

BOISE, WEDNESDAY, AUGUST 19, 2009 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

MELINDA COOMBS, natural mother of)	
MICHAEL HALL, deceased, and THE)	
ESTATE OF MICHAEL HALL, as)	
represented by MELINDA COOMBS,)	
personal representative)	
)	
Plaintiffs-Appellants,)	Docket No. 35157
)	
v.)	
)	
ADRIAN CURNOW, M.D., and RUSSELL)	
GRIFFITHS, M.D.,)	
)	
Defendants-Respondents.)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Lojek Law Offices, Chtd., Boise, for appellants.

Moffatt, Thomas, Barrett, Rock & Fields, Chtd., Boise, for respondents.

Three-year-old Michael Hall sustained a serious injury to his face after being bitten by a dog at a family gathering. Michael was rushed to St. Alphonsus Regional Medical Center, where Dr. Adrian Curnow was assigned as his primary physician. In treating Michael, Dr. Curnow consulted with Dr. Russell Griffiths, a pediatric plastic surgeon. After obtaining the consent of Michael's mother, Melinda Coombs, Dr. Griffiths performed re-implantation surgery on Michael to reattach the severed tissue. Dr. Griffiths was able to reattach the tissue, however, the re-implantation ultimately failed. During and after the re-implantation surgery, Michael was sedated with the sedative agent Propofol to prevent irritation of the reattached tissue. The drug continued to be administered to assist with Michael's pain management even after the reattachment failed.

While recovering from the detachment surgery Michael began experiencing various complications. As a result of the complications, Michael suffered serious damage to his brain and was pronounced brain dead. Michael was subsequently removed from life support and passed away.

Mrs. Coombs filed a medical malpractice claim against Drs. Curnow and Griffiths, alleging the doctors' negligent treatment of Michael caused his death. The case proceeded to a

jury trial, which resulted in a \$750,000.00 verdict for Mrs. Coombs. In its special verdict, the jury found Drs. Curnow and Griffiths equally liable for Michael's death.

After the jury returned its verdict, both doctors filed motions for judgment notwithstanding the verdict, which the district court granted after concluding the jury's verdict was not supported by substantial and competent evidence. The court reasoned Mrs. Coombs failed to present reliable testimony indicating that the doctors' negligence was the cause of Michael's death. Mrs. Coombs now appeals the district court's decision to the Idaho Supreme Court, arguing the jury's verdict was supported by expert testimony indicating the doctors' prolonged administration of Propofol caused Michael's death.

BOISE, WEDNESDAY, AUGUST 19, 2009 AT 10:00A.M.

**SAINT ALPHONSUS DIVERSIFIED CARE,)
INC., an Idaho nonprofit corporation,)
)
Plaintiff-Appellant-Cross Respondents,)
)
v.)
)
MRI ASSOCIATES, LLP, an Idaho limited)
liability partnership,)
)
Defendant-Respondent-Cross Appellant.)
-----)
MRI ASSOCIATES, LLP, an Idaho limited)
liability partnership, on its own behalf, and on)
behalf of MRI LIMITED, an Idaho limited)
partnership, and MRI MOBILE LIMITED,)
an Idaho limited partnership,)
)
Counterclaimant-Respondent-Cross)
Appellant,)
)
v.)
)
SAINT ALPHONSUS DIVERSIFIED CARE,)
INC., an Idaho nonprofit corporation; SAINT)
ALPHONSUS REGIONAL MEDICAL)
CENTER,)
)
Counterdefendants-Appellants-Cross)
Respondents.)
_____)**

Docket No. 34885-2007

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Honorable Michael R. McLaughlin, District Judge.

Jones Day, Washington D.C., Gjording & Fouser, LLC, Boise, and Givens Pursley LLP., Boise, for Appellants.

Banducci Woodward Schwartzman PLLC., Boise, for Respondents.

This is an appeal by Saint Alphonsus Regional Medical Center (SARMC), and its wholly owned subsidiary Saint Alphonsus Diversified Care, Inc. (SADC) (collectively “SARMC”) from a jury trial verdict in favor of MRI Associates, LLP. (MRIA). MRIA was awarded a judgment of \$63.5 million plus fees and costs that was reduced to \$36.3 million on remittitur by the court.

On appeal, SARMC claims that the district court erred in numerous ways including: 1) its finding, as a matter of law, that SARMC’s dissociation from MRIA was wrongful; 2) that two documents were admissible as evidence; and 3) that the judgment could be sustained on the theory of lost profits. MRIA cross-appeals the district court’s denial of punitive damages instructions to the jury and summary judgment in favor of SARMC on MRIA’s antitrust claims.

On April 26, 1985, the partnership of MRIA Associates was originally formed by five independent groups; SADC, Doctors of Magnetic Resonance, Inc. (DMR), Saint Alphonsus Magnetic Resonance, Inc. (SAMR), Mednow, Inc. (MN), and HCA of Idaho (HCA). This partnership was created for the purpose of acquiring and operating diagnostic medical devices, equipment and accessories related to such diagnostic devices and equipment, together with buildings and other facilities associates therewith, and to transact any and all business matters incident thereto. The initial diagnostic equipment to be acquired was the magnetic resonance imaging (MRI) equipment. In furtherance of this objective, MRIA formed two limited partnerships: MRI Limited Partnership (Center), which owned and operated an MRI device at a facility located on the Saint Alphonsus hospital campus, and MRI Mobile Limited Partnership (Mobile), which owned and operated mobile MRI devices throughout the region.

MRIA owned 30% of each limited partnership, serving as the general partner of both and had overall responsibility for running the businesses, known as MRI Center of Idaho (MRICI), and MRI Mobile (MRIM).

Doctors at SARMC used Center for the technical service of producing MRI scans and relied on the radiologists from SARMC Radiology Group (SARG n/k/a Gem State Radiology (GSR)) for interpreting the scans.

The radiologists in GSR began to formulate plans for an outpatient imaging center that would provide a full range of medical imaging services, including both MRI and a variety of other imaging services which would compete with MRIA in the late 1990’s. In 1998, GSR initiated plans to build its own imaging center in Boise and acquired land in downtown Boise for this purpose. GSR disclosed this plan to SARMC and encouraged it to get involved. IMI began operating on September 1, 1999.

SARMC initially encouraged and tried to facilitate GSR and MRIA to merge and/or exchange respective interests. However, negotiations eventually failed and the two facilities became competitors. On July 1, 2001, SADC and Imaging Center Radiologists, LLP. (ICR) formed the partnership Intermountain Medical Imaging, LLC. (IMI), where SADC was a partner but only in the non-MRI part of the business. SARMC hired Shattuck Hammond, a banking investment firm, to explore options and advise in regard to dissociating from MRIA and fully partnering with IMI.

SARMC gave notice to MRIA of its intent to dissociate on February 24, 2004. The dissociation became effective on April 1, 2004 and SARMC brought this lawsuit seeking a judicial determination of the amount owed to it for its interest in the partnership on October 18, 2004. MRIA counterclaimed alleging the dissociation was wrongful,

SARMC had breached its fiduciary duties to the partnership and breached the partnership agreement's covenant of good faith and fair dealing by allegedly assisting IMI and thereby causing Center and Mobile to lose business to IMI. MRIA filed additional counterclaims against SARMC, including claims for breach of the partnership agreement's non-compete clause, interference with prospective contractual relations of business expectations, and civil conspiracy, as well as a third-party complaint against SARG/GSR, IMI and one of their affiliates.

On July 24, 2006, ruling on a pre-trial motion for summary judgment, the district court held that SARMC's dissociation had been wrongful as a matter of law.

On December 26, 2006, MRIA moved to add a claim for breach of fiduciary duty brought on behalf of the limited partnerships which the district court allowed reasoning that as the general partner, MRIA has the authority to bring claims on behalf of the limited partnerships pursuant to the limited partnership agreements. The court acknowledged that SARMC owed no statutory fiduciary duties to the limited partnerships but concluded a question of fact remained whether a common-law fiduciary duty might exist based on the nature of the relationship between SARMC and the limited partnerships. However, at the close of trial, the district court instructed the jury that SARMC owed a fiduciary duty to the limited partnerships concluding that there was no reasonable basis on which the jury could doubt that conclusion.

