

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA**

DARLENE PEOPLES,

CASE NO.:

Plaintiff,

vs.

**COMMUNITY REHABILITATION
CENTER, INC., a Florida Not For
Profit Corporation,**

Defendant. _____/

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, DARLENE PEOPLES (“Ms. Peoples” or “Plaintiff”), by and through the undersigned counsel, files this Complaint against Defendant, COMMUNITY REHABILITATION CENTER, INC. (“CRC” or “Defendant”), and states as follows:

PARTIES

1. Plaintiff is an adult individual who performed services for Defendant’s company in Duval County, Florida.
2. Defendant is a Florida Not For Profit Corporation that operates and conducts business in, among other places, Duval County, Florida, and is therefore, within the jurisdiction of this Court.
3. Defendant, at all times material to this Complaint, employed ten (10) or more employees, and is a covered employer as defined by Florida’s Whistleblower statute.

JURISDICTION AND VENUE

4. This is an action for damages exceeding \$15,000.00, exclusive of attorneys’ fees, interest, and costs.

5. This Court has jurisdiction over Plaintiff's claims because, at all times material to this Complaint, Plaintiff worked for Defendant in Duval County, Florida.

6. The illegal conduct complained of and the resultant injury occurred within the judicial district in and for Duval County, Florida.

STATEMENT OF FACTS

7. Ms. Peoples worked for CRC from December 2013, until her unlawful termination on September 5, 2016.

8. In June 2016, CRC inexplicably repositioned Ms. Peoples from Substance Abuse Counselor to "Mental Health Counselor."

9. Considering Ms. Peoples' exceptional performance record as Substance Abuse Counselor, as evidenced by her outstanding audits from the Department of Children and Families, Ms. Peoples was alarmed by CRC's abrupt decision.

10. CRC failed to provide Ms. Peoples with the proper training material or guidance to safely and adequately perform the essential functions of her new job title as "Mental Health Counselor."

11. Under Florida law, a designated "Mental Health Counselor" must be duly licensed and meet all applicable educational and training requirements in accordance with Chapter 491, Florida Statutes.

12. Ms. Peoples, however, did not meet the requisite licensing requirements under Section 491.005, Florida Statutes, and notified Defendant that she objected to being placed in this position without proper licensure.

13. Despite her legitimate objections, safety concerns, and inability to legally practice as a “Mental Health Counselor” pursuant to Chapter 491, Florida Statutes, CRC continued with the onboarding process against Ms. Peoples’ objections.

14. Even more alarming, Ms. Peoples’ replacement as a “Substance Abuse Counselor” had no experience in substance abuse counseling, and frequently expressed to Ms. Peoples how overwhelmed and unqualified she felt in her new position.

15. Clearly, CRC’s decision to transfer Ms. Peoples was ill-advised, both as a business decision and under Florida law.

16. In addition to not meeting the basic statutory requirements for the position, Ms. Peoples was suddenly thrown into this position without receiving the requisite state-mandated training in support of her role as “Mental Health Counselor.”

17. To that end, on July 11, 2016, Ms. Peoples was scheduled to meet with Ms. Angela Malone for training.

18. When she arrived at Ms. Malone’s office, Ms. Malone was not present. Upon Ms. Peoples notifying CRC’s Human Resources Manager, Paula Jamison via email of such absence, Ms. Jamison merely advised, “emergencies happen.”

19. The next day, when Ms. Peoples met with Ms. Malone to start her training, Ms. Malone admitted to not knowing anything about the “Ryan White” program and subsequently assigned Ms. Peoples to shadow Ms. Halima Scurry for two weeks.

20. Incredibly, Ms. Scurry also had limited knowledge of the program, as she was new to the department and never received training.

21. Consequently, Ms. Scurry's instructions were limited to showing to Ms. Peoples how to bill and visit clients in the field, but not how to actually perform the duties and responsibilities of the position at issue.

22. Given the mental health conditions of her patients, Ms. Peoples' lack of risk management training from Defendant was exceptionally concerning and posed an acute threat to herself and patients to which she objected.

23. On August 4, 2016, Ms. Peoples spoke with Ms. Jamison regarding her lack of training and unsafe work environment, and her continuing objection to the position she was being required to perform.

24. On or about August 6, 2016, in response to Ms. Peoples' complaint, Plaintiff met with Ms. Jamison, along with CRC's Clinical Supervisor, Demika Jackson, and Chief Operations Officer, Erakel Goodman to discuss her safety and training concerns, as well as her continuing objections and concerns to Defendant's illegal behavior.

25. At that time, Ms. Jamison claimed Ms. Peoples received CRC's risk management training with Mr. Kenneth Arnold, although that did not occur and was an untrue statement.

26. Having received no concrete guidance or training following this discussion, Ms. Peoples filed a formal grievance on August 8, 2016, which detailed her objections, issues, and concerns.

27. Outside of billing, the only other training Ms. Peoples received was a two-hour HIV training issued by the Health Department on August 12, 2016, and a brief staff meeting on August 19, 2016, to discuss changes and additions occurring at the "Ryan White" program.

28. CRC, however, offered no substantive training in furtherance of Ms. Peoples' role as a "Mental Health Counselor" or how to handle HIV-positive patients with mental health issues; even after Ms. Peoples submitted a formal written complaint on August 8, 2016.

29. In fact, during a meeting with Plaintiff on August 19, 2016, Dr. Goodman admitted, "We don't have a training manual for Ryan White mental health counselors."

30. Ms. Peoples also discovered during this meeting that she needed to complete the Functional Assessment Rating Scales (FARS) adult training before billing for any services, which CRC had not issued. Ms. Peoples had been wrongfully billing clients without receiving this necessary training.

