

May 13, 2019

Montana Sues Pharmaceutical Companies And Executives In Price-Fixing, Market-Manipulation Conspiracies

Montana Attorney General Tim Fox and 43 other states/territories have filed a lawsuit against 20 of the nation's largest generic drug manufacturers, alleging a broad conspiracy to artificially inflate and manipulate prices, reduce competition and unreasonably restrain trade for more than 100 different generic drugs.

The lawsuit also names 15 individual senior executive defendants at the heart of the conspiracy who were responsible for sales, marketing, pricing, and operations. The drugs at issue account for billions of dollars of sales in the U.S. The alleged schemes increased prices affecting the health insurance market, taxpayer-funded healthcare programs such as Medicare and Medicaid, and individuals who must pay artificially inflated prices for their prescription drugs.

“Montanans have been hit hard by the often shockingly high prices of prescription drugs. The evidence in this case shows that some of the most well-known generic drug manufactures were involved in a widespread conspiracy to fix prices and divide up market share, with the direct result of harming consumers in need of life-sustaining medicine,” Attorney General Fox said. “The fact that generic drugs are supposed to be more affordable makes this conduct all the more troubling and harmful. We are committed to prosecuting and investigating this collusive conduct until these companies are held accountable for the harm they have caused.”

The complaint alleges that 20 generic drug manufacturers engaged in a broad, coordinated, and systematic campaign to conspire with each other to fix prices, allocate markets and rig bids for more than 100 different generic drugs. The drugs span all types and classes, including tablets, capsules, suspensions, creams, gels, ointments, statins, ACE inhibitors, beta blockers, antibiotics, anti-depressants, contraceptives, and non-steroidal anti-inflammatories. They treat a range of diseases and conditions from basic infections to diabetes, cancer, epilepsy, multiple sclerosis, HIV, ADHD, and more. In some instances, the coordinated price increases were over 1,000 percent.

The complaint shows an interconnected web of industry executives. These competitors met with each other during industry dinners, “girls nights out,” lunches, cocktail parties, and golf outings. They communicated via frequent telephone calls, emails and text messages that sowed the seeds for their illegal agreements. Throughout the complaint, defendants use terms such as “fair share,” “playing nice in the sandbox,” and “responsible competitor” to describe how they unlawfully discouraged competition, raised prices, and enforced an ingrained culture of collusion.

The lawsuit seeks damages, civil penalties, and actions by the court to restore competition to the generic drug market.

View or download the lawsuit here: <https://dojmt.gov/wp-content/uploads/GDMS-Complaint-5.10.19.pdf>

Corporate defendants:

Teva Pharmaceuticals USA, Inc.
Sandoz, Inc.
Mylan Pharmaceuticals Inc.
Actavis Holdco US, Inc.
Actavis Pharma, Inc.
Amneal Pharmaceuticals, Inc.
Apotex Corp.
Aurobindo Pharma U.S.A., Inc.
Breckenridge Pharmaceutical, Inc.
Dr. Reddy's Laboratories, Inc.
Glenmark Pharmaceuticals Inc. USA
Greenstone LLC
Lannett Company, Inc.
Lupin Pharmaceuticals, Inc.
Par Pharmaceutical Companies, Inc.
Pfizer, Inc.
Taro Pharmaceuticals USA, Inc.
Upsher-Smith Laboratories, LLC
Wockhardt USA, LLC
Zydus Pharmaceuticals (USA), Inc.

Individual defendants:

- Ara Aprahamian, Vice President of Sales and Marketing at Taro Pharmaceuticals U.S.A, Inc.
- David Berthold, Vice President of Sales at Lupin Pharmaceuticals, Inc.
- James Brown, Vice President of Sales at Glenmark Pharmaceuticals, Inc.
- Maureen Cavanaugh, former Senior Vice President and Chief Commercial Officer, North America, for Teva
- Marc Falkin, former Vice President, Marketing, Pricing and Contracts at Actavis
- James Grauso, former Senior Vice President, Commercial Operations for Aurobindo from December 2011 through January 2014. Since February 2014, Grauso has been employed as the Executive Vice President, N.A. Commercial Operations at Glenmark
- Kevin Green, former Director of National Accounts at Teva from January 2006 through October 2013. Since November 2013, Green has worked at Zydus Pharmaceuticals (USA) Inc. as the Vice President of Sales
- Armando Kellum, former Vice President, Contracting and Business Analytics at Sandoz
- Jill Nailor, Senior Director of Sales and National Accounts at Greenstone
- James Nesta, Vice President of Sales at Mylan
- Kon Ostaficiuk, the President of Camber Pharmaceuticals, Inc.

