

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>HAYRIYE BERIL GOK</p> <p style="text-align:center">v.</p> <p>ROMAN CATHOLIC CHURCH, et al.</p>	<p>CIVIL ACTION</p> <p>NO. 20-4817</p>
<p>HAYRIYE BERIL GOK</p> <p style="text-align:center">v.</p> <p>POST & SCHELL, PC, et al.</p>	<p>CIVIL ACTION</p> <p>NO. 20-4968</p>

MEMORANDUM RE: DEFENDANTS' MOTIONS TO DISMISS

I. INTRODUCTION

DATED: 4/30/2021

Currently before the Court are Plaintiff's Second Amended Complaints, filed in both cases on February 26, 2021.¹ The Court will summarize the allegations of violations of federal law in both cases, which serve as the jurisdictional basis for filing in federal court. Plaintiff also relies on state law claims. Plaintiff identifies herself as a medical doctor who previously worked as a resident at Mercy Catholic Medical Center ("Mercy") from 2011 until she was terminated in 2015. (Compl. 4, ECF 109, Dkt. No. 20-4968). At a general level, both Complaints allege various illegal actions taken by lawyers, doctors, and hospital executives during previous litigation that challenged her termination from Mercy's residency program.

Plaintiff's Second Amended Complaint against the Roman Catholic Church (Dkt. No. 20-4817) focuses on her perception that Mercy doctors and supervisors had manipulated or falsified her residency evaluations to make her performance seem worse than it was, leading to her

¹ To date, Plaintiff submitted three Complaints in both cases (an original, an Amended, and a Second Amended).

termination. (Second Am. Compl. 5, ECF 58, Dkt. No. 20-4817). Plaintiff named twelve (12) Defendants, including the Philadelphia RCC diocese, two Trinity Health entities, and various doctors and executives who work at Trinity Health and Mercy.

That Complaint (“the RCC case”) contains eleven (11) counts: for (1) violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”); (2) violations of the Sherman Act; (3) violations of the Clayton Act; (4) intentional interference with a contractual relationship; (5) breach of contract; (6) unjust enrichment; (7) fraud; (8) defamation; (9) violations of the Pennsylvania Crimes Code; (10) violations of procedural and substanti[ve]² due process; and (11)³ intentional infliction of emotional distress.

Plaintiff’s Second Amended Complaint against the Post & Schell Defendants (Dkt. No. 20-4968) centers around her belief that attorneys in her previous lawsuit—on both Plaintiff’s and Defendants’ side—committed various professional wrongdoings during the course of her previous employment litigation. (Second Am. Compl. 5–8, ECF 109, Dkt. No. 20-4968.) Plaintiff named twelve (12) Defendants, who were all lawyers or law firms involved in some way with her prior case.

That Complaint (“the P&S case”) contains ten (10) counts: for (1) RICO; (2) legal/professional malpractice in violation of 41 Pa. Con. Stat. § 5524; (3) breach of contract; (4) unjust enrichment; (5) fraud; (6) abuse of process; (7) defamation; (8) violations of procedural and substanti[ve]⁴ due process; (9) violations of the Pennsylvania Crimes Code; (10) intentional and negligent infliction of emotional distress.

² The Court makes a correction in brackets for precision. The Plaintiff’s Amended Complaint refers to “substantial” due process, which the Court assumes is an error.

³ Plaintiff’s Complaint misnumbers this as Count X.

⁴ The Court makes a correction in brackets for precision. The Plaintiff’s Amended Complaint refers to “substantial” due process, which the Court assumes is an error.

A. Procedural History

Plaintiff commenced these actions pro se on September 28, 2020 (against the RCC) and on October 7, 2020 (against P&S et al.). Plaintiff proceeded to file several voluminous motions and Amended Complaints—often in violation of the Federal Rules of Civil Procedure, the Eastern District of Pennsylvania’s Local Rules, and the undersigned’s published practice requirements. Defendants opposed many of Plaintiff’s motions and filed Motions to Dismiss. In both cases, on December 22, 2020, and again on January 27, 2021, this Court struck Plaintiff’s Complaints and Amended Complaints, respectively, without prejudice, due to Plaintiff’s failure to follow the Federal Rules of Civil Procedure. This Court also denied all open motions without prejudice. In its Order dated December 22, 2020, the Court urged Plaintiff to secure representation by an attorney in both cases and referred her to this district’s Employment Attorney Panel for pro se plaintiffs. However, Plaintiff continues pro se.

B. Background

As mentioned above, both cases arise from prior litigation in this Court. Plaintiff Gok has identified herself as Plaintiff Jane Doe in Doe v. Mercy Catholic Medical Center, 158 F. Supp. 3d 256 (E.D. Pa. 2016) (Baylson, J.), aff’d in part and rec’d in part by 850 F.3d 545 (3d Cir. 2017). In Doe, Plaintiff sued Mercy alleging sex discrimination in violation of Title IX and Pennsylvania state law. She alleged that the director of Mercy’s residency program sexually harassed her and then retaliated against her—causing her termination—when she complained about his actions. (Id. at 258.) Defendant moved to dismiss, and this Court granted dismissal on the grounds that, as a matter of first impression in the Third Circuit, Title IX did not apply to Mercy’s medical residency program. See id. at 257. Plaintiff appealed.

On appeal, the Third Circuit affirmed in part and reversed in part. The Court held that Mercy’s residency program was an “education program or activity” under Title IX. See Doe, 850 F.3d 545, 556, 560, 566 (holding Plaintiff’s claims for retaliation and quid pro quo harassment under Title IX were not barred but that her Title IX hostile environment claim was). Because Plaintiff’s two Title IX claims could proceed, the Third Circuit also reversed the dismissal of her state law claims and remanded for consideration of supplemental jurisdiction. Id. at 567.

On remand, Plaintiff ultimately withdrew her state law claims. (See ECF 52, Dkt. No. 15-2085.) After a contentious discovery process, Mercy moved for summary judgment on the remaining counts—Title IX retaliation and harassment—which the Court granted. See Doe v. Mercy Catholic Med. Ctr., No. 15-2085, 2019 WL 3243249 (E.D. Pa. July 17, 2019) (Baylson, J.). Applying the burden-shifting framework from McDonnell Douglas,⁵ this Court found that Plaintiff did not meet her burden of showing that Mercy’s proffered reasoning was pretextual. Id. at 14–15. The Court also ruled that, based on the “scarce” factual record, a reasonable jury would not be able to find that Plaintiff met her burden of proof of causation between the alleged harassment and subsequent termination by Mercy. Id. at 15–16. Accordingly, the Court entered judgment for Mercy on this count as well. Id. at 16.

Plaintiff appealed the entry of summary judgment for defendants. (ECF 137, Dkt. No. 15-2085.) The Third Circuit initially dismissed the appeal for Plaintiff’s failure to timely prosecute,

⁵ See McDonnell Douglas Corp. v. Green, 411 U.S. 792, 801–803 (1973); see also Young v. St. James Mgmt., LLC, 749 F. Supp. 2d 281, 288–89 (E.D. Pa. 2010) (Brody, J.) (“If a plaintiff successfully establishes a prima facie case, the burden shifts to the defendant to articulate some legitimate, non-discriminatory reason for its decision. If the defendant succeeds, the burden returns to the plaintiff to show that the employer’s stated reason for termination was merely a pretext for intentional discrimination.” (citation omitted)).

(ECF 145), but later considered on the merits, and affirmed. (ECF 150; Doe v. Mercy Catholic Med. Ctr., No. 19-2734, 2021 WL 1157190 (3d Cir. Mar. 25, 2021).)

It is important that Plaintiff's current claims stem from perceived wrongdoings throughout that litigation.

II. PLAINTIFF'S FEDERAL CLAIMS

In the RCC Case, Plaintiff alleges federal claims under the Racketeer Influenced and Corrupt Organizations ("RICO"), the Sherman Act and the Clayton Act, both of which concern antitrust claims. In the claim against P&S, et al., Plaintiff only claims federal jurisdiction under RICO.

A. Allegations against the Roman Catholic Church (20-4817)

1. RICO

i. Amended Complaint

In the Amended Complaint, Plaintiff alleges that the following actions are "racketeering activity" under § 1961 of the RICO Act. First, that the RCC and the other Defendants facilitated the falsification and manipulation of documents to be used in a court proceeding. Second, that the RCC used intimidation, threats, and corrupt persuasion against witnesses at the court proceeding. Third, that the RCC bribed employees from Mercy to manipulate the documents, bribed attorneys from P&S to submit the documents into evidence, and bribed Gok's attorneys to prevent them from raising the issue of falsified documents to the Court. (Am. Compl. 6, ¶¶ 31–33.)

The RICO count refers to the RCC as an enterprise. Plaintiff states that as a result of racketeering activity, the RCC acquired "interest in control of an enterprise engaged in activities that affect interstate commerce," via a merger between Catholic Health East (the corporate parent of Mercy) and Trinity Health hospital systems. (Id. at ¶ 35.)

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