

July 20, 2009

Our Access to Justice Campaign is fighting to hold drug companies responsible for lying about their products! **We've just filed an *amicus* brief in the Second Circuit Court of Appeals in the Zyprexa litigation, *UFCW Local 1776 v. Eli Lilly*, opposing arguments that class actions can't be certified against drug companies for hiding their drugs' side effects and that juries can't understand drug companies' pricing decisions.**

The plaintiffs in the Zyprexa cases allege that Lilly misrepresented Zyprexa's benefits and hid evidence that the drug causes diabetes, hyperglycemia and substantial weight gain -- all while promoting Zyprexa for off-label use, encouraging physicians to prescribe the drug for far less serious conditions than it was approved to treat. Thousands of patients were injured as a result of Lilly's fraud, and the company earned billions of dollars in profit by driving up demand and charging a premium for its drug.

Lilly has now been sued by many individual patient-plaintiffs and by a class of third-party payors (including union trust funds, among others) who overpaid for Zyprexa. Last year, Judge Jack Weinstein in the Eastern District of New York certified a third-party payor class and denied Lilly's motion for summary judgment on several of the class's claims. Lilly appealed both orders to the Second Circuit Court of Appeals.

Our *amicus* brief -- authored by Elizabeth Cabraser of Lieff, Cabraser, Heimann & Bernstein, and joined by the American Association for Justice -- explains that the uniform nature of Lilly's fraud makes this case and others like it particularly well suited for class treatment. Our brief powerfully rebuts outrageous arguments by Lilly's amici that drug companies' pricing decisions are too complex for a jury to understand, and that the potential for recovering attorneys' fees and statutory damages makes a class action unnecessary. As we've proven repeatedly in striking down class action bans in mandatory arbitration clauses, class actions are often the only way to make sure that big companies pay the full price for their fraud.

To read Public Justice's *amicus* brief, [click here](#).

We thank Elizabeth Cabraser for writing this outstanding brief, as well as Public Justice Staff Attorney Claire Prestel and Jeff White of the Center for Constitutional Litigation for their assistance.

We thank you, too, for supporting Public Justice and our Access to Justice Campaign. To make a tax-deductible gift in support of this work, please [click here](#).

Thanks for your interest, dedication, and service. Keep fighting!

Arthur Bryant



Public Justice
& the Public Justice Foundation

P.S. Please forward this email to friends and colleagues who'd be interested. (When you do so, delete the information below about unsubscribing, or they could unsubscribe you.) To make a special contribution, renew your membership, or join us, please [click here](#).

email: abryant@publicjustice.net
voice: 510-622-8150
web: <http://www.publicjustice.net>

Public Justice · 1825 K Street, NW, Suite 200 · Washington · DC · 20006