

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

IN RE OPIOID LITIGATION

Index No.: 400000/2017

PART 48**Hon. Jerry Garguilo****THIS DOCUMENT RELATES TO:**

County of Suffolk v. Purdue Pharma L.P., et al., Index No. 400001/2017;
County of Nassau v. Purdue Pharma L.P., et al., Index No. 400008/2017; and
The State of New York v. Purdue Pharma L.P., et al., Index No. 400016/2018.

**DEFENDANTS' MOTION TO RESET TRIAL DATE
TO ENSURE THE HEALTH AND SAFETY OF ALL TRIAL PARTICIPANTS**

Defendants share the Court's desire to bring these cases to resolution. Commencing trial on March 29, 2021, however, would pose grave and unnecessary health risks to all involved—which can be reduced significantly if trial is held in just a few months. Indeed, just days ago the director of the Centers for Disease Control and Prevention warned:

Please hear me clearly. At this level of cases with variants spreading, we stand to completely lose the hard-earned ground we have gained. These variants are a very real threat to our people and to our progress. Now is not the time to relax the critical safeguards that we know could stop the spread of COVID-19 in our communities, not when we are so close.¹

Defendants have consulted Dr. Stephen Ostroff, former Deputy Director of the National Center for Infectious Diseases at the Centers for Disease Control and Prevention, on the specific health risks presented by a trial in this case in the coming weeks, which will involve a jury, scores of fact witnesses, expert witnesses, attorneys and support staff (arriving from all over the country),

¹ “‘Please hear me clearly’: CDC director urges states not to reopen too soon as cases plateau,” ABC News, available at <https://abcnews.go.com/Politics/hear-cdc-director-urges-states-reopen-cases-plateau/story?id=76185108> (March 1, 2021).

as well as dozens of court personnel. *See* Ex. A (“Ostroff Letter”). As explained below and by Dr. Ostroff, there is no way to fairly proceed with trial on March 29 while adequately protecting the health and safety of all involved.

As Chief Judge DiFiore emphasized in her March 1, 2021 Monday Message, the resumption of jury trials in New York state courts will be “gradual” and the New York judiciary “will continue to make responsible decisions based on the public health guidance in order to *prioritize the health and safety of our judges and professional staff and every single person who enters our buildings.*”² This trial, involving more than a dozen parties with counsel from all corners of the country, is not the place to begin a “gradual” restart. Given the Chief Judge’s direction, and especially given the prospect that ongoing vaccination progress will transform the pandemic landscape in the months ahead, the Court should wait to commence trial until it can be conducted safely and fairly.

The impracticalities of a proposed March 29 trial date are magnified by the Suffolk County Administrative Judge’s Updated Operating Protocols, which became effective on February 22, 2021. Unless an exception is granted, “[e]ach Judge may hold in-person proceedings on *two days each week*, subject to clerk staff, courtroom space and time availability.” Ex. B § I.A.2 (2/18/2021 Mem. from District Admin. Judge Andrew A. Crecca) (emphasis added). This Operating Protocol was seemingly designed to suggest that Suffolk County jury trials in the “gradual” restart should be those expected to last not longer than a day or two. This case, however, is at the opposite end of the spectrum of anticipated trial days. For a trial that would stretch for several months even absent a pandemic, holding trial proceedings only two days each week would prolong the

² “Message from Chief Judge Janet DiFiore,” available at <https://www.nycourts.gov/whatsnew/pdf/March1-CJ-Message.pdf> (March 1, 2021) (emphasis added).

proceedings interminably—requiring attorneys, jurors, and court staff to spend even more time in a trial bubble and further increasing the risk of infections and super-spreader status. For example, assuming five hours of uninterrupted testimony per day without any delays (which would be remarkable for a trial of this scope and length), trial witness testimony alone would last at least *10 months*, based on Plaintiffs’ own unrealistic 200-hours-per-side proposal. *See* Feb. 18, 2020 Hr’g Tr. at 73:15–17. Trial would extend well over one year based on the number of Plaintiff-identified trial witnesses: for instance, in the days leading up to the original March 2020 trial, Plaintiffs issued at least 162 trial subpoenas to Defendants’ current and former employees, which equates to more than 12 months’ worth of non-expert trial testimony in Plaintiffs’ cases alone if each testifies for three hours per day, and five hours of uninterrupted testimony occurs twice a week. While obtaining an exception to the two-day-a-week limit may be possible, it would come with all of the attendant risks the Protocol was designed to avoid.