31. FARS is a method of documenting and standardizing impressions from clinical evaluations or mental status exams to assess, among other things, cognitive functioning. Health care facilities that offer mental health services through state-supported programs are required to provide FARS data. The FARS must be provided by an individual who is certified by the Department of Children and Families to administer this assessment.

32. Upon discovering this training had not been issued, Ms. Peoples requested a meeting with Human Resources and asked for a copy of CRC's grievance policy to further object to these violations of law.

33. CRC took no action to address Ms. Peoples' complaints.

34. Consequently, Ms. Peoples spoke with CRC's Regional Director, Reginald Gaffney, on August 25, 2016, to voice her concerns about her unsafe work environment and foregoing violations of law.

35. Ms. Peoples unambiguously stated she felt unsafe and feared for her well-being during this discussion.

36. Although Mr. Gaffney assured her he would handle the matter, CRC failed to issue Ms. Peoples the proper training once again.

37. On September 1, 2016, shortly after Ms. Peoples met with Mr. Gaffney, Ms. Goodman held a staff meeting, in which she warned, “People need to follow the chain of command. Mr. Gaffney will tell you anything to get you out of his face.”

38. Given the timing and specific nature of Ms. Goodman’s comments, Ms. Goodman was obviously directing her remarks to Ms. Peoples regarding her grievance against management for failure to issue state-mandated training in violation of the law.

39. After over a month of her requesting additional training and demanding a legitimate explanation regarding her transfer to ensure compliance with Florida law, CRC terminated Ms. Peoples from her position.

40. CRC subsequently claimed Ms. Peoples refused to provide in-home services to patients who have HIV/AIDS and demonstrated a “bigoted” attitude toward these patients.

41. Throughout Ms. Peoples' professional career, however, she held various positions requiring her to work alongside individuals diagnosed with HIV/AIDS. For instance, before joining CRC, Ms. Peoples worked as a correction officer for six years, in which she was responsible for monitoring and handling HIV-positive inmates.

42. At all times, Ms. Peoples’ concerns centered on CRC’s failure to issue the appropriate training, and failure to follow Florida law.

43. Additionally, Ms. Peoples maintained her weekly reports, which detailed her activities, contacts, and mileage to and from her patients’ site locations.

44. Ms. Peoples’ reports contradict any contention that she refused to work with these patients.

45. As a testament to her diligence, Ms. Peoples conscientiously worked to update her patients' charts, which were severely outdated upon her appointment to the Ryan White Program.

46. Ms. Peoples exchanged written correspondence with CRC's management team documenting her efforts to update these charts.

47. It is evident CRC terminated Ms. Peoples' employment in retaliation for reporting her lack of training and safety concerns in violation of Florida law, or what she reasonably believed to be Florida law.

48. Indeed, CRC failed to provide her with any valid reason, cause, or explanation in support of her termination.

49. Moreover, nothing within Ms. Peoples' employment file supported her termination. If anything, Ms. Peoples' documentation supports her efforts to seek proper training and improve the program.

50. Ms. Peoples had a protected right to report her grievances, as CRC's actions in repositioning Ms. Peoples as mental health counselor violated Chapter 491, Florida Statutes.

51. Furthermore, under OSHA's general duty clause, an employee is entitled to a safe workplace.

52. OSHA has formally recognized that "[h]ealthcare and social service workers face an increased risk of work-related assaults resulting primarily from violent behavior of their patients, clients and/or residents." *See Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers*, Occupational Safety and Health Administration (2015), <https://www.osha.gov/publications/osha3148.pdf>. Organizational risk factors include, among other things, "[l]ack of facility policies and staff training for recognizing and managing escalating hostile and assaultive behaviors from patients, clients, visitors, or staff." *Id.*

53. Given the timing of Defendant's adverse employment action, along with the surrounding circumstances, Defendant terminated Plaintiff's employment without good cause and because Plaintiff reported CRC's failure to issue state-mandated training, in violation of Section 448.102(3), Florida Statutes.

**COUNT 1- FLORIDA'S PRIVATE WHISTLEBLOWER ACT – UNLAWFUL
RETALIATION**

54. Plaintiff realleges and incorporates all allegations contained within Paragraphs 1-53 of the Complaint as if fully set forth herein.

55. On September 5, 2016, Defendant illegally terminated Plaintiff from her employment in violation of Section 448.102 (3), Florida Statutes.

56. Plaintiff's employment was terminated for no reason other than Plaintiff reporting Defendant's unlawful activities, and Plaintiff's opposition to same in violation of Section 448.102(3), Florida Statutes.

57. Plaintiff objected to, or otherwise refused to participate in Defendant's illegal practices, or what she reasonably believed to be illegal practices in violation of a law, rule, or regulation, and was terminated as a direct result of same. *See Aery v. Wallace Lincoln–Mercury, LLC*, 118 So. 3d 904, 916 (Fla. 4th DCA 2013) (To establish a violation of the Florida Whistleblower law, an employee must establish that: (1) she objected to or refused to participate in an illegal activity, policy, or practice; (2) she suffered an adverse employment action; and (3) the adverse employment action was causally linked to her objection or refusal).

58. As a result of Defendant's intentional, willful and unlawful actions, Plaintiff has suffered damages, including but not limited to lost wages, lost benefits, lost employment status, as well as humiliation, pain and suffering and other monetary and non-monetary losses.

WHEREFORE, Plaintiff requests a judgment in her favor and against Defendant for her actual and compensatory damages, including, but not limited to, front pay, back pay, and emotional distress damages, as well as his costs and attorneys' fees, declaratory and injunctive relief and such other relief deemed proper by this Court.

JURY DEMAND

Plaintiff hereby requests that upon trial of this action, all issues be submitted to and determined by a jury except those issues expressly reserved by law for determination by the Court.

Dated this 25th day of May 2017.

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