IN THE

United States Court of Appeals

FOR THE THIRD CIRCUIT

IN RE: ACTAVIS HOLDCO U.S., INC.; ACTAVIS PHARMA, INC.; AKORN, INC.; AKORN SALES INC.; AMNEAL PHARMACEUTICALS, INC.; APOTEX CORPORATION; ASCEND LABORATORIES, LLC; AUROBINDO PHARMA USA, INC.; CITRON PHARMA, LLC; DAVA PHARMACEUTICALS, LLC; DR. REDDY'S LABORATORIES, INC.; ENDO INTERNATIONAL, PLC; EPIC PHARMA, LLC; FOUGERA PHARMACEUTICALS INC.; G&W LABORATORIES, INC.; GENERICS BIDCO I, LLC; GLENMARK PHARMACEUTICALS INC., USA; HI-TECH PHARMACAL CO., INC.; IMPAX LABORATORIES, INC.; LANNETT COMPANY, INC.; LUPIN PHARMACEUTICALS, INC.; MAYNE PHARMA INC.; MORTON GROVE PHARMACEUTICALS, INC.; MYLAN INC.; MYLAN N.V.; MYLAN PHARMACEUTICALS INC.; OCEANSIDE PHARMACEUTICALS, INC.; PAR PHARMACEUTICAL COMPANIES, INC.; PAR PHARMACEUTICAL, INC.; PERRIGO NEW YORK, INC.; SANDOZ INC.; SUN PHARMACEUTICALS INDUSTRIES, INC.; TARO PHARMACEUTICALS USA, INC.; TEVA PHARMACEUTICALS USA, INC.; UDL LABORATORIES, INC.; UPSHER-SMITH LABORATORIES, LLC; VALEANT PHARMACEUTICALS INTERNATIONAL; VALEANT PHARMACEUTICALS NORTH AMERICA, LLC; WOCKHARDT USA LLC; ZYDUS PHARMACEUTICALS (USA) INC.,

Petitioners.

ON PETITION FOR A WRIT OF MANDAMUS FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(RELATED TO E.D. PA. CASE NO. 16-MD-2724)

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CORPORATE DISCLOSURE STATEMENTS

Actavis Pharma, Inc. ("Actavis Pharma") is an indirect wholly owned subsidiary of Teva Ltd., a publicly traded company. No other publicly traded company owns more than 10% of Actavis Pharma's stock.

Actavis Holdco U.S., Inc. ("Actavis U.S.") is an indirect wholly owned subsidiary of Teva Ltd., a publicly traded company. No other publicly traded company owns more than 10% of Actavis U.S.'s stock.

Actavis Elizabeth, LLC ("Actavis Elizabeth") is an indirect wholly owned subsidiary of Teva Ltd., a publicly traded company. No other publicly traded company owns more than 10% of Actavis Elizabeth's stock.

Akorn, Inc. is a publicly traded company, it has no parent company, and no publicly traded company owns 10% or more of Akorn, Inc.'s stock.

Akorn Sales, Inc. is a wholly-owned subsidiary of Akorn, Inc., a publicly traded company. No publicly traded company owns 10% or more of Akorn Inc.'s stock.

Amneal Pharmaceuticals, Inc., a publicly traded company, owns 10% or more of Amneal Pharmaceuticals LLC. T. Rowe Price Associates, Inc. and Fosun International Limited (which is traded on the Hong Kong Stock Exchange and holds shares through one or more affiliates) each own 10% or more of Amneal Pharmaceuticals, Inc.'s Class A stock (but less than 10% of its total stock). No other publicly held entities own 10% or more of Amneal Pharmaceuticals, Inc.'s stock.

Apotex Corp. is a direct wholly-owned subsidiary of Aposherm Delaware Holding Corporation, which is an indirect wholly-owned subsidiary of Apotex

Holdings, Inc. Apotex Holdings, Inc. is a privately owned company, and no publicly traded company owns more than ten percent of the stock of Apotex Holdings, Inc.

Ascend Laboratories, LLC is not a publicly traded company. Ascend Laboratories, LLC's parent company is Alkem Laboratories Ltd., which is a publicly traded company that owns more than 10% of Ascend Laboratories, LLC's stock.

Aurobindo Pharma USA, Inc. ("Aurobindo") is a direct, wholly-owned subsidiary of Aurobindo Pharma Limited, an Indian corporation. Aurobindo is not a publicly-traded entity, and Aurobindo Pharma Limited is the only publicly-traded entity that owns 10% or more of the stock of Aurobindo.

Citron Pharma LLC is a privately held company. Its parent entities are privately held and no publicly traded company owns more than 10% of Citron Pharma LLC's stock.

DAVA Pharmaceuticals, LLC is an indirectly wholly owned subsidiary of Endo International plc, a publicly traded company. No other publicly traded company owns more than 10% of DAVA Pharmaceuticals, LLC's stock.

Dr. Reddy's Laboratories, Inc., is a wholly owned subsidiary of Dr. Reddy's Laboratories, S.A. Dr. Reddy's Laboratories, S.A. is a wholly owned subsidiary of Dr. Reddy's Laboratories Ltd. Dr. Reddy's Laboratories Ltd. is a publicly held corporation, and no publicly held corporation owns 10% or more of the stock of Dr. Reddy's Laboratories Ltd.

Endo International plc is a publicly traded company. Endo International plc has no parent company, and no publicly traded company owns more than 10% of Endo International plc's stock.

Epic Pharma, LLC, is not a publicly traded company. Epic Pharma, LLC, is wholly owned by Humanwell Healthcare USA LLC. Humanwell Healthcare USA LLC is wholly owned by Humanwell Healthcare International Ltd. (an Ireland Corporation), which is wholly owned by Humanwell Healthcare Group Co., Ltd (a Chinese corporation), which is a publicly traded company on the Shanghai Stock Exchange in China.

Fougera Pharmaceuticals Inc. ("Fougera") is an indirect, wholly owned subsidiary of Novartis AG, a publicly held company, the shares of which are traded on the SIX Swiss Exchange under the ticker symbol NOVN and whose American Depository Shares are publicly traded on the New York Stock Exchange under the ticker symbol NVS. There are no publicly traded companies between Fougera and Novartis AG.

Generics Bidco I, LLC is an indirectly wholly owned subsidiary of Endo International plc, a publicly traded company. No other publicly traded company owns more than 10% of Generics Bidco I, LLC's stock.

Glenmark Pharmaceuticals Inc., USA is a subsidiary of Glenmark Pharmaceuticals, Ltd., a corporation duly formed under the commercial code of India, with shares listed on the Bombay Stock Exchange and the National Stock Exchange. No publicly held corporation owns 10% or more interest in Glenmark Pharmaceuticals Inc., USA.

G&W Laboratories, Inc. is a privately held corporation. It has no parent company, and no publicly traded corporation own 10% or more of its stock.

Hi-Tech Pharmacal Co., Inc. is a wholly-owned subsidiary of Akorn, Inc., a publicly traded company. No publicly traded company owns 10% or more of Akorn Inc.'s stock.

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Lupin Pharmaceuticals, Inc. is a wholly owned subsidiary of Lupin Limited, a publicly traded company in the Republic of India, and no publicly traded company owns 10% or more of Lupin Limited stock.

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Mylan N.V. is a publicly traded company. Mylan N.V. has no parent company, and no publicly traded company owns more than 10% of Mylan N.V.'s stock.

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Sun Pharmaceutical Industries, Inc. is a majority-owned subsidiary of Sun Pharmaceutical Holdings USA, Inc. and a minority-owned subsidiary of Sun Pharmaceutical Industries, Ltd. No publicly traded company owns 10% or more of Sun Pharmaceutical Industries, Inc.'s stock.

Taro Pharmaceuticals U.S.A., Inc. is a wholly-owned subsidiary of Taro Pharmaceutical Industries Ltd., which is a publicly traded company. Sun Pharmaceutical Industries, Ltd., a publicly traded company, is a majority owner of Taro Pharmaceutical Industries, Ltd. No other company owns 10% or more of Taro Pharmaceuticals U.S.A., Inc.'s stock.

Teva Pharmaceuticals USA, Inc. ("Teva USA") is directly owned by: (i) Orvey UK Unlimited (Majority Shareholder), which is directly owned by Teva Pharmaceuticals Europe B.V., which is directly owned by Teva Ltd.; and (ii) Teva Pharmaceutical Holdings Coöperatieve U.A. (Minority Shareholder), which is directly owned by IVAX LLC, a direct subsidiary of Teva USA.

Teva Ltd. is a publicly traded company. Teva Ltd. has no parent company, and no publicly traded company owns more than 10% of Teva Ltd.'s stock.

UDL Laboratories, Inc. is an indirectly wholly owned subsidiary of Mylan N.V., a publicly traded company. No other publicly traded company owns more than 10% of UDL Laboratories, Inc.'s stock.

Upsher-Smith Laboratories, L.L.C., is a privately-owned company. Upsher-Smith Laboratories, L.L.C. is wholly owned by Sawai America, L.L.C. No publicly held corporation which is not a party to this proceeding has a financial interest in the outcome of this proceeding.

Valeant Pharmaceuticals North America, LLC, now known as Bausch Health US, LLC, is an indirectly wholly owned subsidiary of Bausch Health Companies Inc., a publicly traded company. No other publicly traded company owns, directly or indirectly, more than 10% of the stock of Valeant Pharmaceuticals North America, LLC.

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Wockhardt USA LLC is ultimately 100% owned by Wockhardt Bio AG, a publicly held company. Wockhardt Bio AG is 100% owned by Wockhardt Limited, a publicly held company.

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

PAGE(S)

CASES

STATUTES

RULES

OTHER AUTHORITIES

RELIEF SOUGHT

Petitioners seek a writ of mandamus requiring the District Court (Rufe, District Judge) to manage discovery in accordance with Federal Rule of Civil Procedure 26(b)(1) and vacating the District Court's October 24, 2019 discovery order, which violates that Rule by requiring Petitioners to produce competitively sensitive documents in this litigation without regard to "relevance or responsiveness" and expressly prohibiting Defendants from withholding documents on such grounds.

ISSUE PRESENTED

Federal Rule of Civil Procedure 26(b)(1) limits "the scope of discovery" to matters "relevant to any party's claim or defense," and Rule 26(b)(2) requires that "the court must limit the frequency or extent of discovery" where "the proposed discovery is outside the scope permitted by Rule 26(b)(1)." The issue here is whether that rule prohibits a District Court from entering a discovery order that directs Petitioners to produce all files containing broad-based search terms, while forbidding them from "withhold[ing] prior to production any documents based on relevance or responsiveness." A2.[1]

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[1] The District Court's order, the Special Master's Report & Recommendation that the District Court adopted, the Special Master's "Supplemental Summary" filed before the District Court's hearing on the Report & Recommendation, and the transcript of the hearing on the Report & Recommendation are attached as part of the Appendix to this Petition. *See* A1-A102. As used in this brief, "Defendants" refers to all Defendants in the action below. "Petitioners" refers to the Defendants signing this Petition. "Plaintiffs" refers collectively to all Plaintiff groups in the multi-district litigation below as the distinctions between the Plaintiff groups are immaterial to this Petition.

INTRODUCTION

Under Federal Rule of Civil Procedure 26, discovery "*must*" be limited to "nonprivileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1) & 26(b)(2)(C). This Court has explained the force of this particular limitation: "'Perhaps the single most important word in Rule 26(b) is "relevant" for it is only relevant matter that may be subject to discovery.'" *EEOC v. Univ. of Pa.*, 850 F.2d 969, 979 (3d Cir. 1988) (quoting 8 CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE & PROCEDURE § 2008, at 41 (1970)).

Yet without citing any legal authority, the District Court has issued an order requiring Defendants to produce all electronically stored documents from the files of their employees designated as discovery custodians that contain search terms—*regardless of whether those documents have any "relevance" to the case*. This approach indisputably will result in production of large swaths of irrelevant confidential and proprietary materials, irreparably harming Petitioners with no corresponding benefit to the resolution of the disputes below. It therefore presents precisely the type of issue where mandamus relief is appropriate. *Rhone-Poulenc Rorer Inc. v. Home Indem. Co.*, 32 F.3d 851, 861 (3d Cir. 1994) ("Mandamus may properly be used as a means of immediate appellate review of orders compelling the disclosure of documents and information claimed to be protected from disclosure by privilege or other interests in confidentiality.").

Indeed, at least five circuits have granted mandamus relief to preclude discovery of material that is not relevant to any claim at issue. *See, e.g.*, *In re: Ford Motor Co*., 345 F.3d 1315, 1317 (11th Cir. 2003) (district court "clearly abuse[s] its

discretion" by permitting broad access to discovery materials without review for relevance); *infra* at 18-19 (collecting Fifth, Eighth, Ninth, and Tenth Circuit cases). This use of mandamus relief serves important federal judicial policy interests. Beyond the harm to Defendants' rights, procedures like those adopted by the District Court undermine the Advisory Committee on Rules of Civil Procedure's (and thus the Supreme Court's) goal of "restor[ing] the proportionality factors to their original place in defining the scope of discovery." Fed. R. Civ. P. 26 2015 Advisory Committee's Note. This Court therefore should join the five other circuits that have issued mandamus to review in similar circumstances, and grant the requested relief to prevent the irreparable harms created by these overbroad discovery requirements.

FACTUAL BACKGROUND

This multi-district litigation involves over 50 complaints filed by multiple types of Plaintiffs. While the details vary, the complaints all allege that some combination of generic pharmaceutical companies conspired to fix prices on and/or allocate customers for various generic pharmaceutical products in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, and/or analogous state law provisions. *See* A103-A349 (complaint reflecting representative allegations). Defendants deny those allegations.

The actions were consolidated by the Judicial Panel on Multidistrict Litigation for coordinated pre-trial proceedings before the Honorable Cynthia M. Rufe of the U.S. District Court for the Eastern District of Pennsylvania in August 2016. *See* A350. Several dozen more actions have been filed in or transferred to the MDL, with new actions being filed as recently as October 2019. *See* 354.

The case recently became ripe for document discovery to begin in earnest. By June 2019, the parties had negotiated a document discovery protocol that would have followed well-established discovery practices (including application of search terms first followed by review of documents for relevance prior to production). *See* A61 at 39:15-21. However, Plaintiffs abruptly abandoned their discovery requests and instead moved to compel all Defendants to produce individual employees' complete electronic files (i.e., all email or other documents ever received, sent, or created for a seven-year period)—regardless of responsiveness or relevance. In the alternative, Plaintiffs proposed that Defendants run extremely broad search terms—including terms that are likely to be found in a wide array of business and strategic communications, as well as personal communications. These terms would pick up documents that contain any of the following words or phrases commonly used in such communications: "coffee," "market share," "call me," "enter," "market price," "offer," "heads up," "speak," and "spoke"—and produce all documents that hit on the terms—again, regardless of relevance. *See* A357-A400 (reflecting Plaintiffs' proposed search terms).

Plaintiffs' alternative proposal was equally inappropriate because it was untethered from the scope of the discovery requests served by Plaintiffs on Defendants, the parties' previously negotiated agreements as to scope, or the parties' claims and defenses. For example, among other things, Plaintiffs' proposed terms would result in production of such documents as:

- Every email referencing an "offer" of any type on any product a defendant manufactures (whether related to generic drugs, or the other

products defendants manufacture and indisputably are not at issue in the MDL, i.e., brand and specialty pharma products);

- A recap from an employee who "spoke" to a Food and Drug Administration official about confidential regulatory matters unrelated to any product in this litigation; and
- Plans to discuss "in person" confidential merger and acquisitions activity not relevant to this litigation.

The list could go on for pages. None of this extraneous and commercially sensitive matter would facilitate investigation and resolution of the claims at issue in this case.

The parties briefed the dispute before the court-appointed Special Master, David H. Marion. Notably, even Plaintiffs acknowledged that their proposed procedures would result in the production of irrelevant documents. *See, e.g.*, A88at 66:6-10 (Plaintiffs' counsel acknowledging the procedure at issue "may involve the production [of] a large set of documents where some documents are irrelevant"). This includes production of irrelevant competitively-sensitive documents that would be available to each Defendant's competitors that are also parties to the litigation.

In addition to the plain text of Rule 26, Defendants cited numerous authorities holding that review for relevance was a requirement of that rule and demonstrating that the Federal Rules and case law require courts to permit the producing party to determine the relevance and responsiveness of its own documents (at least absent a finding of discovery misconduct). *See In re Generic Pharms. Pricing Antitrust Litig.*, Case No. 2:16-md-2724-CMR, Dkt. No. 1091 at 4-9 (E.D. Pa. Sept. 13, 2019). Nevertheless, the Special Master recommended that the District Court adopt

Plaintiffs' proposal providing that "Defendants shall apply the agreed search terms to the agreed custodial files and may review the identified documents for privilege, but *may not withhold prior to production any documents based on relevance or responsiveness*." A15 (emphasis added).

The Special Master's sole reasoning in support of the recommendation was:

> Given the nature of the allegations of both overarching and specific price-fixing and market allocation antitrust conspiracies, and the extraordinarily high stakes involved, extensive and broad-ranging discovery is both necessary and appropriate for these cases to be fairly adjudicated; and is also essential for any meaningful settlement. [2]

A10-11. The Report & Recommendation contains no citation to any rule, case law, or other authority suggesting that the District Court had authority to adopt this proposed procedure.

Defendants objected, again citing their right under the Federal Rules to review their documents and produce only those documents relevant and responsive to specific appropriate discovery requests. Case No. 2:16-md-2724-CMR, Dkt. No. 1091 at 4-12. Defendants further explained that the scope of the allegations, including Plaintiffs' theory of an overarching conspiracy, does not mean that every

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[2] Pushing the parties to settle is not a proper consideration for the scope of discovery. *Newton v. A.C.& S., Inc.*, 918 F.2d 1121, 1129 (3d Cir. 1990) ("[T]he court's efforts to expedite the settlement of cases must be consistent with the dictates of due process. Furthermore, these efforts should not unduly pressure or coerce litigants into settlement."). *See also Marrese v. Am. Acad. Orthopaedic Surgeons*, 726 F.2d 1150, 1161-62 (7th Cir. 1984), *rev'd on other grounds*, 470 U.S. 373 (1985) (recognizing that "discovery of sensitive documents is sometimes sought not to gather evidence that will help the party seeking discovery to prevail on the merits of his case but to coerce his opponent to settle" and is an "abus[e of] the discovery process.").

(continued...)

document that hits on a given search term will, in fact, be relevant and responsive to the litigation. *Id*. at 16-17. Just like any other antitrust matter, Defendants committed to produce responsive, non-privileged information in response to Plaintiffs' requests for production, subject to whatever appropriate objections were asserted or agreements reached concerning the scope of discovery. This process can be completed on an appropriate timeline and would not result in any unnecessary delays.[3]

The District Court overruled Defendants' objections to the Report & Recommendation without offering any reasoning or justification. The District Court' sole remark was a footnote saying: "the Recommended Order sufficiently balances the interests of the parties and, most importantly, provides a road map to move the litigation forward at this time." A1 at n.1.

Given that the case involves dozens of Defendants, several of whom expect to produce millions of documents under this provision, the result of the District Court's order will be production of tens of millions of documents, a large portion of which will be entirely irrelevant. Petitioners therefore request that this Court issue a writ of mandamus to correct a clear error of law and to require the District Court to follow Rule 26.

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[3] The Special Master submitted a "Supplemental Summary" to the Report & Recommendation on the eve of the District Court's hearing on the objections, but that did not provide any further legal justification for his proposal. *See* A21.

REASONS FOR GRANTING THE WRIT

Writs of mandamus are authorized by the All Writs Act, which provides that "all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). Mandamus should issue where (1) the petitioner has "no other adequate means to obtain the desired relief," (2) the petitioner's "right to the writ is clear and indisputable," and (3) "the issuing court, in the exercise of its discretion, [is] satisfied that the writ is appropriate under the circumstances." *United States v. Higdon*, 638 F.3d 233, 245 (3d Cir. 2011); *Cheney v. U.S. Dist. Court for Dist. of Columbia*, 542 U.S. 367, 380-81 (2004).

The District Court's order meets this standard. Depriving Petitioners of the right to review their documents for relevance and withhold irrelevant documents is a "clear and indisputable" error; an appeal after final judgment would be of no help to Petitioners; no other type of interlocutory appeal would allow for appellate review of the District Court's error; and the broad disclosure of confidential and commercially sensitive materials mandated by the District Court's failure to adhere to the legal limitations on discovery makes issuing the writ highly appropriate. *See Rhone-Poulenc*, 32 F.3d at 861 ("Mandamus may properly be used as a means of immediate appellate review of orders compelling the disclosure of documents and information claimed to be protected from disclosure by privilege or other interests in confidentiality.").

I. The District Court's Requirement That Petitioners Produce Documents Without Regard to Their Relevance Clearly and Indisputably Violates Federal Rule of Civil Procedure 26, Warranting Mandamus.

A. Rule 26 *Requires* Courts to Limit Discovery to Relevant Matters, and the District Court's Failure to Adhere to the Limitations of Rule 26 Is a Clear Error of Law.

The district court's order contravenes the plain text of Rule 26 as well as unequivocal holdings of this Court and others. By specifically *forbidding* defendants from withholding *any* documents due to lack of relevance, the District Court committed a clear error that requires correction by mandamus.

Rule 26 only permits discovery that "is ***relevant*** to any party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1) (emphasis added). Relevance is therefore a mandatory requirement separate from proportionality; indeed, "relevancy is the touchstone of any discovery request." *See EEOC v. Univ. of Pa.*, 850 F.2d at 979. The Rule directs that "the court must limit" discovery that "is outside the scope permitted by Rule 26(b)(1)." Fed. R. Civ. P. 26(b)(2)(C)(iii). Successive amendments to the Rule have called for narrower, more targeted discovery of even relevant information, not the sort of extraordinarily overbroad discovery into irrelevant materials required by the order below. *See, e.g.*, 6 MOORE'S FEDERAL PRACTICE § 26.41[2] (3d ed. 2019) ("The narrowing of the relevance required of discovery requests by the 2000 amendments was part of the movement in the federal courts toward stronger judicial management of civil litigation, particularly in pretrial.").

Given these mandatory limitations, other district courts have rejected requests for discovery without a review for relevance, even when limited by search terms.

The District of Connecticut summarized the illegality of demands to produce all documents hitting on certain search terms as follows:

> As every law school student and law school graduate knows, when performing a computer search on WESTLAW and/or LEXIS, not every case responsive to a search command will prove to be relevant to the legal issues for which the research was performed. Searching tens of thousands, and hundreds of thousands, of electronic documents is no different.

Gardner v. Cont'l Cas. Co., 2016 WL 155002, at *3 (D. Conn. Jan. 13, 2016) (rejecting blanket production of search term hits even where sanctions were otherwise warranted).

Another district court, denying a similar request, elaborated on the fundamental principle that parties must be permitted to review their own documents:

> In our system of law, we allow the party responding to discovery to filter his own documents and produce only these which are relevant to the litigation. In the absence of some showing that relevant information is being withheld -- and here there is none -- there is no basis to make the responding party produce all information. Indeed, to do so would make a mockery of F.R.C.P. 26(b)(1).

Wilson v. Rockline Indus., Inc., 2009 WL 10707835, at *1 (W.D. Ark. Oct. 22, 2009). Multiple other district court cases applying Rule 26 have come to similar conclusions. *See, e.g.*, *Bancpass, Inc. v. Highway Toll Admin., LLC*, 2016 WL 4031417, at *3 (W.D. Tex. July 26, 2016) (party not required to produce all documents hitting on search terms where "there is no reason to believe that [the defendant] has withheld documents it was obligated to produce. Nor is it clear that additional searches with the identified search terms would produce more documents responsive to [the plaintiff's] requests for production."); *Chen-Oster v. Goldman, Sachs & Co.*, 2014 WL 716521, at *1 (S.D.N.Y. Feb. 18, 2014) (rejecting demand

for production of all documents containing search terms). *Accord Gen. Elec. Co. v. United States*, 119 F. Supp. 3d 17, 20 (D. Conn. 2015) (the right to conduct responsiveness review prior to production is applicable even in unconventional circumstances, and responsiveness review is a logical outgrowth of the right to conduct a review for privilege); *In re eBay Seller Antitrust Litig.*, 2010 WL 2836815, at *3 (N.D. Cal. July 19, 2010) (holding that even where Defendant had already produced the documents in question in a related case, Defendant was still entitled to review for relevance in the instant case, and explaining that "it is the litigant responding to discovery requests, and that litigant's own lawyer, who searches for and identifies responsive documents that are relevant to the asserted claims or defenses. The opposing lawyer does not get that luxury.").

Standard references on discovery practice align with this view. One leading treatise notes that Rule 26's "limitation of the scope of discovery is designed to control sweeping or contentious discovery" by "[f]ocusing the attention of the parties and the court on the actual claims and defenses involved in the action." 6 MOORE'S FEDERAL PRACTICE § 26.41[2]. Another treatise notes that "no one would suggest that discovery should be allowed of information that has no conceivable bearing on the case." 6 CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE & PROCEDURE § 2008 (3d ed. 2019).

In a similar vein, the Sedona Conference has observed that the producing party "is best situated to evaluate, select, and implement the procedures, methodologies, and technologies appropriate to meet its preservation and discovery obligations," such that "there should be no preemptive restraint placed on a responding party that

chooses to proceed on its own with determining how best to fulfill its preservation and discovery obligations." *The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production*, 19 SEDONA CONF. J. 1, Principle 6, 48–50 (Oct. 2018). Accordingly, "[p]roducing parties review documents or ESI for relevance and responsiveness *before* they are produced, as well as to determine if any privilege or other exemption is applicable." *The Sedona Conference Commentary on Achieving Quality in the E-Discovery Process*, 15 SEDONA CONF. J. 265, 290 (Oct. 2014) (emphasis added); *see also* 3 ANTITRUST COUNSELING & LITIGATION TECHNIQUES § 22.02 (2019) ("As with other documentary discovery, electronic discovery must be reviewed for relevance, responsiveness, appropriate level of confidentiality and privilege before it is produced to the other side.").

Further, as the Federal Judicial Center's *Manual of Complex Litigation* counsels, courts should "prevent indiscriminate, overly broad, or unduly burdensome demands—in general, forbid sweeping requests, such as those for 'all documents relating or referring to' an issue, party, or claim, and direct counsel to frame requests for production of the fewest documents possible." ANN. MANUAL COMPLEX LIT. § 11.443 (4th ed. 2019).

The District Court's order reverses these foundational legal principles. Neither the Special Master nor the District Court addressed or even *cited* Rule 26's mandatory requirement that "the scope of discovery" be limited to "matter that is relevant to a[] party's claim or defense." Fed. R. Civ. P. 26(b(1). Nor did either the Special Master or the District Court point to any other basis in Rule 26, or any

authority, to require production of irrelevant documents where there has been no finding of discovery misconduct. The cases cited by Plaintiffs in defense of this approach uniformly involved sanctions for discovery misconduct, and Defendants are aware of no case justifying forced production of irrelevant materials other than as a discovery sanction.

It is no answer to point to the Special Master's statement that, given the stakes, "extensive and broad-ranging discovery" without regard to relevance is "necessary and appropriate" (A10), or the District Court's conclusion that discovery without regard to relevance "sufficiently balances the interests of the parties" (ApA1 at n.1). Even assuming, *arguendo*, that these conclusions rendered the scope of discovery "proportional to the needs of the case" (Fed. R. Civ. P. 26(b)(1)), the Rule states the "relevance" and "proportional[ity]" requirements in the *conjunctive*—the scope of discovery is limited to "matter that is relevant to any party's claim or defense ***and*** proportional to the needs of the case" (*id*.). And if any doubt remained, the rule defines the outer "scope of discovery" "[u]nless otherwise *limited* by court order." *Id*. Nothing in the rule permits district courts to *expand* the scope of what is produced beyond what is "relevant." As noted above, the mere fact that plaintiffs allege an overarching conspiracy does not justify limitless discovery into every aspect of Defendants' businesses. *See* supra p. 8.

Further, that the District Court is supervising an MDL does not alter the weight of these rules. While, in MDLs, "[t]he multiplicity of suits requires that the district court be allowed to combine procedures, appoint lead counsel, recognize steering committees of lawyers, limit and manage discovery, etc. to minimize

expense to all litigants and to provide judicial efficiency," *In re Showa Denko K/K. L-Tryptophan Prods. Liab. Litig.-II*, 953 F.2d 162, 165 (4th Cir. 1992), "the transferee judge has the same jurisdiction and power over pretrial proceedings that the transferor judge would have in the absence of the transfer" – no more, no less. *In re U.S. Office Prods. Co. Secs. Litig.*, 251 F. Supp. 2d 58, 64-65 (D. D.C. 2003); WRIGHT & MILLER, 15 FED. PRAC. & PROCEDURE § 3866 (4th ed. 2019) (transferee judge inherits pretrial jurisdiction that each transferor court could have exercised had the case not been transferred). The fact that discovery occurs in an MDL does not give the MDL District Court leave to ignore the basic requirements of the Federal Rules. To the contrary, even the House of Representatives Report on the bill that became the MDL statute, 28 U.S.C. § 1407, stated that the transferred pretrial proceedings "of course[] are governed by the Federal Rules of Civil Procedure." H.R. Rep. No. 1130, 90th Cong. 2d Sess., 4, Reprinted in (1968) U.S. Code Cong. & Ad. News, 1898, 1900; *see also Sentner v. Amtrak*, 540 F. Supp. 557, 558 (D. N.J. 1982) (quoting same); *In re Corrugated Container Antitrust Litig.*, 662 F.2d 875, 880 (D.C. Cir. 1981) (citing same).

The District Court's decision to deny Defendants (but not Plaintiffs) the right to review their documents for relevance and to force Defendants to produce documents even if irrelevant was a violation of Rule 26. Its failure to follow the plain

text of Rule 26 makes the decision below clearly erroneous and a clear abuse of discretion.[4]

B. The District Court's Failure to Adhere to the Limitations of Rule 26 Makes Petitioners' Right to Mandamus Clear and Indisputable.

Under this Court's precedent, a clear error in a discovery order can make a right to mandamus relief clear and indisputable. *See Rhone-Poulenc*, 32 F.3d at 861 ("[W]e find that the district court has committed clear errors of law in ordering that information disclosed. The petitioners' right to the writ is, therefore, clear and indisputable."). And as the decisions of at least five other circuits confirm, the District Court's failure to engage with the legal restrictions on the scope of discovery before ordering an extraordinary document production procedure entitles Petitioners to mandamus relief.

The Eleventh Circuit, for example, granted mandamus relief in substantially similar circumstances in the *Ford* case. There, the district court had issued a discovery order allowing the plaintiff "access to Ford's Master Owner Relations Systems I, II, and III ('MORS') and Common Quality Indicator System ('CQIS') databases" without conducting a Rule 26 analysis. 345 F.3d at 1316-17. The court

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[4] The fact that the District Court denied Plaintiffs' even more egregious demand for the production of full custodial files with no search terms applied should be afforded no weight. That approach has been routinely rejected by the courts. *See, e.g.*, *Russell v. Kiewit Corp.*, 2019 WL 2357525, *3 (D. Kan. June 4, 2019) ("[P]roducing the entire [employee email file] is 'simply requesting discovery regardless of relevancy' which most definitely is not the standard under the 2015 amendments to Rule 26(b). . . . Plaintiff has not shown how every email he has sent and received is relevant to this action."); *Banerjee v. Univ. of Tennessee*, 2019 WL 1062378, at *2-3 (E.D. Tenn. Mar. 6, 2019); *Strauch v. Computer Scis. Corp.*, 2015 WL 7458506, at *3 (D. Conn. Nov. 24, 2015); *Millsaps v. Aluminum Co. of Am.*, 2011 WL 6019220, at *2 (E.D. Pa. Dec. 2, 2011).

observed that "the district court made no findings—express or implied—that Ford had failed to comply properly with discovery requests" and "[t]he district court also did not discuss its view of Ford's objections and provided no substantive explanation for the court's ruling." *Id*. at 1317. The court held:

> [The plaintiff] is unentitled to this kind of discovery without—at the outset—a factual finding of some non-compliance with discovery rules by Ford. By granting the sweeping order in this case, especially without such a finding, the district court clearly abused its discretion.

Id. The Eleventh Circuit accordingly granted the mandamus petition and vacated the discovery order. *Id*.

The Fifth, Eighth, Ninth, and Tenth Circuits have all issued similar orders enforcing the relevance requirement for discovery. The Eighth Circuit overturned an order for a state to divulge certain confidential information about its capital punishment protocol, observing that "mandamus may issue in extraordinary circumstances to forbid discovery of irrelevant information, whether or not it is privileged, where discovery would be oppressive and interfere with important state interests." *In re Lombardi*, 741 F.3d 888, 895 (8th Cir. 2014). Similarly, the Fifth Circuit found mandamus appropriate where a district court "ordered discovery as to information which was completely irrelevant to the case before it and was information that could inhibit petitioners in pursuing their rights in the case because of possible collateral wholly unrelated consequences, because of embarrassment and inquiry into their private lives which was not justified, and also because it opened for litigation issues which were not present in the case." *In re Reyes*, 814 F.2d 168, 170-71 (5th Cir. 1987). Faced with a district court order directing discovery of a

plaintiff's financial condition and fee arrangements in an antitrust class action, the Tenth Circuit issued a writ of mandamus because "the matters sought at this juncture and in relationship to the inquiry which was then being conducted are irrelevant." *Sanderson v. Winner*, 507 F.2d 477, 479-80 (10th Cir. 1974). Finally, the Ninth Circuit rejected an order requiring the disclosure of irrelevant confidential material, holding that "the requirements of relevance and necessity must be established where disclosure of a trade secret is sought . . ., and that the burden rests upon the party seeking disclosure to establish that the trade secret sought is relevant and necessary to the prosecution or defense of the case before a court is justified in ordering disclosure." *Hartley Pen Co. v. United States Dist. Court for the S. Dist. of Cal.*, 287 F.2d 324, 331 (9th Cir. 1961). The courts of appeals have thus not hesitated to use mandamus to limit discovery to relevant matters.

This case calls for the same result. The District Court's order here is more problematic than the orders involved in the circuit court decisions discussed above. In each of those cases, the court of appeals stepped in when the district court ordered production of a single category of irrelevant documents. Here, by contrast, the District Court adopted an unprecedented procedure declaring *any* relevance inquiry off limits, which all parties agree will result in massive production of irrelevant materials. Moreover, as in *Ford*, Petitioners have not violated any discovery order or indicated any intention to withhold relevant discovery. Indeed, Petitioners had nearly agreed on a protocol for providing Plaintiffs with relevant and responsive documents before Plaintiffs abandoned negotiations and put forward their overbroad demand for full custodial files. Petitioners therefore have a clear and indisputable

right to relief from the District Court's failure to adhere to the discovery limitations imposed by Rule 26.

II. Petitioners Have No Adequate Means for Relief From the District Court's Order, and Mandamus Is Appropriate in These Circumstances.

A. Petitioners Have No Avenue for Relief From the Decision Below Other Than Mandamus Because the District Court's Order Is Interlocutory and Other Interlocutory Appeal Doctrines Do Not Apply.

No means for obtaining appellate review of the decision below exists other than mandamus. As interlocutory orders, discovery orders like the order at issue here are generally not appealable until final judgment issues. *See Cipollone v. Liggett Grp., Inc.*, 785 F.2d 1108, 1116 (3d Cir. 1986) ("Discovery orders, being interlocutory, are not normally appealable."). But because Petitioners will experience the full harm from the decision below prior to entry of final judgment, an ordinary appeal will provide no relief. *See id*. at 1118 ("[I]f defendants are required to wait until the final order of the litigation, their appeal on this issue would be valueless."). Only interlocutory review can meaningfully address the clear legal error underlying the District Court's order.

Other interlocutory appeal doctrines do not afford a path to relief. The collateral order doctrine does not apply because the legal issue here necessarily implicates the merits of the case to some degree. *See id*. at 1117 (dispute as to scope of party discovery "touches on the merits of the underlying action" and therefore does not meet requirements of the collateral order doctrine). Certification of an interlocutory appeal under 28 U.S.C. § 1292(b) does not apply because the question of the proper scope of discovery does not bear on the timing of the ultimate

termination of the litigation, but rather concerns the fairness to Petitioners of the discovery procedures. *See id*. at 1118 n.14. And no other avenue of appeal is available to parties to the litigation. *See Spork v. Peil*, 759 F.2d 312, 315 n.4 (3d Cir. 1985). Absent another appropriate vehicle for interlocutory review, mandamus is this Court's only means of correcting the District Court's clear error.

B. Issuance of the Writ Is Appropriate in These Circumstances.

The final criterion for mandamus is that issuance of the writ be a prudent exercise of this Court's discretion. *See Cheney*, 542 U.S. at 381 ("[E]ven if the first two prerequisites have been met, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances."). As evidenced by decisions of five other circuits, discussed above, the circumstances presented here amply justify the Court using its discretion to issue the writ. *See Reyes*, 814 F.2d at 170 ("[W]hen the writ of mandamus is sought from an appellate court to confine a trial court to a lawful exercise of its prescribed authority, the court should issue the writ almost as a matter of course.") (citation omitted).

First, the District Court's discovery order will cause irreparable harm to Petitioners. The employees who have been designated by Petitioners as discovery custodians in this case have a diverse array of duties and work on many issues entirely irrelevant to the case. These duties may include, but are not limited to, seeking and obtaining regulatory approvals on products that are not relevant to this litigation, analyzing trade secret technical issues for pipeline products, and working on branded products that are not within the scope of the claims below. Documents concerning these and numerous other highly commercially sensitive matters should

not be produced in a litigation involving two dozen of Defendants' competitors, nearly a dozen other industry participants as named Plaintiffs, and dozens of law firms and their vendors. Additionally, it is a reality of modern life that employees use their work emails to conduct sensitive personal business like arranging doctor's appointments, addressing their children's needs, or managing personal legal and financial matters. Disclosure of any such materials imposes a hardship on Defendants and their employees contrary to the Federal Rules of Civil Procedure and disproportionate to the needs of the case.

Importantly, while there is a "clawback" provision in the order, it encompasses only a narrow scope of documents and is also completely procedurally unworkable. It therefore does not bring the District Court's order into compliance with the Federal Rules of Civil Procedure.

In particular, the District Court's order does not expressly allow Petitioners to claw back documents because they are irrelevant. Petitioners' trade secret material and other business interests are therefore not protected. This means that information on their research and development efforts, product pipelines, technical and regulatory secrets, brand and specialty products not at issue, biologics products, and numerous other matters will be provided to Plaintiffs and Defendants' competitors in violation of Rule 26 and with no benefit at all to the resolution of the case.

Further, the order requires Petitioners to make all clawback requests within 120 days of production. A3. Given that productions under the District Court's order will encompass millions of documents, inevitably, much of the information Petitioners would be entitled to claw back would not be identified in time. And even

if it were, that would still mean confidential and proprietary materials, as well as sensitive personal information, were improperly in the discovery record for 120 days. In any event, a clawback procedure—unjustified by the circumstances—turns the Federal Rules of Civil Procedure on their head. A party is simply not entitled to obtain an unbounded trove of documents from its opponent and then force the opponent to try to claim some of those materials back.

Moreover, confidentiality obligations under the protective order below provide no comfort to Petitioners. This case has already seen multiple leaks of sealed filings and confidential materials. *See* 16-md-02724-CMR, Dkt. No. 805 at 4-5 (describing leak of sealed document). There can be no real assurance that irrelevant but confidential material produced under the extraordinarily overbroad standards of the District Court's order will actually be kept confidential. And even absent the risk of leaks, forcing Petitioners to provide irrelevant but highly confidential materials in a case involving their competitors, customers, and other industry participants represents an unjustified burden that no protective order can remedy.

Beyond the irreparable harm to Petitioners, the order below harms important policy interests embodied by Rule 26. As the Advisory Committee on Rules of Civil Procedure has noted, the goal of Rule 26's relevance requirement "is to guard against redundant or disproportionate discovery by giving the court authority to reduce the amount of discovery that may be directed to matters that are otherwise proper subjects of inquiry." Fed. R. Civ. P. 26 1983 Advisory Committee's Note. The order below violates this important policy and instead permits discovery without regard

for relevance. This Court should therefore grant a writ of mandamus to reinforce the relevance requirement for the good of all district courts and litigants in this Circuit.

CONCLUSION

The Petition for a Writ of Mandamus should be granted.

Dated: October 31, 2019 Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 21(d)(1). This brief contains 5,835 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B). Microsoft Word 2016 was used to calculate the word count.

2. The brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5), (6) and the type style requirements of Third Cir. R. 32.2. This brief has been prepared in a proportionally-spaced typeface using Microsoft Word 2016 in 14-point Times New Roman type style.

/s/ Chul Pak

CERTIFICATE OF SERVICE

I hereby certify that I caused true and correct copy of the foregoing was served via Electronic Mail and First-Class Mail pursuant to the Court's orders appointing liaison counsel upon:

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Three hard copies of the foregoing Petition for a Writ of Mandamus were sent to the Clerk's Office via Federal Express Next Business Day Delivery to:

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on this 31st day of October 2019.

/s/ Samantha Collins
Samantha Collins

APPENDIX

TABLE OF CONTENTS

A1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION	**MDL 2724** **16-MD-2724**
THIS DOCUMENT RELATES TO: ***ALL ACTIONS***	**HON. CYNTHIA M. RUFE**

PRETRIAL ORDER NO. 105
(CASE MANAGEMENT ORDER AND DISCOVERY SCHEDULE)

AND NOW, this 24th day of October 2019, upon consideration of the Report and Recommended Order of David Marion and the Objections thereto, and after oral argument, it is hereby **ORDERED** that the Objections are **OVERRULED**, the Report and Recommended Order is **APPROVED** as follows, and the Case Management Order is **ENTERED** with regard to the management and schedule for discovery, class certification, summary judgment, and *Daubert* motions, applicable to all cases pending in the MDL as of September 1, 2019; subject to modifications that may be set forth in future Pretrial Orders.[1] When responding to discovery requests under this Case Management Order, a producing party shall adhere to paragraphs 6 and 7 of PTO 96 or substantially similar provisions contained in any future Pretrial Order.

1. With respect to any new complaint or amended complaint filed after September 1, 2019, responsive pleadings and/or motions shall be filed as normally required or agreed. Discovery from new defendants may be guided by but will not be governed by this CMO. Discovery with respect to those defendants shall be governed by separate agreement(s) to be negotiated by the parties or separate order(s), recommended by the Special Master and/or as decided by the Court. However, discovery involving pre-existing parties may be expanded as appropriate to include newly added defendants and/or drugs.

2. All parties are required to preserve any and all communications in any potentially relevant custodial file including, but not limited to, (i) communications pertaining to any

[1] The Court has considered the Objections carefully, and has determined that the Recommended Order sufficiently balances the interests of the parties and, most importantly, provides a road map to move the litigation forward at this time.

generic prescription drug with any other seller or manufacturer of any other generic prescription drug, or (ii) internal communications concerning (i).

3. **DISCOVERY OF DEFENDANTS' CUSTODIAL FILES**: Production from the files of all Defendants' Agreed Custodians (as defined in PTO 95, ¶ 1.5), or other Defendant custodian(s) as ordered, using search terms, established as follows:

    a. Search terms shall be established either by agreement reached among the parties in negotiations supervised by Special Master Marion and ESI Master Regard or as ordered by Special Master Marion or ESI Master Regard if not agreed to within 21 days from entry of this Order.

        i. Such terms shall include, but are not limited to, all drugs named in any complaint and all Defendants named in any complaint as of the date of September 1, 2019.

        ii. Any drug or drug manufacturer or seller defendant added hereafter in any new or amended complaint, shall be added to the search terms and searched on a reasonable schedule to be established by the parties with the assistance of Special Master Marion and ESI Master Regard, as necessary.

    b. Defendants shall apply the agreed search terms to the agreed custodial files and may review the identified documents for privilege, but may not withhold prior to production any documents based on relevance or responsiveness.

    c. The deadline for meeting and conferring on the proposed search terms is ten (10) days from entry of this Order.

        i. Any dispute arising out of the above provisions shall be brought to Special Master Marion and ESI Master Regard via simultaneous letter briefs within 30 days from the date of this Order, to be promptly resolved by them.

        ii. The briefs should include "hit" counts and suggested alternatives to the disputed search term(s).

        iii. Special Master Marion and/or ESI Master Regard will then meet and confer with the parties together or ex parte to discuss the proposals and will propose search terms to all parties for testing.

        iv. The parties shall have 14 days to test the search terms and submit objections to them.

        v. To the extent the parties do not reach agreement, any disputes shall be resolved pursuant to the Special Master Protocol, PTO 68.

    d. Production deadline: December 20, 2019; Privilege log deadline: January 15, 2020.

A3

e. Confidentiality:

i. All documents shall be stamped "Outside Counsel Eyes Only" for 120 days (as set forth in PTO 70).

ii. Confidentiality re-designation deadline: 120 days after production (as set forth in PTO 70).

iii. Request for Clawback: 120 days from production (as guided by PTO 70).

iv. Clawback disputes to be resolved promptly with assistance from Special Discovery Master Merenstein and Special Master Marion, as necessary.

4. **DISCOVERY OF DEFENDANTS' TARGETED DOCUMENTS** relevant to the claims regarding all drugs and all Defendants in the MDL.

a. Targeted documents include, but are not limited to:

i. Defendants' documents responsive to Plaintiffs' document requests that are regularly maintained in a known location, or in a location that is knowable upon reasonable inquiry of those with knowledge about Defendants' document management systems, departmental practices with respect to filing documents, and similar information, such that they do not require search terms. Such documents, which have previously been referred to as "go get" documents, may be found in custodial or non-custodial sources and include but are not limited to: e.g. calendars, travel and expense records, telephone records, board of directors' materials, forecasts, strategic sales databases, financial statements, accounting documents.

ii. Defendants' documents relevant to class certification, experts, and other economic or data-related issues, which may or may not require targeted search terms; and

iii. Additional targeted search terms based on review of documents and samples.

b. Deadline to complete meet and confers with respect to such documents:

i. Paragraph 4(a)(i): November 8, 2019.

ii. Paragraph 4(a)(ii) and (iii): February 7, 2020.

c. Any dispute arising out of these meet and confers shall be brought to Special Master Marion via simultaneous letter briefs on or before November 22, 2019 (for ¶ 4(a)(i)), or February 17, 2020 (for ¶ 4(a)(ii) and (iii)).

d. Complete production of documents: December 1, 2019 (for ¶ 4(a)(i)) and March 13, 2020 (for ¶ 4(a)(ii) and (iii)); Privilege log deadline December 16, 2019 (for ¶ 4(a)(i)) and April 16, 2020 (for ¶ 4(a)(ii) and (iii)).

e. Confidentiality:

i. All documents stamped Outside Counsel Eyes Only for 120 days (as outlined in PTO 70).

ii. Confidentiality re-designation deadline 120 days after production (as outlined in PTO 70).

iii. Request for Clawback: January 16, 2020 (for ¶ 4(a)(i)), March 16, 2020 (for ¶ 4(a)(ii) and (iii)) (as guided by PTO 70).

iv. Clawback disputes to be resolved promptly with assistance from Special Discovery Master Merenstein and/or Special Master Marion, as necessary.

5. DEFENDANTS' TRANSACTIONAL DATA, COST INFORMATION, AND RELATED DOCUMENTS

a. No later than ten days after entry of this Order, samples of each Defendant's transaction-level sales data and cost information covering at least one year for one drug must be been produced. Disputes concerning these samples shall be brought to Special Master Marion promptly.

b. Meet and confers concerning transaction-level sales data, cost information, and related documents shall be completed within 45 days of the entry of this Order. Any dispute shall be brought to Special Master Marion via simultaneous letter briefs no later than December 13, 2019.

c. Deadline to produce Defendants' complete transaction-level sales data and cost information:

i. Drugs in the MDL as of September 1, 2019: January 16, 2020.

ii. For any new drugs involving an existing Defendant already in the MDL, added as of September 1, 2019: January 16, 2020 or within 60 days of a new or amended complaint, whichever is later.

6. **WRITTEN DISCOVERY**: On or before November 8, 2019, all outstanding signature(s) and/or verifications required by Rule 33 of the Federal Rules of Civil Procedure shall be produced by either party.

7. PLAINTIFFS' DOCUMENT PRODUCTIONS AND TRANSACTIONAL DATA

a. The parties shall meet and confer regarding Plaintiffs'[2] custodians, ESI sources, outstanding discovery requests, search terms and methodology for unstructured data, shall be completed no later than November 22, 2019 (for Private Plaintiffs) and January 15, 2020 (for the States).

b. Any dispute arising out of this provision shall be brought to Special Master Marion, Special Master Merenstein and/or ESI Master Regard via letter briefs within 14 days of the applicable meet and confer deadlines.

c. Production deadline: December 20, 2019 (for Private Plaintiffs); March 2, 2020 (for the States); Privilege log deadline: 30 days thereafter.

d. Plaintiffs' production in response to Defendants' discovery requests shall otherwise proceed simultaneously and under the same procedures applicable to Defendants' production as set forth above in paragraphs 4-6.

8. FACT DEPOSITIONS

a. Depositions in all cases shall begin March 16, 2020 and continue through September 16, 2021.

b. Witnesses associated with bellwether case(s) or claims are to take priority.

c. Starting February 6, 2020, the parties shall meet and confer regarding the scheduling of depositions. Any dispute arising out of these meet and confers shall be submitted promptly to Special Master Marion via simultaneous letter briefs.

9. BELLWETHER SELECTIONS

a. Within 45 days of the entry of this Order, the parties shall meet and confer with the assistance of Special Master Marion to identify criteria for selecting bellwether claims or case(s) for class certification, expert discovery, summary judgment, *Daubert* motions, and/or trial(s).

b. Upon identification of the bellwether criteria, bellwether claims or case(s) shall be established either by agreement reached among the parties in negotiations supervised by Special Master Marion or as ordered by Special Master Marion if not agreed to within 30 days after the meet and confer.

c. The paragraphs below apply only to such cases.

[2] "Plaintiffs" here refers to Plaintiffs in operative complaints and already served with discovery as of September 1, 2019.

10. MERITS EXPERT DEPOSITIONS[3]

a. Plaintiffs shall serve expert reports no later than April 30, 2021. Plaintiffs' experts shall be made available for depositions no later than June 14, 2021.

b. Defendants shall serve expert reports no later than July 30, 2021. Defendants' experts shall be made available for depositions no later than August 16, 2021.

c. Plaintiffs shall serve rebuttal expert reports no later than October 15, 2021.

d. Unless good cause can be shown, each expert providing a merits report is to be deposed only one time. Any dispute arising from the scheduling of expert depositions shall be brought to Special Master Marion via simultaneous letter briefs.

11. CLASS CERTIFICATION AND RELATED *DAUBERT* MOTIONS

a. Motions for class certification for the bellwether case(s) or claims, if required, shall be filed by October 7, 2020. Plaintiffs in such cases shall simultaneously serve expert reports on which they rely for class certification.

b. Depositions of Plaintiffs class certification experts shall be completed by November 6, 2020. Unless good cause can be shown, each of Plaintiffs' class certification expert is to be deposed only one time.

c. Opposition to class certification and related *Daubert* motions for the bellwether case(s) or claims shall be filed by December 18, 2020. Defendants in such cases shall simultaneously serve expert reports on which they rely in opposition.

d. Depositions of Defendants' class certification experts shall be completed by January 8, 2021. Unless good cause can be shown, each of Defendants' class certification expert is to be deposed only one time.

e. Replies in support of class certification and related *Daubert* motions for the bellwether case(s) or claims shall be filed, and supporting expert reports served, by January 18, 2021.

f. The hearing on class certification shall be set on a date to be determined by the Court.

[3] Dates hereafter may be modified either by agreement or by Order of the Court, dependent on the selection of bellwether criteria.

12. **SUMMARY JUDGMENT MOTIONS AND MERITS *DAUBERT* MOTIONS** shall proceed as follows:

    a. Motions and supporting briefs for bellwether case(s) or claims shall be filed no later than 60 days after the later of close of merits expert discovery and disposition of motions for class certification.

    b. Oppositions shall be filed 60 days thereafter.

    c. Replies shall be filed 45 days after the filing of oppositions.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION	: MDL NO. 2724 : 16-MD-2724
	: HON. CYNTHIA M. RUFE
ALL ACTIONS	:

Report and Recommended Order from Special Master David H. Marion Setting Forth a Case Management Order and Discovery Schedule

This report and recommended order is respectfully submitted by Special Master David H. Marion to accompany a recommended Case Management Order and Discovery Schedule.

I. BACKGROUND

As of the status conference before Judge Rufe held on July 12, 2019, the parties had yet to agree on a Case Management Order or Discovery Schedule. After several meet and confers and ex parte meetings requested by the parties, on July 17, I asked the Plaintiffs and Defendants to each submit a letter brief and a proposed Case Management Order including a Discovery Schedule (collectively herein, "CMO"). In response to that request, on July 29, I received written submissions from both sides. A joint meeting was held on August 1, prior to which I issued an "informal recommendation" in an effort to accelerate progress in moving this MDL forward. Following the August 1, joint meeting, I asked the parties to submit supplemental edits, including proposed deadlines, to my informal recommendation. After receiving the parties' edits on August 6, ex parte meetings were held on August 7.

II. DISCUSSION

Because I have already received four well-drafted proposals and letter briefs fully setting forth the opposing positions on a CMO, and have conducted several rounds of ex parte and joint meetings on the subject, I think it is reasonable to require the simultaneous submission of objections to the recommended Order attached hereto on or before September 13. If suitable and convenient to the Court, that schedule would allow Judge Rufe six business days for review prior to the September 24 status conference.

It appears unlikely that there will be mutual agreement on this subject, and therefore I am now recommending entry of the attached CMO, which I believe is a fair and workable compromise between the two sides' positions.

Plaintiffs initially presented two options to proceed. The first would require Defendants to produce full custodial files for a subset of key custodians selected by Plaintiffs from the much larger list of custodians of which the parties had already agreed. Although Plaintiffs presented a strong case in support of their "full custodial file" option, at my request they also put forward a second option which they could live with but did not prefer (and could later move for reconsideration), under which Defendants would run broad search terms – not limited to drugs or defendants already in the MDL – across all agreed-upon custodial files and to produce all "hits," absent those documents withheld for privilege, to Plaintiffs as the custodial documents. Plaintiffs further suggested the parties should meet and confer as to how to deal with any additional new or amended complaints which might be included in this MDL. Plaintiffs later amended their proposal to include a timeframe for the selection of bellwether criteria and segmented out various components of discovery by party and document type.

Defendants favored a phased approach, setting a cutoff date after which any new or amended complaints would be placed in a "Suspense Docket." The first phase of discovery would be limited to drugs and defendants in cases pending as of March 20, 2019 and would proceed though a fairly customary discovery schedule. They vigorously resisted access to any custodian's complete records without limitation by search terms. Other variations between the two sides' proposals included the order of summary judgment motions as compared to class certification and the determination of a "bellwether" case or cases. Following a joint meeting, Defendants amended their proposal to include a full schedule with definitive dates through and including motions for class certification and motions for summary judgment. Defendants further proposed a detailed outline on the selection of search terms to be used on the suggested custodial files, and the production of documents as a result of those search terms after a privilege and responsiveness review. Plaintiffs strenuously opposed Defendants' withholding documents based on their unilateral determination of irrelevance or non-responsiveness.

III. RECOMMENDED ORDER

Based on the multiple and lengthy meetings with the parties both ex parte and jointly, and review of their conflicting briefs and proposed CMO's, I now recommend the Court's entry of the attached CMO based in part on the following considerations:

1. Given the nature of the allegations of both overarching and specific price-fixing and market allocation antitrust conspiracies, and the extraordinarily high stakes involved, extensive and broad-ranging discovery is both necessary and appropriate for these cases to be fairly adjudicated; and is also essential for any meaningful settlement

discussions, since cases like this are usually ultimately settled, and reasonable settlements are beneficial to the Court and the parties.

2. The phased approach proposed by the Defendants may risk redundancy, multiple depositions of witnesses, and confusion; but Defendants reasonably contend they need some fixed date and time period for application of agreed-upon or Court-ordered search terms.

3. The proposed Order attempts to protect Defendants' asserted rights, in that there would be agreed-upon or Court-ordered search terms, a definite cut-off date, and Defendants could perform a privilege review prior to production of the "hits" generated from the custodial files. Moreover, the procedures set forth in PTO 70 regarding confidentiality designations and the "clawback" of highly sensitive personal matters not relevant to the litigation would be utilized within an extended schedule.

4. By proceeding with discovery, class certification and then summary judgment motions – with a defined universe (unaffected by newly filed complaints or amendments) and a process for selection of "bellwether" cases, defendants, and drugs, it is probable that the issues for the parties will be narrowed, even as to new drugs, cases or parties that may be added, as they were after the Court decided the first tranche of motions to dismiss.

5. By involving ESI Master Regard to assist me in resolving and ultimately recommending appropriate search terms within a tight schedule, and Special Discovery Master Merenstein to assist with respect to disputes that may arise within the "clawback" process (and of course all three of us will be available to deal with whatever other non-

dispositive disputes may arise going forward), I believe discovery can proceed promptly, efficiently and in accordance with the Federal Rules.

6. Attached hereto as Exhibit "A" is my Recommended Order. The above summary does not attempt to cover all the contentions made on each side or indeed all the considerations behind the proposed Order.

Respectfully submitted,

David H. Marion, Special Master

EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION	: MDL NO. 2724 : 16-MD-2724
	: HON. CYNTHIA M. RUFE
ALL ACTIONS	:

PROPOSED CASE MANAGEMENT ORDER AND DISCOVERY SCHEDULE

The Special Master recommends: (1) the following shall control the management and schedule for discovery, class certification, summary judgment, and *Daubert* motions, applicable to all cases pending in the MDL as of September 1, 2019; (2) objections thereto by any party or parties be submitted to the Court on or before September 13, 2019.

1. With respect to any new complaint or amended complaint thereto filed after September 1, 2019, responsive pleadings and/or motions shall be filed as normally required or agreed. Discovery from new defendants may be guided by but will not be governed by this CMO. Discovery with respect to those defendants shall be governed by separate agreement(s) to be negotiated by the parties or separate order(s), recommended by the Special Master and/or as decided by the Court. However, discovery involving pre-existing parties may be expanded as appropriate to include newly added defendants and/or drugs.

2. All parties are required to preserve any and all communications in any potentially relevant custodial file including, but not limited to, (i) communications pertaining to any generic prescription drug with any other seller or manufacturer of any other generic prescription drug, or (ii) internal communications concerning (i).

3. **DISCOVERY OF DEFENDANTS' CUSTODIAL FILES**: Production from the files of all Defendants' Agreed Custodians (as defined in PTO 95, ¶ 1.5), or other Defendant custodian(s) as ordered, using search terms, established as follows:

    a. Search terms shall be established either by agreement reached among the parties in negotiations supervised by Special Master Marion and ESI Master Regard or as ordered by Special Master Marion or ESI Master Regard if not agreed to within twenty (20) days from entry of this Order.

        i. Such terms shall include, but are not limited to, all drugs named in any complaint and all Defendants named in any complaint as of the date of September 1, 2019.

ii. Any drug or drug manufacturer or seller defendant added hereafter in any new or amended complaint, shall be added to the search terms and searched on a reasonable schedule to be established by the parties with the assistance of Special Master Marion and ESI Master Regard, as necessary.

b. Defendants shall apply the agreed search terms to the agreed custodial files and may review the identified documents for privilege, but may not withhold prior to production any documents based on relevance or responsiveness.

c. The deadline for meeting and conferring on the proposed search terms is ten (10) days from entry of this Order.

i. Any dispute arising out of the above provisions shall be brought to Special Master Marion and ESI Master Regard via simultaneous letter briefs within thirty (30) days from the date of this Order, to be promptly resolved by them.

ii. The briefs should include "hit" counts and suggested alternatives to the disputed search term(s).

iii. Special Master Marion and/or ESI Master Regard will then meet and confer with the parties together or ex parte to discuss the proposals and will propose search terms to all parties for testing.

iv. The parties shall have fourteen (14) days to test the search terms and submit objections to them.

v. To the extent the parties do not reach agreement, any disputes shall be resolved pursuant to the Special Master Protocol, PTO 68.

d. Production deadline: December 20, 2019; Privilege log deadline: January 15, 2020.

e. Confidentiality:

i. All documents shall be stamped "Outside Counsel Eyes Only" for 120 days (as set forth in PTO 70).

ii. Confidentiality re-designation deadline: 120 days after production (as set forth in PTO 70).

iii. Request for Clawback: 120 days from production (as guided by PTO 70).

iv. Clawback disputes to be resolved promptly with assistance from Special Discovery Master Merenstein and Special Master Marion, as necessary.

4. **DISCOVERY OF DEFENDANTS' TARGETED DOCUMENTS** relevant to the claims regarding all drugs and all Defendants in the MDL.

    a. Targeted documents include, but are not limited to:

        i. Defendants' documents responsive to Plaintiffs' document requests that are regularly maintained in a known location, or in a location that is knowable upon reasonable inquiry of those with knowledge about Defendants' document management systems, departmental practices with respect to filing documents, and similar information, such that they do not require search terms. Such documents, which have previously been referred to as "go get" documents, may be found in custodial or non-custodial sources and include but are not limited to: e.g. calendars, travel and expense records, telephone records, board of directors' materials, forecasts, strategic sales databases, financial statements, accounting documents.

        ii. Defendants' documents relevant to class certification, experts, and other economic or data-related issues, which may or may not require targeted search terms; and

        iii. Additional targeted search terms based on review of documents and samples.

    b. Deadline to complete meet and confers with respect to such documents:

        i. Paragraph 4(a)(i): October 16, 2019.

        ii. Paragraph 4(a)(ii) and (iii): February 7, 2020.

    c. Any dispute arising out of these meet and confers shall be brought to Special Master Marion via simultaneous letter briefs on or before October 30, 2019 (for ¶ 4(a)(i)), or February 17, 2020 (for ¶ 4(a)(ii) and (iii)).

    d. Complete production of documents: November 15, 2019 (for ¶ 4(a)(i)) and March 13, 2020 (for ¶ 4(a)(ii) and (iii)); Privilege log deadline December 16, 2019 (for ¶ 4(a)(i)) and April 16, 2020 (for ¶ 4(a)(ii) and (iii)).

    e. Confidentiality:

        i. All documents stamped Outside Counsel Eyes Only for 120 days (as outlined in PTO 70).

        ii. Confidentiality re-designation deadline 120 days after production (as outlined in PTO 70).

iii. Request for Clawback: January 16, 2019 (for ¶ 4(a)(i)), March 16, 2020 (for ¶ 4(a)(ii) and (iii)) (as guided by PTO 70).

iv. Clawback disputes to be resolved promptly with assistance from Special Discovery Master Merenstein and/or Special Master Marion, as necessary.

5. **DEFENDANTS' TRANSACTIONAL DATA, COST INFORMATION, AND RELATED DOCUMENTS**

a. No later than ten days after entry of this Order, samples of each Defendant's transaction-level sales data and cost information covering at least one year for one drug must be been produced. Disputes concerning these samples shall be brought to Special Master Marion promptly.

b. Meet and confers concerning transaction-level sales data, cost information, and related documents shall be completed within forty-five (45) days of the entry of this Order. Any dispute shall be brought to Special Master Marion via simultaneous letter briefs no later than December 13, 2019.

c. Deadline to produce Defendants' complete transaction-level sales data and cost information:

i. Drugs in the MDL as of September 1, 2019: January 16, 2019.

ii. For any new drugs involving an existing Defendant already in the MDL, added as of September 1, 2019: January 16, 2019 or within 60 days of a new or amended complaint, whichever is later.

6. **WRITTEN DISCOVERY**: On or before October 11, 2019, all outstanding signature(s) and/or verifications required by Rule 33 of the Federal Rules of Civil Procedure shall be produced by either party.

7. **PLAINTIFFS' DOCUMENT PRODUCTIONS AND TRANSACTIONAL DATA**

a. The parties shall meet and confer regarding Plaintiffs'[1] custodians, ESI sources, outstanding discovery requests, search terms and methodology for unstructured data, shall be completed no later than October 14, 2019 (for Private Plaintiffs) and January 15, 2020 (for the States).

b. Any dispute arising out of this provision shall be brought to Special Master Marion, Special Master Merenstien and/or ESI Master Regard via letter briefs within ten (10) days of the applicable meet and confer deadlines.

[1] "Plaintiffs" here refers to Plaintiffs in operative complaints and already served with discovery as of September 1, 2019.

c. Production deadline: December 20, 2019 (for Private Plaintiffs); March 2, 2020 (for the States); Privilege log deadline: 30 days thereafter.

d. Plaintiffs' production in response to Defendants' discovery requests shall otherwise proceed simultaneously and under the same procedures applicable to Defendants' production as set forth above in paragraphs 4-6.

8. **FACT DEPOSITIONS**

a. Depositions in all cases shall begin March 16, 2020 and continue through September 16, 2021.

b. Witnesses associated with bellwether case(s) or claims are to take priority.

c. Starting February 6, 2019, the parties shall meet and confer regarding the scheduling of depositions. Any dispute arising out of these meet and confers shall be submitted promptly to Special Master Marion via simultaneous letter briefs.

9. **BELLWETHER SELECTIONS**

a. Within 45 days of the entry of this Order, the parties shall meet and confer with the assistance of Special Master Marion to identify criteria for selecting bellwether claims or case(s) for class certification, expert discovery, summary judgment, *Daubert* motions, and/or trial(s).

b. Upon identification of the bellwether criteria, bellwether claims or case(s) shall be established either by agreement reached among the parties in negotiations supervised by Special Master Marion or as ordered by Special Master Marion if not agreed to within thirty (30) days after the meet and confer.

c. The paragraphs below apply only to such cases.

10. **MERITS EXPERT DEPOSITIONS**[2]

a. Plaintiffs shall serve expert reports no later than April 30, 2021. Plaintiffs' experts shall be made available for depositions no later than June 14, 2021.

b. Defendants shall serve expert reports no later than July 30, 2021. Defendants' experts shall be made available for depositions no later than August 16, 2021.

c. Plaintiffs shall serve rebuttal expert reports no later than October 15, 2021.

d. Unless good cause can be shown, each expert providing a merits report is to be deposed only one time. Any dispute arising from the scheduling of expert

[2] Dates hereafter may be modified either by agreement or by Order of the Court, dependent on the selection of bellwether criteria.

depositions shall be brought to Special Master Marion via simultaneous letter briefs.

11. **CLASS CERTIFICATION AND RELATED *DAUBERT* MOTIONS**

a. Motions for class certification for the bellwether case(s) or claims, if required, shall be filed by October 7, 2020. Plaintiffs in such cases shall simultaneously serve expert reports on which they rely for class certification.

b. Depositions of Plaintiffs class certification experts shall be completed by November 6, 2020. Unless good cause can be shown, each of Plaintiffs' class certification expert is to be deposed only one time.

c. Opposition to class certification and related *Daubert* motions for the bellwether case(s) or claims shall be filed by December 18, 2020. Defendants in such cases shall simultaneously serve expert reports on which they rely in opposition.

d. Depositions of Defendants' class certification experts shall be completed by January 8, 2021. Unless good cause can be shown, each of Defendants' class certification expert is to be deposed only one time.

e. Replies in support of class certification and related *Daubert* motions for the bellwether case(s) or claims shall be filed, and supporting expert reports served, by January 18, 2021.

f. The hearing on class certification shall be set on a date to be determined by the Court.

12. **SUMMARY JUDGMENT MOTIONS AND MERITS *DAUBERT* MOTIONS** shall proceed as follows:

a. Motions and supporting briefs for bellwether case(s) or claims shall be filed no later than sixty (60) days after the later of close of merits expert discovery and disposition of motions for class certification.

b. Oppositions shall be filed sixty (60) days thereafter.

c. Replies shall be filed forty-five (45) days after the filing of oppositions.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION	:	MDL NO. 2724 16-MD-2724
THIS DOCUMENT RELATES TO	:	HON. CYNTHIA M. RUFE
ALL ACTIONS	:	

SPECIAL MASTER DAVID H. MARION'S SUPPLEMENTAL SUMMARY TO REPORT AND RECOMMENDED ORDER DATED AUGUST 16, 2019

I. INTRODUCTORY STATEMENT

In light of the massive amount of paper submitted in response to my Report and Recommended Order ("R&R") setting forth a Case Management Order and Discovery Schedule ("CMO"), I am hereby submitting this summary and outline of the issues which may be of assistance to the Court. This is not intended to argue or respond on the merits to any disputed issues.

I do want to note that I take full responsibility for my R&R, but I should acknowledge three points:

1. The "meet and confers," as well as a number of both joint and ex parte meetings I held with counsel, along with exchanges of proposals, were becoming endless and dragging on for months. Therefore, I hastily put together an R&R recommending a CMO in mid-August. Plaintiffs' response has noted several typo's and omissions for which I apologize, but knowing the Court's busy schedule for late August and September, I wanted to allow sufficient time for the anticipated objections of the parties to be submitted prior to the scheduled Status Conference on September 24. (Certain unexpected family medical emergencies occurred at the same time.) What is most important is to get this MDL on track toward resolution with deadlines, subject to adjustment if necessary, in order to meet the objectives set forth by the Court during the last Status Conference on July 12.

2. I did consult with and receive input from both Discovery Master Merenstein and ESI Master Regard prior to submitting my R&R and CMO, but any errors of law that may appear therein are mine, not theirs.

3. I would like to note and recognize the substantial and valuable assistance of my White and Williams colleague Ms. Morgan Birch in this effort.

II. MAIN ISSUES

A. PRODUCTION OF FULL CUSTODIAL FILES

Plaintiffs wanted a complete turnover of all documents from a select few of Defendants' key employees/custodians. Defendants wanted search terms that would limit the scope of the production to a limited number of issues, drugs and parties.

My compromise – With the help of ESI Master Regard, we will meet and hopefully agree on the use of broad search terms that would cover all drugs and contacts with and about all makers and sellers of drugs. If there is no agreement on search terms, ESI Master Regard and I would provide an R&R to the Court on search terms. Similarly, Plaintiffs would have an opportunity to argue for all files for cause shown.

B. SCOPE OF DISCOVERY

Defendants sought to limit "phase one" of discovery to roughly 30 drugs at issue as of May 20, 2019; all other discovery would be stayed until that initial phase of discovery is completed and a selection of bellwether case(s) was made, so that precedential class certification and summary judgment motions could be resolved. Under Defendants proposal, proposed discovery would start over for additional drugs and parties in what Plaintiffs feared would be the distant future. Plaintiffs sought to proceed with all discovery on all drugs and makers and sellers, and additional drugs and defendants would be added as new or amended complaints are filed; to avoid repeated depositions and/or massive delays; and to make settlements possible at an earlier stage, since Defendants will want to cover all drugs and parties in any settlements and releases, and Plaintiffs would only get limited discovery in the near future under Defendants' phased plan.

C. OTHER ISSUES

1. My order includes deadlines that can be changed and modified, but it is my belief there must be tight deadlines to achieve the Court's expressed objective of moving these cases toward resolution as promptly as possible.

2. Clawbacks: My R&R allows Defendants to withhold documents for privilege, but not to unilaterally withhold documents as either unresponsive or irrelevant. Such a clawback process as set forth in PTO 70, worked well as it pertained to the Attorney General documents. Moreover, Discovery Master Merenstein and I are committed to be available to rapidly resolve any such disputes.

3. My Recommended Order also provides a process to select bellwether case(s), and deal with fact and expert depositions, class certification motions, summary judgment motions, a bellwether trial(s).

III. CONCLUSION

I have told all parties that I expected objections and would take no offense thereto, since our relations have been cordial and respectful throughout. These are difficult issues, and all counsel have been understandably attentive to their duties to their clients. Respectfully and with apologies, I also recognize that the Court may not be able to simply sign my recommended Order as is; but I hope it will at least provide a convenient structure to move these cases forward expeditiously.

Respectfully submitted,

David H. Marion

DHM:msb

aUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE:	.	Case No. 2:16-MD-02724 (CMR)
	.	
GENERIC PHARMACEUTICALS	.	
PRICING ANTITRUST	.	U.S. Courthouse
LITIGATION	.	601 Market Street
	.	Philadelphia, PA 19106
	.	
	.	September 24, 2019
. . . . .		11:17 a.m.

TRANSCRIPT OF CIVIL HEARING
BEFORE HONORABLE CYNTHIA M. RUFE and JURY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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I N D E X

EXHIBITS	ID.	EVD.

COURTROOM DEPUTY: All rise. The Court is now in session for the United States District Court for the Eastern District of Pennsylvania. The Honorable Cynthia M. Rufe presiding.

THE COURT: Good morning, everyone.

THE COURTROOM: Good morning, Your Honor.

THE COURT: Please be seated. So, we started early this morning with a conference with liaison counsel and we're now ready to address remaining issues on the agenda and I would like to know who... since I have a sign-in sheet, I believe there's also counsel on the telephone? Do I have a list of them?

FEMALE VOICE 1: - - .

THE COURT: So, if you wish to speak and you're on the telephone, you must identify yourself, please, when that happens. I don't know which of these pages...

MR. WILLIAM STEWART: Hi, this is Bill Stewart from Schneider Wallace on the line.

THE COURT: Hello? Who else is on the phone? I believe we have our Special ESI Master--

MS. NIKOLE BROCK: [Interposing] - - Attorney General's Office on the line.

THE COURT: Would you repeat that, please?

MS. BROCK: Nikole Brock from the Pennsylvania Attorney General's Office.

THE COURT: Thank you. Who else?

MR. FRANK DELEON: Frank DeLeon [phonetic] from the Montana Attorney General's Office, Your Honor.

THE COURT: Thank you. Anyone else?

MS. LEEANNE APPLEGATE: LeeAnne Applegate, Kentucky Attorney General's Office.

THE COURT: Thank you. Who else, please?

MS. LAURA MARTELLA: Laura Martella from the Connecticut Attorney General's Office.

THE COURT: Thank you. Anyone else--?

MS. RACHEL DAVIS: [Interposing] Rachel Davis from the Connecticut Attorney General's Office. I do not intend to speak.

THE COURT: I did not hear that.

MALE VOICE: That was Rachel Davis from the Connecticut Attorney General's.

MR. TIMOTHY FRASER: Timothy Fraser, Florida AG's Office.

THE COURT: And who was that?

MALE VOICE: Tim Fraser from the Florida Attorney General's.

THE COURT: All right. Anyone else?

MR. DANIEL REGARD: This is Dan Regard, the Special Master for ESI discovery.

THE COURT: Thank you, Mr. Regard. I did try to

introduce you a moment ago and thank you for joining us this morning.

MR. REGARD: Yes, ma'am.

THE COURT: Anyone else on the phone?

MS. JUDITH ZAHID: Your Honor, it's Judith Zahid and Eric Buetzow for United HealthCare Services, Inc.

THE COURT: Thank you.

MS. ELIN ALM: Elin Alm from the North Dakota Attorney General's Office.

THE COURT: Thank you. Might that--

MS. HUGHES: [Interposing] - - Hughes on behalf of Nisha Patel.

THE COURT: Okay. Thank you.

MR. RYAN: - - Ryan on behalf of Jay Nesta [phonetic].

THE COURT: Thank you, sir.

MR. ROBERT CONLEY: Robert Conley [phonetic] on behalf of James Grosson [phonetic].

THE COURT: Thank you.

MR. JOHN SELDEN: John Selden, Alabama Attorney General's Office.

THE COURT: Thank you, sir.

MS. ELIZABETH HAAS: Elizabeth Haas with Foley and Lardner on behalf Apitex.

THE COURT: Thank you.

MS. TAMARA WEAVER: Tamara Weaver from the Indiana Attorney General's Office.

THE COURT: Thank you.

MR. MATTHEW MCKINLEY: Matthew McKinley from the Ohio Attorney General's Office.

THE COURT: Thank you.

MR. DAVID HASSELMAN: David Hasselman [phonetic] on behalf of Impax.

THE COURT: Thank you. I guess that's it. Thank you very much.

Let's address the joint proposed agenda. It has two items. Of course, there are other items that the Court could entertain, if there is time this morning. But I would like to address what counsel--liaison counsel believe should be addressed first. And I'm going to ask the Plaintiffs to proceed.

MR. JOSEPH NIELSEN: Good morning, Your Honor. Joe Nielsen from the State of Connecticut Attorney General's Office on behalf of the Plaintiff states.

THE COURT: Good morning.

MR. NIELSEN: I think number one on the agenda is we wanted to notify the Court that the Plaintiff states will be amending, as of right, the complaint that we filed on May 10th, 2019. We're planning to add several additional Plaintiff states and jurisdictions as well as, likely, an additional

Defendant and I just wanted to let the Court know that that is happening. We haven't done so yet because we have been reluctant to amend and include the email that is the subject of the pending heritage motion in an unsealed fashion, again. But we will be amending it as soon as we think it's appropriate to do that and avoid republishing the email.

THE COURT: Of course, the Court would always allow an amendment to add or drop parties and claims. One additional Defendant, does this also involve additional drugs then?

MR. NIELSEN: No. Substantively there will be no significant changes to the substance. It will be additional parties.

THE COURT: There have been no responsive motions to your complaint, your amended complaint.

MR. NIELSEN: That is correct.

THE COURT: And we need to draw up a schedule for such motions and briefing on such motions, if they are to occur. I would like to know if you perceive additional amendments, past one, that could be done within thirty days.

MR. NIELSEN: I don't. Sitting here today, I don't envision any future amendments, Your Honor.

THE COURT: All right. As you know, the work that goes into the initial motions to dismiss has been pervasive and energetic. And, at the same time, we've no desire to repeat it on the same issues. So, we're looking forward to deciding new

issues but not repeat ones. So, that's just a clue to everybody. When you start filing your motions, I think you should be trying to tell the Court how your issues and claims and your motions differentiate from ones that are already decided. Because there's no way we're going backwards. Or even standing still. But I would like to, also, reign in the amount of and prediction of future amendments. And it would seem it's about time.

MR. NIELSEN: Understood, Your Honor.

THE COURT: All right, how long do you think this will take if I grant it?

MR. NIELSEN: There's no motion pending, and we plan to amend, as of right, under the Federal rules. So, you know, we can be prepared to do that quickly.

THE COURT: Okay. Does anyone from any other Plaintiff's group wish to speak to this particular intention of the State's Attorney General's Office? In the nature of an opposition.

MS. ROBERTA LIEBENBERG: No, Your Honor.

THE COURT: All right. Then, is there any reason to hear from any Defendant representative here?

MS. JAN LEVINE: We don't believe so, Your Honor. This is the first we're hearing the details and if there are, we will address the Court. But I don't see anything right now.

THE COURT: Very well. Thank you.

MR. NIELSEN: Thank you, Your Honor.

THE COURT: The sooner, the better.

MR. NIELSEN: Understood.

THE COURT: Okay. Now, I think the largest substance that we can deal with this morning are the issues raised in the Report and Recommendation from Special Master David Marion setting forth the Case Management Order and Discovery Schedule. And we would like to address the various objections that have been raised by filing briefs. We reviewed them but I would like to give everyone that has filed such objections an opportunity to address the Court. Briefly, succinctly, but I still think it's appropriate. So, again, we'll start with Plaintiffs.

MS. LIEBENBERG: Thank you, Your Honor. Good morning, Bobbie Liebenberg on behalf of the EPPs.

THE COURT: Good morning.

MS. LIEBENBERG: I planned to offer some brief introductory remarks to provide an overview of Plaintiffs' response to Special Master Marion's Report and Recommendation. I'm going to then turn the presentation over to Mr. Nielsen who will address the reasons why we believe full custodial files for certain key custodians should be produced. Or, alternatively, why Special Master Marion's recommendation to require the use of broad search terms without a prior relevance review should be applied to the document productions.

As you know, Plaintiffs first filed their complaints in March 2016, almost three and a half years ago, and, yet, Defendants have not begun to make any meaningful production of substantive documents. This Court has repeatedly emphasized its desire to expedite discovery and to put in place a Case Management Order and, in fact, one of the reasons these cases were consolidated to the MDL by the JPML in the first place was to promote the coordination of efficiency and resolution of the--timely resolution of these cases.

The Court now has before it a comprehensive and carefully considered Case Management Order that reflects a fair and workable compromise of the competing proposals that had been submitted by the Plaintiffs and Defendants, supplemented by Plaintiffs' proposed modifications, which are set forth in our brief, we believe this CMO will propel these cases towards completion with undue delay. The Court's recent decision denying the motions to dismiss found that Plaintiffs had plausibly alleged an overarching conspiracy regarding the broader market of generic drugs that extended beyond any individual drug.

The Court was very specific in its opinion and we reiterated several times that discovery is needed to test the scope of the overarching conspiracy allegations and the defenses to them. Thus, Special Master Marion correctly concluded that under Rule 26, Plaintiffs were entitled to

conduct discovery concerning the full scope of Defendants' unlawful anticompetitive conduct with respect to all drugs in the MDL as well as--including discovery that relates to what this Court described as the connective tissue between any individual single drug conspiracy and the broader overarching conspiracy.

Thus, the Report and Recommendation, consistent with Your Honor's recent ruling, provides an effective framework for the timely completion of discovery for all drugs in this MDL now as well as additional drugs that will be brought into the MDL through new or amended complaints. Indeed, I think it really bears emphasis that, under the recommended CMO, completion of document discovery as to all of these drugs is contemplated to be done in just one stage within the next year. And I want to repeat that. That is a really way-to-go forward in this case. And that stands in stark contrast to the Defendants' proposal which seeks to phase and silo discovery and to create a suspense docket that will encompass the vast majority of drugs that are involved in this MDL. Defendants specifically propose to limit--limiting discovery, in a phase one, to approximately the thirty drugs that were at issue in this MDL before the states filed their May 20th, 2019, Teva complaint. And to suspend all discovery and other pretrial proceedings as to the approximately ninety-five drugs that were added to the MDL by that complaint as well as new drugs and new

Defendants.

Under the Defendants' proposal, the states' May 2019 Teva complaint and all other complaints filed under that date will not come out of the suspense docket until after the Court's decision on the class certification of the phase one overarching conspiracy complains, which doesn't even include all of the thirty complaints at issue, and completion of summary judgment as to those briefing. And Plaintiffs estimate that that won't occur until sometime fall of 2021. And by that time, the conduct at issue in this case would have taken place six to eleven years earlier.

The undue delay inherent in Defendants' phased discovery approach will cause substantial prejudice to Plaintiffs. And time, Your Honor, is of the essence. In the three and a half years that has elapsed, two witnesses have died, memories have faded, and at least one key custodian's files have been destroyed.

Thus, Special Master Marion's Report and Recommendation properly rejected Defendants' phased discovery approach and the proposed suspense docket recognizing that it would cause delay, redundancy, multiple depositions of witnesses, and confusion. Court have repeatedly emphasized that administering an MDL is very different than overseeing an individual case and it often requires the adoption of special procedures. Indeed, in the PPA product liability litigation, a

case cited by the Defendants, the Ninth Circuit emphasized that effective coordination of an MDL proceeding requires that a district court be given even greater discretion to structure a procedural framework that will move the case as a whole and that Rule 16 authorizes the Court to manage these cases so that disposition is expedited and settlement is facilitated.

Plaintiffs endorse the Case Management proposal set forth by Special Master Marion because it provides an efficient procedural framework for the timely commencement and completion of discovery for all drugs in these cases and it avoids the substantial delays inherent in Defendants' phased discovery approach. I'm now going to turn the presentation over to Mr. Nielsen to address really what we think are the two key discovery issues before this Court and that is the use of custodial files or broad search terms. Thank you, Your Honor.

THE COURT: Mr. Nielsen?

MR. NIELSEN: Thank you, Your Honor. Before I start, I just wanted to mention that with me today is Angelina Whitfield, an Assistant Attorney General from the State of Illinois, sitting in the jury box, who prepared the briefing for the states on this issue and I wanted her to introduce herself to the Court.

THE COURT: Thank you.

MR. NIELSEN: As Ms. Liebenberg said, I did want to address the two key issues involved in the case management

briefing and that is the Plaintiffs' request for full custodial file productions from certain key individuals at the Defendants as well as the Defendants' request to filter their productions based on responsive - - relevance prior to producing the documents as to the Plaintiff states.

First, Your Honor, with regard to the custodial file issue, I wanted to make it clear that the Plaintiffs are requesting full custodial files for a limited set of the key individuals from each company. This is not an expansion of what the Plaintiffs were previously seeking in discovery. In fact, the Plaintiffs had negotiated a much larger list of custodians in the meet and confer with the Defendants prior to this case management proposal. So, this is actually a concession in that respect from the Plaintiffs and there is a lot of risk involved from the Plaintiffs' perspective to make this proposal. There will certainly be a number of custodians who had relevant and, indeed, highly relevant documents that the Plaintiffs would be willing to forgo discovery on in order to focus on the limited set of key individuals and getting a real deep dive into their documents. Because they are the key individuals responsible for engaging in the collusion or in the price increases that were at issue in the complaints.

And in the context of making this proposal, Your Honor, what the Plaintiffs are trying to do here is come up with an innovative and creative way to accomplish the

objectives of the JPML and of this MDL, which are number one, to avoid duplication of discovery and, two, to conserve the resources of the parties, their counsel, and of this Court.

The Plaintiffs believe that the production of full custodial files is the most efficient and reasonable approach to move the entire MDL forward as quickly as possible while still taking into account and accommodating future complaints that will be filed and not putting all of those cases into a suspense docket where they would be stayed indefinitely.

Full custodial file production, Your Honor, would reduce the number of custodians at issue significantly. It would, therefore, reduce the number of places where the Defendants have to go to find and produce documents. It will likely reduce the total number of documents that have to be produced by the Defendants. And that's just common sense, Your Honor. Less custodians equal less documents. Especially when the alternative is what Special Master Marion has proposed which would be broad search terms apply to a larger, much larger, number of custodians.

And, in their brief, Your Honor, the Defendants argue, and I'm quoting from page 11, that the sheer size of a typical custodial file would make the volume of documents to be reviewed unworkable. And I can tell you from experience that that's flatly incorrect. Number one, many of these Defendants have actually produced full custodial files to the states

during the course of their investigation so, I know it's not unworkable.

Also, the volume of the documents in those custodial files that have been produced is not overwhelming. In fact, the largest custodial file that the states received as part of their investigation was a total of 167,000 pages. Which, in a very large antitrust case such as this one, is not significant overall where typically cases involve hundreds of millions of documents in cases like this. But even if the custodial file were much larger than 167,000 pages, that would be proportional to the scope and magnitude of this MDL. The sheer size, the volume of the evidence, the allegations, the overarching conspiracy, and the importance of the market that we're talking about, Your Honor.

Production of full custodial files will also be quicker and more efficient. We can eliminate search terms entirely from the process. And I would point to pages 18 to 23 of the Defendants' brief, Your Honor, where they go through and describe the inherent delays associated with applying search terms. In particular, the parade of horribles that will result if Special Master Marion's recommendation is applied to them. They go through and they seek, you know, they describe the significant delays that will result. Many of those delays are just the basic fundamental agreement on search terms themselves. Which search terms are going to be applied and

will there be a dispute about that? And I would point to page 19 of the Defendants' brief, Your Honor, where the Defendants actually say, without knowing--without having done any testing on any of the search terms and without having gone through meet and confer on any of these proposed search terms from Special Master Marion's recommendation, that most if not all of the Defendants will dispute the search terms. They say they know that that's going to happen, and the production of full custodial files will cut through all of that, leaving only a privileged review by the Defendants. And there are many ways for these Defendants to engage in a very efficient and reasonable privileged review that can be done quickly and protect their rights.

The production of full custodial files would also eliminate duplication, which again is one of the primary objectives of the MDL. With full custodial files documents are produced once, that is it. These Defendants will never have to go back to that custodian's files ever again for anything. And they will accomplish discovery in the cases that are on file currently as well as future cases that involve different drugs but the same companies.

These key individuals at these companies had responsibility for all the companies' drugs and would be involved and key players in future cases as well.

Custodial files will also reduce the number of

potential depositions as well as the risk of multiple depositions of the same individuals over time. As additional documents are produced piecemeal... If we do this the way the Defendants proposed to do it, as additional cases come out of the suspense docket and new discovery is conducted, additional depositions of the same individuals would have to happen multiple times over and over again. The production of full custodial files will cut through that.

And, in additional to all these benefits and savings, the production of full custodial files is appropriate based on the allegations in the complaints that are on file. This is an extremely unique case with the volume of the allegations, the allegations of an industry-wide overarching conspiracy and the volume of the evidence and communications that has already been alleged. But I just want to identify one example of why a full custodial file would be important, Your Honor. And that involves the full custodial file that the Defendant Teva produced with regard to Nisha Patel who was also an individual Defendant in the state's May 10th complaint. Having the full custodial file from Defendant Patel allowed the states to understand the extensive nature of the conduct and develop that complaint based almost primarily on her full custodial file.

As you may or may not know, if you haven't read the full entire complaint, it goes through in painstaking detail alleging how the Defendant Nisha Patel started at Teva, she

began formulating price increase lists and formulating--ranking competitors based on their quality and identifying price increase candidates based on the relationships that she and others at Teva had with these competitors. And she... Ultimately, we determined that she spent a good day [sic] of her--of each of her workday communicating with competitors to identify and seek agreements on these price increases.

And this story, when you read it in the complaint, Your Honor, it seems obvious and apparent but none of that was obvious or immediately apparent from the documents as they were produced. Significantly, Nisha Patel never once referred to a single competitor that she communicated with by name in a document. When she spoke to these competitors and then passed along information internally to her colleagues, in emails or in other documents, she would often do it using code or veiled, opaque references to information that she had learned from the competitors.

Throughout the complaint, you see terms like strategic, to identify that there was an agreement in place with a competitor on a certain drug. When she would get off the phone with a competitor, she would send an email saying there was a rumor of a price increase. It didn't say where she got the information, who she had spoken to, any of those things. She used terms like fluff pricing to indicate a cover bid where Teva would not seek to obtain the business from their

competitor. Even the term quality, Your Honor, doesn't necessarily immediately jump out at you as identifying that there is a collusive relationship in place. All of that, the context of each and every document was important and could not be properly evaluated without having access to many other sources of information, many of which the Defendants just simply won't have in order to look through these documents and determine relevance.

For example, the states have an industry-wide phone record database where it makes it very easy for the states to identify which competitors were talking to each other, when and for how long. We have developed extensive information about pricing and price increases throughout the industry over time relating to specific companies and the states also, in the course of their investigation, have a number of documents from competitors that we can look at to determine the context and determine whether these documents are relevant.

And all of these documents and all of these sources of information were necessary in order to create this context where the documents in her full custodial file could be properly understood. And she is not alone, Your Honor. We identified a number of individuals at various companies who are also named as individual Defendants in our complaint who engaged in conduct at similar levels in terms of communicating with competitors. And at a minimum, the states have

established through their allegations that the full custodial files from the individual Defendants would be appropriate based on the scope and volume of their conduct.

Full custodial files would also be necessary and appropriate in order to evaluate the defenses that will be raised by the Defendants in this case. Just on example of a defense that will be hotly contested, Your Honor, is the authority of these individuals to engage in price fixing agreements and market allocation agreements with their competitors. And the full custodial files are necessary to determine the scope of these individuals' authority on an everyday basis. Is this part of their authority to identify price increases or to list price increases or to do these different things? The full context, even with regard to drugs that are not at issue in the complaint, will be relevant to determine these key individuals' authority. And full custodial files will be necessary to evaluate that.

One thing that the...one opposition that the Defendants raised to the production of full custodial files is that they will contain a lot of personal information. And I can tell you, Your Honor, from experience, some of that personal information is actually highly relevant to the case and to the story on what happened over time.

One example I'll point out, I'll be brief, it also involves Nisha Patel while we're on that theme of Nisha Patel.

Nisha Patel went on maternity leave during a period of time when she was engaged in this price increase campaign and the fact that she--the dates of when she was on maternity leave and when she started to come back where important for a number of reasons. Number one, it showed and demonstrated that no one else at Teva was doing anything with regard to price increases at all other than Nisha Patel. The activity on price increases completely stopped and that was important to establish her authority and her domain over identifying and implementing price increases.

Secondly, the communication patterns between the companies changed during the time she was out and knowing when she was out it was important because, for example, another Defendant--individual Defendant in the case, his name is David Berthold [phonetic]. He was a high-level executive at Defendant Lupin. He had been communicating with Nisha Patel up until the time of her maternity leave and when she was out, he just communicated with the VP of sales and other individual Defendant in our case and one other person at Teva. And that fact, Your Honor, is important for a couple of reasons. Number one, it shows that Nisha Patel was not a rogue employee who was out on her own, communicating with competitors. This was an institutional agreement between these companies that was understood at higher levels than her. And so, even personal information can be part of the story and the context is very

important. We would not have been able to make these connections or develop this information without her full custodial file.

And lastly, Your Honor, on the issue of custodial files. They're also critically important because search terms will undoubtedly miss some highly relevant documents. The Defendants in this case understood that their conduct was unlawful, and they took steps to avoid documentation of the conduct in writing. They used veiled, opaque references in their documents. They used code words. Some even took active steps to destroy documents, any evidence of their conduct. And all of that context makes it very difficult to find search terms that will come up with every relevant document.

And I would point the Court to two examples that we have attached to the joint brief. Exhibits "D" and "E", Your Honor. And if you don't have a copy of those immediately, I can--

THE COURT: [Interposing] I have a copy.

MR. NIELSEN: You do. So, Exhibits "D" and "E" are two different text messages between Jason Malek, a former Heritage executive, and an unknown recipient. The only information in there on the recipient is a phone number. So, one of the text messages from Jason Malek says, "Tell Tim to stay away from ABC." And then there's a response from the unknown number saying, "Done." Now, those two documents are

key documents in the states' case against Heritage, the first complaint that the states filed. Highly relevant and those documents will never, ever come up using any search terms that could be devised by any of the parties. Even if they did come up, Your Honor, it's likely that no one would understand that there were relevant documents to begin with. There are actually... When you read the documents in the context of the allegations in the complaint, it makes sense. But when you look at those documents by themselves, you can't tell that they're relevant without doing about five different steps of investigation in order to determine relevance.

First, you have to determine who is Jason Malek even talking to. There's just a phone number in the documents. So, you have to do a lot research to identify the phone number, which involves a lot of document review, trying to find that number in a document database or through other sources. Turns out, in this case, Jason Malek is talking to a Heritage employee, a subordinate. He's telling a subordinate to go talk to Tim.

But, second, you have to understand what they might even be talking about. And in order to do that, that requires a lot of document review of other Heritage documents surrounding this time period to see what was going on with ABC, how did this issue come up? As it turns out, ABC had asked Heritage for an offer on a drug called Glyburide. But that

wasn't immediately obvious.

Third, you have to determine who Tim is. Is Tim a Heritage employee? Is Tim, you know, a competitor? There's a lot of document review involved in trying to find who this unknown Tim might be. You have to look at org charts from competitors, search documents, a lot of different things. It takes a while. As it turns out here, Tim is a sales rep at a competitor, Aurobindo.

Then, you have to look and see whether the Heritage subordinate actually talked to Tim. And in order to do that, you need phone records. You have to actually subpoena the phone records from either the Heritage person or Tim. It turns out the states had already done that and, once you look at the phone records, you find that the subordinate does actually call Tim and then sends that second text message saying, "Done."

And, last, you have to try to fit that communication and that context into a story about a conspiracy. And it doesn't immediately fall into a timeline. There's a lot of work. And so, my point here is many of these documents, not only do they not come up in search terms but they're hard to even determine whether they're relevant. And there's a lot of context involved.

I would point out just one other example, very quickly, Your Honor, of a document that will never come up using any search terms although it is highly relevant. And

that's in paragraph 647 of the Plaintiffs states' May 10th complaint. It's an email from David Rekenthaler, who's an individual Defendant in the case, a VP of sales at Teva, where he sends a Teva pricing list, price increase list, to his personal email account so he can then forward it from his personal email account to a competitor's personal email account to avoid detection. And the reason that this document will never come up using search terms, even though it has a full list of price increases, is because he copied that and pasted it into his email as an image so there are actually no words associated with it. So, any search terms that come up will not hit on that document even though that is an attempt by this senior executive to avoid any documentation of his collusion with a competitor through using personal email.

The Defendants actually propose a solution for finding these types of documents in their brief, Your Honor, in pages 15 to 16 of their brief. But the solution is completely absurd when you look at what would have to be done in order to comply with their solution. The Defendants propose that, for these types of instances where we know of communications between competitors. We can meet and confer on every single communication these competitors ever had and devise document review projects where the Defendants will actually look at documents surrounding the time periods of all these communications and see if they can identify and then produce to

us relevant documents that would not otherwise hit on search terms. So, they're essentially proposing that we meet and confer on tens of thousands of different communications and then devise independent, individual document review projects for each which would just delay this case forever. And in addition, it would require the Plaintiffs to provide the Defendants with all our work product on all of the different collusive communications that we have found which is, again, another reason it's not appropriate.

So, Your Honor, that is the Plaintiffs' position on custodial files. I would also want to make a point on the relevance review issue. And that is that the Defendants contend that the Federal Rules require that only they should be responsible for filtering their documents in determining relevance and responsiveness. They cite cases to that effect. However, their own cases that they cite actually demonstrate that there are circumstances where that is inappropriate. For example, the Defendants block quote the following passage from Wilson versus Rockline Industries at page 7 of their brief. And, in that case, the Court in Rockline--Wilson actually says in our system of law we allow the party responding to discovery to filter his own documents and provide only those which are relevant to the litigation. In the absence of some showing that relevant information is being withheld, and here there is none, there's no basis to make the responding party produce all

information. So, what the Court is actually saying is where there is a showing that relevant information is being withheld, then there should be a no relevance review.

And here we have made that show and we've gone through at length in our briefs, Your Honor, demonstrating how many of these Defendants have attempted to provide--to impose a relevance review on the PTO 70 AG access documents that were produced and claw back a number of documents based on relevance. And we highlight a number of those.

I would just mention a couple. For example, Teva produced 250,000 documents to the states during the course of their investigation. In the context of PTO 70, they tried to claw back initially 100,000 of those documents or 40 percent of that production. And they claimed to be using a very broad definition of relevance that took into account the states' May 10th, 2019, complaint. However, when we loaded those documents into our document review platform and we dandled them together, it was immediately obvious that there were, you know, approximately a hundred documents that had been coded hot. There were several hundred warm documents. And we don't even code for relevance, Your Honor, so, it's uncertain how many of those documents were just clearly obviously relevant. We only code the very significant documents but, you know, they--Teva actually tried to claw back documents that were quoted in our complaint. A number of documents about playing nice in the

sandbox, documents showing that Teva had advance knowledge of a Heritage price increase on a drug called Theophylline, which is the subject of the states' first complaint. Documents demonstrating the relationship between Teva and - - and a number of other price increases that are at issue in the complaint.

Taro was another Defendant who sought to do this on a much smaller scale. However, with the same results in terms of clawing back highly relevant documents. Taro also tried to claw back a document that was actually quoted in our complaint as well as hundreds and hundreds of other documents specifically relating to drugs at issue that in the states' complaint that we had sued Taro about. Just a few examples. Enalapril is a drug that we allege Taro entered the market and illegally agreed to allocate customers as they were entering the market. They were a number of emails there relating to Taro's entry into the market for Enalapril that were--tried to be clawed back. Adapalene gel, which is a price increase drug in the complaint. There are documents relating to Taro's evaluation of its fair share for that drug. Ketoconazole, which is another price increase drug in the states' complaint. There are emails, internal Taro emails, that they seek to claw back directly relating to their decision to follow Teva's price increase which is specifically the subject of the states' complaint.

And we listed a number of other examples, I'm not going to go through them but from activist - - those are detailed throughout pages 16 and 17 of the joint brief.

And the Defendants' own proposal, Your Honor, in determining how they would provide discovery relating to the overarching conspiracy, that proposal by itself shows that the Defendants are incapable of determining relevance in this case. The Defendants make a proposal that the original 31 drugs in this case will be... offense will be placed around those cases. The rest of the cases will be put in a suspense docket, no discovery. But what they do offer is some discovery on overarching conspiracy that could apply to all the cases. But what they do is they specifically limit overarching conspiracy discovery to two specific requests for production which they are referring to as relationship documents. The relationship documents, however, are only a small fraction of what is needed to properly evaluate the overarching conspiracy in this case. By limiting overarching conspiracy discovery to two RFEs, Defendants would necessarily exclude a significant amount of important evidence including meetings and communications with competitors where the subject matter of those communications is unknown. We actually provide an example of that document where a Heritage representative said, "Spoke with Gloria" and she's actually referring to a competitor and that's a part of the whole ongoing story. We wouldn't get any of those trade

association related requests including girls' nights out and similar events. The Court has indicated in her overarching conspiracy decision on the motion to dismiss that those are highly relevant documents, important pieces of the conspiracy puzzle. We wouldn't get any of those calendars, expense reports, journals, text messages, for employees who may have engaged in price fixing. None of that would be produced.

But, probably most importantly, Your Honor, their proposal would exclude those basic everyday documents that show that these companies are acting in accordance with the agreement that they have with these competitors.

So, conceding--deciding to concede share to a new market entrant, as they enter the market, would be actions consistent with the overarching conspiracy. Not stealing a competitor's share when the competitor raises price. Again, the same thing. These are all dividing up customers. When a company is losing exclusivity, all actions showing that these companies have a consistent adherence to the common scheme. We would not get any of that under the Defendants' proposal and, for those reasons, we believe that Special Master Marion's proposal not allowing for relevance review is appropriate if the Court does not agree that we should get the full custodial files for those limited set of key custodians.

And I just want to make one additional point, Your Honor, and this has to do with the--putting a fence around the

original 31 drugs and placing everything else in a suspense docket. The states in particular, and I'm speaking for the states here, have a fundamental objection to that idea. When we filed our complaint in May, we did not object to a transfer to the MDL here. And it was never contemplated when we took that action that that case would be placed in a suspense docket and discovery on it would be stayed indefinitely.

And any future complaints that we file, we similarly would not expect that and if that were the case, we would fundamentally object to them being transferred here. It would be a big problem for the states to have those cases stayed. And I think for everybody, it would be a big problem.

Fundamentally doing that, and I believe that this is what the Defendants intend, will stay a huge majority of the drugs at issue in the MDL. Those are in the states' complaint filed in May. 114 different drugs at issue substantially expanded the scope and Defendants' proposal would essentially stay that entire case.

Your Honor, given the extraordinarily high stakes involved in this MDL, as well as the parties' relative access to information and the importance of discovery in resolving these issues, broad discovery is warranted here on all the cases. Thank you, Your Honor.

THE COURT: Thank you, Mr. Nielsen. Anyone else from the Plaintiffs' side?

MS. LIEBENBERG: No, Your Honor.

THE COURT: Then I'll turn to the defense. - - .

FEMALE VOICE 2: Good afternoon now, Your Honor.

THE COURT: Yes, it is.

FEMALE VOICE 2: - - defense liaison. I just want to, first, thank Your Honor for scheduling argument and giving the time to hear all parties' positions. You would not be surprised that the Defendants have a different view how to efficiently and effectively move this case along. And I wanted to introduce to you so you would know how we thought argument should go by the different defense counsel that will be presenting argument.

The lead argument on behalf of all Defendants will be presented by Devora Allon. We then want to have shorter presentations by Mark Robertson. For the peripheral Defendants, Alana Eisenstein. For the newly-name Defendants in the states' May 10th complaint, Dietrich Schnell for Rajib Malek, and Frank Battaglia would like to make a few comments on behalf of - - . So, without further ado, I'd like to present Devora Allon. Thank you.

THE COURT: Thank you.

MS. DEVORA ALLON: Good morning, Your Honor.

THE COURT: Good morning--

MS. ALLON: [Interposing] Good afternoon, Your Honor.

THE COURT: Good afternoon.

MS. ALLON: Devora Allon on behalf of the Defendants. I'd like to start with the Defendants' primary and most critical objection to the Report and Recommendation and that is in paragraph 3 where it suggests that Defendants be precluded the opportunity to review documents for relevance before they are produced to the Plaintiffs. And, of course, this Court's analysis begins with Rule 26 which only permits discovery that is relevant to a parties' claims or defenses. And, of course, as Rule 26 goes on to make clear, that parameter is not discretionary, and this Court must limit discovery when it exceeds the scope anticipated by Rule 26.

Here, the Plaintiffs and Special Master Marion concede that precluding a response in this review will result in the production of irrelevant documents to the Plaintiffs. There's not dispute about that. And many of those irrelevant documents will also be commercially and competitively sensitive. That is why nearly universal discovery practice mandates that producing parties be given the opportunity to review their documents for responsiveness before they are produced. And Courts around the country, we've collected these cases at pages 6 and 7 of our submission, have rejected the approach recommended in the Report and Recommendation. There is simply no basis to impose what is a discovery sanction precluding a response in this review where there has been no showing that relevant information has been improperly withheld.

And I think, frankly, if you look at the cases, the Plaintiffs rely on, in support of the notion that Defendants should be precluded from response in this review, those cases make our point. Because in those cases, the Courts preclude a response in this review as a sanction in reaction to lengthy, repeated, pervasive discovery misconduct by the party opposing discovery in each of those cases.

So, I'll just give two examples. One is the - - case that the Plaintiffs rely on. There the Court ordered sanctions in response to the following behavior by the Defendant. No search for electronic documents at all. Employees asked to identify relevant emails themselves. Defendant failed to comply with four court orders on motions to compel. And the Defendant had no document retention policy and had taken no steps to preserve documents specific to the litigation. In light of that discovery misconduct, the Court thought it was appropriate to preclude a response in this review.

One other example, the Carillo [phonetic] case, also cited by the Plaintiffs. There, too, the Court ordered sanctions in light of these circumstances: Defendant's witness testified in deposition that she had deleted relevant emails. Defendant certified to the Court it did not have documents in a particular category. Other productions from another Defendant showed that to be false. The records custodian designated by the Defendant to testify could not call any--recall any

searches that the Defendant had done to locate responsive documents. There, the Court found it appropriate to preclude a response in this review.

All of the other cases follow the same pattern. There are no allegations like that here. What the Plaintiffs are asking this Court to do, they make it clear, in footnote 18 of their brief, is to assume violations like that will happen in the future and preemptively issue sanctions based on that speculation.

Now, their only support for that request is to talk about what happened in the PTO 70 context. And for them to say that five Defendants improperly clawed back documents... Now, I'm going to talk a little bit about what actually happened but, even taken at their word, that does not come close to justifying this type of sanction.

But let me just explain for a minute what actually happened. PTO 70 gave the Defendants thirty days to assert claw backs to documents that had been produced to the Connecticut Attorney General but were irrelevant to the MDL. Now, just a couple of weeks before five Defendants were approaching that deadline, the AGs filed the Teva complaint which, of course, dramatically changed the scope of this MDL. It added nearly a hundred new drugs and many new Defendants. And, of course, it expanded the universe of potentially relevant documents.

So, those five Defendants had a deadline coming up and they now had a new five-hundred-page complaint to review and respond to. And those Defendants took one of two responses. Some Defendants quickly attempted to re-review their claw backs and remove claw backs over documents that were now relevant in light of the new complaint. Some Defendants, like my client, chose to stand on their claw backs and then, as soon as they could, withdraw those over the documents that were now relevant in light of the new complaint. Whichever approach those five Defendants took, the end result was the same.

The Defendants have or are about to withdraw any claw back on any additional document that is only relevant in light of the new complaint. Plaintiffs have not been prevented access to any of these documents. And Mr. Nielsen highlighted the example of Teva so, I'll just briefly give the numbers on that. The Plaintiffs identified 18 documents that they say should not have been clawed back. 15 of those are only relevant in light of the new complaint. And, again, each Defendant looked at the documents, - - that Defendant an opportunity to review them based on the allegations in the new complaint and promptly withdrew the claw backs that were no longer appropriate.

There is no basis to infer from that conduct that Defendants cannot actively determine responsiveness under the Federal Rules. And there is no basis for imposing a discovery

sanction on every Defendant. That conduct is worlds apart from the conduct in the cases where the Court has ordered such sanctions.

The last point I'd like to make on this issue is that precluding a response in this review will not accelerate the discovery process. That's because Defendants still have the right to review each document for privilege. It doesn't speed up the process to eliminate a response in this review. PTO 90, which this Court entered, already has a process for searching for responsive information, the - - protocol. The Defendants have invested time and cost to comply with that process. We've agreed on custodians, we've made methodology and search term proposals and we have tried to negotiate those proposals with the Plaintiffs.

The only reason we do not have agreement on those search term proposals and the only reason full blown discovery has not begun is because the Plaintiffs unilaterally stopped engaging in those search term negotiations once debate over the CML began. For months now, Defendants have reached to the Plaintiffs seeking feedback on search term proposals with no answer.

Nonetheless, every Defendant who has been served discovery has produced documents. Many Defendants have made significant productions in terms of volume and in terms of scope. The productions have included substantive materials

like pricing contracts, communications with competitors, financial documents. 15 Defendants have produced transactional data or samples.

Defendants are eager to move this process forward and there is no reason it cannot be done within the framework anticipated by PTO 95. In fact, the Defendants' proposal, which we attached as Exbibit "A" to our submission, anticipated that search term negotiations could conclude within 20 days of an order from this Court. Document production in earnest could start just a couple of weeks later and could be finished by April 30.

Under this framework, discovery can and will move forward and Plaintiffs will have the complete document production in just over six months. And Defendants will not be deprived of their right under the Federal Rules to review documents for responsiveness before they are produced, a sanction that is unjustified and would be unprecedented.

Now, Rule 26 similarly precludes Plaintiffs' request for full custodial files. So, I'd like to address that, just briefly. First of all, I think there can be no question that the production of custodial files will result in millions of irrelevant documents being produced to the Plaintiffs. We put some analyses in our brief, just as an example. When we ran the last proposal that the Plaintiffs made on our documents, we found that their search terms hit approximately thirty to forty

percent of the documents we had collected. Which means that sixty to seventy percent are presumptively irrelevant. Now, I understand that the Plaintiffs' theory of the case is that this conspiracy was pervasive and that these custodians spend a lot of their time on this conspiracy. But these Defendants inarguably did something else and that was engage in a lawful business of developing, manufacturing, and distributing life-saving and affordable drug products. Their custodial files will contain millions of those documents that are completely unrelated to the claims in this MDL.

And that's really the key distinction from one of the cases the Plaintiffs rely on most heavily in support of their request is that UPMC decision. And there the court ordered the production of one custodial file, but it made clear that it was doing so because the Defendant could not articulate what irrelevant documents would result from the production of the custodial files. And I think that's obviously very different then the case here. Their request for full custodial files is also not proportional given the burden to the Defendants and the fact that there are less burdensome ways for the Plaintiffs to get the documents they say they want.

Let me start with burden. The volume of documents that must be reviewed for privilege will increase exponentially if Defendants are required to produce full custodial files. We're talking about an increase of five, six, seven times.

This is not speculation and it's not exaggeration. We submitted affidavits with our submission, three of them, Exhibit 3, Exhibit 4 and Exhibit 5. Analyzed the size of an average custodial file based on the date range that Special Master Merenstein has ordered is relevant in this case. Those affidavits show that the production of full custodial files will increase the volume of documents to be reviewed for privilege exponentially.

And to give just one example the Plaintiffs have asked for 11 full custodial files from Santos. That would be 10.5 million documents compared to 2.3 million documents from the search terms. That is a huge increase in burden that we quantified. Now it is true that we do not know how many custodial files the Plaintiffs would like from each Defendant. That's because the Plaintiffs refuse to tell us despite repeated requests. If they were to identify how many and which custodians we could certainly submit additional affidavits but at this point we have quantified a concrete burden from their proposal. The examples they give of custodial files they have that are smaller are simply not indicative. Mr. Neilson gave one example of a custodial file that was about 160,000 documents. But that was from a custodian who was only employed for two and a half years less than the date range ordered by Special Master Merenstein. Other full custodial files some of them actually did use search terms, some were limited to email

only or were limited in other ways. But again, the court doesn't have to guess. We've analyzed the size of our custodial files and we put that information in an affidavit to quantify our burden to the court.

And equally important to the proportionality analysis under Rule 26 is that there are other less burdensome ways for the Plaintiffs to obtain the documents they want. And again, this is another key distinction in the Plaintiffs primary case, UPMC. In that case the court noted the Defendant could not suggest what it said was a feasible way of separating arguably irrelevant material from relevant material. But we've done just that. We know search terms can work. As one pressure test, we've run our search terms and we've seen that our proposals capture as just one example all of the documents in the Teva Complaint. Now the Plaintiffs' response is to say that our proposal won't capture relevant documents either because they're hard to find with search terms or because the Defendants won't know to mark them responsive. Now both of those statements are wrong and what I would like to do is just respond to some of the examples that Mr. Neilson just gave and show how each and every one can be caught with search terms and irresponsiveness review.

So let me just start with the example he gave from Ms. Patel. Where she had an email where she said unable to bid for strategic reasons. How would anybody know that was

responsive. Well that, that example is a little bit misleading because the email refers to three drugs that are in this MDL. And would have been caught through the Defendants proposal in search terms. That one's pretty obvious. She also gave the example of internal emails that the Plaintiffs say are significant because they were sent around the time of alleged competitor calls or market events. So an internal email that says, "call me, I have some information." And their concern is that because the Defendants don't have access to the phone records, or their analysis of the phone records we just won't know that that email is responsive. There's a very easy solution.

The Plaintiffs conserve a Rule 34 request for production. They can ask for email between or among specified individuals around the date of the alleged communication or marketed event. The Defendants can search for or review all emails from that timeframe and they can produce emails unless they are on their face not responsive, meaning personal in nature. So essentially for this category there would be a presumption of responsiveness. Now of course this does put a burden on the Plaintiffs to serve targeted discovery, but I have to disagree with Mr. Nielsen that that would be absurd. I think that is exactly the process contemplated by Rule 26. Another example Mr. Nielsen gave is documents that suggest concealment, clean your suspense file out. No emails.

Now the allegation that the Defendants tried to conceal their conduct is horribly unique to this case. Those types of allegations are made in many cases and those documents to the extent they exist can be caught through search terms. Search the word clean near the word suspense file. Search the words destruct or discard or erase near email or message and those emails will be caught with search terms. He also gave the example of a competitor email that uses concealed language. The example he gave was an email to a competitor that just said, "done." Again, Plaintiffs conserver Rule 34 RFP, they can identify the key individuals that they are interested in or the key phone numbers if they don't know the names and we can look at all Defendant emails to and from those phone numbers and apply a presumption of relevance. That's not novel at all.

And the last example Mr. Nielsen gave, is an email that has a picture of competitively sensitive information. Mr. Nielsen said that email will never come up with search terms. But of course the Plaintiffs say the significance of that email is not just that it had a picture in it, it's the employee sent the picture to his personal email address so that he could then forward to a competitor to hide the fact that he was sharing competitively sensitive information. Now that can be searched for easily regardless of the test of the email. All you have to do is search for employees' emails for their personal email addresses. You can search for that regardless of the text of

the email and that will turn up precisely the documents that Mr. Nielsen says can never be found.

Production of full custodial files will not be efficient or faster. Privilege review will not be as they say easy, that's because I think any attorney cares about their fiduc -- fiduciary obligations to their client. You can't just run a couple of attorney names, hold those back as privilege and produce everything else. We all know that there are emails and documents that will contain legal advice and that must be withheld that don't have an attorney name on them. Reviewing the universe of documents from full custodial files for privilege will add years to discovery in this case.

Just as one example, we took the average size of custodial files from our affidavits, the average number of custodians based on the information the Plaintiffs have given us so far. The average speed at which an attorney can do document review we assume a team of 25 attorneys who do nothing else but review documents for this case and using those assumptions that team would need 35 months or about three years to finish privilege review on full custodial files. That means discovery would not close until late 2022 at the earliest. I'd like the court to compare that late 2022 for the close of document discovery with the Defendants proposal which anticipates a close of document discovery next April. The Plaintiffs' proposal would have us doing privilege review when

the Defendants' proposal would have us finish with summary judgment. It just can't be said that their proposal is in any way faster or more efficient.

There is a reason why the Plaintiffs cannot cite a single case where a court has ordered this type of discovery. They have five cases. Two of them the Plaintiffs badly misrepresent. Actos and Prempro the filings in those cases make clear in Actos its Docket Number 50679 in Prempro its Docket Number 1572 and 1594. That in those cases the Defendants were permitted to use search terms and were permitted to do responsiveness review. Those cases are talking about the number of custodians not the production of full custodial files. Their third case UPMC we've already talked about it's distinguishable for a number of reasons including the Defendant did not quantify burden like we have. And at best it ordered the production of one custodial file and their other two cases talk about not custodial files, sales files, personnel files. Files that are measured in the 100s of pages. No court has ever ordered this type of production.

The last point I'd like to make is about the suspense docket. The report and recommendation requires the MDL to proceed on all cases regardless of when they're filed at the same time. With motions to dismiss being filed, discovery being expanded each time there's a new case that has new drugs or new Defendants. Which means this court will be endlessly

inundated with countless rounds of motions to dismiss. Defendants may at any time have to start new production to account for these new drugs and Defendants. That will impede the ability of this case to move forward and proceed to post discovery litigation and to get some cases to class certifications summary judgment.

The Defendants' proposal gives structure and efficiency to the MDL. It permits the already filed cases to move to resolution without any destruction each time we get a new complaint. The way the Defendants' proposal works is we have two phases. Everything before the cutoff goes forward immediately. Everything after the cutoff goes into suspense docket until the first set of cases is resolved. That way the parties can do one round of clean up discovery once all the cases are filed. This situation is of the Plaintiffs' creation. They have chosen to file ceriotom [sic] complaints and that's their right but there needs to be a structure to allow the parties to move through this MDL without disruption each time a new complaint is filed. We know additional complaints are coming. This is not a hypothetical concern.

And the most important point is that our proposal is not prejudicial to any party. First of all, it's obvious that the Plaintiffs in the earlier filed cases get everything they need right away to move the cases to resolution. But we also offered a key compromise this was mentioned in Special Master

Merenstein submission last night. Ms. Liebenberg didn't mention this morning, but I want to make sure the court appreciates the compromise that we offered. Which is two requests for production, 21 and 23 target what we've called relationship documents if there any documents internal or external that talk about communications with other Defendants about prices, customer allocation anything of that nature. We had reached agreement with the Plaintiffs to limit the documents that we produce in connection with those to drugs at issue in this case only, in the current cases. But we agreed as a part of this suspense docket that we would search for those documents without regard to any specific drug. By the way, it's not as Mr. Nielsen suggests, we're not saying that's all we're going to do on discovery. We're going to run search terms. We're going to respond to every other RFP. But while cases are on the suspense docket those Plaintiffs will get the documents, they have said are most critical to their case, most critical to overarching conspiracy allegations. They will get those documents immediately without any delay. There's no question that this court has the authority to implement an efficient litigation structure. The Plaintiffs' proposal would have us repeating efforts constantly interrupting each time a new complaint is filed. A suspense docket will help move cases forward through discovery and to resolution. Thank you, Your Honor.

THE COURT: Thank you, Ms. Allon.

MALE VOICE: You want any responses on that?

THE COURT: Later.

MALE VOICE: Later.

THE COURT: Yes.

MR. ROBERTSON: Good afternoon, Your Honor.

THE COURT: Good afternoon.

MR. ROBERTSON: I'm Mark Robertson. I'm from Norton Rose Fulbright. And I'm here this afternoon speaking on behalf of seven defendants who filed the Peripheral Defendants' Objection for the report of recommendation. Uh, the big difference between the Peripheral Defendants and the other Defendants and by the way we joined in the, the overall Defendants' objections. But the big difference between the Peripheral Defendants and the other Defendants is that none of the Peripheral Defendants are Defendants in the new State's Complaint. And so there's nothing that's changed for the Peripheral Defendants from the time they entered agreements with the Plaintiffs pursuant to the process that this Court setup about what the scope of discovery should be with respect to the purported coconspirators, the other Defendants, the drugs at issue and even the time period. And so, there's no reason for Paragraph 3 of the Report and Recommendation to be adopted with respect to the seven Peripheral Defendants. I'm not saying it should be adopted for anybody, but it should not

expand the scope to lots of other drugs and lots of other purported codefendants that are not codefendants and drug accused, I guess, the peripheral defendants.

Let me explain a little bit. So the process that this court setup in PTO 49 and PTO 68, was that if a ruling was made by the Special Discovery Master, the Special Discovery Master would issue a written confirmation of the ruling and the agreement. And that is what happened in this case. After the Plaintiffs served the document requests on the many Defendants a dispute arose about the scope of what documents should be searched and produced, including what competitors would be included in the production, what generic pharmaceuticals would be included and what the proper time period would be.

Special Discovery Merenstein gave his recommendations and after some back and forth negotiations all the Peripheral Defendants came to agreement with the Plaintiffs based on Mr. Merenstein's ruling. His April 3rd, 2019 letter memorialized the agreements and the court's April 5th order responding to the letter, PTO 82 recognized that the agreements had been entered. Even my client, Defendant, Oceanside and its corporate affiliates and Defendant, GMW, who were not even served with discovery when this whole dispute came up and after the briefing - - and they were not served with discovery until after the briefing was done and in fact they weren't sued in the second case they were brought in until after the arguments

were made. They even entered agreements based on the scope of discovery on Mr. Merenstein's Ruling.

In other words, by April 2019 all of the Peripheral Defendants had agreements in place about what the proper scope of discovery would be in these cases, and nothing has changed. The only thing that has changed is that the State filed a new complaint versus different Defendants about a month after these agreements were entered into. And not one of the Peripheral Defendants is named in the State's new complaint. The claims against the seven Peripheral Defendants haven't changed since April. The drugs at issue with respect to the seven Defendants has not changed. The purported conspire -- coconspirators hasn't changed since April 2019. Nothing has changed with respect to these Defendants. So there's no reason to tear up the agreements that were reached using PTO 49 and PTO 69 and recognized by the Court in PTO 82. There's no reason to tear those agreements up. As Paragraph 3 of the R and R would do.

My clients and we their lawyers, we understand that discovery has to proceed but the pleadings decide -- determine what the scope of discovery is. And the scope of discovery is not determined about what has been alleged against other Defendants in a different lawsuit. And it's not determined by what might be alleged in some defendant in the future. I mean one of the cases we cite in any trust case that is filed, *Coles Wexford Hotel*, the court sustained the Defendant's objection to

a report and recommendation because the Report and Recommendation would have permitted "discovery broader then the scope of discovery contemplated by Rule 26." The Court went on to explain that withstanding the, the, the objection because "now under admitted Rule 26 the scope of all discovery is limited to matters that is relevant to the claims or defenses in the case and proportional to what is at stake in the given case." The court made a similar point in a case we didn't cite, another antitrust case called Kerwood versus, I love this name, Cage Fury Fighting Championships, 2015 Westlaw 5092976 in the Eastern District of Pennsylvania, where the court explained "the scope of discovery is measured against the complaint and its claims." The facet case that we cite and other cases we cite say basically the same thing. "To determine the scope of discoverable information under Rule 26(b)(1), the court looks initially to the pleadings."

Now the complaints that are lodged against the Peripheral Defendants those are the complaints that provide the scope of discovery and they don't provide a basis for the broad discovery that Paragraph 3 would, would have. The agreements that memorialized in Mr. Merenstein's April 3rd agreement -- letter that shows what the scope should be of discovery with respect to these complaints. The complaints lodged against the Peripheral Defendants do not include the 100 plus new drugs in the State's new complaint. They do not include all the

Defendants named in the State's complaint. And they do not include the same time periods. So all of which the Report and Recommendation would bring into the scope of discovery for the Peripheral Defendants. I, I would, would say this past Friday, the impair Plaintiffs actually made the same point when they served objections to document requests. And they had general objection number 16 and the impair Plaintiffs objected to providing any information about drugs other than the drugs identified in the EPPs Complaint because "other drug information as applied to Plaintiffs and Plaintiff Velarde is not relevant. Is not proportional to the needs of the case." The EPP goes on to say in general objection 17 that "this objection will be referred to as Plaintiffs and Plaintiff Velarde's other drug objection."

You see the interplay -- impaired Plaintiffs, they agree with what the Peripheral Defendants are saying, which is what's in the complaint against these defendants that limit discovery and setup what the discovery is. It's not the broad discovery in the, the Report and Recommendation. Ms. Liebenberg said something about Amended Complains or new complaints, but future amendments or future complaints is not what the discovery is based on. The case we cited *Shuker v. Smith & Nephew*, the court analyzed this specific issue and explained that discovery on a potential claim might or might not be filed in the future amended complaint is not permissible

because "the Federal Rules of Civil Procedure do not authorize such precomplaint discovery." Paragraph 3 of the Report and Recommendation exceeds the permissible scope of discovery with respect to these seven Peripheral Defendants because it would require discovery about people and entities and over 100 drugs that are not alleged to have anything to do with the Peripheral Defendants. And the teachings of the cases calls *Wexford*, *Facet*, *Kerwood*, *Shoker* and the other cases we cite in the brief. They stand for the proposition that a claim asserted against others but not the Peripheral Defendants would be inappropriate and would not be proportionate. Therefore, we ask that any case management order adopted by this Court not throw out the agreements that have been entered with the help of Special Master Merenstein. And instead limit the scope of discovery against the Peripheral Defendants for the claims that have been asserted against the Peripheral Defendants and not broaden the scope to claims that have been made against different defendants. Thank you very much.

THE COURT: Thank you Mr. Robertson.

MS. EISENTSTEIN: Good afternoon, Your Honor.

THE COURT: Good afternoon.

MS. EISENTSTEIN: Ilana Eisentstein I represent Pfizer and Greenstern in this litigation and I'm here to speak on behalf of the milieda [sic] defendants brief that was filed in objection to the proposed Record and Recommendation. Your

Honor as you've heard today, they are many reasons why one size fits all approach that was proposed in the case management order is simply unworkable. And it's not going to lead to the efficiency is that the initial appeal of that kind of simple approach might be as the presentations that have been made so far highlight. This is a litigation that is obviously complex. There are different classes of Plaintiffs but there are also different classes of Defendants. And the Defendants aren't similarly situated as you just heard with the Peripheral Defendants with respect to the scope of the litigation and in our case with respect to the timing of the litigation. The newly added Defendants are just that. They are limited group of defendants who have been recently added to this litigation only in the May 10th, 2019 complaint. They have not participated in the three years of litigation that you've heard described by the Plaintiffs in the particular by Mr. Nielsen. They were served with party discovery only within the last several weeks or not at all in most of the cases of the newly added defendants. None of the newly added defendants have had any opportunity to respond to attest the sufficiency of the May 10th, 2019 complaint. And indeed, that complaint has remained adjourned and the State's has referred today intend amend that complaint at some future undetermined point in which case even that complaint will become unaulity and there will be some new complaint.

THE COURT: What I heard was what we condemn within a matter of days or weeks at the worst they're an amended complaint adding one defendant and clarifying some other. So I don't think it's the because we wouldn't have granted permission for another complicated extravagant amended complaint. So I don't see that happening. But...

MS. EISENSTEIN: But even so that private plaintiffs have not sued any of the newly added defendants in the MDL either. So in terms of this litigation the newly added defendants are truly fresh to this situation and if just the facial review of the case management order reveals that it does not contemplate or even reasonably consider what is an appropriate way to provide an onramp for newly added defendants to this litigation. It assumes that there have been agreed to or existing discovery procedure in custodian that certain processes have already been underway which just simply isn't the case with the newly added defendants. And clearly the discovery schedule that is proposed by the case management order and even that which might be appropriate for litigants who have been part of this litigation and have been facing discovery requests for years is not appropriate for newly added defendants.

I also wanted to speak to the issue of responsive pleading that I certainly heard Your Honor that you had decided some of the critical issues in the case with respect to some of

the overarching issues in this matter with respect to motions to dismissal. But of course some of the newly added defendants may and do intend assert as to the May 10th complaint and potentially future complaints that have yet to be filed. Motions dismiss that do pose unique and new issues and we want to make sure that we have an opportunity to do that. The case management order that has been proposed provides no schedule or opportunity for responsive pleadings and motions. And you know without a harmonized schedule is that Your Honor referred to that there would be some kind of briefing schedule. But keep in mind that the private defendants that they intend to file their own complaint potentially in October. I don't know if that date will hold but how will, how will this Court manage particularly with respect to newly added defendants this serial nature of these complaints.

And our proposal is that first of all we fully support the all Defendants' proposal for a suspense docket. That is a reasonable way and efficient way to handle this issue of serial complaints because it allows for the rest of the initial issues and whether it comes to pass and, and class certification and other significant issues to be determined and then to resolve and hopefully and faster and more efficient way to future complaints including new defendants that are added in series. Even if the court were amendable to that we certainly think that a case management order should be entered at least

or at the time that the Plaintiffs have finished this at least this round of complaint. Because right now we know that the State's are going to amend, we know that the Plaintiffs are going to add on complaints and that it is reasonable to defer the entry of a separate case management order that handles new defendants, the responsive pleadings schedule until after that time. And at that time a reasonable discovery and motion schedule can be set.

THE COURT: I appreciate that point. Although I will clarify Ms. Eisentstein and this is for everyone. When you enter an MDL the historic practice and the procedures of the MDL panel that have been developed over the years really control the one thing that you then enter the case management orders and the pretrial orders that are currently in place. Until otherwise decided. And that is the sediment. So we have whatever discovery orders have been approved before or developed before we have that in place we are now talking about a larger more expeditious discovery motion discovery order. And yet we have some in place that would apply to any newly added new defendants or parties. Thank you.

DIETRICH SNELL: Good afternoon, Your Honor.

THE COURT: Good afternoon.

DIETRICH SNELL: I'm Dietrich Snell. I represent Vergeg Malek [phonetic] who has been sued in some of the cases that are pending in this MDL. His personal capacity. And to

just be clear Mr. Malek is not named as a defendant in the May 2019 discovery. Mr. Malek's situation is unique among the defendants that Your Honor has been hearing about this morning. The Plaintiffs preferred to the defendants as a home genius group. They clearly are not for the reasons that my colleagues have stated. But Mr. Malek in particular is absolutely under both the case management order that's proposed. And the approach the Plaintiffs want to take to have full custodial production. This term now will be forced to from his personal email account not his corporate account his personal account the most sensitive type of information and documents if any individual possesses. He would be forced to produce this fast audience in this case personal tax returns, personal financial statements, personal health records, communications with his family, his children, with his wife, estate planning documents. All of that would have to be handed over to the Plaintiffs and, and 49 state attorney general.

In addition to that astounding extrusion on his privacy Mr. Malek is unique because he faces a much narrow set of allegations than virtually any other defendant in this case certainly as an individual. He's been sued with respect to one identify drug and over a much narrower timeframe than the fraud over conspiracy that's been alleged. So for both of those reasons I'm actually surprised that he in front of Your Honor on this motion that is even necessary being referred. And I'm

surprised because it seems like earlier in these proceedings that the Plaintiff understood the unique situation that Mr. Malek he was sued more narrowly.

The request for production that he was served with was fewer in number and narrower focused on the conduct that was alleged, alleged in respect to him. And he was also able -- we were able to negotiate during the meeting - - period, we were able to negotiate narrower definitions for those requests for production with the Plaintiffs. They understood they seem that once I saw wouldn't work with respect to Mr. Malek. And even only as recently as a couple weeks ago they acknowledged to us that he's not a manufacturer. That's simply true. So why, why is it that the traditional responsiveness and relevance review that the Federal Rules contemplate and that are the norm in simple discovery why is that not apply to Mr. Malek? He's heard no answers to that question. And they have none. Under event he search term approach contemplated by the Special Master the documents that I described earlier would be produced. We've run that, we've tested that and that's a fact. It's not speculation, it's not a conjured-up piece of a greater particles, it's a fact. The only suggestion of an answer that we've heard from Plaintiffs is that well there's a claw back. But let's think about that for a second. A claw back for procedure for personal tax returns or communications for the status or communications with a private pharmacist for related

to a health problem that someone in the family might have. In order for to do a claw back one has to identify what one's seeking a claw back those prior documents with their extensive information will now suddenly have spotlights training from all different directions on them. Oh let's figure out do we want to resist the claw back. That's simply and unacceptable intrusion on a fundamental right to privacy that Mr. Malek is entitled to have with respect. So for these reasons as well as those eloquently expressed my colleagues I urge the court to reject the Plaintiffs position and certainly with respect to Mr. Malek authorize a traditional relevance and responsiveness review with respect with his personal email account. Thank you very much.

THE COURT: Thank you. Mr. Battaglia?

MR. BATTAGLIA: Good afternoon, Your Honor. Frank Battaglia with Asent Pharmaceuticals. As the court will accede in assent filings. Asent plaintiffs agree that the schedule set forth with Special Master Merenstein opposed case management order should not apply to ascend. Because ascend is uniquely situated in that it was only served with discovery in recent weeks. Because this schedule in the case management order assumes that the parties have already participated numerous meetings and confers and have been assessing this discovery request for quite some time. Plaintiffs have assent -- plaintiffs and ascend have agreed that ascend should be given

an extension to all production deadlines in the proposed schedule. To that end, Asent filed an objection to the case management order outlining this agreement. But we wanted to bring it to the court's attention because we can file a joint stipulation or a proposed order setting forth this carved out for ascend it would be this court's preference.

THE COURT: And it's really because you were newly added? Is that what you're saying?

MR. BATTAGLIA: We were served with discovery until mid-couple weeks ago, Your Honor. Mid-August.

THE COURT: Okay. Alright. Thank you. Response from the Plaintiffs.

MR. ROBERTSON: Thank you, Your Honor. Just briefly. I will start with the last one first. Asent which the State's would agree that Asent should have additional time to respond since they were only recently served in the same logic applies to the newly added defendants who are also newly recently served. However, the State's do believe that the case -- whatever case management order is entered should apply equally to those defendants as it would apply to any other defendants. But we are -- we understand the need for an additional period of time to have -- to be able to formally respond to such they are only recently served.

THE COURT: Alright.

MR. ROBERTSON: So on those two issues I think there

should be an agreement in terms of...

THE COURT: Timing.

MR. ROBERTSON: It's just timing. Right. And on the last the one before Asent, Rajib Malek he is we've conceived Rajib Malek is a unique situation. He is actually I think the only individual defendant was actually served with party discovery at this point. The newly added individual defendants in the Teva complaint has not yet been served. So he these issues have not come up. And I think there's some confusion on the State's part as to how to actually proceed given the pending the case management order. But I will just say I think we'll just be able to work those issues out. The State's are not looking for the highly personal documents from Rajib Malek from his personal files. And I think we would agree that individual defendants should be treated, and again I'm speaking for myself here, we haven't gotten confirmation from all the state's yet.

THE COURT: I realize that.

MR. ROBERTSON: Based on my discussions that we would agree to search terms and, and relevance review for individual productions in the part -- for the individual defendant productions. And we would agree that can be treated somewhat differently than custodial files or broad search terms from the court bred files of those same...

THE COURT: Okay.

MR. ROBERTSON: And then just some points relating to the main arguments and then I'm Ms. Liebenberg has some points on the Peripheral Defendant argument. But to summarize some of my, my notes here. If this case calls out for special procedures given the uniqueness of the case, I won't get into the details of al the case law that have been cited on both sides but because all those cases are fundamentally factually different then this case. But the one thing that is clear this court does have the authority to faction discovery in a way that will most efficiently move this entire MDL forward and that is in fact the purpose of having MDL.

If we move the entire thing forward in void of duplication and conserve the resources of the parties. And that's what we are trying to reach here is the appropriate method for dealing with the entire MDL. One of the arguments that Ms. Allon made was that running some of these search terms will inevitably lead to millions and millions of irrelevant documents. She cited some suggestions that 60 to 70 percent of the search terms of documents not hit by search terms are presumably irrelevant. The correlates in that is that the other are presumably relevant. And therefore, there's no need for a relevance review in these documents and that's precisely the result that Special Master Merenstein tried to reach in his ruling. She also mentions several times that the Plaintiffs are seeking discovery sanctions against the Defendants and that

the production of full custodial files are broad search terms with no relevant review be the equivalent of sanctions. I just want to make it clear that's not what the Plaintiffs are seeking at all. We've never mentioned the word sanctions. This is how supposed to be sanction this is supposed to be a way to move these cases forward efficiently. And that may involve the production a large set of documents where some documents are irrelevant but in order to move this case forward that's a compromise that has to be made. And that's what we're proposing.

She also mentioned some of the issues relating to the claw back issues under PTO 70. I just want stress that Ms. Allon argued that everything is fine because ultimately many of these defendants withdrew these claw backs. And therefore, you know all's right with the world. I want to point out that the only reason they did that is because we happen to have those documents already so we could actually see that what they were trying to do is claw back highly relevant documents. And today's said that they said they need additional time to review the documents before given us those fall back requests. They certainly did ask to spread an extension in light of the complaint knowing that he just submitted those call backs. Just a couple more Your Honor, the defendants say that under their plan document production will be complete in six months, but I want to stress that's only for 31 out of the 25 drugs

their currently at issue in the MDL. That is a very small subset of this MDL that the Defendants are proposing to full their proposing offense around original 31 drugs which I did not make this point in my original presentation but there are at least seven drugs that would be in both categories. The fact that the original 31 drugs are also in the some of those seven of those drugs are in the Teva complaint that the State's filed in May. However, the discovery on the 31 without also having to do with discovery on some of those drugs in the Teva complaint. And some of those drugs were part of broader agreements to conclude those multiple drugs at once. So the, the inheritant difficulties with drugs that's the original 31 drugs. And just another point on the custodians as Ms. Allon the plaintiffs refused to provide a list of key custodian's files for that's absolutely untrue. The defendants have flatly refused to ever entertain the idea of custodial files. So there was never a point where we needed to provide that to them. It was never even an option because the defendants would never agree to it. I would tell you that we do have a list and we would be able to provide that very quickly in the list limits the number of custodians by about 65 percent so we're seeking literally about a third of the total number of custodians that were negotiated.

And just lastly on the point that Ms. Allon made about, you know, of course the Defendants would be able to

fashion search terms to find any single document in the production, I would just point out that it's very easy when you know what's in the document to fashion a search term to find. But if you don't know what's in the documents and you don't know the key code words or what -- what references they might make, it's much more difficult and that's what we're seeking.

THE COURT: Thank you.

MS. ALLON: Thank you, Your Honor. Thank you for your patience. The seven Defendants who have described themselves as the peripheral Defendants were all named in several overarching complaints that survived the joint Motions to Dismiss. Under the antitrust laws, they all have joint and several liability and for all of the damages resulting from that conspiracy if they're found liable. And regardless of the scope and extent of their involvement, there simply aren't any peripheral Defendants in this MDL.

Mr. Robertson argued that these seven Defendants should be treated differently because they have not yet been sued by the State AGs. That has no relevance to the right of the private Plaintiffs under the Federal Rules of Civil Procedure to take discovery from them concerning their role in the overarching conspiracy that the Court has found to be plausibly alleged. The Defendants claim that a limited -- or no involvement, by the way, again also does not curtail -- should not curtail the scope of discovery.

And in fact, before discovery begins, the Plaintiffs had no idea whether these Defendants are peripherally involved as they claim, or are -- or their involvement is much more significant. But this Court emphasized in its recent ruling that Plaintiffs -- that their involvement in the overarching conspiracy should be tested by discovery.

Moreover, any differential treatment of these Defendants under Paragraph 3 of the CMO would simply balkanize discovery and it would again, as I said and emphasize again, that it would run counter to this Judge's -- to your -- to Your Honor's opinion that we should be or that Plaintiffs should be allowed to pursue evidence concerning their claims of a broad overarching conspiracy spanning the generic drug industry which includes these Defendants, and that we should be allowed the discovery to discovery the connective tissue between the single individual price-fixing conspiracy and the overarching conspiracy.

In sum, the arguments that these peripheral Defendants are merely peripheral -- peripheral, excuse me, are not only factually unsubstantiated but they also failed to demonstrate that the current recommendations should not be adopted for them. I just emphasize again under the antitrust laws they have joint and several liability regardless of the scope of their involvement. There is simply no such thing as peripheral discovery, peripheral liability, or peripheral

Defendants.

I also want to just respond to the complaint made by the Defendants that, you know, the filing of serial complaints in this case. Obviously, these complaints have been filed as we have uncovered the wrongdoing, which Defendants made assiduous efforts to conceal. As a result, we've only learned about this -- this conduct and we are proceeding expeditiously. And I think it's just important to emphasize that who are the victims in this case and Plaintiffs were the victims of unprecedented price increases on countless generic drugs and incurred billions of damages. And this case management order helps to ensure that the Plaintiffs will get the discovery that they need within a timely manner, within one year, for document discovery so that we can proceed to expedite these cases towards resolution. Thank you, Your Honor.

THE COURT: Would you like to have a brief rebuttal?

FEMALE VOICE 1: Thank you, Your Honor. I'll just make a couple of quick points. The first is with respect to the suspends docket, so I've heard the Attorney General promise they would only have one amendment to the Teva complaint. But they have never assured this Court that there will not be new complaints.

And that is what makes the suspends docket so critical. Now, we're --

THE COURT: [Interposing] I don't understand that.

Of why -- why does that relate to the suspends docket which I'm about ready to abolish?

FEMALE VOICE 1: Well, if they're going to file a new complaint that's not an amendment to the Teva complaint, it's a brand new complaint so, for example, they have the Heritage complaint and then they have the Teva complaint. And who knows what the next one will be. I hope that it's not my client, but some other name there, when that new complaint comes - there may be two; there may be three. We don't know how many there will be.

Each time that new complaint is filed, there has to be new Motions to Dismiss, new discovery. That delays the case. If it -- if the Plaintiffs were ready to assure us that they're going to amend the Teva complaint, that there's not going to be any others, they're done, that would be a different story.

We have said the cutoff should be before the Teva complaint. We think that makes sense for a lot of reasons. It actually doesn't matter where the cutoff is. The cutoff could be today and that would work just as well. The idea is we need a known universe of complaints to litigate and to move to resolution. And we don't want to get distracted every time the Plaintiffs choose to file a new complaint.

And again, if -- if -- if what their position is today is that they don't have any more complaints, I'd like to

hear that, but I think that would probably fundamentally change things. But I don't hear them saying that.

With respect to the response in this review on full custodial files, so first of all, that the document that hits on a search term is not presumptively relevant. And just to underscore why, let me give the Court a couple of examples of search terms in the Plaintiffs most recent proposal: in person, coffee, beer, speak.

I think it's pretty obvious that just because a document hits on those search terms it is not presumptively relevant to the allegations in this case. And where it has search terms that broad, that has to be applied against high-level custodians, CEOs, presidents, heads of departments, which we've agreed to. We've negotiated with those custodians. We're giving them executive level of custodians.

Those search terms will turn up documents that are not only irrelevant but competitively sensitive. It doesn't matter if the Plaintiffs call it a sanction or not. That's what they are asking for. Now, Mr. Nielsen didn't want to get into what he called the details of the case law because there is none supporting his position. I said in my presentation their request was unprecedented. They're not disputing that. There are lots of large and complex MDLs that many of us have litigated, and this relief has never been necessary and it's not necessary here.

The last point, I think, I don't hear the Plaintiffs dispute for including a responsiveness review or production of full custodial files will result in the production of irrelevant information. They can't take it all. It's obvious. It's indisputable. That violates Rule 26. The Plaintiffs have no right to that information.

This case can move forward officially while giving the Defendants the right they are entitled to under the Federal Rules that the Plaintiffs only get documents that are relevant to their claims in this case. Thank you, Your Honor.

THE COURT: Mr. Robertson?

MR. ROBERTSON: Thank you, Judge. I just want to be sure that the Court understands the peripheral Defendants are not trying to avoid discovery here and not trying to avoid discovery in the complaints against the peripheral Defendants.

THE COURT: Great. All right. That's - - , you know?

MR. ROBERTSON: Yeah.

THE COURT: That you're trying to sound like you're out there and --

MR. ROBERTSON: [Interposing] Well --

THE COURT: -- and in the fringes.

MR. ROBERTSON: -- let me say, Judge, that it's -- it's not just the seven peripheral Defendants that think that. The corporate direct Plaintiffs of that complaint think that --

calls this group -- not just this group, but some of them, quote, "additional conspirators," end quote, in contrast to what they call other Defendants which are the, quote, "core conspirators," end quote. So, you can call this 'additional,' but peripheral I think is a pretty good moniker to have.

THE COURT: I think that's a lot better.

MR. ROBERTSON: Yes. You can't mix up everything, don't you think? But the grounding point here is that we have motion practice about the scope of the -- about the scope of discovery. We followed the discovery procedures set up by this Court and we came to agreements about what that scope should be. So we -- and nothing has changed with respect to that scope in the complaints against these Defendants. And that's all that we're seeking here is to keep to what is the process that's been in place and the agreements that have been in place.

THE COURT: I appreciate that. Thank you. All right. That has been a very interesting oral argument. I'm glad I heard it even though my ears are quite clouded, I did hear everything. And I'm sorry for my coughing and sneezing because it's very irritating and, um, it must be to you too. I'll take that under advisement and get you a decision right away because discovery will move and I meant what I said about considering taking all cases out of suspense and moving them forward. I don't think that's a place to hide or stall or

suspect that you don't have to comply with discovery.

So, we're going to be looking at that too. And if I need your input, I will -- I will seek it. We do have a joint proposed schedule for future status conferences and I appreciate those on Counsel submitting this. And it says that if I approve this, and I do, the next status conference for October 25th, 2019, at 10:30 A.M. That is a Friday.

I know that you're working on another schedule for the coming year, but I believe that we will be able to accommodate that in the future. There is no November status conference schedule because of timing at the end of the year. December status conference is December 13th at 1:30 P.M. That is a Thursday.

Then in 2020 -- oh my god; it's 2020. [Laughter] The second Thursday of every month at 10:30 A.M. unless otherwise scheduled, and I hope that suits most of you. Right now it suits the Court. We may have to play with some of these individual months and dates, but it's not as if it has to be Thursday afternoon. Anything anyone wants to add on this? Seems like something's up over there.

MS. ALLON: No, we're fine, Your Honor.

THE COURT: Okay. I've also been asked to approve stipulations in an individual Case Number 3768 of 2017. I have approved the stipulations. They'll be entered by order today. They relate to the EmCure Pharmaceuticals in the matter and the

Plaintiff State's allegations against them in the State of Connecticut versus Activus. All right?

FEMALE VOICE 1: Your Honor, I just wanted to clarify, on the December 13th. You meant December 12th? That's the Thursday?

THE COURT: It says 13th on what you gave me.

FEMALE VOICE 1: Oh, oh. Yeah, they're -- December 13th but at 10:30, yes. So at 10:30 if we can.

THE COURT: Oh, yes. I thought we said something different.

FEMALE VOICE 1: Sorry, Your Honor.

THE COURT: Twenty -- let me see --

[Crosstalk]

THE COURT: It was the --

FEMALE VOICE 1: [Interposing] Yeah, and in the afternoons in 2020 going forward.

THE COURT: They're just rescheduled at 1:30.

FEMALE VOICE 1: Rescheduled at 1:30

THE COURT: Exactly.

FEMALE VOICE 1: Yeah. Thank you, Your Honor.

THE COURT: I'm sorry. I didn't have my calendar with me. I misunderstood that. And the 13th is the Friday?

FEMALE VOICE 3: Yeah. Friday the 13th.

FEMALE VOICE 2: Really?

THE COURT: Okay. No, that's better for me too. I

mean this is whatever to -- that I don't think will be resolved so I think Friday is better.

FEMALE VOICE 1: Thank you, Your Honor. Sorry to have bothered you.

THE COURT: All right. Anything else? I do appreciate all of your attendance and I look forward to resolving these issues quickly and moving on to the next.

FEMALE VOICE 2: Thank you very much, Your Honor.

THE COURT: You're welcome.

FEMALE VOICE 2: We'll see you on the 11th.

* * * * *

C E R T I F I C A T I O N

We, Nathalie I. Moore and Ubiqus Reporting, Inc., court approved transcribers, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of our ability.

_____

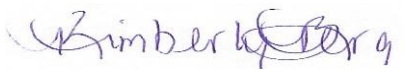
Nathalie I. Moore

_____

DATE: September 26, 2019

C E R T I F I C A T I O N

We, Kimberly Berg and Ubiqus Reporting, Inc., court approved transcribers, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of our ability.

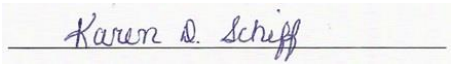


Kimberly Berg

DATE: September 26, 2019

C E R T I F I C A T I O N

We, Karen D. Schiff and Ubiqus, Inc., court approved transcribers, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of our ability.



Karen D. Schiff

_____

Ubiqus, Inc.

DATE: September 27, 2019

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

State Attorneys General Litigation

THE STATE OF CONNECTICUT;
THE STATE OF ALABAMA;
THE STATE OF ALASKA;
THE STATE OF ARIZONA;
THE STATE OF ARKANSAS;
THE STATE OF CALIFORNIA;
THE STATE OF COLORADO;
THE DISTRICT OF COLUMBIA;
THE STATE OF DELAWARE;
THE STATE OF FLORIDA;
THE STATE OF HAWAII;
THE STATE OF IDAHO;
THE STATE OF ILLINOIS;
THE STATE OF INDIANA;
THE STATE OF IOWA;
THE STATE OF KANSAS;
THE COMMONWEALTH OF KENTUCKY;
THE STATE OF LOUISIANA;
THE STATE OF MAINE;
THE STATE OF MARYLAND;
THE COMMONWEALTH OF MASSACHUSETTS;
THE STATE OF MICHIGAN;
THE STATE OF MINNESOTA;
THE STATE OF MISSISSIPPI;
THE STATE OF MISSOURI;
THE STATE OF MONTANA;
THE STATE OF NEBRASKA;
THE STATE OF NEVADA;
THE STATE OF NEW HAMPSHIRE;
THE STATE OF NEW JERSEY;
THE STATE OF NEW MEXICO;
THE STATE OF NEW YORK;
THE STATE OF NORTH CAROLINA;

MDL 2724
16-MD-2724

HON. CYNTHIA M. RUFE

Civil Action No.

17-3768

June 15, 2018

PLAINTIFF STATES' CONSOLIDATED AMENDED COMPLAINT

Non-Public Version:
Filed Under Seal

THE STATE OF NORTH DAKOTA;
THE STATE OF OHIO;
THE STATE OF OKLAHOMA;
THE STATE OF OREGON;
THE COMMONWEALTH OF PENNSYLVANIA;
THE COMMONWEALTH OF PUERTO RICO;
THE STATE OF RHODE ISLAND;
THE STATE OF SOUTH CAROLINA;
THE STATE OF TENNESSEE;
THE STATE OF UTAH;
THE STATE OF VERMONT;
THE COMMONWEALTH OF VIRGINIA;
THE STATE OF WASHINGTON;
THE STATE OF WEST VIRGINIA;
THE STATE OF WISCONSIN;
THE STATE OF WYOMING;

v.

ACTAVIS HOLDCO U.S., INC.;
ACTAVIS PHARMA, INC.;
ASCEND LABORATORIES, LLC;
APOTEX CORP.;
AUROBINDO PHARMA USA, INC.;
CITRON PHARMA, LLC;
DR. REDDY'S LABORATORIES, INC.;
EMCURE PHARMACEUTICALS, LTD.;
GLENMARK PHARMACEUTICALS, INC.;
HERITAGE PHARMACEUTICALS, INC.;
LANNETT COMPANY, INC.;
RAJIV MALIK;
MAYNE PHARMA INC.;
SATISH MEHTA;
MYLAN PHARMACEUTICALS, INC.;
PAR PHARMACEUTICAL COMPANIES, INC.;
SANDOZ, INC.;
SUN PHARMACEUTICAL INDUSTRIES, INC.;
TEVA PHARMACEUTICALS USA, INC.;
ZYDUS PHARMACEUTICALS (USA), INC.

TABLE OF CONTENTS

PLAINTIFF STATES' [PROPOSED] CONSOLIDATED AMENDED COMPLAINT

The States of Connecticut, Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming, the Commonwealths of Kentucky, Massachusetts, Pennsylvania, Puerto Rico and Virginia, and the District of Columbia (the "Plaintiff States"), by and through their Attorneys General, bring this civil law enforcement action against Actavis Holdco U.S., Inc., Actavis Pharma, Inc., Ascend Laboratories, LLC, Apotex Corp., Aurobindo Pharma USA, Inc., Citron Pharma, LLC, Dr. Reddy's Laboratories, Inc., Emcure Pharmaceuticals, Ltd., Glenmark Pharmaceuticals, Inc., Heritage Pharmaceuticals, Inc., Lannett Company, Inc., Rajiv Malik, Mayne Pharma, Inc., Satish Mehta, Mylan Pharmaceuticals, Inc., Par Pharmaceutical Companies, Inc., Sandoz, Inc., Sun Pharmaceutical Industries, Inc., Teva Pharmaceuticals USA, Inc., and Zydus Pharmaceuticals (USA), Inc. (collectively, the "Defendants") and allege as follows:

I. SUMMARY OF THE CASE

1. In July 2014, the State of Connecticut initiated a non-public investigation into suspicious price increases for certain generic pharmaceuticals. Over time, the investigation expanded and Connecticut was joined in its efforts by forty-five (45) additional states. As a result of the information and evidence developed through that investigation, which is still ongoing, the Plaintiff States allege that the Defendants, and several as-of-yet unnamed coconspirators, entered into numerous contracts, combinations and conspiracies that had the

effect of unreasonably restraining trade, artificially inflating and maintaining prices and reducing competition in the generic pharmaceutical industry throughout the United States, including but not limited to, the markets for the following fifteen (15) generic drugs: Acetazolamide, Doxycycline Hyclate Delayed Release, Doxycycline Monohydrate, Fosinopril-Hydrochlorothiazide, Glipizide-Metformin, Glyburide, Glyburide-Metformin, Leflunomide, Meprobamate, Nimodipine, Nystatin, Paromomycin, Theophylline, Verapamil and Zoledronic Acid.

2. Plaintiff States also allege that Defendants participated in an overarching conspiracy, the effect of which was to minimize if not thwart competition across the generic drug industry. The overarching conspiracy was effectuated by a series of conspiracies that affected and continue to affect the market for a number of generic drugs identified in this Consolidated Amended Complaint.

3. The Plaintiff States focus here on the role of these named Defendants and their participation in and agreement with this overarching conspiracy. The Complaint describes conspiracies regarding the sale of specific drugs, and how these specific conspiracies are also part of the larger overarching conspiracy. The Plaintiff States continue to investigate additional conspiracies, involving these and other generic manufacturers, regarding the sale of other drugs not identified in this Complaint, and will likely bring additional actions based on those conspiracies at the appropriate time in the future.

4. Defendants' illegal agreements have raised prices, maintained artificially inflated prices and frustrated the potential of the industry to deliver great value to Plaintiff States and those they represent. Generic drugs are pharmaceutically equivalent to the referenced brand name drug in dosage, form, route of administration, strength or concentration, and amount of

active ingredient. Generic drugs can save (and have saved) consumers and other purchasers of drugs tens of billions of dollars annually because generic drugs are a lower-priced alternative to brand name drugs. When the manufacturer of a branded drug loses the market exclusivity that comes with patent rights, generic drugs offer lower prices and greater access to healthcare for all consumers in the United States through genuine competition. A consumer with a prescription can fill that prescription not only with the brand name drug, but also with a generic version of that drug, if one is available. State laws often require pharmacists to fill prescriptions with generic versions of the drug.

5. Typically, when the first generic manufacturer enters a market for a given drug, the manufacturer prices its product slightly lower than the brand-name manufacturer. A second generic manufacturer's entry reduces the average generic price to nearly half the brand-name price. As additional generic manufacturers market the product, the prices continue to fall slowly. For drugs that attract a large number of generic manufacturers, the average generic price falls to 20% or less of the price of the branded drug.

6. Generic drugs were one of the few "bargains" in the United States healthcare system. Health care experts believe cost savings from the growing number of generic drugs helped keep the lid on increasing health care costs. With the Hatch-Waxman Act of 1984, Congress designed the generic drug market to keep costs low and the market initially operated that way.

7. At some point, that price dynamic changed for many generic drugs. Prices for dozens of generic drugs have risen – while some have skyrocketed, without explanation, sparking outrage from politicians, payers and consumers across the country whose costs have doubled, tripled, or even increased 1,000% or more. The growing outrage and public reports of

unexplained and suspicious price increases caused the State of Connecticut to commence its investigation in July of 2014. Shortly thereafter, Congress opened an inquiry and various companies acknowledged that a criminal grand jury investigation had been convened by the United States Department of Justice Antitrust Division.

8. Generic drug manufacturers argued publicly that the significant price increases were due to a myriad of benign factors, such as industry consolidation, FDA-mandated plant closures, or elimination of unprofitable generic drug product lines. What the Plaintiff States have found through their investigation, however, is that the reason underlying many of these price increases is much more straightforward, and sinister – illegal collusion among generic drug manufacturers. Prices of many generic pharmaceuticals were and remain artificially inflated through collusive bid rigging and market allocation agreements designed to prevent price wars from occurring when key competitive opportunities arise in the marketplace.

9. Generic drug manufacturers, through their senior leadership and marketing and sales executives, have routine and direct interaction. The Defendants exploited their interactions at various and frequent industry trade shows, customer conferences and other similar events, to develop relationships and sow the seeds for their illegal agreements. These anticompetitive agreements are further refined and coordinated at regular "industry dinners", "girls nights out", lunches, parties, frequent telephone calls, emails and text messages.

10. The anticompetitive conduct -- schemes to fix and maintain prices, allocate markets and otherwise thwart competition – has caused, and continues to cause, significant harm to the United States healthcare system, which is ongoing. Moreover, executives at the highest levels in many of the Defendant companies, including but not limited to Defendants Rajiv Malik and Satish Mehta, conceived and directed many of these schemes.

11. Defendant Heritage is a consistent participant in the conspiracies identified in this Complaint, but the conduct is pervasive and industry-wide and the schemes identified herein are part of a larger, overarching understanding about how generic manufacturers fix prices and allocate markets to suppress competition. Through its senior-most executives and account managers, Heritage participated in a wide-ranging series of restraints with more than a dozen generic drug manufacturers, all of whom knowingly and willingly participated. As a result of these conspiracies, Defendants reaped substantial monetary rewards.

12. Defendants' anticompetitive conduct falls principally into two categories, the overarching goal being to avoid price erosion and maintain inflated pricing within and across their respective broad product portfolios and, at times, increase pricing for targeted products without triggering a "fight to the bottom" among existing competitors. First, to avoid competing with one another and thus eroding the prices for a myriad of generic drugs, Defendants -- either upon their entry into a given generic market or upon the entry of a new competitor into that market -- communicated with each other to determine and agree on how much market share and which customers each competitor was entitled to. They then implemented the agreement by either refusing to bid for particular customers or by providing a cover bid that they knew would not be successful. Defendants agreed to allocate the market for Nimodipine, Meprobamate, Zoledronic Acid, and Doxycycline Hyclate Delayed Release, among others. These schemes reduced or eliminated competition for a particular drug, and allowed Defendants to maintain artificially supra-competitive prices in these markets throughout the United States.

13. Second, and often in conjunction with the market allocation schemes, competitors in a particular market communicated -- either in person, by telephone, or by text message -- and agreed to collectively raise and/or maintain prices for a particular generic drug. The Defendants

collectively agreed to raise and/or maintain prices for Acetazolamide, Doxycycline Monohydrate, Fosinopril-Hydrochlorothiazide, Glipizide-Metformin, Glyburide, Glyburide-Metformin, Leflunomide, Meprobamate, Nimodipine, Nystatin, Paromomycin, Theophylline, and Verapamil, among others.

14. Defendants here understood and acted upon an underlying code of conduct that is widespread in the generics industry: an expectation that any time a company is entering a particular generic drug market, it can contact its competitors and allocate the market according to a generally agreed-upon standard of "fair share" in order to avoid competing and keep prices high. While different drugs may involve different sets of companies, this background understanding remains constant and is an important component of the Defendants' ability to reach agreements for specific drugs.

15. The Defendants knew their conduct was unlawful. The conspirators usually chose to communicate in person or by cell phone, in an attempt to avoid creating a record of their illegal conduct. The structure of the generic drug industry provided numerous opportunities for collusive communications at trade shows, customer events and smaller more intimate dinners and meetings. When communications were reduced to writing or text message, Defendants often took overt and calculated steps to destroy evidence of those communications.

16. As a result of the conspiracies identified in this Consolidated Amended Complaint (also referred to herein as the "Complaint"), consumers nationwide, including the Plaintiff States, paid substantially inflated and anticompetitive prices for numerous generic pharmaceutical drugs, and the Defendants illegally profited as a result.

17. The Plaintiff States seek a finding that the Defendants' actions violated federal and state antitrust and consumer protection laws; a permanent injunction preventing the

Defendants from continuing their illegal conduct and remedying the anticompetitive effects caused by their illegal conduct; disgorgement of the Defendants' ill-gotten gains; damages on behalf of various state and governmental entities and consumers in various Plaintiff States; civil penalties and other relief as a result of Defendants' violations of law.

II. JURISDICTION AND VENUE

18. This Court has jurisdiction over this action under Section 1 of the Sherman Act, 15 U.S.C. § 1 & 26, and under 28 U.S.C. §§ 1331 and 1337.

19. In addition to pleading violations of federal law, the Plaintiff States also allege violations of state law, as set forth below, and seek civil penalties, damages and equitable relief under those state laws. All claims under federal and state law are based on a common nucleus of operative fact, and the entire law enforcement action commenced by this Consolidated Amended Complaint constitutes a single case that would ordinarily be tried in one judicial proceeding. The Court has jurisdiction over the non-federal claims under 18 U.S.C. § 1367(a), as well as under principles of pendent jurisdiction. Pendent jurisdiction will avoid unnecessary duplication and multiplicity of actions, and should be exercised in the interests of judicial economy, convenience, and fairness.

20. This Court may exercise personal jurisdiction over all of the Defendants because they either transact business both in this District and in the District of Connecticut where this action was commenced, or they have engaged in anticompetitive and illegal conduct that has had an impact both in this District and in the District of Connecticut. Specifically, the corporate Defendants market and sell generic pharmaceutical drugs in interstate and intrastate commerce to consumers nationwide through drug wholesalers and distributors, pharmacy and supermarket chains, and other resellers of generic pharmaceutical drugs. The two individual Defendants were

executives of Defendants Mylan and Emcure who engaged in and directed some of the unlawful conduct addressed herein. The acts complained of have, and will continue to have, substantial effects both in this District and in the District of Connecticut.

21. Venue is proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(b)-(c). At all times relevant to the Plaintiff States' Consolidated Amended Complaint, the Defendants resided, transacted business, were found, or had agents in this District, and a portion of the affected interstate trade and commerce described below has been carried out in this District.

III. THE PARTIES

22. The Attorneys General are the chief legal officers for their respective States. They are granted authority under federal and state antitrust and consumer protection laws to bring actions to protect the economic well-being of the Plaintiff States and obtain injunctive and other relief from the harm that results from the violations of antitrust and consumer protection laws alleged herein. All Plaintiff States seek equitable and other relief under federal antitrust laws in their sovereign or quasi-sovereign capacities. To the extent specified in the state claims asserted in this Consolidated Amended Complaint, certain Attorneys General of the Plaintiff States have and here exercise authority to secure relief, including monetary relief, including for governmental entities and consumers in their states who paid or reimbursed for the generic pharmaceutical drugs that are the subject of this Consolidated Amended Complaint. As specified in Count Nineteen, some states also seek damages for state entities or their consumers under state antitrust law, and some states seek additional relief for violations of state consumer protection laws.

23. Defendant Actavis Holdco U.S., Inc. ("Actavis Holdco"), is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Parsippany, New Jersey. In August 2016, Teva Pharmaceutical USA, Inc. acquired the Actavis generics business of Allergan plc, including Actavis, Inc. Upon the acquisition, Actavis, Inc. – the acquired Allergan plc generics operating company (formerly known as Watson Pharmaceuticals) – was renamed Allergan Finance, LLC, which in turn assigned all of the assets and liabilities of the former Allergan plc generic business to the newly formed Actavis Holdco, including subsidiaries Actavis Pharma, Inc. and Actavis Elizabeth LLC (a research and development and manufacturing entity for Actavis generic operations), among others. Actavis Holdco is a wholly-owned subsidiary of Teva Pharmaceuticals USA, Inc., which is a Delaware corporation with its principal place of business in North Wales, Pennsylvania.

24. Defendant Actavis Pharma, Inc. is a Delaware corporation with its principal place of business at 400 Interpace Parkway, Parsippany, New Jersey. It is a wholly-owned subsidiary of Actavis Holdco and is a principal operating company in the U.S. for Teva's generic products acquired from Allergan plc. It manufactures, markets, and/or distributes generic pharmaceuticals. Unless addressed individually, Actavis Holdco and Actavis Pharma, Inc. are collectively referred to herein as "Actavis." At all times relevant to the Consolidated Amended Complaint, Actavis has marketed and sold generic pharmaceuticals in this District and throughout the United States.

25. Defendant Ascend Laboratories, LLC ("Ascend") is a corporation organized and existing under the laws of the State of New Jersey, with a principal place of business at 339 Jefferson Road, Parsippany, New Jersey. At all times relevant to the Consolidated Amended

Complaint, Ascend has marketed and sold generic pharmaceuticals in this District and throughout the United States.

26. Defendant Apotex Corp. ("Apotex") is a corporation organized and existing under the laws of the State of Delaware. Its principal place of business is 2400 North Commerce Parkway, Weston, Florida. Apotex is in the business of, among other things, developing, manufacturing, and selling generic versions of branded pharmaceutical products for distribution in the United States, including in this District. At all times relevant to the Consolidated Amended Complaint, Apotex has marketed and sold generic pharmaceuticals in this District and throughout the United States.

27. Defendant Aurobindo Pharma USA, Inc. ("Aurobindo") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 6 Wheeling Road, Dayton, New Jersey. At all times relevant to the Consolidated Amended Complaint, Aurobindo has marketed and sold generic pharmaceuticals in this District and throughout the United States.

28. Defendant Citron Pharma, LLC ("Citron") is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business at 2 Tower Center Boulevard, Suite 1101, East Brunswick, New Jersey. At all times relevant to the Consolidated Amended Complaint, Citron has marketed and sold generic pharmaceuticals in this District and throughout the United States.

29. Defendant Dr. Reddy's Laboratories, Inc. ("Dr. Reddy's") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 107 College Road East, Princeton, New Jersey. At all times relevant to the

Consolidated Amended Complaint, Dr. Reddy's has marketed and sold generic pharmaceuticals in this District and throughout the United States.

30. Defendant Emcure Pharmaceuticals, Ltd. ("Emcure") is a corporation organized and existing under the laws of India, having its principal place of business in Pune, India. Emcure is the parent company of Defendant Heritage Pharmaceuticals, Inc. ("Heritage") and another U.S.-based entity, Emcure Pharmaceuticals USA, Inc., which has a principal place of business in East Brunswick, New Jersey. At all times relevant to the Consolidated Amended Complaint, Emcure has marketed and sold generic pharmaceuticals in this District and throughout the United States, and has also participated in and directed the business activities of Defendant Heritage.

31. Defendant Glenmark Pharmaceuticals, Inc., USA ("Glenmark") is a corporation organized and existing under the laws of the State of Delaware with a principal place of business at 750 Corporate Drive, Mahwah, New Jersey. At all times relevant to the Consolidated Amended Complaint, Glenmark has marketed and sold generic pharmaceuticals in this District and throughout the United States.

32. Defendant Heritage is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 12 Christopher Way, Suite 300, Eatontown, New Jersey. Heritage is a wholly-owned subsidiary of Defendant Emcure. At all times relevant to the Consolidated Amended Complaint, Heritage has marketed and sold generic pharmaceuticals in this District and throughout the United States.

33. Defendant Lannett Company, Inc. ("Lannett") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 9000 State

Road, Philadelphia, Pennsylvania. At all times relevant to the Complaint, Lannett has marketed and sold generic pharmaceuticals in this District and throughout the United States.

34. Defendant Rajiv Malik ("Malik") is an individual residing at 605 Grandview Drive, Gibsonia, Pennsylvania. At all times relevant to the Consolidated Amended Complaint, Malik has acted as the President and Executive Director of Mylan N.V., which is the parent company of Defendant Mylan. In his role as President of Mylan N.V., Malik is responsible for overseeing the sales and marketing of Mylan's generic pharmaceutical business, which is accomplished at least in part through acting on behalf of Defendant Mylan.

35. Defendant Mayne Pharma Inc. ("Mayne") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 3301 Benson Drive, Suite 401, Raleigh, North Carolina. In 2012, Mayne acquired Metrics, Inc. and its division, Midlothian Laboratories ("Midlothian"), and has also operated under the name Midlothian since that time. At all times relevant to the Consolidated Amended Complaint, Mayne has marketed and sold generic pharmaceuticals in this District and throughout the United States.

36. Defendant Satish Mehta ("Mehta") is an individual residing at Prasanna 4, Mumbai Pune Road, Kirkee, Pune-3, India. At all times relevant to the Consolidated Amended Complaint, Mehta has acted as the Chief Executive Officer and Managing Director of Defendant Emcure. Mehta has also held a position on the Board of Directors of Defendant Heritage.

37. Defendant Mylan Pharmaceuticals, Inc. ("Mylan") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 1000 Mylan Boulevard, Canonsburg, Pennsylvania. At all times relevant to the Consolidated

Amended Complaint, Mylan has marketed and sold generic pharmaceuticals in this District and throughout the United States.

38. Defendant Par Pharmaceutical Companies, Inc. ("Par") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at One Ram Ridge Road, Chestnut Ridge, New York. At all times relevant to the Consolidated Amended Complaint, Par has marketed and sold generic pharmaceuticals in this District and throughout the United States.

39. Defendant Sandoz, Inc. ("Sandoz") is a corporation organized and existing under the laws of the State of Colorado, with its principal place of business at 100 College Road West, Princeton, New Jersey. Sandoz is a subsidiary of Novartis AG, a global pharmaceutical company based in Basel, Switzerland. At all times relevant to the Consolidated Amended Complaint, Sandoz has marketed and sold generic pharmaceuticals in this District and throughout the United States.

40. Defendant Sun Pharmaceutical Industries, Inc. ("Sun") is a corporation organized and existing under the laws of the State of Michigan with its principal place of business at 1 Commerce Drive, Cranbury, New Jersey. Sun is a wholly-owned subsidiary of Sun Pharmaceutical Industries Ltd., an Indian corporation, which also owns a majority stake in Taro Pharmaceutical Industries, Ltd. and Taro's U.S. subsidiary, Taro Pharmaceuticals USA, Inc. In late 2012, Sun acquired URL Pharma, Inc. ("URL") and its subsidiary, Mutual Pharmaceutical Company, Inc. ("Mutual"), both of which have their principal place of business in Philadelphia, Pennsylvania. Sun also does business under the name Caraco Pharmaceutical Laboratories ("Caraco"), a company Sun acquired in 1997. Unless addressed individually, Sun, URL, Mutual and Caraco are collectively referred to herein as "Sun." During the time period relevant to this

Consolidated Amended Complaint, Sun marketed and sold generic pharmaceutical drugs in this District and throughout the United States.

41. Defendant Teva Pharmaceuticals USA, Inc. ("Teva") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 1090 Horsham Road, North Wales, Pennsylvania. At all times relevant to the Consolidated Amended Complaint, Teva has marketed and sold generic pharmaceuticals in this District and throughout the United States.

42. Defendant Zydus Pharmaceuticals (USA) Inc. ("Zydus") is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business at 73 Route 31 North, Pennington, New Jersey. At all times relevant to the Consolidated Amended Complaint, Zydus has marketed and sold generic pharmaceuticals in this District and throughout the United States.

43. Whenever any reference is made in any allegation of this Consolidated Amended Complaint to any representation, act or transaction of Defendants, or any agent, employee or representative thereof, such allegation shall be deemed to mean that such principals, officers, directors, employees, agents or representatives of Defendants, while acting within the scope of their actual or apparent authority, whether they were acting on their own behalf or for their own benefit, did or authorized such representations, acts or transactions on behalf of Defendants, respectively.

IV. FACTS SUPPORTING THE LEGAL CLAIMS

A. The Generic Drug Market

1. The Hatch-Waxman Act

44. In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act, commonly known as the "Hatch-Waxman" Act. Its intention was to balance two seemingly contradictory interests: encouraging drug innovation, and promoting competition between brand and generic drugs in order to lower drug prices. To encourage innovation, Hatch-Waxman gave branded drug manufacturers longer periods of market exclusivity for newly-approved products; this increased the financial returns for investment in drug research and development.

45. To promote price competition, the law established a new regulatory approval pathway for generic products to help ensure that generic drugs became available more quickly following patent expiration. To gain approval for a new drug, drug manufacturers must submit a new drug application ("NDA") to the United States Food and Drug Administration ("FDA") showing that the new drug is safe and effective for its intended use. Developing a new drug and obtaining an NDA can take many years and cost tens or hundreds of millions of dollars.

46. The Hatch-Waxman Act encouraged faster approval for generic versions of brand-name drugs through the use of "abbreviated new drug applications" ("ANDAs"). These applications rely on the safety and efficacy evidence previously submitted by the branded drug manufacturer, permitting generic manufacturers to avoid conducting costly and duplicative clinical trials.

47. Hatch-Waxman succeeded in both of its goals. Since the law was passed in 1984, generic drugs have moved from being less than 20% of prescriptions filled in the United States to

over 80% of prescriptions filled. A recent study found that, in 2011 alone, generic medicines saved $193 billion for consumers. During the same period, innovation has continued to lead to many new and helpful drugs.

2. The Importance of Generic Drugs

48. Like their branded counterparts, generic drugs are used in the diagnosis, cure, mitigation, treatment or prevention of disease and, thus, are integral components in modern healthcare, improving health and quality of life for nearly all people in the United States. In 2015, sales of generic drugs in the United States were estimated at $74.5 billion dollars. Today, the generic pharmaceutical industry accounts for nearly 90% of all prescriptions written in the United States.

49. A branded drug manufacturer that develops an innovative drug can be rewarded with a patent granting a period of exclusive rights to market and sell the drug. During this period of patent protection, the manufacturer typically markets and sells its drug under a brand name, and the lack of competition can permit the manufacturer to set its prices extremely high.

50. Once the brand-name drug's exclusivity period ends, additional firms that receive FDA approval are permitted to manufacture and sell "generic" versions of the brand-name drug. As generic drugs enter the market, competition typically leads to dramatic reductions in price. Generic versions of brand name drugs are priced lower than the brand-name versions. Under most state laws, generic substitution occurs automatically, unless the prescriber indicates on the prescription that the branded drug must be "dispensed as written."

51. As additional manufacturers enter a particular drug market, competition pushes the price down much more dramatically. Often, the price of a generic drug will end up as low as 20% of the branded price or even lower. For this reason, generic drugs have long been referred

to as one of the few "bargains" in the United States healthcare system. Experts have stated that the substantial cost savings gained from the growing number of generic drugs have played a major role in keeping health care costs from increasing more dramatically.

52. Where there is genuine competition, the savings offered by generics drugs over their brand-name equivalents provide tremendous benefits to consumers and health care payors. Patients typically see lower out of pocket expenses, while lower costs for payors and insurers can lead to lower premiums for those who pay for health insurance, and lower costs to government health care programs like Medicare and Medicaid mean greater value for taxpayers.

3. The Players in the Drug Distribution System

53. The United States prescription drug distribution system includes entities that can be involved at various stages of the distribution channel through which prescription drugs are delivered to end users.

a. Manufacturers/Suppliers

54. Drug manufacturers are the source of the prescription drugs in the pharmaceutical supply chain. Unlike branded drug manufacturers, generic manufacturers typically do not develop new drug therapies, but instead manufacture generic drugs that can be substituted (often automatically under state law) for the branded drug after expiration of the brand's exclusivity. Generic pharmaceuticals can be manufactured in a variety of forms, including tablets, capsules, injectables, inhalants, liquids, ointments and creams. A manufacturer seeking to sell a "new drug" in the United States (including generic versions of previously approved drugs) must obtain approval from the FDA, which evaluates many factors, including drug safety, efficacy, raw material suppliers, manufacturing processes, labeling and quality control.

55. Generic drug manufacturers operate manufacturing facilities, and compete with each other to sell the generic drugs they produce to wholesalers, distributors, and in some cases, directly to retail pharmacy chains, mail-order and specialty pharmacies, hospital chains, and some health plans.

56. Generic drug manufacturers also sell some of their drugs through auctions to different purchasers in the supply chain, e.g., group purchasing organizations, retail pharmacies and supermarket chains with pharmacies.

57. In marketing their generic drugs, manufacturers often do not attempt to differentiate their products because, primarily, a generic drug is a commodity. Consequently, competition is dictated by price and supply. As a result, generic drug manufacturers usually all market the drug under the same name, which is the name of the active ingredient (e.g., Acetazolamide).

58. Drug suppliers can include the manufacturers themselves, or other companies that have agreements to sell or distribute certain generic pharmaceutical drugs manufactured by another company. The Defendants in this action are all drug manufacturers and suppliers who compete with one another for the sale of generic pharmaceutical drugs which are ultimately sold to consumers in the United States.

59. Drugs sold in the United States may be manufactured either domestically or abroad. Many manufacturers that produce drugs for the United States market are owned by, or are, foreign companies. Generic drugs may be manufactured by the same companies that manufacture brand-name drugs (even in the same factories), or may come from companies that manufacture generics exclusively. Drug manufacturers typically sell their products through

supply agreements negotiated with wholesalers and distributors, group purchasing organizations, pharmacy benefit managers and large retailers like pharmacy and supermarket chains.

60. Generic manufacturers report certain benchmark or list prices for each generic drug that they offer, including the average wholesale price ("AWP") and wholesale acquisition cost ("WAC"); these sometimes serve as benchmarks, but given the different characteristics of different buyers and the nature of individual negotiations, a manufacturer will frequently supply the same generic drug at several different prices depending on the customer or type of customer.

61. In addition, generic manufacturers that enter into a Medicaid rebate agreement must report their average manufacturer prices ("AMP") to the federal Centers for Medicare and Medicaid Services on a monthly and quarterly basis. Pursuant to federal law, AMP is defined as the average price paid to the manufacturer for the drug in the United States by (a) wholesalers for drugs distributed to retail community pharmacies and (b) retail community pharmacies that purchase drugs directly from the manufacturer.

62. Medicaid reimbursement for certain generic drugs is calculated using a formula that is derived from a manufacturer's AMP for that specific generic drug. Put another way, a manufacturer's AMP may have a direct impact on how much a state Medicaid program pays for a generic drug dispensed to a Medicaid beneficiary.

63. The corporate Defendants in this case are among the largest generic pharmaceutical manufacturers in the industry. Each has a broad portfolio of generic drugs which it sells to distributors, retailers and group purchasing organizations, many of whom have a nationwide presence. Competitors for particular pharmaceutical products fluctuate given the shifting pharmaceutical landscape as drugs lose exclusivity, and as manufacturers decide to enter or exit an existing drug market. Every Defendant's portfolio remained broad, and was marketed

to customers in virtually every state across the United States, at all times relevant to this Complaint.

64. The Defendants' customers supply generic pharmaceuticals to a wide swath of consumer populations, including but not limited to Medicaid recipients; private and public sector employees with commercial payor, employer-funded, or self-funded health plans; patients in non-profit, for-profit, or public hospitals or long-term care facilities; and prisons.

65. The generic pharmaceutical portfolios of the Defendants run the gamut of indications, servicing a wide range of health needs, from potentially less common health problems such as hypercalcemia treated with Zoledronic Acid and complications of liver disease treated by Paromomycin, to the more commonplace such as bacterial infections treated with Doxycycline Monohydrate and glaucoma, epilepsy, or altitude sickness treated by Acetazolamide ER.

66. Taken together, customers purchase a wide range of generic pharmaceutical products, in enormous volumes, in every state. Defendants' business plans and strategies for their broad portfolios focus on the nationwide supply and demand chain that funnels their products through various purchasers, including state governments, municipalities, and private sector employers, in order to reach consumer populations in every state. This supply and demand chain is described in more detail below.

b. Wholesalers/Distributors

67. Wholesalers and distributors purchase pharmaceutical products from manufacturers and distribute them to a variety of customers, including pharmacies (retail and mail-order), hospitals, long-term care and other medical facilities. Some wholesalers sell to a

broad range of customers while others specialize in sales of particular products (e.g., biologic products) or sales to a particular type of customer (e.g., nursing homes).

68. Wholesalers and distributors have similar business models, but distributors typically provide more services to their customers. Some of the largest wholesalers and distributors of generic drugs include AmerisourceBergen Corporation ("ABC"), Cardinal Health, Inc. ("Cardinal"), H.D. Smith, LLC ("HD Smith"), McKesson Corporation ("McKesson") and Morris & Dickson, LLC ("Morris & Dickson").

c. Group Purchasing Organizations (GPOs)

69. Group purchasing organizations ("GPOs") are membership-based entities that negotiate with manufacturers, wholesalers, and distributors on behalf of a large group of purchasers. GPOs leverage their buying power to obtain better prices and terms for their members, and assist buyers in trade relations and contract management with sellers. GPOs have formed to serve state and local governments, hospital groups, retail pharmacies, and supermarket chains. Some of the GPOs who sell large volumes of Defendants' generic products for distribution nationwide include Vizient (formerly Novation), Premier, Inc. ("Premier"), Intalere (formerly Amerinet), the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Econdisc Contracting Solutions ("Econdisc").

d. Pharmacy and Supermarket Chains

70. Pharmacies are the final step on the pharmaceutical supply chain before drugs reach the consumer. There are several types of pharmacies, including chain and independent retail pharmacies, pharmacies in supermarkets and other large retail establishments, and mail-order pharmacies. If a retail pharmacy or supermarket chain purchases generic drugs on a large enough scale, manufacturers may agree to contract with them directly. Such retailers can obtain

attractive terms by avoiding the markups or fees charged by wholesalers, distributors, and GPOs. Retailers large enough to purchase drugs directly from manufacturers include Rite Aid Corporation ("Rite Aid"), CVS Health ("CVS"), The Walgreen Company ("Walgreens"), Wal-Mart Stores, Inc. ("Walmart"), Target Corporation, and Publix Super Markets, Inc. ("Publix").

e. Customer Incentives

71. Some of the largest downstream buyers that purchase from generic manufacturers actually benefit when prices are higher. For example, in McKesson's 2014 10-K filing, the company reported the following:

> A significant portion of our distribution arrangements with the manufacturers provides us compensation based on a percentage of our purchases. In addition, we have certain distribution arrangements with pharmaceutical manufacturers that include an inflation-based compensation component whereby *we benefit when the manufacturers increase their prices* as we sell our existing inventory at the new higher prices. *For these manufacturers, a reduction in the frequency and magnitude of price increases*, as well as restrictions in the amount of inventory available to us, *could have a material adverse impact on our gross profit margin.*

In that same filing, McKesson also reported that "The business' practice is to pass on to customers published price changes from suppliers."

72. Similarly, in Cardinal's 2014 10-K filing, the company reported that

> Gross margin in our Pharmaceutical segment is impacted by generic and branded pharmaceutical price appreciation and the number and value of generic pharmaceutical launches. In past years, these items have been substantial drivers of Pharmaceutical segment profit. Prices for generic pharmaceuticals generally decline over time. But at times, *some generic products experience price appreciation, which positively impacts our margins.*

73. ABC's Annual Summary 2014 and Annual Report 2014 make very similar observations:

> **Our results of operations continue to be subject to the risks and uncertainties of inflation in branded and generic pharmaceutical prices and deflation in generic pharmaceutical prices.**
> Certain distribution service agreements that we have entered into with branded and generic pharmaceutical manufacturers continue to have an inflation-based compensation component to them. Arrangements with a small number of branded manufacturers continue to be solely inflation-based. As a result, our gross profit from brand-name and generic manufacturers continues to be subject to fluctuation based upon the timing and extent of manufacturer price increases. *If the frequency or rate of branded and generic pharmaceutical price increases slows, our results of operations could be adversely affected.* In addition, generic pharmaceuticals are also subject to price deflation. *If the frequency or rate of generic pharmaceutical price deflation accelerates, our results of operations could be adversely affected.*

74. Other large retail customers have similar contractual provisions in their contracts with generic manufacturers that allow for potentially greater compensation when prices are higher. For example, contracts between Walgreens Boots Alliance Development GmbH, a GPO, and generic manufacturers contain provisions about Rebates and Administrative fees that are directly tied to "total contract sales" – a number that increases when prices increase. In other words, that GPO (and other larger retail customers with similar contractual terms) may make more money when generic pharmaceutical prices are higher.

75. The generic manufacturers are keenly aware that some of their customers benefit from their price increases. For example, when Defendant Heritage planned to increase prices on a large number of different drugs in April 2014, as discussed more fully below, one of the national account representatives noted at that time that in addition to benefitting Heritage "[t]hese increases help customers w/ Annual Incentives."

4. The Cozy Nature of the Industry and Opportunities for Collusion

76. The generic drug market is structured in a way that allows generic drug manufacturers, including but not limited to the Defendants, to interact and communicate with each other directly and in person, on a frequent basis.

a. Trade Association and Customer Conferences

77. Many customers of the Defendants, including but not limited to (a) large wholesalers or distributors like ABC, Cardinal, HD Smith, McKesson and Morris & Dickson, (b) GPOs like Premier, MMCAP and Econdisc, and (c) other large drug purchasers like pharmacy or grocery store chains, hold multi-day conferences throughout the year in various locations throughout the United States. Generic manufacturers from across the United States are invited to attend.

78. Additionally, the Defendants and other generic drug manufacturers also attend various industry trade shows throughout the year, including those hosted by the National Association of Chain Drug Stores ("NACDS"), Healthcare Distribution Management Association ("HDMA") (now the Healthcare Distribution Alliance), the Generic Pharmaceutical Association ("GPhA") and Efficient Collaborative Retail Marketing ("ECRM"), in a variety of locations throughout the United States.

79. At these various conferences and trade shows, sales representatives from many generic drug manufacturers, including Defendants, interact with each other and discuss their respective businesses and customers. Many of these conferences and trade shows include organized recreational and social events such as golf outings, lunches, cocktail parties and dinners that provide additional opportunities to meet with competitors. Defendants use these opportunities to discuss and share competitively-sensitive information concerning upcoming

bids, specific generic drug markets, pricing strategies and pricing terms in their contracts with customers.

80. These trade shows and customer conferences provide generic drug manufacturers, including but not limited to the Defendants, with ample opportunity to meet, discuss, devise and implement a host of anticompetitive schemes that unreasonably restrain competition in the United States' market for generic drugs.

b. Industry Dinners and Private Meetings

81. In addition to these frequent conferences and trade shows, senior executives and sales representatives gather in smaller groups, allowing them to further meet face-to-face with their competitors and discuss competitively sensitive information.

82. Many generic drug manufacturers, including several of the Defendants, are headquartered in close proximity to one another in New Jersey or eastern Pennsylvania, giving them additional opportunities to foster connections and meet and collude. At least forty-one (41) different generic drug manufacturers are concentrated between New York City and Philadelphia, including, among others, Defendants Actavis, Ascend, Aurobindo, Citron, Dr. Reddy's, Glenmark, Heritage, Lannett, Par, Sandoz, Sun, Teva and Zydus.

83. High-level executives of many generic drug manufacturers get together periodically for what some of them refer to as "industry dinners." For example, in January 2014, at a time when the prices of a number of generic drugs were reportedly soaring, at least thirteen (13) high-ranking executives, including CEOs, Presidents and Senior Vice Presidents of various generic drug manufacturers, met at a steakhouse in Bridgewater, New Jersey. Executives from Defendants Actavis, Aurobindo, Dr. Reddy's, Lannett and Sun, among many other generic manufacturers, attended this particular dinner.

84. At these industry dinners, one company is usually responsible for paying for all of the attendees. For example, in a group email conversation among the competitors in December 2013, one of the participants -- a high-ranking executive for Defendant Dr. Reddy's -- joked "[y]ou guys are still buying for Mark and I, right?" The response from another executive: "Well. . . I didn't think the topic would come up so quickly but . . . we go in alphabetical order by company and [a generic drug manufacturer not identified in this Complaint as a conspirator] picked up the last bill. . . . PS. . . . no backing out now! Its [sic] amazing how many in the group like 18 year-old single malt scotch when they aren't buying."

85. Some generic pharmaceutical sales representatives also get together regularly for what they refer to as a "Girls Night Out" ("GNO"), or alternatively "Women in the Industry" meeting or dinner. During these events, the sales representatives meet with their competitors and discuss competitively sensitive information.

86. Many "Women in the Industry" dinners were organized by a salesperson from Defendant Heritage, A.S., who resides in the State of Minnesota. Other participants in these meetings were employees of generic drug manufacturers located in Minnesota, or salespeople residing in the area. However, out of town sales representatives were also aware of these dinners and were included when in the area. For example, in November 2014, a salesperson from Defendant Lannett sent A.S. a text message asking "[w]hen is your next industry women event? I'm due for a trip out there and I'd love to plan for it if possible...." A.S. responded: "There is an XMas [sic] party at Tanya's house on Dec 6th. Yes that is a Saturday. We do it about once a quarter and usually it is during the week -- this was an exception."

87. Sometimes dinners were also planned around visits of out-of-town competitors. As A.S. stated in organizing the dinner:

> Sorry if the meeting/dinner invite is a little short notice, but [K.N., a National Account Representative at Defendant Dr. Reddy's] will [be] in MN on Sept 29th and it would be a great time for everyone to get together! So much has been happening in the industry too -- we can recap all our findings from NACDS [trade show] over a martini or glass of wine! :) Plus the food is super Yummy!

88. Several different GNOs were held in 2015, including: (1) at the ECRM conference in February (involving Defendants Citron, Dr. Reddy's, Heritage, Lannett and Teva, among others); (2) in Baltimore in May (involving Defendants Citron, Dr. Reddy's, Heritage, Teva and Zydus, among others); and (3) at the NACDS conference in August (involving Defendants Citron, Dr. Reddy's and Heritage, among others).

5. The Overarching Conspiracy Between Generic Manufacturers – *Playing Nice In The Sandbox*

89. As a result of these communications, sales and marketing executives in the generic pharmaceutical drug industry are aware of their competitors and their current and future business plans. This familiarity and opportunity leads to agreements among competitors to allocate markets to avoid price competition.

90. The overarching conspiracy among generic manufacturers, however – which ties together all of the agreements on individual drugs identified in this Complaint – is an agreement that each competitor is entitled to its "fair share" of the market, whether the market is a particular generic drug, or a number of generic drugs. "Fair share" is an approximation of how much market share each competitor is entitled to, based on the number of competitors in the particular drug market, with a potential adjustment based on the timing of their entry. Generally speaking, if a generic manufacturer is the first to enter a particular drug market it is entitled to a little more than its proportional share of the market; conversely, those generic manufacturers that enter later are typically entitled to a little less than their proportional share.

91. There is a common understanding among generic manufacturers, including Defendants, about what represents "fair share" in different circumstances. This collusive methodology has evolved over time during the numerous in-person meetings, telephonic communications and other interactions between generic manufacturers about specific drugs over the course of several years, but general rules of the road have been in place since at least 2006. These events occur with such great frequency that there is an almost constant ability for Defendants to meet in person and discuss their business plans. For example, between February 20, 2013 and December 20, 2013 (a 41-week period), there were at least forty-four (44) different tradeshows or customer conferences where the Defendants had the opportunity to meet in person. These in-person meetings gave the Defendants the opportunity to have these conversations, and reach these agreements, without fear of detection.

92. This overarching agreement is widespread across the generic drug industry and is broader than the Defendants named in this Complaint. The Plaintiff States focus here on the role of these named Defendants and their participation in and agreement with this overarching conspiracy. This Complaint describes conspiracies regarding the sale of specific drugs, and how these specific conspiracies are also part of the larger overarching conspiracy.

93. As described in more detail below, when necessary, the larger understanding was reinforced through phone calls and text messages between the Defendants to discuss fair share and the desire to maintain or raise prices with respect to specific drugs. These types of communications occur with great frequency across the industry, including among Defendants.

94. For example, from the period of July 1, 2013 through July 30, 2014, senior sales executives and other individuals responsible for the pricing, marketing and sales of generic drugs at Defendant Heritage spoke to representatives of every other U.S.-based corporate Defendant by

phone and/or text on multiple occasions. The following Table (Table 1), which is conservative because it is based on phone and text message records from only some of the executives and salespeople at issue,[1] and therefore shows only some of the phone calls and text messages between the Defendants during that period, sheds some light on the frequency with which Defendants communicate with each other.

Table 1
Heritage phone/text communications with other Defendants (by month)
July 1, 2013 – July 30, 2014

	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Jul-13 to Jul-14 TOTAL
Actavis										2				2
Apotex											17	2	1	20
Ascend										1				1
Aurobindo					1	1		1		5	2	1	3	14
Citron				6	1	12		7	1		2	29	52	110
DRL	1	6	3	2					1	5	3			21
Glenmark									1				3	4
Lannett	0	35		27			21	8		3	3	14	2	113
Mayne							1		2	7	3			13
Mylan	3	1			1		1		2	8		2		18
Par											3	6		9
Sandoz											4	3		7
Sun	1	2		1				3		3	10	32	7	59
Teva	7	9						5	5	3		1	5	35
Zydus		61	19	6									1	87
														513

95. Similarly, senior sales executives and other individuals responsible for the pricing, marketing and sales of generic drugs at Defendant Teva spoke by phone and/or exchanged text messages with representatives of every other U.S.-based corporate Defendant during the same time period. The following Table (Table 2), which is conservative because it is based on phone and text message records from only some of the executives and salespeople at issue, and therefore shows only some of the phone calls and text messages between Teva and the other Defendants during that period, sheds further light on the frequency with which Defendants communicate with each other.

[1] For example, to date, the Plaintiff States have subpoenaed and received phone records of only one employee of Defendant Ascend, one employee of Defendant Apotex, and three employees of Defendant Sun during this time period.

Table 2
Teva phone/text communications with other Defendants (by month)
July 1, 2013 – July 30, 2014

	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Jul-13 to Jul-14 TOTAL
Actavis		11	16	37	11	35	25	14	36	30	63	13	43	334
Apotex	3	4												7
Ascend		3												3
Aurobindo	17	5	3	15	8	10	7	7	6	6			5	89
Citron				3	3	3		1		1		1		12
DRL	2									2	1	3	6	14
Glenmark	7	8	1	17	18	21	5	4	2		3		8	94
Heritage	7	10						5	5	3		1	5	36
Lannett									16	13		1	13	43
Mayne	2		2	1	1	2	4	5				7		24
Mylan	28	22	2	7		12	6	1	1	1	7	1		88
Par	0		4	4	3	16	1	18	6	9	11	14	3	89
Sandoz	3	5	3				7		2	3		1		24
Sun				2		1				1			2	6
Zydus	75	29	25	203	43	48	20	39	46	35	41	14	20	638
														1501

96. Defendants actively monitor and track each others' fair share, and discuss it with each other in the context of agreements on specific drugs, as set forth more fully below.

97. There is no precise method for apportioning each participant's "fair share" because market share is obtained by winning the business of various customers, which is inherently variable in a given year. The shared understanding and goal, instead, is for the competitors in a particular market to reach out to each other with the expectation that they would be able to reach an agreement on "fair share" based on the industry understanding. The objective is to attain a state of equilibrium, where none are incentivized to compete for additional market share by eroding price.

98. This scheme to minimize competition and allocate fair share is implemented in different ways. First, Defendants allocate the market for an individual drug based on the number of competitors and the timing of their entry so that each competitor obtains an acceptable share of the market. Then, the competitors agree on ways to avoid competition on price and, at times, raise price.

99. Evidence of the larger conspiracy often presents itself as follows: When a competitor needs to obtain one or more customers to reach its fair share, a competitor with more

than its "fair share" will identify and "walk away" from a customer or customers by informing them of a significant price increase. The competitor looking to increase its share will then submit a supra-competitive bid at an amount slightly less than the original competitor. The competitors then continue to divide up customers until they reach an artificial equilibrium. This is referred to as a "stable" market. Once the market is "stable," the competitors agree not to compete on price and, at times, significantly raise prices in the absence of competition.

100. This understanding regarding "fair share" has been particularly effective when a new competitor enters the market – a time when, in a free-functioning competitive market, prices should go down. In today's generic drug markets, a new competitor will either approach or be approached by the existing competitors. Existing competitors will agree to "walk away" from specific customers until the market reaches a new artificial equilibrium. The new competitor's transition into the market is seamless; the new entrant obtains market share and immediately charges a supra-competitive price.

101. Decisions on "fair share" can, at times, be based on conduct that occurs between competitors across more than one generic drug market. To maintain the artificial equilibrium, customers in one drug market might be traded for customers in another drug market in an effort to arrive at a more global "fair share" outcome. Alternatively, competitors might allow price increases on one or more generic drugs without competing based on a quid pro quo from other competitors on different drugs.

102. For example, as discussed more fully below, when Defendant Heritage was preparing to launch a formulation of the generic drug Zoledronic Acid that was about to come off patent, its Associate Director of National Accounts, N.O., spoke to Dr. Reddy's Vice President of Sales and Marketing, J.A., to "see if he [was] willing to discuss strategy at all." After speaking

with J.A., N.O. stated that "[J.A.] views it this way. If they [Dr. Reddy's] are first and others come out after, he deserves 60%. If he launches with others on day [one], he considers fair share 2-50%, 3-33%, 4-25%, etc."

103. Similarly, as discussed more fully below, Defendant Rajiv Malik, the President of Mylan, told the CEO of Heritage that Mylan would "play fair" as Heritage entered the Doxy DR market and agreed that Mylan would give up two large accounts to Heritage. Malik specifically cited Heritage's prior agreement to allow Mylan to enter the market for another drug without competition as a reason that Mylan would cede share to Heritage in this instance.

104. When a generic manufacturer complies with the scheme, and prices remain high, it is viewed as "playing nice in the sandbox." For example, in December 2014 Defendant Teva was approached by a customer on behalf of one of Teva's competitors. The large retail customer indicated that Teva's competitor was entering the market for a particular drug not identified in this Complaint and was seeking to target specific customers. The customer specifically requested that Teva give up a specific large customer to the new entrant, and indicated that the new entrant – Teva's competitor – "has promised to play nice in the sandbox." After discussing the matter internally, a Teva representative responded to the customer: "[t]ell [the competitor] we are playing nice in the sandbox and we will let them have [the targeted customer.]"

105. This pattern is frequently followed even in the absence of direct communication between the competitors, demonstrating the universal understanding and code of conduct agreed to by Defendants. "Fair share" and "playing nice in the sandbox" have become part of the industry lexicon, and part of the larger understanding between Defendants. Defendants use these terms not only in discussions with each other in order to reach agreement regarding allocation of market share and pricing, but also with their customers.

106. These rules about "fair share" apply equally to price increases. As long as everyone in the "sandbox" is playing fair, and the manufacturers believe that they have their "fair share," the larger understanding dictates that they will not seek to compete or take advantage of a competitor's price increase by bidding a lower price to take that business. Doing so is viewed as "punishing" a competitor for raising prices – which is against the rules.

107. The agreement among all of the Defendants to adhere to the rules regarding "fair share" is critical in order to maintain high prices. If even one competitor is not aware of (and behaving in accordance with) the larger understanding, it can lead to unwanted competition and lower prices. In the relatively few instances where a competitor prioritizes gaining market share over the larger understanding of maintaining "fair share", that competitor is viewed as "irresponsible," and is spoken to by competitors.

108. In furtherance of this broader, overarching agreement, Defendants and other generic drug manufacturers routinely communicate and share information with each other about bids and pricing strategy. This includes forwarding bid packages received from a customer (e.g., a Request for Proposal or "RFP") to a competitor, either on their own initiative, at the request of a competitor, or by contacting a competitor to request that the competitor share that information.

109. Defendants and other generic drug manufacturers also share information among themselves regarding the terms of their contracts with customers, including pricing terms, price protection and rebates. Defendants use this information to negotiate prices or terms that are more favorable to them, often to the ultimate detriment of consumers.

6. Generic Drug Price Spikes Since 2013

110. Against this industry backdrop, the prices for a large number of generic pharmaceutical drugs skyrocketed throughout at least 2013 and 2014. According to one report,

"[t]he prices of more than 1,200 generic medications increased an average of 448 percent between July 2013 and July 2014."

111. A January 2014 survey of 1,000 members of the National Community Pharmacists Association ("NCPA") found that more than 75% of the pharmacists surveyed reported higher prices on more than 25 generic drugs, with the prices spiking by 600% to 2,000% in some cases.

112. More than $500 million of Medicaid drug reimbursement during the twelve months ending on June 30, 2014 was for generic drugs whose prices had increased by over 100%.

B. The Illegal Schemes

1. Market Allocation Agreements to Maintain Market Share and Avoid Price Erosion

113. When entering a generic drug market, Defendants routinely sought out their competitors in an effort to reach agreement to allocate market share, maintain high prices and/or avoid competing on price. These agreements had the effect of artificially maintaining high prices for a large number of generic drugs and creating an appearance of competition where in fact little to none existed.

114. Some examples of this illegal behavior are set forth below, organized for each generic drug and describing examples of specific agreements as to that drug.

a. Nimodipine

i. The Heritage/Sun Agreement.

115. Nimodipine, also known by the brand name Nymalize®, is a calcium channel blocking agent used to reduce problems caused by a bleeding blood vessel in the brain.

116. As of June 2012, Heritage and Defendant Sun, through its division Caraco, were the only two competitors in the market for Nimodipine. Defendant Teva had recently left the market, and Heritage wanted to use Teva's exit as an opportunity to raise prices.

117. In June, 2012, Jason Malek, Vice President of Commercial Operations at Heritage, asked A.S. to contact Caraco to discuss raising the price of Nimodipine. The resulting conversations reflect an agreement between the two companies to allocate the market and avoid competing on price, while at the same time making overt efforts to increase pricing market wide.

118. A.S. subsequently exchanged numerous text messages and participated in telephone calls with her Caraco contact throughout June 2012.

119. On June 28, 2012, in an email titled "Caraco," A.S. summarized the state of conversation between the companies:

> [S.K., Senior Sales Manager at Sun] brought up nimo[dipine] to her boss [G.S., President of Sun], his only concern was that they get their fair share of the market. She was not so much help on the pricing discussion – because she does not have much control over it. All pricing goes through [G.S.] and [G.S.] sets it. I do not know [G.S.] but [S.K.] mentioned our discussion with him so I can only hope the ground work has been set. I reiterated that we would like to see $ go up and we would be fair.

120. Malek responded: "Thanks for the info. Not sure what this means 'his only concern was that they get their fair share of the market.' They are getting their fair share of the market at a price they don't need to go to is what I wanted to communicate to them."

121. In her email response, A.S. agreed:

> That is exactly how I stated it to [S.K.] too! She made it almost seem like he did not care about the price or even this product. She admitted she knew nothing about the item – it is not a big/key item for them. I said it is big for us and with only two players it should command more $.

> I'd like to see if [S.K.] can communicate back to [G.S.] about the Nimo[dipine] on the Cardinal RFP (when it gets closer to the close of the RFP) – specifically mentioning the pricing we are going at so that Caraco can bring their price up too. This could demonstrate how communication can and should work between us to get the $ up.

122. The same day, A.S. sent an analysis of the upcoming Cardinal RFP to Malek and others at Heritage. The notes section regarding Nimodipine reflected that Heritage should "keep price high for Caraco." The plan for Heritage was that it would bid at a high price, which would be communicated to Sun beforehand, and would allow Sun to raise its price and still retain the Cardinal business.

123. On July 20, 2012, K.F., a Contract Analyst at Heritage, circulated proposed pricing for the Cardinal RFP which included pricing for Nimodipine that was lower than that proposed by A.S. In an email exchange that same day, A.S. and Malek discussed raising prices:

> A.S.: "My only concern is Nimodipine – and situation with Caraco and raising our market pricing. If we don't let them increase pricing here – will it always be a fight to the bottom with them?"
>
> Malek: "I don't have a problem with it but, we need another account. Who is that account? They took CVS from us and we let it go and now they are getting aggressive at publix and at GPO's."
>
> A.S.: "I understand – I just think the timing is critical if we want to raise our pricing everywhere. This Cardinal RFP was mentioned in previous conversations – and now with NACDS coming – it is a perfect time to have those off-show conversations with the right folks and reiterate the 'plan.' Plus the RFP pricing will not be effective until Oct 1st – we would have time to discuss our pricing with Cardinal (and others) before that final date. Ie: I think we could still lowball the Nimo a little later if necessary."
>
> Malek: "If you feel comfortable we can have those conversations and benefit from this then I agree. We can talk off line."
>
> A.S.: "If I don't continue the conversations now (and at NACDS) and if we lowball right of the gate on the RFP, I think we close the door for a long time."

> Malek: "Ok, let's give it a shot. So we will increase the price, you should tell them that so they can do the same without any comp."

124. That same day, A.S. spoke to S.K. During this and other numerous communications over the coming weeks, by text, phone and in-person at NACDS, the two companies reached an understanding about raising the price and avoiding competition for Nimodipine. Pursuant to the agreement, Heritage provided a cover bid -- i.e., it raised its price on the bid high enough so that Sun would be able to significantly raise its price and still retain the Cardinal business.

125. Heritage and Caraco were both able to significantly raise prices to other customers as well as a result of this agreement.

126. Only a few months later, after awarding the contract for Nimodipine to Sun, Cardinal approached Heritage asking for a "one off bid for Nimodipine." On October 15, 2012, the Cardinal representative explained that "We are not convinced Caraco has there [sic] supply chain right so we are looking for a new partner and I thought I'd come to you first."

127. A.S. immediately forwarded the request to Malek, describing it as a "gift" from Cardinal. A.S. explained: "Please see email below… Cardinal wants a Nimo offer! I don't think this harms our 'understanding' with Caraco because Cardinal is coming to us."

128. A.S. proposed that Heritage provide Cardinal with an offer consistent with price increases it had recently taken with another wholesaler. A.S. explained that Heritage could offer the higher price and still win the business because "I believe Caraco raised pricing on the RFP, from discussions I had at NACDS [in August 2012]." Malek responded: "Yes, if you think that gets us there." A.S. confirmed this understanding the next day, when she spoke to S.K. for more than thirty-eight (38) minutes.

129. In late 2012 and early 2013, Heritage began to hear that Sun would potentially be subject to an FDA recall for Nimodipine relating to certain problems with manufacturing. On December 17, 2012, Malek emailed A.S. and said "Can you reach out to your friend at caraco and ask about nimo? Looks like they have recalls over some serious issues. Haven't heard them coming back but need to gauge timing they will be back in the market." A.S. later confirmed that she reached out to her contact at Sun, who was "not aware or [sic] any problems/issues and supply was fine."

130. Subsequently, on April 16, 2013, A.S. reported to Malek that "Caraco has not been bidding Nimo on recent RFPs due to lack of knowledge of when product will be available again. Rep from Caraco says it's not discontinued; they do plan/hope to be back with it soon but [don't] know when."

131. Malek's first response was "Great feedback, time for next increase!" But he also followed up with some additional instructions about a week later, expressing his willingness to continue the agreement with Sun when it did re-enter the market: "Please feel free to tell your friend generally what has happened in the nimo market and to make sure if/when they are back they talk to us first so we can be smart about it."

132. On May 23, 2013, A.S. again spoke to S.K., who indicated that Caraco may be returning to the market for Nimodipine in June or July. A.S. immediately reported this news to Malek: "Caraco's Nimodipine has an estimated ship date of June/July but frankly that looks even too hopeful. And there's a small rumor they may not come back with it. A reminder was provided about our recent changes on that item." This resulted in the following email exchange between the two:

Malek: "OK… Where did you hear this from!!"

A.S.: "Vendor/friend [S.K.]"

Malek: "Are they raising theirs?"

A.S.: "They are not yet but admit it would be nice to"

Malek: "Well we would follow in one second……"

A.S.: "I did say that!"

Malek: "hahahahahahaha"

133. During the next year, Caraco did not return to the market. Heritage was able to continue charging the artificially inflated prices previously agreed to by Caraco, and at times higher prices, as a result – knowing that if Caraco did return to the market, the original agreement between the companies would continue.

134. This agreement between Heritage and Sun was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

ii. The Heritage/Ascend Agreement.

135. In April of 2014, Defendant Ascend received FDA approval to begin producing Nimodipine for sale. Malek informed Heritage employees of the approval on April 8, 2014, instructing them to "be aware of [Ascend] coming to the market." That same day, Malek sent a message to J.D., the Executive Vice President of Sales and Marketing at Ascend, through the website LinkedIn, asking if J.D. had "time to catch up tomorrow afternoon or Thursday morning." J.D. responded: "I would like to catch up."

136. On April 22, 2014, Heritage identified Nimodipine as one of eighteen different drugs designated for a price increase. As discussed more fully below, a large majority of the price increases were to be achieved through collusive efforts. During a "Price Increase

Discussion" conference call with members of the Heritage sales team, led by Malek, Heritage noted that Ascend was going to launch Nimodipine. Malek took responsibility within Heritage to communicate with Ascend about market shares. Heritage planned to offer Ascend one-third (1/3) market share, so that Ascend would not compete with Heritage on price.

137. Malek took this responsibility to communicate with Ascend because he already had a relationship with J.D. The pair had previously met in February 2013. Malek had also been communicating frequently with J.D. through the website LinkedIn in the weeks leading up to the April 22, 2014 Price Increase Discussion.

138. Later in the day after the Heritage "Price Increase Discussion" on April 22, 2014, Malek called J.D. and the two spoke for nineteen (19) minutes. Upon information and belief, during this conversation they agreed on a plan where Heritage would raise its prices, Ascend would enter the market at a high price to avoid erosion, and in exchange Heritage would walk away from certain accounts that Ascend had targeted so that Ascend could gain market share at favorable pricing.

139. On May 9, 2014 Heritage had another internal conference to discuss price increases. After obtaining buy-in from Ascend during the April 22 telephone call between Malek and J.D., Heritage confirmed that it would be raising prices of Nimodipine across the board. Heritage also identified specific customers that it would "let go" to the "new entrant into market," Ascend.

140. In June 2014, Malek sought to continue his conversations with J.D. regarding Nimodipine. He emailed J.D. on June 6, 2014 seeking to arrange a phone call. After they were unable to connect by phone, J.D. suggested they meet in person and "grab coffee" at the NACDS conference in Boston.

141. At the end of June, Heritage implemented the price increase. Heritage raised the price of Nimodipine to at least twelve customers.

142. Malek emailed J.D. on October 29, 2014, again asking to "catch up." The two spoke by phone for ten minutes the next day. On November 4, 2014, Malek emailed J.D. to "[l]et me know when we can re-connect to continue our discussions from the other day." Instead of communicating specifics over email, Malek and J.D. made plans to have lunch together when Malek returned from India.

143. Two weeks later, on November 18, 2014, Malek emailed J.D., stating: "[J.D.], [j]ust sent you a text. Fresh back from India. Wanted to pick up discussions. Let me know if you can chat." On November 25, 2014, Malek emailed J.D. again asking if J.D. "had a few minutes to connect."

144. On January 22, 2015, Malek asked Heritage employee R.S. to reach out to Ascend to see if Ascend had Nimodipine in its warehouse. Malek stressed that this inquiry should be kept confidential.

145. R.S. reached someone at Ascend. By January 24, 2015, Malek was able to inform his sales team that Ascend had Nimodipine in its warehouse.

146. By May 1, 2015, Ascend had fully launched Nimodipine. Instead of trying to compete with Heritage upon entry, Ascend's WAC price, per tablet, was even higher than Heritage's.

147. Notwithstanding this higher pricing per tablet, Ascend began to gain market share throughout the second half of 2015.

148. This agreement between Heritage and Ascend was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

b. Zoledronic Acid

149. Zoledronic Acid, also known by the brand names Zometa® and Reclast®, is a biophosphate drug used for treatment of certain bone diseases. Given intravenously, Zoledronic Acid treats high blood calcium levels that may occur with cancer.

150. Heritage began selling a 5mg formulation of Zoledronic Acid in the spring of 2013, when the product was first coming off patent. The brand manufacturer, Novartis, had previously marketed two formulations of the drug: a 5mg injection called Reclast®, and a 4mg injection called Zometa®. Heritage initially sought to launch only on the 5mg formulation. Even before the product was officially launched, Heritage began communicating with its potential competitors in order to divvy up the market and avoid price competition.

151. For example, on January 21, 2013, Malek sent an email to N.O., Associate Director of National Accounts at Heritage, asking N.O. to reach out to Dr. Reddy's, the only other competitor that Malek believed would be selling the product on the first day it could be made available. The email read:

> NO:
>
> Would like you to have a call with [J.A., Vice President, Sales & Marketing at Dr. Reddy's], on Zoledronic.
>
> Right now, only us and DRL have a tentative on the 5mg (reclast).
>
> Need to know if he's going to be there day one and see if he's willing to discuss strategy at all.
>
> This is huge right now if it's only a two player market and we need to lock in our strategy.

> The information from customers and competitors will be key in our pricing and bidding decisions.

152. The next day, N.O. attempted to contact J.A., but J.A. was on a conference call. N.O. informed Malek that J.A. would call him back later that morning. Malek then outlined exactly what he wanted N.O. to say when J.A. called him back:

> Ok. Here are the questions if you would..
>
> Are they going to be there day one (March 4)
>
> Have they heard of any others there say [sic] one?
>
> Are they launching the 4mg (zometa) at risk?[2]
>
> Have they heard of anyone else launching the 4mg at risk?
>
> What's their market share goal?

153. N.O. immediately called J.A. and they spoke for ten (10) minutes. N.O. then reported his findings to Malek that Dr. Reddy's would be launching on day one for the 4mg product, but that it was not yet certain about the 5mg. In response to Heritage's questions about market share, N.O. generally described J.A.'s willingness to divide the market: "he views it this way. If they are first and others come out after, he deserves 60%. If he launches with others on day [one], he considers fair share 2-50%, 3-33%, 4-25% etc." Less than an hour later, J.A. called N.O. and they spoke again for nearly nine (9) minutes.

154. N.O. spoke to J.A. again on January 24, 2013 for nearly twenty-four (24) minutes.

155. Even though he believed that Dr. Reddy's would be Heritage's only competition for Zoledronic Acid, Malek did not take anything for granted. On January 22, 2013, Malek also asked A.S. to reach out to several individuals, including her "friend at caraco", S.K., to see "if

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[2] An "at risk" generic launch refers to a scenario where a generic manufacturer launches product sales after the FDA has reviewed and approved its ANDA, but while patent litigation is still ongoing.

they are launching zoledronic day one?" He provided A.S. with the same list of questions to ask S.K. that he had provided to N.O.

156. Malek also asked A.S. to contact a large wholesaler and ask whether the wholesaler was aware of any other manufacturers that would be entering the market for Zoledronic Acid on "day one." Lastly, Malek asked A.S. to reach out to a representative at a company not identified as a coconspirator in this Complaint. A.S. reached out to each of those competitors, and confirmed that they would not be entering the market for Zoledronic Acid.

157. As the launch approached, Heritage continued to communicate with Dr. Reddy's to refine their agreement on market share and initial pricing for Zoledronic Acid, acutely aware that what they were doing was illegal. For example, on March 1, 2013, N.O. emailed Malek informing him that N.O. had left J.A. a message "to have him call me back. Did not leave anything that would incriminate me—very generic." N.O. then spoke to J.A. for almost eight (8) minutes on March 4, 2013.

158. At the same time, M.E., a Senior National Account Manager at Heritage, was communicating with his counterpart at Dr. Reddy's. M.E. called his counterpart and left a message on March 3, 2013. Two days later, the Dr. Reddy's National Account representative returned the call and the two spoke for fifteen (15) minutes.

159. Malek was concerned that Dr. Reddys' initial pricing to at least one customer appeared to be lower than he hoped. On March 6, 2013, he emailed N.O. expressing this concern and asking "[a]ny chance you can talk to them and educate them on supply and demand economics?" N.O.'s response was "[y]es, they were working on it yesterday, but [I] will give him a call and discuss."

160. Malek also asked M.E. to speak again with his counterpart at Dr. Reddy's about Zoledronic Acid while they were attending a customer conference together in March 2013. They spoke by phone twice and exchanged numerous text messages on March 12, 2013. On March 13, 2013, Malek emailed M.E. asking "Did you talk zoledronic with anyone?" M.E.'s response was: "There were a bunch of people around us before and during dinner. After dinner I was supposed to go gamble with him but I started talking to [a customer representative] and ended up talking to him for an hour. By that time it was late and I went to bed." M.E. indicated that he had called his counterpart at Dr. Reddy's and they would "talk about it soon." M.E. spoke with his counterpart at Dr. Reddy's on April 3, 2013 and confirmed that Dr. Reddy's had just begun shipping the 5mg product that day, and would be pricing "in the 500 range." The two continued to speak numerous times throughout the rest of that month.

161. As Heritage continued to discuss the matter internally, Malek sent a text message to his entire sales team on April 19, 2013, reminding them to keep their discussions out of writing: "Team: please hold off on emails regarding zoledronic indication, insert, prescribing, etc. take all questions off line. We will have a call today with Jeff [Glazer, CEO of Heritage] to discuss."

162. Whenever there were challenges between Heritage and Dr. Reddy's for specific customers, those disagreements were resolved through direct communications between the companies. For example, in November 2013, Dr. Reddy's offered a lower price to one of Heritage's customers. When Malek learned of this, he immediately emailed M.E., saying "When you spoke to [your counterpart at Dr. Reddy's], weren't they going to chill on share[?]" M.E. replied: "He told me that he was going to speak to their injectable people and let them know that they should chill."

163. Despite these occasional challenges, the general agreement regarding market share allocation between Heritage and Dr. Reddy's continued. For most of 2013 and 2014, the market remained stable with Dr. Reddy's maintaining roughly 60 percent market share to Heritage's 40 percent for the 5mg Reclast® formulation.

164. This agreement between Heritage and Dr. Reddy's was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

c. Meprobamate

165. Meprobamate, also known by the brand-names Miltown® and Equanil®, is a generic pharmaceutical drug used to treat short-term anxiety, tension and insomnia.

166. In 2013, Heritage and Dr. Reddy's were the only manufacturers in the market for Meprobamate. The two companies had an agreement in place to allocate market share between them and not compete on price.

167. Heritage decided it wanted to increase price significantly. On March 21, 2013, Malek sent an email to N.O. and M.E. titled "mepro." In the email, Malek stated "Looking to take a price increase on this. Only other competition is DRL. We don't want to make any waves and we are not looking for additional share, just want to maintain what we have at a minimum of a 4x price. Anyone want to reach out to DRL [Dr. Reddy's] and communicate to feel out?"

168. N.O. responded: "I will try to reach out to [J.A.]." Malek added: "[M.E.], maybe you can touch base with your buddy too." M.E. responded: "Will do."

169. N.O. spoke with J.A. the next day for nine (9) minutes, and the two companies reached an agreement to raise the price of Meprobamate. N.O. confirmed the agreement in an email that same day, stating: "DRL is on board with price increase. I will fill you in later."

170. On March 25, 2013, Malek responded: "Great news. So if we move forward we shouldn't expect any backlash?" N.O. once again confirmed the agreement in his response: "No, they were actually thinking about it as well, but lack of inventory kept them stationary. I think they will follow suit and not pursue others if we raise."

171. Only two days later, on March 27, 2013, Heritage received a request from a large national wholesaler for a bid on Meprobamate. Malek immediately forwarded the email to N.O., asking "This DRL?" In response, N.O. said "Yes, they are on a tight supply schedule, thus the reason they have not increased pricing yet. Due to my conversation with [J.A.] the other day, I think we should tread lightly or else bid a high price to show them where we are going."

172. Malek agreed. His response clearly reflected the agreement that existed between Heritage and Dr. Reddy's, and Heritage's intention to abide by it:

> Unless [the large national wholesaler] calls you and asks for supply, I recommend letting the market dry up a bit and showing DRL we stayed away from their business.
>
> We are taking the price up asap everywhere else.

N.O. then had a four-and-a-half minute conversation with J.A. on March 29, 2013.

173. Subsequently, in April 2013, Dr. Reddy's approached Heritage to discuss its desire to get additional market share on Meprobamate. Dr. Reddy's specifically asked Heritage "to walk from" one large national pharmacy chain. Heritage then sent an email to the large pharmacy chain on April 24, 2013, stating: "Hate to do this, but due to API and manufacturing increases, we are increasing all prices of Meprobamate across the board. Please review and contact me with any questions."

174. In response, the large pharmacy chain responded that it had "made a business decision to name another manufacturer as our primary supplier of Meprobamate tablets." M.E. forwarded the email to Malek stating "We knew this was coming."

175. On May 17, 2013, after some initial confusion about exactly which business Heritage had agreed to give up to Dr. Reddy's, Malek told M.E. "Please call [your counterpart who was a National Accounts Director at Dr. Reddy's] and tell him we walked from this for them but that's it." Malek then provided M.E. with more detail to convey to Dr. Reddy's:

> This is what you say.
>
> We know you bid at [the large national pharmacy chain] and although we had a ROFR [Right of First Refusal] we decided to walk based on the conversation we had two weeks ago.
>
> This makes the playing field for market share more even and I assume since you were looking for one more customer that you are good now.
>
> Tell him you don't think the team is going to walk from anymore share at this point.

176. M.E. called his counterpart at Dr. Reddy's that day and left a message. The two subsequently spoke on May 21, 2013 for nearly seven (7) minutes.

177. Both Heritage and Dr. Reddy's were able to significantly raise prices across the board – nearly simultaneously – as a result of this agreement. Heritage price increases became effective in late April, 2013. Dr. Reddy's price increases became effective May 10, 2013.

178. Over the next several years, the market for Meprobamate remained very stable as a result of the agreement between Heritage and Dr. Reddy's. Prices and profit margins for the two companies remained very high, due to the lack of competition in the market.

179. This agreement between Heritage and Dr. Reddy's was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

d. Doxy DR

i. The Heritage/Mylan Agreement.

180. Doxycycline Hyclate Delayed Release ("Doxy DR"), also known by the brand-name Doryx®, is a tetracycline-class antimicrobial indicated as adjunctive therapy for severe acne.

181. Heritage entered the market for Doxy DR on or about July 2, 2013. The only other generic manufacturer selling Doxy DR at that time was Defendant Mylan.

182. Even before Heritage began selling Doxy DR, representatives of the company began to communicate with Mylan in an effort to divide the market and refrain from competing with each other on price. Because Mylan was the only manufacturer of Doxy DR in the generic market at that time, pricing for the drug was still very profitable.

183. In April 2013, Malek and then-Heritage CEO Jeffrey Glazer traveled to India and met with two executives of Heritage's parent company, Defendant Emcure, to discuss, among other things, their plans to enter the Doxy DR market and to coordinate how Heritage and Mylan could minimize competition between them. It was decided that Defendant Satish Mehta ("Mehta"), the CEO of Emcure, would reach out first to a high-level counterpart at Mylan, Defendant Rajiv Malik ("Malik"), in order to facilitate subsequent communications between Glazer and Malek and their Mylan counterparts.

184. In early May, Heritage employees at many levels began to reach out to their counterparts at Mylan to discuss Doxy DR.

185. On May 3, 2013, Malek asked N.O. to set up a call between Malek and his counterpart, the Vice President of Sales at Mylan. The next day, N.O. provided Malek with contact information for J.N., a Vice President and Executive Director at Mylan. Malek promptly connected with J.N. through the website LinkedIn.

186. Similarly, on May 7, 2013, Glazer emailed Defendant Malik, President and Executive Director at Mylan. Glazer stated: "Rajiv: Would like to schedule a time for a call to catch up and discuss some recent Heritage news. Please let me know when you are available and we'll pencil it in." Malik responded with a phone number where he could be reached in England, and the two spoke the next day.

187. During that phone call, Glazer explained to Malik that Heritage had strong business relationships with two of Mylan's Doxy DR customers – a large wholesaler and a large retail pharmacy – and that Heritage intended to pursue Mylan's business at those two accounts. Heritage's goal was to achieve significant market penetration – the two customers discussed represented approximately thirty-percent (30%) of the market – without aggressive (low) pricing.

188. Malik responded that Mylan would "play fair" and agreed to give up the two accounts to Heritage. Malik specifically cited Heritage's prior agreement to allow Mylan to enter the market for another drug without competition as a reason that Mylan would cede share to Heritage in this instance. The competitors understood that this agreement would allow Heritage to gain market share without eroding the lucrative Doxy DR pricing in the market at that time. Malik told Glazer that he would let others at Mylan know of the plan.

189. Over the coming months, Mylan gave up those two customers to Heritage in accordance with the agreement.

I. The Large Wholesaler Account ("Wholesaler A")

190. In June 2013, Malek met at an HDMA conference in Orlando with a senior executive from Wholesaler A to discuss potential product opportunities, including Doxy DR. Very shortly thereafter, Heritage submitted a detailed product proposal to the wholesaler. Over the succeeding days, Malek reiterated the company's keen interest in entering into a supply agreement with Wholesaler A for Doxy DR.

191. During that same period, Heritage and Mylan executives continued to discuss the market allocation scheme. For example, on June 11, 2013, M.A., a National Account Manager at Mylan called N.O. and the two spoke for nearly ten (10) minutes. Immediately following that call, N.O. called Malek to report his conversation and left him a voicemail. The two connected fifteen (15) minutes later and spoke for seven (7) minutes.

192. On June 18, 2013, a senior manager at Wholesaler A emailed L.W., a National Account Manager at Mylan, informing him that he had received an unsolicited bid for Doxy DR from a new entrant. The manager asked that Mylan submit a bid to retain the business by close of business on June 21, 2013. This process is a customary practice in the industry and is often referred to as a "Right of First Refusal" ("ROFR"). An ROFR is often included as a term in supply contracts between manufacturers and their customers, giving the incumbent manufacturer the right to beat a competitor's price and retain the business.

193. In keeping with the agreement Mylan had reached with Heritage to cede Wholesaler A's business, Mylan did not exercise its ROFR and failed to submit a counter bid to retain the Doxy DR business at the wholesaler.

194. On June 27, 2013, having received no bid from Mylan, Wholesaler A entered into a distribution agreement with Heritage for Heritage to serve as Wholesaler A's primary supplier of Doxy DR.

195. To date, Heritage has maintained the Doxy DR business at Wholesaler A without any competition from Mylan.

II. The Large Retail Pharmacy Account ("The Pharmacy")

196. On July 8, 2013, Heritage submitted a product proposal letter to The Pharmacy seeking to obtain its Doxy DR business. The next morning, on July 9, 2013, The Pharmacy rejected Heritage's bid because the proposed pricing was too high.

197. On July 11, 2013, Heritage e-mailed a revised bid to The Pharmacy and lowered its proposed pricing in a continued effort to obtain the Doxy DR business.

198. At the same time that Heritage was attempting to secure an agreement with The Pharmacy, both Heritage and its parent company Emcure continued to communicate with Mylan to keep its competitor updated on the company's efforts. In particular, Heritage wanted to make sure that Mylan was still committed to the agreement and would cede the very important large retail pharmacy account to Heritage if challenged. To further this effort, Defendant Mehta of Emcure spoke to Defendant Malik of Mylan on July 18, 2013. Shortly thereafter, V.T., the President of Corporate Development and Strategy at Emcure, emailed Glazer stating "Satish spoke to Rajiv. Call me when free."

199. After speaking to V.T., Glazer e-mailed Malik asking whether the Mylan President had time that day for a call. Malik responded that he could call Glazer later in the evening. That evening, Malik called Glazer and left a voicemail. Fifteen minutes later, Glazer called Malik back and the two spoke for 4 minutes.

200. During the call, Glazer conveyed Heritage's strategy and position to Malik about The Pharmacy as well as Doxy DR in general. Glazer told Malik directly that Mylan's reaction to Heritage's bid with The Pharmacy would "set the tone of whether this is a high priced item or more erosion." As set forth more fully below, Mylan's reaction was to cede the business to Heritage and avoid price erosion. After speaking to Glazer, Malik immediately spoke to certain Mylan employees.

201. On August 6, 2013, M.A. of Mylan called N.O. and the two spoke for nearly thirteen (13) minutes.

202. On August 15, 2013, an executive at The Pharmacy contacted G.T., a National Account Manager at Mylan, to inform him that The Pharmacy had received an unsolicited bid for the Doxy DR business. The executive gave Mylan a very short turnaround time to submit a counter bid to retain the business.

203. In accordance with the agreement between Mylan and Heritage, Mylan submitted a bid for Doxy DR but lowered its price by only $10, knowing that this price adjustment would not be enough to retain the business.

204. Later that day, The Pharmacy contacted G.T. notifying him that Mylan's price reduction was not enough to retain the Doxy DR business and offered Mylan a second opportunity to lower its pricing. G.T. responded that he would let The Pharmacy know by the next morning if Mylan intended to submit a revised bid.

205. Mylan declined to submit a revised bid to retain the Doxy DR business at The Pharmacy. As a result, in September 2013 The Pharmacy awarded the agreement to Heritage to serve as the retailer's primary supplier of Doxy DR.

206. To date, Heritage has maintained the Doxy DR business at The Pharmacy without encountering any further competition from Mylan.

III. Other Customer Accounts

207. Even after Heritage obtained the Doxy DR business at the two former Mylan accounts, the competitors continued to coordinate their efforts to maintain artificially high prices for Doxy DR. In furtherance of that goal, on several occasions, Heritage walked away and/or refrained from competing with Mylan for the Doxy DR business at other customer accounts so as not to upset the market share understanding between the two companies.

208. For example, on November 25, 2013, after Mylan sought to protect its business with another large account, Malek sent an email to N.O. asking "can you reach out?" N.O. responded: "I have tried with [M.A., Director of National Accounts at Mylan] and nothing. Will try again."

209. That same day, Malek also emailed Glazer, saying that "Mylan is trying to protect [the one large account at issue]. We should reach out to rajiv [*sic.*], we need one more account and we are done." Glazer's response made clear the purpose of the agreement with Mylan (maintain high prices) and questioned whether Heritage should take any action that would disrupt that agreement: "We need to look at our market share, current biz and pricing with and without [the one large account at issue] and make a decision. You don't want them retaliating and lowering prices at other accounts."

210. After conducting the evaluation, Heritage determined not to risk altering the Doxy DR market-share balance between the two companies and, thus, declined to further pursue the Doxy DR business at the large retailer.

211. Similarly, in February 2014, a new competitor, Defendant Mayne (formerly Midlothian Labs), entered the Doxy DR market.

212. Shortly thereafter, Heritage was solicited by a large wholesaler requesting a bid for Doxy DR. A.S. learned from the wholesaler that Mayne had provided an unsolicited bid for the Doxy DR business, which prompted the wholesaler to approach the incumbent supplier, Mylan, to see if Mylan would match the price in order to retain the contract. Because the unsolicited Mayne bid essentially re-opened the bid process, the wholesaler asked Heritage if it would like to bid on the Doxy DR as well.

213. In discussing the issue internally, Malek conceded that Heritage had the Doxy DR supply to fulfill the contract, but wanted "to be careful." Providing a bid would be perceived as an attack on Mylan's business and could have resulted in retaliation. A.S. agreed, adding that "we may want to allow Midlothian to have [the large wholesaler's business] since we have [a different, very large wholesale account], and others, already."

214. The next day A.S. responded to the wholesaler and declined to provide a bid. The reason A.S. gave to the customer for the inability to provide the bid was that Heritage might not have enough supply to fulfill a contract with the wholesaler. A.S.'s explanation, however, was a lie, because three days later, she solicited a different customer – a pharmacy chain – and asked if Heritage could bid for that company's Doxy DR business, saying "we have the opportunity to add another customer."

215. Finally, in August 2014, Heritage refused to bid for the Doxy DR business on an RFP issued by yet another Mylan customer. After deciding against submitting a proposal, Malek sent an internal email to N.O. titled "doxy dr." In the email Malek stated "[f]eel free to let your contact at mylan know we are not bidding on the rfp . . . ."

216. As a result of Heritage's unlawful agreement with Mylan, pricing for Doxy DR has been substantially higher than it would have been in a competitive market.

217. This agreement between Heritage, Emcure and Mylan was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

ii. The Heritage/Mayne Agreement

218. Defendant Mayne entered the market for Doxy DR in or about February 2014. Even before launching the product, Mayne approached Heritage to discuss its plans. For example, on January 7, 2014, G.S., a Director of National Accounts at Mayne, spoke by phone with A.S., a National Accounts Manager at Heritage, for 12 minutes.

219. As a result of that conversation, Mayne's initial strategy was to avoid bidding on Heritage customers and to instead target Mylan, which at the time had roughly 60% of the Doxy DR market. That strategy was not entirely successful, however. In an internal Mayne email discussion on February 21, 2014, after learning from a wholesaler that Mylan had retained its business with that wholesaler, C.S., Executive Vice President of Generic Products at Mayne, gave G.S. his understanding of the situation based on his experience in the industry: "How I read this is Mylan has given up several large customers to Heritage and they are not giving any more. We need to go after business at Heritage also." G.S. replied "Perhaps. . . ."

220. G.S. continued to communicate with A.S. about Doxy DR. They spoke by phone on March 13, 2014 and again four days later on March 17, 2014 for 17 minutes. Later that day, in an email to Malek and others at Heritage entitled "Midlothian intel on Doxy DR," A.S. recounted their latest conversation, as well as her current understanding with G.S.:

> I just spoke with [G.S.] of Midlothian (Mayne Pharma) about Doxy DR. She is the "one-man" show for that company -- she has

> all accounts including GPOs. She has not been able to get much share on the product yet, so she says.
>
> She did not bid OneStop, we have that customer.
> She did not bid Optisource, we have that customer, and she was aware that Rick had no interest in switching.
> She has been shut down at WalMart (Walmart said they couldn't go back to Mylan to reduce price again after we bid); and she was shut down at Rite Aid, Cardinal and ABC -- stating Mylan does not seem to want to give up any share. I shared info that we chose not to bid at Cardinal when asked.
>
> She will be bidding it on the HD Smith RFP.
> She will be targeting M&D now. She may go after NC Mutual but the usage is very small there.
> She already has some GPO business and they already have Publix and WinnDixie business. (Important for tracking reports).
> They are no where near a contract with WAG yet so she feels like that is not an option.
>
> She is feeling pressure from the Mayne Pharma folks to get some share on this product asap. I let her know what accounts we had locked up -- and I got the impression she would not target those folks.

221. Malek responded: "[t]hanks for the notes below. How well do you know [G.S.]?" A.S.'s response was "I know her pretty well from over the years in the industry."

222. Only two weeks later, however, Heritage learned that Mayne had made an unsolicited bid for Doxy DR to one of Heritage's large retail pharmacy accounts. On March 31, 2014, Malek emailed A.S. stating that Mayne "[t]ook a shot at our doxy dr [at the large pharmacy account]. Can you reach out?" A.S. responded: "Yes - I can."

223. The next day, on April 1, 2014, A.S. spoke with G.S. for 27 minutes. Immediately thereafter, A.S. sent a text message to Malek stating "[s]poke with [G.S.] of Midlothian. Said she had to go to [the large pharmacy customer]. Just got declined at Walgreens and went back a second time to cardinal and got declined again." Malek responded that Heritage "can't walk from [the large pharmacy customer]. Tell her to try Walmart."

224. G.S. called A.S. again the next day and they spoke for 11 minutes. Malek also emailed the CEO Glazer, stating "[w]e are going to have to take doxy dr 30% lower at [the large pharmacy customer]. They don't pick up the phone for less than 20% difference. In this case, we spoke with Midlothian and they have struck out completely on getting share. They have gone to wag [Walgreens] and cah [Cardinal Health] twice and mylan won't budge. Please let me know your thoughts."

225. A.S. and G.S. spoke again on April 9, 2014 for 3 minutes. A.S. then reported the conversation to Malek and N.O.: "Just got a call from [G.S.] at Midlothian and she said she has offers in to [McKesson] One Stop and Econdisc."

226. The next day, A.S. and G.S. exchanged a series of text messages:

> (1:14pm) A.S.: "Hi! It is [A.S.]! Just getting back to you on our discussion yesterday. I don't have either account but my boss said since we are strategically aligned with both they will probably not move. We will protect. Sorry – I know it is not the news you wanted to hear."
>
> (1:16pm) G.S.: "Thanks. Had he given up CVS we would not have gone after the other two. We'll just keep going back as soon as we can."
>
> (1:18pm) A.S.: "I am bummed for you. I am keeping my ears open to understand the landscape too. I will let you know what I find out. Best bets are the RFPs that are out now."
>
> (1:19pm) G.S.: "Need volume. Need one Large account."

227. Mayne continued to look for a large account over the next several months. Heritage did walk away from one account in May, 2014 when Mayne underbid Heritage's price. Upon learning of the unsolicited bid from Mayne, K.F., Associate Director of Pricing and Contracts at Heritage, asked Malek, "[l]et me know what you want me to do on this. Would like

to keep, but at the same time, Midlothian will keep going after accounts." To that, Malek responded, "[w]e will walk."

228. In November 2014, Mayne again put in offers to McKesson One Stop and Econdisc. On November 20, 2014, M.E. sent an email to Malek and others at Heritage stating "Midlothian has taken another shot at our business on the Doxy 150mg at Econdisc and we have to respond to this in a timely manner."

229. The next morning, A.S. sent a text message to G.S. stating "Happy Friday! Do you have a minute to talk about Econdisc?" G.S. responded, "Yes. Call me." A.S. then called G.S. and the two spoke for 15 minutes.

230. A.S.'s notes reflect that when they spoke, she asked G.S. what her goals were with respect to Doxy DR. G.S. responded that Mayne was looking for market share; she told A.S. that Mayne had to get a "big customer like Econdisc." G.S. told A.S. that she had also submitted an offer to McKesson 10 days ago. A.S. floated the idea that Heritage may be willing to walk from Econdisc if Mayne would agree not to price Doxy DR aggressively, and if Mayne would also agree to withdraw its offer to McKesson.

231. Immediately after speaking with G.S., A.S. sent an email to Malek with a subject line "spoke with [G.S.]" and stating "[c]an discuss any time."

232. After conveying to Malek what she had discussed with G.S., A.S. and G.S. exchanged several voicemails and text messages over the course of the day.

233. Later in the afternoon on November 21, 2014, N.O. sent an email to Malek and others at Heritage, stating "Midlothian coming after us @ McKesson. Will discuss with you on Monday." Malek immediately forwarded the email to A.S. who responded, "[G.S.] and I played phone tag after I had spoken to you for the second time so we will definitely connect Monday."

234. On November 24, 2014, A.S. and G.S. connected by phone and spoke for six (6) minutes. After speaking with G.S., A.S. emailed Malek stating "Just spoke with her ... can you call me anytime?" Within a half hour, after speaking with Malek, A.S. made a formal offer to G.S. by text message: "If you retract McK[esson] - we will give up Econ[disc]. I can talk anytime."

235. The next day, November 25, 2014, Malek emailed A.S. asking "[d]id you speak with [G.S.]?" A.S. responded "Yes -- told her exactly what we talked about. She is on vacation this week but was going to try to rescind McKesson. . . ." Malek ended the conversation by saying "[s]ounds like we know what we need to do."

236. In internal email communications in the weeks following this agreement, Heritage CEO Glazer confirmed that Heritage was "walking away from one [customer] so pricing would stabilize" and that Heritage "wanted to give Midlothian market share so they stop eroding" the price for Doxy DR.

237. A.S. and G.S. continued to communicate throughout December 2014, by text message and even in person at the American Society of Health-System Pharmacists ("ASHP") conference on December 9, 2014.

238. When Econdisc put the Doxy DR business out to bid again in January 2015, Heritage made sure that it bid a higher price than Mayne (a "cover bid"), which fulfilled Heritage's end of the agreement by "walking" from Econdisc. As one Heritage employee described it in March 2015, "[w]e basically walked from Doxy DR" at Econdisc.

239. This anticompetitive agreement between Heritage and Mayne continued until at least December, 2015, and the effects were felt for much longer. For example, in September, 2015, Heritage was approached by a large nationwide pharmacy chain requesting a bid on Doxy

DR. A.S., initially excited about the opportunity, confirmed internally that Heritage had the capacity to bid. Malek cautioned, however, that "[w]e need to know why this is out to bid and find out who the incumbent is" before providing a response.

240. After finding out that the incumbent supplier was Mayne, A.S. reached out to G.S. by text message. G.S. confirmed that Mayne had no supply issues and that the pharmacy chain was simply shopping for a better price. In accordance with their agreement not to compete with each other and avoid price erosion, Heritage refused to provide a bid. That same day, A.S. sent another text message to G.S. reiterating Heritage's intent to abide by the agreement, stating: "Confirming we are not bidding." G.S. responded: "Thank you."

241. As a result of Heritage's unlawful agreement with Mayne, pricing for Doxy DR has been substantially higher than it would have been in a competitive market.

242. This agreement between Heritage and Mayne was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

2. Agreements to Fix Prices

243. In addition to reaching agreements with competitors to allocate markets for a number of different generic drugs, Defendants routinely and as part of their regular course of business, sought and obtained agreements with competitors to fix and raise prices.

244. This was often done by "socializing" a competitor to a price increase. This process involved a generic manufacturer reaching out to its competitors to first raise the possibility of a price increase, and then getting an assurance from the competitors of a willingness or agreement to engage in a price increase of some sort – or an assurance that the competitor would cooperate and not seek to take advantage of the manufacturer's price increase

by bidding to take that manufacturer's customers. Such an agreement would allow each competitor to maintain its market share and avoid competition despite the price increases.

245. Often, a generic manufacturer would identify a potentially larger group of drugs for which it would like to increase prices, and then seek to socialize its competitors to obtain illegal agreements allowing that company to raise prices for as many of those drugs as possible without the threat of competition.

a. Doxycycline Monohydrate (2013)

246. Doxycycline Monohydrate ("Doxy Mono"), also known by the brand names Acticlate® and Monodox®, among others, is an oral medication used to treat a wide variety of bacterial infections, including those that cause acne. Doxy Mono is known as a tetracycline antibiotic, and is also used to prevent malaria.

247. In February 2013, Heritage heard from a customer that there would be a significant increase in demand for Doxy Mono due to a large price increase that had recently occurred with a different form of Doxycycline as well as supply problems that certain manufacturers were experiencing.

248. Shortly thereafter, Heritage decided to increase the price it charged for Doxy Mono. Heritage's competitors at that time were Defendants Lannett, Mylan and Par. In order to ensure a successful increase, Heritage began reaching out to certain competitors.

249. On March 7, 2013, A.S. spoke to T.S., the Director of National Accounts at Lannett, for fourteen (14) minutes.

250. On March 13, 2013, A.S. sent an email to T.S. at Lannett stating: "Hi [T.S.]! I just had a question for you on Doxycycline Monohydrate. Would you have a chance to chat

today? Or tomorrow? Let me know a convenient time for you…" They spoke later the same day for five (5) minutes and discussed Heritage's intent to increase Doxy Mono prices.

251. On March 17, 2013, Malek created a spreadsheet, which he then forwarded to himself by email, which included various items on which he wanted to follow up. Included was a reference for "Price Increases: Take Doxy Mono up more than 3x asap." On March 21, 2013, Malek emailed Glazer expressing his intention to increase the price for Doxy Mono by as much as four (4) times the current price, and asking for Glazer's thoughts.

252. On March 25, 2013, T.S. sent an email to her boss, the Vice President of Sales at Lannett, titled "Recap." In that email, she indicated that she was "[w]orking on a WAC & SWP review" for certain drugs, including Doxy Mono, but had heard that "there will be a price increase on Doxycycline from Heritage soon. We are waiting to find out when and why." T.S. continued to communicate with A.S. about Doxy Mono, through numerous phone conversations, text messages and in-person meetings over the next several months.

253. Also on March 25, 2013, Malek sent an email to his sales team indicating that Heritage would be "taking a price increase in the market this week" for Doxy Mono and another drug.

254. Heritage kept in contact with its Doxy Mono competitors throughout 2013. A.S., in particular, spoke, texted and met in person with several different Lannett employees over the period. She called T.S. on April 25, 2013 and left a message. T.S. returned the call the next day and they spoke for more than eight (8) minutes. They spoke again on May 13, 2013 for almost six (6) minutes.

255. The next day, A.S. and T.S. attended a conference together, where they again discussed Doxy Mono. During the day on May 14, 2013, they exchanged the following text messages:

> A.S.: "Meeting in parking lot at Cardinal at 5:45 to carpool over. Can meet you at Cardinal then or at the bar? Should be to bar a little after 6."
>
> T.S.: "I have a conference call in a half hour about a market wide increase. I might have to meet you at the bar."
>
> A.S.: "Ok sounds good – see u there"
>
> A.S.: "Is it doxy mono?"
>
> T.S.: "Headed over now."

256. Similarly, on June 4, 2013, A.S. called and texted with G.W., a Director of National Accounts at Lannett. On June 5, 2013, while at a conference with T.S., A.S. and T.S. exchanged numerous calls and text messages.

