

**PARAGRAPHS FROM THE PLAINTIFF'S COMPLAINT MAKING AVERMENTS  
AGAINST GHX**

26. Global Health Exchange LLC (GHX), 11000 Westmoor Circle, Suite 400  
Westminster, Colorado 80021.

54. Two Medical Supply legal actions to enjoin the Defendants from causing the breach of contracts to capitalize Medical Supply's entry to market were described to the third Senate Judiciary hearing on the GPO problem because of the important public policy being defeated by antitrust violations against e-commerce suppliers:  
"[A] bank tied to an investment house that has seventy percent of its holdings in health care suppliers refused to provide the company with simple escrow services through a blatant misapplication of the USA Patriot Act. Most recently an international conglomerate that is a founder of GHX was willing to take a \$15 million dollar loss on a real estate deal just to keep this company out of the market."

Testimony of Lynn James Everard, "Hospital Group Purchasing: Has the Market Become More Open to Competition?" United States Senate Committee on the Judiciary Subcommittee on Antitrust, Competition and Business and Consumer Rights July 16, 2003.

174. MedEcon like other GPO's had not invested in efficiency creating technologies like Medical Supply Management's supply chain management software due to the lack of competition in the market for hospital supplies. However, MedEcon enlisted Medical Supply Management transaction accounting and reporting data to police their suppliers' contract pricing compliance, giving birth to the current practice of GPOs to use electronic marketplace software to enforce anticompetitive minimum price maintenance in Sherman Act prohibited vertical price fixing between manufacturers, suppliers and vendors selling to hospitals through Neoforma, Inc. or GHX LLC's electronic marketplace.

**8. The Monopolization Of The Hospital Supply Industry By The Defendants In Conspiracies  
And Combinations With Premier, GHX, LLC and Their Predecessor Corporations**

229. On March 29, 2000, Global Healthcare Exchange (GHX) was founded as a Limited Liability Company or a trust by five major healthcare manufacturing competitors: Johnson & Johnson Health Care Systems; GE Medical Systems; Baxter Healthcare Corp.; Medtronic USA, Inc. and Abbott Exchange, Inc. Much of the capitalization came from GE, the parent company of GE Medical. The name was also copied from GE's existing internet marketplace for hospital supplies Global Exchange and was part of a plan created by Jeffrey Immelt, then GE Medical president and now CEO of GE to prevent competition from electronic marketplaces that were independent from the manufacturers ability to control hospital supply distribution with kickbacks and commercial bribes."

245. On November 26, 2001 Global Healthcare Exchange and Health Nexis announced they will combine their operations into a single Internet-based exchange, according to the organizations. Supplier members of both organizations will be connected to GHX's 70 integrated delivery networks (IDNs), which currently represent approximately 600 hospitals. The combined entity will operate as Global Healthcare Exchange LLC and will be headquartered in Westminster, Colorado. The merger announcement follows recent GHX alliances with Neoforma Inc. and AmeriNet Inc. Says GHX president Mike Mahoney, "Connectivity, participation, and cooperation among all members of the supply chain is critical for e-commerce to reach its full potential. HealthNexis and its membership of leading healthcare companies provide considerable e-commerce technology solutions and supply chain expertise. This combination reinforces GHX's commitment to building an open and neutral healthcare exchange to drive supply chain savings."

246. On October 09, 2002 Global Healthcare Exchange, LLC (GHX) and Neoforma, Inc. announced they have signed a definitive agreement to create the first comprehensive, integrated

supply chain solution for the healthcare industry. Neoforma and GHX expect the strategic alliance to accelerate the adoption of e-commerce by hospitals and suppliers, accelerating supply chain cost savings. The agreement enables Neoforma's hospital customers, including the 514 hospitals currently contracted to use the Neoforma-powered Marketplace@Novation™, to transact business with GHX's growing network of healthcare supplier members through the integrated solution, without the added cost of implementing and maintaining separate Internet connections. GHX's connected suppliers will be able to sell their products to Neoforma's current and future hospital customers through one Internet-based exchange, reducing implementation costs and simplifying the e-commerce strategy for these suppliers. GHX has signed more than 100 leading supplier members.

247. On December 11, 2002 Global Healthcare Exchange, LLC (GHX) and Medibuy, Inc. announced they have signed a definitive agreement to merge their two companies. The new company will be called Global Healthcare Exchange, LLC (GHX). Owned by many of the world's largest healthcare suppliers and providers, GHX and Medibuy will combine their respective Internet-based trading exchanges to create the largest single exchange in healthcare. More than 1400 hospitals and other healthcare facilities and 100 suppliers have already selected GHX or Medibuy as their preferred solution for purchasing healthcare products and supplies. Through this merger, the newly created exchange will provide a means for all participants in the healthcare supply chain, including provider organizations, manufacturers, group purchasing organizations (GPOs) and distributors, to benefit from improved efficiencies, cost reductions, process automation, and the adoption of industry standards.

248. The same December 11, 2002 announcement described the owners of GHX: "Originally founded in March 2000 by five major healthcare manufacturers: Johnson & Johnson Health Care Systems; GE Medical Systems; Baxter Healthcare Corp.; Medtronic USA, Inc.; Abbott Exchange, Inc., GHX has since realized its vision of being owned by representatives of the entire supply chain, including manufacturers, distributors, providers and group purchasing organizations. In addition to the founders, the original equity owners included: Siemens; Becton, Dickinson & Co.; Boston Scientific Corp., Tyco Healthcare Group, LP; Guidant Corp.; C.R. Bard, Inc.; B Braun Medical Inc. In December 2001, GHX combined business operations with the distributor-created exchange, HealthNexis, adding AmerisourceBergen Corp.; Cardinal Health, Inc.; Fisher Scientific International, Inc.; and McKesson Corp. to its list of owners. A year later, a merger with Medibuy Inc. rounded out the current ownership roster with the addition of Premier, Inc., one of the nation's largest group purchasing organizations, and HCA, a national integrated delivery network (IDN).

249. While adopting Medical Supply's neutral marketplace concept, the same announcement reveals that GHX still maintains and is an instrument for enforcing the Defendant Novation and the unnamed coconspirator Premier's anticompetitive pricing achieved through contracts that horizontally and vertically fix prices:

250. "How does GHX benefit group purchasing organizations (GPOs)? GPOs are working with GHX to develop integrated contract management and other e-commerce services that enable their hospital members to more easily and efficiently purchase contracted products at the agreed upon price." [Emphasis added]

251. On April 11, 2003, GHX, MedAssets HSCA announced that they have formed a Strategic Alliance. Global Healthcare Exchange and MedAssets HSCA, the St. Louis-based group purchasing organization, announced they have formed a strategic alliance they say will make e-commerce services available to more than 16,000 healthcare providers. Under the terms of the agreement, MedAssets has selected GHX as an integrated e-commerce solution for members of its GPO. As a result, MedAssets members will be able to purchase products via GHX's Internet-based trading exchange using pricing data contained in the CDQuick E-Catalog, supplemented by the accurate product data in the GHX AllSource catalog.

337. GE And GHX, LLC acted against their own short term profit interest and in knowing coordination with Neoforma, Inc. in an intentional effort to deprive Medical Supply in June 2003 of

its contracted or bargained for capitalization of \$350,000.00 to enter the market for hospital supplies, just as Neoforma, Inc. (Unknown Healthcare Entity) and US Bancorp, et al had through combination or conspiracy deprived Medical Supply of another \$350,000.00 obtained through the contract for escrow accounts in November 2002.

347. Without realizing the existence of a combination and conspiracy between the Defendants, including the existence of a secret market allocating and tying agreement between Neoforma, Inc. and G.E and Premier's electronic market place, GHX, LLC. Samuel Lipari prepared an offer on the building for GE Transportation.

366. G.E. had also formed its own electronic marketplace called Global exchange and continues to market hospital supply products over the internet from its corporate web site as a distributor of other manufacturers' hospital supply products.

367. GE found the technology of GHX, Inc. was inadequate to outperform new entrants and aligned itself with the Defendant Neoforma, Inc., the electronic marketplace co-opted by the dominant GPO's including the Defendant Novation, LLC in an alliance to exchange data among suppliers to enforce cost structures as inflated as those of the GPO's. GHX, LLC at the direction and approval of GE has retaliated against suppliers who endanger the marketplace with competitive prices. GHX, LLC. at the direction and approval of GE has excluded competitors including Retractable Technologies, Inc. and Masimo for failing to give kick backs to the cartel. Death and injury resulted from the failure of hospitals to obtain these medical devices.

368. GHX, LLC. at the direction and approval of GE in a conspiracy and combination with the Defendants has excluded Medical Supply Chain, Inc. from entering the market by not allowing Medical Supply to offer GE Capital Healthcare credit to its potential customers in April of 2002, and by refusing to offer US Bancorp Piper Jaffray services to Medical Supply in June 2002 in a conspiracy with the Defendants and by repudiating essential escrow contracts required by Medical Supply to capitalize its entry into market in October 2002. (US Bancorp has interlocking directorships and an exchange of directors with the two dominant GPO founders of GHX LLC.; the Defendant Novation and Premier. US Bancorp helped the Defendant Novation acquire control of the Defendant Neoforma and partner it with GHX LLC. creating a monopoly of over 80% of healthcare e-commerce).

369. GE at the direction of the Defendants including Neoforma and Novation LLC caused its subsidiary GE Transportation to repudiate the contract to buy the lease from Medical Supply, sacrificing \$15 million dollars on June 15th, 2003 to keep Medical Supply from being able to compete against GHX, LLC. and Neoforma. The market is worth 1.8 trillion dollars. GE acted on the tremendous windfall to preserve its monopoly. George Fricke is GE Corporate's property manager.

**11. Medical Supply is granted a Rehearing in Tenth Circuit. That Afternoon UHC and VHA Realize Because of Medical Supply's Demand Letter That They Are Required At Law To Divest Neoforma and Both UHC and VHA Make an Emergency Announcement of An Agreement to Dispose of Neoforma at a \$150,000,000.00 dollar loss.**

376. On January 25th in an emergency late afternoon press announcement after hearing Medical Supply's Tenth Circuit decision would be reheard, Neoforma, Inc. stated:  
"Neoforma Hires Merrill to Mull Options

Associated Press  
01.11.2005, 04:52 PM

Neoforma Inc., a provider of supply-chain management solutions for the health-care industry, on Tuesday said it hired Merrill Lynch & Co. as its financial adviser to help it explore options, including a sale or merger.

Neoforma said that any transaction must be approved by VHA Inc. and the University HealthSystem Consortium - national health-care alliances which own a majority of the company's outstanding shares and own Neoforma's largest customer, the supply company Novation.

The company said that there is no assurances that any transaction will occur.”

Before Medical Supply's antitrust actions were brought, Neoforma and Robert Zollars boasted of the monopolization of the e-commerce market for hospital supplies accomplished by alliances with other monopolists including the Defendant Novation, LLC:

CEO explains reasons why long-term investor should be looking at Neoforma Full article published: 12/20/2001 ROBERT J. ZOLLARS is Chairman and Chief Executive Officer of Neoforma, Inc.

Mr. Zollars: To start with, Neoforma is a 2001 Internet success story, and we're the leader in healthcare B2B. Neoforma builds and operates Internet marketplaces that empower healthcare trading partners to optimize their supply chain. So simply put, we help hospitals buy their supplies more efficiently and more effectively.

TWST: Could you give us a sense of the competitive landscape?

Mr. Zollars: About a year or so ago, there were probably 100 companies competing for this opportunity, and today you have less than a handful. As you look at the metrics that we're enjoying right now, as of October 18, Neoforma has over 700 trading partners; that includes 563 hospitals under contract, 333 live using the technology, and 130 suppliers. To give you an idea of scale, that means in our third quarter, we processed over 500,000 order documents that included 1.5 million line items. So, clearly, by any measure, we're out in front of the rest of the pack, which is exciting for us.

TWST: What were the steps you took to achieve this dominant position?

Mr. Zollars: I think the most important thing is we have great partners. First of all, we're partnered with Novation. Novation is the number one group purchasing organization in the country, or GPO. It covers roughly one-third of the market. It's members buy approximately \$36 billion a year in medical supplies and equipment, and just over a year ago we signed an agreement with Novation to be it's exclusive e-commerce partner for 10 years. We're now one year into that agreement and have generated some great results together, as I just mentioned. The other great partner we have is GHX, the Global Health Exchange, an industry supplier consortium. It was founded by General Electric, Johnson & Johnson, Baxter, Abbott and Medtronic, and up until August, had been competing with us in the market. We struck a strategic alliance agreement with GHX in August that is really exciting for us. It's the first time healthcare buyers and suppliers have really gotten on the same side of the table to work at taking healthcare costs out. The alliance gives us access to the great supplier relationships that GHX has and they, of course, get the great buyer relationships that we have with our hospitals.

404. The defendants US Bancorp, US Bank, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies and Andrew S. Duff coordinated their defense of Medical Supply's action for injunctive and declaratory relief with the coconspirators Jeffrey R. Immelt, GE, GHX, GE Healthcare, GE Capital and GE Transportation who inconceivably attached the Medical Supply complaint and order to their 12(b)6 motion to dismiss in Medical Supply's separate action against Jeffrey R. Immelt, GE, GHX, GE Capital and GE Transportation. The former eighteen year Shughart Thomson & Kilroy shareholder acting as magistrate on the GE case denied Medical Supply discovery and the court did not even permit discovery when the dismissal attachments necessitated conversion of the GE motion to one for summary judgment.

412. The court did not respond to Medical Supply's arguments for reconsideration or correct its factual errors. It is believed that the Shughart Thomson & Kilroy former managing partner obtained the magistrate assignment to Medical Supply's case against General Electric because of his

relationship to Shughart Thomson & Kilroy and it provided an opportunity to address the same fact pattern as the earlier case because GE breached its contract with Medical Supply once the electronic marketplace GHX created by GE and its hospital supplier competitors discovered Medical Supply was attempting again to enter the market for hospital supplies.

### **15. The Impending Threat Of Monopolization of the Market For Hospital Supplies In E-Commerce**

419. Industry insiders and investment message boards are communicating that it is likely Neoforma, Inc. with its 1,500 hospitals \$4.1 billion in gross transaction volume and \$6.8 billion in supply chain data will be acquired by GHX, LLC this year.

420. The purpose of the merger is to restrain trade in the e-commerce market for hospital supplies and increase the market power of both companies, which is 80% to the entire control of the single company GHX. A second purpose of the merger is to conceal the loss of funds belonging to Novation's member hospitals in the Neoforma venture.

421. Neoforma, Inc. and GHX, LLC have already integrated their electronic marketplaces, sharing data to control prices by preserving the Novation and Premier imposed fees and contracts on manufacturers for internet sales of hospital supplies and pooling electronic marketplace infrastructures to eliminate competition between the two marketplaces and have done so since 2001.

422. GHX connects over 2,200 hospitals to more than 140 suppliers, creating the largest trading exchange in healthcare. The company proclaims; "GHX is the leader in the healthcare trading exchange segment. "On average, GHX processed more than 12,000 purchase orders and \$23 million in volume daily at the end of 2004.

467. The Defendants tied membership in their electronic marketplace, Neoforma, Inc. with their competitor Premier's electronic marketplace GHX, LLC so that every hospital that enrolled in GHX, LLC was required to also enroll in Neoforma so that the Defendants could exclude electronic marketplaces outside of the combination and conspiracy.

15 U.S.C. § 15 provides that

"... any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefore... without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee."

### **Harassing Medical Supply and its Agents Outside of This Action**

488. The Defendants through Neoforma and Robert Zollars, acting for the other defendants and in a conspiracy and combination with the unnamed coconspirators GE, GE Healthcare, GE Capital and GHX caused Medical Supply and its counsel to be threatened with sanctions for filing an action to prevent GE from restraining trade in the market for hospital supplies and hospital supplies in e-commerce.

489. Neither GE or its counsel furnished a reason why Medical Supply would be sanctioned for filing the suit and intended to intimidate or harass Medical Supply by implying that GE and Neoforma have illegal influence and control over the legal system.