

ALABAMA LITIGATION REVIEW

Insights & Commentary on Developments in Alabama Litigation

JEFF BLACKWELL *of* Hornsby, Watson, Hornsby, Blackwell

Consumers Suffer When Drug Companies Conceal Product Safety Information

By Jeff Blackwell on February 12, 2014

Consumer health and safety should be the primary goals of drug research. Yet, they are not. The primary goal seems to be greed for quick and massive profit. For some drug companies, that means — conceal bad studies revealing drug dangers, give the FDA just enough positive information to get the drug to market, and then sell as much as possible until the dangers come to light. Because of this, many patients are needlessly injured each year by dangerous and defective drugs that should have never been sold.

Below are just a few recent examples of how drug companies view real research and the documents that explore the safety of their products:

- **Transvaginal Mesh** — My office represents numerous women in Huntsville and throughout North Alabama who suffered injury from mesh products by manufacturers Boston Scientific, Johnson & Johnson's Ethicon, Coloplast, and American Medical Systems. These companies marketed their mesh products through a loophole in our law that allows certain dangerous medical devices to be sold prior to proper testing. Basically, the process is turned upside down and sales come before safety testing. Thousands of women have suffered serious, and often disabling, injuries after being implanted with these dangerous and defective products. In the process of representing our Alabama clients, we have worked closely with attorneys in other states. The dedication of the many excellent attorneys representing injured victims of these defective products is the only reason the truth about the dangers is now coming to light. Unfortunately, some

manufacturers continue to avoid producing the complete information which the public deserves. On February 4, 2014, the Court hearing the claims against Ethicon, entered an Order saying the following:

Having now thoroughly considered the matter, the court finds that Ethicon did destroy or otherwise lose documents that should have been preserved in anticipation of this litigation.

- **Actos** – We have also filed a lawsuit on behalf of an Alabama man who developed bladder cancer after being prescribed Actos for his diabetes. I've written previously about the serious health risks of Actos. Now, as the first bellwether trial in Federal Court begins against manufacturer Takeda, the Judge in this case has also had to contend with issues of document destruction by the manufacturer. Here is what the Federal Court Judge said about Takeda's conduct:

For the reasons that follow, this Court concludes relevant evidence was deleted by Takeda after the duty to preserve such evidence arose. The Court further finds, for the reasons that follow, the PSC has presented *prima facie* evidence that the evidence would have been both relevant and beneficial to the Plaintiffs' cases within the MDL and of bad faith on the part of Takeda.

- **Pradaxa** — We are investigating the harmful effects of this blood thinner. The FDA approved Pradaxa in 2010 as an alternative to Coumadin (warfarin) for preventing blood clots. However, internal bleeding is a serious, and sometimes fatal, side effect. Unlike warfarin, there is no known remedy for internal bleeding caused by Pradaxa. Since 2010, the drug has resulted in numerous complaints of bleeding and death. The FDA is currently investigating these serious health issues. In December, the Federal Judge overseeing the discovery process in the lawsuits filed against the German manufacturer of Pradaxa, found the company's executives acted in "bad faith" concerning the company's "lost" files. In other words, the company destroyed or lost key documents related to the safety of its drug. The Judge fined the company almost \$1 Million and ordered certain foreign executives to appear for depositions. The manufacturer appealed. The appellate court reversed the requirement that the foreign executives appear for deposition but allowed the monetary penalties to stand.

These are just a few examples of a system that places quick, massive profit before the health and safety of consumers. Our families and communities deserve better. Companies that conceal vital information related to patient safety should be held accountable for this conduct.

Alabama Litigation Review

Hornsby, Watson, Hornsby, Blackwell
1110 Gleneagles Drive
Huntsville, Alabama 35801
Phone - 256-650-5500 (Huntsville)
256-301-5510 (Athens/Decatur)
256-891-0160 (Guntersville)
Fax - 256-650-5504 (Guntersville)

STRATEGY, DESIGN, MARKETING & SUPPORT BY

LEXBLOG