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13 Attorneys for Plaintiffs, SUSAN and RICHARD GALINIS

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16

17 SUSAN GALINIS and RICHARD GALINIS,

18 Plaintiffs,

19 vs.

20 BAYER CORPORATION, an Indiana
21 corporation; BAYER HEALTHCARE
22 PHARMACEUTICALS INC., a Delaware
23 corporation; BAYER HEALTHCARE, LLC,
a Delaware limited liability company;
24 BERLEX LABORATORIES , INC., a
Delaware corporation; BAYER SCHERING
25 PHARMA AG, a German corporation;
26 SCHERING AG, a German corporation; and
DOES ONE through ONE HUNDRED,
27 inclusive,

28 Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

DEMAND FOR JURY TRIAL

1 NOW COME PLAINTIFFS, by and through the undersigned counsel, and for their
2 Complaint hereby aver and state as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action brought by Plaintiffs for damages associated with ingestion of the
5 pharmaceutical drug Yaz, an oral contraceptive developed, designed, licensed, manufactured,
6 distributed, sold, and/or marketed by Defendants.

7 2. As a result of the ingestion of Yaz, Plaintiff suffered injuries to her person including, but
8 not limited to, a stroke in June of 2008.

9 **THE PARTIES**

10 3. Plaintiff Susan Galinis, (herein "Plaintiff"), currently lives and at all times relevant to this
11 complaint has lived in the city of Newark, Alameda County, California.

12 4. Plaintiff is married to Richard Galinis who also lives in the city of Newark, Alameda
13 County, State of California.

14 5. Defendant BAYER CORPORATION is, and at all times relevant was, a corporation
15 organized under the laws of the State of Indiana with its headquarters and principal place of business at
16 100 Bayer Rd., Pittsburgh, Pennsylvania 15205.

17 6. Defendant BAYER HEALTHCARE LLC, is, and at all times relevant was, a limited
18 liability corporation organized under the laws of the State of Delaware with its headquarters and
19 principal place of business at 100 Bayer Road, Pittsburg, PA 15205.

20 7. Defendant BAYER HEALTHCARE LLC is wholly owned by Defendant
21 BAYER CORPORATION.

22 8. Defendant BAYER PHARMACEUTICALS CORPORATION is, and at times relevant
23 was, a corporation organized under the laws of the State of Delaware with its headquarters and principal
24 place of business at 1400 Morgan Lane, West Haven, Connecticut.

25 9. As of January 1, 2008, Defendant BAYER PHARMACEUTICALS CORPORATION
26 was merged into Defendant BAYER HEALTHCARE PHARMACEUTICALS INC.

27 10. Defendant BAYER HEALTHCARE PHARMACEUTICALS INC., is and at times
28 relevant was, a corporation organized and existing under the laws of the State of Delaware, having a

1 principal place of business at 340 Changebridge Road, P.O. Box 1000, Montville, New Jersey 07045-
2 1000.

3 11. Defendant BAYER HEALTHCARE PHARMACEUTICALS INC. was formerly known
4 as Berlex, Inc., which was formerly known as Berlex Laboratories, Inc., and is the same corporate entity
5 as Berlex, Inc. and Berlex Laboratories, Inc.

6 12. Defendant BAYER HEALTHCARE PHARMACEUTICALS INC. is the holder of
7 approved New Drug Application (“NDA”) for Yaz.

8 13. Defendants BERLEX LABORATORIES, INC. and BERLEX, INC. are, and at all times
9 relevant were, foreign corporations with their headquarters and principal places of business at Montville,
10 New Jersey and with a post office address of P.O. Box 1000, Montville, New Jersey, 07045 and places
11 of business located at 6 West Belt Road, Wayne, New Jersey 07470.

12 14. Defendants BERLEX LABORATORIES, INC. and BERLEX, INC. were integrated into
13 Bayer HealthCare AG and operates as an integrated specialty pharmaceuticals business under the new
14 name, Defendant Bayer Healthcare Pharmaceuticals, Inc.

15 15. Defendant BAYER SCHERING PHARMA AG, formerly known as Schering AG, is a
16 pharmaceutical company that is organized and existing under the laws of the Federal Republic of
17 Germany, having a principal place of business at Müllerstrasse 178, 13353 Berlin, Germany.

18 16. Defendant BAYER SCHERING PHARMA AG is a corporate successor to Schering AG.

19 17. SCHERING AG was renamed BAYER SCHERING PHARMA AG effective December
20 29, 2006.

21 18. Defendant BAYER SCHERING PHARMA AG’S headquarters and principal place of
22 business in the United States is located at 100 Bayer Road, Pittsburgh, Pennsylvania, 15205.

23 19. Defendant BAYER SCHERING PHARMA AG is the current owner of the patent(s)
24 relating to the oral contraceptive, Yaz.

25 20. Defendant BAYER AG is a German chemical and pharmaceutical company that is
26 headquartered in Leverkusen, North Rhine-Westphalia, Germany.

27 21. Defendant BAYER AG is the third largest pharmaceutical company in the world.

28 22. Defendant BAYER AG is the parent/holding company of all other named Defendants.

1 23. Defendant BAYER AG’s headquarters and principal place of business in the United
2 States is located at 100 Bayer Road, Pittsburgh, Pennsylvania, 15205.

3 24. Defendants John Doe Manufacturers (DOES 1-50, fictitious-name designations of one or
4 more individuals, partnerships, corporations, and/or other entities whose actual identities have yet to be
5 determined) at all times relevant hereto were in the business of developing, researching, selling,
6 distributing, designing, manufacturing, testing, evaluating, licensing, labeling, marketing, and/or
7 placing, either directly or indirectly through third parties or related entities, pharmaceutical drugs
8 including Yaz into interstate commerce and derived substantial revenue from these activities.

9 25. Defendants John Doe Distributors (DOES 51-100, fictitious-name designations of one or
10 more individuals, partnerships, corporations, and/or other entities whose actual identities have yet to be
11 determined) at all times relevant hereto were in the business of developing, researching, selling,
12 distributing, designing, manufacturing, testing, evaluating, licensing, labeling, marketing, and/or
13 placing, either directly or indirectly through third parties or related entities, pharmaceutical drugs
14 including Yaz into interstate commerce and derived substantial revenue from these activities.

15 26. Defendants Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals
16 Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc., Bayer
17 Schering Pharma AG, Bayer AG, John Doe Manufacturers and Distributors DOES 1-100 shall be
18 referred to herein individually by name or jointly as “Defendants.”

19 27. At all times relevant, Defendants were engaged in the business of developing, designing,
20 licensing, manufacturing, distributing, selling, marketing, and/or introducing into interstate commerce,
21 either directly or indirectly through third parties, subsidiaries or related entities, the oral contraceptive,
22 Yaz.

23 28. At all times alleged herein, Defendants include and included any and all parents,
24 subsidiaries, affiliates, divisions, franchises, partners, joint venturers, and organizational units of any
25 kind, their predecessors, successors and assigns and their officers, directors, employees, agents,
26 representatives and any and all other persons acting on their behalf.

27 29. At all times herein mentioned, each of the Defendants was the agent, servant, partner,
28 predecessors in interest, aider and abettor, co-conspirator and joint venturer of each of the remaining

1 Defendants herein and was at all times operating and acting with the purpose and scope of said agency,
2 service, employment, partnership, conspiracy and joint venture.

3 **JURISDICTION AND VENUE**

4 30. This Court has jurisdiction over this action pursuant to 28 U.S.C.A. § 1332, as there is
5 complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy
6 exceeds the sum or value of \$75,000, exclusive of interest and costs.

7 31. Venue is proper in the Northern District of California pursuant to 28 U.S.C.A. § 1391, as
8 a substantial part of the events or omissions giving rise to the claims occurred within this district,
9 including, but not limited to, the development, design, licensing, labeling, manufacturing, advertising
10 and/or marketing of the defective drug, as well as Defendants' fraud and conspiracy to actively conceal
11 and/or misrepresent information concerning the safety and efficacy of Yasmin with the intention and
12 specific desire to mislead the medical, pharmaceutical and/or scientific communities, and users and/or
13 consumers of the drug, including Plaintiff.

14 **FACTS**

15 **Yasmin and YAZ Background**

16 32. Yasmin, (a predecessor to Yaz), known generically as drospirenone and ethinyl estradiol,
17 is a combination birth control pill originally developed by Defendant BERLEX LABORATORIES,
18 INC. and/or Defendant BERLEX, INC containing the hormones estrogen and progestin.

