

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE: BLUE CROSS BLUE SHIELD	}	Master File No.: 2:13-CV-20000-RDP
	}	
ANTITRUST LITIGATION	}	This document relates to all cases.
(MDL NO.: 2406)	}	
	}	

ORDER

This matter is before the court on the Motion to Dismiss by Defendants National Account Service LLC (“NAC”) and Consortium Health Plans, Inc. (“CHP”). (Doc. # 259). The Motion has been fully briefed (Docs. # 328, 345) and on May 19, 2015, the court heard argument on the Motion.

Defendants argue that the Provider Plaintiff’s claims against them fail to state a claim under *Twombly* in that the Provider Plaintiffs have failed to allege that they are parties to any anticompetitive agreement, and, in any event, the facts alleged by the Provider Plaintiffs establish that Defendants are only ancillary service providers and, thus, cannot be held liable for any alleged antitrust conspiracy. Plaintiffs respond by stating that they have plausibly alleged that (1) NAC and CHP were parties to the alleged conspiracy, (2) they were instrumentalities of the Blues, and/or, (3) in any event, the cases relied upon by Defendants (in their Rule 12(b)(6) Motion) were decided after an opportunity for discovery and on Rule 56 motions (where each court had summary judgment evidence on which to base its decision). The court finds that the Provider Plaintiffs have *alleged* plausible claims against NAC and CHP.

Nevertheless, the court concludes that Defendants should have the benefit of expedited discovery on the precise role they played with respect to the allegations that the Blues engaged in anti-competitive behavior.

Therefore, the Motion to Dismiss filed by NAS and CHP (Doc. # 259) is **DENIED**.

The parties are **DIRECTED** to work with Judge Putnam to develop a discovery plan which will encompass expedited discovery on issues relevant to these Defendants' arguments for dismissal.

DONE and **ORDERED** this May 26, 2015.


R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE