

Mr. HINCHEY. Okay. I am interested in that, now that you have raised it, and I would like to have that information. But I am more interested in the way in which the legal arm of FDA, or the legal department within FDA, is taking this proactive stance with regard to these lawsuits. Let me just cite you one example. The Pfizer company manufactures an antidepressant named Zoloft. There was a suit against Pfizer with regard to some side effects that resulted from that particular product. In this particular case, the chief legal counsel for FDA, who had previously been an employee of Pfizer, filed a brief against the litigant and on behalf of Pfizer. That is the kind of thing that I am talking about. To my knowledge in the 75-year history or so of the FDA, nothing like that has ever happened.

Dr. CRAWFORD. Again, we will have to check the record for you. All of those interventions, whatever they are, are cleared by the Department of Justice and it is actually Justice that is doing that. FDA is connected to it and they may be operating on the recommendations of FDA. I don't mean to confuse the issue any more than it already is.

Mr. HINCHEY. This was an action that was filed by the chief legal counsel for FDA.

Dr. CRAWFORD. It wasn't by the Justice Department?

Mr. HINCHEY. Not by the Justice Department.

Dr. CRAWFORD. But I think it had Justice Department clearance, and we can show that for you.

Mr. HINCHEY. Maybe so. But the action was taken by the chief legal counsel of the FDA.

Dr. CRAWFORD. The other thing I want to get on the record right quick is that neither the general counsel nor the chief counsel were ever employed by Pfizer. That doesn't mean that they might not have done some work for Pfizer, but they were not employees.

Mr. HINCHEY. They were employees in a contractual relationship with Pfizer.

Dr. CRAWFORD. I don't know, but I will check that for you.

Mr. HINCHEY. They were not on the assembly line, no, but they had a contractual relationship with Pfizer prior to coming to work with the FDA. If you would give me the specific details of that, I would appreciate it.

Dr. CRAWFORD. You will get it.

[The information follows:]

Daniel E. Troy, the Chief of the Food and Drug Division of the Office of General Counsel of the Department of Health and Human Services, is one of the many FDA leaders and professional staff who have supported preemption of state-law actions. Before joining the Division in August 2001, Mr. Troy, like many Chief Counsels before him, practiced privately. His focus was on insurance and communications matters. In the three years immediately preceding his tenure at FDA, Mr. Troy worked an average of less than 80 hours per year (out of at least 1800 per year) for Pfizer. All of this work was on matters unrelated to products liability issues. Mr. Troy became involved in a case affecting Pfizer more than a year after leaving private practice. His involvement was consistent with and permitted by the pertinent ethics rules and two separate reviews by ethics counsel. The first of the four more recent submissions made on FDA's behalf by DOJ on a preemption issue in a private lawsuit predated both Mr. Troy's tenure as Chief Counsel and the current Administration, and also argued in favor of preemption more aggressively than subsequent submissions filed during Mr. Troy's service in the Office of the General Counsel.

Mr. HINCHEY. Thank you very much, Doctor.