UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OREGON

EASTERN DIVISION

IN RE NATIONAL PRESCRIPTION OPIATE LITIGATION,

This Document Relates to:

COUNTY OF CLACKAMAS, COUNTY OF LANE, COUNTY OF WASHINGTON, COUNTY OF CLATSOP, COUNTY OF JACKSON, COUNTY OF JOSEPHINE, COUNTY OF YAMHILL,

Plaintiffs,

v.

PURDUE PHARMA, L.P., a Delaware limited partnership; PURDUE PHARMA, INC., a New York corporation; THE PURDUE FREDERICK COMPANY, INC., a Delaware corporation; TEVA PHARMACEUTICALS USA, INC., a Delaware corporation; CEPHALON, INC., a Delaware corporation; JOHNSON & JOHNSON, a New Jersey corporation; JANSSEN PHARMACEUTICALS, INC., a Pennsylvania corporation; ENDO HEALTH SOLUTIONS, INC., a Delaware corporation; ENDO PHARMACEUTICALS, INC., a Delaware corporation; WATSON LABORATORIES, INC., a Nevada corporation; ALLERGAN FINANCE, LLC, a Nevada limited liability company; ACTAVIS LLC, a Delaware limited liability corporation; ACTAVIS PHARMA, INC., a Delaware corporation; MALLINCKRODT LLC, a Delaware limited liability company; INSYS THERAPEUTICS, INC., a Delaware corporation; MCKESSON CORPORATION dba MCKESSON DRUG COMPANY, a Delaware corporation; AMERISOURCEBERGEN DRUG

1:17-md-02804-DAP

MDL No. 2804

Judge Dan Aaron Polster

Civil Action No.: 3:18-cv-00520-MO

JURY TRIAL DEMANDED

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CORPORATION, a Delaware corporation; CARDINAL HEALTH, INC., a Delaware corporation, and JOHN AND JANE DOES 1 THROUGH 100, INCLUSIVE,

Defendants.

AMENDED COMPLAINT

NOW COME the Plaintiffs County of Clackamas, County of Lane, and County of Washington (collectively "Plaintiff Counties") through their undersigned counsel D'Amore Law Group to amend their Complaint as follows:

A.

Plaintiffs amend their Complaint to add the Counties of Clatsop, Jackson, Josephine and Yamhill. Counties of Clatsop, Jackson, Josephine and Yamhill assert all factual allegations, cases of action, and prayers for relief against the Defendants that were previously alleged by the Counties of Clackamas, Lane and Washington and by all Plaintiffs collectively.

Plaintiff Counties incorporate all previously filed allegations, causes of action, and prayers for relief set forth in their original Complaint so that Plaintiff Counties' Complaint in its entirety is as follows:

INTRODUCTION

1. Defendants herein are opioid drug companies and/or distributors entrusted with the wellbeing of this nation's most vulnerable citizens. In a ruthless quest for more profits, they cast their duties aside and waged a campaign of falsehoods for the express purpose of addicting chronic-pain patients to their drugs. Their boundless greed has wrought a crisis that has turned wounded heroes into addicts, imperiled the lives of first-responders, made wives widows and parents childless, and strained the limited financial resources of local governments, including Plaintiff Counties.

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2. At all times, Opioid-Maker Defendants (as defined below) knew that prescribing doctors and other healthcare providers rely on drug companies' statements in making treatment decisions. Because of this knowledge, Opioid-Maker Defendants must tell the truth when marketing their drugs and ensure that their marketing claims are supported by science and medical evidence. Opioid-Maker Defendants broke these rules and helped create and fuel a healthcare crisis that has had far-reaching financial, social, and deadly consequences in Plaintiff Counties.

JURISDICTION AND VENUE

3. The Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) since the amount in controversy exceeds $75,000, exclusive of interest and costs, and is between citizens of different states.

4. The Court has personal jurisdiction over all Defendants because all Defendants have substantial contacts and business relationships with the State of Oregon.

5. Venue is proper in this Court because a substantial part of the events or omissions giving rise to the claims alleged herein occurred in the County of Clatsop, County of Jackson, County of Yamhill, County of Josephine, County of Clackamas, County of Lane, and County of Washington, which are located within the District of Oregon, 28 U.S.C. § 1391(b)(2), and all Defendants are subject to this Court's exercise of personal jurisdiction, 28 U.S.C. § 1391(c)(2).

THE PARTIES

6. Plaintiff Counties are existing county governments duly formed under the laws of the State of Oregon and bodies politic and corporate. Plaintiff Counties' Boards of Commissioners are duly elected to exercise the powers of Plaintiff Counties and have approved the filing of this lawsuit.

7. Defendant Purdue Pharma, L.P. is a Delaware limited partnership. Defendant Purdue Pharma Inc. is a New York corporation. Defendant The Purdue Frederick Company, Inc. is a Delaware corporation. Each of these defendants' principal place of business is in Stamford, Connecticut.

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8. Defendants Purdue Pharma L.P., Purdue Pharma Inc., and The Purdue Frederick Company, Inc. (collectively "Purdue") manufacture, promote, sell, and distribute opioids nationally and in the Plaintiff Counties, including OxyContin, MS Contin, Dilaudid/Dilaudid HP, Butrans, Hysingla ER, and Targiniq ER.

9. Defendant Teva Pharmaceuticals USA, Inc. ("Teva USA") is a Delaware corporation with its principal place of business in North Whales, Pennsylvania. Defendant Cephalon, Inc. is a Delaware corporation with its principal place of business in Frazer, Pennsylvania.

10. Defendants Teva USA, and Cephalon, Inc. (collectively "Cephalon") work together closely to market and sell Cephalon, Inc. products in the United States. Teva USA conducts all sales and marketing activities for Cephalon, Inc. in the United States. Teva USA sells all former Cephalon, Inc.-branded products through its "specialty medicines" division. The FDA-approved prescribing information and medication guide, which is distributed with Cephalon, Inc. opioids and marketed and sold in Oregon, discloses that Teva USA submitted the guide and directs physicians to contact Teva USA to report adverse events.

11. From 2005 to 2009, Teva USA sold a generic form of OxyContin nationally including in Plaintiff Counties. Cephalon manufactures, promotes, distributes and sells both brand name and generic versions of opioids, including Actiq and Fentora, nationally, including in Plaintiff Counties.

12. Defendant Johnson & Johnson is a New Jersey corporation with its principal place of business in New Brunswick, New Jersey. Defendant Janssen Pharmaceuticals, Inc. (formerly known as Ortho-McNeil-Janssen Pharmaceuticals, Inc., which was formerly known as Janssen Pharmaceutica, Inc., a wholly-owned subsidiary of Johnson & Johnson) is a Pennsylvania corporation with its principal place of business in Titusville, New Jersey.

13. Defendant Johnson & Johnson is the only company that owns more than 10% of Defendant Janssen Pharmaceuticals, Inc.'s stock, and it corresponds with the Food and Drug Administration ("FDA") regarding that corporation's products. Upon information and belief,

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Defendant Johnson & Johnson controls the sale and development of Janssen Pharmaceuticals, Inc.'s drugs, and that corporation's profits inure to Defendant Johnson & Johnson's benefit.

14. Defendant Johnson & Johnson, Defendant Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively "Janssen") are or have been engaged in the manufacture, promotion, distribution, and sale of opioids, including Duragesic, Nucynta, and Nucynta ER, nationally, including in Plaintiff Counties.

15. Defendant Endo Pharmaceuticals, Inc. is a wholly-owned subsidiary of Defendant Endo Health Solutions, Inc. Both are Delaware corporations with their principal place of business in Malvern, Pennsylvania.

16. Defendant Endo Health Solutions, Inc. and Defendant Endo Pharmaceuticals, Inc. (collectively "Endo") manufacture, promote, distribute and sell opioids, including Opana ER, Opana, Percodan, and Percocet, nationally, including in Plaintiff Counties. Endo also manufactures and sells generic opioids such as oxycodone, oxymorphone, hydromorphone, and hydrocodone products in the United States and Oregon.

17. Defendant Watson Laboratories, Inc. is a Nevada corporation with its principal place of business in Corona, California. Defendant Allergan Finance, LLC, is a Nevada limited liability company. Defendant Actavis Pharma, Inc. is a Delaware corporation with its principal place of business in New Jersey. Defendant Actavis LLC is a Delaware limited liability corporation with its principal place of business in Parsippany, New Jersey. Defendant Watson Pharma, Inc. is a Delaware corporation.

18. Defendants Allergan Finance, LLC, Actavis LLC, Actavis Pharma, Inc., Watson Pharma, Inc., and Watson Laboratories, Inc. (collectively "Actavis") manufacture, promote, sell, and distribute opioids, including the branded drugs Kadian and Norco, a generic version of Kadian, and generic versions of Duragesic and Opana, in the United States and Oregon.

19. Defendant Mallinckrodt LLC ("Mallinckrodt") is a Delaware limited liability company. In Oregon and nationally, Mallinckrodt is engaged in the manufacture, promotion, and

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distribution of Roxicodone and Oxycodone, among other drugs. Mallinckrodt is also one of the largest generic manufacturers of Oxycodone.

20. Defendant INSYS Therapeutics, Inc. ("INSYS") is a Delaware corporation with its principal place of business in Phoenix, Arizona. INSYS is engaged in the manufacture, promotion, and distribution of Subsys, among other drugs.

21. Purdue, Cephalon, Janssen, Endo, Actavis, Mallinckrodt, and INSYS are collectively referred to herein as "Opioid-Maker Defendants" because they engaged in the development, manufacture, promotion, sale, and distribution of opioids. Each and all of them transact business in Oregon, targeting the Oregon market for their products, including the opioids at issue in this lawsuit. Each and all of them direct advertising and informational materials as well as marketing and sales tactics to impact Oregon physicians and potential users of their opioid products. Each and all of them have sustained business activity in Plaintiff Counties.

22. Defendant McKesson Corporation ("McKesson") is a Delaware corporation with its principal place of business in San Francisco, California. McKesson is the largest pharmaceutical distributor in North America. It does substantial business in Oregon and distributes pharmaceuticals in Plaintiff Counties. It has a distribution facility in Clackamas County.

23. Defendant AmerisourceBergen Drug Corporation ("AmerisourceBergen") is a Delaware corporation with its principal place of business in Chesterbrook, Pennsylvania. AmerisourceBergen is the second largest pharmaceutical distributor in North America. It does substantial business in Oregon and distributes pharmaceuticals in Plaintiff Counties.

24. Defendant Cardinal Health, Inc. ("Cardinal") is an Ohio corporation, with its principal place of business in Dublin, Ohio. Cardinal is the third largest pharmaceutical distributor in North America. It does substantial business in Oregon and distributes pharmaceuticals in Plaintiff Counties.

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25. McKesson, AmerisourceBergen, and Cardinal are collectively referred to herein as "Opioid-Distributor Defendants" because they engaged in the wholesale and retail distribution of opioids in Plaintiff Counties.

26. The true names, roles, and/or capacities in the wrongdoing alleged herein of Defendants named John and Jane Does 1 through 100, inclusive, are currently unknown to Plaintiff Counties and thus, are named as Defendants under fictitious names as permitted by the rules of this Court. Plaintiff Counties will amend this complaint and identify their true identities and their involvement at issue, as well as the specific causes of action asserted against them, if and when they become known.

BACKGROUND

27. Prescription opioids are powerful narcotic painkillers that historically were considered too addictive and debilitating for the treatment of chronic pain (like back pain, migraines, and arthritis). For that reason, doctors only used them to treat short-term acute pain and for palliative (end-of-life) care. Since the late 1990s, however, Opioid-Maker Defendants have used a marketing scheme designed to persuade doctors and patients that opioids can and should be used for chronic pain. Chronic pain patients are a far broader group of potential customers. Although Opioid-Maker Defendants knew chronic pain patients were much more likely to become addicted and suffer other adverse effects from the long-term use of opioids, they nevertheless recklessly went forward with their marketing scheme.

28. Opioid-Maker Defendants spent, and continue to spend, millions of dollars on promotional activities and materials that falsely deny or trivialize the risks of opioids and overstate the benefits of using them for chronic pain. Contrary to the language on their own drug labels, Opioid-Maker Defendants did the following:

a. Falsely and misleadingly downplayed the serious risk of addiction;

b. Promoted the concept of "pseudoaddiction" and thus advocated that the signs of addiction should be treated with more opioids;

c. Exaggerated the effectiveness of screening tools in preventing addiction;

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d. Claimed that opioid dependence and withdrawal are easily managed;

e. Denied the risks of higher opioid dosages; and

f. Exaggerated the effectiveness of "abuse-deterrent" opioid formulations to prevent abuse and addiction, while conversely touting the benefits of long-term opioid use, including the supposed ability of opioids to improve function and quality of life, even though there was no "good evidence" to support their claims.

29. Opioid-Maker Defendants enacted their false and misleading scheme to reverse the popular and medical understanding of opioids; they did this through the use of their sales representatives and in speaker groups led by physicians they recruited. They also borrowed a page from Big Tobacco's playbook and worked through third parties they controlled by (a) funding, assisting, encouraging, and directing doctors, known as "key opinion leaders" ("KOLs") and (b) funding, assisting, directing, and encouraging seemingly neutral and credible professional societies and patient advocacy groups (referred to hereinafter as "Front Groups"). Opioid-Maker Defendants then worked together with those KOLs and Front Groups to taint the sources that doctors and patients relied on for ostensibly "neutral" guidance, such as treatment guidelines, Continuing Medical Education ("CME") programs, medical conferences and seminars, and scientific articles. Thus, working individually and collectively, and through these Front Groups and KOLs, Opioid-Maker Defendants persuaded doctors and patients that what they had long known—that opioids are addictive drugs that are unsafe in most circumstances for long-term use—was untrue, and, quite the opposite, that the compassionate treatment of pain *required* opioids.

30. Each Opioid-Maker Defendant knew that its misrepresentations of the risks and benefits of opioids were not supported by or were directly contrary to the scientific evidence.

31. Indeed, the falsity of each Opioid-Maker Defendant's misrepresentations has been confirmed by the U.S. Food and Drug Administration ("FDA") and the Centers for Disease Control and Prevention ("CDC"), including by the CDC in its *Guideline for Prescribing Opioids*

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for Chronic Pain, issued in 2016 and approved by the FDA ("2016 CDC Guideline"). Opioid manufacturers, including Defendants Endo Pharmaceuticals, Inc. and Purdue Pharma L.P., have also entered into settlement agreements with public entities that prohibit them from making many of the misrepresentations identified in this Complaint in other jurisdictions. Yet, even now, each Opioid-Maker Defendant continues to misrepresent the risks and benefits of long-term opioid use in Plaintiff Counties and continues to fail to correct its past misrepresentations.

32. Opioid-Maker Defendants' false and misleading marketing scheme has been wildly successful. Opioids are now the most prescribed class of drugs, and they generated $11 billion in revenue for drug companies in 2014 alone. Since 1999, the amount of prescription opioids sold in the United States nearly quadrupled. While Americans represent only 4.6% of the world's population, they consume 80% of the opioids suppled around the word and 99% of the global hydrocodone supply. By 2014, nearly two million Americans either abused or were dependent on opioids. Defendants' business model is based on creating addicts.

33. Plaintiff Counties provide funds for services, offered directly and indirectly through community partners, to help people affected by the opioid epidemic Defendants created. Those services include opioid addiction treatment and rehabilitation, primary health clinics, transitional housing, homeless services, mental health counseling, distribution of Naloxone and training for its use, medication-assisted treatment, and outreach and education.

34. Plaintiff Counties spend millions of dollars each year to provide or pay for the healthcare, pharmaceutical care, and other necessary services and programs on behalf of indigents and otherwise eligible residents, including payments for prescription opium-like painkillers ("opioids"), which are manufactured, marketed, promoted, sold, and/or distributed by the Defendants named herein.

35. Intravenous drug use caused by the opioid epidemic necessarily leads to the spread of HIV and Hepatitis C and further taxes the limited Plaintiff Counties' resources spent on those diseases.

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36. Plaintiff Counties run the adult and juvenile corrections facilities in their respective counties. In that role, Plaintiff Counties provide funding for the following services, among other things, that are directly related to the opioid crisis: booking and release, corrections facilities, corrections officers and staff, corrections-based drug treatment, corrections-based mental health counseling, and corrections-based healthcare.

37. A significant number of the people brought to Plaintiff Counties' jails have substance abuse problems. Many of them must be treated upon arrival for acute opioid withdrawals, infections that stem directly from opioid use, and other opioid-related ailments. Plaintiff Counties also run community corrections programs to supervise probationers and parolees that have committed opioid-related crimes as well as former criminals suffering from opioid addiction.

38. Plaintiff Counties provide public safety services and emergency medical services that respond to opioid-related criminal and medical emergencies. Plaintiff Counties also provide a wide range of other services to people in need, all of which have been taxed in the fight against the opioid epidemic. Additionally, opioid addiction makes helping people in need more difficult and costly.

39. As a direct and foreseeable consequence of the Defendants' wrongful conduct, as detailed herein, Plaintiff Counties have been required to spend millions of dollars each year in their efforts to combat the public nuisance created by Defendants. Plaintiff Counties incurred and continues to incur costs related to opioid addiction and abuse, including but not limited to healthcare costs, criminal justice and victimization costs, social costs, and lost productivity costs, as well as direct injuries to Plaintiff Counties' economies, which were proximately caused by Defendants' tortious acts and practices. Additionally, Defendants' misrepresentations regarding the safety and efficacy of long-term opioid use proximately caused injury to Plaintiff Counties and their residents. The tortious acts of all Defendants, detailed herein, have directly and proximately caused injury and damage to Plaintiff Counties and their residents.

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40. Through this action, Plaintiff Counties seek economic damages to repay them for the past costs associated with abating the opioid epidemic Defendants caused. Additionally, Defendants' tortious conduct is continuing. Plaintiff Counties' past damages have not occurred all at once and they increase as time progresses. Plaintiff Counties continue to be injured. Defendants have not ceased their wrongdoing. To effectively fight the opioid epidemic, Plaintiff Counties will need to spend significantly more money than they now do on treatment and prevention programs. Through this action, Plaintiff Counties also seek future economic damages to pay for the future costs of abating the opioid epidemic Defendants caused.

CIVIL CONSPIRACY

41. Defendants, and each of them, committed repeated tortious acts, in concert with each other or pursuant to a common design, and fraudulently concealed their misconduct. Each class of Defendants was an integral part of a scheme to create a vast population of addicts dependent on their product. This scheme could not work if one class of Defendants refused to participate. Opioids do not reach the public if drug companies do not manufacturer them, middlemen do not distribute them, pharmacies do not sell them, and doctors do not prescribe them. Inherent to this scheme's success is the imprimatur of legitimacy that comes along with doctors, pharmacists, and Fortune 500 companies saying that opioids are safe and non-addictive. Therefore, Defendants, and each of them, are jointly liable for the each other's tortious conduct and the resulting damages described herein.

OTHER JUDGMENTS, SETTLEMENTS, AND CRIMINAL CONVICTIONS FOR DEFENDANTS' DECEPTIVE MARKETING SCHEME

42. Defendant Purdue entered into a stipulated general judgment in 2007 with the State of Oregon and 25 other states for $19.5 million based principally on Purdue's direct promotion of OxyContin. Purdue and its top executives also agreed in 2007 to pay $634.5 million to end a United States Department of Justice case. In 2016, Purdue settled with the state of Kentucky for $24 million.

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43. Defendant The Purdue Frederick Company, Inc. pled guilty in 2007 to misbranding OxyContin with the intent to defraud or mislead, a felony under the federal Food, Drug, and Cosmetic Act. As part of its plea agreement, Purdue admitted that its supervisors and employees, with the intent to defraud or mislead, marketed and promoted OxyContin as less addictive, less subject to abuse and diversion, and less likely to cause tolerance and withdrawal than other pain medications. Additionally, three executive officers of Purdue (former President and CEO, Executive Vice President and Chief Legal Officer, and former Chief Science Officer) pled guilty to the misdemeanor charge of misbranding. Collectively, they paid a total of $34.5 million to avoid imprisonment.

44. Defendant Cephalon pled guilty in 2008 to criminally violating the Federal Food, Drug and Cosmetic Act for its misleading promotion of Actiq and two other drugs and agreed to pay $425 million. The government alleged that Cephalon engaged in a concerted plan to maximize revenue by the off-label marketing of Actiq, which is a drug that is more powerful than morphine, and per the FDA-approved label is indicated only for the management of breakthrough cancer pain; they unlawfully promoted the drug by training and compensating their sales staff to encourage off-label marketing; they co-opted the supposedly neutral continuing medical education process and bestowed favors on doctors in the form of "consulting" sessions at lavish resorts where they attended off-label sessions; they engaged in a highly organized and deliberate effort to maximize revenue despite legal restrictions, and the very top levels of the company knew and approved of these efforts for over six years.

45. In 2015, Defendant INSYS paid the Oregon Department of Justice $1.1 million to settle allegations of unlawful trade practices, which included:

a. Misrepresenting to patients and doctors that Subsys should be used to treat migraine, neck pain, back pain, and other off-label uses for which it is neither safe nor effective;

b. Making payments to doctors to incentivize the doctors to prescribe Subsys;

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c. Misrepresenting that the doctor INSYS paid to teach Oregon physicians about Subsys was qualified to prescribe and teach about the drug, when in fact, he was not qualified;

d. Misrepresenting that a paper written by a well-known doctor supported INSYS' definition of breakthrough pain, when in fact it did not; and

e. Employing an unconscionable tactic by arranging for free Subsys to be provided to patients, and paying patients' insurance co-payments for off-label uses of Subsys that INSYS knew, or should have known, were neither safe nor effective.

46. In late 2016, Defendant Cardinal agreed to pay a $44 million fine for failing to report suspicious orders of hydrocodone and failing to keep adequate records. In 2008, Cardinal paid a $34 million penalty to settle similar allegations at seven warehouses around the United States, and in 2012, the DEA suspended Cardinal's Lakeland, Florida warehouse for two years for shipping suspect orders of opioids.

47. In 2017, Defendant Mallinckrodt agreed to pay $35 million to settle claims brought by the U.S. Department of Justice that it violated the Controlled Substances Act when it failed to detect and notify the DEA of suspicious orders of controlled substances such as oxycodone and violated record keeping requirements at its manufacturing facility. Both of these violations impact accountability for controlled substances, and compliance is designed to protect against diversion of these substances at critical links in the controlled substance supply chain. Mallinckrodt had shipped more than 500 million of its oxycodone pills into Florida between 2008 and 2012 (66% of the total in the state), and many of those pills were diverted and sold into the black market.

48. In 2017, McKesson paid the U.S. Department of Justice $150 million to resolve allegations that it had violated the Controlled Substances Act by filling millions of orders for drugs, including highly addictive opioids, without sufficient anti-abuse safeguards. As part of the nationwide settlement, McKesson agreed to suspend sales of controlled substances from

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distribution centers in Colorado, Ohio, Michigan, and Florida for multiple years. Previously, in 2008, Defendant McKesson paid the U.S. Department of Justice $13.25 million for failing to comply with its obligations under the Controlled Substances Act. The government alleged McKesson failed to report suspicious orders for opioids from internet pharmacies.

FACTS

Opioid-Maker Defendants

49. In the 1990s, Opioid-Maker Defendants invented and then marketed the idea that it was safe to treat chronic pain with long-acting opioids and supplemental short-acting, rapid-onset opioids for episodic pain. There is no scientific evidence supporting the safety or efficacy of opioids for long-term use. Opioid-Maker Defendants were fully aware of the lack of such scientific evidence. While promoting opioids to treat chronic pain, Opioid-Maker Defendants failed to disclose the lack of evidence to support their long-term use and failed to disclose the substantial scientific evidence that chronic opioid therapy makes patients sicker.

50. Increasing the duration of opioid use is strongly associated with an increasing prevalence of mental health conditions, including depression, anxiety, post-traumatic stress disorder, or substance abuse; psychological distress; and greater healthcare utilization. While opioids may work in the short term for acute pain, when used on a long-term basis, function generally declines, as does general health, mental health, and social function. Over time, even high doses of potent opioids often fail to control pain, and patients exposed to such doses are unable to function normally.

51. Opioid-Maker Defendants knew about the medical problems associated with long-term use of opioids but chose not to change their marketing strategies and actively promoted the long-term use of opioids. They knew they would need to convince doctors and patients that long-term opioid therapy was safe and effective even though all the available scientific evidence showed that long-term opioid therapy was not safe. They also knew their goal of increasing profits by promoting the prescription of opioids for treatment of chronic pain would lead directly to increases in healthcare costs for patients, insurers, and payors, as well as

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increased costs to governmental entities like Plaintiff Counties who are obligated to provide services to promote public health and safety.

52. Opioid-Maker Defendants, collectively and individually, poured vast sums of money into marketing, advertising, generating articles and supposedly "educational" materials, sponsoring CMEs, conducting sales visits to individual doctors, and supporting a network of professional societies and advocacy groups. Defendants did all of this to create a new, yet false, consensus supporting the long-term use of opioids.

