

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

CATHERINE PUETZ, M.D.,

Plaintiff,

vs.

SPECTRUM HEALTH HOSPITALS;
and KEVIN SPLAINE,

Defendants.

Case No. 15-06618-CBB

HON. CHRISTOPHER P. YATES

OPINION AND ORDER GRANTING DEFENDANTS' MOTION
FOR SUMMARY DISPOSITION UNDER MCR 2.116(C)(7) & (10)

Quite frequently, hospitals and health-care facilities find themselves caught between Scylla and Charybdis when facing issues arising under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 USC 1320d, *et seq*, which broadly protects “the privacy of individually identifiable health information[.]” See Holman v Rasak, 486 Mich 429, 434 (2010). Whenever a potential HIPAA violation occurs, no matter how insubstantial it may be, a hospital or health-care facility must either take corrective action or risk sanctions for violating HIPAA. In the health-care arena, the stakes could not be higher. Here, after a nurse employed by Defendant Spectrum Health Hospitals (“Spectrum”) posted an unflattering picture of a patient’s backside on Facebook, Plaintiff Catherine Puetz, M.D. (“Dr. Puetz”) responded on Facebook: “OMG. Is that TB?” That prompted Spectrum’s president, Defendant Kevin Splaine, to sever Spectrum’s relationship with Dr. Puetz and to direct Dr. Puetz’s employer, Emergency Care Specialists (“ECS”), to stop assigning Dr. Puetz to Spectrum facilities. Dr. Puetz responded by filing suit on four grounds. Because the Court finds no merit in any of Dr. Puetz’s claims, the Court must award summary disposition to the defendants.

I. Factual Background

Defendants Spectrum Health and Splaine have moved for summary disposition under MCR 2.116(C)(7) and (10).¹ The defendants “may support a motion under MCR 2.116(C)(7) by affidavits, depositions, admissions, or other documentary evidence.” Maiden v Rozwood, 461 Mich 109, 119 (1999). “The contents of the complaint are accepted as true unless contradicted by documentation submitted by the movant.” Id. Similarly, in addressing a request for relief under MCR 2.116(C)(10), “a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties[.]” Accordingly, the Court shall describe the factual background of this legal dispute by turning to the complaint in the first instance, and then adjusting the allegations in that pleading based upon the evidence furnished by the parties.

Plaintiff Puetz is a medical doctor who specializes in emergency and observational medicine. See Complaint, ¶ 9. When she maintained admission privileges at Butterworth Hospital, Defendant Spectrum purchased that facility and Dr. Puetz became a shareholder and employee of ECS, which is a physician-owned medical group with a contractual arrangement with Spectrum. Id., ¶¶ 10-11. Over a period of more than a decade, Dr. Puetz assumed increasing responsibilities at the behest of Spectrum. See id., ¶ 12. But in August of 2013, Dr. Puetz’s advancement came to a screeching halt when she responded to a picture posted on Facebook with the comment: “OMG. Is that TB?” See Complaint, ¶¶ 30-31.

¹ Plaintiff Puetz has filed a motion requesting summary judgment “[p]ursuant to Federal Rule of Civil Procedure 56(a).” That reference harkens back to the first round of this legal dispute in the United States District Court for the Western District of Michigan, which dismissed the case for lack of federal jurisdiction. Because a motion for summary judgment under Rule 56(a) is analogous to a motion for summary disposition under MCR 2.116(C)(10), the Court shall treat Dr. Puetz’s motion as a request for relief under MCR 2.116(C)(10).

More than a dozen Spectrum employees added posts on Facebook in response to the picture, and Spectrum chose to discipline those people by imposing a variety of punishments. Plaintiff Puetz received a severe sanction, including termination of her appointments and a ban on practicing at any Spectrum facility. See Complaint, ¶ 41. On August 21, 2013, Defendant Splaine made statements to ECS that Dr. Puetz had committed a HIPAA violation, engaged in “reprehensible behavior,” and demonstrated a “lack of integrity.” Id., ¶ 42. Spectrum also directed ECS in writing “to discontinue [Dr. Puetz] from providing any clinical or leadership services” and informed ECS that Dr. Puetz was “banned from providing Emergency Medicine Services at any Spectrum Health entity.” Id., ¶ 44. The fallout resulting from Spectrum’s decision was catastrophic. Dr. Puetz not only lost her ability to function as an employee of ECS because of her employer’s close connection with Spectrum, but also became the subject of press coverage that focused upon her alleged misconduct and the resulting discipline imposed upon her. Id., ¶¶ 51, 54.

