Seth A. Katz (#031124)
BURG SIMPSON ELDREDGE HERSH & JARDINE, P.C.
40 Inverness Drive East
Englewood, CO 80112
Phone: (303) 792-5595
Fax: (308) 708-0527

2398 E. Camelback Road, Suite 1010
Phoenix, AZ 85016
Phone: (602) 777-7000
skatz@burgsimpson.com
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF ARIZONA

GERALDINE GRIFFIN,

Plaintiff,

v.

TAKEDA PHARMACEUTICALS USA INC. (fka TAKEDA PHARMACEUTICALS NORTH AMERICA, INC.); TAKEDA PHARMACEUTICAL COMPANY LIMITED; TAKEDA PHARMACEUTICALS LLC; TAKEDA PHARMACEUTICALS INTERNATIONAL, INC.; TAKEDA GLOBAL RESEARCH DEVELOPMENT CENTER, INC.; TAKEDA CALIFORNIA INC. (fka TAKEDA SAN DIEGO, INC.); ASTRAZENECA PHARMACEUTICALS LP; and ASTRAZENECA LP,

Defendants.

Case No. 2:17-cv-99907

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, by Plaintiff's attorneys, **DOUGLAS & LONDON, P.C. and BURG SIMPSON, ELDRIDGE, HERSH & JARDINE P.C.** , upon information and belief, at all times hereinafter mentioned, alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the amount in controversy as to the Plaintiff exceeds $75,000.00, exclusive of

interest and costs, and because Defendants are incorporated and have their principal places of business in states other than the state in which the named Plaintiff resides.

NATURE OF THE CASE

2. This action is brought on behalf of Plaintiff, GERALDINE GRIFFIN, who used prescription brand Prevacid and Nexium for treatment of Plaintiff's peptic disorder.

3. Plaintiff seeks compensatory damages as a result of Plaintiff's use of Prevacid and Nexium, which has caused Plaintiff to suffer and continue to suffer from Chronic Kidney Disease ("CKD"), as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications, and fear of developing any of additional health consequences.

4. Defendants, Takeda Pharmaceuticals USA, Inc. (fka Takeda Pharmaceuticals North America, Inc.); Takeda Pharmaceutical Company Limited; Takeda Pharmaceuticals LLC.; Takeda Pharmaceuticals International Inc.; Takeda Global Research & Development Center Inc. and Takeda California Inc. (fka Takeda San Diego Inc.), (hereinafter collectively referred to as "Defendants") designed, researched, manufactured, tested, advertised, promoted, marketed, sold, and distributed Prevacid.

5. Defendants, AstraZeneca Pharmaceuticals LP and AstraZeneca LP (hereinafter collectively referred to as "Defendants") designed, researched, manufactured, tested, advertised, promoted, marketed, sold, and distributed Nexium.

6. When warning of safety and risks of Prevacid and Nexium, Defendants negligently represented to the medical and healthcare community, the Food and Drug Administration (hereinafter referred to as the "FDA"), the Plaintiff's treating physicians, and the public in general, that Prevacid and Nexium had been tested and were found to be safe and/or effective for their indicated use in treating peptic disorders.

7. Defendants concealed their knowledge of Prevacid and Nexium's defects, specifically the fact that it causes serious kidney injuries, from Plaintiff's treating physicians, hospitals, pharmacies, the FDA, the public in general and/or the medical community.

8. These representations were made by Defendants with the intent of defrauding and deceiving the Plaintiff's physicians, the public in general, and the medical and healthcare community in particular, and were made with the intent of inducing the public in general, and the medical community in particular, to recommend, dispense and/or purchase Prevacid and Nexium for the treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy, all of which evinced a callous, reckless, willful, depraved indifference to health, safety and welfare of the Plaintiff herein.

9. As a result of the foregoing acts and omissions, the Plaintiff was and still is caused to suffer serious and dangerous side effects including inter alia CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications, and fear of developing any additional health consequences.

10. Consequently, Plaintiff seeks compensatory damages as a result of Plaintiff's use of Prevacid and Nexium, which has caused Plaintiff to suffer from CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications, and fear of developing any of the above named health consequences.

PARTIES

11. Plaintiff, GERALDINE GRIFFIN, is a citizen of the United States of America, and is a resident of Peoria, Arizona (Maricopa County).

12. Plaintiff, GERALDINE GRIFFIN, first began using prescription brand Prevacid in or about May 2006, and Plaintiff used prescription brand Prevacid up through January 2009.

13. Plaintiff, GERALDINE GRIFFIN, first began using prescription brand Nexium in or about April 2013, and Plaintiff used prescription brand Nexium up through October 2016.

14. As result of Plaintiff's ingestion of Defendants' Prevacid and Nexium, Plaintiff GERALDINE GRIFFIN has suffered and continues to suffer from CKD which was diagnosed on or about August 12, 2014, as well as any and all of its sequelae and attendant pain, suffering, and emotional distress.

15. The injuries and damages sustained by Plaintiff, GERALDINE GRIFFIN, were caused by Defendants' Prevacid and Nexium and their unlawful conduct with respect to their design, manufacture, marketing and sale.

16. Defendant Takeda Pharmaceuticals USA, Inc. is, and at all times relevant to this action was, an Illinois corporation. Defendant Takeda Pharmaceuticals USA, Inc. is the holder of approved New Drug Applications ("NDAs") 020406, 021428 and 021281 for Prevacid (lansoprazole), and it manufactures and markets Prevacid (lansoprazole) in the United States.

17. Upon information and belief, Defendant Takeda Pharmaceuticals USA Inc. is a Delaware corporation, having a principal place of business at One Takeda Parkway, Deerfield, Illinois 60015. As part of its business, Takeda Pharmaceuticals USA, Inc. is involved in the design, research, manufacture, test, advertise, promote, market, sell, and

distribute the drug Prevacid for use which primary purpose being a proton pump inhibitor.

18. Upon information and belief, Defendant, Takeda Pharmaceuticals USA, Inc. has transacted and conducted business in the States of Illinois, South Carolina and Arizona.

19. Upon information and belief, Defendant, Takeda Pharmaceuticals USA, Inc., has derived substantial revenue from goods and products used in the States of Illinois, South Carolina and Arizona.

20. Upon information and belief, Defendant, Takeda Pharmaceuticals USA, Inc., expected or should have expected its acts to have consequence within Illinois and Arizona, and derived substantial revenue from interstate commerce within the United States, Illinois, South Carolina and Arizona.

21. Upon information and belief, Defendant Takeda Pharmaceutical Company Limited is a Japanese corporation having a principal place of business at 1-1, Doshomachi 4-chome, Chuoku, Osaka, Japan and is the parent/holding company of Defendants Takeda Pharmaceuticals International Inc., Takeda Pharmaceuticals USA, Inc., Takeda Pharmaceuticals LLC, Takeda Global Research & Development Center Inc., and Takeda California Inc.

22. Upon information and belief, and at all relevant times, Defendant Takeda Pharmaceutical Company Limited exercised and exercises dominion and control over Defendants Takeda Pharmaceuticals International Inc., Takeda Pharmaceuticals USA, Inc., Takeda Pharmaceuticals LLC, Takeda Global Research & Development Center Inc., and Takeda California Inc.

23. Upon information and belief, Defendant, Takeda Pharmaceutical Company Limited, has transacted and conducted business in the States of Illinois, South Carolina and Arizona.

24. Upon information and belief, Defendant, Takeda Pharmaceutical Company Limited has derived substantial revenue from goods and products used in the States of Illinois, South Carolina and Arizona.

25. Upon information and belief, Defendant, Takeda Pharmaceutical Company Limited expected or should have expected its acts to have consequence within the United States of America, the State of Illinois and Arizona, and derived substantial revenue from interstate commerce within the United States of America, Illinois, South Carolina and Arizona.

26. Upon information and belief, and at all relevant times, Defendant, Takeda Pharmaceutical Company Limited, was in the business of and did design, research, manufacture, test, advertise, promote, market, sell, and distribute the drug Prevacid for use which primary purpose is being a proton pump inhibitor.

27. Upon information and belief, Defendant Takeda Pharmaceuticals LLC. is a Delaware limited liability company, having a principal place of business at One Takeda Parkway, Deerfield, Illinois 60015.

28. Upon information and belief, Defendant, Takeda Pharmaceuticals, LLC is an Illinois limited liability company owned by Takeda Pharmaceuticals America, Inc. and Takeda Pharmaceuticals USA, Inc. is a Delaware corporation having a principal place of business in Illinois, and is wholly owned by Takeda Pharmaceuticals USA, Inc. Takeda Pharmaceuticals USA, Inc.

29. Upon information and belief, Defendant, Takeda Pharmaceuticals LLC. has transacted and conducted business in the States of Illinois, South Carolina and Arizona.

30. Upon information and belief, Defendant, Takeda Pharmaceuticals LLC. has derived substantial revenue from goods and products used in the State sof Illinois, South Carolina and Arizona.

31. Upon information and belief, Defendant, Takeda Pharmaceuticals LLC. expected or should have expected its acts to have consequence within Illinois, South Carolina and Arizona, and derived substantial revenue from interstate commerce within the United States, Illinois, South Carolina and Arizona.

32. Upon information and belief, and at all relevant times, Defendant, Takeda Pharmaceuticals LLC. was in the business of and did design, research, manufacture, test, advertise, promote, market, sell, and distribute the drug Prevacid for use which primary purpose is being a proton pump inhibitor.

33. Upon information and belief, Defendant Takeda Pharmaceuticals International Inc. is a Delaware corporation, having a principal place of business at One Takeda Parkway, Deerfield, IL 60015.

34. Upon information and belief, Defendant Takeda California, Inc. is a Delaware Corporation, having a principal place of business in California.

35. Upon information and belief, Defendant Takeda California, Inc., has transacted and conducted business in the States of California, South Carolina and Arizona

36. Upon information and belief, Defendant Takeda Global Research & Development Center Inc. is a Delaware corporation, having a principal place of business at One Takeda Parkway, Deerfield, IL 60015. As part of its business Takeda Global Research & Development Center Inc. is involved in the research, development, sales and marketing of pharmaceutical products including Prevacid.

37. Upon information and belief, Defendant, Takeda Global Research & Development Center Inc. has transacted and conducted business in the States of Illinois, South Carolina and Arizona.

38. Upon information and belief, each Defendant was the agent and employee of each other Defendant, and in doing the things alleged was acting within the course and

scope of such agency and employment and with each other Defendant's actual and implied permission, consent, authorization, and approval.

39. Defendant AstraZeneca Pharmaceuticals, LP is, and at all times relevant to this action was, a limited partnership organized under the laws of the State of Delaware with its headquarters and principal place of business located at 1800 Concord Pike, Wilmington, Delaware.

40. AstraZeneca Pharmaceutical LP's general partner is AstraZeneca AB, a corporation incorporated under the laws of the nation of Sweden with its principal place of business in Sweden. AstraZeneca Pharmaceutical LP's sole limited partner is Zeneca Inc., which is a corporation incorporated under the laws of the State of Delaware with its principal place of business in Delaware.

41. At all times relevant hereto, Defendant AstraZeneca Pharmaceuticals, LP was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Nexium products.

42. Upon information and belief, at all relevant times, Defendant AstraZeneca Pharmaceuticals, LP was present and doing business in the States of Delaware, South Carolina and Arizona.

43. Upon information and belief, at all relevant times, Defendant AstraZeneca Pharmaceuticals LP transacted, solicited, and conducted business in the States of Delaware, South Carolina and Arizona and derived substantial revenue from such business.

44. Upon information and belief, at all times relevant hereto, Defendant AstraZeneca Pharmaceuticals, LP expected or should have expected that its acts would have consequences within the United States of America, and the States of Delaware, South Carolina and Arizona.

45. Defendant AstraZeneca LP is, and at all times relevant to this action was, a limited partnership organized under the laws of the State of Delaware with its headquarters and principal place of business located at 1800 Concord Pike, Wilmington, Delaware.

46. Defendant AstraZeneca LP's sole general partner is AstraZeneca Pharmaceuticals LP. Defendant AstraZeneca LP has no limited partners. AstraZeneca Pharmaceutical LP's general partner is AstraZeneca AB, a corporation incorporated under the laws of the nation of Sweden with its principal place of business in Sweden. AstraZeneca Pharmaceutical LP's sole limited partner is Zeneca Inc., a corporation incorporated under the laws of the State of Delaware with its principal place of business in Delaware.

47. Defendant AstraZeneca LP is the holder of approved New Drug Applications ("NDAs") 21-153 and 21-154 for Nexium (Esomeprazole Magnesium), and it manufactures and markets Nexium (Esomeprazole Magnesium) in the United States.

48. Upon information and belief, at all times relevant hereto Defendant AstraZeneca LP was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling and/or selling Nexium products.

49. Upon information and belief, at all relevant times, Defendant AstraZeneca LP was present and doing business in the States of Delaware, South Carolina and Arizona.

50. Upon information and belief, at all relevant times, Defendant AstraZeneca LP transacted, solicited, and conducted business in the States of Delaware, South Carolina and Arizona, and derived substantial revenue from such business.

51. Upon information and belief, at all times relevant hereto, Defendant AstraZeneca LP expected or should have expected that its acts would have consequences

within the United States of America, and the States of Delaware, South Carolina and Arizona.

52. Upon information and belief, each AstraZeneca Defendant was the agent and employee of each other AstraZeneca Defendant, and in doing the things alleged was acting within the course and scope of such agency and employment and with each other AstraZeneca Defendant's actual and implied permission, consent, authorization, and approval.

FACTUAL BACKGROUND

53. This action seeks, among other relief, general and special damages and equitable relief due to Plaintiff GERALDINE GRIFFIN suffering CKD caused by Plaintiff's ingestion of the proton pump inhibitors, Prevacid and Nexium.

54. Takeda sold Prevacid with National Drug Code (NDC) numbers 64764-046 and 64764-046-13.

55. At all times Defendants were responsible for, or involved in, designing, manufacturing, marketing, advertising, distributing and/or selling Prevacid.

56. In 1998, the United States Food and Drug Administration approved Takeda Pharmaceuticals' compound Lansoprazole for various uses, including the treatment of heartburn, acid reflux, ulcers and inflammation of the esophagus. Lanzoprazole is marketed by Takeda Pharmaceuticals as Prevacid.

57. Prevacid is also used to treat and prevent stomach and intestinal ulcers, erosive esophagitis (damage to the esophagus from stomach acid), and other conditions involving excessive stomach acid such as Zollinger-Ellison syndrome.

