IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
_____ Division

STATE OF ARKANSAS, *ex rel.* TIM GRIFFIN, ATTORNEY GENERAL — **PLAINTIFF**

v. — **CASE NO. 23CV-23 _____**

ALLERGAN LIMITED, ALLERGAN FINANCE, LLC, WATSON LABORATORIES, INC., ACTAVIS PHARMA, INC., ACTAVIS LLC, TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC., AND CEPHALON, INC. — **DEFENDANTS**

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

COMES NOW Plaintiff, the State of Arkansas, by and through its Attorney General Tim Griffin, and brings this action against Defendants Allergan Limited, Allergan Finance, LLC, Watson Laboratories, Inc., Actavis Pharma, Inc., Actavis LLC, Teva Pharmaceutical Industries, Ltd., Teva Pharmaceuticals USA, Inc., and Cephalon, Inc. (collectively "Defendants") pursuant to the State's *parens patriae* capacity to advance the public interest, the Arkansas Deceptive Trade Practices Act and to the common law of the State of Arkansas and alleges as follows:

I. JURISDICTION AND STATUTORY AUTHORITY

1. This enforcement action is brought by Attorney General Tim Griffin, in the name of the State of Arkansas and in the public interest pursuant to the authority granted by § 16-13-201 for equitable and legal relief, and by § 4-88-101 *et seq.* upon the ground that Defendants have

engaged in false, deceptive, unconscionable, and misleading acts and practices and declared unlawful by the Arkansas Deceptive Trade Practices Act.

2. At all times described below, Defendants and their agents have engaged in conduct affecting business, commerce, or trade in Arkansas pursuant to Ark. Code Ann. § 4-88-107(a)(10).

3. Plaintiff has reason to believe Defendants have caused and will cause immediate, irreparable injury, loss, and damage to the State of Arkansas by deceptively marketing prescription opioids to consumers while misrepresenting the risk of addiction, potential benefits, effectiveness, and potential side effects. Therefore, these proceedings are in the public interest.

4. This Court has personal jurisdiction over Defendants because they conduct business, commerce, or trade in Arkansas. Defendants: (1) do business in Arkansas and/or purposely direct or directed its actions towards Arkansas; (2) committed torts in part in Arkansas against the State and its residents; (3) solicited and continues to seek business, and performed and continues to conduct business services such as marketing, advertising, promoting, distributing, and dispensing of its products in Arkansas; and (4) has the requisite minimum contacts with Arkansas.

5. Plaintiff has reason to believe that Defendants have caused and will cause immediate, irreparable injury, loss, and damage to the State of Arkansas by unlawfully dispensing prescription opioids. Therefore, these proceedings are in the public interest.

II. VENUE

6. Venue is proper in Faulkner County under Ark. Code Ann. §§ 4-88-115, 16-60-101(a) and (c).

III. DEFENDANTS

7. Defendant **Allergan Limited** ("Allergan Limited" f/k/a Allergan plc, f/k/a Actavis plc) is a public limited company incorporated in Ireland with its principal place of business in Dublin, Ireland.

8. Defendant **Allergan Finance, LLC.** ("Allergan Finance" f/k/a Actavis, Inc., f/k/a Watson Pharmaceuticals, Inc.) is a Nevada limited liability company that exists for the purpose of holding shares of other companies that manufacture and distribute prescription pharmaceuticals. Allergan Finance owns Allergan, Inc.

9. Watson Pharmaceuticals, Inc. acquired Actavis, Inc. in October 2012. The combined company changed its name to Actavis, Inc. in January 2013. In 2016 or 2017, Actavis, Inc. changed its name to Allergan Finance, LLC. Allergan Finance, LLC is a subsidiary of Allergan Limited and is the successor to Actavis, Inc.

10. Defendant **Watson Laboratories, Inc.** is a Nevada corporation with its principal place of business in New Jersey.

11. Defendant **Actavis Pharma, Inc.** (f/k/a/ Watson Pharma, Inc.) is a Delaware corporation with its principal place of business in New Jersey.

12. Defendant **Actavis LLC** (f/k/a Actavis Inc.) is a Delaware limited liability company with its principal place of business in New Jersey.

13. Watson Laboratories, Inc., Actavis Pharma, Inc., and Actavis LLC are collectively referred to herein as the "Actavis Defendants."

