Summary of Antitrust Division Health Care Cases (Since August 25, 1983)

2018

- **U.S. and State of Michigan v. Hillsdale Community Health Center, W.A. Foote Memorial Hospital, D/B/A Allegiance Health, Community Health Center of Branch County, and ProMedica Health Systems, Inc. (2:15-cv-12311, 06/25/15)**
  - As discussed in the 2015 entry under this title below, the Justice Department had filed suit to enjoin Allegiance Health and three other Michigan hospital systems from proceeding with anticompetitive agreements. Allegiance Health was subsequently purchased by Henry Ford and became Henry Ford Allegiance Health. Henry Ford Allegiance Health agreed to a settlement in 2018, and the three other hospital systems agreed on a settlement with the Department in 2015. The settlement with Henry Ford Allegiance Health expands on the terms of the 2015 settlement with three hospital systems. The 2018 settlement prohibits Henry Ford Allegiance Health from agreeing with other hospitals, physicians, and healthcare providers to limit marketing or communicate about their marketing activities, subject to limited exceptions, and also requires Henry Ford Allegiance Health to implement certain compliance measures, including logging certain communications with competitors. Henry Ford Allegiance Health must also (1) report any violations to the Department, (2) annually certify compliance with the terms of the Final Judgment, (3) submit to compliance inspections at the Department's request, and (4) reimburse the Department and the State of Michigan for certain costs incurred in litigating the case. The Final Judgment as to Allegiance was entered on May 21, 2018. (2018-1 Trade Cas. (CCH) ¶80,386).
  - Case Filings
  - 02/09/18 - Justice Department Reaches Settlement With Henry Ford Allegiance Health on Antitrust Charges (Press Release)

2017

- **U.S. et al. v. Anthem, Inc. & Cigna Corp. (1:16-cv-01493, 07/21/16)**
  - One-count complaint alleging a violation of § 7 of the Clayton Act, filed in the U.S. District Court for the District of Columbia, on July 21, 2016. The Justice Department, eleven states, and the District of Columbia filed suit to stop Anthem, the nation's second-largest health insurer with revenues of over $79 billion, from acquiring Cigna, the nation's fourth-largest health insurer with revenues of $38 billion. The Department alleged that the merger would substantially lessen competition in dozens of health insurance markets throughout the United States, resulting in higher prices, lower quality, and reduced innovation. After a seven-week trial, the District Court found for the Department and, on February 21, 2017, enjoined the Anthem-Cigna merger due to its likely anticompetitive impact in the market for national employers in the fourteen states where Anthem operates as the Blue Cross Blue Shield licensee, and in the sale of health insurance to large employers in Richmond, Virginia (2017-1 Trade Cas. (CCH) ¶ 79,906). On

appeal, the D.C. Circuit affirmed the District Court's decision to enter a permanent injunction blocking the merger (855 F.3d 345 (D.C. Cir. 2017)).
  - Case Filings
  - 07/21/2016 – Justice Department and State Attorneys General Sue to Block Anthem's Acquisition of Cigna, Aetna's Acquisition of Humana (Press Release)
  - 02/08/2017 – U.S. District Court Blocks Anthem's Acquisition of Cigna (Press Release)
  - 04/28/2017 – D.C. Circuit Affirms Decision Blocking Anthem's Acquisition of Cigna (Press Release)

- **U.S. et al. v. Aetna, Inc. & Humana, Inc. (1:16-cv-01494, 07/21/2016)**
  - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the District of Columbia, on July 21, 2016. The Justice Department, eight states, and the District of Columbia filed suit to stop Aetna, the nation's third-largest health insurer with revenues of $60 billion, from acquiring Humana, the nation's fifth-largest health insurer with revenues of $54 billion. The Department alleged that the merger would substantially lessen competition in the sale of Medicare Advantage plans in 364 counties across 21 states and in individual commercial health insurance plans in 17 counties across three states. The Department also alleged the merger would reduce head-to-head competition, reduce quality, and cause price increases in both Medicare Advantage and individual insurance markets. The District Court found for the Department on January 23, 2017 and enjoined the merger. The Court held that the proposed Aetna-Humana merger would likely reduce competition in Medicare Advantage markets in 364 counties and in individual insurance markets in three counties in Florida (2017-1 Trade Cas. (CCH) ¶ 79,877).
  - Case Filings
  - 07/21/2016 – Justice Department and State Attorneys General Sue to Block Anthem's Acquisition of Cigna, Aetna's Acquisition of Humana (Press Release)
  - 01/23/2017 – U.S. District Court Blocks Aetna's Acquisition of Humana (Press Release)

2015

- **U.S. and State of Michigan v. Hillsdale Community Health Center, W.A. Foote Memorial Hospital, D/B/A Allegiance Health, Community Health Center of Branch County, and ProMedica Health Systems, Inc. (2:15-cv-12311, 06/25/15)**
  - Two-count Complaint alleging *per se* violations of Section 1 of the Sherman Act, 15, U.S.C. § 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772, filed in the United States District Court for the Eastern District of Michigan on June 25, 2015. The Justice Department filed suit to enjoin four Michigan hospital systems, Hillsdale Community Health Center, Community Health Center of Branch County, Michigan, ProMedica Health System, and

Allegiance Health, from proceeding with anticompetitive agreements. The hospitals agreed to allocate territories for marketing and to avoid marketing competing services in certain areas. The Department alleged that the agreement limited competition by depriving patients and physicians of important health information and education. Patients in Hillsdale County, Michigan, were also prevented from receiving free medical services – such as health screenings and physician seminars – that they otherwise would have received. In 2015, three of the systems – Hillsdale Community Health Center, Community Health Center of Branch County, Michigan, and ProMedica Health System Inc. – entered into a settlement that prohibits them from agreeing with hospitals, physicians, and other healthcare providers to limit marketing or to divide any geographic market or territory. The settlement also (1) prohibits communications between the defendants about their marketing activities, subject to limited exceptions, and (2) requires the hospitals to implement compliance measures designed to prevent the recurrence of these types of anticompetitive practices. The fourth hospital, Henry Ford Allegiance Health, entered into a consent decree in 2018; for more details, see the 2018 entry under this title above. The Final Judgment as to the 2015 settling hospital systems was entered on October 21, 2015. (2015-2 Trade Cas. (CCH) ¶ 79,341).

  - Case Filings
  - 06/25/2015 - Justice Department Sues Four Michigan Hospital Systems for Unlawfully Agreeing to Limit Marketing for Competing Healthcare Services (Press Release)

2013

- **U.S. v. Chiropractic Associates, Ltd. of South Dakota (4:13-CV-04030-LLP, 04/08/13)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of South Dakota, on April 8, 2013. The Justice Department filed suit to enjoin defendant–Chiropractic Associates Ltd. of South Dakota ("CASD"), an association comprising approximately 80%of all practicing chiropractors in South Dakota–from jointly determining prices and negotiating contracts with insurers on behalf of competing chiropractors in South Dakota. The Department alleged that, since 1997, CASD collectively negotiated the rates and price-related terms for at least seven contracts with insurers on behalf of CASD's members and that CASD's conduct caused consumers to pay higher fees for chiropractic services. The parties entered into a settlement agreement that enjoined CASD from establishing prices or terms for chiropractic services and from negotiating with insurers on behalf of competing chiropractors. The Final Judgment was entered on September 3, 2013 (2013-2 Trade Cas. (CCH) ¶ 78,5018).
  - Case Filings
  - 04/08/2013 – Justice Department Challenges Joint Contracting on Behalf of South Dakota Chiropractors (Press Release)

- **U.S. v. Oklahoma State Chiropractic Independent Physicians Association and Larry M. Bridges (13-CV-21-TCK-TLW, 01/10/13)**
    - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Northern District of Oklahoma, on January 10, 2013. The Justice Department filed suit to enjoin defendants–the Oklahoma State Chiropractic Independent Physicians Association ("OSCIPA"), an association comprised of approximately 45% of all practicing chiropractors in Oklahoma, and Larry M. Bridges, the executive director of OSCIPA since at least 1999–from jointly determining prices and negotiating contracts with insurers on behalf of competing chiropractors in Oklahoma. The Department alleged that the association and its executive director negotiated at least seven contracts with insurers that set prices for chiropractic services on behalf of OSCIPA's members, and that their conduct caused consumers to pay higher fees for chiropractic services in Oklahoma. The parties entered into a settlement agreement whereby OSCIPA and Bridges were enjoined from establishing prices or terms for chiropractic services and from negotiating with insurers on behalf of competing chiropractors. The Final Judgment was entered on May 21, 2013 (2013-1 Trade Cas. (CCH) ¶ 78,394).
    - Case Filings
    - 01/10/2013 – Justice Department Challenges Joint Contracting on Behalf of Oklahoma Chiropractors (Press Release)

2012

- **U.S. v. Humana Inc. and Arcadian Management Services, Inc. (12-CV-00464, 03/27/12)**
    - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the District of Columbia, on March 27, 2012. The Justice Department filed suit to stop defendants–Humana Inc., a leading health insurer in the United States with reported revenues of approximately $33.6 billion, and Arcadian Management Services, Inc., an insurer with approximately 62,000 Medicare Advantage members in 15 states and with revenues of $622 million–from consummating their proposed acquisition. The Department alleged that the original transaction would have eliminated competition between Humana and Arcadian, two of the few significant sellers of Medicare Advantage plans in 45 counties and parishes in Arizona, Arkansas, Louisiana, Oklahoma and Texas, allowing Humana to increase prices and reduce the quality of Medicare Advantage plans sold to seniors there. The Department further alleged that the original deal would have created a combined company controlling between 40 and 100% of the Medicare Advantage health insurance market in these counties and parishes. The parties entered into a settlement agreement whereby Humana and Arcadian were required to divest certain assets relating to their Medicare Advantage business in parts of five states in order for Humana to proceed with its acquisition of Arcadian. The Final Judgment was entered on October 22, 2012 (2013-1 Trade Cas. (CCH) ¶ 78,227).

