

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

<p>CHRISTOPHER ROLLER, Plaintiff, vs. SIOUX VALLEY HOSPITALS AND HEALTH SYSTEM, Defendant.</p>	<p>CIV. 05-1420-RHK-AJB REPLY MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS</p>
--	---

Defendant Sioux Valley Hospitals and Health System moved to dismiss Plaintiff's action (Docket No. 8) on September 12, 2005, on several grounds as set forth in Memorandum of Law in Support of Defendant's Motion to Dismiss (Docket No. 10), which was also filed with the Court on September 12, 2005. Since Defendant moved to dismiss, Plaintiff filed a Memorandum in Opposition to Motion to Dismiss (Docket No. 14) on October 1, 2005; an Amended Complaint (Docket No. 15) on October 3, 2005; and an Amendment to Memorandum of Law in Opposition to Motion to Dismiss (Docket No. 17) on October 30, 2005.

Plaintiff's filings are vague, ambiguous, and irrelevant; state no cause of action; and are not in compliance with the federal rules of procedure. Defendant relies upon the arguments and grounds for dismissal contained within its initial memorandum (Docket No. 10) and requests that the Court dismiss Plaintiff's causes of action on the grounds specified.

Defendant would also ask the Court to consider the following:

1. On October 3, 2005, Plaintiff filed an Amended Complaint (Docket No. 15) renaming the Defendant as Sioux Valley Hospital. However, Plaintiff failed to comply with federal rules of procedure in attempting to file the Amended Complaint by failing to obtain leave of Court or written consent of the adverse party. *See* FED. R. CIV. P. 15. Plaintiff's attempt to amend the Complaint also fails based upon Plaintiff's failure to serve Sioux Valley Hospital with a Summons and Amended Complaint. *See* FED. R. CIV. P. 4. This attempted amendment is therefore ineffective.

2. Plaintiff states in his Memorandum in Opposition to Motion to Dismiss (Docket No. 14) that his claim is a claim for "godly conspiracy." In his Amendment to Memorandum of Law in Opposition to Motion to Dismiss (Docket No. 17), Plaintiff states that his claim is for "aiding and abetting to concealing [*sic*] godly powers with the mob, and accessory and accomplice for fraud in covering up the alleged poisoning." As set forth in Memorandum of Law in Support of Defendant's Motion to Dismiss (Docket No. 10), Defendant requests that Plaintiff's Complaint and Amended Complaint be dismissed in their entirety, as the Court lacks subject matter jurisdiction over Plaintiff's frivolous claims and based upon Rule 12(b)(6), as Plaintiff's Complaint and Amended Complaint fail to state a claim upon which relief may be granted. Although Plaintiff makes several statutory citations in his submission, he fails to cite any authority in support of his argument that these are cognizable claims. In further support of the authority cited in Defendant's initial memorandum, Defendant would also rely upon the Report and Recommendation of the Honorable Franklin L. Noel, United States

Magistrate Judge, in *Roller v. David Copperfield's Disappearing, Inc.*, United States District Court for the District of Minnesota, Civ. 05-446 (JRT/FLN), filed October 12, 2005. In this decision involving the same plaintiff and similar claims involving godly powers, the Honorable Franklin L. Noel recommended that defendant's motion to dismiss be granted.

3. Memorandum of Law in Support of Defendant's Motion to Dismiss (Docket No. 10) contains a typographical error on Page 9. The second sentence on Page 9 of the memorandum should have read "The action arises out of Plaintiff's treatment at Sioux Valley Hospital Behavioral Health Services on August 24, 2000, in South Dakota" rather than "on August 24, 2004."

CONCLUSION

For the reasons set forth above, Defendant Sioux Valley Hospitals and Health System respectfully requests that the Court dismiss Plaintiff's Complaint and Amended Complaint in their entirety and with prejudice.

Dated: 11/8/2005

s/ Mark W. Haigh

Mark W. Haigh (Bar # 214905)
Roberto A. Lange (Bar # 214784)
Attorneys for Defendant Sioux Valley
Hospitals and Health System
Davenport, Evans, Hurwitz & Smith, L.L.P.
206 West 14th Street – PO Box 1030
Sioux Falls, SD 57101-1030
Telephone: (605) 336-2880
Facsimile: (605) 335-3639