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The New and Expanding Claims of Third-Party Payors Against Pharmaceutical Manufacturers

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Traditionally, plaintiffs who bring suit against pharmaceutical companies in United States courts have been individuals, or classes of individuals, who allege that they have been physically injured by a drug's side effects.

Recently, a new type of plaintiff has emerged, seeking financial damages as a result of alleged illegal marketing, antitrust violations, and fraud. These third-party payors do not claim that the drugs are unsafe in any way, but instead assert that pharmaceutical companies were unjustly enriched by stifling competition and by creating a market of users who derive no medical benefit from the drugs. Third-party payors have been increasingly successful on both an individual and class-wide basis in convincing United States courts and juries that they have been economically injured by pharmaceutical companies, and many of these cases have resulted in settlements or decisions costing pharmaceutical companies hundreds of millions of dollars. If this trend continues, these claims will move to the forefront of pharmaceutical litigation in the United States.

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