

Cigna Scores \$7.3M Verdict Against Fla. Drug Testing Labs

By **Aaron Keller** · 2024-11-04 20:22:23 -0500 ·

A Connecticut federal jury on Monday handed Cigna Health and Life Insurance Co. a victory against three Florida boutique drug testing laboratories, finding the labs unjustly billed nearly \$7.3 million for tests on substance abuse patients that the insurer declared medically unnecessary.

BioHealth Laboratories Inc., PB Laboratories LLC and Epic Reference Labs Inc. **each must pay** more than \$2.4 million on Cigna's unjust enrichment claims, according to **verdict forms** filed late Monday afternoon. The labs **did not prevail** on a third-party beneficiary claim accusing the insurer of putting them out of business by refusing to pay \$5.1 million for completed tests.

The verdict is a step down from the \$16.1 million Cigna sought during **closing arguments**, but it marks a significant win against testing facilities the insurer accused of profiteering off of Florida's drug addiction crisis.

The dual-docket dispute began when the Florida labs filed a complaint against Cigna in Connecticut state court on Aug. 5, 2019. Cigna filed its own lawsuit against the labs in Connecticut federal court on Aug. 27, 2019, and removed the labs' lawsuit to federal court the next day.

U.S. District Judge Janet C. Hall in October impaneled a nine-member jury to **hear both consolidated cases**.

In a series of Monday orders, Judge Hall told the panel to render separate, independent verdicts in each case. She then unconsolidated the matters and told counsel to file

future documents, including any appeals or requests for interest, on each separate docket as warranted.

During closing arguments, Cigna attorney Edward T. Kang of Alston & Bird LLP said the labs were the driving forces behind broadly written standing medical orders adopted by some Florida drug treatment centers.

Those "boilerplate" orders covered every patient who entered the facilities and were penned before many patients began treatment, Kang said. The doctors who signed some of the orders never saw some of the patients personally, he told the jury.

The standing orders called for frequent, repeat tests and were promulgated so the labs could "line their own pockets," Kang argued.

One of the labs billed more than \$700,000 on batteries of "wasteful" tests for just one patient, Kang told the jury. Another patient who abused only alcohol was repeatedly tested for multiple drugs, including ecstasy, he said during closing arguments.

An individual paid as a lab sales consultant co-owned a rehab center that sent the labs more than \$4 million worth of tests, Kang said, raising questions before the jury of a potential conflict of interest.

Cigna asked the jury to force the labs to repay the entire \$16.1 million the insurer paid in benefits before its investigators started digging into the matter.

The jury's verdict credited the insurer's theory but declined to provide the entire relief requested.

Attorney Fred A. Cunningham of Rafferty Domnick Cunningham & Yaffa, representing the labs, told the jury that it was unfair for Cigna to allege that every single test was unnecessary.

Cunningham described the labs as specialized operations offering rapid results competitors could not provide. Speedy, wide-gamut drug tests were necessary, he said, because recovery patients often abuse more than one drug and must be treated quickly based on the drugs in their systems.

The labs claimed Cigna declared the tests medically unnecessary when faced with a looming \$150 million to \$200 million "financial tsunami" triggered by the opioid addiction epidemic.

Because Cigna could not swiftly escape its liabilities by rewriting generous benefits plans, the insurer started declaring drug tests medically unnecessary and stopped paying benefits, the labs argued.

"If Cigna does not want to pay, it doesn't matter what the treating doctors say," Cunningham said during closing arguments.

He urged the jury to trust the doctors who ordered the tests, not the insurance officials who claimed the tests weren't needed.

Though the labs originally sued Cigna under six Florida statutes and levied separate breach of contract, promissory estoppel, quantum meruit and unjust enrichment claims topping \$24 million, the jury was asked to decide only one surviving count: a claim that the labs were third-party beneficiaries of Cigna's insurance policies.

The labs whittled their damages bid to \$5.1 million by closing arguments, citing an expert's damages assessment. Cunningham said the insurer put the labs out of business by withholding benefits payments.

Jurors deliberated less than three days before rendering the verdict.

Neither an attorney for the labs nor a Cigna spokesperson immediately responded to Law360 inquiries.

Cigna is represented by Edward T. Kang, Alexander Akerman, Emily Costin, Kelsey L. Kingsbery and Michelle Jackson of Alston & Bird LLP.

The labs are represented by Fred A. Cunningham and Matthew Christ of Rafferty Domnick Cunningham & Yaffa, Scott M. Hare and Anthony T. Gestrich of Raines Feldman Littrell LLP and John J. Radshaw III of the Law Office of John J. Radshaw III LLC.

The combined cases are Connecticut General Life Insurance Co. et al. v. BioHealth Laboratories Inc. et al., case number 3:19-cv-01324, and Epic Reference Labs Inc. et al. v. Cigna Health and Life Insurance Co. et al., case number 3:19-cv-01326, in the U.S. District Court for the District of Connecticut.