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On the Intersection of Competition Law and Local-Government Conduct .

This post studies an interesting question in competition law: can a local government be sued for money damages based on a federal antitrust violation?

The answer is "no," according to a recent decision from a federal court in Charlotte. *Benitez v. Charlotte-Mecklenburg Hospital Authority* is one of several high-profile antitrust cases involving Atrium Health, the large public-hospital system in Charlotte.

Raymond Benitez had inpatient care at Atrium. After insurance, Mr. Benitez faced a $3000 medical bill.

Mr. Benitez's insurer had an agreement with Atrium. That agreement included what are known as steering restrictions. These restrictions limited an insurer's ability to direct subscribers—like Mr. Benitez—to healthcare providers other than Atrium.

These facts prompted a putative class action. The complaint alleges that the steering restrictions unlawfully drive up prices for inpatient services, inflate the amount of co-insurance that patients must pay Atrium, and thereby violate the federal antitrust laws. The putative class sought money damages and an injunction to stop Atrium's steering restrictions.

Atrium moved for judgment on the pleadings. It argued that a federal statute called the Local Government Antitrust Act barred the claim for monetary damages. The Act provides local governments with absolute immunity against monetary damages brought under section 4 of the Clayton Act.

In its opening brief, Atrium emphasized that it functions as a political subdivision of the state—and that it was created to serve a public purpose. Atrium pointed to numerous cases that have applied the Act to hospitals based on those features.

Judge Robert J. Conrad, Jr. agreed.

Judge Conrad began his analysis by looking at the Act's definition of "local government." That definition includes any "special function governmental unit established by State law in one or more States."

Judge Conrad then noted that courts have broadly construed this definition. That broad construction means that the Act applies to a wide range of decisions that any local-government entity makes.

And, to eliminate any doubt, Atrium is a local-government entity. The General Assembly created Atrium as a public-hospital authority under chapter 131E of the North Carolina General Statutes. Judge Conrad specifically cited section 131E-16(14), which defines a hospital authority as "a public body and a body corporate and politic organized under [North Carolina law]." He explained that the term "body politic" means "a body acting as government."

Judge Conrad then turned to Atrium's powers under the statute. Those powers, he observed, parrot the powers that the General Assembly gave to municipal hospitals under the same chapter. This similarity bears significance, because the Fourth Circuit has granted absolute immunity from antitrust damages to a municipal hospital established under chapter 131E.

By extension, Judge Conrad concluded, a public-hospital authority formed under chapter 131E is likewise immune from antitrust claims that seek monetary damages.

So the Act shields Atrium from claims for money damages. But it does not shield Atrium from claims for injunctive relief.

Judge Conrad put the case on ice nonetheless. He did so because the same injunctive relief being sought in *Benitez* is also being sought in another pending case against Atrium before Judge Conrad. A stay in *Benitez* avoids duplicative litigation, and a resolution of the issues in the other case would resolve the issue in *Benitez*.

That resolution is coming soon, because the parties in the earlier case have reached a proposed settlement. That settlement stops Atrium from enforcing steering restrictions in its insurer contracts and bars Atrium from taking action that would prohibit, prevent, or penalize steering by insurers in the future.

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