

Countersuit Filed Against Sierra Vista Doctor Over Sale Of Medical Practice



(Photo by Connor Tarter/Creative Commons)

A longtime Cochise County doctor suing the Tucson-based healthcare company that bought his Sierra Vista medical practice last year has been named in a countersuit that alleges the doctor refused to endorse the new company to his patients and failed to disclose he was the subject of an investigation that would damage “the reputation of the practice” when it became public.

In March, Lenzner Medical Services LLC filed a breach of contract complaint against Old Pueblo Healthcare LLC, alleging Old Pueblo entered into a \$400,000 purchase agreement “but never intended to fulfill its payment obligations under the Contract.” Lenzner Medical is a multi-physician internal medicine clinic that was owned and operated by Dr. John Herrod from 2008 until August 2019.

Last week the attorneys for Old Pueblo Healthcare filed an answer to Lenzner Medical’s lawsuit, along with several counterclaims. Old Pueblo is owned by Tucson Healthcare Group, which in turn is owned by Michael O’Neil of Northport, New York, according to the Arizona
ration Commission.

Among Old Pueblo's claims is that upon taking over the clinic, it found Lenzner Medical was operating "with drastically reduced providers and an unstable practice," and that a Lenzner physician was permitted access to patient data when he left to open a competing medical practice in Sierra Vista.

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While the legal battle makes its way toward a likely late 2021 or early 2022 trial, O'Neil says he is heartened by the positive response received from patients and employees to the new ownership. He is also looking forward to Old Pueblo becoming a more active part of the greater Sierra Vista area.

"We are launching a community outreach program in June," O'Neil told Arizona Daily Independent on Friday. "This includes, but is not limited to, a scholarship fund, family events and activities, educational services and donated resources. The program will allow us to connect with the Sierra Vista and Fort Huachuca community on a deeper level and provide our support outside of the office as well."

O'Neil has been involved in several successful acquisitions of healthcare operations and real estate in Arizona in recent years. Court records in the Lenzner Medical case show the parties were expecting a smooth transition last summer, until one of the doctors decided not to stay on with Old Pueblo and another significantly cut back on how many patients were being seen.

As a result, the purchase contract was renegotiated in August, with Herrod to collect \$400,000 by way of a \$150,000 down payment, 12 monthly payments of about \$7,600, and a final payment of the balance due. The contract also called for Herrod to work for Old Pueblo Healthcare for several weeks during the transition period, which he did.

Lenzner Medical's lawsuit alleges the buyers made only three of the monthly payments after escrow closed in late August. But Old Pueblo's counterclaim contends problems with "greatly reduced revenue" during the transition period were a direct result of Herrod's failure to "operate the medical practice as it always had been operated."

Old Pueblo also alleges that the doctor who left Lenzner Medical opened a clinic nearby and appears to have been allowed access to patient information that should have been protected under the sales contract, the counterclaim states.

Another issue addressed in Old Pueblo's counterclaim is a criminal investigation related to
d's actions nearly a decade ago when he served as a bishop for the Church of Jesus

Christ of Latter-day Saints in Bisbee.

“During the negotiations and/or Transition Period, Dr. Herrod knew that he was under investigation for conduct that, when known in the community, would damage his reputation and the reputation of the practice, especially if he stayed on as a doctor after (Old Pueblo Healthcare) took over,” the counterclaim states.

The investigation, which involves the Cochise County Attorney’s Office and Homeland Security Investigations, stems from statements made to Herrod -and later to his successor bishop- by a local congregant named Paul Douglas Adams who admitted he was sexually abusing one of his children.

Neither Herrod nor his successor reported the ongoing abuse to police or child welfare officials, apparently relying on the confessional exception to Arizona’s mandatory reporting law.

Adams, a U.S. Border Patrol agent, wasn’t arrested in early 2017. He hanged himself at a detention facility months later while awaiting trial. Public records show he also admitted abusing another of his children after Herrod finished his bishop service.

Under court rules, Lenzner Medical and Dr. Herrod have until early June to answer the counterclaim, after which the parties must provide a proposed scheduling order of deadlines to Judge John Kelliher of the Cochise County Superior Court. While attorneys handle the legal battle, O’Neil is concentrating on being one of the premier healthcare facilities in Cochise County.

“We now have four excellent providers at the Sierra Vista office and an experienced team that is motivated to provide the best patient care possible,” he said.

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