

CAUSE NO. 2017 82618

**FILED**  
Chris Daniel  
District Clerk  
DEC 13 2017  
Harris County, Texas  
Deputy

COUNTY OF HARRIS,  
Plaintiff

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IN THE DISTRICT COURT

VS.

OF HARRIS COUNTY, TEXAS

PURDUE PHARMA, L.P., et al  
Defendants

133 JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes Now the Plaintiff, the County of Harris Texas (hereinafter" Harris County" or "County"), by and through the undersigned attorneys and on behalf of the County Attorney for Harris County, and for cause of action would respectfully show the Court and jury as follows:

**I.**  
**INTRODUCTION**

1. Drug companies and their affiliates should never place their quest for profits above the public good. Unfortunately, Texas counties have found themselves to be innocent participants in the battle against opioids and their crushing financial effect on our county.

2. The defendants knew that the use of opioids had the potential to cause addiction and other health maladies. Driven by profit, defendants engaged in a campaign of lies, half-truths, and deceptions to create a market that encouraged the over-prescribing and long-term use of opioids even though there was no scientific basis to support such use. The campaign worked, and resulted in an exponential increase in opioid abuse, addiction, and death. That increase required Harris County to expend its limited resources to help those affected by this crisis and protect the community from harms associated with the opioid epidemic.

3. That Harris County has suffered damages in the past and will continue to suffer damages in the future is indisputable.

## **II.** **JURISDICTION AND VENUE**

4. Harris County is a body corporate and politic duly formed under the laws of the State of Texas. The acts and events described in this petition took place, in whole or in part, in Harris County, Texas, thereby vesting this court with jurisdiction and venue over this lawsuit.

5. More specifically, this court has personal jurisdiction over the defendants because they carry on a continuous and systematic part of their general businesses within Texas, have transacted substantial business with Texas entities and residents, and have caused grave harm in Texas as a result. The nonresident defendants are subject to the jurisdiction of this court pursuant to the Texas long-arm statute, which authorizes jurisdiction and the exercise of jurisdiction insofar as it is consistent with federal and state due process standards. Each of the non-resident defendants does and has done business in the state.<sup>1</sup> The cited statute extends personal jurisdiction as far as the federal constitutional requirements of due process will permit. In addition, the defendants committed a tort, in whole or in part, in this state, as more fully depicted in this petition. Moreover, the defendants purposely availed themselves of the privilege of conducting activities within Texas; purposely directed their actions toward Texas and Harris County, Texas; they have substantial and continuous contacts with the State of Texas, generally, and Harris County specifically, with respect to this action, to satisfy both general and specific minimum contacts; the quality of the contacts was meaningful, with these defendants selling or making available for sell their opioid products in Texas and in Harris County; these defendants sought a benefit, advantage, or profit by virtue of their activities in Texas; and exercising jurisdiction over them does not offend the traditional

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<sup>1</sup> Tex. Civ. Prac. & Rem. Code Ann. § 17.042 (Vernon 2008).

notions of fair play and substantial justice or to constitutionally permit the court to exercise jurisdiction.

6. Plaintiff specifically alleges that the claims and causes of action set forth in this petition are based on the provisions of Texas law. There is no relief sought on the basis of federal law or a violation thereof. Neither is there a claim of fraud on the Food and Drug Administration (“FDA”). Moreover, one or more of the defendants named herein is a domiciliary of the State of Texas, thereby negating any allegation of complete diversity of jurisdiction that might render this suit amenable to removal.

**III.**  
**CONDITIONS PRECEDENT**

7. Plaintiff alleges that all conditions precedent have been performed or have occurred.

**IV.**  
**PARTIES**

8. Plaintiff brings this action for and on behalf of Harris County, which provides a wide range of services on behalf of its residents, including, but not limited to, services for families and children, public health, public assistance, law enforcement, and social services, as well as medical and prescription benefits that the County provides to its employees and retirees.

9. Each of the parties named below manufactures, promotes, sells, and/or distributes opioids in Texas and Harris County.

10. Purdue Pharma L.P. is a limited partnership organized under the laws of Delaware with its principal place of business in Stamford, Connecticut. Purdue Pharma Inc. is a New York corporation with its principal place of business in Stamford, Connecticut. The Purdue Frederick Company is a Delaware corporation with its principal place of business in Stamford, Connecticut. Purdue Pharmaceuticals L.P. is licensed by the Food & Drug Safety Licensing Group of the Texas

Department of State Health Services (“DSHS”) as a manufacturer and/or distributor of prescription drugs in Texas (collectively “Purdue”).

11. Purdue manufactures, promotes, sells, and distributes opioids nationally and in Harris County, including among them OxyContin, MS Contin, Dilaudid/Dilaudid HP, Butrans, Hysingla ER, and Targiniq ER. OxyContin is Purdue’s best-selling opioid. Since 2009, Purdue’s annual sales of OxyContin have fluctuated between \$2.47 billion and \$2.99 billion, up four-fold from its 2006 sales of \$800 million. OxyContin constitutes roughly 30% of the entire market for analgesic drugs (painkillers).

12. Purdue is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Purdue can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

13. Cephalon, Inc. (“Cephalon.”) is a Delaware corporation with its principal place of business in Frazer, Pennsylvania. In 2011, Teva Ltd. acquired Cephalon. Teva Pharmaceutical Industries, Ltd., (“Teva, Ltd.”) is an Israeli company with its corporate headquarters in Petah Tikva, Israel. Teva Pharmaceuticals USA, Inc. (“Teva USA”) is a wholly-owned subsidiary of Teva Ltd., and is a Delaware corporation with its principal place of business in Pennsylvania. Teva USA acquired Cephalon in October 2011. Teva, Ltd., Teva USA, and Cephalon, Inc. (collectively “Cephalon”) work together closely to market and sell Cephalon products in the State of Texas. Teva Ltd. conducts all sales and marketing activities for Cephalon in the State of Texas through Teva USA and has done so since its October 2011 acquisition of Cephalon.

14. Cephalon manufactures, promotes, sells, and/or distributes opioids nationally and in Harris County, including Actiq and Fentor, for which Cephalon is identified as the drug sponsor and Teva USA is identified as the distributor.

15. Cephalon is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Cephalon can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

16. Janssen Pharmaceuticals, Inc. ("Janssen") is a Pennsylvania corporation with its principal place of business in Titusville, New Jersey, and is a wholly-owned subsidiary of Johnson & Johnson (J&J), a New Jersey corporation with its principal place of business in New Brunswick, New Jersey. Otho-McNeil-Janssen Pharmaceuticals, Inc., now known as Janssen Pharmaceuticals, Inc., is a Pennsylvania corporation with its principal place of business in Titusville, New Jersey. Janssen Pharmaceutica, Inc., now known as Janssen Pharmaceuticals, Inc., is a Pennsylvania corporation with its principal place of business in Titusville, New Jersey. J&J is the only company that owns more than 10% of Janssen Pharmaceuticals' stock, and corresponds with the FDA regarding Janssen's products. Upon information and belief, J&J controls the sale and development of Janssen Pharmaceuticals' drugs and Janssen's profits inure to J&J's benefit. (collectively "Janssen.").

17. Janssen manufactures, promotes, sells, and/or distributes opioids nationally and in Harris County, including Duragesic, Nucynta and Nucynta ER. These opioid drugs are sold both directly by Janssen and by third party drug distributors, including Defendant Advanced Pharma, Inc., d/b/a/ Avella of Houston.

18. Janssen is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Janssen can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

19. Endo Health Solutions, Inc. is a Delaware corporation with its principal place of business in Malvern, Pennsylvania. Endo Pharmaceuticals, Inc. is a wholly-owned subsidiary of Endo Health Solutions Inc. and is a Delaware corporation with its principal place of business in Malvern, Pennsylvania (collectively “Endo.”).

20. Endo manufactures, promotes, sells, and/or distributes opioids nationally and in Harris County, including Opana and Opana ER. Opana ER is reported to have been prescribed up to 50,000 times per day. However, on June 8, 2017, the U.S. Food and Drug Administration requested that Endo remove Opana ER from the market based on FDA’s concern that the benefits of the drug may no longer outweigh its risks.

21. Endo is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Endo can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

22. Abbott Laboratories is an Illinois corporation with its principal place of business in Abbott Park, Illinois. Knoll Pharmaceutical Company is a wholly-owned subsidiary of Abbott Laboratories and is a New Jersey corporation with its principal place of business in Parsippany, New Jersey (collectively “Abbott”).

