

From *Antitrust Law Daily*, May 1, 2017

Texas jury returns \$131.4M verdict against GE over anesthesia equipment parts monopoly

By Linda O'Brien, J.D., LL.M.

A jury in the federal district court in Marshall, Texas, has found that General Electric Co., a leading manufacturer of medical anesthesia gas equipment, suppressed competition for the parts for its equipment by entering into an exclusive distributor arrangement thereby requiring equipment servicing competitors to purchase parts at inflated prices. The jury [awarded](#) actual damages of \$43,803,344 to the 17 anesthesia business plaintiffs, which were trebled, making the final verdict \$131,410,032 (*Red Lion Medical Safety, Inc. v. General Electric Company, Inc.*, April 26, 2017).

In March 2015, the businesses filed [suit](#), alleging that in 2003, GE became dominant in the anesthesia market by acquiring Datex-Ohmeda, the largest manufacturer of anesthesia gas machines in the United States, which controlled approximately 70 percent of the market share. Previously, Ohmeda would sell directly to independent service organizations (ISOs) parts, tools, test equipment, supplies, service manuals, and specifications for Ohmeda equipment.

In 2011, GE entered into an arrangement under which Alpha Source, Inc. would become its sole distributor of non-imaging service parts. Although Ohmeda had previously sold parts directly to ISOs at wholesale list prices, the arrangement mandated that ISOs could only obtain parts from GE's exclusive distributor, Alpha Source, at highly inflated prices. The change in GE's policy was an unreasonable restraint of trade especially since GE controlled nearly 100 percent of the parts markets. Moreover, the agreement resulted in the elimination of GE's anesthesia and DI service rivals, the complaint charged.

The jury found that GE had engaged in anticompetitive conduct with the intent to acquire or maintain a monopoly in the anesthesia equipment and anesthesia equipment servicing markets and determined compensation of over \$43 million for the injuries to the businesses for the antitrust violations. Under the antitrust statutes, the damages were automatically trebled. In addition, the plaintiffs will recover interest, attorney's fees, and expenses incurred in the bringing the litigation.

The case is [No. 2:15-cv-00308](#).

Attorneys: Samuel Franklin Baxter (McKool Smith PC) and Paul Franklin Ferguson, Jr.(The Ferguson Law Firm, LLP) for Red Lion Medical Safety, Inc., Universal Medical Services, Inc., Metropolitan Medical Services of NC, Inc., Biomedical Concepts, Anesthesia Services, Inc., Diversified Anesthesia, LLC, Paragon Service, Bay State Anesthesia, Inc., POPN, Inc., Penn Biomedical Support, Inc., Gasmedix, LLC, West Coast Anesthesia Specialists, Inc., Palo Verde Medical Consultants, LLC, Heartland Medical Sales & Services, LLC. Christopher W. Patton (Lynn Tillotson Pinker & Cox, LLP), Douglas L. Wald (Arnold & Porter Kaye Scholer, LLP) for General Electric Company, GE Healthcare, GE Technology Infrastructure, and Datex-Ohmeda.

Companies: Red Lion Medical Safety, Inc.; Universal Medical Services, Inc.; Metropolitan Medical Services of NC, Inc.; Biomedical Concepts; Anesthesia Services, Inc.; Diversified Anesthesia, LLC; Paragon Service; Bay State Anesthesia, Inc.; POPN, Inc.; Penn Biomedical Support, Inc.; Gasmedix, LLC; West Coast Anesthesia Specialists, Inc.; Palo Verde Medical Consultants, LLC; Heartland Medical Sales & Services, LLC; General Electric Company; GE Healthcare; GE Technology Infrastructure; and Datex-Ohmeda

MainStory: TopStory Antitrust FranchisingDistribution TexasNews