AIDS Activists File Antitrust Lawsuit Against HIV Drug Manufacturers

Pharma giants made agreements to keep prices high and block competition for generics, the civil lawsuit alleges.

May 14, 2019 By Trent Straube

Six AIDS activists are leading an antitrust lawsuit against several manufacturers of HIV drugs. The case, Peter Staley, et al. v. Gilead Sciences, Inc., et. al., was filed May 14 in the United States District Court for the Northern District of California.

The lawsuit also names drugmakers Bristol-Myers Squibb and the Johnson & Johnson subsidiary Janssen as defendants. Other activists who filed the antitrust complaint along with consumers include Gregg Gonsalves, Brenda Goodrow, Andrew Spieldenner, Robert Vázquez and Jason Walker, according to a press release from Hilliard & Shadowen, LLP, a Texas-based law firm that specializes in economic and social justice.

As a Washington Post headline explains it: "Gilead is accused of cutting anti-competitive deals to extend profit on HIV drug 'cocktails.'" Specifically, the complaint alleges that Gilead made agreements with partner companies requiring them to use Gilead's HIV med tenofovir in their tablets even when much cheaper generic versions could be used.

"This…sure looks like a per se illegal effort to extend the life of the patent," Mark A. Lemley, a Stanford Law School professor and a lead attorney in the litigation, told the newspaper. "And they're doing so in a market where there really is a public health crisis."

Gilead told the Post that it would not comment in detail while it studied the 135-page lawsuit. But spokesperson Sonia Choi added, "We have entered into partnerships with other companies with the goal of bringing lifesaving therapies to patients in need. Any assertion that we worked to delay availability of lifesaving medication to patients is absolutely false."

The lawsuit arrives a week after 44 states filed a lawsuit against 20 makers of generic drugs over alleged price fixing (for more on that, click here) and not quite two months after activists reported that the federal government—through the Centers for Disease Control and Prevention—owns the patents on Gilead's HIV prevention pill Truvada as PrEP, or pre-exposure prophylaxis (for more, click here).

In fact, as the Post reports, Gilead CEO Daniel O'Day is scheduled to appear on Capitol Hill tomorrow before members of the House Committee on Oversight and Reform to answer questions about the Truvada patent.

You can read the Staley v. Gilead lawsuit by clicking on the link provided in Staley's Facebook post above. The complaint's introduction reads, in part: "Gilead and its coconspirators have engaged in a long-running scheme to restrain competition with respect to some of the most important drugs used to treat Human Immunodeficiency Virus ("HIV" infection)…. Through an array of anticompetitive practices—including horizontal agreements constituting per se violations of the antitrust laws—Gilead has acquired and maintained a monopoly in the market for drugs that comprise the modern HIV treatment regimen known as 'combination antiretroviral therapy.'"

In related news, last week Gilead announced it was donating up to 2.4 million bottles of HIV prevention pills each year in the United States. For more about that, click here.

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