UNITED STATES DISTRICT COURT
STATE OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND AS REPRESENTATIVE TO THE CLASS; VARIOUS UNNAMED JOHN DOES AND VARIOUS UNNAMED JANE DOES INDIVIDUALLY AND ON BEHALF OF THE CLASS,

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CLERK-ALBUQUERQUE

Plaintiffs,

vs. NO. CIV 00 0459 BB

ELI LILLY AND COMPANY; and NOVO NORDISK,

Defendants.

LORENZO F. GARCIA

COMPLAINT FOR NEGLIGENCE, PRODUCTS LIABILITY AND PUNITIVE DAMAGES

Plaintiffs complain against the Defendants as follows:

1. Suzan Kawulok is a resident of Bernalillo County, New Mexico and is the named representative of this multidistrict class action.

2. Defendant Eli Lilly and Company ("Lilly") is a corporation doing business in the State of New Mexico.

3. Novo Nordisk is a corporation doing business in the State of New Mexico.

4. For purposes of Federal Rule of Civil Procedure 23 and federal diversity jurisdiction, each plaintiff in this national class action is bringing a claim for damages in excess of $80,000.00.

5. In accordance with Federal Rule of Civil Procedure 23, the nation-wide class will be properly expanded during the pre-trial stages of this action.

6. This suit is filed as a multidistrict class action suit pursuant to the provisions of title 28, section 1407, United States Code (1998).

GENERAL ALLEGATIONS

7. All of the Plaintiffs in this class have been injected with Humulin® or Humalog® manufactured by Defendant Lilly, or insulin prepared with recombinant DNA (rDNA), or synthetic human insulin manufactured by Novo Nordisk within the last three years. Upon information and belief, recombinant DNA or rDNA is made from a sample of human DNA by cloning a synthetic product from the human DNA.

8. Defendant Lilly designed, manufactured, produced, packaged and distributed both Humulin® and Humalog®, without adequate warnings about possible side effects of these drugs.

9. Novo Nordisk designed, manufactured, produced, packaged and distributed rDNA human-based insulin and synthetic human insulin without adequate warnings about potential side effects of these drugs.

10. All Defendants knew or should have known that Humulin®, Humalog®, rDNA human-based insulin or synthetic insulin would carry with its injection a potential for injurious side effects.

11. All Defendants failed to adequately warn Plaintiffs in this class of the potential injurious side effects which could result from injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

12. All Defendants intentionally and maliciously suppressed information which would inform the diabetic public of potentially injurious side effects which could result from injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

13. Upon information and belief, all Defendants intentionally discontinued or significantly reduced the manufacture of animal-based insulins, knowing that diabetics had serious adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

14. Upon information and belief, all Defendants have intentionally prevented other companies from manufacturing animal-based insulins, knowing that diabetics have adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

15. Humulin®, Humalog®, other rDNA insulin and synthetic human insulin has the potential to cause antibody production in the human body and can cause *inter alia*, a syndrome which results in arthralgia, arthritis and myalgia-like symptoms in diabetics. Upon information and belief, human-based or synthetic human insulin also prevents diabetics from having proper warning signs of hypoglycemic symptoms until blood sugar ranges are dangerously low resulting in confusion, distress, coma and even death.

16. Upon information and belief, Humulin®, Humalog®, other rDNA insulin and synthetic human insulins have the potential to produce a variety of serious side effects which could be and have been potentially life-threatening to diabetic individuals who inject these products. These products are designed, manufactured, packaged and distributed by Defendants.

17. Upon information and belief, Defendants have repressed the flow of relevant medical information to medical practitioners prescribing Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions

without proper warnings to patients about possible antibody production, arthritic syndromes and other injurious, life-threatening symptoms.

18. Upon information and belief, Defendants have repressed the flow of relevant medical information to pharmacists filling prescriptions for Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms.

19. Upon information and belief, Defendants have repressed the flow of relevant medical information such that medical practitioners and pharmacists are failing to adequately train their employees as to communicate to diabetics the possible side effects of antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients who are taking Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

20. Upon information and belief, Defendants have repressed the flow of relevant medical information resulting in a nationwide administration of the potentially dangerous and life-threatening substances of Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin to diabetic patients.

21. Upon information and belief, Defendants have repressed the flow of relevant medical information such that medical practitioners have failed to diagnose and treat the injuries and side effects which Plaintiffs in this class sustained as a result of injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

22. Upon information and belief, Defendants have failed to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

23. Upon information and belief, Defendants have failed to inform medical practitioners such that they would be aware of relevant medical information to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

24. Upon information and belief, Defendants have failed to provide other, less risky alternatives for treatment in full knowledge of the potentially injurious, life-threatening side effects to diabetics.

25. Upon information and belief, Defendant Lilly paid for and arranged for and caused a rapid approval from the Federal Drug Administration despite having knowledge of the potential life-threatening side effects from Humulin® and Humalog® and despite that long-term effects of these drugs have not been determined.

26. All Plaintiffs in this class have suffered personal injuries due to their ingestion of Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin and have claims for damages which may include pain and suffering, medical expenses, lost wages, loss of range-of-motion, loss of opportunity, emotional distress, disfigurement, loss of consortium and death.

27. Plaintiffs' injuries have been directly and proximately caused by Defendants' actions and omissions regarding Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin.

COUNT I – ELI LILLY - NEGLIGENCE

28. The Plaintiffs incorporate the prior allegations of this Complaint.

29. Defendant Lilly was negligent in failing to provide adequate warnings in its packaging that Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

30. Defendant Lilly was negligent in failing to provide adequate warnings to medical facilities and doctors that Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

31. Defendant Lilly was negligent in reducing or aborting its production of animal-based insulins which are required for Humulin®, Humalog® other rDNA human-based or synthetic human insulin-sensitive diabetic patients in maintaining quality of life.