53. To convince doctors and patients that opioids were safe, Opioid-Maker Defendants deliberately trivialized and failed to disclose the risks of long-term opioid use, particularly the risk of addiction, through a series of misrepresentations that have since been conclusively debunked by the FDA and CDC. Those misrepresentations included that:

a. Starting patients on opioids was low-risk because most patients would not become addicted;

b. Patients who were at risk of addiction could be easily identified and managed;

c. Patients who displayed signs of addiction probably were not addicted and, in any event, could easily be weaned from the drugs;

d. The use of higher opioid doses, which many patients needed to sustain pain relief as they developed tolerance to the drugs, did not pose special risks; and

e. Abuse-deterrent opioids both prevented abuse and overdose and were inherently less addictive.

54. Defendants have not only failed to correct these misrepresentations, they continue to make them today.

55. Opioid-Maker Defendants' scheme was funded, approved, and overseen by their corporate headquarters. They employed the same marketing plans and strategies and deployed the same messages in Oregon as they did nationwide. The nationwide plans and strategies included national and regional sales representative training; national training of local medical liaisons (the company employees who respond to physician inquiries); centralized speaker

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training; single sets of visual aids, speaker slide decks, and sales training materials; and nationally coordinated advertising. Opioid-Maker Defendants required their sales representatives and physician speakers to stick to prescribed talking points, sales messages, and slide decks, and supervisors rode along with them periodically to check on their performance and compliance.

56. As part of their marketing scheme, Opioid-Maker Defendants identified and targeted susceptible prescribers and vulnerable patient populations in the United States, including Oregon. For example, Opioid-Maker Defendants focused their untrue marketing representations on primary-care doctors, who were more likely to treat chronic-pain patients and prescribe them drugs, but who were less likely to be educated about treating pain or the risks and benefits of opioids and therefore, more likely to accept Opioid-Maker Defendants' misrepresentations.

57. The vulnerable patient populations Opioid-Maker Defendants targeted included the elderly and veterans, who tend to suffer from chronic pain. Opioid-Maker Defendants targeted these vulnerable patients even though the risks of long-term opioid use were significantly greater for them. For example, the 2016 CDC Guideline observes that existing evidence shows elderly patients taking opioids suffer from elevated fall and fracture risks, greater risk of hospitalization, and increased vulnerability to adverse drug effects and interactions. The same is true for veterans, who are more likely to use anti-anxiety drugs (benzodiazepines) for post-traumatic stress disorder, which interact dangerously with opioids.

58. Opioid-Maker Defendants' deliberate and dangerous marketing has caused and continues to cause the prescribing and use of opioids to explode. The dramatic increase in opioid prescriptions and use corresponds with the dramatic increase in Opioid-Maker Defendants' spending on their deceptive marketing scheme. Opioid-Maker Defendants' spending on opioid marketing totaled approximately $91 million in 2000. By 2011, their spending had tripled to $288 million. The escalating number of opioid prescriptions written by doctors who were deceived by Opioid-Maker Defendants' deceptive marketing scheme is the cause of a correspondingly dramatic increase in opioid addiction, overdose, and death throughout the United States and Oregon.

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59. Contrary to Opioid-Maker Defendants' misrepresentations, most opioid addiction begins with legitimately prescribed opioids, and therefore could have been prevented had Opioid-Maker Defendants' representations to prescribers been truthful. According to the United States Department of Health & Human Services, in 2011, 71% of people who abused prescription opioids got them through friends or relatives, not from pill mills, drug dealers, or the internet. Numerous doctors and substance abuse counselors have noted that many of their patients who misuse or abuse opioids started with legitimate prescriptions. These facts confirm the important role that doctors' prescribing habits have played in the opioid epidemic.

60. Opioid-Maker Defendants closely monitored their sales and the habits of prescribing doctors. Their sales representatives, who visited doctors and attended CMEs, knew which doctors were receiving their messages and how they were responding. Opioid-Maker Defendants also had access to and watched carefully government and other data that tracked the explosive rise in opioid use, addiction, injury, and death. They knew—and, indeed, intended—that their misrepresentations would persuade doctors to prescribe and patients to use their opioids for chronic pain. Therefore, Opioid-Maker Defendants' causal role is not broken by the involvement of doctors.

61. Opioid-Maker Defendants' actions are neither permitted nor excused by the fact that their drug labels (with the exception of the Actiq/Fentora labels) may have allowed or did not exclude the use of opioids for chronic pain. FDA approval of opioids for certain uses did not give Opioid-Maker Defendants license to misrepresent the risks and benefits of opioids.

62. Opioid-Maker Defendants used "unbranded" marketing to avoid oversight and detection. Drug companies' promotional activity can be "branded" or "unbranded." "Unbranded" promotional activity refers not to a specific drug, but more generally to a disease state or treatment. By using unbranded communications, drug companies can evade the extensive regulatory framework governing branded communications.

63. Opioid-Maker Defendants disseminated much of their false, misleading, imbalanced, and unsupported statements through unregulated unbranded marketing materials—

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materials that generally promoted opioid use but did not name a specific opioid while doing so. Through these unbranded materials, Opioid-Maker Defendants presented information and instructions concerning opioids generally that were false and misleading.

64. By acting through third-parties, Opioid-Maker Defendants gave the false appearance that their messages reflected the views of independent third parties. Later, Opioid-Maker Defendants would cite to these sources as "independent" corroboration of their own statements. Further, as one physician-adviser to Opioid-Maker Defendants has noted, third-party documents had not only greater credibility, but also broader distribution, as doctors did not "push back" at having materials, for example, from the non-profit American Pain Foundation ("APF") on display in their offices as they would with drug company pieces.

65. Opioid-Maker Defendants took an active role in guiding, reviewing, and approving many of the misleading statements issued by third-parties, ensuring that they were consistently in control of their content. By funding, directing, editing, and distributing these materials, Opioid-Maker Defendants exercised control over their deceptive messages and acted in concert with these third-parties fraudulently to promote the use of opioids for the treatment of chronic pain.

66. Opioid-Maker Defendants' deceptive unbranded marketing often contradicted what they said in their branded materials reviewed by the FDA. For example, Endo's unbranded advertising regarding opioid therapy for pain said that people who took opioids as prescribed did not usually become addicted. Conversely, its branded advertisement said that all patients treated with opioids required careful monitoring for signs of abuse and addiction because use of opioids carried the risk of addiction, even under appropriate medical use.

67. At all times relevant to this Complaint, Opioid-Maker Defendants took steps to avoid detection of and to fraudulently conceal their deceptive marketing and unlawful, unfair, and fraudulent conduct. For example, Opioid-Maker Defendants disguised their own role in the deceptive marketing of chronic opioid therapy by funding and working through third parties like Front Groups and KOLs. Opioid-Maker Defendants purposefully hid behind the assumed

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credibility of these individuals and organizations and relied on them to vouch for the accuracy and integrity of Opioid-Maker Defendants' false and deceptive statements about the risks and benefits of long-term opioid use for chronic pain.

68. Opioid-Maker Defendants also never disclosed their role in shaping, editing, and approving the content of information and materials disseminated by these third parties. Opioid-Maker Defendants exerted considerable influence on these promotional and "educational" materials in emails, correspondence, and meetings with KOLs, Front Groups, and public relations companies that were not, and have not yet, become public. For example, painknowledge.org, which is run by the NIPC, did not disclose Endo's involvement. Other Opioid-Maker Defendants, such as Purdue and Janssen, ran similar websites that masked their own direct role.

69. Opioid-Maker Defendants manipulated their promotional materials and the scientific literature to make it appear that these items were accurate, truthful, and supported by objective evidence when they were not. Opioid-Maker Defendants distorted the meaning or import of studies they cited and offered them as evidence for propositions the studies did not support. The lack of support for Opioid-Maker Defendants' deceptive messages was not apparent to medical professionals who relied upon them in making treatment decisions nor could it have been detected by Plaintiff Counties.

70. Opioid-Maker Defendants successfully concealed from the medical community, patients, and healthcare payors facts sufficient to arouse suspicion of the claims that Plaintiff Counties now assert. Plaintiff Counties did not know of the existence or scope of Opioid-Maker Defendants' industry-wide fraud and could not have acquired such knowledge earlier through the exercise of reasonable diligence.

71. Each Opioid-Maker Defendant promoted and continues to promote the use of opioids for chronic pain through "detailers"—sales representatives who visit individual doctors and medical staff in their offices. Opioid-Maker Defendants' detailers have been reprimanded for their deceptive promotions. A July 2010 "Dear Doctor" letter mandated by the FDA required

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Actavis to acknowledge to the doctors to whom it marketed its drugs that between June 2009 and February 2010, Actavis sales representatives distributed promotional materials that omitted and minimized serious risks associated with Kadian, including the risk of misuse, abuse, and diversion of opioids and, specifically, the risk that opioids have the potential for being abused and are sought by drug abusers and people with addiction disorders and are subject to criminal diversion.

72. Opioid-Maker Defendants cultivated a select circle of doctors (KOLs) who were chosen and sponsored by Opioid-Maker Defendants solely because they favored the aggressive treatment of chronic pain with opioids. Pro-opioid doctors have been at the center of Opioid-Maker Defendants' promotional efforts, presenting the appearance of unbiased and reliable medical research supporting the broad use of opioid therapy for chronic pain. These pro-opioid doctors have written, consulted on, edited, and lent their names to books and articles and given speeches and CMEs supportive of opioid therapy for chronic pain. They have served on committees that developed treatment guidelines that strongly encouraged the use of opioids to treat chronic pain and on the boards of pro-opioid advocacy groups and professional societies that develop, select, and present CMEs. Opioid-Maker Defendants could exert control of each of these modalities through their KOLs.

73. In return for their pro-opioid advocacy, Opioid-Maker Defendants' KOLs received money, prestige, recognition, research funding, and avenues to publish. Opioid-Maker Defendants cited and promoted their KOLs and studies or articles by their KOLs to broaden the chronic opioid therapy market.

74. Opioid-Maker Defendants carefully vetted their KOLs to ensure that they were likely to remain on-message and supportive of their agenda. Opioid-Maker Defendants also kept close tabs on the content of the materials published by their KOLs.

75. Rather than promote safety and efficacy testing of opioids for long-term use, Opioid-Maker Defendants led physicians, patients, and health care payors to believe that such tests had already been done when none had occurred. Opioid-Maker Defendants created a body

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of false, misleading, and unsupported medical and popular literature about opioids that understated the risks and overstated the benefits of long-term use, and appeared to be the result of independent and objective research, in order to shape the perceptions of prescribers, patients, and payors. This literature was, in fact, marketing material, which Opioid-Maker Defendants used to persuade doctors and consumers that the benefits of long-term opioid use outweighed the risks.

76. Opioid-Maker Defendants also entered arrangements with seemingly unbiased and independent patient and professional organizations to promote opioids for the treatment of chronic pain. Under the direction and control of Opioid-Maker Defendants, these "Front Groups" generated treatment guidelines, unbranded materials, and programs that favored chronic opioid therapy. They also assisted Opioid-Maker Defendants by responding to negative articles, by advocating against regulatory changes that would limit opioid prescribing in accordance with the scientific evidence, and by conducting outreach to vulnerable patient populations targeted by Opioid-Maker Defendants.

77. These Front Groups depended on Opioid-Maker Defendants for funding and, in some cases, for survival. Opioid-Maker Defendants also exercised control over programs and materials created by these groups by collaborating on, editing, and approving their content, and by funding their dissemination. In so doing, Opioid-Maker Defendants made sure that the Front Groups would generate only the messages Opioid-Maker Defendants wanted delivered. Despite this, the Front Groups held themselves out as independent and serving the needs of their members—either patients suffering from pain or doctors treating those patients.

78. Defendants Cephalon, Endo, Janssen, and Purdue utilized many Front Groups, including many of the same ones. The American Pain Foundation ("APF") was the most prominent, but there are many others, including the American Pain Society ("APS"), American Geriatrics Society ("AGS"), Federation of State Medical Boards ("FSMB"), American Chronic Pain Association ("ACPA"), American Society of Pain Education ("ASPE"), National Pain Foundation ("NPF"), and Pain & Policy Studies Group ("PPSG").

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79. APF received more than $10 million in funding from opioid manufacturers from 2007 until it closed its doors in May 2012. Endo alone provided more than half that funding. Purdue provided $1.7 million.

80. APF issued education guides for patients, reporters, and policymakers that touted the benefits of opioids for chronic pain and trivialized their risks, particularly the risk of addiction. APF also launched a campaign to promote opioids for returning veterans, which has contributed to high rates of addiction and other adverse outcomes—including death—among returning soldiers. APF also engaged in a significant multimedia campaign—through radio, television and the internet—to educate patients about their "right" to pain treatment, namely opioids. All the programs and materials were available nationally and were intended to reach Oregonians.

81. APF held itself out as an independent patient advocacy organization. It often engaged in grassroots lobbying against various legislative initiatives that might limit opioid prescribing, and thus the profitability of its sponsors. It was often called upon to provide "patient representatives" for Opioid-Maker Defendants' promotional activities, including for Purdue's *Partners Against Pain* and Janssen's *Let's Talk Pain*. APF functioned largely as an advocate for the interests of Opioid-Maker Defendants, not patients. Indeed, as early as 2001, Purdue made clear its goal in funding APF was to strategically align its investments in nonprofit organizations that share its business interests.

82. The United States Senate Finance Committee began investigating APF in May 2012 to determine the links, financial and otherwise, between the organization and the manufacturers of opioid painkillers. The investigation caused considerable damage to APF's credibility as an objective and neutral third party, and Opioid-Maker Defendants stopped funding it. Within days of being targeted by Senate investigation, APF's board voted to dissolve the organization due to irreparable economic circumstances.

83. Opioid-Maker Defendants worked together through Front Groups to spread their deceptive messages about the risks and benefits of long-term opioid therapy. For example,

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Opioid-Maker Defendants combined their efforts through the Pain Care Forum ("PCF"), which began in 2004, as an APF project. PCF was comprised of representatives from opioid manufacturers (including Cephalon, Endo, Janssen, and Purdue) and various Front Groups, almost all of which received substantial funding from Opioid-Maker Defendants. Among other projects, PCF worked to ensure that an FDA-mandated education project on opioids was not unacceptably negative and did not require mandatory participation by prescribers, which Opioid-Maker Defendants determined would reduce prescribing.

84. Opioid-Maker Defendants falsely instructed doctors and patients that the signs of addiction are in fact signs of undertreated pain and should be treated by prescribing more opioids. Manufacturer Defendants called this phenomenon "pseudoaddiction" and falsely claimed that "pseudoaddiction" is substantiated by scientific evidence. For example, Cephalon and Purdue sponsored *Responsible Opioid Prescribing* (2007), which teaches that drug seeking behaviors like "requesting drugs by name," "demanding or manipulative behavior," seeing more than one doctor to obtain opioids, and hoarding, are all signs of "pseudoaddiction," rather than true addiction. *Responsible Opioid Prescribing* remains for sale online. The 2012 edition, which also remains available online, continues to teach that "pseudoaddiction" is real. The 2016 CDC Guideline rejects the concept of "pseudoaddiction."

85. In finding that "[t]he pseudoaddiction concept has never been empirically validated and in fact has been abandoned by some of its proponents," the New York Attorney General, in its 2016 settlement with Endo, reported that "Endo's Vice President for Pharmacovigilance and Risk Management testified that he was not aware of any research validating the 'pseudoaddiction' concept" and acknowledged the difficulty in distinguishing "between addiction and 'pseudoaddiction.'" Consistent with this, Endo agreed not to "use the term 'pseudoaddiction' in any training or marketing."

86. Opioid-Maker Defendants deceptively marketed so-called abuse-deterrent properties of some of their opioids and have thereby created a false impression that these opioids

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can curb addiction and abuse. In a 2014 survey of 1,000 primary care physicians, nearly half reported that they believed abuse-deterrent formulations are inherently less addictive.

87. Opioid-Maker Defendants have made misleading claims about the ability of their so-called abuse-deterrent opioid formulations to deter abuse. For example, Endo's advertisements for the 2012 reformulation of Opana ER claimed that it was designed to be crush resistant in a way that suggested it was more difficult to abuse. This claim was false. The FDA warned in a 2013 letter that there was no evidence Endo's design "would provide a reduction in oral, intranasal, or intravenous abuse." Moreover, Endo's own studies, which it failed to disclose, showed that Opana ER could still be ground and chewed.

88. These numerous, longstanding misrepresentations of the risks of long-term opioid use spread by Opioid-Maker Defendants successfully convinced doctors and patients to discount those risks—with the direst consequences suffered by those most susceptible to addiction.

Opioid-Distributor Defendants

89. The Defendants identified as Opioid-Distributor Defendants are all in the business of pharmaceutical distribution—either as wholesale distributors or retail prescribers. Opioid-Distributor Defendants as well as the Opioid-Maker Defendants knew or should have known that Oregon had an exceedingly high rate of illegal use and diversion of prescription opioids.

