

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

MELISSA FRANCIS,

Plaintiff,

v.

CORRECTLIFE BOSTICK, LLC.,

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

**COMPLAINT FOR DAMAGES**

COMES NOW, Melissa Francis (“Plaintiff”), by and through her undersigned counsel, and files her Complaint against Correctlife Bostick, LLC (“Defendant”) for retaliatory discharge for exercising her rights under the Family and Medical Leave Act, 29 U.S.C. 2611 *et seq.*, showing the Court the following:

INTRODUCTION

1.

Plaintiff was employed by the Defendant as Director of Nursing for Defendant’s nursing home facility. Plaintiff became infected with the COVID-19 virus in or around April 2020 and was subsequently hospitalized or on bedrest until her return-to-work June 8, 2020. Within the first week of her return to work, Plaintiff

was notified via telephone by Defendant's chief executive that her employment with Defendant was terminated due to injuries suffered by a nursing home patient having occurred during Plaintiff's medical leave. Defendant contended that the patient's injuries was likely to result in litigation against the Defendant and that Plaintiff was responsible because the nursing staff under would have been supervised but for her medical leave absence. Defendant subsequently changed its reason for Plaintiff's termination the following day, citing performance issues from December 2019. Plaintiff contends that Defendant's articulated reason for her termination is pretext and that Plaintiff was terminated from her employment with Defendant in retaliation for exercising her rights under the FMLA.

### **JURISDICTION AND VENUE**

1.

Plaintiff invokes the jurisdiction of this court pursuant to 28 U.S.C. §§ 1331 and 1343.

2.

Defendant does business in this judicial district. Additionally, the unlawful employment practices alleged in this Complaint were committed within this district. In accordance with 28 U.S.C. § 1391, venue is appropriate in this Court.

**PARTIES**

3.

Plaintiff is a citizen of the United States and a resident of the State of Georgia. Plaintiff is subject to the jurisdiction of this Court.

4.

Defendant is a for-profit corporation qualified and licensed to do business in Georgia, and at all times material hereto has conducted business within this District.

5.

Defendant may be served with process by delivering a copy of the summons and complaint to its Registered Agent, CT Corporation System, 112 North Main Street, Cumming, GA 3040.

6.

Plaintiff is an “eligible employee” within the meaning of the FMLA, 29 U.S.C. § 2611(2).

7.

On April 14, 2020, Plaintiff had been employed by Defendant for at least 12 months.

8.

On April 14, 2020, Plaintiff worked for Defendant for at least 1,250 hours during the previous 12-month period.

9.

Defendant is an “employer” as defined by 29 U.S.C. § 2611(4)(A).

10.

Defendant is engaged in commerce or in any industry or activity affecting commerce.

11.

Defendant employs 50 or more employees for each working day during each of 20 or more calendar workweeks in 2020 or 2019.

12.

Plaintiff was employed by Defendant at a worksite with 50 or more employees within 75 miles of that worksite.

### **FACTUAL ALLEGATIONS**

13.

Defendant hired Plaintiff on or about January 2018, as a Director of Nursing.

14.

On or about April 14, 2020, Plaintiff sought medical attention and testing for COVID-19 infection.

15.

Approximately three days after Plaintiff's April 14, 2020 COVID-19 test, Plaintiff learned that she had tested positive for the COVID-19 virus.

16.

Plaintiff was ordered by her treating medical physicians to quarantine for approximately two weeks.

15.

Plaintiff notified her employer of her diagnosis and the requirement that she quarantine.

16.

On or about April 19, 2020, Plaintiff experienced worsening medical symptoms that resulted her visiting the hospital emergency room where she was subsequently admitted to the hospital that day.

17.

On April 19, 2020, Plaintiff was diagnosed with respiratory failure and bilateral pneumonia, serious health conditions.

18.

Plaintiff was hospitalized for eight consecutive (8) days during which she was given oxygen to supplement her breathing.

