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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON *ex rel.* JOHN R.  
KROGER, Attorney General of Oregon,

Plaintiff,

v.

GLAXOSMITHKLINE LLC and SB  
PHARMCO PUERTO RICO, INC.,

Defendants.

Case No. **1106-08017**

COMPLAINT

(Unlawful Trade Practices Act, ORS 646.605 to  
646.656)

CLAIMS NOT SUBJECT TO MANDATORY  
ARBITRATION

**INTRODUCTION**

Plaintiff State of Oregon *ex rel.* John R. Kroger, Attorney General of Oregon (“the State”) alleges claims for relief based on violations of Oregon’s Unlawful Trade Practices Act (“UTPA”), ORS 646.605 to ORS 646.656. The State alleges that at all times material herein:

**ALLEGATIONS COMMON TO ALL CLAIMS**

1.

John R. Kroger is the Attorney General for the State of Oregon and sues in his official capacity pursuant to ORS 646.632.

2.

Defendant GlaxoSmithKline LLC (“GSK”) is now, and has been at all relevant times a company organized under the laws of the state of Delaware, authorized to do business in Oregon and doing business in the state of Oregon. GSK’s principal place of business is at One Franklin

1 Plaza, 200 N. 16<sup>th</sup> Street, Philadelphia, Pennsylvania, 19102. GSK engages in business in  
2 Oregon by developing, manufacturing, promoting, selling and distributing prescription drugs.

3 3.

4 Defendant SB PharmCo Puerto Rico, Inc. (“SB PharmCo”) was a corporation organized  
5 under the laws of the Commonwealth of Puerto Rico with a principal place of business at Rd.  
6 172, Km 9.2, Bo. Certenejas, Cidra, PR 00739. SB PharmCo was an indirect subsidiary of  
7 Glaxo Smith Kline plc, a British corporation with a principal place of business in Brentford,  
8 Middlesex, England. SB Pharmco was dissolved effective July 3, 2008 but continues to exist  
9 under operation of law for three years for purposes of litigation, prosecution, and settlement of  
10 its affairs. Together with GSK, SB Pharmco operated and managed a manufacturing facility  
11 located in Cidra, Puerto Rico. SB PharmCo engaged in business in Oregon by manufacturing  
12 prescription drugs that were sold in Oregon.

13 4.

14 GSK and SB PharmCo shall hereafter be referred to as “Defendants.”

15 5.

16 The Circuit Court for the State of Oregon for Multnomah County has personal  
17 jurisdiction over Defendants pursuant to ORCP 4A because Defendants engaged in substantial  
18 activities within the State of Oregon by operating businesses that provide goods that are  
19 primarily for personal, family and household purposes. All transactions took place in the course  
20 of Defendants’ business. Defendants engage in business in Oregon and nationwide by  
21 manufacturing, marketing, promoting, selling and distributing prescription drugs.

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10.

Defendants waived the Notice required by ORS 646.632(2) and failed to submit to the Attorney General an acceptable Assurance of Voluntary Compliance.

Defendants' conduct, as described in this Complaint, was willful within the meaning of ORS 646.605(10) because Defendants knew or should have known that the conduct described herein was a violation of Oregon's UTPA.

In or around January 2001, Defendants' Cidra manufacturing facility became one of their largest manufacturing facilities worldwide and a major supplier of prescription drugs to the United States. Defendants were responsible for making a complex portfolio of drugs, including pills, creams, ointments, and injectables, at the Cidra facility.

Among other drugs manufactured at the Cidra facility, Defendants made the following drugs available for distribution to the United States: Kytril, Bactroban, Paxil CR, and Avandamet.

Kytril is a sterile drug used to prevent nausea and vomiting caused by cancer chemotherapy and radiation therapy.

Bactroban is an antibiotic ointment used to treat skin infections.

Paxil CR is the controlled release formulation of the popular antidepressant drug, Paxil.

1 13.

2 Avandamet is a combination Type II diabetes drug.

3 14.

4 When these drugs are sold to consumers, there is an implied representation that they are  
5 unadulterated.

6 15.

7 Between 2001 and 2004, Defendants manufactured and put into the stream of commerce  
8 certain lots of Kytril, Bactroban, Paxil, and Avandamet that were adulterated because the  
9 manufacturing process used to produce those lots were substandard.

10 **CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**

12 (Unlawful Trade Practices Act, ORS 646.608(1)(e))

13 **Count I**

14 16.

15 The State realleges and incorporates by reference each and every allegation contained in  
16 the preceding paragraphs as though set forth herein.

17 17.

18 Defendants violated ORS 646.608(1)(e) when, in the course of their business, Defendants  
19 willfully represented that the prescription drugs that they developed, manufactured, promoted,  
20 and sold had sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or  
21 qualities that they do not have.

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23 ///

1 **SECOND CLAIM FOR RELIEF**

2 (Unlawful Trade Practices Act, ORS 646.608(1)(b))

3 **Count I**

4 18.

5 The State realleges and incorporates by reference each and every allegation contained in  
6 the preceding paragraphs as though set forth herein.

7 19.

8 Defendants violated ORS 646.608(1)(b) when, in the course of their business, Defendants  
9 willfully created a likelihood of confusion or of misunderstanding as to the source, sponsorship,  
10 approval, or certification of prescription drugs that they developed, manufactured, promoted, and  
11 sold.

12 **PRAYER FOR RELIEF**

13 20.

14 Wherefore, the State prays for relief as follows:

15 (a) On all Claims for Relief:

16 (i) For judgment against Defendant for civil penalties of up to \$25,000 for each  
17 willful violation of the Unlawful Trade Practices Act, ORS 646.605 to 646.656;

18 (ii) For judgment against Defendant for reasonable attorney fees and costs pursuant to  
19 ORS 646.632(8) and ORCP 68;

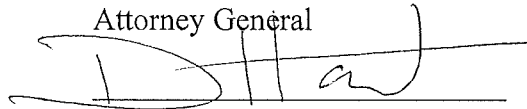
20 (iii) For judgment awarding the following injunctive relief pursuant to ORS 646.632:

21 a) Defendant shall be permanently enjoined and restrained from engaging in the  
22 aforementioned acts or practices that violate the Unlawful Trade Practices Act,  
23 ORS 646.605 to 646.656.

1 (b) For judgment granting any other or further remedial relief that the Court deems  
2 appropriate pursuant to ORS 646.636.  
3

4 DATED: June 22, 2011.  
5

6 Respectfully submitted,  
7 JOHN R. KROGER  
8 Attorney General



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