

CAUSE NO. _____

THE STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
VS.	§	DALLAS COUNTY, TEXAS,
	§	
PFIZER INC,	§	
Defendant.	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

COMES NOW, THE STATE OF TEXAS, acting by and through GREG ABBOTT, Attorney General of Texas, complaining of PFIZER INC (“DEFENDANT” or “PFIZER”) and for cause of action would show as follows:

Discovery Control Plan

1. The Attorney General intends to conduct discovery under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

Authority

2. This action is brought by Attorney General GREG ABBOTT, through his Consumer Protection & Public Health Division, in the name of the STATE OF TEXAS and in the public interest under the authority granted him by §17.47, TEXAS DECEPTIVE TRADE PRACTICES--CONSUMER PROTECTION ACT, TEX. BUS. & COM. CODE §§17.41 *et seq.* (“DTPA”), upon the grounds that DEFENDANT has engaged in false, misleading, or deceptive acts or practices in the course of trade and commerce as defined in, and declared unlawful by, §§17.46(a) and (b) of the DTPA.

Defendant

3. PFIZER is a Delaware corporation with its principal place of business in New York. At all relevant times, PFIZER did business in Texas selling and promoting prescription drugs, including Geodon®. PFIZER may be served with process by serving its registered agent at CT Corp System, 350 North St. Paul Street, Dallas, Texas 75201.

Subject Matter Jurisdiction and Venue

4. This Court has jurisdiction over the subject matter of this action pursuant to §17.47(b) of the DTPA.

5. Pursuant to DTPA §17.47(b) venue is proper in Dallas County because DEFENDANT has done business in Dallas County.

Public Interest

6. Because the STATE OF TEXAS has reason to believe that DEFENDANT has engaged in, and will continue to engage in, the unlawful practices set forth below, Plaintiff STATE OF TEXAS has reason to believe that DEFENDANT has caused, and will cause, adverse effects to legitimate business enterprise which conducts its trade and commerce in a lawful manner in this State. Therefore, the Consumer Protection and Public Health Division of the Office of the Attorney General of Texas believes and is of the opinion that these proceedings are in the public interest.

Trade or Commerce

7. PFIZER is engaged in trade and commerce as that term is defined by §17.45(6) of the DTPA.

Notice Before Suit

8. PFIZER was informed in general of the alleged unlawful conduct described below and as may be required by §17.47(a) of the DTPA.

Defendant's Conduct

9. Geodon® belongs to a class of drugs traditionally used to treat schizophrenia and commonly referred to as "atypical antipsychotics." When these drugs were first introduced to the market in the 1990s, it was hypothesized that they might be used as long-term treatment for schizophrenia without posing the same risks as first-generation antipsychotics.

10. While these drugs may reduce some risks associated with first-generation antipsychotics, they also produce dangerous side effects, including weight gain, hyperglycemia, diabetes, cardiovascular complications, and other severe conditions.

11. Geodon® was first approved by the Food and Drug Administration (“FDA”) for the treatment of schizophrenia in February, 2001. Since then, the FDA has approved various formulations of Geodon® for the treatment of acute agitation in schizophrenic patients requiring rapid treatment, the treatment of acute manic or mixed episodes in Bipolar I Disorder, and/or the treatment of both schizophrenia and bipolar disorder.

12. PFIZER not only began to market Geodon® to health care professionals for the treatment of schizophrenia in 2001, it also marketed Geodon® for a number of uses for which it was not approved by the FDA. For example, PFIZER illegally promoted Geodon® for a variety of off-label purposes including, but not limited to, for use in pediatric patients and for higher than FDA-approved dosages.

13. Through all of the company’s efforts to promote Geodon® for uses for which it was not approved by the FDA, PFIZER misrepresented the drug’s safety and effectiveness.

Violations of the Deceptive Trade Practices Act

14. DEFENDANT, as alleged above in paragraphs 1 through 13 have in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §17.46(a) of the DTPA.

15. Additionally, PFIZER, as alleged above in paragraphs 1 through 14, have violated §17.46(b) of the DTPA as follows:

- A. Causing confusion or misunderstanding as to the approval of a drug manufactured by PFIZER, in violation of §17.46(b)(2) of the DTPA;
- B. Representing that a drug has benefits which it does not have, in violation of §17.46(b)(5) of the DTPA;
- C. Representing that a drug is of a particular standard, quality, or grade, if they are of another, in violation of §17.46(b)(7) of the DTPA; and
- D. Failing to disclose information about a drug, when such failure to disclose such information was intended to induce the consumer into a transaction into which the

consumer would not have entered had the information been disclosed, in violation of §17.46(b)(24) of the DTPA.

16. Each time that PFIZER violates §17.46(a) and/or (b) of the DTPA is a separate and distinct violation of these provisions of the DTPA.

INJURY TO CONSUMERS

17. By means of the foregoing unlawful acts and practices in paragraphs 1 through 16 above, DEFENDANT has acquired money or other property from identifiable persons to whom such money or property should be restored, or who in the alternative are entitled to an award of damages.

PERMANENT INJUNCTION

18. The State alleges that by reason of the foregoing, DEFENDANT should not continue to advertise, offer to sell, or sell their products in violation of the laws of Texas. The interests of the State of Texas require a temporary and/or permanent injunction to prohibit DEFENDANT from advertising and selling their products unless DEFENDANT is in compliance with the DTPA.

19. Unless injunctive relief is granted, DEFENDANT will continue to violate the laws of the State of Texas to irreparable injury of the State of Texas and to the general public.

PRAYER

20. WHEREFORE, Plaintiff prays that PFIZER INC be cited according to law to appear and answer herein; that after due notice and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining PFIZER, its successors, assigns, officers, agents, servants, employees, and any other person in active concert or participation with PFIZER from engaging in the following acts or practices:

- A. Disseminating any false advertisement for a drug;
- B. Causing confusion or misunderstanding as to the approval of the drugs manufactured by PFIZER;
- C. Representing that PFIZER's drugs have benefits which they do not have;

- D. Representing that PFIZER's drugs are of a particular standard, quality, or grade, if they are of another; and
- E. Failing to disclose information about a drug, when such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

21. Plaintiff further prays that, upon final hearing, this Court will order PFIZER INC to pay civil penalties in favor of the STATE OF TEXAS in the amount of \$20,000.00 per violation of the DTPA pursuant to of § 17.47(c)(1) of the DTPA.

22. Plaintiff further prays that upon final hearing that his Court order PFIZER INC to restore all money or other property taken from persons by means of unlawful acts or practices, or, in the alternative, award judgment for damages to compensate for such losses pursuant to § 17.47(d) of the DTPA.

23. Plaintiff further prays that upon final hearing that this Court order PFIZER INC to pay to the STATE OF TEXAS attorney fees and costs of court pursuant to the TEX. GOVT. CODE § 402.006 (c) (Vernon 2005, Supp. 2007).

24. Plaintiff further prays that upon final hearing that this Court grant all other relief to which the STATE OF TEXAS may show itself entitled.

Respectfully submitted,

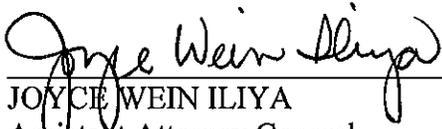
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