- Case Filings
- 03/27/2012 – Justice Department Requires Divestitures in Humana Inc.'s Acquisition of Arcadian Management Services Inc. (Press Release)

2011

- **U.S. and State of Montana v. Blue Cross and Blue Shield of Montana, Inc., Billings Clinic, Bozeman Deaconess Health Services, Inc., Community Medical Center, Inc., New West Health Services, Inc., Northern Montana Health Care, Inc., and St. Peter's Hospital (1:11-CV-00123-RFC, 11/08/11)**
  - Three-count Complaint, alleging a violation of § 1 of the Sherman Act, a violation of § 7 of the Clayton Act, and a violation of Mont. Code Ann. § 30-14-205(1), filed in the United States District Court for the District of Montana, on November 8, 2011. The Justice Department filed suit to enjoin defendants–Blue Cross and Blue Shield of Montana Inc. ("Blue Cross"), the largest health insurer in Montana with reported revenues of approximately $530 million, New West Health Services Inc. ("New West"), the third-largest health insurer in Montana with reported revenues of $120 million, and five out of six hospital owners of New West–from proceeding with an anticompetitive agreement. Under the original agreement, the five hospitals collectively agreed to stop purchasing health insurance for their own employees from New West and instead to purchase health insurance from Blue Cross exclusively for six years. The Department alleged that the original agreement would have effectively eliminated competition between Blue Cross and New West in commercial health insurance and decreased the number of significant competitors in the Billings, Bozeman, Helena, and Missoula areas of Montana from three to two, allowing Blue Cross to increase prices and reduce the quality of its commercial health-insurance plans. The parties entered into a settlement agreement whereby (1) New West was required to divest its remaining commercial health-insurance business to an acquirer with the intent and capability to be an effective competitor and (2) additional relief was provided to preserve health-insurance competition in Montana. The Final Judgment was entered on March 15, 2012 (2012-1 Trade Cas. (CCH) ¶ 77,872).
  - Case Filings
  - 11/08/2011 – Justice Department Requires Divestiture to Preserve Health Insurance Competition in Montana (Press Release)

- **U.S. and State of Texas v. United Regional Health Care System (7:11-cv-00030, 02/25/11)**
  - One-count Complaint, alleging a violation of § 2 of the Sherman Act, filed in the United States District Court for the Northern District of Texas, on February 25, 2011. The Justice Department filed suit to prohibit defendant–United Regional Health Care system ("United Regional"), the largest hospital in Wichita Falls, Texas, with net patient revenues of approximately $265 million and a roughly 90% market share in general acute care inpatient services–from entering into contracts that inhibited commercial health insurers from contracting with United Regional's competitors. The Department alleged that, since United Regional was a must-have hospital for any insurer in the Wichita Falls area, and because the

penalty for contracting with United Regional's rivals was so significant, almost all health insurers in Wichita Falls entered into exclusionary contracts with United Regional. The parties entered into a settlement whereby United Regional was enjoined from (1) conditioning the prices or discounts that it would offer to insurers based on whether those insurers contracted with other health-care providers, (2) inhibiting insurers from entering into agreements with United Regional's rivals, and (3) taking any retaliatory actions against an insurer that would enter into an agreement with a rival provider. The Final Judgment was entered on September 29, 2011 (2011-2 Trade Cas. (CCH) ¶ 77,619).
    - Case Filings
    - 02/25/2011 – Justice Department Reaches Settlement with Texas Hospital Prohibiting Anticompetitive Contracts with Health Insurers (Press Release)

2010

- **U.S. and State of Michigan v. Blue Cross Blue Shield of Michigan (2:10-cv-14155, 10/18/10)**
    - Two-count Complaint, one count alleging a violation of § 1 of the Sherman Act and one count alleging a violation of § 2 of the Michigan Antitrust Reform Act, MCL 445.772, filed in the United States District Court for the Eastern District of Michigan, on October 18, 2010. The Justice Department filed suit to prohibit defendant–Blue Cross Blue Shield of Michigan ("BCBSM"), the largest provider of commercial health insurance in Michigan with revenues of more than $10 billion and covering more than 60%of Michigan's three million commercially insured residents–from using most favored nations clauses ("MFNs") in its contracts with hospitals in Michigan. The MFNs required hospitals either to charge BCBSM no more than it charges BCBSM's competitors, or to charge the competitors more than it charges BCBSM, in some cases over 30% more. The Department alleged that BCBSM's use of MFN provisions had reduced competition in the sale of health insurance in Michigan by raising hospital costs to BCBSM's competitors, which discouraged other health insurers from entering into or expanding in markets throughout Michigan. On March 18, 2013, Michigan passed a law that prohibits health insurers from using MFNs. The Department said that the combination of the new law and a recent order by the Michigan Insurance Commissioner prohibiting MFNs provided the relief the Department sought in its lawsuit against BCBSM, rendering further proceedings unnecessary. The parties moved the court for an order dismissing the action without prejudice on March 25, 2013.
    - Case Filings
    - 10/18/2010 – Justice Department Files Antitrust Lawsuit Against Blue Cross Blue Shield of Michigan (Press Release)
    - 03/25/2013 – Justice Department Files Motion to Dismiss Antitrust Lawsuit Against Blue Cross Blue Shield of Michigan After Michigan Passes Law to Prohibit Health Insurers from Using Most Favored Nation Clauses in Provider Contracts (Press Release)

- **U.S. and State of Idaho v. Idaho Orthopaedic Society, Timothy Doerr, Jeffrey Hessing, Idaho Sports Medicine Institute, John Kloss, David Lamey, and Troy Watkins (10-268, 05/28/10)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Idaho, on May 28, 2010. The Justice Department filed suit to enjoin defendants–the Idaho Orthopaedic Society, Idaho Sports Medicine Institute, and five individual orthopedists–from engaging in conspiracies to raise fees. The Department alleged that the defendants and other orthopedists in the Boise, Idaho, area conspired to gain more favorable fees and other contractual terms by agreeing to coordinate their actions, including denying medical care to injured workers covered by workers compensation insurance and threatening to withdraw from healthcare plans offered by Blue Cross of Idaho. The parties entered into a settlement agreement whereby the Idaho Orthopaedic Society and the named orthopedists were prohibited from (1) agreeing with their competitors on fees and contract terms and (2) collectively denying medical care to patients, refusing to deal with any payor, or threatening to terminate contracts with any payor. The Final Judgment was entered on August 30, 2010 (2010-2 Trade Cas. (CCH) ¶ 77,142).
  - Case Filings
  - 05/28/2010 – Idaho Orthopedists Charged with Engaging in Group Boycotts and Denying Medical Care to Injured Workers (Press Release)

2008

- **U.S. v. UnitedHealth Group, Inc. and Sierra Health Services, Inc. (1:08-CV-00322, 02/25/08)**
  - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the District of Columbia, on February 25, 2008. The Justice Department filed suit to stop defendants–UnitedHealth Group Inc. ("United"), the largest health insurer in the United States with revenues of approximately $75 billion, and Sierra Health Services Inc. ("Sierra"), the largest health insurer in the Las Vegas area with revenues of $1.9 billion–from consummating their proposed combination. The Department alleged that the transaction, as originally proposed, would have created a combined company controlling 94%of the Medicare Advantage health insurance market in the Las Vegas area and would have resulted in higher prices, fewer choices, and a reduction in the quality of Medicare Advantage plans purchased by senior citizens in the Las Vegas area. The parties entered into a settlement agreement whereby United divested its Medicare Advantage business in the Las Vegas area before consummating the acquisition. The Final Judgment was entered on September 24, 2008 (2008-2 Trade Cas. (CCH) ¶ 76,318).
  - Case Filings
  - 02/25/2008 – Justice Department Requires Divestiture in UnitedHealth Group's Acquisition of Sierra Health Services (Press Release)

2007

- **U.S. and the State of Arizona v. Arizona Hospital and Healthcare Association and AzHHA Service Corporation (CV07-1030-PHX, 05/22/07)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Arizona, on May 22, 2007. The Justice Department filed suit to enjoin defendants–Arizona Hospital and Healthcare Association ("AzHHA") and its subsidiary the AzHHA Service Corporation–from setting uniform bill rates paid to nurse staffing agencies. Through its subsidiary, AzHHA operated the AzHHA Registry, a group purchasing organization to assist its member hospitals with purchasing temporary nursing services from nurse staffing agencies. The Department alleged that the defendants' actions forced bill rates paid to agencies, and ultimately the wages paid to temporary nurses in Arizona, to fall below competitive levels. The parties entered into a settlement agreement whereby (1) AzHHA and its member hospitals were enjoined from agreeing on competitively sensitive contract terms including uniform bill rates paid to nurse staffing agencies and (2) AzHHA was enjoined from boycotting or discriminating against agencies or hospitals that choose not to participate in the AzHHA Registry. The Final Judgment was entered on September 12, 2007 (2007-2 Trade Cas. (CCH) ¶ 75,869).
  - Case Filings
  - 05/22/2007 – Justice Department Reaches Settlement with the Arizona Hospital and Healthcare Association and its Subsidiary (Press Release)

2006

- **U.S. v. Charleston Area Medical Center (2:06-cv-0091, 02/06/06)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Southern District of West Virginia, on February 6, 2006. The Justice Department filed suit to require defendant–Charleston Area Medical Center Inc. ("CAMC"), a hospital operating the largest cardiac surgery program in West Virginia, and the sixth largest such program in the United States–to terminate a market allocation agreement that prevented entry of a new competitor, HCA Inc. ("HCA"). The Department alleged that CAMC persuaded HCA to enter into an agreement that prevented HCA from developing a cardiac surgery program at Raleigh General Hospital in exchange for supporting two unrelated HCA programs in other parts of West Virginia. The complaint alleged that the agreement unreasonably restrained competition to the detriment of consumers by effectively ensuring that no hospital in nearby Raleigh County, West Virginia, would compete with CAMC to provide cardiac surgery services. The parties entered into a settlement agreement whereby (1) the anticompetitive portion of the CAMC-HCA agreement was annulled and (2) CAMC was enjoined from entering into other agreements that allocate cardiac surgery services or restrict a healthcare facility from developing cardiac surgery services. The Final Judgment was entered on April 28, 2006 (2006-1 Trade Cas. (CCH) ¶ 75,313).
  - Case Filings
  - 02/06/2006 – Justice Department Requires West Virginia Medical Center to End Illegal Agreement (Press Release)

2005

- **U.S. v. UnitedHealth Group, Inc. and PacifiCare Health Systems, Inc. (1:05CV02436, 12/20/05)**
    - Three-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the District of Columbia, on December 20, 2005. The Justice Department filed suit to stop defendants–UnitedHealth Group Inc. ("United"), one of the nation's largest health insurers with 55 million health and wellness insurance members nationwide and with revenues of $37 billion, and PacifiCare ("PacifiCare"), with approximately 13 million health insurance members in several states and with revenues of $12.2 billion–from consummating their proposed merger. According to the complaint, United and PacifiCare were two of the three largest health plans in Tucson, Arizona, selling commercial health insurance to small-group employers. The Department alleged that the transaction would eliminate competition and likely would enable United to raise prices and reduce the quality of commercial health insurance plans to small-group employers in Tucson. In addition, the Department alleged the acquisition, as originally proposed, would have given United the ability to lower the reimbursement rates of physicians in the Tucson and Boulder, Colorado, areas, likely resulting in a reduction in the quantity or quality of physician services provided to patients. Finally, the Department alleged that for the previous five years United had rented a provider network in California from a subsidiary of Blue Shield of California. PacifiCare and Blue Shield of California were among each other's principal competitors, both for the sale of commercial health insurance and for the purchase of physician and hospital services. After United's acquisition of PacifiCare's business in California, United would be a principal competitor to Blue Shield. The parties entered into a settlement agreement whereby PacifiCare divested all of its small-group commercial health insurance business in Tucson and portions of its membership in Tucson and Boulder. In addition, United agreed to modify, and after one year terminate, its network access agreement with Blue Shield of California. The Final Judgment was entered on May 23, 2006 (2006-1 Trade Cas. (CCH) ¶ 75,255).
    - Case Filings
    - 12/20/2005 – Justice Department Requires Divestitures in UnitedHealth Group's Acquisition of Pacificare Health Systems (Press Release)

- **U.S. v. Federation of Physicians and Dentists, Lynda Odenkirk, Warren Metherd, Michael Karram, and James Wendel (1:05CV431, 06/24/05)**
    - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Southern District of Ohio, on June 24, 2005. The Justice Department filed suit to enjoin defendants–the Federation of Physicians and Dentists (the "Federation"), which provided negotiating and consulting services to physician practice groups, Lynda Odenkirk, a Federation employee, and three Cincinnati obstetrician-gynecologist ("OB-GYN") physicians–from coordinating OB-GYN member physicians' negotiations with Cincinnati-area insurers to obtain higher fees. The Department alleged that these actions caused

Cincinnati-area health care insurers to raise fees paid to Federation OB-GYN members above the levels that the OB-GYNs likely would have obtained if they had negotiated competitively with those insurers. The physician defendants and the Department entered into a settlement agreement whereby the defendants were enjoined from collectively participating in fee negotiations. The Final Judgment with respect to the physician defendants was entered on November 5, 2005. Later, the Federation, Odenkirk, and the Department entered into a separate settlement agreement that enjoined the Federation from negotiating or contracting with payors for health care services provided by the Federation's private-practice members. The Final Judgment with respect to the Federation and Odenkirk was entered on February 28, 2008 (2008-1 Trade Cas. (CCH) ¶ 76,062).
  - Case Filings
  - 06/24/2005 – Department of Justice Sues Federation of Physicians and Dentists and Four Individuals Alleging a Conspiracy (Press Release)

- **U.S. v. Bluefield Regional Medical Center, Inc. and Princeton Community Hospital Association (1:05-0234, 03/21/05)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Southern District of West Virginia, on March 21, 2005. The Justice Department filed suit to stop an illegal agreement between defendants–Bluefield Regional Medical Center, Inc. ("BRMC") and Princeton Community Hospital Association, Inc. ("PCH")–that allocated cancer services to PCH and cardiac-surgery services to BRMC. BRMC, PCH, and St. Luke's Hospital (owned by PCH) were the only general acute care hospitals in Mercer County, West Virginia. The Department alleged that the agreements effectively allocated markets for cancer and cardiac-surgery services and restrained competition to the detriment of consumers. The parties entered into a settlement agreement that enjoined BRMC and PCH from (1) entering into any agreement that allocates any cancer or cardiac-surgery service, market, territory, or customer, and (2) entering into any agreement that restricts a health care facility from taking actions to provide cancer services or cardiac surgery without the prior approval of the United States. The Final Judgment was entered on September 12, 2005 (2005-2 Trade Cas. (CCH) ¶ 74,916).
  - Case Filings
  - 03/21/2005 – Justice Department Requires Two West Virginia Hospitals to End Illegal Market-Allocation Agreements (Press Release)

2003

- **United States v. Rhône-Poulenc Biochimie S.A. (Crim. No. 4:03CR567RWS, 09/18/03)**
  - One-count Information, charging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Eastern District of Missouri, on September 18, 2003. The Justice Department alleged that the defendant and co-conspirators conspired to fix the price of and allocate customers for a chemical used to slow the rate at which dyes disperse throughout the body during x-rays and other medical imaging procedures. On September 18, 2003, the defendant agreed to

plead guilty and pay a $5 million fine for participating in the conspiracy.
  - Case Filings
  - 09/18/2003 - Rhône-Poulenc Biochimie, Subsidiary of Aventis, Agrees to Plead Guilty to Fixing Prices of a Medical Product Ingredient (Press Release)

2002

- **U.S. v. Mountain Health Care, P.A. (1:02CV288-T, 12/13/02)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Western District of North Carolina, on December 13, 2002. The Justice Department filed suit to disband defendant Mountain Health Care, P.A., an independent physicians organization in Asheville, North Carolina, that negotiated and contracted with health care plans on behalf of its participants. The Department alleged that the defendant restrained price and other forms of competition among physicians in the area by adopting a uniform fee structure for its participating physicians. It also negotiated with health plans on behalf of its member physicians and agreed to contracts that incorporated the collectively set fees, even though it lacked clinical or financial integration among its participating physicians. This conduct, the Department alleged, raised rates to health plans, leading to higher health costs for consumers. The parties entered into a settlement agreement that dissolved Mountain Health Care. The Final Judgment was entered on September 11, 2003 (2003-2 Trade Cas. (CCH) ¶ 74,162).
  - Case Filings
  - 12/13/2002 – Justice Department Requires Mountain Health Care to Disband (Press Release)

1999

- **United States and Texas v. Aetna, Inc. and Prudential Ins. Co. of America (3-99CV1398-H, 06/21/99)**
  - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the Northern District of Texas, on June 21, 1999. The Justice Department filed suit to stop defendants–Aetna, Inc. ("Aetna"), a worldwide provider of health, retirement, and financial services benefits, and The Prudential Insurance Company ("Prudential"), one of the world's largest financial institutions–from proceeding with Aetna's proposed acquisition of Prudential's health care business. The Department alleged the acquisition would have made Aetna the dominant provider of health maintenance organization ("HMO") and HMO-based point of service plans in Houston and Dallas-Fort Worth, Texas, with 63% and 42%, respectively, of the enrollees in those areas. The Department further alleged that the combination of Aetna, NYLCare (previously acquired by Aetna in 1998), and Prudential would provide Aetna such a large share of the business of physicians in those areas that Aetna would be able to depress those physicians' reimbursement rates. The likely result, the Department alleged, would be increased prices for HMO and HMO-based point of service plans and depressed reimbursement rates for physicians leading to a reduction in the quantity of or degradation in quality of physicians' services. The parties entered into a settlement agreement that would permit the acquisition to go forward

provided that Aetna sells its NYLCare HMO businesses in Houston and Dallas-Fort Worth. The Revised Final Judgment was entered on December 7, 1999 (1999-2 Trade Cas. (CCH) ¶ 72,730).
   - Case Filings
   - 06/21/1999 – Justice Department and Texas Attorney General Challenge Aetna's Acquisition of Prudential Healthcare and Require Divestitures (Press Release)

- **United States v. Federation of Certified Surgeons and Specialists** and Pershing, Yoakley, and Associates, P.C. **(99-167-CIV-T-17F, 01/26/99)**
   - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Middle District of Florida, on January 26, 1999. The Justice Department filed suit to prohibit defendants–Federation of Certified Surgeons and Specialists, Inc. ("FCSSI"), a corporation formed by 29 independent general and vascular surgeons in the Tampa, Florida, area, who made up the vast majority of the general and vascular surgeons with operating privileges at five Tampa area hospitals and performed 87% of the general and vascular surgeries at those hospitals and Pershing, Yoakley, and Associates, P.C. ("PYA"), an accounting and consulting firm that represented FCSSI physicians in negotiations with managed care plans–from continuing their conspiracy to negotiate jointly with various managed care plans to obtain higher fees for the services of FCSSI's 29 otherwise competing surgeons. The Department alleged that PYA informed health plans that FCSSI surgeons would terminate their contracts and refuse to participate in the plans' networks unless the plans contracted with all FCSSI surgeons at higher rates. The Department further alleged that in at least one instance, 28 FCSSI surgeons terminated their existing contracts with a health plan before the plan capitulated to PYA's demands. The Department also alleged that as a result of FCSSI's and PYA's concerted actions, FCSSI surgeons had increased their projected annual revenue by an average of $14,097 for each surgeon. The Department further alleged that the joint activities had unreasonably restrained price and other competition among FCSSI surgeons, resulted in higher prices for general and vascular surgeries, and deprived consumers of health care services of the benefits of free and open competition among general and vascular surgeons in the purchase of their services in the Tampa area. The parties entered into a settlement agreement whereby FCSSI and PYA were enjoined from continuing to engage in any joint negotiations on behalf of FCSSI surgeons and from engaging in various other anticompetitive activities. The Final Judgment was entered on May 31, 1999 (1999-1 Trade Cas. (CCH) ¶ 72,549)
   - Case Filings
   - 01/26/1999 – Florida Physicians Agree to Stop Illegal Joint Negotiations in Response to Justice Department Lawsuit (Press Release)

- **United States v. Dentsply Int'l, Inc. (99-005, 01/05/99)**
   - Two-count Complaint, one count alleging a violation of § 2 of the Sherman Act and one count alleging a violation of § 1 of the Sherman Act and § 3 of the Clayton Act, filed in the United States District Court for the District of Delaware,

on January 5, 1999. The Justice Department filed suit to stop defendant–Dentsply International, Inc., a corporation which provides 70% to 80% of the prefabricated artificial teeth used in the United States–from enforcing unlawful restrictive dealing agreements and engaging in other unlawful conduct designed to restrict most of the tooth distributors in the United States from selling products made by Dentsply's competitors. The Department alleged that Dentsply's actions both deprived its competitors of the opportunity to distribute their products efficiently and deterred potential new entrants from the market for prefabricated artificial teeth. With its Complaint, the Department filed a motion to dismiss Dentsply's motion for a declaratory judgment, arguing it was barred by the doctrine of sovereign immunity. On January 20, 1999, Dentsply withdrew its motion and filed its answer to the Department's Complaint. The District Court found for Dentsply at trial on August 8, 2003 (277 F. Supp. 2d 378 (D. Del. 2003)). On appeal, the Third Circuit Court of Appeals reversed the District Court's decision regarding § 2 of the Sherman Act, and remanded the case with direction to grant injunctive relief requested by the Department on the ground that Dentsply maintained an unlawful monopoly (399 F.3d 181 (3rd Cir. 2005)). The injunctive relief was granted by the District Court on April 26, 2006 (2006-2 Trade Cas. (CCH) ¶ 75,383).
  - Case Filings
  - 01/05/1999 – Justice Department Sues Dominant Maker of False Teeth for Anti-Competitive Practices (Press Release)

1998

- **United States v. Medical Mutual of Ohio (1:98-CV-2172, 09/23/98)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Northern District of Ohio, on September 23, 1998. The Justice Department filed suit to prohibit defendant–Medical Mutual of Ohio ("MMO"), formerly known as Blue Cross & Blue Shield of Ohio, Ohio's largest health care insurer–from using most favored nations clauses ("MFNs") in its contracts with hospitals in the Cleveland, Ohio, area. The Department alleged that the MFNs required hospitals to charge MMO's competitors 15% to 30% more for services than the hospitals charged MMO. The Complaint further alleged that the clauses had the effect of increasing the prices of hospital services and health insurance to consumers and suppressing innovation in the local health insurance industry. The parties entered into a settlement agreement whereby MMO was enjoined from using MFNs or any practice or contract provision having the same purpose or effect. The Final Judgment was entered on January 29, 1999 (1999-1 Trade Cas. (CCH) ¶ 72,465).
  - Case Filings
  - 09/23/1998 – Department of Justice Blocks Medical Mutual of Ohio's Use of Anti-Discounting Clauses in Hospital Contracts in the Cleveland Area (Press Release)

- **United States v. Federation of Physicians and Dentists, Inc. (98-475, 08/12/98)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Delaware, on August 12, 1998. The Justice Department filed suit to prohibit defendant–Federation of Physicians and Dentists, Inc. (the "Federation"), whose members included nearly all of the independent orthopædic surgeons in Delaware–from continuing its conspiracy with its member physicians to negotiate jointly with various managed care plans to obtain higher fees for the Federation's otherwise competing orthopædic surgeons. The Complaint alleges that the Federation's representatives and its member orthopædic surgeons reached an understanding that the members would negotiate only through the Federation in order to resist the efforts of Blue Cross and Blue Shield of Delaware ("BC/BS") to reduce the fees it paid orthopædic surgeons in Delaware to the level of fees it paid to other medical specialists in Delaware. The Complaint further alleges that, pursuant to that understanding, nearly all of the members of the Federation rejected a fee proposal offered by BC/BS and terminated their individual provider services contracts with BC/BS. The parties entered into a settlement agreement where the Federation was enjoined from joint negotiations on behalf of its members. The Final Judgment was entered on November 5, 2002 (2002 Trade Cas. (CCH) ¶ 73,868).
  - Case Filings
  - 08/12/1998 – Justice Department Moves to Stop Illegal Boycott by the Federation of Physicians and Dentists on Behalf of Delaware Orthopedic Surgeons (Press Release)

