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FILED

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MONTANA SECOND JUDICIAL DISTRICT COURT
SILVER BOW COUNTY

KRISTI GEORGE,)
)
Plaintiff,)
)
-vs-)
)
ST. JAMES HEALTHCARE, a Public)
Benefit Corporation, ANNA)
CHACKO, M.D., SISTERS OF CHARITY)
OF LEAVENWORTH HEALTH)
SYSTEM, INC., and JOHN DOES)
Nos. 1-5,)
)
Defendants.)
_____)

CAUSE NO. DV 07-298

**SECOND AMENDED COMPLAINT
AND DEMAND FOR JURY TRIAL**

COMES NOW the Plaintiff, Kristi George, by and through her attorney, Gary L. Walton, and for her claims against the Defendants alleges as follows:

1. Kristi George ("Kristi") is a citizen and resident of Butte, Silver Bow County, Montana.
2. Defendant St. James Healthcare ("St. James") is a corporation authorized to do business in Montana whose principle place of business is in Butte-Silver Bow County, Montana.
3. Defendant Anna Chacko, ("Chacko"), is a resident of Butte, Silver Bow County, Montana.

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4. Sisters of Charity of Leavenworth Health System, Inc., ("System"), is the parent company that operates and owns St. James. System is authorized to transact business in the State of Montana.
5. Defendants John Does 1 through 5 are fictitious defendants whose identity is currently unknown and are named pursuant to MCA § 25-5-103 (2005).
6. The Court has personal and subject matter jurisdiction of the Defendants.
7. Silver Bow County, Montana is proper venue for this action in accordance with MCA § 25-2-122 (2005) in that the intentional and negligent acts of the Defendants occurred in Silver Bow County, Montana.

COUNT I

8. Plaintiff realleges paragraphs 1 through 7 of her second amended complaint as if fully set forth verbatim.
9. Kristi was employed by St. James as its Director of Radiology from 2001 until March 2008. Since becoming Director of Radiology, Kristi's job performance was evaluated annually by St. James, the most recent of which was on July 31, 2007. Kristi consistently met or exceeded the requirements and goals set for her position annually. Illustrative of her competency and abilities are comments from her most recent evaluation which state:

This past year has presented many unexpected challenges for Kristi as department director of radiology; an RFP was issued summer of 2006 and awarded to a group not practicing at the time a [sic] St. James radiology department. There was a 6 month need for locum's coverage for radiologic services which Kristi coordinated and managed-truly above and beyond the planned expectations for FY 2007.

10. As the Director of Radiology, Kristi was not a member of any union or subject to a collective bargaining agreement in her employment relationship with St. James.

11. Chacko was an employee of St. James. As her employer, St. James is vicariously liable for her acts that occurred within the course and scope of her employment.
12. On or about July 3, 2007 Chacko commenced her onsite employment with St. James. At the time that Chacko began her on-site employment with St. James, Kristi was on vacation from her position as the Director of Radiology.
13. Shortly after commencing her onsite employment, Chacko began criticizing and complaining about Kristi and her work performance. Chacko expressed these criticisms to other persons employed within the Radiology Department. Chacko's criticisms were untrue. Chacko knew at the time that she made the statements that they were untrue. Despite her knowledge that her statements were untrue she continued to make her statements about Kristi to third parties. Chacko's criticisms of Kristi were not privileged.
14. As a direct and proximate result of Chacko's acts, Kristi has been damaged in an amount to be proven at trial.

COUNT II

15. Kristi realleges paragraphs 1 through 14 of her second amended complaint as if fully set forth verbatim.
16. After Kristi returned from her vacation, Chacko began a course of conduct calculated to cause Kristi to terminate her employment with St. James. Chacko's actions were contrary to the written policies and procedures of St. James then in effect. Despite this fact, when St. James was informed and notified of Chacko's actions, St. James, through its duly appointed administrator, ratified Chacko's conduct and refused to take any action to stop Chacko.
17. As a consequence of Chacko's actions, Kristi has sustained injury.

18. As a direct and proximate result of the Defendants' actions, Kristi has been damaged in an amount to be proven at trial.

COUNT III

19. Kristi realleges paragraphs 1 through 14 and 16 through 18 of her second amended complaint as if fully set forth verbatim.

20. Shortly after Kristi returned from vacation, she witnessed Chacko engaging in conduct that violated both the policies and procedures of St. James, as well as State and Federal law relating to patient confidentiality.

21. Chacko violated patient privacy by discussing patient testing and diagnosis in front of her husband.

22. Chacko further violated patient privacy by allowing her husband to ask questions about the patient to a radiology technologist employed by St. James.

