COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II

CIVIL ACTION No. 18-CI-56

COMMONWEALTH OF KENTUCKY,
EX REL. ANDY BESHEAR,
ATTORNEY GENERAL **PLAINTIFF**

vs.

McKESSON CORPORATION **DEFENDANT**

ORDER

This matter is before the Court upon McKesson Corporation's *Motion to Dismiss*. Upon review of the parties' briefs and papers, and after being sufficiently advised, the Court hereby **DENIES** Defendant's *Motion*.

BACKGROUND

On January 22, 2018, the Attorney General filed suit against Defendant for its alleged "role fueling the opioid epidemic in the Commonwealth through unfair, false, misleading, and/or deceptive business practices." Defendant filed its *Motion to Dismiss* the claim on September 28, 2018.

STANDARD OF REVIEW

When considering a motion to dismiss, Civil Rule 12.02 requires the Court to construe the pleadings liberally "in a light most favorable to the plaintiff" and to take all factual allegations in the complaint to be true. *Gall v. Scroggy*, 725 S.W.2d 867, 869 (Ky. Ct. App. 1987) *citing Ewell v. Central City,* 340 S.W.2d 479 (Ky. 1960). "The court should not grant the motion unless it appears the pleading party would not be entitled to

relief under any set of facts which could be proved in support of his claim." *Mims v. W.-S. Agency, Inc.*, 226 S.W.3d 833, 835 (Ky. Ct. App. 2007) *quoting James v. Wilson*, 95 S.W.3d 875, 883-84 (Ky. Ct. App. 2002). In *D.F.Bailey, Inc. v. GRW Engineers Inc.*, 350 S.W.3d 818 (Ky. Ct. App. 2011), the Kentucky Court of Appeals discussed a trial court's standard of review when ruling on a motion to dismiss. "[T]he question is purely a matter of law. [...] Further, it is true that in reviewing a motion to dismiss, the trial court is not required to make any factual findings, and it may properly consider matters outside of the pleadings in making its decision. Id. at 820 (internal citations omitted).

ANALYSIS

1. Proximate Causation

Defendant argues that the Complaint only contains, at most, a remote connection between its alleged wrongdoing and harm the Commonwealth suffered. Causation is an element to the Commonwealth's nuisance, negligence, consumer protection, fraud by omission, and Medicaid fraud claims; and failure to plead causation requires dismissal of common law and statutory causes of action. The Commonwealth, according to Defendant, pleads indirect or derivative injuries that do not constitute proximate cause. *Ky. Laborers Dist. Council Health & Welfare Tr. Fund v. Hill & Knowlton, Inc.*, 24 F. Supp. 2d 755, 761 (W.D. Ky. 1998). These alleged injuries, healthcare costs, law enforcement costs, and social services costs lack any direct causal link to Defendant's actions in the Commonwealth. Defendant argues that its actions of delivering FDA-approved medicines to Commonwealth-licensed and DEA-registered pharmacies caused no injury to the Commonwealth because Kentucky doctors prescribe the medicines and consumers are those who use the drugs. It is the criminal intervening act of a third party,

a doctor who prescribes, a patient who sells a lawful prescription, or a thief of the drug that causes injuries to the Commonwealth.

Conversely, the Commonwealth argues that it has adequately alleged causation in its Complaint. First, the Commonwealth asserts that proximate cause is a matter for the jury because it is often, except in cases in which no disputes about essential facts exist, a factual question. The pleading standard for proximate cause requires the Commonwealth to merely show that Defendant's conduct was a "substantial factor" to bring about injury to the Commonwealth. *Pathways, Inc. v. Hammons*, 113 S.W.3d 85, 91-92 (Ky. 2003). The Commonwealth avers that its allegations that the supply of pharmaceutical opioids by Defendant in Kentucky is sufficient to establish causation.

Further, the Commonwealth asserts that the derivative injury rule does not bar its claims because it brought the action as *parens patriae* under public nuisance law and the Kentucky Consumer Protection Act for the protection and interests of its citizens. The derivative injury rule does not apply to those theories of the case. Claims brought under Medicaid related statutes also were payors of medically unnecessary prescriptions and treatments arising from opioid abuse in the state and are permissible. This Court, the Commonwealth notes, has previously held that in similar cases the Court has found that state expenditures constitute unique claims of injury to the Commonwealth. *See Commonwealth ex rel. Andy Beshear, Attorney General v. Fresenius Med. Care Holdings, Inc., et al.*, Civ. Action No. 16-CI-946, Order on Motion to Dismiss at 6-7 (Franklin Cir. Ct. Feb. 15, 2017); See *Commonwealth ex rel Andy Beshear, Attorney General v. Endo Health Solutions Inc., et al.*, Civ. Action No. 17-CI-1147, Order on Motion to Dismiss (Franklin Cir. Ct. July 10, 2018). The Commonwealth contends that

the corporation filled orders for opioids, in disproportionate rates for the population of the Commonwealth, did not fulfill its duty to the Commonwealth and establish internal policies to protect from theft or diversion.

The Commonwealth also argues that superseding causes do not preclude Defendant's liability. An intervening cause would only be superseding if the actor did not view the event as reasonably foreseeable. *NKC Hospitals, Inc. v. Anthony*, 849 S.W.2d 564, 568 (Ky. Ct. App. 1993). Further, the intervening acts that contributed to injuries, the Commonwealth alleges, were foreseeable because the company had information through publically available opioid overdose statistics and private Healthcare Distribution Alliance information about the harms of the prescription abuse in the Commonwealth. Further, a superseding cause as part of proximate cause is a jury question unless reasonable minds could not differ on the established facts. *House v. Kellerman*, 519 S.W.2d 380, 382 (Ky. 1974).

The Court holds that the Commonwealth has sufficiently pled proximate causation in its Complaint to proceed in this case. In *Kentucky Laborers*, third-party payors attempted to sue tobacco companies to recover medical costs that they expended for treatment of people with smoking related illnesses. The Western District Court dismissed the action because the payors' claims were "remote" and entirely "derivative" of members' injuries. *Kentucky Laborers*, 24 F. Supp. 2d at 762-763. This holding, the Court opined, was consistent with case law in which courts dismissed suits in third-party payors attempted to recover for third-party injuries. *Id*; see *State of Sao Paulo of the Federative Republic of Brazil v. Am. Tobacco Co.*, 919 A.2d 1116, 1125 & n.35 (Del. 2007) (holding that third-party payors or medical service providers have no claims,

statutory or common law, to assert claims against tortfeasors for harms tobacco companies caused to individual smokers unless the claims are brought under individual names through the doctrine of subrogation).

The role of the Attorney General, however, is distinct from that of a typical third-party payor seeking recovery from suit. The Attorney General has a special role as *parens patriae* to bring actions on behalf of the citizens of Kentucky. This statutorily created role allows it to bring cases on behalf of citizens of the Commonwealth that otherwise would relate to injuries too remote for a third party to bring suit. In *Commonwealth v. Endo*, this Court addressed a virtually similar issue in which the Office of the Attorney General alleged harm at the hands of an opioid manufacturer. This Court held:

> The expenditures made in workers compensation and Medicaid claims to treat Kentuckians who, after receiving improper medical prescriptions and advisement, became addicted and experienced various opioid related injuries and illness, are injuries the Commonwealth allegedly inured, despite not being the individual who experienced the opioid addiction. Therefore, the Commonwealth's claims are not too remote for the Commonwealth's theory of causation.

Commonwealth v. Endo, Order on Motion to Dismiss at 5. In the present matter, the Commonwealth has raised similar claims as those in *Endo*, and therefore the Court holds that expenditures made related to opioid distribution in the Commonwealth are ripe for remedies sought in this complaint. The Court agrees that any actions that would break the chain of causation, according to the allegations in the Attorney General's Complaint, do not, as a matter of law, preclude the Commonwealth's theory of Defendant actions as proximate causation for opioid abuse, dependency, and injuries in the Commonwealth from proceeding in its various claims.

2. Free Public Services Doctrine

McKesson asserts that the free public services doctrine precludes the Commonwealth's claims because no Kentucky state or regulation permits recovery for the alleged injuries. Arguing that "absent authorizing legislation," the cost of public services "is to be borne by the public as a whole, not assessed against the tortfeasor whose negligence creates the need for the service." *District of Columbia v. Air. Fla., Inc.*, 750 F.2d 1077, 1080 (D.C. Cir. 1984). Other jurisdictions apply the doctrine to preclude the government from seeking reimbursement from the costs for spending on public services.

However, the Court agrees with the Commonwealth's arguments that Kentucky case law is silent on any adoption of the public services doctrine. The Court holds that the application of the doctrine to this case would be unprecedented and unfounded in Kentucky law, and the Court declines to do so in this matter.

3. Public Nuisance

McKesson contends that the Commonwealth's public nuisance claim should be dismissed because it fails to identify a public right or control of opioids at the time of the injuries citizens suffered; and the claim is an overbroad expansion of the doctrine of nuisance law in Kentucky.

First, the corporation argues that Kentucky requires a public nuisance claim to involve a violation of a public right. *Reynolds v. Childers Oil Co.*, 2014 WL 1356672, at *6 n.7 (Ky. App. Apr. 4, 2014). The Complaint, Defendant argues, lacks any allegation that its conduct violated a public right because the right to be free from opioid abuse fundamentally differs from the right to the access of water or roads. Only certain

individuals have legal access to opioids due to a prescription from a physician. The right to be safe from a defective product, thus McKesson avers, is limited to the individual recipient of valid opioid prescriptions. The Commonwealth, it argues, cannot seek remedy for the opioid epidemic by enforcing a nonexistent public right to be safe from defective products.

Conversely, the Commonwealth argues that it adequately pled an interference with a public right. The Restatement asserts that an unreasonable violation of a public right could occur in the following circumstances:

> (a) Whether the conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort or the public convenience, or
>
> (b) whether the conduct is proscribed by statute, ordinance or administrative regulation, or
>
> (c) whether the conduct is of a continuing nature or has produced a permanent or long-lasting effect, and, as the actor knows or has reason to know, has a significant effect upon the public right.

Restatement (Second) of Torts § 821B. The Commonwealth has argued that McKesson interfered with the public health and safety in Kentucky by oversupplying opioids in a fashion that contributed to increased risk of diversion, abuse, addiction, and overdose in a long-lasting way. Drug trafficking has long been recognized as a public nuisance. *Maum v. Commonwealth*, 490 S.W.2d 748, 749 (Ky. Ct. App. 1973).

The Court holds that the Commonwealth has alleged a public right that McKesson has allegedly violated. Citizens share public rights equally, such as access to air, water, or rights-of-way. *Roberie v. VonBokern*, 2006 WL 2454647, at *3 (Ky. Aug. 24, 02006); *Reynolds*, 2014 WL 1356672, at *6 n.7. Similarly, citizens share the right to be free from the adverse implications of drug abuse, diversion, and overdose. In the Kentucky case,

Maum, restaurant owners permitted the trafficking of narcotics to occur on the premises of the restaurant. Though reversed for other matters, the Court noted that the trafficking of narcotics were offenses to the public health, safety, and quality of life and could cause a public nuisance. *Id.* at 749-50. Similar to this case, the alleged influx of large quantities of opioids, at a disproportionate rate related to the population, appears to the Court to meet the pleading requirements of violating the public right the *Maum* court contemplated in its decision.

Next, McKesson argues that the Commonwealth failed to allege that McKesson had control of the prescriptions at the time of alleged injuries sustained by Kentuckians. A party may only be liable for nuisance if the party controlled the instrumentality of the nuisance at the time of the injury. *Old Lewis Hunter Distillery Co. v. Commonwealth*, 116 S.W.2d 647, 649 (Ky. 1938). The opioids only allegedly created a nuisance after the company sold the prescriptions to licensed retailers, and consumers then diverted the opioids for illicit uses.

Conversely, the Commonwealth argues that McKesson is simply misplacing the creation of the nuisance. McKesson argues that the nuisance arose at the time of the drug's misuse, abuse, or overdose. Rather, the Commonwealth asserts that Defendant created the nuisance at the time it over shipped a disproportionate number of opioids for the population into the Commonwealth. This, the Commonwealth contends, would not have occurred if McKesson had maintained internal procedures to prevent theft and diversion.

The Court agrees with the Commonwealth that it has sufficiently pled that Defendant had control of opioids at the time of the alleged creation of the nuisance. In

Old Lewis Distillery, the Court held that the distillery was not liable for the public nuisance associated with the smell of cattle where a third party fed cattle, on property not owned by the distillery, with slop from the distillery's byproducts. *Id.* The nuisance, in that case, was created at the time the cattle ate the slop, which was clearly controlled by the third party who fed the cattle the distillery's biproduct. However, in this case, the nuisance to Kentucky, based on the Commonwealth's pleadings, arose at the time the company distributed the drugs to retailers. The volume of the opioids available to licensed retailers and prescribers allegedly caused the nuisance that has plagued the Commonwealth's right to be safe and healthy. The Attorney General's pleadings consistently refer to the oversupply and overdistribution of the opioids within the state. Thus, the alleged nuisance would occur at the time in which McKesson maintained control of its products.

Finally, McKesson contends that the Attorney General seeks to expand public nuisance law beyond the scope of Kentucky case law. The distribution of a lawful product, it asserts, has never been held to constitute a public nuisance. The Commonwealth argues that Kentucky case law recognizes public nuisance, specifically where the nuisance is a contribution to narcotrafficking within the state.

The Court, previously in *Endo*, rejected a similar argument to that which McKesson now presents. The Court held:

> he Kentucky Supreme Court adopted the Restatement Second of Torts' definition of public nuisance. The opioid crisis in Kentucky has caused a public health crisis and crime crisis throughout the Commonwealth. The Commonwealth's pleadings have alleged…that Defendant have interfered with the public health, Defendant have violated a Kentucky statute, and Defendant misrepresented the effects of its products to physicians in the Commonwealth. The Court holds that the Attorney General has clearly

> pleaded that Defendant' conduct allegedly violates a public right in the state.

Endo Order on Motion to Dismiss at 14. The Court now recognizes that the charges brought against Endo differ from those brought against McKesson, an opioid distributor. However, the involvement in the opioid epidemic and the nuisance that the epidemic has created in the state is one in the same. To allow a public nuisance suit to proceed clearly does not expand the boundaries of Kentucky case law or decisions of this Court.

4. Negligence and negligence per se

First, McKesson contends that it does not owe the Commonwealth a statutory duty to halt or report suspicious orders. Under Kentucky law, three conditions must be satisfied to constitute a claim of negligence per se under KRS 446.070: plaintiff must fall within a class of persons the statute intends to protect, the statute must specifically intend to prevent the action that occurred, and the violation of the statute must substantially contribute to the cause of the resulting harm. *McCarty v. Covol Fuels No. 2, LLC*, 476 S.W.3d 224, 227 (Ky. 2015).

Defendant argues that the Commonwealth cites statutory provisions for its claims of negligence per se, however none of the rules amount to a cognizable claim under KRS 446.070. Defendant argues KRS 205.177; KRS 205.5634; KRS 218A.160(1)(a); KRS 128A.170; 201 KAR 2:105 § 2(4)(d); 902 KAR 55:010 § 4(1)(h); and extensively 201 KAR 2:105 § 7 do not impose statutory claims of negligence per se based upon its conduct. Specifically, Defendant argues that the Attorney General misinterprets 201 KAR 2:105 § 7 improperly; it provides:

> Violations. (1) A wholesale distributor shall not distribute [prescription] drugs directly to a consumer or a patient or operate in a manner that

> endangers the public health. (2) Violation of any of these provisions shall be grounds for the suspension or revocation of the license.

McKesson avers that the *ejusdem generis* doctrine applies in this case. "Where, in a statute, general words follow or precede a designation of particular subjects or classes of persons, the meaning of the general words ordinarily will be presumed to be restricted by the particular designation." *McCarty*, 476 S.W.3d at 235. The regulation prohibits the distribution of drugs to a consumer or patient, which creates a limitation of a direct nexus to a consumer or patient not a wholesale distributor. Next, Defendant asserts that the Commonwealth has not asserted that it is within the class of persons the legislature intended to protect in 201 KAR 2:105 § 7. McKesson further argues that the regulation provides a civil remedy for its violation in the suspension or revocation of a wholesale distributor's license, and the aggrieved party is limited to the remedy a statute provides. *Grzyb v. Evans*, 700 S.W.2d 399, 401 (Ky. 1985). The regulation was adopted to allow the Board of Pharmacy to issue regulations related to licensure and does not extend authority to the Board to interfere with wholesale distributors' conduct. Finally, the company argues that the regulation is void for vagueness.

The Commonwealth combats McKesson's arguments with the notion that it sufficiently pled multiple statutory duties in its negligence per se claim. As a wholesale distributor, McKesson had a duty to comply with all state laws and regulations pertaining to controlled substances. Ky. Rev. Stat. § 218A.160(1)(a). These laws require that the company maintain acceptable operational procedures. A wholesale pharmaceutical distributor must comply with all state laws and regulations relating to controlled substances. Ky. Rev. Stat. § 218A.160(1)(a). Further, Kentucky regulation mandates that

distributors must create internal security policies to provide protection against theft and diversion. 201 KAR 2:105 § 5(2)(c) and 201 KAR 2:105 § 5(4)(a).

The Commonwealth similarly argues that KRS Chapter 218A protects the Commonwealth as a designated member of a class. KRS 218A.005(1) dictates that the regulation of controlled substances "is important and necessary for the preservation of public safety and public health." Thus, to violate statutes contained in chapter 218A would violate the public safety and the public health, and therefore the Commonwealth falls within a class the legislature intended controlled substances regulations to protect. Similarly, provisions in 201 KAR 2:105, specifically 201 KAR 2:105(7), prohibit activities that endanger the public health. Again, the Commonwealth asserts, that the Board of Pharmacy's licensure statute that requires licensure regulation of the practice of pharmacy as it relates to affecting the public health and welfare. 201 KAR 2:105 § 3(1)(b).

The Court holds that the Commonwealth has adequately pled claims for relief for negligence because statutory duties of care exist for wholesale drug distributors.

First, the statutes contained in KRS Chapter 205, which relate to "Public Assistance and Medical Assistance," do not create a statutory duty for McKesson, but rather fully explain the Attorney General's ability to pursue civil remedy in this action. KRS 205.177 specifically relates to "information may be shared by state and local governmental agencies; conditions." Section 1 of that provision allows an agency to share patient information with "any other state or local governmental agency of similar function if the agency has a direct, tangible, legitimate interest in the individual concerned…" Ky. Rev. Stat. § 205.177(1). Further, KRS 205.5634 allows the Drug

Management Review Advisory Board to coordinate data related to pharmaceutical drug use and determine the need for educational interventions. Though these two statutes do not directly name the Attorney General in their text, the Court reads these statutes to confer the Attorney General with the authority to receive both specific patient information about opioid consumption and side effects from state agencies as well as larger, statistical information about the effect of opioids across the state. The Attorney General, as previously discussed, has a special role as *parens patriae* and may bring suit on behalf of the Commonwealth. Part of its ability to bring suit requires it to collect information related to the Public Assistance and Medical Assistance, as defined in KRS 205. Therefore, the statutes, when read together, increase the Commonwealth's ability to collect information related to medical patients and overarching patterns across the state.

KRS Chapter 218A clearly intends the Commonwealth to be a member of the class protected by its statutes. The Court recognizes that the Commonwealth cited KRS 218A.160(1)(a) to support its appeal, however that statute was repealed prior to the instigation of this suit; this shortsighted error does not change the Court's analysis. KRS 218A.170 regulates the "sale, distribution, administration, or prescription of controlled substances by licensed manufacturers, distributors, wholesalers, pharmacists, or practitioners;...duties of pharmacists and practitioners..." The statute requires pharmaceutical distributors to provide its controlled substances to a list of approved recipients. Ky. Rev. Stat. § 218A.170(1). The sale and distribution of drugs must be done in accordance with KRS 218A.200, which requires distributors to keep records that comply with state and federal laws. KRS 218A.140(4) prohibits any person from knowingly aiding a person in obtaining a prescription that violates the statutes in Chapter

218A. Further, KRS 218A.1402 relates penalties for a criminal conspirator in violating sections of the chapter in the sale and transfer of illicit prescription drugs in the Commonwealth.

Though Defendant argues that this relieves it of liability of a duty to report the information or change its distribution practices, the Court agrees with the Commonwealth that the statutes contained in KRS 218A are to be read together as an attempt to "preserv(e) public safety and public health." Ky. Rev. Stat. § 218A.005. The scheme of KRS 218A clearly indicates that the legislature intended to curtail improper handling of opioids and other controlled substances within the Commonwealth. Therefore, the Attorney General has correctly inferred from the concert of statutes within the chapter that distributors of controlled substances have a duty to act within the best interest of the public safety and health.

Similarly, the Court holds that the Commonwealth has sufficiently pled claims for violation of 201 KAR 2:105. Section 7(1) of the regulation precludes a wholesale distributor from "operat(ing) in a manner that endangers the public health." The section is not limited to the direct distribution of drugs to a consumer or patient, as Defendant argue. 201 KAR 2:105 § 7(1). The regulation further relates to the public health and safety considerations when it governs the licensure process from the Board of Pharmacy. 201 KAR 2:105 § 3(1)(b). As with prior statutes under which negligence claims arose, read together as an entire scheme, it is clear that the legislature intended the regulations to safeguard against wholesale distributors acting in a way that violates public health and safety concerns.

5. Consumer Protection

McKesson argues that the Commonwealth's claim under the KCPA fails because it had no duty to report or halt suspicious pharmacy orders; the claim lacks specificity required by standards for pleading with particularity; no consumer directed conduct occurred; no violation of the conduct of trade or commerce occurred; and money damages can only be sought on behalf of defrauded consumers.

The Court disagrees with Defendant' analysis of the Commonwealth's Consumer Protection claim. First, McKesson had a codified duty, as analyzed above, to act in the interest of the public health and safety of citizens of the Commonwealth. Those same duties apply to the KCPA as other statutory obligations. Next, the Commonwealth has pled its KCPA claim with the requisite particularity, as a different standard of particularity applies to pleading under the KCPA than fraud claims. *See Commonwealth, ex rel. Andy Beshear, Attorney General v. Johnson & Johnson*, Civil Action No. 16-CI-867, Order on Motion to Dismiss at 5 (Franklin Cir. Ct. June 7, 2017).

Further, the KCPA is not limited to "only those selected types of illegal business acts or practices which are used in the merchandising of goods or services intended for personal, family or household use." *North American Van Lines*, 600 S.W.2d 459, 462 (Ky. App. 1979). Therefore, the Commonwealth may bring the claim in the public interest under the KCPA. The issue of damages, the Court holds, is to be resolved at the final disposition of the case.

6. Fraud by omission

Defendant state that the Commonwealth has not pled a fraud by omission claim. The elements of that claim include a duty to disclose material fact at issue, defendant

failed to disclose the fact, failure to disclose induced the plaintiff to act, and the plaintiff suffered actual damages. *Giddings v. Lewis, Inc. v. Indus. Risk Insurers*, 348 S.W.3d 729, 747 (Ky. 2011).

The Court holds that the Commonwealth has adequately pled a fraud by omission claim because statutory duties existed for Defendant to disclose information about their product, losses, and thefts. The Commonwealth has alleged with adequate particularity facts to support its theory regarding each element of the claim. Therefore, the Court holds that the Commonwealth has sufficiently pled the fraud by omission claim.

7. Medicaid fraud claims

The Commonwealth has pled a valid cause of action under the Kentucky Medicaid Fraud and Kentucky Assistance Program Fraud Statutes. Both statutes impose liability for misconduct of the nature that it has alleged that McKesson did in the Commonwealth. By claiming that McKesson allegedly failed to identify, report, and halt suspicious orders and inform the Commonwealth of specific violations, the Commonwealth has sufficiently pled a claim for relief under the Medicaid fraud statute.

The Commonwealth has also pled sufficiently a claim under the Kentucky Assistance Program Fraud Statute, that precludes "intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct that advances the scheme or artifice. Ky. Rev. Stat. § 194A.505(6). The submission of allegedly false claim constitutes a valid claim under the Assistance Program Fraud Statute, and thus it is properly before the Court.

8. Unjust enrichment claims

Finally, the Commonwealth has adequately pled facts top support an unjust enrichment claim in its particular allegations that McKesson allegedly profited from unnecessary and improperly shipped opioids purchased in the Commonwealth, profited from its endeavors, and equity would preclude Defendant from keeping profits it unjustly earned off deception in the Commonwealth.

CONCLUSION

The Court hereby **DENIES** Defendant's *Motion*. The Court holds that the Commonwealth has adequately pled its claims for relief on all counts against Defendant.

SO ORDERED, this 21 day of May, 2019.

THOMAS D. WINGATE
Judge, Franklin Circuit Court

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order was mailed, this 21 day of May, 2019, to the following:

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