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Husch Blackwell Secures Appellate Victory for Express Scripts in Putative Class Action

Husch Blackwell prevailed on behalf of Express Scripts, Inc. (ESI), when a panel of the U.S. Court of Appeals, Second Circuit, affirmed a lower court's summary judgment order dismissing a lawsuit filed by multiple health plans alleging that ESI had breached common law and ERISA fiduciary duties.

The long-running case, *Lynch v. National Prescription Administrators et al.*, was part of several dozen class actions alleging breaches of fiduciary duty that attacked the business model of pharmacy benefit managers (PBMs). The actions were initially consolidated in a multidistrict litigation (MDL) where Express Scripts obtained precedent setting rulings on ERISA fiduciary duties that affirmed the PBM business model. *Lynch* was the last remaining case and following the MDL was transferred to the Southern District of New York.

In January 2019 the district court issued an order granting a motion for summary judgment on fiduciary duty and denying the plaintiffs' cross motion for summary judgment, holding that defendants did not owe the health-plan plaintiffs a fiduciary duty, a determination that was upheld on review by the appellate court.

"The central contention in this litigation—that PBMs owe common law fiduciary duties to health plans in negotiating with drug manufacturers, pharmacies, and others—was flatly rejected by the court," said Christopher Smith, Husch Blackwell's lead partner on the matter.

The Husch Blackwell appellate team led by Smith included Melissa Baris.