

Firm No. 33057

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

CIRCUIT CLERK

COOK COUNTY, IL

2020L003819

MARVELL MOODY,

Plaintiff,

v.

ADVOCATE SOUTH SUBURBAN
HOSPITAL, an Illinois corporation,
JAMES THOMAS, and UNKNOWN
EMPLOYEES,

Defendants.

COMPLAINT AT LAW

NOW COMES the Plaintiff, MARVELL MOODY, by and through his attorneys, Blake W. Horwitz, Esq., and Jeffrey C. Grossich, Esq., of The Blake Horwitz Law Firm, Ltd., and complaining of Defendants, JAMES THOMAS and UNKNOWN EMPLOYEES (collectively, “INDIVIDUAL DEFENDANTS”), and ADVOCATE SOUTH SUBURBAN HOSPITAL, an Illinois corporation, states as follows:

I. PARTIES

1. PLAINTIFF, MARVELL MOODY (“PLAINTIFF”), is a resident of the State of Illinois.

2. DEFENDANT, ADVOCATE SOUTH SUBURBAN HOSPITAL (“DEFENDANT HOSPITAL”), is a hospital located in Hazel Crest, Illinois.

3. DEFENDANT HOSPITAL is an Illinois corporation.

4. At all relevant times, DEFENDANT HOSPITAL was subject to the laws of the State of Illinois.

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5. DEFENDANT, JAMES THOMAS (“DEFENDANT THOMAS”), is an employee of DEFENDANT HOSPITAL.

6. At all times material and relevant to this Complaint, DEFENDANT THOMAS was PLAINTIFF’S supervisor.

7. At all times material and relevant to this Complaint, DEFENDANT THOMAS was acting within the scope of his employment with DEFENDANT HOSPITAL.

8. DEFENDANTS, UNKNOWN EMPLOYEES, are employees of DEFENDANT HOSPITAL, supervisory to the PLAINTIFF, and possess the power to employ and/or terminate the PLAINTIFF.

9. At all times material and relevant to this Complaint, DEFENDANT UNKNOWN EMPLOYEES were acting within the scope of their employment with DEFENDANT HOSPITAL.

II. FACTS

10. DEFENDANT HOSPITAL hired PLAINTIFF as a public safety officer.

11. PLAINTIFF was working as a public safety officer at DEFENDANT HOSPITAL in March of 2020.

12. In March of 2020, DEFENDANT HOSPITAL was accepting and treating individuals who had been diagnosed with COVID-19.

13. In March of 2020, individuals who had been diagnosed with COVID-19 were present on the premises of DEFENDANT HOSPITAL.

14. PLAINTIFF was present on the premises of DEFENDANT HOSPITAL while individuals who had been diagnosed with COVID-19 were also present on the premises of DEFENDANT HOSPITAL.

15. As a public safety officer at DEFENDANT HOSPITAL, PLAINTIFF was at risk of contracting COVID-19.

16. As a public safety officer at DEFENDANT HOSPITAL, PLAINTIFF was at a greater risk of contracting COVID-19 than the general public.

17. PLAINTIFF was in possession of a facemask.

18. On or about March 9, 2020, PLAINTIFF wore a facemask to work.

19. On or about March 9, 2020, PLAINTIFF wore a facemask while on duty as a public safety officer at DEFENDANT HOSPITAL.

20. On or about March 10, 2020, DEFENDANT THOMAS had an in-person meeting with PLAINTIFF.

21. At the in-person meeting, DEFENDANT THOMAS told PLAINTIFF that PLAINTIFF could not wear a facemask while PLAINTIFF was on duty at DEFENDANT HOSPITAL.

22. DEFENDANT THOMAS told PLAINTIFF that it was the DEFENDANT HOSPITAL'S policy that public safety officers were not allowed to wear facemasks while on duty at DEFENDANT HOSPITAL.

23. In March of 2020, DEFENDANT HOSPITAL, by and through its employees and/or agents, forbid public safety officers, like PLAINTIFF, from wearing facemasks while on duty.

24. In March of 2020, DEFENDANT HOSPITAL, by and through its employees and/or agents, did not permit public safety officers to wear facemasks while working at DEFENDANT HOSPITAL.

25. DEFENDANT THOMAS warned PLAINTIFF that PLAINTIFF would be disciplined if PLAINTIFF wore a facemask while PLAINTIFF was on duty at DEFENDANT HOSPITAL.

