

Pharmacy Liability – Ambien

SERVICES

Product Liability

August 27, 2018

A defense verdict was obtained in a pharmacy liability lawsuit in Hillsborough Superior Court, Manchester, New Hampshire.

In the lawsuit, the plaintiff brought suit against the defendant pharmacist alleging that the pharmacist had improperly dispensed Ambien, a prescription sleep medication. The plaintiff alleged that the pharmacist improperly labeled the prescription bottle with an instruction to “take in the afternoon” in violation of industry standards. As a result, the plaintiff testified that due to the improper instructions and warnings on the prescription medication, he used the sleep medication while operating a motor vehicle and lost consciousness resulting in an accident causing a traumatic brain injury.

In the lawsuit, it was stipulated that the instructions on the prescription medication did not comply with accepted industry standards and practices. The primary defense was that despite instructions on the prescription label advising the patient to take Ambien “in the afternoon,” the plaintiff was aware that the prescription should be taken only in the evening based upon instructions provided by his treating neurologist. Medical records indicated that the plaintiff’s treating neurologist had informed the plaintiff on the proper usage of the Ambien sleep medication and, as a result, any improper warnings or instructions on the prescription label did not cause the accident.

During the trial, the plaintiff testified that he was unaware that Ambien was a sleep medication and had never been informed by his treating neurologist that Ambien should only be taken in the evening. The plaintiff testified that he relied upon the clear and unambiguous instruction to take the medication in the afternoon as directed on the medication bottle.

The audio-visual deposition testimony of the plaintiff’s neurologist was introduced on behalf of the defendant where the neurologist testified that his practice would be to instruct a patient that Ambien is only to be taken in the evening. Although the neurologist conceded during cross examination that he had no records documenting his instructions, he maintained that his standard practice would be to carefully review with every patient proper usage instructions.

As a result of the motor vehicle accident, the plaintiff alleged that he sustained a traumatic brain injury resulting in vestibular dysfunction, cognitive impairment, and depression rendering him permanently and totally disabled. Prior to the accident, the plaintiff had accepted a job as a consultant and, as a result of the accident, had to decline the offer which included an annual salary of \$110,000.00 per year.

After the accident, the plaintiff began treating with a new neurologist at the Dartmouth-Hitchcock Medical Center in New Hampshire. The plaintiff's new treating neurologist testified that the plaintiff's traumatic brain injury and resulting cognitive impairment was related to the motor vehicle accident and was permanent. His opinion was based upon his review of the medical records indicating that the plaintiff had sustained a head injury in the motor vehicle accident.

During the presentation of the defense case, evidence was introduced indicating that the accident did not result in a closed head injury and, therefore, the plaintiff's treating neurologist's opinion was flawed. After the presentation of all the evidence, a verdict was entered on behalf of the defendant.