

Discover Breakthrough Plan Options
From MVP. [Learn More](#)



[NYTimes.com](#)

Go to a Section ▾

[Log In](#) - [Register Now](#) - [TimesPeople](#)

SEARCH

NYT Since 1981

Search

[Business Home](#)

[Media & Advertising](#)

[World Business](#)

[Your Money](#)

[Markets](#)

[Company Research](#)

[Mutual Funds](#)

[Stock Portfolio](#)

[Columns](#)

Appeals Court Orders a Review of Medco Settlement Challenge

By [MILT FREUDENHEIM](#)

Published: December 13, 2005

An appeals court panel has ordered a federal judge to re-examine a challenge to a \$42.5 million settlement agreement in a class-action lawsuit against Medco Health Solutions, the pharmacy benefits management company.

[Sign In to E-Mail This](#)

[Printer-Friendly](#)

[Reprints](#)

[Save Article](#)



The ruling, made by a three-judge panel of the United States Court of Appeals for the Second Circuit in New York, raised the possibility of upsetting the settlement, plaintiffs' lawyers said.

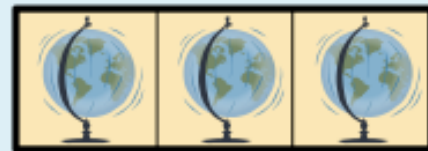
The panel ordered Judge Charles L. Brieant of United States District Court in White Plains to re-examine the challenge because he failed to resolve an issue raised by lawyers who opposed the settlement.

The ruling, handed down late last week, ordered Judge Brieant to review a claim that five plaintiffs did not have legal standing to agree to the settlement.

"Serious questions remain as to whether individual plaintiffs have demonstrated how Medco's alleged wrongdoings caused any injury to any individual," it said, citing a constitutional requirement that plaintiffs who file suits must show they have suffered personal harm. The panel added it was ready to consider other objections the dissenting lawyers raised, after Judge Brieant rules on the issue of

Advertisement

You could win 1.2 million miles.



Enough for a first class trip for two around the world.

Enter now

Mileage Plus[®]
UNITED

Most E-Mailed Articles The New York Times

[Past 24 Hours](#) | [Past 7 Days](#)

1. [Well: Attention Disorders Can Take a Toll on Marriage](#)
2. [Prone to Error: Earliest Steps to Find Cancer](#)
3. [Adventures in Very Recent Evolution](#)
4. [Many States Adopt National Standards for Their Schools](#)
5. [Recipes for Health: Spicy Quinoa, Cucumber and Tomato Salad](#)

[Go to Complete List](#)

standing.

The ruling "puts a cloud over the settlement," said Linda J. Cahn, a lawyer who contends that the \$42.5 million settlement was too small.

Some lawyers argued that Medco pocketed billions of dollars in rebates and other fees from drug manufacturers that should have gone to health plans and consumers. Ms. Cahn said it had now become "extremely likely that the case against Medco would go to trial."

Medco did not admit any liability in agreeing to the settlement. It said the ruling actually raised technical issues that could help it defend itself in 16 lawsuits across the country.

If the judge determines that individuals have no legal standing, about three-fourths of those cases will very likely evaporate, said Jeffrey J. Simek, a Medco spokesman.

Medco's case could also be helped by a ruling by an appellate panel last month in Boston, in which the three-judge panel held that pharmacy benefit managers like Medco do not fit the legal definition of a fiduciary, Mr. Simek said.

ADVERTISEMENTS

Find your dream home with
The New York Times Real Estate

Follow The New York Times on Twitter

Watch today's top videos

See the news in the making. Watch TimesCast, a daily news video.

[More Articles in Business >](#)

Ads by Google	what's this?
<u>The Nature Conservancy</u> You Can Help Save Natural Places. Join Our Email Newsletter Today. www.Nature.org	
<u>Cash for Settlements NOW</u> We pay you cash NOW for your structured settlement. Why wait? www.FuturePaymentsNow.com	
<u>Phillips & Cohen -Qui Tam</u> The most successful whistleblower law firm. \$6.9 billion recovered. www.phillipsandcohen.com	

RELATED ARTICLES

[Appeals Court Is Asked to Reject Rule on Regional Vehicle](#)

[Recalls](#) (December 10, 2005)

[Buyers of Ballplayer Phone Cards Say They Were Robbed](#) (December 8, 2005)

[Edward L. Masry, 73, Pugnacious Lawyer, Dies](#) (December 8, 2005)

[Lines Are Drawn for Big Suit Over Sodas](#) (December 7, 2005)

RELATED SEARCHES

[Suits and Litigation](#)

INSIDE NYTIMES.COM



[Charles Taylor's
Rise and Fall](#)



[The Ghost in the
Baghdad Museum](#)



[Making of a Toddler
Supergroup](#)



[Digital
Composer](#)



[A Benefit for Insurers](#)