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AG Balderas Secures \$1,028,000 Recovery for Consumers and State for Drug Companies Efforts to Preclude Competition

Anticompetitive conduct delayed generic competition causing New Mexico and New Mexican consumers to pay more for Provigil

Santa Fe, NM - Attorney General Hector Balderas today announced a \$1,028,000 settlement with Cephalon and affiliated companies (“Cephalon”) for New Mexico consumers and the State. The settlement ends a multistate investigation into anticompetitive conduct by Cephalon to protect the monopoly profits it earned from its landmark wakefulness drug, Provigil. That conduct delayed generic versions of Provigil from entering the market for several years.

“Drug companies who put profits over people will be held accountable in New Mexico and our families will be made whole again,” said Attorney General Balderas. “New Mexico families should never be forced to choose between medicines and paying for other necessities like groceries or electricity, but that is exactly what can happen when drug companies inflate prices and improperly eliminate generic competition.”

New Mexico’s total recovery will be about \$1,028,000 consisting of: (1) \$258,790 to compensate for Provigil purchases by certain state entities or authorized purchases off state contracts; (2) an estimated \$152,000 for distribution to New Mexicans for payments for Provigil; and (3) \$617,302 for New Mexico’s share of disgorgement and costs. The final amount of the consumer recovery will depend on the number of consumers who submit claims. As well, New Mexico hopes that this consumer recovery will be supplemented with recovery from a settlement of a class action against Cephalon.

This multistate settlement was facilitated by litigation brought against Cephalon by the Federal Trade Commission. In May 2015, the FTC settled its suit against Cephalon for injunctive relief and \$1.2 billion, which was paid into an escrow account. The FTC settlement allowed for those escrow funds to be distributed for the settlement of certain related cases and government investigations, including that of the New Mexico Attorney General.

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