

COPY

CAUSE NO. 2012-71403-431

FILED
DENTON COUNTY, TEXAS
2012 DEC 31 AM 9:39
SHERRI ADELSTEIN
DISTRICT CLERK
BY _____ DEPUTY

SUSAN J. RAPP

v.

MAXIM HEALTHCARE SERVICES, INC.

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IN THE DISTRICT COURT
OF DENTON COUNTY, TEXAS
431 JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION, APPLICATION FOR INJUNCTIVE RELIEF,
AND REQUESTS FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

Susan J. Rapp, Plaintiff, files this original petition, application for injunctive relief, and requests for disclosure complaining of and about Maxim Healthcare Services, Defendant, and for cause of action shows unto the Court the following:

I.

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 3.

II.

PARTIES AND SERVICE

2. Plaintiff, Susan Rapp is an individual who resides in Denton County, Texas.
3. Defendant, Maxim Healthcare Services, Inc. is a corporation, organized and existing under the laws of the State of Maryland, and doing business in the State of Texas, which may be served with process by serving its registered agent Prentice Hall Corporation System, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

III.

JURISDICTION AND VENUE

4. The subject matter in controversy is within the jurisdictional limits of this Court. This Court has jurisdiction over the parties because Defendant is a Texas resident. Venue in Denton County is proper in this cause because a substantial portion of the events or omissions giving rise to this lawsuit occurred in Denton County, Texas and the Defendant conducts business in Denton County, Texas.

IV.

FACTS

5. Plaintiff is a licensed vocational nurse (LVN). Defendant is a staffing company that provides nurses to patients receiving home care and provides staffing for other care related needs.

6. On or about June 6, 2009, Defendant hired Plaintiff. During the course of Plaintiff's employment she was assigned the late shift in a patient's home where she provided home care nursing services. During the course of caring for this patient, Plaintiff learned that the patient's daytime nurse, also placed in the patient's home by Defendant, had repeatedly failed to provide the patient with necessary care. Plaintiff reported the day nurse's neglect and abuse to her supervisors and discussed it with the patient's wife. The problems with the patient's care were not resolved. Plaintiff continued to document and report acts of neglect and abuse by the day nurse.

7. On or about June 29, 2012, Plaintiff's supervisors instructed her not to document what she witnessed and the effects it had on the patient in her patient's medical records. On or about July 11, 2012, Defendant fired Plaintiff for allegedly exhibiting unprofessional behavior,

crossing professional boundaries, and inappropriately documenting her patient's medical records.

V.

RETALIATION

8. Plaintiff is a health care provider protected from retaliation for reporting a violation of law, a violation of the Texas Health & Safety Code.

9. Plaintiff made good faith reports of patient neglect and abuse to her supervisors while employed by Defendant.

10. On or about July 11, 2012, Defendant retaliated against Plaintiff by terminating her employment.

VI. CLAIM FOR DAMAGES

11. Pursuant to section 161.134, Texas Health & Safety Code, Plaintiff sues for actual damages, including damages for mental anguish, exemplary damages, compensation for lost wages in the past and in the future, reinstatement of former position, reinstatement of lost fringe benefits or seniority rights, reasonable attorneys' fees, and all other relief to which she may be justly entitled at law or in equity.

VII.

APPLICATION FOR INJUNCTIVE RELIEF-REINSTATEMENT

13. Pursuant to Section 161.134(e), Texas Health & Safety Code and the Texas Labor Code, Plaintiff seeks the following specific relief which arises out of the actions and/or omissions of Defendant described hereinabove:

- a. Prohibit by injunction the Defendant from engaging in unlawful employment practices as defined in the Texas Labor Code and Health & Safety Code;
- b. Mandatory injunction requiring Defendant to rehire Plaintiff; and

- c. Reinstatement Plaintiff to the position, pay grade, fringe benefits, and seniority rights which Plaintiff held but for the unlawful employment actions of Defendant.

IX.

REQUEST FOR DISCLOSURES

14. Pursuant to Texas Rule of Civil Procedure 194, Defendant is requested to disclose the information and material requested in Rule 194.2.

X. JURY DEMAND

15. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiffs pray that the Court enter judgment in her favor, awarding her actual damages, including damages for mental anguish, exemplary damages, compensation for lost wages, reinstatement of former position, reinstatement of lost fringe benefits or seniority rights, reasonable attorneys' fees, costs of court, prejudgment interest as allowed by law, post-judgment interest at the usual rate, and for such other and further relief, at law or at equity, to which she may show herself to be justly entitled.

Respectfully submitted,

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