

DANIEL M. HOBIGAN  
IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

2009 FEB 27 PM 2:26

DENISE REDOVIAN )  
3456 Stanley Rd. )  
Fairlawn, Ohio 44333-3050 )  
SUMMIT COUNTY )  
CLERK OF COURTS )

CASE NO. 2009-02-1643

JUDGE  
JUDGE MARY MARGARET ROWLANDS

and )

DEBRA TAYLOR STARKEY )  
1273 Vanderhoof Rd. )  
Barberton, Ohio 44203-4741 )

COMPLAINT

[Jury Demand Endorsed Hereon]

and )

RHONDA SPICER )  
1830 Ridge Rd. N.W. )  
Bolivar, Ohio 44612 )

MARIANNE TAUER )  
352 Caladonia Ave )  
Fairlawn, Ohio 44333-3739 )

Plaintiffs, )

v. )

SUMMA HEALTH SYSTEM )  
525 E. Market Street )  
P.O. Box 2090 )  
Akron, Ohio 44309-2090 )

and )

DR. SANTOSH POTDAR, M.D. )  
525 E. Market Street )  
P.O. Box 2090 )  
Akron, Ohio 44309-2090 )

Defendants. )

The Plaintiffs, Denise Redovian, Debra Taylor Starkey, Rhonda Spicer and Marianne Tauer ("Plaintiffs"), by and through counsel, complaining of Defendants Summa Health Systems (Summa) and Dr. Santosh Potdar, M.D. (Dr. Potdar), state as follows:

**PRELIMINARY STATEMENT**

1. This complaint arises out of the employment relationship between Plaintiffs, Summa and Dr. Potdar.
2. Defendants have discriminated against Plaintiffs on the basis of their sex, female, in violation of Ohio Rev. Code §4112 et seq. by, among other things:
  - a. Subjecting them to gender discrimination and harassment, thereby creating and maintaining a hostile work environment that adversely affected the terms, conditions and privileges or their employment;
  - b. Failing or refusing to take appropriate action to prevent and promptly correct the discriminatory treatment and its effects;
  - c. Subjecting Plaintiffs to hostility and retaliation after they complained about the discrimination and hostile work environment;
  - d. Constructively discharging Plaintiffs when the discrimination and hostile work environment became so disruptive that they had no choice but to leave Summa's employment; and
  - e. Negligently inflicting emotional distress on Plaintiffs.

**PARTIES**

3. Plaintiff Denise Redovian was employed by Summa from October 2005 until on or about June 23, 2008 in the capacity of Kidney Transplant Coordinator.
4. Plaintiff Marianne Tauer was employed by Summa from July 2001 until on or about July 14, 2008 in the capacity of Kidney Transplant Coordinator.

5. Plaintiff Rhonda Spicer was employed by Summa from July 2004 until on or about August 14, 2008 in the capacity of Transplant Social Worker.

6. Plaintiff Debra Taylor Starkey was employed by Summa from February 2003 until on or about September 2, 2008 in the capacity of Transplant Department Executive Assistant.

7. Dr. Santosh Potdar was hired by Summa in or about January 2007 in the capacity of Medical Director of Summa's Transplant Department and upon information and belief, is still employed by Summa. Dr. Santosh Potdar is an employer as the term "employer" is defined by Ohio Revised Code § 4112.01 and used in Ohio Revised Code § 4112.02(A).

8. Summa Health Systems is a private not-for-profit network of acute care hospitals, including Akron City Hospital, plus a network of outpatient and primary care clinics located in Akron Ohio and the greater Akron area. Summa is an employer as the term "employer" is defined by Ohio Revised Code § 4112.01 and used in Ohio Revised Code § 4112.02(A). Summa Health Systems is located in Summit County.

#### **STATEMENT OF FACTS**

9. At all times relevant herein, Dr. Potdar was working within the course and scope of his employment with Summa.

10. At all times relevant herein, Plaintiffs worked in the Transplant Department of Akron City Hospital.

11. At all times relevant herein, Dr. Potdar was the Medical Director of the Transplant Department of Akron City Hospital where Plaintiffs were employed.

12. During the time that Dr. Potdar was the Medical Director of the Transplant Department of Akron City Hospital, Plaintiffs suffered from gender discrimination, hostile work

environment, retaliation, emotional distress and ultimately were constructively discharged from their employment with Summa.

13. Beginning in February 2007 and continuing until each of the Plaintiffs were constructively discharged, the Defendants discriminated against the Plaintiffs and created a hostile work environment by, among other actions:

- a. Referring to the Plaintiffs, as well as other specific women and women generally, using gender-based, derogatory and offensive terms, including, but not limited to, calling Plaintiffs and other women a “Bunch of Bitches”, “Hormonal Messes”, and a “Fucking Lesbian”;
- b. Making gender-based, derogatory and offensive statements and displaying gender animus by stating, among other things, that “women should not work outside the home” and by telling one Plaintiff that “he feels sorry for her husband that he has to deal with you” and “he feels sorry for her father that he had only daughters”;
- c. Subjecting Plaintiffs to verbal attacks, insults, degradation and humiliation, including, among other things, calling them a “Bunch of Monkeys”;
- d. Threatening the Plaintiffs by telling them that he had their former supervisor (a female) fired and that he could have their current supervisor (a female) fired;
- e. Threatening the Plaintiffs by telling them that they were forbidden from lodging any complaints in writing because this would create a “paper trail”, and further threatening to sue any of the Plaintiffs if they made any complaints in writing;
- f. Verbally attacking the Plaintiffs by disparaging their competency and abilities despite the fact that all of the Plaintiffs have received excellent performance evaluations throughout their employment history with Summa;
- g. Disparaging the Plaintiffs outside their presence to their colleagues in the department; and
- h. Threatening and intimidating the Plaintiffs by telling them to give false and contradictory information to other hospital professionals. When Plaintiffs refused to comply with Dr. Potdar’s orders they were retaliated against by Dr. Potdar.

14. The discrimination was severe and pervasive and affected the terms, conditions and privileges of Plaintiffs' employment with Summa.

15. Beginning in March of 2007 and continuing on a regular basis, Plaintiffs and others notified their managers as well as Summa's Human Resources Department of the discrimination and hostile work environment that existed in the Transplant Department. The Plaintiffs' complaints included the facts set forth above.

16. Summa's Human Resources Department told Plaintiffs that they were "working on it" and, at one point, they attributed Dr. Potdar's treatment of women to "cultural" differences. Ultimately, Summa's Human Resources Department did not take any action to correct the discriminatory treatment or prevent future discriminatory treatment. In fact, Dr. Potdar's behavior and abuse grew considerably worse when he learned that Plaintiffs raised these complaints with Human Resources.

17. Almost one year after the first complaint was made to Summa's Human Resources, Plaintiffs directly contacted Summa's Legal Department hoping to get relief from the discrimination and hostility they were subjected to on a nearly daily basis.

18. Summa then initiated a plan to have Dr. Potdar as well as other members of the Transplant Department work with a coach.

19. The women began meeting with the coach. On information and belief, Dr. Potdar refused to work with the coach and the discrimination and hostile environment continued.

20. As a result of the ongoing gender discrimination and hostile work environment created by Defendants and Summa's failure or refusal to correct or remedy the situation, Plaintiffs were forced to leave the Transplant Department because of the adverse effects on the terms and conditions of their employment.

**COUNT ONE**

**GENDER DISCRIMINATION**

21. Plaintiffs incorporate here by reference each and every preceding statement and allegation as if fully set forth herein.

22. Plaintiffs were repeatedly subjected to discriminatory and derogatory remarks and comments based on their gender, female, which were made by Dr. Potdar.

23. The discrimination was severe and pervasive and affected the terms, conditions and privileges of Plaintiffs' employment with Summa.

24. Despite Plaintiffs' repeated complaints, Defendants failed or refused to take appropriate action to prevent and promptly correct the discriminatory treatment and its effects.

25. Despite Plaintiffs' repeated complaints, Defendants failed or refused to provide adequate training about Summa's anti-discrimination policies.

26. Defendants violated Ohio Revised Code Sections 4112.02 and 4112.99, which prohibits gender discrimination in the workplace.

27. Plaintiffs have been negatively affected by the discrimination and actions/inactions of Defendants, as it relates to their gender, which eventually led to their constructive discharge.

28. Defendants acted maliciously, willfully, recklessly, outrageously and with conscious disregard for Plaintiffs' rights.

29. Plaintiffs were negatively affected as a result of this gender discrimination and the actions/inactions of the Defendants and as a direct and proximate result thereof sustained damages including loss of employment, loss of income, humiliation, intimidation,

embarrassment, emotional distress and continue to be otherwise injured, the extent of which will be more fully revealed at the trial of this matter.

**COUNT TWO**

**RETALIATION-CONSTRUCTIVE DISCHARGE**

30. Plaintiffs incorporate here by reference each and every preceding statement and allegation as if fully set forth herein.

31. Plaintiffs engaged in statutorily protected activity by directly reporting the discrimination and hostile work environment to their managers, to Summa's Human Resources Department and to Summa's Legal Department.

32. Defendants retaliated against Plaintiffs for complaining about the discrimination and abuse by, among other things:

- a. Allowing the discrimination to become significantly worse after the Plaintiffs lodged their complaints;
- b. Materially and adversely affecting their employment by restricting Plaintiffs' abilities to fulfill their job responsibilities; and
- c. Threatening to sue Plaintiffs and implicitly threatening to fire Plaintiffs.

33. Defendants allowed a hostile work environment that was so objectively difficult and intolerable that a reasonable person would feel compelled to resign.

34. Summa did not offer Plaintiffs any viable continuing employment options. For example, Summa did not offer Plaintiffs any opportunities to transfer to other departments despite the fact that Plaintiffs had consistently received excellent employment evaluations..

35. Plaintiffs were negatively affected by the discrimination actions/inactions of the Defendants and as a direct and proximate result thereof sustained damages including loss of

employment, loss of income, humiliation, intimidation, embarrassment, emotional distress and continue to be otherwise injured, the extent of which will be more fully revealed at the trial of this matter.

36. The actions and inactions of the Defendants are in violation of Ohio Revised Code sections 4112.02 and 4112.99.

37. Defendants acted maliciously, willfully, recklessly, outrageously and with conscious disregard for Plaintiffs' rights.

**COUNT THREE**

**HOSTILE WORK ENVIRONMENT**

38. Plaintiffs incorporate here by reference each and every preceding statement and allegation as if fully set forth herein.

39. Defendants subjected Plaintiffs to a hostile work environment based on their gender, female, through severe and/or pervasive actions, thereby negatively affecting the terms, conditions and privileges their employment and creating an abusive working environment.

40. Despite Plaintiffs' repeated complaints, Defendants failed or refused to prevent and promptly correct the discriminatory treatment and its effects.

41. Defendants' actions were willful, reckless, and malicious acts of unlawful discrimination against Plaintiffs because of their gender, female, and deprived Plaintiffs of the enjoyment of all benefits, privileges, terms, and conditions of their employment in violation of Ohio Revised Code sections 4112.02 and 4112.99.

42. Plaintiffs were negatively affected by the discrimination actions/inactions of the Defendants and as a direct and proximate result thereof sustained damages including loss of employment, loss of income, humiliation, intimidation, embarrassment, emotional distress and

continue to be otherwise injured, the extent of which will be more fully revealed at the trial of this matter.

**COUNT FOUR**

**NEGLIGENT SUPERVISION AND RETENTION**

43. Plaintiffs incorporate here by reference each and every preceding statement and allegation as if fully set forth herein.

44. Summa owes a duty to its employees to provide a workplace free and safe from hostility, abuse discrimination and intimidation.

45. Dr. Potdar subjected Plaintiffs to adverse actions based on their gender, female including but not limited to forcing them to endure hostile, abusive and discriminatory treatment.

46. Summa was made aware of the discrimination and hostile work environment and breached its duty to Plaintiffs by failing to and/or refusing to take appropriate action to redress the discriminatory work conditions imposed on Plaintiffs.

47. Plaintiffs were negatively affected by the negligent actions/inactions of the Defendants and as a direct and proximate result thereof sustained damages including loss of employment, loss of income, humiliation, intimidation, embarrassment, emotional distress and continues to be otherwise injured, the extent of which will be more fully revealed at the trial of this matter.

**COUNT FIVE**

**PUNITIVE DAMAGES**

48. Plaintiffs incorporate here by reference each and every preceding statement and allegation as if fully set forth herein.

49. Defendants' conduct towards Plaintiffs, through their actions and inactions and through the constructive termination of Plaintiffs, entitles Plaintiffs to punitive damages from Defendants, because, among other reasons, Defendants were aware of the discriminatory conduct and Defendants did not provide relief to Plaintiffs and chose to allow their constructive discharge.

50. Defendants' conduct in constructively discharging Plaintiffs and in subjecting them to discriminatory conduct based on gender, is attended by circumstances of malice, willful, and wanton conduct, entitling Plaintiffs to an award of exemplary and/or punitive damages.

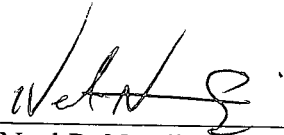
**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs request that this Honorable Court grant the following relief:

- A) Declaratory and injunctive relief declaring the above complained of actions to be contrary to law and permanently enjoining Defendants from such conduct in the future;
- B) Damages to compensate Plaintiffs from their lost job opportunities, lost present benefits, lost future benefits, lost earnings, in an amount to be determined at Trial;
- C) Damages to compensate Plaintiffs for their mental and emotional distress, and anguish caused by the actions and inactions of the Defendants, as well as for other injuries and damages in an amount to be determined at trial:

- D) Punitive damages against Defendants for their willful, wanton and egregious conduct in an amount to be determined at trial;
- E) An award of costs;
- F) An award of attorney's fees, as provided by law;
- G) Pre-and Post-Judgment interest on all sums awarded; and
- H) Any such other relief as this Court finds equitable and just.

Respectfully submitted



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Neal R. Nandi (0071730)  
Attorney for the Plaintiffs  
2000 Standard Building  
1370 Ontario Street  
Cleveland, Ohio 44113  
(216) 241-0218  
(216) 363-6013 (Facsimile)  
Email: nnandi.law@gmail.com

**JURY TRIAL DEMAND**

Plaintiffs request trial on all issues of fact and law raised by the allegations in this  
Complaint.

Respectfully submitted



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Neal R. Nandi (0071730)  
Attorney for the Plaintiffs  
2000 Standard Building  
1370 Ontario Street  
Cleveland, Ohio 44113  
(216) 241-0218  
(216) 363-6013 (Facsimile)  
Email: [nandi.law@gmail.com](mailto:nandi.law@gmail.com)