

MEDIA RELEASE

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Judgement agrees that pharmacists have a right to be paid

The Pharmacy Guild of New Zealand Inc has welcomed a court decision in the case between GlaxoSmithKline NZ Ltd (GSK) and Ian Johnson Pharmacy Ltd (IJPL) over the recall of suspected faulty medication. In the case, the pharmacy sought reasonable payment for services provided on request.

The case before Judge GA Andree Wiltens in the District Court at Manukau has found that a reasonable and proper price should have been paid to IJPL for the services rendered in the event of the recall.

The case centres on a recall of the Marevan brand of the blood thinning medicine, warfarin, in January this year. GSK had asked every community pharmacy to undertake a consumer level recall with all patients who had the medication dispensed over a period from November 2009 to January 2010.

Guild President, Karen Crisp, says the legal action taken by IJPL, and supported by the Guild, has been successful in establishing a precedent that pharmacists can reasonably expect to be paid when they are asked to provide services.

Ms Crisp says the judge has clearly stated the principle that an ethical or moral duty does not negate any right to be paid for the time and effort of doing the work. "This is an important principle affecting all people working in the health system."

"The necessity or desirability of complying with an ethical or moral obligation cannot be the basis for disentitling a claim for compensation for the time/effort involved in such compliance," the judgement said.

Ms Crisp says the other GSK argument that there was nothing in the arrangement or contract between IJPL and GSK that entitled the pharmacy to compensation was also lost by the company.

"The contractual obligations in place between GSK, PWR and IJPL quite obviously do not deal with the situation I am tasked to resolve. I was quite satisfied that the arrangements are deficient in that regard – that is why IJPL was forced to bring the claim," the judgement said.

Judge Wiltens concluded that a written and oral contract existed between the two parties into which a term as to reasonable and proper payment for the services sought to be provided should properly be implied. The oral component was the statement made to the Guild who contacted GSK on behalf of members.

"The need for a recall stemmed, wholly and only, from GSK. IJPL was invited to and did respond to what was in effect GSK's recall. If IJPL had not responded, then it could not pursue any action against GSK. However, it did respond, as requested, and while not 'doing GSK's work', IJPL was doing work necessitated by GSK's error," the judgement said.

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Notes:

- The Pharmacy Guild of New Zealand (Inc) is a national membership organisation representing community pharmacy owners. We provide leadership on all issues affecting the sector and we advocate for the business interests of community pharmacy.
- For additional information on the Guild and community pharmacy please go to www.pgnz.org.nz.