

## Nursing Home Litigation Victory

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### By Peabody & Arnold on July 13, 2017

Attorneys Michael Griffin and Will Covino recently obtained dismissal of claims against a corporate parent and subsidiaries of a nursing home in a case alleging negligent medical and nursing care. The case is significant as it affirms the longstanding principle of limited liability for corporations and counters ongoing efforts of the plaintiff's bar to expand liability for claims of medical malpractice beyond the confines of the Medical Malpractice Act, G.L.c 231, §60B. In granting the motion to dismiss, the Court rejected the plaintiff's attempt to include claims for "ordinary negligence" against corporate entities under a theory of direct participant liability, which has been recognized in some jurisdictions. Direct participant liability, where recognized, permits the imposition of liability against corporate defendants that exercise eccentric control over subsidiaries through budgetary and/or management strategy which results in foreseeable harm to a plaintiff. The Court agreed with the defendants that conclusory allegations of control are insufficient to state a claim for direct participant liability and that, in any event, such claims have not been recognized in Massachusetts. The Court also dismissed independent claims for joint venture liability, finding that conclusory allegations concerning the existence of a joint venture, without more, cannot ground a claim for joint venture liability.