



JUDGE CHATTERJEE OF THE ALAMEDA SUPERIOR COURT ISSUES LANDMARK OPINION ON THE APPROPRIATE STANDARD OF REVIEW IN ANTITRUST CASES; DECISION WILL SIGNIFICANTLY SHAPE REMAINING PROCEEDINGS AND FUTURE HEALTHCARE ANTITRUST LITIGATION

Press Release

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FOR IMMEDIATE RELEASE

SAN FRANCISCO, October 7, 2026 - Bartko Pavia has secured a meaningful antitrust ruling on behalf of plaintiffs in litigation challenging alleged restraints on competition within the Blue Cross Blue Shield system. The ruling addresses legal issues that the parties have long recognized as among the most significant in the litigation—whether the per se standard of review or the rule of reason applies— with implications extending beyond this dispute.

In an order issued late yesterday, October 6, 2026, Judge Chatterjee of the Alameda Superior Court held that antitrust defendants cannot hide illegal conduct behind a claimed need to protect trademark rights without first making key evidentiary showings to the Court. Before the Blues can take their trademark defense to a jury, they must first prove to the Court that it rests on evidence of real, pre-existing common law trademark rights, territory-by-territory in all service areas where plaintiffs' hospitals are located, of which there are several dozen.

"Based on the dearth of evidence we've seen thus far, we don't believe the Blues can even come close to this showing." said Patrick M. Ryan, Co-Managing Partner of Bartko Pavia. "If they can't,

the per se rule applies. Carving up markets and boycotting hospitals becomes presumptively unlawful, no business excuse will save it, and the only real question to the jury will be: How much are the damages?”

The decision adopts key positions advanced by plaintiffs and substantially clarifies the legal standards that will govern the remainder of the case, and California antitrust law generally, with respect to claims of market allocation and group boycott.

“Judge Chatterjee’s 74-page landmark opinion is likely the most consequential and important antitrust trial-court ruling in the history of the State of California,” said Mr. Ryan. “The Court grappled with extraordinarily complex legal and factual questions in this opinion with erudition and sophistication. This decision will guide courts across the country, state and federal alike.”

Judge Chatterjee addressed the parallel MDL proceeding against the Blues and expressly declined to accept that court’s finding that the Blues had pre-existing common-law trademark rights. He noted the MDL court “cited no evidence for that finding” and cited no common-law principle “from any jurisdiction” to support it. This aspect of the opinion is notable, and all courts looking at the Blues’ conduct should take notice, because Judge Chatterjee is the first jurist to address these issues with the benefit of a full evidentiary and expert record. After viewing those materials, the Court is requiring the Blues to prove their trademark story with evidence—on a geography-by-geography basis—rather than assume it, in a case where the record includes archival evidence dating back decades, lengthy expert opinions, and deposition testimony, including from historians and trademark experts alike.

The Court’s decision will influence not only the path toward trial in this case but also broader discussions regarding competition and cooperation within healthcare markets.

Trial in the case is scheduled to begin on March 29, 2027.

Case Information

Case: *VHS Liquidating Trust, et al., v. Blue Cross of California, et al.*,

Court: Alameda County Superior Court

Case No.: JCCP 5398, Case No. RG21106600

About Bartko Pavia LLP

Bartko Pavia LLP is a powerhouse litigation and transactional firm representing both plaintiffs and defendants in high-stakes antitrust matters, complex commercial disputes, class actions, intellectual property litigation, labor and employment litigation, and other bet-the-company matters. The firm is known for combining elite legal talent with a client-focused, service-oriented culture that prioritizes practical business solutions over conventional law firm metrics. Bartko

Pavia's team includes numerous former in-house counsel and business leaders who bring real-world experience to their practice. For more information, visit www.bartkopavia.com.

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ATTACHMENTS

Superior Court Order re Standard of Review — VHS Liquidating Trust et al., v. Blue Cross of California et al., Superior Court of California, County of Alameda, Case No. RG21106600 (JCCP No. 5398) (dated Oct. 6, 2026)