- Nisha Patel, former Director of Strategic Customer Marketing and later, Director of National Accounts at Teva.
- David Rekenhaller, former Vice President, Sales US Generics at Teva
- Richard Rogerson, former Executive Director of Pricing and Business Analytics at Actavis
- Tracy Sullivan DiValerio, Director of National Accounts at Lannett

Drugs listed in the complaint as subject to price-fixing and market allocation agreements:

Adapalene Gel
 Amiloride HCL/HCTZ Tablets
 Amoxicillin/Clavulanate Chewable Tablets
 Amphetamine/Dextroamphetamine ER (aka Mixed Amphetamine Salts)
 Amphetamine/Dextroamphetamine IR
 Azithromycin Oral Suspension
 Azithromycin Suspension
 Baclofen Tablets
 Benazepril HCTZ
 Bethanechol Chloride Tablets
 Budesonide DR Capsules
 Budesonide Inhalation
 Bumetanide Tablets
 Buspirone Hydrochloride Tablets
 Cabergoline
 Capecitabine
 Carbamazepine Chewable Tablets
 Carbamazepine Tablets
 Cefdinir Capsules
 Cefdinir Oral Suspension
 Cefprozil Tablets
 Celecoxib
 Cephalexin Suspension
 Cimetidine Tablets
 Ciprofloxacin Tablets
 Clarithromycin ER Tablets
 Clemastine Fumarate Tablets
 Clomipramine HCL
 Clonidine TTS Patch
 Clotrimazole Topical Solution
 Cyproheptadine HCL Tablets
 Desmopressin Acetate Tablets
 Desogestrel/Ethinyl Estradiol Tablets (Kariva)
 Dexmethylphenidate
 Dextroamphetamine Sulfate ER
 Diclofenac Potassium Tablets

Dicloxacillin Sodium Capsules
Diflunisal Tablets
Diltiazem HCL Tablets
Disopyramide Phosphate Capsules
Doxazosin Mesylate Tablets
Drospirenone and ethinyl estradiol (Ocella)
Enalapril Maleate Tablets
Entecavir
Epitol Tablets
Estazolam Tablets
Estradiol Tablets
Ethinyl estradiol and levonorgestrel (Portia and Jolessa)
Ethosuximide Capsules
Ethosuximide Oral Solution
Etodolac ER Tablets
Etodolac Tablets
Fenofibrate
Fluconazole Tablets
Fluocinonide Cream
Fluocinonide Emolient Cream
Fluocinonide Gel
Fluocinonide Ointment
Fluoxetine HCL Tablets
Flurbiprofen Tablets
Flutamide Capsules
Fluvastatin Sodium Capsules
Gabapentin Tablets
Glimepiride Tablets
Griseofulvin Suspension
Haloperidol
Hydroxyurea Capsules
Hydroxyzine Pamoate Capsules
Irbesartan
Isoniazid
Ketoconazole Cream
Ketoconazole Tablets
Ketoprofen Capsules
Ketorolac Tromethamine Tablets
Labetalol HCL Tablets
Lamivudine/Zidovudine (generic Combivir)
Levothyroxine
Loperamide HCL Capsules
Medroxyprogesterone Tablets

Methotrexate Tablets
Mimvey (Estradiol/Noreth) Tablets
Moexipril HCL Tablets
Moexipril HCL/HCTZ Tablets
Nabumetone Tablets
Nadolol Tablets
Niacin ER Tablets
Nitrofurantoin MAC Capsules
Norethindrone/ethinyl estradiol (Balziva)
Northindrone Acetate
Nortriptylline Hydrochloride Capsules
Omega-3-Acid Ethyl Esters
Oxaprozin Tablets
Oxybutynin Chloride Tablets
Paricalcitol
Penicillin VK Tablets
Pentoxifylline Tablets
Piroxicam
Pravastatin Sodium Tablets
Prazosin HCL Capsules
Prochlorperazine Tablets
Propranolol HCL Tablets
Raloxifine HCL Tablets
Ranitidine HCL Tablets
Tamoxifen Citrate Tablets
Temozolomide
Tizanidine
Tobramycin
Tolmetin Sodium Capsules
Tolterodine ER
Tolterodine Tartrate
Topiramate Sprinkle Capsules
Trifluoperazine HCL
Valsartan HCTZ
Warfarin Sodium Tablets