EFiled: Sep 09 2019 12:16PM EDT
Transaction ID 64177727
Case No. N19C-09-062 MMJ CCLD

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE, ***ex rel.*** **KATHLEEN JENNINGS, Attorney General of the State of Delaware,**	
PLAINTIFF,	**C.A. No. _______________CCLD**
v.	**TRIAL BY JURY OF 12 DEMANDED**
RICHARD SACKLER, JONATHAN SACKLER, MORTIMER D. A. SACKLER, KATHE SACKLER, ILENE SACKLER LEFCOURT, THERESA SACKLER, and DAVID SACKLER,	
DEFENDANTS.	

COMPLAINT

TABLE OF CONTENTS

Plaintiff, State of Delaware, *ex rel.* Kathleen Jennings, Attorney General of the State of Delaware (the "State" or "Delaware"), brings this Complaint for compensatory, punitive, and other damages, and restitution, disgorgement, and civil penalties. The Defendants are Richard Sackler, Jonathan Sackler, Mortimer D. A. Sackler, Kathe Sackler, Ilene Sackler Lefcourt, Theresa Sackler, and David Sackler (collectively, the "Sackler Defendants").

INTRODUCTION

1. In recent years, the frequency of opioid[1] use for both chronic pain and non-medical purposes has grown dramatically, resulting in an epidemic of prescription opioid abuse. Delaware lost 1,007 people to drug overdose deaths between 2014 and 2017,[2] and in 2018 alone, there were 400 such deaths.[3] The "main driver" of such deaths was prescription and illicit opioids.[4] Nationwide,

[1] Prescription opioids are powerful pain-reducing medications. They include nonsynthetic derivatives of the opium poppy (such as codeine and morphine, which are also called "opiates"), partially synthetic derivatives (such as hydrocodone and oxycodone), and fully synthetic derivatives (such as fentanyl and methadone). When used properly, prescription opioids can help manage pain for certain patients. Despite their potential uses, these drugs can cause addiction, overdose, and death, even when used properly. When used to treat chronic pain—or when used for non-medical purposes—those risks are amplified.

[2] CDC, *Drug Overdose Death Data*, https://www.cdc.gov/drugoverdose/data/statedeaths.html (last updated July 1, 2019) (189 deaths in 2014; 198 deaths in 2015; 282 deaths in 2016; 338 deaths in 2017).

[3] Delaware Health and Social Services, Division of Public Health, *Delaware 2017 Drug Overdose Mortality Surveillance Report*, at 8 (August 2019) https://www.dhss.delaware.gov/dhss/dph/files/dedrugoverdosemortsurvrpt2017.pdf; State of Delaware Department of Safety and Homeland Security, *Division of Forensic Science 2018 Annual Report,* at 11, 19 (May 2019), https://forensics.delaware.gov/contentFolder/pdfs/2018%20DFS%20Annual%20Report.pdf.

[4] CDC, *Drug Overdose Death Data*, https://www.cdc.gov/drugoverdose/data/statedeaths.html (last updated July 1, 2019).

millions of Americans are addicted to prescription opioids, and tens of thousands die annually from opioid overdoses.

2. The misconduct of the Sackler Defendants in their direction of Purdue Pharma L.P., Purdue Pharma Inc., and the Purdue Frederick Company (collectively, "Purdue") has created an epidemic of prescription opioid abuse in Delaware. This epidemic resulted in 694 prescription opioid-related deaths in Delaware between 2007 and 2016, and 112 prescription opioid-related deaths in Delaware in 2016 alone.[5] Furthermore, in 2017, the epidemic resulted in 343 Delawarean drug overdose deaths, nearly 60 percent of which involved synthetic opioids.[6] In 2018, drug overdose deaths in Delaware climbed to 400, with synthetic opioids responsible for 72 percent of that total.[7]

---

[5] CDC, Wide-ranging Online Data for Epidemiologic Research (WONDER), *Multiple Cause of Death Data, 1999–2016*, https://wonder.cdc.gov/mcd.html.

[6] Delaware Health and Social Services, Division of Public Health, *Delaware 2017 Drug Overdose Mortality Surveillance Report*, at 5, 15, 20–21 (August 2019) https://www.dhss.delaware.gov/dhss/dph/files/dedrugoverdosemortsurvrpt2017.pdf.

[7] *Id.* at 8; *see also* State of Delaware Department of Safety and Homeland Security, *Division of Forensic Science 2018 Annual Report,* at 11, 19 (May 2019), https://forensics.delaware.gov/contentFolder/pdfs/2018%20DFS%20Annual%20Report.pdf.

3. The epidemic further resulted in at least $100 million drained annually from State resources for the healthcare,[8] criminal justice,[9] social services and welfare,[10] and education systems.[11]

4. Damages suffered by the State (and State agencies) include the costs of (a) medical care, therapeutic and prescription drugs, and other treatments for patients suffering from opioid-related addiction, overdoses, or disease, or from medical conditions exacerbated by opioid abuse; (b) treatment of infants born with opioid-related addiction or medical conditions; (c) law enforcement and public

---

[8] Matric Global Advisors, *Health Care Costs from Opioid Abuse: A State-by-State Analysis* 5 (2015), http://drugfree.org/wp-content/uploads/2015/04/Matrix_OpioidAbuse_040415.pdf (prescription opioid abuse costs the citizens and State of Delaware approximately $109 million in healthcare costs each year); Kohei Hasegawa et al., *Epidemiology of Emergency Department Visits for Opioid Overdose: A Population-based Study*, 89 Mayo Clinic Proceedings 462, 465, 467 (2014) (there are about two times as many opioid overdoses in emergency departments among publicly-insured individuals than among individuals with private insurance and publicly-insured individuals are approximately twice as likely to have a second visit to the emergency departments for opioid overdose as are privately-insured individuals); Cong. Research Serv., *Medicaid's Federal Medical Assistance Percentage (FMAP)* 14–15 (2016), https://fas.org/sgp/crs/misc/R43847.pdf (the State of Delaware pays for approximately 40% of publicly-funded healthcare expenses, or $29 million).

[9] The Nat'l Ctr. on Addiction and Substance Abuse, *Shoveling Up II: The Impact of Substance Abuse on Federal, State, and Local Budgets* 27 (2009), http://www.centeronaddiction.org/addiction-research/reports/shoveling-ii-impact-substance-abuse-federal-state-and-local-budgets (On average, state governments spend 12% more than their healthcare spending on the justice system expenses associated with substance abuse. Thus, compared to the $29 million Delaware spends on opioid-related healthcare, data suggest that the State spends almost $33 million annually on the costs of opioid abuse to the justice system.).

[10] *Id.* (State governments spend 27% of the amount they spend on healthcare to fund the social services related to substance abuse. Applying this percentage to Delaware implies that the State spends almost $8 million annually on social services related to opioid abuse.).

[11] *Id.* (State governments spend 77% of the amount they spend on healthcare on the K–12 education expenses associated with substance abuse. Using these data, Delaware is estimated to spend over $22 million annually to cover the burden of opioid abuse on the State's K–12 education system.).

safety measures necessitated by the opioid crisis; (d) opioid-related counseling and rehabilitation services; (e) welfare for children whose parents suffer from opioid-related disease or incapacitation; and (f) expenditures under Medicaid for purchases of prescription opioids for non-medical, illegitimate, or other improper purposes. Delaware has also suffered substantial damages relating to the lost productivity of Delaware citizens and Delaware businesses, and lower tax revenue for the State. Damages suffered by Delaware citizens include costs of unnecessary opioid prescriptions for chronic pain treatment, out-of-pocket expenditures on medical care, and other treatments related to opioids.

5. The State has previously asserted claims against Purdue for Purdue's role in creating and fueling the opioid epidemic Delaware now faces. *State of Delaware,* ex rel. *Jennings v. Purdue Pharma L.P.*, C.A. No. N18C-01-223, Del. Super. Ct. (Jan. 18, 2019).

6. Purdue is tightly controlled by a small group of executives—the Sackler Defendants.[12] The Sackler Defendants' conduct, through their management, direction, and control of Purdue, was a material cause of the opioid epidemic in Delaware. It also resulted in the Sackler Defendants pocketing billions

[12] For events before July 2012, this Complaint uses "the Sackler Defendants" to refer to Richard Sackler, Jonathan Sackler, Mortimer D. A. Sackler, Kathe Sackler, Ilene Sackler Lefcourt, and Theresa Sackler, who were Members of the Board of Directors of Purdue Pharma L.P. David Sackler joined the Board in July 2012. From that time forward, "the Sackler Defendants" includes David, as well.

of dollars. The State now asks the Court to make these culpable executives pay for the harm they have caused to Delaware and its citizens.

7. Through their management, direction, and control of Purdue, the Sackler Defendants have engaged, and in some cases continue to engage, in a massive marketing campaign to misstate and conceal the risks of treating chronic pain with opioids.

8. Although Purdue was prohibited from marketing opioids through misstatements or omissions of material facts, the Sackler Defendants directed Purdue's sales force to disseminate misstatements nationwide, including in Delaware, through multiple channels. This campaign includes websites, promotional materials, conferences, guidelines for doctors, and other vehicles.

9. The Sackler-directed aggressive marketing campaign enabled Purdue to overcome the longstanding medical consensus that opioids were unsafe for the treatment of chronic pain and resulted in a significant increase in the number of opioids prescribed nationwide. In fact, between 1999 and 2016, the number of

opioids prescribed nationwide quadrupled.[13] Not surprisingly, deaths from prescription opioid use also quadrupled over the same period.[14]

10. The increase in opioid prescriptions to treat chronic pain in turn led to a massive increase in the number of people seeking prescription opioids for non-medical uses and becoming addicted. Nationally, the number of people who take prescription opioids for non-medical purposes is now greater than the number of people who use cocaine, heroin, hallucinogens, and inhalants combined.[15] In Delaware alone, data from the Substance Abuse and Mental Health Services Administration indicate that over 32,000 residents use prescription opioids for non-medical purposes.[16]

---

[13] Li Hui Chen et al., *Drug-poisoning Deaths Involving Opioid Analgesics: United States, 1999–2011*, 166 Nat'l Ctr. for Health Statistics Data Brief (Sept. 2014), https://www.cdc.gov/nchs/data/databriefs/db166.pdf; Rose A. Rudd et al., *Increases in Drug and Opioid-Involved Overdose Deaths—United States, 2010–2015*, 65 Morbidity and Mortality Weekly Report 1445 (Dec. 30, 2016), https://www.cdc.gov/mmwr/volumes/65/wr/mm655051e1.htm.

[14] Anna Lembke, *Drug Dealer MD: How Doctors Were Duped, Patients Got Hooked, and Why It's Hard To Stop*, 4 (2016).

[15] Substance Abuse and Mental Health Servs. Admin., *Results from the 2009 National Survey on Drug Use and Health*, NSDUH Series H-38A, HHS Publication No. SMA 10-4586 Findings (2010).

[16] Substance Abuse and Mental Health Servs. Admin., *National Survey on Drug Use and Health: Comparison of 2002–2003 and 2013–2014 population percentages (50 states and the District of Columbia)* 16–17 (2015), http://www.samhsa.gov/data/sites/default/files/NSDUHsaeLongTermCHG2014/NSDUHsaeLongTermCHG2014.pdf (4.34% of people age 12 or older in Delaware engage in the non-medical use of prescription pain relievers).

11. To remedy the Sackler Defendants' misconduct, the State brings this action for (a) violations of Delaware's Consumer Fraud Act, (b) negligence, and (c) nuisance.[17]

12. The State seeks (a) a cease-and-desist order; (b) compensatory damages for the increased costs to Delaware's healthcare, criminal justice, social services, welfare, and education systems, as well as the cost of lost productivity and lower tax revenue; (c) civil penalties under various provisions of the Delaware Code; (d) reimbursement of all payments fraudulently induced by the Sackler Defendants' conduct; (e) disgorgement of all amounts unjustly obtained by Defendants; (f) restitution of all expenditures by the State and Delaware consumers resulting from the Sackler Defendants' conduct; (g) payment for expenses Delaware and its counties and municipalities have incurred or will incur in the future to abate fully the nuisance the Sackler Defendants have caused; (h) punitive damages; (i) attorneys' fees and costs; and (j) such further relief as justice may require.

---

[17] In bringing this nuisance claim, the State acknowledges Judge Mary Johnston's February 4, 2019 Order in *State of Delaware,* ex rel. *Kathleen Jennings v. Purdue Pharma L.P., et al.*, C.A. No. N18C-01-223 MMJ CCLD (Del. Super. Ct.), dismissing the nuisance claim as stated in that action against all defendants, including Purdue. *State* ex rel. *Jennings v. Purdue Pharma, L.P.*, 2019 WL 446382, at *13 (Del. Super. Ct. Feb. 4, 2019). This Complaint includes additional allegations supporting a nuisance claim and, furthermore, includes the claim to preserve the State's appellate rights.

PARTIES AND PURDUE

I. PLAINTIFF

13. Plaintiff, State of Delaware, *ex rel.* Kathleen Jennings, Attorney General of the State of Delaware, brings this action in the State's capacity as sovereign, in its proprietary capacity, and in its *parens patriae* capacity.

14. The Attorney General is statutorily authorized to initiate and maintain this action and does so pursuant to 6 *Del. C.* § 2522 and 29 *Del. C.* § 2522. This action is also maintained pursuant to the Attorney General's common law *parens patriae* powers.

II. SACKLER DEFENDANTS AND PURDUE

15. Richard Sackler, Jonathan Sackler, Mortimer D. A. Sackler, Kathe Sackler, Ilene Sackler Lefcourt, Theresa Sackler, and David Sackler (i.e., the Sackler Defendants) managed, controlled, and directed Purdue.

16. The three companies that comprise Purdue—the Purdue Frederick Company, Purdue Pharma L.P., and Purdue Pharma Inc.—are privately held companies owned by the Sackler family, including the Sackler Defendants.

17. The three Purdue entities are members of a worldwide group of associated companies, all of which are owned and controlled, directly or indirectly, through family trusts and holding companies, 50 percent by the widow and descendants of Mortimer D. Sackler—including Sackler Defendants Theresa

Sackler (widow), Ilene Sackler Lefcourt (daughter), Kathe Sackler (daughter), and Mortimer D. A. Sackler (son)—and 50 percent by the widow and descendants of Raymond R. Sackler—including Sackler Defendants Jonathan Sackler (son), Richard Sackler (son), and David Sackler (grandson via Richard Sackler). Because Purdue is privately held, all of Purdue's profits from opioids go to the Sackler family through various trusts and other entities.

A. The Purdue Entities

18. The Purdue Frederick Company is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Stamford, Connecticut. The Purdue Frederick Company was acquired by brothers Arthur Sackler, Raymond Sackler, and Mortimer D. Sackler in 1952. Upon Arthur Sackler's death in 1987, his estate sold his share of the Purdue Frederick Company to Raymond Sackler and Mortimer D. Sackler. The Purdue Frederick Company had its own Board of Directors, including Raymond Sackler, Mortimer D. Sackler, and Defendant Richard Sackler. Upon information and belief, the Purdue Frederick Company no longer operates as an active entity. Rather, its previous operations are now conducted by Purdue Pharma L.P. and/or Purdue Pharma Inc.

19. Purdue Pharma L.P. is a limited partnership organized and existing under the laws of the State of Delaware with its principal place of business located

in Stamford, Connecticut. Purdue Pharma L.P. describes itself as "a pioneer in medications for reducing pain, a principal cause of human suffering."[18] Purdue Pharma L.P. is the face of the Purdue pharmaceutical business, handling sales, marketing, and research on behalf of the Sackler Defendants.

20. Purdue Pharma Inc. is a corporation organized and existing under the laws of New York State with its principal place of business located in Stamford, Connecticut. Purdue Pharma Inc. is the general partner of Purdue Pharma L.P. and has the sole responsibility for managing and operating the business of Purdue Pharma L.P. Because Purdue Pharma L.P. does not have its own Board of Directors, the Purdue Pharma Inc. Board of Directors ("the Board") makes all of the decisions for Purdue Pharma L.P., acting as its *de facto* board.

21. Purdue Pharma L.P. and Purdue Pharma Inc. share the same physical offices, the same CEO, and many of the same officers.

B. The Sackler Defendants

22. The Sackler Defendants each held or hold a seat on the Board. Together, they always held the controlling majority of the Board, which gave them full power over Purdue.

[18] Purdue Pharma L.P., *Patients and Caregivers*, https://www.purduepharma.com/patients-caregivers/ (last visited Sept. 3, 2019).

23. The small and closely-held nature of Purdue and its associated entities makes the companies, in effect, the personal enterprises and agents of the Sackler Defendants. Because the Sackler Defendants control the Board, the officers of the company report directly to them, ensuring the Sackler Defendants' control over the company even if the company's officers were not themselves members of the Sackler family. For example, in 1994, Jonathan Sackler issued a memorandum to Purdue staff requiring that the Sackler Defendants receive "all Quarterly Reports and any other reports directed to the Board."[19]

24. With their power on the Board, the Sackler Defendants directed deceptive sales and marketing practices deep within Purdue, sending hundreds of orders to executives and line employees. From the money that Purdue collected selling opioids, they paid themselves and their family billions of dollars.

25. Richard Sackler, the named inventor on dozens of patents relating to oxycodone, was a Board Member from 1990 to 2018 and a Co-Chair of the Board from 2003 to 2018. He served as head of research and development at Purdue Pharma L.P. from at least 1990 through 1999 and Purdue Pharma L.P. President from 1999 to 2003. Richard Sackler resides in Florida.

---

[19] PDD1701827936. Where Bates-numbered documents are cited in this Complaint, those citations, and the descriptions of the associated documents, stem from the unsealed Complaint against the Sackler Defendants filed in Massachusetts Superior Court. First Amended Complaint and Jury Demand, *Massachusetts v. Purdue Pharma L.P.*, No. 1884-cv-01808 (Mass. Super. Ct. Jan. 31, 2019).

26. Jonathan Sackler served as a Purdue Pharma L.P. Vice President and Senior Vice President during the period of development, launch, promotion, and marketing of OxyContin (until 2003). He has been a Board Member from 1990 to the present. Jonathan Sackler resides in Connecticut.

27. Mortimer D. A. Sackler served as a Purdue Pharma L.P. Vice President during the period of development, launch, promotion, and marketing of OxyContin (until 2003). He has been a Board Member from 1993 to the present. Mortimer D. A. Sackler resides in New York.

28. Kathe Sackler served as a Purdue Pharma L.P. Vice President during the period of development, launch, promotion, and marketing of OxyContin (until 2003). She was a Board Member from 1990 to 2018. Kathe Sackler resides in Connecticut.

29. Ilene Sackler Lefcourt was a Board Member from 1990 to 2018. Ilene Sackler Lefcourt resides in New York.

30. Beverly Sackler was a Board Member from 1993 to 2017. Beverly Sackler resides in Connecticut.

31. Theresa Sackler was a Board Member from 1993 to 2018. Theresa Sackler resides in New York.

32. David A. Sackler was a Board Member from 2012 to 2018. David Sackler resides in New York.

JURISDICTION AND VENUE

33. Jurisdiction of this Court is proper under Article IV, Section 7, of the Delaware Constitution and 10 *Del. C.* § 541.

34. This case qualifies for assignment to the Superior Court Complex Commercial Litigation Division because the amount in controversy exceeds One Million Dollars ($1,000,000).

35. This Court has personal jurisdiction over the Sackler Defendants pursuant to Delaware's long-arm statute, 10 *Del. C.* § 3104(c).

36. Specifically, each Defendant has caused tortious injuries in the State by acts or omissions committed outside of the State and has regularly done and solicited business in Delaware, engaged in a persistent course of conduct in the State, and derived substantial revenue from service and things consumed in the State. 10 *Del. C.* § 3104(c)(4).

37. As described more specifically throughout this Complaint, the Sackler Defendants have engaged in a persistent course of action under which they directed their agents to commit wrongdoing within the State of Delaware in the form of marketing misrepresentations and other fraudulent activity. These actions have led to circumstances under which Delaware doctors have overprescribed Purdue opioids and Delaware citizens have used, become addicted to, and sometimes died as a result of the Sackler Defendants' misconduct.

38. The Sackler Defendants' actions have caused tortious injuries in the State both to individual citizens (for which this Complaint does not seek to remedy) and to the State itself, which has been forced to expend significant resources to redress the harms caused by the opioid epidemic.

39. Similarly, under Delaware law, the consumer fraud violations committed by the Sackler Defendants give rise to "tortious injury" for purposes of 10 *Del. C.* § 3104(c)(4).

40. As further described herein, the Sackler Defendants have sufficient "minimum contacts" with Delaware to satisfy the long-arm statute's requirement that "the person regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from service, or things consumed in the State." 10 *Del. C.* § 3104(c)(4).

41. First, at least two of the Sackler Defendants, Jonathan Sackler and Richard Sackler, were involved in the formation of Purdue Pharma L.P. (a Delaware limited partnership). As discussed throughout, Purdue Pharma L.P., together with the other Purdue entities named in the State's separate action, *State of Delaware,* ex rel. *Kathleen Jennings*, C.A. No. N18C-01-223 MMJ CCLD, were involved in the creation and fueling of the opioid epidemic in Delaware.

42. Second, the Sackler Defendants participated in Purdue Pharma L.P.'s management because they were all Board Members of that company's general partner (Purdue Pharma Inc.).

43. Finally, the Sackler Defendants have derived substantial revenue from the sale of prescription opioids within Delaware. Significantly, the revenue derived from the sale of these products was the very result of the misconduct alleged in this Complaint.

FACTUAL BACKGROUND[20]

I. PRESCRIPTION OPIOIDS ARE HIGHLY DANGEROUS

44. Prescription opioids are powerful pain-reducing medications that include nonsynthetic, partially synthetic, and fully synthetic derivatives of the opium poppy. While these drugs can have benefits when used properly, they also pose serious risks. In particular, government agencies have warned that opioids present risk when used to treat chronic pain and "can cause serious harm, including addiction, overdose and death" when "misused or abused."[21]

---

[20] Certain of the allegations included in this Complaint mirror those filed in the First Amended Complaint in *State of Delaware,* ex rel. *Kathleen Jennings v. Purdue Pharma L.P., et al.*, C.A. No. N18C-01-223 MMJ CCLD (Del. Super. Ct.), the State's pending action against Purdue and other members of the prescription opioid industry for the harms the State has suffered due to the opioid epidemic. These allegations have been included for context and clarity, and to put the Sackler Defendants on notice of the pertinent facts underlying the various claims asserted against them.

[21] FDA News Release, *FDA Launches Public Education Campaign to Encourage Safe Removal of Unused Opioid Pain Medicines from Homes,* https://www.fda.gov/news-events/press-announcements/fda-launches-public-education-campaign-encourage-safe-removal-unused-opioid-pain-medicines-homes (last updated 4/25/2019).

45. Given these risks, the marketing, distribution, and sale of prescription opioids are heavily regulated under Delaware and federal law. Delaware's Uniform Controlled Substances Act (16 *Del. C.* §§ 4701, *et seq.*), Uniform Controlled Substances Act Regulations (24 *Del. Admin. C.* CSA 1.0 *et seq.*) code sections regarding branding of drugs (e.g., 16 *Del. C.* §§ 3302, *et seq.*), and numerous professional regulations related to persons who handle, prescribe, and dispense controlled substances provide strict controls and requirements throughout the opioid distribution chain. These provisions of Delaware law also incorporate and reference federal law regarding the marketing, distribution, and sale of prescription opioids, including the Federal Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.*, and the Federal Food, Drug, and Cosmetic Act, 21 U.S. §§ 321 *et seq.*

46. As discussed below, despite the dangers of prescription opioids, the Sackler Defendants, through their direction of Purdue, wrongfully marketed them through misleading statements that minimized the risk of these drugs and failed to disclose accurately the true magnitude of those risks. The actions of the Sackler Defendants created a huge market for prescription opioids, which in turn led to massive diversion of these drugs from legitimate to illegitimate channels.

II. THE SACKLER DEFENDANTS HAVE LEGAL DUTIES TO DISCLOSE ACCURATELY THE RISKS OF OPIOIDS

47. As a manufacturer of opioids, Purdue has a legal obligation under Delaware statutory and common law to exercise reasonable care in the marketing, promotion, and sale of opioids. The Sackler Defendants, who managed, controlled, and directed Purdue during the relevant time period, had a duty to exercise reasonable care in the management, direction, and control of Purdue so as not to cause harm through the marketing, promotion, and sale of opioids.

48. Under Delaware law, "No person shall manufacture, sell or trade in, within this State, any article of food or drugs which is . . . misbranded . . . within the meaning of this chapter." 16 *Del. C.* § 3302. The referenced chapter incorporates "the definition of misbranding in the Federal Food, Drug, and Cosmetic Act." *See* 16 *Del. C.* § 3308. The Federal Food, Drug, and Cosmetic Act defines misbranding to include misleading advertising. *See* 21 U.S.C. § 321(n). It further defines misleading advertising to include both "representations made or suggested by statement, word, design, device, or any combination thereof," and:

> the extent to which the labeling or advertising fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertising relates under the conditions of use prescribed in the labeling or advertising thereof or under such conditions of use as are customary or usual.

Id. This applies to the Sackler Defendants.

49. The Sackler Defendants also have a common law "duty to make a full and fair disclosure as to the matters about which" they choose to speak.

III. THE SACKLER DEFENDANTS VIOLATED THEIR DUTIES

A. Purdue's Misconduct was Managed, Controlled, and Directed by the Sackler Defendants

50. All of Purdue's misconduct, described in further detail below, was at the direction of the Sackler Defendants, who were the chief architects and beneficiaries of Purdue's deception. The Sackler family owns Purdue, and the Sackler Defendants always held a majority of the seats on the Board. Because they controlled their own privately held drug companies (which acted as their agents), the Sackler Defendants had the power to decide how addictive narcotics were marketed and sold. They hired hundreds of workers, including sales representatives, to carry out their wishes, and they fired those who did not sell enough drugs. They got more patients on opioids at higher doses and for longer than ever before. They paid themselves billions of dollars in profits derived from the sales of these opioids. They are responsible for addiction, overdose, and death that damaged millions of lives, including thousands of Delaware citizens.

51. The Sackler Defendants controlled the misconduct described in this Complaint.

52. Each Sackler Defendant knowingly and intentionally sent sales representatives to promote opioids to prescribers in Delaware thousands of times.

53. Each Sackler Defendant knew and intended that the sales representatives in Delaware would unfairly and deceptively promote opioid sales that are risky for patients, including by falsely blaming the dangers of opioids on patients instead of the addictive drugs; pushing opioids for elderly patients, without disclosing the higher risks; pushing opioids for patients who had never taken them before, without disclosing the higher risks; pushing opioids as substitutes for safer medications, with improper comparative claims; falsely assuring doctors and patients that reformulated OxyContin was safe; pushing doctors and patients to use higher doses of opioids, without disclosing the higher risks; pushing doctors and patients to use opioids for longer periods of time, without disclosing the higher risks; and pushing opioid prescriptions by doctors that Purdue knew were writing dangerous prescriptions.

54. Each Sackler Defendant knew and intended that Purdue's sales representatives, their agents, would not tell Delaware doctors and patients the truth about Purdue's opioids. Indeed, they knew and intended these unfair and deceptive tactics achieved their purpose by concealing the truth.

55. Each Sackler Defendant knew and intended that prescribers, pharmacists, and patients in Delaware would rely on Purdue's deceptive sales

campaign to prescribe, dispense, and take Purdue opioids. Securing that reliance was the purpose of the sales campaign.

56. Each Sackler Defendant knew and intended that staff reporting to them would pay top prescribers tens of thousands of dollars to encourage other doctors to write dangerous prescriptions in Delaware.

57. Each Sackler Defendant knew and intended that staff reporting to them would reinforce these misleading acts through thousands of additional acts in Delaware, including by sending deceptive publications to Delaware doctors.

58. Each Sackler Defendant knowingly and intentionally took money from Purdue's deceptive business in Delaware.

59. Each Sackler Defendant knowingly and intentionally sought to conceal his or her misconduct.

B. At the Sackler Defendants' Direction, Purdue Made Misleading Statements About the Risks of Prescribing Opioids to Treat Chronic Pain and Failed to State Accurately the Magnitude of Those Risks

60. Under the management, control, and direction of the Sackler Defendants, Purdue has engaged in a multi-million-dollar marketing campaign to minimize and misstate the risks of addiction and abuse when prescription opioids are used to treat chronic pain.

61. In an effort to increase sales, and therefore profits for the Sackler Defendants, Purdue made statements through websites, promotional materials,

conferences, guidelines for doctors, and other vehicles that suggested that the risk of opioid addiction when used for chronic pain was low—statements directly contrary to established scientific evidence. Purdue's marketing claims also differ from the safety warnings that Purdue must place on many of their opioid products.

1. Purdue Misrepresented the Risks of Addiction to Prescription Opioids

62. Purdue contributed content and funding to numerous "guidelines" on opioid use that misleadingly downplayed the risks of opioid addiction when prescribed for chronic pain. For instance, "A Policymaker's Guide to Understanding Pain & Its Management," an October 2011 American Pain Foundation pamphlet "made possible by support from Purdue Pharma L.P.," asserted that "[l]ess than 1 percent of children treated with opioids become addicted" and that pain was generally "undertreated" due to "misconceptions about opioid addiction."[22] Likewise, "Treatment Options: A Guide for People Living with Pain," a 2006 American Pain Foundation pamphlet financially supported by Purdue, instructed that addiction is rare and limited to certain extreme cases.[23]

63. Purdue produced and provided directly to doctors and patients marketing materials that made similar misstatements. Purdue issued marketing

---

[22] Am. Pain Found., *A Policymaker's Guide to Understanding Pain & Its Management* (Oct. 2011), http://s3.documentcloud.org/documents/277603/apf-policymakers-guide.pdf.
[23] Am. Pain Found., *Treatment Options: A Guide for People Living with Pain* (2006), https://assets.documentcloud.org/documents/277605/apf-treatmentoptions.pdf.

materials, starting in 1996, stating that "addiction to opioids legitimately used in the management of pain is very rare."[24]

64. Purdue trained salesmen to minimize the risk of addiction when discussing opioids with doctors. For instance, Purdue salesmen were instructed to tell doctors that opioids' addiction risk was "less than one percent."[25]

65. Purdue sponsored training sessions for doctors in the late 1990s and early 2000s where opioid addiction was described as "exquisitely rare."[26]

66. All of these statements were contrary to scientific facts. The Centers for Disease Control and Prevention ("CDC") has directly contradicted Purdue's representations that opioid addiction is rare when opioids are used properly. The CDC has stated that (1) there is "extensive evidence" of the possible harms of opioids, including addiction; (2) "[o]pioid pain medication use presents serious risks," including addiction; and (3) using opioids to treat chronic pain "substantially increases" the risk of addiction.[27] A 2016 CDC guideline discusses

---

[24] Drug Label for Oxycodone Hydrochloride 5mg Capsule, https://dailymed.nlm.nih.gov/dailymed/archives/fdaDrugInfo.cfm?archiveid=41068.
[25] U.S. Gov't Accountability Office, *Prescription Drugs: OxyContin Abuse and Diversion and Efforts to Address the Problem* (Dec. 2003), https://www.gpo.gov/fdsys/pkg/GAOREPORTS-GAO-04-110/content-detail.html.
[26] Barry Meier, *Pain Killer: A "Wonder" Drug's Trail of Addiction and Death* 190 (2003).
[27] Deborah Dowell, Tamara Haegerich, & Roger Chou, *CDC Guideline for Prescribing Opioids for Chronic Pain – United States, 2016*, 65 Morbidity and Mortality Weekly Report 1 (2016), https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm.

studies that found that as many as 26 percent of long-term users of opioids experience problems with addiction or dependence.[28]

67. Moreover, in August 2016, the U.S. Surgeon General published an open letter to physicians nationwide, worrying that "heavy marketing to doctors" had led many to be "taught—incorrectly—that opioids are not addictive when prescribed for legitimate pain." This letter also noted the "devastating" results that followed from this misinformation.[29]

68. Findings by the Food and Drug Administration ("FDA") similarly belie Purdue's assertions that opioids are safe for treating chronic pain. These findings show that (1) "most opioid drugs have 'high potential for abuse'"; (2) treatment of chronic pain with opioids poses "known serious risks," including "addiction, abuse, and misuse . . . overdose and death" even when used "at recommended doses"; and (3) opioids should be used only "in patients for whom alternative treatment options" have failed.[30] And several published clinical studies

---

[28] *Id.*

[29] Letter from U.S. Surgeon General Vivek H. Murthy (Aug. 2016), https://perma.cc/VW95-CUYC.

[30] Food and Drug Admin., Letter from Janet Woodcock, M.D., Dir. of Ctr. for Drug Evaluation and Research, to Andrew Kolodny, M.D. Responding to Petition Submitted by Physicians for Responsible Opioid Prescribing (Sept. 10, 2013), http://www.supportprop.org/wp-content/uploads/2014/12/FDA_CDER_Response_to_Physicians_for_Responsible_Opioid_Prescribing_Partial_Petition_Approval_and_Denial.pdf.

finding double-digit rates of prescription drug abuse in chronic pain patients controvert Purdue's claims that addiction rates are only one percent.[31]

69. Similarly, a prominent neuropharmacologist at the Washington University School of Medicine in St. Louis, Missouri, Dr. Theodore Cicero, remarked in 2016 that Purdue's OxyContin dosing is "the perfect recipe for addiction" due to its encouragement of psychological and physical withdrawal symptoms.[32]

70. As recently as June 2017, the New England Journal of Medicine published an analysis finding that Purdue's introduction of OxyContin into the marketplace coincided with a significant increase in misleading dissemination of the claim that addiction to opioids is rare. Moreover, the authors of the June 2017 analysis concluded that "[w]e believe that this citation pattern contributed to the North American opioid crisis by helping to shape a narrative that allayed

---

[31] Caleb J. Banta-Green et al., *Opioid Use Behaviors, Mental Health and Pain—Development of a Typology of Chronic Pain Patients*, 104 Drug and Alcohol Dependence 34 (Sept. 2009), http://dx.doi.org/10.1016/j.drugalcdep.2009.03.021; Joseph A. Boscarino et al., *Risk Factors for Drug Dependence Among Out-Patients on Opioid Therapy in a Large US Health-Care System*, 105 Addiction 1776 (Oct. 2010), http://dx.doi.org/10.1111/j.1360-0443.2010.03052.x; Jette Højsted et al., *Classification and Identification of Opioid Addiction in Chronic Pain Patients*, 14 European J. of Pain 1014 (Nov. 2010), http://dx.doi.org/10.1016/j.ejpain.2010.04.006.

[32] Harriet Ryan, '*You Want a Description of Hell?' OxyContin's 12-Hour Problem*," Los Angeles Times, May 5, 2016, http://www.latimes.com/projects/oxycontin-part1/.

prescribers' concerns about the risk of addiction associated with long-term opioid therapy."[33]

2. Purdue Misleadingly Claimed that Patients Who Were Showing Signs of Addiction Were Not Actually Addicted

71. Purdue also made false statements through various channels that individuals showing signs of opioid addiction might instead have untreated pain requiring additional opioids—a baseless theory labeled "pseudoaddiction."

72. Purdue published a physician education pamphlet in 2011 entitled *Providing Relief, Preventing Abuse* that suggested that drug-seeking behavior could be a sign of such "pseudoaddiction," which the pamphlet described as "[drug-seeking behaviors] in patients who have pain that has not been effectively treated."[34] The pamphlet thus implied that seeking more opioids might actually be a sign of insufficiently treated pain. Purdue employed the term "pseudoaddiction" in numerous other marketing materials, including a 2007 book titled "Responsible Opioid Prescribing – A Physician's Guide."[35]

---

[33] Pamela T. M. Leung et al., *A 1980 Letter on the Risk of Opioid Addiction*, 376 New England J. of Med. 2194 (June 1, 2017), http://www.dx.doi.org/10.1056/NEJMc1700150.
[34] Purdue Pharma L.P., *Providing Relief, Preventing Abuse: A Reference Guide to Controlled Substances Prescribing Practices*, 9 (2d ed. 2011).
[35] Scott M. Fishman, *Responsible Opioid Prescribing: A Physician's Guide* (2007).

