



Claims Scenarios for the Healthcare Industry

Claims Scenario 1:

Antitrust/Staff Privileges / Breach of Contract

In this Federal District Court case, neurologists alleged that the hospital's decision to use only members of the radiology department for official interpretation of MRI results was a violation of state and federal antitrust law (unfair competition). They also alleged that the hospital's refusal to allow them to interpret MRI results was a restriction of their Medical Staff privileges and did not give them due process (which refers to how and why laws are enforced) under the Medical staff bylaws.

The hospital's request for a motion for summary judgment* to dismiss the complaint was successful, but the neurologists have appealed. The results of the appeal are pending. The hospital's defense expenses have already exceeded \$1.4 million.

Claims Scenario 2:

Discrimination / Staff Privileges

After a physician disclosed he was HIV positive, the medical center where he worked restricted his surgical privileges. He was required to advise each patient of his HIV status prior to performing any invasive procedures. The physician filed suit in Federal Court alleging that this restriction violated the American's with Disabilities Act (ADA) and constituted discrimination pursuant to Equal Employment Opportunity Commission (EEOC) standards.

The medical center's motion for summary judgment* was partially granted and the parties ultimately agreed to a settlement in excess of \$150,000. The medical center's defense expenses, however, approached \$450,000.

Claims Scenario 3:

Restraint of Trade / Conspiracy

Two physicians contended that the hospital where they performed surgery intentionally interfered with their medical practice by allowing the department chairman to schedule surgeries. The hospital maintained that the department chairman had always controlled the scheduling of surgery for physicians in his department, whether they were on staff or from outside practices. The two physicians maintained that such control of the operating room schedule made it difficult for them to schedule surgeries and to obtain use of hospital staff perfusionists, who are surgical blood circulation specialists intrinsic to the surgical procedures they performed.

After an extensive and inconclusive period of discovery**, the parties agreed to mediation and a settlement of \$1.2 million. Since the hospital had not purchased the appropriate coverage, insurance paid only for the insured department chairman, in the amount of \$600,000.

**Motion For Summary Judgment* - A request made by the defendant in a civil case. Asserts that the plaintiff has raised no genuine issue to be tried and asks the judge to rule in favor of the defense. Typically made before the trial.

*** Period of Discovery* - Part of the pre-trial litigation process during which each party requests relevant information and documents from the other side in an attempt to "discover" pertinent facts. Generally discovery devices include depositions, interrogatories, requests for admissions, document production requests and requests for inspection.
Motion for Summary Judgment