

<p>BOULDER COUNTY DISTRICT COURT 1777 6th Street Boulder, Colorado 80302</p> <hr/> <p>Plaintiff: CHRISTOPHER COOPER and SHELLEY SMITH</p> <p>v.</p> <p>Defendants: PFIZER INCORPORATED</p>	<p>↑ COURT USE ONLY ↑</p>
<p>Attorneys for Plaintiff: Jennifer Reba Edwards (Reg. #38349) Jay Wayne Swearingen (Reg. #4842) The Animal Law Center, LLC 4465 Kipling Street, Suite 108 Wheat Ridge, Colorado 80033 Phone: 303-322-4355 Fax: 303-322-4354 E-mail: jre@theanimallawcenter.com jws@theanimallawcenter.com</p>	<p>Case No:</p> <p>Div: Ctrm:</p>
<p>COMPLAINT</p>	

COMES NOW the Plaintiffs, Christopher Cooper and Shelley Smith, by and through their counsel at the Animal Law Center, and hereby file their Complaint and Jury Demand and respectfully allege as follows:

I. GENERAL ALLEGATIONS

1. Plaintiffs are individuals residing in Colorado and are residents of the state of Colorado.
2. The Defendant Pfizer Incorporated is a corporation incorporated under the laws of the State of New York and has its principle place of business in the State of New York.
3. The Defendants Pfizer Incorporated is subject to the jurisdiction of this court because

they are present in and regularly conduct business in Colorado.

4. Venue is proper in this court because the substantial portion of the events or omissions giving rise to the claim asserted in this complaint occurred within this judicial district.
5. Plaintiff SHELLEY SMITH (hereinafter “Smith” or “Plaintiff Smith”) is an individual and a resident of the state of Colorado who owns property in Colorado and property was damaged in Colorado. At all pertinent times mentioned herein, Smith was a resident of the City of Boulder and County of Boulder.
6. Plaintiff CHRISTOPHER COOPER (hereinafter “Cooper” or “Plaintiff Cooper”) is an individual and a resident of the state of Colorado who owns property in Colorado and property was damaged in Colorado. At all pertinent times mentioned herein, Cooper was a resident of the City of Boulder and County of Boulder.
7. Defendant PFIZER INCORPORATED (hereinafter “Pfizer” or “Defendant Pfizer”) is a foreign corporation, company, or other business entity which has been and/or is now engaged in the business of manufacturing, selling, and/or distributing an animal drug called Rimadyl.
8. All of the events described herein occurred in the State of Colorado.

II. FACTUAL ALLEGATIONS

9. The Plaintiffs owned a pet golden retriever named “Sophie.”
10. On or about May 26, 2009, the Plaintiffs’ dog “Sophie” was referred by the Plaintiffs’ family Veterinarian to Aspen Meadow Veterinary Specialists (hereinafter “Aspen Meadow”) and Dr. Rooney for surgery of a cranial cruciate ligament (CCL) rupture that occurred in “Sophie’s” knee.
11. Prior to the surgery “Sophie” received a physical exam and lab work that all came back

as normal.

12. On June 4, 2009, prior to the surgery, Dr. Rooney prescribed a post operation medication plan for the Plaintiffs' dog "Sophie" that consisted of three drugs, Cephalexin, Rimadyl (also referred to as Carprofen), and Tramadol, to be taken simultaneously
13. Dr. Rooney conducted the surgery on the Plaintiffs' dog "Sophie" on June 5, 2009 without any complications. "Sophie" and discharge instructions, including the medication instructions, were sent home with the Plaintiffs.
14. The only warning given with the medications and discharge instructions stated that side effects of the medications were uncommon, but to look for several warning signs and if the warning signs occurred discontinue use and contact the veterinarians.
15. On June 16, 2009, Plaintiffs called Aspen Meadow because "Sophie" stopped eating and started vomiting overnight. "Sophie" had been very ill for two days. After waiting to hear back from Aspen Meadow for eight hours, Dr. Rooney and Aspen Meadow finally called and recommended the Plaintiffs to stop the rest of the medication. Rimadyl and Tramadol were no longer being administered at this time.
16. On June 17, 2009 Plaintiffs brought "Sophie" into Dr. Rooney for tests since "Sophie" continued to vomit and was not yet eating. The test results indicated that the Plaintiffs' dog "Sophie" had possible Rimadyl toxicity, and Aspen Meadow indicated to the Plaintiffs that they were in contact with Pfizer, the manufacturer of the drug Rimadyl.
17. The veterinarian at Pfizer told Aspen Meadow that "Sophie's" signs correlated well with Rimadyl toxicity and dogs usually recover in 3-7 days of hospitalization.
18. On June 18, 2009 "Sophie" still suffered severe side effects and Aspen Meadow talked with another Pfizer veterinarian, Dr. Andre (case #2009us19319), who explained that

“Sophie’s” symptoms did indeed correlate well with Rimadyl toxicity and indicated that hospitalization usually varies between 5-7 days for severe clinical signs. Dr. Andre further stated that Pfizer does not provide financial support for owners, however they may reimburse owners after a case has been reviewed. Dr. Andre stated that about 1:1,000 dogs have a reaction with a 95% survival rate with supportive treatment, and gave the veterinarians at Aspen Meadow information on how to treat Rimadyl toxicity.

19. Plaintiffs’ dog “Sophie” was then hospitalized on June 18, 2009 for thirteen days for supportive therapy and treatment plan due to the Rimadyl poisoning which had caused liver failure in “Sophie.”
20. When Plaintiffs left “Sophie” at Aspen Meadow she expressed that she was upset that Dr. Rooney did not tell her that Rimadyl could cause liver failure at the time of “Sophie’s” surgery. Aspen Meadow apologized and stated that the side effects do not stop Rimadyl being used in the clinic on every surgery patient without liver disease, nor do the side effects cause Rimadyl to be pulled by the FDA.
21. Aspen Meadow administered several tests and monitored “Sophie” over the next several days while “Sophie’s” condition improved slightly and then worsened.
22. Plaintiffs visited “Sophie” every day and shared in “Sophie’s” agony.
23. On June 30, 2009, Aspen Meadow finally allowed “Sophie” to return home. However, “Sophie” continued to be depressed, vomit, and was not eating well. Plaintiffs wanted to keep “Sophie” home as long as possible to keep “Sophie” more comfortable and around familiarity.
24. Plaintiffs called Aspen Meadow to discuss bringing “Sophie” back into the center, but “Sophie” did well for a brief amount of time on July 2, 2009, so Aspen Meadow allowed

Plaintiffs to postpone bringing “Sophie” back to Aspen Meadow. However, Aspen Meadow told Plaintiffs that if vomiting and not eating continued to bring “Sophie” in right away.

25. The Plaintiffs remained emotionally upset and distraught over “Sophie’s condition” after watching her beloved pet suffer over such a long period of time.

26. “Sophie” was admitted to Colorado State University Veterinary Teaching Hospital (hereinafter “CSU”) on July 9, 2009 for laparoscopic liver biopsy and esophageal tube placement for tube feeding. “Sophie’s” biopsy surgery went well and the feeding tube seemed to be working properly after surgery. Biopsy showed that “Sophie’s” liver was small and discolored (icteric).

27. “Sophie” returned home shortly after CSU surgery, but “Sophie’s” diarrhea and other negative indications caused the Plaintiffs to return to CSU with “Sophie” on July 14, 2009. On July 17, 2009, Plaintiffs took “Sophie” home with care instructions and several medications.

28. On July 22, 2009, “Sophie” and the Plaintiffs returned to CSU for a follow up appointment. Veterinarians at CSU removed the feeding tube, cleaned the site, removed sutures, and checked liver enzymes. “Sophie” seemed to be getting an infection where the feeding tube was placed, so CSU prescribed an antibiotic Chloramphenicol for the infection.

29. The Plaintiffs’ constant driving and admitting “Sophie” into clinics prolonged the Plaintiffs’ stress and worry over whether “Sophie” would live or die. Plaintiffs wanted to be with their beloved pet as much as possible. However, “Sophie” took another turn for the worst.

30. On July 25, 2009, Plaintiffs brought “Sophie” back to CSU for emergency testing and evaluations. “Sophie” was again admitted into CSU for supportive care and monitoring. CSU administered several tests and medications, but “Sophie” remained distressed and often unable to breath.
31. On July 26, 2009, Plaintiffs heard from CSU that “Sophie’s” condition was very grim, and the Plaintiffs approved a do not resuscitate (DNR) decision. Plaintiffs attempted to reach CSU before “Sophie” died, but “Sophie” failed so quickly they were forced to pull their car off the side of the road when “Sophie” died. “Sophie” died at CSU due to Rimadyl poisoning, without the comfort of Plaintiffs Cooper and Smith.

III. FIRST CLAIM FOR RELIEF

(Negligence)

32. Plaintiffs incorporate all other paragraphs of this Complaint for purposes of this claim.
33. At all times as described herein, Defendant was the designer, developer, manufacturer, marketer, deliverer, and/or seller of Rimadyl.
34. Defendant wantonly, knowingly, and/or recklessly recommended and sold Rimadyl to pet owners, including the Plaintiff, when the Defendant knew or should have known that Rimadyl may cause severe damage to dogs.
35. Defendant failed to warn or adequately warn, directly or indirectly, the foreseeable users of potential hazards, harms, side effects, and costs to dogs associated with Rimadyl toxicity or poisoning.
36. Defendant knew or should have known that Rimadyl may cause severe health complications or death in dogs that are given the drug. Defendant failed to warn or adequately warn potential users or veterinarians of the severity of negative side effects

and encouraged veterinarians to use Rimadyl liberally.

37. Defendant's conduct proximately caused significant injuries, damages, and losses to Plaintiffs Cooper and Smith.

IV. SECOND CLAIM FOR RELIEF

(Strict Product Liability)

38. Plaintiffs incorporate all other paragraphs of this Complaint for purposes of this claim.

39. The actions of Defendant as described herein unreasonably sold and distributed an unsafe and dangerous product Rimadyl to dog owners.

40. Defendant reasonably expected Rimadyl to be used by dog owners such as the Plaintiff.

41. The Plaintiff used Rimadyl in the matter in which it was intended and expected to be used by the Defendant. At the time of use, Rimadyl had not been changed from the time it was designed, manufactured, marketed, distributed, or sold by the Defendant.

42. Defendant intentionally, wantonly, and knowingly distributed a product that was unfit for its intended use because of the known harmful and deadly side effects it caused to the Plaintiff's dog "Sophie."

43. Defendant's conduct proximately caused significant injuries, damages, and losses to Smith and Cooper and will continue to cause significant injuries, damages, and losses to other dog owners.

V. THIRD CLAIM FOR RELIEF

(Breach of Implied Warranties)

44. Plaintiffs incorporate all other paragraphs of this Complaint for purposes of this claim.

45. The actions of Defendant as described herein failed to represent accurately, either directly or indirectly, that Rimadyl is unfit and unsafe for dogs.

46. Defendant intended that Rimadyl be used on pets and animals, and impliedly warranted through the sale, advertisement, and/or marketing of Rimadyl that it was fit for these normal and foreseeable uses.
47. When Plaintiffs used Rimadyl on their dog, Plaintiffs relied upon Defendant's knowledge and expertise as well as Defendant's representations of Rimadyl as safe and fit for its intended purposes.
48. Defendant breached these implied warranties in that Rimadyl, as designed, manufactured, marketed, distributed or sold, is toxic and highly harmful and can and does injure and kill pets and animals.
49. Defendant intentionally, wantonly, recklessly, and/or knowingly breached these implied warranties to the Plaintiffs.
50. Defendant's conduct proximately caused significant injuries, pain and suffering, emotional distress, damages, and losses to Plaintiffs Cooper and Smith.

VI. FOURTH CLAIM FOR RELIEF

(Breach of Express Warranties)

51. Plaintiffs incorporate all other paragraphs of this Complaint for purposes of this claim.
52. The actions of Defendant as described herein, in order to induce the Plaintiffs to purchase and use Rimadyl, warranted and represented that the product was safe for its intended use in dogs.
53. Plaintiffs purchased and used Rimadyl on their dog in reliance on the Defendant's above mentioned warranties and representations.
54. The Rimadyl that was distributed, sold and/or delivered to the Plaintiffs was not of the character as stated by the Defendant, but was defective and caused severe harm to and the

death of the Plaintiffs' dog.

55. Defendant intentionally, wantonly, and knowingly sold Rimadyl as a safe product to the Plaintiffs.

56. Defendant's conduct proximately caused significant injuries, damages, and losses to Plaintiffs Cooper and Smith.

VII. FIFTH CLAIM FOR RELIEF

(Deceptive Trade Practices)

57. Plaintiffs incorporate all other paragraphs of this Complaint for purposes of this claim.

58. The actions of Defendant as described herein engaged in deceptive trade practices that directly injured the Colorado consumers.

59. Defendant during the business of selling, manufacturing, distributing, and marketing Rimadyl knowingly made a false representation that the product benefited dogs and was safe for dogs.

60. Defendant suppressed information and failed to disclose to the Plaintiffs information that Rimadyl may seriously injure or may have deadly side effects when Plaintiffs received Rimadyl from their veterinarian.

61. Plaintiffs' dog did not benefit from Rimadyl and died as a result of taking the product.

62. Defendant intentionally, wantonly, and knowingly sold Rimadyl as a safe and beneficial product to the Plaintiffs.

63. Defendant's conduct proximately caused significant injuries, damages, and losses to Plaintiffs Cooper and Smith.

VIII. SIXTH CLAIM FOR RELIEF

(Misrepresentation)

64. Plaintiffs incorporate all other paragraphs of this Complaint for purposes of this claim.
65. The actions of Defendant as described herein amounted to misrepresentation that directly injured the Colorado consumers.
66. Defendant during the business of selling, manufacturing, distributing, and marketing Rimadyl knowingly made a false representation that the product benefited dogs and was safe for dogs.
67. Defendant suppressed information and failed to disclose to the Plaintiffs information that Rimadyl may seriously injure or may have deadly side effects when Plaintiffs received Rimadyl from their veterinarian.
68. Plaintiffs' dog did not benefit from Rimadyl and died as a result of taking the product.
69. Defendant intentionally, wantonly, and knowingly misrepresented Rimadyl as a safe and beneficial product to the Plaintiffs.
70. Defendant's conduct proximately caused significant injuries, damages, and losses to Plaintiffs Cooper and Smith.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Cooper and Smith respectfully requests that this Court enter judgment in their favor and against the Defendants, and grant:

- a. actual damages;
- b. costs and reasonable attorneys' fees, and
- c. such other relief as may be awarded by the Court.

PLAINTIFFS DEMAND A JURY ON ALL ISSUES TRIABLE,

Respectfully submitted this 26th day of July, 2011,

/s/Jennifer Reba Edwards
The Animal Law Center, LLC
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