

NOTICE OF REMOVAL

EXHIBIT 1

ELECTRONICALLY FILED
2022 Mar 01 PM 4:20
CLERK OF THE DOUGLAS COUNTY DISTRICT COURT
CASE NUMBER: 2022-CV-000075

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

Dawn Link,
Plaintiff,

v.

Lawrence Memorial Hospital,
Blake Conklin, D.O.,
Megan Pedersen,
Alyssa Austin, and
Holly Soetaert,
Defendants.

Case No. _____
Div. No. _____
Chapter 60

PETITION

COMES NOW the Plaintiff on the date of this filing, by and through counsel Bradley Hook of Hook Law Office Chartered, and for her cause of action against Defendants, Plaintiff states as follows:

Parties, Jurisdiction, and Venue

1. Plaintiff Dawn Link is an individual residing at 2106 Willow Bend, Tonganoxie, Kansas 66086.

2. Defendant Lawrence Memorial Hospital (LMH) is a Kansas body politic and governmental entity, headquartered in Douglas County at 325 Maine Street, Lawrence, Kansas 66044, and may be served under K.S.A. 60-304(d)(4) through its Secretary, or otherwise through any officer, director, or manager of the body politic. At the time of this filing, the Secretary of Lawrence Memorial Hospital's governing body is Pat Miller, whose term expires September 30, 2023.

3. Defendant Blake Conklin, D.O., is an individual doctor licensed to practice medicine in the State of Kansas, and whose primary place of business is located in Douglas County at 330 Arkansas Street Suite 202, Lawrence, Kansas 66044.

4. Defendant Megan Pedersen is an individual believed to be residing in Douglas County at 517 Lawrence Avenue, Lawrence, Kansas 66049, and employed by and regularly working at Defendant LMH's primary place of business.

5. Defendant Alyssa Austin is an individual believed to be residing in Douglas County at 3818 Daylily Court A, Lawrence, Kansas 66049, and employed by and regularly working at Defendant LMH's primary place of business.

6. Defendant Holly Soetaert is an individual believed to be residing in Leavenworth County at 316 East 8TH Street, Tonganoxie, Kansas 66086, and employed by and regularly working at Defendant LMH's primary place of business.

7. Because the allegations in this petition occurred at a place of business in Douglas County, Kansas, jurisdiction and venue in the Seventh Judicial District, the District Court of Douglas County, Kansas, are proper under the laws of Kansas.

Factual Background

8. This cause of action arises from actions of the Defendants or their agents beginning on or about April 1, 2021, and culminating on or about May 4, 2021, and occurring in Douglas County, Kansas.

9. In the time leading up to April 1, 2021, Plaintiff was under the care of a physician for a medical condition which interfered with her work schedule. At the advice of Plaintiff's supervisor, Defendant Alyssa Austin, Plaintiff investigated and applied for leave under the Family Medical Leave Act (FMLA). Under the care of a physician of Plaintiff's choice, Plaintiff began taking leave, as needed, under FMLA for her medical condition.

10. When the COVID-19 pandemic began, Plaintiff began missing more work. In addition to her leave under FMLA, Plaintiff was required to miss work based on Defendant LMH's policy that prohibited symptomatic employees from reporting for duty.

11. Defendants Alyssa Austin and Holly Soetaert, who are Plaintiff's supervisors, called Plaintiff into their office for a meeting to raise concerns over the amount of work Plaintiff was missing. At this meeting, Defendant Austin suggested that Plaintiff see one of Defendant Lawrence Memorial Hospital's physicians who had informally advised Defendant Austin that Plaintiff's condition was not being treated properly if she was still missing work. Defendant Austin also advised Plaintiff that Defendant LMH's doctors would not issue paperwork supporting FMLA leave for Plaintiff's condition.

12. Plaintiff was satisfied with the care and treatment of her existing physician and did not change doctors as advised by her supervisors.

13. Plaintiff did start seeing Defendant Blake Conklin, D.O., who is a physician working at Defendant LMH's place of business, for a completely unrelated condition. Plaintiff opted to see a physician affiliated with her employer for this condition because of substantial benefits offered to employees which would make her care more affordable.

14. On or about April 1, 2021, Plaintiff had missed work again under her FMLA leave. Upon returning to work, she was called into the supervisors' office again. Plaintiff's use of FMLA leave and compliance with Defendant LMH's policy regarding COVID-19 were described as showing a pattern of excessive absences and might subject Plaintiff to disciplinary action. Plaintiff was confused as to the issue being raised in this manner because she had been advised to use FMLA leave by her supervisor and the employer policy regarding COVID-19 was clear.

15. On or about April 27, 2021, Plaintiff had a meeting with Defendant Austin, Defendant Soetaert, and a senior director, Defendant Megan Pedersen, as well as staff from the human resources department. Plaintiff believed this to be a meeting intended to mediate the issues that were raised during the April 1 meeting. Plaintiff was informed that a mistake had occurred, the supervisors had been misinformed, and the meeting on April 1 should never have happened.

16. About one week later, on or about May 4, 2021, Defendant Pedersen sent an email out to numerous clinics and departments within Defendant LMH's communication system. Defendant Pedersen had accessed Plaintiff's medical records and used Plaintiff's actual medical records from her treatment with Defendant Conklin as the only example of an issue in the LMH referral process. Plaintiff's medical records were prominently displayed, with her name, treating physician, and diagnosis. There were no redactions or attempts to protect Plaintiff's identity or private information evident in the email.

17. Shortly after the email had been sent and before Plaintiff had even had a chance to see the message, Defendant Pedersen approached Plaintiff in an open corridor in front of patients and coworkers. Defendant Pedersen attempted to discuss the revelation of Plaintiff's medical records on the spot, out in the open, in front of other patients and coworkers. Plaintiff perceived the attempt at an indiscreet confrontation as a disingenuous apology aimed at escalating, rather than mitigating, the circumstances, and promptly attempted to terminate the discussion so it could be addressed in private.

18. To the best of Plaintiff's knowledge, Defendant LMH's staff attempted to recall the email through technological means two days after it was sent, but the message remained accessible from staff computers and accounts for several more days after that.

19. Based on Plaintiff's knowledge of Defendant LMH's email system from years of working there, Plaintiff believes that her private medical information was distributed to over 100 people, including many, if not all, of her close coworkers with whom she has frequent contact.

20. Plaintiff's private medical information that was revealed is of a particularly sensitive and embarrassing nature.

21. Plaintiff has become aware of specific conversations by coworkers about her condition after the email revealed her private information to numerous individuals.

22. Plaintiff has been humiliated, is embarrassed, and has suffered from extreme anxiety as a result of the disclosure of her private information

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