19.

On April 28, 2020, Plaintiff was released from the hospital and ordered to maintain bed rest two weeks. Plaintiff was assigned a nurse to visit her in her home during the two week bed rest period.

20.

On or about May 26, 2020, Plaintiff received a text message from Defendant's human resources representative advising her paid time off had been exhausted.

21.

Plaintiff requested and obtained authorization from her doctor to return to work.

22.

On June 8, 2020, Plaintiff resumed working for the Defendant.

23.

On or about June 14, 2020, Plaintiff received a call from Aaron Minniefield ("Minniefield"), Defendant's chief executive, advising her that her employment with the Defendant was terminated effective immediately.

24.

Plaintiff questioned Minniefield for the reason her employment was being abruptly terminated. Upon information and belief, Minniefield advised Plaintiff that Defendant was facing a lawsuit for injuries sustained by a patient during Plaintiff medical leave. He further explained that had Plaintiff been present for duty on the date and time in question, Plaintiff's nursing staff would have been adequately supervised and Defendant would not be facing the costs and expenses associated with the patient's injuries.

25.

On or about June 15, 2020, Plaintiff went to Defendant's facility to retrieve her personal belongings and to receive her separation documentation from Defendant's human resources representatives.

26.

During Plaintiff's meeting with Defendant's human resources representatives on June 15, 2020, Minniefield called into the meeting and advised the Plaintiff that she was not being terminated for performance deficiencies.

27.

Upon information and belief, during Minniefield's call with the Plaintiff and Defendant's human resources representatives, Minniefield verbally gave Plaintiff

the option of resigning from her employment with the Defendant or be terminated for alleged performance deficiencies.

28.

Plaintiff refused to resign her employment with the Defendant.

29.

In response to Plaintiff's refusal to resign her employment with the Defendant, Minniefield issued to the Plaintiff a written reprimand that referenced verbal counseling on three separate occasions and failure to follow policy and procedure and poor job performance.

30.

Plaintiff has not been verbally counseled by Defendant or any of its representatives regarding her performance prior to Minniefield terminating her employment.

31.

Plaintiff had not been counseled verbally or otherwise for failure to follow policy and procedure.

32.



Prior to Minniefield terminating her employment, Plaintiff had not received any communication from any of Defendant's management suggesting that her job performance was poor.

COUNT I  
INTERFERENCE WITH PLAINTIFF'S EXERCISING FMLA RIGHTS

33.

Plaintiff re-alleges paragraphs 1-32 as if set forth fully herein.

34.

Plaintiff was an "eligible employee" for FMLA benefits.

35.

Plaintiff had a serious health condition as defined by the FMLA.

36.

Defendant received notice of Plaintiff's need for protected medical leave for her own serious medical condition on or about April 14, 2020.

37.

Plaintiff notified Defendant's human resources representative on or about April 14, 2020 that she was facing symptom of illness that were consistent with COVID-19 infection and that she was taking leave to seek treatment and testing.

38.

Plaintiff notified Defendant's human resources representative on April 17, 2020, that she tested positive for COVID-19 and was ordered to quarantine for not less than 14 days.

39.

Defendant did not notify Plaintiff of her eligibility to take FMLA leave.

40.

Defendant did not issue to the Plaintiff a written notice stating whether Plaintiff was eligible for FMLA leave.

41.

Defendant did not orally notify the Plaintiff of her eligibility for FMLA leave.

42.

Defendant did not issue to the Plaintiff a written notice detailing an employee's rights and responsibilities as employee with respect FMLA and the specific expectations and obligations of Defendant's employees including any consequences of failing to meet those obligations.

43.

Defendant failed to evaluate Plaintiff's leave for COVID-19 infection and subsequent related hospitalizations for qualification to be designated FMLA qualifying leave.

44.

