IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

CYNTHIA SCHROEDER;

and

KATHLEEN PORTER;

and

PURA ADVINCULA;

and

FRANCES BROOKS;

and

TINA DOWNING;

and

PATRICIA SCHULD;

and

SUSAN ROMERSA;

and

YOLANDA BURKHAM;

and

OLIVIA POLLARD;

and

RHONDA FETTY;

and

JACQUELINE WEATHERS;

16

Cause No.

Division:

14SL-CC00635

JURY TRIAL DEMANDED

FILED
FEB 27 2014
JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

and)
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JAYE ANTHONY;)
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and)
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FAYE GREEN;)
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and)
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DEDEH MOIYALLAH;)
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and)
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BARBARA FREY;)
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and)
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CAROL JORDAN;)
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and)
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SONIA FINE;)
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and)
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KIM GIBBS;)
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and)
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ROBBIE N. BRYANT;)
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YVONNE SAMS;)
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and)
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MARY ROEDIGER;)
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and)
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PATRICIA DON;)
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and)
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MARGARET WARD;

and

ELEANOR GIDDENS;

and

RUTHIE ARNOLD;

and

LOLA BLANTON;

and

BEVERLY MORROW;

and

GAYLE HUTNYAN;

and

MARY LEE BALDWIN;

and

FRANCES ROGERS;

and

MARY MONTEILH;

and

JANICE NASH;

and

TANDALAYA STEWART;

and

CYNTHIA WILLIAMSON;

and)
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FLODINE MCDAVID;)
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SHARLA ROYAL;)
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GLORIA LANG;)
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BEATRIZ KETCHAM ;)
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and)
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MARSHA SHINING WOMAN;)
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JOANNE WALTERS;)
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and)
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ESTHER STEVENTON;)
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and)
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MARILYN HARDWICK;)
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PEGGY YOUNG;)
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PATRICIA MCNAIR;)
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and)
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KATHLEEN GORDON;)
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and)
)

TERRI LESLIE;

and

PAMELA BLUN-COLLINS;

and

ANGELA HILLYARD;

and

AUDREY HUTCHINSON;

and

DOROTHY BURR;

and

ROSETTA TAPLIN;

and

LUDIE TRIMBLE;

and

TERA HALL;

and

BONNIE COUSINS;

and

JOYCE DANIELLY;

and

KAREN HOLDEN;

and

LINDA DUVALL;

and)
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BELINDA NICHOLS;)
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and)
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MARY WEAVER;)
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UTE CHARLES;)
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BRENDA JONES;)
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and)
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JEANETTE CARR;)
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EVELYN ALBRIGHT;)
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ALVELLA LOVE-SEATTS;)
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PAMELA LEWIS;)
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AMANDA ABSON;)
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GWENDOLYN THOMAS;)
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and)
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PHYLLIS GADDY;)
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and)
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KATHY BISZANTZ;

and

RACHEL CORAM;

and

ISABEL WEINREICH;

and

ROBERTA MULLINS;

and

DIANE NAVAS;

and

JULITA WINTERS;

and

LURETHIA ROYAL;

and

LINDA JOYCE COOK;

and

GLORIA DAVIS;

and

ROWENA GREEN;

and

DONNA GAMAGE;

and

SAMUEL WAYNE JONES
ON BEHALF OF SILVIA JONES;

and

LORAINE ROSE;

Plaintiffs,

v.

PFIZER, INC.
Serve: Registered Agent
CT Corporation System
120 South Central Avenue
Clayton, Missouri 63105

and

GREENSTONE, LLC, formerly known as GREENSTONE, LTD.
Serve: Registered Agent
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Defendants.

PETITION

COME NOW, Plaintiffs, by and through their undersigned counsel, and bring this action for damages against Defendants, Pfizer, Inc. and Greenstone, LLC formerly known as Greenstone, Ltd., (collectively "Defendants") arising from Defendants' design, research, formulation, development, manufacture, sale, testing, marketing, advertising, promotion and/or distribution of the unsafe prescription medication Lipitor®.

PARTIES

1. Plaintiffs are as follows:

(a) Cynthia Schroeder is a citizen of Florissant, Missouri. Plaintiff Cynthia Schroeder was diagnosed with type 2 diabetes in 2011 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Cynthia Schroeder was a citizen of the city of Florissant, Missouri.

(b) Gloria Lang is a citizen of Mobile, Alabama. Plaintiff Gloria Lang was diagnosed with type 2 diabetes in approximately 2002 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Gloria Lang was a citizen of the city of Mobile, state of Alabama.

(c) Mary Roediger is a citizen of Chandler, Arizona. Plaintiff Mary Roediger was diagnosed with type 2 diabetes in approximately 2004 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Mary Roediger was a citizen of the city of Chandler, state of Arizona.

(d) Patricia Don is a citizen of Spring Valley, California. Plaintiff Patricia Don was diagnosed with type 2 diabetes in approximately 2000 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Patricia Don was a citizen of the city of Spring Valley, state of California.

(e) Mary Monteilh is a citizen of Moreno Valley, California. Plaintiff Mary Monteilh was diagnosed with type 2 diabetes in approximately 2006 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Mary Monteilh was a citizen of the city of Moreno Valley, state of California.

(f) Janice Nash is a citizen of Moreno Valley, California. Plaintiff Janice Nash was

diagnosed with type 2 diabetes in approximately 2004 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Janice Nash was a citizen of the city of Moreno Valley, state of California.

(g) Tandalaya Stewart is a citizen of Fontana, California. Plaintiff Tandalaya Stewart was diagnosed with type 2 diabetes in approximately 2000 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Tandalaya Stewart was a citizen of the city of Fontana, state of California.

(h) Beatriz Ketcham is a citizen of Moreno Valley, California. Plaintiff Beatriz Ketcham was diagnosed with type 2 diabetes in approximately 2007 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Beatriz Ketcham was a citizen of the city of Moreno Valley, state of California.

(i) Marsha Shining Woman is a citizen of Cottonwood, California. Plaintiff Marsha Shining Woman was diagnosed with type 2 diabetes in approximately 2006 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Marsha Shining Woman was a citizen of the city of Cottonwood, state of California.

(j) Joanne Walters is a citizen of Visalia, California. Plaintiff Joanne Walters was diagnosed with type 2 diabetes in approximately 2010 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Joanne Walters was a citizen of the city of Visalia, state of California.

(k) Esther Steventon is a citizen of Mission Viejo, California. Plaintiff Esther Steventon was diagnosed with type 2 diabetes in approximately 2009 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Esther Steventon was a citizen of the city of Mission Viejo, state of California.

(l) Terri Leslie is a citizen of Bakersfield, California. Plaintiff Terri Leslie was diagnosed with type 2 diabetes in approximately 2000 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Terri Leslie was a citizen of the city of Bakersfield, state of California.

(m) Pura Advincula is a citizen of San Jose, California. Plaintiff Pura Advincula was diagnosed with type 2 diabetes in approximately 2011 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Pura Advincula was a citizen of the city of San Jose, state of California.

(n) Kathleen Porter is a citizen of Loveland, Colorado. Plaintiff Kathleen Porter was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Kathleen Porter was a citizen of the city of Loveland, state of Colorado.

(o) Margaret Ward is a citizen of Waterbury, Connecticut. Plaintiff Margaret Ward was diagnosed with type 2 diabetes in approximately 2011 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Margaret Ward was a citizen of the city of Waterbury, state of Connecticut.

(p) Cynthia Williamson is a citizen of Kissimmee, Florida. Plaintiff Cynthia Williamson was diagnosed with type 2 diabetes in approximately 2009 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Cynthia Williamson was a citizen of the city of Kissimmee, state of Florida.

(q) Frances Brooks is a citizen of Young Harris, Georgia. Plaintiff Frances Brooks was diagnosed with type 2 diabetes in approximately 2006 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Frances Brooks was a citizen of

the city of Young Harris, state of Georgia.

(r) Jacqueline Weathers is a citizen of Villa Rica, Georgia. Plaintiff Jacqueline Weathers was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Jacqueline Weathers was a citizen of the city of Villa Rica, state of Georgia.

(s) Yvonne Sams is a citizen of Lawrenceville, Georgia. Plaintiff Yvonne Sams was diagnosed with type 2 diabetes in approximately 2002 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Yvonne Sams was a citizen of the city of Lawrenceville, state of Georgia.

(t) Eleanor Giddens is a citizen of Bonair, Georgia. Plaintiff Eleanor Giddens was diagnosed with type 2 diabetes in approximately 2007 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Eleanor Giddens was a citizen of the city of Bonair, state of Georgia.

(u) Pamela Blun-Collins is a citizen of Peachtree City, Georgia. Plaintiff Pamela Blun-Collins was diagnosed with type 2 diabetes in approximately 1998 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Pamela Blun-Collins was a citizen of the city of Peachtree City, state of Georgia.

(v) Angela Hillyard is a citizen of Lithonia, Georgia. Plaintiff Angela Hillyard was diagnosed with type 2 diabetes in approximately 2002 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Angela Hillyard was a citizen of the city of Lithonia, state of Georgia.

