

Lawyers argue over their Paxil split

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EDWARDSVILLE — Arguing among multiple law firms Wednesday delayed a proposed \$64 million national class action settlement over drugmaker GlaxoSmithKline's antidepressant Paxil.

Lawyers from as far as Washington came to the Madison County Courthouse to argue over the deal, which would reimburse out-of-pocket expenses to anyone who bought Paxil for a minor. The most contentious point has been the more than \$16 million in fees expected to be given to lawyers at the St. Louis powerhouse firm Korein Tillery and the Chicago firm of Swedlow and Associates.

The Food and Drug Administration has issued warnings against giving the medication to children because some studies found the drug increased suicidal tendencies while having questionable effects on mental illness. Numerous lawsuits around the country have claimed that GlaxoSmithKline failed to provide negative information about the drug and its effects.

Wednesday's hearing was supposed to decide the whether the settlement would be fair, but Associate Circuit Judge Ralph Mendelsohn instead spent most of the day listening to petitions from other attorneys who say the money should be split differently. Unveiled in late October, the settlement with the London-based pharmaceutical giant has drawn criticism, mostly from attorneys pursuing similar matters.

Three other class actions around the country — two in Minnesota and one in California — against the London-based pharmaceutical giant have been stalled because of the pending national settlement. Another local case, filed in St. Clair County, was booted to federal court.

After starting and stopping the hearing multiple times, Mendelsohn recessed the court for the day, in hopes that some of the attorneys could resolve their differences. Those negotiations were expected to continue into the evening and court was scheduled to resume this morning.

"It's the distribution of funds," said Swansea lawyer Tom Keefe, who represents attorneys in both California and Minnesota. "That's the issue."

Keefe himself had argued that his clients, who had separately pursued class actions against GlaxoSmithKline, had done considerable work and put pressure on the corporation before it decided to settle with Korein Tillery. Keefe said some of the attorneys' fees should be distributed to lawyers shut out of this settlement.

Keefe also questioned the fairness of the arrangement, because the \$64 million the drugmaker has promised to set aside for claims won't necessarily be paid out. Whatever portion of the money is unclaimed will revert to the corporation.

Lawyers from Public Citizen, the consumer advocacy group founded by Ralph Nader, also asked Mendelsohn that they be allowed to speak at the hearing on the settlement's fairness.

Though the deal was crafted months ago — and some \$2.4 million has been spent to publicize the class settlement — nothing will be final without Mendelsohn's approval.

Dwight Davis, an Atlanta attorney who represents the drug company, and Stephen Tillery of Korein Tillery, which originally filed the lawsuit in 2004, both said the settlement represents the best option for people who want their money back. Depending on how many claims are filed, people who bought the drug would be reimbursed all of their out-of-pocket costs.

The deal would not preclude anyone with personal injury claims from suing the drug company. And insurers also could file suit for their portion of prescription costs.

Only 19 people formally opted out of the settlement.