

ANTITRUST

Home Health Specialists v. Liberty Health Sys., No. 92-3413 (U.S. D. Ct. E.D. Pa., Aug. 23, 1994) (1994 U.S. Dist. LEXIS 11947). The United States District Court for the Eastern District of Pennsylvania reaffirmed that to establish an antitrust claim under Sections 1 and 2 of the Sherman Act and Section 7 of the Clayton Act under a rule of reason analysis, plaintiff must present evidence of relevant geographic market and harm to competition. The court held plaintiff provider of home health care failed to define a geographic market for inpatient hospital services necessary to show that defendant providers of home health care leveraged their power in the hospital market to unfairly control the downstream market for home health care.

Levine v. Central Fla. Med. Affiliates, 864 F. Supp. 1175 (M.D. Fla. 1994). Plaintiff physician brought antitrust action against defendants hospitals and alleged defendants conspired to blacklist him by suspending his privileges and circulating a notice of his suspension in violation of Section 1 of the Sherman Act. Even though plaintiff may have suffered economic injury, the United States District Court for the Middle District of Florida ruled because plaintiff continued to compete effectively in the market after the suspension he failed to establish an antitrust injury, and therefore, lacked standing to bring his claim. *Morganstern v. Wilson*, 29 F.3d 1291 (8th Cir. 1994). Plaintiff surgeon brought suit for a violation of Section 2 of the Sherman Act on a theory of monopolization by combination of individuals and corporations acting in concert. The United States Court of Appeals for the Eighth Circuit held plaintiff failed to establish the relevant geographic market upon which actual monopoly power could be based and, therefore, failed to establish an inference of monopoly power.

Sanjuan v. American Bd. of Psychiatry, No. 94-1585 (U.S. Ct. App., 7th Cir., Nov. 21, 1994) (1994 U.S. App. LEXIS 32958). The United States District Court for the Seventh Circuit found defendant certification board did not violate antitrust laws because plaintiffs psychiatrists signed an enforceable release containing a promise not to sue and plaintiffs failed to state antitrust injury in seeking to demonstrate injury to producers, as opposed to consumers.

Smilecare Dental Group v. Delta Dental Plan of California, 858 F. Supp. 1035 (C.D. Cal. 1994). Plaintiff operator of supplemental health care plan alleged defendant primary plan took actions designed to eliminate plaintiff's plan. The United States District Court for the Central District of California held defendant's actions to enforce contractual mandatory copayment provision so as to preclude patients from obtaining supplemental insurance coverage, was not anticompetitive conduct. *Willamette Dental Group, P.C. v. Oregon Dental Serv. Corp.*, 882 P.2d 637 (Or. App. 1994). Defendant dental PPO invoked a most favored nations clause in its participation agreement stating participating providers could not charge defendant rates higher than those charged to other dental benefits providers. The Oregon Court of Appeals affirmed the grant of summary judgment in defendant's favor holding, absent evidence suggesting a predatory impact on competition, enforcement of a most favored nations clause does not violate section 2 of the Sherman Act.