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IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

THE STATE OF UTAH, Plaintiff, vs. ELI LILLY & COMPANY, Defendant.	**COMPLAINT AND JURY DEMAND** **Civil No.** 070907357 **Judge** Faust

Plaintiff, State of Utah (hereinafter "the State"), by and through its Attorney General, Mark Shurtleff, hereby complains of Defendant Eli Lilly & Company (hereinafter "Lilly"), and alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction over the subject matter of this complaint is based upon Title 26, Chapter 20 of the Utah Health Code, which provides remedies to redress Defendant's actions under the Utah False Claims Act. The Attorney General files this action pursuant to Title 67, Chapter 5, Section 1(18) of the Utah Code.

2. Personal jurisdiction over Defendant is proper under the Utah Long Arm Statute as codified in §§ 78-27-22 and 78-27-24 of the Utah Code Annotated.

3. Venue is proper in the Third Judicial District and Salt Lake County pursuant to Utah Code Annotated § 78-13-7, in that many of the unlawful acts committed by Defendant were committed in Salt Lake County, including the making of false statements and misrepresentations of material fact to the State of Utah, its departments, agencies, instrumentalities, and contractors, and to the Utah Medicaid Program.

PARTIES

4. Plaintiff is the State of Utah.

5. Defendant Eli Lilly & Company is an Indiana corporation with its principal place of business in Indianapolis, Indiana. At all times relevant hereto, Eli Lilly & Company was engaged in the business of licensing, manufacturing, marketing, distributing, and/or selling, either directly or indirectly, through third parties or related entities, the prescription drug Zyprexa (hereinafter "Zyprexa" or "the product"). At all times relevant to this action, Eli Lilly did business within the State of Utah by marketing and selling Zyprexa within the State to the State, its agencies, and to the general public.

NATURE OF THE CASE

6. This is a civil action for damages and civil penalties pursuant to the Utah False Claims Act and other statutory and common law causes of action.

THE MEDICAID PROGRAM

7. The Utah Medicaid program provides medical assistance to low-income state residents. The primary purpose of the Medicaid program is to enable the State to furnish medical assistance on behalf of families with dependent children and of aged, blind or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services. Utah enjoys a broad measure of flexibility in tailoring the scope and coverage of its Medicaid plan. By state law, Utah is required to recover Medicaid funds which have been improperly provided to participants and suppliers.

8. Utah's Medicaid plan includes an optional prescription drug program. Pursuant to Utah Code Annotated 26-18-2.4(1)(a) this plan provides care, including prescription drugs, that must be based upon clinical and cost-related factors, including "medical necessity."

9. Under State administrative rule, drug prescriptions are only to be covered under Utah Medicaid when "medically efficacious." "Medically efficacious" means that a prescription has been determined effective, is widely utilized as a standard medical practice for specific conditions, and has been approved on the basis of "medical necessity." This requirement that a prescription be "medically efficacious" is included within the administrative rules governing the Medicaid plan.

ALLEGATIONS OF FACT

10. Prior to selling its product Zyprexa, Lilly knew there was a risk of Zyprexa patients developing severe and harmful health conditions including, but not limited to, hyperglycemia (dangerously high blood sugar levels), acute weight gain, exacerbation of diabetes mellitus (hereinafter "diabetes"), and pancreatitis. Furthermore, Lilly was aware of internal studies linking Zyprexa to these conditions, yet failed to warn the United States Food and Drug Administration (hereinafter "the FDA"), the State, physicians, and consumers. This failure to warn the FDA of these known risks is relevant to Plaintiff's complaint.

11. At all times relevant to this action, Lilly was responsible for, or involved in, the design, manufacture, marketing, advertising, distribution, and sale of Zyprexa.

12. In 1996, the FDA approved Zyprexa for use as a treatment of manifestations of schizophrenia in adults.

13. In 2000, the FDA approved Zyprexa for use as a short-term treatment of acute manic or mixed episodes associated with bipolar I disorder (also known as "manic depression") in adults.

14. In 2004, the FDA approved Zyprexa for maintenance treatment of bipolar I disorder in adults, and for acute agitation in adults with schizophrenia or bipolar I disorder.

15. Notwithstanding the limited uses approved by the FDA and a few uses supported by standard pharmaceutical compendia, Lilly advertised and sold Zyprexa for a number of non-approved or "off-label" uses. These unapproved uses include Alzheimer's disease, geriatric dementia, Tourette's syndrome, pervasive developmental delay, autism, anorexia nervosa, and

general depression. This was in spite of the fact that no FDA-approved testing had demonstrated the effectiveness of Zyprexa for such uses, and such uses were not supported by any standard compendium.

16. Lilly marketed Zyprexa as being medically superior to other antipsychotic medication, claiming that no blood tests or other monitoring was necessary with the drug. Further, it represented that Zyprexa patients could be given a therapeutic dose immediately, rather than starting with non-therapeutic doses to build up the patient's tolerance. Lilly knew these claims to be false because the increased risk of hyperglycemia, weight gain, diabetes and diabetic condition required medical monitoring and blood tests.

17. Shortly after the Defendant began selling Zyprexa, the FDA began to receive reports of Zyprexa patients developing hyperglycemia, acute weight gain, exacerbation of diabetes mellitus, pancreatitis, and other severe diseases and conditions.

18. Beginning in 1998, scientific journals began to publish studies that established an association between Zyprexa and the development or exacerbation of both diabetes and hyperglycemia. Subsequent studies have consistently found a relationship between Zyprexa and these dangerous conditions.

19. In April, 2002, the British Medicines Control Agency warned about the risk of diabetes for Zyprexa patients. The agency reported forty known incidents of diabetes, hyperglycemia, diabetic ketoacidosis (a severe exacerbation of diabetes), and diabetic coma among Zyprexa patients, as well as one death attributed to the drug. Subsequently, the British government required Lilly to warn consumers about the risk of diabetes and diabetic

ketoacidosis, and further required Lilly to instruct Zyprexa users to monitor their blood sugar levels.

20. In that same month, the Japanese Health and Welfare Ministry issued emergency safety information regarding the risk of diabetes, diabetic ketoacidosis, and diabetic coma for Zyprexa users. The Ministry also required physicians prescribing Zyprexa to monitor blood sugar levels.

21. Lilly has not warned consumers in this country, including the State, about the serious risks of diabetes, hyperglycemia, diabetic ketoacidosis, and other serious conditions associated with Zyprexa.

22. Lilly had actual knowledge, or acted either in deliberate ignorance or in reckless disregard of the truth or falsity of the risks involved in consuming Zyprexa. Furthermore, since 1998 Lilly had actual knowledge of studies and scholarly articles linking the use of Zyprexa with these and other severe diseases.

23. Lilly misrepresented this association and failed to appropriately warn consumers, including the State, its physicians, and Medicaid recipients, of the dangerous and permanent health consequences linked to the use of Zyprexa. Lilly thus placed profits above the safety of its customers.

24. Beginning in the 1990s, Lilly began to aggressively market and sell Zyprexa by willfully misleading potential users about the drug's serious risks. Lilly launched a marketing "blitz," extolling the virtues of Zyprexa – both real and fabricated – in order to induce widespread use. This marketing campaign consisted of print and media advertisements,

telephone conferences, live conferences, direct promotional literature to doctors and other healthcare providers, and other promotional materials provided directly to Zyprexa users. Lilly also marketed Zyprexa for off-label uses, including geriatric dementia, pediatric symptoms, and for general depression. This was in spite of the lack of FDA or compendia support for such uses.

25. The marketing program sought to create the impression and belief by consumers and physicians (particularly primary care physicians and "family doctors") that Zyprexa was safe for human use and had fewer side effects or adverse reactions than other antipsychotic medications. Lilly knew these representations to be false, or acted either in deliberate ignorance or in reckless disregard of the truth or falsity of this information.

26. The marketing program purposefully downplayed the risks associated with Zyprexa use, including serious illness and death. Lilly relayed only positive information and relied upon manipulated statistics to suggest widespread acceptability. At the same time, Lilly concealed adverse factual material concerning Zyprexa's serious health risks. In particular, the marketing materials produced by Lilly falsely represented the severity, frequency, and nature of adverse health effects caused by Zyprexa. Further, it falsely represented that adequate testing had been done on Zyprexa for off-label uses and to determine the drug's side effects.

27. As a result of Lilly's marketing campaign, Zyprexa has been the company's top-selling drug since 2001 – the same year Lilly's patent for Prozac expired. Zyprexa has since then accounted for almost one-third of Lilly's total sales. Zyprexa has been prescribed to nearly 20 million people worldwide. In 2003, approximately seven million prescriptions for Zyprexa were dispensed, making it the seventh largest-selling drug in the country. Zyprexa has generated over

$4 billion in annual worldwide sales for each year since that time. Lilly is on pace to match those numbers again, having sold $1.1 billion in the first quarter of 2007.

28. Shortly after Lilly began selling Zyprexa, it received reports of Zyprexa users developing severe and harmful health conditions including, but not limited to, hyperglycemia, acute weight gain, exacerbation of diabetes, and pancreatitis. This information was knowingly withheld or misrepresented to the FDA, the State, and the general public. This information was material and relevant to Plaintiff and its Medicaid program.

29. In making Zyprexa available to Medicaid patients and advocating its use, Lilly knowingly misrepresented to the State of Utah that Zyprexa was safe and effective. The State of Utah allowed the purchase of Zyprexa for Utah Medicaid recipients based upon such representations by Lilly. In fact, Zyprexa was no more effective for the treatment of schizophrenia and bipolar I disorder than older antipsychotic medications, which did not carry the risks of weight gain and diabetes.

30. Lilly also sought to increase the market for Zyprexa by manipulating Utah Medicaid procedures, including influence of the Drug Utilization Board (the body which regulates the utilization of certain medications within the Medicaid program). Lilly organized a Medicaid marketing plan which offered "assistance" to the State in monitoring and dispensing atypical antipsychotic medication under the guise that this would save the State money. In reality, the design and effect of this effort was to increase Zyprexa sales by (a) instilling a preference for Zyprexa over other atypical antipsychotics for FDA-approved uses, and (b) expanding the State Medicaid criteria for the use of and payment for Zyprexa for off-label uses.

31. Zyprexa has been prescribed by Utah physicians to many Medicaid recipients. As a result of ingesting Zyprexa, Utah Medicaid patients have suffered serious adverse health effects, which now require further and more extensive medical treatment and healthcare services. The State is the financially responsible party for these services. The State has thus suffered and will continue to suffer additional financial loss in the care of those Medicaid recipients who consumed prescriptions which were ineffective, unsafe, and actively harmful. In addition, the State has inappropriately paid for Zyprexa prescriptions for off-label uses which were not medically necessary.

32. The State, through its Attorney General, has the right to bring this suit pursuant to the Utah False Claims Act. The Act further provides that the State of Utah is entitled to recover the cost of its investigators, attorneys, and other state employees.

33. This Complaint is based solely upon the laws of the State of Utah, and contains causes of action found within those laws. To the extent that any claim contained herein raises a question of federal law or a federal cause of action, Plaintiff hereby disavows any such claim.

FIRST CLAIM FOR RELIEF
(Utah False Claims Act)

34. Plaintiff incorporates paragraphs 1 through 33 as if fully set forth herein, and further alleges as follows:

35. Pursuant to the Utah False Claims Act, it is illegal to make a claim for Medicaid payment of a service, procedure, or product that is not "medically necessary." Similarly, causing such a claim to be made, or aiding and abetting such a claim, is also prohibited.

36. In representing Zyprexa to be safe and effective for off-label and unapproved uses, and representing that Zyprexa was safe without medical monitoring and blood tests, Lilly either caused claims to be made by physicians and patients, or aided and abetted such claims for a drug which was not "medically necessary."

37. "Medically necessary" reimbursements are limited to uses approved by the FDA or uses which were supported by the United States Pharmacopeia-Drug Information, the DRUGDEX Information System, or the American Hospital Formulary System Drug Information.

38. The FDA has approved Zyprexa only for adults who suffer from schizophrenia, mixed or manic episodes of bipolar I disorder, or for its intramuscular formation only, agitation associated with schizophrenia or bipolar I disorder. As of March, 2007, of the three designated compendia, only the DRUGDEX Information System supports any additional uses, and only for adults. These uses include psychotic reaction to cannabis, psychotic disorder associated with Alzheimer's disease, anxiety associated with Alzheimer's-type dementia, delirium, depressive episodes of bipolar I disorder, and trichotillomania (hair-pulling).

39. Neither the Compendia cited above nor the FDA supports the use of Zyprexa by infants, children, or adolescents for any indication, or by adults with bipolar II disorder, dementia, depression, ADD, ADHD, sleep disorders, anger management, mood enhancement, mood stabilization, or any other use not listed in paragraph 38. Such uses are known as "off-label" uses and are not "medically accepted indications."

40. As a result of inappropriate marketing of Zyprexa for off-label uses, the State of Utah has paid millions of dollars for inappropriate and medically unnecessary doses of Zyprexa.

As a result, Lilly has been illegally enriched at the expense of the State. Further, the state has been required and will be required to pay the costs of treatment, including medical monitoring and blood tests, for state residents actively harmed by Lilly's actions.

41. In making representations that Zyprexa was appropriate for these "off-label" uses, Lilly acted with actual knowledge of the falsity of the representations or acted in either deliberate ignorance or reckless disregard of the truth or falsity of the information.

42. Accordingly, under the Utah False Claims Act the State is entitled to restitution for medically unnecessary prescriptions, for the resulting cost of care, and a civil penalty of three times the restitution and not less than $5,000 or more than $10,000 for each unnecessary prescription. In addition, the State seeks the costs of enforcement, including the cost of investigators, attorneys, and other state employees. These damages are in addition to, and not a substitute for, the damages alleged in paragraph 31.

SECOND CLAIM FOR RELIEF
(Liability of Commercial Product Sellers not Based on Product Defect at Time of Sale Restatement (Third) of Torts: Chapter 2, Section 9)

43. Plaintiff incorporates paragraphs 1 through 42 as if fully set forth herein, and further alleges as follows:

44. Eli Lilly & Company was engaged in the business of selling or otherwise distributing the pharmaceutical Zyprexa.

45. In connection with the sale of Zyprexa, Lilly made fraudulent, negligent or innocent misrepresentations concerning both the safety and the effectiveness of Zyprexa as alleged more particularly above.

46. These misrepresentations were made to the State of Utah, Utah physicians, and the general public including Medicaid recipients.

47. As a result of those misrepresentations, Lilly is liable to the State for costs of Zyprexa prescriptions supplied to Medicaid recipients.

48. This harm includes the damages suffered by the State for past, present and future use of Zyprexa as alleged more particularly above in paragraphs 31 and 32.

THIRD CLAIM FOR RELIEF
(Strict Products Liability – Failure to Warn)

49. Plaintiff incorporates paragraphs 1 through 48 as if fully set forth herein, and further alleges as follows:

50. Defendant Lilly is the manufacturer and/or supplier of Zyprexa.

51. The Zyprexa manufactured and/or supplied by Defendant Lilly was and is unaccompanied by proper warnings or packaging regarding all possible side effects associated with the drug. Lilly failed to warn of the comparative severity, incidence, and duration of such adverse effects. The warnings given to the State, physicians, and the general public did not accurately reflect the signs, symptoms, incidents, or severity of the side effects of Zyprexa. Further, they did not accurately reflect the necessity of medical monitoring and blood tests to determine the patient's elevated risk of hyperglycemia, diabetes, and other conditions.

52. Lilly failed to adequately test Zyprexa. Such testing would have shown that Zyprexa possessed serious potential side effects, of which full and proper warnings should have been made.

53. The Zyprexa manufactured or supplied by Lilly was defective due to inadequate post-marketing warnings, packaging, or instructions. After the manufacturer knew or should have known of the risks of injury from Zyprexa, it failed to provide adequate warnings to physicians, the general public, or the State as the prescribers, users, and financially responsible party, respectively. Further, Lilly continued to aggressively market Zyprexa for both approved and non-approved uses in spite of these defects and risks.

54. Based on information and belief, Lilly actually knew of the defective nature of Zyprexa, but continued to market and sell Zyprexa without proper warning, so as to maximize sales and profits in conscious disregard for the foreseeable harm caused by Zyprexa.

55. As a proximate cause and legal result of Lilly's failure to warn of known and reasonably knowable dangers associated with the use of Zyprexa, the State of Utah has suffered and will continue to suffer damages as outlined in paragraph 31 above. The State is therefore entitled to recover for those damages, as well as those outlined in paragraph 32.

FOURTH CLAIM FOR RELIEF
(Strict Products Liability: Design Defect)

56. Plaintiff incorporates paragraphs 1 through 55 as if fully set forth herein, and further alleges as follows:

57. At all times material and relevant to this action, Zyprexa was defective in design and manufacture, and was so at the time it was prescribed by doctors participating in the State's Medicaid program. Zyprexa was defective and dangerous in that it caused serious injuries and illness when used for its intended and foreseeable purpose. Further, Zyprexa was defective in

that it required medical monitoring and blood tests to determine the blood sugar level of the individual patient.

58. The defects in Zyprexa were known to Lilly at the time of approval by the FDA. Such defects were concealed and withheld from the FDA. The required disclosures from Lilly were inaccurate, incomplete, misleading, and fraudulent. Further, Lilly misrepresented and concealed the fact that Zyprexa was being promoted for off-label uses for which it was not known to be effective. These misrepresentations were material to the State.

59. Lilly knew Zyprexa would be used by consumers without inspection for defect and that the State, physicians, and medicinal users of Zyprexa were relying upon Lilly's representations that the product was safe.

60. Adequate pre-approval testing would have revealed the full extent of the dangers of Zyprexa, and would have shown that Zyprexa could cause extensive medical complications and injuries.

61. As a proximate and legal result of the design defect, as well as Lilly's failure to adequately test the product so as to discover the defect, the State of Utah has suffered and will continue to suffer the damages alleged in paragraph 31, and is therefore entitled to recover for those damages as well as those outlined in paragraph 32.

FIFTH CLAIM FOR RELIEF
(Fraud and Negligent Misrepresentation)

62. Plaintiff incorporates paragraphs 1 through 61 as if fully set forth herein, and further alleges as follows:

63. Lilly's warnings of Zyprexa's side effects contained false representations and/or failed to accurately represent the material facts of the full range and severity of risks and adverse reactions associated with the product.

64. Lilly's Zyprexa-related claims and assertions to the FDA, the State of Utah, physicians, and the general public contained false representations as to the safety of Zyprexa and its defective design. Further, Lilly's claims concerning off-label use were false and fraudulent.

65. Lilly was negligent in not making accurate representations regarding the side effects and adverse medical conditions associated with the use of Zyprexa.

66. Lilly knew or reasonably should have known through adequate testing that the claims made to the State with regard to the safety and efficacy of Zyprexa were false or incomplete, and misrepresented the material facts of Zyprexa's unsafe and defective condition.

67. Lilly's misrepresentations in this regard were done with the intention of inducing the State to allow the distribution of Zyprexa to participants in the Utah Medicaid Program, and profiting from that distribution.

68. As a proximate and legal result of Lilly's fraudulent misrepresentations, the State of Utah has suffered and will continue to suffer the damages alleged in paragraph 31, and is therefore entitled to recover for those damages, as well as those outlined in paragraph 32.

SIXTH CLAIM FOR RELIEF
(Negligence)

69. Plaintiff incorporates paragraphs 1 through 68 as if fully set forth herein, and further alleges as follows:

70. Lilly owed a duty to exercise reasonable care in the testing, marketing, manufacture, sale, labeling, and/or distribution of Zyprexa, including a duty to ensure that users would not suffer from unreasonable, dangerous, undisclosed, or misrepresented side effects. Lilly owed this duty to the State of Utah, as the State funded the distribution of Zyprexa to Utah Medicaid recipients.

71. Lilly breached this duty, as it was negligent in the testing, marketing, manufacture, sale, labeling, and distribution of Zyprexa.

72. As a direct and proximate result of Defendant Lilly's negligence, the State of Utah has suffered and will suffer the damages alleged in paragraph 31 above, and is entitled to recover for those damages as well as the damages outlined in paragraph 32.

SEVENTH CLAIM FOR RELIEF
(Breach of Express Warranty)

73. Plaintiff incorporates paragraphs 1 through 72 as if fully set forth herein, and further alleges as follows:

74. In marketing Zyprexa and promoting its use in the Utah Medicaid program, Defendant Lilly expressly warranted to the State, its physicians, and Medicaid recipients that Zyprexa was safe, effective, and fit for its intended use. Pursuant to Utah Code Annotated § 70A-2-313, these express warranties were created by and through statements made by Defendant

Lilly or Defendant's authorized agents or sales representatives, orally and in publications, package inserts, and in other written materials intended for the State, physicians, medical patients, and the general public.

75. The State, its physicians, and Medicaid patients relied on these express warranties.

76. Lilly breached these express warranties due to Zyprexa's defective nature and the fact that the drug was not safe, effective, or fit for its intended use. Rather, Zyprexa carries unreasonable and undisclosed risks in breach of the express warranties.

77. As a direct and legal result of this breach of warranty, the State of Utah has suffered and will continue to suffer damages as set forth in paragraphs 31 and 32. Pursuant to Utah Code Annotated §§ 70A-2-714 and 70A-2-715, the State is therefore entitled to recover those damages, including incidental and consequential damages, from Defendant.

EIGHTH CLAIM FOR RELIEF
(Breach of Implied Warranty)

78. Plaintiff incorporates paragraphs 1 through 77 as if fully set forth herein, and further alleges as follows:

79. Pursuant to Utah Code Annotated § 70A-2-314, through the manufacture, marketing, and sale of Zyprexa, Defendant Lilly impliedly warranted to the State of Utah, its physicians, and its Medicaid recipients that Zyprexa was of merchantable quality – safe and fit for its intended use.

80. At all times relevant to this action, Defendant Lilly also had reason to know of the particular purpose for which the State, its physicians, and Medicaid recipients were purchasing and using Zyprexa, i.e., for the safe and effective treatment of schizophrenia, bipolar I disorder,

and various off-label uses. Therefore, pursuant to Utah Code Annotated § 70A-2-315, Defendant Lilly impliedly warranted to the State of Utah, its physicians, and its Medicaid recipients that Zyprexa was fit for that particular purpose.

81. Defendant Lilly had reason to know through actual or constructive knowledge that the State of Utah, its physicians, and Medicaid recipients were reasonably relying upon the skill, judgment, and implied warranties of Defendant in approving, prescribing, and using Zyprexa.

82. Defendant Lilly breached the implied warranties of merchantability and of fitness for a particular purpose in that Zyprexa is not of merchantable quality, not safe for its intended use, and not safe for the State's particular purpose. This is because Zyprexa had dangerous and undisclosed propensities when ingested, resulting in severe illness and injury to many of its users.

83. As a direct and legal result of this breach of warranty, the State of Utah has suffered and will continue to suffer damages as set forth in paragraphs 31 and 32 above. Pursuant to Utah Code Annotated §§ 70A-2-714 and 70A-2-715, the State is therefore entitled to recover those damages, including incidental and consequential damages, from Defendant.

NINTH CLAIM FOR RELIEF
(Pattern of Unlawful Activity Utah Stat. Ann. 76-10-1601—76-10-1605)

84. Plaintiff incorporates paragraphs 1 through 83 as if fully set forth herein, and further alleges as follows:

85. Eli Lilly & Co. constitutes an "enterprise" within the meaning of Utah Stat. Ann. 76-10-1602(1).

86. Lilly has engaged in a pattern of illegal activity in its advertising, sales, marketing, and distribution as described above. These actions meet the definition of "Pattern of Unlawful Activity" set out in Utah Stat. Ann. 76-10-1602(2) and 76-10-1602(4)(d).

87. Lilly has committed unlawful acts under Utah Stat. Ann 76-10-1603 in that it has received proceeds derived from a pattern of unlawful activity.

88. The State, as an injured party, may sue in District Court and recover twice the damages sustained as a result of Lilly's unlawful acts.

89. The State, as an injured party, is entitled to an award of reasonable attorney's fees incurred in enforcing its rights.

90. The damages alleged in paragraphs 31 and 32 above constitute part, but not all, of the damages available under this cause of action.

JURY DEMAND

The State respectfully requests a trial by jury pursuant to Rule 38, Utah R. Civ. Pro.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the State of Utah, prays for judgment against Lilly as follows:

1. An award to Plaintiff in the form of judgment against Lilly for the Zyprexa-related damages of past, present, and future medical expenses for recipients of the Utah Medicaid program;

2. The cost of all Zyprexa prescriptions paid by the State;

3. For triple damages as a civil penalty pursuant to the Utah False Claims Act;

4. For an additional civil penalty of not less than $5,000 or more than $10,000 for each prescription that was not medically necessary;

5. For the cost of enforcement, including the cost of attorneys, investigators, and other state employees, pursuant to the Utah False Claims Act;

6. For such other and further relief as may be justified and which Plaintiff may be entitled to by law including, but not limited to, all court costs, witness fess, and deposition fees.

Respectfully SUBMITTED and DATED this 16th day of May, 2007.

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