

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

GEORGIA BOWERS,

Plaintiff,

v.

TEVA PHARMACEUTICALS USA, INC.;
TEVA WOMEN’S HEALTH, INC. d/b/a
TEVA WOMEN’S HEALTH, LLC; TEVA
WOMEN’S HEALTH, LLC; THE
COOPER COMPANIES, INC.; and
COOPERSURGICAL, INC.,

Defendants.

Case No.:

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff, Georgia Bowers, by and through her counsel, files this Complaint against Defendants Teva Pharmaceuticals USA, Inc., Teva Women’s Health, Inc., doing business as Teva Women’s Health, LLC, Teva Women’s Health, LLC, The Cooper Companies, Inc., and CooperSurgical, Inc. (collectively hereinafter “Defendants”), both jointly and severally, as the companies and/or successors in interest to the companies that designed, developed, manufactured, tested, labeled, packaged, distributed, marketed and/or sold ParaGard Intrauterine medical device that was implanted into Plaintiff, and throughout the United States. Accordingly, Plaintiff alleges and states as follows:

I. INTRODUCTION

1. This is an action for damages relating to the Defendants’ design, manufacture, surveillance, sale, marketing, advertising, promotion, labeling, packaging, and distribution of ParaGard Intrauterine medical device (hereinafter “ParaGard IUD”).

2. ParaGard IUD is an intrauterine device, however, it is regulated as a drug. It is placed into the uterus to prevent conception.

1 3. ParaGard IUD has a propensity to break at the arms upon explant resulting in
2 serious injuries.

3 4. Plaintiff used ParaGard IUD, and as a result of its use suffered injuries.

4 **II. GENERAL ALLEGATIONS**

5 5. Plaintiff, Georgia Bowers (“Plaintiff”), by and through Plaintiff’s attorneys, Goings
6 Law Firm, brings this action for personal injuries suffered as a result of using the defective and
7 dangerous ParaGard IUD.

8 6. ParaGard IUD is prescribed to prevent conception, and at all times relevant hereto,
9 were manufactured, designed, tested, packaged, labeled, marketed, advertised, promoted,
10 distributed, and sold by Defendants. On information and belief, Plaintiff used ParaGard IUD
11 resulting in injuries.

12 **III. PARTIES**

13 7. At all times relevant to this action, Plaintiff, was an individual, citizen and resident
14 of the state of South Carolina.

15 8. Plaintiff was implanted with ParaGard IUD in January 2017. It was removed in part
16 in September 2017 resulting in injuries.

17 9. Defendant Teva Pharmaceuticals USA, Inc. (hereinafter “Teva Pharmaceuticals”
18 or “Teva USA”) is a Delaware corporation with headquarters located at 1090 Horsham Rd. in
19 North Wales, Pennsylvania. At times relevant to this action, Teva USA designed, developed,
20 manufactured and marketed ParaGard IUD at issue. At times relevant to this action, Teva USA
21 communicated with the United States Department of Health and Human Services, Food and Drug
22 Administration (hereinafter “FDA”) regarding the sale, use, and safety concerns related to
23 ParaGard IUDs, which includes managing product recalls, investigating adverse events from
24 ParaGard IUD users, and performing mandatory reporting to FDA regarding ParaGard IUD.

25 10. At times relevant to this action, Teva USA was involved in regulatory
26 communications, and medical communications, including but not limited to communications with
27 physicians, doctors, the FDA and other medical personnel, which led to activities giving rise to
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1 failure to warn, negligence, gross negligence, common law fraud, negligent misrepresentation,
2 breach of warranty, and a violation of consumer protection laws.

3 11. Defendant Teva Women's Health, Inc., is a Delaware corporation with
4 headquarters located at 425 Privet Rd., in Horsham, Pennsylvania and is and/or was a wholly
5 owned subsidiary of Teva USA, and/or operated as a successor-in-interest to Duramed
6 Pharmaceuticals, Inc., a division of Barr Pharmaceuticals, Inc., and/or assumed Duramed
7 Pharmaceuticals, Inc., a division of Barr Pharmaceuticals, Inc., in a name change after its
8 acquisition by Teva USA. Teva Women's Health, Inc. converted into Teva Women's Health, LLC
9 in 2017 and continues to operate as Teva Women's Health, LLC. At times relevant to this action,
10 Teva Women's Health designed, developed, manufactured and marketed ParaGard IUD at issue.

11 12. Defendant Teva Women's Health, LLC is a Delaware limited liability company
12 with headquarters located at 425 Privet Rd., in Horsham, Pennsylvania and is and/or was a wholly
13 owned subsidiary of Defendants Teva Pharmaceuticals. Teva Women's Health, LLC is the product
14 of an entity conversion pursuant to Del. Code Ann. Tit. 8, 266. Teva Women's Health, Inc.,
15 converted into Teva Women's Health, LLC and continues to operate as a limited liability company
16 instead of an incorporation (Teva Women's Health, LLC formerly known as Teva Women's
17 Health, Inc. collectively hereinafter "Teva Women's Health").

18 13. Accordingly, Duramed Pharmaceuticals, Inc., a division of Barr Pharmaceuticals,
19 Inc., d/b/a Teva Women's Health Inc., (hereinafter "Duramed"), acquired FEI Women's Health in
20 2005 wherein the asset of ParaGard IUD was acquired in the deal. Duramed was acquired by Teva
21 USA in 2008 wherein its name was changed to Teva Women's Health, Inc., a wholly-owned
22 subsidiary of Teva USA (Defendants Teva USA and Teva Women's Health collectively
23 hereinafter "Teva Defendants").

24 14. Defendant The Cooper Companies, Inc., (hereinafter "Cooper Companies") is a
25 Delaware corporation with headquarters at 6140 Stoneridge Mall Rd., in Pleasanton, California.
26 Cooper Companies purchased assets and global rights and business of ParaGard IUD in September
27 2017 for \$1.1 Billion, including their manufacturing facility in Buffalo, New York.
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1 15. Defendant CooperSurgical, Inc., (hereinafter “CooperSurgical”) is a Delaware
2 corporation with headquarters at 95 Corporate Dr. in Trumbull, Connecticut and a subsidiary of
3 Defendant Cooper Companies (Defendants Cooper Companies and CooperSurgical collectively
4 hereinafter “Cooper Defendants”).

5 16. At all times relevant hereto and alleged herein, the Cooper Defendants conducted
6 and continues to conduct substantial business within the state of South Carolina and within the
7 District of South Carolina.

8 17. At times relevant hereto and alleged herein, the Teva Defendants conducted and
9 continues to regularly conduct substantial business within the state of South Carolina, which
10 included and continues to include, the research, safety surveillance, manufacture, sale, distribution
11 and marketing of ParaGard IUD, which is distributed through the stream of interstate commerce
12 into the state of South Carolina and within the District of South Carolina.

13 18. At all relevant times, each Defendant acted in all aspects as the agent or alter ego
14 of each other.

15 19. The Cooper Defendants are liable as a successors-in-interest under S.C. Code § 27-
16 23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
17 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

18 20. Upon reasonable belief, Duramed became Teva Women’s Health, Inc., through a
19 name change in 2008. Teva Women’s Health, Inc., then became Teva Women’s Health, LLC
20 through a conversion in 2017. Teva Women’s Health, LLC then sold all of its assets including
21 ParaGard IUD to the Cooper Defendants in 2017. Teva Women’s Health, LLC became a *holdings*
22 company with no tangible assets.

23 21. The Cooper Defendants knew or should have known that the transfer and
24 conversion of Teva Women’s Health, Inc. was intended to thwart potential creditors from having
25 a claim against Teva Women’s Health, Inc. or Teva Women’s Health, LLC. Therefore, the Cooper
26 Defendants are liable pursuant to the Federal Consumer Protection Acts and S.C. Code § 27-23-
27 10 *et seq.*

1 22. The liability of these companies has passed on through various business
2 instruments and now lies with both the Teva Defendants and the Cooper Defendants.

