

IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

JULIE GRIFFIN,

CASE NO.: CACE 18-007220

Plaintiff,

vs.

COLUMBIA HOSPITAL CORPORATION
OF SOUTH BROWARD, a Florida corporation,

Defendant.

SECOND AMENDED COMPLAINT

Plaintiff, Julie Griffin ("Plaintiff"), by and through her undersigned counsel, sues Defendant, COLUMBIA HOSPITAL CORPORATION OF SOUTH BROWARD (hereinafter referred to as "COLUMBIA"), and alleges as follows:

INTRODUCTION

1. This is a proceeding for damages to remedy unlawful retaliation, i.e. the discipline of Plaintiff and termination of the Plaintiff's employment as a result of Plaintiff's protected whistleblower activity in violation of § 448.102, Fla. Stat.

JURISDICTION

2. Jurisdiction is invoked pursuant to Chapter 448, Fla. Stat.
3. The claims asserted herein arose in this judicial district.
4. At all times material hereto, the Plaintiff was a female citizen of the United States, resident of this judicial district, and former employee of the Defendant.

5. At all times material hereto, the Defendant was a corporation doing business and services in this judicial district, was a former employer of the Plaintiff, and is an employer as contemplated by Chapter 448, Fla. Stat.

6. The Defendant operates, conducts, engages, and carries on a business venture in this judicial district, specifically Westside Regional Medical Center (herein referred to as the "Hospital"), which is located in Broward County, Florida.

7. At all times, the Plaintiff's course of employment, all sued upon adverse employment actions, and the Plaintiff's termination, occurred in Broward County, Florida.

8. The Plaintiff has exhausted and fulfilled all conditions precedent to the institution of this action.

STATEMENT OF FACTS

9. At the time of the sued upon incident, the Plaintiff had been an employee of Hospital's parent company since 2010.

10. In July of 2016, the Plaintiff was transferred to Westside Regional Medical Center, and worked there as an intensive care nurse from July of 2016 until the date of her unlawful termination.

11. Until the time in which Plaintiff first voiced criticism of the Defendant's reckless staffing policies, she received praise for her work performance, satisfactory performance evaluations, and never received discipline.

12. At all material times, the Intensive Care Unit (herein referred to as the "ICU") at the Hospital contained several rooms each containing one patient.

13. In the event that a nurse was assigned two critical care patients, each patient room has a screen that enabled the nurse to monitor the vital signs of the second patient while treating the first patient.

14. This monitor was incapable of keeping the nurse apprised of more than two patient at a time. Therefore, if a nurse is assigned three critical care patients, that nurse can only monitor the patient in the room, and one other patient.

15. At all material times, the ICU also had a central monitoring station, which shows the status of all patients in the ICU. Thus, when a nurse is stationed at the central monitoring station, all patients can be monitored to a limited extent.

16. Based on Plaintiff's education, training, and experience, she understood that the medical standard of care required that each nurse be assigned no more than two critical care patients at one time, especially in a scenario such as this where a nurse, while treating one patient, can only monitor one other patient.

17. In the event that a third patient must be assigned, whether based on staff shortages or other circumstances, Plaintiff's experience dictated that at least one nurse should be at the central monitoring station so that, at minimum, all critical patients' vital signs can be monitored at all times.

18. Plaintiff knew that any deviations from these standards would pose a dangerous risk to the lives of critical care patients at the hospital. The condition of many critical care patients is severe such that a delayed response time of even a couple minutes could result in the patient's death.

19. Soon after being transferred to the Hospital, Plaintiff would regularly be assigned three critical care patients as standard practice. On most occasions, all three of Plaintiff's assigned patients would be in critical condition requiring continuous treatment and monitoring.

20. However, based upon the monitoring equipment in each patient room, at least one of Plaintiff's patients would not be monitored at any given time.

21. In addition, the Hospital never staffed the ICU or specifically stationed a nurse such that the central monitoring station could be continuously manned.

22. In fact, at times where Plaintiff would be improperly assigned three critical patients, no nurse would be located at the central monitoring station for continuous periods of time.

23. Specifically, Plaintiff noticed that on these occasions, patient alarms, intended to notify the nurses of irregular vital signs, would sound with such frequency that these alarms would go unnoticed by the nursing staff.

24. During the course of Plaintiff's employment at the Hospital, this resulted in delayed response times with regard to at least two critical patients causing their deaths.

25. Aside from the Defendant's overall recklessness with regard to the staffing policies, the Plaintiff reasonably believed that several laws were being violated as it related to the hospital being regularly short-staffed. These violations include as follows:

- a. Defendant's inability to continuously monitor critical elderly patients constituted "neglect of an elderly person or disabled adult" as contemplated by §825.102, Fla. Stat.
- b. Defendant continued to receive Medicare benefits despite Department of Health & Human Services regulations stating that "a minimum nurse-patient

ratio of one nurse to two patients per patient day must be obtained.” See Provider Reimbursement Manual at § 2202.7 (II)(A)(5).

