

Houston's Largest Hospital System Reaches Antitrust Settlement Agreement

Memorial Hermann, Houston's largest hospital system, settled an antitrust action on January 11, 2010, brought by Stealth LP, a limited partnership physician group that owned one of Memorial Hermann's former competitors, Town & Country Hospital. After Town & Country closed in 2007, Stealth filed an antitrust suit alleging that Memorial Hermann improperly threatened to raise prices or pull business from health insurers who worked with Town and Country.¹ In its defense, Memorial Hermann claimed that it acted fairly and aggressively in reacting to a reasonable competitive threat from the smaller hospital.² The attorney for Memorial Hermann claims that while his client has in fact told insurance companies it would change rates if insurers elected to do business with a competitor, it is not unfair, wrong, or illegal for Memorial Hermann to exercise its contractual right to do so.³

The terms of the settlement have not yet been released, but the attorney representing Stealth said his clients are very satisfied.⁴ A growing number of settlements of this nature indicate a heightened level of scrutiny regarding hospital billing practices. In January 2009, Memorial Hermann had been questioned about other anti-competitive behavior towards Town & Country.⁵ In that investigation, the Texas Attorney General alleged that Memorial Hermann had threatened costly contract terminations or rate increases to punish insurers that signed on with Town & Country.⁶ Memorial Hermann again settled, agreeing to pay \$700,000 to the state for the cost of the investigation, and suffered an injunction

requiring them to refrain from similar anti-competitive actions, such as those alleged in the lawsuit, for a minimum of five years.⁷

- 1 "Memorial Hermann Settles Part of Antitrust Lawsuit" by Mary Flood, Houston Chronicle, January 11, 2010, <http://www.chron.com/disp/story.mpl/metropolitan/6810199.htm> (Accessed January 22, 2010)
- 2 "Memorial Hermann Settles Part of Antitrust Lawsuit" by Mary Flood, Houston Chronicle, January 11, 2010, <http://www.chron.com/disp/story.mpl/metropolitan/6810199.htm> (Accessed January 22, 2010)
- 3 "Views Differ Starkly in Hospital Clash" by Mary Flood, Houston Chronicle, January 12, 2010, <http://www.chron.com/disp/story.mpl/business/6812450.html> (Accessed January 22, 2010)
- 4 "Memorial Hermann Settles Part of Antitrust Lawsuit" by Mary Flood, Houston Chronicle, January 11, 2010, <http://www.chron.com/disp/story.mpl/metropolitan/6810199.htm> (Accessed January 22, 2010)
- 5 "Memorial Hermann, Texas Attorney General Settle Dispute", Memorial Hermann, January 26, 2009, <http://www.memorialhermann.org/newsroom/content.aspx?id=5218> (Accessed January 22, 2010)
- 6 "Texas Hospital Settles Charges of Boycotting Physician-Owned Hospital" by Amy Lynn Sorrel, American Medical News, March 16, 2009, <http://www.ama-assn.org/amednews/2009/03/16/gvsc0316.htm> (Accessed February 1, 2010)
- 7 "Memorial Hermann Settles Part of Antitrust Lawsuit" by Mary Flood, Houston Chronicle, January 11, 2010, <http://www.chron.com/disp/story.mpl/metropolitan/6810199.htm> (Accessed January 22, 2010)



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Robert James Cimasi, MHA ASA, CBA, AVA, CM&AA, President. Mr. Cimasi is a nationally recognized healthcare industry expert, with over 25 years experience in serving clients, in 49 states, with a professional focus on the financial and economic aspects of healthcare industry including: valuation consulting; litigation support & expert testimony; business intermediary and capital formation services; certificate-of-need and other regulatory and policy planning; and, healthcare industry transactions, joint ventures, mergers and divestitures.

Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, and several professional certifications. He has been certified and has served as an expert witness on cases in numerous states, and has provided testimony before federal and state legislative committees.

Mr. Cimasi is a nationally known speaker on healthcare industry topics, is the author of several nationally published books, chapters, published articles, research papers and case studies, and is often quoted by healthcare industry press. Mr. Cimasi's latest book, *"The U.S. Healthcare Certificate of Need Sourcebook"*, was published in 2005 by Beard Books. In 2006, Mr. Cimasi was honored with the prestigious *"Shannon Pratt Award in Business Valuation"* conferred by the Institute of Business Appraisers and was elevated to the Institute's College of Fellows in 2007.



Todd A. Zigrang, MHA, MBA, FACHE, Senior Vice-President. Mr. Zigrang has over twelve years experience in providing valuation, financial analysis, and provider integration services to HCC's clients nationwide. He has developed and implemented hospital and physician driven MSOs and networks involving a wide range of specialties; developed a physician-owned ambulatory surgery center; participated in the evaluation and negotiation of managed care contracts, performed valuations of a wide array of healthcare entities; participated in numerous litigation support engagements; created pro-forma financials; written

business plans and feasibility analyses; conducted comprehensive industry research; completed due diligence analysis; overseen the selection process for vendors, contractors, and architects; and, developed project financing.

Mr. Zigrang holds a Masters in Business Administration and a Master of Science in Health Administration from the University of Missouri at Columbia. He holds the Certified Healthcare Executive (CHE) designation from, and is a Diplomat of, the American College of Healthcare Executives and a member of the Healthcare Financial Management Association.



Anne P. Sharamitaro, Esq., Vice President. Ms. Sharamitaro focuses on the areas of Certificate of Need (CON); regulatory compliance, managed care, and antitrust consulting. Ms. Sharamitaro was admitted to the Missouri after graduating with J.D. and Health Law Certificate from St. Louis University School of Law. At St. Louis University, served as an editor and staff member of the Journal of Health Law, published by the American Health Lawyers Association. She has presented healthcare industry related research papers before Physician Hospitals of America (f/k/a American Surgical Hospital Association) and the National Association of Certified Valuation Analysts.



Rachel L. Seiler, MPH, is a Senior Research Associate at Health Capital Consultants (HCC). Ms. Seiler holds a Masters in Public Health at Saint Louis University. At HCC, Ms. Seiler serves as a Sr. Project Manager for consulting services providing research for financial and economic analyses related to provider, physician, and executive compensation; valuation of healthcare enterprises, assets and services; healthcare industry trends and medical specialty trends; market demographics and competition; and, various regulatory, reimbursement and technology topics related to health policy and economic trends regarding a wide

and diverse array of healthcare industry topics. Ms. Seiler was co-author of the study entitled *"Market Impact of Specialty Hospitals: A Study of the Profitability of General Short-Term Acute Care Hospitals"*, published in the Winter 2008 edition of the Journal of Health Care Finance, and defended it at a poster presentation at Academy Health in Chicago.