

June 23, 2017

The Honorable Steve King  
Chairman  
Subcommittee on the Constitution  
and Civil Justice  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Steve Cohen  
Ranking Member  
Subcommittee on the Constitution  
and Civil Justice  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman King and Ranking Member Cohen:

The U.S. Chamber Institute for Legal Reform (“ILR”) commends the Subcommittee on the Constitution and Civil Justice for holding the hearing, “Examining Ethical Responsibilities Regarding Attorney Advertising.” ILR is an affiliate of the U.S. Chamber of Commerce dedicated to making our nation’s civil justice system simpler, faster, and fairer for all participants. The U.S. Chamber of Commerce is the world’s largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chamber and industry associations.

While drug lawsuit advertisements are ubiquitous on late night television and during radio commercial breaks, the possible dangerous effect these advertisements have on sick individuals taking their prescribed medications is serious, and sometimes even deadly. Advertising on behalf of trial lawyers for pharmaceutical lawsuits has gone up more than 60 percent since 2008, according to analysis by X Ante/Kantar Media. Last year, lawyers spent an estimated \$149 million on negative drug ads.

As Judiciary Chairman Goodlatte pointed out in his letters to the American Bar Association and state bar associations across the country, “much of this advertising is designed to frighten patients.” Chairman Goodlatte’s March 2017 letter referenced an American Medical Association resolution urging implementation of a “requirement that attorney commercials which may cause patients to discontinue medically necessary medications have appropriate warnings that patients should not discontinue medications without seeking the advice of their physician.”

Unfortunately, the bar largely denies that a problem exists in this area. The fact is, with just one drug—Xarelto—thirty negative health incidents were reported in recent years to the Food and Drug Administration regarding patients who watched lawyer ads for Xarelto lawsuits on television, stopped taking their medications, and then suffered serious medical events, including blood clots, strokes, paralysis, and death. In fact, according to a new national survey

commissioned by ILR (attached), one in four Americans taking certain prescribed medicines say they would stop taking them immediately—without consulting their doctor—after seeing ads promoting lawsuits against the drugs’ manufacturers.

If bar associations refuse to acknowledge what could be inappropriate lawyer behavior leading to severe injury or death, it falls to legislators and regulators to evaluate and address the problem. For this reason, ILR and the Chamber applaud the Subcommittee on the Constitution and Civil Justice for examining this issue, hearing witness testimony, and determining how to best address this serious and life threatening problem.

Sincerely,

A handwritten signature in black ink that reads "Lisa A. Rickard". The signature is written in a cursive, flowing style.

Lisa A. Rickard

Attachments (2)

cc: Members of the Subcommittee on the Constitution and Civil Justice