

## **Judge orders imaging center to stay open**

### **Meantime, Providence and RVMC must settle differences over their joint venture or Circuit Judge Mark Schively will**

By [Bill Kettler](#)

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Oregon Advanced Imaging will continue to provide CT and MRI scans while its business partners try to settle their differences.

Jackson County Circuit Court Judge Mark Schiveley issued a preliminary injunction Tuesday to keep the medical imaging center operating. Providence Medford Medical Center had requested the injunction after Rogue Valley Medical Center announced plans to step out of the joint venture, which also includes the physicians of Medford Radiological Group.

"We are pleased the judge took that action and patients will have continued access to care," said Tom Hanenburg, Providence's chief executive officer for the Southern Oregon region.

Providence sued Asante Health System, RVMC's parent company, on July 12 for breach of contract, claiming Asante had agreed by e-mail in January 2007 to extend the imaging center's working agreement for five more years past its July 29 expiration date, and then suddenly announced on July 3 its intention to withdraw when the initial five-year agreement expired.

Hanenburg and the physicians group told Schiveley in court Monday that they never would have agreed to spend \$2.5 million for a powerful new MRI scanner without Asante's full commitment to continuing the joint venture. Asante officials told the judge they considered the new MRI purchase and the extension of the working agreement as independent issues.

Asante officials who testified Monday said they had never contacted any of their partners or OAI managers to contradict the notion that they had agreed to extend their participation in the business.

"It is telling," Schiveley wrote in his opinion, "that at no time prior to July 3, 2007, did (Asante) make any effort to protest the announcement of the agreement, nor any of the plans resulting from the agreement, including specifically the purchase of the (new) MRI."

OAI provides MRI scans at both hospitals, and MRI and PET CT scans at its offices in the Navigators Landing development near the Medford airport.

Schiveley wrote that the injunction "merely allows the continuation of OAI until the parties have been able to satisfactorily resolve their differences, or failing that, the court is required to make a final determination of all the issues raised by the complaint...."

Carol Flinn, executive director of OAI, said the injunction means it will be "business as usual" at the imaging center and the hospitals until one of the judge's scenarios plays out.

"We're very relieved we'll be able to continue to provide patient care," Flinn said, "and keep our staff employed and working."

Win Howard, vice president of operations for Asante, said "certainly we are disappointed by the decision. We plan to abide by the judge's order. As always our priority is providing the best possible care for our community, and we look forward to continuing that care."

Hanenburg said the court's decision reaffirms the notion that "we should put patient care first, and business matters should come second."

## **Medical imaging decision is near**

By [Bill Kettler](#)

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Jackson County residents will have to wait until sometime Wednesday to learn the fate of the medical imaging venture operated by Medford's two hospitals and the radiologists who interpret those images.

Circuit Court Judge Mark Schiveley said Monday he would issue an opinion within two days about whether to grant an injunction to preserve Oregon Advanced Imaging. If he does not, the enterprise will cease operations when its five-year operating agreement expires over the weekend.

Michael Crew, an attorney for OAI, told the judge that the company is caught in the middle of a "total war between the two hospitals."

Providence Medford Medical Center sued Rogue Valley Medical Center July 12 for breach of contract, contending that RVMC agreed in principle to extend OAI's operating agreement in January 2007, then suddenly announced plans to withdraw on July 3.

RVMC filed a countersuit a week later charging that Providence had violated the spirit of their working agreement by deciding to install MRI equipment at its new medical offices in Central Point.

OAI provides MRI scans in both hospitals as well as MRI and PET CT scans at offices in Navigators Landing near the Medford airport. The images are read by physicians of the Medford Radiological Group, the third partner in the enterprise. RVMC's parent company, Asante Health System, owns 43.5 percent of the business; Providence owns 38.5 percent; and the physicians group owns 18 percent. The partners share expenses and profits in that ratio.

A battery of five attorneys spent most of Monday questioning representatives of each party in the dispute about what transpired between November 2006, when negotiations began about renewing the agreement, until mid-July, when Providence filed suit.

Attorneys for Providence, OAI and the Medford Radiological Group repeatedly noted a series of e-mails about the negotiations written during late January 2007, in which OAI administrator

Carol Flinn announced that all the parties had agreed to a five-year extension of the operating contract.

Mark Collins and Marvin Haas of RVMC both said they did not believe their hospital had agreed to continue the arrangement, because their contract specifically states that agreements must be signed by all parties. But both acknowledged that at no time before July 3 did they ever tell either of their partners or anyone at OAI that RVMC had not agreed to continue the joint venture, which has been financially successful for all parties during its five-year history.

Testimony revealed growing discord between administrators of the two hospitals who were involved in supervising OAI. A retreat that was scheduled during May to plan for OAI's future had to be cancelled when the two hospitals' representatives could not agree on how many people from RVMC would be allowed to attend the meeting.

Asante wanted three people, including a retiring member of the board, to provide background for a new member. Providence balked, and RVMC managers said they would cancel the meeting unless they could have three representatives.

Providence's attorney, Arden Olson, asked Mark Collins, Asante's director of finance, to verify the exchange.

"The choice you gave was 'Do it Asante's way or we won't do it at all,' correct?" Olson said.

"Correct," Collins said.

A facilitator who had been hired to conduct the retreat wrote that he observed "a visceral level of distrust" among the hospital representatives and a sense of "overwhelming dysfunctionality" on the board that supervised OAI.

Lewis Dahlin, making Asante's case, repeatedly noted that the OAI working agreement called for any extension of the joint venture to be signed by all three parties, and that never happened.

"OAI's Carol Flinn as well as Providence were aware of that all along," he said.