

Capital One Double miles on every purchase Capital One Miles Ultra Miles don't expire Earn miles without limits Take your next vacation, on the double Apply now

Blowing the Whistle, Many Times

By MARY WILLIAMS WALSH Published: November 18, 2007

WHEN Cynthia Fitzgerald started out in pharmaceutical sales 20 years ago, she received ample training on the right and wrong ways to sell medical products. Right was selling on the merits. Wrong was luring customers with perks and freebies. It was O.K. to buy doctors lunch or dinner, for example, but tempting them with lavish gifts was taboo.



Brian Harkin for The New York Times

Cynthia Fitzgerald has filed what may become one of the largest whistle-blower lawsuits.

“There were pretty stringent rules back then,” recalls Ms. Fitzgerald, now 50 and a grandmother living in Dallas. “It was really clinically driven.”

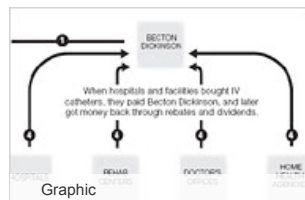
But she says those early lessons didn't serve her so well when she went to work on the other side of the table in 1998, in health care purchasing. Going by the book, and expecting her colleagues and employer to do the same, cost her a job, most of her friendships and several years of her life, she says.

Eventually, Ms. Fitzgerald decided to file what could become one of the largest whistle-blower lawsuits on record. And her case, which names more than a dozen companies as defendants — some with well-known names like Johnson & Johnson, Becton Dickinson and Merck — offers a window onto a little-known world, where billions of dollars' worth of medical products are sold each year to institutional buyers like hospitals.

The suit, filed in 2003 in federal court in Dallas, and unsealed this year, argues that improper sales practices, together with erroneous accounting, are invisibly draining millions of dollars out of vital public programs like Medicare through overcharges or unauthorized uses. While whistle-blower cases typically involve, at most, a handful of companies, Ms. Fitzgerald's alleges systemic fraud across a whole network of companies and more than 7,000 health care institutions.

Her contentions are set against a complex backdrop:

Multimedia



Anatomy of a Whistle-Blower's Claim: The Money Trail



More Articles in Business »

Today's Headlines Daily E-Mail Free

Sign up for the free Today's Headlines e-mail sent every morning. Sign Up See Sample | Privacy Policy

TAKE A CLOSER LOOK AT TEXAS. ORDER FREE TRAVEL GUIDE. It's like a whole other country.

MOST POPULAR - BUSINESS

- 1. Shifting Careers: Finding Health Insurance if You Are Self-Employed
2. Foreclosure Machine Thrives on Woes
3. High Rice Cost Creating Fears of Asia Unrest
4. Novelties: Coming Soon, to Any Flat Surface Near You
5. News Analysis: In Treasury Plan, a Reluctant Eye Over Wall Street
6. Ruling Gives Heirs a Share of Superman Copyright
7. Treasury's Plan Would Give Fed Wide New Power
8. Ping: Thinking Outside the Company's Box
9. An Oilman Entices, and Investors Cry Foul
10. Shortcuts: Speaking Strictly Financially, Stick With the Hamster

The New York Times JOBS nytimes.com/jobs



Brian Harkin for The New York Times
Cynthia Fitzgerald calls medical-supply fraud "systemic."

spiraling health care costs and debates about Medicare. State and federal authorities in Texas are investigating Ms. Fitzgerald's allegations, and any decision by them to join her case may give the suit momentum in the courts. But her corporate adversaries dispute her accusations.

"Cynthia Fitzgerald is rehashing old rumors and suspicions," said Jody Hatcher, senior vice president of Novation, the company in Irving, Tex., at the heart of her lawsuit. "These allegations have been examined in depth by a variety of different authorities, and no one has proven any of them to be true. The simple fact is that Ms. Fitzgerald's allegations are false."

Video

[More Video »](#) For her part, Ms. Fitzgerald bristles at the idea that her lawsuit is without merit or, in response to common critiques of whistle-blower cases, about easy money. "I thought they were really nice people," she says. "I was so grateful and thankful to have a steady income again. I wouldn't have rocked the boat for any small thing to save my life."

So why did she rock the boat?

"It was wrong," she says of the behavior she asserts she has witnessed. "And I knew it was wrong."

NINE years ago, while still recovering from a financially ruinous divorce, Ms. Fitzgerald decided to move to Dallas

from her native Omaha. She knew almost no one in her new city. She graduated from the [University of Nebraska](#) 13 years earlier with a communications degree, then worked in sales and marketing in the food, pharmaceutical and insurance industries.

When she moved to Texas, she says, "It was pretty bleak." She adds, "I went from having Thanksgiving dinners in a house with my family to living in an apartment that was so small that every time I turned around I ran into myself."

More than anything, she said, she wanted stability — a steady job at a company where she could climb the ladder and work until she retired. After months of looking, she joined Novation. The company helped thousands of hospitals, rehabilitation centers, home health agencies and doctors' offices nationwide negotiate prices for medical supplies — a wide range of items as diverse as saline solution and huge imaging machines.

Novation assigned her a portfolio of medical and surgical products for which its member hospitals were spending an estimated \$240 million a year: rubber gloves, surgical tools and so forth. The company sent her to a training class where, among other things, she says she learned once again about ethical purchasing procedures.

"I cannot overemphasize in the beginning how excited I was and really feeling blessed," she says. "I felt like I got a second chance. Even though it was on the other side of sales,

Find your next employee online now
 Also in Jobs:
[Are you paying your employees enough?](#)
[How to test-drive new hires](#)
[Post a job online today](#)

ADVERTISEMENTS

In a world of second opinions, get the facts first.



All the news that's fit to personalize.

The blog that covers all things Oscar

The New York Times
nytimes.com/health
 ALL THE NEWS THAT'S FIT TO CLICK

VISIT
WWW.UNCF.ORG/WaveOfHope

Ad Council
 UNITED NEGRO COLLEGE FUND
 A mind is a terrible thing to waste.

Browse Local Business Services

Find businesses near you on The New York Times Business Services Directory.

- [Business & Financial Services »](#)
- [Food & Beverage »](#)
- [Health & Beauty »](#)
- [Professional Services »](#)
- [Travel & Real Estate »](#)
- [Computer & Telecom Services »](#)
- [Franchises, Partnerships & Manufacturing »](#)
- [Miscellaneous »](#)
- [Retail & Specialty Businesses »](#)
- In partnership with DirectoryM

it was still sales.”

But as she settled in, she says, not everything in her new workplace squared with what she had been told in training, a situation that came to a head one day in 1998, when she was still just a few months into the job. According to her complaint, she and her boss met with a Johnson & Johnson sales team that was vying for an exclusive, three-year contract to sell \$130 million worth of IV equipment to Novation’s clients. It was a valuable contract, and Ms. Fitzgerald had the power to decide who would get it.

1 | [2](#) | [3](#) | [4](#) | [NEXT PAGE »](#)

[More Articles in Business »](#)

[Need to know more? 50% off home delivery of The Times.](#)

Ads by Google what's this?

[Qui Tam Lawyers](#)
Representing those who blow the whistle on fraud and abuse.
www.cohenlawgroup.com

[Whistleblowing](#)
24/7 Confidential whistleblowing hotline. Used by 28% FTSE 100.
www.expolink.co.uk

[Cerner Healthe Card](#)
Medical forms are redundant Eliminate the paper trail
www.noclipboard.com

Tips

To find reference information about the words used in this article, double-click on any word, phrase or name. A new window will open with a dictionary definition or encyclopedia entry.

Past Coverage

- [NEWS ANALYSIS: Potentially Incompatible Goals at F.D.A. \(June 11, 2007\)](#)
- [MONEY ORDERS: Charity vs. Fraternity; In Shriner Spending, a Blurry Line of Giving \(March 19, 2007\)](#)
- [National Briefing | Washington: Whistle-Blowers Tip Government To Fraud \(November 22, 2006\)](#)
- [Health Care Group to Repay \\$265 Million to Medicare \(June 16, 2006\)](#)

Related Searches

- [Medicine and Health](#)
- [Whistle-Blowers](#)
- [Sales](#)
- [Frauds and Swindling](#)

INSIDE NYTIMES.COM ◀ ▶

<p>FASHION & STYLE »</p>  <p>Audio Slide Show: On the Street Hat City</p>	<p>REAL ESTATE »</p> <p>For Real Estate Brokers, That 6% Is Getting Harder to Earn</p>	<p>OPINION »</p>  <p>Op-Ed: Baseball’s Alternate Universe</p>	<p>N.Y. / REGION »</p>  <p>For a Best-Friend Fix, Rent a Dog for a Day</p>	<p>OPINION »</p> <p>Editorial: Grim Outlook for an AIDS Vaccine</p> <p>Giving up on an AIDS vaccine and focusing on treatment is too defeatist.</p>	<p>WEEK IN REVIEW »</p>  <p>Iraq’s Alley Fighters</p>
---	---	--	--	--	--