STATE OF NORTH CAROLINA WAKE COUNTY	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION CIVIL FILE NO.:

WALTER NAKATSUKASA, Individually and On Behalf of All Others Similarly Situated,

Plaintiff,

v.

FURIEX PHARMACEUTICALS, INC., JUNE S. ALMENOFF, PETER B. CORR, STEPHEN R. DAVIS, WENDY L. DIXON, FREDRIC N. ESHELMAN, STEPHEN W. KALDOR, ROYAL EMPRESS, INC., and FOREST LABORATORIES, INC.,

Defendants.

COMPLAINT

CLASS ACTION COMPLAINT

Plaintiff, by his undersigned attorneys, for this Verified Class Action Complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This is a class action brought on behalf of the public stockholders of Furiex Pharmaceuticals, Inc. ("Furiex" or the "Company") against Furiex and its Board of Directors (the "Board" or the "Individual Defendants"), to enjoin a proposed transaction announced on April 28, 2014 (the "Proposed Transaction"), pursuant to which Furiex will be acquired Forest Laboratories, Inc. ("Parent") and Parent's direct, wholly-owned subsidiary,

Royal Empress, Inc. ("Merger Sub," and collectively with Parent, "Forest").

2. On April 28, 2014, the Board caused Furiex to enter into a definitive agreement and plan of merger (the "Merger Agreement"), pursuant to which the Company's stockholders will receive $95.00 per share in cash plus the right to receive up to $30.00 per share in a contingent value right ("CVR") based on the status of eluxadoline, Furiex's lead product, as a controlled drug following approval by the United States Food and Drug Administration ("FDA").

3. The Proposed Transaction is the product of a flawed process and deprives Furiex's public stockholders of the ability to participate in the Company's long-term prospects. Furthermore, in approving the Merger Agreement, the Individual Defendants breached their fiduciary duties to plaintiff and the Class (defined herein). Moreover, as alleged herein, Furiex and Forest aided and abetted the Individual Defendants' breaches of fiduciary duties.

4. Plaintiff seeks enjoinment of the Proposed Transaction or, alternatively, rescission of the Proposed Transaction in the event defendants are able to consummate it.

PARTIES

5. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of Furiex common stock.

6. Defendant Furiex is a Delaware corporation and maintains its principal executive offices at 3900 Paramount Parkway, Suite 150, Morrisville, NC 27560. The Company is a drug development collaboration company that uses its clinical development design to accelerate and increase value of drug development programs by advancing them through the drug discovery and development process in a cost-efficient manner. Furiex collaborates with pharmaceutical and biotechnology companies and has a diversified product portfolio and pipeline with multiple therapeutic candidates, including one Phase III-

ready asset, two compounds in Phase III development, one of which is with a partner, and four products on the market. Furiex's common stock is traded on the NasdaqGS under the ticker symbol "FURX."

7. Defendant June S. Almenoff ("Almenoff") has served as President and Chief Medical Officer ("CMO") of Furiex since 2010 and as a director since May 2012.

8. Defendant Peter B. Corr ("Corr") has served as a Furiex director since February 2010. Corr is also a member of the Compensation Committee and the Nominating and Governance Committee.

9. Defendant Stephen R. Davis ("Davis") has served as a Furiex director since May 2013. Davis is also Chairman of the Audit Committee and a member of the Nominating and Governance Committee.

10. Defendant Wendy L. Dixon ("Dixon") has served as a Furiex director since February 2010. Dixon is also a member of the Audit Committee and Chairman of the Nominating and Governance Committee.

11. Defendant Fredric N. Eshelman ("Eshelman") has served as a Furiex director and Chairman of the Board since October 2009.

12. Defendant Stephen W. Kaldor ("Kaldor") has served as a Furiex director since December 2010. Kaldor is also a member of the Audit Committee, Compensation Committee, and the Nominating and Governance Committee.

13. The defendants identified in paragraphs seven through twelve are collectively referred to herein as the "Individual Defendants." By virtue of their positions as directors and/or officers of Furiex, the Individual Defendants are in a fiduciary relationship with plaintiff and the other public stockholders of Furiex.

14. Each of the Individual Defendants at all relevant times had the power to control

and direct Furiex to engage in the misconduct alleged herein. The Individual Defendants' fiduciary obligations required them to act in the best interest of plaintiff and all Furiex stockholders.

15. Each of the Individual Defendants owes fiduciary duties of loyalty, good faith, due care, and full and fair disclosure to plaintiff and the other members of the Class. The Individual Defendants are acting in concert with one another in violating their fiduciary duties as alleged herein, and, specifically, in connection with the Proposed Transaction.

