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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

SAINT ALPHONSUS MEDICAL CENTER et al., Plaintiff, vs. ST. LUKE'S HEALTH SYSTEM, LTD. AND ST. LUKE'S REGIONAL MEDICAL CENTER, LTD., Defendants.	Case No. 1:12-cv-00560-BLW **REPLY TO ST. LUKE'S PARTIAL OPPOSITION TO BCI'S MOTION FOR RECONSIDERATION OF THE COURT'S JULY 3, 2014 ORDER REGARDING UNSEALING EXHIBITS AND TESTIMONY**
FEDERAL TRADE COMMISSION; STATE OF IDAHO, Plaintiff, vs. ST. LUKE'S HEALTH SYSTEM, LTD.; SALTZER MEDICAL GROUP, P.A. Defendants.	Case No. 1:13-cv-00116-BLW

COMES NOW Blue Cross of Idaho Health Service, Inc. ("BCI"), by and through its attorneys of record, Eberle, Berlin, Kading, Turnbow & McKlveen, Chtd., and hereby submits this reply to St. Luke's Partial Opposition to BCI's Motion for Reconsideration of the Court's July 3, 2014 Order Regarding Unsealing Exhibits and Testimony (Docket No. 519).

A. Trial testimony on page 360, line 11 through page 363, line 18.

BCI previously designated this testimony as confidential because the testimony had been struck and it discussed BCI's confidential financial information regarding planning and projections. *See* Declaration of Samuel A. Diddle dated October 14, 2013, p. 18 (Docket No. 334). In the Court's Memorandum Decision and Order dated July 3, 2014 (Docket No. 511), the Court explained that evidence may remain sealed if it contained strategic financial information, had only the faintest connection to the issues in the case, and was not important to the Court's decision. The testimony identified above clearly fits within this "sealable" category of evidence.

St. Luke's argues that this testimony should not be confidential because the testimony addresses a published newspaper article. While the testimony does address an Idaho Statesman's article, the testimony also discusses confidential financial information related to BCI's projections and planning. In addition, the testimony in question was stricken from the trial record and it can therefore have no connection to the issues to the case or be important to the Court's decision. This testimony is simply not part of the record and there is no reason that the Court should now order it disclosed, especially since the testimony includes confidential information.

B. Trial testimony pages 391-396.

St. Luke's acknowledges that the Court had approved redaction of contractual language quoted in Joint Exhibit 2, but St. Luke's claims that the testimony on pages 391-396 is not related to this contractual language. This assertion is incorrect. While there is some discussion of hospital

billing issues in this testimony, the majority of the testimony is focused upon BCI's ability to enforce contractual terms that the Court has ordered not be publicly disclosed. The terms have remained confidential in numerous exhibits. Releasing this testimony would reveal a specific provision in the current contract that is highly sensitive business information. More importantly, the specific provision is confidential to BCI and BCI's competition should not have access to it. For these reasons, the testimony should remain sealed.

BCI respectfully requests the Court grant its Motion for Reconsideration concerning the limited exhibits and trial testimony addressed in the Motion.

DATED this 6th day of August, 2014.

EBERLE, BERLIN, KADING, TURNBOW & McKLVEEN, CHARTERED

By: /s/ Samuel A. Diddle
Samuel A. Diddle
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of August, 2014, I filed the foregoing with the Clerk of the Court electronically through the CM/ECF system, and caused the same to be emailed to the following parties or counsel:

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