

Federal Contracting
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Cardinal Health Whistleblower Can Advance 'Rent-a-Vet' Claims

By Daniel Seiden

- False Claims Act scheme adequately alleged
- Claims against small business defendants dropped

Cardinal Health Inc. must continue to face a whistleblower's suit alleging that the company worked with others to improperly win radiopharmaceutical drug contracts from the US Department of Veterans Affairs.

UPPI LLC adequately alleged that Cardinal Health engaged in a "rent-a-vet" scheme under which Cardinal Health would perform the majority of work under the contracts set aside for service-disabled veteran-owned small businesses, Judge Bruce H. Hendricks of the US District Court for the District of South Carolina said in a Monday order denying a motion to dismiss.

In a separate order, the court said UPPI agreed to dismiss claims against the SDVOSB defendants.

Cardinal Health argued that UPPI's complaint lacked facts to show that Cardinal Health caused the SDVOSBs to make false statements to the VA about which entity would do the work.

But UPPI's complaint sufficiently alleged that Cardinal Health proximately caused submission of the SDVOSBs' false claims, the court said.

UPPI says Cardinal Health did this by encouraging the SDVOSBs to bid on the contracts, consulting on the bids, supplying products to the VA, and receiving most of the financial benefit, the court said.

UPPI also adequately alleged that the defendants knowingly agreed to perpetrate an unlawful scheme under which the SDVOSBs would act as fronts for Cardinal Health and used their status to win contracts for Cardinal Health's benefit, the court said.

The suit was originally filed in the US District Court for the Eastern District of Washington, which dismissed the suit in September 2021. The US Court of Appeals for the Ninth Circuit reinstated the suit in August 2022.

UPPI adequately alleged that those small business defendants submitted invoices identifying themselves as the procuring entities when in reality Cardinal Health supplied the drugs for which the VA was invoiced, the Ninth Circuit said.

The suit was transferred to the South Carolina district court in October.

Tycko & Zavareei LLP and Law Office of Bill Nettles represent UPPI. Duffy and Young LLC, Evans, Craven & Lackie PS, and Crowell and Moring LLP represent Cardinal Health.

The case is United States ex rel. UPPI LLC v. Cardinal Health Inc., D.S.C., No. 22-cv-3770, 8/14/23.

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Documents

-  [D.S.C. order](#)
-  [D.S.C. docket](#)

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