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Maine Antitrust Formal Actions : 1984 - January 2005

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MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

<p><i>State of Maine v. Anesthesia Professional Association</i></p>	<p>Kennebec Superior Court</p>	<p>CV-84-250</p>	<p>Price-fixing, monopolization.</p> <p>Salaried anesthesiologists at MMC who also provided anesthesiology at Mercy, who provided or supervised all anesthesiology at both hospitals, left the employ of MMC and merged into an independent association that contracted with both hospitals for 100% of the anesthesiology services.</p> <p>The association established all prices, agreed not to accept assignment for most Medicare patients (agree to bill government and not patient for excess); for a term of months refused to contract with Blue Shield; and made efforts to block entry of certified registered nurse anesthetists.</p> <p>Agreed via Consent Decree to specific limitations on reimbursement increase, enjoined from controlling staff privilege decisions and CRNA hiring and scope of work decisions, entering into an exclusive contract with any hospital, collectively influencing educational opportunities of CRNAs.</p> <p>Expired October 31, 1993</p>
<p><i>State of Maine v. Bar Harbor Airways Incorporated, et al.</i></p>	<p>Kennebec Superior Court</p>	<p>1986</p>	<p>Complaint & Consent Decree.</p> <p>Merger of two small airlines in the same relevant geographical area. Merger permitted; acquiring airline agreed to restrictions.</p>
<p><i>State of Maine v. Business Equipment Unlimited, et al.</i></p>	<p>Kennebec Superior Court</p>	<p>CV-87-103</p>	<p>Complaint & Consent Decree.</p> <p>Allegations of price-fixing and market allocation in the sale of toner. Injunctive relief and \$35,000 civil penalties against four Defendants.</p>

MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

<p><i>State of Maine v. McCain Foods, et al.</i></p>	<p>Kennebec Superior Court</p>	<p>CV-87-342</p>	<p>Complaint & Consent Decree.</p> <p>Purchases of potatoes based on growers' willingness to purchase fertilizer or agricultural equipment or machinery. Alleged coercive reciprocal dealing – injunctive relief and costs.</p>
<p><i>In re: Augusta Lumber Company</i></p>	<p>Kennebec Superior Court</p>	<p>January, 1989</p>	<p>Assurance of Discontinuance under 5 M.R.S.A. § 207.</p> <p>Unfair competition in joint advertising of sales and hours of operation (<i>e.g.</i> all closed on certain holidays) by four area lumber companies.</p>
<p><i>State of Maine v. Getchell Bros., Inc., et al.</i></p>	<p>Kennebec Superior Court</p>	<p>CV-89-413</p>	<p>Complaint & Consent Decree.</p> <p>Market allocation in the sale of packaged or bulk ice. Injunctive relief, \$35,000 civil penalties against each Defendant and costs.</p>
<p><i>State of Maine v. Key Bank of Maine</i></p>	<p>U.S. District Court – District of Maine</p>	<p>91-0380-P-H</p>	<p>Complaint and Consent Decree under sec. 7 of the Clayton Act challenging Key Bank's acquisition of 11 branches of a competing bank (Casco Northern).</p> <p>Key Bank agreed to divest branches in 3 of the market areas and maintain specific loan to deposit ratios in certain other affected market areas.</p>

MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

<p><i>State of Maine v. Alliance for Healthcare Inc.</i></p>	<p>Kennebec Superior Court</p>	<p>CV-91-104</p>	<p>Complaint & Consent Decree.</p> <p>Price-fixing.</p> <p>Collective physician/hospital negotiations with managed care, not contracting separately when collectively not agreeing on terms.</p> <p>Enjoined from collective negotiation unless integrated joint venture and still able to contract separately.</p>
<p><i>State of Maine v. Cardiovascular & Thoracic Associates, P.A., et al.</i></p>	<p>Kennebec Superior Court</p>	<p>1992</p>	<p>Complaint & Consent Decree.</p> <p>Merger.</p> <p>4 of the 9 cardiac surgeons in Portland, performing 60% of the cardiac surgery performed at MMC.</p> <p>Agreed to do business with managed care on terms no less favorable than those for other cardiac surgeons or general surgeons and limit fee increases and tie into rate of inflation (and forego for one year).</p> <p>Also agreed to accept assignment under Medicare, not to balance bill BCBS, not to solicit exclusive contract with a third party payor or a hospital, participate in at least 3 managed care plans, and maintain a single fee schedule for private-pay patients and insurers.</p> <p>Provide notice to AG prior to any fee increase or merger.</p>
<p><i>State of Maine v. Mid Coast Anesthesia, PA, et al.</i></p>	<p>Kennebec Superior Court</p>	<p>CV-92-09</p>	<p>Complaint and Consent Decree regarding merger of anesthesiologists.</p> <p>All 3 of the anesthesiologists practicing at Midcoast Hospital agreed to do business with managed care on terms no less favorable than those for other anesthesiologists and limit fee increases and tie</p>

MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

			<p>into rate of inflation (and forego for one year). Agreed not to solicit with payer or hospital an exclusive contract.</p> <p>Shall not decide or collectively recommend termination or restriction of another anesthesiologist's or CRNA's staff privileges.</p> <p>Provide notice to AG prior to any fee increase or merger or entry into exclusive contract.</p> <p>Expired 1/99.</p>
<i>State of Maine v. Aloupis, Benoit, Harris, Lebowitz, Solomon</i>	Kennebec Superior Court	CV-93-73	<p>Agreement in restraint of trade.</p> <p>OBGYNs docs at EMMC had block booked GYN operating room closing out new entrants or unaffiliated physicians.</p> <p>Agreed via Consent Decree not to allocate operating room time on a regular and continuing basis.</p>
<i>State of Maine v. Rite-Aid Corp.</i>	Kennebec Superior Court	1995-2 Trade Cases ¶ 71,148 (Me., September 29, 1995)	<p>Drug store merger involving multiple retail outlets.</p> <p>Joint state-FTC investigation.</p> <p>Consent Decree requires divestitures in several local markets.</p>
<i>State of Maine v. Maine Heart Surgical Assocs., P.A.</i>	Kennebec Superior Court	CV-96-336 1996-2 Trade Cases ¶ 71,654 (Me., July 22, 1995)	<p>Complaint & Consent Decree.</p> <p>Merger.</p> <p>As a condition of 9 out of the 10 cardiac surgeons practicing in Portland (who performed 80% of the cardiac surgery performed at MMC) merging into one practice, surgeons agreed be bound (at the option of managed care companies) to reimbursement at pricing levels in Boston markets.</p> <p>Surgeons claimed merger would enhance clinical issues and increase</p>

MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

			their ability to sub-specialize.
<i>State of Maine v. Central & Western Maine Regional PHO, Inc., et al.</i>	Kennebec Superior Court	1996-1 Trade Cases ¶ 71,320; 1996 WL 157202 (Me., January 18, 1996)	<p>Hospital Cooperation Act action resulting in Complaint & Consent Decree.</p> <p>Merger of 4 physician-hospital networks into regional network to jointly negotiate with managed care.</p> <p>Enjoined from operating an exclusive network; implementing right-of-first-refusal policies; urging physician participants to terminate, not to negotiate or not to renew contracts with payors; and setting fees or negotiating on behalf of participating providers.</p> <p>Subject to monitoring by the Attorney General who can limit ability to contract with managed care if the network does not meet promised performance standards in the form of cost savings and utilization reductions.</p> <p>No provider contract longer than 2 years unless required by the payor.</p>
<i>State of Maine v. American Skiing Co./Sunday River</i>		1996-2 Trade Cases ¶ 71,478 (Me., June 27, 1996)	<p>Consent Decree requires adherence to price restrictions.</p> <p>DOJ had already cleared after divestitures in New Hampshire.</p>
<i>State of Maine v. Equity Corporation International</i>	Kennebec Superior Court	CV-98-312	<p>Funeral home merger.</p> <p>Consent Decree requires divestiture.</p>
<i>State of Maine v. Maine Chiropractic Ass'n,</i>	Kennebec Superior Court	CV-99-135	<p>Price fixing, concerted refusal to deal.</p> <p>Association attempted to negotiate price and other terms on behalf of collective members and urged members not to deal with payors separately.</p>

MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

			<p>Agreed via a Consent Decree not to negotiate terms of members' contracts with payors or refuse to deal or solicit members to refuse to deal with managed care companies.</p> <p>Required to send members a brochure on antitrust laws vis s vis associations and conduct antitrust compliance training biannually for six years.</p> <p>Injunctive relief, \$40,000 civil penalties and costs.</p>
<i>State of Maine v. Casella Waste Systems, Inc., et al.</i>	Kennebec Superior Court	CV-99-212	<p>Complaint & Consent Decree.</p> <p>Proposed merger in solid waste hauling and disposal industry. Merger permitted with significant conditions.</p>
<i>State of Maine v. Connors Brothers Ltd.</i>		2001-1 Trade Case ¶ 72,937 (Me. March 29, 2000)	<p>Challenge to merger of sardine processors resolved by Consent Decree requiring merged entity to continue to produce an annual minimum quota of finished product; purpose of requirement is to safeguard competition in the Gulf of Maine purchase market for herring. Subsequent agreed-upon amendments reduce production quota and substitute Bumble Bee as Defendant.</p>
<i>State of Maine v. Bridgton Hospital, MMC</i>	Kennebec Superior Court	CV-00-87	<p>Market allocation through agreement to restrict advertising.</p> <p>Agreed to refrain from allocating territories, customers or advertising markets.</p> <p>MaineHealth also agreed to provide info on existing and future agreements with competitors entered for the purpose of avoiding duplication of services (expires December 31, 2004).</p>

MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

			<p>Bridgton Hospital entered into a Consent Decree, MaineHealth & MMC a Settlement Agreement.</p> <p>Injunctive relief, \$10,000 civil penalties and costs.</p>
<i>State of Maine v. Coutts Bros., Inc., et al.</i>	Kennebec Superior Court	CV-00-088	<p>Complaint & Order.</p> <p>Bid rigging (price-fixing) by utility construction contractors found after trial.</p> <p>Injunctive relief, \$30,000 civil penalties split among four Defendants and costs.</p>
<i>State of Maine v. Flagship Cinemas Management, Inc., et al.</i>	Knox Superior Court	CV-03-087	<p>Complaint seeking divestiture of acquired theater.</p> <p>Dismissal of all claims after voluntary divestiture accomplished.</p>
<i>State of Maine v. Maine Health Alliance, et al.</i>	Kennebec Superior Court	CV-03-135	<p>State action parallel to FTC action against same defendants.</p> <p>Allegations that PHO engaged in price-fixing and concerted refusals to deal in contracting with managed care payors.</p> <p>Agreement via consent decree to refrain from group contracting unless advance notice to state and FTC that it intends to contract as a qualified risk-sharing joint arrangement or qualified clinically-integrated joint arrangement.</p> <p>Separate settlement agreement with hospitals agreeing to same relief.</p>
<i>State of Maine v. Rite-Aid Corp./Community Pharmacy</i>	Kennebec Superior Court	CV-04-273	<p>Consent Decree signed with Rite Aid and Community Pharmacy on Nov. 17, 2004 related to Rite Aid's acquisition of several competitor drug stores owned by Community Pharmacy. Rite Aid agreed to restrictions, including limiting non-compete provisions and to</p>

MAINE ANTITRUST FORMAL ACTIONS 1984-DATE

January 2005

			payment of a civil penalty for failing to notify AG of a 2003 acquisition, in violation of a 1995 Consent Decree (CV-95-403). Injunctive relief, \$2,000 civil penalties and costs.
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