

## Winston Achieves Rare Victory in Stark Law Case Against Health & Human Services

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On June 12, 2015, Winston achieved a significant victory for the Council for Urological Interest (CUI) in the U.S. Court of Appeals for the D.C. Circuit. The case concerned whether the Stark Law can ban physicians from directing patients to hospitals from which the physicians lease medical equipment.

The U.S. Department of Health and Human Services (HHS) had interpreted the Stark Law in a manner that prohibited doctors from charging hospitals for the leased equipment on a per-use or “per-click” basis. In a majority opinion, the D.C. Circuit held that HHS did not appropriately justify its prohibition on per-click compensation in equipment leases as consistent with the Stark Law’s history and directed the district court to remand the matter to HHS for further proceedings. This decision marks a rare victory in a Stark Law case against HHS and the second by Winston.

The ruling is significant because it suggests that challenging HHS’s interpretation and enforcement of the Stark Law can be a viable approach under certain circumstances. Because of the complicated nature of the Stark Law and its implementing regulations, courts have been deferential to HHS as the administrative agency responsible for interpreting the law. The fact that the D.C. Circuit has now challenged HHS’s analysis will be an important model in future Stark Law cases and could reshape the law itself.

The ruling also means the per-click ban cannot be enforced while the government reexamines the issue. It further demonstrates that the Centers for Medicare and Medicaid Services (CMS) do not have free rein to disadvantage doctors and their patients by controlling the processes of equipment leases.

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