

## **Class action suits help keep corporations accountable**

**February 21, 2005**

**Attention, millions of Vioxx/COX-2 Inhibitor Users: Are you ready to give up your right of access to the civil justice system in the event that you are or might be injured from using Vioxx?**

**The myth makers are back again, led by President Bush, to convince the American public that "frivolous" lawsuits are responsible for stifling health-care innovation and growth. How very timely for Merck and other pharmaceutical companies to escape their culpability for their scandalous failures to protect the public's health by suppressing disclosure that some of its blockbuster drugs raise the risk of serious adverse drug reactions.**

**I have an alternative reform plan intended to reduce the need for class-action lawsuits, which also will reduce the costs of cleaning up a mass tort after the fact:**

- 1. Reform the drug approval process at the FDA before drugs with adverse reaction potential are prescribed to millions, and;**
- 2. Create a national pharmaceutical-user registry for notifying all users as soon as unacceptable adverse reactions are discovered and confirmed.**

**The recent news reports about failures in the FDA drug-approval process should not be lost on the trusting public. But there are glimmers of hope. Last December, I participated in the FDA's public hearing to consider approval of the testosterone patch for women. I extend congratulations to the FDA, its scientists and this assembled advisory committee for questioning Procter & Gamble (P&G) aggressively on the potential dangers of long-term side effects associated with this patch. The advisory committee was unanimous in denying approval for this product until P&G can provide evidence that users would not face an unacceptable level of risk. We should make the excellent work done on this case the template for future drug approval proceedings.**

**Secondly, since pharmaceutical companies now engage in direct-to-consumer marketing strategies, they should be required to conduct direct-to-consumer accountability. Therefore, I call for the creation of a national pharmaceutical user registry.**

**All informational materials distributed with filled prescriptions would include a Web site address or mailing address contact. This information would be printed on all product labels and package inserts. Consumers who volunteer would be notified directly with any developments or news on the products they use, especially adverse outcomes, when they become known.**

**Additionally, the swiftest and most direct way to contact all users of prescription**

**drugs is to utilize the extensive pharmacy database system. Yes, privacy issues are a challenge. We can resolve this obstacle if we really want to.**

**Tort reform supporters use the nuisance lawsuit anecdotes (e.g. luxury car owners with paint defects or psychics who lose their powers after an MRI) in order to convince legislators and the public that the real culprit is the class-action lawsuit and greedy lawyers. This simply ignores the cold, hard fact that misconduct by some pharmaceutical companies creates a need for the class-action phenomenon because they did not disclose dangers or deal in an early and timely manner with known risks.**

**The ghosts of mass torts past join the Vioxx present. Disasters like FenPhen, the Dalkon Shield IUD, the early birth control pill, silicone breast implants, etc., still haunt us all.**

**Health-care advocates keep fighting hard and with severely limited resources in order to protect the legal rights of average citizens to seek redress for serious injuries caused by faulty products that stayed on the market earning incredible profits for their makers while causing untold tragedies.**

**Corporate criminals should lose their public charters for failing to honor the central tenet of those charters by deceiving the public and putting citizens at risk of preventable harm.**

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