IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) JOHN ANDERSON;
(2) RUSTY BELTINCK;
(3) SHARON BRYANT;
(4) BRADY BULLER;
(5) KIMBERLY BUTLER;
(6) JOHN CARROLL;
(7) FANNIE CLAY;
(8) JERRY CLYDE;
(9) ALTHERIA CRUMP;
(10) JOSEPH DONNELLY;
(11) STEPHANIE GAYNOR;
(12) SUSAN GRAHAM;
(13) JAMES GREEN;
(14) KIMBERLY GREENWOOD;
(15) ANNA HALL;
(16) THERESEA HARRISON;
(17) MICHAEL HOLCOMBE;
(18) KIANA HOLLAND;
(19) SHARON HOLMAN;
(20) RHONDA HUTCHESON;
(21) TERRY KING;
(22) DONALD KODES;
(23) SHARON LITTLE;
(24) DAWN LONG;
(25) BUNNY MARINKO;
(26) ALAN MATHEWS;
(27) KEN MCPHERON, individually and as personal representative of the estate of SHARON MCPHERON, deceased;
(28) ROBERT MICHEL;
(29) MATTHEW NEAL, individually and as personal representative of the estate of GAIL NEAL, deceased;
(30) TRINICE PAIGE;
(31) OTHEALOR PRINCE, JR.;
(32) YVETTE QUINONES;
(33) PRESTON RENDELL;
(34) ROBERT RIDGE;
(35) PATRICIA ROBBINS;

Case No.: CIV-16-1132-R

COMPLAINT FOR DAMAGES;
DEMAND FOR JURY TRIAL

(36) VELMA ROBINSON;
(37) BRENDA SERNA;
(38) CASEY SHUFLER;
(39) NANCY SMITH;
(40) KIMBERLEY SWARTZ;
(41) JEAN THOMAS;
(42) MARCUS THOMAS, JR.;
(43) ANNE VOLOSHIN;
(44) CRAIG WARGOWSKY;
(45) PAMELA WHITLOCK, as attorney-in-fact for SANDRA BENNETT;
(46) EDWARD WINDSOR;
(47) SUZANNE WRIGHT;
(48) RONALD ZASTROW;

Plaintiffs,

v.

(1) BAYER HEALTHCARE PHARMACEUTICALS, INC.;
(2) BAYER CORPORATION;
(3) BAYER AG;
(4) MERCK & CO., INC.;
(5) JOHNSON & JOHNSON;
(6) JANSSEN RESEARCH & DEVELOPMENT, LLC;
(7) JANSSEN PHARMACEUTICALS, INC.;

Defendants.

Plaintiffs, by and through the undersigned counsel, hereby bring this Complaint for damages against the Defendants, and allege the following:

INTRODUCTION

1. This is an action for damages suffered by Plaintiffs as a direct and proximate result of Defendants' negligent and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing,

advertising, distribution, labeling, and/or sale of the pharmaceutical drug Cipro® (also known as ciprofloxacin), and/or Levaquin® (also known as levofloxacin) and/or Avelox® (also known as moxifloxacin). Cipro® in any of its forms; Levaquin® in any of its forms; and Avelox® in any of its forms shall herein be collectively referred to as "Fluoroquinolones." Plaintiffs maintain that Fluoroquinolones are defective, dangerous to human health, unfit and unsuitable to be marketed and sold in commerce, and lacked proper warnings and directions as to the dangers associated with their use.

PARTIES

2. Plaintiffs are individuals who reside in various states and/or territories in the United States and bring claims for personal and economic injuries sustained by the use of the Defendants' Fluoroquinolones, including Cipro. Avelox, and Levaquin. By reason of the foregoing acts and omissions and as a direct and proximate result of being prescribed and ingesting Defendants' Fluoroquinolones, Plaintiffs sustained personal injuries (for some wrongful death), including irreversible peripheral neuropathy which is lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, physical impairment, expenses for hospitalization and medical treatment, and loss of earnings, among other damages.

3. At all times herein alleged, unless specified otherwise, "Defendants" include all herein named Defendants.

4. Upon information and belief, at all times relevant, Defendants transacted, solicited, and conducted business in the states where each Plaintiff resides, including Oklahoma, and derived substantial revenue from such business.

5. At all relevant times, Defendants expected or should have expected that their acts would have consequences within the United States of America, including the State of Oklahoma and the states where each Plaintiff resides.

6. Defendant Bayer Healthcare Pharmaceuticals, Inc. ("Bayer Healthcare") is a Delaware corporation that has its principal place of business at 100 Bayer Boulevard, in Whippany, New Jersey.

7. In January 2008, Bayer Pharmaceuticals Corporation was merged into Bayer HealthCare.

8. Defendant Bayer Healthcare has transacted and conducted business within the State of Oklahoma and the states where each Plaintiff resides.

9. Defendant Bayer Healthcare has derived substantial revenue from goods and products used in the State of Oklahoma and the states where each Plaintiff resides.

10. Defendant Bayer Healthcare expected or should have expected its acts to have consequences within the State of Oklahoma and the states where each Plaintiff resides, and to derive substantial revenue from interstate commerce.

11. Defendant Bayer Healthcare was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Cipro and Avelox in the United States and through interstate commerce throughout the State of Oklahoma and the states where each Plaintiff resides.

12. Defendant Bayer Corporation ("Bayer Corp.") is an Indiana corporation that has its principal place of business at 100 Bayer Road, Pittsburg, Pennsylvania, 15205.

13. Defendant Bayer Corp. has transacted and conducted business within the State of Oklahoma and the states where each Plaintiff resides.

14. Defendant Bayer Corp. has derived substantial revenue from goods and products used in the State of Oklahoma and the states where each Plaintiff resides.

15. Defendant Bayer Corp. expected or should have expected its acts to have consequences within the State of Oklahoma and the states where each Plaintiff resides, and to derive substantial revenue from interstate commerce.

16. Defendant Bayer Corp. was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Cipro and Avelox in the United States and through interstate commerce throughout the State of Oklahoma and the states where each Plaintiff resides.

17. Bayer AG ("Bayer AG") is a German company that is headquartered in Leverkusen, North Rhine-Westphalia, Germany.

18. Bayer AG is one of the largest pharmaceutical companies in the world and is the researcher, producer, and manufacturer of Cipro and Avelox.

