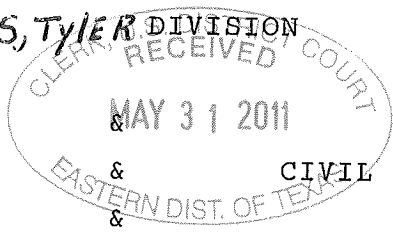


IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, TYLER DIVISION



HARRIL GLEN SCOTT,
PLAINTIFF,

VS.

PFIZER PHARMACEUTICAL,
DEFENDANT,

MAY 31 2011

CIVIL ACTION NO. 6:11cv276

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CIVIL PRODUCT LIABILITY TORT

TO THE HONORABLE JUDGE OF SAID COURT:

CONSIDERATION BE GIVEN

A DOCUMENT FILED PRO SE IS TO BE LIBERALLY CONSTRUED, AND A PRO SE COMPLAINT, HOWEVER INARTFULLY PLEADED, MUST BE HELD TO LESS STRINGENT STANDARD THAN FORMAL PLEADINGS DRAFT BY LAWYERS. CASTRO V. U.S., 570 U.S. 375, 124 S. ct. 783 (2003); FED. R. CIV. PROC. RULE 8 (a) (2).

COME NOW, HARRIL GLEN SCOTT, PLAINTIFF, HEREINAFTER REFERRED TO AS PLAINTIFF, AND COMPLAINING OF PERSONAL INJURIES CAUSED BY THE PROXIMATE CAUSE OF DEFENDANT'S NEGLIGENCE (FAILURE TO WARN), FRAUD, MISREPRESENTATION, AND BREACH OF EXPRESS WARRANTY THUS VIOLATING TEXAS DECEPTIVE TRADE PRACTICES (CONSUMER PROTECTION ACT), FOR THE CAUSE OF THIS ACTION, PLAINTIFF WOULD SHOW THE COURT THE FOLLOWING:

I.

JURISDICTION

THIS IS A PRODUCT LIABILITY ACTION FILED PURSUANT TO 28 U.S.C. SECTION 1332 (A) (1); THIS COURT HAS LAWFUL JURISDICTION TO ENFORCE LIABILITY FOR DEFENDANT'S ACTS AND CONDUCT, WHICH IS THE PROXIMATE CAUSE OF PLAINTIFF'S INJURY SUFFERED AND THAT THE SUBJECT MATTER OF PLAINTIFF'S CAUSE OF ACTION IS CIVIL. THE COURT HAS SUPPLEMENTAL JUISDICTION OVER PLAINTIFF'S STATE LAW CLAIM. SEE 28 U.S.C. SECTION 1367. ALSO TEXAS DECEPTIVE TRADE PRACTICES ACT (D,T,PA) U.T.C.H. BUS & C SECTION 17.50 (A) AND TEX. CIV. P.& REM SECTION 17.042 093. texas long arm jurisdiction.

II.

PARTIES.

A. NAME AND ADDRESS OF PLAINTIFF: HARRIL GLEN SCOTT (T.D.C.J)
NO. 1319015 MARK W. STILES UNIT, 3060 FM 3514 BEAUMONT, TEXAS
77705.

B. NAME AND ADDRESS OF DEFENDANTS:

DEFENDANT #1 MR IAN READ IS THE PERSON *Acted* IN HIS OFFICIAL
CAPACITY AS PRESIDENT OF PFIZER PHARMACEUTICAL 235 E. 42ND
STREET, NEW YORK, NEW YORK 10017.

DEFENDANT #2 DR. DUANE TISDALE IS A MEDICAL DOCTOR AT THE
SMITH COUNTY PUBLIC HEALTH TREATMENT CLINIC. 926 NORTH
GLENWOOD BLVD. TYLER, TEXAS 75702.

III.

STATEMENT OF CLAIM

1. PLAINTIFF HAD NO HISTORY OF HEART FAILURE OR CHEST PAINS BEFORE TAKING THE DRUG BEXTRA FOR ARTHRITIS PAIN.
2. PLAINT WAS BEING TREATED BY DOCTOR DUANE TISDALE FOR DIABETIES AND HIGH BLOOD PRESSURE AT THE SMITH COUNTY PUBLIC HEALTH TREATMENT CLINIC.
3. FROM NOVEMBER 5, 2003 TO OCTOBER 22, 2004, DR. TISDALE PRESCRIBED BEXTRA PAINKILLER FOR ARTHRITIS. EVERY NINETY (90) DAYS. PLAINTIFF WAS GIVEN ONE HUNDRED(100) PILLS.
4. DURING THE TIME PLAINTIFF WAS TAKING BEXTRA HE COMPLAINED OF DEPRESSION, MOOD CHANGES, *WEIGHT*GAIN, NAUSEA AND RAPID HEART BEAT.
5. PLAINTIFF WAS ARRESTED AND TAKEN TO SMITH COUNTY JAIL ON SEPTEMBER 30, 2004.
6. PLAINTIFF CONTINUED TO TAKE PAINKILLER BEXTRA FOR ARTHRITIS UNTIL OCTOBER 22, 2004 AT SMITH COUNTY INMATE CLINIC.
7. ON OR ABOUT NOVEMBER 23, 2004, PLAINTIFF WAS INFORMED BY NURSE THAT HE WOULD NO LONGER BE GIVEN THE PAINKILLER BEXTRA.
8. STILL AT SMITH COUNTY JAIL BETWEEN MONTHS OF NOVEMBER 2004 AND JANUARY 19, 2005 PLAINTIFF'S CONDITION WORSENERD WITH FREQUENT AND SEVERE CHEST PAIN, RAPID HEART BEAT, DIZZINESS, NAUSEANESS, DEPRESSION AND MOOD CHANGES.

9. PLAINTIFF WAS RUSHED TO THE EMERGENCY ROOM FOR SEVERE CHEST PAINS AND WAS TREATED ON JANUARY 21, 2005 AT SMITH COUNTY INMATE CLINIC.

10. PLAINTIFF HAD A HEART ATTACK ON OCTOBER 14, 2005 AS A RESULT OF TAKING THE PAIN MEDICATION BEXTRA.

11. ON MARCH 28, 2006 PLAINTIFF WAS EXPERIENCING SEVERE CHEST PAIN AND HAD TO BE TAKEN TO THE UNIT INFIRMARY.

12. ON JULY 29, 2005 PLAINTIFF WAS TAKEN TO THE LIMESTONE FEDERAL PRISON IN GROSSBECK COUNTY, WHERE PLAINTIFF WAS AGAIN TAKEN TO THE UNIT INFIRMARY BECAUSE OF CHEST PAINS. PLAINTIFF WAS THERE FOR 3 WEEKS.

13. ON SEPTEMBER 2nd, 2005 PLAINTIFF WAS TRANSFERRED TO THE GURNEY UNIT OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE. ON OR ABOUT SEPTEMBER 5th, 2005 plaintiff WENT TO THE GURNEY UNIT INFIRMARY SEEKING TREATMENT FOR DIABETIC AND PLAINTIFF THEN BEGAN HAVING SEVERE CHEST PAINS WHILE IN THE INFIRMARY AND A E.K.G WAS THEN RUN.

14. ON OR ABOUT SEPTEMBER THE 14th, 2005 PLAINTIFF WAS TRANSFERRED TO THE BYRD UNIT LOCATED IN HUNTSVILLE, TEXAS. PLAINTIFF SAW DR. JOSEPH M. CURRY, WHO PRESCRIBED NITROGLYCEREN FOR PLAINTIFF'S CHEST PAINS. DR. CURRY PERFORMED AN E.K.G ON HARRIL GLEN SCOTT AND DREW BLOOD FOR FURTHER TESTING.

15. ON OR ABOUT SEPTEMBER 2005, PLAINTIFF WAS TRANSFERRED TO THE GOREE UNIT, WHERE PLAINTIFF WAS AGAIN SEEN FOR SEVERE CHEST PAINS AND ANOTHER E.K.G WAS PERFORMED. PLAINTIFF WAS THEN INFORMED THAT THE BLOOD TESTS PERFORMED BY DR. JOSEPH M. CURRY SHOWED THAT THE PLAINTIFF HAD AN IRREGULAR HEARTBEAT.