On March 14, 2014, Plaintiff Puetz filed a complaint in the United States District Court for the Western District of Michigan. See Defendants’ Motion for Summary Disposition Under MCR 2.116(C)(7) As To Count I of the Complaint for Alleged Defamation, Exhibit 1. That complaint set forth six separate claims, but it asserted federal-question jurisdiction based upon the copyright claim in Count Four. On June 26, 2015, however, the United States District Court issued an opinion that concluded that that court “lacks subject matter jurisdiction over this case because Plaintiff’s request for a declaratory judgment of ownership of copyrighted materials does not invoke federal question jurisdiction under the Copyright Act.” See id., Exhibit 3. Consequently, the United States District Court dismissed the action without prejudice. Id. On July 21, 2015, Dr. Puetz filed her complaint in Kent County Circuit Court, presenting four claims for defamation, false light invasion of privacy,

intellectual property ownership, and tortious interference with a business expectancy. Subsequently, the defendants moved for summary disposition pursuant to MCR 2.116(C)(7) and (10) on all of Dr. Puetz's claims, and Dr. Puetz filed her own request for partial summary judgment. Thus, the Court must now consider the viability of each claim in Dr. Puetz's four-count complaint.

II. Legal Analysis

The defendants have relied upon MCR 2.116(C)(7) and (10) in seeking summary disposition. "If there is no factual dispute, whether a plaintiff's claim is barred under a principle set forth in MCR 2.116(C)(7) is a question of law for the court to decide." RDM Holdings, Ltd v Continental Plastics Co, 281 Mich App 678, 687 (2008). "If a factual dispute exists, however, summary disposition is not appropriate." Id. Similarly, "[s]ummary disposition is appropriate under MCR 2.116(C)(10) if there is no genuine issue regarding any material fact and the moving party is entitled to judgment as a matter of law," West v General Motors Corp, 469 Mich 177, 183 (2003). Such "[a] genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ." Id. Applying these standards, the Court must address each of the four claims set forth in Dr. Puetz's complaint.

A. Count One – Defamation.

Count One of Dr. Puetz's complaint presents a straightforward claim for defamation based upon oral and written statements made by Defendant Splaine and others associated with Defendant Spectrum. The factual predicate for this claim appears uncontested. That is, on August 21, 2013, in the wake of the Facebook incident, Splaine met with approximately 50 ECS partners to explain Spectrum's decision concerning Dr. Puetz and others involved in the Facebook matter. Splaine told

the group that Spectrum believed Dr. Puetz had committed a violation of HIPAA. See Defendants' Brief in Support of Their Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit 2 (Deposition of Kevin Splaine at 74-75). Splaine further stated that the Facebook posts were "not in line with [Spectrum's] values." See id. (Deposition of Kevin Splaine at 76). On August 22, 2013, Splaine sent a letter to the principal of ECS providing an additional explanation of Spectrum's action against Dr. Puetz and one other employee of ECS. Id., Exhibit 57 (letter). Splaine characterized Dr. Puetz's conduct as "egregious," "reprehensible," and "unprofessional and disturbing." Id. The letter spelled out the sanctions imposed upon Dr. Puetz, including termination from all supervisory roles at Spectrum and a ban on "provid[ing] emergency medicine services at any Spectrum Health entity." Id. Count One characterizes Splaine's oral and written statements as defamatory.

The Michigan legislature has expressly created a cause of action for libel or slander, see MCL 600.2911, and our Court of Appeals recently reaffirmed the elements of a claim for defamation as:

(1) a false and defamatory statement concerning the plaintiff, (2) an unprivileged communication to a third party, (3) fault amounting to at least negligence on the part of the publisher, and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by publication.

Thomas M Cooley Law School v Doe 1, 300 Mich App 245, 262 (2013). A statement is defamatory "if, considering all the circumstances, it tends so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him." Hope-Jackson v Washington, 311 Mich App 602, 620 (2015). Here, however, the defendants insist that the Court need not decide whether Defendant Splaine's statements about Dr. Puetz rose to the level of defamation because any claim Dr. Puetz could assert is barred by the statute of limitations of one year prescribed by MCL 600.5805(9). Therefore, the Court must address that threshold issue before considering the merits of Dr. Puetz's defamation claim.

