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Takeda agrees to \$2.4B settlement

By **JACK SILVERSTEIN**
LAW BULLETIN STAFF WRITER

A Japanese pharmaceutical company has agreed to pay up to \$2.4 billion to 9,000 plaintiffs who developed bladder cancer after taking the company's diabetes drug.

In a deal reached Tuesday, Takeda Pharmaceutical Co., which has its U.S. headquarters in Deerfield, will pay \$2.37 billion if 95 percent of plaintiffs agree to settle their individual claims against the company. That number increases to \$2.4 billion if 97 percent or more agree to settle.

It is the largest settlement amount ever for a drug remaining on the market, said plaintiff co-lead counsel [Peter J. Flowers](#) of Meyers & Flowers.

"The settlement is a very good step for Takeda to take responsibility for the thousands of people that they've irreparably harmed," said Flowers, whose firm was one of four representing the Cook County plaintiffs.

Nearly 4,000 separate complaints were filed in Cook County Circuit Court against Takeda. About 4,000 more were filed in Louisiana, about 800 in Florida and a smattering of others filed in seven more states.

Takeda's diabetes drug Actos has earned \$16 billion in global sales since going on the market in 1999, Meyers & Flowers said in a statement.

In June 2011, the Food and Drug Administration issued a warning about a possible risk of bladder cancer for people who took the drug for a year or longer. The warning followed several studies into a possible link between bladder cancer and the drug, including some internal studies by Takeda.

By August 2011, the FDA issued a new warning about the drug, stating that people taking Actos "may be at increased risk for developing bladder cancer," Flowers said.

That same year, the first lawsuits were filed in Cook County and assigned to Circuit Judge [Deborah M. Dooling](#), along with other suits in Louisiana federal court.



Peter J. Flowers



Tor A. Hoerman

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Flowers was one of four co-lead counsels picked by Dooling to work toward a settlement on behalf of all the Cook County litigants.

Joining Flowers as co-lead counsel for the plaintiffs were [Tor A. Hoerman](#) of Tor Hoerman Law LLC; [Allen N. Schwartz](#) of Kralovec, Jambois & Schwartz; and Tommy Fibich of Fibich, Leebron, Copeland, Briggs & Josephson in Houston.

“It’s going to do a lot of good for a lot of people that have either suffered some cancer or had a family member suffer from cancer,” Hoerman said. “I am glad that Takeda finally stepped forward and did the right thing after many years of protracted litigation.”

Flowers said that the death rate was between 8 and 10 percent among the 9,000 cancer cases.

Other Actos users underwent multiple surgeries, chemotherapy, bladder removal and, after their cancer spread, kidney removal.

The next trial in Cook County was scheduled for next month, with four more scheduled in August.

Due to a confidentiality agreement, Flowers would not say how much money the plaintiff requested or how much the defense initially offered.

He said he looked at “probably 20” pharmaceutical settlements in the past 15 years to determine that this is the largest settlement ever in the U.S. for a drug still on the market.

The award for any particular plaintiff’s case will be determined on a case-by-case basis, measuring factors such as the extent of the person’s injury, the amount of the drug the person took and whether or not the person was a smoker. Plaintiffs have until July 13 to opt into the settlement.

Flowers said that some plaintiffs could get more than \$1 million.

Though the settlement occurred privately between the parties without a mediator and does not require judicial approval, Flowers said that Dooling was “very influential” in the process.

Representing Takeda was [Sherry A. Knutson](#) of Sidley, Austin LLP. Knutson declined to comment.

Other Illinois attorneys also representing the plaintiffs were [Craig D. Brown](#), [Frank Vincent Cesarone](#) and [Ryan P. Theriault](#) of Meyers & Flowers; [Chad A. Finley](#) and [Eric M. Terry](#) of Tor Hoerman Law; and [Craig P. Mannarino](#) of Kralovec, Jambois & Schwartz.

The case is *In Re Actos Litigation*, 11 L 10011.

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