16. ON OR ABOUT OCTOBER 2nd, 2005, PLAINTIFF ARRIVED AT THE JESTER III UNIT HE BEGAN HAVING SEVERE CHEST PAINS AND HAD TO BE RUSHED TO THE INFIRMARY WHERE ANOTHER EKG WAS PERFORMED.

17. ON OR ABOUT OCTOBER 14th, 2005 WHILE STILL AT THE JESTER III UNIT, PLAINTIFF AGAIN HAD SEVERE CHEST PAINS FOR THREE CONSECUTIVE DAYS.

18. AGAIN ON NOVEMBER 1st, 2005, WHILE STILL AT THE JESTER III UNIT, PLAINTIFF SUFFERED FROM SEVERE CHEST PAINS AND WAS TAKEN BY EMERGENCY AMBULANCE TO THE UNIVERSITY OF TEXAS MEDICAL BRANCH IN GALVESTON, TEXAS, WHERE AN EKG WAS PERFORMED.

19. PLAINTIFF DISCOVERED THAT THE DEFENDANT WAS THE PROXIMATE CAUSE OF PLAINTIFF'S HEART ATTACK, DIZZINESS, DEPRESSION, MOOD CHANGES, WEIGHT GAIN, AND NAUSEA. SEPTEMBER 3, 2009 BY FAILING TO WARN PRESCRIBING PYSICIANS OF THE TYPE OR SEVERITY OF THE SIDE EFFECTS ASSOCIATED WITH THE USE OF BEXTRA.

20. ON October 19, 2009 PLAINTIFF DISCOVERED THAT THE DEFENDANT'S PAIN KILLER DRUG (BEXTRA) WAS THE PROXIMATE CAUSE OF HIS HEART ATTACK, DIZZINESS, DEPRESSION, MOOD CHANGES, WEIGHT GAIN, AND NAUSEA, AND THAT DRUG BEXTRA WAS TAKEN OFF THE MARKET FOR LABEL USE.

SEE ATTACHED EXHIBITS: A, B, C, D, E1, E2, E3, E4.

CAUSE OF ACTION

THE DEFENDANT'S WERE NEGLIGENCE IN CAUSING THE PLAINTIFF INJURIES BY:

1. FAILING TO GIVE WARNING THAT BEXTRA COULD CAUSE BLOOD CLOTS, HEART ATTACK AND STROKES.
2. FAIL TO ADEQUATELY OR PROPERLY WARN EITHER PLAINTIFF OR DR. DUANE TISDALE, THE PRESCRIBING PYSICIAN OF THE DANGEROUS PROPENSITY OF BEXTRA AND THE TYPE AND SEVERITY OF THE SIDE EFFECTS ASSOCIATED WITH THE USE OF BEXTRA AND THAT THIS DEFICIENCY AND THE DRUG ITSELF CONSTITUTE A BREACH OF THE IMPLIED WARRANTY OF MECHANTABILITY.
3. THE DEFENDANT'S FAILURE TO COMMUNICATE ADEQUATELY THE LEVEL OF RISK INHERENT IN BEXTRA FOR A PERSON WITH PLAINTIFF'S MEDICAL CONDITION AND HISTORY GIVES RISE TO LIABILITY UNDER THEORIES OF:
 - A. STRICT LIABILITY
 - B. NEGLIGENCE (FAILURE TO WARN)
 - C. TEXAS DECEPTIVE TRADE PRACTICE (CONSUMER PROTECTION ACT)
 - D. BREACH OF EXPRESS WARRANTY (IMPLIED WARRANTY OF MERCHANT-ABILITY)
 - E. FRAUD (CONSUMER FRAUD)
 - F. MISREPRESENTATION
4. PLAINTIFF COMPLAINS THAT PAINKILLER BEXTRA CAUSE MULTIPLE SIDE EFFECTS, HEART ATTACK, DIZZINESS, DEPRESSION, MOOD CHANGES, WEIGHT GAIN AND NAUSEA.

RELIEF

WHEREFORE, PREMISE CONSIDERED PLAINTIFF REQUESTS THIS COURT WOULD GRANT HIM THE FOLLOWING RELIEF:

A. TRIAL BY JURY

1. PLAINTIFF DEMANDS A JURY TRIAL PURSUANT TO RULE 38 FEDERAL RULES OF CIVIL PROCEDURE ON ALL ISSUES TRIABLE BY JURY.
2. OR IN THE ALTERNATIVE, PLAINTIFF REQUEST THIS COURT ISSUE A DECARATORY JUDGMENT THAT THE ACTS AND CONDUCT OF DEFENDANT WERE THE PROXIMATE CAUSE OF PLAINTIFF'S ACTUAL DAMAGES AND INJURIES AND THUS ENTITLES PLAINTIFF TO ALL OR PARTS OF THE RELIEF REQUESTED.
3. JUDGMENT AGAINST DEFENDANTS FOR ALL COST OF SUCH TRIAL BY JURY, IF ANY; COURT FEES, PLAINTIFF'S COSTS AT PRESENT HIS CAUSE OF ACTION(e, a, EXPERT WITNESSES, LAYMAN WITNESSES EXPENSE AND COST OF RECORDS) AND ALL OTHER COSTS THIS COURT DETERMINES THE DEFENDANTS ARE *Responsible* FOR.

B. COMPENSATORY DAMAGES

1. AGAINST DEFENDANTS IN THE AMOUNT OF \$3,000,000,00 FOR THE INJURIES SUFFERED BY PLAINTIFF AND REFERRED TO HEREIN AS ACTUAL DAMAGES.
2. EXEMPLARY DAMAGES AGAINST DEFENDANT IN THE AMOUNT OF \$3,000,000.00 (THREE MILLION DOLLARS) FOR INJURIES SUFFERED BY PLAINTIFF.

C. GENERAL RELIEF:

ISSUE SUCH OTHER AND FURTHER RELIEF, JUDGMENT AND DECREED, LEGAL AND EQUITABLE AS THE PLAINTIFF MAY BE IN THE INTEREST OF EQUITY ENTITLED TO UNDER THE FACTS OF THIS CAUSE OF ACTION.

RESPECTFULLY SUBMITTED,

Harril Glen Scott

T.D.C.J. CID NO. 1319015

HARRIL GLEN SCOTT

MARK STILES UNIT

3060 FM 3514

BEAUMONT, TEXAS 77705

DECLARATION

I, HARRIL GLEN SCOTT DO HEREBY SWEAR UNDER BOTH FEDERAL (TITLE 28 U,S,C 1746) AND STATE LAW (TEX. CIV. P.& REM. CODE 132.001 THROUGH 132.003) THAT ALL CONTAINED HEREIN THIS PLAINTIFF'S ORIGINAL PETITION FOR CIVIL PRODUCT LIABILITY TORT IS TRUE AND CORRECT UNDER PENALTY OF PERJURY.

(SIGNATURE) *Harril Glen Scott*

HARRIL GLEN SCOTT

TDCJ- CID NO. 1319015

MARK STILES UNIT

3060 FM 3514

BEAUMONT, TEXAS 77705

CERTIFICATE OF SERVICE

I, HARRIL GLEN SCOTT PLAINTIFF IN THIS CAUSE, HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ABOVE AND FOREGOING PLAINTIFF'S CIVIL PRODUCT LIABILITY TORT HAS BEEN SERVED BY PLACING THREE COPIES OF THE SAME IN THE UNITED STATES MAIL ON THIS 25 DAY OF MAY, 2011, ADDRESS TO:

CLERK:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
211 W, FERGUSON RM. 106
TYLER, TEXAS 75702

Harril Glen Scott

HARRIL GLEN SCOTT

T.D.C.J NO. 1319015

MARK W STILES

3060 FM 3514

BEAUMONT, TEXAS 77705