

**For Immediate Release**

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**\$19 MILLION SETTLEMENT IN NON-INTERVENED SOUTH CAROLINA FALSE CLAIMS ACT CASE AGAINST LABORATORY CORPORATION OF AMERICA**

PHILADELPHIA, PA (February 6, 2023) – Two whistleblowers from Florence, South Carolina, Scarlett Lutz and Kayla Webster, have resolved their 10-year qui tam lawsuit against Laboratory Corporation of America, Inc. (“Labcorp”), one of the largest laboratories in the world, for \$19 million. The whistleblowers alleged that Labcorp, with the knowledge and approval of its senior executives, had participated in a conspiracy to violate the False Claims Act (“FCA”) by providing blood draws to their healthcare provider customers who were receiving cash kickbacks from Health Diagnostics Laboratories (“HDL”) and/or Singulex, Inc. (“Singulex”) as part of a complex healthcare fraud scheme. Relators and their counsel vigorously pursued these claims after the United States declined to intervene in May 2018 and resolved this matter just as a three-week jury trial was about to begin in early January 2023 before the Honorable Richard M. Gergel in the U.S. District Court for the District of South Carolina in Charleston. Labcorp has denied all allegations in Relators’ Fourth Amended Complaint and has not admitted any liability as part of the executed settlement.

The whistleblowers alleged a widespread scheme in which numerous physicians were offered and paid kickbacks by HDL and Singulex to order laboratory tests. According to the whistleblowers’ allegations, the scheme was initiated by HDL’s former CEO, LaTonya Mallory, together with Floyd Calhoun (“Cal”) Dent and Bradford (“Brad”) Johnson, through Dent and Johnson’s marketing company, BlueWave.

**A Tale of Blood and Money**

Relators Lutz and Webster alleged that HDL and Singulex had paid referring providers kickbacks disguised as “draw fees” or “process and handling” (“P&H”) fees to induce lucrative referrals for lab testing, and that Labcorp had participated in this conspiracy to violate the FCA by providing blood draw services for kickback-receiving providers in exchange for referrals to Labcorp. Relators alleged that, by drawing the blood samples, Labcorp had conspired to violate the FCA, had caused the submission of false claims by HDL and/or Singulex, and had submitted its own kickback-tainted false claims to federal health care programs.

Although several relators had exposed the architects of the national P&H fees fraud (HDL, Singulex, and BlueWave), Relators Lutz and Webster were the only Relators to expose Labcorp’s

involvement in the blood-for-money scheme. Relators' qui tam complaint detailed how senior Labcorp executives had known about and approved Labcorp's participation in the HDL kickback scheme. Relators' case also alleged that Labcorp's efforts to avoid potential liability included an anonymous request for an OIG Fraud Alert submitted through their legal counsel. The Relators' complaint detailed Labcorp's motive for participation in the HDL conspiracy, including Labcorp senior executives' multi-year pursuit of a potential business relationship with HDL while conducting multiple high-level meetings with former HDL CEO LaTonya Mallory.

### **The Last Settlement in a Saga of Blood Draw Kickbacks**

The \$19 million settlement against Labcorp follows earlier settlements with corporate defendants HDL and Singulex, as well as judgments against the individuals who concocted and carried out the massive kickback fraud.

In October 2014, HDL agreed to an ability-to-pay settlement of \$47 million, with the potential of \$100 million if certain contingencies occurred. HDL declared bankruptcy in 2015 after paying a fraction of the settlement to the government. HDL's complex bankruptcy proceedings continue in the U.S. Bankruptcy Court for the Eastern District of Virginia, in Richmond. Singulex also entered into an ability-to-pay settlement for a minimum of \$1.5 million before going out of business.

The United States intervened and prosecuted the federal FCA claims against Bluewave filed by whistleblowers, and against Mallory and the marketing agents, Cal Dent and Brad Johnson, who were named defendants in Lutz and Webster's case. The cases were consolidated in the District of South Carolina, and the whistleblowers and their counsel, including Lutz and Webster, fully supported the government in their pursuit of Mallory, Dent, and Johnson.

On January 31, 2018, after a trial before Judge Gergel, the government obtained a jury verdict against individuals named by Lutz and Webster, Dent and Johnson, for just over \$51 million, and against Mallory for over \$49 million. After post-trial motions by the defendants were denied, the Court entered a judgment in excess of \$114 million, including mandatory FCA penalties. The judgment was upheld by the Fourth Circuit. The Supreme Court denied the defendants' petition for a writ of certiorari.

### **Whistleblowers' Dogged Efforts to Prosecute Their Claim on Behalf of the Government**

From 2018 until 2022, Lutz, Webster, and their counsel pursued claims in Relators' Fourth Amended Complaint against Labcorp. After surviving Labcorp's motion to dismiss their case, and prevailing at summary judgment on all counts, Lutz, Webster, and their legal team were preparing to try their case before a jury when it was resolved just weeks before jury selection. The successful prosecution of their federal claims exposing Labcorp's participation in this massive fraud will entitle Lutz and Webster to a share of the \$19 million settlement. In recognition of their substantial efforts on behalf of American taxpayers, the United States has awarded the Relators and their legal team 29.5% of the government's recovery – just shy of the maximum 30% relator's share allowed under the False Claims Act. The remainder of the settlement, over 70%, will be returned to the Medicare Trust Fund for the benefit of Medicare beneficiaries.

Pamela Coyle Brecht, who, along with Marc S. Raspanti, Michael A. Morse, and Ashley Kenny, has represented the Relators since 2012, commended these two individuals for coming forward and taking on a multi-billion-dollar company, and staying the course with this difficult case for more than a decade:

“These whistleblowers are hard-working people from a small town in South Carolina, not highly paid laboratory -industry executives. Webster, a nurse working for a Florence, South Carolina family practitioner who was receiving HDL and Singulex P&H payments while Labcorp’s in-office phlebotomist drew the blood samples exchanged for kickbacks, knew that what was happening was wrong. Lutz, a small business owner who did some work for the same, now-deceased doctor, saw checks from HDL and Singulex with patient names attached, and questioned why a doctor was being paid by a lab. Together, they did the scary and difficult thing: they brought their concerns to the government. We are so very proud to have fought the good fight for them. Being a whistleblower, committing yourself to the long process of bringing and succeeding in FCA litigation without the government’s direct assistance is very difficult both professionally and personally. The experience is made even more difficult when whistleblowers are subjected to the scrutiny of a well-funded healthcare giant and their counsel. Our entire legal team from Pietragallo, Susman, and Robinson Gray is so very proud to have prevailed as Kayla’s and Scarlett’s advocates on behalf of US taxpayers who fund the Medicare program, which too often falls prey to kickback schemes.”

Susman Godfrey’s team for the case included Stephen Shackelford, Jr., Steven Shepard, Jonathan Ross, and Amy Gregory.

“This case required a tremendous investment by both the Relators and the law firms to get to this successful conclusion,” Shackelford said. “The tireless work the legal teams did to unearth the key documents in the case, and to take so many important depositions in a short time, was critical to getting this result. We at Susman Godfrey always enjoy the chance to work with top-notch co-counsel and litigating this case with the talented lawyers at Pietragallo and Robinson Gray was a real treat.”

Robinson Gray’s team for the case included Beth Richardson, La’Jessica Stringfellow, and Jasmine Smith.

“Robinson Gray is immensely proud to have fought alongside South Carolina whistleblowers Lutz and Webster, and with the exceptional lawyers at Pietragallo and Susman Godfrey, to achieve this important result for the United States,” Richardson said. “This ten-year-long False Claims Act litigation was complex and involved several issues of first impression in the District of South Carolina and the Fourth Circuit Court of Appeals. Serving as local counsel was an honor.”

Scarlett Lutz and Kayla Webster have been represented in their case against Labcorp by: Pietragallo Gordon Alfano Bosick & Raspanti, LLP of Philadelphia, PA; Susman Godfrey LLP of New York, NY; Robinson Gray Stepp & Laffitte, LLC of Columbia, SC; and William J. Tuck, P.A. of Darlington, SC.

Counsel for Relators Lutz and Webster commends the United States' team for its unwavering support of the Relators in this non-intervened case, particularly, the U.S. Attorney's Office for the District of South Carolina.

The lawsuit is captioned *United States ex rel. Lutz et al. v. Laboratory Corporation of America Holdings*, No. 9:14-cv-3699-RMG (D.S.C.) The case is assigned to the Honorable Richard M. Gergel.

#### **ABOUT PIETRAGALLO GORDON ALFANO BOSICK & RASPANTI, LLP**

**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 False Claims Act practice group have served for over 32 years as lead counsel in cases that have recovered more than \$2 billion for federal and state taxpayers. For more information, visit our websites at [www.PIETRAGALLO.com](http://www.PIETRAGALLO.com) and [www.FalseClaimsAct.com](http://www.FalseClaimsAct.com).**

**Pietragallo is a regional litigation and business law firm with a national client base. In addition to its Pittsburgh and Philadelphia offices, the firm has offices in Palm Beach Gardens, Florida; Sharon, Pennsylvania; Steubenville, Ohio; and Weirton, West Virginia.**

#### **ABOUT SUSMAN GODFREY**

**Susman Godfrey is a nationwide law firm of 150 trial lawyers. It handles high-stakes litigation in a broad range of practice areas and industries, for both plaintiffs and defendants. Susman's attorneys are creative in finding the fee arrangement—contingent, flat, hourly, or hybrid—that best suits a client's case. With a relentless focus on winning at trial, Susman Godfrey has been ranked by Vault as the #1 litigation boutique in America for 12 consecutive years. Visit [susmangodfrey.com](http://susmangodfrey.com) to learn more about our unique approach to winning cases.**

#### **ABOUT ROBINSON GRAY STEPP & LAFFITTE, LLC**

**Robinson Gray Stepp & Laffitte, LLC, is a South Carolina law firm providing business transactional and litigation representation to clients ranging from multi-national corporations to small businesses and individuals. Robinson Gray's litigation attorneys are uniquely well-qualified to handle any matter arising in South Carolina state and federal trial and appellate courts, from routine litigation to class actions and "bet the company" cases. For more information about Robinson Gray's legal services, visit <https://robinsongray.com>.**

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