

01-1435 CLACKAMAS GASTROENTEROLOGY v. WELLS

Ruling Below: CA 9, 271 F.3d 903.

QUESTION PRESENTED

Clackamas Gastroenterology Associates, P.C. is a medical clinic formed as a professional corporation but which operates and has legal attributes of a partnership.

The question presented is whether a federal court should apply an economic realities test to determine if the Clinic's physician-shareholders are counted as "employees" for the purpose of determining if the Clinic is a "covered entity" subject to the ADA and other federal anti-discrimination statutes. In this case, the Ninth Circuit concluded that the physician-shareholders are employees. The court below rejected the holdings of the Seventh, Eighth and Eleventh Circuits which used an economic realities test. Instead, it adopted the reasoning of the Second Circuit which rejected that test.

CERT. GRANTED: 10/1/02