1997

- **United States v. Long Island Jewish Medical Center (CV-97-3412 (ADS) (ETB), 06/11/97)**
  - One-count Complaint, alleging a violation of §1 of the Sherman Act and a violation of § 7 of the Clayton Act, filed in the United States District Court for the Eastern District of New York, on June 11, 1997. The Justice Department alleged that the proposed combination of defendants–Long Island Jewish Medical Center, a large not-for-profit academic hospital, and North Shore Health System, Inc., a not-for-profit corporation that owns and manages North Shore University Hospital, also a large academic hospital–would likely lead to higher hospital prices for health care consumers in the Long Island, New York, area. The Department further alleged that the merging hospitals compete head-to-head to be the "flagship" or "anchor" hospital in the networks of hospitals that managed care companies assemble on Long Island. After a trial on the merits, the District Court granted judgment in favor of the defendants and dismissed the Complaint on October 23, 1997 (1997-2 Trade Cas. (CCH) ¶ 71,960).
  - Case Filings
  - 06/11/1997 – Justice Department Sues to Block Long Island Hospital Combination (Press Release)

1996

- **United States v. Association of Family Practice Residency Directors (96-0575-CV-W-2, 05/28/96)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Western District of Missouri, Western Division, on May 28, 1996. The Justice Department filed suit to stop defendant–Association of Family Practice Residency Directors ("AFPRD"), a not-for-profit corporation whose members are Family Practice Residency Directors ("FRRDs") composing about 95% of all FPRDs in the U.S.–from continuing to use guidelines it had promulgated to restrict competition among its members. The Department alleged that the published guidelines, and steps AFPRD took to ensure compliance with the guidelines, prohibited family practice residency programs at different hospitals from offering individualized economic inducements to senior medical students and family practice residents, and prohibited the use of certain other competitive recruiting practices. The Department further alleged that adherence to the guidelines restrained price and other forms of competition to recruit and employ senior medical students and current family practice residents, and that it deprived senior medical students and current family practice residents of the benefits of competition in recruiting and purchasing their services. The parties entered into a settlement agreement whereby AFPRD was enjoined from engaging in various types of anticompetitive conduct that impede competition in recruiting family practice residents. The Final Judgment was entered on August 15, 1996 (1996-2 Trade Cas. (CCH) ¶ 71,533).
  - Case Filings
  - 05/28/1996 – Justice Department Moves to Stop Anticompetitive Actions of National Medical Residency Trade Association (Press Release)

- **United States v. Woman's Hospital Foundation, et al and Woman's Physician Health Organization (96-389-BM2, 04/23/96)**
  - Three-count Complaint, one count alleging a violation of § 1 of the Sherman Act and two counts alleging violations of § 2 of the Sherman Act, filed in the United States District Court for the Middle District of Louisiana, on April 23, 1996. The Justice Department filed suit to stop defendants–Woman's Hospital Foundation, which owns and operates Woman's Hospital; and Woman's Physician Health Organization, a not-for-profit corporation whose participants include Woman's Hospital and nearly every physician on Woman's Hospital's staff, including approximately 90% of the specialists in obstetrics and gynecology ("OB/GYNs") in the Baton Rouge, Louisiana, area–and unnamed co-conspirators from preventing competition among area hospitals for inpatient OB/GYN services, and dictating higher prices for OB/GYN services. The Department alleged that costs for OB/GYN care in the area were higher than they would have been, absent defendants' anticompetitive activities. The parties entered into a consent decree whereby the defendants were enjoined from negotiating on behalf of competing physicians and from engaging in various other anticompetitive activities. The Final Judgment was entered on September 11, 1996 (1996-2 Trade Cas. (CCH) ¶ 71,561).

- Case Filings
- 04/23/1996 – Louisiana Woman's Hospital and PHO Charged with Reducing Competition and Dictating Higher Prices for Obstetrical Care (Press Release)

- **United States v. Delta Dental of R.I. (CA-96-113, 02/29/96)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Rhode Island, on February 29, 1996. The Justice Department filed suit to stop defendant–Delta Dental of Rhode Island ("Delta"), a not-for-profit corporation which underwrites and administers group dental care insurance plans for employers and other group purchasers in Rhode Island and elsewhere, including about 35% to 45% of persons covered by dental insurance in Rhode Island, and which contracts with approximately 90% of the practicing dentists in Rhode Island–and unnamed co-conspirators from engaging in unlawful agreements that discourage dentists from offering to patients covered by other insurance companies and to uninsured patients fees lower than those paid by Delta patients. The Department alleged that Delta entered into agreements with its participating dentists which contained most favored nation clauses ("MFNs"). The MFNs allowed Delta to reduce its payments to any participating dentist who agreed to charge fees to a competing plan or individual that were less than the fees agreed to between Delta and the dentist, to the same lower level. The Department further alleged that the MFNs reduced competition in the dental services and dental insurance markets in Rhode Island because they inhibited participating dentists from lowering their fees to other competing plans as well as uninsured patients, beyond the fees set by the defendant. Delta filed a Motion to Dismiss the case which U.S. District Court Judge Pettine denied on October 2, 1996, adopting U.S. Magistrate Judge Robert W. Lovegreen's recommendation of July 12, 1996, that the motion to dismiss be denied (943 F. Supp. 172 (D.R.I. 1996)). Prior to trial, the parties entered into a settlement agreement whereby the defendants would be forced to remove the MFNs in its agreements with its participating dentists and would be enjoined from engaging in other actions that would limit future discounting by its participating dentists. The Final Judgment was entered on July 2, 1997 (1997-2 Trade Cas. (CCH) ¶ 71,860).
  - Case Filings
  - 02/29/1996 – Justice Department Challenges Rhode Island Dental Group's Agreements that Discourage Discounting (Press Release)

1995

- **United States v. Lake Country Optometric Society (W-95-CR-114, 12/15/95)**
  - One-count Information, charging a violation of § 1 of the Sherman Act, filed in the United Stated District Court for the Western District of Texas, Waco Division, on December 15, 1995. The Justice Department filed suit to stop defendant–Lake Country Optometric Society ("Lake Country"), an unincorporated trade association composed of licensed optometrists in central Texas–and unnamed co-conspirators from conspiring to raise, fix, maintain, and stabilize the prices of eye examinations in central Texas. The Department alleged that Lake Country and unnamed co-conspirators agreed to raise the prices to be charged for eye

examinations and monitored and enforced compliance with the agreement. On July 9, 1996, Lake Country pled guilty and was fined $75,000.
  - Case Filings
  - 12/15/1995–Texas Trade Association Charged with Price Fixing (Press Release)

- **United States v. Healthcare Partners Inc., Danbury Area IPA, Inc., and Danbury Health Systems Inc. (395-CV-01946RNC, 09/13/95)**
  - Two-count Complaint, one count alleging a violation of § 1 and one count alleging a violation of § 2 of the Sherman Act, filed in the United States District Court for the District of Connecticut, on September 13, 1995. The Justice Department, in conjunction with the Connecticut Attorney General's Office, filed suit to stop defendants–Danbury Health Systems, Inc., a not-for-profit corporation which offers acute inpatient care, outpatient surgical care, and other medical services in the Danbury, Connecticut, area at its monopoly acute care facility, Danbury Hospital; Danbury Area IPA, Inc. ("DAIPA"), a not-for-profit corporation composed of over 98% of the physicians on Danbury Hospital's staff; and Healthcare Partners, Inc. ("Healthcare Partners"), a not-for-profit corporation which is owned by Danbury Hospital and DAIPA, and jointly represents Danbury Hospital and all the physician members of DAIPA–from conspiring against lower-priced managed health care plans. The Department alleged that Danbury Hospital had joined with nearly every local physician to dictate higher-priced terms and conditions to managed care health plans in its geographic area. The parties entered into a settlement agreement whereby the defendants were enjoined from collective bargaining on behalf of competing physicians, except under limited circumstances, and from engaging in various other anticompetitive activities. Danbury Hospital was further enjoined from abusing its control over staff privileges for anticompetitive purposes. The Final Judgment was entered on February 15, 1996 (1996-1 Trade Cas. (CCH) ¶ 71,337).
  - Case Filings
  - 09/13/1995 – Justice Department Takes Unprecedented Action to Stop Doctors and Hospitals in Connecticut, Missouri from Blocking Managed Care (Press Release)

