



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CIVIL LITIGATION DIVISION
CONSUMER PROTECTION & ADVOCACY SECTION

JOSHUA WEISS
ASSISTANT ATTORNEY GENERAL
DIRECT PHONE NO. (602) 542-7728
JOSHUA.WEISS@AZAG.GOV

August 5, 2020

Sonora Quest Laboratories, LLC
Brian Mosley - General Counsel
2901 N. Central Ave., Suite 160
Phoenix, AZ 85012

Re: COVID-19 Testing Turnaround Times

To Sonora Quest Laboratories:

The Arizona Attorney General's Office ("AGO") has received information indicating that, despite representations, Sonora Quest Laboratories ("Sonora Quest") frequently took nine days and more to process COVID-19 tests. The conduct associated with this delay appears to violate the Arizona Consumer Fraud Act, A.R.S. §§ 44-1521, *et seq.* (the "CFA") in several ways.

It appears that Sonora Quest failed to disclose to consumers and health care providers the material fact that the lab was not providing test results within promised timeframes. Accordingly, Sonora Quest provided consumers and health care providers with inaccurate expected wait times when time and contact tracing was exigent. A.R.S. § 44-1522 specifically prohibits:

[T]he act, use or employment by any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby.

Given the highly contagious nature of COVID-19 and the aforementioned lack of disclosure to potential consumers and health care providers regarding wait times, Sonora Quest's conduct appears likely to have caused substantial injury to consumers. Additionally, if that injury is not reasonably avoidable by consumers or outweighed by countervailing benefits to consumers or to competition, the act or practice is unfair and illegal under the CFA. *Id.*; *see* 15 U.S.C. § 45(n) (defining unfairness).

Sonora Quest also has failed to deliver on several promises for clearing out its testing backlogs. Although there is indication that the situation seems to be improving, this may be a function of decreased demand due to consumer frustration over the length of time it takes to get test results from Sonora Quest. The AGO remains concerned that if there is another influx of tests directed to Sonora Quest, the same problems will reoccur. Regardless, consumers and health care providers must be given accurate, truthful information about wait times in processing COVID-19 tests, so that they can make informed decisions about whether to get tested by Sonora Quest or another provider.

At this critical juncture in Arizona's battle with COVID-19, testing turnaround times are incredibly important to consumers, health care providers, and society at large. Misrepresenting testing capabilities undercuts contact tracing, and frustrates consumers' ability to change their behavior and notify others they may have infected. Furthermore, it negatively impacts consumers' willingness to take a test at all. Interruptions or delays in these processes could significantly impact Arizona's ability to mitigate the spread of the COVID-19 and put Arizonans at great risk.

Thus, the AGO demands that Sonora Quest immediately and permanently cease and desist from providing inaccurate information to consumers or health care providers regarding COVID-19 testing turnaround times. The deadline for complying with this demand is 5:00 p.m. on Friday, August 7, 2020, followed by a written confirmation of compliance to be delivered to this office no later than 5:00 p.m. on Monday, August 10, 2020.

Additionally, you are hereby notified to preserve all written and electronic materials related to this matter in anticipation of consumer fraud litigation. If you have questions about this letter, you may contact me at Joshua.Weiss@azag.gov or (602) 542-7728.

Sincerely,



Joshua Weiss
Assistant Attorney General