

# YetterColeman LLP

May 14, 2024

*Via ECF*

Hon. Alfred H. Bennett  
United States District Judge  
United States Courthouse  
515 Rusk, 11th Floor, Room 8624  
Houston, Texas 77208

Re: *Electrical Medical Trust, et al. v. U.S. Anesthesia Partners, Inc., et al.*, No. 23-cv-04398 (S.D. Tex.)


Judge Bennett:

On behalf of the Welsh Carson defendants, and as the Court requested, we write with a further update on the parallel proceedings, *FTC v. U.S. Anesthesia Partners, Inc., et al.*, No. 23-cv-03560 (S.D. Tex.), pending before Judge Hoyt. On May 13, 2024, Judge Hoyt issued the attached Memorandum Opinion and Order in which he granted the Welsh Carson defendants' motion to dismiss the FTC's complaint. As the Court may recall, the above-referenced litigation was based on the FTC's complaint and asserted materially identical factual allegations.

In their motion to dismiss, the Welsh Carson defendants argued that the FTC lacked authority to bring an injunctive action in federal court because Section 13(b) of the FTC Act authorizes such actions only where the FTC has "reason to believe . . . that any person, partnership, or corporation is violating, or is about to violate, any provision of law enforced by the [FTC]." In dismissing the FTC's complaint against the Welsh Carson defendants, Judge Hoyt held that the FTC "does not allege any conduct by Welsh Carson in the past six years that is a plausible antitrust violation." Order at 14. Judge Hoyt also stated that "Welsh Carson's activity is not continuing," and that "[t]he only sense in which the [alleged] scheme still exists is that USAP still exists," but that this fact "goes to USAP's [alleged] violations, not Welsh Carson's." *Id.*

Thus, Judge Hoyt's decision confirms that the claims asserted by the Plaintiffs in the above-referenced litigation are barred by the applicable four-year statute of limitations.

Respectfully submitted,



R. Paul Yetter  
Counsel for the Welsh Carson defendants

cc (w/encl.): Lisa Edwards, Case Manager (via email)  
All counsel of record