

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)
)
Jean Riggins,)
)
Plaintiff,)
)
vs.)
)
AnMed Health and Larry Davidson, MD,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
C. A. FILE NO.: 2020-CP-04-01835

**ORDER GRANTING
DEFENDANTS' MOTION FOR
INJUNCTIVE RELIEF**

RECEIVED
Feb 11 2022
SC Court of Appeals

THIS MATTER came before the Court on January 19, 2022 on the Defendants' Motion for Injunctive Relief seeking to enjoin the Plaintiff and Plaintiff's counsel from disseminating information regarding allegations of ongoing lawsuits involving AnMed Health and Larry Davidson, M.D. or any resolution of such lawsuits, including, but not limited to, the removal of blog or other posts on the internet. Upon consideration of the applicable law, the materials and memoranda presented by the parties, and the arguments of the attorneys, this Court grants the Defendants' Motion for Injunctive Relief for the reasons set forth herein, with the exception of any future settlements or verdicts.

Background

This case is a medical malpractice action which arises out of the care and treatment provided by Dr. Larry S. Davidson during an ACDF spinal fusion in which the Plaintiff alleges that he cut her carotid artery causing permanent nerve injury, vocal cord paralysis, diaphragm paralysis, right arm paralysis, aspiration pneumonia, damage to the right recurrent laryngeal nerve, right phrenic nerve injury, brachioplexus injury causing dysphonia with diplophonia, speaking breathlessness, and dysphagia. Plaintiff filed a Notice of Intent to File Suit on June 17, 2020 and discovery has been ongoing since that time.

On October 14, 2020, the Plaintiff shared a post by her counsel's firm McGowan, Hood, & Felder, LLC titled "Relapsed Alcoholic Doctor Accused of Wrongdoing at Anderson County Hospital in Lawsuit by McGowan, Hood & Felder, LLC." The post discusses the specifics of Plaintiff's allegations including, "that Davidson was dealing with a substance abuse problem at the time of [their] client's spinal fusion surgery, and as a result, she suffered catastrophic and life-altering injuries." The post further states that "Davidson relapsed with alcohol beginning in 2016 with the problem getting progressively worse until he was drinking near daily by October 2017. This situation continued for months, with Davidson continuing to perform delicate spine and brain surgeries without informing his patients of his problem until he was arrested for DUI in late December 2017."

The post asks its reader, "Were you a victim of medical malpractice while under the care of Larry S. Davidson? Did you suffer serious and/or permanent injuries while undergoing a surgical procedure performed by Larry S. Davidson in Anderson or Greenville, SC? McGowan, Hood & Felder, LLC, led by litigation attorney Jay Wright, is currently representing multiple plaintiffs in cases against neurosurgeon Larry S. Davidson and AnMed for grossly negligent medical malpractice and negligent supervision. If you or your loved one was harmed, we want to help you." This constitutes advertisement and is a direct solicitation by McGowan, Hood & Felder, LLC targeted at individuals who received treatment by Defendant Larry S. Davidson, M.D. during a specific time period. If someone underwent a surgery between June 2016 and January 2018, the post encourages them to contact McGowan, Hood & Felder, LLC immediately.

It is unknown the exact amount of shares the Plaintiff's post received or how many people have viewed the post on the firm's website; however, since the time that the post was shared,

Plaintiff's counsel has filed five other cases making similar allegations against Dr. Davidson focusing on his alleged alcohol use and abuse.

Legal Analysis

Requests for injunction are governed by Rule 65 of the South Carolina Rules of Civil Procedure. Actions for injunctive relief are equitable in nature. Wiedemann v. Town of Hilton Head, 344 S.C. 233, 236, 542 S.E.2d 752, 753 (Ct. App. 2001). To obtain an injunction, a party must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. County of Richland v. Simpkins, 348 S.C. 664, 669, 560 S.E.2d 902, 904 (Ct. App. 2002).

The post made by McGowan, Hood & Felder, LLC is improper for several reasons, and Plaintiff and Plaintiff's counsel are enjoined from continuing to disseminate this type of information regarding allegations of cases filed against Dr. Davidson and AnMed Health. For the reasons stated herein, the court finds that defendant will suffer irreparable harm if an injunction is not granted.

- A. Plaintiff's counsel's continued dissemination of information regarding allegations of this and other cases filed against Dr. Davidson and AnMed Health are reasonably likely to taint the jury pool and must be stopped.

Under South Carolina law, litigants are guaranteed the right to an impartial jury. See S.C. Code Ann. § 14-7-1050 ("in all civil cases any party shall have the right to demand a panel of twenty competent and impartial jurors from which to strike a jury."). A litigant has the "right to demand a panel of twenty competent and impartial jurors from which to strike a jury." Alston v. Black River Elec. Co-op., 345 S.C. 323, 548 S.E.2d 858 (2001). Further, "[a] litigant's right to an impartial jury is a fundamental principle of our legal system." The Winthrop Univ. Trustees for

the State v. Pickens Roofing & Sheet Metals, Inc., 418 S.C. 142, 159, 791 S.E.2d 152, 161 (Ct. App. 2016).

This Court finds that if Plaintiff's counsel and parties to this litigation are allowed to continue disseminating the type of information in their posts, any potential jury pool in this and all other associated matters filed by Plaintiff's counsel against Dr. Davidson and AnMed Health are going to be potentially tainted. The post was shared on social media by people in the community, including the Plaintiff herself, increasing the likelihood that it would be seen by potential members of a jury pool. With regard to the post itself, it mentions both the Plaintiff and Defendants by name, states a specific time period and location for potential claims, and states the allegations of this lawsuit as if they have already been determined to be facts admitted into evidence of the case. The post directly states that Dr. Davidson "permanently injured" Ms. Riggins, an allegation which has not been admitted in any manner by either of the Defendants.

Even if the persons reading the post have never received treatment from Dr. Davidson or at AnMed Health, they are likely to remember the post and the implications of liability made by Plaintiff's counsel if they are called for jury service. If Plaintiff's counsel is allowed to continue to disseminate such information, the pool of tainted jurors will likely become even larger. To minimize the impact of such information on potential jurors, the parties and their attorneys are enjoined from posting information about this case or any other case involving Dr. Davidson and AnMed Health to any online or other media source.

B. The South Carolina Rules of Professional Conduct may prohibit this type of solicitation.

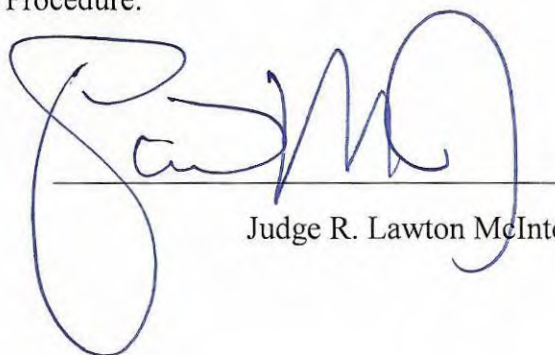
Because Plaintiff's counsel's post is potentially targeting specific clients which they believe to be in need of specific legal services, the Court finds that the post can reasonably be interpreted as a solicitation and thus must meet the requirements of Rule 7.3(d) of the South Carolina Rules of Professional Conduct. By examining the post made on McGowan, Hood & Felder's website, it is evident that the solicitation does not meet the requirement of this rule.

For this and all the other reasons discussed above, Plaintiff's post has the substantial likelihood of prejudicing this adjudicative proceeding against the Defendants by tainting the potential jury pool.

For the foregoing reasons, the Plaintiff and Plaintiff's counsel are hereby enjoined from posting information about this case or any other case involving Dr. Davidson and AnMed Health to any online or other media source.

Therefore, it is hereby ORDERED that the Defendant's Motion for Injunctive Relief is GRANTED. Plaintiff's counsel is hereby ORDERED to remove the post cited above within ten days of the date of this order. Defendants shall post a bond of Five Thousand Dollars (\$5,000.00) as required by the South Carolina Rules of Civil Procedure.

AND IT IS SO ORDERED.



Judge R. Lawton McIntosh

January 26 2022

Anderson, South Carolina