3 23. At times relevant and material hereto, the Teva Defendants engaged in the business
4 of, or were successors-in-interest to entities engaged in the business of, researching, developing,
5 designing, formulating, licensing, manufacturing, testing, producing, processing, assembling,
6 packaging, inspecting, distributing, selling, labeling, monitoring, marketing, promoting,
7 advertising, and/or introducing into interstate commerce throughout the United States, in the state
8 of South Carolina and within the District of South Carolina, either directly or indirectly, through
9 third-parties, subsidiaries and/or related entities, ParaGard IUD, a drug used in the prevention of
10 pregnancy, implanted in patients throughout the United States, including Plaintiff.

11 24. At time relevant and material hereto, the Cooper Defendants were successors-in-
12 interest to entities engaged in the business of, researching, developing, designing, formulating,
13 licensing, manufacturing, testing, producing, processing, assembling, packaging, inspecting,
14 distributing, selling, labeling, monitoring, marketing, promoting, advertising, and/or introducing
15 into interstate commerce throughout the United States, in the state of South Carolina and within
16 the District of South Carolina either directly or indirectly, through third-parties, subsidiaries and/or
17 related entities, ParaGard IUD, a drug used in the prevention of pregnancy, implanted in patients
18 throughout the United States, including Plaintiff.

19 25. At all times alleged herein, the Teva Defendants were engaged in the business of,
20 or were successors-in-interest to entities engaged in the business of, researching, designing,
21 formulating, compounding, testing, manufacturing, producing, processing, assembling, inspecting,
22 distributing, marketing, labeling, promoting, packaging, and/or advertising for sale or selling
23 ParaGard IUD.

24 26. At all times alleged herein, the Cooper Defendants were successors-in-interest to
25 entities engaged in the business of, researching, designing, formulating, compounding, testing,
26 manufacturing, producing, processing, assembling, inspecting, distributing, marketing, labeling,
27 promoting, packaging, and/or advertising for sale or selling ParaGard IUD.
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1 27. At all times alleged herein, Defendants were authorized to conduct or engage in
2 business within the state of South Carolina and the District of South Carolina. The Teva
3 Defendants and the Cooper Defendants as successors-in-interest received financial benefit and
4 profits as a result of designing, manufacturing, marketing, advertising, selling and distributing
5 ParaGard IUD within the state of South Carolina and the District of South Carolina.

6 28. The combined acts and/or omissions of each Defendant resulted in indivisible
7 injuries to Plaintiff. Each of the above-named Defendants is a joint tortfeasor and is jointly and
8 severally liable to Plaintiff for the negligent acts and omissions alleged herein. Each of the above-
9 named Defendants directed, authorized or ratified the conduct of each and every other Defendant.

10 29. The amount in controversy exceeds the jurisdictional limits of this court.

11 **IV. JURISDICTION AND VENUE**

12 30. Plaintiff incorporates by reference all of the above paragraphs.

13 31. Jurisdiction is proper in this court pursuant to 28 U.S.C. § 1332 as complete
14 diversity of citizenship exists between Plaintiff and Defendants and the matter in controversy
15 exceeds the sum of \$75,000.00, exclusive of interest and costs.

16 32. This Court has jurisdiction over the non-resident Defendants because they have
17 conducted business in the state of South Carolina. Defendants have committed a tort in whole or
18 in part in the state of South Carolina and have regular and continuing contacts with South Carolina.

19 33. In addition, venue of this case is proper in the state of South Carolina pursuant to
20 28 U.S.C. § 1391 because a substantial part of the events giving rise to Plaintiff's claims occurred
21 in District of South Carolina.

22 **V. FACTUAL ALLEGATIONS**

23 34. ParaGard IUD is an intrauterine drug that can provide long term birth control, up
24 to 10 years, without hormones.

25 35. ParaGard IUD drug is a T-shaped plastic frame made of polyethylene and barium
26 sulfate that is inserted into the uterus. Copper wire coiled around the IUD produces an
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1 inflammatory reaction that is toxic to sperm and egg. A monofilament polyethylene thread is tied
2 through the tip, resulting in two white threads, which aid in the detection and removal of the drug.

3 36. ParaGard IUD has a propensity to break at the arms upon explant resulting in
4 serious injuries.

5 37. At relevant times, the Teva Defendants designed, researched, manufactured,
6 labeled, packaged, promoted, marketed and/or sold ParaGard IUD at issue after receiving New
7 Drug Application approval from FDA.

8 38. In 2008, Teva USA became the owner of ParaGard IUD when it acquired Duramed
9 Pharmaceuticals, Inc., a division of Barr Pharmaceuticals, Inc., through its purchase of Barr
10 Pharmaceuticals, Inc.

11 39. Upon information and belief, when Teva USA acquired Duramed, a division of
12 Barr Pharmaceuticals, Inc., it also acquired Duramed's manufacturing facilities, sales force and
13 responsibility for maintaining and updating the labeling for ParaGard IUD.

14 40. Shortly thereafter, Teva USA changed the name of Duramed Pharmaceuticals, Inc.,
15 a division of Barr Pharmaceuticals, Inc., to Teva Women's Health, Inc., a wholly owned subsidiary
16 of Teva USA.

17 41. On August 31, 2009, Duramed Pharmaceuticals, Inc., filed with the Ohio Secretary
18 of State a Certificate of Amendment to Foreign Corporation Application For License requesting a
19 name change. A new entity was not created, and no entities were dissolved. Duramed's license
20 number did not change. Instead, Duramed changed its name to Teva Women's Health, Inc.

21 42. Upon information and belief, Teva Women's Health, Inc. is simply a new name for
22 Duramed.

23 43. Upon information and belief, and for purposes of liability and interest, Teva
24 Women's Health, Inc., is the same entity as Teva Women's Health, LLC. Teva Women's Health,
25 Inc., converted into Teva Women's Health, LLC under the laws of Delaware. Del. Code Ann. Tit.
26 8, 266. Pursuant to Del. Code Ann. Tit. 8, 266, a company that converts from one entity into
27 another is deemed to be a continuation of the preexisting company. A conversion does not equate
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1 to a dissolution and no winding up takes place. Therefore, Teva Women's Health, Inc., did not
2 dissolve, windup, or *cease to exist* and liability continues from the corporation to the Limited
3 Liability Company.

4 44. Upon information and belief on August 11, 2017, Teva Women's Health, Inc.,
5 converted into Teva Women's Health, LLC and sold off all of its assets.

6 45. On September 11, 2017, the Teva Defendants sold ParaGard IUD to the Cooper
7 Defendants.

8 46. ParaGard IUD is currently sold only in the U.S. and had earned revenues of
9 approximately \$168 million for the twelve-month period ending June 30, 2017.

10 47. The Cooper Defendants still manufacture and sell ParaGard IUD in the U.S.

11 48. ParaGard IUD was marketed heavily by the Teva Defendants as being safe and
12 effective, and promising fewer side effects than other birth control methods.

13 49. The marketing and promotional efforts of the Teva Defendants, their advertisers,
14 and sales force served to overstate the benefits of ParaGard IUD and minimize and downplay the
15 risks. These promotional efforts were made while the Teva Defendants fraudulently withheld
16 important safety information from health care providers and the public.

17 50. Prior to Plaintiff being implanted with ParaGard IUD, the Teva Defendants knew
18 and should have known that the drug was defective and unreasonably dangerous.

19 51. The Teva Defendants knew or should have known that ParaGard IUD can and does
20 cause serious harm to individuals who use it, due to the risk of ParaGard IUD's arm breaking upon
21 removal.

