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## **AARP attorneys join legal team representing whistleblower in health care fraud case challenging off-label marketing of medical device**

### *Medicare, Medicaid paid billions for procedures involving unapproved devices*

DALLAS – AARP Texas announced today that AARP attorneys have joined as co-counsel with the firms Stein, Mitchell & Muse and Baron & Budd in a whistleblower case challenging several medical device makers' allegedly illegal, off-label marketing of metal biliary stents wrongfully placed in older patients to treat vascular disease. The involvement of AARP's attorneys supports the organization's ongoing efforts to address health care fraud, a major contributing factor for escalating health care costs.

The risky devices are not approved by the Food and Drug Administration (FDA) as safe and effective to treat vascular disease, which involves narrowing of blood vessels in the legs, arms or kidneys. Millions of patients underwent high-risk vascular procedures involving the unapproved devices, even though FDA said that the stents are not proven to be safe or effective for vascular use.

Medicare and Medicaid have paid billions in reimbursement claims for procedures involving the unapproved devices, further contributing to rising health care costs.

“The case highlights the need for patients to become their own advocates and ask their doctors about the risks of medical devices and alternatives before consenting to a procedure,” said Bob Jackson, AARP Texas state director. “Too many patients have been put at risk, and too many health care dollars have been wasted at a time when they’re most needed.”

“Fraud is draining billions from the health care system, which in turn hurts older persons,” added Kelly Bagby, AARP Foundation senior attorney, who is joining as co-counsel.

In the case, whistleblower Kevin N. Colquitt alleges that stent makers Guidant (now a part of Abbott Laboratories), Johnson & Johnson, Cordis Corporation and Boston Scientific broke the law by making false statements to the FDA that the adulterated stents were intended for cancer patients with biliary blockages. The companies then exclusively marketed the devices to doctors as vascular stents without FDA approval.

In 2008, the FDA documented that patients who had the unapproved devices implanted needlessly suffered injuries including aneurysms, air embolisms, strokes, internal bleeding, arterial dissections and even death.

Colquitt became concerned with the marketing of biliary stents to treat vascular disease while working as a sales representative for Guidant and attending law school. He filed suit in September 2006. The case is *United States ex rel. Kevin N. Colquitt v. Abbott Laboratories et al.*, Civ. Action No. 3-06-CV-1769 (N.D. Tex.) (Judge Barbara J. Lynn). Colquitt is currently an attorney at Baron & Budd and is represented in this suit by Jacob A. Stein, Andrew M. Beato and David U. Fierst of Stein, Mitchell & Muse in Washington, D.C., and Laura Baughman of Baron & Budd in Dallas and now Kelly Bagby and Stacy Canan of AARP Foundation Litigation.

## **About AARP**

AARP is a nonprofit, nonpartisan social welfare organization with a membership that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP does not endorse candidates for public office or make contributions to either political campaigns or candidates. We produce AARP The Magazine, the definitive voice for 50+ Americans and the world's largest-circulation magazine with over 35.1 million readers; AARP Bulletin, the go-to news source for AARP's millions of members and Americans 50+; AARP VIVA, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.