

Howard A. Belodoff, ISB No. 2290  
BELODOFF LAW OFFICE PLLC  
1004 West Fort Street  
Boise, ID 83702  
Telephone: (208) 331-3378  
Facsimile: (208) 947-0014  
Email: hbelodoff@hotmail.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

INJURY CARE EMERGENCY MEDICAL  
SERVICES, INC., an Idaho Corporation,

Plaintiff,

v.

CANYON COUNTY AMBULANCE  
DISTRICT, CANYON COUNTY, IDAHO,  
CANYON COUNTY BOARD OF  
COMMISSIONERS STEVE RULE, TOM  
DALE AND CRAIG HANSON, in their  
individual and official capacities as members of  
the Canyon County Ambulance District and the  
Canyon County Board of County  
Commissioners; ROBB HICKEY, in his  
individual and official capacity as the Deputy  
Director of Canyon County Ambulance  
District;

Defendants.

Civil Action No.

**COMPLAINT**

Plaintiff, Injury Care Emergency Medical Services, Inc. for a cause of action against the  
Defendants states and alleges as follows:

## I. PRELIMINARY STATEMENT

1. This is an action brought by Plaintiff, Injury Care Emergency Medical Services, Inc., (“ICEMS”), an Idaho corporation that has qualified for license to operate ambulance services in the State of Idaho issued by the State of Idaho, Department of Health and Welfare’s Bureau of Emergency Medical Services and Preparedness.

2. ICEMS is an “Agency” licensed and authorized to provide ambulance services according to the provisions of Idaho Code § 56-1011 through § 56-1023 and the minimum standards specified in the Idaho Department of Health and Welfare Rules Governing Emergency Medical Services (“EMS”), IDAPA 16.02.03 and Rules of the Emergency Medical Services (“EMS”) Physician Commission, IDAPA 16.02.02.

3. ICEMS is authorized to provide Advanced Life Support (“ALS”) Level 1 ambulance transport services. See Exhibit 1 attached.

4. Level 1 is the highest level of ambulance service in the State of Idaho designated in the state licensure statutes.

5. ICEMS has been licensed to provide private ALS Level 1 ambulances services in all forty-four (44) counties in the State of Idaho since 2009.

6. ICEMS is fully qualified, and equipped to provide private ALS Level 1 ambulances services.

7. ICEMS’ personnel are fully trained and supervised to provide private ALS Level 1 ambulances services.

8. ICEMS has 28 “Licensed personnel” who are affiliated as “emergency medical technicians” and “emergency medical responders” who are certified and licensed under Idaho

Code §§ 56-1011- 56-1023 and the Rules governing EMS adopted thereto, including but not limited to, Rules governing EMS Personal Licensing Requirements, IDAPA 16.02.07.

9. ICEMS has “Licensed personnel” who are affiliated as “emergency medical technicians” and “emergency medical responders” who are fully trained as required by Idaho Code §§ 56-1011-56-1023 and the Rules governing EMS adopted thereto.

10. All “emergency medical technicians” and “emergency medical responders” affiliated with ICEMS are supervised by its Medical Director, Dr. Richard Radnovich, D.O., who is licensed by the Idaho Board of Medicine.

11. ICEMS has complied with and meets all the equipment requirements for operating an ambulance service as required by Idaho Code §§ 56-1011- 56-1023 and the Rules governing EMS adopted thereto.

12. ICEMS has a general liability insurance policy of \$1 million per person and \$3 million per occurrence.

13. In 1963 the Idaho Legislature passed Idaho Code §§ 31-3901 et seq. which authorized the Board of County Commissioners, “whenever existing ambulance services is not reasonably available to the inhabitants of the county or any portion thereof, to procure an ambulance . . . to establish an ambulance service to serve the areas which do not have an existing reasonably available . . .” and to levy a special tax to support it. Idaho Code § 31-3901.

14. The Board of County Commissioners determines the manner in which the ambulance service it establishes shall be operated. Idaho Code § 31-3903.

15. The Board of County Commissioners is authorized after a petition is filed signed by not less than fifty (50) resident property owners and conducting a public hearing to establish and maintain an ambulance district within the county. Idaho Code § 31-3908(1).

16. The Idaho Code provides that an ambulance district is a “legal taxing district, and providing ambulance service is a government function.” Idaho Code § 31-3908(2).

17. The board of county commissioners pursuant to Idaho Code § 31-3908(3) is the governing board of the ambulance district and is authorized to exercise the duties and responsibilities provided for in Idaho Code §§ 31-3901 et seq.

18. Idaho Code §§ 31-3901 et seq. does not expressly authorize or grant the County Board of Commissioners the regulatory power to govern or coordinate the provision of ambulance services by other public agencies or state licensed privately operated ambulance services by imposing additional or higher standards than the Bureau of Emergency Medical Services and Preparedness.

19. The Canyon County Board of Commissioners created an Ambulance District in November 1979 by enacting Canyon County Ordinance No. 03-79-011.

20. On December 11, 2003 the Canyon County Board of Commissioners repealed Canyon County Ordinance No. 03-79-011 and replaced it with Canyon County Ordinance No. 03-013 (“Ordinance No. 03-013”) providing, that “[t]he District is the sole provider of EMS emergent and non-emergent ambulance transport services within the District boundaries, except as otherwise provided by this ordinance.” See Exhibit 2, Section IX, Authority of the District, at page 5, attached.

21. Ordinance No. 03-013 provided, in part, that “[i]t shall be unlawful for any person, as owner, agent, or otherwise, to conduct or operate an ambulance, ambulance services or medical transfers within Canyon County unless authorized by the District.” See Exhibit 2, Section X a., District Authorization Required for Operation, at page 5, attached.

22. The District authorization requirement does not apply to “any Quick Response Unit (Non-transport agencies) or Rural Fire Districts operating within the District.” See Exhibit 2, Section X a., District Authorization Required for Operation, at page 5, attached.

23. The Ordinance’s authorization requirement specifically exempts six types of ambulance of services including “[a]n ambulance or ambulance service currently operated by an agency of the United States, an agency of the State of Idaho, or any political subdivision of the State of Idaho, within their jurisdictional boundaries on or before October 1, 2003, . . .” See Exhibit 2, Section X b.i., District Authorization Required for Operation, at page 5, attached.

24. The Ordinance also exempts an ambulance which at its request is rendering assistance to the District in the event of a major catastrophe or emergency. Exhibit 2, Section X b.ii., District Authorization Required for Operation, at page 5, attached.

25. The Ordinance also exempts a Quick Response Unit/Non-Transport Agency at the request of the District. See Exhibit 2, Section X b.iii., District Authorization Required for Operation, at page 6, attached.

26. The Ordinance also exempts “[a]n ambulance operated from a location or headquarters outside of Canyon County which transports patients picked up outside of Canyon County to locations within Canyon County.” See Exhibit 2, Section X b.iv., District Authorization Required for Operation, at page 6, attached.

27. The Ordinance also exempts an ambulance used solely for educational purposes. See Exhibit 2, Section X b.v., District Authorization Required for Operation, at page 6, attached.

28. The Ordinance also exempts “[a]ircraft of any type, fixed wing or helicopter. See Exhibit 2, Section X b.vi., District Authorization Required for Operation, at page 6, attached.

29. The ambulance services exempt under Ordinance No. 03-013 operate without any additional authorization or oversight by the Canyon County Ambulance District.

30. ICEMS has met and continues to meet all the licensing standards to provide ambulance services in Canyon County under Ordinance No. 03-013.

31. Plaintiff alleges that Defendants have unlawfully denied ICEMS from operating its ambulance services in Canyon County by denying authorization under Ordinance No. 03-013, by threatening to bring legal action against ICEMS and parties with whom ICEMS contracts to transport patients, and by interfering with its right under its state license and authorization to operate an ambulance service on a statewide basis.

32. Plaintiff seeks monetary damages, declaratory, and injunctive relief against the Canyon County Ambulance District, Canyon County and the Canyon County Board of Commissioners, and individually named Defendants who are officials or employees of the county, (hereinafter Defendants), to redress the unlawful, discriminatory, arbitrary and irrational practices and policies, under color of state law, and in violation of the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment to the United States Constitution and in violation of Idaho state law and the Idaho State Constitution, Idaho Code §§ 31-3901 et seq. and Idaho Code §§ 56-1011- 56-1023, and the agency rules adopted thereto.

## **II. JURISDICTION AND VENUE**

33. This Court has jurisdiction under 28 U.S.C. §§ 1331(3) and (4) for violations of Federal Law, and § 1343 to hear actions to vindicate violations of the constitutionally and federally protected civil rights of the Plaintiff under color of state law.

34. This Court also has jurisdiction over the state law claims asserted herein pursuant to its Supplemental Jurisdiction powers authorized by 28 U.S.C. § 1367.

35. Defendants are subject to personal jurisdiction because this case arises from Defendants' wrongful conduct in Idaho.

36. This action is properly brought in this District under 28 U.S.C. § 1391(b) as all of the Defendants reside in this District and Plaintiff's claims arose in this District.

37. This Court is empowered to issue a declaratory judgment and further relief pursuant to 28 U.S.C. §§ 2201 and 2202.

### **III. PARTIES**

38. Plaintiff ICEMS is an Idaho corporation whose mission and purpose is to provide the highest standard of non-911 ambulance services to persons who require medical care.

39. Defendant Canyon County Ambulance District is an ambulance district created by the Canyon County Board of Commissioners.

40. Defendant Canyon County is a subdivision of the State of Idaho.

41. Defendants Steve Rule, Tom Dale and Craig Hanson are the elected members of the Canyon County Board of Commissioners who govern Canyon County and the Canyon County Ambulance District and enforce Ordinance No. 03-013.

42. Defendant Robb Hickey is the Deputy Director of the Canyon County Ambulance District.

### **IV. PLAINTIFF'S FACTUAL ALLEGATIONS**

43. ICEMS has a contractual relationship with St. Luke's Regional Medical Center, since 2010 and St. Alphonsus Regional Medical Center, since 2014, to provide ambulance services including transport of their patients between its facilities in Ada County and Canyon County, Idaho.

44. ICEMS has a contractual relationship with West Valley Medical Center, since 2012, to provide ambulance services including transport of their patients from and to Canyon County, Idaho.

45. ICEMS has a contractual relationship with the United States Department of Interior, Bureau of Land Management and United States Department of Agriculture, Forest Service, since 2012, and the State of Idaho, Department of Lands, since 2014, to provide stand-by emergency medical services and ambulance services for employees and contractors who are injured and who require transport to medical facilities while working on wild land fires.

46. ICEMS has provided non-911 ambulance transport services to and from all hospitals in Ada County and Canyon County Idaho since 2010.

47. In 2013 ICEMS provided 1560 non-911 ambulance transports with no injuries, complaints or accidents in Ada County and to and from other locations in Idaho.

48. In 2014 ICEMS provided 2028 non-911 ambulance transports with no injuries, complaints or accidents in Ada County and to and from other locations in Idaho.

49. ICEMS did not have to obtain any prior authorization beyond its state licensure to operate and provide non-911 ambulance transport services within the Ada County Ambulance District.

50. On February 28, 2014 Defendant Rob Hickey met with Kelly McNitt, Director of Emergency Services for St. Alphonsus Medical Center, to provide her with a copy of Ordinance 03-013 and to discuss the contract between St. Alphonsus and ICEMS to provide transport for St. Alphonsus Medical Center and Health Plaza in the City of Nampa, Idaho.

51. Following the meeting, Defendant Hickey wrote Ms. McNitt a letter concerning ICEMS, stating that he had “discussed the potential for harm, in real dollars, caused if the



transfers you have contracted with Injury Care Emergency Medical Services ('Injury Care'), a privately held company, were allowed to occur." See Exhibit 3, attached.

52. Defendant Hickey informed Ms. McNitt that "St. Al[phonsu]s nor Injury Care are authorized to provide transfers within the District boundaries." See Exhibit 3, attached.

53. Defendant Hickey instructed Ms. McNitt to "immediately terminate your interfacility transfer process and agreement as it violates Ordinance 03-013 (IX) and (X)(a)." See Exhibit 3, attached.

54. On March 5, 2014 Dr. Radnovich, the owner of ICEMS, received a certified letter dated March 3, 2014, written by Defendant Hickey, advising him to "immediately terminate your inter-facility transfer activities and any patient transports originating within the District's boundaries as these activities expressly and specifically violate Ordinance 03-013 (IX) and (X)(a)." See Exhibit 4, attached.

55. On March 6, 2014 Clint Child, St. Alphonsus Vice President of Patient Care Services, spoke by telephone to Dr. Radnovich,.

56. On March 25, 2014 Mr. Child wrote Dr. Radnovich, that as a direct result of Defendant Dickey's letter, St. Alphonsus "will not be able to utilize Injury Care as we would like to for our facility-to-facility transports." See Exhibit 5, attached.

57. Mr. Child stated that "[i]t is my hope that we can use your service in the future to help with our needs and to reduce overall costs to our facility and patients." See Exhibit 5, attached.

58. St. Alphonsus is now being required to exclusively use the ambulance services of the Canyon County Ambulance District which charges higher rates than ICEMS to transport patients between its facilities in Canyon County and from its Canyon County facilities and its

Ada County Medical Center to receive necessary care and treatment not available in its Canyon County facilities.

59. Dr. Radnovich was previously an ER physician in Canyon County and knew that two other Ambulance Companies, Northwest Paramedics Associates, Inc. and Ada-Boi Critical Care Transfer Team, Inc., had transported patients to and from medical facilities in Canyon County without prior authorization of Canyon County Ambulance District under Ordinance 03-013.

60. Air St. Luke's has and continues to regularly use its ambulance fleet of vehicles to transport patients from its Canyon County Hospital to its facilities in Ada County without prior authorization of Canyon County Ambulance District under Ordinance 03-013.

61. On April 24, 2014 Dr. Radnovich attended a meeting with the Canyon County Board of Commissioners to discuss Defendant Hickey's letter and to discover whether other ambulance service companies and individuals received similar notices.

62. During the April 24, 2014 meeting and in subsequent emails and correspondence Dr. Radnovich requested the District to authorize ICEMS to provide non-911 ambulance transport in Canyon County.

63. On July 21, 2014 Dr. Radnovich again meet with the Canyon County Board of Commissioners to discuss ICEMS' proposal to provide non-911 ambulance transport services to health care facilities in Canyon County.

64. In a letter dated August 15, 2014 the Canyon County Board of Commissioners denied ICEMS' proposal to provide non-911 ambulance transport services to health care facilities in Canyon County by stating "[t]he Board does not believe that the delegation of any or all transportation and transfers to a private corporate entity is in the best interests of the public

health and safety of its citizenry nor does it reflect the wishes of the constituents of the District who already pay a significant levy to pay for such services.”

65. On October 3, 2014 ICEMS owner, Dr. Richard Radnovich and his attorney meet with the Canyon County Board of Commissioners and their counsel to attempt to reach a mutual resolution of the denial of ICEMS to provide non-911 ambulance transport services.

66. During the meeting the Canyon County Board of Commissioners requested that ICEMS submit a written proposal.

67. On October 13, 2014 ICEMS submitted a written proposal to provide non-911 transport services with the specific exclusion of ambulance services in response to 911 emergency calls: (1) From one medical care facility to another pursuant to contractual agreements with the St. Alphonsus Hospitals, St. Luke’s Hospital and the West Valley Medical Center within Canyon County and between other counties in Idaho; (2) From one medical care facility to another or to other medical providers pursuant to contractual agreements with skilled nursing, assisted living and hospice facilities within Canyon County and between other counties in Idaho; and (3) Pursuant to contractual agreements with federal and state agencies.

68. On December 10, 2014 the Board of Commissioners denied ICEMS’ proposal to authorize it to provide non-911 transport services asserting that “Idaho Code §§ 31-3901 et seq. authorizes and delegates to the District to determine the manner in which said ambulance services shall be operated with its jurisdiction.”

69. ICEMS meets all the requirements for authorization of operations that are stated in Ordinance No. 03-013.

70. Defendants under the provisions of Ordinance No. 03-013 are in violation of Idaho Code §§ 31-3901 et seq. and Idaho Code §§ 56-1011- 56-1023 and the agency rules adopted thereto, and are abusing their authority by restricting or limiting potential competition from private ambulance services solely for the economic purpose of preserving the market position of the Canyon County Ambulance District's ambulance service.