22 52. The Teva Defendants knew of these risks from the trials they performed, their post-
23 marketing experience and complaints, third party studies, and their own analysis of these studies,
24 but took no action to adequately warn or remedy the defects and instead concealed, suppressed
25 and failed to disclose or fix this danger.

1 53. The product warnings for ParaGard IUD were vague, incomplete or otherwise
2 wholly inadequate to alert prescribing physicians and patients to the actual risks associated with
3 ParaGard IUD.

4 54. The Teva Defendants' marketing and promotion, through its own website, sought
5 to reassure physicians and patients of the Teva Defendants' longstanding record of quality and
6 safety assurance.

7 55. Based upon these representations, upon which Plaintiff and her physician relied,
8 Plaintiff had ParaGard IUD implanted, believing it would be safe and effective, for the entire
9 duration it was implanted and upon removal.

10 56. Since 2010, the FDA has received over 1600 reports of ParaGard IUD breakage,
11 with over 700 classified as serious.

12 57. The Teva Defendants' failure to adequately communicate and report to the FDA
13 the injuries associated with ParaGard IUD resulted in inadequate warnings.

14 58. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
15 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
16 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

17 **VI. PLAINTIFF'S USE OF PARAGARD IUD**

18 59. On information and belief, in January 2017, Plaintiff was implanted with
19 Defendants' ParaGard IUD by a physician.

20 60. Plaintiff, a young and healthy woman, wanted a ParaGard IUD because it was a
21 reversible form of birth control that would allow her to conceive in the future.

22 61. On September 12, 2017, Plaintiff went to have the ParaGard IUD removed in
23 Greenville, South Carolina. An ultrasound of the pelvis revealed that the ParaGard IUD was
24 malpositioned.

25 62. Plaintiff's healthcare provider attempted to remove the ParaGard IUD as instructed
26 by the Teva Defendants, by grasping the ParaGard IUD by the forceps and pulling gently. Despite
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1 following the instructions provided by the Teva Defendants, only a portion of the ParaGard IUD
2 was retrieved with one arm missing.

3 63. On September 19, 2017, Plaintiff's physician attempted to remove the ParaGard
4 IUD arm via colposcopy but was unsuccessful.

5 64. Prior to her procedures, Plaintiff and her doctors were provided with no warning
6 from the Teva Defendants of the risk of ParaGard IUD failure and injury, nor were Plaintiff and
7 her doctors provided with adequate warning of the risk of removal of ParaGard IUD. This
8 information was known or knowable to the Teva Defendants.

9 65. On information and belief, Plaintiff used the ParaGard IUD manufactured,
10 packaged, marketed, sold and/or distributed by the Teva Defendants. The ParaGard IUD reached
11 Plaintiff without substantial change in the drug's condition.

12 66. On information and belief, as a direct and proximate result of using ParaGard IUD,
13 Plaintiff developed serious and/or permanent adverse effects.

14 67. As a result of said injuries, Plaintiff suffered significant bodily and mental injuries,
15 pain and suffering, mental anguish, disfigurement, embarrassment, inconvenience, loss of earnings
16 and earning capacity, and have and will incur past and future medical expenses.

17 68. At all relevant times, the Teva Defendants had knowledge that there was a
18 significant increased risk of adverse events associated with ParaGard IUD including arm breakage,
19 and despite this knowledge the Teva Defendants continued to manufacture, market, distribute, sell,
20 and profit from sales of ParaGard IUD.

21 69. The Cooper Defendants continue to manufacture, market, distribute, sell and profit
22 from sales of ParaGard IUD.

23 70. Despite such knowledge, the Teva Defendants knowingly, purposely, and
24 deliberately failed to adequately warn Plaintiff, patients, consumers, medical providers, and the
25 public of the increased risk of serious injury associated with using ParaGard IUD.

26 71. On information and belief, Plaintiff's prescribing physicians would not have
27 prescribed ParaGard IUD to Plaintiff, would have changed the way they warned Plaintiff about the
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1 signs and symptoms of serious adverse effects of ParaGard IUD, and discussed with Plaintiff the
2 true risks of arm breakage and resulting injuries and complications had the Teva Defendants
3 provided said physicians with an appropriate and adequate warning regarding the risks associated
4 with the use of ParaGard IUD.

5 72. As a direct and proximate result of the Teva Defendants' conduct, Plaintiff suffered
6 injuries, including, but not limited to, pain, suffering and loss of reproductive health, which
7 resulted in damages to Plaintiff in a sum in excess of the jurisdictional limits of the Court.

8 73. The Teva Defendants maintained a duty to Plaintiff after the ParaGard IUD was
9 implanted and until it was removed.

10 74. The Cooper Defendants are liable as a successors-in-interest under the S.C. Code §
11 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
12 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

13 75. As a direct result of Plaintiff's use of ParaGard IUD, Plaintiff suffered from having
14 a broken arm of the ParaGard IUD in her, causing her damage, including but not limited to pain,
15 suffering, mental anguish, the loss of reproductive health, loss of enjoyment of life, medical
16 expenses and other out of pocket losses and loss of income.

17 **VII. DELAYED DISCOVERY**

18 76. Plaintiff incorporates by reference the factual portion of this Complaint as if fully
19 set forth herein and additionally, or in the alternative, if same be necessary, allege as follows:

20 77. Plaintiff plead that the discovery rule should be applied to toll the running of the
21 statute of limitations until Plaintiff knew, or through the exercise of reasonable care and diligence
22 should have known, of facts indicating that the Plaintiff had been injured, the cause of the injury
23 and the tortious nature of the wrongdoing that caused the injury.

24 78. Despite diligent investigation by Plaintiff into the cause of her injuries, including
25 consultations with Plaintiff's medical providers, the nature of Plaintiff's injuries and damages and
26 their relation to the Plaintiff's ParaGard IUD and Defendants' wrongful conduct was not
27 discovered and could not have been discovered, until a date within the applicable statute of
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1 limitations for filing each of Plaintiff's claims. Therefore, under appropriate application of the
2 discovery rule, Plaintiff's suit was filed well within the applicable statutory limitations period.

3 79. Any applicable statutes of limitations have been tolled by the knowing and active
4 concealment and denial of material facts known by the Defendants when they had a duty to disclose
5 those facts. The Defendants' purposeful and fraudulent acts of concealment have kept Plaintiff
6 ignorant of vital information essential to the pursuit of Plaintiff's claims, without any fault or lack
7 of diligence on Plaintiff's part, for the purpose of obtaining delay on Plaintiff's filing of their
8 causes of action. The Defendants' fraudulent concealment did result in such delay.

9 80. Defendants are estopped from relying on the statute of limitations defense because
10 Defendants failed to timely disclose, among other things, facts evidencing the defective and
11 unreasonably dangerous nature of their ParaGard IUD.

12 **VIII. CAUSES OF ACTION**

13 **COUNT I – NEGLIGENCE**

14 81. Plaintiff realleges and incorporates by reference every allegation of this Complaint
15 as if each were set forth fully and completely herein.

16 82. At times relevant, the Teva Defendants were in the business of designing,
17 developing, setting specifications, manufacturing, marketing, selling and/or distributing ParaGard
18 IUD, including the one that was implanted into the Plaintiff.

19 83. The Teva Defendants had a duty to exercise reasonable and ordinary care in the
20 manufacture, design, labeling, instructions, warnings, sale, marketing, safety surveillance and
21 distribution of ParaGard IUD so as to avoid exposing others to foreseeable and unreasonable risks
22 of harm.

23 84. The Teva Defendants breached their duty of care to the Plaintiff and her physicians,
24 in the manufacture, design, labeling, warnings, instructions, sale, marketing, safety surveillance,
25 and distribution of ParaGard IUD.

26 85. The Teva Defendants knew that ParaGard IUD could break upon removal and
27 failed to warn Plaintiff of this potential injury.
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1 86. The Teva Defendants had a duty to warn Plaintiff of the potential for breakage at
2 the arm(s) upon removal. The Teva Defendants breached that duty and Plaintiff was harmed.

