



## PRESS RELEASE

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### **Attorney General Frosh Announces Settlement of Price-Fixing Lawsuit Against Johnson & Johnson Vision Care, Inc.**

**BALTIMORE, MD (March 30, 2017)** – Maryland Attorney General Brian E. Frosh today announced the settlement of a price-fixing lawsuit against Johnson & Johnson Vision Care, Inc. (Johnson & Johnson), alleging that Johnson & Johnson agreed with retailers in 2014 to fix the price of Johnson & Johnson brand contact lenses, like Acuvue®. Under that pricing policy, no retailer was permitted to sell Johnson & Johnson brand contact lenses below an allegedly agreed-upon minimum price. An agreement between a manufacturer and retailer to set a minimum retail price is a violation of Maryland antitrust law.

Johnson & Johnson, the largest manufacturer of contact lenses in the United States, sells more than 40% of all contact lenses sold in Maryland.

According to the lawsuit, Johnson & Johnson negotiated its price policy because certain eye care professionals who prescribe and sell contact lenses to patients complained that discounters, like Costco, Sam's Club and BJ's Wholesale Club were selling contact lenses at low prices that they could not match. As the result of the price policy, discount stores raised their prices to conform to Johnson & Johnson's mandatory minimum. This not only caused consumers to pay more, but also deprived consumers of the benefits of price competition among merchants.

In 2009, while a state senator, Attorney General Frosh sponsored an amendment to the Maryland Antitrust Act that prohibits any agreement setting a minimum price below which a retailer may not sell goods. The amendment was subsequently signed into law. The lawsuit against Johnson & Johnson is the first case that the Attorney General's office has brought under the amended Antitrust Act to challenge an alleged minimum retail price agreement.

"Prior to 2009, minimum retail price agreements such as the one we alleged in our suit, could be found lawful by courts," said Attorney General Frosh. "Now there's no question – an agreement to fix a minimum retail price is illegal under Maryland law. I am pleased that we are able to use the law to give consumers the choice to shop among competing merchants for the best prices."

Johnson & Johnson has signed an Assurance of Discontinuance, in which the company denies any and all wrongdoing, but assures that it has permanently discontinued the agreements alleged in the lawsuit. In addition, Johnson & Johnson has agreed to pay a civil penalty of \$50,000.00 to the State.