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Simpson Thacher Obtains Complete Dismissal With Prejudice of Lipitor “Pay for Delay” Claims Against Daiichi Sankyo

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The Simpson Thacher litigation team defending Japanese pharmaceutical company Daiichi Sankyo and its U.S. subsidiary won a complete dismissal with prejudice of all allegations against both Daiichi Sankyo entities in the Lipitor “pay for delay” antitrust MDL pending before Judge Sheridan in the District of New Jersey. The cases allege that Ranbaxy (now majority owned by Daiichi Sankyo) and Pfizer conspired to delay the entry of generic Lipitor for more than 20 months after the Lipitor active ingredient patent expired, and conspired to fix the price of the generic version at just slightly less than Pfizer's price during the exclusivity period for the first generic filer. Lipitor is the best selling drug in the history of pharmaceuticals. The motions to dismiss asserted that no viable cause of action meeting the Twombly pleading standard had been asserted against Daiichi Sankyo for conduct by Ranbaxy notwithstanding Daiichi Sankyo's majority ownership of Ranbaxy. Noah Leibowitz argued the motions to dismiss in July and Judge Sheridan read his decision granting the motions from the bench on November 15. In addition to Mr. Leibowitz, the Simpson Thacher team representing Daiichi Sankyo in this matter includes Hank Gutman, Buzz Frahn, Brian McCloskey and Kassie Helm.

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