



38TH FLOOR ONE OXFORD CENTRE
PITTSBURGH, PA 15219
412.263.2000 FAX: 412.263.2001
WWW.PIETRAGALLO.COM

For Immediate Release

Contact: Elena A. Petzold, Chief Marketing Officer (EP@Pietragallo.com)
Micaela A. Famiglietti, Business Development Coordinator (MAF@Pietragallo.com)
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
www.pietragallo.com, www.falseclaimsact.com, www.fraudwhistleblowersblog.com

TAMPA-BASED SURGERY PARTNERS' AFFILIATES AND TWO FORMER EXECUTIVES PAY \$41 MILLION TO SETTLE FALSE CLAIMS SUITS

PHILADELPHIA, PA – April 15, 2020– The Department of Justice, the United States Attorney's Office for the Middle District of Florida, and the United States Attorney's Office for the Eastern District of Pennsylvania announced today the settlement of two *qui tam* cases filed in Tampa and Philadelphia. One of the two whistleblower cases was filed in the Middle District of Florida by Dr. Sheldon Cho, a former pain management physician for Tampa Pain, and Dawn Baker, a national recruiter who had placed physicians with Tampa Pain, against Defendants Logan Laboratories, LLC (Logan Labs), Tampa Pain Relief Centers, Inc. (Tampa Pain), subsidiaries of Surgery Partners. Two individuals associated with these corporate defendants, Michael T. (Mike) Doyle, former President and Chief Executive Officer of Surgery Partners, and its subsidiaries, including Logan Labs, and Christopher Utz (Chris) Toepke, former Group President, Ancillary Services for Surgery Partners are also contributing to the settlement.¹

The two Florida Relators alleged in their *Qui Tam* Complaint that, from the founding of Logan Labs in late 2011, the Defendants knowingly submitted or caused the submission of false claims to Government healthcare programs, including Medicare, Medicaid, the Federal Employees' Health Benefits Program (FEHBP), and Tricare, for unnecessary drug screening and confirmatory qualitative Urine Drug Testing (confirmation UDT).

The whistleblowers alleged in their False Claims Act Complaint that Tampa Pain carried out a scheme to automatically subject all patients to both screening and confirmation UDT at every visit, without the individualized determination by the treating provider that any drug testing was medically warranted. The whistleblowers also alleged that the Defendants referred the medically unnecessary

¹ A copy of the Settlement Agreement and related documents are available on the United States Attorney's Office for the Middle District of Florida's website, <https://www.justice.gov/usao-mdfl/pr/reference-laboratory-pain-clinic-and-two-individuals-agree-pay-41-million-resolve>. The Amended *Qui Tam* Complaint in *U.S. ex rel. Cho & Baker v. Surgery Partners, et al.*, is available at www.falseclaimsact.com.

confirmation UDT to their wholly owned affiliate, Logan Labs, which then submitted the false claims to Government healthcare program.

In recognition of their efforts in bringing this action, the Relators, together with two other whistleblowers who filed a separate action in Pennsylvania, shall receive 19% of the proceeds of the settlement, in addition to their attorneys' fees claim. The United States did not file its own complaint but intervened in the Florida Relators' and the Pennsylvania Relators' complaints.

Under the terms of the settlement, Tampa Pain and Logan Labs will pay the United States \$40 million, plus interest. Former executives of the Defendants, Doyle and Toepke, will each pay \$500,000, plus interest on the settlement amount from April 8, 2019. The total settlement is \$41 million, exclusive of accruing interest.

The Case Against the Private Equity Firm, H.I.G., Continues

The Tampa *qui tam* suit did not settle a count brought by the Florida Relators against a Miami-based large private equity firm, H.I.G. Capital, Inc., and its affiliates ("H.I.G.") that had management, consulting, and advisory relationships with the settling Defendants during most of the relevant time period.

Relators are represented by Pamela Coyle Brecht, Esquire and Marc S. Raspanti, Esquire of the law firm of Pietragallo Gordon Alfano Bosick & Raspanti, LLP in Philadelphia, as well as local counsel for the Relators, Alan S. Wachs, Esquire of the law firm of Smith, Gambrell & Russell, LLP, in Jacksonville, Florida.

Lead Counsel Pamela Coyle Brecht said:

"Our clients bravely stepped forward to end fraudulent drug testing that interfered with physicians' independent medical judgment and victimized both patients and the Government healthcare programs that covered many of them. This case exposed opportunistic providers who exploited the national focus on drug addiction and abuse to generate revenues without concern for their patients or the limited resources of publicly-funded healthcare programs."

Co-Lead Counsel Marc S. Raspanti stated:

"I commend our two clients for taking the difficult and uncomfortable steps of becoming whistleblowers."

Pietragallo Gordon Alfano Bosick & Raspanti, LLP, is one of the largest and most successful whistleblower law firms in the United States. Lawyers in the nationwide whistleblower practice group of Pietragallo Gordon Alfano Bosick & Raspanti have served for more than 30 years as lead counsel in *qui tam* cases that have recovered over \$2 billion for federal and state taxpayers. The Whistleblowers were represented by Pamela Coyle Brecht and Marc S. Raspanti.

The whistleblower's Jacksonville-based counsel, Alan S. Wachs stated:

“I am honored to represent clients who stood up for patients to expose profit-driven care.”

This matter was actively investigated by the United States Department of Justice and the United States Attorney's Office for the Middle District of Florida – Tampa. The Relators and their legal team express their appreciation for the hard work by government lawyers and investigators, which resulted in the recovery of millions of dollars for federal and state taxpayers. In particular, they thank Jake M. Shields - Trial Attorney, United States Department of Justice – Civil Division – Fraud Section, and Kyle Scott Cohen, Assistant United States Attorney, Middle District of Florida, and their investigative team for their support and outstanding work on this case over the past three years.

The lawsuit is captioned *United States of America, ex rel. Sheldon Cho, MD, and Dawn Baker, et al. v. Surgery Partners, Inc., et. al.*, No. 8:17-cv-983-T-17AEP (MD FL). A copy of the unsealed *Qui Tam* Complaint, along with the Settlement Agreement, can be found at www.FalseClaimsAct.com.

Pietragallo Gordon Alfano Bosick & Raspanti, LLP is a business and litigation law firm with five offices across Pennsylvania, Ohio, and West Virginia. We serve a variety of clients all across the United States and the District of Columbia with one goal: delivering *results* to our Clients. For more information, visit our website at www.PIETRAGALLO.com.

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