

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Brittany R. Tovar,

Court File No.: 16-cv-00100 (RHK/LIB)

Plaintiff,

vs.

AFFIDAVIT OF DAVID M. WILK

Essentia Health, Innovis Health, LLC,
dba Essentia Health West, and
HealthPartners, Inc.,

Defendants.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, DAVID M. WILK, being first duly sworn, hereby state as follows:

1. I am a partner with the law firm of LARSON • KING, LLP, counsel for Defendant HealthPartners, Inc. (“HealthPartners”), in the above-captioned matter, and I submit this Affidavit in opposition to Plaintiff’s Motion To Alter Or Amend The Judgment To Dismiss Count Three With Prejudice. I have personal knowledge of the facts stated herein.

2. On June 3, 2016, I received a telephone call from Jill Gaulding, counsel for Plaintiff. During that conversation, Ms. Gaulding indicated that Plaintiff intended to appeal the Court’s Order, and presented a number of approaches that she was considering to address the dismissal without prejudice. One approach involved moving to amend the Complaint to add HealthPartners Administrators, Inc. (“HPAI”), to this action and then

asking the Court to enter its May 11th Order as to HealthPartners and HPAI, and dismiss Count III with prejudice.

3. On June 6, 2016, I spoke with Christy Hall, counsel for Plaintiff, on the telephone. I suggested that Plaintiff move to Amend her Complaint to include HPAI, so that the issues in this case could be addressed in a single appeal.

4. Attached as Exhibit A is a true and correct copy of electronic correspondence from Jill Gaulding, counsel for Plaintiff, dated June 7, 2016.

FURTHER AFFIANT SAYETH NOT.

Dated: June 13, 2016

s/ David M. Wilk
DAVID M. WILK

Subscribed and sworn to before me
This 13th day of June, 2016

s/ Judith M. Heglund
Notary Public

1532363

EXHIBIT A

Wilk, David

From: Jill Gaulding <jill.gaulding@genderjustice.us>
Sent: Tuesday, June 07, 2016 3:52 PM
To: Wilk, David
Cc: Christy Hall; Kristin Johnson
Subject: Tovar/HealthPartners matter

Dear David,

I am sorry I missed your call yesterday, but appreciate you updating Christy with HealthPartner's position. Given our assessment of the situation created by Judge Kyle's order, as well as our read of the finality doctrine, we've decided to request from Judge Kyle only that he alter his order to dismiss Ms. Tovar's claims against Health Partners, Inc. with prejudice. We will be filing that short motion tomorrow.

We have not yet made a final determination regarding whether it would be prudent for Ms. Tovar to file a separate "placeholder" suit against HealthPartners Administrators, Inc. (HPAI). An alternative which I would be happy to discuss with you would be a tolling agreement between HPAI and Ms. Tovar. In light of the likely application of the relation-back doctrine, the latter may make more sense for all concerned.

Jill

Jill R. Gaulding
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