

COPY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 07/12/05

DEPT. CCW307

HONORABLE WENDELL MORTIMER, JR.

JUDGE

M.F. LOPEZ

DEPUTY CLERK

HONORABLE #4

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

R. SANCHEZ, C.A.

Deputy Sheriff

L. BICHE'

Reporter

8:30 am YC047439

Plaintiff ROBERT BRAVA-PARTAIN (X)  
Counsel

KRZYSZTOF SZYBINSKI, ET AL  
VS.  
PFIZER, INC.

Defendant MICHELLE FRIEDLANDER (X)  
Counsel MALCOLM E. WHEELER (X)  
ANN MARIE MORTIMER (X)  
DANIEL C. TEPSTEIN (X)

170.6- Judge Kuhl by Pltff.  
deemed cplx/assgnD-323(3-15-04)

NATURE OF PROCEEDINGS:

- 1) MOTION OF DEFENDANT PFIZER INC. FOR SUMMARY JUDGMENT;
- 2) MOTION OF DEFENDANT TEJINDERPA S.RAI M.D. FOR SUMMARY JUDGMENT;
- 3) MOTION OF DEFENDANT PFIZER INC. TO STAY

Motions of defendant Pfizer Inc. are called for hearing.

The Court hears oral argument and takes the motions under submission.

LATER: Off the record, the Court makes the following ruling:

Motion to Strike the Amicus Brief is granted. The statements are hearsay and the contents irrelevant. Motion to Strike the Prozac documents is also granted as irrelevant. Objections to the Partain declaration are sustained as to Exhibits 14, 15, 20, 23, 24, 25, 26, 28, 29, 32 and 38 on the grounds stated. As to the declaration of Marks, paragraphs 8, 13, 19 and 27 are stricken and other objections are overruled. Entire declarations of Healy and Symington are stricken on the grounds stated. Exhibits KK and MM to the Saxon declaration are stricken as hearsay.

MINUTES ENTERED  
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**NATURE OF PROCEEDINGS:**

Moving party Pfizer has not shown that the type of warning alleged in plaintiff's complaint (Zoloft has been associated with suicide) was ever considered by the FDA and rejected. There is nothing to prevent Pfizer from strengthening its warning label (see Code of Federal Regulations section 314.70(6)(iii)(A)) and Pfizer has not demonstrated that it would be impossible to comply with both the FDA and California law. The FDA provides only minimum standards and Pfizer has not shown that plaintiff's claims would be an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. There is no conflict preemption and the motion is denied.

Triable issues of fact exist as to UMF 2, 20, 46, 47, 48, 49 and 60.

Motion of Defendant Tejinderpa S. Rai M.D. for Summary Judgment is continued to September 19, 2005 at 9:00 a.m. in Department 307, pursuant to the minute order of July 08, 2005.

A Further Status Conference is set for September 19, 2005 at 9:00 a.m. in Department 307.

Plaintiff is to give notice.

CLERK'S CERTIFICATE OF MAILING/  
NOTICE OF ENTRY OF ORDER

<p align="center"><b>MINUTES ENTERED</b> 07/12/05 COUNTY CLERK</p>
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**NATURE OF PROCEEDINGS:**

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 7/12/05 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: July 13, 2005

John A. Clarke, Executive Officer/Clerk

By: \_\_\_\_\_  
M.F. LOPEZ

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<p align="center"><b>MINUTES ENTERED</b> 07/12/05 <b>COUNTY CLERK</b></p>
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