

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 98-2381

Morton D. Willcutts, Jr., M.D., *
as a member of and on behalf of *
Mid-Dakota Hospital Association, Inc.; *
Mid-Dakota Hospital Association, Inc., *
a South Dakota Nonprofit Corporation; *
Morton D. Willcutts, Jr., M.D., *
Individually, *

Plaintiffs/Appellants, *

v. *

Frank Bieberly, M.D.; *

Defendant/Appellee, *

Gary Van Ert, M.D.; David Larson; *
Sioux Valley Health System, a *
corporation; Sioux Valley Hospital *
Association, a corporation; *

Defendants/Appellees, *

Special Litigation Committee of *
Mid-Dakota Hospital Association, Inc., *

Intervenor on Appeal. *

Appeal from the United States
District Court for the District
of South Dakota.

[UNPUBLISHED]

Special Litigation Committee of *
Mid-Dakota Hospital Association, Inc., *
*
Intervenor Below. *

Submitted: March 11, 1999

Filed: May 6, 1999

Before BEAM and HEANEY, Circuit Judges, and FENNER,¹ District Judge.

PER CURIAM.

Morton D. Willcutts, Jr., M.D. (Willcutts), individually and on behalf of Mid-Dakota Hospital Association, Inc., (Mid-Dakota), appeals the dismissal of federal antitrust claims and associated state law claims. The dispute centers around a management contract entered into between Mid-Dakota and Quorum, a health care management company. The complaint alleges that Dr. Frank Bieberly, Dr. Gary Van Ert, and David Larson boycotted the hospital, referred patients to other hospitals, and distributed information to discredit Quorum.

Eventually, the hospital terminated the health care management contract with Quorum. An agreement was then reached with Sioux Valley Health System and Sioux Valley Hospital Association. Willcutts claims that this violates section 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1- 2; section 16 of the Clayton Act, 15 U.S.C. § 26; as well as pendant state causes of action for restraint of trade and tortious

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri, sitting by designation.

interference. The district court² granted a motion to dismiss Willcutts' federal antitrust claims with prejudice, dismissing the state law claims without prejudice. Having reviewed the record in connection with the parties' briefs, we conclude that dismissal was appropriate. Extensive discussion would serve no useful precedential purpose, we therefore affirm the district court without further observation. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

²The Honorable Lawrence L. Piersol, United States District Judge for the District of South Dakota.