

Health Group Of The Year: Whistleblower Law Collaborative

By **Jasmin Jackson**

Law360 (February 28, 2023, 2:02 PM EST) -- Whistleblower Law Collaborative LLC successfully steered a host of high-stakes whistleblower suits in the health care field last year, including helping a former Mallinckrodt director score \$40 million for reporting that the drug company failed to pay correct rebates for the drug Acthar, earning it a spot among Law360's 2022 Health Groups of the Year.

The Boston-based firm specializes in actions brought on behalf of whistleblowers, such as suits under the False Claims Act, or FCA — a federal law that enables whistleblowers to report entities that are defrauding the government in exchange for a cut of damages.

Managing member Suzanne Durrell told Law360 that while the small firm of less than 10 attorneys is "fully a whistleblower practice ... a lot of our work is health care."

"Since 2018, we have grown from two or three attorneys to six attorneys and also two paralegals, which has enabled us to take on more cases," Durrell said. "We don't see a need to expand. We think we're well-equipped to handle the volume of referrals that come to us and to vet the potential cases to pick the ones that we think have the best chance of succeeding."

And succeed they do. Whistleblower Law Collaborative's work on behalf of whistleblowers in the health care space has led to more than \$278 million worth of settlements by key drugmakers like Mallinckrodt ARD LLC and Cardinal Health Inc., as well as medical device maker Arthrex Inc. and many more.

At the start of 2022, Cardinal Health agreed to shell out more than \$13 million to settle FCA claims brought on behalf of a Whistleblower Law Collaborative-led whistleblower, resolving claims that it paid doctors kickbacks to persuade them to buy federally reimbursable drugs from the Ohio-based distributor instead of its competitors.

The following March, Mallinckrodt agreed to pay around \$260 million to resolve FCA claims that it underpaid Medicaid rebates for its Acthar gel products, which is used to treat certain chronic inflammatory or autoimmune conditions. Ultimately, the practice group helped the whistleblower in that action — former Mallinckrodt director James Landolt — nab a more than \$40 million cut of that deal.



"We, sort of, immediately recognized it as a potentially large Medicaid fraud rebate case," Durrell said. "If a company doesn't report its prices properly, you know it can cost the Medicaid program, which is always financially strapped. So it was an area we were passionate about and it was an area we knew a lot about already."

Just a few months later, BioReference Health LLC settled an FCA case in July 2022 brought by the practice group on behalf of a former employee for more than \$10 million, resolving claims that the laboratory service made lease payments to physicians as a way to try to get patient referrals.

The practice rounded out last year with yet another multimillion-dollar settlement resulting from FCA claims brought on behalf of a whistleblower — this time against pharmacy DermaTran Health Solutions LLC and others. Ultimately in October 2022, DermaTran, Pharmacy Insurance Administrators LLC and several pharmacies in Texas and Alabama agreed to pay \$6.9 million to resolve claims that they waived patient copays and overcharged government health insurance programs. Whistleblower Law Collaborative's relator client scored a more than \$1.4 million cut of the deal.

Durrell and fellow Whistleblower Law Collaborative attorney Bruce Judge said in a statement following the DermaTran settlement that "our client could easily have kept silent about the fraud she witnessed, but she did the right thing and came forward to tell the government about a serious fraudulent scheme that was draining millions from veterans and other vulnerable patients."

The practice's large-scale health care litigation wasn't just an anomaly in 2022 either. Back in November 2021, orthopedic device company Arthrex Inc. settled an FCA suit brought on behalf of a Whistleblower Law Collaborative-represented whistleblower for \$16 million, resolving claims that the company paid millions in kickbacks to a surgeon in exchange for him to use and recommend its products. The government paid Whistleblower Law Collaborative's client a \$2.5 million relator's share award.

"You see a lot of health care fraud kickback schemes in the past that have involved pharmaceutical companies, but this one was a medical device maker and it was in the orthopedic surgery industry, which are very expensive surgeries," Durrell said. "What we think made this important is that this kickback scheme, which had been under the radar for many years, was finally exposed."

--Additional reporting by Sarah Jarvis, Tom Lotshaw, Adam Lidgett, Al Barbarino, Lauren Berg and Ivan Moreno. Editing by Nicole Bleier.