Suture Express Files Antitrust Lawsuit Against Cardinal Health and Owens & Minor

Suture Express

Lawsuit seeks more than $200 million in damages and changes in business practices

Suture Express, the leading specialty distributor of suture, endomechanical and related surgical products, has filed an antitrust lawsuit in the United States Federal District Court for the District of Kansas against Cardinal Health and Owens & Minor, both broad-based wholesale distributors of medical and surgical supplies.

The suit claims Cardinal Health and Owens & Minor abused their market power and engaged in anticompetitive behavior to prevent their customers from taking advantage of specialty suppliers, like Suture Express, which better serve customer needs within their specialties. The suit seeks changes in business practices by Cardinal Health and Owens & Minor to create a level playing field, as well as more than $200 million in damages to compensate the company for lost sales.

“Cardinal Health and Owens & Minor contracts threaten customers with prohibitive financial penalties and other disincentives if they don’t agree to include suture and endomechanical products in their orders,” said Brian Forsythe, CEO of Suture Express. “Imposing these financial penalties would make it financially impossible for customers to buy suture and endomechanical products from another distributor, even if offered significantly better service and prices.”

The lawsuit alleges that Cardinal Health and Owens & Minor resorted to anticompetitive practices to protect their dominant market shares despite their inability to deliver suture and endomechanical products as efficiently or cost-effectively as Suture Express. Availability of the right sutures and endomechanical products is critical both to doctors and to patients undergoing almost any invasive medical procedure. However, because the product range is so great and the products are so specialized, the broad-based distributors stock a much smaller percentage of the products than specialty distributors like Suture Express, which stocks the vast majority of them. The Suture Express model ensures doctors have what they need to treat patients, when they need it.

“We have an innovative business model that addresses the unique distribution challenges of specialty surgical products,” Forsythe said. “Suture Express aggregates national demand for these specialty products, carefully monitors the supply and demand characteristics for each unique product, and stocks virtually every product in the category at its secure Midwest distribution center. By focusing specifically on suture and endomechanical product distribution, Suture Express can provide efficient, cost-effective, overnight delivery of the highly specialized products in these categories.”

As a result, Suture Express helps reduce overall healthcare costs, according to Forsythe. Hospitals supplied by Suture Express spend less on procurement and minimize the amount of staff time required to ensure doctors have the products they need. In addition, the company can virtually eliminate the wait hospitals might face for products the broad-based distributors don't stock, according to Forsythe, making the entire supply chain more efficient. "Our highly flexible and reliable service model provides certainty of supply for these specialty products. This enhanced certainty permits hospitals to reduce inventory carrying costs and minimize waste generated by product obsolescence or expiration."

Many customers can't choose to work with Suture Express because of the financial penalties and other disincentives imposed by Cardinal Health and Owens & Minor, from whom those customers buy a wide range of other medical and surgical products, according to the lawsuit. Suture and endomechanical products make up only about 10 percent of the medical products many customers buy from Cardinal Health and Owens & Minor. The two companies use their dominant shares in the remaining 90 percent of medical products to force customers to buy suture and endomechanical products from them as well. Suture products include sutures, skin adhesives, surgical needles, and other wound closure products. Endomechanical products include devices such as surgical staplers and laparoscopic tools.

As a result of the abuse of market power to reduce competition by Cardinal Health and Owens & Minor, Suture Express has lost substantial sales during the last four years, according the to the lawsuit. Antitrust suits carry treble damages, which is why Suture Express is seeking in excess of $200 million from the two defendants. The lawsuit claims that Cardinal Health and Owens & Minor have violated Section 1 of the Sherman Act, Section 2 of the Sherman Act, Section 3 of the Clayton Act, and Kansas Statutes, Chapter 50, Unfair Trade and Consumer Protection. Debevoise & Plimpton, LLP and Polsinelli Shughart LLP represent Suture Express in the lawsuit.

"In filing this case, we're asking the court to ensure a level playing field so customers don't face financial disincentives for choosing innovative specialty distributors like Suture Express," Forsythe said. "We want to ensure that companies like ours – which come up with new, innovative and more affordable ways to serve the healthcare market – get a fair shot against the entrenched giants of healthcare distribution. We just want to be able to compete based on our ability to deliver enhanced service at an extremely competitive price."

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