

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK DIVISION**

<p>IN RE: PROTON-PUMP INHIBITOR PRODUCTS LIABILITY LITIGATION (NO. II)</p> <p>This Document Relates to:</p> <p>Marie Orcutt as personal representative of the Estate of Earl Orcutt Deceased</p>	<p>MDL No. 2789 Case No.: 2:17-md-2789 (CCC)(MF)</p>
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FIRST AMENDED SHORT FORM COMPLAINT AND JURY DEMAND

The Plaintiff(s) n a m e d b e l o w file(s) this *First Amended Short Form Complaint and Demand for Jury Trial* against Defendants named below by and through their undersigned counsel and as permitted by Case Management Order No. 7. Plaintiff(s) incorporate(s) by reference the allegations contained in *Plaintiffs' Master Long Form Complaint and Jury Demand in In re: Proton-Pump Inhibitor Products Liability Litigation*, MDL 2789, in the United States District Court for the District of New Jersey pursuant to Case Management Order No. 7.

In addition to those causes of action contained in *Plaintiffs' Master Long Form Complaint and Jury Demand*, where certain claims require specific pleadings and/or amendments, Plaintiff(s) shall add and include them herein.

IDENTIFICATION OF PARTIES

Identification of Plaintiff(s)

1. Name of individual injured/deceased due to the use of PPI Product(s): Earl Orcutt
_____.

2. Consortium Claim(s): The following individual(s) allege damages for loss of

consortium: _____.

3. Survival and/or Wrongful Death Claims:

a. Plaintiff, Marie Orcutt, is filing this case in a representative capacity as the Executive of the Estate of Earl Orcutt, deceased.

b. Survival Claim(s): The following individual(s) allege damages for survival claims, as permitted under applicable state laws: _____.

4. As a result of using PPI Products, Plaintiff/Decedent suffered pain and suffering, emotional distress, mental anguish, and personal and economic injur(ies) that are alleged to have been caused by the use of the PPI Products identified in Paragraph 10, below, but not limited to the following:

- injury to himself/herself
- injury to the person represented
- wrongful death
- survivorship action
- economic loss
- loss of services
- loss of consortium
- other: _____

Identification of Defendants

5. Plaintiff(s)/Decedent is/are suing the following Defendant(s) (please check all that apply):

Abbott Laboratories

✓ AstraZeneca Pharmaceuticals LP

✓ AstraZeneca LP

GlaxoSmithKline Consumer Healthcare Holdings (US) LLC

GlaxoSmithKline Consumer Healthcare LP

GlaxoSmithKline Consumer Healthcare Holdings (US) IP LLC

Merck & Co. Inc. d/b/a Merck, Sharp & Dohme Corporation

Novartis Corporation

Novartis Pharmaceutical Corporation

Novartis Vaccines and Diagnostics, Inc.

Novartis Institutes for Biomedical Research, Inc.

Novartis Consumer Health, Inc.

Pfizer, Inc.

The Procter & Gamble Company

Procter & Gamble Manufacturing Company

Takeda Pharmaceuticals USA, Inc.

Takeda Pharmaceuticals America, Inc.

Takeda Pharmaceuticals LLC

Takeda Pharmaceuticals International, Inc.

Takeda California, Inc.

Takeda Development Center Americas, Inc. f/k/a Takeda Global Research & Development Center, Inc.

Takeda Pharmaceutical Company Limited

TAP Pharmaceutical Products, Inc. f/k/a TAP Holdings Inc.

Wyeth Pharmaceuticals, Inc.

Wyeth-Ayerst Laboratories

Wyeth LLC

Other(s) Defendant(s) (please identify):

JURISDICTION & VENUE

Jurisdiction:

6. Jurisdiction in this Short Form Complaint is based on:

✓ Diversity of Citizenship

Other (The basis of any additional ground for jurisdiction must be pled in sufficient detail as required by the applicable Federal Rules of Civil Procedure).__

Venue:

7. District Court(s) in which venue was proper where you might have otherwise filed this

Short Form Complaint absent Case Management Order No. 7 entered by this Court

and/or to where remand could be ordered: United States District Court for the Northern District of Texas

CASE SPECIFIC FACTS

8. Plaintiff(s) currently reside(s) in (City, State): Lubbock, Texas.
9. To the best of Plaintiff's knowledge, Plaintiff/Decedent used PPI Product(s) during the following time period: Approximately 1994 to Approximately 2016.
10. Plaintiff/Decedent used the following PPI Products, for which claims are being asserted:

Dexilant

Nexium

Nexium 24HR

Prevacid

Prevacid 24HR

✓ Prilosec

Protonix

Other (List All):

11. The injuries suffered by Plaintiff/Decedent as a result of the use of PPI Products include, among others that will be set forth in Plaintiff's discovery responses and medical records:

- Acute Interstitial Nephritis (AIN)
- Acute Kidney Injury (AKI)
- Chronic Kidney Disease (CKD)
- ✓ End Stage Renal Disease (ESRD)
- Dialysis
- Death

Other(s) (please specify):

12. At the time of the Plaintiff's/Decedent's diagnosis of injury, Plaintiff/Decedent resided in (City, State): Lubbock, Texas.

CAUSES OF ACTION

13. Plaintiff(s), again, hereby adopt(s) and incorporate(s) by reference the *Master Long Form Complaint and Jury Demand* as if fully set forth herein.

14. The following claims and allegations asserted in the *Master Long Form Complaint and Jury Demand* are herein more specifically adopted and incorporated by reference by Plaintiff(s) please check all that apply:

- ✓ Count I: Strict Product Liability
- ✓ Count II: Strict Product Liability – Design Defect
- ✓ Count III: Strict Product Liability – Failure to Warn
- ✓ Count IV: Negligence
- ✓ Count V: Negligenc *Per Se*
- ✓ Count VI: Breach of Express Warranty
- ✓ Count VII: Breach of Implied Warranty
- ✓ Count VIII: Negligent Misrepresentation
- ✓ Count IX: Fraud and Fraudulent Misrepresentation
- ✓ Count X: Fraudulent Concealment
- ✓ Count XI: Violation of State Consumer Protection Laws of the State(s) of:

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants of compensatory damages, punitive damages, interest, costs of suit and such further relief as the Court deems equitable and just, and as set forth in the *Master Long Form Complaint and Jury Demand*, as appropriate.

JURY DEMAND

Plaintiff(s) hereby demand a trial by jury as to all claims in this action.

Dated: July 3, 2018

Respectfully Submitted,

s/ Sejal K. Brahmbhatt

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CIVIL COVER SHEET

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

I. (a) PLAINTIFFS
Marie Orcutt as personal representative of the Estate of Earl Orcutt, Deceased
(b) County of Residence of First Listed Plaintiff Lubbock County
(c) Attorneys (Firm Name, Address, and Telephone Number) Williams Kherkher Hart Boundas 8441 Gulf Freeway, 6th Floor Houston, TX 7701

DEFENDANTS
AstraZeneca Pharmaceutical LP and AstraZenca LP
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known) Ice Miller LLP One American Square, Suite 2900 Indianapolis, IN 46282-0200

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
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)
Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

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. Code § 1332
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE