Filing # 106915993 E-Filed 04/30/2020 03:41:15 PM

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,
STATE OF FLORIDA

Plaintiff,

Case No.

vs.

FLORIDA CANCER SPECIALISTS &
RESEARCH INSTITUTE, LLC,

Defendant.

_____/

COMPLAINT

Plaintiff, Office of the Attorney General, Department of Legal Affairs, State of Florida ("Attorney General"), by and through its undersigned attorneys, hereby sues Defendant, Florida Cancer Specialists & Research Institute, LLC, a Florida Limited Liability Company, ("Defendant" or "FCS"), and alleges:

JURISDICTION AND VENUE

1. This is an enforcement action for equitable relief, civil penalties, injunctive relief, attorney's fees and costs, and other relief pursuant to the Florida Antitrust Act, Chapter, 542, Florida Statutes (2019), and the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2019).

2. This court has subject matter jurisdiction pursuant to the provisions of Chapter 542 and Chapter 501, Part II, Florida Statutes (2019).

3. FCS operates in more than one judicial circuit in the State of Florida, including Leon County, and the Second Judicial Circuit, and venue is proper in the Second Judicial Circuit.

PARTIES

4. The Attorney General is an "enforcing authority" of Chapter 542 and Chapter 501, Part II, Florida Statutes (2019), and is authorized to bring this action for equitable relief, civil penalties, injunctive relief, attorney's fees and costs, and other relief pursuant to these chapters.

5. The Attorney General has conducted an investigation of the matters alleged herein and Attorney General Ashley Moody has determined that this enforcement action serves the public interest.

6. Defendant is an active Florida limited liability company, registered with the Florida Department of State, Division of Corporations, and with its headquarters in Lee County, Florida.

7. Defendant, at all times material hereto, engaged in "trade or commerce" as defined in Sections 542.17(4) and 501.203(8), Florida Statutes (2019), within the State of Florida and Leon County.

FACTUAL ALLEGATIONS

8. Oncology is the branch of medical science dealing with tumors, including the diagnosis and treatment of cancer. The practice of oncology includes three major areas of specialty: medical, radiation, and surgical. A medical oncologist treats cancer using chemotherapy or other medications. A radiation oncologist treats cancer using radiation therapy.

9. Since 1996, FCS has been organized and existing in Florida with its principal place of business in Fort Myers and has been engaged in the practice of medicine, primarily medical oncology.

10. FCS operates as many as 100 centers throughout Florida offering a range of medical services, including the provision of medical oncology treatments and radiation oncology treatments.

11. Company A, a company organized and existing in Florida with its principal place of business in Fort Myers, was engaged in the practice of medicine, primarily radiation oncology. Company A operated throughout Florida, offering a range of medical services, including the provision of medical oncology treatments and radiation oncology treatments. FCS competed with Company A in Florida outside of Collier, Lee, and Charlotte counties for patients in need of medical oncology treatment and radiation oncology treatment.

12. Company B, a company organized and existing in Florida, is a large multi-specialty medical practice that operates multiple offices in Florida. Company B provides multiple types of care, including hematology and oncology.

13. Company C, a company organized and existing in Florida, is a medical practice group that operates in the Tampa area that provides oncology services.

14. Company D, a Delaware company, is a large health care system that operates multiple hospitals and other facilities throughout Florida.

15. For at least six years ending in 2016 (the "Relevant Timeframe"), FCS attempted to conspire or conspired with Companies A, B, C, and D (collectively, the "co-conspirators") and other persons and entities to suppress and eliminate competition by allocating the provision of medical oncology treatments and radiation oncology treatment in Florida.

16. During discussions between FCS and Company A, an agreement was reached to allocate medical and radiation oncology treatments in Charlotte, Lee, and Collier counties.

During the Relevant Timeframe, FCS and Company A, reinforced this agreement by further agreeing upon which drug treatments would be administered by FCS and/or by a co-conspirator.

17. Specifically, FCS attempted to enter or entered into agreements with its co-conspirators whereby certain oncology treatments would be exclusively allocated to FCS and in turn, other different oncology treatments would be allocated to the co-conspirators.

18. During the Relevant Timeframe, FCS also engaged in other unfair methods of competition.

COUNT I
VIOLATION OF FLORIDA ANTITRUST ACT SEC. 542.18

19. The Attorney General, incorporates herein and re-alleges paragraphs 1 through 18 as if fully set forth hereinafter and further alleges:

20. This is an enforcement action that alleges civil violations of the Florida Antitrust Act, Section 542.18, Florida Statutes. The Attorney General seeks equitable relief, civil penalties, injunctive relief, attorney's fees and costs, and other relief under Section 542.21, Florida Statutes, for each contract, combination or conspiracy that restrained any part of trade or commerce within Florida in violation of Section 542.18, Florida Statutes.

21. Defendant engaged in conduct constituting a contract, combination, or conspiracy in restraint of trade within Florida, Section 542.18, Florida Statutes.

22. The conduct described above constitutes one or more violations of Section 542.18.

COUNT II
VIOLATION OF FLORIDA ANTITRUST ACT SEC. 542.19

23. The Attorney General, incorporates herein and re-alleges paragraphs 1 through 18 as if fully set forth hereinafter and further alleges:

24. This is an enforcement action that alleges civil violations of the Florida Antitrust Act, Section 542.19, Florida Statutes. The Attorney General seeks equitable relief, civil penalties, injunctive relief, attorney's fees and costs, and other relief under Section 542.21, Florida Statutes, for each act of monopolization, attempt to monopolize, or conspiracy to monopolize any part of trade or commerce in Florida in violation of Section 542.19, Florida Statutes.

25. Defendant engaged in monopolization, attempt to monopolize, or conspiracy to monopolize within Florida.

26. The conduct described in paragraphs 1 through 18 of this Complaint constitutes one or more violations of Section 542.19. Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes.

COUNT III
VIOLATION OF FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

27. The Attorney General adopts, incorporates herein and re-alleges paragraphs 1 through 18 as if fully set forth hereinafter and further alleges:

28. Chapter 501.204(1), Florida Statutes, declares that unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

29. The combination, conspiracy, acts and practices alleged herein constitute unfair methods of competition in violation of Florida Deceptive and Unfair Trade Practices Act, Section 501.201, Florida Statutes (2019).

30. Defendant has willfully violated the Florida Deceptive and Unfair Trade Practices Act by engaging in unfair methods of competition within Florida.

31. These above-described acts and practices of the Defendant have injured and prejudiced the public.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Office of the Attorney General, Department of Legal Affairs, State of Florida, respectfully requests that this Court:

1. Enjoin Defendant, and its officers, agents, servants and employees, and those persons in active concert with them, from engaging in any anticompetitive conduct in violation of the Florida Antitrust Act, Sections 542.18 and 542.19, and from adopting in the future any practice, plan, program, or device having similar purpose or effect to the anticompetitive actions set forth above;

2. Enjoin Defendant, and its officers, agents, servants and employees, and those persons in active concert with them, from engaging in any unfair methods of competition in violation of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, and from adopting in the future any practice, plan, program, or device having similar purpose or effect to the unfair actions set forth above;

3. Order Defendant to pay civil penalties pursuant to Section 542.21, Florida Statutes, for each combination, or conspiracy in restraint of trade or commerce, and act of monopolization, attempt to monopolize, or conspiracy to monopolize;

4. Order Defendant to pay civil penalties pursuant to Sections 501.2075 and 501.2077, Florida Statutes for each act in violation of those provisions;

5. Award the Attorney General reasonable attorneys' fees and costs pursuant to Sections 542.22(2), 501.2105 and 501.2075, Florida Statutes (2019), and

6. Grant such other and further relief as this Court deems just and proper.

Dated: April 30, 2020

Ashley Moody
Attorney General
State of Florida

By:

Patricia A. Conners
Chief Associate Deputy Attorney General
Scott Palmer
Special Counsel for Antitrust Enforcement
Timothy M. Fraser
Assistant Attorney General
Colin Fraser
Assistant Attorney General
Antitrust Division
PL-01, The Capitol
Tallahassee, FL 32399
Counsel for the State of Florida