

1 Zachary W. Byer (Bar No. 301382)  
KIRKLAND & ELLIS LLP  
2 555 South Flower Street  
Los Angeles, CA 90071  
3 Telephone: (213) 680-8400  
Email: [zachary.byer@kirkland.com](mailto:zachary.byer@kirkland.com)

4 Jennifer G. Levy, P.C. (Admitted pro hac vice)  
KIRKLAND & ELLIS LLP  
5 1301 Pennsylvania Ave., N.W.  
6 Washington, D.C. 20004  
Telephone: (202) 879-5000  
7 Email: [jennifer.levy@kirkland.com](mailto:jennifer.levy@kirkland.com)

8 Donna Welch, P.C. (Admitted pro hac vice)  
Timothy W. Knapp, P.C. (Admitted pro hac vice)  
9 Karl Stampfl (Admitted pro hac vice)  
KIRKLAND & ELLIS LLP  
10 300 N. LaSalle Street  
Chicago, IL 60654  
11 Telephone: (312) 862-2000  
Email: [donna.welch@kirkland.com](mailto:donna.welch@kirkland.com)  
12 [timothy.knapp@kirkland.com](mailto:timothy.knapp@kirkland.com)  
[karl.stampfl@kirkland.com](mailto:karl.stampfl@kirkland.com)

13 *Attorneys for Defendants Allergan Finance, LLC,*  
14 *Allergan Sales, LLC, Allergan USA, Inc., and*  
15 *Specially Appearing Defendant Allergan plc*

16 **UNITED STATES DISTRICT COURT**  
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
18 **SAN FRANCISCO DIVISION**

19 THE PEOPLE OF THE STATE OF  
CALIFORNIA, acting by and through San  
Francisco City Attorney Dennis J. Herrera,

20 Plaintiff,

21 v.

22 PURDUE PHARMA L.P., et al.,

23 Defendants.

CIVIL CASE NO. 3:18-CV-07591-CRB

**FIRST AMENDED ANSWER,  
AFFIRMATIVE DEFENSES, AND  
DEMAND FOR JURY TRIAL OF  
ALLERGAN FINANCE, LLC;  
ALLERGAN SALES, LLC;  
ALLERGAN USA, INC.; AND  
ALLERGAN PLC TO PLAINTIFF'S  
FIRST AMENDED COMPLAINT**

Honorable Charles R. Breyer

**PRELIMINARY STATEMENT**

Defendants ALLERGAN FINANCE, LLC, ALLERGAN SALES, LLC, ALLERGAN USA, INC., and ALLERGAN PLC (together, the “Allergan Defendants”), through their counsel, respectfully respond, for themselves and for no other defendant, to the allegations set forth in the First Amended Complaint (“1AC”) filed by the City and County of San Francisco, California, and the People of the State of California, acting by and through San Francisco City Attorney Dennis J. Herrera. The Allergan Defendants file this First Amended Answer in the context of the Court’s September 30, 2020 Order Granting in Part and Denying in Part Defendants’ Motions to Dismiss the First Amended Complaint (ECF No. 285). In light of the dismissal of the two claims brought by the City and County of San Francisco (ECF No. 285), the only plaintiff remaining in this case is “The People of the State of California” (“Plaintiff”).

The Allergan Defendants incorporate by reference the following matters into the Allergan Defendants’ response to each paragraph of the 1AC:

- This First Amended Answer replaces all other Answers submitted by the Allergan Defendants in this action.
- 1AC refers to Allergan plc, which was formerly known as Actavis plc and is now known as Allergan Limited. Effective May 22, 2020, Allergan plc has been re-registered under Ireland’s Companies Act 2014 as Allergan Limited (“Allergan plc”). Allergan plc is an Irish holding company that does not itself transact and has never transacted any business within the State of California or elsewhere and is not subject to personal jurisdiction in United States courts.
- Allergan plc has never manufactured, distributed, marketed, and/or sold prescription medications in California or elsewhere. As such, Allergan plc is not subject to personal jurisdiction in this Court. However, on September 30, 2020, the Court denied without prejudice Allergan plc’s motion to dismiss for lack of personal jurisdiction, and the Court reserved ruling on the matter of personal jurisdiction over Allergan plc until there is a more fully developed record. *See* ECF No. 285 at 9 n.12, 24-25. Allergan plc maintains that this Court lacks personal jurisdiction over it and, at the appropriate time, Allergan plc will present evidence proving that jurisdiction is lacking. In submitting this First Amended Answer, Allergan plc is specially appearing. Allergan plc expressly reserves and does not waive all defenses related to personal jurisdiction.
- 1AC also refers to Allergan Finance, LLC, which was formerly known as Actavis, Inc., which in turn, was formerly known as Watson Pharmaceuticals, Inc.
- While Allergan Defendants respond to the allegations attributed to them in the 1AC, none of the Allergan Defendants ever manufactured, distributed, marketed or sold any opioid medications, including Kadian® and Norco®, except Allergan USA, Inc. sold Kadian® and Norco® from about March 2016 through December 2020, when the products were voluntarily discontinued. Allergan Finance, LLC is contractually responsible for the marketing of

1 Kadian® from about May 2009 through December 2013 and the marketing of Norco® from  
 2 about 1997 through 2003 by certain entities divested to Teva Pharmaceutical Industries Ltd  
 3 (“Teva Ltd”) in August 2016 (each a “Divested Entity” and collectively “Divested Entities”),  
 4 including Watson Laboratories, Inc., Actavis LLC f/k/a/ Actavis Inc., Actavis Pharma, Inc.  
 5 f/k/a Watson Pharma, Inc., Actavis South Atlantic LLC, Actavis Mid Atlantic LLC, Actavis  
 6 Kadian LLC, Actavis Elizabeth LLC, Actavis Totowa LLC, Actavis Laboratories FL, Inc. f/k/a  
 7 Watson Laboratories FL, Inc., Actavis Laboratories UT, Inc. f/k/a Watson Laboratories UT,  
 8 Inc., and Warner Chilcott Company, LLC, which are separate, independent companies over  
 9 which Allergan Defendants have no control and which have been separately named in this  
 10 lawsuit (collectively, “Actavis Generics Defendants”).

- 11 • The Allergan Defendants submit this Answer, Affirmative Defenses, and Demand for Jury  
 12 Trial on their behalf only. When allegations are made against “Defendants” as a group,  
 13 however described, the Allergan Defendants’ responses apply only to Allergan Defendants  
 14 (and not to Actavis Generics Defendants, other Divested Entities, and/or any other separately  
 15 named Defendants) and are related to only Kadian® and Norco®.
- 16 • In the Court’s September 30, 2020 Order, the Court dismissed with prejudice Plaintiff City and  
 17 County of San Francisco’s claims based on the Racketeer Influenced and Corrupt  
 18 Organizations Act, 18 U.S.C. §1961 et seq. (Counts I, II).
- 19 • The First Amended Complaint contains references to documents and third-party publications  
 20 and statements that have often been excerpted, paraphrased, characterized, and otherwise taken  
 21 out of context. These documents and third-party publications and statements should be  
 22 considered in context and in unmodified form, and the Allergan Defendants respectfully refer  
 23 the Court to the respective materials for their accurate and complete contents.
- 24 • For convenience, the headings, subheadings, and paragraphs in this Answer correspond to the  
 25 headings, subheadings, and paragraphs listed in Plaintiff’s First Amended Complaint. The  
 26 Allergan Defendants nonetheless expressly deny and disclaim the characterizations in  
 27 Plaintiff’s headings and deny any allegations implicit in their terms.
- 28 • Except as otherwise expressly stated herein, the Allergan Defendants expressly deny each and  
 every allegation contained in the First Amended Complaint, including without limitation any  
 allegations contained in the preamble, unnumbered paragraphs, headings, subheadings, table  
 of contents, footnotes, and exhibits, and specifically deny any liability to Plaintiff.
- The Allergan Defendants expressly reserve and do not waive the right to amend and  
 supplement this Answer, including to assert any counterclaims or cross-claims or modify its  
 affirmative defenses, as may be appropriate or necessary, consistent with applicable rules and  
 the Court’s orders.

As to the specific allegations of the First Amended Complaint, the Allergan Defendants state as  
 follows:

### INTRODUCTION AND FACTUAL BACKGROUND

1. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
 the truth of the allegations in paragraph 1, and therefore deny the same.





















1 December 2020, when the products were voluntarily discontinued. The remaining allegations in paragraph  
2 75 contain legal conclusions and thus no answer is necessary. To the extent an answer is required, the  
3 Allergan Defendants deny the legal allegations in paragraph 75.

4 76. The Allergan Defendants deny that venue is proper in this District and Division regarding  
5 Allergan plc, but otherwise admit that venue is proper in this District and Division regarding Allergan  
6 Finance, LLC, Allergan Sales, LLC, and Allergan USA, Inc. The remaining allegations in paragraph 76  
7 are legal conclusions and thus no answer is necessary. To the extent an answer is required, the Allergan  
8 Defendants deny the legal allegations in paragraph 76.

9 **INTRADISTRICT ASSIGNMENT**

10 77. The allegations in paragraph 77 amount to legal conclusions and thus no answer is  
11 necessary. To the extent an answer is required, the Allergan Defendants deny the legal allegations of  
12 paragraph 77.

13 **PARTIES**

14 **I. PLAINTIFFS**

15 78. The allegations in paragraph 78 contain legal conclusions and thus no answer is necessary.  
16 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 78  
17 that relate to them.

18 79. The allegations in paragraph 79 contain legal conclusions and thus no answer is necessary.  
19 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 79  
20 that relate to them.

21 **II. DEFENDANTS**

22 **A. The Marketing Defendants**

23 80. The Allergan Defendants deny the allegations in paragraph 80 that relate to them. The  
24 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
25 remaining allegations in paragraph 80, and therefore deny the same.  
26  
27





1           106. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 106, and therefore deny the same.

3           107. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
4 the truth of the allegations in paragraph 107, and therefore deny the same.

5           108. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
6 the truth of the allegations in paragraph 108, and therefore deny the same.

7           109. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
8 the truth of the allegations in paragraph 109, and therefore deny the same.

9           110. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 110, and therefore deny the same.

11           111. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 111, and therefore deny the same.

13           112. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 112, and therefore deny the same.

15           113. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 113, and therefore deny the same.

17           114. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 114, and therefore deny the same.

19           **3. Actavis Entities**

20           115. The Allergan Defendants admit that Allergan plc was a public limited company  
21 incorporated in Ireland with its principal place of business in Dublin, Ireland. On May 22, 2020, Allergan  
22 plc was re-registered in Ireland as Allergan Limited, a Private Company Limited by Shares. The Allergan  
23 Defendants further admit that Watson Pharma S.a.r.l, a subsidiary of Watson Pharmaceuticals, Inc.,  
24 acquired Actavis Inc. n/k/a Actavis LLC (an Actavis Generics Defendant), among other entities in October  
25 2012. Watson Pharmaceuticals, Inc. changed its name to Actavis, Inc. in January 2013. Allergan plc (then  
26 known as Actavis plc) was incorporated in Ireland in May 2013 as a private limited company and re-  
27 registered in September 2013 as a public limited company for the purpose of facilitating the business



1 combination between Allergan Finance, LLC (then known as Actavis, Inc.) and Warner Chilcott plc.  
2 Pursuant to the transaction that closed in October 2013, Allergan Finance, LLC (then known as Actavis,  
3 Inc.) and Warner Chilcott plc shares were converted into shares in Allergan plc (then known as Actavis  
4 plc) and both entities became separate, independent, and indirect subsidiaries of Allergan plc (then known  
5 as Actavis plc). Allergan plc (then known as Actavis plc) acquired Allergan, Inc. in March 2015. In June  
6 2015, Actavis plc changed its name to Allergan plc (which subsequently changed its name to Allergan  
7 Limited in May 2020). Actavis, Inc. (formerly known as Watson Pharmaceuticals, Inc.) changed its name  
8 to Allergan Finance, LLC in June 2016. The Allergan Defendants admit that on May 8, 2020, AbbVie Inc.  
9 acquired Allergan plc. The Allergan Defendants further state that to the extent the allegations contained  
10 in this paragraph purport to cite to, quote from, paraphrase, or characterize the contents of various  
11 documents that Plaintiff attributes to the Allergan Defendants and/or Kadian®, the Allergan Defendants  
12 deny the characterizations of those quotes as misleading and taken out of context from the sentences,  
13 paragraphs, and documents in which they were included. The Allergan Defendants further state that the  
14 documents speak for themselves. The remaining allegations in paragraph 115 are legal conclusions and  
15 thus no answer is necessary. To the extent an answer is required, the Allergan Defendants deny the legal  
16 allegations of paragraph 115. The Allergan Defendants otherwise deny the remaining allegations in  
17 paragraph 115 that relate to them. The Allergan Defendants lack knowledge or information sufficient to  
18 form a belief as to the truth of the remaining allegations in paragraph 115, and therefore deny the same.

19 116. The Allergan Defendants deny the allegations in paragraph 116.

20 117. The Allergan Defendants admit that Allergan Finance, LLC is a Nevada limited liability  
21 company; its sole member is Allergan W.C. Holding Inc. f/k/a Actavis W.C. Holding Inc., a Delaware  
22 corporation with its principal place of business in North Chicago, Illinois. The Allergan Defendants admit  
23 that Allergan Finance, LLC is an indirect subsidiary of Allergan plc. The Allergan Defendants admit that  
24 Actavis Elizabeth LLC is an Actavis Generics Defendant and it had no affiliation whatsoever with the  
25 Allergan Defendants at the time it acquired the rights to Kadian® on December 30, 2008 from King  
26 Pharmaceuticals, Inc. (a separate, independent entity with no affiliation with Actavis Elizabeth LLC or  
27 the Allergan Defendants and over which neither Actavis Elizabeth LLC nor the Allergan Defendants ever

1 had any control) and/or at the time it was the contract manufacturer of Kadian® on behalf of Alharma  
2 (another separate, independent entity with no affiliation with Actavis Elizabeth LLC or Allergan  
3 Defendants and over which neither Actavis Elizabeth LLC nor Allergan Defendants ever had any control)  
4 from 2005 until it acquired Kadian®. The Allergan Defendants admit that Allergan USA, Inc. was the  
5 labeler of Kadian® and Norco® from December 2016 through December 2020, when the products were  
6 voluntarily discontinued. The Allergan Defendants admit that Allergan USA, Inc. contracted with UPS  
7 SCS, Inc. to distribute Kadian® and Norco® from around August 2016 through December 2020, when  
8 the products were voluntarily discontinued. The Allergan Defendants further state that, to the extent the  
9 allegations contained in this paragraph purport to cite to, quote from, paraphrase, or characterize the  
10 contents of various documents that Plaintiff attributes to the Allergan Defendants and/or Kadian®, the  
11 Allergan Defendants deny the characterizations of those quotes as misleading and taken out of context  
12 from the sentences, paragraphs, and documents in which they were included. The Allergan Defendants  
13 further state that the documents speak for themselves. The Allergan Defendants specifically note that  
14 Divested Entities Actavis Elizabeth LLC, Actavis Kadian LLC and Actavis Pharma Inc. are separate and  
15 independent entities (and specifically Actavis Generics Defendants in this lawsuit) over which the  
16 Allergan Defendants have no control. The Allergan Defendants otherwise deny the allegations in  
17 paragraph 117 that relate to them. The Allergan Defendants lack knowledge or information sufficient to  
18 form a belief as to the truth of the remaining allegations of paragraph 117 and therefore deny the same.

19 118. The Allergan Defendants admit that Allergan Sales, LLC is a Delaware limited liability  
20 company. Its two members are Allergan Holdco US, Inc. and Allergan Holdings, Inc., both Delaware  
21 companies. The Allergan Defendants admit that all three companies now have their principal place of  
22 business in North Chicago, Illinois. The Allergan Defendants admit that Allergan Sales, LLC is an indirect  
23 subsidiary of Allergan plc and is the current NDA holder for Kadian®. The Allergan Defendants further  
24 admit that Allergan Sales, LLC also held the ANDA for Norco® for a short period of time in 2016, ending  
25 November 2016, and thereafter a current affiliate of the Allergan Defendants held and currently holds the  
26 ANDA for Norco®. The Allergan Defendants deny the remaining allegations in paragraph 118 that relate  
27

1 to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form a belief as  
2 to the truth of the allegations in paragraph 118, and therefore deny the same.

3 119. The Allergan Defendants admit that Allergan USA, Inc. is an indirect subsidiary of  
4 Allergan plc, incorporated in Delaware and headquartered in North Chicago, Illinois. The Allergan  
5 Defendants admit that Allergan USA, Inc. sold Kadian® and Norco® from about March 2016 through  
6 December 2020 when the products were voluntarily discontinued. The remaining allegations in paragraph  
7 119 are legal conclusions and thus no answer is necessary. To the extent an answer is required, the  
8 Allergan Defendants deny the legal allegations in paragraph 119.

9 120. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
10 divested Watson Laboratories, Inc., an Actavis Generics Defendant, among other Divested Entities  
11 including Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants admit that Watson  
12 Laboratories, Inc. held the ANDA for Norco® and was the manufacturer of the drug between 2000 and  
13 2015. The Allergan Defendants state that a Divested Entity continued to manufacture Norco® after certain  
14 entities were divested to Teva Ltd in August 2016. The Allergan Defendants further state that Watson  
15 Laboratories, Inc. is a separate and independent entity (and specifically an Actavis Generics Defendant in  
16 this lawsuit) over which the Allergan Defendants have no control. The Allergan Defendants otherwise  
17 deny the remaining allegations in paragraph 120 that relate to them. The Allergan Defendants lack  
18 knowledge or information sufficient to form a belief as to the truth of the remaining allegations of  
19 paragraph 120 and therefore deny the same.

20 121. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
21 divested Warner Chilcott Company, LLC, an Actavis Generics Defendant, among other Divested Entities  
22 including Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants admit that Warner Chilcott  
23 Company, LLC manufactured Norco prior to its divestiture to Teva Ltd. The Allergan Defendants state  
24 that a Divested Entity continued to manufacture Norco® after certain entities were divested to Teva Ltd  
25 in August 2016. The Allergan Defendants further state that Warner Chilcott Company, LLC is a separate  
26 and independent entity (and specifically an Actavis Generics Defendant in this lawsuit) over which the  
27 Allergan Defendants have no control. The Allergan Defendants otherwise deny the remaining allegations

1 in paragraph 121 that relate to them. The Allergan Defendants lack knowledge or information sufficient  
2 to form a belief as to the truth of the remaining allegations of paragraph 121 and therefore deny the same.

3 122. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
4 divested Actavis Pharma, Inc., an Actavis Generics Defendant, among other Divested Entities including  
5 Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants further admit that Actavis Pharma,  
6 Inc. sold opioid medications, including Kadian® and Norco® prior to its divestiture to Teva Ltd. The  
7 Allergan Defendants state that Actavis Pharma, Inc. is a separate and independent entity (and specifically  
8 an Actavis Generics Defendant in this lawsuit) over which the Allergan Defendants have no control. The  
9 Allergan Defendants otherwise deny the remaining allegations in paragraph 122 that relate to them. The  
10 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
11 remaining allegations of paragraph 122 and therefore deny the same.

12 123. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
13 divested Actavis South Atlantic LLC, an Actavis Generics Defendant, among other Divested Entities  
14 including Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis South  
15 Atlantic LLC is a separate and independent entity (and specifically an Actavis Generics Defendant in this  
16 lawsuit) over which the Allergan Defendants have no control. The Allergan Defendants otherwise deny  
17 the remaining allegations in paragraph 123 that relate to them. The Allergan Defendants lack knowledge  
18 or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 123 and  
19 therefore deny the same.

20 124. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
21 divested Actavis Elizabeth LLC, an Actavis Generics Defendant, among other Divested Entities including  
22 Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis Elizabeth LLC is  
23 a separate and independent entity (and specifically an Actavis Generics Defendant in this lawsuit) over  
24 which the Allergan Defendants have no control. The Allergan Defendants otherwise deny the remaining  
25 allegations in paragraph 124 that relate to them. The Allergan Defendants lack knowledge or information  
26 sufficient to form a belief as to the truth of the remaining allegations of paragraph 124 and therefore deny  
27 the same.

1           125. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
2 divested Actavis Mid Atlantic LLC, an Actavis Generics Defendant, among other Divested Entities  
3 including Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis Mid  
4 Atlantic LLC is a separate and independent entity (and specifically an Actavis Generics Defendant in this  
5 lawsuit) over which the Allergan Defendants have no control. The Allergan Defendants otherwise deny  
6 the remaining allegations in paragraph 125 that relate to them. The Allergan Defendants lack knowledge  
7 or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 125 and  
8 therefore deny the same.

9           126. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
10 divested Actavis Totowa LLC, an Actavis Generics Defendant, among other Divested Entities including  
11 Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis Totowa LLC is a  
12 separate and independent entity (and specifically an Actavis Generics Defendant in this lawsuit) over  
13 which the Allergan Defendants have no control. The Allergan Defendants otherwise deny the remaining  
14 allegations in paragraph 126 that relate to them. The Allergan Defendants lack knowledge or information  
15 sufficient to form a belief as to the truth of the remaining allegations of paragraph 126 and therefore deny  
16 the same.

17           127. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
18 divested Actavis LLC, an Actavis Generics Defendant, among other Divested Entities including Actavis  
19 Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis LLC is a separate and  
20 independent entity (and specifically an Actavis Generics Defendant in this lawsuit) over which the  
21 Allergan Defendants have no control. The Allergan Defendants otherwise deny the remaining allegations  
22 in paragraph 127 that relate to them. The Allergan Defendants lack knowledge or information sufficient  
23 to form a belief as to the truth of the remaining allegations of paragraph 127 and therefore deny the same.

24           128. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
25 divested Actavis Kadian LLC, an Actavis Generics Defendant, among other Divested Entities including  
26 Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis Kadian LLC is a  
27 separate and independent entity (and specifically an Actavis Generics Defendant in this lawsuit) over  
28

1 which the Allergan Defendants have no control. The Allergan Defendants otherwise deny the remaining  
2 allegations in paragraph 128 that relate to them. The Allergan Defendants lack knowledge or information  
3 sufficient to form a belief as to the truth of the remaining allegations of paragraph 128 and therefore deny  
4 the same.

5 129. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
6 divested Actavis Laboratories UT, Inc., an Actavis Generics Defendant, among other Divested Entities  
7 including Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis  
8 Laboratories UT, Inc. is a separate and independent entity (and specifically an Actavis Generics Defendant  
9 in this lawsuit) over which the Allergan Defendants have no control. The Allergan Defendants otherwise  
10 deny the remaining allegations in paragraph 129 that relate to them. The Allergan Defendants lack  
11 knowledge or information sufficient to form a belief as to the truth of the remaining allegations of  
12 paragraph 129 and therefore deny the same.

13 130. The Allergan Defendants admit that in August 2016, Allergan plc and its subsidiaries  
14 divested Actavis Laboratories FL, Inc., an Actavis Generics Defendant, among other Divested Entities  
15 including Actavis Generics Defendants, to Teva Ltd. The Allergan Defendants state that Actavis  
16 Laboratories FL, Inc. is a separate and independent entity (and specifically an Actavis Generics Defendant  
17 in this lawsuit) over which the Allergan Defendants have no control. The Allergan Defendants otherwise  
18 deny the remaining allegations in paragraph 130 that relate to them. The Allergan Defendants lack  
19 knowledge or information sufficient to form a belief as to the truth of the remaining allegations of  
20 paragraph 130 and therefore deny the same.

21 131. The Allergan Defendants state that none of the Allergan Defendants ever manufactured,  
22 distributed, marketed or sold any opioid medications, including Kadian® and Norco®, except Allergan  
23 USA, Inc. sold Kadian® and Norco® from about March 2016 through December 2020, when the products  
24 were voluntarily discontinued. The Allergan Defendants further state that they are not now and have never  
25 been DEA registrants for the manufacture or distribution of Schedule II controlled substances, including  
26 opioid medications such as Kadian® and Norco®. The Allergan Defendants deny that the Allergan  
27 Defendants are properly grouped with unaffiliated entities and specifically note that Watson Laboratories,  
28

1 Inc., Warner Chilcott Company, LLC, Actavis Pharma, Inc. Actavis South Atlantic LLC, Actavis  
2 Elizabeth LLC, Actavis Mid Atlantic LLC, Actavis Totowa, Actavis LLC, Actavis Kadian LLC, Actavis  
3 Laboratories UT, Inc. and Actavis Laboratories FL, Inc. are separate and independent entities (and  
4 specifically Actavis Generics Defendants in this lawsuit) which were sold to Teva Ltd in August 2016 and  
5 over which the Allergan Defendants have no control. The Allergan Defendants otherwise deny the  
6 allegations in paragraph 131 that relate to them. The Allergan Defendants lack knowledge or information  
7 sufficient to form a belief as to the truth of the remaining allegations of paragraph 131 and therefore deny  
8 the same.

9 132. The Allergan Defendants admit that Divested Entities, including Actavis Generics  
10 Defendants, sold Kadian® from about 2009 and Norco® from about 1997 until about March 2016. The  
11 Allergan Defendants further admit that Allergan USA, Inc. then sold Kadian® and Norco® from about  
12 March 2016 through December 2020, when the products were voluntarily discontinued. The Allergan  
13 Defendants otherwise deny the allegations in paragraph 132 that relate to them. The Allergan Defendants  
14 lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph  
15 132, and therefore deny the same.

#### 16 4. Cephalon Entities

17 133. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 133, and therefore deny the same.

19 134. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 134, and therefore deny the same.

21 135. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
22 the truth of the allegations in paragraph 135, and therefore deny the same.

23 136. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 136, and therefore deny the same.

#### 25 5. Janssen Entities

26 137. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
27 the truth of the allegations in paragraph 137, and therefore deny the same.



1 138. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 138, and therefore deny the same.

3 139. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
4 the truth of the allegations in paragraph 139, and therefore deny the same.

5 140. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
6 the truth of the allegations in paragraph 140, and therefore deny the same.

7 141. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
8 the truth of the allegations in paragraph 141, and therefore deny the same.

9 142. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 142, and therefore deny the same.

11 143. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 143, and therefore deny the same.

13 144. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 144, and therefore deny the same.

15 145. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 145, and therefore deny the same.

17 146. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 146, and therefore deny the same.

19 **6. Endo Entities**

20 147. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
21 the truth of the allegations in paragraph 147, and therefore deny the same.

22 148. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
23 the truth of the allegations in paragraph 148, and therefore deny the same.

24 149. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
25 the truth of the allegations in paragraph 149, and therefore deny the same.

26 150. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
27 the truth of the allegations in paragraph 150, and therefore deny the same.





1 171. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 171, and therefore deny the same.

3 **5. Walgreen Co.**

4 172. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
5 the truth of the allegations in paragraph 172, and therefore deny the same.

6 173. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
7 the truth of the allegations in paragraph 173, and therefore deny the same.

8 **C. Agency and Authority**

9 174. The allegations in paragraph 174 contain legal conclusions and thus no answer is necessary.  
10 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 174  
11 that relate to them. The Allergan Defendants otherwise deny the allegations in paragraph 174 that relate  
12 to them. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth  
13 of the remaining allegations in paragraph 174.

14 **FACTUAL ALLEGATIONS**

15 **III. FACTS COMMON TO ALL CLAIMS**

16 **A. A. Opioids and Their Effects**

17 175. The Allergan Defendants admit that opioids have analgesic properties and are generally  
18 approved to treat acute and/or chronic pain specifically for the approved indication(s) and usage disclosed  
19 in each product's FDA-approved labeling. The Allergan Defendants otherwise lack knowledge or  
20 information sufficient to form a belief as to the truth of the allegations in paragraph 175, and therefore  
21 deny the same.

22 176. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
23 the truth of the allegations in paragraph 176, and therefore deny the same.

24 177. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
25 the truth of the allegations in paragraph 177, and therefore deny the same.

26 178. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
27 the truth of the allegations in paragraph 178, and therefore deny the same.

1 179. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 179, and therefore deny the same.

3 180. The Allergan Defendants admit that certain opioid medications are regulated as Schedule  
4 II controlled substances. In addition, the Allergan Defendants admit that opioid medications are generally  
5 approved to treat acute and/or chronic pain specifically for the approved indication(s) and usage disclosed  
6 in each product's FDA-approved labeling. The Allergan Defendants otherwise lack knowledge or  
7 information sufficient to form a belief as to the truth of the allegations in paragraph 180, and therefore  
8 deny the same.

9 181. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 181, and therefore deny the same.

11 182. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 182, and therefore deny the same.

13 183. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 183, and therefore deny the same.

15 184. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 184, and therefore deny the same.

17 185. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 185, and therefore deny the same.

19 186. The Allergan Defendants deny the allegations in paragraph 186 that relate to them. The  
20 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
21 remaining allegations in paragraph 186, and therefore deny the same.

22 187. The Allergan Defendants admit that Kadian® is an extended-release opioid medication  
23 generally approved to treat chronic pain specifically for the approved indication(s) and usage in its FDA-  
24 approved product label. The Allergan Defendants state that Allergan plc is an Irish-based holding  
25 company that does not itself transact and has never transacted any business in the State of California (or  
26 elsewhere). The Allergan Defendants further state that none of the Allergan Defendants ever  
27 manufactured, distributed, marketed or sold any opioid medications, including Kadian® and Norco®,  
28

1 except Allergan USA, Inc. sold Kadian® and Norco® from about March 2016 through December 2020,  
2 when the products were voluntarily discontinued. The Allergan Defendants otherwise lack knowledge or  
3 information sufficient to form a belief as to the truth of the remaining allegations in paragraph 187, and  
4 therefore deny the same.

5 188. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
6 the truth of the allegations in paragraph 188, and therefore deny the same.

7 189. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
8 the truth of the allegations in paragraph 189, and therefore deny the same.

9 190. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 190, and therefore deny the same.

11 **B. The Resurgence of Opioid Use in the United States**

12 **1. The Sackler Family Integrated Advertising and Medicine**

13 191. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 191, and therefore deny the same.

15 192. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 192, and therefore deny the same.

17 193. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 193, and therefore deny the same.

19 194. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 194, and therefore deny the same.

21 195. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
22 the truth of the allegations in paragraph 195, and therefore deny the same.

23 196. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 196, and therefore deny the same.

25 **2. Purdue and the Development of OxyContin**

26 197. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
27 the truth of the allegations in paragraph 197, and therefore deny the same.





1           211. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 211, and therefore deny the same.

3           212. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
4 the truth of the allegations in paragraph 212, and therefore deny the same.

5           213. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
6 the truth of the allegations in paragraph 213, and therefore deny the same.

7                           **3. Other Marketing Defendants Leapt at the Opioid Opportunity**

8           214. The Allergan Defendants deny the allegations in paragraph 214 that relate to them. The  
9 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
10 remaining allegations in paragraph 214, and therefore deny the same.

11           215. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 215, and therefore deny the same.

13           216. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 216, and therefore deny the same.

15           217. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 217, and therefore deny the same.

17           218. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 218, and therefore deny the same.

19           219. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 219, and therefore deny the same.

21           220. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
22 the truth of the allegations in paragraph 220, and therefore deny the same.

23           221. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 221, and therefore deny the same.

25                           **C. Defendants' Conduct Created an Abatable Public Nuisance**

26           222. The allegations in paragraph 222 contain legal conclusions and thus no answer is necessary.  
27 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 222

1 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
2 a belief as to the truth of the remaining allegations in paragraph 222, and therefore deny the same.

3 223. The allegations in paragraph 223 contain legal conclusions and thus no answer is necessary.  
4 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 223  
5 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
6 a belief as to the truth of the remaining allegations in paragraph 223, and therefore deny the same.

7 224. The allegations in paragraph 224 contain legal conclusions and thus no answer is necessary.  
8 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 224.

9 **D. The Marketing Defendants' Multi-Pronged Scheme to Change Prescriber Habits**  
10 **and Public Perception and Increase Demand for Opioids**

11 225. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
12 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
13 paragraph 225, and therefore deny the same.

14 226. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
15 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
16 paragraph 226, and therefore deny the same.

17 227. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
18 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
19 paragraph 227, and therefore deny the same.

20 **1. The Marketing Defendants Promoted Multiple Falsehoods About Opioids**

21 228. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
22 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
23 paragraph 228, and therefore deny the same.

24 229. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
25 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
26 paragraph 229, and therefore deny the same.

1           230. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
2 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
3 paragraph 230, and therefore deny the same.

4                           **a.       Falsehood No. 1: The Risk of Addiction from Chronic Opioid Therapy  
5                           Is Low**

6           231. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
7 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
8 paragraph 231, and therefore deny the same.

9           232. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
10 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
11 paragraph 232, and therefore deny the same.

12           233. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
13 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
14 paragraph 233, and therefore deny the same.

15   **(1)       Purdue’s Misrepresentations Regarding Addiction Risk**

16           234. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
17 the truth of the allegations in paragraph 234, and therefore deny the same.

18           235. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
19 the truth of the allegations in paragraph 235, and therefore deny the same.

20           236. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
21 the truth of the allegations in paragraph 236, and therefore deny the same.

22           237. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
23 the truth of the allegations in paragraph 237, and therefore deny the same.

24           238. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
25 the truth of the allegations in paragraph 238, and therefore deny the same.

26           239. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
27 the truth of the allegations in paragraph 239, and therefore deny the same.







1 professionals from about May 2009 through December 21, 2012. To the extent the allegations contained  
2 in this paragraph purport to quote from, paraphrase, or characterize the contents of various documents that  
3 Plaintiff attributes to the Allergan Defendants and/or Kadian®, the Allergan Defendants deny the  
4 characterizations of those quotes as misleading and taken out of context from the sentences, paragraphs,  
5 and document in which they were included. The Allergan Defendants further state that the document  
6 speaks for itself. The Allergan Defendants otherwise deny the remaining allegations in paragraph 276.

7 277. The Allergan Defendants admit that Actavis Inc. (n/k/a Actavis LLC) is a separate and  
8 independent entity over which the Allergan Defendants have no control (and specifically an Actavis  
9 Generics Defendant in this lawsuit) and it retained a third-party to conduct limited market research  
10 regarding Kadian® from 2009 through 2012. To the extent the allegations contained in paragraph 277  
11 purport to quote from, paraphrase, or characterize the contents of various market research that Plaintiff  
12 attributes to the Allergan Defendants and/or Kadian®, the Allergan Defendants deny the characterizations  
13 as misleading and taken out of context from the sentences, paragraphs, and document in which they were  
14 included. The Allergan Defendants further state that the documents speak for themselves. The Allergan  
15 Defendants otherwise deny the remaining allegations paragraph 277.

16 278. The Allergan Defendants admit that a standard template response titled “Kadian and Abuse  
17 Potential”, copyrighted in 2007 by Actavis Elizabeth LLC, a separate and independent entity over which  
18 the Allergan Defendants have no control (and specifically an Actavis Generics Defendant in this lawsuit),  
19 was provided to KAI Research because it was engaged by Actavis Inc. (n/k/a Actavis LLC), a separate  
20 and independent entity over which the Allergan Defendants have no control (and specifically an Actavis  
21 Generics Defendant in this lawsuit), to assist in responding to unsolicited medical inquires for medical  
22 affairs purposes, but deny that this standard template response was ever used in responding to unsolicited  
23 medical inquires on behalf of Actavis Inc. and/or any of the other Actavis Generics Defendants or other  
24 Divested Entities. The Allergan Defendants further state that, to the extent the allegations contained in  
25 this paragraph purport to cite to, quote from, paraphrase, or characterize the contents of a document that  
26 Plaintiff attributes to the Allergan Defendants and/or Kadian®, the Allergan Defendants deny the  
27 characterizations of those quotes as misleading and taken out of context from the sentences, paragraphs,  
28



1 and document in which they were included. The Allergan Defendants further state that the document  
2 speaks for itself. The Allergan Defendants otherwise deny the remaining allegations in paragraph 278.

3 **(6) Mallinckrodt's Misrepresentations Regarding Addiction Risk**

4 279. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
5 the truth of the allegations in paragraph 279, and therefore deny the same.

6 280. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
7 the truth of the allegations in paragraph 280, and therefore deny the same.

8 281. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
9 the truth of the allegations in paragraph 281, and therefore deny the same.

10 282. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
11 the truth of the allegations in paragraph 282, and therefore deny the same.

12 283. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
13 the truth of the allegations in paragraph 283, and therefore deny the same.

14 **b. Falsehood No. 2: To the Extent There Is a Risk of Addiction, It Can Be**  
15 **Easily Identified and Managed**

16 284. The Allergan Defendants admit that Kadian® and Norco® may be taken in appropriate  
17 cases as indicated in the FDA-approved labels for Kadian® and Norco®. Allergan plc states that it is an  
18 Irish-based holding company that does not itself transact and has never transacted any business in the State  
19 of California or elsewhere. Moreover, none of the Allergan Defendants ever manufactured, distributed,  
20 marketed or sold any opioid medications, including Kadian® and Norco®, except Allergan USA, Inc.  
21 sold Kadian® and Norco® from about March 2016 through December 2020, when the products were  
22 voluntarily discontinued.. The Allergan Defendants otherwise deny the allegations that relate to them. The  
23 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
24 remaining allegations in paragraph 284, and therefore deny the same.

25 285. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
26 the truth of the allegations in paragraph 285, and therefore deny the same.  
27





**Greater Risks**

1  
2  
3 307. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
4 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
5 paragraph 307, and therefore deny the same.

6 308. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
7 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
8 paragraph 308, and therefore deny the same.

9 309. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 309, and therefore deny the same.

11 310. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 310, and therefore deny the same.

13 311. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 311, and therefore deny the same.

15 312. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 312, and therefore deny the same.

17 313. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 313, and therefore deny the same.

19 314. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 314, and therefore deny the same.

21 315. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
22 the truth of the allegations in paragraph 315, and therefore deny the same.

23 316. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 316, and therefore deny the same.

25 317. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
26 the truth of the allegations in paragraph 317, and therefore deny the same.

1           318. The Allergan Defendants deny the allegations in paragraph 318 that relate to them. The  
2 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
3 remaining allegations in paragraph 318, and therefore deny the same.

4                           **f.       Falsehood No. 6: Long-Term Opioid Use Improves Functioning**

5  
6           319. The Allergan Defendants deny the allegations in paragraph 319 that relate to them. The  
7 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
8 remaining allegations in paragraph 319, and therefore deny the same.

9           320. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 320, and therefore deny the same.

11           321. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 321, and therefore deny the same.

13           322. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 322, and therefore deny the same.

15           323. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 323, and therefore deny the same.

17           324. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 324, and therefore deny the same.

19           325. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 325, and therefore deny the same.

21           326. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
22 the truth of the allegations in paragraph 326, and therefore deny the same.

23           327. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 327, and therefore deny the same.

25           328. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
26 the truth of the allegations in paragraph 328, and therefore deny the same.



1           340. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 340, and therefore deny the same.

3           341. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
4 the truth of the allegations in paragraph 341, and therefore deny the same.

5           342. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
6 the truth of the allegations in paragraph 342, and therefore deny the same.

7           343. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
8 the truth of the allegations in paragraph 343, and therefore deny the same.

9           344. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 344, and therefore deny the same.

11           345. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 345, and therefore deny the same.

13                                   **h.       Falsehood No. 8: OxyContin Provides 12 Hours of Pain Relief**

14  
15           346. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
16 the truth of the allegations in paragraph 346, and therefore deny the same.

17           347. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 347, and therefore deny the same.

19           348. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 348, and therefore deny the same.

21           349. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
22 the truth of the allegations in paragraph 349, and therefore deny the same.

23           350. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 350, and therefore deny the same.

25           351. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
26 the truth of the allegations in paragraph 351, and therefore deny the same.











1 characterizations of those quotes as misleading and taken out of context from the sentences, paragraphs,  
2 and document in which they were included. The Allergan Defendants further state that the document  
3 speaks for itself. The Allergan Defendants deny the remaining allegations in paragraph 396 that relate to  
4 them. The Allergan Defendants otherwise lack knowledge or information sufficient to form a belief as to  
5 the truth of the allegations in paragraph 396, and therefore deny the same.

6 397. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
7 the truth of the allegations in paragraph 397, and therefore deny the same.

8 398. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
9 the truth of the allegations in paragraph 398, and therefore deny the same.

10 399. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
11 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
12 paragraph 399, and therefore deny the same.

13 400. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
14 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
15 paragraph 400, and therefore deny the same.

16 **2. The Marketing Defendants Disseminated Their Misleading Messages About**  
17 **Opioids Through Multiple Channels**

18 401. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
19 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
20 paragraph 401, and therefore deny the same.

21 402. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
22 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
23 paragraph 402, and therefore deny the same.

24 **a. The Marketing Defendants Directed Front Groups to Deceptively**

**Promote Opioid Use**

1  
2  
3 403. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
4 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
5 paragraph 403, and therefore deny the same.

6 404. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
7 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
8 paragraph 404, and therefore deny the same.

9 405. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
10 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
11 paragraph 405, and therefore deny the same.

12 406. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
13 the truth of the allegations in paragraph 406, and therefore deny the same.

14 407. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
15 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
16 paragraph 407, and therefore deny the same.

17 **(1) American Pain Foundation**

18 408. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
19 the truth of the allegations in paragraph 408, and therefore deny the same.

20 409. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
21 the truth of the allegations in paragraph 409, and therefore deny the same.

22 410. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
23 the truth of the allegations in paragraph 410, and therefore deny the same.

24 411. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
25 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
26 paragraph 411, and therefore deny the same.























### **Publications that Supported Their Misrepresentations**

1  
2  
3 497. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
4 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
5 paragraph 497, and therefore deny the same.

6 498. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
7 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
8 paragraph 498, and therefore deny the same.

9 499. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
10 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
11 paragraph 499, and therefore deny the same. The Allergan Defendants deny the allegations that relate to  
12 them.

13 500. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the remaining allegations in paragraph 500, and therefore deny the same.

15 501. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
16 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
17 paragraph 501, and therefore deny the same.

18 502. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
19 the truth of the allegations in paragraph 502, and therefore deny the same.

#### **g. The Marketing Defendants Used Detailing to Directly Disseminate Their Misrepresentations to Prescribers**

20  
21  
22 503. The Allergan Defendants deny the allegations in paragraph 503 that relate to them. The  
23 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
24 remaining allegations in paragraph 503, and therefore deny the same.

25 504. The Allergan Defendants admit that Actavis Kadian LLC, a separate and independent  
26 entity (and specifically Actavis Generics Defendant in this lawsuit), retained a contract salesforce through  
27 inVentiv to market Kadian® to physicians and other healthcare professionals from about May 2009

1 through December 21, 2012. The Allergan Defendants state that Allergan plc is an Irish-based holding  
2 company that does not itself transact and has never transacted any business in the State of California or  
3 elsewhere. The Allergan Defendants further state that none of the Allergan Defendants ever manufactured,  
4 distributed, marketed or sold any opioid pain medications, including Kadian® and Norco®, except  
5 Allergan USA, Inc. sold Kadian® and Norco® from about March 2016 through December 2020, when  
6 the products were voluntarily discontinued. The Allergan Defendants otherwise deny the allegations in  
7 paragraph 504 that relate to them. The Allergan Defendants lack knowledge or information sufficient to  
8 form a belief as to the truth of the remaining allegations in paragraph 504, and therefore deny the same.

9       505. The Allergan Defendants admit that on May 15, 2018, Allergan USA, Inc. engaged IQVIA,  
10 formerly known as IMS Health, to provide data related to prescriptions of opioids from 1997 through  
11 April 2018 as a part of the Allergan Defendants' defense in litigation. The Allergan Defendants  
12 specifically note that this prescription data was not previously in the Allergan Defendants' possession,  
13 custody or control and was never used in any manner outside of the litigation. The Allergan Defendants  
14 state that Allergan plc is an Irish-based holding company that does not itself transact and has never  
15 transacted any business in the State of California or elsewhere. The Allergan Defendants further state that  
16 none of the Allergan Defendants ever manufactured, distributed, marketed or sold any opioid medications,  
17 including Kadian® and Norco®, except Allergan USA, Inc. sold Kadian® and Norco® from about March  
18 2016 through December 2020, when the products were voluntarily discontinued. The Allergan Defendants  
19 deny the remaining allegations in paragraph 505 that relate to them. The Allergan Defendants lack  
20 knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
21 paragraph 505, and therefore deny the same.

22       506. The Allergan Defendants deny the allegations in paragraph 506 that relate to them. The  
23 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
24 remaining allegations in paragraph 506, and therefore deny the same.

25       507. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
26 the truth of the allegations in paragraph 507, and therefore deny the same.

1           508. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 508, and therefore deny the same.

3           509. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
4 the truth of the allegations in paragraph 509, and therefore deny the same.

5           510. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
6 the truth of the allegations in paragraph 510, and therefore deny the same.

7           511. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
8 the truth of the allegations in paragraph 511, and therefore deny the same.

9           512. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 512, and therefore deny the same.

11                           **h. The Marketing Defendants Used Speakers' Bureaus and Programs to**  
12                           **Spread Their Deceptive Messages**

13           513. The Allergan Defendants deny the allegations in paragraph 513 that relate to them. The  
14 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
15 remaining allegations in paragraph 513, and therefore deny the same.

16           514. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
17 the truth of the allegations in paragraph 514, and therefore deny the same.

18           515. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
19 the truth of the allegations in paragraph 515, and therefore deny the same.

20                           **3. The Marketing Defendants Targeted Vulnerable Populations**

21           516. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
22 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
23 paragraph 516, and therefore deny the same.

24           517. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
25 the truth of the allegations in paragraph 517, and therefore deny the same.







1           544. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
2 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
3 paragraph 544, and therefore deny the same.

4                           **b. The Marketing Defendants’ Deception in Expanding Their Market**  
5                           **Created and Fueled the Opioid Epidemic**

6           545. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
7 the truth of the allegations in paragraph 545, and therefore deny the same.

8           546. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
9 the truth of the allegations in paragraph 546, and therefore deny the same.

10                           **E. Defendants, Throughout the Supply Chain, Deliberately Disregarded Their Duties to**  
11                           **Maintain Effective Controls and to Identify, Report, and Take Steps to Halt**  
12                           **Suspicious Orders**

13           547. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
14 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
15 paragraph 547, and therefore deny the same.

16           548. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
17 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
18 paragraph 548, and therefore deny the same.

19           549. The allegations in paragraph 549 amount to legal conclusions and thus no answer is  
20 necessary. To the extent an answer is required, the Allergan Defendants deny the legal allegations of  
21 paragraph 549.

22           550. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
23 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
24 paragraph 550, and therefore deny the same.

25           551. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
26 the truth of the allegations in paragraph 551, and therefore deny the same.

27                           **1. Acting as Both a Wholesale Distributor and Operator of Retail Pharmacies in**  
28                           **San Francisco, Walgreens Failed to Uphold Its Obligations Both to Report**



**Suspicious Orders and to Stop Filling “Red Flag” Prescriptions**

1  
2 552. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
3 the truth of the allegations in paragraph 552, and therefore deny the same.

4 553. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
5 the truth of the allegations in paragraph 553, and therefore deny the same.

6 554. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
7 the truth of the allegations in paragraph 554, and therefore deny the same.

8 555. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
9 the truth of the allegations in paragraph 555, and therefore deny the same.

10 556. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
11 the truth of the allegations in paragraph 556, and therefore deny the same.

12 557. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
13 the truth of the allegations in paragraph 557, and therefore deny the same.

14 558. The allegations in paragraph 558 amount to legal conclusions and thus no answer is  
15 necessary. To the extent an answer is required, the Allergan Defendants deny the legal allegations of  
16 paragraph 558.

17 559. The allegations in paragraph 559 amount to legal conclusions and thus no answer is  
18 necessary. To the extent an answer is required, the Allergan Defendants deny the legal allegations of  
19 paragraph 559.

20 560. The allegations in paragraph 560 amount to legal conclusions and thus no answer is  
21 necessary. To the extent an answer is required, the Allergan Defendants deny the legal allegations of  
22 paragraph 560.

23 561. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 561, and therefore deny the same.

25 562. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
26 the truth of the allegations in paragraph 562, and therefore deny the same.









1 of those quotes as misleading and taken out of context from the sentences, paragraphs, and documents in  
2 which they were included. The Allergan Defendants deny the remaining allegations of paragraph 602 that  
3 relate to them. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
4 the truth of the remaining allegations in paragraph 602, and therefore deny the same.

5 603. The Allergan Defendants admit that the allegations accurately quote a publicly available  
6 letter written by Joseph T. Rannazzisi, Deputy Assistant Administrator, DEA Office of Diversion Control  
7 and dated December 27, 2007. The Allergan Defendants otherwise specifically deny the characterizations  
8 of those quotes as misleading and taken out of context from the sentences, paragraphs, and documents in  
9 which they were included. The Allergan Defendants deny the remaining allegations of paragraph 603 that  
10 relate to them. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
11 the truth of the remaining allegations in paragraph 603, and therefore deny the same.

12 **b. Defendants Worked Together to Inflate the Quotas of Opioids They**  
13 **Could Distribute**

14 604. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
15 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
16 paragraph 604, and therefore deny the same.

17 605. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
18 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
19 paragraph 605, and therefore deny the same.

20 606. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
21 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
22 paragraph 606, and therefore deny the same.

23 607. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
24 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
25 paragraph 607, and therefore deny the same.  
26  
27









1           635. The Allergan Defendants admit that on May 15, 2018, Allergan USA, Inc. engaged IQVIA,  
2 formerly known as IMS Health, to provide data related to prescriptions of opioids from 1997 through  
3 April 2018 as a part of the Allergan Defendants' defense in litigation. The Allergan Defendants  
4 specifically note that this prescription data was not previously in the Allergan Defendants' possession,  
5 custody or control and was never used in any manner outside of the litigation. The Allergan Defendants  
6 admit that Actavis Inc. (n/k/a Actavis LLC) is a separate and independent entity over which the Allergan  
7 Defendants have no control (and specifically an Actavis Generics Defendant in this lawsuit) and it engaged  
8 Source Healthcare Analytics, Inc., a subsidiary of Wolters Kluwer Health, Inc., to provide data about  
9 national prescription trends and prescriber activity related to Kadian® from around 2009 through 2012.  
10 The Allergan Defendants state that Allergan plc is an Irish-based holding company that does not itself  
11 transact and has never transacted any business in the State of California or elsewhere. The Allergan  
12 Defendants further state that none of the Allergan Defendants ever manufactured, distributed, marketed,  
13 or sold any opioid pain medications, including Kadian® and Norco®, except Allergan USA, Inc. sold  
14 Kadian® and Norco® from about March 2016 through December 2020, when the products were  
15 voluntarily discontinued. The Allergan Defendants otherwise deny the allegations that relate to paragraph  
16 635. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of  
17 the remaining allegations in paragraph 635, and therefore deny the same.

18           636. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
19 the truth of the allegations in paragraph 636, and therefore deny the same.

20           637. The Allergan Defendants admit that on May 15, 2018, Allergan USA, Inc. engaged IQVIA,  
21 formerly known as IMS Health, to provide data related to prescriptions of opioids from 1997 through  
22 April 2018 as a part of the Allergan Defendants' defense in litigation. The Allergan Defendants  
23 specifically note that this prescription data was not previously in the Allergan Defendants' possession,  
24 custody or control and was never used in any manner outside of the litigation. The Allergan Defendants  
25 further admit that Actavis Inc. (n/k/a Actavis LLC), a separate and independent entity over which the  
26 Allergan Defendants have no control (and specifically an Actavis Generics Defendant in this lawsuit),  
27 engaged Source Healthcare Analytics, Inc., a subsidiary of Wolters Kluwer Health, Inc., to provide data

1 about national prescription trends and prescriber activity related to Kadian® from around 2009 through  
2 2012. The Allergan Defendants state that Allergan plc is an Irish-based holding company that does not  
3 itself transact and has never transacted any business in the State of California or elsewhere. The Allergan  
4 Defendants further state that none of the Allergan Defendants ever manufactured, distributed, marketed,  
5 or sold any opioid medications, including Kadian® and Norco®, except Allergan USA, Inc. sold Kadian®  
6 and Norco® from about March 2016 through December 2020, when the products were voluntarily  
7 discontinued. The Allergan Defendants otherwise deny the allegations in paragraph 637 that relate to  
8 them. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth  
9 of the remaining allegations in paragraph 637, and therefore deny the same.

10 638. The Allergan Defendants admit that on May 15, 2018, Allergan USA, Inc. engaged IQVIA,  
11 formerly known as IMS Health, to provide data related to prescriptions of opioids from 1997 through  
12 April 2018 as a part of the Allergan Defendants' defense in litigation. The Allergan Defendants  
13 specifically note that this prescription data was not previously in the Allergan Defendants' possession,  
14 custody or control and was never used in any manner outside of the litigation. The Allergan Defendants  
15 state that Allergan plc is an Irish-based holding company that does not itself transact and has never  
16 transacted any business in the State of California or elsewhere. The Allergan Defendants further state that  
17 none of the Allergan Defendants ever manufactured, distributed, marketed or sold any opioid medications,  
18 including Kadian® and Norco®, except Allergan USA, Inc. sold Kadian® and Norco® from about March  
19 2016 through December 2020, when the products were voluntarily discontinued. The Allergan Defendants  
20 otherwise deny the allegations that relate to paragraph 638. The Allergan Defendants lack knowledge or  
21 information sufficient to form a belief as to the truth of the remaining allegations in paragraph 638, and  
22 therefore deny the same.

23 639. The Allergan Defendants admit that Actavis Inc. (n/k/a Actavis LLC) a separate and  
24 independent entity over which the Allergan Defendants have no control (and specifically an Actavis  
25 Generics Defendant in this lawsuit) engaged Source Healthcare Analytics, Inc., a subsidiary of Wolters  
26 Kluwer Health, Inc. to provide data about national prescription trends and prescriber activity related to  
27 Kadian® from around 2009 through 2012. The Allergan Defendants state that Allergan plc is an Irish-

1 based holding company that does not itself transact and has never transacted any business in the State of  
2 California or elsewhere. The Allergan Defendants further state that none of the Allergan Defendants ever  
3 manufactured, distributed, marketed or sold any opioid medications, including Kadian® and Norco®,  
4 except Allergan USA, Inc. sold Kadian® and Norco® from about March 2016 through December 2020,  
5 when the products were voluntarily discontinued. The Allergan Defendants otherwise deny the allegations  
6 in paragraph 639 that relate to them. The Allergan Defendants lack knowledge or information sufficient  
7 to form a belief as to the truth of the remaining allegations in paragraph 639, and therefore deny the same.

8 640. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
9 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
10 paragraph 640, and therefore deny the same.

11 641. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
12 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
13 paragraph 641, and therefore deny the same.

14 642. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
15 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
16 paragraph 642, and therefore deny the same.

17 643. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
18 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
19 paragraph 643, and therefore deny the same.

20 644. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
21 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
22 paragraph 644, and therefore deny the same.

23 645. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 645, and therefore deny the same.

25 646. The Allergan Defendants admit that Actavis Elizabeth LLC is an Actavis Generics  
26 Defendant and it had no affiliation whatsoever with the Allergan Defendants at the time it acquired the  
27 rights to Kadian® on December 30, 2008 from King Pharmaceuticals, Inc. (a separate, independent entity

1 with no affiliation with Actavis Elizabeth LLC or the Allergan Defendants and over which neither Actavis  
2 Elizabeth LLC nor the Allergan Defendants ever had any control), was the contract manufacturer of  
3 Kadian® on behalf of Alpharma (a separate, independent entity with no affiliation with Actavis Elizabeth  
4 LLC or the Allergan Defendants and over which neither Actavis Elizabeth LLC nor the Allergan  
5 Defendants ever had any control) from 2005 until it acquired Kadian®. The Allergan Defendants further  
6 admit that a standard template response titled “Kadian and Abuse Potential”, copyrighted in 2007 by  
7 Actavis Elizabeth LLC, a separate and independent entity over which the Allergan Defendants have no  
8 control (and specifically an Actavis Generics Defendant in this lawsuit), was provided to KAI Research  
9 because it was engaged by Actavis Inc. (n/k/a Actavis LLC), a separate and independent entity over which  
10 the Allergan Defendants have no control (and specifically an Actavis Generics Defendant in this lawsuit),  
11 to assist in responding to unsolicited medical inquires for medical affairs purposes, but deny that this  
12 standard template response was ever used in responding to unsolicited medical inquires on behalf of  
13 Actavis Inc. and/or any of the other Actavis Generics Defendants or other Divested Entities. The Allergan  
14 Defendants further state that, to the extent the allegations contained in this paragraph purport to cite to,  
15 quote from, paraphrase, or characterize the contents of a document that Plaintiff attributes to the Allergan  
16 Defendants and/or Kadian®, the Allergan Defendants deny the characterizations of those quotes as  
17 misleading and taken out of context from the sentences, paragraphs, and document in which they were  
18 included. The Allergan Defendants further state that the document speaks for itself. The Allergan  
19 Defendants otherwise deny the remaining allegations in paragraph 646 that relate to them. The Allergan  
20 Defendants otherwise lack knowledge or information sufficient to form a belief as to the truth of the  
21 allegations in paragraph 646, and therefore deny the same.

22         647. The Allergan Defendants deny the allegations in paragraph 647 that relate to them. The  
23 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
24 remaining allegations in paragraph 647, and therefore deny the same.

25         648. The Allergan Defendants admit that on May 15, 2018, Allergan USA, Inc. engaged IQVIA,  
26 formerly known as IMS Health, to provide data related to prescriptions of opioids from 1997 through  
27 April 2018 as a part of the Allergan Defendants’ defense in litigation. The Allergan Defendants

1 specifically note that this prescription data was not previously in the Allergan Defendants' possession,  
2 custody or control and was never used in any manner outside of the litigation. The Allergan Defendants  
3 further admit that Actavis Inc. (n/k/a Actavis LLC), a separate and independent entity over which the  
4 Allergan Defendants have no control (and specifically an Actavis Generics Defendant in this lawsuit),  
5 engaged Source Healthcare Analytics, Inc., a subsidiary of Wolters Kluwer Health, Inc. to provide data  
6 about national prescription trends and prescriber activity related to Kadian® from around 2009 through  
7 2012. The Allergan Defendants state that Allergan plc is an Irish-based holding company that does not  
8 itself transact and has never transacted any business in the State of California or elsewhere. The Allergan  
9 Defendants further state that none of the Allergan Defendants ever manufactured, distributed, marketed,  
10 or sold any opioid medications, including Kadian® and Norco®, except Allergan USA, Inc. sold Kadian®  
11 and Norco® from about March 2016 through December 2020, when the products were voluntarily  
12 discontinued. The Allergan Defendants otherwise deny the allegations in paragraph 648 that relate to  
13 them. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth  
14 of the remaining allegations in paragraph 648, and therefore deny the same.

15         649. The Allergan Defendants admit that the quotations from a 2011 sales presentation by  
16 Actavis Elizabeth LLC, a separate and independent entity over which the Allergan Defendants have no  
17 control (and specifically an Actavis Generics Defendant in this lawsuit), cited in this allegation are  
18 accurately quoted, but specifically deny the characterizations of those quotes as misleading and taken out  
19 of context from the sentences, paragraphs, and document in which they were included. The Allergan  
20 Defendants further state that the document speaks for itself. The Allergan Defendants otherwise deny the  
21 remaining allegations in paragraph 649 that relate to them. The Allergan Defendants otherwise lack  
22 knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 649,  
23 and therefore deny the same.

24         650. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
25 the truth of the allegations in paragraph 650, and therefore deny the same.











**F. The Opioids that Defendants Sold Migrated into Other Jurisdictions**

681. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 681, and therefore deny the same.

682. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 682, and therefore deny the same.

683. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 683, and therefore deny the same.

684. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 684, and therefore deny the same.

685. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 685, and therefore deny the same.

**G. The Devastating Effects of the Opioid Crisis Nationally**

686. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 686, and therefore deny the same.

687. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 687, and therefore deny the same.

688. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 688, and therefore deny the same.

689. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 689, and therefore deny the same.

690. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 690, and therefore deny the same.

691. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 691, and therefore deny the same.

692. The Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 692, and therefore deny the same.





1 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
2 a belief as to the truth of the allegations in paragraph 710, and therefore deny the same.

3 **2. Conspiracy Among All Defendants**

4 711. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
5 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
6 paragraph 711, and therefore deny the same.

7 712. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
8 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
9 paragraph 712, and therefore deny the same.

10 713. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
11 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
12 paragraph 713, and therefore deny the same.

13 714. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
14 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
15 paragraph 714, and therefore deny the same.

16 715. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
17 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
18 paragraph 715, and therefore deny the same.

19 716. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
20 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
21 paragraph 716, and therefore deny the same.

22 717. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
23 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
24 paragraph 717, and therefore deny the same.

25 **I. Statutes of Limitations Are Tolloed and Defendants Are Estopped from Asserting**





1           730. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
2 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
3 paragraph 730, and therefore deny the same.

4           731. The allegations in paragraph 731 contain legal conclusions and thus no answer is necessary.  
5 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 731  
6 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
7 a belief as to the truth of the allegations in paragraph 731, and therefore deny the same.

8           732. The allegations in paragraph 732 contain legal conclusions and thus no answer is necessary.  
9 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 732  
10 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
11 a belief as to the truth of the allegations in paragraph 732, and therefore deny the same.

12                   **1. The Marketing Defendants Persisted in Their Fraudulent Scheme Despite**  
13                   **Repeated Admonitions, Warnings, and Even Prosecutions**

14           733. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
15 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
16 paragraph 733, and therefore deny the same.

17                   **a. FDA Warnings to Janssen Failed to Deter Janssen's Misleading**  
18                   **Promotion of Duragesic**

19           734. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 734, and therefore deny the same.

21           735. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
22 the truth of the allegations in paragraph 735, and therefore deny the same.

23           736. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
24 the truth of the allegations in paragraph 736, and therefore deny the same.

25                   **b. Governmental Action, Including Large Monetary Fines, Failed to Stop**  
26



1 **Cephalon from Falsely Marketing Actiq for Off-Label Uses**

2 737. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
3 the truth of the allegations in paragraph 737, and therefore deny the same.

4 738. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
5 the truth of the allegations in paragraph 738, and therefore deny the same.

6 **c. FDA Warnings Did Not Prevent Cephalon from Continuing False and**  
7 **Off-Label Marketing of Fentora**

8  
9 739. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
10 the truth of the allegations in paragraph 739, and therefore deny the same.

11 740. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
12 the truth of the allegations in paragraph 740, and therefore deny the same.

13 741. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in paragraph 741, and therefore deny the same.

15 **d. A Guilty Plea and a Large Fine Did Not Deter Purdue from**  
16 **Continuing Its Fraudulent Marketing of OxyContin**

17 742. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in paragraph 742, and therefore deny the same.

19 743. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
20 the truth of the allegations in paragraph 743, and therefore deny the same.

21 **2. Repeated Admonishments and Fines Did Not Stop Defendants from Ignoring**  
22 **Their Obligations to Control the Supply Chain and Prevent Diversion**

23 744. The Allergan Defendants deny the allegations in paragraph 744 that relate to them. The  
24 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
25 remaining allegations in paragraph 744, and therefore deny the same.

26 745. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
27 the truth of the allegations in paragraph 745, and therefore deny the same.



1           759. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in paragraph 759, and therefore deny the same.

3           760. The Allergan Defendants lack knowledge or information sufficient to form a belief as to  
4 the truth of the allegations in paragraph 760, and therefore deny the same.

5           761. The Allergan Defendants deny the allegations in paragraph 761 that relate to them. The  
6 Allergan Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
7 remaining allegations in paragraph 761, and therefore deny the same.

8 **IV. FACTS PERTAINING TO CLAIMS UNDER RACKETEER-INFLUENCED AND**  
9 **CORRUPT ORGANIZATIONS (“RICO”) ACT**

10 **A. The Opioid Marketing Enterprise**

11 **1. The Common Purpose and Scheme of the Opioid Marketing Enterprise**

12           762. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
13 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
14 paragraph 762, and therefore deny the same.

15           763. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
16 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
17 paragraph 763, and therefore deny the same.

18           764. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
19 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
20 paragraph 764, and therefore deny the same.

21           765. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
22 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
23 paragraph 765, and therefore deny the same.

24           766. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
25 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
26 paragraph 766, and therefore deny the same.













1 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
2 a belief as to the truth of the remaining allegations in paragraph 805, and therefore deny the same.

3 806. The allegations in paragraph 806 contain legal conclusions and thus no answer is necessary.  
4 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 806  
5 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
6 a belief as to the truth of the remaining allegations in paragraph 806, and therefore deny the same.

7 807. The allegations in paragraph 807 contain legal conclusions and thus no answer is necessary.  
8 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 807  
9 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
10 a belief as to the truth of the remaining allegations in paragraph 807, and therefore deny the same.

11 808. The allegations in paragraph 808 contain legal conclusions and thus no answer is necessary.  
12 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 808  
13 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
14 a belief as to the truth of the remaining allegations in paragraph 808, and therefore deny the same.

15 809. The allegations in paragraph 809 contain legal conclusions and thus no answer is necessary.  
16 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 809  
17 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
18 a belief as to the truth of the remaining allegations in paragraph 809, and therefore deny the same.

19 810. The allegations in paragraph 810 contain legal conclusions and thus no answer is necessary.  
20 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 810  
21 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
22 a belief as to the truth of the remaining allegations in paragraph 810, and therefore deny the same.

23 811. The Allergan Defendants deny that the Allergan Defendants are properly grouped with  
24 unaffiliated entities listed in paragraph 811. Otherwise, the allegations in paragraph 811 contain legal  
25 conclusions and thus no answer is necessary. To the extent an answer is required, the Allergan Defendants  
26 deny the legal allegations of paragraph 811 that relate to them. The Allergan Defendants otherwise lack  
27

1 knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
2 paragraph 812, and therefore deny the same.

3 812. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
4 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
5 paragraph 812, and therefore deny the same.

6 813. The allegations in paragraph 813 contain legal conclusions and thus no answer is necessary.  
7 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 813  
8 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
9 a belief as to the truth of the remaining allegations in paragraph 813, and therefore deny the same.

10 814. The allegations in paragraph 814 contain legal conclusions and thus no answer is necessary.  
11 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 814  
12 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
13 a belief as to the truth of the remaining allegations in paragraph 814, and therefore deny the same.

14 815. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
15 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
16 paragraph 815, and therefore deny the same.

17 816. The Allergan Defendants deny the allegations that relate to them. The Allergan Defendants  
18 lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
19 paragraph 816, and therefore deny the same.

20 817. The allegations in paragraph 817 contain legal conclusions and thus no answer is necessary.  
21 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 817  
22 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
23 a belief as to the truth of the remaining allegations in paragraph 817, and therefore deny the same.

24 818. The allegations in paragraph 818 contain legal conclusions and thus no answer is necessary.  
25 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 818  
26 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
27 a belief as to the truth of the remaining allegations in paragraph 818, and therefore deny the same.



**(Against Defendants Purdue, Cephalon, Janssen, Endo, and Mallinckrodt  
the “RICO Marketing Defendants”)**

1  
2 825. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
3 the extent a response is required, the Allergan Defendants re-state and incorporate their answers to all  
4 prior paragraphs within this Answer as if they were fully set forth herein. As the Court has dismissed this  
5 claim, *see* ECF No. 285 at 49, no response is required. To the extent a response is required, the Allergan  
6 Defendants deny the allegations in paragraph 825.

7  
8 826. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
9 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 826.

10 827. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
11 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 827.

12 828. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
13 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 828.

14 829. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
15 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 829.

16 830. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
17 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 830.

18 831. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
19 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 831.

20 832. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
21 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 832.

22 833. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
23 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 833.

24 834. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
25 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 834.

26 835. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
27 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 835.

1 836. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
2 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 836.

3 837. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
4 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 837.

5 838. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
6 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 838.

7 839. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
8 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 839.

9 840. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
10 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 840.

11 841. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
12 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 841.

13 842. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
14 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 842.

15 843. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
16 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 843.

17 844. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
18 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 844.

19 845. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
20 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 845.

21 846. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
22 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 846.

23 847. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
24 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 847.

25 848. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
26 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 848.

1 849. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
2 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 849.

3 850. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
4 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 850.

5 851. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
6 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 851.

7 852. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
8 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 852.

9 853. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
10 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 853.

11 **COUNT II - BY THE CITY AND COUNTY OF SAN FRANCISCO**

12 **Violation of RICO, 18 U.S.C. §1961 *et seq.* - Opioid Supply Chain Enterprise**  
13 **(Against Defendants Purdue, Cephalon, Endo, Mallinckrodt,**  
14 **Actavis, Mckesson, Cardinal, Anda, and AmerisourceBergen**  
**(the “RICO Supply Chain Defendants”))**

15 854. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
16 the extent a response is required, the Allergan Defendants re-state and incorporate their answers to all  
17 prior paragraphs within this Answer as if they were fully set forth herein.

18 855. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
19 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 855.

20 856. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
21 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 856.

22 857. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
23 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 857.

24 858. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
25 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 858.

26 859. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
27 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 859.





1 873. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
2 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 873.

3 874. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
4 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 874.

5 875. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
6 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 875.

7 876. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
8 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 876.

9 877. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
10 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 877.

11 878. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
12 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 878.

13 879. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
14 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 879.

15 880. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
16 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 880.

17 881. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
18 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 881.

19 882. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
20 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 882.

21 883. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
22 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 883.

23 884. As the Court has dismissed this claim, *see* ECF No. 285 at 49, no response is required. To  
24 the extent a response is required, the Allergan Defendants deny the allegations in paragraph 884.

25 **COUNT III - BY THE PEOPLE OF THE STATE OF CALIFORNIA**

26 **Public Nuisance in San Francisco**



**Violations of California Civil Code §§3479-3480  
(Against All Defendants)**

1  
2 885. The Allergan Defendants re-state and incorporate their answers to all prior paragraphs  
3 within this Answer as if they were fully set forth herein.

4 886. The allegations in paragraph 886 contain legal conclusions and thus no answer is necessary.  
5 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 886  
6 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
7 a belief as to the truth of the remaining allegations in paragraph 886, and therefore deny the same.

8 887. The allegations in paragraph 887 contain legal conclusions and thus no answer is necessary.  
9 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 887  
10 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
11 a belief as to the truth of the remaining allegations in paragraph 887, and therefore deny the same.

12 888. The allegations in paragraph 888 contain legal conclusions and thus no answer is necessary.  
13 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 888  
14 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
15 a belief as to the truth of the remaining allegations in paragraph 888, and therefore deny the same.

16 889. The allegations in paragraph 899 contain legal conclusions and thus no answer is necessary.  
17 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 899  
18 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
19 a belief as to the truth of the remaining allegations in paragraph 899, and therefore deny the same.

20 890. The allegations in paragraph 890 contain legal conclusions and thus no answer is necessary.  
21 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 890  
22 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
23 a belief as to the truth of the remaining allegations in paragraph 890, and therefore deny the same.

24 891. The allegations in paragraph 891 contain legal conclusions and thus no answer is necessary.  
25 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 891  
26 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
27 a belief as to the truth of the remaining allegations in paragraph 891, and therefore deny the same.



1 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
2 a belief as to the truth of the remaining allegations in paragraph 898, and therefore deny the same.

3 899. The allegations in paragraph 899 contain legal conclusions and thus no answer is necessary.  
4 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 899  
5 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
6 a belief as to the truth of the remaining allegations in paragraph 899, and therefore deny the same.

7 900. The allegations in paragraph 900 contain legal conclusions and thus no answer is necessary.  
8 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 900  
9 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
10 a belief as to the truth of the remaining allegations in paragraph 900, and therefore deny the same.

11 901. The allegations in paragraph 901 contain legal conclusions and thus no answer is necessary.  
12 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 901  
13 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
14 a belief as to the truth of the remaining allegations in paragraph 901, and therefore deny the same.

15 902. The allegations in paragraph 902 contain legal conclusions and thus no answer is  
16 necessary. To the extent an answer is required, the Allergan Defendants deny the legal allegations of  
17 paragraph 902 that relate to them. The Allergan Defendants otherwise lack knowledge or information  
18 sufficient to form a belief as to the truth of the remaining allegations in paragraph 902, and therefore deny  
19 the same.

20 903. The allegations in paragraph 903 contain legal conclusions and thus no answer is necessary.  
21 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 903  
22 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
23 a belief as to the truth of the remaining allegations in paragraph 903, and therefore deny the same.

24 904. The allegations in paragraph 904 contain legal conclusions and thus no answer is necessary.  
25 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 904  
26 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
27 a belief as to the truth of the remaining allegations in paragraph 904, and therefore deny the same.



1 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
2 a belief as to the truth of the remaining allegations in paragraph 911, and therefore deny the same.

3 912. The allegations in paragraph 912 contain legal conclusions and thus no answer is necessary.  
4 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 912  
5 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
6 a belief as to the truth of the remaining allegations in paragraph 912, and therefore deny the same.

7 913. The allegations in paragraph 913 contain legal conclusions and thus no answer is necessary.  
8 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 913  
9 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
10 a belief as to the truth of the remaining allegations in paragraph 913, and therefore deny the same.

11 914. The allegations in paragraph 914 contain legal conclusions and thus no answer is necessary.  
12 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 914  
13 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
14 a belief as to the truth of the remaining allegations in paragraph 914, and therefore deny the same.

15 915. The allegations in paragraph 915 contain legal conclusions and thus no answer is necessary.  
16 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 915  
17 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
18 a belief as to the truth of the remaining allegations in paragraph 915, and therefore deny the same.

19 916. The allegations in paragraph 916 contain legal conclusions and thus no answer is necessary.  
20 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 916  
21 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
22 a belief as to the truth of the remaining allegations in paragraph 916, and therefore deny the same.

23 917. The allegations in paragraph 917 contain legal conclusions and thus no answer is necessary.  
24 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 917  
25 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
26 a belief as to the truth of the remaining allegations in paragraph 917, and therefore deny the same.  
27

1           918. The allegations in paragraph 918 contain legal conclusions and thus no answer is necessary.  
2 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 918  
3 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
4 a belief as to the truth of the remaining allegations in paragraph 918, and therefore deny the same.

5           919. The Allergan Defendants re-state and incorporate their answers to all prior paragraphs  
6 within this Answer as if they were fully set forth herein.

7                           **COUNT V – BY THE PEOPLE OF THE STATE OF CALIFORNIA**

8                           **Violation of False Advertising Law Cal. Bus. & Prof. Code §17500 *et seq.***  
9                           **(Against the Marketing Defendants)**

10           920. The allegations in paragraph 920 contain legal conclusions and thus no answer is necessary.  
11 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 920  
12 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
13 a belief as to the truth of the remaining allegations in paragraph 920, and therefore deny the same.

14           921. The allegations in paragraph 921 contain legal conclusions and thus no answer is necessary.  
15 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 921  
16 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
17 a belief as to the truth of the remaining allegations in paragraph 921, and therefore deny the same.

18           922. The allegations in paragraph 922 contain legal conclusions and thus no answer is  
19 necessary. To the extent an answer is required, the Allergan Defendants deny the legal allegations of  
20 paragraph 922 that relate to them. The Allergan Defendants otherwise lack knowledge or information  
21 sufficient to form a belief as to the truth of the remaining allegations in paragraph 922, and therefore deny  
22 the same.

23           923. The allegations in paragraph 923 contain legal conclusions and thus no answer is necessary.  
24 To the extent an answer is required, the Allergan Defendants deny the legal allegations of paragraph 923  
25 that relate to them. The Allergan Defendants otherwise lack knowledge or information sufficient to form  
26 a belief as to the truth of the remaining allegations in paragraph 923, and therefore deny the same.





1 **AFFIRMATIVE DEFENSES**

2 The Allergan Defendants hereby assert affirmative defenses to the allegations and claims in Counts  
3 III, IV and V of the 1AC.<sup>1</sup>

4 All affirmative defenses asserted herein are pleaded in the alternative and none constitutes an  
5 admission that the Allergan Defendants are in any way liable to Plaintiff, that Plaintiff has been or will be  
6 injured in any way, that Plaintiff is relieved of its burden to prove each element of their claims and the  
7 damages or relief sought, or that Plaintiff is entitled to any relief whatsoever.

8 Finally, in asserting these affirmative defenses, Allergan plc is specially appearing and maintains  
9 that it is an Irish-based holding company that does not itself transact and has never transacted any business  
10 in the State of California or elsewhere and, more specifically, it has never manufactured, distributed,  
11 marketed or sold any opioid medications, including Kadian® and/or Norco®. Accordingly, Allergan plc  
12 continues to maintain it is not subject to personal jurisdiction in United States courts.

13 Subject to those limitations, and without assuming any burden of proof that they would not  
14 otherwise bear, the Allergan Defendants hereby assert the following affirmative defenses to Counts III,  
15 IV and V in the 1AC and each and every allegation contained therein. The Allergan Defendants may also  
16 assert other defenses that become available or appear during the course of additional investigation or  
17 discovery in this case. The Allergan Defendants reserve the right to amend this Answer to assert any such  
18 additional defenses.

19 **FIRST AFFIRMATIVE DEFENSE**

20 **(Lack of Personal Jurisdiction)**  
21 **(By Defendant Allergan plc)**

22 The Court lacks personal jurisdiction over Allergan plc because Allergan plc lacks minimum  
23 contacts with the State of California sufficient to subject it to jurisdiction in California consistent with due  
24 process. Allergan plc is an Irish-based company that does not itself transact and has never transacted any  
25 business in the State of California or elsewhere and, more specifically, it has never manufactured,  
26 distributed, marketed or sold any opioid medications, including Kadian® and/or Norco®. Allergan plc

---

27 <sup>1</sup> As noted, the Court dismissed with prejudice Plaintiff's claims based on the Racketeer Influenced and Corrupt Organizations Act.  
28 18 U.S.C. §1961 *et seq.* (Counts I. II). *See* ECF No. 285 at 49.



1 thus does not have the minimum contacts with California necessary to permit this Court to exercise  
2 personal jurisdiction within the confines of California’s long-arm statutes or the U.S. Constitution.

3 **SECOND AFFIRMATIVE DEFENSE**

4 **(Failure to State a Claim)**  
5 **(By Allergan Defendants)**

6 Plaintiff’s claims are barred because the 1AC fails to state a claim upon which relief can be granted.

7 Among other deficiencies:

- 8 • Plaintiff fails to plead any direct wrongdoing by, or properly attributable to, the Allergan Defendants.
- 9 • Plaintiff does not distinguish the Allergan Defendants (or conduct properly attributable to the Allergan Defendants) from other Defendants, their medications, their medications’ labels, their marketing activities, and the time periods relevant to each Defendant; nor does Plaintiff detail which Defendant allegedly did or said what, when, where, or to whom.
- 10 • Plaintiff fails to adequately allege that it suffered any ascertainable loss, or a causal connection between any such loss and the Allergan Defendants’ alleged misconduct (or conduct properly attributable to Allergan Defendants).
- 11 • Plaintiff fails to plead any actionable misrepresentation or omission made by or properly attributable to the Allergan Defendants.
- 12 • Plaintiff may not recover from the Allergan Defendants because the methods, standards, or activities of designing, manufacturing, labeling, and distributing of the opioid medications that Plaintiff alleges the Allergan Defendants sold (including conduct properly attributable to the Allergan Defendants) complied with, and were in conformity with, all applicable governmental regulations and the generally recognized state of the art at the time those products were designed, manufactured, labeled and distributed.
- 13 • Plaintiff fails to plead any alleged fraud by the Allergan Defendants with the particularity required by Fed. R. Civ. P. 9(b)—*i.e.*, the “who, what, when, where, and how” of the alleged fraud. *Cooper v. Pickett*, 137 F.3d 616, 627 (9th Cir. 1997) (citing *DiLeo v. Ernst & Young*, 901 F.2d 624, 627 (7th Cir. 1990)). Plaintiff does not distinguish the Allergan Defendants from one another or from other Defendants, their drugs, their drugs’ labels, their marketing activities, and the relevant time periods, and does not detail which company did or said what, when, where, or to whom. *See, e.g.*, 1AC 1-7, 12-24, 36-38, 50-71, 175-190, 596, 608- 609, 626-629, 641-643, 656, 667, 680, 687-696, 711-12, 715-717, 731-733.

14 **THIRD AFFIRMATIVE DEFENSE**

15 **(Statute of Limitations)**  
16 **(By Allergan Defendants)**

17 Plaintiff’s claims are barred, in whole or in part, by the applicable statute(s) of limitations and/or  
18 statute(s) of repose, including but not limited to the three-year period contained in Cal. Bus. & Prof. Code

1 § 17536, the four-year period contained in Cal. Bus. & Prof. Code § 17208, and California Code of Civil  
 2 Procedure §§ 338(a), 338(h) and 343. Under California law, a cause of action accrues when the plaintiff  
 3 knew or reasonably should have known of a wrongfully caused injury to itself or California consumers. Here,  
 4 Plaintiff alleges wrongfully caused injuries that occurred over an unspecified period of time. Plaintiff  
 5 and/or California consumers would have known of, or reasonably should have known of, at least some of  
 6 these purported injuries outside of the relevant limitations period(s). *See, e.g.*, 1AC 318, 456. To the extent  
 7 that Plaintiff knew or reasonably should have known of any wrongfully caused injuries outside of the  
 8 applicable limitations period(s), Plaintiff's claims are time-barred.

#### 9 **FOURTH AFFIRMATIVE DEFENSE**

##### 10 **(Primary Jurisdiction)** 11 **(By Allergan Defendants)**

12 Plaintiff's claims are barred by the doctrine of primary jurisdiction. Plaintiff's claims are premised  
 13 on the allegation that the Allergan Defendants (or conduct properly attributable to the Allergan  
 14 Defendants) falsely represented that Kadian® and/or Norco® were approved as safe effective and  
 15 effective for chronic, non-cancer pain. Plaintiff's allegations necessarily implicate medical and scientific  
 16 issues that are outside the conventional experience of judges and/or jurors and particularly within the  
 17 expertise, discretion, and regulatory authority of the United States Food and Drug Administration  
 18 ("FDA"). Also, because the FDA is actively examining opioid medications, there is a danger of this Court  
 19 issuing rulings on Plaintiff's claims inconsistent with the FDA's forthcoming findings. In addition,  
 20 Plaintiff's claims are barred and/or this Court should defer this matter to the DEA, in whole or in part,  
 21 pursuant to the doctrine of primary jurisdiction. Finally, Plaintiff's claims are barred and/or this Court  
 22 should defer this matter to the appropriate state agencies, in whole or in part, pursuant to the doctrine of  
 23 primary jurisdiction.

#### 24 **FIFTH AFFIRMATIVE DEFENSE**

##### 25 **(Failure to Join Indispensable Parties)** 26 **(By Allergan Defendants)**

27 Plaintiff has failed to join one or more necessary and indispensable parties, including without  
 28 limitation prescribers, other health care providers or professionals, patients, and other third parties whom

1 Plaintiff alleges engaged in the unauthorized or illicit prescription, dispensing, diversion, or use of  
2 prescription opioid products in California. *See, e.g.*, 1AC 67, 645, 652, 681-685, 688. These third parties  
3 have a legal interest in the subject matter of the litigation to the extent they facilitated and/or participated  
4 in the opioid misuse, abuse, and related misconduct alleged in the 1AC. Plaintiff has failed to name any  
5 such third parties as defendants, however, nor has Plaintiff alleged how, if at all, it would be infeasible to  
6 join one or more indispensable but absent parties consistent with Fed. R. Civ. P. 19. Accordingly,  
7 Plaintiff's claims should be dismissed pursuant to Fed. R. Civ. P. 12(b)(7).

## 8 SIXTH AFFIRMATIVE DEFENSE

### 9 (Federal Preemption) 10 (By Allergan Defendants)

11 Plaintiff's claims are barred because they are preempted by federal law, including, without  
12 limitation, the federal Controlled Substances Act and the Food, Drug, and Cosmetic Act. Plaintiff's claims  
13 are premised on the allegation that the Allergan Defendants (or conduct properly attributable to the  
14 Allergan Defendants) falsely represented that Kadian® and Norco® were approved as safe and effective  
15 for chronic, non-cancer pain. But the FDA has approved these products as safe and effective for that  
16 indication and separately has rejected a citizen's petition to exclude long-term use for chronic, non-cancer  
17 pain from the labeling of such products. Further, federal law authorizes the marketing of Kadian® and  
18 Norco® for their FDA-approved indications. To the extent Plaintiff's claims seek to hold the Allergan  
19 Defendants liable for marketing Kadian® and Norco® for their FDA-approved uses (including the  
20 marketing of Kadian® and/or Norco® for their FDA-approved uses properly attributable to the Allergan  
21 Defendants), the claims are preempted. Granting such relief would impede, impair, frustrate, or burden  
22 the effectiveness of federal law and would violate the Supremacy Clause of the United States Constitution.  
23 To the extent Plaintiff's claims are inconsistent with the determinations of the FDA based on the  
24 information provided to the FDA or otherwise assert that incorrect, incomplete, or inaccurate information  
25 was provided to the FDA, the claims are also preempted. *See, e.g., Buckman v. Pls. 'Legal Comm.*, 531  
26 U.S. 341 (2001); *In re Celexa & Lexapro Mktg. & Sales Practices Litig.*, 779 F.3d 34 (1st Cir. 2015);  
27 *Yates v. Ortho-McNeil- Janssen Pharmaceuticals, Inc.*, 808 F.3d 281 (6th Cir. 2015). In addition, any

1 claims pertaining to generic medicines are preempted, as set forth in the United States Supreme Court’s  
2 decisions in *PLIVA, Inc. v. Mensing*, 564 U.S. 604 (2011), and *Mutual Pharmaceuticals Co. v. Bartlett*,  
3 570 U.S. 472 (2013).

#### 4 SEVENTH AFFIRMATIVE DEFENSE

##### 5 (Safe Harbor) 6 (By Allergan Defendants)

7 Plaintiff’s claim under Cal. Bus. & Prof. Code §17200 is barred under the statute’s safe harbor  
8 provision, which applies. *See* Cal. Bus. & Prof. Code §17200, (c). The Unfair Competition Law (“UCL”)  
9 may not support a claim for “acts that the Legislature has determined to be lawful.” *See Cel-Tech Comms.*  
10 *v. L.A. Cellular Tel. Co.*, 973 P.2d 527, 542 (Cal. 1999). Plaintiff’s claims are premised on the allegation  
11 that the Allergan Defendants (or conduct properly attributable to the Allergan Defendants) falsely  
12 represented that Kadian® and/or Norco® were approved as safe and effective for chronic, non-cancer  
13 pain. But the FDA has approved Kadian® and Norco® as safe and effective for chronic, non-cancer pain  
14 and separately has rejected a citizen’s petition to exclude long-term use for chronic, non-cancer pain from  
15 the labeling of Kadian® and Norco®. Because federal law authorized marketing opioid products for their  
16 FDA-approved indications, any claims by Plaintiff seeking to hold any of the Allergan Defendants liable  
17 for allegedly marketing Kadian® and Norco® for their FDA-approved uses (including the marketing of  
18 Kadian® and/or Norco® for their FDA-approved uses) are barred by the safe harbor rule recognized for  
19 UCL claims.

#### 20 EIGHTH AFFIRMATIVE DEFENSE

##### 21 (Learned Intermediary Doctrine) 22 (By Allergan Defendants)

23 Plaintiff’s claims are barred by the learned intermediary doctrine. At all relevant times herein, the  
24 prescribers and other health care providers or professionals who prescribed Kadian® and Norco® were in  
25 the position of learned intermediaries, who used their informed, independent medical judgment in making  
26 their prescribing, dispensing, and treatment decisions for a given patient. These professionals had many  
27 sources of information about those products available to them, including the products’ FDA-approved  
28 labeling, which informed professionals of the risks and benefits of the opioid pain medications, *see e.g.*,

1 1AC 275, 646, and these professionals relied on a variety of factors separate from and unrelated to alleged  
2 misrepresentations by the Allergan Defendants (or conduct properly attributable to the Allergan  
3 Defendants) in making their prescribing, dispensing, and treatment decisions. Moreover, extensive  
4 warnings regarding the risks and benefits of Kadian® and Norco® were provided to these professionals.  
5 Those professionals, in turn, had a duty to engage in informed-consent discussions with their patients.

6 **NINTH AFFIRMATIVE DEFENSE**

7 **(Misjoinder and Severance)**  
8 **(By Allergan Defendants)**

9 Plaintiff's claims against the Allergan Defendants and other Defendants do not arise out of the  
10 same transaction, occurrence, or series of transactions or occurrences as required by Fed. R. Civ. P. 20 for  
11 joinder of parties. Plaintiff fails to connect any of the alleged marketing activities of the Allergan  
12 Defendants (of which there was none), or the marketing activities properly attributable to the Allergan  
13 Defendants, to those of other Defendants, nor could it. Accordingly, the Court should sever or dismiss  
14 Plaintiff's claims against the Allergan Defendants pursuant to Fed. R. Civ. P. 20 and 21.

15 **TENTH AFFIRMATIVE DEFENSE**

16 **(Third-Party Actions)**  
17 **(By Allergan Defendants)**

18 Plaintiff's claims against the Allergan Defendants are barred to the extent that any rely on or  
19 implicate the negligent, intentional, malicious, criminal, and/or otherwise unlawful acts or omissions of  
20 third parties that are not subject to the Allergan Defendants' control or authority and for which the  
21 Allergan Defendants are not responsible and cannot be held liable. These include, but are not limited to,  
22 prescribers, other health care providers or professionals, patients, and other third parties whom Plaintiff  
23 alleges disseminated fraudulent, deceptive, or misleading statements and marketing materials regarding  
24 opioid products and/or engaged in the unauthorized or illicit prescription, dispensing, diversion, or use of  
25 prescription opioid products in California. The injury Plaintiff alleges was the result of one or more  
26 superseding and/or intervening criminal acts by third parties. The Allergan Defendants' liability, if any,  
27 therefore must be reduced or negated by proportionate fault to the extent that third parties have contributed  
28 to, or caused, Plaintiff's injuries. Moreover, any imposition of liability, damages, penalties, or other relief

1 against the Allergan Defendants for the negligent, intentional, malicious, criminal, and/or other acts or  
2 omissions of parties or third parties not subject to the Allergan Defendants' control or authority, including,  
3 but not limited to, prescribers, other health care providers or professionals, patients, and other third parties,  
4 would violate the Allergan Defendants' procedural and substantive due process rights under the  
5 Fourteenth Amendment to the U.S. Constitution and Article I, Section 7 of the California Constitution.  
6 Plaintiff is not entitled to recover any damages or other relief from the Allergan Defendants to the extent  
7 that Plaintiff's injuries were caused by the acts of third parties.

#### 8 **ELEVENTH AFFIRMATIVE DEFENSE**

##### 9 **(Protected Speech)** 10 **(By Allergan Defendants)**

11 Plaintiff's claims are barred, in whole or in part, by protections afforded by provisions of the  
12 United States Constitution and the California Constitution, including but not limited to the First  
13 Amendment to the United States Constitution, Article I, Section 2 of the California Constitution, and/or  
14 the *Noerr-Pennington* doctrine. Plaintiff's claims rely on allegations that the Allergan Defendants engaged  
15 in various activities (or responsible for conduct properly attributable to the Allergan Defendants) relating  
16 to Kadian® and Norco®, including advertising, making public statements, lobbying, detailing, conducting  
17 speaker programs, and conducting other marketing efforts. *See, e.g.*, 1AC 39- 40, 646, 649. Not only did  
18 the Allergan Defendants not engage in any of these activities, but these activities (and conduct properly  
19 attributable to the Allergan Defendants) concern lawful activity, are neither false nor misleading, and thus  
20 constitute constitutionally protected speech.

#### 21 **TWELFTH AFFIRMATIVE DEFENSE**

##### 22 **(Lack of Proximate Cause)** 23 **(By Allergan Defendants)**

24 Plaintiff's claims or, at a minimum, Plaintiff's requests for relief are barred because the Allergan  
25 Defendants' alleged misconduct (or conduct properly attributable to the Allergan Defendants) were not  
26 the proximate or legal cause of the purported injuries or damages incurred by Plaintiff or any other party.  
27 Absent such causation, Plaintiff's claims cannot be sustained as a matter of law under the laws and  
28 common law of California and would also violate the Allergan Defendants' due process and equal

1 protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution.  
2 *See Philip Morris USA v. Williams*, 549 U.S. 346, 353 (2007); *see also Paroline v. United States*, 572  
3 U.S. 434, 454-55 (2014); Restatement (Second) of Torts § 430 (1965). The prescribers and other health  
4 care providers or professionals who prescribed Kadian® and/or Norco® had many sources of information  
5 about those products available to them, including the products' FDA-approved labeling, which informed  
6 these professionals of the risks and benefits of these products, *see, e.g.*, 1AC 275, 646, and these  
7 professionals relied on a variety of factors separate from the Allergan Defendants' alleged  
8 misrepresentations (or conduct properly attributable to the Allergan Defendants) in making their  
9 prescribing, dispensing, and/or treatment decisions. Furthermore, those professionals' decisions were also  
10 affected by other independent superseding causes and/or intervening events that broke any causal chain,  
11 including, among many others, for example, individual patients' preferences, patients' decisions to fill a  
12 prescription, patients' decisions whether and how to use the medication, and Plaintiff's and other third  
13 party payors' decisions on whether and under what circumstances to cover the opioid medications for the  
14 particular indication and reimburse for the particular prescription. If the Plaintiff has sustained any injuries  
15 or damages, such were the results of intervening or superseding events, factors, occurrences, or conditions  
16 which were not reasonably foreseeable and in no way caused by the Allergan Defendants (or conduct  
17 properly attributable to the Allergan Defendants) and for which the Allergan Defendants are not liable.

### 18 **THIRTEENTH AFFIRMATIVE DEFENSE**

#### 19 **(Economic Loss Rule)** 20 **(By Allergan Defendants)**

21 Plaintiff's claims against the Allergan Defendants are barred or limited by the economic loss rule.  
22 Plaintiff alleges purely economic losses in the form of increased costs on social services allegedly resulting  
23 from the Allergan Defendants' challenged conduct (or conduct properly attributable to the Allergan  
24 Defendants). *See, e.g.*, 1AC 851. Plaintiff nonetheless seeks to recover these losses in tort. *Id.* 851-854,  
25 882-885, 905, 925. The economic loss rule bars any such recovery.  
26  
27



**FOURTEENTH AFFIRMATIVE DEFENSE****(Other Indemnification)  
(By Allergan Defendants)**

Any verdict or judgment that might be recovered by Plaintiff must be reduced by those amounts that have already or will in the future, with reasonable certainty, indemnify the Plaintiff in whole or in part for any past or future claimed economic loss from any collateral source such as insurance, social security, workers' compensation, or employee benefit program.

**FIFTEENTH AFFIRMATIVE DEFENSE****(Legal Obligation)  
(By Allergan Defendants)**

The Allergan Defendants' liability, if any, will not result from their conduct but is solely the result of an obligation imposed by law, and thus, the Allergan Defendants are entitled to complete indemnity, express or implied, by other parties. For example, the DEA occasionally has requested opioid manufacturers to increase their production of opioid medications to fill market needs.

**SIXTEENTH AFFIRMATIVE DEFENSE****(Proper Labeling Subject to FDA Review and Approval)  
(By Allergan Defendants)**

Statements in branded or unbranded materials comporting with FDA-approved uses are not misleading as a matter of law or otherwise actionable. The Supreme Court has made clear that claims seeking to impose a duty to alter FDA-approved labeling or otherwise market FDA-approved prescription medications in a way that conflicts with federal law are subject to implied preemption under the federal Food, Drug, and Cosmetic Act ("FDCA"), 21 U.S.C. § 301 *et seq.* See *Mut. Pharm. Co. v. Bartlett*, 570 U.S. 472, 488-89 (2013). This is true regardless of whether the claims challenge the FDA-approved labeling, or instead challenge marketing materials that are consistent with FDA-approved labeling. See *Strayhorn v. Wyeth Pharm., Inc.*, 131 F.3d 378, 394 (6th Cir. 2013).



1 **SEVENTEENTH AFFIRMATIVE DEFENSE**

2 **(Sufficient Corrective Action)**  
3 **(By Allergan Defendants)**

4 Any alleged misstatements or omissions in marketing materials were negated by corrective-action  
5 plans implemented and executed in conjunction with the FDA. For example, on February 18, 2010, a  
6 Divested Entity received an FDA warning letter regarding two marketing materials for Kadian®. The  
7 Divested Entity immediately ceased distribution of those materials and worked with the FDA to develop  
8 an extensive corrective-action plan to provide corrective messaging to each prescriber or other health care  
9 provider or professional and patient who may have seen those materials. Because any purported  
10 misrepresentations in those marketing materials were corrected, and because there are no allegations that  
11 any Kadian® prescriptions were written in reliance on those marketing materials, any recovery afforded  
12 to Plaintiff may not be based on those materials.

13 **EIGHTEENTH AFFIRMATIVE DEFENSE**

14 **(Municipal Cost Recovery Rules / Public Services Doctrine)**  
15 **(By Allergan Defendants)**

16 Plaintiff's claims are barred or limited, in whole or in part, under the municipal cost recovery rule  
17 and/or the free public services doctrine, in that Plaintiff is not entitled to recover governmental  
18 expenditures as a matter of law. Because such alleged costs constitute the ordinary costs of providing  
19 government services, such costs are barred under the municipal cost recovery rule and/or the free public  
20 services doctrine.

21 **NINETEENTH AFFIRMATIVE DEFENSE**

22 **(Statutory/Common Law Damages Limitations)**  
23 **(By Allergan Defendants)**

24 Plaintiff's claims are barred, reduced, and/or limited pursuant to applicable statutory and common  
25 law regarding limitations of awards, caps on recovery, and setoffs.  
26  
27  
28

1 **TWENTIETH AFFIRMATIVE DEFENSE**

2 **(Set-Off)**  
3 **(By Allergan Defendants)**

4 The Allergan Defendants are entitled to a credit, set-off, or offset for all sums of money received  
5 or available from or on behalf of any other tortfeasor(s) for the same injuries alleged in the 1AC, including  
6 but not limited to any and all settlements Plaintiff may reach with any tortfeasors.

7 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

8 **(Improper Joinder)**  
9 **(By Allergan Defendants)**

10 Plaintiff's claims against the Allergan Defendants are not properly joined with the Plaintiff's  
11 claims against the other defendants in this case because the claims do not arise out of the same alleged  
12 transactions, occurrences, statements, actions, and omissions by all Defendants in the case.

13 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

14 **(Truthful and Non-Misleading Statement)**  
15 **(By Allergan Defendants)**

16 The representations or statements alleged to have been made were true and accurate at the time  
17 made and/or otherwise were made in good faith, with a reasonable belief as to their validity and accuracy  
18 and with a reasonable belief that all conduct was lawful. Facts showing good faith and reasonable belief  
19 in the accuracy of such representations or statements include, but are not limited to, the Allergan  
20 Defendants' good-faith reliance on and interpretation of clinical data, medical literature, and guidance for  
21 product communications published by FDA. The Allergan Defendants' good faith and reasonable belief  
22 should be considered as a mitigating factor relevant to the relief, if any, granted in this action.

23 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

24 **(State of the Art)**  
25 **(By Allergan Defendants)**

26 Plaintiff may not recover from the Allergan Defendants because the methods, standards, or  
27 techniques of designing, manufacturing, labeling, and distributing of the prescription medications at issue  
28 complied with and were in conformity with the generally recognized state of the art at the time the product  
was designed, manufactured, labeled, and distributed.

1 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

2 **(Unclean Hands)**  
3 **(By Allergan Defendants)**

4 The 1AC, and each cause of action asserted therein, is barred or limited, in whole or in part, by the  
5 doctrine of unclean hands. Should discovery show that Plaintiff or its agents acted inequitably in  
6 responding to their alleged harms, during the course of their investigation, or during this litigation, such  
7 conduct should be taken into account in assessing Plaintiff's claims and whether, and to what extent,  
8 Plaintiff is entitled to relief in this action. For example, although Plaintiff suggests that opioid medications  
9 are not appropriate for treating chronic, non-cancer pain, *see, e.g.*, 1AC 849, Plaintiff has reimbursed and  
10 continues to reimburse (or permits the reimbursement of) opioid prescriptions for that indication either  
11 directly or through authorized third parties. As another example, Plaintiff has failed to take appropriate  
12 actions to stop third-party actors from illegal acts, including but not limited to the sale and distribution of  
13 heroin as well as other illegal drugs.

14 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

15 **(Conformed with Law)**  
16 **(By Allergan Defendants)**

17 The Allergan Defendants' conduct (or conduct properly attributable to the Allergan Defendants)  
18 alleged in the 1AC conformed to all state and federal statutes, regulations, and industry standards based  
19 upon the state of knowledge existing at the relevant time(s) alleged in the 1AC. Any marketing that is  
20 consistent with the FDA-approved labels for opioid medications is not actionable. Likewise, the Divested  
21 Entities' suspicious order monitoring programs have at all times been fully compliant with the Controlled  
22 Substances Act as well as any applicable state law; indeed, at no point did the DEA take any enforcement  
23 action against those affiliates with respect to their suspicious order monitoring programs.

24 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

25 **(Principles of Equity)**  
26 **(By Allergan Defendants)**

27 Numerous facts would render the imposition of injunctive relief, civil penalties, or other remedies  
28 inequitable here, including, but not limited to, the good-faith reliance on and interpretation of clinical data  
and medical literature, the absence of any intentional unlawful conduct, the course of Plaintiff's

1 investigation and pursuit of these claims, and the good-faith reliance on guidance for product  
2 communications published by the FDA.

3 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

4 **(Sophisticated User Doctrine)**  
5 **(By Allergan Defendants)**

6 Plaintiff's claims are barred by the sophisticated-user doctrine. Because of their training and  
7 experience, doctors who prescribe opioids know or reasonably should know of the potential risks, and the  
8 Allergan Defendants had no duty to warn and cannot be held liable for failing to warn of risks and  
9 complications of which members of the relevant medical community knew or should have known.

10 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

11 **(Opinion)**  
12 **(By Allergan Defendants)**

13 To the extent Plaintiff seeks to impose liability on the Allergan Defendants for broad, general  
14 statements regarding the value or quality of products that were made to and reasonably understood by  
15 providers as opinion, such statements cannot constitute false representations as a matter of law.

16 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

17 **(No Actionable Misrepresentation)**  
18 **(By Allergan Defendants)**

19 Plaintiff fails to plead any actionable misrepresentation or omission.

20 **THIRTIETH AFFIRMATIVE DEFENSE**

21 **(Outside the Scope of Agency or Employment)**  
22 **(By Allergan Defendants)**

23 To the extent any agents, employees, or contractors of the Allergan Defendants (or Divested  
24 Entities for Kadian® and/or Norco®) caused any of the damages alleged by Plaintiff, such agents,  
25 employees, or contractors were acting outside the scope of the agency employment, or contract with the  
26 Allergan Defendants (or Divested Entities for Kadian® and/or Norco®), and any recovery against the  
27 Allergan Defendants must be reduced by the proportionate fault of such agents, employees, or contractors.  
28

1 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

2 **(Failure to Pierce the Corporate Veil)**  
3 **(By Allergan Defendants)**

4 To the extent Plaintiff’s claims are based on the alleged conduct of others, and Plaintiff seeks to  
5 impose liability on the Allergan Defendants only by virtue of that Defendant’s ownership of another  
6 entity’s shares, membership within another entity’s unincorporated entity, or similar affiliation, Plaintiff  
7 has failed to plead—and cannot prove—any allegations sufficient to support a claim to pierce the corporate  
8 veil or to otherwise hold the Allergan Defendants liable merely by virtue of their corporate affiliation with  
9 any other Defendant.

10 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

11 **(Improper Duplicate or Double Recovery)**  
12 **(By Allergan Defendants)**

13 Plaintiff’s claims and requests for relief are barred to the extent they seek duplicate or double  
14 recovery on the same injury or damage, including, but not limited to, recovery sought by other state or  
15 local entities in the State of California.

16 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

17 **(Open and Obvious Danger Doctrine)**  
18 **(By Allergan Defendants)**

19 The claims set forth in the 1AC are barred, in whole or in part, by the doctrine of open and obvious  
20 danger. Prescription opioid products have associated known risks or dangers that can be unavoidable even  
21 within the scope of prescribed and intended use, but are reasonable in comparison to the benefits conferred.  
22 The risks of opioid medications, and the alleged incurred costs and/or injuries purportedly caused by  
23 opioid medications, were known (and disclosed) to Plaintiff, Plaintiff’s contractors and agents, California  
24 consumers, and prescribing doctors for years.

25 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

26 **(Adequate Remedy at Law)**  
27 **(By Allergan Defendants)**

28 To the extent Plaintiff attempts to seek equitable relief, Plaintiff is not entitled to such relief  
because it has an adequate remedy at law and cannot otherwise satisfy the elements for equitable relief.

1 Moreover, Plaintiff is not entitled to any relief in the form of disgorgement, restitution, restoration, or  
2 rescission because it cannot restore the status quo ante.

3 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

4 **(Several Liability)**  
5 **(By Allergan Defendants)**

6 The Allergan Defendants deny any liability to Plaintiff, but in the unlikely event that the Allergan  
7 Defendants are found liable to Plaintiff, at most, they may only be severally liable for Plaintiff's economic  
8 and non-economic injuries or expenses. Plaintiff's alleged harms, if any, were caused, in whole or in part,  
9 by the contributory or comparative negligence of Plaintiff or others who may or may not be parties to this  
10 lawsuit.

11 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

12 **(Violation of Due Process and Statutory Rights Based On Contingent Fee Counsel)**  
13 **(By Allergan Defendants)**

14 The Allergan Defendants' rights under the Due Process Clause of the United States Constitution  
15 are violated by any financial or other arrangement that might distort a government attorney's duty to  
16 pursue justice rather than his or her personal interests, financial or otherwise, in the context of a civil  
17 enforcement proceeding. *See, e.g., Marshall v. Jerrico, Inc.*, 446 U.S. 238 (1980). There are contingency  
18 fee agreements between Plaintiff and the following firms: Robbins, Geller, Rudman & Dowd; Lieff,  
19 Cabraser, Heimann & Bernstein LLP; Renee Public Law Group; Andrus Anderson LLP; Sanford Heisler  
20 Sharp, LLP; Casey, Gerry, Schenk, Francavilla, Blatt & Penfield LLP; Weitz & Luxenberg P.C. The  
21 aforementioned counsel act as City officials or employees exercising the City's prosecutorial powers. The  
22 contingency fee agreement gives these firms a financial interest in the outcome of this proceeding and  
23 thus violates the Allergan Defendants' due process rights.

24 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

25 **(Laches, Waiver, and Equitable Estoppel)**  
26 **(By Allergan Defendants)**

27 Plaintiff's claims are barred by the doctrines of laches, waiver, and/or equitable estoppel. Plaintiff  
28 complains of injuries and conduct from as early as the 1990s. Plaintiff knew or reasonably should have

1 known of the facts underlying its claims years ago and failed to file suit for years thereafter. Upon  
 2 information and belief, however, Plaintiff did not reject, disapprove, or object to claims for reimbursement  
 3 of opioid prescriptions for chronic, non-cancer pain before December 18, 2018, when they filed their  
 4 original Complaint. Plaintiff's claims against the Allergan Defendants thus are barred by the doctrines of  
 5 waiver and/or equitable estoppel. Plaintiff's failure to exercise diligence in bringing this action has  
 6 prejudiced the Allergan Defendants by depriving them (or Divested Entities for Kadian® and/or Norco®)  
 7 the opportunity to alter their practices, if necessary. As a matter of equity, therefore, the doctrine of laches  
 8 should bar Plaintiff from recovering on their claims.

9 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

10 **(Ratification)**  
 11 **(By Allergan Defendants)**

12 Plaintiff's alleged loss, damage, injury, harm, expense, diminution, or deprivation, if any, was  
 13 caused in whole or in part by Plaintiff's ratification of the Allergan Defendants' allegedly deceptive or  
 14 misleading conduct (or conduct properly attributable to the Allergan Defendants). Such ratification would  
 15 include, for example, Plaintiff's continuing reimbursement of opioid prescriptions after it had concluded  
 16 such prescriptions were ineffective or harmful to California consumers, medically unnecessary, or  
 17 otherwise ineligible for payment by Plaintiff.

18 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

19 **(Statutory Penalties and Punitive Damages Unconstitutional)**  
 20 **(By Allergan Defendants)**

21 Plaintiff seeks the recovery of civil penalties and punitive damages from the Allergan Defendants  
 22 for, *inter alia*, alleged violations of Cal. Bus. & Prof. Code §17200 and § 17500. 1AC 78. Plaintiff's  
 23 punitive damages or statutory penalties claims against the Allergan Defendants:

- 24 a. have no basis in law or fact;
- 25 b. are not recoverable because the 1AC's allegations of fact are legally insufficient to support

26 or allow the imposition of punitive damages or statutory penalties on the Allergan Defendants consistent  
 27 with the Fifth, Eighth, and Fourteenth Amendments of the United States Constitution or California law;

1 c. cannot be sustained because the laws setting forth the standard(s) for determining liability  
2 for, and the amount(s) of, punitive damages or statutory penalties fail to give the Allergan Defendants  
3 prior notice of the conduct for which punitive damages or statutory penalties may be imposed and the  
4 severity of the penalty that may be imposed, and are void for vagueness in violation of the Allergan  
5 Defendants' due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States  
6 Constitution and Article I, Section 7 of the California Constitution;

7 d. cannot be sustained because any award of punitive damages or statutory penalties  
8 exceeding the limits authorized by law would violate the Allergan Defendants' due process and equal  
9 protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution  
10 and Article I, Section 7 of the California Constitution and would be improper under the laws and common  
11 law of California;

12 e. cannot be sustained because an award of punitive damages or statutory penalties in this  
13 case, combined with any prior, contemporaneous, or subsequent judgments against the Allergan  
14 Defendants for punitive damages or statutory penalties arising from the distribution, supply, marketing,  
15 sale, promotion, or use of the Allergan Defendants' products would constitute constitutionally  
16 impermissible multiple punishments for the same wrong and double jeopardy under the Fifth Amendment  
17 to the United States Constitution and Article I, Section 15 of the California Constitution;

18 f. cannot be sustained because any award of punitive damages or statutory penalties without  
19 the apportionment of the award separately and severally between or among the alleged joint tortfeasors,  
20 as determined by the percentage of the wrong(s) allegedly committed by each tortfeasor, would violate  
21 the Allergan Defendants' due process and equal protection rights guaranteed by the Fifth and Fourteenth  
22 Amendments to the United States Constitution and Article I, Section 7 of the California Constitution and  
23 would be improper under the laws and common law of California;

24 g. cannot be sustained because subjecting the Allergan Defendants to punitive damages or  
25 statutory damages that are penal in nature without the same protections accorded to criminal defendants  
26 would violate the Allergan Defendants' rights guaranteed without limitation by the Fourth, Fifth, Sixth,  
27



1 and Fourteenth Amendments to the United States Constitution and would be improper under the laws and  
2 common law of California; and

3 h. cannot be sustained because the alleged injuries asserted by Plaintiff are too speculative  
4 and remote from the alleged wrongful conduct to be a basis for liability as a matter of law and due process.

5 **FORTIETH AFFIRMATIVE DEFENSE**

6 **(Jury-Awarded Punitive Damages Unconstitutional)**  
7 **(By Allergan Defendants)**

8 Plaintiff seeks the recovery of civil penalties and punitive damages from the Allergan Defendants  
9 for, *inter alia*, alleged violations of Cal. Bus. & Prof. Code §17200 and § 17500. 1AC 78. Plaintiff's  
10 claims for punitive damages against the Allergan Defendants cannot be sustained and would violate the  
11 Allergan Defendants' due process and equal protection rights guaranteed by the Fifth and Fourteenth  
12 Amendments to the United States Constitution and Article I, Section 7 of the California Constitution and  
13 would be improper under the laws and common law of California to the extent punitive damages are  
14 awarded by a jury that:

15 a. is not provided constitutionally adequate standards of sufficient clarity for determining  
16 whether to impose, and the appropriate size of, any punitive damages;

17 b. is not adequately instructed on the limits of punitive damages set by the applicable  
18 principles of deference and punishment;

19 c. is not expressly prohibited from awarding or calculating punitive damages based, in whole  
20 or in part, on invidiously discriminatory characteristics, including without limitation the residence,  
21 financial condition, and corporate state of the Allergan Defendants;

22 d. is permitted to award punitive damages under a standard that is vague and arbitrary or does  
23 not define with sufficient clarity the conduct or mental state permitting the imposition of punitive  
24 damages;

25 e. is not properly instructed regarding Plaintiff's burden of proof with respect to each and  
26 every element of a claim for punitive damages; or

1 f. is not subject to judicial review for reasonableness and furtherance of legitimate purposes  
2 on the basis of constitutionally adequate and objective standards.

3 **FORTY-FIRST AFFIRMATIVE DEFENSE**

4 **(Failure to Monitor or Mitigate)**  
5 **(By Allergan Defendants)**

6 Plaintiff has failed to take appropriate and necessary steps to mitigate any damages. Among other  
7 things, Plaintiff continued to approve or pay for opioid medications, either directly or through authorized  
8 third parties, without further inquiry into the necessity of the medication and, while aware of the risks of  
9 opioid medications, Plaintiff failed to take adequate steps to monitor or limit any alleged wrongful  
10 prescribing, distribution, or use.

11 **FORTY-SECOND AFFIRMATIVE DEFENSE**

12 **(Assumption of Risk / Informed Consent / Contributory Negligence / Comparative Negligence)**  
13 **(By Allergan Defendants)**

14 Plaintiff's claims are barred and/or reduced by the assumption of risk, informed consent,  
15 contributory or comparative negligence, contributory or comparative fault, and proportionate  
16 responsibility. Any injuries or damages sustained by Plaintiff were due to Plaintiff's own negligent,  
17 careless, reckless, and grossly negligent acts or omissions, which combined and concurred with any  
18 alleged negligence on the part of the Allergan Defendants (or Divested Entities for Kadian® and/or  
19 Norco®) to produce such injuries or damages, if any, and without which such injuries or damages would  
20 not have occurred. For example, although Plaintiff suggests that opioid medications are not appropriate  
21 for treating chronic, non-cancer pain, *see, e.g.*, 1AC 849, Plaintiff has reimbursed and continues to  
22 reimburse (or permits the reimbursement of) opioid prescriptions for that indication either directly or  
23 through authorized third parties. As another example, Plaintiff has failed to take appropriate actions to  
24 stop third-party actors from illegal acts, including but not limited to the sale and distribution of heroin as  
25 well as other illegal drugs.

1 **FORTY-THIRD AFFIRMATIVE DEFENSE**

2 **(Relief Unavailable)**  
3 **(By Allergan Defendants)**

4 Attorney's fees are not permitted under Cal. Bus. & Prof. Code §17200 and § 17500.

5 **FORTY-FOURTH AFFIRMATIVE DEFENSE**

6 **(Violation of Dormant Commerce Clause)**  
7 **(By Allergan Defendants)**

8 Plaintiff's claims as set forth in the 1AC, or some of them, are barred, in whole or in part, because  
9 the application of California law to conduct in other states or countries would violate the Dormant  
10 Commerce Clause of the United States Constitution because such laws, facially and as applied to the  
11 alleged conduct at issue, would impose a burden on interstate commerce that is clearly excessive in  
12 relation to the putative local benefits. *See, e.g., Comptroller of Treasury of Maryland v. Wynne*, 135 S. Ct.  
13 1787, 1794 (2015); *Daniels Sharpsmart, Inc. v. Smith*, 889 F.3d 608, 615 (9th Cir. 2018).

14 **FORTY-FIFTH AFFIRMATIVE DEFENSE**

15 **(Excessive Fines)**  
16 **(By Allergan Defendants)**

17 The imposition of civil monetary penalties in this action would violate the Excessive Fines Clause  
18 of the Eighth Amendment of the United States Constitution; Article 1, Section 17 and other provisions of  
19 the California Constitution; and California case law including by not limited to *Hale v. Morgan*, 22 Cal.  
20 3d 388 (1978). The civil penalties sought by Plaintiff are grossly disproportional to the gravity of the  
21 Allergan Defendants' purported conduct and thereby unconstitutional. *See United States v. Bajakajian*,  
22 524 U.S. 321, 334 (1998); *People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.*, 37 Cal. 4th 707, 728  
(2005), *as modified* (Jan. 18, 2006).

23 **FORTY-SIXTH AFFIRMATIVE DEFENSE**

24 **(Violation of Due Process Based on Lack of Fair Notice and Standards for Review)**  
25 **(By Allergan Defendants)**

26 The imposition of civil monetary penalties in this action would violate the Due Process Clause of  
27 the Fifth and Fourteenth Amendments to the United States Constitution. Due process requires that the  
28 Allergan Defendants have fair notice that specific conduct may subject them to substantial penalties.

1 Given the malleability of Plaintiff's claims, the scope of the allegations, and the indeterminate and *ad hoc*  
 2 nature of their theories of liability, any award of civil penalties or treble damages would violate due  
 3 process. Additionally, any law, statute, or other legal authority purportedly permitting the recovery of civil  
 4 penalties or treble damages in this case is unconstitutional, facially or as applied, to the extent that it lacks  
 5 constitutionally sufficient standards for appellate review for any award of civil penalties or treble damages.

6 **FORTY-SEVENTH AFFIRMATIVE DEFENSE**

7 **(Separation of Powers)**  
 8 **(By Allergan Defendants)**

9 Plaintiff's claims are barred under constitutional principles of separation of powers, including, but  
 10 not limited to, the statewide concern doctrine, as they exceed Plaintiff's authority under Article 11, Section  
 11 7 of the California Constitution. Plaintiff asserts that the Allergan Defendants' alleged conduct (or conduct  
 12 properly attributable to the Allergan Defendants) caused a public health crisis. But only the State of  
 13 California, rather than a political subdivision like the one that Plaintiff represents, has the authority to  
 14 bring claims that seek to address such issues of statewide concern.

15 **FORTY-EIGHTH AFFIRMATIVE DEFENSE**

16 **(Pre-existing Conditions)**  
 17 **(By Allergan Defendants)**

18 Plaintiff's alleged injuries, harm, or damages, if any, were the result of pre-existing medical  
 19 conditions or idiosyncratic reactions to medications and/or occurred by operation of nature or as a result  
 20 of circumstances over which the Allergan Defendants had and continue to have no control.

21 **FORTY-NINTH AFFIRMATIVE DEFENSE**

22 **(Punitive Damages Reduction)**  
 23 **(By Allergan Defendants)**

24 To the extent that Plaintiff seeks punitive damages, any punitive damages award must be reduced  
 25 to reflect any and all punitive damages awards in other cases involving the same acts or course of conduct,  
 26 and must be reduced to bear a reasonable relationship to the award of compensatory damages. *See State*  
 27 *Farm v. Campbell*, 538 U.S. 408, 422 (2003); *BMW of N. Am. v. Gore*, 517 U.S. 559, 580-81 (1996).

**FIFTIETH AFFIRMATIVE DEFENSE**

**(Unavoidable Risk Rule)  
(By Allergan Defendants)**

Plaintiff's claims are barred, in whole or in part, by the unavoidable risk rule of Restatement (Second) of Torts § 402A, Comment k, as Kadian®, Norco® and other opioid medications can be legally obtained only via prescription of a prescriber or other health care provider or professional and the FDA-approved labels of these medications, among other sources of information available to prescribers or other health care providers or professionals, fully disclose the well-known risks associated with these medications.

**FIFTY-FIRST AFFIRMATIVE DEFENSE**

**(Public Nuisance Claim Unavailable)  
(By Allergan Defendants)**

Plaintiff's public nuisance claim is barred by California Civil Code § 3482, which provides that nothing that is done or maintained under express authority of a statute may be deemed a nuisance.

**FIFTY-SECOND AFFIRMATIVE DEFENSE**

**(Res Judicata and Collateral Estoppel)  
(By Allergan Defendants)**

The 1AC, and each cause of action asserted therein, is barred or limited, in whole or in part, by the doctrines of res judicata and collateral estoppel.

**FIFTY-THIRD AFFIRMATIVE DEFENSE**

**(Penalty Statutes)  
(By Allergan Defendants)**

California law requires that penalty statutes be strictly and narrowly construed.

**FIFTY-FOURTH AFFIRMATIVE DEFENSE**

**(Police Powers)  
(By Allergan Defendants)**

The 1AC, and each cause of action asserted therein, is barred or limited, in whole or in part, by common law, statutory, and state constitutional constraints on the exercise of police powers by a state county.

**FIFTY-FIFTH AFFIRMATIVE DEFENSE**

**(Comity)  
(By Allergan Defendants)**

Plaintiff’s claims are barred, in whole or in part, because there is pending another, earlier-filed action that asserts substantially the same claims and seeks substantially the same relief against the Allergan Defendants and is brought by the same real party in interest as this action (i.e., The People of the State of California).

**FIFTY-SIXTH AFFIRMATIVE DEFENSE**

**(Additional Defenses)  
(By Allergan Defendants)**

The Allergan Defendants assert, to the extent applicable, each and every defense available to it, including by incorporating by reference any additional defense pleaded by any other defendants not otherwise pleaded herein.

**FIFTY-SEVENTH AFFIRMATIVE DEFENSE**

**(Reservation)  
(By Allergan Defendants)**

The Allergan Defendants reserve the right to supplement their Affirmative Defenses as discovery and equity permit.

**FIFTY-EIGHTH AFFIRMATIVE DEFENSE**

**(No Reliance)  
(By Allergan Defendants)**

Neither the users of opioid medications nor the prescribers relied to their detriment upon any statement, let alone any misrepresentation, made by the Allergan Defendants (or Divested Entities for Kadian® and/or Norco®) in determining to use the medications at issue.

**FIFTY-NINTH AFFIRMATIVE DEFENSE**

**(Medical Necessity)  
(By Allergan Defendants)**

Plaintiff fails to plead and cannot establish that it incurred any costs for any opioid prescription for which the Allergan Defendants are responsible that was medically inappropriate or should not have been written, or that the Allergan Defendants’ allegedly improper conduct (or conduct properly attributable to

1 the Allergan Defendants) caused any health care provider or professional to write any unnecessary,  
2 ineffective, or harmful opioid prescription.

3 **SIXTIETH AFFIRMATIVE DEFENSE**

4 **(Misuse of Products)**  
5 **(By Allergan Defendants)**

6 Plaintiff's claims are barred, in whole or in part, by the alteration, modification, or misuse by  
7 third parties of the opioid medications at issue.

8 **SIXTY-FIRST AFFIRMATIVE DEFENSE**

9 **(Subrogation)**  
10 **(By Allergan Defendants)**

11 Plaintiff has failed to comply with the requirement that it identifies each patient in whose claim(s)  
12 it has a subrogation interest.

13 **SIXTY-SECOND AFFIRMATIVE DEFENSE**

14 **(Due Process and Ex Post Facto)**  
15 **(By Allergan Defendants)**

16 Plaintiff's claims are barred because they violate procedural and substantive due process rights  
17 under the Fourteenth Amendment to the United States Constitution and the Constitution of California, and  
18 the right to be free from retroactive or ex post facto laws as guaranteed by Article I, § 10 of the United  
19 States Constitution and Article I, § 9 of the California State Constitution.

20 **SIXTY-THIRD AFFIRMATIVE DEFENSE**

21 **(No Duty)**  
22 **(By Allergan Defendants)**

23 Plaintiff fails to plead any duty owed to Plaintiff.

24 **SIXTY-FOURTH AFFIRMATIVE DEFENSE**

25 **(Release)**  
26 **(By Allergan Defendants)**

27 Plaintiff's claims are barred, in whole or in part, by the doctrine of release.



1 **SIXTY-FIFTH AFFIRMATIVE DEFENSE**

2 **(Derivative Injury)**  
3 **(By Allergan Defendants)**

4 Plaintiff's claims are barred, in whole or in part, by the doctrine of derivative injury.

5 **SIXTY-SIXTH AFFIRMATIVE DEFENSE**

6 **(Open and Obvious Danger Doctrine)**  
7 **(By Allergan Defendants)**

8 The claims set forth in the 1AC are barred, in whole or in part, by the doctrine of an open and  
9 obvious danger. Prescription opioid products have associated known risks or dangers that can be  
10 unavoidable within the scope of prescribed and intended use but are reasonable in comparison to the  
11 benefits conferred. The risks of opioid medications, were known (and disclosed) to Plaintiff, Plaintiff's  
12 contractors and agents, California consumers, and prescribing doctors for years.

13 **SIXTY-SEVENTH AFFIRMATIVE DEFENSE**

14 **(Standing)**  
15 **(By Allergan Defendants)**

16 Plaintiff lacks standing to assert the claims in its Complaint against the Allergan Defendants.  
17 Specifically, Plaintiff has no *parens patriae* or other authority to bring the claims alleged.

18 **SIXTY-EIGHTH AFFIRMATIVE DEFENSE**

19 **(Informal Guidance)**  
20 **(By Allergan Defendants)**

21 To the extent that Plaintiff relies on letters or other informal guidance from the DEA to establish  
22 the regulatory duties properly attributable to the Allergan Defendants), such informal guidance cannot  
23 enlarge any Defendant's regulatory duties in the absence of compliance by DEA with the requirements by  
24 the Administrative Procedure Act, 5 U.S.C. § 551 et seq.  
25  
26  
27

1  
2 DATED: December 10, 2021

Respectfully submitted,  
KIRKLAND & ELLIS LLP

3  
4 By: /s/Zachary W. Byer

Zachary W. Byer (Bar No. 301382)  
KIRKLAND & ELLIS LLP  
555 South Flower Street Los Angeles, CA  
90071 Telephone: (213) 680-8400  
Email: [zachary.byer@kirkland.com](mailto:zachary.byer@kirkland.com)

Jennifer G. Levy, P.C. (Admitted pro hac vice)  
KIRKLAND & ELLIS LLP 1301  
Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
Telephone: (202) 879-5000  
Email: [jennifer.levy@kirkland.com](mailto:jennifer.levy@kirkland.com)

Donna Welch, P.C. (Admitted pro hac vice)  
Timothy W. Knapp, P.C. (Admitted pro hac vice)  
Karl Stampfl (Admitted pro hac vice)  
KIRKLAND & ELLIS LLP  
300 N. LaSalle St.  
Chicago, IL 60654  
Telephone: (312) 862-2000  
Email: [donna.welch@kirkland.com](mailto:donna.welch@kirkland.com)  
[timothy.knapp@kirkland.com](mailto:timothy.knapp@kirkland.com)  
[karl.stampfl@kirkland.com](mailto:karl.stampfl@kirkland.com)

11  
12  
13  
14  
15  
16  
17  
18 *Attorneys for Defendants Allergan Finance,*  
19 *LLC, Allergan Sales, LLC, Allergan USA, Inc.*  
20 *and Specially Appearing Defendant Allergan*  
21 *plc*

