



# PAL News

The Prescription Access Litigation Project  
A Community Catalyst Initiative

## PAL Coalition Expanding to Include Organized Labor and Third Party Payers

In a move that signals organized labor's deepening concern about skyrocketing health care costs, the American Federation of State, County, and Municipal Employees (AFSCME) recently joined the PAL coalition, putting the clout of its 1.3 million members behind PAL's fight for fair drug pricing.

In addition, the union has signed on to PAL's two newest lawsuits—one targeting the makers of Augmentin, America's top-selling antibiotic, and the other targeting the two companies that make generic Adalat, a hypertension drug (*see Update on Litigation, page 3*). They're the latest of 14 sets of lawsuits PAL member groups have filed since early 2001 to put an end to the drug industry conduct that keeps pharmaceutical prices high, often by blocking the public's access to more affordable, generic drugs.

With a Medicare drug benefit presumed dead in Congress, at least for now, AFSCME's decision to join PAL is a clear sign that America's working families want action on soaring drug prices. Litigation is a critical tool in that fight, noted AFSCME President Gerald W. McEntee.

"The conduct of the drug companies in the cases AFSCME has joined epitomizes much of what is wrong with the prescription drug industry in the U.S.," said McEntee. "Multi-national pharmaceutical manufacturers are engaged in price gouging and endless manipulation of the patent laws. AFSCME has joined this litigation because we believe corporate America must be accountable to America's citizens," he said.

PAL coalition director Ahaviah Glaser welcomed AFSCME as a strong voice for working families in the fight for fair drug pricing.

"We are tremendously strengthened by AFSCME's decision to put its membership behind this effort. Unreasonably high drug costs are squeezing everyone, even those who have union-negotiated health benefits," she noted.

"And there's another important piece here. Groups that buy coverage for their members desperately want to cut drug costs. That's why one AFSCME health and welfare plan, District Council 47 in Philadelphia, also signed onto PAL. Their goal is high quality and cost-effective benefits for their members. And they know you can't get there without putting a lid on drug costs."

**PROFILE:**

### Morton Goldberg Attleboro, Massachusetts

The high cost of prescription drugs recently forced 68-year-old Morton Goldberg of Attleboro, Massachusetts out of the retirement he had planned for so many years.



After 30 years of working with patients as a respiratory therapist, Goldberg was looking forward to leaving the work world and slowing down a bit. That seemed a reasonable expectation for him and his wife, given that they've spent their lives working hard, paying taxes, and maintaining their home.

But they had never factored the high price of Morton's medications into that plan. They had always had health insurance through his company, and they assumed Medicare would be there when they needed it. What they didn't realize was that Medicare doesn't pay for most drugs. Retired seniors have to buy additional health insurance or pay out of pocket for their prescriptions once they're on Medicare.

Coming up against that reality was a rude awakening for the Goldbergs. The problem loomed larger every time they filled a prescription.

Some months into his retirement, Morton and his wife realized that without his company's insurance, they'd be faced with medical bills that they had difficulty paying for on their fixed budget. Morton suffers from diabetes and from a common condition called Barrett's Esophagus.

During the year that both he and his wife attempted to enjoy their retirement, the former health worker estimates that they paid nearly \$3,000 in health care costs out of pocket. Morton says, "It wasn't that we couldn't make our payments, it was that we couldn't understand why the payments had to be so high! With prices like that, it can't be easy for anyone to pay for



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## COALITION EXPANSION

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Some insurers are reaching the same conclusion. The Association for Health Center-Affiliated Health Plans (AHC-AHP) is a coalition of non-profit health plans that essentially finance care at community health center networks. AHCAHP also joined PAL this summer. Its member plans want good drug benefits for their subscribers, but they want to challenge the industry on pricing—not ask their subscribers to pay more.

“The health plans AHCAHP represents typically enroll moderate to lower-income individuals and families, and they know you can’t ask those consumers to pay more for coverage,” noted Glaser. “You’ve got to be realistic. Increased cost-sharing, higher deductibles and co-pays are just impossible for those folks.”

But that’s what’s happening. With insurance premiums nationwide set to rise as much as 20 percent next year, many employers are planning to take more out of paychecks to pay for employee health benefits. Nor is membership in a major union sufficient protection against rising out-of-pocket health

costs. CALPERS, the huge California state employee benefit program, says its premiums will go up about 25% next year. It’s a crisis that no one seems ready to deal with, said Glaser, neither Congress, the federal government, nor the industry.

“Instead, employers, insurers, and state and local governments are asking the health care consumer to fix the problem—by paying more,” she said. “That’s unacceptable. PAL wants to get at the root of the problem. The drug industry has got to be reined in, and we welcome AFSCME’s decision to join us in this fight.”

In addition to AFSCME, and its Philadelphia affiliate, District Council 47, three other PAL member groups are plaintiffs in the Augmentin lawsuit: the Tennessee Health Care Campaign, also a new member of PAL; the Congress of California Seniors; and Maine Consumers for Affordable Health Care.

AFSCME and AFSCME District Council 47 are joined by Health Care For All of Massachusetts in filing the suit against Elan and Biovail for their anti-competitive marketing of generic Adalat.

## PROFILE

continued from page 1

their drugs.”

When his former employer called and asked whether he could return to work, Morton knew he didn’t have a choice. He knew that if he went back to work, even on a part-time basis, both he and his wife would, again, be covered by his company’s insurance policy and a huge burden would be lifted off his family.

“I’ve worked hard all my life to help people with respiratory illnesses,” he said. “It only seemed fair that I should be able to retire at this age. But now, at the age of 68, I have been forced to go back to work, just to make sure that we have insurance to cover my drugs again.”

Back on the job now, Morton realizes that there are people in worse shape than him and he has started to learn more about ways to fight for more affordable drugs. He’s particularly angry about how U.S. drug companies inflate drug prices and prevent generics from entering the market—depriving people of a more affordable way to pay for the medicines they need. He says that if he and others aren’t careful, the drug companies could “make poor men” of them.

“It’s just not right,” he said, “I’ve worked my whole life to take care of people, to help them. People like us deserve better than this.”

## Prescription Access Litigation Project (PAL)

The Prescription Access Litigation (PAL) participants agree to work in a collaborative effort: (a) to achieve our shared mission of creating substantial economic value for consumers in order to remedy past unlawful practices of pharmaceutical companies; and (b) to achieve meaningful change in the way the pharmaceutical industry does business in order to increase access to affordable prescription and other drugs.

### PAL Participants:

#### Arizona

Arizona Citizen Action  
Senior Disabled Arizona Protest

#### California

California PIRG  
Congress of California Seniors  
Gray Panthers of Sacramento  
Legal Assistance to the Elderly  
San Francisco Senior Action Network

#### Colorado

Colorado PIRG  
Colorado Progressive Coalition

#### Connecticut

Connecticut Citizen Action Group

#### District of Columbia

Nonprofit Clinic Consortium

#### Florida

Florida Alliance for Retired Americans  
Human Services Coalition of  
Miami-Dade County

#### Idaho

Idaho Community Action Network  
Living Independence Network  
Corporation (Idaho)

#### Illinois

Campaign for Better Health Care  
Citizen Action Illinois

#### Indiana

United Senior Action of Indiana

#### Kansas

Kansas Association for the Medically  
Underserved

#### Maine

Consumers for Affordable Health Care  
Maine People’s Alliance

#### Maryland

Maryland Citizens’ Health Initiative

#### Massachusetts

Health Care For All  
Health Law Advocates

Lynn Health Task Force  
Massachusetts Breast Cancer Coalition  
Massachusetts PIRG  
Massachusetts Senior Action Council  
Women's Health Institute (Massachusetts)

**Michigan**  
Public Interest Research Group in Michigan

**Minnesota**  
Minnesota COACT  
Minnesota Senior Federation

**Mississippi**  
Mississippi Human Services Coalition

**Nebraska**  
Nebraska Appleseed

**New Hampshire**  
New Hampshire Citizens Alliance

**New Jersey**  
New Jersey Citizen Action  
New Jersey PIRG  
Public Interest Law Center of New Jersey

**New Mexico**  
Health Action New Mexico  
Senior Citizens' Law Office

**New York**  
Brooklyn-wide Interagency Council  
of the Aging  
CAIRE  
Citizen Action of New York  
JPAC for Older Adults  
Gay Men's Health Crisis  
Ithaca Breast Cancer Alliance  
Long Island Coalition for a  
National Health Plan  
Long Island Progressive Coalition  
Metro New York Health Care for All  
Campaign  
New York Statewide Senior Action Council  
Rockland County Senior Health Care  
Coalition  
Utica Citizens in Action

**North Carolina**  
North Carolina Fair Share  
North Carolina Health Access Coalition  
North Carolina PIRG

**Ohio**  
Universal Health Care Action Network of  
Ohio

**Oregon**  
Oregon Consumers League  
Oregon Health Action Campaign  
Oregon State Public Interest Research Group  
SEIU Local 503  
SEIU Local 49

**Pennsylvania**  
Action Alliance  
Citizens for Consumer Justice  
Consumer Health Coalition  
Mon Valley Unemployed Committee  
PennPIRG  
Pennsylvania Alliance for Retired Americans

**Rhode Island**  
Health Care Organizing Project  
Ocean State Action

**South Carolina**  
South Carolina Appleseed Legal Justice  
Center

**Tennessee**  
Tennessee Health Care Campaign

**Texas**  
Texas Alliance for Human Needs

**Utah**  
Utah Issues

**Vermont**  
Vermont PIRG

**Virginia**  
Virginia Poverty Law Center

**Washington**  
Washington Citizen Action  
Washington PIRG

**West Virginia**  
West Virginia Citizen Action Group

**Wisconsin**  
Wisconsin Citizen Action

**National organizations**  
AIDS Action (Washington D.C.)  
Alliance for Retired Americans  
American Federation of State County  
and Municipal Employees  
Association for Health Center-Affiliated  
Health Plans  
Boston Women's Health Book Collective  
Community Catalyst  
Medicare Rights Center  
National Health Law Program, Inc.

## PAL Participating law firms

The PAL plaintiffs are being represented by the following four firms:

Lieff, Cabraser, Heimann & Bernstein  
Milberg Weiss Bershad Hynes & Lerach  
Carey & Danis  
Hagens Berman

## For more information on PAL:

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## New Litigation Filed June 2002 through October 2002

### Adalat®

Adalat (nifedipine) is a prescription drug used to treat hypertension and other cardiac conditions. In July 2002, PAL attorneys filed suit in federal court on behalf of individuals and consumer advocacy groups against Elan and Biovail, two generic drug manufacturers. The complaint alleges that consumers of the 30mg and 60mg dosages of both the generic and brand name form of Adalat have been hurt by the collusion of Elan and Biovail to divide the market for the 30mg and 60mg between them in violation of federal and state antitrust laws.

Elan and Biovail are the only companies with FDA approval to market generic equivalents of Adalat but, instead of competing with one another in these two markets, Elan and Biovail have agreed that only Elan would market the 30mg dose of generic Adalat while only Biovail would market the 60mg version. Under this illegal agreement, Biovail paid Elan approximately \$45 million and in return Elan shared its profits with Biovail.

### Augmentin®

Augmentin is a brand name for the drug amoxicillin/clavulanate potassium and is used in the treatment of lower respiratory, middle ear, sinus, skin, and urinary tract infections. It has been manufactured and sold by Glaxosmithkline and Smithkline Beecham (GSK) since 1984. It is an extremely profitable prescription drug,



Wednesday, October 09, 2002

### IN THE COURTS

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AFSCME: Joins Lawsuits Against GSK, Generic

Officials at the American Federation of State, County and Municipal Employees plan to announce today that the union will join the Boston-based Prescription Access Litigation Project, a coalition of public interest groups

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GlaxoSmithKline and S  
filed fraudulent patent  
antibiotic Augmentin,  
alleges that Elan and

reportedly earning \$2.05 billion in annual sales worldwide in 2001.

In June 2002, PAL filed litigation on Augmentin alleging that GSK illegally extended its monopoly on Augmentin by applying to the FDA for patents that duplicated the original patent ("double patenting"), thereby keeping other companies from developing generic versions of Augmentin.

### Imodium®

Imodium (loperamide) is an over-the-counter drug widely used to treat diarrhea. It is manufactured by McNeil-PCC, the makers of such drugs as Tylenol and Motrin.

In the early nineties, just as the original patent on loperamide was set to expire, McNeil added an anti-flatulence agent, simethicone, to Imodium, naming the new formula Imodium Advanced. McNeil got four patents relating to this addition of simethicone.

In July 2002, in response to a court decision that the four patents were indeed invalid, PAL filed suit against McNeil. The lawsuit alleges that the drug company illegally manipulated the patent system to prevent generic competition with Imodium Advanced from entering the market.

The complaint alleges that McNeil did this in part by requesting patents for discoveries that were already common knowledge, or otherwise not theirs to patent. In August, 2002 the U.S. District Court for the Eastern District of Pennsylvania consolidated the various cases into one case and stayed the litigation until a decision by the federal circuit court in the underlying patent litigation appeal. In the meantime, counsel for the defendants has agreed to produce documents pre-

viously produced in the underlying patent litigation.

### Wellbutrin®

Wellbutrin is a drug used to treat depression. While the main ingredient of Wellbutrin has been off-patent for several years, its extended-release formula, Wellbutrin SR, is not.

In July 2002, PAL filed suit against Glaxo-SmithKline, maker of Wellbutrin and Wellbutrin SR. The lawsuits allege that Glaxo filed baseless patent lawsuits against generic drug companies in order to delay the manufacture and sale of generic versions of Wellbutrin SR. The result of this misuse of the patent system is that people suffering from depression were forced to pay higher prices for extended-release versions of a medication vital to their mental health. In 2001, worldwide sales of Wellbutrin generated revenues of over \$ 1.1 billion dollars for drug companies Glaxo-SmithKline and SmithKline Beecham.

## Update on Previously Filed Litigation

### Average Wholesale Price mega-lawsuit

**Background:** In December 2001, PAL filed a lawsuit in federal court in Massachusetts on behalf of fourteen consumer groups against numerous drug companies for manipulating the "average wholesale price" (AWP). This lawsuit alleges that there is an industry-wide scheme to defraud the U.S. health care consumer by charging inflated prices for critically-needed medications. Specifically, the lawsuit charges that since 1993 the companies

have engaged in "a pattern and practice" of selling drugs to physicians at prices well below the reimbursement cost charged to Medicare.

**Update:** In May 2002, PAL's lawsuit was consolidated with cases around the country and transferred to Judge Saris in the U.S. District Court in Massachusetts. On September 6, 2002, the plaintiffs filed a Master Consolidated Class Action Complaint detailing specific allegations against each of approximately twenty defendants. We anticipate that by early November, we should have motions to dismiss from most if not all of the defendants. The Court has set a hearing for January 2003 to hear oral argument on the defendants' anticipated motions to dismiss. In the interim, the plaintiffs' attorneys have met with defendants' counsel to discuss the production of various categories of industry documents, and discovery in the case is proceeding.

### BuSpar®

**Background:** BuSpar is an anti-anxiety drug widely prescribed to the elderly and people with chronic illnesses. In April 2001, PAL filed 6 lawsuits against Bristol-Myers Squibb alleging that the company has employed illegal tactics to artificially maintain a monopoly on the manufacturing, distribution and sales of BuSpar. The BuSpar litigation was consolidated in federal court in the Southern District of New York before Judge Koeltl.

**Update:** In February 2002, Judge Koeltl issued an opinion denying the defendants' motion to dismiss the case and allowing the case to proceed. The Koeltl opinion included strong language indicating that pharmaceutical companies may not file invalid secondary patents to extend their patent monopoly on a drug without fear of legal attack.

### Cipro®

**Background:** Cipro is the best selling antibiotic in the world and has been for eight consecutive years. In October 2001, PAL joined federal litigation against Bayer, the maker of Cipro, Barr Laboratories, and

## AP Associated Press

BOSTON (AP) — A labor union representing 1.4 million mostly government employees is throwing its weight behind a movement to fight high prescription drug costs with class-action lawsuits.

The American Federal of State, County and Municipal Employees planned to announce Wednesday that it has joined the Boston-based Prescription Access Litigation Project, a consortium of public interest groups that has filed 14 lawsuits against drug makers.

AFSCME has lobbied on drug price issues but this is its first foray into litigation.

"We feel it's time to open up a new front," said Steven Kreisberg, the union's associate director for research and collective bargaining. "Unfortunately, drug companies have been exceedingly greedy, and we feel maybe the best way to hit them is to hit them in the pocket book, which seems to be all they're paying attention to."

Drug M

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two other generic drug companies. The lawsuit alleges that Bayer Corporation has unlawfully agreed to pay three of its competitors – Barr Laboratories, Rugby, and Hoechst-Marion Roussel – a total of \$200 million to date to get them to abandon their efforts to bring cheaper generic versions of Cipro to the market, thereby manipulating both the price and supply of the drug. The Cipro litigation has been consolidated in the Eastern District of New York. Defendants have filed a motion to dismiss.

**Update:** PAL attorneys have opposed the defendants' motion to dismiss. A hearing on the matter is expected to be held in December or January. In the meantime, discovery has begun, and PAL lawyers are gathering documentation to support the allegations of the suit.

### Claritin®

**Background:** Claritin is both America's most widely prescribed and its most widely advertised allergy drug. In 2000, Claritin was the seventh-ranked prescription drug, with sales of approximately \$1.7 billion. On August 9, 2001, PAL filed a class action lawsuit in New Jersey state court alleging that Schering-Plough has engaged in a campaign of misrepresentation that has artificially increased the demand and price for the drug, a drug that Schering-Plough's own studies have shown to be effective for only 50% of its users.

**Update:** In June 2002, the court issued its decision granting the defendants' motion to dismiss. PAL attorneys filed a notice of appeal and, in September

2002, filed the appellate brief. PAL attorneys now await defendants' opposition. No date has yet been set for oral argument on the appeal.

### K-Dur®

**Background:** K-Dur is the fourth most frequently prescribed drug for the elderly. It is a potassium supplement that is often prescribed in conjunction with high blood pressure medication. In June 2001, PAL filed seven lawsuits in state and federal court alleging that Schering-Plough, Upsher-Smith Laboratories, and American Home Products illegally agreed to keep a generic version of K-Dur off the market, thereby depriving consumers of a less expensive generic version of the drug.

**Update:** PAL's K-Dur cases have been consolidated with other cases from around the country in the U.S. District Court in New Jersey before Judge Greenaway. In the consolidated case, PAL's attorneys have been appointed to two of four lead counsel positions on behalf of all indirect purchasers of K-Dur. On November 26, 2002, a hearing will be held on the motion to dismiss filed by the defendants. In the meantime, PAL attorneys are coordinating document review efforts in the case.

### Lupron®

**Background:** Lupron is a prescription drug that is manufactured, marketed, and sold by Abbott Laboratories, Takeda Chemical Industries, and TAP Pharmaceuticals (a wholly owned joint venture of Abbott and Takeda) as a treatment for prostate cancer.

In September 2001, PAL

filed a class action lawsuit in federal court in Illinois alleging that the defendants created and implemented a fraudulent marketing and sales scheme to substantially increase the sale of Lupron and reap unlawful profits at the expense of Medicare patients. The following month (October 2001) TAP pharmaceuticals agreed to settle the criminal case brought against it by the federal government, pleading guilty and agreeing to pay \$875 million. This was the largest health care fraud settlement in history.

**Update:** PAL's lawsuit was consolidated with others in the U.S. District Court, District of Massachusetts, before Judge Stearns. On September 25, 2002, Judge Stearns heard oral arguments on defendants' motion to dismiss. Based on the initial reaction from Judge Stearns, PAL is optimistic that the case will survive defendants' motions to dismiss. Attorneys for PAL, in coordination with other plaintiffs' attorneys, continue to review the hundreds of boxes of documents produced by the defendants.

### Neurontin®

**Background:** Neurontin is a widely prescribed anti-convulsant for the treatment of epilepsy. Neurontin has been extremely profitable for both Warner-Lambert and its parent company, Pfizer, generating in excess of \$1.3 billion in worldwide revenues in 2000.

In April 2002, PAL filed a federal class action lawsuit alleging that Warner and Pfizer listed illegitimate secondary patents on Neurontin in order to keep more affordable generic versions off the market. The lawsuit also

alleges that the companies filed baseless patent infringement lawsuits against potential generic competitors. As a result of these actions, consumers who take Neurontin have never had

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Health Policy As It Happens

### Daily Health Policy Report

Prescription Drugs | AFSCME Expected To Join Prescription  
[Oct 09, 2002]

Officials at the American Federation of State, County and Municipal Employees (AFSCME) announced on Oct. 9 that the union will join the Boston-based Prescription Access Litigation Project, a coalition of public interest groups that has filed 14 lawsuits nationwide, has lobbied on prescription drug price issues in the Prescription Access Litigation Project would mark the first time the project has signed on as a co-plaintiff involved with litigation. AFSCME has signed on as a co-plaintiff in the first lawsuit alleges that GlaxoSmithKline and other pharmaceutical companies have used patent extensions for the antibiotic Augmentin, and other generic drug companies, divided the market between themselves. AFSCME associate director for research and collective bargaining, said the union is to hit them in the pocket

## The Oregonian

Business News

### 2 Oregon unions join prescription drug fight

10/24/02  
JOB ROJAS-BURKE

Two local branches of the Service Employees International Union said drug companies have illegally inflated prices, adding to the burden of rising health costs borne by workers. "Many of our members have been victims," said Alice Dale, president of Portland-based Local 49. She spoke during a news conference staged with the Prescription Access Litigation Project, which has launched more than a dozen class-action lawsuits against drug companies since it formed last year. The lawsuits would force pharmaceutical drug-makers to pay damages to

ciate director for the Prescription Access Litigation Project. The Boston-based group has gained the support of 90 organizations in 34 states. It has hired four big-name law firms specializing in class-action litigation. And it is collaborating with state justice officials, including Oregon Attorney General Hardy Myers, who attended the news conference. "For state attorney generals, pharmaceutical pricing has become a first priority item," Myers said. Myers and counterparts in 29 states last year joined the consumer coalition

Drug companies have largely declined to comment on the ongoing litigation. In response to the Claritin lawsuit, Schering Plough has said all its ads met the requirements of the U.S. Food and Drug Administration. In the tamoxifen case, Barr Laboratories has said its agreement with AstraZeneca resulted in the introduction of a lower-cost generic alternative years before the expiration of the name-brand patent. Officials of the Oregon unions said they have not filed any lawsuits against drug companies. They said they are studying how pricing strategies have

the opportunity to buy lower cost generic versions of Neurontin and have been paying an artificially inflated price for the drug.

Update: In June 2002, PAL's lawsuit was consolidated with other cases around the country before Judge Lifland in the U.S. District Court in New Jersey. Defendants filed a motion to stay the case pending the resolution of the 12 underlying patent litigations. A hearing was held on the motion and the Court ordered a stay of action in the case until motions for summary judgment in the underlying patent actions are decided. In the meantime, the Court ordered the production of all underlying documents in the patent cases to plaintiffs' attorneys.

### **Relafen®**

Background: Relafen is a widely used anti-inflammatory drug. In February 2002, PAL filed a lawsuit in federal court in Massachusetts against GlaxoSmithKline and its predecessors (collectively "Glaxo") alleging that Glaxo fraudulently obtained a patent on Relafen in order to prevent a generic version of Relafen from coming to market. Internal documents from Glaxo reflect that Glaxo knew that a patent should not be issued. Three generic drug manufacturers later filed applications for a generic Relafen, certifying that the Relafen patent was invalid and unenforceable. In response, Glaxo sued the generic manu-

facturers.

In a non-jury trial on the suit, Federal District Court Judge Lindsay ruled in favor of the generic manufacturers finding that Glaxo made material misrepresentations to the Patent Office and that the Relafen patent was invalid and unenforceable. As a result of Glaxo's conduct, consumers have been forced to pay an artificially inflated price for Relafen for several years while a less expensive generic version of the drug was kept off the market.

Update: Glaxo lost its appeal of Judge Lindsay's decision when the Federal Circuit Court of Appeals also declared the Relafen patent invalid this summer. The stay on PAL's case will soon be lifted and allowed to proceed.

### **Remicade®**

Background: Remicade is an expensive prescription drug used in treating Crohn's disease and moderate to severe rheumatoid arthritis. Remicade is manufactured and marketed by Centocor, a wholly owned subsidiary of Johnson and Johnson.

In April 2002, PAL filed a lawsuit in state court in New Jersey alleging that Centocor and Johnson & Johnson illegally profited by overcharging Medicare and Medicare patients who take Remicade through gross overstatement of the Average Wholesale Price (AWP). The complaint further alleges

that Centocor has given providers discounts that reduce the actual amount that they pay for the drug while simultaneously encouraging those providers to charge Medicare and patients for the full price based on the AWP and pocket the difference.

Update: This PAL lawsuit which was filed in April 2002 in New Jersey has been consolidated with the Average Wholesale Price litigation before Judge Saris in U.S. District Court in Massachusetts.

### **Tamoxifen**

Background: Tamoxifen is the most commonly prescribed drug to treat women with breast cancer. In May 2001, PAL filed 8 lawsuits in state and federal courts against AstraZeneca, maker of Tamoxifen, and Barr Laboratories, sole distributor of a generic form of Tamoxifen. The lawsuits allege that AstraZeneca and Barr have illegally colluded to keep the price of Tamoxifen high. PAL's Tamoxifen cases were consolidated with other cases from around the country in the United States District Court for the Eastern District of New York before Judge Glasser.

Update: On September 27th, Judge Glasser of U.S. District Court for the Eastern District of NY held a hearing on the defendants' motion to dismiss. We are awaiting Judge Glasser's decision on their motion.



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