- c. Defendant required the Plaintiff to falsify medical records in order to receive government benefits in violation of 31 U.S.C. § 3729(a)(3) (“False Claims Act”). Specifically, the Plaintiff was required to sign an electronic medical record stating that the standard of care was followed and that patients’ cardiac rhythm/rate was continuously monitored, which the Defendant knew was false.

26. During the first few months of Plaintiff’s employment with the Hospital, she voiced the above concerns to her superiors, including her charge nurses.

27. In approximately December of 2016, a new Director of the ICU, Dexter Dore, assumed control of the floor.

28. A staff meeting was held in January of 2017, during which Plaintiff vocalized to Mr. Dore her objections to the hospital’s staffing policies.

29. After observing no change to these staffing policies, Plaintiff continued to voice her objections to her charge nurses throughout February of 2017.

30. Around this time, Plaintiff was informed by a charge nurse that Mr. Dore considered Plaintiff a “disruptive” member of the nursing staff because of her continued objections to the staffing policies.

31. In February of 2017, Plaintiff was uncharacteristically denied two scheduling requests for time off from work. Such requests are almost invariably granted to nurses making such requests.

32. On February 22, 2017, Plaintiff was notified that her schedule was changed such that she would be working every weekend despite this not being a requirement at the time of her hiring. She later learned that it was Director Dore who made these changes to Plaintiff's schedule.

33. During patient rounds on February 22, 2017 Plaintiff was publicly ridiculed for having black fingernail polish, which was not a violation of the Hospital's dress or appearance guidelines.

34. In addition, the policies of the Hospital did not call for public reprimand or ridicule in front of fellow medical staff.

35. On the same day, Dexter Dore reprimanded Plaintiff for having a coffee mug at the nursing station. Plaintiff responded that the coffee mug was emptied, cleaned, and left next to her work bag so that she could take it home at the end of her shift.

36. Mr. Dore responded by throwing Plaintiff's coffee mug in the trash and proceeded to scream at Plaintiff and put his finger in the region of Plaintiff's face. A formal complaint was submitted to human resources, and is attached hereto as Exhibit "A."

37. Mr. Dore spent the next several weeks attempting to agitate Plaintiff by making grunting noises in her presence. The combination of Plaintiff's scheduling requests being denied, schedule changes, multiple reprimands in the same day, the coffee mug incident, and the continued behavior of Mr. Dore demonstrate a clear attempt on the part of Mr. Dore and management staff of the Hospital to force Plaintiff to resign. However, Plaintiff continued to work at the Hospital.

38. On May 24, 2017, Plaintiff once again noticed that the ICU was not properly staffed. At approximately 10:00 AM, Plaintiff reported to the charge nurse that the ICU was not staffed in a manner that would keep the critical care patients safe.

39. At approximately noon of the same date, Plaintiff sent a written communication to Director Dore that several nurses were being assigned three patients, and that the patients' conditions required continued monitoring. *See Electronic Mail Correspondence, attached hereto as Exhibit "B."*

40. At 5:00 PM, Plaintiff was told that she must take a third patient. Plaintiff objected to taking a third patient as she informed the charge nurse that taking an additional Plaintiff would place her other patients at a severe health risk. Plaintiff was thereafter placed on investigative leave and terminated.

41. Plaintiff has retained the undersigned counsel for the purposes of this litigation and is required to pay said counsel a reasonable fee:

COUNT I
WHISTLEBLOWER RETALIATION

42. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 41.

43. Defendant has discriminated against Plaintiff in the terms and conditions of her employment, have retaliated against Plaintiff, and have denied Plaintiff continued employment because of her objection to the Defendant's reckless and negligent staffing policies, and refusal to participate in the Defendant's illegal activities, policies, and practices which were in violation of the law.

44. As a result of the Defendant's adverse employment actions, the Plaintiff has been damaged.

45. As a direct and proximate result of this unlawful retaliation, Plaintiff has suffered, and will continue to suffer, damages and irreparable injury, including, but not limited to, damage to reputation, confidence and self-esteem; loss of past and future income; loss of future earning capacity; loss of other fringe benefits; emotional pain and suffering; and other financial losses.

WHEREFORE, Plaintiff requests that judgment be entered in her favor against Defendant:

- A. Declaring that the acts and practices complained of herein is violative of Fla. Stat. § 448.102;
- b. Enter judgment for Plaintiff and against Defendant for damages;
- c. Award reasonable attorney's fees, expert fees, and costs incurred in this action pursuant to Fla. Stat. § 448.104; and
- d. Grant any other lawful relief this Court deems to be just and proper.

DEMAND FOR JURY TRIAL

The Plaintiff, JULIE GRIFFIN, demands trial by jury.

Respectfully submitted,

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