

**Oregon Department of Justice
Hardy Myers, Attorney General**

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AG HARDY MYERS FILES LAWSUIT AGAINST ABBOTT LABORATORIES AND LABORATORIES FOURNIER FOR ANTITRUST VIOLATIONS

March 18, 2008

Attorney General Hardy Myers Files Lawsuit Against Abbott Laboratories Of Illinois And French Drug Company Fournier

Joined by 18 other states, Oregon alleges violations of antitrust laws concerning the delay in marketing the generic version of a popular cholesterol drug.

Attorney General Hardy Myers today was joined by 18 other Attorneys General in charging Abbott Laboratories (Abbott) of Lake County, Illinois and French drug company Fournier Industrie et Sante and Laboratoires Fournier, S.A. (Fournier) of Chenove, France with violating antitrust laws in delaying the availability of a cheaper, generic version of TriCor, a popular, cholesterol drug which last year accounted for over one billion dollars of Abbott's sales. Today's lawsuit filed in Delaware federal court seeks to recover triple the amount of damages incurred by state public health agencies and individuals; damage trebling ins required by the antitrust laws.

"At the expense of the State of Oregon and its consumers, Abbott and Fournier willfully conned the drug regulatory system as well as the patent office to wrongfully increase their profits," Myers declared.

"The defendants all but eliminated their competition by filing numerous lawsuits that were eventually deemed unfounded and by switching products. These tactics resulted in misinformation being submitted to regulators and artificially high drug prices for state programs and consumers. These practices will not be tolerated in an economy where drug and health costs continue to rapidly increase."

The complaint stems from actions of the two drug companies to prevent the marketing of a generic version of TriCor, Abbott's brand name for a drug used to reduce high levels of triglycerides and cholesterol that Abbott began marketing in 1998. The attempt to block a cheaper generic drug of TriCor started when generic drug companies began developing their own versions of TriCor, Myers explained. Using patents obtained by deceiving the U.S. Patent and Trademark Office with incomplete and misleading data, Abbott and Fournier brought a series of groundless patent infringement lawsuits against these generic companies.

Today's lawsuit asserts that Abbott and Fournier filed over ten lawsuits against the generic drug companies between 2000 and 2004 during which time those companies were attempting to obtain Federal Drug Administration (FDA) approval for their generic versions of TriCor. Abbott and Fournier eventually lost or dismissed all of the lawsuits.

Myers alleges that Abbott and Fournier's purpose in filing these suits was to use the litigation process as an anti-competitive weapon. The lawsuit alleges that Abbott and Fournier knew that the patents upon which the companies based the lawsuits were unenforceable and that such actions could not succeed on their merits. "Their infringement actions were therefore mere shams designed to exclude generic competition from the TriCor market," Myers added.

At the same time, as part of its plan to block generic competition, Abbott and Fournier made minor changes in the formulations of TriCor, not to improve it but instead to prevent generic versions from obtaining "AB Ratings"; when assigned by the FDA, AB Ratings define generics as therapeutically equivalent to the original drug. As a result of the product switches and patent

litigation, the defendants thwarted all generic competition, allowing them to charge monopoly prices for TriCor.

Myers noted that when consumers purchase generic replacement drugs for major brand names drugs, the price is often 50-80 percent less than the branded drug.

Consumers wanting more information about this case or Oregon consumer protection in general may call the Attorney General's consumer hotline at (503) 378-4320 (Salem area only), (503) 229-5576 (Portland area only) or toll-free at 1-877-877-9392. The Oregon Department of Justice is online at www.doj.state.or.us.

- [Abbott/Fournier Lawsuit](#)

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