By all accounts, the defendants made the purportedly defamatory statements about Dr. Puetz in August of 2013, but Dr. Puetz did not submit her complaint in the instant case until July 21, 2015, so Dr. Puetz manifestly did not satisfy the one-year statute of limitations. Dr. Puetz argues, however, that she initially commenced a legal action by filing a complaint in the United States District Court for the Western District of Michigan on March 14, 2014, which was well within the one-year period of limitations, and she thereafter filed her complaint in the instant case within 30 days of dismissal of her federal suit, so she can avail herself of the tolling provision set forth in 28 USC 1367(d). To be sure, the United States District Court for the Western District of Michigan dismissed Dr. Puetz's action without prejudice on June 26, 2015, see Defendant's Motion for Summary Disposition Under MCR 2.116(C)(7) As To Count I of the Complaint for Alleged Defamation, Exhibit 4, and Dr. Puetz subsequently filed her complaint in the instant case within 30 days of the federal court's dismissal, but the tolling provision in 28 USC 1367(d) affords her no succor.

Those who attended law school decades ago recall the concept of pendent jurisdiction, which empowers federal courts to address state-law claims related to any claim that falls within the federal-question jurisdiction of an Article III court. United Mine Workers of America v Gibbs, 383 US 715, 725 (1966). "In 1990, Congress codified the common law rules of pendent jurisdiction under the term 'supplemental jurisdiction'" in 28 USC 1367(a). Ammerman v Sween, 54 F3d 423, 424 (7th Cir 1995). "The statute confers supplemental jurisdiction to the limits Article III of the Constitution permits, authorizing federal courts to hear all claims that 'are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.'" Id. Plaintiff Puetz invoked the supplemental jurisdiction of the United States District Court for the Western District of Michigan by submitting her state claims along with her alleged copyright claim to that federal court. But when the United States District Court for the Western District of Michigan concluded that it did

not have original (or, as once called, federal-question) jurisdiction over the copyright claim, the court dismissed the pendent state claims without prejudice, leaving Dr. Puetz to find another forum for her state-law claims. See Defendant's Motion for Summary Disposition Under MCR 2.116(C)(7) As To Count I of the Complaint for Alleged Defamation, Exhibit 4.

When Dr. Puetz filed her complaint in the instant case on July 21, 2015, in an effort to obtain resolution of the state claims she had initially presented in federal court, she believed that the one-year statute of limitations did not preclude her defamation claim because she could invoke the tolling provision prescribed by 28 USC 1367(d). That tolling provision, included in the statute governing supplemental jurisdiction, states as follows:

The period of limitations for any claim asserted under subsection (a) . . . shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

See 28 USC 1367(d). By its terms, 28 US 1367(d) prevents the limitations period on supplemental (or, as once known, pendent) claims "from expiring while the plaintiff was fruitlessly pursuing them in federal court[.]" Jinks v Richland County, South Carolina, 538 US 456, 459 (2003). Moreover, 28 USC 1367(d) "provides a tolling rule that must be applied by state courts[.]" Id.

But the language of 28 USC 1367(d) presupposes that a plaintiff's supplemental claims were asserted in the first instance in federal court "under subsection (a)" of 28 USC 1367, which requires "a civil action of which the [federal] district courts have original jurisdiction." See 28 USC 1367(a). In Plaintiff Puetz's case, the United States District Court for the Western District of Michigan lacked original jurisdiction over the copyright claim in Dr. Puetz's federal complaint, as confirmed by the opinion of the United States District Court for the Western District of Michigan issued on June 26, 2015. See Defendant's Motion for Summary Disposition Under MCR 2.116(C)(7) As To Count I of the Complaint for Alleged Defamation, Exhibit 3. Therefore, although Dr. Puetz believed she had

a federal copyright claim to assert in federal court as a matter of original jurisdiction, she was wrong about that. Instead, as the United States District Court for the Western District of Michigan ruled, there never was a basis for original jurisdiction over Dr. Puetz's copyright claim, so there never was a basis for the federal court to exercise supplemental jurisdiction over Dr. Puetz's defamation claim. See 28 USC 1367(a).

Although a paucity of precedent supports the argument laid out above, the Arizona Court of Appeals engaged in precisely that analysis to conclude that the tolling language of 28 USC 1367(d) does not apply if the federal court lacks original (or, as once known, subject-matter) jurisdiction over the alleged federal claim on which supplemental jurisdiction over the state-law claims is predicated. See Morris v Giovan, 242 P3d 181 (Ariz App Div 1 2010). The Arizona Court of Appeals described the question before it as follows:

The issue is whether 28 USC 1367(d) tolls the statute of limitations for supplemental state law claims if the action is dismissed from federal court for lack of subject matter jurisdiction; or more specifically, for lack of a federal question.

Morris, 242 P3d at 183. The Arizona Court of Appeals first noted that 28 USC 1367(d) "does not toll the statute of limitations for supplemental state law claims if the action is dismissed for lack of subject matter jurisdiction." Id., citing Raygor v Regents of University of Minnesota, 534 US 533, 546 (2002). Then, the Arizona Court of Appeals ruled that "if § 1367(d) does not apply in an action dismissed on constitutional grounds, so, too, it should not apply in an action dismissed for lack of a federal question." Id. "That is, if the federal court lacks subject matter jurisdiction, its power to assert supplemental jurisdiction over state law claims is never triggered, and the tolling provision of § 1367 does not apply." Id. This analysis is fatal to Dr. Puetz's defamation claim, which she filed in Kent County Circuit Court well beyond the one-year statute of limitations, so the Court must grant summary disposition to the defendants under MCR 2.116(C)(7) on the defamation claim.

B. Count Two – False Light Invasion of Privacy.

Count Two of Plaintiff Puetz's complaint sets forth a claim for false light invasion of privacy. Dr. Puetz "must show that the defendant[s] broadcast to the public in general, or to a large number of people, information that was unreasonable and highly objectionable by attributing to the plaintiff characteristics, conduct, or beliefs that were false and placed the plaintiff in a false position." See Derderian v Genesys Health Care Systems, 263 Mich App 364, 385 (2004). The "tort 'is limited to situations where the plaintiff is given publicity[,]" id., so the Court must consider the manner in which the defendants disseminated the information at the heart of Dr. Puetz's claim.

Plaintiff Puetz's claim for false light invasion of privacy rests upon allegations of publicity in two forms: (1) the explanatory statements by Defendant Splaine on behalf of Defendant Spectrum to the ECS partners purportedly rose to the level of publicity in their own right, see Complaint, ¶ 77; and (2) Spectrum "set in motion communications to the media" that Dr. Puetz was fired for a HIPAA violation and encouraged invasion of her privacy. See Complaint, ¶ 77. The Court concludes that Splaine's presentation to the partners of ECS cannot be characterized as "publicity" under Michigan law. After Spectrum chose to impose sanctions upon Dr. Puetz and others involved in the Facebook incident, Dr. Ken Johnson – the president of ECS – asked Splaine "to speak to the partners of ECS" about the matter. See Defendants' Brief in Support of Their Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit 2 (Deposition of Kevin Splaine at 73-74). When Splaine spoke, there were approximately 50 ECS partners in the room, and Splaine expressed Spectrum's view that Dr. Puetz and others had committed violations of HIPAA. Id. (Deposition of Kevin Splaine at 74-75). At the behest of the ECS partners, Splaine "described the facts of the Facebook dialogue that took place, and then [he] described what we were doing with that, the process that we went through, and the rationale for the decisions that we made." Id. (Deposition of Kevin Splaine at 75). Disclosure

in that meeting that ECS called on an impromptu basis most assuredly cannot be treated as publicity under Michigan law. See Derderian, 263 Mich App at 388 (finding no “publicity” for disclosure “to the medical executive committee/team”).

