

10:44 AM.  
April 29 1991  
*[Signature]*  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

UNITED STATES OF AMERICA, )  
 )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CARSON B. BURGSTINER; )  
 GREGORY K. WHITAKER; )  
 A. JOSEPH EDWARDS, JR.; )  
 JULES TORAYA; )  
 LOUIS P. LEOPOLD; )  
 SPEIR N. RAMSEY; )  
 JAMES D. SMITH; )  
 DAVID M. THOMAS; )  
 EDWARD D. BIGGERSTAFF III; )  
 JOHN H. ANGELL; )  
 DARNELL L. BRAWNER; )  
 DAVID W. FILLINGIM; )  
 STEPHEN Y.S. CHENG; )  
 AMOS TIMNA; )  
 M. M. SCHNEIDER; )  
 LAWRENCE S. BODZINER; )  
 WILLIAM G. SUTLIVE; )  
 R. W. SCARBROUGH, JR.; )  
 JOHN L. DEKLE; )  
 LAWRENCE ODOM; )  
 DONNA MOYERS; and )  
 GREGG PARKER, )  
 )  
 Defendants. )

Civil Action No.  
CV 491-44

Entered: April 29, 1991

FINAL JUDGMENT

Plaintiff, United States of America, having filed its  
Complaint on February 7, 1991, and plaintiff and defendants, by  
their respective attorneys, having consented to the entry of  
the Final Judgment without trial or adjudication of any issue  
of fact or law, and without this Final Judgment constituting  
any evidence against or an admission by any party with respect  
to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

I.

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II.

This Final Judgment applies to defendants and to each of their practices, associates, members, agents, employees, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise. Any physician who joins a defendant's practice or any person who becomes the business manager of that practice, within 10 years after the date of the entry of this Final Judgment, shall be furnished a copy of this Final Judgment.

III.

"Integrated joint venture" means a joint arrangement to provide pre-paid health care services in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share

substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services.

IV.

(A) Each defendant is enjoined and restrained from:

- (1) entering into, directly or indirectly, any contract, agreement, understanding, arrangement, plan, program, combination, or conspiracy with any other medical practice or physician to fix, establish, raise, stabilize, or maintain medical fees;
- (2) discussing with or suggesting to any other medical practice or physician specializing in the practice of obstetrics or gynecology in the Savannah area the adoption of or adherence to uniform, increased, or specific fees for medical services offered in the Savannah area; and
- (3) expressly or implicitly communicating to, requesting from, or exchanging with any other medical practice or physician specializing in the practice of obstetrics or gynecology in the Savannah area any information concerning current or future medical fees, or the consideration or contemplation of a change in medical fees. Any defendant, however, may communicate with another defendant, physician, or medical practice about medical fees in a particular matter if a

physician-patient relationship exists between defendant and another physician or medical practice, and the communications concern only medical fees incurred as a result of such relationship, or the physicians communicating about medical fees are both jointly treating the same patient, and the communications concern the medical fees to be charged that patient.

(B) Nothing in Paragraph IV(A) shall apply as between any defendant and any member, partner, stockholder, associate, or employee of his or her medical practice.

V.

For the term of this Final Judgment, each defendant shall file with plaintiff, and with the Court under seal, on or before the anniversary date of this Final Judgment, a Declaration reporting that defendant has complied with the terms of the Final Judgment and has had no communications of the type prohibited by Paragraph IV(A)(3), or shall have notified plaintiff that defendant has retired from active practice.

The Declaration shall be in the form appended to this Final Judgment.

VI.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to any defendant made to his or her business office, duly authorized representatives of the Department of Justice shall be permitted:

- (1) access during such defendant's office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and
- (2) subject to the reasonable convenience of such defendant and without restraint or interference, to interview defendant and defendant's partners, members, employees, agents, or associates, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, defendant shall submit such reports in writing, under oath if so requested, to plaintiff, with respect to any of the matters contained in this Final Judgment as may be reasonably requested.

(C) No information or documents obtained by the means provided in this Paragraph VI shall be divulged by a representative of the Department of Justice to any person other

than a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

#### VII.

Jurisdiction is retained by this Court to enable any of the parties to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or implementation of this Final Judgment, for the enforcement or modification of any of its provisions, and for the punishment of any violation hereof.

#### VIII.

Nothing in this Final Judgment shall be construed to prevent defendants from:

(A) exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government, executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(B) forming or joining an integrated joint venture or dealing with any third-party payer on collectively determined terms in that capacity provided that defendant inform plaintiff of his or her intention to form or join an integrated joint venture in defendant's annual Declaration, required by Paragraph V;

(C) engaging in educational seminars and similar professional activities; and

(D) communicating information about prices to their patients or prospective patients.

IX.

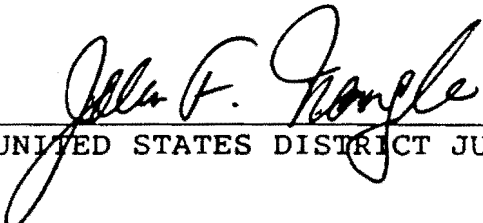
This Final Judgment shall expire on the 10th anniversary of its date of entry.

X.

Entry of this Final Judgment is in the public interest.

DATED:

4/29/91

  
UNITED STATES DISTRICT JUDGE