58. In 2002, Takeda's sales of Prevacid exceeded $2.9 billion dollars. When ranked by total expenditures in 2004, for adults age 18-64, Prevacid ranked third with $2.67

billion in sales. In 2005, Prevacid was the nation's fourth-best-selling brand name prescription in the United States. In 2006 sales of Prevacid exceeded $5.7 billion dollars.

59. Upon information and belief, the AstraZeneca Defendants began marketing and selling prescription brand Nexium in 2001.

60. Plaintiff began taking prescription brand Nexium in or about April 2013.

61. At all relevant times, Defendants heavily marketed Nexium and to treat peptic disorders, including but not limited to gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

62. Defendants' marketing of Nexium and included advertisements, press releases, web site publications, sales representative pitches and other communications.

63. Materials including advertisements, press releases, webs site publications and other communications regarding Nexium are part of the labeling of the drug and could be altered by Defendants without prior FDA approval.

64. Proton pump inhibitors ("PPIs"), including Defendants' Nexium, are one of the most commonly prescribed medications in the United States.

65. More than 15 million Americans used prescription PPIs in 2013, costing more than $10 billion.

66. However, it has been estimated that between 25% and 70% of these prescriptions have no appropriate indication.

67. Up to 70% of PPIs may be used inappropriately for indications or durations that were never tested or approved.

68. Further, 25% of long-term PPI users could discontinue therapy without developing any symptoms.

69. The AstraZeneca Defendants sold Nexium with National Drug Code (NDC) numbers 00186-5020; 00186-5022; 00186-5040; 00186-5042; 0186-4010; 0186-

4020 and 00186-4040.

70. Nexium (Esomeprazole Magnesium), is a PPI that works by reducing hydrochloric acid in the stomach.

71. During the period in which Nexium has been sold in the United States, hundreds of reports of injuries, including kidney injuries, have been submitted to the FDA in association with ingestion of Nexium and other PPIs.

72. Defendants have had notice of serious adverse health outcomes regarding kidney disease associated with their Nexium through case reports, clinical studies and post-market surveillance.

73. Specifically, Defendants had received numerous case reports of kidney injuries in patients that had ingested Nexium as early as 2001. As such, these reports of numerous kidney injuries put Defendants on notice as to the excessive risks of kidney injuries related to the use of Nexium.

74. Defendants concealed and continue to conceal their knowledge of Prevacid and Nexium 's lack of long-term benefits from Plaintiff, other consumers and the medical community. Defendants failed to conduct adequate and sufficient post-marketing surveillance of Prevacid and Nexium after they began marketing, advertising, distributing and selling the drug.

75. As a result of Defendants' action and inactions, Plaintiff was injured due to Plaintiff’s ingestion of Prevacid and Nexium, which caused and will continue to cause Plaintiff various injuries and damages.

76. Consumers, including the Plaintiff, who has used Prevacid and Nexium for treatment of acid reflux, have several alternative safer products available to treat the conditions and have not been adequately warned about the significant risks and lack of benefits associated with long-term Prevacid and Nexium therapy.

77. Defendants knew of the significant risk of kidney damage that could result from long-term Prevacid and Nexium use, but Defendants did not adequately and sufficiently warn consumers, including Plaintiff, Plaintiff's physician or the medical community in a timely manner.

78. Even if used as directed, Defendants failed to adequately warn against the negative effects and risks associated with this product including, but not necessarily limited to, long term usage and the cumulative effects of long term usage.

79. During the period in which Prevacid and Nexium have been sold in the United States, hundreds of reports of injury have been submitted to the FDA in association with ingestion of PPIs. Defendants have had notice of serious adverse health outcomes through case reports, clinical studies and post-market surveillance.

80. Defendants took no action to inform Plaintiff or Plaintiff's physicians of this known risk. Instead, Defendants continued to represent that Prevacid and Nexium did not pose any risks of kidney injuries.

81. Since the introduction of PPIs to the US market in 1989, several observational studies have linked PPI use to serious adverse health outcomes, including hip fracture, community acquired pneumonia, Clostridium difficile infection, acute interstitial nephritis and acute kidney injury ("AKI"). A study from 2015 shows that acute kidney injuries increased 250% in elderly patients that were newly prescribed PPIs. The acute kidney injuries occurred with 120 days of the patients staring the PPIs.

82. Recent studies have shown the long term use of PPIs was independently associated with a 20% to 50% higher risk of incident Chronic Kidney Disease ("CKD"), after adjusting for several potential confounding variables, including demographics, socioeconomic status, clinical measurements, prevalent comorbidities, and concomitant use of medications. In one of those studies, the use of PPIs for any period of time was

shown to increase the risk of CKD by 10%.

83. CKD, describes the gradual loss of kidney function. Kidneys filter wastes and excess fluids from the blood, which are then excreted. When chronic kidney disease reaches an advanced stage, dangerous levels of fluid, electrolytes and wastes can build up in the body.

84. In the early stages of CKD, patients may have few signs or symptoms. CKD may not become apparent until kidney function is significantly impaired.

85. Treatment for CKD focuses on slowing the progression of the kidney damage, usually by attempting to control the underlying cause. CKD can progress to end-stage kidney failure, which is fatal without artificial filtering, dialysis or a kidney transplant. Early treatment is often key to avoiding the most negative outcomes.

86. CKD is associated with a substantially increased risk of death and cardiovascular

events.

87. CKD is identified by a blood test for creatinine, which is a breakdown product of muscle metabolism. Higher levels of creatinine indicate a lower glomerular filtration rate and as a result a decreased capability of the kidneys to excrete waste products.

88. Creatinine levels may be normal in the early stages of CKD, so the condition may also be discovered by urinalysis. To fully investigate the scope of the kidney damage, various forms of medical imaging, blood tests and a kidney biopsy are employed.

89. Screening of at-risk people is important because treatments exist that delay the progression of CKD.

90. Alternatives to PPIs are and were available that provide the same benefits

but act through a different mechanism.

91. One alternative is H2 antagonists, also called H2 blockers, a class of medications that block the action of histamine at the histamine H2 receptors of the parietal cells in the stomach.

92. The higher risks of CKD are specific to PPI medications. The use of H2 receptor antagonists, which are prescribed for the same indication as PPIs, is not associated with CKD.

93. Similar findings were demonstrated for the outcome of CKD and collectively suggest that PPI use is an independent risk factor for CKD and for CKD.

94. In addition, a study has linked the acute kidney injuries caused by PPIs to a later increased risk of CKD. The study noted that as PPI induced acute kidney disease is often subtle and slowly diagnosed. The delay in diagnosis causes damage to the kidney to be increased and the patient has a higher risk of later developing CKD.

95. Defendants failed to adequately warn against the negative effects and risks associated with Prevacid and Nexium. Defendants have totally failed to provide any warnings regarding CKD.

96. In omitting, concealing, and inadequately providing critical safety information regarding the use of Prevacid and Nexium in order to induce their purchase and use, Defendants engaged in and continue to engage in conduct likely to mislead consumers including Plaintiff. This conduct is fraudulent, unfair, and unlawful.

97. Defendants knew or should have known about the correlation between the use of Prevacid and Nexium and the significantly increased risk of CKD and acute kidney injuries.

98. Despite clear knowledge that Prevacid and Nexium cause a significantly increased risk of CKD and acute kidney injuries, Defendants continued to market and sell

Prevacid and Nexium without warning consumers or healthcare providers of the significant risks of CKD and acute kidney injuries.

