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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT

STATE OF KANSAS, *ex rel.*
DEREK SCHMIDT, Attorney General,

Plaintiff,

v.

PURDUE PHARMA L.P.,
PURDUE PHARMA, INC.,
THE PURDUE FREDERICK COMPANY, INC.,

Defendants.

(Pursuant to K.S.A. Chapter 60)

PETITION

COMES NOW Plaintiff, State of Kansas, *ex rel.* Derek Schmidt, Attorney General and brings this action against Defendants, Purdue Pharma L.P., Purdue Pharma, Inc., and The Purdue Frederick Company, Inc., for violations of the Kansas Consumer Protection Act ("KCPA").

Plaintiff alleges and states as follows:

PARTIES

1. Derek Schmidt is the duly elected, qualified and acting Attorney General for the State of Kansas. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the KCPA, K.S.A. 50-623 et seq.

2. Defendant 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 L.P. can be served at The Prentice Hall Corporation System, Inc., 251 Little Falls Drive, Wilmington, DE 19808.

3. Defendant Purdue Pharma, Inc., is a New York corporation with its principal place of business in Connecticut and is the general partner of Defendant Purdue Pharma L.P. Purdue Pharma, Inc., can be served at United Corporate Services, Inc., 10 Bank Street, Suite 560, White Plains, NY 10606.

4. Defendant The Purdue Frederick Company, Inc., is a New York corporation with its principal place of business in Connecticut. The Purdue Frederick Company, Inc., can be served at Corporation Service Company, 80 State Street, Albany, NY 12207.

5. Defendants acted together in the national manufacture, and in the Kansas marketing and sale, of opioid drugs, including MS Contin, OxyContin, and Hysingla ER, and are referred to collectively herein as "Purdue."

6. Each of the Purdue companies is and has been at all relevant times a supplier, as defined in K.S.A. 50-624(l) and has, in the ordinary course of business, solicited and engaged in consumer transactions, as defined in K.S.A. 50-624(c), throughout the State of Kansas, including in Shawnee County, Kansas.

7. Purdue engaged in such consumer transactions by its marketing schemes and sale of opioid drugs from on or about December 1995 to the present day.

JURISIDICTION AND VENUE

8. This Court has jurisdiction over Purdue pursuant to K.S.A. 50-638(a) and K.S.A. 60-308(b).

9. Venue for this action lies in Shawnee County, Kansas, pursuant to K.S.A. 50-638(b).

GENERAL ALLEGATIONS

10. Opioids are a class of drugs that can provide pain relief by suppressing the body's pain receptors. Opioids also frequently generate a euphoric feeling for their recipients.

11. While many opioids consumed in America are prescribed to patients, the opioid class includes illegal drugs such as heroin.

12. For most of the last century, doctors believed long-term opioid therapy was contraindicated for chronic pain due to the risk of addiction, increased disability, and lack of efficacy over time. Accordingly, opioid treatment was traditionally limited to short-term conditions, cancer patients, and end-of-life care, where the benefits outweigh the significant risks associated with opioid usage.

13. In the 1990s, despite decades of common wisdom to the contrary, pharmaceutical companies, including Purdue, began assuring the medical community that "appropriate" patients (those not predisposed to addiction) would not risk addiction, overdose, and death if doctors began treating chronic pain with opioids.

14. However, as a patient takes an opioid for longer durations, the patient will often develop a tolerance to the opioid's effects and will require higher doses to maintain the same pain relief. If the patient suddenly stops taking an opioid at this point, the patient will likely experience withdrawal symptoms due to an opioid dependence. If the patient's opioid dependence is not properly managed, the patient can develop a powerful, compulsive urge to use

opioid drugs, even when they are no longer required medically. This compulsive usage of opioids is characteristic of addiction.

15. Today a nationwide public health emergency exists regarding opioid use and abuse. To illustrate, through 1999 to 2017, the rate of opioid drug overdose deaths involving natural and semisynthetic opioids increased by 340%. By 2017, roughly 56 Americans died every day due to prescription opioids such as Purdue's OxyContin. In October 2017, the President of the United States declared the opioid crisis a public health emergency.

16. Purdue participated in the creation and propagation of the ongoing crisis through an organized campaign of misleading and deceptive marketing statements regarding the safety of its opioids, aggressive sales tactics, and unconscionable promotion of pseudoscientific treatment for legitimate addiction concerns.

17. Moreover, Purdue's deceptive and unconscionable marketing and sales tactics have brought the opioid crisis to Kansas.

