

or reasonably should have known, were being overprescribed, misused, or abused while illegally failing to maintain appropriate controls over such distribution. By causing or substantially contributing to the opioid crisis in Vermont, Defendants have created an unreasonable public nuisance. Without Defendants' actions, opioid use would not have become so widespread in Vermont, and the opioid epidemic which the State now faces would have been averted or would be much less severe.

397. As a direct and proximate result of Defendants' actions and omissions, the State and its citizens suffered harms including, *inter alia*, the following:

- Normalization of over-prescribing and over-dispensing of prescription opioids by prescribers and pharmacists in the State;
- Increased availability and sales of prescription opioids, accompanied by increased diversion;
- Dependence and addiction to prescription opioids leading to escalation to non-prescription or "street" opioids such as heroin and fentanyl;
- Higher rates of opioid misuse, abuse, injury, overdose, and death, and their impact on Vermont families and communities;
- Heightened rates of opioid use disorder in pregnant women and resulting neonatal abstinence syndrome in their children;
- Increased health care costs for individuals, families, employers, and the State; and
- Greater demand for law enforcement, including the costs of treating prisoners with addiction.

398. Public resources have been, and are being, consumed in efforts to address the opioid epidemic, reducing the available resources that could be used to benefit the Vermont public at large.

399. At all times relevant, Defendants controlled the instrumentalities of the nuisance: distribution channels that moved prescription opioids from manufacturers to pharmacies in the

State and the systems (or lack thereof) for monitoring and identifying suspicious orders of prescription opioids and the protocols for halting, investigating, and reporting those orders.

400. At all times relevant, Defendants knew that prescription opioids are regulated controlled substances that have a high potential for abuse and may lead to severe psychological or physical dependence. Defendants were further aware—because they helped create it—that a national opioid epidemic had led to widespread addiction, overdoses, hospitalizations, and fatalities. The harms alleged herein were therefore foreseeable to Defendants as a direct and proximate result of their actions and omission. It was unreasonable for them to move prescription opioids from manufacturers to pharmacies and other dispensaries without systems in place to detect, investigate, halt, and report suspicious orders. It was also unreasonable for Defendants to fail to design and operate a system that would disclose the existence of suspicious orders of prescription opioids and to fail to report, investigate, and halt those orders, as required under Vermont law.

401. Defendants' actions and omissions were a material element in allowing prescription opioids to become available throughout the State on an unnecessary and dangerously large scale.

402. As a direct result of Defendants' misleading representations regarding their purported compliance with their duties to prevent diversion, the State was unaware of, and could not reasonably know or have learned at an earlier time through reasonable diligence, the risks described herein.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff State of Vermont respectfully requests the Court enter judgment in its favor and the following relief:

(A) A judgment in the State’s favor and against Defendants on each cause of action asserted in the Complaint;

(B) With respect to Counts I and II, a permanent injunction prohibiting Defendants from engaging in the unfair and deceptive acts and practices described in the Complaint;

(C) With respect to Counts I and II, a judgment requiring Defendants to disgorge all funds acquired or retained as a result of any acts or practices found to be unlawful;

(D) With respect to Counts I and II, statutory penalties of \$10,000 for each violation of the Vermont Consumer Protection Act;

(E) With respect to Count III, all damages allowable under common law;

(F) With respect to Count IV, an order providing for abatement of the nuisance that Defendants created or were a substantial factor in creating, enjoining Defendants from further conduct contributing to the nuisance, and damages as compensation for funds the State has already used to abate the nuisance;

(G) The award of investigative and litigation costs and fees, including attorneys’ fees, to the State; and

(H) Such other, further, and different relief as this Court may deem appropriate.

**JURY TRIAL DEMANDED**

The State demands a trial by jury.

Dated: March \_\_\_\_, 2019

Respectfully submitted,

THOMAS J. DONOVAN JR.  
ATTORNEY GENERAL

By: \_\_\_\_\_  
Thomas J. Donovan Jr.

Joshua Diamond  
*Deputy Attorney General*  
Jill S. Abrams  
*Director, Consumer Protection Division*  
109 State Street  
Montpelier, Vermont 05609  
Tel: (802) 828-1106  
Jill.Abrams@vermont.gov