

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 05-35627		Docketed: 06/27/2005		
Nature of Suit: 3410 Antitrust		Termed: 09/04/2007		
Cascade Health, et al v. Peacehealth				
Appeal From: U.S. District Court for Oregon, Portland				
Fee Status: Paid				
Case Type Information:				
1) civil				
2) private				
3) null				
Originating Court Information:				
District: 0979-3 : CV-02-06032-ALH				
Trial Judge: Ancer L. Haggerty, Senior District Judge				
Date Filed: 01/28/2002				
Date Order/Judgment:		Date NOA Filed:		
05/02/2005		06/09/2005		
Prior Cases:				
None				
Current Cases:				
	Lead	Member	Start	End
Companion	05-35627	05-36153	12/07/2005	
Cross-Appeal	05-35627	05-35640	01/10/2006	
	05-36153	05-36202	12/22/2005	

<p>CASCADE HEALTH SOLUTIONS FKA MCKENZIE-WILLIAMETTE HOSPITAL, an Oregon nonprofit corporation Plaintiff - Appellant,</p>	<p>Michael T. Garone, Attorney Direct: 503-222-9981 [COR LD NTC Retained] Schwabe, Williamson & Wyatt PacWest Center 1211 SW Fifth Avenue Suite 1900 Portland, OR 97204</p> <p>Laurence E. Thorp, Esquire, Attorney Direct: 541/747-3354 [COR LD NTC Retained] THORP, PURDY, JEWETT, URNESS & WILKINSON, P.C. Suite 300 1011 Harlow Road Springfield, OR 97477</p> <p>Tom McIntyre Triplett, I Direct: 503-796-2901 [COR LD Please Select] SCHWABE WILLIAMSON & WYATT 360 SW Bond Street Suite 400 Bend, OR 97702</p>
v.	
<p>PEACEHEALTH, a Washington State nonprofit corporation Defendant - Appellee,</p>	<p>David Marx, Jr., Esquire, Attorney Direct: 312/372-2000 [COR LD NTC Retained] McDermott Will & Emery LLP 227 West Monroe Chicago, IL 60606</p> <p>M. Laurence Popofsky, Attorney Direct: 415-773-5700 [COR LD NTC Retained] Orrick Herrington & Sutcliffe LLP The Orrick Building</p>

405 Howard Street
San Francisco, CA 94105

PACIFICSOURCE HEALTH PLANS

Terminated: 07/14/2005
Defendant,

REGENCE BLUECROSS BLUESHIELD OF OREGON

Terminated: 07/14/2005
Defendant-intervenor,

PROVIDENCE HEALTH PLAN

Terminated: 07/14/2005
Defendant-intervenor,

MCKENZIE-WILLIAMETTE REGIONAL MEDICAL CENTER
ASSOCIATES, LLC

Terminated: 07/14/2005
Defendant-intervenor,

VERIZON COMMUNICATIONS, INC., ; CATERPILLAR INC.
Amicus Curiae,

Scott E. Flick, Esquire, Attorney
Direct: 202/783-0800
[COR LD Retained]
THOMAS J. DILLICKRATH HOWREY LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004

Jerrold Ganzfried
Direct: 202-469-5151
[COR LD Retained]
Holland & Knight LLP
800 17th Street, NW
Washington, DC 20006

Douglas S. Grandstaff, Esquire, Attorney
Direct: 309/675-1000
[COR LD NTC Retained]
CATERPILLAR INC.
Legal Services / Global Tax & Trade
100 NE Adams Street
Peoria, IL 61629-4295

Paul J. Larkin, Jr., Esquire, Attorney
Direct: 703/351-3000
[COR LD Retained]
VERIZON COMMUNICATIONS INC.
1515 N. Courthouse Rd.
Arlington, VA 22201-2909

James F. Rill, Esquire, Attorney
Direct: 202/783-0800
[COR LD NTC Retained]
THOMAS J. DILLICKRATH HOWREY LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004

John Thorne, Esquire, Attorney
Direct: 703/351-3000
[COR LD NTC Retained]
VERIZON COMMUNICATIONS INC.
1515 N. Courthouse Rd.
Arlington, VA 22201-2909

