

Exhibit 1



COMMONWEALTH of VIRGINIA

POST OFFICE BOX 2452

Secretary of the Commonwealth

RICHMOND, VIRGINIA 23218-2452

NOTICE OF SERVICE OF PROCESS

Quest Diagnostics Clinical Laboratory, Inc.
Corporation Service Company
2711 Centerville Road #400
Wilmington, DE 19808

8/13/2013

Commonwealth of Virginia ex rel. Hunter Labs

vs.

Quest Diagnostics Clinical Laboratory, Inc.
Corporation Service Company

Summons and Complaint

Dear Sir/Madam:

You are being served with the enclosed notice under section 8.01-329 of the Code of Virginia which designates the Secretary of the Commonwealth as statutory agent for Service of Process.

If you have any questions about the matter, PLEASE contact the CLERK of the enclosed/below mentioned court or any attorney of your choice. Our office does not accept payments on behalf of debts. The Secretary of the Commonwealth's ONLY responsibility is to mail the enclosed papers to you.

COURT:

Fairfax County Circuit Court
4110 Chain Bridge Road
Fairfax, VA 22030-4699

A handwritten signature in black ink, appearing to be 'MB'.

Service of Process Clerk
Secretary of the Commonwealth's
Office

TIMELY SERVICE REQUIREMENT:

Service of process in actions brought on a warrant or motion for judgment pursuant to Virginia Code § 16.1-79 or § 16.1-81 shall be void and of no effect when such service of process is received by the Secretary within ten days of any return day set by the warrant. In such cases, the Secretary shall return the process or notice, a copy of the affidavit, and the prescribed fee to the plaintiff or his agent. A copy of the notice of the rejection shall be sent to the clerk of the court in which the action was filed.

NON-RESIDENCE GROUNDS REQUIREMENT:

If box number 1 is checked, insert the appropriate subsection number:

A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or things in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;
5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when he might reasonably have expected such person to use, consume, or be affected by the goods in this Commonwealth, provided that he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;
6. Having an interest in, using, or possessing real property in this Commonwealth;
7. Contracting to insure any person, property, or risk located within the Commonwealth at the time of contracting; or
8. (ii). Having been ordered to pay spousal support or child support pursuant to an order entered by any court of competent jurisdiction in this Commonwealth having in personam jurisdiction over such person;
9. Having incurred a liability for taxes, fines, penalties, interest, or other charges to any political subdivision of the Commonwealth.

DUE DILIGENCE REQUIREMENT:

If box number 2 is checked, the following provision applies:

When the person to be served is a resident, the signature of an attorney, party or agent of the person seeking service on such affidavit shall constitute a certificate by him that process has been delivered to the sheriff or to a disinterested person as permitted by § 8.01-293 for execution and, if the sheriff or disinterested person was unable to execute such service, that the person seeking service has made a bona fide attempt to determine the actual place of abode or location of the person to be served.

7/21/09 11:21:13
CLERK OF COURT
FAIRFAX COUNTY, VIRGINIA

**IN THE CIRCUIT COURT
IN AND FOR FAIRFAX COUNTY, VIRGINIA**

COMMONWEALTH OF VIRGINIA, *ex rel.*
[FILED UNDER SEAL],

Plaintiff,

vs.

[FILED UNDER SEAL],

Defendants.

Civil Action No.

2007 15379

COMPLAINT FOR MONEY DAMAGES AND CIVIL PENALTIES FOR VIOLATIONS

OF THE VIRGINIA FRAUD AGAINST TAXPAYERS ACT

7:01 DEC 19 PM 2:33
CLERK OF CIRCUIT COURT
FAIRFAX, VA

**IN THE CIRCUIT COURT
IN AND FOR FAIRFAX COUNTY, VIRGINIA**

2007 15379

**COMMONWEALTH OF VIRGINIA *ex rel.*
HUNTER LABORATORIES, LLC and CHRIS
RIEDEL, an individual,**

Plaintiff,

vs.

**QUEST DIAGNOSTICS INCORPORATED, a
Delaware corporation; QUEST DIAGNOSTICS
NICHOLS INSTITUTE, f/k/a QUEST
DIAGNOSTICS, INC., a California corporation;
QUEST DIAGNOSTICS CLINICAL
LABORATORIES, INC., a Delaware corporation;
LABORATORY CORPORATION OF AMERICA, a
Delaware corporation; LABORATORY
CORPORATION OF AMERICA HOLDINGS, a
Delaware corporation; SPECIALTY
LABORATORIES, INC., a California corporation;
and Does 10 through 100, inclusive,**

Defendants.

Civil Action No.

**COMPLAINT FOR MONEY DAMAGES AND CIVIL PENALTIES FOR VIOLATIONS
OF THE VIRGINIA FRAUD AGAINST TAXPAYERS ACT**

TABLE OF CONTENTS

| | Pages Nos. |
|---|------------|
| I. <u>INTRODUCTION</u> | 1 |
| II. <u>OVERVIEW OF THE SCHEME</u> | 2 |
| III. <u>PARTIES</u> | 3 |
| IV. <u>THE COMMERCIAL LABORATORY BUSINESS</u> | 8 |
| VI. <u>MEDICAID OVERCHARGES BY QUEST</u> | 12 |
| VII. <u>MEDICAID OVERCHARGES BY LABCORP</u> | 15 |
| VIII. <u>MEDICAID OVERCHARGES BY SPECIALTY</u> | 17 |
| IX. <u>CAUSES OF ACTION</u> | 19 |
| <u>FIRST CAUSE OF ACTION</u> | |
| (Against All Defendants) | |
| Virginia Fraud Against Taxpayers Act, Presenting False Claims | |
| Code § 8.01-216.3(A)(1) | 19 |
| <u>SECOND CAUSE OF ACTION</u> | |
| (Against All Defendants) | |
| Virginia Fraud Against Taxpayers Act, Making or Using False Records or | |
| Statements To Obtain Payment or Approval of False Claims | |
| Code § 8.01-216.3(A)(2) | 20 |
| X. <u>PRAYER FOR RELIEF</u> | 21 |

Plaintiff the COMMONWEALTH OF VIRGINIA, by and through *Qui Tam* Plaintiffs
HUNTER LABORATORIES, LLC and CHRIS RIEDEL, alleges as follows:

I. INTRODUCTION

1. Virginia's Medicaid program is a crucial safety net for Virginians unable to afford health care. Intended to provide essential care for the Commonwealth's growing indigent population, Medicaid funds are stretched to their limit. Too many times, the program has been subject to fraud and abuse by unscrupulous providers who have put profits above the public good. Funds that have been designated for essential services to the neediest Virginians have been diverted away because of false billing schemes. Those fraudulent schemes have threatened to diminish the quality of care, unnecessarily burdened taxpayers, and degraded the medical profession. This case is being brought to stop the rampant Medicaid fraud in the clinical laboratory industry, carried out over a period of years by the largest medical laboratory companies in the United States – years during which some of the Defendants were investigated, prosecuted and/or fined for other billing abuses.

2. That fraud has been knowingly perpetrated against a backdrop of unique, clearly defined regulations that require Medicaid providers to bill Medicaid the same rates they bill non-Medicaid clients. Instead, these Defendants have habitually billed Medicaid some of their *highest* rates, deeply discounting many of their *private* fees to draw in lucrative Medicaid and other referrals. As but one example, the most commonly ordered laboratory test is an Automated Hemogram, for which the maximum Medicaid reimbursement rate is \$10.53. One Defendant, Quest, has charged others as little as \$1.42 for the same test. As a result, when the clinic refers a Medicaid patient to the laboratory for testing, Medicaid pays more than seven times as much as

the clinic pays for the identical service.

3. For some tests, rates have been discounted well below costs, and the laboratories cannot earn a profit on them. The Defendants nevertheless have an interest in keeping those private rates low, because it makes it essentially impossible for any new laboratories to gain a foothold in a large share of the market. To attract new business from customers who have been receiving deep discounts, prospective competitors must either match or beat those impossibly low prices. In other words, by using the publicly funded Medicaid program to subsidize private discounts, the larger and better established laboratories have cornered much of the market for themselves.

4. This suit calls Defendants to answer for defrauding Virginia's taxpayers and compromising the welfare of Medicaid beneficiaries.

II. OVERVIEW OF THE SCHEME

5. This is a *qui tam* action for violation of the Virginia Fraud Against Taxpayers Act, Code § 8.01-216.1, *et seq.*, to recover treble damages, civil penalties and attorneys' fees and costs on behalf of the Commonwealth of Virginia for fraudulent Medicaid billings.

6. As will be discussed below, Defendants made false claims for payment of Medicaid-covered laboratory tests by falsely representing that the fees being charged were no greater than the maximum fees payable pursuant to Virginia regulations. As participating Medicaid providers, Defendants were and are subject to administrative regulations that require them to provide services to Medicaid patients at their most favorable rates: "Payment for [laboratory services] shall be *the lower of* the state agency fee schedule . . . or *actual charge (charge to the general public)*." 12 VAC 30-80-30. Defendants were thus free to charge any

other purchaser any fee for their services, so long as Medicaid obtained the same price.

7. Defendants have repeatedly defrauded the Medicaid program by billing the Department of Medical Assistance Services (“DMAS”) fees well in excess of their lowest rates. Rather than abide by Commonwealth regulations, Defendants offered clinical laboratory services to private physicians, clinics, hospitals, independent physician associations (“IPAs”), group purchasing organizations (“GPOs”), other states’ Medicaid programs, and other health care providers at fees deeply discounted below the maximum allowances provided under Medicaid’s published fee schedule. Those maximum allowances are only payable when the provider charges non-Medicaid customers the same rate; charging any higher fee to the Commonwealth violates Medicaid regulations.

8. In this lawsuit, Plaintiff demands treble damages, civil penalties of up to \$11,000 for each false claim, and other relief provided by Virginia’s Fraud Against Taxpayers Act.

9. Information personally known to *Qui Tam* Plaintiffs HUNTER LABORATORIES, LLC and CHRIS RIEDEL (together, “*Qui Tam* Plaintiffs”) is the basis for this action.

III. PARTIES

10. The plaintiff in this action is the COMMONWEALTH OF VIRGINIA (“the Commonwealth” or “Virginia”) by and through *Qui Tam* Plaintiffs HUNTER LABORATORIES, LLC and CHRIS RIEDEL. At all times material to this action, the Virginia Department of Medical Assistance Services (“DMAS”) was an agency of the Commonwealth and was solely responsible for the payment of Medicaid payments. The DMAS paid benefits from a combination of Commonwealth and Federal Government funds. The DMAS provided

Medicaid benefits to qualified recipients, which included payment of claims to Defendants for their laboratory tests. These claims were paid based upon Defendants' false representations that the fees being charged were calculated in accordance with applicable Medicaid regulations.

11. *Qui Tam* Plaintiff HUNTER LABORATORIES, LLC ("HUNTER") is an affiliate of Hunter Laboratories, Inc., a California corporation that is engaged in the commercial reference laboratory business.

12. *Qui Tam* Plaintiff CHRIS RIEDEL is the founder and Chief Executive Officer of Hunter Laboratories, Inc.

13. Defendant QUEST DIAGNOSTICS INCORPORATED, f/k/a Corning Clinical Laboratories, Inc., f/k/a Met Path, Inc. ("QUEST-DE") (NYSE: DGX; Virginia Entity I.D. No. F152346-5) is a Delaware corporation with its principal place of business at 1290 Wall Street West, Lyndhurst, New Jersey. At all times relevant hereto, QUEST-DE conducted business in the Commonwealth of Virginia, including but not limited to providing clinical laboratory services to the general public in Virginia. Plaintiff sues QUEST-DE both based on conduct of QUEST-DE itself and in QUEST-DE's capacity as successor by merger or consolidation to each of the following:

(a) Labone, Inc., f/k/a Lab Holdings, Inc., f/k/a Seafield Capital Corporation (Entity I.D. No. F144467-0), a Missouri corporation presently headquartered at 1290 Wall Street West, Lyndhurst, NJ 07071 which Quest acquired on or about November 1, 2005, and which according to the *Washington G-2 Reports 2005 Laboratory Industry Strategic Outlook* was the third ranked independent laboratory after Quest and LabCorp at the time of the acquisition;

(b) AmeriPath, Inc., a Delaware corporation which Quest acquired on or about

May 31, 2007 and which has its principal place of business at 7111 Fairway Drive, Suite 400, Palm Beach Gardens, Florida 33418; and

(c) Specialty Laboratories, Inc., a California corporation whose principal place of business is at 7111 Fairway Drive, Suite 400, Palm Beach Gardens, Florida 33418, which became a wholly-owned subsidiary of Ameripath, Inc. on or about January 30, 2006 through a merger with Silver Acquisition Corp., and which QUEST-DE acquired with its May 31, 2007 acquisition of AmeriPath.

14. Defendant QUEST DIAGNOSTICS NICHOLS INSTITUTE (Entity I.D. No. 0124237-9), *f/k/a* Quest Diagnostics, Inc., *f/k/a* Corning Nichols Institute, Inc., *f/k/a* Corning Nichols Institute, *f/k/a* Nichols Institute Reference Laboratories, *f/k/a* Nichols Institute Laboratories, *f/k/a* Nichols Institute for Endocrinology (“QUEST-NICHOLS”) is a California corporation with its principal place of business at 1290 Wall Street West, Lyndhurst, New Jersey. At all times relevant hereto, QUEST-NICHOLS conducted business in the Commonwealth of Virginia. QUEST-NICHOLS is a wholly-owned subsidiary of QUEST-DE.

15. Defendant QUEST DIAGNOSTICS CLINICAL LABORATORIES, INC. (Entity I.D. No. F054125-2), *f/k/a* SmithKline Beecham Clinical Laboratories, Inc., *f/k/a* SmithKline Bioscience Laboratories, Inc., *f/k/a* SmithKline Clinical Laboratories, Inc., *f/k/a* Laboratory Procedure, Inc. (“QUEST CLINICAL”) is a Delaware corporation with its principal place of business at 1290 Wall Street West, Lyndhurst, New Jersey. At all times relevant hereto, QUEST CLINICAL conducted business in the Commonwealth of Virginia, including but not limited to providing clinical laboratory services to the general public in Virginia. QUEST CLINICAL is the successor-by-merger to Nichols Institute, *f/k/a* Nichols Institute Northeast, Inc., *f/k/a* Nichols

Institute for Endocrinology, and is a wholly-owned subsidiary of Quest Diagnostics Holdings Incorporated, a wholly-owned subsidiary of QUEST-DE.

16. As used herein, "QUEST" means and includes, individually and collectively, QUEST-DE; QUEST-NICHOLS; QUEST CLINICAL; and SPECIALTY as to events occurring on or after May 31, 2007. *Qui Tam* Plaintiffs sue the QUEST entities, and each of them, as participants, alter egos of one another, agents of one another, aiders and abettors of one another, and conspirators with one another in the improper acts, plans, schemes, and transactions that are the subject of this Complaint.

17. *Qui Tam* Plaintiffs are informed and believe and thereon allege that QUEST is one of the largest commercial reference laboratories in Virginia, and that it operates a major laboratory and over 31 patient service centers and other facilities in the Commonwealth of Virginia. Among other Virginia locations, QUEST operates a major laboratory at 14225 Newbrook Dr., Chantilly, VA, 20151, and patient service centers at 8501 Arlington Blvd., Suite 120, Fairfax, VA, 22031; 603a Jefferson Davis Hwy., Fredericksburg, VA, 22401; and 106 Elden St., Suite 18b, Herndon VA, 20170.

18. Defendant LABORATORY CORPORATION OF AMERICA, f/k/a National Health Laboratories, d/b/a Laboratory Corp of America (Entity I.D. No. F028883-9) ("LABCORP") is a Delaware corporation that operates clinical laboratory facilities throughout the United States. At all times relevant hereto, LABCORP was and is conducting business in the Commonwealth of Virginia. Among other locations within the Commonwealth of Virginia, LABCORP has patient service centers at 900 West 3rd Street, Farmville, Virginia, 23901; 600 Peter Jefferson Parkway 110, Charlottesville, Virginia, 22911; and 2025 Tate Springs Road,

Lynchburg, Virginia, 24501. *Qui Tam* Plaintiffs are informed and believe that LABCORP is the second largest clinical laboratory in the United States, with total annual revenue of more than \$3 billion. Plaintiff sues LABCORP both based on conduct of LABCORP itself and in LABCORP's capacity as successor by merger or consolidation to each of the following:

- (a) Path Lab, a New Hampshire corporation, which was acquired by LABCORP on or about April 2001;
- (b) Dynacare, which was acquired by LABCORP on or about June 2002;
- (c) Dianon Systems, Inc., a Delaware corporation, which was acquired by LABCORP on or about January 2003; and
- (d) UroCor, a Delaware corporation, which was acquired by LABCORP on or about January 2003.

19. Defendant LABORATORY CORPORATION OF AMERICA HOLDINGS, *f/k/a* National Health Laboratories Holdings, Inc. (NYSE: LH; Entity I.D. No. F122067-4) is a Delaware Corporation with its principal place of business in Burlington, North Carolina. *Qui Tam* Plaintiffs are informed and believe that LABCORP is a wholly-owned subsidiary of LABORATORY CORPORATION OF AMERICA HOLDINGS, and that LABORATORY CORPORATION OF AMERICA HOLDINGS determined one or more of the fee schedules pursuant to which LABCORP offered discounted rates to non-Medicaid customers.

20. SPECIALTY LABORATORIES, INC., *f/k/a* Clinical Immunology Laboratories, Inc. (NYSE: SP) ("SPECIALTY") is a California corporation whose principal place of business is at 7111 Fairway Drive, Suite 400, Palm Beach Gardens, Florida 33418.

21. *Qui Tam* Plaintiffs are ignorant of the names and capacities of the Defendants

sued herein as DOES 10 through 100, inclusive, and therefore sues such Defendants by fictitious names. HUNTER will amend this complaint to allege the true names and capacities of the fictitiously named Defendants once ascertained. *Qui Tam* Plaintiffs are informed and believe that Defendants Does 10 through 100, inclusive, are in some manner responsible for the actions alleged herein.

IV. THE COMMERCIAL LABORATORY BUSINESS

22. Defendants QUEST, LABCORP, and SPECIALTY are commercial reference laboratories. Commercial reference laboratories perform clinical laboratory services, which entail analyses of human blood, urine, stool, and other body specimens to assist physicians in diagnosing human disease and monitoring treatment. Two types of laboratories generally perform clinical laboratory services. Hospital laboratories are primarily concerned with inpatient testing. Commercial reference laboratories primarily provide outpatient testing for physician offices and/or esoteric testing for hospitals and other laboratories.

23. Commercial reference laboratories, including Defendants, perform clinical laboratory services for patients covered under Virginia's Medicaid program, which is administered by the DMAS. Commercial reference laboratories obtain requests for clinical tests from physicians and hospitals. When these tests are eligible for Medicaid reimbursement, Defendants submit electronic or paper invoices directly to the DMAS for Medicaid reimbursement, identifying the tests by a uniform Current Procedure Technology ("CPT") code. *Qui Tam* Plaintiffs are informed and believe that those invoices are stored in electronic form on computer hard drives and other storage devices maintained by Defendants and the DMAS.

24. The commercial reference laboratory market is extremely competitive. Since at

least the early 1990s, it has been common industry practice to offer and provide deeply discounted fees for laboratory tests billed directly to physicians, independent physician associations (“IPAs”), group purchasing organizations (“GPOs”), health maintenance organizations, hospitals and clinics. Commercial reference laboratories offer those discounts to induce their customers to use a single commercial reference laboratory for the majority or all of their clinical testing needs. The discounted fees can be so low that they do not cover the laboratory’s costs. Therefore, the laboratory relies on higher paying, “pull through” Medicaid and other referrals from those customers to operate at a profit. Despite Commonwealth regulations mandating that Medicaid receive the same rates charged to non-Medicaid clients, Defendants have treated Medicaid referrals in much the same way as other “pull through” business.

25. *Qui Tam* Plaintiffs are informed and believe that Defendants depended, and continue to depend, on referrals to Defendants of large volumes of Medicaid and other testing business to cover the losses they would otherwise sustain in offering deeply discounted testing services. By offering those deeply discounted rates, Defendants have erected a nearly insurmountable “loss leader” barrier to entry into the subject market, in that for a significant part of the market, any would-be competitor can only attract new business by offering comparably discounted services, which cannot be performed at a profit.

26. This is not the first time that clinical laboratory billing practices have come under scrutiny. During the 1990’s, the United States government obtained hundreds of millions of dollars in the “Operation Labscam” probe – including \$182 million from LABCORP and \$119 million from QUEST. Then, the laboratories’ fraud on the public took the form of billing

Medicare for unnecessary tests. Industry-wide fraudulent practices persisted even in the face of that widespread probe.

27. QUEST's checkered history provides but one example of those undeterred fraudulent practices. In 1996, the company paid an \$11 million fine to settle charges that whenever a physician ordered a automated hemogram ("CBC") – the most commonly ordered laboratory test – QUEST routinely billed Medicare and other government insurance programs for additional, unnecessary tests. Two years later, QUEST paid an additional \$6.8 million for allegedly billing Medicare for unordered tests. QUEST paid a further \$15 million settlement later that year. In 2001, QUEST paid yet another \$13.1 million penalty for unnecessary tests billed by a company QUEST had acquired. In 2003, the Attorney General of the Commonwealth of New York ordered QUEST to cease double-billing for tests. A U.S. Attorneys' investigation into billings for unnecessary, unordered tests performed by QUEST resulted in an \$11.35 settlement in March 2004. By the end of that year, QUEST was again under scrutiny for practices relating to tests on dialysis patients.

28. In this instance, Defendants' practices are independently unlawful as kickback schemes, strictly prohibited by Federal health care programs pursuant to 42 U.S.C. § 1320a-7b(b)(2)(A). Defendants provided kickbacks in the form of deeply discounted private rates to draw in large volumes of "pull through" Medicaid and other referrals. *Qui Tam* Plaintiffs are informed and believe that at all times relevant hereto, each Defendant knew that federal law prohibited their giving or receiving kickbacks. The discounts and overcharges described herein are all the more egregious because they have been accomplished through knowing violations of those long-established federal anti-kickback laws.

V. **DEFENDANTS VIOLATED THE FRAUD AGAINST TAXPAYERS ACT BY FAILING TO BILL THE DMAS FOR MEDICAID REIMBURSEMENT AT THEIR LOWEST RATES**

29. Under Commonwealth regulations, Defendants were required to provide their services to Medicaid patients at the same rates billed to others: “Payment for [laboratory services] shall be *the lower of* the state agency fee schedule . . . or *actual charge (charge to the general public)*.” 12 VAC 30-80-30. Charges in excess of the maximum allowable fees are subject to recovery under the Virginia Fraud Against Taxpayers Act (Code § 8.01-216.1, *et seq.*).

30. Defendants submitted electronic or paper invoices for clinical laboratory tests directly to the DMAS for Medicaid reimbursement. Defendants did not apply the discounts alleged above when submitting invoices directly to the DMAS for reimbursement. Defendants, and each of them, instead submitted invoices for an amount that equaled or exceeded the maximum Medicaid reimbursement rate for each test performed.

31. In submitting those claims for payment to Medicaid, Defendants represented that their fees complied with Commonwealth Medicaid regulations. Those representations were false, in that Defendants were in fact charging far lower fees to other customers.

32. At all times relevant hereto, each Defendant “knew” or acted “knowingly,” as those terms are defined in Code § 8.01-216.3(C), in making, presenting, or submitting false claims. In that respect, each Defendant acted:

- (a) With actual knowledge of the information; or
- (b) In deliberate ignorance of the truth or falsity of the information; or
- (c) With reckless disregard of the truth or falsity of the information.

33. At all times relevant hereto, each Defendant presented false claims, as defined in Code § 8.01-216.3(A), by:

(a) Knowingly presenting false claims to the DMAS for payment or approval of claims for Medicaid reimbursement; and/or,

(b) Knowingly making and using false statements and/or records for the purpose of obtaining DMAS approval of false claims for Medicaid reimbursement.

34. *Qui Tam* Plaintiffs are informed and believe that at all times relevant hereto, each Defendant submitted electronic or paper invoices to the DMAS for clinical laboratory testing that reflected fees higher than those charged to other clients and the general public.

35. *Qui Tam* Plaintiffs are informed and believe that at all times relevant hereto, each Defendant knew that its conduct would cause the DMAS to pay claims for the clinical laboratory tests based on fees higher than those charged to other clients and the general public.

36. As a result of the foregoing, each claim for payment for each test that violated DMAS regulations, was a false claim in violation of Virginia's Fraud Against Taxpayers Act (Code § 8.01-216.1, *et seq.*).

37. The Commonwealth has been damaged by Defendants' false claims in an amount that is presently unknown, but believed to be in the hundreds of millions of dollars.

VI. MEDICAID OVERCHARGES BY QUEST

38. On or after November 1, 1997, QUEST has offered private entities lower rates for its testing services than rates billed to the DMAS.

39. During the period between 2001 and 2004, QUEST instructed its sales personnel that QUEST offered discounted fees on laboratory tests to private physicians, clinics, hospitals,

IPA's, GPO's and other health care providers, in order to capture their "pull through," *i.e.*, higher paying Medicaid and other referrals. *Qui Tam* Plaintiffs are informed and believe that QUEST, in fact, counted on Medicaid and other "pull through" revenue to cover losses on tests for which it charged others deeply discounted fees, in that it could not otherwise afford to offer them.

40. QUEST presently offers deeply discounted fees to members of Premier, Inc.'s and Council Connections' group purchasing programs. Those volume-based fees are well below maximum Medicaid reimbursement rates.

41. QUEST fee schedules dating from January 3, 2001 to the present and reflecting prices offered to non-Medicaid purchasers of QUEST clinical laboratory services further confirm that QUEST has charged other purchasers of its services fees well below those charged to DMAS for Medicaid reimbursed tests.

42. The following chart, which compiles fees published in QUEST's private fee schedules and compares them with Medicaid's fee schedule, shows QUEST's non-Medicaid fees to be well below current maximum Medicaid fees.

| Test Name | Quest Test No. | CPT | Medicaid Fee | Quest Fee | Per Test Overcharge |
|------------------------|----------------|---------------------|-------------------------|-----------|---------------------|
| CBC w Diff & Platelets | 35023 | 85025 | \$10.53 | \$1.43 | 636% |
| Lipid Panel | | 80061 | \$18.51 | \$4.75 | 290% |
| Comp. Metabolic Panel | | 80053 | \$14.61 | \$1.90 | 669% |
| TSH (ultra sensitive) | | 84443 | \$23.21 | \$5.70 | 307% |
| Chl & GC Amp DNA probe | 84885 | 87491 & 87591 | \$45.45 + \$45.45 | \$14.25 | 538% |
| GC Amplified DNA probe | 56860 | 87591 | \$45.45 | \$11.40 | 299% |

| Test Name | Quest Test No. | CPT | Medicaid Fee | Quest Fee | Per Test Overcharge |
|----------------------------------|----------------|-------|--------------|-----------|---------------------|
| Chlamydia Amplified DNA probe | 56850 | 87491 | \$45.45 | \$11.40 | 299% |
| Hemoglobin (A1C) | | 83036 | \$13.42 | \$4.51 | 198% |
| Culture, Urine | | 87086 | \$8.40 | \$4.75 | 77% |
| Urinalysis w/micro | | 81001 | \$3.96 | \$1.43 | 177% |
| PSA (Ultra-sensitive) | | 84153 | \$24.50 | \$5.86 | 318% |
| Basic Metabolic | | 80048 | \$11.70 | \$1.66 | 605% |
| RPR/ reflex TPPA | | 86592 | \$4.20 | \$1.43 | 194% |
| Hepatic Function Panel | | 80076 | \$11.29 | \$1.57 | 619% |
| Sed Rate | | 85652 | \$3.73 | \$1.43 | 161% |
| Antibiotic Susceptibility (Disc) | | 87184 | \$9.53 | \$2.85 | 234% |
| Hepatitis B Surface Ag. | | 87340 | \$12.47 | \$4.75 | 163% |
| Urinalysis | | 81003 | \$3.10 | \$1.43 | 117% |
| Uric Acid | | 84550 | \$6.25 | \$1.65 | 279% |
| Iron | | 83540 | \$8.95 | \$1.43 | 526% |
| Glucose, Fasting | | 82947 | \$5.42 | \$1.19 | 355% |
| T4, Total (Thyroxine) | | 84436 | \$9.50 | \$2.38 | 299% |
| Culture, Group B. Strep | | 87081 | \$9.16 | \$2.38 | 285% |
| Ferritin | | 82728 | \$18.83 | \$2.85 | 561% |
| Testosterone, Total | | 84403 | \$35.68 | \$14.25 | 151% |
| GGT | | 82977 | \$9.95 | \$2.58 | 286% |
| SGPT (ALT) | | 84460 | \$7.32 | \$2.85 | 157% |
| SGOT (AST) | | 84450 | \$7.14 | \$2.85 | 151% |
| Glu., Gest. Screen | | 82947 | \$5.42 | \$2.00 | 171% |
| Culture, Genital | | 87070 | \$5.25 | \$4.75 | 11% |
| Estradiol | | 82670 | \$38.62 | \$14.25 | 171% |

| Test Name | Quest Test No. | CPT | Medicaid Fee | Quest Fee | Per Test Overcharge |
|-------------------------|----------------|-------|--------------|-----------|---------------------|
| Rubella IgG | | 86762 | \$11.00 | \$2.96 | 272% |
| Hepatitis C Antibody | | 86803 | \$19.73 | \$7.60 | 160% |
| Rh | | 86901 | \$4.17 | \$2.30 | 81% |
| RBC Antibody Screen | | 86850 | \$4.15 | \$3.17 | 31% |
| Hepatitis B Surface Ab. | | 86706 | \$10.71 | \$4.75 | 125% |
| Beta-HCG (Quant) | | 84702 | \$9.91 | \$5.15 | 92% |
| FSH | | 83001 | \$25.69 | \$8.55 | 200% |
| Free Testosterone | | 84402 | \$35.19 | \$7.12 | 394% |
| Progesterone | | 84144 | \$21.45 | \$14.75 | 45% |

43. On information and belief, QUEST has also offered and collected lower rates than the DMAS maximum Medicaid reimbursement rate for other tests within the 80000 to 89999 range of CPT codes.

VII. MEDICAID OVERCHARGES BY LABCORP

44. On or after November 1, 1997, LABCORP billed the DMAS for laboratory tests at rates that exceed the amounts charged to private entities.

45. Among other things, LABCORP has provided and continues to provide volume-based discounts to members of the Premier, Inc. purchasing collective based on the volume of tests ordered. Those discounted fees are below the fees LABCORP has billed to Medicaid.

46. Specifically, when compared with the August 13, 2002 LABCORP/Laboratory Corporation of America Reference Testing Services Tier 1, Tier 2 and Tier 3 Contract Pricing list for their Premier, Inc. contract for the period beginning July 1, 2002 and ending March 31, 2004,

a LABCORP internally generated July 31, 2002 computer printout shows that LABCORP billed Medicaid fees far in excess of those charged to Premier, Inc. members. The chart summarizes those differences.

| Test Name | LabCorp Test No. | CPT Code | Medicaid Fee | LabCorp Lowest Fee | Per Test Overcharge |
|-----------------------------|------------------|---------------------|------------------------|--------------------|---------------------|
| CBC w Diff & Platelets | 5009 | 85025 | \$9.90 | \$3.62 | 173% |
| Lipid Panel | 303756 | 80061 | \$18.51 | \$8.51 | 118% |
| Comp. Metabolic Panel | 322000 | 80053 | \$14.61 | \$5.75 | 154% |
| TSH (ultra sensitive) | 4259 | 84443 | \$23.21 | \$6.44 | 260% |
| Hemoglobin (A1C) | 1453 | 83036 | \$13.42 | \$5.52 | 143% |
| Culture, Urine | 8847 | 87088 | \$11.18 | \$7.36 | 52% |
| Urinalysis w/micro | 3772 | 81001 | \$4.37 | \$3.97 | 10% |
| PSA (Ultra-sensitive) | 480772 | 84153 | \$24.50 | \$5.52 | 344% |
| Basic Metabolic | 322758 | 80048 | \$11.70 | \$5.00 | 134% |
| RPR/ reflex TPPA | 12005 | 86593 | \$5.77 | \$2.76 | 109% |
| Hepatic Function Panel | 322755 | 80076 | \$11.29 | \$4.95 | 128% |
| Sed Rate | 5215 | 85652 | \$3.73 | \$3.62 | 3% |
| Hepatitis B Surface Ag. | 6510 | 87340 | \$14.27 | \$3.68 | 288% |
| Urinalysis | 3038 | 81003 | \$3.10 | \$2.82 | 10% |
| T4, Total (Thyroxine) & TSH | 24026 | 84436 & 84443 | \$9.50 + \$23.21 | \$11.04 | 196% |
| Ferritin | 4598 | 82728 | \$18.83 | \$3.68 | 412% |
| Testosterone, Total | 4226 | 84403 | \$35.68 | \$7.36 | 385% |
| Estradiol | 4515 | 82670 | \$38.62 | \$15.64 | 147% |
| Hepatitis C Antibody | 14608 | 86803 | \$19.73 | \$6.44 | 206% |
| Hepatitis B Surface Ab. | 6395 | 86706 | \$10.71 | \$3.68 | 191% |

| Test Name | LabCorp Test No. | CPT Code | Medicaid Fee | LabCorp Lowest Fee | Per Test Overcharge |
|-------------------|------------------|----------|--------------|--------------------|---------------------|
| FSH | 4309 | 83001 | \$25.69 | \$7.36 | 249% |
| Free Testosterone | 144980 | 84402 | \$35.19 | \$27.60 | 28% |
| Progesterone | 4317 | 84144 | \$18.00 | \$10.12 | 78% |

47. On information and belief, LABCORP has also offered and collected lower rates than the DMAS maximum Medicaid reimbursement rate for other tests within the 80000 to 89999 range of CPT codes.

48. In addition, current LABCORP fee schedules show that LABCORP continues to charge other customers rates lower than Medicaid maximum rates.

VIII. MEDICAID OVERCHARGES BY SPECIALTY

49. On or after November 1, 1997, SPECIALTY has offered private entities lower rates for its testing services than rates billed to Medicaid.

50. SPECIALTY has charged Hunter Labs lower rates than maximum Medicaid rates.

51. Two former SPECIALTY salespersons have confirmed to *Qui Tam* Plaintiffs that for at least the past ten years, SPECIALTY has billed Medicaid its list prices. One has stated that SPECIALTY calculated sales representatives' commissions based on the lower Medicaid fee schedule reimbursement rates, *i.e.*, rates Medicaid paid SPECIALTY.

52. SPECIALTY fee schedules dating from 2004 to the present and reflecting prices offered to non-Medicaid purchasers of SPECIALTY clinical laboratory services further confirm that SPECIALTY has charged other purchasers of its services fees well below those charged to the DMAS for Medicaid reimbursed tests.

53. The following chart, which compiles fees published in SPECIALTY's private fee schedules and compares them with Medicaid's fee schedule, shows SPECIALTY's non-Medicaid fees to be well below current maximum Medicaid fees.

| Test Name | Specialty Test No. | CPT Code | Medicaid Fee | Specialty Fee | Per Test Overcharge |
|-------------------------|--------------------|---------------------|-------------------------|---------------|---------------------|
| Chl & GC Amp DNA probe | 2927 | 87491 & 87591 | \$45.45 + \$45.45 | \$16.38 | 455% |
| DHEA-S | 3150 | 82627 | \$30.72 | \$15.02 | 105% |
| Estradiol | 3155 | 82670 | \$38.62 | \$23.43 | 65% |
| Ferritin | 3170 | 82728 | \$18.83 | \$10.69 | 76% |
| Free Testosterone | 3247 | 84402 | \$35.19 | \$16.38 | 115% |
| FSH | 3175 | 83001 | \$25.69 | \$10.05 | 156% |
| ft3 | 3234 | 84481 | \$16.50 | \$16.31 | 1% |
| ft4 | 3228 | 84439 | \$12.46 | \$5.79 | 115% |
| GC Amplified DNA probe | 2930 | 87591 | \$45.45 | \$8.19 | 455% |
| GGT | 5302 | 82977 | \$9.95 | \$2.23 | 346% |
| Glucose, Fasting | 5301 | 82947 | \$5.42 | \$2.23 | 143% |
| Hemoglobin (A1C) | 4972 | 83036 | \$13.42 | \$6.37 | 111% |
| Hepatitis B Surface Ab. | 2453 | 86706 | \$10.71 | \$7.21 | 49% |
| Hepatitis B Surface Ag. | 2454 | 87340 | \$14.27 | \$7.21 | 98% |
| Hepatitis C Antibody | 2446 | 86803 | \$19.73 | \$10.47 | 88% |
| Iron | 3532 | 83540 | \$8.95 | \$2.23 | 301% |
| Progesterone | 3163 | 84144 | \$24.45 | \$12.42 | 97% |
| PSA (Ultra-sensitive) | 3546 | 84153 | \$24.50 | \$7.31 | 235% |
| Rubella IgG | 9416 | 86762 | \$11.00 | \$8.78 | 25% |
| SGOT (AST) | 1345 | 84450 | \$7.14 | \$2.23 | 220% |

| Test Name | Specialty Test No. | CPT Code | Medicaid Fee | Specialty Fee | Per Test Overcharge |
|-------------------------------|--------------------|----------|--------------|---------------|---------------------|
| SGPT (ALT) | 1347 | 84460 | \$7.32 | \$2.23 | 228% |
| T4, Total (Thyroxine) | 3226 | 84436 | \$9.50 | \$4.37 | 117% |
| Testosterone, Total | 3244 | 84403 | \$35.68 | \$14.56 | 145% |
| TSH (ultra sensitive) | 3250 | 84443 | \$23.21 | \$4.65 | 399% |
| Uric Acid | 1310 | 84550 | \$6.25 | \$2.23 | 180% |
| HIV Ab Screen | 9915 | 86703 | \$13.74 | \$6.81 | 101% |
| Chlamydia Amplified DNA probe | 2925 | 87491 | \$45.45 | \$8.19 | 455% |

54. On information and belief, SPECIALTY has also offered and collected lower rates than the DMAS maximum Medicaid reimbursement rate for other tests within the 80000 to 89999 range of CPT codes.

IX. CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Against All Defendants)

Virginia Fraud Against Taxpayers Act, Presenting False Claims

Code § 8.01-216.3(A)(1)

55. Plaintiff incorporates herein by reference and realleges the allegations stated in Paragraphs 1 through 54, inclusive, of this Complaint.

56. At all times relevant hereto, Defendants, and each of them, knowingly (as defined in Code § 8.01-216.3(C)) presented, or caused to be presented, claims for payment or approval in the form of invoices submitted to Medicaid that reflected prices higher than the maximum reimbursement rates allowed by law. Specifically, Defendants, and each of them, submitted or

caused to be submitted invoices for payment of Medicaid covered clinical laboratory tests at amounts grossly in excess of the amounts contemplated by law, resulting in great financial loss to the Commonwealth.

57. Defendants' conduct violated Code § 8.01-216.3(A)(1), and was a substantial factor in causing the Commonwealth to sustain damages in an amount according to proof pursuant to Code § 8.01-216.3(A).

WHEREFORE, Plaintiff pray for judgment against Defendants, and each of them, as set forth below.

SECOND CAUSE OF ACTION

(Against All Defendants)

Virginia Fraud Against Taxpayers Act, Making or Using False Records or Statements

To Obtain Payment or Approval of False Claims

Code § 8.01-216.3(A)(2)

58. Plaintiff incorporates herein by reference and realleges the allegations Stated in Paragraphs 1 through 54, inclusive, of this Complaint.

59. At all times relevant hereto, Defendants, and each of them, knowingly (as defined in defined in Code § 8.01-216.3(C)) made or used, or caused to be made or used, false statements to obtain payment or approval of false claims. Specifically, Defendants billed the DMAS at rates equal to or in excess of the maximum rates specified by the Medicaid rate schedule, rather than the discounted rates offered to others.

60. Defendants' conduct violated Code § 8.01-216.3(A)(2), and was a substantial factor in causing the Commonwealth to sustain damages in an amount according to proof.

X. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment in its favor and against Defendants as follows:

I. That judgment be entered in favor of plaintiff COMMONWEALTH OF VIRGINIA *ex rel.* HUNTER LABORATORIES, LLC and CHRIS RIEDEL, and against Defendants QUEST DIAGNOSTICS INCORPORATED, a Delaware corporation; QUEST DIAGNOSTICS NICHOLS INSTITUTE, f/k/a QUEST DIAGNOSTICS, INC., a California corporation; QUEST DIAGNOSTICS CLINICAL LABORATORIES, INC., a Delaware corporation; UNILAB CORPORATION, d/b/a/ QUEST DIAGNOSTICS/UNILAB, a Delaware corporation; LABORATORY CORPORATION OF AMERICA, a Delaware corporation; LABORATORY CORPORATION OF AMERICA HOLDINGS, a Delaware corporation; SPECIALTY LABORATORIES, INC., a California corporation, and each of them, for the amount of damages to the Commonwealth arising from overcharges on claims for their specified laboratory tests and all other tests as to which said Defendants engaged in substantially similar misconduct:

- a. On the First Cause of Action (Virginia Fraud Against Taxpayers Act; Presentation of False Claims to Virginia (Code § 8.01-216.3(A)(1)), damages as provided by Code § 8.01-216.3(A) in the amount of:
 - i. Triple the amount of the Commonwealth's damages;
 - ii. Civil penalties of Eleven Thousand Dollars (\$11,000.00) for each false claim;
 - iii. Recovery of costs, attorneys' fees and expenses;
 - iv. Such other and further relief as the Court deems just and proper;

b. On the Second Cause of Action (Virginia Fraud Against Taxpayers Act; Causing False Records or Statements To Be Made or Used To Get False Claims Paid or Approved By Virginia (Code § 8.01-216.3(A)(2)), damages as provided by Code § 8.01-216.3(A) in the amount of:

- i. Triple the amount of the Commonwealth's damages;
- ii. Civil penalties of Eleven Thousand Dollars (\$11,000.00) for each false claim;
- iii. Recovery of costs, attorneys' fees and expenses;
- iv. Such other and further relief as the Court deems just and proper.

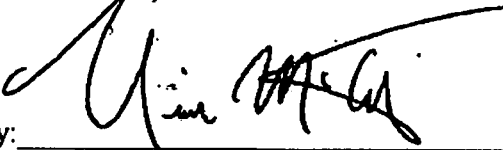
2. Further, the *Qui Tam* Plaintiffs, on their behalf, request that they receive such maximum amount as permitted by law, of the proceeds of this action or settlement of this action collected by the Commonwealth, plus an amount for reasonable expenses incurred, plus reasonable attorneys' fees and costs of this action. The *Qui Tam* Plaintiffs request that their percentage be based upon the total value recovered, including any amounts received from individuals or entities not parties to this action.

COMMONWEALTH OF VIRGINIA, *EX REL.*



By Counsel

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COMMONWEALTH OF VIRGINIA
CIRCUIT COURT OF FAIRFAX COUNTY
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FAIRFAX, VIRGINIA 22030
703-691-7320
(Press 3, Press 1)

Commonwealth of Virginia vs. John Doe, etal.

CL-2007-0015379

TO: Quest Diagnostic Incorporated
Serve: R/A Corporation Service Company
Bank of America Center, 16th Floor
1111 E Main St
Richmond VA 23219

SUMMONS – CIVIL ACTION

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the Clerk's office of this Court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment or decree against such party either by default or after hearing evidence.

APPEARANCE IN PERSON IS NOT REQUIRED BY THIS SUMMONS.

Done in the name of the Commonwealth of Virginia, on Tuesday, August 13, 2013.

JOHN T. FREY, CLERK

By: 
Deputy Clerk

Plaintiff's Attorney Lelia Winget Hernandez