23. Kristi reported Chacko's conduct to St. James in accordance with the policies and procedures of St. James. After Kristi reported Chacko's actions, Chacko began a course of retaliatory conduct against Kristi. Kristi reported Chacko's retaliatory conduct to St. James in accordance with the policies and procedures of St. James. Despite Kristi's reports regarding Chacko's actions, St. James failed to meaningfully address Chacko's conduct and permitted the conduct to continue unabated. St. James ratified and approved Chacko's actions.

24. The Defendants' actions have caused Kristi to suffer injury.

25. As a direct and proximate result of the Defendants' actions, Kristi has sustained damages in an amount to be proven at trial.

COUNT IV

26. Kristi realleges paragraphs 1 through 14, 16 through 18, and 20 through 25 of her second amended complaint as if fully set forth verbatim.

4. SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

27. Kristi witnessed Chacko engaging in conduct which violated the policies and procedures of St. James for altering medical records.
28. Chacko had finalized and signed a radiology report. She had missed a broken toe in the X-Ray. When this error was called to Chacko's attention, she altered the body of the final report.
29. Chacko altered a patient medical record without using the appropriate mechanism. Instead of including an addendum, which would accurately reflect the changes and later diagnosis, Chacko changed the body of the initial report to include the missed diagnosis.
30. This alteration violated the policy of St. James and its' obligation to record patient files truthfully and accurately.
31. Kristi reported Chacko's conduct to St. James in accordance with the policies and procedures of St. James. After Kristi reported this violation, Chacko began a course of retaliatory conduct against Kristi.
32. Despite Kristi's report regarding Chacko's violation, St. James and System failed to meaningfully address Chacko's conduct and permitted the retaliation to continue unabated. St. James and System have ratified and approved Chacko's action.
33. The Defendants' actions have caused Kristi to suffer injury.
34. As a direct and proximate result of the Defendants' actions, Kristi has sustained damages in an amount to be proven at trial.

COUNT V

35. Kristi realleges paragraphs 1 through 14, 16 through 18, 20 through 25, and 27 through 34 of her second amended complaint as if fully set forth verbatim.

36. Chacko's actions, as permitted and ratified by St. James, were conducted with the intent to inflict upon Kristi severe emotional distress. Kristi has sought medical treatment and counseling due to the actions of the Defendants.
37. Kristi's mental health counselor ordered Kristi to take a medical leave of absence from her position at St. James.
38. As a direct and proximate result of the Defendants' actions, Kristi has been damaged in an amount to be proven at trial.

COUNT VI

39. Kristi realleges paragraphs 1 through 14, 16 through 18, 20 through 25, 27 through 34, and 36 through 38, of her second amended complaint as if fully set forth verbatim.
40. Chacko knew or should have known that her actions would cause Kristi severe emotional distress. St. James knew or should have known that its failure to meaningfully address Chacko's actions, enforce its policies and procedures, or otherwise stop Chacko's actions would cause Kristi severe emotional distress.
41. In the alternative, Chacko acted to intentionally cause Kristi severe emotional distress. St. James refused to meaningfully address Chacko's actions, enforce its policies and procedures, or otherwise stop Chacko's actions, intentionally causing Kristi severe emotional distress.
42. As a direct and proximate result of the Defendants' actions, Kristi has been damaged in an amount to be proven at trial.

COUNT VII

43. Kristi realleges paragraphs 1 through 14, 16 through 18, 20 through 25, 27 through 34, 36 through 38, 40 through 42, of her second amended complaint as if fully set forth verbatim.

44. Kristi fully complied with the grievance procedure provided by St. James policy. St. James, however, violated the express terms of its policies and procedures in response to Kristi's complaints.
45. As a direct and proximate result of St. James failure, Kristi has been damaged in an amount to be proven at trial.

COUNT VIII

46. Kristi realleges paragraphs 1 through 14, 16 through 18, 20 through 25, 27 through 34, 36 through 38, 40 through 42, and 44 through 45, of her second amended complaint as if fully set forth verbatim.
47. After Kristi temporarily left her employment on medical leave, she was notified by System that she was to attend a meeting on November 5, 2007. She received formal notice of the meeting on the morning of November 5, 2007. System notified her that the purpose of the meeting was to discuss the ongoing problems at the St. James Radiology Department.
48. Due to St. James and System's failure to meaningfully address Kristi's previous complaints and grievances, and the distrust she felt due to St. James and System's previous conduct, Kristi asked that she be permitted to bring to the meeting her attorney. System informed Kristi that her attorney was not welcome at the meeting and that she could only attend the meeting if she attended alone and without representation.
49. After informing System that she could not attend the meeting with those restrictions, System hand delivered to Kristi a letter which System knew or should have known would exacerbate Kristi's already fragile mental condition. System prepared and forwarded the letter to Kristi in an attempt to conceal its earlier

failures to address the problems Kristi had reported in accordance with the policies and procedures of St. James.

50. System knew at the time that the letter was prepared and delivered that Kristi was on medical leave due to the problems caused by her work environment. System prepared and forwarded the letter with the intent to cause Kristi to fear the loss of her employment with St. James if she did not attend and participate in the meeting. System prepared and forwarded the letter in an attempt to pass blame for the problems in the St. James Radiology Department from itself, St. James, and Chacko to Kristi.
51. Kristi was injured as a result of System's conduct.
52. As a direct and proximate result of System's actions, Kristi suffered damages in an amount to be proven at trial.

COUNT IX

53. Kristi realleges paragraphs 1 through 14, 16 through 18, 20 through 25 27 through 34, 36 through 38, 40 through 42, 44 through 45, and 47 through 52 of her second amended complaint as if fully set forth verbatim.
54. Kristi filed her Complaint on November 7, 2007. Since filing her Complaint, Kristi has been the subject of retaliatory actions committed by Chacko, St. James, and System.
55. System has a policy prohibiting retaliatory practices. Defendants violated those policies.
56. Defendants knew, or should have known, that these retaliatory practices would cause Kristi severe emotional distress.
57. In the alternative, Defendants committed the retaliatory actions to intentionally cause Kristi severe emotional distress.

58. Kristi was injured as a result of Defendants' conduct.
59. As a direct and proximate result of Defendants' actions, Kristi suffered damages in an amount to be proven at trial.

COUNT X

60. Kristi realleges paragraphs 1 through 14, 16 through 18, 20 through 25, 27 through 34, 36 through 38, 40 through 42, 44 through 45, 47 through 52, and 54 through 59 of her second amended complaint as if fully set forth verbatim.
61. In September 2008, Kristi was tasked with the responsibility to bring the billing and financial practices of the for profit Intermountain Imaging Center, a joint venture between St. James and certain physicians practicing in Butte, Montana, as a department of St. James. In the course of performing this task Kristi discovered financial improprieties and likely violations of federal law which she brought to the attention of her immediate supervisor and St. James' Administration. These improprieties and likely violations of federal law included, but are not limited to the following:
- a. Kristi discovered that St. James was providing excess benefit transactions to some investors in the Imaging Center.
 - b. Kristi discovered that St. James had been paying for goods and services on behalf of the Imaging Center.
62. On November 14, 2008, Kristi was discharged from her position of employment with St. James Healthcare. Kristi was terminated without good cause.
63. Kristi was terminated by St. James and the System in retaliation for her reporting violations of public policy.
64. Kristi's discharge was wrongful.
65. Kristi was injured and damaged as a consequence of her wrongful discharge.

66. Kristi suffered damages in an amount to be proven at trial.

COUNT XI

67. Kristi realleges paragraphs 1 through 59 of her second amended complaint as if fully set forth verbatim.

68. The Defendants' actions and conduct in inflicting severe emotional distress on Kristi have been willful and malicious. Kristi is entitled to recover from the Defendants exemplary damages in an amount to be proven at trial.

COUNT XII

69. Kristi realleges paragraphs 1-66 of her second amended complaint as if fully set forth verbatim.

70. St. James and System acted with actual malice in discharging Kristi on November 14, 2008.

71. Kristi is entitled to recover from St. James and System exemplary damages in an amount to be proven at trial pursuant to MCA 39-2-905(2).

WHEREFORE, Plaintiff prays for relief as follows:

1. For general, special and compensatory damages sustained by her to reasonably compensate her for the damages caused by the Defendants;
2. For exemplary damages in an amount to be proven at trial;
3. For the costs of this action; and
4. For any and all further relief that the Court deems just and proper.

Dated: May 29, 2009.

WALTON & LUWE

By 

Attorneys for Plaintiff

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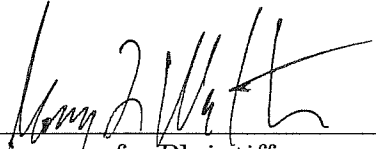
Butte, Montana 59701

DEMAND FOR JURY TRIAL

The Plaintiff hereby demands a trial by jury of all issues so triable in this action.

Dated: May 29, 2009.

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By 
Attorneys for Plaintiff
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Butte, Montana 59701

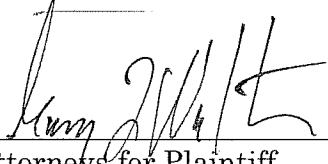
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CERTIFICATE OF SERVICE BY MAILING

I, Gary L. Walton, one of the attorneys for the Plaintiff in the above-entitled action, hereby certify that on May 29, 2009, I served the foregoing attached **SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL** upon the following attorneys of record by depositing a true copy thereof in the United States mails, postpaid, addressed as follows, to-wit:

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