

- Protecting Families
- Helping Seniors
- Assisting Consumers
- Serving Victims
- Law Enforcement Tools
- About The Office
- Tobacco Enforcement Unit
- Media Center
 - [Press Photo](#)
 - [Photo Gallery](#)
 - [News Archive](#)
 - [Columns](#)



Search



Kansas Attorney General announces antitrust settlement involving the drug Tricor

December 7, 2009 -- Attorney General Steve Six announced today the State of Kansas along with 24 other states and the District of Columbia have reached a \$22.5 million settlement in a suit filed against Abbott Laboratories and Fournier Industrie et Sante and Laboratories Fournier, S.A., resolving antitrust claims involving the cholesterol drug TriCor.

Tricor is used to reduce high levels of triglycerides and cholesterol. It accounted for over \$1 billion of Abbott's sales last year.

In 2008, Kansas, 24 other states and the District of Columbia filed suit in the Delaware federal district court alleging that Abbott and Fournier blocked competition to sale of Tricor. The suit alleged that the companies thwarted generic competition to Tricor using a variety of strategies including a practice called "product hopping." Under this practice, the states alleged the companies made various clinically insignificant changes in the dosage and form of Tricor, abandoned the promotion of and removed older versions of TriCor from the market, and manipulated the drug codes used to facilitate generic substitution.

The states also alleged that Abbott and Fournier engaged in sham litigation regarding patents they knew were invalid, unenforceable, or inequitably obtained for the purpose of preventing or delaying generic competition. Due to Abbott and Fournier's alleged conduct, state and local entities had to pay higher prices for TriCor because their conduct blocked the lower-priced therapeutically equivalent generic versions of TriCor from entering the market.

Under the settlement, the Kansas Medicaid program will be reimbursed for overcharges paid for Tricor. Abbott and Fournier have also agreed to an injunction which prevents them deleting the drug codes for the latest version of TriCor, in the event a generic manufacturer seeks FDA approval of a generic version of Tricor, until after a specified time has lapsed. The settlement will also reimburse the participating Attorneys General for fees and costs associated with prosecution of the action.

The state of Kansas will receive about \$200,000 in damage, fees, and costs.

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- [Attorney General's Blog](#)
- [AG Call 2010](#)
- [National Consumer Protection Week 2010](#)
- [Frequent Questions](#)
- [File a Consumer Complaint](#)
- [Concealed Carry](#)
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