23. Abbott currently and/or historically manufactures, promotes, sells, and/or distributes opioids nationally and in Harris County, including Vicoprofen and Dilaudid. Abbott Laboratories

can be served by serving its registered agent as follows: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

24. Allergan PLC is a public limited company incorporated in Ireland with its principal place of business in Dublin, Ireland. Actavis PLC acquired Allergan PLC in March 2015, and the combined company changed its name to Allergan PLC in January 2013. Before that, Watson Pharmaceuticals, Inc. acquired Actavis, Inc. in October 2012, and the combined company changed its name to Allergan Finance, LLC as of October 2013. Watson Laboratories, Inc. is a Nevada corporation with its principal place of business in Corona, California, and is a wholly-owned subsidiary of Allergan PLC (f/k/a Actavis, Inc., f/k/a Watson Pharmaceuticals, Inc.). Actavis Pharma, Inc. (f/k/a Actavis, Inc.) is a Delaware corporation with its principal place of business in New Jersey and was formerly known as Watson Pharma, Inc. Actavis LLC is a Delaware limited liability company with its principal place of business in Parsippany, New Jersey. Each of these defendants is owned by Allergan PLC, which uses them to market and sell its drugs in Texas. Upon information and belief, Allergan PLC exercised control over these marketing and sales efforts and profits from the sale of Allergan/Actavis products ultimately inure to its benefit. (collectively "Actavis.").

25. Actavis manufactures, promotes, sells, and/or distributes opioids nationally and in Harris County, including generic Oxycontin (oxycodone hydrochloride) and Dilaudid (hydromorphone hydrochloride). Allergan Sales is identified as the sponsor and/or entity responsible for the manufacture and/or distribution of the opioid medication Fiorinal with codeine (FDA NDA # 019429). Actavis acquired the rights to another opioid, Kadian (morphine sulfate, NDA # 020616), from King Pharmaceuticals, Inc. on December 30, 2008, and began marketing Kadian in 2009.

26. Actavis is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Actavis can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

27. Actavis has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. The entities that are licensed by DSHS to conduct business in Texas as domestic licensees are:

Allergan Sales LLC  
8301 Mars Dr.  
Waco, Texas 76712

Allergan USA Inc.,  
800 Waters Ridge Dr. 100,  
Lewisville, Tx 75057

28. Plaintiff alleges that Allergan Sales LLC and Allergan USA Inc. are domiciled in the State of Texas and are proper parties who may be sued under their assumed or common names for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. Allergan Sales LLC and Allergan USA Inc. may be served at the above addresses.

29. Insys Therapeutics, Inc. ("Insys") is a Delaware corporation with its principal place of business in Chandler, Arizona. Insys manufactures, promotes, sells, and/or distributes opioids nationally and in Harris County, including Subsys (fentanyl sublingual spray).

30. Insys can be served by serving its registered agent as follows: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

31. Insys has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. The entity that is licensed by DSHS to conduct business in Texas as a domestic licensee is:



Insys Manufacturing LLC  
2700 Oakmont Drive  
Round Rock, Texas 78665

32. Plaintiff alleges that Insys Manufacturing LLC is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. Insys Manufacturing may be served at the above address.

33. McKesson Corporation (“McKesson”) is a Delaware corporation with its principal place of business in San Francisco, California. McKesson distributes pharmaceuticals to retail pharmacies and institutional providers across the United States, including Texas and Harris County. The drugs distributed by McKesson include powerful, addictive opioids, such as oxycodone and hydrocodone.

34. McKesson is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, McKesson can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

35. McKesson has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. There are three “McKesson” entities that are licensed by DSHS to conduct business in Texas as domestic licensees, including:

McKesson Corporation  
3301 Pollock Drive  
Conroe, Texas 77303

McKesson Medical-Surgical Inc.  
20710 Hempstead Road  
Houston, Texas 77065

36. Plaintiff alleges that McKesson Corporation and McKesson Medical-Surgical Inc. are domiciled in the State of Texas and are proper parties who may be sued under their assumed

or common name for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. McKesson Corporation and McKesson Medical-Surgical Inc. may be served at the above addresses.

37. Cardinal Health, Inc. (“Cardinal”) is an Ohio Corporation with its principal place of business in Dublin, Ohio. Cardinal distributes pharmaceuticals to retail pharmacies and institutional providers across the United States, including Texas and Harris County. The drugs distributed by Cardinal include powerful, addictive opioids, such as oxycodone and hydrocodone.

38. Cardinal is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Cardinal can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

39. Cardinal has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. There are nine “Cardinal” entities that are licensed by DSHS to conduct business in Texas as domestic licensees, including:

Cardinal Health 110 LLC  
13651 Dublin Crt.  
Stafford, Texas 77477

Cardinal Health 200 LLC  
151 Northpark Central Dr.  
Houston, Texas 77073

Cardinal Health 414 LLC  
7849 Almeda Rd.  
Houston, Texas 77054

40. Plaintiff alleges that Cardinal Health 110 LLC, Cardinal Health 200 LLC, and Cardinal Health 414 LLC are domiciled in the State of Texas and are proper parties who may be sued under their assumed or common name for enforcing for or against it a substantive right. Tex. R. Civ. P.

28. Cardinal Health 110 LLC, Cardinal Health 200 LLC, and Cardinal Health 414 LLC may be served at the above addresses.

41. Amerisource Bergen Drug Corporation (“Amerisource”) is a Delaware Corporation with its principal place of business in Chesterbrook, Pennsylvania. Amerisource distributes pharmaceuticals to retail pharmacies and institutional providers across the United States, including Texas and Harris County. The drugs distributed by Amerisource include powerful, addictive opioids, such as oxycodone and hydrocodone.

42. Amerisource is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Amerisource can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

43. Amerisource has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. There are two Amerisource entities that are licensed by DSHS to conduct business in Texas as domestic licensees, including:

Amerisource Bergen Drug Corporation  
12727 W. Airport Blvd.  
Sugarland, Texas 77478

44. Plaintiff alleges that Amerisource Bergen Drug Corporation is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. Amerisource Bergen Drug Corporation may be served at the above address.

45. Mallinckrodt PLC (“Mallinckrodt”) is an Irish public limited company with its corporate headquarters in Staines-Upon-Thames, Surrey, United Kingdom and maintains a U.S. headquarters in St. Louis, Missouri. Mallinckrodt distributes pharmaceuticals to retail pharmacies

and institutional providers across the United States, including Texas and Harris County. The drugs distributed by Mallinckrodt include powerful, addictive opioids, such as oxycodone and hydrocodone.

46. Mallinckrodt also manufactures, promotes, sells, and/or distributes opioids nationally and in Harris County, including medications containing codeine, fentanyl, hydrocodone, morphine, and oxycodone. These opioid drugs are sold both directly by Mallinckrodt and by third party drug distributors, including Defendant Advanced Pharma, Inc., d/b/a/ Avella of Houston.

47. Mallinckrodt is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Mallinckrodt can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

48. Advanced Pharma, Inc. is a Texas corporation licensed by DSHS as a domestic drug manufacturer and/or distributor and having its principal place of business at 9265 Kirby Dr, Houston, Texas 77054. Advanced Pharma Inc. does business as Avella Specialty Pharmacy and/or Avella of Houston, through which these entities are operating and conducting business in this State (collectively "Advance Pharma").

49. Advanced Pharma distributes and/or sells or makes available for sell in Harris County, Texas one or more opioid-containing medications, including Butrans (a Purdue product), Duragesic (a Janssen product), Embeda (a Pfizer product), and Exalgo (a Mallinckrodt product). Advanced Pharma has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. Plaintiff alleges that Advanced Pharma is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing

for or against it a substantive right. Tex. R. Civ. P. 28. Advanced Pharma may be served by serving its registered agent: Micheline Abboud, 9265 Kirby Drive, Houston, Texas 77054.

50. NexGen Pharma, Inc. (“NexGen”) is, on information and belief, a Texas corporation with its principal place of business at 1000 Cole Avenue, Rosenberg, Texas 77471. NexGen is identified by the Food and Drug Administration as the sponsor of one or more opioid-containing medications that are distributed and/or sold or available for sell in Harris County, Texas, including butalbital, acetaminophen, caffeine, and codeine phosphate (ANDA # 076560).

51. NexGen has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. Plaintiff alleges that NexGen is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. Nexgen may be served at the above address.

52. Neos Therapeutics Brands LLC is, on information and belief, a Texas corporation licensed by DSHS as a domestic drug manufacturer and/or distributor and having its principal place of business at 2940 N Hwy 360 Ste 400, Grand Prairie, Texas 75050. Neos Therapeutics Brands LLC does business as Neos Therapeutics LP through which these entities are operating and conducting business in this State (collectively “Neos”).

53. Neos is identified by the Food and Drug Administration as the sponsor of one or more opioid-containing medications that are distributed and/or sold or available for sell in Harris County, Texas, including hydrocodone polistirex and chlorpheniramine polistirex (ANDA # 091671).

54. Neos has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. Plaintiff alleges that Neos is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing for or against it a

substantive right. Tex. R. Civ. P. 28. Neos may be served by serving its registered agent as follows: Mark Tengler, 2940 North Highway 360, Grand Prairie, Texas 75050.

55. Mission Pharmacal Company (“Mission”) is, on information and belief, a Texas corporation licensed by DSHS as a domestic drug manufacturer and/or distributor and having its principal place of business at 38505 W I-10, Boerne, Texas 78006. Mission is identified by the Food and Drug Administration as the sponsor of one or more opioid-containing medications that are distributed and/or sold or available for sell in Harris County, Texas, including hycufenix (guaifenesin, hydrocodone bitartrate, pseudoephedrine hydrochloride) (NDA# 022279).