73. However, there is no scientific support for the concept of "pseudoaddiction," a term coined by Dr. J. David Haddox, the Vice President of Health Policy for Purdue.[36]

74. The 2016 CDC Guideline rejects the concept of pseudoaddiction. Rather than recommending that opioid doses be increased if patients do not experience pain relief, the Guideline states that "[p]atients who do not experience clinically meaningful pain relief early in treatment . . . are unlikely to experience pain relief with longer term use"[37] and that doctors should "reassess[] pain and function within 1 month" so as to "minimize risks of long-term opioid use . . . ."[38]

3. Purdue Falsely Claimed that There Was No Risk in Increasing Opioid Dosages to Treat Chronic Pain

75. Purdue also falsely claimed that doctors and patients could increase opioid dosages indefinitely without added risk.

76. Guidelines produced by an organization sponsored by Purdue—namely "Treatment Options: A Guide for People Living with Pain" (2006) and "A Policymaker's Guide to Understanding Pain & Its Management" (2011)—claim

---

36 Marion S. Greene & R. Andrew Chambers, *Pseudoaddiction: Fact or Fiction? An Investigation of the Medical Literature*, 2 Current Addiction Reports 310 (Oct. 1, 2015), http://dx.doi.org/10.1007/s40429-015-0074-7.
37 Deborah Dowell, Tamara Haegerich, & Roger Chou, *CDC Guideline for Prescribing Opioids for Chronic Pain – United States, 2016*, 65 Morbidity and Mortality Weekly Report 1, 13 (2016), https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm.
38 *Id.* at 25.

that (a) some patients "need" a larger opioid dose, regardless of the dose prescribed; (b) opioids have "no ceiling dose" and are therefore the most appropriate treatment for severe pain; and (c) dosage escalations, even unlimited ones, are "sometimes necessary."[39]

77. As recently as June 2015, Purdue's "In the Face of Pain" website was promoting the notion that if a patient's doctor does not prescribe what, in the patient's view, is a sufficient dosage of opioids, the patient should find another doctor who will. Also in 2015, Purdue presented a paper at the College on the Problems of Drug Dependence, challenging the correlation between opioid dosage and overdose.[40] And in 2016, Purdue's Dr. Haddox falsely claimed that evidence does not show that Purdue's opioids are being abused in large numbers.

78. Purdue made these statements despite strong contrary scientific evidence. The FDA has stated that the available data "suggest a relationship between increasing opioid dose and risk of certain adverse events."[41] The CDC

---

[39] Am. Pain Found., *Treatment Options: A Guide for People Living with Pain* (2006), https://assets.documentcloud.org/documents/277605/apf-treatmentoptions.pdf; Am. Pain Found., *A Policymaker's Guide to Understanding Pain & Its Management* (Oct. 2011), http://s3.documentcloud.org/documents/277603/apf-policymakers-guide.pdf.
[40] A. DeVeaugh-Geiss et al., *Is Opioid Dose a Strong Predictor of the Risk of Opioid Overdose?: Important Confounding Factors that Change the Dose-overdose Relationship*, CPDD 76th Annual Scientific Meeting Program (June 2014), http://cpdd.org/wp-content/uploads/2016/07/2014CPDDprogrambook.pdf.
[41] Food and Drug Admin., Letter from Janet Woodcock, M.D., Dir. of Ctr. for Drug Evaluation and Research, to Andrew Kolodny, M.D. Responding to Petition Submitted by Physicians for Responsible Opioid Prescribing (Sept. 10, 2013), http://www.supportprop.org/wp-

has stated that there is "an established body of scientific evidence showing that overdose risk is increased at higher opioid dosages," and has specifically recommended that doctors "avoid increasing doses" above 90 morphine milligram equivalents ("MME") per day. [42]

79. Nonetheless, Purdue misrepresented the effects of escalating dosages to further their relentless pursuit of corporate profit. The ability to escalate dosages was critical to Purdue's efforts to market opioids for chronic pain treatment because doctors would otherwise abandon treatment when patients built up tolerance and no longer obtained pain relief. And for at least some products, escalation of dosage was key: of the seven available OxyContin tablet strengths, the three strongest—40 milligrams (120 MME), 60 milligrams (180 MME), and 80 milligrams (240 MME)—all exceed the CDC limit when taken twice per day as directed.

C. Purdue's Misleading Statements Were Designed for Maximum Effect and Targeted to Specific Audiences

80. Purdue disseminated these misstatements to doctors through a wide array of sources, each designed to maximize impact and targeted to a specific receptive audience.

---

content/uploads/2014/12/FDA_CDER_Response_to_Physicians_for_Responsible_Opioid_Prescribing_Partial_Petition_Approval_and_Denial.pdf.

[42] Deborah Dowell, Tamara Haegerich, & Roger Chou, *CDC Guideline for Prescribing Opioids for Chronic Pain – United States, 2016*, 65 Morbidity and Mortality Weekly Report 1 (2016), https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm.

81. Purdue often delivered its misstatements through "opinion leaders"—doctors in the field of pain management who Purdue heavily funded. Purdue frequently used opinion leaders to deliver its message because it knew that doctors often placed great confidence in seemingly independent peers.

82. One notable opinion leader was Dr. Russell Portenoy, who held himself out as an unbiased expert on opioids but received substantial funding from Purdue. Dr. Portenoy gave, in his words, "innumerable" lectures and media appearances promoting opioids.[43] During these appearances, he routinely downplayed the dangers of opioids. In 2010, he said on Good Morning America that "[a]ddiction, when treating pain, is distinctly uncommon" and that "most doctors can feel very assured that that person is not going to become addicted." He also regularly repeated—including in a 1986 paper published in the journal of the American Pain Society, a 1996 paper written on behalf of the American Pain Society and the American Academy of Pain, and numerous lectures—the unsubstantiated claim that the addiction risk posed by opioids was lower than one percent.[44] Dr. Portenoy later conceded that some of his statements were

---

[43] Thomas Catan & Evan Perez, *A Pain-Drug Champion Has Second Thoughts*, The Wall Street Journal, Dec. 17, 2012,https://www.wsj.com/articles/SB10001424127887324478304578173342657044604.

[44] Russell Portenoy, *Chronic Use of Opioid Analgesics in Non-Malignant Pain: Report of 38 Cases*, 25 Pain 171 (May 1986), https://www.ncbi.nlm.nih.gov/pubmed/2873550; Russell Portenoy, *Opioid Therapy for Chronic Nonmalignant Pain: A Review of the Critical Issues*, 11 J. of Pain and Symptom Mgmt. 203 (Apr. 1996), http://dx.doi.org/10.1016/0885-3924(95)00187-5;

misleading. In December 2012, he was quoted as saying, "Did I teach about pain management, specifically about opioid therapy, in a way that reflects misinformation? Well, . . . I guess I did."[45]

83. Between 2001 and 2010, Purdue's "In the Face of Pain" website similarly presented the statements of opinion leaders who were portrayed as independent experts, including Dr. Portenoy and other doctors associated with the American Pain Foundation. The website not only failed to disclose that Purdue had paid many of these opinion leaders for other work, but also did not identify Purdue's involvement beyond a small copyright notice at the bottom of the website.[46]

84. Purdue also often disseminated its misstatements through industry groups that presented themselves to the public as independent patient advocacy organizations, but whose content and funding came largely from Purdue. These groups included the American Pain Foundation, the American Pain Society, and the American Academy of Pain Medicine. Much like the opinion leaders, these

---

Russell Portenoy, *Opioid Therapy for Chronic Nonmalignant Pain*, 1 Pain Research and Mgmt. 17 (1996), http://downloads.hindawi.com/journals/prm/1996/409012.pdf.

[45] Thomas Catan & Evan Perez, *A Pain-Drug Champion Has Second Thoughts*, The Wall Street Journal, Dec. 17, 2012, https://www.wsj.com/articles/SB10001424127887324478304578173342657044604.

[46] Advocacy Voices, In the Face of Pain (archived Nov. 7, 2010), https://web.archive.org/web/20101107090355/http://www.inthefaceofpain.com:80/search.aspx?cat=4#7.

industry groups allowed Purdue to present its misstatements as if they came from unbiased experts.

85. These groups published many of the misleading "guidelines" described above, based on content and funding provided by Purdue, including: (1) "Clinical Guidelines for the Use of Chronic Opioid Therapy in Chronic Noncancer Pain" (2009);[47] (2) "A Policymaker's Guide to Understanding Pain & Its Management" (2011);[48] and (3) "Treatment Options: A Guide for People Living with Pain" (2006).[49] In 2007, the American Pain Society repeated, at a Senate Judiciary Committee hearing, Purdue's misstatements that addiction was a "rare problem" for patients using opioids for chronic pain and that there was "no causal effect . . . between the marketing of [a particular opioid] and the abuse and diversion of the drug."[50]

86. Purdue also conducted conferences, training sessions, and educational programs for doctors, often with all expenses paid at resort destinations. These

[47] Roger Chou et al., *Clinical Guidelines for the Use of Chronic Opioid Therapy in Chronic Noncancer Pain*, 10 The J. of Pain 113 (Feb. 2009), http://dx.doi.org/10.1016/j.jpain.2008.10.008.
[48] Am. Pain Found., *A Policymaker's Guide to Understanding Pain & Its Management* (Oct. 2011), http://s3.documentcloud.org/documents/277603/apf-policymakers-guide.pdf.
[49] Am. Pain Found., *Treatment Options: A Guide for People Living with Pain* (2006), https://assets.documentcloud.org/documents/277605/apf-treatmentoptions.pdf.
[50] *Evaluating the Propriety and Adequacy of the OxyContin Criminal Settlement: Hearing Before the S. Comm. on Judiciary*, 110th Cong. 1 (2007) (Statement of James Campbell, M.D.).

events were useful to Purdue because studies show that such events influence the attending practitioners' prescribing habits and views towards a drug.[51]

87. From 1996 to 2001, Purdue conducted more than 40 pain management and speaker training sessions at resorts to recruit and train physicians, nurses, and pharmacists as speakers on behalf of Purdue.[52] Purdue trained more than 5,000 people at these all-expenses-paid events.[53] In addition, the Drug Enforcement Administration (the "DEA") has estimated that Purdue funded over 20,000 opioid pain-related educational programs between 1996 and July 2002 through direct sponsorship or financial grants.[54]

88. Purdue also used direct salesmen to market opioids. These salesmen often received the majority of their compensation based on individual sales figures, ensuring that they were strongly motivated to present their audiences with misleading information minimizing the risks of opioids.[55]

---

[51] Ray Moynihan, *Doctors' Education: The Invisible Influence of Drug Company Sponsorship*, 336 The BMJ 416 (Feb. 23, 2008), http://dx.doi.org/10.1136/bmj.39496.430336.DB; A.C. Anand, *Professional Conferences, Unprofessional Conduct*, 67 Medical J. Armed Forces India 2 (Jan. 2011), http://dx.doi.org/10.1016/S0377-1237(11)80002-X; David McFadden et al., *The Devil Is in the Details: The Pharmaceutical Industry's Use of Gifts to Physicians as Marketing Strategy*, 140 J. of Surgical Research 1 (2007), http://dx.doi.org/10.1016/j.jss.2006.10.010.
[52] U.S. Go't Accountability Office, *Prescription Drugs: OxyContin Abuse and Diversion and Efforts to Address the Problem* (Dec. 2003), https://www.gpo.gov/fdsys/pkg/GAOREPORTS-GAO-04-110/content-detail.html.
[53] *Id.*
[54] *Id.*
[55] *Id.*

89. Purdue not only issued misstatements through channels thought to be the most productive, but also targeted marketing to doctors who would be most receptive to the misstatements.

90. Purdue specifically targeted its marketing to primary care physicians, who are generally less aware of the medical literature regarding the dangers of treating chronic pain with opioids. One longtime Purdue collaborator speaking to an FDA advisory panel on January 30, 2002, acknowledged this fact, stating that "[g]eneralists are adopting [opioid] therapy without adequate knowledge of pain management principles."[56] On information and belief, Purdue also directly targeted susceptible patients like veterans and the elderly.

91. Purdue developed methods to target specifically physicians who were already prescribing higher than average numbers of opioids. Purdue created a database to identify physicians with large numbers of chronic-pain patients (which also showed which physicians were simply the most frequent prescribers of opioids). This database has given Purdue extensive knowledge of where and how its drugs are being used across the country, including in Delaware, and has allowed Purdue to target doctors already susceptible to its message.[57]

---

[56] Food and Drug Admin., Anesthetic and Life Support Drugs Advisory Comm., Tr. of Meeting (Jan. 30, 2002), https://www.fda.gov/ohrms/dockets/ac/02/transcripts/3820t1.pdf.

[57] Art Van Zee, *The Promotion and Marketing of OxyContin: Commercial Triumph, Public Health Tragedy*, 99 Am. J. of Public Health 221, 222 (Feb. 2009), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2622774/pdf/221.pdf.

D. The Sackler Defendants Were Intimately Involved with the Day-to-Day Management of Purdue

92. For over a decade, the Sackler Defendants directed, controlled, and managed Purdue as it developed, launched, and deceptively marketed opioids. The Sackler Defendants were motivated by profits as they directed their sales representatives to mislead physicians and the public about the dangers of the drugs they were peddling. In the face of evidence of growing addiction to Purdue opioids and accompanying social ills, and despite government investigations resulting in a criminal guilty plea, the Sackler Defendants callously pushed for greater and greater sales—by whatever means and at whatever cost. In so doing, they were not a hands-off Board, content to rubber-stamp what others presented to them; rather, they were intimately involved in the minutiae of running Purdue, down to accompanying sales representatives on their rounds. Purdue was truly a family enterprise, and the Sackler Defendants managed it closely.

93. And the Sackler Defendants profited handsomely from their self-serving management of Purdue. As described in further detail below, based on currently available information, from 2008 through 2013 alone, the Sackler Defendants voted to pay themselves (either personally or through their holding companies and trusts) at least $3.16 billion in Purdue profits.

1. 1996–2002: Oxycontin Launches, and the Sackler Defendants Commit to Its Success at Any Cost

94. In May 1996, Purdue launched OxyContin with the marketing claim that one dose relieves pain for 12 hours, more than twice as long as other medications. From the start, the Sackler Defendants were intimately involved in the selling of Purdue opioids. At the OxyContin launch party, Richard Sackler asked the audience to imagine a series of natural disasters—an earthquake, a volcanic eruption, a hurricane, and a blizzard. He said, "the launch of OxyContin Tablets will be followed by a blizzard of prescriptions that will bury the competition. The prescription blizzard will be so deep, dense, and white . . . ."[58]

95. In February 1997, the Sackler Defendants considered whether they could sell OxyContin in some countries as an uncontrolled drug. Staff reported to Richard Sackler that selling OxyContin as "non-narcotic," without the safeguards that protect patients from addictive drugs, would provide "a vast increase of the market potential."[59] The inventor of OxyContin, Robert Kaiko, wrote to Richard Sackler that he was "very concerned" about the danger of selling OxyContin without strict controls, noting, "I don't believe we have a sufficiently strong case to argue that OxyContin has minimal or no abuse liability" and "oxycodone

[58] PKY180280951.
[59] PDD1701346000.

containing products are still among the most abused opioids in the U.S. . . . If OxyContin is uncontrolled, . . . it is highly likely that it will eventually be abused." Richard responded, "How substantially would it improve your sales?"[60]

96. In June 1997, Richard Sackler, Kathe Sackler, and other Purdue Pharma L.P. executives determined that doctors had the crucial misconception that OxyContin was weaker than morphine, which led them to prescribe OxyContin much more often, even as a substitute for Tylenol.[61] Richard Sackler directed Purdue staff not to tell doctors the truth because the truth could reduce OxyContin sales.[62]

97. While they were pushing for more and more sales of OxyContin, the Sackler Defendants were reminded again and again of its danger—a pattern that continued for years. In a March 1997 memorandum, Jonathan Sackler and Kathe Sackler were told that patients frequently suffer harm when "high doses of an opioid are used for long periods of time."[63]

---

[60] PDD1701345999.

[61] 1997-06-12 email from Richard Sackler, PDD8801141848 (Staff reported, "Since oxycodone is perceived as being a 'weaker' opioid than morphine, it has resulted in OxyContin being used much earlier for non-cancer pain. Physicians are positioning this product where Percocet, hydrocodone, and Tylenol with Codeine have been traditionally used. Since the non-cancer pain market is much greater than the cancer pain market, it is important that we allow this product to be positioned where it currently is in the physician's mind." Defendant Richard Sackler replied, "I think you have this issue well in hand. If there are developments, please let me know."); 1997-05-28 email from Richard Sackler PDD1508224773; 1997-04-23 email from Richard Sackler, PDD1701801141.

[62] PDD8801141848; PDD1508224773; PDD1701801141.

[63] PDD1701785443.

98. Nevertheless, the Sackler Defendants continued to extol OxyContin's virtues. In September 1998, Richard Sackler instructed Purdue's executives that OxyContin tablets provide more than merely "therapeutic" value and instead "enhance personal performance," like Viagra.[64]

99. Meanwhile, more information corroborated the Sackler Defendants' awareness of OxyContin's danger. Early in 1999, Purdue Pharma's general counsel, Howard R. Udell, wrote to another company official, "We have in fact picked up references to abuse of our opioid products on the internet."[65]

100. The Sackler Defendants did not release their pressure on sales, however. In June 1999, Michael Friedman, at that time Purdue's head of sales and marketing, reported to Richard Sackler that Purdue was forecasted to make more than $60,000,000 that month. Richard Sackler replied immediately, at midnight, that the sales were "not so great."[66] He continued, "After all, if we are to do 900M this year, we should be running at 75M/month. So it looks like this month could be 80 or 90M. Blah, humbug. Yawn. Where was I?"[67]

---

[64] PDD1701546497.
[65] Eric Levitz, Purdue Pharma Knew its Opioids Were Widely Abused by Late '90s, Intelligencer (May 29, 2018) http://nymag.com/intelligencer/2018/05/purdue-knew-its-opioids-were-widely-abused-by-late-90s.html.
[66] 1999-06-17 email from Michael Friedman, #228728.1.
[67] *Id.*

101. Also in June 1999, Richard Sackler had Purdue buy the Internet address 5thvitalsign.com so it could promote pain as the "fifth vital sign" to expand the market for opioids.[68]

102. In December 1999, Richard Sackler became the assistant CEO and President of Purdue; Jonathan Sackler, Kathe Sackler, and Mortimer D. A. Sackler were Vice Presidents.

