

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI**

THE STATE OF MISSOURI, ex rel. ERIC)	
S. SCHMITT, in his official capacity as)	
Missouri Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1722-CC10626
)	Division No. 1
PURDUE PHARMA, L.P., et al.,)	
)	
Defendants.)	

STATE’S MOTION FOR LEAVE TO AMEND

COMES NOW the State of Missouri, by and through its undersigned counsel, and requests leave to amend its petition to assert additional claims and allegations against Defendants. In support of its request, the State avers as follows:

1. The State of Missouri was one of the first states to file a cause of action against manufacturers of opioid products. The State sought to hold such manufacturers responsible for their opioid crisis, which is currently ravaging the State of Missouri.
2. The State’s Petition asserted allegations under Missouri’s false claims act and consumer protection statutes, seeking damages on behalf of the State and its citizenry for improperly prescribed opioid products.
3. During the pendency of this action, the opioid crisis continued to escalate in Missouri, causing a corresponding escalation in harm to Missouri’s citizens, and an incredible outlay of money by the State in an attempt to safeguard its citizens from such harms.
4. It is in the public’s best interest to hold Defendants—not taxpayers—responsible for such harms. However, the Petition as currently pleaded does not adequately address the burgeoning injuries suffered by the State and its citizenry.

5. Upon review of other actions filed by sister states and the claims asserted therein, the State determined that public nuisance and unjust enrichment provide legal avenues to address such harms.

6. The State's proposed First Amended Petition, which contains such additional counts and allegations, is attached hereto as **Exhibit 1**.

7. Rule 55.33 provides that leave to amend a petition shall be freely given when justice requires. "[T]he purposes of the grant of an amendment is to allow a party to assert a matter previously unknown or neglected from inadvertence at the time of the original pleading." *Hoover v. Brundage-Bone Concrete Pumping, Inc.*, 193 S.W.3d 867, 870 (Mo. Ct. App. 2006).

8. "The rule is to be liberally applied, and is based on the concept of whether a defendant has been given notice sufficient to defend against claims relating to a particular transaction or occurrence." *Thompson v. Brown & Williamson Tobacco Corp.*, 207 S.W.3d 76, 116 (Mo. Ct. App. 2006).

9. Similarly, "[w]henver the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading." Rule 55.33(c); *Koenke v. Eldenburg*, 753 S.W.2d 931, 932 (Mo. banc 1988).

10. The parties remain in the early stages of discovery, and Defendants will not be prejudiced by this amendment. However, were the amendment not allowed, the State and its citizenry would remain financially responsible for the opioid crisis Defendants created and profited from.

11. The State's additional claims arise out of the same conduct, transactions, and occurrences underlying the State's original petition. Thus, Defendants had sufficient notice to

defend against the State's new allegations, and the State's allegations relate back to the time of the original filing.

12. Justice requires that the State be granted leave to amend. As such, and pursuant to Rule 55.33, the State's Motion should be granted.

WHEREFORE, for the reasons stated herein, the State respectfully requests that this Court grant the State's Motion to Amend and grant the State leave to amend its petition.

Respectfully submitted,

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/s/ Jeremiah J. Morgan

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2019, the foregoing State's Motion for Leave to Amend, with attached First Amended Petition, was served via the Court's electronic filing system upon all counsel of record.

/s/ Jeremiah J. Morgan _____
Jeremiah J. Morgan
Deputy Attorney General – Civil Litigation