TESTIMONY OF KATHY MOORE

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In the United States Federal District Court for the District of Idaho

Saint Alphonsus Medical Center-Nampa, Inc., et. al. v. St. Luke's Health System Ltd., et. al.

Case No. 1:12-cv-00560-BLW

Page Range: 8:11-8:25

8:11 Q. Could you state your full name for the record,
8:12 please.
8:13 A. Kathy Deanne Moore.
8:14 Q. And what's your occupation, Ms. Moore?
8:15 A. I'm the chief operating officer at St. Luke's
8:16 Regional Medical Center.
8:17 Q. And what are your responsibilities as the
8:18 chief operating officer?
8:19 A. My responsibilities are to run the
8:20 day-to-day operations of the organization.
8:21 Q. And when you say "the organization," can you
8:22 explain to me what's comprised by "the organization"?
8:23 A. Yes. It's two hospitals, the one in Boise and
8:24 Meridian and then I do have oversight of operations from
8:25 Boise to Baker City.

Page Range: 26:20-27:10

26:20 Q. You've been handed Plaintiff's Exhibit 1973, I
26:21 believe.
26:22 Can you tell me what that is?
26:23 A. It looks like the front page of a notebook that I
26:24 would use to take my notes.
26:25 Q. So, are the notes in Exhibit 1973 your notes?
Page 27
27: 1 A. Yes, they are.
27: 2 Q. Why don't you turn to Page 488 is the Bates
27: 3 Number in the lower right. And there's a discussion there
27: 4 of a leadership --
27: 5 Are you there?
27: 6 There's a discussion there of a leadership team
27: 7 meeting on March 21, 2011; is that right?
27: 8 A. Did you say March 21st, 2011?
27: 9 Q. Yes.
27:10 A. Yeah.

Page Range: 30:21-31:18

30:21 Q. Okay. Why don't you turn to Page 489.
30:22 A. Okay.
30:23 Q. The Line 32 -- you really make it easy with these
30:24 numbered lines.
30:25 A. Oh, okay.
Page 31
31: 1 Q. It says "we have a lot of average..."
31: 2 What does that refer to?
31: 3 A. We have a lot of average performance, according
31: 4 to the HealthGrades report, in quality.
31: 5 Q. Okay. Then it says "many of our indicators are
31: 6 going the wrong direction."
31: 7 Can you explain what you meant by that?
31: 8 A. Yes. That says "many of our indicators are going
31: 9 the wrong direction because others are improving."
31:10 But we were experiencing across the country was
31:11 all other hospitals, including the hospital I was with
31:12 prior to this, was putting a lot of emphasis on our
31:13 quality metrics. And hospitals, as other hospitals across
31:14 the country focused and improved their metrics, St. Luke's
31:15 were just going the wrong direction.
31:16 They weren't -- they weren't doing worse in their
31:17 quality. But the measurement showed that they were losing
31:18 ground because others were improving their quality.

Page Range: 38:22-39:1

38:22 Q. Ms. Moore, I think you've been handed
38:23 Plaintiffs' Exhibit 1111, which is a variety of emails
38:24 involving you and Angela Christensen and Chris Roth.
38:25 Have I properly identified the document?
Page 39
39: 1 A. Yes.

Page Range: 39:18-40:14

39:18 Q. Okay. So, let's talk about her email to you on
39:19 August 13, 2012, at 11:58 a.m.
39:20 Do you see that one?
39:21 A. Yes.
39:22 Q. And she talks about a Dr. Poole validating a
39:23 study.
39:24 Who is Dr. Poole?
39:25 A. Dr. Poole is an orthopaedic surgeon.

Page 40
40: 1 Q. Which group is he in; do you know?
40: 2 A. I don't.
40: 3 Q. Okay. She says "He validated for me a study that
40: 4 I found indicating physician productivity falls by
40: 5 20 percent when practices are purchased."
40: 6 Do you see that?
40: 7 A. I do.
40: 8 Q. Did you and she have any discussion about that
40: 9 study that she found?
40:10 A. No.
40:11 Q. Okay. Did you look at the study?
40:12 A. No.
40:13 Q. Were you interested in looking at the study?
40:14 A. No.

Page Range: 41:15-41:25

41:15 Q. Okay. So, then, you sent this on to Chris Roth,
41:16 your boss; right?
41:17 A. Uh-huh, yes.
41:18 Q. Yeah.
41:19 A. Sorry.
41:20 Q. And you said "Recognizing Angela can be gruff in
41:21 her communication, please do not forward the below."
41:22 So, was there something "gruff" about this email
41:23 from Angela?
41:24 A. Well, she's accusing our physicians of practicing
41:25 less because they've been acquired by St. Luke's.

