

PRESIDENT AND CEO of PLANNED PARENTHOOD OF GREATER TEXAS dba Planned Parenthood, Kenneth S. Lambrecht, MSHP 7424 Greenville Avenue Suite 206 Dallas Texas 75231. Service of Process is not necessary at this time as Counsel for PPGT has agreed to accept service for this Defendant.

4. Defendant AMNA IBRAHIM DERMISH M.D. is a physician affiliated with PLANNED PARENTHOOD OF GREATER TEXAS dba Planned Parenthood and may be served with process by at her place of employment/business located at 201 East Ben White Blvd. Bldg. B Austin Texas 78704 or wherever she may be found. Service of Process is not necessary at this time as Counsel for PPGT has agreed to accept service for this Defendant.

5. JACKIE KELLER RN Defendant may be served with process at her place of employment/business PLANNED PARENTHOOD OF GREATER TEXAS dba Planned Parenthood located at 201 East Ben White Blvd. Bldg. B Austin Texas 78704 or wherever she may be found. Service of Process is not necessary at this time as Counsel for PPGT has agreed to accept service for this Defendant.

III.

VENUE

6. Venue is proper in the District Court of Travis County, Texas, pursuant to Section 301.413 (f) of the Texas Occupations Code. Defendant conducts business in Travis County. Section 301.413 (f) clearly provides that ***“an action under this section may be brought in a District Court of the county in which: 1) Plaintiff resides; Plaintiff was employed by the defendant; or 3) the defendant conducts business.”***

IV.

FACTUAL BACKGROUND

7. Mrs. Dalton is a licensed registered nurse with a statutory duty to her patients in accordance with the Texas Occupations Code.

8. Mrs. Dalton worked for Planned Parenthood in the from June 6, 2016 until February 28, 2017 when she was suddenly discharged from her employment in retaliation for tirelessly advocating for patients by making repeated protected reports about safety concerns that exposed the patients and the public to risk of injury and even death.

9. Mrs. Dalton made the first report about safety concerns when she was sent for training at the Fort Worth Planned Parenthood ASC location in June of 2016. Specifically, Mrs. Dalton recognized that a patient who was post abortion procedure in the recovery room was increasingly pale, shaky, sweating and made the nursing diagnosis of potential for shock with decreasing blood pressure and oxygen saturation. The nurse in the recovery room was simply recording vital signs without critically thinking about the data assimilated with the patient condition. Mrs. Dalton proceeded to provide a safe environment of care and rescue the patient by providing emergency fluid resuscitation and was “written up” for doing so. At that point she was told that she could only “observe” and not do patient care. She asked to terminate her “observation period” and returned to Austin where she immediately reported the situation in Fort Worth as well as the absence of fluids in either the operating room as well as recovery room carts and complete lack of protocols/orders to administer them in the recovery area or initiate in the OR. Her concern fell on deaf ears. This was an unfortunate harbinger of future events.

10. Undeterred, Mrs. Dalton believed that she served an integral role in the care of the public receiving reproductive services, she marched forward armed with her passion for patient care

validated and recognized when she graduated with honors from the Johns Hopkins School of Nursing.

11. The Ben White Clinic was chronically understaffed with nurses who kept quitting yet the clinic continued to service the same volume of patients. The “fix” was to increase the “flow” of patients to dangerous levels, and corners were cut to save time. When Mrs. Dalton reported the dangerous conditions, including but not limited to those enumerated in previous and subsequent paragraphs the Charge Nurse Jackie Keller stated “I was hired to improve patient flow. I am not a nurse manager”.

12. For example, patient records were “pre-populated” by the Charge Nurse with information even before the patient went to the operating room in violation of the minimum standards of nursing practice to provide a safe environment of care and document completely, accurately and at the time of events. As a result of this, the history and assessment were not assimilated by the direct care nurse and instead done “piecemeal” like an assembly line with no SBAR/report and created an unsafe environment. It was unsafe because no nursing care plan could be created as there was no time to critically think about much less assimilate all of the data collected rapidly by different nurses in order to create individualized plans of care which are statutorily required. Mrs. Dalton reported this in October of 2016.

13. Presumably to save time, Patients were allowed to wear long sleeved garments under the patient gown that would not accommodate being “rolled up” to expose the deltoid as an injection site for medication to be administered intramuscularly to stop the uterus from bleeding after termination of a second trimester pregnancy. The nurse was then forced to choose between trying to give the medicine while wrestling a tight garment up or defying the doctor’s order to administer it late and exposing the patient to hemorrhage. A nurse should not be required to choose between her license and her job, yet that is precisely what happened to Mrs. Dalton. She

complained about this practice to her Charge Nurse in January 2017 after such an event caused a very tight long sleeved garment to slip and encounter the needle while she was trying to give a medication. When Keller dismissed all concerns, Mrs. Dalton went to HR who did a sham investigation and dismissed the complaints two weeks later as “having no substance”. The other practice that created more risk was the fact that Dr. Dermish was doing her procedures in the dark. This made it difficult for the nurse to see the medicines to be pulled from the medicine cart and adequately observe the patient while doing the task of sedation nurse.. In order to avoid confusing the medicines in the dark, Mrs. Dalton had to ask Dr. Dermish if she could get a light for her computer USB port. The Center Manager had to purchase the light for Mrs. Dalton.

14. In February 9, 2017 the supply of normal saline flushes was in short supply and the charge nurse, J. Keller, decided that the Nurses could use a liter bag of saline and draw up their own flushes. When a co-worker shared the directive Mrs. Dalton raised valid concerns about liter bags being used as single dose medication, NOT MULTI DOSE and posing yet another safety hazard and prudently consulted with the clinic pharmacist. When charge nurse Keller discovered this, she accused Mrs. Dalton of insubordination “going behind her back and making her look bad”. This was the beginning of the end.

15. Shortly after this, around February 14, 2017 Keller came up with yet another “idea to improve patient flow.” which was perhaps even more dangerous than any other she had implemented thus far. Keller stated that the nurses could now text photos of the ultrasound images performed on patients 7-14 days after a medication abortion to the physician while the doctor was at home. Using this image the physician could determine if there was a clot in the uterus at the placental site as opposed to a gestational sac to determine if the abortion had been successful. Mrs. Dalton objected to the texting of such photos as being in violation of her nursing license and exposing the patients to treatment decisions based on images being of

questionable accuracy. After Mrs. Dalton raised the additional issue of possible HIPAA violations (amidst other concerns), charge nurse Keller stated that the identifying information would be removed from the images prior to texting, at which point Mrs. Dalton raised the even greater concern of mis-identification since all patient identifiers would be removed creating the risk of the wrong treatment decisions being made as a result.

16. On February 28, 2017 Mrs. Dalton's employment was terminated in retaliation for making safety complaints, *some of which* are included but not limited to paragraphs 7-14 above.

17. In April of 2017 Mrs. Dalton received a letter from the Texas Board of Nursing advising her that *she was being investigated* for violating the Texas Nursing Practice Act for FOURTEEN allegations of unsafe practice. This report was made with malice and retaliatory intent and intended to silence Mrs. Dalton.

18. Rather than acting to correct the safety breaches, Defendants engaged in retaliation towards Mrs. Dalton that culminated in the termination of her employment and reporting her to the Texas Board of Nursing in a veiled attempt to legitimize its illegal and unsafe practices and intimidate Plaintiff to keep her silent about the repeated safety concerns that she raised.

19. Nurse Dalton refused to be silent about the illegal and unsafe practices that Defendants engaged in that put patients at risk of injury and death while she was employed.

20. Nurse Dalton takes her statutory duty to her patients seriously and has been forced to file this suit to clear her good name and deter the Defendants from retaliating against the employees who speak out against their dangerous practices which are inopposite of Defendants' proclamation to the public that they are the only "SAFE" alternative for women in need of reproductive services in Texas.

21. Mrs. Dalton alleges and will prove that Defendants engaged in needlessly dangerous practices that exposed patients to risk of injury and death and she tried to prevent such risk from

recurring, and Defendants response to her protected reports was to cause termination of Mrs. Dalton's employment and then further retaliate in an attempt to legitimize the discharge by reporting her to her licensing board. Not only was she not afforded a nursing peer review, she was never counseled for the literal laundry list of alleged "violations" reported to the Texas Board of Nursing.

