

Fla. Oncologists Hit Cancer Centers With Antitrust Suit

By **Dorothy Atkins**

Law360 (March 18, 2019, 5:21 PM EDT) -- A group of oncologists have hit a cancer treatment company with an antitrust suit in Florida federal court that claims the company forces doctors to sign illegal noncompete agreements and holds a monopoly over oncology and radiation services in three counties around Fort Myers, Florida.

In Friday's seven-count complaint, oncologists Arie Pablo Dosoretz, Amy Fox, James H. Rubenstein and Michael J. Katin accuse 21st Century Oncology Holdings Inc. and its subsidiary of creating an illegal monopoly over radiation oncology services in Collier, Lee and Charlotte counties. The company also allegedly required doctors to sign "onerous" noncompete agreements that have suppressed competition, the suit alleges.

"This conduct has not only injured the plaintiffs, radiation oncologists who wish to provide services in these three counties in competition with the defendants, it has also injured elderly cancer patients, particularly patients suffering from prostate and breast cancer," the suit says.

Fort Meyers-based 21st Century Oncology runs 167 treatment centers, including 131 centers in 16 states that provide radiation oncology services. Its subsidiary holds 11 radiation oncology centers in the three counties, where they employ 14 radiation oncologists, according to the suit.

The suit alleges that 21st Century Oncology's illegal noncompete agreements with doctors have kept rival radiation oncology centers out of the three counties. The suit claims the company has also helped maintain a monopoly over oncology radiology services in the area by offering financial incentives to doctors who refer their patients to their radiation oncology services and by holding exclusive, long-term contracts with key hospitals in the area.

"Such conduct illegally perpetuates defendants' monopoly, locks out competition, and enables defendants to charge significantly inflated prices for the provision of radiation oncology services," the suit says.

The lawsuit asks the court to declare that the company violated the Sherman Act and to declare that its noncompete agreements are not enforceable because they allow the company to maintain a monopoly over the market or, alternatively, because they are too long and overbroad. The complaint also asks the court to award the costs of suit, including attorneys' fees and expenses.

The doctors' counsel, Luis E. Suarez of Boies Schiller Flexner LLP, told Law360 on Monday that his clients are dedicated to providing the best access and quality care to cancer patients in southwest Florida and that the lawsuit seeks to put an end to violations of federal antitrust laws.

A 21st Century Oncology spokesperson said in a statement Monday that the company believes that the case has no merit and it intends to fight the allegations vigorously.

"These allegations are an attempt at distraction related to historical matters that no longer exist," the statement said.

The oncologists are represented by Ernest J. Marquart, Thomas M. Wood and Michele Leo Hintson of

Shumaker Loop & Kendrick and Luis E. Suarez, Mark J. Heise, Stuart Singer and Carl E. Goldfarb of Boies Schiller Flexner LLP.

Counsel information for 21st Century Oncology wasn't immediately available Monday.

The case is Dosoretz et al. v. 21st Century Oncology et al., case number 2:19-cv-00162, in the U.S. District Court for the Middle District of Florida.

--Editing by Orlando Lorenzo.

Update: This story has been updated to include comment from 21st Century Oncology.