

Denver Law Review

Volume 68
Issue 4 *Tenth Circuit Surveys*

Article 12

February 2021

Antitrust

Denver University Law Review

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Recommended Citation

Denver University Law Review, Antitrust, 68 Denv. U. L. Rev. 525 (1991).

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ANTITRUST

Oberndorf v. City and County of Denver, 900 F.2d 1434

Author: Judge Moore

Plaintiff, Oberndorf, and other landowners, appealed a summary judgment order by the district court ruling that the City and County of Denver (the “city”) was immune from liability for antitrust violations alleged in connection with an urban renewal plan. The landowners argued that the city’s actions were not authorized by state law, the urban renewal plan was a “sham” because of the timing of the city’s choice of a project developer, and the city illegally conspired to misrepresent a three block area as “blighted.”

The Tenth Circuit affirmed the district court’s order. On *de novo* review, the court found that the city’s blight study comported with the statutory definition of “blighted area.” The court also stated that the early choice of a developer was proper. The court explained that the realities of urban revitalization require an early determination of whether a public/private partnership is feasible. Finally, the landowners failed to show that the renewal plan was not authorized by state law.

Reazin v. Blue Cross and Blue Shield, Inc., 899 F.2d 951

Author: Judge Anderson

Defendant, Blue Cross and Blue Shield of Kansas, Incorporated (“Blue Cross”), appealed an adverse jury verdict. This verdict awarded plaintiffs Reazin, HCA Health Services of Kansas, Incorporated (“Wesley”), Health Care Plus (“HCP”), and New Century Life Insurance Company (“New Century”), damages for injury resulting from Blue Cross’s violations of the Sherman Antitrust Act (the “Act”) and tortious interference with Wesley’s business affairs under Kansas law. The plaintiffs’ theory was that Blue Cross conspired with two hospitals to harm Wesley’s business and, thus, to inform other hospitals not to enter into relationships with Blue Cross’s competitors as Wesley had done. Blue Cross alleged that the district court erred by granting summary judgment to plaintiffs on its counterclaim and by refusing to grant a directed verdict, judgment notwithstanding the verdict, or a new trial.

The Tenth Circuit affirmed the decisions of the district court, remanding only the award of expert witness fees. In upholding the jury verdict regarding the Act, the court found that: (1) Wesley properly established standing and antitrust injury because although not a health care provider, it was a perceived competitor, and its injury was so inextricably intertwined with the alleged conspiracy as to establish antitrust injury; (2) the jury’s finding of conspiratorial conduct was supported by sufficient circumstantial evidence, and its finding of unreasonable restraint of trade was supported by sufficient evidence; (3) the findings of market and monopoly power and damages were supported by sufficient

evidence of threats to terminate the perceived competitor's contracting provider agreement as well as by the size and economic leverage over hospitals possessed by Blue Cross. The court also determined that sufficient evidence existed to support the jury's finding that Blue Cross willfully acquired and maintained its monopoly power in violation of the Act as well as by the finding of tortious interference under Kansas law.