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NewsRelease

For Immediate Release:

Cadwalader Wins Appeal Affirming Summary Judgment for Nestlé USA in Chocolate Price-Fixing Case

Washington, D.C., September 16, 2015 - Cadwalader, Wickersham & Taft LLP, a leading international law firm to global corporations and financial institutions, won an appeal in an important and highly-contested litigation against its client Nestlé USA. The appeal stemmed from the firm's summary judgment victory granted on behalf of Nestlé USA and the other defendants in February.

"We are pleased that the Third Circuit upheld our earlier victory with a well-reasoned opinion," said Peter Moll, a partner in Cadwalader's Antitrust Group and lead attorney on the case. "This complex multidistrict litigation has been ongoing for nearly eight years, and consolidates ninety-one separate cases with high stakes. This win is a great result for an important client."

The Plaintiffs alleged that Hershey, Mars and Nestlé USA violated the antitrust laws by conspiring to fix the price of certain chocolate confectionary products through parallel list price increases in 2002, 2004 and 2007. Despite the existence of a criminal antitrust action in Canada against chocolate manufacturers, a cooperation agreement with Cadbury and the benefit of exhaustive discovery, Nestlé USA and the other defendants secured summary judgment at the District Court.

In response, a class of direct purchaser plaintiffs and several individual-purchaser plaintiffs, including CVS Pharmacy Inc., Giant Eagle Inc. and Rite Aid Corp., filed appeals with the Third Circuit. The Third Circuit affirmed summary judgment, concluding that "the Canadian conspiracy evidence is ambiguous and does not support an inference of a U.S. conspiracy" and that "Plaintiffs' other traditional conspiracy evidence is insufficient to create a reasonable inference of a U.S. price-fixing conspiracy."

The Cadwalader Antitrust team representing Nestlé USA was led by partner Peter Moll, and included special counsel Daniel Howley, associate Evan Harris and paralegal Matthew Penfield. All members of the Cadwalader team are based in Washington, D.C.

About Cadwalader, Wickersham & Taft LLP

Cadwalader, Wickersham & Taft LLP, established in 1792, serves a diverse client base, including many of the world's leading financial institutions and corporations in more than 50 countries. With offices in New York, London, Charlotte, Washington, Houston, Beijing, Hong Kong and Brussels, Cadwalader offers legal expertise in antitrust, banking, corporate finance, corporate governance, energy, environmental, executive compensation, financial restructuring, health care, intellectual property, litigation, mergers and acquisitions, private equity, private wealth, real estate, regulation, securitization, structured finance, tax and white collar defense. For more information, visit www.cadwalader.com.