32. Defendant Lilly was negligent in failing to advise about other, less risky alternatives for treatment because of the potentially injurious, life threatening side effects to diabetics.

33. The negligent actions and omissions of Lilly were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Defendant Lilly for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Lilly to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT I - NOVO NORDISK - NEGLIGENCE

34. The Plaintiffs incorporate the prior allegations of this Complaint.

35. Defendant Novo Nordisk was negligent in failing to provide adequate warnings in its packaging that its rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

36. Defendant Novo Nordisk was negligent in failing to provide adequate warnings to medical facilities and doctors that its rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

37. Defendant Novo Nordisk was negligent in reducing or aborting its production of animal-based insulins, which are required for its rDNA human-based or synthetic human insulin-sensitive diabetic patients.

38. Defendant Novo Nordisk was negligent in failing to advise about other, less risky alternatives for treatment because of the potentially injurious, life-threatening side effects to diabetics.

39. The negligent actions and omissions of Novo Nordisk were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Novo Nordisk for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief the Court deems proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Novo Nordisk to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT III – ELI LILLY – PRODUCTS LIABILITY

40. Defendant Lilly was negligent in failing to provide adequate warnings in its packaging that Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

41. Defendant Lilly was negligent in failing to provide adequate warnings to medical facilities and doctors that Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

42. Defendant Lilly was negligent in failing to advise the public, medical practitioners and pharmacists about other, less risky alternatives for treatment because of the potentially injurious, life threatening side effects to diabetics.

43. The negligent actions and omissions of Lilly were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Defendant Lilly for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Lilly to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT IV – NOVO NORDISK – PRODUCTS LIABILITY

44. The Plaintiffs incorporate the prior allegations of this Complaint.

45. Defendant Novo Nordisk was negligent in failing to provide adequate warnings in its packaging that its rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

46. Defendant Novo Nordisk was negligent in failing to provide adequate warnings to medical facilities and doctors that its rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

47. Defendant Novo Nordisk was negligent in failing to advise the public, medical practitioners and pharmacists about other, less risky alternatives for treatment because of the potentially injurious, life-threatening side effects to diabetics.

48. The negligent actions and omissions of Novo Nordisk were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Novo Nordisk for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief the

Court deems proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Novo Nordisk to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT V – PUNITIVE DAMAGES – ELI LILLY

49. The Plaintiffs incorporate the prior allegations of this Complaint.

50. Defendant Lilly knew or should have known that Humulin®, Humalog®, rDNA human-based insulin or synthetic insulin would carry with its injection a potential for injurious side effects.

51. Upon information and belief, Defendant Lilly intentionally, recklessly and maliciously suppressed information which would inform the diabetic public as to potential injurious side effects which could result from injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

52. Upon information and belief, Defendant Lilly intentionally, recklessly and maliciously discontinued or significantly reduced the manufacture of animal-based insulins knowing that diabetics had serious adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

53. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously prevented other companies from manufacturing animal-based insulins knowing that diabetics have adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

54. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information to medical

practitioners prescribing Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other injurious, life-threatening symptoms.

55. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information to pharmacists filling prescriptions for Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms.

56. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners and pharmacists are failing to adequately train their employees as to communicate to diabetics the possible side effects of antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients who are taking Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

57. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information resulting in a nationwide administration of the potentially dangerous and life-threatening substances of Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin to diabetic patients.

58. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners have failed to diagnose and treat the injuries and side effects which Plaintiffs in this class sustained as a result of injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

59. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously failed to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

60. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously failed to inform medical practitioners such that they would be aware of relevant medical information to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

61. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously failed to provide other, less risky alternatives for treatment in full knowledge of the potentially injurious, life-threatening side effects to diabetics.

62. Upon information and belief, Defendant Lilly paid for, arranged for and caused a rapid approval from the Federal Drug Administration of Humulin® or Humalog® despite having knowledge of the potential life-threatening side effects from Humulin® and Humalog® and despite that long-term effects of these drugs have not been determined.

63. All Plaintiffs in this class have suffered personal injuries due to the injection of Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin and have claims for damages which include but may not be limited to pain and suffering, medical expenses, lost wages, loss of range-of-motion, loss of opportunity, emotional distress, disfigurement, loss of consortium and death.

64. Plaintiffs' injuries have been directly and proximately caused by Defendant Lilly's actions and omissions regarding Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin.

WHEREFORE, Plaintiffs seek judgment against Defendant Lilly for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Lilly to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT VI – PUNITIVE DAMAGES – NOVO NORDISK

65. The Plaintiffs incorporate the prior allegations of this Complaint.

66. Defendant Novo Nordisk knew or should have known that Humulin®, Humalog®, rDNA human-based insulin or synthetic insulin would carry with its injection a potential for injurious side effects.

67. Upon information and belief, Defendant Novo Nordisk intentionally, recklessly and maliciously suppressed information which would inform the diabetic public as to potential injurious side effects which could result from injecting rDNA human-based insulin or synthetic human insulin.

68. Upon information and belief, Defendant Novo Nordisk intentionally, recklessly and maliciously discontinued or significantly reduced the manufacture of animal-based insulins knowing that diabetics had serious adverse symptoms from injecting rDNA insulin or synthetic human insulin.

69. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously prevented other companies from manufacturing animal-based insulins knowing that diabetics have adverse symptoms from injecting rDNA insulin or synthetic human insulin.

70. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information to medical practitioners prescribing Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other injurious, life-threatening symptoms.

71. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information to pharmacists filling prescriptions for Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms.

72. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners and pharmacists are failing to adequately train their employees as

to communicate to diabetics the possible side effects of antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients who are taking Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

73. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information resulting in a nationwide administration of the potentially dangerous and life-threatening substances of Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin to diabetic patients.

74. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners have failed to diagnose and treat the injuries and side effects which Plaintiffs in this class sustained as a result of injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

75. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously failed to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

76. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously failed to inform medical practitioners such that they would be aware of relevant medical information to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

77. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously failed to provide other, less risky alternatives for treatment in full knowledge of the potentially injurious, life-threatening side effects to diabetics.

78. Upon information and belief, Defendant Novo Nordisk has manufactured, produced and distributed rDNA human-based insulin or synthetic insulin without knowing the long-term effects of such drugs on diabetic patients.

79. All Plaintiffs in this class have suffered personal injuries due to their ingestion of Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin and have claims for damages which include but may not be limited to pain and suffering, medical expenses, lost wages, loss of range-of-motion, loss of opportunity, emotional distress, disfigurement, loss of consortium and death.

80. Plaintiffs' injuries have been directly and proximately caused by Defendant Novo Nordisk's actions and omissions regarding Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin.

WHEREFORE, Plaintiffs seek judgment against Defendant Novo Nordisk for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Novo Nordisk to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
STATE OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND AS REPRESENTATIVE TO THE CLASS; VARIOUS UNNAMED JOHN DOES AND VARIOUS UNNAMED JANE DOES INDIVIDUALLY AND ON BEHALF OF THE CLASS,

Plaintiffs,

vs. **NO.** CIV 00 0459 BB/LFG

ELI LILLY AND COMPANY; and NOVO NORDISK,

Defendants.

FIRST AMENDED COMPLAINT FOR NEGLIGENCE, PRODUCTS LIABILITY AND PUNITIVE DAMAGES

Plaintiffs complain against the Defendants as follows:

1. Suzan Kawulok is a resident of Bernalillo County, New Mexico and is the named representative of this multidistrict class action.

2. Defendant Eli Lilly and Company ("Lilly") is a corporation doing business in the State of New Mexico.

3. Novo Nordisk is a corporation doing business in the State of New Mexico.

4. For purposes of Federal Rule of Civil Procedure 23 and federal diversity jurisdiction, each plaintiff in this national class action is bringing a claim for damages in excess of $80,000.00.

5. In accordance with Federal Rule of Civil Procedure 23, the nation-wide class will be properly expanded during the pre-trial stages of this action.

GENERAL ALLEGATIONS

6. All of the Plaintiffs in this class have been injected with Humulin® or Humalog® manufactured by Defendant Lilly, or insulin prepared with recombinant DNA (rDNA), or synthetic human insulin manufactured by Novo Nordisk within the last three years. Upon information and belief, recombinant DNA or rDNA is made from a sample of human DNA by cloning a synthetic product from the human DNA.

7. All of the Plaintiffs in this class have experienced harmful or painful side effects as a direct result of injecting Humulin® or Humalog® manufactured by Defendant Lilly, or insulin prepared with recombinant DNA (rDNA), or synthetic human insulin manufactured by Defendant Novo Nordisk

8. Defendant Lilly designed, manufactured, produced, packaged and distributed both Humulin® and Humalog®, without adequate warnings about possible side effects of these drugs.

9. Novo Nordisk designed, manufactured, produced, packaged and distributed rDNA human-based insulin and synthetic human insulin without adequate warnings about potential side effects of these drugs.

10. All Defendants knew or should have known that Humulin®, Humalog®, rDNA human-based insulin or synthetic insulin would carry with its injection a potential for injurious side effects.

11. All Defendants failed to adequately warn Plaintiffs in this class of the potential injurious side effects which could result from injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

12. All Defendants intentionally and maliciously suppressed information which would inform the diabetic public of potentially injurious side effects which could result from injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

13. Upon information and belief, all Defendants intentionally discontinued or significantly reduced the manufacture of animal-based insulins, knowing that diabetics had serious adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

14. Upon information and belief, all Defendants have intentionally prevented other companies from manufacturing animal-based insulins, knowing that diabetics have adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

15. Humulin®, Humalog®, other rDNA insulin and synthetic human insulin has the potential to cause antibody production in the human body and can cause *inter alia*, a syndrome which results in arthralgia, arthritis and myalgia-like symptoms in diabetics. Upon information and belief, human-based or synthetic human insulin also prevents diabetics from having proper warning signs of hypoglycemic symptoms until blood sugar ranges are dangerously low resulting in confusion, distress, coma and even death.

16. Upon information and belief, Humulin®, Humalog®, other rDNA insulin and synthetic human insulins have the potential to produce a variety of serious side effects which could be and have been potentially life-threatening to diabetic individuals who inject these products. These products are designed, manufactured, packaged and distributed by Defendants.

17. Upon information and belief, Defendants have repressed the flow of relevant medical information to medical practitioners prescribing Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other injurious, life-threatening symptoms.

18. Upon information and belief, Defendants have repressed the flow of relevant medical information to pharmacists filling prescriptions for Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms.

19. Upon information and belief, Defendants have repressed the flow of relevant medical information such that medical practitioners and pharmacists are failing to adequately train their employees as to communicate to diabetics the possible side effects of antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients who are taking Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

20. Upon information and belief, Defendants have repressed the flow of relevant medical information resulting in a nationwide administration of the potentially dangerous and life-threatening substances of Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin to diabetic patients.

21. Upon information and belief, Defendants have repressed the flow of relevant medical information such that medical practitioners have failed to diagnose and treat the injuries and side effects which Plaintiffs in this class sustained as a result of

injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

22. Upon information and belief, Defendants have failed to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

23. Upon information and belief, Defendants have failed to inform medical practitioners such that they would be aware of relevant medical information to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

24. Upon information and belief, Defendants have failed to provide other, less risky alternatives for treatment in full knowledge of the potentially injurious, life-threatening side effects to diabetics.

25. Upon information and belief, Defendant Lilly paid for, arranged for and caused rapid approval of Humulin® or Humalog® from the Federal Drug Administration despite having knowledge of the potential life-threatening side effects from these drugs and despite that the long-term effects of these drugs have not been determined.

26. All Plaintiffs in this class have suffered personal injuries due to their injection of Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin and have claims for damages which may include pain and suffering, medical expenses, lost wages, loss of range-of-motion, loss of opportunity, emotional distress, disfigurement, loss of consortium and death.

27. Plaintiffs' injuries have been directly and proximately caused by Defendants' actions and omissions regarding Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin.

COUNT I – NEGLIGENCE – ELI LILLY

28. The Plaintiffs incorporate the prior allegations of this Complaint.

29. Defendant Lilly was negligent in failing to provide adequate warnings in its packaging that Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

30. Defendant Lilly was negligent in failing to provide adequate warnings to medical facilities and doctors that Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

31. Defendant Lilly was negligent in reducing or aborting its production of animal-based insulins which are required for Humulin®, Humalog® other rDNA human-based or synthetic human insulin-sensitive diabetic patients in maintaining quality of life.

32. Defendant Lilly was negligent in failing to advise about other, less risky alternatives for treatment because of the potentially injurious, life threatening side effects to diabetics.

33. Defendant Lilly was negligent in the design of Humulin® and Humalog® such that its defective design causes side effects which are potentially injurious and life-threatening to diabetics.

34. Upon information and belief, Defendant Eli Lilly was negligent in conducting adequate clinical trials with Humulin® and Humalog® such that the long-term effects of these drugs are not known nor documented.

35. The negligent actions and omissions of Lilly were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Defendant Lilly for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Lilly to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT II – NEGLIGENCE – NOVO NORDISK

36. The Plaintiffs incorporate the prior allegations of this Complaint.

37. Defendant Novo Nordisk was negligent in failing to provide adequate warnings in its packaging that its rDNA human-based insulin or synthetic human insulins now marketed to the public could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

38. Defendant Novo Nordisk was negligent in failing to provide adequate warnings to medical facilities and doctors that its rDNA human-based insulin or synthetic human insulins now marketed to the public could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

39. Defendant Novo Nordisk was negligent in reducing or aborting its production of animal-based insulins, which are required for diabetics who cannot tolerate rDNA human-based or synthetic human insulins because of the potentially injurious, life-threatening effects.

40. Defendant Novo Nordisk was negligent in failing to advise the public and medical practitioners about other, less risky alternatives for treatment than rDNA human-based or synthetic human insulins because of the potentially injurious, life-threatening side effects to diabetics.

41. Defendant Novo Nordisk was negligent in the design of its rDNA human-based or human insulin drugs such that the defective design of these drugs causes side effects which are potentially life-threatening to diabetics injecting these drugs.

42. Upon information and belief, Defendant Novo Nordisk was negligent in conducting appropriate and adequate clinical trials with its rDNA human-based or human insulin drugs such that the long-term effects of these drugs are not known nor documented.

43. The negligent actions and omissions of Novo Nordisk were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Novo Nordisk for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief the Court deems proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Novo Nordisk to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT III – PRODUCTS LIABILITY – ELI LILLY

44. Defendant Lilly was negligent in failing to provide adequate warnings in its packaging that Humulin® and Humalog® or other rDNA human-based insulin or synthetic human insulins marketed to the public could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

45. Defendant Lilly was negligent in failing to provide adequate warnings to medical facilities and doctors that Humulin® and Humalog® or other rDNA human-based insulin or synthetic human insulins marketed to the public could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

46. Defendant Lilly was negligent in failing to advise the public, medical practitioners and pharmacists about other, less risky alternatives for treatment than Humulin® and Humalog® or other rDNA human-based insulin or synthetic human insulins now marketed to the public, because of their potentially injurious, life threatening side effects to diabetics.

47. Defendant Lilly defectively designed Humulin® and Humalog® such that its defective design causes harmful side effects which are potentially life-threatening to diabetics injecting these drugs.

48. Upon information and belief, Defendant Lilly was negligent in conducting adequate clinical trials with Humulin® or Humalog® such that the long-term effects of these drugs are not known nor documented.

49. The negligent actions and omissions of Lilly were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Defendant Lilly for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Lilly to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT IV – PRODUCTS LIABILITY – NOVO NORDISK

50. The Plaintiffs incorporate the prior allegations of this Complaint.

51. Defendant Novo Nordisk was negligent in failing to provide adequate warnings in its packaging that its rDNA human-based insulin or synthetic human insulins marketed to the public could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

52. Defendant Novo Nordisk was negligent in failing to provide adequate warnings to medical facilities and doctors that its rDNA human-based insulin or synthetic human insulins marketed to the public could result in antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients.

53. Defendant Novo Nordisk was negligent in failing to advise the public, medical practitioners and pharmacists about less risky alternatives for treatment than human based insulins because of the potentially injurious, life-threatening side effects to diabetics.

54. Defendant Novo Nordisk defectively designed its rDNA human-based insulin or synthetic human insulin drugs marketed to the public such that their defective design causes side effects which are potentially life-threatening to diabetics injecting these drugs.

55. Upon information and belief, Defendant Novo Nordisk was negligent in conducting adequate clinical trials with its rDNA human-based insulin or synthetic human insulin drugs now being marketed to the public such that the long-term effects of these drugs are not known nor documented.

56. The negligent actions and omissions of Novo Nordisk were a direct and proximate cause of Plaintiffs' injuries.

WHEREFORE, Plaintiffs seek judgment against Novo Nordisk for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief the Court deems proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Novo Nordisk to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT V – PUNITIVE DAMAGES – ELI LILLY

57. The Plaintiffs incorporate the prior allegations of this Complaint.

58. Defendant Lilly knew or should have known that Humulin®, Humalog®, rDNA human-based insulin or synthetic insulin would carry with its injection a potential for injurious side effects.

59. Upon information and belief, Defendant Lilly intentionally, recklessly and maliciously suppressed information which would inform the diabetic public as to

potential injurious side effects which could result from injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

60. Upon information and belief, Defendant Lilly intentionally, recklessly and maliciously discontinued or significantly reduced the manufacture of animal-based insulins knowing that diabetics had serious adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

61. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously prevented other companies from manufacturing animal-based insulins knowing that diabetics have adverse symptoms from injecting Humulin®, Humalog®, other rDNA insulin or synthetic human insulin.

62. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information to medical practitioners prescribing Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other injurious, life-threatening symptoms.

63. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information to pharmacists filling prescriptions for Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulin resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms.

64. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners and pharmacists are failing to adequately train their employees as to communicate to diabetics the possible side effects of antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients who are taking Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

65. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information resulting in a nationwide administration of the potentially dangerous and life-threatening substances of Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin to diabetic patients.

66. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners have failed to diagnose and treat the injuries and side effects which Plaintiffs in this class sustained as a result of injecting Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin.

67. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously failed to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

68. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously failed to inform medical practitioners such that they would be aware of

relevant medical information to implement and supervise adequate protocols for supervising patients who were prescribed Humulin®, Humalog®, other rDNA human-based insulin or synthetic human insulin for the first time.

69. Upon information and belief, Defendant Lilly has intentionally, recklessly and maliciously failed to provide other, less risky alternatives for treatment in full knowledge of the potentially injurious, life-threatening side effects to diabetics.

70. Upon information and belief, Defendant Lilly paid for, arranged for and caused a rapid approval from the Federal Drug Administration of Humulin® or Humalog® despite having knowledge of the potential life-threatening side effects from Humulin® and Humalog® and despite that long-term effects of these drugs have not been determined.

71. Upon information and belief, Defendant Lilly conducted inadequate clinical trials of Humulin® and Humalog® such that the long-term effects of these drugs are not known nor documented.

72. Upon information and belief, Defendant Lilly conducted clinical trials of Humulin® and Humalog® on human subjects who were known to be chronic alcohol abusers or chronic drug users, which had the effect of distorting trial results of these drugs.

73. All Plaintiffs in this class have suffered personal injuries due to the injection of Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin and have claims for damages which include but may not be limited to pain and suffering, medical expenses, lost wages, loss of range-of-motion, loss of opportunity, emotional distress, disfigurement, loss of consortium and death.

74. Plaintiffs' injuries have been directly and proximately caused by Defendant Lilly's actions and omissions regarding Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulin.

WHEREFORE, Plaintiffs seek judgment against Defendant Lilly for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Lilly to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

COUNT VI – PUNITIVE DAMAGES – NOVO NORDISK

75. The Plaintiffs incorporate the prior allegations of this Complaint.

76. Defendant Novo Nordisk knew or should have known that Humulin®, Humalog®, rDNA human-based insulin or synthetic insulins marketed to the public would carry with its injection a potential for injurious side effects.

77. Upon information and belief, Defendant Novo Nordisk intentionally, recklessly and maliciously suppressed information which would inform the diabetic public as to potential injurious side effects which could result from injecting its rDNA human-based insulin or synthetic human insulins marketed to the pubic.

78. Upon information and belief, Defendant Novo Nordisk intentionally, recklessly and maliciously discontinued or significantly reduced the manufacture of animal-based insulins knowing that diabetics had serious adverse symptoms from injecting its rDNA insulin or synthetic human insulins marketed to the public.

79. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously prevented other companies from manufacturing animal-based insulins knowing that diabetics have adverse symptoms from injecting its rDNA insulin or synthetic human insulins marketed to the public.

80. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information to medical practitioners prescribing Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulins now being marketed to the public resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other injurious, life-threatening symptoms.

81. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information to pharmacists filling prescriptions for Humulin®, Humalog®, other rDNA human-based insulin and synthetic human insulins marketed to the pubic resulting in prescriptions without proper warnings to patients about possible antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms.

82. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners and pharmacists are failing to adequately train their employees to communicate to diabetics the possible side effects of antibody production, arthritic syndromes and other potentially injurious, life-threatening symptoms in diabetic patients who are taking Humulin®, Humalog® or Novo Nordisk's rDNA human-based insulin or synthetic human insulins.

83. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information resulting in a nationwide administration to diabetic patients, the potentially dangerous and life-threatening substances of Humulin®, Humalog®, or Novo Nordisk's rDNA human-based insulin or synthetic human insulins.

84. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously repressed the flow of relevant medical information such that medical practitioners have failed to diagnose and treat the injuries and side effects which Plaintiffs in this class sustained as a result of injecting Humulin®, Humalog®, or Novo Nordisk's rDNA human-based insulin or synthetic human insulins.

85. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously failed to implement and supervise adequate protocols for supervising patients who for the first time were prescribed Humulin®, Humalog®, or Novo Nordisk's rDNA human-based insulin or synthetic human insulins.

86. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously failed to inform medical practitioners such that they would be aware of relevant medical information to implement and supervise adequate protocols for supervising patients who for the first time were prescribed Humulin®, Humalog®, or Novo Nordisk's rDNA human-based insulin or synthetic human insulins.

87. Upon information and belief, Defendant Novo Nordisk has intentionally, recklessly and maliciously failed to provide other, less risky alternatives for treatment in full knowledge of the potentially injurious, life-threatening side effects to diabetics from its rDNA human-based or synthetic human insulins.

88. Upon information and belief, Defendant Novo Nordisk has manufactured, produced and distributed its rDNA human-based insulin or synthetic insulin drugs without knowing the long-term effects of such drugs on diabetic patients.

89. All Plaintiffs in this class have suffered personal injuries due to their injecting Humulin®, Humalog® or Novo Nordisk's rDNA human-based insulin or synthetic insulins and have claims for damages which include but may not be limited to pain and suffering, medical expenses, lost wages, loss of range-of-motion, loss of opportunity, emotional distress, disfigurement, loss of consortium and death.

90. Plaintiffs' injuries have been directly and proximately caused by Defendant Novo Nordisk's actions and omissions regarding Humulin®, Humalog®, other rDNA human-based insulin or synthetic insulins marketed to the public.

WHEREFORE, Plaintiffs seek judgment against Defendant Novo Nordisk for compensatory damages, punitive damages, attorneys' fees, costs and all other appropriate relief as the Court may deem proper. Additionally, Plaintiffs seek an injunction from the Court requiring Defendant Novo Nordisk to release its formula for animal based insulin to a domestic drug manufacturer so that it may produce animal insulin under United States FDA guidelines.

Respectfully submitted,

THE ROEHL LAW FIRM, P.C.

By 

Jerrald J. Roehl
René Ostrochovsky
Attorneys for Plaintiffs
300 Central Avenue S.W.
Suite 2500 East
Albuquerque, New Mexico 87102
(505) 242-6900

Faccimile Copy: **SUZAN KAWULOK, INDIVIDUALLYAND AS REPRESENTATIVE TO THE CLASS; VARIOUS UNNAMED JOHN DOES AND VARIOUS UNNAMED JANE DOES INDIVIDUALLY AND ON BEHALF OF THE CLASS,**

Plaintiffs,

vs. **NO. CIV 00 0459 BB/LFG**

ELI LILLY AND COMPANY; and NOVO NORDISK,

Defendants.

ORDER

THIS MATTER having come before this Court on Plaintiffs' Motion For Default Judgment against Defendant Eli LiUy and Company and the Court being fully apprised of the premises therefrom and having reviewed the Plaintiffs' brief and Praecipe, Defendant Eli Lilly and Company having filed no Answer or otherwise appeared, finds that Plaintiffs' Motion For Default Judgment is well-taken and should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED pursuant to Plaintiffs' Motion For Default Judgment, this Court orders and directs that judgment is hereby entered against Defendant Eli Lilly and Company on liability Judgment on damages shall be entered as follows:

1. Judgment is hereby entered against Eli Lilly and Company, on behalf of the Plaintiff class for One Billion, Three Hundred Thirty Three Million Dollars ($1,333,000,000.00).

2. Three Hundred Thirty Three Million ($333,000,000.00) shall be set aside in a trust for the sole purpose of developing a domestic source for beef, pork and beef-pork insulins. The FDA approved animal formulae will be released from Eli Lilly and Company and an open bidding process for drug manufacturers shall be implemented. Bids shall be received from drug manufacturers for the purpose of undertaking the production and marketing of animal insulins in the United States.

3. Twenty Million ($20,000,000.00) shall be set aside in trust for the sole purpose of allowing Plaintiffs at their option, to purchase Eli Lilly and Company voting stock. This will facilitate a distribution to new shareholders who will potentially have at their disposal, an action for a derivative shareholder suit to prevent Eli Lilly and Company from implementing decisions which would have a detrimental effect on the shareholders' interest of Eli Lilly and Company.

4. Twenty Million ($20,000,000.00) shall be set aside for the sole purpose of purchasing beef, pork and beef-pork insulins from CP Pharmaceuticals in Great Britain to enable the Plaintiff class to immediately obtain the full range of animal insulins as their individual preference or tolerance dictates. The animal insulins imported from Great Britain shall immediately be distributed to each Plaintiff according to his or her individual application to the Magistrate or Special Master for such product.

5. Out of the remainder, an amount for each Plaintiff will be determined by the Magistrate appointed to this case or a Special Master as provided for under Federal Rule of Civil Procedure Rule 53 (1999), appointed for solely the purpose of administrating and supervising the distribution of judgment awards in this class action Each Plaintiffs award shall be based upon his or her injuries as a result of injecting synthetic human-based insulins produced by Eli Lilly and Company, as

well as additional criteria to be set by the Magistrate or Special Master. The amount of award determined for each Plaintiff by the Magistrate or Special Master shall include an amount for punitive damages levied against Eli Lilly and Company for its intentional, reckless and malicious conduct related to Humulin®, Humalog® and their removal of animal insulins from the market.

6. Attorneys' fees as provided by The Roehl Law Firm, P.C.'s fee agreement signed by each Plaintiff.

7. Attorneys' costs to date.

8. Costs in an amount to be determined by the Magistrate or Special Master, held in trust solely for the purpose of publishing a national Judgment Notice in publications to be approved by this Court and for facilitating the timely settlement of this action on behalf of each Plaintiff.

9. An injunction preventing Eli Lilly and Company from petitioning the FDA as to the safety or otherwise appropriateness of reintroducing animal insulins on the U.S. market.

10. An injunction requiring the transfer of Eli Lilly and Company's marketing authorization for animal insulins to the drug manufacturer awarded production rights via the bidding process outlined in paragraph No. 2.

11. An Order requiring Eli Lilly and Company to publicly release its records, cover to cover of the clinical trials conducted on Humulin® and Humalog® prior to its introduction into the national market, including but not limited to: the name and medical records of all gene donor(s); the names, addresses and telephone numbers of the clinical trial participants; all medical personnel who participated in logging clinical trial results; and all personnel who were paid by Eli Lilly and Company, on the payroll of Eli Lilly and Company, or given anything of value by Eli Lilly and Company to facilitate the approval of the two drugs by the FDA and their subsequent release into the market.

12. A public acknowledgement published in every diabetic periodical, the New England Journal of Medicine and Lilly's own website by Eli Lilly and Company setting forth in detail, the full spectrum of adverse effects which may result from injecting Humulin® and Humalog®.

13. An injunction requiring a study of large scale randomized clinical trials comparing "human" insulins with beef and pork insulins, funded by Eli Lilly and Company and awarded to the medical facility designated by this Court.

15. All other additional relief as deemed proper by this Court.

14. An injunction requiring that a criminal investigation be immediately undertaken to investigate Eli Lilly and Company's relationship, payments to, reports to, and communications with the American Diabetes Association and the Federal Drug Administration which in any way, relate to Lilly's development, production and marketing of Humulin® and Humalog®, either in the United States or through Lilly's foreign subsidiaries.

THE HONORABLE BRUCE D.BLACK

United States District Court Judge

THE HONORABLE LORENZO F.GARCIA

United States District Court Judge

Submitted by:

THE ROEHL LAW FIRM, P.C.
René Ostrochovsky
Jerrald J. Roehi
Attorneys for the Plaintiff Class
Third Central Plaza, Suite 2500E
300 Central Avenue S. W.
Albuquerque, New Mexico 87102 (505) 242-6900

UNITED STATES DISTRICT COURT
STATE OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND AS REPRESENTATIVE TO THE CLASS; VARIOUS UNNAMED JOHN DOES AND VARIOUS UNNAMED JANE DOES INDIVIDUALLY AND ON BEHALF OF THE CLASS,

00 MAY -8 PM 3:47

CLERK-ALBUQUERQUE

Plaintiffs,

vs.

No. CIV 00 0459 BB/LFG

ELI LILLY AND COMPANY; and NOVO NORDISK,

Defendants.

NOTICE OF WITHDRAWAL OF THE MOTION TO SET ASIDE DEFAULT JUDGMENT

Plaintiffs hereby submit this Notice of Withdrawal of the Motion to Set Aside Default Judgment which was forwarded to the Court on May 1, 2000.

THE ROEHL LAW FIRM, P.C.

JJ Roehl

Jerrald J. Roehl
René Ostrochovsky
Attorneys for Plaintiffs
Third Central Plaza - Suite 2500E
300 Central Avenue S.W.
Albuquerque, New Mexico 87102
(505) 242-6900

I hereby certify that a true and correct copy of the foregoing was mailed to all parties entitled to notice on this 8 day of May, 2000.

JJ Roehl

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UNITED STATES DISTRICT COURT
STATE OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND AS REPRESENTATIVE TO THE CLASS; VARIOUS UNNAMED JOHN DOES AND VARIOUS UNNAMED JANE DOES INDIVIDUALLY AND ON BEHALF OF THE CLASS,

00 MAY -8 PM 3:50

Plaintiffs,

vs.

No. CIV 00 0459 BB/LFG

ELI LILLY AND COMPANY; and NOVO NORDISK,

Defendants.

MOTION TO SET ASIDE CLERK'S ENTRY OF DEFAULT

Plaintiffs hereby move the Court Clerk to set aside the Entry of Default for the reason that service of process on Eli Lilly and Company was not properly made based upon the Affidavit of Assistant General Counsel of Eli Lilly and Company, a copy of which is attached hereto as Exhibit "A."

Respectfully submitted,

THE ROEHL LAW FIRM, P.C.

By J. J. Roehl

Jerrald J. Roehl
René Ostrochovsky
Attorneys for Plaintiffs
Third Central Plaza – Suite 2500E
300 Central Avenue S.W.
Albuquerque, New Mexico 87102
(505) 242-6900

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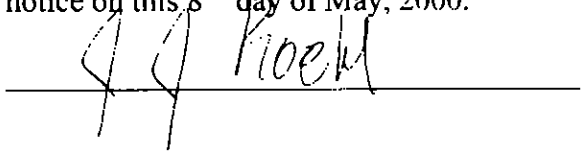
I hereby certify that a true
and correct copy of the foregoing
was mailed to all parties entitled to
notice on this 8th day of May, 2000.



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND
AS REPRESENTATIVE TO THE CLASS;
VARIOUS UNNAMED JOHN DOES AND
VARIOUS UNNAMED JANE DOES INDIVIDUALLY
AND ON BEHALF OF THE CLASS,

Plaintiffs,

NO. CIV 00 0459 BB/LFG

vs.

ELI LILLY AND COMPANY; and
NOVO NORDISK,

Defendants.

AFFIDAVIT OF JAMES T. BURNS IN SUPPORT OF DEFENDANT ELI LILLY AND COMPANY•S MOTION TO SET ASIDE CLERK•S ENTRY OF DEFAULT

JAMES T. BURNS, of lawful age, being first duly sworn, upon oath, states as follows:

1. I am employed by Eli Lilly and Company as Assistant General Counsel.

2 I have first hand knowledge regarding which Agents for Service of Process are authorized on behalf of Eli Lilly and Company to accept service of summonses, subpoenas, and other court papers in any lawsuit in which Eli Lilly is a named party.

3 Eli Lilly and Company currently use The Corporation Trust Company as its Registered Agent for Service of Process in every state in which Eli Lilly and Company is registered to do business.

4. I also have first hand knowledge regarding Eli Lilly and Company•s appointment of stock transfer agents, which are external companies authorized, pursuant to a contractual relationship, to transfer Eli Lilly and Company corporate stock.

5 Stock transfer agents have no authority to accept summonses, subpoenas, or other court papers on behalf of Eli Lilly.

6. I have seen the Affidavit of Service by Bobby Ali in the lawsuit *captioned Suzan Kawulok*

vs. Eli Lilly and Company and Novo Nordisk, United States District Court for the District Court, No. 00-0459BB (•Lawsuit•). Said *Affidavit of Service* purports to state that service of the summons and complaint in the Lawsuit were served on Equiserve, First Chicago Trust of New York at 525 Washington Boulevard, Jersey City, New Jersey.

7. Up until July 31, 1999, Equiserve acted as Eli Lilly•s Stock Transfer Agent. Equiserve is not, and never has been, a Registered Agent for Service of Process for Eli Lilly and Company, nor has Equiserve otherwise at any time been authorized on behalf of Eli Lilly to accept service of summonses, subpoenas, or other court papers.

8. From July 31, 1999, to the present, Equiserve has had no agency relationship whatsoever to Eli Lilly and Company.

9. Upon my knowledge, neither Eli Lilly and Company nor any of its Registered Agents for Service of Process have been served with any summonses or subpoenas in the Lawsuit, nor has Equiserve forwarded to Eli Lilly and Company or any of its agents any documents received by Equiserve as alleged in the Affidavit of Service.

James T. Burns

JAMES T. BURNS
ASSISTANT GENERAL COUNSEL
ELI LILLY AND COMPANY

SUBSCRIBED AND SWORN to before me this 27th day of April 2000, by James T. Burns, known to me personally to be the person whose signature is affixed hereto.

Lisa C. Zoellner

Notary Public

My commission expires:
12/18/2000

Lisa C. Zoellner
Resident of Marion County
My Commission Expires:
December 18, 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND
AS REPRESENTATIVE TO THE CLASS;
VARIOUS UNNAMED JOHN DOES AND
VARIOUS UNNAMED JANE DOES INDIVIDUALLY
AND ON BEHALF OF THE CLASS,

Plaintiffs,

vs.

ELI LILLY AND COMPANY; and
NOVO NORDISK,

Defendants.

00 MAY 25 PM 2:57

NO. CIV 00 0459 BB/LFG

ENTRY OF APPEARANCE

The undersigned RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A. (Bruce Hall, Jonathan W. Hewes, Thomas A. Outler), SHOOK, HARDY & BACON, L.L.P. (Andrew See, John F. Kuckelman, Michelle R. Mangrum) hereby enter their appearance on behalf of Defendant Eli Lilly and Company in the above action.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By _____

Bruce Hall
Jonathan W. Hewes
Tom Outler
Attorneys for Defendant Eli Lilly And Company
P.O. Box 1888
Albuquerque, NM 87103
Tel: (505) 765-5900
Fax: (505) 768-7395

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Andrew See, Esq.
John F. Kuckelman, Esq.
SHOOK, HARDY & BACON, L.L.P.
One Kansas City Place
1200 Main Street
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Tel: (816) 474-6550
Fax: (816) 421-5547

Michelle R. Mangrum, Esq.
SHOOK, HARDY & BACON, L.L.P.
Hamilton Square
600 West 14th Street, NW, Suite 800
Washington, D.C. 20005-2004
Tel: (202) 783-8400
Fax: (202) 783-4211

We hereby certify that a copy of the foregoing was mailed to counsel of record as follows this 25th day of May, 2000.

Jerrald J. Roehl
Rene Ostrochovsky
The Roehl Law Firm, P.C.
Third Central Plaza, Suite 2500E
300 Central Avenue S.W.
Albuquerque, NM 87102

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By _____
Tom Outler

Pleading Separator Sheet USDC NM

joe Case Number: 0cv82

Gonzales, HHS

Document #: 9

0cv82+9+2000-05-25

UNITED STATES DISTRICT COURT
STATE OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND AS REPRESENTATIVE TO THE CLASS; VARIOUS UNNAMED JOHN DOES AND VARIOUS UNNAMED JANE DOES INDIVIDUALLY AND ON BEHALF OF THE CLASS,

00 JUL-2 PM 4:14

Plaintiffs,

vs. **NO. CIV 00 0459 BB/LFG**

ELI LILLY AND COMPANY; and NOVO NORDISK,

Defendants.

NOTICE OF WITHDRAWAL OF PLAINTIFFS' MOTION TO CERTIFY THE CLASS

Plaintiffs file their Notice of Withdrawal of their Motion to Certify the Class. As grounds therefor, Plaintiffs state:

1. The Motion was premature in that the Defendants had not answered the Complaint at the time the Motion was filed.

2. Plaintiffs pray that this Notice of Withdrawal be without prejudice and that they be allowed to file the Motion to Certify after the Defendants have answered Plaintiffs' Complaint.

3. Plaintiffs' position is that the class is certifiable. However to give Defendants ample time to make appearances and file Answers, Plaintiffs are withdrawing their Motion to Certify.

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Respectfully submitted,

THE ROEHL LAW FIRM, P.C.

By _____

René Ostrochovsky
Jerrald J. Roehl
Attorneys for Plaintiffs
300 Central Avenue S.W.
Suite 2500 East
Albuquerque, New Mexico 87102
(505) 242-6900

I hereby certify that a true and correct copy of the foregoing pleading was mailed to opposing counsel on this 2nd day of June, 2000.

_____
René Ostrochovsky

UNITED STATES DISTRICT COURT
STATE OF NEW MEXICO

SUZAN KAWULOK, INDIVIDUALLY AND AS REPRESENTATIVE TO THE CLASS; VARIOUS UNNAMED JOHN DOES AND VARIOUS UNNAMED JANE DOES INDIVIDUALLY AND ON BEHALF OF THE CLASS,

00 JUN -5 PM 4:04

Plaintiffs,

vs. **NO. CIV 00 0459 BB/LFG**

ELI LILLY AND COMPANY; and NOVO NORDISK,

Defendants.

NOTICE OF WITHDRAWAL OF PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT

Plaintiffs hereby submit this Notice of Withdrawal of their Motion for Default Judgment against Defendant Eli Lilly and Company, which was filed with this Court on April 25, 2000.

Respectfully submitted,

THE ROEHL LAW FIRM, P.C.

By _____
René Ostrochovsky
Jerrald J. Roehl
Attorneys for Plaintiffs
Third Central Plaza – Suite 2500E
300 Central Avenue S.W.
Albuquerque, New Mexico 87102
(505) 242-6900

I hereby certify that a true and correct copy of the foregoing was mailed to the opposing parties or counsel of record on the 5th day of June, 2000.

_____

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