
**IN RE: ZOFRAN (ONDANSETRON)
PRODUCTS LIABILITY LITIGATION**

)
)
) **MDL No. 1:15-md-2657-FDS**
)
)

This Document Relates To:

**CHRISTINE GILBERT, Individually and
o/b/o her son, L. G., a minor**

PLAINTIFFS,

)
)
) **SHORT FORM COMPLAINT
AND JURY DEMAND
BRAND ZOFRAN® USE**

v.

GLAXOSMITHKLINE LLC

DEFENDANT.

**MASTER SHORT FORM COMPLAINT AND JURY DEMAND
BRAND ZOFRAN® USE**

Plaintiffs incorporate by reference Plaintiffs’ Brand Long Form Master Complaint and Jury Demand filed in *In Re Zofran® Products Liability Litigation* in the United States District Court for the District of Massachusetts, filed as No. 255 on the Master Docket. Pursuant to Case Management Order No.14, the following Brand Short Form Complaint encompasses Plaintiffs’ claims as adopted from the Brand Master Long Form Complaint in the above-captioned action.

Plaintiffs select and indicate by checking boxes where requested, parties and claims specific to this case. As necessary, Plaintiffs include: (a) additional claims against the Defendant(s) listed in paragraph 1, which are set forth in paragraph 12, and the supporting facts for which are alleged in paragraph 13 or on an additional sheet attached to this Complaint, and/or (b) claims pleaded against additional defendants not listed in the Brand Long Form Master Complaint, which are set forth in paragraph 14 and the supporting facts for which are alleged in paragraph 14 or on an additional sheet attached to this Complaint.

Plaintiffs, by and through counsel, allege as follows:

I. DEFENDANTS

1. Plaintiffs name the following Defendants in this action **[check only those that apply]**:

GLAXOSMITHKLINE LLC

NOVARTIS PHARMACEUTICALS CORPORATION (FOR CLAIMS ARISING FROM ZOFTRAN® INGESTION ON OR AFTER MARCH 23, 2015)

II. PLAINTIFFS

2. Plaintiffs are bringing these claims:

Individually and on behalf of the minor child; or

On behalf of the minor child only

due to injuries caused by prenatal exposure to brand Zofran®, as described in greater detail below.

3. Plaintiff, Christine Gilbert, is the **[check all that apply]**:

biological mother

biological father

legal guardian

personal representative of the Estate

of minor child LG, (initials only) and is an individual who is domiciled at 528 W. Perkins Avenue, Lot 7, Sandusky, OH 44870.

4. Plaintiff, _____, is the **[check all that apply]**:

biological mother

biological father

- legal guardian
- personal representative of the Estate

of minor child _____, (initials only) and is an individual who is domiciled at _____.

5. Minor child LG (initials only) was born in 2006 (year only) in Ohio _____ (state of birth).

III. ZOERAN® INGESTION

6. Mother of minor child ingested Zofran® during pregnancy with minor child during the following trimester(s) [check all that apply]:

- 1ST TRIMESTER
- 2ND TRIMESTER
- 3RD TRIMESTER

IV. PRODUCT IDENTIFICATION

7. Plaintiffs allege use of the following form(s) of administration of Zofran® [check all that apply]:

- ORAL TABLETS
- ORALLY DISINTEGRATING TABLET
- INJECTABLE OR I.V. SOLUTION
- ORAL SOLUTION
- _____

8. Plaintiffs allege that Zofran® was ingested in the following state(s): Ohio

_____.

9. [Complete only for Complaints directly filed in the MDL Court.] Identify the U.S. federal district court and if applicable, the division, in which Plaintiff would have filed in the absence of an MDL United States District Court, Northern District of Ohio.

V. PHYSICAL INJURY

10. Minor child alleges the following injury(ies) as a result of prenatal exposure to Zofran® [specify all that apply]: Atrial Septal Defect, Ventricular Septal Defect, Cleft Palate, Issues with Vision and Hearing

11. Plaintiffs allege the following injury(ies) to themselves as a result of minor child's prenatal exposure to Zofran® [specify all that apply]: Plaintiff, Christine Gilbert has been deprived of the full society, love, affection, companionship, care and service of her son. Furthermore, she has suffered financial injury that is ongoing.

VI. CLAIMS/COUNTS

12. The following claims asserted in the Brand Master Long Form Complaint, and the allegations with regard thereto in the Brand Master Long Form Complaint, are adopted in this Short Form Complaint by reference:

Check if Applicable	Count Number	Claims
<input checked="" type="checkbox"/>	I	Negligence
<input checked="" type="checkbox"/>	II	Negligent Misrepresentation
<input checked="" type="checkbox"/>	III	Negligent Undertaking
<input checked="" type="checkbox"/>	IV	Negligence Per Se
<input checked="" type="checkbox"/>	V	Failure to Warn – Strict Liability
<input checked="" type="checkbox"/>	VI	Breach of Express Warranty
<input checked="" type="checkbox"/>	VII	Breach of Implied Warranties
<input checked="" type="checkbox"/>	VIII	Fraudulent Misrepresentation and Concealment
<input checked="" type="checkbox"/>	IX	Violations of Consumer Protection Laws: <u>ORC § 1345.01(Ohio)</u>
<input type="checkbox"/>	X	Wrongful Death
<input type="checkbox"/>	XI	Survival Action
<input checked="" type="checkbox"/>	XII	Loss of Consortium
<input checked="" type="checkbox"/>	XIII	Punitive Damages
<input type="checkbox"/>	XIV	Other(s): <u>[Specify]</u>

13. If additional claims against the Defendants identified in the Brand Master Long Form Complaint are alleged in paragraph 12, the facts supporting these allegations must be pleaded. Plaintiffs assert the following factual allegations against the Defendants identified in the Brand Master Long Form Complaint:

N/A

14. Plaintiffs assert the following additional claims and factual allegations against other Defendants (must name defendant and its alleged citizenship):

N/A

WHEREFORE, Plaintiffs pray for relief as set forth in the Plaintiffs' Brand Master Long Form Complaint in *In Re Zofran® Products Liability Litigation* in the United States District Court for the District of Massachusetts.

Dated: June 24, 2016

/s/ Russell Budd
Attorney for Plaintiffs

BARON & BUDD, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Christine Gilbert, Individually and on behalf of her son L.G., a minor

(b) County of Residence of First Listed Plaintiff Erie County, Ohio (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Baron & Budd, P.C., Russell Budd & Thomas Sims 3102 Oak Lawn Avenue, Suite 1100, Dallas, TX 75219 214-521-3605

DEFENDANTS

GlaxoSmithKline LLC

County of Residence of First Listed Defendant New Castle County, DE (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location. Includes categories like Citizen of This State, Citizen of Another State, and Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. 1332(a)

Brief description of cause: Personal injury from plaintiff's use of pharmaceutical product manufactured or distributed by defendants.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,001.00 CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Saylor DOCKET NUMBER 1:15-md-2657-FDS

DATE 06/24/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Russell W. Budd

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Gilbert v. GlaxoSmithKline LLC

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 110, 130, 140, 160, 190, 196, 230, 240, 290,320,362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.
- III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 376, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Russell Budd & Thomas Sims

ADDRESS Baron & Budd, PC, 3102 Oak Lawn Avenue, Suite 1100, Dallas, TX 75219

TELEPHONE NO. 214-521-3605