Page Range: 43:8-43:11

43: 8 Q. So, as far as you know, St. Luke's has never
43: 9 examined whether productivity goes up, goes down or stays
43:10 the same after a group is acquired?
43:11 A. No.

Page Range: 43:12-43:16

43:12 Q. Okay. Again, we have a yes/no. It's probably my
43:13 fault. Let me just be clear.
43:14 So, am I correct that as far as you know
43:15 St. Luke's has never studied what I've just described?
43:16 A. Not that I'm aware of.

Page Range: 45:8-46:20

45: 8 Q. Would you take a look at Exhibit 1113, which
45: 9 you've been handed, which is a series of emails involving
45:10 a number of people, including Dr. Souza and yourself. So,
45:11 take a look at it and I'll ask you about it.
45:12 A. Okay.
45:13 Q. So, what was this discussion about in these
45:14 emails?
45:15 A. It appears from the email that we had a referral
45:16 to a primary care provider that was on the Treasure Valley
45:17 call list for a followup appointment from our Nampa ED.
45:18 Q. And it was a referral to a Meridian provider for
45:19 a Nampa patient; is that right?
45:20 A. That's what it appears to be.
45:21 Q. And Dr. Souza -- who is Dr. Souza?
45:22 A. At -- let's see. Dr. Souza became our VP,
45:23 vice president of medical affairs, on October 1st, 2012.
45:24 Q. Okay. So, that's the position he had as of the
45:25 time of these emails?
Page 46
46: 1 A. Yes.
46: 2 Q. And he's saying, you know, sending somebody from
46: 3 Nampa to Meridian may make sense for specialty care, but
46: 4 really not for primary care; is that right?
46: 5 A. Yes.
46: 6 Q. Do you agree with that?
46: 7 A. Yes.
46: 8 Q. Okay. And why is that?
46: 9 A. Well, we had put practices in place to where
46:10 primary care would have access to -- that patients would
46:11 have access to primary care in both Nampa and Caldwell, as
46:12 they preferred, from our Nampa ED.
46:13 Q. Okay.
46:14 A. It was never meant that they would be referred
46:15 into Boise or Meridian for primary care.
46:16 Q. Okay. And why was it never meant that they would
46:17 be referred in to Boise or Meridian for primary care?
46:18 A. Because we had primary care physician's both in
46:19 Nampa and in Caldwell that were willing to follow these
46:20 patients after an emergency department visit.

Page Range: 78:3-78:16

78: 3 Q. You have been shown what's been marked as
78: 4 Exhibit 1118, Ms. Moore. Why don't you take a look at it

78: 5 and tell me when you're ready to discuss it.
78: 6 And again, when I'm ready to talk about
78: 7 particular items, I'll point you to something.
78: 8 A. Okay.
78: 9 Q. What is this document?
78:10 A. This is a monthly document that I require of
78:11 those individuals that report through the Treasure Valley.
78:12 Q. So, is this your -- is this a document you
78:13 prepare with input from others or not?
78:14 A. John Barnes is a financial person that helps
78:15 gather this data from all of my direct reports and
78:16 Joanne's direct reports.

Page Range: 79:9-80:1

79: 9 Q. Okay. So, that phrase in-network referral
79:10 patterns, does it mean different things at different
79:11 times?
79:12 A. Yes.
79:13 Q. And how does one tell what it means at a
79:14 particular point in time?
79:15 A. I'd say you have to look at the context of the
79:16 document.
79:17 Q. Okay. Now, underneath that, it says "Integration
79:18 of new groups" and you see it says "Saltzer Medical Group
79:19 (not final), Boise Surgical Group (completed),
79:20 Surgical Oncology (completed)"?
79:21 A. Yes.
79:22 Q. And that's under a broad category called
79:23 Revenue Enhancements?
79:24 A. Yes.
79:25 Q. So, how are these acquisitions going to enhance
Page 80
80: 1 revenue?

Page Range: 80:3-80:4

80: 3 THE WITNESS: Their revenue would now be recorded
80: 4 on our financial statements as well as their expenses.

Page Range: 81:23-81:25

81:23 Q. Okay. It would have to be some manner in which
81:24 the acquisition of those groups increased inpatient or

81:25 outpatient hospital revenues; correct?

Page Range: 82:1-82:4

82: 1 A. It could increase revenue or we could also get
82: 2 additional savings through the integration process. But I
82: 3 think aligning those groups were felt to be a positive
82: 4 impact to our financial statement.

Page Range: 83:3-83:6

83: 3 Q. What you're saying here is the acquisition would
83: 4 result, you believed, in greater use of the hospital;
83: 5 isn't that right?
83: 6 A. Yes.