(w) Audrey Hutchinson is a citizen of Columbus, Georgia. Plaintiff Audrey Hutchinson was diagnosed with type 2 diabetes in approximately 2011 as a result of her

ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Audrey Hutchinson was a citizen of the city of Columbus, state of Georgia.

(x) Tina Downing is a citizen of Burlington, Iowa. Plaintiff Tina Downing was diagnosed with type 2 diabetes in approximately 2010 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Tina Downing was a citizen of the city of Burlington, state of Iowa.

(y) Jaye Anthony is a citizen of Cedar Rapids, Iowa. Plaintiff Jaye Anthony was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Jaye Anthony was a citizen of the city of Cedar Rapids, state of Iowa.

(z) Patricia Schuld is a citizen of Fox Lake, Illinois. Plaintiff Patricia Schuld was diagnosed with type 2 diabetes in approximately 2001 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Patricia Schuld was a citizen of the city of Fox Lake, state of Illinois.

(aa) Ruthie Arnold is a citizen of Chicago, Illinois. Plaintiff Ruthie Arnold was diagnosed with type 2 diabetes in approximately 2010 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Ruthie Arnold was a citizen of the city of Chicago, state of Illinois.

(bb) Lola Blanton is a citizen of Lafayette, Indiana. Plaintiff Lola Blanton was diagnosed with type 2 diabetes in approximately 2008 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Lola Blanton was a citizen of the city of Lafayette, state of Indiana.

(cc) Marilyn Hardwick is a citizen of Mishawaka, Indiana. Plaintiff Marilyn

Hardwick was diagnosed with type 2 diabetes in approximately 1999 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Marilyn Hardwick was a citizen of the city of Mishawaka, state of Indiana.

(dd) Kim Gibbs is a citizen of Baltimore, Maryland. Plaintiff Kim Gibbs was diagnosed with type 2 diabetes in approximately 2011 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Kim Gibbs was a citizen of the city of Baltimore, state of Maryland.

(ee) Faye Green is a citizen of Lexington, North Carolina. Plaintiff Faye Green was diagnosed with type 2 diabetes in approximately 2004 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Faye Green was a citizen of the city of Lexington, state of North Carolina.

(ff) Dorothy Burr is a citizen of Las Vegas, Nevada. Plaintiff Dorothy Burr was diagnosed with type 2 diabetes in approximately 2002 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Dorothy Burr was a citizen of the city of Las Vegas, state of Nevada.

(gg) Beverly Morrow is a citizen of Cincinnati, Ohio. Plaintiff Beverly Morrow was diagnosed with type 2 diabetes in approximately 2006 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Beverly Morrow was a citizen of the city of Cincinnati, state of Ohio.

(hh) Peggy Young is a citizen of Lakewood, Ohio. Plaintiff Peggy Young was diagnosed with type 2 diabetes in approximately 2001 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Peggy Young was a citizen of the city of Lakewood, state of Ohio.

(ii) Susan Romersa is a citizen of Seaside, Oregon. Plaintiff Susan Romersa was diagnosed with type 2 diabetes in approximately 2007 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Susan Romersa was a citizen of the city of Seaside, state of Oregon.

(jj) Dedeh Moiyallah is a citizen of Philadelphia, Pennsylvania. Plaintiff Dedeh Moiyallah was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Dedeh Moiyallah was a citizen of the city of Philadelphia, state of Pennsylvania.

(kk) Gayle Hutnyan is a citizen of Barnesville, Pennsylvania. Plaintiff Gayle Hutnyan was diagnosed with type 2 diabetes in approximately 2006 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Gayle Hutnyan was a citizen of the city of Barnesville, state of Pennsylvania.

(ll) Patricia McNair is a citizen of Bethlehem, Pennsylvania. Plaintiff Patricia McNair was diagnosed with type 2 diabetes in approximately 2009 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Patricia McNair was a citizen of the city of Bethlehem, state of Pennsylvania.

(mm) Yolanda Burkham is a citizen of Amarillo, Texas. Plaintiff Yolanda Burkham was diagnosed with type 2 diabetes in approximately 2008 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Yolanda Burkham was a citizen of the city of Amarillo, state of Texas.

(nn) Barbara Frey is a citizen of Corpus Christi, Texas. Plaintiff Barbara Frey was diagnosed with type 2 diabetes in approximately 2004 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Barbara Frey was a citizen of the city

of Corpus Christi, state of Texas.

(oo) Carol Jordan is a citizen of Dickinson, Texas. Plaintiff Carol Jordan was diagnosed with type 2 diabetes in approximately 2010 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Carol Jordan was a citizen of the city of Dickinson, state of Texas.

(pp) Robbie N. Bryant is a citizen of Corsicana, Texas. Plaintiff Robbie N. Bryant was diagnosed with type 2 diabetes in approximately 1998 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Robbie N. Bryant was a citizen of the city of Corsicana, state of Texas.

(qq) Mary Lee Baldwin is a citizen of Spring, Texas. Plaintiff Mary Lee Baldwin was diagnosed with type 2 diabetes in approximately 2000 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Mary Lee Baldwin was a citizen of the city of Spring, state of Texas.

(rr) Frances Rogers is a citizen of Killeen, Texas. Plaintiff Frances Rogers was diagnosed with type 2 diabetes in approximately 2007 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Frances Rogers was a citizen of the city of Killeen, state of Texas.

(ss) Flodine McDavid is a citizen of Ennis, Texas. Plaintiff Flodine McDavid was diagnosed with type 2 diabetes in approximately 1999 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Flodine McDavid was a citizen of the city of Ennis, state of Texas.

(tt) Sharla Royal is a citizen of Arlington, Texas. Plaintiff Sharla Royal was diagnosed with type 2 diabetes in approximately 2012 as a result of her ingestion of Lipitor. At

all times relevant to the allegations in the Petition, Plaintiff Sharla Royal was a citizen of the city of Arlington, state of Texas.

(uu) Kathleen Gordon is a citizen of Conroe, Texas. Plaintiff Kathleen Gordon was diagnosed with type 2 diabetes in approximately 2006 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Kathleen Gordon was a citizen of the city of Conroe, state of Texas.

(vv) Rosetta Taplin is a citizen of Waco, Texas. Plaintiff Rosetta Taplin was diagnosed with type 2 diabetes in approximately 1997 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Rosetta Taplin was a citizen of the city of Waco, state of Texas.

(ww) Ludie Trimble is a citizen of Plano, Texas. Plaintiff Ludie Trimble was diagnosed with type 2 diabetes in approximately 2008 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Ludie Trimble was a citizen of the city of Plano, state of Texas.

(xx) Olivia Pollard is a citizen of Chesterfield, Virginia. Plaintiff Olivia Pollard was diagnosed with type 2 diabetes in approximately 2007 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Olivia Pollard was a citizen of the city of Chesterfield, state of Virginia.

(yy) Sonia Fine is a citizen of Richmond, Virginia. Plaintiff Sonia Fine was diagnosed with type 2 diabetes in approximately 2000 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Sonia Fine was a citizen of the city of Richmond, state of Virginia.

(zz) Rhonda Fetty is a citizen of Pt. Pleasant, West Virginia. Plaintiff Rhonda Fetty

was diagnosed with type 2 diabetes in approximately 2004 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Rhonda Fetty was a citizen of the city of Pt. Pleasant, state of West Virginia.

(aaa) Tera Hall is a citizen of Oxford, Alabama. Plaintiff Tera Hall was diagnosed with type 2 diabetes in approximately 1998 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Tera Hall was a citizen of the city of Oxford, state of Alabama.

(bbb) Bonnie Cousins is a citizen of Sandimas, California. Plaintiff Bonnie Cousins was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Bonnie Cousins was a citizen of the city of Sandimas, state of California.

(ccc) Joyce Danielly is a citizen of Oakland, California. Plaintiff Joyce Danielly was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Joyce Danielly was a citizen of the city of Oakland, state of California.

(ddd) Plaintiff Karen Holden was diagnosed with type 2 diabetes in approximately 2010 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Karen Holden was a citizen of the city of Marysville, state of Ohio.

(eee) Plaintiff Linda Duvall was diagnosed with type 2 diabetes in approximately 2009 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Linda Duvall was a citizen of the city of Tyrone, state of Oklahoma.

(fff) Belinda Nichols is a citizen of Oklahoma City, Oklahoma. Plaintiff Belinda Nichols was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of

Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Belinda Nichols was a citizen of the city of Oklahoma City, state of Oklahoma.

(ggg) Mary Weaver is a citizen of Pittsburgh, Pennsylvania. Plaintiff Mary Weaver was diagnosed with type 2 diabetes in approximately 2013 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Mary Weaver was a citizen of the city of Pittsburgh, state of Pennsylvania.

(hhh) Ute Charles is a citizen of Converse, Texas. Plaintiff Ute Charles was diagnosed with type 2 diabetes in approximately 2010 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Ute Charles was a citizen of the city of Converse, state of Texas.

(iiii) Brenda Jones is a citizen of Groves, Texas. Plaintiff Brenda Jones was diagnosed with type 2 diabetes in approximately 2009 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Brenda Jones was a citizen of the city of Groves, state of Texas.

(jjj) Jeanette Carr is a citizen of Seguin, Texas. Plaintiff Jeanette Carr was diagnosed with type 2 diabetes in approximately 2008 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Jeanette Carr was a citizen of the city of Seguin, state of Texas.

