**Bret D. Landrith**
**Attorney at Law**
**12820 SW Highway 4, Topeka KS 66610**
**1-785-256-6508 eposone@mobil1.net**

July 1, 2004

RE: Medical Supply v. US Bancorp, NA *et al*; Medical Supply v. General Electric Company, *et al.*

Dear Mr. Fisher

This letter is being sent to provide you with written answers to your accusations this afternoon.

I do not own stock in Medical Supply Chain, Inc. or any other company.

When Medical Supply suffered the first attack in the form of the US Bancorp defendants purloining three hundred and fifty thousand dollars and intellectual property business trade secrets that Medical Supply relied upon to enter the hospital supply market after years invested in developing the proprietary technology of a superior electronic marketplace, we attempted to get injunctive relief to stop the defendants from their continuing obstruction and from further disseminating our trade secrets. We did not "file an antitrust suit every time we need money", as you assert.

We searched nationwide for a law firm capable of representing us in our antitrust action. Our failure to find one does not mean as you assert that we "do not have a case." More than 90% of our queries never resulted in information about our problem being exchanged. The fact that US Bancorp NA is one of our nation's largest bank holding companies conflicted out almost all of the firms we queried. The remaining commercial litigators were wholly prejudiced against any antitrust form of lawsuit, and declined representation without information about our action. However, the Harvard Law professor and antitrust authority we have cited, volunteered his services on the US Bancorp case and then even went further, expressing a desire to work with us on discovery.

I believe we met in district court the current state of disfavor private antitrust enforcement has fallen into. I accept no responsibility for this. I have not been a practitioner or judge. In fact, Medical Supply is my first client. Others can answer for the last twenty five years of antitrust litigation. At the time, I formed our expectations from the application of antitrust statutes in appellate case law. Because Tenth Circuit decisions were our controlling authority, I believed pleading a set of facts where a group boycott was enforced against my client by a competitor through a common supplier or in the alternative that the supplier acting as a competitor and refusing to deal against its own interests in an established business relationship and without even a business justification (let alone a pro-competitive one ) entitled a plaintiff to put on evidence at trial.

The capable, experienced internal and external counsel for the US Bancorp and GE defendants were probably well within the expected standard of practice if they advised their clients that they would not even have to refrain from injuring Medical Supply under the antitrust statutes. Mr. Glecklen, a formidable scholar on intellectual property based antitrust was very critical of the complaint I had drafted based on *Aspen Skiing*, believing it does not state a claim on which relief can be granted. Now that I have a broader perspective, I believe I can see why practioners who do not regularly represent antitrust defendants in the Tenth Circuit would not at the time, have recognized the significance of a single firm's refusal to deal under circumstances closely paralleling *Aspen Skiing*.

On January 13, 2004, the significance of the Tenth Circuit's decision in *Aspen Skiing* was again recognized when Justice Scalia, joined by Chief Justice Rehnquist, Justice O'Connor, Justice Kennedy, Justice Ginsburg, and Justice Breyer delivered the opinion of the Court in *Verizon Communications Inc., Petitioner v. Law Offices Of Curtis V. Trinko, LLP*, Supreme Court Of The United States No. 02—682, stating "The leading case for §2 liability based on refusal to cooperate with a rival…is *Aspen Skiing*." Justice Scalia went on to endorse the *Aspen Skiing* premise, stating: "The unilateral termination of a voluntary (and thus presumably profitable) course of dealing suggested a willingness to forsake short-term profits to achieve an anticompetitive end." Commentators have suggested that the court's omission of significant later §2 decisions is a deliberate preference for the higher standard ( and the standard Medical Supply's claims meet) in *Aspen Skiing.* Medical Supply has not come to your court with baseless claims devoid of a meritorious supporting legal theory.

Furthermore, the issues related to Medical Supply's market exclusion have been a matter of national concern. When an industry expert (who has similarly volunteered to be an expert witness for Medical Supply) discussed the consequences of the actions taken to keep Medical Supply out of the hospital supply market by US Bancorp and General Electric before the US Senate Judiciary Committee's Subcommittee on Antitrust, he was warmly greeted by the committee's Republican and Democratic leadership who have been concerned about the failure of legislative attempts to discourage hospital supply price manipulation. Both the US Department of Justice and the Federal Trade Commission have since sought his guidance and information about efforts to suppress competition in the electronic marketplace for hospital supplies.

I do not believe Medical Supply lacks a case, in contrast I believe there was never a defense to Medical Supply's charges. When the human tragedy that is the foreseeable consequence of systemic violations of federal antitrust statutes to inflate hospital supply prices, decreasing access to healthcare and disrupting health insurance coverage struck my own family, I deeply questioned my progress and whether Medical Supply could have entered the market for hospital supplies by now with different counsel. Many have shared with me a belief which you appeared to articulate that it is not the law but who represents your cause that matters. Besides an oath to uphold the rule of law which prohibits me from subscribing to this view; even an elementary economics background would suspend belief that a new entrant to a market would be able to command greater resources in corrupt influence than existing national monopolists. I have a firm belief, unshaken by your accusations, that Medical Supply's claims against the US Bancorp and GE defendants will be fairly tried on their merits and under the weight of statute and case law authority with no regard to who represented each party.

Sincerely,

S/Bret D. Landrith
Attorney for Medical Supply Chain, Inc.

cc: Mark Olthoff,
John Power