

1 **MARK BRNOVICH**
 2 **ATTORNEY GENERAL**
 (Firm State Bar No. 14000)
 3 JOSEPH SCIARROTTA, JR. (BAR NO. 017481)
 4 LESLIE KYMAN COOPER (BAR NO. 012782)
 5 MATTHEW DU MEE (BAR NO. 028468)
 6 ASSISTANT ATTORNEYS GENERAL
 7 OFFICE OF THE ATTORNEY GENERAL
 2005 North Central Avenue
 8 Phoenix, AZ 85004-1592
 9 Telephone: (520) 628-6647
 Facsimile: (602) 542-4377
 10 Email: consumer@azag.gov
Attorneys for the State of Arizona

11 **SUPERIOR COURT OF ARIZONA**
 12 **IN MARICOPA COUNTY**

13 STATE OF ARIZONA, *ex rel.* MARK
 14 BRNOVICH, Attorney General,
 15 Plaintiff,
 16
 17 v.
 18 MCKESSON CORPORATION;
 19 CARDINAL HEALTH, INC; and
 20 AMERISOURCEBERGEN CORPORATION,
 21 Defendants.

Case No.: CV2022-005454

CONSENT JUDGMENT

(Assigned to the Hon. Christopher Coury)

22 The State of Arizona, *ex rel.* Mark Brnovich, the Attorney General (the “State”), and
 23 McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, together
 24 with the subsidiaries thereof (collectively, the “*Settling Distributors*,” and each a “*Settling*
 25 *Distributor*”) (together with the State, the “*Parties*,” and each a “*Party*”) have entered into a
 26 consensual resolution of the above-captioned litigation (the “*Action*”) pursuant to a settlement
 27 agreement entitled Distributor Settlement Agreement, dated as of July 21, 2021 (as subsequently
 28 updated) (the “*Agreement*”), a copy of which is attached hereto as Exhibit A. The Agreement

1 shall become effective by its terms upon the entry of this Consent Judgment (the “*Judgment*”) by
2 the Court without trial or adjudication of any contested issue of fact or law, and without finding
3 or admission of wrongdoing or liability of any kind.

4
5 **RECITALS:**

6 Each Party warrants and represents that it engaged in arm’s-length negotiations in good
7 faith. In hereby executing the Agreement, the Parties intend to effect a good-faith settlement.

8 1. The State has determined that the Agreement is in the public interest.

9 2. The State is authorized to bring this Action under the Arizona Consumer Fraud
10 Act, A.R.S. §§ 44-1521 to -1534.

11 3. This Court has jurisdiction over the subject matter of the Action and over the
12 Parties with respect to the Action and this Judgment. This Judgment shall not be construed or
13 used as a waiver of any jurisdictional defense the Settling Distributors or any other Released
14 Entity may raise in any other proceeding.

15 4. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401.

16 5. The Settling Distributors deny the allegations against them and that they have any
17 liability whatsoever to the State, its Subdivisions, and/or (a) any of the State’s or Subdivisions’
18 departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind
19 and attorneys, including its Attorney General, and any person in his or her official capacity
20 whether elected or appointed to serve any of the foregoing and any agency, person, or other entity
21 claiming by or through any of the foregoing, (b) any public entities, public instrumentalities,
22 public educational institutions, unincorporated districts, fire districts, irrigation districts, and
23 other Special Districts, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-
24 sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf
25 of or generally applicable to the general public.

26 6. The Parties recognize that the outcome of the Action is uncertain and a final
27 resolution through the adversarial process likely will require protracted litigation.

28 . . .

1 7. The Parties agree to the entry of the injunctive relief terms pursuant to Exhibit P of
2 the Agreement.

3 8. Therefore, without any admission of liability or wrongdoing by the Settling
4 Distributors or any other Released Entities (as defined in the Agreement), the Parties now
5 mutually consent to the entry of this Judgment and agree to dismissal of the claims with prejudice
6 pursuant to the terms of the Agreement to avoid the delay, expense, inconvenience, and
7 uncertainty of protracted litigation.

8
9 **NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

10
11 In consideration of the mutual promises, terms, and conditions set forth in the Agreement,
12 the adequacy of which is hereby acknowledged by all Parties, it is agreed by and between the
13 Settling Distributors and the State, and adjudicated by the Court, as follows:

14 1. The foregoing Recitals are incorporated herein and constitute an express term of
15 this Judgment.

16 2. The Parties have entered into a full and final settlement of all Released Claims of
17 Releasers against the Settling Distributors (including but not limited to the State) and the
18 Released Entities pursuant to the terms and conditions set forth in the Agreement and this
19 Judgment.

20 3. The “Definitions” set forth in Section I of the Agreement are incorporated by
21 reference into this Judgment. The State is a “Settling State” within the meaning of the
22 Agreement. Unless otherwise defined herein, capitalized terms in this Judgment shall have the
23 same meaning given to them in the Agreement.

