

STATEMENT OF THE LEGAL ISSUES

- A. WHETHER THE HEALTH CARE QUALITY IMPROVEMENT ACT ("HCQIA") AFFORDS IMMUNITY TO DEFENDANTS FOR ACTIONS UNDERTAKEN BY A GROUP THAT WAS NOT A PROFESSIONAL REVIEW BODY, AND WAS NOT ENGAGED IN PROFESSIONAL PEER REVIEW ACTIONS?**

The Circuit Court found that the HCQIA provides immunity for actions not only in a formal peer review setting, but also extends to informal meetings not conducted pursuant to any formal peer review mechanism. The crux of the Court's ruling expands the HCQIA immunity to actions stemming from any meeting a doctor attends, even if it is unrelated to any official peer review process. On that erroneous basis, the Court granted Defendants' motion to dismiss all counts of the Complaint.

- B. WHETHER THE IMPAIRED PHYSICIAN POLICY STATEMENT, THAT DICTATES OBLIGATIONS ON THE PART OF THE MEDICAL STAFF AND IS GENERATED UNDER THE AUSPICES OF THE RCRH BOARD, IS A CONTRACT?**

The Circuit Court found that the Impaired Physician Policy Statement did not rise to the level of a contract as that term is defined under the law, and thus entered summary judgment in Defendants' favor as to Count I, Breach of Contract.

- C. WHETHER A TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE CLAIM CAN STAND WHEN A PARTY AFFIRMATIVELY FAILS TO ACT, RATHER THAN AFFIRMATIVELY ACTS?**

The Circuit Court entered summary judgment on Count II, finding that Defendants' failure to stop Dr. Wojewski from performing surgery when they knew he was impaired, and despite having the power and authority to do so, does not constitute an "act," and therefore does not satisfy the elements of the claim.

- D. WHETHER A FIDUCIARY DUTY IS CREATED WHEN A PARTY PURPOSELY EXERCISES COMPLETE CONTROL OVER A PERSON'S BODY AND ACTIONS?**

The Circuit Court found that no fiduciary duty existed on the part of the Defendants toward Dr. Wojewski, despite the fact that they controlled such things as Dr. Wojewski's therapy, medications, alcohol intake, travel, and the like, and thus it dismissed Count III. Based on the same rationale, the Circuit Court dismissed Plaintiff's aiding and abetting fiduciary duty claim, Count VI.

**E. WHETHER THE COURT ERRED IN GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF ON ITS CLAIM FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS?**

The Circuit Court erroneously found that no physical symptoms had been pled, and no duty existed on the part of Defendants, and thus dismissed Count IV of the Complaint.

**F. WHETHER THE COURT ERRED IN GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF ON ITS CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS?**

The Circuit Court erroneously found that Defendants, by sending a physician who was knowingly mentally impaired into the operating room to perform cardio-thoracic surgery, did not engage in extreme and outrageous conduct, and thus dismissed Count V of Wojewski's Complaint.