

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO  
4 PLAINTIFF(S): Laura McKown, Administratrix  
5 of the Estate of Joseph McKown and Laura  
6 McKown, Individually

6 Plaintiffs

7 v.

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

(Check all the above that apply)

13 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)

14 **SHORT FORM COMPLAINT FOR DAMAGES**

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

19 **JURISDICTION AND VENUE**

20 1. Jurisdiction in this Complaint is based on:

21  Diversity of Citizenship

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

25 \_\_\_\_\_  
26 2. District Court and Division in which you might have otherwise filed

27 absent the direct filing order entered by this Court: \_\_\_\_\_

28 United States District Court - Southern District of California



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

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

5 12. If applicable, City and State of residence of Injured Party at time of  
6 death (if different from above): N/A.

7 13. If applicable, City and State of current residence of each Plaintiff,  
8 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,  
9 guardian, representative, conservator, successor in interest): Newport, KY  
10 \_\_\_\_\_.

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

13  Byetta. Dates of use: \_\_\_\_\_.

14  Januvia. Dates of use: Approx. 02-14-13 to 04-16-14.

15  Janumet. Dates of use: Approx. 11-02-12 to 02-13-13.

16  Victoza. Dates of use: \_\_\_\_\_.

17 15. Date of pancreatic cancer diagnosis: 06-21-13.

18 16. If applicable, date of other injuries alleged in Paragraph 5: N/A  
19 \_\_\_\_\_.

20 17. If applicable, date of death: 04-16-14.

21 DEFENDANTS NAMED HEREIN

22 (Check Defendants against whom Complaint is made)

23  Amylin Pharmaceuticals, LLC

24  Eli Lilly and Company

25  Merck Sharp & Dohme Corp.

26  Novo Nordisk Inc.

27 CAUSES OF ACTION

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 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): N/A

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: March 5 \_\_\_\_\_, 2015

RESPECTFULLY SUBMITTED,

By: /s/Will Lemkul  
Address and Bar Information

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Will Lemkul  
(CA SBN 219061)  
Morris, Sullivan & Lemkul, LLP  
9915 Mira Mesa Boulevard  
Suite 300  
San Diego, CA 92131  
(858) 566-7600 (Phone)  
(858) 566-6602 (Fax)  
lemkul@morrissullivanlaw.com

Kimberly D. Barone Baden  
Ann E. Rice Ervin  
(CA SBN 207731)  
Motley Rice LLC  
28 Bridgeside Boulevard  
Mt. Pleasant, SC 29464  
(843) 216-9265 (Phone)  
(843) 216-9450 (Fax)  
kbarone@motleyrice.com

*Attorneys for Plaintiffs*