3 87. The Teva Defendants knew or reasonably should have known that ParaGard IUD
4 was dangerous or likely to be dangerous when used in its intended or reasonably foreseeable
5 manner.

6 88. At the time of the manufacture and sale of ParaGard IUD, the Teva Defendants
7 knew or should have known that ParaGard IUD was designed and manufactured in such a manner
8 so as to present an unreasonable risk of the fracture of the arm of the drug upon removal.

9 89. At the time of the manufacturer and sale of ParaGard IUD, the Teva Defendants
10 knew or should have known that ParaGard IUD was designed and manufactured to have
11 unreasonable and insufficient strength or structural integrity to withstand normal placement and
12 subsequent removal.

13 90. At the time of the manufacture and sale of ParaGard IUD, the Teva Defendants
14 knew or should have known that using ParaGard IUD for its intended use or in a reasonably
15 foreseeable manner created a significant risk of a patient suffering severe injuries, including but
16 not limited to additional surgeries and/or medical procedures in order to remove the fragmented
17 drug, even leading to hysterectomy.

18 91. The Teva Defendants knew or reasonably should have known that the consumers
19 of ParaGard IUD would not realize the danger associated with using the drug for its intended use
20 and/or in a reasonably foreseeable manner.

21 92. The Teva Defendants breached their duty to exercise reasonable and prudent care
22 in the development, testing, design, manufacture, inspection, marketing, labeling, promotion,
23 distribution and sale of ParaGard IUD in, among others, the following ways:

- 24 a. Designing and distributing a product in which they knew or should
25 have known that the likelihood and severity of potential harm from the product
26 exceeded the burden of taking measures to reduce or avoid harm;

1 b. Designing and distributing a product in which they knew or should
2 have known that the likelihood and severity of potential harm from the product
3 exceeded the likelihood of potential harm from other drug available for the
4 same purpose;

5 c. Failing to use reasonable care in manufacturing the product and
6 producing a product that differed from their design or specifications;

7 d. Failing to use reasonable care to warn or instruct Plaintiff, Plaintiff's
8 healthcare providers or the general health care community about ParaGard
9 IUD's substantially dangerous condition or about facts making the product
10 likely to be dangerous, including pre-and post-sale;

11 e. Failing to perform reasonable pre-and post-market testing of
12 ParaGard IUD to determine whether or not the product was safe for its intended
13 use;

14 f. Failing to provide adequate instructions, guidelines, and safety
15 precautions, to those persons to whom it was reasonably foreseeable would
16 recommend, use, implant and remove ParaGard IUD;

17 g. Advertising, marketing and recommending the use of ParaGard
18 IUD, while concealing and failing to disclose or warn of the dangers known by
19 the Teva Defendants to be connected with and inherent in the use of ParaGard
20 IUD;

21 h. Representing that ParaGard IUD was safe for its intended use when
22 in fact, the Teva Defendants knew and should have known the product was not
23 safe for its intended purpose;

24 i. Continuing manufacture and sale of ParaGard IUD with the
25 knowledge that the IUD was dangerous and not reasonably safe, and failing to
26 comply with the FDA good manufacturing regulations;

1 j. Failing to use reasonable and prudent care in the design, research,
2 manufacture, and development of ParaGard IUD so as to avoid the risk of
3 serious harm associated with the use of the IUD;

4 k. Failing to establish an adequate quality assurance program used in
5 the manufacturing of ParaGard IUD;

6 l. Failing to establish and maintain an adequate post-marketing
7 surveillance program for ParaGard IUD;

8 m. Failing to adequately and correctly report safety information relative
9 to ParaGard IUD product resulting in inadequate warnings; and

10 n. Failing to provide adequate and continuous warnings about the
11 inherent danger of breakage with ParaGard IUD upon removal.

12 93. A reasonable manufacturer, distributor, and/or seller under the same or similar
13 circumstances would not have engaged in the aforementioned acts and omissions.

14 94. As a proximate result of the Teva Defendants’ design, manufacture, marketing, sale
15 and/or distribution of ParaGard IUD, Plaintiff has been injured catastrophically, and sustained
16 severe and permanent pain, suffering, disability, and impairment, loss of enjoyment of life, loss of
17 reproductive health, comfort, and economic damages.

18 95. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
19 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
20 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

21 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
22 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
23 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
24 issues so triable as a matter of right.

25 **COUNT II – STRICT LIABILITY DESIGN DEFECT**

26 96. Plaintiff realleges and incorporates by reference every allegation of this Complaint
27 as if each were set forth fully and completely herein.

1 97. ParaGard IUD is inherently dangerous and defective, unfit and unsafe for its
2 intended use and reasonably foreseeable uses and does not meet or perform to the expectations of
3 patients and their health care providers.

4 98. ParaGard IUD was expected to, and did, reach its intended consumer without
5 substantial change in the condition in which it was in when it left the Teva Defendants' possession.

6 99. The ParaGard IUD implanted in Plaintiff was defective in design because it failed
7 to perform as safely as persons who ordinarily use the products would have expected at time of
8 use.

9 100. The ParaGard IUD implanted in Plaintiff was defective in design, in that the IUD's
10 risks of harm exceeded its claimed benefits.

11 101. Plaintiff and her healthcare providers used ParaGard IUD in a manner that was
12 reasonably foreseeable to the Teva Defendants.

13 102. Neither Plaintiff nor her healthcare providers could have by the exercise of
14 reasonable care discovered the IUD's defective conditions or perceived its unreasonable dangers
15 prior to her implantation of the drug.

16 103. As a result of the foregoing design defects, ParaGard IUD created risks to the
17 health and safety of its users that were far more significant and devastating than the risks posed by
18 other products and procedures available to treat the corresponding medical conditions, and which
19 far outweigh the utility of ParaGard IUD.

20 104. The Teva Defendants have intentionally and recklessly designed ParaGard IUD
21 with wanton and willful disregard for the rights and health of the Plaintiff and others, and with
22 malice, placing their economic interests above the health and safety of the Plaintiff and others.

23 105. As a proximate result of the Teva Defendants' design of ParaGard IUD, Plaintiff
24 has been injured catastrophically, and sustained severe and permanent pain, suffering, disability,
25 and impairment, loss of enjoyment of life, loss of care, comfort, and economic damages.

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1 106. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
2 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
3 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

4 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
5 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
6 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
7 issues so triable as a matter of right.

8 **COUNT III – STRICT LIABILITY MANUFACTURING DEFECT**

9 107. Plaintiff realleges and incorporates by reference every allegation of this Complaint
10 as if each were set forth fully and completely herein.

11 108. The Teva Defendants designed, set specifications, manufactured, prepared,
12 compounded, assembled, processed, marketed, labeled, performed pharmacovigilance, distributed
13 and sold the ParaGard IUD that was implanted into the Plaintiff.

14 109. The ParaGard IUD implanted in Plaintiff contained a condition or conditions,
15 which the Teva Defendants did not intend, at the time the ParaGard IUD left the Teva Defendants’
16 control and possession.

17 110. Plaintiff and Plaintiffs’ health care providers used the drug in a manner consistent
18 with and reasonably foreseeable to the Teva Defendants.

19 111. As a result of this condition or these conditions, the product failed to perform as
20 safely as the ordinary consumer would expect, causing injury, when used in a reasonably
21 foreseeable manner.

22 112. ParaGard IUD was defectively and/or improperly manufactured, rendering it
23 defective and unreasonably dangerous and hazardous to Plaintiff.

24 113. As a result of the manufacturing defects, ParaGard IUD creates risks to the health
25 and safety of the patients that are far more significant and devastating than the risks posed by other
26 products and procedures available to treat the corresponding medical conditions, and which far
27 outweigh the utility of ParaGard IUD.
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1 114. The Teva Defendants intentionally and recklessly manufactured ParaGard IUD
2 with wanton and willful disregard for the rights and health of the Plaintiffs and others, and with
3 malice, placing their economic interests above the health and safety of the Plaintiff and others.

4 115. As a proximate result of the Teva Defendants manufacture of ParaGard IUD,
5 Plaintiff has been injured catastrophically, and sustained severe and permanent pain, suffering,
6 disability, and impairment, loss of enjoyment of life, loss of care, comfort, and economic damages.

7 116. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
8 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
9 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

10 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
11 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
12 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
13 issues so triable as a matter of right.

14 **COUNT IV – STRICT LIABILITY FAILURE TO WARN**

15 117. Plaintiff realleges and incorporates by reference every allegation of this Complaint
16 as if each were set forth fully and completely herein.

17 118. The Teva Defendants designed, set specifications, manufactured, prepared,
18 compounded, assembled, processed, marketed, labeled, distributed and sold ParaGard IUD,
19 including the one implanted into Plaintiff, into the stream of commerce and in the course of same,
20 directly advertised and marketed the drug to consumers or persons responsible for consumers.

21 119. At the time the Teva Defendants designed set specifications, manufactured,
22 prepared, compounded, assembled, processed, marketed, labeled, distributed and sold ParaGard
23 IUD into the stream of commerce, they knew or should have known that the drug presented an
24 unreasonable danger to users of the product when put to its intended and reasonably anticipated
25 use.

1 120. Specifically, the Teva Defendants knew or should have known that ParaGard IUD
2 posed a significant risk that one of the arms of the drug could break upon removal, resulting in
3 significant injuries.

4 121. The Teva Defendants had a duty to warn of the risk of harm associated with the use
5 of the drug and to provide adequate warnings concerning the risk the drug could break upon
6 removal, even if implanted properly and even if the drug remained properly in-place.

7 122. The Teva Defendants failed to properly and adequately warn and instruct the
8 Plaintiff and her health care providers with regard to the inadequate research and testing of
9 ParaGard IUD, and the complete lack of a safe, effective procedure for removal of ParaGard IUD.

10 123. The risks associated with ParaGard IUD are of such a nature that health care
11 providers and users could not have recognized the potential harm.

12 124. ParaGard IUD was defective and unreasonably dangerous at the time of its release
13 into the stream of commerce due to the inadequate warnings, labeling and/or instructions
14 accompanying the product, including but not limited to, the implantation and subsequent removal
15 of ParaGard IUD.

16 125. The ParaGard IUD, when implanted in Plaintiff, was in the same condition as when
17 it was manufactured, inspected, marketed, labeled, promoted, distributed and sold by the Teva
18 Defendants.

19 126. The Teva Defendants intentionally, recklessly, and maliciously misrepresented the
20 safety, risks, and benefits in order to advance their own financial interests, with wanton and willful
21 disregard for the rights and health of the Plaintiff.

22 127. As a proximate result of the Teva Defendants' design, manufacture, marketing, sale
23 and/or distribution of ParaGard IUD, Plaintiff has been injured catastrophically, and sustained
24 severe and permanent pain, suffering, disability, and impairment, loss of enjoyment of life, loss of
25 reproductive health, comfort, and economic damages.

1 128. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
2 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
3 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

4 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
5 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
6 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
7 issues so triable as a matter of right.

8 **COUNT V – COMMON LAW FRAUD**

9 129. Plaintiff realleges and incorporates by reference every allegation of this Complaint
10 as if each were set forth fully and completely herein.

11 130. The Teva Defendants falsely and fraudulently represented and continue to represent
12 to the medical and healthcare community, Plaintiff and her physicians, and/or the public that
13 ParaGard IUD had been appropriately tested and was found to be safe and effective.

14 131. The representations made by the Teva Defendants were, in fact, false. When the
15 Teva Defendants made their representations, they knew and/or had reason to know that those
16 representations were false, and they willfully, wantonly, and recklessly disregarded the
17 inaccuracies in their representations and the dangers and health risks to users of ParaGard IUD.

18 132. These representations were made by the Teva Defendants with the intent of
19 defrauding and deceiving the medical community, Plaintiff, and the public, and also inducing the
20 medical community, Plaintiff, Plaintiff's physicians, and/or the public, to recommend, prescribe,
21 dispense, and purchase ParaGard IUD for use as a form of long-term birth control, all of which
22 evidenced a callous, reckless, willful, and depraved indifference to the health, safety, and welfare
23 of Plaintiff.

24 133. In representations to Plaintiff and/or to her healthcare providers, the Teva
25 Defendants fraudulently concealed and intentionally omitted the following material information:

- 26 a. That ParaGard IUD was not as safe as other products and procedures available
27 to aid in the long-term prevention of pregnancy;
28

- b. That the risk of adverse events with ParaGard IUD was higher than with other products and procedures available for birth control;
- c. ParaGard IUD was not adequately tested;
- d. That the limited clinical testing for ParaGard IUD revealed a higher risk of adverse events, above and beyond those associated with other products and procedures available for birth control;
- e. That the Teva Defendants deliberately failed to follow up on the adverse results from clinical studies and/or formal and informal reports from physicians and/or other healthcare providers and either ignored, concealed and/or misrepresented those findings;
- f. That the Teva Defendants were aware of dangers in ParaGard IUD in addition to and above and beyond those associated with other products and procedures available for birth control;
- g. That ParaGard IUD was defective, and that it caused dangerous and adverse side effects, including but not limited to unacceptable incidence of breakage upon removal;
- h. That when ParaGard IUD needed to be removed, the removal procedure had a very high failure rate and/or needed to be performed repeatedly;
- i. That ParaGard IUD was manufactured negligently;
- j. That ParaGard IUD was manufactured defectively; and
- k. That ParaGard IUD was designed negligently and designed defectively.

134. The Teva Defendants were under a duty to disclose to Plaintiff and her physicians, the defective nature of ParaGard IUD, including but not limited to, the risk of breakage prior to and upon removal, which could result in permanent injury.

135. The Teva Defendants had sole access to material facts concerning the defective nature of the products and their propensity to cause serious and dangerous side effects and hence, cause dangerous injuries and damage to persons who used ParaGard IUD, such as Plaintiff.

1 136. The Teva Defendants' concealment and omissions of material facts concerning the
2 safety of ParaGard IUD were made purposefully, willfully, wantonly, and/or recklessly to mislead
3 Plaintiff, Plaintiff's physicians, surgeons and healthcare providers and to induce them to purchase,
4 prescribe, and/or dispense ParaGard IUD; and/or to mislead them into reliance upon and cause
5 them to use ParaGard IUD.

6 137. At the time these representations were made by the Teva Defendants, and at the
7 time Plaintiff and/or her physicians, used ParaGard IUD, Plaintiff and/or her physicians were
8 unaware of the falsehood of these representations, and reasonably believed them to be true.

9 138. The Teva Defendants knew and had reason to know that ParaGard IUD could and
10 would cause severe and grievous personal injury to the users of the product and was inherently
11 dangerous in a manner that exceeded any purported, inaccurate, or otherwise downplayed
12 warnings.

13 139. In reliance upon these false representations, Plaintiff and her physicians were
14 induced to, and did use ParaGard IUD, thereby causing severe and permanent personal injuries
15 and damages to Plaintiff. The Teva Defendants knew or had reason to know that the Plaintiff and
16 her physicians and other healthcare providers had no way to determine the truth behind the Teva
17 Defendants' concealment and omissions, and that these included material omissions of facts
18 surrounding the use of ParaGard IUD, as described in detail herein.

19 140. Plaintiff and her physicians reasonably relied on facts provided by the Teva
20 Defendants which foreseeably and purposefully suppressed and concealed facts that were critical
21 to understanding the real dangers inherent to the use of ParaGard IUD.