19 33. The estrogen is ethinyl estradiol and the progestin is drospirenone, (3 mg of drospirenone
20 and 0.03 mg of ethinyl estradiol per tablet).

21 34. Combination birth control pills are referred to as combined hormonal oral contraceptives.

22 35. Yasmin was approved by the FDA in April, 2001.

23 36. In 2006, Bayer acquired Defendant BERLEX LABORATORIES, INC. and/or Defendant
24 BERLEX, INC, and began marketing an almost identical drug, Yaz (which contains 3 mg of
25 drospirenone and 0.02 mg of ethinyl estradiol per tablet).

26 37. The difference between Yaz/Yasmin and other birth control pills on the market is that
27 drospirenone has never before been marketed in the United States and is unlike other progestins
28 available in the United States.

1 38. Shortly after the introduction of combined oral contraceptives in the 1960s, doctors and
2 researchers found that women using birth control pills had a higher risk of blood clots, heart attacks and
3 strokes than women not using the pill. As a result, the various brands of birth control pills were
4 reformulated to reduce the amounts of estrogen. As the amounts of estrogen levels reduced, so too did
5 the risk of blood clots, heart attacks and strokes.

6 39. During this time, new progestins were being developed, which became known as “second
7 generation” progestins (e.g. lovenorgestrel). These second generation progestins, when combined with
8 the lower amounts of the estrogen, ethinyl estradiol, helped to reduce the risk of blood clots, heart
9 attacks and strokes and were considered safer for women.

10 40. During the 1990s, new “third generation” progestins were developed. Unfortunately,
11 these “third generation” progestins (e.g. gestodene and desogestrel) have been associated with a greater
12 risk of blood clots in the deep veins (deep vein thrombosis or “DVT”) and lungs (pulmonary embolism
13 or “PE”) . As a result of this increased risk of blood clots, the FDA has required that products containing
14 third generation progestins include a warning of the potentially increased risk of thrombosis.

15 41. Yasmin and Yaz contain the same estrogen component, ethinyl estradiol, that has been
16 used in the lower dose birth control pills for decades.

17 42. However, drospirenone is a new type of progestin and is considered a “fourth generation”
18 progestin. No other birth control pills contain drospirenone, except for a recently approved generic
19 version of Yasmin and Yaz marketed under the trade name, Ocella.

20 43. Since drospirenone in birth control is new, there are not decades of data available to
21 support its safe use as there are with second generation progestins. Studies that were done prior to FDA
22 approval, however, indicate that drospirenone has certain effects that are different from those of
23 traditional second generation progestins, and potentially more dangerous.

24 44. One possible mechanism of action is that drospirenone causes an increase in potassium
25 levels in the blood, which can lead to a condition known as hyperkalemia if the potassium levels become
26 too high.

27 45. Hyperkalemia can cause various medical complications, including heart rhythm
28 disturbances, such as extrasystolies, pauses or bradycardia. If left untreated, hyperkalemia can be fatal.

1 46. Drospirenone increases the risk of and permits blood clots to form, including deep vein
2 thrombosis. Blood clots in the heart can then lead to heart attacks, or the clots can break off and travel to
3 the lungs where they can cause pulmonary embolism, or can travel to the brain causing stroke.

4 47. If hyperkalemia disrupts the normal heart rhythms, the flow of blood through the heart
5 can be slowed to the point that it permits blood clots to form, including deep vein thrombosis. Blood
6 clots in the heart can then lead to heart attacks, or the clots can break off and travel to the lungs where
7 they can cause pulmonary embolism, or can travel to the brain causing stroke.

8 48. During the brief time that Yasmin and Yaz have been sold in the United States, hundreds
9 of reports of injury and death have been submitted to the FDA in association with Defendants' products.

10 **Defendants' Over-Promotion, Fraud and Failures Regarding Yasmin and Yaz**

11 49. Defendants market Yasmin and Yaz as providing the same efficacy as other birth control
12 pills in preventing pregnancy, but with additional benefits.

13 50. However, because Yasmin and Yaz contain the fourth generation progestin drospirenone,
14 they present additional health risks not associated with other birth control pills.

15 51. Defendants have been warned at least three times by the FDA; in 2003, 2008 and 2009,
16 for misleading the public through the use of ads which overstate the efficacy of Yaz and/or its
17 predecessor Yasmin, and minimize serious risks associated with the drug.

18 52. Indeed, the FDA felt Defendants' over-promotion of Yaz was so severe that it required
19 Bayer to run new TV advertisements to correct the previous misleading Yaz advertisements.

20 53. Bayer ultimately agreed to spend at least \$20 million on corrective TV advertisements
21 and to submit all Yaz advertisements to the FDA for advanced screening for the next six years.

22 54. Defendants ignored the correlation between the use of Yasmin and Yaz and increased
23 thrombosis formation despite the wealth of scientific information available.

24 55. Upon information and belief, Defendants knew or should have known about the
25 correlation between the use of Yasmin and Yaz and strokes and still promoted, sold, advertised, and
26 marketed the use of Yasmin and Yaz.

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28

1 56. Defendants falsely and fraudulently represented to the medical and healthcare
2 community, to Plaintiff, the FDA, and the public in general, that Yasmin and Yaz had been tested and
3 was found to be safe and/or effective for its indicated use.

4 57. These false representations were made by Defendants with the intent of defrauding and
5 deceiving Plaintiff, the public in general, and the medical and healthcare community in particular, and
6 were made with the intent of inducing the public in general, and the medical and healthcare community
7 in particular, to recommend, dispense, purchase and use Yasmin and Yaz despite the risks, all of which
8 evinced a callous, reckless, willful, depraved indifference to the health, safety and welfare of Plaintiff.

9 58. Defendants knew and were aware or should have been aware that Yasmin and Yaz had
10 not been sufficiently tested, was defective in its design and testing, and/or lacked adequate and/or
11 sufficient warnings.

12 59. Defendants knew or should have known that Yasmin and Yaz had a potential to, could,
13 and would cause severe and grievous injury and death to the users of said product, and that it was
14 inherently dangerous in a manner that exceeded any purported, inaccurate and/or down-played warnings.

15 60. In representations to Plaintiff, her healthcare providers, the public and/or the FDA,
16 Defendants also fraudulently concealed and intentionally omitted the following material information:

- 17 a. That Yasmin/Yaz is not as safe as other available contraceptives;
- 18 b. That the risks of adverse events with Yasmin/Yaz (drospirenone and ethinyl
19 estradiol) were higher than those of other available contraceptives;
- 20 c. That the risks of adverse events with Yasmin/Yaz were not adequately tested
21 and/or known by Defendants;
- 22 d. Plaintiff was put at risk of experiencing serious and dangerous side effects
23 including, but not limited to, stress, pulmonary embolisms, heart attacks,
24 gallbladder complications, as well as other severe and personal injuries, physical
25 pain, and mental anguish;
- 26 e. That patients needed to be monitored more regularly than normal while using
27 Yasmin/Yaz; and/or
- 28 f. That Yasmin/Yaz was designed, tested, manufactured, marketed, produced,
distributed and advertised negligently, defectively, fraudulently and improperly.

- 1 a. The pharmaceutical Yaz was designed, manufactured, sold and/or supplied by the
2 Defendants, was defectively designed and placed into the stream of commerce by
3 Defendants in a defective and unreasonably dangerous condition;
- 4 b. Defendants failed to properly market, design, manufacture, distribute, supply and sell
5 Yaz;
- 6 c. Defendants failed to warn and/or place adequate warnings and instructions on Yaz;
- 7 d. Defendants failed to adequately test Yaz;
- 8 e. Defendants failed to provide timely and adequate post-marketing warnings and
9 instructions after they knew of the risk of injury associated with the use of Yaz; and
- 10 f. A feasible alternative design existed that was capable of preventing Plaintiff's injury.

11 87. Defendants' actions and omissions were the direct and proximate cause of
12 Plaintiff's injury.

13 88. Defendants' conduct, as described above, was extreme and outrageous. Defendants risked
14 the lives of the consumers and users of their products, including Plaintiff, with knowledge of the safety
15 and efficacy problems and suppressed this knowledge from the general public. Defendants made
16 conscious decisions not to redesign, re-label, warn or inform the unsuspecting consuming public.
17 Defendants' outrageous conduct warrants an award of punitive damages.

18 **COUNT III**
19 **(Breach Of Implied Warranty Of Merchantability)**

20 89. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and
21 further alleges on information and belief as follows.

22 90. At the time Defendants marketed, distributed and sold Yaz to Plaintiff, Defendants knew
23 of the intended, reasonably foreseeable and/or ordinary use of the drug and warranted that Yaz was
24 merchantable, safe and fit for such use.

25 91. Members of the consuming public, including consumers such as Plaintiff, were intended
26 third party beneficiaries of the warranty.

27 92. Yaz was not merchantable or safe or fit for its intended, reasonably foreseeable and/or
28 ordinary purpose, because it has a propensity to lead to the serious personal injuries described in this
complaint.

1 conscious decisions not to redesign, re-label, warn or inform the unsuspecting consuming public.
2 Defendants' outrageous conduct warrants an award of punitive damages.

3 **COUNT V**
4 **(Negligent Failure To Warn)**

5 103. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and
6 further allege on information and belief as follows.

7 104. Before Plaintiff used Yaz, and during the period in which she used it, Defendants knew
8 or had reason to know that Yaz was dangerous and created an unreasonable risk of bodily harm to
9 consumers.

10 105. Defendants had a duty to exercise reasonable care to warn end users of the dangerous
11 conditions or of the facts that made Yaz likely to be dangerous.

12 106. Despite the fact that Defendants knew or had reason to know that Yaz was dangerous,
13 Defendants failed to exercise reasonable care in warning the medical community and consumers,
14 including Plaintiff, of the dangerous conditions and facts that made Yaz likely to be dangerous.

15 107. The Plaintiff's injury was a direct and proximate result of Defendants' failure to warn of
16 the dangers of Yaz.

17 108. Defendants' conduct, as described above, was extreme and outrageous. Defendants risked
18 the lives of consumers and users of their products, including Plaintiff, with knowledge of the safety and
19 efficacy problems and suppressed this knowledge from the general public. Defendants made conscious
20 decisions not to redesign, re-label, warn or inform the unsuspecting consuming public. Defendants'
21 outrageous conduct warrants an award of punitive damages.

22 **COUNT VI**
23 **(Negligence)**

24 109. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and
25 further allege on information and belief as follows.

26 110. Defendants had a duty to exercise reasonable care in the manufacture, sale and
27 distribution of Yaz, including a duty to assure that the product did not cause unreasonable, dangerous
28 side effects to users.

1 111. Defendants failed to exercise ordinary care in the manufacture, sale, warnings, quality
2 assurance, quality control, and distribution of Yaz in that Defendants knew or should have known that
3 the drug created a high risk of unreasonable harm.

4 112. Defendants were negligent in the design, manufacture, advertising, warning,
5 marketing and sale of Yaz in that, among other things, they:

- 6
- 7 a. Failed to use due care in designing and manufacturing Yaz so as to avoid the
8 aforementioned risks to individuals;
- 9 b. Failed to accompany the drug with proper warnings regarding all possible adverse side
10 effects associated with its use, and the comparative severity and duration of such adverse
11 effects. The warnings given did not reflect accurately the symptoms, scope or severity of
12 the side effects;
- 13 c. Failed to provide adequate training and instruction to medical care providers for
14 appropriate use of Yaz;
- 15 d. Encouraged the drug's misuse and overuse while failing to disclose the severity of the
16 side effects of the drug to the medical, pharmaceutical and scientific communities and
17 users, including plaintiff, in order to maximize profit from sales.
- 18 e. Placed an unsafe product into the stream of commerce; and
- 19 f. Were otherwise careless or negligent.

20 113. Despite the fact that Defendants knew or should have known that Yaz caused
21 unreasonable, dangerous side effects which many users would be unable to remedy by any means,
22 Defendants continued to market Yaz to consumers, including the medical community and Plaintiff.

23 114. Defendants' conduct, as described above, was extreme and outrageous. Defendants risked
24 the lives of the consumers and users of their products, including Plaintiff, with the knowledge of the
25 safety and efficacy problems and suppressed this knowledge from the general public. Defendants made
26 conscious decisions not to redesign, re-label, warn or inform the unsuspecting consuming public.
27 Defendants' outrageous conduct warrants an award of punitive damages.

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1 **COUNT VII**
2 **(Negligent Misrepresentation)**

3 115. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and
4 further allege on information and belief as follows. Prior to Plaintiff first using Yaz and during the
5 period in which she used Yaz, Defendants misrepresented that Yaz was a safe and effective as a means
6 of birth control and for other known uses. Defendants also failed to disclose material facts regarding the
7 safety and efficacy of Yaz, including information regarding increased adverse events, harmful side
8 effects, and results of clinical studies showing that use of the medication could be life threatening.

9 116. Defendants had a duty to provide Plaintiff, physicians, and other consumers with true and
10 accurate information and warnings of any known risks and side effects of the pharmaceuticals they
11 marketed, distributed and sold.

12 117. Defendants knew or should have known, based on their prior experience, adverse event
13 reports, studies and knowledge of the efficacy and safety failures with Yaz, that their representations
14 regarding Yaz were false, and that they had a duty to disclose the dangers of Yaz.

15 118. Defendants made the representations and failed to disclose the material facts with the
16 intent to induce consumers, including Plaintiff, to act in reliance by purchasing Yaz.

17 119. Plaintiff justifiably relied on Defendants' representations and nondisclosures by
18 purchasing and using Yaz.

19 120. Defendants' misrepresentations and omissions regarding the safety and efficacy of Yaz
20 was the direct and proximate cause of Plaintiff's injuries.

21 121. Defendants' conduct, as described above, was extreme and outrageous. Defendants risked
22 the lives of the consumers and users of their products, including Plaintiff, with knowledge of the safety
23 and efficacy problems and suppressed this knowledge from the general public. Defendants made
24 conscious decisions not to redesign, re-label, warn or inform the unsuspecting consuming public.
25 Defendants' outrageous conduct warrants an award of punitive damages.

26 **COUNT VIII**
27 **(Breach Of Express Warranty)**

28 122. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and
further allege on information and belief as follows.

1 141. Defendants committed civil conspiracy, commercial bribery and conspiracy to commit
2 commercial bribery in that fiduciaries of Defendants knowingly and/or intentionally offered, conferred,
3 or agreed to confer benefits, gifts, and/or gratuities or conspired to do the same upon physicians,
4 pharmacists, and insurance companies for the purpose of enticing these entities to use the drugs Yaz,
5 and to convince their patients and others of the safety and effectiveness of Yaz.

6
7 **COUNT XII**
8 **(Loss Of Consortium)**

9 142. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and
10 further allege on information and belief as follows.

11 143. Plaintiff Richard Galinis brings this cause of action for Loss of Consortium.

12 144. By reasons of the injuries sustained by Susan Galinis, Plaintiff Richard Galinis has been
13 and will continue to be deprived of consortium, society, comfort, protection, and service, thereby
14 causing and continuing to cause grief, sorrow, mental anguish, emotional distress, pain and suffering.

15 **COUNT XIII**
16 **(Punitive Damages)**

17 145. Plaintiffs incorporate by reference each preceding and succeeding paragraph as though
18 set forth fully at length herein.

19 146. Defendants engaged in fraudulent and malicious conduct towards the Plaintiff, her
20 medical providers and the public, and thereby acted with willful and wanton and/or conscious and
21 reckless disregard for the safety of Plaintiff and the public, thereby entitling her to punitive damages.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Plaintiffs pray for judgment against the Defendants, jointly and severally,
24 as follows:

25 A. For an award of compensatory damages, including damages against Defendants and each
26 of them for personal injuries, medical and hospital expenses, loss of income, loss of
27 consortium, and other damages according to proof at trial in excess of \$75,000;

28 B. For an award of punitive or exemplary damages against Defendants and each of them in
excess of \$75,000;

- 1 C. For reasonable attorneys' fees and costs;
2 D. For pre-judgment interest; and
3 E. For such further and other relief the court deems just, equitable, and proper.
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7 **DEMAND FOR JURY TRIAL**

8 Plaintiffs hereby demand a trial by jury on all triable issues.
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10

11 Dated: October ____, 2009

GIRARD GIBBS LLP

By: /s/ Daniel C. Girard

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