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# The Office of Attorney General Lori Swanson

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Today is Friday, December 19, 2008

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December 16, 2008

## Press Release

### Minnesota Attorney General Lori Swanson Files Lawsuit Against Ovation Pharmaceuticals For Violating Antitrust Laws

*Swanson says company used anticompetitive practices to raise drug price by nearly 1,300%*

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Minnesota Attorney General Lori Swanson today filed an antitrust lawsuit against Ovation Pharmaceuticals, Inc. ("Ovation") alleging that the company used monopolistic pricing practices in its sale of Indocin and NeoProfen, used to treat patent ductus arteriosus ("PDA"), a heart defect in premature babies, and charging the company with violating state and federal antitrust laws. The Federal Trade Commission ("FTC") today filed a similar lawsuit, also in United States District Court for the District of Minnesota. Swanson commended United States Senator Amy Klobuchar for calling for an FTC investigation into these practices earlier this year and holding hearings on the issue.

"Ovation acquired a monopoly over the only two drugs that treat this particular heart problem in premature babies, then it unfairly increased the cost by nearly 1,300%," Swanson said.

After acquiring exclusive rights to Indocin from Merck in 2005, and subsequently acquiring the rights to NeoProfen from Abbott Laboratories in 2006, Ovation raised the price of Indocin from \$36 to nearly \$500 per vial. Merck continued to supply Indocin to Ovation at a small fraction of the \$36 per vial that Ovation previously charged. In July, 2006, Ovation launched NeoProfen, (which was still under FDA review at the time of its acquisition), at a price of approximately \$483 per vial. A typical treatment of PDA requires three vials, so the cost of treatment is nearly \$1,500. Ovation now holds 100% of the market share for the pharmaceutical treatment of PDA. Its acquisition of the only competitor to Indocin substantially lessened competition and unlawfully maintained a monopoly in the market for pharmaceutical treatments of PDA.

The lawsuit was filed today in United States District Court for the District of Minnesota and charges Ovation with violations of Minnesota antitrust laws, as well as the federal Clayton Act and Sherman Act.

-30-

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