RECORD NO. 21-10306

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

MARILYN WILLIAMS,
Plaintiff–Appellant

v.

BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.,
BOEHRINGER INGELHEIM USA CORPORATION,
WALGREENS BOOT ALLIANCE, INC.,
Defendants–Appellees

On Appeal from the United States District Court
for the Southern District of Florida

PLAINTIFF-APPELLANT MARILYN WILLIAMS'S RESPONSE IN OPPOSITION TO APPELLEES' MOTION TO DISMISS

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Eleventh Circuit Rule 26.1-1, counsel for Plaintiff-Appellant Marilyn Williams hereby certifies that the following is a complete list of the trial judge(s), all attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of the particular case on appeal, including subsidiaries, conglomerates, affiliates, and parent corporations, including any publicly held corporation that owns 10% or more of the party's stock, and other identifiable legal entities related to a party:

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INTRODUCTION

The Motion turns on what constitutes a "final decision" under 28 U.S.C. §1291. Ms. Williams's civil action is over. Her operative pleading alleges one claim, and the district court dismissed that claim with prejudice. Defendants' Motion evades that reasoning by shifting focus from Ms. Williams's individual action to the multidistrict litigation as a whole. That misdirection is foreclosed by Supreme Court precedent. When an individual plaintiff files an individual case for personal injuries, she has a unique "action" under the federal rules and a unique case or controversy under Article III. That conclusion does not change because other plaintiffs who suffered similar injuries filed their own cases; because all of the plaintiffs' separate complaints incorporate content by reference to a so-called "master" document; because some other plaintiffs have also sued the same defendants; or because the Judicial Panel on Multidistrict Litigation (JPML) consolidated all similar cases before the same judge. A litigant does not lose the separateness of her action—and right to appeal a final judgment—merely because defendants have engaged in such pervasive misconduct that thousands of others have separate actions too.

BACKGROUND

This case arises out of a complaint filed by Plaintiff Marilyn Williams in Alabama alleging that Zantac caused her to develop cancer. The JPML centralized

federal cases involving Zantac and ranitidine, transferring Ms. Williams's case to the district court. *See In re Zantac (Ranitidine) Prods. Liab. Litig.*, 437 F. Supp. 3d 1368 (J.P.M.L. 2020).

The district court required the filing of so-called "master complaints." *See* D.E.1496 Amended PTO 31 (Ex. F).[1] Some of these, such as the two class-action complaints, were complete pleadings, with plaintiffs, claims, and defendants. But the Master Personal Injury Complaint (MPIC) was not a pleading in itself—it had claims and defendants, but no plaintiffs, specific injuries, or diagnoses. The MPIC did not initiate a case or controversy. What made a case or controversy for each plaintiff was a short-form complaint (SFC). As directed by the district court, each SFC "incorporates by reference the allegations contained in the MPIC," and "selects and indicates by completing where requested, the Parties and Causes of Actions specific to *this* case." Am. Short-Form Compl., *Williams v. Boehringer Ingelheim Pharmaceuticals, Inc.*, No. 9:20-cv-80512, (S.D. Fla. Jan. 27, 2021) (ASFC), D.E.12 (Ex. G) (emphasis added). The SFC states the plaintiff's name, residency, the particular defendants, the type of ranitidine consumed, the nature of the injury, and the incorporates by reference specific causes of action "and the allegations with regard thereto." ASFC. Hundreds of plaintiffs have commenced individual actions

[1] This Response adopts the Motion's Exhibits (Exhibits A–E), and attaches additional record materials as Exhibits F–H.

by filing SFCs. Separate trials will either occur in a bellwether process before the district court or after remand—there will never be one all-encompassing Personal-Injury Trial.

Defendants moved to dismiss on an array of grounds. All Defendants argued that design-defect claims were preempted because they required changing the chemical composition of ranitidine. Plaintiffs responded that state law requires defendants to stop selling products when they are unjustifiably dangerous, and that duty is harmonious with federal law when a drug is misbranded. Because federal law forbids the manufacture, sale, or receipt of misbranded drugs and state law requires no more, the two regimes do not conflict. Defendants also moved to dismiss on "shotgun pleading" grounds, arguing that the complaints were not sufficiently clear under Rule 8.

The district court issued four Orders that are relevant to this Motion. The first is the court's shotgun pleading Order. D.E.2515 (Ex. E). The court "acknowledge[d] the complexity of this MDL," but nonetheless required more clarity on which claims in the MPIC applied to which defendants, and which facts supported which counts. The Court noted the Plaintiffs' willingness to clarify ("If the Court wants us to, we will be happy to amend our complaints." D.E.2515 at 17), and noted "[t]he Court expects that the newly acquired information [from ongoing

discovery] will allow the MPIC Plaintiffs to more precisely tailor their allegations to the proper categories of MPIC Shotgun Defendants." *Id.* at 20.

The first preemption Order, D.E.2512 ("Generic Order"), granted the generic manufacturers' preemption motion.[2] The court "assume[d]…that Plaintiffs have adequately alleged that ranitidine products were misbranded." D.E.2512 at 30 (Ex. A). Nonetheless, the court held that even parallel claims were preempted under impossibility preemption—the holding Ms. Williams appeals here. The court further concluded that preemption applies to factual allegations, not to claims. *Id.* at 29. Accordingly, the court required "Plaintiffs' counsel" to "identify these [misbranding] allegations and to *omit them from claims* against Generic Manufacturer Defendants upon repleading the Master Complaints." *Id.* at 29 (emphasis added).

The court's second preemption Order granted the retailers' preemption motions, relying on the same reasoning as the Generic Order. *See* D.E.2513 at 30–32 ("Retailer Order," Ex. B). The court dismissed all claims (except certain

[2] As the Motion notes, Ms. Williams did not sue a generic manufacturer. Motion at 19, n.5. The Generic Order is nonetheless pertinent because the district court refers to and incorporates its reasoning in the other preemption orders. *E.g.*, D.E.2532 at 24 (directing the reader to the Generic Order); D.E.2513 ("The Court adopts and incorporates herein the Court's analysis and conclusions contained in th[e Generic] Order.").

negligence counts) against all retailers "with prejudice" and "without leave to amend as further amendment would be futile." *Id.* at 32.

The court's third preemption Order granted the brand-name manufacturer defendants' motion, again relying on the earlier Generic Order. *See* D.E.2532 ("Brand Order," Ex. C) at 24. The court similarly ordered Plaintiffs to "omit [misbranding] allegations from claims against the [brand-name] Defendants when repleading." *Id.* at 25.