71. Defendants have interfered with ICEMS' state issued license to provide non-911 ambulance transport services, its contractual rights and its business opportunities in order to preserve and enhance its own ambulance service at the expense of potential competitors.

**FIRST CLAIM FOR RELIEF**  
**Equal Protection**

72. Plaintiff alleges and incorporates by reference the preceding paragraphs of this complaint as if fully alleged herein.

73. ICEMS meets all the requirements for authorization ambulance service stated in Ordinance No. 03-013.

74. Defendants have intentionally treated ICEMS differently from other similarly situated ambulance services with no rational basis for the different treatment.

75. Ordinance No. 03-013 intentionally treats ICEMS differently from other similarly situated ambulance services with no rational basis for the different treatment.

76. Defendants have not interfered with the contractual relationships or business operations and opportunities of other ambulance services and have permitted other similarly situated ambulance services to operate in Canyon County Ambulance District.

77. Defendants have not threatened other similarly situated ambulance services with litigation in order to enjoin them from operating in the Canyon County Ambulance District.

78. As a result of Defendant's unlawful acts, ICEMS has suffered monetary damages in amounts to be determined at trial, and are entitled to recovery of monetary damages, prejudgment interest, attorneys' fees, and costs.

**SECOND CLAIM FOR RELIEF**  
**Substantive Due Process**

79. Plaintiff alleges and incorporates by reference the preceding paragraphs of this complaint as if fully alleged herein.

80. ICEMS has a constitutionally protected property interest in its State of Idaho Emergency Medical Services Agency License authorizing it to provide ambulance service in all geographical areas and counties of the State of Idaho pursuant to Idaho Code §§ 56-1011-56-1023 and the agency rules adopted thereto.

81. ICEMS meets all the requirements for authorization of an ambulance service stated in Ordinance No. 03-013.

82. Defendants' actions and Ordinance No. 03-013 denies ICEMS the ability to conduct its legally licensed business and interferes with ICEMS contractual relationships and business opportunities to provide non-911 ambulance services with its clients.

83. As a result of Defendants actions hospitals and health care facilities have refused to do business with ICEMS and prevented it from pursuing its right to pursue it business under its license.

84. Defendants' actions are arbitrary and lack a rational connection to their ability and capacity to provide ambulance services.

85. As a result of Defendant's unlawful acts, ICEMS has suffered monetary damages in amounts to be determined at trial, and are entitled to recovery of monetary damages,

prejudgment interest, attorneys' fees, and costs.

**THIRD CLAIM FOR RELIEF**  
**Idaho State Constitution**  
**Idaho Code §§ 31-3901 et seq.**  
**Idaho Code §§ 56-1011-56-1023**

86. Plaintiff alleges and incorporates by reference the preceding paragraphs of this complaint as if fully alleged herein.

87. Defendants' actions and Ordinance No. 03-013 conflicts with and imposes higher standards regulating ambulance services in violation of Article XII, Section 2 of the Idaho State Constitution, Idaho Code §§ 56-1011- 56-1023 and the agency rules adopted thereto and Idaho Code §§ 31-3901 et seq.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for entry of a Judgment against Defendants that:

1. Declares that Defendants have violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution;
2. Declares that Defendants have violated the provisions of the applicable State law and Idaho State Constitution;
3. Enjoins Defendant to cease and desist from its violations of the constitutional and statutory rights described herein;
4. Awards Plaintiff compensatory damages in an amount proved at trial;
5. Awards Plaintiff prejudgment interest, reasonable attorneys' fees and costs;
6. Awards such other and further relief as this Court may deem appropriate.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all questions of fact raised by the Complaint.

Respectfully submitted this 30th day of January, 2015.

/s/

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Howard A. Belodoff, ISB No. 2290  
BELODOFF LAW OFFICE PLLC  
1004 West Fort Street  
Boise, ID 83702  
Telephone: (208) 331-3378  
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Email: hbelodoff@hotmail.com