

\$64 million deal on Paxil nears OK

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EDWARDSVILLE -- A judge said today that he will approve a \$64 million national class action settlement for parents who bought Paxil, once a blockbuster drug, for their teens who were struggling with depression.

The deal had been threatened by objections both over the terms of just what pharmaceutical giant GlaxoSmithKline would have to pay, as well as an award of attorneys fees totaling more than \$16 million to St. Louis powerhouse firm Korein Tillery and others.

A hearing Wednesday on the matter was stalled by squabbling among more than a dozen among lawyers from as far a field as California. National watchdog group Public Citizen also weighed in, saying the deal just wasn't fair.

Sales of Paxil specifically for minors totaled more than \$500 million. GlaxoSmithKline has repeatedly been accused of not revealing all that it knew about the drug, and the Food and Drug Administration has recommended against giving it to minors after some studies showed it increased suicidal tendencies in young people.

The settlement was tweaked slightly today and both Stephen Tillery, lead plaintiffs attorney in the proceeding, and GlaxoSmithKline agreed to new terms. After attorneys fees and the costs of publicizing and administrating the settlement are deducted, about \$44 million will be available for refunds, according to lawyers' estimates

The deal marks one of the bigger payouts recently in Madison County, whose reputation as a haven for plaintiff lawyers has cooled somewhat.

A key change is a provision that now anyone, without documentation, can ask to be reimbursed up to \$100 that they paid for Paxil. That figure had previously been only \$15 and it was only to come from a special reserve of \$300,000, not the entire fund.

People with documentation can still file for their full out of pocket expense.

How much anyone actually gets paid will depend on how many people file claims. One lawyer estimated that only a few million dollars would actually be claimed, but Tillery said there was no way to determine how many people would pursue a refund.

If not all of the money is claimed -- as is likely -- the remaining settlement funds will be returned to the drugmaker, a sore point for some lawyers and critics of the class action system. Tillery noted state and federal law typically deems that practice appropriate.

Attorneys from firms in Minnesota and California -- each with class action cases pending against GlaxoSmithKline over Paxil -- had questioned Tillery's deal until limit for

reimbursing undocumented claims was raised to \$100. Likewise, attorneys from national watchdog group said a \$15 limit would dissuade many people from even taking the time to fill out the necessary forms.

The path to settlement was also smoothed over when Tillery and his co-counsel Stephen Swedlow of Chicago agreed to share some of the fees with lawyers in the competing lawsuits in Minnesota and California, which had been stayed pending this settlement. The amounts that will be divvied up are private.

Associate Circuit Judge Ralph Mendelsohn, after all objections had been cleared up, said he would approve the deal once a new settlement order had been drafted to include the changes. Mendelsohn promised a final hearing on the matter would be mostly perfunctory.

The settlement does not end the many lawsuits nationwide pending against GlaxoSmithKline over injuries sustained by teens taking Paxil. Nor does the deal preclude insurance companies and the government from pursuing money paid to the drugmaker on behalf of people who were prescribed the drug.