The district court left avenues available to replead. For example, a plaintiff could allege that a retailer improperly stored the ranitidine before she purchased it. Retailer Order at 35. But Ms. Williams does not wish to pursue such theories. She seeks instead to pursue her misbranding theory—that ranitidine was harmful and caused her cancer even if stored at room temperature. The district court dismissed that claim with prejudice and ordered plaintiffs to omit *any* allegations about misbranding from the case. That ruling blocked counsel from repleading misbranding allegations to cure any Rule 8 deficiencies.

On misbranding, there was nothing left to do. So, with leave of the district court, Ms. Williams amended her SFC to plead *only* a design-defect claim, resting *only* on misbranding; she dropped all other counts and theories. *See* ASFC. As a result, Ms. Williams's operative pleading consisted of her own information and a single claim that the district court dismissed with prejudice and without leave to

replead. *Id.* In an abundance of caution, Ms. Williams also voluntarily dismissed her action on January 27, 2021, under Rule 41, again with leave of the district court. No. 9:20-cv-80512, D.E.13 (Ex. H). Ms. Williams then filed a notice of appeal. D.E.2666.

ARGUMENT

I. PLAINTIFF WILLIAMS IS APPEALING A "FINAL DECISION" UNDER SECTION 1291 BECAUSE THE ORDER UNDER APPEAL TERMINATED HER ENTIRE ACTION.

A. A Final Decision Under Section 1291 Is an Order That Disposes of an Entire Action.

Under 28 U.S.C. §1291, courts of appeals "have jurisdiction of appeals from all final decisions of the district courts of the United States." A "decision" is "final" if it terminates what the federal rules call an *action*, Fed. R. Civ. P. 2, or what the Constitution calls a case or controversy: Section 1291's "core application is to rulings that terminate an action." *Gelboim v. Bank of Am. Corp.*, 574 U.S. 405, 409 (2015). To decide when an action is terminated under section 1291, courts give the statute a "practical rather than a technical construction." *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 106 (2009) (citation omitted).

A decision is final where the court rejects all claims in the operative complaint, since that "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." *Gelboim*, 574 U.S. at 409 (quoting *Catlin v. United States*, 324 U.S. 229, 233 (1945)). This can be true even if the court grants

leave to replead, since "a plaintiff [may] choose[] to waive the right to amend," leaving "nothing left for the district court to do." *Briehler v. City of Miami*, 926 F.2d 1001, 1003 (11th Cir. 1991).

Even where a court dismisses only some claims, a plaintiff may produce a final decision by voluntarily dismissing her action *or* by dropping the remaining claims. Voluntary dismissals produce final decisions where the court "placed stringent conditions on the plaintiff's ability to re-file its dismissed claims." *Corley v. Long-Lewis, Inc.*, 965 F.3d 1222, 1230 (11th Cir. 2020) (quoting *State Treasurer of State of Michigan v. Barry*, 168 F.3d 8, 15 (11th Cir. 1999)). But even without such conditions, "voluntarily dismiss[ing] remaining claims without prejudice to challenge the earlier decision on appeal" has been sufficient. *Id.* at 1231. Chief Judge Pryor "highlight[ed] better ways for many litigants to secure appellate review," in particular suggesting "amend[ing] a complaint to drop lingering claims." *Id.* at 1236, 1237 (Pryor, C.J., concurring).

These decisions reflect the fundamental purposes of the final-order doctrine. "The foundation of this policy is not in merely technical conceptions of 'finality.' It is one against piecemeal litigation." *Catlin*, 324 U.S. at 233–34. At the same time, the doctrine is inherently limited to a single action: it cannot "[f]orc[e] an aggrieved party to wait for *other cases* to conclude" since that "would substantially impair his ability to appeal from a final decision fully resolving *his own case*—a 'matter of

right,' to which he [i]s 'entitled.'" *Hall v. Hall*, 138 S. Ct. 1118, 1128 (2018) (emphasis added, citations omitted).

B. The District Court's Decision Disposed of All Claims in Plaintiff Williams's Operative Complaint.

Ms. Williams filed suit for herself alone. The lower court dismissed *all* her claims, allowing repleading only on several narrow theories. A litigant whose claims have been dismissed can simply elect to appeal rather than replead. *E.g.*, *Schuurman v. Motor Vessel Betty K V*, 798 F.2d 442, 445 (11th Cir. 1986). Ms. Williams had no interest in pursuing the narrow theories available. So she exercised her well-established right to "appeal prior to the expiration of the stated time period [to replead]." *Id.*

Ms. Williams took the *further* step suggested by Chief Judge Pryor in *Corley*: "amend[ing] a complaint to drop lingering claims." 965 F.3d at 1237. Ms. Williams did so, dropping all claims except design-defect, explaining:

> Plaintiff's sole theory of liability is that the ranitidine she consumed was defectively designed under state law, and that these same design defects made ranitidine dangerous to health when used as instructed on the label such that it was misbranded under federal law.

ASFC at 4. The district court dismissed the design-defect claim with prejudice, without leave to replead. D.E.2532 at 24–25. Ms. Williams's action was conclusively over.

There is no possibility of piecemeal appeals in this case. If Ms. Williams loses this appeal, she will not recover from Defendants—full stop. Nothing remains pending. Dismissing this appeal would improperly "forc[e]" Ms. Williams "to wait for other cases to conclude," which "would substantially impair h[er] ability to appeal from a final decision fully resolving h[er] own case." *Hall*, 138 S. Ct. at 1128.

C. Ms. Williams's Voluntary Dismissal of Her Action Independently Renders the Decision Below Final.

Voluntary dismissal produces a final decision where the district court "placed stringent conditions on the plaintiff's ability to re-file its dismissed claims." *Barry*, 168 F.3d at 15. Even without conditions, a voluntary dismissal after an adverse merits ruling "qualifies as a final judgment for purposes of appeal." *Corley*, 965 F.3d at 1231. Here, the conditions are not merely stringent, but unyielding. Ms. Williams cannot file outside the MDL, and the district court ordered plaintiffs not to include misbranding allegations in the MDL. That is Ms. Williams's only theory.

This appeal does not raise the specter of piecemeal appeals. If Ms. Williams lost this appeal, she could not re-file different claims that would be adjudicated again and appealed again—her sole claim *would have been* adjudicated, and she has relinquished her right to replead other claims.

II. DEFENDANTS' ARGUMENT IGNORES CONTROLLING PRECEDENT AND FUNDAMENTALLY MISUNDERSTANDS THE NATURE OF THE PROCEEDINGS BELOW.

The Motion's argument amounts to a protest that MDLs are special. A plaintiff cannot appeal after losing *her* case: she must wait until *everyone* loses. *See* Motion at 8 (no "final judgment" until the court "dismiss[es] the entire MPIC"). It is clear why Defendants *want* this to be the law. It is equally clear that this is *not* the law. Individual cases retain their separate character in an MDL.

A. MDL Consolidation Did Not Convert Thousands of Individual Cases into a Single Action.

Defendants argue the Orders are not final because they "did not dispose of all the claims or parties in the MPIC," and Williams is just one "of hundreds, if not thousands, of plaintiffs whose claims the MPIC consolidates for pretrial proceedings." Motion at 10. Defendants' argument ignores controlling Supreme Court precedent.

"Cases consolidated for MDL pretrial proceedings ordinarily retain their separate identities, so an order disposing of one of the discrete cases in its entirety should qualify under §1291 as an appealable final decision." *Gelboim*, 574 U.S. at 413. After all, "Section 1407 refers to individual 'actions' which may be transferred to a single district court, not to any *monolithic multidistrict 'action'* created by transfer." *Id.* (emphasis added). "Congress anticipated that, during the pendency of pretrial proceedings, *final decisions might be rendered in one or more of the actions*

consolidated pursuant to §1407." *Id.* (emphasis added). The Motion treats this action as a "monolithic multidistrict action" rather than Ms. Williams's case.

After holding that MDL consolidation did not produce a single "monolithic action" in *Gelboim*, the Supreme Court reiterated that holding in *Hall*, 138 S. Ct. 1118. That case involved *fully* consolidated cases (rather than for pre-trial purposes only, as in MDLs), but the Supreme Court applied *Gelboim* without hesitation. The Court explained that consolidation should be understood "not as completely merging the constituent cases into one, but instead as enabling more efficient case management while preserving the distinct identities of the cases and the rights of the separate parties in them." *Id.* at 1125. The Court warned that "consolidation c[an]not prejudice rights" and "[f]orcing an aggrieved party to wait for other cases to conclude *would substantially impair his ability to appeal* from a final decision fully resolving his own case—a 'matter of right,' to which he was 'entitled.'" *Id.* at 1128 (citations omitted, emphasis added). The Court concluded "that constituent cases retain their separate identities at least to the extent that a final decision in one is immediately appealable by the losing party." *Id.* at 1131.

If cases consolidated *for all purposes* in *Hall* retained their separate character, it follows *a fortiori* that member cases consolidated for pre-trial purposes only, with separate SFCs, unique injuries, and different plaintiffs and defendants from other member cases are distinct. Nothing in the MPIC or the district court's PTOs suggests

that by incorporating MPIC allegations, personal-injury plaintiffs are merging their *separate* actions into a *single* one. Indeed, such a maneuver would be *ultra vires*. An MDL judge has no authority to "prejudice rights," "forcing an aggrieved" plaintiff to sacrifice the separateness of her case and the accompanying entitlement to appeal. *Id.* at 1128. Compelling plaintiffs to file SFCs referencing the MPIC is *only* defensible for convenience, not as the *forced* merger of many actions into one.

The Motion tries to distinguish *Gelboim* as not addressing a case with a master complaint, but this makes no difference. Motion at 11. Contrary to the Motion's suggestion, the operative pleading here is not the MPIC. The MPIC is a menu of available defendants, facts, and counts that individuals *may* incorporate into SFCs, and, *so incorporated*, it becomes the pleading for *that* plaintiff. The court-approved SFCs—including Ms. Williams's—make this clear. Each "incorporates by reference the allegations contained in the MPIC," and "selects and indicates by completing where requested, the Parties and Causes of Actions specific to *this* case." (emphasis added). The MPIC does not contain individual details for any plaintiff or specify which causes of action are alleged. Those are all in the SFC: "The following Causes of Action asserted in the [MPIC] are asserted against the [earlier] specified defendants…and **the allegations with regard thereto** are adopted…by reference." (emphasis added).

Defendants' cases support Ms. Williams.[3] In *In re Refrigerant Compressors Antitrust Litig.*, Judge Sutton explained that "a single action for purposes of §1291" can exist in "three broad-brush scenarios." 731 F.3d 586, 589 (6th Cir. 2013). First, where plaintiffs bring claims "in the same complaint," they bring one action. *Id.* Second, where plaintiffs bring claims in different complaints in the same court, but later combine them "in an amended complaint," that "unif[ies] them into a single action." *Id.* Third, where "plaintiffs file[] separate actions in separate district courts" but are consolidated into an MDL where "the plaintiffs file[] a new complaint," that amended complaint produces one action as if it had been filed that way initially. *Id.* at 590.

None of these three scenarios apply. The new pleading in *Refrigerant* had twenty straight paragraphs consisting solely of plaintiffs' names, and alleged the entire case for all them. *See* Third Consolidated Amended Complaint, 2012 WL 9494136, 731 F.3d 586. Here, neither Ms. Williams *nor any other* plaintiff is listed in the MPIC. No amended pleading combines her with any other plaintiff. Ms. Williams has no action at all without her SFC, which is entirely separate from the SFCs of other plaintiffs. Under the standard of *Refrigerant*, Ms. Williams has a separate action.

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[3] The Motion's third case distinguishes its argument. *See In re Cox Enter. Set-Top Cable Television Box Antitrust Litig.*, 835 F.3d 1195, 1208 n.4 (10th Cir. 2016).

Bell v. Publix Super Markets, Inc. is no different. 982 F.3d 468 (7th Cir. 2020). There, the Seventh Circuit held that "five amended consolidated class action complaints" were each separate actions and each dismissal was final. 982 F.3d at 487. There is no question that Ms. Williams's case has no other plaintiff and so is separate.

B. Defendants' Treatment of the MDL Proceedings As a Single Action Would Produce Absurd Results.

Defendants ask this Court for an exception to section 1291 by invoking the bogeyman that individual MDL plaintiffs might be able to seek early appellate review without waiting years for the resolution of all claims of *other* parties in an MDL. In fact, there is nothing unusual or untoward about that result. *See Gelboim*, 574 U.S. at 413. Indeed, Defendants' attempt to convert thousands of individual actions into a single action would yield absurdity.

