



Vol.12 No. 8

October 15, 2004

## FBI ARRESTS DRUG INJURY CLAIMANTS FOR FILING FALSE CLAIMS

by  
David Price

Early in September, the Justice Department and the Federal Bureau of Investigation announced the arrests of twelve individuals in Jefferson County, Mississippi for making fraudulent claims of injury. The individuals allegedly sought and received \$250,000 apiece from a settlement fund based on false claims that they had been injured by a prescription drug which they had never taken. The arrests suggest a new willingness by federal law enforcement authorities to police the filing of abusive claims in civil cases.

News reports indicated that the arrestees forged pharmacy documents purporting to show they had taken the drug Pondimin (the "fen" in the appetite-suppressant drug combination "fen-phen"). Wyeth, the maker of the drug, had taken it off the market in 1997 after the emergence of evidence that it led to heart valve damage in some patients. In the wave of tort litigation that followed, Wyeth entered into a \$400 million settlement in Jefferson County to address approximately 800 claims. It was this fund that the twelve arrestees allegedly targeted. One of the arrested claimants reportedly purchased a Jaguar with her settlement money.

The phenomenon of baseless claims in mass tort litigation has become a significant issue. In other fen-phen litigation that Wyeth settled with a \$3.75 billion settlement trust, out of 72,000 total claims pending against the trust, 29,000 have been found to be baseless. The trust has also sued two cardiologists — one of whom served as an expert in support of roughly 2,500 claims — for allegedly giving supporting false claims. Widespread fraud is also suspected in asbestos litigation. For example, a recent article in the journal *Academic Radiology* described a study in which 492 chest radiographs, previously examined by radiologists engaged by plaintiffs' lawyers in asbestos litigation, were re-examined by independent radiologists. The independent radiologists found abnormalities in only 4.5% of cases, versus findings of abnormalities in 96% of cases by the plaintiffs' experts.

The recent arrests indicate that in cases of suspected large-scale litigation fraud, it may be worthwhile for counsel to approach state or federal prosecuting authorities — along with bar disciplinary authorities or medical peer review bodies, as the facts and circumstances may suggest.

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**David Price** is Senior Vice President for Legal Affairs of the Washington Legal Foundation. WLF's comments can be viewed on its web site, <http://www.wlf.org>.

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