

## Mayo firm wins six-year legal battle against pharmaceutical giants

Friday, 10th August, 2018 12:09pm



Tom and Mary Murphy of Pamex Limited, Castlebar, secured a major legal victory at the Court of Appeal in Paris. PHOTO: MICHAEL DONNELLY

MAYO firm Pamex Limited, founded by Castlebar couple Tom and Mary Murphy, has scored a major victory in a David versus Goliath legal tussle involving an international pharmaceutical giant.

The well known ophthalmology company Chauvin Pharmaceuticals, now part of Bausch & Lomb, was represented in Ireland by Pamex Limited for almost 16 years, and during that time, Pamex and its professional representatives increased business from just over €200,000 per year to a whopping €1.5 million per annum.

However, in late 2011 Chauvin took a decision to dispense with Pamex as its Irish agent, leaving Murphy's firm with nothing but a thank you and an extremely large challenge to fill the commercial gap.

Even though Pamex is a very small company in the overall scheme of international business, Tom Murphy is not the kind of individual to let any firm, and especially not a major international firm, pull the rug from under him.

The decision by Chauvin had the potential to cause severe consequences for a company the size of Pamex, so he assessed the situation in which he found himself and decided that this ceasing of their agency contract, without payment of damages, was most unfair and dishonourable.

He weighed up his options and consulted with local solicitor's firm, Garavan & O'Connor, and with the advice he received from its principal Mr. Rory O'Connor, embarked on a six-year legal battle in the French courts.

Explained Tom: "It is generally recognised that here in Ireland, legal cases can take a long time to determine and I can assure you that it is no different in France.

"On top of that, when you take into account that all communication is in French, it adds an extra burden, including many extra costs to proceedings."

With expert legal advice available locally in Paris as well, the case progressed at a snail's pace and throughout the six long years, it took courage and resilience by the Castlebar firm to keep focused on their utmost belief that legal right was on their side.

It is also worth noting that, at one stage, both sides were advised by the court in Paris to enter mediation and Pamex agreed to do so.

However, the opposing side declined to engage and preferred to continue on the legal route.

After three years the case was first heard in Paris and it was a severe blow to Pamex to learn that their case did not find favour in the courtroom.

However, not to be outdone, the Castlebar and Paris legal teams were determined to examine every single detail of the judgement and realised that there were a number of important legal points which deserved to be challenged in the Court of Appeal.

It was finally decided that an appeal would be lodged and many hours of burning the midnight oil by Rory O'Conner and his French counterpart David Lutran, finally resulted in a very robust appeal being submitted in Paris.

That appeal was heard in February of this year at the Palais de Justice in central Paris and both Tom and Mary Murphy were present to hear their Paris Lawyer David Lutran make his case on behalf of Pamex.

As is customary in such cases, which are heard strictly under French law, neither of the witnesses was permitted to address the three appeal court judges.

As the proceedings ended, the principal Appeals Court judge announced that the judgement would be reserved.

A number of weeks later the unanimous decision of the court was released and the appeal was in favour of Pamex Limited, leaving the legal personnel on the opposing side were incredulous.

The court had made an order awarding very substantial damages against the international pharmaceutical company in favour of the fledgling Pamex Limited of Castlebar.

One month was permitted following the publication of the court's decision for an appeal to be lodged by Chauvin to the High Court. Despite its deep pockets, Chauvin decided not to appeal, which meant that after six years, the case was finally over.

Pamex Limited had been vindicated in its stand and Tom and Mary Murphy were delighted that an obvious wrong had been righted, to some degree at least.

Mr. Murphy told The Connaught Telegraph: "What was done to us was wrong in law, wrong morally and dishonourable from a commercial viewpoint.

"We were the Irish agents for Chauvin, we built up their business and they should have recognised that fact when they decided to dispense with our services. It is covered in European law and there is a distinct difference between a company being an agent and being a distributor."

Tom was generous in his praise for his solicitor Rory O'Connor who managed to traverse the choppy legal waters of French law and at the same time was instrumental in outmaneuvering the top legal brains in Paris employed by an international pharmaceutical firm