

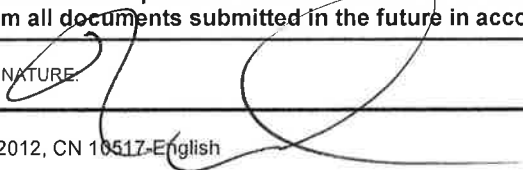


**Appendix XII-B1**

	<b>CIVIL CASE INFORMATION STATEMENT (CIS)</b>		<b>FOR USE BY CLERK'S OFFICE ONLY</b>	
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
			CHG/CK NO.	
			AMOUNT:	
			OVERPAYMENT:	
				BATCH NUMBER:
ATTORNEY / PRO SE NAME Michael F. Barrett, Esquire		TELEPHONE NUMBER (856) 751-8383	COUNTY OF VENUE Cumberland	
FIRM NAME (if applicable) Saltz, Mongeluzzi, Barrett & Bendesky, P.C.			DOCKET NUMBER (when available)	
OFFICE ADDRESS 8000 Sagemore Drive Suite 8303 Marlton, NJ 08053			DOCUMENT TYPE Complaint	
			JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) Jennifer L. Marko & Robert Marko, w/h, Plaintiffs		CAPTION Marko v. New England Compounding Pharmacy, Inc., d/b/a New England Compounding Center, et al.		
CASE TYPE NUMBER (See reverse side for listing) 606/604		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J. S. A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input checked="" type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS <input type="checkbox"/> Medical care provider		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).				
ATTORNEY SIGNATURE 				



# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

## CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

### Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

### Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

### Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

### Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

### Centrally Managed Litigation (Track IV)

- |  |   |
|--|---|
| 285 STRYKER TRIDENT HIP IMPLANTS           | 291 PELVIC MESH/GYNECARE                |
| 288 PRUDENTIAL TORT LITIGATION             | 292 PELVIC MESH/BARD                    |
| 289 REGLAN                                 | 293 DEPUY ASR HIP IMPLANT LITIGATION    |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
|  | 623 PROPECIA                            |

### Mass Tort (Track IV)

- |                                       |  |
|---------------------------------------|--|
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 271 ACCUTANE/ISOTRETINOIN             | 282 FOSAMAX                            |
| 274 RISPERDAL/SEROQUEL/ZYPREXA        | 284 NUVARING                           |
| 278 ZOMETHA/AREDDIA                   | 286 LEVAQUIN                           |
| 279 GADOLINIUM                        | 287 YAZ/YASMIN/OCELLA                  |
|                                       | 601 ASBESTOS                           |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category  Putative Class Action  Title 59

**SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.**

8000 Sagemore Drive

Suite 8303

Marlton, NJ 08053

856-751-8383 (tele)

856-751-0868 (fax)

ATTORNEYS FOR PLAINTIFF

---

Plaintiffs

JENNIFER L. MARKO and

ROBERT MARKO, w/h

37 Tomasello Drive

Millville, NJ 08332

***SUPERIOR COURT OF NJ***

***CUMBERLAND COUNTY***

***LAW DIVISION***

vs.

***Docket No.***

Defendants

NEW ENGLAND COMPOUNDING

PHARMACY, INC., d/b/a

NEW ENGLAND COMPOUNDING

CENTER

697 Waverly Street

Framingham, MA 01701

**CIVIL ACTION**

**COMPLAINT**

and

**JURY TRIAL DEMANDED**

PREMIER ORTHOPAEDIC AND

SPORTS MEDICINE ASSOCIATES

OF SOUTHERN NEW JERSEY, LLC, also

trading as PREMIER ORTHOPAEDIC

ASSOCIATES

298 S. Delsea Drive

Vineland, NJ 08360

and

PREMIER ORTHOPAEDIC ASSOCIATES

SURGICAL

CENTER, LLC

352 Delsea Drive

Vineland, NJ 08360

and

KIMBERLY YVETTE SMITH, M.D.  
298 S. Delsea Drive  
Vineland, NJ 08360

and

JOHN DOE(S) CORPORATIONS (1-4)

and

JOHN DOE(S), M.D. (1-3)

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### PARTIES

1. Plaintiffs, Jennifer L. Marko and Robert Marko, claim of Defendants, and each of them respectively, jointly and severally, separate sums in excess of Fifty Thousand (\$50,000.00) Dollars in damages upon causes of action wherein the following are true statements:

2. Plaintiffs, **Jennifer L. Marko and Robert Marko**, are wife and husband residing at 37 Tomasello Drive, Millville, NJ 08332.

3. Defendant, **New England Compounding Pharmacy, Inc., d/b/a New England Compounding Center** (hereinafter referred to as "NECC"), is a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts, with its principal place of business located at 697 Waverly Street, Framingham, MA 01701.

4. At all times mentioned herein and material hereto, Defendant, NECC, was in the business of manufacturing, compounding, marketing, and selling medications such as methylprednisolone acetate, an injectible steroid.

5. Defendant, **Premier Orthopaedics and Sports Medicine Associates of Southern New Jersey, LLC, also trading as Premier Orthopaedics** (hereinafter referred to as

“Premier Orthopaedics”) is a corporation, medical institution and medical facility, duly organized and existing under and by virtue of the laws of the state of New Jersey, with its principal place of business located at 298 S. Delsea Drive, Vineland, NJ 08360.

6. At all times mentioned herein and material hereto, Defendant, Premier Orthopaedics, held itself and its agents, servants, workers, representatives, physicians, nurses, staff, contractors, medical personnel and employees out to be skillful and qualified to attend, care for, treat and render medical care and services to patients such as Plaintiff, Jennifer L. Marko.

7. Defendant, **Premier Orthopaedic Associates Surgical Center, LLC** (hereinafter referred to as “Surgical Center”) is a corporation, medical institution and medical facility, duly organized and existing under and by virtue of the laws of the state of New Jersey, with its principal place of business located at 352 Delsea Drive, Vineland, NJ 08360.

8. At all times mentioned herein and material hereto, Defendant, Surgical Center, held itself and its agents, servants, workers, representatives, physicians, nurses, staff, contractors, medical personnel and employees out to be skillful and qualified to attend, care for, treat and render medical care and services to patients such as Plaintiff, Jennifer L. Marko.

9. Defendants, **John Doe Corporations (1-4)**, are corporations, medical facilities and/or medical practice groups, duly organized and existing under and by virtue of the laws of the Commonwealth of Massachusetts and /or the state of New Jersey, with their principal places of business at unknown addresses, whose true names are unknown to Plaintiff and are being sued by Plaintiff under fictitious names, pursuant to R.4:26-4.

10. At all times mentioned herein and material hereto, Defendants John Doe Corporations (1-4), held themselves and their agents, servants, workers, representatives, physicians, nurses, staff, contractors, medical personnel and employees out to be skillful and qualified to attend, care for, treat and render medical care and services to patients such as Plaintiff, Jennifer L. Marko.

11. Defendant, **Kimberley Yvette Smith, M.D.** (hereinafter “Dr. Smith”), is a duly licensed physician, who at all times mentioned herein and material hereto, was a practicing physician in the state of New Jersey, a member of the staff of Premier Orthopaedics, and/or Surgical Center and/or John Doe Corporations (1-4) and was an agent, ostensible agent, servant, representative and/or employee of Defendant, Premier Orthopaedics, and/or Surgical Center, and/or John Doe Corporations (1-4).

12. At all times mentioned herein and material hereto, Defendant, Dr. Smith, represented herself out to be a competent, skillful and qualified physician, qualified to practice, attend, treat and administer medical care and treatment upon and to patients such as Plaintiff, Jennifer L. Marko.

13. Defendants, **John Doe(s), M.D. (1-3)**, are duly licensed physicians, who at all times mentioned herein and material hereto, were practicing physicians in the state of New Jersey, members of the staff of Premier Orthopaedics and/or Surgical Center and/or John Doe Corporations (1-4) and were agents, ostensible agents, servants, representatives and/or employees of Defendant, Premier Orthopaedics and/or Surgical Center and/or John Doe Corporations (1-4).

14. At all times mentioned herein and material hereto, Defendants, John Doe(s), M.D., represented themselves to be competent, skillful and qualified physicians, qualified to practice, attend, treat and administer medical care and treatment upon and to patients such as Plaintiff, Jennifer L. Marko.

### FACTS

15. On or about September 19, 2012, Plaintiff, Jennifer L. Marko, received an epidural lumbar steroid injection at L5-S1, to ease her sciatic pain; said injection was administered by Defendant, Dr. Smith, at Defendant, Surgical Center.

16. The injectable steroid received by Plaintiff, Jennifer L. Marko, was methylprednisolone acetate, which was manufactured, and/or compounded, and/or sold by Defendant, NECC.

17. Thereafter, in or about late September 2012 and/or October 2012, Defendant NECC, recalled the injectable steroid as it was determined that the injectable steroid compounded by Defendant, NECC, was contaminated with a fungus.

18. On or about October 1, 2012, Plaintiff, Jennifer L. Marko, was contacted and advised that the epidural steroid injection administered by Defendant, Dr. Smith, on September 19, 2012, had come from specific lot numbers of methylprednisole acetate, manufactured, compounded and/or sold by Defendant NECC, and was contaminated with a fungus.

19. Since receiving the contaminated epidural steroid injection, Plaintiff, Jennifer L. Marko, has suffered with severe headaches, slurred speech and a heavy tongue.

20. To date, Plaintiff's first lumbar puncture has been negative, but her white blood count is elevated.

21. Based upon information disclosed by the US Centers for Disease Control and Prevention (hereinafter referred to as "CDC"), Plaintiff, Jennifer L. Marko, is now at an increased risk of contracting meningitis which is inflammation of the lining surrounding the brain and the spinal cord.

**COUNT I – VIOLATIONS OF THE PRODUCT LIABILITY ACT,  
N.J. STAT. § 2A:58C-1 TO 7.**

**JENNIFER L. MARKO and ROBERT MARKO  
V.**

**NEW ENGLAND COMPOUNDING PHARMACY, INC., d/b/a NEW ENGLAND  
COMPOUNDING CENTER, PREMIERE ORTHOPAEDIC AND SPORTS MEDICINE  
ASSOCIATES OF SOUTHERN NEW JERSEY, LLC, also trading as PREMIERE  
ORTHOPAEDIC ASSOCIATES, PREMIER ORTHOPAEDIC ASSOCIATES  
SURGICAL CENTER, LLC AND JOHN DOE(S) CORPORATIONS (1-4)**

22. Plaintiffs incorporate by reference all aforementioned paragraphs of this Complaint, the same as if fully set forth at length herein.

23. Defendants, NECC, Premier Orthopaedics, Surgical Center and John Doe Corporations (1-4) were the manufacturers and/or sellers of doses of methylprednisolone acetate steroid administered to Plaintiff, Jennifer L. Marko, that were contaminated with a fungus.

24. Defendants harmed Plaintiff through the manufacture and/or sale of a methylprednisolone acetate steroid product that was not reasonably fit, suitable or safe for its intended purpose because it deviated from the design specifications, formulae, or performance standards of the manufacturer or from otherwise identical units manufactured to the same manufacturing specifications or formulae.

25. Defendants harmed Plaintiff by failing to contain adequate warnings or instructions with the methylprednisolone acetate steroid product, and/or designing the product in a defective manner. As a result, Plaintiff suffered personal physical injury, as well as pain and suffering, mental anguish and emotional harm.

26. By reason of the defective product manufactured or sold by Defendants as aforesaid, Plaintiff, Jennifer L. Marko, was caused to sustain serious and disabling personal, permanent injuries including, but not limited to, severe headaches, slurred speech and a heavy tongue; she was caused to undergo further treatment; she has suffered extreme anxiety, pain and suffering, loss of life's pleasures and other emotional distress; she has in the past and may in the future be compelled to spend money and incur obligations for further medical care and treatment; she has in the past and may in the future continue to suffer with pain and mental anguish; she is at increased risk of contracting meningitis; she may in the future suffer an impairment of her future earning capacity; she may in the future continue to be disabled from performing her usual duties and avocations, all to her great loss and detriment.

27. As a result of his exposure to the defective product as set forth above, plaintiff suffered and continues to suffer pain, mental anguish and emotional stress, loss of enjoyment of life's pleasure, embarrassment and humiliation.

**WHEREFORE**, Plaintiff, Jennifer L. Marko, claims of Defendants, New England Compounding Pharmacy, Inc., d/b/a New England Compounding Center; Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, also trading as Premier Orthopaedic Associates; Premier Orthopaedic Associates Surgical Center, LLC, and John Doe

Corporations (1-4), and each of them respectively, individually, jointly and severally, separate sums and damages and brings this action to recover same.

## **COUNT II – NEGLIGENCE**

**JENNIFER L. MARKO and ROBERT MARKO  
V.  
NEW ENGLAND COMPOUNDING  
PHARMACY, INC., d/b/a NEW ENGLAND  
COMPOUNDING CENTER and JOHN DOE  
CORPORATIONS (1-4)**

28. Plaintiffs incorporate by reference all aforementioned paragraphs of this Complaint, the same as if fully set forth at length herein.

29. At all times mentioned herein, Defendants, NECC and John Doe Corporations (1-3) had a duty to exercise reasonable care in the manufacture, sale and/or distribution of methylprednisolone acetate steroid doses into the stream of commerce, including a duty to ensure that the product did not cause patients such as Plaintiff, Jennifer L. Marko, to be subject to an unsafe product and to be at an increased risk of contracting meningitis.

30. Defendants, NECC and John Doe Corporations (1-4) failed to exercise ordinary care in the manufacture, sale, testing, quality assurance, quality control and/or distribution of methylprednisolone acetate into interstate commerce and Defendants knew or should have known that the lot numbers of the methylprednisolone acetate at issue created a high risk of harm.

31. Defendants, NECC and John Doe Corporations (1-4) were negligent in the design, manufacture, compounding, testing, warning, marketing and selling of the lot numbers of methylprednisolone acetate at issue, in that they:

- a. failed to use due care in designing, compounding and/or manufacturing the methylprednisolone acetate so as to avoid harming individuals;
- b. failed to conduct adequate testing to determine the safety of methylprednisolone acetate prior to distributing it to the public;
- c. failing to properly retain competent employees to compound the methylprednisolone acetate properly so as to avoid harming the public;
- d. failing to maintain adequate quality control in the manufacturing and compounding of the methylprednisolone acetate to avoid harming the public; and
- e. providing an injectable steroid which was below the standard of care in the community, thereby increasing the risk of harm to Ms. Marko's wellbeing;

32. By reason of the carelessness, recklessness and negligence of Defendants as aforesaid, Plaintiff, Jennifer L. Marko, was caused to sustain serious and disabling personal, permanent injuries including, but not limited to, severe headaches, slurred speech and a heavy tongue; she was caused to undergo further treatment; she has suffered extreme anxiety, pain and suffering, loss of life's pleasures and other emotional distress; she has in the past and may in the future be compelled to spend money and incur obligations for further medical care and treatment; she has in the past and may in the future continue to suffer with pain and mental anguish; she is at increased risk of contracting meningitis; she may in the future suffer an impairment of her future earning capacity; she may in the future continue to be disabled from performing her usual duties and avocations, all to her great loss and detriment.

33. As a result of the negligence of the Defendants as set forth above, the plaintiff suffered and continues to suffer pain, mental anguish and emotional stress, loss of enjoyment of life's pleasures, embarrassment and humiliation.

**WHEREFORE**, Plaintiff, Jennifer L. Marko, claims of Defendants, New England Compounding Pharmacy, Inc., d/b/a New England Compounding Center, John Doe Corporations

(1-3), and each of them respectively, individually, jointly and severally, separate sums and damages and brings this action to recover same.

**COUNT III – NEGLIGENCE**

**JENNIFER L. MARKO and ROBERT MARKO**

**V.**

**PREMIER ORTHOPAEDIC AND SPORTS MEDICINE ASSOCIATES OF SOUTHERN NEW JERSEY, LLC, also trading as PREMIERE ORTHOPAEDIC ASSOCIATES, PREMIERE ORTHOPAEDIC ASSOCIATES SURGICAL CENTER, LLC, KIMBERLEY YVETTE SMITH, M.D., JOHN DOE CORPORATIONS (1-4) and JOHN DOE, M.D. (1-3)**

34. Plaintiffs incorporate by reference all aforementioned paragraphs of this Complaint, the same as if fully set forth at length herein.

35. At all times mentioned herein, Plaintiff's physicians and healthcare providers, Defendants, Premier Orthopaedics, Surgical Center, Dr. Smith, John Doe Corporations (1-4) and John Doe, M.D. (1-3), respectively, individually, jointly and severally, were charged with the professional responsibility of rendering proper medical care and treatment to Plaintiff, and of assuring that proper medical care, attention and treatment would be provided to Plaintiff during all times which she remained under Defendants' medical care and treatment.

36. Defendants, Premier Orthopaedics, Surgical Center, Dr. Smith, John Doe Corporations (1-4) and John Doe, M.D. (1-3), respectively, individually and severally, by and through their separate and respective agents, ostensible agents, servants, workers, representatives, physicians, nurses, staff, contractors, medical personnel, medical assistants and employees were careless and negligent in:

a. Providing an injectable steroid which was below the standard of care in the community, thereby increasing the risk of harm to Ms. Marko's wellbeing; and

b. Utilizing the methylprednisolone acetate manufactured and/or compounded by Defendant, NECC, which they knew or should have known was defective and/or contaminated.

37. By reason of the carelessness, recklessness and negligence of Defendants as aforesaid, Plaintiff, Jennifer L. Marko, was caused to sustain serious and disabling personal, permanent injuries including, but not limited to, severe headaches, slurred speech and a heavy tongue; she was caused to undergo further treatment; she has suffered extreme anxiety, pain and suffering, loss of life's pleasures and other emotional distress; she has in the past and may in the future be compelled to spend money and incur obligations for further medical care and treatment; she has in the past and may in the future continue to suffer with pain and mental anguish; she is at increased risk of contracting meningitis; she may in the future suffer an impairment of her future earning capacity; she may in the future continue to be disabled from performing her usual duties and avocations, all to her great loss and detriment.

**WHEREFORE**, Plaintiff, Jennifer L. Marko, claims of Defendants, Premier Orthopaedics, Surgical Center, Dr. Smith, John Doe Corporations (1-4) and John Doe, M.D. (1-3), and each of them respectively, individually, jointly and severally, separate sums and damages and brings this action to recover same.

**COUNT IV – BREACH OF EXPRESS WARRANTY**

**JENNIFER L. MARKO and ROBERT MARKO**

**V.**

**NEW ENGLAND COMPOUNDING PHARMACY, INC., d/b/a NEW ENGLAND COMPOUNDING CENTER and JOHN DOE CORPORATIONS (1-4)**

38. Plaintiffs incorporate by reference all aforementioned paragraphs of this Complaint, the same as if fully set forth at length herein.

39. Defendants NECC and John Doe Corporations (1-4), expressly warranted that the methylprednisolone acetate was safe.

40. Defendants NECC and John Doe Corporations (1-4), did not conform to their expressed representations because the methylprednisolone acetate was not safe.

41. As a direct and proximate result of the breach of said warranties, Plaintiff was caused to suffer injuries including, but not limited to, severe headaches, slurred speech and a heavy tongue; she was caused to undergo further treatment; she has suffered extreme anxiety, pain and suffering, loss of life's pleasures and other emotional distress; she has in the past and may in the future be compelled to spend money and incur obligations for further medical care and treatment; she has in the past and may in the future continue to suffer with pain and mental anguish; she is at increased risk of contracting meningitis; she may in the future suffer an impairment of her future earning capacity; she may in the future continue to be disabled from performing her usual duties and avocations, all to her great loss and detriment.

WHEREFORE, Plaintiff, Jennifer L. Marko, claims of Defendants, New England Compounding Pharmacy, Inc., d/b/a New England Compounding Center, John Doe Corporations (1-3), and each of them respectively, individually, jointly and severally, separate sums and damages and brings this action to recover same.

**COUNT V – LOSS OF CONSORTIUM**

**PLAINTIFF, ROBERT MARKO**

**V.**

**NEW ENGLAND COMPOUNDING PHARMACY, INC., d/b/a NEW ENGLAND COMPOUNDING CENTER, PREMIERE ORTHOPAEDIC AND SPORTS MEDICINE ASSOCIATES OF SOUTHERN NEW JERSEY, LLC, also trading as PREMIERE ORTHOPAEDIC ASSOCIATES, PREMIER ORTHOPAEDIC ASSOCIATES SURGICAL CENTER, LLC, KIMBERLEY YVETTE SMITH, M.D., JOHN DOE(S) CORPORATIONS (1-4) AND JOHN DOE(S), M.D. (1-3)**

42. Plaintiffs incorporate by reference all aforementioned paragraphs of this Complaint as if fully set forth at length herein.

43. At all times mentioned, Plaintiffs, Jennifer L. Marko and Robert Marko, were wife and husband.

44. As a result of the Defendants' violations of the Product Liability Act and the negligence and carelessness of the aforementioned Defendants, Plaintiff, Robert Marko, will be deprived of the aid, companionship, consortium and services of the Plaintiff, Jennifer L. Marko.

**WHEREFORE**, Plaintiff, Robert Marko, claims of Defendants, New England Compounding Pharmacy, Inc., d/b/a New England Compounding Center, Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, also trading as Premiere Orthopaedic Associates, Premier Orthopaedic Associates Surgical Center, LLC, Kimberley Yvette Smith, M.D., John Doe(s) Corporations (1-4) and John Doe(s), M.D. (1-3), and each of them respectively, individually, jointly and severally, separate sums and damages and brings this action to recover same.

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.

By: 

MICHAEL F. BARRETT, ESQUIRE

MARY T. GIDARO, ESQUIRE


Attorneys for Plaintiffs, Jennifer L. Marko and Robert Marko, w/h

DATED: 10-16-12

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury as to all factual issues.

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.


By:   
MICHAEL F. BARRETT, ESQUIRE  
MARY T. GIDARO, ESQUIRE  
Attorneys for Plaintiffs, Jennifer L. Marko and  
Robert Marko, w/h

DATED: 10-16-12

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-1(b)(14) Michael F. Barrett, Esquire, is hereby designated as trial counsel for the Plaintiffs.

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.

By:   
MICHAEL F. BARRETT, ESQUIRE  
MARY T. GIDARO, ESQUIRE  
Attorneys for Plaintiffs, Jennifer L. Marko and  
Robert Marko, w/h

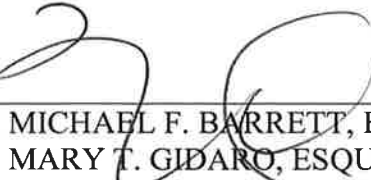
DATED: 10-16-12

**CERTIFICATION PURSUANT TO RULE 4:51**

The matter in controversy is not the subject of any other pending action in any court or of any arbitration proceeding nor is any other action or arbitration proceeding contemplated, and all known necessary parties have been joined in this action.

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.

By:



MICHAEL F. BARRETT, ESQUIRE  
MARY T. GIDARO, ESQUIRE  
Attorneys for Plaintiffs, Jennifer L. Marko and  
Robert Marko, w/h

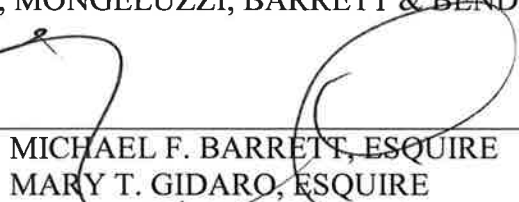
DATED: 10-16-12

**DEMAND FOR ANSWERS TO INTERROGATORIES**

**PLEASE TAKE NOTICE** that Plaintiffs demand answers from each Defendant to Uniform Interrogatories, Form C and Form C(3), if applicable as set forth in Appendix II of the New Jersey Court Rules pursuant to R. 4:17-1(b).

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.

By:



MICHAEL F. BARRETT, ESQUIRE  
MARY T. GIDARO, ESQUIRE  
Attorneys for Plaintiffs, Jennifer L. Marko and  
Robert Marko, w/h

DATED: 10-16-12

**CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)**

I, Michael F. Barrett, Esquire, certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(c).

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.

By: 

MICHAEL F. BARRETT, ESQUIRE

MARY T. GIDARO, ESQUIRE

Attorneys for Plaintiffs, Jennifer L. Marko and  
Robert Marko, w/h

DATED: 10-16-12