LAW PROFESSORS, DANIEL A. CRANE, THOMAS A.
LAMBERT, THOMAS D. MORGAN, D. DANIEL SOKOL,
RICHARD C. SQUIRE.
Amicus Curiae,

Aidan Synnott
Direct: 212-373-3213
[COR LD NTC Retained]
Paul, Weiss, Rifkind, Wharton & Garrison LLP
Firm: 212-373-3000
1285 Avenue of the Americas
New York, NY 10019-6064

THE CATHOLIC HEALTH ASSOCIATION OF THE UNITED STATES

Amicus Curiae,

Michael Barnes, Attorney
Direct: 415-882-5007
[COR LD NTC Retained]
Dentons US LLP
26th Floor
525 Market Street
San Francisco, CA 94105-2708

PACIFIC BELL TELEPHONE CO.

Amicus Curiae,

Brian M. Hoffstadt, Esquire, Attorney
Direct: 213-489-3939
[COR LD NTC Retained]
JONES DAY
50th Floor
555 South Flower Street
Los Angeles, CA 90071

Craig Stewart, Attorney
Direct: 415-875-5714
[COR LD NTC Retained]
Jones Day
555 California Street
26th Floor
San Francisco, CA 94104

VISA USA INC.

Amicus Curiae,

Sharon Douglass Mayo
Direct: 415-356-3000
[COR LD NTC Retained]
Arnold & Porter LLP
Three Embarcadero Center
10th Floor
San Francisco, CA 94111-4024

MICROSOFT CORPORATION

Amicus Curiae,

David T. McDonald
Direct: 206-623-7580
[COR LD NTC Retained]
K&L Gates LLP
925 Fourth Avenue
Seattle, WA 98104-1158

PACIFICSOURCE HEALTH PLANS

Amicus Curiae,

David Phillip Rossmiller, Attorney
Direct: 503-224-6440
[COR LD Retained]
Dunn Carney Allen Higgins & Tongue
Suite 1500
851 SW Sixth Avenue
Portland, OR 97204-1357

Brian R. Talcott, Attorney
Direct: 503-224-6440
[COR LD Retained]
Dunn Carney Allen Higgins & Tongue
Suite 1500
851 SW Sixth Avenue
Portland, OR 97204-1357

Thomas H. Tongue, Attorney
[COR LD NTC Retained]
Dunn Carney Allen Higgins & Tongue
851 SW Sixth Avenue
Portland, OR 97204-1357

REGENCE BLUE CROSS BLUE SHIELD OF OREGON

Amicus Curiae,

Michael E. Kipling, Esquire, Attorney
Direct: 206-545-0345
[COR LD NTC Retained]
KIPLING LAW GROUP PLLC
Suite 414
3601 Fremont Avenue N.
Seattle, WA 98103

GENENTECH INC.

Amicus Curiae,

Jonathan M. Jacobson
Direct: 212-497-7758

	<p>[COR LD NTC Retained] Wilson Sonsini Goodrich & Rosati Professional Corporation 40th Floor Firm: 212-999-5800 1301 Avenue of the Americas 40th Floor New York, NY 10019</p> <p>Scott Sher, Esquire, Partner Direct: 202-973-8836 [COR LD NTC Retained] WILSON SONSINI GOODRICH & ROSATI PROFESSIONAL CORPORATION 5th Floor 1700 K Street, NW Washington, DC 20006</p>
KIMBERLY-CLARK CORP. Amicus Curiae,	<p>Jonathan M. Jacobson Direct: 212-497-7758 [COR LD NTC Retained] (see above)</p> <p>Scott Sher, Esquire, Partner Direct: 202-973-8836 [COR LD NTC Retained] (see above)</p>
KRAFT FOODS INC. Amicus Curiae,	<p>Deborah L. Galvin, Esquire, Attorney Direct: 847/646-2653 [COR LD NTC Retained] KRAFT FOODS INC. Three Lakes Drive Northfield, IL 60093</p> <p>Jonathan M. Jacobson Direct: 212-497-7758 [COR LD NTC Retained] (see above)</p> <p>Scott Sher, Esquire, Partner Direct: 202-973-8836 [COR LD NTC Retained] (see above)</p>
THE COCO-COLA COMPANY Amicus Curiae,	<p>Brian R. Henry, Esquire, Attorney Direct: 404/676-2976 [COR LD NTC Retained] The Coca-Cola Company P.O. Drawer 1734 Atlanta, GA 30301</p> <p>Jonathan M. Jacobson Direct: 212-497-7758 [COR LD NTC Retained] (see above)</p> <p>Scott Sher, Esquire, Partner Direct: 202-973-8836 [COR LD NTC Retained] (see above)</p>
UNITED TECHNOLOGIES CORPORATION Amicus Curiae,	<p>Jonathan M. Jacobson Direct: 212-497-7758 [COR LD NTC Retained] (see above)</p> <p>Scott Sher, Esquire, Partner Direct: 202-973-8836 [COR LD NTC Retained] (see above)</p>

HONEYWELL INTERNATIONAL, INC.
Amicus Curiae,

Debra A. Valentine, Esquire, Attorney
Direct: 860/728-7869
[COR LD NTC Retained]
UNITED TECHNOLOGIES CORP.
One Financial Plaza
United Technologies Building
Hartford, CT 6101

Jonathan M. Jacobson
Direct: 212-497-7758
[COR LD NTC Retained]
(see above)

Scott Sher, Esquire, Partner
Direct: 202-973-8836
[COR LD NTC Retained]
(see above)

CASCADE HEALTH SOLUTIONS FKA MCKENZIE-WILLIAMETTE HOSPITAL, an Oregon nonprofit corporation,

Plaintiff - Appellant,

v.

PEACEHEALTH, a Washington State nonprofit corporation,

Defendant - Appellee.

06/27/2005	<input type="checkbox"/>	1	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): n. setting schedule as follows: appellant's designation of RT is due 6/20/05; appellee's designation of RT is due 6/29/05, ; appellant shall order transcript by 7/11/05; court reporter shall file transcript in DC by 8/9/05; certificate of record shall be filed by 8/16/05 ; appellant's opening brief is due 9/26/05; appellees' brief is due 10/25/05, ; appellants' reply brief is due 11/8/05; [05-35627] (KKW)
06/27/2005	<input type="checkbox"/>	3	Filed Michael T. Garone for Appellant Cascade Health Civil Appeals Docketing Statement served on 6/9/05 (to CONFATT) [05-35627] [05-35627] (KKW)
06/28/2005	<input type="checkbox"/>	5	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): no. Setting cross appeal briefing schedule as follows: appellant's designation of RT is due 6/6/05; appellee's designation of RT is due 6/16/05; appellant shall order transcript by 6/27/05; court reporter shall file transcript in DC by 7/27/05; certificate of record shall be filed by 8/3/05; first cross-appeal brief is due 9/26/05 Plaintiff; second cross-appeal brief is due 11/7/05 for Defendant Peacehealth; third cross-appeal brief is due 12/7/05 for Plaintiff; optional cross-appeal reply brief is due 12/21/05 for Defendant. [05-35640, 05-35627] (SW)
07/07/2005	<input type="checkbox"/>	7	Filed order CONFATT (epm) these cases are under consideration for inclusion in the Mediation Program. A settlement assessment conf will be held by tele on 8/3/05 at 2:00 p.m. PST....The briefing schedule previously set by the court remains in effect. [05-35627, 05-35640] (KKW)
07/11/2005	<input type="checkbox"/>	11	Received notice of transcript order form from aple/cross apit Cascade Health Solutions fka McKenzie-Willamette Hospital (JI)
07/12/2005	<input type="checkbox"/>	9	Filed order (Deputy Clerk: ji) setting cross appeal briefing schedule as follows: first cross-appeal brief (PEACEHEALTH) due 9/26/05; second cross-appeal brief (CASCADE/MCKENZIE) due; third cross-appeal brief (PEACEHEALTH) due 12/7/05; opt cross-appeal reply brf (CASCADE/MCKENZIE) due 12/21/05. [05-35627, 05-35640] (JI)
07/14/2005	<input type="checkbox"/>	13	Received Thomas M. Triplett for Appellee Cascade Health in 05-35627 letter dated 7/11/05 re: intervenors were no longer involed in the case and asked for cancellation of assessment conf. (Term. intervenors) [05-35627] (KKW)
07/19/2005	<input type="checkbox"/>	16	Filed order CONFATT (PWS) The assessment conf previously scheduled for 8/3/05 is canceled. The court has determined that these appeals will not be selected for inclusion in the Mediation Program.... [05-35627, 05-35640] (KKW)