56. Mission has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. Plaintiff alleges that Mission is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. Mission may be served by serving its registered agent as follows: Neill B. Walsdorf, 10999 IH-10 West, Suite 1000, City View Bldg., San Antonio, Texas 78230-1355

57. Fresenius USA Manufacturing Inc. is a Delaware corporation with its principal place of business in Lexington, KY. Fresenius Kabi USA is a related entity associated with Fresenius USA Manufacturing Inc. through which Fresenius USA Manufacturing Inc. is operating and conducting business in this State (collectively “Fresenius”).

58. Fresenius is identified by the Food and Drug Administration as the sponsor of one or more opioid-containing medications that are distributed and/or sold or available for sell in Harris County, Texas, including Dilaudid and Dilaudid-HP (hydromorphone hydrochloride)(NDA#

019034); astramorph (morphine sulfate)(ANDA # 071050); and morphine sulfate (NDA # 204223).

59. Fresenius has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. Plaintiff alleges that Fresenius is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. Fresenius may be served by serving its registered agent as follows: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

60. ICU Medical Sales Inc. is a Delaware corporation with its principal place of business in San Clemente, CA. ICU Medical Inc. is a related entity associated with ICU Medical Sales Inc. through which ICU Medical Sales Inc. is operating and conducting business in this State (collectively "ICU").

61. ICU is identified by the Food and Drug Administration as the sponsor of one or more opioid-containing medications that are distributed and/or sold or available for sell in Harris County, Texas, including Meperidine hydrochloride (ANDA # 088432) and morphine sulfate (NDA # 019916 and NDA # 019917).

62. ICU has elected to do business in Texas under a license as a domestic drug manufacturer and/or distributor. Plaintiff alleges that ICU is domiciled in the State of Texas and is a proper party who may be sued under its assumed or common name for enforcing for or against it a substantive right. Tex. R. Civ. P. 28. ICU may be served by serving its registered agent as follows: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

63. Mylan, Inc. is a Pennsylvania corporation with its principal place of business at 1000 Mylan Blvd., Canonsburg, PA 15317. Mylan conducts its pharmaceutical business operations

through various entities, including Mylan Speciality, LP. and Mylan Pharms Inc. (collectively “Mylan”).

64. Mylan is identified by the Food and Drug Administration as the sponsor of one or more opioid-containing medications that are distributed and/or sold or available for sell in Harris County, Texas, including Soma (carisoprodol)(NDA # 011792, sponsor Mylan Speciality, Inc.) and morphine extended release tablets (ANDA # 200824, sponsor Mylan Pharms, Inc.).

65. Mylan is engaging in business in the State of Texas, but has not designated or maintained a resident agent for service of process. Therefore, Mylan can be served in accordance with Tex. Civ. Prac. & Rem. Code Sec. 17.042 and Sec. 17.044 by serving the Secretary of the State of Texas, P.O. Box 12079, Austin, Texas 78711-2079.

66. The foregoing parties are referenced in this petition as the “corporate defendants” or as the “defendants.”

#### **INDIVIDUAL DEFENDANTS**

67. Defendant Gazelle Craig, M.D. (“Craig”), is a medical doctor who resides in and was previously licensed to practice medicine in Houston, Harris County, Texas. She may be served with citation at 5220 Caroline Street, Apt. 14, Houston, Texas 77004.

68. Defendant Arun Sharma, M.D., is a medical doctor who was previously licensed to practice medicine in Houston, Harris County, Texas. He may be served with citation at USP Beaumont Federal Penitentiary, 6200 Knauth Road, Beaumont, Texas 77703.

69. Defendant Karin Sharma, MD., is a medical doctor who resides in and was previously licensed to practice medicine in Houston, Harris County, Texas. She may be served with citation at 617 Cole Street, Webster, Texas 77598.



70. Defendant, Richard Arthur Evans, M.D. (“Evans”), is a medical doctor who previously resided in and was licensed to practice medicine in Houston, Harris County, Texas. He may be served with citation at FCI Oakdale II Federal Correctional Facility, 2105 East Whatley Road, Oakdale, Louisiana 71463.

71. Defendant, David Devido (“Devido”), is a previously licensed pharmacist who resides in Houston, Harris County, Texas. He may be served with citation at 5150 Hidalgo, # 1301, Houston, Texas, 77056.

**V.**  
**DISCOVERY CONTROL PLAN**

72. Plaintiff intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.1.

**VI.**  
**ALLEGATIONS APPLICABLE TO ALL DEFENDANTS**

73. The widespread use of opioid drugs is the direct result of a concerted industry scheme that has evolved over the past two decades. The defendant and their affiliates successfully created a market for these products by identifying and expanding new markets for these products, relying on false science, which was frequently the work of their own “product champions”; enlisting either unwitting or complicit healthcare providers as their advocates and accomplices; saturating the direct to consumer market with false advertising, promotions, and reassuring messages, all of which were calculated to cause and did cause consumers in Harris County to seek out these medications. In short, these defendants expanded the market for opioids beyond that for which it was originally intended and created a disaster of gargantuan proportions, the likes of which has never been seen in the pharmaceutical industry.

74. These defendants successfully created and nurtured an environment in which opioid abuse was a virtual certainty. By spending millions of dollars to convince the populace that they needed and would benefit from the use of defendants' opioid drugs, these tortfeasors produced a network of drug distributors, dispensers and prescribers who preyed upon a generation of dependent drug users and abusers who believed their physical ailments were being appropriately treated by the defendants' prescription drugs. It came to pass, unfortunately, that the defendants' primary success was in constructing a population of citizens whose initial use of opioids was legal and legitimate, but was transformed into an addiction that could be fulfilled only by the use of illegal street drugs.

75. A recent report on the evolution of the use of opioids in Texas shows that it impacts urban and rural citizens; men and women; young, middle aged, and old; all races and creeds; and both the rich and the poor are vulnerable to the enticement of opioids.<sup>2</sup> No resident of Harris County is safe from the deleterious effects of the opioid overdose crisis, either directly and indirectly.

76. This industry-wide misbehavior has overwhelmed society in general and Harris County in particular. On a national scale, the magnitude of the opioid crisis is incomprehensible. Most tragically, drug overdose and opioid-related deaths continue to increase in the United States.--Drug overdose is the leading cause of accidental death in the US, with 52,404 lethal drug overdoses in 2015. Opioid addiction is driving this epidemic, with 20,101 overdose deaths related to

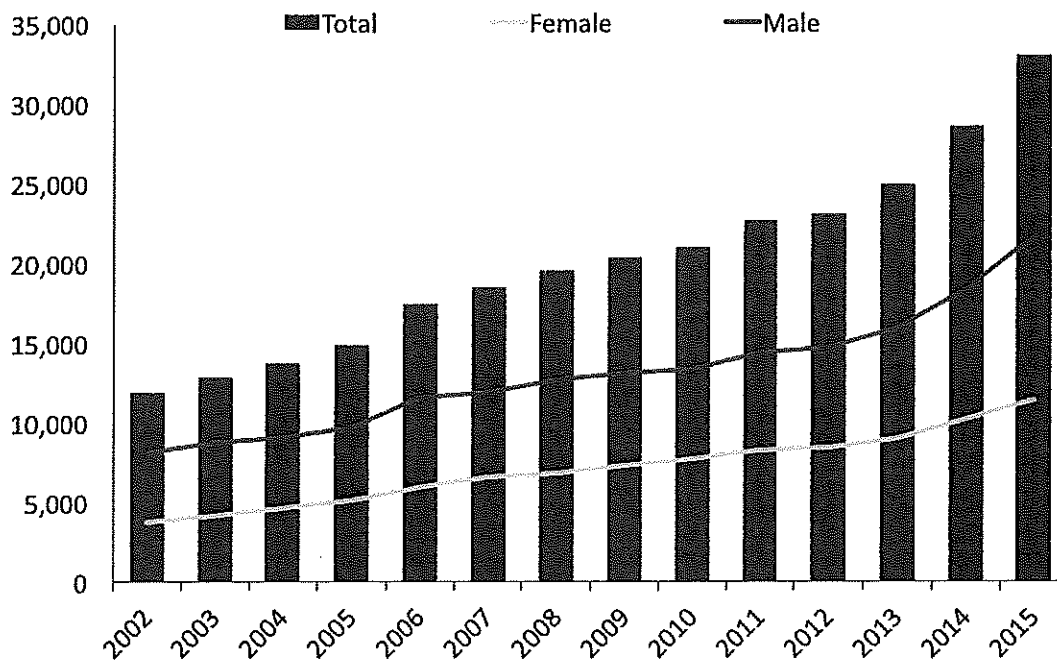
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<sup>2</sup> <https://socialwork.utexas.edu/dl/files/cswr/institutes/ari/pdf/opioid-overdose-2014.pdf>

prescription pain relievers, and 12,990 overdose deaths related to heroin in 2015.<sup>3</sup>



