



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

Web: nyc.gov/html/law/home.html

For Immediate Release

**NEW YORK CITY SUES PURDUE PHARMA
FOR ANTITRUST VIOLATIONS AND MEDICAID FRAUD
IN CONNECTION WITH THE PAINKILLER OXYCONTIN**

***SUIT IS THE FIRST IN A CONCERTED EFFORT BY THE CITY TO PREVENT PHARMACEUTICAL FRAUD
AND RECOUP MONEY FOR TAXPAYERS FROM DRUG OVERCHARGES***

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

New York, May 7, 2004 – The City of New York has filed a complaint in the United States District Court for the Southern District of New York against The Purdue Pharma Company and its affiliates for improper Medicaid charges. The complaint alleges violations of Federal and State antitrust laws, unfair and deceptive trade practices, and other state common law causes of action. These claims emanate from the defendants' allegedly fraudulent, deceptive and inequitable conduct in procuring patents from the U.S. Patent and Trademark Office (U.S. PTO) for the painkiller OxyContin, which is produced by Purdue Pharma.

Michael Cardozo, Corporation Counsel of the City of New York, said, "This suit is an important step to protect New York City taxpayers against prescription drug overcharges that result in illegal Medicaid charges." Cardozo noted that other suits will soon be brought. "This is the beginning of an ongoing effort by the City to attack the rapid increase in the City's expenditures that have resulted in part from unlawful and fraudulent practices in the prescription drug industry," he added.

Specifically, the City, relying on a recent decision of the United States District Court, alleges that Purdue Pharma misrepresented to the U.S. PTO that it had scientific support for certain patent claims, when in fact it did not. The City seeks to recover money that it paid as its 25 percent share of Medicaid payments on behalf of New York City residents. In 2002 alone, the Federal, State and local share of Medicaid payments for OxyContin for City residents totaled \$5.5 million. The City is seeking triple damages for the overcharges. The total amounts are still being calculated on a year-by-year basis but could amount to millions of dollars.

The City is represented by Kirby McInerney & Squire, LLP, a law firm with expertise in antitrust and consumer litigation. Joanne M. Cicala is Kirby McInerney's lead attorney on the case. "It is indisputable that New York City would have paid less were generic alternatives to Purdue's OxyContin available. We are pleased to be representing the City on this matter of significant public importance," Cicala stated. In addition, John R. Low-Beer and Richard J. Costa, Assistant Corporation Counsels in the Law Department's Affirmative Litigation Division, also represent the City. The legal complaint was filed late yesterday (Thursday, May 6, 2004).

Kirby McInerney & Squire, with offices in New York City and California, focuses its collective professional expertise upon complex class action, antitrust and commercial litigation case. Its web site is www.kmslaw.com.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

###