(kkk) Evelyn Albright is a citizen of Vienna, West Virginia. Plaintiff Evelyn Albright was diagnosed with type 2 diabetes in approximately 2005 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Evelyn Albright was a citizen of the city of Vienna, state of West Virginia.

(lll) Alvella Love-Seatts is a citizen of Opelika, Alabama. Plaintiff Alvella Love-

Seatts was diagnosed with type 2 diabetes in approximately 2008 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Alvella Love-Seatts was a citizen of the city of Opelika, state of Alabama.

(mmm)Plaintiff Pamela Lewis was diagnosed with type 2 diabetes in approximately 2000 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Pamela Lewis was a citizen of the city of Buckeye, state of Arizona.

(nnn) Amanda Abson is a citizen of San Francisco, California. Plaintiff Amanda Abson was diagnosed with type 2 diabetes in approximately 2013 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Amanda Abson was a citizen of the city of San Francisco, state of California.

(ooo) Gwendolyn Thomas is a citizen of Fontana, California. Plaintiff Gwendolyn Thomas was diagnosed with type 2 diabetes in approximately 2006 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Gwendolyn Thomas was a citizen of the city of Fontana, state of California.

(ppp) Phyllis Gaddy is a citizen of Tyrone, Georgia. Plaintiff Phyllis Gaddy was diagnosed with type 2 diabetes in approximately 2005 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Phyllis Gaddy was a citizen of the city of Tyrone, state of Georgia.

(qqq) Plaintiff Samuel Wayne Jones, is an adult whose principal place of residence is in the City of Rincon, State of Georgia, brings this action in his capacity as representative of the Estate of Silvia Jones. Plaintiff Samuel Wayne Jones is pursuing this action due to the wrongfully caused premature death and conscious pain and suffering of Silvia Jones on behalf of that decedent's estate. The premature death of Silvia Jones was the direct and proximate result

of her type 2 diabetes diagnosis. As a direct and proximate result of the premature death of Silvia Jones, and pursuant to O.C.G.A. 51-4-1 *et seq.* and O.C.G.A 9-2-41 *et seq.*, Plaintiff seeks damages for decedent's loss of future earnings, the loss of decedent's value to her estate, pain and suffering endured by decedent prior to premature death, medical, funeral, and burial expenses, loss of services and support, and other damages as allowed by law.

(rrr) Kathy Biszantz is a citizen of Paoli, Indiana. Plaintiff Kathy Biszantz was diagnosed with type 2 diabetes in approximately 2009 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Kathy Biszantz was a citizen of the city of Paoli, state of Indiana.

(sss) Rachel Coram is a citizen of Deridder, Louisiana. Plaintiff Rachel Coram was diagnosed with type 2 diabetes in approximately 2004 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Rachel Coram was a citizen of the city of Deridder, state of Louisiana and/or Virginia.

(ttt) Isabel Weinreich is a citizen of Oldwick, New Jersey. Plaintiff Isabel Weinreich was diagnosed with type 2 diabetes in approximately 2003 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Isabel Weinreich was a citizen of the city of Oldwick, state of New Jersey.

(uuu) Roberta Mullins is a citizen of Winnemucca, Nevada. Plaintiff Roberta Mullins was diagnosed with type 2 diabetes in approximately 1998 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Roberta Mullins was a citizen of the city of Winnemucca, state of Nevada.

(vvv) Diane Navas is a citizen of Sparks, Nevada. Plaintiff Diane Navas was diagnosed with type 2 diabetes in approximately 2007 as a result of her ingestion of Lipitor. At all times

relevant to the allegations in the Petition, Plaintiff Diane Navas was a citizen of the city of Sparks, state of Nevada.

(www) Julita Winters is a citizen of Pahrump, Nevada. Plaintiff Julita Winters was diagnosed with type 2 diabetes in approximately 2007 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Julita Winters was a citizen of the city of Pahrump, state of Nevada.

(xxx) Lurethia Royal is a citizen of Delta, Pennsylvania. Plaintiff Lurethia Royal was diagnosed with type 2 diabetes in approximately 2004 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Lurethia Royal was a citizen of the city of Delta, state of Pennsylvania.

(yyy) Linda Joyce Cook is a citizen of Corsicana, Texas. Plaintiff Linda Joyce Cook was diagnosed with type 2 diabetes in approximately 2001 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Linda Joyce Cook was a citizen of the city of Corsicana, state of Texas.

(zzz) Gloria Davis is a citizen of Groesbeck, Texas. Plaintiff Gloria Davis was diagnosed with type 2 diabetes in approximately 2011 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Gloria Davis was a citizen of the city of Groesbeck, state of Texas.

(aaaa) Rowena Green is a citizen of Crowley, Texas. Plaintiff Rowena Green was diagnosed with type 2 diabetes in approximately 2009 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Rowena Green was a citizen of the city of Crowley, state of Texas.

(bbbb) Donna Gamage is a citizen of Virginia Beach, Virginia. Plaintiff Donna Gamage

was diagnosed with type 2 diabetes in approximately 2005 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Donna Gamage was a citizen of the city of Virginia Beach, state of Virginia.

(cccc) Loraine Rose is a citizen of Jamaica, New York. Plaintiff Loraine Rose was diagnosed with type 2 diabetes in approximately 2011 as a result of her ingestion of Lipitor. At all times relevant to the allegations in the Petition, Plaintiff Loraine Rose was a resident of the city of Jamaica, state of New York.

2. Each Plaintiff herein was injured by the ingestion of Lipitor® prescribed by a physician and/or licensed healthcare practitioner in order to treat high cholesterol. In addition, other common facts include Plaintiffs' injuries; each of the Plaintiffs was diagnosed with type 2 diabetes following their ingestion of Lipitor. All Plaintiffs' claims arise out of the same series of transactions by Defendants, who manufactured, marketed, and distributed all of the Lipitor® ingested by Plaintiffs. Plaintiffs' claims, therefore, involve common questions of fact and law because Defendants' liability with regard to each Plaintiff is subject to the same legal requirements, as are Defendants' interactions with the scientific and medical community.

3. Defendant, Pfizer, Inc., is a corporation duly existing under and by virtue of the laws of the State of Delaware with its principal place of business in New York, New York. At all relevant times, Pfizer and/or its predecessors in interest or Defendants named herein, were engaged in the business of research, designing, testing, formulating, inspecting, labeling, manufacturing, packaging, marketing, distributing, producing, processing, promoting and selling the drug Lipitor in St. Louis and throughout Missouri and the United States and licensed and registered to do business in Missouri. Pfizer may be served with process by serving its Missouri registered agent CT Corporation System, 120 South Central Avenue, Clayton, Missouri 63105.

4. Defendant, Greenstone, L.L.C., is a corporation duly existing under and by virtue of the laws of the State of Delaware with its principal place of business in Peapack, New Jersey. At all relevant times, Greenstone and/or its predecessors in interest or Defendants named herein, were engaged in the business of research, designing, testing, formulating, inspecting, labeling, manufacturing, packaging, marketing, distributing, producing, processing, promoting and selling the drug Lipitor in St. Louis and throughout Missouri and the United States and licensed and registered to do business in Missouri. Greenstone may be served with process by serving it's registered agent Corporation Trust Center at 1209 Orange Street, Wilmington, Delaware. At all pertinent times, including the present, Greenstone was engaged in continuous and systematic business in the State of Missouri and the County of St. Louis.

JURISDICTIONAL ALLEGATIONS

5. Jurisdiction in this Court is proper as Pfizer, Inc. and Greenstone, LLC have and continue to conduct continuous and systematic business in the State of Missouri, and committed torts in whole or in part against Plaintiff Cynthia Schroeder in Missouri. Further, there is no federal subject matter jurisdiction because no federal question is raised and some of the plaintiffs and the Defendants are citizens of the same state, i.e., New Jersey, New York and Missouri.

6. Venue is proper in this Court pursuant to Mo. Rev. Stat. 508.010 because Plaintiff Cynthia Schroeder, was first injured by Lipitor® in the City of Florissant. At all pertinent times, the Plaintiff purchased and ingested Lipitor® in the City of Florissant, and Plaintiff was first injured while in the City of Florissant. No Plaintiffs other than Cynthia Schroeder were "first injured" in the State of Missouri.

7. Venue for this action is also proper in the County of St. Louisbecause Pfizer maintains a registered agent in the County of St. Louis, State of Missouri.

INTRODUCTION

8. This is a personal injury action brought on behalf of the above-identified Plaintiffs, who have all suffered and continue to suffer from type 2 diabetes caused by the prescription drug Lipitor®, manufactured and distributed by Defendants.

9. The drug Lipitor was and is advertised, analyzed, assembled, compounded, designed, developed, distributed, formulated, inspected, labeled, manufactured, marketed, packed, produced, promoted, processed, researched, sold, and tested by Pfizer, Inc. ("Pfizer"), its predecessors in interest and its subsidiaries listed herein, including all Defendants, under the trade name Lipitor® and is a member of a class of drugs known as statins.