103. In December 2000, Richard Sackler, Jonathan Sackler, Mortimer D. A. Sackler, Ilene Sackler Lefcourt, Theresa Sackler, Beverly Sackler, and Mortimer D. Sackler were warned by Michael Friedman that a reporter was "sniffing about the OxyContin abuse story."[69] Friedman suggested they come up with a response that "deflects attention away from the company owners."[70] In response, Mortimer D. Sackler requested that Stuart Baker, a Purdue attorney, put the threat on the agenda for the next Board meeting.[71]

104. In January 2001, Richard Sackler received an email about a community meeting that reported, "Statements were made that OxyContin sales were at the expense of dead children and the only difference between heroin and OxyContin is that you can get OxyContin from a doctor."[72] But, at the same time,

[68] PDD170618990.
[69] PDD1706196247.
[70] PDD1706196246.
[71] *Id.*
[72] 2001-01-26 email from Joseph Coggins, #171855.1.

in January 2001, in response to a *Time* magazine article about OxyContin deaths in New England, Richard Sackler responded with a message to his staff that *Time*'s coverage was not "balanced," and the deaths were the fault of "the drug addicts," not of Purdue. He continued, "We intend to stay the course and speak out for people in pain—who far outnumber the drug addicts abusing our product."[73]

105. This callousness was a hallmark of Richard Sackler's approach to OxyContin abuse. In February 2001, a federal prosecutor reported 59 deaths from OxyContin in a single state. Richard Sackler wrote to Purdue executives, "This is not too bad. It could have been far worse."[74]

106. That same month, Richard Sackler dictated Purdue's strategy for responding to the increasing evidence of abuse and addiction to Purdue's opioids: "We have to hammer on the abusers in every way possible. They are the culprits and the problem. They are reckless criminals."[75]

2. 2003–2008: Investigations Lead to a Reckoning, but Business Continues as Usual

107. Meanwhile, while the Sackler Defendants denied the harms OxyContin was causing and looked for "pharma-friendly states," state and federal investigations of Purdue gathered steam. By May 2003, Richard Sackler left his

[73] PDD1501720041.
[74] PDD8801151727.
[75] PDD8801133516.

position as President of Purdue. After a few more years of investigations of Purdue, Jonathan Sackler, Kathe Sackler, and Mortimer D. A. Sackler resigned from their positions as Vice Presidents. But they all retained their positions on the Board and their power over Purdue, and they remained the company's decisionmakers.

108. In October 2006, a quorum of the Board voted unanimously that the Purdue Frederick Company should plead guilty to a felony for misbranding OxyContin as less addictive, less subject to abuse and diversion, and less likely to cause adverse events and side effects than other pain medications.[76] The Board also voted that three Purdue executives (Michael Friedman (Purdue's CEO), Paul Goldenheim (Purdue's medical director), and Howard Udell (Purdue's chief counsel))—but no member of the Sackler family—should plead guilty as individuals.[77]

109. The Sackler Defendants, of course, continued to reward these guilty executives. In February 2008, the Sackler Defendants voted to pay former CEO Michael Friedman $3,000,000.[78] In August 2007, Howard Udell was still serving as Purdue's chief counsel, even after his criminal conviction.[79] In November 2008,

---

[76] PKY183307486; *see also* PPLP004031281.
[77] PKY183307486.
[78] PKY183212603 at PKY183212622.
[79] PPLPC012000153272.

the Sackler Defendants voted to pay chief counsel Udell $5,000,000,[80] and in November 2009, the Sackler Defendants voted to pay him another $1,000,000.[81]

110. In May 2007, the Sackler Defendants voted again to have Purdue plead guilty and enter a series of agreements that Purdue would never again deceive doctors and patients about opioids.[82] The Sackler Defendants voted to enter into a plea agreement that stated, "Purdue is pleading guilty as described above because Purdue is in fact guilty."[83] Those intentional violations of the law happened while Richard Sackler was CEO; Jonathan Sackler, Kathe Sackler, and Mortimer D. A. Sackler were Vice Presidents; and Richard Sackler, Jonathan Sackler, Mortimer D. A. Sackler, Kathe Sackler, Ilene Sackler Lefcourt, and Theresa Sackler were all on the Board.

111. But this guilty plea did not stop the Sackler Defendants from pushing deceptive opioid marketing in the face of reports of abuse and diversion.

112. In July 2007, staff gave the Sackler Defendants a report to the Board that included the following information:

---

[80] PKY183212603 at PKY183212680.
[81] *Id.* at PKY183212814.
[82] PKY183307494.
[83] 2007-05-09 Plea Agreement.

a. Purdue received 572 Reports of Concern about abuse and diversion of Purdue opioids during Q2 2007 and completed only 21 field inquiries in response.

b. Staff reported to the Sackler Defendants that they had mailed out 12,528 marketing publications in the first half of 2007, including the most-distributed material, Volume 1 of Purdue's "Focused and Customized Education Topic Selections in Pain Management" ("FACETS").[84] In FACETS, Purdue falsely instructed doctors and patients that physical dependence on opioids is not dangerous and instead improves patients' "quality of life." Purdue also falsely told doctors and patients that signs of addiction are actually "pseudoaddiction," and that doctors should respond by prescribing more opioids.[85] Another of the publications Purdue had sent most often to doctors was "Complexities in Caring for People in Pain."[86] In this publication, Purdue repeated its false claim regarding "pseudoaddiction."[87]

113. Rather than address and end Purdue's deceptive marketing that was leading to opioid abuse and diversion, the Sackler Defendants sought to profit from the opioid addiction they were fostering. In August 2007, Richard Sackler applied

---

[84] PWG000300818.
[85] PTN000004691, -693.
[86] PWG000300818.
[87] PTN000005318.

for a patent to treat opioid addiction. The patent application stated that opioids are addictive and referred to the people who have become addicted to opioids as "junkies."[88]

114. Also in August 2007, Purdue's chief counsel Howard Udell wrote the following to Richard Sackler, Jonathan Sackler, Mortimer D. A. Sackler, Kathe Sackler, Ilene Sackler Lefcourt, and Theresa Sackler:

> Over the last week there have been numerous news stories across the nation reporting on the Associated Press's analysis of DEA data showing very large increases in the use of opioids analgesics (particularly OxyContin) between the years 1997 and 2005. Many of these articles have suggested that this increase is a negative development suggesting overpromotion and increasing abuse and diversion of these products.[89]

115. Throughout this time, the Sackler Defendants demonstrated how intimately they were involved in the day-to-day operations of Purdue. For example, in October 2007, Richard Sackler had staff give him the spreadsheets underlying their sales analysis, so that he could do his own calculations for an upcoming Board meeting.[90] As another example, in January 2008, Richard Sackler wrote to Russell Gasdia, Vice President of Sales and Marketing, demanding information about Purdue's opioid savings card—how long it lasted, how much

---

[88] U.S. Patent No. 9,861,628 (issued Jan. 9, 2018) (He received the patent in January 2018 and assigned it to Rhodes Pharmaceuticals L.P., a different company controlled by the Sackler family, instead of Purdue.).
[89] PPLPC012000153272.
[90] PPLPC012000159168.

savings it offered a patient, and whether there had been any changes since he had last been briefed on the opioid savings card scheme—and included a detailed hypothetical scenario to make sure he understood the sales tactic down to the smallest details.[91] Staff followed up with a presentation about opioid savings cards to the Sackler Defendants at the next Board meeting.[92] Then, in February 2008, when staff proposed a plan to get pharmacies to increase their inventory of OxyContin from two bottles to three bottles, Richard Sackler demanded to know why they could not get up to 4 bottles or more.[93]

116. It was not just Richard Sackler who was intimately involved in the details of managing and controlling Purdue. In February 2008, staff gave Richard Sackler, Jonathan Sackler, Mortimer D. A. Sackler, and Kathe Sackler projections indicating that OxyContin sales could plateau, and Mortimer D. A. Sackler demanded answers to a series of questions about why sales would not grow.[94] Richard Sackler followed up at 8:30 p.m. to instruct the staff to find answers "before tomorrow."[95] Staff members then emailed among themselves about how the Sackler Defendants' demands were unrealistic and harmful and then decided it

---

[91] PPLPC012000168321.
[92] PPLPC012000170262.
[93] PPLPC004000150467.
[94] PPLPC012000172585; PLPC012000172587; PPLPC012000172674.
[95] PPLPC012000172674.

was safer to discuss the problem by phone.[96] Richard Sackler also directed Purdue management to "measure our performance by Rx's by strength, giving higher measures to higher strengths," copying Jonathan Sackler and Mortimer D. A. Sackler.[97]

117. Also in February 2008, while working on a crush-proof reformulation of OxyContin to extend Purdue's patent monopoly,[98] Richard Sackler and Mortimer D. A. Sackler learned that another company was planning clinical research to test whether crush-proof opioids are safer for patients.[99] Mortimer D. A. Sackler suggested that Purdue conduct similar studies to find out whether reformulated OxyContin was really safer, stating, "Purdue should be leading the charge on this type of research and should be generating the research to support our formulation. Why are we playing catch up . . .? Shouldn't we have studies like this . . .?"[100] The Sackler Defendants decided not to do the research. Richard Sackler did not want a paper trail, so he instructed Mortimer D. A. Sackler to call him, and CEO John Stewart met with his staff to plan how to phrase a carefully

[96] PPLPC012000172677.
[97] PPLPC012000170948.
[98] *See* PPLPC012000159022.
[99] PPLPC013000244843.
[100] *Id.*

worded reply.[101] Stewart wrote to Richard Sackler that reformulating OxyContin "will not stop patients from the simple act of taking too many pills."[102]

118. In March 2008, Richard Sackler directed sales and marketing staff to turn over thousands of pieces of data about sales trends, so that he could analyze higher doses.[103] Staff delivered the data early Sunday morning; Richard Sackler responded with detailed instructions for new data that he wanted that same day.[104] An employee sent Richard Sackler the additional data, explaining that he had done as much as he could but needed to attend to family visiting from out of town.[105] Richard Sackler called him at home, insisting that the sales forecast was too low, and threatening that he would have the Board reject it.[106] Richard Sackler then circulated his own sales analysis to the Board, ordered the Secretary to "put this high in the Board agenda," and proposed that he and Mortimer D. A. Sackler oversee a redo of the annual plan as well as the 5-year plan for Purdue's opioids.[107]

119. That same month, Richard Sackler sent Vice President of Sales and Marketing Russell Gasdia a list of seven sales questions to answer (copying Defendants Jonathan Sackler, Mortimer D. A. Sackler, Kathe Sackler, Ilene

[101] PPLPC013000244843.
[102] PPLPC012000172201.
[103] PPLPC012000174477.
[104] PPLPC012000174477.
[105] PPLPC012000174202.
[106] PPLPC012000174202.
[107] PPLPC023000164605.

Sackler Lefcourt, and Theresa Sackler), causing Gasdia to write to long-time Purdue employee (and later CEO) John Stewart, "John, I know it is tricky, but Dr Richard has to back off somewhat. He is pulling people in all directions, creating a lot of extra work and increasing pressure and stress. I will draft a response but he is not realistic in his expectations and it is very difficult to get him to understand."[108] That same night, Richard Sackler sent Gasdia another set of instructions, directing him to identify tactics for "exceeding 2007 Rx numbers on an adjusted basis (adjusted for strength and average number of tablets per Rx)."[109]

120. Later that week, staff told Jonathan Sackler, Kathe Sackler, and Mortimer D. A. Sackler that they would use opioid savings cards to meet the challenge of keeping OxyContin prescriptions at the same level in 2008 as in 2007, "in spite of all the pressures."[110] Kathe Sackler demanded that staff identify the "pressures" and provide "quantification of their negative impact on projected sales."[111]

121. On April 18, 2008, Richard Sackler sent Kathe Sackler, Ilene Sackler Lefcourt, David Sackler, Jonathan Sackler, and Mortimer D. A. Sackler a memorandum about how to keep money flowing to their family.[112] Because

---

[108] PPLPC012000174127.
[109] PPLPC012000175155.
[110] *Id.*
[111] *Id.*
[112] PDD9316300629–31.

Purdue's business posed a "dangerous concentration of risk," he asserted that it was crucial to install a CEO who would be loyal to the family: "People who will shift their loyalties rapidly under stress and temptation can become a liability from the owners' viewpoint."[113] Richard Sackler recommended John Stewart for CEO because of his loyalty. Richard Sackler also proposed that the family should either sell Purdue in 2008 or, if they could not find a buyer, "distribute more free cash flow" to themselves.[114]

122. That same day, Richard Sackler asked Vice President of Sales and Marketing Russell Gasdia, "What is the status of covered lives now with OxyContin?"[115] He wanted to know how many patients were limited to 60 tablets per month and how many patients had any limit on the number of tablets per dose or per day.[116] He wanted answers "by tomorrow morning."[117] When the sales staff pleaded for a few more hours to collect the data, Richard agreed to give them until the end of the day.[118]

123. Also in April 2008, the Sackler Defendants voted to have Purdue pay their family $50,000,000.[119]

---

[113] *Id.*
[114] *Id.*
[115] PPLPC012000179497.
[116] *Id.*
[117] *Id.*
[118] PPLPC012000179679.
[119] PKY183212603.

124. In May, staff sent the Sackler Defendants more ideas about ways to promote Purdue's opioids. Their "KEY MESSAGES THAT WORK" included, "It's not addiction, it's abuse. It's about personal responsibility."[120]

125. In June 2008, in response to Richard Sackler's request for information, staff reported to Richard Sackler, Jonathan Sackler, Kathe Sackler, and Mortimer D. A. Sackler that 67,951 patients had used Purdue's opioid savings cards, and that the cards provide a discount on a patient's first five prescriptions.[121]

126. Also in June, the Sackler Defendants voted to pay their family $250,000,000,[122] and in September 2008, the Sackler Defendants voted to pay their family $199,012,182.[123]

127. In October 2008, in a quarterly report to the Board, the Sackler Defendants were told that surveillance data monitored by Purdue indicated a "wide geographic dispersion" of abuse and diversion of OxyContin "throughout the U.S." "Availability of the product" and "prescribing practices" were key factors driving abuse and diversion of OxyContin.[124] On the same day, staff told the Sackler Defendants that Purdue had begun a new "Toppers Club sales contest" for sales

[120] PPLPC012000183259; PPLPC012000183254; PPLPC012000183256.
[121] PPLPC012000186394–395.
[122] PKY183212603.
[123] PKY183212603.
[124] PDD9316101020.

representatives to win bonuses based on how much a representative increased OxyContin use in her territory compared to the broader prescribing of opioids.[125]

128. In November 2008, the Sackler Defendants voted to pay their family $325,000,000,[126] and in March 2009, the Sackler Defendants voted to pay their family $200,000,000.[127]

3. 2009–2012: Sackler Defendants Pressure for Higher and Higher Sales and Irresponsible Marketing

129. Over ten years after the launch of OxyContin, the Sackler Defendants' intimate involvement in Purdue sales continued. In April 2009, the Sackler Defendants had a detailed conversation with Vice President of Sales and Marketing Russell Gasdia about sales force staffing, how many sales representatives the company should have, and how many prescribers each representative would visit each year.[128]

130. The Sackler Defendants continued to manage a company that did not engage in responsible marketing, however. In May 2009, staff told the Sackler Defendants that Purdue had violated its Corporate Integrity Agreement with the U.S. government by failing to supervise its sales representatives. Under the terms of the agreement, Purdue managers were supposed to supervise sales

---

[125] PDD9316101025.
[126] *See* PKY183212603.
[127] *See* PKY183212603.
[128] PPLPC012000220948.

representatives in person at least five days each year, but "[c]ompliance was not monitoring against the 'five full days' requirement."[129]

131. And yet, the distributions continued: in June 2009, the Sackler Defendants voted to pay their family $162,000,000.[130]

132. To support those distributions, the Sackler Defendants needed higher and higher sales figures. In July 2009, Richard Sackler told staff that he was not satisfied with OxyContin sales and demanded a plan to "boost" them. He asked for the topic to be added to the agenda for the Board.[131]

133. Then, in August 2009, Richard Sackler convened a meeting of Board Members and staff about "all the efforts Sales and Marketing is doing and planning to do to reverse the decline in the OxyContin tablets market."[132] Immediately after meeting with sales staff, Richard Sackler asked for the raw data underlying their presentation. When staff had not responded within five minutes, he asked again.[133] In response, staff introduced the *Options* campaign to the Sackler Defendants. The *Options* campaign materials emphasized the "range of tablet strengths," provided a picture of each dose, and instructed physicians, "You can adjust your patient's dose every 1 to 2 days."[134] Staff also noted that more than 160,000 patients had

---

[129] PPLPC029000274906.
[130] PKY183212603.
[131] 2009-07-20 email from Richard Sackler, PPLPC012000232016.
[132] PPLPC012000234970; PPLPC012000234801.
[133] PPLPC023000236021.
[134] PPLPC012000235543.

used Purdue's opioid savings cards, and they told the Sackler Defendants that they would advertise OxyContin using a special television network, in which thousands of doctors would be given free digital video recorders for their home televisions, in exchange for watching advertisements for drugs.[135]

134. In September 2009, Mortimer D. A. Sackler demanded to know why staff predicted a decline in OxyContin sales when he believed the market should grow.[136] At the same time, the Sackler Defendants voted to pay their family $173,000,000.[137]

135. In October 2009, Richard Sackler directed staff to send him weekly reports on OxyContin sales.[138] Staff considered telling Richard Sackler that there were no weekly reports, but they decided to make a new report just for him instead.[139] The CEO, John Stewart, also instructed the Sales Department to report to the Sackler Defendants with more explanation about its activities.[140]

136. That same month, after all of the Sackler Defendants were notified about certain federal sunshine regulations, Jonathan Sackler wrote to Richard

---

135 *Id.*
136 PPLPC012000240032.
137 PKY183212603.
138 PPLPC012000241515; PDD9316309168.
139 PPLPC012000241515; PPLPC012000241526; PPLPC012000241586; PPLPC022000283690.
140 *See* PPLPC012000242813.

Sackler that he was concerned that these laws would make doctors "much less willing" to promote Purdue's opioids if payments to them were disclosed.[141]

137. At the November 2009 Board meeting, Kathe Sackler and Richard Sackler asked staff to "identify specific programs that Sales and Marketing will implement to profitably grow the [extended-release oxycodone] market and OxyContin in light of competition; provide analytics around why/how the proposed increase in share-of-voice translates into sales and profitability growth; clarify the situation with respect to OxyContin being used by 35% of new patients, but only retaining 30% of ongoing patients;" and give the Sackler Defendants a copy of a report on tactics to increase OxyContin sales.[142]

138. Also in November 2009, in response to Richard Sackler's questions, "What are OxyContin's clinical advantages vs. Opana ER, MS Contin, Kadian, Exalgo, Avinza, Nucynta and Duragesic? How are these differences communicated?," staff reported that OxyContin purportedly reduces pain faster, has less variability in blood levels, and works for more pain conditions than competing drugs.[143]

139. In December 2009, Kathe Sackler and Richard Sackler met with sales staff to review plans for 2010. Staff warned the Sackler Defendants that the

[141] PPLPC032000114702.
[142] PPLPC012000249328; PPLPC012000249327.
[143] PPLPC012000249328.

decade-long rise in the total kilograms of oxycodone prescribed in America was beginning to flatten. That was unacceptable to the Sackler Defendants. In January 2010, Richard Sackler asked sales staff for new customized reports.[144]

140. Again, paying themselves such exorbitant amounts necessitated higher sales, and in March 2010, Richard Sackler instructed sales staff to send him monthly reports on sales of OxyContin and its competitors. They complied within ten minutes.[145]

141. Also in March 2010, staff told the Sackler Defendants that a key selling point for OxyContin compared to a competitor's product was that it could be used by patients who had not taken opioids before.[146] Staff also told the Sackler Defendants that Purdue should "[t]ake appropriate action" with respect to new legislation that would require doctors to consult with specialists before prescribing the highest doses.[147] That month, the Sackler Defendants began requiring each sales representative to call an average of 7.5 prescribers per day.[148] Purdue tracked the results, quarter by quarter, for at least the next four years.[149]

---

[144] PPLPC023000259669.
[145] PPLPC012000262889.
[146] PPLPC012000267960.
[147] PKY183212829.
[148] PWG000423143.
[149] *See, e.g.*, PWG000422481, -503 (2Q2010 Board Report – July 27, 2010); PWG000421967, -990 (3Q2010 Board Report – October 25, 2010); PWG000421551, -552, -582 (4Q2010 Board Report – January 24, 2011); PPLPC012000322430, -431, -461 (1Q2011 Board Report – May 2, 2011) ; PWG000420318, -354 (2Q2011 Board Report – August 3, 2011); PWG000419307, -343

142. In April 2010, staff reported to the Sackler Defendants that each sales visit to a prescriber cost Purdue $219, and they were working to lower it to a target of $201. Meanwhile, also in April, the Sackler Defendants voted to have Purdue pay their family $141,000,000.[150]

143. In June 2010, staff gave the Sackler Defendants an updated 10-year plan. Based on that plan, the Sackler Defendants expected Purdue to pay their family at least $700,000,000 each year from 2010 through 2020.[151]

144. In July 2010, just before the holiday weekend, Richard Sackler directed staff to send the Board plans for "the marketing program" and "the sales program," with instructions to "get this out before the weekend." Staff responded, "Are you expecting us to provide the marketing plan by tomorrow?"[152] Staff negotiated an extension and promised to provide full details about sales and marketing at the July 2010 Board meeting in Bermuda.[153] Kathe Sackler ordered staff to circulate materials before the meeting. [154]

(3Q2011 Board Report – November 9, 2011)PPLPC012000374796, -823 (1Q2012 Board Report – April 30, 2012); PWG000414901, -940 (3Q2012 Board Report – November 1, 2012); PPLPC012000407136, -182 (4Q2012 Board Report – January 28, 2013); PPLP004367551, -601 (1Q2013 Board Report – May 13, 2013); PPLPC012000433398, -399, -446 (2Q2013 Board Report – July 23, 2013); PPLPC002000186921, -962, -965 (3Q2013 Board Report – November 1, 2013); PPLPC002000181043, -081 (4Q2013 Board Report – February 4, 2014).

[150] PKY183212603.

[151] *See* PPLPC012000277155–169, -217.

[152] PPLPC012000277480.

[153] PPLPC012000277864. The Sackler Defendants held Board meetings for their U.S. drug company all over the world, including in Ireland, Bermuda, London, Portugal, and Switzerland.

[154] PPLPC012000278272.

145. That same month, the Sackler Defendants demanded details about tactics Purdue sales staff used to influence doctors that Purdue viewed as "key opinion leaders" ("KOLs"): "Provide the Board with more information on the strategy/tactics with respect to KOL's, how they are identified, how do we plan to interact with them, how do we see them helping build appropriate utilization of Butrans - and any other relevant information that will/could influence the prescribing of the product."[155]

146. Also that month, although Purdue was not legally permitted to say that Butrans was effective for seven days, the Sackler Defendants wanted to know why Purdue did not claim seven days of effectiveness in its marketing.[156] The Sackler Defendants also asked, "What can be said in response to a prescriber who asks directly or indirectly, 'can this product be prescribed for my patient with OA [osteoarthritis]?' In responding are we required to specifically mention the failed trials in OA?"[157]

147. In August 2010, staff told the Sackler Defendants that data showed far higher rates of "doctor-shopping" (getting opioids from multiple prescribers) for OxyContin prescriptions than for any other opioid.[158]

---

[155] PPLPC012000283165.
[156] PPLPC012000283167.
[157] *Id.*
[158] *See* PPLPC012000283469; PPLPC012000283467.

148. In September 2010, the Sackler Defendants voted to pay their family $240,000,000.[159] In November, staff warned the Sackler Defendants that, due to lower than expected prescription rates, it might be necessary to cut the family's quarter-end payout from $320 million to $260 million and distribute it in two parts, one in early December and one closer to the end of the month.[160] Mortimer D. A. Sackler responded, "Why are you BOTH reducing the amount of the distribution and delaying it and splitting it in two? . . . Just a few weeks ago you agreed to distribute the full 320 in November."[161] Staff also reported to the Sackler Defendants that "owners, officers, and managers [of drug companies] will especially face even more serious [legal] scrutiny in the future."[162]

149. The Sackler Defendants continued to be kept abreast of the relationship between the opioids they sold and the harm those opioids caused. In September 2010, staff gave the Sackler Defendants a map correlating the location of dangerous prescribers with reports of oxycodone poisonings, burglaries, and robberies.[163]

150. In December 2010, the Sackler Defendants voted to pay their family $260,000,000.[164]

---

[159] PKY183212603.
[160] PPLPC012000302682–83.
[161] PPLPC012000299869–70.
[162] PPLPC012000299855; PPLPC012000299866.
[163] PDD8901468109.
[164] *See* PKY183212603.

151. The next month, in January 2011, Richard Sackler wanted more information about sales. He emailed staff, "I'd like a briefing on the field experience and intelligence regarding Butrans. How are we doing, are we encountering the resistance that we expected and how well are we overcoming it, and are the responses similar to, better, or worse than when we marketed OxyContin® tablets?"[165] Two hours after sending his request, Richard Sackler ordered Vice President of Sales and Marketing Russell Gasdia to call him to discuss "the resistance" and how Purdue's sales reps were "overcoming" it.[166]

152. In February 2011, after a week in which prescriptions doubled Purdue's forecast, Richard Sackler wrote to the sales staff that he "had hoped for better results."[167] Richard Sackler also asked staff to tell him the ratio of prescriptions per sales representative visit to a prescriber, divided out by the prescribers' specialties, and asked for a Board discussion of the barriers that sales representatives were encountering during promotion.[168] He demanded, "What do I have to do to get a weekly report on Butrans sales without having to ask for it?"[169]

---

[165] PPLPC021000352205.
[166] PPLPC012000308371.
[167] PPLPC012000311654.
[168] PPLPC012000313542.
[169] PPLPC012000314972.

153. Also in February 2011, staff reported to the Sackler Defendants that sales representatives had engaged in improper promotion of Purdue opioids, but that staff had decided not to report the violations to the government.[170]

154. In March 2011, CEO John Stewart announced that staff would send a sales report to the Sackler Defendants every week.[171] Richard Sackler asked, "What else more [can we] do to energize the sales and grow at a faster rate?"[172] The next week, Richard Sackler asked about the performance of a specific sales representative.[173] That same month, when the launch of Purdue's Butrans opioid was on track to beat every drug in its class, Richard Sackler asked sales staff, "Do you share my disappointment?"[174]

155. Also in March 2011, staff told the Sackler Defendants that if doctors who were suspected of diversion and abuse (which Purdue had collected on a list code named "Region Zero") stopped prescribing opioids, Purdue would have a total decline of almost 6.5 percent of its prescriptions and lose almost 10 percent of its sales of 20 mg equivalents.[175]

---

[170] PDD8901468036–038.
[171] PPLPC012000314985; PPLPC022000412102.
[172] PPLPC012000316128.
[173] PPLPC012000317190.
[174] PPLPC012000315176.
[175] PPLP004405801 and -809.

156. In April 2011, Mortimer D. A. Sackler asked staff for more information about sales. Two days later, Mortimer D. A. Sackler prodded, "Any answer to this yet?"[176]

157. That same month, Raymond Sackler and Jonathan Sackler asked about trying to influence *The New York Times* to be "less focused on OxyContin/Purdue,"[177] while at the same time the Sackler Defendants voted to have Purdue pay their family $189,700,000.[178]

158. In May 2011, staff sent Richard Sackler, Jonathan Sackler, Kathe Sackler, Mortimer D. A. Sackler, and Theresa Sackler a report on the sales tactics that representatives were using to push Butrans.[179] These tactics included focusing on a select "core" of physicians that Purdue calculated would be most susceptible to sales representatives lobbying to prescribe more opioids, positioning Butrans for specific patient types such as elderly patients with arthritis, and getting prescribers to commit to put specific patients on opioids. At the end of the month, Jonathan Sackler emailed CEO John Stewart to tell him that the sales numbers for Butrans were "starting to look ugly. Let's talk."[180]

---

[176] PPLPC012000320101.
[177] PPLPC019000517894.
[178] *See* PKY183212896–97.
[179] PPLPC012000326017.
[180] PPLPC012000326194.

159. In June 2011, Richard Sackler asked Vice President of Sales and Marketing Russell Gasdia to include him in a meeting with District Managers who were the day-to-day supervisors of the sales representatives.[181] Gasdia told Richard Sackler that staff had initiated performance enhancement plans for sales representatives who were not generating enough opioid prescriptions.[182] Richard Sackler wrote back six minutes later asking to meet with Gasdia without delay.[183] Continuing his correspondence with Gasdia throughout the day, Richard Sackler criticized Purdue's managers for allowing sales representatives to target "non-high potential prescribers."[184] He demanded to be sent into the field with sales representatives, despite it being a "potential compliance risk."[185] Both Gasdia and Bert Weinstein, Vice President of Compliance, told Richard Sackler that each had concerns with his going into the field, and that they had discussed those concerns with each other.[186]

160. The other Sackler Defendants also continued to be hands-on with the running of Purdue. By the end of June 2011, Mortimer D. A. Sackler asked at a Board meeting about Purdue launching a generic version of OxyContin to "capture

[181] *See* PPLPC012000329609.
[182] PPLPC012000329607.
[183] *Id.*
[184] PPLPC012000329706.
[185] PPLPC012000329706; PPLPC012000329494; PPLPC012000329722.
[186] PPLPC012000329722.

more cost sensitive patients."[187] At the same meeting, Kathe Sackler recommended looking at the characteristics of patients who had switched to OxyContin to see if Purdue could identify more patients to convert,[188] and Jonathan Sackler suggested that Purdue study changes in market share for opioids, focusing on dose strength.[189] That same month, the Sackler Defendants voted to pay their family $200,000,000.[190]

161. In July 2011, Richard Sackler, after going into the field with sales representatives notwithstanding having been alerted to compliance risks, argued that a legally required warning about Purdue's opioids was not needed. He explained to Vice President of Sales and Marketing Russell Gasdia that the warning "implies a danger of untoward reactions and hazards that simply aren't there" and argued that there should be "less threatening" ways to describe Purdue opioids.[191]

162. A few days later, Vice President of Sales and Marketing Russell Gasdia invited Richard Sackler to attend one of the upcoming pharma conventions.[192] He told Richard Sackler, "We can arrange for one-on-one meetings with key opinion leaders who are attending, many of them are approved

[187] PPLPC012000331345; PPLPC012000331343.
[188] *Id.*
[189] *Id.*
[190] *See* PKY183212924–25.
[191] PPLPC001000091102.
[192] PPLPC012000336250.

consultants/advisors for us and you can have some open conversations regarding the market, perceptions around Butrans and OxyContin."

163. That same month, staff assured the Sackler Defendants that Purdue prohibited sales representatives from writing their sales pitches to prescribers in email.[193]

164. In September 2011, Richard Sackler directed staff to study a savings card program for a widely-used cholesterol medication to learn how Purdue could use it for opioids.[194] Also in September, the Sackler Defendants voted to pay their family $140,800,000.[195]

165. The Sackler Defendants' preoccupation with sales continued into 2012. In January, Jonathan Sackler asked Vice President of Sales and Marketing Russell Gasdia for weekly updates on sales.[196] That same month, Richard Sackler emailed staff because he noticed that online ads appeared on webpages with content associated with the ad regardless of whether the association was positive or negative.[197] Staff assured Richard Sackler that Purdue specified that the ads appear only on pages expressing positive views toward opioids, and would not appear

---

193 PPLPC012000336250.
194 PPLPC012000345892.
195 PKY183212603.
196 PPLPC012000358983.
197 PPLPC012000361064.

with articles "about how useless or damaging or dangerous is our product that we are trying to promote."[198]

166. Also in January 2012, Mortimer D. A. Sackler emailed Vice President of Sales and Marketing Russell Gasdia, the Sackler Defendants, and the rest of the Board, arguing that "in future years we should not plan the national sales meeting so close following the winter break as it extends the period of time since the doctor last saw our rep." He continued, "Wouldn't it be better to have the reps get back to work for January and back in front of doctors[?]"[199] In response, Richard Sackler suggested that, since the National Sales Meeting prevented sales representatives from visiting doctors, "[m]aybe the thing to have done was not have the meeting at all."[200]

167. On March 7, 2012, after sales dropped for a week due to Presidents' Day, Richard Sackler emailed his marketing team, including Vice President of Sales and Marketing Russell Gasdia, as well as CEO John Stewart, "This is bad."[201] Richard then wrote to marketing staff, demanding monthly data for all extended release pain medications for the past 12 years and an immediate meeting

[198] *Id.*
[199] PPLPC026000095655.
[200] *Id.*
[201] PPLPC012000368430. *See also* PPLPC012000368500 (The manager then threatened to fire every sales rep in the Boston district: "Just today, Dr. Richard sent another email, 'This is bad,' referring to current Butrans trends . . . . I am much closer to dismissing the entire district than agreeing that they deserve a pass for poor market conditions.").

that Monday night.[202] In response, staff created a historical summary for Richard Sackler of key events determining OxyContin sales.[203] Those key events included an increase in prescriptions due to the following tactics: pushing opioids for elderly patients with arthritis ("proper patient selection") and encouraging doctors to use higher doses of opioids ("quick titration").[204]

168. Also in March, staff proposed to pay the Sackler Defendants $418,200,000 for the year 2012.[205]

169. In April 2012, Richard Sackler asked Vice President of Sales and Marketing Russell Gasdia to address both Butrans sales tactics and a decline in OxyContin sales and propose corrective actions within a day.[206] Staff told Richard Sackler that they were starting quantitative research to determine why patients stay on opioids so that they could find ways to sell more opioids at higher doses for longer.[207]

170. That same month, when the mandatory weekly report to the Sackler Defendants showed that sales representatives achieved 9,021 prescriptions in a week, Richard Sackler asked Vice President of Sales and Marketing Russell

---

[202] PPLPC012000369328.
[203] PPLPC012000371063.
[204] PPLPC012000371301.
[205] *See* PPLPC012000368627.
[206] PPLPC012000372585.
[207] PPLPC012000374532.

Gasdia, "Are you committed to breaking 10K/wk Rx's this month?"[208] He continued, "[G]ive me the table of weekly Rx plan and the actual. Then show how you plan to make up the current shortfall."[209] The sales and marketing staff then met with Richard Sackler to review how they would sell more opioids.[210]

171. In June 2012, staff told the Sackler Defendants that they expanded the opioid savings cards because the opioid savings cards led to 60 percent more patients remaining on OxyContin longer than 90 days.[211]

172. In July 2012, David Sackler took a seat on the Board.

173. In August 2012, the Sackler Defendants voted to direct Purdue to recruit an additional marketing executive and make candidates available to meet with Members of the Board.[212]

174. In November 2012, staff told the Sackler Defendants the confidential results of a study Purdue performed to determine how opioid dose "influences patient length of therapy." The results showed that patients on the highest doses "are the most persistent."[213] The report "Recommended Actions" included

---

[208] PPLPC012000372335.
[209] *Id.*
[210] *Id.*; PPLPC012000372332.
[211] PPLPC012000382119.
[212] PKY183212603 at PKY183212960.
[213] PPLPC012000396646.

"additional workshops for the sales force" and "specific direction" to the sales representatives about using higher doses to keep patients on drugs longer.[214]

4. 2013–September 2014: Concerns About Investigations, Negative Press, and Government Intervention Do Not Alter the Sackler Defendants' Direction to Increase Sales

175. In January 2013, after the drop in opioid prescriptions caused by Purdue sales representatives taking time off for the holidays, Richard Sackler emailed David Rosen in Sales and Marketing, "Really don't understand why this happens. What about refills last week? Was our share up or down?"[215] In response, David Rosen replied that they continued to reinforce the "Individualize the Dose" campaign, which promoted higher doses, and that sales representatives would place greater emphasis on the opioid savings cards, which would keep patients on opioids longer.[216] Staff also told the Sackler Defendants that Purdue showed an opioid promotional video to 5,250 physicians on the Physician's Television Network.[217]

176. In February 2013, the Sackler Defendants met with staff to discuss research on what influences prescriptions, how doctors had responded to Purdue's increased promotion, and sales force promotion themes.[218]

---

[214] *Id.*
[215] PPLPC022000584388.
[216] PPLPC012000407138–140.
[217] *Id.*
[218] PPLPC012000406335.