09/26/2005	<input type="checkbox"/>	17	Filed original and 15 copies Peacehealth in 05-35640, Peacehealth in 05-35627 first brief on cross-appeal, (Informal: No) of 52 pages; 5 copies 3 vol. Exc. vol;(minor defcy: cover of brief & exc not showing 2 captions)served on 9/26/05 [05-35640, 05-35627] (KKW)
10/04/2005	<input type="checkbox"/>	18	Received Appellant Peacehealth in 05-35640, Appellee Peacehealth in 05-35627 satisfaction of (minor) brief deficiency by submitting corrected cover for brief and Exc. [05-35640, 05-35627] (KKW)
10/05/2005	<input type="checkbox"/>	19	Received Amicus Verizon Communicat in 05-35627's brief in 15 copies of 25 pages; deficient: pending mtn with PROMO; served on 10/5/05 Notified counsel. [05-35627, 05-35640] (KKW)
10/05/2005	<input type="checkbox"/>	20	Filed Amicus Verizon Communicat's motion to become amicus curiae served on 10/5/05 PROMO. (KKW)
10/17/2005	<input type="checkbox"/>	22	Filed order (Deputy Clerk: lkk) Amici Verizon Communications and Caterpillar, Inc.'s mtn for leave to file an amicus brief on behalf of def and any related filings shall be referred to the panel that shall decide the merits of the appeals. Any further mtn to file an amicus brief shall be treated in the same fashion. [05-35627, 05-35640] (KKW)
11/07/2005	<input type="checkbox"/>	23	14 day oral extension by phone to file Cascade Health and McKenzie-Willamette second cross-appeal brief. [05-35627, 05-35640] Second cross-appeal brief due 11/14/05; third cross-appeal brief due 12/14/05; optional reply brief shall be filed w/in 14 days of service of the third cross-appeal brief. (SB)
11/14/2005	<input type="checkbox"/>	24	Filed Peacehealth in 05-35627 motion to file oversized brief served on 11/11/05 PROMO. (KKW)
11/28/2005	<input type="checkbox"/>	26	Filed order (Deputy Clerk: lkk) Plaintiff's late mtn for leave to file an oversized 2nd x-appeal brief is grated. Within 14 days after the date of this order plaintiff shall submit the additional 15 copies of the 2nd x-appeal brief. The 3rd x-appeal brief is due 1/11/06. the opt rpy brief is due 14 days after the date of the 3rd x-appeal brief. [05-35627, 05-35640] (KKW)
12/02/2005	<input type="checkbox"/>	27	Filed original and 15 copies McKenzie-Willamette second brief on cross-appeal (Informal: no) of 67 pages and 5 vol. excerpts of record; served on 12/1/05 [05-35627, 05-35640] (KKW)
01/11/2006	<input type="checkbox"/>	28	Filed notice of withdraw of attorney James H. Sneed for Peacehealth [05-35627, 05-35640] (KKW)
01/11/2006	<input type="checkbox"/>	29	Filed original and 15 copies Peacehealth in 05-35627, 05-35640 third brief on cross-appeal (Informal: No) of 59 pages and 1 vol. excerpts of record; served on 1/10/06 [05-35627, 05-35640] (KKW)
01/12/2006	<input type="checkbox"/>	30	Received letter from csl of Peacehealth re calendaring of case, requesting oral argument not to be set during the priod of Aug. 10 to Sept. 30 of this year. CALENDAR. . [05-35627, 05-35640] (KKW)
01/23/2006	<input type="checkbox"/>	32	

14 day oral extension by phone to file Appellant Cascade Health in 05-35627, Appellee McKenzie-Willamette in 05-35640's cross-appeal brief. [05-35627, 05-35640] cross-appeal reply brief due 2/7/06 in 05-35627, in 05-35640. (LW)

