



# Davis Transport v. Missoula Radiology (District of Montana)

Topics Covered: Antitrust

## **Outcome: Somewhat Favorable**

### **Issue**

The issue in this case was whether a radiology practice and imaging center could properly refuse to enter into a health insurer's participating provider network without violating the federal antitrust laws.

### **AMA Interest**

The AMA supports a level playing field in negotiations between insurers and physicians and believes the federal antitrust laws should not be used to disadvantage physicians.

### **Case Summary**

Blue Cross and Blue Shield of Montana, along with several employers and individuals, sued a radiology practice and imaging center in a putative class action, alleging breaches of Sherman Act §1 (prohibiting contracts and conspiracies in restraint of trade), Sherman Act §2 (prohibiting monopolies and attempts to monopolize), and Clayton Act §8 (prohibiting simultaneous service as officers or directors of competing corporations). Basically, the plaintiffs contended that the twelve radiologists in Missoula, Montana joined together to monopolize the market for radiology services.

Montana Blue alleged that, as an expression of their economic power, the radiologists refused to sign the Montana Blue participating provider agreement. Montana Blue averred that the radiologists' conduct was inherently unreasonable, since 93% of all practicing physicians in Montana were on the Montana Blue provider panel.

In its answer to the complaint, Missoula Radiology admitted having had exclusive hospital contracts in the past, but stated that it did not have such contracts when the suit was filed or at any time since. Moreover, Missoula Radiology asserted that those contracts were standard for the industry and had pro-competitive effects.

The parties met with a mediator for two days as a result of which they reached a tentative settlement. The details of that settlement were confidential, but it was believed that the settlement provided that the physicians were not required to pay any money to the plaintiffs, and they would not be required to join the Montana Blue panel network. A consent decree ultimately was entered in the case.

## **Litigation Center Involvement**

The Litigation Center contributed to the physicians' defense costs.