90. The Opioid-Distributor Defendants as well as the Opioid-Manufacturer Defendants knew or should have known that their activities were subject to regulations that created restrictions on the manufacture and distribution of controlled substances.

91. The main objectives of such regulations are to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances. Such regulations are particularly concerned with the need to prevent the diversion of drugs from legitimate to illicit channels. To effectuate these goals, Opioid-Distributor Defendants are subject to a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in an authorized manner. All drugs such as the controlled substances at issue in this case are classified into five schedules. The drugs are grouped together based on their accepted

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medical uses, the potential for abuse, and their psychological and physical effects on the body. Each schedule is associated with a distinct set of controls regarding the manufacture, distribution, and use of the substances listed therein. These are subject to strict requirements regarding registration, labeling and packaging, production quotas, drug security, and recordkeeping.

92. There has been established a registration program for manufacturers, distributors, and dispensers of controlled substances designed to prevent the diversion of legally produced controlled substances into the illicit market. Any entity that seeks to become involved in the production or chain of distribution of controlled substances must first register with the DEA.

93. The Controlled Substances Act provides for control by the U.S. Department of Justice of problems related to drug abuse through registration of manufacturers, wholesalers, retailers, and all others in the legitimate distribution chain, and makes transactions outside the legitimate distribution chain illegal.

94. Distributors of Schedule II drugs—controlled substances with a "high potential for abuse"—must maintain effective control against diversion of particular controlled substances into channels other than legitimate medical, scientific, and industrial channels. In addition, distributors that supply controlled substances to pharmacies must "design and operate a system to disclose to the [distributor] suspicious orders of controlled substances" and, in turn, disclose those suspicious orders to the regulating entity. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

95. These regulations are designed to improve the administration and regulation of the manufacturing, distribution, and dispensing of controlled substances by providing for a "closed" system of drug distribution for legitimate handlers of such drugs. Such a closed system is intended to reduce the widespread diversion of these drugs out of legitimate channels into the illicit market, while at the same time providing the legitimate drug industry with a unified approach to narcotic and dangerous drug control.

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96. Opioid-Distributor Defendants are "one of the key components of the distribution chain. If the closed system is to function properly as intended, Opioid-Distributors must be vigilant in deciding whether a prospective customer can be trusted to deliver controlled substances only for lawful purposes. This responsibility is critical, as the illegal distribution of controlled substances has a substantial and detrimental effect on the health, safety, and general welfare of the American people.

97. If an order deviates substantially from a normal pattern, the size of the order does not matter and the order should be reported as suspicious. Likewise, a wholesale distributor need not wait for a normal pattern to develop over time before determining whether a particular order is suspicious. The size of an order alone, whether or not it deviates from a normal pattern, is enough to trigger the wholesale distributor's responsibility to report the order as suspicious. The determination of whether an order is suspicious depends not only on the ordering patterns of the particular customer but also on the patterns of the wholesale distributor's customer base and the patterns throughout the relevant segment of the wholesale distributor industry.

98. The closed system is specifically designed with checks and balances between registrants to ensure that controlled substances are not diverted from this closed system. The goal of this closed system, through appropriate regulation of the manufacture and distribution of drugs, is to reduce the availability of drugs subject to abuse except through legitimate channels of trade and for legitimate uses.

99. Different entities supervise the discrete links in the chain that separate a consumer from a controlled substance. Strict rules and regulations carefully define each participant's role and responsibilities.

100. Such rules and regulations require that Opioid-Distributor Defendants maintain effective controls against diversion of prescription opiates into other than legitimate medical, scientific, and industrial channels.

101. The Opioid-Distributor Defendants are required to design and operate a system to disclose to the registrant suspicious orders of controlled substances. The Opioid-Distributor

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Defendants are required to inform the appropriate authorities in their area of suspicious orders when discovered.

102. Federal law requires that Opioid-Distributor Defendants comply with applicable State and local law. Oregon state law requires that Opioid-Distributor Defendants design and operate a system that informs the drug-distributor of suspicious orders of controlled substances and inform the Oregon Board of Pharmacy of suspicious orders when discovered.

103. These requirements are well known to the Opioid-Distributor Defendants. These regulations, which have been in place for more than 40 years, require distributors to report suspicious orders of controlled substances to appropriate law enforcement authority based on information readily available to them (e.g., a pharmacy's placement of unusually frequent or large orders).

104. Each of the Opioid-Distributor Defendants is registered with the DEA as distributors in the chain of distribution of Schedule II controlled substances and has assumed the duties imposed under the CSA and state and local laws.

105. Each of the Opioid-Distributor Defendants is a "registrant" as a distributor in the chain of distribution of Schedule II controlled substances and assumed the security requirement duties imposed under the regulations adopted by the Oregon State Board of Pharmacy.

106. Based upon information and belief, each of the Opioid-Distributor Defendants sold prescription opiates, including hydrocodone and/or oxycodone, to retailers in Plaintiff Counties. Opioid-Distributor Defendants have shipped millions of doses of highly addictive controlled painkillers into Plaintiff Counties, many of which should have been stopped and/or investigated as suspicious orders. The sheer volume of highly addictive opioid pain medications Opioid-Distributor Defendants shipped to Plaintiff Counties was suspicious on its face. When the population of the Plaintiff Counties is taken into consideration, Opioid-Distributor Defendants delivered an excessive and unreasonable number of highly addictive controlled substances into Plaintiff Counties.

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107. Upon information and belief, Opioid-Distributor Defendants knowingly filled, and failed to report, suspicious orders in Plaintiff Counties. Opioid-Distributor Defendants knew or should have known the amount of Oxycodone and Hydrocodone they suppled to retail pharmacies and other outlets in Plaintiff Counties was in excess of any amount reasonable to serve a community the size of Plaintiff Counties.

108. Opioid-Distributor Defendants owe a duty to investigate and monitor suspicious orders of prescription opiates originating from Plaintiff Counties. Opioid-Distributor Defendants knew or should have known that they were supplying opioid medications far in excess of the legitimate needs for Plaintiff Counties. Opioid-Distributor Defendants knew or should have known that there was a high likelihood that a substantial number of the prescription pain killers they supplied to pharmacies and drug stores in Plaintiff Counties were being diverted to illegal use or abuse.

109. Opioid-Distributor Defendants are required by law to refuse suspicious orders of prescription opiates originating from Plaintiff Counties.

110. Opioid-Distributor Defendants are required by law to report suspicious orders of prescription opiates originating from Plaintiff Counties.

111. Opioid-Distributor Defendants are required by law to prevent the diversion of prescription opiates into illicit markets in Plaintiff Counties.

112. The foreseeable harm resulting from failure to adhere to the applicable law is the diversion of prescription opiates for nonmedical purposes is abuse, addiction, morbidity, and mortality in Plaintiff Counties and the damages caused thereby.

113. Because distributors handle such large volumes of controlled substances and are the first major line of defense in the movement of legal pharmaceutical-controlled substances from legitimate channels into the illicit market, it is incumbent on distributors to maintain effective controls to prevent diversion of controlled substances. If a distributor deviates from these checks and balances, the closed system created by the CSA collapses.

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114. Opioid-Distributor Defendants are required under the CSA to maintain a current, complete, and accurate record of each prescription opioid received, sold, delivered, or otherwise disposed of.

115. Opioid-Distributor Defendants report the sale of all prescription opiates, including those to pharmacies in Plaintiff Counties and throughout the State of Oregon, to the Automation of Reports and Consolidated Orders System (ARCOS) database.

116. On information and belief, Plaintiff Counties allege that the Opioid-Distributor Defendants failed to account for and accurately report sales of opioids in Plaintiff Counties during the relevant time.

117. The sheer volume of prescription opioids distributed to pharmacies in Plaintiff Counties is excessive for the medical need of the communities and facially suspicious. Some red flags are so obvious that no one who engages in the legitimate distribution of controlled substances can reasonably claim ignorance of them.

118. Plaintiff Counties are of the information and belief that the Opioid-Distributor Defendants failed to report "suspicious orders" originating from Plaintiff Counties to the DEA and to the Oregon Board of Pharmacy as required at all times relevant to this lawsuit.

119. Plaintiff Counties allege that the Opioid-Distributor Defendants unlawfully filled suspicious orders of unusual size, orders deviating substantially from a normal pattern and/or orders of unusual frequency in Plaintiff Counties.

120. Opioid-Distributor Defendants failed to maintain effective controls against diversion of prescription opiates into other than legitimate medical, scientific, and industrial channels.

121. Opioid-Distributor Defendants failed to "design and operate a system to disclose to the registrant suspicious orders of controlled substances" and failed to inform the DEA of "suspicious orders when discovered."

