

FILED ENTERED TENDERED
COST PAID 3/20/15 SUMMONS

DISTRICT CLERK COMMONWEALTH OF KENTUCKY
D. PERRY CIRCUIT COURT

CIVIL ACTION NO. 15-CI- 115

JAMES DUSTIN CHANEY, D.O.,

PLAINTIFF

vs.

CVS PHARMACY, INC.;
30 South KY Highway 15
Hazard, KY 41701

Serve: CT Corporation System
306 West Main Street
Suite 512
Frankfort, Kentucky 40601

and

RYAN MCGRANER

Serve: c/o CVS Pharmacy
30 South KY Highway 15
Hazard, KY 41701

and

JAMES SHACKLEFORD

Serve: c/o CVS Pharmacy
30 South KY Highway 15
Hazard, KY 41701

and

ERIC REED

Serve: c/o CVS Pharmacy
30 South KY Highway 15
Hazard, KY 41701

and

RITE AID OF KENTUCKY, INC.

Rite Aid Corporation
Post Office Box 3165
Harrisburg, PA 17105

Serve: C.T. Corporation
306 W. Main Street, Suite 512
Frankfort, KY 40601

and

JERRY MULLINS

Serve: c/o Rite Aid Pharmacy
426 Village Lane
Hazard, KY 41701

and

R/X DISCOUNT PHARMACY, INC.

500 Morton Blvd.
Hazard, KY 41701

Serve: Richard K. Slone, Process Agent
500 Morton Blvd.
Hazard, KY 41701

and

JOHN DOE I, Unknown Employee of
CVS PHARMACY, INC.

and

JOHN DOE I., Unknown Employee of
RITE AID OF KENTUCKY, INC.

and

JOHN DOE III, Unknown Employee of
R/X DISCOUNT PHARMACY, INC.

DEFENDANTS

VERIFIED COMPLAINT

Comes now the plaintiff, James Dustin Chaney, D.O., by and through counsel, and for his claims and causes of action against the defendants herein, state as follows:

1. The plaintiff, James Dustin Chaney, D.O., is and was at all times relevant hereto a resident of Hazard, Perry County, Kentucky

41701.

2. The defendant, CVS Pharmacy, Inc., is and was at all times relevant hereto a corporation duly organized under the laws of the State of Rhode Island, and doing business in Hazard, Perry County, Kentucky, with its principal office being located at One CVS Drive, Woonsocket, RI 02895, with its process agent for service of process being C.T. Corporation System, 306 W. Main Street, Suite 512, Frankfort, Kentucky 40601.

3. The defendant, Ryan McGraner, is and was at all times relevant hereto employed as a pharmacist at CVS Pharmacy, 30 South Kentucky Highway 15, Hazard, KY 41701

4. The defendant, James Shackelford, is and was at all times relevant hereto employed as a pharmacist at CVS Pharmacy, 30 South Kentucky Highway 15, Hazard, KY 41701.

5. The defendant, Eric Reed, is and was at all times relevant hereto employed as a pharmacist at CVS Pharmacy, 30 South Kentucky Highway 15, Hazard, KY 41701.

6. The defendant, Rite Aid of Kentucky, Inc., is and was at all times relevant hereto a corporation duly organized under the laws of the State of Pennsylvania, and doing business in Hazard, Perry County, Kentucky, with its principal office being located at Post Office Box 3165, Harrisburg, PA 17105, with its process agent for service of process being C.T. Corporation System, 306 W. Main Street,

Suite 512, Frankfort, Kentucky 40601.

7. The defendant, Jerry Mullins, is and was at all times relevant hereto employed as a pharmacist at Rite Aid Pharmacy, 426 Village Lane, Hazard, KY 41701.

8. The defendant, R/X Discount Pharmacy, Inc., is and was at all times relevant hereto a corporation duly organized under the laws of the Commonwealth of Kentucky, and doing business in Hazard, Perry County, Kentucky, with its principal office being located at 500 Morton Blvd., Hazard, KY, with its process agent for service of process being Richard K. Slone, 500 Morton Blvd., Hazard, KY 41701

9. The unknown defendant, John Doe I, is an individual who is or may have been employed by the defendant, CVS Pharmacy, Inc., from January 5, 2005 to June 2014. Attached hereto is an Affidavit for Appointment of Warning Order Attorney to serve this defendant.

10. The unknown, defendant, John Doe II, is an individual who is or may have been employed by the defendant, Rite Aid of Kentucky, Inc., from January 5, 2005 to June, 2014. Attached hereto is an Affidavit for Appointment of Warning Order Attorney to serve this defendant.

11. The unknown, defendant, John Doe III, is an individual who is or may have been employed by the defendant, R/X Discount Pharmacy, Inc., from January 5, 2005 to June, 2014. Attached hereto is an Affidavit for Appointment of Warning Order Attorney to serve this

defendant.

12. Between January 5, 2005, and June, 2014, the plaintiff, James Dustin Chaney, D.O., was a practicing physician in and around Hazard, Perry County, Kentucky.

13. During this period, there were medical providers practicing in the same area with similar names, including but not limited to "James Alvin Chaney."

14. During this period, prescriptions for various medications, including controlled substances were written by various medical providers, using their identification numbers issued by the United States Drug Enforcement Agency (DEA), Kentucky Board of Medical Licensure (License Number), as well as the National Provider Identification Number (NPI).

15. During this period, prescriptions written by other medical providers were filled by Defendants, and/or their actual or ostensible agents.

16. During this period, Defendants, and/or their actual or ostensible agents, were so negligent in filling these prescriptions that prescriptions written by other medical providers were erroneously placed in their databases under plaintiff, James Dustin Chaney, D.O.'s name.

17. During this period, Defendants, and/or their actual or ostensible agents, were so negligent that the erroneous information

was transferred to the Kentucky All Schedule Prescription Electronic Reporting (KASPER) database and attributed to plaintiff, James Dustin Chaney, D.O.

18. In negligently and erroneously attributing/filling prescriptions not written by the plaintiff, James Dustin Chaney, D.O., various federal and state law enforcement officers, agencies and regulatory bodies, began a federal criminal investigation of the drug prescribing activity of plaintiff, James Dustin Chaney, D.O.

19. In negligently and erroneously attributing/filling prescriptions not written by the plaintiff, James Dustin Chaney, D.O., various federal and state law enforcement officers, agencies and regulatory bodies, accused plaintiff, James Dustin Chaney, D.O., of operating a "pill mill" which was described as "a medical practice, facility or clinic whose primary purpose is not patient care, but financial gain."

20. In negligently and erroneously attributing/filling prescriptions not written by the plaintiff, James Dustin Chaney, D.O., various federal and state law enforcement officers, agencies and regulatory bodies, obtained the assistance of the United States Attorney's Office, and reported that the criminal investigation of plaintiff, James Dustin Chaney, D.O., was based largely in reliance upon the information which the Defendants, and/or their actual or ostensible agents, negligently and erroneously attributed to

plaintiff, James Dustin Chaney, D.O., in the KASPER database.

21. In negligently and erroneously attributing/filling prescriptions not written by the plaintiff, James Dustin Chaney, D.O., various federal and state law enforcement officers, agencies and regulatory bodies, obtained the assistance of the United States Attorney's Office, and obtained a federal criminal indictment against the plaintiff, based on a claim that the prescription drug monitoring information contained in KASPER was reliable and accurate for plaintiff, James Dustin Chaney, D.O., and that the prescription drug monitoring information contained in KASPER would be an accurate representation of the prescribing practices of plaintiff, James Dustin Chaney, D.O., during his tenure at the Clarion Health and Wellness Clinic and would also be a reliable snapshot of his patient list. The KASPER information indicated that plaintiff, James Dustin Chaney, D.O., was prescribing very large amounts of Oxycodone, Methadone, Hydrocodone, and Alprazolam to patients under plaintiff, James Dustin Chaney, D.O., care.

22. In negligently and erroneously attributing/filling prescriptions not written by the plaintiff, James Dustin Chaney, D.O., defendants acted in a reckless disregard as to the falsity of these matters and to the effect that their actions would have on Plaintiff, James Dustin Chaney, D.O.

23. Due to the negligence and reckless disregard of

Defendants, and/or their actual or ostensible agents, plaintiff, James Dustin Chaney, D.O., was placed in a false light which would be highly offensive to a reasonable medical provider.

24. Due to the negligence and reckless disregard of Defendants, and/or their actual or ostensible agents, plaintiff, James Dustin Chaney, D.O., was falsely accused and was indicted by the United States for illegally prescribing controlled substances and running a so-called 'pill mill" at the Clarion Health and Wellness Clinic.

25. Due to the negligence and reckless disregard of Defendants, and/or their actual or ostensible agents, plaintiff, James Dustin Chaney, D.O., had his medical license suspended and his ability to prescribe controlled substances was revoked by the Kentucky Board of Medical Licensure.

26. Due to the negligence and reckless disregard of Defendants, and/or their actual or ostensible agents, plaintiff, James Dustin Chaney, D.O., was forced to hire legal counsel and commence litigation in order to continue his medical practice.

27. Due to the negligence and reckless disregard of Defendants, and/or their actual or ostensible agents, plaintiff, James Dustin Chaney, D.O., has suffered significant losses of income; has incurred thousands of dollars in legal fees to defend his medical license and the federal criminal charges filed against him; and, has

incurred irreparable harm to his professional and personal reputations in the community.

COUNT I

28. That as a direct and proximate result of the negligence and reckless disregard of the Defendant, CVS Pharmacy, Inc., as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

29. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

30. In addition, due to the negligence of the defendant, CVS Pharmacy, Inc., the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

31. Due to the negligence of the defendants, CVS Pharmacy, Inc., the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand Dollars (\$5,000), the jurisdictional limits of this Court.

COUNT II

32. That as a direct and proximate result of the negligence and reckless disregard of the Defendant, Ryan McGraner, as stated

above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

33. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

34. In addition, due to the negligence of the defendant, Ryan McGraner, the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

35. Due to the negligence of the defendants, Ryan McGraner, the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand Dollars (\$5,000), the jurisdictional limits of this Court.

COUNT III

36. That as a direct and proximate result of the negligence and reckless disregard of the Defendant, James Shackelford, as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

37. The plaintiff, James Dustin Chaney, D.O., has also

suffered a loss of enjoyment of life and a loss of quality of life.

38. In addition, due to the negligence of the defendant, James Shackelford, the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

39. Due to the negligence of the defendants, James Shackelford, the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand Dollars (\$5,000), the jurisdictional limits of this Court.

COUNT IV

40. That as a direct and proximate result of the negligence and reckless disregard of the Defendant, Eric Reed, as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

41. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

42. In addition, due to the negligence of the defendant, Eric Reed, the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

43. Due to the negligence of the defendants, Eric Reed, the plaintiff, James Dustin Chaney, D.O., has been caused to suffer

damages in excess of Five Thousand (\$5000), the jurisdictional limits of this Court.

COUNT V

44. That as a direct and proximate result of the negligence and reckless disregard of the Defendant, Rite Aid of Kentucky, Inc., as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

45. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

46. In addition, due to the negligence of the defendant, Rite Aid of Kentucky, Inc., the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

47. Due to the negligence of the defendants, Rite Aid of Kentucky, Inc., the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand Dollars (\$5,000), the jurisdictional limits of this Court.

COUNT VI

48. That as a direct and proximate result of the negligence and reckless disregard of the Defendant, Jerry Mullins, as stated

above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

49. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

50. In addition, due to the negligence of the defendant, Jerry Mullins, the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

51. Due to the negligence of the defendants, Jerry Mullins, the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand (\$5,000), the jurisdictional limits of this Court.

COUNT VII

52. That as a direct and proximate result of the negligence and reckless disregard of the Defendant, R/X Discount Pharmacy, Inc., as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

53. The plaintiff, James Dustin Chaney, D.O., has also

suffered a loss of enjoyment of life and a loss of quality of life.

54. In addition, due to the negligence of the defendant, R/X Discount Pharmacy, Inc., the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

55. Due to the negligence of the defendants, R/X Discount Pharmacy, Inc., the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand Dollars (\$5,000), the jurisdictional limits of this Court.

COUNT VIII

56. That as a direct and proximate result of the negligence and reckless disregard of the Unknown Defendant, John Doe I, as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

57. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

58. In addition, due to the negligence of the unknown defendant, John Doe I, the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

59. Due to the negligence of the unknown defendant, John Doe I, the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand (\$5,000), the jurisdictional limits of this Court.

COUNT IX

60. That as a direct and proximate result of the negligence and reckless disregard of the Unknown Defendant, John Doe II, as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

61. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

62. In addition, due to the negligence of the unknown defendant, John Doe II, the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

63. Due to the negligence of the unknown defendant, John Doe II, the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand (\$5,000), the jurisdictional limits of this Court.

COUNT X

64. That as a direct and proximate result of the negligence and reckless disregard of the Unknown Defendant, John Doe III, as stated above, the plaintiff, James Dustin Chaney, D.O., was caused to suffer severe pain, suffering, mental anguish, and inconvenience, and will continue to suffer such pain, suffering, mental anguish, and inconvenience in the future. Further, the plaintiff has incurred and may incur future monetary and pecuniary loss.

65. The plaintiff, James Dustin Chaney, D.O., has also suffered a loss of enjoyment of life and a loss of quality of life.

66. In addition, due to the negligence of the unknown defendant, John Doe III, the plaintiff, James Dustin Chaney, D.O., has suffered a permanent impairment of his ability to earn money in the future.

67. Due to the negligence of the unknown defendant, John Doe III, the plaintiff, James Dustin Chaney, D.O., has been caused to suffer damages in excess of Five Thousand (\$5,000), the jurisdictional limits of this Court.

WHEREFORE, the plaintiff, James Dustin Chaney, D.O., respectfully demands the following:

1. That a Summons be issued to defendant, CVS Pharmacy, Inc., and a copy of the Summons and Complaint be served upon C.T. Corporation System, 306 W. Main Street, Suite 512, Frankfort,

Kentucky 40601, process agent for this defendant.

2. That a Summons be issued to defendant, Ryan McGraner, c/o CVS Pharmacy, 30 South KY Highway 15, Hazard, KY 41701, and a copy of the Summons and Complaint be served upon this defendant.

3. That a Summons be issued to defendant, James Shackelford, c/o CVS Pharmacy, 30 South KY Highway 15, Hazard, KY 41701, and a copy of the Summons and Complaint be served upon this defendant.

4. That a Summons be issued to defendant, Eric Reed, c/o CVS Pharmacy, 30 South KY Highway 15, Hazard, KY 41701, and a copy of the Summons and Complaint be served upon this defendant.

5. That a Summons be issued to defendant, Rite Aid of Kentucky, Inc., and a copy of the Summons and Complaint be served upon C.T. Corporation System, 306 W. Main Street, Suite 512, Frankfort, Kentucky 40601, process agent for this defendant.

6. That a Summons be issued to defendant, Jerry Mullins, c/o Rite Aid Pharmacy, 426 Village Lane, Hazard, KY 41701, and a copy of the Summons and Complaint be served upon this defendant.

7. That a Summons be issued to defendant, R/X Discount Pharmacy, Inc., and a copy of the Summons and Complaint be served upon Richard K. Slone, 500 Morton Blvd., Hazard, KY 41701, process agent for this defendant.

8. That a Summons be issued to defendant, Express Scripts, Inc., and a copy of the Summons and Complaint be served upon

CSC-Lawyers Incorporating Service Company, process agent for this defendant.

9. That a Summons be issued to defendant, Harlan Medical Center Pharmacy, Inc., and a copy of the Summons and Complaint be served upon Earnest J. Watts, 2354 Highway 15, Whitesburg, KY 41858, process agent for this defendant.

10. That a Summons be issued to defendant, Envision Insurance Company d/b/a Envision RX Plus, process agent, Eugene P. Samuels, 5140 Robert J. Mathews Parkway, Suite 100, El Dorado, CA 95762, and that a copy of the Complaint herein be delivered to Kentucky Secretary of State, the statutory agent for this defendant.

11. That the Court appoint a warning order attorney to identify and serve the unknown defendant, John Doe I, who is or may have been employed by the defendant, CVS Pharmacy, Inc., from January 5, 2010 to June 2014.

12. That the Court appoint a warning order attorney to identify and serve the unknown defendant, John Doe II, who is or may have been employed by the defendant, Rite Aid of Kentucky, Inc., from January 5, 2005 to June 2014.

13. That the Court appoint a warning order attorney to identify and serve the unknown defendant, John Doe III, who is or may have been employed by the defendant, RX Discount Pharmacy, Inc., from January 5, 2005 to June 2014.

14. That the Court appoint a warning order attorney to identify and serve the unknown defendant, John Doe IV, who is or may have been employed by the defendant, Express Scripts, Inc., from January 5, 2005 to June 2014.

15. That the Court appoint a warning order attorney to identify and serve the unknown defendant, John Doe V, who is or may have been employed by the defendant, Harlan Medical Center Pharmacy, Inc., from January 5, 2005 to June 2014.

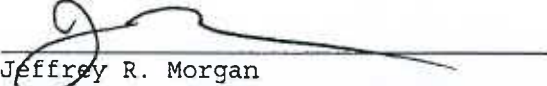
16. That the Court appoint a warning order attorney to identify and serve the unknown defendant, John Doe VI, who is or may have been employed by the defendant, Envision RX Plus, from January 5, 2005 to June 2014.

17. Judgment against the defendants, jointly and severally, in favor of the plaintiff, James Dusty Chaney, D.O., in an amount in excess of Five Thousand Dollars, said amount to be that which is to be determined as being fair and reasonable by all of the evidence, for the following elements of damages:.

- a. past and future mental and physical pain and suffering;
- b. lost wages; and
- c. miscellaneous expenses incurred by the plaintiff, including but not limited to travel expenses, necessitated by the acts of the defendant;

- d. Pre-judgment and post-judgment interest;
- e. Trial by jury;
- f. Plaintiff's costs herein expended; and
- g. Any and all other relief to which the plaintiff may appear to be entitled.

This the 20 day of March 2015.


Jeffrey R. Morgan
JEFFREY R. MORGAN & ASSOCIATES, PLLC.
3090 N. KY Hwy 15
P.O. Box 509
Hazard, Kentucky 41702
Telephone: (606) 436-4361
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and

Mark A. Wohlander
Caitlin A. Wohlander
Wohlander Law Office, PSC
P.O. Box 910483
Lexington, Kentucky 40591
Office: (859) 309-1691
Cellular: (859) 361-5604
Facsimile: (859) 309-1698

Counsel for Plaintiff

VERIFICATION

I, James Dustin Chaney, have read the foregoing Complaint and verify the statements above are true and correct to the best of my knowledge.


James Dustin Chaney

COMMONWEALTH OF KENTUCKY

COUNTY OF PERRY

Subscribed and sworn to before me by **JAMES DUSTIN CHANEY**, this

25 day of MARCH, 2015.

My Commission Expires: 4-6-2017

Betty C Allen
Notary Public, State at Large