

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

I. PARTIES:

This Settlement Agreement and Release of All Claims is entered into this 13th day of April, 2018, by the State of West Virginia (“the “State”) ex rel. Patrick Morrissey, Attorney General, acting on behalf of the State of West Virginia, including its constitutional officers, elected officials, governmental agencies, departments, boards, employees, citizens and residents (hereinafter collectively referred to in this Agreement as the “Releasing Parties”) and Larry’s Drive-In Pharmacy, a West Virginia corporation, including its past, present and future, known and unknown, and direct and indirect, owners, shareholders, affiliates, employees, agents, representatives, officers, directors, managers, executives, fiduciaries, predecessors, successors, successors in interest, transferees, assigns, insurers, reinsurers, indemnitees, and all other related entities or individuals, all in their personal and agency capacities, (hereinafter collectively referred to in this Agreement as the “Released Parties”).

II. CLAIMS RELEASED:

The Releasing Parties agree to release any and all claims, demands, damages, liabilities, penalties, restitution, disgorgement, reimbursement, fines, expenses, costs, actions and causes of action whatsoever known and unknown, foreseen, unforeseen or unforeseeable, which the Releasing Parties have asserted or could have asserted on their own behalf or in the State’s *parens patriae* capacity that the Releasing Parties now have or may have in the future against the Released Parties in any way growing out of, relating to, or concerning the subject matter of the Complaint filed in the Circuit Court of Boone County, West Virginia, on December 7, 2016, styled: *State of West Virginia ex rel. Patrick Morrissey, Attorney General, Plaintiff, v. Larry’s Drive-In Pharmacy, a West Virginia Corporation, Defendant*, being Civil Action No.: 16-C-202, the (“State Lawsuit”)(“Released Claims”). The Released Claims include, but are not limited to, any claims whether at law or in equity for which the West Virginia Attorney General has authority to prosecute which have been or could have been asserted in the State Lawsuit, including, without limitation, (i) any and all claims in *parens patriae* that have been or could have been asserted in the State Lawsuit, (ii) any claims on behalf of consumers in the State that have been or could have been asserted in the State Lawsuit; and (iii) any and all claims for damages or relief of any nature whatsoever

related to the allegations in the State Lawsuit, including any and all claims based on vicarious liability and/or respondeat superior, as well as claims for direct negligence, willful and wanton misconduct and claims for punitive damages.

III. RELEASE AND DISCHARGE:

In consideration of the payments set forth in Section V below (“Settlement Payment”) and for other good and valuable consideration, the Releasing Parties do hereby release, acquit, and forever discharge the Released Parties from any and all Released Claims and any and all demands which the Releasing Parties have accrued or asserts to have accrued, or which may hereafter accrue, against the Released Parties which arise out of the Released Claims as set forth in Section II above.

The Releasing Parties expressly waive and assume the risk of any and all claims for damages or other relief relating to the Released Claims that exist as of this date, but of which the Releasing Parties do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise and which, if known, would materially affect the Releasing Parties’ decision to enter into this Agreement.

The Releasing Parties agree that payment of the Settlement Payment by or on behalf of the Released Parties constitutes a complete compromise of matters involving disputed issues of fact and law.

IV. NO ADMISSION OR EVIDENCE OF LIABILITY

The Releasing Parties agree and understand the Settlement Payment is not to be construed as an admission of liability on the part of Released Parties and that the amounts paid by or on behalf of the Released Parties are being paid in settlement and compromise of Releasing Parties’ Claims and/or potential Claims, without in any way admitting liability for any of the Claims asserted by the Releasing Parties.

The Released Parties deny all material allegations and liability alleged in the State Lawsuit and expressly deny and disclaim any wrongdoing or liability of any kind in connection with its conduct in the State, and affirmatively contend that

their actions have been consistent and in compliance with all applicable laws and regulations. In particular the Released Parties state that:

1. The West Virginia Board of Pharmacy has at all relevant times annually issued a retail pharmacy license to Larry's Drive-In Pharmacy and has never instituted any administrative action, complaint or other enforcement action against Larry's Drive-In Pharmacy for an alleged violation of any West Virginia Board of Pharmacy statute or regulation;
2. Larry's Drive-In Pharmacy did not violate any provision of the Uniform Controlled Substances Act, W. Va. Code § 60A-3-301 *et seq.*, or any regulations promulgated thereunder, or 21 U.S.C. § 801 *et seq.*, and 21 C.F.R. § 1301.74(b); and
3. Larry's Drive-In Pharmacy has never been found to be in violation of any state or federal regulations or guidelines concerning the distribution of controlled substances in West Virginia.

V. MEDICARE/MEDICAID:

The Releasing Parties represent that the Settlement Payment set forth in Section VI below does not represent a reimbursement of any Medicare or Medicaid payments. The funds paid as a result of this Agreement represent damages alleged to have been sustained by the State and do not represent damages related to bodily injury, federal expenditures or penalties of any kind.

VI. SETTLEMENT PAYMENT:

In consideration of the Release and Discharge set forth in Section III above, the sum of Five Hundred Fifty Thousand Dollars (\$550,000.00) has been tendered to the Releasing Parties on behalf of the Released Parties by check issued to West Virginia Office of the Attorney General. The Settlement Payment shall be used by the Attorney General for any one or more of the following purposes: direct and indirect administrative, investigative, compliance, enforcement, or litigation costs and services incurred for consumer protection purposes; to be held for appropriation by the Legislature; and/or distribution to taxpayers and/or consumers.

The payment described above represents all of the consideration that Released Parties will ever be required to pay the Releasing Parties, the Releasing Parties' assigns or successors, or any other person or entity for the Released Claims.

VII. ATTORNEY'S FEES:

The Releasing Parties and Released Parties agree that the parties to this Agreement shall bear their own attorneys' fees and costs arising in connection with the Released Claims and State Lawsuit.

VIII. REPRESENTATIONS OF THE RELEASING PARTIES:

The Releasing Parties understand and agree that this is a full, final, and complete release of the Releasing Parties' Claims which totally and completely bars any further future claims or demands of any kind or character whatsoever as a result of or relating to the Claims and the State Lawsuit by the State of West Virginia, or by any agency, person, or entity claiming through the State against the Released Parties, provided, that this release may not be construed to apply to (a) future conduct of the Released Parties occurring after the date of the execution of this Agreement and/or (b) conduct that is not encompassed by the Released Claims.

The Releasing Parties represent that they are not aware of any administrative action the West Virginia Board of Pharmacy or any other Releasing Party plans to take or has considered or is considering taking as a result of the allegations in this case with respect to the retail pharmacy license held by Larry's Drive-In Pharmacy for any reason arising out of, associated with, or in any way related to the Released Claims.

IX. GOVERNING LAW:

The parties agree that this Agreement shall be governed by and interpreted in accordance with the laws of the State of West Virginia.

X. DISMISSAL ORDER, ADDITIONAL DOCUMENTS AND INFORMATION:

Concurrent with the execution of this Agreement, the State shall deliver to Larry's Drive-In Pharmacy an executed Order of Dismissal, with Prejudice, of the

State Lawsuit. The parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

XI. ENTIRE SETTLEMENT AGREEMENT AND SUCCESSORS IN INTEREST:

The parties agree and represent that this Agreement contains the entire Agreement between the parties hereto, and that the terms of this Agreement are contractual in nature and not mere recitals. The undersigned further agree that if any provision in this Agreement is held to be invalid or unenforceable, such provision shall be fully severable or, in lieu thereof, there shall be added a provision as similar in terms to such invalid or unenforceable provision as may be possible and legal, valid and enforceable and all remaining provisions will continue in full force and effect.

XII. EFFECTIVENESS:

This Agreement shall become effective upon execution by the Releasing Parties.

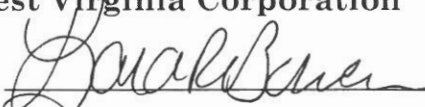
IN WITNESS WHEREOF, the parties have signed this Settlement Agreement and Release of All Claims on this 13th day of April, 2018.

AGREED TO BY: **WEST VIRGINIA OFFICE OF THE ATTORNEY GENERAL**

By:  _____

Its: Deputy Attorney General

**LARRY'S DRIVE-IN PHARMACY,
a West Virginia Corporation**

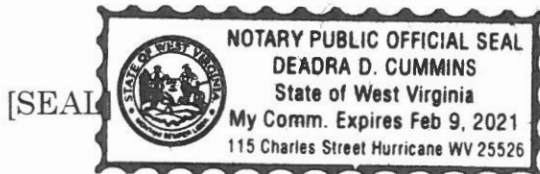
By:  _____

Its: President

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, TO -WIT:

I, Deadra D. Cummins, a Notary Public in and from the aforesaid County and State, depose and state that the above-named Vaughn T. Sizemore did appear before me on the 13th day of April, 2018, signed his name in his capacity as a duly authorized representative of the West Virginia Office of the Attorney General to this Settlement Agreement and Release of All Claims and acknowledged his signature as his own free act and deed.

My commission expires February 9, 2021.



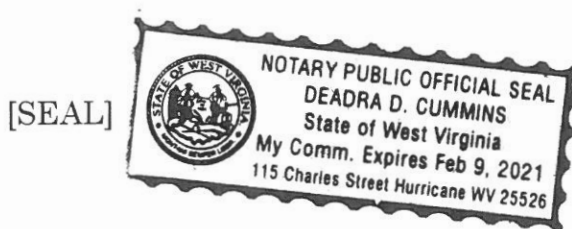
Deadra D. Cummins
Notary Public

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, TO -WIT:

I, Deadra D. Cummins, a Notary Public in and from the aforesaid County and State, depose and state that the above-named LARA R Bowen did appear before me on the 13th day of April, 2018, signed her name in her capacity as President of Larry's Drive-In Pharmacy, a West Virginia Corporation, to this Settlement Agreement and Release of All Claims and acknowledged her signature as her own free act and deed.

My commission expires February 9, 2021.



Deadra D. Cummins
Notary Public