IN THE UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MATTHEW MIRTO and JENNIFER MIRTO	:	
Plaintiffs,	:	Case No.: 22cv672
v.		
BAYER HEALTHCARE PHARMACEUTICALS, INC.; BAYER CORPORATION; JOHNSON & JOHNSON SERVICES, INC.; JANSSEN RESEARCH & DEVELOPMENT, LLC;: And JANSSEN PHARMACEUTICAL COMPANY:	:	May 17, 2022
Defendants		

COMPLAINT

Plaintiffs Matthew Mirto and Jennifer Mirto sue Defendants Bayer Healthcare Pharmaceuticals, Inc., Bayer Corporation, (collectively referred to as the "Bayer Defendants"), Johnson & Johnson Services, Inc., Janssen Research & Development, LLC, Janssen Pharmaceutical Company (collectively referred to as the "J&J Defendants"), and states:

INTRODUCTION

1. This is a product liability case that involves the prescription fluoroquinolone antibiotic drugs Cipro (ciprofloxacin), Avelox (moxifloxacin) and Levaquin (levofloxacin) (collectively referred to as "FLQ drugs").

2. Cipro is designed, developed, manufactured, tested, packaged, promoted, marketed, advertised, distributed, labeled, and/or sold by the Bayer Defendants.

3. Avelox is designed, developed, manufactured, tested, packaged, promoted, marketed, advertised, distributed, labeled, and/or sold by the Bayer Defendants

4. Levaquin is designed, developed, manufactured, tested, packaged, promoted,

marketed, advertised, distributed, labeled, and/or sold by the J&J Defendants.

5. Plaintiffs maintain Cipro, Avelox and Levaquin are defective, dangerous to human health, unfit and unsuitable to be marketed and sold in commerce to treat infections for which they were not required, and lacked proper warnings and directions as to the dangers associated with their all of their uses including the adverse health conditions associated with irreversible neurogenic pain, collagen toxicity, tendinopathy, and aortic disease.

PARTIES

6. At all material times, Mr. Mirto and Mrs. Mirto were married and resided together in Wallingford, Connecticut.

7. By reason of Defendants' acts and omissions and as a direct and proximate result of being prescribed and ingesting Defendants' FLQ drugs, Mr. Mirto sustained personal injuries including irreversible neurogenic pain, collagen toxicity, tendinopathy, and aortic disease that resulted in an aortic aneurysm and dilated aortic root that destroyed his aortic valve requiring replacement and permanently damaging his heart function, physical pain and mental anguish, including diminished enjoyment of life, physical impairment, expenses for hospitalization and medical treatment, and loss of earnings, among other damages.

8. Defendant Bayer HealthCare Pharmaceuticals, Inc. ("Bayer Healthcare") is a foreign for profit corporation with its principal place of business at 100 Bayer Boulevard, in Whippany, New Jersey 07981 and with a Connecticut Registered Agent to wit: Corporation Service Company, Goodwin Square 225 Asylum St., 29th Floor, Hartford, CT, 06103.

9. In January 2008, Bayer Pharmaceuticals Corporation was merged into Bayer Healthcare and at all material times was involved in the labeling, supplying, selling, and distribution of pharmaceutical products, including Cipro and Avelox, throughout in the United

States and the State of Connecticut including Wallingford, Connecticut.

10. Defendant Bayer Corporation ("Bayer Corp.") is foreign for profit corporation with its principal place of business at 100 Bayer Boulevard, in Whippany, New Jersey 07981 and with a Connecticut Registered Agent to wit: Corporation Service Company, Goodwin Square 225 Asylum St., 29th Floor, Hartford, CT, 06103.

11. Bayer Corp., formerly known as Miles, Inc., is an American subsidiary of a German parent Bayer AG headquartered in Leverkusen, North Rhine-Westphalia, Germany who is one of the largest pharmaceutical companies in the world and the researcher, producer, and manufacturer of Cipro and Avelox, and was engaged in the business of testing, manufacturing, distributing, marketing, advertising, labeling, and selling Cipro in the United States.