02/06/2006 35 Filed notice of appearance of M. Laurence Popofsky, Peter H. Glade & David Marx jr, (Withdrew as counsel: attorney Peter H. Glade, Adam J. Gromfin) for Peacehealth [05-35627, 05-35640] (KKW)

02/07/2006 33 Filed original and 15 copies McKenzie-Willamette in 05-35640 reply brief, (Informal: No) of 15 pages and 1 vol. Suppl. Exc.; served on 2/6/06 [05-35627, 05-35640] (KKW)

02/07/2006 34 Filed original 4 copies McKenzie-Willamette's motion to strike portions of Peacehealth's combined brief, served on 2/6/06 PROMO. [05-35627, 05-35640] (KKW)

02/15/2006 38 Filed Defendant Peacehealth response opposing cross-appeal motion to strike portions of Peacehealth's br [34] served on 2/15/06 RECORDS FOR MERITS PANEL [05-35627, 05-35640] (GR)

02/16/2006 37 Filed order (Deputy Clerk: lkk PROMO) referring to panel plaintiff's motion to strike portion of defendant's reply brief and any related filings. [34] [05-35627, 05-35640] (GR)

02/24/2006 39 Filed McKenzie-Willamette's rpy to Peacehealth's opposition to Mckenzie-Willamette's mtn to strike ;served on 2/23/06 (**RECORDS FOR MERITS PANEL**) [05-35627, 05-35640] (KKW)

04/12/2006 40 Filed Peacehealth in 05-35627, Peacehealth in 05-35640 additional citations, served on 4/12/06 [05-35627, 05-35640] (KKW)

04/21/2006 41 Filed McKenzie-Willamette additional citations, served on 4/20/06 [05-35627, 05-35640] (KKW)

05/02/2006 42 Filed Peacehealth in 05-35627, Peacehealth in 05-35640 additional citations, served on 5/2/06 [05-35627, 05-35640] (KKW)

05/04/2006 43 Filed McKenzie-Willamette additional citations, served on 5/3/06 [05-35627, 05-35640] (KKW)

05/16/2006 44 Filed Peacehealth in 05-35627, Peacehealth in 05-35640 additional citations, served on 5/16/06 [05-35627, 05-35640] (KKW)

06/30/2006 48 Filed Peacehealth additional citations, served on 6/30/06 [05-35627, 05-35640] (KKW)

08/11/2006 49 Received letter from Appellee Peacehealth re calendaring of case, requesting 10/25 thru 11/2/06 and 12/7 thru 12/21/06 not be used for calendaring. CALENDAR [05-35627, 05-35640] (GR)

12/13/2006 50 Received letter from csl for McKenzie-Willamette Hospital, Thomas M. Triplett, unavailable 1/30-2/20/07. CAL [05-36153, 05-35627, 05-35640, 05-36202] (CW)

01/16/2007 51 Calendar check performed [05-35627, 05-35640, 05-36153, 05-36202] (TH)

01/26/2007 53 CALENDARED: Portland March 5 2007 9:30 a.m. Courtroom 2nd Floor ***Moved to March 6 2007*** [05-35627, 05-35640, 05-36153, 05-36202] (TH)

02/05/2007 55 Filed certificate of record on appeal RT filed in DC 10/3/05 [05-35627] (KKW)

02/06/2007 56 Filed order (Deputy Clerk: jf) The mtn of Verizon Communications Inc. and Caterpillar Inc. for leave to file brief of amici curiae is granted. The Clerk is directed to file the brief that was received on 10/5/05. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

02/06/2007 57 Filed original and 15 copies Verizon Communicat in 05-35627's brief of 25 pages ;served on 10/5/05 [05-35627, 05-35640] (KKW)

02/20/2007 59 Filed Peacehealth additional citations, served on 2/20/07 PANEL [05-35627, 05-35640] (GR)

02/23/2007 60 Filed order (Deputy Clerk: hh) The above captioned case shall be set for oral argument on Tuesday, March 6, 2007, in Portland, Oregon. Each side shall be allotted thirty minutes for argument. (phoned/faxed counsel for parties 3:50 pm) [05-35627, 05-35640, 05-36153, 05-36202] (RT)

03/06/2007 62 ARGUED AND SUBMITTED TO Ronald M. GOULD, Richard A. PAEZ, Johnnie B. RAWLINSON [05-35627, 05-35640, 05-36153, 05-36202] (ME)

03/20/2007 66 Filed order (Ronald M. GOULD, Richard A. PAEZ, Johnnie B. RAWLINSON,): The court invites supplemental briefs by any amicus curiae addressing the following issue raised in this appeal: Whether a plaintiff who seeks to establish the predatory or anticompetitive conduct element of an attempted monopolization claim under 2 of the Sherman Act by showing that the defendant offered bundled discounts to the defendant's customers must prove that the defendant's prices were below an appropriate measure of the defendant's costs. If so, what is the appropriate measure of costs and how should the trial court instruct the jury on the matter of costs? If not, what standard should the trial court instruct the jury to use to determine whether the bundled discounts are predatory or anticompetitive? Any briefs responding to this order shall be filed no later than thirty days from the filed date of this order. All briefs shall comply with the page or type-volume limitations set forth in Federal Rules of Appellate Procedure 29(d) and 3288 CASCADE HEALTH v. PEACEHEALTH 32(a)(7). Any person or entity wishing to file a brief as an amicus

curiae in response to this order is granted leave to do so pursuant to Federal Rule of Appellate Procedure 29(a). (KKW)

04/04/2007 67 Filed Peacehealth additional citations, served on 4/4/07 PANEL. [05-35627, 05-35640] (KKW)

04/10/2007 106 Received letter dated 04/10/2008 re: Request the issuance of mandate be withdrawn. [05-35627, 05-36153, 05-35640] (SW)

04/19/2007 68 Filed original and 15 copies Law Professors (Daniel A. Crane, Thomas A. Lambert, Thomas D. Morgan, D. daniel Sokol, Richard C. Squire) brief of 20 pages ;served on 4/18/07 PANEL. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

04/19/2007 69 Filed Cascade Health additional citations, served on 4/18/07 PANEL. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

04/19/2007 70 Filed original and 15 copies CHA brief of 5 pages ;served on 4/17/07 PANEL. [05-35627, 05-35640] (KKW)

04/19/2007 71 Filed original and 15 copies PBTC and Visa U.S.A. Inc. in s brief of ;served on 4/19/07 PANEL. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

04/19/2007 72 Filed original and 4 copies Microsoft Corp. joinder's brief to that of Pacific Bell and Visa brief of 1 pages ;served on 4/19/07 PANEL. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

04/20/2007 73 Filed original and 15 copies Pacificsource Health brief of 15 pages ;served on 4/19/07 PANEL. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

04/20/2007 75 Filed original and 15 copies Regence Blue Cross Blue Shield of Oregon brief of 10 pages ;served on 4/19/07 PANEL. [05-35627, 05-35640] (KKW)

04/20/2007 76 Filed original and 15 copies Genentech Inc.Honeywell Int. Inc. , Kimberly-Clark Corp. , Kraft Foods Inc., The Coca-Cola Co. , United Technologies in 05-35627 brief of 30 pages ;served on 4/19/07 PANEL. [05-35627, 05-35640] (KKW)

04/20/2007 77 Received Amicus AAI , CFA in 05-36202, 05-36153's brief in 15 copies of 23 pages; deficient: footnotes too small; served on 4/19/07 Notified counsel. PANEL. [05-36153, 05-35627, 05-35640, 05-36202] (KKW)

04/23/2007 78 Received proof of service from Microsoft Corpt. re: joinder to brief previously filed. nan/CASEFILE. (KKW)

05/24/2007 80 Filed Peacehealth, additional citations, served on 5/24/07 PANEL. [05-35627, 05-35640] (KKW)

09/04/2007 83 Filed Opinion. In No. 05-35640 VACATE the judgment in favor of Mckenzie and REMAND for further proceedings. In No. 05-35627, VACATE the summary judgment in favor of PeaceHealth and REMAND for further proceedings. In No. 05-36153, VACATE the district court's order awarding attorneys' fees and costs to McKenzie. In No. 05-36202, DISMISS the appeal as moot. Each party shall bear its own costs on appeal. (Terminated on the Merits after Oral Hearing; Remanded; Written, Signed, Published. Ronald M. GOULD; Richard A. PAEZ; Johnnie B. RAWLINSON.) Each party sahl bear its own costs on appeal. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

09/06/2007 84 Received Jonathan M. Jacobson for Amicus Honeywell Int. Inc., Amicus United Technologies, Amicus The Coca-Cola Co., Amicus Kraft Foods Inc., Amicus Kimberly-Clark Corp., Amicus Genentech Inc. in 05-35627 letter dated 9/5/07 with comment on Court's opinion. (FEDEX PANEL). [05-35627] (KKW)

09/18/2007 85 [6291907] Filed original and 50 copies plaintiff McKenzie-Willamette petition for panel rehearing and petition for rehearing en banc 15 p.pages, served on 9/17/07 PANEL AND ALL ACTIVE JUDGES AND ANY INTERESTED SENIOR JUDGES [05-35627, 05-35640, 05-36153, 05-36202] (GR)

09/24/2007 87 Filed order (Ronald M. GOULD,): Defendant-aplt Peacehealth is ordered to file a response to plaintiff/ape McKenzie-Willamette Hospital's petition for panel rhrg and pet for rhg en banc. The response must be filed 21 days from the date of this order. FAXED PARTIES [05-35627, 05-35640, 05-36153, 05-36202] (GR)

10/10/2007 89 Filed Appellee Peacehealth's response opposing petition for enbanc rehearing served on 10/10/07 [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

02/01/2008 91 Orig. certification order and all relevant briefs and excerpts of record, along with a certified copy of the docket report, have been transmitted to OR Supreme Court under official seal of this court. Served on: 2/1/08 [05-35627, 05-35640, 05-36153, 05-36202] (RP)

02/01/2008 92 Filed order (Ronald M. GOULD, Richard A. PAEZ, Johnnie B. RAWLINSON,): The petition for Rehearing is granted in part, as specifically set forth in the separate published order Amending Opinion. Apart from those specified amendments, the Petition for Rehearing is DENIED....The Pettion for Rehearing En Banc is denied. in 05-35627, 05-35640, 05-36153, 05-36202 [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

02/01/2008 93 Filed order (Ronald M. GOULD, Richard A. PAEZ, Johnnie B. RAWLINSON,): We certified question on Oregon price discrimination law to the Oregon Supreme Court. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)

02/01/2008 94 OPINION FILED (Ronald M. GOULD, Richard A. PAEZ, Johnnie B. RAWLINSON,): In 05-35640 we vacate the judgment in favor of Mckenzie on its monopolization and tortious interference claims. We certify a

		question to the Oregon Supreme Court on the price discrimination claim. In No. 05-35627 we VACATE the summary judgment in favor of Peace-Health. In No. 05-36153, we VACATE the district's order awarding attorneys' fees and costs to McKenzie. In No. 05-36202, we DISMISS the appeal as moot. Each party shall bear its own costs on appeal. We STAY further proceedings pending resolution of the price discrimination question certified to the Oregon Supreme Court. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)
02/12/2008	<input type="checkbox"/> 95	Filed original and 3 copies Appellee Peacehealth petition for rehearing, (PANEL) 9 p.pages, served on 2/12/08 PANEL. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)
02/14/2008	<input type="checkbox"/> 96	Filed order (Ronald M. GOULD,): Within 21 days, platiff shall file a response to the petition for rehearing. (phoned csl) [05-35627, 05-35640, 05-36153, 05-36202] (KKW)
02/25/2008	<input type="checkbox"/> 97	Filed McKenzie-Willamette mtn for extension of time to file response to Peacehealths Petition for rehearing until 2/20/08 served on 2/22/08 PANEL. (KKW)
02/25/2008	<input type="checkbox"/> 99	Received order from The Supreme Court of the State of Oregon accepting certified question. PANEL. [05-35627, 05-35640, 05-36153, 05-36202] (KKW)
02/26/2008	<input type="checkbox"/> 98	Filed order (Ronald M. GOULD, Richard A. PAEZ, Johnnie B. RAWLINSON,): Plaintiff's reques for an extension of time to 3/20/08 in which to file its reponse to Defendant's Petition for Rehearing is granted. (phoned csls) [05-35627, 05-35640, 05-36153, 05-36202] (KKW)
03/20/2008	<input type="checkbox"/> 100 1 pg, 133.89 KB	Filed original and 4 copies of Appellant McKenzie-Willamette Hospital in 05-36202 response to Petition for rehearing. 12 pages. Served on 03/19/2008. () [05-35627, 05-36153, 05-36202, 05-35640] (SW)
03/24/2008	<input type="checkbox"/> 102	Received Appellant Cascade Health Solutions fka McKenzie-Williamette Hospital and Appellee Peacehealth in 05-35627, Appellant Peacehealth and Appellee McKenzie-Willamette Hospital in 05-35640, 05-36153, Appellant McKenzie-Willamette Hospital and Appellee Peacehealth in 05-36202 Joint Designation of Record, [05-35627, 05-36153, 05-36202, 05-35640] (CW)
03/25/2008	<input type="checkbox"/> 101 3 pg, 25.34 KB	Filed order (RONALD M. GOULD, RICHARD A. PAEZ and JOHNNIE B. RAWLINSON): PeaceHealth's petition for rehearing is DENIED. 05-35627, 05-36153, 05-36202, 05-35640] (AF)
04/03/2008	<input type="checkbox"/> 103 2 pg, 29.01 KB	MANDATE ISSUED. RMG, RAP and JBR [05-35627, 05-36153, 05-36202, 05-35640] (SW)
04/07/2008	<input type="checkbox"/> 104	Mail returned on 04/02/2008 addressed to David A. Balto, Esq. for CFA, AAI and Consumer's Union in 05-36153, re: 3.25.08 order. Resending to: no other alternate address exists for atty (CASEFILES). [05-35627, 05-36153, 05-35640] (RC)
04/08/2008	<input type="checkbox"/> 105	Filed Appellant Cascade Health Solutions fka McKenzie-Williamette Hospital, Appellant Peacehealth joint status report, served on 04/08/2008 [05-35627, 05-36153, 05-36202, 05-35640] panel (CW)
04/11/2008	<input type="checkbox"/> 108 2 pg, 27.96 KB	Filed clerk order (Deputy Clerk:SW): The mandate was issued prematurely and is hereby recalled. [05-35627, 05-36153, 05-36202, 05-35640] (SW)
04/14/2008	<input type="checkbox"/> 107	Deleted Incorrect Docket Entry (SW)
08/25/2008	<input type="checkbox"/> 109	Filed Appellant Peacehealth in 05-35640, 05-36153 motion to vacate certification and for mandate. Served on 08/25/2008. [05-35627, 05-36153, 05-36202, 05-35640] (CW)
09/03/2008	<input type="checkbox"/> 110 4 pg, 33.92 KB	Filed order FOR PUBLICATION (RONALD M. GOULD, RICHARD A. PAEZ and JOHNNIE B. RAWLINSON) On August 25, 2008, this Court was advised that the parties have resolved the dispute that gave rise to this appeal. In light of this resolution, the motion to vacate certification and for mandate is GRANTED. Our prior Order Certifying Question To The Supreme Court Of Oregon is hereby VACATED. The question certified to the Oregon Supreme Court shall be withdrawn and our clerk of court shall transmit a copy of this order to the Oregon Supreme Court with advice that we withdraw our certified question which is now moot in light of the parties' resolution of the appeal. Also, the clerk of our court is instructed to issue the mandate in this case. [05-35627, 05-36153, 05-36202, 05-35640] (RP)
09/03/2008	<input type="checkbox"/> 111 2 pg, 27.98 KB	MANDATE ISSUED.(RMG, RAP and JBR) [05-35627, 05-36153] (SW)
09/12/2008	<input type="checkbox"/> 113	Received a copy of State Court order re: Dismissal. [05-35627, 05-36153, 05-36202, 05-35640] (Faxed to PANEL) (TB)
09/22/2008	<input type="checkbox"/> 112	Received party Stipulation Regarding Missing Portions of Record on Review submitted in Supreme Court of the State of Oregon. (CASEFILES). [05-35627, 05-36153, 05-36202, 05-35640] (TB)

Clear All

- Documents and Docket Summary
- Documents Only

Include Page Numbers

Selected Pages: Selected Size:

View Selected
