

Thousand and 00/100 (\$75,000.00) Dollars exclusive of interest and costs, and this action is between the plaintiff, a citizen of New York, and the defendants, corporate citizens of Pennsylvania and New Jersey, or in the alternative, citizens of a state other than New York.

PARTIES

3. The plaintiff, Shaquil Byrd, is an individual residing in Albany, New York.

4. The defendant Janssen Pharmaceuticals, Inc. (“Janssen”) is a foreign corporation organized and existing pursuant to the laws of Pennsylvania (or some state other than New York), with its principal place of business in New Jersey (or some state other than New York).

5. Defendant Janssen is authorized to do business in the State of New York.

6. The defendant Johnson & Johnson (“J & J”) is a foreign corporation organized and existing pursuant to the laws of New Jersey (or some state other than New York), with its principal place of business in New Jersey (or some state other than New York).

7. Defendant J & J is authorized to do business in the State of New York.

8. At all times relevant hereto, defendants Janssen and/or J & J (“defendants”) were engaged in the business of designing, developing, manufacturing, testing, inspecting, advertising, selling, transporting, marketing, promoting, and distributing the atypical antipsychotic prescription drug Risperidone, known by the trade name “Risperdal” (which includes *Risperdal Consta*, and *Risperdal M-Tab*), which

plaintiff was prescribed and treated with from approximately 2001-2008, while still a minor.

9. Prior to 2001 defendants did, in the normal course of business, sell, transfer, deliver, or otherwise place in the stream of commerce the aforesaid Risperdal, and conducted business in, and had and continue to have significant, purposeful, and deliberate business contacts with and in the State of New York.

STATUTE OF LIMITATIONS

10. Pursuant to the tolling provisions of (New York's) CPLR § 208, this claim is timely brought, as plaintiff was a minor when his cause of action accrued, and---having been born on July 13, 1993---has yet to reach twenty-one (21) years of age.

FIRST CLAIM FOR RELIEF **(Negligence)**

11. Plaintiff repeats and reallges each and every allegation set forth in paragraphs "1" through "10" above as if fully set forth herein at length.

12. From approximately 2001-2008, plaintiff Shaquil Byrd was prescribed and took Risperdal for the purported treatment of his mental health diagnoses.

13. During the aforesaid period (and earlier), defendants knew that Risperdal was defective, and that it had a high incidence of serious side effects, including the development of gynecomastia (the growth of male breasts), hyperprolactinemia, and other medical problems.

14. Accordingly, defendants knew or should have known that there was a foreseeable risk plaintiff Shaquil Byrd (and similarly-situated patients) would suffer harmful side effects from Risperdal.

15. Nevertheless, during the aforesaid period (and earlier), defendants, in their respective efforts to market the drug to the public, concealed and/or considerably minimized Risperdal's significant side effects.

16. Specifically, during the aforesaid period (and earlier), defendants failed to disclose to physicians, patients (such as plaintiff Shaquil Byrd), and those similarly situated, that Risperdal was likely to cause gynecomastia, hyperprolactinemia, and other medical problems, and that patients taking Risperdal were at a much higher risk for the development of these complications than patients taking similar medications.

17. Further, during the aforesaid period (and earlier), defendants failed to provide sufficient warnings and instructions that would have put plaintiff and/or the general public on notice of the dangers and adverse effects associated with Risperdal, including, gynecomastia, hyperprolactinemia, and other medical problems.

18. In light of defendants' full awareness that the drug carried with it an increased risk of patients developing gynecomastia, hyperprolactinemia, and other medical problems, Risperdal was (at all relevant times) defective as marketed, due (among other things) to the inaccuracy/incompleteness of its labeling, instructions, and warnings.

19. It was reasonable for plaintiff Shaquil Byrd to rely on defendants' representations regarding the safety and efficacy of Risperdal, and plaintiff did so rely.

20. As a direct result of his course of treatment with Risperdal, plaintiff Shaquil Byrd has suffered physical and emotional injuries including the development of gynecomastia and hyperprolactinemia (with accompanying lactation), required multiple

bilateral reduction/removal surgeries, and sustained other serious, painful, disabling, and permanent personal injuries.

21. The aforesaid gynecomastia and hyperprolactinemia (with accompanying lactation), multiple surgeries, and other serious, painful, disabling and permanent personal injuries sustained by plaintiff Shaquil Byrd, were directly and proximately caused and/or necessitated by the negligence of the defendants, without any negligence on the part of plaintiff contributing thereto.

22. The negligence of the defendants consisted, among other things, of the following:

- (a) in designing, manufacturing, marketing and/or distributing for sale the drug Risperdal in a dangerous and defective manner, thereby exposing plaintiff Shaquil Byrd (and similarly-situated patients) to an unreasonable risk of harm;
- (b) in failing to properly, adequately, and appropriately warn plaintiff Shaquil Byrd (and similarly-situated patients) of the risks and dangers associated with Risperdal;
- (c) in continuing to promote Risperdal as a safe and effective drug, despite patient reports of adverse events, FDA warnings regarding Risperdal's dangers, and FDA requests to modify the warning labels;
- (d) in designing, manufacturing, and/or distributing for sale the drug Risperdal which did not satisfy or conform to applicable Federal and State statutes, rules and regulations; and
- (e) in being otherwise careless and negligent.

23. As a result of the aforesaid negligence of the defendants, plaintiff Shaquil Byrd suffered serious physical injuries with attendant pain and suffering, required multiple surgeries, and was rendered and continues to be sick, sore, lame, and disabled, which injuries and disabilities will be permanent.

24. Plaintiff Shaquil Byrd has incurred and will incur in the future considerable expense for his medical care, hospital care and treatment.

25. By reason of the foregoing, plaintiff Shaquil Byrd was damaged in an amount to be determined by the Court, but not less than Two Million and 00/100 (\$2,000,000.00) Dollars, together with interest thereon as permitted by law.

SECOND CLAIM FOR RELIEF
(Strict Products Liability)

26. Plaintiff repeats and realleges each and every allegation set forth in paragraphs "1" through "25" above as though fully set forth herein at length.

27. Upon sale of the aforesaid Risperdal, defendants assumed a strict liability to all persons whom they could reasonably foresee would be injured by the sale of this defectively-designed drug for which appropriate warnings (regarding significant, likely side effects) were never communicated.

28. The plaintiff Shaquil Byrd was covered by and included in the aforesaid assumption of strict liability.

29. At all times relevant hereto, the drug Risperdal was a defective product (within the meaning of the doctrine of strict products liability) inasmuch as it could not be taken safely, due to its dangerous, hazardous, and defective manufacture, design, labeling/warning, marketing, and condition, as set forth herein.

30. The aforesaid Risperdal tablets were---in each and every instance--- defective when they left defendants' facilities, and at the time of their sale, and remained defective up until the time of their ingestion by plaintiff Shaquil Byrd, over the course of his years treating with the drug.

31. As a direct and proximate result of the defective condition of the aforementioned Risperdal, plaintiff Shaquil Byrd sustained serious physical injuries, pain, suffering and permanent disability.

32. By reason of the foregoing, plaintiff Shaquil Byrd was damaged in an amount to be determined by the Court, but not less than Two Million and 00/100 (\$2,000,000.00) Dollars, together with interest thereon as permitted by law.

THIRD CLAIM FOR RELIEF
(Breach of Express and Implied Warranty)

33. Plaintiff repeats and realleges each and every allegation set forth in paragraphs "1" through "32" above as though fully set forth herein at length.

34. Upon the manufacture and sale of the aforesaid Risperdal, and prior to its prescription, distribution and ingestion thereof by plaintiff (over the course of his years treating with the drug), defendants made certain express and implied warranties to the consuming public, including plaintiff, concerning (among other things) the safety and efficacy of the drug.

35. Upon the manufacture and sale of the aforesaid Risperdal, and prior to its prescription, distribution and ingestion thereof by plaintiff (over the course of his years treating with the drug), defendants expressly and impliedly warranted to the consuming

public, including plaintiff, that the drug was of merchantable quality, and reasonably fit, safe and suitable for its intended purpose.

36. The aforesaid Risperdal was not of merchantable quality, nor fit, safe, or suitable for its intended purpose.

37. The aforesaid Risperdal did not conform to the express and implied warranties rendered by the defendants.

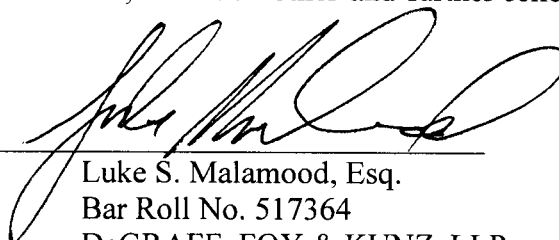
38. Plaintiff Shaquil Byrd was not aware of, and could not have discovered the defective nature of the aforesaid Risperdal, which made the drug unreasonably dangerous, unsafe, unfit, unsuitable for its intended use, and not of merchantable quality.

39. The severe, painful, and permanent injuries and disabilities suffered by plaintiff Shaquil Byrd were brought about as a direct and proximate result of the breach of the express and implied warranties by the defendants.

40. By reason of the foregoing, plaintiff Shaquil Byrd has been damaged in an amount to be determined by the Court, but not less than Two Million and 00/100 (\$2,000,000.00) Dollars, together with interest thereon as permitted by law.

WHEREFORE, plaintiff Shaquil Byrd demands judgment in his favor and against the defendant on each claim for relief (together with interest thereon as permitted by law), costs and disbursements of this action, and such other and further relief as the Court deems just and proper.

Dated: July 8, 2014



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518-462-5300

JS 44 (Rev. 12/12)

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.)

I. (a) PLAINTIFFS SHAQUIL BYRD

(b) County of Residence of First Listed Plaintiff Albany
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)* (518) 462-5300
DeGraff, Foy & Kunz, LLP
41 State Street, Albany, NY 12205

DEFENDANTS JANSSEN PHARMACEUTICALS, INC., AND JOHNSON & JOHNSON

County of Residence of First Listed Defendant Mercer County, NJ
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question *(U.S. Government Not a Party)*

4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or 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 and 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

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

CONTRACT	TORTS	FOREFEITURE/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 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 checked="" 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	<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"/> 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 Constitutional of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
28 USC Section 1332

Brief description of cause: Action for personal injury arising from product liability.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

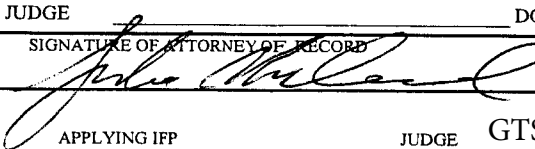
DEMAND \$ 2,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE July 8, 2014

SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY
#0206-2987184

RECEIPT # _____ AMOUNT \$ 400 APPLYING IFP _____ JUDGE GTS MAG. JUDGE _____ RFT _____