

# Breaking Legal NEWS

## Pharmacy Whistleblower Medicaid Fraud Settlement

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Settlement Web site:

[www.PharmacyFraudSettlement.com](http://www.PharmacyFraudSettlement.com)

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### **United States Department of Justice Recognizes Chicago Whistleblower's Qui Tam Settlement with CVS Pharmacies as a "Top Ten" Recovery under the False Claims Act**

Chicago, IL December 2, 2008 -- The United States Department of Justice selected the \$37 million Medicaid fraud settlement by CVS Caremark Corp. as one of this year's top ten cases under the federal False Claims Act (Civ. No. 03 C 742). The "qui tam" lawsuit was brought by Chicago lawyers Behn & Wyetzner, Chartered for a whistleblower pharmacist, who had reported CVS' questionable Medicaid prescription claims to the government. The pharmacist reported that CVS had charged the government up to 400 percent more for Medicaid patients by illegally changing generic Zantac® prescriptions from tablets to higher priced capsules.

The Department of Justice spotlighted the CVS settlement as contributing to total federal recoveries of \$1.34 billion this year under the False Claims Act, with the lion's share coming from Medicaid fraud cases. "The largest health care recoveries came from pharmaceutical companies and related entities," said the Department. "Settlements with Cephalon Inc., Merck & Co. and CVS Caremark Corp. accounted for more than \$640 million. In addition to federal recoveries, these pharmaceutical fraud cases returned \$430 million to state Medicaid programs."

The False Claims Act has been an incredible success story. Federal False Claims Act cases have recovered over \$21 billion since 1986, mostly from lawsuits involving whistleblowers bringing cases on behalf of the government (known as "qui tam relators"). Beyond this remarkable federal success, Illinois, Indiana and other states such have also recovered over a billion more under their own False Claims Acts, particularly in whistleblower cases involving Medicaid fraud. Other states have also joined in. For example, just this year, Wisconsin passed its own state False Claims Act.

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The "qui tam" provisions of False Claims Acts empower private citizens who witness fraud to bring cases as "relators" on behalf of the Government. These qui tam cases seek to recover ill-gotten gains from pharmacies, pharmaceutical manufacturers, defense contractors and any other company that might cheat the government. False Claims Acts enable the government to collect up to three times the amount it was defrauded, plus penalties of up to \$11,000 per false claim. Whistleblowing "relators" can receive between 15 and 30 percent of the governments' recovery.

The CVS case was pursued for over five years by Illinois pharmacist whistleblower Bernard Lisitza and his Chicago attorneys Michael I. Behn and Linda Wyetzner, under federal and state False Claims Acts. The CVS settlement was one of three settlements by Lisitza and his attorneys which resulted in taxpayer recoveries of over \$120 million. Other drug switching "qui tam" cases filed in Chicago by Lisitza resulted in a \$35 million Medicaid fraud settlement earlier this year with Walgreens pharmacies (Civ. No 03 C 744), and a \$50 million Medicaid fraud settlement in late 2006 with Omnicare, Inc., the nation's largest pharmacy for nursing homes (01 C 7433). Court filings in Chicago and other information concerning these cases can be found at the reference website <http://www.PharmacyFraudSettlement.com>.

Behn & Wyetzner teams with other lawyers in representing qui tam relators through the Whistleblower Action Network. These attorneys include Steven H. Cohen of the Cohen Law Group in Chicago. Cohen represented the qui tam relator in a \$400 million Medicaid fraud settlement with pharmaceutical manufacturer Merck, involving the drug Vioxx® (Civ. No. 00 CV 6158). The Merck case was also recognized as one of this year's "top ten" by the Department of Justice. Further information about the False Claims Act, the CVS settlement, the Merck settlement, the Walgreens settlement, the Omnicare settlement, and the Chicago lawyers who pursued those cases can be found at <http://www.WhistleblowerAction.com>.

The CVS Caremark, Walgreens and Omnicare settlements were achieved through the efforts of Assistant U.S. Attorney Linda A. Wawzenski, Deputy Chief of the Civil Division of the U.S. Attorney's Office for the Northern District of Illinois; Assistant Attorney General Patrick Keenan, Director of the Illinois Medicaid Fraud Bureau; Assistant Attorney General Robert Patten of Massachusetts, Chief Deputy Attorney General John Guthrie, of Ohio, and several other state prosecutors working with the National Association of Medicaid Fraud Control Units.

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In executing their respective settlements, CVS Caremark, Walgreens, Omnicare and Merck denied liability, wrongdoing or improper conduct.

Visit <http://www.pharmacyfraudsettlement.com>, a reference Web site for pharmacy fraud and pharmacist whistleblowers just updated with material and filed documents relating to the Omnicare, CVS and Walgreens *qui tam* whistleblower settlements. Included are filed documents, fraud allegations, applicable federal laws, and information about the experienced *qui tam* whistleblower attorneys from Behn & Wyetzner, Chartered who handled the Walgreens and other whistleblower cases.

About Pharmacists: As front line professionals responsible for dispensing medications to Medicaid beneficiaries, pharmacists are particularly well suited to discover and report Medicaid fraud as *qui tam* relators, which is clear from the Omnicare, Walgreens, CVS cases as reported on the PharmacyFraudSettlement.com Web site.

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