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Attorney General Denise George Joins Coalition in Expanded Antitrust Price-Fixing Generic Drug Lawsuit

Health / **Published On June 15, 2020 05:49 AM /**

Staff Consortium **June 15, 2020**

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Attorney General Denise George announced Sunday that the U.S. Virgin Islands has joined a coalition of 51 states and territories led by Connecticut in filing the third lawsuit stemming from the ongoing antitrust investigation into a widespread conspiracy by generic drug manufacturers to artificially inflate and manipulate prices, reduce competition, and unreasonably restrain trade for generic drugs sold across the United States.

The new complaint, filed in the U.S. District Court for the District of Connecticut, focuses on 80 topical generic drugs that account for billions of dollars of sales in the United States. The Complaint names 26 corporate defendants and 10 individual defendants. The lawsuit seeks damages, civil penalties, and actions by the court to restore competition to the generic drug market.

The topical drugs at the center of the complaint include creams, gels, lotions, ointments, shampoos, and solutions used to treat a variety of skin conditions, pain, and allergies, according to the V.I. Department of Justice.

“Every person deserves access to the medication they need at prices they can afford. As we are aware, generic drugs are designed as lower cost options to non-generic high prescription drug prices. If drug manufacturers can secretly work together to raise the prices until they are no longer affordable, it defeats the overall purpose for that option,” Ms. George stated. She said the practices by the Defendants violate the Virgin Islands Monopolies and Restraints of Trade Act, 11 V.I.C. § 1503 and the Consumer Fraud and Deceptive Business Practices Act, 12A V.I.C. § 304. In addition to the federal claims in the complaint, the V.I. specifically seeks injunctive relief, civil penalties, and other legal and equitable relief for violations of local law.

The Complaint stems from an ongoing investigation built on evidence from several cooperating witnesses at the core of the conspiracy, a massive document database of over 20 million documents, and a phone records database containing millions of call detail records and contact information for over 600 sales and pricing individuals in the generics industry. Among the records obtained by the states is a two-volume notebook containing the contemporaneous notes of one of the states’ cooperators that memorialized his discussions during phone calls with competitors and internal company meetings over a period of several years.

Between 2007 and 2014, three generic drug manufacturers, Taro, Perrigo, and Fougera (now Sandoz) sold nearly two-thirds of all generic topical products dispensed in the United States. The multistate investigation has uncovered comprehensive, direct evidence of unlawful agreements to minimize competition and raise prices on dozens of topical products, the V.I. D.O.J. said. The complaint alleges longstanding agreements among manufacturers to ensure a “fair share” of the market for each competitor, and to prevent “price erosion” due to competition.

The complaint is the third to be filed in an ongoing, expanding investigation that the Connecticut Office of the Attorney General has referred to as possibly the largest domestic corporate cartel case in the history of the United States.

The first complaint, still pending in the U.S. District Court in the Eastern District of Pennsylvania, was filed in 2016 and now includes 18 corporate defendants, two individual defendants, and 15 generic drugs. Two former executives from Heritage Pharmaceuticals, Jeffery Glazer and Jason Malek, have entered into settlement agreements and are cooperating with the attorneys general working group in that case. The second complaint, also pending in the U.S. District Court in the Eastern District of Pennsylvania, was filed in 2019 against Teva Pharmaceuticals and 19 of the nation’s largest generic drug manufacturers. The complaint names 16 individual senior executive Defendants.

Attorney General Denise George joined the attorneys general of Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Territory of Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Northern Mariana Islands, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin in filing the third complaint.

Corporate Defendants:

- Sandoz, Inc.
- Actavis Holdco U.S., Inc.
- Actavis Elizabeth LLC
- Actavis Pharma, Inc.
- Amneal Pharmaceuticals, Inc.
- Amneal Pharmaceuticals, LLC
- Aurobindo Pharma USA, Inc.
- Bausch Health Americas, Inc.
- Bausch Health, US LLC
- Fougera Pharmaceuticals, Inc.
- G&W Laboratories, Inc.
- Glenmark Pharmaceuticals Inc., USA
- Greenstone LLC
- Lannett Company, Inc.
- Lupin Pharmaceuticals, Inc.
- Mallinckrodt Inc.
- Mallinckrodt plc
- Mallinckrodt LLC
- Mylan Inc.
- Mylan Pharmaceuticals Inc.
- Perrigo New York, Inc.
- Pfizer, Inc.
- Sun Pharmaceutical Industries, Inc.
- Taro Pharmaceuticals USA, Inc.
- Teligent, Inc.
- Wockhardt USA, LLC

Individual Defendants:

1. Ara Aprahamian, the Vice President of Sales and Marketing at Defendant Taro Pharmaceuticals U.S.A, Inc.

2. Mitchell Blashinsky, the Vice President of Marketing for Generics at Defendant Taro Pharmaceuticals USA, Inc. from January 2007 through May 2012, and Vice President of Sales and Marketing at Defendant Glenmark Pharmaceuticals Inc., USA from June 2012 through March 2014.

3. Douglas Boothe, the Chief Executive Officer of Defendant Actavis from August 2008 through December 2012 and the Executive Vice President and General Manager of Defendant Perrigo New York, Inc. from January 2013 through July 2016.

4. James Grauso, the former Vice President of Sales and Marketing at Defendant G&W Laboratories from January 2010 through December 2011; the Senior Vice President, Commercial Operations for Defendant Aurobindo from December 2011 through January 2014; and the Executive Vice President, N.A. Commercial Operations at Defendant Glenmark from February 2014 to the present.

Walt Kaczmarek, the Senior Director, National Accounts, Vice President, National Accounts and Senior Vice President, Commercial Operations from November 2004 through November 2012 for

Fougera Pharmaceuticals, a division of Nycomed US, Inc. (currently part of Defendant Sandoz, Inc.), and Vice President - General Manager, and President, Multi-Source Pharmaceuticals from November 2013 through August 2016 for Defendant Mallinckrodt.

Armando Kellum, the former Vice President, Contracting and Business Analytics at Sandoz.

Kurt Orlofski, the President and Chief Executive Officer from April 2007 through August 2009 for Defendant Wockhardt USA, and President of Defendant G&W Labs, Inc. from September 2009 through December 2016.

Mike Perfetto, the Vice President of Sales and Marketing for Defendant Actavis from August 2003 through January 2013, and the Chief Commercial Officer for Defendant Taro from January 2013 through his recent retirement from the company.

Erika Vogel-Baylor, the former Vice President for Sales and Marketing for Defendant G&W Labs, Inc. since July 2011.

John Wesolowski, the Senior Vice President of Commercial Operations for Defendant Perrigo since February 2004.

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

Acetazolamide Tablets

- Adapalene Cream
- Alclometasone Dipropionate Cream
- Alclometasone Dipropionate Ointment
- Ammonium Lactate Cream
- Ammonium Lactate Lotion
- Betamethasone Dipropionate Cream
- Betamethasone Dipropionate Lotion
- Betamethasone Valerate Cream
- Betamethasone Valerate Lotion
- Betamethasone Valerate Ointment
- Bromocriptine Mesylate Tablets
- Calcipotriene Solution
- Calcipotriene Betamethasone Dipropionate Ointment
- Carbamazepine ER Tablets
- Cefpodoxime Proxetil Oral Suspension
- Cefpodoxime Proxetil Tablets
- Ciclopirox Cream
- Ciclopirox Shampoo
- Ciclopirox Solution
- Clindamycin Phosphate Cream
- Clindamycin Phosphate Gel
- Clindamycin Phosphate Lotion
- Clindamycin Phosphate Solution
- Clobetasol Propionate Cream
- Clobetasol Propionate Emollient Cream
- Clobetasol Propionate Gel
- Clobetasol Propionate Ointment

- Clobetasol Propionate Solution
- Clotrimazole 1% Cream
- Clotrimazole Betamethasone Dipropionate Cream
- Clotrimazole Betamethasone Dipropionate Lotion
- Desonide Cream
- Desonide Lotion
- Desonide Ointment
- Desoximetasone Ointment
- Econazole Nitrate Cream
- Eplerenone Tablets
- Erythromycin Base/Ethyl Alcohol Solution
- Ethambutol HCL Tablets
- Fluocinolone Acetonide Cream
- Fluocinolone Acetonide Ointment
- Fluocinonide .1% Cream
- Fluocinonide Gel
- Fluocinonide Ointment
- Fluocinonide Solution
- Fluticasone Propionate Lotion
- Griseofulvin Microsize Tablets
- Halobetasol Propionate Cream
- Halobetasol Propionate Ointment
- Hydrocortisone Acetate Suppositories
- Hydrocortisone Valerate Cream
- Imiquimod Cream
- Ketoconazole Cream
- Latanoprost Drops
- Lidocaine Ointment
- Methazolamide Tablets
- Methylphenidate HCL Tablets
- Methylphenidate HCL ER Tablets
- Metronidazole Cream
- Metronidazole .75% Gel
- Metronidazole .1% Gel
- Metronidazole Lotion
- Mometasone Furoate Cream
- Mometasone Furoate Ointment
- Mometasone Furoate Solution
- Nafcillin Sodium Injectable Vials
- Nystatin Ointment
- Nystatin Triamcinolone Cream
- Nystatin Triamcinolone Ointment
- Oxacillin Sodium Injectable Vials
- Phenytoin Sodium ER Capsules
- Pioglitazone HCL Metformin HCL Tablets
- Prochlorperazine Maleate Suppositories
- Promethazine HCL Suppositories
- Tacrolimus Ointment
- Terconazole Cream

- Triamcinolone Acetonide Cream
- Triamcinolone Acetonide Ointment
- Triamcinolone Acetonide Paste

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