



State of North Carolina

ROY COOPER
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Department of Justice
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September 13, 2005

North Carolina Senate President *Pro Tempore* Marc Basnight
North Carolina House of Representatives Speaker James Black
Chairs, Joint Legislative Commission on Governmental Operations

Senator Scott Thomas
Representative Bill Culpepper
Chairs, Joint Governmental Operations Subcommittee on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

RE: N.C.G.S. § 114-2.5; Report of Court Orders in Favor of the State
"Taxol" Antitrust Litigation - State of Ohio, et al. V. Bristol-Myers Squibb, Co.
U.S. District Court For The District Of Columbia; Case No. 1:02-cv-01080 (EGS)
Deposit of Receipt - Cy Pres Funds

Gentlemen:

N.C.G.S. § 114-2.5 requires that not less than thirty (30) days prior to disbursement of funds received by the State or State agency pursuant to a settlement agreement or final orders of judgment of the case where the amount of funds exceed \$75,000, the Attorney General shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety on the payments received by the State. Pursuant to that statute, I am writing to report as follows:

On June 24, 2004, we reported to you that on April 24, 2003, North Carolina and 55 other states, commonwealths, districts, territories and possessions, entered into a \$55 million court-approved global settlement with Bristol-Myers Squibb Company to resolve allegations that the company deliberately manipulated the U.S. Patent and Trademark Office process to maximize the company's profits from the sale of its cancer drug Taxol. In effect, the company secured illegal patents that blocked access to generic versions of Taxol until 2000. On November 19, 2003, the U.S. District Court of the District of Columbia entered an order granting final approval of the settlement.

Pursuant to the consumer portion of the settlement, commencing in June 2004, 508 North Carolinians received reimbursement payments totaling \$280,458.00 - the average payment per consumer was \$438.00/single treatment or \$525.00/multiple treatments. The consumer portion of the settlement was administered by a third-party settlement administrator via a claims process.

On April 4, 2005, the Court entered an order approving further administration of the settlement. Among other things, the order directed the distribution of any residual funds remaining after distribution to consumers to revert to the states to employ a *cy pres* distribution with the express condition that the funds be used to benefit cancer victims or their families. North Carolina received \$133,045.81 as its portion of *cy pres* funds to be distributed in accordance with the court-approved terms of the Consumer Distribution Plan.

We will be happy to respond to any questions you may have regarding this report. Please feel free to contact me at (919) 716-6400.

Very truly yours,

Kristi Hyman
Chief of Staff

KH/dlm

cc: Nels Roseland, Chief Fiscal Officer, NC DOJ
Jim Johnson, Director of Fiscal Research, NCGA
Chloe Gossage, Fiscal Research, NCGA
Denise Thomas, Fiscal Research, NCGA