UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

PATRICIA VOSBURGH,

Plaintiff,

v. **Civil Action:**

ACELLA PHARMACEUTICALS, LLC and WALGREEN CO.

Defendants.
_____/

COMPLAINT AND DEMAND FOR A JURY TRIAL

Plaintiff, Patricia Vosburgh hereby sues Acella Pharmaceuticals, LLC, and Walgreen Co., and would respectfully show this Court as follows:

Parties

1. Plaintiff, Patricia Vosburgh ("Plaintiff"), is and at all times relevant to this action has remained, a citizen and resident of Pinellas County, Florida. At all times relevant, Plaintiff has maintained a Florida's driver's license. At all times relevant, Plaintiff purchased NP Thyroid in Pinellas County, Florida.

2. Upon information and belief, Plaintiff, Patricia Vosburgh, consumed and regularly used Defendant Acella Pharmaceuticals, LLC's NP Thyroid product.

3. Defendant Acella Pharmaceuticals, LLC ("Acella") is a Limited Liability Corporation with its principal place of business at 1880 McFarland

Parkway, Suite 110-B, Alpharetta, Georgia 30005. At all pertinent times, Acella Pharmaceuticals, LLC did business in the State of Florida. Acella Pharmaceuticals, LLC may be served with process of this Court via service on its registered agent, located at 1880 McFarland Parkway, Suite 110-B, Alpharetta, Georgia 30005.

4. Defendant Walgreen Co. ("Walgreens") is a Delaware corporation with its principal place of business located at 108 Wilmot Road, Deerfield, Illinois 60015. Walgreen Co. is a citizen of Delaware and Illinois. At all pertinent times, Walgreens was registered to do business in the State of Florida as a Florida Profit Corporation and did business in Florida. At all times relevant, Walgreens marketed, advertised, sold and/or distributed to Plaintiff, NP Thyroid in various locations throughout the State of Florida, which proximately caused injury to Plaintiff, Patricia Vosburgh. Walgreens may be served with process of this Court via service on its registered agent, Prentice-Hall Corporation System, Inc. located at 1201 Hays Street, Suite 105, Tallahassee, FL 32301.

5. Hereinafter, Acella and Walgreens will collectively be called "Defendants."

(Intentionally Left Blank)

Jurisdiction and Venue

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a). There is complete diversity among the Plaintiff and the Defendants, and the amount of controversy exceeds $75,000.00, exclusive of interest and costs.

7. This Court has supplemental jurisdiction over the remaining common law and state claims pursuant to U.S.C. § 1367.

8. A substantial part of the events, actions, or omissions giving rise to Plaintiff's causes of action occurred within the Middle District of Florida. Plaintiff also purchased NP Thyroid within the Middle District of Florida. Therefore, venue is proper in the Middle District of Florida under 28 U.S.C. § 1391(a).

9. Defendants have significant contacts with the Middle District of Florida, such that they are subject to the personal jurisdiction of the Court.

10. At all relevant times, Defendants marketed, labeled, packaged, handled, distributed, stored, and/or sold NP Thyroid within the Middle District of Florida and targeted the consumer market within this district.

11. At all times alleged herein, Defendants were authorized to conduct or engage in business within the State of Florida and supplied NP Thyroid within the State of Florida. Defendants received financial benefit and profits as a

result of designing, testing, marketing, labeling, packaging, handling, distributing, storing, and/or selling NP Thyroid within the State of Florida.

12. Defendants have derived revenue from the sale of NP Thyroid in the State of Florida. This Court has jurisdiction, as Defendants committed tortious acts within the State of Florida and within the Middle District of Florida.

Introduction

13. This is a personal injury action, arising from Plaintiff's use of Defendant Acella's dangerously defective prescription drug, NP Thyroid.

14. Defendant Acella sold NP Thyroid as a product intended to treat a disease or condition, therefore the NP Thyroid product is a drug as defined in Section 201(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), 21 U.S.C. 321(g).

15. NP Thyroid is a thyroid tablet, manufactured by Acella Pharmaceuticals, LLC and is sold as a safe and effective method to treat hypothyroidism. NP Thyroid tablets are composed of levothyroxine and liothyronine, and are prescribed for the treatment of hypothyroidism. The medication is designed to replace or supplement a thyroid hormone, which is normally produced by the thyroid gland.

16. Acella designed, marketed, and distributed NP Thyroid in the United States, including Florida. Defendants failed to provide adequate

warnings to patients, the healthcare community, and the medical community of the risks associated with NP Thyroid. Defendants knew or should have known that significant risks, due to improper dosage and/or excessive levels of liothyronine and levothyroxine, yet Defendants failed to timely disclose these risks and/or improper dosing to the medical and healthcare community, Food and Drug Administration, to Plaintiff, and/or the public in general. Further, Defendants failed to disclose the true risk, and serious link, between NP Thyroid use and atrial fibrillation, hypertension, chest pain, rapid heart rate or heart rhythm disturbances, weight loss, heat intolerance, fatigue, muscle weakness, and negative maternal and fetal outcomes including miscarriage and/or impairment to fetal development. Excessive levels of liothyronine, as found in Acella's NP Thyroid, when given to patients suffering from hypothyroidism, can lead to unintentional weight loss, tachycardia, arrhythmia, heart palpitations, nervousness, anxiety, irritability, tremors, sweating, changes in menstrual patterns, increased sensitivity to heat, changes in bowel patterns, an enlarged thyroid gland, fatigue, difficulty sleeping, skin thinning, and brittle hair.

17. On May 22, 2020, the Food and Drug Administration ("FDA") announced that Acella Pharmaceuticals issued a voluntary nationwide recall to the consumer level of certain lots of NP Thyroid due to superpotency. Testing found these certain lots to be superpotent, containing up to 115.0% of the labeled

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