19. Defendant Merck & Co., Inc. ("Merck") is a New Jersey corporation that has its principal place of business at 2000 Gallopin Hill Road, Kenilworth, New Jersey 07033.

20. Merck has promoted Avelox in the United States since its acquisition of Schering-Plough Corporation on November 4, 2009.

21. At all times material hereto, Merck was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing,

distributing, labeling, and/or selling Avelox in the United States and through interstate commerce throughout the State of Oklahoma and the states where each Plaintiff resides.

22. Defendant Johnson & Johnson ("J&J") is a fictitious name adopted by Johnson & Johnson, a New Jersey corporation that has its principal place of business at One Johnson & Johnson Plaza, New Brunswick, Middlesex County, New Jersey 08933.Defendant J&J has transacted and conducted business within the State of Oklahoma and the states where each Plaintiff resides.

23. Defendant J&J has derived substantial revenue from goods and products used in the State of Oklahoma and the states where each Plaintiff resides.

24. Defendant J&J expected or should have expected its acts to have consequences within the State of Oklahoma and the states where each Plaintiff resides, and to derive substantial revenue from interstate commerce.

25. Defendant J&J, and its "Family of Companies," was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Levaquin in the United States and through interstate commerce throughout the State of Oklahoma and the states where each Plaintiff resides.

26. Defendant Janssen Research & Development, LLC ("Janssen R&D" and formerly known as Johnson & Johnson Pharmaceutical Research & Development, LLC) is a limited liability company organized under the laws of New Jersey, with its principal place of business at 920 Route 202 South, P.O. Box 300, Mail Stop 2628, Raritan, New Jersey 08869.

27. Defendant Janssen R&D has transacted and conducted business within the State of Oklahoma and the states where each Plaintiff resides.

28. Defendant Janssen R&D has derived substantial revenue from goods and products used in the State of Oklahoma and the states where each Plaintiff resides.

29. Defendant Janssen R&D expected or should have expected their acts to have consequences within the State of Oklahoma and the states where each Plaintiff resides, and to derive substantial revenue from interstate commerce.

30. At all times material hereto, Defendant Janssen R&D was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Levaquin in the United States and through interstate commerce throughout the State of Oklahoma and the states where each Plaintiff resides.

31. Defendant Janssen R&D is part of the Defendant Johnson & Johnson's "Family of Companies."

32. Defendant Janssen Pharmaceuticals, Inc. ("Janssen Pharma" and formerly known as Ortho-McNeil-Janssen Pharmaceuticals, Inc. is a Pennsylvania corporation which has its principal place of business at 1000 Route 202 South, P.O. Box 300, Raritan, New Jersey 08869.

33. Defendant Janssen Pharma. has transacted and conducted business within the State of Oklahoma and the states where each Plaintiff resides.

34. Defendant Janssen Pharma. has derived substantial revenue from goods and products used in the State of Oklahoma and the states where each Plaintiff resides.

35. Defendant Janssen Pharma expected or should have expected their acts to have consequences within the State of Oklahoma and the states where each Plaintiff resides, and to derive substantial revenue from interstate commerce.

36. At all times material hereto, Defendant Janssen Pharma was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Levaquin.

37. Defendant Janssen Pharma is a wholly owned subsidiary of Defendant Johnson & Johnson.

38. Upon information and belief, Defendants purposefully availed themselves of the privilege of conducting activities within the State of Oklahoma and the states where each Plaintiff resides, thus invoking the benefits and protections of its laws.

39. Upon information and belief, Defendants did act together to design, sell, advertise, manufacture and/or distribute Cipro, Avelox, and Levaquin, with full knowledge of its dangerous and defective nature.

SUBJECT MATTER JURISDICTION AND VENUE GENERALLY

40. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds $75,000.00, exclusive of interest and costs, and because complete diversity exists between the parties, as set forth herein. Plaintiffs are citizens of states that are different from the states where the Defendants are incorporated and have their principal places of business.

41. Venue is proper within this District pursuant to 28 U.S.C. § 1391 because it is a judicial district where Defendants are subject to personal jurisdiction in accordance with 28 U.S.C. § 1391(c).

FACTUAL ALLEGATIONS

42. At all relevant times, Defendants were in the business of and did design, research, manufacture, test, advertise, promote, market, sell, distribute, and/or have acquired and are responsible for Defendants who have designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed the pharmaceutical drug Cipro

43. Plaintiffs were prescribed Cipro and used it as directed.

44. Cipro was approved by the United States Food and Drug Administration (hereinafter "FDA") in October 1987 for use in the United States, and is the brand name for the antibiotic ciprofloxacin.

45. Cipro is a broad-spectrum antibiotic used to treat certain infections caused by certain germs called bacteria.

46. Cipro is a member of the quinolone class of antibiotics. Quinolones are divided into four generations based on their spectrum of antimicrobial activity.

47. The 1st generation, non-fluorinated quinolone antibiotics were developed in the early 1960s and soon revealed themselves as effective against common gram-negative bacteria, but resistance developed rapidly.

48. Twenty years later, in the early 1980s, fluorinated derivates of the quinolones emerged, revealing a broader, more potent antibiotic, effective against common gram-negative and gram-positive bacteria. These so-called 2nd generation quinolones included Noroxin® (norfloxacin), Cipro® (ciprofloxacin), Floxin® (ofloxacin), and pefloxacin (never approved for marketing in the United States).

49. Fluoroquinolones have long been associated with serious side effects. Indeed, many fluoroquinolones have been removed from the United States market due to intolerable adverse events. For example, Omniflox® (temafloxacin) was removed from the market in June 1992 only six months after approval due to low blood sugar, kidney failure, and a rare form of anemia; Trovan® (trovafloxacin) was removed from the market in June 1999 due to severe liver toxicity; Raxar® (grepafloxacin) was removed from the market in October 1999 due to QT-interval prolongation; Zagam® (sparfloxacin) was removed from the market in July 2001 due to QT-interval prolongation; and most recently, Tequin® (gatifloxacin) was removed from the market in May 2006 amid reports of severe blood sugar reactions such as hyperglycemia and hypoglycemia.

50. In 1999, Cipro amassed more than $ 1 billion in sales in the United States, the first Bayer product to ever do so.

51. In 2002, Cipro became the best-selling antibiotic in the world.

52. Defendant Bayer Healthcare has indicated on its website that Cipro is the “gold standard” treatment for many infections, with an “extensive and unprecedented

safety profile" that included being "studied and documented in over 37,000 publications."

