

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
JASPER DIVISION**

RONNIE B. GRIFFITH,

Plaintiff,

V.

PFIZER, INC.,

Defendant.

CIVIL ACTION NO.

COMPLAINT

Plaintiff, Ronnie B. Griffith (“Plaintiff”), by and through his undersigned counsel, hereby files this Complaint against Defendant Pfizer, Inc. (“Pfizer”) for personal injuries and damages as alleged herein. In support thereof, Plaintiff states the following:

I. INTRODUCTION

1. This is an action for personal injuries and damages suffered by Plaintiff as a direct and proximate result of Pfizer's negligent and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of sildenafil citrate tablets sold under the brand name Viagra® ("Viagra").

II. PARTIES

2. Plaintiff is an adult resident of Walker County, Alabama.

3. Defendant is a corporation organized and existing under the laws of the state of Delaware. Defendant maintains its principal place of business at 235 East 42nd Street, New York, New York 10017.

4. At all times mentioned herein, Defendant engaged in interstate commerce, including commerce within this judicial district, in the advertisement, promotion, distribution, and sale of Viagra.

III. JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, as there is complete diversity of citizenship between parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. This Court has personal jurisdiction over this Defendant because Defendant maintains significant contacts with this judicial district by virtue of conducting business within the district.

7. Venue is proper within this district and division pursuant to 28 U.S.C. § 1391, as Plaintiff resides in this district. Furthermore, Defendant marketed, advertised, and distributed Viagra in this judicial district, thereby receiving substantial financial benefit and profits from the dangerous product in this district.

IV. FACTUAL BACKGROUND

A. Facts Regarding Pfizer and Viagra

8. On March 27, 1998, the U.S. Food and Drug Administration approved a new drug application (“NDA”) from Pfizer Pharmaceuticals Production Corporation Limited for the manufacture and sale of sildenafil citrate.

9. Sildenafil citrate, sold under the brand name Viagra, is an oral tablet prescribed to men with erectile dysfunction.

10. Erectile dysfunction is the medical designation for a condition in which a man cannot achieve or maintain an erection sufficient for satisfactory sexual activity. Since achieving and/or maintaining an erection involves the brain, nerves, hormones, and blood vessels, any condition that interferes with any of these functional areas of the body may be causally related to an individual’s erectile dysfunction. These problems become more common with age, but erectile dysfunction can affect a man at any age.

11. Viagra treats erectile dysfunction by inhibiting the secretion of phosphodiesterase type 5 (“PDE5”), an enzyme responsible for the degradation of cyclic guanosine monophosphate (“cGMP”). When the cGMP is not degraded by the PDE5, smooth muscles in the corpus cavernosum relax; this, in turn, permits an inflow of blood to the corpus cavernosum, creating an erection.

12. The National Institutes of Health estimate that erectile dysfunction affects as many as thirty million men in the United States.¹

¹ NIH Consensus Development Panel on Impotence (July 7, 1993).

13. Since Viagra's FDA approval in 1998, Pfizer has engaged in a continuous, expensive and aggressive advertising campaign to market Viagra to men worldwide as a symbol of regaining and enhancing one's virility.

14. Viagra has engaged in increasingly aggressive marketing techniques and strategies to promote the use of Viagra in the face of increasing pharmaceutical competition. By means of demonstration, a 2004 article in *The Chicago Tribune* cited industry reports stating that Viagra spent "tens of millions of dollars each month on direct-to-consumer advertising []."²

15. Pfizer has also been criticized by regulators, physicians and consumer groups for its attempts to target younger men in their advertising. Doctors and federal regulators stated that "such ads sen[t] a confusing message to patients who might really benefit from the drug."³

16. In its 2013 Annual Report, Pfizer states that it accumulated revenue exceeding \$1,800,000,000 from worldwide sales of Viagra. This statistic is particularly significant in light of the fact that Pfizer lost exclusivity of Viagra throughout Europe in 2013, which in itself led to a drop in profits from the previous calendar year.

² Bruce Japsen, *Viagra's 2 Rivals Grab Market Share In A Year*, CHICAGO TRIBUNE, Sept. 23, 2004, available at http://articles.chicagotribune.com/2004-09-23/business/0409230283_1_viagra-erectile-levitra.

