

STATE OF NEW YORK : SUPREME COURT
COUNTY OF BROOME

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MAGGIE MCDONNELL,
NICOLE DZEIDZIC, and
JENNIFER RIVERS,

COMPLAINT

Plaintiff,

-vs-

CORRECTIONAL MEDICAL CARE, INC.,

Defendant.

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PRELIMINARY STATEMENT

This is a complaint by three healthcare workers employed by Correctional Medical Care, Inc., to provide health care services to inmates at the Broome County Correctional Facility who were terminated for refusing orders by René Fonseca, a high-ranking CMC official, to falsify sick call documentation, to backdate records showing inmates physicals were timely administered when they were not, to alter the dates of medical records to show compliance with medical administration directives when there was no such compliance, including but not limited to distribution of medications, resulting in inmates being given wrong medications or none at all; with inmates not receiving approved medications for days at a time and seriously injured inmates not being given pain medication. That the motivation for CMC to order the plaintiffs to falsify records described above and set forth below was both to save CMC the cost of providing medical services to inmates, to permitting the Broome County Correctional Facility to be accredited, when in fact it would have failed accreditation because of the barbarian practices being carried out at the facility resulting in inmates being denied adequate medical care aggravating already serious medical conditions and having inmates suffer with extremely painful conditions without

being given pain medication. That the aforesaid activities constitute an ongoing threat to the health, welfare and safety of the inmates at the Broome County Correctional Facility.

STATEMENT OF FACTS

1. Plaintiff Maggie McDonnell resides at 301 Floral Avenue, City of Binghamton, County of Broome, State of New York.
2. Plaintiff Nicole Dzeidzic resides at 111 Gates Street, City of Binghamton, County of Broome, State of New York.
3. Plaintiff Jennifer Rivers resides at 5 Cherry Street, Sydney, New York 13818.
4. Upon information and belief, defendant Correctional Medical Care, Inc., (hereinafter “CMC”) is a for-profit business, Incorporated in Pennsylvania, with corporate offices at 980 Harvest Drive, Suite 202, Blue Bell, Pennsylvania 19422, and contracts with Broome County to deliver health services to inmates at the Broome County Jail, and as such, is doing business in the State of New York.
5. In the regular course of its business CMC employs and contracts with various medical and healthcare professionals who deliver health services to inmates at the Broome County Jail, including medical doctors, psychiatrists, dentists, social workers, physician assistants, nurse practitioners, registered nurses and licensed practical nurses.
6. That CMC has a history of failing to meet its obligations, including but not limited to hiring unlicensed and inexperienced staff, having inadequate staff to meet the needs of the facilities in which it is operating, lack of adequate medical oversight and failure to adhere to medical and administrative protocols and procedures.
7. That CMC employed René Fonseca as a member of its senior corporate staff holding the

titles of Corporate Medical Director and/or Director of Clinical Services and was responsible for supervising and overseeing services being provided at Broome County Correctional Facility.

8. That René Fonseca not only failed to provide proper medical oversight, but perpetuated fraudulent and dangerous conduct that threatened the health, welfare and safety of inmates at the Broome County Correctional Facility and resulted in many inmates receiving inadequate care, including but not limited to pain medication for conditions that were extremely painful and did so by repeatedly threatening nurses, including the plaintiffs herein with termination and other ill consequences if they did not falsify medical records to show the facility was complying with good and proper procedures in delivering adequate medical services to inmates at the Broome County Correctional Facility.

9. That one of the most important means of ensuring the timely delivery of proper medical care and health services to inmates are the use of sick call daily sheets that permit inmates to ask for medical assistance, and notify personnel at the facility they have one or another illness that is in need of a medical consultation.

Plaintiff Maggie McDonnell

10. Plaintiff realleges paragraphs "1" through "9" as if fully set forth herein.

11. That Maggie McDonnell was hired as Director of Nursing on or about December 29, 2016.

12. That in March of 2017 Fonseca directed McDonnell to falsify sick call daily sheets to show that when inmates filled out the sheets they were seen on time when in fact they were not seen.

13. That the aforesaid conduct contravened numerous laws of the State of New York aimed at

ensuring the health, welfare and safety of inmates at the Broome County Correctional Facility were being adequately met, which itself is a threat to the public health, welfare and safety of the citizens of the State of New York.

14. That the aforesaid conduct violates the New York prohibition of corporate practice of medicine set forth in Business Corporation Law Section 1503, Partnership Law Section 2 and 8 – B, and Education Law § 6512, Section 190 (1) of the False Claims Act. Section 500 C of the Corrections Law of the State of New York, Section 190 – 191 of the New York State Finance Law, Section 175.05 of the New York State Penal Law, various sections of New York law pertaining to the practice of nursing and specifically the New York regulations requiring maintenance of records for each patient, which accurately reflects the evaluation and treatment of patients, 8 NYCRR § 29.2 (a) (3).

15. That CMC in its own Employee Handbook characterizes as intolerable the conduct of falsifying sick call documentation or any conduct aimed at making healthcare delivery services to appear to be given on time when such did not in fact occur.

16. That Fonseca was carrying out the twin goals of allowing CMC to save money by not delivering healthcare services or medications to inmates that needed them, as well as ensuring that the Broome County Correctional Facility passed accreditation, when in fact it would have failed miserably because of the failure to provide timely and proper healthcare services to inmates at the facility.

17. That McDonnell refused to falsify any records, and in fact, told Fonseca, she would not do so as it was unethical, unprofessional, and could threaten the health, welfare and safety of inmates at the facility, which she was duty-bound to care for and provide proper nursing services for.

18. That upon hearing the refusal Fonseca not only threatened to terminate McDonnell's services, but said she would take steps to have McDonnell's nursing license revoked if she refused to comply.

19. That the New York State Commission of Corrections Medical Review Board is charged with the oversight of jail and prison healthcare in New York State and each facility must pass accreditation standards set by the Board and if not met could result in State takeover of the facility as well as other adverse consequences to the facility itself.

20. That in March 2017 Fonseca threatened not only McDonnell, but Jennifer Rivers, who was CMC's highest ranking professional in the facility, namely, the Health Services Administrator and told them both that they would be terminated if CMC did not pass review by New York State Commission of Corrections Medical Review Board.

21. That McDonnell was aware of numerous instances where inmates' health, welfare and safety would not only be threatened, but in fact harmed, including but not limited to instances where medical administration records contained multiple falsifications resulting in some inmates receiving the wrong medications or no medication at all and other instances where LPNs employed by CMC would borrow from another inmate's supply to provide medication to inmates when their medication ran out because it took too long to receive medication from the pharmacy.

22. That inmates with special needs were either denied proper medication or had a delay for extensive periods of time, including a policy that inmates who were receiving pre-incarceration methadone would not receive the same in the facility, despite documenting medical needs of the same.

23. That inmates in pain were often denied pain medications, including an inmate with a broken arm and another inmate who was diagnosed with Hashimoto's thyroiditis who went

weeks without receiving his necessary medications and in fact was allowed to have thyroid levels that were dangerously low.

24. That another inmate with an amputation was denied pain medication as well as appropriate medical care of his stump, including visits to a specialist that were ordered, resulting in malformations in the limb.

25. That the aforesaid examples are reflective of the standards and practices in the facility that denied inmates proper medical care, fell below the standard of care for each of the respective professions, ranging from nursing to physicians because of the fact that CMC was engaging in the corporate practice of medicine in a manner aimed at keeping its costs as low as possible, regardless of consequences to the inmates, and falsifying records to also permit the Facility and CMC to pass accreditation by the New York State Commission of Corrections Medical Review Board.

26. That when McDonnell refused to falsify medical records, including the sick call sheets Fonseca terminated her services on March 27, 2017 and ironically, falsely charge McDonnell with falsifying records.

