

# The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES

## CVS Sanctioned, Told to Comply With Discovery

BY DANIELLE N. RODIER

*Of the Legal Staff*

CVS Pharmacy has been sanctioned \$5,000 by a Philadelphia Common Pleas Court judge for failing to meet discovery deadlines.

Philadelphia attorney David T. Shulick filed the motion to compel on behalf of his client, Glen Patterson. Patterson alleges that the pharmacy's negligence led to the development of a severe blood clot in this left leg, which could require the limb to be removed.

Philadelphia Common Pleas Court Judge Jacqueline F. Allen signed an order compelling CVS to produce several pieces of evidence, including information related to a CVS employee, the chain's computerized prescription-filling system and profitability of the Bensalem store where Patterson filled his prescription.

Allen also sanctioned CVS \$5,000 for "gross violations" of the Rules of Civil Procedure and ordered CVS to comply with the discovery demands within 10 days.

CVS is represented by K. Reed Haywood of McKissock & Hoffman, who did not return phone calls by press time.

According to the complaint, Patterson v. CVS Pharmacy, Patterson began taking Coumadin, an anti-clotting drug, in 1996 after a football injury. He was diagnosed with a predisposition to developing blood clots, the complaint said.

Patterson had filled his prescription for the drug monthly at the CVS pharmacy on Hulmeville Road in Bensalem for years, the complaint said. He picked up his monthly refill on May 29, 2001, the complaint said, and noticed a difference in the shape of the pill. The complaint said he credited the change with a "new pill format," as the label on the bottle said "Coumadin."

Throughout the next three weeks, the complaint said, Patterson began feeling lethargic, and his left leg became swollen and painful.

On June 22, 2001, after a doctor's visit, Patterson's physician informed him by voicemail that the level of Coumadin in his blood was 1.0 rather than what it should have been, about 2.0 or 3.0, the complaint said.

---

*The plaintiff picked up his monthly refill on May 29, 2001, the complaint said, and noticed a difference in the shape of the pill.*

---

When Patterson heard the message after arriving home, the complaint said, he took two of the pills instead of one, as he believed they were Coumadin. Patterson had still not heard back from his physician by the next day, at which time he was "functioning like a zombie," the complaint said.

By the second day, Patterson suspected the pills might not actually have been Coumadin and took one of the pills to the CVS pharmacy for an answer, the complaint said. The pharmacist informed him that the pill was clonazepam, which is used to treat anxiety, the complaint said.

"Patterson immediately panicked realizing what had been occurring and realizing that all of the signs he was experiencing were blood clot warning signs that he had first experienced during the 1990s

before he was put on Coumadin therapy," the complaint said.

Patterson left another message for his doctor and went to the Frankford-Bucks County Hospital, where a blood test revealed that his left leg contained a blood clot, the complaint said.

He was later admitted to St. Mary's Hospital, the complaint said, where he was told to give himself injections of Lovenox two times a day and to remain in bed for seven to 10 days with his leg elevated.

By July 5, 2001, a second trip to Frankford-Bucks revealed that the clot was still present and had done substantial damage to Patterson's left leg, the complaint said.

Photographs submitted with the complaint showed severe internal and external tissue damage as a result of the blood clot, the complaint said. In addition, the complaint said, Patterson is unable to participate in organized sports, will be prevented from doing so in the foreseeable future, suffers from anxiety and depression, and faces the possibility of loss of his left leg.

Patterson filed suit against CVS under theories of professional, corporate and gross negligence, breach of fiduciary duty and consumer fraud.

Patterson later amended his complaint to compel discovery on the part of CVS, claiming that he had been "forced to repeatedly file discovery motions to seek compliance with routine discovery notices issued to the defendant."

(Copies of the four-page order in Patterson v. CVS Pharmacy, PICS NO. 03-0040, are available from The Legal Intelligencer. Please refer to the order form on Page 7.) •

# MCKISSOCK & HOFFMAN

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW  
1700 MARKET STREET  
SUITE 3000  
PHILADELPHIA, PENNSYLVANIA 19103-3930

PHONE: (215) 246-2100  
FAX: (215) 246-2144

WWW.MCKHOF.COM

25 CHESTNUT STREET  
SUITE 108  
HADDONFIELD, NJ 08033  
(856) 429-7200  
FAX: (856) 429-0099

16 NORTH FRANKLIN STREET  
SUITE 300  
DOYLESTOWN, PA 18901  
(215) 345-4501  
FAX: (215) 345-4503

105 NORTH FRONT STREET  
SUITE 205  
HARRISBURG, PA 17101  
(717) 234-0103  
FAX: (717) 234-1350

105 E EVANS STREET, SUITE D  
P.O. BOX 3086  
WEST CHESTER, PA 19381  
(610) 738-8850  
FAX: (610) 738-9121

K. REED HAYWOOD  
DIRECT DIAL (215) 246-2158  
Email rhaywood@mckhof.com

January 28, 2003

## VIA HAND DELIVERY

David T. Shulick, Esquire  
1635 Market Street, 19<sup>th</sup> Floor  
Philadelphia, PA 19103

Re: **Glen Patterson vs. CVS Pharmacy**  
**CCP, Philadelphia County, Pa.**  
**August 2001 Term, No. 000668**

Dear Mr. Shulick:

Enclosed please find documents responsive to Judge Allen's January 7, 2003 order.  
Specifically, CVS responds as follows:

RISK MANAGEMENT DEPARTMENT

THE BANK OF NEW YORK (DELAWARE)  $\frac{62-35}{311}$

10869

\*Five Thousand And 00/100 Dollars

DATE  
1/9/2003

AMOUNT  
\$5,000.00

David T. Shulick, Esq.  
Law office of David T. Shulick  
1518 Market Street, Suite 1100  
Philadelphia, PA 19102

MANUAL COUNTER SIGNATURE OVER \$5,000.00

*Carol A. DeHaven*