

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

ALINA BOYDEN and
SHANNON ANDREWS,

Plaintiffs,

v.

Case No. 17-cv-264

STATE OF WISCONSIN DEPARTMENT OF
EMPLOYEE TRUST FUNDS, *et al.*,

Defendants.

**MOTION OF DEFENDANT DEAN HEALTH PLAN, INC. TO DISMISS THE
AMENDED COMPLAINT**

Defendant Dean Health Plan, Inc. ("DHP") respectfully moves this Court to dismiss plaintiffs' claims against DHP in their entirety for failing to state a claim on which relief can be granted, pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of this motion, DHP states as follows:

1. Plaintiffs Alina Boyden and Shannon Andrews have brought this suit alleging discrimination on the basis of sex and transgender status.
2. DHP is named as a defendant with respect to plaintiffs' Third Cause of Action, which alleges a violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)(1).
3. To be liable under Title VII, DHP must qualify as plaintiffs' "employer." *See* 42 U.S.C. § 2000e-2. This means that plaintiffs must allege facts beyond mere labels and legal conclusions to demonstrate that DHP meets this requirement.
4. Plaintiffs have failed to allege facts rendering it plausible that DHP is their "employer" as that term is defined in Title VII.

5. Because plaintiffs cannot allege any set of facts consistent with any liability of DHP under Title VII, plaintiffs' Third Cause of Action as pled against DHP should be dismissed with prejudice.

WHEREFORE, for the foregoing reasons, and as explained in the concurrently-filed Memorandum of Law Supporting Motion of Defendant Dean Health Plan, Inc. to Dismiss the Amended Complaint, which is incorporated herein by reference, Defendant Dean Health Plan, Inc. respectfully requests that this Court grant its motion and dismiss the Title VII claims against it with prejudice, pursuant to Rule 12(b)(6).

Dated this 28th day of June, 2017.

s/ Lynn M. Stathas
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