



C L A R E L O C K E

L L P

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By Email

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James McLaughlin, Deputy General Counsel
The Washington Post
One Franklin Square
1301 K Street, NW
Washington, DC 20071



Re: Accurate Data Concerning OxyContin

Dear Jim:

I write in response to your May 7 email in defense of the Washington Post's false statement that Purdue Pharma's OxyContin "addicted millions" in the May 4 article summary about the Washington Post's prior reporting on the opioid crisis.

This false statement is simply not supported by the facts, or by the references and citations you provided in your email (and that Post editor Jeff Leen and reporter Sari Horwitz purportedly relied on for this statement). It is likewise belied by the Post's own prior reporting that it is promoting in the May 4 article.

I. Art Van Zee's 2009 Article Does Not Support the Post's False Statement, Nor Do His Underlying Sources.

In your May 7 email, you noted that the Post editor and reporter responsible for the May 4 item relied on Art Van Zee's 2009 article, "The Promotion and Marketing of OxyContin: Commercial Triumph, Public Health Tragedy," for the false statement that OxyContin "addicted millions." But even a cursory look at Van Zee's article shows that it is riddled with errors - and a closer reading demonstrates that the underlying sources he cites do not support his claims.

In your May 7 email, you noted:



- A 2009 medical journal article available at the NIH website reported: "By 2002, OxyContin accounted for 68% of oxycodone sales. Lifetime nonmedical use of OxyContin increased from 1.9 million to 3.1 million people between 2002 and 2004, and in 2004 there were 615,000 new nonmedical users of OxyContin. By 2004, OxyContin had become the most prevalent prescription opioid abused in the United States." (emphasis added, article available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2622774/>) The "nonmedical" use of OxyContin by 3.1 million even as of 2004 ~ 16 years ago ~ strongly suggests that the total number who have been addicted to the drug at one time or another over the course of nearly 25 years is in the millions.
- By all accounts, including Purdue Pharma's, sales of OxyContin skyrocketed in the late 1990s and early 2000s. The article above, for instance, notes that "Purdue's promotion of OxyContin for the treatment of non-cancer-related pain contributed to a nearly tenfold increase in OxyContin prescriptions for this type of pain, from about 670,000 in 1997 to about 6.2 million in 2002"). Those figures do not include illicit and/or diverted use of OxyContin.

But Van Zee's statistics are simply wrong, and the sources he cites show this.

First, Van Zee cites a 2006 article by Leonard Paulozzi as support for the false statement that "[b]y 2002, OxyContin accounted for 68% of oxycodone sales." However, the Paulozzi article does not cite to any source for the false claim that "OxyContin, introduced in 1996, accounted for 68% of oxycodone sales by 2002."¹ Accordingly, you are sourcing a claim that itself is unsourced, the result of which is a falsehood compounding a falsehood. To be clear, there is no evidence to support the notion that OxyContin – by any measure – represented 68% of oxycodone sales. It also bares noting that oxycodone sales themselves represent only a percentage of opioid sales in the United States, along with hydrocodone, oxymorphone, hydromorphone, fentanyl, morphine and others.

Furthermore, in that same paragraph, Paulozzi was comparing and analyzing "sales in grams" of various analgesics – not numbers of prescriptions or actual pills. The Post itself has acknowledged that the true and fair method for quantifying a prescription drug's market share is to measure the number of pills a given manufacturer or distributor was responsible for bringing to the market.²

As the Washington Post is well aware, OxyContin was never more than 4% of the opioid market, which (contrary to your colleagues' beliefs) occurred nearly 20 years ago. And your own news coverage clearly shows pill count is the industry standard for measurement:

"I was shocked; I couldn't believe it, Mallinckrodt was the biggest, and then there was Actavis," Boockholdt said. "Everyone had been talking about Purdue, but they

¹ See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1586142/>.

² See, e.g., https://www.washingtonpost.com/investigations/76-billion-opioid-pills-newly-released-federal-data-unmasks-the-epidemic/2019/07/16/5f29fd62-a73e-11e9-86dd-d7f0e60391e9_story.html; <https://www.washingtonpost.com/graphics/2019/investigations/dea-pain-pill-database/>.



weren't even close.” --Barbara J. Boockholdt, former chief of the regulatory section for DEA's Office of Diversion Control.³

Second, Van Zee cites (and the Post purports to rely upon) the 2009 National Survey on Drug Use and Health to claim that “Lifetime nonmedical use of OxyContin increased from 1.9 million to 3.1 million people between 2002 and 2004, and in 2004 there were 615,000 new nonmedical users of OxyContin.” Again, this information is misleading and a deeper look shows why it is not to be believed. Not only is the link Van Zee cites to in the article inaccurate, and the 2009 summary does not include any data on OxyContin from 2002 to 2004,⁴ but the NSDUH report he references does not equate nonmedical use with addiction. Indeed, 'non-medical use' is defined as "the use of prescription drugs, whether obtained by a prescription or otherwise, other than in the manner, for the reasons, or time period prescribed or by a person for whom the drug was not prescribed." Concluding, as the Post apparently does, that "non-medical use" is synonymous with addiction to concoct support for their reckless assertions, requires a factual and logical leap that is unsupportable and fundamentally dishonest.

Third, Van Zee cites a 2005 article titled, “Trends in Abuse of OxyContin® and Other Opioid Analgesics in the United States: 2002-2004,” to claim that “By 2004, OxyContin had become the most prevalent prescription opioid abused in the United States.” But just like with the 68% statistic, the 2005 article does not support this statement, nor does it support (and in fact contradicts) the notion that Purdue, by way of introducing OxyContin, was responsible for “addicting millions.”

In fact, the 2005 article Van Zee (and now the Post) relies on actually states there was “*no zip code in which OxyContin was the sole drug abused.*”⁵ The authors believed any data where it appeared that OxyContin's abuse was more prevalent than any other prescription drug may be misleading because “OxyContin may simply be the current drug of choice among recreational drug users and street addicts.”⁶ It is important to note that the 2005 article's references to “prevalence” referred to geographic scope—not any quantified analysis of number of incidents of use or even abuse.

Finally, that report also noted that “nearly all of the OxyContin abusers (>87%) had extensive current and past histories of substance abuse” – demonstrating that in fact it was not OxyContin that “addicted” them.⁷ The very premise of the statement made in your May 4 article is belied by that statistic. Almost all identified abusers of OxyContin in 2005 reported extensive current and past histories of abuse and addiction.

³ https://www.washingtonpost.com/investigations/little-known-generic-drug-companies-played-central-role-in-opioid-crisis-documents-reveal/2019/07/26/95e08b46-ac5c-11e9-a0c9-6d2d7818f3da_story.html?utm_term=.ff4af5066fd0.

⁴ See http://www.gmhc.org/files/editor/file/a_pa_nat_drug_use_survey.pdf.

⁵ <https://www.ncbi.nlm.nih.gov/pubmed/16202959>, at 668.

⁶ *Id.*

⁷ *Id.* at 670.



Fourth, the Post claims that Van Zee’s reference to the increase in prescriptions of OxyContin for non-cancer pain from 1997 to 2002 supports a claim that OxyContin “addicted millions.” But the GAO’s December 2003 report, “Prescription Drugs: OxyContin Abuse and Diversion Efforts to Address the Problem,” that Van Zee relies on for his claims simply does not support any such contention – nor does it support the Post’s similar false statement. The 2003 GAO report notes specifically that the shift in using opioid analgesics to treat non-cancer pain occurred across the entire industry and was an important step to address the critical issue “that many people were suffering from undertreated pain.”⁸ The 2003 GAO report even emphasizes that OxyContin’s approval coincided with “the national focus on the inadequacy of patient pain treatment and management.”⁹ And the same IMS Health report that the GAO cited for the numbers of noncancer prescriptions noted that the actual noncancer conditions OxyContin treated included “surgical aftercare” and “injuries and trauma including bone fractures” – conditions that require robust pain-relief treatments that prescription opioids were best suited to treat.¹⁰

Far from supporting a contention that the increase in noncancer prescriptions of OxyContin (and all “other schedule II opioid drugs, such as Duragesic”) correlates with any claims about addiction, the 2003 GAO report demonstrated that prescription opioids serve a critical need for pain management. Therefore, Van Zee’s conclusion connecting abuse and addiction with the increase in prescriptions of OxyContin or any other prescription opioid from 1997 to 2002 was completely misguided, and a flagrant manipulation of the actual facts.

Contrary to Van Zee’s baseless claims, data show that OxyContin abuse *was not* so widespread as to support a claim that it “addicted millions.” For example, a 2007 study funded by the Office of National Drug Control Policy and published in the American Journal of Psychiatry sought to analyze OxyContin abuse among individuals in 157 addiction treatment programs across the U.S. from 2001-2004.¹¹ That study concluded that of the 27,816 unique patients surveyed, only 5% reported any prior use of OxyContin. And of those 5%, 78% had never been prescribed OxyContin for any medical reason and 92% reported having used “one or more other opioids” (meaning just 1% had been prescribed the medication by a physician). Further, only .5% of those OxyContin users reported having never used any other illicit drugs.

Put simply, the Post’s reliance on Van Zee’s 2009 article as support that OxyContin “addicted millions” is wrong. Van Zee’s report is rife with false statements unsupported by the sources he purports to rely on—and those underlying sources, in fact, show that the data do not support the Post’s contention that OxyContin “addicted millions.”

⁸ See <https://www.gao.gov/new.items/d04110.pdf>, pgs. 1, 7-8.

⁹ *Id.* at 9.

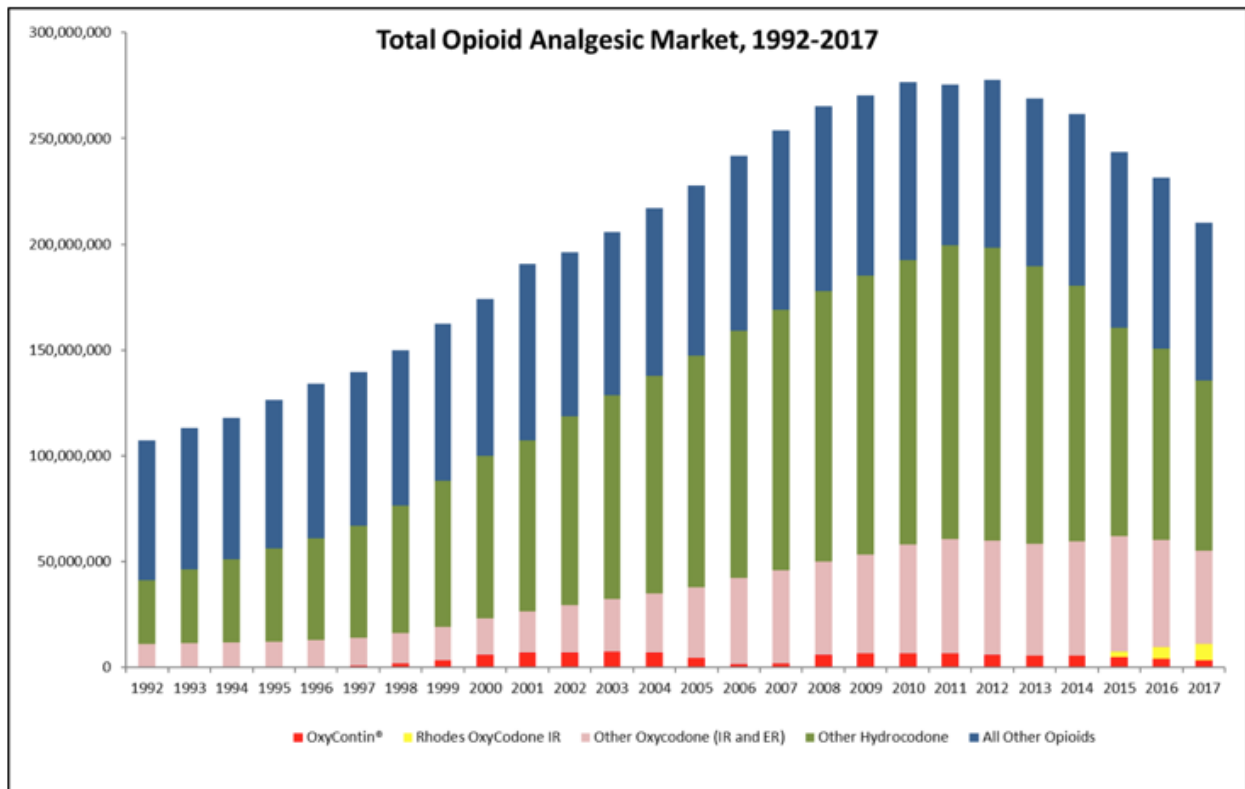
¹⁰ See *id.* at 18.

¹¹ See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2785002/>.



II. The Actual Data Show That OxyContin Was Never More Than 4% of the Market for Prescription Opioids

OxyContin has never been more than 4% of the total prescription opioid market—ever. Your statement that “the figure [4%] was much higher in earlier years” than the 3.2% figure for 2006-2012 that the Post has previously and repeatedly reported is not supported by the facts.¹²



To the extent the Post is basing its (false) statement that OxyContin “addicted millions” on its belief that OxyContin comprised a much higher percentage of the total opioid market before 2006, that assumption is demonstrably false.¹³ The fact is that iatrogenic addiction (addiction derived from the proper use of prescribed drugs) is rare and experts agree that the driving force

¹² In your May 7 email, you “acknowledge[d] that OxyContin amounted to only about 4 percent of the total US opioid market in the 2006-12 period for which ARCOS data are available.” But to be precise, the number the Post reported for that time period was actually closer to 3% (3.2%). OxyContin has *never* comprised more than 4% of the total US opioid market.

¹³ The Post did not cite any actual data concerning OxyContin’s global prescriptions or market share to support any contention that OxyContin “addicted millions.” However, if the Post has any actual data concerning OxyContin’s percentage of the global U.S. opioid market, we expect that the Post will provide it to us.



behind opioid addiction was the influx of non-prescribed, illegally obtained opioid pills.¹⁴ Because abuse derives from access to pills, the key metric in evaluating the relative cause and impact any particular drug had on the opioid crisis is how many pills were produced in a given year—and relatedly, how many of those pills found their ways into the hands of those who did not have legal prescriptions for them. Notably, even if measured by milligrams of morphine equivalent (a measurement the Post itself has not endorsed), OxyContin never comprised more than 16% (2001) of the total prescription opioid market.

III. None of the Washington Post Articles Listed Below the May 4 Article Claim that Purdue and OxyContin “Addicted Millions.”

Irrespective of the data showing that the statement OxyContin “addicted millions” is false, none of the 20 articles listed below the May 4 summary (and which the article was intended to promote) claim that OxyContin “addicted millions.” To be sure, we would have alerted you about our significant concerns had the Post made similar previous claims. In fact, the Post’s own reporting and analysis likewise shows that such a statement is false and baseless. For example, the Post’s December 23, 2019 article, “How the opioid epidemic evolved,” noted explicitly that the “high point” of the prescription opioid “wave” of the crisis peaked in *2011*—years *after* the Post now purports OxyContin “addicted millions.”¹⁵ For that reason alone, the false statement should be removed from the May 4 news item.

* * *

We trust that the Washington Post will treat these issues seriously and we look forward to your response. I am available to discuss in more detail at your convenience.

This is not a full statement of the Sackler family’s rights and remedies, all of which are expressly reserved.

Very truly yours,

Thomas A. Clare, P.C.

¹⁴ See [https://bjanaesthesia.org/article/S0007-0912\(18\)30236-8/pdf](https://bjanaesthesia.org/article/S0007-0912(18)30236-8/pdf) (the point estimate of the risk of iatrogenic opioid dependence or abuse was 4.7% and, for prescription opioids prescribed for more than three months, the point estimate was 2.3%).

¹⁵ See <https://www.washingtonpost.com/graphics/2019/investigations/opioid-pills-overdose-analysis/>.