for the Defendants and their named and unnamed co-conspirators throughout the
14 illegal scheme and common course of conduct.

15 533. The members of the Enterprises aided and abetted others in the violations of the
16 above laws.

17 534. To achieve their common goals, the members of the Enterprises hid from Plaintiff
18 and the public: (1) the fraudulent nature of the Manufacturing Defendants' marketing scheme;
19 (2) the fraudulent nature of statements made by Defendants and on behalf of Defendants
20 regarding the efficacy of and risk of addiction associated with prescription opioids; (3) the
21 fraudulent nature of the Distributor Defendants' representations regarding their compliance with
22 requirements to maintain effective controls against diversion and report suspicious orders of
23 opioids; and (4) the true nature of the relationship between the members of the Enterprises.

24 535. Defendants and each member of the Enterprises, with knowledge and intent,
25 agreed to the overall objectives of the Schemes and participated in the common course of
26 conduct. Indeed, for the conspiracy to succeed, each of the members of the Enterprises and their

1 co-conspirators had to agree to conceal their fraudulent scheme.

2 536. The members of the Enterprises knew, and intended that, Plaintiff and the public
3 would rely on the material misrepresentations and omissions made by them and suffer damages
4 as a result.

5 537. As described herein, the members of the Enterprises engaged in a pattern of
6 related and continuous predicate acts for years. The predicate acts constituted a variety of
7 unlawful activities, each conducted with the common purpose of obtaining significant monies
8 and revenues from Plaintiff and the public based on their misrepresentations and omissions.

9 538. The predicate acts also had the same or similar results, participants, victims, and
10 methods of commission.

11 539. The predicate acts were related and not isolated events.

12 540. The true purposes of Defendants' Schemes were necessarily revealed to each
13 member of the Enterprises. Nevertheless, the members of the Enterprises continued to
14 disseminate misrepresentations regarding the nature of prescription opioids and the functioning
15 of the Schemes.

16 541. Defendants' fraudulent concealment was material to Plaintiff and the public. Had
17 the members of the Enterprises disclosed the true nature of prescription opioids and their
18 excessive distribution, Pierce County would not have acted as it did or incurred the substantial
19 costs in responding to the crisis caused by Defendants' conduct.

20 542. The pattern of racketeering activity described above is currently ongoing and
21 open-ended, and threatens to continue indefinitely unless this Court enjoins the racketeering
22 activity.

23 **D. Pierce County Has Been Damaged by Defendants' RICO Violations**

24 543. By reason of, and as a result of the conduct of the Enterprises and, in particular,
25 their patterns of racketeering activity, Pierce County has been injured in its business and/or
26 property in multiple ways, including but not limited to increased health care costs, increased

1 human services costs, costs related to dealing with opioid-related crimes and emergencies, and
2 other public safety costs, as fully described above.

3 544. Defendants' violations of 18 U.S.C. § 1962(c) and (d) have directly and
4 proximately caused injuries and damages to Pierce County, its community, and the public, and
5 the County is entitled to bring this action for three times its actual damages, as well as
6 injunctive/equitable relief, costs, and reasonable attorney's fees pursuant to 18 U.S.C. § 1964(c).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff Pierce County respectfully requests the Court order the
9 following relief:

10 A. An Order that the conduct alleged herein violates the Washington CPA;

11 B. An Order that Plaintiff is entitled to treble damages pursuant to the Washington
12 CPA;

13 C. An Order that the conduct alleged herein constitutes a public nuisance under
14 Washington law, including under RCW 7.48 *et seq.* and Pierce County Code, Chapter
15 8.08.040(A);

16 D. An Order that Defendants abate the public nuisance that they caused;

17 E. An Order that Defendants are liable for civil and statutory penalties to the fullest
18 extent permissible under Washington law for the public nuisance they caused;

19 F. An Order that Defendants are negligent under Washington law;

20 G. An Order that Defendants are grossly negligent under Washington law;

21 H. An Order that Defendants have been unjustly enriched at Plaintiff's expense
22 under Washington law;

23 I. An Order that Defendants' conduct constitutes violations of the Racketeer
24 Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §1961, *et seq.*;

25 J. An Order that Plaintiff is entitled to recover all measure of damages permissible
26 under the statutes identified herein and under common law;

- 1 K. An Order that Defendants are enjoined from the practices described herein;
- 2 L. An Order that judgment be entered against Defendants in favor of Plaintiff;
- 3 M. An Order that Plaintiff is entitled to attorneys' fees and costs pursuant to any
- 4 applicable provision of law, including but not limited to under the Washington CPA; and
- 5 N. An Order awarding any other and further relief deemed just and proper, including
- 6 pre-judgment and post-judgment interest on the above amounts.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all claims and of all issues so triable.

DATED this 25th day of May, 2018.

PIERCE COUNTY

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CERTIFICATE OF SERVICE

I certify that on May 25, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties of record.

s/Derek W. Loeser

Derek W. Loeser

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