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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

International Union of Bricklayers and Allied Craft Workers Local 1 Health Fund, individually and on behalf of all others similarly situated, **Plaintiff,** **v.** **Celgene Corporation,** **Defendant.**	**Civil Action No.** **Class Action Complaint**

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Plaintiff International Union of Bricklayers and Allied Craft Workers Local 1 Health Fund ("Plaintiff") brings this class action on behalf of itself and all other similarly situated end-payors against Celgene Corporation ("Celgene"). Based on personal knowledge as to facts pertaining to them, and upon information and belief as to all other matters, Plaintiff alleges as follows:

I. NATURE OF THE ACTION

1. This is a civil antitrust action seeking damages arising out of Celgene's unlawful exclusion of competition from the market for thalidomide ("Thalomid"), which Celgene sells under the brand-name Thalomid, and lenalidomide ("Revlimid"), which Celgene sells under the brand-name Revlimid.

2. Celgene has sold Thalomid and Revlimid in capsule format, which are administered orally. Both drugs have dangerous side effects; namely, life-threatening birth defects when ingested by pregnant women. As a result, these drugs are highly regulated by the FDA.

3. Since 2006, Celgene has recorded $20.9 billion from the sale of Thalomid and Revlimid combined, comprising between 71 and 93 percent of its annual revenues. A twenty-eight day supply of Thalomid can cost from between $8,000 to $10,000, and the same supply of Revlimid costs approximately $15,000 to $20,000. Celgene's revenues in 2013 from Revlimid were $4,280,030,000, and $244,500,000 from Thalomid. And Celgene has taken advantage of its market monopoly: when Thalomid first gained approval to enter the marketplace, it cost approximately $6 per capsule; now, it costs between $212 and $357 per capsule. Celgene charges approximately $500 per capsule of Revlimid.

4. In order to delay the onset of generic competition and squeeze more multi-billion dollar years out of these products, Celgene engaged in a multi-faceted scheme to maintain its monopoly and unlawfully interfere with competitors' efforts to enter the market with generic versions of Thalomid or Revlimid, including:

a. Using FDA safety requirements that were designed to ensure safe access to these dangerous drugs as a pretext to delay and indefinitely postpone the availability of cost-saving generic alternatives to these drugs;

b. Fraudulently obtaining patents on the procedures to ensure safe use of Thalomid and Revlimid in order to block generic entrants from coming to market; and

c. Engaging in sham litigation against any competitor who managed to obtain samples of Thalomid or Revlimid to do its generic bioequivalence testing.

5. Although existing federal law already forbids the use of safety regulations to deny generic drugmakers access to drugs, members of the United States House of Representatives have taken note of Celgene's anticompetitive actions, and introduced H.R. 5657, known as the Fair Access for Safe and Timely Generics Act, or FAST. FAST would require that brand-name manufacturers, as a condition of product approval, agree not to "adopt, impose or enforce any condition relating to the sale, resale or distribution" of REMS-restricted drugs that would prevent generics makers from obtaining needed samples. FAST purports to increase the penalties for conduct like Celgene's with Thalomid and Revlimid.

6. Celgene's anticompetitive tactics to block generic entry have caused Plaintiff and the class of end-payors it seeks to represent (as defined below) to pay higher prices to treat the dangerous conditions (leprosy and multiple myeloma) that Thalomid and Revlimid address.

7. Plaintiff brings this action as a class action on behalf of all consumers and third party payors (collectively, "End-Payors") in certain states, the District of Columbia, and Puerto Rico who indirectly purchased, paid and/or provided reimbursement for Thalomid and/or Revlimid, other than for re-sale since November 7, 2010 (see Class Definition below).

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