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**REVIEWED***By Chris Tighe at 10:55 am, Dec 09, 2016*

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## Safeway Must Face Inflated Drug Price Suit

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Law360, New York (December 1, 2016, 10:40 PM EST) -- Grocery chain [Safeway Inc.](#) cannot escape a False Claims Act suit accusing it of overbilling federal and state health care programs for prescription drugs, an Illinois federal judge ruled Thursday.

U.S. District Judge Richard Mills denied Safeway's request that the lawsuit, brought by pharmacist Thomas Proctor, be dismissed for a bevy of reasons, including the fact that the company operates no stores in the Central District of Illinois, where the case is currently located.

If the chain, which operates more than 1,000 pharmacies in 20 states, did submit false claims in Illinois, they would have been processed through the state capitol of Springfield, which lies in the Central District, Judge Mills said.

"Safeway has cited no controlling authority which holds that causing the submission of false claims in this district is insufficient to establish venue," the judge wrote.

He also rejected arguments that claims in the case should be thrown out because some of the supposedly false reimbursement requests sampled in Proctor's complaint included patient information that violated the the Health Insurance Portability and Accountability Act, or HIPAA. The claims submitted to the court contained no patient names or identifying information, Judge Mills said.

Proctor, who briefly worked as a Safeway pharmacist in Texas, filed the suit in 2011, claiming that the company had a policy of charging Medicare, Medicaid and other government programs more for prescription drugs than the general public.

Starting in 2007, the company began offering a discounted drug program to encourage customers to use its pharmacies and to compete with other large chains like [Wal-Mart](#) and Kmart, according to the complaint.

But Proctor said the program, which sold around 300 drugs at \$4 per one month's supply, intentionally prohibited Medicare and other government programs from taking advantage of the discounted prices.

Those selling drugs to government policyholders are typically required to do so at the "usual and customary" price they afford to the general public, according to the complaint.

Proctor also sued on behalf of several states, including Illinois, California and New Jersey. In 2015, the federal and state governments declined to intervene.

Safeway spokeswoman Teena Massingill told Law360 on Thursday that the company doesn't comment on pending litigation.

Proctor is represented by attorneys from Aschemann Keller LLC, the Law Offices of Glenn Grossenbacher, [Goode Casseb Jones Riklin Choate & Watson](#), Anderson LLC, Idell PLLC and Helmer Martins Rice & Popham Co. LPA.

Safeway is represented by Carolyn F. McNiven of [Greenberg Traurig LLP](#).

The suit is The United States of America et al v. Safeway Inc., case number [3:11-cv-03406](#), in the U.S. District Court for the Central District of Illinois.

--Editing by Catherine Sum.

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