In contrast, disclosure to media outlets in West Michigan could constitute “publicity” under Michigan law because such disclosure could result in publication “to the public in general, or to a large number of people.” See Derderian, 263 Mich App at 387. To be sure, stories about Dr. Puetz ran in the popular press soon after Spectrum disciplined her, but the record is bereft of evidence that Spectrum took any actions to notify the media of its disciplinary measures. Indeed, Spectrum stood to lose a great deal if the press reported about HIPAA violations by Spectrum employees and doctors affiliated with Spectrum, so the Court cannot presume that Spectrum leaked any information to the press.² To the contrary, Dr. Puetz must present evidence to support her allegation that Spectrum “set in motion communications to the media that a physician was fired for a HIPAA violation and encouraged invasion of her privacy.” See Complaint, ¶ 78. Her failure to do so obligates the Court to award summary disposition to the defendants under MCR 2.116(C)(10). As our Supreme Court has explained, MCR 2.116(C)(10) “requires the adverse party to set forth specific facts at the time of the motion showing a genuine issue for trial” in order to avoid summary disposition. See Maiden, 461 Mich at 121. Dr. Puetz’s failure to satisfy that requirement necessitates the award of summary disposition.

² Defendant Spectrum made the decision that, although a violation of HIPAA occurred in the Facebook incident, “it was not a violation of the severity requiring us to mandatorily report.” See Defendants’ Brief in Support of Their Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit 2 (Deposition of Kevin Splaine at 81). Because Spectrum took the position that the HIPAA violation “was not at the level in which we would be required to report it to the government or the individual whose privacy was violated[,]” id. (Deposition of Kevin Splaine at 79), it would make no sense whatsoever for Spectrum to gin up stories in the popular press about the incident, knowing that press coverage could result in an outside investigation about Spectrum’s decision not to disclose the HIPAA violation.

C. Count Three – Intellectual Property Ownership.

In Count Three, Plaintiff Puetz contends that she “has suffered actual injury in Spectrum’s refusal to allow her to license and market her own materials of which they do not have ownership.” See Complaint, ¶ 84. This disagreement, which prompted Dr. Puetz to file a complaint in the United States District Court for the Western District of Michigan in the first instance, implicates contractual arrangements that govern intellectual property created by physicians affiliated with Spectrum. Here, Dr. Puetz has requested declaratory relief under MCR 2.605 to enable her to license and market the materials that she developed while she was practicing at Spectrum. “In a case of actual controversy within its jurisdiction,” a court “may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted.” MCR 2.605(A)(1). “An ‘actual controversy’ under MCR 2.605(A)(1) exists when a declaratory judgment is necessary to guide a plaintiff’s future conduct in order to preserve legal rights.” UAW v Central Michigan University Trustees, 295 Mich App 486, 495 (2012). The Court is satisfied that Dr. Puetz has presented a dispute that warrants adjudication “before actual injuries or losses have occurred[,]” see id., so the Court shall turn to the merits of Count Three.

Dr. Puetz asserts that she has been denied the ability “to license and market her [observation] materials” because Defendant Spectrum has not only placed its copyright mark on the materials, but also contested her ability to license and market the materials. See Complaint, ¶ 84. Specifically, she states that “[b]eginning in 2001, Plaintiff[Puetz] authored materials to use in evaluating patients for transfer to 1) in patient; 2) Observation; 3) discharge or 4) transfer to another physician.” Id., ¶ 87. She also insists that she “developed clinical algorithms related to the treatment of atrial fibrillation, TIA, and Heart failure.” Id. Dr. Puetz contends that she created the materials “on her own personal time,” see id., ¶ 88, that “she was not under any contract or agreement to either share or transfer her

interests[.]” see id., ¶ 89, and that “she was NOT under a work for hire agreement” that would give Spectrum an interest in the materials she created. See id.

From 1999 through August of 2013, Plaintiff Puetz had admission privileges in emergency services and observation medicine at Defendant Spectrum through her employment with ECS. Dr. Puetz held various medical positions at Spectrum during that time period, and the Court must assume for purposes of resolving the defendants’ motion for summary disposition that Dr. Puetz created the materials at issue on her own time during her tenure with ECS and Spectrum. On August 10, 2009, Spectrum and ECS entered into a written agreement called an Associate Medical Director Services Agreement, see Defendants’ Brief in Support of Their Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit 10, governing the relationship between the two entities. Dr. Puetz signed that agreement on August 6, 2009, in her capacity as “Associate Medical Director.” See id. In addition, in 2012, Dr. Puetz signed a Clinical Advisor Services Agreement (“CASA”). Id., Exhibit 13. Both of those agreements imposed a duty of loyalty upon Dr. Puetz and bound her to follow Spectrum’s policies and procedures. Spectrum’s longstanding policy on intellectual property (“IP”) makes clear in sweeping language that Spectrum “shall own all Intellectual Property that is conceived, reduced to practice, derived, created or developed, in whole or in part, by one or more Associates, whether compensated or not,” in circumstances that broadly cover Dr. Puetz’s activities. See id., Exhibit 23 (Spectrum Intellectual Property policy, § 2.3.1). Moreover, the 2012 CASA not only acknowledges Spectrum’s IP policy, see id., Exhibit 16 (CASA, § 1(e)), but also states: “the IP Policy provides that [ECS] and Clinical Advisor assign to Spectrum Health the rights to IP developed using Spectrum Health resources or facilities, subject to other terms of the IP Policy[.]” Id. Thus, Dr. Puetz clearly and repeatedly bound herself to follow Spectrum’s IP policy, including the language assigning her rights to IP developed in conjunction with her service at Spectrum

