



# Client Alert



Contact Attorneys Regarding  
This Matter:

Keith A. Mauriello  
404.873.8732 - direct  
404.873.8733 - fax  
[keith.mauriello@agg.com](mailto:keith.mauriello@agg.com)

Jessica Tobin Grozine  
404.873.8526 - direct  
404.873.8527 - fax  
[jessica.grozine@agg.com](mailto:jessica.grozine@agg.com)

Arnall Golden Gregory LLP  
Attorneys at Law  
171 17th Street NW  
Suite 2100  
Atlanta, GA 30363-1031  
404.873.8500  
[www.agg.com](http://www.agg.com)

## EMTALA Case Update

Provided below is an overview of three recent Federal court decisions regarding the Emergency Medical Treatment and Labor Act (EMTALA). The cases are from the U.S. District Court for the Northern District of California, First Circuit Court of Appeals and the U.S. District Court for Eastern District of Pennsylvania.

### ***Pauly v. Stanford Hospital, No. 10-CV-5582-JF (PSG) (N.D. Cal. May 11, 2011)***

On May 11, 2011, the U.S. District Court for the Northern District of California issued a decision granting a motion to dismiss and thus rejecting a mother's standing to bring her own cause of action under EMTALA for her minor daughter who was allegedly improperly discharged from Stanford Hospital. The court held that EMTALA's civil enforcement provision provides a private right of action only for the individual patient, not a non-patient third party, but noted that the mother could still bring an EMTALA claim on behalf of her daughter, or assert a direct state law claim for negligent infliction of emotional distress.

The daughter of the plaintiff was treated at Stanford Hospital for extreme pain following exploratory laparoscopic surgery and an appendectomy for abdominal pain at another hospital. Stanford Hospital refused to admit the daughter to inpatient pain management per the hospital's policy of not admitting anyone to inpatient pain management until failing "outpatient clinic." The plaintiff asserted claims against Stanford Hospital under EMTALA, and the hospital moved to dismiss, arguing that the plaintiff, as a non-patient third party, lacked standing to bring a direct EMTALA claim related to the treatment of her minor daughter. The plaintiff asserted that the language of the EMTALA statute and authoritative precedent supported third-party standing.

In support of her claim for non-patient third-party standing, the plaintiff relied upon the Sixth Circuit's decision of *Moses v. Providence Hospital and Medical Center Inc.* (561 F.3d, 580 (6th Cir. 2009)). In that case, the Sixth Circuit allowed a representative of the estate of a deceased woman to bring a claim under EMTALA. The deceased woman was murdered by her husband after the hospital allegedly prematurely released him. The Sixth Circuit commented that the "plain language of the civil enforcement provision of EMTALA contains very broad language regarding who may bring a claim: 'any individual who suffers personal harm as a direct result' of a hospital's EMTALA violation may sue," and it concluded that Congress did not intend for EMTALA's statutory scheme to apply to the same "individual" in all parts of the statute.

The court here, however, decided not to follow *Moses*, and instead, found two Federal district court decisions more persuasive. Those two decisions found the term “any individual” as used in EMTALA as referring to the “individual patient,” that being the individual for whose medical situation the emergency medical examination or treatment was sought. The court reasoned that “[b]ecause Congress did limit expressly the persons to whom a hospital owes its EMTALA obligations, it was unnecessary for it to limit expressly the private right of action for enforcing these obligations.” Overall, Stanford Hospital’s motion to dismiss was granted, and the court stated that “[e]xtending a private right of action to a third party when the individual patient is still living would result in a significant expansion of liability for hospitals subject to EMTALA’s provisions,” and would be inconsistent with the statutory language.

The full text of the opinion is available by clicking [here](#).<sup>1</sup>

***Ramos-Cruz v. Centro Medico del Turabo d/b/a Hospital HIMA San Pablo Fajardo, No. 10-1203 (1st Cir. Apr. 8, 2011)***

On April 8, 2011, the Federal First Circuit Court of Appeals affirmed a Federal District Court’s granting of summary judgment in favor of Centro Medico del Turabo d/b/a Hospital HIMA San Pablo Fajardo and its insurer HIMA San Pablo Captive Insurance Company Limited (collectively the hospital) in an action involving allegations that the Hospital violated EMTALA by transferring the plaintiffs’ son (the patient) without delivering the best treatment before such transfer. The District Court found that the hospital complied with EMTALA’s transfer requirements, and the First Circuit affirmed.

In 2006, the patient arrived at the hospital with abdominal problems and was diagnosed with upper gastrointestinal bleeding. The hospital did not have gastroenterologic services available, so the emergency room physician arranged to have the patient transferred to another hospital. The patient was transferred and died approximately 36 hours later. On the “Clinical Summary and Examination at the Moment of Transfer” form, the physician wrote “Gastroenterologist” to explain the benefits of the transfer.

When a patient is transferred, EMTALA requires the physician to sign a certification that “the medical benefits reasonably expected from the provision of appropriate medical treatment of another facility outweigh the increased risks to the individual.” The First Circuit found that the physician’s note of “Gastroenterologist” was “merely a summary statement of the more explicit explanation that [the Patient] needed a gastroenterologist, none was present at the Hospital, and, therefore, [the Patient] needed to be transferred, because the benefits of a gastroenterologist outweighed the dangers of transportation.”

The plaintiffs conceded that the hospital followed standard transfer procedures, but argued that “if the hospital does not deliver the feasible specific treatment that is best, whatever it may be in a given circumstance, it violates EMTALA.” The First Circuit found that the hospital provided appropriate pre-transfer treatment and “provided for transfer in the best interests of the [P]atient.” The First Circuit also stated that:

<sup>1</sup> <http://www.agg.com/media/interior/publications/Mauriello-Grozine-EMTALA-Case-Update-Pauly-link.pdf>

1. EMTALA is violated when a hospital fails to follow its standard procedures, not by providing allegedly faulty treatment; and
2. The plaintiffs' position "would create a federal malpractice cause of action" allowing an unstabilized patient to sue in federal court any time correct care is not provided prior to transfer, which is inconsistent with jurisprudence and Congressional intent.

The First Circuit concluded that the hospital "provided for the transfer in the best interests of the patient."

The full text of the opinion is available by clicking [here](#).<sup>2</sup>

### ***Byrne v. The Cleveland Clinic, No. 2:09-cv-00889-GP (E.D. Pa. Mar. 31, 2011)***

On March 31, 2011, the U.S. District Court for the Eastern District of Pennsylvania granted summary judgment in favor of the Cleveland Clinic (the Clinic) for claims relating to an affiliated hospital's alleged violation of EMTALA's screening requirement. Specifically, the court found that the clinic could not be held directly liable since the plaintiff, Byrne, never physically entered the emergency department of the clinic, which is located in Cleveland, Ohio. Rather, all medical care that the plaintiff received was provided on the premises of Chester County Hospital (the Hospital), located in West Chester, Pennsylvania.

According to the complaint, the plaintiff went to the hospital's emergency room complaining of severe chest pain and shortness of breath. He was allegedly seen by a nurse twenty minutes after his arrival, but not seen by a physician until hours later. He ultimately underwent a "catheterization procedure" at the hospital. The plaintiff sued the hospital and the clinic asserting, among other things, violations of the EMTALA screening and stabilization requirements and claiming that the hospital was an agent/representative for the clinic that should be held vicariously liable. The court dismissed in an earlier decision the EMTALA stabilization claim, but permitted the screening claim to proceed.

The court rejected the plaintiff's claim that the clinic could be held vicariously liable for the screening violation due to its affiliation with the hospital. The plaintiff argued that an affiliation agreement between the hospital and clinic created an agency relationship under which liability could be imputed. The court disagreed, stating that the evidence presented, including website pages (with one page describing a cooperative arrangement for information sharing purposes) and apparent Hospital marketing materials identifying and describing a "affiliation relationship," showed an affiliation that is merely associative in nature and was insufficient in demonstrating a link to support vicarious liability. The court also referenced evidence indicating that the affiliation was limited to the Hospital's cardiac surgery program, not the emergency department. The court held that even presuming that the clinic qualified as a "participating hospital" and was a "hospital" for purposes of EMTALA, it could not be held directly liable for the alleged screening violation because the plaintiff never went to, or received any, medical care at the clinic.

<sup>2</sup> <http://www.agg.com/media/interior/publications/Mauriello-Grozine-EMTALA-Case-Update-Ramos-Cruz-link.pdf>



## Client Alert

Overall, the court found that “[b]ecause there is no indicia of a principal-agent relationship in Mr. Byrne’s exhibits, nor an evidentiary basis to find that the Clinic could be held liable for the Hospital’s rendering care to Mr. Byrne, there is no sufficient evidence upon which a reasonable jury could conclude that the Clinic could be held vicariously liable for Mr. Byrne’s screening claim.” Accordingly, summary judgment was granted in favor of the clinic.

The full text of the opinion is available by clicking [here](#).<sup>3</sup>

<sup>3</sup> <http://www.agg.com/media/interior/publications/Mauriello-Grozzine-EMTALA-Case-Update-Byrne-link.pdf>

*Arnall Golden Gregory LLP serves the business needs of growing public and private companies, helping clients turn legal challenges into business opportunities. We don't just tell you if something is possible, we show you how to make it happen. Please visit our website for more information, [www.agg.com](http://www.agg.com).*

*This alert provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice.*