

Pharma in brief - Canada

Supreme Court dismisses leave to appeal regarding hearsay evidence in venlafaxine s. 8 case

Case:	<i>Teva Canada Limited v Pfizer Canada Inc</i> (SCC Docket 37162).
Drug:	EFFEXOR XR® (venlafaxine hydrochloride)
Nature of case:	Application for leave to appeal decision remitting back to the Federal Court an action for damages pursuant to section 8 of the <i>Patented Medicines (Notice of Compliance) Regulations</i> , SOR/93-133 (the Regulations)
Successful party:	Pfizer Canada Inc.
Date of decision:	January 19, 2017

Summary

As we [reported](#), Teva Canada Ltd. was awarded damages pursuant to section 8 of the *Regulations* after Pfizer's prohibition application under section 6 of the *Regulations* relating to an extended release formulation of venlafaxine hydrochloride (Pfizer's EFFEXOR XR®) was dismissed by the Federal Court. Pfizer successfully appealed the decision. The Federal Court of Appeal (**FCA**) overturned the decision on the basis that the Federal Court had admitted and relied on hearsay evidence. During the trial, Teva relied solely on the testimony of one of its executives to establish the capacity and willingness of a third-party supplier to provide the venlafaxine hydrochloride in Teva's product, instead of calling a witness from the supplier.

The FCA remitted the matter back to the Federal Court for redetermination, excluding the hearsay evidence.

Teva applied for leave to appeal the FCA's decision to the Supreme Court of Canada in August 2016. On January 19, 2017, the Supreme Court dismissed Teva's application. The redetermination in the Federal Court was adjourned pending a decision in the leave to appeal, and will now be rescheduled.

Links to decisions:

SCC Decision: [Teva Canada Limited v Pfizer Canada Inc](#), SCC docket 37162.

FCA Decision: *Pfizer Canada Inc v Teva Canada Limited*, [2016 FCA 161](#)

FC Decision: *Teva Canada Limited v Pfizer Canada Inc*, [2014 FC 248](#), and subsequent reasons *Teva Canada Limited v Pfizer Canada Inc*, [2014 FC 634](#)

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