

[발사르탄소송] NDMA 함유 발사르탄 중국 원료회사와 완제품 회사에 대해 사기

(FRAUD) 책임을 주장하는 미국소장 내용



미국 소장에서 포함된 원료회사 및 완제품 회사의 사기(FRAUD) 행위 주장은 우리에게 다소 낯선 내용입니다. 무슨 이유로 사기라는 주장까지 한 것일까요? 그 이유를 살펴보고 참고자료로 미국소장 중 해당 부분을 인용합니다.

요지를 정리하면, 중국 원료회사 Zhejiang Huahai 사에서 2012년 생산공정을 변경하면서 그때부터 NDMA 생성 가능성과 혼입오염 가능성을 알고 있었으나, 고의적으로(willfully) 그 사실을 알리지 않고 은폐하면서 오리지널제품 Diovan과 효능, 안전성 등 측면에서 동등하다고 소비자를 속여 제네릭 제품을 구매하게 하였는데, 만약 소비자가 문제 제품에

2급 발암가능물질 NDMA의 오염 사실을 알았다면 NDMA 없는 오리지널제품 뿐만 아니라 다수의 제네릭 제품이 있는 상황에서 굳이 NDMA 함유 제네릭 제품을 구매하지 않았을 것이므로 원료회사 제지양화하이 등의 행위는 사기(fraud)에 해당한다는 주장입니다.

- 미국 소장 중 FRAUD 부분 인용 -

123. Defendants affirmatively misrepresented material facts including, inter alia, that their Valsartan products were therapeutically equivalent to brand Diovan and/or complied with cGMPs and/or were not adulterated.

124. Defendants failed to disclose material facts to render non-misleading its statements about, inter alia, that their Valsartan products were not therapeutically equivalent to brand Diovan and/or did not comply with cGMPs and/or were adulterated.

125. Defendants' actions had the effect of fraudulently inducing customers to pay in whole or in part for Defendants' Valsartan product – product which Defendants knew or should have known was not therapeutically equivalent to brand Diovan and/or did not comply with GMPs and/or were adulterated. Plaintiff and other Class Members would not have paid some or all of the amounts they paid for Defendants' Valsartan product had they known the truth.

126. Defendants knew, or reasonably should have known, that their misrepresentations were materially false or misleading, or that the omission of material facts rendered such representations false or misleading.

127. Defendants also knew, or had reason to know, that their misrepresentations and omissions would induce Class members to pay for some or all of the cost of Defendants' Valsartan products.

128. Defendants' misrepresentations and omissions were material.

129. To the extent applicable, Defendants intended their misrepresentations and omissions to induce Plaintiff and other Class Members to pay for Defendants' Valsartan product.

130. But for these misrepresentations and omissions, Plaintiff and other Class Members would have not have paid for Defendants' Valsartan product.

발사르탄, 유해물질, 하자담보, 손해배상, 특별손해, 제조물책임, 관리책임, 민형사소송

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