

BREAKING: Sutter Wins After Federal Jury Trial in Sidibe Class Action

See case page: [Sidibe v. Sutter Health](#)

After nearly ten years of litigation and a month-long trial in *Sidibe v. Sutter Health* in the federal district court in San Francisco, a nine-person jury delivered a unanimous verdict finding that Sutter Health did not engage in anticompetitive conduct and did not cause consumers to pay higher prices or premiums as alleged by the class plaintiffs. The jury answered no on two key questions to plaintiffs' case, that 1) Sutter Health did not use tying practices in its insurer contracts; and 2) Sutter did not force insurers into contracts that would prevent health plans from steering patients to lower cost hospitals.

The jury based its verdict on witness and expert testimony presented throughout the trial. Plaintiffs presented testimony that Sutter Health is a "must-have" provider to health plans in some regions of Northern California, allowing it to "tie" its hospitals in other more competitive markets and force insurers to contract for all of Sutter's hospitals or none. Witnesses also testified that Sutter won't agree to insurance contracts that narrow coverage or tier health providers by cost. Additionally, expert testimony for plaintiffs tried to show that Sutter's prices were higher than other providers in Northern California and could not be justified by higher value or quality.

In closing arguments, Sutter attempted to rebut witness testimony by claiming that insurance companies are "not unbiased" in the case because they have a lot of money at stake. In defending the lawsuit, the main points Sutter made at trial included presenting evidence to show:

- On market power: Sutter did not have market power because it faces

vigorous competition from Kaiser Permanente with its increasing market share and that Kaiser should not be excluded from the market definition;

- On all-or-nothing/tying: Sutter did not engage in tying all of its hospitals (insurer contracts from 2014 only listed four Sutter hospitals) and insurers all wanted broad networks that include all Sutter hospitals anyway;
- On anti-tiering/anti-steering: Antitrust laws don't require Sutter to agree to every tier or network and tiered and narrow networks lead to surprise bills for consumers which Sutter didn't want to create

The jury verdict in favor of Sutter meant that the hospital giant is off the hook for a potential \$1.2 billion in class action damages. Additionally, it is no doubt a setback for private antitrust actions and could send a message to health systems across the country in their future contracting practices.

Read more on the case and trial in the [Sutter Case Watch](#) series on The Source Blog.