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## **FOR IMMEDIATE RELEASE**

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### **New York To Refund \$18 Million To Laboratories**

March 26, 2013 – The New York State Department of Health (NYSDOH) will refund \$18 million to over 200 independent and hospital clinical laboratories including members of the American Association of Bioanalysts (AAB). The refund results from the successful conclusion of a lawsuit brought by AAB and other laboratories alleging that NYSDOH’s Clinical Laboratory Evaluation Program (CLEP) overcharged clinical laboratories for inspection and reference fees to subsidize activities that had no relation to the regulation of clinical laboratories. The settlement covers fees paid to the NYSDOH from 2007-2008 through 2010-2011. In addition, 23 AAB laboratories that were part of a previous lawsuit (1998-2006) are also entitled to recover a portion of their fees for 2006-2007.

This complaint followed a 1999 AAB lawsuit that resulted in a \$5 million refund in 2011 to 35 AAB member laboratories. When NYSDOH accounting and billing practices remained unchanged, AAB and individual laboratories commenced a new action in 2009 to recover the excess fees that continued to be collected each year. The lawsuit was extended through the 2010-2011 fiscal year, until it was just settled, shortly before the setting of a trial date.

Mark S. Birenbaum, PhD, AAB’s administrator remarked, “AAB is glad that we were able to lay the groundwork and assist our members and other laboratories in New York to recover the fees that continued to be wrongfully charged to them. We have successfully fought this battle for our members since 1984 in three separate lawsuits.”

AAB’s General Counsel Jeffrey J. Sherrin of Albany, NY law firm O’Connell & Aronowitz, who handled all three lawsuits against NYSDOH, expressed gratitude to the State of New York.

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“Even in difficult fiscal times, the state recognized the need to make the laboratories whole, and found the monies to do so,” Sherrin commented. “Hopefully, this brings an end to the need for these lawsuits.”

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**The American Association of Bioanalysts (AAB)**, founded in 1956, is a professional association representing bioanalysts (clinical laboratory directors, owners, managers and supervisors), medical technologists, medical laboratory technicians, and physician office laboratory technicians. AAB is committed to the pursuit of excellence in clinical laboratory testing by evaluating and improving the quality of laboratory test results, particularly through external quality control (proficiency testing). AAB’s Proficiency Testing Service is approved by the federal CLIA program, all state agencies, and the major private accrediting agencies. AAB’s Proficiency Testing Service is one of the oldest (founded in 1949) and largest proficiency testing providers in the United States.

AAB is also committed to enhancing the technical and managerial skills of each of its members and promoting more efficient and productive laboratory operations. AAB’s specialized membership sections include the National Independent Laboratory Association (NILA), a national trade association for community clinical laboratories. AAB provides a broad range of services, including representation before federal and state legislative and regulatory agencies, educational programs and publications.

**O’Connell and Aronowitz** ([www.oalaw.com](http://www.oalaw.com)) has offices in Albany, Saratoga Springs and Plattsburgh NY offering a broad range of legal services to businesses and individuals nationally.