16. The Company's public stockholders must receive the maximum value for their shares through the Proposed Transaction. Plaintiff alleges herein that the Individual Defendants, separately and together, in connection with the Proposed Transaction, violated, and are continuing to violate, the fiduciary duties they owe to plaintiff and the Company's other public stockholders, due to the fact that they have engaged in all or part of the unlawful acts, plans, schemes, or transactions complained of herein.

17. Defendant Parent is a Delaware corporation with its principal executive offices at 909 Third Avenue, New York, NY 10022.

18. Defendant Merger Sub is a Delaware corporation and a direct, wholly- owned subsidiary of Parent.

JURISDICTION AND VENUE

19. Plaintiff brings this action as a class action, pursuant to Rule 23 of the North Carolina Rules of Civil Procedure, on behalf of himself and the other public stockholders of Furiex (the "Class"). Excluded from the Class are defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.

20. This action is properly maintainable as a class action.

21. The Class is so numerous that joinder of all members is impracticable. As of February 28, 2014, there were approximately 10,609,662 shares of Furiex common stock outstanding, held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

22. Questions of law and fact are common to the Class, including, among others: (i) whether defendants have breached their fiduciary duties owed to plaintiff and the Class; and (ii) whether defendants will irreparably harm plaintiff and the other members of the Class if defendants' conduct complained of herein continues.

23. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff has the same interests as the other members of the Class. Accordingly, plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

24. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for defendants, or adjudications that would, as a practical matter, be dispositive of the interests of individual members of the Class who are not parties to the adjudications or would substantially impair or impede those non-party Class members' ability to protect their interests.

25. Defendants have acted, or refused to act, on grounds generally applicable to the Class as a whole, and are causing injury to the entire Class. Therefore, final injunctive relief on behalf of the Class is appropriate.

SUBSTANTIVE ALLEGATIONS

Background of the Company

26. Furiex is a drug development company that is involved in compound development and collaboration activities primarily in the United States. It collaborates with pharmaceutical and biotechnology companies to enhance the value of their drug candidates by applying its novel approach to drug development. Furiex's mission is to develop innovative medicines faster and at a lower cost, thereby improving profitability and accelerating time to market while providing life-improving therapies for patients.

27. The Company holds rights to royalties and regulatory and sales-based milestone payments for alogliptin, alogliptin combination products, and SYR-472 (trelagliptin) for the treatment of Type-2 diabetes, which are marketed under the Nesina and Liovel names in Japan, as well as under the Nesina, Oseni, and Kazano names in the United States. It also owns rights to royalties and sales-based milestones for Priligy (dapoxetine) for premature ejaculation, which is marketed in approximately 30 countries in Europe, the Asia-Pacific, and Latin America. In addition, the Company holds license rights to eluxadoline (MuDelta), a novel, orally active, investigational agent, which is in Phase III development for diarrhea-predominant irritable bowel syndrome, and to JNJ-Q2, a novel, fluoroquinolone antibiotic, which is in Phase III development for skin and lung infections. Furiex markets its products through third party collaborators.

28. On March 11, 2014, the Company issued a press release announcing its financial and operating results for the quarter and year ended December 31, 2013. For the full year 2013, the Company reported, among other things, that royalty revenues were $26 million, an increase of $5.5 million, or twenty-seven percent, from 2012. Total revenues were $71 million, an increase of $30.5 million, or seventy-five percent, from 2012. Moreover, milestone revenues

were $45.0 million for 2013. For the fourth quarter, the Company reported, among other things, that royalty revenues were $8.1 million, an increase of $2.6 million, or forty-seven percent, from the third quarter of 2013.

29. The press release went on to state that Furiex's milestone revenue consisted of a $25 million regulatory milestone from Takeda Pharmaceuticals Company Limited ("Takeda") with respect to the FDA's approval of three alogliptin-related products in January 2013; a $10 million milestone from Takeda upon the European Marketing Authorization of alogliptin and related products in September 2013; a $5 million milestone from Berlin-Chemie AG (Menarini Group) upon the launch of Priligy in France in March 2013; and a $5 million milestone from Menarini Group upon the launch of Priligy in the United Kingdom in October 2013. Moreover, for the full year 2013, royalty revenues included royalties related to sales of Nesina and related combination products in Japan and the United States, and Priligy in various countries outside the United States.

