

Sanchez v. Medicorp

Virginia Supreme Court

September 16, 2005

This case discusses the issue of apparent or ostensible agency in the medical context, specifically whether medical negligence by a doctor practicing in an emergency room who is an independent contractor will make the hospital legally responsible.

In the trial court the plaintiff alleged that the negligence of a particular doctor in the ER at Mary Washington Hospital caused him injury. The doctor was sued as was the corporation for which he worked, as was Medicorp, which was doing business as Mary Washington Hospital. It apparently was undisputed that the doctor was an independent contractor, not employed by the hospital. The hospital demurred to the pleadings, and the trial court sustained the demurrer.

On appeal in an opinion by Justice Kinser, the court discussed at length the doctrine of apparent and ostensible agency, cited the Restatement, noted that Virginia had adopted it in contract cases, noted that the majority rule in other states was to find such agency in the ER doctor context, and simply said we are not going to adopt that rule in the context of this case.