UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CURTIS MCCALL

Plaintiff,

v.

AUROBINDO PHARMA USA, INC.; AUROBINDO PHARMA LIMITED and FICTITIOUS DEFENDANTS 1–7,

Defendants.

Case No.: 2:21-CV-450

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff, Curtis McCall, by and through undersigned counsel of record, and files this Complaint against Defendants Aurodindo Pharma USA, Inc., Aurobindo Pharma Limited, and Fictitious Defendants 1-7. As grounds for said Complaint, Plaintiff states and shows unto the Court as follows:

PARTIES

1. Plaintiff Curtis McCall ("Plaintiff") is an Autauga County, Alabama resident, and is an individual above the age of nineteen (19) years.

2. Defendant Aurobindo Pharma USA, Inc. ("Aurobindo USA") was, at all times relevant, a foreign company doing business for profit in the State of Alabama.

3. Defendant Aurobindo Pharma Limited ("Aurobindo Ltd.") was, at all times relevant, a foreign company doing business for profit through interstate commerce in the State of Alabama.

4. Fictitious Defendant No. 1, whether singular or plural, is that individual or those individuals that manufactured The Drug consumed by Plaintiff.

5. Fictitious Defendant No. 2, whether singular or plural, is that entity or those entities who or which marketed The Drug ingested by Plaintiff.

6. Fictitious Defendant No. 3, whether singular or plural, is that entity or those entities who or which sold The Drug ingested by Plaintiff.

7. Fictitious Defendant No. 4, whether singular or plural, is that entity or those entities who or which caused The Drug ingested by Plaintiff to be contaminated.

8. Fictitious Defendant No. 5, whether singular or plural, is that entity or those entities who or which had any role in the distributive chain regarding The Drug ingested by Plaintiff.

9. Fictitious Defendant No. 6, whether singular or plural, is that entity or those entities who or which, designed, manufactured, or distributed component parts of The Drug ingested by Plaintiff.

10. Fictitious Defendant No. 7, whether singular or plural, is that entity or those entities, that individual or those individuals, other than those described above whose negligence, intentional conduct, willfulness, breach of conduct, wantonness, or other wrongful conduct contributed to cause the occurrence made the basis of Plaintiff's Complaint.

11. Plaintiff is currently ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the Defendants sued herein under the Fictitious names 1–7, inclusive, and therefore sue such Defendants by such Fictitious names. Plaintiff will seek leave to amend this Complaint to allege the true names and capacities of said Fictitious Defendants when their true names and capacities have been ascertained. Plaintiff is informed and believes and thereon alleges that each of the Fictitious Defendants 1-7 is legally responsible in some manner for the events and occurrences alleged herein, and for the damages sustained by Plaintiff.

12. Unless otherwise specified, Aurobindo USA, Aurobindo Ltd., and Fictitious

Defendants 1–7, are hereinafter collectively referred to as "Defendants".

13. At all times relevant herein, Defendants manufactured, promoted, distributed, and/or sold for profit through interstate commerce a prescription drug known as Valsartan /Hydrochlorothiazide (HCTZ), Valsartan/Amlodipine, or Valsartan (collectively "The Drug"), including in Autauga County, State of Alabama.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship between Plaintiff and the Defendants, and because Plaintiff alleges an amount in controversy in excess of $75,000, exclusive of interest and costs.

15. The Court has personal jurisdiction over Defendants because at all relevant times they have engaged in substantial business activities in the State of Alabama. At all relevant times, Defendants transacted, solicited, and conducted business in Alabama through their employees, agents, and/or sales representatives, and derived substantial revenue from such business in Alabama.

16. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a) because a substantial portion of the wrongful acts upon which this lawsuit is based occurred in this District. Venue is also proper pursuant to 28 U.S.C. § 1391(c), because Defendants are all corporations that have substantial, systematic, and continuous contacts in the State of Alabama, and they are all subject to personal jurisdiction in this District.

STATEMENT OF FACTS

17. The Drug is an angiotensin II receptor blocker (ARB) used to treat hypertension (high blood pressure), recent heart attack, and heart failure.

18. The Drug can be sold by itself or as a single pill which combines Valsartan with HCTZ, amlodipine, or both.

19. Defendant Aurobindo USA and/or Aurobindo Ltd. manufactured, promoted, sold, and distributed The Drug tainted with impurities known as N-Nitrosodimethylamine (NDMA), N-Nitrosodiethylamine (NDEA), N-Nitroso N-Methyl 4-amino butyric acid (NMBA), or other nitrosamine compounds, which have been shown to cause cancer and other injuries.

20. The Drug was prescribed for Mr. McCall by his treating physician and subsequently ingested by him.

21. The Drug ingested by Mr. McCall was at least in part subject to the recent recall of Valsartan medications issued by the United States Food and Drug Administration (FDA).

22. As a result of Plaintiff's ingestion of The Drug as prescribed by his treating physician, he was diagnosed with prostate cancer.

23. Defendants knowingly, recklessly, and/or negligently manufactured The Drug contaminated with impurities, including but not limited to, NDEA.

24. Defendants concealed the defective condition of The Drug from Plaintiff and Plaintiff's treating physician, and otherwise suppressed the dangerous nature of the medication. Plaintiff only recently learned of Defendants' wrongdoing.

25. As a result of the actions and inactions of Defendants, Plaintiff sustained serious, debilitating, and life-threatening injuries, including but not limited to prostate cancer.

COUNT I

ALABAMA EXTENDED MANUFACTURER'S LIABILITY DOCTRINE (AEMLD)

26. Plaintiff adopts and incorporates by reference all allegations of the preceding paragraphs as if fully set forth herein.

27. At all times relevant hereto, Defendants were engaged in the business of selling,

distributing, manufacturing, using, marketing and/or promoting The Drug containing hazardous and dangerous materials, chemicals, and/or products which were unreasonably dangerous and, therefore, defective.

28. At all times relevant hereto, Defendants sold, distributed, manufactured, used, promoted, and/or marketed The Drug containing hazardous and dangerous materials and/or products that were expected to reach, and did reach, consumers, including the Plaintiff, without substantial change in the condition of when the hazardous and dangerous materials and/or products left the possession of Defendants.

29. The Drug was not reasonably safe in its manufacture, which made it not reasonably safe for its intended and/or reasonably foreseeable uses.

30. At all times relevant hereto, Defendants were aware that using The Drug could cause physical injury.

31. Defendants possessed superior knowledge of the defective nature of The Drug. Plaintiff had no reason to know of the defective condition of The Drug.

32. At all times relevant hereto, there existed safer alternative materials, products and/or manufacturing processes other than those used by Defendants.

33. Defendants owed a duty of care to protect foreseeable users, including the Plaintiff, by manufacturing The Drug in a way that would have eliminated or substantially diminished the risk of harm and/or physical injury (i.e., not contaminating the drug).

34. A reasonable person who knew of The Drug's potential for causing injury would have concluded that the product, which was not reasonably safe for use in its intended or reasonably foreseeable purposes because it was contaminated, should not have been marketed in that condition.

35. Defendants knew or otherwise expected that The Drug would reach the ultimate users, including Plaintiff, without substantial change from, or alteration of, the condition in which it was originally manufactured and sold.

36. As a proximate and foreseeable result of Defendants' conduct, Plaintiff sustained serious, debilitating, and life-threatening injuries, including but not limited to prostate cancer.

37. By reason of the foregoing, Defendants are liable to Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully demands a judgment against Defendants, jointly and severally, for damages in an amount to be assessed by a jury under the provisions of the laws of this State, together with interest, costs, and such other or further relief to which Plaintiff may be entitled.

Respectfully Submitted,

Gerald C. Brooks (BRO212)
One of the Attorneys for Plaintiff,
Curtis McCall

OF COUNSEL:

Gerald C. Brooks, Esq.
Tiffany Tolliver, Esq. (TOL014)
SERIOUS INJURY LAW GROUP, P.C.
9617 Parkway East
Birmingham, AL 35215
Telephone: (205) 206-7070
Facsimile: (205) 206-7071
gerald@seriouslawyers.com
tiffany@seriouslawyers.com

PLEASE SERVE DEFENDANTS VIA CERTIFIED MAIL AT THE FOLLOWING:

AUROBINDO PHARMA USA, INC.
279 Princeton-Highstown Road
East Windsor, NJ 08520

SERVICE BY PROCESS SERVER PURSUANT TO HAGUE CONVENTION:

AUROBINDO PHARA LIMITED
Plot no.2, Maitrivihar,
Ameerpet,
Hyderabad-500038
Telanga, India