

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WATONWAN

FIFTH JUDICIAL DISTRICT

Deidre Hruby,

Court File No. _____

Plaintiff,

v.

SUMMONS

Madelia Community Hospital and Clinic,

Defendant.

THIS SUMMONS IS DIRECTED TO DEFENDANT MADELIA COMMUNITY HOSPITAL AND CLINIC:

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.
2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at:

BAILLON THOME JOZWIAK & WANTA LLP
100 South Fifth Street, Suite 1200
Minneapolis, MN 55402
3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.
4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. **ALTERNATE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Dated: November 12, 2019



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STATE OF MINNESOTA
COUNTY OF WANTONWAN

DISTRICT COURT
FIFTH JUDICIAL DISTRICT

Deidre Hruby,

Court File No. _____

Plaintiff,

v.

**COMPLAINT AND
JURY DEMAND**

Madelia Community Hospital and Clinic,

Defendant.

The Plaintiff, Deidre Hruby (“Plaintiff” or “Hruby”), for her Complaint against Defendant, Madelia Community Hospital and Clinic (“Defendant” or “MCHC”), states and alleges as follows:

PARTIES, JURISDICTION & VENUE

1. Plaintiff is a natural person who resides in the County of Watonwan, State of Minnesota.
2. Defendant is a Minnesota nonprofit corporation with its principal place of business located at 121 Drew Avenue SE, Madelia, MN 56062.
3. At all relevant times to this action, Plaintiff and Defendant were “employee” and “employer,” respectively within the meaning of Minn. Stat. § 363A.03.
4. The Court has personal jurisdiction over the parties because Plaintiff is domiciled in Minnesota, Defendant conducts business in Minnesota, and the alleged unlawful employment actions at issue occurred in Minnesota.
5. Venue is proper in Watonwan County pursuant to Minn. Stat. § 542.09. Plaintiff worked for Defendant in the County of Watonwan, State of Minnesota; Defendant’s registered

office is located in the County Watonwan, State of Minnesota; and the unlawful acts alleged herein occurred in the County of Watonwan, State of Minnesota.

FACTS

6. Hruby began working at MCHC in 1991.

7. Hruby enjoyed her work and many of the people she worked with over the years. She always went above and beyond her work hours and duties in her efforts to serve MCHC and the community in general.

8. Accordingly, during or around 2015, Hruby and former CEO Candace Fenske (“Fenske”) teamed together to form the Mental Health Task Force. The Task Force was developed as part of MCHC’s response to recent suicide attempts in the community. Members included Fenske, Hruby, a Mankato State Professor, and state and county mental health workers.

9. In or around March 2018, Fenske’s family opened a brewery in town called “Lost Sanity,” which sold beers with names such as the following: Personality Disorder Porter, Citra Insane, Botched Lobotomy, Manic Black Lager, and Hopzophrenia.

10. On or around April 11, 2018, Hruby and some coworkers had a conversation about Fenske’s role at MCHC the Mental Health Task Force in relation to her family’s brewery’s marketing. Specifically, Hruby and others were concerned that the names were inflammatory and insensitive and that MCHC’s reputation would be questioned because of Fenske’s connection with the brewery.

11. Fenske found out about the conversation and reprimanded Hruby, but failed to reprimand any other member of the group.

12. In or around May 2018, Hrubay requested a raise in her salary that more closely reflected the salary level of others in similar positions in the state. Hruby was evaluated as a high

performer and given a \$6.00/hour raise in pay, with the promise that Fenske would give Plaintiff another raise before she left.

13. On June 28, 2018, Hruby's son Michael, who is a dietary aid at MCHC, had a letter to the editor published in the Madelia Times Messenger criticizing the brewery for marketing products that stigmatize and belittle people.

14. Within days of the publication, Fenske told HR Director Tessie Wyffels ("Wyffels") that she believed Michael Hruby was taking extra-long breaks. Wyffels passed the message on to Michael Hruby, who responded by telling Wyffels that Fenske was retaliating against him.

15. Further, members of MCHC leadership began to circulate discriminatory messages about Michael Hruby's sexual orientation. Right after the letter was published, Board Chairman Dennis Arduser ("Arduser") sent a text to Fenske stating, "that prick is spouting off again, I wish the fag would just quit," or other words to that effect.

16. The text was shared with Wyffels and CFO Monique Hoffman-Urban ("Hoffman-Urban"). Hoffman-Urban laughed at the text.

17. Wyffels told Hruby about the text in or around the first week of August 2018. Sometime after this, in August, Hruby and Wyffels discussed reporting the text and the inappropriate conduct surrounding it, but Wyffels was unsure who to report to because her immediate supervisor, the CFO, and the CEO were the perpetrators.

18. Around the same time, MCHC passed Hruby up for a promotion to CEO. Fenske planned to leave, leaving the CEO position open. Hruby submitted her application for the position on July 31, 2018.

19. On August 9, 2018, Hruby learned that she was the only internal candidate for the CEO position, and she would be receiving an interview. The next day, Hruby talked with Ann Dempster of HR, who told her she would get an interview, since she was an internal candidate and also met minimum requirements of job posting.

20. By August 13, 2018, Hruby learned from Fenske that she would not be interviewed. Fenske told Hruby that MCHC would only consider “masters ready” candidates and quipped, “Well, at least you tried.”

21. Over the last three to four years of Plaintiff’s employment, multiple people have moved up to supervisory and management positions through internal channels, including CFO Hoffman-Urban.

22. On September 17, 2018, Hruby participated in the interview of CEO applicant, Jeff Mengenhausen (“Mengenhausen”). Mengenhausen said in his interview that his three non-negotiables were “respect, professionalism, and integrity.”

23. Shortly thereafter, Mengenhausen was hired.

24. On or around September 21, 2018, Hruby spoke with MCHC Board Member Norma Krumwiede (“Krumweide”) about the text message referencing her son, Michael Hruby, and issues surrounding Lost Sanity brewery.

25. Six days later, an anonymous letter was sent to the MCHC board members and Hruby that discussed the text message and its circulation among Arduser, Fenske, Hoffman-Urban, and others. Fenske and Hoffman-Urban left abruptly to meet with Steve Cooling (MCHC Board member and former Board Chair) at Pioneer Bank and discussed the anonymous letter. They returned to the hospital and told staff that Cooling said, “nothing needs to be done since it was sent anonymously.”

26. Hruby confronted Fenske and Hoffman-Urban about the contents of the letter and asked if it was true. Fenske asked, "Why would it be true?" Hoffman-Urban said, "not on my part."

27. However, over the next few days, Fenske questioned other staff members about whether she had showed them the text message, apparently trying to figure out who had leaked the information.

28. Fenske and Hoffman-Urban accused Wyffels of sending the letter to the board members, which Wyffels denied.

29. Hoffman-Urban announced to staff members that her lawyer was "ready to file a slander suit."

30. On or about September 28, 2018, Hruby sent an online inquiry with the EEOC regarding her witnessing harassment of her gay son and coworker, Michael Hruby. Her phone interview for the matter was set for December 17, 2018.

31. On or about November 11, 2018, Hruby told Michael Hruby about the text message.

32. Two days later, Michael Hruby raised the issues of the text message to Arduser, which led to an altercation between the two.

33. Later in November, Hruby first spoke with Mengershausen about the hostile text message and asked him to take care of the matter in a manner consistent with the values he cited at his interview: respect, professionalism, and integrity.

34. His only response was to say, "A couple of people were reprimanded for that."

35. On or about December 12, 2018, Michael Hruby resigned from the Mental Health Task Force, citing the lack of support regarding the issues with Lost Sanity brewery.

36. After Michael Hruby resigned, the Task Force discussed the resignation when Hruby was present. Hruby respectfully defended Michael Hruby's integrity and left the conversation.

37. Later, Mengenhausem suggested that Hruby's behavior was unprofessional and disrespectful, and persuaded Hruby to email an apology to the other members of the Task Force. Other members responded that they did not feel she had been unprofessional and that they supported her actions.

38. On or around February 27, 2019, Hruby executed for service her charge of retaliation. MCHC received the charge in or around early March 2019. The EEOC dismissed the charge in March 2019.

39. On or around March 8, 2019, Hruby met with Mengenhausem and Wyffels, purportedly to discuss staffing matters.

40. During the meeting, Hruby expressed difficulties with the nursing staff caused by their feeling unsupported in the hospital. Hruby also said that she felt the work environment was hostile due to the conduct of Hoffman-Urban, Fenske, Arduser, and IT Department Head Valerie Juhl.

41. Additionally, Hruby told Mengenhassen and Wyffels that she felt Mengenhausem added to the hostile work environment by telling her that her discussion of the text messages and the brewery was "gossiping" and acting in an "unprofessional manner."

42. The three also discussed Hruby finally getting the raise Fenske promised her before she left.

43. Mengenhausem asked Hruby if she was happy at MCHC. She responded that she loved her job and the people she got to work with.

44. On or around March 25, 2019, Mengenhausen requested that Hruby provide him with a list of her duties with descriptions of how she accomplished them. Hruby provided the list with detailed explanations.

45. Two days later, Mengenhausen and Hruby discussed Hruby's raise again. Mengenhausen said he would look at it for the next year's budget.

46. On or around March 28, 2019, Mengenhausen asked Hruby for a copy of the nurses' schedule, orientation materials, and other tools Hruby used in her work.

47. On April 30, 2019, Mengenhausen called Hruby to his office and notified her that her employment would be terminated. Mengenhausen claimed that Hruby's position was being eliminated.

48. Hruby was given thirty minutes to pack her belongings and get out. Hruby was escorted out of the hospital.

49. On May 2, 2019, after being notified that her last paycheck was available to be picked up at the hospital, Hruby went to the hospital to get it. Wyffels gave Hruby her check and a letter informing her that she was not to be present at the hospital for any reason other than to visit patients or for her own care.

50. The next day, Hruby and her husband received letters from MCHC, delivered by law enforcement, informing the Hrubys that unless there was a medical emergency, their presence on MCHC property would constitute trespassing and they would be arrested.

COUNT I
REPRISAL IN VIOLATION OF
THE MINNESOTA HUMAN RIGHTS ACT

51. Plaintiff re-alleges all preceding paragraphs of this Complaint.

52. Defendant, by and through employees, managers, and officials acting within the scope of their employment and on behalf of Defendant, unlawfully retaliated against Plaintiff in violation of the Minnesota Human Rights Act. Minn. Stat. § 363A.01 *et seq.*, These practices include, but are not limited to, reprimanding Plaintiff, failing to promote Plaintiff, and terminating Plaintiff's employment because of Plaintiff's protected conversations, protected reports, association with and defense of her gay son, and the filing of her EEOC charge.

53. Defendant's retaliatory actions adversely affected Plaintiff's status as an employee and ultimately led to Plaintiff's termination.

54. Defendant failed to take all reasonable steps to prevent retaliation against Plaintiff from occurring.

55. Defendant's retaliatory actions were intentional and performed with malice and/or reckless indifference to Minnesota's anti-retaliation laws that protect Plaintiff.

56. As a direct and proximate result of Defendant's conduct, Plaintiff suffered and continues to suffer emotional distress, humiliation, embarrassment, pain and suffering, loss of wages and benefits, and other serious damages.

PRAYER FOR RELIEF

Therefore, Plaintiff requests that judgment be entered against Defendant for the following:

a. Declaring that Defendant's acts or omissions described in this Complaint constitute violations of applicable federal and state laws which protect Plaintiff;

b. Enjoining Defendant and its employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parent or controlling entities, subsidiaries and all other persons acting in concert or participation with it, from its unlawful acts;

- c. Requiring Defendant to make Plaintiff whole for its adverse, retaliatory, and discriminatory actions with compensatory damages and with interest of an appropriate inflation factor;
- d. Plaintiff be awarded front pay and the monetary value of any employment benefits to which she would have been entitled to as an employee of Defendant;
- e. Plaintiff be awarded compensatory damages in an amount to be established at trial;
- f. Plaintiff be awarded damages for mental and emotional anguish and suffering, humiliation, embarrassment, shame, and loss of enjoyment of life in an amount to be established at trial;
- g. Plaintiff be awarded punitive damages as provided by statute in an amount to be established at trial;
- h. Plaintiff be awarded treble damages pursuant to the Minnesota Human Rights Act;
- i. Awarding Plaintiff attorneys' fees, costs, and disbursements pursuant to statute; and
- j. Granting other and further relief as the Court deems fair and equitable.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS.

Dated: November 12, 2019

BAILLON THOME JOZWIAK & WANTA LLP



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Attorney for Plaintiff

ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney's fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.

Dated: November 12, 2019



Joni M. Thome