345th JUDICIAL DISTRICT COURT

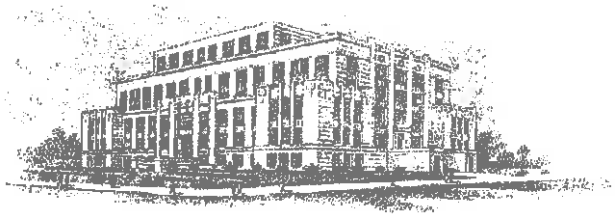
The Honorable Stephen Yelenosky

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From: Claire Webb, Court Operations Officer

Date: 12/15/16

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Filed in The District Court
of Travis County, Texas
DEC 15 2016
At 4:06 M.
Velva L. Price, District Clerk

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December 15, 2016

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Re: **Cause No. D-1-GN-15-004940**; *Texas Mutual Insurance Company, et al vs. PHI Air Medical, LLC; in the 53rd Judicial District Court, Travis County, Texas*

Dear Counsel:

All the arguments have been well briefed and argued by counsel, and I have no additional analysis to offer. By its plain language the ADA applies to air ambulances. Whether it is clear and manifest that Congress intended to preempt a state's workers compensation statute is a more difficult question. And deciding whether McCarran-Ferguson reverse preemption applies is as complex. Ultimately I have concluded that McCarran-Ferguson does apply.

My order follows. This letter is not intended to limit the possible bases of support for that order.

Sincerely,

Stephen Yelenosky
Judge, 345th District Court

SY/cw
Original: Velva Price, District Clerk

Filed in The District Court
of Travis County, Texas
DEC 15 2016
At 4:00 M.
Velva L. Price, District Clerk

Cause No. D-1-GN-15-004940

TEXAS MUTUAL INSURANCE COMPANY, *et al.*,	§	IN THE DISTRICT COURT
Plaintiffs,	§	
vs.	§	53rd JUDICIAL DISTRICT
PHI AIR MEDICAL, LLC,	§	
Defendant.	§	TRAVIS COUNTY, TEXAS

ORDER

On this day, the Court considered the following: Petitioners' Judicial Review Brief on the Merits and Motion for Summary Judgment; Intervenor Texas Department of Insurance, Division of Workers' Compensation's Motion for Summary Judgment; and, Respondent PHI Air Medical, LLC's Combined Motion for Summary Judgment and Response Brief on the Merits. After considering the parties' motions, briefs and oral arguments and the evidence in the record, the Court enters the following rulings:

Petitioners' Motion for Summary Judgment and Intervenor Texas Department of Insurance, Division of Workers' Compensation's Motion for Summary Judgment are **GRANTED**. Respondent's Motion for Summary Judgment is **DENIED**. Pursuant to those rulings, the Court enters the following declaratory relief: The 1978 Airline Deregulation Act, 49 U.S.C. § 41713, does not preempt the following provisions of Texas law: (i) the Texas Workers' Compensation Act's healthcare provider fee provisions, codified at Texas Labor Code § 413.011; (ii) The Texas Workers' Compensation Act's prohibition on billing injured workers for health care fees, codified at Texas Labor Code

§ 413.042; (iii) the Texas Workers' Compensation Act's authorization to the Division to assess sanctions for administrative violations, codified at Texas Labor Code §§ 415.021–415.025 and 415.031–415.036; and, (iv) the Division of Workers' Compensation's regulations concerning health care provider fees, codified at 28 Texas Administrative Code §§ 134.1 and 134.203.

The Court further considered the Petitioners' judicial review challenge under Texas Labor Code § 413.031 and Texas Government Code, Subchapter G, Chapter 2001, to the Decision and Order of the State Office of Administrative Hearings in Docket No. 454-15-0681.M4, *et al.*, *In Re: Reimbursement of Air Ambulance Services Provided by PHI Air Medical,* and makes the following rulings: (i) the Court CONCLUDES that no additional payments greater than the 125% of Medicare amounts already paid are due; (ii) The Decision and Order's award of fees equaling 149% of the applicable Medicare rate is hereby REVERSED and these medical fee disputes are REMANDED to the State Office of Administrative Hearings for further proceedings consistent with this Order.

Dated: December 15, 2016.

Hon. Stephen Yelenosky
Travis County District Judge