99. As a result of Defendants' action and inactions as outlined herein, Plaintiff was injured due to Plaintiff's ingestion of Prevacid and Nexium, which caused Plaintiff and continues to cause Plaintiff to suffer from CKD and any and all of its sequelae.

100. Prior to Summer 2016, Plaintiff GERALDINE GRIFFIN did not know about the causal link between Plaintiff's CKD and ingestion of Defendants' Prevacid and Nexium.

101. It was not until about Summer 2016 that Plaintiff GERALDINE GRIFFIN first learned of the possible causal link.

102. Prior to Summer 2016, Plaintiff did not have access to or actually receive any studies or information recognizing the increased risk of CKD associated with Prevacid and Nexium use.

COUNT I
AS AGAINST THE DEFENDANTS
(NEGLIGENCE)

103. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

104. Defendants had a duty to exercise reasonable care in the designing, researching, manufacturing, marketing, supplying, promoting, packaging, sale and/or distribution of Prevacid and Nexium into the stream of commerce, including a duty to assure that the product would not cause users to suffer unreasonable, dangerous side effects.

105. Defendants failed to exercise ordinary care in the designing, researching, manufacturing, marketing, supplying, promoting, packaging, sale, testing, quality

assurance, quality control, and/or distribution of Prevacid and Nexium into interstate commerce in that Defendants knew or should have known that using Prevacid and Nexium could proximately cause Plaintiff's injuries. Specifically, Defendants failed to meet their duty to use reasonable care in the testing, creating, designing, manufacturing, labeling, packaging, marketing, selling, and warning of Prevacid and Nexium. Defendants are liable for acts and/or omissions amounting to negligence, gross negligence and/or malice including, but not limited to the following:

(a) Failure to adequately warn Plaintiff and Plaintiff's physicians of the known or reasonably foreseeable danger that plaintiff would suffer a serious injury or death by ingesting Prevacid and Nexium;

(b) Failure to adequately warn Plaintiff and Plaintiff's physicians of the known or reasonably foreseeable danger that Plaintiff would suffer a serious injury or death by ingesting Prevacid and Nexium in unsafe doses;

(c) Failure to use reasonable care in testing and inspecting Prevacid and Nexium so as to ascertain whether or not it was safe for the purpose for which it was designed, manufactured and sold;

(d) Failure to use reasonable care in implementing and/or utilizing a reasonably safe design in the manufacture of Prevacid and Nexium;

(e) Failure to use reasonable care in the process of manufacturing Prevacid and Nexium in a reasonably safe condition for the use for which it was intended;

(f) Failure to use reasonable care in the manner and method of warning Plaintiff and Plaintiff's physicians as to the danger and risks of using Prevacid and Nexium in unsafe doses; and

(g) Such further acts and/or omissions that may be proven at trial.

106. The above-described acts and/or omissions of Defendants were a direct and proximate cause of the severe, permanent and disabling injuries and resulting damages to Plaintiff.

107. The negligence of the Defendants, their agents, servants, and/or employees, included but was not limited to the following acts and/or omissions:

(a) Manufacturing, producing, promoting, formulating, creating, and/or designing Prevacid and Nexium without thoroughly testing it;

(b) Manufacturing, producing, promoting, formulating, creating, and/or designing Prevacid and Nexium without adequately testing them;

(c) Not conducting sufficient testing programs to determine whether or not Prevacid and Nexium was safe for use; in that Defendants herein knew or should have known that Prevacid and Nexium were unsafe and unfit for use by reason of the dangers to their users;

(d) Selling Prevacid and Nexium without making proper and sufficient tests to determine the dangers to their users;

(e) Negligently failing to adequately and correctly warn the Plaintiff, the public, the medical and healthcare profession, and the FDA of the dangers of Prevacid and Nexium;

(f) Failing to provide adequate instructions regarding safety precautions to be observed by users, handlers, and persons who would reasonably and foreseeably come into contact with, and more particularly, use, Prevacid and Nexium;

(g) Failing to test Prevacid and Nexium and/or failing to adequately, sufficiently and properly test Prevacid and Nexium.

(h) Negligently advertising and recommending the use of Prevacid and Nexium without sufficient knowledge as to their dangerous propensities;

(i) Negligently representing that Prevacid and Nexium were safe for use for their intended purpose, when, in fact, it was unsafe;

(j) Negligently designing Prevacid and Nexium in a manner which was dangerous to their users;

(k) Negligently manufacturing Prevacid and Nexium in a manner which was dangerous to their users;

(l) Negligently producing Prevacid and Nexium in a manner which was dangerous to their users;

(m) Negligently assembling Prevacid and Nexium in a manner which was dangerous to their users;

(n) Concealing information from the Plaintiff in knowing that Prevacid and Nexium were unsafe, dangerous, and/or non-conforming with FDA regulations.

108. Defendants under-reported, underestimated and downplayed the serious dangers of Prevacid and Nexium.

109. Defendants negligently compared the safety risk and/or dangers of Prevacid and Nexium with other forms of treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

110. Defendants were negligent in the designing, researching, supplying, manufacturing, promoting, packaging, distributing, testing, advertising, warning, marketing and sale of Prevacid and Nexium in that they:

(a) Failed to use due care in designing and manufacturing Prevacid and Nexium so as to avoid the aforementioned risks to individuals when Prevacid and Nexium were used for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy;

(b) Failed to accompany their product with proper and/or accurate warnings regarding all possible adverse side effects associated with the use of Prevacid and Nexium;

(c) Failed to accompany their product with proper warnings regarding all possible adverse side effects concerning the failure and/or malfunction of Prevacid and Nexium;

(d) Failed to accompany their product with accurate warnings regarding the risks of all possible adverse side effects concerning Prevacid and Nexium;

(e) Failed to warn Plaintiff of the severity and duration of such adverse effects, as the warnings given did not accurately reflect the symptoms, or severity of the side effects;

(f) Failed to conduct adequate testing, including pre-clinical and clinical testing and post-marketing surveillance to determine the safety of Prevacid and Nexium;

(g) Failed to warn Plaintiff, prior to actively encouraging the sale of Prevacid and Nexium, either directly or indirectly, orally or in writing, about the need for more comprehensive, more regular medical monitoring than usual to ensure early discovery of potentially serious side effects;

(h) Were otherwise careless and/or negligent.

111. Despite the fact that Defendants knew or should have known that Prevacid and Nexium caused unreasonably dangerous side effects, Defendants continued and continue to market, manufacture, distribute and/or sell Prevacid and Nexium to consumers, including the Plaintiff.

112. Defendants knew or should have known that consumers such as the Plaintiff, GERALDINE GRIFFIN, would foreseeably suffer injury as a result of Defendants' failure to exercise ordinary care, as set forth above.

113. Defendants' negligence was the proximate cause of Plaintiff's injuries, harm and economic loss which Plaintiff, GERALDINE GRIFFIN suffered and/or will continue to suffer.

114. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

115. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believes and further alleges that Plaintiff will

in the future be required to obtain further medical and/or hospital care, attention, and services.

COUNT II
AS AGAINST THE DEFENDANTS
(STRICT PRODUCTS LIABILITY)

116. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

117. At all times herein mentioned, the Defendants designed, researched, manufactured, tested, advertised, promoted, marketed, sold, distributed, and/or have recently acquired the Defendants who have designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed Prevacid and Nexium as hereinabove described that was used by the Plaintiff.

