

Dissatisfied PMA Clients Get A "Second Chance"

Editorial Staff

How many times in our lives do we think "Oh, if I could only do that over, I wouldn't make the same mistakes."? For many of those chiropractors who signed a contract with PMA and then wished they hadn't, there is a chance to undo what they did.

When we published the names of many of the attorneys representing as many as 60 PMA clients against PMA, it was anticipated that the phone calls from dissatisfied PMA clients would diminish. Nothing could be further from the truth. Rarely a day goes by without a call, some days as many as five calls (not including the mail) and for good reason.

The lawsuits have continued at the same pace for over a year. Prior to that time, not as many suits by PMA and PMA clients occurred. These lawsuits are primarily between PMA and chiropractors on percentage contracts. Using PMA's own figures of percentage clients, PMA is in court with ONE OUT OF EVERY FIVE PMA PERCENTAGE CLIENTS, most of those are "Practice Starter" clients. One attorney estimates that this figure is greatly understated and could be as high as one in three.

But this may all change.

On February 14, 1990, a Municipal Court in California ordered the entry of a Summary Judgement in favor of a PMA client against PMA (please see the actual court order below). In essence, the court found that PMA was in violation of the "state franchise requirements" at the time the contract was signed. The court found the contract between the parties to be "void." This decision appears to affect many PMA contracts in different states all across the country.

In order to understand just what this court decision means, we have asked Mr. Michael J. Schroeder, Esq. to discuss its significance:

"DC" Interview With Michael J. Schroeder, Esq.

DC: What is the significance of the recent Summary Judgment in Northern California relating to Practice Management Associates and the voidability of their contracts?

MJS: In California, as in most states, there is a statute that requires that out of state businesses qualify to do business when they come into the state. If a business fails to do this, all contracts they enter into can be voided by the other party to the agreement. In PMA's case, they were not qualified to do business in California before May 6, 1985 and between January 4, 1988 and March 22, 1988.

DC: Is that what the Solano County Court ruled?

MJS: Yes. They held that PMA had failed to qualify to do business in California during this period and summarily voided Dr. XXXXX's PMA contract.

DC: Do you mean to tell us that all PMA contracts executed in California before May 6, 1985 and between January 4, 1988 and March 22, 1988 are voidable at the option of the signing doctor?

MJS: That is certainly my interpretation of the court's ruling. Additionally, the same analysis should hold true for any other state where PMA has failed to qualify to do business.

DC: What is the effect of a contract being voided?

MJS: While it varies from state to state, generally speaking when a contract is voided, the court tries to put the parties back to where they were before the contract was signed.

DC: Would this entitle a doctor who legally voided a PMA contract to a refund of their money?

MJS: In most cases, yes.

State of California
OFFICE OF THE SECRETARY OF STATE

SEC/STATE FORM CE-119 (REV 8-87)

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SOLANO
NORTHERN SOLANO JUDICIAL DISTRICT

*PRACTICE MANAGEMENT ASSOCIATES
INC., A FLORIDA CORPORATION,*

PLAINTIFFS,

vs.

Doctor of Chiropractic, and DOES
1 through 6, Inclusive,

Defendants.

No. 31057F

ORDER FOR ENTRY OF SUMMARY JUDGMENT IN FAVOR OF DOCTOR OF CHIROPRACTIC AND
AGAINST PRACTICE MANAGEMENT ASSOCIATES, INC.

The motion of Defendant Doctor of Chiropractic for summary judgment was regularly heard on
January 10, 1990.

After full consideration of moving and responding papers, all supporting papers, and oral argument
of counsel, the Court finds that Plaintiff Practice Management Associates, Inc. was subject to state
franchise requirements and was in violation thereof at the time the contract alleged by the Plaintiff
was executed. Therefore, the Court concludes that there is no triable issue of fact whether the
contract is voidable pursuant to Revenue & Taxation Code Section 23304.

The Court also finds that the contracts entered into by the parties on September 29, 1984 are void.

It is ordered that judgment be entered in accordance with this order in favor of Defendant and
against Plaintiff as prayed for in the answer.

As to the cross-complaint the Court will allow an additional fifteen days for counsel to file authorities on the issue of this ruling's effect on the cross-complaint.

DATED: 2/14/90

LUIS M. VILLARREAL
Judge of the Municipal Court

APRIL 1990