

1 Anna Dubrovsky, Esq. (SBN: 197116)  
ANNA DUBROVSKY LAW GROUP, INC.  
2 601 Montgomery St #2000  
San Francisco, CA 94111  
3 Tel: (415) 746-1477  
4 Fax: (415) 746-1478  
Anna@dubrovskylawyers.com  
5 Attorney for Plaintiff

6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**

8 AMI DODSON,

9 Plaintiff,

10 v.

11 SANOFI S.A.,  
12 AVENTIS PHARMA S.A., and  
13 SANOFI-AVENTIS U.S. LLC,

14 Defendants.

Civil Case No. \_\_\_\_\_

15  
16 **COMPLAINT AND DEMAND FOR**  
17 **JURY TRIAL**

18 Plaintiff, Ami Dodson, by and through her attorneys, Anna Dubrovsky Law Group, Inc.,  
19 respectfully submits the following Complaint and Jury Demand against Defendants Sanofi S.A.;  
20 Aventis Pharma S.A.; and Sanofi-Aventis U.S. LLC, and alleges the following upon personal  
21 knowledge, information and belief, and investigation of counsel.

22 **NATURE OF THE ACTION**

23 1. This action seeks to recover damages for injuries sustained by Plaintiff as the  
24 direct and proximate result of the wrongful conduct of Defendants Sanofi S.A., Aventis Pharma  
25 S.A., and Sanofi-Aventis U.S. LLC in connection with the designing, developing,  
26 manufacturing, distributing, labeling, advertising, marketing, promoting, and selling of  
27 TAXOTERE®, a prescription medication used in the treatment of breast cancer.

28 ///

**JURISDICTION AND VENUE**

1  
2           2.       This Court has subject matter jurisdiction pursuant to 28. U.S.C. § 1332 (diversity  
3 jurisdiction). The amount in controversy exceeds \$75,000.00 exclusive of interest and costs.  
4 There is complete diversity of citizenship between Plaintiff and Defendants. Plaintiff is a resident  
5 and citizen of and is domiciled in the State of California. As set forth more fully below, all  
6 Defendants are entities organized in states other than the State of California, all Defendants have  
7 their principal place of business in a state other than the State of California, and none of the  
8 Defendants is a citizen or resident of the State of California.  
9

10           3.       This Court has personal jurisdiction over Defendants, each of which is licensed to  
11 conduct and/or is systematically and continuously conducting business in the State of California,  
12 including, but not limited to, the marketing, advertising, selling, and distributing of drugs,  
13 including TAXOTERE®, to the residents in this State.  
14

15           4.       Venue is proper in this District pursuant to 28 U.S.C. § 1391(a), because  
16 Defendants marketed, advertised, and distributed the dangerous product in this District; Plaintiff  
17 resides in this District; Plaintiff's harms, losses, and damages occurred in this District;  
18 Defendants do substantial business in the State of California and within this District; and at all  
19 times relevant hereto, Defendants developed, manufactured, promoted, marketed, distributed,  
20 warranted, and sold TAXOTERE® in interstate commerce.  
21

22  
23   **PARTIES**

24           5.       Plaintiff Ami Dodson is and was at all relevant times a citizen and adult resident  
25 of the State of California and was prescribed and used TAXOTERE®, which was developed,  
26 manufactured, promoted, marketed, distributed, and sold by Defendants. Plaintiff has suffered  
27 damages as a result of Defendants' illegal and wrongful conduct alleged herein.  
28

1           6. Defendant Sanofi S.A. is a corporation or Société Anonyme organized and  
2 existing under the laws of France, having its principal place of business at 54 rue La Boétie,  
3 75008 Paris, France.

4           7. Defendant Aventis Pharma S.A. is a corporation or Société Anonyme organized  
5 and existing under the laws of France, having its principal place of business at 20 avenue  
6 Raymond Aron, 92160 Antony, France.

7           8. Defendant Sanofi-Aventis U.S. LLC is a Delaware limited liability company,  
8 which has its principal place of business at 55 Corporate Drive, Bridgewater, New Jersey 08807.  
9 Defendant Sanofi-Aventis U.S. LLC is a subsidiary of Defendant Sanofi S.A. Defendant Sanofi  
10 S.A. is the only member and owns 100% of the membership interest (both financial and voting)  
11 of Defendant Sanofi-Aventis U.S. LLC. Defendant Sanofi-Aventis U.S. LLC does not have any  
12 members that are citizens, residents, or domiciles of the State of California.

13           9. Defendant Sanofi-Aventis U.S. LLC sometimes operates, promotes, markets,  
14 sells, distributes pharmaceutical products, and does business under the name of Winthrop U.S.,  
15 which is not a separately existing legal entity but rather is a business unit or division operating  
16 within and part of Sanofi-Aventis U.S. LLC.

17  
18  
19  
20                           **DENFENDANTS' OWNERSHIP AND**  
21                           **UNITY OF INTEREST**

22           10. Sanofi S.A. is a French multinational pharmaceutical parent company that  
23 operates worldwide through a complex, consolidated, and intermingled web of more than 400  
24 wholly-owned subsidiaries, including Aventis Pharma S.A. and Sanofi-Aventis U.S. LLC. As of  
25 2013, Sanofi S.A. was the world's fifth-largest pharmaceutical company by sales.

26           11. At all times relevant, Sanofi S.A. was engaged in the business of researching,  
27 analyzing, licensing, designing, formulating, compounding, patenting, testing, manufacturing,  
28

1 producing, processing, assembling, inspecting, distributing, marketing, labeling, promoting,  
2 packaging, advertising, and/or selling the prescription drug TAXOTERE® through its numerous  
3 wholly-owned subsidiaries in the United States and throughout the world, including Defendants  
4 Aventis Pharma S.A. and Sanofi-Aventis U.S. LLC.

5  
6 12. The predecessor to the entity now known as Sanofi S.A. was founded in 1973 as a  
7 subsidiary of Elf Aquitaine, a French oil company subsequently acquired by Total, when Elf  
8 Aquitaine took control of the Labaz group pharmaceutical company. In 1993, Sanofi entered the  
9 U.S. pharmaceutical market by first partnering with and then later acquiring Sterling Winthrop  
10 and its prescription pharmaceutical business in 1994. Sanofi was incorporated under the laws of  
11 France in 1994 as a *société anonyme*.

12  
13 13. Aventis was formed in 1999 when the French company Rhône-Poulenc S.A.  
14 merged with the German corporation Hoechst Marion Roussel, which itself was formed from the  
15 1995 merger of Hoechst AG with Cassella, Roussel Uclaf, and Marion Merrell Dow. The  
16 merged company was based in Schiltigheim, near Strasbourg, France.

17  
18 14. Sanofi-Aventis S.A. was formed in 2004 with the merger of Aventis and Sanofi-  
19 Synthélabo, each of which had previously been formed through mergers. Sanofi-Aventis  
20 changed its name to Sanofi S.A. on May 6, 2011, after receiving approval at its annual general  
21 meeting. The reason given by the company for the change was to make its name easier to  
22 pronounce in other countries such as China.

23  
24 15. Sanofi S.A.'s shares are listed on the New York Stock Exchange and the  
25 NASDAQ Global Market. Sanofi S.A. is required by law to register its securities in the United  
26 States under section 12(g) of the Securities Exchange Act of 1934 on Form 20-F and to file its  
27 annual reports on Form 20-F.  
28

1           16. According to Sanofi S.A.'s Form 20-F filed with the U.S. Securities and  
2 Exchange Commission for the fiscal year ended December 31, 2014, Sanofi S.A. owns 100% of  
3 the membership and voting interest of Sanofi-Aventis U.S. LLC. Therefore, Sanofi S.A. controls  
4 and directs the operations of Sanofi-Aventis U.S. LLC.  
5

6           17. Sanofi-Aventis U.S. LLC, according to Sanofi S.A.'s Form 20-F, was formed on  
7 June 28, 2000 as a Delaware limited liability company whose principal activity was identified as  
8 "Pharmaceuticals."  
9

10           18. Upon information and belief, Aventis Pharma S.A. was formed as a successor in  
11 interest to Rhone-Poulenc Rorer, S.A.