Shattuck Hammond had been retained by SARMC, but Shattuck Hammond had also been retained by Givens Pursley to assist in providing legal advice to SARMC. In a motion *in limine*, SARMC tried to exclude, on grounds of attorney-client privilege, portions of an internal memo prepared by, and circulated to, employees of Shattuck Hammond. The district court found that the relevant portions of the document were not protected by attorney-client privilege and allowed the memo as evidence.

SARMC also tried to have excluded a settlement memorandum sent to Sandra Bruce, SARMC's CEO, by the CEO's of the other hospital partners of MRIA. The content of the letter includes details of a settlement offer whereby MRIA offered to sell MRICI and MRIM to SARMC based on assumed values of those entities. The district court allowed the evidence for the limited purpose of showing MRIA's belief of their opinion as to what they felt the fair market value of the MRIA partnership was, accompanied by a limiting instruction providing that the evidence could be used for one of the proper purposes outlined in IRE 408.

MRIA filed an amendment to the pleadings seeking to add punitive damages against SARMC and IMI based on the district court's holding that SARMC's dissociation was in knowing violation of the partnership agreement for the purpose of assisting and sharing in the profits of MRIA's main competitor at the expense of MRIA, thereby breaching SARMC's fiduciary duties. The district court held that there was no basis for punitive damages and did not allow the amendment to the pleadings.

MRIA also brought antitrust claims against SARMC. SARMC filed a summary judgment motion to exclude these claims which the district court granted. It held that for an antitrust claim, MRIA must show harm to competition exists; meaning adverse effects in the price, quality, or output of the relevant good or service in the relevant market. The district court found that such a showing was not present in the record.

MRIA submitted two theories of recovery to the jury. The first, the "lost scan" theory, focused on the number of MRI scans that were allegedly diverted from Center or

Mobile to IMI. The second was the “purchase price” damage theory, was presented as the measure of damages resulting from the wrongful dissociation. Under this theory, MRIA claimed that recoverable damages for wrongful dissociation should be measured by the estimated value or hypothetical purchase price of Center.

The jury, after deliberating for ninety minutes, returned a verdict for MRIA on all of the counterclaims, awarding damages in the amount of \$63.5 million. The district court determined that the jury had improperly cumulated MRIA’s two alternative damages theories, as MRIA conceded, and issued a remittitur, reducing the verdict to \$36.3 million. The district court, sitting in equity, determined that SARMC’s interest in the partnership was \$4.6 million, and ordered that amount offset from MRIA’s award. The district court also concluded that MRIA’s claim arose out of a commercial transaction within the meaning of I.C. § 12-120(3) and awarded MRIA attorney fees and costs of \$2.1 million resulting in a final judgment for MRIA of \$33,872, 677.63.

On October 3, 2007, SARMC moved for judgment notwithstanding the verdict and for a new trial, arguing that errors required the district court to set aside the jury’s verdict. The district court denied the motions and SARMC timely appealed.

BOISE, WEDNESDAY, AUGUST 19, 2009 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

PAUL EZRA RHOADES,)	
)	
Petitioner/Appellant,)	
v.)	Docket No. 34236
)	
STATE OF IDAHO,)	
)	
Respondent.)	

Appeal from the District Court of the Seventh Judicial District of the State of Idaho, Bonneville County. Hon. Jon J. Shindurling, District Judge.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent.

This case arises from Appellant Paul Ezra Rhoades' (Rhoades') 1988 conviction for the murder, kidnapping, robbery, rape and infamous crime against nature of Susan Michelbacher. In 2002, Rhoades filed a petition for post-conviction relief and scientific testing seeking DNA testing of semen samples collected from the crime scene. Rhoades filed a motion to amend his petition, seeking to add claims that the prosecutor knowingly violated his constitutional rights by presenting allegedly false DNA evidence and that Rhoades is actually innocent of the crimes. Rhoades supported his motion to amend with the affidavit of Greg Hampikian, Ph.D., and the FBI's conclusion regarding testing of the semen samples recovered from the crime scene. The district court denied the motion to amend. Rhoades then filed a motion to dismiss his petition in order to appeal the district court's denial of his motion to amend. The district court granted the withdrawal and dismissed Rhoades' petition. Rhoades appeals to this Court contending that it was error for the district court to deny his motion to amend his petition for post-conviction relief.