

SUPERIOR COURT OF NJ
Burlington County
FILED

AUG 24 2009

Civil Division

CONSOLE LAW OFFICES LLC
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BURLINGTON COUNTY

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BABETTE PERRY
24 Boothby Drive
Mount Laurel, NJ 08054

Plaintiff,

v.

UNIVERSAL HEALTH
SERVICES, INC.
367 South Gulph Road
King of Prussia, PA 19406

And

HAMPTON BEHAVIORAL
HEALTH CENTER, a/k/a
HAMPTON HOSPITAL
650 Rancocas Road
Westampton, NJ 08060

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BURLINGTON COUNTY

CIVIL ACTION

DOCKET NO. BUR-L-2823-09

COMPLAINT AND
JURY DEMAND

JURY

I. PRELIMINARY STATEMENT

Plaintiff, Babette Perry, brings this action against Defendants, Universal Health Services, Inc. and Hampton Behavioral Health Center, a/k/a Hampton Hospital (collectively "Defendants"). As a result of a so-called "safety drill" on December 24,

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2007, Plaintiff was assaulted, falsely imprisoned, and subjected to an intentional infliction of emotional distress in violation of New Jersey common law. Plaintiff seeks compensatory damages, punitive damages and other relief as permitted under New Jersey state law.

II. THE PARTIES

1. Plaintiff, Babette Perry ("Plaintiff" or "Ms. Perry"), is an individual and citizen of the State of New Jersey, residing therein at 24 Boothby Drive, Mount Laurel, New Jersey 08054.

2. Defendant Universal Health Services, Inc. ("Defendant Universal") is a Delaware corporation with a principle place of business at 367 South Gulph Road, King of Prussia, Pennsylvania 19406.

3. Defendant Hampton Behavioral Health Center, a/k/a Hampton Hospital ("Defendant Hampton") is a subsidiary of Defendant Universal. It is a New Jersey corporation with a principle place of business at 650 Rancocas Road, Westampton, New Jersey 08060.

4. Defendant Universal controls and directs certain of Defendant Hampton's day-to-day business operations and personnel decisions.

5. Defendants are engaged in an industry affecting interstate commerce and regularly conduct business in the State of New Jersey.

6. At all times material hereto, Defendants acted by and through their authorized agents, servants, workmen and/or employees who were acting within the

course and scope of their employment and employment duties and responsibilities and the acts were motivated, at least in part, by a purpose to serve Defendants.

III. JURISDICTION AND VENUE

7. The causes of action which form the basis of this matter arise under New Jersey common law for the torts of assault, false imprisonment, and intentional infliction of emotional distress.

8. The Court has jurisdiction over this matter because Defendant Hampton is located in Burlington County and the causes of action forming the basis of this matter arose in Burlington County.

9. Venue is proper in the Court under R. 4:3-2(a) because Defendant Hampton is located in Burlington County and the causes of action forming the basis of this matter arose in Burlington County.

IV. FACTUAL ALLEGATIONS

10. Defendant Hampton is an institution that provides mental health services with the purported goal of helping its clients achieve emotional well-being.

11. Ms. Perry began working for Defendants on or about September 27, 1999 as a Certified Pharmacy Technician within the pharmacy located at Defendant Hampton. She has been employed by Defendants and has held this position throughout her employment.

12. At all times material hereto, Colleen Roop, Director of the Pharmacy, was Ms. Perry's direct supervisor.

13. At all times material hereto, Ms. Perry was qualified for her position and performed her duties in a highly competent manner. She has received positive performance reviews and annual pay increases in January each year of her employment.

14. Ms. Perry was working on December 24, 2007 (Christmas Eve). A masked gunman came into the pharmacy and said that he was holding Polly Constantini, Defendant Hampton's Director of Human Resources, as a hostage. The gunman, who was approximately six (6) feet tall, and physically imposing over Ms. Perry who is four (4) feet, eleven (11) inches tall, showed Ms. Perry his gun and demanded Oxycontin.

15. Ms. Perry called a code for assistance, but the phone line for the pharmacy was not working.

16. Ms. Perry believed that the gunman was capable of shooting her or holding her hostage.

17. Ms. Perry could not leave the pharmacy with the gunman present because of the threat of physical injury to herself or others.

18. Afterward, Ms. Constantini told Ms. Perry that what she just experienced was a "safety drill" set up by Defendants. The gunman was another employee of Defendants. Defendants also had a decoy on the telephone line to prevent Ms. Perry from calling out for help.

19. Ms. Perry had never being subjected to a drill like this before.

20. Ms. Perry had received no warning that she would be subjected to such a drill.

21. Ms. Perry had not been trained to handle such a drill.

22. After the drill ended, Ms. Perry went to the bathroom to try to compose herself. Because she was hyperventilating, she ultimately needed to leave the building.

23. Ms. Constantini told Ms. Perry that Defendants expected that Ms. Perry would be upset by the drill.

24. Although Ms. Perry had wanted to leave work before her shift ended, she could not do so since no employee was available to replace her in the pharmacy.

25. When Ms. Perry did leave work, her husband followed her home to ensure that she drove safely.

26. On or about December 25, 2007 (Christmas Day), Ms. Perry called Defendants' Employee Assistance Program ("EAP") hotline and talked with a counselor for over an hour.

27. On or about December 26, 2007, Ms. Perry called in sick and did not attend work for the rest of the week due to her emotional distress.

28. On or about December 26, 2007, Ms. Perry sought medical treatment from her physician due to the emotional distress that she experienced as a result of the drill.

29. Plaintiff began seeing a therapist in January 2008 and continues to do so, more than a year and a half after the drill, due to the trauma and emotional distress she still endures.

30. Ms. Perry has been prescribed medication for depression, anxiety, and a panic disorder.

31. Ms. Perry has suffered from emotional distress due to Defendants' actions; such emotional distress includes, but is not limited to:

- a. having nightmares about the drill;
- b. suffering from insomnia;
- c. being diagnosed with post-traumatic stress disorder ("PTSD");
- d. being afraid to leave her home after dark;
- e. being afraid to visit stores by herself because the thought of a security guard with a gun being at a store makes her anxious;
- f. becoming more withdrawn from her family;
- g. having colleagues notify her if they know the gun man will be coming to the pharmacy area so that she may avoid seeing him again and experiencing more flashbacks to the drill and/or panic attacks; and,
- h. having to stay home from work on the anniversary of the drill to avoid further emotional distress.

32. Defendants lacked justification for conducting the drill.

33. At all times material hereto, Defendants acted intentionally.

34. At all times material hereto, Defendants' conduct was extreme and outrageous.

35. As a direct and proximate result of the unlawful conduct of Defendants, Ms. Perry has in the past incurred, and may in the future incur, pain and suffering, embarrassment, humiliation, loss of self esteem, mental anguish and loss of life's pleasures, the full extent of which is not known at this time.

COUNT I - ASSAULT

36. Plaintiff incorporates herein by reference Paragraphs 1 through 35 above as if set forth herein in their entirety.

37. The above described improper and tortuous acts were carried out by employees of Defendants, acting within the course and scope of their employment with Defendants, whose acts were motivated, at least in part, in furtherance of Defendants' business.

38. Defendants, by the above improper and unlawful acts, assaulted Ms. Perry.

39. Defendants' actions were intentional and willful.

40. Defendants' actions were intended to cause harmful or offensive contact with Ms. Perry and/or to cause Ms. Perry imminent apprehension of such conduct.

41. Ms. Perry was placed in imminent apprehension.

42. As a direct and proximate result of Defendants' tortious conduct, Plaintiff has sustained the injuries, damages, and losses set forth herein.

43. Defendants acted with actual malice and/or with a wanton and willful disregard of persons who foreseeably might be harmed by their acts or omissions and the imposition of punitive damages is warranted.

44. Plaintiff is now suffering and will continue to suffer irreparable injuries as a result of Defendants' unlawful acts.

45. No previous application has been made for the relief requested herein.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory and punitive damages together with interest, and such other and further relief as this Court deems appropriate.

COUNT II – FALSE IMPRISONMENT

46. Plaintiff incorporates herein by reference Paragraphs 1 through 45 above as if set forth herein in their entirety.

47. The above described improper and tortuous acts were carried out by employees of Defendants, acting within the course and scope of their employment with Defendants, whose acts were motivated, at least in part, in furtherance of Defendants' business.

