



COMMON PLEAS COURT
CUYAHOGA COUNTY, OHIO

2009 OCT 28 P 3:19

DESIGNATION FORM TO BE USED BY COUNSEL
TO INDICATE THE CLASSIFICATION OF THE CAUSE

Naioka Gray
Plaintiff

vs.

Orion Willow Park
Defendant

Case No. _____

Judge: _____

Has this case been previously filed &
dismissed? Yes No ☒

Case #: _____

Judge: _____

CIVIL CLASSIFICATIONS:

Place an (X) in ONE Classification Only.

Judge: MICHAEL J RUSSO

Professional Torts:

- 1311 Medical Malpractice
- 1315 Dental Malpractice
- 1316 Optometric Malpractice
- 1317 Chiropractic Malpractice
- 1312 Legal Malpractice
- 1313 Other Malpractice

Foreclosures:

- 1460 Foreclosure
- 1460A Foreclosure with Publication
- 1460B Foreclosure with Pub & Decree
- 1470 Quiet Title
- 1480 Partition
- 1481 Other _____

CV 09 708091

Product Liability:

- 1330 Product Liability

Administrative Appeals:

- 1540 Employment Services
- 1551 Other _____

Other Torts:

- 1310 Motor Vehicle Accident
- 1314 Consumer Relief (ORC 1345)
- 1350 Misc Tort

Other Civil:

- 1500 Replevin/Attachment
- 1382 Business Contract
- 1384 Real Estate Contract
- 1390 Cognovit Contract _____
- 1391 Other Contract _____
- 1490 Foreign Judgement
- 1491 Stalking Civil Protection Order
- ☒ 1501 Misc Other _____

Workers Compensation:

- 1550 Workers Compensation

Amount of Controversy:

- ☒ None Stated
- Less than \$25,000
- Prayer Amount _____

**Parties have previously attempted one
of the following prior to filing:**

- Arbitration
- Early Neutral Evaluation
- Mediation
- ☒ None

I certify that to the best of my knowledge the within case is not related to any now pending or previously
filed, except as noted above.

Law Offices of Mark P. Herron

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Mark P Herron (0051998)

Attorney of Record (Print or type)

Signature

FILED

2009 OCT 28 P 3:19

GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

Complaint

NAIOKA GRAY
4841 Richmond Road
Warrensville Heights, Ohio 44128

Plaintiff,

v.

ORION WILLOW PARK, LLC
c/o Mark P. McGrievy, Statutory
Agent
28601 Chagrin Blvd., Suite 500
Cleveland, Ohio 44122

and

ATRIUM CENTERS, LLC
Two Easton Oval, Suite 210
Columbus, Ohio 43219

and

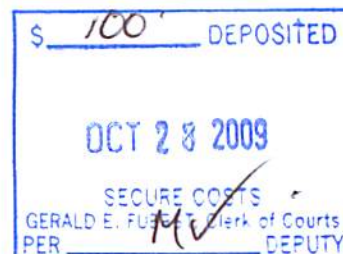
WILLOW PARK NURSING AND
REHABILITATION CENTER
18810 Harvard Road
Cleveland, Ohio 44122

and

CASE NO.

MICHAEL J RUSSO
CV 09 708091

JUDGE



COMPLAINT AND JURY DEMAND

PATRICIA MERRITT
c/o Willow Park Nursing and)
Rehabilitation Center)
18810 Harvard Road)
Cleveland, Ohio 44122)
)
and)
)
UNNAMED JOHN AND/OR)
JANE DOE DEFENDANTS)
c/o Willow Park Nursing and)
Rehabilitation Center)
18810 Harvard Road)
Cleveland, Ohio 44122)
)
Defendants)

Now comes the plaintiff, by and through counsel, and for her complaint against the defendants, avers and states as follows:

JURISDICTION

1. This Honorable Court has jurisdiction over the claims in the within matter pursuant to R.C. 3721.24.

VENUE

2. This Honorable Court has venue over the claims in the within action pursuant to Rules 3(B)(3) and (6) of the Ohio Rules of Civil Procedure in that defendant conducted activity which gave rise to plaintiff's claims for relief in and within Cuyahoga County, Ohio, and some or all of plaintiff's claims for relief arose in and within Cuyahoga County, Ohio.

PARTIES

3. During all times relevant hereto, plaintiff Naioka Gray was employed by defendants as a Night Shift Nursing Supervisor at the Willow Park Nursing and Rehabilitation Center located at 18810 Harvard Road, City of Cleveland, County of Cuyahoga, State of Ohio.

4. Defendant Orion Willow Park, LLC, is a Delaware Limited Liability Corporation with its principal place of business located in the City of Columbus, County of Franklin, State of Ohio. During all times relevant hereto, defendant Orion Willow Park, LLC, owns and/or operates the Willow Park Nursing and Rehabilitation Center located at 18810 Harvard Road, City of Cleveland, County of Cuyahoga, State of Ohio, and was plaintiff's employer or joint-employer.

5. Defendant Atrium Centers, LLC, is an Ohio Limited Liability Corporation with its principal place of business located in the City of Columbus, County of Franklin, State of Ohio. During all times relevant hereto, defendant Atrium Centers, LLC, owns and/or operates the Willow Park Nursing and Rehabilitation Center located at 18810 Harvard Road, City of Cleveland, County of Cuyahoga, State of Ohio, and was plaintiff's employer or joint-employer.

6. Defendant Willow Park Nursing and Rehabilitation Center is a nursing home and residential care facility located at 18810 Harvard Road, City of Cleveland, County of Cuyahoga, State of Ohio, and was plaintiff's employer or joint-employer.

7. During all times relevant hereto, defendant Patricia Merritt was and is employed as Director of Nursing at Willow Park Nursing and Rehabilitation Center.

8. During all times relevant hereto, unnamed defendants John and/or Jane Doe are management officials of defendants Atrium Centers, LLC and/or Willow Park Nursing Home and Rehabilitation Center who participated in and/or authorized the termination of plaintiff's employment.

FIRST CLAIM FOR RELIEF
(Wrongful Termination – R.C. 3721.24)

9. The allegations set forth in Paragraphs One through Eight are incorporated as if fully rewritten herein.

10. On or about the early morning hours on July 29, 2009, plaintiff was working in her capacity as Night Shift Nursing Supervisor at Willow Park Nursing Home and Rehabilitation Center when a nursing assistant, Sunleaf Clark ("Clark"), stated that she was going home because she was sick. When plaintiff approved of Clark leaving, the Charge Nurse on duty, Betty Leonard ("Leonard"), stated to Clark that she should have also sought her approval as immediate supervisor.

11. Clark then left the nursing station. Plaintiff directed Leonard to go with Clark while she did her rounds checking the residents before she left.

12. As directed, Leonard went to accompany Clark on her rounds before she left. Clark stated to Leonard that she did not need anybody walking around with her.

13. When Leonard responded to Clark stating she was going to walk around with her and do rounds just to make sure that everything was satisfactory, Clark began swearing at Leonard.

14. Plaintiff overheard Clark arguing with Leonard and went to investigate the situation. Plaintiff subsequently entered a patient's room to observe and hear Clark swearing at Leonard that she was tired of people "f***ing" with her and that she did not need anyone following her around.

15. Plaintiff stated to Clark that she should not be talking and swearing like that in a resident's room and directed Clark to leave the premises immediately.

16. Clark then walked past plaintiff, pushed her aside, and stated that she was not leaving until she finished her rounds. Clark then grabbed and pulled hard on an elderly resident's diaper, attempting to remove it. Clark's actions in grabbing and pulling hard on the elderly resident's diaper constituted abuse of the resident.

17. Plaintiff reasonably believed that Clark had acted improperly in attempting to remove the resident's diaper and had engaged in resident abuse; thus she immediately instructed her to stop what she was doing and to go home.

18. Clark then forcibly grabbed the diaper off of the elderly resident. Clark's actions in forcibly pulling off the diaper off of the elderly resident also constituted abuse of the resident.

19. Plaintiff again instructed Clark to leave the premises and to not worry about changing the elderly resident's diaper. Clark responded by again physically assaulting the plaintiff and loudly swearing at her.

20. Clark continued to physically assault plaintiff and grabbed her on her neck and shoulder area and attempted to force her way back into the resident's room, all the while continuing to loudly swear at her.

21. Other staff members had to intervene to remove Clark from the plaintiff and get her to leave the premises.

22. Once Clark had left the premises, plaintiff contacted defendant Merritt and informed her about the incident. Defendant Merritt informed plaintiff to contact the police and get statements from witnesses.

23. Plaintiff contacted the Cleveland Police Department as directed by defendant Merritt. By the time the police arrived at the premises, the witnesses to the incident involving Clark, plaintiff and the elderly resident had left. Plaintiff spoke to the police about what had happened and then went to speak to defendant Merritt.

24. Defendant Merritt advised plaintiff to prepare a statement regarding what had happened with Clark but specifically instructed plaintiff to not mention in her statement anything

about Clark's abuse of the elderly resident in grabbing and forcibly removing the resident's diaper.

25. R.C. 3721.22 requires all licensed health professionals, including nurses, to report known or suspected abuse of a resident of long-term care facility or residential care facility to the Ohio Director of Health.

26. Subsequently, Clark returned to the premises and threatened to file criminal charges against plaintiff.

27. Plaintiff then prepared a detailed written statement on July 30, 2009, describing the incident involving her, Clark, and Clark's physical abuse of the elderly resident. Plaintiff turned the statement in to a staff member who subsequently gave plaintiff's written statement to defendant Merritt. Because said written statement included allegations of resident abuse by Clark, the statement would be required to be reported to the Ohio Director of Health.

28. Defendant Merritt verbally threatened to terminate plaintiff from her employment if she did not change her statement to omit references to Clark's physical abuse of the elderly resident.

29. When plaintiff refused to change her statement, plaintiff was terminated from her employment by defendants Merritt and unnamed John and/or Jane Doe defendants on or about August 6, 2009.

30. The actions of defendants in terminating plaintiff from her employment for reporting the suspected abuse of the elderly resident by Clark was in violation of R.C. 3721.24(A).

WHEREFORE, plaintiff seeks compensatory and punitive damages against defendants, jointly and/or severally, in accordance with R.C. 3721.24(C), plus costs and reasonable attorney's fees and such other relief as this Honorable Court deems just and reasonable.

Respectfully Submitted,



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Attorney for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury on all claims so triable.



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Attorney for Plaintiff