30. With respect to the Company's financial results, the Company's President and CMO, Individual Defendant Almenoff, stated:

> Our 2013 was marked by multiple successes for our partnered products, including Takeda's receipt of the FDA approval and European Marketing Authorization for three type-2 diabetes treatments, and Menarini's launch of Priligy in France and the United Kingdom. . . . This momentum continued in early 2014 with the reporting last month of positive top-line results of our two pivotal Phase III clinical trials of eluxadoline in patients with diarrhea- predominant irritable bowel syndrome.

31. Further, Individual Defendant Eshelman stated:

> Looking ahead to the remainder of 2014, we will focus on submitting our new drug application for eluxadoline to the U.S. Food and Drug Administration by the end of the second quarter of 2014. In addition, we will continue to evaluate all of our strategic options, which include launching the drug ourselves or possibly securing a strategic partnership.

The Proposed Transaction

32. Despite the fact that the Company's lead product, eluxadoline, is nearly ready to be launched into the market, the Company entered into the Merger Agreement on April 28, 2014, pursuant to which Forest will acquire all of the outstanding shares of Furiex common stock for approximately $95.00 per Furiex share.

33. In addition, Forest agreed to make additional payments to Furiex stockholders that are contingent upon achievement of certain designations following FDA review. Specifically, if eluxadoline receives FDA approval and is not scheduled as a controlled drug by the United States Drug Enforcement Administration ("DEA"), holders of the CVR will receive $30.00 per share or approximately $360 million in the aggregate. If eluxadoline is designated as a Schedule 4 or Schedule 5 controlled drug by the DEA, holders of the CVR will receive $10.00 per share (approximately $120 million in the aggregate) or $20.00 per share (approximately $240 million in the aggregate), respectively.

34. Forest also announced that it has entered into an agreement with Royalty Pharma to sell Furiex's royalties on alogliptin and Priligy to Royalty Pharma for approximately $415 million upon successful completion of Forest's acquisition of Furiex.

35. On April 29, 2014, the Company filed a Form 8-K with the United States Securities and Exchange Commission ("SEC"), attaching as Exhibit 2.1 the Merger Agreement.

36. To the detriment of the Company's stockholders, the terms of the Merger Agreement substantially favor Forest and are calculated to unreasonably dissuade potential suitors from making competing offers.

37. For example, the Individual Defendants have all but ensured that another entity will not emerge with a competing proposal by agreeing to a "No Solicitation" provision in Section 5.3 of the Merger Agreement that prohibits the Individual Defendants from soliciting

alternative proposals and severely constrains their ability to communicate and negotiate with potential buyers who wish to submit or have submitted unsolicited alternative proposals. Section 5.3(a) of the Merger Agreement states:

> (a) The Company agrees that it shall, and shall cause its Subsidiaries and its and their respective directors, officers and employees to, and shall direct and use its reasonable best efforts to cause its and its Subsidiaries respective other Representatives to, immediately cease and cause to be terminated any and all existing discussions or negotiations with any Person and its Representatives conducted heretofore with respect to any Takeover Proposal and shall promptly request that any such Person (and its Representatives) in possession of confidential information heretofore furnished by or on behalf of the Company or any of its Subsidiaries (and all analyses and other materials prepared by or on behalf of such Person that contains, reflects or analyzes that information) to return or destroy all such information as promptly as reasonably practicable and in accordance with the terms of any confidentiality or similar agreement in place with such Person. At all times from the date of this Agreement until the earlier of the Effective Time or the date, if any, on which this Agreement is terminated pursuant to Section 7.1, the Company shall not, and shall cause its Subsidiaries and its and their respective directors, officers and employees not to, and shall direct and use its reasonable best efforts to cause its and its Subsidiaries' respective other Representatives not to, directly or indirectly, (i) solicit, initiate or take any action to encourage or facilitate (including by way of furnishing information) any inquiries or the submission of any proposal that constitutes any Takeover Proposal or the making or consummation thereof; (ii) enter into, continue or otherwise participate in any discussions (except to notify such Person of the existence of the provisions of this Section 5.3) or negotiations regarding, or furnish to any Person any information or data relating to, afford access to the business, properties, assets, books or records of the Company or any of its Subsidiaries in connection with, or for the purpose of encouraging or facilitating, any Takeover Proposal; (iii) approve any transaction under, or any Person becoming an "interested stockholder" under, Section 203 of the DGCL, or (iv) enter into any agreement in principle, letter of intent, term sheet, merger agreement, acquisition agreement, option agreement or other similar instrument providing for a Takeover Proposal.

