



August 22, 2017

VIA ECF

The Honorable Donovan W. Frank
U.S. District Judge, District of Minnesota
United States District Court
724 Federal Building
316 N. Robert Street
Saint Paul, MN 55101

Re: *Tovar v. Essentia Health, et al*
Court File No. 16-CV-0100 (DWF/LIB)

Dear Judge Frank:

I write in response to the Court's order requiring the parties to submit letter briefs addressing the current status of the case and how best to proceed going forward.

Plaintiff Brittany Tovar filed her complaint on January 15, 2016, with counts against three defendants: Essentia Health; Innovis Health, LLC, dba Essentia Health West; and HealthPartners, Inc. She alleges that these defendants discriminated against her by providing or administering a health care plan that contained an exclusion for "[s]ervices and/or surgery for gender reassignment" (ECF 1, Complaint at ¶¶ 6-7.) Tovar's son, who was a minor at the time, is transgender and had sought services through Tovar's health care plan that were denied.

In lieu of an answer, all defendants submitted motions to dismiss following the complaint. Those motions were granted. Based on the written order on the motions to dismiss, and in light of Tovar's intention to appeal that decision, the Court also permitted Tovar to add a new defendant: HealthPartners Administrators, Inc.

In appeal, the Eighth Circuit upheld the dismissal of the case against the Essentia entities ("Essentia"). The Eighth Circuit reversed the dismissal against the HealthPartners entities ("HealthPartners"). Therefore, the current status of the case is that the Tovar's claims against HealthPartners, Inc., and HealthPartners Administrators, Inc., remain. HealthPartners must respond to Tovar's complaint.

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However, in the meantime Tovar has discussed with all parties her intention to amend her complaint. She shared a proposed draft amended complaint with all parties this past Friday, August 18. This amendment would alter the following things about her complaint:

- 1) officially add HealthPartners Administrators, Inc., as a party in the caption;
- 2) add facts obtained from the Equal Employment Opportunity Commission file;
- 3) clarify facts regarding Tovar's monetary damages and employment status; and
- 4) add Tovar's son, Reid Olson, as a Plaintiff with counts under Section 1557 against both HealthPartners entities and both Essentia entities.

Based on these discussions with Essentia and HealthPartners, it is Tovar's understanding that Essentia would oppose amending the complaint, and HealthPartners would be willing to stipulate to it, while reserving all defenses.

Tovar's position is that she should file a motion to amend the complaint, with Essentia opposing the addition of the new count against it. Tovar is ready to file this motion as early as the end of the week. After the motion to amend is decided, Plaintiffs Tovar and Olson would file an amended complaint. Depending on the outcome of the motion to amend, this amended complaint would either contain counts against only HealthPartners, or would contain counts against both HealthPartners and Essentia. Within 21 days after the amended complaint is filed, the remaining defendants should file an answer or a motion to dismiss.

Respectfully,

/s/ Christy L. Hall
Christy L. Hall

cc: Counsel of Record (via ECF)