



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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For Immediate Release

**BRISTOL-MYERS SQUIBB SETTLES
MEDICAID FRAUD SUIT FOR \$40 MILLION,
WITH NYC ALLOCATED \$7.5 MILLION
– ALMOST THE FULL VALUE OF ITS CLAIMS**

***CITY AND OTHER MUNICIPALITIES ALLEGED ILLEGAL SCHEMES
THAT INFLATED MEDICAID DRUG COSTS***

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New York, July 15, 2008 – Bristol-Myers Squibb, one of the world's largest pharmaceutical companies, has agreed to pay New York City \$7.5 million to rectify damages resulting from what the City alleged was a fraudulent scheme to inflate the costs of drugs in the Medicaid program.

The agreement is a part of a nationwide settlement of similar claims negotiated by New York City, along with the New York State Attorney General's Medicaid Fraud Control Unit and other New York counties, that will bring New York State and its counties over \$40 million total.

"This lawsuit is one of several that the City brought in an effort to rein in the widespread fraudulent practices that unlawfully inflate the City's Medicaid costs. The settlement will return to the City almost the full value of its claims against Bristol-Myers Squibb," Michael Cardozo, Corporation Counsel of the City of New York, said. "We are pleased at the successful resolution reached with one of the defendants, and hope to reach similarly successful resolutions with others."

In August 2004, the City brought suit against 44 pharmaceutical companies, alleging that the defendants fraudulently reported inflated the Average Wholesale Prices (AWPs) of their drugs, which form the basis for Medicaid payments. This conduct resulted in millions of dollars of overcharges to the City's Medicaid budget. The City alleged 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 sought to recover its 25 percent share of Medicaid overpayments.

The City's case was heard in the U.S. District Court in Boston, Mass. In April and July 2007, Judge Patti B. Saris largely upheld the plaintiffs' claims, denying two motions to dismiss the Amended Consolidated Complaint of the City and other New York counties participating in the federal action. (In re: Pharmaceutical Average Wholesale Price Litigation, 2007 U.S. Dist. LEXIS 26242 (April 2, 2007.) Discovery had been ongoing since that time.

Kirby McInerney LLP, a law firm with expertise in health care and consumer litigation, represents the City jointly in this case with attorneys from the Law Department. Joanne Cicala is Kirby McInerney's lead attorney on the case. John Low-Beer, Senior Counsel in the Law Department's Affirmative Litigation Division, is the lead City attorney.

"I am very pleased that the Law Department, together with outside counsel, has been able to recover virtually all of the damages incurred by New York City as a result of Bristol-Myers Squibb conduct," John Low-Beer, Senior Counsel in the Affirmative Litigation Division, New York City Law Department, said.

Joanne Cicala of Kirby McInerney added: "Kirby McInerney LLP is proud to represent the City in this important matter and to have achieved this result."

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 has an active caseload of 90,000 matters and transactions in 17 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 690 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit nyc.gov/law.

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