38. Further, pursuant to Section 5.3(b) of the Merger Agreement, the Company must advise Forest, within forty-eight hours, of any proposals or inquiries received from other parties, including, *inter alia*, the material terms and conditions of the proposal and the identity of the party making the proposal. Section 5.3(b) of the Merger Agreement provides, in pertinent part:

> The Company will promptly (and in any event no later than forty- eight (48) hours after receipt thereof) notify Parent, in writing, of the receipt of such Takeover Proposal, or any inquiry, proposal or offer that expressly provides for or could reasonably be expected to lead to a Takeover Proposal, and shall, in any such notice to Parent, identify the Person making such Takeover Proposal, inquiry, proposal or offer, communicate the material terms and conditions of such Takeover Proposal, inquiry, proposal or offer (including any subsequent material amendment or other modification to such terms and conditions) and provide to Parent copies of any written materials received from or on behalf of such Person relating to such inquiry, proposal or offer. The Company will (i) keep Parent reasonably and promptly apprised of the status and terms of any such Takeover Proposal, inquiry, proposal or offer and regarding the status of any discussions or negotiations with the Person making such Takeover Proposal, inquiry, proposal or offer or any of its Representatives and (ii) provide Parent with copies of any material additional written materials received that relate to such Takeover Proposal, inquiry, proposal or offer within forty-eight (48) hours after receipt or delivery thereof.

39. Moreover, the Merger Agreement contains a highly restrictive "fiduciary out" provision permitting the Board to withdraw its approval of the Proposed Transaction under extremely limited circumstances, and grants Forest a "matching right" with respect to any "Superior Proposal" made to the Company. Section 5.3(d) of the Merger Agreement provides, in pertinent part:

> (d) Notwithstanding the foregoing provisions of this Section 5.3, if at any time prior to receipt of Company Stockholder Approval the Company receives a Takeover Proposal or an Intervening Event occurs, the Company Board (or a duly authorized committee thereof) may make a Company Adverse Recommendation Change (and, solely with respect to a Superior Proposal, terminate this Agreement pursuant to Section 7.1(d)(ii)), if, (i) the Company is not in material breach of this Section 5.3; (ii) the Company Board (or a duly authorized committee thereof) determines in good faith, after consultation with its outside legal counsel, that the failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under applicable law; (iii) if such Company Adverse Recommendation Change or termination of this Agreement pursuant to Section 7.1(d)(ii) is to be taken in circumstances involving or relating to a Takeover Proposal, the Company Board determines in good faith, after consultation with its outside legal and financial advisors, that such Takeover Proposal is a Superior Proposal; (iv) (A) the Company provides Parent prior written notice of its intent to make such Company Adverse Recommendation Change or terminate this Agreement pursuant to Section 7.1(d)(ii) at least four (4) Business Days (the "Notice Period") prior to taking such action (a "Change of Recommendation Notice"), which notice shall specify the basis for such Company Adverse

Recommendation Change or termination, including (I) in the case of any action intended to be taken in circumstances involving or relating to a Takeover Proposal, the material terms of such Takeover Proposal, including the most current version of the proposed agreement under which the Takeover Proposal is proposed to be consummated and the identity of the Person making the Takeover Proposal . . . ; (B) during the period described in clause (A), the Company shall have made its Representatives reasonably available to discuss with Parent's Representatives proposed modifications to the terms and conditions of this Agreement, and the Company shall have, if required by Parent, negotiated in good faith with Parent with respect to such proposed modifications; and (C) Parent has not, within the Notice Period, made a *bona fide* offer capable of being accepted by the Company to modify the terms or conditions of this Agreement or any other proposal such that (I) in the case of any action intended to be taken in circumstances involving or relating to a Takeover Proposal, the Company Board, after taking into account any modifications to the terms of this Agreement and the Merger agreed to by Parent and Merger Sub and after consultation with its outside legal and financial advisors, continues to believe in good faith that such Takeover Proposal constitutes a Superior Proposal and determines in good faith that the failure to make a Company Adverse Recommendation Change or terminate this Agreement pursuant to Section 7.1(d)(ii) would reasonably be expected to be inconsistent with the fiduciary duties of the Company Board under applicable law[.]

40. Further locking up control of the Company in favor of Forest is Section 7.3 of the Merger Agreement, which contains a provision for a "Termination Fee" of $41 million, payable by the Company to Forest if the Individual Defendants cause the Company to terminate the Merger Agreement pursuant to the lawful exercise of their fiduciary duties.