A. Purdue's Part in the Crisis

18. In response to competition from generic drug manufacturers of Purdue's then-flagship opioid pain relief product MS Contin, Purdue decided to seek production of a controlled-release oxycodone product called OxyContin.

19. In 1994, Purdue submitted a New Drug Application (NDA) to the Food and Drug Administration (FDA) for the new controlled-release oxycodone pain reliever, OxyContin. Purdue's NDA included clinical studies showing that OxyContin, when dosed every twelve hours, was as safe and as effective as immediate-release oxycodone dosed every six hours. However, Purdue's NDA did not claim that OxyContin was safer or more effective than immediate release oxycodone or other pain medications. Purdue did not have any clinical studies

demonstrating that OxyContin was less addictive, less subject to abuse, or less likely to cause tolerance and withdrawal than other pain medications.

20. The FDA approved OxyContin on December 12, 1995. Thereafter, from December 12, 1995, and continuing until on or about June 30, 2001, Purdue employees deceptively promoted OxyContin as less addictive, less subject to abuse and diversion, and less likely to cause tolerance and withdrawal than other pain medications.

21. Following a federal investigation and criminal indictment, Purdue pleaded guilty on May 10, 2007, to deceptively marketing OxyContin and specifically asserted that its employees intentionally made misleading marketing claims about the risks of addiction and abuse associated with OxyContin, including that Purdue had also made misrepresentations that OxyContin had "fewer peaks and valleys" of pain relief than immediate-release opioids.

22. Despite this guilty plea, Purdue continued deceptive and unconscionable marketing for its opioids.

i. Purdue Utilized Misleading Studies, Publications, and Reports

23. Purdue sponsored "studies" and organizations that misled consumers and physicians, including consumer patients and Kansas physicians, about the safety and efficacy of Purdue's opioid products to change the traditional narrative about opioids and promoted opioids as a safe and effective treatment for chronic pain.

24. Beginning in the 1990s, Purdue began publishing and sponsoring misleading studies to promote the false perception that prescription opioids were effective, long-term treatments for chronic pain conditions and that prescription opioids improve patients' functionality and quality of life.

25. Throughout the 2000s, Purdue provided substantial financial assistance to the American Pain Foundation (APF), which held itself out as the "nation's largest organization serving consumers affected by pain." As part of that support, Purdue, along with other pharmaceutical companies, financed the publication of APF's "Treatment Options: A Guide for People Living with Pain" which suggested that opioids grant "a quality of life [pain patients] deserve," for purposes of widespread distribution to physicians and consumer patients.

26. Purdue additionally funded APF's "Exit Wounds: A Survival Guide to Pain Management for Returning Veterans & Their Families," written by Derek McGinnis. "Exit Wounds" was distributed throughout the United States, including in Kansas, and was cited as a resource for veterans through veteran support groups. It presented misleading statements about the benefits of opioid therapy for chronic pain from the perspective of an injured veteran.

27. Purdue's involvement with APF was pervasive. In 2006, APF contacted Purdue with an outreach proposal and funding request for a program targeting veterans, which led to the creation of "Exit Wounds." APF provided regular grant reports to Purdue, detailing the use of Purdue's grants and updating Purdue on APF's market outreach programs. In 2011, Purdue entered into a confidential "Master Consulting Services" agreement with APF, which granted Purdue substantial control over APF's work related to specific promotional projects. APF received nearly 90% of its funding in 2010 from drug manufacturers but continued to call itself "independent," which Purdue used to its advantage.

28. Purdue funded a book, "Responsible Opioid Prescribing," published in 2007, which promoted the use of opioid medication for chronic pain in non-cancer patients and presented the issues of addiction and the risks of opioid therapy as easily managed by an educated physician. The book instructed doctors that "[p]atients should not be denied opioid

medications except in light of clear evidence that such medications are harmful to the patient." The book further promoted false concepts related to the risks and signs of addiction, including the suggestion that addiction only manifests with criminal or fraudulent behavior.

29. As part of its strategy to influence the minds of doctors and consumer patients, Purdue utilized a tactic known as "unbranded marketing." Unbranded marketing is a form of marketing communication promoting a topic or general-class of medication, without disclosing the sponsor of the marketing and without promoting any individual product. While the FDA has general regulatory oversight authority over promotional activities related to Purdue's branded marketing of specific products, the FDA does not have authority over unbranded marketing activities.

30. Purdue developed an unbranded marketing campaign called "Partners Against Pain," which ran from 1993 to 2016. The campaign utilized direct marketing materials to consumer patients, including Kansas consumer patients, labeled "patient education" materials, coupon programs, and celebrity endorsements to encourage consumer patients to discuss opioid therapy for chronic pain management with their doctors.

31. Purdue also funded third-party organizations to create and disseminate research, literature, and medical education materials that promoted the liberal usage of opioid therapy for chronic pain treatment. These organizations include the APF, the American Academy of Family Physicians, and the American Academy of Pain Management. From 2006 to 2016, Purdue spent millions of dollars in direct grants to third-party organizations.

ii. Purdue Misled Consumers about the Risks of Opioid Abuse and Addiction

32. When Purdue initially began marketing OxyContin, Purdue was aware that some doctors held the incorrect view that OxyContin was less potent than morphine and, thus, believed that OxyContin was safer than morphine. Purdue took no action to correct this misunderstanding.

33. Purdue further obscured the risks associated with its opioid drugs. Purdue had stated that "appropriate" consumer patients would not get addicted to its medication. In a pamphlet for doctors, which Purdue's representatives distributed in Kansas, called "Providing Relief, Preventing Abuse: A Reference Guide to Controlled Substance Prescribing Practices," Purdue wrote that addiction "is not caused by drugs." Instead, Purdue assured doctors that addiction happens when the wrong patients get drugs and abuse them: "it is triggered in a susceptible individual by exposure to drugs, most commonly through abuse." To support this point, Purdue cited itself, rather than to any applicable research.

34. From 2008 to 2015, Purdue promoted pain treatment on its website called "In the Face of Pain," available for access in Kansas and elsewhere, by urging consumer patients to "overcome" their "concerns about addiction." Purdue paid doctors, with an agreement to "work collaboratively to develop and approve key messages," to create testimonials for the website to promote its opioid drugs and presented those testimonials as personal stories. The website claimed that pain care policies are at odds with best medical practices and encouraged consumer patients to be persistent in finding doctors who will treat their pain with opioids.

35. In another Purdue-sponsored publication, the "Resource Guide for People with Pain," distributed in Kansas, Purdue falsely assured consumer patients and doctors that opioid medications are not addictive. Specifically, Purdue claimed:

> "Many people living with pain and even some healthcare providers believe that opioid medications are addictive. The truth is that when properly prescribed by a

> healthcare professional and taken as directed, these medications give relief – not a 'high.'"

Purdue did not support this claim with applicable research.

36. Purdue funded other misleading publications. "Exit Wounds" misleadingly claimed: "[l]ong experience with opioids shows that people who are not predisposed to addiction are unlikely to become addicted to opioid pain medications." Purdue did not support this statement with applicable research.

37. "Opioid Prescribing: Clinical Tools and Risk Management Strategies," distributed in Kansas, told doctors that "addiction is rare in patients who become physiologically dependent on opioids while using them for pain control." Purdue did not support this statement with applicable research.

38. "Responsible Opioid Prescribing," told doctors that only "a small minority of people seeking treatment may not be reliable or trustworthy" and not suitable for addictive opioid drugs. Purdue did not support this statement with applicable research.

39. Purdue also publicized and promoted a term called "pseudoaddiction" which encouraged sales to addicted patients. "Pseudoaddiction" has no evidence to support the concept as a diagnosable clinical entity with objective signs and specific treatments.

40. In a presentation for Kansas doctors titled "Medication Therapy Management," Purdue presented "pseudoaddiction" as fact and suggested that the traditional concern regarding opioid addiction was wrong as patients tended to suffer from an inadequate dose of opioid drugs.

41. A Purdue pamphlet titled "Clinical Issues in Opioid Prescribing," urged doctors to look for "pseudoaddiction":

> "A term which has been used to describe patient behaviors that may occur when pain is undertreated. Patients with unrelieved pain may become focused on obtaining medications, may 'clock watch,' and may otherwise seem

> inappropriately 'drug seeking.' Even such behaviors as illicit drug use and deception can occur in the patient's efforts to obtain relief. Pseudoaddiction can be distinguished from true addiction in that the behaviors resolve when the pain is effectively treated."

Purdue again encouraged doctors to prescribe higher doses, stating that opioids "are frequently underdosed – or even withheld due to a widespread lack of information . . . about their use among healthcare professionals."