122. Opioid-Distributor Defendants failed to provide effective controls and procedures to guard against theft and diversion of controlled substances.

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123. Opioid-Distributor Defendants failed to "design and operate a system requiring reporting to the Oregon Board of Pharmacy of suspicious orders when discovered."

124. Opioid-Distributor Defendants failed to follow these public safety statutes, which would have prevented the public nuisance now suffered by Plaintiff Counties.

125. Upon information and belief, Opioid-Distributor Defendants failed to adopt or implement effective affirmative efforts to prevent diversion of their medicines for illegal or abusive purposes. Opioid-Distributor Defendants undertook no discernible efforts to determine whether the volume of prescription pain killers it was shipping to Plaintiff Counties was excessive and whether any of the orders it filled qualified as suspicious orders, which should have been refused. Opioid-Distributor Defendants failed in their obligation to monitor, detect, investigate, refuse, and report suspicious orders of prescription opiates originating from Plaintiff Counties.

126. As a result of the decade-long refusal by the Opioid-Distributor Defendants to abide by the law, the DEA has repeatedly taken administrative action to force compliance. The U.S. Department of Justice's Office of the Inspector General's Evaluation and Inspections Division reported that the DEA issued final decisions in 178 registrant actions between 2008 and 2012. The Office of Administrative Law Judges issued a recommended decision in a total of 177 registrant actions before the DEA issued its final decision, including 76 actions involving orders to show cause and 41 actions involving immediate suspension orders. The public record reveals many of these actions. For example, on November 28, 2007, the DEA issued an Order to Show Cause and Immediate Suspension Order against Cardinal Health's Auburn, Washington Distribution Center for failure to maintain effective controls against the diversion of hydrocodone.

127. Rather than abide by these public safety statutes, the Opioid-Distributor Defendants, individually and collectively through trade groups in the industry, pressured the U.S. Department of Justice to "halt" prosecutions and lobbied Congress to strip the DEA of its ability to immediately suspend distributor registrations. The result was a "sharp drop in enforcement

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actions" and the passage of the "Ensuring Patient Access and Effective Drug Enforcement Act" which, ironically, raised the burden for the DEA to revoke a distributor's license from "imminent harm" to "immediate harm" and provided the industry the right to "cure" any violations of law before a suspension order can be issued.

128. The opioid epidemic is on-going because the fines and suspensions imposed by the DEA do not change the conduct of the wholesale distributor industry. They pay fines as a cost of doing business in an industry that generates billions of dollars in annual revenue. They hold multiple DEA registration numbers, and when one facility is suspended, they simply ship from another facility. And, as bluntly noted by Cardinal Health in its pleadings in *Cardinal Health, Inc. v. Holder*, 846 F. Supp. 2d 203 (D.D.C. 2012), "suspension . . . will not address the harm DEA alleges because it will not prevent pharmacies filling illegitimate prescriptions from simply obtaining controlled substances from another distributor."

129. Opioid-Distributor Defendants have taken advantage of a lack of DEA law enforcement in Plaintiff Counties and abused the privilege of distributing controlled substances in those communities.

130. Upon information and belief, Opioid-Distributor Defendants have failed to refuse to stop oversupplying controlled substances to Plaintiff Counties' pharmacies at all times relevant to this lawsuit. Opioid-Distributor Defendants are required to ensure that they were not filling suspicious orders. Opioid-Distributor Defendants' intentional distribution of excessive prescription painkillers to these communities showed a reckless disregard to the health and safety of Plaintiff Counties and their residents. The repeated filling of suspicious orders over an extended period of time and in violation of public health and safety statutes by the Opioid-Distributor Defendants demonstrates wanton, willful, or reckless conduct or criminal indifference to civil obligations affecting the rights of others.

131. Opioid-Distributor Defendants' failure to monitor, detect, investigate, refuse, and report suspicious orders is a direct and proximate cause of the diversion in Plaintiff Counties of prescription opiates into the illicit market for inappropriate, improper, and unsafe purposes.

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Upon information and belief, Opioid-Distributor Defendants made little to no effort to visit the pharmacies and drugstores in Plaintiff Counties to which they shipped substantial amounts of prescription medication to do due diligence to ensure the medications they were shipping were not diverted to illegal uses. Rather, Opioid-Distributor Defendants paid their sales force employees and managers bonuses and commissions on the sale of most or all of the highly addictive prescription painkillers suppled to Plaintiff Counties.

132. The unlawful conduct by Opioid-Distributor Defendants caused the very harm laws were intended to prevent; namely, the diversion of prescription opiates for nonmedical purposes and the poisoning of the communities.

133. The unlawful diversion of prescription opiates is a direct and proximate cause of prescription opiate abuse, addiction, morbidity, and mortality in Plaintiff Counties.

134. Opioid-Distributor Defendants made substantial profits from the drugs that were sold in Plaintiff Counties.

The Opioid Epidemic Continues in Plaintiff Counties

135. Prescription opioids are highly addictive. The drugs that are driving up the alarming numbers reported in Oregon and Plaintiff Counties are opiates—heroin and prescription pain medication. Oregon has the highest rate of opiate abuse among people under age 25 in the United States. More than half of the drug overdose deaths in Oregon are related to prescription opioids such as OxyContin and Vicodin. Between 2000 and 2013 there were 2,226 deaths in Oregon due to prescription opioid drug overdose.

136. Oregon consistently ranks near the top among all states in the non-medical use of prescription pain relievers and actually led the nation in 2010–2011. In 2013, 3.6 million prescriptions for opioid pain killers were dispensed in Oregon, enough for 925 opioid prescriptions for every 1000 residents.

137. The increased use of prescription painkillers for nonmedical reasons, along with growing sales, has contributed to a large number of overdoses and deaths. Opioid analgesics are

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widely diverted and improperly used, and the widespread use of the drugs has resulted in a national epidemic of opioid overdose deaths and addiction.

138. The CDC has reported that people who are addicted to prescription opioid painkillers are 40 times more likely to be addicted to heroin. The CDC identified addiction to prescription pain medication as the strongest risk factor for heroin addiction. Consequently, the CDC instructs that the way to stop the heroin epidemic is to address the addiction to prescription opioid painkillers.

139. The CDC reports that drug overdose deaths involving heroin continued to climb sharply, with heroin overdoses more than tripling in four years. This increase mirrors large increases in heroin use across the country and has been shown to be closely tied to opioid pain reliever misuse and dependence. The increased availability of heroin, combined with its relatively low price (compared with diverted prescription opioids) and high purity appear to be major drivers of the upward trend in heroin use and overdose.

FIRST CLAIM FOR RELIEF

Public Nuisance

140. Plaintiff Counties re-allege and incorporate by reference paragraphs 1 to 139 above.

141. Defendants' actions were intentional, reckless, abnormally dangerous, deceitful, or negligent as detailed above and below.

142. Defendants manufactured, distributed, marketed, and promoted opioids in a manner that created a public nuisance that is harmful and disruptive to health, safety, and general welfare of Plaintiff Counties and to a substantial number of their residents.

143. Defendants knew or should have known that their deliberate and reckless promotion and sale of opioids for widespread use would lead to widespread addiction, abuse, and death in Plaintiff Counties and would be harmful and disruptive to the health, safety, and general welfare of Plaintiff Counties and to a substantial number of their residents. In addition, Defendants knew or should have known that their conduct would have adverse and increasingly

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negative consequences that seriously and unreasonably interfere with quality of life in Plaintiff Counties.

144. Defendants knew or should have known that their deliberate and reckless promotion and sale of millions of opioids for widespread use in Plaintiff Counties would lead to the type of opioid poisoning and contamination that is currently afflicting Plaintiff Counties.

145. It was foreseeable to Defendants that their conduct would substantially and unreasonably interfere with the ordinary comfort, use, and enjoyment of public places by residents of Plaintiff Counties. Defendants' conduct has directly caused deaths, serious injuries, and a severe disruption of the public peace, order, and safety, including fueling the homeless and heroin crises facing Plaintiff Counties, as described herein. Defendants' conduct is ongoing and continues to produce permanent and long-lasting damage. Defendants knew or reasonably should have known that their statements regarding the risks and benefits of opioids were false and misleading and that their false and misleading statements were causing harm from their continued production and marketing of opioids. Thus, the public nuisance Defendants caused to Plaintiff Counties was reasonably foreseeable, including the financial and economic losses incurred by Plaintiff Counties.

