

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JEANELL BOWENS,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION FILE
)	NO. 1:18-CV-609
RIVERWOODS BEHAVIORAL)	
HEALTH, LLC and JOHN DOE 1-5,)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT

COMES NOW Plaintiff in the above-styled civil action and, pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), hereby files her First Amended Complaint, as follows:

1.

On or about May 30, 2017, Defendant Riverwoods Behavioral Health, LLC and its officers, agents, and employees identified herein as Defendant John Doe 1-5, published and made false, malicious, and defamatory statements regarding Plaintiff Jeanell Bowens to her employer, the Fulton County Division of the Department of Family and Children Services (hereinafter referred to as "Fulton County DFCS"). The false, malicious, and defamatory statements caused Plaintiff's personal and professional reputation to be tarnished, caused Plaintiff

to be demoted, and resulted in severe damages to Plaintiff in the forms of monetary loss, injury to reputation, and emotional distress.

2.

Plaintiff Jeanell Bowens is a citizen of the state of Georgia.

3.

Defendant Riverwoods Behavioral Health, LLC is a Delaware limited liability company authorized to transact business in the state of Georgia and is subject to the jurisdiction and venue of this Court. Defendant Riverwoods Behavioral Health, LLC and its officers, agents, and employees were involved in the tortious acts and omissions giving rise to this lawsuit.

4.

Service has been made on Defendant Riverwoods Behavioral Health, LLC and its Counsel is automatically electronically served with a copy of this amended complaint.

5.

Defendants John Doe 1-5 are officers, agents, and/or employees of Defendant Riverwoods Behavioral Health, LLC who, while acting in the course and scope of their employment, or acting on behalf of and with authority to speak for Defendant Riverwoods Behavioral Health, LLC, or whose acts were ratified by Defendant Riverwoods Behavioral Health, LLC, published and/or

uttered false, malicious, and defamatory statements regarding Plaintiff Jeannell Bowens to her employer, Fulton County DFCS, as referenced herein. These John Doe Defendants have received such notice of the institution of the action that they will not be prejudiced in maintaining defense on the merits. These John Doe Defendants are on notice, and/or should have been on notice, except that but for a mistake as to the real party, the action would have been brought against them.

6.

At the time the false, malicious, and defamatory statements regarding Plaintiff Jeanell Bowens were published and/or uttered to Fulton County DFCS by John Doe 1-5, such publication and/or utterance was made at the direction of Defendant Riverwoods Behavioral Health, LLC, including but not limited to its upper management, officers, and principals.

7.

At the time the false, malicious, and defamatory statements regarding Plaintiff Jeanell Bowens were published and/or uttered to Fulton County DFCS by John Doe 1-5, such publication and/or utterance was made with the express authority of Defendant Riverwoods Behavioral Health, LLC, including but not limited to its upper management, officers, and principals.

8.

Upon belief, Defendants John Doe 1-5 are citizens of the state of Georgia.

9.

Upon learning their identities in this litigation, Plaintiff will immediately seek to add John Doe 1-5 as party defendants in this case.

10.

At all material times, Defendant Riverwoods Behavioral Health, LLC operated a mental health facility in Clayton County, Georgia, located at 223 Medical Center Dr., Riverdale, Georgia 30274.

11.

The defamatory statement(s), publication(s), acts, and/or omissions giving rise to the instant lawsuit occurred in Clayton County, Georgia.

12.

Plaintiff hereby states her intention to bring all claims permissible under Georgia law arising out of the tortious conduct referenced herein.

13.

On May 22, 2017, Plaintiff Jeanell Bowens learned that her biological niece, a minor (hereinafter referred to as "JW"), had been transported to the Riverwoods Behavioral Health facility located at 223 Medical Center Dr., Riverdale, Georgia 30274.

14.

That afternoon, Plaintiff went to the Riverwoods Behavioral Health facility in order to visit her niece, JW. Having worked all day for Fulton County DFCS, Plaintiff was still wearing her nametag/badge issued by her employer, Fulton County DFCS.

15.

Upon arrival at the Riverwoods Behavioral Health facility, Plaintiff spoke with the front desk receptionist, who identified himself as Akeem. Akeem asked if Plaintiff worked for DFCS. Plaintiff explained to Akeem that although she did work for DFCS, she presented to the Riverwoods Behavioral Health facility for personal reasons to visit her biological niece. Mr. Akeem then granted Plaintiff permission to visit with JW during the normal visitation hours of 6:30PM to 7:30PM.

16.

Once inside the visitation area, Defendant and/or its agents advised Plaintiff that JW and other children at the facility for whom family members were present to visit would be late to the visitation, but that the one-hour visitation time would not be extended past 7:30PM. Plaintiff objected to the shortened visitation time to a supervisor at the Riverwoods Behavioral Health facility.

17.

The visitation supervisor then inquired about Plaintiff's identity and her purpose at the facility, stating that DFCS representatives were not permitted in the visitation area. Plaintiff explained to the visitation supervisor that she was not acting on behalf of DFCS, but was simply there to visit her biological niece, JW. Plaintiff further explained that she was not the legal guardian of JW, but that JW had been placed with Plaintiff and that Plaintiff is listed as the secondary person and emergency contact on the legal guardian paperwork. These facts were immediately confirmed in the visitation supervisor's presence by JaVon R. Bowens, the legal guardian of JW. The visitation time was ultimately extended to the full one hour.

18.

On May 24, 2017, Plaintiff returned to the Riverwoods Behavioral Health facility and spoke with John, an admissions counselor, to inquire about obtaining school documentation for JW so that JW would be allowed to take final exams. During the conversation, John stated that Plaintiff was not JW's legal guardian and therefore would not receive any documentation relating to JW. Plaintiff explained to John that JW had been placed with Plaintiff by DFCS and showed him a letter documenting this fact, in electronic format on her phone. Still, the requested documentation was not provided to Plaintiff.

19.

On May 25, 2017, Plaintiff made a phone call to Phil Bradford, the Clinical Director of Riverwoods Behavioral Health, LLC. During the call, Plaintiff described to Mr. Bradford the events of May 22, 2017 and May 24, 2017 at the Riverwoods Behavioral Health facility. In response, Mr. Bradford stated that he would inform Catherine Shephard and Marty Garcia, the Admissions Director and Acting CEO of Riverwoods Behavioral Health, LLC, respectively, regarding their conversation. Mr. Bradford further stated that he, Ms. Shephard, or Ms. Garcia would follow up with Plaintiff to discuss her concerns. Following the phone call, Plaintiff never heard back from Mr. Bradford, Ms. Shephard, or Ms. Garcia.

20.

On May 30, 2017, JW was discharged from the Riverwoods Behavioral Health facility.

21.

That same day, Plaintiff received an email from one of her superiors at Fulton County DFCS, instructing Plaintiff to attend a meeting that afternoon with a supervisor and a human resources official.

22.

Specifically, the May 30, 2017 email was sent by Rochelle Hawkins, a Fulton County DFCS director. In the email, Ms. Hawkins advised that she and Mary Williams, a Human Resources Supervisor of the Office of Human Resources, Georgia Department of Human Services, would be present at the meeting.

23.

The meeting between Plaintiff, Rochelle Hawkins, and Mary Williams took place at the Fulton County DFCS Southwest Service Center on May 30, 2017 at 2:30PM. During the meeting, Plaintiff was informed that a complaint had been made against her by Riverwoods Behavioral Health, LLC regarding Plaintiff's alleged conduct at the Riverwoods Behavioral Health facility on May 22, 2017 and May 24, 2017. Although the specific individuals involved in making and publishing the complaint to Fulton County DFCS were not identified to Plaintiff during this meeting, Plaintiff was informed that the complaint had been made by and on behalf of Riverwoods Behavioral Health, LLC.

24.

During the May 30, 2017 meeting, Rochelle Hawkins read to Plaintiff from a document containing the complaint from Riverwoods Behavioral Health, LLC.

The complaint read to Plaintiff by Ms. Hawkins included false, malicious, and disparaging allegations against Plaintiff.

25.

For example, the complaint read by Ms. Hawkins falsely alleged that Plaintiff had improperly used her DFCS nametag/badge to gain access to JW at the Riverwoods Behavioral Health facility on May 22, 2017.

26.

Additionally, the complaint read by Ms. Hawkins falsely alleged that Plaintiff had refused to provide a hard copy of JW's placement letter from DFCS to Riverwoods Behavioral Health staff on May 24, 2017.

27.

Plaintiff was not given a copy of the Riverwoods Behavioral complaint.

28.

On June 8, 2017, based on the aforesaid false, malicious, and disparaging complaint made against Plaintiff by Defendants Riverwoods Behavioral Health, LLC and John Doe 1-5, Plaintiff was issued a written reprimand by the Fulton County DFCS. As a result of the complaint and subsequent written reprimand, Plaintiff was demoted from her new position of Social Services Supervisor, a role which she had been operating as since April of 2017, and Plaintiff was rendered ineligible for promotion.

29.

At all times herein, Defendants John Doe 1-5 were employees and agents of Defendant Riverwoods Behavioral Health, LLC. All Defendants are jointly and severally liable and Defendant Riverwoods Behavioral Health is liable for the actions of Defendants John Doe 1-5 under theories of Respondeat Superior, vicarious liability, and agency principles.

30.

To the extent the defamatory complaint at issue or any portion thereof was made verbally so as to constitute a slander, Defendant Riverwoods Behavioral Health, LLC is liable for the actions of John Doe 1-5 because the defamatory complaint was made at the direction of and with the express authority of Defendant Riverwoods Behavioral Health, LLC, including but not limited to its upper management, officers, and principals.

31.

Upon information and belief, upper management, officers, and principals of Defendant Riverwoods Behavioral Health, LLC who authorized the publication of the defamatory complaint included, but were not limited to, Phil Bradford, Catherine Shephard, and/or Marty Garcia.

32.

As a direct and proximate consequence of the wrongful acts and omissions of the Defendants, its agents and employees, Plaintiff sustained serious damages and injuries. Defendants' tortious actions were the cause-in-fact and a proximate cause of the damages and injuries suffered by Plaintiff. All Defendants are jointly and severally liable for the acts and claims set forth herein.

COUNTS I-III:
DEFAMATION, LIBEL PER SE, AND/OR LIBEL PER QUOD

33.

Plaintiff incorporates all prior paragraphs and allegations herein.

34.

Defendants published false, malicious, and defamatory statements in writing regarding Plaintiff to her employer, Fulton County DFCS, which statements tended to and were calculated to injure the reputation of Plaintiff and which exposed Plaintiff to hatred, contempt, or ridicule.

35.

Defendants communicated, published, and/or uttered false, malicious, and disparaging statements about Plaintiff to her employer, Fulton County DFCS, which communications Defendants, their agents, and employees knew to

be false at the time they were made, which communications are productive of special damages, and from which damages are inferred.

36.

Defendants' libelous and defamatory communications and utterances were calculated to and did injure Plaintiff.

37.

Defendants' libelous and defamatory communications imputed Plaintiff's business, trade, and profession and were libelous *per se*, such that damage is inferred as a matter of law.

38.

Defendants' conduct was malicious, unjustified, and not privileged.

39.

As a direct and proximate result of the above-described libel, slander, and defamation, Plaintiff suffered past, present, and future economic injuries, injury to her reputation, emotional distress, and other monetary loss to be established by proof at trial.

40.

Plaintiff is entitled to all economic, mental/emotional, and intangible damages that may be proven as proximately resulting from the aforementioned libel, slander, and defamation by Defendants, their agents and employees.

COUNT IV:
SLANDER

41.

Plaintiff incorporates all prior paragraphs and allegations herein.

42.

Defendants verbally communicated, published, and uttered false, malicious, and disparaging statements regarding Plaintiff to her employer, Fulton County DFCS, which statements tended to and were calculated to injure the reputation of Plaintiff and which exposed Plaintiff to hatred, contempt, or ridicule.

43.

Defendants verbally communicated, published, and uttered false, malicious, and disparaging statements about Plaintiff to her employer, Fulton County DFCS, which communications Defendants, their agents, and employees knew to be false at the time they were made, which communications are productive of special damages, and from which damages are inferred.

44.

Defendants' slanderous communications and utterances were calculated to and did injure Plaintiff.

45.

Defendants' slanderous communications imputed Plaintiff's business, trade, and profession and were slanderous *per se*, such that damage is inferred as a matter of law.

46.

Defendants' conduct was malicious, unjustified, and not privileged.

47.

Defendant Riverwoods Behavioral Health, LLC is liable for the aforementioned slander of Defendant John Doe 1-5, because the slanderous statements at issue were made at the direction of and with the express authority of Defendant Riverwoods Behavioral Health, LLC.

48.

Upon information and belief, upper management, officers, and principals of Defendants Riverwoods Behavioral Health, LLC, including but not limited to Phil Bradfield, Catherine Shephard, Marty Garcia, and/or other supervisory personnel at Riverwoods expressly authorized Defendants John Doe 1-5 to make and publish the aforementioned defamatory complaint to Fulton County DFCS.

49.

On May 25, 2017 - five days before Plaintiff learned of the defamatory complaint - Plaintiff spoke to Phil Bradford, the Clinical Director of Riverwoods

Behavioral Health, LLC, and informed him of events at the Riverwoods Behavioral Health facility on May 22, 2017 and May 24, 2017. Mr. Bradford responded that he, Catherine Shephard (Admissions Director), or Marty Garcia (acting CEO) would follow up with Plaintiff about Plaintiff's concerns in the near future. Instead, on May 30, 2017, Plaintiff was informed that a false, malicious, and defamatory complaint had been made against her by and on behalf of Riverwoods Behavioral Health, LLC.

50.

Upon information and belief, Riverwoods Behavioral Health, LLC and its upper management, officers, and principals, including but not limited to Phil Bradford, Catherine Shephard, and Marty Garcia, were fully aware of, consented to, and/or authorized the false, malicious, and defamatory complaint to be published and made to Fulton County DFCS.

51.

As a direct and proximate result of the above-described slander, Plaintiff suffered past, present, and future economic injuries, injury to her reputation, emotional distress, and other monetary loss to be established by proof at trial.

52.

Plaintiff is entitled to all economic, mental/emotional, and intangible damages that may be proven as proximately resulting from the aforementioned libel, slander, and defamation by Defendants, their agents and employees.

COUNTS V-IX:
WRONGFUL RETENTION, SUPERVISION, HIRING,
ENTRUSTMENT, AND TRAINING

53.

Plaintiff incorporates all prior paragraphs herein.

54.

Defendant Riverwoods Behavioral Health, LLC had actual and constructive knowledge of the acts of its employees as referenced herein and knew or should have known that they had a propensity to slander, libel, and disparage Riverwoods Behavioral Health visitors, including Plaintiff.

55.

Defendant Riverwoods Behavioral Health was negligent in failing to promulgate and enforce company policies, procedures and rules for the protection of the public, including but not limited to Plaintiff.

56.

During the events at issue in this case, Defendant Riverwoods Behavioral Health, LLC failed to intervene or temper the actions of its employees, including

John Doe 1-5, and any other individuals who published disparaging comments about Plaintiff, and negligently hired and retained such employees despite their propensity to slander and libel Plaintiff.

57.

Defendant Riverwoods Behavioral Health, LLC is liable for the negligent supervision, hiring, retention, entrustment and training of its employees.

ADDITIONAL COUNTS:
BAD FAITH, EXPENSES OF LITIGATION, AND PUNITIVE DAMAGES

58.

Plaintiff incorporates all prior paragraphs herein.

59.

Plaintiff is entitled to an award of punitive damages, in excess of \$250,000 and without limitation or cap, because the actions of Defendants, their agents and employees showed willful misconduct, malice, fraud, wantonness, oppression, a specific intent to harm, and/or an entire want of care which would raise the presumption of conscious indifference to consequences.

60.

Because Defendants' actions evidence a species of bad faith, were and are stubbornly litigious, and have caused Plaintiff undue expense, Plaintiff is entitled to recover their necessary expenses of litigation, including an award of

reasonable attorneys' fees and expenses required by this action. (O.C.G.A. § 13-6-11). Furthermore, Plaintiff is entitled to all expenses of litigation and attorneys' fees pursuant to all other Georgia statutory and common laws.

61.

Defendants are liable to Plaintiff for all others intentional and negligent acts as shown at trial.

62.

Defendants' negligent and intentional conduct was a cause in fact and a proximate cause of Plaintiff's injuries and damages. But for said conduct, Plaintiff would not have suffered damages as will be proven at the trial of this matter. Defendants are liable for Plaintiff's damages sustained, and all other elements of damages allowed under the laws of the state of Georgia. Defendants are liable to Plaintiff directly, as well as under theories of respondent superior and agency principles.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that:

- (a) Process issue as provided by law;
- (b) Plaintiff be awarded actual damages in amounts to be shown at trial from Defendants;

- (c) Plaintiff be awarded all general, special, compensatory, economic, punitive, and other allowable damages in accordance with the enlightened conscience of a fair and impartial jury from the Defendants and as permitted under Georgia law;
- (d) Plaintiff has and recovers damages sufficient to compensate her fully, fairly, and completely for all of her losses compensable under Georgia law as set forth above;
- (e) Plaintiff has a trial by jury;
- (f) All costs be cast on Defendants; and
- (g) Plaintiff has such other relief as this Court deems just and proper.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY.

This 7th day of March, 2018.

[Signature on the Following Page]

Respectfully submitted,

PIASTA NEWBERN WALKER, LLC

/s/ Christopher B. Newbern

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Local Rule 7.1D Certification

Counsel hereby certifies that the foregoing document was prepared in Book Antigua, 13point font in compliance with local rule 7.1B.

/s/ Christopher B. Newbern

Christopher B. Newbern

Georgia Bar No. 314463

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing on all counsel of record by filing it on CM/ECF, which will send automatic notification to:

T. Andrew Graham
Hall Booth Smith, PC
191 Peachtree Street, N.E., Suite 2900
Atlanta, Georgia 30303

Dated: March 7, 2018.

Respectfully submitted,

PIASTA NEWBERN WALKER, LLC

/s/ Christopher B. Newbern
Christopher B. Newbern
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Attorney for Plaintiff