As of today, more than 500,000 Americans have died in this pandemic. While we all hope the worst is behind us, New York’s seven-day average of 7,476 cases remains significantly above the seven-day average of 24 cases when this trial was postponed on March 10, 2020, and well above the level of cases experienced throughout most of 2020.³ Suffolk County remains at a “very high risk level.”⁴ Protective measures across New York and the country are working, but this pandemic is far from over.

³ “New York Coronavirus Map and Case Count,” *New York Times*, available at <https://www.nytimes.com/interactive/2020/us/new-york-coronavirus-cases.html> (last visited Mar. 2, 2021).

⁴ “Tracking Coronavirus in Suffolk County, N.Y.” *New York Times*, available at https://www.nytimes.com/interactive/2021/us/suffolk-new-york-covid-cases.html?action=click&module=covid_tracking&pgtype=Interactive®ion=TableRowLink (last visited Mar. 2, 2021).

Even with protective measures in place inside—and outside—the courtroom, the risk of transmission could have catastrophic consequences. Last month, as in-person hearings and trials resumed in the Los Angeles County Superior Court, three court staffers died after testing positive for COVID-19.⁵ Several months ago, an attorney in Texas died of COVID-19 that he likely contracted during a court hearing.⁶ In the Eastern District of Texas, a civil trial became a super-spreader event, ending in a mistrial when no fewer than 15 trial participants tested positive for COVID-19.⁷ Here, if trial commences on March 29, participating lawyers, trial support staff, jurors, court personnel, witnesses, client representatives, and anyone else with whom they subsequently interact would face similar risks.

To be clear, Defendants are not proposing an indefinite delay. With the pandemic continuing to rage but vaccination rates and rollouts continuing to progress, there simply is no compelling reason to risk health and lives by commencing a large, complex, lengthy civil trial in less than 30 days. To protect the health and lives of jurors, court personnel, attorneys, support staff, witnesses, and all of their families, not to mention the greater community with which those individuals will interact outside the courtroom, Defendants respectfully request that trial be set to begin after August 1, 2021, when all signs currently suggest vaccinations will have been made broadly available and the pace of the pandemic will be substantially reduced.

⁵ “Workers in L.A.’s courts are dying of COVID-19 as in-person hearings, trials continue,” *L.A. Times*, available at <https://www.latimes.com/california/story/2021-02-05/covid-complicates-in-person-trials-la-courthouses> (Feb. 5, 2021).

⁶ “‘A Nightmare Out Here’: Another Texas Lawyer Dies of COVID-19,” *Law.com*, available at <https://www.law.com/texaslawyer/2020/12/14/a-nightmare-out-here-another-texas-lawyer-dies-of-covid-19/> (Dec. 14, 2020).

⁷ “COVID-19 Outbreak Leads To Mistrial In EDTX,” *Law360*, available at <https://www.law360.com/articles/1329617/covid-19-outbreak-leads-to-mistrial-in-edtx> (Nov. 17, 2020).

ARGUMENT

I. A March 2021 Trial Presents A Significant Risk Of Transmitting COVID-19.

The realities of trying this case make it unlike any other in which the New York courts are considering holding a jury trial while the COVID-19 pandemic continues at the current high level of danger. Selecting a venire, conducting sidebars, preparing witnesses for examination, presenting evidence to the Court and jury, and giving opening statements and closing arguments all will pose greater risks in this once-in-a-generation litigation than in any other action before the courts, where multiple Plaintiffs have sued a dozen Defendant groups represented by counsel from all over the country.

The need for coordination and prompt communication in a months-long, multi-Defendant trial featuring hundreds of witnesses testifying about complex scientific and epidemiological questions necessarily will require prolonged in-person contact between attorneys, witnesses, and support staff. Trial participants will need to share common workspaces. Trial counsel must communicate with one another during an examination; paralegals hand exhibits to attorneys on the fly; and trial teams coordinate at their trial sites before and after court hours.

But most trial participants will not be vaccinated by March 29—let alone by March 15, which will permit the requisite two-week period understood to permit the vaccine to achieve its full efficacy. In New York, vaccinations are available only to residents over the age of 65 and those who work in specific professional sectors or have specific medical conditions.⁸ Other States similarly are making vaccinations available only to select groups of individuals based on their age,

⁸ “Phased Distribution of the Vaccine,” New York State, *available at* <https://covid19vaccine.health.ny.gov/phased-distribution-vaccine> (last visited March 2, 2021).

medical conditions, or professional sector.⁹ These phased distributions are designed to protect the most vulnerable in our population first. Witnesses, attorneys, support staff, court personnel, and jurors who are not eligible for vaccination within a few short weeks cannot jump the vaccine line for the sake of this trial.

Limitations on safe in-person courthouse capacity will require participants to rotate in and out of both the courtroom and off-site workspaces, heightening the health risk to all involved. And while certain safety measures can mitigate risks, such measures will not make the trial safe. Safety measures like daily testing—which would need to occur on a massive scale for a trial of this size—can only be performed using rapid antigen tests with suboptimal sensitivity in identifying someone carrying the virus. *See* Ostroff Letter at 3. A single positive test by a juror or other trial participant would shut down the entire trial to allow for recovery and quarantining. A single *false-positive* test would shut down the entire trial for at least several days. And a single *false-negative* test could be catastrophic. A false-negative would create a risk of unwitting spread of COVID-19 to other trial participants and anybody else with whom the individual may come into contact. Indeed, according to the Mayo Clinic, “[f]alse-negative results are consequential. Individuals with these results may relax physical distancing and other personal measures designed to reduce the transmission of the virus to others.”¹⁰

In addition, many trial participants—attorneys, support staff, witnesses, and client representatives—will be traveling from out of state, increasing the infection risk not only for all

⁹ For example, Californians who are healthcare workers and long-term care residents are eligible for vaccinations; as supplies allow, individuals 65 and older and part of certain workforces may be vaccinated. *See* “Vaccine,” California All, *available at* <https://covid19.ca.gov/vaccines/> (last visited March 2, 2021). The rules are similar in Illinois, <https://www.dph.illinois.gov/covid19/vaccine-faq> (last visited March 2, 2021), and Texas, <https://dshs.texas.gov/coronavirus/immunize/vaccine.aspx> (last visited March 2, 2021).

¹⁰ “COVID-19 Testing: The Threat of False-Negative Results,” Mayo Clinic, *available at* [https://www.mayoclinicproceedings.org/article/S0025-6196\(20\)30365-7/pdf](https://www.mayoclinicproceedings.org/article/S0025-6196(20)30365-7/pdf) (June 2020).

trial participants but also anyone with whom they come in contact. Attorneys for Defendants will be traveling from California, Illinois, Washington, D.C., Virginia, Maryland, Ohio, Pennsylvania, Texas, and Florida, among other places, and witnesses will be traveling from all over the country as well. Such travel will be inherently risky. The CDC warns that “[t]ravel increases [the] chance of getting and spreading COVID-19” and that “[c]ases are extremely high. *Avoid Travel.*”¹¹ That is because “[a]ir travel requires spending time in security lines and airport terminals, which can bring [travelers] in close contact with other people and frequently touched surfaces” and “social distancing is difficult on crowded flights.”¹²

Trial participants traveling from out of state will need to comply with whatever quarantine restrictions are in place. As of today, any traveler to New York from a noncontiguous state must quarantine for 10 days. Travelers may “test-out” of the mandatory 10-day quarantine only if they (1) “obtain a test within three days of departure, prior to arrival in New York”; (2) “upon arrival in New York, quarantine for three days”; and (3) obtain another COVID-19 test on the fourth day of quarantine. Only if both tests come back negative may the individual “exit quarantine early upon receipt of the second negative diagnostic test.”¹³ A positive test would mean an extended quarantine, potentially throwing trial teams into disarray or forcing out-of-state witnesses to remain quarantined in New York for weeks longer than expected. In addition, quarantine procedures in home states and New York would mean that, once trial begins, no trial participant (attorney or staff) could return home outside New York for perhaps weeks, which would place an

¹¹ “Travel During COVID-19,” Centers for Disease Control and Prevention, *available at* <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html> (Feb. 16, 2021).

¹² *Id.*

¹³ “COVID-19 Travel Advisory,” New York State, *available at* <https://coronavirus.health.ny.gov/covid-19-travel-advisory> (last visited March 1, 2021).

undue hardship on the families of trial participants. And in the event that a trial participant had to return home for family obligations, trial may be delayed while that person quarantined.

Once inside the courtroom, the risks to trial participants' health do not dissipate. Although high-quality masks can reduce the risk of transmission, that is only the case if they are worn properly at all times and by all trial participants. For optimal protection, moreover, the CDC recently has advised that individuals should wear two masks instead of one—which will make courtroom presentations even more challenging and raises the question whether trial participants should even be allowed to take off their masks to drink water while in the courtroom.¹⁴ Physical distancing of at least six feet also reduces risk, but that may be offset by poor-quality of ventilation and filtration systems in the courtroom and other places where trial teams, witnesses, jurors, and court staff gather.¹⁵ *See* Ostroff Letter at 3. Counsel, court staff, and jurors will require Plexiglas dividers; high-touch surfaces will need to constantly be cleaned and disinfected. Suffice to say, the parties may spend as much time trying to ensure compliance with the necessary health protocols as with actually presenting their cases.

II. A March 2021 Trial Poses A Significant Risk To The Larger Community.

Defendants are particularly concerned about the health and safety of jurors and their families. As infeasible as a “trial bubble” is for each of the Defendant and Plaintiff trial teams, it is doubly so for jurors. The parties and the Court previously have discussed screening as many as 500 potential jurors, each of whom will be placed at risk.¹⁶ And, at a minimum, the Court will

¹⁴ “Maximizing Fit for Cloth and Medical Procedure Masks to Improve Performance and Reduce SARS-CoV-2 Transmission and Exposure, 2021,” Centers for Disease Control and Prevention, *available at* https://www.cdc.gov/mmwr/volumes/70/wr/mm7007e1.htm?s_cid=mm7007e1_w (Feb. 19, 2021).

¹⁵ “Ventilation in Buildings,” Centers for Disease Control and Prevention, *available at* <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html> (Feb. 9, 2021).

¹⁶ NY Jury Selection Process Proposal, Dec. 1, 2020 (NYSCEF Doc. No. 7671).

need to empanel six jurors, likely with numerous alternates given the anticipated length of trial and the circumstances of the global pandemic.¹⁷

This Court need not—and should not—require civil jurors to sequester themselves away from their families in a trial bubble for months. If, however, jurors, like court personnel, go home at the end of each trial day and interact with their family members and friends, the risks to all participants will increase. Some may go to work on non-trial days; others will interact with family members working outside the home or going to school. If a juror contracts COVID-19 in the courtroom, she inevitably will bring it back to and expose her family, friends, and colleagues. And if a juror is exposed to COVID-19 while away from the courtroom, she inevitably will bring it back to and expose the other trial participants.

New variants of the virus on Long Island further exacerbate the risks of a mass gathering of unvaccinated individuals. Two cases of the South African variant of COVID-19 have been confirmed in Nassau County. As *Newsday* reported, “Dr. Bruce Polsky, chairman of Medicine at NYU Langone Hospital-Long Island and an infectious disease specialist, said he is ‘very worried’ about the second confirmed case of the South African variant. ‘We’re not surprised, obviously’ that the variant was found here, he said, but it is concerning because it is considered more contagious. ‘There is a potential for a multiplier effect that could cause another wave of infection as we enter into the spring season.’”¹⁸ Similarly, Nassau County Executive Laura Curran explained, “‘Confirmation of another case of the South African variant here in Nassau underscores

¹⁷ NY CPLR §§ 4104, 4106. The Court has stated it contemplates seating 18 alternatives for this trial which, in light of the pandemic, may need to be even higher.

¹⁸ “NY: 2nd case of virus variant found on Long Island, though positivity rate is falling,” *Newsday*, available at <https://www.newsday.com/news/health/coronavirus/covid-19-virus-long-island-new-york-vaccine-1.50162580> (Feb. 24, 2021).

the importance of continuing to wear masks, distancing, and *avoiding social gatherings*.”¹⁹ The virus does not distinguish between “social gatherings” and other mass gatherings—and the length and number of individuals involved in this trial make it far riskier than other gatherings Plaintiffs have discouraged through public health messaging and outright bans.

III. A March 2021 Trial Risks A Mistrial Or Deprivation Of Defendants’ Due Process Rights.

The risks of commencing trial in just a matter of weeks stretch beyond health and safety. Given the likelihood of a positive or false-positive test of one of the trial participants, trial almost certainly would have to proceed in fits and starts, with periodic recesses and quarantines of all participants. Every time somebody develops COVID-like symptoms, the Court will need to recess trial and the participants will have to quarantine temporarily. Trial participants could be sidelined by illness (even those who are infected but asymptomatic). Witness examinations would be hindered and potentially rendered unintelligible by the masks that all trial participants would be required to wear indoors, threatening the parties’ right to a fair trial. Jurors would need to be shuffled in and out of the courtroom every time the parties request a sidebar, given the number of counsel involved and the need to maintain social distancing. If a juror tests positive for COVID-19, he or she may need to be excused—too many excusals and the Court will be forced to declare a mistrial and start all over. The resulting inefficiencies and risk of significant prejudice would far exceed whatever benefit might come from commencing trial at the end of March, as opposed to later in the summer when the circumstances have improved.

Moreover, the Administrative Judge has limited occupancy within jury trial courtrooms “to the lesser of 30 people or 1/2 the posted room occupancy per code.” Ex. B § II.B.6. After

¹⁹ *Id.* (emphasis added).

accounting for jurors and court personnel there will be at most no more than roughly a dozen available spots for attorneys and witnesses in the courtroom in a case where there are more than a dozen parties. That necessarily means that some parties would be unable to have their counsel in the courtroom during witness examinations, opening statements, or closing arguments—a violation of due process. Sequestering jurors in a separate room would not solve the problem because “[c]onducting a trial by videoconference is certainly not the same as conducting a trial where witnesses testify in the same room as the factfinder.” *In re RFC & ResCap Liquidating Tr. Action*, 444 F. Supp. 3d 967, 970 (D. Minn. 2020). Important nuances of witness testimony—including nonverbal cues, behaviors, and reactions—are easily lost in a Zoom window. “[E]ven in an age of advancing technology, watching an event on the screen remains less than the complete equivalent of actually attending it.” *Thornton v. Snyder*, 428 F.3d 690, 697 (7th Cir. 2005).²⁰

Other courts presiding over opioid-related actions have postponed jury trial dates to protect trial participants’ health and safety and to ensure a fair trial. For example, in the federal MDL, Judge Polster rescheduled a trial involving only pharmacy defendants from May 10, 2021 to October 4, 2021. The court presiding over the State of Washington’s action against only distributor

²⁰ For these and many other reasons, conducting a fully remote or a hybrid-model trial would be impractical and raise serious due process concerns. If the Court is considering such a procedure, the parties should have the opportunity to present fulsome briefing on the issue. Here, the massive stakes as well as the nature of Plaintiffs’ allegations (albeit unfounded) demand using time-tested, in-person trial procedures designed to minimize the risk of error. Requiring the parties to wade through an enormous trial record in a hybrid or remote setting stands to dramatically and unpredictably alter trial dynamics and consequently threatens to deprive Defendants of due process in a case seeking one of the largest civil judgments in United States history.

Nor does a remote or hybrid trial neutralize the serious health risks to the attorneys and support staff. The attorneys and support staff on Defendants’ trial teams cannot try this case from home, with the high risk of interruptions (both technological and otherwise). They will, at a minimum, need to travel to a common office where they are guaranteed workspace and technology suitable for a lengthy, high-stakes trial. Complex trials like this one, moreover, require extensive and instantaneous communication among the members of each individual Defendant’s trial team and with each Defendant’s client. Adding to the complexity here, the trial teams for each of the Defendants need to communicate with each other, given their independent interest in questioning each witness and streamlining witness examinations.

defendants has continued trial from May 17, 2021 to September 7, 2021. This Court—presiding over an action involving many more Defendants and Plaintiffs than the actions presided over by Judge Polster or the Washington state court—should follow suit.²¹

IV. Waiting Several Months To Begin Trial Will Minimize The Health Risks Involved With Trying A Case Of This Complexity.

Recent progress in vaccine distribution suggests that postponing the trial by just a few months will enable the Court to try this case at a time when the health risks to all trial participants, their families, and the public are seriously diminished. Indeed, just last Saturday (February 27), the FDA issued an emergency use authorization for the third vaccine for the prevention of COVID-19.²² As new vaccines are approved and reach market, the federal government predicts that there will be enough doses to vaccinate all U.S. adults by the end of May; “administering the shots,” however, “will take longer.”²³ No governmental interest in the first stage of this bifurcated trial could possibly justify an immediate trial threatening health risks to trial participants and anyone with whom they interact, personal disruptions, and procedural deprivations—when all evidence suggests that a safe in-person trial could be achievable within months.

²¹ Defendants note that on March 1, 2021, the Court in *State of California v. Purdue Pharma, L.P.* (No. 30-2014-00725287-CU-BT-CXC) ordered trial to begin on April 19, 2021. That case, however, is a *bench* trial involving only four corporate defendant groups, not the twelve corporate defendant groups in this case (and, thus, substantially fewer attorneys, staff, and witnesses). The California court also concluded, after considering substantially similar arguments regarding public health and safety, that the trial could only proceed in a *fully-remote* format with no in-person attendance. Defendants do not concede that such a trial structure is sufficiently fair or safe.

²² See “FDA Issues Emergency Use Authorization for Third COVID-19 Vaccine,” Food & Drug Admin., *available at* <https://www.fda.gov/news-events/press-announcements/fda-issues-emergency-use-authorization-third-covid-19-vaccine> (Feb. 27, 2021).

²³ “Biden says U.S. will have enough COVID vaccine supply for all adults by end of May,” CBS News, *available at* <https://www.cbsnews.com/news/biden-covid-19-pandemic-statement-watch-live-stream-today-2021-03-02/> (March 2, 2021).

CONCLUSION

Defendants share the Court's desire to resolve these cases, which have been pending for years. But the massive resources that the Court and the parties have invested to bring the cases to this point are all the more reason to avoid turning this trial into an unsafe and unreliable experiment with potentially deadly consequences. As a Magistrate Judge overseeing a federal opioids case in San Francisco observed in December 2020, the interest of going to trial "in January instead of October" is "not going to make any difference in the long run at all, but it may actually make a difference individually in all of your lives and your co-workers and the associates and the people." Ex. C at 26:11-15 (Dec. 18, 2020 Hr'g Tr. (*City and Cty. of San Fran. v. Purdue Pharma*, No. 3:18-CV-07591-CRB (N.D. Cal.))). Here, the interest of going to trial at the end of March instead of just several months from now likewise will not materially impact any litigation-driven "remediation" of the opioid abuse crisis when, even assuming Plaintiffs prevail, the parties would still need to conduct damages discovery, a damages trial, and appeals before Defendants would make any payments.²⁴

To ensure the health and safety of all trial participants, Defendants respectfully request that the Court continue the trial in this action from March 29, 2021 to no earlier than August 1, 2021.

²⁴ COVID-19 notwithstanding, the State's case cannot proceed to trial at this time because it still has not completed the BNE discovery ordered by the Court. This discovery is just as necessary for trial now as it was when the Court ordered the State to produce this discovery on three separate occasions. *See* NYSCEF Doc. Nos. 2496, 2498, 7259, 7412, 7266. The Court cannot suddenly disregard this long-pending discovery delay simply for the sake of speeding toward a trial now that a limited number of small, non-analogous jury trials may begin in New York State courts. The failure to produce this discovery is the State's alone. And despite repeated urging by this Court, the State still has not filed a motion for calendar preference.

Date: March 3, 2021

/s/ Jennifer G. Levy

Jennifer G. Levy, P.C.
Catie Ventura (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, NW
Washington, D.C. 20004
(202) 389-5000
jennifer.levy@kirkland.com
catie.ventura@kirkland.com

Donna Welch, P.C. (admitted *pro hac vice*)
Timothy Knapp (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Tel: (312) 862-2000
donna.welch@kirkland.com
timothy.knapp@kirkland.com

*Attorneys for Defendant Allergan Finance,
LLC*

/s/ Charles C. Lifland

Charles C. Lifland (admitted *pro hac vice*)
Sabrina H. Strong (admitted *pro hac vice*)
O'MELVENY & MYERS LLP
400 S. Hope Street
Los Angeles, CA 90071
(213) 430-6000
clifland@omm.com
sstrong@omm.com

Stephen D. Brody (admitted *pro hac vice*)
O'MELVENY & MYERS LLP
1625 Eye Street NW
Washington, DC 20006
(202) 383-5300
sbrody@omm.com

Ross Galin
Nathaniel Asher
O'MELVENY & MYERS LLP
7 Times Square

/s/ Paul W. Schmidt

Paul W. Schmidt
David A. Luttinger, Jr.
Shailee Diwanji Sharma
Alexander Setzepfandt
COVINGTON & BURLING LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 841-1000
pschmidt@cov.com
dluttinger@cov.com
ssharma@cov.com
asetzepfandt@cov.com

*Attorneys for Defendant McKesson Corp. and
PSS World Medical, Inc.*

/s/ Ingo W. Sprie, Jr.

Ingo W. Sprie, Jr.
James D. Herschlein
Julie K. du Pont
Andrew K. Solow
ARNOLD & PORTER KAYE SCHOLER
LLP
250 West 55th Street
New York, NY 10019-9710
(212) 836-8000
ingo.sprie@arnoldporter.com
james.herschlein@arnoldporter.com
julie.duPont@arnoldporter.com
andrew.solow@arnoldporter.com

*Counsel for Endo Health Solutions Inc., Endo
Pharmaceuticals Inc., Par Pharmaceutical,
Inc., and Par Pharmaceutical Companies,
Inc.*

New York, NY 10036
(212) 326-2000
rgalin@omm.com
nasher@omm.com

Vincent J. Messina Jr.
MESSINA PERILLO HILL LLP
285 West Main Street, Suite 203
Sayville, New York 11782
(631) 582-9422
vmessina@skmlaw.net

*Counsel for Johnson & Johnson, Janssen
Pharmaceuticals, Inc., Ortho-McNeil-
Janssen Pharmaceuticals, Inc. n/k/a Janssen
Pharmaceuticals, Inc., and Janssen
Pharmaceutica, Inc. n/k/a Janssen
Pharmaceuticals, Inc.*

/s/ Steven M. Pyser

Enu Mainigi*
Steven M. Pyser
Ashley W. Hardin*
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, DC 20005
(202) 434-5000
emainigi@wc.com
spyser@wc.com
ahardin@wc.com
* Admitted *Pro Hac Vice*

James M. Wicks
Kevin P. Mulry
FARRELL FRITZ, P.C.
400 RXR Plaza
Uniondale, New York 11556
(516) 227-0700
jwicks@farrellfritz.com
kmulry@farrellfritz.com

*Attorneys for Defendants Cardinal Health,
Inc. and Kinray, LLC*

/s/ Robert A. Nicholas

/s/ Martha A. Leibell

Martha A. Leibell
Brian M. Ercole (admitted *pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
200 S. Biscayne Blvd., Suite 5300
Miami, FL 33131
T: +1.305.415.3000
F: +1.305.415.3001
martha.leibell@morganlewis.com
brian.ercole@morganlewis.com

Harvey Bartle IV (admitted *pro hac vice*)
Mark A. Fiore (admitted *pro hac vice*)
1701 Market Street
Philadelphia, PA 19103-2921
(215) 963-5000
harvey.bartle@morganlewis.com
mark.fiore@morganlewis.com

Nancy L. Patterson (admitted *pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002-5005
(713) 890-5195
nancy.patterson@morganlewis.com

Pamela C. Holly
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060
(212) 309-6000
pamela.holly@morganlewis.com

*Counsel for Defendants Cephalon, Inc., Teva
Pharmaceuticals USA, Inc., Watson
Laboratories, Inc., Actavis LLC, and Actavis
Pharma, Inc. f/k/a Watson Pharma, Inc.*

/s/ Rachel E. Kramer

Rachel E. Kramer
FOLEY & LARDNER LLP
90 Park Avenue
New York, NY 10016
(212) 338-3545
Fax: (212) 682-2329
rkramer@foley.com

Robert A. Nicholas
Shannon E. McClure
Michael J. Salimbene
REED SMITH LLP
Three Logan Square
1717 Arch Street, Suite 3100
Philadelphia, Pennsylvania 19103
(215) 851-8100
rnicholas@reedsmith.com
smcclure@reedsmith.com
msalimbene@reedsmith.com

Paul E. Asfendis
GIBBONS P.C.
One Pennsylvania Plaza
New York, New York 10119
(212) 613-2000
pasfendis@gibbonslaw.com
*Attorneys for Defendants
AmerisourceBergen Drug Corporation,
Bellco Drug Corp., and American Medical
Distributors, Inc.*

/s/ Shawn P. Naunton
Shawn P. Naunton
Devon Galloway
ZUCKERMAN SPAEDER LLP
485 Madison Avenue, 10th Floor
New York, NY 10022
(212) 704-9600
Fax: (917) 261-5864
snaunton@zuckerman.com
dgalloway@zuckerman.com

William J. Murphy (admitted *pro hac vice*)
100 East Pratt Street, Suite 2240
Baltimore, MD 21202
(410) 332-0444
Fax: (410) 659-0436
wmurphy@zuckerman.com

Adam L. Fotiades
Anthony M. Ruiz
Graeme W. Bush
1800 M Street, NW, Suite 1000
Washington, DC 20036

James W. Matthews (admitted *pro hac vice*)
Ana M. Francisco (admitted *pro hac vice*)
Katy E. Koski (admitted *pro hac vice*)
FOLEY & LARDNER LLP
111 Huntington Avenue
Boston, MA 02199
(617) 342-4000
Fax: (617) 342-4001
jmatthews@foley.com
afrancisco@foley.com
kkoski@foley.com

Counsel for Defendant Anda, Inc.

/s/ Dina L. Hamerman
Dina L. Hamerman
Cassandra M. Vogel
YANKWITT LLP
140 Grand Street, Suite 705
White Plains, NY 10601
(914) 686-1500
Fax: (914) 801-5930
dina@yankwitt.com

Kaspar J. Stoffelmayer (admitted *pro hac vice*)
Brian C. Swanson (admitted *pro hac vice*)
Katherine M. Swift (admitted *pro hac vice*)
Sharon Desh (admitted *pro hac vice*)
BARTLIT BECK LLP
54 West Hubbard Street
Chicago, Illinois 60654
(312) 494-4400
Fax: (312) 494-4440
kaspar.stoffelmayer@bartlitbeck.com
brian.swanson@bartlitbeck.com
kate.swift@bartlitbeck.com
sharon.desh@bartlitbeck.com

Alex J. Harris (admitted *pro hac vice*)
BARTLIT BECK LLP
1801 Wewatta Street, Suite 1200
Denver, CO 80202
(303) 592-3100
Fax: (303) 592-3140
alex.harris@bartlitbeck.com

(202) 778-1800
Fax: (202) 822-8106
afotiades@zuckerman.com
aruiz@zuckerman.com
gbush@zuckerman.com

Counsel for CVS Pharmacy, Inc.

/s/ Kelly A. Moore
Kelly A. Moore
Carolyn Silane
Nicholas Schretzman
Morgan Lewis & Bockius LLP
101 Park Ave.
New York, NY 10178-0060
(212)-309-6612/6734/6257
Fax: (212) 309-6001
kelly.moore@morganlewis.com
carolyn.silane@morganlewis.com
nicholas.schretzman@morganlewis.com

Coleen M. Meehan (admitted *pro hac vice*)
John P. Lavelle, Jr. (admitted *pro hac vice*)
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
(215) 963-5892/4824
Fax (215) 963 5001
coleen.meehan@morganlewis.com
john.lavelle@morganlewis.com

*Counsel for Rite Aid of Maryland Inc. d/b/a
Rite Aid Mid-Atlantic Customer Support
Center, Inc. and Rite Aid of New York, Inc.*

*Counsel for Defendants Walgreen Co., and
Walgreen Eastern Co.*

/s/ Michael M. Klotz
Sharyl A. Reisman (NY Bar No. 2889251)
Michael M. Klotz (NY Bar No. 5407697)
JONES DAY
250 Vesey Street
New York, NY 10281-1047
Tel: (212) 326-3939
Email: sareisman@jonesday.com
mklotz@jonesday.com

Edward M. Carter (admitted *pro hac vice*)
JONES DAY
325 John H. McConnell Boulevard
Columbus, OH 43215
Tel: (614) 281-3906
Email: emcarter@jonesday.com

Christopher Lovrien (admitted *pro hac vice*)
Sarah Conway (admitted *pro hac vice*)
JONES DAY
555 South Flower Street, 50th Floor
Los Angeles, CA 90071
Tel: (213) 243-2567
Email: cjlovrien@jonesday.com
sgconway@jonesday.com

Counsel for Walmart Inc.