

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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PAUL JUNG, M.D., <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 02-0873 (PLF)
	)	
ASSOCIATION OF AMERICAN	)	
MEDICAL COLLEGES, <u>et al.</u> ,	)	
	)	
Defendants.	)	
_____	)	

OPINION

Plaintiffs in this putative class action are medical school graduates currently or formerly enrolled in resident physician “residency” programs. The defendants can be categorized into two groups: the organizational defendants (organizations and associations that participate in the administration of graduate medical education in the United States) and the institutional defendants (universities, medical schools, foundations, hospitals, health systems and medical centers that sponsor medical residency programs). The defendants have filed three types of motions to dismiss: (1) motions to dismiss for lack of personal jurisdiction; (2) motions to dismiss for lack of subject matter jurisdiction and to compel arbitration; and (3) motions to dismiss for failure to state a claim upon which relief can be granted.

I. BACKGROUND

Plaintiffs filed suit charging that the defendants have violated Section 1 of the Sherman Act, 15 U.S.C. § 1. Plaintiffs allege that the defendants have contracted, combined and

conspired among themselves to “displace competition in the recruitment, hiring, employment and compensation of resident physicians, and to impose a scheme of restraints which have the purpose and effect of fixing, artificially depressing, standardizing and stabilizing resident physician compensation and other terms of employment.” Complaint (“Compl.”) ¶ 2. Plaintiffs assert that there are three intertwining prongs to the antitrust conspiracy.

The first prong of the alleged conspiracy concerns the annual assignment of fourth-year medical students to the institutional defendants’ residency programs by the National Resident Matching Program (“NRMP”). The NRMP, an Illinois not-for-profit corporation, is managed and operated by defendant American Association of Medical Colleges (“AAMC”) from AAMC’s principal office in Washington, D.C. See Compl. ¶ 15. The AAMC also is an Illinois not-for-profit corporation, whose membership includes all 125 accredited medical schools, including those medical schools named in the complaint, and approximately 375 major teaching hospitals and health systems, some of which also are named in the complaint. These hospitals and health systems are member hospitals of a subsection of the AAMC, the Council of Teaching Hospitals and Health Systems (“COTH”) Section. See id. ¶ 17.

Plaintiffs allege that in order to effectuate the assignment, or the “Match,” as it is commonly called, prospective medical residents enter into contracts with and submit to the NRMP a ranked list of desired medical resident positions with various institutions (“Student Match Contract”). The institutions themselves also enter into contracts with the NRMP and submit ranked lists of the medical students whom they are interested in hiring (“Institutional Match Contract”). On a date certain, the NRMP through an algorithm “matches” the students’ lists against the institutions’ rankings, resulting in the assignment of each prospective medical

resident to one residency program. See Compl. ¶¶ 15, 83-86. Plaintiffs allege that this system eliminates a free and competitive market and substitutes a centralized, anticompetitive allocation system that assigns prospective resident physicians to a single, specific and mandatory residency program. Plaintiffs further allege that defendants designed and implemented this system and collectively agree to comply with it in violation of the antitrust laws. See id. ¶ 83.

Several specific features of this assignment system allegedly serve to impose anticompetitive restraints on medical residency hiring. Plaintiffs allege that a medical student is required to enter into the Match if he or she wishes to gain employment in a residency program accredited by the Accreditation Council for Graduate Medical Education (“ACGME”). See Compl. ¶ 71. An individual’s participation in an ACGME-accredited residency program in turn is allegedly a prerequisite for specialty certification upon completion of the residency by a member board of defendant American Board of Medical Specialties (“ABMS”), an Illinois not-for-profit corporation consisting of 24 recognized medical specialty certification boards. See id. ¶¶ 20, 69. Plaintiffs allege that eventual specialty certification by an ABMS board is considered critical to prospective residents inasmuch as they desire to be “certified” to practice within a specialty following the completion of their residencies. The practical effect of this structure, plaintiffs charge, is that the vast majority of medical students are compelled to participate in the Match, which is a substitute for all aspects of competitive individual negotiations and requires applicants to commit contractually to any assigned position as a condition of enrolling in the Match Program. See id. ¶¶ 69, 86. Furthermore, certain implementing policing mechanisms of the Match allegedly compel compliance with the foregoing restraints. These alleged mechanisms include the requirement that program participants immediately report suspected policy violations

