FILED

NOV 29 2010

Carol E. Higbee, P.J.Cv.

IN RE: REGLAN LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ATLANTIC COUNTY

CASE NO. 289

MASTER DOCKET: ATL-L-3865-10

CIVIL ACTION

AMENDED CASE MANAGEMENT ORDER NO. 3 REGARDING THE SECOND AMENDED SHORT FORM COMPLAINT

THIS MATTER, having come before the Court at the recent Case Management Conference on November 15, 2010, and all parties having been represented by Counsel, and for good cause shown,

IT IS on this 29 day of November, 2010: **ORDERED** as follows:

1. This First Amended Case Management Order No. 3 shall govern all cases that are presently pending or hereafter filed in the Superior Court of New Jersey Law Division: Atlantic County, which become part of the program of coordinated pretrial proceedings relating to the prescription drug Reglan® and/or Metoclopramide (the "Reglan®/Metoclopramide Litigation").

2. This First Amended Case Management Order No. 3 amends that portion of Case Management Order No. 3 ("CMO No. 3") as it relates to plaintiffs' short form complaint only.

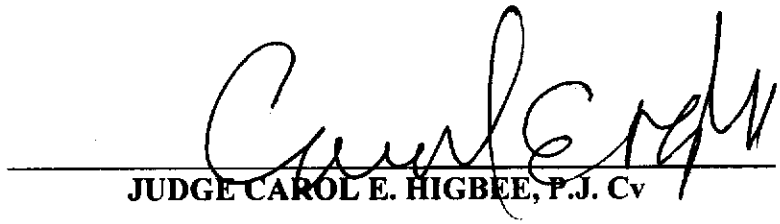
3. Plaintiffs liaison counsel has previously filed its Short Form Complaint and Amended Short Form complaint pursuant to the provisions of CMO No. 3.

4. Plaintiffs liaison counsel shall be permitted to file their Second Amended Short Form Complaint in the form annexed hereto as Exhibit A.

5. All references in CMO No. 3 or any Case Management Order issued thereafter shall

be deemed to be inclusive of the Second Amended Short form complaint.

6. The Second Amended Short Form Complaint shall be posted at the Court's website: http://www.judiciary.state.nj.us/mass-tort/forms/index.htm.



JUDGE CAROL E. HIGBEE, P.J. Cv

EXHIBIT A

[Plaintiff's Counsel Information]
Attorneys for the Plaintiffs

IN THE SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, ATLANTIC COUNTY

_____,

Plaintiff(s),

vs.

WYETH LLC, WYETH PHARMACEUTICALS, INC., INDIVIDUALLY AND d/b/a ESI LEDERLE, INC., WYETH, INC., WYETH HOLDINGS CORPORATION, INDIVIDUALLY AND d/b/a LEDERLE, SCHWARZ PHARMA, INC., ALAVEN PHARMACEUTICAL LLC, BAXTER HEALTHCARE CORPORATION, WOCKHARDT, USA, MORTON GROVE PHARMACEUTICALS, INC., TEVA PHARMACEUTICALS USA, INC., GOLDLINE LABORATORIES, Inc., INDIVIDUALLY AND D/B/A IVAX PHARMACEUTICALS, PLIVA, INC., individually and f/k/a SIDMAK LABORATORIES, INC., PLIVA D.D., BARR PHARMACEUTICALS, LLC F/K/A BARR PHARMACEUTICALS, INC.. BARR LABORATORIES, INC., DURAMED PHARMACEUTICALS, INC., QUALITEST PHARMACEUTICALS, INC., and GENERICS BIDCO I., LLC., Individually and d/b/a QUALITEST PHARMACEUTICALS, THE HARVARD DRUG GROUP LLC, INDIVIDUALLY AND D/B/A MAJOR PHARMACEUTICALS, PHARMACEUTICAL ASSOCIATES, INC., BEACH PRODUCTS INC., UNITED RESEARCH LABORATORIES, INC., MUTUAL PHARMACEUTICAL COMPANY, INC., SILARX PHARMACEUTICALS, INC., SANDOZ, INC., ANIP ACQUISITION COMPANY A/K/A ANIP PHARMACEUTICALS A/K/A ANI PHARMACEUTICALS A/K/A A & I PHARMACEUTICALS, WATSON LABORATORIES, INC., RUGBY LABORATORIES, INC. A/K/A RUGBY PHARMACEUTICALS, INC., ACTAVIS ELIZABETH LLC, INDIVIDUALLY AND D/B/A

IN RE: REGLAN LITIGATION

Case No. 289

DOCKET: ATL-L-_____

SECOND AMENDED SHORT FORM COMPLAINT FOR REGLAN (METOCLOPRAMIDE) LITIGATION

JURY TRIAL DEMANDED

PUREPAC PHARMACEUTICALS, APP PHARMACEUTICALS, LLC, INDIVIDUALLY AND D/B/A ABRAXIS PHARMACEUTICALS, CORPORATION SERVICE COMPANY, BEDFORD LABORATORIES, HOSPIRA INC., IPCA PHARMACEUTICALS INC., MCKESSON CORPORATION, NORTHSTAR RX LLC, RUGBY LABORATORIES, INC., NORBROOK INC. USA, SMITH & NEPHEW INC., VISTAPHARM, INC., ROXANE LABORATORIES, INC., PAR PHARMACEUTICAL INC.m ACURA PHARMACEUTICALS, INC., f/k/a HALSEY DRUG COMPANY, PACO PHARMACEUTICAL SERVICES, INC., VINTAGE PHARMACEUTICALS, LLC, SCHERING CORPORATION, RANBAXY PHARMACEUTICALS, INC., BRISTOL MEYERS SQUIBB CO., INDIVIDUALLY and d/b/a APOTHECON, INC., APOTHECON, INC., INVAMED, INC., KING PHARMACEUTICALS INC., Individually and d/b/a ALPHARMA INC., f/k/a A.L. PHARMA Inc. and ALPHARMA, INC. JANE DOE DISTRIBUTORS (1-50), JOHN DOE DRUG COMPANY DEFENDANTS (1-50), JANE DOE DRUG DISTRIBUTOR DEFENDANTS (1-50), JIM DOE DOE HEALTH CARE PROVIDERS (1-50), and JILL DOE (1-50)

Defendants.

SECOND AMENDED SHORT FORM COMPLAINT FOR REGLAN LITIGATION AND ADOPTION BY REFERENCE

1. Pursuant to Amended Case Management Order No. 3 Case entered in the *In re Reglan®/metoclopramide Litigation*, Case No. 289, in the Superior Court of New Jersey, Law Division, Atlantic County before the Honorable Carol E. Higbee, P.J.Cv., the undersigned counsel hereby submit this Second Amended Short Form Complaint ("Short Form") against Defendants, indicated below, for equitable relief, monetary restitution, and/or compensatory and punitive damages, and, adopts and incorporates by reference those allegations in the Plaintiffs' Amended Master Long Form Complaint, filed November 15, 2010, contained in Paragraphs 1 through 421, and any and all amendments thereto.

Plaintiff(s) selects and indicates by checking off/and or completing the appropriate spaces, those products, parties and claims that are specific to his or her case. Where claims

require, pursuant to New Jersey or other state law, specific pleading or case specific facts and individual information , plaintiff shall add and include them therein.

2. Plaintiff(s) who are parties to this civil action are identified as follows:

a. Plaintiff, _____ *[insert name of Reglan®/metoclopramide ingesting Plaintiff]*, is a citizen and resident in the State of _____, and claims damages as set forth below.

b. Plaintiff brings this action:

_____ On behalf of herself or himself

_____ As the representative of _____

_____ As the parent and natural guardian *ad litem* of _____,

a minor born on _____

_____ As the administrator or personal representative of the Estate of Plaintiff_____ (hereinafter "Decedent," see Letters of Administration or other empowering documentation annexed hereto as Exhibit A), who died on _____

c. Additionally, _____*[insert name of non-Reglan®/metoclopramide ingesting plaintiff]*, the Plaintiff's *[✓ applicable relationship to Plaintiff]*. ☐ spouse, ☐ child, and/or ☐ other _____ [*please describe*], is a citizen and resident in the State of _____, and claims damages as set forth below.

3. Plaintiff asserts that the ingestion of brand name Reglan® and/or generic metoclopramide product(s), as listed below, caused his/her injury(ies).

Product	**Manufacturer**
_____	_____
_____	_____
_____	_____

4. Plaintiff, _____ ingested Reglan® and/or metoclopramide from, on or about _____ *[Insert month and year of first ingestion]* to, on or about _____ *[Insert month and year of last ingestion].*

5. The Reglan®/metoclopramide ingesting Plaintiff was diagnosed with the following injury or injuries [✓ applicable conditions]:

Diagnosis

- ☐ Tardive Dyskinesia
- ☐ Dystonia
- ☐ Akathisia

Diagnosis

- ☐ Extrapyramidal symptoms (or EPS)
- ☐ Bucco-facial dyskinesia
- ☐ Tremor or essential tremor
- ☐ Neuroleptic Malignant Disorder
- ☐ Chorea
- ☐ Restless Leg Syndrome
- ☐ Parkinson's disease or syndrome
- ☐ Dementia
- ☐ Epilepsy
- ☐ Suicidal Ideation
- ☐ Aggregation of pre-existing condition
- ☐ Death
- ☐ Financial Loss
- ☐ Emotional injury
- ☐ Other: _____
- ☐ Other: _____
- ☐ Other: _____

6. The following entity(ies) named as Defendant(s) herein and the allegations with regard thereto in the Amended Master Long-Form Complaint are herein adopted by reference.

- ☐ WYETH LLC
- ☐ WYETH PHARMACEUTICALS, INC.
- ☐ WYETH, INC.
- ☐ WYETH HOLDINGS CORPORATION, INDIVIDUALLY AND D/B/A LEDERLE
- ☐ SCHWARZ PHARMA INC.
- ☐ ALAVEN PHARMACEUTICAL LLC
- ☐ BAXTER HEALTHCARE CORPORATION
- ☐ WOCKHARDT USA
- ☐ MORTON GROVE PHARMACEUTICALS, INC.
- ☐ GOLDLINE LABORATORIES, INC., INDIVIDUALLY and D/B/A IVAX PHARMACEUTICALS, INC.
- ☐ PLIVA, INC., INDIVIDUALLY AND F/K/A SIDMAK LABORATORIES, INC.
- ☐ PLIVA D.D.
- ☐ BARR PHARMACEUTICALS, LLC F/K/A BARR PHARMACEUTICALS, INC.
- ☐ BARR LABORATORIES, INC.

- ☐ TEVA PHARMACEUTICALS USA, INC.
- ☐ DURAMED PHARMACEUTICALS, INC.
- ☐ GENERICS BIDCO I., LLC., INDIVIDUALLY AND D/B/A QUALITEST PHARMACEUTICALS
- ☐ VINTAGE PHARMACEUTICALS, LLC
- ☐ THE HARVARD DRUG GROUP LLC, INDIVIDUALLY AND D/B/A MAJOR PHARMACEUTICALS, INC.
- ☐ PHARMACEUTICAL ASSOCIATES, INC.
- ☐ BEACH PRODUCTS INC.
- ☐ UNITED RESEARCH LABORATORIES, INC.
- ☐ MUTUAL PHARMACEUTICAL COMPANY, INC.
- ☐ SILARX PHARMACEUTICALS, INC.
- ☐ SANDOZ, INC.
- ☐ ANIP ACQUISITION COMPANY A/K/A ANIP PHARMACEUTICALS A/K/A ANI PHARMACEUTICALS A/K/A A & I PHARMACEUTICALS
- ☐ WATSON LABORATORIES, INC.

- ☐ RUGBY PHARMACEUTICALS, INC. A/K/A RUGBY LABORATORIES, INC.
- ☐ ACTAVIS ELIZABETH LLC, INDIVIDUALLY AND D/B/A PUREPAC PHARMACEUTICALS
- ☐ APP PHARMACEUTICALS, LLC, INDIVIDUALLY AND D/B/A ABRAXIS PHARMACEUTICALS
- ☐ BEDFORD LABORATORIES
- ☐ HOSPIRA INC.
- ☐ IPCA PHARMACEUTICALS INC.
- ☐ MCKESSON CORPORATION, INDIVIDUALLY AND D/B/A NORTHSTAR RX LLC
- ☐ NORTHSTAR RX LLC
- ☐ RUGBY LABORATORIES, INC.
- ☐ SMITH & NEPHEW INC.
- ☐ VISTAPHARM, INC.
- ☐ ROXANE LABORATORIES, INC.
- ☐ PAR PHARMACEUTICAL INC.

- ☐ ACURA PHARMACEUTICALS, INC., F/K/A HALSEY DRUG COMPANY
- ☐ PACO PHARMACEUTICAL SERVICES, INC.
- ☐ NORBROOK INC.
- ☐ SCHERING CORPORATION
- ☐ RANBAXY PHARMACEUTICALS, INC.
- ☐ IVAX PHARMACEUTICALS, INC.
- ☐ BRISTOL MEYERS SQUIBB CO., INDIVIDUALLY AND D/B/A APOTHECON, INC.
- ☐ APOTHECON, INC.
- ☐ INVAMED. INC.
- ☐ KING PHARMACEUTICALS INC., INDIVIDUALLY AND D/B/A ALPHARMA INC., F/K/A A.L. PHARMA INC.
- ☐ ALPHARMA INC.
- ☐ Other: _____
- ☐ Other: _____

7. Plaintiff(s) further adopt and incorporate by reference the following Claims for Relief asserted in the "Plaintiffs' Amended Master Long Form Complaint" filed November 15, 2010

and as amended (claims are against all relevant defendants identified above, unless otherwise indicated) *[✓ applicable liability theories]*:

General Counts by Plaintiffs of any State against Wyeth specifically

☐ COUNT I - Conscious Misrepresentation Involving Risk Of Physical Harm, against Defendant Wyeth

☐ COUNT II - Negligent Misrepresentation Involving Risk of Physical Harm, against Defendant Wyeth

New Jersey Specific Counts

☐ COUNT III - Defective Design, under N.J.S.A. 2A:58C-2.c, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT IV - Failure To Warn, under N.J.S.A. 2A:58C-2.b,against [☐ *All Defendants*

or ☐ *Insert Specific Defendants*: _____]

☐ COUNT V - Breach Of Express Warranties, under N.J.S.A. 12A:2-313 & N.J.S.A. 2A:58C-1.b(3)) against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT VI - Wrongful Death, under N.J.S.A. 2A: 31-1, *et seq.*, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT VII - Survival Action, under N.J.S.A. 2A: 15-3, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT VIII - Punitive Damages Under The Common Law And Product Liability Act— N.J.S.A. 2A:58C-1, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

Counts by Plaintiffs Residing Outside of New Jersey

Certain of the PLAINTIFFs were prescribed, purchased, and/or were injured as a result of ingestion of the metoclopramide products outside of New Jersey. To the extent the Court chooses to apply the law of a state other than New Jersey, and/or to the extent plaintiffs are required to plead the laws of such jurisdictions, Plaintiffs intend to put Defendants on notice of claims which may be alternately asserted by the individual Plaintiffs from the following states and jurisdictions:

☐ COUNT IX – Strict Liability, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

☐ COUNT X – Negligence, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT XI- Negligence Per Se, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

☐ COUNT XII- Negligent Claims Under The Applicable Laws Of Connecticut, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT XIII- Common Law Fraud, against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

☐ COUNT XIV- Fraudulent Concealment. against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

☐ COUNT XV- Constructive Fraud. against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

☐ COUNT XVI- Negligent Misrepresentation. against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

☐ COUNT XVII- Negligent Infliction Of Emotional Distress. against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT XVIII- Breach Of Express Warranty, against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

☐ COUNT XIX- Breach Of Implied Warranty, against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

☐ COUNT XX- Violation Of Consumer Protection Laws, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*:

_____]

☐ COUNT XXI- Wrongful Death, against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

☐ COUNT XXII- Survival Action, against [☐ *All Defendants* or ☐ *Insert*

Specific Defendants: _____]

Additional General Counts by Plaintiffs of any State

☐ COUNT XXIII- Gross Negligence, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

☐ COUNT XXIV- Unjust Enrichment, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

☐ COUNT XXV- Civil Conspiracy, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

☐ COUNT XXVI- Loss Of Consortium, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

☐ COUNT XXVII- Punitive Damages, against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

8. Plaintiff(s) allege the following additional cause(s) of action against [☐ *All Defendants* or ☐ *Insert Specific Defendants*: _____]

*If you include additional claims against an entity or entities other than the named Defendants, the facts supporting the additional count(s) must be specifically plead here, and the defendant(s) against whom they are alleged must be identified on a separate sheet of paper attached to this Short Form Complaint. Further, if you have included any additional theories of recovery, to the extent they require specificity in pleadings, the specific facts and allegations supporting those theories must be pleaded by the

plaintiff(s) in a manner complying with the requirements of the New Jersey Rules of Court.

WHEREFORE, Plaintiff(s) request that the Court grant them the following relief against Defendants, jointly and severally, on all counts of this Short Form, including:

(A) Money Damages representing fair, just and reasonable compensation for their respective common law and statutory claims;

(B) Punitive and/or Treble Damages pursuant to state law;

(C) Disgorgement of profits and restitution of all costs;

(D) Attorneys' fees pursuant to state law;

(E) Pre-judgment and post-judgment interest as authorized by law on the judgment which enter on Plaintiffs' behalf;

(F) Costs of suit; and

(G) Such other relief as is deemed just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff(s) hereby demand a trial by jury.

_____

Plaintiff's counsel

Dated:

CERTIFICATION PURSUANT TO RULE 4:5-1

Plaintiff(s), upon information and belief, is not aware of any pending or contemplated action. Further, upon information and belief, plaintiff(s) is not aware of any other party who should be joined in this action.

_____

Plaintiff's counsel

Dated:

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, _____ is hereby designated as trial counsel in this matter.

_____

Plaintiff's counsel

Dated: