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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY	:	
COMMISSION,	:	
	:	
Plaintiff	:	
	:	No. 03-5461
	:	
v.	:	
	:	
MUHLENBERG MEDICAL ASSOCIATES,	:	
	:	
Defendant	:	Jury Trial Demanded

**THIRD PARTY COMPLAINT**

NATURE OF THE ACTION

This is an action pursuant to F.R.C.P. 14 by Defendant/Third Party Plaintiff, Muhlenberg Medical Associates, P.C., (“Plaintiff/MMA”) as against Third Party Defendant, Joseph R. Hassan, Ph.D., M.D. The action arises out of a Complaint brought by Intervenor Leanna “Maggie” Stastny as against Defendant/Third Party Plaintiff to the above-captioned term and number. True and correct copies of Intervenor’s Complaint and Defendant’s Answer with Affirmative Defenses are attached hereto as Exhibits “A” and “B”, respectively, and incorporated herein by reference.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §451, 1331, 1343 and 1345.
2. The employment practices alleged to be unlawful took place within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania.

3. Third Party Plaintiff is a Pennsylvania corporation with its principal place of business at 4201 Kutztown Road, Reading, PA 19560.

4. Third Party Defendant Hassan is an adult individual whose address is 810 Berkshire Drive, Wyomissing, Berks County, Pennsylvania.

5. Third Party Defendant Hassan is not a party to the underlying action.

6. Intervenor Stastny's Complaint asserts federal claims pursuant to Title VII of the Civil Rights Act of 1964, and pendant state law claims pursuant to the Pennsylvania Human Relations Act, 43 P.S. §951, et seq. Third Party Plaintiff incorporates herein by reference Exhibit "A", EEOC Complaint, and Exhibit "B", Third Party Plaintiff's Answer and Affirmative Defenses thereto.

COUNT I – VIOLATION OF PENNSYLVANIA HUMAN RELATIONS ACT, §955(e)

7. Third Party Plaintiff incorporates herein by reference paragraphs 1-6 of its Complaint.

8. Defendant Hassan is a "person" as defined by the Pennsylvania Human Relations Act ("PHRA"), §944.

9. Defendant Hassan had been disciplined pursuant to MMA's sexual harassment policy prior to the alleged incidents giving rise to the underlying action.

10. MMA's sexual harassment policy was promulgated and distributed in 1998.

11. The policy, a three stage progressive discipline policy, involved as a first stage management employee discussions with respect to sensitizing the alleged harasser; followed by a second stage involving mandatory counseling and completed with the third stage involving termination. A true and correct copy of the policy is attached hereto as Exhibit "C" and incorporated herein by reference.

12. The first incident took place on or about February 8, 1999 when nurse Cherie Powell complained of alleged inappropriate touching by Dr. Hassan.

13. Pursuant to the policy, Ms. Debbie Hain, the Practice Administrator and designated employee trained in sexual harassment policies, met with Dr. Hassan to provide counseling on the sensitivity of the issue.

14. The second stage discipline arose out of an incident which allegedly occurred on September 22, 1999 by way a complaint made by nurse Tammy Krueger.

15. In response to the complaint, MMA paid for mandatory counseling which Defendant Hassan completed.

16. Following each of the aforementioned incidents, both Defendant Hassan and the nurses remained employed and worked side by side on a daily basis from 1999 through July 11, 2002 when Defendant Hassan was terminated.

17. Subsequent to the September 22, 1999 complaint, no further employee complaints were made to MMA with respect to Defendant Hassan.

18. At all times material hereto, Defendant Hassan was aware of the sexual harassment policy.

19. Subsequent to the second incident, Defendant Hassan knew that his employment could be terminated pursuant to the sexual harassment policy if one more incident occurred.

20. Some time after September 22, 1999 and before the initial alleged incident of June 3, 2002 involving Stastny, a third incident of sexual harassment occurred.

21. The incident, one of improper comments and touching, was made against Defendant Hassan by an employee of the St. Joseph's Medical Center where Dr. Hassan, on behalf of MMA, maintained medical privileges.

22. As a condition of maintaining medical privileges with St. Joseph's Medical Center, Dr. Hassan and MMA were required to adhere to the hospital's code of conduct, which included a sexual harassment policy.

23. On information and belief, the employee made a complaint to St. Joseph's Medical Center management which was investigated by that hospital.

24. On information and belief, Defendant Hassan was made fully aware of the complaint and participated in the investigation and subsequent discipline imposed by St. Joseph's Medical Center.

25. Defendant Hassan, with full knowledge of the potential consequences of his actions in relation to his employment with MMA, intentionally and purposely concealed this third incident from MMA.

26. It is averred that Hassan, as a shareholder, director and officer of MMA, had a duty to disclose this serious legal matter to his partners in order for MMA to comply with the Pennsylvania Human Relations Act, federal law, and St. Joseph's Medical Center guidelines with respect to sexual harassment of staff employees.

27. MMA was never aware of the incident until the victim in the St. Joseph's Medical Center matter read about the EEOC's claim against MMA in the Reading Eagle newspaper on October 3, 2003 and eventually came forward to her superiors who in turn notified MMA.

28. By letter dated December 3, 2002, counsel for MMA notified Defendant Hassan's counsel of the discovery, which Defendant Hassan did not deny.

29. At all times material hereto and without waiving any other defenses set forth herein, Defendant Hassan was employed by MMA in a supervisory capacity.

30. Section 955(e) imposes personal liability on any person who obstructs or prevents any person from complying with the Act, or attempting directly or indirectly to commit any act declared by that section to be an unlawful discriminatory practice.

31. Defendant Hassan, by his actions and omissions, intentionally, deliberately and recklessly obstructed and prevented MMA from its compliance with the PHRA by refusing to disclose the third incident which would have immediately resulted in his termination and thereby prevent the incident which gave rise to the underlying complaint.

32. As a direct and proximate result of his actions and omissions, Defendant Hassan has caused MMA to be subjected to the underlying class action brought by the EEOC to the above-captioned term and number, along with being subject to the underlying Intervenor Complaint, related costs, expenses and potential liabilities in an amount as yet to be determined.

33. Defendant Hassan is or may be liable to MMA for all or part of Plaintiff's claims against MMA pursuant to the PHRA.

34. Defendant Hassan is or may be solely liable to Stastny or liable over to MMA pursuant to §955(e) of the PHRA.

WHEREFORE, Third Party Plaintiff, Muhlenberg Medical Associates, P.C., respectfully requests this Honorable Court to enter relief in its favor as more fully determined at the time of trial.

Respectfully submitted,

Leisawitz Heller Abramowitch Phillips, P.C.

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Kevin A. Moore, Esq.  
Attorney for Defendant/Third Party Plaintiff