First, treating the MPIC as an operative pleading for a single action would make a mockery of pleading rules and Article III. To illustrate, consider that Ms. Williams purchased her Zantac at Walgreens in Alabama. She obviously cannot sue other retailers listed in the MPIC *outside* Alabama that sold her nothing. Likewise, an *alive*, *unmarried* plaintiff with cancer could not allege a wrongful death (Count XV) or loss of consortium (Count XIII) claim. Yet, on the Motion's reading, for each plaintiff, the *entire* MPIC is alleged, frivolously and mindlessly, time after time, no matter the individual facts in each SFC. *But see* Motion at 19, n.5 (admitting that

Ms. Williams "did not assert any claims against Generic Manufacturer or Repackager Defendants"). Beyond violating Rule 11, that approach would violate Article III: every pleading would include claims for which the plaintiff admits she has no injury-in-fact. That is why the district court did not adopt, and the plaintiffs did not pursue, this approach.

Second, if Defendants are correct that the MPIC merges all individual actions into one, then the MDL must be dismissed for lack of subject-matter jurisdiction. The individual plaintiffs are citizens of virtually every State. If they are parties to a single action, there is incomplete diversity of citizenship.

Third, the Motion's twisted interpretation of finality would wreck appellate rights post-trial. If all personal-injury plaintiffs are merged together in a single case, then a final *jury verdict* in one plaintiff's trial is an interlocutory order; it would resolve "the rights and claims of fewer than all the parties" to the single "action" that Defendants hypothesize. Fed. R. Civ. Proc. 54(b). Losing parties would need to wait until *all* trials concluded before appealing any adverse jury verdict. That is not the law. Personal-injury plaintiffs in MDLs routinely receive separate trials with separate verdicts and Defendants regularly appeal from those trials without waiting for *all* trials to conclude. For purposes of §1291, a Rule 12(b)(6) dismissal is no different from an adverse jury verdict. Both finally dispose of an action.

The Motion doubles down on absurdity by arguing that finality requires a *separate* order as to *each* SFC. Motion at 15. This clutter-the-ECF-with-meaningless-entries rule of appellate jurisdiction is cut from whole cloth. A full dismissal of the MPIC would end *every* plaintiff's case because it would dismiss the only *claims* in each case. A partial dismissal ends those cases that incorporated only the dismissed claims. If the district court's orders truly affected the MPIC *alone*—which has no plaintiffs or injuries—then they were unlawful advisory opinions. Nothing could destroy concreteness more than a supposed judgment that *does not bind* a single party to the dispute. *See Hayburn's Case*, 2 U.S. (2 Dall.) 408, 410 (1792).

The district court disposed of Ms. Williams's entire case. Her amended SFC makes clear that she is pursuing a single claim. *See* ASFC. That claim was dismissed with prejudice, without leave to replead. D.E.2532 at 24–25. Without any claim, Ms. Williams's action is conclusively over. That *other* plaintiffs in *other* cases have chosen to pursue other claims left available by the district court cannot defeat Ms. Williams's appeal as of right.

C. Defendants Cannot Distinguish the Voluntary Dismissal in This Case from *Corley.*

The Motion ignores *Corley*'s finality holding, and instead relies on *Microsoft Corp. v. Baker*, 137 S. Ct. 1702 (2017). But *Microsoft* is entirely inapposite. In *Microsoft*, the district court had not rejected the plaintiff's individual claim in *any*

way. The claim had not been dismissed on summary judgment. *Id.* at 1706–07. The plaintiff voluntarily dismissed his claims for the sole purpose of seeking review of the *interlocutory* denial of class certification. The Supreme Court rejected that gambit because it undermined "Rule 23(f)'s careful calibration" of when litigants can appeal class certification decisions. *Id.* at 1714–15. *Microsoft* did not involve, and did not remotely address, a full rejection of a plaintiff's claims on the merits. No doubt this is why *Corley*—decided three years after *Microsoft*—did not feel constrained by this precedent.

The Motion next argues that Ms. Williams's voluntary dismissal is not an "adverse judgment," but cites two cases that held the opposite. Motion at 18 (citing *Zamor v. United States*, 827 F. App'x 939 (11th Cir. 2020) and *Corley*, 965 F.3d 1222). As *Corley* and *Zamor* discuss, a plaintiff is not adverse to a voluntary dismissal if there are no prior merits-affecting court orders, but is adverse if the order is *effectively* "case-dispositive." *OFS Fitel, LLC v. Epstein, Becker & Green, P.C.*, 549 F.3d 1344, 1357 (11th Cir. 2008). In *Fitel*, a sanctions order excluding an expert witness was case-dispositive because the plaintiff did not think he could win without that testimony. Here, the preemption ruling is case-dispositive because Ms. Williams's sole remaining claim is only viable under a misbranding theory.

Ms. Williams easily meets the "case-dispositive" test, but does not need to, since *Corley* set out a lower standard: the "Corleys did not voluntarily dismiss their

claims to contest a 'case-dispositive' order," but the non-dispositive reconsideration motion they sought to challenge "is just as much a part of the final judgment as the voluntary-dismissal order…which is enough to establish appellate standing." 965 F.3d at 1233–34.

III. THIS APPEAL IS NOT MOOT.

A "case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *City of Erie v. Pap's A.M.*, 529 U.S. 277, 287 (2000) (citation omitted). This appeal presents a live controversy because if this Court reverses, Ms. Williams can pursue her misbranding theory on remand. The district court plainly did not view the shotgun pleading problems as fatal. And where an alternative ground is not fatal but cannot be cured due to the issue being appealed, a case is not moot. This follows for three reasons. First, precedent does not require futile amendments, and only finds mootness where the alternate ground is fatal. Second, even if futile amendments were required, they cannot be where the court forbids them. Third, the argument for mootness here relies on Ms. Williams's supposed waiver of her right to amend, but where no such right exists, it cannot be waived.

