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CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,
STATES OF CALIFORNIA, DELAWARE
GEORGIA, HAWAII, ILLINOIS, INDIANA,
LOUISIANA, MASSACHUSETTS, MICHIGAN,
MONTANA, NEVADA, NEW HAMPSHIRE,
NEW JERSEY, NEW MEXICO, NEW YORK,
OKLAHOMA, RHODE ISLAND, TENNESSEE,
TEXAS, VIRGINIA, WISCONSIN, AND
DISTRICT OF COLUMBIA,
ex rel. KEN KRAMER

Plaintiffs,

CASE NO.: 8:08-CV-01917-T-30 TBM
Filed Under Seal Pursuant to 31U.S.C.
§3730(b)(2) Do Not Place in Press Box
Do Not Enter on PACER System

WALGREEN CO., CVS CAREMARK CORPORATION,
PUBLIX SUPER MARKETS, INC., WAL-MART
STORES, INC., AND WINN-DIXIE STORES, INC.,

Defendants.

**SECOND AMENDED FALSE CLAIMS ACT QUI TAM COMPLAINT AND
DEMAND FOR JURY TRIAL**

Introduction

1. Ken Kramer ("Relator") brings this action on behalf of the United States of America, the States of California, Delaware, Georgia, Hawaii, Illinois, Indiana, Louisiana, Massachusetts, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, Wisconsin, and the District of Columbia, against Defendants Walgreen Co., CVS Caremark Corporation, Publix Super Markets, Inc., Wal-Mart Stores, Inc., and Winn-Dixie Stores, Inc. for treble damages and civil penalties for the

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Defendant's violations of the False Claims Act, 31 U.S.C. § 3729 *et seq.* and state false claims acts.

2. As required by the False Claims Act, 31 U.S.C. § 3730(b)(2), and state false claims acts, the Relator has provided previously to the Attorney General of the United States, the United States Attorney for the Middle District of Florida, and the attorneys general of the Plaintiff States a statement of all material evidence and information related to the complaint. This disclosure statement is supported by material evidence known to the Relator establishing the existence of Defendant's false claims. Because the disclosure statement includes attorney-client communications and work product of Relator's attorneys, and is submitted to the United States and the Plaintiff States in their capacity as potential co-counsel in this litigation, Relator understands this disclosure to be confidential.

Jurisdiction and Venue

3. This action arises under the False Claims Act, 31 U.S.C. § 3729 *et seq.* This Court has jurisdiction over this case pursuant to 31 U.S.C. §§ 3732(a) and 3730(b); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1345 (jurisdiction where United States is plaintiff); and 28 U.S.C. § 1347 (supplemental jurisdiction).

4. Venue is proper in this district pursuant to 31 U.S.C. § 3732(a), because the acts proscribed by 31 U.S.C. § 3729 *et seq.* and complained of herein took place in this district, among other districts, and is also proper pursuant to 28 U.S.C. § 1391(b) and (c) because at all relevant times Defendants transacted business in this district.

Parties

5. Ken Kramer is an interested citizen residing in Clearwater, Florida.

6. Walgreen Co. ("Walgreens") is a national pharmacy corporation operating in 49 states, including Florida, the District of Columbia, and Puerto Rico. The only state Walgreen Co. does not operate pharmacies in is Alaska. As of August 31, 2008, Walgreen Co. operated 757 pharmacies in Florida, more than in any other state, including many in the Middle District of Florida.

CVS Caremark Corporation ("CVS Caremark") is a national pharmacy corporation operating in all states except Alaska, Arkansas, Idaho, South Dakota, Utah and Wyoming. According to its website, CVS Caremark "has become the largest provider of prescriptions in the United States, filling or managing more than one billion prescriptions annually." CVS Caremark operates 679 pharmacies in Florida, more than in any other state, including many in the Middle District of Florida.

Publix Super Markets, Inc. ("Publix") is a regional supermarket chain based in Lakeland, Florida. Publix operates supermarkets in Florida, Georgia, South Carolina, Alabama and Tennessee. 77 percent of its supermarkets currently have pharmacies, including many in the Middle District of Florida.

Wal-Mart Stores, Inc. ("Wal-Mart") is a national discount department store chain. In 2008, Wal-Mart was the largest public corporation by revenue in the world. Wal-Mart operates pharmacies in its Wal-Mart Discount Stores and Wal-Mart Supercenters. Wal-Mart serves Medicaid recipients in all states except North Dakota. Medicaid business constitutes approximately 11 percent of Wal-Mart's pharmacy revenue. In 2004, Wal-Mart operated nearly 3,500 pharmacies in 49 states and Puerto Rico and employed 11,500 licensed pharmacists. Wal-Mart operates many pharmacies in the Middle District of Florida.

Winn-Dixie Stores, Inc. ("Winn-Dixie") is a regional supermarket chain based in Jacksonville, Florida. Winn-Dixie operates supermarkets which include pharmacies in Florida, Georgia, Alabama, Mississippi and Louisiana. Winn-Dixie operates many pharmacies in the Middle District of Florida.

Medicaid Program Requirements

7. The Medicaid program provides medical care for indigent recipients and is funded jointly by states and the federal government.

8. 42 U.S.C. § 1396r-8(k)(3) provides that a "covered outpatient drug" under the Medicaid program does not include "a drug or biological used for a medical indication which is not a medically accepted indication."

9. 42 U.S.C. § 1396r-8(k)(6) defines "medically accepted indication" as meaning "any use for a covered outpatient drug which is approved under the Federal Food, Drug and Cosmetic Act or the use of which is supported by one or more citations included or approved for inclusion in any of the compendia described in subsection (g)(1)(B)(i) of this section."

10. The compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) are the American Hospital Formulary Service Drug Information; United States Pharmacopoeia-Drug Information; and the DRUGDEX Information System.

11. "[U]nless a particular off-label use for a drug is included in one of the identified drug compendia, a prescription for the off-label use of that drug is not eligible for reimbursement under Medicaid." *United States ex rel. Franklin v. Parke-Davis*, 147 F.Supp.2nd 39, 45(D. Mass. 2001).

12. 42 U.S.C. § 1396r-8(d)(1)(B) provides that a state Medicaid program "may exclude or otherwise restrict coverage of a covered outpatient drug if (i) the prescribed use is not for a medically accepted indication (as defined in subsection (k)(6) of this section)."

13. The Florida Medicaid Prescribed Drug Services Coverage, Limitations, and Reimbursement Handbook provides that to be reimbursable under the Florida Medicaid Program "a drug must be medically necessary and prescribed for medically accepted indications and dosages found in the drug labeling or in drug compendia in accordance with [section] 1927(k)(6) of the Social Security Act."

14. The Florida Medicaid Physician Assistant Coverage and Limitations Handbook states that "Medicaid does not reimburse for off-label use" and defines off-label use as "the use of a drug, whether an FDA approved drug or not, when that drug is prescribed for any purpose, treatment or indication which is not specifically set forth in the most current FDA guide for that drug."

15. Montana Administrative Rules § 37.86.1102(8) incorporates by reference 42 U.S.C. § 1396r-8.

16. New Jersey Pharmaceutical Services Manual, New Jersey Administrative Code § 10:51-1.13 defines non-covered pharmaceutical services under the New Jersey Medicaid program as including "prescriptions which are not for medically accepted indications as defined in Section 1927(k)(6) of the Social Security Act."

17. Nevada Medicaid Services Manual Section 1203.1A provides that the Nevada Medicaid program will pay for only "pharmaceuticals prescribed for a medically accepted indication."

18. Oklahoma Administrative Code Section 317:30-5-72.1(4)(A) provides that covered drugs may be excluded if "the prescribed use is not for a medically accepted indication as provided under 42 U.S.C. § 1396r-8."

19. 12 Virginia Administrative Code Section 30-50-210(A) states that "[d]rugs for which federal financial participation is not available, pursuant to the requirements of § 1927 of the Social Security Act (OBRA 90 § 4401) shall not be covered."

Geodon and Abilify

20. Geodon is a prescription antipsychotic drug. Geodon is not approved by the Food and Drug Administration ("FDA") for use in pediatric patients under 16 years old or younger. No non-FDA approved uses for Geodon in pediatric patients are supported by any of the compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i).

21. Abilify is a prescription antipsychotic drug. Since March 2008, Abilify also has been approved by the FDA for acute treatment of patients 10-17 years old with manic or mixed episodes associated with bipolar disorder. Since November 2007, Abilify has been approved by the FDA for the treatment of schizophrenia in teens 13 to 17 years old. No non-FDA approved uses for Abilify in pediatric patients 16 years old or younger are supported by any of the compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i).

REGULATORY REQUIREMENTS FOR PHARMACIES TO OBTAIN THEIR PATIENTS' AGE OR DATES OF BIRTH

22. Under 42 CFR §456.705(d), the state Medicaid agencies "must require that, in the case of Medicaid recipients, the pharmacist make a reasonable effort to obtain, record, and

maintain patient profiles” which contain patients’ date of birth or age. In addition, the following jurisdictions also require pharmacists to obtain their patients’ date of birth or age:

A. Florida Administrative Code §64B 16-27.800(1)(c) requires all pharmacies to maintain a patient record system which includes a patient’s age or date of birth.

B. California Code of Regulations Title 16, Section 1707.1 requires all pharmacies to maintain a patient medication record which includes a patient's date of birth or age.

C. Code of Delaware Regulations §40 850 026 5.3.4.1.4 requires Medicaid pharmacies to make reasonable efforts to obtain, record, and maintain the age of Medicaid patients.

D. Georgia Administrative Code §480-27-.09(1) requires all pharmacies to maintain a patient record system which includes a patient's age or date of birth.

E. Title 856, Indiana Administrative Code §1-33-3 requires all pharmacies to maintain prescription medication profiles for all patients which include a patient's age or date of birth.

F. Title 46, Louisiana Administrative Code Part LIII Section 521 requires that a pharmacist may administer medication to a patient upon a prescription which bears the patient's date of birth.

G. Title 247 Code of Massachusetts Regulations §9:07(1) requires all pharmacies to maintain a patient record system which includes a patient's date of birth or age.

H. Title 24, Administrative Rules of Montana, Chapter 174.901 requires all pharmacies to maintain a patient record system which includes a patient's age or date of birth.

I. Nevada Administrative Code §639.708 requires all pharmacies to maintain a record of medication for each patient which includes a patient's age or date of birth.

J. New Hampshire Administrative Rules §706.01 requires all pharmacies to maintain a patient record system for all patients which includes a patient's age or date of birth.

