JUN 26 2012

Carol E. Higbee, P.J.Cv.

NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JERSEY
COUNTIES OF
ATLANTIC AND CAPE MAY

CAROL E. HIGBEE, P.J.Cv.

1201 Bacharach Boulevard
Atlantic City, NJ 08401-4527
(609) 594-3396

MEMORANDUM OF DECISION ON MOTION
Pursuant to Rule 1:6-2(f)

CASE: **Ruby Edna Coundouris v. Wyeth, et al. – ATL-L-1940-10**

Barbara Danziger v. Wyeth, et al. – ATL-L-4513-10

Basil and Emily Downer v. Wyeth, et al. – ATL-L-0843-11

Kamile Drake and Atay Kural v. Wyeth, et al. – ATL-L-0262-11

Joyce M. Lorber v. Wyeth, et al. – ATL-L-1973-11

Craig G. Lynn v. Wyeth, et al. – ATL-L-6357-10

Catherine R. Monroe v. Wyeth, et al. – ATL-L-0257-11

Diane and Arnold Riback v. Wyeth, et al. – ATL-L-1927-11

DATE: **June 26, 2012**

MOTION: **Plaintiffs' Motion for Summary Judgment as to Counts I and II of the Second Amended Long Form Complaint, or in the Alternative, to Strike Certain Defenses**

ATTORNEYS: **Theodore Oshman, Esq., Oshman & Mirisola, LLP – Attorney for Plaintiffs**

Ezra D. Rosenberg, Esq., Dechert LLP – Attorney for Defendants Wyeth LLC, Wyeth Pharmaceuticals, Inc., and Wyeth Holdings Corporation

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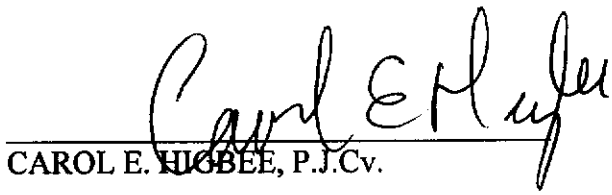
Having carefully reviewed the papers submitted and any response received, I have ruled on the above Motion as follows:

Plaintiffs Ruby Coundouris, Barbara Danziger, Basil and Emily Downer, Kamile Drake and Atay Kural, Joyce Lorber, Craig Lynn, Catherine Monroe, and Diane and Arnold Riback (collectively, "Plaintiffs") filed this Motion seeking summary judgment as to Counts I and II of the Second Amended Long Form Complaint, or in the alternative, striking certain defenses. Wyeth LLC, Wyeth Pharmaceuticals, Inc., Wyeth, Inc., and Wyeth Holdings Corporation (collectively, "Wyeth Defendants") filed an opposition, and Brand Defendants filed a reply. Oral argument was held.

Count I alleges conscious misrepresentation involving risk of physical harm against the Wyeth Defendants, and Count II alleges negligent misrepresentation involving risk of physical harm against the Wyeth Defendants.

In a Memorandum of Decision regarding Brand Defendants' Joint Motion to Dismiss the Complaint, this Court dismissed Counts I and II in these cases. Accordingly, Plaintiffs' Motion is denied as moot.



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