



NEWS TAF UPDATES

2022 Public-Private Partnership Award Recipient

November 2, 2022

During its 22nd Annual Conference, Taxpayers Against Fraud bestowed the Public-Private Partnership Award to the team of federal and state government lawyers involved in pursuing the case in *United States ex rel. James Landolt v. Mallinckrodt ARD LLC*.

The award recognizes special accomplishments by government attorneys who worked closely with whistleblowers' counsel to bring about extraordinary results on a case from the previous year.

Below are photos from the award ceremony, list of government attorneys awarded, and more information about the accomplishments of this team.



Left to right: Shapiro, Snell, Schmergel, Ripa, Hoffman, Garland, Panich, and whistleblower Jamie Landolt. More information about the government attorneys is below.

List of Government Attorneys for the Public-Private Partnership Award

U.S. Department of Justice Civil Division, Commercial Litigation Branch, Fraud Section

- Augustine Ripa, Trial Attorney/Senior Counsel for Health Care Fraud

- Michael Hoffman, Trial Attorney

U.S. Attorney's Office for the District of Massachusetts, Civil Division

- (former) Gregg Shapiro, Assistant U.S. Attorney (and ACE Chief)
- Evan Panich, Assistant U.S. Attorney
- Raquelle L. Kaye, Assistant U.S. Attorney (Asset Recovery Unit)

U.S. Department of Justice Civil Division, Federal Programs Branch

- (former) Kevin Snell, Trial Attorney
- Jean Lin, Special Litigation Counsel

U.S. DOJ Civil Division, Commercial Litigation Branch, Office of Foreign Litigation

- Kiesha M. Minyard, Assistant Director

U.S. DOJ Civil Division, Commercial Litigation Branch, Corporate and Financial Litigation

- Mary Schmergel, Senior Trial Counsel

U.S. Department of Justice Civil Division, Appellate Staff

- Joshua M. Saltzman, Assistant Director

U.S. Department of Health and Human Services, Office of Counsel to the Inspector General

- Mary Riordan, Senior Counsel

State Attorneys General Officials

- C. Ian Garland, Assistant Attorney General and Deputy Director – Civil Enforcement, Florida Attorney General's Office

- Matthew Vitale, Senior Assistant Attorney General, Medicaid Fraud Control Unit, Florida Attorney General's Office
- Katie M. Wilson, Assistant Attorney General, Division of Legal Services, Medicaid Fraud Control and Elder Abuse Unit, State of Wisconsin Department of Justice
- Randy Glaser, Deputy Attorney General, Bureau of Medi-Cal Fraud and Elder Abuse, California Department of Justice
- Ian Marinoff, Assistant Attorney General, Managing Attorney, Medicaid Fraud Division, Massachusetts Attorney General's Office
- Stacy M. Race, First Assistant Attorney General, Health Care Fraud Division, Michigan Department of Attorney General
- Amy Steelman, Senior Deputy Attorney General, Nevada Attorney General's Office
- Ting Ting Tam, Special Assistant Attorney General, Medicaid Fraud Control Unit, New York Office of the Attorney General
- Christen Nedwick, Assistant Attorney General, Texas Office of the Attorney General (now with Texas HHS)

The Team's Accomplishments in the Mallinckrodt Case

The team of federal and state government lawyers who worked together to pursue the case against Mallinckrodt beautifully demonstrated the success that can be achieved when government agencies and offices work together and with relators and their counsel. The government team consisted of an outstanding coordinated effort among the Department of Justice, Civil Fraud Section; the Department of Justice, Commercial Litigation Branch, Corporate and Financial Litigation; the Department of Justice, Commercial Litigation Branch, Office of Foreign Litigation; the United States Attorneys' Office for the District of Massachusetts; the Attorney Generals' Offices for Florida and Wisconsin; the Department of Justice Federal Programs Branch; and the Department of Health and Human Services Office of Inspector General, Office of Counsel.

The combined efforts led to the announcement on March 7, 2022, that the United States, numerous states, the District of Columbia, and Puerto Rico of a civil False Claims Act settlement against Mallinckrodt plc and its subsidiary Mallinckrodt ARD LLC for nearly \$234 million, resolving allegations that it knowingly underpaid Medicaid rebates for its drug H.P. Acthar Gel (Acthar) from 2013 to 2020. In addition, Mallinckrodt entered into a five-year Corporate Integrity Agreement with HHS-OIG that accompanied the FCA civil settlement. That CIA

contains several unique drug price transparency and monitoring provisions focused on Medicaid rebate practices. These will help ensure Mallinckrodt's future compliance with its rebate obligations.

This is also a case that spurred tangible and lasting change in the industry. As a result of the litigation and the settlement, Mallinckrodt began to report accurately Acthar pricing information as of June 2020. This reporting change is expected to result in annual savings to the Medicaid program of approximately \$100 million. Thus, the value to taxpayers of this public-private partnership far exceeds the settlement amount of \$234 million (which would have been far greater but for Mallinckrodt's bankruptcy).

The qui tam lawsuits alleged that Mallinckrodt had been misreporting pricing data to the Medicaid Drug Rebate Program (MDRP) to avoid paying inflation-based rebates after it dramatically increased Acthar's price. The company raised Acthar's price from approximately \$50 per vial in 2001 to nearly \$40,000 by 2020. The settlement of the allegations involving the Acthar Medicaid Drug Rebate Program also resolved allegations that remained from another qui tam action that alleged that Mallinckrodt engaged in co-pay assistance fraud.

The case was fought on multiple fronts – in various district courts and appellate courts, including a suit in which Mallinckrodt unsuccessfully sued CMS to avoid having to report Acthar's correct base AMP, and in bankruptcy court in Delaware after Mallinckrodt declared bankruptcy in October 2020.

Each of these fronts presented its own legal considerations and challenges and twists and turns. Throughout, the government team coordinated in a seemingly seamless fashion, and sought the input of relator's counsel, keeping them informed so that they could pursue a united and complementary strategy that protected not only the government's interest, but also addressed the concerns and rights of the relators.

The dedication, cooperation, and skill shown by the members of the government team was truly impressive. Throughout the litigation they demonstrated thoughtful communication, collaboration, and coordination with relators' counsel, and showed genuine respect to them and their client. For their extraordinary efforts, honored to recognize the team with the TAF Public-Private Partnership Award.

Award Nomination Process

The Public-Private Partnership Award and others are nominated by the general membership of TAF before the organization's annual conference.

Once submitted, the TAF Conference & Member Education Committee deliberate and vote on award recipients

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