Given the breadth of Defendant Spectrum's IP policy, Plaintiff Puetz cannot demonstrate that the materials she developed during her affiliation with ECS and Spectrum fall outside the reach of the assignment-of-rights language in Spectrum's IP policy and the CASA.³ In fact, the very dispute identified in Count Three was contemplated and resolved by the various agreements that Dr. Puetz signed with Spectrum. Accordingly, the Court concludes that those agreements preclude declaratory relief in Dr. Puetz's favor with respect to the materials at issue. Thus, the Court must grant summary disposition under MCR 2.116(C)(10) to Spectrum on Count Three.

D. Count Four – Tortious Interference With Business Expectancy.

Count Four alleges tortious interference with a business expectancy. Plaintiff Puetz contends that Defendant Spectrum ruined her relationship with ECS by excluding her from Spectrum facilities serviced by ECS. To prevail, Dr. Puetz must prove four elements: “the existence of a valid business relationship or expectancy, knowledge of the relationship or expectancy on the part of the defendant, an intentional interference by the defendant inducing or causing a breach or termination of the relationship or expectancy, and resulting damage to the plaintiff.” Dalley v Dykema Gossett PLLC, 287 Mich App 296, 323 (2010). To satisfy the third element, she must establish that the defendants “acted both intentionally and either improperly or without justification.” Id. If the defendants’ acts “were motivated by legitimate business reasons,” the acts “would not constitute improper motive or interference.” Id. at 324. Also, “to succeed under a claim of tortious interference with a business relationship,” Dr. Puetz must demonstrate “that the interferer did something illegal, unethical, or fraudulent.” Id.

³ Unlike the 2012 CASA, the 2008 CASA does not include an IP provision. See Defendants’ Brief in Support of Their Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit 13. Nevertheless, all of the agreements Plaintiff Puetz signed bound her to follow Spectrum’s policies, so the lack of an IP provision in the 2008 CASA is not fatal to Spectrum’s claim to an assignment.

The record makes clear that Defendant Spectrum acted in response to Plaintiff Puetz's post on Facebook, which Spectrum considered a potential violation of HIPAA. Spectrum did not single out Dr. Puetz for discipline. In fact, Spectrum disciplined 15 people for the Facebook incident, and three or four others received sanctions similar to the penalty Spectrum imposed upon Dr. Puetz. See Defendants' Brief in Support of Their Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit 2 (Deposition of Kevin Splaine at 62). Spectrum's concerns about HIPAA violations lead to the conclusion that its disciplinary actions were "motivated by legitimate business reasons." See Dalley, 287 Mich App at 324. Beyond that, Dr. Puetz has utterly failed to demonstrate that Spectrum "did something illegal, unethical, or fraudulent" in imposing discipline upon her for her Facebook post. See id. Consequently, the Court must award summary disposition to the defendants on Count Four of Dr. Puetz's complaint pursuant to MCR 2.116(C)(10).

III. Conclusion

For all of the reasons set forth above, the Court shall award summary disposition under MCR 2.116(C)(7) to the defendants on the claim in Count One for defamation because that claim is barred by the applicable statute of limitations. In addition, the Court must grant summary disposition to the defendants under MCR 2.116(C)(10) on Counts Two, Three, and Four because no genuine issue of material fact necessitates a trial on any of those claims.

IT IS SO ORDERED.

This is a final order that resolves the last pending claim and closes the case.

Dated: September 30, 2016



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge