

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

Christopher Anthony Roller,
Plaintiff,

Court File No.
Case Type:
Judge:

v.

Quello Clinic, Ltd. and
Fairview Health Services, f/k/a Fairview
Hospital and Health Care Service, d/b/a
Fairview University Medical Center,

Defendants.

**NOTICE OF MOTION
AND MOTION TO DISMISS**

TO: PLAINTIFF CHRISTOPHER ANTHONY ROLLER, 13150 Harriet Avenue South,
#273, Burnsville, Minnesota, 55337:

NOTICE OF MOTION

PLEASE TAKE NOTICE that defendant Quello Clinic, Ltd. will bring the following Motion to Dismiss for hearing on a date yet to be determined, before a judge of the District Court, Dakota County Government Center, Hastings, Minnesota.

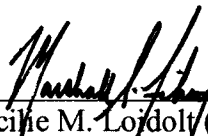
MOTION TO DISMISS

Defendant Quello Clinic, Ltd., by and through its undersigned attorneys, hereby moves this Court for dismissal of plaintiff Christopher Anthony Roller's claim against defendant.

This motion is made pursuant to Minn. R. Civ. P. 12.02(e), and case law interpreting the same. Roller's complaint fails to state any claim upon which relief may be granted, and must be dismissed as a result. This motion is made based upon all of the files, records, and proceedings herein, the memorandum of law, supporting affidavit and exhibits, and the arguments of counsel.

Respectfully submitted,

Dated: 07 March 2005



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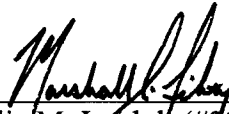
*Attorneys for
defendant Quello Clinic, Ltd.*

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. §549.211 to the party against whom the allegations in this pleading are asserted.

Dated: 07 March 2005



Cecilie M. Loidolt (#233006)
Marshall S. Lichy (#0323767)

1207170

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Christopher Anthony Roller,
Plaintiff,

Court File No.:
Judge:
Case Type:

vs.

Quello Clinic, Ltd. and Fairview Health
Services,

**DEFENDANT QUELLO CLINIC, LTD.'S
MEMORANDUM IN SUPPORT OF
RULE 12 MOTION TO DISMISS**

Defendant,

INTRODUCTION

This lawsuit stems from plaintiff Christopher Roller's allegations that defendants Quello Clinic, Ltd. and Fairview Health Services are liable for damages he suffered "from character defamation, slander, [] future credibility and reputation in life and for the Presidency of the United States" related to his 72-hour hold for observation and evaluation at Fairview University Medical Center on or about October 28, 2004. Minnesota law dictates any person assisting in the commitment of any individual pursuant to the Minnesota Commitment and Treatment Act, Minn. Stat. § 253B.05 (2004) is not subject to any civil suit or liability stemming from that assistance. Each claim in Roller's complaint arises from the defendants' respective roles in Roller's commitment pursuant to Minn. Stat. § 253B.05 by placing him on a 72-hour hold. As a matter of law, Quello Clinic is completely immune from suit and liability for any act related to its good faith efforts to have Roller committed.

Because Roller's complaint fails to state any claim upon which relief can be granted, defendant Quello Clinic, Ltd. brings this motion to dismiss pursuant to MINN.R.CIV.P. 12.02(e),

which requires that the motion be made prior to submitting a responsive pleading. Quello Clinic submits this 12.02(e) motion to dismiss prior to serving its answer.

STATEMENT OF ISSUE

1. IS DEFENDANT QUELLO CLINIC, LTD. IMMUNE FROM SUIT AND LIABILITY FOR ITS ROLE IN THE EFFORT TO HOLD ROLLER FOR 72-HOUR OBSERVATION PURSUANT TO THE MINNESOTA COMMITMENT AND TREATMENT ACT?

STATEMENT OF FACTS

Christopher Roller presented to Dan Reeves, M.D. and defendant Quello Clinic in Burnsville, Minnesota on October 28, 2004 to obtain a referral for an MRI scan of his head. *See COMPLAINT* at ¶ 1. Roller provided Dr. Reeves a history, including his experience of “becoming God.” *Id.* He also related to Dr. Reeves he was contemplating a run for President of the United States of America. *See id.* at ¶ 2. Dr. Reeves allegedly told Roller he “was delusional – that [Roller] was going to kill somebody very soon,” then contacted the police, apparently in “very deceptive fashion.” *See id.* at ¶ 1. Upon their arrival, police “escorted” Roller to Fairview University Hospital. *Id.* He was eventually placed on a 72-hour hold pursuant to Minn. Stat. § 253B.05 because he was a threat to himself and/or to society. *Id.* This suit followed. Roller seeks one billion dollars (\$1,000,000,000) in damages for “character defamation, slander, my future credibility and reputation in life and for the Presidency of the United States.” *Id.* at ¶ 5. He sued the Quello Clinic as Dr. Reeves’ employer.

ANALYSIS

I. STANDARD

This is a simple case, one governed by uncomplicated and undisputed rules. The Minnesota Rules of Civil Procedure regulate motions to dismiss for failure to state a claim upon which relief can be granted. *See* MINN.R.CIV.P. 12.02(e). Such a motion to dismiss shall be

made before pleading if a further pleading is permitted by the Rules. *See id.* When considering a 12.02(e) motion to dismiss, the court need not contemplate whether the plaintiff can prove the facts alleged in the complaint; rather, the court must only determine whether the complaint sets forth a legally sufficient claim for relief. *See Doyle v. Kuch*, 611 N.W.2d 28, 31 (Minn.App. 2000). All inferences must be drawn in favor of the non-moving party. *Id.* (citing *Paradise v. City of Minneapolis*, 297 N.W.2d 152, 155 (Minn. 1980)). Finally, the court's determination of a motion to dismiss must be confined to the pleadings. MINN.R.CIV.P. 12.02(e); *see also Bush v. City of Lakefield*, 399 N.W.2d 169, 171-72 (Minn.App. 1987). As articulated by the Minnesota Supreme Court in *Northern States Power v. Franklin*, 122 N.W.2d 26 (Minn. 1963), if there are no facts to support the plaintiff's claim, dismissal is required:

“A claim is sufficient against a [Rule 12.02(e)] motion to dismiss ... if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded. To state it another way, under this rule a pleading will be dismissed only if it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded.

Id. at 29.

To survive the instant motion to dismiss based on Rule 12.02(e), then, Roller need demonstrate it is *possible* to grant the relief demanded on *any* evidence that might be produced consistent with his theory. *See Northern States Power Co. v. Franklin*, 122 N.W.2d 26, 29 (Minn. 1963). But even in the face of this exacting standard for 12.02(e) motions to dismiss, Roller's complaint fails to allege *any* evidence that resurrects his claim from futility in light of Quello Clinic, Ltd.'s *complete immunity from suit and liability* resulting from its role in providing good faith assistance in Roller's commitment pursuant to Minn. Stat. § 253B.05.

II. QUELLO CLINIC, LTD. IS COMPLETELY IMMUNE FROM LIABILITY FOR ANY ACTIONS RELATED TO ITS GOOD FAITH EFFORTS TO HAVE ROLLER COMMITTED PURSUANT TO THE MINNESOTA COMMITMENT AND TREATMENT ACT.

The Minnesota Commitment and Treatment Act, Minn. Stat. § 253B (2004) provides, among other things, complete civil immunity for persons involved in the civil commitment process, assuming they act in good faith:

All persons acting in good faith, upon either actual knowledge or information thought by them to be reliable, who act pursuant to any provision of this chapter or who procedurally or physically assist in the commitment of any individual, pursuant to this chapter, are not subject to any civil or criminal liability under this chapter.

Minn. Stat. 253B.23, subd. 4. The statute “provides complete immunity from suit, not simply a defense to liability.” *Mjolsness v. Riley*, 524 N.W.2d 528, 530 (Minn.App. 1994); *see also Culbertson v. Chapman*, 496 N.W.2d 821, 825 (Minn.App. 1993) (holding resolution of immunity question at earliest stage of litigation desirable to allow persons to act without fear of consequences, including trial).

This “complete immunity” under Minn. Stat. § 253B.23 is not contingent upon whether the commitment petition is ultimately dismissed. *See Mjolsness*, 524 N.W.2d at 531 (holding statute’s plain language unambiguously applies to all persons acting in good faith, not just those successful in commitment effort). To limit the statute’s reach would run “contrary to the statute’s broad grant of immunity.” *Id.* Indeed, healthcare providers and others must have wide discretion in determining how to “best ensure the safety of the individuals involved.” *See Culbertson*, 496 N.W.2d at 826.

A. Because Dr. Reeves’ actions were done in good faith, Dr. Reeves and Quello Clinic are immune from this lawsuit and any liability allegedly stemming from attempts to have Roller committed.

Each of Roller’s purported causes of action with respect to Quello Clinic arise from Dr. Reeves’ role in Roller’s eventual placement on a 72-hour hold. The fundamental question in this case, then, is whether Dr. Reeves was acting in good faith concern for Roller and those around

him, or was committing a *willful wrong* when he telephoned police. Roller concedes his statement to Dr. Reeves that he is God “may be delusional.” *See* COMPLAINT at ¶ 3. Roller refers to himself as God and hopes to eventually create “heaven on Earth.” *Id.* He also concedes some people are scared of him and “even think [he] might kill them or others.” *Id.* at ¶ 5. And, while full details of their conversation remain vague, Roller summarily concludes that Dr. Reeves and Quello Clinic undermined his credibility, called him delusional with bi-polar disorder and attempted to socially “assassinate” him because Dr. Reeves’ religious norms differ from Roller’s. *Id.* at ¶ 3.

Roller has failed to come forward with any facts supporting his allegation that Dr. Reeves’ telephone call to police on October 28, 2004 was motivated by bad faith. Where there is no evidence of malice or willful wrong by the defendant, claims leveled against the defendant related to procedural efforts to effectuate civil commitment must fail. *See Mjolsness*, 524 N.W.2d at 530 (defendant immune under Minn. Stat. § 253B.23, subd. 4 where no evidence defendant’s actions were malicious or constituted willful wrong).

In *Mjolsness*, the plaintiff had a long history of depression for which he took antidepressant medication and received outpatient psychiatric treatment. *Id.* at 529. While on antidepressants, he consumed alcohol, cocaine and marijuana, and often spoke of committing suicide. *Id.* When Mjolsness told his friends and family during an “intervention” he had no intention of getting treatment for drug or alcohol abuse and was planning to commit suicide, defendant Lance Riley, Mjolsness’ close friend and personal attorney, called the police. *Id.* Upon their arrival, officers took Mjolsness into custody and brought him to the Hennepin County Crisis Intervention Center for an examination. The Center held Mjolsness for evaluation and observation for 72 hours pursuant to Minn. Stat. § 253B.05, then discharged him. *Id.*

Mjolsness commenced a lawsuit against Riley for legal malpractice, false imprisonment and malicious prosecution, purportedly as a result of Riley's efforts to have Mjolsness committed. *Id.* at 530. But Mjolsness did not present any evidence supporting his allegation that Riley's call to police was made in bad faith, and the Court of Appeals thus affirmed the district court's grant of summary judgment in favor of Riley "because there is no evidence Riley's actions were malicious or constituted a willful wrong." *Id.*

The facts here are virtually indistinguishable from those in *Mjolsness*. Upon his justifiable belief Rollers was mentally ill and a threat to himself or others, Dr. Reeves called police to begin the very structured process that, for some, results in a 72-hour civil commitment. Of course, the plaintiff in *Mjolsness* sued because he felt aggrieved by Riley's subjective belief he was both mentally ill and dangerous in some respect. But Mjolsness was unable to present *any* evidence of bad intent, and the matter was dismissed as a result. Likewise, Roller evidently feels aggrieved by Dr. Reeves' subjective determination he was mentally ill and dangerous in some respect. But like the plaintiff in *Mjolsness*, Roller has failed to demonstrate *any* facts tending to support his bald assertion that Dr. Reeves contacted police in bad faith.

And, as in *Mjolsness*, where there is no evidence Dr. Reeves' actions were malicious or constituted a willful wrong, he and the Quello Clinic enjoy "complete immunity from suit, not simply a defense to liability." *Id.* at 530. Indeed, "bare allegations of willful misconduct without any supporting evidence are insufficient to defeat a motion for summary judgment based on 'good faith' immunity. *Id.* at 531 (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 817-18 (1982) for notion that bare allegations of malice insufficient to overcome even *qualified* grant of immunity). The Quello Clinic is immune from *any* liability, and Roller's complaint must be dismissed for failure to state a claim upon which relief may be granted.

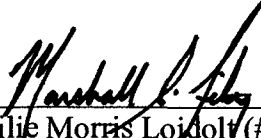
CONCLUSION

The immunity provision in the Minnesota Commitment and Treatment Act protects those individuals acting in good faith to assist in effectuating civil commitments. Dr. Reeves and, by extension, the Quello Clinic, are clearly protected by the immunity provisions outlined in Minn. Stat. § 253B.23. As such, this court should dismiss Roller's claims absent some evidence of malice or wrongful action. But Roller has offered nothing more than contrived and unsubstantiated allegations of nefarious intent and religious intolerance by Dr. Reeves and the Quello Clinic.

Roller's complaint, on its face, simply does not set forth a claim upon which relief can be granted by this Court. Because each of his claims stems from Quello Clinic's good faith efforts to have Roller committed pursuant to the Minnesota Commitment and Treatment Act, no facts consistent with his complaint exist that could resuscitate his baseless claims and avoid dismissal for failure to state a claim upon which relief may be granted. The Quello Clinic respectfully requests the Court grant its motion to dismiss Roller's complaint pursuant to Rule 12.02(e).

Respectfully submitted,

Dated: 07 March 2005



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