

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

GEORGE DULIN

PLAINTIFF

V.

CIVIL ACTION NO. 4:07CV194-SA-DAS

**BOARD OF COMMISSIONERS OF THE
GREENWOOD LEFLORE HOSPITAL BOARD**

DEFENDANT

**DEFENDANT BOARD'S ANSWER
TO PLAINTIFF'S AMENDED COMPLAINT AND DEFENDANT BOARD'S
COUNTERCLAIM**

COMES NOW the defendant, Board of Commissioners of the Greenwood Leflore Hospital ("Board"), and answers plaintiff's First Amended Amended Complaint as follows:

FIRST DEFENSE

Plaintiff's Amended Complaint, in whole or in part, fails to state claims upon which relief may be granted.

SECOND DEFENSE

Plaintiff has failed to meet all jurisdictional prerequisites to filing suit.

THIRD DEFENSE

Plaintiff has failed to allege the requisite causation to support his causes of action.

FOURTH DEFENSE

Plaintiff's claims, in whole or in part, are barred by the applicable statute of limitations.

FIFTH DEFENSE

Plaintiff failed to reasonably mitigate his alleged damages.

SIXTH DEFENSE

At all times, defendant Board's actions were taken in good faith and for legitimate and non-discriminatory business reasons.

AND NOW, with regard to the specific allegations of plaintiff's Amended Complaint, defendant Board answers as follows:

-1-

Defendant Board admits the allegations contained in paragraph 1 of plaintiff's Amended Complaint.

-2-

Defendant Board admits the allegations pertaining to the Board of Commissioners of Greenwood Leflore Hospital contained in paragraph 2 of plaintiff's Amended Complaint. Defendant Board denies the allegations pertaining to Robert R. Moore contained in paragraph 2 of plaintiff's Amended Complaint for lack of sufficient knowledge or information to justify a belief therein.

-3-

Defendant Board admits the jurisdictional allegations of paragraph 3 of plaintiff's Amended Complaint, but denies plaintiff has a valid action authorized by 42 U.S.C. § 1981, 42 U.S.C. §1983, or the United States Constitution.

-4-

Defendant Board denies plaintiff was an employee of Greenwood Leflore Hospital. Defendant Board further denies there were no complaints about his job performance from members of the defendant Board. Defendant Board admits, however, that plaintiff served in the capacity of Board Attorney as an independent contractor since 1984.

-5-

Defendant Board denies the allegations contained in paragraph 5 of plaintiff's Amended Complaint.

-6-

Defendant Board admits an article appeared in the newspaper in Greenwood, Mississippi, in August 2005 and is attached as Exhibit "1" to the Amended Complaint and that said article is the best evidence of its contents. Defendant Board denies the veracity of the article. Defendant Board further denies the remaining allegations of paragraph 6 of plaintiff's Amended Complaint.

-7-

Defendant Board denies the allegations relating to defendant Moore's desires for lack of sufficient information or knowledge to justify a belief therein. Defendant Board denies the remaining allegations contained in paragraph 7 of plaintiff's Amended Complaint.

-8-

Defendant Board admits that plaintiff submitted a letter of resignation but denies the remaining allegations contained in paragraph 8 of plaintiff's Amended Complaint.

-9-

Defendant Board denies the allegations contained in paragraph 9 of plaintiff's Amended Complaint.

-10-

Defendant Board denies the allegations contained in paragraph 10 of plaintiff's Amended Complaint.

-11-

Defendant Board denies the allegations contained in paragraph 11 of plaintiff's Amended Complaint for lack of sufficient information to justify a belief therein.

-12-

The allegations contained in paragraph 12 of plaintiff's Amended Complaint do not appear to require an answer of this defendant. To the extent the Defendant Board is mistaken, the allegations are denied for lack of sufficient information to justify a belief therein.

-13-

Defendant Board denies the allegations contained in paragraph 13 of plaintiff's Amended Complaint.

AND NOW HAVING FULLY ANSWERED AND ASSERTED AFFIRMATIVE DEFENSES, defendant Board denies that plaintiff is entitled to any relief whatsoever and demands that this Amended Complaint be dismissed with prejudice with all costs and fees being assessed against plaintiff.

COUNTERCLAIM

Defendant Board having answered, now asserts its counterclaim against plaintiff Dulin. In support thereof, Defendant Board states the following:

I.

Plaintiff/counter-defendant, George Dulin ("Dulin"), is an adult resident citizen of Leflore County, Mississippi.

II.

Defendant/counter-plaintiff, Board of Commissioners of Greenwood Leflore Hospital, is a political subdivision of the State of Mississippi.

III.

Jurisdiction and venue is proper in this Court.

IV.

Plaintiff/counter-defendant was retained by the defendant/counter-plaintiff, Board of Commissioners of Greenwood Leflore Hospital (“the Board”), to represent its interests in his capacity as an attorney in several matters, up until his the latter part of 2006.

V.

Dulin was negligent, breached his fiduciary duty and breached his contract with the Board in his failure to carry out his duties to his client.

VI.

Dulin failed to meet court deadlines which he knew or should have known about resulting in dismissal of legitimate claims of the Board and/or Greenwood Leflore Hospital. The dismissal of these legitimate claims resulted in monetary damage to the Board and Greenwood Leflore Hospital.

VII.

Dulin failed to timely pursue litigation against physicians who had failed to make repayments to the hospital pursuant to certain promissory notes so that the Board/Hospital’s claims were time-barred resulting in monetary damage to the Board.

WHEREFORE, counter-claimant, the Board, requests that this Court enter judgment in its favor and against counter-defendant Dulin for damages in an amount to be determined at trial and such further relief that this Court deems just.

ATTORNEYS FOR DEFENDANT BOARD,
BOARD OF COMMISSIONERS OF THE
GREENWOOD LEFLORE HOSPITAL

/s/ Susan Fahey Desmond

Susan Fahey Desmond

Susan Fahey Desmond (MSB# 5116)
Watkins, Ludlam, Winter & Stennis, P.A.
P.O. Box 160
Gulfport, Mississippi 39502
Telephone: 228-864-3094
Facsimile: 228-864-0516
sdesmond@watkinsludlam.com

CERTIFICATE OF SERVICE

I, Susan Fahey Desmond, do hereby certify that I have filed this Notice of Service via the Court's electronic filing system and that a copy has been sent electronically by that system to:

Jim D. Waide, III, Esq.
WAIDE & ASSOCIATES, PA
P.O. Box 1357
Tupelo, MS 38804
waide@waidelaw.com

Ronnie Lee Woodruff
WAIDE & ASSOCIATES, PA
P.O. Box 1357
Tupelo, MS 38804
waide@waidelaw.com

THIS, the 29th day of July, 2008.

s/ Susan Fahey Desmond

SUSAN FAHEY DESMOND