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Case Studies

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CASE STUDIES***Pegram v. Herdrich*****530 U.S. 211 (2000)**

On June 12, 2000, the U.S. Supreme Court, in a unanimous decision written by Justice Souter, held that treatment decisions made by health maintenance organizations (HMOs), acting through their physician employees, are not fiduciary acts within the meaning of the Employee Retirement Income Security Act (ERISA).

The petitioners in the case were Carle Clinic Association, P.C., Health Alliance Medical Plans, Inc., and Carle Health Insurance Management Co, Inc. [hereinafter Carle]. Carle functioned as a for-profit HMO, and its physician owners provided medical services to participants whose employers had contracted with it. Respondent Cynthia Herdrich was covered by Carle through her husband's place of employment.

The events in question began when a Carle physician, Dr. Lori Pegram, examined Herdrich, who was experiencing abdominal pain. Pegram discovered a mass in Herdrich's abdomen and subsequently scheduled an abdominal ultrasound. Instead of immediately scheduling the study at a local facility, Pegram scheduled the ultrasound for eight days later at a facility staffed by Carle, which was more than fifty miles away from Herdrich's home. During the eight days that Herdrich was waiting for the ultrasound, her appendix ruptured, causing peritonitis.

Herdrich recovered \$35,000 from a state malpractice action against Pegram. However, the U.S. Supreme Court only considered Herdrich's claim that the provision of medical services under Carle's terms—which reward physician owners for limiting medical care—entailed an inherent or anticipatory breach of an ERISA fiduciary duty, since these terms created an incentive to make decisions in the physicians' self-interest, rather than the exclusive interests of patients. The Court of Appeals for the Seventh Circuit agreed with Herdrich and held that Carle was acting as a fiduciary when Pegram made the decision to postpone Herdrich's care. The U.S. Supreme Court reversed, finding that Herdrich did not have an ERISA claim against her HMO.

Six authors from various disciplines were asked to consider the impact of the Court's decision. Their responses follow.

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