12           19. At all times material to this lawsuit, Defendants Sanofi S.A., Aventis Pharma  
13 S.A., and Sanofi-Aventis U.S. LLC were engaged in the business of, and/or were successors in  
14 interest to, entities engaged in the business of researching, analyzing, licensing, designing,  
15 formulating, compounding, testing, manufacturing, producing, processing, assembling,  
16 inspecting, distributing, marketing, labeling, promoting, packaging, advertising, and/or selling  
17 the prescription drug TAXOTERE® to the general public, including Plaintiff.  
18

19           20. At all times material to this lawsuit, Defendants were authorized to do business  
20 within the State of California; did in fact transact and conduct business in the State of California;  
21 derived substantial revenue from goods and products used in the State of California; and supplied  
22 TAXOTERE® within the State of California.  
23

24           21. At all relevant times, and as more fully set forth below, Defendants acted in  
25 conjunction with other affiliated, related, jointly owned and/or controlled entities or subsidiaries,  
26 including each other, in the development, marketing, production, labeling, promoting, packaging,  
27 advertising, and/or selling of TAXOTERE® to the general public, including Plaintiff.  
28

1 Defendants acted jointly and/or as each other's agents, within the course and scope of the  
2 agency, with respect to the conduct alleged in this Complaint, such that any individuality and  
3 separateness between Defendants had ceased and these Defendants became the alter-ego of one  
4 another and are jointly-liable for their misconduct and wrongful acts as alleged herein.  
5

6 22. As the corporate parent of these wholly-owned subsidiaries, Sanofi S.A. directs  
7 and controls the operations of Aventis Pharma S.A. and Sanofi-Aventis U.S. LLC. Accordingly,  
8 there exists, and at all relevant times herein existed, a unity of interest, ownership, and conduct  
9 between Sanofi S.A., Aventis Pharma S.A., and Sanofi-Aventis U.S. LLC with regard to the  
10 manufacture, distribution, development, testing, and labeling of the TAXOTERE® in question  
11 and with regard to other related conduct, such that any individuality and separateness between  
12 Defendants had ceased and these Defendants became the alter-ego of one another.  
13

14 23. Sanofi S.A., through its complicated web of various affiliates, wholly-owned  
15 subsidiaries, and predecessor companies, including Aventis Pharma S.A. and Sanofi-Aventis  
16 U.S. LLC, has been directly involved in and has overseen the invention, development, clinical  
17 trials, and strategy for marketing, distributing, selling, and promoting Taxotere® (docetaxel)  
18 throughout the world and in the United States. Sanofi S.A. markets Taxotere® (docetaxel)  
19 worldwide in over 100 different countries. When press releases are issued announcing the  
20 introduction, marketing, and distribution of Taxotere® (docetaxel) in a new country, the press  
21 releases are issued by Sanofi S.A., or before 2011 when Sanofi S.A. changed its name, by  
22 Sanofi-Aventis.  
23  
24

25 **DEFENDANTS' INVOLVEMENT IN THE DEVELOPMENT, PATENTING,**  
26 **TESTING, MARKETING, AND SALE OF TAXOTERE® (DOCETAXEL)**  
27  
28

1           24. TAXOTERE® is a drug used in the treatment of various forms of cancer,  
2 including but not limited to breast cancer. TAXOTERE® is a part of a family of drugs  
3 commonly referred to as Taxanes.

4           25. Taxanes are diterpenes produced by the plants of the genus Taxus (yews)  
5 featuring a taxadiene core. Taxanes are widely used as chemotherapy agents. Taxane agents  
6 include paclitaxel (TAXOL®) and TAXOTERE®. Taxane agents also exist as cabazitaxel and in  
7 generic forms as well.

8           26. Paclitaxel (TAXOL®), which was developed, manufactured, and distributed by  
9 Bristol-Myers Squibb and is the main competitor drug to TAXOTERE®, was first approved by  
10 the U.S. Food and Drug Administration (FDA) in December 1992.

11           27. The drug and chemical compound that would become known as TAXOTERE®  
12 was invented and developed by Michel Colin, Daniel Guenard, Françoise Gueritte-Voegelien,  
13 and Pierre Potier of Rhone-Poulence Santé. TAXOTERE® was designed as an increased potency  
14 Taxane.

15           28. The initial patent disclosing the formulation and computation of TAXOTERE®  
16 was issued to Rhone-Poulence Santé and subsequently assigned to Defendant Aventis Pharma  
17 S.A in March 1989. Sanofi S.A. owns 100% of the shares or financial interest of Aventis Pharma  
18 S.A., and Sanofi S.A. therefore directs and controls the operations and activities of Aventis  
19 Pharma S.A. Since March 1989, Sanofi S.A., through its wholly-owned subsidiary, Aventis  
20 Pharma S.A., has controlled the development and been the owner, holder, or assignee of the  
21 patents related to TAXOTERE®.

1           29. In 1989, Sanofi issued the prior art publication F. Lavelle, *Experimental*  
2 *Properties of RP 56976*, a taxol derivative. RP 56976 was the number that Rhone-Polunec,  
3 Aventis Pharma S.A.'s predecessor, assigned to docetaxel.

4           30. Sanofi began enrolling patients in Phase I clinical testing trials on June 21, 1990.  
5 The study reporting on these trials was called the "TAX 001" study, which continued until May  
6 13, 1992. The results from the TAX 001 study were reported on May 24, 1994. Accordingly,  
7 Sanofi was not only involved in the patenting and assignment of the compound Taxotere®  
8 (docetaxel), but Sanofi was also directly involved in the clinical trials and testing of the  
9 compound Taxotere® (docetaxel). Accordingly, Sanofi S.A. and Aventis Pharma S.A. have  
10 direct and personal knowledge of the results of those tests and Sanofi S.A., Aventis Pharma S.A.,  
11 and Sanofi-Aventis U.S. LLC's decisions to withhold information and data from those tests from  
12 physicians, healthcare providers, patients, and Plaintiff in the United States.

13           31. Rhône-Poulenc Rorer S.A., before it was acquired by or merged into Aventis  
14 Pharma S.A., initially sought FDA approval for TAXOTERE® in December 1994. The FDA's  
15 Oncologic Drugs Advisory Committee panel unanimously recommended the rejection of Rhône-  
16 Poulenc Rorer S.A.'s request for the approval of TAXOTERE®, because TAXOTERE® was  
17 more toxic than its competing drug TAXOL®, which had already received FDA approval, and  
18 because more studies of docetaxel's side effects were needed.

19           32. TAXOTERE® was ultimately approved by the FDA on May 14, 1996. According  
20 to its product labeling, TAXOTERE® was "indicated for the treatment of patients with locally  
21 advanced or metastatic breast cancer after failure of prior chemotherapy."  
22

23           33. After the initial FDA approval, Defendants sought and were granted FDA  
24 approval for additional indications for TAXOTERE®. Based on self-sponsored clinical trials,  
25  
26  
27  
28



1 Defendants claimed superiority over other chemotherapy products approved to treat breast  
2 cancer. Defendants' marketing claims included claims of superior efficacy over the lower  
3 potency Taxane product paclitaxel (TAXOL®), which was the primary competitor product to  
4 TAXOTERE®.  
5

6 34. Contrary to Defendants' claims of superior efficacy, post market surveillance has  
7 shown that the more potent and more toxic TAXOTERE® does not in fact offer increased  
8 efficacy or benefits over other Taxanes, as Defendants have claimed and advertised. Defendants  
9 concealed the existence of studies from the FDA, physicians, and patients that refuted  
10 Defendants' claims. A study published in 2008 in the New England Journal of Medicine, titled  
11 *Weekly Paclitaxel in the Adjuvant Treatment of Breast Cancer*, concluded that TAXOL®  
12 (paclitaxel) was more effective than TAXOTERE® (docetaxel) for patients undergoing standard  
13 adjuvant chemotherapy with doxorubicin and cyclophosphamide.  
14

15 35. Despite the publication of this study, Defendants continued to make false and  
16 misleading statements promoting the "superior efficacy" of TAXOTERE® over the competing  
17 product paclitaxel (TAXOL®). As a result of these false and misleading statements, in 2009, the  
18 FDA issued a warning letter to Sanofi-Aventis (the same company as Defendant Sanofi S.A.  
19 before Sanofi-Aventis changed its name in 2011) citing these unsubstantiated claims of  
20 superiority over paclitaxel stating:  
21  
22

23 The Division of Drug Marketing, Advertising, and  
24 Communications (DDMAC) of the U.S. Food and Drug  
25 Administration (FDA) has reviewed a professional reprint carrier  
26 [US.DOC.07.04.078] for Taxotere (docetaxel) Injection  
27 Concentrate, Intravenous Infusion (Taxotere) submitted under  
28 cover of Form FDA 2253 by sanofi-aventis (SA) and obtained at  
the American Society of Clinical Oncology annual meeting in June

1 2008. The reprint carrier includes a reprint<sup>1</sup> from the Journal of  
2 Clinical Oncology, which describes the TAX 311 study. This  
3 reprint carrier is false or misleading because it presents  
4 unsubstantiated superiority claims and overstates the efficacy of  
5 Taxotere. Therefore, this material misbrands the drug in violation  
6 of the Federal Food, Drug, and Cosmetic Act (the Act), 21 U.S.C.  
7 352(a) and 321(n). Cf. 21 CFR 202.1(e)(6)(i), (ii) & (e)(7)(ii).<sup>2</sup>

8 36. A Qui Tam lawsuit was also filed against Sanofi-Aventis and its affiliates in the  
9 United States District Court for the Eastern District of Pennsylvania by a former employee  
10 accusing Sanofi-Aventis and its affiliates of engaging in a fraudulent marketing scheme, paying  
11 kickbacks, and providing other unlawful incentives to entice physicians to use TAXOTERE®.  
12 See *U.S. ex rel. Gohil v. Sanofi-Aventis U.S. Inc.*, Civil Action No. 02-2964 (E.D. Pa. 2015).

13 37. Beginning in 1996, Sanofi S.A., Aventis Pharma S.A., and Sanofi-Aventis U.S.  
14 LLC and their predecessors and affiliates designed, directed, and/or engaged in a marketing  
15 scheme that promoted TAXOTERE® for off-label uses not approved by the FDA. The scheme  
16 took two forms: first, Defendants trained and directed their employees to misrepresent the safety  
17 and effectiveness of the off-label use of Taxotere to expand the market for TAXOTERE® in  
18 unapproved settings; and second, Defendants paid healthcare providers illegal kickbacks in the  
19 form of sham grants, speaking fees, travel, entertainment, sports and concert tickets,  
20 preceptorship fees, and free reimbursement assistance to incentivize healthcare providers to  
21 prescribe TAXOTERE® for off-label uses. As a direct result of Defendants' fraudulent  
22

---

23  
24 <sup>1</sup> Jones SE, Erban J, Overmoyer B, et al. Randomized phase III study of docetaxel compared  
25 with paclitaxel in metastatic breast cancer. *J Clin Oncol.* 2005;23(24):5542-51.

