

1 action, Gregory C. Omdahl, on May 26, 1999, has petitioned the above-captioned Court to be
2 duly appointed guardian ad litem of plaintiffs Sean and Birgen Hartman. Both wills of Phil and
3 Brynn Hartman were admitted to probate, by Order of the California Superior Court, Los Angeles
4 County, filed on July 6, 1998 and July 2, 1998 respectively. Gregory C. Omdahl is therefore the
5 personal representative of both estates and a person authorized to act as trustee and conservator
6 of the financial affairs of Sean and Birgen Hartman. Thus, he is a person qualified by California
7 law to assert personal injury and wrongful death claims for the deaths of Phil and Brynn Hartman.

8 2. Defendant Pfizer is a foreign corporation registered to do business in the State of
9 California, and engaged in the business of selling pharmaceutical drugs throughout California,
10 including in Los Angeles County. Service may be effected on its registered agent, CT
11 Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

12 3. Defendant Arthur Sorosky, M.D. is a psychiatrist practicing in Los Angeles
13 County. Process may be served on him at his office, 16661 Ventura Boulevard, Suite 806,
14 Encino, California 91436.

15 4. The true names and capacities, whether individual, corporate, associate or
16 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to plaintiff, who are
17 therefore sued by those fictitious names. Plaintiffs are informed and believe, and therefore allege,
18 that each of those defendants was in some manner legally responsible for the events and
19 happenings alleged in this complaint and legally caused the injuries and damages alleged herein.

20 5. Plaintiffs are informed and believe, and therefore allege, that each defendant was
21 the agent, partner, joint venturer, and employee of the other defendants, and in doing the things
22 alleged in this complaint were acting within the course and scope of that agency, partnership, joint
23 venture, and employment with the advance knowledge, acquiescence or subsequent ratification of
24 all acts of each and every remaining Defendant.

25 6. On or about May 28, 1998, the decedent Brynn Hartman, acting under the
26 influence of the mind-altering drug Zoloft -- which is manufactured and marketed by the
27 Defendant Pfizer and which was dispensed to her in sample form by her child's physician, the

1 Defendant Sorosky -- shot and killed her husband Phil Hartman, and, subsequently, herself.

2 7. This suit is brought under the common and statutory law of the state of California,
3 including the applicable survival and wrongful death statutes, for the injuries and wrongful deaths
4 of both Phil and Brynn Hartman.

5 8. The principal heirs of decedents, under the terms of their wills, and principal takers
6 under the California law are their children, Sean and Birgen Hartman. As noted above, Gregory
7 C. Omdahl is the personal representative of the estate and serves their interests in a representative
8 capacity. Section 377.60, Cal.C.Civ.P. Additionally, Phil Hartman's mother, Doris Hartman,
9 was economically dependent upon the deceased Phil Hartman, for necessities. Accordingly, she
10 is entitled to recover damages for the wrongful death of her son. In accordance with section
11 377.60, this suit also seeks those damages.

12 SSRI Drugs and Violence

13 The following background facts are specifically pleaded to acquaint the Court with the
14 background of this case and to put the ultimate litigation facts in context:

15 9. The drug sertraline hydrochloride, aggressively marketed by Pfizer under the
16 tradename Zoloft, is a member of a class of drugs known as "selective serotonin reuptake
17 inhibitors," or "SSRI's." The first and most widely known such drug in this country is Prozac,
18 which was approved by the FDA for marketing as an antidepressant in late 1987. Pfizer secured
19 FDA approval to market Zoloft as an antidepressant in the fall of 1991.

20 10. The drug manufacturers, including Pfizer, tout these drugs as highly "selective"
21 panacea pills for all of the moodiness woes of the 90's and beyond. Indeed, one of them has just
22 been approved to be marketed for shyness. However, in a book recently published by The
23 Harvard Press, they are described as being somewhere on the continuum between "magic bullets
24 and snake oil." Healy, THE ANTIDEPRESSANT ERA (Harvard Press, 1998) at p.4. The description
25 underscores the importance of **marketing**. It has real world, economic significance; and,
26 tremendous legal significance.

27 11. Although none of the SSRI drug manufacturers will admit it, these drugs pose an

1 unreasonable risk of violent and suicidal behavior for a small percentage of patients. They can
2 cause extrapyramidal reactions, including an extremely dangerous condition called “akathisia,”
3 which was established in scientific literature, long before any SSRI’s were marketed, to
4 precipitate suicide or violence. They can also cause a condition known as “emotional blunting”
5 or disinhibition. In addition, they can cause some patients to become manic, hypomanic, or
6 psychotic. Moreover, when taken in tandem with other substances which increase serotonergic
7 activity in the brain -- like cocaine -- they can lead to a condition called the “serotonin syndrome,”
8 which is characterized by cognitive behavioral changes (confusion, hypomania, agitation). It can
9 lead to delusions and hallucinations.

10 12. The issue was well known to the drug companies long before any of these drugs
11 were marketed in this country, but came to public attention in the wake of a February 1990 article
12 by two highly reputable Harvard psychiatrists concerning Prozac-induced *de novo* suicidal
13 ideation. Eli Lilly, the manufacturer of Prozac, has fought numerous battles in public forums
14 concerning these matters. Pfizer, on the other hand, has “laid low,” declining to participate in a
15 1991 FDA panel discussion on the issue and capitalizing in the marketplace by emphasizing that
16 Zoloft has a shorter half-life than Prozac and is, thus, less likely to engender these particular side-
17 effects. A body of scientific reasoning known as “structural activity relationships” explains the
18 underlying biochemistry and pharmacology.

19 13. Therefore, the potential for violence and suicide, although it may differ somewhat
20 from drug to drug within the class, is still a common risk for drugs which purport to “selectively”
21 inhibit the reuptake of serotonin by blocking serotonin receptor sites. Exhibits A and B to this
22 Complaint are two, recently published, peer-reviewed scientific articles by Pfizer’s own scientist
23 Dr. Roger Lane which establish the probable causal relationships and risk, for all SSRI drugs,
24 including Zoloft. Exhibit A, Lane, *SSRI-Induced extrapyramidal side-effects and akathisia:*
25 *implications for treatment*, Journal of Psychopharmacology, 12(2)(1998), pp. 192-214; Exhibit
26 B, Lane and Baldwin, *Selective Serotonin Reuptake Inhibitor-Induced Serotonin Syndrome:*
27 *Review*, Journal of Clinical Psychopharmacology, 17(3)(1997), pp. 208-22. As Dr. Lane writes,

1 these conditions are sometimes hard to detect and diagnose, although not so hard to treat. *E.g.*
2 “SSRI-induced akathisia is a relatively rare event but is frequently unrecognized when it does
3 occur.” Exhibit A at p. 193-94. “The earliest symptoms of the serotonin syndrome are often
4 misinterpreted as reflecting an exacerbation of the patient’s underlying psychiatric condition. . . .
5 To diagnose the serotonin syndrome, the clinician must maintain a **high index of suspicion** and
6 exclude other medical and psychiatric conditions.” Exhibit B at p. 215 (emphasis added). For
7 this reason, is it imperative that both physicians and their patients be forewarned and alerted. The
8 drug companies must tell what they know concerning the dangers of their drugs. But Pfizer has
9 not done so, at least not in this country. On information and belief it is alleged that Pfizer and its
10 foreign affiliates have marketed sertraline in other countries, like Germany and Sweden, with
11 different, and more specific warnings about the risk of suicide and/or violence.

12 14. Pfizer has failed to apprise either physicians or patients of the risks documented by
13 Dr. Lane’s publications and other scientific literature. Its package insert and marketing materials
14 do **not** warn about the risk of “SSRI-induced” akathisia, do **not** warn about the risk of mania,
15 hypomania and psychosis, do **not** warn about the “serotonin syndrome,” and do **not** warn that
16 these physical reactions to the drug can cause some people to act in violent or suicidal ways. Nor
17 do they warn that “the early symptoms of cognitive-behavioral change are often overlooked or
18 mistakenly attributed to a worsening of the patient’s underlying psychiatric condition. These
19 symptoms include anxiety, confusion, agitation, hypomania, headache and insomnia.” Exhibit B
20 at p.215.

21 15. To the contrary, Pfizer has done all that it can to downplay the possibility that
22 Zoloft causes violence or suicide in some people, and to encourage physicians to dispense or
23 prescribe it, and patients to take it, and keep taking it, even when they encounter troublesome side
24 effects.

25 16. Indeed, Pfizer has aggressively marketed Zoloft, encouraging all types of
26 physicians (including those who have no specialized training or expertise in the mental health
27 field) to dispense and prescribe Zoloft, not only for depression, but also for other maladies. As

1 a recent publication, touting Pfizer, illustrates, this is consistent with Pfizer's corporate
2 philosophy: "Research . . . is only half of what fuels Pfizer. The other half is marketing. . . . At
3 Pfizer marketing infuses every aspect of drug development and delivery. . . . The **marketing**
4 **equation** is simple: If patients primed by TV commercials ask doctors, swayed by sales visits,
5 about drugs with compelling clinical trial results, lots of prescriptions will get written." Woolley,
6 *Science & Savvy*, FORBES, Vol. 163, No. 1, p. 122, 123 (January 11, 1999)[Attached as Exhibit
7 C].

8 17. The "marketing equation" also includes the practice by Pfizer sales representatives
9 of leaving Zoloft sample packages to physicians, so that they can get patients started on these
10 drugs. One of the problems with professional samples is that they do not contain the same types
11 of warnings as the drugs formally packaged and dispensed in bottles by a pharmacy. For
12 example, many pharmacies put a bright orange sticker on the outside of bottles containing Zoloft
13 pills to caution the patient not to consume alcohol while they are under the influence of Zoloft
14 (because of the potential for drowsiness or lack of motor coordination). The sample package
15 does not contain the same, conspicuous warning, and nowhere does Pfizer really warn doctors or
16 patients about the lethal emotional and behavioral implications of mixing alcohol with Zoloft.

17 18. The Zoloft which was given to Brynn Hartman, was a sample package of pills
18 designed as a starter or titration kit for someone who had been diagnosed with "panic attacks."
19 It is designed to be taken daily and in sequence, not periodically by the patient. It was left by a
20 Pfizer salesman and given to her by her son's doctor, defendant Sorosky, on March 26, 1998,
21 without the benefit of a history and physical examination, diagnosis of either major clinical
22 depression or panic attacks, psychotherapy, or, indeed, any conventional doctor/patient
23 relationship at all. Pfizer encourages and ratifies such practices.

24 19. Pfizer's marketing also includes the dissemination of materials to patients. They
25 have a program called RHYTHMS, which is designed to be a program for patient "education and
26 compliance." This program is specifically intended to get people, who are having adverse drug
27 reactions, to keep ingesting their Zoloft pills in spite of those affects. Pfizer knows that this is

1 dangerous, and, that some of the initial warnings signs of akathisia and the “serotonin syndrome”
2 are hard to detect, but it does it anyway.

3 20. Marketing at Pfizer actually begins long before public approval by the FDA. It
4 begins in the research laboratory, and, as the *Science & Savvy* article notes, it permeates every
5 aspect of drug development and dissemination. Through a program which it acronames
6 “CRAM” Pfizer’s research scientists, acting in teams captained by marketers, must prove that a
7 drug has commercial appeal before it can proceed out of the lab. “All new drugs go through the
8 CRAM program, for Central Research Assists Marketing. **That acronym shows who runs the**
9 **show at Pfizer.**” *Science & Savvy* at p.126 (emphasis added).

10 21. Successful marketing is also achieved via slick advertising and various promotional
11 aids. Pfizer has done a great deal of advertising of Zoloft, both in professional medical
12 publications and, more recently, in “direct to consumer” advertising. The obvious purpose of
13 such advertising is to encourage patients like Brynn Hartman to ask doctors -- even their
14 children’s doctors -- to give them Zoloft, and to feel as comfortable in taking these mind-altering,
15 psychoactive drugs as they do general over the counter medications which have been advertised in
16 such media for years.

17 22. Thus, Pfizer’s legal liability is predicated, not only upon those things which it failed
18 to tell prescribing physicians and patients, but also on its affirmative misrepresentations. On
19 information and belief, Plaintiff alleges that Pfizer, acting primarily through its bonus-incentivized
20 sales force, went to great lengths to reassure doctors that the violence and suicide problems which
21 they had heard about with Prozac would not occur with Zoloft, and to assuage patients’ concerns
22 over the initial adverse effects which are frequently the harbingers of tragedy. The Forbes article
23 documents some of the foundation for the information and belief:

24 “Pfizer’s aggressiveness has occasionally gotten it into trouble.
25 Two years ago the U.S. Food and Drug Administration caught the
26 sales force using a brochure advocating unapproved or ‘off-
27 labeling’ uses for Zoloft, the antidepressant that competes with
Lilly’s Prozac. The Pfizer force was pushing Zoloft as a pick-me-
up for, among others, patients who have just survived a heart attack
-- even though studies had found that taking Zoloft might cause

1 further heart problems. Pfizer was forced to publicly recant.”

2 *Science & Savvy* at p. 127.

3 23. Brynn Hartman did not have a major clinical depression. She was dealing with
4 some situational “stressors” in her life and may have thought she needed a “pick-me-up” but she
5 did not have major clinical depression. And, yet, as a result of Pfizer’s aggressive over-
6 promotional activities, she was given Zoloft.

7 24. On information and belief, Pfizer’s management was aware of the potential life
8 threatening side effects that its drug could cause to a percentage of unsuspecting people and that
9 to achieve their quotas and keep their jobs, the Pfizer salesmen downplayed these potential effects
10 and did everything within their power to assuage doctors about the potential of their SSRI drug to
11 cause these volatile side-effects.

12 25. Pfizer’s marketing campaign for Zoloft has been a monumental financial success.
13 Although it started off several years behind Prozac, according to author Woolley, the buzz for
14 1999 is that Zoloft’s projected 1999 sales of \$2.1 billion are “closing the gap on archrival
15 Prozac.” *Science & Savvy* at p. 124. Unfortunately, the price of this financial success for the
16 shareholders of Pfizer has been death and tragedy to some families, and, as in this case, the
17 orphaning of children.

18 **The Tragic Deaths of Phil and Brynn Hartman**

19 26. Brynn Hartman was a human, not a saint. And like any human, she had her share
20 of shortcomings and “stressors” in life. But what all of those who knew her well will tell is that
21 (a) she was not a violent person, and (b) she was a devoted mother who would never have
22 deprived her children of their father or their mother unless she was acting under the influence of
23 extremely powerful, mind-altering drugs.

24 27. Unfortunately, unbeknownst to Brynn, on May 27-28, 1998, she was under the
25 influence of a substance which, among other things, substantially reduces impulse control and
26 inhibition, i.e. Zoloft.

27 28. Brynn and Phil were married for 10 years. They had two great children, Sean and

1 Birgen, whom they adored. Brynn was an extremely protective and loving mother. Brynn and
2 Phil did not have an “Ozzie and Harriett” marriage. Like many couples in America, they really
3 had to work on it. But work they did. They persevered through troubled and tense times, and
4 they developed better means of communication with one another.

5 29. Phil spent the weekend before their deaths with Sean, and he had arranged his
6 schedule to spend the bulk of the summer with Brynn and the kids at Malibu.

7 30. One method of relating was Brynn and Phil’s periodic “date night.” Thursday,
8 May 28, 1998, was to be such a night. Phil and Brynn were going out on a “date.”
9 Arrangements had been made with their nanny to stay with the kids, and Brynn was excited about
10 the prospects of spending the evening with her husband.

11 31. But something went awry. On the evening before, May 27, 1998, Brynn went
12 out with a friend. At approximately 0230 in the morning of May 28, 1998, when the Hartman
13 children were asleep in their bedrooms, Brynn shot Phil while he slept. At approximately 0621
14 that morning, with police in the home and friends listening outside, Brynn, who had barricaded
15 herself in the bedroom with Phil’s body, laid down on the bed and shot herself.

16 32. The news reports of the homicide/suicide have indicated that Brynn’s body
17 contained both alcohol and cocaine. She has been maligned by the tabloids and it has been
18 strongly suggested that what really happened is that Brynn got “doped up” on cocaine and shot
19 her husband and then herself. Although it is true that, **after her death** at 0621, her body
20 contained cocaine, in all likelihood, given the quantities and locations of cocaine in her body, she
21 ingested this drug **after** Phil had been shot. Moreover, because of the rapid dissipation of the
22 effects of cocaine, the drug was no longer contributing in a significant manner to her behavior at
23 the time of her death.

24 33. Brynn did have alcohol in her blood at the time of her death. However, because
25 she consumed alcohol between the time of Phil’s death and her own, it is not known at this time
26 what level of alcohol was present at the time of Phil’s death.

27 34. The friends and family members who spoke to Brynn or heard her during the

1 intervening period between Phil's death and her own describe her as being clearly in and out of
2 touch with reality, i.e. someone who was experiencing the very symptoms of serotonin overload
3 that are consistent with the "serotonin syndrome" that Dr. Lane's article documents can happen
4 from Zoloft alone, but is even more likely when one combines Zoloft with cocaine (which she
5 ingested after Phil was shot) or other serotonergic drugs.

6 35. But Brynn's adverse reactions to Zoloft did not just begin on the evening of May
7 27th -- they started several days before. Brynn told her nanny in the week prior to their deaths
8 that she was having adverse effects from the drug. She frequently was nauseous and diarrhetic.
9 She also had a great deal of trouble sleeping at night, but would sleep in the middle of the day,
10 which was not typical behavior for her. She also reported that her whole body just felt "really
11 weird" all over. Her friends also observed strange behavior and discussed it with her. She told
12 one friend a few days before her death, that she felt like she was going to "jump out of her skin."
13 The friend suggested that she call the doctor to see what information he had about the drug and
14 its side-effects. The "jump out of my skin" phrase is the typical lay description of the subjective,
15 extrapyramidal reaction known as akathisia.

16 36. Brynn took her friend's advice. On May 24, 1998, four days before her death,
17 she called Dr. Sorosky to report her reactions to Zoloft and reach out for help. Not being
18 informed by Pfizer that these symptoms could be the harbingers of akathisia or an incipient
19 serotonin syndrome, and not being otherwise aware of these dangers, Dr. Sorosky simply
20 recommended that she cut her dosage in half. Obviously, if Dr. Sorosky, or Brynn herself, had
21 been properly forewarned, i.e. if they had the "index of suspicion" that Dr. Lane describes, then
22 measures could have been taken which would, in reasonable probability, have saved her life, and
23 Phil's.

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26 **FIRST CAUSE OF ACTION**

27 **(Strict Products Liability against Defendant Pfizer and Does 1-100)**

1 37. Plaintiff realleges all previous and subsequent paragraphs of this complaint except
2 for the paragraphs contained in this cause of action and those paragraphs in other causes of action
3 which merely incorporate other paragraphs of the complaint.

4 38. At all times herein mentioned, Defendant Pfizer knew and intended that its drug
5 Zoloft would be taken by health-care patients by prescription or sample dispensation from
6 physicians, and that those patients would rely on the prescribing or providing physician to transmit
7 any relevant warnings about the drug. The prescription drug Zoloft can cause some people to
8 behave in violent or suicidal ways, and this dangerous propensity was known and/or reasonably
9 scientifically knowable at the time the drug was distributed. At all times herein mentioned,
10 Defendant Pfizer failed properly to warn physicians and/or their patients of the dangerous
11 propensities of the drug. On or about March 26, 1998, Zoloft was provided to Brynn Hartman
12 by the Defendant Sorosky in a professional sample form, given to Sorosky by Pfizer salesmen for
13 that very purpose. Brynn ingested the drug in the days/weeks before her death. On or about
14 May 28, 1998, as a proximate result of the use of Zoloft, described above, Brynn Hartman
15 suffered serious personal injuries, which resulted in a natural and proximate way the death of her
16 husband and herself.

17 39. Accordingly, by designing, manufacturing and marketing a drug which poses an
18 unreasonable risk of harm to a segment of the populace who will be expected to use it and
19 encounter such risk, and by using affirmative misrepresentations to foster such marketing efforts,
20 and by failing properly to warn of the known or reasonably knowable risks. Pfizer has rendered
21 itself strictly liable, without regard to fault, under the principles of Restatement (Second) of Torts,
22 §§402A and 402B, as adopted and applied by the courts of California, and under those of the new
23 Restatement (Third) which is likely to be adopted in this jurisdiction.

24 40. As a direct and proximate result of the aforesaid conduct of defendant Pfizer and
25 Does 1 through 100, as set forth above, Plaintiff's decedents Phil and Brynn Hartman died and
26 decedents' heirs have sustained non-economic damages, including but not limited to the loss of
27 decedents' society, comfort, attention, protection, services and support and economic damages,

1 including but not limited to the loss of support and services, in a sum greatly in excess of the
2 jurisdictional minimum of this Court.

3 41. As a further proximate result of the conduct of defendant Pfizer, and Does 1
4 through 100, Plaintiff has incurred expenses for funeral, burial and other related costs pertaining
5 to decedents' deaths, in amounts to be ascertained.

6 42. Additionally, Plaintiff's decedents suffered damages which are recoverable under
7 California law for punitive damages, Section 377.34.

8 9 **SECOND CAUSE OF ACTION**

10 **(Negligence against Defendant Pfizer and Does 1-100)**

11 43. Plaintiff realleges all previous and subsequent paragraphs of this complaint except
12 for the paragraphs contained in this cause of action and those paragraphs in other causes of action
13 which merely incorporate other paragraphs of the complaint.

14 44. A product manufacturer like Pfizer has a duty to use reasonable measures to test
15 and to investigate its products, so that it can avoid or minimize known or foreseeable risks. On
16 information and belief it is alleged that Pfizer has never conducted randomized clinical trials or
17 other scientifically valid tests to determine whether and to what extent Zoloft may cause some
18 people to become akathic, violent, or suicidal. Nor has it done appropriate psychological post-
19 mortems on those people who have committed suicide on Zoloft to investigate the potential role
20 of Zoloft in those deaths. Moreover, it has over-promoted Zoloft in a zealous and unreasonable
21 way, without regard to the potential danger that it poses for patients like Brynn Hartman. All of
22 these acts and omissions constitute negligence under the California common law, for which Pfizer
23 is liable.

24 45. **The duty to warn and presumption of heeding.** Both the strict liability and
25 negligence theories involve a failure on the part of Pfizer to warn or instruct regarding the
26 potential dangers. In California, as in many other jurisdictions, the duty to warn in a
27 pharmaceutical case is typically satisfied by an adequate warning to the prescribing physician,

1 sometimes called a “learned intermediary.” But in some circumstances, such as when a drug
2 company either advertises directly to consumers (as Pfizer has done) or attempts to “educate” and
3 influence patients directly with respect to their drug use (as Pfizer has also done), there is a duty
4 under the law to warn the patient directly. Pfizer has failed to provide a legally adequate
5 warning and instruction to both the physician and the patient. In such circumstances, the law
6 presumes that an adequate warning would have been heeded by doctor and/or patient, and that
7 the risk would have been avoided.

8 46. **Causation:** The defective products and marketing, and negligent acts and
9 omissions were a proximate and foreseeable cause of the deaths of Phil and Brynn Hartman.
10 Moreover, under California law, once it is shown that there is a product defect or
11 misrepresentation giving rise to strict liability or negligence, and once general causation is
12 established, i.e. that the drug can cause violent or suicidal behavior of this type in some people,
13 the Court may choose to shift the burden of proof on specific causation to the defendant Pfizer.
14 See **Haft v. Lone Palm Hotel**, 3 Cal.3d 756, 478 P.2d 465, 91 Cal.Rptr. 745 (1970) and its
15 progeny.¹ Clearly this principle should be employed in a case such as this. Only Pfizer has
16 access to all of the information and resources which would be required to conduct clinical trials,
17 epidemiological studies, or the other types of scientific endeavors that it typically argues are
18 necessary to prove -- or disprove -- allegations of causation such as those involved in this suit.

19 47. As a direct and proximate result of the aforesaid conduct of defendant Pfizer and
20 Does 1 through 100, as set forth above, Plaintiff's decedents Phil and Brynn Hartman died and
21 decedents' heirs have sustained non-economic damages, including but not limited to the loss of
22 decedents' society, comfort, attention, protection, services and support and economic damages,
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25 ¹ Examples of the progeny include *People v. Medina* (1990) 51 Cal.3d 870,885, 274 Cal.
26 Rptr.849, 799 P.2d 1282 (“the burden of proving an element of a case is more appropriately born by
27 the party with greater access to information”); and *Harris v. Irish Truck Lines, Inc.* (1974) 11 Cal.3d
373, 378, 113 Cal.Rptr. 489, 521 (“[A] defendant who is in a better position to discover and
preserve...evidence should not be permitted to profit from the plaintiff’s inability to produce it.”).

1 including but not limited to the loss of support and services, in a sum greatly in excess of the
2 jurisdictional minimum of this Court.

3 48. As a further proximate result of the conduct of defendant Pfizer, and Does 1
4 through 100, Plaintiff has incurred expenses for funeral, burial and other related costs pertaining
5 to decedents' deaths, in amounts to be ascertained.

6 49. Additionally, Plaintiff's decedents suffered damages which are recoverable under
7 California law for punitive damages, Section 377.34.

8
9 **THIRD CAUSE OF ACTION**

10 **(Professional Malpractice against Defendant Dr. Arthur Sorosky and Does 1-100)**

11 50. Plaintiff realleges all previous and subsequent paragraphs of this complaint except
12 for the paragraphs contained in this cause of action and those paragraphs in other causes of action
13 which merely incorporate other paragraphs of the complaint.

14 51. Dr. Sorosky is liable because of his professional negligence or malpractice. He
15 did not have a traditional doctor/patient relationship with Brynn. He took no history and
16 conducted no physical examination. He was also negligent for giving her a "starter" titration kit
17 on March 26, 1998, and then not following up with her for the next two months. His notes reflect
18 that on April 14, 1998 he was aware that she was on Zoloft for one week, but was feeling anxious
19 and depressed, and had stopped taking the drug a few days before the call. The doctor's plan was
20 for her to remain off of the drug until after undergoing a minor operation. As of May 13th, she
21 still had not restarted the Zoloft. His very next contact with her was in the phone call of May
22 24th referenced above. If he had been properly managing his "patient" or had been properly
23 attuned to the dangers of akathisia or incipient serotonin syndrome, when he got the call on May
24 24, 1998, he could and would have done what Dr. Lane advises, i.e. given other medications to
25 counteract the adverse consequences of the Zoloft and/or told her to discontinue the Zoloft. In
26 any event, his negligence is a proximate cause of the deaths of Phil and Brynn Hartman, for which
27 he is jointly and severally liable under the law.

