

**AG Koster announces settlement with pharmaceutical company for anticompetitive actions**

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**Jefferson City, Mo.** — Attorney General Koster today announced a \$125 million, 48-state settlement with the pharmaceutical company Cephalon. Missouri will receive approximately \$2 million, including \$766,000 to Missouri consumers who purchased the drug Provigil. The settlement ends a multistate investigation into anticompetitive conduct by Cephalon that delayed generic versions of the wakefulness drug Provigil from entering the market for several years.

As patent and regulatory barriers to generic competition for the drug Provigil neared expiration, Cephalon intentionally defrauded the Patent and Trademark Office to secure an additional patent. Cephalon prevented generic competition for nearly six years by filing patent infringement lawsuits against all potential generic competitors. A court subsequently ruled the new patent invalid and unenforceable, and Cephalon settled the patent infringement lawsuits by paying competitors to delay sale of generic versions of Provigil until April 2012. As a result, consumers and state agencies paid hundreds of millions more for Provigil than they would have had generic versions of the drug launched by early 2006, as expected.

The settlement includes \$35 million for distribution to consumers. The State of Missouri and its consumers are expected to receive approximately \$2 million from the settlement, which includes: 1) \$419,000 for Missouri state agencies purchasing Provigil during the relevant time period; 2) \$766,000 to Missouri consumers as refunds for Provigil purchases; and (3) \$793,000 for Missouri's share of disgorgement and costs of the investigation.

"Cephalon took calculated actions to prevent its brand-name drug from having any competition, harming consumers with higher costs," Koster said. "Under this settlement, Missourians will receive refunds for Cephalon's anticompetitive acts."

The settlement is subject to court review, including providing consumers with notice and an opportunity to participate in, object to, or opt out of settlement. The states expect court review by Judge Mitchell Goldberg of the Eastern District of Pennsylvania, who is currently overseeing other litigation concerning Provigil against Cephalon and others.