42. In"Providing Relief, Preventing Abuse," Purdue warned doctors that "[u]ndertreatment of pain is a serious problem" and "pain should be treated aggressively." In a second edition of the pamphlet, Purdue presented "pseudoaddiction" as a medically accepted term, without disclosing that "pseudoaddiction" had no empirical evidence to justify it as a clinical diagnosis.

iii. Purdue Targeted Vulnerable Populations

43. Purdue's marketing targeted vulnerable populations to increase its drug sales, including populations that constitute protected consumers as defined by K.S.A. 50-676.

44. Purdue knew that prescribing opioids to elderly patients increases their risk of death. Elderly patients face increased risk of dangerous drug interactions and respiratory depression. Despite these risks, Purdue viewed elderly patients as an opportunity to make profits due to their ability to pay through Medicare.

45. Purdue trained its sales representatives to show charts to doctors emphasizing Medicare coverage for its opioids and to use profiles of fake elderly patients to convince doctors to prescribe opioids.

46. To support this geriatric strategy, Purdue sales representatives continually reminded Kansas prescribers about Medicare coverage for elderly patients.

47. Purdue likewise targeted veteran populations, including Kansas veterans, with deceptive claims to encourage veteran consumption of opioids. To support their veteran strategy, Purdue funded "Exit Wounds," in which the deceptive claim that patients would not become addicted to opioids was repeated:

> "The pain-relieving properties of opioids are unsurpassed: they are today considered the 'gold standard' of pain medications, and so are often the main medications used in the treatment of chronic pain. Yet, despite their great benefits, opioids are underused. For a number of reasons, healthcare providers may be afraid to prescribe them, and patients may be afraid to take them. At the core of this wariness is the fear of addiction, so I want to tackle this issue head-on . . . Long experience with opioids shows that people who are not predisposed to addiction are unlikely to become addicted to opioid pain medications."

48. Purdue also sought to sell its drugs to consumer patients not currently prescribed an opioid, whom Purdue labeled "opioid-naïve."

49. To encourage the opioid-naïve population to seek opioid prescriptions, Purdue labeled its drugs as "first line opioids." Opioids are not appropriate as a first line therapy.

50. Purdue manipulated prescribers by claiming they were failing their patients if they did not prescribe opioids to relieve pain.

51. Purdue sponsored APF's "Treatment Options," which warned the medical community that "under-use [of opioids] has been responsible for much unnecessary suffering" and claimed that "[d]espite the great benefits of opioids, they are often underused." APF's publication, emphasized that "[r]estricting access to the most effective medication for treating pain is not the solution to drug abuse or addiction." Purdue did not support this claim with applicable research.

iv. Purdue Pushed Higher Dose Opioids For Longer Duration Therapy

52. Purdue pushed prescribers to use higher and higher dosages despite the dangers.

53. Purdue employed a strategy to push prescribers to escalate the dosage given to consumer patients, despite the concurrent escalation of the risk of addiction, overdose, and death.

54. Purdue earns more money per prescription when a patient is on a higher dosage of their opioids.

55. Purdue created the deceptive "Individualize the Dose" marketing campaign and associated marketing materials to encourage higher dose prescriptions, including higher dose prescriptions to consumer patients.

56. Purdue trained its sales representatives that increasing a patient's dose, a process Purdue labeled "titration," was a key move when making sales.

57. Purdue tracked whether its sales representatives were successful in pushing prescribers to increase doses. When sales declined, Purdue issued warnings to sales managers and representatives.

58. Purdue knew that its promotion drove patients to higher doses.

59. Purdue knew patients at higher-dose opioid therapy for chronic pain are more likely to stay at a higher-dose, regardless of need or therapeutic value. Nevertheless, Purdue publicly argued that "dose was not a risk factor for opioid overdose," even when Purdue's internal analysis indicate that dose was "very likely" related to overdose risk.

60. The CDC reports that a moderately high dose per day of an opiate can double the risk of opioid overdose death compared to a relatively low dose. For exceptionally high doses, the CDC reports that the risk of death increases ten times. Purdue's marketing strategy pushed consumer patients to these high doses and beyond, without regard to the risk of overdose and death.

61. Purdue pushed consumer patients to stay on opioids longer than necessary. Purdue specifically instructed its sales representatives to extend average treatment duration. Purdue convinced healthcare providers and consumer patients to use its drugs for longer periods of time as a key element of its plan to drive sales and profitability.

62. Purdue crafted marketing and training materials using the term "Improving the Length of Therapy." Purdue trained its sales representatives that there is a direct relationship between getting consumer patients on higher doses and keeping them on its opioids longer.

63. As part of its strategy to secure longer lengths of therapy, Purdue deceptively claimed that patients developing a physical dependency on its drugs was "normal." Purdue represented to doctors that tolerance and physical dependence are normal consequences of sustained use of opioid pain relievers and are not the same as addiction and assuaged concerns about addiction by claiming Purdue's opioid drugs were no more addictive than drugs used to treat high blood pressure.

64. In a separate draft of its long-term opioid therapy plan, Purdue specifically claimed that data supports the use of opioids beyond 90 days and maintained through 52 weeks.

65. There is no clear data to support the conclusion that the long-term use of opioid therapy for chronic pain produces any beneficial result. However, the long-term use of opioids for chronic pain carries increased risk of addiction, early death, and other health problems.

66. Purdue developed, and employed in Kansas, a discount or savings card program allowing customers to receive a discount price for its opioids, which enticed people onto Purdue's high-dose, long-term regimen. Purdue's analysis of the program revealed that patients using savings cards were more willing to take opioids and remain on Purdue's opioids after 90 days.

67. The savings cards produced an incredible return of investment for Purdue. For every dollar invested in the savings card program, Purdue earned over four dollars in revenue due to the consumer patient's extended length of therapy.

v. Purdue Misled Consumers Away from Safer Alternatives

68. Purdue deceptively steered consumer patients away from safer alternatives.

69. Purdue knew it could not truthfully represent or suggest that its drugs are "safer" or "more effective" than other pain medications, nor could it make "any sort of comparative claim," because it had no drugs with the evidence required for such a claim. Regardless of this knowledge, Purdue implied that its drugs were safer and more effective than other common pain relievers.

70. Purdue made deceptive comparisons between opioids and other pain treatments, including non-steroidal anti-inflammatory drugs (NSAIDs) like ibuprofen, by suggesting that pure opioids such as OxyContin do not have a "ceiling dose." In APF's Purdue-sponsored "Treatment Options," APF reiterated that some opioids have "no ceiling dose as there is with NSAIDs." APF further emphasized that NSAIDs carried "serious" and "life-threatening" side effects, while it minimized the side effects of opioids by suggesting the most common side effects go away a few days after initial use.

71. "Treatment Options" and "Exit Wounds" further make a misleading claim that opioids will get patients the "quality of life [patients] deserve." "Exit Wounds" states opioids are the "gold standard of pain medications."

72. Purdue misrepresented the efficacy of OxyContin abuse-deterrent formulations. Purdue introduced tamper-resistant versions of OxyContin in 2010, which were harder to crush

and theoretically deterred the illicit extraction of the opioid for a non-approved purpose. These versions of its drugs were marketed and sold in Kansas.

73. The FDA found that the "tamper-resistant" changes had no effect on the most common way that Purdue's pills were abused, specifically by swallowing them.

74. Yet, despite the complete lack of protection against the most common abuse route offered by Purdue's reformulations, Purdue marketed its drugs as "safer" and "abuse-deterrent."

75. Purdue further created an unbranded marketing initiative, employed in Kansas, "Opioids with Abuse Deterrent Properties," to encourage prescribers to switch to Purdue opioids, which included a website, medical journal ads, educational events, and payments to doctors to promote Purdue opioids.

B. Opioid Crisis in Kansas

76. In 2017, Kansas pharmacists distributed more than 170 million doses of prescription opioids in Kansas, enough to give each Kansan either a hydrocodone, an oxycodone extended-release, or a methadone tablet every day for *more than a month.*

77. Prescriptions for hydrocodone, such as Purdue's Hysingla ER, and oxycodone, such as Purdue's OxyContin, are a significant portion of all prescriptions written in Kansas. For example, prescriptions for hydrocodone and oxycodone represented 63% of all prescription opioids in the state from July to September in 2017. During the same period, approximately 10% of Kansas patients were prescribed opioid doses larger than 90 morphine milligram equivalent per day, which greatly increased the risk of death or other adverse effects.

78. In 2017, the rate of opioid prescriptions ranged from 10.7 to 35.9 per 100 residents across the state, equating to 1 in 3 Kansans receiving some form of opioid prescription

in parts of the state. Some of Kansas' smallest counties (Greenwood, Elk, Woodson, Graham, Chautauqua, and Wilson counties) had some of the highest rates of opioid consumption.

79. Purdue made or caused to be made over 130,000 contacts to medical practitioners and consumer patients in Kansas from 2006 to 2017. Over the same time frame, Kansas received millions of doses of Purdue's opioids.

