

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

LABORATORY CORPORATION
OF AMERICA,

and

LABORATORY CORPORATION
OF AMERICA HOLDINGS,

Defendants.

Civil Action No. 10-02053 (RWR)

**MOTION TO DISMISS FOR IMPROPER VENUE OR FOR FAILURE TO SUE THE
ACQUIRER OF ASSETS OR, IN THE ALTERNATIVE, TO TRANSFER VENUE**

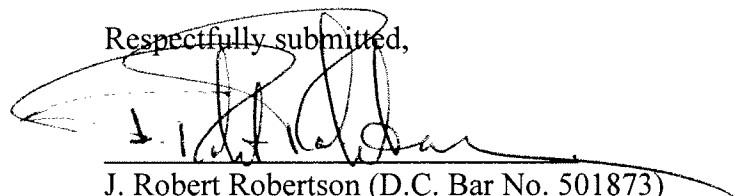
Pursuant to Rules 12(b)(3) and (6) of the Federal Rules of Civil Procedure and 15 U.S.C. § 53(b), Defendants Laboratory Corporation of America (“LabCorp”) and Laboratory Corporation of America Holdings respectfully move this Court to dismiss Plaintiff Federal Trade Commission’s (“FTC’s”) complaint for improper venue. Alternatively, pursuant to 28 U.S.C. §§ 1406(a) and 1404(a), Defendants respectfully move this Court to transfer this action to the United States District Court for the Central District of California. There is currently an adversary proceeding pending in The United States Bankruptcy Court for that district, and an active bankruptcy proceeding, *In re Westcliff Medical Laboratories, Inc., Debtor, et al.*, case no. 8:10-bk-16743-TA, concerning the *same assets and exactly the same matter at issue* in this case. The acquisition at issue in all these cases, including the FTC’s case, is the acquisition by LabWest, Inc., a subsidiary of LabCorp, of substantially all the assets of Westcliff Medical

Laboratories, Inc, (“Westcliff”). Although LabWest is the acquirer of Westcliff’s assets, the FTC has not sued LabWest. Instead, the FTC has incorrectly named as defendants LabWest’s parent company (LabCorp) and LabCorp’s parent (Laboratory Corporation of America Holdings). LabWest, which is the proper defendant, and Westcliff are both based in Santa Ana, California and have no contacts with the District of Columbia. As a result, venue in the District of Columbia over this matter is improper.

Moreover, all of the events at issue in these matters occurred in California and almost all of the witnesses and evidence are located there. None reside in the District of Columbia. In addition, the FTC’s own complaint admits that the only potential harm about which the FTC is concerned would be in southern California where LabWest, Westcliff, and the West Division of LabCorp all do business and where all of the events giving rise to this matter transpired. For the reasons set forth in the accompanying Memorandum of Points and Authorities in Support of Defendants’ Motion to Dismiss for Improper Venue or, in the Alternative, to Transfer Venue, and in the accompanying Declarations of Michael Aicher and Kip Vernaglia, the Court should dismiss the complaint or, in the alternative, transfer this action to the United States District Court for the Central District of California.

Dated: December 2 , 2010

Respectfully submitted,



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(D.D.C. Bar No. IL0001)

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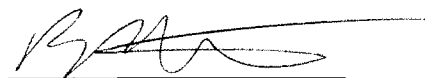
*Attorneys for Laboratory Corporation of America
and Laboratory Corporation of America Holdings*

CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2010, a true and correct copy of Defendants Laboratory Corporation of America's ("LabCorp") Motion to Dismiss for Improper Venue or for Failure to Sue the Acquirer of Assets or, in the Alternative, to Transfer Venue, and the Memorandum of Law and Declarations of Michael Aicher and Kip Vernaglia in support thereof, were served via first class and electronic mail on:

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Benjamin F. Holt