

Walgreens, Stephen L. LaFrance Holdings Co. and Other Pharmacies in the USA Drug Chain Agree to Pay \$16 Million to Settle Whistleblower Lawsuit Alleging Overbilling of Government Health Programs

Susman Godfrey LLP (SG) has announced that Walgreens, Stephen L. LaFrance Holdings Co. and several companies that were part of USA Drug, a regional pharmacy chain acquired by Walgreens, have agreed to pay \$16 million to the United States, Oklahoma and Tennessee to resolve a whistleblower lawsuit alleging that defendants knowingly overbilled Medicare Part D, Medicaid and other government health programs millions of dollars by unlawfully charging more for generic drugs than the customary prices paid by individuals without prescription drug insurance.

Government health programs require pharmacies to bill the programs no more for drugs than their “usual and customary charges” to uninsured individuals. The whistleblower lawsuit was brought by VSG and SG client, James D. Strauser, a pharmacist who worked at USA Drug, and alleged that, beginning in approximately 2008, the USA Drug chain began selling many commonly prescribed generic drugs to its uninsured customers at the same low prices charged by competing, big box stores such as Walmart. At the same time, however, USA Drug unlawfully charged Medicare and Medicaid much higher prices for the same drugs. For example, the lawsuit alleges that for certain generic medications such as the anti-depressant Fluoxetine, the USA Drug chain charged Medicaid prices that were as much as 38 times more than what its uninsured customers paid.

Mr. Strauser further alleged that after Walgreens acquired the USA Drug pharmacies, Walgreens continued to engage in this fraudulent practice for a number of months and neither reported nor refunded USA Drug’s prior overcharges to the affected government programs, despite a legal obligation to do so.

Mr. Strauser filed his lawsuit in 2013 in federal court in Oklahoma City under the “qui tam” provisions of the federal False Claims Act and the false claims laws of New Jersey, Oklahoma and Tennessee, suing the individual pharmacies mentioned above as well as Stephen L. LaFrance, Jr., and Jason L. France, who were top executives at USA Drug, the pharmacy chain founded by their father. After the government plaintiffs declined to join the lawsuit in 2018, the case was transferred to the Northern District of Oklahoma. Mr. Strauser and his counsel then litigated the case for five years, reaching a settlement with the defendants earlier this year.

As a result of the settlement, the Court today dismissed Mr. Strauser’s *qui tam* claims against the Defendants. Mr. Strauser will receive 29% of the federal government’s recovery pursuant to a provision in the False Claims Act that rewards successful qui tam plaintiffs.

SUSMAN GODFREY

“We are pleased that this lawsuit returns millions of dollars to the U.S. taxpayers,” said co-lead counsel for Mr. Strauser, VSG attorney, Shelley Slade. “We are also encouraged that the resolution may deter illegal practices by the many pharmacies around the country who continue to ignore their obligations to pass on their usual and customary charges to government payers.” Added co-lead counsel and SG Partner, [Bill Carmody](#), “This important result puts money back in the pockets of government programs and shows why it is important to have individuals come forward who know about Medicare or Medicaid fraud.” Joining Carmody from Susman Godfrey is co-lead counsel [Cory Buland](#), partner [Halley Josephs](#) and associate [Max Straus](#).

The case is *U.S. ex rel. Strauser, et al. v. Stephen L. LaFrance Holdings Inc., et al.*, 18-CV-673-GKF-SH (N.D. Okl.).