27. That because of the repeated threats made by Fonseca, including trying to revoke her nursing license it is not feasible for her to return to work with CMC.

28. That the aforesaid conduct contravened McDonnell's rights under §741 of the New York State Labor Law and she is entitled to all remedies afforded by said law.

Plaintiff Jennifer Rivers

29. Plaintiff realleges paragraphs "1" through "28" as if fully set forth herein.

30. Jennifer Rivers was hired as the Health Services Administrator for CMC and given

virtually no training as to how she was to carry out those responsibilities within the facility.

31. René Fonseca demanded that Rivers not only falsify sick call sheets, records regarding overdue physicals, but additional work as necessary to allow the Facility to pass accreditation by the New York State Commission of Corrections Medical Review Board, including but not limited to intake documents which are the assessments carried out when an inmate is received at the facility.

32. Intakes are required to be completed within three hours of inmates arriving at the facility, and in many instances inmates were not seen for more than ten hours, including one inmate who had dangerously high blood sugar levels when he was finally seen by a nurse.

33. Fonseca demanded that Rivers falsify staffing requirements, such as monthly meetings with the nursing staff and demanded those documents be postdated to meet accreditation standards.

34. That Fonseca demanded Rivers falsify whatever records were necessary to demonstrate the Facility was meeting accreditation standards and Rivers advised she would not falsify any records as the same was unethical, unprofessional, and would represent a serious threat to the health, welfare and safety of inmates at the facility.

35. After being repeatedly harassed by Fonseca who demanded she falsify records as aforesaid, and upon her refusal, made threat after threat ultimately resulting in Rivers resigning on May 30, 2017.

36. That because of the repeated threats made by Fonseca, including trying to revoke her nursing license it is not feasible for her to return to work for CMC.

37. That the aforesaid conduct after Rivers reported to Fonseca she would not falsify any records in any manner contravened Rivers rights guaranteed by §741 of the Labor Law of

the State of New York and she is entitled to all remedies available under that law.

Plaintiff Nicole Dzeidzic

38. Plaintiff realleges paragraphs "1" through "37" as if fully set forth herein.

39. Plaintiff Nicole Dzeidzic was hired as a registered nurse on December 29, 2016.

40. René Fonseca ordered Dzeidzic to falsify records regarding overdue inmate physicals and told her that if CMC did not pass accreditation because of overdue inmate physicals she would be terminated.

41. Dzeidzic refused, telling her it would be unethical and unprofessional for her to do so at which time Fonseca told her she would have her nursing license revoked if she did not carry out her orders.

42. That on December 6, 2017 Fonseca terminated Dzeidzic.

43. That because of the repeated threats made by Fonseca including trying to revoke her nursing license it is not feasible for her to return to work for CMC.

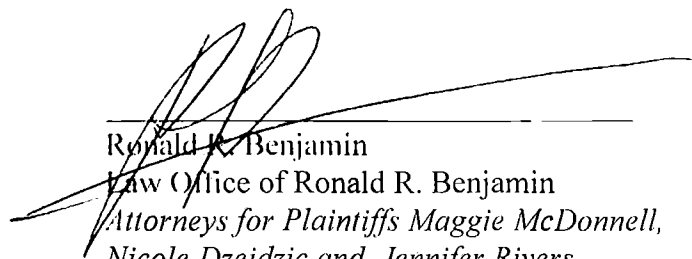
44. That the aforesaid conduct, after Dzeidzic reported to Fonseca she would not falsify any medical records in any manner, contravened Dzeidzic's rights guaranteed by §741 of the Labor Law of the State of New York and she is entitled to all remedies available under that law.

WHEREFORE, plaintiffs demand judgment against CMC as follows:

- (1) Award damages in an amount to be proven at trial including all past and future lost wages resulting from defendant's conduct.
- (2) Award plaintiffs reasonable attorney's fees, together with such other and further

relief as the Court deems just and proper under the circumstances, including costs
and disbursements of this action.

Dated: April 24, 2018
Binghamton, New York



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