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‘Present and working’ at hospital is not a material fact that doctors are employees

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In *Miteen v Genesys Regional Medical Center*, (No. 26410, rel'd 01/24/06)(unpublished), the Michigan Court of Appeals reversed the trial court's ruling that a material fact existed with respect to the plaintiff's vicarious liability claim against the defendant hospital based on the principle of ostensible agency.

The appellate court placed a great deal of emphasis on the fact that the defendant hospital had done nothing to represent that the individual named doctors were its employees. Thus, the court held the plaintiff's belief that the doctors were hospital employees merely because they were present at the hospital was unreasonable.

The plaintiff's only allegation against the defendant hospital was that it was vicariously liable for the acts of the individually named doctors. The basis for the plaintiff's belief that the doctors were employees of the defendant hospital was the fact that they were present and working at the hospital. Based on this fact, the plaintiff argued that because he was transferred to the defendant hospital without knowing who his treating physician would be at the hospital, the hospital was liable under an ostensible agency theory of liability.

In reversing the trial court's ruling, the appellate court stated the plaintiff needed to demonstrate that the defendant hospital, as a general principle, had done something that would create in the plaintiff's mind a reasonable belief that the individual doctors were acting on behalf of the defendant (i.e. apparent authority must be traceable to the principal and cannot be established only by the acts and conduct of the defendant doctors). Therefore, the court held that the plaintiff failed to offer any evidence that the defendant hospital's actions generated his belief that his treating physicians were employees of the defendant hospital.

For a complete copy of the Michigan Court of Appeals unpublished decision on *Miteen v Genesys Regional Medical Center*, (No. 26410, rel'd 01/24/06), [click here](#).

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