Page Range: 94:12-95:4

94:12 Q. Ms. Moore, you've been shown Exhibit 160. Take a
94:13 look at it and tell me when you're ready.
94:14 1120. I'm sorry.
94:15 Is that what it is, 1120?
94:16 A. Yes.
94:17 Q. Okay.
94:18 A. Oh, yes.
94:19 Q. Is 1120 an email exchange between you and
94:20 Angela Christensen?
94:21 A. Yes.
94:22 Q. And she asks you "If Saltzer spins off" -- well,
94:23 actually, let me back up.
94:24 So, this is September of 2012?
94:25 A. Yes.
Page 95
95: 1 Q. And at that point, it was generally believed that
95: 2 Saltzer would be agreeing to do a deal with St. Luke's;
95: 3 correct?
95: 4 A. Yes.

Page Range: 95:7-95:12

95: 7 Q. And at that point, was it also generally believed
95: 8 that the general and orthopaedic surgeons at St. Luke's --
95: 9 let me start that over.
95:10 Was it generally believed at that time that the

95:11 general and orthopaedic surgeons at Saltzer might well be
95:12 leaving Saltzer and not participating in the transaction?

Page Range: 95:14-96:1

95:14 THE WITNESS: We had heard that the general
95:15 surgeons and the orthopaedic surgeons had expressed
95:16 interest to spin out of Saltzer?
95:17 BY MR. ETTINGER:
95:18 Q. Okay. So, Ms. Christensen says "If Saltzer spins
95:19 off General and Ortho specialties who will they refer to?"
95:20 That's her question?
95:21 A. Yes.
95:22 Q. And by "they" she meant the remaining Saltzer
95:23 physicians; correct?
95:24 A. Yes.
95:25 Q. And you said "St. Luke's aligned docs"; correct?
Page 96
96: 1 A. Yes.

Page Range: 96:2-96:9

96: 2 Q. And what was your basis for that statement?
96: 3 A. I was assuming that because of the disruption
96: 4 between the physicians in Saltzer between the physicians
96: 5 that wanted to stay and align with St. Luke's that the
96: 6 relationship would have been damaged by their current
96: 7 orthopaedic and general surgeons. I mean, that was an
96: 8 assumption. And so that the Saltzer remaining physicians
96: 9 would then find other avenues.

Page Range: 96:22-97:4

96:22 Q. Okay. And align does mean a physician who will
96:23 works with St. Luke's refers to St. Luke's; correct?
96:24 A. Yes.
96:25 Q. Practices at St. Luke's?
Page 97
97: 1 A. Yes.
97: 2 Q. Uses St. Luke's surgical facilities if he or she
97: 3 is a surgeon?
97: 4 A. Yes.

Page Range: 101:6-102:2

101: 6 Is there -- before I show you a document, is a
101: 7 Meridian ambulatory surgery center being planned?
101: 8 A. Yes.
101: 9 Q. Has the decision been made to go forward with
101:10 that?
101:11 A. Yes.
101:12 Q. Has construction begun?
101:13 A. Yes.
101:14 Q. When did it begin?
101:15 A. January 2013.
101:16 Q. And when it is due to be completed?
101:17 A. December 2013.
101:18 Q. And how many ORs are going to be in that
101:19 ambulatory surgery center?
101:20 A. There will be two ORs that are finished in that
101:21 facility.
101:22 Q. And what's the approximate cost of that facility,
101:23 ballpark?
101:24 A. About eight million to build.
101:25 Q. Okay. I've got a number of questions about that
Page 102
102: 1 facility, naturally?
102: 2 A. Okay.

Page Range: 102:6-103:16

102: 6 Q. You've been handed Exhibit 165, I bet; is that
102: 7 right?
102: 8 A. Yes.
102: 9 Q. Okay. Which is -- why don't you take a look at
102:10 that. Tell me when you're ready.

Page Range: 102:11-103:16

102:11 The only thing I'm going to ask you about is on
102:12 the first page.
102:13 A. Oh, okay.
102:14 Q. So, is this, in fact, an email you sent out to
102:15 quite a number of people, including Jeff Taylor and
102:16 Chris Roth and Angela Christensen about, you know, your
102:17 thoughts about what should go into a write-up on the ASC?
102:18 A. Yes.
102:19 Q. And this would be a write-up to go to the audit
102:20 and finance committee for approval?

102:21 A. Yes.
102:22 Q. Okay. So, I want to ask you about, under
102:23 "ProForma notes," the fifth bullet, the one that talks
102:24 about Saltzer, no surprise.
102:25 You say there "A significant number of" Saltzer
103: Page 103
103: 1 -- you say Seltzer, but you mean Saltzer; right?
103: 2 A. Yes.
103: 3 Q. "A significant number of Saltzer surgical cases
103: 4 are currently performed at Treasure Valley Hospital"?
103: 5 A. Yes.
103: 6 Q. "As Saltzer recruits to backfill the loss of
103: 7 orthopaedics and general surgery physicians that have
103: 8 recently left the group, we anticipate cases will be
103: 9 performed at St. Luke's Meridian."
103:10 A. Yes.
103:11 Q. Did I read that correctly?
103:12 A. Yes.
103:13 Q. And was that your view?
103:14 A. Yes.
103:15 Q. And is that your view today?
103:16 A. Yes.

