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\$31 million lawsuit against drug giant filed in Courtenay

By Steve Weatherbe - Business Examiner - Vancouver Island - January 07, 2009

A B.C. woman has is suing drug giant Purdue Pharma for \$31 million, claiming that she developed a "debilitating addiction" to the firm's controversial painkiller, Oxcontin.

Laurie Newton of Coquitlam's statement of claim was filed in the Courtenay Supreme Court registry in October. So far, Purdue Pharma has not filed a statement of defence.

In her claim, Newton applies for certification as a class action on behalf of all OxyContin users in B.C. The \$31 million would cover all these potential suits.

Acting for her is Calgary lawyer Clint Docken, who has filed similar claims on behalf of other OxyContin users in Alberta and Saskatchewan; another class action suit has been launched in Ontario, says Docken, where it is likely the cases would be merged and argued together.

According to Newton's claim OxyContin was developed as a painkiller for cancer patients and approved as such by the U.S. in 1995 and by Canada the next year. By 2001, according to the claim, it had earned Purdue \$2.8 billion in revenues and was being widely used as a painkiller.

OxyContin has also become a popular street drug. According to one Vancouver Island druggist who spoke with Business Examiner on the condition of anonymity, it is very effective when properly prescribed for pain. An opioid or narcotic, it works by blocking the body's pain receptors, but when used "recreationally" the blocking agents in OxyContin instead activate the body's production of pleasure-inducing chemicals, producing euphoria and also dependency.

The suit claims that the drug is twice as powerful as morphine and, coming in a time-release capsule, lasts twice as long as competing painkillers—up to 12 hours. The suit also claims that Purdue advertised the drug as being "less addictive, less subject to abuse, and less likely to produce withdrawal symptoms" than competing painkillers.

Despite these claims, the suit alleges, OxyContin can lead to addiction as patients develop a tolerance to its effects and seek to use it in higher doses, "despite harmful or negative consequences," including, in cases of overdoses, death.

Moreover, the suit claims, Purdue provides information with the drug's packaging enabling would-be abusers on how to thwart the time-release function of the tablets and get the full impact of the drug instantaneously.

In ignorance of the downside, the suit claims, Newton took the drug for back pain following surgery for scoliosis in 1995, as prescribed by her physician. She quickly increased her dosage, became addicted and "saw herself deteriorating physically, emotionally, intellectually and spiritually," become negligent of her relationships, unable to do her job, communicate effectively, or even stay awake during interviews or while driving.

When she began contemplating buying heroin on the street to replace OxyContin she decided to seek help through her employer's rehabilitation program.

The suit alleges that Purdue was negligent in failing to ensure the drug's safety and to properly alert doctors and patients as to its dangers.

It seeks on behalf of all British Columbian users of OxyContin: general damages of \$20 million; special damages of \$10 million; and punitive damages of \$1 million.

Alternatively, under a new concept called "waiver of tort," the claimants would seek all the profits from OxyContin.

Docken says in most class action suits, the main legal battle is fought over the certification for a class action. If the court allows a class action to proceed, defendants settle most of the time without going to trial.

Partly, says Docken, this is to avoid the adverse publicity that occurs from the court-ordered notices that appear in newspapers across the country to attract more plaintiffs and listing all the negative consequences being ascribed to the defendant's actions or products.

Purdue has already been convicted of "felony misbranding" for fraudulently marketing OxyContin as safer than its competitors and fined \$635 million by a U.S. court. The company also settled with its own insurer for \$200 million.

However, organizations set up to champion the cause of chronic pain sufferers have spoken up in defence of OxyContin. The Canadian Pain Society, for example, issued a statement in 2004 complaining about one-side news coverage and insisting that "the vast majority of people who use these medications properly greatly benefit from reduced pain."

Purdue spokesperson Randy Stefan said the company did not comment on lawsuits.

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