

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

SAMANTHA BENYO
6016 Archmere Avenue
Brooklyn, Ohio 44144,

And

MARK BENYO
6016 Archmere Avenue
Brooklyn, Ohio 44144,

And

SHERETTA COOK
2310 Selzer Avenue
Cleveland, Ohio 44109,

Plaintiffs,

vs.

DEEPAK RAHEJA, MD
6463 Canterbury Drive
Hudson, Ohio 44236,

And

BHUPINDER SAWHNY, MD
6999 Gates Road
Gates Mills, Ohio 44040,

And

AVANIR PHARMACEUTICALS
INC.
30 Enterprise, Suite 400
Aliso Viejo, California 92656,

Defendants.

) CASE NO.

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) JUDGE

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) **COMPLAINT**

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) **(Jury Demand Endorsed Hereon)**

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1. Plaintiffs Samantha Benyo and Sheretta Cook state that on or about the eighth day of November 2019, they were placed on notice by the United States Department of Justice that during New Year's 2015 through 2016 they were inappropriately prescribed Nuedexta by the Defendant physicians, both licensed to practice medicine in the State of Ohio.
2. Nuedexta is a drug marketed by Defendant Avanir Pharmaceuticals Inc.
3. Nuedexta was approved by the FDA, solely to treat pseudo-bulbar affect, a condition characterized by frequent episodes of inappropriate laughter.
4. Plaintiffs Samantha Benyo and Sheretta Cook do not have pseudo-bulbar affect.
5. Notwithstanding, Defendant physicians knowingly prescribed Nuedexta to Plaintiffs.
6. To increase sales of Nuedexta, Defendant Avanir by and through its representatives, employees and agents, engaged in an illegal practice of providing improper stipends to the Defendant physicians as well as fees for presentations, fire arms training, expensive dining, all done to boost the sales of Nuedexta to its patients and patients of other physicians who did not have pseudo-bulbar affect, including Plaintiffs.
7. Because of the foregoing practice, Defendants caused Medicare and Medicaid to be improperly billed.
8. As a result of the conduct of the Defendants, Plaintiffs Samantha Benyo and Sheretta Cook sustained neurologic and psychologic injuries, pain and suffering and permanent injury.
9. As result of the conduct of the Defendants, Plaintiffs Samantha Benyo and Sheretta Cook incurred medical expenses which will continue into the future.

10. As a result of the conduct of the Defendants, Plaintiff Mark Benyo lost the services and consortium of his wife.
11. Defendants were negligent by permitting the use of Nuedexta for conditions other than pseudo-bulbar affect.
12. Defendants committed assault and battery by permitting the use of Nuedexta for conditions other than pseudo-bulbar affect.
13. Defendants committed fraud by permitting the use of Nuedexta for conditions other than pseudo-bulbar affect.
14. Defendants committed negligent misrepresentation by permitting the use of Nuedexta for conditions other than pseudo-bulbar affect.
15. Defendants did not obtain informed consent by permitting the use of Nuedexta for conditions other than pseudo-bulbar affect.
16. Defendants knowingly and with conscious disregard for the safety of Plaintiffs, permitted the use of Nuedexta for conditions other than pseudo-bulbar affect.
17. Defendants were reckless by permitting the use of Nuedexta for conditions other than pseudo-bulbar affect.
18. Defendants violated Ohio Revised Code section 2307.60 which allows damages in a civil action for anyone injured by a criminal act including but not limited to attorney fees and punitive damages.

WHEREFORE, Plaintiffs pray for damages, individually, in an amount in excess of \$25,000 plus attorney fees, expenses, punitive damages, and costs of this action.

Respectfully submitted,

/s/ William J. Novak

WILLIAM J. NOVAK (0014029)

Hoyt Block Building, Suite 418

700 West St. Clair Avenue

Cleveland, Ohio 44113

Telephone: (216) 781-8700

Facsimile: (216) 781-9227

Email: william@novak-law.com

Attorney for Plaintiffs

JURY DEMAND

A jury pursuant to Civil Rule 38(B) is hereby demanded for all issues.

/s/ William J. Novak

WILLIAM J. NOVAK (0014029)

TO THE CLERK

**PLEASE SERVE THE DEFENDANTS AT THE ADDRESSES LISTED IN THE
CAPTION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

/s/ William J. Novak

WILLIAM J. NOVAK (0014029)