22 141. Having knowledge based on their research and testing, or lack thereof, the Teva
23 Defendants blatantly and intentionally distributed false information, including but not limited to
24 assurances to Plaintiff, the public, and Plaintiff's healthcare providers and physicians, that
25 ParaGard IUD was safe for use as a means of providing long-term birth control and was as safe or
26 safer than other product and/or procedures available and/or on the market. As a result of the Teva
27 Defendants' research and testing, or lack thereof, The Teva Defendants intentionally omitted,
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1 concealed and suppressed the dissemination of certain results of testing and research to healthcare
2 professionals, Plaintiff, her physicians, and the public at large.

3 142. The Teva Defendants had a duty when disseminating information to the public to
4 disseminate truthful information; and a parallel duty not to deceive the public, Plaintiff, and/or her
5 physicians.

6 143. The information distributed to the public, the medical community, Plaintiff and her
7 physicians by the Teva Defendants included, but was not limited to websites, information
8 presented at medical and professional meetings, information disseminated by sales representatives
9 to physicians and other medical care providers, professional literature, reports, press releases,
10 advertising campaigns, television commercials, print advertisements, and/or other commercial
11 media, and contained material representations which were false and misleading, as well as
12 omissions and concealments of the truth about the dangers of the use of ParaGard IUD.

13 144. These representations, and others made by the Teva Defendants, were false when
14 made and/or were made with the pretense of actual knowledge when such knowledge did not
15 actually exist, and were made recklessly and without regard to the true facts.

16 145. The Teva Defendants recklessly and/or intentionally falsely represented the
17 dangerous and serious health and safety concerns inherent in the use of ParaGard IUD to Plaintiff,
18 her physicians and the public at large, for the purpose of influencing the sales of products known
19 to be dangerous and defective, and/or not as safe as other alternatives.

20 146. At the time the representations were made, Plaintiff and her healthcare providers
21 did not know the truth about the dangers and serious health and/or safety risks inherent in the use
22 of ParaGard IUD.

23 147. Plaintiff did not discover the true facts about the dangers and serious health and/or
24 safety risks, nor did Plaintiff discover the false representations of the Teva Defendants, nor would
25 Plaintiff with reasonable diligence have discovered the true facts about the Teva Defendants'
26 misrepresentations at the time when the ParaGard IUD was surgically implanted into her.

1 148. Had Plaintiff known the true facts about the dangers and serious health and/or safety
2 risks of ParaGard IUD, neither Plaintiff nor her physician would not have purchased, used, or
3 relied on the Teva Defendants' representations and omissions concerning ParaGard IUD.

4 149. As a proximate result of the Teva Defendants' design, manufacture, marketing, sale
5 and/or distribution of ParaGard IUD, Plaintiff has been seriously injured, and sustained severe and
6 permanent injury, pain, suffering, disability, and impairment, loss of enjoyment of life, loss of
7 reproductive health, comfort, and economic damages.

8 150. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
9 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
10 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

11 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
12 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
13 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
14 issues as triable as a matter of right.

15 **COUNT VI – NEGLIGENT MISREPRESENTATION**

16 151. Plaintiff realleges and incorporates by reference every allegation of this Complaint
17 as if each were set forth fully and completely herein.

18 152. At relevant times, the Teva Defendants negligently provided Plaintiff, her
19 healthcare providers, and the general medical community with false or incorrect information or
20 omitted or failed to disclose material information concerning ParaGard IUD, including, but not
21 limited to, misrepresentations regarding the safety of ParaGard IUD.

22 153. The information distributed by the Teva Defendants to the public, the medical
23 community, the Plaintiff and her healthcare providers, including advertising campaigns, labeling
24 materials, print advertisements, commercial media, was false and misleading and contained
25 omissions and concealment of truth about the dangers of ParaGard IUD.

26 154. The Teva Defendants' intent and purpose in making these misrepresentations was
27 to deceive and defraud the public and the medical community, including Plaintiff and Plaintiffs'
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1 health care providers; to falsely assure them of the quality of ParaGard IUD and the induce the
2 public and medical community, including Plaintiff and her healthcare provider to request,
3 recommend, prescribe, implant, purchase and continue to use ParaGard IUD.

4 155. The Teva Defendants had a duty to accurately and truthfully represent to the
5 medical and healthcare community, medical drug manufacturers, Plaintiff, her healthcare
6 providers and the public, that ParaGard IUD had been tested and found to be safe and effective for
7 long term birth control.

8 156. The representations made by the Teva Defendants were, in fact, false. ParaGard
9 IUD was not safe for human use in its intended and reasonably foreseeable manner. Use of
10 ParaGard IUD is dangerous as there is a risk that it may fracture upon removal causing significant
11 injury.

12 157. In reliance upon the false and negligent misrepresentations and omissions made by
13 the Teva Defendants, Plaintiff and Plaintiff's healthcare providers were induced to, and did use
14 ParaGard IUD, thereby causing Plaintiff to endure severe and permanent injuries.

15 158. The Teva Defendants knew and had reason to know that the Plaintiff, Plaintiff's
16 healthcare providers, and the general medical community did not have the ability to determine the
17 true facts which were intentionally and/or negligently concealed and misrepresented by the Teva
18 Defendants.

19 159. Plaintiff and her healthcare providers would not have recommended, and implanted
20 ParaGard IUD had the true facts not been concealed by the Teva Defendants.

21 160. The Teva Defendants had sole access to the material facts concerning the defective
22 nature of ParaGard IUD and its propensity to cause serious and dangerous side injuries.

23 161. At the time the Teva Defendants failed to disclose and misrepresented the foregoing
24 facts, and at the time Plaintiff was implanted with ParaGard IUD, Plaintiff and her healthcare
25 providers were unaware of the Teva Defendants' negligent misrepresentations and omissions.

26 162. The Teva Defendants failed to exercise ordinary care in making representations
27 concerning ParaGard IUD while they were involved in their manufacture, sale, testing, quality
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1 assurance, quality control, and distribution in interstate commerce, because they negligently
2 misrepresented ParaGard IUD's high risk of unreasonable and dangerous adverse side effects.

3 163. The Teva Defendants breached their duty to Plaintiff, her physicians, and the
4 medical and healthcare community, by representing that ParaGard IUD has no serious side effects
5 different from older generations of similar products or procedures.

6 164. Plaintiff and Plaintiff's healthcare providers reasonably relied upon the
7 misrepresentations and omissions made by the Teva Defendants, where they concealed and
8 misrepresented facts that were critical to understanding the true dangers inherent in the use of
9 ParaGard IUD.

10 165. Plaintiff and Plaintiff's healthcare providers' reliance on the foregoing
11 misrepresentations and omissions was the direct and proximate cause of Plaintiff's injuries.

12 166. The Teva Defendants knew, and had reason to know, that ParaGard IUD had been
13 insufficiently tested, or had not been tested at all, that the products lacked adequate and accurate
14 warnings, that they created a high risk, and/or higher than acceptable risk, and/or higher than
15 reported risk that they represented a risk of adverse side effects, including, pain and suffering,
16 surgery to remove the product, and other severe and personal injuries, which are permanent and
17 lasting in nature.

18 167. As a proximate result of the Teva Defendants' design, manufacture, marketing, sale
19 and/or distribution of ParaGard IUD, Plaintiff has been injured catastrophically, and sustained
20 severe and permanent pain, suffering, disability, and impairment, loss of enjoyment of life, loss of
21 reproductive health, comfort, and economic damages.

22 168. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
23 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
24 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

25 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
26 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
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1 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
2 issues as triable as a matter of right.

3 **COUNT VII – BREACH OF EXPRESS WARRANTY**

4 169. Plaintiff realleges and incorporates by reference every allegation of this Complaint
5 as if each were set forth fully and completely herein.

