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'Misguided' federal wage-fix prosecution ends in acquittal for home health agencies

By Mike Scarcella ▾



An American flag waves outside the U.S. Department of Justice Building in Washington, U.S., December 15, 2020. REUTERS/Al Drago

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Latest labor-antitrust trial loss for Justice Department

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(Reuters) - A federal jury has cleared four business managers of conspiring to fix hourly rates for home healthcare workers, the latest trial loss for the U.S. Justice Department amid its new effort to prosecute labor-focused antitrust cases.

Jurors in Portland, Maine, on Wednesday found the defendants not guilty of curbing competition for personal support specialists in early 2020 by agreeing to set wages and to refrain from hiring each other's workers.

The Justice Department had accused the defendants, who owned or managed four home health agencies, of restricting job mobility of essential workers at the start of the COVID-19 pandemic. The defendants' companies were not named in the indictment, but they provided a range of in-home health services in the Portland area.

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Defense lawyers denied an agreement existed among the agencies and challenged the government's text message evidence. The jury deliberated for 10 hours after a two-week trial.

"It is difficult to understand why the DOJ felt the need to bring the weight of a federal government down on Iraqi immigrants who were doing the best they could in running a health care business in Portland during a global pandemic," Thomas Marjerison of Norman, Hanson & DeTroy, representing one of the defendants, told Reuters on Wednesday.

A Justice Department spokesperson did not immediately respond to a message seeking comment.

In a court filing last year in the case, prosecutors **called** the alleged behavior unlawful "regardless of the industry." Defense lawyers called the prosecution "misguided."

The verdict added to the Justice Department's **trial losses** on criminal prosecutions certain labor and employment practices under the federal Sherman Act, which prohibits price-fixing among competitors. In one case, a Colorado jury **acquitted** dialysis provider DaVita in a prosecution that alleged a conspiracy with rivals not to hire each other's employees.

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The Biden administration put renewed focus on employment restrictions. The Federal Trade Commission is weighing a proposal to ban companies from using non-compete provisions in employment contracts. Business advocates have **criticized** the proposal as "usurping the role of Congress."

The case is United States v. Manahe et al, U.S. District Court for the District of Maine, No. 2:22-cr-00013-JAW.

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