

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

DIANNE CHRISTOPHER)	
)	
Plaintiff,)	CASE NO.: <u>3:13-cv-00306</u>
)	
v.)	COMPLAINT AND
)	DEMAND FOR JURY TRIAL
)	
PFIZER, INC.,)	
)	
Defendant.)	

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff, Dianne Christopher, who brings this action for damages against Defendant, Pfizer, Inc., by and through undersigned counsel, who alleges and states the following:

PARTIES

1. Plaintiff, Dianne Christopher, is a person of the full age of majority and a resident and domiciliary of East Baton Rouge Parish, State of Louisiana.
2. At all pertinent times, Plaintiff was domiciled in Baton Rouge, Louisiana and was a citizen of East Baton Rouge Parish in the State of Louisiana, which is located within the district of the United States District Court for the Middle District of Louisiana.
3. Pfizer, Inc. (herein referred to as “Pfizer” or “Defendant”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in the State of New York.
4. Defendant regularly conducts business within the State of Louisiana and derives substantial revenues from drugs consumed in the State of Louisiana. At all times material

hereto, Defendant was engaged in the business of manufacturing, promoting, marketing, distributing and selling pharmaceutical drugs, including the drug Lipitor, which is distributed throughout the State of Louisiana, and within the Middle District of Louisiana.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 28 U.S.C. §1332 as full diversity of citizenship exists among the parties. Furthermore, the amount in controversy is substantially in excess of seventy-five thousand dollars (\$75,000), exclusive of interest and costs. Additionally, a significant part of the omissions giving rise to the Plaintiff's claims happened within the United States District Court for the Middle District of Louisiana and Defendants are subject to personal jurisdiction in this district.

6. Venue is proper pursuant to 28 U.S.C. §1391 because a substantial part of the events or omissions giving rise to the claim occurred within the Middle District of Louisiana.

STATEMENT OF THE CASE

7. This is an action brought by Dianne Christopher, for the injury she suffered, as a result of her ingestion of Pfizer's drug, Lipitor, which caused her to develop type 2 diabetes. Ms. Christopher's type 2 diagnosis is a direct and proximate result of the wrongful conduct of Pfizer in designing, developing, manufacturing, testing, distribution, labeling, advertising, marketing, promotion, and selling an unsafe prescription cholesterol reducing drug, Lipitor.

8. Plaintiff brings this action to recover medical and other expenses and all general and special damages related to her development of type 2 diabetes, and for general and specific future damages, and such other relief as requested herein for injuries suffered as a direct result of Dianne Christopher's ingestion of Lipitor. At all times pertinent, Plaintiff used Lipitor in a manner and dosage recommended by Pfizer and prescribed by her doctor.

FACTUAL ALLEGATIONS

9. The drug “atorvastatin calcium,” is manufactured, promoted, distributed, labeled and marketed by Pfizer under the trade name Lipitor. It is a HMG-CoA reductase inhibitor and a member of the class of drugs known as “statins.”

10. Lipitor is prescribed to lower cholesterol and other fatty substances in the blood. Lipitor, like other statins, works primarily by blocking an enzyme in the liver responsible for producing cholesterol.

11. Pfizer’s predecessor in interest, Parke-Davis Pharmaceutical Research, a division of Warner-Lambert Company, received approval for Lipitor by the Food and Drug Administration (“FDA”) on December 17, 1996. Following FDA approval of Lipitor, Warner-Lambert entered into a co-marketing agreement with Pfizer to distribute and sell Lipitor throughout the United States in 1997. Subsequently, on June 19, 2000, Pfizer acquired Warner-Lambert along with all rights to design, manufacture, advertise, analyze, assemble, compound, develop, distribute, inspect, label, test, promote, market and sell Lipitor.

12. Pfizer placed Lipitor into the stream of worldwide commerce and interstate commerce in the United States and the State of Louisiana. Pfizer did so without adequate testing and with inadequate or no warning that the use of Lipitor carried with it the risk of causing and/or developing type 2 diabetes. Despite knowledge that Lipitor use is linked to the development of type 2 diabetes and/or increased blood glucose levels diagnostic for type 2 diabetes, Pfizer promoted and marketed Lipitor as safe and effective for persons such as Dianne Christopher throughout the United States, including the State of Louisiana.

13. In February 2012, Pfizer revised the Warnings and Precautions Section of its Lipitor label to include the following language: “Increase in HbA1c and fasting serum glucose levels have been reported with HMG-CoA reductase inhibitors, including LIPITOR.”

14. Prior to this addition, Lipitor’s label never contained any warning concerning an association between Lipitor and elevated blood glucose levels.

15. Notwithstanding the February 2012 label change, Lipitor’s label continues to fail to adequately warn consumers of the serious risk of developing type 2 diabetes associated with the use of Lipitor.

16. At all pertinent times, Pfizer knew or should have known that the risks associated with Lipitor included the development of type 2 diabetes along with the risk of developing severe and life-threatening diabetic complications. Yet despite this knowledge Pfizer, by and through its agents, servants, and/or employees failed to adequately warn physicians and consumers, including Dianne Christopher, of the risk of developing type 2 diabetes.

17. Furthermore, at all pertinent times, Pfizer, by and through its agents, servants, and/or employees negligently, recklessly, and/or carelessly marketed, distributed, and/or sold Lipitor without adequate testing and with inadequate or no warning that the use of Lipitor carried with it serious side effects and unreasonably dangerous risks, including, but not limited to, the development of type 2 diabetes.

18. Pfizer failed and continues to fail to warn and disclose to Plaintiff, other consumers, and healthcare providers that Lipitor significantly increases a patient’s risk of developing type 2 diabetes.

19. Plaintiff, Dianne Christopher, was prescribed Lipitor in order to lower her low-density lipoprotein (“LDL”) cholesterol levels,

20. Prior to being placed on Lipitor and at time Lipitor was prescribed, Plaintiff had a total body mass index of approximately 29.

21. Plaintiff subsequently began taking Lipitor as directed and prescribed to the best of Plaintiff's current knowledge and recollection in 2003.

22. Plaintiff agreed to initiate LIPITOR treatment, relying on claims made by Pfizer that Lipitor has been clinically shown to lower LDL levels and reduce the risk of developing heart disease.

23. Subsequently, in 2011 Plaintiff was diagnosed with type 2 diabetes while still actively taking Lipitor.

24. Due to becoming diabetic, Plaintiff must now undergo regular testing of her blood glucose levels, follow a restrictive diabetic diet, and take additional medication to regulate her diabetes. Furthermore, Plaintiff is now exposed to a blatantly increased risk of cardiovascular disease, blindness, neuropathy (nerve damage), diabetic skin conditions, hearing loss, nephropathy (kidney disease), and stroke.

25. Had Pfizer properly warned Plaintiff of the risk associated with the use of Lipitor, Plaintiff would have avoided the risk of developing type 2 diabetes by either not using Lipitor or by diligently monitoring her blood glucose levels.

26. As a direct, proximate, and legal result of Pfizer's negligence and wrongful conduct, and the unreasonably dangerous and defective characteristics of the drug Lipitor, Plaintiff, Dianne Christopher, has suffered severe and permanent physical and emotional injuries, and disabilities including, but not limited to, being diagnosed with type 2 diabetes. Furthermore, Plaintiff has endured pain and suffering, suffered economic loss, including incurring significant expenses for medical care and treatment, and will continue to incur such expenses in the future.

FRAUDULENT CONCEALMENT AND TOLLING

27. Plaintiff repeats and incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

28. The running of any statute of limitations has been tolled by reason of Defendant's fraudulent concealment. Defendant, through its affirmative misrepresentations and omissions, actively concealed from Plaintiff, Dianne Christopher, and her physician(s) the true risks associated with the use of Lipitor.

29. As a result of Defendant's actions, Plaintiff and her physician(s) were unaware, and could not reasonably have known or have learned through reasonable diligence, that she had been exposed to the risks alleged herein and that those risks were the direct and proximate result of Defendants' acts and omissions.

COUNT ONE **LOUISIANA PRODUCTS LIABILITY ACT ("LPLA")** **DESIGN DEFECT UNDER LSA-R.S. 9:2800.56**

30. Plaintiff repeats and incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

31. At all times material to this action, Defendant was responsible for designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Lipitor.

32. Pfizer's prescription drug, Lipitor, is defective and unreasonably dangerous to consumers.

33. Lipitor is defective in its design or formulation in that it is not reasonable fit, suitable, or safe for its intended purpose and/or its foreseeable risks exceed the benefits associated with its design and formulation.

34. At all times mentioned herein, the drug Lipitor was not safe or suitable for the purposes for which Defendant, directly and indirectly, advertised, marketed, and promoted the drug at the time Defendant designed, manufactured, distributed, and sold the drug to Plaintiff and placed the drug into the stream of commerce.

35. Lipitor, sold to and used by the Plaintiff, was defective and unreasonably dangerous when it left control of the Defendant in one or more of the following ways:

- a) The risk associated with the use of Lipitor and developing type 2 diabetes far outweighed the utility derived from using the medication;
- b) Defendant failed to provide adequate warnings regarding the hazards associated with the use of Lipitor; and
- c) Defendant's product was defectively designed and unreasonably dangerous in design and composition in that other medications could achieve similar results without the risks presented by Lipitor.

36. In addition, at the time the Lipitor used by Plaintiff left the control of the Defendant, there were practical and feasible alternative designs that would have prevented and/or significantly reduced the risk of Ms. Christopher's injuries without impairing the reasonably anticipated or intend function of the product. These safer alternatives designs were economically and technologically feasible, and would have prevented or significantly reduced the risk of Ms. Christopher's injuries without substantially impairing the product's utility.

37. As a direct and proximate result of Lipitor's defective design, Dianne Christopher, has and will continue to suffer severe and permanent injuries and/or damages.

COUNT TWO
LOUISIANA PRODUCTS LIABILITY ACT
DEFECT IN CONSTRUCTION OR COMPOSITION UNDER LA. R.S. § 9:2800.55

38. As fully set forth herein, Plaintiff repeats and incorporates by reference all other paragraphs of this Complaint.

39. The characteristic of Lipitor that renders it unreasonably dangerous in construction or composition existed at the time the product left the control of Pfizer or resulted from a reasonably anticipated alteration or modification of the product.

40. Defendant sold and/or distributed Lipitor in a condition that posed unreasonable risks from reasonably anticipated use of the product. Lipitor was expected to and did reach Dianne Christopher without substantial change in condition from the time that it left the control of Pfizer.

41. Defendant designed, researched, developed, tested, inspected, produced, manufactured, analyzed, merchandised, packaged, advertised, promoted, labeled, distributed, marketed, and/or sold Lipitor in a condition which rendered the product unreasonably dangerous due to its propensity to lead to the development of type 2 diabetes. As such, Lipitor was unreasonably dangerous in construction and/or composition as provided for in La. R.S. § 9:2800.55.

42. As a direct and proximate result of the Lipitor's defects in composition and/or construction, Dianne Christopher suffered, and will continue to suffer, severe and permanent injuries and/or damages.

COUNT THREE
LOUISIANA PRODUCTS LIABILITY ACT
INADEQUATE WARNING UNDER LA. R.S. § 9:2800.57

43. As if fully set forth herein, Plaintiff incorporates by reference, each and every allegation set forth in the preceding paragraphs and further alleges as follows.

44. Pfizer knew, or in light of reasonably available knowledge, should have known that Lipitor was dangerous and caused serious side effects including the development of diabetes. The ordinary user or consumer of Lipitor would not have realized such dangers.

45. Defendant neglected to provide Dianne Christopher with any warning which could have been expected to catch the attention of a reasonably prudent person under similar circumstances who may have purchased Lipitor. Furthermore, Defendant failed to provide warnings to Plaintiff which could accurately advise her or an ordinary consumer of the scope, severity and likelihood of serious injury resulting from the use of Lipitor. Had such warnings been provided, Dianne Christopher would have avoided the risk of diabetes by either not taking Lipitor or by closely monitoring her blood glucose levels. As such, the severe and permanent injuries and/or damages sustained by Dianne Christopher could have been avoided.

46. Defendant neglected to provide Dianne Christopher and her prescribing physician(s) with adequate warnings to accurately advise her and such physician(s) of the increased propensity for developing type 2 diabetes resulting from the prescribing and ingestion of Lipitor.

47. As a direct and proximate result of Lipitor's defective and inappropriate warnings, Dianne Christopher, suffered and will continue to suffer severe and permanent injuries and/or damages.

COUNT FOUR
LOUISIANA PRODUCTS LIABILITY ACT
BREACH OF EXPRESS WARRANTY UNDER LA. R.S. § 9:2800.58

48. As if fully set forth herein, Plaintiff incorporates by reference, each and every allegation set forth in the preceding paragraphs and further alleges as follows.

49. At all times material herein, Defendant directly and indirectly manufactured, compounded, packaged, distributed, advertised, marketed, promoted, recommended, supplied, and sold Lipitor for the treatment of elevated cholesterol levels and prevention of heart disease, and placed Lipitor in the stream of commerce. In doing so, Pfizer expressly warranted to all foreseeable users of the drug, including Dianne Christopher, directly and through her prescribing physician(s), that Lipitor was safe and effective for its intended purpose.

50. Plaintiff reasonably relied, directly and through her prescribing physician(s), upon Defendant's skill, superior knowledge, and judgment upon the aforesaid express warranty provided by Defendant.

51. Upon being prescribed Lipitor, Dianne Christopher's use of Lipitor was consistent with its intended purpose for which Defendant directly and indirectly advertised, marketed, and promoted Lipitor. Additionally, Plaintiff's use of Lipitor was reasonably contemplated, intended, and foreseen by Defendant at the time of the distribution and sale of Lipitor by Defendant. Therefore, Dianne Christopher's use of Lipitor is within the scope of the express warranties issued by the Defendant.

52. Defendant breached the express warranties because Lipitor was not safe nor fit for its intended uses and purposes.

53. As a direct and proximate result of Pfizer's breach of expressed warranty, Dianne Christopher suffered, and will continue to suffer, severe and permanent injuries and/or damages.

COUNT FIVE
BREACH OF WARRANTY IN REDHIBITION

54. As fully set forth herein, Plaintiff incorporates by reference, each and every allegation set forth in the preceding paragraphs and further alleges as follows.

55. Lipitor contains a vice or defect which renders it useless or its use so inconvenient that consumers would not have purchased it had they known about the vice or defect.

56. Pursuant to Louisiana Civil Code article 2520, a seller warrants the buyer against redhibitory defects, or vices, in the thing sold. Lipitor which was sold and promoted by Pfizer possesses a redhibitory defect because it was not manufactured and marketed in accordance with industry standards and/or is unreasonably dangerous, as described above, which renders Lipitor useless or so inconvenient that it must be presumed that had Dianne Christopher would not have bought Lipitor had she known of the defects.

57. Defendant was aware of the substantial risks from using Lipitor but failed to fully disclose those risks to the Plaintiff.

58. In accordance with Louisiana Civil Code article 2545, Pfizer, as the manufacturer of Lipitor, is deemed to be aware of its redhibitory defects.

59. Had Dianne Christopher been made aware of the defects contained in Lipitor, she would not have purchased Lipitor. This characteristic rendered Lipitor unfit for its intended purposes.

60. Defendant is liable to Plaintiff under the theory of redhibition as a consequence of the sale to Plaintiff of a product unfit for its intended use.

61. Dianne Christopher is entitled to the return of purchase price paid, including, but not limited to, insurance co-payments, interest on these amounts from the date of purchase,

attorneys' fees and costs, pecuniary and non-pecuniary damages, as well as any other legal and equitable relief to which Plaintiff may be entitled.

DAMAGES

62. As a result of the failures described herein, Dianne Christopher has sustained substantial injuries, permanent disability, and damages, including, but not limited to, severe and permanent bodily injury.

63. As a result of her injuries, Plaintiff has and will sustain the following non-exclusive damages including physical injuries, past, present and future emotional distress; loss of enjoyment of life; past, present and future mental pain and suffering; inconvenience; past, present and future physical pain, suffering and disability; past, present and future medical expenses; economic damages; and other damages to be proven at the trial of this matter.

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

- (a) that Plaintiff be granted a trial by jury in this matter;
- (b) that the Court enter judgment against Defendant for all general and compensatory damages allowable to Plaintiff;
- (c) that the Court enter judgment against Defendant for all other special damages allowable to Plaintiff;
- (d) that the Court enter judgment against Defendant for all other relief sought by Plaintiff under this Complaint;
- (e) that the Court render judgment in favor of the Plaintiff, awarding all damages as prayed for herein, including attorney's fees, with all costs assessed against Defendant; and

(f) that the Court grant Plaintiff such other and further relief to which the Court deems just and appropriate.

Date: May 13, 2013

Respectfully submitted by,

PENDLEY, BAUDIN & COFFIN, L.L.P.

/s/ Christopher L. Coffin
Christopher L. Coffin, La. Bar Roll #27902
Jessica A. Perez, La. Bar Roll #34024
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Attorneys for Plaintiff

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

Dianne Christopher

(b) County of Residence of First Listed Plaintiff East Baton Rouge, LA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Christopher L. Coffin, Pendley Baudin & Coffin, LLP
24110 Eden Street, Post Office Drawer 71
Plaquemine, LA 70765. 225.687.6396

DEFENDANTS

Pfizer, Inc.

County of Residence of First Listed Defendant New York, NY
(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
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 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)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

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 U.S.C. §1332

Brief description of cause:

Personal injury/product liability action involving Pfizer's drug Lipitor**VII. REQUESTED IN COMPLAINT:**

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

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Honorable Richard M GergelDOCKET NUMBER MDL 2459

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/13/2013/s/ Christopher L. Coffin**FOR OFFICE USE ONLY**

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

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.

Civil Action No. 3:13-cv-00306

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: