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**JURY VERDICT IN FEDERAL FALSE CLAIM ACT CASE INVOLVING INDIVIDUAL
DEFENDANTS WHO CARRIED OUT MASSIVE LAB KICKBACK SCHEME**

PHILADELPHIA, PA (February 2, 2018) - A Charleston, South Carolina federal jury found that BlueWave Healthcare Consultants, Inc. principles, Floyd Calhoun Dent, III, and Robert Bradford Johnson; and former Health Diagnostics Laboratories (“HDL”) President Latonya Mallory violated (1) the Anti-Kickback Statute by offering physicians above-market payments disguised as “process and handling fees” to induce referrals for lab testing, and (2) the False Claims Act (“FCA”), by causing the submission of kickback-tainted claims to federal health care programs.

On January 31, 2018, the Court entered a jury verdict against Dent and Johnson for just over \$51 million and against Mallory for over \$49 million. Subject to post-trial briefing, the Court could impose statutory fines and penalties of between \$192 million and \$385 million.

The trial before the Hon. Richard M. Gergel in the U.S. District Court for the District of South Carolina followed failed attempts in 2016 by Dent, Johnson, and Mallory to dismiss FCA claims brought against them in a qui tam complaint filed by relators Scarlett Lutz and Kayla Webster. The Lutz/Webster lawsuit, which raised claims under state FCAs and private insurance statutes, in addition to federal FCA claims, alleged a nationwide scheme in which physicians were offered and paid kickbacks to order often-medically-unnecessary tests from diagnostic laboratories HDL and Singulex, Inc., through a marketing scheme initiated by Mallory, Dent, and Johnson (and Dent and Johnson’s marketing company, BlueWave). Federal and state governmental healthcare programs and private insurers then reimbursed the laboratories for those impermissible payments.

The United States intervened to prosecute the federal FCA claims against the Dent, Johnson, and Mallory. Their case was consolidated in the District of South Carolina with two other cases which named BlueWave, but not Dent and Johnson, as a defendant. The jury did not find that BlueWave was liable under the FCA.

In earlier court proceedings in 2016, the Court rejected Dent, Johnson, and Mallory’s arguments that Lutz and Webster’s claims against them were barred by the federal FCA’s so-called first-to-file rule. Under that rule, a relator may not pursue FCA claims if his complaint alleges the same material elements of a fraudulent scheme already identified in another relator’s complaint.

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Although Lutz and Webster filed their complaint, after two other cases had been filed, unlike the earlier cases, Lutz and Webster named Dent, Johnson, and Mallory as individual defendants –and alleged their personal participation in the fraud. In determining that the Lutz/Webster complaint against the individuals would go forward, the Court concluded that, by naming the individuals as defendants and alleging their fraudulent conduct, Lutz and Webster had provided different material elements of fraud; thus defeating the first-to-file rule.

This trial before Judge Gergel followed settlements with corporate defendants HDL and Singulex in 2014. In October 2014, HDL agreed to pay an ability-to-pay settlement of more than \$50 million, with the potential of \$100 million if certain contingencies occur. Singulex also entered into an ability-to-pay settlement that included a minimum of \$1.5 million, and as much as \$13.1 million, depending on the occurrence of contingencies outlined in the settlement agreement. After its settlement, HDL declared bankruptcy, and that proceeding continues in the U.S. Bankruptcy Court for the Eastern District of Virginia, in Richmond.

The successful prosecution of their federal claims as to Dent, Johnson, and Mallory will entitle Lutz and Webster to a share of any judgement that the United States obtains against those defendants. Lutz and Webster are also free to continue pursuing their state claims against Dent, Johnson, and Mallory, as well as obtain their legal fees.

Scarlett Lutz and Kayla Webster are represented by Pietragallo Gordon Alfano Bosick & Raspanti, LLP, Philadelphia, PA; William J. Tuck, P.A., Florence, SC; and Wyatt & Blake, LLP, Charlotte, NC.

Pietragallo Gordon Alfano Bosick & Raspanti, LLP, is one of the largest and most successful whistleblower law firms in the United States. Lawyers in its nationwide whistleblower practice group have served for more than 28 years as lead counsel in cases that have recovered more than \$2 billion for federal and state taxpayers. See <http://www.pietragallo.com> and <http://www.falseclaimsact.com> for more information.

Counsel for Relators Lutz and Webster commends the United States' team, drawn from the U.S. Attorney's Office for the District of South Carolina and the Department of Justice in Washington D.C., for this hard-earned verdict. The trial team included, but was not limited to, attorneys James Leventis, Michael Shaheen, Elizabeth Strawn, Mary Chris Dobbie, Jennifer Short, Jennifer Aldrich, and Christopher Terranova; and paralegal, Anne Frate. The cases had support from a wide-reaching investigative team from the U.S. Attorney's Office for the District of South Carolina; the Commercial Litigation Branch of the Justice Department's Civil Division; the U.S. Attorney's Office for the District of Columbia; Health and Human Services, Office of the Inspector General; the FBI; the U.S. Office of Personnel Management Office of Inspector General; and the Department of Defense Office of Inspector General, Defense Criminal Investigative Service.

The lawsuit is captioned *United States ex rel. Lutz v. Berkeley HeartLab*, Civil Case No. 9:14-cv-230-RMG (D.S.C.). The case is assigned to the Honorable Richard M. Gergel.

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