

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO
4 PLAINTIFF(S): PARVIN R. ROSARIO,
5 SR., EXECUTOR OF THE ESTATE OF
6 BARBARA G. MCKINNEY AND IN HIS
7 OWN RIGHT AND FOR THE BENEFIT
8 OF BARBARA G. MCKINNEY'S
9 WRONGFUL DEATH BENEFICIARIES
10 13 BRIARCLIFFE DRIVE
11 NEW CASTLE, DE 19720
12 AND
13 SONIA SUTTON
14 531 BAYNAD BOULEVARD
15 WILMINGTON, DE 19803
16 AND
17 JUAN ROSARIO
18 6 BRIARCLIFFE DRIVE
19 NEW CASTLE, DE 19720
20 AND
21 WILLIAM ROSARIO
22 3 CANNON MILL DRIVE
23 DOVER, DE 19904
24 Plaintiffs

v.

AMYLIN PHARMACEUTICALS, LLC,
 ELI LILLY AND COMPANY,
 MERCK SHARP & DOHME CORP.,
 NOVO NORDISK INC.,

(Check all the above that apply)

Defendants

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

**SHORT FORM COMPLAINT
FOR DAMAGES**

Case No.: 13md2452 AJB(MDD)

25 **SHORT FORM COMPLAINT FOR DAMAGES**

26 COMES NOW the Plaintiff(s) named herein, and for Complaint against the
27 Defendants named herein, incorporates and fully adopts the Master Form Complaint
28 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows

1 the Court as follows:

2 JURISDICTION AND VENUE

3 1. Jurisdiction in this Complaint is based on:

4 Diversity of Citizenship

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

8 _____.

9 2. District Court and Division in which you might have otherwise filed
10 absent the direct filing order entered by this Court: Eastern District of Pennsylvania.

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

13 Paragraph 10;

14 Paragraph 11;

15 Paragraph 12;

16 Paragraph 13;

17 Paragraph 14;

18 Paragraph 15; and/or

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

22 _____.

23 PLAINTIFF/INJURED PARTY INFORMATION

24 4. Injured/Deceased Party's Name: Barabara G. Mckinney (the "Injured
25 Party").

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

1 applicable): Death.

2 6. Injured Party's spouse or other party making loss of consortium claim:

3 None.

4 7. Other Plaintiff(s) and capacity, if Injured Party is deceased or
5 otherwise incapacitated (i.e., administrator, executor, guardian, representative,
6 conservator, successor in interest): Parvin R. Rosario, Sr., a/k/a Parvin Romaine
7 Rosario (executor and son), Sonia Sutton (daughter and wrongful death
8 beneficiary), Juan Rosario (son and wrongful death beneficiary) and William
9 Rosario (son and wrongful death beneficiary).

10 8. City(ies) and State(s) of residence of Injured Party at time of ingestion
11 of the Drug(s): New Castle, Delaware.

12 9. City and State of residence of Injured Party at time of pancreatic
13 cancer diagnosis (if different from above): New Castle, Delaware.

14 10. City and State of residence of Injured Party at time of diagnosis of
15 other Injury(ies) alleged in Paragraph 5 (if different from above): New Castle,
16 Delaware.

17 11. If applicable, City and State of current residence of Injured Party (if
18 different from above): Deceased.

19 12. If applicable, City and State of residence of Injured Party at time of
20 death (if different from above): New Castle, Delaware.

21 13. If applicable, City and State of current residence of each Plaintiff,
22 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,
23 guardian, representative, conservator, successor in interest): New Castle, Delaware;
24 Dover, Delaware; .

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

27 Byetta. Dates of use: _____.

28 Januvia. Dates of use: October 2011 – May, 2013.

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Janumet. Dates of use: _____.

Victoza. Dates of use: _____.

15. Date of pancreatic cancer diagnosis: April 30, 2013.

16. If applicable, date of other injuries alleged in Paragraph 5: Date of death was July 1, 2013.

17. If applicable, date of death: July 1, 2013
_____.

DEFENDANTS NAMED HEREIN

(Check Defendants against whom Complaint is made)

Amylin Pharmaceuticals, LLC

Eli Lilly and Company

X Merck Sharp & Dohme Corp.

Novo Nordisk Inc.

CAUSES OF ACTION

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

X Count I – Strict Liability – Failure to Warn

X Count II – Strict Liability – Design Defect

X Count III – Negligence

X Count IV – Breach of Implied Warranty

X Count V – Breach of Express Warranty

X Count VI – Punitive Damages

X Count VII – Loss of Consortium

X Count VIII – Wrongful Death

X Count IX – Survival Action

Other Count(s): _____

Plead factual and legal basis for any Other Count(s) in separately numbered

1 Paragraphs (beginning with Paragraph 18) that provide sufficient information
2 and detail to comply with the applicable Federal Rules of Civil Procedure.

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4
5 PRAYER FOR RELIEF AND, AS APPLICABLE,
6 PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH

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

9 JURY DEMAND

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

12 Dated: September 9, 2014

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15 RESPECTFULLY SUBMITTED,

16 By: /s/JBS8677
17 STEWART J. EISENBERG, ESQUIRE
18 Attorney ID: 32151
19 JOSHUA B. SCHWARTZ
20 Attorney ID: 210208
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22 Philadelphia, PA 19103
23 Attorney for Plaintiff
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