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## Dallas Lawyer Shocks GE With Verdict Expected to Be Worth More Than \$130M in Antitrust Damages

BY JOHN COUNCIL

A DALLAS LAWYER CONVINCED an Eastern District of Texas federal jury that General Electric had monopoly power over an anesthesia gas machine repair business and won \$43.8 million in damages for 17 plaintiffs. Under the Sherman Act, the plaintiffs' recovery is subject to trebling to \$131.4 million.

GE is one of the largest manufacturers of anesthesia gas machines in the county.

Sam Baxter, a partner in McKool Smith, represented numerous small companies that service and repair GE machines. Baxter's clients, who offer lower-cost repair services for hospitals, alleged that GE tried to shut them out of the repair business through anticompetitive conduct in the antitrust suit *Red Lion Medical Safety v. General Electric*.

"They did two things," Baxter said of GE. "They tried to restrict us on getting parts for the machines. And the most important thing was they found a way to not give us training on new machines — and the hospitals won't let you work on them unless you're trained on them. And with two new machines, we'd be out of business in less than five years."



Photo: Diego M. Radzinski/ALM

To convince the jury his clients had been harmed by GE's conduct, Baxter had to prove the company was trying to seize control of the anesthesia machine business on a national basis.

Key to winning the case was Baxter's argument that GE's training policy that only allowed his clients to contract for repairs at one hospital at a time — or none at all, he said. At one point, a GE executive offered to change the policy while on the witness stand.

"That's the crux of the case," Baxter said of the April 26 verdict. "They tried to change their policy

during the trial. And they made it worse."

"Their policy was wrong, wrong, wrong," said Baxter, who plans to ask the trial court for an injunction that restricts GE's anti-competitive policies. "And they didn't have a lot of answer for that."

GE Healthcare spokeswoman Holly Roloff said the company will appeal the verdict.

"GE values appropriate market access to our life-saving technologies," Roloff said. "Although we are disappointed by the verdict, we stand by our values and plan to appeal the decision."