

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Jon Leibowitz, Chairman**
 William Kovacic
 J. Thomas Rosch
 Edith Ramirez
 Julie Brill

In the Matter of

**DAVITA, INC.,
a corporation,**

Docket No. C-4334

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and its authority thereunder, the Federal Trade Commission (“Commission”), having reason to believe that the Respondent DaVita Inc. (“DaVita”), a company subject to the jurisdiction of the Commission, has entered into an agreement to acquire CDSI I Holding Company, Inc. (“DSI”), a company subject to the jurisdiction of the Commission, in violation of Section 5 of the Federal Trade Commission Act (“FTC Act”), issues its Complaint,

stating its charges as follows:

I. DEFINITIONS

1. “Dialysis” means filtering a person’s blood, inside or outside of the body, to replicate the functions of the kidney.
2. “ESRD” means end stage renal disease, a chronic disease characterized by a near total loss of function of the kidneys, which in healthy people remove toxins and excess fluid from the blood.
3. “Outpatient dialysis services” means all procedures and services related to administering chronic dialysis treatment.

II. RESPONDENT

4. Respondent DaVita is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1551 Wewatta St. Denver, Colorado 80202. Respondent DaVita, among other things, is engaged in the provision and sale of outpatient dialysis services.

5. Respondent DaVita is, and at all times herein has been, engaged in commerce, as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affects commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

III. THE ACQUIRED COMPANY

6. DSI is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 424 Church Street, Suite 1900, Nashville, TN 37219. DSI, among other things, is engaged in the provision and sale of outpatient dialysis services.

7. DSI is, and at all times herein has been, engaged in commerce, as “commerce” is defined in Section 1 of the Clayton Act as amended, 15 U.S.C. §12, and is a corporation whose business is in or affects commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

IV. THE PROPOSED ACQUISITION

8. On February 4, 2011, DaVita entered into an agreement (“Purchase Agreement”) to acquire DSI for approximately \$689 million in cash (the “Acquisition”).

V. THE RELEVANT MARKET

9. For the purposes of this Complaint, the relevant line of commerce in which to analyze the effects of the Acquisition is the provision of outpatient dialysis services. Most ESRD patients receive dialysis treatments three times per week in sessions lasting between three and five hours. The only alternative to outpatient dialysis treatments for patients suffering from ESRD is a kidney transplant. However, the wait-time for donor kidneys – during which ESRD patients must receive dialysis treatments – can exceed five years. Additionally, many ESRD patients are not viable transplant candidates. As a result, many ESRD patients have no alternative to ongoing dialysis treatments.

10. The relevant geographic market for the provision of dialysis services is defined by the distance ESRD patients are willing and/or able to travel to receive dialysis treatments, and is thus local in nature. Because ESRD patients often suffer from multiple health problems and may require assistance traveling to and from the dialysis clinic, these patients are unwilling and/or unable to travel long distances to receive dialysis treatment. As a general rule, ESRD

patients do not travel more than 30 miles or 30 minutes to receive dialysis treatment, although travel times and distances vary depending on geographic barriers, travel patterns, and whether an area is urban, suburban, or rural.

VIII. EFFECTS OF THE ACQUISITION

16. The effects of the Acquisition, if consummated, may be substantially to lessen competition and to tend to create a monopoly in the relevant markets in violation of Section 7 of the Clayton Act, as a