

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

MHF OF FREEBORN COUNTY, INC,

Plaintiff,

vs.

FORT DODGE ANIMAL HEALTH, a  
Division of Wyeth,

Defendant.

No. C 08-3062-MWB

**ORDER**

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This matter comes before the court pursuant to the December 11, 2008, Motion To Dismiss Count I (docket no. 6) by original defendants Wyeth Pharmaceuticals, Inc., and Fort Dodge Animal Health, Inc. In their motion, original defendant Fort Dodge Animal Health, Inc., represented that it was properly described as Fort Dodge Animal Health, a Division of Wyeth, and original defendant Wyeth Pharmaceuticals, Inc., represented that it was not related to Fort Dodge Animal Health, a Division of Wyeth. The original defendants moved to dismiss Count I, denominated “intentional misrepresentation,” on the ground that such a claim was not recognized under Iowa law and that, as an attempt to plead fraudulent misrepresentation, the count did not satisfy the pleading requirements of Rule 9(b) of the Federal Rules of Civil Procedure.

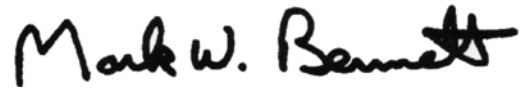
By order (docket no. 10) dated January 2, 2009, plaintiff was granted leave to amend its Complaint to dismiss the original defendants, to name Fort Dodge Animal Health, a Division of Wyeth, as the sole defendant, to reframe Count I as a claim for “fraudulent misrepresentation,” and to attempt to plead that claim with the particularity required by Rule 9(b). The order granting leave to amend also dismissed Wyeth

Pharmaceuticals, Inc., without prejudice. Under these circumstances, the court finds that the original defendants' Motion To Dismiss should be denied as moot.

THEREFORE, the December 11, 2008, Motion To Dismiss Count I (docket no. 6) by original defendants Wyeth Pharmaceuticals, Inc., and Fort Dodge Animal Health, Inc., is **denied as moot**.

**IT IS SO ORDERED.**

**DATED** this 15th day of January, 2009.



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MARK W. BENNETT  
U. S. DISTRICT COURT JUDGE  
NORTHERN DISTRICT OF IOWA