Class Action Suits Against Non-Profit Hospitals

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Nationwide litigation against not-for-profit hospitals has exploded in recent days. On June 16, 2004, thirteen class action lawsuits were filed against not-for-profit hospital systems in eight states, including Florida, Minnesota, and Ohio. The defendant hospitals include Baptist Health System, Fairview Health Systems and Catholic Healthcare Partners. On June 22nd another five lawsuits were filed in at least four states, including Texas and Colorado. The defendant hospitals in those suits include Baylor Healthcare System and Centura Health Corporation. In general, the litigation includes claims for breach of contract, EMTALA violations, fraud, unjust enrichment, and civil conspiracy. The filing of these lawsuits coincides with Congressional hearings on hospital pricing practices and tax-exempt status.

The litigation against Catholic Healthcare Partners (CHP) illustrates the jurisdictional claims and substantive complaints being made in the lawsuits. The suit is on behalf of Lloida Lorens and all of CHP’s uninsured patients (Plaintiffs) that did not qualify for Medicare and/or Medicaid and were charged “excessive” amounts for services. The complaint asserts federal jurisdiction, pursuant to 28 U.S.C. §§ 1331 and 1367, because of CHP’s contract with the federal government to provide affordable medical care in exchange for a tax exemption under 26 U.S.C. §501(c)(3). The complaint also asserts jurisdiction under 28 U.S.C. §1340 because of CHP’s §501(c)(3) status.

The complaint alleges eight different violations of federal and state law. Underlying all of the allegations is CHP’s tax exempt status. Plaintiffs also emphasize the value of the tax exemptions CHP receives, CHP’s financial success and value of its assets, the small percentage of charity care CHP allegedly provides relative to its gross charges, that CHP charges uninsured patients more than insured patients, and the purported aggressiveness of CHP’s billing and collection procedures. Specifically the complaint alleges:

- **Third Party Beneficiary**: Plaintiffs are third party beneficiaries of CHP’s alleged implicit agreements with the federal and state governments to provide affordable medical care in exchange for tax exempt status under §501(c)(3), and CHP has breached these agreements.

- **Breach of Contract**: CHP has breached alleged contracts with Plaintiffs that expressly and/or implicitly obligated CHP to charge no more than “fair and reasonable” amounts for medical services.

- **Breach of Duty of Good Faith and Fair Dealing**: CHP’s billing and collections actions constitute a breach of its duty of good faith and fair dealing.

- **Breach of Charitable Trust**: By accepting federal and state tax exemptions, CHP has created and entered into a public charitable trust to provide affordable medical care. CHP’s billing and collection practices constitute a breach of this trust.

- **State Unfair Consumer Sales Practices Act**: Because CHP charges its insured patients less than its uninsured patients, and because of CHP’s collection procedures, it is in violation of Ohio’s unfair practices act.

- **Unjust Enrichment/Constructive Trust**: CHP has failed to apply its net assets and revenues towards providing affordable medical care to the uninsured, and is therefore in possession of tax benefits and other assets it is not entitled to retain.

- **Civil Conspiracy/Concert of Action**: The American Hospital Association (AHA) has conspired with and/or acted in concert with CHP to breach CHP’s contracts with the federal government, state governments, and Plaintiffs by “assist[ing],
concealing, falsely representing, and justifying” CHP’s billing and collection practices. Such conspiracy and concert of action has contributed to CHP’s unjust enrichment.

- Aiding and Abetting: The AHA has aided and abetted CHP’s breaches of contract by providing assistance and advice on how to bill for and collect “grossly inflated” medical charges from Plaintiffs. The AHA has also lobbied the Department of Health and Human Services, and such efforts have contributed to CHP’s breaches of contract.

Plaintiffs seek a preliminary and/or permanent injunction against CHP’s billing and collections practices. They have also requested economic damages and a constructive trust to be imposed on CHP’s tax exempt savings, profits obtained from overcharging uninsured patients, and assets and revenues in an amount sufficient to provide Plaintiffs with affordable health care.

Below is a list of the individual lawsuits based on information available as of June 23, 2004.

- Lorens v. Catholic Healthcare Partners, N.D. Ohio, No. 1:04CV1151, filed 6/16/04 by Weisman, Kennedy & Berris Co. LPA and Miraldi & Barrett Co. LPA
- Frimpong v. Dekalb Medical Center, N.D. Ga., docket number unavailable, filed 6/16/04 by Vroon & Crongeyer LLP and Barrett Law Office.
- Washington v. Medical Center of Central Georgia, M.D. Ga., docket number unavailable, filed 6/16/04 by Vroon & Crongeyer and Barrett Law Office.
- Peterson v. Fairview Health Systems, D. Minn., docket number unavailable, filed 6/16/04 by Zimmerman Reed LLP and Scruggs Law Firm.
- Kern v. Allina Health System, D. Minn., docket number unavailable, filed 6/16/04 by Zimmerman Reed LLP and Scruggs Law Firm.
- **Quinn v. BJC Health System**, E.D. Mo., No. 4:04CV00768, filed 6/22/04 by Bartimus, Frickleton, Robertson & Obetz P.C., Gray, Ritter & Graham, P.C., and Harry Huge Law Firm LLP
- **Cargile v. Baylor Health Care System**, N.D. Dallas, No. 3-04CV-1365M, filed 6/22/04 by Scruggs Law Firm and Frenkel & Frenkel LLP.
- **Ferguson v. Centura Health Corporation**, D. Colo., docket number unavailable, filed 6/21/04 by Purvis, Gray & Murphy LLP, the Law Offices of Archie Lamb LLP, and E. Kirk Wood.
- Case documents were unavailable for a suit against St. Thomas Hospital filed in the Middle District of Tennessee, by Barrett Law Office.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.