K. Title 13, New Jersey Code §39-7.19 requires all pharmacies to maintain a patient profile system for all patients which includes a patient's age, birth date or age group (infant, child, or adult).

L. Title 8, New York Codes, Rules and Regulations Section 63.6 requires all pharmacies to maintain a patient medication profile which includes a patient's date of birth or age.

M. Title 535, Oklahoma Administrative Code §10-9-2 requires all pharmacies to maintain a system of records of patient information which includes a patient's date of birth or age.

N. Tennessee Rules and Regulations §140-3-.01 requires all pharmacies to maintain a patient record system which includes a patient's date of birth or age.

O. Title 22, Texas Administrative Code §291.34 requires all pharmacies to maintain a patient medication record system which includes a patient's age or date of birth.

P. Title 12, Virginia Administrative Code §30-130-310 requires all pharmacies to maintain a patient medication profile which includes a patient's date of birth or current age.

Q. Wisconsin Administrative Code Pharmacy Chapter 7.07 requires all pharmacies to maintain an individual medication profile record system for all patients which includes a patient's birth date if obtainable. Similarly, Wisconsin Administrative Code Department of Health and Family Services Chapter 107.10 requires all pharmacists dispensing drugs to

Medicaid recipients to make a reasonable effort to obtain, record and maintain recipients' date of birth or age.

R. Title 22, Code of District of Columbia Municipal Regulations Section 1913 requires all pharmacies to maintain a patient record system which includes a patient's age or date of birth.

FALSE CLAIMS ACT COUNTS

Count One

**Defendant Walgreen Co.
Presenting and Causing to Be Presented False
and Fraudulent Claims In Violation of 31 U.S.C. § 3729(a)(1)**

23. Relator realleges and incorporates paragraphs 1-22.

24. From at least 2001 to the present, Defendant Walgreen Co. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except Alaska, as well as to the District of Columbia and Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

25. From at least 2002 to November 22, 2007, Defendant Walgreen Co. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except Alaska, as well as to the District of Columbia and Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and

dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

26. From at least 2002 to March 1, 2008, Defendant Walgreen Co. knowingly presented and caused to be presented false and fraudulent for payment to Medicaid programs in all states except Alaska, as well as to the District of Columbia and Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

27. From at least 2002 to the present, Defendant Walgreen Co. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except Alaska, as well as to the District of Columbia, and to Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Two

**Defendant CVS Caremark Corporation
Presenting and Causing to Be Presented False and Fraudulent
Claims In Violation of 31U.S.C. § 3729(a)(1)**

28. Relator realleges and incorporates paragraphs 1-22.

29. From at least 2001 to the present, Defendant CVS Caremark Corporation knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except Alaska, Arkansas, Idaho, South Dakota, Utah, and Wyoming, as well as to the District of Columbia Medicaid program, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

30. From at least 2002 to November 22, 2007, Defendant CVS Caremark Corporation knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except Alaska, Arkansas, Idaho, South Dakota, Utah, and Wyoming, as well as to the District of Columbia Medicaid program, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

31. From at least 2002 to March 1, 2008, Defendant CVS Caremark Corporation

knowingly presented and caused to be presented false and fraudulent for payment to Medicaid programs in all states except Alaska, Arkansas, Idaho, South Dakota, Utah, and Wyoming, as well as to the District of Columbia Medicaid program, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

32. From at least 2002 to the present, Defendant CVS Caremark Corporation knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except Alaska, Arkansas, Idaho, South Dakota, Utah, and Wyoming, as well as to the District of Columbia Medicaid program, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Three

**Defendant Publix Super Markets, Inc.
Presenting and Causing to Be Presented False
and Fraudulent Claims In Violation of 31 U.S.C. § 3729(a)(1)**

33. Relator realleges and incorporates paragraphs 1-22.

34. From at least 2001 to the present, Defendant Publix Super Markets, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to

Medicaid programs in Florida, Georgia, South Carolina, Alabama and Tennessee in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

35. From at least 2002 to November 22, 2007, Defendant Publix Super Markets, Inc., knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in Florida, Georgia, South Carolina, Alabama and Tennessee in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

36. From at least 2002 to March 1, 2008, Defendant Publix Super Markets, Inc., knowingly presented and caused to be presented false and fraudulent for payment to Medicaid programs in Florida, Georgia, South Carolina, Alabama and Tennessee in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

37. From at least 2002 to the present, Defendant Publix Super Markets, Inc., knowingly presented and caused to be presented false and fraudulent claims for payment to

Medicaid programs in Florida, Georgia, South Carolina, Alabama and Tennessee, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Four

**Defendant Wal-Mart Stores, Inc.
Presenting and Causing to Be Presented False
and Fraudulent Claims In Violation of 31 U.S.C. § 3729(a)(1)**

38. Relator realleges and incorporates paragraphs 1-22.

39. From at least 2001 to the present, Defendant Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except North Dakota, as well as to the District of Columbia and Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

40. From at least 2002 to November 22, 2007, Defendant Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except North Dakota, as well as to the District of Columbia and Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of

schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

41. From at least 2002 to March 1, 2008, Defendant Wal-Mart Stores, Inc knowingly presented and caused to be presented false and fraudulent for payment to Medicaid programs in all states except North Dakota, as well as to the District of Columbia and Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

42. From at least 2002 to the present, Defendant Wal-Mart Stores, Inc knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in all states except North Dakota, as well as to the District of Columbia, and to Puerto Rico Medicaid programs, in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Five

**Defendant Winn-Dixie Stores, Inc.
Presenting and Causing to Be Presented False
and Fraudulent Claims In Violation of 31 U.S.C. § 3729(a)(1)**

43. Relator realleges and incorporates paragraphs 1-22.

44. From at least 2001 to the present, Defendant Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in Florida, Georgia, Alabama, Mississippi, and Louisiana in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

45. From at least 2002 to November 22, 2007, Defendant Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in Florida, Georgia, Alabama, Mississippi, and Louisiana in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

46. From at least 2002 to March 1, 2008, Defendant Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent for payment to Medicaid programs in Florida, Georgia, Alabama, Mississippi, and Louisiana in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years

old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

47. From at least 2002 to the present, Defendant Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to Medicaid programs in Florida, Georgia, Alabama, Mississippi, and Louisiana in violation of 31 U.S.C. § 3729(a)(1) by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Six

Presenting and Causing to Be Presented False Claims In Violation of California False Claims Act, California Government Code § 12651

48. Relator realleges and incorporates paragraphs 1-22.

49. California Government Code § 12651 provides that any person who knowingly presents or causes to be presented a false claim for payment or approval to an officer or employee of the state or a political subdivision is liable for treble damages and a civil penalty of up to \$10,000 for each false claim.

50. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims to the California Medicaid program for payment or approval in violation of California

Government Code 12651 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

51. From at least 2002 to November 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims to the California Medicaid program for payment or approval in violation of California Government Code § 12651 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

52. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims to the California Medicaid program for payment or approval in violation of California Government Code § 12651 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

53. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims to the California Medicaid program for payment or approval in violation of California

Government Code 12651 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Seven

**Presenting and Causing to Be Presented False
and Fraudulent Claims In Violation of Delaware
False Claims and Reporting Act, Title 6 Delaware Code,
Section 1201**

54. Relator realleges and incorporates paragraphs 1-22.

55. The Delaware False Claims and Reporting Act, Title 6, Delaware Code, Section 1201 provides that any person who knowingly presents or causes to be presented a false or fraudulent claim to an officer or employee of the state government is liable for treble damages and a civil penalty of \$5,500-\$11,000 for each such act.

56. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims to the Delaware Medicaid program for payment or approval in violation of Title 6, Delaware Code, Section 1201 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

57. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be

presented false and fraudulent claims for payment to the Delaware Medicaid program in violation of Title 6, Delaware Code, Section 1201 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

58. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Delaware Medicaid program in violation of Title 6, Delaware Code, Section 1201 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

59. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Delaware Medicaid program in violation of Title 6, Delaware Code, Section 1201 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Eight

**Presenting and Causing to Be Presented False and
Fraudulent Medicaid Claims in Violation of Georgia
State False Medicaid Claims Act, 49 Georgia Code, §4-168**

60. Relator realleges and incorporates paragraphs 1-22.

61. The Georgia State False Medicaid Claims Act, 49 Georgia Code, Chapter 4 provides that any person who knowingly presents or causes to be presented a false or fraudulent claim to the Georgia Medicaid program is liable for treble damages and a civil penalty of \$5,500-\$11,000 for each false or fraudulent claim.

62. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Publix Super Markets, Inc., Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Georgia Medicaid program in violation of 49 Georgia Code § 4-168 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

63. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, Publix Super Markets, Inc., Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Georgia Medicaid program in violation of 49 Georgia Code § 4-168 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42

U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

64. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, Publix Super Markets, Inc., Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent for payment to the Georgia Medicaid program in violation of 49 Georgia Code § 4-168 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

65. From at least 2002 to the present, Defendant Walgreen Co., CVS Caremark Corporation, Publix Super Markets, Inc., Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Georgia Medicaid program in violation of 49 Georgia Code § 4-168 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Nine

Presenting and Causing to Be Presented False and Fraudulent Claims In Violation of Hawaii False Claims Act, Hawaii Revised Statutes Section 661-21

66. Relator realleges and incorporates paragraphs 1-22.

67. The Hawaii False Claims Act, Hawaii Revised Statutes Section 661-21, provides that any person who knowingly presents or causes to be presented a false or fraudulent claim to an officer or employee of the state is liable for treble damages and a civil penalty of \$5,000-\$10,000.

68. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Hawaii Medicaid program in violation of Hawaii Revised Statutes Section 661-21 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

69. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Hawaii Medicaid program in violation of Hawaii Revised Statutes Section 611-21 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

70. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent for payment to the Hawaii Medicaid program in violation of Hawaii Revised Statutes Section 611-21 by submitting claims for Abilify which were dispensed to pediatric

patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

71. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented CVS Caremark Corporation, and Wal-Mart Stores, Inc. and caused to be presented false and fraudulent claims for payment to the Hawaii Medicaid program in violation of Hawaii Revised Statutes Section 611-21 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Ten

**Presenting and Causing to Be Presented False and
Fraudulent Claims in Violation of Illinois Whistleblower
Reward and Protection Act, 740 Illinois Compiled Statutes
Annotated Section 175/3**

72. Relator realleges and incorporates paragraphs 1-22.

73. The Illinois Whistleblower Reward and Protection Act, 740 Illinois Compiled Statutes Annotated, Section 175/3 provides that any person who knowingly presents or causes to be presented a false or fraudulent claim to an employee or officer of the state for payment or approval is liable for treble damages and a civil penalty of \$5,000-\$10,000.

74. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Illinois Medicaid program in violation of Illinois Compiled Statutes Section 175/3 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

75. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Illinois Medicaid program in violation of Illinois Compiled Statutes Section 175/3 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

76. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent for payment to the Illinois Medicaid program in violation of Illinois Compiled Statutes Section 175/3 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

77. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Illinois Medicaid program in violation of Illinois Compiled Statutes Section 175/3 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Eleven

**Presenting and Causing to Be Presented False Claims
In Violation of Indiana False Claims and Whistleblower
Protection Act, Indiana Code § 5-11-5.5**

78. Relator alleges and incorporates paragraphs 1-22.

79. The Indiana False Claims and Whistleblower Protection Act, Indiana Code § 5-11-5.5, provides that any person who knowingly or intentionally presents a false claim to the state for payment or approval is liable for treble damages and a civil penalty of at least \$5,000.

80. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Indiana Medicaid program in violation of Indiana Code § 5-11-5.5 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

81. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Indiana Medicaid program in violation of Indiana Code § 5-11-5.5 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

82. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Indiana Medicaid program in violation of Indiana Code § 5-11-5.5 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

83. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to Indiana Medicaid program in violation of Indiana Code § 5-11-5.5 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted

indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twelve

**Presenting and Causing to Be Presented False or
Fraudulent Claims In Violation of Louisiana Medical
Assistance Programs Integrity Law, Louisiana Revised
Statutes Annotated Section 46:439.1**

84. Relator alleges and incorporates paragraphs 1-22.

85. The Louisiana Medical Assistance Programs Integrity Law, Louisiana Revised Statutes Annotated Section 46:439.1, provides that any person who knowingly presents or causes to be presented a false or fraudulent claim against medical assistance funds for payment is liable for a civil fine not to exceed three times the amount of actual damages sustained by the medical assistance program.

86. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Louisiana Medicaid program in violation of Louisiana Revised Statutes Annotated § 46:439.1 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

87. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Louisiana Medicaid program in violation of Louisiana Revised Statutes Annotated § 46:439.1 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of

schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

88. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Louisiana Medicaid program in violation of Louisiana Revised Statutes Annotated § 46:439.1 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

89. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, Wal-Mart Stores, Inc. and Winn-Dixie Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Louisiana Medicaid program in violation of Louisiana Revised Statutes Annotated § 46:439.1 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Thirteenth

**Presenting and Causing to Be Presented False or
Fraudulent Claims In Violation of Massachusetts
False Claims Act, Massachusetts Annotated Laws
Chapter 12, Section 5B**

90. Relator alleges and incorporates paragraphs 1-22.

91. The Massachusetts False Claims Act, Massachusetts Annotated Laws Chapter 12, Section 5B, provides that any person who knowingly presents or causes to be presented a false or fraudulent claim for payment or approval to an employee, agent or representative of the Commonwealth is liable for treble damages and a civil penalty of not less than \$5,000 and not more than \$10,000 per violation.

92. The Commonwealth of Massachusetts Pharmacy Manual, 130 Code of Massachusetts Regulations 406.000, Section 406.413(C)(4) provides that "[t]he MassHealth agency does not pay for any drug prescribed for other than the FDA-approved indications as listed in the package insert, except as the MassHealth agency determines to be consistent with current medical evidence."

93. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Massachusetts Medicaid program in violation of Massachusetts Annotated Laws Chapter 12, Section 5B by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

94. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be

presented false and fraudulent claims for payment to the Massachusetts Medicaid program in violation of Massachusetts Annotated Laws Chapter 12, Section 5B by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

95. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Massachusetts Medicaid program in violation of Massachusetts Annotated Laws Chapter 12, Section 5B by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

96. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Massachusetts Medicaid program in violation of Massachusetts Annotated Laws Chapter 12, Section 5B by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Fourteen

**Presenting and Causing to Be Presented False or
Fraudulent Claims in Violation of Michigan Medicaid
False Claim Act, Michigan Compiled Laws § 400.607**

97. Relator alleges and incorporates paragraphs 1-22.

98. The Michigan Medicaid False Claim Act, Michigan Compiled Laws §§ 400.607, 400.610a, and 400.612, provides that any person who makes or presents or causes to be presented a claim to the Michigan Medicaid program knowing it is false is liable for the full amount received plus treble the amount of damages suffered by the state.

99. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Michigan Medicaid program in violation of Michigan Compiled Laws §§ 400.607, 400.610(a) and 400.612 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

100. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Michigan Medicaid program in violation of Michigan Compiled Laws §§ 400.607, 400.610(a) and 400.612 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

101. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Michigan Medicaid program in violation of Michigan Compiled Laws §§ 400.607, 400.610(a) and 400.612 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

102. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Michigan Medicaid program in violation of Michigan Compiled Laws §§ 400.607, 400.610(a) and 400.612 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Fifteen

**Presenting and Causing to Be Presented False or
Fraudulent Claims in Violation of Montana Code 17-8-403**

103. Relator alleges and incorporates paragraphs 1-22.

104. The Montana False Claims Act, Montana Code Chapter 465, provides that any person who makes or causes to be made a false claim for payment or approval to a Montana

governmental entity and causes damage of more than \$500 is liable for from double to treble damages and a civil penalty of up to \$10,000 for each act.

105. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Montana Medicaid program in violation of Montana Code Chapter 465 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

106. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Montana Medicaid program in violation of Montana Code Chapter 465 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

107. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Montana Medicaid program in violation of Montana Code Chapter 465 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug

compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

108. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Montana Medicaid program in violation of Montana Code Chapter 465 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Sixteen

**Presenting and Causing to Be Presented False
Claims in Violation of Nevada Revised Statutes § 357.040**

109. Relator alleges and incorporates paragraphs 1-22.

110. Nevada Revised Statutes § 357.040 provides that any person who knowingly presents or causes to be presented a false claim for payment or approval to a state officer, employee or agent is liable for treble damages and a civil penalty of not less than \$2,000 nor more than \$10,000 for each act.

111. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Nevada Medicaid program in violation of Nevada Revised Statutes § 357.040 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages

found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

112. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Nevada Medicaid program in violation of Nevada Revised Statutes § 357.040 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

113. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Nevada Medicaid program in violation of Nevada Revised Statutes § 357.040 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

114. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Nevada Medicaid program in violation of Nevada Revised Statutes § 357.040 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes

associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Seventeen

**Presenting and Causing to Be Presented False or
Fraudulent Claims in Violation of New Hampshire
False Claims Act, New Hampshire Revised Statutes§ 167:61-b**

115. Relator alleges and incorporates paragraphs 1-22.

116. New Hampshire Revised Statutes § 167:61-b provides that any person who knowingly presents or causes to be presented a false or fraudulent claim to a state officer or employee is liable for treble damages and a civil penalty of not less than \$5,000 nor more than \$10,000.

117. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New Hampshire Medicaid program in violation of New Hampshire Revised Statutes§ 167:61-b by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

118. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New Hampshire Medicaid program in violation of New Hampshire Revised Statutes§ 167:61-b by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia

despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

119. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent for payment to the New Hampshire Medicaid program in violation of New Hampshire Revised Statutes § 167:61-b by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

120. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New Hampshire Medicaid program in violation of New Hampshire Revised Statutes § 167:61-b by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Eighteen

**Presenting and Causing to Be Presented False Claims
In Violation of New Jersey False Claims Act, New
Jersey Statutes Annotated § 2A:32C-3**

121. Relator alleges and incorporates paragraphs 1-22.

122. The New Jersey False Claims Act, New Jersey Statutes Annotated § 2A:32C-3, provides that any person who knowingly presents or causes to be presented a false claim for payment or approval to a state officer, employee, agent, or contractor is liable for treble damages and a civil penalty of between \$5500 and \$11,000.

123. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the New Jersey Medicaid program in violation of the New Jersey False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

124. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the New Jersey Medicaid program in violation of the New Jersey False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

125. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the New Jersey Medicaid program in violation of the New Jersey False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

126. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the New Jersey Medicaid program in violation of the New Jersey False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Nineteen

**Presenting and Causing to Be Presented False or
Fraudulent Claims in Violation of New Mexico Medical False
Claims Act, New Mexico Statutes Annotated § 27-14-4**

127. Relator alleges and incorporates paragraphs 1-22

128. The New Mexico Medicaid False Claims Act, New Mexico Statutes Annotated § 27-14-4, provides that any person who knowingly presents or causes to be presented a false or fraudulent Medicaid claim for payment to the state is liable for treble damages.

129. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New Mexico Medicaid program in violation of the New Mexico Medical False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

130. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New Mexico Medicaid program in violation of the New Mexico Medical False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

131. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New Mexico Medicaid program in violation of the New Mexico Medical False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

132. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New Mexico Medicaid program in violation of the New Mexico Medical False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twenty

**Presenting and Causing to Be Presented False or
Fraudulent Claims in Violation of New York State False
Claims Act, McKinney's State Finance Law § 189**

133. Relator alleges and incorporates paragraphs 1-22.

134. The New York State False Claims Act, McKinney's State Finance Law § 189, provides that any person who knowingly presents or causes to be presented a false or fraudulent claim for payment or approval to an employee, officer or agent of the state is liable for treble damages and a civil penalty of \$6,000.00-\$12,000.00.

135. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New York Medicaid program in violation of the New York State False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted

indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

136. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New York Medicaid program in violation of the New York State False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

137. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New York Medicaid program in violation of the New York State False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

138. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the New York Medicaid program in violation of the New York State False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic

or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twenty-One

**Presenting and Causing to Be Presented False or
Fraudulent Claims in Violation of Oklahoma Medicaid False
Claims Act, 63 Oklahoma Statutes Annotated § 5053.1**

139. Relator alleges and incorporates paragraphs 1-22.

140. The Oklahoma Medicaid False Claims Act, 63 Oklahoma Statutes Annotated § 5053.1, provides that any person who knowingly presents or causes to be presented a false or fraudulent claim for payment or approval to a state officer or employee is liable for treble damages and a civil penalty of \$5,000-\$10,000.

141. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Oklahoma Medicaid program in violation of the Oklahoma Medicaid False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

142. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Oklahoma Medicaid program in violation of the Oklahoma Medicaid False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia

despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

143. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Oklahoma Medicaid program in violation of the Oklahoma Medicaid False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

144. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Oklahoma Medicaid program in violation of the Oklahoma Medicaid False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twenty-Two

**Presenting and Causing to Be Presented False or
Fraudulent Claims in Violation of Rhode Island State False
Claim Act, Rhode Island Statutes § 9-1.1-3**

145. Relator alleges and incorporates paragraphs 1-22.

146. The Rhode Island State False Claim Act, Rhode Island Statutes § 9-1.1-3, provides that any person who knowingly presents or causes to be presented a false or fraudulent claim for payment or approval to a state officer or employee is liable for treble damages and a civil penalty of \$5,000-\$10,000.

147. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Rhode Island Medicaid program in violation of the Rhode Island State False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

148. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Rhode Island Medicaid program in violation of the Rhode Island State False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

149. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Rhode Island Medicaid program in violation of the Rhode Island State False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

150. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Rhode Island Medicaid program in violation of the Rhode Island State False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twenty-Three

**Presenting and Causing to Be Presented False
Claims in Violation of Tennessee False Claims Act,
Tennessee Code Annotated § 4-18-103**

151. Relator alleges and incorporates paragraphs 1-22.

152. The Tennessee False Claims Act, Tennessee Code Annotated § 4-18-103, provides that any person who knowingly presents or causes to be presented a false claim for

payment or approval to a state officer or employee is liable for treble damages and a civil penalty of \$2,500-\$10,000 for each false claim.

153. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, Publix Supermarkets, Inc., and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Tennessee Medicaid program in violation of the Tennessee False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

154. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, Publix Supermarkets, Inc., and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Tennessee Medicaid program in violation of the Tennessee False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

155. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, Publix Supermarkets, Inc., and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Tennessee Medicaid program in violation of the Tennessee False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or

in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

156. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, Publix Supermarkets, Inc., and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Tennessee Medicaid program in violation of the Tennessee False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twenty-Four

**Presenting and Causing to Be Presented False
Claims in Violation of Texas False Claims Act,
Texas Human Resources Code § 32.039**

157. Relator alleges and incorporates paragraphs 1-22.

158. The Texas False Claims Act, Texas Human Resources Code § 32.039, provides that any person who knowingly presents or causes to be presented a false Medicaid claim for payment is liable for treble damages and a civil penalty of not more than \$10,000 for each violation.

159. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Texas Medicaid program in violation of the Texas False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger

despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

160. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Texas Medicaid program in violation of the Texas False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

161. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Texas Medicaid program in violation of the Texas False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

162. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Texas Medicaid program in violation of the Texas False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger

for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twenty-Five

**Presenting and Causing to Be Presented False
or Fraudulent Claims in Violation of
Virginia Fraud Against Taxpayers Act,
Code of Virginia § 8.01-216.3**

163. Relator alleges and incorporates paragraphs 1-22.

164. The Virginia Fraud Against Taxpayers Act, Code of Virginia § 8.01-216.3, provides that any person who knowingly presents or causes to be presented a false or fraudulent claim for payment or approval to an officer or employee of the Commonwealth is liable for treble damages and a civil penalty of \$5,000-\$10,000.

165. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Virginia Medicaid program in violation of the Virginia Fraud Against Taxpayers Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

166. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Virginia Medicaid program in violation of the Virginia Fraud Against Taxpayers Act by submitting claims for Abilify which were

dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

167. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Virginia Medicaid program in violation of the Virginia Fraud Against Taxpayers Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

168. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false and fraudulent claims for payment to the Virginia Medicaid program in violation of the Virginia Fraud Against Taxpayers Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count Twenty-Six

**Presenting and Causing to Be Presented
False Claims in Violation of Wisconsin
False Claims for Medical Assistance Act,
Wisconsin Statutes § 20.931**

169. Relator alleges and incorporates paragraphs 1-22.

170. The Wisconsin False Claims for Medical Assistance Act, Wisconsin Statutes § 20.931, provides that any person who knowingly presents or causes to be presented a false claim for medical assistance to a state officer, employee or agent is liable for treble damages and a forfeiture of \$5,000-\$10,000 for each violation.

171. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Wisconsin Medicaid program in violation of Wisconsin Statutes § 20.931 by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

172. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Wisconsin Medicaid program in violation of Wisconsin Statutes § 20.931 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

173. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Wisconsin Medicaid program in violation of Wisconsin Statutes § 20.931 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

174. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the Wisconsin Medicaid program in violation of Wisconsin Statutes § 20.931 by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Count 27

**Presenting and Causing to Be Presented False
Claims in Violation of District of Columbia False Claims Act,
District of Columbia Statutes § 2-308.14**

175. Relator alleges and incorporates paragraphs 1-22.

176. The District of Columbia False Claims Act, District of Columbia Statutes § 2-308.14, provides that any person who knowingly presents or causes to be presented a false claim

for payment or approval to an officer or employee of the District is liable for treble damages and a civil penalty of \$5,000-\$10,000 for each false claim.

177. From at least 2001 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the District of Columbia Medicaid program in violation of the District of Columbia False Claims Act by submitting claims for Geodon which were dispensed to pediatric patients 16 years old or younger despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Geodon by pediatric patients.

178. From at least 2002 to November 22, 2007, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the District of Columbia Medicaid program in violation of the District of Columbia False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of schizophrenia despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of schizophrenia.

179. From at least 2002 to March 1, 2008, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the District of Columbia Medicaid program in violation of the District of Columbia False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of bipolar disorder despite the fact that at that time there were no medically accepted indications and dosages found in the drug labeling or in the

three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for treatment of bipolar disorder.

180. From at least 2002 to the present, Defendants Walgreen Co., CVS Caremark Corporation, and Wal-Mart Stores, Inc. knowingly presented and caused to be presented false claims for payment to the District of Columbia Medicaid program in violation of the District of Columbia False Claims Act by submitting claims for Abilify which were dispensed to pediatric patients 16 years old or younger for treatment of conditions other than schizophrenia and manic or mixed episodes associated with bipolar disorder despite the fact that there were no medically accepted indications and dosages found in the drug labeling or in the three drug compendia listed in 42 U.S.C. § 1396r-8(g)(1)(B)(i) for use of Abilify by pediatric patients for those conditions.

Prayer for Relief

WHEREFORE, Relator respectfully requests that this Court enter judgment against Defendant and order:

(a) That the United States and the Plaintiff States be awarded damages in the amount of three times the damages sustained by the United States and the Plaintiff States because of the false and fraudulent claims alleged within this Complaint, as the False Claims Act and the State False Claims Acts provide;

(b) That the maximum civil penalties be imposed for each and every false claim and fraudulent claim that Defendant presented and caused to be presented to the United States and to the Plaintiff States;

(c) That pre and post-judgment interest be awarded, along with reasonable attorneys' fees, costs and expenses which the Relator necessarily incurred in bringing and pressing this case;

(d) That the Court grant permanent injunctive relief to prevent any recurrence of the False Claims Act violations for which redress is sought in this Complaint;

(e) That the Relator be awarded the maximum amount allowed pursuant to the False Claims Act and the State False Claims Acts;

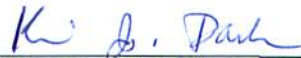
(f) That this Court award such other and further relief as it deems proper.

Demand for Jury Trial

Relator, on behalf of himself, the United States, and the Plaintiff States demands a jury trial on all claims alleged herein.

Dated: this 28th date of October 2008.

Respectfully submitted,



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Attorneys for *Qui Tam Relator*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Second Amended State False Claims Act Qui Tam Complaint and Demand For Jury Trial has been furnished by Hand Delivery to **Randy Harwell**, Assistant U.S. Attorney, 400 N. Tampa, Street, Suite 3200, Tampa, FL 33602 and furnished by U.S. Mail Certified Return Receipt Requested to: **United States Attorney's Office ATTN: Civil Process Clerk**, 400 N. Tampa Street, Suite 3200, Tampa, FL 33602; **Attorney General Michael B. Mukasey**, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-001; **Attorney General Edmund G. Brown, Jr.**, Office of the Attorney General, 1300 I Street, P.O. Box 94425, Sacramento, CA 94244-2550; **Attorney General Beau Biden**, Carvel State Office Bldg., 820 N. French Street, Wilmington, DE 19801; **Attorney General Thurbert E. Baker**, Office of the Attorney, 40 Capital Square, S.W., Atlanta, GA 30334; **Attorney General Mark Bennett**, Department of the Attorney General, 425 Queen Street, Honolulu, HI 96813; **Attorney General Lisa Madigan**, 100 West Randolph Street, Chicago, IL 60601; **Jessica Harlan, Deputy Attorney General ATTN: Medicaid Fraud Control Unit**, Office of the Indiana Attorney General Steve Carter, 8005 Castleway Drive, Indianapolis, IN 46250; **Attorney General James D. "Buddy" Caldwell**, 300 Capital Drive, P.O. Box 94005, Baton Rouge, LA 70802; **Attorney General Martha Coakley**, One Ashburton Place, Boston, MA 02108; **Attorney General Mike Cox**, G. Mennen Williams Bldg., 7th Floor, 525 W. Ottawa Street, P.O. Box 30212, Lansing, MI, 48909; **Attorney General Mike McGrath**, Department of Justice, P.O. Box 201401, Helena, MT 59620-1401; **Attorney General Catherine Cortez Masto**, Office of the Attorney General, 100 North Carson Street, Carson City, NV 89701-4717; **Attorney General Kelly A. Ayotte**, 33 Capitol Street, Concord, NH 03301; **Attorney General Anne Milgram**, Office of the Attorney

General Headquarters, Richard Hughes Justice Complex, 8th Floor, West Wing, 25 Market Street, Trenton, NJ 08625-0080; Attorney General Gary King, 408 Galisteo Street, Villagra Building, P.O. Drawer 1508 Santa Fe, NM, 87504-1508; Attorney General Andrew Cuomo, Office of the Attorney General, The Capitol, Albany, NY 12224-0341; Attorney General W.A. Drew Edmondson, 313 NE 21st Street, Oklahoma City, OK 73105; Attorney General Patrick C. Lynch, 150 Main Street, Providence, RI 02903; Attorney General Robert E. Cooper, Jr., Office of the Attorney General, P.O. Box 20207, Nashville, TN, 37202-0207; Attorney General Greg Abbott, P.O. Box 12548, Austin, TX 78711-2548; Attorney General Bob McDonnell, Office of the Attorney General, 900 East Main Street, Richmond, VA 23219; Attorney General John Byron "J.B." Van Hollen, Wisconsin Department of Justice, P.O. Box 7857, Madison, WI 53707-7857; Acting Attorney General Peter Nickles, Office of the Attorney General, One Judiciary Square, 441 4th Street, NW, Suite 1050N, Washington, DC 20001, this 28th day of October 2008.



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