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AP

# Court Allows Schering-Plough Suit

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By Linda A. Johnson, AP Business Writer

## NJ Court Allows Whistleblower Suit Against Schering-Plough

TRENTON, N.J. (AP) -- Four former employees of drug maker Schering-Plough Corp.'s Argentinian subsidiary can sue over allegedly being fired for complaining about illegal marketing practices, including bribing doctors to boost drug sales, a New Jersey court ruled Friday.

The ruling by a three-judge panel of the Appellate Division means the employees, terminated in 2003, can proceed with most of their lawsuit, which had been thrown out by a lower court. The suit names the New Jersey-based company and five executives as defendants.

The four longtime employees at Laboratorios Essex SA allege they were abruptly terminated after disclosing "widespread unethical and illegal marketing and sales practices." They claim Schering-Plough engaged in "the pervasive and routine bribing of doctors and public officials" to boost sales of the company's cancer and infection-fighting drugs in Argentina.

The plaintiffs say they were blacklisted in the industry for having "blown the whistle" on "corrupt acts committed by or with the complicity and approval of the defendants from their Kenilworth, New Jersey, headquarters."

Schering-Plough said in a statement it does not comment on pending litigation or personnel issues.

"We vigorously dispute the allegations," the statement said. "This is a preliminary ruling on legal matters which does not reflect any consideration of or judgment on the merits of the case."

Alan S. Lewis, a New York attorney representing the three men and one woman suing, said they had worked for Schering-Plough for between 10 and 25 years and were in fairly senior positions when they brought to the company's attention what they thought were violations of law.

"We're pleased with the ruling because it will enable four individuals who were wrongly terminated for blowing the whistle on illegal conduct to have their day in court," Lewis said.

The appellate court agreed with the original Superior Court ruling from Middlesex County on one issue: that the ex-employees' claims they were defamed by Schering-Plough and prevented from getting other jobs in the pharmaceutical industry in Argentina should not be heard in New Jersey.

However, the appellate panel overruled the trial court and ruled the plaintiff's whistleblower claims should be heard, and in New Jersey. Besides alleging they were wrongly terminated for discussing the marketing practices, the defendants stated that on the day they were fired they were coerced into signing settlement agreements releasing Schering-Plough from any future liability, with the threat they would otherwise receive no severance pay. Such pay is mandated under Argentinian law.

The company, best known for its cholesterol drugs Zetia and Vytorin and for allergy treatments such as Clarinex, has been steadily settling legal troubles stemming from operations before its chief executive was ousted and new management took over four years ago.

In January, Schering-Plough agreed to pay \$435 million to settle allegations it lied to the government about drug prices and illegally promoted two drugs for the treatment of cancers for which they were not approved.

In 2004, Schering-Plough agreed to pay \$346 million to resolve charges it paid a big health insurer a kickback to protect the market for its one-time blockbuster allergy drug, Claritin. And in 2002, the company agreed to pay the federal government a then-record fine of \$500

million and to resolve repeated quality control violations dating to 1998 at four manufacturing plants.

In trading on the New York Stock Exchange, shares of Schering-Plough fell 10 cents to \$32.77, near their 52-week high of \$33.81.

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