



PROCESSED



Form 129

**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No: VID 004/2010

BETWEEN:

IAN WINTERFORD

Applicant

and

**PFIZER AUSTRALIA PTY LTD
(ACN 008 422 348)**

Respondent

**REVISED THIRD AMENDED APPLICATION UNDER PART IVA OF
THE FEDERAL COURT OF AUSTRALIA ACT 1976 PURSUANT TO ORDERS
OF HIS HONOUR JUSTICE BROMBERG MADE ON 1 OCTOBER 2012**

1. This application is brought by the Applicant as a representative party under Part IVA of the *Federal Court of Australia Act 1976* (Cth) and under:
 - (a) sections 19, 21 and 22 of the *Federal Court of Australia Act 1976* (Cth);
 - (b) sections 52, 75AD, 74B, 74D of the *Trade Practices Act 1974* (Cth);
 - (c) the accrued jurisdiction of the Court.
2. The group members to whom this proceeding relates (who include the Applicant and who number more than 7) are those persons referred to in paragraph 30 of the Revised Fourth Amended Statement of Claim all being persons who;
 - (a) were diagnosed with Parkinson's Disease or Restless Legs Syndrome or pituitary gland tumours ("the diagnosed illnesses") and who, between 1996 and 2010 obtained prescriptions for Dopamine agonist tablets known under the trade mark or brand "Cabaser" or "Dostinex" (Cabergoline) ("the tablets") from medical practitioners in Australia to treat the diagnosed illnesses; and

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Filed on behalf of: The Applicant
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**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
GENERAL DIVISION**

No: VID4/2010

NOTICE OF FILING

This document was filed electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 3/10/2012.

DETAILS OF FILING

Document Lodged: Amended Document
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District Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



★ **Dated:** 3/10/2012

Registrar

David Soden

Note

This Notice forms part of the document and contains information that might otherwise appear elsewhere in the document. The Notice must be included in the document served on each party to the proceeding.

- (b) used the prescription referred to in (a) supra between 1996 and 2010 to obtain the tablets in Australia and consumed the tablets at any time during that period; and
 - (c) after commencing to consume and while consuming the tablets referred to in (b) above suffered changed and abnormal behaviour for them being:
 - i. compulsive gambling;
 - ii. compulsive spending;
 - iii. compulsive eating
 - iv. hyper-sexuality;
 - v. punding (meaning a compulsive fascination with and performance of repetitive, mechanical tasks);
 - vi. a combination of the behaviours referred to at (i) – (v) supra (“the Cabaser or Dostinex (Cabergoline) conditions”)
 - (d) suffered loss and/or damage as a result of the Cabaser or Dostinex (Cabergoline) conditions.
3. On the grounds appearing in the Revised Fourth Amended Statement of Claim the Applicant claims the following relief against the Respondent:
- (a) damages and compensation pursuant to the *Trade Practices Act* including section 82, 52, 75AD, 74B and 74D;
 - (b) damage in negligence;
 - (c) declarations that:
 - (i) in engaging in the conduct referred to in paragraph 50 to 53 of the Revised Fourth Amended Statement of Claim the Respondent engaged in conduct that was misleading or deceptive or likely to mislead or deceive in contravention of section 52 of the *Trade Practices Act*;

- (ii) the tablets consumed by each group member were not reasonable fit for the purpose for which they were acquired within the meaning of 74B of the *Trade Practices Act*;
- (iii) the tablets consumed by each group member were not of merchantable quality within the meaning of section 74D of the *Trade Practices Act*;
- (iv) the tablets consumed by each group member had a defect within the meaning of section 75AD of the *Trade Practices Act*;
- (d) non economic loss;
- (e) economic loss;
- (f) damages to be assessed;
- (g) interest;
- (h) costs;
- (i) any further or other order as the Court deems fit.

4. The questions of law or fact common to the claims of the group members are those set out in the Fourth Amended Statement of Claim.

Date: 3 October 25 September 2012

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 Arnold Thomas & Becker
 Solicitors for the Applicant