



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

Web: [nyc.gov/html/law/home.html](http://nyc.gov/html/law/home.html)

*For Immediate Release*

**NEW YORK CITY FILES SUIT AGAINST 44 PHARMACEUTICAL COMPANIES  
AND THEIR SUBSIDIARIES FOR FRAUDULENT SCHEMES THAT ALLEGEDLY  
INFLATED THE COST OF DRUGS TO ITS MEDICAID PROGRAM**

***FOLLOWING THE FILING IN MAY OF THREE ADDITIONAL ANTITRUST AND MEDICAID FRAUD SUITS INVOLVING  
ALLEGED PATENT ABUSES, THESE SUITS CONTINUE THE CITY'S CONCERTED EFFORT TO RECOUP MONEY  
FOR TAXPAYERS FROM DRUG OVERCHARGES, AND TO PREVENT PHARMACEUTICAL FRAUD***

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New York, August 5, 2004 – The City of New York filed a complaint in the U.S. District Court for the Southern District of New York late yesterday against 44 pharmaceutical companies and their subsidiaries. The defendants are listed below. The complaint alleges that the defendants engaged in fraudulent and deceptive conduct resulting in millions of dollars of overcharges to the City's Medicaid budget. The City alleges violations of Federal and State Medicaid law, Medicaid and common law fraud, breach of contract, unfair and deceptive trade practices, and unjust enrichment.

The City seeks to recover its 25 percent share of Medicaid overpayments made on behalf of New York City residents. In 2003 alone, the Federal, State and local share of Medicaid payments for pharmaceuticals (including many of the drugs manufactured by the defendants) exceeded \$2.3 billion. The overcharges alleged in the complaint amount to many millions of dollars, allocated among hundreds of different drugs. As permitted by State Medicaid fraud law, the City also seeks triple damages from each company for its overcharges.

The complaint alleges two fraudulent and deceptive schemes: first, that defendants inflated the Average Wholesale Prices, which are used to calculate Medicaid reimbursements for prescription drugs; and second, that by reporting false, inflated and misleading pricing information, they underpaid the Medicaid rebates that the Federal Medicaid statute requires. Many of the claims alleged in the complaint have been previously substantiated by numerous Federal investigations, including Congressional investigations, and by Federal criminal and civil actions against some of the defendants named in the City's complaint.

"The City has recently brought three other lawsuits concerning overpricing by abuse of patent laws. By this broader lawsuit, the City extends its effort to rein in the widespread fraudulent practices that unlawfully inflate the City's Medicaid costs," said Michael Cardozo, Corporation Counsel of the City of New York. "The City's Medicaid payments, of which drug payments comprise a substantial share, reflect over 13 percent of the entire City budget. The suit we have filed yesterday, along with the other drug suits we filed recently, is an important step in the City's efforts to control Medicaid costs."

- To see the Law Department's press release from May 7, 2004, noting its lawsuit against Purdue Pharma, the maker of the painkiller Oxycontin, go to the following web link:  
<http://www.nyc.gov/html/law/pressreleases/pr050704.pdf>

- To see the Law Department's press release from May 18, 2004, noting its two lawsuits against GlaxoSmithKline PLC and its affiliate, SmithKline Beecham Corp., alleging that the City was forced to pay unlawfully high Medicaid prices for the antidepressant Paxil and the antibiotic Augmentin, go to the following web link:  
<http://www.nyc.gov/html/law/pressreleases/pr051804.pdf>.

Kirby, McInerney & Squire, LLP, a law firm with expertise in health care and consumer litigation, is representing the City in the new suits, along with attorneys from the Law Department. Joanne Cicala, Kirby McInerney's lead attorney, said: "The fraudulent and deceptive practices alleged in this case have cost the City substantial amounts of money that should have been available for other important public needs." John R. Low-Beer and Richard J. Costa, Assistant Corporation Counsels in the Law Department's Affirmative Litigation Division, also represent the City.

The drug companies and their subsidiaries named in the new suits include:

- Abbott Laboratories, Inc.
- Alcon Laboratories, Inc.
- Allergan, Inc.
- Alpharma, Inc.
- Amgen, Inc.
- Andrx Corp.
- Astrazeneca Pharmaceuticals L.P.
- Aventis Pharmaceuticals Inc.
- Barr Laboratories, Inc.
- Bayer Corp.
- Ben Venue Laboratories, Inc.
- Biovail Pharmaceuticals, Inc.
- Boehringer Ingelheim Corp.
- Boehringer Ingelheim Pharmaceuticals, Inc.
- Bristol-Myers Squibb Company
- Dermik Laboratories, Inc.
- Dey Inc.
- Eisai, Inc.
- Eli Lilly and Co.
- Endo Pharmaceuticals, Inc.
- Ethex Corp.
- Forest Laboratories, Inc.
- Forest Pharmaceuticals, Inc.
- Fujisawa Healthcare, Inc.
- Fujisawa USA, Inc.
- Genzyme Corp.
- Gilead Sciences, Inc.
- Glaxosmithkline P.L.C.
- Hoffman-La Roche, Inc.
- Immunex Corp.
- Ivax Corp.
- Ivax Pharmaceuticals, Inc.
- Janssen Pharmaceutica Products, L.P.
- Johnson & Johnson
- McNeil-PPC, Inc.
- King Pharmaceuticals, Inc.
- Medimmune, Inc.
- Merck & Co., Inc.
- Monarch Pharmaceuticals, Inc.
- Mylan Laboratories, Inc.
- Mylan Pharmaceuticals, Inc.
- Novartis Pharmaceuticals Corp.

- Novo Nordisk Pharmaceuticals, Inc.
- Oncology Therapeutics Network Corp.
- Organon USA
- Ortho Biotech Products L.P.
- Ortho-McNeil Pharmaceutical, Inc.
- Par Pharmaceutical, Inc.
- Purdue Pharama, L.P.
- Purepac Pharmaceutical Co.
- Reliant Pharmaceuticals
- Roche Labs
- Roxane Laboratories, Inc.
- Sandoz, Inc.
- Sanofi-Synthelabo, Inc.
- Schering-Plough Corp.
- Serono, Inc.
- Smithklinebeechem Corp. D/B/A (doing business as) Glaxosmithkline
- Takeda Pharmaceuticals North America, Inc.
- Tap Pharmaceutical Products, Inc.
- Teva Pharmaceutical Industries, Ltd.
- UDL Laboratories, Inc.
- Warrick Pharmaceuticals Ltd.
- Watson Pharmaceuticals, Inc.
- Watson Pharma, Inc.
- Wyeth

Kirby McInerney & Squire, LLP is a New York law firm with over 50 years of experience in the fields of securities fraud, corporate governance, antitrust and consumer litigation. Its website is [www.kmslaw.com](http://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 100,000 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](http://www.nyc.gov) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).

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