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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

SAINT ALPHONSUS MEDICAL CENTER, NAMPA, INC., TREASURE VALLEY HOSPITAL LIMITED PARTNERSHIP, SAINT ALPHONSUS HEALTH SYSTEM, INC., AND SAINT ALPHONSUS REGIONAL MEDICAL CENTER, INC., Plaintiffs, v. ST. LUKE'S HEALTH SYSTEM, LTD, and ST. LUKE'S REGIONAL MEDICAL CENTER, LTD., Defendants.	Case No. 1:12-cv-00560-BLW (Lead Case) **ST. LUKE'S PARTIAL OPPOSITION TO BLUE CROSS OF IDAHO'S MOTION FOR RECONSIDERATION OF THE COURT'S JULY 3, 2014 ORDER REGARDING UNSEALING EXHIBITS AND TESTIMONY**
FEDERAL TRADE COMMISSION; STATE OF IDAHO Plaintiffs, v. ST. LUKE'S HEALTH SYSTEM, LTD.; SALTZER MEDICAL GROUP, P.A. Defendants.	Case No. 1:13-cv-00116-BLW

INTRODUCTION

Blue Cross of Idaho ("BCI") has asked this Court to permit it to withhold from the public, or substantially to redact, six trial exhibits and six excerpts of trial testimony. St. Luke's opposes BCI's motion with regard to two excerpts of trial testimony: (1) trial testimony page 360, line 11 through page 363, line 18, and (2) trial testimony pages 391-396. As we explain below, neither of these excerpts contains information that should be withheld from public view. St. Luke's takes no position regarding the remainder of BCI's motion.

1. There Is No Legitimate Basis For Keeping From the Public Trial Testimony Page 360, Line 11 through Page 363, Line 18.

The testimony at issue relates to information reported in an article in the Idaho Statesman. *See* "Idaho health insurers pile up surpluses," (March 3, 2013), http://www.idahostatesman.com/2013/03/03/2474785/idaho-health-insurers-pile-up.html (last viewed July 28, 2014). In its July 3, 2014 Order, the Court ordered this testimony unsealed, explaining that "[t]he testimony was based on an article in the local newspaper and thus cannot be considered confidential." 7/3/14 Order at 52.

Notably, BCI's motion for reconsideration does not contend that the testimony at issue contains any confidential information. And the testimony, in fact, does not contain any such information. Instead, BCI asserts that the testimony "is not part of the official trial record" (Motion at 11). However, this assertion provides no cognizable basis for reconsideration of the Court's ruling that this portion of the transcript should not be kept from the public.

2. There Is No Legitimate Basis For Keeping From the Public Trial Testimony Pages 391-396.

BCI argues that this testimony should be withheld from the public because it "discusses" a particular amendment to the BCI/St. Luke's contract. The Court has already granted BCI's request to redact the text of that amendment. However, the Court specifically declined to seal discussions between BCI and St. Luke's *about* that amendment or the underlying issues that prompted that amendment. *See* 7/3/14 Order at 59 (allowing the specific language of the amendment, but not the remainder of Joint Exhibit 2, to be redacted). Indeed, the testimony that BCI seeks to maintain under seal quotes directly from those portions of Joint Exhibit 2 that the Court declined to seal. *See* Trial Tr. at 395:6-396:5.

The testimony on pages 391-396 relates to the issue of "hospital billing," and specifically to one of St. Luke's arguments as to why BCI's analyses of the purported financial effects of the Saltzer transaction on BCI were unsubstantiated and inconsistent with the terms of the contracts the parties negotiated. In light of the Court's repeated statements that information relating to "hospital billing" should be unsealed, BCI offers no reason why this particular testimony should remain sealed when other testimony concerning BCI's analyses is being unsealed.

CONCLUSION

For the foregoing reasons St. Luke's opposes BCI's motion for reconsideration with regard to trial testimony page 360, line 11 through page 363, line 18, and trial testimony pages 391-396.

Respectfully submitted,

s/ J. Walter Sinclair

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Dated: July 30, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 30, 2014, I filed the foregoing **ST. LUKE'S PARTIAL OPPOSITION TO BLUE CROSS OF IDAHO'S MOTION FOR RECONSIDERATION OF THE COURT'S JULY 3, 2014 ORDER REGARDING UNSEALING EXHIBITS AND TESTIMONY** electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected in the Notice of Electronic Filing:

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