257. Lannett increased its pricing for Doxy Mono effective June 12, 2013. When it was asked by one customer in July 2013 whether Lannett could provide a lower price for Doxy Mono, a Lannett National Account Manager stated: "We just took a price increase on this item effective 6/12/13. This is our standard pricing across the board going forward. Any pricing you see out there right now will not be that low for long."

258. During this same time period, the four competitors selling Doxy Mono were all communicating frequently. For example, the day before Lannett raised its price – June 11, 2013 – N.O. of Heritage spoke to M.A. of Mylan for nearly ten (10) minutes. T.S. of Lannett was also communicating with K.O., the Vice President of National Accounts at Par, during this time period. The two were friends who frequently saw each other and spoke in person at trade shows and customer conferences. K.O., in turn, was in frequent communication with M.A. of Mylan

during June and July 2013, speaking numerous times, including several calls on June 7, 2013 and June 13, 2013 – the day after Lannett raised its prices for Doxy Mono. K.O. was also in frequent communication with G.W. at Lannett, exchanging nine (9) text messages on June 11 and 12, 2013.

259. Heritage was slower to raise its prices for Doxy Mono, due to supply problems throughout 2013. But A.S. continued to keep in frequent communication with Lannett and other competitors. She met in person with T.S. and K.O. from Par during a conference in Arizona on August 1 and 2, 2013. This was followed by a flurry of communications between the four competitors in August 2013.

260. At some point thereafter, as Heritage was evaluating its planned price increase, Malek asked A.S. to obtain specifics regarding Lannett's price increase for Doxy Mono. That resulted in the following text message exchange between A.S. and T.S. on August 12, 2013, after they had again met in person together at a conference:

A.S.: "From our conversation, [i]ncreasing WAC too?"

T.S.: "Yes"

A.S.: "When are you guys changing WAC or have u already?"

T.S.: "Are you free at 4:30?"

A.S.: "Yes—but still need to hang around for 5pm mtg"

T.S.: "OK I'll swing by"

261. The next day, August 13, 2013, while still together at the conference, A.S. texted T.S. saying "Let's connect sometime today—need a little more specifics on the $ we discussed." That same day, A.S. also exchanged several text messages and phone calls with L.C., another

National Accounts Representative at Lannett. G.W. of Lannett also sent a text message to K.O. of Par.

262. Later that evening, the Senior Vice President of Generic Sales at Par sent an internal email to the Vice President of Marketing and Business Analytics, stating: "I hear that Lannett is taking a price increase on doxy mono and Heritage will follow." The email was forwarded internally at Par with the instruction: "FYI…we will follow. . . . No new opps until we see where pricing ends up."

263. One week later, on August 20, 2013, A.S. confirmed via email to Malek that Lannett had "tripled WACs and did/will do similar to contract prices."

264. In October, A.S. informed a customer that "[w]e are expecting continued supply issues with" Doxy Mono and that "supply will be tight through Oct and Nov."

265. On January 23, 2014, A.S. informed a large supermarket chain customer that "I also wanted to let you [know] that we are looking to take a price increase on all the Doxy Monohydrate skus some time in 2014."

266. As of March 2014, Heritage increased its price to at least one customer, with an eye toward a much larger, across-the-board increase on Doxy Mono (as well as other drugs) later in 2014, which is discussed more fully below.

267. This agreement between Heritage, Lannett, Par and Mylan was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

b. Heritage 2014 Price Increases

268. On April 22, 2014, Heritage held a "Price Increase Discussion" teleconference. Present on the teleconference were members of the Heritage sales team as well as Malek. Malek ran the call, and dictated the strategy for Heritage.

269. During the teleconference, Malek identified eighteen (18) different drugs that Heritage would target for price increases. Prior to the call, Malek had circulated to his sales team a spreadsheet which listed each drug, the competitors for each and their respective market shares. The list included Acetazolamide ER, Carisoprodol ASA, Cidofovir, Doxy Mono (which was slated for a "big price increase"), Fosinopril-HCI/HCTZ, Glipizide-Metformin HCI, Glyburide, Glyburide-Metformin HCI, Leflunomide, Meprobamate, Methimazole, Nimodipine, Nystatin, Paromomycin, Theophylline ER and Verapamil HCI, among others. In order to accomplish the price increases, Malek instructed members of the sales team to immediately reach out to their contacts at each competitor for the drugs on the list, and attempt to reach agreement on the price increases. Different Heritage employees were identified as being primarily, although not exclusively, responsible for communicating with different competitors.

270. Malek had been working on the price increases for weeks before holding this meeting with his sales team. He held a meeting with K.F. and D.L. of Heritage during the week of April 14, 2014 and asked them to begin analyzing the impact of the planned price increases.

271. Malek also began communicating with competitors even before he instructed his sales team to start doing so during the April 22, 2014 price increase discussion. He was responsible for communicating with Teva, which was a competitor on seven (7) of the drugs on the list: Acetazolamide, Glipizide-Metformin, Glyburide, Glyburide-Metformin, Leflunomide, Nystatin and Theophylline. Malek had a direct relationship with N.P., Teva's Director of

Strategic Customer Marketing. He called her on April 15, 2014 and they had a seventeen (17) minute phone conversation during which N.P. agreed that if Heritage increased prices for the drugs on the list, Teva would follow or, at a minimum, would not challenge Heritage's price increases by underbidding Heritage.

272. For two of the drugs – Nystatin and Theophylline ER – Teva had already been planning a price increase and Malek and N.P. agreed that Teva would take the lead on those increases.

273. In the next few months after April 2014, Malek spoke to N.P. several more times, and Malek kept N.P. informed with more details about when Heritage would be increasing prices for those drugs.

274. Malek was also responsible for communicating with Defendant Ascend – who, as detailed above, was a new entrant in the market for Nimodipine – and offering Ascend a one-third (1/3) share of the market in exchange for not competing on price. Malek reached out to J.D., the Executive Vice President of Sales and Marketing at Ascend, through LinkedIn earlier in April after learning that Ascend had received approval to sell Nimodipine, and they exchanged several messages. Malek called J.D. on April 22, after the Heritage Price Increase Discussion, and they spoke for nineteen (19) minutes. Upon information and belief, during this conversation they agreed on a plan where Heritage would raise its prices, Ascend would enter the market at a high price to avoid erosion, and in exchange Heritage would walk away from certain accounts that Ascend had targeted so that Ascend could gain market share at favorable pricing.

275. In response to Malek's directive, the Heritage sales team started contacting their competitors immediately. A.S., for example, communicated with three counterparts at different competitors shortly after the call, reaching agreements with all of them to raise prices. First, she

spoke to S.K. at Caraco for forty-five (45) minutes, and they agreed to increase prices for Nystatin and Paromomycin. She then spoke to M.D., a National Account Manager at Actavis, for more than nine (9) minutes and they agreed to increase prices for Glyburide-Metformin HCI and Verapamil. Last, she spoke to T.S. at Lannett for nearly twenty-nine (29) minutes, during which they agreed to raise prices of Doxy Mono.

276. Similarly, N.O. was able to reach an agreement the next day with his counterpart at Mylan to raise prices on at least 3 different drugs: Doxycycline Monohydrate, Glipizide-Metformin and Verapamil. As he stated to Malek and A.S. in an email titled "Mylan," dated April 23, 2014: "Just let me know a day before we price adjust on the three Mylan products and they will put the word out to the reps to leave us alone. They are looking at price increases as well on a number of products." N.O. had spoken to M.A., a Director of National Accounts at Mylan, shortly before sending the email.

277. Over the coming days and weeks, both Malek and Glazer pushed other Heritage employees to communicate with their competitors and obtain agreements to raise prices. On April 28, 2014, Malek sent an email to Heritage employee D.L., titled "bindo", referring to Defendant Aurobindo. In the email Malek stated "Let me know when you speak with [P.M., the Senior Director of Commercial Operations at Aurobindo.]" On the list of 18 generic drugs identified for price increases, D.L. had been charged with the responsibility for communicating about the drug Fosinopril/Hydrochlorothiazide ("Fosi/HCTZ"), of which Aurobindo was a competitor. Aurobindo was also a competitor with Heritage for the drugs Glyburide and Glyburide-Metformin. D.L. exchanged several voicemails with P.M. on April 28 and 29, 2014, but they were unable to connect.

278. The next day, Glazer followed up with an email to D.L. titled "Aurobindo", stating "JM wanted me to ask you if we are all set so we can implement pricing?" D.L. responded saying "[w]e have been playing phone tag. I have reached someone internally but would like to get it up the ladder." One day later, Malek followed up with D.L. again, asking "[a]ny contact?"

279. D.L. was finally able to connect with P.M. on May 8, 2014 for a sixteen (16) minute phone call. They also spoke on June 25, 2014 for eighteen (18) minutes, and again on July 7, 2014 for three-and-a-half minutes.

280. In an email exchange between A.S. and Malek on May 6 and 7, 2014, Malek explained that he had been able to successfully obtain agreements to raise the price of the drug Acetazolamide. Malek had previously asked A.S. to hold off on a price reduction request on Acetazolamide from a large GPO customer. Malek told her "[w]e have buy in from all to go up…" and that Heritage would not agree to reduce its price. As Malek stated: "We are going to pass [on reducing the price] and most likely are taking an increase within the next week."

281. On May 8, 2014, Malek sent an email to N.O. asking "Did you ever to [sic] with [M.B.] at Par?" Par was a competitor with Heritage for two of the drugs on the target list: Doxy Mono and Methimazole. N.O. was identified as a Heritage employee primarily responsible for communicating on both of those drugs. N.O. and M.B. were finally able to communicate by phone on June 2, 2014.

282. Also on May 8, 2014, Malek sent an email to the Heritage sales team, stating:

> Two weeks back we had a teleconference regarding 13 [sic] products where the pricing dynamics may change.
>
> We each had takeaways, can everyone confirm or not who they have/not spoken with since our call?

> Need to move forward with the plan asap.

283. M.E. responded immediately: "Spoke with everyone and waiting in [sic] feedback on Mepro[bamate]." M.E. had been tasked with communicating with Defendant Dr. Reddy's about Meprobamate and also with Defendant Apotex regarding Leflunomide. He had initially exchanged 6 text messages with his counterpart at Dr. Reddy's, J.A., on April 24, 2014, and then the two spoke briefly on May 6, 2014.

284. A.S. responded with a similar message: "Jason: I made contact with all my take aways -- with positive results. I can resend those notes or talk with you on any details." A.S. had been tasked with communicating with Defendants Lannett (a competitor for Doxy Mono), Actavis (Glyburide/Metformin and Verapamil) and Sun (Nystatin and Paromomycin), among others.

285. K.B., an Associate Director of Institutional Sales at Heritage, also replied that she had spoken with two different Mylan individuals about the drug Cidofovir:

> I spoke with my friend who is NA [National Accounts] at Mylan and just alluded to the fact that we may take a price increase on Cidofovir and he said I have no control over these types of things … so I told him to just be on the lookout for it and convey to his internal people that we had taken an increase … he said they would most likely follow. I also talked to one of the Regional Reps at the HCP show and mentioned it to him … he said if it's not already on our 'to do list' it will be.

286. On May 9, 2014, Heritage had another teleconference to discuss the price increases for the 18 targeted drugs. During this teleconference, the Heritage sales team shared their results in seeking agreement from competitors to raise prices on the various drugs.

287. The following week, A.S. met in person and discussed the price increase strategies with a number of different competitors at the MMCAP conference. During that conference she was able to personally reach and/or confirm agreements with at least Defendants

Aurobindo (Fosinopril/HCTZ, Glyburide and Glyburide/Metformin), Sandoz (Carisoprodol and Fosi-HCTZ) and Lannett (Doxy Mono), among other competitors. She advised Malek of her success via email on May 15, 2014:

> Hi Jason: At the MMCAP meeting yesterday, spoke with some other industry reps and found similar like minding on the pricing strategies we discussed. Overall, spoke with Aurobindo ([T.G.]), Sandoz ([C.B.]), Perrigo ([P.H.]) (Colistimethate), Xgen ([B.P.]) (Colistimethate), and Lannett ([T.S.]). . . . I will try to meet with the Teva rep, L.P., today. Supposedly, Midlothian is here too -- but I have not seen G.S. yet. . . .

288. On June 3, 2014, while at another customer conference, A.S. met in-person for dinner and drinks with two of Heritage's competitors on Doxy Mono – K.O. of Par and T.S. of Lannett – as well as other competitors including C.B., a Director of National Accounts at Sandoz.

289. On June 23, 2014, Heritage employees had a "Price Change Call", to discuss the specific percentage amounts by which they would seek to increase the pricing of certain drugs, including drugs for which they had already obtained agreement from all competitors (or potential future competitors), and the strategies for doing so. Included on the list were: Acetazolamide (75% increase); Paromomycin (100% increase); Glyburide (200% increase); Nimodipine (48% increase); Theophylline (150% increase); and Nystatin (95% increase). It was discussed on the call that those six increases alone would amount to an additional $16 million in profit per year for Heritage, assuming no loss in market share.

290. Malek continued to push Heritage employees to discuss the planned price increases with competitors, and he continued to do the same. On June 25, 2014, Malek spoke with N.P. at Teva for nearly fourteen (14) minutes and informed N.P. that Heritage would be increasing prices for a number of drugs sold by Teva shortly.

291. On June 26, 2014, A.S. sent a text message to a contact at a large wholesaler customer stating that "As of 7/1, [m]arket wide we are increasing prices on: Paromomycin, Nimodipine, Acetazolamide ER, Fosi/HCTZ, Glip/Met, Glyburide and Theophylline ER. You will see only the Paro and Nimo increases—you have those letters." Moments later, she followed up with another text message: "Here are the approximate/average $ increases on the other items: Acetazolamide 75% increase, Fosi/HCTZ 200%, Glip/Met 100%, Glyburide 200%, Theo ER . . . 150%."

292. On July 1, 2014, Malek sent an email to the Heritage sales team titled "update - price increase." The email read:

> Team:
>
> Looks like you are making good traction with our July 1 price increase.
>
> Going forward, send a summary to [K.F.] and me at each cob of who is not yet signed with a status and plan.
>
> Please send each day until further notice or until all or [sic] accounted for.
>
> Any questions please call me directly.

293. Over the next several weeks, Heritage employees continued to reach out to their competitors to obtain additional agreements to raise prices. Ultimately, Heritage was able to increase prices on at least nine (9) of the drugs: Acetazolamide ER; Fosi/HCTZ; Glipizide-Metformin; Glyburide; Leflunomide; Nimodipine; Nystatin; and Paromomycin.

294. Examples are set forth below.

i. Acetazolamide

295. Acetazolamide ER, also known by the brand name Diamox®, among others, is an extended-release version of a medication used to treat glaucoma, epilepsy, altitude sickness, periodic paralysis, and heart failure.

296. Heritage's main competitor for Acetazolamide was Teva. As of April 2014, Heritage and Teva combined for approximately 78% of the market. The only other competitor in the market was Zydus.

297. Jason Malek was responsible for obtaining Teva's agreement to the price increases. Malek spoke with N.P., his contact at Teva, on April 15, 2014 for more than seventeen (17) minutes, and they discussed Heritage's intention to raise the price of Acetazolamide and other drugs. During that phone call, N.P. agreed that if Heritage did raise the price of Acetazolamide (and/or the other drugs), Teva would follow with its own price increase or, at least, would not challenge Heritage's price increases by seeking to underbid and take Heritage's accounts. Malek and N.P. spoke several more times over the next several months and confirmed the agreement to raise prices, and Malek updated N.P. on the progress of the Heritage increases.

298. The day after Malek spoke to N.P. – April 16, 2014 – N.P. called K.G., the Senior Director of National Accounts at Zydus, and the two spoke for nearly twenty (20) minutes. K.G. called N.P. back a day later and they spoke again for nearly twelve (12) minutes. N.P. and K.G. continued to communicate frequently over the next several months. Other Teva and Zydus employees were also in close communication. For example, J.P., an Associate Director of National Accounts at Teva, exchanged numerous text messages with K.R., the Vice President of Sales at Zydus, on May 14, 2014.

299. For Heritage, Malek was also responsible for communicating with Zydus. On April 24, 2014, he contacted K.R., the Vice President of Sales at Zydus through the website LinkedIn, saying: "Hi Kristy, I hope this email finds you doing well. I wanted to see if you have a few minutes to chat. Let me know when you are free." K.R. responded later that day: "Hi Jason – I'm out in Arizona. I can give you a call tomorrow afternoon or call me anytime."

300. By May 7, 2014, Malek confirmed to A.S. that Heritage had already obtained "buy in from all to go up" on Acetazolamide pricing, which A.S. referred to as "one of our strategic items," and expressed an intention to raise prices within the next week.

301. During this time period Heritage also avoided bidding on any potential customers to which Zydus was already supplying Acetazolamide, in order to maintain market share among the competitors.

302. On June 23, 2014, Heritage had a "Price Change Call," during which Malek and members of the Heritage sales team discussed an intention to raise prices for Acetazolamide by 75%.

303. Three days later, on June 26, 2014, Heritage began sending out price increase notices to its customers of Acetazolamide. That same day, A.S. sent a text message to her contact at a large wholesaler customer informing her that Heritage would be increasing prices on Acetazolamide ER and a number of other drugs "market wide." She informed her contact that Acetazolamide prices would be increasing by 75%.

304. By July 9, 2014, Heritage was able to raise Acetazolamide prices to at least 17 different customers nationwide.

305. This agreement between Heritage, Teva and Zydus was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

ii. Fosi-HCTZ

306. Fosinopril-Hydrochlorothiazide ("Fosi-HCTZ"), also known by the brand name Monopril HCT®, is a combination medicine used to treat hypertension.

307. As of April 2014, Heritage had a 47% market share for Fosi-HCTZ. At the time, Heritage's main competitors for that drug were Aurobindo, Sandoz and Glenmark.

308. On May 2, 2014, M.E. of Heritage was able to connect with J.B., the Vice President of Sales and Marketing at Glenmark, through the website LinkedIN.

309. D.L. of Heritage was tasked with primary responsibility for communicating with Aurobindo about Fosi-HCTZ price increases. After several attempts, he spoke by phone with P.M. at Aurobindo on May 8, 2014 for sixteen (16) minutes. The same day, P.M. called the Executive Vice President of Generics at Glenmark, J.G., and they spoke for more than fourteen (14) minutes. The next day, May 9, 2014, T.G. of Aurobindo spoke with J.J., the Director of Sales and Marketing at Glenmark, for more than nine (9) minutes.

310. Also on May 9, 2014, Heritage held another internal call about "Price Increases." Fosi-HCTZ was again on the list of drugs slated for a price increase.

311. Less than a week later, A.S. spoke to representatives from both Aurobindo and Sandoz about the Heritage "price increase strategies," for Fosi-HTCZ and other drugs, during an MMCAP conference in Minnesota. In particular, she spoke to T.G., the Director of National Sales at Aurobindo, and C.B., a National Accounts Executive at Sandoz. After meeting in

person with both competitors on May 14, 2014, A.S. reported to Malek that she had found "similar like minding on the pricing strategies we discussed."

312. The next day, May 15, 2014, T.G. of Aurobindo and C.B. of Sandoz spoke by phone and texted multiple times.

313. Also on May 15, 2014, Heritage received notification from a large pharmacy customer that Aurobindo had recently provided a lower bid for Fosi-HCTZ. In discussing internally whether Heritage should reduce its price to retain the business, A.S. recommended that Heritage "walk" from Fosi-HCTZ with this particular customer because, based on her conversation one day prior with T.G., Aurobindo was on board with the price increase strategy. A.S. explained that "[t]he Fosi/HCTZ has some other pricing strategies at work – I spoke with a rep from Aurobindo yesterday and moving forward there should be better synergies; this bid was from earlier this year before new strategies were discussed."

314. On May 21, 2014, A.S. exchanged text messages with C.B. of Sandoz, confirming that she had his correct cell phone number.

315. On June 3, 2014, A.S. again exchanged text messages with C.B. and invited him to meet with her and a group of friends and competitors for drinks at the Sandbar Restaurant while at an HDMA conference in Phoenix, AZ.

316. These approaches by Heritage to Aurobindo and Sandoz sparked a flurry of communications between T.G. of Aurobindo and his counterparts at both Sandoz and Glenmark. In a one-week period between June 3, 2014 and June 10, 2014, T.G. had three (3) phone calls with C.B. at Sandoz, and five (5) phone calls and multiple text messages with J.J. of Glenmark. Other than one phone call with J.J. on August 26, 2014, T.G. did not text or speak with either of

them again by phone until April 8, 2015. On June 16, 2014, J.G. of Glenmark called P.M. at Aurobindo and they spoke for more than twenty-two (22) minutes.

317. D.L. of Heritage also spoke again with P.M. of Aurobindo on June 25, 2014 for eighteen (18) minutes, and on July 7, 2014 for three-and-a-half minutes.

318. Also on June 25, 2014, A.S. texted her friend K.A. of Citron, inquiring whether Citron would be entering the market for Glyburide. During that text message exchange, A.S. learned that Citron was also entering the market for Fosi-HCTZ in addition to Glyburide. A.S. informed K.A. of Heritage's plan to increase pricing on Fosi-HCTZ, and that Aurobindo was a competitor for that drug.

319. On June 26, 2014, A.S. informed her contact at a large wholesaler customer that Heritage's prices would be going up for Fosi-HCTZ market wide by 200% as of July 1, 2014.

320. Shortly after this text message exchange, on July 1, 2014, K.S., the Executive Vice President of Sales & Marketing at Citron, called D.L. at Heritage, informing him that she had been "looped" in on Heritage's plan. They spoke for nearly thirteen (13) minutes. According to A.S.'s notes, K.S. told D.L. that Heritage employees should not try to communicate with Citron through email. She also told D.L. that A.S. should not communicate through K.A., but should instead call L.S., Vice President of Sales at Citron, if she had sensitive information to convey about Fosi-HCTZ or the other price increase drugs.

321. The next day, July 2, 2014, L.S. of Citron called A.S. and they spoke for nearly twenty-two (22) minutes. They continued to speak frequently through July and August 2014 about Fosi-HCTZ and other drugs.

322. D.L. of Heritage also spoke directly with J.G. at Glenmark on July 18, 2014 for nearly twenty-three (23) minutes, and on July 30, 2014 for more than five (5) minutes.

323. Citron also communicated directly with Aurobindo. On July 28, 2014, L.S. of Citron called and texted P.M. at Aurobindo several times until they were finally able to speak by phone later that day for more than twenty-four (24) minutes. These were the first and only communications ever between the two by phone or text.

324. Heritage began sending out Price Increase Notices to its customers for Fosi-HCTZ on June 26, 2014. The next day, P.M. of Aurobindo and J.G. of Glenmark spoke twice, with one call lasting almost eighteen (18) minutes. They continued to speak with some frequency over the next several months.

325. By July 9, 2014, Heritage had successfully been able to increase prices to at least 18 different customers nationwide for Fosi-HCTZ. That same day, Citron confirmed internally that Heritage had increased its WAC prices for Fosi-HCTZ and two other drugs, and that it (Citron) was trying to match those price increases.

326. On July 14, 2014, K.S. of Citron spoke with J.G. of Glenmark twice – once for seven (7) minutes and again shortly after for more than thirteen (13) minutes. The next day, Citron increased its pricing for Fosi-HCTZ to be in line with the price increases adopted by Heritage.

327. Sandoz also increased its pricing for Fosi-HCTZ. By early January of 2015, Sandoz was charging twice as much for Fosi-HCTZ as it had been one year before.

328. This agreement between Heritage, Aurobindo, Citron, Glenmark and Sandoz was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

iii. Glipizide-Metformin

329. Glipizide-Metformin ("Glip-Met"), also known by the brand name Metaglip®, is a combination medicine used to treat high blood sugar levels that are caused by a type of diabetes mellitus or sugar diabetes called type 2 diabetes.

330. As of April 2014, Heritage's only two competitors for Glip-Met were Defendants Teva and Mylan.

331. Jason Malek was responsible for communicating with Teva about Glip-Met price increases. Malek spoke with N.P., his contact at Teva, on April 15, 2014 for more than seventeen (17) minutes, and they discussed Heritage's intention to raise the price of Glip-Met and other drugs. During that phone call, N.P. agreed that if Heritage did raise the price of Glip-Met (and/or the other drugs), Teva would follow with its own price increase or, at least, would not challenge Heritage's price increases by seeking to underbid and take Heritage's accounts. Malek and N.P. spoke several more times over the next several months and confirmed the agreement, and Malek updated N.P. on the progress of the Heritage increases.

332. N.O. was primarily responsible for communicating with Mylan about Glip-Met. N.O. spoke to M.A. of Mylan on April 23, 2014 and reached an agreement to raise prices for Glip-Met and two other drugs. Shortly after speaking to M.A., N.O. sent an email to Malek and A.S. titled "Mylan," stating: "Just let me know a day before we price adjust on the three Mylan products and they will put the word out to the reps to leave us alone. They are looking at price increases as well on a number of products."

333. Teva and Mylan were also in frequent communication during this time period. For example, J.N., Vice President of Sales at Mylan, spoke with D.R., a National Accounts

Director at Teva, multiple times on May 9, 2014, including one call that lasted more than seven (7) minutes. The two continued to stay in close contact throughout the rest of 2014.

334. On May 9, 2014, Heritage held another internal call about "Price Increases." Glip-Met was again on the list of drugs slated for a price increase.

335. On June 26, 2014, A.S. informed her contact at a large wholesaler customer that prices would be going up for Glip-Met market wide by 100% as of July 1, 2014. Heritage began sending out Price Increase Notices to its customers for Glip-Met the same day.

336. By July 9, 2014, Heritage had successfully been able to increase prices nationwide to at least 27 different customers for Glip-Met.

337. As promised, neither Teva nor Mylan significantly challenged Heritage on its price increases. Teva, in fact, increased its bid prices to potential customers, and by November of 2014, K.F. reported to Malek internally that "a majority" of the Heritage price increases for Glip-Met "had stuck up to [that] point."

338. This agreement between Heritage, Mylan and Teva was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

iv. Glyburide

339. Glyburide is an oral diabetes medication used to treat Type 2 diabetes. Also known by the brand names DiaBeta® or Micronaise®, it is used to control blood sugar levels.

340. As of April 2014, Heritage's only two competitors for Glyburide were Teva and Aurobindo.

341. Jason Malek was responsible for communicating with Teva regarding Glyburide price increases. Malek spoke with N.P., his contact at Teva, on April 15, 2014 for more than

seventeen (17) minutes, and they discussed Heritage's intention to raise the price of Glyburide and other drugs. During that phone call, N.P. agreed that if Heritage did raise the price of Glyburide (and/or the other drugs), Teva would follow with its own price increase or, at least, would not challenge Heritage's price increases by seeking to underbid and take Heritage's accounts. Malek and N.P. spoke several more times over the next several months and confirmed the agreement to raise prices, and Malek updated N.P. on the progress of the Heritage increases.

342. Several different Heritage employees were also able to successfully communicate with their counterparts at Aurobindo and reach agreements to raise the price of Glyburide.

343. For example, on May 8, 2014, D.L. of Heritage spoke by phone with P.M. of Aurobindo for sixteen (16) minutes.

344. On May 9, 2014, Heritage held another internal call about "Price Increases." Glyburide was again on the list of drugs slated for a price increase.

345. Less than a week later, A.S. spoke to T.G. from Aurobindo about the Heritage "price increase strategies" for Glyburide and other drugs, during an MMCAP conference in Minnesota. After meeting with the Aurobindo representative on May 14, 2014, A.S. reported to Malek that T.G. had expressed "similar like minding on the pricing strategies we discussed."

346. On June 23, 2014, Heritage employees held a "Price Change Call," where they discussed the specific percentage amounts by which they would seek to increase certain drugs, and the strategies for doing so. Among those included on the list was Glyburide, which was slated for a 200% increase.

347. Around this time Heritage also learned that there may be a new entrant in the Glyburide market. On June 25, 2014, A.S. texted her friend K.A., a Corporate Account

Specialist at Citron. A.S. wanted to determine whether Citron would be selling Glyburide in the near future:

> A.S.: "Work question: is Citron launching Glyburide anytime soon?"
>
> K.A.: "Yes we currently have the product in our warehouse."
>
> A.S.: "We are raising the price right now -- just letting you know. Teva says they will follow."
>
> A.S.: "Aurobindo agrees too."
>
> K.A.: "?"
>
> K.A.: "You have micronaise brand equivalent."
>
> K.A.: "And are you also raising your wacs?"
>
> A.S.: "Sorry -- was on conference call. Ours is Micronase? Is yours Micro or Diabeta?"
>
> K.A.: "Micro"
>
> A.S.: "I don't think we changing WAC - verifying now"
>
> K.A.: "Okay i talked to [K.S., Executive Vice President, Sales & Marketing at Citron] we are def in to raise pricing... are doing this immediately, i know she was mentioning teva can take a while to raise prices"
>
> A.S.: "Teva is slow but conversations have been good."
>
> A.S.: "No change to WAC for us"
>
> A.S.: "We are raising our customers 200% over current market price"
>
> K.A.: "Okay ill make sure the appropriate people find out"
>
> A.S.: "Teva has 66% of mkt- great target for share! By [*sic*] [t]hey should play fair. Aurobindo and us each have about 18% share. Good luck!"

K.A.: "Thanks! Is this something you will be doing like this week?"

A.S.: "Letters going out this week! A lot of customers have 30 day notices and price protection so real price will be felt in 30+ days"

K.A.: "Perfect makes sense... Your not doing anything with glyb/met pricing right?"

A.S.: "Not yet- but is on a short list!"

A.S.: "Glyburide and Fosi/HCTZ are increasing too- those are Aurobindo items too"

K.A.: "Okay yeah we have that too... Thanks for the info!"

348. Shortly after this text message exchange, A.S. reported to the Heritage sales team, in an email titled "Citron: Glyburide", that "Citron is launching soon – product is in their warehouse now. They have our version – rated to Micronase. They are on board – communication is good." In a reply the next day, N.O. cautioned that "[t]hey will still need to get some market share. May keep away initially, but we need to be prepared to lose some."

349. On June 26, 2014, A.S. informed her contact at a large wholesaler customer that Heritage's prices would be going up for Glyburide market wide by 200% as of July 1, 2014.

350. On July 1, 2014, K.S. of Citron, called D.L. at Heritage, confirming Citron's agreement to raise prices and informing him that she had been "looped" in on Heritage's plan. They spoke for nearly thirteen (13) minutes. According to A.S.'s notes, K.S. told D.L. that Heritage employees should not try to communicate with Citron through email. She also told D.L. that A.S. should not communicate through K.A., but should instead call L.S., Vice President of Sales at Citron, if she had sensitive information to convey about Glyburide or the other price increase drugs.

351. The next day, July 2, 2014, L.S. of Citron called A.S. and they spoke for nearly twenty-two (22) minutes. They continued to speak frequently through July and August 2014 about Glyburide and other drugs.

352. After reaching agreement with competitors Aurobindo, Citron and Teva to raise prices for Glyburide, Heritage began implementing the price increases. Price Increase Notices were sent out to customers beginning on June 26, 2014. By July 9, 2014, Heritage had been able to successfully increase prices for Glyburide to at least seventeen (17) different customers.

353. The unlawful agreement resulted in specific price increases to customers who sold Glyburide to customers nationwide. For example, on July 9, 2014, Teva was contacted by a large national retail chain requesting a bid on both Glyburide and Nystatin, due to the Heritage price increases. The request was forwarded to N.P., with the questions: "Are you aware of the below? Should we engage?"

354. N.P. responded by reiterating her understanding of the agreement between Heritage and Teva on the two drugs at issue: "I am aware. Heritage is likely following Teva on the Nystatin. They are likely leading Glyburide Micronase. Per our conversation, please enter in Delphi for tracking purposes, but we will not be bidding. Thanks."

355. By July 9, 2014, Teva had also increased its WAC pricing on Glyburide. On July 15, 2014, Citron increased its WAC and AWP pricing for Glyburide to be in line with the price increases adopted by Heritage.

356. After Heritage raised its price to one large wholesaler in July 2014, that wholesaler solicited bids from both Teva and Aurobindo in an effort to obtain lower pricing. On July 25, 2014, for example, the large wholesaler sent an email to N.P. at Teva indicating that

there had been a "change in market dynamics" for Glyburide and certain other drugs and requesting a bid. The same day, the wholesaler sent an identical email to T.G. at Aurobindo.

357. This sparked immediate communication between the competitors as they tried to ensure uniformity and compliance with the scheme. For example, on July 25, 2014, Malek sent a text message to N.O. with the following direction: "Tell [T.G. at Aurobindo] to stay away from [the wholesaler]." N.O. then called T.G. and they spoke for more than thirteen (13) minutes. During that call N.O. conveyed the direction that Aurobindo should not provide a bid to the wholesaler. After conveying this message, N.O. responded to Malek's text message simply: "Done."

358. Malek also called N.P. at Teva the same day and they spoke for more than fifteen (15) minutes.

359. After speaking with Heritage, both Teva and Aurobindo declined to provide a bid to the wholesaler.

360. By mid-July, Teva also added Glyburide to its list of potential customer price increase items for the third quarter of 2014 and began to evaluate its own price increases.

361. As Citron entered the market in July 2014, it set a target of less than 10% market share. During this time and over the next several months it remained in frequent contact with Heritage to discuss Glyburide pricing, bidding strategies, and how Citron might be able to acquire additional market share without eroding the price increases.

362. Citron also communicated directly with Aurobindo. On July 28, 2014, L.S. of Citron called and texted P.M. at Aurobindo several times until they were finally able to speak by phone for more than twenty-four (24) minutes. These were the first and only communications ever between the two by phone or text.

363. This anticompetitive agreement to avoid competition and unlawfully increase prices for Glyburide continued until at least December 2015, and the effects continue to this day.

364. This agreement between Heritage, Teva, Aurobindo and Citron was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

v. Glyburide-Metformin

365. Glyburide-Metformin, also known by the brand name Glucovance®, is an oral medication used to treat Type 2 diabetes.

366. As of April 2014, Heritage's competitors in the market for Glyburide-Metformin were Teva, Aurobindo and Actavis. Heritage had only 5% market share at that time, but nonetheless wanted to raise prices.

367. Jason Malek was responsible for communicating with Teva regarding Glyburide-Metformin price increases. Malek spoke with N.P., his contact at Teva, on April 15, 2014 for more than seventeen (17) minutes, and they discussed Heritage's intention to raise the price of Glyburide-Metformin and other drugs. During that phone call, N.P. agreed that if Heritage did raise the price of Glyburide-Metformin (and/or the other drugs), Teva would follow with its own price increase or, at least, would not challenge Heritage's price increases by seeking to underbid and take Heritage's accounts. Malek and N.P. spoke several more times over the next several months and confirmed the agreement to raise prices, and Malek updated N.P. on the progress of the Heritage increases.

368. A.S. was responsible for communicating with Defendant Actavis about Glyburide-Metformin and one other drug. On April 22, 2014, shortly after the initial Heritage "Price Increase Discussion," A.S. called M.D., Director of National Accounts at Actavis, and

they spoke for more than nine (9) minutes. Upon information and belief, during that call A.S. and M.D. reached an agreement to raise the price of Glyburide-Metformin and the other drug, Verapamil.

369. M.D. conveyed the message internally to the sales and pricing team at Actavis that Heritage was looking to take a price increase on Glyburide-Metformin and the other drug. Immediately after speaking to A.S., M.D. called two different Senior Pricing Managers at Actavis, J.R. and C.K. The information spread quickly throughout the sales and pricing teams at Actavis. In an internal email dated April 28, 2014 regarding potential price increases for a list of different drugs, an Actavis pricing manager added: "[M.D.] made mention of keeping an eye out for an increase on Glyburide/Met and Verapamil IR."

370. Only a few days later, on May 1, 2014, M.F., the Vice President of Marketing, Pricing and Contracts at Actavis, who had also received the April 28 email discussed above, called D.R. at Teva, and they spoke for five (5) minutes. They spoke three more times on May 6, 2014, with one of the calls lasting fifteen (15) minutes, and continued to communicate frequently over the next several months.

371. Several different Heritage employees were also able to successfully communicate with their counterparts at Aurobindo and reach agreements to raise the price of Glyburide-Metformin.

372. For example, on May 8, 2014, D.L. of Heritage spoke by phone with P.M. of Aurobindo for sixteen (16) minutes. Similarly, on May 14, 2014, A.S. spoke in person with T.G. at Aurobindo, and reported that she had "found similar like minding on the pricing strategies we discussed."

373. On May 8, 2014, Malek also emailed the Heritage sales team asking them to confirm which competitors they had each been able to obtain agreements from in order to move forward with price increases discussed during the April 22, 2014 conference call. A.S. responded: "Jason: I made contact with all my take aways – with positive results. I can resend those notes or talk with you on any details."

374. On May 9, 2014, Heritage held another internal call about "Price Increases." Glyburide-Metformin was still on the list of drugs slated for a price increase.

375. On May 12, 2014, M.F. of Actavis spoke twice with the CEO of Aurobindo, B.C. Between May 19 and May 22, 2014, M.F. also exchanged thirty (30) text messages with D.R. of Teva.

376. Through at least June 2014, Heritage still planned to increase prices for Glyburide-Metformin. On June 25, 2014, A.S. had a text message exchange with K.A. at Citron about raising prices for Glyburide. After K.A. had agreed to raise prices on Glyburide, she asked A.S. "Your [*sic*] not doing anything with glyb/met pricing right?" To which A.S. responded: "Not yet- but is on a short list!" Although Citron had approval to sell Glyburide-Metformin, it was not actively selling the drug and had zero market share throughout this time period.

377. Although Heritage did not increase customer prices for Glyburide-Metformin in July 2014, like it did for many other drugs, it did increase its WAC prices. In an internal Citron email dated July 9, 2014, K.S. of Citron noted that both Heritage and Teva had increased their WAC pricing on 3 different drugs, including Glyburide-Metformin. In that same internal conversation, a Citron employee involved in pricing reiterated the company's intent to "match their price increases."

378. On August 20, 2014, A.S. exchanged text messages with S.K. at Sun. During this text message exchange, A.S. described agreements that Heritage had reached with Actavis to increase prices of both Glyburide/Metformin and Verapamil:

> S.K.: "Have you heard anything about an Actavis price increase"
>
> A.S.: "I heard they were on board with it. What item specifically?"
>
> S.K.: "I don't know. I am just hearing about an increase but no details. What product have you heard about"
>
> A.S.: "We were communicating on Glyburide/Metformin and Verapamil"

379. This agreement between Heritage, Teva, Aurobindo and Actavis was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

vi. Leflunomide

380. Leflunomide, also known by the brand name Arava®, is an immunosuppressive disease-modifying antirheumatic drug used to treat active moderate-to-severe rheumatoid arthritis and psoriatic arthritis.

381. As of April 2014, Heritage was a dominant player in the market for Leflunomide, holding a 61% share. Its main competitors at that time were Defendants Apotex and Teva.

382. Jason Malek was responsible for communicating with Teva about Leflunomide price increases. Malek spoke with N.P., his contact at Teva, on April 15, 2014 for more than seventeen (17) minutes, and they discussed Heritage's intention to raise the price of Leflunomide and other drugs. During that phone call, N.P. agreed that if Heritage did raise the price of Leflunomide (and/or the other drugs), Teva would follow with its own price increase or, at least, would not challenge Heritage's price increases by seeking to underbid and take Heritage's

accounts. Malek and N.P. spoke several more times over the next several months and confirmed the agreement to raise prices, and Malek updated N.P. on the progress of the Heritage increases.

383. M.E. was responsible for communicating with Defendant Apotex about Leflunomide. On May 2, 2014, M.E. placed his first-ever phone call to D.V., a Sales Manager at Apotex. They spoke for more than thirteen (13) minutes.

384. On May 6, 2014, A.S. sent an email to Malek about several topics, one of which was Leflunomide. Heritage had recently learned that Teva might be leaving the market for Leflunomide. A.S. commented that "the Teva discontinuation of Leflunomide has everyone in a fuss! Wow – can we take more share???" Malek responded that, with regard to Leflunomide, "we may give some to apotex and follow our strategy we discussed. Will have clarity by tomorrow."

385. That same day, M.E. had two (2) more phone calls with D.V. Shortly after those calls M.E. also sent an email to Malek, noting that Apotex "has taken another shot at our Leflunomide . . . I am waiting for a callback from the VP of Apotex before we do anything." Malek replied to M.E.'s email and confirmed the strategy he mentioned to A.S., telling M.E. "Let's walk from leflunomide." B.H., the Vice President of Sales at Apotex, then called M.E. and left a voicemail. M.E. returned her call and they spoke for more than nine (9) minutes, followed by another call shortly after that for almost eight (8) minutes. M.E. and B.H. followed up those phone conversations with two more the next day, May 7, 2014. Upon information and belief, during these conversations Heritage and Apotex agreed to avoid competition and increase prices on Leflunomide.

386. On May 8, 2014, Malek sent an email to the Heritage sales team asking each of them to confirm which competitors they had been able to speak to because Heritage needed "to

move forward with the plan asap." M.E. responded immediately that he had spoken "with everyone" and he was only waiting for feedback from one competitor with regard to the drug Meprobamate.

387. On May 9, 2014, Heritage held another internal call about "Price Increases." Leflunomide was still on the list of drugs slated for a price increase. On May 27, 2014, Heritage learned that Apotex took a price increase on Leflunomide. When M.E. passed this information along to Malek, Malek confirmed that "we are going to increase."

388. Heritage began sending out Price Increase Notices to its customers for Leflunomide in late June. By July 9, 2014, Heritage had been able to successfully increase prices to at least fifteen different customers nationwide.

389. Teva began to exit the market for Leflunomide in or around July 2014, and therefore did not ultimately raise its price, despite its initial agreement to follow the Heritage price increase.

390. This agreement between Heritage, Teva and Apotex was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

vii. Nystatin

391. Nystatin, also known by the brand name Mycostatin®, among others, is a medication used to fight fungal infections.

392. In 2013 and 2014, Heritage's two main competitors for Nystatin were Teva and Sun, through its division Mutual Pharmaceuticals ("Mutual").

393. Communications between Heritage, Teva and Mutual/Sun about Nystatin preceded Heritage's "Price Increase Discussion" in April 2014.

394. In or about June 2013, Teva began to consider raising its price of Nystatin. Defendant Sun, through its division Mutual, had increased Nystatin prices on April 15, 2013. When it was suggested internally to N.P. in June 2013 that Teva might want to add Nystatin to its current list of price increase items, N.P. initially responded negatively.

395. N.P. began speaking to Malek shortly thereafter. On July 9, 2013, N.P. called Malek and they spoke for more than twenty-one (21) minutes. This was the first call between N.P. and Malek since N.P. had been hired by Teva in April 2013 to "run the pricing team." They spoke again on July 23, 2013 for nearly ten (10) minutes, and twice on July 30, 2013 with the second of those two calls lasting more than twelve (12) minutes. In the short time between Malek's two July 30 calls with N.P. of Teva, A.S. of Heritage also spoke to S.K. of Sun/Mutual for nearly eleven (11) minutes.

396. Heritage and Mutual/Sun were in close contact, both before and after Mutual took the Nystatin price increase in April 2013. In fact, the day after Mutual increased its price for Nystatin – April 16, 2013 – S.K. of Sun called A.S. and they spoke for nearly forty (40) minutes. They continued to communicate regularly throughout the summer of 2013.

397. By late July 2013, Nystatin appeared on a list of potential "Price Increase Candidates," at Teva, created by N.P., with the following comments: "Heritage involved; follow Mutual."

398. After these conversations with Teva and Mutual/Sun, Heritage also began exploring a price increase for Nystatin. On August 1, 2013, Malek sent an internal email to N.O., M.E. and A.S. stating: "Team: Pricing dynamics may be changing for us for Nystatin. Please advise when Mutual/URL/ (now Caraco) took their Nystatin price increase and if they kept it." On August 20, 2013, Malek sent an email titled "PRICE INCREASES" to K.F. at

Heritage, with a copy to Glazer, stating "KF: We need [to] analyze the following product price increases and understand how much to increase and which customers to extend." Malek provided a list of four drugs, one of which was Nystatin.

399. N.P. went on maternity leave from August 12, 2013 through the end of that year, and the decision to raise Nystatin prices was temporarily put on hold at both Teva and Heritage. But shortly after her return from maternity leave, N.P. and Malek began communicating again. N.P. called Malek on February 4, 2014 and left a message. Malek returned her call the next day, and they spoke for more than one hour. This was the first communication between the two since N.P. went on maternity leave.

400. On February 7, 2014, N.P. created a spreadsheet titled "PI Candidates". That spreadsheet included Nystatin and Theophylline as candidates for price increases. With regard to Nystatin, the spreadsheet included the comments "Shared with Heritage and Mutual/Caraco" and "WAC increase likely."

401. Malek and N.P. had a series of several phone calls in February and March 2014. By April 2014, Teva decided to increase prices for both Nystatin and Theophylline – and Heritage planned to follow those price increases to match Teva.

402. Teva began implementing the price increases for Nystatin with an effective date of April 4, 2014, doubling the WAC price from $47.06 to $100.30.

403. By the time that Heritage held its "Price Increase Discussion" on April 22, 2014, it already had its agreement with Teva in place with respect to Nystatin and Theophylline, and Teva had already taken the lead on implementing the price increases.

404. A.S. was responsible for communicating with Defendant Sun about Nystatin. On April 22, 2014, shortly after the initial Heritage "Price Increase Discussion," A.S. called S.K., her counterpart at Sun, and spoke for more than forty-five (45) minutes.

405. After this call, A.S. immediately sent an email to Glazer and Malek titled "Conference call follow up." She reported her agreement with S.K. to her supervisors: "Caraco notified and on board." Glazer immediately replied: "No emails please."

406. On May 9, 2014, Heritage held another call regarding "Price Increases." Nystatin was again on the list of drugs slated for a price increase.

407. On June 23, 2014, Heritage employees held a "Price Change Call," where they discussed the specific percentage amounts they would seek to increase certain drugs, and the strategies for doing so. Nystatin was included on the list and was slated for a 95% increase. In her notes about the call, K.B., Associate Director, International Sales at Heritage, indicated that Heritage had to increase its WAC pricing for Nystatin, because Teva had "increased WAC already."

408. On June 25, 2014, Heritage held one last call regarding "Product Price Changes" before those changes were to be implemented. Nystatin was again on the list of drugs slated for a price increase.

409. While she was still on the Heritage "Product Price Changes" conference call on June 25, 2014, A.S. exchanged text messages with her contact at competitor Sun, S.K., to let her know the details of the anticipated price increase:

A.S.: "Work news: we are raising price on Nystatin. Just letting you know. :)"

S.K.: "How much"

A.S.: "Double the price"

A.S.: "On conf call- will call you back"

S.K.: "Yes"

410. Malek also spoke with N.P. the same day for nearly fourteen (14) minutes. During that call, Malek reported that Heritage would be sending out Price Increase Notices the next day for Nystatin and several of the other drugs that Heritage and Teva had agreed to raise prices on.

411. Heritage began sending out Price Increase Notices to its customers for Nystatin the next day. By July 9, 2014, Heritage had been able to successfully increase prices to at least fourteen different customers nationwide.

412. In addition to leading the price increases, Teva also refused to bid or challenge the Heritage price increases when requested by Heritage customers. For example, on July 8, 2014 a large retail customer sent an email to a Teva representative requesting a quote for Nystatin given a price increase from its current supplier. The Teva representative forwarded that email to N.P., asking "Are you aware of the below? Should we engage?" N.P. responded that she was aware, and that Heritage would be "following Teva on the Nystatin" and "leading Glyburide." She concluded that "we will not be bidding. Thanks."

413. By at least August of 2014, exact dates unknown, Sun also had begun implementing price increases on Nystatin.

414. This agreement between Heritage, Teva and Sun was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

viii. Paromomycin

415. Paromomycin, also known by the brand names Humatin®, Catenulin® and others, is a broad spectrum oral capsule antibiotic used to treat amoeba infection in the intestines and complications of liver disease.

416. In April 2014, Heritage had approximately 65% market share for Paromomycin. Heritage's only competitor at the time was Defendant Sun, through its division Caraco.

417. A.S. was responsible for communicating with Defendant Sun about Paromomycin. On April 22, 2014, shortly after the initial Heritage "Price Increase Discussion," A.S. called S.K., her counterpart at Sun, and they spoke for more than forty-five (45) minutes.

418. After this call, A.S. immediately sent an email to Glazer and Malek titled "Conference call follow up." In that email she advised that "Caraco notified and on board." Glazer immediately responded: "No emails please."

419. On May 8, 2014, Malek emailed the Heritage sales team asking them to confirm which competitors they had each been able to obtain agreements from in order to move forward with the price increases discussed during the April 22, 2014 conference. A.S. responded: "Jason: I made contact with all my take aways – with positive results. I can resend those notes or talk with you on any details."

420. On May 9, 2014, Heritage held another conference call regarding "Price Increases." Paromomycin was again on the list of drugs targeted for a price increase.

421. On May 20, 2014, A.S. spoke again to S.K. for more than twelve (12) minutes. During that call, S.K. informed A.S. that Sun would be "temporarily discontinuing" production of Paromomycin due to a need to transfer its manufacturing operations to another facility. A.S.

immediately informed Malek of the news, and he responded: "Need price increase to go immediately. Jack it up."

422. Sun continued to sell Paromomycin inventory through at least January 2015, maintaining a market share of almost 40% during that time. Heritage nonetheless felt comfortable raising its prices for Paromomycin knowing that an agreement was already in place with Sun.

423. On June 23, 2014, Heritage employees held a "Price Change Call," where they discussed the specific percentage amounts they would seek to increase certain drugs, and the strategies for doing so. Among those included on the list was Paromomycin, which at that time was slated for a 100% increase.

424. On June 25, 2014, Heritage held one last call regarding "Product Price Changes" before the price increases were to be implemented. Paromomycin was again on the list of drugs slated for a price increase.

425. Heritage began sending out Price Increase Notices to its customers for Paromomycin the next day. By July 9, 2014, Heritage had been able to successfully increase prices to at least thirteen (13) different customers nationwide.

426. This agreement between Heritage and Sun was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

ix. Theophylline ER

427. Theophylline ER, also known by the brand name Theodur®, is a medication used to treat asthma and airway narrowing associated with long-term asthma or other lung problems,

such as chronic bronchitis and emphysema. Theophylline ER is an extended release medication, which means that it is released into the body throughout the day.

428. In 2014, Heritage's primary competitor for Theophylline ER was Teva.

429. Teva began to consider raising the price of Theophylline ER in early 2014. N.P. called Malek on February 4, 2014 and left a message. Malek returned her call the next day, and they spoke for more than one hour. This was the first communication between the two since before N.P. went on maternity leave in August 2013.

430. On February 7, 2014, N.P. created a spreadsheet titled "PI Candidates". That spreadsheet included Theophylline as a candidate for a price increase.

431. Malek and N.P. had a series of phone calls in February and March 2014. By April 2014, Teva had decided to increase prices for Theophylline, and Heritage had planned to follow the price increases to match Teva.

432. Teva began implementing the price increases across the board for Theophylline with an effective date of April 4, 2014.

433. Shortly after implementing the price increases, on April 24, 2014, Teva received the following email from a consumer of Theophylline, with the subject line "PLIVA.com [Info] Price Gouging":

> I have been a consultant to virtually every major pharma company including Teva and Pliva (before it was acquired and located in E. Hanover). Since retiring I have been asked to participate with a US Senate Special Committee on the issue of pharmaceutical price gouging in the U.S.A. Today, I acquired my usual Rx of Theophylline ER from Costco for which I usually pay $19.01 and was charged $53.28 an increase of almost 200%. Costco Pharmacy confirmed that this increase is correct and was instituted sometime earlier this year (2014). Before having this listed in our national report as another example of Pharmaceutical Price Gouging, [w]e respectfully request a confirmation response from you, the manufacturer, relative to the accuracy of our data. Please

> respond to me at the above email address. If you prefer you can respond to Senator Schumer a New York State representative.

434. The email was forwarded to a member of the Government Affairs Department at Teva, who asked: "Can I get some details on the specifics of this product and the price increase. I'm hoping someone increased the price and we had to follow it up. Or, API or something I can give the senate." Ultimately, the request was forwarded to N.P. – who had directed and agreed to the price increases – with the question: "Please let me know the specifics of the price increase. Anything positive I can say?" N.P. responded: "I don't have a great story. I'll take a closer look." The real story was that Teva conspired with Heritage to raise market prices.

435. By the time that Heritage held its "Price Increase Discussion" on April 22, 2014, it already had its agreement in place with Teva with respect to Theophylline, and Teva had already taken the lead on implementing the price increases. Malek specifically instructed the Heritage sales team during that meeting that Heritage would be following the Teva price increase on Theophylline.

436. On May 9, 2014, Heritage held another call regarding "Price Increases." Theophylline was again on the list of drugs slated for a price increase.

437. On June 23, 2014, Heritage employees held a "Price Change Call," where they discussed the specific percentage amounts they would seek to increase certain drugs, and the strategies for doing so. Among those included on the list was Theophylline, which was slated for a 150% increase.

438. On June 25, 2014, Heritage held one last call regarding "Product Price Changes" before the price increases were to be implemented. Theophylline was again on the list of drugs slated for a price increase.

439. Malek also spoke with N.P. the same day for nearly fourteen (14) minutes. During that call, Malek reported that Heritage would be sending out Price Increase Notices shortly for Theophylline and several of the other drugs for which Heritage and Teva had agreed to raise prices.

440. Heritage began sending out Price Increase Notices to its customers for Theophylline the next day. By July 9, 2014, Heritage had been able to successfully increase prices to at least twenty (20) different customers nationwide, much as Teva had done three months earlier.

441. On June 30, 2014, N.P. sent an email to Teva employees stating that "[i]t appears that Heritage took an increase [on Theophylline] to follow Teva. The new pricing looks like it will be effective tomorrow and matches Teva's WACs." N.P. noted to her Teva colleagues that this activity "will likely trigger some bid requests/activity," but stated that Teva "should not be considering decreases."

442. This agreement between Heritage and Teva was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

x. Verapamil

443. Verapamil, also known by various brand names, is a calcium channel blocker used to treat hypertension, angina and certain heart rhythm disorders. It works by relaxing the muscles of the heart and blood vessels.

444. In April 2014, Heritage's competitors for Verapamil were Defendants Mylan and Actavis.

445. N.O. was primarily responsible for communicating with Mylan about Verapamil and other drugs. N.O. spoke to M.A. of Mylan on April 23, 2014 and reached an agreement to raise prices for Verapamil and two other drugs. Immediately after hanging up the phone with M.A., N.O. sent an email to Malek and A.S. titled "Mylan," stating: "Just let me know a day before we price adjust on the three Mylan products and they will put the word out to the reps to leave us alone. They are looking at price increases as well on a number of products."

446. A.S. was responsible for communicating with Defendant Actavis about Verapamil and one other drug. On April 22, 2014, within hours after the initial Heritage "Price Increase Discussion," A.S. called M.D., Director of National Accounts at Actavis, and they spoke for more than nine (9) minutes. Upon information and belief, during that call A.S. and M.D. reached an agreement to raise the price of Verapamil and another drug, Glyburide-Metformin.

447. M.D. conveyed the message internally to the sales and pricing team at Actavis that Heritage was looking to take a price increase on Verapamil. Immediately after speaking to A.S., M.D. called two different Senior Pricing Managers at Actavis, J.R. and C.K. The information spread quickly throughout the sales and pricing teams at Actavis. In an internal email dated April 28, 2014 regarding potential price increases for a list of different drugs, an Actavis pricing manager added: "[M.D.] made mention of keeping an eye out for an increase on Glyburide/Met and Verapamil IR."

448. Just over a week later, on May 6, 2014, M.F., the Vice President of Marketing, Pricing and Contracts at Actavis, who had also received the April 28 email discussed above, called J.N., a Vice President at Mylan, and left a message. J.N. returned the call on May 9, 2014 and the two spoke for just over three (3) minutes. They spoke again on May 19, 2014 for almost seven (7) minutes, and continued to communicate frequently over the next several months.

449. On May 8, 2014, Malek emailed the Heritage sales team asking them to confirm which competitors they had each been able to obtain agreements from in order to move forward with price increases discussed during the April 22, 2014 conference. A.S. responded: "Jason: I made contact with all my take aways – with positive results. I can resend those notes or talk with you on any details."

450. On May 9, 2014, Heritage held another conference call regarding "Price Increases." Verapamil was again on the list of drugs targeted for a price increase.

451. Although Heritage did not increase prices for Verapamil market wide in July, 2014, like it did for many other drugs, it did raise price on Verapamil to at least one customer as part of its price increase initiative.

452. On August 20, 2014, A.S. exchanged text messages with S.K. at Sun. During this text message exchange, A.S. described agreements that Heritage had reached with Actavis to increase prices of both Glyburide/Metformin and Verapamil:

> S.K.: "Have you heard anything about an Actavis price increase"
>
> A.S.: "I heard they were on board with it. What item specifically?"
>
> S.K.: "I don't know. I am just hearing about an increase but no details. What product have you heard about"
>
> A.S.: "We were communicating on Glyburide/Metformin and Verapamil"
>
> A.S.: "We haven't touched verapamil yet"

453. This agreement between Heritage, Mylan and Actavis was part of an overarching conspiracy of the corporate Defendants named in the Complaint to unreasonably restrain trade in the generic pharmaceutical industry.

C. Consciousness of Guilt

454. The Defendants were aware that their conduct was illegal. They all made consistent efforts to avoid communicating with each other in writing, or to delete written electronic communications after they were made.

455. Going back to at least 2012, for example, Heritage executives took overt steps to conceal their illegal activity, and destroy evidence of wrongdoing.

456. None of the email accounts maintained by Heritage had any document retention policy associated with them. Heritage executives were aware of this, and utilized the lack of a company retention policy to routinely destroy emails that memorialized their illegal conduct. Heritage executives were aware that in order to permanently destroy an email, however, the email had to be deleted from more than just the recipient's in box. For example, on June 27, 2012, Heritage CEO Glazer sent an email to Malek titled "Email," instructing: "Clean your sent file out as well."

457. Glazer continued to remind Malek not to put any evidence of his illegal conduct into writing. In a text message dated June 26, 2014, Glazer sternly warned Malek about his use of email: "No emails about products, price and competitors."

458. That same day, in an email to the entire sales team at Heritage, Glazer made the point as clearly as possible: "We don't talk about pricing dynamics and competition on emails. If you have questions – you can call JM or me directly and then punch yourself in the face."

459. Heritage was not alone in its efforts to conceal its illegal activity. For example, in June 2014, shortly after a text message exchange between K.A. of Citron and A.S. from Heritage wherein the two competitors discussed and agreed to raise the price of Glyburide, K.S. from Citron called D.L. at Heritage, informing him that she had been "looped" in on Heritage's plan.

According to A.S.'s notes, K.S. told D.L. that Heritage employees should not communicate with Citron through email, but should instead call L.S., the Vice President of Sales at Citron, if they had information to convey.

460. As Defendants became more aware that they were under state and federal investigation, there was even more urgency to avoid detection. For example, on June 2, 2015, after it had become public that Connecticut and the DOJ were investigating the industry, Malek sent A.S. a text message stating: "Just got your email on meprobamate. Let's avoid emailing about other manufacturers and having discussions with them. Can be misconstrued based on what we are hearing elsewhere…." Heritage did not produce the referenced email in response to Connecticut's subpoena, even though the subpoena sought all such documents. Upon information and belief, the referenced email has, along with other relevant documents, been deleted by Heritage.

461. Upon information and belief, Glazer, Malek and certain other Heritage employees also deleted all text messages from their company iPhones regarding their illegal communications with competitors.

462. G.S. of Mayne, realizing the illegal nature of the agreements she entered into, also deleted from her cell phone several of the most incriminating text messages between her and A.S. before the data on her phone was imaged and produced to Connecticut.

V. TRADE AND COMMERCE

463. At all times relevant to this Complaint, the activities of the Defendants in manufacturing, selling and distributing generic pharmaceutical drugs, including but not limited to Acetazolamide, Doxycycline Hyclate Delayed Release, Doxycycline Monohydrate, Fosinopril-Hydrochlorothiazide, Glipizide-Metformin, Glyburide, Glyburide-Metformin,

Leflunomide, Meprobamate, Nimodipine, Nystatin, Paromomycin, Theophylline, Verapamil and Zoledronic Acid, among others, were in the regular, continuous and substantial flow of interstate trade and commerce and have had and continue to have a substantial effect upon interstate commerce. The Defendants' activities also had and continue to have a substantial effect upon the trade and commerce within each of the Plaintiff States.

VI. MARKET EFFECTS

464. The acts and practices of Defendants have had the purpose or effect, or the tendency or capacity, of unreasonably restraining competition and injuring competition by preventing competition for the numerous generic pharmaceutical drugs identified herein, and have directly resulted in an increase in consumer prices for those drugs.

465. By unreasonably and illegally restraining competition for the generic pharmaceutical drugs identified herein, Defendants have deprived the Plaintiff States and their consumers of the benefits of competition that the federal and state antitrust laws, consumer protection laws and/or unfair competition statutes and related state laws are designed to promote, preserve and protect.