- **United States v. Health Choice of Northwest Missouri, Inc., Heartland Health System, Inc., and St. Joseph Physicians, Inc. (95-6171-CV-SJ-6, 09/13/95)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Western District of Missouri, on September 13, 1995. The Justice Department filed suit to stop defendants–St. Joseph Physicians, Inc. ("SJPI"), a corporation composed of approximately 85% of the physicians working or residing in Buchanan County, Missouri ("Buchanan County"); Heartland Health System, Inc. ("Heartland"), a not-for-profit corporation which operates the only acute care hospital in Buchanan County and, through subsidiaries and affiliates, operates in a number of other sectors of the health care industry in Buchanan County; and Health Choice of Northwest Missouri, Inc., a corporation owned jointly by SJPI and Heartland which provides managed care services to individuals in Buchanan County–from conspiring

against lower-priced managed health care plans. The Department alleged that Heartland had joined with nearly every local physician to dictate higher-priced terms and conditions to managed care health plans in its geographic area. The parties entered into a settlement agreement whereby the defendants were enjoined from negotiating collectively on behalf of competing physicians, except under limited circumstances. Heartland was further enjoined from acquiring additional primary care physicians and other physicians, except under certain circumstances, without first obtaining permission from the Antitrust Division. The Final Judgment was entered on October 22, 1996 (1996-2 Trade Cas. (CCH) ¶ 71,605).
  - Case Filings
  - 09/13/1995 – Justice Department Takes Unprecedented Action to Stop Doctors and Hospitals in Connecticut, Missouri from Blocking Managed Care (Press Release)

- **United States v. Oregon Dental Service (C95-1211 FMS, 04/10/95)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Northern District of California, on April 10, 1995. The Justice Department filed suit to stop defendant–Oregon Dental Service ("ODS"), a not-for-profit corporation composed of dentists who provide dental coverage to employees of Oregon corporations and others, and whose membership at times included over 90% of the dentists in Oregon–from enforcing most favored nation clauses ("MFNs") in its contracts with member dentists. The Department alleged that the MFNs had resulted in keeping most of the member dentists from discounting their fees to other patients not covered by ODS. The Department further alleged that ODS's agreements with its member dentists caused significant numbers of dentists to drop out of or refuse to join competing dental plans, and that this had the effect of restraining price competition in the provision of dental services and dental insurance in the geographic area and had resulted in stabilizing prices for dental services and dental insurance at levels higher than they might otherwise have been. The parties entered into a settlement agreement whereby ODS was enjoined from continuing to use MFNs in its contracts with its member dentists and from engaging in various other anticompetitive activities. The Final Judgment was entered on July 14, 1995 (1995-2 Trade Cas. (CCH) ¶ 71,062).
  - Case Filings

1994

- **United States v. Vision Service Plan (1:94CV02693TPJ, 12/15/94)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Columbia, on December 15, 1994. The Justice Department filed suit to stop defendant–Vision Service Plan ("VSP"), a corporation which is the largest national vision care insurer, and whose member optometrists provide vision care to patients in about 42 states and the District of Columbia–from enforcing most favored nation clauses ("MFNs") in its contracts with its member optometrists. The Department alleged that the MFNs restricted the willingness of VSP's members to provide discounted fees for vision care

services to non-VSP patients and that this resulted in prices for vision care services and vision care insurance being higher than they might otherwise have been. The parties entered into a settlement agreement whereby VSP was enjoined from continuing to use MFNs in its contracts with member optometrists and from engaging in various other anticompetitive activities. The Revised Final Judgment was entered on April 12, 1996 (1996-1 Trade Cas. (CCH) ¶ 71,404).
  - Case Filings
  - 12/15/1994 – Justice Department Stops Agreements that Inhibited Vision Care Discounting Nationwide (Press Release)

- **United States v. Classic Care Network, Inc. et al. (94-5566, 12/05/94)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Eastern District of New York, on December 5, 1994. The Justice Department filed suit to stop defendants–Classic Care Network, Inc. ("Classic Care"), a not-for-profit corporation established by eight member hospitals; and those eight named hospitals–from continuing their conspiracy to coordinate contracting with health maintenance organizations and other managed care payors in order to prevent discounting of both inpatient and outpatient hospital services rates. The Department alleged that the conspiracy had the purpose and effect of the eight hospitals' agreeing to refrain from contracting on per diem terms with managed care payors, to refrain from accepting any discounting off inpatient rates, and to accept no more that 10% off outpatient rates, and agreeing on the terms and conditions of most favored nation clauses that could be negotiated with third-party payors. The Department further alleged that all these actions had unreasonably restrained price competition for both inpatient and outpatient hospital services in the Nassau and Suffolk Counties, New York, area. The parties entered into a settlement agreement whereby the defendants were enjoined from engaging in any joint or collective activities to set fees for hospital services. The Final Judgment was entered on May 1, 1995 (1995-1 Trade Cas. (CCH) ¶ 70,997).
  - Case Filings
  - 12/05/1994 – Eight Long Island Hospitals Agree to Stop Preventing Discounts on Hospital Services (Press Release)

- **United States and Arizona v. Delta Dental Plan of Arizona, Inc. (94-1793 PHXPGR, 08/30/94)**
  - Two-count Complaint, one count alleging a violation of § 1 of the Sherman Act and one count alleging a violation of § 44-1402 of the Uniform Arizona Antitrust Act, filed in the United States District Court for the District of Arizona, on August 8, 1994. The Justice Department, in conjunction with the Arizona Attorney General's Office, filed suit to stop defendant–Delta Dental Plan of Arizona, Inc. ("Delta"), a not-for-profit corporation whose participating providers comprise dentists licensed to practice in Arizona–from enforcing its most favored nation clauses ("MFNs") in its contracts with its member dentists, who compose about 85% of the dentists in Arizona. The Department alleged that the MFNs in Delta's agreements with its dentists resulted in the restraining or the elimination of

discounting of fees for dental services to competing dental plans and other consumers of dental services in the geographic area. The parties entered into a settlement agreement whereby Delta was enjoined from continuing to enforce the MFNs it had in its contracts with all its member dentists and from engaging in various other anticompetitive activities. The Final Judgment was entered on May 19, 1995 (1995-1 Trade Cas. (CCH) ¶ 71,048).
  - Case Filings
  - 08/30/1994 – Department of Justice and Arizona State Attorney General Break up Dental Group's Conspiracy to Eliminate Discounting (Press Release)

- **United States v. Mercy Health Services and Finley Tri-States Health Group, Inc. (C94-1023, 06/10/94)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act and a violation of § 7 of the Clayton Act (same offense), filed in the United States District Court for the Northern District of Iowa, Eastern Division, on June 10, 1994. The Justice Department filed suit to stop the creation of a hospital monopoly in the Dubuque, Iowa, area (the "Dubuque area"). The Department alleged that the combination of the two defendants–Mercy Health Services and Finley Tri-States Health Group, Inc., the only two corporations which provide general acute inpatient care to health care consumers in the Dubuque area–would eliminate competition and result in higher prices and lower quality for hospital services for health care consumers in the Dubuque area. The District Court decided against the Government at trial on October 27, 1995 (902 F. Supp. 928 (N.D. Iowa 1995)). The case was appealed to the 8th Circuit Court of Appeals. On February 26, 1997, the court ruled that since Finley had announced on January 15, 1997, that it had abandoned its proposed merger with Mercy, the case was moot, and vacated the district court's opinion (107 F.3d 632 (8th Cir. 1997)).
  - Case Filings
  - 06/10/1994 – Department of Justice Files Antitrust Suit to Block the Creation of a Hospital Monopoly in Iowa (Press Release)

- **United States and Florida v. Morton Plant Health System, Inc. and Trustees of Mease Hospital, Inc. (94-748-CIV-T-23E, 05/05/94)**
  - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the Middle District of Florida, Tampa Division, on May 5, 1994. The Justice Department, in conjunction with the Florida Attorney General's Office, filed suit to stop defendants–Morton Plant Health Systems, Inc. ("MPHS"), a not-for-profit-corporation which owns and operates Morton Plant Hospital in Clearwater, Florida; and the Trustees of Mease Hospital, Inc. ("Mease"), a not-for-profit corporation which owns and operates the Mease hospitals in Dunnedin and Safety Harbor, Florida–from consummating their proposed merger. The Department alleged that unless the proposed merger were stopped, it would likely lessen competition substantially in the provision of acute care hospital services and result in higher prices for acute inpatient hospital services because the merged entity would control nearly 60% of all general acute care hospital beds in North Pinellas County, Florida. The Department entered into

a settlement agreement with MPHS and Mease whereby the merger of the hospitals was barred, but the hospitals were permitted to produce certain health care services jointly, provided they market those services independently. In addition, certain other outpatient, administrative, and tertiary services, where competition is plentiful, may be sold jointly by the hospitals. The agreement also permits the hospitals to share some administrative costs. The Final Judgment was entered on September 29, 1994 (1994-2 Trade Cas. (CCH) ¶ 70,759).
  - Case Filings
  - 05/05/1994 – First Joint Antitrust Prosecution Involving Justice Department and a State Will Challenge Proposed Florida Hospital Merger (Press Release)

- **United States v. Utah Society for Healthcare Human Resources Administration, et al. (94C282G, 03/14/94)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Utah, Central Division, on March 14, 1994. The Justice Department filed suit to stop defendants–Utah Society for Healthcare Human Resources Administration ("USHHRA"), a professional association of hospital human resource directors in Utah; and nine named hospitals in the Salt Lake County, Utah, area, all of whose human resource directors belong to USHHRA–from continuing their conspiracy to exchange non-public prospective and current information about overall budgets, nursing budgets, and entry level wages for registered nurses. The Department alleged that the information exchange had the purpose and effect of stabilizing entry level wages for registered nurses and limited the amount and frequency of increases in both entry level wages for registered nurses and wages paid to registered nurses at all levels of experience. The parties entered into a settlement agreement whereby the defendants were enjoined from engaging in various anticompetitive activities designed to fix the salaries of nurses employed at hospitals throughout Utah. The Final Judgment was entered on September 14, 1994 (1994-2 Trade Cas. (CCH) ¶ 70,795).
  - Case Filings
  - 03/14/1994 – Justice Department Files Antitrust Complaint Against Utah Hospitals (Press Release)

1992

- **United States v. Bolar Pharmaceutical Co., Inc. et al. (HAR-92-0454, 12/17/92)**
  - One-count Indictment, charging a violation of § 1 of the Sherman Act, returned in the United States District Court for the District of Maryland, on December 17, 1992. The Justice Department alleged the defendants–Bolar Pharmaceutical Co., Inc. ("Bolar"), a corporation which manufactures and sells generic drug products throughout the United States; Vitarine Pharmaceuticals, Inc. ("Vitarine"), a corporation that also manufactures and sells generic drug products throughout the United States; Lawrence S. Raisfeld ("Raisfeld"), Secretary-Treasurer of Bolar; and Roger W. Jordan ("Jordan"), President of Vitarine–and unnamed co-conspirators with conspiring to fix the price of generic Dyazide, a medication generally prescribed to treat hypertension or high blood pressure, and to allocate

certain customers that purchased generic Dyazide. The Department alleged that this conspiracy eliminated competition in the sale of generic Dyazide sold throughout the United States. Vitarine pled nolo contendere on September 22, 1993, and was fined $500,000; Bolar and Raisfeld pled nolo contendere on October 20, 1993–Bolar was fined $1 million and Raisfeld was fined $20,000 and was given one year of probation; and Jordan pled nolo contendere on October 29, 1993, and was fined $20,000, given one year of probation, and was put under house arrest for 120 days.
  - 12/17/1992–Two Drug Manufacturers and their Presidents Charged with Fixing Price of Generic Drug (Press Release)

- **United States v. Robert Shulman (HAR-92-0446, 12/09/92)**
  - One-count Information, charging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Maryland, on December 9, 1992. The Justice Department alleged the defendant–Robert Shulman, former President of Bolar Pharmaceuticals, Inc. ("Bolar") (compare case immediately above)–and unnamed co-conspirators with agreeing on the range of prices at which Bolar and its competitor, Vitarine Pharmaceuticals, Inc., sold generic Dyazide, a medication generally prescribed to treat hypertension or high blood pressure, and with allocating certain customers that purchase generic Dyazide. The Department alleged that this conspiracy eliminated competition in the sale of generic Dyazide sold throughout the United States. Shulman pled guilty on December 18, 1992, and on January 22, 1993, he was fined $20,000, sentenced to 640 days in jail, and given one year of probation.
  - 12/09/1992–Former Drug Company President Charged with Fixing Price of Generic Drug (Press Release)

- **United States v. Greater Bridgeport Individual Practice Association, Inc. (592CV00575 EBB, 09/30/92)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Connecticut, on September 30, 1992. The Justice Department filed suit to stop defendant–Greater Bridgeport Individual Practice Association, Inc. ("GPIPA"), a not-for-profit corporation whose approximately 670 member physicians composed 85% to 95% of the physicians practicing in the greater Bridgeport, Connecticut, area (the "Bridgeport area")–and unnamed persons from conspiring to prevent GPIPA's physician members from contracting individually with Physicians Health Services of Connecticut, Inc. ("PHS"), a health maintenance organization which purchases for and provides to its approximately 82,000 members in the greater Bridgeport area comprehensive health care services. The Department alleged that, in part, the purpose of the conspiracy was to increase the capitation fees paid by PHS to GPIPA for its physicians' services, and that it unreasonably restrained price competition among GPIPA's member physicians for the sale of their services to PHS. The parties entered into a settlement agreement whereby GPIPA was enjoined from engaging in any type of collective contract negotiating on behalf of

its member physicians. The Final Judgment was entered on January 7, 1993 (1993-2 Trade Cas. (CCH) ¶ 70,389).
  - Case Filings
  - 09/30/1992 – The Department of Justice Today Filed a Civil Antitrust Suit Charging the Greater Bridgeport Individual Practice Association Inc. (Press Release)

- **United States v. Hospital Association of Greater Des Moines, Inc. et al. (4-92-70648, 09/23/92)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Southern District of Iowa, Central Division, on September 22, 1992. The Justice Department brought suit to stop the defendants–five named hospitals in Des Moines, Iowa; and the Hospital Association of Greater Des Moines ("HAGDM"), a not-for-profit trade association of the five hospitals–from conspiring to limit the types and amount of advertising in which each defendant hospital engages. The Department alleged that the conspiracy diminished price and quality competition among the defendant hospitals for patients, physician referrals, and third-party contracts. The parties entered into a settlement agreement whereby HAGDM and the five hospitals were enjoined from entering into any agreement between themselves concerning the types of or amounts they spent on advertising in the Des Moines, Iowa, area. The Final Judgment was entered on March 5, 1993 (1993-1 Trade Cas. (CCH) ¶ 70,160).
  - Case Filings
  - 09/23/1992 – Des Moines Hospital Association and 5 Iowa Hospitals Charged with Restricting Advertising of Hospital Services (Press Release)

- **United States v. Massachusetts Allergy Society, Inc. et al. (92-10273-H, 02/03/92)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the District of Massachusetts, on February 3, 1992. The Justice Department filed suit to stop defendants–the Massachusetts Allergy Society, Inc. ("MAS"), a not-for-profit corporation composed of most of the allergists practicing in Massachusetts; current and former MAS officials;and unnamed co-conspirators from conspiring to fix and raise the fees paid for allergy services by certain HMOs in Massachusetts. The Department alleged that the defendants and unnamed co-conspirators agreed to have MAS act as their joint negotiating agent to obtain higher fees from certain health maintenance organizations ("HMOs") for allergy services, resisted competitive pressure to discount fees, and developed and adopted a fee schedule to be used by defendant MAS in negotiating higher fees with certain HMOs on behalf of MAS's member allergists. The parties entered into a settlement agreement which enjoined MAS from collectively negotiating fees on behalf of its member allergists. The Final Judgment was entered on May 18, 1992 (1992-1 Trade Cas. (CCH) ¶ 69,846).
  - Case Filings
  - 02/03/1992 – Massachusetts Allergy Society and Four Doctors Charged with Price Fixing (Press Release)

1991

- **United States v. Carson B. Burgstiner et al. (CV491-044, 02/07/91)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act, filed in the United States District Court for the Southern District of Georgia, Savannah Division, on February 7, 1991. The Justice Department filed suit to stop defendants–22 competing obstetricians/gynecologists ("OB/GYNs") in the Savannah, Georgia, area ("Savannah area")–from conspiring to exchange fee information. The Department alleged that the fee information exchange resulted in higher fees for OB/GYN services in the Savannah area. The parties entered into a settlement agreement whereby the defendants were enjoined from engaging in various anticompetitive activities whose purpose or effect would be to fix the prices for OB/GYN services in the Savannah area. The Final Judgment was entered on April 29, 1991 (1991-1 Trade Cas. (CCH) ¶ 69,422).

1990

- **United States v. Procter & Gamble Co. and Rhone-Poulenc Rorer, Inc. (90-5144, 08/07/90)**
  - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the Eastern District of Pennsylvania, on August 7, 1990. The Justice Department filed suit to stop defendants–The Procter & Gamble Co. ("P&G"), a corporation which produces and sells the over-the-counter ("OTC") stomach remedy Pepto Bismol; and Rhone-Poulenc Rorer, Inc. ("Rorer"), a multinational corporation which produces and sells the OTC Maalox line of stomach remedies–from consummating an agreement in which P&G would acquire the exclusive right to market and distribute, and an option to purchase the assets used to manufacture, the OTC Maalox line of stomach remedies from Rorer. The Department alleged that, if consummated, the transaction would eliminate competition in the United States between P&G and Rorer, as well as lessen competition substantially in the United States in the OTC stomach remedies market. P&G and Rorer announced on August 23, 1990, their intention to terminate their proposal that P&G acquire the rights to Rorer's Maalox line of OTC stomach remedies. On August 27, 1990, the parties agreed to, and submitted to the court, a Stipulation of Voluntary Dismissal.

- **United States v. Aaron L. ("Lanoy") Alston et al. (CR 90-042-TUC, 02/07/90)**
  - One-count Indictment, charging a violation of § 1 of the Sherman Act, returned in the United States District Court for the District of Arizona, on February 7, 1990. The Justice Department alleged the defendants–three dentists in Tucson, Arizona, Aaron L. Alston ("Alston"), Ronald D. Walker ("Walker"), and Richard B. Meyer ("Meyer"); and the dental corporations A. Lanoy Alston, D.M.D., P.C., and Desert Valley Dental, Ltd., owned by two of the dentists–and unnamed co-conspirators conspired to fix and raise the co-payment fees paid by participants in four prepaid dental plans in the Tucson, Arizona, area. The Department alleged that the conspiracy caused the participants of three of the four prepaid dental plans to pay higher copayment fees to the defendants and unnamed co-

conspirators than they might otherwise have had to pay. The case was the first criminal case the Antitrust Division brought against medical practitioners in over 50 years. The case was tried in December, 1990, and the jury found all the defendants guilty on December 17, 1990. However, the District Court granted the motions of two defendants to dismiss their cases and ordered a new trial for the third defendant, Alston (1991-1 Trade Cas. ¶ 69,366). On appeal to the Ninth Circuit Court of Appeals, the Court reversed the two orders of dismissal and affirmed the one order for a new trial, and remanded the case to the District Court for retrial of all three defendants (974 F.2d 1206 (9th Cir.)). On January 15, 1993, the Government reached a settlement with all five parties whereby the charges against the three dentists and one of the two dentists' corporations were voluntarily dismissed, and Alston's dental corporation pled nolo contendere and was fined $5,000, put on probation for 547 days, and required to perform 250 hours of community service. Alston was directed to perform the community service on behalf of his dental corporation.

1988

- **United States v. Rockford Memorial Corp. and SwedishAmerican Corp. (88C-20186, 06/01/88)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act and a violation of § 7 of the Clayton Act, filed in the United States District Court for the Northern District of Illinois, Western Division, on June 1, 1988. The Justice Department filed suit to stop defendants–Rockford Memorial Corporation ("Rockford Memorial"), a not-for-profit corporation which owns and operates a general acute care hospital in Rockford, Illinois; and SwedishAmerican Corporation ("SwedishAmerican"), a not-for-profit corporation which also owns and operates a general acute care hospital in Rockford, Illinois–from consummating a proposed merger. The Department alleged that the merger of the two largest of the only three hospitals in the Rockford, Illinois, area would substantially lessen competition for the provision of acute inpatient hospital services. The Court held in favor of the Government on February 23, 1989 (717 F. Supp. 1251, (N.D. Ill. 1989)). On appeal, the Seventh Circuit Court of Appeals affirmed the lower court's decision (898 F.2d 1278 (7th Cir.) (Posner, J.), cert. denied, 498 U.S. 920 (1990)).

- **United States v. Carilion Health System and Community Hospital of Roanoke Valley (88-0249-R, 05/27/88)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act and a violation of § 7 of the Clayton Act, filed in the United States District Court for the Western District of Virginia, Roanoke Division, on May 27, 1988. The Justice Department filed suit to stop defendants–Carilion Health System, a not-for-profit corporation which owns and operates Roanoke Memorial Hospitals; and Community Hospital of Roanoke Valley, a not-for-profit corporation which owns and operates Community Hospital of Roanoke Valley–from consummating a proposed merger of the largest and third largest hospitals of three total general acute care hospitals in the Roanoke, Virginia, area (the "Roanoke area"). The

Department alleged that the merger would substantially lessen competition in the market for the provision of acute inpatient hospital services in the Roanoke area. The Court held against the Government on November 29, 1989 (707 F. Supp. 840 (W.D.Va. 1989)). On appeal, the Fourth Circuit Court of Appeals affirmed the lower court's decision in an unpublished disposition (892 F.2d 1042 (4th Cir. 1989)). The Government's motion for a rehearing and for a rehearing en banc were denied on February 6, 1990. Id.

1985

- **United States v. Baxter Travenol Laboratories, Inc. and American Hospital Supply Corp. (85 C 09856, 11/22/85)**
  - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the Northern District of Illinois, Eastern Division, on November 22, 1985. The Justice Department filed suit to stop defendants–Baxter Travenol Laboratories, Inc. ("Baxter"), a corporation which develops, manufactures, and sells various medical care products and services throughout the world; and American Hospital Supply Corporation ("AHS"), a corporation which also develops, manufactures, and sells various medical care products throughout the world–from consummating a proposed transaction whereby Baxter would acquire AHS. The Department alleged that, if consummated, the acquisition would lessen competition substantially in the United States for the manufacture and sale of parenteral solutions, fluid administration sets, electronic flow control devices, therapeutic hemapheresis equipment, and surgeons and procedures gloves–all products regarding which Baxter and AHS were competitors. The parties entered into a settlement agreement whereby both Baxter and AHS would divest themselves of certain assets to ensure that the acquisition did not produce any anticompetitive effects in any relevant product or geographic market. The Final Judgment was entered on April 15, 1986 (1986-1 Trade Cas. (CCH) ¶ 67,068).

1984

- **United States v. Beverly Enterprises Inc., et al. (84-70-1-MAC, 01/18/84)**
  - One-count Complaint, alleging a violation of § 7 of the Clayton Act, filed in the United States District Court for the Middle District of Georgia, on January 18, 1984. The Justice Department filed suit to stop defendants–Beverly Enterprises, Inc. ("Beverly"), then the largest provider of nursing home care in the United States; Southern Medical Services, Inc. ("SMS"), which was the 17th largest provider of nursing home care in the United States. and operated 49 nursing homes in seven states; Beverly Enterprises–Alabama, Inc. ("Beverly–Alabama"), a wholly-owned subsidiary of Beverly; American Trust of Hawaii, Inc. ("American Trust"), Trustee under the SMS Profit Sharing Plan and owner of both voting and non-voting stock of SMS; George H. Smith ("Smith"), President of SMS and shareholder of both voting and non-voting stock of SMS; and Jack K. Bruce ("Bruce"), Corporate Secretary of SMS and owner of both voting and non-voting stock of SMS–from consummating a proposed acquisition whereby Beverly would acquire all the capital stock of SMS. The Department alleged that

the acquisition would lessen competition substantially in the market for the provision of nursing home care in and around the cities of Macon, Georgia; Augusta, Georgia; Montgomery, Alabama; and Mobile, Alabama. The parties entered into a settlement agreement whereby the acquisition was permitted to be consummated, provided Beverly Enterprises divested itself of certain nursing homes in geographic markets where it already had nursing homes. The Department had determined that Beverly's acquisition of more nursing homes in certain geographic areas in Alabama and Georgia, where Beverly already had a significant presence, would result in Beverly's having too high a concentration of nursing homes in those areas. On March 1, 1984, the Complaint was dismissed as to defendants SMS, American Trust, Smith, and Bruce. The Final Judgment as to the two remaining defendants, Beverly and Beverly–Alabama, was entered on June 7, 1984 (1984-1 Trade Cas. (CCH) ¶ 66,052).

1983

- **United States v. North Dakota Hospital Association, et al. (A2-83-131, 08/25/83)**
  - One-count Complaint, alleging a violation of § 1 of the Sherman Act and a violation of § 4A of the Clayton Act , in the United States District Court for the District of North Dakota, Northeastern Division, on August 25, 1983. The Justice Department filed suit to stop defendants–the North Dakota Hospital Association ("NDHA"), a trade organization for the hospitals and nursing home industries in North Dakota; and 14 named operators of hospitals in North Dakota (out of approximately 54 of NDHA's member hospitals in North Dakota)–and unnamed co-conspirators from conspiring not to contract individually with the Indian Health Service ("IHS"), an agency of the U.S., at potentially lower rates than the hospitals' usual private rates. The Department alleged that defendants and unnamed co-conspirators had conspired to discourage hospitals in North Dakota from signing contracts proposed by IHS, to reject IHS's proposed contracts unless they included provisions maintaining the level of charges billed to IHS at rates equal to the hospitals' usual private rates, and to refuse to accept contracts proposed by IHS. The Department further alleged that, as a result, charges to IHS for medical and surgical services were fixed, maintained, and established at noncompetitive levels; competition in North Dakota for the sale to IHS of medical and surgical services was restrained, suppressed, and eliminated; and the United States, through its agency, IHS, had been denied the benefits of free and open competition in North Dakota for the purchase of medical and surgical services for IHS's members. The Government moved for summary judgment, which was granted, finding NDHA liable for violating § 1 of the Sherman Act. The Government's motion for an injunction, however, was denied because the Court determined that there was no "continuing threat of antitrust violations" (640 F. Supp. 1028 (D.N.D. 1986)).