

February 10, 2015

Desert Healthcare District

Statement Regarding Court Award of Attorneys' Fees to Desert Healthcare District

The Desert Healthcare District announced today that it has won a critical decision in the lawsuit filed by Michael Solomon, MD. After hearing oral argument on February 9th, the Honorable David M. Chapman in Department PS2 in Riverside County Superior Court ordered Solomon to pay Desert Healthcare District \$32,750 for attorneys' fees spent by DHCD in defending and prevailing in the lawsuit. The ruling follows the Court's previous decision on November 20, 2015, to dismiss the case in its entirety under the Anti-SLAAP statute. That ruling allowed DHCD to seek recovery of its attorney's fees.

In August of 2015, Dr. Solomon filed a civil complaint against DHCD, a board member and staff claiming privacy violations for disclosure of alleged confidential health records. His lawsuit sought money damages and the termination of the Chief Executive Officer. The DHCD's legal team argued that the Anti-SLAPP statute applies in this case because Dr. Solomon's complaint on its face is a lawsuit seeking to punish free speech on matters of public interest, specifically the medical fitness of a board member to fulfill his duties.

The court determined that Solomon could not demonstrate a probability of prevailing because the statements allegedly made were not disclosures of personal information obtained from information maintained by a state agency. Specifically, Solomon was suing under California Civil Code § 1798.53. The statute specifically excludes local agencies as defined in section 2652 of the Government Code. Desert Healthcare District is subject to the exclusion and Civil Code § 1798.53 does not apply.

Ultimately, Dr. Solomon could not provide the evidence necessary to show that District Healthcare District or its staff and board violated the law. Anti-SLAAP is designed to protect participation in government processes without fear of lawsuits. We appreciate Judge Chapman's thoughtful conclusion of this matter.

Solomon's allegations first surfaced in the Fall of 2014, while he was the Board President. Before filing the lawsuit, Solomon demanded \$20 million from DHCD. He demanded the money or alternatively the termination or resignation of the District's CEO, resignation of the Board President, the termination and suing of DHCD legal counsel, and dissolution of the Desert Healthcare Foundation. In January 2015, DHCD rejected Solomon's claim and referred the matter to the Riverside County District Attorney's Office, Public Integrity Unit. DHCD rejected the claims as being groundless and referred the lawsuit to its attorneys for defense.

In response to Solomon's lawsuit, on October 21, 2015, DHCD filed an Anti-SLAPP motion which sets forth that DHCD never had access to Solomon's medical records, that any information it received was public information passed to it from non-privileged sources, and that the limited dissemination of the information is protected speech because Solomon is a publically elected official whose health and ability to perform the duties of his office was a public issue.

The court agreed and dismissed the case in its entirety. The Court has now awarded DHCD \$32,750 in attorneys' fees, to be paid by Solomon.

In the interest of complete transparency, the lawsuit and related documents have been posted to the District's website at www.dhcd.org.

###