466. As a direct and proximate result of the unlawful conduct alleged above, Plaintiff States and consumers were not and are not able to purchase, or pay reimbursements for purchases of the various generic pharmaceutical drugs identified herein at prices determined by a market unhindered by the impact of Defendants' anticompetitive behavior. Instead, they have been and continue to be forced to pay artificially high prices. Consequently, they have suffered substantial injury in their business and property in that, *inter alia*, they have paid more and continue to pay more for the various generic pharmaceutical drugs identified herein than they would have paid in an otherwise competitive market.

467. As a direct and proximate cause of the unlawful conduct alleged above, the general economies of the Plaintiff States have sustained injury and the Plaintiff States are threatened with continuing injury to their business and property unless Defendants are enjoined from continuing their unlawful conduct.

468. Plaintiff States do not have an adequate remedy at law.

469. All conditions precedent necessary to the filing of this action have been fulfilled, waived or excused.

COUNT ONE (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE AND SUN, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO ALLOCATE MARKETS AND FIX PRICES FOR THE GENERIC DRUG NIMODIPINE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

470. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

471. Beginning as early as 2012, Defendants Heritage and Sun knowingly agreed to allocate and divide the market for the generic drug Nimodipine. During the course of this ongoing scheme, Defendants Heritage and Sun also agreed to fix and raise prices, and rig bids, for Nimodipine.

472. These agreements are facially anticompetitive because they allocate customers for the marketing and sale of the generic drug Nimodipine, artificially raise prices, and limit competition among the Defendants. These agreements have eliminated any form of price competition in the market for Nimodipine because at all relevant times, Heritage and Sun were the only competitors.

473. The conspiracy substantially affected and still affects interstate commerce.

474. The agreements constitute unreasonable restraints of trade that are *per se* illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of these agreements.

475. As a direct and proximate result of these conspiracies, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Nimodipine at supra-competitive prices, and Defendants Heritage and Sun have enjoyed ill-gotten gains from the sales of Nimodipine.

476. This agreement between Heritage and Sun was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Nimodipine. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT TWO (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE AND ASCEND, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO ALLOCATE MARKETS AND FIX PRICES FOR THE GENERIC DRUG NIMODIPINE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

477. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

478. Beginning as early as April 2014, Defendants Heritage and Ascend knowingly agreed to allocate and divide the market for the generic drug Nimodipine. During the course of this ongoing scheme, Defendants Heritage and Ascend also agreed to fix and raise prices, and rig bids, for Nimodipine.

479. These agreements are facially anticompetitive because they allocate customers for the marketing and sale of the generic drug Nimodipine, artificially raise prices, and limit competition among the Defendants. These agreements have eliminated any form of price competition in the market for Nimodipine because at all relevant times, Heritage and Ascend were the only competitors.

480. The conspiracy substantially affected and still affects interstate commerce.

481. The agreements constitute unreasonable restraints of trade that are *per se* illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of these agreements.

482. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Nimodipine at supra-competitive prices, and Defendants Heritage and Ascend have enjoyed ill-gotten gains from the sales of Nimodipine.

483. This agreement between Heritage and Ascend was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Nimodipine. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT THREE (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE AND DR. REDDY'S, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO ALLOCATE MARKETS FOR THE GENERIC DRUG ZOLEDRONIC ACID IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

484. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

485. Beginning as early as 2013, Defendants Heritage and Dr. Reddy's knowingly agreed to allocate and divide the market for the generic drug Zoledronic Acid.

486. This agreement is facially anticompetitive because it allocates customers for the marketing and sale of the generic drug Zoledronic Acid, artificially raises prices, and limits competition among the Defendants. This agreement has eliminated any form of price competition in the market for Zoledronic Acid between Defendants Heritage and Dr. Reddy's.

487. This conspiracy substantially affected and still affects interstate commerce.

488. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

489. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Zoledronic Acid at supra-competitive prices, and Defendants Heritage and Dr. Reddy's have enjoyed ill-gotten gains from the sales of Zoledronic Acid.

490. This agreement between Heritage and Dr. Reddy's was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Zoledronic Acid. As participants in the

overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT FOUR (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE AND DR. REDDY'S, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO ALLOCATE MARKETS AND FIX PRICES FOR THE GENERIC DRUG MEPROBAMATE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

491. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

492. Beginning as early as 2013, Defendants Heritage and Dr. Reddy's knowingly agreed to allocate and divide the market and raise prices for the generic drug Meprobamate.

493. This agreement is facially anticompetitive because it allocates customers for the marketing and sale of the generic drug Meprobamate, artificially raises prices, and limits competition among the Defendants. This agreement has eliminated any form of price competition in the market for Meprobamate between Defendants Heritage and Dr. Reddy's.

494. This conspiracy substantially affected and still affects interstate commerce.

495. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

496. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Meprobamate at supra-competitive prices, and Defendants Heritage and Dr. Reddy's have enjoyed ill-gotten gains from the sales of Meprobamate.

497. This agreement between Heritage and Dr. Reddy's was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably

restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Meprobamate. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT FIVE (BY ALL PLAINTIFF STATES AGAINST DEFENDANTS HERITAGE, EMCURE AND MYLAN, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY[3]) – HORIZONTAL CONSPIRACY TO ALLOCATE MARKETS FOR THE GENERIC DRUG DOXY DR IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

498. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

499. Beginning as early as 2013, Defendants Heritage and Mylan knowingly agreed to allocate and divide the market for the generic drug Doxy DR. Defendant Emcure, through its senior most executives and Board members, took active steps to initiate communications and facilitate the conspiracy between Heritage and Mylan, and benefited from the illegal agreement.

500. This agreement is facially anticompetitive because it allocates customers for the marketing and sale of the generic drug Doxy DR, artificially raises prices, and limits competition among the Defendants. This agreement has eliminated price competition in the market for Doxy DR between Defendants Heritage and Mylan.

501. This conspiracy substantially affected and still affects interstate commerce.

502. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

[3] At this time, California is only pursuing claims in Count Five against Defendants Heritage and Mylan.

503. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Doxy DR at supra-competitive prices, and Defendants Heritage, Emcure and Mylan have enjoyed ill-gotten gains from the sales of Doxy DR.

504. This agreement between Heritage and Mylan, which was facilitated by Defendant Emcure, was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Doxy DR. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT SIX (BY CERTAIN PLAINTIFF STATES[4] AGAINST DEFENDANTS RAJIV MALIK AND SATISH MEHTA) – HORIZONTAL CONSPIRACY TO ALLOCATE MARKETS FOR THE GENERIC DRUG DOXY DR IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

505. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

506. Beginning in 2013, Defendant Satish Mehta took active steps to facilitate an illegal conspiracy between Defendants Heritage and Mylan to allocate the market for Doxy DR. Defendant Mehta personally communicated with Defendant Rajiv Malik in order to facilitate conspiratorial communications between Malik, the President of defendant Mylan, and the CEO

[4] The following 38 Plaintiff States join in Count Six against Defendants Rajiv Malik and Satish Mehta: Connecticut, Alabama, Alaska, Arkansas, Arizona, Colorado, Delaware, Hawaii, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, Nevada, North Dakota, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Utah, Virginia, West Virginia and Wyoming.

of Defendant Heritage, Jeffrey Glazer with the purpose and effect of allocating the market for Doxy DR.

507. Defendant Malik also participated directly in the conspiracy between Heritage and Mylan. Malik personally communicated with Mehta and Glazer, and agreed that Mylan would allocate specific customers to Heritage when it was entering the market for Doxy DR.

508. This agreement is facially anticompetitive because it allocates customers for the marketing and sale of the generic drug Doxy DR, artificially raises prices, and limits competition among the Defendants. This agreement has eliminated price competition in the market for Doxy DR between Defendants Heritage and Mylan.

509. This conspiracy substantially affected and still affects interstate commerce.

510. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

511. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Doxy DR at supra-competitive prices, and Defendants Mehta and Malik have personally enjoyed ill-gotten gains from the sales of Doxy DR.

COUNT SEVEN (BY ALL PLAINTIFF STATES AGAINST DEFENDANTS HERITAGE AND MAYNE, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY[5]) – HORIZONTAL CONSPIRACY TO ALLOCATE MARKETS FOR THE GENERIC DRUG DOXY DR IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

512. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

[5] At this time, California is only pursuing claims in Count Seven against Defendants Heritage and Mayne.

513. Beginning in 2014, Defendants Heritage and Mayne knowingly agreed to allocate and divide the market for the generic drug Doxy DR.

514. The agreement is facially anticompetitive because it allocates customers for the marketing and sale of the generic drug Doxy DR, artificially raises prices, and limits competition among the Defendants. This agreement has eliminated price competition in the market for Doxy DR between Defendants Heritage and Mayne.

515. This conspiracy substantially affected and still affects interstate commerce.

516. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

517. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Doxy DR at supra-competitive prices, and Defendants Heritage and Mayne have enjoyed ill-gotten gains from the sales of Doxy DR.

518. This agreement between Heritage and Mayne was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Doxy DR. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT EIGHT (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, LANNETT, PAR AND MYLAN, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG DOXY MONO IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

519. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

520. Starting as early as March 2013, Heritage began to communicate with Defendant Lannett about increasing the price of Doxy Mono. Over the course of the next several months, Defendants Heritage, Lannett, Par and Mylan communicated and agreed to raise prices for, or to refrain from competing for, the generic drug Doxy Mono in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

521. Defendants Heritage, Lannett, Par and Mylan knowingly became a party to the agreement. The agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. The agreement has eliminated price competition in the market for Doxy Mono between Defendants Heritage, Lannett, Par and Mylan.

522. This conspiracy substantially affected and still affects interstate commerce.

523. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of this agreement.

524. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Doxy Mono at supra-competitive prices, and Defendants Heritage, Lannett, Par and Mylan have enjoyed ill-gotten gains from the sales of Doxy Mono.

525. This agreement between Heritage, Lannett, Par and Mylan was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Doxy Mono. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT NINE (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, TEVA AND ZYDUS, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG ACETAZOLAMIDE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

526. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

527. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Acetazolamide.

528. Heritage communicated directly with Defendants Teva and Zydus, and obtained agreements with Teva and Zydus to raise prices for, or to refrain from competing for, the generic drug Acetazolamide in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

529. Defendants Heritage, Teva and Zydus knowingly became a party to the agreement. The agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. The agreement has eliminated price competition in the market for Acetazolamide between Defendants Heritage, Teva and Zydus.

530. This conspiracy substantially affected and still affects interstate commerce.

531. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

532. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Acetazolamide at supra-competitive prices, and Defendants Heritage, Teva and Zydus have enjoyed ill-gotten gains from the sales of Acetazolamide.

533. This agreement between Heritage, Teva and Zydus was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Acetazolamide. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT TEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, AUROBINDO, CITRON, GLENMARK AND SANDOZ, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG FOSI-HCTZ IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

534. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

535. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Fosi-HCTZ.

536. Heritage communicated directly with Defendants Aurobindo, Citron, Glenmark and Sandoz, and obtained agreements with Aurobindo, Citron, Glenmark and Sandoz to raise

prices for the generic drug Fosi-HCTZ in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

537. Defendants Heritage, Aurobindo, Citron, Glenmark and Sandoz knowingly became a party to this agreement. This agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. This agreement has eliminated price competition in the market for Fosi-HCTZ between Defendants Heritage, Aurobindo, Citron, Glenmark and Sandoz.

538. This conspiracy substantially affected and still affects interstate commerce.

539. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of this agreement.

540. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Fosi-HCTZ at supra-competitive prices, and Defendants Heritage, Aurobindo, Citron, Glenmark and Sandoz have enjoyed ill-gotten gains from the sales of Fosi-HCTZ.

541. This agreement between Heritage, Aurobindo, Citron, Glenmark and Sandoz was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Fosi-HCTZ. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT ELEVEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, MYLAN AND TEVA, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG GLIPIZIDE-METFORMIN IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

542. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

543. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Glipizide-Metformin.

544. Heritage communicated directly with Defendants Mylan and Teva, and obtained agreements with Mylan and Teva to raise prices for, the generic drug Glipizide-Metformin in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

545. Defendants Heritage, Mylan and Teva knowingly became a party to this agreement. The agreement is facially anticompetitive because artificially raises prices and limits competition among the Defendants. The agreement has eliminated price competition in the market for Glipizide-Metformin between Defendants Heritage, Mylan and Teva.

546. This conspiracy substantially affected and still affects interstate commerce.

547. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

548. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Glipizide-Metformin at supra-competitive prices, and Defendants Heritage, Mylan and Teva have enjoyed ill-gotten gains from the sales of Glipizide-Metformin.

549. This agreement between Heritage, Mylan and Teva was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Glipizide-Metformin. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT TWELVE (BY ALL PLAINTIFF STATES AGAINST DEFENDANTS HERITAGE, TEVA, AUROBINDO AND CITRON, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY[6]) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG GLYBURIDE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

550. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

551. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Glyburide.

552. Heritage communicated directly with Defendants Teva, Aurobindo and Citron, and obtained agreements with Teva, Aurobindo and Citron to raise prices for, the generic drug Glyburide in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

553. Defendants Heritage, Teva, Aurobindo and Citron knowingly became a party to this agreement. The agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. The agreement has eliminated price competition in the market for Glyburide between Defendants Heritage, Teva, Aurobindo and Citron.

554. This conspiracy substantially affected and still affects interstate commerce.

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[6] At this time, California is only pursuing claims in Count Twelve against Defendants Heritage, Teva, Aurobindo, and Citron.

555. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

556. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Glyburide at supra-competitive prices, and Defendants Heritage, Teva, Aurobindo and Citron have enjoyed ill-gotten gains from the sales of Glyburide.

557. This agreement between Heritage, Teva, Aurobindo and Citron was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Glyburide. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT THIRTEEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, TEVA, AUROBINDO AND ACTAVIS, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG GLYBURIDE-METFORMIN IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

558. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

559. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Glyburide-Metformin.

560. Heritage communicated directly with Defendants Teva, Aurobindo and Actavis, and obtained agreements with Teva, Aurobindo and Actavis to raise prices for, the generic drug Glyburide-Metformin in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

561. Defendants Heritage, Teva, Aurobindo and Actavis knowingly became a party to this agreement. The agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. The agreement has eliminated price competition in the market for Glyburide-Metformin between Defendants Heritage, Teva, Aurobindo and Actavis.

562. This conspiracy substantially affected and still affects interstate commerce.

563. The agreement constitutes an unreasonable restraints of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

564. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Glyburide-Metformin at supra-competitive prices, and Defendants Heritage, Teva, Aurobindo and Actavis have enjoyed ill-gotten gains from the sales of Glyburide-Metformin.

565. This agreement between Heritage, Teva, Aurobindo and Actavis was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Glyburide-Metformin. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT FOURTEEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, TEVA AND APOTEX, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG LEFLUNOMIDE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

566. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

567. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Leflunomide.

568. Heritage communicated directly with Defendants Teva and Apotex, and obtained agreements with Teva and Apotex, to raise prices for the generic drug Leflunomide in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

569. Defendants Heritage, Teva and Apotex knowingly became a party to this agreement. This agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. This agreement has eliminated price competition in the market for Leflunomide between Defendants Heritage, Teva and Apotex.

570. This conspiracy substantially affected and still affects interstate commerce.

571. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of this agreement.

572. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Leflunomide at supra-competitive prices, and Defendants Heritage, Teva and Apotex have enjoyed ill-gotten gains from the sales of Leflunomide.

573. This agreement between Heritage, Teva and Apotex was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Leflunomide. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy

COUNT FIFTEEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, TEVA, AND SUN, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG NYSTATIN IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

574. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

575. Beginning as early as 2013, Defendants Heritage, Sun and Teva communicated with each other for the purpose and effect of obtaining an agreement to collectively raise prices for the generic drug Nystatin.

576. Defendants Heritage, Teva and Sun agreed to raise prices for the generic drug Nystatin in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

577. Defendants Heritage, Teva and Sun knowingly became a party to this agreement. The agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. The agreement has eliminated price competition in the market for Nystatin between Defendants Heritage, Teva and Sun.

578. This conspiracy substantially affected and still affects interstate commerce.

579. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

580. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Nystatin at supra-competitive prices, and Defendants Heritage, Teva and Sun have enjoyed ill-gotten gains from the sales of Nystatin.

581. This agreement between Heritage, Teva and Sun was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Nystatin. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT SIXTEEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE AND SUN, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG PAROMOMYCIN IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

582. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

583. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Paromomycin.

584. Heritage communicated directly with Defendant Sun, and obtained an agreement with Sun, to raise prices for the generic drug Paromomycin in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

585. Defendants Heritage and Sun knowingly became a party to this agreement. This agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. This agreement has eliminated price competition in the market for Paromomycin between Defendants Heritage and Sun.

586. This conspiracy substantially affected and still affects interstate commerce.

587. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of this agreement.

588. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Paromomycin at supra-competitive prices, and Defendants Heritage and Sun have enjoyed ill-gotten gains from the sales of Paromomycin.

589. This agreement between Heritage and Sun was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Paromomycin. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT SEVENTEEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE AND TEVA, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG THEOPHYLLINE IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

590. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

591. In early 2014, Teva devised a scheme to communicate with its competitor Heritage and obtain an agreement to raise prices on multiple drugs. Among those was the generic drug Theophylline.

592. Teva communicated directly with Defendant Heritage, and obtained an agreement with Heritage, to raise prices for the generic drug Theophylline in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

593. Defendants Heritage and Teva knowingly became a party to this agreement. This agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. This agreement has eliminated price competition in the market for Theophylline between Defendants Heritage and Teva.

594. This conspiracy substantially affected and still affects interstate commerce.

595. The agreement constitutes an unreasonable restraint of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of this agreement.

596. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Theophylline at supra-competitive prices, and Defendants Heritage and Teva have enjoyed ill-gotten gains from the sales of Theophylline.

597. This agreement between Heritage and Teva was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Theophylline. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT EIGHTEEN (BY ALL PLAINTIFF STATES EXCEPT CALIFORNIA AGAINST DEFENDANTS HERITAGE, MYLAN AND ACTAVIS, AND ALL OTHER CORPORATE DEFENDANTS UNDER JOINT AND SEVERAL LIABILITY) – HORIZONTAL CONSPIRACY TO RAISE PRICES FOR THE GENERIC DRUG VERAPAMIL IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT

598. Plaintiff States repeat and re-allege every preceding allegation as if fully set forth herein.

599. In April of 2014, Heritage devised a scheme whereby it would seek out its competitors and obtain agreements from them to collectively agree to raise prices for a large number of generic drugs. Among those was the generic drug Verapamil.

600. Heritage communicated directly with Defendants Mylan and Actavis, and obtained agreements with Mylan and Actavis to raise prices for, the generic drug Verapamil in direct violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

601. Defendants Heritage, Mylan and Actavis knowingly became a party to this agreement. The agreement is facially anticompetitive because it artificially raises prices and limits competition among the Defendants. The agreement has eliminated price competition in the market for Verapamil between Defendants Heritage, Mylan and Actavis.

602. This conspiracy substantially affected and still affects interstate commerce.

603. The agreement constitutes an unreasonable restraints of trade that is per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate analysis is required to demonstrate the anticompetitive character of the agreement.

604. As a direct and proximate result of this conspiracy, Plaintiff States, governmental entities and/or consumers have been injured in their business or property because they have had to purchase or reimburse for Verapamil at supra-competitive prices, and Defendants Heritage, Mylan and Actavis have enjoyed ill-gotten gains from the sales of Verapamil.

605. This agreement between Heritage, Mylan and Actavis was part of an overarching conspiracy among all of the corporate Defendants named in this Complaint to unreasonably restrain trade in the generic pharmaceutical industry, and to artificially fix, raise, stabilize and control the prices for generic drugs, including Verapamil. As participants in the overarching conspiracy, the corporate Defendants are jointly and severally liable for any harm caused as a result of the conspiracy.

COUNT NINETEEN– SUPPLEMENTAL STATE LAW CLAIMS

Connecticut

606. Plaintiff State of Connecticut repeats and re-alleges each and every preceding allegation as if fully set forth herein.

607. Defendants' actions as alleged herein violate the Connecticut Antitrust Act, Conn. Gen. Stat. §§ 35-26 and 35-28, in that they have the purpose and/or effect of unreasonably restraining trade and commerce within the State of Connecticut and elsewhere.

608. Defendants' actions as alleged herein have damaged, directly and indirectly, the prosperity, welfare, and general economy of the State of Connecticut and the economic well being of a substantial portion of the People of the State of Connecticut and its citizens and

businesses at large. Plaintiff State of Connecticut seeks recovery of such damages as parens patriae on behalf of the State of Connecticut and the People of the State of Connecticut pursuant to Conn. Gen. Stat. § 35-32(c)(2).

609. Defendants' acts and practices as alleged herein constitute unfair methods of competition in violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110b.

610. Plaintiff State of Connecticut seeks injunctive relief pursuant to Conn. Gen. Stat. § 35-34, civil penalties pursuant to Conn. Gen. Stat. § 35-38 for each and every violation of the Connecticut Antitrust Act, civil penalties pursuant to Conn. Gen. Stat. § 42-110o of $5,000 for each and every willful violation of the Connecticut Unfair Trade Practices Act, an order pursuant to Conn. Gen. Stat. § 42-110m requiring Defendants to submit to an accounting to determine the amount of improper compensation paid to them as a result of the allegations in the Complaint, disgorgement of all revenues, profits and gains achieved in whole or in part through the unfair methods of competition complained of herein, pursuant to Conn. Gen. Stat. § 42-110m, reasonable attorney's fees pursuant to Conn. Gen. Stat. § 42-110m, and such other and further relief as this Court deems just and equitable.

Alabama

611. Plaintiff State of Alabama repeats and re-alleges each and every preceding allegation as if fully set forth herein.

612. The acts and practices by Defendants constitute unconscionable acts in violation of the Alabama Deceptive Trade Practices Act, Code of Alabama, 1975, § 8-19-5(27) for which the State of Alabama is entitled to relief.

Alaska

613. Plaintiff State of Alaska repeats and re-alleges each and every preceding allegation as if fully set forth herein.

614. The aforementioned practices by Defendants are in violation of the Alaska Restraint of Trade Act, AS 45.50.562 et seq., and these violations had impacts within the State of Alaska and have substantially affected the people of Alaska. Specifically, the defendants conspired to allocate market share and to fix and raise prices of generic pharmaceuticals resulting in a restraint of trade or commerce. Plaintiff State of Alaska is entitled to relief for these violations under AS 45.50.576 - .578.

615. The aforementioned practices by Defendants are in violation of the Alaska Unfair Trade Practices and Consumer Protection Act, AS 45.50.471(b)(11) and (b)(12), and these violations had impacts within the State of Alaska and have substantially affected the people of Alaska. Specifically, the defendants' conduct in allocating market share and in fixing and raising prices, as described in the preceding paragraphs, deceived and damaged Alaskans by causing them to pay increased prices for generic pharmaceuticals. Further, the defendants deceived and defrauded Alaskans and omitted a material fact, namely their anti-competitive conduct, when selling their product to wholesalers and pharmacies knowing this would increase the cost to consumers. Plaintiff State of Alaska is entitled to relief for these violations under AS 45.50.501, .531, and .537.

Arizona

616. Plaintiff State of Arizona repeats and re-alleges each and every preceding allegation as if fully set forth herein.

617. Defendants' actions as alleged herein violate the Arizona State Uniform Antitrust Act, Ariz. Rev. Stat. § 44-1401 et seq.

618. Plaintiff State of Arizona brings this action pursuant to A.R.S. §§ 44-1407 and 1408, and seeks relief, including but not limited to injunctive relief, civil penalties, other equitable relief (including but not limited to disgorgement), fees and costs, and such other relief as this Court deems just and equitable.

619. Defendants' actions as alleged herein constitute unlawful practices as defined in the Arizona Consumer Fraud Act, A.R.S. § 44-1521 et seq. Defendants engaged in unfair or deceptive acts or practices in connection with the sale or advertisement of merchandise by, among other things, making misrepresentations and taking steps to conceal their anticompetitive schemes.

620. Defendants' violations of the Arizona Consumer Fraud Act were willful, in that they knew or should have known that their conduct was of the nature prohibited by A.R.S. §44-1522.

621. Plaintiff State of Arizona brings this action pursuant to A.R.S. §§ 44-1528 and 1531, and seeks relief, including but not limited to injunctive relief, restitution, disgorgement and other equitable relief, civil penalties, fees and costs, and such other relief as this Court deems just and equitable.

Arkansas

622. Plaintiff State of Arkansas repeats and re-alleges each and every preceding allegation as if fully set forth herein.

623. Defendants' actions alleged herein violate, and Plaintiff State of Arkansas is entitled to relief under, The Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101

et seq., the Unfair Practices Act, Ark. Code Ann. § 4-75-201 et seq., Monopolies Generally, Ark. Code Ann. § 4-75-301 et seq., and the common law of Arkansas.

624. Plaintiff State of Arkansas seeks relief, including, but not limited to, damages and restitution for Arkansas state entities and for Arkansas consumers for loss incurred, either directly or indirectly. Plaintiff State of Arkansas also seeks, and is entitled to, maximum civil penalties allowed by law, injunctive relief, attorney's fees, costs, investigative expenses, expert witness expenses, and such other relief as this Court deems just and equitable.

California[7]

625. Plaintiff State of California repeats and re-alleges each and every preceding allegation made by California in the First Amended Complaint as repeated in this Consolidated Amended Complaint.

626. Defendants' actions alleged herein constitute contracts, combinations or conspiracies in violation of the Cartwright Act, California Business and Professions Code Sections 16720 et seq., in that they have the purpose and/or effect of unreasonably restraining trade and commerce within the State of California and elsewhere.

627. In addition, as alleged herein, Defendants engaged, and continue to engage, in unlawful, fraudulent or unfair acts or practices, which constitute unfair competition in violation of California Unfair Competition Law ("UCL"), California Business and Professions Code Sections 17200 et seq.

628. Defendants' actions alleged herein also constitute violations of the California False Advertiing Law ("FAL"), California Business and Professions Code Sections 17500 et

[7] At this time, the California state law claims apply only to Defendants Heritage, Mylan, and Mayne with respect to Doxy DR and to Defendants Heritage, Teva, Aurobindo, and Citron with respect to Glyburide.

seq., in that Defendants made or disseminated, or caused to be made or disseminated, false or misleading statements, and continue to do so with the intent to induce their customers, wholesalers, and consumers to purchase their products at supracompetitive prices when they knew, or by the exercise of reasonable care should have known, that the statements were false or misleading. Statements in violation of the FAL include, but are not limited to, false or misleading bids and/or offers made by Defendants to their customers and wholesalers as well as false or misleading statements made by Defendants to their customers and wholesalers as to their supply capacity and/or their reasons for bidding or not bidding.

629. Plaintiff State of California is bringing these state claims as well as the federal claims alleged above in its sovereign capacity only. In bringing its state claims, Plaintiff State of California is entitled to, among other things, injunctive and equitable relief in the form of disgorgement of Defendants' ill-gotten gains under the Cartwright Act (Cal. Bus. & Prof. Code § 16750, et seq.); injunctive, restitution and other equitable relief under the UCL (Cal. Bus. & Prof. Code § 17200, et seq.) and under the FAL (Cal. Bus. & Prof. Code § 17500, et seq.); civil penalties assessed at $2,500 for each violation of the UCL and penalties assessed at $2,500 for each violation of the FAL (Cal. Bus. & Prof. Code §§ 17206 and 17536), and additional penalties for senior citizens and disabled victims of the violation (Cal. Bus. & Prof. Code § 17206.1 and Cal. Civil Code § 3345); costs of suit, including reasonable attorneys' fees, and such other relief as may be just and equitable (Cal. Bus. & Prof. Code §§ 16750, 16754, and 16754.5).

Colorado

630. Plaintiff State of Colorado repeats and re-alleges each and every preceding allegation as if fully set forth herein.

631. Defendants' actions violate, and Plaintiff State of Colorado is entitled to relief under, the Colorado Antitrust Act of 1992, § 6-4-101, et seq., Colo. Rev. Stat.

632. Plaintiff State of Colorado seeks equitable relief, the maximum civil penalties allowed by law, attorneys' fees, and costs.

District of Columbia

633. Plaintiff District of Columbia, through its Attorney General, repeats and realleges each and every preceding allegation as if fully set forth herein.

634. The aforementioned practices by Defendants were in violation of the District of Columbia Antitrust Act, D.C. Code § 28-4502.

635. Plaintiff District of Columbia has been and continues to be injured by Defendants' actions. The District is entitled to all available relief for these violations pursuant to D.C. Code §§ 28-4507 and 28-4509, including injunctive relief, damages as parens patriae on behalf of individuals residing in the District of Columbia, restitution, disgorgement, costs, attorney's fees, and any other appropriate injunctive and equitable relief.

Delaware

636. Plaintiff State of Delaware repeats and re-alleges each and every preceding allegation as if fully set forth herein.

637. The aforementioned practices by defendants constitute violations of Section 2103 of the Delaware Antitrust Act, 6 Del. C. § 2101, et seq.

638. Plaintiff State of Delaware through the Attorney General brings this action pursuant to Sections 2105 and 2107, and seeks civil penalties and equitable relief pursuant to Section 2107 of the Delaware Antitrust Act, 6 Del. C. § 2101, et seq.

Florida

639. The State of Florida repeats and re-alleges each and every preceding allegation as if fully set forth herein.

640. This is an action that alleges a violation of the Florida Antitrust Act, Section 542.18, and the Florida Deceptive and Unfair Trade Practices Act, Section 501.201, et seq. The State of Florida is entitled to relief, including, but not limited to, damages, disgorgement, civil penalties, equitable relief, injunctive relief, attorneys' fees and costs resulting from the Defendants' conduct as stated above, for all purchases of pharmaceuticals by the State of Florida and its government entities and municipalities, Florida businesses, and individual consumers.

641. Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") purchases pharmaceuticals directly from Defendants and/or has an assignment of antitrust claims from Cardinal Health, Inc. ("Cardinal"). The State of Florida purchases generic drugs from MMCAP and has a similar assignment from MMCAP for any claims MMCAP may have for violations of the antitrust laws. As a result of these assignments, any claims for violations of federal and/or state antitrust laws that MMCAP and/or Cardinal may have had have been assigned to the State of Florida when the claims relate to purchases by the State of Florida.

642. Defendants knowingly – that is, voluntarily and intentionally – entered into a continuing agreement, understanding, and conspiracy to raise, fix, maintain, and/or stabilize the prices charged for pharmaceuticals during the Relevant Period, continuing through the filing of this Complaint.

643. Defendants directly and indirectly sold pharmaceuticals to the State of Florida and its government entities and municipalities, Florida businesses, and individual consumers.

644. The State of Florida and its government entities and municipalities, and Florida individual consumers have been injured and will continue to be injured by paying more for pharmaceuticals purchased directly and/or indirectly from the Defendants and their co-conspirators than they would have paid in the absence of the conspiracy.

645. As a direct and proximate result of the Defendants' conduct, the State of Florida and its government entities and municipalities, and Florida individual consumers have been harmed and will continue to be harmed by paying supra-competitive prices for pharmaceuticals that they would not had to pay in the absence of the Defendants' conduct as alleged herein.

646. The sale of pharmaceuticals in the State of Florida involves trade or commerce within the meaning of the Florida Antitrust Act and the Florida Deceptive and Unfair Trade Practices Act.

647. Defendants' combination, conspiracy, acts, and practices, or the effects thereof, are continuing and will continue and are likely to recur unless permanently restrained and enjoined.

648. The combination, conspiracy, acts, and practices alleged herein constitute unfair methods of competition in violation of the Florida Deceptive and Unfair Trade Practices Act, 501. 201, et seq, Florida Statutes.

649. Further, Defendants' actions offend established public policy and are immoral, unethical, oppressive, unscrupulous, or substantially injurious to Florida governmental entities, to municipalities in the State of Florida, and to consumers in the State of Florida in violation of Section 501.204, Florida Statutes.

Hawaii

650. Plaintiff State of Hawaii repeats and re-alleges each and every preceding allegation as if fully set forth herein.

651. The aforementioned practices by Defendants negatively affected competition by unlawfully restraining trade or commerce, or having the purpose or effect of fixing, controlling or maintaining prices, allocating or dividing customers or markets, fixing or controlling prices or bidding for public or private contracts, or otherwise thwarting genuine competition in generic drug markets, in violation of Chapter 480, Hawaii Revised Statutes.

652. Section 480-2, Hawaii Revised Statutes, provides that "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful."

653. The aforementioned practices by Defendants were and are deceptive acts or practices because they involve representations, omissions, and/or practices that were and are material, and likely to mislead entities acting reasonably under the circumstances.

654. The aforementioned practices by Defendants: were and are unfair because they offend public policy as established by statutes, the common law, or otherwise; were and are immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumer and entities affected by Defendants' practices; and were and are unfair competitive conduct.

655. The aforementioned practices are unfair or deceptive acts or practices and unfair methods of competition in violation of section 480-2, Hawaii Revised Statutes.

656. Plaintiff State of Hawaii is entitled to: injunctive relief pursuant to section 480-15, Hawaii Revised Statutes, and other equitable relief (including but not limited to restitution and disgorgement of Defendants' ill-gotten gains); civil penalties pursuant to section 480-3.1,

Hawaii Revised Statutes; threefold the actual damages sustained by government agencies; as parens patriae on behalf of natural persons residing in the State for threefold damages for injuries sustained by such natural persons to their property by reason of any violation of chapter 480; and reasonable attorney fees and costs.

Idaho

657. Plaintiff State of Idaho repeats and re-alleges each and every preceding allegation as if fully set forth herein.

658. Defendants' actions as alleged herein violate the Idaho Competition Act, Idaho Code § 48-104, in that they have the purpose and/or the effect of unreasonably restraining Idaho commerce, as that term is defined by Idaho Code § 48-103(1).

659. For each and every violation alleged herein, Plaintiff State of Idaho, on behalf of itself, its state agencies, and persons residing in Idaho, is entitled to all legal and equitable relief available under the Idaho Competition Act, Idaho Code §§ 48-108, 48-112, including, but not limited to, injunctive relief, actual damages or restitution, civil penalties, disgorgement, expenses, costs, attorneys' fees, and such other and further relief as this Court deems just and equitable.

660. Defendants' actions constitute per se violations of Idaho Code § 48-104. Pursuant to Idaho Code § 48-108(2), Plaintiff State of Idaho, as parens patriae on behalf of persons residing in Idaho, is entitled to treble damages for the per se violations of Idaho Code § 48-104.

Illinois

661. Plaintiff State of Illinois repeats and re-alleges each and every preceding allegation as if fully set forth herein.

662. Defendants' actions as alleged herein violate sections 3(1), 3(2) and 3(3) of the Illinois Antitrust Act, 740 ILCS 10/1 et seq.

663. Plaintiff State of Illinois, under its antitrust enforcement authority in 740 ILCS 10/7, seeks relief, including but not limited to damages, for Illinois consumers and Illinois state entities that paid for one or more of the drugs identified in this Consolidated Amended Complaint during the relevant period and thereby paid more than they would have paid but for Defendants' unlawful conduct. Plaintiff State of Illinois also seeks, and is entitled to, injunctive relief, civil penalties, other equitable relief (including but not limited to disgorgement), fees and costs, and any other remedy available for these violations under sections 7(1), 7(2), and 7(4) of the Illinois Antitrust Act.

Indiana

664. Plaintiff State of Indiana repeats and re-alleges each and every preceding allegation as if fully set forth herein.

665. The aforementioned practices are a violation of Chapter Two of the Indiana Antitrust Act, Ind. Code § 24-1-2-1, and the Plaintiff State of Indiana seeks recovery pursuant to I.C. § 24-1-2-5.

666. The aforementioned practices are a violation of Chapter One of the Indiana Antitrust Act, I.C. § 24-1-1-1, and the Plaintiff State of Indiana seeks recovery pursuant to I.C. § 24-1-1-2.

667. The aforementioned practices are unfair and/or deceptive acts by a supplier in the context of a consumer transaction in violation of the Indiana Deceptive Consumer Sales Act, I.C. § 24-5-0.5-3.

668. Plaintiff State of Indiana under its authority in I.C. § 24-1-2-5, I.C. § 24-1-1-2, and I.C. § 24-5-0.5-4 seeks relief, including but not limited to damages, for Indiana consumers and Indiana state entities that paid for one or more of the drugs identified in this Consolidated Amended Complaint during the relevant period and thereby paid more than they would have paid but for Defendants' unlawful conduct. Plaintiff State of Indiana also seeks, and is entitled to, civil penalties, injunctive relief, other equitable relief (including but not limited to disgorgement), fees and costs and any other remedy available for these violations under the Indiana Antitrust Act and the Indiana Deceptive Consumer Sales Act.

Iowa

669. Plaintiff State of Iowa repeats and re-alleges each and every preceding allegation as if fully set forth herein.

670. The alleged practices by Defendants were in violation of the Iowa Competition Law, Iowa Code Chapter 553.

671. Iowa seeks an injunction and divestiture of profits resulting from these practices pursuant to Iowa Code § 553.12, and civil penalties pursuant to Iowa Code § 553.13.

672. Defendants' acts and practices as alleged herein also constitute an unfair practice in violation of the Iowa Consumer Fraud Act, Iowa Code § 714.16(1)(n) and a deception pursuant to Iowa Code section 714.16(1)(f).

673. Pursuant to Iowa Code § 714.16(7), the State of Iowa seeks disgorgement, restitution, and other equitable relief for these violations. In addition, pursuant to Iowa Code § 714.16(11), the Attorney General seeks reasonable fees and costs for the investigation and litigation.

Kansas

674. Plaintiff State of Kansas repeats and re-alleges each and every preceding allegation as if fully set forth herein.

675. The aforementioned practices by Defendants were and are in violation of the Kansas Restraint of Trade Act, Kan. Stat. Ann. §§ 50-101 et seq.

676. The State of Kansas seeks relief on behalf of itself and its agencies and as parens patriae on behalf of its residents, pursuant to Kan. Stat. Ann. §§ 50-103 and 50-162.

677. Kansas governmental entities and residents are entitled to money damages regardless of whether they purchased one or more of the drugs identified in this Consolidated Amended Complaint directly or indirectly from Defendants, pursuant to Kan. Stat. Ann. § 50-108(b).

678. The State of Kansas is entitled to injunctive relief, civil penalties, restitution, treble damages, reasonable expenses and investigative fees, reasonable attorney fees and costs, and any other appropriate relief the court so orders, pursuant to Kan. Stat. Ann. §§ 50-103, 50-108, 50-160, and 50-161.

Kentucky

679. Plaintiff Commonwealth of Kentucky repeats and re-alleges each and every preceding allegation as if fully set forth herein. The aforementioned acts or practices by Defendants violate the Consumer Protection Act, Ky. Rev.Stat.Ann.§ 367.110 et seq. ("KCPA")

680. Defendants, by distributing, marketing and selling generic pharmaceutical drugs to consumers through wholesalers and distributors, pharmacy and supermarket chains, and other resellers of generic pharmaceutical drugs and otherwise engaging in the conduct described herein with respect to the generic pharmaceutical drugs identified herein, are engaging in trade or

commerce that harmed the Commonwealth and consumers within the meaning of Ky.Stat.Ann. §367.170.

681. Defendants impaired consumer choice in each generic drug market identified herein in what should have been a freely competitive marketplace for the generic pharmaceutical drugs identified herein. Defendants have deprived consumers of being able to meaningfully choose from the options a competitive market would have provided.

682. The Defendants agreed to, and did in fact, act in restraint of trade or commerce in each generic drug market identified herein, by affecting, fixing, controlling and/or maintaining at artificial and non-competitive levels, the prices at which the generic pharmaceutical drugs identified herein were sold, distributed or obtained. Such conduct has been and is unfair under the KCPA.

683. Defendants have misrepresented the absence of competition in each generic drug market identified herein. By misrepresenting and/or omitting material facts concerning the absence of competition in each generic drug market identified herein, the Defendants misled the Commonwealth that prices for the numerous generic pharmaceutical drugs identified herein were competitive and fair. Defendants' conduct has been misleading and/or had a tendency to deceive.

684. The Defendants' misrepresentations and omission of material facts had the following effects: (1) generic drug price competition was restrained, suppressed and eliminated; (2) generic drug prices were raised, fixed, maintained and stabilized at artificially-high levels; (3) the Commonwealth was deprived of free and open markets; and (4) the Commonwealth and consumers paid supra-competitive, artificially inflated prices for the generic pharmaceutical drugs identified herein. The Defendants' misrepresentations and omissions of material facts have caused Commonwealth harm in paying more for generic pharmaceutical drugs identified herein.

685. Defendants violated the KCPA:

a. Each time Defendants agreed to allocate the market for specific drugs in the generic pharmaceutical drug market as set forth above;

b. Each time Defendants agreed to fix prices on the specified drugs in the specified drug markets as set forth above;

c. Each time a Defendant failed to disclose the existence of a market allocation agreement and/or a price-fixing agreement involving any of the numerous generic pharmaceutical drugs identified herein;

d. Each time a Defendant submitted false or misleading cover bids and/or offers to their customers and wholesalers;

e. Each time a Defendant provided false or misleading statements to prospective customers related to supply capacity or reasons for bidding or not bidding;

f. Each time a request for reimbursement was made to the Commonwealth for any of the numerous generic pharmaceutical drugs identified herein; and

g. Each time the Commonwealth or its consumers paid an artificially inflated price for any of the numerous generic pharmaceutical drugs identified herein the Defendants' distributed, marketed or sold.

686. The above described conduct has been and is willful within the meaning of Ky.Stat.Ann. §367.990.

687. The Commonwealth states that the public interest is served by seeking a permanent injunction to restrain the acts and practices described herein. The Commonwealth and

its citizens will continue to be harmed unless the acts and practices complained of herein are permanently enjoined pursuant to Ky.Stat.Ann. §367.190. Further, the Commonwealth seeks restitution to the Commonwealth and/or disgorgement pursuant to Ky.Stat.Ann.§§ 367.190 -.200. The Commonwealth seeks a civil penalty of up to $2,000 for each such willful violation, or $10,000 for each such violation directed at a person over 60 pursuant to Ky.Stat.Ann.§ 367.990.

Unjust Enrichment

688. Defendants have been unjustly enriched as a result of the conduct set forth herein. The Commonwealth and consumers were purchasers, reimbursers and/or end-payors of Defendants' generic pharmaceutical drugs identified herein and have paid, at their expense, amounts far in excess of the competitive prices for such drugs that would have prevailed in a competitive and fair market.

689. For those customers that purchase directly or indirectly from Defendants at artificially inflated and supra-competitive prices, Defendants have increased prices above what would have prevailed in a competitive and fair market; thereby, directly benefiting Defendants in the form of increased revenues.

690. Defendants knew of, and appreciated and retained the benefits of Commonwealth and consumers' purchases of any of the Defendants' generic pharmaceutical drugs identified herein at amounts far in excess of the competitive price.

691. Based on Defendants' conduct set for herein, it would be inequitable and unjust for Defendants to retain such benefits without payment of value. Defendants will be unjustly enriched if they are permitted to retain the direct or indirect benefits received resulting from the purchase of any of the generic pharmaceutical drugs identified herein by the Commonwealth. The Commonwealth therefore seeks to recover the amounts that unjustly enriched the

Defendants. The Commonwealth is entitled to equitable relief in the form of an injunction and disgorgement, and any other relief the Court deems appropriate.

Louisiana

692. Plaintiff State of Louisiana repeats and re-alleges each and every preceding allegation as if fully set forth herein.

693. The practices of Defendants described herein are in violation of the Louisiana Monopolies Act, LSA-R.S. 51:121 et seq., and the Louisiana Unfair Trade Practices Act, LSA-R.S. 51:1401 et. seq.

694. Plaintiff State of Louisiana is entitled to injunctive relief and civil penalties under LSA-R.S. 51:1407 as well as damages, disgorgement and any other equitable relief that the court deems proper under LSA-R.S. 51:1408.

Maine

695. Plaintiff State of Maine repeats and re-alleges each and every preceding allegation as if fully set forth herein.

696. The aforementioned practices by Defendants are in violation of the Maine Monopolies and Profiteering Law, 10 M.R.S. §§ 1101 and 1102, and Plaintiff State of Maine is entitled to relief for these violations under 10 M.R.S. § 1104.

697. The aforementioned practices by Defendants are intentional and in violation of the Maine Unfair Trade Practices Act, 5 M.R.S. § 207, and Plaintiff State of Maine is entitled to relief for those violations under 5 M.R.S. § 209.

Maryland

698. Plaintiff State of Maryland repeats and re-alleges each and every preceding allegation as if fully set forth herein.

699. The aforementioned practices by Defendants were and are in violation of the Maryland Antitrust Act, Md. Com. Law Code Ann. §§ 11-201 et seq. These violations substantially affect the people of Maryland and have impacts within the State of Maryland.

700. Plaintiff State of Maryland brings this action against Defendants in the following capacities:

a. Pursuant to Md. Com. Law Code Ann. § 11-209(a) in its sovereign capacity for injunctive relief, civil penalties, restitution, disgorgement and all other available equitable remedies;

b. Pursuant to Md. Com Law Code Ann. § 11-209(b)(5) as parens patriae on behalf of persons residing in Maryland. These persons are entitled to three times the amount of money damages sustained regardless of whether they have purchased generic pharmaceuticals directly or indirectly from Defendants. Md. Health Gen. Code Ann. § 21-1114.

701. Plaintiff State of Maryland also seeks, pursuant to Md. Com. Law Code Ann. § 11-209(b), reimbursement of reasonable attorney's fees, expert fees and costs.

Massachusetts

702. Plaintiff Commonwealth of Massachusetts repeats and re-alleges each and every preceding allegation as if fully set forth herein.

703. The aforementioned practices by Defendants, including but not limited to agreements in restraint of trade and/or attempted agreements in restraint of trade, constitute unfair methods of competition and/or unfair or deceptive acts or practices in trade or commerce in violation of the Massachusetts Consumer Protection Act, M.G.L c. 93A, § 2 et seq.

704. Defendants knew or should have known that their conduct violated the Massachusetts Consumer Protection Act, M.G.L c. 93A, § 2 et seq.

705. Plaintiff Commonwealth of Massachusetts is entitled to relief under M.G.L. c. 93A, § 4, including, without limitation, damages and restitution to Massachusetts consumers and Massachusetts governmental purchasers; civil penalties for each violation committed by the Defendants; injunctive relief and other equitable relief including, without limitation, disgorgement; fees and costs including, without limitation, costs of investigation, litigation, and attorneys' fees; and any other relief available under M.G.L. c. 93A, § 4.

706. Plaintiff Commonwealth of Massachusetts notified the Defendants of this intended action at least five days prior to the commencement of this action and gave the Defendants an opportunity to confer in accordance with M.G. L. c. 93A, § 4.

Michigan

707. Plaintiff State of Michigan repeats and re-alleges each and every preceding allegation as if fully set forth herein.

708. The State of Michigan brings this action both on behalf of itself, its State Agencies, and as parens patriae on behalf of natural persons, pursuant to Mich. Comp. Laws §14.28, and §14.101, to enforce public rights and to protect residents and its general economy against violations of the Michigan Antitrust Reform Act, Mich. Comp. Laws § 445.771, et seq., the Michigan Consumer Protection Act, Mich. Comp. Laws §445.901 et. seq., and the common law of the State of Michigan.

709. The aforementioned practices by Defendants were and are in violation of the Michigan Antitrust Reform Act, Mich. Comp. Laws § 445.771, et seq., the Michigan Consumer Protection Act, Mich. Comp. Laws §445.901 et. seq., and the common law of the State of

Michigan. As a result of Defendant's unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade and Defendants' conspiracy to restrain trade for the purpose of excluding or avoiding competition, all as more fully described above, the Plaintiff State of Michigan, its agencies, and consumers have suffered and been injured in business and property by reason of having to purchase or reimburse at supra-competitive prices as direct and indirect purchasers and will continue to suffer ascertainable loss and damages in an amount to be determined at trial.

710. Accordingly, Plaintiff State of Michigan on behalf of itself, its agencies, and as parens patriae on behalf of its consumers affected by Defendants' illegal conduct, is entitled to relief including but not limited to injunctive relief and other equitable relief (including but not limited to disgorgement), civil penalties, damages, costs and attorney fees.

Minnesota

711. Plaintiff State of Minnesota repeats and re-alleges each and every preceding allegation as if fully set forth herein.

712. Defendants' acts as alleged herein violate the Minnesota Antitrust Law of 1971, Minn. Stat. §§ 325D.49-.66. Plaintiff State of Minnesota seeks relief, including but not limited to:

a. damages for itself, its state agencies that paid for the generic pharmaceutical drugs identified herein, and as parens patriae on behalf of its consumers. Plaintiff State of Minnesota is entitled to damages under Minn. Stat. § 8.31, subd. 3a and treble damages under Minn. Stat. § 325D.57;

b. disgorgement under Minn. Stat. § 325D.59 and Minn. Stat. Ch. 8;

c. injunctive relief under Minn. Stat. §§ 325D.58 and Minn. Stat. § 8.31, subd. 3;

d. costs and reasonable attorneys' fees under Minn. Stat. § 325D.57 and Minn. Stat. § 8.31, subd. 3a; and

e. civil penalties under Minn. Stat. § 325D.56 and Minn. Stat. § 8.31, subd.

713. The Defendants deceptively misrepresented to Plaintiff State of Minnesota, its state agencies and Minnesota consumers that Defendants' pricing at which the numerous generic pharmaceutical drugs identified herein were sold, distributed or obtained in Minnesota was competitive and fair.

714. The Defendants' deceptive misrepresentations and failure to disclose material facts had the following effects: (1) generic drug price competition was restrained, suppressed and eliminated throughout Minnesota; (2) generic drug prices were raised, fixed, maintained and stabilized at artificially-high levels throughout Minnesota; (3) Plaintiff State of Minnesota, its state agencies and Minnesota consumers were deprived of free and open markets; and (4) Plaintiff State of Minnesota, its state agencies and Minnesota consumers paid supra-competitive, artificially inflated prices for the numerous generic pharmaceutical drugs identified herein.

715. The Defendants' deceptive misrepresentations and failure to disclose material facts have caused Plaintiff State of Minnesota, its state agencies, and Minnesota consumers to suffer and to continue to suffer loss of money or property, real or personal, by means of Defendants' use or employment of deceptive commercial practices as set forth above.

716. Defendants violated the deceptive trade practices laws of Minnesota:

a. Each time a Defendant failed to disclose the existence of a market allocation agreement and/or a price-fixing agreement involving any of the numerous generic pharmaceutical drugs identified herein;

b. Each time a Defendant submitted false or misleading cover bids and/or offers to their customers and wholesalers;

c. Each time a Defendant provided false or misleading statements to prospective customers related to supply capacity or reasons for bidding or not bidding;

d. Each time each Plaintiff State of Minnesota, its state agencies and Minnesota consumers paid an artificially inflated price for any of the numerous generic pharmaceutical drugs identified herein; and

e. Each time a request for reimbursement was made to Minnesota for any of the numerous generic pharmaceutical drugs identified herein.

717. The Defendants' conduct is unlawful pursuant to the Uniform Deceptive Trade Practices Act of 1973, Minn. Stat. §§ 325D.43-.48 and Minn. Stat. Ch. 8. The aforesaid methods, acts or practices constitute deceptive acts under this Act, including, but not limited to:

a. Representing "that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have" in violation of Minn. Stat. § 325D.44, subd. 1(5);

b. Representing "that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another" in violation of Minn. Stat. § 325D.44, subd. 1(7); and

c. Engaging "in any other conduct which similarly creates a likelihood of confusion or of misunderstanding" in violation of Minn. Stat. § 325D.44, subd. 1(13).

718. Some or all of these violations by Defendants were willful.

719. Plaintiff State of Minnesota seeks relief for violations of Uniform Deceptive Trade Practices Act of 1973, Minn. Stat. §§ 325D.43-.48 including but not limited to:

a. damages for itself, its state agencies that paid for the generic pharmaceutical drugs identified herein, and as parens patriae on behalf of its consumers under Minn. Stat. § 325D.45, subd. 3 and Minn. Stat. § 8.31, subd. 3a;

b. disgorgement under Minn. Stat. § 325D.45, subd. 3, Minn. Stat. Ch. 8, and Minnesota common law;

c. injunctive relief under Minn. Stat. § 325D.45, subd. 1 and Minn. Stat. § 8.31, subd. 3;

d. costs and reasonable attorneys' fees under Minn. Stat. § 325D.44 and Minn. Stat. § 8.31, subd. 3a; and

e. civil penalties under Minn. Stat. § 8.31, subd. 3.

720. By reason of the foregoing, the Defendants have been unjustly enriched as a result of the conduct set forth herein with respect to Plaintiff State of Minnesota, its state agencies that paid for the generic pharmaceutical drugs identified herein, and its consumers.

721. Plaintiff State of Minnesota, its state agencies that paid for the generic pharmaceutical drugs identified herein, and its consumers were purchasers, reimbursers and/or end-payors of Defendants' generic pharmaceutical drugs identified herein and have paid amounts far in excess of the competitive prices for such drugs that would have prevailed in a competitive and fair market.

722. Defendants knew of and appreciated, retained, or used, the benefits of Plaintiff State of Minnesota, its state agencies that paid for the generic pharmaceutical drugs identified herein, and its consumers' purchases of any of the Defendants' generic pharmaceutical drugs identified herein at amounts far in excess of the competitive price. Defendants engaged in the conduct described herein to allocate or preserve the market share of the numerous generic pharmaceutical drugs identified herein thereby increasing their sales and profits.

723. For those customers that purchase directly or indirectly from Defendants at artificially inflated and supra-competitive prices, Defendants have increased prices above what would have prevailed in a competitive and fair market; thereby, directly benefiting Defendants in the form of increased revenues.

724. Based on Defendants' conduct set forth herein, it would be inequitable and unjust for Defendants to retain such benefits without payment of value.

725. Defendants will be unjustly enriched if they are permitted to retain the direct or indirect benefits received or used resulting from the purchase of any of the numerous generic pharmaceutical drugs identified herein by Plaintiff State of Minnesota, its state agencies that paid for the generic pharmaceutical drugs identified herein, and its consumers. Plaintiff State of Minnesota, on behalf of itself, its state agencies that paid for the generic pharmaceutical drugs identified herein, and as parens patriae on behalf of its consumers, seeks to recover the amounts that unjustly enriched the Defendants.

726. Plaintiff State of Minnesota seeks relief, on behalf of itself, its state agencies that paid for the generic pharmaceutical drugs identified herein, and as parens patriae on behalf of its consumers, and is therefore entitled to equitable relief in the form of an injunction, restitution and disgorgement and any other relief the Court deems appropriate under Minn. Stat. Ch. 8 and Minnesota common law for unjust enrichment.

Mississippi

727. Plaintiff State of Mississippi repeats and re-alleges each and every preceding allegation as if fully set forth herein.

728. Defendants' acts violate Miss. Code Ann. § 75- 21-1 et seq., and Plaintiff State of Mississippi is entitled to relief under Miss. Code Ann. § 75- 21-1 et seq.

729. The aforesaid conduct was not only anti-competitive but was also unfair and deceptive to the consumers of the State of Mississippi, therefore Defendants' acts violate the Mississippi Consumer Protection Act, Miss. Code Ann. § 75-24-1, et seq., and Plaintiff State of

Mississippi is entitled to relief under the Mississippi Consumer Protection Act, Miss. Code Ann. § 75-24-1, et seq.

730. Pursuant to Miss. Code Ann. § 75-21-1 et seq., and the Mississippi Consumer Protection Act, Miss. Code Ann. § 75-24-1, et seq., Plaintiff State of Mississippi seeks and is entitled to injunctive relief, damages, disgorgement, civil penalties, costs, attorney fees, and any other just and equitable relief which this Court deems appropriate.

Missouri

731. Plaintiff State of Missouri repeats and re-alleges each and every preceding allegation as if fully set forth herein.

732. The aforementioned practices by Defendants violate the Missouri Antitrust Law, Missouri Rev. Stat. §§ 416.011 et seq., and Missouri's Merchandising Practices Act, Missouri Rev. Stat. §§ 407.010 et seq., as further interpreted by 15 CSR 60-8.010 et seq. and 15 CSR 60-9.01 et seq., and the State of Missouri is entitled to an injunction, disgorgement, civil penalties and any other relief available under the aforementioned Missouri statutes and regulations.

733. The State of Missouri also seeks its costs and attorney fees incurred in the prosecution of this action.

Montana

734. Plaintiff State of Montana repeats and re-alleges each and every preceding allegation as if fully set forth herein.

735. Defendants' acts and practices described in this Complaint violate Montana's Unfair Trade Practices and Consumer Protection Act, Mont Code Ann. § 30-14-101 et seq., including § 30-14-103, and Unfair Trade Practices Generally, Mont. Code Ann. § 30-14-201 et seq., including § 30-14-205.

736. Mont. Code Ann § 30-14-103 prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce. Mont. Code Ann. § 30-14-102(8) defines the terms "trade" and "commerce" as meaning "the advertising, offering for sale, sale, or distribution of any services, any property, tangible or intangible, real, personal, or mixed, or any other article, commodity, or thing of value, wherever located, and includes any trade or commerce directly or indirectly affecting the people of this state."

737. Montana's standard for 'unfairness' as prohibited under Mont. Code Ann. § 30-14-103 is articulated in Rohrer v. Knudson, 203 P.3d 759 (Mont. 2009) as an act or practice which "offends established public policy and which is either immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers."

738. Mont Code Ann. § 30-14-205 states that it is unlawful for a person or group of persons, directly or indirectly:

(1) to enter an agreement for the purpose of fixing the price or regulating the production of an article of commerce;

(2) for the purpose of creating or carrying out any restriction in trade to: (a) limit productions; (b) increase or reduce the price of merchandise or commodities; (c) prevent competition in the distribution or sale of merchandise or commodities; (d) fix a standard or figure whereby the price of an article of commerce intended for sale, use, or consumption will be in any way controlled.

739. Defendants' anticompetitive and unfair and/or deceptive acts and practices in the marketing and sale of pharmaceuticals as described in this Complaint occurred in the conduct of "trade" and "commerce" as defined by Montana law.

740. Defendants' anticompetitive and unfair and/or deceptive acts and practices in the marketing and sale of pharmaceuticals as described in this Complaint offend established public policy. Those acts and practices are also unethical, oppressive, and unscrupulous and have substantially injured and continue to injure Montanans through supra-competitive prices.

741. Defendants' price-fixing and market allocating conduct as described in this Complaint violates the plain language of Mont. Code Ann. § 30-14-205(1) and (2).

742. Defendants' unlawful conduct was willful as defined in Mont. Code Ann. § 30-14-142(4).

743. Plaintiff State of Montana is entitled to all equitable relief and the maximum civil penalties available under Mont. Code Ann. § 30-14-101 et seq. and § 30-14-201 et seq., including but not limited to Mont. Code Ann. §§ 30-14-111(4), -131, -142(2), and -222. Plaintiff State of Montana also seeks reasonable attorneys' fees and costs.

Nebraska

744. Plaintiff State of Nebraska repeats and re-alleges each and every preceding allegation as if fully set forth herein.

745. Defendants' actions as alleged herein violate the Unlawful Restraint of Trade Act, Neb. Rev. Stat. § 59-801 et seq. and the Consumer Protection Act, Neb. Rev. Stat. § 59-1601 et seq. Specifically, Defendants' actions constitute unreasonable restraints of trade or commerce in violation of Neb. Rev. Stat. § 59-801 and Neb. Rev. Stat. § 59-1603, and Defendants' actions constitute unfair methods of competition in violation of Neb. Rev. Stat. § 59-1602. The sale of pharmaceuticals to the State of Nebraska and its citizens constitutes trade or commerce as defined in Neb. Rev. Stat. § 59-1601. These violations have had an impact, directly and indirectly, upon the public interest of the State of Nebraska, for the State of Nebraska, its state

agencies, and its citizens have been injured and continue to be injured by paying supra-competitive prices for pharmaceuticals purchased directly and/or indirectly from the Defendants.

746. Accordingly, Plaintiff State of Nebraska, on behalf of itself, its state agencies, and as parens patriae for all citizens within the state, seeks all relief available under the Unlawful Restraint of Trade Act, the Consumer Protection Act, and Neb. Rev. Stat. § 84-212. Plaintiff State of Nebraska is entitled to relief including, but not limited to: damages, disgorgement, civil penalties, equitable relief, injunctive relief, and its costs and attorney's fees pursuant to Neb. Rev. Stat. §§ 59-803, 59-819, 59-821, 59-1608, 59-1609, 59-1614, and 84-212.

Nevada

747. Plaintiff State of Nevada repeats and re-alleges each and every preceding allegation as if fully set forth herein.

748. As alleged in Sections IV and VI, *supra*, the Defendants' conduct was and is directed at consumers nationwide, including in Nevada, and was overtly deceptive; not merely anticompetitive. Accordingly, the aforementioned acts and practices by Defendants were, and are, in violation of the Nevada Deceptive Trade Practices Act, Nev. Rev. Stat. § 598.0903, et seq., and specifically the following:

(a) NRS 598.0915(15), a person engages in a deceptive trade practice by knowingly making a false representation in a transaction;

(b) NRS 598.0923(2), a person engages in a deceptive trade practice by failing to disclose a material fact in connection with the sale or lease of goods or services; and

(c) NRS 598.0923(3), a person engages in a deceptive trade practice by violating a state or federal statute or regulation relating to the sale or lease of goods or services.