A. Plaintiffs Need not File Futile Amendments to Avoid Mootness.

Imagine a case in which a court dismissed all claims on two grounds: first, because the court *correctly* found the pleadings used the wrong font (giving leave to

amend), and second because the court *erroneously* found every claim preempted (dismissing with prejudice and forbidding repleading). Under the Motion's argument, the *erroneous* dismissal with prejudice could not be appealed. If a plaintiff appealed *both* grounds, the court of appeals could affirm the correct dismissal based on the improper font. But if the plaintiff appealed only the preemption holding, the action would be moot because the pleadings would still be dismissed even if the preemption ruling were reversed. The only solution, one supposes, would be to refile the same dismissed complaint—despite lacking permission to do so—in the correct font so that the district court could dismiss it again. Mootness doctrine imposes no such Catch-22.

1. Precedent does not require futile amendments.

Though this situation does not arise frequently, the Seventh Circuit rejected a similar argument. In *Brown & Williamson Tobacco Corp. v. Jacobson*, the district court dismissed all claims on various grounds, but also specifically held that plaintiffs had not pleaded special damages with enough specificity to satisfy Rule 9(g). 713 F.2d 262, 270 (7th Cir. 1983). The Seventh Circuit reversed in part, but agreed that special damages had not been specifically alleged. The question became whether plaintiff could replead on remand to add required detail. Jacobson argued that, because Brown & Williamson appealed rather than amending its complaint to cure the pleading defect, repleading was unavailable on remand. The Seventh

Circuit disagreed: "Since the district court dismissed the complaint on a variety of grounds, only one of which related to special damage, the court would also *have had to deny* any motion to file an amended complaint for the purpose of curing the deficiency in the plea for special damage. *The filing of such a motion would therefore have been futile, and was not required*." *Id.* (emphasis added).

2. Amending here was not just futile, but would flout the court's instructions.

In *Jacobson*, amending was merely wasteful or impractical. This case is even stronger because amending was *forbidden*. The district court expressly instructed the plaintiffs not to include allegations relying on a misbranding theory. The district court was clear and insistent upon this point. It held that "claims based on alleged defects in ranitidine products [or] product labeling…are pre-empted." D.E.2512 at 28. That "includes, but is not limited to, claims based on allegations that ranitidine products were defectively designed because they break down into NDMA and claims based on failure to warn consumers that the products contained NDMA or could break down into NDMA when ingested." *Id.* The court required "Plaintiffs' counsel to, in good faith, identify these allegations and *to omit them from claims* against Generic Manufacturer Defendants *upon repleading* the Master Complaints." *Id.* at 29 (emphasis added); *see also* D.E.2513 at 30–32 (same, for Retailer Defendants); D.E.2532 at 25 (same, for Brand-Name Defendants). Presumably,

repleading these same claims to cure a shotgun-pleading defect would be *in bad faith*.

This instruction was not a stray comment. The district court reiterated it on the very last page of its order in two different ways. First, by dismissing certain items with prejudice: "Plaintiffs' claims based on alleged product and labeling defects that Defendants could not independently change while remaining in compliance with federal law are DISMISSED WITH PREJUDICE consistent with this Order." D.E.2512 at 53. And second, by expressly limiting the universe of what could be repleaded: "Plaintiffs are granted leave to replead claims against Defendants based on expiration dates, testing, storage and transportation conditions, warning the FDA, manufacturing defects, and the MMWA, as well as to replead their derivative counts, consistent with this Order." *Id.* The district court's instruction was unmistakable: no misbranding allegations in the amended complaint. That ruling is what this appeal challenges, and it would be perverse to hold it is moot because Ms. Williams should have thumbed her nose at the district court by refiling these claims anyhow to cure a Rule 8 problem.

If this Court reverses, it can remand the case with instructions to permit Ms. Williams to amend her complaint to cure any shotgun pleading problem; or it can remand for the district court to decide, in its discretion, whether and how Ms.

Williams should be permitted to amend. The Court can plainly fashion relief, which suffices to avoid mootness.

3. Each case the Motion cites involves fatal, independent grounds.

None of the cases cited in the Motion require otherwise. In each case, district courts dismissed on an alternative *merits* ground that supported dismissal *with* prejudice. For example, in *Horizon Bank & Tr. Co. v. Massachusetts*:

> [T]he Commonwealth appeals its indispensability without challenging the ultimate finding as to disposition of funds by the district court…; because it agrees with the district court that it deserves no money, it has no legally cognizable interest remaining.

391 F.3d 48, 53–54 (1st Cir. 2004). Plainly, the order not appealed from was dispositive and fatal. It was an entirely independent merits ruling that could not be cured on remand. That makes the case quite unlike this case, in which the shotgun-pleading order will be easily cured when the preemption rulings are vacated, but cannot be cured while they remain. Every case the Motion cites is the same.

B. The Rationale for Limiting Amendment Does Not Apply Here.

This Court has explained that "where a plaintiff chooses to waive the right to amend," "there is nothing left for the district court to do and the order therefore becomes final." *Briehler*, 926 F.2d at 1003. That rationale fully explains why amending to *re-add* theories abandoned on appeal is improper. But where a party had no right to amend some portion of its complaint, the waiver rationale does not

apply. After all, "a party cannot waive a right that it does not yet have." *Bechtelheimer v. Cont'l Airlines*, Inc., 755 F. Supp. 2d 1211, 1214 (M.D. Fla. 2010). Ms. Williams had no right to cure the shotgun-pleading defects in the portion of her complaint dismissed on preemption grounds. She therefore could not waive a right to amend those portions.

The Motion to Dismiss should be denied.

Dated: March 29, 2021

Respectfully submitted,

/s/ *Ashley Keller*

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CERTIFICATE OF COMPLIANCE

This response complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 5,198 words, excluding the parts exempted by Fed. R. App. P. 32(f).

This response complies with the typeface requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in a proportionately spaced typeface using Microsoft Word Times New Roman 14-point font.

Dated: March 29, 2021

/s/ Ashley Keller
Ashley Keller
Counsel for Plaintiff-Appellant Marilyn Williams

CERTIFICATE OF SERVICE

On March 29, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the CM/ECF system. All participants in this case are registered CM/ECF users, and service will be accomplished by the CM/ECF system.

/s/ Ashley Keller
Ashley Keller
Counsel for Plaintiff Marilyn Williams

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE: ZANTAC (RANITIDINE) PRODUCTS LIABILITY LITIGATION

MDL NO. 2924
20-MD-2924

JUDGE ROBIN L. ROSENBERG
MAGISTRATE JUDGE BRUCE E. REINHART

_________________________________/

THIS DOCUMENT RELATES TO ALL CASES

AMENDED PRETRIAL ORDER # 31[1]
Procedures for Master Pleadings and Short Form Complaints in Personal Injury Cases

I. SCOPE OF ORDER

This Order applies to all personal injury cases already pending in MDL No. 2924, and to all personal injury actions transferred to or directly filed in MDL No. 2924 after the date of this Order or otherwise expressly identified herein.

