



State AG sues two drug companies

By CHARLES S. JOHNSON - IR State Bureau - 02/22/08

Attorney General Mike McGrath has sued two national pharmaceutical companies and accused them of manufacturing certain prescription drugs that were "in defective condition and unreasonably dangerous."

McGrath filed the complaint in state district court in Helena Wednesday against Janssen Pharmaceutica Inc. and AstraZeneca Pharmaceuticals LP over their prescription drugs Risperdal and Seroquel, respectively. These medicines were intended to treat adult schizophrenia and short-term treatment of acute mania associated with bipolar disorder.

He charged that the two companies "have engaged in false and misleading marketing, advertising and sales campaigns to promote these drugs for non-medically indicated uses." McGrath said the companies "successfully deceived physicians, citizen-users and others in the medical community" about the safety of these drugs compared to other antipsychotic drugs in order to carve out a greater market share.

This false promotion of these two atypical antipsychotic drugs have led to some Montanans who faced "serious injuries, illnesses, diseases or death," McGrath said.

He said the two companies illegally marketed and promoted Risperdal and Seroquel for uses not approved by the U.S. Food and Drug Administration, including treatment of dementia, sleep disorders, depression, attention deficit disorder, autism, depression, mood disorders and others.

That unlawful marketing and promotion turned Risperdal into one of the best-selling prescription drugs last year, with \$4.2 billion in sales, McGrath said. Likewise, Seroquel captured 24 percent of the market in 2006, with \$3.4 billion in sales to make it AstraZeneca's top-selling prescription drug, he said.

Among the host of side effects of the two drugs cited by McGrath are obesity, diabetes, hypertension and kidney disease.

As a result of the two companies' "improper, false and misleading marketing of these atypical antipsychotic drugs," the state of Montana and its citizens and other entities were injured and damaged, McGrath said. Some were people on Montana Medicaid, the state-federal program to pay for health care for poor people.

McGrath said when Risperdal and Seroquel left the hands of the two companies, "they were in defective condition, unreasonably dangerous in their design, manufacture, testing and marketing and were so at the time when they were prescribed by physicians in Montana."

McGrath asked District Judge Thomas Honzel to rule that the two drugs were defective and dangerous, that the two companies engaged in false, misleading advertising and promotion, and that their conduct was unlawful.

He sought civil penalties of \$10,000 for each violation of state law, an order returning to the state all revenues made by the two companies here for sales of the drugs to Montanans, restitution, triple damages and attorney fees. McGrath also asked the court to award punitive and exemplary damages as appropriate.

Janssen is based in New Jersey and is a wholly owned subsidiary of Johnson & Johnson. AstraZeneca, whose American offices are in Delaware, is the U.S. subsidiary of a Swedish entity that has corporate headquarters in the United Kingdom.

Similar lawsuits have been filed in other states. Attorney William Rossbach of Missoula, joined by two lawyers from Pennsylvania and two from Texas, handled the case for McGrath.

A spokesman for AstraZeneca said the company would have no comment on the lawsuit until it had a chance to review McGrath's complaint. The State Bureau was unable to reach a spokesman for Janssen.

[Click here](#) to view a .pdf copy of the complaint.



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