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FOR IMMEDIATE RELEASE

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AAB and NILA Win Final Battle In Competitive Bidding Lawsuit

Wednesday, August 11, 2010, St. Louis, MO – The last element of AAB’s lawsuit to block CMS’s 2006 competitive bidding demonstration project has been settled and the case is now final.

On July 20, 2010, the Department of Health and Human Services (HHS) agreed to destroy the bid data that San Diego area laboratories submitted to CMS in 2006 as part of CMS’s Competitive Bidding Demonstration Project. Previously, AAB and other laboratory representatives that had joined together for this challenge succeeded in obtaining a preliminary injunction barring HHS from moving forward with the Demonstration Project. After successfully lobbying Congress to defeat the entire Demonstration Project, AAB and the other lab representatives demanded the return of the data submitted by laboratories in response to the bid proposal. When HHS refused, the laboratories pursued the litigation further, ultimately culminating last week with HHS’s signing of a Settlement Agreement, and Federal Court Judge Thomas J. Whelan’s dismissal of the case on August 3, 2010.

HHS has until August 20, 2010, to destroy the documents.

Plaintiffs in the Settlement Agreement include AAB and Internist Laboratory, a member of the National Independent Laboratory Association (NILA).

“We are very pleased to have successfully concluded this litigation, which many thought was unlikely to succeed,” commented Mark S. Birenbaum, Ph.D., AAB/NILA administrator.

“AAB, NILA, and the Internist Laboratory wish to thank the excellent legal team, including Patric Hooper and Jordon B. Keville of Hooper, Lundy & Bookman; Jeffrey Sherrin of O’Connell and Aronowitz; and the attorneys for the other plaintiffs for their outstanding work on this difficult case,” Birenbaum added.

The American Association of Bioanalysts (AAB), founded in 1956, is a professional

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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 enhancing the professional skills of each of its members; promoting more efficient and productive operations; and representing the interests of its members. AAB's specialized membership sections include the AAB Associate Member Section (AMS), College of Reproductive Biology (CRB), Environmental Biology and Public Health (EBPH) Section, and the National Independent Laboratory Association (NILA). AAB provides a broad range of services, including representation before federal and state legislative and regulatory agencies, educational programs and publications. AAB's Proficiency Testing Service is approved under the federal CLIA regulations and is one of the largest PT providers in the United States.

The National Independent Laboratory Association (NILA) is a trade association for clinical laboratories that provides a forum for the sharing of technical and business expertise. NILA focuses on business/management issues facing laboratories, such as marketing/sales, contracting with managed care companies, finding and keeping good employees, financial management, expanding test menus, managing growth, competing with big, publicly traded laboratories, and acting on legislative and regulatory issues facing the laboratory industry.

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