

CLOSED, TRANSOUT

**U.S. Bankruptcy Court
Central District Of California (Santa Ana)
Adversary Proceeding #: 8:10-ap-01564-TA**

Assigned to: Theodor Albert
Lead BK Case: [10-16743](#)
Lead BK Title: Westcliff Medical Laboratories,
Inc.
Lead BK Chapter: 11
Demand:

Date Filed: 11/16/10
Date Terminated: 01/19/11

Nature[s] of Suit: 91 Declaratory judgment
72 Injunctive relief - other

Debtor

BioLabs, Inc.
1821 E. Dyer Road, #100
Santa Ana, CA 92705
Tax ID / EIN: 56-2594352

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Plaintiff

Labwest, Inc.
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represented by **Michael B Lubic**
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 c/o K&L Gates LLP
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LEAD ATTORNEY

V.

Defendant

Federal Trade Commission

represented by **Richard Park**
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U.S. Trustee

United States Trustee (SA)
 411 W Fourth St., Suite 9041
 Santa Ana, CA 92701-4593

Filing Date	#	Docket Text
		Adversary case 8: 10-ap-01564. Complaint by Labwest, Inc. and Laboratory Corporation of America against Federal Trade Commission. Fee Amount \$250 Nature of Suit: (91 (Declaratory judgment)),(72 (Injunctive relief - other)) (Lubic, Michael) CORRECTION; Incorrect Judge's Initial,

11/16/2010	1	incorrect parties; Notified attorney for the correction. Modified on 11/17/2010 (Ngo, Kim). (Entered: 11/16/2010)
11/16/2010		Receipt of Complaint(8:10-ap-01564-TA) [cmp,cmp] (250.00) Filing Fee. Receipt number 17370008. Fee amount 250.00. (U.S. Treasury) (Entered: 11/16/2010)
11/16/2010	2	Motion to Appear pro hac vice <i>Application of Non-Resident Attorney to Appear in a Specific Case</i> Filed by Plaintiff Labwest, Inc. and Laboratory Corporation of America (filing fees paid to District Court; receipt # 000417)(Lubic, Michael) Modified on 11/17/2010 (Ngo, Kim). (Entered: 11/16/2010)
11/16/2010	3	Motion to Appear pro hac vice <i>Application of Non-Resident Attorney to Appear in a Specific Case</i> Filed by Plaintiff Labwest, Inc. and Laboratory Corporation of America (filing fees paid to District Court; receipt # 000417)(Lubic, Michael) Modified on 11/17/2010 (Ngo, Kim). (Entered: 11/16/2010)
11/16/2010	4	Motion to Appear pro hac vice <i>Application of Non-Resident Attorney to Appear in a Specific Case</i> Filed by Plaintiff Labwest, Inc. and Laboratory Corporation of America (filing fees paid to District Court; receipt # 000417)(Lubic, Michael) Modified on 11/17/2010 (Ngo, Kim). (Entered: 11/16/2010)
11/17/2010	5	Summons Issued on Federal Trade Commission Date Issued 11/17/2010, Answer Due 12/17/2010 (Ngo, Kim) (Entered: 11/17/2010)
11/17/2010		Hearing Set (RE: related document(s) 1 Complaint filed by Plaintiff Labwest, Inc.) Status Conference hearing to be held on 2/10/2011 at 10:00 AM at Crtrm 5B, 411 W Fourth St., Santa Ana, CA 92701. The case judge is Theodor Albert (Ngo, Kim) (Entered: 11/17/2010)
		UNDER SEALED DOCUMENTS - Emergency Motion for Entry of an Order authorizing Plaintiffs LabWest, Inc. and Laboratory Corporation of America to file

11/18/2010	6	certain papers under seal; Declaration of Michael Aicher in support thereof. [No Hearing Required]. Filed by K&L Gates LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) Modified on 11/19/2010 (Allen, Gloria). (Entered: 11/19/2010)
11/18/2010	7	Order Granting Emergency Motion for Entry of an Order Authorizing Plaintiffs Labwest, Inc. and Laboratory Corporation of America to file Certain Papers Under Seal (Related Doc. # 6) - Signed on 11/18/2010. (Ngo, Kim) (Entered: 11/19/2010)
11/18/2010	8	UNDER SEALED DOCUMENTS -Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. [No Hearing Set]. Filed by K&L Gates LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria). (Entered: 11/19/2010)
11/18/2010	9	UNDER SEALED DOCUMENTS - Declaration of Leda Rogge in connection with Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by Hogan Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
11/18/2010	10	UNDER SEALED DOCUMENTS - Declaration of Michael Aicher in connection with Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by Hogan Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
		UNDER SEALED DOCUMENTS - Memorandum in

11/18/2010	11	support of Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by K&L Gates LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
11/18/2010	12	UNDER SEALED DOCUMENTS - Plaintiff's Request for Judicial Notice in connection with Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by K&L Gates LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
11/18/2010	13	UNDER SEALED DOCUMENTS - Declaration of Daniel Shoemaker in connection with Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by Hogan Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
11/18/2010	14	UNDER SEALED DOCUMENTS - Declaration of Kip Vernaglia in connection with Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by Hogan Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
		UNDER SEALED DOCUMENTS -Application for Order Setting Hearing on Shortened Notice [LBR 9075-1 (b)] Re: Document No. 8 Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by K&L Gates LLP, Attorneys for LabWest, Inc. and Laboratory Corporation of America (Filed under seal

11/18/2010	15	pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
11/18/2010	16	UNDER SEALED DOCUMENTS - Declaration of Michael Aicher in connection with Plaintiff's Motion for Expedited hearing of Plaintiff's Motion for Temporary Restraining Order and Show Cause regarding Preliminary Injunction. Filed by Hogan Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
11/18/2010	17	UNDER SEALED DOCUMENTS - Declaration of Michael Aicher in connection Emergency Motion for Entry of an Order authorizing Plaintiffs LabWest, Inc. and Laboratory Corporation of America to file certain papers under seal. Filed by Hogan Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/19/2010)
11/18/2010	18	ORDER shortening time DENIED for setting hearing on Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction (Related Doc. # 15) - Signed on 11/18/2010. (Ngo, Kim) (Entered: 11/19/2010)
11/18/2010	22	UNDER SEALED DOCUMENTS - Declaration of Curtis S. Lane in connection with Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by Hogan Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/22/2010)
		UNDER SEALED DOCUMENTS - Declaration of Thomas R. McCarthy and Lawrence Wu in connection with Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. Filed by Hogan

11/18/2010	23	Lovells US LLP, Attorneys for Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. (Filed under seal pursuant to Order No. 7 entered 11/19/2010) (Allen, Gloria) (Entered: 11/22/2010)
11/19/2010	19	Order on Application of Non-Resident Attorney to Appear [RE J Robert Robertson] (Related Doc # 2) Signed on 11/19/2010. (Daniels, Sally) (Entered: 11/22/2010)
11/19/2010	20	Order on Application of Non-Resident Attorney [RE Benjamin F Holt] (Related Doc # 3) Signed on 11/19/2010. (Daniels, Sally) (Entered: 11/22/2010)
11/19/2010	21	Order on Application of Non-Resident Attorney [RE Corey W Roush] (Related Doc # 4) Signed on 11/19/2010. (Daniels, Sally) (Entered: 11/22/2010)
11/23/2010	24	Proof of service <i>Proof of Service Re Summons and Complaint</i> Filed by Plaintiff Laboratory Corporation of America (RE: related document(s) 1 Complaint). (Heyman, Michael) (Entered: 11/23/2010)
11/24/2010	25	Notice of Hearing <i>Notice of Motion for: Temporary Restraining order and order to Show Cause Regarding preliminary Injunction w/proof of service</i> Filed by Plaintiff Laboratory Corporation of America. (Heyman, Michael) (Entered: 11/24/2010)
11/24/2010	26	Motion to Dismiss Adversary Proceeding <i>DEFENDANT'S NOTICE OF MOTION AND MOTION TO DISMISS</i> Filed by Defendant Federal Trade Commission (Attachments: # 1 Proof of Service) (Park, Richard) (Entered: 11/24/2010)
11/24/2010		Hearing Set on Motion for Temporary Restraining Order and Oorder to Show Cause regarding Preliminary Injunction (Related Doc. # 8) The Hearing date is set for 12/22/2010 at 02:00 PM at Crtrm 5B, 411 W Fourth St., Santa Ana, CA 92701. The case judge is Theodor Albert (Ngo, Kim) (Entered: 11/30/2010)

11/24/2010		Hearing Set (RE: related document(s) 26 Motion to Dismiss Adversary Proceeding filed by Defendant Federal Trade Commission) The Hearing date is set for 1/27/2011 at 02:00 PM at Crtrm 5B, 411 W Fourth St., Santa Ana, CA 92701. The case judge is Theodor Albert (Ngo, Kim) (Entered: 12/07/2010)
11/29/2010	27	Proof of service <i>Proof of Service</i> Filed by Plaintiff Laboratory Corporation of America (RE: related document(s) 6 UNDER SEALED DOCUMENTS, 7 Order Sealing, 8 UNDER SEALED DOCUMENTS, 9 UNDER SEALED DOCUMENTS, 10 UNDER SEALED DOCUMENTS, 11 UNDER SEALED DOCUMENTS, 12 UNDER SEALED DOCUMENTS, 13 UNDER SEALED DOCUMENTS, 14 UNDER SEALED DOCUMENTS, 15 UNDER SEALED DOCUMENTS, 16 UNDER SEALED DOCUMENTS, 17 UNDER SEALED DOCUMENTS, 18 ORDER shortening time, 22 UNDER SEALED DOCUMENTS, 23 UNDER SEALED DOCUMENTS). (Heyman, Michael) (Entered: 11/29/2010)
11/29/2010	28	Request for courtesy Notice of Electronic Filing (NEF) Filed by Jeffrey K Garfinkle on behalf of Jeffrey K Garfinkle. (Garfinkle, Jeffrey) (Entered: 11/29/2010)
11/29/2010	29	Statement of Corporate Ownership filed. Filed by Plaintiff Laboratory Corporation of America. (Heyman, Michael) (Entered: 11/29/2010)
12/02/2010	30	Motion to Expedite Hearing (related documents 26 Motion to Dismiss Adversary Proceeding) <i>APPLICATION FOR ORDER SETTING HEARING ON SHORTENED NOTICE (with proof of service)</i> Filed by Defendant Federal Trade Commission (Attachments: # 1 Declaration of Richard M. Park# 2 Emergency Motion) (Park, Richard) Correction: Application Shortening Time and Emergency Motion filed as one document. Attorney to file Application Shortening Time as a separate entry. Modified on 12/3/2010 (Daniels, Sally). Incorrect division reflected on face page. Should show Santa Ana Division. Modified on 12/3/2010 (Daniels, Sally). (Entered: 12/02/2010)

12/02/2010	31	Application <i>Application for Order Shortening Time on Motion by Plaintiffs Laboratory Corporation of America and Labwest, Inc. for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction; Declarations of Michael Aicher and Robert J. Robertson in Support There w/proof of service</i> Filed by Plaintiff Laboratory Corporation of America (Attachments: # 1 Exhibit 1 [Complaint for TRO]# 2 Exhibit 2 [Memorandum in Support of FTC], part 1# 3 Exhibit 2 [Memorandum in Support of FTC] part 2) (Heyman, Michael) (Entered: 12/02/2010)
12/03/2010	32	Application <i>Application for Order Setting Hearing on Shortened Notice (with proof of service)</i> Filed by Defendant Federal Trade Commission (Attachments: # 1 Declaration of Richard M. Park) (Park, Richard) CORRECTION: First page reflects incorrect division name. Should be Santa Ana Division. Modified on 12/3/2010 (Daniels, Sally). (Entered: 12/03/2010)
12/03/2010	33	Order Granting Application and Setting Hearing on Shortened Notice (See Paragraph 7) (Related Doc # 31) Signed on 12/3/2010. The hearing is set for December 8, 2010 at 10:00 am, Courtroom 5B (SEE ORDER FOR FURTHER RULING) (Daniels, Sally) (Entered: 12/03/2010)
12/03/2010	34	Order Granting Application and Setting Hearing on Shortened Notice (See Paragraph 7) (Related Doc # 32) Signed on 12/3/2010. The hearing is set for December 8, 2010 at 10:00 am, Courtroom 5B (SEE ORDER FOR FURTHER RULING) (Daniels, Sally) (Entered: 12/03/2010)
12/03/2010		Hearing Set (RE: related document(s) 30 Motion to Expedite Hearing filed by Defendant Federal Trade Commission) The Hearing date is set for 12/8/2010 at 10:00 AM at Crtrm 5B, 411 W Fourth St., Santa Ana, CA 92701. The case judge is Theodor Albert (Deramus, Glenda) (Entered: 12/03/2010)
		Hearing Set Re: Motion for Temporary Restraining Order and Order To Show Cause Regarding

12/03/2010		Preliminary Injunction Re: 31 The Hearing date is set for 12/8/2010 at 10:00 AM at Crtrm 5B, 411 W Fourth St., Santa Ana, CA 92701. The case judge is Theodor Albert (Deramus, Glenda) (Entered: 12/03/2010)
12/05/2010	35	BNC Certificate of Notice - PDF Document. (RE: related document(s) 33 Order on Generic Application) No. of Notices: 3. Service Date 12/05/2010. (Admin.) (Entered: 12/05/2010)
12/05/2010	36	BNC Certificate of Notice - PDF Document. (RE: related document(s) 34 Order on Generic Application) No. of Notices: 3. Service Date 12/05/2010. (Admin.) (Entered: 12/05/2010)
12/06/2010	37	Request for courtesy Notice of Electronic Filing (NEF) Filed by Todd M Arnold on behalf of BioLabs, Inc., Westcliff Medical Laboratories, Inc.. (Arnold, Todd) (Entered: 12/06/2010)
12/06/2010	38	Request for courtesy Notice of Electronic Filing (NEF) Filed by Ron Bender on behalf of Westcliff Medical Laboratories, Inc.. (Bender, Ron) (Entered: 12/06/2010)
12/06/2010	39	Motion to Appear pro hac vice <i>APPLICATION OF NON-RESIDENT ATTORNEY TO APPEAR IN A SPECIFIC CASE (with proof of service)</i> Filed by Defendant Federal Trade Commission (Park, Richard) (Entered: 12/06/2010)
12/07/2010	40	Proof of service <i>Proofs of Service re Notice of (1) Order Granting Application for Order Shortening Time; and (2) Setting of Hearing on Motion by Plaintiffs Laboratory Corporation of America and Labwest, Inc. for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction</i> Filed by Plaintiff Laboratory Corporation of America (RE: related document(s) 33 Order on Generic Application, 34 Order on Generic Application). (Heyman, Michael) (Entered: 12/07/2010)

12/07/2010	41	Opposition to (related document(s): 8 UNDER SEALED DOCUMENTS) <i>DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION</i> Filed by Defendant Federal Trade Commission (Attachments: # 1 Proof of Service) (Park, Richard) (Entered: 12/07/2010)
12/08/2010		Hearing Held (RE: related document(s) 30 Motion to Expedite Hearing filed by Defendant Federal Trade Commission) - MOTION DENIED. Court sua sponte abstain under 28 U.S. Code 1334 under the permissive abstention provision, not the mandatory provision. Court will also sign an order transferring this adversary proceeding to the District Court to be heard together with the FTC's action - (cr: Bust) (Ngo, Kim) (Entered: 12/09/2010)
12/08/2010		Hearing Held on Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction (Related Doc. # 31) - MOTION DENIED. Court sua sponte abstain under 28 U.S. Code 1334 under the permissive abstention provision, not the mandatory provision. Court will also sign an order transferring this adversary proceeding to the District Court to be heard together with the FTC's action - (cr: Bust) (Ngo, Kim) (Entered: 12/09/2010)
12/16/2010	42	Objection (related document(s): 41 Opposition filed by Defendant Federal Trade Commission) <i>Objection to Proposed Order Lodged by Defendant Federal Trade Commission with Respect to the Following: (1) Motion by Plaintiffs Laboratory Corporation of America and Labwest, Inc. for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction; and (2) Emergency Motion of Defendant Federal Trade Commission for Extension of Time to Oppose Plaintiffs' Motion for Preliminary Injunction w/proof of service</i> Filed by Plaintiff Laboratory Corporation of America (Attachments: # 1 Exhibit 1 [Proposed] Order# 2 Exhibit 2 [Proposed Alternative] Order) (Heyman, Michael) (Entered: 12/16/2010)

12/22/2010		Hearing Advanced (Re: related document 8 Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction) - Advanced to 12/8/2010 at 10:00 AM at Crtrm 5B, 411 W Fourth St., Santa Ana, CA 92701. The case judge is Theodor Albert (cr:dani) (Wright, Jennifer) (Entered: 01/05/2011)
12/27/2010	43	Order on Application of Non-Resident Attorney to Appear in a Specific Case (David L Sieradzki) (Related Doc # 39) Signed on 12/27/2010 (Daniels, Sally) (Entered: 12/27/2010)
12/29/2010	44	Order Abstaining from Adversary Proceeding and Transferring Adversary Proceeding to United States District Court, Santa Ana Courthouse (Related Doc # 31) Signed on 12/29/2010 (I, deputy clerk who is making this entry, certify that service on all parties under Section II was completed, Daniels, Sally) (Entered: 12/29/2010)
12/29/2010	45	BNC Certificate of Notice - PDF Document. (RE: related document(s) 43 Order on Motion to Appear pro hac vice) No. of Notices: 4. Service Date 12/29/2010. (Admin.) (Entered: 12/29/2010)
12/31/2010	46	Proof of service <i>Proof of Service re Entered Order Abstaining from Adversary Proceeding and Transferring Adversary Proceeding to District Court</i> Filed by Plaintiff Laboratory Corporation of America (RE: related document(s) 44 Order on Generic Application). (Heyman, Michael) (Entered: 12/31/2010)
12/31/2010	47	BNC Certificate of Notice - PDF Document. (RE: related document(s) 44 Order on Generic Application) No. of Notices: 4. Service Date 12/31/2010. (Admin.) (Entered: 12/31/2010)
		Notice <i>Notice of Dismissal pursuant to Federal Rules of Bankruptcy Procedure 7041 and Federal Rules of Civil Procedure 41(a) w/proof of service</i> Filed by Plaintiff Laboratory Corporation of America (RE: related document(s) 1 Adversary case 8:10-ap-

01/11/2011	48	01564. Complaint by Labwest, Inc. and Laboratory Corporation of America against Federal Trade Commission. Fee Amount \$250 Nature of Suit: . filed by Plaintiff Labwest, Inc.). (Heyman, Michael) (Entered: 01/11/2011)
01/18/2011	49	Transcript regarding Hearing Held 12/08/10 RE: DEFENDANT'S EMERGENCY MOTION FOR EXTENSION OF TIME TO OPPOSE PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION. Remote electronic access to the transcript is restricted until 04/18/2011. The transcript may be viewed at the Bankruptcy Court Clerk's Office. [For transcriber contact information, call the applicable divisional office where the case was filed.]. Notice of Intent to Request Redaction Deadline Due By 1/25/2011. Redaction Request Due By 02/8/2011. Redacted Transcript Submission Due By 02/18/2011. Transcript access will be restricted through 04/18/2011. (Martens, Holly) (Entered: 01/18/2011)
01/19/2011	50	Adversary Case 8:10-ap-1564 Closed (Allen, Gloria) (Entered: 01/19/2011)
04/28/2011	51	Request for Removal from Courtesy Notice of Electronic Filing (NEF) Filed by Richard Park on behalf of Federal Trade Commission. (Park, Richard) (Entered: 04/28/2011)

PACER Service Center			
Transaction Receipt			
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PACER Login:	ss5396	Client Code:	00000-00011
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