II. MASTER PLEADINGS

In light of the number of complaints filed to date and likely to be filed in or transferred to MDL No. 2924, and the inefficiencies of drafting unique complaints and individual answers to those complaints, the Parties have agreed to the following procedures for the use of master pleadings in personal injury cases. Nothing in this Order is intended to (or does) alter the applicable provisions of the Federal Rules of Civil Procedure or the Local Rules of this Court, except as otherwise provided herein or in any subsequent Order.

[1] The Court VACATES Pretrial Order # 31 at docket entry 876 and substitutes this Amended Order in its place. The Court makes this amendment to clarify the provisions regarding the filing and amendment of Short Form Complaints.

A. MASTER COMPLAINT

1. **Timing**. By June 22, 2020, Plaintiffs shall file a Master Personal Injury Complaint on behalf of all Plaintiffs asserting personal injury claims in MDL No. 2924.

2. **Effect of Master Personal Injury Complaint**. All claims pleaded in the Master Personal Injury Complaint will supersede and replace all claims pleaded in any complaint previously filed in or transferred to MDL No. 2924, to the extent applicable under the procedural and substantive law that applies to previously filed actions, including this Order. Nothing in this Order shall preclude Plaintiffs from seeking leave to amend the Master Personal Injury Complaint as provided in the Federal Rules of Civil Procedure.

B. SHORT FORM COMPLAINT

3. At the time of filing of the Master Personal Injury Complaint, Plaintiffs will attach as an exhibit thereto the Master Short Form Complaint (the "Short Form Complaint") for use in personal injury cases in MDL No. 2924.

4. The Short Form Complaint shall adopt the Master Personal Injury Complaint by reference and shall contain, at a minimum, for each individual case:

   a. The name of the person alleging injury;

   b. Whether the claim is being brought by the person alleging injury or on behalf of someone else;

   c. The name of any loss of consortium Plaintiff;

   d. The city or county and state in which the person alleging injury currently resides (if the product user is deceased, where the user resided at the time of death);

   e. If the case is filed directly into MDL No. 2924, identification of the federal district of residence in which the action otherwise would have been filed absent the direct filing procedure, pursuant to Pretrial Order # 11 (D.E. 422);

f. If the case was originally filed in or removed to another federal district court and transferred to MDL No. 2924, the federal district court and division in which the action was originally filed or to which it was removed;

g. Whether the Zantac or ranitidine product(s) used was obtained by prescription or over the counter;

h. The approximate dates the medication was used;

i. The injury or injuries Plaintiff(s) alleges resulted from Zantac or ranitidine use;

j. The dates of diagnosis of the alleged injury or injuries;

k. If applicable, the date of death of the Zantac/ranitidine user;

l. The specific Defendant(s) against whom the Plaintiff(s) asserts claims;

m. As to each Defendant, the causes of action in the Master Personal Injury Complaint the Plaintiff(s) adopts (including whether any Plaintiff(s) is asserting a claim for loss of consortium, survival, or wrongful death), indicated by checking the applicable box on the Short Form Complaint;

n. Additional allegations or causes of action not pleaded in the Master Personal Injury Complaint, if any; and

o. Whether Plaintiff(s) demands a jury trial.

5. For each action directly filed in or transferred to MDL No. 2924 subject to this Order, the Master Personal Injury Complaint together with the Short Form Complaint shall be deemed the operative Complaint.

6. **Timing and Effect of Filing Short Form Complaints**:

a. Complaints Filed or Transferred Before Date of Master Personal Injury Complaint. Any Plaintiff who filed (or files) a complaint in MDL No. 2924 or had (or has)

a Complaint transferred to MDL 2924 before the date of filing of the Master Personal Injury Complaint must file a Short Form Complaint in his or her member (*i.e.*, individual) case within sixty (60) days of the date on which the Master Personal Injury Complaint is filed. Short Form Complaints shall not be filed on the master MDL docket. Any Plaintiff who has filed a Short Form Complaint only on the master MDL docket shall file the Complaint in his or her member case within **twenty (20) days** of the date of this Amended Order.

b. Complaints Filed on or after Date of Master Personal Injury Complaint. Any Plaintiff who files directly in MDL No. 2924 must file his or her complaint as a Short Form Complaint in a new case, which will be the Plaintiff's member case. Any Plaintiff who files a complaint that is transferred into MDL No. 2924 on or after the date of filing of Master Personal Injury Complaint must file a Short Form Complaint in his or her member case. In the event a complaint is directly filed in MDL 2924 on or after the date of the Master Personal Injury Complaint, Plaintiff(s) must file a Short Form Complaint within sixty (60) days. In the event a complaint is transferred to MDL No. 2924 on or after the date of the Master Personal Injury Complaint, Plaintiff(s) must file a Short Form Complaint within sixty (60) days of the date of transfer (which shall be the date this Court posts the Transfer Order on its docket). Short Form Complaints shall not be filed on the master MDL docket. Any Plaintiff who has filed a Short Form Complaint only on the master MDL docket shall file the Complaint in his or her member case within **twenty (20) days** of the date of this Amended Order. For purposes of statutes of limitations and statutes of repose, any such Plaintiff shall be deemed to have filed his or her complaint as of the date he or she filed his or her original complaint and not the date of the Master Complaint or

the date he or she filed his or her Short Form Complaint, taking into account, as applicable, the tolling provisions set forth in Pretrial Order # 15 (D.E. 547).

c. No Multi-Plaintiff Complaints. Each Plaintiff must have an individual complaint on file. Any Plaintiff who asserts claims in a multi-plaintiff complaint that is pending or that is subsequently filed or transferred to MDL No. 2924 must file an individual Short Form Complaint within sixty (60) days of the date of the filing of the Master Personal Injury Complaint or within sixty (60) days of the date of filing or transfer, whichever is later. This provision does not apply to Plaintiffs who solely assert derivative claims.

d. Amended Short Form Complaints. A Plaintiff may file an amended Short Form Complaint at any time during the pendency of MDL No. 2924 without seeking leave of court, unless the Court orders otherwise or unless the effect of the amendment would be to destroy diversity, in which case leave of court is required. Any amendment to a Short Form Complaint, or any motion seeking leave to file an amended Short Form Complaint where diversity would be destroyed, shall be filed in the Plaintiff's member (*i.e.*, individual) case. Amended Short Form Complaints and motions to amend shall not be filed on the master MDL docket. Any Plaintiff who has filed an amended Short Form Complaint only on the master MDL docket shall file the amended Complaint in his or her member case within **twenty (20) days** of the date of this Amended Order. Any amended Short Form Complaint shall specify in its title the version of the amended Complaint (*i.e.*, "First Amended Short Form Complaint") and shall specify in a footnote all changes made to the prior version of the Short Form Complaint, with citations to the paragraphs that have been changed. If a Short Form Complaint has been amended to remove certain claims or parties, the title of the document shall include the parenthetical "(DISMISSALS INCLUDED)." For

example, a second amendment to remove a Defendant would be entitled "SECOND AMENDED COMPLAINT (DISMISSALS INCLUDED)."