118. That Prevacid and Nexium was expected to and did reach the usual consumers, handlers, and persons coming into contact with said product without substantial change in the condition in which it was produced, manufactured, sold, distributed, and marketed by the Defendants.

119. At those times, Prevacid and Nexium was in an unsafe, defective, and inherently dangerous condition, which was dangerous to users, and in particular, the Plaintiff herein.

120. The Prevacid and Nexium designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was defective in design or formulation in that, when it left the hands of the manufacturer and/or suppliers, the foreseeable risks exceeded the benefits associated with the design or formulation of Prevacid and Nexium.

121. The Prevacid and Nexium designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was defective in design and/or formulation, in that, when it left the hands of the Defendants manufacturers and/or suppliers, it was unreasonably dangerous, and it was more dangerous than an ordinary consumer would expect.

122. At all times herein mentioned, Prevacid and Nexium were in a defective condition and unsafe, and Defendants knew or had reason to know that said product was defective and unsafe, especially when used in the form and manner as provided by the Defendants.

123. Defendants knew, or should have known that at all times herein mentioned its Prevacid and Nexium were in a defective condition, and was and is inherently dangerous and unsafe.

124. At the time of the Plaintiff's use of Prevacid and Nexium, Prevacid and Nexium were being used for the purposes and in a manner normally intended for the treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

125. Defendants with this knowledge voluntarily designed its Prevacid and Nexium in a dangerous condition for use by the public, and in particular the Plaintiff.

126. Defendants had a duty to create a product that was not unreasonably dangerous for its normal, intended use.

127. Defendants created a product unreasonably dangerous for its normal, intended use.

128. The Prevacid and Nexium designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was manufactured

defectively in that Prevacid and Nexium left the hands of Defendants in a defective condition and was unreasonably dangerous to their intended users.

129. The Prevacid and Nexium designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants reached their intended users in the same defective and unreasonably dangerous condition in which the Defendants' Prevacid and Nexium were manufactured.

130. Defendants designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed a defective product which created an unreasonable risk to the health of consumers and to the Plaintiff in particular, and Defendants are therefore strictly liable for the injuries sustained by the Plaintiff.

131. The Plaintiff could not, by the exercise of reasonable care, have discovered Prevacid and Nexium's defects herein mentioned and perceived their danger.

132. Prevacid and Nexium were designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was defective due to inadequate warnings or instructions as the Defendants knew or should have known that the product created a risk of serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries which are permanent and lasting in nature and the Defendants failed to adequately warn of said risk.

133. Prevacid and Nexium were designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was defective due to inadequate warnings and/or inadequate testing.

134. Prevacid and Nexium were designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was defective due to inadequate post-marketing surveillance and/or warnings because, after Defendants knew or should have known of the risks of serious side effects including, kidney injuries, as

well as other severe and permanent health consequences from Prevacid and Nexium, they failed to provide adequate warnings to users or consumers of the product, and continued to improperly advertise, market and/or promote their product, Prevacid and Nexium.

135. By reason of the foregoing, the Defendants have become strictly liable in tort to the Plaintiff for the manufacturing, marketing, promoting, distribution, and selling of a defective product, Prevacid and Nexium.

136. Defendants' defective design, manufacturing defect, and inadequate warnings of Prevacid and Nexium were acts that amount to willful, wanton, and/or reckless conduct by Defendants.

137. That said defects in Defendants' drugs Prevacid and Nexium were substantial factors in causing Plaintiff's injuries.

138. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

139. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believes and further alleges that Plaintiff will in the future be required to obtain further medical and/or hospital care, attention, and services.

COUNT III
(MANUFACTURING DEFECT)

140. Plaintiffs repeat, reiterate and re-allege each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

141. Prevacid and Nexium was designed, manufactured, marketed, promoted, sold, and introduced into the stream of commerce by Defendants.

142. When it left the control of Defendants, Prevacid and Nexium was expected to, and did reach Plaintiff GERALDINE GRIFFIN without substantial change from the condition in which it left Defendants' control.

143. Prevacid Nexium was defective when it left Defendants' control and was placed in the stream of commerce, in that there were foreseeable risks that exceeded the benefits of the product and/or that it deviated from product specifications and/or applicable federal requirements, and posed a risk of serious injury and death.

144. Prevacid and Nexium was more likely to cause serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries than other PPI's.

145. Plaintiff GERALDINE GRIFFIN used Prevacied and Nexium in substantially the same condition it was in when it left the control of Defendants and any changes or modifications were foreseeable by Defendants.

146. Plaintiff and her healthcare providers did not misuse or materially alter her Prevacid and Nexium.

147. As a direct and proximate result of the use of Prevacid and Nexium, Plaintiff GERALDINE GRIFFIN suffered serious physical injury, harm, damages and economic loss, and will continue to suffer such harm, damages and economic loss in the future.

COUNT IV
(DESIGN DEFECT)

148. Plaintiffs repeat, reiterate and re-allege each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

149. Prevacid and Nexium was not merchantable and/or reasonably suited to the use intended, and its condition when sold was the proximate cause of the injuries sustained by Plaintiff.

150. Defendants placed Prevacid and Nexium into the stream of commerce with wanton and reckless disregard for public safety.

151. Prevacid and Nexium was in an unsafe, defective, and inherently dangerous condition.

152. Prevacid and Nexium contains defects in its design which render the drug dangerous to consumers, such as Plaintiff GERALDINE GRIFFIN, when used as intended or as reasonably foreseeable to Defendants. The design defects render Prevacid and Nexium more dangerous than other PPI's and cause an unreasonable increased risk of injury, including but not limited to serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries.

153. Prevacid and Nexium was in a defective condition and unsafe, and Defendants knew, had reason to know, or should have known that Prevacid and Nexium was defective and unsafe, even when used as instructed.

154. The nature and magnitude of the risk of harm associated with the design of Prevacid and Nexium, including the risk of serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries is high in light of the intended and reasonably foreseeable use of Prevacid and Nexium.

155. The risks of harm associated with the design of Prevacid and Nexium are higher than necessary.

156. It is highly unlikely that Prevacid and Nexum users would be aware of the risks associated with Prevacid and Nexium through either warnings, general knowledge or

otherwise, and Plaintiff GERALDINE GRIFFIN was not aware of these design defects, nor would she expect them.

157. The design did not conform to any applicable public or private product standard that was in effect when Prevacid and Nexium left the Defendants' control.

158. Prevacid and Nexium's design is more dangerous than a reasonably prudent consumer would expect when used in its intended or reasonably foreseeable manner. It was more dangerous than Plaintiff expected.

159. The intended or actual utility of Prevacid and Nexium is not of such benefit to justify the risk of serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries.

160. At the time Prevacid and Nexium left Defendants' control, it was both technically and economically feasible to have an alternative design that would not cause serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries or an alternative design that would have substantially reduced the risk of these injuries.

161. It was both technically and economically feasible to provide a safer alternative product that would have prevented the harm suffered by Plaintiff.

162. Defendants' conduct was extreme and outrageous. Defendants risked the lives of consumers and users of their products, including Plaintiff, with the knowledge of the safety and efficacy problems and suppressed this knowledge from the general public. Defendants made conscious decisions not to redesign, re-label, warn or inform the unsuspecting consuming public and medical community. Defendants' outrageous conduct warrants an award of punitive damages.

163. The unreasonably dangerous nature of Prevacid and Nexium caused serious harm to Plaintiff, GERALDINE GRIFFIN.

164. As a direct and proximate result of the Plaintiff's use of the Prevacid and Nexium, which was designed, manufactured, marketed, promoted, sold, and introduced into the stream of commerce by Defendants, Plaintiff GERALDINE GRIFFIN suffered serious physical injury, harm, damages and economic loss and will continue to suffer such harm, damages and economic loss in the future.

COUNT V
(FAILURE TO WARN)

165. Plaintiff repeats, reiterates and re-alleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

166. Defendants knew, or in the exercise or reasonable care should have known, about the risk of serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries.

167. Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries.

168. Defendants failed to update warnings based on information received from product surveillance after Prevacid and Nexium was first approved by the FDA and marketed, sold, and used in the United States and throughout the world.

169. A manufacturer exercising reasonable care would have updated its warnings on the basis of reports of injuries to individuals using Prevacid and Nexium after FDA approval.

170. When it left Defendants' control, Prevacid and Nexium was defective and unreasonably dangerous for failing to warn of the risk of serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries.

171. Plaintiff used Prevacid and Nexium for its approved purpose and in a manner normally intended and reasonably foreseeable by the Defendants.

172. Plaintiff and Plaintiff's healthcare providers could not, by the exercise of reasonable care, have discovered the defects or perceived their danger because the risks were not open or obvious.

173. Defendants, as the manufacturers and distributors of Prevacid and Nexium, are held to the level of knowledge of an expert in the field.

174. As alleged herein, the warnings that were given by Defendants were not accurate or clear, and were false and ambiguous.

175. The warnings that were given by the Defendants failed to properly warn patients and physicians of the risks associated with Prevacid and Nexium, subjecting Plaintiff GERALDINE GRIFFIN to risks that exceeded the benefits to the Plaintiff. Plaintiff, individually and through his physicians, reasonably relied upon the skill, superior knowledge and judgment of the Defendants.

176. Defendants had a continuing duty to warn Plaintiff and his prescriber of the dangers associated with its product.

177. Had Plaintiff or her healthcare providers received adequate warnings regarding the risks associated with the use of Prevacid and Nexium, they would not have used it.

178. The Plaintiff GERALDINE GRIFFIN'S injuries were the direct and proximate result of Defendants' failure to warn of the dangers of Prevacid and Nexium.

179. Defendants' conduct, as described above, was extreme and outrageous. Defendants risked the lives of consumers and users of their products, including Plaintiff, with knowledge of the safety and efficacy problems and suppressed this knowledge from the general public. Defendants made conscious decisions not to redesign, re-label, warn or inform the unsuspecting consuming public. Defendants' outrageous conduct warrants an award of punitive damages

COUNT VI
AS AGAINST THE DEFENDANTS
(BREACH OF EXPRESS WARRANTY)

180. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

181. Defendants expressly warranted that Prevacid and Nexium were safe and well accepted by users.

182. Prevacid and Nexium do not conform to these express representations because Prevacid and Nexium are not safe and have numerous serious side effects, many of which were not accurately warned about by Defendants. As a direct and proximate result of the breach of said warranties, Plaintiff suffered and/or will continue to suffer severe and permanent personal injuries, harm and economic loss.

183. Plaintiff did rely on the express warranties of the Defendants herein.

184. Members of the medical community, including physicians and other healthcare professionals, relied upon the representations and warranties of the Defendants for use of Prevacid and Nexium in recommending, prescribing, and/or dispensing Prevacid and Nexium.

185. The Defendants herein breached the aforesaid express warranties, as their drug Prevacid and Nexium were defective.

186. Defendants expressly represented to Plaintiff's physicians, healthcare providers, and/or the FDA that Prevacid and Nexium were safe and fit for use for the purposes intended, that it was of merchantable quality, that it did not produce any dangerous side effects in excess of those risks associated with other forms for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy, that the side effects it did produce were accurately reflected in the warnings and that it was adequately tested and fit for its intended use.

187. Defendants knew or should have known that, in fact, said representations and warranties were false, misleading and untrue in that Prevacid and Nexium were not safe and fit for the use intended, and, in fact, produced serious injuries to the users that were not accurately identified and represented by Defendants.

188. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

189. By reason of the foregoing, Plaintiff has been severely and permanently injured, and will require more constant and continuous medical monitoring and treatment than prior to Plaintiff's use of Defendants' Prevacid and Nexium drugs.

190. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believes and further alleges that Plaintiff will in the future be required to obtain further medical and/or hospital care, attention, and services.

COUNT VII
AS AGAINST THE DEFENDANTS
(BREACH OF IMPLIED WARRANTIES)

191. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

192. At all times herein mentioned, the Defendants manufactured, compounded, portrayed, distributed, recommended, merchandized, advertised, promoted and sold Prevacid and Nexium and/or have recently acquired the Defendants who have manufactured, compounded, portrayed, distributed, recommended, merchandized, advertised, promoted and sold Prevacid and Nexium for the treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

193. At the time Defendants marketed, sold, and distributed Prevacid and Nexium for use by Plaintiff, Defendants knew of the use for which Prevacid and Nexium was intended and impliedly warranted the product to be of merchantable quality and safe and fit for such use.

194. The Defendants impliedly represented and warranted to the users of Prevacid and Nexium and their physicians, healthcare providers, and/or the FDA that Prevacid and Nexium were safe and of merchantable quality and fit for the ordinary purpose for which said product was to be used.

195. That said representations and warranties aforementioned were false, misleading, and inaccurate in that Prevacid and Nexium were unsafe, unreasonably dangerous, improper, not of merchantable quality, and defective.

196. Plaintiff, and/or members of the medical community and/or healthcare professionals did rely on said implied warranty of merchantability of fitness for a particular use and purpose.

197. Plaintiff and Plaintiff's physicians and healthcare professionals reasonably relied upon the skill and judgment of Defendants as to whether Prevacid and Nexium were of merchantable quality and safe and fit for their intended use.

198. Prevacid and Nexium were injected into the stream of commerce by the Defendants in a defective, unsafe, and inherently dangerous condition and the products and materials were expected to and did reach users, handlers, and persons coming into contact with said products without substantial change in the condition in which they were sold.

199. The Defendants herein breached the aforesaid implied warranties, as their drugs Prevacid and Nexium were not fit for their intended purposes and uses.

200. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, kidney injuries, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

201. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believes and further alleges that Plaintiff will in the future be required to obtain further medical and/or hospital care, attention, and services.

COUNT VIII
AS AGAINST THE DEFENDANTS
(FRAUDULENT MISREPRESENTATION)

202. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

203. The Defendants falsely and fraudulently represented to the medical and healthcare community, and to the Plaintiff, and/or the FDA, and the public in general, that said products, Prevacid and Nexium had been tested and was found to be safe and/or effective for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

204. That representations made by Defendants were, in fact, false.

205. When said representations were made by Defendants, they knew those representations to be false and it willfully, wantonly and recklessly disregarded whether the representations were true.

206. These representations were made by said Defendants with the intent of defrauding and deceiving the Plaintiff, the public in general, and the medical and healthcare community in particular, and were made with the intent of inducing the public in general, and the medical and healthcare community in particular, to recommend, prescribe, dispense and/or purchase said products, Prevacid and Nexium, for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy, all of which evinced a callous, reckless, willful, depraved indifference to the health, safety and welfare of the Plaintiff herein.

207. At the time the aforesaid representations were made by the Defendants and, at the time the Plaintiff used Prevacid and Nexium, the Plaintiff was unaware of the falsity of said representations and reasonably believed them to be true.

208. In reliance upon said representations, the Plaintiff was induced to and did use Prevacid and Nexium, thereby sustaining severe and permanent personal injuries, and/or being at an increased risk of sustaining severe and permanent personal injuries in the future.

209. Said Defendants knew and were aware or should have been aware that Prevacid and Nexium had not been sufficiently tested, was defective in nature, and/or that it lacked adequate and/or sufficient warnings.

210. Defendants knew or should have known that Prevacid and Nexium had a potential to, could, and would cause severe and grievous injury to the users of said product, and that it was inherently dangerous in a manner that exceeded any purported, inaccurate, and/or down-played warnings.

211. Defendants brought Prevacid and Nexium to the market, and acted fraudulently, wantonly and maliciously to the detriment of the Plaintiff.

212. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

213. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believe and further alleges that Plaintiff will in the future be required to obtain further medical and/or hospital care, attention, and services.

COUNT IX
AS AGAINST THE DEFENDANTS
(FRAUDULENT CONCEALMENT)

214. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

215. At all times during the course of dealing between Defendants and Plaintiff, and/or Plaintiff's healthcare providers, and/or the FDA, Defendants misrepresented the safety of Prevacid and Nexium for their intended use.

216. Defendants knew or were reckless in not knowing that its representations were false.

217. In representations to Plaintiff, and/or Plaintiff's healthcare providers, and/or the FDA, Defendants fraudulently concealed and intentionally omitted the following material information:

(a) that Prevacid and Nexium were not as safe as other forms of treatment for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy;

(b) that the risks of adverse events with Prevacid and Nexium were higher than those with other forms of treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug - induced gastropathy;

(c) that the risks of adverse events with Prevacid and Nexium were not adequately tested and/or known by Defendants;

(d) that Defendants were aware of dangers in Prevacid and Nexium, in addition to and above and beyond those associated with other forms of treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy;

(e) that Prevacid and Nexium were defective, and that it caused dangerous side effects, including but not limited to kidney injuries;

(f) that patients needed to be monitored more regularly than normal while using Prevacid and Nexium;

(g) that Prevacid and Nexium were manufactured negligently;

(h) that Prevacid and Nexium were manufactured defectively;

(i) that Prevacid and Nexium were manufactured improperly;

(j) that Prevacid and Nexium were designed negligently;

(k) that Prevacid and Nexium were designed defectively; and

(l) that Prevacid and Nexium were designed improperly.

218. Defendants were under a duty to disclose to Plaintiff, and Plaintiff's physicians, hospitals, healthcare providers, and/or the FDA the defective nature of Prevacid and Nexium, including but not limited to the heightened risks of kidney injury.

219. Defendants had sole access to material facts concerning the defective nature of the product and its propensity to cause serious and dangerous side effects, and hence, cause damage to persons who used Prevacid and Nexium, including the Plaintiff, in particular.

220. Defendants' concealment and omissions of material facts concerning, inter alia, the safety of Prevacid and Nexium was made purposefully, willfully, wantonly, and/or recklessly, to mislead Plaintiff, and Plaintiff's physicians, hospitals and healthcare providers into reliance, continued use of Prevacid and Nexium, and actions thereon, and to cause them to purchase, prescribe, and/or dispense Prevacid and Nexium and/or use the products.

221. Defendants knew that Plaintiff, and Plaintiff's physicians, hospitals, healthcare providers, and/or the FDA had no way to determine the truth behind

Defendants' concealment and omissions, and that these included material omissions of facts surrounding Prevacid and Nexium as set forth herein.

222. Plaintiff, as well as Plaintiff's doctors, healthcare providers, and/or hospitals reasonably relied on facts revealed which negligently, fraudulently and/or purposefully did not include facts that were concealed and/or omitted by Defendants.

223. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

224. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believes and further alleges that Plaintiff will in the future be required to obtain further medical and/or hospital care, attention, and services.

COUNT X
AS AGAINST THE DEFENDANTS
(NEGLIGENT MISREPRESENTATION)

225. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

226. Defendants had a duty to represent to the medical and healthcare community, and to the Plaintiff, the FDA and the public in general that said products, Prevacid and Nexium, had been tested and found to be safe and effective for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

227. The representations made by Defendants were, in fact, false.

228. Defendants failed to exercise ordinary care in the representation of Prevacid and Nexium, while involved in their manufacture, sale, testing, quality assurance, quality control, and/or distribution of said product into interstate commerce, in that Defendants negligently misrepresented Prevacid and Nexium's high risk of unreasonable, dangerous side effects.

229. Defendants breached their duty in representing Prevacid and Nexium's serious side effects to the medical and healthcare community, to the Plaintiff, the FDA and the public in general.

230. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

231. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believes and further alleges that Plaintiff will in the future be required to obtain further medical and/or hospital care, attention, and services.

COUNT XI
AS AGAINST THE DEFENDANTS
(FRAUD AND DECEIT)

232. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

233. Defendants conducted research and used Prevacid and Nexium as part of their research.

234. As a result of Defendants' research and testing, or lack thereof, Defendants blatantly and intentionally distributed false information, including but not limited to assuring the public, the Plaintiff, Plaintiff's doctors, hospitals, healthcare professionals, and/or the FDA that Prevacid and Nexium were safe and effective for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

235. As a result of Defendants' research and testing, or lack thereof, Defendants intentionally omitted certain results of testing and research to the public, healthcare professionals, and/or the FDA, including the Plaintiff.

236. Defendants had a duty when disseminating information to the public to disseminate truthful information and a parallel duty not to deceive the public and the Plaintiff, as well as Plaintiff's respective healthcare providers and/or the FDA.

237. The information distributed to the public, the FDA, and the Plaintiff by Defendants, including but not limited to reports, press releases, advertising campaigns, television commercials, print ads, magazine ads, billboards, and all other commercial media contained material representations of fact and/or omissions.

238. The information distributed to the public, the FDA, and the Plaintiff by Defendants intentionally included representations that Defendants' drugs Prevacid and Nexium were safe and effective for use for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

239. The information distributed to the public, the FDA, and the Plaintiff, by Defendants intentionally included representations that Defendants' drugs Prevacid and

Nexium carried the same risks, hazards, and/or dangers as other forms of treatment for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

240. The information distributed to the public, the FDA, and the Plaintiff, by Defendants intentionally included false representations that Prevacid and Nexium were not injurious to the health and/or safety of their intended users.

241. The information distributed to the public, the FDA, and the Plaintiff, by Defendants intentionally included false representations that Prevacid and Nexium were as potentially injurious to the health and/or safety of their intended as other forms of treatment for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

242. These representations were all false and misleading.

243. Upon information and belief, Defendants intentionally suppressed, ignored and disregarded test results not favorable to the Defendants, and results that demonstrated that Prevacid and Nexium were not safe as a means of treatment for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

244. Defendants intentionally made material representations to the FDA and the public, including the medical profession, and the Plaintiff, regarding the safety of Prevacid and Nexium, specifically but not limited to Prevacid and Nexium not having dangerous and serious health and/or safety concerns.

245. Defendants intentionally made material representations to the FDA and the public in general, including the medical profession, and the Plaintiff, regarding the safety of Prevacid and Nexium, specifically but not limited to Prevacid and Nexium being a safe

means for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

246. That it was the purpose of Defendants in making these representations to deceive and defraud the public, the FDA, and/or the Plaintiff, to gain the confidence of the public, healthcare professionals, the FDA, and/or the Plaintiff, to falsely ensure the quality and fitness for use of Prevacid and Nexium induce the public, and/or the Plaintiff to purchase, request, dispense, prescribe, recommend, and/or continue to use Prevacid and Nexium.

247. Defendants made the aforementioned false claims and false representations with the intent of convincing the public, healthcare professionals, the FDA, and/or the Plaintiff that Prevacid and Nexium were fit and safe for use for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

248. Defendants made the aforementioned false claims and false representations with the intent of convincing the public, healthcare professionals, the FDA, and/or the Plaintiff that Prevacid and Nexium were fit and safe for use for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

249. That Defendants made claims and representations in its documents submitted to the FDA, to the public, to healthcare professionals, and the Plaintiff that Prevacid and Nexium did not present serious health and/or safety risks.

250. That Defendants made claims and representations in its documents submitted to the FDA, to the public, to healthcare professionals, and the Plaintiff that Prevacid and Nexium did not present health and/or safety risks greater than other oral

forms for treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

251. That these representations and others made Defendants were false when made, and/or were made with a pretense of actual knowledge when knowledge did not actually exist, and/or were made recklessly and without regard to the actual facts.

252. That these representations and others, made by Defendants, were made with the intention of deceiving and defrauding the Plaintiff, including Plaintiff's respective healthcare professionals and/or the FDA, and were made in order to induce the Plaintiff and/or Plaintiff's respective healthcare professionals to rely upon misrepresentations and caused the Plaintiff to purchase, use, rely on, request, dispense, recommend, and/or prescribe Prevacid and Nexium.

253. That Defendants, recklessly and intentionally falsely represented the dangerous and serious health and/or safety concerns of Prevacid and Nexium to the public at large, the Plaintiff in particular, for the purpose of influencing the marketing of a product known to be dangerous and defective and/or not as safe as other alternatives, including other forms of treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug - induced gastropathy.

254. That Defendants willfully and intentionally failed to disclose the material facts regarding the dangerous and serious safety concerns of Prevacid and Nexium by concealing and suppressing material facts regarding the dangerous and serious health and/or safety concerns of Prevacid and Nexium.

255. That Defendants willfully and intentionally failed to disclose the truth, failed to disclose material facts and made false representations with the purpose and

design of deceiving and lulling the Plaintiff, as well as Plaintiff's respective healthcare professionals into a sense of security so that Plaintiff would rely on the representations and purchase, use and rely on Prevacid and Nexium and/or that Plaintiff's respective healthcare providers would dispense, prescribe, and/or recommend the same.

256. Defendants, through their public relations efforts, which included but were not limited to the public statements and press releases, knew or should have known that the public, including the Plaintiff, as well as Plaintiff's respective healthcare professionals would rely upon the information being disseminated.

257. Defendants utilized direct to consumer adverting to market, promote, and/or advertise Prevacid and Nexium.

258. That the Plaintiff and/or Plaintiff's respective healthcare professionals did in fact rely on and believe the Defendants' representations to be true at the time they were made and relied upon the representations as well as the superior knowledge of treatment of peptic disorders which include gastroesophageal reflux disease (GERD), peptic ulcer disease, and nonsteroidal anti-inflammatory drug induced gastropathy.

259. That at the time the representations were made, the Plaintiff and/or Plaintiff's respective healthcare providers did not know the truth with regard to the dangerous and serious health and/or safety concerns of Prevacid and Nexium.

260. That the Plaintiff did not discover the true facts with respect to the dangerous and serious health and/or safety concerns, and the false representations of Defendants, nor could the Plaintiff with reasonable diligence have discovered the true facts.

261. That had the Plaintiff known the true facts with respect to the dangerous and serious health and/or safety concerns of Prevacid and Nexium, Plaintiff would not have purchased, used and/or relied on Defendants' drugs Prevacid and Nexium.

262. That the Defendants' aforementioned conduct constitutes fraud and deceit, and was committed and/or perpetrated willfully, wantonly and/or purposefully on the Plaintiff.

263. As a result of the foregoing acts and omissions, the Plaintiff was caused to suffer serious and dangerous side effects including, CKD, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life, as well as the need for lifelong medical treatment, monitoring and/or medications.

264. As a result of the foregoing acts and omissions the Plaintiff requires and/or will require more health care and services and did incur medical, health, incidental and related expenses. Plaintiff is informed and believes and further alleges that Plaintiff will in the future be required to obtain further medical and/or hospital care, attention, and services.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants on each of the above-referenced claims and Causes of Action and as follows:

1. Awarding compensatory damages to Plaintiff for past and future damages, including but not limited to pain and suffering for severe and permanent personal injuries sustained by the Plaintiff, health care costs, medical monitoring, together with interest and costs as provided by law;

2. Punitive and/or exemplary damages for the wanton, willful, fraudulent, reckless acts of the Defendants who demonstrated a complete disregard and reckless indifference for the safety and welfare of the general public and to the Plaintiff in an amount sufficient to punish Defendants and deter future similar conduct;

3. Awarding Plaintiff reasonable attorneys' fees;

4. Awarding Plaintiff the costs of these proceedings; and

5. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury as to all issues.

Dated this 21st day of July 2017.

By: */s/ Seth A. Katz*

Seth A. Katz (#031124)
BURG SIMPSON ELDREDGE HERSH & JARDINE, P.C.
40 Inverness Drive East
Englewood, CO 80112
Phone: (303) 792-5595
Fax: (308) 708-0527
2398 E. Camelback Road, Suite 1010
Phoenix, AZ 85016
Phone: (602) 777-7000
skatz@burgsimpson.com

Attorneys for Plaintiff

Michael London
DOUGLAS & LONDON, P.C.
59 Maiden Lane, 6th Floor
New York, NY 10038
Phone: (212) 566-7500
Fax: (212) 566-7501
mlondon@douglasandlondon.com

JS 44 (Rev. 3/13)

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

Geraldine Griffin

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Burg Simpson Eldredge Hersh & Jardine, P.C.
40 Inverness Drive East
Englewood, CO 80112
(303) 792-5595

DEFENDANTS

Takeda Pharmaceuticals USA, Inc., et al.

County of Residence of First Listed Defendant Lake County, IL
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 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)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☑ 1	1	Incorporated *or* Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated *and* Principal Place of Business In Another State	5	☑ 5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

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

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ■ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities Employment
- ☐ 446 Amer. w/Disabilities Other
- ☐ 448 Education

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee (Prisoner Petition)
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

(Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

28 U.S.C. § 1332

VII. Previous Bankruptcy Matters

(For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.

VIII. REQUESTED IN COMPLAINT:

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

DEMAND $ 75,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☑ Yes ☐ No

IX. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

X. This case (check one box) ☐ **Is not a refiling of a previously dismissed action** ☐ is a refiling of case number _____ previously dismissed by Judge _____

DATE 7/21/2017

SIGNATURE OF ATTORNEY OF RECORD /s/ Seth A. Katz