749. As alleged in Sections IV, V and VI, *supra*, the Defendants' anticompetitive conduct produced, and continues to produce, harm across the Plaintiff States, including in Nevada. Accordingly, the aforementioned acts and practices by Defendants were, and are, also in violation of the Nevada Unfair Trade Practices Act, Nev. Rev. Stat. § 598A.010, et seq., and specifically the following:

(a) NRS 598A.060(a), competitors unlawfully restrain trade by engaging in price fixing;

(b) NRS 598A.060(b), competitors unlawfully restrain trade by agreeing to division of markets; and

(c) NRS 598A.060(c), competitors unlawfully restrain trade by agreeing to allocate customers.

750. Accordingly, Plaintiff State of Nevada seeks all relief available under the Nevada Deceptive Trade Practices Act, the Nevada Unfair Trade Practices Act, and common law. Plaintiff State of Nevada is entitled to relief including but not limited to: disgorgement, injunctions, civil penalties, damages, and its costs and attorney's fees pursuant to Nev. Rev. Stat. §§ 598.0963, 598.0973, 598.0999, 598A.160, 598A.170, 598A.200 and 598A.250.

New Hampshire

751. Plaintiff State of New Hampshire repeats and re-alleges each and every preceding allegation as if fully set forth herein.

752. The aforementioned collusive actions, practices and conduct by Defendants violate the New Hampshire Antitrust Provisions, N.H. RSA 356:1, et seq., by, among other things, unlawfully restraining trade or commerce, or having the purpose or effect of fixing, controlling or maintaining prices, allocating or dividing customers or markets, fixing or controlling prices or bidding for public or private contracts, or otherwise thwarting genuine competition in generic drug markets. Defendants impaired the competitive process which deprived New Hampshire consumer and customers of free and open market place for generic products and/or of paying a price for the generic pharmaceutical drugs identified herein which would have been competitive and fair absent agreements to allocate customers, fix prices, and stabilize artificially inflated prices.

753. The aforementioned actions, practices and conduct by Defendants as suppliers in commercial transactions also violate the New Hampshire Consumer Protection Act, N.H. RSA 358-A:1 et seq. by using unfair or deceptive business acts or practices, or methods of competition, in the conduct of trade or commerce including, among other things, pricing generic health care pharmaceutical goods in a manner that tends to harm competition; making misrepresentations, taking steps to conceal, failing to disclose a material fact, and/or participating in maintaining artificially inflated pricing in connection with the sale or advertisement of such generic products; or otherwise thwarting and harming genuine competition in generic drug markets as identified herein. Illegal conduct included, agreement to and, in fact, acting to restrain trade or commerce in each generic drug market identified herein, by affecting, fixing, controlling and/or maintaining at artificial and non-competitive levels, the prices at which the numerous generic pharmaceutical drugs identified herein were sold, distributed or obtained in the State of New Hampshire; as well as, among other things, submitting false or misleading

cover bids and/or offers to the customers and wholesalers, and/or providing false or misleading statements to prospective customers relating to supply capacity or reasons for bidding or not bidding, and/or otherwise engaging in a course of conduct to induce contracting and purchasing of generic products by customers at artificially inflated prices.

754. Defendants' illegal conduct, collectively and individually, all relates to generic products that are intended and expected by consumers, private entities, and public entities to provide great savings for consumers and purchasing entities in the health care industry, offending public policy and comprising deceptive, unfair, immoral, unethical, oppressive or unscrupulous conduct. NH RSA 358-A:2.

755. These violations artificially inflated prices of generic drugs, substantially affecting and harming the people of New Hampshire (consumers, public entities, and private entities, alike) and having various past and ongoing harmful impacts within the state including affecting New Hampshire commerce and affecting the choice of generic drugs available to and/or prices paid by consumers and entities. The State of New Hampshire has reason to believe that Defendants directly and/or indirectly through nationwide or regional distributors, wholesalers, and retailers, sold or marketed the generic drugs at issue to the State of New Hampshire, its agencies and municipalities, to New Hampshire businesses, and to individual consumers, and that such products were received and purchased by such consumers and entities within the state, whether dealing with Defendants directly or indirectly.

756. The State of New Hampshire has reason to believe that Defendants received ill-gotten gains or proceeds as a result of their illegal conduct, and it would be inequitable and unjust for Defendants to retain such profits and benefits without payment of value.

757. Some or all of the violations by Defendants were willful and flagrant.

758. The State of New Hampshire brings this action in its law enforcement capacity as a sovereign or quasi-sovereign and in a parens patriae capacity on behalf of state consumers of generic products, seeking legal and equitable remedies available under the New Hampshire Antitrust Provisions, under the New Hampshire Consumer Protection Act, and under common law such as unjust enrichment. New Hampshire seeks restoration to state consumers for ascertainable loss incurred in making payments and purchases, whether direct or indirect, in relation to the generic drug products identified herein, through among other things, restitution, disgorgement, and/or injunctive relief. New Hampshire seeks injunctive relief to prohibit Defendants from engaging in the unlawful business practices identified herein; civil penalties (in double/treble multipliers); and recovery for compensable investigation and litigation costs, expenses and attorney's fees, and other relief as this Court deems just and equitable. See N.H. RSA 356:4 et seq.; N.H. RSA 358-A:1 et seq.

759. Plaintiff State of New Hampshire notified Defendants of this intended action at least ten days prior to the commencement of this action and gave Defendants an opportunity to confer with the attorney general in accordance with NH RSA 358-A:5.

New Jersey

760. Plaintiff State of New Jersey repeats and re-alleges each and every preceding allegation as if fully set forth herein.

761. Defendants' actions as alleged herein violate the New Jersey Antitrust Act, N.J.S.A. 56:9-1 et seq., in that they have the purpose and/or effect of unreasonably restraining trade and commerce within the State of New Jersey and elsewhere. N.J.S.A. 56:9-3. Plaintiff State of New Jersey seeks relief including but not limited to, treble damages for New Jersey consumers and state agencies that paid for one or more of the drugs identified in this

Consolidated Amended Complaint, injunctive relief, disgorgement, restitution, civil penalties and attorneys' fees and investigative costs. N.J.S.A. 56:9-10, -12.

762. Defendants' actions as alleged herein violate the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., in that Defendants' made misleading statements, omitted material facts and engaged in unconscionable commercial practices in connection with the advertising, offering for sale and sale of one or more of the drugs identified in this Consolidated Amended Complaint. N.J.S.A. 56:8-2. Plaintiff State of New Jersey seeks relief including but not limited to, injunctive relief, disgorgement, restitution, civil penalties and attorneys' fees and investigative costs. N.J.S.A. 56:8-8, -11, -13 and -19.

New Mexico

763. Plaintiff State of New Mexico repeats and re-alleges each and every preceding allegation as if fully set forth herein.

764. The State of New Mexico, through its Attorney General, brings this enforcement action as parens patriae in its sovereign and quasi-sovereign capacity and in its proprietary capacity on behalf of the State, including its agencies and entities, to recover damages to the State, its residents, its economy, and all such other relief as may be authorized by statute or common law.

765. The aforementioned actions and practices by Defendants were and are a contract, agreement, combination, or conspiracy in an unreasonable restraint of trade or commerce in New Mexico, thus violating the New Mexico Antitrust Act, N.M. Stat. Ann. § 57-1-1 et seq.

766. The aforementioned actions and practices by Defendants were unfair or deceptive trade practices as they were false or misleading oral or written statements or other representations made in connection with the sale of goods in the regular course of their trade or

commerce, that may, tended to or did deceive or mislead consumers. These practices included false or misleading statements of fact concerning the price of drugs and failures to state material facts about the costs of drugs, actions that deceived or tended to deceive consumers. Additionally, Defendants' actions constituted unconscionable trade practices, because they resulted in supra-competitive prices for the aforementioned drugs, resulting in a gross disparity between the prices paid by consumers and the valued received. These practices and actions violated the New Mexico Unfair Practices Act, N.M. Stat. Ann. § 57-12-1 et. seq.

767. The aforementioned actions and practices by Defendants also constitute unfair competition and unjust enrichment under New Mexico's common law.

768. Accordingly, the State of New Mexico is entitled remedies available to it under the New Mexico Antitrust Act, the New Mexico Unfair Practices Act, and New Mexico common law, including injunctive relief, actual, treble, and statutory damages, restitution, disgorgement, civil penalties, costs, attorney's fees, and any other appropriate monetary and injunctive relief. See N.M. Stat. Ann. §§ 57-1-3, -7, -8; N.M. Stat. Ann. § 57-12-8, -10, -11.

New York

769. Plaintiff State of New York repeats and re-alleges each and every preceding allegation as if fully set forth herein.

770. The aforementioned practices by the Defendants violate New York antitrust law, the Donnelly Act, New York Gen. Bus. Law §§ 340-342c, and constitute both "fraudulent" and "illegal" conduct in violation of New York Executive Law § 63(12).

771. Plaintiff State of New York seeks relief, including but not limited to damages, for New York consumers and New York state entities that paid for one or more of the drugs identified in this Consolidated Amended Complaint during the relevant period and thereby paid

more than they would have paid but for Defendants' unlawful conduct. Plaintiff State of New York also seeks, and is entitled to, civil penalties, injunctive relief, other equitable relief (including but not limited to disgorgement), and fees and costs.

North Carolina

772. Plaintiff State of North Carolina repeats and re-alleges each and every preceding allegation as if fully set forth herein.

773. Defendants' acts of distributing, marketing and selling generic pharmaceutical drugs to consumers through drug wholesalers and distributors, pharmacy and supermarket chains, and other resellers of generic pharmaceutical drugs and in otherwise engaging in the conduct more fully described herein with respect to the numerous generic pharmaceutical drugs identified herein, the Defendants are engaging in trade or commerce that directly or indirectly harmed North Carolina consumers pursuant to North Carolina's Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1 *et seq*.

774. The Defendants agreed to, and did in fact, act in restraint of trade or commerce in each generic drug market identified herein that includes North Carolina, by affecting, fixing, controlling and/or maintaining at artificial and non-competitive levels, the prices at which the numerous generic pharmaceutical drugs identified herein were sold, distributed or obtained in North Carolina, deprived North Carolina consumers from paying a price for the numerous generic pharmaceutical drugs identified herein which would have been competitive and fair absent the agreement to allocate customers and fix prices.

775. The aforesaid methods, acts or practices constitute unfair methods of competition and/or unfair acts or practices within their meaning under the North Carolina Unfair and

Deceptive Trade Practices Act, and are injurious to North Carolina consumers and the general economy of the State of North Carolina, including, but not limited to:

a. Violating Section 1 of the Sherman Act, 15 U.S.C § 1, through engaging in a market allocation agreement as set forth in the preceding counts;

b. Violating Section 1 of the Sherman Act, 15 U.S.C § 1, through engaging in a price-fixing agreement as set forth in the preceding counts;

c. Engaging in any conduct which causes substantial injury to consumers.

776. By deceptively misrepresenting and/or omitting material facts concerning the absence of competition in each generic drug market identified herein to the State of North Carolina and North Carolina consumers, the Defendants misled the State of North Carolina and North Carolina consumers into believing that prices for the numerous generic pharmaceutical drugs identified herein were competitive and fair in violation of the North Carolina Unfair and Deceptive Trade Practices Act.

777. The Defendants agreed to, and did in fact, act in restraint of trade or commerce in each generic drug market identified herein that includes North Carolina, by affecting, fixing, controlling and/or maintaining at artificial and non-competitive levels, the prices at which the numerous generic pharmaceutical drugs identified herein were sold, distributed or obtained in North Carolina.

778. The Defendants' impairment of choice and the competitive process had the following effects: (1) generic drug price competition was restrained, suppressed and eliminated throughout North Carolina; (2) generic drug prices were raised, fixed, maintained and stabilized at artificially-high levels throughout North Carolina; (3) the State of North Carolina and North Carolina consumers were deprived of free and open markets; and (4) the State of North Carolina

and North Carolina consumers paid supra-competitive, artificially inflated prices for the numerous generic pharmaceutical drugs identified herein.

779. The Defendants' impairment of choice and the competitive process have caused the State of North Carolina and North Carolina consumers to suffer and to continue to suffer loss of money or property, real or personal, by means of Defendants' use or employment of unfair methods of competition and/or unfair acts or practices as set forth above.

780. The Defendants' deceptive misrepresentations and failure to disclose material facts had the following effects: (1) generic drug price competition was restrained, suppressed and eliminated throughout North Carolina; (2) generic drug prices were raised, fixed, maintained and stabilized at artificially-high levels throughout North Carolina; (3) the State of North Carolina and North Carolina consumers were deprived of free and open markets; and (4) the State of North Carolina and North Carolina consumers paid supra-competitive, artificially inflated prices for the numerous generic pharmaceutical drugs identified herein.

781. The Defendants' deceptive misrepresentations and failure to disclose material facts have caused the State of North Carolina and North Carolina consumers to suffer and to continue to suffer loss of money or property, real or personal, by means of Defendants' use or employment of deceptive commercial practices as set forth above.

782. Defendants violated the North Carolina Unfair and Deceptive Trade Practices Act:

a. Each time Defendants agreed to participate in the overarching conspiracy within the generic pharmaceutical drug market as set forth in Paragraphs 85 to 106;

b. Each time Defendants agreed to allocate the market for specific drugs in the generic pharmaceutical drug market as set forth in Paragraphs 110 to 233;

c. Each time Defendants agreed to fix prices on the specified drugs in the specified drug markets as set forth in Paragraphs 234 to 431;

d. Each time the State of North Carolina or a North Carolina consumer paid an unfairly or unconscionably inflated price for any of the numerous generic pharmaceutical drugs identified herein;

e. Each time a Defendant failed to disclose the existence of a market allocation agreement and/or a price-fixing agreement involving any of the numerous generic pharmaceutical drugs identified herein;

f. Each time a Defendant submitted false or misleading cover bids and/or offers to their customers and wholesalers;

g. Each time a Defendant provided false or misleading statements to prospective customers related to supply capacity or reasons for bidding or not bidding;

h. Each time a request for reimbursement was made to the State of North Carolina for any of the numerous generic pharmaceutical drugs identified herein; and

i. Each time the State of North Carolina or a North Carolina consumer paid an artificially inflated price for any of the numerous generic pharmaceutical drugs identified herein.

783. Plaintiff State of North Carolina is entitled to relief pursuant to N.C. Gen. Stat. § 75-1 *et seq*., including recovery of its costs and attorneys' fees pursuant to N.C. Gen. Stat. § 75-16.1.

North Dakota

784. Plaintiff State of North Dakota repeats and re-alleges each and every preceding allegation as if fully set forth herein.

785. The aforementioned practices by Defendants are in violation of North Dakota's Uniform State Antitrust Act North Dakota Century Code (N.D.C.C.) § 51-08.1-01 et seq., and Plaintiff State of North Dakota is entitled to relief for these violations under N.D.C.C. § 51-08.1-01 et seq.

786. The aforementioned practices by Defendants constitute unconscionable or deceptive acts or practices in violation of the North Dakota Consumer Fraud Law, N.D.C.C. §51-15-01 et seq., and Plaintiff State of North Dakota is entitled to relief for those violations under N.D.C.C. §51-15-01 et seq.

Ohio

787. Plaintiff State of Ohio repeats and re-alleges each and every preceding allegation as if fully set forth herein.

788. The aforementioned practices by Defendants were, and are, a per se illegal conspiracy against trade in violation of Ohio Revised Code Section 1331.01 et seq, the common law of Ohio, and void pursuant to Ohio Rev. Code § 1331.06. The State of Ohio, the general economy of Ohio, Ohio entities and individuals in Ohio were harmed as a direct result of Defendants' per se illegal conduct. Defendants received ill-gotten gains or proceeds as a direct result of their per se illegal conduct.

789. Plaintiff State of Ohio seeks and is entitled to an injunction, disgorgement and civil forfeiture pursuant to Ohio Rev. Code § 109.81 and Ohio Rev. Code §§ 1331.01 et seq, including Section 1331.03, which requires a forfeiture of $500 per day that each violation was committed or continued, and any other remedy available at law or equity.

Oklahoma

790. Plaintiff State of Oklahoma repeats and re-alleges each and every allegation as if fully set forth herein.

791. The aforementioned practices by the Defendants are in violation of the Oklahoma Antitrust Reform Act, 79 O.S. § 201 et seq., and Plaintiff State of Oklahoma is entitled to relief under 79 O.S. § 205, including but not limited to: injunctive relief, disgorgement, costs, attorney's fees and any other appropriate relief for those violations.

Oregon

792. Plaintiff State of Oregon repeats and re-alleges each and every preceding allegation as if fully set forth herein.

793. The aforementioned practices by Defendants were, and are, in violation of the Oregon Antitrust Law, Oregon Revised Statutes ("ORS") 646.705, et seq. These violations had impacts within the State of Oregon and substantially affected the people of Oregon.

794. Plaintiff State of Oregon seeks all relief available under the Oregon Antitrust Act for Oregon consumers and the State of Oregon, including injunctive, civil penalties, other equitable relief including but not limited to disgorgement, the State of Oregon's costs incurred in bringing this action, plus reasonable attorney fees, expert witness fees, and costs of investigation, and any other remedy available at law for these violations under ORS 646.760; ORS 646.770, ORS 646.775, and ORS 646.780.

Pennsylvania

795. Plaintiff Commonwealth of Pennsylvania repeats and re-alleges each and every preceding allegation as if fully set forth herein.

Pennsylvania Unfair Trade Practices and Consumer Protection Law

796. In distributing, marketing and selling generic pharmaceutical drugs to consumers through drug wholesalers and distributors, pharmacy and supermarket chains, and other resellers of generic pharmaceutical drugs and in otherwise engaging in the conduct more fully described herein with respect to the numerous generic pharmaceutical drugs identified herein, the Defendants are engaging in trade or commerce that directly or indirectly harmed the Commonwealth and Pennsylvania consumers in this Commonwealth within the meaning of 73 P. S. § 201-2(3) of the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("PUTPCPL").

Unfair Methods of Competition and Unfair Acts or Practices

797. By reason of the foregoing, the Defendants have impaired Pennsylvania consumer choice in each generic drug market identified herein.

798. By impairing choice in what should have been a freely competitive marketplace for the numerous generic pharmaceutical drugs identified herein, the Defendants have deprived Pennsylvania consumers from being able to meaningfully choose from among the options a competitive market would have provided.

799. The Defendants agreed to, and did in fact, act in restraint of trade or commerce in each generic drug market identified herein that includes Pennsylvania, by affecting, fixing, controlling and/or maintaining at artificial and non-competitive levels, the prices at which the

numerous generic pharmaceutical drugs identified herein were sold, distributed or obtained in Pennsylvania.

800. The Defendants impaired the competitive process which deprived Pennsylvania consumers from paying a price for the numerous generic pharmaceutical drugs identified herein which would have been competitive and fair absent the agreement to allocate customers and fix prices.

801. Regardless of the nature or quality of Defendants' aforementioned acts or practices on the competitive process or competition, Defendants' conduct has been otherwise unfair or unconscionable because they offend public policy as established by statutes, the common law, or otherwise, are immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumer.

802. Defendants' unscrupulous conduct has resulted in the Commonwealth and its consumers to be substantially injured in paying more for or not being able to afford the numerous generic pharmaceutical drugs identified herein.

803. The Defendants' impairment of choice and the competitive process had the following effects: (1) generic drug price competition was restrained, suppressed and eliminated throughout Pennsylvania; (2) generic drug prices were raised, fixed, maintained and stabilized at artificially-high levels throughout Pennsylvania; (3) Commonwealth of Pennsylvania and Pennsylvania consumers were deprived of free and open markets; and (4) Commonwealth of Pennsylvania and Pennsylvania consumers paid supra-competitive, artificially inflated prices for the numerous generic pharmaceutical drugs identified herein.

804. The Defendants' impairment of choice and the competitive process have caused the Commonwealth of Pennsylvania and Pennsylvania consumers to suffer and to continue to

suffer loss of money or property, real or personal, by means of Defendants' use or employment of unfair methods of competition and/or unfair acts or practices as set forth above.

805. Defendants violated the PUTPCPL:

a. Each time Defendants agreed to participate in the overarching conspiracy within the generic pharmaceutical drug market as set forth in Paragraphs 89 to 109;

b. Each time Defendants agreed to allocate the market for specific drugs in the generic pharmaceutical drug market as set forth in Paragraphs 113 to 242;

c. Each time Defendants agreed to fix prices on the specified drugs in the specified drug markets as set forth in Paragraphs 243 to 453; and

d. Each time the Commonwealth of Pennsylvania or a Pennsylvania consumer paid an unfairly or unconscionably inflated price for any of the numerous generic pharmaceutical drugs identified herein.

806. The Defendants' conduct more fully described herein is unlawful pursuant to 73 P.S. § 201-3.

807. The aforesaid methods, acts or practices constitute unfair methods of competition and/or unfair acts or practices within their meaning under Sections 2 and 3 of the PUTPCPL, including, but not limited to:

a. Violating Section 1 of the Sherman Act, 15 U.S.C § 1, through engaging in a market allocation agreement as set forth in the preceding counts;

b. Violating Section 1 of the Sherman Act, 15 U.S.C § 1, through engaging in a price-fixing agreement as set forth in the preceding counts;

c. Violating Pennsylvania antitrust common law through engaging in a market allocation agreement;

d. Violating Pennsylvania antitrust common law through engaging in a price-fixing agreement; and/or

e. Engaging in any conduct which causes substantial injury to consumers.

808. The above described conduct substantially injured Pennsylvania consumers and the general economy of the Commonwealth of Pennsylvania.

809. The above described conduct created the likelihood of confusion and misunderstanding relative to the Commonwealth of Pennsylvania and Pennsylvania consumers seeking to exercise a meaningful choice in a market expected to be free of impairment to the competitive process.

810. The above described conduct has been willful within the meaning of 73 P.S. § 201-8 and is unlawful under the PUTPCPL.

811. Pursuant to 71 P.S. § 201-4, the Commonwealth believes that the public interest is served by seeking a permanent injunction to restrain the methods, acts and practices described herein, as well as seeking restoration, disgorgement and attorneys' fees and costs pursuant to 73 P.S. §§ 201-4 and 4.1 for the Commonwealth of Pennsylvania and Pennsylvania consumers and civil penalties of not exceeding $3,000 for each such willful violation pursuant to 73 P.S. § 201-8 (b). The Commonwealth believes that the Commonwealth and its citizens are suffering and will continue to suffer harm unless the methods, acts and practices complained of herein are permanently enjoined.

Deceptive Acts or Practices

812. By reason of the foregoing, the Defendants have deceptively misrepresented the absence of competition in each generic drug market identified herein to the Commonwealth of Pennsylvania and Pennsylvania consumers in violation of the PUTPCPL.

813. By deceptively misrepresenting and/or omitting material facts concerning the absence of competition in each generic drug market identified herein to the Commonwealth of Pennsylvania and Pennsylvania consumers, the Defendants misled the Commonwealth of Pennsylvania and Pennsylvania consumers into believing that prices for the numerous generic pharmaceutical drugs identified herein were competitive and fair.

814. The Defendants agreed to, and did in fact, act in restraint of trade or commerce in in each generic drug market identified herein that includes Pennsylvania, by affecting, fixing, controlling and/or maintaining at artificial and non-competitive levels, the prices at which the numerous generic pharmaceutical drugs identified herein were sold, distributed or obtained in Pennsylvania.

815. The Defendants deceptively misrepresented to the Commonwealth of Pennsylvania and Pennsylvania consumers that Defendants' pricing at which the numerous generic pharmaceutical drugs identified herein were sold, distributed or obtained in Pennsylvania was competitive and fair.

816. Regardless of the nature or quality of Defendants' aforementioned acts or practices on the competitive process or competition, Defendants' conduct has had the tendency or capacity to deceive.

817. Defendants expressed, implied or otherwise falsely claimed conformance with prescribed bidding practices to their customers and wholesalers in relation to the numerous generic pharmaceutical drugs identified herein.

818. Defendants expressed, implied or otherwise falsely claimed supply capacity or reasons to prospective customers for bidding or not bidding in relation to the numerous generic pharmaceutical drugs identified herein.

819. The Defendants' deceptive misrepresentations and failure to disclose material facts had the following effects: (1) generic drug price competition was restrained, suppressed and eliminated throughout Pennsylvania; (2) generic drug prices were raised, fixed, maintained and stabilized at artificially-high levels throughout Pennsylvania; (3) Commonwealth of Pennsylvania and Pennsylvania consumers were deprived of free and open markets; and (4) Commonwealth of Pennsylvania and Pennsylvania consumers paid supra-competitive, artificially inflated prices for the numerous generic pharmaceutical drugs identified herein.

820. The Defendants' deceptive misrepresentations and failure to disclose material facts have caused Commonwealth of Pennsylvania and Pennsylvania consumers to suffer and to continue to suffer loss of money or property, real or personal, by means of Defendants' use or employment of deceptive commercial practices as set forth above.

821. Defendants violated the PUTPCPL:

a. Each time a Defendant failed to disclose the existence of a market allocation agreement and/or a price-fixing agreement involving any of the numerous generic pharmaceutical drugs identified herein;

b. Each time a Defendant submitted false or misleading cover bids and/or offers to their customers and wholesalers;

c. Each time a Defendant provided false or misleading statements to prospective customers related to supply capacity or reasons for bidding or not bidding;

d. Each time a request for reimbursement was made to the Commonwealth of Pennsylvania for any of the numerous generic pharmaceutical drugs identified herein; and

e. Each time the Commonwealth of Pennsylvania or a Pennsylvania consumer paid an artificially inflated price for any of the numerous generic pharmaceutical drugs identified herein.

822. The Defendants' conduct more fully described herein is unlawful pursuant to 73 P. S. § 201-3.

823. The aforesaid methods, acts or practices constitute deceptive acts or practices within their meaning under Sections 2 and 3 of the PUTPCPL, including, but not limited to:

a. "Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status affiliation or connection that he does not have" in violation of 73 P.S. § 201-2(4)(v);

b. "Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another" in violation of 73 P.S. § 201-2(4)(vii); and

c. "Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding" in violation of 73 P.S. § 201-2(4)(xxi).

824. The above described conduct has been willful within the meaning of 73 P.S. § 201-8 and is unlawful under the PUTPCPL.

825. Pursuant to 71 P.S. § 201-4, the Commonwealth believes that the public interest is served by seeking a permanent injunction to restrain the methods, acts and practices described herein, as well as seeking restoration, disgorgement and attorneys' fees and costs pursuant to 73 P.S. §§ 201-4 and 4.1 for the Commonwealth of Pennsylvania and Pennsylvania consumers and civil penalties of not exceeding $3,000 for each such willful violation pursuant to 73 P.S. § 201-8 (b). The Commonwealth believes that the Commonwealth and its citizens are suffering and will continue to suffer harm unless the methods, acts and practices complained of herein are permanently enjoined.

Common Law Doctrine against Restraint of Trade

826. By reason of the foregoing, the Defendants have entered into an agreement in restraint of trade to allocate markets and fix prices in each generic drug market identified herein within the Commonwealth of Pennsylvania.

827. The agreements to allocate customers and to fix pricing as set forth in the preceding counts constitute an unreasonable restraint of trade in violation of Pennsylvania antitrust common law.

828. Unless Defendants' overall anticompetitive scheme is enjoined, the Defendants will continue to illegally restrain trade in the relevant market in concert with another in violation of the Pennsylvania common law doctrine against unreasonable restraint of trade.

829. Defendants' conduct in engaging in a contract to unreasonably restrain trade concerning the customers to whom and the prices at which the numerous generic pharmaceutical

drugs identified herein were sold, distributed or obtained in Pennsylvania threatens injury to the Commonwealth of Pennsylvania and Pennsylvania consumers.

830. Defendants' anticompetitive and unlawful conduct alleged herein has injured, is injuring and will continue to injure competition in the relevant market by denying consumer choice and otherwise thwarting competition in the relevant market.

831. The Defendants' contract in restraint of trade had the following effects: (1) generic drug price competition was restrained, suppressed and eliminated throughout Pennsylvania; (2) generic drug prices were raised, fixed, maintained and stabilized at artificially-high levels throughout Pennsylvania; (3) Commonwealth of Pennsylvania and Pennsylvania consumers were deprived of free and open markets; and (4) Commonwealth of Pennsylvania and Pennsylvania consumers paid supra-competitive, artificially inflated prices for the numerous generic pharmaceutical drugs identified herein.

832. The Defendants' illegal conduct has had a substantial effect on the Commonwealth of Pennsylvania and Pennsylvania consumers.

833. As a direct and proximate result of the Defendants' unlawful conduct, the Commonwealth of Pennsylvania and Pennsylvania consumers have been injured in their business and property.

834. On behalf of the Commonwealth and its citizens pursuant to 71 P.S. §732-204 (c), Pennsylvania seeks injunctive relief and disgorgement under common law.

Common Law Doctrine against Unjust Enrichment

835. By reason of the foregoing, the Defendants have been unjustly enriched as a result of the conduct set forth herein with respect to the Commonwealth of Pennsylvania and Pennsylvania consumers.

836. The Commonwealth of Pennsylvania and Pennsylvania consumers were purchasers, reimbursers and/or end-payors of Defendants' numerous generic pharmaceutical drugs identified herein and have paid amounts far in excess of the competitive prices for such drugs that would have prevailed in a competitive and fair market.

837. Defendants knew of, and appreciated and retained, or used, the benefits of Commonwealth of Pennsylvania and Pennsylvania consumers' purchases of any of the Defendants' numerous generic pharmaceutical drugs identified herein at amounts far in excess of the competitive price. Defendants engaged in the conduct described herein to increase the market share of the numerous generic pharmaceutical drugs identified herein thereby increasing their sales and profits.

838. For those customers that purchase directly or indirectly from Defendants at artificially inflated and supra-competitive prices, Defendants have increased prices above what would have prevailed in a competitive and fair market; thereby, directly benefiting Defendants in the form of increased revenues.

839. Based on Defendants' conduct set for herein, it would be inequitable and unjust for Defendants to retain such benefits without payment of value.

840. Defendants will be unjustly enriched if they are permitted to retain the direct or indirect benefits received or used resulting from the purchase of any of the numerous generic pharmaceutical drugs identified herein by the Commonwealth of Pennsylvania and Pennsylvania consumers. The Commonwealth of Pennsylvania, on behalf of itself and Pennsylvania consumers, seeks to recover the amounts that unjustly enriched the Defendants.

841. The Commonwealth of Pennsylvania and Pennsylvania consumers are therefore entitled to equitable relief in the form of an injunction, restitution and disgorgement and any other relief the Court deems appropriate.

Puerto Rico

842. Plaintiff Commonwealth of Puerto Rico repeats and re-alleges each and every preceding allegation as if fully set forth herein.

843. The aforementioned practices by Defendants were in violation of Puerto Rico Law No. 77 of June 25, 1964, also known as "Puerto Rico`s Antitrust and Restrictions of Commerce Law", 10 P.R. Laws Ann. §§ 257 et seq., and 32 P.R. Laws Ann. § 3341.

844. The Commonwealth of Puerto Rico, through its Attorney General, brings this enforcement action as parens patriae in its proprietary capacity on behalf of the Commonwealth, including its agencies and entities, to recover damages to the Commonwealth and all such other relief as may be authorized by statute or common law.

845. Accordingly, the Commonwealth of Puerto Rico is entitled remedies available under the Puerto Rico`s Antitrust and Restrictions of Commerce Law and 32 P.R. Laws Ann. § 3341, including injunctive relief, civil penalties and damages for the Commonwealth agencies and entities and any other appropriate monetary and injunctive relief.

Rhode Island

846. Plaintiff State of Rhode Island repeats and re-alleges every preceding allegations as if fully set forth herein.

847. Defendants' actions as alleged herein violate the Rhode Island Antitrust Act, R.I. Gen. Laws § 6-36-1, *et seq.*

848. Plaintiff State of Rhode Island brings this action pursuant to R.I. General Laws §§ 6-36-10, 6-36-11 and 6-36-12 and seeks relief, including but not limited to injunctive relief, civil penalties, other equitable relief (including but not limited to disgorgement), fees, costs, and such other relief as this court deems just and equitable.

849. Defendants' actions as alleged herein constitute unfair methods of competition and unfair or deceptive acts or practices as defined in the Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.3-1, *et seq.*

850. Defendants engaged in unfair or deceptive acts or practices in connection with the sale or advertisement of merchandise by, among other things, making misrepresentations and taking steps to conceal their anticompetitive schemes.

851. Defendants' violations of the Rhode Island Deceptive Trade Practices Act were willful, in that they knew or should have known that their conduct was of the nature prohibited by R.I. Gen. Laws § 6-13.1-2, as defined by the R.I. General Laws § 6-13.1-1(6).

852. Plaintiff State of Rhode Island brings this action pursuant to Rhode Island Gen. Laws § 6-13.1-5, and seeks relief, including but not limited to injunctive relief, restitution, disgorgement and other equitable relief, civil penalties, fees, costs, and such other relief as this court deems just and equitable.

South Carolina

853. Plaintiff South Carolina repeats and re-alleges each and every preceding allegation as if fully set forth herein.

854. The aforementioned practices by Defendants constitute "unfair methods of competition and unfair or deceptive acts or practices" under §39-5-20 of the South Carolina Code of Laws. The State of South Carolina asserts claims in a statutory parens patriae capacity

under S.C. Code § 39-5-50 and a common law parens patriae capacity. Pursuant to common law and S.C. Code § 39-5-50(b), South Carolina seeks that this Court restore any ascertainable loss incurred in purchasing the generic drugs at issue. Pursuant to S.C. Code § 39-5-50(a), South Carolina seeks injunctive relief to prohibit Defendants from engaging in the conduct described in this complaint.

855. Defendants knew or reasonably should have known that their conduct violated S.C. Code § 39-5-20. Under S.C. Code § 39-5-110(c), Defendants' conduct therefore constitutes a willful violation of S.C. Code § 39-5-20. Accordingly, South Carolina seeks an award of civil penalties under S.C. Code § 39-5-110(a) in an amount up to $5,000.00 per violation in South Carolina.

856. South Carolina seeks attorneys' fees and costs under S.C. Code § 39-5-50(a).

Tennessee

857. Plaintiff State of Tennessee repeats and re-alleges each and every preceding allegation as if fully set forth herein.

858. This is an action that alleges violation of Tennessee's antitrust law, the Tennessee Trade Practices Act, Tenn. Code Ann. §§ 47-25-101 et seq.

859. Defendants directly and/or indirectly through nationwide distributors, wholesalers, and retailers, sold or marketed the generic drugs at issue to the State of Tennessee and its agencies, Tennessee businesses, and individual consumers.

860. Defendants made arrangements or agreements with a view to lessening, or which tend to lessen, full and free competition in the sale in Tennessee of, or which were designed to advance or control the prices charged for, the generic drugs at issue.

861. Defendants' conduct affected Tennessee commerce to a substantial degree and substantially affected the people of Tennessee, by affecting the choice of generic drugs available to, and/or the prices paid by, the State of Tennessee and its agencies, Tennessee businesses, and individual consumers for such generic drugs.

862. The aforementioned conduct by Defendants was in violation of Tennessee's antitrust law, the Tennessee Trade Practices Act, Tenn. Code Ann. §§ 47-25-101 et seq.

863. As a direct and proximate result of Defendants' illegal conduct, the State of Tennessee and its agencies, Tennessee businesses, and individual consumers have been harmed and will continue to be harmed, by, *inter alia*, paying more for generic drugs purchased directly and/or indirectly from the Defendants and their co-conspirators than they would have paid in the absence of the illegal conduct.

864. The State of Tennessee is entitled to relief for purchases of affected generic drugs by the State of Tennessee and its agencies, Tennessee businesses, and individual consumers.

865. On behalf of the State and its agencies, Tennessee businesses, and individual consumers, the State of Tennessee seeks all legal and equitable relief available under the Tennessee Trade Practices Act and the common law, including, but not limited to: damages for purchases of the affected generic drugs; equitable relief including disgorgement and injunctive relief; attorneys' fees and costs; and such other and further relief as this Court deems just and equitable.

Utah

866. Plaintiff State of Utah repeats and re-alleges each and every preceding allegation as if fully set forth herein.

867. The aforementioned acts by Defendants violate the Utah Antitrust Act, Utah Code §§ 76-10-3101 through 76-10-3118 (the "Act"), and Utah common law. Accordingly, Plaintiff State of Utah, by and through the Attorney General of Utah, on behalf of itself, Utah governmental entities, and as *parens patriae* for its natural persons, is entitled to all available relief under the Act and Utah common law, including, without limitation, damages (including treble damages, where permitted), injunctive relief, including disgorgement, restitution, unjust enrichment, and other equitable monetary relief, civil penalties, and its costs and reasonable attorneys' fees.

Vermont

868. Plaintiff State of Vermont repeats and re-alleges each and every preceding allegation as if fully set forth herein.

869. Defendants' actions alleged herein constitute unfair methods of competition in commerce and thereby violate the Vermont Consumer Protection Act, 9 V.S.A. § 2453. Plaintiff State of Vermont seeks relief, including damages, for Vermont consumers and state entities that paid for one or more of the drugs identified herein during the relevant period and thereby paid more than they would have paid but for Defendants' unlawful conduct. Plaintiff State of Vermont seeks and is entitled to injunctive relief, civil penalties, other equitable relief (including but not limited to restitution and disgorgement), and its costs and fees for these violations pursuant to 9 V.S.A. §§ 2458 and 2465.

Virginia

870. Plaintiff Commonwealth of Virginia repeats and re-alleges each and every preceding allegation as if fully set forth herein.

871. The aforementioned practices by Defendants are in violation of the Virginia Antitrust Act, Virginia Code Sections 59.1-9.1, et seq. These violations substantially affect the people of Virginia and have impacts within the Commonwealth of Virginia.

872. Plaintiff Commonwealth of Virginia, through the Attorney General, brings this action pursuant to the Virginia Antitrust Act, Virginia Code Section 59.1-9.15. Pursuant to Sections 59.1-9.15(a) and (d), Plaintiff Commonwealth of Virginia seeks disgorgement, restitution, and other equitable relief as well as civil penalties for these violations. In addition, pursuant to Sections 59.1-9.15(b), the Plaintiff Commonwealth of Virginia seeks reasonable fees and costs for the investigation and litigation.

Washington

873. Plaintiff State of Washington repeats and re-alleges each and every preceding allegation as if fully set forth herein.

874. The aforementioned practices by Defendants were, and are, in violation of the Washington Consumer Protection Act, Wash. Rev. Code 19.86.020 and .030. Defendants have also engaged in conduct in violation of RCW 19.82.020 that is not a reasonable business practice and constitutes incipient violations of antitrust law and/or unilateral attempts to fix prices or allocate markets. These violations have impacts within the State of Washington and substantially affect the people of Washington.

875. Plaintiff State of Washington seeks relief, including but not limited to damages, for Washington consumers and Washington state agencies that paid more for the generic drugs at issue than they would have paid but for the Defendants' unlawful conduct. Plaintiff State of Washington also seeks, and is entitled to, injunctive relief, other equitable relief (including but

not limited to disgorgement), civil penalties, and costs and fees under the Consumer Protection Act, Wash Rev. Code 19.86.080 and 19.86.140.

West Virginia

876. Plaintiff State of West Virginia repeats and re-alleges each and every preceding allegation as if fully set forth herein.

877. Defendants' acts violate the West Virginia Antitrust Act, see W. Va. Code § 47–18–1 et seq. These violations substantially affected the State of West Virginia and had impacts within the State of West Virginia.

878. West Virginia affirmatively expresses that the State is not seeking any relief in this action for the federal share of funding for West Virginia's Medicaid Program.

879. Claims for damages for any federal monies expended by the State of West Virginia are hereby expressly disavowed.

880. Plaintiff State of West Virginia is entitled all equitable relief (including injunctive relief, disgorgement, restitution, and reimbursement), as well as civil penalties under West Virginia Code § 47–18–1 et seq.

881. Plaintiff State of West Virginia also is entitled to recover its costs and attorneys' fees under West Virginia Code § 47–18–9.

Wisconsin

882. Plaintiff State of Wisconsin repeats and re-alleges each and every preceding allegation as if fully set forth herein.

883. The aforementioned practices by Defendants are in violation of Wisconsin's Antitrust Act, Wis. Stat. Ch. § 133.03 et seq. These violations substantially affect the people of Wisconsin and have impacts within the State of Wisconsin.

884. Plaintiff State of Wisconsin, under its antitrust enforcement authority in Wis. Stat. Ch. 133, is entitled to all remedies available at law or in equity under Wis. Stat. §§ 133.03, 133.14, 133.16, 133.17, and 133.18.

Wyoming

885. Plaintiff State of Wyoming repeats and re-alleges each and every preceding allegation as if fully set forth herein.

886. Defendants' actions as alleged herein constitute unlawful practices in violation of The Wyoming Consumer Protection Act, Wyoming Statutes § 40-12-101 *et seq*.

887. In the course of business and in connection with consumer transactions, Defendants knowingly and willfully engaged in deceptive acts or practices by, among other things, misrepresenting or omitting material facts about the price and cost of merchandise, the absence of competition in each generic drug market identified herein, and the existence of Defendants' anticompetitive scheme. Such conduct has the tendency or capacity to deceive.

888. In the course of business and in connection with consumer transactions, Defendants knowingly and willfully engaged in unfair acts or practices by, among other things, entering into agreements or becoming parties to plans to prevent competition or to control or influence prices in each generic drug marketed identified herein. Such conduct offends public policy, substantially injures consumers, interferes with meaningful consumer choice, and offers no countervailing benefit to consumers or competition.

889. Plaintiff State of Wyoming, through the Office of the Wyoming Attorney General, brings this action in the public interest to protect Wyoming's consumers and marketplace by restraining and enjoining Defendants from violating the Wyoming Consumer

Protection Act, recovering statutory civil penalties, and recovering reasonable attorney's fees and costs.

PRAYER FOR RELIEF

Accordingly, the Plaintiff States request that the Court:

A. Adjudge and decree that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. § 1;

B. Adjudge and decree that the foregoing activities violated each of the State statutes enumerated in this Consolidated Amended Complaint;

C. Enjoin and restrain, pursuant to federal and state law, Defendants, their affiliates, assignees, subsidiaries, successors, and transferees, and their officers, directors, partners, agents and employees, and all other persons acting or claiming to act on their behalf or in concert with them, from continuing to engage in any anticompetitive conduct and from adopting in the future any practice, plan, program, or device having a similar purpose or effect to the anticompetitive actions set forth above;

D. Award to Plaintiff States disgorgement of the Defendants' ill-gotten gains and any other equitable relief as the Court finds appropriate to redress Defendants' violations of federal law or state antitrust and consumer protection laws to restore competition;

E. Award to the Plaintiff States damages, including treble damages, to the extent sought pursuant to applicable state laws as enumerated in Count Nineteen of this Consolidated Amended Complaint;

F. Award to each Plaintiff State the maximum civil penalties allowed by law as enumerated in Count Nineteen of this Consolidated Amended Complaint;

G. Award to each Plaintiff State its costs, including reasonable attorneys' fees; and

H. Order any other relief that this Court deems proper.

JURY DEMAND

The Plaintiff States demand a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, on all issues triable as of right by jury.

PLAINTIFF

GEORGE JEPSEN
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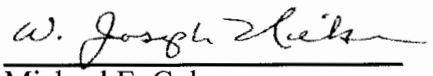
BY: 

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UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: GENERIC DRUG PRICING ANTITRUST LITIGATION MDL No. 2724

TRANSFER ORDER

Before the Panel:[*] Plaintiffs in nine actions pending in the Eastern District of Pennsylvania move under 28 U.S.C. § 1407 to centralize pretrial proceedings in this litigation in the Eastern District of Pennsylvania. This litigation consists of the nine actions pending in the Eastern District of Pennsylvania and one action pending in the District of Rhode Island, as listed on Schedule A. The Panel also has been notified of seven related actions pending in the Eastern District of Pennsylvania.[1]

All parties support centralization, but there is some disagreement as to the transferee district.

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[*] Judge Ellen Segal Huvelle took no part in the decision of this matter. Additionally, one or more Panel members who could be members of the putative classes in this litigation have renounced their participation in these classes and have participated in this decision.

[1] These and any other related actions are potential tag-along actions. *See* Panel Rules 1.1(h), 7.1, and 7.2.

In addition, the Panel took notice of an eighth action pending in the Eastern District of Pennsylvania, *Plumbers' Local Union No. 690 Health Plan v. Actavis Inc., et al.*, C.A. No. 2:16-00665, which had been related to one of the actions on the motion. *Plumbers' Local*, though, involves allegations that more than sixty generic pharmaceutical manufacturers conspired to inflate the applicable wholesale price for digoxin, doxycycline, and numerous other generic pharmaceutical products in order to obtain higher reimbursement rates from insurers and government agencies. We directed the parties to address whether *Plumbers' Local* should be included in any centralized proceedings. All parties that addressed *Plumbers' Local*, including the plaintiff and seventeen defendants in that action, opposed its inclusion in this MDL. Subsequently, the plaintiff in the action to which *Plumber' Local* had been related filed a "Notice of Inadvertent Listing of Related Case" with the district court. We therefore need not take any action with respect to *Plumbers' Local*. To the extent that *Plumbers' Local* shares common allegations and claims relating to digoxin and doxycycline, informal coordination between the assigned judges and cooperation by the parties should be sufficient to eliminate any possibility of duplicative discovery.

Plaintiffs in three potential tag-along actions support centralization in the Eastern District of Pennsylvania.[2] Common defendants Allergan plc, Impax Laboratories, Inc., The Lannett Company, Inc., Mylan Inc., Mylan Pharmaceuticals, Inc., Par Pharmaceuticals, Inc., and West-Ward Pharmaceutical Corp. also support centralization in the Eastern District of Pennsylvania. The plaintiff in the action pending in the District of Rhode Island suggests instead that the Panel centralize this litigation in the District of Rhode Island or, alternatively, in the District of Connecticut or the Southern District of New York.

A dispute also exists with regard to the name of this MDL (and, thus, as to the scope of the litigation). Defendants ask the Panel to rename this MDL, "In re Digoxin and Doxycycline Litigation." Moving plaintiffs (and one of the potential tag-along plaintiffs) oppose this request, arguing that they anticipate that this litigation will expand to include other generic pharmaceutical products.

On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization in the Eastern District of Pennsylvania will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual questions arising from allegations that defendants, all of which are manufacturers of generic pharmaceuticals, conspired to fix the prices of two such products: digoxin, which is used to treat irregular heartbeats and mild to moderate heart failure, and doxycycline, an antibiotic used to treat both humans and animals for a variety of illnesses. Plaintiffs allege that, between 2012 and 2014, the average market price for digoxin and doxycycline increased by 884% and 8,281%, respectively. Plaintiffs uniformly allege that defendants effectuated this conspiracy through direct company-to-company contacts and through joint activities undertaken through trade associations. Plaintiffs in all the actions assert similar claims for price fixing in violation of the Sherman Act and various state antitrust laws, as well as unjust enrichment, on behalf of overlapping putative nationwide classes of indirect purchasers of these drugs.[3] Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel, and the judiciary.

With respect to the parties' dispute over the name of this litigation, defendants are correct that the actions assert only claims and anticompetitive conduct as to digoxin and doxycycline. Any potential expansion of this litigation to include other pharmaceutical products is hypothetical at this

---

[2] Plaintiffs in another two potential tag-along actions did not respond to the motion, but filed notices of presentation or waiver of oral argument in which they indicate support for centralization in the Eastern District of Pennsylvania.

[3] Plaintiffs in two of the potential tag-along actions bring Sherman Act claims on behalf of putative nationwide classes of direct purchasers of digoxin and/or doxycycline. We have observed previously that, where direct and indirect purchaser actions present common factual questions of fact, centralization of both types of actions in one litigation may be appropriate. *See In re Skelaxin (Metaxalone) Antitrust Litig.*, 856 F. Supp. 2d 1350, 1341-52 (J.P.M.L. 2012).

point. Therefore, we will rename this litigation, "In re: Generic Digoxin and Doxycycline Antitrust Litigation." If plaintiffs file an amended complaint in the transferee court that expands the litigation beyond the named products, the transferee judge may recommend to the Panel that the litigation be renamed.[4]

The Eastern District of Pennsylvania is the appropriate transferee district for this litigation. Nine of the ten actions on the motion (as well as all the potential tag-along actions) are pending in this district. Likewise, a majority of the defendants are either headquartered or have significant business operations in or near the Eastern District of Pennsylvania. Also, the parties assert that a federal criminal investigation into defendants' generic drug pricing practices is underway in the Eastern District of Pennsylvania. Thus, a significant proportion of potential witnesses and documentary evidence will be located within or near the district. All responding parties, save one plaintiff, support centralization in the Eastern District of Pennsylvania, which offers a convenient and accessible forum for this litigation. Centralization in this district also allows us to assign this litigation to the Honorable Cynthia M. Rufe, an experienced jurist who will steer this litigation on a prudent course.

IT IS THEREFORE ORDERED that the action listed on Schedule A and pending outside the Eastern District of Pennsylvania is transferred to the Eastern District of Pennsylvania and, with the consent of that court, assigned to the Honorable Cynthia M. Rufe for coordinated or consolidated pretrial proceedings.

IT IS FURTHER ORDERED that MDL No. 2724 is renamed, *In re: Generic Digoxin and Doxycycline Antitrust Litigation*.

PANEL ON MULTIDISTRICT LITIGATION

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[4] Similarly, should an action involving broader claims be filed outside the transferee district, the Panel will consider whether transfer as a tag-along action is appropriate at that time.

IN RE: GENERIC DRUG PRICING ANTITRUST LITIGATION MDL No. 2724

SCHEDULE A

Eastern District of Pennsylvania

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 30 BENEFITS FUND v. LANNETT COMPANY, INC., ET AL., C.A. No. 2:16-00990
NECA-IBEW WELFARE TRUST FUND v. ALLERGAN PLC, ET AL., C.A. No. 2:16-01371
TULSA FIREFIGHTERS HEALTH AND WELFARE TRUST v. ALLERGAN PLC, ET AL., C.A. No. 2:16-01388
PIPE TRADES SERVICES MN v. LANNETT COMPANY, INC., ET AL., C.A. No. 2:16-01534
CARPINELLI v. LANNETT COMPANY, INC., ET AL., C.A. No. 2:16-01954
FRATERNAL ORDER OF POLICE, MIAMI LODGE 20, INSURANCE TRUST FUND v. LANNETT COMPANY, INC., ET AL., C.A. No. 2:16-02031
DIAMOND v. LANNETT COMPANY, INC., ET AL., C.A. No. 2:16-02077
UFCW LOCAL 1500 WELFARE FUND v. ALLERGAN PLC, ET AL., C.A. No. 2:16-02169
MINNESOTA LABORERS HEALTH AND WELFARE FUND v. LANNETT COMPANY, INC., ET AL., C.A. No. 2:16-02191

District of Rhode Island

CITY OF PROVIDENCE v. ALLERGAN PLC, ET AL., C.A. No. 1:16-00214

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION

MDL No. 2724

(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO −7)

On August 5, 2016, the Panel transferred 1 civil action(s) to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 227 F.Supp.3d 1402 (J.P.M.L. 2016). Since that time, 45 additional action(s) have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Cynthia M. Rufe.

It appears that the action(s) on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the Eastern District of Pennsylvania and assigned to Judge Rufe.

Pursuant to Rule 7.1 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the action(s) on the attached schedule are transferred under 28 U.S.C. § 1407 to the Eastern District of Pennsylvania for the reasons stated in the order of August 5, 2016, and, with the consent of that court, assigned to the Honorable Cynthia M. Rufe.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmittal of this order to said Clerk shall be stayed 7 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 7−day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

John W. Nichols
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Inasmuch as no objection is pending at this time, the stay is lifted.

Oct 24, 2019

CLERK'S OFFICE
UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION

MDL No. 2724

SCHEDULE CTO−7 − TAG−ALONG ACTIONS

DIST	DIV.	C.A.NO.	CASE CAPTION
MINNESOTA			
MN	0	19−02696	United HealthCare Services, Inc. v. Teva Pharmaceuticals USA, Inc. et al

EXHIBIT 2

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Subject:	[EXT] Generics: Search Terms
Date:	Wednesday, September 11, 2019 2:07:15 PM
Attachments:	Generics. Search Terms 9-11-2019 (02087293xD2C78).XLSX

Counsel,

As you know, the proposed Case Management Order (the "proposed CMO") accompanying Special Master Marion's Report and Recommendation contemplates that search terms be "established either by agreement reached among the parties in negotiations supervised by Special Master Marion and ESI Master Regard or as ordered by Special Master Marion or ESI Master Regard if not agreed to within twenty (20) days from entry of this Order." Proposed CMO § 3.a. Plaintiffs intend to object to the proposed CMO on several grounds, but we further recognize that the proposed CMO, or something close to it, may well govern these actions in the near future. Accordingly, Plaintiffs have developed a "global" set of search terms consistent with the Report and Recommendation and proposed CMO. The terms are similar to, although broader than, the proposed search terms Plaintiffs have counter-proposed to several Defendants during the parties' individual negotiations; they should therefore be somewhat familiar to you. The attached spreadsheet contains Plaintiffs' proposed search terms and instructions on how they are to be run appear below.

Because the proposed CMO contemplates a relatively tight time window for the parties to reach agreement on search terms, we are providing Defendants with the terms now. Plaintiffs do not want the negotiation window itself to become an impediment to the provision of the hit reports contemplated by the proposed CMO. Further with respect to hit count reports, Plaintiffs propose meeting and conferring to reach an agreement on a standard format. As an example starting point, Plaintiffs want the hit reports to be disaggregated by custodian. Plaintiffs believe that a single negotiation (overseen by the Special Masters if necessary) as to what the hit reports look like would be most efficient for the parties and for the Special Masters. A standard format will ensure that the proper data points are being compared on an apples-to-apples basis and will promote efficiency during the negotiation process. Plaintiffs will shortly propose a hit-report template for Defendants' consideration.

By proposing these search terms we do not waive our rights to object to the proposed CMO. Plaintiffs reserve the right to supplement or revise these terms as necessary.

The proposed terms are divided into seven categories; each category is listed on a separate page. The categories are:

- Drug Names
- Defendants
- Defendant Domain Names
- People

- Events
- Named Plaintiffs
- General Standalone Terms

Each category is to be applied to the custodial and other files subject to searches (the "Search Data Set") without being limited by other terms.

Please note that for certain searches (e.g., "ghost call*"), Plaintiffs have included asterisk wildcard symbols within quotes. Each Defendant should confirm that the search engine it intends to use will treat them as root-expanding wildcards. Plaintiffs have also proposed search terms in which a slash is within quotes (e.g., "M/S" W/10 (acquisition* OR divestiture* OR dynamics OR guidance* OR merger*)). Each Defendant should confirm that the search engine it intends to use will treat the slash as a command and not as a character. If these or other proposed terms adversely impact the search process please let us know so that corrective actions can be taken.

Certain searches (again, e.g., "M/S" W/10 (acquisition* OR divestiture* OR dynamics OR guidance* OR merger*)) are aggregated such that one term is to be run within a certain proximity to multiple (in this example, five) other terms. In the event such an aggregated search yields a high number of hits (e.g. over 10,000 hits), please disaggregate the search into its component parts (e.g., "M/S" w/10 acquisitions, "M/S" w/10 divestiture*, "M/S" w/10 dynamics, etc.) to determine which words or phrases may be driving the volume.

Please also note that the Defendants and Defendant Domain Names categories currently list the names and domain names of all Defendants. Defendants are not expected to run searches for their own names or domain names. Accordingly, before running searches, each Defendant should identify to Plaintiffs the specific terms in the Defendants and Defendant Domain Names categories that it proposes to exclude from its search. Similarly, Defendants are not expected to run searches for the names of their own employees during the periods in which they were employed. Accordingly, before running searches, each Defendant should identify to Plaintiffs the specific terms in the People category that it proposes to (a) exclude (because the person was employed by that Defendant during the entire period covered by the Search Data Set), or (b) partially exclude using date limiters (because the person was employed by that Defendant during part of the period covered by the Search Data Set and was employed by one or more other Defendants during other periods covered by the Search Data Set).

Regards,

Clark

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General Standalone Terms
A360

Terms
"fluff pric*"
"ghost call*"
"heads up"
"M/S" W/10 (acquisition OR divestiture OR dynamics OR guidance OR merger)
"M/S" W/10 (add* OR adjust* OR chang* OR declin* OR decreas* OR divid* OR drop OR expan* OR gain* OR heavy OR high* OR hik* OR hold* OR increas* OR lead* OR low* OR more OR new OR "pick up" OR rais* OR reduc* OR relinquish* OR retain OR secure OR shift* OR split* OR tak*)
"M/S" W/10 (allocat* OR agree OR aim* OR compet* OR compromis* OR even OR fair OR fix* OR forecast* OR game* OR gave OR giv** OR goal OR "let W/5 have" OR "like mind*" OR opportunit* OR position OR priorit* OR strateg* OR target*)
"M/S" W/10 (challeng* OR concern OR confirm* OR disrupt* OR disturb* OR follow* OR enough OR police OR policing OR pressur* OR project* OR saturat* OR "too much" OR trad* OR underdevelop* OR underrepresent* OR upset*)
"M/S" W/10 (chill OR irrational* OR irresponsible OR rational* OR reasonable OR responsible)
"M/S" W/10 (criminal OR illegal OR schem*)
"M/S" W/10 (desir* OR feedback OR hear* OR look* OR need* OR notif* OR piece* OR seek* OR want* OR
"PI"
"play* nice*"
"Red Flag"
"slow follower"
"slow to follow"
"slow to raise pric*"
"strong follower"
"strong leader"
"women in the industry"
"zero sum" OR zero-sum
(ask OR "touch base" OR tell OR told OR inform* OR reach*) W/10 (friend OR buddy OR contact)
(meet* OR met OR have OR had) W/10 (dinner OR drink* OR event OR restaurant OR concert OR spa OR secret OR unofficial)
(text* OR txt*) W/10 (me OR cell OR you OR her OR him OR them OR receive* OR got OR friend OR buddy)
“fair share”
“giv* up” w/5 (business OR share OR market OR drug)
“horse trad*”
“Market Share” OR “mkt share” OR marketshare*
“on the street”
activist
anticompetitive OR (anti w/2 competitive)
antitrust OR (anti w/2 trust)
beer*
bid W/10 "do not"
bid W/10 aggressive*
bid W/10 attempt*
bid W/10 declin*
bid W/10 don't
bid W/10 fak*

General Standalone Terms
A361

Terms
bid W/10 high*
bid W/10 it
bid W/10 low
bid W/10 lowball*
bid W/10 no
bid W/10 rescind*
bid W/10 retract*
bid W/10 unsolicited
bid W/10 war*
bourbon
Break w/2 rank
Bring* w/5 (“price up” OR “Money up” OR “$ up” OR share)
call* W/10 (me OR cell OR you OR her OR him OR them OR receive* OR got OR friend OR buddy)
cartel
cede* OR conced*
cocktail*
coffee
collu*
colus*
communicat* W/10 illegal
compet* W/10 (don't OR do OR non OR avoid or exclude)
competit* W/10 adjust*
competit* W/10 agree*
competit* W/10 analy*
competit* W/10 decreas*
competit* W/10 game*
competit* W/10 increas*
competit* W/10 informat*
competit* W/10 irrational
competit* W/10 irresponsible
competit* W/10 key
competit* W/10 offer*
competit* W/10 quality
competit* W/10 rational
competit* W/10 reasonable
competit* W/10 responsible
competit* W/10 share*
complain*
conspir*
cost* W/10 decreas*
cost* W/10 increas*
declin* W/10 match
defend*
dinner
discontinu* W/10 sale*
drink*

Terms
dumb
enter*
expect W/10 increas*
fair W/10 police
fair W/10 policing
feeler
fill W/10 ("you in" OR "u in" OR "me in" OR "him in" OR "her in" OR "them in" OR "us in")
follow* W/10 "not"
follow* W/10 expect*
follow* W/10 has*
follow* W/10 increas*
follow* W/10 inten*
follow* W/10 suit
follow* W/10 we
follow* W/10 will
follow* w/4 leader”
game* W/10 theory
Get* w/5 (“price up” OR “Money up” OR “$ up” OR share)
Gin
golf*
goug*
hear*
idiot*
Illegal* w/5 (this OR that* OR worr* OR afraid OR concern*)
in person
increas* W/10 (wac OR awp)
increas* W/10 list*
increas* W/10 potent*
intel* OR "CI"
lunch
Market W/10 "let W/5 have"
Market W/10 "like mind*"
Market W/10 "pick* up"
Market W/10 "too much"
Market W/10 (acquisition* OR divestiture* OR dynamics* OR guidance* OR merger*)
Market W/10 (chill OR irrational* OR irresponsible OR rational* OR reasonable OR responsible)
Market W/10 (criminal OR illegal OR schem*)
Market W/10 add*
Market W/10 adjust*
Market W/10 agree*
Market W/10 aim*
Market W/10 allocat*
Market W/10 challeng*
Market W/10 chang*
Market W/10 compet*
Market W/10 compromis*

Terms
Market W/10 concern*
Market W/10 confirm*
Market W/10 declin*
Market W/10 decreas*
Market W/10 desir*
Market W/10 disrupt*
Market W/10 disturb*
Market W/10 divid*
Market W/10 drop*
Market W/10 enough
Market W/10 even*
Market W/10 expan*
Market W/10 fair*
Market W/10 feedback
Market W/10 fix*
Market W/10 follow*
Market W/10 forecast*
Market W/10 gain*
Market W/10 game*
Market W/10 gave
Market W/10 giv**
Market W/10 goal*
Market W/10 hear*
Market W/10 heavy
Market W/10 high*
Market W/10 hik*
Market W/10 hold*
Market W/10 increas*
Market W/10 lead*
Market W/10 look*
Market W/10 low*
Market W/10 more
Market W/10 need*
Market W/10 new
Market W/10 notif*
Market W/10 opportunit*
Market W/10 piece*
Market W/10 police
Market W/10 policing
Market W/10 position*
Market W/10 pressur*
Market W/10 priorit*
Market W/10 project*
Market W/10 rais*
Market W/10 reduc*
Market W/10 relinquish*

Terms
Market W/10 retain*
Market W/10 saturat*
Market W/10 secure*
Market W/10 seek*
market w/10 settl*
Market W/10 shift*
Market W/10 split*
Market W/10 strateg*
Market W/10 tak*
Market W/10 target*
Market W/10 trad*
Market W/10 underdevelop*
Market W/10 underrepresent*
Market W/10 upset*
Market W/10 want*
Market W/10 yield*
martini*
Mkt W/10 (add* OR adjust* OR chang* OR declin* OR decreas* OR divid* OR drop* OR expan* OR gain* OR heavy OR high* OR hik* OR hold* OR increas* OR lead* OR low* OR more OR new OR "pick* up" OR rais* OR reduc* OR relinquish* OR retain OR secure OR shift* OR split* OR tak*)
Mkt W/10 (allocat* OR agree OR aim* OR compet* OR compromis* OR even OR fair OR fix* OR forecast* OR game* OR gave OR giv** OR goal OR "let W/5 have" OR "like mind*" OR opportunit* OR position OR priorit* OR strateg* OR target*)
Mkt W/10 (challeng* OR concern* OR confirm* OR disrupt* OR disturb* OR follow* OR enough OR police OR policing OR pressur* OR project* OR saturat* OR "too much" OR trad* OR underdevelop* OR underrepresent* OR upset*)
Mkt W/10 (chill OR irrational* OR irresponsible OR rational* OR reasonable OR responsible)
Mkt W/10 (criminal OR illegal OR schem*)
Mkt W/10 (desir* OR feedback OR hear* OR look* OR need* OR notif* OR piece* OR seek* OR want* OR yield*)
Mkt W/10 acquisition*
Mkt W/10 divestiture*
Mkt W/10 dynamics*
Mkt W/10 guidance*
Mkt W/10 merger*
offer*
party OR parties
play* W/10 (fair OR nice)
pric* W/10
pric* W/10 "like mind*"
pric* W/10 "too much"
pric* W/10 (chill OR irrational* OR irresponsible OR rational* OR reasonable OR responsible)
pric* W/10 (criminal OR illegal OR schem*)
pric* W/10 (desir* OR feedback OR hear OR look* OR need* OR notif* OR piece* OR seek* OR want*)
pric* W/10 acquisition*
pric* W/10 adjust*
pric* W/10 agree*

Terms
pric* W/10 aim*
pric* W/10 challeng*
pric* W/10 chang*
pric* W/10 committee
pric* W/10 compar*
pric* W/10 compet*
pric* W/10 compromis*
pric* W/10 concern*
pric* W/10 confirm*
pric* W/10 decreas*
pric* W/10 desir*
pric* W/10 disrupt*
pric* W/10 disturb*
pric* W/10 divestiture *
pric* W/10 drop*
pric* W/10 fair
pric* W/10 feedback
pric* W/10 fix*
pric* W/10 follow*
pric* W/10 forecast*
pric* W/10 gain*
pric* W/10 game*
pric* W/10 goal*
pric* W/10 high*
pric* W/10 hik*
pric* W/10 increas*
pric* W/10 lead*
pric* W/10 line
pric* W/10 look*
pric* W/10 low*
pric* W/10 market *
pric* W/10 meet*
pric* W/10 merger*
pric* W/10 mod*
pric* W/10 need*
pric* W/10 notif*
pric* W/10 opportunit*
pric* W/10 piece**
pric* W/10 police
pric* W/10 policing
pric* W/10 position*
pric* W/10 pressur*
pric* W/10 project*
pric* W/10 rais*
pric* W/10 reduc*
pric* W/10 saturat*

Terms
pric* W/10 seek*
pric* W/10 shift*
pric* W/10 slow*
pric* W/10 strateg*
pric* W/10 target*
pric* W/10 upset*
pric* W/10 want*
pric* W/10 war
pric* W/10 wars
retain*
Rules /4 road
rumor*
sandbox OR "sand box"
scotch
send w/3 message”
share W/10 "let W/5 have"
share W/10 "like mind*"
share W/10 "pick* up"
share W/10 "too much"
share W/10 (acquisition* OR divestiture* OR dynamics* OR guidance* OR merger*)
share W/10 (chill OR irrational* OR irresponsible OR rational* OR reasonable OR responsible)
share W/10 (criminal OR illegal OR schem*)
share W/10 add*
share W/10 adjust*
share W/10 agree*
share W/10 aim*
share W/10 allocat*
share W/10 challeng*
share W/10 chang*
share W/10 compet*
share W/10 compromis*
share W/10 concern*
share W/10 confirm*
share W/10 declin*
share W/10 decreas*
share W/10 desir*
share W/10 disrupt*
share W/10 disturb*
share W/10 divid*
share W/10 drop*
share W/10 enough
share W/10 even
share W/10 expan*
share W/10 fair
share W/10 feedback
share W/10 fix*

Terms
share W/10 follow*
share W/10 forecast*
share W/10 gain*
share W/10 game*
share W/10 gave
share W/10 giv**
share W/10 goal*
share W/10 hear*
share W/10 heavy
share W/10 high*
share W/10 hik*
share W/10 hold*
share W/10 increas*
share W/10 lead*
share W/10 look*
share W/10 low*
share W/10 more
share W/10 need*
share W/10 new
share W/10 notif*
share W/10 opportunit*
share W/10 piece*
share W/10 police
share W/10 policing
share W/10 position*
share W/10 pressur*
share W/10 priorit*
share W/10 project*
share W/10 rais*
share W/10 reduc*
share W/10 relinquish*
share W/10 retain*
share W/10 saturat*
share W/10 secure*
share W/10 seek*
share W/10 shift*
share W/10 split*
share W/10 strateg*
share W/10 tak*
share W/10 target*
share W/10 trad*
share W/10 underdevelop*
share W/10 underrepresent*
share W/10 upset*
share W/10 want*
share W/10 yield*

Terms
speak or spoke
split* W/10 business
stand w/10 down
steal* w/4 share
trash* w/3 market
vodka
walk W/10 (we OR I OR let's OR from OR away)
whiskey
wine

Events	Terms
2014 H-E-B Tournament of Champions	tournament w/5 champions
ACO (Accountable Care Organizations) Summit	(aco or "accountable care organizations") w/5 summit
Ahold	"ahold delhaize"
American Associated Pharmacies (AAP) Annual Meeting & Convention	(aap or "american associated pharmacies") w/5 (meeting or convention)
American Burn Association	"american burn association"
American Society of Clinical Oncologists (ASCO)	"american society of clinical oncologists" or asco
American Society of Consultant Pharmacists (ASCP) Meeting	("american society of consultant pharmacists" or ascp) w/5 (meeting or conference or midyear or "mid year" or clinical)
American Society of Health System Pharmacists (ASHP) Summer trade show	"american society of health-system pharmacists" OR ashp
Amerinet	amerinet
Amerisource Bergan (ABC) Thinklive 2013	thinklive or "think live"
AmeriSource Bergen (ABC) Thoughtspot	thoughtspot
Amerisource Generic NHCE Show	(generic w/5 show) or nhce
Anda Fall Supplier Strategy Meeting	"anda fall supplier" w/5 meeting
Anda Supplier Strategy Meeting	"anda supplier" w/5 meeting
Anda Supply Chain Symposium	"anda supply chain" w/5 symposium
Annual PBA Health Conference	pba w/5 (conference or "trade show")
APCI	apci
Apexus/340B Coalition	apexus* w/5 Coalition
API Meeting (AAP Membership Registration)(American Associated Pharmacies)	"api meeting"
Armada Summit	"armada summit"
BILO Winn-Dixie Annual Sales Planning Meeting	"bilo winn-dixie" w/5 "sales planning meeting"
Cardinal - Syracuse	cardinal w/5 syracuse
Cardinal Annual Pharmacy Business Conference	cardinal w/5 conference
Cardinal BPC Conference	(bpc w/5 conference) or "buisness partners conference"
Cardinal Health Business Partners Exchange	cardinal w/5 "business partners exchange"
Cardinal Managers Meeting	"cardinal managers meeting"
Cardinal Trade Show (RBC)	(cardinal w/5 "trade show") or rbc
CBI (division of UMB Americas) Research Forecasting Conference	cbi w/5 conference or ("research forecasting" w/5 conference)

Events	Terms
Chain Drug Consortium Annual Planning Conference	"chain drug consortium" w/5 conference
Connections 2014 ValueTrak training	valuetrak w/5 training
CSHP (California Society of Health-system Pharmacists)	cshp or "california society of health-system pharmacists"
CVS Caremark Classic	"cvs caremark classic"
CVS Caremark Retail Leadership Conf & trade show	(cvs or caremark) w/5 (conference or "trade show")
CVS Charity Classic	"cvs charity classic"
Dakota Drug	"Dakota Drug"
Drogeria Bentances (Drogueria Betances) trade show	"drogeria bentances" or "drogueria betances"
Drogueria Betances (Hacienda Cafetalera)	"hacienda cafetalera"
ECRM	EPPS or ECRM or "total store expo" or "electronic customer relationship management" or "efficient collaborative retail marketing"
ECRM - Hospital, IDN's & GPO's	"hospital, idn's & gpo's" or "hospital, idn's and gpo's"
ECRM (Efficient Collaborative Retail Marketing)- Institutional, Mail Order and Managed Care	"institutional, mail order and managed care"
ECRM (Efficient Collaborative Retail Marketing) Retail Pharmacy Generics	"retail pharmacy generics"
ECRM Generic Pharmacy Meeting	"generic pharmacy meeting"
EPIC RX (Epic Pharmacies Annual Stockholders Mtg. & Trade Show)	epic w/5 ("trade show" or "stockholders meeting" or "stockholders mtg")
ESI Outcomes Conference	(esi or "express scripts") w/5 conference
Express Scripts Pharmaceutical Outcomes Conference	"pharmaceutical outcomes conference"
FAH Public Policy Conference & Business Expo (Federation of American Hospitals)	(fah or "federation of american hospitals") w/5 (conference or expo*)
Federation of American Hospitals	"Federation of American Hospitals" or FAH
Florida State Society of Health-System Pharmacists (FSHP) mentioned but no dates	"florida state society of health-system pharmacists" or fshp
Fruth Pharmacy Gold Tournament	"fruth pharmacy" w/5 Tournament
FW Kerr Gold Tournament	"fw kerr" w/5 tournament
Generic Pharmaceutical Association	GPHA or AAM or CMC or "generic pharmaceutical association" or "association for accessible medicine"
Georgia Society of Health System Pharmacists (GSHP)	"georgia society of health system Pharmacists" or gshp
GeriMed Annual Meeting	"gerimed annual meeting"
Giant Eagle	"giant eagle"

Events	Terms
Girls' Night Out	"girls night out" or GNO or (women w/10 event)
H.D. Smith National Meeting and Management Conference	"hd smith" w/5 (meeting or conference or "trade show")
Harvard Annual Vendor-Partner Meetings	harvard w/5 (meet* or conference or expo*)
Harvard Drug Group Customer Appreciation Golf Outing	harvard w/5 golf
HD Smith 60th Anniversary Gala	"hd smith" w/5 gala
HDMA (Now HAD-Health Distribution Alliance)Business and Leadership Conference	"business and leadership conference" OR BLC
HDMA Track and Trace Technology Seminar	"track and trace" w/5 seminar
HDMA(Now HAD-Health Distribution Alliance) CEO Roundtable	"ceo roundtable"
Health Care Supply Chain Expo	"health care supply chain expo"
Health Connect Partners	"health connect partners"
Healthcare Distribution Alliance	HDA* or HDMA or BCL or "CEO Roundtable" or "Healthcare Distribution Alliance" or "health distribution management association"
Healthcare Industry Supply Chain Institute	HISCI or "healthcare industry supply chain institute"
Healthcare Supply Chain Association	NPF or "National Pharmacy Forum" or "supply chain association"
HealthTrust Purchasing Group (HealthTrust University Conf.)	healthtrust w/5 conference
HEB Pharmacy Conference	"heb pharmacy conference"
Henry Schein Managers Meeting	"henry schein managers meeting"
HIGPA (Health Industry purchasing group)	higpa or "health industry purchasing group"
HSCA (Healthcare Supply Chain Association)	hsca or "healthcare supply chain association"
HSCA (Health Supply Chain Association) (National Pharmacy Forum)	"national pharmacy forum"
ICHP (Illinois Council of Health-System Pharamcists) Spring Meeting	(ichp or "illinois council of health-system pharmacists") w/5 "spring meeting"
IMCO (Independent medical CO-OP)	imco or "independent medical co-op"
Independent Pharmacy Cooperative	"Independent Pharmacy Cooperative" or IPC*
Indiana Pharmacists Alliance	"indiana pharmacists alliance"
Innovatix	innovatix

Events	Terms
Innovatix & Essensa National Meeting	"essensa national meeting"
IPC (Independent Pharmacy Cooperative) Member Conference	(ipc or "independent pharmacy cooperative") w/5 conference
JDRF (Rite Aid) 5TH Annual Golf Classic	(jdrf or "rite aid") w/5 "golf classic"
JDRF (type 1 diabetes organization) Gold Classic	"diabetes organization" w/5 "gold classic"
Kerr 17th Annual Golf Outing	kerr w/5 "golf outing"
Kerr Drug #2 (Annual Business Seminar & Trade Show)	kerr w/5 (seminar or "trade show")
Kinney Drug 7th Annual Fall Charity Event	"kinney drug" w/5 (conference or "trade show" or event)
Kmart	kmart w/5 meeting
Kroger	kroger w/5 (conference or expo*)
Louisiana Society of Health-System Pharmacists (LSHP)	"louisiana society of health-system pharmacists" or lshp
Masters Golf Tournament	masters w/5 (golf or tournament)
McKesson ideaShare	mckesson w/5 ideashare
McKesson Management Conf (National Sales Conference)	mckesson w/5 (conference or "trade show")
Medassets Healthcare Business Summit	(medassets or med w/2 assets) W/10 (program or summit)
MedAssets Healthcare Business Summit	"medassets healthcare business summit"
MedAssets Healthcare Program	"medassets healthcare program"
Meijer	Meijer
MHA (Managed Health Care Associates) Business Summit	(mha or "managed health care associates") w/5 summit
Miami Luken	"miami luken"
Minnesota Multistate Contracting Alliance for Pharmacy	MMCAP or "Multistate Contracting Alliance" or "minnesota multistate contracting alliance for pharmacy"
MMCAP - National Conference	"national conference"
MMCAP Vendor Trade Show	"vendor trade show"
Morris & Dickson (MAD) Days of Summer	"days of summer"
Morris & Dickson Trade Show	"morris and dickson" w/5 "trade show"
MPhA Annual Convention and Trade Show	mpha w/5 (convention or "trade show")
MSHP (Maryland Society of Health-System Pharmacy)	mshp or "maryland society of health-system pharmacy"
MSSHP (Mississippi Society of Health-System Pharmacists)	msshp or "mississippi society of health-system pharmacists"
N.C. Mutual 2013 Partnership Trade Show (Formerly Customer Appreciation Expo)	"nc mutual" w/5 "trade show" or "customer appreciation expo*"

Events	Terms
National Association of Chain Drug Stores	NACDS or "total store expo" or "National Association of Chain Drug Stores"
National Community Pharmacists Association	NCPA or "National Community Pharmacists"
National Home Infusion Association (NHIA)	"national home infusion association" or nhia
National Pharmacy Forum (HSCA) healthcare Supply Chain Association	"national pharmacy forum"
National Pharmacy Purchasing Association	NPPA or "national pharmacy purchasing association"
Navarro Trade Show	navarro w/5 "trade show"
NC Mutual Customer Appreciation Golf Outing/Stock Holder Mtg.	"nc mutual" w/5 (golf or "stock holder meeting" or tournament)
NCPDP (national council for prescription drug programs)	ncpdp or "national council for prescription drug programs"
New York State Council of Health-system Pharmacists (NYSCHP) Annual Assembly	("new york state council of health-system pharmacists" or nyschp) w/5 assembly
Northeast Pharmacy Service Corp. trade show	"Northeast Pharmacy Service Corp*" w/5 "trade show"
Novation Supplier Summit	Novation w/4 summit
Oncology Managers Of Florida	"oncology managers of florida"
OptiSource Annual Partnering Meeting	optisource w/5 (meeting or "trade show")
Pharmaceutical Care Management Association	"pharmaceutical care management" or pcma or "pbm summit"
Pharmacy Rx, Adherence, Services, Tech & Automation EPPS	"pharmacy rx, adherence, services, tech and automation epps"
Pharmacy Select Vendor Meeting	"Pharmacy Select" w/4 meeting
PLN - Pharmacy Learning Network	pln or "pharmacy learning network"
Premier Breakthrough Conference & Exhibitions	premier w/5 (conference or exhibition or meeting or "trade show")
Price Chopper Trade Show	"price chopper" w/5 ("trade show" or meeting)
PSHP (Pennsylvania Society of Health-system Pharmacists)	pshp or "pennsylvania society of health-system pharmacists"
Red Oak Meeting	"red oak meeting"
Revitas Industry Summit Life Sciences (CARS Summit)	("revitas industry" w/5 summit) or ("life sciences" or cars) w/5 summit
Rite Aid Tradeshow	"rite aid" w/5 ("trade show" or tournament or golf)
Sales OPS Planning Conference	"sales ops" w/5 conference
Schnucks Annual Pharmacy Show	schnucks w/5 show
Smith Drug - Annual Sales & Performance Meeting	"smith drug" w/5 (meeting or "trade show")
Spartan Stores Pharmacy Conference	spartan w/5 conference

Events	Terms
SUPERVALU Desert Classic	supervalu w/5 ("desert classic" or golf)
The Burlington Drug Show	"burlington drug show"
Thrifty White Trade Show	"thrifty white" w/5 ("trade show" or meeting)
Topco - Annual Super Show, S&M	topco w/5 "super show"
TSHP (Texas Society of Health-System Pharmacists)	tshp or "texas society of health-system pharmacists"
UHC (University HealthSystem Consortium)	uhc or "university healthsystem consortium"
USA Drug Golf Sponsorship	"usa drug golf sponsorship"
Value Drug Merchandise Expo	"value drug" w/5 (expo* or "trade show" or conference)
ValueCentric Conference	valuecentric w/5 conference
VSHP (Virginia Society of Health-System Pharmacists)	vshp or "virginia society of health system pharmacists"
Wakefern Food Corp/ShopRite Pharmacy	wakefern or "shoprite pharmacy"
Walmart Supplier Summit	walmart w/5 summit

Defendant Domain Names

Terms
@actavis.com
@akorn.com
@amneal.com
@apotex.com
@ascendlaboratories.com
@ascendlabs.com
@aurobindo.com
@aurobindousa.com
@barrlabs.com
@bpirx.com
@citronpharma.com
@davapharma.com
@drreddys.com
@emcure.com
@emcureusa.com
@endo.com
@Epic-Pharma.com
@fougera.com
@glenmark-generics.com
@glenmarkpharma.com
@greenstone.com
@gwlabs.com
@heritagepharma.com
@hitechpharm.com
@igilabs.com
@impaxlabs.com
@impaxpharma.com
@lannett.com
@libertaspharma.com
@lupin.com
@lupinusa.com
@maynepharma.com
@mgp-online.com
@midlothianlabs.com
@mylan.com
@mylanbertek.com
@mylanlabs.com
@oceansidepharma.com
@parpharm.com
@perrigo.com
@pfizer.com
@pliva.hr
@plivainc.com
@sandoz.com
@sunpharma.com
@sunpharmausa.com

Defendant Domain Names

Terms
@taro.com
@teligent.com
@teva.com
@tevapharm.com
@tevausa.com
@thepharmanetwork.com
@udl.com.pk
@udlpharma.com
@upsher-smith.com
@valeant.com
@west-ward.com
@west-ward.net
@wockhardt.com
@zydususa.com

Person	Company	Proposed Term
Adams, John	Dr. Reddy's	adams w/2 john*
Aigner, Michael Francis	Mylan	Aigner OR "maigner25@msn.com"
Alexander, Kaitlin	Citron	Kait* w/2 Alexander
Allen, Michael	Dr. Reddy's	Michael w/2 Allen
Altamuro, Michael	Par	Altamuro*
Anderson, Mary	Fougera-Sandoz	Mary w/2 Anderson
Andrus, Karen	Wockhardt	Andrus
Aprahamian, Ara	Actavis/Taro	Apraham*
Augustine, Rita	Lannett	Augustine
Aupperlee, Christopher	Epic	Aupperlee
Austin, Jake	Dr. Reddy's	austin w/2 jake
Axner, Tom	Apotex	Axner*
Azzalina, Douglas	Fougera-Sandoz	Azzalina
Bacerott, Ramsey	Wockhardt	Bacerott
Bachmeier, Kelly	Par/Qualitest	Bachmeier
Badura, Lisa	Akorn/Hi-Tech	Badura
Baeder, Christine	Teva	Baeder
Baeringer, Ira	Citron	Baeringer*
Baker, Jocelyn	Teva	Baker w/2 Joc*
Ball, William	Impax	(Ball w/2 Will*) OR (Ball w/2 Bill*)
Ballard, Andrea	West-Ward	Ballard w/2 Andrea
Barjous, Zakaria	West-Ward	Barjous
Barrett, Maureen	Actavis	Barret* OR Baret* OR Meehan*
Bayer, Sandra (Sandra Gendrikovs-Bayer)	Par/Qualitest	Sand* w/2 Bayer
Bebout, Todd	Mylan	Bebout
Bedrosian, Arthur	Lannett	Bedrosian
Beem, Heather	Heritage	Beem
Beers, Philip	Wockhardt	Philip w/2 Beers
Bell, Janet	Mylan	Bell w/2 Jan*
Belli, Michelle	Teva	Belli
Ben-Maimon, Carol	Impax	BenMaimon OR Maimon
Berrios, Ed	Akorn/Hi-Tech	Berrios* OR Berios*
Berry, Tim	Apotex	Tim* w/2 Berry*
Berthold, David	Lupin	berthold w/2 dav*
Bertucci, Buddy	Apotex	Bertuc* OR Burtuc*
Bianco-Falcone, Maria	Zydus	Bianco* OR Falcone

Person	Company	Proposed Term
Bihari, Chris	Sandoz/Glenmark	chris w/2 bihari
Bjork, Dawn	Perrigo	Bjork
Blackwell, Josh	Mayne	Josh* w/2 Blackwell
Blake, Stuart	Aurobindo	Blake* w/2 Stu*
Blashinsky, Mitchell	Glenmark	blashinsky w/2 mitchell
Blitman, Mark	Actavis	Blitman
Block, Michael	Lannett	(Block w/2 Mike*) OR (Block w/2
Bogda, Michael	Lannett	Bogda
Bohling, Michael	Apotex	Bohling*
Boothe, Doug	Perrigo/Actavis	Boothe OR
Booydegraaf, Jim	Perrigo	Booyd*
Borelli, Victor	Dr. Reddy's	borelli w/2 victor
Bornell, Nekela	Epic	Bornell
Borowiec, Maggie	Apotex	Borowi*
Boulton, Sam	Apotex	Boulton*
Bover, Mark	Mylan	Bover OR "jmbover2@gmail.com"
Bowman, Demian	Apotex	Bowman*
Boyd, Craig	Mayne	Craig w/2 Boyd
Boyer, Andy	Actavis	Boyer*
Brassington, Michelle	Upsher-Smith	Brassington
Bresch, Heather	Mylan	Bresch
Brick, Scott	Taro	Brick w/2 Scott*
Brodner, Stephen	Akorn/Hi-Tech	Brodner
Brodowski, Katie	Heritage/West-Ward/Fougera-Sandoz	Brodow* OR "kbrodowski@hotmail.com"
Brooks, Kimberley	Mylan	Kim* w/2 Brooks
Brown, Jim	Glenmark	brown w/2 (jim* OR james)
Burd, Jeff	Dr. Reddy's	Burd
Burnett, James	Par	James w/2 Burnett
Burton, Gerald (Mike/Michael)	Dr. Reddy's/ Par	(Michael OR Mik* OR Ger*) w/2
Busbee, Walter	Par/Qualitest	Busbee
Calabro, Carla	Par	Calabro
Campanelli, Paul	Par	Campanel*
Campbell, Brittany Autumn	Mylan	Brit* w/3 (Campbell OR Sheets)
Cangemi, Jessica	Glenmark	cangemi w/2 jessica
Cannon, Sheryl	Mayne	Sheryl w/2 Cannon
Cantey, Brooke Tilley	Mayne	(Tilley OR Cantey) w/3 Brook*
Canver, Veronica	Akorn/Hi-Tech	Canver

Person	Company	Proposed Term
Caronna, Christine (DeLucia)	Par	Christine w/2 (DeLucia* OR Caronna)
Carotenuto, Lauren	Lannett	Caroten*
Casey, Brandon	Citron	Brandon w/2 Casey
Castillo, Katherine	Epic	Castillo w/2 (Kath*)
Cavanaugh, Maureen	Teva	Cavanaugh
Chang, Jennifer	Teva	Chang w/2 Jen*
Chase, Deborah	Glenmark	Deb* w/2 Chase
Citrino, Robert	Sun/Mutual (URL)	Citrino
Cividanes, Ernesto	West-Ward	Cividanes
Clark, Napoleon	Actavis	Napoleon*
Cohen, Steve	Actavis	Steve* w/2 Cohen
Cohon, Scott	Breckenridge	Cohon*
Collins, Jennifer	Teligent	Jen* w/2 Collins
Colvin, Jennifer	Upsher-Smith	Colvin* w/2 Jen*
Connolly, Lauren	G&W/Lupin	connolly w/2 lauren
Cook, Paul	Epic	Paul w/2 Cook
Cooper, Paul	Fougera-Sandoz	Paul w/2 Cooper
Copeland, Gwen	Apotex	Copeland*
Corley, Mike	Akorn/Hi-Tech	Corley
Couchman, Dawn	Perrigo	Couchman
Coughlin, Terrance (Terry)	Glenmark	Coughlin* w/2 Terr*
Coward, Teresa (Teri)	Teva	Coward w/2 Ter*
Craney, Mike	Wockhardt	craney w/2 (mike OR michael)
Crawford, John	Apotex	Crawford* w/2 John*
Cristiano, Phil	Lannett	Phil* w/2 Cristiano
Cromer, Melissa	Mayne	Melissa w/2 (Cromer OR Garnder)
Cross, Stefan	Mayne	Stefan w/2 Cross
Cullen, Blake	Mayne	Blake w/2 Cullen
Cunard, Robert	Aurobindo	Cunard*
Darnell, Danny	Impax	Darnel*
Davis, Chiwen (AKA Christine	Akorn/Hi-Tech	(Chiwen OR Kristy) w/2 Davis
Dean, Jill Anne	Mylan	Dean w/3 Jill
DeGolyer, Don	Fougera-Sandoz	DeGolyer
Deiriggi, John	Mylan	Deiriggi
DeMarco, Michael	Lannett	Demarco*
Dengler, James	Epic	Dengler
Denman, John	Teva	Denman
Desai, Jeremy	Apotex	Desai*

Person	Company	Proposed Term
DeSalvo, Marcia	Citron	DeSalvo*
Dillaway, John	Ascend	dillaway w/2 john
DiValerio, Tracy (nee Sullivan)	Lannett	DiValerio OR (Tracy w/2 Sullivan)
Dorsey, Michael	Actavis	Dorsey*
Dota, Joseph	Epic	Dota
Duda, Joseph	Mylan	Duda
Dudick, Mark	Akorn/Hi-Tech	Dudick*
Duncan, Jennifer	Par	Duncan w/2 Jen*
Dundas, Alana	Actavis	Dundas
Dunn, Jason	Par	Jasen w/2 Dunn
Dunrud, Cassie (LeTourneau)	Teva	Dunrud OR LeTourneau
Durga, Kishore	Epic	Durga
Dutra, Paul	Glenmark	Dutra
Edelson, Matthew	Heritage	Edelson w/2 Matt*
Edwards, James	Par	(Jam* or Jim) w/2 Edwards
Ehlinger, Robert	Lannett	Ehlinger
Emerson, Rodney	Mayne/Mylan	Rod* w/2 Emerson
Engle, Todd	Impax	Engle
Escoto, Edgar	Mylan	Escoto*
Estes, Jim	Par	Jim w/2 Estes
Evolga, Alexis	Actavis/Apotex	Evolga w/2 Alex*
Evolga, Alicia	Lupin	Evolga w/2 Alic*
Falkin, Marc	Actavis	Falk*
Fallis, Wayne	Sun/Mutual	Fallis
Fang, Jian	West-Ward	Fang w/2 Jian
Fanolic, John	Akorn/Hi-Tech	Franolic
Farley, Kathleen	Epic	Kathleen w/2 Farley
Fatmi, Aqeel	Epic	Fatmi
Felix, Andrea	Perrigo	Felix w/2 And*
Field, Rusty	Upsher-Smith	Field w/2 Rust*
Finio, Damian	West-Ward	Finio
Fiveash, Lisa	Mayne	Fiveash
Fleming, Keith	Heritage	Fleming*
Flinn, John	Apotex	Flinn*
Foley, Robert	Lannett	(Foley w/2 Bob*) OR (Foley w/2 Rob*)
Ford, Patrick	Heritage	Pat* w/2 Ford
Fournier-Bruyette, Tracy	Mylan	Fournier* OR Fornier*
Galant, Rachelle	Actavis /Dr. Reddy's	Galant* w/2 Rach*
Galownia, Kevin	Teva	Galownia

Person	Company	Proposed Term
Galvan, Martin P.	Lannett	Galvan
Ganesh, Vikram	Citron	Ganesh
Gargiulo, Peter	Par	Gargiulo
Gassert, Chad	Par	Gassert
Gavaris, Spiro	West-Ward	Gavaris
Gensburger, Jason	Lupin	Gensburger
Giannone, Bill	Fougera-Sandoz/Lannett	Giannone* OR Gianone*
Giannone, Tony (Anthony)	Actavis	Giannone* OR Gianone*
Giering, David	Breckenridge	Giering*
Gittle, Susan	West-Ward	Gittle
Giuli, Steve	Apotex	Giuli*
Glazer, Jeffrey	Heritage	Glazer
Goberdhan, Sasenarine	Epic	Goberdhan
Goldschmidt, Peter	Fougera-Sandoz	Goldschmidt
Goldstein, Philip	Breckenridge	Goldstein* w/2 Phil*
Goldy, Scott	Teva/Zydus	Goldy
Goodman, Samuel	West-Ward	Sam* w/2 Goodman
Goodnature, Kara	Perrigo	Goodnature w/2 kara
Gorelik, Mikaella	Fougera-Sandoz	Gorelik
Gorla, Gangadhara Roa	Aurobindo	Gangadhara OR Gorla*
Gouzouassis, Nicole	Heritage	Gouzo*
Gramuglia, Gina	Heritage	Gramug* OR Cassaro
Grauso, Jim	Aurobindo/Glenmark	Grauso*
Graverson, Todd	Akorn/Hi-Tech	Graverson
Green, Kevin	Teva/Zydus	Green W/2 Kev*
Greenstein, Steven	Sandoz	greenstein w/2 steve*
Grenfell-Gardner, Jason	Teligent	Grenfell*
Grigsby, Michael	Impax	Grisby* OR Grigsby
Grossenbach, Scott	Akorn/Hi-Tech	Grossen*
Guerrero, Elizabeth	Taro/West-Ward	Guerrero
Guillory, Rick Mark	Par	Guill* w/3 Rick
Guise, Gloria	Epic	Guise
Guo, Dahai	Epic	Guo
Gupta, Vinita	Lupin	Vinita w/2 Gupta

Person	Company	Proposed Term
Gustafson, Tim	Aurobindo	Gustafson*
Gutwerg, Ori	Perrigo	Gutwerg*
Guy, Brian	Breckenridge	Guy w/2 Brian
Haag, Steve	Fougera-Sandoz	Haag
Haakenstad, Peter	Perrigo	Haaken*
Hall, Darren	Par	Darren w/2 Hall*
Hamilton, Beth	Apotex	Hamilton* w/2 Beth
Hampton, Jeffrey	Apotex	Hampton* w/2 Jeff*
Hansen, Laura	Sandoz/Fougera	Hansen w/2 Laur*
Hasija, Anuj	Fougera-Sandoz	Anuj
Herman, George	Epic	George w/2 Herman
Hickson, Morris	Epic	(Morris OR Keith) w/2 Hickson
Hinman Smock, Niki	Apotex	Hinman* w/2 Smock
Hoffman, Brian	West-Ward	Hoffman w/2 Brian
Hoffman, Robert	Lupin	(Rob* OR Bob) w/2 Hoffman
Holden, Jon	Par	(Holden w/2 Jon*) OR (Holden w/2 John*)
Huang, Daphne	Epic	Daphne w/2 Huang
Huang, Lear	Citron	Lear w/2 Huang
Huang, Willi	Impax	Will* w/2 Huang
Hussey, Scott	Upsher-Smith	Hussey
Irwin, David	Glenmark	Irwin w/2 Dav*
Iyer, Swaminathan Sambamurty	Aurobindo	Iyer OR Swamin* OR Sambam*
Johnson. Jeffrey	Glenmark	Johnson w/2 Jeff*
Jomisko, Stephanie	Dr. Reddy's	Jamisko
Jorge, Luis	Fougera-Sandoz	Luis w/2 Jorge
Josway, Jim	Akorn/Hi-Tech/Taro	Josway*
Kaczmarek, Walt	Fougera	kaczmarek w/2 walt
Kafer, Jonathan	Akorn/Hi-Tech	Kafer
Kandikar, Keerthi	Dr. Reddy's	Kandlikar
Kaus, Tina	Apotex	Kaus
Kavuru, Vimal	Citron	Kavuru*
Kazemi, Kian	Fougera	kazemi w/2 kian
Keefe, Marsha	Lannett	Keefe
Keenley, Michael	Zydus	Keenley
Kellum, Armando	Sandoz	kellum w/2 armando

Person	Company	Proposed Term
Kendrick, Nikki	Fougera-Sandoz	Nikki w/2 Kendrick
Kenney, Renee	Par	(Kenney w/2 Rene*) OR (Kenny w/2
Kern, Dawn	West-Ward	Kern
Kerr, Jonathan	Aurobindo	Kerr w/2 Jon*
Khera, Sunil	Wockhardt	Khera
Kirkov, Kirko	Fougera-Sandoz	Kirkov
Klaum, David	Fougera/Mylan	klaum w/2 dav*
Knarr, Kevin	G&W and Wockhardt	knarr w/2 kevin
Knoblauch, Susan	Citron/Sun/Mutual/Taro	Knoblauch*
Kochan, Sharon	Perrigo	kochan w/2 sharon
Koenig, Scott	Wockhardt	koenig w/2 scott
Kolb, Luis	Impax	Kolb
Koleto, Christina	Actavis	Koleto*
Koonce, Sherice	Dr. Reddy's	Koonce
Koski, John	Upsher-Smith	Koski
Kozlowski, John	Lannett	Kozlowski*
Krauthauser, Paul	Sandoz	krauthauser w/2 paul
Krinke, Stephen	Mylan	Krinke
Krishan, Sanjeev	Glenmark	Krishan
Kronovich, Tom	Akorn/Hi-Tech	Kronovich
Kutinsky, Bruce	Akorn/Hi-Tech	Kutinsky*
Kuziora, Keith	Dr. Reddy's	Kuziora OR Kuzoria
Kyle, Susan D.	West-Ward	Kyle w/2 (Susan OR Susie OR Sue OR
Kylochko, Amy	Perrigo	kylochko*
Lamasky, Joanne	Akorn/Hi-Tech	Lamasky
Lambertz, Jason	Perrigo	Lambertz
Lankford, Anastasia ("Stacy")	Par	Lankford
Lapila, Larry	Breckenridge	Lapila*
Lattanzi, James	West-Ward	Lattanzi
Leonard, Brad	Upsher-Smith	Brad w/2 Leonard
Levinson, Jared	Teva	Levinson w/2 Jared
Lewis, Tom	Lannett	Tom* w/2 Lewis
Lichter, Steve	Akorn/Hi-Tech	Lichter
Likvornik, Aleksey ("Alex")	Taro	Likvornik
Link, David	Apotex	Link w/2 Dav*

Person	Company	Proposed Term
Lopez, John	Wockhardt	John w/2 Lopez
Lubke, Della	Sandoz	lubke w/2 della
Lukasiewicz, Daniel	Heritage/Zydus	Lukasiew* OR Lukasew* OR
Lupo, Michael	Epic	Michael w/2 Lupo
Lyle, Joan	Breckenridge	Lyle w/2 Joan*
Maahs, Jim	Upsher-Smith	Maahs
MacDonald, Marcy	Sandoz	(MacDonald w/2 Mar*) OR
Macrides, Stephen	Par/Qualitest	Macrides
Magerkurth, Brian	Par	Magerkurth
Maiolo, Christine	Actavis	Maiolo
Malek, Jason	Heritage	Malek OR "malekjason@ymail.com"
Malik, Rajiv	Mylan	Malik
Marcus, Howard	Taro	Marcus w/2 How*
Mares, Eyel	Akorn/Hi-Tech	Mares
Markowitz, Paul	West-Ward	Markowitz w/2 Paul*
Marrow, Sharron	Lannett	Marrow w/2 Shar*
Martin, Howard	Mylan	Howard w/2 Martin
Mason, Rob	Upsher-Smith	Mason w/2 (Rob* OR Bob*)
Matchett, Richard	Lannett/Sun/Mutual/Taro	Matchet*
Matsuk, Robert	Glenmark	Matsuk*
Matthew, Lexie (Mills)	Mylan	Lexie w/2 (Matthews OR Mills)
Mauro, Anthony	Mylan	Mauro
Maynard, Diane	Breckenridge	Diane* w/2 (Maynard* OR Nazar)
Mayya, Ashok	Citron	Mayya OR Ashok
McBride, Michael	Upsher-Smith	(McBride w/2 Michael) OR (McBride
McCanna, Mick (AKA Michael Brian McCann)	Akorn/Hi-Tech	McCann*
McCorkle, Chip	Heritage/G&W	mccorkle w/2 chip
McCormack, Katie	Perrigo	McCorm* w/2 Kat*
McCormick, Jinping	Dr. Reddy's/Actavis	Jinping* OR McCormick*
McElfresh, Kevin	Mylan	McElfresh
McGalliard, Jolene	Glenmark/Lannett/Sun/Mutual/	McGalliard*
McGarty, Paul	Lupin	McGarty
McKenna, Nancy	Par	Nancy w/2 McKenna
McLeod, Jessica	Actavis	Jess* /2 McLeod
McMahon, Paul	Aurobindo	McMahon*
McManimie, Jim	Taro	Mcmanimie w/2 Jim*
McManus, Justin	Lannett	McManus*

Person	Company	Proposed Term
McMorrow, Shawn	Teligent	mcmorrow w/2 shawn
Mechler, Crystal	Aurobindo	Mechler*
Medalle, Cynthia	Dr. Reddy's	Medalle
Miller, Jeff	Lannett	Miller w/2 Jeff*
Miller, Michelle	Lannett	Michelle w/2 Miller
Minnihan, Lori	Par/Qualitest	Minnihan
Miranda, Roberto (Bob)	Actavis	(Rob* OR Bob*) w/2 Miranda
Mitchell, David	Mylan/Mayne	Mitchel* w/2 Dav*
Moldin, Richard	Mayne	Moldin
Molina, Millie	Lannett	Millie w/2 Molina
Morales, Joel	Par	Joel w/2 Morales
Morris, Andrea	Mylan	Morris w/2 Andrea
Mosberg,Vanda	Teva	Mosberg
Mouro-Sherman, Teri	Teva	(mouro OR sherman OR mouro-
Muller, Miriam	Teva	Miriam w/2 Muller
Mullery, Frank William	Mylan	Mullery
Murphy, Denise	Lannett	Denise w/2 Murphy
Muse, Eric	Teligent	Eric w/2 Muse
Muzetras, Mike	Upsher-Smith	Muzet*
Myers, David	Actavis	Dav* /2 Myer*
Nailor, Jill	Greenstone	nailor w/2 jill
Nallappan, Naveen	Citron	Nallappan
Narine, Jeenarine	Epic	Narine
Nasse, Kim	Par	Nasse
Neely, Katherine	Citron/Dr. Reddy's	Neely
Negron, Sebastian	Akorn/Hi-Tech	Negron
Nesta, James	Mylan	Nesta
Neurohr, Christopher	Fougera-Sandoz	Neurohr
Nielson, Dave	Breckenridge	(Nielson w/2 Dav*) OR (Nelson w/2
Niemi, Joseph	Wockhardt	Niemi
Nigalaye, Ashok	Epic	Nigalaye
Norris, Pam	Mayne	Pam w/2 Norris
Novak, Brett	Akorn/Hi-Tech	Novak*
Nugent, Tim	Aurobindo	Nugent* w/2 Tim*
Nuzum, Stephanie	Mylan	Nuzum
O'Sullivan, Terence	Fougera-Sandoz	Terence w/2 O'Sullivan
Obeidat, Mohammad	West-Ward	Obeidat
Oberman, Allan	Teva	Oberman
O'Connor, Karen	Par	(OconnOR w/2 Karen) OR (ConnOR

Person	Company	Proposed Term
O'Dell, Lois	Par/Qualitest	O'Dell
Odina, Grace	Zydus	Odina
Olafsson, Sigurder	Actavis	Olafsson* OR Sigurder*
Olson, Chad	Upsher-Smith	Olson w/2 Chad
O'Mara, Neal	Heritage	Omara OR mara
O'Neill, Robert	Mylan	(Oneil* w/2 Rob*) OR (Oneil* w/2
Organ, Erin	Apotex	Organ w/2 Erin
Orlofski, Kurt	G&W	orlofski w/2 kurt
Ortiz, Rick	Lannett	Rick w/2 Ortiz
Ostaficiuk, Konstantin	Camber	Ostaficiuk
Padilla, Myrna	Apotex	Padilla*
Pak, Connie	Fougera-Sandoz	Connie w/2 Pak
Pannier, Beth	Upsher-Smith	Pannier
Papa, Joseph	Perrigo	Papa w/2 (Joseph OR Joe OR Joey)
Park, James	Dr. Reddy's	James w/2 Park
Patel, Nisha	Teva	Patel w/2 Nisha
Patil, Abhijit	Dr. Reddy's	Abhijit w/2 Patil
Pavlak, Michael	G&W	pavlak w/2 michael
Peck, John	West-Ward	Peck w/2 John
Pefley, Warren	Par/Qualitest	Pefley
Pehlke, Lisa	Actavis/Taro	Pehl* OR Pelke*
Peluso-Schmid, Gloria	Mayne	Peluso* OR (schmid w/2 gloria)
Pera, Antonio	Par	Pera
Perfetto, Michael	Actavis/Taro	Perfet*
Peters, Jessica	Teva	Peter* w/2 Jess*
Petro-Roy, Walter	Lannett	Petro-Roy
Picard, David	Fougera-Sandoz	Picard
Picca, Stephanie	Glenmark	Picca
Pickford, Marilyn (Lyn)	Par	Pickford
Pierce/Peirce, Lori	Teva	(LORi w/2 Pierce*) OR (LORi w/2
Player, Erica	Teva	Player w/2 Erica
Polizzi, Marco	Fougera-Sandoz	Polizzi
Polman, Anthony (Tony)	Perrigo	Polman
Post, Vincent	Lannett	Vincent w/2 Post
Potter, Robert	Mylan	(Potter w/2 Rob*) OR (Potter w/2
Potti, Manish	Epic	Potti
Price, Shannon	Apotex	Price w/2 Shannon
Propst, Charles ("Trey")	Par	(Trey OR Charles) w/2 Propst
Purcell, Barbara	Zydus/Valeant	purcell w/2 barbara

Person	Company	Proposed Term
Quarrick, Traci	Mylan	Quarrick
Radtke, Kim Allison	Akorn/Hi-Tech	Radtke
Rai, Raj	Akorn/Hi-Tech	Raj* w/2 (Rai* or Raj*)
Randazzo, Steve	Lupin	Randazzo
Raya, Michael	West-Ward	(Raya w/2 Mik*) OR (Raya w/2 Michael)
Reading, Sean	Aurobindo	Reading* w/2 Sean*
Rebnicky, Amanda	Dr. Reddy's	Rebnicky
Reddy, Ramprasad	Aurobindo	Reddy* w/3 (Ram* OR Prasad*)
Reed, John Jr.	Actavis	Reed* w/2 John*
Reilly, Sean	Mylan	Reilly w/2 Sean
Reiney, Michael	Par/Qualitest	Michael w/2 Reiney
Reiss (nee Roberts), Katie	Mayne	Kat* w/2 (Reiss OR Roberts)
Rekenthaler, David	Teva	Reken*
Renner, Joseph	Zydus	Joseph w/2 Renner
Rice, Karen	Apotex	Rice w/2 Karen
Ricketts, Elizabeth	Teva	(Ricket* w/2 Eliz*) OR (Ricket* w/2
Riker, William	Impax	(Riker w/2 Will*) OR (Riker w/2 Bill*)
Rizk, Nabil	West-Ward	Rizk OR Nabil
Rodarmer, Chessa	Lannett	Rodamer* OR Rodarmer
Rodowicz, Rob	Dr. Reddy's	Rodowicz
Rogerson, Rick	Actavis	rogerson w/2 rick
Romero, Gladys	Epic	Gladys w/2 Romero
Ronco, Kristy	Zydus	Ronco
Rosado, Freddy	Zydus	Fred* w/2 Rosado
Rose, Jon	Fougera-Sandoz	Jon* w/2 Rose
Rosenstack, Joel	Fougera-Sandoz	Rosenstack
Ross, Thomas	West-Ward	(Thomas or Tom) w/2 Ross
Rotunno, Mary	Upsher-Smith	Rotunno
Ryan, Marge	Heritage	(Marg* OR Margaret) w/2 Ryan
Sabat, John	Akorn/Hi-Tech	Sabat*
Sabo, Ernest J.	Lannett	Sabo
Sachdev, Gurpartap ("GP	Sun/Mutual	(GP w/2 Sing*) OR Sachdev OR
Santangelo, Patrick	Aurobindo	Santangelo*
Sather, Anne	Heritage	Sather
Saunders, Brent	Actavis	Saunder*
Savastano, Frank	West-Ward	Savastano
Schatz, Martin	Breckenridge	(Schatz w/2 Mart*) OR (Shatz w/2 Mart*)
Schiwbalak, Anthony	Epic	Schiwbalak OR Shiwbalak

Person	Company	Proposed Term
Schneider, Chris	Mayne	schneider w/2 chris
Schreck, William	Lannett	Schreck OR Shreck
Schultz, Adam	Lannett	Adam w/2 Schultz
Schwinn, Chad	Fougera-Sandoz	Schwinn
Scott, Char	Perrigo	Scott w/2 Char
Seaback, David	Par/Qualitest	Dav* w/2 Seaback
Seitz, Gregory	Sandoz	Seitz
Shah, Anand	Sun/Mutual	Shah w/2 Anand
Sherman, Teresa (Teri) Mouro-	Teva	(Sherman w/2 Ter*) OR Mouro
Shook, Kevin	Epic	Shook w/2 Kev*
Short, Laura	Citron/Zydus	(Short w/2 Laur*) OR (Short w/2
Sica, Kevin	Impax	Sica w/2 Kev*
Silver, Sean	Teva	Silver w/2 Sean
Simmons, Bob	Apotex	(Simmons w/2 Bob*) OR (Simmons
Simpson, Kristen	Lannett	Krist* w/2 Simpson
Sims, Scott	Par	Scott w/2 Sims
Skalski, Gary	Impax	Skalsk*
Slavsky, Allan	Actavis	Slavsky
Smith, John	Epic	John w/2 Smith
Smith, Kevin R.	Lannett	Smith w/2 Kev*
Smith, Rich	Heritage	Rich* w/2 Smith
Smith, Scott	Fougera-Sandoz	Scott w/2 Smith
Smith, Steven ("Steve")	Sun/Mutual	Smith w/2 Stev*
Soars, Lew	Heritage	Soars w/2 Lew*
Soni, Beena	Heritage	Beena
Sonig, Alok	Dr. Reddy's	Sonig
Spina, Robert	Fougera-Sandoz	Spina
Spotts, Tom	Teva	Spotts
Statler, Doug	West-Ward	Statler
Statler, Sr., Doug	Sun/Mutual and Taro and West	Stat* w/2 Doug*
Staud, Amy	Mylan	Staud
Stefaniak, Jeanne	Epic	Stefaniak
Stephens, Kristie	Lannett	Krist* w/2 Stephen*
Stevens, Cindy	Actavis/ Dr. Reddy's	Cindy /2 Stevens
Stillman, Breanna	Lannett	(Stillman w/2 Brean*) OR (Stillman
Stone, Emilio	Wockhardt	Emilio w/2 Stone
Strelau, Karen	Citron/Zydus	Strelau*
Strzeminski, Robin	Greenstone	strzeminski w/2 robin
Sundaram, Kal	Sun/Mutual/Taro	Sundaram
Szechenyi, Arpad	Fougera-Sandoz	Szechenyi
Taffe, Patrick	Wockhardt	Taffe OR Taaffe

Person	Company	Proposed Term
Tamboia, Janine	Par	Tamboia
Tatum, Jeremy	Par	Jeremy w/2 Tatum
Tekumal, Arvind	Dr. Reddy's	Tekumal
Thapur, Vic	Emcure	thapur w/2 vic
Thomas, Jermaine	Akorn/Hi-Tech	Jermaine w/2 Thomas
Thomassey, Anthony	Aurobindo and Fougera	Thomassey*
Tighe, Robert/Gary	Mylan	Tighe
Tolusso, Mike	Taro	Tolusso
Tranter, Matthew Scott	Akorn/Hi-Tech	Tranter
Tremonte, Richard	Fougera-Sandoz	Tremonte
Tropiano, Michael	Par	Tropiano
Truchan, Don	Citron	Truchan*
Tustin, Bill	Citron	Tustin*
Urbanski, Christopher ("Chris")	Taro	Urbansk*
Van Allen, Matt	Glenmark	Matt* w/3 Allen*
Van Lieshout, James	Apotex	Vanlies* OR Lieshout*
Van Stedum, Colter	Perrigo	"Van Stedum"
Van Winkle, Schuyler	Ascend	"van winkle" w/2 schuyler
Vandervort, Thomas	Teligent	Vandervort
Veira, Deborah	Apotex	Veira*
Velez, Luis	West-Ward	Velez
Venkatasubramaniam, Ganesh	Aurobindo	Venka* OR Ganesh
Vezza, Mike	Sandoz	vezza w/2 (mike OR michael)
Vitols, David	Dr. Reddy's	Vitolis
Vogel-Baylor, Erika	G&W	(vogel OR baylOR OR vogel-baylOR) w/2 erika
Vohra, Umang	Dr. Reddy's	Vohra
Vraniak, Maria (McManus)	Zydus	Vraniak
Walker, Kevin	Lupin	Kevin w/2 Walker
Walten, Lauren	Lupin	Walten
Walton, Christine	Dr. Reddy's	Christine /2 Walton OR "cvwalton@gmail.com"
Watkins, Greg	Ascend	watkins w/2 greg
Watson, Jeff	Apotex	Watson* w/2 Jeff*
Watson, Robert	Wockhardt	(Rob* or Bob) w/2 Watson
Weber, Jodi	Zydus	Jodi w/2 Weber
Wesolowski, John	Perrigo	Wesolowski

Person	Company	Proposed Term
Wetzel, Trish	DRL	wetzel w/2 trish
Wiesemann, Denise	Mayne	Wiesemann
Wilkinson, George Frederick (Fred)	Impax	(Wilkinson* w/2 Fred*) OR (Wilkinson w/3 George)
Wilks, Grace	Lannett	Wilk*w /2 Grac*
Williams, Erik	Mylan	(William* w/2 Erik) OR (William* w/2 Eric)
Williams, Jane	Apotex	William* w/2 Jane*
Wingerter, Martin	Mylan	Wingert*
Workman, David	Mylan	Workman w/2 Dav*
Wyatt, Lance Sterling	Mylan	Wyatt w/3 Lance
Zitnak, David	Upsher-Smith	Zitnak

Plaintiff Search Terms	Plaintiff Name
"1199SEIU" OR "@1199seiubenefits.org"	1199SEIU National Benefit Fund
"1199SEIU" OR "@1199seiubenefits.org"	1199SEIU Greater New York Benefit Fund
"1199SEIU" OR "@1199seiubenefits.org"	1199SEIU National Benefit Fund for Home Care Workers
"1199SEIU" OR "@1199seiubenefits.org"	1199SEIU Licensed Practical Nurses Welfare Fund
"Cesar Castillo"	César Castillo, Inc.
"Chet Johnson"	Chet Johnson Drug, Inc.
"Chippewa Pharmacy"	Chippewa Pharmacy, Inc.
"Falconer Pharmacy"	Falconer Pharmacy, Inc.
"Halliday's"	Halliday's & Koivisto's Pharmacy
Humana OR *humana.com OR HPI OR RightSource OR "Right Source" OR HPS	Humana Inc.
"Marion Diagnostic"	Marion Diagnostic Center LLC
"Philadelphia Federation" OR (PFT w/5 Fund) OR "@pfthw.org"	Philadelphia Federation of Teachers Health and Welfare Fund
"Rochester Drug"	Rochester Drug Co-Operative, Inc.
"Russell's"	Russell's Mr. Discount Drugs, Inc.
"Sergeants Benevelont" OR "@sbanypd.nyc"	Sergeants Benevolent Association of the Police Department of the City of New York Health and Welfare Fund
"Southside Pharmacy"	Southside Pharmacy, Inc.
"Uniformed Fire Officers" OR "Local 854"	Uniformed Fire Officers Association Family Protection Plan Local 854
"Unite Here" OR UHH OR "@uhh.org"	Unite Here Health
"West Val"	West Val Pharmacy
("Blue Cross" w/10 Louisiana) OR (BCBS w/10 Louisiana) OR "@bcbsla.com"	Louisiana Health Service & Indemnity Company d/b/a Blue Cross and Blue Shield of Louisiana and HMO Louisiana, Inc.
("Self-Insured Schools" w/5 California) OR SISC OR "@sisc.kern.org"	Self-Insured Schools of California
(AFSCME w/5 37) OR "District Council 37" OR "DC 37" OR "@dc37.net"	American Federation of State, County and Municipal Employees District Council 37 Health & Security Plan
(AFSCME w/5 47) OR "District Council 47" OR "DC 47" OR "@dc47union.org"	American Federation of State, County and Municipal Employees, District Council 47, Health and Welfare Fund
(City w/3 Providence) OR "@providenceri.gov"	The City of Providence, Rhode Island
(Detective* w/2 Endowment) OR "@nycdetectives.org"	Detectives Endowment Association of the City of New York

Plaintiff Search Terms	Plaintiff Name
(UFCW w/10 Arizona) OR ("United Food" w/10 Arizona)	United Food & Commercial Workers and Employers Arizona Health and Welfare Trust
(UFCW w/5 1500) OR "Local 1500" OR "@ufcw1500.org"	UFCW Local 1500 Welfare Fund
“Albertsons.com” OR Albertsons	Albertsons Companies, LLC
“heb.com” OR HEB OR "H-E-B" OR "HE Butt" OR "H.E. Butt"	H.E. Butt Grocery Company L.P.
“Kroger.com” OR Kroger	The Kroger Co.
Ahold	Ahold USA, Inc.
David w/2 Sherman	David Sherman
FWK or Kerr	FWK Holdings, L.L.C.
Hennepin w/2 County	Hennepin County
HPI OR HUM	Humana Inc.
KPH or "Kinney Drugs"	KPH Healthcare Services, Inc., a/k/a Kinney Drugs, Inc.
Nina w/2 Diamond	Nina Diamond
Optum* OR ORX OR Briova OR Catamaran OR Genoa OR Avella OR @optum.com OR @briovarx.com OR @genoahealthcare.com OR @avella.com OR catamaranrx.com	OptumRX
Ottis w/2 McCrary	Ottis McCrary
Robby w/2 Johnson	Robby Johnson
Unitedhealth* OR United W/2 Health* OR United OR UHC OR UHG OR UH OR @uhg.com OR @uhc.com	United Health
Valerie w/2 Velardi	Valerie Velardi

Search Term
Acetaz*
Diamox
Adapal*
Albut*
Proventil
Ventolin
Volmax
Vospire
Amilor*
Amitrip*
Elavil
Endep
Amit*
Amox* OR Clavul*
Amphet* OR Dextro*
Amphet* OR Dextro*
Azithro*
Azithro*
Baclo*
Kemstro
Lioresal
Baclo*
Benaz*
Benaz*
Lotensin
Bethanechol
Budes*
Budes*
Bumet*
Buspir*
Cabergo*
Capecit*
Carbamaz*
Carbamaz*
Cefdin*
Cefdin*
Cefproz*
Celecox*
Cephalex*
Cimetid*
Cipro*
Clarith*
Clemast*
Clobet*
Cormax
Embeline

Search Term
Impoyz
Temovate
Clomip*
Anafranil
Clomip*
Clonid*
Clotrim*
Cypro*
Desmo*
Desog* OR Ethinyl OR Estrad* OR Kariva
Deson*
Desowen
Dexmeth*
Dextro*
Diclo*
Diclo*
Diflun*
Digox*
Digotek*
Cardoxin*
Digitek
Lanoxi*
Diltiaz*
Disop*
Dival*
Depakote
Doxa*
Doxy*
Periostat*
Alodox*
Avidoxy*
Oraxyl*
Acticlate
Adoxa
Doryx
Monodox*
Morgidox
Oracea
Targadox
Vibra*
Vibra*
Drosp* OR Ethinyl OR Ocella OR Estrad*
Econa*
Spectazole
Enala*
Enteca*

Search Term
Epitol
Estaz*
Estrad*
Ethin* OR Estrad* OR Levonor* OR Portia OR Jolessa
Ethosux*
Ethosux*
Etodol*
Etodol*
Feno*
Flucon*
Fluocin*
Lidex
Vanos
Fluocin*
Fluocin*
Fluocin*
Fluocin*
Fluox*
Flurb*
Flutam*
Fluvast*
Fosi*
Monopril*
Gabap*
Glimep*
Glip*
Metaglip
Glyb*
Diabeta
Glynase
Micronase
Glucovance
Glyb*
Griseof*
Haloper*

Search Term
Hydroxy*
Hydroxy*
Irbes*
Isoniaz*
Ketocon*
Ketocon*
Ketopro*
Ketor*
Labetal*
Lamiv* OR Zido* OR Combiv*
Leflu*
Arava
Levo*
Levo*
Euthyrox
Synthroid
Thyro*
Unithroid
Lido*
Anodyne
Emla
Lipro*
Medolor
Prizopak
Loper*
Medrox*
Mepro*
Equanil
Miltown
Methotrex*
Metronid*
Metrocream
Metrogel
Metrolotion
Noritate
Vandazole
Mimvey* OR Estrad* OR Noreth
Moexip*
Moexip*
Nabum*
Nadol*
Niacin
Nimo*
Nimo*
Nitrofur*
Noreth* OR Ethinyl OR Estrad* OR Balziva

Search Term
Northin*
Nortrip*
Nystat*
Candex
Myco*
Mykinac
Nilstat
Omega*
Oxaproz*
Oxybut*
Parical*
Parom*
Humatin
Penicill*
Pentox*
Pirox*
Prava*
Prava*
Prava*
Praz*
Prochlor*
Propran*
Inderal
Innopran
Propran*
Ralox*
Ranit*
Tamox*
Temoz*
Theop*
Aerolate
Quibron
SloPhyl* or (slo w/2 Phyl*)
"Theo* ER"
Theochron
Theoclear
Theodur or (Theo w/2 Dur)
Theolair
Tphyl or "T-Phyl"
Unidur or (Uni w/2 Dur)
Tizan*
Tobram*
Tolmet*
Tolter*
Tolter*
Topir*

Search Term
Triflu*
Urso*
Actigall
Valsar*
Verap*
Calan
Isoptin
Verelan
Warfar*
Reclast
Zometa
Zoled*

Terms
“Dr. R*”
“G&W”
“Hi Tech”
“HiTech”
“Hi-Tech”
“West Ward”
“WestWard”
“West-Ward”
Acorn
Actavis*
Akorn*
AKRX
Amneal
Apotex*
Ascend
Auro* OR Bindo
Barr
Bidco
Breck*
Citron
Dava
DRL
Emcure
Endo
ENDP
Epic
Fougera*
Glenmark
Greenstone
Heritage*
Impax*
Lannett
Lupin
Mayne*
MAYNF
Morton w/2 Grove
Mutual
MYL
Mylan*
MYX
Oceanside
Par
Perrigo*
Pfizer
Pliva
PRGO

Defendants

A400

Terms
RDY
Reddy*
Sandoz*
Sun
SUNPHARMA
Taro
Teligent*
Teva
UDL
Upsher*
Valeant
Wockh*
Zydus