

## **ATTORNEY GENERAL CUOMO ANNOUNCES SETTLEMENT OF ANTITRUST SUIT AGAINST DRUG MANUFACTURERS**

***Resolves litigation alleging that Abbott Laboratories and Fournier  
Industrie et Sante and Laboratoires conspiring to block generic  
competition to lipid regulating medication, TriCor***

***New York will recover over \$4 million dollars in overcharges to  
Medicaid and other state health programs***

NEW YORK, NY (January 7, 2010) - Attorney General Andrew M. Cuomo today announced the settlement of a multi-state antitrust lawsuit against pharmaceutical manufacturers that conspired to block generic competition to the successful lipid regulating medication TriCor.

Under the settlement, Abbott Laboratories, Inc., Fournier Industrie et Sante and Laboratoires Fournier S.A. will pay \$22.5 million to New York, 22 other states, and the District of Columbia. New York will receive approximately \$4.5 million in restitution and costs, representing the largest allocation of the settlement to any individual state.

"These companies deprived taxpayers, state agencies, and consumers of a fair marketplace that would have lowered prices by offering less expensive generics," said Attorney General Cuomo. "They manipulated the market causing New York and its citizens to pay more, and that cannot be tolerated. Because of this settlement, millions of dollars will now be distributed into New York State programs."

The funds will be used for distribution to New York state programs including Medicaid, AIDS Drug Assistant Program (ADAP), Elderly Pharmaceutical Insurance Coverage (EPIC), and the Office of Mental Health (OMH). The companies have also agreed to not withdraw the current TriCor tablets' identifying code from the market until after a generic has been approved by the Food & Drug Administration (FDA), thereby improving the likelihood that the generic will be successful.

The states filed the lawsuit in federal court in Delaware in March 2008. The states alleged that Abbott and Fournier entered into a scheme to block generics from the market when competitors started to develop generic versions of TriCor. As part of their plan, Abbott and Fournier made minor changes to TriCor that provided no clinical benefit, but rather had the sole purpose and effect of manipulating both state drug substitution laws and the industry's drug identification system. Consequently, pharmacists were unable to dispense less expensive generic versions of TriCor as substitutes for Abbott's more expensive drug.

The states also claimed that Abbott and Fournier filed baseless patent infringement suits against competitor companies that sought to market generic TriCor, knowing that the suits were without merit because the patents were not enforceable. Merely filing the lawsuits, however, permitted Abbott and

Fournier to benefit from a federal law that prevented FDA approval of generic TriCor for up to 30 months. The states claimed that Abbott and Fournier took advantage of the 30-month periods to switch consumers to new (but not clinically better) formulations of TriCor before competitor companies could launch generic substitutes.

The states maintained that as a result of the product switches and patent litigation, Abbott and Fournier successfully thwarted generic competition, and charged purchasers monopoly prices for TriCor, which accounted for over \$1 billion of Abbott's sales last year.

Class action litigation filed on behalf of consumers and third party payers was resolved in a separate settlement.

The case was litigated on behalf of New York State by Assistant Attorneys General Elinor Hoffmann, John Ioannou, and Saami Zain in the New York State Attorney General's Antitrust Bureau under the supervision of Deputy Attorney General for Economic Justice Michael Berlin.

Attachment:

[Settlement Agreement](#)  
For Adobe PDF files you can [download Adobe Reader from Adobe Systems](#).