14. Defendant **Teva Pharmaceutical Industries, Ltd.** ("Teva Ltd.") is an Israeli company with its principal place of business in Petah Tikva, Israel. Teva Ltd. operates worldwide

with a significant presence in the United States. Teva Ltd conducts business in the State of Arkansas through its North America business segment.

15. Defendant **Teva Pharmaceuticals USA, Inc.** ("Teva USA") is a Delaware corporation and has its principal place of business in New Jersey. Teva USA is a wholly-owned subsidiary of Teva Ltd.

16. Defendant **Cephalon, Inc.** ("Cephalon"), is a Delaware corporation with its principal place of business in New Jersey. Teva Ltd. acquired Cephalon in 2011. Cephalon is a wholly-owned subsidiary of Teva Ltd.

17. Conduct related to Actiq and Fentora prior to 2011 was carried out by Cephalon.

18. Since Teva Ltd.'s 2011 acquisition of Cephalon, its sales and marketing activities have been conducted by Teva USA. Teva Ltd. and Teva USA hold out Actiq and Fentora to the public as Teva products. Teva USA sells Actiq and Fentora through its "specialty medicines" division.

19. Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals USA, Inc., and Cephalon, Inc. are collectively referred to herein as "Teva" or "Teva Defendants."

20. During the time period described herein and until they were sold to Teva Ltd. in August 2016, the Actavis Defendants were part of the same corporate family as Allergan Finance and shared many of the same corporate officers and executives, and sold and marketed opioids as part of a coordinated strategy. Allergan Finance, Allergan Limited, Watson Laboratories, Inc., Actavis Pharma, Inc., and Actavis LLC are collectively referred to herein as "Allergan" or "Allergan Defendants."

21. Since August 2016, Teva Ltd. has owned the Actavis Defendants.

22. Whenever in this Complaint it is alleged that Defendants did any act, it is meant that Defendants:

a. Performed or participated in the act; or

b. Their officers, successors in interest, agents, partners, trustees, or employees performed or participated in the act on behalf of and under the authority of one or more of the Defendants.

IV. FACTUAL ALLEGATIONS

23. Beginning in the mid-1990s, opioid manufacturers pursued aggressive sales strategies to increase sales of their prescription opioids, a plan that resulted in a dramatic rise in opioid prescriptions in the State of Arkansas. This contributed to a sharp increase in the use of drugs such as illegal fentanyl and heroin, which are sometimes used by themselves and other times used in combination with prescription opioids.

24. The rise in opioid prescriptions caused a devastating rise in opioid abuse, dependence, addiction, and overdose deaths in the State of Arkansas. Illicit fentanyl and heroin use exacerbated opioid abuse, dependence, addiction, and overdose deaths in the State of Arkansas.

25. Prescription opioids continue to kill hundreds of people across the State of Arkansas every year. Thousands more suffer from negative health consequences short of death and countless others have had their lives ruined by a friend or family member's addiction or death. Every community in the State of Arkansas suffers from the opioid crisis of addiction and death.

Allergan

26. Allergan manufactured, marketed, and sold the brand drug Kadian (morphine sulfate extended release), a schedule II opioid agonist capsule first approved by the FDA in 1996. At that time, the indication was for "management of moderate to severe pain when a continuous,

around-the-clock opioid analgesic is needed for an extended period of time." In 2014, the FDA changed the indication to limit usage only to the "the management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate."

27. The Allergan Defendants manufactured, marketed, and sold numerous other opioids, including (a) Norco (hydrocodone bitartrate and acetaminophen); (b) morphine sulfate extended release (generic Kadian); (c) oxymorphone hydrochloride extended release (generic Opana ER); (d) oxymorphone hydrochloride; (e) oxycodone; and (f) fentanyl patch (generic Duragesic).

28. Allergan misled health care providers and patients about the dangers of prescription opioids, including downplaying the risk of addiction. For example, through its "*Kadian Learning System*" Allergan trained its sales force to deceptively minimize the risk of addiction by attributing addiction to predisposing factors, such as family history or psychiatric disorders, emphasized the difference between substance dependence and substance abuse, and promoted the concept of "pseudoaddiction," which is the idea that certain signs of addiction are actually the result of untreated pain and should be treated by prescribing more opioids.