Pursuant to 29 C.F.R. 825.300(d)(1), "The employer is responsible in all circumstances for designating leave as FMLA-qualifying, and for giving notice of the designation to the employee...".

45.

Defendant interfered with rights protected under the Family Medical Leave Act, 29 U.S.C. § 2601, et seq., entitling Plaintiff to all appropriate relief under the statute.

46.

The effect of Defendant's actions has been to deprive Plaintiff of a job, as well as income in the form of wages, health insurance, prospective retirement benefits, Social Security, and other benefits due to her solely because of her right to leave under the FMLA.

47.

As a result, Plaintiff is entitled to both equitable and monetary relief for Defendant's violation of the FMLA, specifically 29 U.S.C. § 2617(a)(1)(A) and

(B) – including, but not limited to, back pay, front pay or reinstatement, attorneys’ fees and costs of litigation.

COUNT II  
RETALIATION FOR EXERCISING FMLA RIGHTS

48.

Plaintiff re-alleges paragraphs 1-32 as if set forth fully herein.

49.

Plaintiff took FMLA qualifying leave in April 2020 – May 2020.

50.

Defendant terminated Plaintiff’s employment on or about June 15, 2020.

51.

Defendant terminated Plaintiff’s employment because Plaintiff’s use of FMLA qualifying leave cause her to be unavailable to supervise Defendant’s employees when their actions resulted in Defendant being suing injuries sustained by an injured patient.

52.

Defendant was aware of Plaintiff’s use of FMLA qualifying medical leave.

53.

But for Plaintiff's use of FMLA qualifying leave, Defendant would not have terminated Plaintiff's employment.

**WHEREFORE**, Plaintiff prays that the Honorable Court enters judgment in her favor and grant her the relief as follows:

- (a) A declaratory judgment that Defendant has engaged in unlawful employment practices in violation of the FMLA;
- (b) Injunctive relief of reinstatement, or front pay in lieu thereof, and prohibiting Defendant from further unlawful conduct of the type described herein;
- (c) General damages for mental and emotional suffering caused by Defendant's misconduct;
- (d) Punitive damages based on Defendant's willful, malicious, intentional, and deliberate acts, including ratification, condonation and approval of said acts;
- (e) Special damages and/or liquidated damages for lost wages and benefits and prejudgment interest thereon;
- (f) Reasonable attorney's fees and expenses of litigation with any and all other costs associated with this action as provided by the FMLA;

- (g) Trial by jury as to all issues;
- (h) Prejudgment interest at the rate allowed by law; and
- (i) All other relief to which he may be entitled.

Respectfully submitted the 29th day of April, 2021.

**MORGAN & MORGAN ATLANTA PLLC**

/s/ Anthony Dawkins

Anthony Dawkins

Georgia Bar No. 157904

Attorney for Plaintiff

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Direct: (404) 965-1872

Fax: (404) 720-3839

adawkins@forthepeople.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MELISSA FRANCIS

(b) County of Residence of First Listed Plaintiff BALDWIN (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Anthony Dawkins Morgan & Morgan 191 Peachtree Street NE, Suite 4200, Atlanta, GA 30303 P: (404) 965-1872

DEFENDANTS

CORRECTLIFE BOSTICK, LLC

County of Residence of First Listed Defendant BALDWIN (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 2601. Brief description of cause: Defendant's violation of her rights under the Family and Medical Leave Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

4/29/2021 s/ Anthony Dawkins, J.D.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.



UNITED STATES DISTRICT COURT

for the

Middle District of Georgia

MELISSA FRANCIS

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*Plaintiff(s)* )  
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v.

CORRECTLIFE BOSTICK, LLC.

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*Defendant(s)* )

Civil Action No. \_\_\_\_\_

SUMMONS IN A CIVIL ACTION

To: *(Defendant’s name and address)* Correctlife Bostick, LLC  
 CT Corporation System, Registered Agent  
 112 North Main Street  
 Cumming, GA 3040

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
 Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: