

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

EDWARD GRAHAM, et al.

Plaintiffs

v.

CITY OF LAKEWOOD, et al.

Defendants

CASE NO. CV-15-846212

JUDGE JOHN P. O'DONNELL

TERENCE KILROY, M.D.'s
AFFIDAVIT IN SUPPORT OF
EDWARD GRAHAM, et al.,
TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND
VERIFIED COMPLAINT

I, Terence Kilroy, M.D., being duly sworn according to law, depose and state as follows:

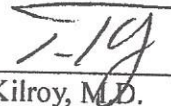
1. I am a pulmonary care doctor licensed to practice medicine in the State of Ohio and currently working at Lakewood Hospital, where I have practiced medicine since 1985. The following is based on my personal knowledge and understanding as a physician with privileges at Lakewood Hospital.
2. Since The Cleveland Clinic Foundation ("CCF") became the sole member of Lakewood Hospital Association ("LHA") in 1996, and most significantly between 2005 (at the latest) and now, under the leadership of Delos Cosgrove, M.D., CCF has moved health care services, medical equipment, and employees away from Lakewood Hospital.
3. Over the past 10 years, since 2005, the following health care services were terminated and/or transferred away from Lakewood Hospital:
 - a. Coronary intervention;
 - b. Cardiac surgery;
 - c. Cardiac electrophysiology;
 - d. Pediatrics;
 - e. Pathology;
 - f. Trauma;
 - g. Pain management;
 - h. Inpatient psychiatry (moved to CCF's wholly-owned Lutheran Hospital);

- i. Preadmission testing;
 - j. Oncology chemotherapy (moved to CCF's wholly-owned Fairview Hospital);
 - k. Coronary care unit (modernized and then closed within six months);
 - l. Neurological surgery (terminated on October 1, 2014); and
 - m. Thoracic surgery (moved to CCF's wholly-owned Fairview Hospital).
4. The following health care services at Lakewood Hospital are represented by CCF to the public, but exist only in name:
 - a. Oncology, where chemotherapy and consults are referred to Fairview Hospital;
 - b. Neurological surgery, which in reality was eliminated completely on October 1, 2014;
 - c. Pain management;
 - d. Electrophysiology, where all procedures are referred to Fairview Hospital;
 - e. Thoracic surgery, where all procedures are referred to Fairview Hospital; and
 - f. Vascular surgery, where all procedures are referred to Fairview Hospital.
5. The fact that Lakewood Hospital no longer provides neurological surgical health care services is known by employees of independent EMS companies, who now transport neuro patients to hospitals other than Lakewood Hospital.
6. There is only one thoracic surgeon who practices at CCF and has privileges at Lakewood Hospital. All patients in need of thoracic surgical health care are referred or transferred to Fairview Hospital.
7. All of the listed health care services, once provided by Lakewood Hospital, generated significant positive income for Lakewood Hospital. Now, they no longer exist and Lakewood Hospital's financial viability has declined to an extraordinary degree.
8. The following health care services at Lakewood Hospital are planned to be removed within the next year:
 - a. Rehabilitation will be moved to Select Care's rehab hospital adjacent to Avon Hospital upon completion of its construction;
 - b. The Neurological Unit will be moved to CCF's wholly-owned Fairview Hospital as early as July 2015 and Lakewood Hospital employees are directed to tell patients such and refer them to other CCF wholly-owned hospitals;

- c. Obstetrical gynecological (OB/GYN) care will be moved to CCF's wholly-owned Fairview Hospital's OB/GYN inpatient facility when it is completed in late 2015; and
 - d. CCF has a contract with a buyer for the bed licenses of Lakewood Hospital's Skilled Nursing Unit.
- 9. CCF has designated that the following Lakewood Hospital and City-owned medical equipment be sold to third parties and/or transferred to other CCF wholly-owned hospitals outside the City of Lakewood:
 - a. X-ray machines;
 - b. Operating room equipment and supplies;
 - c. Nuclear medicine equipment;
 - d. Cardiac catheterization equipment;
 - e. Laboratory equipment;
 - f. Emergency Room equipment;
 - g. Computer equipment;
 - h. Furniture; and
 - i. Critical Care Unit equipment.
- 10. Also, CCF employees from other CCF wholly-owned hospitals have been and continue to approach and recruit doctors and nurses away from Lakewood Hospital, including, recently, the head of the Telemetry Unit, the nurses working with that individual, and the Nurse Manager of the ICU, NICU, and Critical Care Stepdown Unit.
- 11. Without health care services such as thoracic care, pathology, and oncology, my practice in pulmonary care suffers extraordinarily and is being irreparably harmed. In fact, because of the size of cutbacks at Lakewood Hospital in complementary and necessary health care services, the health care provided at Lakewood Hospital is deficient and Lakewood Hospital's financial viability is being seriously undermined.
- 12. Based on the foregoing, it is apparent that CCF has a history of terminating and transferring health care services away from Lakewood Hospital and will do so in the very near future without the assistance of a court of law.

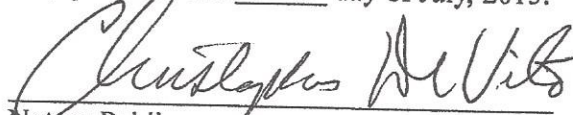
13. Defendants' joint and several actions have caused and will continue to cause irreparable harm to myself, the City of Lakewood, and Plaintiffs if the *status quo* is not maintained and the medical services returned to how it once was at Lakewood Hospital.
14. There will be no harm to LHA, LHF, CCF, and the City that they already have not caused themselves and there will be no harm to any third parties by maintaining the *status quo* as it has been and then returning the medical services improperly removed.
15. Defendants' fraudulent and covert changes, termination, and transfer of Lakewood Hospital health care services, equipment, and personnel warrant the equitable relief of a temporary restraining order and injunction to prohibit the daily and continuing irreparable harm.
16. I, Lakewood Hospital employees, Plaintiffs, and the citizens of Lakewood daily are being irreparably harmed by the erosion of Lakewood Hospital.
17. It would be difficult because of Defendants' actions to calculate the amount of damages being afflicted upon me and Plaintiffs, every day and into the future if the *status quo* is not maintained and the medical services returned to how it once was at Lakewood Hospital.
18. Unless the *status quo* is maintained and Defendants are ordered to stop the change, reduction, termination, and transfer of health care services, equipment, and employees at Lakewood Hospital elsewhere outside of the City of Lakewood, there will be no adequate remedy at law and irreparable harm will continue.
19. The public interest will be served best by granting the Temporary Restraining Order and Preliminary Injunction so the *status quo* remains at Lakewood Hospital until there is a hearing and a determination on the merits.

20. I have reviewed the Verified Complaint and Temporary Restraining Order and Preliminary Injunction facts set forth in the pleading and motion and all of the facts contained therein are true or reasonably believed to be true based upon my personal knowledge and/or information and belief.
21. I am also available to give further testimony live under oath to substantiate any fact and the irreparable harm that will occur if the Temporary Restraining Order and Preliminary Injunction are not granted ex parte to maintain the *status quo*.



Terence Kilroy, M.D.

SWORN TO BEFORE ME and subscribed in my presence this 6th day of July, 2015.


Notary Public

CHRISTOPHER M. DEVITO, Attorney at Law
NOTARY PUBLIC — STATE OF OHIO
My commission has no expiration date.
Pursuant to O.R.C. 147.03