12. Upon information and belief, the Bayer Defendants did act together to design, sell, advertise, manufacture and/or distribute Cipro and Avelox with full knowledge of its dangerous and defective nature.

13. Defendant Johnson & Johnson Services, Inc. ("J&J") is a foreign for-profit corporation with its principal place of business at One J&J Plaza, New Brunswick, New Jersey 08933 and with a Connecticut Registered Agent to wit: CT Corporation System, 67 Burnside Ave., East Hartford, CT, 06128-3408.

14. J&J, and its "Family of Companies," is involved in the research, development, sales, and marketing of pharmaceutical products, including Levaquin.

15. Defendant Janssen Research & Development, LLC ("Janssen R&D"), formerly known as Johnson & Johnson Pharmaceutical Research & Development, LLC, is a limited liability company organized under the laws of the State of New Jersey, with its principal place of business at 920 Route 202 South, P.O. Box 300, Mail Stop 2628, Raritan, New Jersey.

16. At all times material hereto, Janssen R&D conducted research, development, and testing on Levaquin and is part of the J&J "Family of Companies."

17. Defendant Janssen Pharmaceutical Company ("Janssen Pharma"), formerly known as Ortho-McNeil-Janssen Pharmaceuticals, Inc., is a foreign for profit corporation with its principal place of business at 1125 Trenton-Harbourton Rd., Titusville, New Jersey 08560.

18. At all times material hereto, Janssen Pharma was the responsible U.S. entity for the design, manufacture, labeling, distribution, marketing, and sale of the drug Levaquin in the United States.

19. Defendant Janssen Pharma is a wholly owned subsidiary of J&J.

20. Upon information and belief, the J&J Defendants did act together to design, sell, advertise, manufacture and/or distribute Levaquin with full knowledge of its dangerous and defective nature.

JURISDICTION AND VENUE

21. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds $75,000, exclusive of interest and costs, and because there is complete diversity of citizenship between Plaintiffs and Defendants.

22. Defendants purposefully availed themselves of the privilege of conducting business activities within the State of Connecticut through the marketing, distribution, and sale of FLQ drugs, including to Mr. Mirto, thus invoking the benefits and protections of its laws.

23. Defendants have significant contacts in the State of Connecticut such that they are subject to the personal jurisdiction of the court in this state.

24. A substantial part of the events and omissions giving rise to Plaintiffs' causes of action occurred in the District of Connecticut. Pursuant to 28 U.S.C. § 1391(a), venue is proper.

FACTUAL ALLEGATIONS

25. At all relevant times, Defendants were in the business of and did design, research, manufacture, test, advertise, promote, market, sell, distribute, and/or have acquired and are responsible for Defendants who have designed, researched, manufactured, tested, advertised, promoted, marketed, sold, and distributed the FLQ drugs Cipro, Avelox, and Levaquin.

26. The Bayer Defendants are a "product seller" engaged in the business of selling their FLQ drugs Cipro and Avelox as defined by CPLA, Conn. Gen. Stat. § 52-572m(a).

27. The J&J Defendants are a "product seller" engaged in the business of selling their FLQ drug Levaquin as defined by CPLA, Conn. Gen. Stat. § 52-572m(a).

28. FLQ drugs are broad-spectrum synthetic antibacterial agents marketed and sold in oral tablet, IV solution, and ophthalmic solution, used to treat certain bacterial infections. They are members of the quinolone class of antibiotics.

29. Cipro was approved by the United States Food and Drug Administration ("FDA") in October 1987 for use in the United States and is the brand name for the antibiotic ciprofloxacin.

30. Avelox was approved by the United States Food and Drug Administration ("FDA") in December 1999 for use in the United States and is the brand name for the antibiotic moxifloxacin.

31. Levaquin was approved by the FDA on December 20, 1996, for use in the United States and is the brand name for the antibiotic levofloxacin.

32. Cipro and Avelox have long been associated with serious side effects including but not limited to tendinopathy, aortic aneurysm, rupture, and dissection.

33. Similar to Cipro, the scientific evidence has established a clear association between

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