

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel. BOARD OF THE)
STATE TEACHERS RETIREMENT)
SYSTEM OF OHIO,)

Relators-Appellees,)

v.)

HONORABLE DAVID P. DAVIS)
JUDGE, COURT OF COMMON PLEAS)
HAMILTON COUNTY, OHIO)

Respondent-Appellant)

MEDCO HEALTH SOLUTIONS INC.,)
ET AL.,)

Defendants-Appellants.)

CASE NO. 20-2006

06-2173

On appeal from the Hamilton County
Court of Appeals, First Appellate District

Court of Appeals
Case No. C-060760

FILED
NOV 27 2006
MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

**NOTICE OF APPEAL OF
DEFENDANT-APPELLANT MERCK & CO., INC.**

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel. BOARD OF THE)	
STATE TEACHERS RETIREMENT)	CASE NO. 2006-2006
SYSTEM OF OHIO,)	
Relators-Appellees,)	On appeal from the Hamilton County
v.)	Court of Appeals, First Appellate District
HONORABLE DAVID P. DAVIS)	Court of Appeals
JUDGE, COURT OF COMMON PLEAS)	Case No. C-060760
HAMILTON COUNTY, OHIO)	
Respondent-Appellant)	
MEDCO HEALTH SOLUTIONS INC.,)	
ET AL.,)	
Defendants-Appellants)	

Notice is hereby given that Defendants-Appellant Merck & Co., Inc. hereby appeals the final judgment entry of the Hamilton County Court of Appeals, First Appellate District, entered on October 12, 2006, overruling motion to intervene filed by the Merck & Co., Inc. in the original action, *State of Ohio ex rel. State of Ohio Teachers Retirement System of Ohio v. Hon. David P. Davis, et al.*, C.A. No. C-060760.

This appeal is an appeal of right under S.Ct. R. Prac. II (1)(A)(1) because it arises from a Petition for Preemptory or Alternative Writ of Procedendo or Mandamus that was originated in the court of appeals pursuant to Section 3(B)(1)(b) of Article IV of the Ohio Constitution. A true and correct copy of the judgment entry that is the subject of the instant appeal is attached hereto as Exhibit "A."

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of November, 2006, a true and correct copy of the foregoing **NOTICE OF APPEAL** was served upon the below-listed counsel of record via first-class U.S. mail, postage prepaid, at the following addresses:

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IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO EX REL. BOARD
OF THE STATE TEACHERS
RETIREMENT SYSTEM OF OHIO

CASE NO. C-060760

Relator,

vs.

ENTRY OVERRULING MOTION TO
INTERVENE BY MERCK & CO., INC.

JUDGE DAVID P. DAVIS, Court of
Common Pleas, Hamilton County, Ohio

Respondent.

This cause came on to be considered upon the motion of the Merck & Co., Inc. to intervene in this cause and for leave to file a motion to dismiss the petition for extraordinary relief.

The Court, upon consideration of the motion to intervene, finds that it is not well taken and is overruled.

To The Clerk:

Enter upon the Journal of the Court on OCT 12 2006 per order of the Court.

By:


Presiding Judge

(Copies sent to all counsel)