26 <sup>2</sup> Correspondence signed by Keith Olin, Pharm.D., Regulatory Review Officer in the FDA's  
27 Division of Drug Marketing, Advertising and Communications to MaryRose Salvacion, Director  
28 of US Regulatory Affairs Marketed Products at sanofi-aventis.

1 marketing scheme, Defendants dramatically increased revenue on sales of TAXOTERE® from  
2 \$424 million in 2000 to \$1.4 billion in 2004. *U.S. ex rel. Gohil v. Sanofi-Aventis U.S. Inc.*, 96 F.  
3 Supp. 3d 504, 508 (E.D. Pa. 2015).

4  
5 38. As a direct result of their wrongful conduct and illegal kickback schemes,  
6 Defendants directly caused thousands of individuals to be exposed to docetaxel's  
7 (TAXOTERE®) increased toxicity as compared to other available less toxic products.

8  
9 39. As a direct result of their aforementioned conduct, Defendants caused thousands  
10 of individuals to be exposed to increased frequency and more severe side effects, including but  
11 not limited to disfiguring permanent alopecia (hair loss).

12 **DEFENDANTS' COVER UP IN THE UNITED STATES**  
13 **REGARDING THE CAUSAL RELATIONSHIP BETWEEN TAXOTERE® AND**  
14 **PERMANENT DISFIGURING HAIR LOSS**

15 40. Although alopecia, or hair loss, is a common side effect related to chemotherapy  
16 drugs, permanent alopecia is not. Defendants, through their publications and marketing  
17 materials, misled Plaintiff, the public, and the medical community to believe that, as with other  
18 chemotherapy drugs that cause alopecia, patients' hair would grow back.

19 41. Defendants knew or should have known that the rate of permanent alopecia  
20 related to TAXOTERE® was far greater than with other products available to treat the same  
21 condition as Defendants' product.

22  
23 42. Permanent baldness (permanent alopecia) is a disfiguring condition, especially for  
24 women. Women who experienced disfiguring permanent alopecia as a result of the use of  
25 TAXOTERE® suffer great mental anguish as well as economic damages, including but not  
26 limited to loss of work or inability to work due to significant psychological damage.  
27  
28

1           43.     Although women might accept the possibility of permanent baldness as a result of  
2 the use of TAXOTERE® if no other product were available to treat their cancer, this was not the  
3 case. Before Defendants' wrongful conduct resulted in thousands of women being exposed to the  
4 side effects of TAXOTERE®, there were already similar products on the market that were at  
5 least as effective as TAXOTERE® and did not subject female users to the same risk of  
6 disfiguring permanent alopecia as does TAXOTERE®.  
7

8           44.     Beginning in the late 1990's, Sanofi S.A. and Aventis Pharma S.A. sponsored  
9 and/or were aware of a study titled the GEICAM 9805 study. In 2005, Sanofi S.A. and Aventis  
10 Pharma S.A. knew that the GEICAM 9805 study demonstrated that 9.2% of patients who took  
11 TAXOTERE® had persistent alopecia, or hair loss, for up to 10 years and 5 months, and in some  
12 cases longer, after taking TAXOTERE®. Sanofi S.A. and Aventis Pharma S.A. knowingly,  
13 intentionally, and wrongfully withheld these results contained in the GEICAM 9805 study from  
14 physicians, healthcare providers, patients, and Plaintiff in the United States.  
15

16           45.     In 2006, Defendants knew or should have known that a Denver-based oncologist  
17 in the United States had observed that an increased percentage (6.3%) of his patients who had  
18 taken TAXOTERE® suffered from permanent disfiguring hair loss for years after the patients  
19 had stop taking TAXOTERE®.  
20

21           46.     Despite Defendants' knowledge of the relevant findings from the GEICAM 9805  
22 study, as well as reports from patients who had taken TAXOTERE® and suffered from  
23 permanent disfiguring hair loss, Defendants failed to provide accurate information and proper  
24 warnings to physicians, healthcare providers, and patients in the United States, including  
25 Plaintiff, that patients who take TAXOTERE® are at a significantly increased risk of suffering  
26 from permanent disfiguring hair loss. Instead, Defendants chose to withhold this information in  
27  
28

1 the United States despite advising physicians, patients, and regulatory agencies in other  
2 countries, including the European Union and Canada, that TAXOTERE® causes an increased  
3 risk of permanent disfiguring hair loss. Defendants instead continued to warn or advise  
4 physicians, healthcare providers, patients, and Plaintiff in the United States only with the  
5 generic, vague, and insufficient warning that “hair generally grows back” after taking  
6 TAXOTERE®.  
7

8 47. Users of TAXOTERE® were not presented with the opportunity to make an  
9 informed choice as to whether the benefits of TAXOTERE® were worth its associated risks.  
10 Defendants engaged in a pattern of deception by overstating the benefits of TAXOTERE® as  
11 compared to other alternatives while simultaneously failing to warn of the risk of disfiguring  
12 permanent alopecia.  
13

14 48. Although Defendants publish information in other countries to individual patients  
15 as well as regulatory agencies related to TAXOTERE® and the risk of permanent alopecia, the  
16 words permanent alopecia or permanent hair loss do not appear in any information published by  
17 Defendants in the United States.  
18

19 49. As a direct result of Defendants’ wrongful and deceptive acts, thousands of  
20 women were exposed to the risk of disfiguring permanent alopecia without any warning and  
21 without any additional benefit.  
22

23 50. As a direct result of Defendants’ failure to warn patients of the risk of disfiguring  
24 permanent alopecia in the United States, thousands of women, including Plaintiff, as well as their  
25 health care providers, were deprived of the opportunity to make an informed decision as to  
26 whether the benefits of using TAXOTERE® over other comparable products was justified.  
27  
28

1 51. Defendants prayed on one of the most vulnerable groups of individuals at the  
2 most difficult time in their lives. Defendants obtained billions of dollars in increased revenues at  
3 the expense of unwary cancer victims simply hoping to survive their condition and return to a  
4 normal life.

5  
6 52. TAXOTERE® was defective in its design. TAXOTERE® was designed as an  
7 increased potency Taxane. This increased potency resulted in increased toxicity, which can be  
8 directly related to increased adverse events. The most likely reason Defendants designed the  
9 increased potency Taxane was to enable them to obtain a patent (and the concurrent market  
10 advantage) on a product that in fact was not novel but instead only more dangerous.

11  
12 53. Plaintiff Ami Dodson, as well as numerous other women, were the innocent  
13 victims of Defendants' greed, recklessness, and willful and wanton conduct.

14 **PLAINTIFF AMI DODSON'S DIAGNOSIS, TREATMENT, AND**  
15 **RESULTING DISFIGURING PERMANENT ALOPECIA**

16 54. On or around March 3rd, 2010, Plaintiff underwent a left breast biopsy at  
17 Hampton Roads Surgical Specialists, 109 Philip Roth Street, Newport News, Virginia 23606.

18 55. The March 3<sup>rd</sup>, 2010 biopsy demonstrated an infiltrating, differentiated ductal  
19 carcinoma in Plaintiff's left breast.

20  
21 56. Following the March 3rd, 2010 right breast partial mastectomy, Plaintiff met with  
22 her oncologist to discuss further treatment. Neither Plaintiff nor her treating healthcare providers  
23 were aware of or informed by Defendants that disfiguring permanent alopecia can occur  
24 following treatment with TAXOTERE®. Accordingly, Plaintiff underwent chemotherapy that  
25 included TAXOTERE®. Following the completion of chemotherapy, Plaintiff suffered from  
26 disfiguring permanent alopecia as a result of receiving chemotherapy with TAXOTERE®.  
27

28 **NATURE OF THE CLAIMS**

1           57.     Despite the fact that Defendants disclosed risks associated with TAXOTERE®  
2 and permanent alopecia to patients and regulatory agencies in other countries, Defendants failed  
3 to either alert Plaintiff, the public, and the scientific community in the United States or perform  
4 further investigation into the safety of TAXOTERE® regarding the side effect of disfiguring  
5 permanent alopecia. Defendants failed to update the warnings for TAXOTERE®, and they failed  
6 to disclose the results of additional studies as Defendants learned new facts regarding the defects  
7 and risks of their product.  
8

9           58.     In particular, Defendants:  
10

- 11           (a)     failed to disclose their investigation and research from 2005, including but  
12                 not limited to the results of the GEICAM 9805 study, and failed to further  
13                 investigate, research, study, and define fully and adequately the safety  
14                 profile of TAXOTERE® in response to these studies;
- 15           (b)     failed to provide adequate warnings about the true safety risks associated  
16                 with the use of TAXOTERE®;
- 17           (c)     failed to provide adequate warning regarding the pharmacokinetic and  
18                 pharmacodynamic variability of TAXOTERE® and its effects on the  
19                 degree or severity of side effects related to permanent alopecia;
- 20           (d)     failed to disclose in the “Warnings” Section that permanent alopecia is a  
21                 frequent side effect associated with the use of TAXOTERE®;
- 22           (e)     failed to advise prescribing physicians, such as Plaintiff’s physicians, to  
23                 instruct patients that permanent alopecia was a side effect, much less a  
24                 frequent side effect, linked to TAXOTERE®;
- 25           (f)     failed to provide adequate instructions on how to intervene and/or reduced  
26                 the risk of permanent alopecia related to the use of TAXOTERE®;
- 27           (g)     failed to provide adequate warnings and information related to the  
28                 increased risks of permanent alopecia in certain genome groups;
- (h)     failed to provide adequate warnings regarding the increased risk of  
                  permanent alopecia with the use of TAXOTERE® as compared to other  
                  products designed to treat the same conditions as TAXOTERE®; and

1 (i) failed to include a “**BOXED WARNING**” related to permanent or  
2 persistent alopecia.

3 59. During the years since first marketing TAXOTERE® in the U.S., Defendants  
4 modified the U.S. labeling and prescribing information for TAXOTERE® on multiple occasions.  
5 Defendants failed, however, to include any warning whatsoever related to permanent alopecia  
6 despite Defendants’ awareness of the frequency and severity of this side effect.

7  
8 60. Before applying for and obtaining approval of TAXOTERE®, Defendants knew  
9 or should have known that consumption of TAXOTERE® was associated with and/or would  
10 cause disfiguring side effects including disfiguring permanent alopecia.

11 61. Despite knowing that TAXOTERE® was likely to result in increased rates of  
12 alopecia and disfiguring permanent alopecia, Defendants produced, marketed, and distributed  
13 TAXOTERE® in the United States.

14  
15 62. Defendants failed to adequately conduct complete and proper testing of  
16 TAXOTERE® prior to filing their New Drug Application for TAXOTERE®.

17 63. From the date Defendants received FDA approval to market TAXOTERE®,  
18 Defendants made, distributed, marketed, and sold TAXOTERE® without adequate warning to  
19 Plaintiff or Plaintiff’s prescribing physicians that TAXOTERE® was associated with disfiguring  
20 permanent alopecia.

21  
22 64. Defendants ignored the association between the use of TAXOTERE® and the risk  
23 of disfiguring permanent alopecia.

24  
25 65. Defendants failed to disclose information that they possessed regarding their  
26 failure to adequately test and study TAXOTERE® related to the side effect of disfiguring  
27 permanent alopecia. Plaintiff and her healthcare providers could not have discovered  
28



1 Defendants' false representations and failures to disclose information through the exercise of  
2 reasonable diligence.

3           66. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
4 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
5 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
6 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
7 past and future loss of earnings; past and future loss and impairment of earning capacity;  
8 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
9 emotional distress; increased risk of future harm; past, present, and future physical and mental  
10 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
11 and enjoyment of life.

12  
13  
14           **ESTOPPEL FROM PLEADING STATUTES OF LIMITATIONS OR REPOSE**

15           67. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
16 the Complaint as if fully set forth at length herein.

17  
18           68. Plaintiff is within the applicable statutes of limitations for the claims presented  
19 herein because Plaintiff did not discover the defects and unreasonably dangerous condition of  
20 Defendants' TAXOTERE® and the risks associated with its use in the form of disfiguring  
21 permanent alopecia until approximately May 4, 2015. Plaintiff could not reasonably have  
22 discovered the defects and unreasonably dangerous condition of Defendants' TAXOTERE® and  
23 the risks associated with its use prior, due to the Defendants' failure to warn, suppression of  
24 important information about the risks of the drug, including but not limited to the true risk  
25 benefit profile, and the risk of disfiguring permanent alopecia and damages known by  
26 Defendants to result from the use of TAXOTERE®, and other acts and omissions.  
27  
28

1           69. In addition, Defendants are estopped from relying on any statutes of limitations or  
2 repose by virtue of their acts of fraudulent concealment, affirmative misrepresentations and  
3 omissions, which include Defendants' intentional concealment from Plaintiff, Plaintiff's  
4 prescribing health care professionals and the general consuming public that Defendants'  
5 TAXOTERE® was defective, unreasonably dangerous and carried with it the serious risk of  
6 developing the injuries Plaintiff has suffered while aggressively and continually marketing and  
7 promoting TAXOTERE® as safe and effective. This includes, but is not limited to, Defendants'  
8 failure to disclose and warn of the risk of disfiguring permanent alopecia and injuries known by  
9 Defendants to result from use of TAXOTERE®, for example, and not by way of limitation,  
10 internal concern about reports and studies finding an increased risk of disfiguring permanent  
11 alopecia; suppression of information about these risks and injuries from physicians and patients,  
12 including Plaintiff; use of sales and marketing documents and information that contained  
13 information contrary to the internally held knowledge regarding the aforesaid risks and injuries;  
14 and overstatement of the efficacy and safety of TAXOTERE®.

15  
16  
17  
18           70. Defendants had a duty to disclose that TAXOTERE® was defective,  
19 unreasonably dangerous and that the use of Defendants' TAXOTERE® carried with it the  
20 serious risk of developing disfiguring permanent alopecia as the Plaintiff has suffered.  
21 Defendants breached that duty.

22  
23           71. Plaintiff, Plaintiff's prescribing health care professionals and the general  
24 consuming public, had no knowledge of, and no reasonable way of discovering, the defects  
25 found in Defendants' TAXOTERE® or the true risks associated with her use at the time she  
26 purchased and used Defendants' TAXOTERE®.  
27  
28

1 72. Defendants did not notify, inform, or disclose to Plaintiff, Plaintiff's prescribing  
2 health care professionals or the general consuming public that Defendants' TAXOTERE® was  
3 defective and that its use carried with it the serious risk of developing the injuries Plaintiff has  
4 suffered and complained of herein.

5  
6 73. Because Defendants failed in their duty to notify Plaintiff, Plaintiff's prescribing  
7 health care professionals and the general consuming public that their TAXOTERE® was  
8 defective and, further, actively attempted to conceal this fact, Defendants should be estopped  
9 from asserting defenses based on statutes of limitation or repose.

10  
11 74. Accordingly, Plaintiff files this lawsuit within the applicable statutes of  
12 limitations, Plaintiff could not by exercise of reasonable diligence have discovered any  
13 wrongdoing, nor could have discovered the causes of her injuries at an earlier time, and when  
14 Plaintiff's injuries were discovered, their causes were not immediately known or knowable based  
15 on the lack of necessary information, which was suppressed by the Defendants. Further, the  
16 relationship of Plaintiff's injuries to TAXOTERE® exposure through the Defendants' drug was  
17 inherently difficult to discover, in part due to the Defendants' knowing suppression of important  
18 safety information. Consequently, the discovery rule should be applied to toll the running of the  
19 statutes of limitations until Plaintiff discovered, or by the exercise of reasonable diligence should  
20 have discovered, that Plaintiff may have a basis for an actionable claim.

21  
22  
23 **FIRST CLAIM FOR RELIEF**  
24 **(Product Liability for Negligence – Against All Defendants)**

25 75. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
26 the Complaint as if fully set forth at length herein.

27 76. Defendants had a duty to exercise reasonable care in the designing, researching,  
28 manufacturing, marketing, supplying, promoting, packaging, sale, and/or distribution of

1 TAXOTERE® into the stream of commerce, including a duty to assure that the product would  
2 not cause users to suffer unreasonable, dangerous side effects.

3 77. Defendants failed to exercise reasonable care in the designing, researching,  
4 manufacturing, marketing, supplying, promoting, packaging, sale, testing, quality assurance,  
5 quality control, and/or distribution of TAXOTERE® into interstate commerce in that Defendants  
6 knew or should have known that using TAXOTERE® created a high risk of unreasonable,  
7 disfiguring side effects, including personal injuries that are permanent and lasting in nature such  
8 as disfiguring permanent alopecia, mental anguish, and diminished enjoyment of life, economic  
9 loss, and loss of economic opportunity.  
10

11 78. The negligence of Defendants, their agents, servants, and/or employees, included  
12 but was not limited to the following acts and/or omissions:  
13

- 14 (a) Manufacturing, producing, promoting, formulating, creating, and/or  
15 designing TAXOTERE® without thoroughly testing it;
- 16 (b) Manufacturing, producing, promoting, formulating, creating, and/or  
17 designing TAXOTERE® without adequately testing it;
- 18 (c) Not conducting sufficient testing programs to determine whether or not  
19 TAXOTERE® was safe for use in that Defendants knew or should have  
20 known that TAXOTERE® was unsafe and unfit for use by reason of the  
21 dangers to its users;
- 22 (d) Selling TAXOTERE® without disclosing its dangers and risks and/or  
23 making proper and sufficient tests to determine the dangers and risks to its  
24 users;
- 25 (e) Negligently failing to adequately and correctly warn Plaintiff, Plaintiffs'  
26 physicians, the public, and the medical and healthcare profession of the  
27 dangers of TAXOTERE®;
- 28 (f) Failing to provide adequate instructions regarding safety precautions to be  
observed by users, handlers, and persons who would reasonably and  
foreseeably come into contact with, and more particularly, use,  
TAXOTERE®;

- 1 (g) Failing to test TAXOTERE® and/or failing to adequately, sufficiently,  
2 and properly test TAXOTERE®;
- 3 (h) Negligently advertising and recommending the use of TAXOTERE®  
4 without sufficient knowledge as to its dangerous propensities;
- 5 (i) Negligently representing that TAXOTERE® was safe for use for its  
6 intended purpose, when, in fact, it was unsafe;
- 7 (j) Negligently and falsely representing that TAXOTERE® was superior to  
8 other commercially available products designed to treat the same forms of  
9 cancer TAXOTERE® was designed to treat;
- 10 (k) Negligently designing TAXOTERE® in a manner that was dangerous to  
11 its users;
- 12 (l) Negligently manufacturing TAXOTERE® in a manner that was dangerous  
13 to its users;
- 14 (m) Negligently producing TAXOTERE® in a manner that was dangerous to  
15 its users;
- 16 (n) Negligently assembling TAXOTERE® in a manner that was dangerous to  
17 its users;
- 18 (o) Concealing information from Plaintiff, Plaintiff's physicians, the public,  
19 and the FDA in knowing that TAXOTERE® was unsafe, dangerous,  
20 and/or non-conforming with FDA regulations; and
- 21 (p) Improperly concealing from and/or misrepresenting information to  
22 Plaintiff, Plaintiff's physicians, other healthcare professionals, and/or the  
23 FDA concerning the severity of risks and dangers of TAXOTERE®  
24 compared to other forms of treatment for breast cancer.

25 79. Defendants underreported, underestimated, and downplayed the serious dangers  
26 and risk associated with TAXOTERE®.

27 80. Defendants negligently conveyed that the safety risks and/or dangers of  
28 TAXOTERE® were comparable with other forms of treatment for the same conditions for which  
TAXOTERE® was prescribed to treat.

1 81. Defendants were negligent in the designing, researching, supplying,  
2 manufacturing, promoting, packaging, distributing, testing, advertising, warning, marketing, and  
3 selling of TAXOTERE® in that they:

- 4
- 5 (a) Failed to use due care in designing and manufacturing TAXOTERE® so  
6 as to avoid the aforementioned risks to individuals when TAXOTERE®  
7 was used for the treatment of breast cancer;
- 8 (b) Failed to accompany their product with proper and/or accurate warnings  
9 regarding all possible adverse side effects associated with the use of  
10 TAXOTERE®;
- 11 (c) Failed to accompany their product with proper warnings regarding all  
12 possible adverse side effects concerning the risks and dangers associated  
13 with TAXOTERE®;
- 14 (d) Failed to accompany their product with accurate warnings regarding the  
15 risks of all possible adverse side effects concerning TAXOTERE®;
- 16 (e) Failed to warn Plaintiff and Plaintiff's physicians of the severity and  
17 duration of such adverse effects, as the warnings given did not accurately  
18 reflect the symptoms, or severity, of the side effects;
- 19 (f) Failed to conduct adequate testing, including pre-clinical and clinical  
20 testing and post-marketing surveillance, to determine the safety, dangers,  
21 and risks associated with TAXOTERE®.
- 22 (g) Failed to warn Plaintiff and Plaintiff's physicians before actively  
23 encouraging the sale of TAXOTERE®, either directly or indirectly, orally  
24 or in writing, about the need for more comprehensive and regular medical  
25 monitoring than usual to ensure early discovery of potentially serious side  
26 effects; and
- 27 (h) Were otherwise careless and/or negligent.

28 82. Despite the fact that Defendants knew or should have known that TAXOTERE®  
caused unreasonably dangerous side effects, Defendants continued and continue to market,  
manufacture, distribute, and/or sell TAXOTERE® to consumers, including Plaintiff.

83. Defendants negligently and improperly failed to perform sufficient tests, forcing  
Plaintiff, Plaintiff's physicians, and/or hospitals to rely on safety information that did not

1 accurately represent the risks and benefits associated with the use of TAXOTERE® as compared  
2 to other products already commercially available to treat the same types of cancer TAXOTERE®  
3 was designed to treat.

4  
5 84. Defendants knew or should have known that consumers such as Plaintiff would  
6 use their product and would foreseeably suffer injury as a result of Defendants' failure to  
7 exercise reasonable care, as set forth above.

8  
9 85. Defendants' negligence was the proximate cause of Plaintiff's injuries, harms,  
10 damages, and losses.

11  
12 86. As a direct and proximate result of the use of TAXOTERE®, Plaintiff  
13 experienced disfiguring permanent alopecia.

14  
15 87. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
16 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
17 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
18 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
19 past and future loss of earnings; past and future loss and impairment of earning capacity;  
20 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
21 emotional distress; increased risk of future harm; past, present, and future physical and mental  
22 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
23 and enjoyment of life.

24  
25 **SECOND CLAIM FOR RELIEF**  
26 **(Strict Products Liability – Design and Manufacturing Defects –**  
27 **Against All Defendants)**

28 88. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
the Complaint as if fully set forth at length herein.

1 89. At all times relevant, Defendants designed, researched, manufactured, tested,  
2 advertised, promoted, marketed, sold, distributed, and/or have recently acquired the entities that  
3 have designed, researched, manufactured, tested, advertised, promoted, marketed, sold, and  
4 distributed TAXOTERE® as hereinabove described that was used by Plaintiff.  
5

6 90. TAXOTERE® was expected to and did reach the usual consumers, handlers, and  
7 persons coming into contact with said product without substantial change in the condition in  
8 which it was produced, manufactured, sold, distributed, and marketed by Defendants.  
9

10 91. At those times, TAXOTERE® was in an unsafe, defective, and inherently  
11 dangerous condition, which was dangerous to users, and in particular, Plaintiff.

12 92. The TAXOTERE® designed, researched, manufactured, tested, advertised,  
13 promoted, marketed, sold, and distributed by Defendants was defective in design or formulation  
14 in that, when it left the hands of the manufacturer and/or suppliers, the foreseeable risks  
15 exceeded the benefits associated with the design or formulation of TAXOTERE®.  
16

17 93. The TAXOTERE® designed, researched, manufactured, tested, advertised,  
18 promoted, marketed, sold, and distributed by Defendants was defective in design and/or  
19 formulation, in that, when it left the hands of Defendants, manufacturers, and/or suppliers, it was  
20 unreasonably dangerous, and it was more dangerous and posed risk greater than an ordinary  
21 consumer would expect.  
22

23 94. At all times relevant, TAXOTERE® was in a defective condition and unsafe, and  
24 Defendants knew or had reason to know that TAXOTERE® was defective and unsafe, especially  
25 when used in the form and manner as provided by Defendants.  
26

27 95. Defendants knew, or should have known, that at all times relevant, TAXOTERE®  
28 was in a defective condition and was and is inherently dangerous and unsafe.



1           96. At the time of Plaintiff's use of TAXOTERE®, the TAXOTERE® was being  
2 used for the purposes and in a manner normally intended, namely for the treatment of breast  
3 cancer.

4           97. Defendants with this knowledge voluntarily designed TAXOTERE® in a  
5 dangerous condition for use by the public, and in particular, Plaintiff.

6           98. Defendants had a duty to create a product that was not unreasonably dangerous  
7 for its normal, intended use.

8           99. In creating TAXOTERE®, Defendants created a product that was and is  
9 unreasonably dangerous for its normal, intended use, and a safer alternative design existed.

10           100. The TAXOTERE® designed, researched, manufactured, tested, advertised,  
11 promoted, marketed, sold, and distributed by Defendants was manufactured defectively and was  
12 unreasonably dangerous to its intended users.

13           101. The TAXOTERE® designed, researched, manufactured, tested, advertised,  
14 promoted, marketed, sold, and distributed by Defendants reached the intended users in the same  
15 defective and unreasonably dangerous condition in which Defendants' TAXOTERE® was  
16 manufactured.

17           102. Defendants designed, researched, manufactured, tested, advertised, promoted,  
18 marketed, sold, and distributed a defective product that created an unreasonable risk to the health  
19 of consumers and to Plaintiff in particular; and Defendants are therefore strictly liable for the  
20 injuries sustained by Plaintiff.

21           103. Plaintiff and Plaintiff's physicians could not, by the exercise of reasonable care,  
22 have discovered TAXOTERE®'s defects mentioned herein and perceived its danger.

1           104. The TAXOTERE® designed, researched, manufactured, tested, advertised,  
2 promoted, marketed, sold, and distributed by Defendants was defective due to inadequate  
3 warnings or instructions, as Defendants knew or should have known that the product created a  
4 risk of serious and dangerous side effects including disfigurement as well as other severe and  
5 personal injuries that are permanent and lasting in nature, and Defendants failed to adequately  
6 warn of these risks.  
7

8           105. The TAXOTERE® designed, researched, manufactured, tested, advertised,  
9 promoted, marketed, sold, and distributed by Defendants was defective due to inadequate  
10 warnings and/or inadequate testing.  
11

12           106. The TAXOTERE® designed, researched, manufactured, tested, advertised,  
13 promoted, marketed, sold, and distributed by Defendants was defective due to inadequate post-  
14 marketing surveillance and/or warnings because, after Defendants knew or should have known  
15 of the risks of serious side effects, including disfigurement, as well as other severe and  
16 permanent health consequences from TAXOTERE®, they failed to provide adequate warnings to  
17 users or consumers of the product, and they continued to improperly advertise, market, and/or  
18 promote TAXOTERE®.  
19

20           107. By reason of the foregoing, Defendants are strictly liable to Plaintiff for the  
21 manufacturing, marketing, promoting, distribution, and selling of TAXOTERE®, a defective  
22 product.  
23

24           108. Defendants' defective design, manufacturing defect, and inadequate warnings of  
25 TAXOTERE® were acts that amount to willful, wanton, and/or reckless conduct by Defendants.  
26

27           109. The defects in Defendants' drug TAXOTERE® were a producing cause and a  
28 substantial factor in causing Plaintiff's injuries.

1 110. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
2 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
3 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
4 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
5 past and future loss of earnings; past and future loss and impairment of earning capacity;  
6 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
7 emotional distress; increased risk of future harm; past, present, and future physical and mental  
8 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
9 and enjoyment of life.  
10  
11

12 **THIRD CLAIM FOR RELIEF**  
13 **(Strict Products Liability – Failure to Warn**  
14 **– Against All Defendants)**

15 111. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
16 the Complaint as if fully set forth at length herein.

17 112. TAXOTERE®TAXOTERE®

18 113. Defendants failed to provide adequate warnings to physicians and users, including  
19 Plaintiff's physicians and Plaintiff, of the increased risk of disfiguring permanent alopecia  
20 associated with TAXOTERE®, and Defendants aggressively and fraudulently promoted the  
21 product to physicians.  
22

23 114. As a direct and proximate result of Defendants' failure to warn of the potentially  
24 severe adverse effects of TAXOTERE®, Plaintiff suffered disfiguring permanent alopecia and  
25 other conditions.

26 115. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
27 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
28

1 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
2 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
3 past and future loss of earnings; past and future loss and impairment of earning capacity;  
4 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
5 emotional distress; increased risk of future harm; past, present, and future physical and mental  
6 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
7 and enjoyment of life.  
8

9  
10 **FOURTH CLAIM FOR RELIEF**  
**(Breach of Express Warranty – Against All Defendants)**

11 116. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
12 the Complaint as if fully set forth at length herein.

13  
14 117. Defendants expressly warranted that TAXOTERE® was safe and well accepted  
15 by users.

16 118. TAXOTERE® does not conform to these express representations, because  
17 TAXOTERE® is not safe and has numerous serious side effects, many of which were not  
18 accurately warned about by Defendants.

19  
20 119. As a direct and proximate result of the breach of these warranties, Plaintiff  
21 suffered and will continue to suffer severe and permanent personal injuries, disfigurement,  
22 harms, and losses.

23 120. Plaintiff relied on Defendants' express warranties.

24  
25 121. Members of the medical community, including physicians and other healthcare  
26 professionals, relied upon the representations and warranties of Defendants for use of  
27 TAXOTERE® in recommending, prescribing, and/or dispensing TAXOTERE®. Defendants  
28 breached the aforesaid express warranties, as their drug TAXOTERE® was and is defective.

1 122. Defendants expressly represented to Plaintiff, Plaintiff's physicians, and/or  
2 healthcare providers that TAXOTERE® was safe and fit for use for the purposes intended, that it  
3 was of merchantable quality, that it did not produce any dangerous side effects in excess of those  
4 risks associated with other forms of treatment for cancer, that the side effects it did produce were  
5 accurately reflected in the warnings, and that it was adequately tested and fit for its intended use.  
6

7 123. Defendants knew or should have known that, in fact, their representations and  
8 warranties were false, misleading, and untrue in that TAXOTERE® was not safe and fit for the  
9 use intended, and, in fact, TAXOTERE® produced serious injuries to the users that were not  
10 accurately identified and represented by Defendants.  
11

12 124. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
13 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
14 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
15 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
16 past and future loss of earnings; past and future loss and impairment of earning capacity;  
17 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
18 emotional distress; increased risk of future harm; past, present, and future physical and mental  
19 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
20 and enjoyment of life.  
21  
22

23 **FIFTH CLAIM FOR RELIEF**  
24 **(Breach of Implied Warranty – Against All Defendants)**

25 125. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
26 the Complaint as if fully set forth at length herein.

27 126. At all times relevant, Defendants manufactured, compounded, portrayed,  
28 distributed, recommended, merchandized, advertised, promoted, and sold TAXOTERE® and/or

1 have recently acquired the entities that have manufactured, compounded, portrayed, distributed,  
2 recommended, merchandized, advertised, promoted, and sold TAXOTERE® for the treatment of  
3 various forms of cancer.

4  
5 127. At the time Defendants marketed, sold, and distributed TAXOTERE® for use by  
6 Plaintiff, Defendants knew of the use for which TAXOTERE® was intended and impliedly  
7 warranted the product to be of merchantable quality and safe and fit for such use.

8  
9 128. Defendants impliedly represented and warranted to the users of TAXOTERE®  
10 and their physicians, and/or healthcare providers that TAXOTERE® was safe and of  
11 merchantable quality and fit for the ordinary purpose for which it was to be used.

12  
13 129. Defendants' aforementioned representations and warranties were false,  
14 misleading, and inaccurate in that TAXOTERE® was unsafe, unreasonably dangerous,  
15 improper, not of merchantable quality, and defective.

16  
17 130. Plaintiff, Plaintiff's physicians, members of the medical community, and  
18 healthcare professionals relied on this implied warranty of merchantability of fitness for a  
19 particular use and purpose.

20  
21 131. Plaintiff, Plaintiff's physicians, and Plaintiff's healthcare professionals reasonably  
22 relied upon the skill and judgment of Defendants as to whether TAXOTERE® was of  
23 merchantable quality and safe and fit for its intended use.

24  
25 132. TAXOTERE® was placed into the stream of commerce by Defendants in a  
26 defective, unsafe, and inherently dangerous condition.

27  
28 133. TAXOTERE® was expected to and did reach users, handlers, and persons  
coming into contact with TAXOTERE® without substantial change in the condition in which it  
was sold.

1 134. Defendants breached the aforementioned implied warranties, as their drug  
2 TAXOTERE® was not fit for its intended purposes and uses.

3 135. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
4 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
5 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
6 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
7 past and future loss of earnings; past and future loss and impairment of earning capacity;  
8 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
9 emotional distress; increased risk of future harm; past, present, and future physical and mental  
10 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
11 and enjoyment of life.  
12  
13

14 **SIXTH CLAIM FOR RELIEF**  
15 **(Fraudulent Misrepresentation – Against All Defendants)**

16 136. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
17 the Complaint as if fully set forth at length herein.

18 137. Defendants falsely and fraudulently represented to Plaintiff, Plaintiff's physicians,  
19 the medical and healthcare community, and the public in general that TAXOTERE® had been  
20 tested and was found to be safe and effective for the treatment of certain forms of cancer.

21 138. When warning of safety and risks of TAXOTERE®, Defendants fraudulently  
22 represented to Plaintiff, Plaintiff's physicians, the medical and healthcare community, and the  
23 public in general that TAXOTERE® had been tested and was found to be safe and/or effective  
24 for its indicated use.  
25  
26  
27  
28

1 139. Defendants concealed their knowledge of docetaxel's (TAXOTERE®'s) defects  
2 from Plaintiff, Plaintiff's physicians, and the public in general and/or the medical community  
3 specifically.

4 140. Defendants concealed their knowledge of the defects in their products from  
5 Plaintiff, Plaintiff's physicians, hospitals, pharmacists, and the public in general.  
6

7 141. Defendants made these false representations with the intent of defrauding and  
8 deceiving Plaintiff, Plaintiff's physicians, the public in general, and the medical and healthcare  
9 community in particular, and were made with the intent of inducing Plaintiff, Plaintiff's  
10 physicians, the public in general, and the medical community in particular, to recommend,  
11 dispense, and/or purchase TAXOTERE® for use in the treatments of various forms of cancer,  
12 including but not limited to breast cancer, all of which evidenced a callous, reckless, willful,  
13 wanton, and depraved indifference to the health, safety, and welfare of Plaintiff.  
14

15 142. Defendants made these false representations with the intent of defrauding and  
16 deceiving Plaintiff, Plaintiff's physicians, as well as the public in general, and the medical and  
17 healthcare community in particular, and were made with the intent of inducing the public in  
18 general, and the medical community in particular, to recommend, dispense, and/or purchase  
19 TAXOTERE® for use in the treatments of various forms of cancer, including but not limited to  
20 breast cancer.  
21

22 143. When Defendants made these representations, Defendants knew those  
23 representations were false, and Defendants willfully, wantonly, and recklessly disregarded  
24 whether the representations were true.  
25

26 144. At the time Defendants made the aforesaid representations, and, at the time  
27 Plaintiff used TAXOTERE®, Plaintiff and Plaintiff's physicians were unaware of the falsity of  
28



1 Defendants' representations, and Plaintiff and Plaintiff's physicians reasonably believed them to  
2 be true.

3 145. In reliance upon Defendants' representations, Plaintiff and Plaintiff's physicians  
4 were induced to and did use and prescribe TAXOTERE®, which caused Plaintiff to sustain  
5 severe, permanent, and disfiguring personal injuries.  
6

7 146. Defendants knew and were aware or should have been aware that TAXOTERE®  
8 had not been sufficiently tested, was defective in nature, and/or that it lacked adequate and/or  
9 sufficient warnings.  
10

11 147. Defendants knew or should have known that TAXOTERE® had a potential to,  
12 could, and would cause severe and grievous injury to the users of TAXOTERE® and that  
13 TAXOTERE® was inherently dangerous in a manner that exceeded any purported, inaccurate,  
14 and/or down-played warnings.  
15

16 148. Defendants brought TAXOTERE® to the market and acted fraudulently,  
17 wantonly, and maliciously to the detriment of Plaintiff.

18 149. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
19 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
20 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
21 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
22 past and future loss of earnings; past and future loss and impairment of earning capacity;  
23 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
24 emotional distress; increased risk of future harm; past, present, and future physical and mental  
25 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
26 and enjoyment of life.  
27  
28

**SEVENTH CLAIM FOR RELIEF**  
**(Fraudulent Concealment – Against All Defendants)**

150. Plaintiff incorporates by reference the averments of the preceding paragraphs of the Complaint as if fully set forth at length herein.

151. At all times during the course of dealing between Defendants and Plaintiff and Plaintiff's healthcare providers, Defendants misrepresented the design characteristics and safety of TAXOTERE® for its intended use.

152. Defendants knew or were reckless in not knowing that its representations were false.

153. In representations made to Plaintiff and Plaintiff's healthcare providers, Defendants fraudulently concealed and intentionally omitted the following material information:

- (a) that TAXOTERE® was not as safe as other forms of treatment for which TAXOTERE® was marketed and sold to cancer patients;
- (b) that the risks of adverse events with TAXOTERE® were higher than those with other forms of treatment for which TAXOTERE® was marketed and sold to cancer patients;
- (c) that the risks of adverse events with TAXOTERE® were not adequately tested and/or known by Defendants;
- (d) that Defendants were aware of dangers in TAXOTERE®, in addition to and above and beyond those associated with other forms of treatment for cancer patients;
- (e) that TAXOTERE® was defective in that it caused dangerous side effects as well as other severe and permanent health consequences in a much more and significant rate than other forms of treatment for cancer patients;
- (f) that TAXOTERE® was manufactured negligently;
- (g) that TAXOTERE® was manufactured defectively;
- (h) that TAXOTERE® was manufactured improperly;
- (i) that TAXOTERE® was designed negligently;

1 (j) that TAXOTERE® was designed defectively; and

2 (k) that TAXOTERE® was designed improperly.

3  
4 154. Defendants had a duty to disclose to Plaintiff, Plaintiff's physicians, hospitals,  
5 and/or healthcare providers the defective nature of TAXOTERE®, including but not limited to  
6 the heightened risks of disfiguring permanent alopecia.

7  
8 155. Defendants had sole access to material facts concerning the defective nature of  
9 TAXOTERE® and its propensity to cause serious and dangerous side effects, and therefore  
10 cause damage to persons who used TAXOTERE®, including Plaintiff, in particular.

11 156. Defendants' concealment and omissions of material facts concerning the safety of  
12 TAXOTERE® was made purposefully, willfully, wantonly, and/or recklessly to mislead  
13 Plaintiff, Plaintiff's physicians, hospitals, and healthcare providers into reliance on the continued  
14 use of TAXOTERE® and to cause them to purchase, prescribe, and/or dispense TAXOTERE®  
15 and/or use TAXOTERE®.

16  
17 157. Defendants knew that Plaintiff, Plaintiff's physicians, hospitals, and/or healthcare  
18 providers had no way to determine the truth behind Defendants' concealment and omissions,  
19 including the material omissions of facts surrounding TAXOTERE® set forth herein.

20  
21 158. Plaintiff, Plaintiff's physicians, healthcare providers, and/or hospitals reasonably  
22 relied on information revealed by Defendants that negligently, fraudulently, and/or purposefully  
23 did not include facts that were concealed and/or omitted by Defendants.

24  
25 159. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
26 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
27 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
28 limited to: past and future medical expenses; psychological counseling and therapy expenses;

1 past and future loss of earnings; past and future loss and impairment of earning capacity;  
2 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
3 emotional distress; increased risk of future harm; past, present, and future physical and mental  
4 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
5 and enjoyment of life.  
6

7 **EIGHTH CLAIM FOR RELIEF**  
8 **(Negligence Misrepresentation – Against All Defendants)**

9 160. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
10 the Complaint as if fully set forth at length herein.

11 161. Defendants had a duty to represent to Plaintiff, Plaintiff's physicians, the medical  
12 and healthcare community, and the public in general that TAXOTERE® had been tested and  
13 found to be safe and effective for the treatment of various forms of cancer.  
14

15 162. When warning of safety and risks of TAXOTERE®, Defendants negligently  
16 represented to Plaintiff, Plaintiff's physicians, the medical and healthcare community, and the  
17 public in general that TAXOTERE® had been tested and was found to be safe and/or effective  
18 for its indicated use.  
19

20 163. Defendants concealed their knowledge of docetaxel's (TAXOTERE®'s) defects  
21 from Plaintiff, Plaintiff's physicians, and the public in general and/or the medical community  
22 specifically.  
23

24 164. Defendants concealed their knowledge of the defects in their products from  
25 Plaintiff, Plaintiff's physicians, hospitals, pharmacists, and the public in general.

26 165. Defendants misrepresented the novel nature of their product in order to gain a  
27 market advantage resulting in billions of dollars in revenues at the expense of vulnerable cancer  
28 victims such as Plaintiff.

1           166. Defendants made these misrepresentations with the intent of defrauding and  
2 deceiving Plaintiff, Plaintiff's physicians, the public in general, and the medical and healthcare  
3 community in particular, and were made with the intent of inducing Plaintiff, Plaintiff's  
4 physicians, the public in general, and the medical community in particular, to recommend,  
5 dispense, and/or purchase TAXOTERE® for use in the treatments of various forms of cancer,  
6 including but not limited to breast cancer.  
7

8           167. Defendants made these misrepresentations with the intent of defrauding and  
9 deceiving Plaintiff, Plaintiff's physicians, the public in general, and the medical and healthcare  
10 community in particular, and were made with the intent of inducing Plaintiff, Plaintiff's  
11 physicians, the public in general, and the medical community in particular, to recommend,  
12 dispense, and/or purchase TAXOTERE® for use in the treatments of various forms of cancer,  
13 including but not limited to breast cancer.  
14

15           168. Defendants failed to exercise ordinary and reasonable care in their representations  
16 of TAXOTERE® while involved in its manufacture, sale, testing, quality assurance, quality  
17 control, and/or distribution into interstate commerce, and Defendants negligently misrepresented  
18 docetaxel's (TAXOTERE®'s) high risk of unreasonable, dangerous side effects.  
19

20           169. Defendants breached their duty in misrepresenting docetaxel's (TAXOTERE®'s)  
21 serious side effects to Plaintiff, Plaintiff's physicians, the medical and healthcare community, the  
22 FDA, and the public in general.  
23

24           170. Plaintiff and Plaintiff's physicians reasonably relied on Defendants to fulfill their  
25 obligations to disclose all facts within their knowledge regarding the serious side effects of  
26 TAXOTERE®.  
27  
28

1           171. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
2 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
3 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
4 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
5 past and future loss of earnings; past and future loss and impairment of earning capacity;  
6 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
7 emotional distress; increased risk of future harm; past, present, and future physical and mental  
8 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
9 and enjoyment of life.  
10

11  
12                                   **NINTH CLAIM FOR RELIEF**  
13                                   **(Strict Product Liability for Misrepresentation – Against All Defendants)**

14           172. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
15 the Complaint as if fully set forth at length herein.

16           173. Defendants sold the TAXOTERE® that Plaintiff's physician prescribed for  
17 Plaintiff and that Plaintiff used.

18           174. Defendants were engaged in the business of selling the TAXOTERE® for resale,  
19 use, or consumption.  
20

21           175. Defendants misrepresented facts as set forth herein concerning the character or  
22 quality of the TAXOTERE® that would be material to potential prescribers and purchasers or  
23 users of the product.  
24

25           176. Defendants' misrepresentations were made to potential prescribers and/or  
26 purchasers or users as members of the public at large.

27           177. As a purchaser or user, Plaintiff reasonably relied on the misrepresentation.  
28

1 178. Plaintiff was a person who would reasonably be expected to use, consume, or be  
2 affected by the TAXOTERE®.

3 179. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
4 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
5 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
6 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
7 past and future loss of earnings; past and future loss and impairment of earning capacity;  
8 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
9 emotional distress; increased risk of future harm; past, present, and future physical and mental  
10 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
11 and enjoyment of life.  
12  
13

14 **TENTH CLAIM FOR RELIEF**  
15 **(Fraud and Deceit – Against All Defendants)**

16 180. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
17 the Complaint as if fully set forth at length herein.

18 181. Defendants committed fraud by omission in applying for and gaining patent  
19 protection for TAXOTERE® resulting in increased sales and market penetration. This increased  
20 market penetration was the proximal cause of Plaintiff's exposure to the side effects of  
21 TAXOTERE®.  
22

23 182. Defendants fraudulently claimed superior efficacy over other products designed to  
24 treat the same conditions for which TAXOTERE® was designed to treat. These fraudulent  
25 representations were the proximal cause of Plaintiff's exposure to the side effects of  
26 TAXOTERE®.  
27  
28

1 183. As a result of Defendants' research and testing, or lack thereof, Defendants  
2 intentionally distributed false information, including but not limited to assuring Plaintiff,  
3 Plaintiff's physicians, hospitals, healthcare professionals, and/or the public that TAXOTERE®  
4 was safe and effective for use in the treatment of various forms of cancer, including breast  
5 cancer.  
6

7 184. As a result of Defendants' research and testing, or lack thereof, Defendants  
8 intentionally omitted certain results of testing and or research to Plaintiff, Plaintiff's physicians,  
9 healthcare professionals, and/or the public.  
10

11 185. Defendants had a duty when disseminating information to Plaintiff, Plaintiff's  
12 physicians, and the public to disseminate truthful information.

13 186. Defendants had a duty when disseminating information to Plaintiff, Plaintiff's  
14 physicians, and the public not to deceive Plaintiff, Plaintiff's physicians, and/or the public.  
15

16 187. The information Defendants distributed to Plaintiff, Plaintiff's physicians, and the  
17 public, including but not limited to reports, press releases, advertising campaigns, and other  
18 forms of media contained material representations of fact and/or omissions.

19 188. The information Defendants distributed to Plaintiff, Plaintiff's physicians, and the  
20 public intentionally included false representations that Defendants' drug TAXOTERE® was safe  
21 and effective for the treatment of various forms of cancer, including breast cancer.  
22

23 189. The information Defendants distributed to Plaintiff, Plaintiff's physicians, and the  
24 public intentionally included false representations that Defendants' drug TAXOTERE® carried  
25 the same risks, hazards, and/or dangers as other forms of treatment for the same conditions for  
26 which TAXOTERE® was designed to treat.  
27  
28



1           190. The information Defendants distributed to Plaintiff, Plaintiff's physicians, and the  
2 public intentionally included false representations that TAXOTERE® was not injurious to the  
3 health and/or safety of its intended users.

4           191. The information Defendants distributed to Plaintiff, Plaintiff's physicians, and the  
5 public intentionally included false representations that TAXOTERE® was no more injurious to  
6 the health and/or safety of its intended users as other forms of cancer treatments for which  
7 TAXOTERE® was designed to treat.

8           192. These representations by Defendants were all false and misleading.

9           193. Defendants intentionally suppressed, ignored, and disregarded test results not  
10 favorable to Defendants and that demonstrated that TAXOTERE® was not safe as a means of  
11 treatment for certain types of cancer for which TAXOTERE® was designed to treat.

12           194. Defendants intentionally made material misrepresentations to Plaintiff, Plaintiff's  
13 physicians, and the public, including the medical profession, regarding the safety of  
14 TAXOTERE®, specifically but not limited to TAXOTERE® not having dangerous and serious  
15 health and/or safety concerns.

16           195. Defendants intentionally made material misrepresentations to Plaintiff, Plaintiff's  
17 physicians, and the public in general, including the medical profession, regarding the safety of  
18 TAXOTERE®, specifically but not limited to TAXOTERE® being as safe as other products  
19 designed to treat the same conditions TAXOTERE® was designed to treat.

20           196. It was Defendants' intent and purpose in making these false representations to  
21 deceive and defraud Plaintiff, Plaintiff's physicians, and/or the public and to gain the confidence  
22 of Plaintiff, Plaintiff's physicians, the public, and/or healthcare professionals to falsely ensure  
23 the quality and fitness for use of TAXOTERE® and induce Plaintiff, Plaintiff's physicians, and  
24  
25  
26  
27  
28

1 the public, including the medical profession, to purchase, request, dispense, prescribe,  
2 recommend, and/or continue to use TAXOTERE®.

3 197. Defendants made the aforementioned false claims and false representations with  
4 the intent of convincing Plaintiff, Plaintiff's physicians, the public, and/or healthcare  
5 professionals that TAXOTERE® was fit and safe for use as treatment for certain types of cancer,  
6 including breast cancer.  
7

8 198. Defendants made the aforementioned false claims and false representations with  
9 the intent of convincing Plaintiff, Plaintiff's physicians, the public, and/or healthcare  
10 professionals that TAXOTERE® was fit and safe for use as treatment of certain forms of cancer  
11 and did not pose risks, dangers, or hazards above and beyond those identified and/or associated  
12 with other forms of treatment for which TAXOTERE® was designed to treat.  
13

14 199. Defendants made false claims and false representations in its documents  
15 submitted to Plaintiff, Plaintiff's physicians, the public, and healthcare professionals that  
16 TAXOTERE® did not present risks related to disfigurement secondary to permanent alopecia.  
17

18 200. Defendants made false claims and false representations in its documents  
19 submitted to Plaintiff, Plaintiff's physicians, the public, and healthcare professionals that  
20 TAXOTERE® did not present health and/or safety risks greater than other forms of treatment for  
21 the same conditions TAXOTERE® was designed to treat.  
22

23 201. Defendants made these and other representations with a pretense of actual  
24 knowledge when Defendants had no knowledge of the truth or falsity of these representations,  
25 and Defendants made these representations recklessly and without regard to the actual facts.  
26

27 202. Defendants made these and other representations with the intention of deceiving  
28 and defrauding Plaintiff and Plaintiff's respective healthcare professionals.

1           203. Defendants made these and other representations in order to induce Plaintiff and  
2 Plaintiff's respective healthcare professionals to rely upon the misrepresentations.

3           204. Defendants' false misrepresentations caused Plaintiff and/or Plaintiff's healthcare  
4 professionals to purchase, use, rely on, request, dispense, recommend, and/or prescribe  
5 TAXOTERE®.  
6

7           205. Defendants recklessly and intentionally falsely represented the dangerous and  
8 serious health and/or safety concerns of TAXOTERE® to the public at large, and Plaintiff and  
9 Plaintiff's physicians in particular, for the purpose of influencing the marketing of a product  
10 Defendants knew was dangerous and defective and/or not as safe as other alternatives, including  
11 other forms of treatment for cancer.  
12

13           206. Defendants willfully and intentionally failed to disclose, concealed, and/or  
14 suppressed the material facts regarding the dangerous and serious health and/or safety concerns  
15 related to TAXOTERE®.  
16

17           207. Defendants willfully and intentionally failed to disclose the truth and material  
18 facts related to TAXOTERE® and made false representations with the purpose and design of  
19 deceiving and lulling Plaintiff and Plaintiff's respective healthcare professionals into a sense of  
20 security so that Plaintiff and Plaintiff's healthcare professionals would rely on Defendants'  
21 representations to purchase, use, dispense, prescribe, and/or recommend TAXOTERE®.  
22

23           208. Defendants, through their public relations efforts, which included but were not  
24 limited to public statements and press releases, knew or should have known that the public,  
25 including Plaintiff and Plaintiff's respective healthcare professionals, would rely upon the  
26 information being disseminated.  
27  
28

1           209. Plaintiff and/or Plaintiff's respective healthcare professionals did in fact rely on  
2 and believe Defendants' false representations to be true at the time they were made, and they  
3 relied upon Defendants' false representations and superior knowledge of how TAXOTERE®  
4 would treat certain forms of cancer for which TAXOTERE® was designed to treat.  
5

6           210. At the time Defendants' false representations were made, Plaintiff and/or  
7 Plaintiff's respective healthcare providers did not know the truth and were not with reasonable  
8 diligence able to discover the truth with regard to the dangerous and serious health and/or safety  
9 concerns of TAXOTERE®.  
10

11           211. Plaintiff and her healthcare providers did not discover the true facts with respect  
12 to Defendants' false representations and the dangerous and serious health and/or safety concerns  
13 of TAXOTERE®, and Plaintiff and her healthcare providers with reasonable diligence could not  
14 have discovered the true facts.  
15

16           212. Had Plaintiff and her healthcare providers known the true facts with respect to the  
17 dangerous and serious health and/or safety concerns of TAXOTERE®, Plaintiff would not have  
18 purchased, used, and/or relied on Defendants' drug TAXOTERE®.  
19

20           213. Defendants' aforementioned conduct constitutes fraud and deceit, and it was  
21 committed and/or perpetrated willfully, wantonly, and/or purposefully on Plaintiff.  
22

23           214. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
24 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
25 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
26 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
27 past and future loss of earnings; past and future loss and impairment of earning capacity;  
28 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating

1 emotional distress; increased risk of future harm; past, present, and future physical and mental  
2 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
3 and enjoyment of life.

4  
5 **ELEVENTH CLAIM FOR RELIEF**  
6 **(Extreme and Outrageous Conduct /**  
7 **Intentional Infliction of Emotional Distress**  
8 **– Against All Defendants)**

9 215. Plaintiff incorporates by reference the averments of the preceding paragraphs of  
10 the Complaint as if fully set forth at length herein.

11 216. Defendants' conduct, as set forth above, was extreme and outrageous.

12 217. Defendants' actions were done recklessly or with the intent of causing Plaintiff  
13 severe emotional distress; and

14 218. Defendants' conduct caused Plaintiff severe emotional distress.

15 219. As a result of the foregoing acts and omissions, Defendants caused Plaintiff to  
16 suffer serious and dangerous side effects, severe and personal injuries that are permanent and  
17 lasting in nature, and economic and non-economic damages, harms, and losses, including but not  
18 limited to: past and future medical expenses; psychological counseling and therapy expenses;  
19 past and future loss of earnings; past and future loss and impairment of earning capacity;  
20 permanent disfigurement including permanent alopecia; mental anguish; severe and debilitating  
21 emotional distress; increased risk of future harm; past, present, and future physical and mental  
22 pain, suffering, and discomfort; and past, present, and future loss and impairment of the quality  
23 and enjoyment of life.  
24  
25

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff Ami Dodson demands judgment against Defendants Sanofi  
28 S.A.; Aventis Pharma S.A.; and Sanofi-Aventis U.S. LLC in an amount to be determined at trial

1 by the trier of fact for her injuries, harms, damages, and losses as set forth above, special  
2 damages, treble damages, costs, expert witness fees, attorneys' fees, filing fees, pre- and post-  
3 judgment interest, all other injuries and damages as shall be proven at trial, and such other  
4 further relief as the Court may deem appropriate, just, and proper.  
5

6 DATED: March 12, 2016

7  
8 /s/ Anna Dubrovsky  
9 Anna Dubrovsky  
10 ANNA DUBROVSKY LAW GROUP, INC.  
11 601 Montgomery St #2000  
12 San Francisco, CA 94111  
13 Tel.: (415) 746-1477  
14 Fax: (415) 746-1478  
15 E-mail: Anna@dubrovskylawyers.com  
16 *Attorney for Plaintiff Ami Dodson*

17  
18 **JURY DEMAND**

19 Plaintiff demands a trial by jury on all issues so triable.

20 DATED: March 12, 2016

21 /s/ Anna Dubrovsky  
22 Anna Dubrovsky  
23 ANNA DUBROVSKY LAW GROUP, INC.  
24 601 Montgomery St #2000  
25 San Francisco, CA 94111  
26 Tel.: (415) 746-1477  
27 Fax: (415) 746-1478  
28 E-mail: Anna@dubrovskylawyers.com  
*Attorney for Plaintiff Ami Dodson*