



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

Federal Trade Commission et al v. St Luke's Health System, LTD. et al
State of Idaho Opening Remarks (9/23/2013)

1. Good morning your honor. Counsel, my name is Brett DeLange. I am a deputy attorney general and chief of the Consumer Protection Division of the Office of the Idaho Attorney General, responsible for enforcement of Idaho's Competition Act, as well as applicable federal antitrust laws.

2. I represent the State of Idaho in this matter and am here on behalf of Attorney General Lawrence Wasden. With me is special deputy attorney general Eric Wilson.

3. My office has worked very closely and in conjunction with my colleagues from the Federal Trade Commission and I would like to introduce them to you, some of whom have appeared before your honor already. For the Federal Trade Commission are attorneys Tom Greene, Peter Herrick, and Henry Su.

4. The Federal Trade Commission and the Office of the Attorney General have been working on this matter intensely for quite a while now. Indeed, our investigation of St. Luke's then-planned acquisition of the Saltzer Medical Group started well over one year ago.

5. We, the government plaintiffs here, interviewed numerous parties, reviewed voluminous data, researched multiple issues and even met multiple times with representatives of St. Luke's or the Saltzer Medical Group to understand their side of the story.

6. When all was said and done, the government plaintiffs were left with the abiding conclusion that St. Luke's acquisition of Saltzer violates the law.

7. We sought informally and amicably to have the acquisition not close. We were unsuccessful and St. Luke's and Saltzer closed on their deal last December.

8. The private plaintiffs filed their suit last November. The government plaintiffs, receiving assurances from St. Luke's that the transaction could be unwound should we prevail in any action we brought, completed our investigation and, concluding that the now-closed transaction does violate the law, and because it is of great import, filed our suit in March of this year.

9. So here we are today. Discovery has been intense and, as your honor has observed, the parties worked cooperatively and hard to gather the evidence and expert opinions your honor will hear and receive.

10. So what is this case about? Let's first make clear what this case is not about.

--This case is not about the Affordable Care Act.

--It's not a debate about how health care can or should be improved.

--This case is also not about what someone hopes to do with health care as a result of that debate.

11. Rather, what this case IS about is the proper application of laws enacted both by the Congress and the Idaho Legislature, which uphold competition, in part, by prohibiting acquisitions in any market that may substantially lessen competition.

12. It is these laws then that provide the lens by which we are to hear the evidence and evaluate the arguments made, laws which express the policy of this nation and our State—namely that competition is to be upheld, defended, and protected, and threats to it, such as acquisitions that may substantially lessen that competition, are to be barred.

13. These laws also provide THE principles and foundation by which the evidence is to be judged and weighed. Our antitrust laws rest, as the United States Supreme Court has stated, . . . “on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic, political and social institutions.” *Northern Pacific Railway v. United States*, 356 U.S. 1, 4 (1958) (discussing specifically the Sherman Act)

14. So, those are the laws we are operating under today. They provide the context by which to consider the evidence. And their application here is THE issue to be decided in this case.

15. Thus, the government plaintiffs will discuss now, the facts of this case, the expert opinions expressed, the relevant documents and the data connected here all related to this core question” May St Luke’s acquisition of the Saltzer Medical Group substantially lessen competition in certain lines of physician services in the Nampa area?

16. We think they do and hence the government plaintiffs will also show that allowing such an acquisition to stand would harm Idaho consumers and Idaho employers, who would ultimately see higher costs, and, potentially, less innovation, and poorer service.

17. My colleague Tom Greene will now proceed to discuss the facts and opinions which we will provide the Court in this case. Mr. Greene....