26. At the in-person meeting, PLAINTIFF told DEFENDANT THOMAS that the DEFENDANT HOSPITAL'S policy was unsafe.

27. PLAINTIFF expressed his concerns to DEFENDANT THOMAS for the purpose of promoting public health.

28. After the in-person meeting with DEFENDANT THOMAS, PLAINTIFF complained about the policy to one or more coworkers.

29. PLAINTIFF complained about DEFENDANT HOSPITAL'S policy for the purpose of promoting public health.

30. PLAINTIFF'S complaint exposed DEFENDANT HOSPITAL'S malfeasance.

31. PLAINTIFF desired to wear a facemask to protect himself from contracting COVID-19.

32. PLAINTIFF cares for his sixty-five-year-old mother.

33. In 2019, PLAINTIFF'S mother had two surgeries on her lungs.

34. PLAINTIFF feared that he would contract COVID-19 and then spread the disease to his mother.

35. PLAINTIFF lives with his fiancée and her thirteen-year-old son.

36. PLAINTIFF feared that he would contract COVID-19 and then spread the disease to his fiancée and her thirteen-year-old son.

37. Since approximately March 10, 2020, PLAINTIFF has not returned to work at DEFENDANT HOSPITAL.

38. PLAINTIFF has not returned to work because of DEFENDANT HOSPITAL'S policy forbidding public safety officers from wearing facemasks.

39. PLAINTIFF has not returned to work because PLAINTIFF fears for his health and well-being.

40. PLAINTIFF has not returned to work because PLAINTIFF fears for the health and well-being of his mother.

41. PLAINTIFF has not returned to work because PLAINTIFF fears for the health and well-being of his fiancée and her thirteen-year-old son.

42. PLAINTIFF has not returned to work because he reasonably believes that DEFENDANT HOSPITAL'S policy forbidding public safety officers from wearing facemasks puts PLAINTIFF and others at risk of death or great bodily harm.

43. DEFENDANT HOSPITAL, through the INDIVIDUAL DEFENDANTS, constructively discharged PLAINTIFF.

44. Alternatively, DEFENDANT THOMAS constructively discharged PLAINTIFF.

45. Alternatively, DEFENDANT UNKNOWN EMPLOYEES constructively discharged PLAINTIFF.

COUNT I
Retaliation in Violation of 740 ILCS 174/20.1
(DEFENDANT HOSPITAL, DEFENDANT THOMAS, and DEFENDANT UNKNOWN EMPLOYEES)

46. PLAINTIFF re-alleges paragraphs 1-45 as though fully set forth herein.

47. The DEFENDANT HOSPITAL'S policy, promulgated and enforced by its employees and/or agents, placed PLAINTIFF and his coworkers at risk of death and/or great bodily harm.

48. PLAINTIFF attempted to disclose public corruption and/or wrongdoing.

49. In response, DEFENDANT HOSPITAL, through the INDIVIDUAL DEFENDANTS, took an action that was materially adverse to PLAINTIFF.

50. DEFENDANT HOSPITAL constructively discharged PLAINTIFF, through the INDIVIDUAL DEFENDANTS, because PLAINTIFF attempted to disclose public corruption and/or wrongdoing.

51. Alternatively, DEFENDANT THOMAS constructively discharged PLAINTIFF because PLAINTIFF attempted to disclose public corruption and/or wrongdoing.

52. Alternatively, DEFENDANT UNKNOWN EMPLOYEES terminated PLAINTIFF because PLAINTIFF attempted to disclose public corruption and/or wrongdoing.

53. As a result of the materially adverse and/or discriminatory actions of the DEFENDANTS, PLAINTIFF suffered damages, including emotional and psychological damages, pain and suffering, and lost wages.

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANT HOSPITAL, DEFENDANT THOMAS, and DEFENDANT UNKNOWN EMPLOYEES in an amount in excess of \$50,000, attorneys' fees, and such other additional relief as this Honorable Court deems just and equitable.

COUNT II
Respondeat Superior
(DEFENDANT HOSPITAL)

54. PLAINTIFF re-alleges paragraphs 1-53 as though fully set forth herein.

55. DEFENDANT HOSPITAL is the employer of DEFENDANT THOMAS and DEFENDANT UNKNOWN EMPLOYEES.

56. The aforesaid acts of DEFENDANT THOMAS and DEFENDANT UNKNOWN EMPLOYEES were committed within the scope of their employment, and, therefore,

DEFENDANT HOSPITAL, as principal, is liable for the acts of its agents under the doctrine of *respondeat superior*.

WHEREFORE, should DEFENDANT THOMAS and/or DEFENDANT UNKNOWN EMPLOYEES, in their individual capacities, be found liable for any of the alleged counts in this cause, PLAINTIFF demands that, pursuant to the doctrine of *respondeat superior*, DEFENDANT HOSPITAL pay any judgment against DEFENDANT THOMAS and/or DEFENDANT UNKNOWN EMPLOYEES.

JURY DEMAND

PLAINTIFF demands trial by a twelve-person jury.

Respectfully submitted,

s/Jeffrey C. Grossich
Attorney for Plaintiff

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SUPREME COURT RULE 222 AFFIDAVIT

I, Jeffrey C. Grossich, Esq., attorney for the Plaintiff, state under oath that the total money damages sought in this case are in excess of \$50,000.00.

Further Affiant Sayeth Naught.

s/Jeffrey C. Grossich

Attorney for Plaintiff

April 2, 2020

Date

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