

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) No. _____
v.)
)
OAKLEY PHARMACY, INC., d/b/a)
DALE HOLLOW PHARMACY; XPRESS)
PHARMACY OF CLAY COUNTY, LLC;)
THOMAS WEIR; MICHAEL GRIFFITH;)
JOHN POLSTON, and LARRY LARKIN,) **FILED *EX PARTE***
) **AND UNDER SEAL**
Defendants.)

**UNITED STATES' *EX PARTE* MOTION FOR A TEMPORARY
RESTRAINING ORDER AND A PRELIMINARY INJUNCTION**

Pharmacists frequently are the last line of defense before a controlled substance that was prescribed without any legitimate medical purpose is sold to a patient. The Defendant pharmacies, pharmacists, and the pharmacies' owner here failed to muster that defense. Between at least January 2015 through August 2018, Defendant-pharmacies Oakley Pharmacy, Inc., doing business as Dale Hollow ("Dale Hollow"), and Xpress Pharmacy of Clay County, LLC ("Xpress"), illegally filled thousands of prescriptions for powerful opioid painkillers and other controlled substances that had no legitimate medical purpose. The pharmacies' majority owner, Defendant Thomas Weir, was responsible for their operations. Defendants Michael Griffith, John Polston, and Larry Larkin were the pharmacists who illegally filled those prescriptions. By filling those thousands of illegitimate prescriptions, Defendants crossed the legal line between pharmacy practice and violating the Controlled Substances Act ("CSA"). The United States files this motion to stop Defendants from distributing or dispensing any more controlled substances.

Plaintiff United States of America, therefore, respectfully moves the Court *ex parte* to issue

a temporary restraining order and preliminary injunction that: (1) enjoins Defendants from distributing, dispensing, or possessing with the intent to distribute or dispense, any controlled substances pursuant to the Controlled Substances Act, 21 U.S.C. §§ 843(f) and 882(a), Federal Rule of Civil Procedure 65(a) and (b), and Local Rule 65.01; (2) enjoins Defendants from altering, deleting, destroying, mutilating, or transferring any record within their possession, custody, or control related to the distribution or dispensation of controlled substances; and (3) order Defendants to surrender all controlled substances in their possession, custody, or control to agents or investigators of the U.S. Drug Enforcement Administration (“DEA”) immediately upon service of the Temporary Restraining Order. This relief is needed to protect public health and safety.

A proposed order is attached for the Court’s consideration.

Respectfully submitted,

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Middle District of Tennessee

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CERTIFICATE OF SERVICE

No service was made upon Defendants at this time because this motion was made ex parte and under seal. I hereby certify that, when the seal is lifted, the United States will serve a copy on Defendants.

s/ Ellen Bowden McIntyre
ELLEN BOWDEN MCINTYRE
Assistant United States Attorney