

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO
4 PLAINTIFF(S): JANI SMITH, JOHN
5 SMITH IV

6 Jani Smith individually and as p/r for the
7 Estate of John Smith IV

8 Plaintiffs

9 v.

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

14 (Check all the above that apply)

15 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)

16 **SHORT FORM COMPLAINT FOR DAMAGES**

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

21 **JURISDICTION AND VENUE**

22 1. Jurisdiction in this Complaint is based on:

23 Diversity of Citizenship

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

27 _____
28 2. District Court and Division in which you might have otherwise filed

1 absent the direct filing order entered by this Court: Northern District of Texas.

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 in
11 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: John Smith IV (the "Injured Party").

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

20 6. Injured Party's spouse or other party making loss of consortium claim:
21 Jani Smith.

22 7. Other Plaintiff(s) and capacity, if Injured Party is deceased or
23 otherwise incapacitated (i.e., administrator, executor, guardian, representative,
24 conservator, successor in interest): Jani Smith, wife and personal representative.

25 8. City(ies) and State(s) of residence of Injured Party at time of ingestion
26 of the Drug(s): Haslet, Texas.

27 9. City and State of residence of Injured Party at time of pancreatic
28 cancer diagnosis (if different from above): Haslet, Texas.

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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.

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JURY DEMAND

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

Dated: September 18, 2014

RESPECTFULLY SUBMITTED,

By: /s/ Maxwell S. Kennerly
Maxwell S. Kennerly
The Beasley Firm, LLC
1125 Walnut Street
Philadelphia, PA 19107
Attorneys for Plaintiffs