

ATTORNEY GENERAL
STATE OF MONTANA

EXHIBIT 10
DATE 3/18/11
HB 585

Steve Bullock
Attorney General



Department of Justice
215 North Sanders
PO Box 201401
Helena, MT 59620-1401

TO: Chairman McNutt
House Appropriations

FROM: Ali Bovingdon *Ali Bovingdon*
Deputy Attorney General

RE: HB 585: Public Disclosure of Public Contracts with Outside Counsel

DATE: March 16, 2011

At the House Appropriations March 11th hearing on HB 585, you requested that I provide the Committee with information regarding the number of times the Department of Justice has paid \$500,000 or more in fees pursuant to a contingency fee agreement with outside counsel.

I apologize for the delay in my response, but I had our budget staff thoroughly research the question to make sure I was providing the Committee with accurate information. We reviewed payments made from fiscal year 2005 forward and identified only one case in which payments were \$500,000 or greater.

In 2007, the State of Montana retained outside counsel in litigation against the drug company Eli Lilly regarding the marketing and off label prescribing of its anti-psychotic drug Zyprexa. Pursuant to the terms of the court ordered settlement, Eli Lilly was ordered to pay 13 million dollars in damages. Attorneys representing the state received 2.6 million, plus reimbursement of costs, and Montana Medicaid (DPHHS) received \$616,474.59. The remainder of the settlement was placed in a court ordered trust for the benefit of mental health programs. I also note that if the State had not retained counsel and filed our own lawsuit, we would have participated in a multi-state settlement of claims against Eli Lilly through the National Association of Medicaid Fraud Control Units. Under that settlement, Montana would have recovered only the \$616,474 Medicaid payment.

I hope this information answers your question. If you need anything further please don't hesitate to contact me. My office number is 444-9734 and my email is abovingdon@mt.gov.

c: Rep. Galen Hollenbaugh