80. Pursuant to their training and management by Purdue, the sales representatives aggressively peddled Purdue's opioids and pushed Kansas prescribers to utilize higher dose prescriptions.

81. Purdue's deceptive marketing and sales tactics have led to an increase in overdose deaths and addiction in Kansas. Kansas saw a spike in prescription opioid overdose deaths consistent with Purdue's launch and promotion of OxyContin in 1996. Today, prescription opioids are a leading cause of drug poising deaths in Kansas.

82. The Kansas Department of Health and Environment reports that between 2005 and 2016, between 70 and 120 deaths from prescription opioid poisoning occurred in Kansas each year.

CLAIMS

COUNT I

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b)(1)(A))

83. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

84. Purdue funded, in part, the publication and distribution of "Exit Wounds: A Survival Guide to Pain Management for Returning Veterans and Their Families."

85. "Exit Wounds" contains numerous deceptions:

a. falsely suggests that opioids are considered the "gold standard" of pain medications;

b. misrepresents the risk of physical dependence;

c. misrepresents the relative risk between opioids and safer alternatives such as NSAIDs by focusing on the risks and "ceiling dose" of NSAIDs, while implying there is no maximum dose for opioids;

d. falsely suggest opioid use can improve a patient's quality of life;

e. falsely suggests opioids only cause addiction in patients who are "predisposed to addiction"; and,

f. misrepresents the risk of lasting side-effects from long-term or high dosage opioid consumption.

86. Purdue knowingly or with reason to know made representations that their products had properties, characteristics, uses, or benefits that its drugs do not have in violation of K.S.A. 50-626(b)(1)(A).

87. Each time a Kansas consumer viewed or received "Exit Wounds" is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT II

Kansas Consumer Protection Act –Unconscionable Acts and Practices
(In violation of K.S.A. 50-627(b)(1).)

88. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

89. Purdue, through its publication of the "In the Face of Pain" website, presented to consumers testimonials from medical professionals about the qualities of opioid medications without disclosing the medical professionals were paid for their testimonials. The website urged consumer patients to "overcome" their "concerns about addiction." Purdue paid doctors, with an

agreement to "work collaboratively to develop and approve key messages", to create testimonials for the website to promote its opioid drugs and presented those testimonials as personal stories.

90. Purdue knowingly or with reason to know took advantage of the inability of the consumer reasonably to protect the consumer's interests because of the consumer's physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor in violation of K.S.A. 50-627(b)(1).

91. Each time a Kansas consumer viewed "In the Face of Pain" is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT III

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b)(1)(A))

92. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

93. Purdue misled Kansas consumers about the risk of addiction associated with its products by suggesting that only "untrustworthy" or "predisposed" patients would ever face addiction. The concept that addiction only happens to unworthy or dishonest patients and that those addicted are somehow morally weak created a false understanding in Kansas prescribers and consumers that "trusted" patients would not face the risk of addiction. This deceptive marketing led more Kansans to fall victim to addiction to Purdue's drugs and increased the risk that Kansas consumer patients would fail to receive adequate treatment for their addiction to Purdue's medication.

94. Without factual basis, Purdue offered prescribers a pamphlet titled "Providing Relief, Preventing Abuse: A Reference Guide to Controlled Substance Prescribing Practices," which stated that addiction "is not caused by drugs."

95. The pamphlet falsely assured physicians that addiction is "triggered in a susceptible individual by exposure to drugs."

96. By misrepresenting the nature of addiction, Purdue misrepresented the risk of its drugs.

97. Purdue knowingly or with reason to know made representations that their products had a property or characteristic its drugs do not have in violation of K.S.A. 50-626(b)(1)(A).

98. Each time a copy of "Providing Relief, Preventing Abuse" was distributed to Kansas is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT IV

Kansas Consumer Protection Act – Unconscionable Acts and Practices
(In violation of K.S.A. 50-627(b)(1))

99. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

100. Purdue distributed to Kansas consumers "patient education" materials, including opioid discount coupons and celebrity endorsements, through an unbranded marketing campaign called "Partners Against Pain". The materials failed to explain the full extent of the risks of opioid therapy.

101. This campaign encouraged consumer patients to seek dangerous opioid therapy from their doctors, without fully appreciating the risks.

102. Purdue knowingly or with reason to know took advantage of the inability of the consumer reasonably to protect the consumer's interests because of the consumer's physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor in violation of K.S.A. 50-627(b)(1).

103. Each time Purdue provided "patient education" materials, including discount coupons, to a Kansas consumer, through its marketing campaign called "Partners Against Pain", is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT V

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b)(3))

104. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

105. Purdue distributed to Kansas consumers "patient education" materials, including opioid discount coupons and celebrity endorsements, through an unbranded marketing campaign called "Partners Against Pain". The materials failed to explain the full extent of the risks of opioid therapy.

106. This campaign encouraged patients to seek dangerous opioid therapy from their doctors, without fully appreciating the risks.

107. Purdue willfully failed to state a material fact, or willfully concealed, suppressed or omitted a material fact in violation of K.S.A. 50-626(b)(3).

108. Each time Purdue provided "patient education" materials, including discount coupons, to a Kansas consumer, through its marketing campaign called "Partners Against Pain", is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT VI

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b)(3))

109. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

110. Purdue misled Kansas physicians about the risk of addiction associated with its products by minimizing the risks of addiction for the purpose of increasing prescriptions for, and sales to consumers of, opioid drugs.

111. In the Purdue-sponsored publication, the "Resource Guide for People with Pain," the use of opioids was promoted, while minimizing the risks of opioids.

112. Purdue willfully failed to state a material fact, or willfully concealed, suppressed or omitted a material fact K.S.A. 50-626(b)(3).

113. Each time a copy of "Resource Guide for People with Pain," was distributed in Kansas, is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT VII

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b)(3))

114. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

115. Purdue misled Kansas physicians about the risk of addiction associated with its products for the purpose of increasing prescriptions for, and sales to consumers of, opioid drugs.

116. In a presentation created by Purdue for doctors titled "Medication Therapy Management," Purdue presented "pseudoaddiction" as fact and suggested that the traditional concern regarding opioid addiction was wrong as patients actually tended to suffer from an inadequate dose of opioid drugs.

117. Purdue willfully failed to state a material fact, or willfully concealed, suppressed or omitted a material fact K.S.A. 50-626(b)(3).

118. Each copy of the presentation "Medication Therapy Management," distributed in Kansas, is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT VIII

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b)(3))

119. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

120. Purdue misled Kansas physicians about the risk of addiction associated with its products for the purpose of increasing prescriptions for, and sales to consumers of, opioid drugs.

121. In a pamphlet created by Purdue for doctors titled "Providing Relief, Preventing Abuse: A Reference Guide to Controlled Substances Prescribing Practices," Purdue warned doctors that "[u]ndertreatment of pain is a serious problem" and "pain should be treated aggressively." In a second edition of the pamphlet, Purdue presented "pseudoaddiction" as a medically accepted term, without disclosing that "pseudoaddiction" had no evidence to support the concept as diagnosable clinical entity with objective signs and specific treatments.

122. Purdue willfully failed to state a material fact, or willfully concealed, suppressed or omitted a material fact K.S.A. 50-626(b)(3).

123. Each copy of the presentation "Providing Relief, Preventing Abuse: A Reference Guide to Controlled Substances Prescribing Practices" distributed in Kansas is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT IX

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b)(4))

124. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

125. As part of their marketing strategy, Purdue knowingly, or with reason to know, steered Kansas consumer patients away from safer pain management alternatives.

126. Purdue sponsored APF's misleading "Treatment Options," which repeats the assertion that NSAIDs have a dose "ceiling" and that NSAIDs "can cause life-threatening side effects in some persons." The text suggests that opioids have no "ceiling dose," ignoring the significant risks of addiction, overdose, and death that occur with sufficiently high doses.

127. The text goes on to state the number of NSAID related deaths per year -- 10,000 to 20,000 -- but fails to articulate the fact that opioid overdoses are fatal at an increasing rate, with 20,000 Americans dying from an opioid overdose in 2017.

128. These same claims were reproduced in the Purdue-sponsored publication, "Exit Wounds."

129. Purdue further steered Kansas consumer patients away from lower-dose, immediate-release opioids, despite their common use before the crisis. Purdue claimed superiority because its extended-release drugs were more convenient to take and did not pose a risk of liver toxicity like immediate-release opiates which contained acetaminophen. However, Purdue minimized the risks associated with its extended-release opioids, including the risks of addiction, overdose, and death.

130. By disparaging the properties of NSAIDs and immediate-release opioids with misleading claims about the material risks and benefits of these drugs, Purdue has knowingly or with reason to know violated K.S.A. Supp. 50-626(b)(4).

