

COLUMBIA, S.C., March 7, 2014 /PRNewswire/ -- The South Carolina Court of Common Pleas, Fifth Judicial Circuit has issued a ruling that will allow the State of South Carolina

to move forward with efforts to hold pharmaceutical giant, Cephalon, Inc., a subsidiary of Teva Pharmaceutical Industries Ltd., accountable for overpayments by the State Health Plan and for violations of the South Carolina Unfair Trade Practices Act.

The court on February 21, denied Cephalon's motion for summary judgment, rejecting the argument that the statute of limitations for the state's suit had expired before the state filed its lawsuit in 2011.

South Carolina is being represented by attorneys Ken Suggs and Gerald Jowers, of Janet, Jenner & Suggs, LLC, which is known for its expertise in [lawsuits dealing with major corporate fraud exposed by whistleblowers](#).

The court agreed with Suggs and Jowers that employees of the state's Medicaid Fraud Control Unit, who had knowledge of the company's wrong-doing prior to 2008, were prohibited under the Federal False Claims Act and court orders from sharing that information. The court agreed that the state's three-year limit for filing a lawsuit did not begin to run until September of 2008, when Cephalon announced it had agreed to pay \$425 million to settle four off-label marketing suits filed by Cephalon insiders-turned-whistleblowers. Under the False Claims Act whistleblower lawsuits are filed under seal, which means they are not disclosed publicly until they have been fully investigated and resolved.

Cephalon paid \$425 million in 2008 to settle off-label marketing suits filed by four Cephalon insiders-turned-whistleblowers. Under the False Claims Act whistleblower lawsuits are filed under seal, which means they are not disclosed publicly until they have been fully investigated and resolved.

"The major significance of this ruling is that cases arising out of sealed whistleblower cases may be considered an extraordinary exception to statutes of limitation," said Suggs.

"The court also recognized that states are not deemed on constructive notice of potential claims simply because there is some public information surrounding a company's legal troubles in other states," said Jowers.

The court further rejected Cephalon's contention that the state should have been aware of the conduct at issue because of statements made in Cephalon's SEC filings and class action lawsuits filed in other states.

"To charge the state with knowledge of materials it had no reason to seek out and could not possibly monitor would be unreasonable and would create a serious impediment to enforcement of the SCUPTA (South Carolina Unfair Trade Practices Act) and other actions on the part of the state," the court stated.

The order was signed by Judge DeAndrea Gist Benjamin. The case is *State of South Carolina ex rel. Wilson v. Cephalon Inc.*, case number 2011-cp-40-3661, in the Court of Common Pleas of the State of South Carolina

,  
Richland County

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*[Janet, Jenner & Suggs](#) is a national firm noted for its expertise in [whistleblower lawsuits](#), dangerous drugs and medical devices, birth injury and cerebral palsy cases, and environmental litigation. The firm has offices in Maryland*

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## South Carolina's Suit to Recover Millions From Drug Company to Move Forward, says Janet, Jenner Suggs

Written by Australian Business

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