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5 **UNITED STATES DISTRICT COURT**
6 **NORTHERN DISTRICT OF CALIFORNIA**

7 **RED CLIFF BAND OF LAKE SUPERIOR**
8 **CHIPPEWA INDIANS,**

9 **Plaintiff,**

10 **vs.**

11 **MCKINSEY & COMPANY, INC. and**
12 **JOHN DOES 1-100,**

13 **Defendants.**

Case No. _____

COMPLAINT

JURY TRIAL DEMANDED

1 **I. INTRODUCTION**

2 1. This case arises from the worst man-made epidemic in modern medical history—
3 the misuse, abuse, and over-prescription of opioids. This crisis arose from the opioid
4 manufacturers' deliberately deceptive marketing strategy to expand opioid use.

5 2. McKinsey and Company, Inc. ("McKinsey" or "Defendant") played an integral
6 role in creating and deepening the opioid crisis.

7 3. In the years following Purdue Pharma L.P.'s ("Purdue") 2007 guilty plea for
8 misleadingly marketing OxyContin, McKinsey worked closely with Purdue to dramatically
9 increase OxyContin sales to the benefit of McKinsey, Purdue, and the Sackler family, the wealthy
10 family that has owned and controlled Purdue for decades. McKinsey specifically sought to
11 maximize OxyContin sales by working around the requirements of the Corporate Integrity
12 Agreement that Purdue entered as part of its guilty plea. McKinsey also performed related work
13 for other manufacturers of opioids, including Johnson & Johnson. Through the conduct described
14 in this complaint, McKinsey participated in and helped orchestrate a broad scheme to deceptively
15 market opioids.

16 4. McKinsey knew of the dangers of opioids and of Purdue's prior misconduct, but
17 nonetheless advised Purdue to improperly market and sell OxyContin, supplying granular sales
18 and marketing strategies and remaining intimately involved throughout implementation of those
19 strategies. McKinsey's actions resulted in a surge in sales of OxyContin and other opioids that
20 fueled and prolonged the opioid crisis.

21 5. In a series of agreements, McKinsey has recently settled opioid-related claims with
22 49 states, the District of Columbia, and five U.S. territories.

23 6. Plaintiff Red Cliff Band of Lake Superior Chippewa Indians ("Plaintiff" "Red
24 Cliff," or "Tribe") is a sovereign Indian tribe responsible for the health and well-being of its
25 citizens. Native Americans have disproportionately borne the toll of the opioid crisis. Plaintiff
26 brings suit to hold McKinsey responsible for its role in that crisis, which has posed an existential
27 threat to tribes and tribal communities.
28

COMPLAINT

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II. JURISDICTION AND VENUE

7. The Tribe brings this action *In Re: McKinsey & Co., Inc National Prescription Opiate Consultant Litigation*, MDL No. 2996, and files directly in the Northern District of California as permitted in Paragraph 10 of this Court's Case Management Order dated November 30, 2021 (Doc. #293). The Tribe reserves the right to have this matter transferred to one or more State or U.S. District Courts for trial in which it could have originally filed this case.

8. This Court has subject matter jurisdiction over this action because the Plaintiff brings a federal cause of action that raises a federal question pursuant to 28 U.S.C. § 1331, and because this action is brought by an Indian tribe pursuant to 28 U.S.C. § 1362. The Court also has supplemental jurisdiction over the Plaintiff's state law claims pursuant to 28 U.S.C. § 1367 and because the state law claims are part of the same case or controversy.

9. The U.S. District Court, Western District of Wisconsin, has personal jurisdiction over Defendants because at all relevant times, McKinsey has purposely availed itself of the privilege of doing business in the state of Wisconsin, including by engaging in the business of researching, designing, and implementing marketing and promoting strategies for various opioid manufacturers, including Purdue, in support of their sales and marketing of opioids in Wisconsin.

10. The U.S. District Court, Western District of Wisconsin, also has personal jurisdiction over Defendants under 18 U.S.C. § 1965(b). This Court may exercise nationwide jurisdiction over Defendants where the "ends of justice" require national service and the Tribe demonstrates national contacts. The interests of justice require the Tribe be permitted to bring all members of the nationwide RICO enterprise before the Court in a single trial.

