



Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Doctors Sue Fizer Beck Over 'Seriously Deficient' Contracts

By Paul DeBenedetto

Law360, New York (December 22, 2014, 2:22 PM ET) -- A set of "seriously deficient" contracts drawn up by Fizer Beck Webster Bentley & Scroggins PC resulted in an onslaught of legal proceedings that cost a medical staffing company more than \$2 million, according to a lawsuit filed in Harris County, Texas, on Friday.

The Houston firm drafted contracts for Northwest Houston Emergency Specialists Group PLLC, a company that staffs hospital emergency departments, which contained misconduct clauses that the group used to terminate one of its members, according to the complaint.

But after the medical group tried to buy out the former member's interest in NHESG, an independent arbitrator found that the contract was "seriously deficient in specifying the consequences of expulsion," resulting in a \$2.1 million arbitration award entered against the company, the complaint said.

"The agreements should have more specifically detailed the procedures to be followed for expulsion," the complaint said. "But for the failure of the lawyers to include these necessary provisions regarding the consequences of expulsion, the members would not have had a judgment entered against them for failure to pay distributions to a member after expulsion and, even further, would not have been forced to spend hundreds of thousands of dollars defending an arbitration related to their failure to pay said distributions."

According to the suit, the members expelled Alan E. Bentz from the group after they found that the doctor had allegedly attempted to bribe a scheduler in exchange for better hours and used company funds for personal legal advice.

When the group used an expulsion clause that kicked in an instance of "gross negligence or willful misconduct," they realized there was no provision in the contract over what happened to Bentz's membership interest once he was expelled, the complaint said.

During arbitration, the arbitrator found that the contract doesn't say an expelled member forfeits his or her membership share, but instead demonstrates that an expelled member would keep their interest, the complaint said.

"The company and the members have an option to purchase all of the membership interest owned by the expelled member," the arbitrator reportedly said. "What happens if they decline to exercise that option?"

The arbitrator also allegedly called the share valuation provisions "unwieldy, cumbersome, illogical [and] unfair," something the group was forced to litigate separately to clear up, the complaint said.

In October, the arbitrator found that the members appropriately fired Bentz, but the doctor was still awarded the market value of his membership interest at \$526,796, the complaint said. The

arbitrator also allegedly forced the membership to pay Bentz \$996,840 in back pay from the time of his January expulsion, and all attorneys' fees, the complaint said.

Representatives from Fizer Beck did not immediately return requests for comment on Monday.

The medical group is represented by Lance Christopher Kassab and David Eric Kassab of The Kassab Law Firm.

Counsel information for Fizer Beck was not immediately available on Monday.

The case is Northwest Houston Emergency Specialists Group PLLC et al. v. Fizer Beck Webster Bentley & Scroggins PC, case number 2014-73306, in the 333rd District Court of Harris County, Texas.

--Editing by Stephen Berg.

All Content © 2003-2015, Portfolio Media, Inc.