

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Yesenia Melillo, individually and on behalf of all others similarly situated,	:	
	:	
	:	
Plaintiff,	:	
-against-	:	Case No.
	:	
Sanofi-Aventis U.S. LLC; Sanofi US Services Inc. and Chattem, Inc.,	:	
	:	
	:	
Defendants.	:	

CLASS ACTION COMPLAINT

Plaintiff Yesenia Melillo, by her attorneys, alleges the following:

NATURE OF THE ACTION

1. The action arises from the recent public revelation that the popular heartburn drug ranitidine, which is sold both over-the-counter and by prescription under the brand-name Zantac as well as under generic and store brands, has exposed users to a known cancer-causing agent—N-Nitrosodimethylamine (“NDMA”). The U.S. Food and Drug Administration (“FDA”) found NDMA in both Zantac and generic ranitidine, and has suggested that people who purchase it over-the-counter consider purchasing another product. Zantac has been recalled in Canada and Europe.

2. National retailers, such as Wal-Mart, CVS, Walgreens and Rite Aid, have suspended their sales of ranitidine including the Zantac branded product, and removed over-the-counter ranitidine from their store shelves.

3. Defendants sold and distributed Zantac branded ranitidine for purchase from at least January 2017 to the present. Plaintiff and other consumers in the state of New York purchased Zantac in the state of New York within the past three years.

4. Although Defendants knew or should have known that consumption of Zantac would expose the Plaintiff and other users to unacceptable levels of NDMA, they sold and distributed Zantac in a false, deceptive and misleading manner by failing to disclose a material fact – that Zantac use would expose consumers to cancer-causing NDMA – in violation of New York’s General Business Law § 349 (“GBL § 349”).

5. On account of Defendants’ conduct in violation of GBL § 349, Plaintiff and the members of the class suffered actual injury when they purchased Zantac and did not receive the full value for their purchases.

JURISDICTION AND VENUE

6. This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. § 1332(d). The amount in controversy in this class action exceeds \$5,000,000, exclusive of interest and costs, and there are numerous Class members who are citizens of states other than Defendant’s states of citizenship.

7. This Court has personal jurisdiction over Defendants in this matter. Defendants’ sales of ranitidine giving rise to this action occurred in the state of New York. Defendants have been afforded due process because they have, at all times relevant to this matter, individually or through their agents, subsidiaries, officers and/or representatives, operated, conducted, engaged in and carried on a business venture in this state and/or maintained an office or agency in this state, and/or marketed, advertised, distributed and/or sold products, committed a statutory violation within this state related to the allegations made herein, and caused injuries to Plaintiff

and Class Members, which arose out of the acts and omissions that occurred in the state of New York, during the relevant time period, at which time Defendants were engaged in business activities in the state of New York.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) and (c) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District and because Defendants transact business and/or have agents within this District and have intentionally availed themselves of the laws and markets within this district.

PARTIES

9. Plaintiff Yesenia Melillo is a citizen of the state of New York and resides in this judicial district. Plaintiff purchased over-the-counter Zantac 150mg tablets in the state of New York.

10. Defendant Sanofi-Aventis U.S. LLC is a limited liability company organized and existing under the laws of Delaware, with a principal place of business at 55 Corporate Drive, Bridgewater, New Jersey 08807.

11. Defendant Sanofi US Services Inc. is a corporation organized and existing under the laws of Delaware with a principal place of business at 55 Corporate Drive, Bridgewater, New Jersey 08807. Sanofi US Services Inc. is registered to do business in the state of New York.

12. Defendant Chattem, Inc. is a corporation organized and existing under the laws of Tennessee with a principal place of business at 1715 West 38th Street, Chattanooga, Tennessee 37409.

13. Defendants Sanofi-Aventis U.S. LLC, Sanofi US Services Inc., and Chattem, Inc. (collectively "Sanofi" or "Sanofi Defendants") are each wholly owned subsidiaries of Sanofi, located in Paris, France. Together, the Sanofi Defendants owned the rights to manufacture,

distribute and sell over-the-counter Zantac from about January 2017 to the present, and manufactured and distributed the drug in the United States during that period.

FACTUAL ALLEGATIONS

14. Ranitidine is a drug that decreases stomach acid production. Marketed under the trade name Zantac and also generically under store brands, ranitidine is commonly recommended to both adults and children for the treatment of ulcers, gastroesophageal reflux, and other medical conditions. Ranitidine is sold both in both over-the-counter and prescription dosages, in both tablet and syrup forms.

15. Based on its effectiveness, low cost and reputation for safety, ranitidine is listed on the World Health Organization's ("WHO") Model List of Essential Medicines, a list of the most efficacious, safe and cost-effective medicines.

16. On September 9, 2019, Valisure, an independent pharmacy, submitted a citizen petition to the U.S. Food and Drug Administration ("FDA") requesting suspension of ranitidine sales. Valisure reported that their internal testing of ranitidine samples "detected extremely high levels of N-Nitrosodimethylamine ("NDMA"), a probable human carcinogen according to the WHO, in every lot tested, across multiple manufacturers and dosage forms of the drug ranitidine."¹

17. According to the WHO, NDMA is classified as a probable carcinogen, which means it probably causes cancer in humans.

18. According to Valisure, ranitidine reacts with itself due to a molecular instability, and produces NDMA levels in excess of 3,000,000 ng per 150mg tablet, which is more than

¹ Valisure Citizen Petition, Sept. 9, 2019, <https://www.valisure.com/wp-content/uploads/Valisure-Ranitidine-FDA-Citizen-Petition-v4.12.pdf> (hereinafter, "Valisure Petition").

31,000 times the FDA's maximum daily intake amount of 96 ng/day. Valisure tested several brands of ranitidine including Zantac and drugstore brands, and each sample had levels of NDMA in excess of 2.4 million ng per 150mg tablet.²

19. According to the Valisure Petition, testing designed to simulate what happens to ranitidine in the human body shows that ingestion of ranitidine results in exposure to unacceptably high levels of NDMA.

20. On September 13, 2019, the FDA issued a MedWatch Alert stating that NDMA was reportedly found in ranitidine medicines, including Zantac.³ Although the FDA did not call for people to stop taking ranitidine, it did suggest that patients and consumers taking ranitidine could consider using other medicines approved for their condition.

21. On September 24, 2019, the FDA issued an alert concerning "a voluntary recall of 14 lots of prescription ranitidine capsules distributed by Sandoz Inc." due to the presence of NDMA.⁴ The alert cautioned that, "While the FDA investigates the root cause and risk, consumers and patients can continue to take ranitidine that has not been recalled." The FDA also stated that it was testing ranitidine and asked drug makers "to begin their own laboratory testing to examine levels of NDMA in ranitidine and to send samples of ranitidine to the FDA to be tested by agency scientists."

22. On September 26, 2019, the FDA issued an update, alerting the public to a voluntary recall of over-the-counter ranitidine tablets (75 mg and 150 mg), labeled by

² Valisure Petition <https://www.valisure.com/wp-content/uploads/Valisure-Ranitidine-FDA-Citizen-Petition-v4.12.pdf> at 6.

³ FDA MedWatch, *Zantac (ranitidine): Safety Information - NDMA Found in Samples of Some Ranitidine Medicines*, <https://www.fda.gov/safety/medwatch-safety-alerts-human-medical-products/zantac-ranitidine-safety-information-ndma-found-samples-some-ranitidine-medicines>

⁴ *FDA announces voluntary recall of Sandoz ranitidine capsules following detection of an impurity*, <https://www.fda.gov/news-events/press-announcements/fda-announces-voluntary-recall-sandoz-ranitidine-capsules-following-detection-impurity>

Walgreens, Walmart, and Rite-Aid and manufactured by Apotex Corp.” due to the presence of NDMA in the tablets.⁵

23. On October 2, 2019, the FDA issued another update, stating that “the agency’s early, limited testing found unacceptable levels of NDMA in samples of ranitidine.”⁶

24. Since these initial reports, public health and safety regulators in several other countries began withdrawing ranitidine drugs from the market. Canada requested that sellers stop distributing ranitidine in Canada pending further testing. Regulators in Austria, Finland, Germany, Pakistan, Singapore, Switzerland, the U.A.E., all took action to warn consumers and suspend ranitidine sales in their respective health systems.

25. Notwithstanding the growing evidence from numerous sources that ranitidine contains high levels of NDMA, the FDA has not ordered a recall of ranitidine drugs in the United States or recommended that consumers switch to a different drug.

26. Finally, on October 18, 2019 Sanofi announced a voluntary recall of over-the-counter Zantac.

27. Sanofi either knew or had reason to know that ranitidine drugs, including Zantac, expose users to unsafe levels of NDMA when used as directed. The Valisure Petition cites to numerous examples of scientific literature suggesting both that ranitidine reacts to form NDMA in the human body and that NDMA exposure is carcinogenic in humans.

28. Sanofi never disclosed that consumers who use Zantac as directed are exposed to unsafe levels of NDMA.

⁵ FDA Updates and Press Announcements on NDMA in Zantac (ranitidine) <https://www.fda.gov/drugs/drug-safety-and-availability/fda-updates-and-press-announcements-ndma-zantac-ranitidine>

⁶FDA Updates and Press Announcements on NDMA in Zantac (ranitidine) <https://www.fda.gov/drugs/drug-safety-and-availability/fda-updates-and-press-announcements-ndma-zantac-ranitidine>

29. A reasonable consumer would not have purchased Zantac or other ranitidine had they known that ranitidine exposes the user to unsafe levels of NDMA, a probable carcinogen. This is particularly true given the availability of other stomach-acid-reducing drugs that do not contain ranitidine and are known to not form NDMA.

30. Defendants failure to disclose that Zantac exposed consumers to unsafe levels of NDMA when used as directed was deceptive and misleading.

CLASS ACTION ALLEGATIONS

31. Plaintiff brings this action individually and as representative of all those similarly situated pursuant to Federal Rule of Civil Procedure 23 on behalf of the below-defined Class of all persons in the state of New York that purchased Zantac over-the-counter (“OTC”) since January 1, 2017. Excluded from the Class are Defendants and their affiliates, parents, subsidiaries, employees, officers, agents, and directors. Also excluded are any judicial officers presiding over this matter and the members of their immediate families and judicial staff and purchasers for resale.

32. The members of the Class are so numerous that their individual joinder herein is impracticable. Zantac had sales of \$127 million in 2018 alone, and New York is the fourth most populous state in the United States. On information and belief, Class members number in the tens or hundreds of thousands. The precise number of Class members and their addresses are presently unknown to Plaintiff, but may be ascertained from pharmacy and other records. Class members may be notified of the pendency of this action by mail, email, Internet postings, and/or publication.

33. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Such common questions of law or fact include:

- a. Whether Zantac exposes people to unsafe levels of NDMA;
- b. Whether and when Defendants knew or should have known that Zantac exposes people to unsafe levels of NDMA;
- c. Whether Defendants failed to disclose that the use of Zantac results in exposure to unsafe levels of NDMA;
- d. Whether the undisclosed information about NDMA in Zantac was material;
- e. Whether Defendants' failures to disclose rendered Defendants' marketing of Zantac deceptive;
- f. Whether Defendants' acts and omission violate GBL § 349.

34. Plaintiff's claims are typical of the claims of the other members of the Class because, among other things, all Class members were suffered the same type of injury, namely, paying for a product that they otherwise would not have purchased had Defendants disclosed the presence of NDMA in Zantac. Further, there are no defenses available to Defendants that are unique to Plaintiff.

35. Plaintiff is an adequate Class representative because her interests do not conflict with the interests of the other Class members she seeks to represent, she has retained counsel competent and experienced in class action litigation, and she and her counsel will prosecute this action vigorously. The Class members' interests will be fairly and adequately protected by Plaintiff and her counsel.

36. A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other members of the Class individually are relatively small compared to the burden and expense that would be required to separately litigate their claims against Defendants, so it would be uneconomical and impracticable for Class members to individually seek redress for Defendants' wrongful conduct. Even if Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

COUNT I

Violation of the Unfair and Deceptive Trade Practices Act New York GBL § 349, *et seq.*

37. Plaintiff incorporates paragraphs 1-36 as if fully set forth herein.

38. Plaintiff brings this claim individually and on behalf of the members of the Class against Defendants.

39. By the acts, omissions and other misconduct alleged herein, Defendants committed unfair or deceptive acts and practices.

40. The foregoing deceptive acts and practices were directed at consumers.

41. Defendants' foregoing deceptive acts and practices, including their omissions, are misleading in a material way because they fundamentally misrepresent the characteristics, ingredients, and benefits of Zantac to induce consumers to purchase same.

42. Defendants' foregoing deceptive acts and practices, including their omissions, were and are deceptive acts or practices in violation of New York's General Business Law section 349, Deceptive Acts and Practices, N.Y. Gen. Bus. Law 349, *et seq.*, in that:

a. Defendants manufactured, labeled, packaged, marketed, advertised, distributed and/or sold Zantac when they knew, or should have known, that using Zantac would expose the user to unsafe levels of NDMA, a probable carcinogen;

b. Defendants knew or should have known that information about the existence of NDMA in Zantac was unknown to, would not be easily discovered by, and would have been material to, Plaintiff and members of the Class, and would defeat their ordinary, foreseeable and reasonable expectations concerning the safety of Zantac; and

c. Plaintiff and the members of the Class were deceived by Defendants' failure to disclose, and could not discover on their own, the risk of exposure to unsafe levels of NDMA from Zantac, prior to purchasing Zantac.

43. Defendants' foregoing deceptive acts and practices, including their omissions, were likely to deceive, and did deceive, consumers acting reasonably under the circumstances.

44. Plaintiff and members of the Class were injured because (a) they would not have purchased Zantac if they had known that it exposes users to unsafe levels of NDMA; (b) they paid a price premium for Zantac based on the false perception of safety created by Defendants' omissions; and (c) Zantac does not have the characteristics, uses, or benefits as promised, namely a safe stomach acid reducer. As a direct and proximate result of Defendants' deceptive acts and practices, Plaintiff and members of the Class have been damaged either in the full amount of the purchase price of the product or in the difference in value between the Zantac with the risks of NDMA disclosed and the Zantac as actually sold.

45. On behalf of herself and other members of the Class, Plaintiff seeks to recover damages and costs of suit and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks a judgment against Defendants, as follows:

- a. For an order certifying the Class under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiff as a representative of the Class and Plaintiffs' attorneys as Class Counsel to represent the Class members;
- b. For an order finding in favor of Plaintiff and the Class on all counts asserted herein;
- c. For damages in amounts to be determined by the Court and/or jury;
- d. For prejudgment interest on all amounts awarded;
- e. For an order of restitution and all other forms of equitable monetary relief; and
- f. For an order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury on all claims so triable.

Dated: November 12, 2019

Respectfully submitted,

/s/ Zahra R. Dean

Zahra R. Dean

William E. Hoese

Craig W. Hillwig

KOHN, SWIFT & GRAF, P.C.

1600 Market Street, Suite 2500

Philadelphia, PA 19103

(215) 238-1700

Attorneys for Plaintiff

JS 44 (Rev. 02/19)

CIVIL COVER SHEET

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

<p>I. (a) PLAINTIFFS</p> <p>Yesenia Melillo</p> <p>(b) County of Residence of First Listed Plaintiff <u>Kings County, NY</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i></p> <p>Kohn, Swift & Graf, P.C., 1600 Market St. Ste. 2500, Philadelphia, PA 19103 (215) 238-1700</p>	<p>DEFENDANTS</p> <p>Sanofi-Aventis U.S. LLC; Sanofi US Services Inc.; Chatterm, Inc.</p> <p>County of Residence of First Listed Defendant <u>Somerset County, NJ</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:

VI. CAUSE OF ACTION

Brief description of cause: Consumer protection/consumer fraud

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE Eric N. Vitaliano DOCKET NUMBER 1:19-CV-06160

DATE 11/12/19 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Zahra R. Dean, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

-
-
-

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: Zahra R. Dean

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Yesenia Melillo, individually and on behalf of all others similarly situated

Plaintiff(s)

v.

Sanofi-Aventis U.S. LLC; Sanofi US Services Inc.; and Chattem, Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Sanofi-Aventis U.S. LLC
55 Corporate Drive,
Bridgewater, New Jersey 08807.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Zahra R. Dean
KOHN, SWIFT & GRAF, P.C.
1600 Market Street, Suite 2500
Philadelphia, PA 19103
Tel: (215) 238-1700

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Yesenia Melillo, individually and on behalf of all others similarly situated

Plaintiff(s)

v.

Sanofi-Aventis U.S. LLC; Sanofi US Services Inc., and Chattem, Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Sanofi US Services Inc. 55 Corporate Drive, Bridgewater, New Jersey 08807.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Zahra R. Dean KOHN, SWIFT & GRAF, P.C. 1600 Market Street, Suite 2500 Philadelphia, PA 19103 Tel: (215) 238-1700

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Yesenia Melillo, individually and on behalf of all others similarly situated

Plaintiff(s)

v.

Sanofi-Aventis U.S. LLC; Sanofi US Services Inc.; and Chattem, Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Chattem, Inc. 1715 West 38th Street Chattanooga, Tennessee 37409.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Zahra R. Dean KOHN, SWIFT & GRAF, P.C. 1600 Market Street, Suite 2500 Philadelphia, PA 19103 Tel: (215) 238-1700

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

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_____, a person of suitable age and discretion who resides there,
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Date: _____

Server's signature

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Additional information regarding attempted service, etc:

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Sanofi Knowingly Sold Zantac Contaminated with Probable Carcinogen](#)
