

JULY 2010

  
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# SPECIAL REPORT

Presented by the Litigation Practice of Whyte Hirschboeck Dudek S.C.

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## Wisconsin Supreme Court Declares State Withdrawal of \$200 Million From Fund is Unconstitutional

*Whyte Hirschboeck Dudek S.C. represented Wisconsin Medical Society in victory*

The Wisconsin Supreme Court declared on July 19, 2010 that the State's withdrawal of \$200 million from the Injured Patients and Families Compensation Fund to use to help balance the State budget was unconstitutional. The Supreme Court ordered the \$200 million be returned to the Fund with accrued interest.

The Wisconsin Medical Society challenged the State's use of Fund money for purposes other than helping patients and families injured as the result of medical malpractice. WHD attorneys Thomas Pyper and Cynthia Buchko represented the Society in the lawsuit.

"The Society should be commended for its willingness to step forward to protect injured patients and families and the Wisconsin health care system by bringing the lawsuit to protect the Fund," said Pyper. "Hopefully, the court's ruling will discourage future attempts by the State to use money in segregated trust funds to make up for deficit spending by the State."

The Fund was created in 1975 to minimize

the effects insurance costs caused by lawsuits might have on health care costs and quality. Wisconsin physicians, hospitals and other health care professionals are required to pay into the Fund annually. There are no taxpayer dollars in the Fund.

The Society filed suit in October 2007 following enactment of legislation that took \$200 million from the Fund to help balance the State's budget. The Society appealed a Dane County Circuit Court decision upholding the raid, and in December, the Supreme Court accepted the case upon certification request by the Court of Appeals earlier this year.

"The Supreme Court's decision preserves the integrity and security of this important trust Fund," said Buchko.

*For further information about the case, contact Thomas Pyper at 608-258-7122 or [tpyper@whdlaw.com](mailto:tpyper@whdlaw.com), or Cynthia Buchko at 608-258-7126 or [cbuchko@whdlaw.com](mailto:cbuchko@whdlaw.com).*



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