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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

TABLE OF CONTENTS

I. NATURE OF THE ACTION 1

II. JURISDICTION AND VENUE 3

III. THE PARTIES..... 3

IV. INDUSTRY BACKGROUND 4

A. Characteristics of the Pharmaceutical Marketplace 4

B. The Regulatory Structure for Approval of Generic Drugs, Listing Patent Information in the Orange Book, and the Substitution of Generic Drugs for Brand Name Drugs 6

1. The Hatch-Waxman Amendments..... 7

2. Requirements for Listing Patents in the Orange Book 8

3. Paragraph IV Certifications 12

C. The Availability of Citizen Petitions to Delay The FDA Approval of Generic Drugs 155

D. The Benefits of Generic Drugs 177

E. The Impact of Authorized Generics..... 19

V. DEFENDANT’S ANTICOMPETITIVE CONDUCT 21

A. Celgene’s Monopolization through Anticompetitive Interference by Refusing to Sell to Generic Manufacturers..... 211

1. Celgene Prevents Barr from Obtaining Samples from Seratec by Entering into an Exclusive Supply Contract with Seratec 233

2. Celgene Refuses to Sell Samples to Lannett Despite FDA Approval to Do So 255

3. Celgene Refuses to Sell Samples to Mylan, Despite FDA Approval to Do So 27

4. Celgene Refuses to Sell Samples to Dr. Reddy’s Laboratories, Despite FDA Approval to Do So..... 300

B. Celgene Fraudulently Obtained Patents on Thalidomide and Lenalidomide to Obstruct Generic Competition and Maintain its Monopoly on Thalomid and Revlimid..... 311

C.	Celgene Files Litigation against Barr, Natco, Arrow, and Watson to Prevent or Delay Them from Marketing their Proposed ANDA Product in Competition with Celgene	49
1.	Celgene’s Sham Litigation and Citizen Petition Against Barr	490
2.	Celgene’s Sham Litigation against Natco, Arrow, and Watson	523
D.	Celgene’s Settlements with Barr and Lannett Had Anticompetitive Effects.....	55
E.	Celgene’s Scheme Was Intended To, And Did, Harm Competition and Delay Generic Entry	555
VI.	CLASS ACTION ALLEGATIONS	577
VII.	OTHER FACTUAL ALLEGATIONS	600
A.	Effects on Competition and Damages to Plaintiff and the Class	600
B.	Effect on Interstate and Intrastate Commerce.....	611
C.	Monopoly Power.....	622
VIII.	CLAIMS FOR RELIEF	634
IX.	DEMAND FOR JUDGMENT.....	74
X.	JURY DEMAND	746

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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