THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

FELICIA SHERRILL, Individually and as Parent and Natural Guardian of Plaintiff G.S., a Minor, Plaintiffs, vs. PFIZER INC., a Delaware Corporation; PFIZER INTERNATIONAL LLC, a New York Corporation; J.B. ROERIG & COMPANY, a New York Corporation; WYETH PHARMACEUTICALS, INC.; Defendants.	CIVIL ACTION NO.: _____ COMPLAINT FOR DAMAGES JURY TRIAL DEMANDED

Plaintiff Felicia Sherrill, individually and as the parent and natural guardian of her daughter, G.S. (hereinafter referred to as "Minor Plaintiff"), for damages against Defendants Pfizer Inc., Pfizer International LLC, J.B. Roerig & Company and Wyeth Pharmaceuticals, Inc., alleges and states as follows:

PARTIES

1. Felicia Sherrill (hereinafter referred to as "Mother Plaintiff") is the mother and natural guardian of G.S. Mother Plaintiff brings this action individually for damages sustained and on behalf of her minor daughter, G.S. Mother Plaintiff took the prescription drug EFFEXOR in the state of Texas during her pregnancy. Minor Plaintiff's birth defects and/or conditions are the direct and proximate result of Mother Plaintiff's use of EFFEXOR.

2. G.S. was born in 2007. When she was born, she was suffering from a very serious birth defect known as persistent pulmonary hypertension of the newborn ("PPHN"), as well as all other birth defects and conditions not yet discovered. Because of these birth defects and conditions, G.S. has undergone medical treatment and procedures. Mother Plaintiff was unaware of the dangerousness of EFFEXOR when taken during pregnancy. Had she and/or her healthcare providers known of the increased risk of birth defects, she would not have taken EFFEXOR during her pregnancy, and G.S. would not have suffered from birth defects.

3. Pfizer Inc. is a Delaware corporation with its principal place of business in New York, New York. Its address is 235 East 42nd Street, New York, NY 10017-5755. At all relevant times, Pfizer and/or its predecessors in interest were engaged in the business of advertising, analyzing, assembling, compounding, designing, developing, distributing, formulating, inspecting, labeling, manufacturing, marketing, packing, producing, promoting, processing, researching, testing, and selling the prescription drug venlafaxine, under the trade name EFFEXOR, throughout the United States. Pfizer may be served with process by registered mail, return receipt requested, upon CT Corporation System, 111 Eighth Avenue, New York, NY 10011.

4. On information and belief, Pfizer International LLC, a New York Corporation, was and still is, a corporation duly existing under and by virtue of the laws of the State of New York with its principal place of business in New York, New

York. At all times hereinafter mentioned, Defendant Pfizer International LLC was, and still is, a pharmaceutical company involved in research, development, testing, manufacture, production, promotion, distribution and marketing of pharmaceuticals for distribution, sale and use by the general public, including the drug EFFEXOR (known generically as venlafaxine), an antidepressant, throughout the United States.

5. On information and belief, Defendant J. B. Roerig & Company ("Roerig") is a division of Pfizer Inc. It is a corporation duly existing under the laws of the State of New York with its principal place of business in New York, New York. At all times hereinafter mentioned, Defendant Roerig was, and still is, a pharmaceutical company involved in research, development, testing, manufacture, production, promotion, distribution and marketing of pharmaceuticals for distribution, sale and use by the general public, including the drug EFFEXOR, an antidepressant, throughout the United States.

6. Defendant Wyeth Pharmaceuticals, Inc., a Delaware Corporation, was a corporation duly existing under the laws of the State of Delaware with its principal place of business in Collegeville, Pennsylvania. Upon information and belief, Wyeth Pharmaceuticals, Inc. was purchased by Pfizer, Inc. in October 2009. Wyeth Pharmaceuticals, Inc. is now a subsidiary of Pfizer Inc., and is located in Collegeville, Pennsylvania.

7. Pfizer Inc., Pfizer International LLC, J.B. Roerig & Company, and Wyeth Pharmaceuticals, Inc. herein shall be referred to as "Defendants."

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction under the diversity of citizenship statute, 28 U.S.C. § 1332. Complete diversity of citizenship exists between Plaintiffs and Defendants. Pfizer is incorporated under the laws of Delaware and has its principal place of business in New York; therefore, it is a citizen of Delaware and New York under 28 U.S.C. § 1332(c)(1). Pfizer International LLC, a New York Corporation, was and still is, a corporation duly existing under the laws of the State of New York with its principal place of business in New York, New York. Defendant Roerig is a corporation duly existing under the laws of the State of New York with its principal place of business in New York, New York. Defendant Wyeth is a wholly owned subsidiary of Pfizer Inc. It is a limited liability company duly existing under the laws of the State of Delaware with its principal place of business in Collegeville, Pennsylvania. Felicia Sherrill and G.S. are residents of West, Texas. The Minor Plaintiff's birth, injuries and medical treatment all occurred in the State of Texas. Plaintiffs seek damages in excess of $150,000, exclusive of interest and costs.

9. Venue is proper in this Court because at all times relevant to this Complaint, Pfizer has engaged in continual business in this District, and Pfizer receives substantial compensation and profits from sales of EFFEXOR in this District.

GENERAL FACTUAL ALLEGATIONS

10. The drug Effexor, also known as venlafaxine, is manufactured, promoted, distributed, labeled and marketed by Defendants under the trade name EFFEXOR and is a member of the class of drugs known as "serotonin-norepinephrine reuptake inhibitors" or "SNRIs." EFFEXOR was first approved for use in the United States by the Food and Drug Administration ("FDA") in 1993 and it is licensed for the treatment of major depressive disorder ("MDD"), generalized anxiety disorder ("GAD"), and certain other anxiety and depression disorders.

11. Mother Plaintiff took EFFEXOR and/or venlafaxine as prescribed by her treating physicians while pregnant with Minor Plaintiff.

12. The injuries suffered by Minor Plaintiff were a direct result of Mother Plaintiff's ingestion of EFFEXOR and/or venlafaxine during the relevant pregnancy in a manner and dosage recommended by Defendants and prescribed by Mother Plaintiff's healthcare providers.

DEFENDANTS KNEW OR SHOULD HAVE KNOWN THAT EFFEXOR CAUSES SERIOUS BIRTH DEFECTS

13. Prior to Mother Plaintiff becoming pregnant, Defendants knew or should have known that children were being born with congenital birth defects to women who took EFFEXOR during pregnancy.

14. Prior to Mother Plaintiff becoming pregnant, Defendants knew or should have known that EFFEXOR crosses the placenta and poses significant risks to the developing fetus.

15. Prior to the time Mother Plaintiff ingested EFFEXOR during pregnancy, Defendants knew or should have known that EFFEXOR posed an increased risk of congenital birth defects and other related conditions.

16. Prior to the time that Mother Plaintiff ingested EFFEXOR during pregnancy, Defendants knew or should have known from available information that EFFEXOR posed an increased risk of multiple congenital birth defects.

17. At or before FDA approval of EFFEXOR, Defendants knew that EFFEXOR caused birth defects when administered to non-human mammalian species. Additionally, because Defendants also manufacture ZOLOFT, a medication similar to EFFEXOR, Defendants knew or should have known about the increased risk of birth defects when they manufactured EFFEXOR because Defendants had notice of the birth defects caused by ZOLOFT.

18. When Defendants manufactured EFFEXOR, they knew or should have known that the use of SNRIs during pregnancy caused lower gestational age and birth weight, longer hospital stays, and significantly lower Apgar scores[1] than in non-exposed infants in control groups.

DEFENDANTS MISREPRESENTED AND CONTINUE TO MISREPRESENT THE SAFETY AND EFFICACY OF EFFEXOR

19. A central premise of federal drug regulation is that a drug manufacturer bears responsibility for the content of its label at all times.

[1] The Apgar score was devised by anesthesiologist Virginia Apgar in 1952 to evaluate a newborn baby on five criteria: skin color, heart rate, reflex response, muscle tone, and respiration. *See* www.nlm.nih.gov/changingthefaceofmedicine/physicians/biography_12.html (last visited Dec. 14, 2011).

20. Defendants knew from preclinical studies and subsequent published studies that dangerous birth defects were associated with EFFEXOR use during pregnancy. Defendants took no action to properly study EFFEXOR and/or did not properly publish the results of studies that it did conduct, which would have reflected the increased risk of harm associated with the use of EFFEXOR during pregnancy. Defendants failed to adequately warn or remedy the risks and, instead, concealed, suppressed, and failed to disclose the dangers.

21. Prior to Mother Plaintiff becoming pregnant, Defendants had the knowledge, means, and the duty to provide the medical community and the consuming public with more accurate warnings regarding the association between EFFEXOR and congenital birth defects and other related conditions. Defendants had a further duty, based upon the evidence and "signals" that had accumulated since the 1990s demonstrating a relationship between EFFEXOR and birth defects and/or fetal demise, including animal and human studies, case reports, adverse event reports, registries, and other available sources, to conduct post-marketing studies to evaluate fully the significance of these studies. Defendants, through their agents, employees, and servants, breached these duties.

22. Despite Defendants' knowledge of the danger of birth defects, Defendants failed and continue to fail to warn and disclose to consumers, including Mother Plaintiff, that EFFEXOR significantly increases the risk of PPHN and other birth defects.

23. Defendants had actual knowledge that doctors frequently prescribed EFFEXOR to women of childbearing potential for approved uses and for unapproved, or off-label, uses.

24. Defendants knew that its failure to disclose to the medical community and consumers, including Mother Plaintiff, the increased risk of congenital birth defects associated with EFFEXOR use during pregnancy could result in serious injury and/or death to the children or unborn fetuses of women who were prescribed EFFEXOR by physicians, who were unaware of this information. Defendants' failure to disclose this information was willful, wanton, and with intentional disregard to the health and safety of consumers, including Mother Plaintiff, and caused serious and permanent injuries to Minor Plaintiff.

25. The current EFFEXOR label remains deficient to adequately and accurately warn doctors and/or their patients of the increased risk of cardiac malformations, PPHN and other birth defects that are seen in babies whose mothers took EFFEXOR during pregnancy.

CAUSES OF ACTION

COUNT I
Strict Products Liability - Defective Design

26. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

27. Defendants designed, formulated, produced, manufactured, sold, marketed, distributed, supplied, and/or placed into the stream of commerce, in the regular course of its business, the pharmaceutical drug EFFEXOR.

28. At the time EFFEXOR was manufactured and sold by Defendants to Mother Plaintiff, it was defective in design or formulation in that the foreseeable risks of the product exceeded the benefits associated with its design or formulation or, alternatively, it was more dangerous than an ordinary consumer would expect.

29. Mother Plaintiff used EFFEXOR during pregnancy in a manner that was reasonably anticipated and promoted by Defendants.

30. The EFFEXOR sold to Mother Plaintiff reached her without substantial change or alteration, as expected by Defendants, and she ingested it without making any changes or alterations.

31. As a direct and proximate result of Mother Plaintiff's use of EFFEXOR during pregnancy, Minor Plaintiff suffered injuries and damages as described herein.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT II
Strict Products Liability -Failure to Warn

32. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

33. The EFFEXOR designed, formulated, produced, manufactured, sold, marketed, distributed, supplied and/or placed into the stream of commerce by Defendants was defective in that, and not by way of limitation, it failed to include adequate warnings, instructions and directions relating to the dangerous risks

associated with the use of EFFEXOR during pregnancy, including increased dangerous propensities as compared to other similar and comparable alternatives, which risks were known or reasonably scientifically knowable to Defendants. The warnings given by Defendants did not sufficiently and/or accurately reflect the symptoms, type, scope, severity, or duration of the side effects and, in particular, the risks of injury to unborn children of women who ingest EFFEXOR during their pregnancies. The Defendants knew or should have known of the defective condition, characteristics and risks associated with EFFEXOR, as previously set forth herein.

34. Defendants marketed EFFEXOR by way of Direct-to-Consumer ("DTC") advertisements in markets throughout the United States.

35. Defendants failed to provide adequate warnings to physicians and users, including Mother Plaintiff, of the increased risk of congenital birth defects associated with EFFEXOR use during pregnancy and aggressively promoted the product to doctors, hospitals, and directly to consumers. Mother Plaintiff, her prescribing physicians and health care providers, neither knew, nor had reason to know at the time of their use of EFFEXOR of the existence of the aforementioned defects. Ordinary consumers would not have recognized the potential risks or side effects for which Defendants failed to include appropriate warnings.

36. At all times herein mentioned, EFFEXOR was prescribed and used as intended by Defendants and in a manner reasonably foreseeable to Defendants.

37. As a direct and proximate result of Defendants' failure to warn of the potentially severe adverse effects of EFFEXOR, Minor Plaintiff suffered injuries and damages as described herein.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT III
Negligence

38. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

39. Defendants had a duty to exercise reasonable care in advertising, analyzing, assembling, compounding, designing, developing, distributing, formulating, inspecting, labeling, manufacturing, marketing, monitoring the use of packaging, producing, promoting, processing, researching, testing, issuing warnings with respect to, and selling EFFEXOR, and to adequately test and warn of the risks and dangers of EFFEXOR both before and after sale, and to recall the products upon discovering that the warnings and information issued in connection with EFFEXOR were inadequate, and that prescribing physicians and consumers did not fully understand the risks associated with EFFEXOR.

40. Defendants, through their agents, servants, and/or employees acting within the course and scope of their employment, breached their duty to exercise reasonable care in one or more of the following ways:

a. failed to conduct sufficient testing which, if properly performed, would have shown that EFFEXOR use during pregnancy poses an increased risk of injury to unborn children;

b. failed to disclose adverse test results and other information regarding the risk that EFFEXOR use during pregnancy will interfere with the proper development of an unborn fetus;

c. failed to review all adverse drug event reports;

d. failed to continually test, monitor, and analyze data regarding the safety, efficacy, and prescribing practices for EFFEXOR;

e. failed to monitor the sales of EFFEXOR and related medical literature regarding the over-prescription of EFFEXOR to women of childbearing potential;

f. failed to periodically review medical literature regarding the side effects associated with EFFEXOR use;

g. failed to adequately warn the medical community and consumers, including Mother Plaintiff and her healthcare providers, of the increased risks associated with EFFEXOR use during pregnancy;

h. misrepresented that EFFEXOR was safe for use during pregnancy when they knew or should have known that it was associated with congenital birth defects;

i. failed to conduct post-marketing safety surveillance and report any information bearing upon the adequacy and/or accuracy of its warnings, efficacy, or safety, including the risks and/or prevalence of adverse effects associated with EFFEXOR use during pregnancy, to the medical community and consumers, including Mother Plaintiff and her healthcare providers;

j. failed to provide post-marketing warnings after Defendants knew or should have known of the significant risks of congenital birth defects associated with EFFEXOR use during pregnancy;

k. promoted and marketed EFFEXOR as safe and effective for use during pregnancy when Defendants knew or should have known that EFFEXOR was associated with an increased risk of congenital abnormalities; and

l. promoted and marketed EFFEXOR for non-approved (off-label) uses and/or over-promoted, marketed, advertised, and sold EFFEXOR without warning of the potential danger to an unborn fetus, which resulted in over-prescription of EFFEXOR to women of childbearing potential.

41. As a consequence of one or more of the foregoing acts or omissions, Defendants failed to act as reasonably prudent drug manufacturers.

42. As a direct and proximate result of Defendants' negligence, Minor Plaintiff suffered injuries and damages as described herein.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT IV
Negligent Misrepresentation

43. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

44. Defendants, from the time that EFFEXOR was first tested, studied, researched, manufactured, marketed and distributed, and to the present, made false representations, as previously set forth herein, to Mother Plaintiff and her prescribing physicians and healthcare providers, the medical, scientific, pharmaceutical and healthcare communities, and the public in general, including, but not limited to, the misrepresentation that EFFEXOR was safe, fit, and effective for human consumption during pregnancy.

45. At all times relevant hereto, Defendants conducted sales and marketing campaigns to promote the sale of EFFEXOR to women of child-bearing years and willfully deceived Mother Plaintiff and her prescribing physicians and healthcare providers, the medical, scientific, pharmaceutical and healthcare communities, and the public in general as to the health risks and consequences of the use of EFFEXOR during pregnancy.

46. Defendants made the foregoing misrepresentations without any reasonable grounds for believing them to be true. These misrepresentations were made directly by Defendants, by sales representatives, detail persons and other

authorized agents of Defendants, and in publications and other written materials directed to Mother Plaintiff and her prescribing physicians and healthcare providers, the medical, scientific, pharmaceutical and healthcare communities, and the public in general, with the intention of inducing reliance and the prescription, purchase, and use of EFFEXOR.

47. The foregoing representations by Defendants were in fact false in that EFFEXOR is not, and at all relevant times alleged herein was not, safe, fit, and effective for human consumption during pregnancy, the use of EFFEXOR is hazardous to the health of the unborn child, and EFFEXOR has a significant propensity to cause serious injuries to users including, but not limited to, the injuries suffered as described herein. The foregoing misrepresentations by Defendants were made with the intention of inducing reliance and inducing the prescription, purchase, and use of EFFEXOR.

48. In reliance on the misrepresentations by Defendants, Mother Plaintiff and her prescribing physicians and healthcare providers were induced to prescribe, purchase and use EFFEXOR. Their reliance upon Defendants' misrepresentations was justified because such misrepresentations were made and conducted by individuals and entities that were in a position to know the true facts. If Mother Plaintiff and her prescribing physicians and healthcare providers had known of the information and true facts concealed by Defendants, Mother Plaintiff would not have used EFFEXOR.

49. As a direct and proximate result of Defendants' negligent misrepresentation of these material facts, Minor Plaintiff suffered injuries and damages as described herein.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT V
Fraud, Fraudulent Misrepresentation and Concealment

50. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

51. Defendants owed a duty to the medical community and consumers, including Mother Plaintiff and her healthcare providers, to provide accurate and complete information regarding EFFEXOR.

52. Defendants' advertising program, by affirmative misrepresentations and omissions, falsely and deceptively created the image and impression that EFFEXOR was safe for human use, had no unacceptable side effects, had fewer side effects than other antidepressants, and would not interfere with daily life.

53. Mother Plaintiff alleges that Defendants, while knowing that EFFEXOR poses a significant risk of harm to the fetus when used during pregnancy, orchestrated a sophisticated, comprehensive, multi-pronged marketing scheme to convince Mother Plaintiff and the general consuming public, the healthcare community and others that EFFEXOR was safe and effective for use during pregnancy.

54. Further, Mother Plaintiff alleges that, while knowing that EFFEXOR is not effective, and that it poses a significant risk of injury to a fetus when used during pregnancy, Defendants implemented a false, fraudulent and misleading nationwide marketing campaign, including DTC advertising and marketing, concerning EFFEXOR, specifically stating that EFFEXOR is safe and effective for use during pregnancy.

55. Defendants purposefully concealed, failed to disclose, misstated, downplayed, and/or understated the risks associated with EFFEXOR. Defendants, through promotional literature, deceived potential users and prescribers of EFFEXOR by relying only on positive information, such as testimonials from allegedly satisfied users, and manipulating statistics to suggest widespread acceptability while concealing, misstating, and/or downplaying the known serious adverse effects. Defendants suggested that the risks associated with the discontinued use of EFFEXOR may be greater than any potential risk associated with use during pregnancy and intentionally withheld relevant information from potential EFFEXOR users and prescribers regarding the safety and efficacy of EFFEXOR use during pregnancy.

56. Specifically, Defendants misrepresented and/or omitted a number of material facts in its materials, including but not limited to:

a. the presence, accuracy, and adequacy of testing of EFFEXOR; and

b. the severity and frequency of adverse congenital birth defects, heart defects, PPHN, and/or other related conditions associated with EFFEXOR use during pregnancy.

57. Defendants misrepresented and/or concealed these material facts with the intent to deceive EFFEXOR users, including Mother Plaintiff and her prescribers, and induced users to ingest EFFEXOR during pregnancy.

58. Mother Plaintiff ingested EFFEXOR during pregnancy in justifiable reliance on the facts as she knew them. If she had known the actual facts, she would not have taken such actions nor would she have used EFFEXOR during her pregnancy with Minor Plaintiff. Her reliance upon Defendants' misrepresentations was justified because such misrepresentations were made and conducted by individuals and entities that were in a position to know the true facts.

59. By and through the Defendants' false statements, fraudulent conduct and fraudulent concealment of the facts as alleged herein, Mother Plaintiff could not discover the wrongful conduct of Defendants with regard to EFFEXOR and was thereby precluded from discovering the causes of action against Defendants as described herein. Therefore, Defendants are estopped from asserting any statute of limitations defenses in this matter as such statutes of limitation have been delayed in accrual and/or have been tolled due to Defendants' conduct. So long as Defendants continue to deny the increased risk of birth defects, the adverse events and the causal relationship between EFFEXOR and Minor Plaintiff's injuries, all

such statutes of limitation applicable to the causes of action asserted herein are, and will continue to be, tolled.

60. As a direct and proximate result of Defendants' misrepresentations and/or concealment of these material facts, Minor Plaintiff suffered injuries and damages as described herein.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT VI
Breach of Implied Warranty

61. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

62. Prior to the use of EFFEXOR, Defendants impliedly warranted to Mother Plaintiff, her prescribing physicians and healthcare providers, the medical, scientific, pharmaceutical and healthcare communities, the FDA, and the public in general, that EFFEXOR was of merchantable quality and safe and fit for the use for which it was intended.

63. Mother Plaintiff and her physicians and healthcare providers were, and remain, unskilled in the research, design, and manufacture of EFFEXOR and reasonably relied entirely on the skill, judgment, and implied warranty of Defendants in using EFFEXOR.

64. The Defendants breached their warranties in that EFFEXOR was neither safe for its intended use nor of merchantable quality, as warranted by

Defendants, in that EFFEXOR had dangerous propensities and known or knowable side effects when put to its intended use during pregnancy and would cause severe injuries to the user and her unborn child, which propensities and side effects were known or knowable but were not warned of by the Defendants.

65. As a direct and proximate result of the aforementioned breach of implied warranties, Minor Plaintiff suffered injuries and damages as described herein.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT VII
Breach of Express Warranty

66. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

67. At all times herein alleged, Defendants expressly represented and warranted to Mother Plaintiff and her prescribing physicians and healthcare providers, the medical, scientific, pharmaceutical and healthcare communities, the FDA, and the public in general, by and through statements made by Defendants, their authorized agents, and sales representatives, orally and in publications, package inserts, and other written materials intended for physicians, patients, and the general public, that EFFEXOR was safe, effective, fit, and proper for it intended use, and EFFEXOR was purchased in reliance upon said express warranties.

68. In using EFFEXOR, Mother Plaintiff and her prescribing physicians and healthcare providers, relied on the skill, judgment, representations, and express warranties of Defendants. Said warranties and representations were false, in that EFFEXOR was not safe and was unfit for the use for which it was intended.

69. As a result of the foregoing breach of express warranties by Defendants, Minor Plaintiff sustained injuries and damages as described above.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

COUNT VIII
Unjust Enrichment

70. Mother Plaintiff repeats and reiterates all foregoing paragraphs of this Complaint as if fully set forth herein and further alleges as follows.

71. As an intended and expected result of its conscious wrongdoing, Defendants profited and benefited from the purchases of EFFEXOR by Mother Plaintiff.

72. Defendants have voluntarily accepted and retained these profits and benefits, derived from Mother Plaintiff and others, with full knowledge and awareness that, as a result of Defendant's fraud and other conscious and intentional wrongdoing, Mother Plaintiff did not receive a product of the quality, nature or fitness that had been represented by Defendants or that she, as a reasonable consumer, expected.

73. By virtue of the conscious wrongdoing alleged herein, Defendants have been unjustly enriched at the expense of Mother Plaintiff, who is entitled to in equity, and hereby seeks the disgorgement and restitution of Defendants' wrongful profits, revenue and benefits, to the extent, and in the amount, deemed appropriate by the Court, and such other relief as this Court deems just and proper to remedy the Defendants' unjust enrichment.

WHEREFORE, Mother Plaintiff demands judgment against Defendants for compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and all such other relief as the Court deems proper.

NO ELECTION OR WAIVER

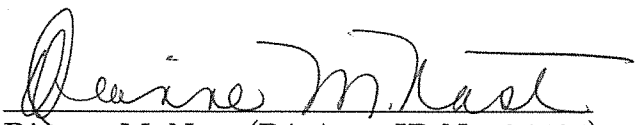
The facts, circumstances and claims set forth above are pled cumulatively and alternatively, with no election or waiver of remedies until such time as the trier of fact has decided disputed issues of fact.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all Counts and as to all issues.

Date: June 10, 2013

Respectfully submitted,



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JS 44 (Rev. 12/12)

CIVIL COVER SHEET

13 3156

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.)*

CIVIL

I. PLAINTIFFS

Felicia Sherrill, Individually and as Parent and Natural Guardian of Plaintiff G.S., a Minor

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Dianne M. Nast, Daniel N. Gallucci, Joanne E. Matusko
NastLaw LLC
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Phialdelphia, Pennsylvania 19107
Telephone: 215-923-9300

DEFENDANTS

Pfizer Inc., Pfizer International LLC, J.B. Roerig & Company and Wyeth Pharmaceuticals, Inc.

County of Residence of First Listed Defendant New York County, New York
(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
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- ☐ 190 Other Contract
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- ☐ 196 Franchise

TORTS

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- ☐ 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
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PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
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- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

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- ☐ 871 IRS—Third Party 26 USC 7609

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- ☐ 375 False Claims Act
- ☐ 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

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

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

JUN 10 2013

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.A. Section 1332

Brief description of cause:
Healthcare Personal Injury/Product Liability

VII. REQUESTED IN COMPLAINT:

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

DEMAND $ 150,001

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Rufe DOCKET NUMBER 12-md-2342

DATE
06/10/2013

SIGNATURE OF ATTORNEY OF RECORD
Dianne M. Nast

FOR OFFICE USE ONLY

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

13-CV-3156

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar.

CMR

Address of Plaintiff: 2133 Tokio Loop, West, Texas 76691

Address of Defendant: 235 East 42nd Street, New York, NY 10017-5755

Place of Accident, Incident or Transaction: West, Texas

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☒

Does this case involve multidistrict litigation possibilities? Yes☒ No☐

RELATED CASE, IF ANY:

Case Number: 12-md-2342 Judge: Rufe Date Terminated: N/A

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☒ No☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No☒

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases

(Please specify) _____

B. *Diversity Jurisdiction Cases:*

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☒ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

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ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Dianne M. Nast, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 6/10/2013 Dianne M. Nast 24424

Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____ _____ _____

Attorney-at-Law Attorney I.D.#

CIV. 609 (5/2012)

CMR

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Felicia Sherrill, Individually and as Parent and Natural Guardian of Plaintiff, G.S., a Minor

v.

Pfizer Inc., et al

CIVIL ACTION

NO 13 3156

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)

(f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

6/10/2013	Deanne M. Nast	Plaintiff
Date	**Attorney-at-law**	**Attorney for**
215-923-9300	215-923-9302	dnast@nastlaw.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

JUN 10 2013