53. However, the scientific evidence has established a clear association between Cipro and an increased risk of long-term and sometimes irreversible peripheral neuropathy.

54. Defendants knew or should have known that Cipro is associated with an increased risk of developing irreversible peripheral neuropathy.

55. Defendants failed to appropriately and adequately inform and warn Plaintiffs and Plaintiffs' prescribing physicians of the serious and dangerous risks associated with the use of Cipro concerning peripheral neuropathy, as well as other severe and personal injuries, which are permanent and/or long-lasting in nature, cause significant physical pain and mental anguish, diminished enjoyment of life, and the need for medical treatment, monitoring and/or medications.

56. The warning label for Cipro during the period from September 2004 through August 2013 misled Plaintiffs and Plaintiffs' treating physicians by incorrectly advising patients and physicians that peripheral neuropathy associated with Cipro was "rare" and in any case could be avoided by discontinuing the drug upon the onset of certain symptoms. The truth, however, is that the onset of irreversible peripheral neuropathy is often rapid and discontinuation of the drug will not ensure that the peripheral neuropathy is reversible.

57. Though this injury can be significant and debilitating, the language regarding the "rare" risk of peripheral neuropathy was buried at the bottom of a long list

of adverse reactions that were included on the Cipro label; the language was in no way highlighted for the benefit of prescribing physicians and patients.

58. Additionally, Defendants failed to disseminate a "Dear Doctor" letter to physicians concerning the label change or the risk of irreversible peripheral neuropathy, and Defendants failed to disclose this serious and dangerous effect when promoting Cipro to physicians.

59. Despite their knowledge that Cipro was associated with an elevated risk of permanent nerve damage, Defendants' promotional campaign was focused on Cipro's purported "safety profile."

60. At all relevant times, Defendants were in the business of and did design, research, manufacture, test, advertise, promote, market, sell, distribute, and/or have acquired and are responsible for Defendants who have designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed the pharmaceutical drug Levaquin.

61. Plaintiffs were prescribed Levaquin and used it as directed.

62. Levaquin was approved by the United States Food and Drug Administration (hereinafter "FDA") on December 20, 1996, for use in the United States, and is the brand name for the antibiotic levofloxacin.

63. Levaquin is a broad-spectrum fluoroquinolone antibiotic used to treat lung, sinus, skin, and urinary tract infections caused by certain germs called bacteria.

64. In 2003, after generic versions of Cipro (a competing fluoroquinolone antibiotic) went on the market, Levaquin became the number one prescribed fluoroquinolone in the United States.

65. In 2006, after generic versions of Zithromax, a highly popular macrolide antibiotic, went on the market, Levaquin became the number one prescribed antibiotic in the world.

66. In 2007, Levaquin was ranked 37 of the top 200 drugs that were prescribed in the United States.

67. In 2007, Levaquin was ranked 19th in world sales of prescribed drugs.

68. In 2007, Levaquin accounted for 6.5% of Johnson & Johnson's total revenue, generating $1.6 billion in revenue, an 8% increase over the previous year.

69. Avelox was approved by the United States Food and Drug Administration (hereinafter "FDA") on December 10, 1999 for use in the United States, and is the brand name for the antibiotic moxifloxacin.

70. Avelox is a broad spectrum synthetic antibacterial agent manufactured by Bayer and marketed and sold in the United States in oral tablet, IV solution, and ophthalmic solution under the brand name Avelox by Bayer and Bayer's marketing partner, Defendant Merck.

71. Avelox is a member of the quinolone class of antibiotics. Quinolones are divided into four generations based on their spectrum of antimicrobial activity.

72. However, the scientific evidence has established a clear association between Fluoroquinolones and an increased risk of long-term and sometimes irreversible peripheral neuropathy.

73. Defendants knew or should have known that Fluoroquinolones are associated with an increased risk of developing irreversible peripheral neuropathy.

74. Defendants failed to appropriately and adequately inform and warn Plaintiffs and Plaintiffs' prescribing physicians of the serious and dangerous risks associated with the use of Fluoroquinolones concerning peripheral neuropathy, as well as other severe and personal injuries, which are permanent and/or long-lasting in nature, cause significant physical pain and mental anguish, diminished enjoyment of life, and the need for medical treatment, monitoring and/or medications.

75. The warning label for Fluoroquinolones during the period from September 2004 through August 2013 misled Plaintiffs and Plaintiffs' treating physician by incorrectly advising patients and physicians that peripheral neuropathy associated with Fluoroquinolones were "rare" and in any case could be avoided by discontinuing the drug upon the onset of certain symptoms. The truth, however, is that the onset of irreversible peripheral neuropathy is often rapid and discontinuation of the drug will not ensure that the peripheral neuropathy is reversible.

76. Though this injury can be significant and debilitating, the language regarding the "rare" risk of peripheral neuropathy was buried at the bottom of a long list of adverse reactions that were included on the Fluoroquinolones label; the language was in no way highlighted for the benefit of prescribing physicians and patients.

77. Additionally, Defendants failed to disseminate a "Dear Doctor" letter to physicians concerning the label change or the risk of irreversible peripheral neuropathy, and Defendants failed to disclose this serious and dangerous effect when promoting Fluoroquinolones to physicians.

78. Despite their knowledge that Fluoroquinolones were associated with an elevated risk of permanent nerve damage, Defendants' promotional campaign was focused on Fluoroquinolones' purported "safety profile."

79. As early as 1992, there was evidence of the association between fluoroquinolone antibiotics and peripheral neuropathy. Dr. Aoun from the Infectious Diseases Clinic and Microbiology Laboratory at the Institut Jules Bordet in Belgium, along with others, wrote a letter to the editor of the Lancet raising concerns about a 37-year old patient who developed peripheral neuropathy after taking fluoroquinolones.

80. Four years later, Karin Hedenmalm and Olav Spigset published "Peripheral sensory disturbances related to treatment with fluoroquinolones" based on a review of 37 separate reports of symptoms of peripheral nerve damage, highlighting concerns about numbness, pain, and muscle weakness.

81. One of the first studies in the United States that included the post market experience concerning Fluoroquinolones and neuropathy was "Peripheral Neuropathy Associated with Fluoroquinolones" written by Jay S. Cohen.

82. The Cohen paper was published in December 2001 and revealed that adverse events reported by forty-five patients suggested a possible association between fluoroquinolones and long-term peripheral nervous system damage. The study noted in

particular the presence of severe and/or persistent nerve problems. Over one-half of the patients surveyed said their symptoms lasted for more than a year, and eighty percent characterized their symptoms as severe. The Cohen paper recommended further investigation of the association between Fluoroquinolones and peripheral neuropathy. The study concluded with the following advisory: "If the occurrence of fluoroquinolone-associated ADEs of this severity and duration is confirmed, physicians need to be informed and warnings might be considered for these drugs' product information."

83. In 2002 and 2003 Defendants were put on notice that numerous reports had been submitted to the FDA's Adverse Event Reporting System that identified fluoroquinolone users who had developed disabling peripheral neuropathy that persisted long after the drug had been discontinued.

84. A scientific review by the FDA of the adverse events in the FDA Adverse Event database in 2003 concerning Levaquin and other fluoroquinolones revealed numerous reports of long-term peripheral neuropathy.

85. In September 2004, an amended Fluroquinolone label concerning peripheral nerve damage was approved by the FDA. The amended label included the following statement in the Warnings section:

> Peripheral Neuropathy: Rare cases of sensory or sensorimotor axonal polyneuropathy affecting small and/or large axons resulting in paresthesias, hypoesthesias, dysesthesias and weakness have been reported in patients receiving quinolones, including ciprofloxacin. Ciprofloxacin should be discontinued if the patient experiences symptoms of neuropathy including pain, burning, tingling, numbness, and/or weakness or other alterations of sensation including light touch, pain, temperature, position sense, and vibratory sensation in order to prevent the development of an irreversible condition.

> Peripheral Neuropathy: Rare cases of sensory or sensorimotor axonal polyneuropathy affecting small and/or large axons resulting in paresthesias, hypoesthesias, dysesthesias and weakness have been reported in patients receiving quinolones, including levofloxacin. Levofloxacin should be discontinued if the patient experiences symptoms of neuropathy including pain, burning, tingling, numbness, and/or weakness or other alterations of sensation including light touch, pain, temperature, position sense, and vibratory sensation in order to prevent the development of an irreversible condition

> Peripheral Neuropathy: Rare cases of sensory or sensorimotor axonal polyneuropathy affecting small and/or large axons resulting in paresthesias, hypoesthesias, dysesthesias and weakness have been reported in patients receiving quinolones. Avelox should be discontinued if the patient experiences symptoms of neuropathy including pain, burning, tingling, numbness, and/or weakness or other alterations of sensation including light touch, pain, temperature, position sense, and vibratory sensation in order to prevent the development of an irreversible condition.

86. Thus, rather than warning patients and physicians that the use of Fluoroquinolones may result in permanent nerve damage, Defendants instead adopted a warning that misleadingly indicated such damage was rare and in any event could be avoided by simply discontinuing the drug upon the onset of certain symptoms.

87. Defendants' failure to adequately warn physicians resulted in (1) patients receiving Fluoroquinolones instead of another acceptable and adequate non-fluoroquinolone antibiotic, sufficient to treat the illness for which Plaintiffs presented to the provider; (2) and physicians failing to warn and instruct consumers about the risk of peripheral nervous system injuries associated with Fluoroquinolones.

88. The failure of Defendants to include appropriate warnings in the label as published to the medical community also resulted in an absence of adequate warnings in

patient information presented directly to consumers, either as part of samples packages or as part of the prescription they received from retail pharmacies.

89. Despite Defendants' knowledge and failure to adequately warn Plaintiffs and physicians of the above, Defendants continue to market Fluoroquinolones as a first line therapy for common bronchitis, sinusitis and other non-life threatening bacterial infections, conditions for which many other safer antibiotics are available.

90. In August of 2013, after mounting evidence of the relationship between fluoroquinolones and severe, long-term peripheral neuropathy, the FDA determined that the existing warning regarding peripheral nerve damage was inadequate. On August 15, 2013, an updated warning was issued in which the risk of rapid onset of irreversible peripheral neuropathy was finally included. The updated warning also removed the statement that nerve damage occurred only in rare cases.

91. In January of 2014, Ayad Ali published "Peripheral neuropathy and Guillain-Barré syndrome risks associated with exposure to systemic fluoroquinolones: a pharmacovigilance analysis" which reemphasized the link between fluoroquinolones and peripheral neuropathy and called for increased scrutiny of the risk-benefit of fluoroquinolone prescriptions. The Ali paper also detailed the presence of strong safety signals dating back to at least 2005 regarding the potential for Fluoroquinolones, and other fluoroquinolones to cause long-term, disabling peripheral neuropathy.

FRAUDULENT CONCEALMENT AND EQUITABLE TOLLING OF APPLICABLE STATUTE OF LIMITATIONS

92. Plaintiffs incorporate by reference all prior paragraphs of this Complaint as if fully set forth herein.

93. The running of any statute of limitations has been tolled by reason of Defendants' fraudulent concealment. Defendants, through their affirmative misrepresentations and omissions, actively concealed from Plaintiffs and Plaintiffs' treating physicians the true risks associated with Fluoroquinolones.

94. As a result of Defendants' actions, Plaintiffs and, upon information and belief, Plaintiffs' treating physicians were unaware, and could not reasonably know or have learned through reasonable diligence that Plaintiffs had been exposed to the risks alleged herein and that those risks were the direct and proximate result of Defendants' acts and omissions.

95. Furthermore, Defendants are estopped from relying on any statute of limitations because of their fraudulent concealment of the true character, quality and nature of Fluoroquinolones. Defendants were under a duty to disclose the true character, quality, and nature of Fluoroquinolones because this was non-public information over which Defendants had and continues to have exclusive control, and because Defendants knew that this information was not available to the Plaintiffs, medical providers and/or to their facilities. In addition, Defendants are estopped from relying on any statute of limitations because of their intentional concealment of these facts.

96. Plaintiffs had no knowledge that Defendants were engaged in the wrongdoing alleged herein. Because of the fraudulent acts of concealment of wrongdoing by Defendants, Plaintiffs could not have reasonably discovered the wrongdoing at any time prior. Also, the economics of this fraud should be considered. Defendants had the ability to and did spend enormous amounts of money in furtherance of their purpose of marketing, promoting and/or distributing a profitable drug, notwithstanding the known or reasonably known risks. Plaintiffs and medical professionals could not have afforded and could not have possibly conducted studies to determine the nature, extent and identity of related health risks, and were forced to rely on only the Defendants' representations. Accordingly, Defendants are precluded by the discovery rule and/or the doctrine of fraudulent concealment from relying upon any statute of limitations.

97. For each Count hereinafter alleged and averred, the above and following Paragraphs should be considered re-alleged as if fully rewritten.

FIRST CAUSE OF ACTION

STRICT LIABILITY
(Against All Defendants)

98. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

99. Fluoroquinolones were defective at the time of its manufacture, development, production, testing, inspection, endorsement, prescription, sale and distribution in that warnings, instructions and directions accompanying Fluoroquinolones

failed to warn of the dangerous risks posed by Fluoroquinolones, including the risk of developing irreversible peripheral neuropathy.

100. At all times alleged herein, Fluoroquinolones were defective and Defendants knew that Fluoroquinolones were to be used by consumers without inspection for defects. Moreover, Plaintiffs, Plaintiffs' prescribing physicians, and Plaintiffs' health care providers neither knew nor had reason to know at the time of Plaintiffs' use of Fluoroquinolones of the aforementioned defects. Ordinary consumers would not have recognized the potential risks for which Defendants failed to include the appropriate warnings.

101. At all times alleged herein, Fluoroquinolones were prescribed to and used by Plaintiffs as intended by Defendants and in a manner reasonably foreseeable to Defendants.

102. The designs of Fluoroquinolones were defective in that the risks associated with using Fluoroquinolones outweighed any benefits of the designs. Any benefits associated with the use of Fluoroquinolones were either relatively minor or nonexistent and could have been obtained by the use of other, alternative treatments and products that could equally or more effectively reach similar results.

103. The defect in design existed when the product left Defendants' possession.

104. At the time Fluoroquinolones left the control of Defendants, Defendants knew or should have known of the risks associated with ingesting Fluoroquinolones.

105. As a result of Fluoroquinolones' defective condition, Plaintiffs suffered the injuries and damages alleged herein.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

SECOND CAUSE OF ACTION

PRODUCT LIABILITY - FAILURE TO WARN
(Against All Defendants)

106. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

107. Defendants have engaged in the business of selling, distributing, supplying, manufacturing, marketing, and/or promoting Fluoroquinolones, and through that conduct have knowingly and intentionally placed Fluoroquinolones into the stream of commerce with full knowledge that it reaches consumers such as Plaintiffs who ingested it.

108. Defendants did in fact sell, distribute, supply, manufacture, and/or promote Fluoroquinolones to Plaintiffs and to Plaintiffs' prescribing physicians. Additionally, Defendants expected the Fluoroquinolones that they were selling, distributing, supplying, manufacturing, and/or promoting to reach – and Fluoroquinolones did in fact reach – prescribing physicians and consumers, including Plaintiffs and Plaintiffs' prescribing physicians, without any substantial change in the condition of the product from when it was initially distributed by Defendants.

109. At all times herein mentioned, the aforesaid product was defective and unsafe in manufacture such that it was unreasonably dangerous to the user, and was so at the time it was distributed by Defendants and ingested by Plaintiffs. The defective condition of Fluoroquinolones were due in part to the fact that it was not accompanied by proper warnings regarding the possible side effect of developing long-term and potentially irreversible peripheral neuropathy as a result of its use.

110. This defect caused serious injury to Plaintiffs, who used Fluoroquinolones in its intended and foreseeable manner.

111. At all times herein mentioned, Defendants had a duty to properly design, manufacture, compound, test, inspect, package, label, distribute, market, examine, maintain supply, provide proper warnings, and take such steps to assure that the product did not cause users to suffer from unreasonable and dangerous side effects.

112. Defendants so negligently and recklessly labeled, distributed, and promoted the aforesaid product that it was dangerous and unsafe for the use and purpose for which it was intended.

113. Defendants negligently and recklessly failed to warn of the nature and scope of the side effects associated with Fluoroquinolones, namely irreversible peripheral neuropathy.

114. Defendants were aware of the probable consequences of the aforesaid conduct. Despite the fact that Defendants knew or should have known that Fluoroquinolones caused serious injuries, they failed to exercise reasonable care to warn of the dangerous side effect of developing irreversible peripheral neuropathy from

Fluoroquinolones use, even though this side effect was known or reasonably scientifically knowable at the time of distribution. Defendants willfully and deliberately failed to avoid the consequences associated with their failure to warn, and in doing so, Defendants acted with a conscious disregard for the safety of Plaintiffs.

115. Plaintiffs could not have discovered any defect in the subject product through the exercise of reasonable care.

116. Defendants, as the manufacturers and/or distributors of the subject product, are held to the level of knowledge of an expert in the field.

117. Plaintiffs reasonably relied upon the skill, superior knowledge, and judgment of Defendants.

118. Had Defendants properly disclosed the risks associated with Fluoroquinolones, Plaintiffs would have avoided the risk of irreversible peripheral neuropathy by not using Fluoroquinolones.

119. As a direct and proximate result of the carelessness, negligence, recklessness, and gross negligence of Defendants alleged herein, and in such other ways to be later shown, the subject product caused Plaintiffs to sustain injuries as herein alleged.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

THIRD CAUSE OF ACTION

NEGLIGENCE
(Against All Defendants)

120. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

121. At all times material hereto, Defendants had a duty to exercise reasonable care to consumers, including Plaintiffs herein, in the design, development, manufacture, testing, inspection, packaging, promotion, marketing, distribution, labeling, and/or sale of Fluoroquinolones.

122. Defendants breached their duty of reasonable care to Plaintiffs in that they negligently promoted, marketed, distributed, and/or labeled the subject product.

123. Plaintiffs' injuries and damages alleged herein were and are the direct and proximate result of the carelessness and negligence of Defendants, including, but not limited to, one or more of the following particulars:

a) In the design, development, research, manufacture, testing, packaging, promotion, marketing, sale, and/or distribution of Fluoroquinolones;
b) In failing to warn or instruct, and/or adequately warn or adequately instruct, users of the subject product, including Plaintiffs herein, of Fluoroquinolones' dangerous and defective characteristics;
c) In the design, development, implementation, administration, supervision, and/or monitoring of clinical trials for the subject product;
d) In promoting the subject product in an overly aggressive, deceitful, and fraudulent manner, despite evidence as to the product's defective and dangerous characteristics due to its propensity to cause irreversible peripheral neuropathy;
e) In representing that the subject product was safe for its intended use when, in fact, the product was unsafe for its intended use;

f) In failing to perform appropriate pre-market testing of the subject product;
g) In failing to perform appropriate post-market surveillance of the subject product;
h) In failing to adequately and properly test Fluoroquinolones before and after placing it on the market;
i) In failing to conduct sufficient testing on Fluoroquinolones which, if properly performed, would have shown that Fluoroquinolones had the serious side effect of causing irreversible peripheral neuropathy;
j) In failing to adequately warn Plaintiffs and Plaintiffs' healthcare providers that the use of Fluoroquinolones carried a risk of developing irreversible peripheral neuropathy;
k) In failing to provide adequate post-marketing warnings or instructions after Defendant knew or should have known of the significant risk of irreversible peripheral neuropathy associated with the use of Fluoroquinolones; and
l) In failing to adequately and timely inform Plaintiffs and the healthcare industry of the risk of serious personal injury, namely irreversible peripheral neuropathy, from Fluoroquinolones ingestion as described herein.

124. Defendants knew or should have known that consumers, such as Plaintiffs herein, would foreseeably suffer injury as a result of Defendants' failure to exercise reasonable and ordinary care.

125. As a direct and proximate result of Defendants' carelessness and negligence, Plaintiffs suffered severe and permanent physical and emotional injuries, including, but not limited to, irreversible peripheral neuropathy. Plaintiffs have endured pain and suffering, have suffered economic loss, including incurring significant expenses for medical care and treatment, and will continue to incur such expenses in the future. Plaintiffs seek actual and punitive damages from Defendants as alleged herein.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

FOURTH CAUSE OF ACTION

BREACH OF EXPRESS WARRANTY
(Against All Defendants)

126. Plaintiffs re-alleges all prior paragraphs of the Complaint as if set out here in full.

127. Before Plaintiffs were first prescribed and during the period in which they used Fluoroquinolones, Defendants expressly warranted that Fluoroquinolones were safe.

128. Fluoroquinolones did not conform to these express representations because Fluoroquinolones were not safe and had an increased risk of serious side effects, including irreversible peripheral neuropathy, whether taken individually or in conjunction with other therapies.

129. As a direct and proximate result of this wrongful conduct, Plaintiffs were injured as described above.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

FIFTH CAUSE OF ACTION

BREACH OF IMPLIED WARRANTY
(Against All Defendants)

130. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

131. At all times mentioned herein, Defendants manufactured, compounded, packaged, distributed, recommended, merchandised, advertised, promoted, supplied, and/or sold Fluoroquinolones, and prior to the time that it was prescribed to Plaintiffs, Defendants impliedly warranted to Plaintiffs that the subject product was of merchantable quality and safe and fit for the use for which it was intended.

132. Plaintiffs, individually and through Plaintiffs' prescribing physicians, reasonably relied upon the skill, superior knowledge, and judgment of Defendants.

133. Plaintiffs were prescribed, purchased, and used the subject product for its intended purpose.

134. Due to Defendants' wrongful conduct as alleged herein, Plaintiffs could not have known about the nature of the risks and side effects associated with the subject product until after using it.

135. Contrary to the implied warranty for the subject product, Fluoroquinolones were not of merchantable quality, and it was neither safe nor fit for its intended uses and purposes, as alleged herein.

136. As a direct and proximate result of Defendants' breach of implied warranty, Plaintiffs suffered severe and permanent physical and emotional injuries,

including, but not limited to, irreversible peripheral neuropathy. Plaintiffs have endured pain and suffering, have suffered economic loss, including incurring significant expenses for medical care and treatment, and will continue to incur such expenses in the future. Plaintiffs seek actual and punitive damages from Defendant as alleged herein.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

SIXTH CAUSE OF ACTION

FRAUD
(Against All Defendants)

137. Plaintiffs re-alleges all prior paragraphs of the Complaint as if set out here in full.

138. Defendants misrepresented to Plaintiffs, Plaintiffs' prescribing physicians, and the healthcare industry the safety and effectiveness of Fluoroquinolones, and/or fraudulently, intentionally, and/or negligently concealed material information, including adverse information, regarding the safety and effectiveness of Fluoroquinolones.

139. Defendants made misrepresentations and actively concealed adverse information when Defendants knew, or should have known, that Fluoroquinolones had defects, dangers, and characteristics that were other than what Defendants had represented to Plaintiffs, Plaintiffs' physicians, and the healthcare industry generally.

Specifically, Defendants actively concealed from Plaintiffs, Plaintiffs' prescribing physicians, the health care industry, and the consuming public that:

(a) Since at least 1996 Defendants and/or its predecessors were in possession of data demonstrating that Fluoroquinolones increases the risk of irreversible peripheral neuropathy;
(b) There had been insufficient studies by Defendants and/or their predecessors regarding the safety and efficacy of Fluoroquinolones before and after its product launch;
(c) Fluoroquinolones were not fully and adequately tested by Defendants and/or their predecessor for the risk of developing irreversible peripheral neuropathy; and
(d) Testing and studies by other entities as reported in the scientific literature has shown that the use of Fluoroquinolones increases the risk of irreversible peripheral neuropathy.

140. These misrepresentations and/or active concealment alleged were perpetuated directly and/or indirectly by Defendants.

141. Defendants knew or should have known that these representations were false, and they made the representations with the intent or purpose of deceiving Plaintiffs, Plaintiffs' prescribing physicians, and the healthcare industry.

142. Defendants made these false representations with the intent or purpose that Plaintiffs, Plaintiffs' prescribing physicians, and the healthcare industry would rely on them, leading to the use of Fluoroquinolones by Plaintiffs as well as the general public.

143. At all times herein mentioned, neither Plaintiffs nor Plaintiffs' physicians were aware of the falsity or incompleteness of the statements being made by Defendants and believed them to be true. Had they been aware of said facts, Plaintiffs' physicians would not have prescribed and Plaintiffs would not have utilized the subject product.

144. Plaintiffs, Plaintiffs' prescribing physicians, and the healthcare industry justifiably relied on and/or were induced by Defendants' misrepresentations and/or active concealment and relied on the absence of information regarding the dangers of Fluoroquinolones that Defendants did suppress, conceal, or fail to disclose to Plaintiffs' detriment. Plaintiffs justifiably relied, directly or indirectly, on Defendants' misrepresentations and/or active concealment regarding the true dangers of Fluoroquinolones. Based on the nature of the physician-patient relationship, Defendants had reason to expect that Plaintiffs would indirectly rely on Defendants' misrepresentations and/or active concealment.

145. Defendants had a post-sale duty to warn Plaintiffs, Plaintiffs' prescribing physicians, and the general public about the potential risks and complications associated with Fluoroquinolones in a timely manner.

146. Defendants made the representations and actively concealed information about the defects and dangers of Fluoroquinolones with the intent and specific desire that Plaintiffs' prescribing physicians and the consuming public would rely on such information, or the absence of information, in selecting Fluoroquinolones as a treatment.

147. As a result of the concealment and/or suppression of the material facts set forth above, Plaintiffs ingested Fluoroquinolones and suffered injuries as set forth herein.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems

just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

SEVENTH CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION
(Against All Defendants)

148. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

149. Defendants negligently and/or recklessly misrepresented to Plaintiffs, Plaintiffs' prescribing physicians, and the healthcare industry the safety and effectiveness of Fluoroquinolones, and/or recklessly and/or negligently concealed material information, including adverse information, regarding the safety, effectiveness, and dangers posed by Fluoroquinolones.

150. Defendants made reckless or negligent misrepresentations and negligently or recklessly concealed adverse information when Defendants knew, or should have known, that Fluoroquinolones had defects, dangers, and characteristics that were other than what Defendants had represented to Plaintiffs, Plaintiffs' physician(s) and the healthcare industry generally. Specifically, Defendants negligently or recklessly concealed from Plaintiffs, Plaintiffs' prescribing physicians, the health care industry, and the consuming public that:

(a) Since at least 1996 Defendants and/or its predecessors were in possession of data demonstrating that Fluoroquinolones increases the risk of irreversible peripheral neuropathy;
(b) There had been insufficient studies by Defendants and/or their predecessors regarding the safety and efficacy of Fluoroquinolones before and after its product launch;

(c) Fluoroquinolones were not fully and adequately tested by Defendants and/or their predecessor for the risk of developing irreversible peripheral neuropathy; and

(d) Testing and studies by other entities as reported in the scientific literature has shown that the use of Fluoroquinolones increases the risk of irreversible peripheral neuropathy.

151. These negligent or reckless misrepresentations and/or negligent or reckless failures to disclose were perpetuated directly and/or indirectly by Defendants.

152. Defendants should have known through the exercise of due care that these representations were false, and they made the representations without the exercise of due care leading to the deception of Plaintiffs, Plaintiffs' prescribing physicians, and the healthcare industry.

153. Defendants made these false representations without the exercise of due care knowing that it was reasonable and foreseeable that Plaintiffs, Plaintiffs' prescribing physicians, and the healthcare industry would rely on them, leading to the use of Fluoroquinolones by Plaintiffs as well as the general public.

154. At all times herein mentioned, neither Plaintiffs nor Plaintiffs' physicians were aware of the falsity or incompleteness of the statements being made by Defendants and believed them to be true. Had they been aware of said facts, Plaintiffs' physicians would not have prescribed and Plaintiffs would not have utilized the subject product.

155. Plaintiffs justifiably relied on and/or was induced by Defendants' negligent or reckless misrepresentations and/or negligent or reckless failure to disclose the dangers of Fluoroquinolones and relied on the absence of information regarding the dangers of

Fluoroquinolones which Defendants negligently or recklessly suppressed, concealed, or failed to disclose to Plaintiffs' detriment.

156. Defendants had a post-sale duty to warn Plaintiffs, Plaintiffs' prescribing physicians, and the general public about the potential risks and complications associated with Fluoroquinolones in a timely manner.

157. Defendants made the representations and actively concealed information about the defects and dangers of Fluoroquinolones with the absence of due care such that Plaintiffs' prescribing physicians and the consuming public would rely on such information, or the absence of information, in selecting Fluoroquinolones as a treatment.

158. As a result of the negligent or reckless concealment and/or the negligent or reckless failure to provide materials facts set forth above, Plaintiffs ingested Fluoroquinolones and suffered injuries as set forth herein.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

EIGHTH CAUSE OF ACTION

FRAUDULENT CONCEALMENT
(Against All Defendants)

159. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

160. Defendants committed actual fraud by making material representations that were false, knowing that such material representations were false, and/or with reckless disregard for the truth or falsity of such material representations with the intent that Plaintiffs and Plaintiffs' prescribing physicians would rely on such material representations.

161. Plaintiffs and Plaintiffs' prescribing physicians were unaware of the falsity of these representations, they acted in actual and justifiable reliance on such material misrepresentations, and Plaintiffs were injured as a direct and proximate result.

162. Additionally, Defendants knowingly omitted material information and remained silent regarding said misrepresentations despite the fact that they had a duty to inform Plaintiffs, Plaintiffs' prescribing physicians, and the general public of the inaccuracy of said misrepresentations, which omission constitutes a positive misrepresentation of material fact, with the intent that Plaintiffs and Plaintiffs' prescribing physicians would rely on Defendants' misrepresentations. Plaintiffs and Plaintiffs' prescribing physicians did, in fact, act in actual and justifiable reliance on Defendants' representations, and Plaintiffs were injured as a result.

163. At all times herein mentioned, Defendants had a duty to Plaintiffs, Plaintiffs' prescribing physicians, and the general public to accurately inform them of risks associated with Fluoroquinolones because Defendants, as the manufacturer and/or distributor of the subject product, were in a position of superior knowledge and judgment regarding any potential risks associated with Fluoroquinolones.

164. Defendants committed constructive fraud by breaching one or more legal or equitable duties owed to Plaintiffs relating to the Fluoroquinolones at issue in this lawsuit, said breach or breaches constituting fraud because of their propensity to deceive others or constitute an injury to public interests or public policy.

165. In breaching their duties to Plaintiffs, Defendants used their position of trust as the manufacturer and/or distributor of Fluoroquinolones to increase sales of the drug at the expense of informing Plaintiffs that, by ingesting Fluoroquinolones, Plaintiffs were placed at a significantly increased risk of developing irreversible peripheral neuropathy.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in Plaintiffs' favor for compensatory and punitive damages, together with interest, costs herein incurred, attorneys' fees, and all such other and further relief as this Court deems just and proper. Plaintiffs also demand that the issues herein contained be tried by a jury.

NINTH CAUSE OF ACTION

WRONGFUL DEATH
(Against All Defendants)

166. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

167. Decedents suffered fatal injuries due to the Defendants' wrongful conduct as set forth herein.

168. Decedents were survived by distributes who are beneficiaries to this cause of action.

169. Plaintiffs incurred conscious pain and suffering leading up to decedents' untimely death.

170. Due to decedents' deaths, the decedents' distributees lost the value of decedent's financial benefit, services, society, comfort and care for which they are entitled to recover and the estate incurred medical expenses and incurred other necessary expenses related to decedents' deaths.

PUNITIVE DAMAGES

171. Plaintiffs re-allege all prior paragraphs of the Complaint as if set out here in full.

172. At all times material hereto, Defendants knew or should have known that Fluoroquinolones were inherently dangerous with respect to the risk of irreversible peripheral neuropathy.

173. At all times material hereto, Defendants attempted to misrepresent and did misrepresent facts concerning the safety of Fluoroquinolones.

174. Defendants' misrepresentations included knowingly withholding material information from the medical community and the public, including Plaintiffs, concerning the safety of the subject product.

175. At all times material hereto, Defendants knew and recklessly disregarded the fact that Fluoroquinolones causes the chronic illness irreversible peripheral neuropathy.

176. Notwithstanding the foregoing, Defendants continued to aggressively market the subject product to consumers, including Plaintiffs herein, without disclosing the aforesaid side effect.

177. Defendants knew of the subject product's lack of warnings regarding the risk of irreversible peripheral neuropathy, but they intentionally concealed and/or recklessly failed to disclose that risk and continued to market, distribute, and/or sell Fluoroquinolones without said warnings so as to maximize sales and profits at the expense of the health and safety of the public, including Plaintiffs herein, in conscious and/or negligent disregard of the foreseeable harm caused by Fluoroquinolones.

178. Defendants' intentional and/or reckless failure to disclose information deprived Plaintiffs of necessary information to enable Plaintiffs to weigh the true risks of using Fluoroquinolones against its benefits.

179. As a direct and proximate result of Defendants' willful, wanton, careless, reckless, conscious, and deliberate disregard for the rights and safety of their consumers, Plaintiffs suffered severe and permanent physical and emotional injuries, including, but not limited to, irreversible peripheral neuropathy. Plaintiffs have endured pain and suffering, have suffered economic loss, including incurring significant expenses for medical care and treatment, and will continue to incur such expenses in the future. Plaintiffs' injuries and damages are permanent and will continue into the future.

180. Defendants' aforesaid conduct was committed with knowing, conscious, careless, reckless, willful, wanton, and deliberate disregard for the rights and safety of consumers, including Plaintiffs, thereby entitling Plaintiffs to punitive damages in an

amount appropriate to punish Defendants and deter them from similar conduct in the future.

VICARIOUS LIABILITY

181. Whenever in this Complaint it is alleged that Defendants did or omitted to do any act, it is meant that Defendants' officers, agents, servants, employees, or representatives did or omitted to do such act and that at the time such act or omission was done, it was done with the full authorization or ratification of Defendants or was done in the normal and routine course and scope of employment of Defendants' officers, agents, servants, employees, or representatives.

DISCOVERY RULE

182. Plaintiffs incorporate by reference the factual portion of this Complaint as if fully set forth herein and additionally or in the alternative, if same be necessary, allege as follows:

183. Plaintiffs plead that the discovery rule should be applied to toll the running of the statute of limitations until Plaintiffs knew, or through the exercise of reasonable care and diligence should have known, of facts indicating that Plaintiffs had been injured, the cause of the injury, and the tortuous nature of wrongdoing that causes the injury.

184. Despite diligent investigation by Plaintiffs into the cause of their injuries, including consultations with Plaintiffs' medical providers, the nature of Plaintiffs' injuries and damages and their relationship to Fluoroquinolones were not discovered, and through reasonable care and due diligence could not have been discovered, until a date within the applicable statute of limitations for filing Plaintiffs' claims. Therefore, under

appropriate application of the discovery rule, Plaintiffs' suit was filed well within the applicable statutory limitations period.

PRAYER

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. For general damages for personal injury, including permanent impairment, physical injury, physical and mental pain and suffering, distress, loss of enjoyment of life, and loss of consortium;

2. For past and future medical and incidental expenses, according to proof;

3. For past and future loss of earnings and/or earning capacity, according to proof;

4. For medical, incidental, and hospital expenses according to proof;

5. For pre-judgment and post-judgment interest as provided by law;

6. For full refund of all purchase costs Plaintiffs paid for Defendants' Fluoroquinolones products;

7. For compensatory damages in excess of the jurisdictional minimum of this Court;

8. For consequential damages in excess of the jurisdictional minimum of this Court;

9. For punitive damages in an amount in excess of any jurisdictional minimum of this court and in an amount sufficient to impress upon Defendants the seriousness of their conduct and to deter similar conduct in the future;

10. For attorneys' fees, expenses, and costs of this actions;

11. As to the wrongful death claims, for costs of burial and any other costs associated with decedents' untimely demise;

12. For such further relief as this Court deems necessary, just, and proper.

JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury.

Dated: September 28, 2016

Respectfully Submitted,

By: */s/ Katie Griffin*

Katie Griffin, OBA # 30829
SILL LAW GROUP, PLLC
14005 N. Eastern Avenue
Edmond, OK 73013
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Facsimile: 405-509-6268
Email: katie@sill-law.com

ATTORNEY FOR PLAINTIFFS

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
(1) JOHN ANDERSON; et al.,

(b) County of Residence of First Listed Plaintiff Franklin Cnty, NC
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Katie Griffin, Sill Law Group, PLLC, 14005 N. Eastern Avenue, Edmond, Oklahoma 73013
Tel: 405-509-6300

DEFENDANTS
(1) BAYER HEALTHCARE PHARMACEUTICALS, INC., et al.,

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ❒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ❒ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	☒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	☒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ☒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 376 Qui Tam (31 USC 3729(a))
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Remanded from Appellate Court ❒ 4 Reinstated or Reopened ❒ 5 Transferred from Another District *(specify)* ❒ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. § 1332

Brief description of cause:
Product liability action for personal injury caused to Plaintiffs from ingesting Defendants' product.

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $ 75,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ❒ No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE
09/28/2016

SIGNATURE OF ATTORNEY OF RECORD
s/ Katie Griffin

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____