

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLASSIC CARE NETWORK, INC;  
NORTH SHORE UNIVERSITY HOSPITAL;  
NORTH SHORE UNIVERSITY HOSPITAL  
AT GLEN COVE;  
BROOKHAVEN MEMORIAL HOSPITAL  
MEDICAL CENTER;  
CENTRAL SUFFOLK HOSPITAL;  
GOOD SAMARITAN HOSPITAL;  
HUNTINGTON HOSPITAL;  
JOHN T. MATHER MEMORIAL HOSPITAL; and  
SOUTH NASSAU COMMUNITIES HOSPITAL;

Defendants.

Civil Action No. 94-5566  
Filed: December 5, 1994

15 U.S.C. §1  
15 U.S.C. §4

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendants and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed and these proceedings are instituted under Section 4 of the Sherman Act (15 U.S.C. § 4) in order to prevent and restrain violation by defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1). This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and § 1337.

2. Defendants maintain offices, transact business and are found within the Eastern District of New York, within the meaning of 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

## II.

### DEFENDANTS

3. Classic Care Network, Inc. (Classic Care) is a not-for-profit corporation organized and existing under the laws of the state of New York. Its principal place of business is Nassau County, New York. Each of the defendant hospitals is a member of Classic Care and is represented with a seat on Classic Care's board of Directors.

4. North Shore University Hospital (North Shore) is a 440 bed, acute care, non-profit hospital corporation organized and existing under the laws of the State of New York with its principal place of business in Manhasset, New York. North Shore is a member of Classic Care and its Chief Executive Officer (CEO) serves as a voting director of Classic Care.

5. North Shore University Hospital at Glen Cove (Glen Cove) is a 265 bed acute care voluntary hospital organized and existing under the laws of the State of New York with its principal place of business in Glen Cove, New York. Since 1990 Glen Cove has been an affiliate of North Shore University Hospital. Glen Cove is a member of Classic Care and is represented by a non-voting director of Classic Care.

6. Brookhaven Memorial Hospital Medical Center (Brookhaven) is a 321 bed acute care voluntary hospital organized and existing under the laws of the State of New York and located in East Patchogue, New York. Brookhaven is a member of Classic Care and its CEO serves as a voting director of Classic Care.

7. Central Suffolk Hospital (Central Suffolk) is a 214 bed acute care voluntary hospital organized and existing under the laws of the State of New York and located in Riverhead, New York. Central Suffolk is a member of Classic Care and its CEO serves as a voting director of Classic care.

8. Good Samaritan Hospital (Good Samaritan) is a 425 bed acute care voluntary hospital organized and existing under the Laws of the State of New York and located in Bay Shore, New York. Good Samaritan is a member of Classic Care and its CEO serves as a voting director of Classic Care.

9. Huntington Hospital (Huntington) is a 377 bed, acute care non-profit hospital organized and existing under the laws of the State of New York and located in Huntington, New York. Huntington is a member of Classic Care and its CEO serves as a voting director of Classic Care.

10. John T. Mather Memorial Hospital (Mather) is a 248 bed acute care voluntary hospital organized and existing under the laws of the State of New York and located in Port Jefferson, New York. Mather is a member of Classic Care and its CEO serves as a voting director of Classic Care.

11. South Nassau Communities Hospital (South Nassau) is a 429 bed acute care voluntary hospital organized and existing under the laws of the State of New York and located in Oceanside, New York. South Nassau is a member of Classic Care and its CEO serves as a voting director of Classic Care.

### III.

#### TRADE AND COMMERCE

12. Each of the defendant hospitals provides both general acute care inpatient and outpatient medical services in connection with the diagnosis, care and treatment of patients. Various of the defendant hospitals compete with each other and other hospitals in Nassau and Suffolk Counties for patients who are members of health maintenance organizations (HMOs) and managed care plans.

13. General acute care hospitals compete for patients on the basis of price, quality, reputation and services. The defendant hospitals endeavor to maintain or increase their patient occupancy rates, admissions and the utilization of their outpatient services by seeking contracts with HMOs and managed care organizations pursuant to which those entities influence or direct their enrollees to use the facilities of defendant hospitals.

14. Third-party payers provide health insurance coverage including coverage for inpatient hospitalization and outpatient hospital services for patients who either individually, or through their employer, have subscribed for that coverage and who pay a fixed rate or premium for that coverage. Third-party payers include both HMOs and managed care payers.

15. An HMO in New York State must be licensed by the State in order to operate. HMOs provide reimbursement payments for inpatient services to the defendant hospitals at rates that are either determined by the state's Diagnosis Related Group (DRG) reimbursement system or, in accordance with New York State law, at discounted rates determined pursuant to a voluntary agreement between the HMO and the hospital.

16. Voluntary agreements for discounted rates between HMOs and hospitals for the delivery of hospital services can include the adoption and utilization of per diem-based inpatient hospital rates. A per diem-based inpatient hospital rate rewards third-party payers such as HMOs with lower overall hospital prices for their members who require hospitalization based on efficient patient management and shorter lengths of stays at hospitals.

17. Under New York State law both HMOs and managed care payers may enter into contracts with the defendant hospitals for discounted rates in connection with the provision of outpatient services to their subscribers or plan members.

18. HMOs and managed care payers compete between themselves to obtain employer contracts and enrollees on the basis of price, services, convenience and other factors including the reputations of contracted providers including hospitals. They frequently seek to minimize their costs while also arranging for the participation of a sufficient number of reputable hospitals and other providers to attract members. HMOs and managed care payers periodically direct their members away from higher cost hospitals in favor of lower cost providers of hospital services in order to minimize their costs.

19. In response to efforts by various HMOs to obtain discounts off inpatient hospitalization rates and to direct patients away from higher cost hospital providers in Nassau and Suffolk Counties to lower cost hospitals, the defendant hospitals formed Classic Care in the fall of 1991 and signed a memorandum of understanding pursuant to which each defendant agreed (1) that no member of Classic Care would enter into any contract with an HMO or managed care payer without the collective approval of the defendant hospitals; and (2) that Classic Care would be the exclusive bargaining agent for the defendant hospitals in connection with any negotiations relating to contracts with HMOs and managed care payers.

20. The defendant hospitals and Classic Care also entered into an understanding and agreement that no discounts would be permitted off any Classic Care member's inpatient hospital rates in contracts with HMOs or managed care payers and that discounts off any defendant hospital's outpatient rates would be limited to no more than 10% off those rates.

21. The defendant hospitals purchase substantial amounts of supplies and equipment from out-of-state vendors that are shipped across state lines. The United States government sends from outside the State of New York substantial amounts of funds to the defendant hospitals to pay for the treatment of Medicare and Medicaid recipients residing in New York. The defendant hospitals also sell hospital services that are paid for by insurers, managed care plans and HMOs that are headquartered outside of New York State.

22. The general business activities of the defendant hospitals and Classic Care, and the violations and practices described herein are within the flow of, or have a substantial effect upon interstate commerce.

#### IV.

##### VIOLATION ALLEGED

23. Beginning at least as early as April of 1991, and continuing at least until January of 1992, defendants engaged in a continuing combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. §1. This offense is likely to recur unless the relief prayed for is granted.

24. The combination and conspiracy consisted of an agreement among defendants to form a joint sales agency to coordinate contracting with HMOs, the purpose and effect of which was to prevent discounting off any defendant hospital's inpatient hospital rates and to limit discounting on outpatient rates to HMOs and managed care payers.

25. In furtherance of this combination and conspiracy, defendant hospitals, Classic Care and others did the following things, among others:

- (a) agreed to refrain from contracting with HMOs that sought to convert DRG rates on inpatient hospital services to per diem rates for those same services;
- (b) agreed to prohibit discounts off any defendant hospital's inpatient hospital rates in connection with any negotiated contract between a defendant hospital and any HMO;
- (c) agreed on the terms and conditions upon which a most favored nation clause proposed by a third-party payer for prices on outpatient rates would be accepted by the defendant hospitals; and
- (d) agreed to limit discounts on outpatient services in contracts between the defendant hospitals and any HMO or managed care payer to no more than 10% off any defendant hospital's existing outpatient rates.



V.

EFFECTS

26. The combination and conspiracy has had the following effects, among others:

- (a) unreasonably restrained price competition between the defendant hospitals for the sale of inpatient hospital services to HMOs;
- (b) unreasonably restrained price competition between the defendant hospitals for the sale of outpatient services to HMOs and managed care payers; and
- (c) deprived HMOs and managed care payers of the benefits of free and open competition in connection with the purchase of hospital services by those entities.

VI.

PRAYER

WHEREFORE, Plaintiff prays:

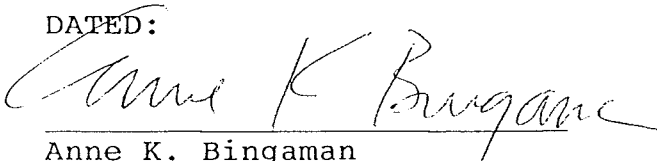
1. That the court adjudge and decree that the defendants have engaged in an unlawful combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act.

2. That each defendant, and each of their officers, administrators, agents, servants, representatives, employees, successors, and assigns, and all other persons acting or claiming to act under, through, or for any defendant, be enjoined and restrained for a period of 5 years from directly or indirectly continuing, maintaining, or renewing the alleged combination, conspiracy, contract, agreement, understanding, or concert of action or adopting or following any practice, plan, program or device having a similar purpose or effect as the alleged combination and conspiracy.

3. That the defendants be required to institute a compliance program to ensure that defendants do not enter into, maintain or participate in any contract, agreement, plan, program, or other arrangement having a purpose or effect of continuing or renewing such combination or conspiracy, and that defendants are fully informed of the application of the antitrust laws to joint activities between hospitals.

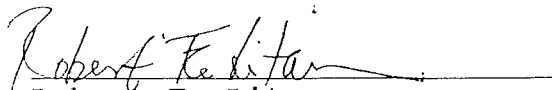
4. That plaintiff have such other and further relief as the nature of the case may require and the court may consider just and proper.

DATED:




Anne K. Bingaman  
Assistant Attorney General

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Geoffrey Swaebe



Robert E. Litan  
Deputy Assistant Attorney General

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Patricia L. Jannaco



Mark C. Schechter  
Deputy Director of Operations

Attorneys, Antitrust Division  
U.S. Department of Justice  
26 Federal Plaza, Rm. 3630  
New York, N.Y. 10278  
(212) 264-0652

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Ralph T. Giordano  
Chief, New York Field Office