

Judge: Medical exam firm's liability for predecessor's debt question for jury

(April 9, 2021) - A Massachusetts federal judge has declined to throw out a lawsuit alleging that independent medical examination company Medlogix LLC is liable for a judgment of more than \$600,000 against a now-defunct medical exam company and its founder.

[Vegnani v. Medlogix LLC, No. 19-cv-11291, 2021 WL 1293405 \(D. Mass. Apr. 7, 2021\)](#).

U.S. District Judge Leo T. Sorokin of the District of Massachusetts said April 7 that plaintiff Anthony Vegnani's complaint contains triable issues as to whether Medlogix is liable as a corporate successor of Mass Medical Services Inc. for a state court judgment.

Vegnani was previously an employee and partner at MMS, which coordinated medical exams for insurance companies. After his termination from the company in 2014, Vegnani sued MMS and its founder, Michael Deleo, for severance payments and obtained a Massachusetts state court judgment holding MMS and Deleo jointly and severally liable for more than \$600,000.

Deleo dissolved MMS and joined Medlogix, first as an independent contractor and then as a vice president.

Vegnani then sued Medlogix, alleging the company has liability for the judgment as a successor to MMS under Massachusetts law.

De facto merger?

Medlogix moved for summary judgment, asserting that the company did not become a successor to MMS by hiring Deleo and entering into related agreements.

Judge Sorokin's opinion said, however, that summary judgment is not warranted because of material factual disputes about whether Medlogix and MMS had engaged in a de facto merger.

A jury could find that a de facto merger had occurred under the four factors set forth in [Cargill Inc. v. Beaver Coal & Oil Inc., 676 N.E.2d 815 \(Mass. 1997\)](#), according to the opinion.

The factors set forth in *Cargill* are whether: (1) there is a continuation of the enterprise of the seller corporation; (2) there is a continuity of shareholders; (3) the seller ceases its business operations; and (4) the purchasing corporation assumes the obligations of the seller necessary for the continuation of the seller's normal business operations.

Judge Sorokin said the record contains evidence that, when viewed most favorably to Vegnani, could support a de facto merger theory. Those facts include statements by MMS, Deleo and Medlogix suggesting the parties intended a business sale, Medlogix's hiring of a second former MMS employee, Deleo's contractual commitment to cease operating MMS, and Medlogix's assumption of certain MMS business expenses, including office lease payments.

The parties also arranged for visitors to the MMS website to be redirected to Medlogix.

According to Judge Sorokin, a jury could, in viewing the totality of the circumstances, find that Medlogix and MMS had effectively merged. Therefore, Medlogix's potential liability would have to be sorted out at trial and not resolved through summary judgment, the judge said.

Christopher A Callanan of Callanan Law LLP is representing Vegnani. Joseph P. Calandrelli of O'Connor, Carnathan and Mack LLC represents Medlogix.

By Daniel Rice

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