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15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA  
17 SOUTHERN DIVISION

18 AmeriCare MedServices, Inc.,

19 *Plaintiff,*

20 vs.

21 City of Newport Beach,

22 *Defendant.*

Case No.: 8:16-cv-01765 JLS (AFMx)

**Amended Complaint**

**JURY TRIAL DEMANDED**

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Plaintiff, AmeriCare MedServices, Inc. (“AmeriCare”), alleges as follows upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters.

**NATURE OF THE ACTION**

AmeriCare seeks relief from the City of Newport Beach under Section 2 of the Sherman Act, 15 U.S.C. § 2 (“Section 2”). Abusing its police and regulatory powers, and by a willful misinterpretation of California regulatory law, the city has established itself as the sole provider of prehospital emergency medical services (“EMS”) in the Newport Beach area. The provision of these services in this region constitutes a distinct service market. Because of its challenged conduct, the city holds an absolute monopoly as the only permitted provider in this market. Since establishing its monopoly, the city has imposed supracompetitive prices—i.e., prices that it could not durably charge in a competitive market. It has also reduced the quality of care and the availability of ambulances. AmeriCare, a wrongly excluded provider of these services, therefore seeks appropriate relief under Section 2.

California has a comprehensive statutory scheme (the “EMS Act”) that is supposed to regulate and supervise the provision of EMS. Any local public agency that fulfills its duties under the EMS Act is immune from the reach of federal antitrust law under the doctrine of state-action immunity. But in this matter the city has flouted its obligations under the EMS Act, has not even arguably acted in accordance with it, and therefore cannot claim state-action immunity. Rather, its conduct must be measured against the well-settled

1 standards of Section 2, which condemn any legal person that acquires  
2 or maintains a monopoly position by means of wrongful exclusionary  
3 conduct—which is exactly what the city has done, and what  
4 AmeriCare is prepared to prove.

5 In this matter, the city has acted as a market-participant that  
6 by misuse of its powers has excluded all other qualified providers.  
7 Since it has acted as a market-participant, it should be held to the  
8 same standards of liability as other market-participants. There is no  
9 principled basis for drawing any distinction between a public and  
10 private market-participant when both fulfill the same function in  
11 furtherance of the same ends—generating profits by rendering  
12 valuable commercial services. AmeriCare therefore asks that the  
13 Court recognize a market-participant exception to the Local  
14 Government Antitrust Act of 1984, 15 U.S.C. §§ 34–36 (the “LGAA”),  
15 and on this basis it has requested damages and other relief under 15  
16 U.S.C. § 15(a). AmeriCare also seeks permanent injunctive relief and  
17 declaratory relief under 15 U.S.C. § 26 as well as related declaratory  
18 relief.  
19

20 The State of California created a scheme by which it and its  
21 political subdivisions ensure that California citizens receive the  
22 prehospital EMS to which they are entitled. Under that scheme, the  
23 state gave its local EMS authorities—subject to supervision and  
24 approval by the California Emergency Medical Services Authority  
25 (“EMSA”)—authority to determine which areas within its jurisdiction  
26 should be “exclusive operating areas” subject to a competitive bidding  
27 process or grandfathering, and which areas should be non-exclusive  
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1 operating areas in which multiple qualified providers operate to  
2 provide the swiftest emergency response. With the exception of  
3 grandfathered areas where the same service provider has been  
4 providing service without interruption since January 1, 1981,  
5 competition is the state policy.

6 Defendant City of Newport Beach eschewed the State of  
7 California's competition policy—and the determinations made by its  
8 state and local EMS authorities—and instead monopolized the  
9 market.

10 Prior to June 1, 1980, the City of Newport Beach licensed  
11 ambulance services operating within its city limits. From the 1960s,  
12 to the early 1990s, the City of Newport Beach arranged for private  
13 ambulance service providers Schaefer and Seals, to respond to  
14 emergency ambulance service requests on a rotation system, within  
15 its city limits.  
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17 Although the city did not “contract[] for or provide[]” prehospital  
18 EMS as of June 1, 1980, it asserts that it retains control of those  
19 services. The city had an informal understanding, and no written  
20 contract, with a private ambulance company until 1994 when it  
21 entered into an exclusive contract with MedTrans. In 1996, the city  
22 issued an RFP for prehospital EMS but ultimately rejected all bids. It  
23 instead entered into the ambulance business for itself through its own  
24 municipal fire department, repudiating the competitive bidding  
25 process once and for all, in direct violation of state law. In doing so, it  
26 created an illegal monopoly in violation of Sherman Act Section 2.  
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1 Due to the absence of a competitive bidding process or any  
2 grandfathering, the Orange County Emergency Medical Services  
3 Agency (“OCEMS”) redesignated AO15 as a non-exclusive area in  
4 which any county-qualified EMS provider is entitled to be placed in  
5 rotation upon request.

6 The city—recalcitrant to ceding control over a lucrative revenue-  
7 generating service the State of California has determined should  
8 instead be provided in a competitive market—refuses to place Plaintiff  
9 AmeriCare into the rotation for AO15. The city falsely claims that it  
10 maintains its “rights” under California Health & Safety Code Section  
11 1797.201. But the city never had those rights because it was not  
12 contracting for or providing its own prehospital EMS services as of  
13 June 1, 1981. *See* Cal. Health & Safety Code § 1797.201. Moreover,  
14 regardless of whether the city retained .201 rights, it may only operate  
15 as an exclusive operating area if either (a) “a competitive process is  
16 utilized to select the provider or providers” or (b) OCEMS “develops or  
17 implements a local plan that continues the use of existing providers  
18 operating within [the] area in the manner and scope in which the  
19 services have been provided without interruption since January 1,  
20 1981.” Cal. Health & Safety Code § 1797.224. As the designating  
21 authority, OCEMS determined that the City of Newport Beach does  
22 not meet either exception for exclusivity.  
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24 The city has not utilized a competitive process and has not  
25 carried on with an existing service provider without interruption since  
26 before January 1, 1981. In fact, the city did not enter into the  
27 ambulance business until 1996.  
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The City of Newport Beach established an illegal monopoly with 100% market power and an ability to raise prices above market levels—indeed, to any price it so deems—in AO15, while providing minimal quality and speed of service without regard to market demand. In direct contravention of State of California policy, the city displaced all competition in the market for prehospital EMS in the area comprising Newport Beach. As a result, consumers of prehospital EMS in the relevant market pay supracompetitive prices and suffer slower response times and lesser quality emergency services than those provided in a competitive market.

This is an action for damages, declaratory, and injunctive relief for monopolization under Section 2 of the Sherman Act and certain state law claims.

**JURISDICTION AND VENUE**

1. This Court has primary subject-matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1337(a), and Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26 because this action arises under the antitrust laws of the United States.

2. This Court has supplemental jurisdiction over the state law claims of this complaint under 28 U.S.C. § 1367 because they arise from the same nucleus of operative facts as the antitrust claim such that they form part of the same case or controversy.

3. Venue is proper in the Central District of California under 28 U.S.C. § 1391(b) and 15 U.S.C. §§ 15, 22 because Defendant transacts business in this district and because a substantial part of the events giving rise to this complaint occurred in this district. More

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specifically, Defendant monopolized a geographic market within this district.

4. Defendant is subject to personal jurisdiction in California because it is a California general law city with a California address that conducts business in California.

**PARTIES**

5. Plaintiff, AmeriCare MedServices, Inc., is a family-owned, Orange County-based California corporation qualified and licensed to provide emergency ambulance service throughout Orange County. AmeriCare has been serving Orange County since its formation in 1996.

6. Defendant, City of Newport Beach, is a California charter city with its principal place of business at 100 Civic Center Drive, Newport Beach, California 92660.