24 4. The Parties agree that the Court has jurisdiction over the subject matter of the
25 Action and over the Parties with respect to the Action and this Judgment. This Judgment shall
26 not be construed or used as a waiver of any jurisdictional defense the Settling Distributors or any
27 other Released Entity may raise in any other proceeding.

28 5. The Court finds that the Agreement was entered into in good faith.

1 6. The Court finds that entry of this Judgment is in the public interest and reflects a
2 negotiated settlement agreed to by the Parties. The Action is dismissed with prejudice, subject
3 to a retention of jurisdiction by the Court as provided herein and in the Agreement.

4 7. By this Judgment, the Agreement is hereby approved by the Court, and the Court
5 hereby adopts the Agreement’s terms as its own determination of this matter and the Parties’
6 respective rights and obligations.

7 8. The Court shall have authority to resolve disputes identified in Section VI.F.1 of
8 the Agreement, governed by the rules and procedures of the Court.

9 9. By this Judgment, the *One Arizona Distribution of Opioid Settlement Funds*
10 *Agreement*, a copy of which is attached hereto as Exhibit B and as incorporated into the
11 Agreement pursuant to Exhibit O of the Agreement, is hereby approved by the Court as the means
12 by which relevant funds paid pursuant to the Agreement will be divided within the State,¹ subject
13 to the full acceptance by any Subdivision receiving such funds of the terms of the Agreement,
14 including the releases provided therein.

15 10. The Parties have satisfied the Condition to Effectiveness of Agreement set forth in
16 Section VIII of the Agreement and the Release set forth in Sections XI.A, F, and G of the
17 Agreement, as follows:

18 a. The Attorney General of the State exercised the fullest extent of his or her powers
19 to release the Settling Distributors and all other Released Entities from all Released
20 Claims pursuant to the release attached hereto as Exhibit C (the “AG Release”).

21 ...
22 ...
23 ...

25 ¹ Payments made to the State of Arizona shall be deposited by the Arizona Attorney General into an
26 interest-bearing account within the Consumer Restitution and Remediation Revolving Fund pursuant to
27 A.R.S. § 44-1531.02(C). With the advice and consent of the Arizona Legislature, pursuant to A.R.S.
28 § 44-1531.02(C), the Attorney General shall direct how and when the funds paid by Settling Distributors
are used, provided that any such uses shall conform to the requirements of Sections V.B.1 and V.B.2 of
the Agreement and the One Arizona Distribution of Opioid Settlement Funds Agreement.

1 b. The Settling Distributors have determined that there is sufficient State participation
2 and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling
3 States to proceed with the Agreement.
4

5 c. The Participation Form for each Initial Participating Subdivision in the State has
6 been delivered to the Settling Distributors. As stated in the Participation Form, and
7 for the avoidance of doubt, nothing in the Participation Form executed by the
8 Participating Subdivisions is intended to modify in any way the terms of the
9 Agreement to which the Participating Subdivisions agree. As stated in the
10 Participation Form, to the extent the executed version of the Participation Form
11 differs from the Agreement in any respect, the Agreement controls.
12

13 d. Pursuant to Sections VII.C and VIII.B of the Agreement, each Participating
14 Subdivision in the State is dismissing with prejudice any Released Claims that it
15 has filed against the Settling Distributors and the Released Entities.
16

17 11. Mutual Interpretation and Release. The Parties agree and stipulate that the
18 Agreement was negotiated on an arm's-length basis between parties of equal bargaining power
19 and was drafted jointly by counsel for each Party. Accordingly, with the following exception set
20 forth below in this paragraph, the Agreement is incorporated herein by reference and shall be
21 mutually interpreted and not construed in favor of or against any Party, except as expressly
22 provided for in the Agreement:

23 The Parties have agreed that the representation and warranty specified in Section XI.G(1)-
24 (3) of the Agreement will not apply to the Arizona Attorney General as signatory for the State of
25 Arizona, but will be replaced by a representation and warranty (a) that the Arizona Attorney
26 General has the authority to settle and release all Released Claims within the Arizona Attorney
27 General's authority to bring, (b) that the Arizona Attorney General has obtained authority from
28 the Arizona Health Care Cost Containment System ("AHCCCS") to settle and release all

1 Released Claims of AHCCCS or within AHCCCS's authority to bring, and (c) that, in view of
2 the releases under this Agreement and the foregoing representation and warranty, neither the
3 State of Arizona itself nor any other Arizona state agency, board, division, commission, executive
4 department or instrumentality with authority over Settling Distributors with respect to Covered
5 Conduct has authority under Arizona law to bring a civil action against Settling Distributors
6 containing any Released Claims. The remainder of the release provisions of Section XI of the
7 Agreement are incorporated to the full extent of the Attorney General's authority (if any) to
8 release claims of Releasors, although the Attorney General's representation and warranty
9 regarding the scope of that authority is limited to language in this paragraph.

10 12. Costs and Fees. The Parties will bear their own costs and attorneys' fees except as
11 otherwise provided in the Agreement.

12 13. No Admission of Liability. The Settling Distributors are consenting to this
13 Judgment solely for the purpose of effectuating the Agreement, and nothing contained herein
14 may be taken as or construed to be an admission or concession of any violation of law, rule, or
15 regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which
16 the Settling Distributors expressly deny. None of the Settling Distributors or any other Released
17 Entity admits that it caused or contributed to any public nuisance, and none of the Settling
18 Distributors or any other Released Entity admits any wrongdoing that was or could have been
19 alleged by the State, its Participating Subdivisions, or any other person or entity. No part of this
20 Judgment shall constitute evidence of any liability, fault, or wrongdoing by the Settling
21 Distributors or any other Released Entity. The Parties acknowledge that payments made under
22 the Agreement are not a fine, penalty, or payment in lieu thereof and are properly characterized
23 as described in Section V.F of the Agreement.

24 14. No Waiver. This Judgment is entered based on the Agreement without trial or
25 adjudication of any contested issue of fact or law or finding of liability of any kind. This
26 Judgment shall not be construed or used as a waiver of any Settling Distributor's right, or any
27 other Released Entity's right, to defend itself from, or make any arguments in, any other
28 regulatory, governmental, private individual, or class claims or suits relating to the subject matter

1 or terms of this Judgment. Notwithstanding the foregoing, the State may enforce the terms of
2 this Judgment as expressly provided in the Agreement.

3 15. No Private Right of Action. This Judgment is not intended for use by any third
4 party for any purpose, including submission to any court for any purpose, except pursuant to
5 Section VI.A of the Agreement. Except as expressly provided in the Agreement, no portion of
6 the Agreement or this Judgment shall provide any rights to, or be enforceable by, any person or
7 entity that is not a Settling State or Released Entity. The State shall allow Participating
8 Subdivisions in the State to notify it of any perceived violations of the Agreement or this
9 Judgment. No Settling State, including the State, may assign or otherwise convey any right to
10 enforce any provision of the Agreement.

11 16. Admissibility. It is the intent of the Parties that this Judgment not be admissible in
12 other cases against the Settling Distributors or binding on the Settling Distributors in any respect
13 other than in connection with the enforcement of this Judgment or the Agreement. For the
14 avoidance of doubt, nothing herein shall prohibit a Settling Distributor from entering this
15 Judgment or the Agreement into evidence in any litigation or arbitration concerning (1) a Settling
16 Distributor's right to coverage under an insurance contract or (2) the enforcement of the releases
17 provided for by the Agreement and this Judgment.

18 17. Preservation of Privilege. Nothing contained in the Agreement or this Judgment,
19 and no act required to be performed pursuant to the Agreement or this Judgment, is intended to
20 constitute, cause, or effect any waiver (in whole or in part) of any attorney-client privilege, work
21 product protection, or common interest/joint defense privilege, and each Party agrees that it shall
22 not make or cause to be made in any forum any assertion to the contrary.

23 18. Retention of Jurisdiction. The Court shall retain jurisdiction of the Parties for the
24 limited purpose of the resolution of disputes identified in Section VI.F.1 of the Agreement. The
25 Court shall have jurisdiction over Participating Subdivisions in the State for the limited purposes
26 identified in the Agreement.

27 19. Successors and Assigns. This Judgment is binding on each of the Settling
28 Distributor's successors and assigns.

1 20. Modification. This Judgment shall not be modified (by the Court, by any other
2 court, or by any other means) without the consent of the State and the Settling Distributors, or as
3 provided for in Section XIV.U of the Agreement.

4 21. Signatures. This Consent Judgment may be executed by the parties in counterparts
5 and be delivered by facsimile or electronic transmission, or a copy thereof, such constituting an
6 original counterpart hereof, all of which together will constitute one and the same document.

7 22. Final Judgment. This Consent Judgment resolves the Action. As no further matters
8 remain pending, this is a final judgment entered pursuant to Ariz. R. Civ. P. 54(c).

9 S ORDERED this 1st day of June, 2022.

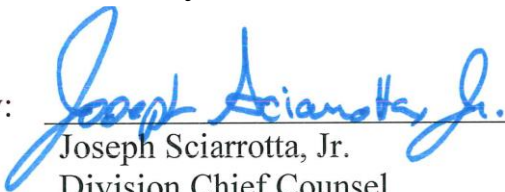
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Christopher A. Coury
Superior Court Judge

15 **APPROVED AS TO FORM AND CONTENT:**

16 **MARK BRNOVICH**
17 **Attorney General**

18 By:

19 

Joseph Sciarrotta, Jr.
Division Chief Counsel
Attorneys for the State of Arizona

20 /s/John J. Kastner, Jr.

John J. Kastner, Jr.
Jennings, Strouss & Salmon,
P.L.C. Attorneys for Defendant
AmerisourceBergen Corporation

21
22
23 /s/Lawrence A. Kasten

Lawrence A. Kasten
AZ Bar Number 020204
Lewis Roca Rothgerber Christie LLP
201 E. Washington Street
Phoenix, AZ 85004
602-262-5301
Attorneys for Cardinal Health, Inc.

24 /s/ Roger N. Morris

Roger N. Morris
Quarles & Brady LLP
Attorneys for Defendant McKesson
Corporation