

Insurers Subject to ERISA Liability

In June 2011, the Ninth Circuit Court of Appeals held that damaged parties may hold insurers, benefit plans, and plan administrators liable for denial of benefits under the Employee Retirement Income Security Act (ERISA), overturning 26 years of precedent.¹ Section 1132(a)(1)(B) of ERISA outlines eligible defendants in matters related to an inappropriate denial of benefits, and previous rulings suggest that eligible defendants are limited to a benefit plan or benefit plan administrators. The Ninth Circuit's ruling expands the scope of liability in ERISA claims.²

In *Cyr v. Reliance*, Laura Cyr filed an ERISA claim against Reliance Standard Life Insurance Company (Reliance). Cyr claimed that due to a retroactive change in her salary, a previously filed and approved benefits payment needed to be adjusted. In the suit, Cyr named the plan manager, Reliance, as a defendant, which has traditionally been beyond the scope of ERISA liability. The Court allowed Cyr to include the insurance company as a defendant, despite the fact that Cyr's complaint did not identify Reliance as the plan administrator.³

The District Court granted Reliance's motion for summary judgment, stating that only the plan or plan administrator may be held liable under the ERISA statute. As a third-party insurer, the Court considered Reliance an improper defendant to Cyr's claim.⁴ The District Court later reversed this decision, citing case law that allowed lawsuits against certain insurers functioning as the plan administrator.⁵ Although Cyr's claim did not identify Reliance as the plan administrator, the Court found they were acting as such and were held liable under the law.⁶ Ultimately, the District Court ruled in Cyr's favor, concluding that Reliance was the party responsible for paying legitimate benefits claims to the employee.⁷

The Ninth Circuit Court of Appeals committee upheld the lower court's decision, emphasizing that ERISA "[Section 1132(a)(3)] makes no mention at all of which parties may be proper defendants—the focus, instead, is on redressing the 'act or practice which violates any provision of [ERISA Title I].'" 29 U.S.C. § 1132(a)(3)

(emphasis added)."⁸ The opinion further noted that other ERISA provisions do specifically list those who may be considered eligible defendants. In its published decision, the Ninth Circuit expressly invalidated prior contradicting decisions within its jurisdiction.⁹

The implications of the June 2011 ruling may reach beyond Cyr's award of attorney fees, costs, and pre-judgment interest.¹⁰ Courts outside the Ninth Circuit may apply *Cyr v. Reliance Standard Life* as the new standard for similar cases.¹¹ Further, this decision may lead to an increased number of ERISA claims naming an insurer as the defendant for denial of employee benefits, and may also alter the methods by which insurers protect themselves from liability, especially among those who act as plan administrators.¹²

¹ "Ninth Circuit Broadens Scope of Entities that Can Be Sued for ERISA Plan Benefits" By Darren Nadel and Kalisha Chorba, Little Mendelson, P.C., ASAP, June 2011.

² "Ninth Circuit En Banc Opinion Overturns Precedent, Holds That Insurers Can Be Held Liable Under ERISA" By Michael Maddigan, American Health Lawyers Association, June 30, 2011, <http://www.healthlawyers.org/Pages/NinthCircuitEnBancOpinionOverturnsPrecedent,HoldsThatInsurersCanBeHeldLiableUnderERISA.aspx> (Accessed 7/15/2011)

³ "Ninth Circuit Broadens Scope of Entities that Can Be Sued for ERISA Plan Benefits" By Darren Nadel and Kalisha Chorba, Little Mendelson, P.C., ASAP, June 2011.

⁴ *Cyr v Reliance Standard Life*, No. 07-56869 Opinion (9th Cir. June 22, 2011), p. 8500.

⁵ *Cyr v Reliance Standard Life*, No. 07-56869 Opinion (9th Cir. June 22, 2011), p. 8500.

⁶ *Cyr v Reliance Standard Life*, No. 07-56869 Opinion (9th Cir. June 22, 2011), p. 8500.

⁷ "Ninth Circuit En Banc Opinion Overturns Precedent, Holds That Insurers Can Be Held Liable Under ERISA" By Michael Maddigan, American Health Lawyers Association (2011), p. 2.

⁸ *Cyr v Reliance Standard Life*, No. 07-56869 Opinion (9th Cir. June 22, 2011), p. 8503.

⁹ *Cyr v Reliance Standard Life*, No. 07-56869 Opinion (9th Cir. June 22, 2011), p. 8504.

¹⁰ *Cyr v Reliance Standard Life*, No. 07-56869 Opinion (9th Cir. June 22, 2011), p. 8500.

¹¹ "Ninth Circuit En Banc Opinion Overturns Precedent, Holds That Insurers Can Be Held Liable Under ERISA" By Michael Maddigan, American Health Lawyers Association (2011), p. 2.

¹² "Ninth Circuit En Banc Opinion Overturns Precedent, Holds That Insurers Can Be Held Liable Under ERISA" By Michael Maddigan, American Health Lawyers Association (2011), p. 2.



(800) FYI - VALU

*Providing Solutions
in the Era of
Healthcare Reform*

Founded in 1993, HCC is a
nationally recognized healthcare
economic financial consulting firm

- [HCC Home](#)
- [Firm Profile](#)
- [HCC Services](#)
- [HCC Experts](#)
- [Clients Projects](#)
- [HCC News](#)
- [Upcoming Events](#)
- [Contact Us](#)
- [Email Us](#)

HEALTH CAPITAL CONSULTANTS (HCC) is an established, nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, Missouri, with regional personnel nationwide. Founded in 1993, HCC has served clients in over 45 states, in providing services including: valuation in all healthcare sectors; financial analysis, including the development of forecasts, budgets and income distribution plans; healthcare provider related intermediary services, including integration, affiliation, acquisition and divestiture; Certificate of Need (CON) and regulatory consulting; litigation support and expert witness services; and, industry research services for healthcare providers and their advisors. HCC's accredited professionals are supported by an experienced research and library support staff to maintain a thorough and extensive knowledge of the healthcare reimbursement, regulatory, technological and competitive environment.



Robert James Cimasi, MHA, ASA, FRICS, MCBA, AVA, CM&AA, serves as President of **HEALTH CAPITAL CONSULTANTS (HCC)**, a nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, MO, serving clients in 49 states since 1993. Mr. Cimasi has over thirty years of experience in serving clients, with a professional focus on the financial and economic aspects of healthcare service sector entities including: valuation consulting and capital formation services; healthcare industry transactions including joint ventures, mergers, acquisitions, and divestitures; litigation support & expert testimony; and, certificate-of-need and other regulatory and policy planning consulting.

Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Intuition of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: *“The U.S. Healthcare Certificate of Need Sourcebook”* [2005 - Beard Books], *“An Exciting Insight into the Healthcare Industry and Medical Practice Valuation”* [2002 – AICPA], and *“A Guide to Consulting Services for Emerging Healthcare Organizations”* [1999 John Wiley and Sons].

Mr. Cimasi is the author of numerous additional chapters in anthologies; books, and legal treatises; published articles in peer reviewed and industry trade journals; research papers and case studies; and, is often quoted by healthcare industry press. In 2006, Mr. Cimasi was honored with the prestigious *“Shannon Pratt Award in Business Valuation”* conferred by the Institute of Business Appraisers. Mr. Cimasi serves on the Editorial Board of the Business Appraisals Practice of the Institute of Business Appraisers, of which he is a member of the College of Fellows.



Todd A. Zigrang, MBA, MHA, ASA, FACHE, is the Senior Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas valuation and financial analysis for hospitals and other healthcare enterprises. Mr. Zigrang has significant physician integration and financial analysis experience, and has participated in the development of a physician-owned multi-specialty MSO and networks involving a wide range of specialties; physician-owned hospitals, as well as several limited liability companies for the purpose of acquiring acute care and specialty hospitals, ASCs and other ancillary facilities; participated in the evaluation and negotiation of managed care contracts, performed and assisted in the valuation of various healthcare entities and related litigation support engagements; created pro-forma financials; written business plans; conducted a range of industry research; completed due diligence practice analysis; overseen the selection process for vendors, contractors, and architects; and, worked on the arrangement of financing.

Mr. Zigrang holds a Master of Science in Health Administration and a Masters in Business Administration from the University of Missouri at Columbia, and is a Fellow of the American College of Healthcare Executives. He has co-authored *“Research and Financial Benchmarking in the Healthcare Industry”* (STP Financial Management) and *“Healthcare Industry Research and its Application in Financial Consulting”* (Aspen Publishers). He has additionally taught before the Institute of Business Appraisers and CPA Leadership Institute, and has presented healthcare industry valuation related research papers before the Healthcare Financial Management Association; the National CPA Health Care Adviser's Association; Association for Corporate Growth; Infocast Executive Education Series; the St. Louis Business Valuation Roundtable; and, Physician Hospitals of America.



Anne P. Sharamitaro, Esq., is the Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where she focuses on the areas of Certificate of Need (CON); regulatory compliance, managed care, and antitrust consulting. Ms. Sharamitaro is a member of the Missouri Bar and holds a J.D. and Health Law Certificate from Saint Louis University School of Law, where she served as an editor for 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 and the National Association of Certified Valuation Analysts and co-authored chapters in *“Healthcare Organizations: Financial Management Strategies,”* published in 2008.