29. Allergan misrepresented the abuse potential of its opioid products by claiming Kadian had abuse-deterrent properties. Abuse-deterrent opioid formulations were designed to make opioid pills harder to crush, dissolve or manipulate; however, most prescription opioids are abused by being swallowed whole. Allergan's "*Medical Information Module on Kadian and Abuse Potential*" included statements suggesting that Kadian is less addictive and less prone to tampering and abuse, even though such claims had no substantial clinical evidence to support them and were not approved by the FDA.

30. Allergan also misled healthcare providers about the extent to which the risk of addiction could be managed and prevented. Allergan downplayed the difficult and painful effects many patients feel when opioid dosages are lowered or discontinued and assured healthcare providers that risk of addiction could be minimized by monitoring and use of screening tools, despite a lack of evidence supporting that claim.

31. Allergan also made deceptive and unsubstantiated claims that opioids improved patients' quality of life and function. For example, it advertised that Kadian allowed chronic pain patients to return to work, experience stress relief, and enjoy life. In 2010 the FDA warned Allergan that its claims were misleading and there was insufficient evidence to show the drug, "results in any overall positive impact on a patient's work, physical and mental functioning, daily activities, or enjoyment of life." Despite this letter, Allergan persisted in training its sales force to assure prescribers that morphine is the "benchmark analgesic" and improves quality of life.

32. Allergan used deceptive messages to convince prescribers that escalating opioid dosages was safe for patients, including telling prescribers that Kadian had no "ceiling" or "recommended maximal dose." Allergan worked to keep patients on opioids for a long period of time, including through use of co-pay assistance cards.

33. Allergan deceptively compared its opioid products to competitor products, touting its products as safer, more convenient and easier to titrate than other opioids. It falsely portrayed its opioids as superior to common non-opioid pain relievers by training sales representatives about the risks of NSAIDs and acetaminophen, but omitting the risks related to opioid use.

34. Through a series of mergers Allergan acquired a significant share of the generic opioid market. Prior to the sale of its generic business to Teva, Allergan's marketing strategy included promotion of its generic opioid products, including generic Kadian, directly to physicians

through direct mail and email campaigns, telemarketing, and journal advertising and in collaboration with drug distributors. Allergan's sales representatives used the same sales strategies and key messages for branded and generic Kadian and received bonuses based on sales of both formulations.

35. Allergan promoted its generic version of Opana ER. When Endo discontinued certain dosages of Opana ER, Allergan deployed its Kadian sales representatives to promote its generic version of the drug. It rewarded Opana sales teams with bonuses for meeting Opana ER sales goals.

36. Allergan failed to properly design and operate a system for detecting suspicious opioid orders. Its suspicious order monitoring systems and the thresholds established within those systems to identify suspicious orders were inadequate. At times, Allergan adjusted and manipulated thresholds to ship opioid products to customers without obstacles.

37. Allergan failed to perform appropriate due diligence on its customers, both generally and when it should have been alerted to a suspicious order. Allergan also failed to stop shipments after it knew or should have known that opioid orders remained suspicious, had no requirement to stop shipments on suspicious indirect sales, and failed to report suspicious orders to government authorities, such as the DEA.

38. Through their actions and inactions in connection with the marketing, sale and distribution of opioids, including those alleged above, the Allergan Defendants materially contributed to the creation of an addiction crisis that has injured, harmed, and otherwise disrupted the lives of thousands of residents of the State of Arkansas. The Allergan Defendants knew, or in the exercise of reasonable care and diligence should have known, that their actions and inactions would lead to this result.

Teva

39. Teva manufactured, marketed, and sold two branded opioid products containing the extremely powerful drug fentanyl: Actiq and Fentora.

40. Actiq (fentanyl citrate) is an oral transmucosal lozenge on a stick. Actiq is indicated for management of breakthrough pain in cancer patients ages 16 years or older who are already receiving and tolerant to around-the-clock opioid therapy for cancer pain. The FDA granted Actiq a "restricted approval" in 1998.

41. Fentora (fentanyl citrate) is a fentanyl buccal tablet that a patient places in his or her buccal cavity, or the area between the cheek and gum above a rear molar. Fentora is indicated for management of breakthrough pain in cancer patients ages 18 years or older who are already receiving and tolerant to around-the-clock opioid therapy for cancer pain. Fentora was originally approved by the FDA in 2006.

42. Actiq and Fentora both contain fentanyl, an extremely powerful drug that is 100 times more potent than morphine. Actiq and Fentora carry the strictest warning required by the FDA, including about the risks of fatal respiratory depression when used by non-opioid tolerant patients.

43. Despite the very serious risks presented by use of these fentanyl-based products, Teva Defendants promoted Actiq "off-label" for use in non-cancer indications, including chronic pain and non-cancer pain. This promotion was misleading because it represented that Actiq was safe and approved for patients and uses for which it was not.

44. Teva sponsored conferences for prescribers to discuss off-label uses of Actiq. Teva sales representatives targeted visits to promote Actiq to health care providers unlikely to treat cancer, such as general practitioners and practitioners specializing in Family Medicine and

Rheumatology. Teva sponsored activities by third-party groups and key opinion leaders that promoted use of fentanyl for non-cancer breakthrough pain in conditions such as back pain and headaches.

45. In 2008 Cephalon pled guilty to a criminal violation of the Federal Food, Drug and Cosmetic Act for misleading promotion of Actiq for non-cancer pain and patients who were not opioid tolerant, along with two other drugs, and agreed to pay $425 million.

46. Despite the Actiq plea, the Teva Defendants went on to promote Fentora for off-label use. When Fentora came onto the market the Teva Defendants targeted marketing at high-volume Actiq prescribers, healthcare providers unlikely to treat cancer pain, and known high-volume opioid prescribers. Teva sponsored CMEs, articles and studies focused on the use of rapid-onset fentanyl products, such as Actiq and Fentora, for non-cancer pain.

47. On September 27, 2007 the FDA issued a public health advisory to address numerous reports that patients who did not have cancer or were not opioid-tolerant had been prescribed Fentora, with life-threatening or fatal results. The FDA subsequently denied Cephalon's 2008 application to broaden Fentora's indication to include non-cancer breakthrough pain. In 2009, the FDA warned Teva that a Fentora internet advertisement was misleading because it purported to broaden the indication for Fentora, "by implying that any patient with cancer who requires treatment for breakthrough pain is a candidate for Fentora….when this is not the case."

48. Teva misled health care providers and patients about the dangers of prescription opioids by downplaying the risk of addiction. In written materials for prescribers and patients and on its website Teva stated that addiction to prescription opioids was rare, and that, for example, "[a]ddiction does not often occur when you take your medicine under your doctor's

supervision." Teva's training materials taught its sales force that opioid addiction is a relatively rare phenomenon and that the risk of addiction is often overstated by clinicians. Teva also sponsored third party publications that reiterated this idea.

49. In marketing opioids, Teva promoted the concept of "pseudoaddiction," which is the idea that certain signs of addiction are actually the result of untreated pain, which should be addressed by prescribing more opioids. For example, Teva taught sales representatives about the idea of "pseudoaddiction" and published a patient brochure titled, "*Making Pain Talk Painless*," available for download on www.fentora.com, which stated that pseudoaddiction is "[m]edicine-seeking behavior caused by not taking enough pain medicine and can be mistaken for addition. This is NOT addiction. If you feel you are not taking enough medicine to relieve your pain, talk with your doctor."

50. Teva made deceptive and unsubstantiated claims that use of opioids generally and its own opioid products specifically improved patients' quality of life. Teva also promoted the idea that opioids were superior to other forms of pain relief and sponsored third-party publications that characterized non-opioids such as acetaminophen and NSAIDs as less desirable treatment for breakthrough pain, while promoting oral fentanyl instead.

51. Teva encouraged health care providers and patients to take its fentanyl products for as long as possible. Teva misrepresented the results of a key clinical trial study by claiming or implying that a much larger number of patients had finished the study using the same dose of Fentora at the beginning and end of the study when, in reality, far fewer had done so.

52. Teva also provided significant financial support to health care practitioners identified as pro-opioid "Key Opinion Leaders" ("KOLs"). These KOLs led Teva-sponsored

studies that sought to provide a basis for using Actiq and Fentora to treat non-cancer pain and made deceptive statements concerning the use of opioids to treat chronic non-cancer pain.

53. Teva used a speaker program that was ostensibly meant to present scientific information to the medical community, but in fact was often used to maintain positive relationships with high prescribers, rewarding and encouraging their use of Fentora.

54. In addition to making Actiq and Fentora, Teva is one of the largest generic drug companies in the world. Teva's generic opioids include generic versions of oxycodone (generic OxyContin), oxymorphone hydrochloride (generic Opana), and MS Contin. Teva purchased and now sells generic opioids through the former generic opioids unit of Allergan. Teva's efforts in support of its branded drugs, and its unbranded marketing, impacted sales of generic opioids, which Teva knew health care providers would frequently prescribe or dispense in place of branded products.

55. Through their actions and inactions in connection with the marketing, sale and distribution of opioids, including those alleged above, the Teva Defendants materially contributed to the creation of an addiction crisis that has injured, harmed, and otherwise disrupted the lives of thousands of residents of the State of Arkansas. The Teva Defendants knew, or in the exercise of reasonable care and diligence should have known, that their actions and inactions would lead to this result.

FIRST CAUSE OF ACTION
(Violations of Arkansas Deceptive Trade Practices Act) (Allergan)
Ark. Code Ann. § 4-88-101 *et seq.*

56. Plaintiff incorporates and adopts by reference the allegations contained in the preceding paragraphs as though fully alleged herein.

57. As described above, the Allergan Defendants misrepresented the risks and benefits their opioid products and opioids generally in the State of Arkansas.

58. The Allergan Defendants as alleged and detailed above have, in the conduct of commerce, engaged in false, misleading, or deceptive acts or practices in violation of the Arkansas Deceptive Trade Practices Act (ADTPA).

59. The ADTPA renders unlawful "[d]eceptive and unconscionable trade practices," which are defined to include, *inter alia*, "[k]nowingly making a false representation as to the characteristics, ingredients, uses, benefits, alterations, source, sponsorship, approval, or certification of goods or services or as to whether goods are original or new or of a particular standard, quality, grade, style, or model." Ark. Code Ann. § 4-88-107(a)(1).

60. It is also a deceptive and unconscionable trade practice to "[d]isparag[e] the goods, services, or business of another by false or misleading representation of fact." Ark. Code Ann. § 4-88-107(a)(2). Additionally, it is a deceptive trade practice to engage in "any other unconscionable, false, or deceptive act or practice in business, commerce, or trade." Ark. Code Ann. § 4-88-107(a)(10).

61. These unlawful deceptive and unconscionable trade practices are in addition to other unfair trade practices actionable at common law or under other statutes of Arkansas. Ark. Code Ann. § 4-88-107(b).

62. The ADTPA also provides that "in connection with the sale or advertisement of any goods, services, or charitable solicitation, the following shall be unlawful: (1) [t]he act, use, or employment by any person of any deception, fraud, or false pretense; or (2) [t]he concealment, suppression, or omission of any material fact with the intent that others rely upon the concealment, suppression, or omission." Ark. Code Ann. § 4-88-108.

63. As alleged herein, each Allergan Defendant, at all times relevant to this Complaint, violated the ADTPA by making deceptive representations about the use of opioids to treat chronic non-cancer pain.

64. Each Allergan Defendant also omitted or concealed material facts and failed to correct prior misrepresentations and omissions about the risks and benefits of opioids. These omissions rendered even Allergan Defendants' seemingly truthful statements about opioids deceptive.

65. Each Allergan Defendant also violated the ADTPA by making false and misleading statements of fact concerning alternatives to opioids, including nonsteroidal anti-inflammatory drugs (NSAIDs).

66. These representations and concealments were deceptive and, as described more specifically above, they constitute a repeated course of conduct, contrary to public policy and the public's interest, which continues to this day.

67. But for these deceptive representations and concealments of material fact, Arkansas would not have expended millions of dollars of its resources, and as a direct and proximate cause of Defendants' deceptive conduct, Arkansas has been injured.

68. Each of Defendants' deceptive statements that entered Arkansas constitutes a distinct violation of the ADTPA.

69. Pursuant to Ark. Code Ann. § 4-88-113(a)-(e), the State seeks a declaratory judgment that Allergan Defendants violated the ADTPA, an injunction enjoining Allergan Defendants' misrepresentations described in this Complaint, civil penalties of $10,000 per violation, costs, attorney's fees, and all other relief available under Ark. Code Ann. § 4-88-113(a)-(e) in an action brought by the State in a *parens patriae* capacity. The State also seeks enhanced civil penalties of $10,000 per violation pursuant to Ark. Code Ann. § 4-88-202 because Allergan Defendants' deceptive practices were directed toward elder and disabled persons.

SECOND CAUSE OF ACTION
(Public Nuisance) (Allergan)

70. Plaintiff incorporates and adopts by reference the allegations contained in the preceding paragraphs as though fully alleged herein.

71. As described above, the Allergan Defendants misrepresented the risks and benefits their opioid products and opioids generally in the State of Arkansas.

72. The Allergan Defendants as alleged and detailed above have created a public nuisance by unreasonably interfering with rights common to the general public as prohibited by the common law of the State of Arkansas.

73. Under Arkansas law, a public nuisance is any improper, indecent, or unlawful conduct that injures the public and produces material annoyance, inconvenience, and discomfort. The Attorney General is empowered to institute proceedings to abate public nuisances which affect or endanger public safety.

74. Allergan Defendants, individually and in concert with each other, have engaged in improper and unlawful conduct that is injurious to public health and safety and has caused material discomfort and annoyance to the public at large. Defendants knew or should have known that their promotion of opioid use would create a public nuisance.

75. The public nuisance created by Allergan Defendants' actions is substantial and unreasonable – it has caused and continues to cause significant harm to the community and the harm inflicted outweighs any offsetting benefit.

76. Allegan Defendants acted in concert in creating a public nuisance and their actions combined to inflict a single injury on the State. Immediate judicial intervention is needed to address the nuisance Defendants have created.

77. Allergan Defendants' actions were, at the least, a substantial factor in opioids becoming widely available and widely used. Without Defendants' actions, opioid use would not have become so widespread, and the enormous public health hazard of opioid overuse, abuse, and addiction that now exists would have been averted.

78. The health and safety of Arkansans, including those who use, have used or will use opioids, as well as those affected by opioid use, is a matter of great public interest and of legitimate concern to the State.

79. The State seeks an order that enjoins Allergan Defendants' unlawful marketing scheme and provides for the abatement of the nuisance it has created.

THIRD CAUSE OF ACTION
(Violations of the Arkansas Deceptive Trade Practices Act) (Teva)

Ark. Code Ann. § 4-88-101 *et seq.*

80. Plaintiff incorporates and adopts by reference the allegations contained in the preceding paragraphs as though fully alleged herein.

81. As described above, the Allergan Defendants misrepresented the risks and benefits their opioid products and opioids generally in the State of Arkansas.

82. The Teva Defendants as alleged and detailed above have, in the conduct of commerce, engaged in false, misleading, or deceptive acts or practices in violation of the Arkansas Deceptive Trade Practices Act (ADTPA).

83. The ADTPA renders unlawful "[d]eceptive and unconscionable trade practices," which are defined to include, *inter alia*, "[k]nowingly making a false representation as to the characteristics, ingredients, uses, benefits, alterations, source, sponsorship, approval, or certification of goods or services or as to whether goods are original or new or of a particular standard, quality, grade, style, or model." Ark. Code Ann. § 4-88-107(a)(1).

84. It is also a deceptive and unconscionable trade practice to "[d]isparag[e] the goods, services, or business of another by false or misleading representation of fact." Ark. Code Ann. § 4-88-107(a)(2). Additionally, it is a deceptive trade practice to engage in "any other unconscionable, false, or deceptive act or practice in business, commerce, or trade." Ark. Code Ann. § 4-88-107(a)(10).

85. These unlawful deceptive and unconscionable trade practices are in addition to other unfair trade practices actionable at common law or under other statutes of Arkansas. Ark. Code Ann. § 4-88-107(b).

86. The ADTPA also provides that "in connection with the sale or advertisement of any goods, services, or charitable solicitation, the following shall be unlawful: (1) [t]he act, use, or employment by any person of any deception, fraud, or false pretense; or (2) [t]he concealment, suppression, or omission of any material fact with the intent that others rely upon the concealment, suppression, or omission." Ark. Code Ann. § 4-88-108.

87. As alleged herein, each Teva Defendant, at all times relevant to this Complaint, violated the ADTPA by making deceptive representations about the use of opioids to treat chronic non-cancer pain.

88. Each Teva Defendant also omitted or concealed material facts and failed to correct prior misrepresentations and omissions about the risks and benefits of opioids. These omissions rendered even Teva Defendants' seemingly truthful statements about opioids deceptive.

89. Each Teva Defendant also violated the ADTPA by making false and misleading statements of fact concerning alternatives to opioids, including nonsteroidal anti-inflammatory drugs (NSAIDs).

90. These representations and concealments were deceptive and, as described more specifically above, they constitute a repeated course of conduct, contrary to public policy and the public's interest, which continues to this day.

91. But for these deceptive representations and concealments of material fact, Arkansas would not have expended millions of dollars of its resources, and as a direct and proximate cause of Teva Defendants' deceptive conduct, Arkansas has been injured.

92. Each of Teva Defendants' deceptive statements that entered Arkansas constitutes a distinct violation of the ADTPA.

93. Pursuant to Ark. Code Ann. § 4-88-113(a)-(e), the State seeks a declaratory judgment that Teva Defendants violated the ADTPA, an injunction enjoining Teva Defendants' misrepresentations described in this Complaint, civil penalties of $10,000 per violation, costs, attorney's fees, and all other relief available under Ark. Code Ann. § 4-88-113(a)-(e) in an action brought by the State in a *parens patriae* capacity.

94. The State also seeks enhanced civil penalties of $10,000 per violation pursuant to Ark. Code Ann. § 4-88-202 because Teva Defendants' deceptive practices were directed toward elder and disabled persons.

FOURTH CAUSE OF ACTION
(Public Nuisance) (Teva)

95. Plaintiff incorporates and adopts by reference the allegations contained in the preceding paragraphs as though fully alleged herein.

96. As described above, the Teva Defendants misrepresented the risks and benefits their opioid products and opioids generally in the State of Arkansas.

97. The Teva Defendants as alleged and detailed above have created a public nuisance by unreasonably interfering with rights common to the general public as prohibited by the common law of the State of Arkansas.

98. Under Arkansas law, a public nuisance is any improper, indecent, or unlawful conduct that injures the public and produces material annoyance, inconvenience, and discomfort. The Attorney General is empowered to institute proceedings to abate public nuisances which affect or endanger public safety.

99. Teva Defendants, individually and in concert with each other, have engaged in improper and unlawful conduct that is injurious to public health and safety and has caused material discomfort and annoyance to the public at large. Teva Defendants knew or should have known that their promotion of opioid use would create a public nuisance.

100. The public nuisance created by Teva Defendants' actions is substantial and unreasonable – it has caused and continues to cause significant harm to the community and the harm inflicted outweighs any offsetting benefit.

101. Teva Defendants acted in concert in creating a public nuisance and their actions combined to inflict a single injury on the State. Immediate judicial intervention is needed to address the nuisance Teva Defendants have created.

102. Teva Defendants' actions were, at the least, a substantial factor in opioids becoming widely available and widely used. Without Teva Defendants' actions, opioid use would not have become so widespread, and the enormous public health hazard of opioid overuse, abuse, and addiction that now exists would have been averted.

103. The health and safety of Arkansans, including those who use, have used or will use opioids, as well as those affected by opioid use, is a matter of great public interest and of legitimate concern to the State.

104. The State seeks an order that enjoins Teva Defendants' unlawful marketing scheme and provides for the abatement of the nuisance it has created.

REQUEST FOR RELIEF

105. Plaintiff respectfully requests that the Court enter an Order:

a. That the acts alleged herein be adjudged and decreed to be unlawful in violation of Arkansas statutory and common law;

b. Issuing a permanent injunction prohibiting Defendants, Defendants' officers, agents, servants, employees, attorneys – and any other person in active concert or participation with any or all Defendants – from engaging in deceptive acts and practices in violation of Ark. Code Ann. § 4-88-113(a);

c. That Defendants be ordered to pay civil penalties for violations of applicable statutes;

d. Ordering Defendants to pay compensatory restitution as set forth in Ark. Code Ann. § 4-88-113(a)(2)(A-B);

e. Ordering Defendants to abate the public nuisance by paying compensatory restitution and remediation; and

f. Ordering Defendants to pay Plaintiff's attorneys' fees and costs of court pursuant to Ark. Code Ann. § 4-88-113 and as provided by law.

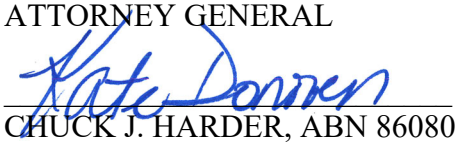
106. Plaintiff further requests that this Court grant all other relief to which the Plaintiff is entitled.

JURY DEMAND

The State demands a trial by jury on all issues so triable.

Respectfully submitted,

TIM GRIFFIN
ATTORNEY GENERAL



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