

Client Alert

Court Dismisses Resident Match Antitrust Lawsuit

August 16, 2004

The federal district court hearing a class-action lawsuit by current and recent medical students against the National Resident Match Program (“NRMP”) and 29 teaching hospitals which participate in the program dismissed the lawsuit, citing a new law granting the Match Program a sweeping antitrust exemption. On August 12, 2004, Judge Paul L. Friedman of the District Court for the District of Columbia granted the defendants’ motion for judgment on the pleadings and dismissed all claims against the defendants in light of Section 207 of the Pension Funding Equity Act of 2004, Pub. L. No. 108-218, 118 Stat. 596 (2004).

The lawsuit, *Jung v. Association of Medical Colleges*, No. 02-0873, was brought on behalf of more than 200,000 current and recent medical students, and alleged that the NRMP, its affiliated organizations, and the teaching hospitals have conspired to “displace competition in the recruitment, hiring, employment and compensation of resident physicians, and to impose a scheme of restraints which have the purpose and effect of fixing, artificially depressing, standardizing and stabilizing resident physician compensation and other terms of employment.” In February 2004, Judge Friedman, while granting motions to dismiss for certain defendants for jurisdictional reasons, denied a motion to dismiss for failure to state a claim, denied a motion to dismiss for lack of subject matter jurisdiction, and denied a motion to compel arbitration. The case had survived at least the initial round of challenges and was progressing, but it would not survive much longer.

On April 10, 2004, President Bush signed the Pension Funding Equity Act of 2004. Contained at the end of that law is Section 207, entitled “Confirmation of Antitrust Status of Graduate Medical Resident Matching Programs.” Section 207 amended the antitrust laws to grant an exemption to the NRMP and the hospitals which participate in it. Further, evidence of participation in a graduate medical education residency matching program is deemed inadmissible in federal court to support a claim alleging a violation of the antitrust laws. Section 207 did create a price-fixing exception to the exemption for agreements between 2 or more programs to fix the amount of the stipend or other benefits.

In light of Section 207, Judge Friedman concluded that the plaintiffs’ complaint could not be proven under the new law. The complaint relied on describing the NRMP to prove its conspiracy allegation, and evidence of the match program participation was barred as evidence in the new laws. The complaint alleged a single overarching integrated antitrust conspiracy, with the NRMP at the center. The Court concluded that the allegations concerning the NRMP and the hospitals’ participation in the Match “are so interdependent that the Court cannot separate them from the remaining allegations.” Because Congress prohibited evidence of the Match from being used to support an antitrust claim, the whole lawsuit must be dismissed.

Judge Friedman also rejected plaintiffs’ argument that the savings clause in Section 207 preserved the complaint. Section 207 only excludes price-fixing claims alleging agreements between two or more hospitals to

fix stipends, not claims related to resident compensation. The complaint did not allege a conspiracy to fix wages, but rather alleged a conspiracy to suppress competition and depress compensation. The Court ruled this was too broad to survive the savings clause.

Finally, the Court dismissed a series of constitutional challenges to Section 207. “Plaintiffs understandably are frustrated. They won a significant victory in court; Congress now has snatched it away.” But, the Court ruled, despite Congress’ holding no hearings, hearing no testimony, and conducting no significant debate, the law was validly passed by Congress and signed by the President.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Ryan C. Tisch

Partner – Washington, D.C.

Phone: +1.202.624.2674

Email: rtisch@crowell.com