

MEDIA RELEASE

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No GSK appeal is good news, says the Guild

The Pharmacy Guild of New Zealand has welcomed a decision by GlaxoSmithKline New Zealand Ltd (GSK) not to pursue an appeal in the High Court over last month's District Court decision about a faulty medicines recall.

GSK said in a statement this week it had decided not to appeal the judgement by Judge GA Andree Wiltens in the Manukau District Court on 26 September on the compensation case relating to costs incurred by Ian Johnson Pharmacy Ltd during the Marevan (warfarin) recall undertaken in January 2010.

Guild Chief Executive, Annabel Young, says the GSK decision is good news for community pharmacy. "It has been a difficult process but the case had to be taken. We now have a court judgement that underlines the right of pharmacies to be paid for the work that they do."

GSK had asked every community pharmacy to undertake a consumer level recall with all patients who had Marevan dispensed over a period from November 2009 to January 2010 but had resisted compensating the pharmacists for the time and resources expended.

Ms Young says community pharmacy has now achieved a ruling that makes three clear points:

- "The necessity or desirability of complying with an ethical or moral obligation cannot be a basis for disentitling a claim for compensation for the time/effort involved in such compliance." (Page 16 of the ruling)
- On the contract claim: "...the facsimile constituted a contract between the parties into which a term as to reasonable and proper payment for the services sought to be provided should be properly implied...the discussion regarding payment was to be dealt with at a later time. Had there been no intention to pay, one might have expected an immediate answer to that effect" (that is when contacted by the Guild). (Page 18)
- Where there is a) a request to provide services, and b) free acceptance of the services and c) a benefit from the provision of the services, then a claim for payment can be legitimately made. (Pages 18-19)

The decision not to appeal means community pharmacists could now move forward on the basis of the judgement.

"We now look forward to Medsafe designing a process for consumer level medicines recalls that incorporates the need to pay pharmacists when they are asked to perform additional work."

Ms Young says no individual pharmacist could have afforded to take this case on their own and it once again proves the value of having the Guild represent the interests of community pharmacy.

As a result of the judgement, she expects pharmacists to render reasonable invoices to the various companies that have asked for medicines recall services.

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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.