

FILED & ENTERED

DEC 29 2010

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY daniels DEPUTY CLERK

1 MICHAEL B. LUBIC (SBN 122591)
2 MICHAEL J. HEYMAN (SBN 218147)
3 K&L GATES LLP
4 10100 Santa Monica Boulevard, Seventh Floor
5 Los Angeles, California 90067
6 Telephone: 310.552.5000
7 Facsimile: 310.552.5001
8 Email: michael.lubic@klgates.com
9 michael.heyman@klgates.com

6 Attorneys for Laboratory Corporation of
7 America and LabWest, Inc. f/k/a Wave Newco,
8 Inc.

8 **UNITED STATES BANKRUPTCY COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **SANTA ANA DIVISION**

11 In re:
12
13 WESTCLIFF MEDICAL LABORATORIES,
14 INC.,
15 Debtor.
16 BIOLABS, INC.,
17 Debtor.

18
19 LABORATORY CORPORATION OF
20 AMERICA AND LABWEST, INC. F/K/A
21 WAVE NEWCO, INC.,

21 Plaintiffs,

22 vs.

23 FEDERAL TRADE COMMISSION,

24 Defendant.

Case No. 8:10-bk-16743-TA
Jointly Administered with 8:10-bk-16746-TA

Chapter 11 Cases

Adversary No. 8:10-ap-01564-TA

**ORDER ABSTAINING FROM
ADVERSARY PROCEEDING AND
TRANSFERRING ADVERSARY
PROCEEDING TO DISTRICT COURT**

Date: December 8, 2010

Time: 10:00 a.m.

Place: Courtroom 5B

Judge: Hon. Theodor C. Albert

1 The Court, having considered the issues relating to the: (1) Motion by Plaintiffs (“Plaintiffs”)
2 Laboratory Corporation of America and LabWest, Inc. f/k/a Wave Newco, Inc. for Temporary
3 Restraining Order and Order to Show Cause Regarding Preliminary Injunction (the “TRO Motion”);
4 and (2) Emergency Motion by the Federal Trade Commission for Extension of Time to Oppose
5 Plaintiffs’ TRO Motion (the “Extension Motion”, together with the TRO Motion, the “Motions”), and
6 having, *sua sponte*, raised the issue of abstention, and good cause appearing therefrom,

7 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

8 (1) The Motions are denied, without prejudice;

9 (2) The Court *sua sponte* exercises its permissive abstention authority pursuant to 28
10 U.S.C. § 1334(c)(1) and abstains from hearing any further matter with respect to the above-captioned
11 adversary proceeding;

12 (3) The above-captioned adversary proceeding shall be transferred to United States
13 District Court for the Central District of California, with this Court’s recommendation that the
14 adversary proceeding be deemed related to the civil action entitled *Federal Trade Commission v.*
15 *Laboratory Corporation of America, et al.*, CV 10-01873 AG (MLGx), which is currently pending
16 before the Honorable Andrew J. Guilford of the United States District Court for the Central District
17 of California, Santa Ana Division.

18 **IT IS SO ORDERED.**

19 ###

20
21
22
23
24 DATED: December 29, 2010



United States Bankruptcy Judge

In re: WESTCLIFF LABORATORIES, INC.

CHAPTER 11

Debtor(s).

CASE NUMBER: Adv 8:10-ap-01564-TA

NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I.
Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: K&L GATES LLP, 10100 Santa Monica Boulevard, 7th Floor, Los Angeles, CA 90067

A true and correct copy of the foregoing document described [PROPOSED ALTERNATIVE] ORDER ABSTAINING FROM ADVERSARY PROCEEDING AND TRANSFERRING ADVERSARY PROCEEDING TO DISTRICT COURT will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner indicated below:

I. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Service information continued on attached page

II. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):
On December 21, 2010 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

III. **SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on December 21, 2010 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Hon. Theodor C. Albert
USBC
411 West Fourth Street
Santa Ana, CA 92701-4593

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In re: WESTCLIFF MEDICAL LABORATORIES, INC.	CHAPTER 11
Debtor(s).	CASE NUMBER Adv: 8:10-ap-01564-TA

Service information continued on
attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

12/21/10 Verastine Mills /s/ Verastine Mills
Date *Type Name* *Signature*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In re: WESTCLIFF MEDICAL LABORATORIES, INC.	CHAPTER 11
Debtor(s).	CASE NUMBER Adv. 8:10-ap-01564-TA

ADDITIONAL SERVICE INFORMATION (if needed):

VIA MAIL

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Michael Moiseyev
Assistant Director
Bureau of Competition
Federal Trade Commission
601 New Jersey Ave., NW
Washington, DC 20001

Western Region
Federal Trade Commission
10877 Wilshire Blvd., Suite 700
Los Angeles, CA 90024

Richard Park
Assistant United States Attorney
300 North Los Angeles Street, Suite 7516
Los Angeles, CA 90012

Civil Process Clerk
United States Attorney's Office
Federal Building, Room 7516
Los Angeles, CA 90012

United States Trustee
Office of the United States Trustee
411 West Fourth Street, Suite 9041
Santa Ana, CA 92701

Attorney General
United States Department of Justice
Ben Franklin Station
P.O. Box 683
Washington, D.C. 20044

In re: WESTCLIFF MEDICAL LABORATORIES, INC.	CHAPTER: 11
Debtor(s).	CASE NUMBER: Adv. 8:10-ap-01564-TA

NOTE TO USERS OF THIS FORM:

- 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.
- 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.
- 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.
- 4) **Category II.** below: List **ONLY** addresses for debtor (and attorney), movant (or attorney) and person/entity (or attorney) who filed an opposition to the requested relief. **DO NOT** list an address if person/entity is listed in category I.

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*) [PROPOSED ALTERNATIVE] ORDER ABSTAINING FROM ADVERSARY PROCEEDING AND TRANSFERRING ADVERSARY PROCEEDING TO DISTRICT COURT was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner indicated below:

I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of 12/16/10, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below.

- Todd M Arnold tma@lnbrb.com
- Ron Bender rb@lnbrb.com
- Jeffrey K Garfinkle bkgroup@buchalter.com, jgarfinkle@buchalter.com;lgoodwin@buchalter.com
- Michael J Heyman michael.heyman@klgates.com
- Michael B Lubic michael.lubic@klgates.com
- Richard Park Richard.Park@usdoj.gov
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

Service information continued on attached page

II. SERVED BY THE COURT VIA U.S. MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at the address(es) indicated below:

United States District Court – Southern Division
Santa Ana Courthouse – Honorable Andrew J. Guilford
411 W Fourth Street, Room 1053
Santa Ana, CA 92701-4516

Service information continued on attached page

III. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s), and/or email address(es) indicated below:

Service information continued on attached page

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ADDITIONAL SERVICE INFORMATION (if needed):

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Michael Moiseyev
Assistant Director
Bureau of Competition
Federal Trade Commission
601 New Jersey Ave., NW
Washington, DC 20001

Western Region
Federal Trade Commission
10877 Wilshire Blvd., Suite 700
Los Angeles, CA 90024

Richard Park
Assistant United States Attorney
300 North Los Angeles Street, Suite 7516
Los Angeles, CA 90012

Civil Process Clerk
United States Attorney's Office
Federal Building, Room 7516
Los Angeles, CA 90012

Attorney General
United States Department of Justice
Ben Franklin Station
P.O. Box 683
Washington, D.C. 20044