

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO
4 PLAINTIFF(S): HENRY CALLAWAY,
5 INDIVIDUALLY AND AS PERSONAL
6 REPRESENTATIVE OF THE ESTATE OF
7 MARY MCKINNON, DECEASED
8 Plaintiffs

9 v.

- 10 AMYLIN PHARMACEUTICALS, LLC,
11 ELI LILLY AND COMPANY,
12 MERCK SHARP & DOHME CORP.,
13 NOVO NORDISK INC.,

(Check all the above that apply)

14 Defendants

Pertains To Civil Action No.:

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

**SHORT FORM COMPLAINT
FOR DAMAGES**

Case No.: 13md2452 AJB(MDD)

15 **SHORT FORM COMPLAINT FOR DAMAGES**

16 COMES NOW the Plaintiff(s) named herein, and for Complaint against the
17 Defendants named herein, incorporates and fully adopts the Master Form Complaint
18 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows
19 the Court as follows:

20 **JURISDICTION AND VENUE**

21 1. Jurisdiction in this Complaint is based on:

22 Diversity of Citizenship

23 Other (As set forth below, the basis of any additional ground for
24 jurisdiction must be pleaded in sufficient detail as required by the
25 applicable Federal Rules of Civil Procedure):

26 _____
27 2. District Court and Division in which you might have otherwise filed
28 absent the direct filing order entered by this Court: United States District Court

1 Southern District of California

2 3. Plaintiff(s) further adopts the allegations contained in the following
3 paragraphs of the Jurisdiction and Venue section of the Master Complaint:

4 Paragraph 10;

5 Paragraph 11;

6 Paragraph 12;

7 Paragraph 13;

8 Paragraph 14;

9 Paragraph 15; and/or

10 Other allegations as to jurisdiction and venue (Plead in sufficient detail
11 in numbered paragraphs (numbered to begin with 3(a)) as required by the
12 applicable Federal Rules of Civil Procedure): _____
13 _____

14 PLAINTIFF/INJURED PARTY INFORMATION

15 4. Injured/Deceased Party's Name: Mary J. McKinnon (the
16 "Injured Party").

17 5. Any injury (or injuries) suffered by the Injured Party in addition to
18 those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to
19 have been caused by the drug(s) ingested as set forth below (put "None" if
20 applicable): None

21 6. Injured Party's spouse or other party making loss of consortium claim:
22 N/A

23 7. Other Plaintiff(s) and capacity, if Injured Party is deceased or
24 otherwise incapacitated (i.e., administrator, executor, guardian, representative,
25 conservator, successor in interest): Henry Callaway, Personal Representative

26 8. City(ies) and State(s) of residence of Injured Party at time of ingestion
27 of the Drug(s): Orlando, FL

28 9. City and State of residence of Injured Party at time of pancreatic

1 cancer diagnosis (if different from above): Same as above.

2 10. City and State of residence of Injured Party at time of diagnosis of
3 other Injury(ies) alleged in Paragraph 5 (if different from above): N/A.

4 11. If applicable, City and State of current residence of Injured Party (if
5 different from above): N/A.

6 12. If applicable, City and State of residence of Injured Party at time of
7 death (if different from above): Orlando, FL.

8 13. If applicable, City and State of current residence of each Plaintiff,
9 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,
10 guardian, representative, conservator, successor in interest): Orlando, FL
11 _____.

12 14. Check box(es) of product(s) (the "Drugs") for which you are making
13 claims in this Complaint:

14 Byetta. Dates of use: 2007 - 2011.

15 Januvia. Dates of use: _____.

16 Janumet. Dates of use: _____.

17 Victoza. Dates of use: _____.

18 15. Date of pancreatic cancer diagnosis: Approximately 4/2012.

19 16. If applicable, date of other injuries alleged in Paragraph 5: N/A
20 _____.

21 17. If applicable, date of death: 12/16/2013.

22 DEFENDANTS NAMED HEREIN

23 (Check Defendants against whom Complaint is made)

24 Amylin Pharmaceuticals, LLC

25 Eli Lilly and Company

26 Merck Sharp & Dohme Corp.

27 Novo Nordisk Inc.

28 CAUSES OF ACTION

(Counts in the Master Complaint brought by Plaintiff(s))

- Count I – Strict Liability – Failure to Warn
- Count II – Strict Liability – Design Defect
- Count III – Negligence
- Count IV – Breach of Implied Warranty
- Count V – Breach of Express Warranty
- Count VI – Punitive Damages
- Count VII – Loss of Consortium
- Count VIII – Wrongful Death
- Count IX – Survival Action
- Other Count(s): _____

Plead factual and legal basis for any Other Count(s) in separately numbered Paragraphs (beginning with Paragraph 18) that provide sufficient information and detail to comply with the applicable Federal Rules of Civil Procedure.

PRAYER FOR RELIEF AND, AS APPLICABLE,

PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH

WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master Complaint filed in MDL No. 2452.

JURY DEMAND

Plaintiff(s) hereby demands **does not** demand a trial by jury on all issues so triable.

Dated: December 8, 2015.

RESPECTFULLY SUBMITTED,

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