³ Bruce Japsen, *Toned-Down Advertising Credited for Viagra Gains*, CHICAGO TRIBUNE, Feb. 8, 2007, available at http://articles.chicagotribune.com/2007-02-08/business/0702080063_1_viagra-erectile-pfizer-spokesman.

17. Viagra holds approximately 45% of the U.S. market share for erectile dysfunction medications.⁴

18. Pfizer estimates that Viagra has been prescribed to more than 35 million men worldwide.⁵ In 2012 alone, physicians wrote approximately eight million prescriptions for Viagra.⁶

B. Facts Regarding Viagra's Link to Melanoma

19. Unbeknownst to most Viagra users, and not mentioned in the slew of advertising proliferated by Pfizer, recent studies have shown that the cellular activity providing the mechanism of action for Viagra may also be associated with the development and/or exacerbation of melanoma.

20. The American Cancer Society states that melanoma is “the most serious type of skin cancer.”⁷

21. According to the National Cancer Institute, part of the National Institutes of Health, melanoma is more likely than other skin cancers to spread to

⁴ Jacques Wilson, *Viagra: The Little Blue Pill That Could*, CNN, Mar. 27, 2013, available at: <http://www.cnn.com/2013/03/27/health/viagra-anniversary-timeline/index.html>.

⁵ Hilary Stout, *Viagra: The Thrill That Was*, N.Y. TIMES, June 5, 2011, available at: <http://query.nytimes.com/gst/fullpage.html?res=9B06E3DF173FF936A35755C0A9679D8B63>.

⁶ Wilson, *supra* note 4.

⁷ American Cancer Society, *Skin Cancer Facts*, last revised March 19, 2014, available at: <http://www.cancer.org/cancer/cancercauses/sunanduvexposure/skin-cancer-facts>.

other parts of the body, thereby causing further tissue damage and complicating the potential for effective treatment and eradication of the cancerous cells.⁸

22. Several studies have linked the mechanism of action for Viagra to cell mutation cultivating melanomagenesis, or the creation of melanocytes which develop into melanoma.

23. A study published in 2011 found that treatment with Viagra can promote melanoma cell invasion.⁹ Specifically, by inhibiting PDE5, Viagra mimics an effect of gene activation and therefore may potentially function as a trigger for the creation of melanoma cells.

24. A 2012 study published in the *Journal of Cell Biochemistry* also found that PDE5 inhibitors were shown to promote melanin synthesis,¹⁰ which may exacerbate melanoma development.¹¹

25. On April 7, 2014, an original study (“the JAMA study”) was published on the website for the *Journal of the American Medical Association Internal Medicine* which, in light of the previous studies, sought to examine the

⁸ National Cancer Institute, *Types of Skin Cancer*, last updated Jan. 11, 2011, available at: <http://www.cancer.gov/cancertopics/wyntk/skin/page4>.

⁹ I. Aozarena, et al., *Oncogenic BRAF Induces Melanoma Cell Invasion by Downregulating The cGMP-Specific Phosphodiesterase PDE5A*, 19 *CANCER CELL* 45 (2011).

¹⁰ X Zhang, et al., *PDE5 Inhibitor Promotes Melanin Synthesis Through the PKG Pathway in B16 Melanoma Cells*, 113 *J. CELL BIOCHEM.* 2738 (2012).

¹¹ F.P. Noonan, et al., *Melanoma Induction by Ultraviolet A But Not Ultraviolet B Radiation Requires Melanin Pigment*, 3 *NATURE COMMUNICATIONS* 884 (2012).

direct relationship between sildenafil use and melanoma development in men in the United States.¹² The JAMA study was published in the journal's June 2014 edition.

26. Among 25,848 participants, the JAMA study reported that recent sildenafil users at baseline had a significantly elevated risk of invasive melanoma, with a "hazard ratio" of 1.84; in other words, the study participants who had recently used sildenafil exhibited an 84% increase in risk of developing or encouraging invasive melanoma.¹³

27. Despite these significant findings, Pfizer has made no efforts in its ubiquitous Viagra advertisements to warn users about the potential risk of developing melanoma that has been scientifically linked to its drug.

28. At all times relevant to this lawsuit, Pfizer engaged in the business of researching, licensing, designing, formulating, compounding, testing, manufacturing, producing, processing, assembling, inspecting, distributing, marketing, labeling, promoting, packaging and/or advertising for sale or selling the prescription drug Viagra for use among the general public.

29. For the duration of these efforts, Pfizer directed its advertising efforts to consumers located across the nation, including consumers in the state of Alabama.

¹² Wen-Qing Li, Abrar A. Qureshi, Kathleen C. Robinson, & Jiali Han, *Sildenafil Use and Increased Risk of Incident Melanoma in U.S. Men: A Prospective Cohort Study*, 174 JAMA INTERNAL MEDICINE 964 (2014).

¹³ *Id.*

30. At all times mentioned in this Complaint, Pfizer's officers and directors participated in, authorized, and directed the production and aggressive promotion of Viagra when they knew, or with the exercise of reasonable care should have known, of the risk of developing melanoma associated with Viagra use. In doing so, these officers and directors actively participated in the tortious conduct which resulted in the injuries suffered by many Viagra users, including Plaintiff.

31. Pfizer purposefully downplayed, understated and outright ignored the melanoma-related health hazards and risks associated with using Viagra. Pfizer also deceived potential Viagra users by relaying positive information through the press, including testimonials from retired, popular U.S. politicians, while downplaying known adverse and serious health effects.

32. Pfizer concealed material information related to melanoma development from potential Viagra users.

33. In particular, in the warnings the company includes in its commercials, online and print advertisements, Pfizer fail to mention any potential risk for melanoma development and/or exacerbation associated with Viagra use.

34. As a result of Pfizer's advertising and marketing, and representations about its product, men in the United States pervasively seek out prescriptions for Viagra. If Plaintiff in this action had known the risks and dangers associated with

taking Viagra, Plaintiff would have elected not to take Viagra and, consequently, would not have been subject to its serious side effects.

B. Facts Regarding Plaintiff

35. Plaintiff began pharmaceutical treatment for erectile dysfunction in May of 2008, when his physician recommended that he begin taking Viagra.

36. Plaintiff filled his first prescription for Viagra on May 29, 2008. He continued to fill his Viagra prescriptions and take the drug regularly until at least December 14, 2012.

37. On September 25, 2013, Dr. Jean Donahue at Dermatology Services of Jasper, Alabama biopsied a lesion on Plaintiff's right ear. Pathological testing conducted on September 27 confirmed that the lesion was malignant melanoma, Clarks level IV.

38. Dr. Donahue referred Plaintiff to Dr. Randall Real at Simon Williamson Clinic – Princeton for evaluation and eventual excision of the melanoma. Dr. Randall Real saw Plaintiff in his office on October 15, 2013 and scheduled the excision surgery for November 5, 2013.

39. On November 5, 2013, Plaintiff underwent an excision of the melanoma located on his right ear at Baptist Medical Center – Princeton in Birmingham, Alabama. The diagnosis of melanoma was again confirmed via a surgical pathological report conducted at the same facility on November 7, 2013.

40. Since first being diagnosed with melanoma, Plaintiff has had to remain vigilant in monitoring his skin for lesions; it was this vigilance that enabled him to detect a recurrence of skin cancer on his cheek in March of 2014.

41. Had Pfizer properly disclosed the melanoma-related risks associated with Viagra, Plaintiff would have avoided the risk of developing melanoma by not using Viagra at all; severely limiting the dosage and length of its use; and/or more closely monitoring the degree to which the Viagra was adversely affecting his health.

42. As a direct, proximate, and legal result of Pfizer's negligence and wrongful conduct, and the unreasonably dangerous and defective characteristics of the drug Viagra, Plaintiff suffered severe and permanent physical and emotional injuries. His physical injuries have included melanoma as well as the numerous biopsies necessitated by his skin cancer diagnosis. Plaintiff has endured not only physical pain and suffering but also economic loss, including significant expenses for medical care and treatment. Because of the nature of his diagnosis, he will certainly continue to incur such medical expenses in the future. As a result of these damages, Plaintiff seeks actual and punitive damages from Pfizer.

V. CAUSES OF ACTION

COUNT I

Alabama Extended Manufacturer's Liability Doctrine

43. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

44. Pfizer manufactured, designed and/or sold Viagra and intentionally placed it into the stream of interstate commerce.

45. Viagra was in an unreasonably safe condition when it left the control and possession of Pfizer and reached Plaintiff in a condition substantially unaltered therefrom.

