

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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<p>CHRISTOPHER ROLLER,</p> <p>Plaintiff,</p> <p>vs.</p> <p>SIOUX VALLEY HOSPITALS AND HEALTH SYSTEM,</p> <p>Defendant.</p>	<p>CIV. 05-1420-RHK-AJB</p> <p><b>MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS</b></p>
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Defendant Sioux Valley Hospitals and Health System submits this Memorandum of Law in Support of Defendant’s Motion to Dismiss.

**FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff has commenced a Complaint (Docket No. 1) and an Amended Complaint (Docket No. 5) against Sioux Valley Hospitals and Health System arising out of his treatment at Sioux Valley Hospital Behavioral Health Services<sup>1</sup> on August 24, 2000. Sioux Valley Hospital Behavioral Health Services is owned and operated by Sioux Valley Hospital and not by Sioux Valley Hospitals and Health System, which is the entity named by Plaintiff as a defendant in this case. (Aff. of Kim Patrick ¶ 3.) Sioux Valley Hospital is a separate corporate entity. (Aff. of Kim Patrick ¶ 4.) Sioux Valley Hospitals and Health System now moves to dismiss Plaintiff’s Complaint and Amended Complaint on the grounds that Plaintiff has named an incorrect party as a defendant, because

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<sup>1</sup> Referred to in Plaintiff’s Complaint as “Sioux Valley Mental Hospital.”

Plaintiff has failed to comply with the Federal Rules of Civil Procedure, because this Court lacks subject matter jurisdiction over Plaintiff's frivolous claims, because Plaintiff's Complaint and Amended Complaint fail to state a claim upon which relief may be granted, and because Plaintiff's Complaint and Amended Complaint are barred on their face by the statute of limitations. Alternatively, Defendant requests that the Court dismiss this action based upon forum non conveniens.

### **ARGUMENT**

#### **I. Plaintiff's Complaint and Amended Complaint should be dismissed because Plaintiff has named an improper party.**

In Plaintiff's Complaint and Amended Complaint, Plaintiff makes allegations against Sioux Valley Hospitals and Health System and has named Sioux Valley Hospitals and Health System as the defendant in this case. Plaintiff alleges that his Complaint and Amended Complaint arise out of his hospitalization at "Sioux Valley Mental Hospital" (Sioux Valley Hospital Behavioral Health Services). Sioux Valley Hospital Behavioral Health Services is an entity owned and operated by Sioux Valley Hospital and not by Sioux Valley Hospitals and Health System (Aff. of Kim Patrick ¶ 3.). Sioux Valley Hospitals and Health System did not operate any mental health facilities in 2000. (Aff. of Kim Patrick ¶ 2.) Plaintiff's Complaint and Amended Complaint contain no allegations against Sioux Valley Hospitals and Health System; therefore, Plaintiff's Complaint against it should be dismissed.

**II. Plaintiff's Complaint and Amended Complaint should be dismissed under FED. R. CIV. P. 8.**

Under Rule 8(a), Plaintiff's Complaint and Amended Complaint must contain:

(1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks.

While Plaintiff's initial demand for \$5 billion meets prong three of Rule 8(a), Plaintiff's Complaint and Amended Complaint fail to include a short, plain statement of either (1) a jurisdictional basis or (2) a basis for entitlement to relief. Plaintiff's pleadings are a rambling string of allegations that fail to allege a short and plain statement of a basis for either jurisdiction or entitlement to relief. As Plaintiff's Complaint and Amended Complaint fail to meet the requirements of Rule 8(a) and Rule 8(e)'s requirement that averments be "simple, concise, and direct," the Complaint and Amended Complaint should be stricken, and Plaintiff's claims should be dismissed.

**III. Plaintiff's Complaint and Amended Complaint should be dismissed under Rule 12(b)(1), as the Court lacks subject matter jurisdiction over Plaintiff's frivolous claims.**

Under Rule 12(b)(1), Plaintiff's civil action should be dismissed due to lack of jurisdiction over the subject matter contained in Plaintiff's Complaint and Amended Complaint. Specifically, under *Sassower v. Dosal*, 744 F. Supp. 908 (D. Minn. 1990), and *Bell v. Hood*, 327 U.S. 678 (1946), federal courts lack subject matter jurisdiction over frivolous and malicious claims. The United States District Court for the District of Minnesota held the following:

As the United States Supreme Court stated in *Bell v. Hood*, 327 U.S. 678, 682-83, 66 S. Ct. 773, 776, 90 L. Ed. 939 (1946):

*[A] suit may sometimes be dismissed for want of jurisdiction where the alleged claim under ... federal statutes clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction or where such claim is wholly insubstantial and frivolous.*

*Accord Hagans v. Lavine*, 415 U.S. 528, 536-37, 94 S. Ct. 1372, 1378-79, 39 L. Ed. 2d 577 (1974).

The Court has reviewed each of plaintiff's motions, as well as the complete court file in this matter, and is convinced that plaintiff's claims are wholly frivolous and malicious. Accordingly, the complaint will be dismissed for lack of subject-matter jurisdiction.

*Sassower*, 744 F. Supp. at 909 (emphasis added).

Plaintiff's allegations are frivolous and malicious. For example, Plaintiff makes the following frivolous and malicious allegations:

When the doctor says I'm mentally ill and psychotic, many people are going to believe it, and that damages my credibility, my stature, and a future ability to perform an important job, including the Presidency of the United States. (Compl. at 2.)

Sioux Valley's actions showed just how inhumane people treat me because I'm mentally ill. They gave me absolutely no credibility. Now imagine the damages if my web site [www.mytrumanshow.com] is actually true – that I am god. I currently have a lawsuit pending against David Copperfield for using my magical powers without my permission. (*Id.* at 3.)

Bill Gates has already contacted me about running for president in 2008. (*Id.*)

Defendant respectfully requests that the Court find that it lacks jurisdiction over the frivolous, malicious, and ridiculous subject matter of Plaintiff's civil action and dismiss Plaintiff's claims. FED. R. CIV. P. 12(b)(1); *Sassower*, 744 F. Supp. at 909; *Bell*, 327 U.S. at 68-83.

**IV. Plaintiff's Complaint and Amended Complaint should be dismissed under Rule 12(b)(6), as Plaintiff fails to state a claim upon which relief can be granted.**

Plaintiff's Complaint and Amended Complaint fail to state a claim upon which relief can be granted; therefore, the Court should dismiss this civil action under Rule 12(b)(6). Below are a sampling of the bases upon which Plaintiff has requested the Court to grant relief:

In Exhibit "Allina Conspiracy", I talk about a psychiatric conspiracy against Chris Roller, a godly entity. For the same exact reasons, I believe there is a conspiracy, by Sioux Valley, against me, Chris Roller, the second coming, a godly entity, to call me mentally ill, psychotic, bipolar, etc, to keep me from coming forward to claim the fruits of my godly powers. (Am. Compl. at 1.)

I am suing Sioux Valley Hospitals and Health System for \$5 trillion (not \$5 billion any longer) (reserve \$ increments based on future evidence) for conspiracy against a godly entity. (*Id.*)

Defendant is unaware of any authority that would allow relief to be granted based on an allegation that Defendant's alleged failure to view Plaintiff as credible has caused a loss of godly or magical powers. Defendant is unaware of any authority that recognizes a psychiatric conspiracy against a godly entity as a cognizable claim. Defendant is unaware of any authority that preventing Plaintiff from claiming the fruits of his godly

powers presents a valid claim. Respectfully, Plaintiff has plainly failed to state proper bases upon which relief can be granted; therefore, his claims should be dismissed.

V. **Plaintiff's claims are barred by the applicable statute of limitation based upon the allegations contained in the Complaint and Amended Complaint.**

Minnesota Statute § 541.076 provides that a claim for malpractice must be commenced within four years against a health care provider.<sup>2</sup> A cause of action accrues at the time the alleged malpractice occurs. *See, e.g., Murphy v. Allina Health System*, 668 N.W.2d 17, 20-21 (Minn. Ct. App. 2003). Plaintiff's Complaint states that the treatment from which Plaintiff's malpractice claim arises occurred on August 24, 2000. Plaintiff did not serve his Complaint upon Defendant until August 23, 2005, nearly five years after the claim accrued and almost an entire year late. Plaintiff's other tort claims are barred under Minnesota Statute § 541.07, as they were not filed within two years of the alleged tort.

Plaintiff alleges in his Complaint that the statute of limitation for the medical malpractice action is extended to five years under Minnesota Statute § 541.15. This statute extends the limitation period up to a maximum of five years when a particular and specific disability is present:

- (1) that the plaintiff is within the age of 18 years;
- (2) the plaintiff's insanity;
- (3) is an alien and the subject or citizen of a country at war with the United States;

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<sup>2</sup> Under South Dakota law, a malpractice claim must be commenced within two years of occurrence. SDCL 15-2-14.1.

(4) when the beginning of the action is stayed by injunction or by statutory prohibition.

MINN. STAT. § 541.15(a)(1)-(4). The only potentially applicable disability is subsection 2, insanity. The implied basis of Plaintiff's Complaint is that he is not, in fact, mentally ill or insane. Although it is not clear, it is apparently Plaintiff's contention that Defendant has been wrongfully saying that Plaintiff is mentally ill and insane when in fact Plaintiff is not mentally ill or insane. Accordingly, under the plain allegations in Plaintiff's Complaint and Amended Complaint, the extension allowed by Section 541.15 is inapplicable, as Plaintiff alleges he is neither mentally ill nor insane. Plaintiff is judicially estopped from asserting a legal position inconsistent with the position he has already taken in this legal proceeding in his Complaint and Amended Complaint. *Held v. Mitsubishi Aircraft Int'l, Inc.*, 672 F. Supp. 369, 391 (D. Minn. 1987). Plaintiff's Complaint and Amended Complaint are therefore untimely based upon the allegations contained within them and should be dismissed.

**VI. Alternatively, Plaintiff's Complaint and Amended Complaint should be dismissed under the doctrine of forum non conveniens as the action should be tried in South Dakota.**

The principle of forum non conveniens permits a court to decline jurisdiction even though venue and jurisdiction are proper on the theory that the action should be tried in another judicial forum for the convenience of the litigants and the witnesses. *Mizokami Bros. of Arizona, Inc. v. Mobay Chemical Corp.*, 660 F.2d 712, 717 (8th Cir. 1981). See also *Pro Edge, L.P. v. Gue*, 374 F. Supp. 2d 711, 754 (N.D. Iowa 2005); *Wells' Dairy Inc. v. Estate of Richardson*, 89 F. Supp. 2d 1042, 1055 (N.D. Iowa 2000).

The principles that govern a motion to dismiss on forum non conveniens grounds are well settled. *Wells' Dairy* at 1055. The court must first determine whether there is an adequate alternative forum available in which the dispute can be resolved. *Id.* Generally an alternate forum will be considered adequate when the defendant is “amenable to process” there. *Pro Edge* at 755. In the instant case, Defendant is located in South Dakota and has a registered office in South Dakota; there is no question that Defendant will be amenable to process in South Dakota. Thus, the first inquiry into whether South Dakota is an adequate alternative forum is satisfied.

Second, if there is an adequate alternative forum, the Court must then balance a number of factors in order to determine whether they outweigh the deference ordinarily attended to the plaintiff’s choice of forum. *Wells' Dairy* at 1055. The Supreme Court has outlined a nonexhaustive list of factors, both public and private, which must be considered. *Id.* (citing *Gilbert* at 508). The private factors include: 1) relative ease of access to sources of proof; 2) availability of compulsory process for attendance of unwilling, and cost of obtaining attendance of willing, witnesses; 3) possibility of view of the premises; and 4) all other practical problems that make trial of a case easy, expeditious, and inexpensive. *Wells' Dairy* at 1055. The public interest factors consist of the following: 1) administrative difficulties flowing from court congestion; 2) the forum’s interest in having localized controversies decided at home; 3) the interest in having the trial of a diversity case in a forum that is at home with the law that must govern the action; 4) the avoidance of unnecessary problems in conflicts of laws; and 5) the unfairness of burdening citizens in an unrelated forum with jury duty. *Id.*

These factors clearly weigh in the favor of Defendant. The action arises out of Plaintiff's treatment at Sioux Valley Hospital Behavioral Health Services on August 24, 2004, in South Dakota. Sioux Valley Hospital Behavioral Health Services is owned and operated by Sioux Valley Hospital, also located in South Dakota. Any documents, discovery, and witnesses necessary to resolution of the dispute are located in South Dakota, where the events precipitating this litigation occurred. Moreover, South Dakota has a substantial interest in resolving a dispute that involves treatment at a South Dakota facility.

Therefore, because there is an adequate alternative forum available in which the dispute can be resolved and the balance of factors outweighs the deference ordinarily attached to the plaintiff's choice of forum, Defendant respectfully requests that the Court dismiss this matter under the doctrine of forum non conveniens.

### **CONCLUSION**

For the reasons set forth above, Defendant respectfully requests that the Court grant its motion to dismiss and enter an order dismissing Plaintiff's Complaint and Amended Complaint with prejudice.

Dated: 9/12/05

s/ Mark W. Haigh

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