## National Overdose Deaths Number of Deaths Involving Opioid Drugs



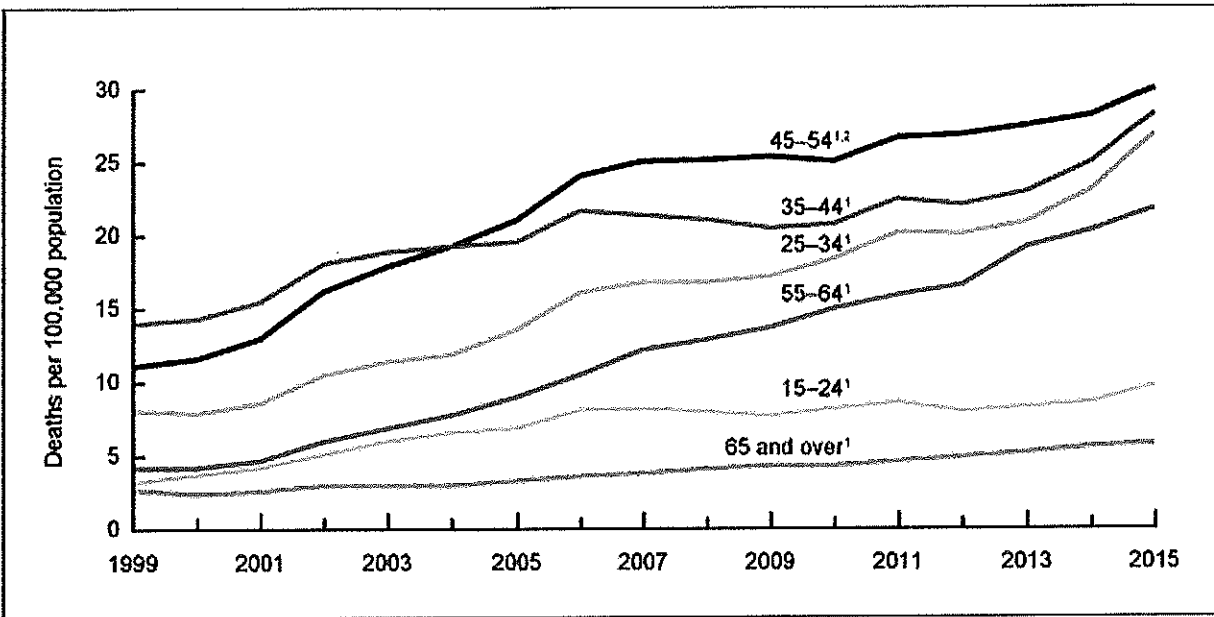
Source: National Center for Health Statistics, CDC Wonder

77. In spite of assurances from industry that efforts are being made to minimize the harm caused by opioid use, drug overdose deaths and opioid-involved deaths continue to increase in the United States. The majority of drug overdose deaths (more than six out of ten) involve an opioid. From 2000 to 2015, more than half a million people died from drug overdoses. Ninety-one Americans die every day from an opioid overdose.<sup>4</sup> This plague affects all age groups.<sup>5</sup>

<sup>3</sup> <https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates>

<sup>4</sup> <https://www.cdc.gov/drugoverdose/epidemic/index.html>

<sup>5</sup> Graph from <https://www.cdc.gov/nchs/products/databriefs/db273.htm>



78. The societal impact of controlled prescription drug diversion and abuse is considerable. Violent and property crime associated with drug diversion and abuse has increased in all regions of the United States over the past 5 years, according to the National Drug Intelligence Center (NDIC) National Drug Threat Survey (NDTS).<sup>6</sup> On a broader scale, the Centers for Disease Control and Prevention estimates that the total "economic burden" of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement.<sup>7</sup>

79. These harms have likewise been manifested in Harris County, Texas. Opioid prescribing rates in Harris County historically have been above average and as high as 79.4 prescriptions per 100 persons.<sup>8</sup> The vast majority of drug users and abusers - 94.52% - need addiction treatment but receive none, and a quarter of these patients have no health insurance thereby imposing a huge healthcare burden on the county and its residents.<sup>9</sup> Texas also ranks first nationally in pharmacy

<sup>6</sup> <http://www.drugwarfacts.org/node/1396>

<sup>7</sup> <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis>

<sup>8</sup> <https://www.cdc.gov/drugoverdose/maps/txcounty2007.html>

<sup>9</sup> <http://opioid.amfar.org/TX#data-explorer>

burglaries, representing 30% of the national total.<sup>10</sup> These crimes are a significant cause of opioid diversion and are perpetrated in significant part by gangs based in Harris County.<sup>11</sup>

80. Of the more than 33,000 opioid-related deaths in the United States in 2015, 2588 were in Texas.<sup>12</sup> Harris County bore its share of this burden, with 318 (12.3%) of these deaths occurring in the county.<sup>13</sup> While Texas has worked tirelessly to combat the opioid contagion, the rate of increase of drug overdose deaths has increased from 1.5 to 4.2 per 100,000 from 1999 to 2014.<sup>14</sup>

81. The abuse of prescription opioids has contributed to another unfortunate, but foreseeable, phenomenon: the increase in the use of “recreational” opioids, namely heroin. Many patients who are prescribed opioids for medical purposes become addicted and believe they have no alternative but to turn to illegal opioids. The inevitable result of this drastic increase in the use of heroin has been a commensurate increase in heroin-related deaths, as with other opioids<sup>15</sup>:

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<sup>10</sup> [https://www.dea.gov/docs/DIR-040-17\\_2017-NDTA.pdf](https://www.dea.gov/docs/DIR-040-17_2017-NDTA.pdf) - page 39

<sup>11</sup> Texas Tribune, *It's time to act on Texas opioid crisis* (Feb. 13, 2017); link at <https://www.tribtalk.org/2017/02/13/its-time-to-act-on-texas-opioid-crisis/>

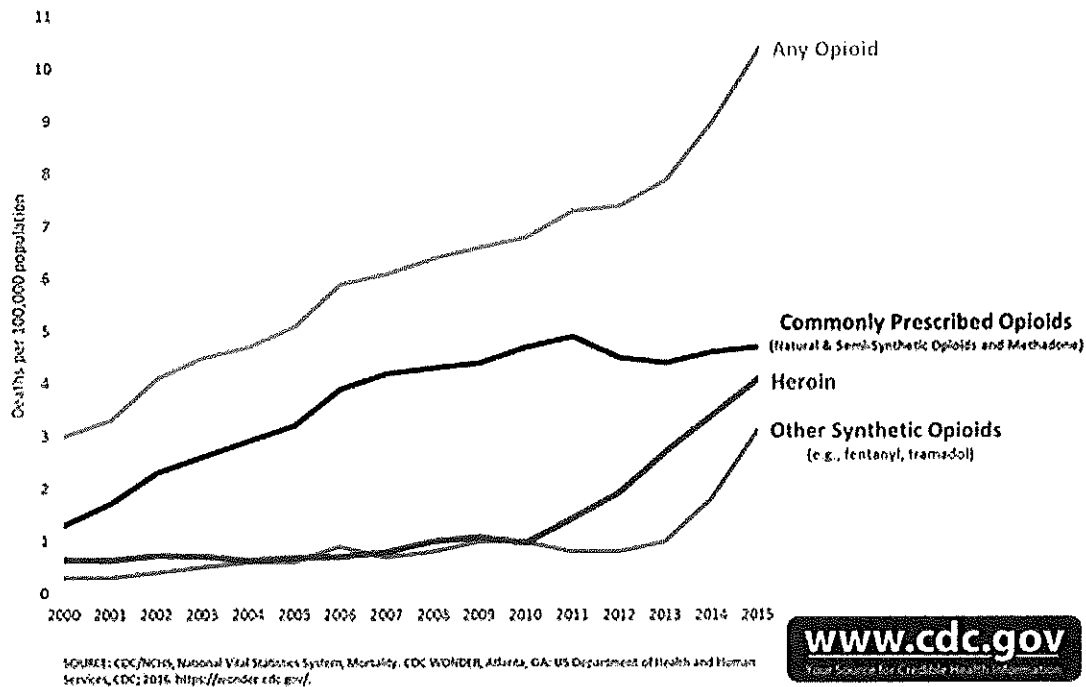
<sup>12</sup> <http://www.legis.state.tx.us/tlodocs/85R/handouts/C2102017082210001/b54d0414-aa71-483e-9523-4228d934e015.PDF>

<sup>13</sup> Harris County Institute of Forensic Sciences, 2015 Annual Report

<sup>14</sup> <https://socialwork.utexas.edu/dl/files/cswr/institutes/ari/pdf/opioid-overdose-2014.pdf>.

<sup>15</sup> Graph from <https://www.cdc.gov/drugoverdose/data/analysis.html>

### Overdose Deaths Involving Opioids, United States, 2000-2015

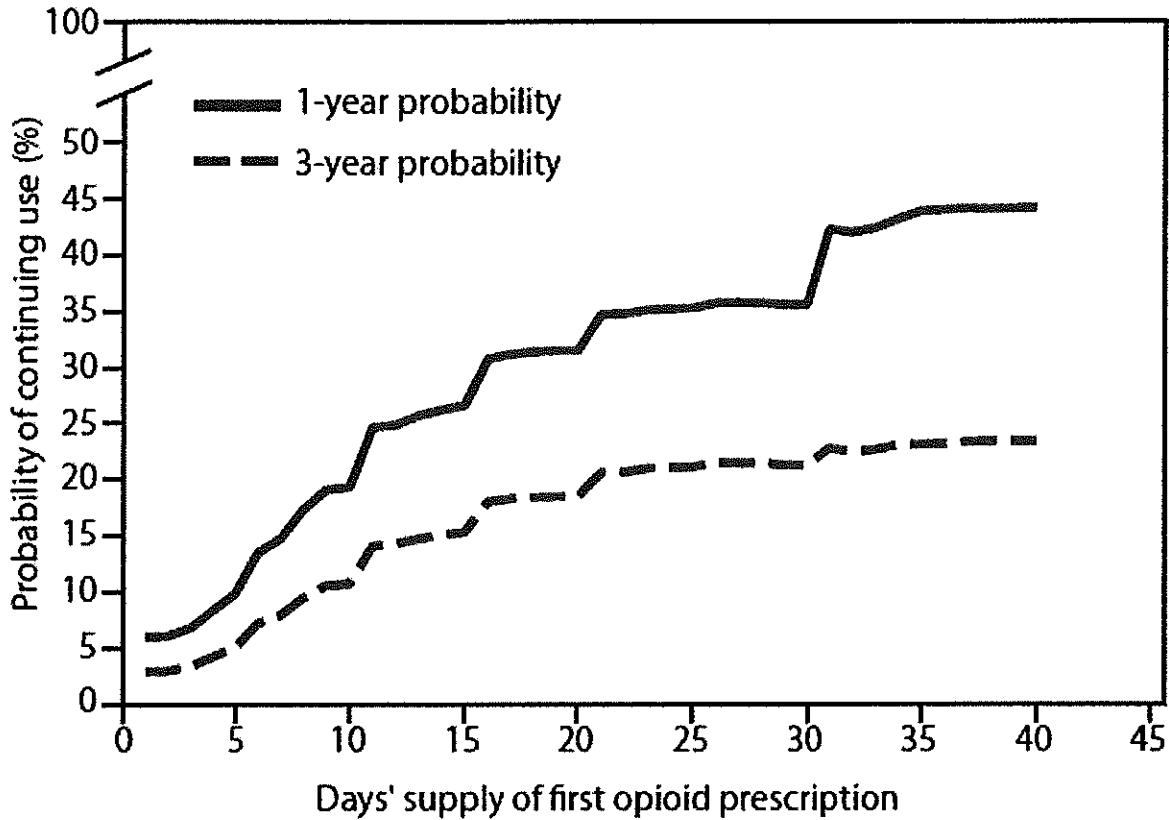


82. Texas and Harris County have been particularly impacted by the rise in heroin use, and have seen a prolific increase in the mortality rates of deaths due to heroin, which is the drug most frequently used to replace prescription opioids. The corporate defendants bear substantial responsibility for the proliferation of illegal opioid drug use. Research shows that approximately 80 percent of people who use heroin first misused prescription opioids.<sup>16</sup>

83. Hence, many members of the public were first exposed to opioids as a result of legitimate prescriptions for acute pain by well-meaning healthcare providers. Unfortunately, a significant percentage of these patients became dependent on these highly addictive medications, through no fault of their own, and eventually succumbed to the temptation to experiment with illegal street drugs. In fact, the CDC has presented data to show that the probability of long-term opioid use

<sup>16</sup> Cicero TJ, Ellis MS, Surratt HL, Kurtz SP. 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.

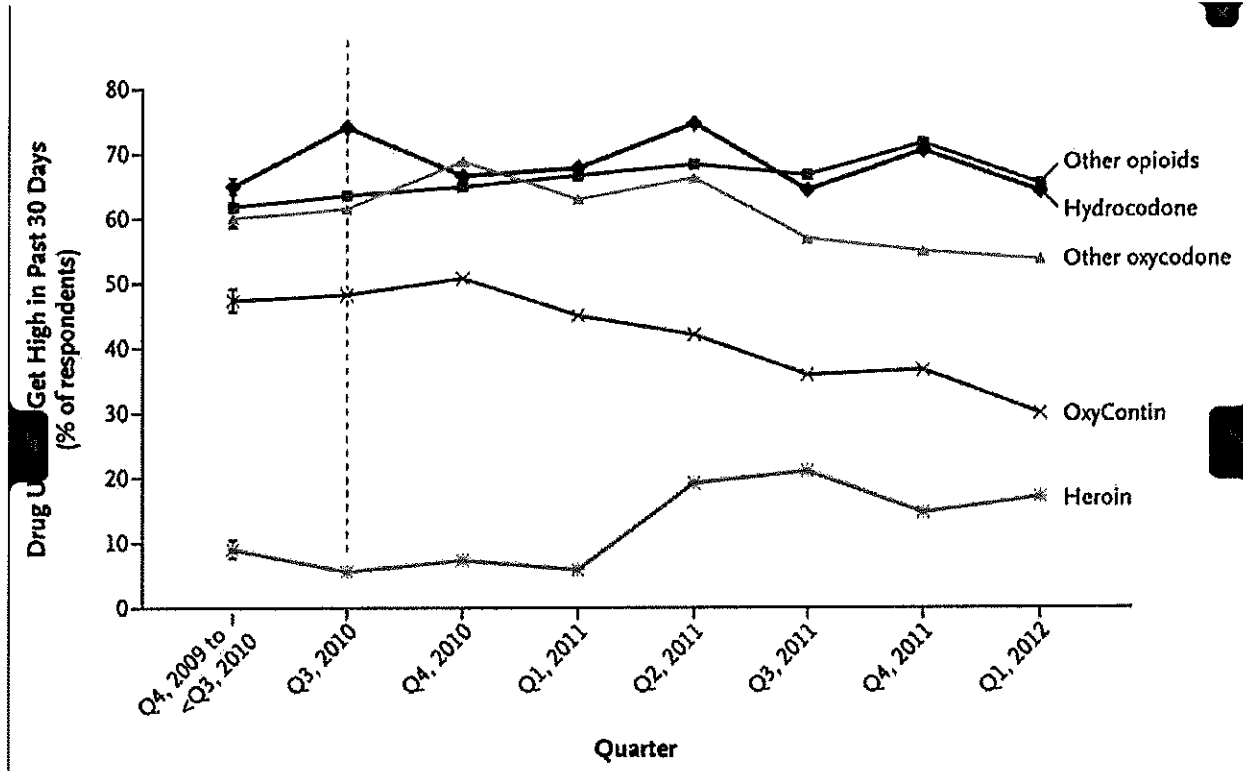
increases most sharply in the first days of therapy, particularly after 5 days or 1 month of opioids have been prescribed, with long-term use being seen in 13.5% of persons whose first episode of use was for  $\geq 8$  days and to 29.9% when the first episode of use was for  $\geq 31$  days.<sup>17</sup>



84. Once hooked on a prescription opioid, the subpopulation that succumbs to addiction frequently shifts to heroin as prescription drugs become less available. For example, a recent increase in heroin use accompanied a downward trend in Oxycontin use, as shown by this chart.<sup>18</sup>

<sup>17</sup> Data and graph from <https://www.cdc.gov/mmwr/volumes/66/wr/mm6610a1.htm>

<sup>18</sup> <https://www.drugabuse.gov/about-nida/legislative-activities/testimony-to-congress/2016/americas-addiction-to-opioids-heroin-prescription-drug-abuse>

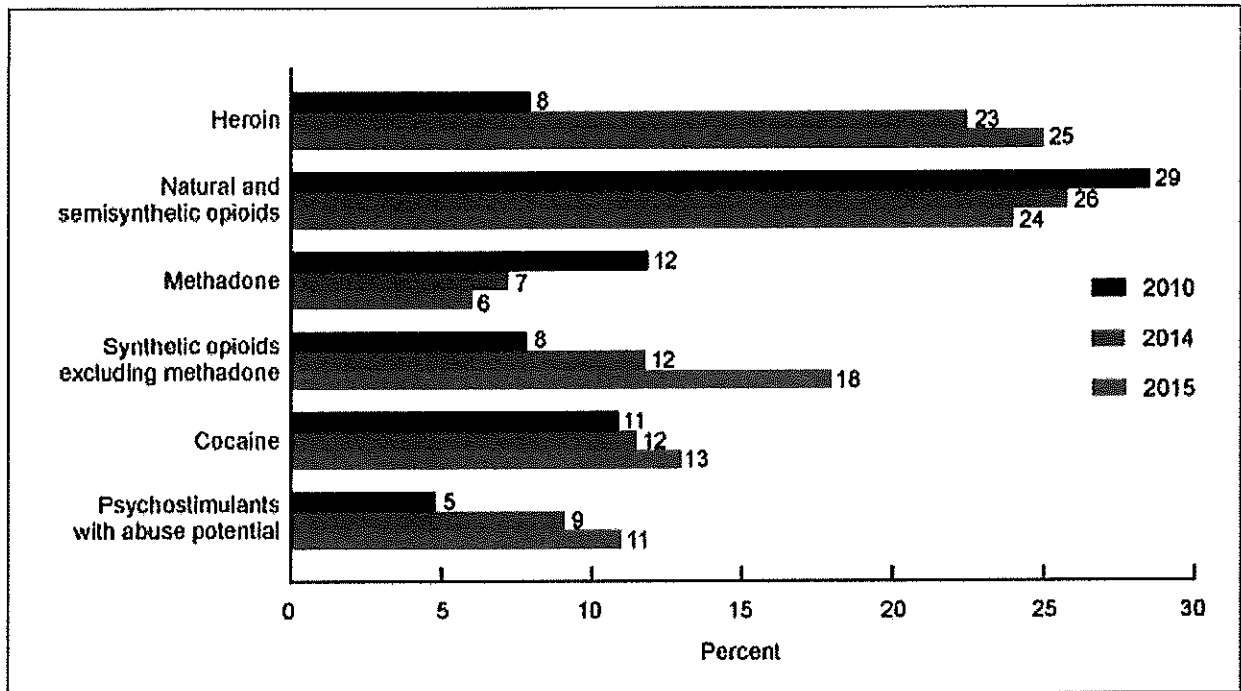


85. Thus, across the Nation, the next generation of leaders, workers, and parents have succumbed to a horrific increase in the risk of deaths from the use of heroin and other opioids<sup>19</sup>:

<sup>19</sup> Graph from <https://www.cdc.gov/nchs/products/databriefs/db273.htm>



## OPIOID DEATHS IN COMPARISON TO OTHER DRUGS



86. The pandemic caused by the collective actions of the defendants has also impacted the most innocent members of society – our children. Use of opioid pain relievers increased among all populations, including women of reproductive age and pregnant women. A recent CDC report found that nearly a third of women of reproductive age were prescribed an opioid in the previous year. Since 2000, there has been a drastic increase in the rates of opioid use disorder among pregnant women and the number of newborns diagnosed with opioid withdrawal after birth, known as neonatal abstinence syndrome (NAS). In 2012 alone, one child was born every 25 minutes with neonatal abstinence syndrome.<sup>20</sup> Not only is this condition traumatic for the child and the family, it poses a prohibitive financial burden on the residents of Harris County. The costs of treating children diagnosed with NAS are exponentially higher than the costs associated with newborns

<sup>20</sup> Patrick, A Comprehensive Approach to the Opioid Epidemic, *Obstetrics & Gynecology*, VOL. 130, NO. 1, JULY 2017.

not affected with NAS: an average of \$66,700 compared to \$3,500 cost for healthy newborns.<sup>21</sup> Additionally, the long-term outcomes of the neonatal abstinence syndrome are difficult to predict, but likely include adverse cognitive effects throughout childhood, mental health and behavioral problems, and physical disabilities, the costs of which are likely to be borne by the citizens of Harris County for many years to come.

87. While opioid use proliferated and its insidious and devastating effects were hoisted upon the citizens of Harris County and the Nation, the companies responsible for this scourge profited in a manner incomprehensible to even the most cynical members of society.<sup>22</sup> One report estimated that 254 million opioid prescriptions were filled in 2010 alone, enough to medicate every adult in the U.S. for a month on a round-the-clock basis. In that same year, pharmaceutical companies generated revenues of \$11 billion from opioid sales alone.<sup>23</sup> The opioid market is now worth nearly \$10 billion a year in sales in the United States, according to a 2016 report.<sup>24</sup>

88. Between 1999 and 2014 sales of prescription opioid drugs almost quadrupled in America<sup>25</sup> not simply in response to patient suffering, but because more of the population are addicted to these powerful drugs. Americans now consume four-fifths of the global supply of opioids.<sup>26</sup> This

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<sup>21</sup> <https://www.drugabuse.gov/related-topics/trends-statistics/infographics/dramatic-increases-in-maternal-opioid-use-neonatal-abstinence-syndrome>

<sup>22</sup> *E.g.*, Big Pharma makes big profits in opioid crisis, Houston Chronicle, By [Chris Tomlinson](#), October 17, 2017.

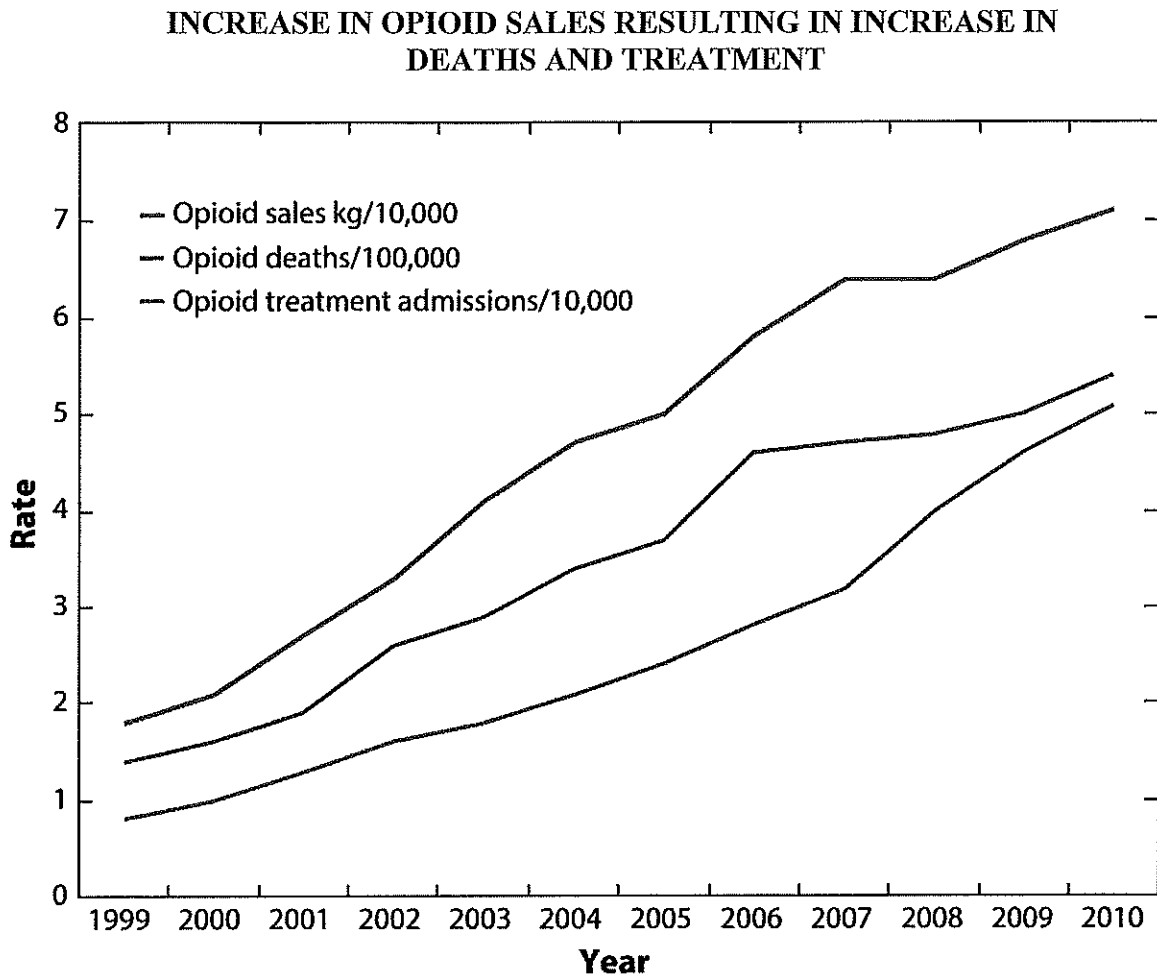
<sup>23</sup> <http://fortune.com/2011/11/09/oxycotin-purdue-pharmas-painful-medicine/>

<sup>24</sup> [https://www.washingtonpost.com/national/the-drug-industrys-answer-to-opioid-addiction-more-pills/2016/10/15/181a529c-8ae4-11e6-bff0-d53f592f176e\\_story.html?utm\\_term=.f6a60928c09a](https://www.washingtonpost.com/national/the-drug-industrys-answer-to-opioid-addiction-more-pills/2016/10/15/181a529c-8ae4-11e6-bff0-d53f592f176e_story.html?utm_term=.f6a60928c09a)

<sup>25</sup> <https://www.economist.com/news/business/21720336-how-pharma-may-have-contributed-americas-opioid-crisis-makers-and-distributors-opioid> and <https://www.cdc.gov/drugoverdose/epidemic/index.html>

<sup>26</sup> <https://www.economist.com/news/business/21720336-how-pharma-may-have-contributed-americas-opioid-crisis-makers-and-distributors-opioid>

increase in opioid sales has been accompanied by a startling, commensurate increase in the rates of opioid treatment admissions and deaths<sup>27</sup>:



*Annual Review of Public Health*

89. The sales of these drugs were reflected in astronomical salaries for the executives who made the decisions to create, market, and exploit these prescription drugs.<sup>28</sup> Hence, one clear

<sup>27</sup> <http://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-031914-122957>

<sup>28</sup> While certain compensation information is not publicly available, published sources report that the CEO of Allergan (Brenton L. Saunders) was paid over \$21 million in 2016, the CEO of Johnson & Johnson (Alex Gorsky) also was paid over \$21 million, the CEO of Abbott (Miles White) was paid, \$18.8 million, and the CEO of generic drug maker

result of the opioid epidemic has been the obscene profits enjoyed by the defendants and the exorbitant salaries for their chief executives.

90. Internal documents establish that these defendants realized that direct messaging and medical guidelines sponsored by them would be viewed more critically than messaging and ads by apparently independent third-party health care organizations. With this knowledge, the industry set about to manipulate the flow of information to the medical community and their patients. Specifically, The Federation of State Medical Boards (“FSMB”), American Pain Society (“APS”), American Academy of Pain Medicine (“AAPM”), and The American Geriatrics Society (“ABS”) are supposedly independent organizations concerned primarily with patient wellbeing. However, these organizations were in fact funded by the defendants for the sole purpose of having seemingly independent pain organizations espousing the virtues of opioid use, and particularly of distributing false information regarding abuse and addiction.

91. The FSMB (Federation of State Medical Boards) is a trade organization representing the various state medical boards in the United States. The state board members are healthcare providers or are otherwise associated with the healthcare industry and have the power to license doctors, investigate complaints, and discipline physicians. The FSMB finances opioid and pain specific programs through grants from defendants.

92. A 2004 iteration of the FSMB Guidelines, as well as and the 2007 book adapted from the 2004 guidelines, Responsible Opioid Prescribing, taught not that opioids could be appropriate in limited cases or after other treatments had failed, but that opioids were “essential” for treatment of chronic pain, including as a first prescription option. Unbelievably, the regulations changed so that doctors could be censored or have other action taken against them for failure to use opioids as

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Mylan (Heather Bresch) was reported to have been compensated in the amount of \$18.2 million. <http://www.equilar.com/reports/38-2-new-york-times-200-highest-paid-ceos-2016.html>

a treatment of first choice. These guidelines were posted online and were available to and intended to reach Houston physicians. The publication of Responsible Opioid Prescribing was backed largely by drug manufacturers, including Cephalon, Endo, and Purdue. The FSMB financed the distribution of Responsible Opioid Prescribing through its member boards by contracting with drug companies, including Endo and Cephalon, for bulk sales and distribution to sales representatives for distribution to prescribing doctors.

93. In all, 163,131 copies of Responsible Opioid Prescribing were distributed to state medical boards and through the boards, to practicing doctors, and the FSMB benefitted by earning approximately \$250,000 in revenue and commissions from their sale. The FSMB website describes the book as the “leading continuing medication education (CME) for prescribers of opioid medications.”

94. Locally, the Texas Pain Society had an active presence in Harris County and offered guidance to physicians and patients on the issue of pain management. The “TexasPain.org” website, for example, assured patients about the use of opioids, stating: “Research shows that the chance of people with chronic pain becoming addicted to pain-relieving drugs is extremely small. When taken properly for pain, drugs can relieve pain without addiction. Needing medication to control your pain is not addiction.”<sup>29</sup> The Texas Pain Society was in fact an organization supported by various members of the drug industry, including Purdue, Endo, and Cephalon.

95. This type of industry-supported “advice” was a substantial impetus for patients to seek out, doctors to prescribe, and pharmacies to dispense immense amounts of opioids. An example is the case of the Dr. Richard Evans who was charged by the United States Department of Justice with writing prescriptions for oxycodone and hydrocodone, which were then filled at Briargrove

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<sup>29</sup> <http://web.archive.org/web/20150921095820/http://www.texaspain.org:80/patient-information>

Pharmacy by defendant Devido. Dr. Evans' indictment (See Exhibit A) alleges Evans prescribed and Devido dispensed approximately 1.6 million dosage units of oxycodone in a three-year-period.<sup>30</sup> This rate of dispensing translates to 1,461 prescriptions per day, 7 days a week, 365 days a year from a single pharmacy in in Harris County.

96. The hardship attributable to this disaster has been disproportionately borne by the youth of Texas. According to recent survey findings, as of 2016, at least 5 % of Texas youth reported using opioid medications pandered by the defendants at some point during their lifetime. A shocking 2.4% of the surveyed population reported using these drugs in the past month.<sup>31</sup>

97. In conclusion, the defendants violated numerous provisions of Texas law and now must answer to the Court and the citizens of Harris County, Texas.

## **VII.** **ALLEGATIONS APPLICABLE TO THE INDIVIDUAL DEFENDANTS**

98. Gazelle Craig, M.D. a previously licensed physician in Harris County, Texas specializing in pain management, prescribed approximately 12,000 opioid prescriptions, which equals two million doses of painkillers, in a period of two years. Craig operated a pain management clinic without the proper registration required by the State of Texas. The Texas State Board of Medical Examiners suspended, without notice, the Texas Medical Licenses of Craig after determining her continuation in the practice of medicine posed a continuing threat to the public welfare. (See Exhibit B). Such action by Craig created a public nuisance in Harris County.

99. Arun Sharma, M.D. and Kiran Sharma, M.D., ("Sharmas") both formerly licensed physicians in City of Houston, County of Harris, State of Texas, likewise created a public nuisance

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<sup>30</sup> <https://www.justice.gov/usao-sdtx/pr/doctor-and-pharmacist-charged-distributing-16-million-doses-oxycodone>

<sup>31</sup> Texas Drug Facts Among Youth 2016

through the operation of a “pill mill” in Harris County for many years. The Sharmas operated multiple “medical clinics” in such a manner to create a public nuisance that effected a significant portion of Harris County. The Sharmas prescribed controlled substances such as hydrocodone to nearly every patient they treated, again contributing to a public nuisance.

100. David Devido, a formerly licensed pharmacist, dispensed drugs for a purpose which had no legitimate medical objective and was done primarily for monetary gain. Specifically, David Devido dispensed approximately 1,564,912 dosage units of oxycodone products 30 mg; 132,933 dosage units of oxycodone products 15 mg; 77,138 dosage units of hydrocodone 10/325 mg.; 227,512 dosage units of hydrocodone 10/500 mg; and 78,895 dosage units of hydrocodone 10/650 mg. Such actions created a public nuisance.

101. Defendant, Richard Arthur Evans is a medical doctor who was previously licensed to practice in Houston, Harris County, Texas. Evans created a public nuisance through the writing of prescriptions and dispensing of drugs for a purpose which had no legitimate medical objective and was done primarily for monetary gain. Specifically, Evans dispensed approximately 1,564,912 dosage units of oxycodone products 30 mg; 132,933 dosage units of oxycodone products 15 mg; 77,138 dosage units of hydrocodone 10/325 mg.; 227,512 dosage units of hydrocodone 10/500 mg; and 78,895 dosage units of hydrocodone 10/650 mg. Such conduct provided ample evidence of a conspiracy.

102. The evidence will establish that the activities of the individual defendants created a public nuisance which resulted in financial losses to Harris County for which it now seeks all remedies, both legal and equitable, to which it is entitled.

**VIII.**  
**FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS:**  
**A. PUBLIC NUISANCE**

103. Harris County re-alleges and incorporates by reference each of the allegations contained in the preceding paragraphs of this petition as though fully alleged herein.

104. Texas law forbids the maintenance of a public nuisance. A “public” or “common” nuisance is defined in the Texas common law as a field of tort liability, a kind of damage done, rather than any particular type of conduct. As in the case of any other kind of damage, it may be inflicted by conduct which is intended to cause harm, by that which is merely negligent, or by that which involves an unusual hazard or risk.<sup>32</sup> A cause of action for public nuisance may be prosecuted, therefore, when the defendants’ conduct unreasonably interferes with a right common to the public at large by affecting the public health or public order.

105. The character of the defendants’ conduct, and their commensurate liability for the same, is measured using an objective standard. The expectations and demands of the community thus serve as the yardstick by which the reasonableness of the actors’ behavior is to be judged.

106. In addition, statutorily prescribed conduct may determine the reasonableness of the defendants’ business operations. It is alleged that the defendants’ conduct was unreasonable and tortious in numerous respects of their business in the manufacture, delivery, dispensation, or distribution of their opioid medications.

107. Plaintiff, Harris County, has standing to bring this claim of public nuisance against all defendants for damages, injunctive relief, and abatement of such public nuisance. The Texas law of public nuisance provides various remedies to damaged or injured parties when confronted with a public nuisance created by the conduct, in whole or in part, by the defendants.

108. By engaging in the conduct referenced in this petition, the manufacturing defendants, distributor defendants and individual defendants, individually and collectively, created a public

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<sup>32</sup> *City of Tyler v. Likes*, 962 S.W. 2d 489, 503-04(Tex. 1997).



nuisance by unreasonably interfering with a public right and public interest. Pleading further in the alternative, the conduct referenced herein was abnormal, dangerous and out of place in its surroundings and constitutes a public nuisance. Such conduct constituted significant interference with the public's health and safety, and adversely affected all or a considerable part of the Harris County community.

109. Plaintiff contends that the wrongful acts in which the defendants engaged were coordinated with other members of this industry, all of whom were acting in concert to achieve a common objective, which when achieved created a public nuisance. The conduct of the defendants has created a nuisance which has resulted in injuries and damages that adversely affected the citizens of Harris County. The harm suffered is detailed elsewhere in this petition, but includes the substantial costs of dealing with all aspects of the opioid epidemic including healthcare, law enforcement, and social services.

#### **B. TEXAS COMMON LAW NUISANCE**

110. By engaging in the conduct referenced above, the Manufacturing Defendants, Distributor Defendants and Doctor Defendant, individually and collectively created a public nuisance by unreasonably interfering with a public right and public interest. Such conduct constituted significant interference with the public's health and safety and adversely affected all or a considerable part of the Harris County community. All such defendants acted with intent with respect to the nature and result of their conduct and it was their conscious objective and desire to engage in such conduct and to produce such result as described herein. Pleading in the alternative, the conduct referenced herein in the creation of a public nuisance was committed by all defendants, negligently. Pleading in the alternative, the conduct referenced herein was abnormal, dangerous

and out of place in its surroundings and constitutes a public nuisance. Plaintiff Harris County has standing to bring this claim of public nuisance against all defendants.

**IV.**  
**SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS:**  
**CIVIL CONSPIRACY**

111. Harris County re-alleges and incorporates by reference each of the allegations contained in the preceding paragraphs of this petition as though fully alleged herein.

112. The conduct of all defendants as described above was done in furtherance of a conspiracy. The joined defendants had knowledge of, agreed to, and intended a common objective or course of action to be accomplished by unlawful means or for an unlawful purpose and committed one or more unlawful, overt acts in furtherance of the same that resulted in the damages that Plaintiff has sustained and continues to sustain on a regular basis. All of the defendants performed acts to further the conspiracy and are jointly and severally liable for the damages, costs and expenses associated with their conduct.

113. More specifically, the defendants coordinated their efforts to create a market for their opioid medications based on an industry-created misperception by the medical community and the public of the benefits and risks of these drugs. The specific actions taken by the defendants have been described elsewhere in this pleading, but included the support and dissemination of medical and promotional information calculated to assure prescribers and patients of the safety of these drugs. This common behavior was illegal and tortious in many respects and was a direct cause of the propagation of both legal and illegal opioid drug use.

114. The conduct of the defendants demonstrates the manner in which the objective of the civil conspiracy was accomplished. The individual defendants prescribed and dispensed millions of doses of opioids under the auspices of a distribution system that purported to be “closed” and

carefully monitored. The fact that the individual defendants were empowered to make available to the public inconceivable quantities of these dangerous drugs can be explained only by concluding that the opioid drug makers and distributors knew and supported the behavior of these defendants. With awareness – actual or constructive – of the conduct of the individual defendants and their ilk, reasonable minds would necessarily conclude that the corporate defendants were aware of and supported the wrongful conduct and accompanying harm attributable to the prescribing and dispensing by the individual defendants.

115. The medical community and the public rely upon the integrity of prescription drug companies to advertise, promote, and market their products in conformity with both common law and statutory obligations. There is an overriding responsibility to promote these products in a manner that is truthful and that discloses important safety information. Similarly, when drug companies engage in indirect forms of communication, they have a concomitant obligation to disseminate only accurate and honest product information. This responsibility applies to the myriad vehicles by which drug makers influence product use: marketing brochures for physicians and patients, TV commercials, FAQ'S, continuing medical education programs, web sites, and on and on. In all of these instances, the members of the opioid drug industry have both common law and regulatory restraints that govern their behavior. It is alleged that the corporate defendants violated these rules and disseminated untrue, misleading, and erroneous information about opioids.

116. The joined defendants, corporate and individual, are also guilty of acting in concert to profit from the opioid crisis. The drug manufacturers and distributors, as alleged herein, were responsible for maintaining an environment in which opioid drugs were available in massive quantities and were subject to significant rates of diversion to illicit uses. Plaintiff contends that the vast majority of healthcare providers who prescribed opioids, and clinics or pharmacies that

dispensed them, were legitimate businesses. However, there are individuals who take advantage of the profligate system that the corporate defendants supported and supplied. The named individual defendants are guilty of exploiting the opioid drug distribution system for profit, at the expense of the citizens of Harris County. However, the individual defendants would have been unable to perpetrate their tortious acts if the corporate defendants had fulfilled their responsibilities under Texas law to monitor, detect, investigate, and report suspicious orders of prescription opiates.

117. It is alleged that one or more of the corporate defendants had actual knowledge of the business operations being conducted by the individual defendants and continued to supply these individuals and their clinics with opioids, in which case the corporate defendants were active co-conspirators in these operation; in the alternative, it is alleged that the corporate defendants had knowledge of these events and passively supported the clinics by failing to monitor, detect, investigate, and report suspicious orders of prescription opiates, in which case the corporate defendants remain liable for the conduct of the clinics and their operators.

118. Hence, it is alleged that the individual defendants acted in concert with one or more of the corporate defendants, with an object to be accomplished (sales of opioids), a meeting of the minds on the manner of accomplishing this object, numerous unlawful, overt acts in furtherance of this goal, and damages to the citizens of Harris County, Texas as a proximate result.

**X.**  
**THIRD CAUSE OF ACTION AGAINST THE CORPORATE DEFENDANTS:**  
**NEGLIGENCE**

119. Harris County re-alleges and incorporates by reference each of the allegations contained in the preceding paragraphs of this petition as though fully alleged herein. In addition, thereto:

- (a) Defendants failed to implement policies and procedures to document the flow of opioids from the point of manufacture throughout the distribution network.
- (b) Defendants failed to properly train or require employees and affiliates to identify, report and investigate any improprieties in the flow of opioids.
- (c) As a proximate result, defendants have caused Harris County to incur excessive costs to treat the opioid epidemic, including but not limited to, increased costs of social services, health systems, law enforcement, judicial system, and treatment facilities.

**XI.**  
**DAMAGES**

120. Plaintiff has been damaged by defendants' conduct and can enumerate the following items and categories of items that represent the types of damages that resulted, directly and indirectly, from the behavior of the named defendants and their associates: The cost of opioid medications that would not otherwise have been prescribed, i.e., unnecessary or excessive opioid prescriptions; work loss expense attributable to individuals who are addicted to opioids or who suffer adverse health effects due to use of opioids; time and expenses incurred by county criminal justice agencies related to handling matters arising from opioid use; law enforcement time and expenses incurred by county agencies related to handling matters arising from the opioid epidemic; hospital and medical costs associated with adverse health effects from opioid addiction; costs and expenses incurred by social services agencies due to the opioid epidemic; costs and expenses to third parties due to the conduct of addicts.

121. Plaintiff will further explain on the proffered elements of damages and quantify the amounts allocable to these categories and items as this case progresses.

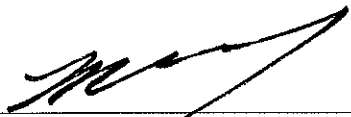
**XII.**  
**PRAAYER FOR RELIEF**

122. WHEREFORE, Plaintiff respectfully prays:

- a. That defendants be ordered to abate the public nuisance that they created in violation of Texas common law.
- b. That Plaintiff recover all measures of actual damages allowable under the law as set forth in this petition;
- c. That Plaintiff recover punitive and exemplary damages to the fullest extent permitted by law;
- d. That Plaintiff recover penalties or fines authorized by law;
- e. That Plaintiff recover interest, costs, and expenses as authorized by law;
- f. That Plaintiff recover its attorneys' fees and all related costs of litigation;

123. And for such other and further relief to which Plaintiff may show itself entitled, at law or in equity.

124. Plaintiff hereby demands a trial by jury.

<p>Respectfully submitted,</p> <p>OFFICE OF HARRIS COUNTY ATTORNEY, VINCE RYAN</p> <p><i>/s/Vince Ryan</i> Vince Ryan Harris County Attorney Texas Bar No. 17489500 Robert W. Soard First Assistant Harris County Attorney Texas Bar No. 18819100</p>	<p> <del>THE GALLAGHER LAW FIRM</del> Michael T. Gallagher Texas Bar No. 07586000 Pamela McLemore Texas Bar No. 24099711 Boyd Smith Texas State Bar No. 18638400 2905 Sackett Street Houston, Texas 77098 (713) 222-8080 (713) 222-0066 – facsimile</p>
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