11. Red Cliff has inherent sovereignty over unlawful conduct by non-Indians on land that constitutes Indian country within the Red Cliff Band, including on land owned by or held in trust for the Red Cliff.

12. Red Cliff brings this action against the non-Indian Defendants based on consensual relationships with members of the Red Cliff Band and as the Defendants' wrongful conduct

1 constitutes and poses an ongoing threat to the political integrity, economic security, and health or
2 welfare of the Red Cliff Band.

3 13. Federal law recognizes Red Cliff's authority in the Red Cliff jurisdictional area
4 for multiple purposes, most of this authority to promote autonomy and the health and welfare of
5 the Red Cliff Band.

6 14. Red Cliff's sovereignty and its jurisdictional area is recognized by the State of
7 Wisconsin as territory in which the Red Cliff Band has governmental authority to administer
8 certain state programs and to exercise sovereign rights.

9 15. This Court has personal jurisdiction over Defendant because at all relevant
10 times, McKinsey has purposely availed itself of the privilege of doing business in the State of
11 Wisconsin, including by engaging in the business of researching, designing, and implementing
12 marketing and promoting strategies for various opioid manufacturers, including Purdue, in support
13 of their sales and marketing of opioids in Wisconsin.

14 16. Defendants have substantial contacts and business relationships with Red Cliff,
15 the members of the Red Cliff, employees of the Red Cliff, and/or Red Cliff businesses.
16 Defendants have purposefully availed themselves of business opportunities within and affecting
17 the Red Cliff jurisdictional area.

18 17. Defendants' conduct has caused and is causing damages to Red Cliff's proprietary
19 and sovereign interests by imposing significant costs on the Band's health and welfare fund and
20 system, in addition to undermining the economic productivity of its members, and harming the
21 long-term health and welfare of Red Cliff members.

22 18. Venue is proper in the United States District Court for the Western District of
23 Wisconsin, under 28 U.S.C. § 1391(g) and 18 U.S.C. § 1965. Plaintiff hereby asserts that, because
24 a substantial part of the events or omissions giving rise to this action occurred in Wisconsin and
25 because the Defendant is subject to the jurisdiction of the United States District Court for the
26 Western District of Wisconsin, venue is thereby proper. But for the Case Management Order
27 permitting direct filing into U.S. District Court, Northern District of California, dated November
28

COMPLAINT

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30, 2021 (Doc. #293), the Tribe would have filed this action in U.S. District Court, Western District of Wisconsin.

III. PARTIES

A. Plaintiff

19. Plaintiff, Red Cliff, is a sovereign Indian tribe with over 7,500 tribal members. Red Cliff is governed by its organic documents and laws and is principally located in Bayfield County, Wisconsin. Red Cliff exercises inherent sovereign governmental authority within the Red Cliff's Lands and on behalf of the health and welfare of the Red Cliff and its members ("Tribal Members"), descendant children, and grandchildren and other inhabitants of the Red Cliff's Lands. The Red Cliff's reservation lands are located in Bayfield County, Wisconsin. Members of Red Cliff are adversely affected by the actions and conduct of McKinsey both directed at or near the Red Cliff's Indian lands, as well as areas outside of the Red Cliff's Indian lands. Tribal Members live both on and off the Red Cliff's lands.

20. A substantial number of Red Cliff Members have fallen victim to the opioid epidemic, becoming addicted to prescription opioids or coping with family members who are addicted. As a result, Red Cliff has expended and diverted Nation resources towards combatting the opioid epidemic created by Defendants. Red Cliff has incurred significant costs in an attempt to abate the opioid epidemic that continues to plague its members and Indian lands, providing medical services and opioid-related treatments to those in need. Plaintiff has incurred extraordinary costs, damages, and financial impact to every department of its Government: housing, education, security, services, medical, labor, operations, waste treatment, foster care, after school care, etc. Red Cliff brings this suit, in part, to recover these costs and procure the additional financial resources required to adequately combat and abate opioid addiction, opioid-related injuries, and other problems caused by the opioid crisis.

21. This action is brought by Red Cliff in the exercise of its authority as a sovereign government and on behalf of the Plaintiff in its proprietary capacity and under its *parens patriae* authority in the public interest to protect the health, safety, and welfare of all Red Cliff Members



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