6 170. At relevant times, the Teva Defendants intended that ParaGard IUD be used in the
7 manner that Plaintiff used it and the Teva Defendants expressly warranted that each product was
8 safe and fit for use by consumers, that it was of merchantable quality, that its side effects were
9 minimal and comparable to other treatments for long-term birth control, and that they were
10 adequately tested and fit for their intended use.

11 171. At relevant times, the Teva Defendants were aware that consumers, including
12 Plaintiff, would use ParaGard IUD; which is to say that Plaintiff was a foreseeable user of
13 ParaGard IUD.

14 172. Plaintiff and/or her implanting physicians were, at all relevant times, in privity with
15 the Teva Defendants.

16 173. ParaGard IUD was expected to reach and did in fact reach its ultimate consumer,
17 including Plaintiff and her implanting physicians, without substantial change in the condition in
18 which it was manufactured and sold by the Teva Defendants.

19 174. The Teva Defendants breached various express warranties with respect to ParaGard
20 IUD including the following particulars:

- 21 a. The Teva Defendants represented to Plaintiff and her physicians and healthcare
22 providers through their labeling, advertising, marketing materials, detail
23 persons, seminar presentations, publications, notice letters, and regulatory
24 submissions that ParaGard IUD was safe, and fraudulently withheld and
25 concealed information about the substantial risks of serious injury associated
26 with using ParaGard IUD;

1 b. The Teva Defendants represented to Plaintiff and her physicians and healthcare
2 providers that ParaGard IUD was as safe, and/or safer than other alternative
3 procedures and drugs and fraudulently concealed information, which
4 demonstrated that ParaGard IUD was not safer than alternatives available on
5 the market; and

6 c. The Teva Defendants represented to Plaintiff and her physicians and healthcare
7 providers that ParaGard IUD was more efficacious than other alternatives and
8 fraudulently concealed information regarding the true efficacy of the products.

9 175. In reliance upon the Teva Defendants' express warranties, Plaintiff was implanted
10 with ParaGard IUD as prescribed and directed, and therefore, in the foreseeable manner normally
11 intended, recommended, promoted, and marketed by the Teva Defendants.

12 176. At the time of making such express warranties, the Teva Defendants knew or should
13 have known that ParaGard IUD does not conform to these express representations because
14 ParaGard IUD was not safe and had numerous side effects, many of which the Teva Defendants
15 did not accurately warn about, thus making ParaGard IUD unreasonably unsafe for its intended
16 purpose.

17 177. Members of the medical community, including physicians and other healthcare
18 professionals, as well as Plaintiff and her physicians, relied upon the representations and warranties
19 of the Teva Defendants in connection with use, recommendation, description, and/or dispensing
20 of ParaGard IUD.

21 178. The Teva Defendants breached their express warranties to Plaintiff in that ParaGard
22 IUD was not of merchantable quality, safe and/or fit for its intended uses, nor was it adequately
23 tested.

24 179. As a proximate result of the Teva Defendants' design, manufacture, marketing, sale
25 and/or distribution of ParaGard IUD, Plaintiff has been injured catastrophically, and sustained
26 severe and permanent pain, suffering, disability, and impairment, loss of enjoyment of life, loss of
27 reproductive health, comfort, and economic damages.

1 180. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
2 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
3 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

4 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
5 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
6 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
7 issues as triable as a matter of right.

8 **COUNT VIII – BREACH OF IMPLIED WARRANTY**

9 181. Plaintiff realleges and incorporates by reference every allegation of this Complaint
10 as if each were set forth fully and completely herein.

11 182. At relevant and material times, the Teva Defendants manufactured, distributed,
12 advertised, promoted, and sold ParaGard IUD.

13 183. At relevant times, the Teva Defendants intended that ParaGard IUD be implanted
14 for the purposes, and in the manner, that Plaintiff or her physicians or surgeons used it and the
15 Teva Defendants impliedly warranted each ParaGard IUD to be of merchantable quality, safe and
16 fit for such use, and to have been adequately tested.

17 184. The Teva Defendants were aware that consumers, including Plaintiff or her
18 physicians or surgeons would implant ParaGard IUD in the manner described by the instructions
19 for use and that Plaintiff was the foreseeable user of ParaGard IUD.

20 185. Plaintiff and/or her physicians and surgeons were at all relevant times in privity
21 with the Teva Defendants.

22 186. The Teva Defendants' ParaGard IUD was expected to reach and did in fact reach
23 consumers, including Plaintiff and/or her physicians and surgeons, without substantial change in
24 the condition in which they manufactured and sold by the Teva Defendants.

25 187. The Teva Defendants breached various implied warranties with respect to ParaGard
26 IUD, including the following particulars:

- 1 a. The Teva Defendants represented through their labeling, advertising, marketing
2 materials, detail persons, seminar presentations, publications, notice letters,
3 medical literature, and regulatory submissions that ParaGard IUD was safe and
4 fraudulently withheld and concealed information about the substantial risks of
5 serious injury associated with using ParaGard IUD;
- 6 b. The Teva Defendants represented that ParaGard IUD was safe, and/or safer than
7 other alternative drugs or procedures and fraudulently concealed information,
8 which demonstrated that ParaGard IUD was not as safe or safer than
9 alternatives available on the market; and
- 10 c. The Teva Defendants represented that ParaGard IUD was more efficacious than
11 other alternative treatments and fraudulently concealed information, regarding
12 the true efficacy of ParaGard IUD.

13 188. In reliance upon the Teva Defendants' implied warranties, Plaintiff and/or her
14 implanting physicians and surgeons used ParaGard IUD as prescribed in the foreseeable manner
15 normally intended, recommended, promoted, and marketed by the Teva Defendants.

16 189. The Teva Defendants breached their implied warranties to Plaintiff and/or her
17 implanting physicians and surgeons in that ParaGard IUD was not of merchantable quality, safe
18 and fit for its intended use, or adequately tested, in violation of common law principles.

19 190. As a proximate result of the Teva Defendants' design, manufacture, marketing, sale
20 and/or distribution of ParaGard IUD, Plaintiff has been injured catastrophically, and sustained
21 severe and permanent pain, suffering, disability, and impairment, loss of enjoyment of life, loss of
22 reproductive health, comfort, and economic damages.

23 191. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
24 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
25 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

26 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
27 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
28

1 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
2 issues as triable as a matter of right.

3 **COUNT IX – VIOLATION OF CONSUMER PROTECTION LAWS**

4 192. Plaintiff realleges and incorporates by reference every allegation of this Complaint
5 as if each were set forth fully and completely herein.

6 193. Plaintiff purchased and used ParaGard IUD primarily for personal use thereby
7 suffering ascertainable losses, as a result of the Teva Defendants’ actions in violation of the
8 consumer protection laws.

9 194. Had the Teva Defendants not engaged in the deceptive conduct described herein,
10 Plaintiff and her physicians would not have purchased and/or paid for ParaGard IUD and would
11 not have incurred related medical costs and injury.

12 195. The Teva Defendants engaged in wrongful conduct while at the same time
13 obtaining, under false pretenses, moneys from Plaintiff for ParaGard IUD, that was implanted into
14 her, and that would not have been paid for had the Teva Defendants not engaged in unfair and
15 deceptive conduct.

16 196. Unfair methods of competition of deceptive acts or practices that were proscribed
17 by law, including the following:

- 18 a. Representing that goods or services have characteristics, ingredients, uses
19 benefits or quantities that they do not have;
- 20 b. Advertising goods or services with the intent not to sell them as advertised; and
- 21 c. Engaging in fraudulent or deceptive conduct that creates a likelihood of
22 confusion and/or misunderstanding.

23 197. Plaintiff was injured by the cumulative and indivisible nature of the Teva
24 Defendants’ conduct. The cumulative effect of the Teva Defendants’ conduct directed at patients,
25 physicians and consumers, including the Plaintiff and her physicians, was to create demand for
26 and promote the sale of ParaGard IUD. Each aspect of the Teva Defendants’ conduct combined to
27 artificially create sales of ParaGard IUD.

1 198. The Teva Defendants have a statutory duty to refrain from unfair or deceptive acts
2 or trade practices in the design, labeling, development, manufacture, promotion, and sale of
3 ParaGard IUD.

4 199. Had the Teva Defendants not engaged in the deceptive conduct described above,
5 Plaintiff would not have purchased and/or paid for ParaGard IUD, and would not have incurred
6 related medical costs.

7 200. The Teva Defendants' deceptive, unconscionable, or fraudulent representations and
8 material omissions to patients, physicians and consumers, including Plaintiff and her physicians,
9 constituted unfair and deceptive acts and trade practices in violation of the state and Federal
10 consumer protection statutes.

11 201. The Teva Defendants' actions, as complained of herein, constitute unfair
12 competition or unfair, unconscionable, deceptive or fraudulent acts, or trade practices in violation
13 of state and Federal consumer protection statutes, including but not limited to S.C. Code § 39-5-
14 10 *et seq.*

15 202. The Teva Defendants have engaged in unfair competition or unfair or deceptive
16 acts or trade practices or have made false representations in violation under the statute(s)
17 enumerated herein to protect consumers against unfair, deceptive, fraudulent and unconscionable
18 trade and business practices and false advertising, the Teva Defendants are the suppliers,
19 manufacturers, advertisers, and sellers, who are subject to liability under such legislation for
20 unfair, deceptive, fraudulent and unconscionable consumer sales practices.

21 203. The Teva Defendants and the Cooper Defendants further engaged in fraudulent
22 behavior regarding the transfer and/or sale of assets to the Cooper Defendants in 2017. The Cooper
23 Defendants knew or should have reasonably known that the transfer of assets was done in a manner
24 consistent with and in an effort to, deceive potential creditors.

25 204. Pursuant to the terms of the asset purchase agreement, Teva Women's Health, Inc.,
26 claims to maintain liability for all ParaGard IUD placed prior to the execution of the asset purchase
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1 agreement in September of 2017. However, Teva Women's Health, Inc., converted to Teva
2 Women's Health, LLC and sold off all of its assets.

3 205. The Cooper Defendants knew or reasonably should have known that the Teva
4 Defendants converted Teva Women's Health, Inc., into Teva Women's Health, LLC after selling
5 off or moving all assets from Teva Women's Health, Inc.

6 206. Therefore, the Cooper Defendants knew or reasonably should have known that the
7 Teva Defendants' shuffling of assets and subsequent conversions were done to thwart potential
8 creditors in violation of S.C. Code § 39-5-10 *et seq.* and Federal consumer protection laws.

9 207. The Defendants violated these statutes that were enacted to protect consumers
10 against unfair, deceptive, fraudulent and unconscionable trade and business practices and false
11 advertising, by knowingly and falsely representing that ParaGard IUD was fit to be used for the
12 purpose for which it was intended, when in fact it was defective and dangerous, and by other acts
13 alleged herein. These representations were made in uniform promotional materials and product
14 labeling.

15 208. The actions and omissions of the Defendants alleged herein are uncured or
16 incurable deceptive acts under the statutes enacted in the states to protect consumers against unfair,
17 deceptive, fraudulent and unconscionable trade and business practices and false advertising.

18 209. The Defendants had actual knowledge of the defective and dangerous condition of
19 ParaGard IUD and failed to take any action to cure such defective and dangerous conditions.

20 210. Plaintiff and her implanting physicians and surgeons relied upon the Teva
21 Defendants' misrepresentations and omissions in determining which product and/or procedure to
22 undergo and/or perform.

23 211. The Teva Defendants' deceptive, unconscionable or fraudulent representations and
24 material omissions to patients, physicians and consumers, constitute unfair and deceptive acts and
25 practices.

26 212. By reason of the unlawful acts engaged by the Teva Defendants, and as a direct and
27 proximate result thereof, Plaintiff has suffered ascertainable losses and damages.

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1 218. Plaintiff therefore will seek to assert claims for exemplary damages at the
2 appropriate time under governing law in an amount within the jurisdictional limits of the Court.

3 219. Plaintiff also alleges that the acts and omissions of the Teva Defendants, whether
4 taken singularly or in combination with others, constitute gross negligence that proximately caused
5 that injuries to Plaintiff. In that regard, Plaintiff will seek exemplary damages in an amount that
6 would punish the Teva Defendants for their conduct and which would deter other manufacturers
7 from engaging in such misconduct in the future.

8 220. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
9 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
10 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

11 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
12 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
13 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
14 issues as triable as a matter of right.

15 **COUNT XI – PUNITIVE DAMAGES**

16 221. Plaintiff incorporates by reference each and every allegation contained in the
17 preceding paragraphs as though fully set forth herein.

18 222. At times material hereto, the Teva Defendants knew or should have known that
19 their ParaGard IUD, as designed, manufactured, assembled, sold and/or distributed was
20 inherently dangerous.

21 223. At times material hereto, the Teva Defendants attempted to misrepresent and
22 did misrepresent facts concerning the safety of their ParaGard IUD.

23 224. The Teva Defendants' misrepresentations included knowingly withholding
24 material information from the public and consumers alike, including Plaintiff, concerning the
25 safety of ParaGard IUD.

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1 225. At times material hereto, the Teva Defendants knew and recklessly disregarded
2 the fact that their ParaGard IUD could cause serious, disabling, and permanent injuries to
3 individuals such as Plaintiff.

4 226. Notwithstanding the foregoing, the Teva Defendants continued to aggressively
5 market and promote their ParaGard IUD, without disclosing the risks.

6 227. As a proximate result of the Teva Defendants' willful, wanton, careless,
7 reckless, conscious, and deliberate disregard for the rights and safety of their consumers,
8 Plaintiff suffered severe and permanent physical and emotional injuries, endured pain and
9 suffering, and has suffered economic loss, including incurring significant expenses for
10 medical care and treatment, and will continue to incur such expenses in the future.

11 228. The Teva Defendants' aforesaid conduct was committed with knowing,
12 conscious, careless, reckless, willful, wanton, and deliberate disregard for the rights and safety
13 of consumers, including Plaintiff, thereby entitling Plaintiff to punitive damages in an amount
14 appropriate to punish the Teva Defendants and deter them from similar conduct in the future.

15 229. The Cooper Defendants are liable as successors-in-interest under the S.C. Code §
16 27-23-10 *et seq.*, any other state or federal successor in interest acts or statutes; and the Federal
17 Consumer Protection Act pursuant to a fraudulent conveyance or transfer of assets.

18 WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally,
19 for compensatory damages, for punitive damages and for costs, in an as yet unliquidated sum in
20 excess of \$75,000.00, and such other relief as this Court deems just and for a trial by jury on all
21 issues as triable as a matter of right.

22 **PRAYER FOR RELIEF**

23 So far as the law and this Court allows, Plaintiff demands judgment against each Defendant
24 on each count as follows:

- 25 a. All available compensatory damages for the described losses with respect
26 to each cause of action;

- b. Past and future medical expenses, as well as the cost associated with past and future life care;
- c. Past and future lost wages and loss of earning capacity;
- d. Past and future emotional distress;
- e. Consequential damages;
- f. All available noneconomic damages, including without limitation pain, suffering, and loss of enjoyment of life;
- g. Punitive damages with respect to each cause of action;
- h. Reasonable attorneys' fees where recoverable;
- i. Costs of this action;
- j. Pre-judgment and all other interest recoverable; and
- k. Such other additional, further, and general relief as Plaintiff may be entitled to in law or in equity as justice so requires.

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

By: /s/ Robert F. Goings
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Columbia, South Carolina

Attorneys for Plaintiff