C. MASTER ANSWER

7. By August 23, 2020, each Defendant shall file a Master Answer to the Master Personal Injury Complaint or shall file a consolidated Rule 12 motion to dismiss the Master Personal Injury Complaint, in whole or in part, as set forth in the Stipulated Discovery and Case Management Schedule (Pretrial Order # 30). To the extent Defendants file Rule 12 motions to dismiss the Master Personal Injury Complaint, whether in whole or in part, Defendants will file one consolidated motion per category of defendant—e.g., the generic defendants will file a single motion, the retailer defendants will file a single motion, and the brand defendants will file a single motion.

8. If any Defendant files a motion to dismiss the Master Personal Injury Complaint and such motion does not result in the dismissal of the Master Personal Injury Complaint in its entirety, that Defendant shall file a Master Answer within forty-five (45) days of the date on which the Court issues a ruling as to its motion to dismiss, provided that the Court does not grant Plaintiffs leave to amend the Master Personal Injury Complaint. If the Court grants Plaintiffs leave to amend the Master Personal Injury Complaint, within thirty (30) days of such Order, Plaintiffs shall file an Amended Master Personal Injury Complaint. Defendants shall file a Master Answer or motion to dismiss the Amended Master Personal Injury Complaint, in whole or in part, within thirty (30) days after the date of filing the Amended Master Personal Injury Complaint.

9. Each Defendant's Master Answer shall be deemed to be that Defendant's Answer to all properly served complaints in which that Defendant is named, whether a Short Form Complaint or otherwise, in any case now or in the future pending in MDL No. 2924, including those cases

filed directly in MDL No. 2924 as authorized by this Court, transferred to MDL No. 292 pursuant to 28 U.S.C. §1407, or removed to this Court and included in MDL No. 2924. Defendants are hereby relieved of the obligation to file any further Answer to any Short Form Complaint filed in MDL No. 2924, or in any case transferred to MDL No. 2924, unless or until otherwise ordered by this Court.

10. To the extent that a Plaintiff asserts in a Short Form Complaint any additional allegations or causes of action not pleaded in the Master Personal Injury Complaint, as provided in Paragraph 4n above, any Defendant as to which such allegation or cause of action is pleaded shall not file a Rule 12 motion to dismiss until such later date as permitted or required by the Court, absent good cause shown and upon leave of Court, as set forth in Pretrial Order # 30.

11. Each Defendant's adoption of the Master Answer in each case in which that Defendant is named is without prejudice to any Defendant later moving to dismiss certain counts alleged in the Master Personal Injury Complaint (at the appropriate time in any individual Plaintiff's action), asserting any affirmative defenses, filing an amended answer to address specifically any individual complaints, or otherwise challenging the sufficiency of any claim or cause of action in any complaint under the applicable state's law in cases that may be selected for inclusion in a discovery pool or bellwether trial pool. Any proposed Order submitted to this Court for a process of selecting cases for inclusion in a discovery pool or bellwether trial pool must include a proposed procedure for the filing of dispositive motions and/or specific answers applicable to those cases.

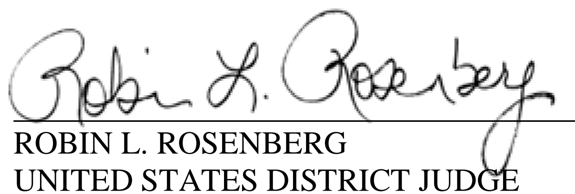
12. By agreeing to the procedures for filing the Master Personal Injury Complaint and the Short Form Complaint, no Defendant has agreed to or admitted the allegations set forth in those documents, nor has any Defendant conceded or waived its rights to dispute the legal validity of the claims alleged therein.

13. Nothing in this Order shall limit any Defendant's right to amend its Master Answer as provided in the Federal Rules of Civil Procedure.

D. VOLUNTARY DISMISSALS

14. Federal Rule of Civil Procedure 41 shall govern a Plaintiff's dismissal of an action. *See also* Pretrial Order # 39.

DONE and ORDERED in Chambers, West Palm Beach, Florida, this 18 day of August, 2020.



ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

EXHIBIT G

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE: ZANTAC (RANITIDINE) PRODUCTS LIABILITY LITIGATION

MDL NO 2924
20-MD-2924

JUDGE ROBIN L. ROSENBERG
MAGISTRATE JUDGE BRUCE REINHART

________________________________/

THIS DOCUMENT RELATES TO:
MARILYN WILLIAMS
CASE NO. 9:20-CV-80512

JURY TRIAL DEMANDED

AMENDED SHORT-FORM COMPLAINT

The Plaintiff named below, by counsel, files this Amended Short Form Complaint against Defendants named below. Plaintiff incorporates by reference the allegations contained in the Master Personal Injury Complaint ("MPIC") in *In re: Zantac (Ranitidine) Products Lability Litigation,* MDL No. 2924 (S.D. Fla), Docket Entry 887. Plaintiff files this Amended Short-Form Complaint as permitted by Pretrial Order No. 31.

Plaintiff selects and indicates by completing where requested, the Parties and Causes of Actions specific to this case. Where certain claims require additional pleading or case specific facts and individual information, Plaintiff shall add and include them herein.

Plaintiff, by counsel, alleges as follows:

I. PARTIES, JURISDICTION, AND VENUE

A. PLAINTIFF

1. Plaintiff Marilyn Williams ("Plaintiff") brings this action (check the applicable designation):

☒ On behalf of herself;

☐ In representative capacity as the __________________, on behalf of the injured party, (Injured Party's Name) ____________________.

2. Injured Party is currently a resident and citizen of Montgomery, Alabama and claims damages as set forth below.

—OR—

Decedent died on (Month, Day, Year) _______________. At the time of Decedent's death, Decedent was a resident and citizen of (City, State) _________________________.

If any party claims loss of consortium,

3. _________________ ("Consortium Plaintiff") alleges damages for loss of consortium.

4. At the time of the filing of this Short Form Complaint, Consortium Plaintiff is a citizen and resident of (City, State) _________________________.

5. At the time the alleged injury occurred, Consortium Plaintiff resided in (City, State) _________________________.

B. DEFENDANT(S)

6. Plaintiff names the following Defendants from the Master Personal Injury Complaint in this action:

   a. Brand Manufacturers: Boehringer Ingelheim Pharmaceuticals, Inc.; Boehringer Ingelheim USA Corporation

   b. Generic Manufacturers: None.

   c. Distributors: None.

   d. Retailers: Walgreens Boots Alliance, Inc.

   e. Repackagers: None.

   f. Others Not Named in the MPIC: None.

C. JURISDICTION AND VENUE

7. Identify the Federal District Court in which Plaintiff(s) would have filed this action in the absence of Pretrial Order No. 11 (direct filing) [or, if applicable, the District Court to which their original action was removed]:

United States District Court
Middle District of Alabama
Northern Division
(Where the case was pending before being transferred to the MDL.)

8. Jurisdiction is proper upon diversity of citizenship.

II. PRODUCT USE

9. The Injured Party used Zantac: [*Check all that apply*]

☐ By prescription

☒ Over the counter

10. The Injured Party used Zantac from approximately January 2011 to December 2016.

III. PHYSICAL INJURY

11. As a result of the Injured Party's use of the medications specified above, [*he/she*] was diagnosed with the following specific type of cancer (check all that apply):

Check all that apply	Cancer Type	Approximate Date of Diagnosis
☐	BLADDER CANCER	
☐	BRAIN CANCER	
☐	BREAST CANCER	
☐	COLORECTAL CANCER	
☐	ESOPHAGEAL/THROAT/NASAL CANCER	
☐	INTESTINAL CANCER	
☐	KIDNEY CANCER	
☐	LIVER CANCER	
☐	LUNG CANCER	
☒	OVARIAN CANCER	August 2016
☐	PANCREATIC CANCER	
☐	PROSTATE CANCER	
☐	STOMACH CANCER	
☐	TESTICULAR CANCER	
☐	THYROID CANCER	
☐	UTERINE CANCER	
☒	OTHER CANCER: _Abdominal__________ _______	August 2016
☐	DEATH (CAUSED BY CANCER)	

12. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff.

IV. CAUSES OF ACTION ASSERTED

13. Plaintiff's sole theory of liability is that the ranitidine she consumed was defectively designed under state law, and that these same design defects made ranitidine dangerous to health when used as instructed on the label such that it was misbranded under federal law. The ranitidine Plaintiff consumed was illegal to sell under federal law, and requires compensation under state design defect tort law.

14. The following Causes of Action asserted in the Master Personal Injury Complaint are asserted against the specified defendants in each class of Defendants enumerated therein, and the allegations with regard thereto are adopted in this Amended Short Form Complaint by reference.

Check if Applicable	COUNT	Cause of Action
☐	I	STRICT PRODUCTS LIABILITY – FAILURE TO WARN
☒	II	STRICT PRODUCTS LIABILITY – DESIGN DEFECT
☐	III	STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT
☐	IV	NEGLIGENCE – FAILURE TO WARN
☐	V	NEGLIGENT PRODUCT DESIGN
☐	VI	NEGLIGENT MANUFACTURING
☐	VII	GENERAL NEGLIGENCE
☐	VIII	NEGLIGENT MISREPRESENTATION
☐	IX	BREACH OF EXPRESS WARRANTIES
☐	X	BREACH OF IMPLIED WARRANTIES
☐	XI	VIOLATION OF CONSUMER PROTECTION AND DECEPTIVE TRADE PRACTICES LAWS and specify the state's statute below: ______________________
☐	XII	UNJUST ENRICHMENT
☐	XIII	LOSS OF CONSORTIUM
☐	XIV	SURVIVAL ACTION

Check if Applicable	COUNT	Cause of Action
☐	XV	WRONGFUL DEATH
☐	XVI	OTHER:
☐	XVII	OTHER:

If Count XVI or Count XVII is alleged, additional facts supporting the claim(s):
____
____
____

V. JURY DEMAND

15. Plaintiff hereby demands a trial by jury as to all claims in this action.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff has been damaged as a result of Defendants' actions or inactions and demands judgment against Defendants on the above-referenced causes of action, jointly and severally to the full extent available in law or equity, as requested in the Master Personal Injury Complaint.

Dated: January 27, 2021

/s/ Michael L. McGlamry
Michael L. McGlamry (GA Bar No. 492515)
N. Kirkland Pope (GA Bar No. 584255)
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ATTORNEYS FOR PLAINTIFF

EXHIBIT H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IN RE: ZANTAC (RANITIDINE) PRODUCTS LIABILITY LITIGATION

MDL NO 2924
20-MD-2924

JUDGE ROBIN L ROSENBERG
MAGISTRATE JUDGE BRUCE REINHART

________________________________/

THIS DOCUMENT RELATES TO:
MARILYN WILLIAMS
CASE NO. 9:20-CV-80512

NOTICE OF VOLUNTARY DISMISSAL *WITHOUT* PREJUDICE

Pursuant to Pretrial Order # 39, Plaintiff Marilyn Williams, who instituted the above-captioned action, a member case in *In Re Zantac Products Liability Litigation*, MDL. No. 2924 (S.D. Fla.), hereby provides notice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) that the case is **DISMISSED *WITHOUT* PREJUDICE**.

By filing this notice, undersigned counsel certifies that no answer or motion for summary judgment has previously been served in response to the Short-Form Complaint or Individual Long-Form Complaint to which this notice applies.

DATED: January 27, 2021.

/s/ Michael L. McGlamry
Michael L. McGlamry (GA Bar No. 492515)
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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2021, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that the foregoing document is being served on all counsel of record or parties registered to receive CM/ECF Electronic Filings.

/s/ *Michael L. McGlamry*
Michael L. McGlamry