

## **Local lawsuit to cost firm \$9.8 million**

by DAN MARGOLIES

A drug company that illegally promoted a topical skin preparation to treat diaper rash will pay \$9.8 million to resolve a whistle-blower suit filed by a local woman.

**Medicis** Pharmaceutical Corp. of Scottsdale, Ariz., will pay the money to the government to settle allegations that it urged pediatricians to use Loprox as a treatment for diaper rash, although the drug has not been approved for use on children younger than 10.

Although physicians are allowed to prescribe medications for so-called off-label uses, it is illegal for drug companies to do so. Loprox, an anti-fungal preparation, has been approved to treat skin infections in individuals older than 10.

The settlement ends a case brought under the False Claims Act by Overland Park resident Debbie Mulqueen, a former sales representative for **Medicis**. She was joined by three other one-time sales representatives of the company.

Mulqueen, who worked for **Medicis** for seven years, quit after managers pressured her to market Loprox to pediatricians. In her complaint, Mulqueen said the company saw pediatricians as attractive targets because many of their patients had Medicaid coverage.

"I just felt that they were misrepresenting the facts and it was time to step up and do the right thing," Mulqueen said in a phone interview Tuesday.

**Medicis** is a public company specializing in drugs for dermatological, cosmetic and podiatric conditions. In response to a request for comment on the settlement, the company's general counsel, Jason Hanson, said in an e-mail Tuesday that **Medicis** had "fully cooperated" with the government.

Mulqueen's suit said that, beginning in early 2002, **Medicis** trained its sales force to pitch Loprox as a diaper rash treatment, including "making false and misleading representations to pediatricians, nurses and pharmacists about data and studies showing the safety and efficacy of Loprox on infants."

Mulqueen and her three colleagues were represented by lawyers Carrie Brous and Tammy Horn. The lawsuit was a calculated risk, since the government only rarely agrees to intervene in False Claims cases.

"I was proud to represent these women," Brous said Tuesday.

The False Claims Act, whose enactment dates to the Civil War, encourages reporting of fraud by private citizens.

Under the act, private parties can file an action on behalf of the government and get a portion of any resulting settlement reached with the government.

In this case, Mulqueen and her colleagues will get more than \$1 million as their share of the settlement.