Page Range: Page 103:23-104:20

103:23 Q. Why did you reference Treasure Valley Hospital?
103:24 A. Because the orthopaedic and general surgeons that
103:25 practice within the Saltzer facility had been performing
Page 104
104: 1 their procedures at Treasure Valley Hospital. And this
104: 2 goes back to the earlier issue of because they had damaged
104: 3 those relationships, because we all know referrals are
104: 4 based on relationships in addition to quality and service,
104: 5 that they would have damaged their relationship with the
104: 6 remaining Saltzer physicians was my assumption. And that
104: 7 those remaining physicians would be looking at alternative
104: 8 physicians to fill that hole, based on services that they
104: 9 desired for their patients.
104:10 Q. And you expected they would use St. Luke's
104:11 physicians who used St. Luke's Meridian to perform those
104:12 surgeries?
104:13 A. That would be my assumption, because there's not
104:14 a surgery center or surgical services in Nampa currently.
104:15 Q. Saint Al's does not have a surgery center?
104:16 A. Well, in Saint Al's. But Saint Al's did not
104:17 have -- again, the Saint Al's orthopaedic and general
104:18 surgery physicians are the Saltzer prior physicians. And

104:19 again, it comes back to that damaged relationship that
104:20 they're not going to refer to them.

Page Range: 104:21-104:23

104:21 Q. So, the tell me what you know personally about a
104:22 so-called damaged relationship.
104:23 A. It's all assumption.

Page Range: 118:14-118:22

118:14 Q. Is there any reason why, after an acquisition by
118:15 St. Luke's of Saltzer, that the Saltzer primary care
118:16 doctors couldn't refer to a surgeon at Saint Al's in
118:17 Boise?
118:18 A. Not at all.
118:19 Q. But you assumed that that's not what would
118:20 happen, that the business would go to the Meridian ASC;
118:21 correct?
118:22 A. I made that assumption.

Page Range: 131:6-131:13

131: 6 Q. Okay. When you were at West Valley, did you deal
131: 7 with Saltzer much?
131: 8 A. No.
131: 9 Q. Did you regard them as being in a different
131:10 market?
131:12 THE WITNESS: I regard the Treasure Valley as one
131:13 market. I don't regard them as separate markets.

Page Range: 131:15-131:23

131:15 Q. Let me ask you this: When you were a CEO at
131:16 West Valley, did you have regular interaction with
131:17 physicians in Caldwell?
131:18 A. Yes.
131:19 Q. And why was that?
131:20 A. Because they were on my medical staff.
131:21 Q. Were there any Saltzer doctors on your medical
131:22 staff?
131:23 A. Not until shortly before I left West Valley.

Page Range: 132:17-133:9

132:17 Q. Okay. So, until shortly before you left, did any
132:18 Saltzer physicians practice in Caldwell?
132:19 A. Yes, they did.
132:20 Q. Who did?
132:21 A. I believe we had their ophthalmologist practiced
132:22 in Caldwell. I forgot about this. And it seems to me
132:23 like they did have one other specialist that practiced in
132:24 Caldwell.
132:25 Q. And did those two, the ophthalmologist and the
Page 133
133: 1 other specialist, have a physical office in Caldwell?
133: 2 A. They did.
133: 3 Q. Okay. Were the -- and just before you left, were
133: 4 a couple of primary care physicians added by Saltzer in
133: 5 Caldwell?
133: 6 A. Yes.
133: 7 Q. And were those the first Saltzer primary care
133: 8 physicians to practice in Caldwell, to your knowledge?
133: 9 A. Yes.

Page Range: 134:11-135:1

134:11 Q. Ms. Moore, I'd like you to refer back to
134:12 Plaintiff's Exhibit 1120.
134:13 A. Okay.
134:14 Q. This is an email from Friday, September 14th,
134:15 2012 that you sent to Angela Christensen.
134:16 Do you recall this document?
134:17 A. Yes.
134:18 Q. Could you give us, in the context of this
134:19 document, what your understanding of aligned means?
134:20 A. So, aligned -- aligned docs are docs that
134:21 practice at St. Luke's. It doesn't mean they're exclusive
134:22 to St. Luke's. But they could be, you know, aligned
134:23 clinically and working on some of our programs with us.
134:24 They practice at one of our facilities. They are not
134:25 exclusive to us, by any means. But they're aligned and
Page 135
135: 1 support our clinical quality.