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DAILY REPORT

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Atlanta Attorneys Notch $56M Settlement Benefiting UnitedHealthcare, With More Cases Pending

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Weinberg, Wheeler, Hudgins, Gunn & Dial partners Stephen Mooney (from left), Scott Kerew and Adam Sinton represent UnitedHealthcare, which reached a deal on July 24 with five affiliated labs that initiated the litigation by suing in Texas' Western District over claims they weren't being paid for drug tests.

THE ATLANTA-BASED attorneys leading a United-Healthcare team that just landed a $56.2 million consent judgment in Texas against several now-defunct laboratories are likely to keep racking up frequent flyer points to the Lone Star State, where two more similar lawsuits are pending over claims of fraudulent billing and kickbacks.

Weinberg, Wheeler, Hudgins, Gunn & Dial partners Stephen Mooney, Scott Kerew and Adam Sinton represent the healthcare giant, which reached a deal on July 24 with five affiliated labs that initiated the litigation by suing UnitedHealthcare in Texas' Western District over claims they weren't being paid for urine tests to screen for drugs.

United counterclaimed, accusing the companies' CEO Wade White, COO Bradley West and sales chief Lance Hupfeld of being "the architects of a kickback scheme that they have used repeatedly to defraud commercial insurers, like UHC, out of millions of dollars" by paying kickbacks for testing requests.

"The scheme was incredibly lucrative for individuals and entities that were willing to use their patients as pawns," according to United's counterclaims, which were filed by Andrew Jubinsky of Dallas' Figari & Davenport.

The labs—Sky Toxicology, Frontier Toxicology, Hill Country Toxicology, Eclipse Toxicology and Axis Diagnostics—have since gone bankrupt.

The consent judgment totals $56,223,217, with annual interest accruing at 5%.

This lawsuit and judgment "is an example of UnitedHealthcare's commitment to protect its members and customers," said Mooney via email. "It was hard-fought with a lot of procedural twists and turns, had complex and complicated facts, and specialized legal issues and involved numerous law firms."

Weinberg and the companies in-house attorneys are working "to aggressively pursue laboratories, treatment centers and other providers who UnitedHealthcare believes have engaged in fraudulent and otherwise deceptive practices, as well as individuals who steer unsuspecting and vulnerable patients to them," he said.

The lead lawyer for the labs and their officers, Brian Bishop of Austin's Law Office of Brian W. Bishop, did not respond to a request for comment.

United is also fighting to recover what it said is hundreds of millions of dollars from a group of labs accused of accepting kickbacks for unnecessary drug and genetic tests over a period of years.

United sued Next Health and affiliates Medicus Laboratories, US Toxicology, American Laboratories Group, and United Toxicology and its officers in Texas' Northern District in 2017, saying that in addition to paying bribes and kickbacks, they disregarded test protocols, billed for services that were not ordered and not performed, and "routinely ignored patients' payment responsibilities to avoid drawing attention to the scheme."

In one case, the complaint said, United investigators discovered that Next Health sales reps were paying $50 to people to urinate in a paper cup in a Whatburger restroom "so the urine could be portioned out and sent to Next Health for multiple unnecessary and expensive drug tests" later billed to United.

That complaint was filed after the Department of Justice opened an investigation into the labs and indicted several officers and doctors.

Two former Next Health owners, Andrew Hillman and Semyon Narosov, pleaded guilty to federal charges of conspiracy to pay and receive kickbacks, and money laundering last year.

The defendants in United's case also filed counterclaims but Judge Karen Scholer threw them out on a motion to dismiss last month, ruling that the defendants failed to successfully plead them for a year and half despite having "multiple opportunities" to amend them.

The lead attorney in that case, Dallas solo James Bell, did not offer a comment when contacted.

A third case also began when laboratories now accused of taking kickbacks launched their own litigation against United.

In 2017, Mission Toxicology and Sun Clinical Laboratories sued United in Texas' Western District, saying it refused to pay "millions of dollars" for urine tests ordered by third party healthcare providers.

United responded with its own suit last year, saying the labs and several co-defendants "have executed a quintessential health care fraud scheme" in which they entice health care providers, "sometimes through kickbacks, to refer United members' lab specimens to Sun Clinical Laboratories or Mission Toxicology."

They then "set up 'lab programs' at in-network rural hospitals, which they use to submit insurance claims to United that are intended to make it appear that specimens were referred to, and that testing was performed by, the rural hospitals. In reality the specimens were referred to and the testing was performed by out-of-network labs."

Those cases have been combined and are pending before Judge David Ezra.

The attorneys representing the lab parties in those cases, David Navarro, Casandra Matheson and David Williams of Hornberger Fuller & Garza in San Antonio, did not respond to requests for comment. DR