The Honorable Jerome J. Leveque

FILED
DEC 15 2006
THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON

COUNTY OF SPOKANE

LORI E. DAVIS-BAILEY, a single woman, and LORRAINE and DOUG BACON, husband and wife, individually and on behalf of themselves and all persons similarly situated,

Plaintiffs,

vs.

AMERICAN MEDICAL RESPONSE NORTHWEST, INC., an Oregon corporation; JERRY LUECK and JANE DOE LUECK, husband and wife, and the marital community composed thereof,

Defendants.

Cause No. 05-2-05871-9

PROPOSED

AMENDED ORDER GRANTING CERTIFICATION OF CLASS ACTION

This matter came before the Court on Plaintiffs' Lori E. Davis Bailey and Lorraine and Doug Bacon's Motion for an Order Certifying their action as a class action under CR 23, on behalf of the class of:

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ORIGINAL

All City residents who have utilized AMR ambulance services and, in violation of AMR's 1998 and 2003 contracts with the City of Spokane, have been improperly charged and paid (or payments were made by third-party payors on their behalf) for ALS or BLS services purportedly provided by AMR.

Further, since there are two contracts at issue in this case, this action is brought on behalf of two sub-classes who fall within the class definition:

Sub-Class "A" – Those persons who were City residents between October 5, 1998 and October 31, 2003, and were provided AMR ambulance services for transit to a treatment facility and were charged by (and paid) AMR for ALS or BLS services that were actually provided by SFD personnel, or were charged by AMR for ambulance transport, at ALS rates, when an SFD paramedic accompanied the patient to the care facility. Plaintiff Lori Bailey is a member of and a representative of Sub-Class "A."

Sub-Class "B" – Those persons who were and/or are City residents since August 19, 2003, who were or are provided AMR ambulance services for transit to a treatment facility and were or are charged ALS rates for services allegedly provided by AMR, when, in fact, an SFD paramedic accompanied or accompanies such City resident to the treatment facility, and AMR can therefore only charge for such services at BLS rates. Plaintiffs Doug and Lorraine Bacon are members of and representatives of Sub-Class "B."

The Court considered the pleadings filed in this action and the following evidence:

1. The Declaration of Plaintiff Lori E. Davis Bailey.

2. The Declaration of Plaintiff Lorraine Bacon.

3. Plaintiffs' Memorandum in Support of Memorandum of Motion to Certify, and the argument therein.

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Based on the argument of counsel and evidence presented, **THE COURT FINDS:**

1. The class is so large that joinder is impractical.

2. There are common issues of law and of fact.

3. The class representatives' claims are typical of the entire class.

4. The representative parties will fairly and adequately protect the interests of the class.

5. There is a predominance of common issues.

6. A class action is clearly superior to separate suits.

Based on the above findings, **IT IS ORDERED** that:

1. Plaintiffs' Motion for Class Certification is **GRANTED.**

2. The Class shall be certified as the class of:

> All City residents who have utilized AMR ambulance services and, in violation of AMR's 1998 and 2003 contracts with the City of Spokane, have been improperly charged and paid (or payments were made by third-party payors on their behalf) for ALS or BLS services purportedly provided by AMR.

3. Since there are two contracts at issue, the Class shall be divided into two sub-classes, as defined below:

> **Sub-Class "A"** – Those persons who were City residents between October 5, 1998 and October 31, 2003, and were provided AMR ambulance services for transit to a treatment facility and were charged by (and paid) AMR for ALS or BLS services that were actually provided by SFD personnel, or were charged by AMR for ambulance transport, at

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ALS rates, when an SFD paramedic accompanied the patient to the care facility. Plaintiff Lori Bailey is a member of and a representative of Sub-Class "A."

Sub-Class "B" – Those persons who were and/or are City residents since August 19, 2003, who were or are provided AMR ambulance services for transit to a treatment facility and were or are charged ALS rates for services allegedly provided by AMR, when, in fact, an SFD paramedic accompanied or accompanies such City resident to the treatment facility, and AMR can therefore only charge for such services at BLS rates. Plaintiffs Doug and Lorraine Bacon are members of and representatives of Sub-Class "B."

4. The action is properly maintainable, and shall be maintained as a class action under CR 23.

DONE IN OPEN COURT this 13 day of ~~August~~ Dec, 2006.

Hon. Jerome J. Leveque
Superior Court Judge

PRESENTED BY:

REED & GIESA, P.S.

By _____
D. Roger Reed, WSBA #662
Adam P. Tait, WSBA #36822

Attorneys for Plaintiffs

COPY RECEIVED; NOTICE OF PRESENTMENT WAIVED:

SHORT, CRESSMAN & BURGESS, PLLC

By _____
Paul J. Dayton
WSBA #12619

Attorneys for Defendants

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DECLARATION OF SERVICE

Allisyn Hartman declares as follows:

That at all times herein mentioned I was and am now a citizen of the United States, over the age of eighteen, competent to be a witness in the above-entitled action, not a party thereto and in no way interested therein.

I hereby certify that on this 23rd day of May, 2006, I served a true and correct copy of the foregoing, as follows:

Paul J. Dayton
Michael J. Crisera
Short Cressman & Burgess, PLLC
999 Third Avenue, Suite 3000
Seattle, WA 98104-4088

[ ] First Class Mail
[ ] Hand Delivery
[X] E-Mail: lcooper@scblaw.com
[ ] Facsimile

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 23rd day of May, 2006, at Spokane, Washington.

Allisyn Hartman

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