

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Case Type: Contract

The American Academy of Emergency
Medicine, and

Court File No. _____

Emergency Physicians Professional
Association,

Plaintiffs,

v.

COMPLAINT

Methodist Hospital, EmCare Holdings, Inc.,
and Minnesota EM-I Medical Services, P.C.,

Defendants.

THE PARTIES

1. Plaintiff, The American Academy of Emergency Medicine (“AAEM”) is a national specialty society, representing over 5,000 specialists in emergency medicine
2. Plaintiff, Emergency Physicians Professional Association (“EPPA”), is a Minnesota professional association of emergency physicians which has provided emergency services to several Minnesota hospitals for many years.
3. Defendant, Methodist Hospital (the “hospital”), is located in St. Louis Park, Minnesota, and is part of Park Nicollet Health Services.
4. Defendant, EmCare Holdings, Inc. (“EmCare Inc.”), is a Texas-based corporation which provides emergency department management to hospitals. EmCare Inc. is, upon information and belief, a for-profit business corporation and is a subsidiary of Laidlaw

International, a publicly traded business corporation. Laidlaw is a holding company for North American's largest providers of public and private transportation. Both EmCare Inc.'s CEO and its President and Chief Operating Officer are MBA's – neither are MD's.

5. In 1997, EmCare Inc. paid \$7.75 million to the U.S. government to settle allegations that it submitted false claims to federal agencies.

6. Laidlaw International recently announced that it is selling EmCare Inc. and another company, to Onex Corporation, a Canadian corporation for approximately \$980 million.

7. Defendant, EM-I Medical Services, P.C. ("EMI"), is, upon information and belief, an affiliate of EmCare Inc. and was set up in order to allow EmCare Inc. to attempt to enter into contracts with hospitals in Minnesota to provide emergency services. The Minnesota Secretary of State records indicate that EMI's office is located in Dallas, Texas and shares the same headquarters address as EmCare Inc.

FACTS

8. For 35 years, EPPA provided emergency services to Methodist Hospital. EPPA provides excellent quality emergency room services. Its physicians are highly experienced, board certified and residency trained.

9. In June, 2004, the hospital notified EPPA that its contract would be terminated. The hospital wrote that it had contracted with EmCare Inc. to staff the emergency department and described EmCare Inc. as the largest provider of emergency services in the country. The hospital said nothing about Minnesota EMI.

10. The hospital failed to comply with its contractual requirements with EPPA when it attempted to terminate EPPA's contract. EPPA protested the termination and sought to negotiate with the hospital for a continuation of the contract, but the hospital refused to continue

the contract beyond December 31, 2004. After that date, the hospital indicated that the emergency department will be staffed by EmCare Inc.

11. EmCare Inc. is a for-profit business corporation. Minnesota law prohibits for profit corporations from providing medical services. This legal doctrine, known as the corporate practice of medicine, makes it illegal for business corporations to control the management or operations of physicians in practicing medicine. In fact, violating the corporate practice of medicine rule can even be a criminal offense. Practicing medicine without a license is a crime in Minnesota.

12. While the hospital and EmCare Inc. have attempted to circumvent the rules prohibiting the corporate practice of medicine by utilizing EMI, these efforts are a mere pretext. The hospital repeatedly acknowledged that it was negotiating with EmCare Inc., contracting with EmCare Inc., and that EmCare Inc. would be staffing the emergency department.

13. EMI is an entity set up merely to circumvent the prohibition against the corporate practice of medicine. EMI is no more than a corporate shell being used by EmCare Inc. to disguise the "for-profit" nature of the venture.

14. The quality of the physicians that have been hired by EmCare Inc./EMI to staff the emergency room at the hospital, is substantially inferior to EPPA's board certified, residency trained physicians. On information and belief, the vast majority of the physicians who will be staffing Methodist's emergency department after January 1, 2005, are not board certified and residency trained. Many of the emergency physicians provided to the hospital by EmCare Inc. are significantly less experienced, part-time and/or less well trained physicians than EPPA provided. Many of these EmCare Inc./EMI physicians have been the subject of past patient care complaints and/or malpractice suits.

15. The hospital has already stated that the number of physicians and the level of staffing to be provided by EmCare Inc. for emergency services after January 1, 2005, will be substantially less than what EPPA provided.

COUNT I

Declaratory Judgment

16. The previous allegations are re-alleged.

17. The hospital's contract with EmCare Inc. and/or EMI is illegal under Minnesota law. AAEM and EPPA seek a judicial declaration that this contract violates the corporate practice of medicine doctrine and is therefore void under Minnesota law.

COUNT II

Injunctive Relief

18. The previous allegations are re-alleged.

19. Plaintiffs request that the Court restrain and permanently enjoin the hospital and EmCare Inc. and/or EMI from proceeding with this illegal contract.

COUNT III

Breach of Contract

20. The previous allegations are re-alleged.

21. The hospital has breached its contract with EPPA, causing EPPA damages in an amount to be determined at trial.

WHEREFORE, Plaintiffs respectfully request that:


1. The Court issue a declaratory judgment that the Hospital's contract with EmCare Inc. and/or EMI is illegal;

2. The Court restrain and permanently enjoin the hospital and EmCare Inc and/or EMI from proceeding with this contract;

3. EPPA be awarded damages in an amount in excess of \$50,000; and

4. The Court grant such other and further relief as may be just and equitable.

Dated: 1-3-05



David P. Bunde (#138344)
David M. Glaser (#228874)
Edward T. Matthews (#327633)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street, #4000
Minneapolis, MN 55402-1425
Telephone: (612) 492-7000
Facsimile: (612) 492-7077

ATTORNEYS FOR PLAINTIFFS

ACKNOWLEDGMENT

Plaintiff, through undersigned counsel, acknowledges that attorneys' and witness fees may be awarded pursuant to Minn. Stat. § 549.211.

Dated: 1-3-05


David P. Bunde (#138344)
David M. Glaser (#228874)
Edward T. Matthews (#327633)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street, #4000
Minneapolis, MN 55402-1425
Telephone: (612) 492-7000
Facsimile: (612) 492-7077

ATTORNEYS FOR PLAINTIFFS