46. Because of its unreasonably unsafe condition, Viagra injured the Plaintiff when such product was put to its intended use.

47. Pfizer failed to adequately warn the Plaintiff of the unreasonably dangerous nature of Viagra, particularly with respect to the drug's association with an elevated risk of melanoma development.

48. As a direct and proximate result of Pfizer's defective manufacturing and/or design of Viagra, and/or Pfizer's failure to warn of Viagra's melanoma-related dangers, Plaintiff has suffered and will continue to suffer from personal injury, emotional distress, and economic loss.

COUNT II
Alabama Extended Manufacturer's Liability
Doctrine – Defective Manufacturing

49. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

50. Viagra was designed, manufactured, marketed, promoted, sold and introduced into the stream of interstate commerce by Pfizer.

51. Viagra was defective when it left Pfizer's control insofar as the drug presented foreseeable risks that exceeded the benefits of the product.

52. Specifically, the ingestion of Viagra significantly increases the user's risk of developing melanoma and/or exacerbating cancer-related conditions already present in the user's cellular composition.

53. Plaintiff used Viagra in substantially the same condition it was in when it left the control of Pfizer. If any changes or modifications were made to the product after it left the custody and control of Pfizer, such changes or modifications were foreseeable by Pfizer.

54. Neither Plaintiff nor his healthcare providers misused or materially altered the Viagra prior to Plaintiff's use of the product.

55. As a direct and proximate result of one or more of Pfizer's wrongful acts or omissions, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss; further, he will continue to suffer such harm, damages and losses in the future.

COUNT III
Alabama Extended Manufacturer's Liability
Doctrine – Defective Design

56. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

57. Pfizer manufactured, marketed, promoted, distributed and sold Viagra in the stream of interstate commerce.

58. When the Viagra manufactured, marketed, promoted and distributed by Pfizer left Pfizer's custody and control, the foreseeable risks associated with use of the product – particularly with regard to the significant risk of developing melanoma therefrom – far exceeded the benefits associated with the product's use.

59. The melanoma-related risks associated with Viagra rendered Viagra unreasonably dangerous, or far more dangerous than a reasonably prudent consumer or healthcare provider would expect when such a product was used in an intended and/or foreseeable manner.

60. The nature and magnitude of the risk of harm associated with the design of Viagra, particularly the risk of developing and/or exacerbating the spread of cancerous cells in the product's user, is significant in light of the drug's intended and reasonably foreseeable use.

61. The intended or actual utility of Viagra is not of such benefit to justify the significant risk of developing and/or exacerbating the development of melanoma which is associated with the drug's use.

62. In developing, marketing, and selling Viagra, it was both technically and economically feasible for Pfizer to develop an alternative design which would either eliminate or substantially reduce the significant risk of developing melanoma presented by the drug's current design.

63. It was both technologically and economically feasible for Viagra to develop an alternative product which was safer in light of its intended or reasonably foreseeable use.

64. It is highly unlikely that Viagra users like Plaintiff would be aware of the risks associated with Viagra through warnings, general knowledge or other sources of information provided to them by Pfizer, but Pfizer knew or should have known of the melanoma-related risks associated with Viagra which were present even when the drug was used as instructed.

65. Viagra was not merchantable and/or reasonably suited for its intended use.

66. By placing Viagra into the stream of interstate commerce, Pfizer acted with wanton and reckless disregard for the safety of its users, including Plaintiff.

67. Viagra's condition at the time of its sale was the proximate cause of Plaintiff's injuries.

68. The unreasonably dangerous nature of Viagra caused serious harm to Plaintiff.

69. As a direct and proximate result of one or more of these wrongful acts or omissions of Pfizer, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss. Further, he will continue to suffer such harm, damages and losses in the future.

COUNT IV
Alabama Extended Manufacturer's Liability
Doctrine – Failure to Warn

70. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

71. Pfizer had a duty to warn Plaintiff and his healthcare providers of the risk of developing and/or exacerbating the spread of cancerous melanoma cells associated with Viagra.

72. Pfizer knew, or in the exercise of reasonable care should have known, about the risk of developing and/or exacerbating the spread of cancerous melanoma cells associated with the use of Viagra.

73. When the Viagra manufactured and sold by Pfizer left Pfizer's custody and control, it was in an unreasonably dangerous and/or unsafe condition because it was not accompanied by accurate or clear warnings; specifically, the drug was not accompanied by warnings that disclosed the risk of developing and/or exacerbating the spread of cancerous melanoma cells associated with the drug's use.

74. Pfizer failed to provide warnings or instructions regarding the cancer risks presented by using its product that a manufacturer exercising reasonable care would have provided, considering the likelihood that its product would cause these injuries.

75. Pfizer failed to update warnings based on information received from product surveillance and scientific studies after Viagra was first approved by the FDA and marketed, sold and used in the United States; warnings which a manufacturer exercising reasonable care would have provided.

76. Pfizer had a continuing duty to warn Plaintiff and his healthcare providers of the cancer-related dangers associated with its product.

77. The Viagra manufactured and/or supplied by Pfizer was defective due to inadequate warnings or instructions because Pfizer knew or should have known that (a) the product created significant risks of serious bodily harm to consumers such as Plaintiff, and that (b) consumers like Plaintiff would rely upon the warnings or instructions provided by Pfizer in choosing to take Viagra. Despite this knowledge, Pfizer nevertheless chose to disseminate Viagra without adequate warnings or instructions.

78. The Viagra manufactured and/or supplied by Pfizer was defective due to inadequate post-marketing warnings or instructions because, after Pfizer knew or should have known of the risk of serious bodily harm posed by the use of

Viagra, Pfizer failed to provide an adequate warning to consumers and/or their healthcare providers of the product, despite knowing that using Viagra could directly lead to serious injury.

79. Pfizer, as the manufacturer and distributor of Viagra, is held to the same level of knowledge as an expert in the field.

80. Plaintiff, individually and through his healthcare providers, reasonably relied upon the skill, superior knowledge and judgment of Pfizer to determine the warnings and instructions which were appropriate for public dissemination.

81. Had Plaintiff or his healthcare providers received adequate warnings regarding the risks associated with the use of Viagra, Plaintiff would not have used the drug.

82. Plaintiff and Plaintiff's healthcare providers could not have, by the exercise of reasonable care, discovered the defects which accompanied Viagra use or perceived the danger of such defects, because those risks were not open or obvious.

83. In reliance upon the representations made by Pfizer, Plaintiff used Viagra for its approved purpose and in a manner intended and reasonably foreseeable by Pfizer.

84. As a direct and proximate result of one or more of Pfizer's wrongful acts and/or omissions, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss. Further, he will continue to suffer such harm, damages and losses in the future.

COUNT V
Negligence

85. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

86. At all times relevant hereto, Pfizer had a duty to properly manufacture, design, formulate, compound, test, produce, process, assemble, inspect, research, distribute, market, label, package, distribute, prepare for use, sell, prescribe and adequately warn of the risks and dangers associated with the use of Viagra.

87. At all times relevant hereto, Pfizer manufactured, designed, formulated, distributed, compounded, produced, processed, assembled, inspected, distributed, marketed, labeled, packaged, prepared for use and sold Viagra while disregarding the fact that the foreseeable harm presented by the drug greatly outweighed the benefits it provided to users like Plaintiff.

88. At all times relevant hereto, Pfizer failed to adequately test for and warn of the risks and dangers associated with the use of Viagra.

89. Despite the fact that Pfizer knew or should have known that Viagra caused unreasonably dangerous side effects, Pfizer continued to aggressively market Viagra to consumers, including Plaintiff, when there were safer alternative methods of treating erectile dysfunction than taking Viagra.

90. Pfizer knew or should have known that consumers such as Plaintiff would foreseeably suffer injury as a result of the company's failure to exercise ordinary care while developing, marketing, and/or selling Viagra.

91. Pfizer's negligence proximately caused the injuries, harm and economic loss which Plaintiff has and will continue to suffer.

COUNT VI
Breach of Implied Warranty

92. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

93. Prior to the time that Plaintiff used Viagra, Pfizer implicitly warranted to Plaintiff and Plaintiff's healthcare providers that Viagra was of merchantable quality, safe to use, and fit for the use for which it was intended.

94. Plaintiff was and is unskilled in the research, design and manufacture of erectile dysfunction medications, and therefore reasonably relied entirely on the skill, judgment and implied warranty of Pfizer in deciding to use Viagra.

95. Viagra was neither safe for its intended use nor of merchantable quality, as had been implicitly warranted by Pfizer, in that Viagra has dangerous propensities when used as intended and will cause severe injuries to users.

96. As a direct and proximate result of the breach of warranty committed by Pfizer, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss. He will continue to suffer such harm, damages and losses in the future.

COUNT VII
Breach of Express Warranty

97. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

98. At all times relevant hereto, Pfizer expressly represented and warranted to Plaintiff and Plaintiff's healthcare providers, by and through statements made by Pfizer or their authorized agents or sales representatives, orally and in publications, package inserts and other written materials intended for physicians, medical patients and the general public, that Viagra is safe, effective, and proper for its intended use.

99. The warranties expressly made by Pfizer through its marketing and labeling were false in that Viagra is unsafe and unfit for its intended use

100. Plaintiff relied on the skill, judgment, representations, and express warranties of Pfizer in deciding to purchase and use Viagra.

101. As a direct and proximate result of the breach of express warranty by Pfizer, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss. He will continue to suffer such harm, damages and losses in the future.

COUNT VIII
Fraud

102. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

103. At all times relevant hereto, Pfizer conducted a sales and marketing campaign to promote the sale of Viagra and willfully deceive Plaintiff, Plaintiff's healthcare providers, and the general public as to the benefits, health risks, and consequences of using Viagra.

104. While conducting its sales and marketing campaign, Pfizer knew that Viagra is neither safe nor fit for human consumption; that using Viagra is hazardous to health; and that Viagra has a propensity to cause serious injuries, such as those suffered by Plaintiff.

105. From the time the company first marketed and distributed Viagra until the present, Pfizer willfully deceived Plaintiff by concealing from him, his healthcare providers, and the general public the risks and dangers concerning the use of Viagra.

106. Pfizer intentionally concealed and suppressed the facts concerning Viagra's melanoma-related risks with the intent to defraud potential consumers, as Pfizer knew that healthcare providers would not prescribe Viagra, and consumers like Plaintiff would not use Viagra, if they were aware of the dangers posed by using Viagra.

107. As a result of Pfizer's fraudulent and deceitful conduct, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss. He will continue to suffer such harm, damages and losses in the future.

COUNT IX
Fraudulent Misrepresentation

108. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

109. From the time the company first marketed and distributed Viagra until the present, Pfizer willfully deceived Plaintiff by concealing from him, his healthcare providers, and the general public the facts concerning Viagra's risks and dangers.

110. At all times relevant hereto, Pfizer conducted a sales and marketing campaign to promote the sale of Viagra and, in doing so, willfully deceived Plaintiff, Plaintiff's healthcare providers and the general public as to the benefits, health risks and consequences of using Viagra.

111. At all points during its sales and marketing campaign, Pfizer knew that Viagra was and is not safe for human consumption; was and is hazardous to a user's health; and showed and shows a propensity to cause serious injury to a user.

112. Pfizer had the duty to disclose the facts concerning the melanoma-related risks and dangers posed by ingestion of Viagra.

113. Pfizer intentionally concealed and suppressed the facts evidencing Viagra's melanoma-related risks with the intent to defraud potential consumers, as Pfizer knew that healthcare providers would not prescribe Viagra, and consumers like Plaintiff would not use Viagra, if they were aware of the dangers posed by using Viagra.

114. As a result of the foregoing fraudulent misrepresentations made by Pfizer, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss; further, he will continue to suffer such harm, damages and losses in the future.

COUNT X
Negligent Misrepresentation

115. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

116. From the time the company first marketed and distributed Viagra until the present, Pfizer made representations to Plaintiff, Plaintiff's healthcare

providers, and the general public that Viagra was safe and fit for human consumption.

117. Pfizer made representations regarding the safety of consuming Viagra without any reasonable ground for believing such representations to be true.

118. Representations concerning Viagra's safety and fitness for human consumption were made directly by Pfizer or its sales representatives and other authorized agents, and in publications and other written materials directed to physicians, medical patients and the public, with the intention of promotion of prescribing, purchasing and using of Viagra.

119. The representations by Pfizer were false, in that Viagra is not safe or fit for human consumption; using Viagra is hazardous to health; and Viagra has a propensity to cause serious injuries, including those suffered by Plaintiff, to its users.

120. Plaintiff relied on the misrepresentations made by Pfizer in purchasing and using Viagra.

121. Plaintiff's reliance on Pfizer's misrepresentations was justified because such misrepresentations were made by entities that were in a position to know of and disclose any potentially harmful information concerning the use of Viagra.

122. If Plaintiff had known of the information concealed by Pfizer regarding the melanoma-related risks posed by Viagra, Plaintiff would not have purchased and subsequently used Viagra.

123. As a result of the foregoing negligent misrepresentations by Defendants, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss; further, he will continue to suffer such harm, damages and losses in the future.

COUNT XI
Fraudulent Concealment

124. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

125. Pfizer fraudulently withheld and concealed information about the substantial risks of using Viagra by representing through Viagra's labeling, advertising, marketing materials, detail persons, sales representatives, seminar presentations, publications, notice letters, and regulatory submissions that Viagra was safe.

126. Pfizer fraudulently concealed information which demonstrated that Viagra was not safer than other erectile dysfunction treatments available on the market, and instead represented that Viagra was safer than other alternative medications.

127. Pfizer had access to material facts and information concerning the unreasonable risk of developing and/or exacerbating the spread of cancerous cells posed by using Viagra.

128. The concealment of information by Pfizer about the risks posed by Viagra use was intentional and conducted with awareness that the company's actual representations were false.

129. Pfizer's concealment of the risks associated with using Viagra and dissemination of untrue information to the contrary was conducted with the intent that healthcare providers would prescribe, and patients would subsequently purchase and use, Viagra.

130. Plaintiff and his healthcare providers relied upon Pfizer's misrepresentations and were unaware of the substantial risk of Viagra which Pfizer concealed from the public.

131. In relying on Pfizer's misrepresentations, and unaware of Pfizer's concealment of information regarding the risk posed by Viagra, Plaintiff purchased and used Viagra.

132. Plaintiff would not have purchased or used Viagra if he had been aware of the fact of Pfizer's concealment of harmful information and/or dissemination of misrepresentations that Viagra was safe and fit for human consumption.

133. As a result of the foregoing fraudulent concealment by Pfizer, Plaintiff suffered serious injury, harm, damages, and economic and non-economic loss, and will continue to suffer such harm, damages and losses in the future.

VI. PUNITIVE DAMAGES ALLEGATIONS

134. Plaintiff adopts and incorporates by reference all of the above allegations, and further avers as follows:

135. Prior to the manufacturing, sale, and distribution of Viagra, Pfizer knew that said medication was in a defective condition as previously described herein, and knew that those who were prescribed the medication would experience and had already experienced severe physical, mental, and emotional injuries.

136. Pfizer, through their officers, directors, managers, and agents, knew that Viagra presented a substantial and unreasonable risk of harm to the public, including Plaintiff, and, as such, Pfizer unreasonably subjected consumers of said drugs to risk of injury or death from using Viagra.

137. Pfizer and its agents, officers, and directors intentionally proceeded with the manufacturing, sale, and distribution and marketing of Viagra knowing these actions would expose persons to serious danger in order to advance the company's market share and profits.

138. The acts, conduct, and omissions of Pfizer, as alleged throughout this Complaint, were willful and malicious.

139. Pfizer's unconscionable conduct warrants an award of exemplary and punitive damages against the company.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against Pfizer as follows:

- (a) For general damages in a sum in excess of the jurisdictional minimum of this Court;
- (b) For medical, incidental, and hospital expenses according to proof;
- (c) For pre-judgment and post-judgment interest as provided by law;
- (d) For consequential damages in excess of the jurisdictional minimum of this Court;
- (e) For punitive damages in an amount in excess of any jurisdictional minimum of this Court and in an amount sufficient to impress upon Pfizer the seriousness of their conduct and to deter similar conduct in the future;
- (f) For full refund of all purchase costs Plaintiff paid for Viagra;
- (g) For attorneys' fees, expenses, and costs of this action; and

(h) For such further relief as this Court deems necessary, just, and proper.

VIII. DEMAND FOR JURY TRIAL

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

Dated: March 13, 2015.

Respectfully submitted,

/s/Mitchell G. Allen

ERNEST CORY (ASB-2279-Y83E)

B. KRISTIAN RASMUSSEN III (ASB-1068-R64R)

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