

**Jim Gottstein**

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**From:** Pruitt, Eric (USAILN) [Eric.Pruitt@usdoj.gov]  
**Sent:** Friday, March 11, 2011 12:31 PM  
**To:** Jim Gottstein  
**Subject:** RE:

We do not comment on pending cases.

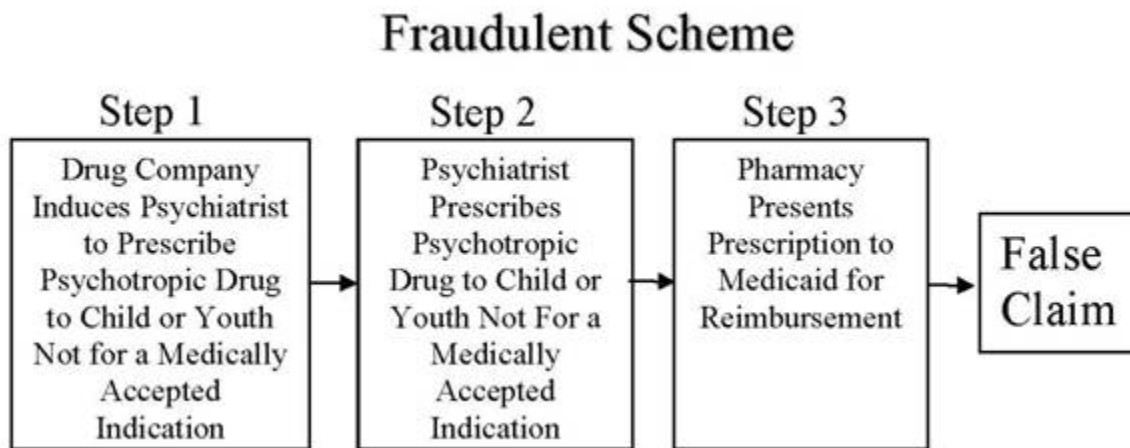
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**From:** Jim Gottstein [<mailto:jim.gottstein@psychrights.org>]  
**Sent:** Friday, March 11, 2011 12:35 PM  
**To:** Pruitt, Eric (USAILN)  
**Cc:** [eric.holder@usdoj.gov](mailto:eric.holder@usdoj.gov); 'Jim Gottstein'  
**Subject:**

Dear Mr. Pruitt:

We are looking to issue a News Release early next week about the Government's motion to dismiss the *ex rel Nicholson* case and want to give you the opportunity to explain why the Department of Justice is not supporting *qui tam* cases against doctors causing and pharmacies presenting false claims to Medicaid for psychotropic drugs used on children and youth that are not for a medically accepted indication.

Mr. Kretchmar pointed out in his opposition to your motion to dismiss that the fraudulent scheme can be graphically depicted as follows:



The Department of Justice is pursuing drug companies at Step 1, but declined intervention in the two Alaska cases, as well as the *ex rel Nicholson* case, all of which address the Fraudulent Scheme at Steps 2 & 3. I have spoken with a US Attorney in another state who told me that even though they are false claims, the government would decline to intervene if a case was brought against a doctor or pharmacy in that US Attorney's jurisdiction as a matter of prosecutorial discretion. In the Alaska cases, it was my distinct impression the Centers for Medicare and Medicaid Services (CMS) was calling the shots on intervention. In your motion, you state, " It is clear . . . government payment decisions. . . are central determinations for this litigation." The 2007-2008 letters on CMS letterhead are directly contrary to the Department of Justice position. It is one thing to decline intervention and allow private parties to pursue claims on behalf of the government without its participation and quite another to be actively antagonistic to addressing the massive fraudulent scheme through a motion to dismiss.

So, a few question arise from these facts.

1. Why shouldn't it be concluded the Department of Justice and CMS are protecting prescribers and pharmacies for their participation in this continuing massive fraudulent scheme?
2. Does CMS take the position that prescriptions not for a medically accepted indication are covered under Medicaid?
3. Is CMS calling the shots on the Department of Justice's response to the *qui tam* cases against prescribers and pharmacies for causing and presenting false claims to Medicaid for psychotropic drugs used on children and youth that are not for a medically accepted indication?
4. Do the Department of Justice and CMS consider only the economic point, i.e., the drug companies have deeper pockets, or are they attempting to make an independent judgment that somehow psychiatrists and pharmacists are less culpable for the same fraud?
5. Even if so, why is CMS still paying these false claims on a massive scale?

We look forward to your response.

James B. (Jim) Gottstein, Esq.  
President/CEO

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**PsychRights®**  
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**Psychiatric Rights**

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging and electroshock. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Currently, due to massive growth in psychiatric drugging of children and youth and the current targeting of them for even more psychiatric drugging, PsychRights has made attacking this problem a priority. Children are virtually always forced to take these drugs because it is the adults in their lives who are making the decision. This is an unfolding national tragedy of immense proportions. Extensive information about all of this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.