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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SAINT ALPHONSUS MEDICAL CENTER - NAMPA, INC., et al.,

Plaintiffs,

vs.

ST. LUKE'S HEALTH SYSTEM, LTD.,

Defendant.

Case No. 1:12-CV-00560-BLW
(Lead Case)

PLAINTIFF STATE OF IDAHO'S MOTION FOR AWARD OF ATTORNEYS' FEES AND NON-TAXABLE COSTS

FEDERAL TRADE COMMISSION and STATE OF IDAHO,

Plaintiffs,

vs.

ST. LUKE'S HEALTH SYSTEM, LTD. and SALTZER MEDICAL GROUP, P.A.,

Defendants.

Case No. 1:13-CV-00116-BLW

Plaintiff State of Idaho, by and through its undersigned counsel, submits the following Motion for Award of Attorneys' Fees and Non-Taxable Costs, pursuant to 15 U.S.C. § 26, Idaho Code §§ 48-108(1)(d), 48-112, Fed. R. Civ. P. 54(d)(2), and L.R. 54.2. It respectfully requests that the Court order Defendants St. Luke's Health System, Ltd. ("St. Luke's") and Saltzer Medical Group, P.A. ("Saltzer") to pay to the State of Idaho its reasonable attorneys' fees and costs.[1] In support of this motion, the State respectfully has submitted a memorandum in support, and declarations from Brett DeLange and Kevin O'Connor, with accompanying exhibits, which set forth the requested amount of attorneys' fees and costs. The State of Idaho further states as follows:[2]

1. The State of Idaho and the Federal Trade Commission filed a joint complaint on March 12, 2013, seeking an order finding St. Luke's acquisition of Saltzer in violation of Section 7 of the Clayton Act and the Idaho Competition Act, permanently enjoining St. Luke's from acquiring Saltzer, and ordering Saltzer to be divested. Dkt. 98. The State of Idaho also separately and specifically requested an award of reasonable attorneys' fees and costs.[3] *See id.* at ¶ 67. The Court ordered the relief requested on January 24, 2014, and entered Judgment on February 28, 2014. *See* Dkts. 463, 471.

[1] St. Luke's has filed a notice of appeal. In the event that the State of Idaho prevails on appeal, the State will file a supplemental motion with a request for fees and costs expended prosecuting the appeal.

[2] Saint Alphonsus Medical Center- Nampa, Saint Alphonsus Health System, Inc., and Saint Alphonsus Regional Medical Center, Inc. ("Saint Alphonsus") have concurrently filed a Motion or Attorneys' Fees, as has Treasure Valley Hospital ("TVH"). The State of Idaho hereby adopts and incorporates by reference, to the extent applicable, the arguments made in those motions and their supporting declarations.

[3] The Court subsequently consolidated the government plaintiffs' case with the case filed by Saint Alphonsus and TVH.

2. Section 16 of the Clayton Act mandates that the Court shall award the "costs of suit"—including reasonable attorneys' fees—to a party who "substantially prevails" in bringing a claim under the statute. *See* 15 U.S.C. § 26.

3. Likewise, the Idaho Competition Act expressly provides that the State of Idaho, as a prevailing party, shall recover its fees and costs, including reasonable expenses and investigative costs. *See* Idaho Code §§ 48-108(1)(d), 48-112.

4. The State of Idaho is concurrently filing a Bill of Costs, also supported by the declarations of Brett DeLange and Kevin O'Connor, pursuant to 28 U.S.C. § 1920 and L.R. 54.1.

5. As further detailed and explained in the accompanying memorandum and declarations, the fees and costs submitted by the State of Idaho are reasonable.

6. Working together with the other plaintiffs, the State of Idaho obtained an enormously successful result. Had the State of Idaho not filed suit, as the Court itself ruled, the Acquisition likely would have resulted in higher premiums, higher out-of-pocket costs and higher costs of health care for Idaho consumers. *See* Dkt. 464 at ¶¶ 130-31, 146. In granting an injunction and ordering complete divestiture, the Court granted the relief sought by the State of Idaho *in toto*.

7. As a prevailing party under federal and state antitrust law, the State of Idaho respectfully requests that the Court grant its motion and award to it attorneys' fees in the amount of $972,993.50, non-taxable costs in the amount of $45,103.10, and taxable costs in the amount of $68,294.06.

Dated: March 14, 2014

Respectfully submitted,

/s/ Eric J. Wilson

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of March, 2014, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected in the Notice of Electronic Filing:

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