

NO. A08-2190

State of Minnesota
In Supreme Court

HealthEast,

Relator,

and

University of Minnesota Physicians,

Intervenor,

vs.

County of Ramsey,

Respondent.

**BRIEF OF INTERVENOR
UNIVERSITY OF MINNESOTA PHYSICIANS**

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STATEMENT OF THE CASE

On this appeal, Relator HealthEast seeks an order from this Court reversing the Tax Court's decision following remand. In its first consideration of the case, HealthEast v. County of Ramsey, 749 N.W.2d 15 (Minn. 2008), this Court reversed the Tax Court's first order and remanded, specifically instructing the Tax Court to determine whether HealthEast has met its burden to prove that it does not have a "purpose or existence apart from" the HealthEast Care System under applicable principles. On remand, the Tax Court determined that HealthEast had not met its burden. The Tax Court's order on remand made no rulings or findings relative to Intervenor University of Minnesota Physicians ("UMPhysicians"), and accordingly, UMPhysicians did not join in the current appeal.

However, in its Brief, Respondent County of Ramsey not only presented arguments regarding HealthEast's status, the subject of the second Tax Court order and this appeal, it also included statements about UMPhysicians that were not part of the second Tax Court order, and are not accurate. Accordingly, UMPhysicians submits this Brief to address those statements.

ARGUMENT

In Respondent's Brief, Ramsey County properly addresses the second Tax Court order and the issues raised on HealthEast's current appeal. However, at the very end of its Argument, Respondent asserts, "Furthermore, in its first order in this matter, the Tax Court determined that UMPhysicians was not an institution of purely public charity. (Ramsey County at 21-26.) Nothing in the record that is

before the Court contradicts this determination.” (Respondent’s Brief at 16.)

Then, in its Conclusion, Respondent also asserts, “Moreover, even if HealthEast is completely successful in this appeal, it still could not succeed on remand since the Tax Court has already determined that UMPhysicians does not meet the second prong of analysis under Minn. Stat. § 273.19.” (Respondent’s Brief at 16.)

UMPhysicians strenuously disagrees with Ramsey County’s conclusory statement that “[n]othing in the record that is before the Court contradicts” the Tax Court’s determination in its first order that UMPhysicians was not an institution of purely public charity. In its first consideration of this case, this Court reversed the Tax Court’s first order, which is exactly how a determination is “contradicted.” This Court did not affirm any part of the Tax Court’s first decision, nor was the reversal “in part” – it was a full reversal, with remand for further proceedings in the Tax Court relating to HealthEast.

In its first consideration of this case, this Court did acknowledge the Tax Court’s conclusions in its first order regarding UMPhysicians, stating, “Although unnecessary to its decision, the tax court further concluded that UMPhysicians also had not established that it was an institution of purely public charity under North Star.” HealthEast v. County of Ramsey, 749 N.W.2d at 18. This Court did not instruct that any issue relating to UMPhysicians’ tax-exempt status needed to be addressed in any way on remand. Accordingly, this Court in its first consideration of this case reversed the Tax Court’s ruling regarding UMPhysicians, or at a minimum determined that the Tax Court’s first order

regarding UMPhysicians was dicta unnecessary to its decision, with no legal or precedential effect.

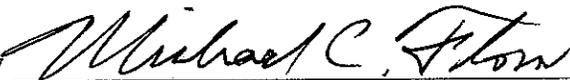
CONCLUSION

Respondent County of Ramsey's effort to recast this Court's ruling of "reversed" to "affirmed" as it relates to UMPhysicians finds no justification in the opinion or applicable law. Respondent's effort to uphold the Tax Court's first order in this matter as it relates to UMPhysicians should be rejected.

Respectfully submitted,

Dated: February 27, 2009

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