

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FIDELITY AND GUARANTY INSURANCE)
COMPANY, and TRAVELERS PROPERTY AND)
CASUALTY COMPANY OF AMERICA,)

Plaintiffs,)

v.) Case No. _____

BRIGHT HAVEN BEHAVIORIAL HEALTH)
CENTER, LTD., SAMIRA JIMENEZ, AND)
CLARITY CLINIC, LLC,)

Defendants)

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs Fidelity and Guaranty Insurance Company (“FGIC”) and Travelers Property and Casualty Company of America (“Travelers P&C”), for their Complaint for Declaratory Judgment against Defendants Bright Haven Behavioral Health Center, Ltd. (“Bright Haven”), Samira Jimenez (“Jimenez”), and Clarity Clinic, LLC (“Clarity”), allege as follows.

NATURE OF THIS ACTION

1. This is a declaratory judgment action pursuant to 28 U.S.C. §§2201 and 2202.
2. Specifically, Plaintiffs seek a declaration that they have no obligation to defend or indemnify Defendants Bright Haven and Jimenez (collectively, “the Bright Haven Parties”) against Defendant Clarity’s underlying lawsuit (the “Lawsuit”) because the insurance policies the Plaintiffs issued to Bright Haven, and under which the Bright Haven Parties seek coverage, do not provide coverage for the Lawsuit.

PARTIES

3. Plaintiff FGIC is an insurance company incorporated in Iowa and having its principal place of business in Hartford, Connecticut. FGIC is, therefore, a citizen of Iowa and Connecticut.

4. Plaintiff Travelers P&C is an insurance company incorporated in Connecticut and having its principal place of business in Hartford, Connecticut. Travelers P&C is, therefore, a citizen of Connecticut.

5. Defendant Bright Haven is an Illinois corporation with its principal place of business in Illinois, and is, therefore, a citizen of Illinois.

6. Defendant Jimenez is an individual who is domiciled in Illinois, and is, therefore, a citizen of Illinois

7. Defendant Clarity is an Illinois limited liability company whose principal place of business is located in Chicago, Illinois. After conducting a reasonable investigation and consulting public sources, including information disclosed by the Illinois Secretary of State, court files and other public records, Travelers has determined that the identity and citizenship of Clarity's members is not publically available. However, based upon limited publically available information, as well as the allegations and exhibits of Clarity's pleadings in the Lawsuit, Plaintiffs are informed and believe that Clarity's members are domiciled in, and citizens of, Illinois, and not Iowa or Connecticut, and, therefore, that Clarity is a citizen of Illinois and is not a citizen of Iowa or Connecticut. Clarity is included as a party in this action as a party potentially interested in the outcome in light of its pending claim against the Bright Haven Parties.

JURISDICTION AND VENUE

8. Federal subject matter jurisdiction exists in this action pursuant to 28 U.S.C. §1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Federal subject matter jurisdiction is also invoked pursuant to the declaratory judgment provisions of 28 U.S.C. §§2201 and 2202.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391 because a substantial part of the events giving rise to this action occurred in this district, the underlying transactions between the Bright Haven Parties and Clarity occurred in this district, and the insurance policies at issue were delivered to Bright Haven in this district.

THE LAWSUIT

10. On December 14, 2021, Clarity filed the Lawsuit against Bright Haven and Jimenez, seeking injunctive relief and monetary damages, and alleging that the Bright Haven Parties obtained and converted Clarity's confidential information with respect to its business in providing clinical psychiatry and therapy services to patients throughout the greater Chicagoland area.

11. Clarity subsequently amended its complaint in the Lawsuit, adding other defendants, and filed its Verified Second Amended Complaint for Injunctive and Other Relief (the "Second Amended Complaint") on March 4, 2022. A true and correct copy of the Second Amended Complaint is attached to this Complaint as **Exhibit A**.

12. In the Second Amended Complaint, Clarity alleges that Jimenez, while employed by Clarity, began working for Bright Haven and covertly sending to Bright Haven Clarity's operational information and documents for Bright Haven to use to build a competing entity.

13. Clarity alleges, in the Second Amended Complaint, that Jimenez' conversion of and/or unauthorized access to, Clarity's confidential information, including without limitation,

patient health information protected by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), began in December 2020 and continued until, and after, the termination of Jimenez’ employment with Clarity on September 14, 2021.

14. Among other allegations of wrongful conduct by Jimenez and Bright Haven, Clarity alleges in the Second Amended Complaint that on December 20, 2020, while employed at Clarity, Jimenez exported - to her personal email address - a Clarity Clinic Google Business file folder containing over 9 gigabytes of confidential information, including patient health information protected by HIPPA, financial information, clinic process, and trade secrets belonging to Clarity (the “File”). (Ex. A, par. 8, 24(a)). Clarity alleges that Jimenez’ actions in sending herself an email granting herself personal access to the File was for the purpose of helping to launch Bright Haven. (Ex. A., par. 67)

15. Clarity further alleges, in the Second Amended Complaint, that as a result of exporting the File to her personal email address, Jimenez had access to a list of two of Clarity’s physician providers’ patients, including names, addresses and initial medical assessments, all of which is HIPPA protected information. (Ex. A, par. 24 (a)).

16. In the Second Amended Complaint, Clarity further alleges that on January 15, 2021, Jimenez forwarded an email - from her Clarity email to a personal email address – regarding a HIPAA protected patient complaint. (Ex. A., par. 24(e)).

17. Clarity also alleges in the Second Amended Complaint that on January 16, 2021, Jimenez forwarded an email - from her Clarity email to a personal address – containing HIPPA protected information about fraudulent documentation related to a patient of Clarity, and other information. (Ex. A., par 24(f)).

18. Clarity alleges, in the Second Amended Complaint, that in January and February 2020, Jimenez sent confidential Clarity information by email to a Bright Haven email address, specifically sjimenez@brighthavenbhc.com.

19. In the Second Amended Complaint, Clarity alleges that Jimenez continued to email from her Clarity email to herself and others, in April, May, June and September 2021, various documents and information related to Clarity's business for Bright Haven's use in connection with a competing business. (Ex. A, par. 24(g), (h), (i), (j), (k), (l), (m)).

20. Clarity alleges that it terminated Jimenez' employment on September 14, 2021 and that it subsequently discovered her December 2020 unauthorized access to, and exporting of, the File, and that she sent the File to herself at that time, as well as the other unauthorized actions in accessing and converting Clarity information and documents as described in paragraphs 11 through 19 above.

21. In the Lawsuit, Clarity asserts claims against the Bright Haven Parties for breach of fiduciary duties, conversion, violations of the Illinois Trade Secrets Act, tortious interference with business expectancy, and civil conspiracy.

22. In the Lawsuit, Clarity seeks recovery from the Bright Haven Parties for, among other things, monetary damages resulting from their alleged conduct, including actual damages, punitive and exemplary damages, wage and separation pay that Clarity paid to Jimenez during the period in which she allegedly breached her duties, restitution/disgorgement of the value of patient information, disgorgement of all revenue allegedly earned through use of property misappropriated from Clarity, attorneys' fees and litigation expenses, and various forms of injunctive relief.

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