177. In March 2013, staff reported to the Sackler Defendants that drug overdose deaths had more than tripled since 1990. These deaths were only the "tip of the iceberg." For every death, there were more than one hundred people suffering from prescription opioid dependence or abuse.[219]

178. In May 2013, staff reported to the Sackler Defendants that they were successfully using opioid savings cards to get patients to "remain on therapy longer."[220] Purdue was using direct mail and email, as well as sales visits, to push the savings cards.

179. Around this time, at a Board meeting, the Sackler Defendants met with Vice President of Sales and Marketing Russell Gasdia about the strategy for selling high doses. Gasdia told them that "[t]itration up to higher strengths, especially the 40mg and 80mg strengths is declining."[221] Gasdia offered four tactics that sales representatives could use to respond to that decline: (1) use the "Individualize the Dose" campaign designed to promote high doses; (2) educate healthcare providers on titration via interactive case studies; (3) push opioid savings cards; and (4) focus on the most prolific opioid prescribers.[222]

---

[219] PPLP004409513–514.
[220] PPLP004367557.
[221] PPLP004409727–728.
[222] PPLP004409729.

180. In July 2013, the Sackler Defendants discussed "threats" to their business from data on long-term opioid use, as public health authorities reacted to the danger of keeping patients on opioids for longer periods of time.[223] Staff reported to the Sackler Defendants that key priorities were to reverse "[t]he decline in higher strengths" opioids and the decline in "tablets per Rx," which were reducing profits.[224] Mortimer D. A. Sackler asked for more detail on what was being done to increase sales.[225] Staff reported to the Sackler Defendants that they had trained Purdue's sales representatives to use new sales materials designed to get patients on higher doses of opioids for longer periods.[226]

181. That same month, the Sackler Defendants met to discuss a report on sales tactics—"Identifying granular growth opportunities for OxyContin: First Board Update."[227] This report confirmed that Purdue's sales visits generated opioid prescriptions, urged the Sackler Defendants to demand more sales visits from sales representatives, promoted stricter control of the sales representatives' target lists (so that representatives would visit doctors who give the biggest payoff), and emphasized the use of opioid savings cards in neighborhoods with a

[223] PPLPC012000433553.
[224] PPLPC012000433412–313.
[225] PPLPC012000431311.
[226] PPLPC012000433398, -399, -446.
[227] PPLP004409871.

high concentration of Walgreens. Notably, Walgreens has approximately 40 percent of the pharmacy market share in Delaware.

182. In August 2013, the Sackler Defendants met to discuss a new report on sales tactics—"Identifying granular growth opportunities for OxyContin: Addendum to July 18th and August 5th updates."[228] This report urged the Sackler Defendants to direct sales representatives to visit particular prolific prescribers who wrote "25 times as many OxyContin scripts."[229] It also advised the Sackler Defendants to develop a "direct-to-patient mail order" business for opioids, so they could sell the high doses without pharmacies.[230] It then recommended that the Sackler Defendants use their power on the Board to insist on increasing sales, with monthly accountability: "Establish a revenue growth goal (e.g., $150M incremental stretch goal by July 2014) and set monthly progress reviews with CEO and Board."[231]

183. In October 2013, the Sackler Defendants discussed DEA efforts to stop illegal dispensing of opioids at CVS and Walgreens and how Purdue could circumvent these safeguards by shifting to mail-order pharmacies, specialty pharmacies, or distributing opioids to patients directly.[232] That same month,

---

[228] PPLP004409892.
[229] *Id.*
[230] PPLP004409896–97.
[231] PPLP004409897–98.
[232] PPLP004409965.

Mortimer D. A. Sackler asked for more information on dosing and "the breakdown of OxyContin market share by strength."[233] Staff reported that sales of the highest doses were not keeping up with expectations because some pharmacies had implemented "good faith dispensing" policies to double-check prescriptions that looked illegal and some prescribers were under pressure from the DEA.[234]

184. In November 2013, Richard Sackler complained that he was getting too much information about the dangers of Purdue opioids: "Why are all the [Google] alerts about negatives and not one about the positives of OxyContin tablets?"[235] Then, after being told by Richard Sackler about a Massachusetts bill being considered to limit the length of prescriptions for the most addictive controlled substances, staff promised Richard Sackler that they would review the legislation and get back to him to discuss a strategy for opposing it.[236]

185. That same month, staff reported to the Sackler Defendants in a report to the Board that a key initiative during Q3 2013 was for sales representatives to encourage doctors to prescribe OxyContin to elderly patients on Medicare and to promote OxyContin for patients who had never taken opioids before.[237] Staff also reported that Purdue was pushing opioid savings cards in sales representative

---

233 PPLPC012000448832.
234 *Id.*
235 PPLPC023000633066.
236 PPLPC020000733992.
237 PPLPC002000186925.

visits, through email to tens of thousands of healthcare providers, and online. Another key initiative was to train sales representatives to keep patients on Butrans opioids longer.

186. Also in November 2013, staff reported to the Sackler Defendants that Purdue had paid their family $399,920,000 from January to September 2013.[238]

187. In December 2013, staff told Richard Sackler that Butrans sales were increasing, probably caused by Purdue's improved targeting of the most susceptible prolific prescribers.[239] That same month, staff contacted Richard Sackler and Jonathan Sackler because they were concerned that the company's "internal documents" could cause problems if investigations of the opioid crisis expanded.[240] In response, on January 2, 2014, Jonathan Sackler, having studied a collection of news reports, asked staff to reassure him that journalists covering the opioid epidemic were not focused on the Sackler Defendants.[241]

188. In January 2014, staff reported to the Sackler Defendants on how Purdue's program for complying with state and federal law compared to recent agreements between other drug companies and the government. Unlike other companies, Purdue still paid representatives for generating sales; Purdue did not

[238] PPLPC002000186913.
[239] PPLPC012000454676.
[240] PPLPC020000748356.
[241] *Id.*

disclose the money spent to influence continuing medical education; Purdue had no claw-back policy so executives would forfeit bonuses earned from misconduct; and the Sackler Defendants did not pass resolutions each quarter certifying their oversight of the companies' compliance with the law.[242]

189. The Sackler Defendants' management was so involved and overbearing that at the end of January 2014, Mark Timney started as CEO with the intention to "separate Board interaction from the organization" so the Sackler Defendants would stop directing sales staff.[243]

190. In February 2014, staff told the Sackler Defendants that net sales were hundreds of millions of dollars below budget because doctors were not prescribing enough of the highest doses of opioids and were including too few pills with each prescription and because sales representatives were not visiting doctors enough.[244] They also told the Sackler Defendants that a "Key Initiative" was to get patients to "stay on therapy longer."[245] They further reported that they had found increasing compliance concerns with Purdue's speaker programs, in which the company paid doctors to promote Purdue opioids to other doctors.

---

[242] PPLP004410797.
[243] PPLPC012000461846.
[244] PPLPC020000756512.
[245] PPLPC002000181043.

191. In May 2014, the new CEO, Mark Timney, reported to the Sackler Defendants that the Massachusetts Senate passed legislation that included a provision developed by Purdue, which Richard Sackler said was good news.[246] That same month, Raymond Sackler, Sr. sent David Sackler, Jonathan Sackler, and Richard Sackler a confidential memorandum about Purdue's strategy, including putting patients on high doses of opioids for long periods of time. The memorandum noted that some physicians had argued that patients should not be given high doses of Purdue opioids or kept on Purdue opioids for long periods of time, but Purdue had defeated efforts to impose a maximum dose limit or a maximum duration of use. Raymond Sackler, Sr. asked David Sackler, Jonathan Sackler, and Richard Sackler to talk with him about the report.

192. In June 2014, the Sackler Defendants removed Vice President of Sales and Marketing Russell Gasdia, pushing his replacement to sell more opioids faster.[247] Richard Sackler emailed new CEO, Mark Timney, and Saeed Motahari, the new Chief Commercial Officer, "it is very late in the day to rescue the failed launch" of Butrans.[248] Timney responded to Richard Sackler that it was "a little

[246] PPLPC019000926225.
[247] PPLPC012000483200.
[248] PPLPC012000483235.

early" to be attacking the new sales leader, since he had been at Purdue only two weeks.[249]

193. Also in June 2014, staff informed the Sackler Defendants, "[O]ne of our efforts to mitigate the impact of a potential negative *LAT* [*Los Angeles Times*] story involved assisting a competing outlet in marginalizing the *LAT's* unbalanced coverage by reporting the facts before the *LAT* story ran. The following Orange County Register story, developed in close coordination with Purdue, achieved this goal. This fact-based narrative robs the *LAT* account of its newsworthiness and contradicts many of the claims we expected that paper to make."[250]

194. In July 2014, Richard Sackler called staff to complain about studies that the FDA required for opioids and how those studies might undermine Purdue's sales, emphasizing that Board Members felt the requirements to conduct studies were unfair.[251]

195. From June to September 2014, staff warned the Sackler Defendants that two of the greatest risks to Purdue's business were "[c]ontinued pressure against higher doses of opioids" and "[c]ontinued pressure against long term use of opioids."[252]

---

[249] *Id.*
[250] PPLPC022000741863.
[251] PPLPC002000187479.
[252] PPLPC016000244173; PPLPC016000250753; PPLPC016000254916; PPLPC016000259607.

5. September 2014–October 2016: Project Tango and the Sackler Defendants' Strategies to Increase Their Profits

196. In September 2014, Kathe Sackler participated in a confidential call about Project Tango, a secret plan for Purdue to expand into the business of selling drugs to treat opioid addiction.[253] As discussed above, the Sackler Defendants had begun considering this money-making opportunity as early as August 2007, when Richard Sackler applied for a patent to treat opioid addiction.[254]

197. The PowerPoint presentation sent to Kathe Sackler by Brian Meltzer, head of Licensing & Business Development, lays out exactly how self-serving this plan would be for Purdue. The presentation stated, "Substance Abuse, Dependence and Addiction treatment is a good fit and next natural step for Purdue." It also claimed, "It is an attractive market. Large unmet need for vulnerable, underserved and stigmatized patient population suffering from substance abuse, dependence and addiction."[255]

198. In another PowerPoint created by Kathe Sackler's staff later that month, they noted that "[p]ain treatment and addiction are naturally linked."[256] They illustrated this point with a funnel beginning with pain treatment and leading

---

[253] PPLPC017000564600; PPLPC016000255303.
[254] U.S. Patent No. 9,861,628 (issued Jan. 9, 2018) (He received the patent in January 2018 and assigned it to Rhodes Pharmaceuticals L.P., a different company controlled by the Sackler family, instead of Purdue.).
[255] PPLPC017000564601.
[256] PPLPC016000255303.

to opioid addiction treatment. The PowerPoint also noted, "Opioid addiction (other than heroin) has grown by ~20% [compound annual growth rate] from 2000 to 2010."[257] The team then identified eight ways that Purdue's experience getting patients on opioids could now be used to sell treatment for opioid addiction. Kathe Sackler instructed staff that Project Tango required their "immediate attention."[258]

199. In October 2014, staff told the Sackler Defendants that key tactics for 2015 would be to convert patients from short-acting opioids to OxyContin, to push doctors to "titrate up" to higher doses, and to use sales visits to push Hysingla, Purdue's hydrocodone bitartrate opioid.[259]

200. That same month, discussing the coverage of a 2007 Kentucky lawsuit against Purdue related to it causing the opioid crisis in that state, Raul Damas, Vice President of Corporate Affairs & Communications, wrote to Burt Rosen, Vice President of Government Affairs, and other staff members, "I'm quite pleased with where we ended up. There's almost nothing on the Sacklers and what is there is minimal and buried in the back."[260]

201. In December, staff told the Sackler Defendants that Purdue would pay their family $163,000,000 in 2014 and projected that Purdue would pay their

---

[257] *Id.* The Board discussed this project in October 2014, but Purdue redacted all 32 pages of those Board materials. *See* PPLP004411288.
[258] PPLPC020000834186.
[259] PPLPC016000260726.
[260] PPLPC017000579723.

family $350,000,000 in 2015.[261] On New Year's Eve, Richard Sackler told staff that he was starting a confidential sales and marketing project on opioid prices and set a meeting for January 2, 2015.[262]

202. In January 2015, Richard Sackler asked for "unit projections by strength, mg by strength . . . pricing expectations by strength . . . individual strength's market totals and our share going backward to 2011 or 12 and then forward to 2019 or 2020 . . . the same information for Hysingla . . . [and] the history of OxyContin tablets from launch to the present."[263] After being told it would take three weeks, he wrote, "That's longer than I had hoped for," and directed marketing staff to start sending him materials immediately.[264]

203. Also in January 2015, the Sackler Defendants voted to evaluate employees' 2014 performance on a scorecard that assigned the greatest value to the volume of Purdue opioid sales. The Sackler Defendants then voted to do the same for 2015 performance evaluations.[265]

204. In February 2015, staff presented Kathe Sackler's work on Project Tango to the Board—the plan being a joint venture to sell the addiction medication

---

[261] PPLPC016000266402; PPLPC016000266403.
[262] PPLPC021000713329.
[263] PPLPC022000797067–68.
[264] *Id.*
[265] PPLP004416118–121.

suboxone.[266] In a PowerPoint presentation, they highlighted that 40 to 60 percent of patients buying suboxone would relapse and need it again.[267]

205. In March 2015, this version of Project Tango was discontinued. Kathe Sackler, David Sackler, Jonathan Sackler, and Mortimer D. A. Sackler discussed its discontinuation at their Business Development Committee meeting.[268]

206. In November 2015, staff told the Sackler Defendants that doctors were not prescribing enough of the highest strength opioids and including too few pills in each prescription.[269] Staff proposed a plan for 2016 to cause prescribers to average 60 pills per prescription.

207. That same month, the 2016 Purdue budget revealed the following:

a. In 2015 alone, Purdue replaced 14 percent of its sales representatives and 20 percent of its District Managers for failing to create enough opioid sales.

b. The number one priority for 2016 was to sell OxyContin through "disproportionate focus on key customers."[270]

---

266 PPLPC026000138391.
267 PPLPC002000208957.
268 PPLPC011000016992.
269 PPLPC011000069967.
270 PPLPC011000070000.

c. Purdue aimed to target physician's assistants, nurse practitioners, and other prescribers with the lowest levels of training because they were "the only growing segment" in the opioid market.[271]

17. In December 2015, Kathe Sackler and Mortimer D. A. Sackler wanted staff to break out productivity data by indication versus prescriber specialty for each drug; Richard Sackler sought details on how staff was calculating 2016 mg/tablet trends; and Jonathan Sackler sought a follow-up briefing on how public health efforts to prevent opioid addiction would affect OxyContin sales.[272]

208. Also in December 2015, the Sackler Defendants were invited to a "Beneficiaries Meeting" where Purdue staff reported to Sackler family members about the company's efforts to sell opioids.[273]

209. In 2016, the Board met in January, March, April, June, August, October, November, and December.[274] In April, the Sackler Defendants considered exactly how much money was riding on their strategy of pushing higher doses of opioids.[275] In May 2016, Richard Sackler told staff to circulate a *New*

[271] *Id*.
[272] PPLPC011000073228; PPLPC011000073230.
[273] PPLPC011000063897; PPLP004410528.
[274] PPLPC011000096794.
[275] PPLPC016000286167.

York Times story reporting that opioid prescriptions were dropping for the first time since Purdue launched OxyContin.[276]

210. In June 2016, the Sackler Defendants met to discuss a revised version of Project Tango under which Purdue would sell NARCAN (an overdose treatment drug).[277] They identified a "strategic fit" because NARCAN was a "complementary" product; they specifically identified patients on Purdue's prescription opioids as the target market; and they noted that Purdue could profit from government efforts to use NARCAN to save lives.

211. Also in June 2016, staff presented the 2016 Mid-Year Update to the Sackler Defendants.[278] In this update, they noted that doctors and patients were more worried about the epidemic of opioid addiction and death; that Americans were seeing addicts as victims of addictive drugs, not junkies and criminals; and that the CDC had stated that no other medication routinely used for nonfatal conditions kills patients so often.

6. November 2016–2018: The Sackler Defendants Attempt to Distance Themselves from the Harm They Caused While Still Maximizing Profits

212. In November 2016, staff prepared the following statement for issuance to the press: "Sackler family members hold no leadership roles in the

[276] PPLPC021000841074.
[277] PPLPC011000099222; PPLPC011000099280.
[278] PPLPC011000099783.

companies owned by the family trust."[279] This was eventually edited to read, "Sackler family members hold no management positions."[280] When journalists asked follow-up questions about the Sackler Defendants, communications staff deliberated about whether to repeat the "no management positions" claim, and they ultimately arranged for one of the Sackler Defendants' foreign companies to issue it: "The statement will come out of Singapore."[281]

213. In December 2016, Richard Sackler, Jonathan Sackler, and Mortimer D. A. Sackler had a call with staff about another version of Project Tango—this time to buy a company that treated opioid addiction with implantable drug pumps.[282] According to the Structuring Proposal sent around by Elliott Ruiz in Business Development Finance & Treasury, the business was a "strategic fit" because Purdue sold opioids and the new business treated the "strategically adjacent indication of opioid dependence."[283]

214. In May 2017, staff told the Sackler Defendants that a nonprofit had concluded that Purdue's reformulation of OxyContin was not a cost-effective way to prevent opioid abuse.[284] Theresa Sackler asked staff what they were doing to fight back to convince doctors and patients to keep using the drug.

---

[279] PPLPC023000914978.
[280] PPLPC019001332704. The message was sent from Purdue's UK office.
[281] PPLPC020001075830.
[282] PPLPC022000980230.
[283] PPLPC022000980233.
[284] PPLPC011000147096.

215. That same month, Craig Landau, applying to become CEO, sent Burt Rosen, Vice President of Government Affairs, a memo entitled "Sackler Pharma Enterprise: Diagnostic and Forward Plan," which acknowledged that Purdue operated with "the Board of Directors serving as the 'de facto' CEO."[285] The Sackler Defendants made him CEO a few weeks later.

216. In June 2017, staff told the Sackler Defendants that getting doctors to prescribe high doses of opioids and many pills per prescription were still key "drivers" of Purdue's profit.[286] They also said that Purdue's opioid sales were being hurt by cultural trends such as the HBO documentary, "Warning: This Drug May Kill You." They suggested a new direction—"A New Narrative: Appropriate Use" of opioids. Staff suggested that the Sackler Defendants create a family foundation to help solve the opioid crisis.

217. In October 2017, Richard Sackler learned that Cigna had cut OxyContin from its list of covered drugs and replaced it with a drug from Purdue's competitor, Collegium. He immediately suggested that Purdue drop Cigna as the insurance provider for the company health plan.[287]

---

[285] PPLPC020001106306.
[286] PPLPC011000151189.
[287] PPLPC016000317635.

218. In November 2017, Jonathan Sackler suggested that Purdue launch yet another opioid.[288]

219. In January 2018, Richard Sackler received a patent for a drug to treat opioid addiction.[289]

220. In April 2018, staff prepared a presentation for the Board of Directors, stating, "Lets [sic] not give the BoD a reason to just walk away."[290]

221. In July 2018, Richard Sackler resigned from the Board.

222. In August 2018, David Sackler resigned from the Board.[291]

223. In September 2018, Theresa Sackler resigned from the Board.[292]

E. The Sackler Defendants Knew or Should Have Known that Purdue's Statements Were Misleading

224. As the Purdue management history above demonstrates, the problems engendered by the deceptive and unfair marketing of opioids were specifically known by the Sackler Defendants. The Sackler Defendants were aware that Purdue's statements were misleading not only because they knew Purdue's statements were contrary to established fact, but also because, under their management, Purdue was fined and otherwise sanctioned by various government entities for misleading marketing.

---

[288] PPLPC016000321333.
[289] U.S. Patent No. 9,861,628 (issued Jan. 9, 2018).
[290] PPLPC023000979571.
[291] *Id.*
[292] *Id.*

225. As described above, in 2007, at the direction of the Sackler Defendants, Purdue settled federal allegations that it had introduced misbranded drugs into interstate commerce. The settlement included over $700 million in payments to the United States government and guilty pleas by three of Purdue's former executive officers.[293] Purdue, at the direction of the Sackler Defendants, acknowledged that "some employees made, or told other employees to make, certain statements about OxyContin to some healthcare professionals that were inconsistent with the FDA-approved prescribing information for OxyContin and the express warning it contained about risks associated with the medicine."[294]

226. The 2007 settlement was not the only settlement the Sackler Defendants directed as Purdue's managers. On August 20, 2015, New York State concluded a multiyear investigation of Purdue and settled claims against the company related to its marketing and sales practices. Specifically, the agreement required Purdue to ensure that its sales representatives flag doctors and other professionals who were improperly prescribing and/or diverting opioids, stop calling and/or marketing to doctors on the company's "no-call list," and provide information to healthcare providers about FDA-approved training programs

---

[293] Plea Agreement at 4, *United States of America v. The Purdue Frederick Co., Inc.*, Case No. 1:07-cr-00029-JPJ (W.D. Va. May 10, 2017).

[294] Shannon Henson, *Purdue, Employees to Pay $700M in OxyContin Case*, LAW360, (May 10, 2007, 12:00 AM), https://www.law360.com/illinois/articles/24509/purdue-employees-to-pay-700m-in-oxycontin-case.

regarding the appropriate prescription of opioids. The agreement also required Purdue to cease marketing representations on its website "www.inthefaceofpain.com" implying that the website was neutral or unbiased, and to disclose the financial relationship Purdue's purported neutral experts have with the company.[295]

227. Furthermore, in August 2017, Purdue settled, for over $20 million, claims by numerous Canadian plaintiffs that the company failed to warn about the dangers of OxyContin, including its addictive properties.[296]

228. Purdue also represented to the public that it was taking steps to curb the opioid epidemic, rather than creating it.

a. As recently as November 2017, Purdue stated on its website that ". . . too often these medications [opioids] are diverted, misused, and abused. Teenagers, in particular, are vulnerable to prescription drug abuse, which has become a national epidemic."[297] In response to the misuse of opioids, Purdue said

---

[295] Press Release, N.Y. State Office of the Attorney General, A.G. Schneiderman Announces Settlement With Purdue Pharma That Ensures Responsible And Transparent Marketing Of Prescription Opioid Drugs By The Manufacturer (August 20, 2015), https://ag.ny.gov/press-release/ag-schneiderman-announces-settlement-purdue-pharma-ensures-responsible-and-transparent.

[296] *See* Will Davidson LLP, *Purdue Pharma Agrees to OxyContin Settlement, but Is it Fair?*, Lexology (Aug. 22, 2017), https://www.lexology.com/library/detail.aspx?g=d53ee1ee-44cb-4ef5-b916-e570a385b568.

[297] Purdue Pharma, *Combating Opioid Abuse*, http://www.purduepharma.com/healthcare-professionals/responsible-use-of-opioids/combating-opioid-abuse/ (last visited Nov. 07, 2017).

that "Corporations have a responsibility to address this issue, and Purdue has dedicated vast resources for helping to prevent drug abuse . . . ."[298]

b. Purdue also stated in November 2017 that it is "committed to being part of the solution to prescription drug abuse" and that it "offers an array of programs focused on education, prevention, and deterrence and through partnerships with (1) healthcare professionals, (2) families and communities, and (3) law enforcement and government" to combat the "widespread abuse of opioid prescription pain medications [that] can lead to tragic consequences, including addiction, overdose, and death."[299]

c. Also in November 2017, Purdue discussed the opioid epidemic and its response to it, stating that "The nation is experiencing a public health crisis involving licit and illicit opioids. Purdue endorses the following policies that support a comprehensive approach to reducing addiction, abuse, diversion, and overdose related to opioids."[300] Those policies employed by Purdue include limiting the duration of one's first opioid prescription; use of prescription drug monitoring programs; requiring demonstrated competence for opioid prescribing; and expanding the use of naloxone, an opioid reversal agent, among other things.

---

[298] *Id.*

[299] Purdue Pharma, *Responsible Use of Opioids*, http://www.purduepharma.com/patients-caregivers/responsible-use-of-opioids/ (last visited Sept. 4, 2019).

[300] Purdue Pharma, *Public Policies to Address the Opioid Crisis*, (last visited Sept. 4, 2019) (footnotes omitted).

229. However, these representations are untrue. For example, notwithstanding its public statements of corporate responsibility, Purdue has failed to report to authorities illicit or suspicious prescribing of its opioids, even as it has publicly and repeatedly touted its "constructive role in the fight against opioid abuse" and "strong record of coordination with law enforcement."[301]

230. Additionally, since at least 2002, Purdue has maintained a database of healthcare providers suspected of inappropriately prescribing OxyContin or other opioids. According to Purdue, physicians could be added to this database based on observed indicators of illicit prescribing, such as excessive numbers of patients, cash transactions, patient overdoses, and unusual prescribing volume. Purdue has said publicly that "[o]ur procedures help ensure that whenever we observe potential abuse or diversion activity, we discontinue our company's interaction with the prescriber or pharmacist and initiate an investigation."[302]

231. Yet, according to a 2016 investigation by the *Los Angeles Times*, Purdue failed to cut off these providers' opioid supply at the pharmacy level and

---

[301] *See* Purdue Pharma L.P., *Setting the Record Straight on OxyContin's FDA-Approved Label* (May 5, 2016), http://www.purduepharma.com/news-media/get-the-facts/setting-the-record-straight-on-oxycontins-fda-approved-label/; Purdue Pharma L.P., *Setting the Record Straight on Our Anti-Diversion Programs* (July 11, 2016), http://www.purduepharma.com/news-media/get-the-facts/setting-the-record-straight-on-our-anti-diversion-programs/.
[302] *Id.*

failed to report these providers to state medical boards or law enforcement—meaning Purdue continued to generate sales revenue from their prescriptions.[303]

232. The *Los Angeles Times* investigation also found that "for more than a decade, Purdue collected extensive evidence suggesting illegal trafficking of OxyContin" and yet consistently failed to report suspicious dispensing or to stop supplies to the pharmacy.[304] Despite its knowledge of illicit prescribing, Purdue did not report its suspicions, for example, until years after law enforcement shut down a Los Angeles clinic that Purdue's district manager described internally as "an organized drug ring" and that had prescribed more than 1.1 million OxyContin tablets.[305]

F. The Sackler Defendants Specifically Targeted Delaware with Their Sales Efforts

233. The Sackler Defendants' sales efforts, described above, were specifically targeted into Delaware, starting with a nationwide effort to increase the Purdue sales force.

[303] *See* Harriet Ryan et al., *More Than 1 Million OxyContin Pills Ended Up in the Hands of Criminals and Addicts. What the Drugmaker Knew*, L.A. Times, July 10, 2016, http://www.latimes.com/projects/la-me-oxycontin-part2/.
[304] *Id.*
[305] *Id.*

234. The Sackler Defendants directed the company to hire hundreds of sales representatives over the course of almost a decade.[306] In April 2007, the Sackler Defendants directed the company to prepare for a 100-representative expansion.[307] In November 2007, the Sackler Defendants voted to spend $108,583,000 to employ sales representatives in 2008 and another $1,000,000 to buy them laptops.[308]

235. In February 2008, the Sackler Defendants instructed staff to "begin expanding the sales force by an additional 100 sales representatives beginning effective as of April 1, 2008."[309] By October 2008, Purdue employed 414 sales representatives.[310]

236. In November 2009, the Sackler Defendants voted to spend $112,400,000 on sales representatives in 2010.[311] In July 2010, the Sackler Defendants voted to expand by adding 125 more sales representatives.[312]

---

[306] *See, e.g.*, PPLPC012000157459; PDD9316101027; PDD9316100624; PDD9316101599; PPLPC012000252778; PPLPC012000322461; PPLPC012000433446; PPLPC002000181081; PPLPC031001334002; PPLPC011000123475; PPLPC016000323215; PPLPC016000325614.
[307] PPLP004415274.
[308] PKY183212603.
[309] *Id.*
[310] PDD9316101027.
[311] PKY183212603.
[312] *Id.*

237. In November 2010, the Sackler Defendants voted to spend $158,086,000 on sales representatives in 2011.[313]

238. In November 2012, the Sackler Defendants voted to set Purdue's 2013 budget for Sales and Promotion at $312,563,000.[314] By April 2014, Purdue employed 643 sales representatives,[315] a 55 percent increase from October 2008.

239. Upon information and belief, this nationwide effort to increase the sales force directed sales representatives to Delaware to increase opioids sales.

240. Upon information and belief, these sales representatives conducted their deceptive marketing and sales efforts in doctors' offices, hospitals, restaurants, and other real property venues in Delaware. They traveled on State and county roads to disseminate Purdue's misleading messages as they went to meet with medical professionals and others. They sent their marketing messages to Delawareans via computers, smart phones, or other similar devices within the State.

241. Furthermore, the Sackler Defendants were aware of Delaware doctors on the Region Zero list who had a history of visits from Purdue sales representatives. In Purdue parlance, "Region Zero" prescribers are doctors whom the sales representatives should not contact due to concerns about their prescribing

---

[313] PKY183212865.
[314] PKY183212995–998.
[315] PPLPC012000473138.

or professionalism. On August 16, 2010, staff gave the Board a list of Region Zero prescribers by name and location—showing all of the no-call prescribers assigned by Purdue to Region Zero since 2001—along with the exact number of prescriptions and dollars of revenue each provided to Purdue.[316] Upon information and belief, this list included Delaware doctors.

242. Purdue sales representatives were instructed to keep call notes reflecting their conversations and observations during doctor visits in Delaware. Upon information and belief, these call notes reflect the execution of Board-approved sales plans and the misstatements that Purdue representatives were making about Purdue opioids even after the 2007 guilty plea for misleading marketing. They also reflect visits to problematic Delaware doctors whose prescribing patterns should have signaled to Purdue that they were not appropriate sales targets.

G. The Sackler Defendants' Conduct Violated Their Duties

243. The Sackler Defendants have continued to promote, directly and indirectly, deceptive marketing messages that misrepresent, and fail to include material facts about, the dangers of opioid usage in Delaware, despite actual or constructive knowledge that the opioids were ultimately being consumed by Delaware citizens for unsafe and non-medical purposes.

[316] PPLPC012000283162; PPLPC012000283175.

244. The Sackler Defendants have negligently or recklessly failed to control adequately the content and distribution of marketing materials and sales efforts regarding opioids. A reasonably prudent manager of a manufacturer of opioids would have anticipated the dangers of widely advertising and distributing dangerous opioid products, and protected against it. A reasonably prudent manager of a manufacturer of opioids could have (a) ensured physicians were judicious in considering when to prescribe opioids; (b) carefully worded its marketing materials to ensure the risks of opioids were clearly communicated; (c) conducted and publicized scientific studies testing the risks of opioids; (d) taken greater care in hiring, training, and supervising employees responsible for marketing and selling opioids; (e) investigated demographic or epidemiological data concerning the increasing demand for narcotic painkillers in Delaware and the linkage of that demand with Defendants' marketing efforts; and (f) followed applicable statutes, regulations, professional standards, and guidance, as Defendants agreed Purdue would do when settling prior actions against Purdue.

245. The Sackler Defendants failed to take any of these steps to prevent their misrepresentations and omissions from contributing to the opioid epidemic.

IV. THE SACKLER DEFENDANTS' MISCONDUCT HAS INJURED AND CONTINUES TO INJURE THE STATE AND ITS CITIZENS

246. The Sackler Defendants had the ability and the duty to prevent misleading marketing and opioid diversion, which both presented known or

foreseeable dangers of serious injury. But they failed to do so, resulting in substantial injury to the State of Delaware and its citizens.

A. The Sackler Defendants' Misconduct Has Injured and Continues to Injure Delaware and Its Citizens

247. The Sackler Defendant-directed marketing campaign has resulted in a significant increase in opioid usage: between 1999 and 2016 the number of opioids prescribed nationwide quadrupled.[317] Nationally, the number of people who take prescription opioids for non-medical purposes is now greater than the number of people who use cocaine, heroin, hallucinogens, and inhalants combined.[318]

248. Every year, millions of Americans misuse and abuse opioid pain relievers in ways that can lead to addiction, overdose, and death. Data from the CDC suggest that over 2.6 million Americans are opioid-dependent and over 16.5 million Americans use prescription opioids for non-medical purposes.

249. In Delaware alone, data from the Substance Abuse and Mental Health Services Administration indicate that over 32,000 residents use prescription

---

[317] Li Hui Chen et al., *Drug-Poisoning Deaths Involving Opioid Analgesics: United States, 1999–2011*, 166 Nat'l Ctr. for Health Statistics Data Brief (Sept. 2014), https://www.cdc.gov/nchs/data/databriefs/db166.pdf; Rose A. Rudd, *et al.*, *Increases in Drug and Opioid-Involved Overdose Deaths—United States, 2010-2015*, 65 Morbidity and Mortality Weekly Report 1445 (Dec. 30, 2016), https://www.cdc.gov/mmwr/volumes/65/wr/mm655051e1.htm.

[318] Substance Abuse and Mental Health Servs. Admin., *Results from the 2009 National Survey on Drug Use and Health*, NSDUH Series H-38A, HHS Publication No. SMA 10-4586 Findings (2010).

opioids for non-medical purposes.[319] Similarly, DEA data shows that in the past few years, Delaware has seen annual distribution exceeding 50 pills per resident and 440 pills per opioid user,[320] which is far more than is medically necessary.

250. This growth in non-medical demand, addiction, and diversion has led to serious harm in Delaware and across the nation. The increase in opioid usage has led to levels of addiction that, according to the U.S. Surgeon General, have "devastated" communities across America.[321] Princeton University economist Alan Krueger found that opioids may be responsible for roughly 20% of the national decline in workforce participation by prime-age men and 25% of the drop by women.[322] In 2011, the CDC reported that overdose deaths from prescription opioids had reached "epidemic levels."[323] That year, 16,917 people died from a

---

[319] Substance Abuse and Mental Health Servs. Admin., *National Survey on Drug Use and Health: Comparison of 2002–2003 and 2013–2014 Population Percentages (50 states and the District of Columbia)*, 16–17 (2015), http://www.samhsa.gov/data/sites/default/files/NSDUHsaeLongTermCHG2014/NSDUHsaeLongTermCHG2014.pdf (4.34 percent of people age 12 or older in Delaware engage in the non-medical use of prescription pain relievers).

[320] Drug Enf't Admin., ARCOS Report, *Retail Drug Distribution By Zip Code Within State by Grams Weight*, https://www.deadiversion.usdoj.gov/arcos/retail_drug_summary/2013/2013_rpt1.pdf; https://www.deadiversion.usdoj.gov/arcos/retail_drug_summary/2014/2014_rpt1.pdf; https://www.deadiversion.usdoj.gov/arcos/retail_drug_summary/2015/2015_rpt1.pdf; https://www.deadiversion.usdoj.gov/arcos/retail_drug_summary/report_yr_2016.pdf.

[321] Letter from U.S. Surgeon General Vivek H. Murthy (Aug. 2016), https://perma.cc/VW95-CUYC.

[322] *See* Alan B. Krueger, *Where Have All the Workers Gone? An Inquiry into the Decline of the U.S. Labor Force Participation Rate*, Brookings Papers on Econ. Activity Conference Draft (Aug. 26, 2017).

[323] Press Release, CDC, Prescription Painkiller Overdoses at Epidemic Levels (Nov. 1, 2011), https://www.cdc.gov/media/releases/2011/p1101_flu_pain_killer_overdose.html.

prescription opioid-related overdose, an increase of more than 20% over the previous three years.[324] Since then, the national death toll has continued to rise. In 2014, 18,893 people died from a prescription opioid-related overdose.[325] In 2015, that number increased again to 22,598.[326] As discussed above, overdose deaths in the United States involving prescription opioids have quadrupled since 1999.

251. In Delaware, CDC data shows that over 340 people died from prescription opioid overdoses from 2011–2015.[327] The epidemic resulted in 112 prescription opioid-related deaths in Delaware in 2016 alone[328] and 343 drug overdose deaths in 2017, nearly 60 percent of which involved synthetic opioids.[329] In 2018, drug overdose deaths in Delaware climbed to 400, with synthetic opioids responsible for 72 percent of that total.[330]

---

[324] Li Hui Chen et al., *Drug-poisoning Deaths Involving Opioid Analgesics: United States, 1999–2011*, 166 Nat'l Ctr. for Health Statistics Data Brief (Sept. 2014), https://www.cdc.gov/nchs/data/databriefs/db166.pdf.

[325] Rose A. Rudd et al., *Increases in Drug and Opioid-Involved Overdose Deaths—United States, 2010–2015*, 65 Morbidity and Mortality Weekly Report 1445 (Dec. 30, 2016), https://www.cdc.gov/mmwr/volumes/65/wr/mm655051e1.htm.

[326] *Id.*

[327] CDC, Wide-ranging Online Data for Epidemiologic Research (WONDER), http://wonder.cdc.gov.

[328] CDC, Wide-ranging Online Data for Epidemiologic Research (WONDER), *Multiple Cause of Death Data, 1999–2016*, https://wonder.cdc.gov/mcd.html.

[329] Delaware Health and Social Services, Division of Public Health, *Delaware 2017 Drug Overdose Mortality Surveillance Report*, at 20–21 (August 2019) https://www.dhss.delaware.gov/dhss/dph/files/dedrugoverdosemortsurvrpt2017.pdf.

[330] State of Delaware Department of Safety and Homeland Security, *Division of Forensic Science 2018 Annual Report,* (May 2019), https://forensics.delaware.gov/contentFolder/pdfs/2018%20DFS%20Annual%20Report.pdf.

252. It was reasonably foreseeable to the Sackler Defendants that their deceptive and aggressive marketing of opioids in and around Delaware would allow opioids to fall into the hands of children, addicts, criminals, and other non-medical users.

253. It was reasonably foreseeable to the Sackler Defendants that when at-risk users gained access to opioids based on deceptive and unfair marketing, tragic, preventable injuries would result, including abuse, addiction, overdose, and death. It was also reasonably foreseeable to the Sackler Defendants that many of these injuries would be suffered by Delaware citizens, and that the costs of these injuries would be shouldered by the State.

254. The Sackler Defendants knew or should have known that their continuing efforts to employ deceptive and unfair marketing, despite Purdue being previously sanctioned by government agencies for such actions, would contribute to the opioid epidemic in Delaware, and would create access to opioids by at-risk and unauthorized users, which, in turn, would perpetuate the cycle of abuse, addiction, demand, and illegal transactions.

255. The Sackler Defendants knew or should have known that a substantial amount of the opioids dispensed in and around Delaware were being dispensed as a result of their deceptive and unfair marketing. It was reasonably foreseeable to the Sackler Defendants that the increased number of prescriptions for opioids resulting

from the Sackler Defendants' deceptive and unfair marketing would cause harm to individual pharmacy customers, third parties, and Delaware.

256. The Sackler Defendants were paid substantial amounts over the years based on Purdue's deceptive and unfair marketing of opioids in Delaware, which they directed and controlled. Their participation and cooperation in a common enterprise has foreseeably caused injuries to the citizens of Delaware and financial damages to Delaware. The Sackler Defendants knew that Delaware would be unjustly forced to bear the costs of these injuries and damages.

257. The Sackler Defendants' deceptive and unfair marketing of prescription opioids to Delaware citizens showed a reckless disregard for the safety of Delaware and its citizens. Their conduct poses a continuing threat to the health, safety, and welfare of Delaware and its citizens.

B. The Sackler Defendants' Misconduct Has Damaged Delaware and Its Citizens

258. The Sackler Defendants' misleading marketing and failure to prevent opioid diversion in and around Delaware has contributed to a range of social problems, including violence and delinquency. Adverse social outcomes include child neglect, family dysfunction, babies born addicted to opioids, criminal behavior, poverty, property damage, unemployment, and social despair. As a result, more and more of Delaware's resources and those of its counties and municipalities are devoted to opioid addiction-related problems. Meanwhile, the

prescription opioid crisis diminishes Delaware's available workforce, decreases productivity, increases poverty, and consequently requires greater State and local expenditures.

259. These costs to the State are estimated to include $29 million in additional annual costs to Delaware's healthcare system,[331] $33 million in additional annual costs to Delaware's justice system,[332] $8 million in additional annual costs to Delaware's social services,[333] and $22 million in additional annual

---

[331] Matric Global Advisors, *Health Care Costs from Opioid Abuse: A State-by-State Analysis*, 5 (2015), http://drugfree.org/wp-content/uploads/2015/04/Matrix_OpioidAbuse_040415.pdf (prescription opioid abuse costs the citizens and State of Delaware approximately $109 million in healthcare costs each year); Kohei Hasegawa et al., *Epidemiology of Emergency Department Visits for Opioid Overdose: A Population-based Study*, 89 Mayo Clinic Proceedings 462, 465, 467 (2014) (there are about two times as many opioid overdoses in emergency departments among publicly-insured individuals than among individuals with private insurance and publicly-insured individuals are approximately twice as likely to have a second visit to the emergency department for opioid overdose as are privately-insured individuals); Congressional Research Serv., *Medicaid's Federal Medical Assistance Percentage (FMAP)* 14–15 (2016), https://fas.org/sgp/crs/misc/R43847.pdf (the State of Delaware pays for approximately 40% of publicly-funded healthcare expenses, or $29 million).

[332] The Nat'l Ctr. on Addiction and Substance Abuse, *Shoveling Up II: The Impact of Substance Abuse on Federal, State, and Local Budgets*, 27 (May 2009), http://www.centeronaddiction.org/addiction-research/reports/shoveling-ii-impact-substance-abuse-federal-state-and-local-budgets (On average, state governments spend 12% more than their healthcare spending on the justice system expenses associated with substance abuse. Thus, compared to the $29 million Delaware spends on opioid-related healthcare, data suggests that the State spends almost $33 million annually on the costs of opioid abuse to the justice system.).

[333] *Id.* (State governments spend 27% of the amount they spend on healthcare to fund the social services related to substance abuse. Applying this percentage to Delaware implies that the State spends almost $8 million annually on social services related to opioid abuse.).

costs to Delaware's education system,[334] as well as at least $29 million in lost productivity and substantially lower tax revenue.[335]

COUNT I
CONSUMER FRAUD

260. Delaware realleges and incorporates by reference the foregoing allegations as if set forth at length herein.

261. As described throughout this Complaint, the Sackler Defendants are responsible for Purdue's unfair and deceptive merchandising practices in the conduct of trade and commerce within the State of Delaware. Specifically, the Sackler Defendants persistently directed Purdue employees including, but not limited to, sales representatives to: (i) misrepresent material facts, or (ii) suppress, conceal, or omit material facts, with the intent that consumers will rely thereon.

262. Through their conduct, including as described in this Complaint, both directly and through third parties whom the Sackler Defendants knew were acting in Delaware, the Sackler Defendants:

---

[334] *Id.* (State governments spend 77% of the amount they spend on healthcare on the K–12 education expenses associated with substance abuse. Using these data, Delaware is estimated to spend over $22 million annually to cover the burden of opioid abuse on the State's K–12 education system.).

[335] Howard Birnbaum et al., *Societal Costs of Prescription Opioid Abuse, Dependence, and Misuse in the United States*, 12 Pain Med. 657, 661 (2011); Scott Strassels, *Economic Burden of Prescription Opioid Misuse and Abuse*, 15 J. of Managed Care & Specialty Pharmacy 556 (2009); Ryan Hansen et al., *Economic Costs of Nonmedical Use of Prescription Opioids*, 27 The Clinical J. of Pain 194 (2011) (All studies estimate that the lost productivity costs are *at least* as large as the healthcare costs resulting from opioid abuse, and possibly as large as ten times annual healthcare costs.).

a. have ignored Delaware laws that prohibit misbranding drugs;

b. have marketed drugs through misstatements and omissions of facts regarding the safety of those drugs; and

c. have failed adequately to guard against misstatements and omissions concerning opioids.

263. The Sackler Defendants' actions in directing Purdue's sales force to make misrepresentations in marketing and directing others to market its prescription opioids to doctors in Delaware led to an unnecessary increase in opioid prescriptions in the State and ultimately caused tremendous harm to Delaware and its citizens.

264. The Sackler Defendants have misrepresented material facts, or used concealment, suppression, or omission of material facts with the intent that others rely upon such concealment, suppression, or omission, in connection with the manufacture and sale of prescription opioids, whether or not any person has been misled, deceived, or damaged thereby, in violation of § 2513(a) of the Delaware Consumer Fraud Act (6 *Del. C.* §§ 2511–2527), by misrepresenting, suppressing, concealing, or omitting the material facts set forth in the preceding paragraphs.

265. Through their acts, as well as the acts they directed others to commit in Delaware, the Sackler Defendants succeeded in getting many Delaware doctors to prescribe and Delaware patients to take and remain on Purdue opioids.

266. Each instance where the Sackler Defendants have misrepresented material facts or suppressed, concealed, or omitted any of the material facts set forth herein with the intent that a consumer would rely thereon, constitutes a violation of § 2513(a) of the Delaware Consumer Fraud Act.

COUNT II
NEGLIGENCE

267. Delaware realleges and incorporates by reference the foregoing allegations as if set forth at length herein.

268. The Sackler Defendants owe a duty to Delaware to conform their behavior to the legal standard of reasonable conduct under the circumstances, in the light of the apparent risks.

269. The conduct of the Sackler Defendants has fallen below the reasonable standard of care. Their negligent acts have included the following:

a. marketing and directing others to market opioids with misleading statements resulting in oversupply in and around Delaware of highly addictive prescription opioids;

b. enhancing the risk of harm from prescription opioids by marketing and directing others to market those drugs with misleading statements and omissions;

c. inviting criminal activity into Delaware by marketing and directing others to market opioids in violation of Delaware and Federal laws;

d. failing to adhere to all applicable laws and regulations pertaining to the marketing of prescription opioids;

e. failing to train or investigate their employees properly; and

f. failing to provide adequate safeguards against misleading marketing.

270. Each Sackler Defendant had a responsibility to exercise reasonable care in marketing and directing others to market prescription opioids.

271. Each Sackler Defendant marketed and directed others to market opioids using misleading statements and omissions knowing that:

a. there was a substantial likelihood this marketing would lead to sales for illicit and non-medical purposes; and

b. opioids are an inherently dangerous product when used for chronic pain and non-medical purposes.

272. The Sackler Defendants were negligent or reckless in not acquiring or not utilizing special knowledge and special skills that relate to the dangerous activity of selling opioids in order to prevent or ameliorate such distinctive and significant dangers.

273. Each Sackler Defendant breached his or her duty to exercise the degree of care, prudence, watchfulness, and vigilance commensurate with the

dangers involved in marketing and introducing into commerce dangerous controlled substances.

274. The Sackler Defendants were also negligent or reckless in voluntarily undertaking duties to the State that they breached. The Sackler Defendants, through their affirmative statements regarding protecting consumers, undertook duties to take all reasonable precautions to avoid misleading marketing statements.

275. The Sackler Defendants' conduct was the cause-in-fact and proximate cause of injuries and damages to the State, its counties, its municipalities, and its citizens, including but not limited to the following: increased costs for healthcare, criminal justice, social services, welfare, and education systems, as well as the cost of lost productivity and lower tax revenues.

276. Delaware is without fault, and its injuries would not have happened in the ordinary course of events if the Sackler Defendants had used due care commensurate to the dangers involved in the marketing of controlled substances.

277. The reckless, wanton, and reprehensible nature of the Sackler Defendants' conduct entitles Delaware to an award of punitive damages and attorneys' fees and costs.

COUNT III
NUISANCE

278. Delaware realleges and incorporates by reference the foregoing allegations as if set forth at length herein.

279. The Attorney General is authorized to bring suit on behalf of the State and its citizens to address a public nuisance.

280. The Sackler Defendants have caused, are causing, and will continue to cause a public nuisance, in that they have committed offenses against the public order and economy of the State by unlawfully marketing and directing others to market prescription opioids through misleading statements in ways that facilitate the sale, distribution, and dispensing of such drugs from premises in and around Delaware to unauthorized users in Delaware—including children, people at risk of overdose or suicide, and criminals.

281. Defendants used property in Delaware, real and personal, to create and exacerbate the public nuisance.

282. The Sackler Defendants' activities have unreasonably interfered, are interfering, and will interfere with the common rights of the general public:

a. to be free from reasonable apprehension of danger to person and property;

b. to be free from the spread of disease within the community, including the disease of addiction and other diseases associated with widespread illegal opioid use;

c. to be free from the negative health and safety effects of widespread illegal drug sales on premises in and around Delaware;

d. to be free from blights on the community created by areas of illegal drug use and opioid sales;

e. to live or work in a community in which local businesses do not profit from using their premises to sell products that serve the criminal element and foster a secondary market of illegal transactions; and

f. to live or work in a community in which community members are not under the influence of narcotics unless they have a legitimate medical need to use them.

283. The Sackler Defendants' interference with these public rights has been, is, and will continue to be unreasonable and objectionable because it:

a. has harmed and will continue to harm the public health and public peace of Delaware;

b. has harmed and will continue to harm Delaware neighborhoods and communities by increasing crime, and thereby interfering with the rights of the community at large;

c. is proscribed by Delaware and Federal statutes;

d. is of a continuing nature, and has produced long-lasting effects; and

e. is known to the Sackler Defendants that their conduct has a significant effect upon the public rights of Delaware citizens and the State.

284. The nuisance has undermined, is undermining, and will continue to undermine Delaware citizens' public health, quality of life, and safety. It has resulted in increased crime and property damage within Delaware. It has resulted in high rates of addiction, overdose, and dysfunction within Delaware families and entire communities.

285. Public resources have been, are being, and will be consumed in efforts to address the prescription drug abuse epidemic, thereby eliminating available resources which could be used to benefit the Delaware public at large.

286. The Sackler Defendants' nuisance-causing activities have not been, are not being, and will not be outweighed by the utility of the Defendants' behavior. In fact, their behavior is illegal and has no social utility whatsoever. There is no legitimately-recognized societal interest in marketing or directing others to market opioids through misleading statements.

287. As a direct and proximate result of the nuisance, Delaware citizens have been injured in their ability to enjoy rights common to the public.

288. As a direct and proximate result of the nuisance, Delaware and its counties and municipalities have sustained economic harm by spending substantial sums trying to fix the societal harms caused by the Sackler Defendants' nuisance-causing activity, including costs to the healthcare, criminal justice, social services, welfare, and education systems.

289. The State has also suffered unique harms of a kind that are different from Delaware citizens at large, namely, that the State has been harmed in its proprietary interests.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, State of Delaware, prays that this Court enter judgment in its favor against Defendants and:

a. On Count I (Consumer Fraud),

i. Enter an order that directs the Sackler Defendants to "cease and desist the[ir] unlawful conduct prospectively," i.e., cease and desist violating the Delaware Consumer Fraud Act, 6 *Del. C.* §§ 2511, *et seq.*, in connection with the marketing, manufacture, and sale of prescription opioids;

ii. Enter an order levying penalties against the Sackler Defendants, jointly and severally, in the amount of $10,000 per violation for each and every instance where they breached the provisions of the Delaware Consumer Fraud Act;

iii. Award Delaware such additional relief as may be necessary to remedy the Sackler Defendants' violations of the Delaware Consumer Fraud Act, including the "return [of] any moneys obtained unlawfully," "order[s of] restitution, rescission, recoupment, or [any] other relief appropriate to prevent [the Sackler Defendants] from being unjustly enriched"; and

iv. Award Delaware the costs of bringing this action, investigative costs and fees, attorneys' fees, and such other and additional relief, including, but not limited to, unjust enrichment damages, as the Court may determine to be just and proper.

b. On Count II (Negligence),

i. Award Delaware compensatory damages for the increased costs to Delaware's healthcare, criminal justice, social services, welfare, and education systems, as well as the cost of lost productivity and lower tax revenue due to the Sackler Defendants' negligence;

ii. Award Delaware punitive damages;

iii. Award Delaware unjust enrichment damages;

iv. Award Delaware attorneys' fees and costs; and

v. Order such further relief as justice and equity may require.

c. On Count III (Nuisance),

i. Order the Sackler Defendants to pay the expenses Delaware and its counties and municipalities have incurred or will incur in the future to abate fully the nuisance they have caused;

ii. Award Delaware punitive damages; and

iii. Order such further relief as justice and equity may require.

REQUEST FOR JURY TRIAL

Delaware respectfully requests that all issues presented by its above Complaint be tried by a jury, with the exception of those issues that, by law, must be tried before the Court.

Date: September 9, 2019

OF COUNSEL:

Richard J. Leveridge
Jenna A. Hudson
Michael B. Rush (#5061)
Monique T. Abrishami
GILBERT LLP
1100 New York Avenue, NW
Suite 700
Washington, DC 20005
leveridgej@gilbertlegal.com
hudsonj@gilbertlegal.com
rushm@gilbertlegal.com
abrishamim@gilbertlegal.com

Richard W. Fields
FIELDS PLLC
1700 K Street, NW, Suite 810
Washington, DC 20006
fields@fieldslawpllc.com

Michael L. Vild (#3042)
CROSS & SIMON, LLC
1105 North Market Street
Suite 901
Wilmington, DE 19801
mvild@crosslaw.com

/s/ Kathleen Jennings
Kathleen Jennings (#913)
Attorney General, State of Delaware
Delaware Department of Justice
Carvel State Building
820 N. French Street
Wilmington, DE 19801

/s/ Ryan P. Newell
Ryan P. Newell (#4744)
Kyle Evans Gay (#5752)
Shaun Michael Kelly (#5915)
CONNOLLY GALLAGHER LLP
1201 North Market Street
20th Floor
Wilmington, DE 19801
Telephone: (302) 757-7300
Facsimile: (302) 757-7299
rnewell@connollygallagher.com
kgay@connollygallagher.com
skelly@connollygallagher.com

Attorneys for the State of Delaware, ex rel. *Kathleen Jennings, Attorney General of the State of Delaware*