22. Mrs. Dalton alleges and will prove that no other employee was treated the same way, to specifically include staff members who were actually guilty of practice "violations".

23. Moreover, Mrs. Dalton alleges and will prove that the reasons given to her at the time she was discharged have exponentially increased in a report to the Texas Board of Nursing by Defendants. Mrs. Dalton will prove that this malicious action lays bare Defendants' retaliatory motives.

CLAIMS AND CAUSES OF ACTION

A. DISCRIMINATION – RETALIATION

24. As a result of actions taken by Defendants their agents and employees acting in the course and scope of their agency and employment, Defendants have discriminated against Mrs. Dalton and terminated her employment in violation of the Texas Occupations Code 301.4025; 301.413, the statutory provisions prohibiting retaliation and protecting nurses who speak out against unsafe and dangerous patient care.

25. Mrs. Dalton contends, and will prove that allegations contained in this pleading are true, that Defendants have engaged in acts of egregious acts of discrimination with malice to accomplish their retaliatory motives and that her damages are mounting.

VI.

DAMAGES

26. Mrs. Dalton contends and will prove that Defendants' disparate treatment of her and their retaliation against her have cost her financial damages in the form of lost wages and benefits past and future, as well as injury to her personal and professional reputation, emotional distress damages and punitive damages to deter such conduct by Defendant and its employees. The actions of the Defendants were taken intentionally and knowingly with full awareness of the damages to Mrs. Dalton that would result. As a result of Defendants' actions, Mrs. Dalton seeks all actual and punitive damages as allowed by Section 301.413 of the Texas Occupations Code in an amount of money not less than 750,000.00 and in an upper range of whatever a Travis County jury decides is just punishment for an organization who holds themselves out to the public as the only "Safe" and caringⁱ alternative for women seeking reproductive services in Texas and across the nation. This proclamation could not be further from the truth and Defendant Planned Parenthood has done everything possible to silence Mrs. Dalton before and after it terminated her employment. She will not be silent as she chooses her license over a job and chooses patient safety over "flow" as it is dangerously and painfully obvious that the latter is all that is important to these Defendants. What needs to flow now is CHANGE.

VII.

ATTORNEYS FEES

27. Mrs. Dalton has engaged the services of Higginbotham & Associates, LLC, Elizabeth L. Higginbotham, RN, J.D., a licensed attorney, to protect her legal rights and pursue these claims against Defendant. Mrs. Dalton, therefore, seeks her reasonable and necessary attorneys fees and court costs incurred in the prosecution of this claim, together with any and all appeals therefrom, as provided for by § 301.4025 and 301.413 of the Texas Occupations Code.

VIII.

CONDITIONS PRECEDENT

28. All conditions precedent to Mrs. Dalton's right to recovery have been performed. There is a rebuttable presumption that Mrs. Dalton's termination was retaliatory as same occurred within 60 days of multiple protected reports about threats to patient safety.

IX.

JURY TRIAL

29. Mrs. Dalton demands a trial by jury on the issues and has tendered the jury fee in the amount of \$40.00 for this purpose.

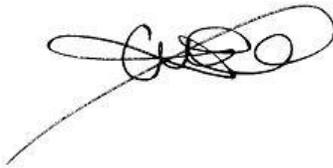
X.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Mrs. Dalton respectfully requests that Defendants be cited to appear and answer, and that upon final trial, Mrs. Dalton have and recover judgment against Defendants for all statutory damages under the Texas Occupations Code to include actual and punitive damages, Mrs. Dalton's reasonable and necessary attorneys' fees, court costs, pre-judgment and post-judgment interest as allowed by law and costs of court, along with any other relief, both at equity or in law, to which she is justly entitled.

Respectfully submitted,

HIGGINBOTHAM & ASSOCIATES, LLC



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ATTORNEY FOR MARIA EUGENIA DALTON, RN

Defendants’ business cards contain the Statement “Care. No matter what”.

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of September 2017 that a true and correct copy of the foregoing instrument was served upon the following via the Court’s Electronic Transmission System and by Facsimile to Defendant’s counsel of record.

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