

The Truth  *About Health*

Merck Settles for \$58 Million with 30 States

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Merck and Co. Inc., has been ordered by the court to pay again. This time it will be \$58 million that will be divided among 30 states. The settlement came in a case that had alleged deceptive advertising practices for the drug VIOXX ® and the courts agreed.

VIOXX is a drug that Merck promoted as a pain reliever. It came on the market in 1999. At that time, a very aggressive television advertising campaign was launched and this triggered a demand for prescriptions before the full effects of the drug were known. When later research proved that VIOXX users had more than double the risk of heart attack and stroke, it was pulled from the market in 2004 amid a rash of lawsuits.

A total of 30 states and the District of Columbia have been involved in the 3-year investigation into Merck's practices. Allegations were then presented that Merck was deceptive in playing down the health risks of the drug, especially having to do with two deaths that occurred during the drug's trial period and the fact that it didn't work in treating or preventing the onset of Alzheimer's disease.

It was also discovered that Merck had paid ghostwriters to provide scientific articles about VIOXX. The work of these company-paid writers was then published under the names of academic scientists who had been paid to take credit for the articles!

Arkansas is one of the states that will share in the settlement to the tune of \$1,283,974.90. Perhaps a more meaningful result, in addition to the settlement to the 30 states, is that Merck's advertising is now going to come under greater scrutiny from the U.S Food and Drug Administration. "Today's judgment requires Merck to submit all "direct-to-consumer" television drug advertisements to the FDA, wait for approval and comply with FDA comments before running the advertisement," said Arkansas Attorney General Dustin McDaniel. In other words, the FDA will now have the authority to assess all Merck direct-to-consumer advertising for any new drugs the company plans to release. They will also be required to submit all television ads to the FDA for possible revision and acceptance before they are run on television.

The attorney generals of the prosecuting states had expressed concerns regarding the negative effect drug advertising can have on the population when it begins immediately with the introduction of the new drug. One of the results is that doctors don't have any opportunity to assess the drug and gain any experience with possible side effects before many of their patients are coming in to ask them about it and requesting a prescription.

In anticipating the settlement, Merck took a \$55 million first quarter pre-tax charge to offset the \$58 million they are now required to pay to the states.

Source: The State of Arkansas Attorney General's Office. "McDaniel Announces Merck Settlement Resolving a 3-year Investigation into the Company's Marketing of VIOXX. May 2008.

http://ag.arkansas.gov/newsroom/index.php?do:newsDetail=1&news_id=174 and Merck Co. Inc.
“Merck Resolves Investigations under State Consumer Protection Statutes Related to VIOXX.”
May 2008. http://www.merck.com/newsroom/press_releases/corporate/2008_0520.html