

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CAMERON ROMER,	:	Civil No. 1:20-cv-1275
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MHM HEALTH PROFESSIONALS,	:	
	:	
Defendant.	:	Judge Sylvia H. Rambo

MEMORANDUM

Before the court is Defendant’s Motion to Dismiss Plaintiff’s Complaint. (Doc. 5.) For the reasons outlined below, the court will deny the motion.

I. BACKGROUND

For the purpose of this motion, the court takes all well-pleaded facts as true and makes all reasonable inferences in favor of Plaintiff Cameron Romer (“Plaintiff” or “Cameron”). Defendant MHM Health Professionals (“Defendant” or “MHM”) is a limited liability company that contracts with the Pennsylvania Department of Corrections (“DOC”) to provide psychiatric services for mentally ill inmates. Plaintiff was an employee of Defendant who served in an administrative role, reviewing contracts and services provided by Defendant to ensure it was complying with its obligations. She was not licensed to practice medicine.

Around January of 2019, the DOC informed Defendant that it would soon be engaging in a new bidding process for additional contractual services. To increase

its odds of winning, Defendant instructed Plaintiff to acquire secret information concerning the other entities that were bidding. Plaintiff informed Defendant multiple times that she thought this was wrong and illegal, but Defendant nonetheless insisted that she do it. Plaintiff eventually caved and agreed to acquire the information, but she also shared this information with multiple people, angering Defendant and causing it to shift blame for the bidding espionage to Plaintiff.

Around April of 2019, Plaintiff informed Defendant it was failing to comply with some of its contractual obligations to the DOC. Specifically, Plaintiff informed Defendant it acted wrongly in providing inadequate hours and quality of treatment, understaffing medical providers, and overmedicating certain prisoners to such an extent that one soiled himself and required hospitalization. Plaintiff went further to inform Defendant that it was inaccurately recording the treatment being rendered. While one of Plaintiff's superiors investigated and ultimately agreed with Plaintiff's allegations, she chose to hide her findings and instructed Plaintiff to complete a medical report without the presence or aid of any licensed physician. Defendant went on to make certain company-wide mandates for drug provisions during the treatment of patients and instructed Plaintiff to work with and monitor Defendant's psychiatrists to ensure they were providing proper care to DOC patients. Plaintiff protested that Defendant was instructing her to engage in the unlicensed practice of

medicine for the purpose of hiding Defendant's fraudulent representation of its inadequately rendered care.

On October 1, 2019, Defendant terminated Plaintiff, allegedly due to, among other things, her failure to properly engage in the acquisition of bidding secrets and the practice of unlicensed medicine. On June 29, 2020, Plaintiff sued Defendant in the Court of Common Pleas in Cumberland County, alleging three causes of action. First, Plaintiff accused Defendant of violating the Pennsylvania Whistleblower Act ("PWA") by terminating her for reporting wrongdoing.¹ Second, Plaintiff alleged that Defendant wrongfully discharged her under the common law wrongful discharge doctrine, accusing Defendant of terminating her for refusing to engage in unlawful activity. Third, Plaintiff alleged Defendant violated the Medical Care Availability and Reduction of Error ("MCARE") Act.² On July 24, 2020, Defendant removed the case to federal court on diversity grounds. (Doc. 1.) On August 14, 2020, Defendant filed its Motion to Dismiss Plaintiff's Complaint. (Doc. 5.) Plaintiff filed a brief in opposition (Doc. 9), and Defendant replied (Doc. 10). The motion is thus ripe before the court.

¹ Plaintiff also includes an allegation of "waste" in the complaint, but this allegation is conclusory and not explained in her brief. As such, the court will not evaluate the argument at this time.

² Plaintiff has agreed to dismiss Claim 3. It will thus, at this time, be dismissed.

II. STANDARD OF REVIEW

To survive a motion to dismiss under Rule 12(b)(6), the plaintiff must allege “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007)). “When reviewing a 12(b)(6) motion, we ‘accept as true all well-pled factual allegations in the complaint and all reasonable inferences that can be drawn from them.’” *Estate of Ginzburg by Ermey v. Electrolux Home Prods., Inc.*, 783 F. App’x 159, 162 (3d Cir. 2019) (quoting *Taksir v. Vanguard Grp.*, 903 F.3d 95, 96-97 (3d Cir. 2018)). The facts alleged must be “construed in the light most favorable to the plaintiff.” *In re Ins. Brokerage Antitrust Litig.*, 618 F.3d 300, 314 (3d Cir. 2010) (internal quotations, brackets, and ellipses omitted). The universe of facts upon which the court may rely includes those facts alleged in the complaint, facts which the court may take judicial notice of, and indisputably authentic documents referred to in the plaintiff’s complaint. *Hartig Drug Co., Inc. v. Senju Pharm Co.*, 836 F.3d 261, 268 (3d Cir. 2016).

The Third Circuit has detailed a three-step process to determine whether a complaint meets the pleading standard. *Bistrain v. Levi*, 696 F.3d 352 (3d Cir. 2014). First, the court outlines the elements a plaintiff must plead to state a claim for relief. *Id.* at 365. Second, the court must “peel away those allegations that are no more

than conclusions and thus not entitled to the assumption of truth.” *Id.* Third, the court “look[s] for well-pled factual allegations, assume[s] their veracity, and then ‘determine[s] whether they plausibly give rise to an entitlement to relief.’” *Id.* (quoting *Iqbal*, 556 U.S. at 679). The last step is “a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* In assessing the level of factual details required under *Twombly*, the Third Circuit has held:

The Supreme Court reaffirmed that Fed. R. Civ. P. 8 requires only a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the claim is and the grounds upon which it rests, and that this standard does not require detailed factual allegations.

Phillips v. Cty. of Allegheny, 515 F.3d 224, 231 (3d Cir. 2008) (internal citations and quotations omitted).

III. DISCUSSION

a. Plaintiff Has Properly Alleged a Claim Under the PWA Because Defendant Is a Public Body Under the Statute.

Under 43 P.S. § 1423(a):

No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee’s compensation, terms, conditions, location or privileges of employment because the employee or a person acting on behalf of the employee makes a good faith report or is about to report, verbally or in writing, to the employer or appropriate authority an instance of

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