



Foundation Corp. v. Mercer (Cir. Ct. Ohio County, W. Va. 2006)

Topics Covered: Anti-tobacco, Abusive Litigation Against Physicians

Outcome: Very Favorable

Issue

The issue in this case was whether a physician could be sued personally for carrying out his official duties as the health officer for a county board of health, by enforcing a board of health ordinance restricting tobacco use in certain public establishments.

AMA Interest

The AMA, in keeping with its objective of protecting public health, supports a smoke-free America.

Case Summary

The Wheeling-Ohio County [West Virginia] Board of Health passed an ordinance restricting the use of tobacco products in certain public establishments. A tavern owner objected to both the passage and enforcement of the ordinance and sued the Board of Health's health officer, Dr. William C. Mercer, in his individual capacity for carrying out his official duties. As a result, Dr. Mercer had to retain an attorney to defend himself, and had to pay that attorney out of his own pocket.

The court dismissed the lawsuit in December 2006.

Litigation Center Involvement

The Litigation Center and the West Virginia State Medical Association helped pay Dr. Mercer's legal fees.