7. The city and its employees and agents participated personally in the unlawful conduct challenged in this complaint and, to the extent they did not personally participate, they authorized, acquiesced, set in motion, or otherwise failed to take necessary steps to prevent the acts complained of in this complaint.

**SUBSTANTIVE ALLEGATIONS**

**The Statutory Scheme**

8. Prior to 1980, the law governing prehospital EMS in California was haphazard; cities, counties, and public districts were not required to, and had little guidance or means to, coordinate or integrate their operations.

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9. In 1980, the California legislature imposed a new scheme for the provision of prehospital EMS designed to create a new coordinated system for the provision of prehospital EMS with its passage of the Emergency Medical Services System and the EMS Act.

10. The act created a new manner of local administration of prehospital EMS, providing two tiers of governance: (1) the EMSA, and (2) the local EMS agency, in this case the OCEMS section of the Orange County Department of Health.

11. Among the EMSA’s duties are the power to review and approve the prehospital EMS plans submitted by local EMS agencies to determine whether the plans “effectively meet the needs of the persons served” and are consistent with the law and Authority guidelines and regulation.

12. The local EMS agency, on the other hand, has the power and responsibility to provide prehospital EMS throughout its area of responsibility. It develops and submits for approval its plan for prehospital EMS in the area of its responsibility.

13. The legislative scheme allows a local EMS agency to designate one of two modes for the provision of EMS services in any particular geographic area within its purview: (1) exclusive operating areas and (2) non-exclusive operating areas.

14. In effect, an exclusive operating area allows the local EMS to create monopolies in the provision of prehospital EMS *provided* that the local EMS uses a competitive process for awarding those monopolies. Cal. Health & Safety Code § 1797.224. The local EMS can also designate an exclusive operating area through

1 “grandfathering” an area in which a particular provider or providers  
2 have been operating without interruption since January 1, 1981. *Id.*

3 15. In non-exclusive operating areas, prehospital EMS  
4 providers compete in an open market. In Orange County, these private  
5 ambulance services are subject to a rigorous licensing and  
6 qualification process and must provide services according to rates  
7 predetermined by OCEMS. AmeriCare is fully licensed and qualified  
8 by OCEMS.

9 16. Under the scheme, the local EMS must define and  
10 describe each operating area within its jurisdiction in its local EMS  
11 plan submitted to EMSA. It must designate each area as exclusive or  
12 non-exclusive.

13 17. Mindful that the new prehospital EMS scheme relies on  
14 a competitive marketplace that would supplant existing services in  
15 some municipalities, the legislature made one narrow exception to the  
16 system of local EMS agency control: a municipality that had  
17 contracted or provided for its own prehospital EMS as of June 1, 1980  
18 could choose whether to continue administering its own prehospital  
19 EMS or to enter into an agreement with the local EMS agency. *See*  
20 *Cal. Health & Safety Code § 1797.201*. Cities that chose to retain their  
21 power to administer prehospital EMS colloquially call this power “.201  
22 rights.”

23 18. But this control does not allow cities to create  
24 monopolies by their own fiat. Section 1797.224 allows **only** local EMS  
25 agencies such as OCEMS, acting through an EMSA-approved plan, to  
26 create exclusive operating areas:  
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1 A local EMS agency may create one or more exclusive  
2 operating areas in the development of a local plan, if a  
3 competitive process is utilized to select the provider or  
4 providers of the services pursuant to the plan. No  
5 competitive process is required if the local EMS agency  
6 develops or implements a local plan that continues the use  
7 of existing providers operating within a local EMS area in  
8 the manner and scope in which the services have been  
9 provided without interruption since January 1, 1981.

10 Cal. Health & Safety Code § 1797.224.

11 19. The California Supreme Court has explained that while  
12 a local EMS agency's ability to create [exclusive  
13 operating areas] may not supplant the [cities'] ability to  
14 continue to control EMS operations over which they  
15 have historically exercised control[, n]othing in this  
16 reference to section 1797.201 suggests that cities . . . are  
17 to be allowed to expand their services, or to create their  
18 own exclusive operating areas.  
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20 *Cty. of San Bernardino v. City of San Bernardino*, 15 Cal. 4th 909, 932  
21 (1997).

22 20. Therefore, even where a city retains .201 rights,  
23 operating areas can only be designated as exclusive by the local EMS  
24 if the city can establish either (1) grandfathering, or (2) that OCEMS  
25 utilized a competitive process to select its current provider in the last  
26 ten years.  
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1           21.       Otherwise, the operating area must be designated as a  
2 non-exclusive operating area in which restraints of trade imposed by  
3 a local government entity are not immune from antitrust liability  
4 under the state action doctrine.

5           22.       The EMS Act explicitly decrees that it is intended to  
6 establish a comprehensive system for regulating and supervising the  
7 provision of EMS in California. *See* Cal. Health & Safety Code §  
8 1797.6. The various workings of the EMS Act confirm that, except for  
9 “grandfathered” providers, competitive bidding and open competition  
10 among qualified providers are supposed to be industry standards for  
11 the provision of EMS in California. *See generally id.* § 1797 *et seq.* The  
12 EMS Act thus promulgates a policy of competitive bidding and open  
13 competition that is actively monitored and supervised by the EMSA  
14 and the local EMSAs. *See id.* The EMS Act further decrees that: (1) it  
15 is intended to establish a fully regulated, actively supervised system  
16 for providing EMS in California; and (2) in accordance with the  
17 doctrine of state-action immunity, the federal antitrust laws should  
18 not reach “activities undertaken by local governmental entities *in*  
19 *carrying out their prescribed functions under [the EMS Act].*”  
20 *Id.* § 1797.6 (emphasis supplied). As explained fully in this complaint,  
21 the city did *not* engage in the challenged conduct in furtherance of any  
22 duty it owed or any role properly assigned to it under the EMS Act,  
23 nor did it engage in any “activity” in order to “carry out” of any its  
24 “prescribed functions” under the EMS Act, but rather it disregarded  
25 and flouted its obligations under the EMS Act while invoking spurious  
26 legal rationales to justify its conduct. It even disregarded specific  
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1 directives of its local EMSA (the OCEMSA) by failing to operate AO9  
2 as a non-exclusive operating area. The city is therefore unable to rely  
3 on the state-action immunity promulgated in the EMS Act. Abusing  
4 its powers, the city arrogated unto itself a highly lucrative monopoly  
5 concession, and it has subjected its captive customers to onerous prices  
6 and inferior service. Its conduct can and should be condemned under  
7 Section 2.

### 8 **Prehospital EMS in the City of Newport Beach**

9 23. From the 1960s into the early 1990s, the City of Newport  
10 Beach had a *de facto*, unwritten agreement with Schaefer and Seals to  
11 provide emergency ambulance service within Newport Beach city  
12 limits.  
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14 24. Under the agreement, the city gave its authority to  
15 administer prehospital EMS, including the authority to license and  
16 regulate. In turn, the city was required to adopt the Orange County  
17 model ambulance ordinance, which provides for competitive bidding,  
18 standards for licensure, and maximum rates for private providers,  
19 among other things.

20 25. In 1994, the City of Newport Beach contracted with  
21 MedTrans for ambulance service as its exclusive emergency  
22 ambulance service. MedTrans continued to operate exclusively within  
23 the city until 1996.

24 26. But in the midst of a recession and the effects of  
25 Proposition 13, the city followed suit with many other cities in  
26 California: rather than balance its budget, it increased the variety of  
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services performed by its fire department, expanding into lucrative new revenue-generating domains.

27. In 1996, the City of Newport Beach ceased using its existing provider and entered, for the first time, into the ambulance business itself. Its legally and factually untenable position appears to have been that (a) it had .201 rights, and (b) as a result of those .201 rights, it could establish a new monopoly of its own.

28. Since establishing its monopoly, the city has raised its rates arbitrarily and without regard to cost. In fact, an emergency transportation charge from the City of Newport Beach is nearly twice the rates charged by private providers in Orange County.

29. OCEMS may only designate and maintain exclusive zones in its local EMS plan—and EMSA will only approve such a designation—if a city can establish one of two criteria: (1) a competitive bidding process was used in the last ten years to contract with the highest ranked bidder, or (2) grandfathering. Under this criteria, OCEMS has determined that only the cities of Brea, Santa Ana, and Westminster could be labeled as city-administered zones enjoying exclusivity under the plan, whether due to competitive bidding or grandfathering.

30. In 2002, OCEMS re-evaluated its EMS plan. OCEMS determined that AO15 failed to meet either criterion for the exclusive operating area designation under California Health & Safety Code Section 1797.224. OCEMS submitted its amended plan designating AO15 as a non-exclusive operating area to EMSA, which EMSA approved.

1           31.       The city never placed any private ambulance company  
2 in the rotation for service calls, illegally maintaining its monopoly in  
3 a non-exclusive zone.

#### 4                           **City of Newport Beach Excludes AmeriCare**

5           32.       AmeriCare submitted a written request to OCEMS  
6 February 25, 2015 to be placed on rotation within AO15, the non-  
7 exclusive operating area comprising Newport Beach. OCEMS replied  
8 March 18, 2015 directing AmeriCare to contact the city manager for  
9 the incorporated city within the zone.

10           33.       Although OCEMS has the responsibility and authority  
11 to administer non-exclusive zones not retained by cities validly  
12 exercising .201 rights, OCEMS has entered into agreements in which  
13 it allows certain cities to administer, in part, the provision of  
14 prehospital EMS within its jurisdiction. OCEMS calls these areas “city  
15 administered” and the Orange County attorney has expressly  
16 disclaimed that “city administered” is not a determination regarding  
17 .201 rights. Instead, “OCEMS does not currently believe the  
18 determination of which cities can legitimately claim .201 rights is one  
19 to be made by [it].” *See* Ex. A at 1. OCEMS nevertheless continues to  
20 assert its sole authority to determine exclusivity because “.201 rights  
21 and exclusivity are two different things.” *Id.* at 2.

22           34.       AmeriCare submitted its written request to Dave Kiff,  
23 city manager of City of Newport Beach March 19, 2015, explaining its  
24 correspondence with OCEMS and requesting that either the city  
25 arrange for AmeriCare to be placed into the prehospital EMS rotation  
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or state a position that it does not have responsibility for the administration of prehospital EMS. Ex. B.

35. The city did not respond.

36. But for the city’s monopolization of the market, AmeriCare and other private ambulance providers would have been placed in rotation and patients would have paid lower prices for faster and better service. During periods of higher volume, more ambulances would have been available from other providers and patients would have been stabilized and transported for hospital care more quickly.

37. AmeriCare lost business as a result of the city’s actions.

**Claims Limitation Not Applicable**

38. AmeriCare has complied with all applicable presentation of claims to local governments’ requirements under California law. The City of Newport Beach denied AmeriCare’s claim on March 16, 2016.

**COUNT I**

**Monopolization, 15 U.S.C. § 2**

39. Plaintiff repeats each and every allegation contained in the paragraphs above and incorporates by reference each preceding paragraph as though fully set forth at length herein.

40. Section 2 of the Sherman Act, 15 U.S.C. § 2 provides:

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony . . . .

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41. Defendant City of Newport Beach possesses monopoly power in the market for the provision of prehospital EMS in the Newport Beach area. The city has the power to exclude competition and has exercised that power in favor of itself, such that it has 100% market power in the area comprising Newport Beach.

42. In the present matter, the relevant service market is the provision of EMS (broadly speaking, ambulance services and related prehospital emergency medical services).

43. EMS are services rendered to people who have suffered a medical emergency and require immediate treatment and rapid transport to a nearby hospital. The highly skilled medical professionals who render these services must receive compulsory education, training and licensure before they can offer them. The providers of these services must fulfill numerous regulatory requirements and carry compulsory insurance.

44. Above all, the city acts as an effectual gatekeeper that determines which providers can operate in AO15. Practically speaking, most calls for emergency service and EMS are made to the city's emergency lines, such as 911. It is the city that dispatches these emergency calls and otherwise uses its police and regulatory powers to ensure that only the provider(s) of whom it has approved can render EMS in its area. If a person requires EMS in AO15, it must rely on such EMS as the city will arrange to provide for it, owing to the manner in which the city has handled this matter, as pled fully above.

45. There is no other service of any kind that can serve as a reasonably interchangeable substitute for EMS. No matter how high

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the price of these services, those who require them cannot turn to an alternative service. There is no cross-elasticity of demand between EMS and any other service.

46. The relevant geographic market is AO15—which is the Newport Beach area. People within this area who require EMS will inevitably be served only by the city’s designated provider of these services—the city itself. No other provider is permitted to serve the area.

47. Therefore, the relevant market at issue in this case is the provision of EMS in AO15 (the “Market”).

48. Through the conduct described herein, the city has willfully maintained that monopoly power by anticompetitive and exclusionary conduct. It acted with the intent to maintain its monopoly power, and its illegal conduct has enabled it to do so, in violation of Section 2 of the Sherman Act.

49. The Market has been harmed as a result of the city’s conduct as consumers of prehospital EMS have been forced to pay supracompetitive prices while receiving lower quality, slower service.

50. AmeriCare provides superior prehospital EMS at lower prices and provides higher quality and faster service.

51. AmeriCare has been harmed by the city’s willful maintenance of its monopoly and its exclusion of all competitors.

52. The City of Newport Beach acted in direct contravention of the policy of the State of California with regard to displacement of competition for prehospital EMS, and therefore is not entitled to immunity under the state action doctrine.



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60. The City of Newport Beach has acted in direct contravention of the clearly articulated policy of the State of California with regard to displacement of competition for prehospital EMS.

61. Moreover, the city is not entitled to immunity under the state action doctrine because it is a market participant.

62. The Local Government Antitrust Act of 1984, 15 U.S.C. §§ 34–36, does not apply because the city is (a) engaging in *ultra vires* acts and therefore not acting in its official capacity, and (b) not acting in its capacity to govern—merely regulating or interacting with private actors—but rather as a market participant.

63. As a result of those practices, AmeriCare suffered damages in an amount to be determined at trial and is entitled to reasonable attorney’s fees.

**COUNT III**

**Declaration of Rights, Cal. Civ. Proc. Code § 1060**

64. Plaintiff repeats each and every allegation contained in the paragraphs above and incorporates by reference each preceding paragraph as though fully set forth at length herein.

65. California Health & Safety Code Section 1797.224 provides that “[a] local EMS agency may create one or more exclusive operating areas in the development of a local plan, if a competitive process is utilized to select the provider or providers of the services pursuant to the plan.”

66. OCEMS has designated AO15, the area comprising Newport Beach, as non-exclusive and has duly licensed AmeriCare as

1 a prehospital EMS provider which Newport Beach must place in  
2 rotation upon its request.

3 67. Defendant City of Newport Beach incorrectly argues  
4 that Section 1797.224 does not apply to it.

5 68. AmeriCare therefore seeks a declaration from this Court  
6 declaring that the city lacks authority to create an exclusive operating  
7 area under Section 1797.224 and that the city repudiated any rights it  
8 once had under Section 1797.201.

9 **COUNT IV**

10 **Declaratory Judgment, 28 U.S.C. § 2201, 15 U.S.C. § 26**

11 69. Plaintiff repeats each and every allegation contained in  
12 the paragraphs above and incorporates by reference each preceding  
13 paragraph as though fully set forth at length herein.

14 70. An actual and justiciable controversy exists between  
15 AmeriCare and the city concerning the city's violations of federal  
16 antitrust law and the California EMS laws.

17 71. Contrary to the city's assertions, it has not retained any  
18 rights or powers under Section 1797.201.

19 72. Contrary to the city's assertions, it does not have the  
20 authority to create an exclusive operating area.

21 73. Contrary to the city's assertions, AmeriCare is entitled  
22 to be placed into rotation in AO15, which is designated as non-  
23 exclusive by OCEMS.

24 74. Contrary to the city's assertions, it is not grandfathered  
25 because it did not have an existing EMS service that has been provided  
26 uninterrupted since January 1, 1981.  
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75. Contrary to the city’s assertions, it has attempted and succeeded at maintaining an illegal monopoly in restraint of interstate commerce that is not immune from liability under the state action doctrine.

76. The city’s actions and assertions described above have caused, and will continue to cause, irreparable harm to AmeriCare and the public. AmeriCare has no adequate remedy at law.

77. AmeriCare therefore seeks a declaration from this Court declaring that the city lacks authority to create an exclusive operating area under Section 1797.224 and that the city repudiated any rights it once had under Section 1797.201.

78. AmeriCare seeks a further declaration from this Court that the city has committed monopolization and/or attempted monopolization in violation of Section 2 for which it is not entitled to immunity under the state action doctrine.

79. AmeriCare seeks a further declaration from this Court that the city should held legally responsible for damages, costs and interest under 15 U.S.C. §15(a), notwithstanding the LGAA, because in this matter the city has acted as a market-participant engaged in commercial activity.

**REQUEST FOR RELIEF**

**WHEREFORE**, AmeriCare requests that this Court:

- A. Enter a temporary restraining order against Defendant to enjoin it from continuing its illegal acts under 15 U.S.C. § 26;

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B. Declare that Defendant’s conduct violates Section 2 of the Sherman Act and California Health & Safety Code Sections 1797.201 and 1797.224;

C. Declare that Defendant is not entitled to immunity from damages, interest, fees, and costs under 15 U.S.C. § 36 because it is acting as a market participant rather than a government entity that is merely regulating or interacting with private actors;

D. Enter judgment against Defendant;

E. Award AmeriCare compensatory damages in three times the amount sustained by it as a result of Defendant’s actions, to be determined at trial as provided in 15 U.S.C. §§ 15(a) and 26;

F. Award AmeriCare pre- and post-judgment interest at the applicable rates on all amounts awarded, as provided in 15 U.S.C. §§ 15(a) and 26;

G. Award AmeriCare its costs and expenses of this action, including its reasonable attorney’s fees necessarily incurred in bringing and pressing this case, as provided in 15 U.S.C. §§ 15(a) and 26;

H. Grant permanent injunctive relief under 15 U.S.C. § 26 to prevent the recurrence of the violations for which redress is sought in this complaint; and

I. Order any other such relief as the Court deems appropriate.

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all claims.

DATED: November 21, 2016

Bona Law PC

*/s/Jarod Bona*

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JAROD BONA

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**CERTIFICATE OF SERVICE**

I am employed in San Diego County. I am over the age of 18 and not a party to the within action. My business address is 4275 Executive Square, Suite 200, La Jolla, California 92037. On November 21, 2016, I caused to be served via CM/ECF a true and correct copy of the **Amended Complaint**.

The CM/ECF system will generate a “Notice of Electronic Filing” (NEF) to the filing party, the assigned judge and any registered user in the case. The NEF will constitute service of the document for purposes of the Federal Rules of Civil, Criminal and Appellate Procedure.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 21st day of November 2016 at San Diego, California.

  
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*Gabriela Hamilton*