48. Defendants, by the above improper and unlawful acts, falsely imprisoned Ms. Perry.

49. Defendants' actions were intentional and willful.

50. Defendants' actions were intended to restrain Ms. Perry.

51. Ms. Perry was detained against her own will.

52. Defendants' detention of Ms. Perry was done without proper legal authority or legal justification.

53. As a direct and proximate result of Defendants' tortious conduct, Plaintiff has sustained the injuries, damages, and losses set forth herein.

54. Defendants acted with actual malice and/or with a wanton and willful disregard of persons who foreseeably might be harmed by their acts or omissions and the imposition of punitive damages is warranted.

55. Plaintiff is now suffering and will continue to suffer irreparable injuries as a result of Defendants' unlawful acts.

56. No previous application has been made for the relief requested herein.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory and punitive damages together with interest, and such other and further relief as this Court deems appropriate.

COUNT III – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

57. Plaintiff incorporates herein by reference Paragraphs 1 through 56 above as if set forth herein in their entirety.

58. The above described improper and tortuous acts were carried out by employees of Defendants, acting within the course and scope of their employment with Defendants, whose acts were motivated, at least in part, in furtherance of Defendants' business.

59. Defendants' conduct was extreme and outrageous.

60. Defendants' conduct was intentional in causing and producing the emotional distress and/or Defendants acted in deliberate disregard of a high probability that emotional distress would occur.

61. Defendants' conduct caused Plaintiff to suffer emotional distress that no reasonable person could be expected to endure.

62. Defendants acted with actual malice and/or with a wanton and willful disregard of persons who foreseeably might be harmed by their acts or omissions and the imposition of punitive damages is warranted.

63. As a direct and proximate result of Defendants' tortious conduct, Plaintiff has suffered the injuries, damages and losses set forth herein, including severe emotional distress, and has incurred attorney's fees and costs.

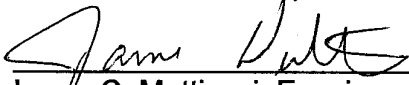
64. Plaintiff is now suffering and will continue to suffer irreparable injuries and monetary damages as a result of Defendants' intentional infliction of emotional distress unless and until the Court grants the relief requested herein.

65. No previous application has been made for the relief requested herein.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory and punitive damages together with interest, and such other and further relief as this Court deems appropriate.

Dated: August 21, 2009

CONSOLE LAW OFFICES, LLC

By: 

Laura C. Mattiacci, Esquire
James M. Duttera, Esquire
Attorneys for Plaintiff

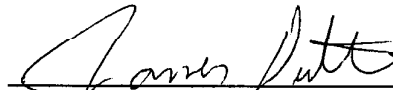
JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury as to all issues pursuant to R. 4:35-1(a)
and R. 1:8-2(b).

CONSOLE LAW OFFICES, LLC

Date: August 21, 2009

BY:



Laura C. Mattiacci, Esquire
James M. Duttera, Esquire
Attorneys for Plaintiff

RULE 4:5-1 CERTIFICATION

I, James M. Duttera, Esquire, of full age and on my oath do certify to the following:

1. To my knowledge, at present, there are no other claims pending in either arbitration or other actions at law, other than the original Complaint, pending as a result of Plaintiff's claims.

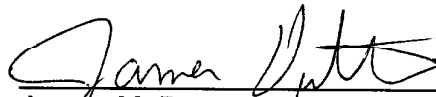
2. To my knowledge, there are no other parties necessary in this litigation at present.

I am aware that I am subject to punishment if the above is untrue.

CONSOLE LAW OFFICES, LLC

Date: August 21, 2009

BY:



James M. Duttera, Esquire
Attorney for Plaintiff

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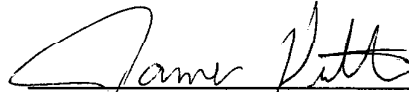
DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Laura C. Mattiacci, Esquire and James M. Duttera, Esquire are designated as trial counsel for Plaintiff, in the above-referenced matter.

CONSOLE LAW OFFICES, LLC

Date: August 21, 2009

BY:



Laura C. Mattiacci, Esquire
James M. Duttera, Esquire
Attorneys for Plaintiff