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

14 STATE OF ARIZONA, <i>ex rel.</i> KRISTIN K. 15 MAYES, Attorney General, 16 Plaintiff, 17 v. 18 CVS PHARMACY, INC., 19 Defendant. 20	Case No.: CV2023-017049 CONSENT JUDGMENT (Assigned to the Hon. Jay Adleman)
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 22 **FINAL CONSENT JUDGMENT AND DISMISSAL WITH PREJUDICE**

23 The State of Arizona (“*State*”) and CVS Pharmacy, Inc., together with and all of their past
 24 and present direct and indirect parents and subsidiaries (collectively, “*CVS*”) (together with the
 25 State, the “*Parties*,” and each a “*Party*”) have entered into a consensual resolution of the above-
 26 captioned litigation (the “*Action*”) pursuant to a settlement agreement dated as of December 9,
 27 2022 (as subsequently updated) (the “*Agreement*”), a copy of which is attached hereto as Exhibit
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1 A. The Agreement shall become effective by its terms upon the entry of this Final Consent
2 Judgment (the “*Consent Judgment*”) by the Court without trial or adjudication of any contested
3 issue of fact or law, and without finding or admission of wrongdoing or liability of any kind.

4 **RECITALS:**

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

8 2. The State, acting through its Attorney General, has determined that the
9 Agreement and entry of this Consent Judgment is in the public interest.

10 3. CVS denies the allegations against it and denies that it has any liability
11 whatsoever to the State, its Subdivisions, and/or (a) any of the State’s or its Subdivisions’
12 departments, agencies, divisions, boards, commissions, districts, instrumentalities of any
13 kind and attorneys, including its Attorney General, and any person in his or her official
14 capacity whether elected or appointed to serve any of the foregoing and any agency, person,
15 or other entity claiming by or through any of the foregoing, (b) any public entities, public
16 instrumentalities, public educational institutions, unincorporated districts, fire districts,
17 irrigation districts, water districts, law enforcement districts, emergency services districts,
18 school districts, hospital districts and other Special Districts in the State, and (c) any person
19 or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui*
20 *tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the
21 general public. CVS is entering into this Consent Judgment solely for the purpose of
22 settlement, and nothing contained herein may be taken as or construed to be an admission
23 or concession of any violation of law, rule, regulation, or ordinance, or of any other matter
24 of fact or law, or of any fault, liability, or wrongdoing, all of which CVS denies.

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

1 5. The Parties agree to the entry of the injunctive relief terms attached as Exhibit
2 P to the Agreement.

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

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

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

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

15 2. The Parties have entered into a full and final settlement of all Released
16 Claims of Releasers (including but not limited to the State) against CVS and the Released
17 Entities pursuant to the terms and conditions set forth in the Agreement. This Consent
18 Judgment summarizes and gives effect to those terms. In the event of a conflict between
19 the terms of the Agreement (including its exhibits) and language in this Consent Judgment,
20 the terms of the Agreement shall govern. Nothing in this summary document shall have the
21 effect of expanding, diminishing, explaining, or otherwise modifying any term of the
22 Agreement.

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

1 4. The Parties agree that the Court has jurisdiction over the subject matter of
2 the Action and over the Parties with respect to the Action and this Consent Judgment. This
3 Consent Judgment shall not constitute and shall not be construed or used as a waiver of any
4 jurisdictional defense CVS or any other Released Entity may raise in any other proceeding.

5 5. The Court finds that the Agreement was entered into in good faith and is in
6 the public interest, and that entry of this Consent Judgment is in the public interest. By this
7 Consent Judgment, the Agreement is hereby approved by the Court.

8 6. The State's Claims against CVS are hereby DISMISSED WITH
9 PREJUDICE, subject to a retention of jurisdiction by the Court as provided herein and in
10 the Agreement.

11 7. The Court shall have authority to resolve disputes identified in Section VI.F.2
12 of the Agreement, governed by the rules and procedures of the Court.

13 8. By this Consent Judgment, the State-Subdivision Agreement, the One
14 Arizona Distribution of Opioid Settlement Funds Agreement, a copy of which is attached
15 hereto as Exhibit B and as incorporated into the Agreement pursuant to Exhibit O of the
16 Agreement, is hereby approved by the Court as the means by which relevant funds paid
17 pursuant to the Agreement will be divided within the State,¹ provided that any Subdivision
18 receiving such funds executes a Subdivision Participation Agreement accepting the terms
19 of the Agreement, including the releases provided therein.

20 9. The Parties have satisfied the Condition to Effectiveness of Agreement set
21 forth in Section VIII of the Agreement and the Release set forth in Sections XI.A and G of
22 the Agreement, as follows:

23 ¹ Payments, other than Additional Restitution Amount payments, made to the State of Arizona shall be deposited
24 by the Arizona Attorney General into an interest-bearing account within the Consumer Restitution and Remediation
25 Revolving Fund pursuant to A.R.S. § 44-1531.02(C) and, with the advice and consent of the Arizona Legislature,
26 pursuant to A.R.S. § 44-1531.02(C), the Attorney General shall direct how and when these funds are used. Additional Restitution Amount payments made to the State of Arizona shall be deposited by the Arizona Attorney
27 General into an interest-bearing account within the Consumer Protection-Consumer Fraud Revolving Fund pursuant
28 to A.R.S. § 44-1531.01(B)(1) and the Attorney General shall direct how such funds shall be used. All uses of funds
paid by CVS shall conform to the requirements of Sections VIII.B and VIII.C of the Agreement and the One Arizona
Distribution of Opioid Settlement Funds Agreement.

- 1 a. The Attorney General of the State exercised the fullest extent of his or her powers
2 to release CVS and all other Released Entities from all Released Claims pursuant to
3 the release attached hereto as Exhibit C (the “AG Release”).
- 4 b. CVS has determined to proceed with the Agreement.
- 5 c. The Subdivision Participation Agreement for each Participating Subdivision in the
6 State that has joined to date has been made available to CVS. As stated in the
7 Subdivision Participation Agreement, and for the avoidance of doubt, nothing in the
8 Subdivision Participation Agreement executed by the Participating Subdivisions is
9 intended to modify in any way the terms of the Agreement to which the Participating
10 Subdivisions agree. As stated in the Subdivision Participation Agreement, to the
11 extent the terms of the executed version of the Subdivision Participation Agreement
12 differ from the terms of the Agreement in any respect, the terms of the Agreement
13 control.
- 14 d. Pursuant to Section VIII.C of the Agreement and Paragraph 2 of the Subdivision
15 Participation Agreement, each Litigating Subdivision in the State that has become
16 a Participating Subdivision is dismissing with prejudice any Released Claims that it
17 has filed against CVS or any of the Released Entities.

18 10. Release. The Parties acknowledge that the release provisions in Section XI
19 of the Agreement and the AG Release, which are incorporated by reference herein, are an
20 integral part of this Consent Judgment. Pursuant to the Agreement and the AG Release and
21 without limitation and to the maximum extent of the power of the State’s Attorney General,
22 CVS and the other Released Entities are, as of the Effective Date, hereby released from any
23 and all Released Claims of (a) the State and its Participating Subdivisions and any of their
24 departments, agencies, divisions, boards, commissions, Subdivisions, districts,
25 instrumentalities of any kind and attorneys, including the State’s Attorney General, and any
26 person in his or her official capacity whether elected or appointed to serve any of the
27 foregoing, and any agency, person, or other entity claiming by or through any of the
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1 foregoing, (b) any public entities, public instrumentalities, public educational institutions,
2 unincorporated districts, fire districts, irrigation districts, water districts, law enforcement
3 districts, emergency services districts, school districts, hospital districts, and other Special
4 Districts in the State, and (c) any person or entity acting in a *parens patriae*, sovereign,
5 quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief
6 on behalf of or generally applicable to the general public with respect to the State or any
7 Subdivision in the State, whether or not any of them participate in the Agreement. Pursuant
8 to the Agreement and the AG Release and to the maximum extent of the State's power, CVS
9 and the other Released Entities are, as of the Effective Date, hereby released from any and
10 all Released Claims of (1) the State, (2) all past and present executive departments, state
11 agencies, divisions, boards, commissions and instrumentalities with the regulatory authority
12 to enforce state and federal controlled substances acts, and (3) any of the State's past and
13 present executive departments, agencies, divisions, boards, commissions and
14 instrumentalities that have the authority to bring Claims related to Alleged Harms and/or
15 Covered Conduct seeking money (including abatement and/or remediation) or revocation
16 of a pharmaceutical distribution or dispensing license. For the purposes of clause (3) above,
17 executive departments, agencies, divisions, boards, commissions, and instrumentalities are
18 those that are under the executive authority or direct control of the State's Governor.
19 Further, the provisions set forth in Section XI of the Agreement are incorporated by
20 reference into this Consent Judgment as if fully set forth herein. The Parties acknowledge,
21 and the Court finds, that those provisions are an integral part of the Agreement and this
22 Consent Judgment, and shall govern the rights and obligations of all participants in the
23 settlement, including without limitation the State, CVS and the Released Entities.

24 11. Release of Unknown Claims. The State (for itself and its Releasors)
25 expressly waives, releases, and forever discharges any and all provisions, rights, and
26 benefits conferred by any law of any state or territory of the United States or other
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1 jurisdiction, or principle of common law, which is similar, comparable, or equivalent to
2 § 1542 of the California Civil Code, which reads:

3 **General Release; extent.** A general release does not extend to
4 claims that the creditor or releasing party does not know or
5 suspect to exist in his or her favor at the time of executing the
6 release that, if known by him or her, would have materially
7 affected his or her settlement with the debtor or released party.

8 The State may hereafter discover facts other than or different from those which it knows,
9 believes, or assumes to be true with respect to the Released Claims, but the State (for itself
10 and its Releasers) expressly waived and fully, finally, and forever settled, released and
11 discharged, through the Agreement and AG Release, any and all Released Claims that may
12 exist as of the Effective Date but which the State does not know or suspect to exist, whether
13 through ignorance, oversight, error, negligence or through no fault whatsoever, and which,
14 if known, would have materially affected the State's decision to enter into the Agreement.

15 12. The Court finds that the releases are given in good faith and are effective as
16 to all Releasers and Released Entities.

17 13. Costs and Fees. The Parties will bear their own costs and attorneys' fees
18 except as otherwise provided in the Agreement.

19 14. No Admission of Liability. CVS is consenting to this Consent Judgment
20 solely for the purpose of effectuating the Agreement, and nothing contained herein may be
21 taken as or construed to be an admission or concession of any violation of law, rule, or
22 regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of
23 which CVS expressly denies. Neither CVS nor any other Released Entity admits that it
24 caused or contributed to any public nuisance, and neither CVS nor any other Released Entity
25 admits any wrongdoing that was or could have been alleged by the State, its Participating
26 Subdivisions, or any other person or entity. No part of this Consent Judgment shall
27 constitute evidence of any liability, fault, or wrongdoing by CVS or any other Released
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1 Entity. The Parties acknowledge that payments made under the Agreement are not a fine,
2 penalty, or payment in lieu thereof and are properly characterized as described in Section
3 V.F of the Agreement.

4 15. No Waiver. This Consent Judgment is entered based on the Agreement
5 without trial or adjudication of any contested issue of fact or law or finding of liability of
6 any kind. This Consent Judgment shall not be construed or used as a waiver of CVS's right,
7 or any other Released Entity's right, to defend itself from, or make any arguments in, any
8 other regulatory, governmental, private individual, or class claims or suits relating to the
9 subject matter or terms of this Consent Judgment. Notwithstanding the foregoing, the State
10 may enforce the terms of this Consent Judgment as expressly provided in the Agreement.

11 16. No Private Right of Action. This Consent Judgment is not for use by any
12 third party for any purpose, including submission to any court for any purpose, except
13 Participating Subdivisions for the limited purposes set forth in Section VI.A of the
14 Agreement. Except as expressly provided in the Agreement, no portion of the Agreement
15 or this Consent Judgment shall provide any rights to, or be enforceable by, any person or
16 entity that is not a Settling State or Released Entity. The State shall allow Participating
17 Subdivisions in the State to notify it of any perceived violations of the Agreement or this
18 Consent Judgment. No Settling State, including the State, may assign or otherwise convey
19 any right to enforce any provision of the Agreement.

20 17. Admissibility. This Consent Judgment shall not be admissible in any other
21 case against CVS or any other Released Entity. This Consent Judgment shall not be binding
22 on CVS or any other Released Entity in any respect other than in connection with the
23 enforcement of this Consent Judgment or the Agreement in the State. For the avoidance of
24 doubt, nothing herein shall prohibit CVS or any other Released Entity from entering this
25 Consent Judgment or the Agreement into evidence in any litigation or arbitration concerning
26 (1) CVS's right to coverage under an insurance contract or (2) the enforcement of the
27 releases provided for by the Agreement and this Consent Judgment.

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

7 19. Mutual Interpretation. The Parties agree and stipulate that the Agreement
8 was negotiated on an arm’s-length basis between parties of equal bargaining power and was
9 drafted jointly by counsel for each Party. Accordingly, the Agreement is incorporated
10 herein by reference and shall be mutually interpreted and not construed in favor of or against
11 any Party.

12 20. Retention of Jurisdiction. The Court shall retain jurisdiction over the Parties
13 for the limited purpose of the resolution of disputes identified in Section VI.F.2 of the
14 Agreement. The Court shall have jurisdiction over Participating Subdivisions in the State
15 for the limited purposes identified in the Agreement.

16 21. Successors and Assigns. This Consent Judgment is binding on CVS’s
17 successors and assigns.

18 22. Modification. This Consent Judgment shall not be modified (by the Court,
19 by any other court, or by any other means) without the consent of the State and CVS.
20 Modification of the Agreement shall be governed by Section XIII.W of the Agreement.

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

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

1 So ORDERED this _____ day of _____, 2023.

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3 JUDGE OF THE SUPERIOR COURT

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

6 **KRISTIN K. MAYES**
7 **Attorney General**

SPENCER FANE LLP

8
9 By:

10 

11 _____
12 Leslie Kyman Cooper
13 Division Chief Counsel
14 *Attorneys for the State of Arizona*

10 

11 _____
12 Andrew M. Federhar
13 *Attorneys for Defendant*

eSignature Page 1 of 1

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Granted as Submitted



/S/ Jay Adleman Date: 11/3/2023
Judicial Officer of Superior Court

ENDORSEMENT PAGE

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SIGNATURE DATE: 11/3/2023

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ANDREW M FEDERHAR

LESLIE KYMAN COOPER