

Press Release

Thursday, December 15, 2016

Attorney General Swanson Sues Prescription Drug Companies Over Generic Drug Price-Fixing Scheme

Significant Player in the Scheme is Based in Minnesota

Attorney General Lori Swanson today filed an antitrust lawsuit, along with 19 other states, against six major prescription drug manufacturers for colluding to fix the prices of widely-used generic diabetes and antibiotic medicines.

“Skyrocketing prescription drug prices are a big problem for patients. While generic competition is supposed to bring prices down, these companies secretly agreed to rig the system to drive prices up at the expense of patients,” said Attorney General Swanson. Swanson noted that one in ten Americans is prescribed medicines they can’t afford. Today, 88% of prescriptions in the United States are generics.

The lawsuit alleges that, beginning in 2013, Heritage Pharmaceuticals, Inc., Mayne Pharma (USA), Inc., Citron Pharma, LLC, Aurobindo Pharma USA, Inc., Teva Pharmaceuticals USA, Inc., and Mylan Pharmaceuticals, Inc. colluded with one or more of the other companies to artificially inflate the prices of widely-used generic diabetes (Glyburide) and antibiotic (Doxycycline Hyclate) medicines.

Generic competition is supposed to bring down the cost of drugs. Through a series of emails, text messages, and meetings, however, the drug companies engaged in a two-fold price-fixing scheme by which one or more of the companies:

1. agreed on the market share each company would take, then either refused to bid for certain customers or submitted artificial bids designed to be unsuccessful; or
2. agreed upon specific price increases for a particular medication.

The companies’ anticompetitive practices coincided with steep price increases for generic medications. According to a 2014 analysis by a pharmacy benefits manager, consumers and insurers paid 373% more for the 50 most popular generic prescription drug medications than they did in 2010. A separate 2014 survey of 1,000 community pharmacists by the National Community Pharmacists Association found that “pharmacy acquisition prices for many essential generic drugs have risen by as much as 600%, 1000% or more” and that “77% of pharmacists reported 26 or more instances over the past six months of a large upswing in a generic drug’s acquisition price.”

The lawsuit alleges that a Minnesota-based salesperson for Heritage Pharmaceuticals, Inc. was a significant player in the nationwide price-fixing and market allocation scheme. Based in Minnesota, she organized dinners and meetings among employees of competitors when they visited the state. The dinners and meetings led to the exchange of information about the competitors' business plans and ultimately led to agreements on setting prices and/or allocating the market so as to avoid competing on price.

Competition is an important factor to keeping prescription drug prices in check. Typically, when the first generic manufacturer enters a market, its product is priced slightly lower than the brand-name manufacturer. The entrance of a second generic manufacturer, however, reduces the average generic price to nearly 50% of the brand name price. For medicines with a large number of generic manufacturers, the average generic price is 20% or less of the branded price.

There were \$74.5 billion of generic prescription drugs sold in the United States in 2015.

The lawsuit was filed today in federal court and seeks injunctive relief and disgorgement of any profits from the companies' illegal actions.

If you have evidence about the case please call (651) 296-3353 or (800) 657-3787.