10. Defendants' sales force blitzed doctors' offices with literature and verbal presentations designed to convince doctors and consumers that Lipitor® was a superior drug for treatment of, among other things, high cholesterol. Meanwhile, Defendants hid important information about the risks of taking Lipitor®. Defendants did not provide a balanced presentation of Lipitor®'s injurious side effects. Instead, Defendants chose not to reveal the risks associated with taking Lipitor® because it feared such information would cause Lipitor® sales to plummet.

11. Defendants' campaign of misinformation succeeded. Millions of individuals, including Plaintiffs, used Lipitor® and Defendants have made billions of dollars selling its product. Yet, Defendants' profits have come at a heavy cost to Plaintiffs' health. In this action, Plaintiffs seek damages incurred as a result of the use of Lipitor®.

12. Defendants concealed their knowledge of the unreasonably dangerous risks of the ingestion of Lipitor® from Plaintiffs, their physicians, other consumers, and the medical community.

Specifically, Defendants failed to adequately inform consumers and the prescribing medical community about the risk of type 2 diabetes associated with the use of Lipitor®.

13. Greenstone became a wholly-owned subsidiary of Pfizer, Inc. in April, 2003. In 2011, when the patent for Lipitor was expiring, Pfizer announced that Greenstone would release an authorized generic version of Lipitor. In this way, Pfizer sought to establish a strong presence in the generic marketplace even before other manufacturers could gain approval for their generics.

14. Pfizer knew or should have known that generic drug manufacturers, specifically Greenstone, would rely upon the design, manufacture, testing, processing, marketing, advertising, labeling, packaging, and product information associated with LIPITOR.

15. At all times relevant to this litigation, Pfizer and Greenstone operated in concert with one another. Defendants' joint endeavors are evident in the following ways:

a. At all times relevant to this litigation, Pfizer and Greenstone make joint tactical and strategic decisions for the marketing and selling of the brand and generic form of Lipitor;

b. At all times relevant to this litigation, Pfizer and Greenstone manufacturer the identical drug, Lipitor;

c. Pfizer advertizes that through Greenstone it continues to offer generic equivalents to branded pharmaceuticals, including Lipitor , that are distributed under Lipitor's NDA.

e. Pfizer has led or, at the minimum, joined in Greenstone's product recalls;

STATEMENT OF FACTS

16. Plaintiffs herein are properly joined pursuant to Rule 52.05(a) of the Missouri Rules of Civil Procedure. As detailed in this Petition, the claims of each of the Plaintiffs are

logically related to each other. Plaintiffs' claims and rights to relief arise out of the same transactions and series of transactions including but not limited to the research, design, development, formulation, testing, manufacturing, marketing, and distribution of Lipitor® by the Defendants, each of them. Furthermore, as alleged in this Petition, Plaintiffs' claims and right to relief, if brought separately, present common questions of law and fact, including but not limited to injuries and/or death, liability, and damages.

17. At all times herein mentioned, Defendants, by and through their agents, servants, and/or employees failed to adequately warn physicians and consumers, including Plaintiffs herein, of the risk of developing diabetes from LIPITOR.

18. LIPITOR is an HMG-CoA reductase inhibitor and a member of the drug class known as statins.

19. LIPITOR is prescribed to reduce the amount of cholesterol and other fatty substances in the blood.

20. Parke-Davis Pharmaceutical Research, a division of Warner-Lambert Company obtained approval from the Food and Drug Administration ("FDA") to market LIPITOR on December 17, 1996. Warner-Lambert entered into a co-marketing agreement with Pfizer to sell Lipitor, and thereafter those companies began distributing and selling Lipitor throughout the United States in 1997. On June 19, 2000, Pfizer acquired Warner-Lambert and all rights to Lipitor.

21. Despite its knowledge of data indicating that LIPITOR use is causally related to the development of type 2 diabetes and/or blood glucose levels diagnostic for type 2 diabetes, Pfizer promoted and marketed LIPITOR as safe and effective for persons such as Plaintiffs throughout the United States, including this judicial district.

22. On August 11, 2011, the Division of Metabolism and Endocrinology Products of the FDA requested that Defendants make labeling changes for Lipitor based upon the FDA's comprehensive review, including clinical trial data.

23. In February 2012, Pfizer complied with the FDA request and added the following language to its Warnings and Precautions Section: "Increases in HbA1c and fasting serum glucose levels have been reported with HMG-CoA reductase inhibitors, including LIPITOR."

24. Until the February 2012 change, LIPITOR's label had never warned patients of any potential relation between changes in blood sugar levels and taking LIPITOR.

25. Despite the February 2012 label change, LIPITOR's label continues to fail to warn consumers of the serious risk of developing type 2 diabetes when using LIPITOR.

26. At all times material hereto, Defendants knew or should have known that the risks of LIPITOR included the severe and life-threatening complications of type 2 diabetes.

27. At all times material hereto, Defendants, by and through their agents, servants, and/or employees, negligently, recklessly and/or carelessly marketed, distributed, and/or sold LIPITOR without adequate instructions or warnings of the drug's serious side effects and unreasonably dangerous risks.

28. Plaintiffs were prescribed LIPITOR and took it as directed up to and/or through the time of their type 2 diabetes diagnosis.

29. Plaintiffs were prescribed LIPITOR to lower their levels of low-density lipoprotein ("LDL") and/or as a preventive measure to decrease their risk of developing cardiovascular disease ("CVD").

30. Plaintiffs agreed to initiate LIPITOR treatment in an effort to reduce their risk of developing heart disease. They relied on claims made by Pfizer that LIPITOR has been clinically shown to reduce the risk of developing heart disease.

31. Plaintiffs each developed type 2 diabetes after initiating their LIPITOR treatment.

32. Had Defendants properly disclosed the risks associated with LIPITOR, Plaintiffs would have avoided the risk of diabetes by either not using LIPITOR at all or by closely monitoring their blood glucose levels to see if the drug was adversely affecting their respective metabolisms.

33. As alleged herein, as a direct, proximate, and legal result of Defendants' negligence and wrongful conduct, and the unreasonably dangerous and defective characteristics of the drug LIPITOR, Plaintiffs suffered severe and permanent physical and emotional injuries, including, but not limited to a diagnosis of type 2 diabetes. Plaintiffs have endured pain and suffering, have suffered economic loss, including incurring significant expenses for medical care and treatment, and will continue to incur such expenses in the future. Plaintiffs seek actual and punitive damages from Defendants as alleged herein.

PLAINTIFFS' LIPITOR® USE

34. The Plaintiffs were prescribed Lipitor® by their doctors or health care providers. Plaintiffs used Lipitor® as prescribed and in a foreseeable manner. The Lipitor® used by Plaintiffs reached Plaintiffs without substantial change in its condition from when it was manufactured or sold.

35. As a direct and proximate result of using Lipitor®, the Plaintiffs developed severe, significant injury, including the development of type 2 diabetes and/or other related conditions.

36. Plaintiffs would not have used Lipitor® if Defendants had properly disclosed the risks associated with the product.

TIMELINESS AND TOLLING OF STATUTES OF LIMITATIONS

37. The ingestion of Lipitor® caused each Plaintiff to sustain personal injuries and/or death occurring during the limitations period applicable to their respective claim.

38. Alternatively and additionally, to the extent that any Plaintiff's Lipitor® use and injury pre-dates the applicable limitations period, despite exercising reasonable diligence and care, Plaintiffs did not discover, and would not have discovered through the exercise of reasonable diligence and care, the fact of Plaintiffs' injuries and causal connection between the injuries and Lipitor®, until a time within the applicable period of limitations.

39. Alternatively and additionally, the running of any statutes of limitations has been tolled by reason of Defendants' fraudulent concealment. Defendants, through their affirmative misrepresentations and omissions, actively concealed from Plaintiffs and their prescribing physicians the true risks associated with taking Lipitor® and Plaintiffs' potential cause of action against it.

40. Defendants falsely represented or concealed material facts concerning the dangers and risks of Lipitor® use. Defendants were aware of Lipitor®'s dangerous propensities at the time that it made the misrepresentations. Plaintiffs, however, were ignorant of the true risks and effects of Lipitor® use. Defendants made the false representations and concealments with the intent that physicians prescribe Lipitor® and for Plaintiffs to continue to purchase and ingest it. As a result of Defendants' conduct, Plaintiffs suffered injuries and/or death.

41. Plaintiffs could not have gained sufficient information to put them on notice that their injuries were associated with their ingestion of Lipitor®. Defendants cannot assert any

statute of limitations defense to the claims alleged herein.

COUNT I

STRICT PRODUCTS LIABILITY

42. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth.

43. At all relevant times, Defendants were engaged in the business of manufacturing, designing, testing, marketing, promoting, distributing, and/or selling Lipitor®.

44. Defendants developed, marketed, and distributed Lipitor® to the general public even after learning of the design and manufacturing defects that threatened the intended use of the drug.

45. Lipitor® was defective and unreasonably dangerous and was expected to and did reach Plaintiffs without substantial change.

46. At all times mentioned in this Petition, Lipitor® was defective and/or unreasonably dangerous to Plaintiffs and other foreseeable users at the time the drugs left the control of the Defendants.

47. Defendants knew or should have known through testing, adverse event reporting, or otherwise, that Lipitor® created a high risk of bodily injury and serious harm.

48. The dangerous propensities of Lipitor® were known or scientifically knowable, through appropriate research and testing, to Defendants at the time said Defendants distributed, supplied, or sold the drugs, and not known to ordinary physicians who would be expected to prescribe the drugs for their patients, such as the Plaintiffs.

49. Lipitor®, as distributed, was defective and unreasonably dangerous inasmuch as the drugs were not accompanied by warnings and instructions that were appropriate and adequate to

render the drugs reasonably safe for their ordinary, intended, and reasonably foreseeable uses, in particular the common, foreseeable, and intended use of the drugs.

50. Defendants had prior notice and knowledge from several sources, prior to the date of dispensing of said drug products to Plaintiffs, that Lipitor® presented a substantial and unreasonable risk of harm to the public, including Plaintiffs, and as such said consumers of said drug were unreasonably subjected to risk of type 2 diabetes upon consumption of said drug products.

51. Despite such knowledge, Defendants for the purpose of enhancing Defendants' profits, knowingly and deliberately failed to warn of the extreme risk of physical injury by said defects inherent in Lipitor®.

52. In order to advance Defendants' own pecuniary interests, Defendants intentionally proceeded with the manufacturing, the sale and distribution, and marketing of Lipitor® with knowledge that consumers would be exposed to serious danger of type 2 diabetes.

53. Lipitor® was "defective" and "unreasonably dangerous" when the drug was initially patented, and subsequently when the drug was promoted and entered into the stream of commerce and was received by Plaintiffs, in one or more of the following respects:

(a) At the time the drug left the control of Defendants, the drug was defective and unreasonably dangerous due to a failure to contain adequate warnings or instructions, or, in the alternative, because it was designed in a defective manner, or, in the alternative, because the drug breached an express warranty or failed to conform to other expressed factual representations upon which Plaintiffs' physicians justifiably relied, or because it breached an implied warranty, all of which proximately caused the damages for which Plaintiffs seek recovery herein.

(b) Lipitor® was not reasonably safe as designed, taking into account the foreseeable risks involved in its use at the time the drugs left the possession of Defendants, and that such risks clearly outweighed the utility of Lipitor® or its therapeutic benefits.

(c) At the time the drug left the control of Defendants, the drug possessed a dangerous characteristic that may cause damage and it was not reasonably safe due to inadequate or defective warnings or instructions that were known or reasonably scientifically knowable at the time the drug left the possession of the Defendants. Specifically, although Defendants were well aware that the drug products could potentially cause type 2 diabetes, warnings of such adverse health conditions were either not included on the package insert for the drug and/or the warnings were inadequate to inform reasonably prudent physicians and foreseeable users of the risks. Defendants failed to use reasonable care to provide an adequate warning of these dangerous characteristics to handlers and users of the drug.

(d) Defendants' warnings or instructions were not of a nature that a reasonably prudent drug company in the same or similar circumstances would have provided with respect to the danger. There were no warnings or instructions that communicate sufficient information on the dangers and safe use of the drug taking into account the characteristics of the Lipitor®, and/or the ordinary knowledge common to the physician who prescribes and the consumer who purchases the drug, such as Plaintiffs.

(e) The drugs manufactured and supplied by Defendants were further defective due to inadequate post-marketing warning or instruction because, after Defendants knew or should have known of the risks of injury from Lipitor® associated with the use as commonly prescribed, Defendants failed to promptly respond to and adequately warn about risk to foreseeable users.

(f) The drugs as manufactured and supplied by Defendants were further defective due to inadequate post-marketing warning or instruction because, after Defendants knew or should have known of the risks of injury from the drugs associated with the use as commonly prescribed, Defendants failed to promptly respond to and adequately warn about an increased risk as reported in the medical literature for injuries posed to patients, who were foreseeable users of the drug products.

54. Defendants knew or in light of reasonably available scientific knowledge should have known about the danger associated with use of the drug that caused the damages for which Plaintiffs seek recovery.

55. The reasonably foreseeable use of the drugs involved substantial dangers not readily recognizable by the ordinary physician who prescribed the drug or the patients, including the Plaintiffs, who consumed Lipitor®.

56. Defendants knew that Lipitor® was to be prescribed by physicians and used by consumers without inspection for defects in the product or in any of its components or ingredients and that the drugs were not properly prepared nor accompanied by adequate warnings of the

dangerous propensities that were known or reasonably scientifically knowable at the time of distribution.

57. Plaintiffs and Plaintiffs' physicians did not know, nor had reason to know, at the time of the use of Defendants' Lipitor®, or at any time prior to its use, of the existence of the above-described defects and inadequate warnings.

58. The above-described defects caused serious injuries to the Plaintiffs when the drug was used in its intended and foreseeable manner, and in the manner recommended by Defendants and/or in a non-intended manner that was reasonably foreseeable.

59. As a direct and proximate result of the wrongful acts of Defendants, Plaintiffs suffered irreparable bodily injury; suffered and will continue to suffer great pain of body and mind; incurred and will continue to incur expenses for medical treatment of Plaintiffs' injuries; suffered and will continue to suffer the loss of enjoyment of life and have been otherwise damaged to be further shown by the evidence.

60. For the above reasons, Defendants are strictly liable under state products liability law without regard to proof of negligence or gross negligence.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT II

BREACH OF EXPRESS WARRANTY

61. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth.

62. Defendants expressly warranted to Plaintiffs that Lipitor® was safe and effective. Lipitor® materially failed to conform to those representations made by Defendants in package inserts, and otherwise, concerning the properties and effects of Lipitor® manufactured and/or distributed by Defendants, and which Plaintiffs purchased and ingested in direct reliance upon these express representations. Such failure by Defendants constituted a material breach of express warranties made, directly or indirectly, to Plaintiffs concerning Lipitor® sold to Plaintiffs.

63. In response to these promises and express statements, Plaintiffs and Plaintiffs' physicians relied on such affirmations and warranties.

64. Lipitor® does not conform to those express representations in light of discovered disclosures and information previously withheld by Defendants. Defendants' express warranty through their false statements failed to disclose design, manufacturing, and safety defects inherent in the drug.

65. Defendants breached their warranties of the drug by continuing sales and marketing campaigns highlighting the safety of its Lipitor®, while they knew of the design, manufacturing and safety defects and the risk of type 2 diabetes, including the serious side effects described herein.

66. As a direct and proximate result of the wrongful acts of the Defendants, Plaintiffs suffered bodily injury and consequent economic and other loss, as described herein, when their physicians, in reasonable reliance upon such express warranties, prescribed the Plaintiffs Lipitor®. Plaintiffs developed type 2 diabetes; suffered and will continue to suffer great pain of body and mind; suffered and will continue to suffer permanent impairment to Plaintiffs' earnings capacity; incurred and will continue to incur expenses for medical treatment of Plaintiffs' injuries; suffered and will continue to suffer the loss of enjoyment of life and has been otherwise damaged to be further shown by the evidence.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT III

NEGLIGENCE

67. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

68. Defendants had a duty to exercise the care of an expert in all aspects of the formulation, manufacture, compounding, testing, inspection, packaging, labeling, distribution, marketing, and sale of their Lipitor® to ensure the safety of the drug products and to ensure that the consuming public, including Plaintiffs and Plaintiffs' physicians and agents, obtained accurate information and instructions for the use of said drugs.

69. As a direct and proximate cause of Defendants' conduct, Plaintiffs have suffered and will continue to suffer injury, harm, and economic loss as alleged herein, including permanent and substantial physical injuries and/or death, and expenses attributable to said injuries.

70. Defendants owed a duty toward foreseeable users of Lipitor® to exercise reasonable care to ensure that Lipitor® was reasonably safe for ordinary and intended uses, and specifically, *inter alia*, to ensure through adequate testing, labeling, and otherwise, that physicians who would be likely to prescribe the products for their patients' use were adequately informed as to the potential effects of using the products in ordinary and foreseeable ways, in particular the risks of type 2 diabetes.

71. Defendants failed to exercise reasonable care in testing the drug for side effects in ordinary and foreseeable users; and failed to disseminate to physicians information concerning the effects of the drugs that was accurate, not misleading, and otherwise adequate to enable physicians to make informed choices concerning the use of Lipitor®.

72. Defendants failed to exercise ordinary care in the research, formulation, manufacture, sale, testing, marketing, quality, assurance, quality control and/or distribution of the drugs into the stream of interstate commerce in that Defendants knew or should have known that Lipitor® created a foreseeably high risk of unreasonable, dangerous side effects and health hazards, including type 2 diabetes.

73. The dangerous propensities of Lipitor® as referenced above were known or scientifically knowable, through appropriate research and testing, to Defendants at the time they distributed, supplied, or sold the products, and not known to ordinary physicians who would be expected to prescribe said drugs for the Plaintiffs and other patients similarly situated.

74. The information that Defendants and distributors disseminated to physicians concerning Lipitor® was, in fact, inaccurate, misleading, and otherwise inadequate, as described above.

75. As a proximate result, Plaintiffs suffered bodily injuries and/or death and consequent economic and other losses when Plaintiffs ingested said drug products, which had been developed, manufactured, labeled, marketed, distributed, promoted and/or sold, either directly or indirectly, by Defendants through third parties or related entities.

76. Defendants were negligent, and breached duties owed to Plaintiffs with respect to Lipitor® in one or more of the following respects:

(a) Despite knowledge of hazards and knowledge that the product was frequently prescribed for the use, Defendants failed to accompany the product with adequate warnings and instructions regarding the adverse and long lasting side effects associated with the use of the drug;

(b) Defendants failed to conduct adequate testing;

(c) Despite knowledge of hazards, Defendants failed to conduct adequate post-marketing surveillance to determine the safety of the product;

(d) Despite knowledge of the hazards, Defendants failed to adequately warn the Plaintiffs' physicians or Plaintiffs that the use of Lipitor® could result in a type 2 diabetes diagnosis; and

(e) Despite the fact that Defendants knew or should have known that their Lipitor® caused unreasonably dangerous side effects, Defendants failed to adequately disclose the known or knowable risks associated with said drug as set forth above; Defendants willfully and deliberately failed to adequately disclose these risks, and in doing so, acted with a conscious disregard of Plaintiffs' safety and/or welfare.

77. As a direct and proximate result of the wrongful acts of Defendants, Plaintiffs developed type 2 diabetes, and suffered irreparable bodily injury; suffered and will continue to suffer great pain of body and mind; suffered and will continue to suffer great embarrassment and humiliation; incurred and will continue to incur expenses for medical treatment of Plaintiffs' injuries; suffered and will continue to suffer the loss of enjoyment of life and have been otherwise damaged to be further shown by the evidence.

78. The negligence and the willful and wanton misconduct of Defendants was a proximate cause of Plaintiffs' harm and injuries that Plaintiffs suffered and will continue to suffer.

79. In the alternative, Defendants' acts and omissions and concealment of material facts of the design and manufacturing defects were made with the understanding that patients and physicians would rely upon such statements when choosing Lipitor®. Furthermore, the economic damages and physical harm caused by Defendants' conduct would not have occurred had Defendants exercised the high degree of care imposed upon them and Plaintiffs therefore plead the doctrine of *res ipsa loquitur*.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT IV

NEGLIGENT DESIGN

80. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

81. Defendants were the manufacturers, sellers, distributors, marketers, and/or suppliers of Lipitor® which was negligently designed.

82. The Defendants were negligent in developing, designing, processing, manufacturing, inspecting, testing, packaging selling, distributing, supplying, marketing and promoting Lipitor® which was defective and presented an unreasonable risk of harm to consumers. Lipitor® was negligently designed in ways which include, but are not limited to, one or more of the following:

a) When placed in the stream of commerce, Lipitor® contained unreasonably dangerous design defects and was not reasonably safe and fit for its intended or reasonably foreseeable purpose or as intended to be used, thereby subjecting users and/or consumers of the drug, including Plaintiffs, to risks exceeding the benefits of the drug;

b) Lipitor® was insufficiently tested;

c) Lipitor® caused harmful side effects that outweighed any potential utility;

d) Lipitor® was not accompanied by adequate labeling, instructions for use and/or warnings to fully apprise the medical, pharmaceutical and/or scientific communities, and users and/or consumers of the drug, including the physicians and the plaintiffs, of the potential risks and serious side effects associated with its use;

e) In light of the potential and actual risk of harm associated with the use of Lipitor®, a reasonable person who had actual knowledge of this potential and actual risk of harm would have concluded that Lipitor® should not have been marketed in that condition;

f) Defendants were under a duty to act for the protection of consumers, such as Plaintiffs. Defendants owed a duty to such consumers to exercise reasonable care in developing, designing, processing, manufacturing, inspecting, testing, packaging, selling, distributing, supplying, marketing and promoting Lipitor® and Defendants breached that duty;

g) Defendants knew or should have known that use of Lipitor® as intended imposed unreasonable risk to the health of consumers. Defendants knew of the grave risks caused by its product from investigation and testing performed by them or others, or

to the extent they did not fully know of those risks, it was because they unreasonably failed to perform appropriate, adequate and proper investigations and tests that would have disclosed those risks; and

h) Defendants' conduct described above was grossly negligent in that their actions involved willful and reckless conduct and were carried out with disregard for the unreasonable risk of Lipitor® and its potential for harm to consumers.

83. Plaintiffs suffer from type 2 diabetes as a direct and proximate result of the aforesaid conduct of Defendants. Plaintiffs have sustained general and special damages in the past, including pain and suffering, mental anguish, and the loss of enjoyment of the pleasures of life, causing Plaintiffs to sustain damages in a sum in excess of the jurisdictional minimum of this Court.

84. The forgoing actions of the Defendants as described herein were done with conscious disregard to the safety of Plaintiffs, reckless indifference to the Plaintiffs, and the public's safety and welfare entitling Plaintiffs to punitive damages in an amount to punish Defendants and to deter Defendants and others from like conduct.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT V

NEGLIGENT PHARMACO-VIGILANCE

85. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

86. Defendants have an ongoing duty of pharmaco-vigilance. As part of this duty, Defendants are required to continually monitor, test and analyze data regarding the safety, efficacy and prescribing practices of its marketed drugs, including Lipitor®. Defendants continually receive reports from its own clinical trials, practicing physicians, individual patients, and regulatory authorities of adverse events that occur in patients taking Lipitor® and its other marketed drugs. Furthermore, Defendants continue to conduct clinical trials for its marketed drugs long after the drug is approved for use. Defendants have a duty to inform doctors, regulatory agencies, and the public of new safety and efficacy information it learns, or should have learned, about its marketed drugs once that information becomes available to Defendants, whether through Defendants' clinical trials, other outside sources, or pharmaco-vigilance activities. Specifically, when Defendants learn of and/or should have learned of new safety information associated with its marketed drugs, it has a duty to promptly disseminate that data to the public. Defendants also have a duty to monitor epidemiological and pharmaco-vigilance data regarding its marketed drugs and promptly report any safety concerns that arise through epidemiologic study or data.

87. Defendants breached this duty with respect to the Plaintiffs. Defendants, through various sources, including but not limited to, clinical trials and other adverse event reports, learned that there was a substantial risk of type 2 diabetes with Lipitor® use and failed to inform doctors, regulatory agencies, and the public of this risk. Defendants had the means and the resources to perform their pharmaco-vigilance duties for the entire time Lipitor® has been on the market in the United States.

88. Each Plaintiff has suffered from physical injuries and/or death as a direct and proximate result of the conduct of Defendants.

89. The foregoing actions of the Defendants as described herein were done with conscious disregard for the safety of Plaintiffs, reckless indifference to the Plaintiffs' and the public's safety and welfare, entitling Plaintiffs to punitive damages in an amount to punish Defendants and to deter others Defendants from like conduct.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT VI

MISREPRESENTATION BY OMISSION

90. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

91. Defendants misrepresented the soundness and reliability of Lipitor® to physicians and the general public through promotional and marketing campaigns.

92. Defendants misrepresented that Lipitor® was safe and/or effective when used as instructed, when, in fact, the drug was dangerous to the health of patients. Defendants continued these misrepresentations for an extended period of time, without disclosing material information.

93. Defendants took advantage of the limited opportunity Plaintiffs had to discover Defendants' strategic and intentional concealment of the design, manufacturing and safety defects in Lipitor®.

94. At the time Defendants promoted and/or sold Lipitor® as safe and/or effective, Defendants did not have adequate proof upon which to base such representations, and in fact, knew or should have known that said drug were dangerous.

95. Defendants concealed these design and manufacturing defects from the public by withholding information pertaining to the inherent design, manufacturing and safety defects and high risks of a severe side effects as described herein, including the development of diabetes, associated with Lipitor® and, instead presented said drug as safe and reliable.

96. Defendants' intentional misrepresentations and omissions were made willfully, wantonly, or recklessly to Plaintiffs to induce purchase of Lipitor® over other safer alternative drugs on the market.

97. Defendants knew or should have known of the high risk the Plaintiffs would encounter by unwittingly agreeing to ingest defective and dangerous Lipitor®.

98. Defendants failed to exercise reasonable care and competence in obtaining and/or communicating information regarding the safe use of said drug and otherwise failed to exercise reasonable care in transmitting information to Plaintiffs, Plaintiffs' physicians, and the public in general.

99. Defendants made the aforesaid representations in the course of Defendants' business as designers, manufacturers, distributors, and sellers of Lipitor® despite having no reasonable basis for their assertion that these representations were true and/or without having accurate or sufficient information concerning the aforesaid representations. Defendants were aware that, without such information, they could not accurately make the aforesaid representations.

100. At the time the aforesaid representations were made, Defendants intended to induce the Plaintiffs and/or Plaintiffs' physicians to rely upon such representations.

101. Said representations were made with the intent to defraud and deceive Plaintiffs and/or Plaintiffs' physicians and with the intent to induce Plaintiffs and/or Plaintiffs' physicians to rely upon the statements and to use the drug in order to reap the profits from the sale of Lipitor®.

102. Plaintiffs and/or Plaintiffs' physicians, at the time the representations were made, were unaware of their falsity and believed them to be true. In reasonable reliance thereon, Plaintiffs' physicians prescribed and/or distributed Lipitor®, and as a result, Plaintiffs suffered, and will continue to suffer, injury, harm, and economic loss alleged herein.

103. As a direct and proximate result of the wrongful acts of the Defendants, the Plaintiffs developed type 2 diabetes as described herein; suffered and will continue to suffer great pain of body and mind; incurred and will continue to incur expenses for medical treatment of Plaintiffs' injuries and/or death; suffered and will continue to suffer the loss of enjoyment of life and have been otherwise damaged to be further shown by the evidence.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT VII

FAILURE TO WARN

104. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect.

105. At all times relevant herein mentioned, Lipitor® was unsafe for use, and Defendants knew or should have known that:

a) The product was or was likely to be dangerous for the use for which it is supplied;

b) They had no reason to believe that those for whose use the product was supplied would realize its dangerous condition; and

c) They failed to exercise reasonable care to inform users of its dangerous propensities or of the facts which make it likely to be dangerous.

106. At all times herein mentioned, using Lipitor® was associated with a significantly increased risk of type 2 diabetes and/or other related conditions and Defendants knew or should have known that said product was unsafe when taken because of the side effects.

107. At all times hereinafter mentioned and before the Plaintiffs' ingestion of Lipitor®, neither members of the medical community nor members of the general public knew the dangers existed with respect to Lipitor®'s association with type 2 diabetes.

108. Plaintiffs used or otherwise ingested Lipitor® in the amount of and in the manner and for the purpose recommended by Defendants.

109. At all times material hereto, Lipitor® as marketed in the United States, was not accompanied by complete and proper warnings for safe, informed use; the labeling accompanying Lipitor® did not warn physicians in general, or the plaintiffs in particular, of the dangers inherent in its use, particularly of the drug's association with type 2 diabetes. Further, the labeling failed to adequately inform physicians in general; or the physicians of Plaintiffs; of the association of Lipitor® with a significantly increased risk of type 2 diabetes and/or other related conditions. Defendants oversold the benefits of Lipitor®, thus depriving physicians of necessary information needed to perform an adequate risk analysis. Furthermore, Defendants failed to adequately warn doctors and the medical community of this dangerous risk using the other mediums at its disposal, including, but not limited to, medical journal articles, sales representatives, Dear Doctor letters, presentations, conferences, medical school information, and all of its promotional material and activities.

110. Defendants promoted and maintained Lipitor® on the market with the knowledge of the unreasonable risk of the use of Lipitor® to the public in general and specifically to the physicians for Plaintiffs and Plaintiffs themselves.

111. Lipitor®, as used by Plaintiffs was defective and unreasonably dangerous when sold by Defendants, which is liable for the injuries and/or death arising from its manufacture and the use by the plaintiffs herein.

112. Plaintiffs suffer from type 2 diabetes as a direct and proximate result of the aforesaid condition of Defendants. Plaintiffs sustained general and special damages in the past including pain and suffering, mental anguish, and/or other related conditions including death, causing Plaintiffs to sustain damages in a sum in excess of the jurisdiction minimum of this Court.

113. The forgoing actions of the Defendants as described herein were done with conscious disregard of the safety of Plaintiffs, reckless indifference to the Plaintiffs, and the public's safety and welfare entitling Plaintiffs to punitive damages in an amount to punish Defendants and to deter Defendants and others from like conduct.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT VIII

NEGLIGENT MISREPRESENTATION

114. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth.

115. Defendants owed a duty to disseminate accurate and adequate information concerning said drugs, and to exercise reasonable care to ensure that Defendants did not, in those undertakings, create unreasonable risks of personal injury to others.

116. Defendants disseminated to physicians, through package inserts, and/or the publication of a monograph, and/or otherwise mediums, information concerning the properties and effects of their Lipitor® with the intention that physicians would rely upon that information when making a decision concerning whether to prescribe Lipitor® for their patients.

117. Defendants as drug manufacturers and/or distributors, and/or sellers, knew or ought to have realized that they have a duty to ensure that the information accompanying Lipitor® is accurate, complete, not misleading, and otherwise adequate.

118. Defendants knew or should have known that they have a duty to monitor medical literature and post marketing adverse events and to report any data affecting the safety of said drugs to the appropriate agency and/or alert the medical community, Plaintiffs' physicians, and through them, Plaintiffs.

119. Defendants knew or ought to have realized, specifically, that physicians, in weighing the potential benefits and potential risks of using Lipitor® and in writing prescriptions for said drug would rely upon information disseminated by Defendants.

120. Defendants knew or ought to have realized that prescriptions for said drugs were written in reliance upon information Defendants disseminated as the manufacturer/distributor of said drugs.

121. Defendants knew or should have known that Plaintiffs ingesting said drugs would be placed in peril of grievous personal injury if information disseminated and relied upon was materially inaccurate, misleading, or otherwise false.

122. Defendants failed to exercise reasonable care to ensure that the information disseminated concerning the properties and effects of said drugs were accurate and not misleading, and as a result disseminated information that was negligently and materially inaccurate, misleading, and false.

123. As a proximate and foreseeable result of the negligence on the part of Defendants, Plaintiffs suffer from type 2 diabetes and consequent economic and other loss, as described above, including death, when Plaintiffs' physicians, in reasonable reliance upon the negligently inaccurate, misleading, and false information disseminated by Defendants, and believing the information to be true, prescribed Plaintiffs Lipitor® and Plaintiffs ingested, per those prescriptions, said drugs leading to the Plaintiffs' injuries and/or death.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT IX

FRAUD AND MISREPRESENTATION

124. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

125. Defendants had actual knowledge of facts, which demonstrated that representations in the package insert, and/or the PDR monograph, and/or literature, and/or other mediums that Defendants distributed concerning their Lipitor® was false and misleading. Defendants had an absolute duty to disclose the true facts regarding the safety of said drugs to physicians and their patients and the medical community, which they negligently failed to do.

126. Defendants had a duty to ensure that they had a reasonable basis for making the representations described above, to exercise reasonable care in making those representations, to accurately make those representations, and to not make misrepresentations concerning said drugs, all of which Defendants failed to do.

127. Important information regarding the risk of said drugs was in the exclusive control of Defendants and was exclusively known by Defendants.

128. In the furtherance of Defendants' own interests, Defendants disseminated false information regarding said drugs to physicians and Plaintiffs and did so knowing that the safety of said drugs depended on the accuracy of that information.

129. Defendants knew and expected that recipients of that information would rely on the information, and that the recipients would take action based upon the information, and that individuals would be put in peril by such actions and that those individuals would suffer physical harm as a result.

130. Defendants expressly and/or impliedly represented to the Plaintiffs, Plaintiffs' physicians, the medical community, and members of the general public that their Lipitor® was safe for use. The representations by Defendants were, in fact, false. The true facts were that the drug was not safe for use and was, in fact, dangerous to the health and body of the Plaintiffs.

131. Defendants made the above-described representations with no reasonable grounds for believing them to be true. Defendants did not have accurate or sufficient information concerning these representations and they failed to exercise reasonable care both in ascertaining the accuracy of the information contained in those representations and in communicating the information.

132. The above misrepresentations or omissions were made to Plaintiffs, and Plaintiffs' physicians, and the medical community, all of whom justifiably and foreseeably relied on those representations or omissions.

133. Plaintiffs would not have suffered injuries and/or death but for the above misrepresentations or omissions of Defendants.

134. Defendants and Defendants' misrepresentations or omissions were a cause in fact and a proximate cause of Plaintiffs' damages.

135. As a direct and proximate result of the wrongful acts of the Defendants, the Plaintiffs all developed type 2 diabetes; suffered and will continue to suffer great pain of body and mind; incurred and will continue to incur expenses for medical treatment of Plaintiffs' injuries; suffered and will continue to suffer the loss of enjoyment of life and have been otherwise damaged to be further shown by the evidence.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT X

FRAUD BY CONCEALMENT

136. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

137. Defendants, with the intention of deceiving physicians and their patients, and to induce physicians to prescribe, and their patients to ingest, said drug, failed to adequately inform

physicians, through package inserts and otherwise, that exposure to Lipitor® can lead to type 2 diabetes but instead represented Lipitor® to be safe, said representations were unscientific and false.

138. At all times mentioned in this Petition, Defendants had the duty and obligation to disclose to Plaintiffs and to Plaintiffs' physicians the true facts concerning Lipitor®, that is, that said drug was dangerous and defective and caused serious consequences to users, including injuries and/or death as described in this Petition, and the true level of risk involved in prescribing said drug for the purposes indicated. Defendants made the affirmative misrepresentations set forth herein to the Plaintiffs, Plaintiffs' prescribing physicians, and the general public prior to the day Plaintiffs were first prescribed and used Lipitor®, while concealing the material facts set forth herein.

139. At all times mentioned in this Petition, Defendants had the duty and obligation to disclose to Plaintiffs and to Plaintiffs' physicians the true facts concerning Lipitor®, that is that the use could cause severe significant and life-threatening injury, including type 2 diabetes and/or other related conditions.

140. At all times mentioned in this Petition, Defendants and their predecessors intentionally, willfully and maliciously concealed or suppressed the facts set forth above from Plaintiffs' physicians, and therefore from Plaintiffs, with the intent to defraud as alleged in this Petition.

141. At all times mentioned in this Petition, neither Plaintiffs nor Plaintiffs' physicians were aware of the facts set forth above; however, had Plaintiffs and their physicians been aware of the facts set out herein, they would not have acted as they did and would not have utilized Lipitor®.

142. As a proximate result of the concealment or suppression of the facts set forth above, Plaintiffs were prescribed and took Lipitor® it and subsequently developed type 2 diabetes, thereby sustaining the injuries and damages as set forth herein.

143. In doing the acts alleged in this Petition, Defendants acted with oppression, fraud, and malice, and Plaintiffs are therefore entitled to punitive damages in an amount reasonably related to Plaintiffs' actual damages and to Defendants' wealth, and sufficiently large to be an example to others and to deter Defendants and others from engaging in similar conduct in the future.

144. Plaintiffs' physicians, in reliance upon the information disseminated by the Defendants, and without knowledge of the undisclosed and knowingly concealed facts, determined that the benefits of Lipitor® outweighed the risks for their patients, Plaintiffs, and prescribed Lipitor® for Plaintiffs.

145. As a proximate and foreseeable result of this knowing and fraudulent concealment of material facts on the part of the Defendants, the Plaintiffs suffered bodily injury and consequent economic and other loss when Plaintiffs' physicians, in reliance upon the information disseminated by the Defendants, and in ignorance of the facts concealed from them in those disseminations, prescribed for Plaintiffs the use of said drugs and the Plaintiffs ingested, per those prescriptions, said drugs, leading to the Plaintiffs' injuries and/or death.

146. As a direct and proximate result of the wrongful acts of the Defendants, the Plaintiffs developed and suffered irreparable bodily injury; suffered and will continue to suffer great pain of body and mind; suffered and will continue to suffer permanent impairment to Plaintiffs' earnings capacity; incurred and will continue to incur expenses for medical treatment of Plaintiffs' injuries; suffered and will continue to suffer the loss of enjoyment of life and has been otherwise damaged to be further shown by the evidence.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their

costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT XI

BREACH OF IMPLIED WARRANTIES

147. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

148. Defendants knew that most physicians who prescribed Lipitor® were not aware of the serious side effects as described herein including type 2 diabetes and/or related conditions associated with use of said drug. Defendants also knew that the risks of said side effects were much greater than most physicians realized. By failing to give adequate warnings about these side effects and the risk of the use that is associated with those side effects, Defendants breached implied warranties of merchantability and fitness for the ordinary use of said drug.

149. At all times mentioned in this Petition, Defendants manufactured, compounded, packaged, distributed, recommended, merchandised, advertised, promoted, supplied and sold Lipitor® and prior to the time said drug was used by the Plaintiffs, Defendants impliedly warranted to Plaintiffs and to Plaintiffs' physicians that the drug was of merchantable quality and safe and fit for the use for which the drug was intended.

150. The Plaintiffs relied on the skill and judgment of Defendants in using Lipitor®.

151. Lipitor® was not safe and was unfit for its intended use, nor was the drug of merchantable quality, as warranted by Defendants, in that the drug had very dangerous propensities when put to intended use and would cause severe injury to the user, including the development of type 2 diabetes. Lipitor® was not properly prepared nor accompanied by adequate warnings of the drug's dangerous propensities that were either known or reasonably scientifically knowable at the

time of distribution. As a result, Lipitor® proximately caused Plaintiffs to sustain damages and injuries and/or death as alleged in this Petition.

152. As a direct and proximate result of the wrongful acts of Defendants, Plaintiffs developed severe side effects as described herein, including the development of type 2 diabetes, and suffered irreparable bodily injury; suffered and will continue to suffer great pain of body and mind; suffered and will continue to suffer permanent impairment to Plaintiffs' earnings capacity; incurred and will continue to incur expenses for medical treatment of Plaintiffs' injuries; suffered and will continue to suffer the loss of enjoyment of life and has been otherwise damaged to be further shown by the evidence.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT XII

DAMAGES

153. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

154. As a direct and proximate result of the acts and omissions of Defendants, the Plaintiffs ingested Lipitor®, which was causally related to and contributed to the Plaintiffs' diagnosis of type 2 diabetes and related injuries and/or death.

155. As a direct and proximate result of the acts and omissions of Defendants, Plaintiffs suffered extreme emotional distress, anguish, physical injuries, mental suffering and/or death.

156. As a direct and proximate result of the acts and omissions of Defendants, Plaintiffs experienced anguish, anxiety, and have sustained a loss of enjoyment of life.

157. Plaintiffs seek the recovery for past and future special damages, which includes medications, doctors visits, rehabilitation, therapy, future surgeries and Plaintiffs also seek general damages in the amount to be determined for the wrongful conduct of Defendants.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiffs for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT XIII

GROSS NEGLIGENCE/MALICE

158. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

159. The wrongs done by Defendants were aggravated by the kind of malice, fraud, and reckless disregard for the rights of others, the public and Plaintiffs for which the law allows the imposition of exemplary damages in that Defendants' conduct:

a) When viewed objectively from Defendants' standpoint at the time of the conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and Defendants were actually subjectively aware of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others; or

b) Included a material representation that was false, with Defendants knowing that it was false or with reckless disregard as to its truth, and as a positive assertion with

the intent that the representation is acted on by Plaintiffs. Those Plaintiffs relied on the representation and suffered injury as a proximate result of this reliance.

160. Plaintiffs therefore will seek to assert claims for exemplary damages at the appropriate time under governing law in an amount within the jurisdictional limits of the Court. Plaintiffs also allege that the acts and omissions of Defendants, whether taken singularly or in combination with others, constitute gross negligence that proximately caused the injuries and/or death to Plaintiffs. In that regard, Plaintiffs will seek exemplary damages in an amount that would punish Defendants for their conduct and which would deter other manufacturers from engaging in such misconduct in the future.

COUNT XIV

WRONGFUL DEATH

161. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

162. Plaintiff, Samuel Wayne Jones, is qualified and acting personal representative/administrator of the estate of Silvia Jones.

163. Plaintiff, as the administrator/personal representative, brings this action for wrongful death, pursuant to OCGA § 51-4-1 *et seq.*, and for the conscious pain and suffering decedent sustained prior to her death on behalf of the decedent's heirs.

164. Prior to her death, decedent was a citizen of Effingham County, Georgia.

165. As a result of the foregoing acts and/or omissions on the part of each of the Defendants herein, Plaintiff's decedent, Silvia Jones, was diagnosed with type 2 diabetes, which required several amputations resulting in death, and said death was proximately caused in whole

or in part by the tortuous conduct and/or negligence, carelessness, recklessness and gross negligence of the Defendants herein.

166. Plaintiff's decedent, Silvia Jones, left next of kin and/or distributes surviving who, by reason of the Decedent's death, have suffered a pecuniary loss including but not limited to loss of support, loss of income of the decedent, other damages allowed by law, and were all permanently damaged thereby.

167. By reason of the injuries and death of Plaintiff's decedent, Silvia Jones, there were incurred certain medical, hospital and funeral and other bills and expenses, and said distributees have been and will in the future be deprived of her support, maintenance, guidance, care and other services as set forth above.

168. By reason of the above, Plaintiffs bring this action for wrongful death and the conscious pain and suffering of Plaintiff's decedent for damages, both general and special, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiff for their injuries and/or death and damages in excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

COUNT XV

SURVIVAL CLAIM
CONSCIOUS PAIN AND SUFFERING OF DECEDENT

169. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in this Petition with the same force and effect as if fully set forth herein.

170. Plaintiff, Samuel Wayne Jones, is the qualified and acting personal representative/administrator of the estate of Silvia Jones.

171. Plaintiff, as the administrator/personal representative, brings this action survival action pursuant to O.C.G.A § 9-2-41, and for the conscious pain and suffering decedent sustained prior to her death on behalf of the decedent's heirs.

172. As a result of the foregoing acts and/or omissions on the part of each of the Defendants herein, Plaintiff's decedent, Silvia Jones, was diagnosed with type 2 diabetes, which required several amputations resulting in death, and said death was proximately caused in whole or in part by the tortuous conduct and/or negligence, carelessness, recklessness and gross negligence of the Defendants herein. Decedent experienced severe pain and suffering demonstrated by labored breathing, frowned facial expressions, moans, grunts and/or required extreme pain management measures.

WHEREFORE, Plaintiffs pray for judgment against Defendants in an amount which will compensate Plaintiff for the conscious pain and suffering sustained by the decedent excess of $25,000, for their costs incurred herein, for punitive damages and for such other and further relief which may be just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

1. For judgment for damages sufficient to compensate for damages in excess of $25,000.00, including but not limited to past, present, and future economic expenditures in connection with the injuries and/or death sustained by Plaintiffs as a result of ingesting Defendants' Lipitor®;

2. For compensatory damages according to proof;

3. For all applicable statutory remedies provided that assert liability for Defendants' wrongdoings and improper conduct;

4. For a disgorgement of profits;

5. For prejudgment interest, as permitted by law;

6. For reasonable costs, including attorneys fees, as permitted by law;

7. For punitive damages, as permitted by law; and

8. For all other just and proper relief which may be just and proper.

ONDER SHELTON O'LEARY & PETERSON LLC

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