131. Each distribution of "Treatment Options," "Exit Wounds," and any other written material containing the same or similar claims distributed in Kansas is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT X

Kansas Consumer Protection Act – Unconscionable Acts
(In violation of K.S.A. 50-627(b))

132. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

133. Purdue's cynical promotion of "pseudoaddiction" instructed doctors to look in the face of an opioid-addicted patient and ignore the addiction. Purdue instead told doctors to feed the addiction and give the patient even more drugs for the purpose of increasing prescriptions for, and sales to consumers of, opioid drugs.

134. Purdue represented "pseudoaddiction" as a legitimate diagnosis, despite a complete lack of peer-reviewed and empirical support of the claim. Purdue based its claim on a single case-study of an individual patient that was not supported with additional analysis or later research. In fact, later research has indicated that "pseudoaddiction" has little basis in scientific or medical fact, despite its widespread adoption as an analytical concept.

135. Through a campaign of misinformation and pseudoscience, Purdue assured Kansas consumers and prescribers that individuals presenting with legitimate symptoms of addiction were not addicts, but simply insufficiently medicated. Purdue targeted people suffering from addiction symptoms and took advantage of their inability to advocate for their own interests by recommending doctors to treat them with more opioids, rather than treating the addiction thereby taking advantage of the inability of the consumer patient reasonably to protect the consumer's interests.

136. Purdue further misled Kansas consumer patients and prescribers with materially false and misleading statements that opioids do not cause addiction. Purdue, through sponsored publications, took this a step further and offered a narrow view of the behaviors that support an addiction diagnosis. Specifically, the sponsored publication suggested that only extreme and

criminal expressions of addiction should be treated as actual addiction. Kansas consumers relied on Purdue's misleading suggestions in support of "pseudoaddiction" as anything more than mere opinion, which Purdue knew or should have known would improperly induce consumer patients and prescribers into additional prescriptions.

137. Each such representation made in Kansas by Purdue that "pseudoaddiction" is a legitimate concept, through written publication and through sales representative contacts, is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT XI

Kansas Consumer Protection Act – Deceptive Acts and Practices
(In violation of K.S.A. 50-626(b))

138. Plaintiff hereby incorporates all foregoing paragraphs herein by reference.

139. Over a period of years, Purdue made various misrepresentations about the safety and efficacy associated with the length of therapy and the size of dose of its opioids. Purdue misled consumer patients and Kansas doctors into a false belief that taking Purdue's opioids at high doses, for long lengths of therapy, did not carry significant additional risk of addiction, overdose, death, or other adverse medical condition.

140. Purdue willfully failed to state a material fact, or willfully concealed, suppressed or omitted a material fact K.S.A. 50-626(b)(3).

141. Each time Purdue contacted a Kansas doctor or consumer patient without fully disclosing the risks associated with its products is a violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

A. Defendants' acts and practices recited above shall be determined and declared deceptive and unconscionable acts, as provided by K.S.A. 50-632(a)(1).

B. Defendants be enjoined from violating the KCPA, as provided by K.S.A. 50-632(a)(2).

C. Defendants pay civil penalties including, but not limited to $10,000 per violation, as authorized by K.S.A. 50-636.

D. Defendants pay enhanced civil penalties of $10,000 per violation for each violation of the KCPA against each protected consumer, pursuant to K.S.A. 50-677.

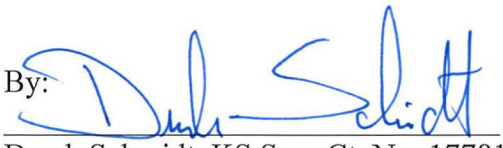
E. Defendants pay reasonable expenses and investigation fees pursuant to K.S.A. 50-632(a)(4).

F. Defendants pay the costs of the action,

G. Such other relief as the Court may deem just and appropriate.

Respectfully submitted,

OFFICE OF ATTORNEY GENERAL
DEREK SCHMIDT

By: 

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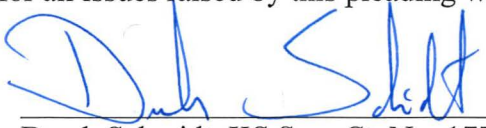
DEMAND FOR JURY TRIAL

Pursuant to Section 5 of the Bill of Rights of the Kansas Constitution, and pursuant to K.S.A. 60-238, Plaintiff hereby demands trial by jury for all issues raised by this pleading which are so triable.



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