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Wyeth's Prempro Problems Galvanize Plaintiffs' Lawyers

By MILO GEYELIN

PLAINTIFFS' LAWYERS are tripping over each other to sue Wyeth on news that its Prempro hormone-replacement therapy heightens the risk of breast cancer, stroke and heart disease.

In Chicago, lawyer Kenneth B. Moll filed a suit yesterday in federal court there seeking compensation for thousands of women around the country who have allegedly been injured by the drug. The suit also seeks medical monitoring for an even larger group of women who used the drug, and an information campaign to warn them. "We've gotten hundreds of calls from people all around the world," said Mr. Moll.

He was beaten to the courthouse by Schiffrin & Barroway, a Bala Cynwyd, Pa., firm that filed a suit last Thursday in state court in Philadelphia seeking national class-action status. The suit was filed one day after the news that a federally funded study of hormone-replacement therapy was halted three years early because of the surprise results.

By Friday, Schiffrin & Barroway's Web page was directing potential claimants to "Sign Up and Join a Class Action" via an online application.

Also on Friday, Davis, Saperstein & Solomon in Teaneck, N.J., launched a wave of three-a-day radio spots in the New York area urging worried listeners to call its 800 number. "We're thinking of looking just at individual cases at this point because each and every one is different, but we're not ruling out a class action," says Sam Davis, a lawyer at the firm. More than 60 callers had phoned in by Monday, he says.

Prempro, a combination estrogen/progestin pill, is used by about six million women. As with other hormone-replacement therapies in use for 50 years, older women take it to protect against heart disease and osteoporosis and to treat the symptoms of menopause such as hot flashes, night sweats and vaginal dryness.

The federally funded Women's Health Initiative found that taking Prempro reduced the incidence of osteoporosis and colorectal cancer, but its dangers were found to outweigh those benefits. Women on the treatment had a 26% higher inci-

In on the Action

Law firms eager to represent patients following reports that Prempro heightens health risks are filing suits seeking:

- Warnings to women that they may be at risk
- Compensation for alleged injuries and deaths
- Medical monitoring for those who have taken the drug
- Compensation for the cost of the drug

dence of breast cancer, a 29% higher incidence of heart attacks, a 41% higher number of strokes and double the number of blood clots in the legs and veins, the study found. Still, the risk to individual women is still low. Among 10,000 women taking the treatment for one year, there would be seven more heart attacks and eight more breast cancers, according to the study.

Prempro might seem like a litigation bonanza, but some plaintiffs' lawyers are holding back until more is known about the number of injuries and how they may be connected to the drug, as well as the suitability of lumping potentially large numbers of disparate claimants into class actions. For that reason, some plaintiffs' lawyers say, injury and death claims are more likely to be pursued case by case, while suits seeking class-action status will concentrate on recovering the cost of medical monitoring, the money the women spent on Prempro and a warning program to alert women who used the treatment.

Many plaintiffs' lawyers, moreover, are wary at this stage of overdrawn comparisons between Prempro and the last big problem drug for Wyeth, which made one of the two drugs in the disastrous diet-pill combination known as fen-phen.

"I've been very negative in talking with other lawyers," says Paul Rheingold, a New York plaintiffs' lawyer who specializes in defective medical products and helped drive the fen-phen litigation. One problem, says Mr. Rheingold, is that heart

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Prempro Is Magnet for Lawsuits

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disease and breast cancer are not "signature illnesses" that can be directly traced to Prempro; by contrast, the damage to heart valves caused by fen-phen is more distinguishable. Another difference: Prempro was approved by the Food and Drug Administration, while the combination of drugs marketed by Wyeth in fen-phen was not.

And while national class actions have become increasingly popular with plaintiffs' lawyers, courts have become increasingly hostile to them. In a sweeping opinion last May, the influential Seventh U.S. Circuit Court of Appeals in Chicago threw out a national class action against Ford Motor Co. and Bridgestone/Firestone American Tire LLC over the diminished value of cars and tires because of rollovers in Explorers equipped with Firestones. The court cited too many individual variables among owners of the vehicles and tires to allow thousands of cases to proceed in a single class—to be decided in one megatrial. That decision, which is expected to be widely cited, is giving some class-action lawyers pause in this case.

"I'm always concerned when people

jump before they know what it's all about," says Philadelphia plaintiffs' lawyer Stephen A. Sheller. "The flurry of national class actions that, in light of existing jurisprudence, would never be certified is just lawyers acting like cowboys."

Wyeth, of course, dismisses the suits as unfounded. "Our view is that we don't believe there any legal or factual bases for any claims against Wyeth," says spokesman Lowell Weiner.

One attraction for plaintiffs' lawyers is that Wyeth, formerly American Home Products Corp., has paid out \$11.3 billion in settlements and claims stemming from the diet pills. Overall, the company has set aside \$13.2 billion to cover that litigation.

Wyeth is bracing for a Prempro onslaught. The company, based in Madison, N.J., has contacted six major law firms that focus on defending companies to make sure they'll be able to handle the load. "We've been on the phone ourselves," said Louis Hoynes, Wyeth's executive vice president and general counsel.

—Richard B. Schmitt contributed to this article.