

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

THE CITY OF HUNTINGTON,

Plaintiff,

v.

Case No: 3:17-cv-01362

AMERISOURCEBERGEN DRUG
CORPORATION, CARDINAL HEALTH INC, and
MCKESSON CORPORATION,
GREGORY DONALD CHANEY, M.D.,

Defendants.

**PLAINTIFF'S MOTION TO DISMISS PURSUANT TO RULE 41(A)(2)
OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Comes now the Plaintiff, The City of Huntington, by and through counsel, pursuant to Rule 41(a)(2) of the *Federal Rules of Civil Procedure*, and hereby moves this honorable Court for an Order dismissing, **without prejudice**, all claims in this civil action as to all defendants; Amerisourcebergen Drug Corporation, Cardinal Health, Inc., McKesson Corporation and Gregory Donald Chaney, M.D., with all costs taxed to the party incurring same. Plaintiff has not previously dismissed this action against the present defendants; therefore costs should not be assessed against the Plaintiff pursuant to Rule 41 (d)(1) of the *Federal Rules of Civil Procedure*.

Respectfully submitted,
THE CITY OF HUNTINGTON,
By Counsel,

s/Charles R. "Rusty" Webb
CHARLES R. "RUSTY" WEBB (WVSB No.: 4782)
The Webb Law Centre, PLLC
716 Lee Street, East
Charleston, West Virginia 25301
(304) 344-9322 - *telephone*
(304) 344-1157 - *facsimile*
rusty@rustywebb.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

THE CITY OF HUNTINGTON,

Plaintiff,

v.

Case No: 3:17-cv-01362

AMERISOURCEBERGEN DRUG
CORPORATION, CARDINAL HEALTH INC, and
MCKESSON CORPORATION,
GREGORY DONALD CHANEY, M.D.,

Defendants.

CERTIFICATE OF SERVICE

I, Charles R. Webb, counsel for Plaintiff, the City of Huntington, do hereby certify service that on July 20, 2017, I served the forgoing **PLAINTIFF'S MOTION TO DISMISS UNDER RULE 41(A)(2) OF THE FEDERAL RULES OF CIVIL PROCEDURE** upon the parties hereto by filing a true copy thereof *via* ECF to the following counsel of record:

A. L. Emch, Esquire
Adam J. Schwendeman, Esquire Jackson Kelly PLLC
500 Lee Street East, Suite 1600
P. O. Box 553 Charleston, West Virginia 25322

Eric W. Sitarchuk, Esquire
Meridith S. Auten, Esquire
Morgan Lewis & Bockius
1701 Market Street
Philadelphia, PA 19103

Counsel for AmerisourceBergen Drug Corp.

Susan M. Robinson, Esquire
Robert H. Akers, Esquire
Thomas Combs & Spann, PLLC
300 Summers Street, Suite 1380
Charleston, WV 25301

Enu Mainigi, Esquire (*Pro Hac Vice*)
F. Lanc Heard, Esquire
Steven M. Pyser, Esquire
Williams & Connolly LLP
725 Twelfth Street, N.W.
Washington, DC 20005

James R. Wooley, Esquire (*Pro Hac Vice*)
Jones Day
North Point - 901 Lakeside Avenue
Cleveland, OH 44114

Elizabeth P. Kessler, Esquire (*Pro Hac Vice*)
Jones Day
325 John H. McConnell Blvd.
Columbus, OH 43215

Counsel for Cardinal Health, Inc.

Jeffrey M. Wakefield , Esquire
Flaherty Sensabaugh Bonasso. PLLC
P. O. Box 3843
Charleston, WV 25338-3843

Geoffrey Hobart, Esquire
Matthew Benov, Esquire
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001

Counsel for McKesson Corporation

s/Charles R. "Rusty" Webb
CHARLES R. "RUSTY" WEBB (WVSB No.: 4782)
The Webb Law Centre, PLLC
716 Lee Street, East
Charleston, West Virginia 25301
(304) 344-9322 - *telephone*
(304) 344-1157 – *facsimile*
rusty@rustywebb.com

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

Case No: 3:17-cv-01362

**AMERISOURCEBERGEN DRUG
CORPORATION, CARDINAL HEALTH INC, and
MCKESSON CORPORATION,
GREGORY DONALD CHANEY, M.D.,**

Defendants.

ORDER OF DISMISSAL

THIS MATTER is before the Court upon motion by Plaintiff, The City of Huntington, pursuant to Rule 41(a)(2) of the *Federal Rules of Civil Procedure*, to dismiss, without prejudice, all claims in this matter against Amerisourcebergen Drug Corporation, Cardinal Health, Inc., McKesson Corporation and Gregory Donald Chaney, M.D.

It appearing that grounds exist to permit Plaintiff to voluntarily dismiss this action, without prejudice, and that the motion should be granted for good causes shown;

It is therefore ORDERED, ADJUDGED, and DECREED that the action of Plaintiff, The City of Huntington, be dismissed without prejudice against Amerisourcebergen Drug Corporation, Cardinal Health, Inc., McKesson Corporation and Gregory Donald Chaney, M.D., with each party to bear its own costs.

This, the ____ day of _____, 2017.

United States District Court Judge