

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

MARION COUNTY SUPERIOR COURT
CAUSE NO.

HARRIETT ELLIS, TIA MARTIN,)
DELORES McNEIL, ANONI ELMORE,)
PATRICIA FORREST, and SHAVON JONES,)

Plaintiffs,)

vs.)

CCA OF TENNESSEE, LLC d/b/a)
CORRECTIONS CORPORATION OF)
AMERICA,)

Defendant.)

COMPLAINT AND DEMAND FOR JURY TRIAL

Come now the Plaintiffs, Harriett Ellis, Tia Martin, Delores McNeil, Anoni Elmore, Patricia Forrest and Shavon Jones (hereinafter “the Nurses”), who complains of Defendant CCA of Tennessee, LLC d/b/a Corrections Corporation of America (hereinafter “CCA”), as follows:

I. PARTIES

1. Plaintiff Harriett Ellis is a licensed practicing nurse and was employed by CCA from May 19, 2003 to September 29, 2006, working at Marion County Jail #2 (hereinafter Jail #2).
2. Plaintiff Tia Martin is a licensed practicing nurse and was employed by CCA from June of 2003 to September of 2006, working at Jail #2.
3. Plaintiff Delores McNeil is a licensed practicing nurse and was employed by CCA from May 5, 2004 to January 5, 2007, working at Jail #2.
4. Plaintiff Anoni Elmore is a licensed practicing nurse and was employed by CCA from June 2003 to October 2006 working at Jail #2.

5. Plaintiff Patricia Forrest is a licensed practicing nurse and was employed by CCA from September 1999 to Present¹, working at Jail #2.

6. Plaintiff Shavon Jones is a licensed practicing nurse and was employed by CCA from June 6, 2002 to September 9, 2006, working at Jail #2.

7. Defendant CCA is a limited liability company which has its home office in Nashville, Tennessee.

II. FACTS

A. Background

8. CCA manages jail facilities in various states, including Jail #2 which is located at 730 E. Washington, Street, Indianapolis, Indiana 46202.

9. CCA contracts with the consolidated government of Marion County/Indianapolis to manage Jail #2.

10. The contract CCA entered into with the consolidated government of Marion County/Indianapolis contains a statutory-required (IC 22-9-1-10) clause in which CCA agrees not to discriminate against employees with respect to the terms, conditions and terms of their employment with CCA.

11. The Nurses were at all times relevant to this lawsuit employed by CCA and worked at the Jail #2 facility managed by CCA.

12. All of the doctors and supervisors employed by CCA at Jail #2 are Caucasians while at the time the Nurses were employed at Jail #2, the majority of the nurses at Jail #2 were African-American.

¹ Plaintiff Forrest is currently on sick leave from CCA's Jail #2 and has not worked at the facility for a considerable period of time.

13. The matters detailed below all took place on dates after January 28, 2006 or were part of a continuing pattern of conduct on behalf of CCA supervisors and employees, which conduct extended beyond January 28, 2006.

**B. Retaliation for Exercise of Statutory and Ethical Responsibilities
and Raising Matters of Public Concern**

14. The Nurses are required under Indiana law (848 IAC 2-3-3) and by their professional ethical obligations to report medication errors and other matters affecting patient welfare.

15. During their employment noted above, the Nurses, pursuant to their legal and ethical obligations, raised with CCA supervisors numerous matters of a public concern they witnessed during their employment. These matters include the following:

- a. That TB syringes with the wrong calibration were used to give insulin to diabetic patients.
- b. Nurses were forced to walk in feces-laden sewage with garbage bags on their feet when the plumbing in a nearby restroom backed up and overflowed. Doctors were told to go home and inmates were moved to another floor.
- c. Numbers in quarterly reports put together by CCA supervisors were deliberately inflated.
- d. Inmates were constantly shuffled from one jail facility to another so both facilities could get the per day inmate fee.
- e. Medication was not provided to inmates or CCA delayed ordering medication. Inmates who did not receive medication include an inmate on suicide precaution, inmates who suffered seizures and inmates who had mental health issues as well as HIV-positive inmates.
- f. Nurses were instructed to give inmates other inmates' medication to save CCA money.
- g. Prescribed medication was hid from a transsexual inmate because a CCA employee thought it was too expensive for CCA. Because of philosophical objections, a CCA doctor refused to order the medication.
- h. The Nurses were told by their supervisors to alter 51-C reports (internal complaints) and other reports. The original reports were then destroyed.

i. CCA failed to report medication errors to the State as required by Indiana law, including when the Nurses reported those errors to CCA supervisors.

j. The Nurses were ordered to escort, without security, inmates to attorney visits, medical visits, court intakes, kitchen and the law library. The practice was discontinued during audits and then resumed as soon as audits were completed.

k. Nurses were ordered to go on inmate sick call rounds without security.

l. When the Nurses expressed apprehension about escorting inmates or treating them without security, CCA administrators accused them of a “work stoppage.”

16. For exercising their legal and ethical obligations, as well as speaking out on matters of public concern, the Nurses were retaliated against by CCA, including intimidating the Nurses by threatening or imposing discipline and giving them unfavorable work assignments.

17. The purpose of the intimidation and retaliation by CCA was to force the Nurses to quit their employment with CCA at Jail #2.

18. As a result of suffering constant intimidation and retaliation of and the failure of CCA to take remedial action to provide a healthy and safe working environment, the Nurses were left with no choice but to seek employment elsewhere.

C. Racially Hostile Work Environment

19. During 2006 and early 2007, CCA engaged in a deliberate and successful campaign to rid Jail #2 of African-American nurses, including the Nurses, all of whom are black. During that time, the nurses at Jail #2 went from being a majority African-American to being approximately 90% white.

20. Pursuant to this campaign, the Nurses were subjected to disparate treatment and a racially hostile working environment. Examples of the disparate treatment and racially hostile work environment include the following:

- a. That a white training manager was permitted to wear a confederate flag emblem on her clothing which the African American nurses on duty found highly offensive.
- b. That a white doctor at CCA suggested to that an inmate's name was "Black Ass" When an African-American nurse complained to a supervisor, the supervisor, instead of following proper procedure, immediately told the doctor placing the nurse in jeopardy of retaliation. The doctor was never reprimanded for the comment.
- c. That a white CCA supervisor was permitted to keep a sketch entitled "Monkey Management" in which a white person sitting at a desk was surrounded by a group of monkeys. The white person was identified as the Caucasian health services administrator and physician, while the monkeys were identified as the nurses, who were "owned and managed" by the supervisors.
- d. That Caucasian nurses were given favorable shift assignments over African-American nurses, even when though the African-American nurses had more seniority.
- e. That Caucasian nurses were allowed to take leave to take care of personal matters, like child care issues, while African-American nurses, with more seniority, were not provided that same benefit.
- f. That when the Nurses wrote up 51-C and medication error reports involving white nurses and doctors, as required by Indiana law and their nursing ethical obligations, they were subjected to retaliation, including work-place intimidation and discipline based upon matters that were merely a pretext.
- g. That when the Nurses attempted to follow their legal and ethical obligation to report white supervisors and white nurses who had violated the rules, they were subjected to retaliation and often found themselves disciplined based upon matters that were merely a pretext.

21. As a result of the disparate treatment and racially hostile work environment by CCA, the Nurses were forced to seek employment elsewhere.

D. Conclusion

22. The Nurses suffered emotional distress and mental anguish as result of the intimidation and retaliation they suffered at the hands of CCA supervisors and employees.

23. As a result of the intimidation and retaliation the Nurses suffered for exercising their statutory and ethical obligation to report medical errors and other matters affecting their patients, as well as their being subjected to an unsafe, unhealthy and racially hostile work environment, the Nurses were forced to leave their employment with CCA and thus constructively discharged.

24. The Nurses suffered loss of pay and benefits when they left employment at CCA.

25. The Nurses have been forced to seek legal counsel to address their claims in this matter.

III. LEGAL CLAIMS

Count I – Illegal Employment Action (Retaliation for Exercise of Required Professional and Ethical Responsibility)

26. The Nurses suffered an illegal employment action when they were subjected to intimidation and retaliation for following their nursing professional and ethical responsibilities, including those set out in 848 IAC 2-3-3(1), (4), (6), (7), (10), (11) and (13).

Count II – Illegal Employment Action (Unjust Termination for the Exercise of Required Professional and Ethical Responsibility)

27. The Nurses suffered an illegal employment action when they were constructively and unjustly terminated for following their nursing professional and ethical responsibilities, including those set out in 848 IAC 2-3-3(1), (4), (6), (7), (10), (11) and (13)

Count III – Illegal Employment Action (Retaliation for Speaking Out on Issues of Public Concern)

28. The Nurses suffered an illegal employment action when they were subjected to intimidation and retaliation for exercising their right to speak out on issues of a public concern regarding the operation of Jail #2 by CCA, which right is an exception to Indiana's at-will employment doctrine.

Count IV – Illegal Employment Action (Unjust Termination for Speaking Out on Issues of Public Concern)

29. The Nurses suffered an illegal employment action when they were constructively and unjustly terminated for exercising their right to speak out on issues of a public concern regarding the operation of Jail #2 by CCA, which right is an exception to Indiana's at-will employment doctrine.

Count V – Intentional Infliction of Emotional Distress

30. CCA intentionally inflicted emotional distress on the Nurses for their exercising their legal and ethical responsibilities to report medical and other errors and as part of an effort of CCA to force the Nurses to quit their jobs at Jail #2.

Count VI – Breach of Contract

31. CCA martially breached the statutorily-required, non-discrimination clause in the contract it entered into with the consolidated government of Marion County/Indianapolis to manage Jail #2. The Nurses are third-party beneficiaries of that contract.

Count VII – Violation of Indiana's Fair Employment Practice Act

32. By subjecting the Nurses to intimidation, retaliation, disparate treatment and a racially-hostile work environment, all in an effort to force African-American nurses to quit their employment at the Jail #2 facility so they could be replaced by white nurses, CCA violated Indiana's Fair Employment Practice Act. (IC 29-1-1 et seq.)

Count VIII – Retaliation Hostile Work Environment

33. The Nurses were subjected to a retaliation hostile work environment in violation of Indiana Civil Rights Act and Title VII and Section 1981 of the Civil Rights Act of 1964.

Count IX – Disparate Treatment

34. During their employment at Jail #2, the Nurses were subjected to disparate treatment when compared to Caucasian nurses and other white employees, which disparate treatment is in

violation of Indiana Civil Rights Act and Title VII and Section 1981 of the Civil Rights Act of 1964.

Count X – Racially Hostile Work Environment

35. The Nurses were subjected to a racially hostile work environment in violation of Indiana Civil Rights Act and Title VII and Section 1981 of the Civil Rights Act of 1964.

IV. PRAYER FOR RELIEF AND JURY DEMAND

Wherefore, the Nurses request the following:

- 36. A declaration that the CCA violated the rights asserted above.
- 37. CCA be enjoined from further violation of the rights asserted above.
- 38. The Nurses be awarded compensatory damages.
- 39. The Nurses be awarded punitive damages.
- 40. The Nurses be awarded attorneys fees and costs.
- 41. The Nurses be awarded all other just and proper relief to which they may be entitled.

V. JURY DEMAND

42. Pursuant to Rule 38(b) of the Indiana Rules of Civil Procedure, the Nurses demand a trial by jury.

Respectfully submitted,

ROBERTS & BISHOP

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