

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

RELIANCE LABORATORY TESTING,  
INC.,

CIVIL DIVISION

Plaintiff,  
v.

CASE NO.:

CBS BROADCASTING INC., a foreign  
corporation, and CBS NEWS INC., a foreign  
corporation, and DYLAN SMITH, an individual,

Defendants.

---

**COMPLAINT**

**COMES NOW**, Plaintiff, RELIANCE LABORATORY TESTING, INC., by and through the undersigned counsel, hereby sues Defendants, CBS BROADCASTING INC., CBS NEWS INC., and DYLAN SMITH for its defamatory and unlawful acts as alleged below:

**GENERAL ALLEGATIONS**

1. This is a civil lawsuit brought by RELIANCE LABORATORY TESTING, INC. (hereinafter referred to as "Plaintiff") against CBS BROADCASTING INC., CBS NEWS INC., and DYLAN SMITH (hereinafter referred to as "Defendants") in connection with Defendants' efforts to unlawfully and publicly defame Plaintiff, via news and media outlets, without taking appropriate measures to verify that such information sent from an anonymous source is true and correct.
2. Defendants, CBS BROADCASTING INC., CBS NEWS INC., and DYLAN SMITH, as the alleged originator of the audio at issue in this matter, have already published false information to third parties that painted RELIANCE LABORATORY TESTING, INC.

("Reliance") in a false light and defamed the reputation of not only Reliance, but also the people and entities with which Reliance conducts business. Defendants now are taking actions to continue its defamatory streak and continuing to paint Plaintiff Reliance in a false light, while also taking efforts to publish blatantly false information, which further defames Plaintiff and would continue to have severe adverse consequences on Plaintiff's future and current business relationships.

3. Plaintiff Reliance Laboratory Testing, Inc., is a Florida corporation with its principal place of business in 5387 N. Nob Hill Road, Sunrise, Florida 33351. It is a laboratory service provider that processes specimens for drug tests ordered by health care providers.
4. It is a licensed Florida toxicology lab that is accredited by CLIA (Clinical Laboratory Improvement Amendments of the Federal government), COLA (a private lab accrediting organization), and AHCA (Agency for Health Care Administration of Florida).
5. Recently, an alleged transcript and audio recording surfaced from an anonymous source via email. In the anonymous email, the anonymous source makes false allegations about both Plaintiff's involvement with allegedly unlawful conduct.
6. Defendants CBS Broadcasting Inc. and CBS News Inc. alleges the speaker in the audio and transcript to be Defendant Dylan Smith. Defendant Smith is the Chief Executive Officer of a drug and substance abuse rehabilitation and recovery center, Beaches Recovery, located in Jacksonville, Florida. Beach Recovery a 90-bed facility.
7. Defendants CBS Broadcasting Inc. and CBS News Inc. purports that Defendant Smith speaks on behalf of Plaintiff Reliance, even though he is not and never was an employee, contractor, officer, or agent of Reliance. Nor did Reliance authorize Defendant Smith to

speaking on its behalf. Defendant Smith was neither placed in a position of authority or role otherwise that would create an agency relationship, nor was Defendant Smith granted any form of authority by Reliance to speak on its behalf.

8. Defendants CBS Broadcasting Inc. and CBS News Inc. positioned Defendant Smith in the purported audio and accompanying transcript as the one who wrongfully published false information about Plaintiff to the unidentified receiver of the voicemail, in addition to the anonymous source, and to Defendant CBS Broadcasting Inc. and Defendant CBS News Inc.
9. The anonymous email source took extreme measures to hide its identity. The email address that is the source was specifically created for such purpose. In this anonymous email that Defendants plan to publish nation-wide, via media outlets, the anonymous source makes false allegations about Plaintiff's involvement with allegedly unlawful or otherwise improper conduct, thereby not only publishing false statements but also painting Plaintiff in a false light and harming its reputation.
10. This false information comes from a source that does not carry credibility, nor does the anonymous nature of submission provides confidence that actions were taken by the Defendants to verify any of the information allegedly on the audio recording. Notably, this anonymous source, in its email, specifically directs Defendants, "please do NOT quote me." See *Email from Anonymous Source*, incorporated and attached as **Exhibit A**.
11. In further support of the lack of credibility of this audio and accompanying transcript, the recording and accompanying transcript falsely identifies Defendant Smith as a representative, employee, or agent of a lab company called "Reliance Labs." This



“Reliance Labs” is referring to Plaintiff Reliance Laboratory Testing, Inc. Defendant Smith is not and never was a representative, advisor, contractor, employee, or otherwise agent of Reliance. *See Transcript of Recording*, incorporated and attached herein as **Exhibit B**.

12. The recording and accompanying transcript continues by making additional false statements. Upon information and belief, the email from the anonymous source with the attached alleged transcript and audio recording, also contains court documents that are inaccurate or have otherwise been tampered with. These court documents relate to Bankruptcy litigation involving a Campbellton Graceville-CGH hospital.
13. The anonymous email source purports to identify himself as a prior manager of the Campbellton Graceville-CGH hospital, which has recently been the subject of litigation in Bankruptcy Court and has some business connections to Reliance. There were only two managers of that hospital as it related to the relevant timeframe. One of which was discharged from his position as manager around the time of the alleged audio recording. Upon information and belief, the purported anonymous source has malicious intent to perpetrate such false and improper allegations about Plaintiff’s business. *See Affidavit Explaining Circumstances Surrounding Termination of Manager*, attached and incorporated as **Exhibit C**.
14. Clearly, this anonymous source is not credible and the false information was sent with ill intentions.
15. On March 26, 2018 at 7:38 AM, Defendants CBS Broadcasting Inc. and CBS News Inc. published a report to support its own false narrative that the laboratory and recovery and

drug rehab industry are partaking in some kind of improper conduct. However, in actuality, the laboratory health care industry in which Plaintiff's work is conducting business in a lawful manner. *See CBS Article Published on March 26, 2018*, attached and incorporated herein as **Exhibit D**.

16. In a recent email from Emily Rand, a CBS investigative news producer, on May 10, 2018, Rand on behalf of Defendants CBS Broadcasting Inc. and CBS News Inc. reached out to Plaintiff to announce its intentions to air or otherwise publish these alleged "developments" on its "original report" (the March 26, 2018 report) that allegedly explain how toxicology business may have been inappropriately generated. *See Email from Email Rand on May 10, 2018*, attached and incorporated as **Exhibit E**.

17. This is in furtherance of Defendants' (CBS Broadcasting Inc. and CBS News Inc.) efforts to add some alleged sense of credibility to pre-existing false narrative. Defendants CBS Broadcasting Inc. and CBS News Inc. plan to air or otherwise publish these improper allegations purportedly made by Defendant Smith that paint Plaintiff in a false light to the public, without taking sufficient measures to verify the veracity of the information and authenticity of the recording. These false statements are maliciously false and defamatory, and airing or otherwise publishing this information on media outlets is unlawful.

#### **PARTIES, JURISDICTION, AND VENUE**

18. Plaintiff RELIANCE LABORATORY TESTING, INC. is a resident of Broward County because its principal place of business is located in Sunrise, Florida. It is at all times material *sui juris*.

19. Defendant DYLAN SMITH is a resident of Duval County, Florida because he resides in Jacksonville, Florida. He is at all times material *sui juris*.
20. Defendant, CBS BROADCASTING INC., is a Florida registered foreign corporation authorized to transact business in Florida and is at all times material *sui juris*.
21. Defendant, CBS NEWS INC., is a Florida registered foreign corporation authorized to transact business in Florida and is at all times material *sui juris*.
22. This Court has subject matter jurisdiction of this cause by virtue of Fla. Stat. § 26.012. Plaintiff has suffered damages, and seek recovery of those damages in an amount that exceeds this Court's jurisdictional minimum.
23. Venue is proper in Broward County, Florida by virtue of Fla. Stat. § 47.011 since it is the County where the cause of action accrued and where the injury is suffered.
24. All conditions precedent to filing this lawsuit have been performed, waived, or satisfied.

