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AG MARSHALL URGES ELIGIBLE CONSUMERS TO SUBMIT CLAIMS FOR PROVIGIL SETTLEMENT

Claims Must be Filed by Wednesday, June 25

(MONTGOMERY)--Attorney General Steven T. Marshall urges Alabama consumers to file claims or make their views known on a settlement involving the drug Provigil by the new deadline, which is June 25, 2017.

The \$125 million multistate settlement provides \$35 million for distribution to consumers who paid for the brand-name drug Provigil or generic modafinil from June 24, 2006, to March 31, 2012. A previous deadline had been set for consumers to respond by April 13, but the court has granted the states' request and extended the time to file claims or express views on the settlement until June 25, 2017.

Provigil, which includes the active ingredient modafinil, is approved by the federal Food and Drug Administration (FDA) to improve wakefulness in adult patients with excessive sleepiness associated with narcolepsy, obstructive sleep apnea and shift work disorder.

In August 2016, Alabama and 47 other state attorneys general announced the settlement with biopharmaceutical company Cephalon and its affiliated companies, including Teva Pharmaceutical Industries, Teva Pharmaceuticals USA and Barr Laboratories. The settlement resolved allegations that the companies engaged in unlawful "pay-for-delay" anticompetitive conduct involving the patent exclusivity for Provigil.

"I am pleased that this settlement will help to compensate consumers for many millions of dollars that they should not have had to pay for Provigil," said Attorney General Marshall. "These overcharges resulted from misrepresentations and inappropriate manipulations of federal patent regulations by Cephalon to delay the availability of generic versions of the drug."

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The settlement included \$35 million to compensate eligible consumers who may have been harmed by the alleged conduct. While the claims period has been advertised for several months, many consumers may not realize that the claims period will close and that the deadline is nearing.

Eligible consumers are those who reside in the District of Columbia or any state other than California or Louisiana, and who paid for brand-name Provigil or generic modafinil from June 24, 2006, to March 31, 2012. It is not yet known how much Alabama consumers are eligible to receive in restitution payments through this settlement.

For more information or to obtain a claim form, consumers may visit www.StateAGProvigilSettlement.com or call 1-877-236-1413.

"Pay for delay" conduct occurs when a branded drug company seeks to unlawfully maintain its exclusive rights by paying a would-be generic competitor to delay entry into the market and thus keep prices at artificially high levels.

As the patent for Provigil neared expiration in 2001, the states alleged that Cephalon intentionally misled the U.S. Patent & Trademark Office (PTO) in order to secure an additional patent for the purpose of preventing competition. By misleading the PTO, Cephalon was able to obtain FDA exclusivity for modafinil until June 2006, and extend patent exclusivity until April 2012. A court subsequently deemed the additional patent invalid and unenforceable, but prior to that ruling, Cephalon was able to delay generic competition for over a decade by filing patent infringement lawsuits against all potential generic competitors.

Cephalon later settled lawsuits with its generic competitors in 2005 and early 2006 by paying them to delay the sale of their generic versions of Provigil until at least April 2012 – six years after expiration of FDA exclusivity but three years before patent expiration. The delayed entry cost consumers, states and others hundreds of millions more for Provigil than if generic versions of the drug had launched by early 2006, as expected.