IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION AT MEMPHIS

MARLENE WRIGHT, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF GERTRUDE EUBANKS, DECEASED	§	
vs.	§	**CIVIL ACTION NO. _____**
	§	**JURY DEMAND**
BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.; BOEHRINGER INGELHEIM PHARMA GMBH & CO. KG; BOEHRINGER INGELHEIM INTERNATIONAL GMBH; AND BIDACHEM S.P.A.	§	

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW the Plaintiff, Marlene Wright, Individually and on behalf of the Estate of Gertrude Eubanks, Deceased, complaining of Defendants Boehringer Ingelheim Pharmaceuticals, Inc., Boehringer Ingelheim Pharma GMBH & CO. KG, Boehringer Ingelheim International GMBH, and Bidachem S.P.A., and for cause therefore would show unto the Court the following:

PARTIES

1. Plaintiff, Marlene Wright, Individually and on behalf of the Estate of Gertrude Eubanks, Deceased, is a citizen and resident of Cordova, Shelby County, Tennessee.

2. Defendant, Boehringer Ingelheim Pharmaceuticals, Inc. (Boehringer US) is a Delaware corporation doing business in the State of Tennessee. At all times material hereto, Boehringer Ingelheim Pharmaceuticals, Inc., was engaged in the business of testing, developing,

manufacturing, labeling, marketing, distributing, promoting and/or selling, either directly or indirectly, through third parties or related entities, the drug Pradaxa for use in the treatment of Atrial Fibrillation. This Defendant may be served at its principal place of business located at 900 Ridgebury Road, Ridgefield, Connecticut 06877.

3. Defendant, Boehringer Ingelheim Pharma GmbH & Co. KG (Boehringer Pharma) is a foreign corporation doing business in the State of Tennessee. At all times material hereto, Boehringer Pharma was engaged in the business of testing, developing, manufacturing, labeling, marketing, distributing, promoting and/or selling, either directly or indirectly, through third parties or related entities, the drug Pradaxa for use in the treatment of Atrial Fibrillation. This Defendant may be served at its principal place of business located at Binger Strasse 173, 55216 Ingelheim am Rhein, Germany.

4. Defendant, Boehringer Ingelheim International GmbH (Boehringer International) is a foreign corporation doing business in the State of Tennessee. At all times material hereto, Boehringer International was engaged in the business of testing, developing, manufacturing, labeling, marketing, distributing, promoting and/or selling, either directly or indirectly, through third parties or related entities, the drug Pradaxa for use in the treatment of Atrial Fibrillation. This Defendant may be served at its principal place of business located at Binger Strasse 173, 55216 Ingelheim am Rhein, Germany.

5. Defendant, Bidachem S.p.A. (Bidachem) is a foreign corporation doing business in the State of Tennessee. At all times material hereto, Bidachem was engaged in the business of testing, developing, manufacturing, labeling, marketing, distributing, promoting and/or selling, either directly or indirectly, through third parties or related entities, the drug Pradaxa for use in the

treatment of Atrial Fibrillation. This Defendant may be served at its principal place of business located at Bidachem S.p.A., Strada Statale 11, (Padana Sup.) N.8, 24040 Fornovo S. Giovanni, Bergamo, Italy.

JURISDICTION AND VENUE

6. Jurisdiction is proper in this Court pursuant to 28 U.S.C. #1332 as there is complete diversity of citizenship between Plaintiff and Defendants and the matter in controversy exceeds the sum of seventy-five thousand dollars ($75,000.00), exclusive of interest and costs.

7. This Court has jurisdiction over the non-resident Defendants because they have done business in the State of Tennessee, have committed a tort in whole or in part in the State of Tennessee, and having continuing contacts with the State of Tennessee.

8. Venue of this case is proper in the Western District of Tennessee pursuant to 28 U.S.C. #1391(b)(2) because it is a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

STATEMENT OF FACTS

9. Defendants, directly or through their agents, apparent agents, servants or employees designed, manufactured, marketed, advertised, distributed, promoted, labeled, tested and sold Pradaxa as a blood-thinning medicine primarily used to reduce the risk of stroke and blood clots in people with atrial fibrillation not caused by a heart valve problem.

10. Pradaxa was first distributed by Defendants in North America in 2010, after being approved by the FDA for prevention of strokes in patients with non valvular atrial fibrillation.

11. The Defendants' marketing and informational materials represented that atrial fibrillation (AF) is the most common sustained heart rhythm condition in the world, with one in four adults over the age of 40 developing the condition in their lifetime.

12. AF is a type of irregular heartbeat which occurs when one or both of the upper chambers of the heart, called the atria, function in an erratic manner.

13. The evidence will establish that even though AF is not a life threatening condition, it can in certain circumstances have serious and/or fatal consequences.

14. The evidence will establish, and Defendants agree, that clotting in patients with AF occurs more frequently than in the general population. If left untreated, the problem is exacerbated and therefore, according to Defendants, patients with AF "have a five-fold increased risk of stroke when compared to people without atrial fibrillation. Up to three million people worldwide suffer strokes related to AF each year. Strokes due to AF tend to be severe, with an increased likelihood of death and disability."

15. Pradaxa is claimed by Defendants to be the solution to the clotting problem in AF patients. Specifically, Defendants claim, "Many AF-related strokes can be prevented with appropriate medicinal therapy. For this, substances are used which act on the blood clotting system and shall prevent blood clots from forming."

16. Before Pradaxa, AF patients have been treated with Coumadin, a well known blood thinner that has been on the market for many years. While there are certain problems associated with the use of Coumadin, many of those problems can be addressed through monitoring and the administration of Vitamin K to minimize problems associated with bleeding. Such is not the case

with Pradaxa, which was intensely promoted to doctors as a drug not requiring monitoring and one which had the additional benefit of one dose for all patients, 150 mg twice a day.

17. Pradaxa is an oral anticoagulant and is a direct thrombin inhibitor, also known as DTI.

18. Pradaxa is not safer than Coumadin and, while offering some level of convenience, from a safety perspective, as compared to Coumadin, its risks greatly exceed any convenience, which was the basic component in Defendant's marketing launch.

19. The evidence will establish that Pradaxa sales increased rapidly after its launch in 2010, but sadly so did the Adverse Event Reports associated with its use.

20. Pradaxa, because of its marketing and design defects, put all patients at an increased risk for developing life-threatening bleeds. Also, there is no antidote for Pradaxa induced bleeding, patients can bleed to death internally without any hope of successful medical intervention.

21. The evidence will establish that by November 2010, there were at least 260 fatal bleeding events reported in patients taking Pradaxa.

22. As a result of Defendants' actions, Deceased and her physician were unaware, and could not have reasonably known or have learned through reasonable diligence, that Deceased would be exposed to the risks identified in this Complaint. The increased risks and subsequent medical damages associated with Deceased's Pradaxa use were the direct and proximate result of Defendants' conduct.

23. The evidence will establish that the Decedent, Gertrude Eubanks, began taking Pradaxa on or about March 26, 2011, upon direction of Deceased's physician. Subsequently, and as a direct result of Deceased's ingestion of Pradaxa, Deceased began to bleed internally and,

because there is no known antidote for Pradaxa-induced bleeding, she literally bled to death on April 4, 2011.

24. As a direct result of being prescribed Pradaxa for this period of time, Deceased, Gertrude Eubanks, suffered severe mental anguish and pain and suffering from the time of her first exposure to Pradaxa until the date of her death.

CLAIMS FOR RELIEF

COUNT I: STRICT LIABILITY - FAILURE TO WARN

25. Deceased and Plaintiff incorporate by reference all preceding paragraphs and all of the factual allegations contained therein.

26. Defendants are liable under the theory of strict products liability in that defendants were at all times relevant to this suit engaged in the business of designing, manufacturing, testing, marketing, and placing into the stream of commerce pharmaceuticals such as Pradaxa for sale to, and use by, members of the public. The evidence will establish that the Pradaxa manufactured by defendants was defectively designed and marketed and that the defects which caused the death of Gertrude Eubanks existed at the time the drug was released into the stream of commerce by the Defendants.

27. The evidence will establish that Defendants knew or should have known that the warnings and other information distributed with regard to the use of Pradaxa were inadequate. Therefore neither the Decedent nor her doctors received adequate warnings relative to the risks associated with the use of Pradaxa. The evidence will establish that such defects were a producing and/or proximate cause of decedent's injuries and death.

28. Defendants knew or should have known that consumers, Deceased specifically, would foreseeably and needlessly suffer injury or death as a result of Defendants' failures.

29. The evidence will establish that defendants failed, throughout the time that Pradaxa has been on the market, to provide timely and adequate warnings to physicians, pharmacies, and consumers, including Deceased and her intermediary physicians regarding the risks associated with the use of Pradaxa.

COUNT II: STRICT LIABILITY - DESIGN DEFECT, MARKETING DEFECT, CONSTRUCTION OR COMPOSITION DEFECT AND MANUFACTURING DEFECT

30. Deceased and Plaintiff hereby incorporate by reference all preceding paragraphs and all factual allegations contained therein.

31. Pradaxa was unreasonably defective in design and marketing, considering the utility of the product and the risk involved in its use, because as designed and marketed the risks of bleeding associated with the use of Pradaxa greatly outweighed its benefits, if any.

32. Pradaxa was defective in design or formulation in that when it was placed in the stream of commerce by defendants, it was unreasonably dangerous to an extent beyond that which could reasonably be contemplated by Deceased or her physicians. The evidence will establish that any benefit of this drug was outweighed by the serious and undisclosed risks of its use when prescribed and used in the manner intended by defendants herein.

33. The evidence will establish that the defective and unreasonably dangerous design and marketing of Pradaxa was a direct, proximate and producing cause of Deceased's injuries and

damages. Pursuant to the provisions of the Restatement (Second) of Torts, Defendants are liable to Plaintiff for all damages claimed in this case, including punitive damages.

COUNT III: NEGLIGENCE

34. Deceased and Plaintiff hereby incorporate by reference all preceding paragraphs and all factual allegations contained therein.

35. Defendants owed a duty to the Deceased and Plaintiff herein to exercise reasonable care in the design, development, manufacture, promotion, sale, marketing and distribution of Pradaxa, and that duty was breached because Pradaxa, as designed, is capable of causing serious personal injuries and death. Defendants also failed to exercise reasonable care in the marketing of Pradaxa in that they failed to warn that Pradaxa, as designed, was capable of causing serious personal injuries and death.

36. Defendants breached their duty and were negligent by, but not limited to, the following actions, misrepresentations, and omissions toward Deceased and Plaintiff:

a. Failing to use due care in developing, testing, designing and manufacturing Pradaxa.

b. Failing to accompany their product with proper or adequate warnings or labeling regarding adverse side effects and health risks associated with the use of Pradaxa.

c. In providing information to Deceased's physicians that was negligently and materially inaccurate, misleading, false, and unreasonably dangerous to patients such as Plaintiff.

d. Failing to provide warnings or other information that accurately reflected the symptoms, scope and severity of the side effects and health risks, such as Pradaxa-induced bleed.

e. Failing to conduct such testing and post-marketing surveillance as would have been conducted by a reasonable and prudent drug manufacturer acting under the same or similar circumstances.

f. Failing to remove Pradaxa from the market when defendants knew or should have known of the likelihood of serious side effects and injury to its users.

g. Failing to adequately warn users, consumers and physicians about the severity, scope and likelihood of bleeds and related dangerous conditions to individuals taking Pradaxa.

h. Representing to physicians, including but not limited to Deceased's prescribing physicians, that this drug was safe and effective for use.

37. The Pradaxa that fatally injured Deceased, Gertrude Eubanks, was in substantially the same condition when Deceased ingested it as it was in when it left the control of Defendants, and Deceased consumed the Pradaxa as directed and without change in its form or substance.

38. The evidence will establish that such failures were a proximate cause of the death of Gertrude Eubanks and Deceased and Plaintiff's injuries and damages.

39. Deceased and Plaintiff seek all damages to which Deceased and Plaintiff may be justly entitled.

COUNT IV: MISREPRESENTATION, SUPPRESSION OF EVIDENCE AND FRAUD

40. Deceased and Plaintiff incorporate by reference all preceding paragraphs and all factual allegations contained therein.

41. Defendants committed actual fraud by making material representations, which were false, knowing that such representations were false and/or with reckless disregard for the truth or

falsity of such representations, with the intent that Deceased and doctors within the medical community rely on such material representations; Deceased acted in actual and justifiable reliance on such material misrepresentations and was fatally injured as a result thereof.

42. In addition, and in the alternative if necessary, Defendants withheld relevant and material information regarding the risks associated with the use of Pradaxa, with the intent that Deceased rely on Defendants' misrepresentations. The evidence will establish that Deceased acted in actual and justifiable reliance on Defendants' representations and was injured as a result.

43. Defendants made these misrepresentations and actively concealed adverse information at a time when the Defendants knew, or should have known, that Pradaxa had defects, dangers, and characteristics that were other than what Defendants had represented to Deceased and the health care industry generally. Specifically, Defendants misrepresented to and/or actively concealed from Deceased and the consuming public all information pertaining to the risk of developing irreversible and potentially fatal bleeds.

44. The misrepresentations of and/or active concealments alleged were perpetuated directly and/or indirectly by Defendants. Defendants knew or should have known that these representations were false and made the representations with the intent or purpose that Deceased and/or her prescribing physicians would rely on them, leading to the use of Pradaxa. At the time of Defendants' fraudulent misrepresentations, Deceased and/or her prescribing physicians were unaware of the falsity of the statements being made and believed them to be true. Deceased and/or her prescribing physicians had no knowledge of the information concealed and/or suppressed by Defendants, and they justifiably relied on and/or were induced by the misrepresentations and/or

active concealment and relied on the absence of safety information, which Defendants did suppress, conceal or failed to disclose, to Deceased and Plaintiff's detriment.

45. Such fraudulent acts were a direct and proximate cause of Deceased and Plaintiff's injuries and death.

COUNT V: GROSS NEGLIGENCE

46. Deceased and Plaintiff incorporate by reference all preceding paragraphs and all factual allegations contained therein.

47. Deceased and Plaintiff would further show that the negligent acts and/or omissions of Defendants, as set forth above, constitute an entire want of care so as to indicate that the acts and/or omissions in question were the result of conscious indifference and/or malice so as to give rise to the award of exemplary damages.

48. Deceased and Plaintiff would further show that the negligent acts and/or omissions of Defendants, as set forth above, constitute an act or omission,

a. which, when viewed objectively from the standpoint of Defendants, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Deceased, and

b. of which Defendants had actual, subjective awareness of the risks involved, but nevertheless proceeded with conscious indifference to the rights, safety or welfare of Deceased.

49. The gross negligence of the Defendants was a proximate cause of the injuries and damages suffered by Deceased and Plaintiff.

COUNT VI: DAMAGES

50. As a producing and proximate result of the above-described acts and omissions of Defendants, Deceased and Plaintiff have incurred actual damages in excess of $75,000.00 including, but not limited to:

a. Reasonable and necessary medical expenses incurred in the past;

b. Conscious physical pain and suffering experienced in the past;

c. Mental anguish in the past;

d. Mental anguish likely to be experienced in the future;

e. Pre and post-judgment interest at the lawful rate;

f. Exemplary damages;

g. Such other applicable damages as the Court deems appropriate.

PUNITIVE DAMAGES

51. Defendants' conduct, as described above, was extreme and outrageous. Defendants risked the lives of consumers and users of their products, including the Deceased, with knowledge of the safety and efficacy problems and suppressed this knowledge from the general public. Defendants made conscious decisions not to redesign, re-label, warn or inform the unsuspecting consuming public.

JOINT & SEVERAL LIABILITY

52. Deceased and Plaintiff incorporate by reference all preceding paragraphs and all factual allegations contained therein.

53. By virtue of their individual and collective acts and omissions, all Defendants are jointly and severally liable to Deceased and Plaintiff as such acts and omissions have proximately caused Deceased to suffer injuries for which each Defendant is responsible.

JURY DEMAND

54. Deceased and Plaintiff demand a trial by jury.

CONDITIONS PRECEDENT

55. All conditions precedent to Deceased and Plaintiff's rights to recover herein and to Defendants' liability have been performed or have occurred.

PRAYER

WHEREFORE, Deceased and Plaintiff pray that upon final determination of these causes of action Deceased and Plaintiff receive a judgment against these Defendants as follows:

a. Actual damages as alleged, jointly and/or severally against Defendants, in excess of $75,000.00;

b. Punitive damages alleged against Defendants, including Plaintiff's attorney's fees, in excess of $75,000.00;

c. Costs of court and reasonable attorney fees necessary for preparation of this case for trial;

d. Prejudgment interest at the highest legal rate allowed by law;

e. Interest on the judgment at the highest legal rate from the date of judgment until collected; and

f. All such other and further relief at law and in equity to which Deceased and Plaintiff may show themselves justly entitled.

s/R. Christopher Gilreath
R. Christopher Gilreath (BPR #018667)
GILREATH & ASSOCIATES
One Memphis Place
200 Jefferson Avenue, Suite 711
Memphis, TN 38103
(901) 527-0511
chrisgil@sidgilreath.com

s/Sidney Gilreath
Sidney Gilreath (BPR #2000)
GILREATH & ASSOCIATES
550 Main Avenue, Suite 600
Knoxville, TN 37902
(865) 637-2442
gilknox@sidgilreath.com

s/Michael T. Gallagher
Federal ID: 5395
The Gallagher Law Firm, LLP
2905 Sackett Street
Houston, Texas 77098
(713) 222-8080
pamm@gld-law.com; salexander@gld-law.com

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Marlene Wright, Individually and on Behalf of the Estate of Gertrude Eubanks, Deceased

(b) County of Residence of First Listed Plaintiff Shelby
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
See Attachment.

DEFENDANTS

Boehringer Ingelheim Pharmaceuticals, Inc.; Boehringer Ingelheim Pharma GMBH & Co. KG, 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 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 (Excl. 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

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☒ 365 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
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 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
- ☐ 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
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 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 ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

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

Brief description of cause:
Manufacture and distribution of defective medication that caused injury and death

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND >$75000 compensatory;>$75000 punitive; etc. See Prayer

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
04/03/2012

SIGNATURE OF ATTORNEY OF RECORD
s/Sidney Gilreath BPR 2000

FOR OFFICE USE ONLY

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

Civil Cover Sheet Attachment

ATTORNEYS FOR PLAINTIFF

R. Christopher Gilreath (BPR #018667)
GILREATH & ASSOCIATES
One Memphis Place
200 Jefferson Avenue, Suite 711
Memphis, TN 38103
(901) 527-0511
chrisgil@sidgilreath.com

Sidney Gilreath (BPR #2000)
GILREATH & ASSOCIATES
550 Main Avenue, Suite 600
Knoxville, TN 37902
(865) 637-2442
gilknox@sidgilreath.com

Michael T. Gallagher
Federal ID: 5395
The Gallagher Law Firm, LLP
2905 Sackett Street
Houston, Texas 77098
(713) 222-8080
pamm@gld-law.com; salexander@gld-law.com

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

Marlene Wright, Individually and on Behalf of the Estate of Gertrude Eubanks, Deceased

Plaintiff

v.

Boehringer Ingelheim Pharmaceuticals, Inc.; Boehringer Ingelheim Pharma GMBH & Co. KG, et al

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Beohringer Ingelheim Pharmaceuticals, Inc.
900 Ridgebury Road
Ridgefield, CT 06877

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: R. Christopher Gilreath, Gilreath & Associates, One Memphis Place, 200 Jefferson Avenue, Suite 711, Memphis, TN 38103;
Sidney Gilreath, Gilreath & Associates, 550 Main Avenue, Suite 600, Knoxville, TN 37902;
Michael T. Gallagher, The Gallagher Law Firm, LLP, 2905 Sackett Street, Houston, TX 77098

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____, a person of suitable age and discretion who resides there,

on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is

designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc: