

# CARLTON FIELDS

ATTORNEYS AT LAW

**Appellate Practice Pointer**  
**Naples Community Hospital, Inc. v. Hussey**

Today, November 9, 2005, Florida's Second District Court of Appeal (Lakeland) issued its opinion in Naples Community Hospital, Inc. v. Hussey, case No. 2D05-1648 (Fla. 2d DCA Nov. 9, 2005). The issue was whether a doctor should be allowed to reapply for clinical privileges after the hospital enters into an exclusive contract with another provider. The trial court found that the hospital violated the express provisions of its Bylaws by refusing to allow the doctor to reapply for clinical privileges, even though the hospital had entered into an exclusive contract with another provider. The trial court granted a permanent injunction requiring the hospital to give the doctor a hearing and mandating that the hospital reinstate the doctor's privileges pending the outcome of the hearing.

The appellate court reversed that decision today. While acknowledging that Florida subscribes to the view that hospital bylaws become a binding and enforceable contract between a hospital and its medical staff, the court concluded that "[t]he hearing process described in the Bylaws clearly does not apply when a staff member is denied reappointment because of a business decision to enter into an exclusive contract with another provider."

For more information, please contact Joseph H. Lang, Jr. at 813.229.4253 or visit [www.carltonfields.com](http://www.carltonfields.com).

*This publication is not intended as, and does not represent legal advice and should not be relied upon to take the place of such advice. Since factual situations will vary, please feel free to contact a member of the firm for specific interpretation and advice, if you have a question regarding the impact of the information contained herein. The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.*