41. By agreeing to all of the deal protection devices, the Individual Defendants have locked up the Proposed Transaction and have precluded other bidders from making successful competing offers for the Company.

42. Moreover, Individual Defendant Eshelman and his affiliates have entered into a voting agreement, pursuant to which they have agreed to vote their shares of Company common stock in favor of the Proposed Transaction. Accordingly, approximately twenty-eight percent of the Company's outstanding common stock is already locked up in favor of the Proposed Transaction.

43. The consideration to be paid to plaintiff and the Class in the Proposed Transaction

is unfair and inadequate because, among other things, the intrinsic value of Furiex is materially in excess of the amount offered in the Proposed Transaction. Indeed, according to *Yahoo! Finance*, at least one analyst has set a price target for the Company at $140.00 per share.

44. Accordingly, the Proposed Transaction will deny Class members their right to share proportionately and equitably in the true value of the Company's valuable and profitable business, and future growth in profits and earnings.

45. As a result, the defendants have breached their fiduciary duties that they owe to the Company's public stockholders because the stockholders will not receive adequate or fair value for their Furiex common stock in the Proposed Transaction.

FIRST CAUSE OF ACTION

(Breach of Fiduciary Duties against the Individual Defendants)

46. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

47. As members of the Company's Board, the Individual Defendants have fiduciary obligations to: (a) undertake an appropriate evaluation of Furiex's net worth as a merger/acquisition candidate; (b) take all appropriate steps to enhance Furiex's value and attractiveness as a merger/acquisition candidate; (c) act independently to protect the interests of the Company's public stockholders; (d) adequately ensure that no conflicts of interest exist between the Individual Defendants' own interests and their fiduciary obligations, and, if such conflicts exist, to ensure that all conflicts are resolved in the best interests of Furiex's public stockholders; (e) actively evaluate the Proposed Transaction and engage in a meaningful auction with third parties in an attempt to obtain the best value on any sale of Furiex; and (f) disclose all material information to the Company's stockholders.

48. The Individual Defendants have breached their fiduciary duties to plaintiff and the Class.

49. As alleged herein, the Individual Defendants have initiated a process to sell Furiex that undervalues the Company. In addition, by agreeing to the Proposed Transaction, the Individual Defendants have capped the price of Furiex at a price that does not adequately reflect the Company's true value. The Individual Defendants also failed to sufficiently inform themselves of Furiex's value, or disregarded the true value of the Company. Furthermore, any alternate acquiror will be faced with engaging in discussions with a management team and Board that are committed to the Proposed Transaction.

50. As such, unless the Individual Defendants' conduct is enjoined by the Court, they will continue to breach their fiduciary duties to plaintiff and the other members of the Class, and will further a process that inhibits the maximization of stockholder value.

51. Plaintiff and the members of the Class have no adequate remedy at law.

SECOND CAUSE OF ACTION

(Aiding and Abetting the Board's Breaches of Fiduciary Duties Against Furiex and Forest)

52. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

53. Defendants Furiex and Forest knowingly assisted the Individual Defendants' breaches of fiduciary duties in connection with the Proposed Transaction, which, without such aid, would not have occurred. In connection with discussions regarding the Proposed Transaction, Furiex provided, and Forest obtained, sensitive non-public information concerning Furiex and thus had unfair advantages that are enabling it to pursue the Proposed Transaction, which offers unfair and inadequate consideration.

54. As a result of this conduct, plaintiff and the other members of the Class have been and will be damaged in that they have been and will be prevented from obtaining fair consideration for their Furiex shares.

55. Plaintiff and the members of the Class have no adequate remedy at law.

55. Plaintiff and the members of the Class have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment and relief as follows:

A. Ordering that this action may be maintained as a class action and certifying plaintiff as the Class representative and plaintiff's counsel as Class counsel;

B. Preliminarily and permanently enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;

C. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages to plaintiff and the Class;

D. Directing defendants to account to plaintiff and the Class for their damages sustained because of the wrongs complained of herein;

E. Awarding plaintiff the costs of this action, including reasonable allowance for plaintiff's attorneys' and experts' fees; and

F. Granting such other and further relief as this Court may deem just and proper.

This the 9th day of May, 2014.

Respectfully submitted,

Gary W. Jackson
Of Counsel
N.C. Bar No. 13976
Rabon Law Firm, PLLC
225 E. Worthington Ave.
Suite 100
Charlotte, NC 28203
Tel: (704) 377-6680
Fax: (704) 377-6690
gjackson@ncadvocates.com