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FILED

2007 DEC 17 PM 4:00

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY KWH DEPUTY

10
11 UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 ROGELIO LAROSA, Individually, and as)
14 Successor in Interest of the Estate of)
15 MILAGROS LAROSA, Deceased, and)
16 ERIC LAROSA, Individually,)

17 Plaintiffs,

18 v.

19 SmithKline Beecham Corporation, d/b/a)
20 GlaxoSmithKline, a Pennsylvania)
21 corporation; GlaxoSmithKline plc, an)
22 English public limited company; Glaxo)
23 Wellcome UK Ltd., Uxbridge, Middlesex,)
24 UK; and GlaxoSmithKline UK Limited)
25 Brentford, Middlesex, UK,)

26 Defendants.

CASE NO. 07 CV 2356 WQH JMA

COMPLAINT FOR DAMAGES FOR
WRONGFUL DEATH; SURVIVAL ACTION

DEMAND FOR JURY TRIAL

27 Plaintiffs allege on information and belief:

28 JURISDICTION AND VENUE

1. Jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332. The matter in controversy exceeds the sum of seventy five thousand (\$75,000.00) dollars, exclusive of interest and costs.

2. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 with respect to claims that form part of the same case or controversy.

1 3. Venue is based on 28 U.S.C. § 1391(a)(2) because a substantial part of the events or
2 omissions on which the claims are based occurred in this district.

3 **PARTIES**

4 4. Plaintiff Rogelio Larosa is a competent adult, the husband of Milagros Larosa,
5 deceased, and a resident San Diego County in the State of California. The plaintiffs' decedent,
6 Milagros Larosa, was a resident of San Diego County in the State of California at the time of her
7 death. Plaintiff Rogelio Larosa brings this action under C.C.P. §377.60 for wrongful death, and under
8 C.C.P. §377.30, *et seq.*, as Successor in Interest to the Estate of Milagros Larosa. Plaintiff's
9 declaration under C.C.P. § 377.32 is attached.

10 5. Plaintiff Eric Larosa is a competent adult, the son of Milagros Larosa, deceased, and
11 a resident of San Diego County in the State of California. Plaintiff Eric Larosa brings this action
12 under C.C.P. §377.60 for wrongful death.

13 6. SmithKline Beecham Corporation d/b/a GlaxoSmithKline, a Pennsylvania corporation
14 was, and still is, a corporation duly existing under and by virtue of the laws of the State of
15 Pennsylvania with its principal place of business in Philadelphia, Pennsylvania.

16 7. At all times relevant, defendant SmithKline Beecham Corporation d/b/a
17 GlaxoSmithKline was, and still is, a pharmaceutical company involved in researching, manufacturing,
18 selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing and
19 marketing of pharmaceuticals for distribution, sale, and use by the general public, including its
20 antidiabetic agent rosiglitazone maleate under the trade names of Avandia Tablets, Avandamet
21 Tablets, and Avandaryl Tablets.

22 8. GlaxoSmithKline plc, an English public limited company was, and still is, a public
23 limited company existing under and by virtue of the laws of the country of England with its principal
24 place of business in London, England.

25 9. At all times relevant, defendant GlaxoSmithKline plc was, and still is, a
26 pharmaceutical company involved in researching, manufacturing, selling, merchandising, advertising,
27 promoting, labeling, analyzing, testing, distributing and marketing of pharmaceuticals for distribution,
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1 sale, and use by the general public, including its antidiabetic agent rosiglitazone maleate under the
2 trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets.

3 10. Glaxo Wellcome UK Ltd., Uxbridge, Middlesex, UK was, and still is, a public limited
4 company existing under and by virtue of the laws of the country of England with its principal place
5 of business in Uxbridge, Middlesex, England.

6 11. At all times relevant, defendant Glaxo Wellcome UK Ltd. was, and still is, a
7 pharmaceutical company involved in researching, manufacturing, selling, merchandising, advertising,
8 promoting, labeling, analyzing, testing, distributing and marketing of pharmaceuticals for distribution,
9 sale, and use by the general public, including its antidiabetic agent rosiglitazone maleate under the
10 trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets.

11 12. GlaxoSmithKline UK Ltd., Brentford, Middlesex, UK was, and still is, a public limited
12 company existing under and by virtue of the laws of the country of England with its principal place
13 of business in Brentford, Middlesex, England.

14 13. At all times relevant, defendant GlaxoSmithKline UK Ltd. was, and still is, a
15 pharmaceutical company involved in researching, manufacturing, selling, merchandising, advertising,
16 promoting, labeling, analyzing, testing, distributing and marketing of pharmaceuticals for distribution,
17 sale, and use by the general public, including its antidiabetic agent rosiglitazone maleate under the
18 trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets.

19 14. SmithKline Beecham Corporation d/b/a GlaxoSmithKline, a Pennsylvania corporation,
20 GlaxoSmithKline plc, an English public limited company, Glaxo Wellcome UK Ltd., Uxbridge,
21 Middlesex, UK, and GlaxoSmithKline UK Ltd., Brentford, Middlesex, UK hereinafter shall be
22 collectively referred to as "GSK Defendants".

23 **GENERAL ALLEGATIONS**

24 15. Rosiglitazone maleate ("rosiglitazone") is researched, manufactured, sold,
25 merchandised, advertised, promoted, labeled, analyzed, tested, distributed and marketed by the GSK
26 Defendants under the trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets
27 (hereinafter collectively referred to as "Avandia"), and is a member of the class of drugs known as
28 Thiazolidinediones ("TZDs"). Avandia was first approved for use in the United States by the Food

1 and Drug Administration (“FDA”) in 1999 for the use in treatment of type 2 diabetes mellitus, also
2 known as non-insulin-dependent diabetes mellitus.

3 16. Most people with diabetes have risk factors such as high blood pressure and
4 cholesterol that provide a pre-existing susceptibility for heart disease and stroke. More than 65
5 percent of deaths in patients with diabetes are from cardiovascular causes. The effect of any
6 antidiabetic therapy is particularly important because the reason for antidiabetic therapy is to reduce
7 the complications of diabetes, the most serious of which is heart disease.

8 17. During the past decade, drugs have been introduced for the treatment of type 2 diabetes
9 that, used in monotherapy or in combination therapy, are supposed to better control the disease in
10 patients and reduce health complications associated with diabetes, such as heart attacks, strokes, and
11 other cardiovascular complications.

12 18. Before and on or about the time when Avandia was prescribed and used by Milagros
13 Larosa, the GSK Defendants knew, or should have known, that Avandia was associated with a
14 significant increased risk of heart failure; myocardial ischemia and ischemic events such
15 cardiovascular mortality, myocardial infarction, and stroke.

16 19. The risk of heart failure, also referred to as congestive heart failure, in patients taking
17 Avandia led to labeling revisions as marketing experience and the results of further clinical trials were
18 reviewed by the Food and Drug Administration.

19 20. On August 14, 2007, the warnings, precautions, and contraindications sections of the
20 Avandia label were changed again regarding the potential increased risk of heart failure, and the
21 following new black box warning was added to the label:

22 **WARNING: CONGESTIVE HEART FAILURE**

23 Thiiazolidinediones, including rosiglitazone, cause or
24 exacerbate congestive heart failure in some patients
25 (see WARNINGS). After initiation of AVANDIA, and
26 after dose increases, observe patient carefully for signs
27 and symptoms of heart failure (including excessive,
28 rapid weight gain, dyspnea, and/or edema). If these
signs and symptoms develop, the heart failure should
be managed according to current standards of care.
Furthermore, discontinuation or dose reduction of
AVANDIA must be considered.

1 AVANDIA is not recommended in patients with
2 symptomatic heart failure. Initiation of AVANDIA in
3 patients with established NYHA Class III or IV heart
4 failure is contraindicated. (See
5 CONTRAINDICATIONS and WARNINGS.)

6 21. On November 19, 2007, the warnings, precautions, and indications sections of the
7 Avandia label were changed again regarding the potential increased risk of myocardial ischemia, and
8 the following language was added to the black box warning:

9 **WARNING: CONGESTIVE HEART FAILURE AND**
10 **MYOCARDIAL ISCHEMIA**

11 A meta-analysis of 42 clinical studies (mean duration
12 6 months; 14,237 total patients), most of which
13 compared AVANDIA to placebo, showed AVANDIA
14 to be associated with an increased risk of myocardial
15 ischemic events such as angina or myocardial
16 infarction. Three other studies (mean duration 41
17 months; 14,067 patients), comparing AVANDIA to
18 some other approved antidiabetic agents or placebo,
19 have not confirmed or excluded this risk. In their
20 entirety, the available data on the risk of myocardial
21 ischemia are inconclusive.

22 22. Before the label changes on August 14, 2007 and November 19, 2007, Milagros Larosa
23 ingested Avandia in San Diego County, California.

24 23. As a direct and proximate cause of ingesting Avandia, Milagros Larosa suffered from
25 heart failure; strokes; and myocardial ischemia, including a myocardial ischemic event that resulted
26 in hospitalization and required coronary revascularization on or about December 29, 2004, a
27 myocardial ischemic event that resulted in hospitalization and additional coronary revascularization
28 on or about July 26, 2005, and a myocardial ischemic event on January 17, 2005 after which
Ms. Larosa required constant care and was placed in a nursing home where she suffered a stroke and
died on December 20, 2005.

24 24. The injuries and death suffered by Ms. Larosa were legally caused by her ingestion of
25 Avandia.

26 25. During the entire time Avandia has been on the market in the United States, FDA
27 regulations have required the GSK Defendants to revise labeling "to include a warning about a
28 clinically significant hazard as soon as there is reasonable evidence of a causal association with the

1 drug; a causal relationship need not have been definitely established.” 21 C.F.R. 201.57(c)(6)(i).
2 This regulation allowed the GSK Defendants to issue such a warning without prior FDA approval.

3 26. Before and at or about the time of Ms. Larosa’s ingestion of Avandia, the GSK
4 Defendants had the knowledge, the means, and the duty to provide the medical community and the
5 consuming public with more accurate descriptive information and more adequate warnings regarding
6 the association between Avandia and heart failure, and the association between Avandia and
7 myocardial ischemia and ischemic events such cardiovascular mortality, myocardial infarction, and
8 stroke, through all means necessary, including, but not limited to, labeling, continuing education,
9 symposia, posters, sales calls to doctors, advertisements, and promotional materials.

10 27. At all times relevant, the GSK Defendants failed and refused to warn prescribing
11 medical providers, and the consuming public, of the risks associated with Avandia that were known,
12 or should have been known, as alleged herein.

13 28. At all times relevant, the GSK Defendants engaged in extensive mass media direct-to-
14 consumer promotion, education, and advertising of Avandia for the purpose of increasing sales and
15 stimulating consumer requests for Avandia prescriptions, independent of the advice of medical
16 professionals:

17 29. At all times relevant, defendants, and each of them, and their aggregates, corporates,
18 associates, and partners, and each of them, were the agent, servant, employee, assignee, permissive
19 user, successor in interest, or joint venturer of each other, and were acting within the time, purpose,
20 or scope of such agency or employment or permission; and all acts or omissions alleged herein of
21 each such defendant were authorized, adopted, approved, or ratified by each of the other defendants.

22 **FIRST CLAIM FOR RELIEF**

23 **(Negligence)**

24 30. Plaintiffs incorporate by reference each and every prior and subsequent allegation of
25 this complaint as if fully restated here.

26 31. At all times relevant, the GSK Defendants were under a duty to exercise reasonable
27 care in the researching, manufacturing, selling, merchandising, advertising, promoting, labeling,
28

1 analyzing, testing, distributing and marketing of Avandia for distribution, sale, and use by the general
2 public, to ensure that Avandia's use did not result in avoidable injuries.

3 32. Plaintiffs' injuries as described herein were caused by the negligence and
4 misrepresentations of the GSK Defendants through its agents, servants and/or employees acting within
5 the course and scope of their employment including among other things:

6 (a) Carelessly and negligently researching, manufacturing, selling, merchandising,
7 advertising, promoting, labeling, analyzing, testing, distributing and marketing Avandia;

8 (b) Failing to fully disclose the results of the testing and other information in its
9 possession regarding the association between Avandia and heart failure, and the association between
10 Avandia and myocardial ischemia and ischemic events such cardiovascular mortality, myocardial
11 infarction, and stroke.

12 (c) Negligently and carelessly failing to adequately warn the medical community and the
13 general public, including Ms. Larosa and her treating and prescribing medical provider(s), of the
14 dangers of using Avandia;

15 (d) Negligently and carelessly describing and promoting Avandia as safe and effective;

16 (e) Negligently and carelessly failing to act as a reasonably prudent drug manufacturer;

17 (f) Negligently and carelessly over-promoting and promoting Avandia in a zealous and
18 unreasonable way, without regard to its potential dangers;

19 33. As a direct and proximate cause of the acts and conduct of the GSK Defendants,
20 Milagros Larosa suffered severe injuries for a measurable period of time until she thereafter died as
21 a result of said injuries.

22 34. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa's
23 survivors, beneficiaries, and heirs have sustained the loss of her support, services, and other financial
24 benefits as well as the loss of her love, society, companionship, comfort, affection, advice and moral
25 support.

26 35. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa's
27 survivors, beneficiaries, and heirs incurred the costs of decedent's funeral, burial, and related
28 expenses.

1 36. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa
2 became ill and was impaired in her health, strength, and activity, sustaining injury to her body and
3 person.

4 37. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa
5 was forced to incur expenses for medical care, x-rays, laboratory procedures, surgeries,
6 hospitalization, nursing care and attention, all of which is at the present time unascertained; plaintiffs
7 will show the reasonable and total value of such services at the time of trial.

8 38. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa
9 was prevented from gainful employment. The exact amount of the reasonable value of working time
10 lost is unknown at this time; plaintiffs will show the amount at the time of trial.

11 **SECOND CLAIM FOR RELIEF**

12 **(Negligent Pharmaco-Vigilance)**

13 39. Plaintiffs incorporate by reference each and every prior and subsequent allegation of
14 this complaint as if fully restated here.

15 40. The GSK Defendants have an ongoing duty of pharmaco-vigilance. This duty requires,
16 among other things, the GSK Defendants to continually monitor, test, and analyze data regarding the
17 safety, efficacy, and prescribing practices of its marketed drugs, including Avandia.

18 41. The GSK Defendants continually receive reports from clinical trials, physicians,
19 patients, and regulatory authorities of adverse events that occur in patients taking Avandia.
20 Furthermore, the GSK Defendants continue to conduct clinical trials for its drugs after their drug is
21 approved for use.

22 42. The GSK Defendants had the means and the resources to perform its pharmaco-
23 vigilance duties for the entire time Avandia has been on the market in the United States.

24 43. The GSK Defendants have a duty to monitor epidemiological and pharmaco-vigilance
25 data regarding their drugs and promptly report to the FDA, medical professionals, and the public, any
26 safety concerns that arise through epidemiologic study or data.

27 44. The GSK Defendants breached this duty with respect to Milagros Larosa, her treating
28 and prescribing medical providers, and plaintiffs. The GSK Defendants learned, or should have

1 learned, through various sources, including but not limited to, clinical trials and other adverse event
2 reports, that there was a substantial risk of heart failure, myocardial ischemia and ischemic events
3 such cardiovascular mortality, myocardial infarction, and stroke associated with the use of Avandia
4 and failed to inform doctors, regulatory agencies, and ordinary consumers, including Milagros Larosa,
5 of this risk.

6 **THIRD CLAIM FOR RELIEF**

7 **(Strict Liability—Failure to Warn)**

8 45. Plaintiffs incorporate by reference each and every prior and subsequent allegation of
9 this complaint as if fully restated here.

10 46. The GSK Defendants' extensive direct-to-consumer promotion and advertising of
11 Avandia created the duty to warn ordinary consumers, including Milagros Larosa, of the risks
12 associated with Avandia alleged herein, in addition to the duty the GSK Defendants owed to medical
13 professionals.

14 47. At all times relevant, ordinary consumers and prescribing medical providers would not
15 have recognized the potential increased risk of heart failure, myocardial ischemia and ischemic events
16 such as cardiovascular mortality, myocardial infarction, and stroke associated with ingestion of
17 Avandia in the absence of adequate warnings thereof by the GSK Defendants.

18 48. At all times relevant, the GSK Defendants failed to adequately warn ordinary
19 consumers and medical providers, including Milagros Larosa and her treating and prescribing medical
20 providers, of the potential increased risk of heart failure, myocardial ischemia and ischemic events
21 such cardiovascular mortality, myocardial infarction, and stroke associated with ingestion of Avandia.

22 **FOURTH CLAIM FOR RELIEF**

23 **(Breach of Express Warranty)**

24 49. Plaintiffs incorporate by reference each and every prior and subsequent allegation of
25 this complaint as if fully restated here.

26 50. The GSK Defendants' extensive direct-to-consumer advertising of Avandia created
27 the duty to notify ordinary consumers, including Milagros Larosa, that Avandia was not as
28 represented, in addition to the duty the GSK Defendants owed medical professionals.

SIXTH CLAIM FOR RELIEF

(Fraud)

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3 59. Plaintiffs incorporate by reference each and every prior and subsequent allegation of
4 this complaint as if fully restated here.

5 60. In deciding whether to prescribe a drug, prescribing medical providers do a risk/benefit
6 assessment in determining which drug to prescribe. Prescribing medical providers, such as
7 Ms. Larosa's prescribing medical provider(s), relied, and continue to rely, on the information received
8 about Avandia from various sources, such as journal articles, journal advertisements, company
9 literature, the Physicians' Desk Reference, labels, package inserts, and discussions with the GSK
10 Defendants' sales people. Such information must be accurate and provide an unbiased picture of a
11 drug's safety and efficacy in treating a condition. If the information is false or misleading, prescribing
12 medical providers, such as Ms. Larosa's prescribing medical provider(s), cannot accurately assess the
13 crucial risk/benefit balance for the patient or exercise proper professional judgment that is
14 independent. Consequently, the prescribing medical provider, including Ms. Larosa's treating and
15 prescribing medical provider(s), could not, and cannot, act in accordance with the professional and
16 fiduciary obligations owed to the patient, nor can patients, such as Milagros Larosa, give informed
17 consent to the treatment.

18 61. In caring for themselves, and as part of diabetes management, type 2 diabetes patients
19 had, and have, the option to refrain from using certain prescription drugs or to request alternative
20 prescription drugs in order to minimize health risks. In deciding whether to refrain from using
21 Avandia, or to request alternative medications, ordinary consumers relied, and continue to rely, on
22 information received about Avandia from various sources, such as direct-to-consumer and other
23 advertisements, company literature, and package inserts. Such information must be accurate and
24 provide an unbiased picture of a drug's safety and efficacy in treating a condition. If the information
25 is false or misleading, ordinary consumers, such as Ms. Larosa, could not, and cannot, accurately
26 assess their options to refrain from using Avandia or to request alternative medications.

27 62. Concealing adverse information and providing inaccurate or biased information that
28 is material to a decision misleads the prescribing medical providers and misleads the patient, as was

1 the case with Ms. Larosa and her treating and prescribing medical provider(s). This misleading
2 information, along with omissions of material facts related to Avandia's safety, cause health care
3 providers, ordinary consumers, and the general public to be misled about Avandia's risks and benefits
4 and deprive prescribing medical providers from making a proper risk/benefit assessment as to the use
5 of Avandia and deprive ordinary consumers from properly weighing their medication options.

6 63. The GSK Defendants' advertising program, by affirmative misrepresentations and
7 omissions, falsely and deceptively sought to create the image and impression that the use of Avandia
8 was safe for human use; had no unacceptable side effects; had fewer side effects than other
9 antidiabetic agents; and would not interfere with daily life.

10 64. The GSK Defendants purposefully concealed, failed to disclose, misstated,
11 downplayed and understated the health hazards and risks associated with the use of Avandia. The
12 GSK Defendants, through promotional literature, deceived potential users and prescribers of said drug
13 by relying on only allegedly positive information, including testimonials from allegedly satisfied users
14 and celebrity spokespersons, and manipulating statistics to suggest widespread acceptability, while
15 concealing, misstating and downplaying the known adverse and serious health effects. The GSK
16 Defendants falsely and deceptively kept relevant information from potential Avandia users and
17 minimized prescriber concerns regarding the safety and efficacy of Avandia and over-promoted the
18 drug.

19 65. In particular, the GSK Defendant engaged in the following actions, although not
20 limited to the following actions, that constitute false and deceptive misrepresentations or omissions
21 regarding Avandia:

22 (a) The GSK Defendants marketed have and continue to market Avandia to ordinary
23 consumers and medical professionals as a safer and more effective antidiabetic agent than other
24 antidiabetic agents on the market;

25 (b) The GSK Defendants attempted to silence Dr. John B. Busé, a diabetes expert and
26 head of endocrinology at the University of North Carolina, Chapel Hill, by threatening him with a
27 \$4 million lawsuit and by characterizing him as a liar after he raised concerns about Avandia and
28 heart problems in 1999;

1 (c) The GSK Defendants failed to warn consumers and the medical community about the
2 increased risk of heart problems associated with Avandia, and continue to do so, despite having
3 knowledge of these health risks;

4 (d) The GSK Defendants promoted Avandia in violation of the Federal, Food, Drug, and
5 Cosmetic Act, which was the subject of a July 17, 2001 FDA Warning Letter;

6 (e) The GSK Defendants' sales representatives engaged in false or misleading promotional
7 activities with respect to the risk information in Avandia's label;

8 66. When said representations and/or omissions were made by the GSK Defendants, it
9 knew those representations and/or omissions to be false or misleading, or willfully, wantonly,
10 recklessly, and consciously disregarded whether the representations and/or omissions were true.
11 These representations and/or omissions were made by the GSK Defendants with the intent of
12 defrauding and deceiving the public in general and the medical community and with the intent of
13 inducing the public to request and ingest Avandia and the medical community to recommend,
14 prescribe, and dispense Avandia.

15 67. The aforementioned misrepresentations by the GSK Defendants were reasonably relied
16 upon by Ms. Larosa and her prescribing medical provider(s) to their detriment.

17 **SEVENTH CLAIM FOR RELIEF**

18 **(Survival Action)**

19 68. Plaintiffs incorporate by reference each and every prior and subsequent allegation of
20 this complaint as if fully restated here.

21 69. Plaintiffs are informed and believe and thereon allege that the conduct of the GSK
22 Defendants, and each of them, entitles plaintiffs to an award of punitive damages pursuant to Civil
23 Code section 3294, in that the GSK Defendants acted with oppression, fraud, or malice, in conscious
24 disregard of the rights and safety of others, including Milagros Larosa. The GSK Defendants
25 authorized or ratified the wrongful conduct for which punitive damages are requested or was
26 personally guilty of oppression, fraud, or malice. With respect to the corporate defendants, the
27 conscious disregard, authorization, ratification or act of oppression, fraud, or malice was on the part
28 of an officer, director, or managing agent of the corporation.

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PRAYER

WHEREFORE, Plaintiffs pray for judgment against defendants as follows:

- 1. For general damages according to proof;
- 2. For special damages according to proof;
- 3. For costs of the decedent's funeral, burial, and related expenses according to proof;
- 4. For punitive and exemplary damages according to proof;
- 5. For pre-judgment and post-judgment interest as allowed by law;
- 6. For costs of suit incurred herein; and
- 7. For such other and further relief as this court may deem just and proper.

Dated: December 17, 2007

BAUM, HEDLUND, ARISTE! & GOLDMAN, P.C.

By: 
 Michael L. Baum
 Ronald L.M. Goldman
 Roger D. Drake

Attorneys for Plaintiffs

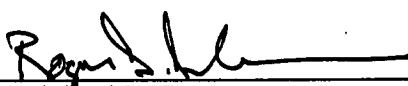
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial.

Dated: December 17, 2007

BAUM, HEDLUND, ARISTEI & GOLDMAN, P.C.

By:  _____

Michael L. Baum
Ronald L.M. Goldman
Roger D. Drake

Attorneys for Plaintiffs

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

145611 - BH

**December 17, 2007
16:02:55**

Civ Fil Non-Pris

USAO #: 07CV2356 CIVIL FILING
Judge.: WILLIAM Q HAYES
Amount.: \$350.00 CK
Check#: BC# 52414

Total-> \$350.00

FROM: CIVIL FILING
LAROSA V. SMITHKLINE BEECHAM

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

Rogelio Larosa, Individually and as Successor in Interest of the Estate of Milagros Larosa, Deceased, and Eric Larosa, Individually

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

FILED
SmithKline Beecham Corporation, d/b/a GlaxoSmithKline, a Pennsylvania corporation, GlaxoSmithKline LLC, an English public limited company, Glaxo Wellcome UK Ltd., Uxbridge, Middlesex, UK; and GlaxoSmithKline UK Limited Brentford, Middlesex, UK
U.S. DISTRICT COURT OF CALIFORNIA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Philadelphia
(IN U.S. PLAINTIFF CASES ONLY) DEPUTY

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Baum, Hedlund, Aristei & Goldman, P.C.
12100 Wilshire Boulevard,
Suite 950
Los Angeles, California 90025
310-207-3233

ATTORNEYS (IF KNOWN)

07 CV 2356 WQH JMA

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PT	DEF		PT	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)
28 USC 1332

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 280 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Rel. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ Docket Number _____

DATE: December 17, 2007 SIGNATURE OF ATTORNEY OF RECORD: *Rogelio Larosa*

PA 10 \$350 12/17/07 BH KLOT# 45611