#### **COUNT I – DEFAMATION**

Plaintiff re-alleges and re-adopts the allegations as set forth in paragraphs 1 through 24 above, and incorporates the same as if specifically set forth herein below.

25. This is an action for Defamation against Defendants Smith, CBS Broadcasting Inc., and CBS News Inc. for publishing false and defamatory statements concerning Plaintiff to third-parties, including in news and media outlets, which have caused and will continue to cause injury to Plaintiff.
26. Plaintiff has been the victim of vicious, defamatory attacks perpetrated and committed by Defendants. Such wrongful acts were designed to, and did in fact, damage Plaintiff's reputation, paint Plaintiff in a false light, and subject Plaintiff to national ridicule.



27. Defendants' false and defamatory accusations have been, and are continuing to be, widely disseminated in newspaper articles, broadcast on television news, and published and posted on various websites on the internet, causing Plaintiff not only past and current harm, but perpetual harm estimated in the millions.

28. At the time of said publication and efforts to bolster future publications, Defendants knew that the statements about and/or relating to Plaintiff were false and inaccurate, or otherwise failed to conduct its due diligence and reasonably investigate its allegations, as established by the lack of authority granted by Reliance, the circumstances surrounding the emails and information from the anonymous source.

29. Defendants have negligently and maliciously made false statements about Plaintiff and the circumstances surrounding the Plaintiff's business deals. Defendants have made false and defamatory statements in connection therewith by stating false information by which Plaintiff conducts business, and falsely insinuating that Plaintiff is partaking in wrongful or otherwise unlawful conduct.

30. The intentional and wrongful conduct of Defendants proximately caused damages to Plaintiff, including by causing irreparable damages to Plaintiff's professional reputation, including any future potential employment, and earning capacity in the health care industry, all of which Plaintiff continues to suffer to this day.

**WHEREFORE**, Plaintiff, Reliance, respectfully requests that this Honorable Court enter an Order awarding relief to prevent future harm and damages including costs, and such other and further relief as this Honorable Court deems just and proper.

## **COUNT II – INJUNCTION**

Plaintiff re-alleges and re-adopts the allegation as set forth in paragraphs 1 through 24 above, and incorporates the same as if specifically set forth herein below.

31. This is an action for Injunction, for which this Court has jurisdiction, against Defendants Smith, CBS Broadcasting Inc., and CBS News Inc. to prevent them from further publishing false and defamatory statements concerning Plaintiff to third-parties, including in news and media outlets, which have caused and will continue to cause injury to Plaintiff.

32. Plaintiff has been the victim of vicious, defamatory attacks perpetrated and committed by Defendants. Such wrongful acts were designed to, and did in fact, damage Plaintiff's reputation, paint Plaintiff in a false light, and subject Plaintiff to national ridicule while he attempts to run a reputable rehabilitation facility.

33. Defendants' false and defamatory accusations have been, and are continuing to be, widely disseminated in newspaper articles, broadcast on television news, and published and posted on various websites on the internet, causing Plaintiff not only past and current harm, but perpetual harm estimated in the millions.

34. At the time of said publication and efforts to bolster future publications, Defendants knew that the statements about and/or relating to Plaintiff were false and inaccurate, or otherwise failed to conduct its due diligence and reasonably investigate its allegations, as established by the lack of authority granted by Reliance, the circumstances surrounding the emails and information from the anonymous source.

35. Defendants have negligently and maliciously made false statements about Plaintiff and



the circumstances surrounding the Plaintiff's business deals. Defendants have made false and defamatory statements in connection therewith by stating false information by which Plaintiff conducts business, and falsely insinuating that Plaintiff is partaking in wrongful or otherwise unlawful conduct.

36. As a result of Defendants' actions, Plaintiff has no adequate remedy at law and is suffering and will continue to suffer, irreparable harm unless an injunction is issued to enjoin Defendants from publishing the defamatory statements.

37. The issuance of an injunction will serve the public interests by preventing false and defamatory information from being disseminated regarding Plaintiff, which falsely insinuates that Plaintiff Reliance, an innocent entity, is partaking in wrongful or unlawful conduct, thereby wrongfully painting Plaintiff in a false light while also publishing false statements.

38. The intentional and wrongful conduct of Defendants proximately caused damages to Plaintiff, including irreparable damages to Plaintiff's reputation, including any future potential business, and earning capacity in the health care industry, all of which Plaintiff continues to suffer to this day.

39. As a result of these actions, Plaintiff has a clear legal right to the relief requested and exhibits a substantial likelihood of success on the merits.

**WHEREFORE**, Plaintiff, Reliance, respectfully requests that this Honorable Court enter an Order awarding relief to prevent future harm and damages including costs, and such other and further relief as this Honorable Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial on all issues so triable.

**DATED:** May 14, 2018.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a copy of the foregoing has been furnished via Email through the Florida Courts E-Filing Portal to the Service List below on May 14, 2018.

Respectfully Submitted,

**DI PIETRO PARTNERS, LLP**

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*/s/ Jocelyn Ezratty*

**DAVID DI PIETRO, ESQ.**

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**JOCELYN E. EZRATTY, ESQ/**

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*Co-Counsel for Plaintiff*

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*eservice@leviwilliamslaw.com*

*Co-Counsel for Plaintiff*

# EXHIBIT A



----- Forwarded Message

**From:** Media Analyst <[mediaanalyst@mail.com](mailto:mediaanalyst@mail.com)>

**Date:** Thu, 1 Mar 2018 16:17:41 +0100

**To:**

**Subject:** Information Regarding "Anthem Blue Cross Accuses California Hospital of \$13.5M Billing Scheme" Article

Dear

My company managed a Florida hospital where we uncovered the Toxicology Fraud Scheme created by Reliance Laboratory and Aaron Durall.

The Florida hospital (Campbellton Graceville-CGH) has since closed.

The Bankruptcy Trustee for CGH Hospital is pursuing financial damages in excess of \$90,000,000 from Reliance, Durall Capital, and other entities involved in this billing scheme according to court documents. See email attachment from a Federal Court in Florida title "Debtor and Committee response to Motions to limit scope of 2004".

I highlighted where Reliance, Aaron Durall, and Durall Holdings are listed in this document. I would recommend reading the complete document to find other references to Reliance, Aaron Durall, and Durall Holdings.

In addition, Reliance and Aaron Durall were paying and buying patients urine specimen. This is a violation of state and federal anti-kick back laws. The Audio recording is a Reliance Marketer calling on a Drug Detox Center in California. The caller is Jason Hahn (210-884-2225) [jhahn@addictionstopusa.com](mailto:jhahn@addictionstopusa.com).

Based on news articles, I think both state and federal investigators are unaware of the buying of patient urine toxicology patients to bill under the hospital's name. The Addiction Stop USA is a California drug and alcohol center.

FYI- I have reached out to the Anthem in California with this same information, but I have not yet heard a response.

I am happy to be an anonymous source at this time and can direct you to court documents or answer questions, but please do NOT quote me. I can be reached at this anonymous email.

- Regards

----- End of Forwarded Message

# EXHIBIT B

[REDACTED]

----- Forwarded Message -----

From: Emily Rand <RandE@cbsnews.com>  
To: kevinboydpr@comcast.net  
Sent: Mon, 07 May 2018 21:02:18 -0000 (UTC)  
Subject: CBS News Question

Hi Kevin,

Thanks for the call earlier. I reached out because I have obtained a recording of a voicemail left for a California rehab facility by a man purporting to represent your client's company, Reliance Labs. In the voicemail, the representative, Dylan Smith, tells the rehab facility that the "lead rep" of Reliance labs is offering to pay the rehab facility \$100,000 after they send Reliance 300 specimens. I was wondering if Mr. Durall could provide more information as to why Mr. Smith was apparently offering \$100,000 in return for 300 samples. The transcript of this voicemail is below.

If you could get back to me by close of business Thursday, I would appreciate it.

Thanks! And feel free to call me if you have any questions.

Emily Rand

212-975-6260

"Hey Scott, this is Dylan Smith with Reliance Labs, hey I just got off the phone with our lead rep at Reliance just kind of discussing potential accounts and what I got brewing, and he, uh, I told him your situation and how you guys have kind of been bouncing around and he mentioned the possibility that he would offer you guys stuff (?) he would send about, as soon as you guys sent 300 samples he would just send you \$100,000 right then and there, so I've never heard, he doesn't do stuff like that but I think he knows, he's pretty familiar with 449 and he knows your adolescent program so, he just wanted me to mention it to ya, if you're interested at all go ahead and give me a call back, again my number is 602-478-0329, if you're interested at all I'll just get you in contact with him, he'd just have to, uh, get a few minutes of your time and maybe explain a little bit more about it and what he is willing to do, so give me a shout if you're interested, if not, let me know in a couple weeks when you find out the results of what you've currently got going on and let me know one way or the other how it's going. Thanks, Scott, appreciate your time. Bye."



# EXHIBIT C

**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
IN AND FOR JACKSON COUNTY, FLORIDA**

Case No.: \_\_\_\_\_

Division: Civil

**CAMPBELLTON GRACEVILLE HOSPITAL  
CORPORATION, a Florida Non-Profit Corporation**

**Plaintiff,**

**vs.**

**PEOPLES CHOICE HOSPITAL, a Foreign  
Corporation**

**Defendant**

**AFFIDAVIT OF EDITH MEARS, CFO OF CAMPBELLTON GRACEVILLE  
HOSPITAL**

**STATE OF FLORIDA  
COUNTY OF JACKSON**

Before me, the undersigned authority, personally appeared Edith Mears, who being duly sworn, declared as follows:

I am over the age of 18 and have personal knowledge of the facts herein. I am the CFO of the Campbellton Graceville Hospital Corporation and have worked for the hospital since 2006. I am responsible for the financial operations of the hospital, and regularly pay vendors through invoices and/or purchase orders, and receive revenue from vendors, insurance companies, and the like. I work under the CEO of the hospital, at his direction, and also take direction from officers of Peoples Choice Hospital, specifically Seth Guterman and Chris Alise.

On April 6, 2016, I was directed to sign contracts with PCH on behalf of CGH for PCH to provide services in lab management and billing. CGH has used other billing service companies which are unrelated to PCH since the PCH took over management and it's still using those services as of today's date. Further, CGH already staffed the lab and did not require additional lab management services. Further, I knew that the board had not approved this arrangement and had not given me the authority to sign the contracts on the hospital's behalf.

I received numerous invoices from PCH for the provision of the billing and lab management services, copies of which are attached to this affidavit. I knew that PCH had not provided these services to the hospital, and I did question the arrangement, but I was directed on two occasions

to transfer payments of \$750,000.00, and \$506,430.46. I did so, and copies of the wire transfers are attached hereto.

I have also been directed to deposit checks from the Jackson County Tax Collector which are ad valorem tax revenues into the operating account of the hospital, which I know is a violation of the contract between PCH and CGH. I was directed to do so by PCH when I questioned the deposit.

Edith Mears  
Edith Mears

STATE OF FLORIDA  
COUNTY OF JACKSON

SUBSCRIBED AND SWORN TO BEFORE ME on June 22, 2016, by Edith Mears, who is personally known to me.

Greta M. Bruner  
NOTARY PUBLIC  
My Commission Expires:





# EXHIBIT D



01:31 / 03:09

CBS NEWS / March 26, 2018, 7:38 AM

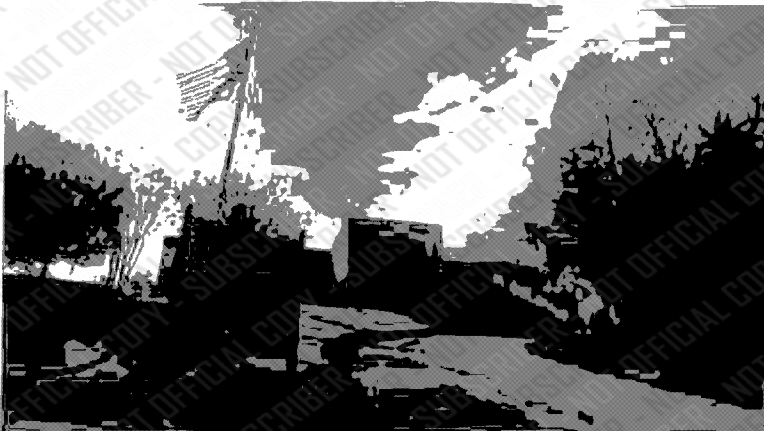
## Some rural hospitals used for big insurance reimbursements – and profit

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Some rural hospitals are being used to set up big paydays from insurance providers, raising questions about how insurance claims are reimbursed. Since 2010, 83 struggling rural hospitals have closed, and as many as 700 others are at risk of closing in the next decade.

But a CBS News investigation found some rural hospitals have become hugely profitable because insurance providers reimburse them at much higher rates. We found these out-of-the-way hospitals have become gold mines for enterprising health care executives looking for a way to quietly make a quick buck, reports CBS News correspondent Jim Axelrod.

On a hilltop in rural north Georgia, Chestatee Regional, a 49-bed hospital, has been operating for more than 40 years.



Kelly Smallwood was born at Chestatee and worked there for 13 years, most recently in the billing department. Chestatee's owners had been trying to unload it

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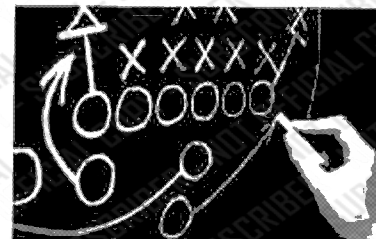


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day."

"So what was the total?" Axelrod asked.

"Close to \$20,000," she responded, just in the analysis of the urine sample.

Those kinds of bills disturbed Smallwood. After months of voicing her concerns to multiple supervisors, she quit.

"I turned my notice in on March the 19th of 2017. When I turned my notice in, I did not have a job lined up. I had had enough," Smallwood said.

"Kelly, wouldn't the easy thing to have done... just to just kept your mouth shut, keep doing work the way you were asked to do it?" Axelrod asked.

"Right's right and wrong is wrong. That's not how I was raised. If you're gonna do something, you need to do it right. And you need to do it truthfully," Smallwood said.

We wanted to ask Durall about all this, but he declined multiple requests for an on-camera interview and declined to speak with us when we showed up at his lab in south Florida in person. As for Hribal, after numerous calls to Chestatee Regional, the hospital finally admitted they had no records or test results for her son.

"Say you're sitting halfway across the country watching this story. Why should you care?" Axelrod asked.

"You better care because it's going to affect your insurance. Because next year, all the insurance companies are going to look at how much they've lost and how much they've paid out, and they're going to adjust your premium to accommodate it," Hribal said. "They're going to pay for it, you're going to pay for it."

In an email, Durall said: "All testing at the rural hospitals you mention is properly billed." Last month, Anthem sent a letter to the hospital Durall contracted with in California alleging \$13 million had been "improperly billed." The hospital disputes the allegations, but has temporarily suspended the lab program.

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# EXHIBIT E

----- Forwarded Message -----

From: Emily Rand <RandE@cbsnews.com>  
To: kevinboydpr@comcast.net  
Sent: Thu, 10 May 2018 19:22:40 -0000 (UTC)  
Subject: RE: CBS News Question

Hi Kevin,

We are following up on developments since we aired our original report—we will discuss additional lawsuits that have been filed, suspension of Sonoma West toxicology program, and pending litigation. The voicemail is just one component of the report that helps explain how some of the toxicology business may have been generated.

By the way, we would be more than happy to arrange an on-camera interview with Mr. Durall should he prefer to respond that way—just let me know.

Thanks,

Emily Rand

212-975-6260