146. The public nuisance created by Defendants' actions is substantial and unreasonable—it has caused and continues to cause significant harm to Plaintiff Counties and the harm inflicted outweighs any offsetting benefit. There is no social utility to opioid misuse and any alleged value is outweighed by the gravity of the harm inflicted by Defendants' actions.

147. Defendants' man-made, profit-driven nuisance has taxed the human, medical, public health, law enforcement, and financial resources of Plaintiff Counties.

148. Defendants' malicious and harmful conduct has affected and continues to affect Plaintiff Counties and a considerable number of people within Plaintiff Counties and is likely to continue to cause significant harm.

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

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150. Plaintiffs have incurred substantial costs from investigating, monitoring, treating, policing and remediating the opioid epidemic.

151. Plaintiffs seek compensatory damages from these Defendants for the creation of a public nuisance.

152. Defendants, and each of them, set forth herein caused foreseeable harm to Plaintiff Counties and their citizens. Plaintiff Counties suffered past economic damages in an amount to be proved at trial and will incur future economic damages in an amount to be proven at trial to abate Defendants' public nuisance—the opioid epidemic.

SECOND CLAIM FOR RELIEF

Abnormally Dangerous Activity

153. Plaintiffs re-allege and incorporate by reference paragraphs 1 to 152 above.

154. Defendants engaged in ultra-hazardous or abnormally dangerous activity.

155. Defendants introduced and legitimized the widespread use of highly addictive opioid drugs for treatment of pain even though there was no scientific basis to justify providing that treatment, and despite the known high rate of addiction after limited use.

156. Given the high rate of addiction, the widespread use of opioids to treat chronic pain invites grave harm upon the community. The full specter of that harm is clearly evidenced by the opioid epidemic currently ravaging communities across the United States—including in Plaintiff Counties.

157. The high likelihood of addiction and limited utility of opioids for treatment of chronic pain means that the risks associated with opioid use cannot be eliminated by the exercise of reasonable care. This fact is clearly demonstrated by the limited use of opioids in medical treatment prior to Defendants' conduct that is the basis of this civil action.

158. Before Defendants implemented their marketing scheme to create a demand for their opioid products, the specter of addiction and its terrible life altering effects on even a single patient made doctors reticent to prescribe opioids. Consequently, opioid painkillers were

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primarily administered in hospitals and under the direct supervision of doctors—most often to cancer or terminally-ill patients.

159. Opioids' limited utility and the risk of grave harm associated with their use made prescribing rare and unsupervised use nonexistent. Consequently, before Defendants' calculated quest for profits, the use of opioids for medical treatment was extraordinary, exceptional, or unusual.

160. Defendants acted even though they knew that widespread opioid use created a high degree of harm to individuals and community health and safety. Defendants intended that public use of their opioid products would become widespread in the community.

161. Defendants understood that the specter of harm invited by their actions was great: injury or death to the individual addicts, the creation and maintenance of secondary illicit markets for the sale of Defendants' products, and, when Defendants' products were unavailable or too costly, the dramatic increase of secondary illicit markets for heroin and other opiate street drugs.

162. Defendants eroded patient trust in the medical system, made some doctors unwitting drug dealers, and facilitated unscrupulous doctors to use their position and station to turn medical clinics into pill mills—all to the harm of the community generally.

163. Defendants' ultra-hazardous and abnormally dangerous activities set forth herein caused foreseeable harm to Plaintiff Counties and their citizens. Plaintiff Counties suffered past economic damages and future economic damages in amounts to be proved at trial.

THIRD CLAIM FOR RELIEF

Gross Negligence

164. Plaintiffs re-allege and incorporate by reference paragraphs 1 to 163 above.

165. Defendants, and each of them, knowingly, recklessly, and wantonly participated in a scheme to take highly addictive drugs, whose medical uses were traditionally limited to treat only the most serious maladies and within in a hospital setting because of their known dangerous

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and addictive properties and to push those drugs to be used for chronic conditions that those drugs did not help and to do away with the direct supervision of a doctor.

166. Scientific research, public health studies, medical training, statutes, and regulations all clearly showed the terrible addictive properties of opioids and warned that widespread use would not cure pain but would instead cause greater pain in the lives of patients, their families, and the community.

167. Defendants knowingly, recklessly, and wantonly ignored the known serious dangers associated with the widespread use of opioids.

168. Instead of heeding the warning signs of addiction, Defendants used the fact of addiction as the basis for their business model. Defendants not only knew that these drugs were highly addictive, Defendants saw addiction not as an unwanted side effect harmful to the patient but as an opportunity to increase financial benefits to themselves. That is the case because each new patient had the potential to become a captive, repeat customer—a drug addict.

169. The knowing, reckless, and wanton tortious conduct of Defendants, and each of them, set forth herein caused foreseeable harm to Plaintiff Counties and their citizens. Plaintiff Counties suffered past economic damages in an amount to be proved at trial. Plaintiff Counties will incur future economic damages in an amount to be proved at trial.

FOURTH CLAIM FOR RELIEF

Fraud & Deceit

170. Plaintiffs re-allege and incorporate by reference paragraphs 1 to 169 above. Those paragraphs set forth with particularity the actions that are the basis of Defendants' fraud and deceit.

171. Defendants, individually and acting through their employees and agents, and in concert with each other, made misrepresentations and omissions of facts material to Plaintiff Counties and their residents to induce them to purchase, administer, consume, and pay for opioids as set forth in detail above.

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172. Defendants knew or should have known that Plaintiff Counties would be adversely impacted economically by their misrepresentations in that certain of Plaintiff Counties' citizens would become addicted to the Defendants' opioids, which in turn would cause Plaintiff Counties to expend excess funds on police, fire, medical, and other municipal services to care for their citizens and employees, thereby proximately causing Plaintiff Counties' injuries and damages. Therefore, the Defendants owed a duty of care to Plaintiff Counties.

173. Defendants knew at the time that they made their misrepresentations and omissions that they were false.

174. Defendants intended that Plaintiff Counties and their residents would rely on their misrepresentations and omissions and that the use of Defendants' opioid products would become widespread and continuous. Defendants intended to deceive Plaintiff Counties.

175. Plaintiff Counties and their residents reasonably relied upon the Defendants' misrepresentations and omissions and the use of Defendants' opioid products did become widespread and continuous.

176. Defendants' conduct was willful, wanton, and malicious and was directed at the public generally.

177. Plaintiff Counties suffered actual pecuniary damages proximately caused by Defendants' misrepresentations and omissions of material fact, which include expending additional funds on police, fire, medical, and other public services that Plaintiff Counties otherwise would not have incurred. Plaintiff Counties suffered past economic damages in an amount to be proven at trial and will incur future economic damages in an amount to be proven at trial.

FIFTH CLAIM FOR RELIEF

Negligence

178. Plaintiff Counties re-allege and incorporate by reference paragraphs 1 to 177 above.

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179. Defendants, and each of them, committed wrongful acts or omissions all of which created a foreseeable risk to Plaintiff Counties and their residents.

180. Defendants' conduct was unreasonable in light of that risk.

181. In addition to the allegations set forth above, Defendants, and each of them, committed wrongful acts or omissions in one or more of the following ways:

(a) Defendants misrepresented the known addictive properties of opioids.

(b) Defendants misrepresented the known health adverse consequences of opioids.

(c) Defendants failed to maintain systems or exercise due diligence regarding suspicious orders.

(d) Defendants failed to detect and prevent diversion of controlled substances.

(e) Defendants failed to investigate or report suspicious orders.

(f) Defendants distributed opioids for non-medical purposes.

182. The negligence of Defendants, and each of them, set forth herein caused foreseeable harm to Plaintiff Counties and their residents. That harm is presently occurring, has continuously occurred in the past, and will continue for the foreseeable future. Plaintiff Counties suffered past economic damages in an amount to be proven at trial. Plaintiff Counties will incur future economic damages in an amount to be proven at trial.

183. In addition, Defendants violated rules and regulations put into place for the purpose of protecting the health, safety, and welfare of the public to include Plaintiff Counties and their residents. The violation of such rules and regulations creates a standard of conduct by which Defendants' actions may be evaluated.

PLAINTIFF COUNTIES PRAY FOR JUDGMENT AS FOLLOWS:

1. Economic damages in an amount to be proven at trial;

2. Prejudgment interest;

3. For Plaintiff Counties' costs and disbursements incurred herein; and

4. For such further and other relief as the Court deems just, proper and equitable.

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JURY TRIAL DEMAND

Plaintiff Counties demand a trial by jury on all claims and of all issues so triable.

Dated:

D'AMORE LAW GROUP, P.C

By: s/ S. Michael Rose

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