

IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR ORANGE
COUNTY, FLORIDA

ROMITA MUKERJEE, M.D.,

CASE NO. 2016-CA-007096-O

Plaintiff(s),

vs.

CENTRAL FLORIDA INPATIENT MEDICINE,
P.A.,

Defendant(s).

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES IN RESPONSE TO
PLAINTIFF'S COMPLAINT**

COMES NOW, Defendant, CENTRAL FLORIDA IMPATIENT MEDICINE, P.A.,
("CFIM"), and hereby responds to Plaintiff's Complaint as follows:

COMPLAINT

1. Admitted for jurisdiction purposes only.
2. Admitted.
3. Admitted.
4. Admitted that a one (1) page addendum accompanies the CFIM Hospitalist Employment Agreement ("Employment Agreement") attached to the Complaint; otherwise, denied as framed.
5. Denied as framed.
6. Admitted.
7. Admitted.
8. Denied.
9. Denied.

10. Denied.

11. Denied.

12. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

As and for Defendant's First Affirmative Defense, the Defendant affirmatively states that the Plaintiff has failed to state a claim upon which relief may be granted (*i.e.*, failed to state a cause of action) with respect to an action for breach of contract, and that Plaintiff has failed to set forth, and will be unable to show, that a breach of contract occurred.

SECOND AFFIRMATIVE DEFENSE

As and for Defendant's Second Affirmative Defense, the Defendant affirmatively states that the Plaintiff failed to satisfy her duties and obligations under the Employment Agreement, and therefore, she is entitled to no further compensation.

THIRD AFFIRMATIVE DEFENSE

As and for Defendant's Third Affirmative Defense, the Defendant affirmatively states that the Defendant has satisfied all of their duties and obligations under the subject Employment Agreement, and therefore, no breach has occurred.

FOURTH AFFIRMATIVE DEFENSE

As and for Defendant's Fourth Affirmative Defense, the Defendant affirmatively states that the Plaintiff, herself, breached the Employment Agreement.

FIFTH AFFIRMATIVE DEFENSE

As and for Defendant's Fifth Affirmative Defense, the Defendant affirmatively states that the Complaint, and each allegation stated therein, fails because it does not state facts which would entitle Plaintiff to additional compensation under the Employment Agreement.

SIXTH AFFIRMATIVE DEFENSE

As and for Defendant's Sixth Affirmative Defense, the Defendant affirmatively states that any recovery by the Plaintiff is barred by her own improper conduct or "unclean hands" including conduct that caused or contributed to the damages Plaintiff alleges.

SEVENTH AFFIRMATIVE DEFENSE

As and for Defendant's Seventh Affirmative Defense, the Defendant affirmatively states that Plaintiff's right to recovery, if any, must be offset by her failure to reasonably mitigate her alleged losses and/or damages.

EIGHTH AFFIRMATIVE DEFENSE

As and for Defendant's Eighth Affirmative Defense, the Defendant affirmatively states that Plaintiff has been fully and adequately compensated pursuant to the terms of the Employment Agreement, and therefore, any recovery would result in unjust enrichment.

NINTH AFFIRMATIVE DEFENSE

As and for Defendant's Ninth Affirmative Defense, the Defendant affirmatively states that the Plaintiff failed to satisfy an agreed condition precedent, as she did not average the same number of encounters as the CFIM Hospitalists on a traditional schedule, and therefore, Defendant is not obligated to pay out compensation under paragraph 2(a) of Exhibit A (Addendum) of the Employment Agreement.

TENTH AFFIRMATIVE DEFENSE

As and for Defendant's Tenth Affirmative Defense, the Defendant affirmatively states that Plaintiff's asserted claims and/or evidence relating thereto are barred, either in whole or in part, by the parole evidence rule.

ELEVENTH AFFIRMATIVE DEFENSE

As and for Defendant's Eleventh Affirmative Defense, the Defendant affirmatively states that Plaintiff has not suffered or sustained economic incidental and consequential damages, and therefore has no right to recovery of the same.

TWELFTH AFFIRMATIVE DEFENSE

As and for Defendant's Twelfth Affirmative Defense, the Defendant reserves the right to assert additional affirmative defense(s) in this matter if necessary during the course of discovery.

DEMAND FOR ATTORNEYS FEES

Pursuant to paragraph 21 of the Employment Agreement, the Defendant affirmatively asserts a right to recovery of all court costs and reasonable attorneys' fees (including charges attributable to law clerks and paralegals), and interest on the same, against the Plaintiff in the event that Defendant is the prevailing party. This demand shall not preclude recovery of attorneys' fees and/or costs available by applicable statute, law and/or award from the Court, to include but not limited to recovery of fees under §57.105, Florida Statutes.

DEMAND FOR JURY TRIAL

Defendant herein requests a trial by jury on all issues so triable by jury.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished through the Court's E-Filing Portal to Plaintiff's counsel, Richard P. Spence, Esq., Richard@GoSpenceLaw.com, and to all other parties of record, who have been served and entered an appearance and/or responded in this matter on this 19th day of September, 2016.

/s/Jack T. Cook

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