



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
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Cleveland, Ohio 44113

Court of Common Pleas

NOTICE OF
April 14, 2021 13:32

By: STEVEN A. SINDELL 0002508

Confirmation Nbr. 2228260

TINA RENEE KING ET AL

CV 20 941131

vs.

Judge: KELLY ANN GALLAGHER

MENORAH PARK FOUNDATION ET AL

Pages Filed: 5

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

Tina Renee King, et. al
Plaintiffs

Judge: Kelly Ann Gallagher

Case No. CV 20 941131

vs.

Menorah Park Foundation, et. al
Defendants

PLAINTIFFS' NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE PURSUANT TO OHIO RULES OF CIVIL PROCEDURE, RULE 41(A)(1)(a), OF ONLY SOME DEFENDANTS, TO WIT, ONLY MENORAH PARK FOUNDATION, THE MONTEFIORE FOUNDATION, MENORAH PARK AT HOME, LLC AND MENORAH PARK WOMEN'S & MEN'S ASSOCIATION; THIS ACTION CONTINUES AND REMAINS PENDING AGAINST ALL REMAINING DEFENDANTS, INCLUDING THE MONTEFIORE HOME, MENORAH PARK CENTER FOR SENIOR LIVING BET MOSHAV ZEKENIM HADATI, JAMES P. NEWBROUGH, JR., RICHARD SCHWALBERG AND JOHN DOES I-X

Plaintiffs, by and through their counsel of record, voluntarily dismiss without prejudice pursuant to Ohio Rules of Civil Procedure, Rule 41(A)(1)(a), **ONLY** Defendants Menorah Park Foundation, The Montefiore Foundation, Menorah Park at Home, LLC and Menorah Park Women's and Men's Association. These dismissals without prejudice are expressly other than on the merits. This action continues to pend and remains pending against all of the remaining Defendants, namely, against The Montefiore Home, Menorah Park Center for Senior Living Bet Moshav Zekenim Hadati, James P. Newbrough, Jr., Richard Schwalberg and John Does I through X.

Plaintiffs are basing their voluntary dismissals without prejudice in reliance upon the sworn averments in the attached Affidavit of Defendant James P. Newbrough, Jr. and the written representations of their attorney that the aforementioned Defendants which were voluntarily dismissed without prejudice hereinabove were uninvolved in the allegations in Plaintiffs' Complaint, including with respect to the investigations and decisions regarding Plaintiffs' allegations, which allegations support the liability to Plaintiffs of the continuing and remaining Defendants in this action. Plaintiffs reserve their right to refile this action against those Defendants dismissed without prejudice as set forth hereinabove in accordance with law should a basis to do so become apparent to Plaintiffs hereafter.

There are no pending counterclaims being asserted by any of the aforementioned Defendants who are being dismissed without prejudice at this time.

As to only those several Defendants being dismissed without prejudice (as distinguished from the continuing Defendants against whom and/or which this action remains pending and to whom and/or which this dismissal without prejudice does not apply), only the dismissals without prejudice are at Plaintiffs' costs.

Respectfully Submitted,



Steven A. Sindell, Esq. (0002508)

Sindell and Sindell, LLP

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Beachwood, Ohio 44122

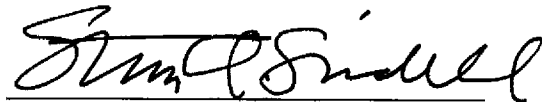
Tel. 216-292-3393

Email: info@sindellattorneys.com

Attorneys for Plaintiffs

Certificate of Service

The within Plaintiffs' Notice of Dismissal Without Prejudice of Only Some Defendants (Action continues and remains pending against remaining Defendants) has been filed with the E-Filing System of the Cuyahoga County Common Pleas Court and forwarded by email to Attorney of Record for Defendants Robert Pivonka at Pivonka.RolfLaw.com this 14th day of April, 2021.



Steven A. Sindell, Esq.

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

Tina Renee King, <i>et al.</i> ,)	CASE NO.: CV-20-941131
)	
Plaintiffs,)	JUDGE KELLY ANN GALLAGHER
)	
v.)	
)	
Menorah Park Foundation, <i>et al.</i> ,)	AFFIDAVIT OF JAMES
)	NEWBROUGH
)	
Defendants.)	
)	
)	
)	

Affiant, James Newbrough, being first duly sworn, deposes and states as follows:

1. I am over the age of 21, am of sound mind, and have the capacity to make this Affidavit.
2. I am the President and Chief Executive Officer of the following entities: The Montefiore Home (“Montefiore”), Menorah Park Center for Senior Living Bet Moshav Zekenim Hadati (“Menorah Park”), Menorah Park at Home, LLC (“MP at Home”), and The Montefiore Foundation.
3. In my capacity as President and CEO, I am familiar with the corporate structure and operations of Montefiore, Menorah Park, MP at Home and The Montefiore Foundation.
4. I am not employed by and do not hold any positions with Menorah Park Foundation (“MP Foundation”) or Menorah Park Women’s & Men’s Association (“MP W&M Assn.”). However, despite not being employed by or having any position with MP Foundation or MP W&M Assn., I am familiar with those organizations.

5. Among other business activities, Montefiore and Menorah Park operate skilled nursing facilities in Beachwood, Ohio.

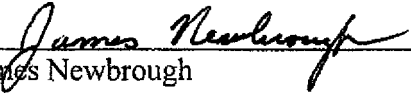
6. The two plaintiffs in the above-captioned lawsuit, Tina King (“King”) and Marie Gelle (“Gelle”) (together, the “Plaintiffs”), were employed by Montefiore from their respective dates of hire until their discharge on or about October 29, 2020. At the time immediately prior to her discharge, King was employed by Montefiore as the Director of Nursing. At the time immediately prior to her discharge, Gelle was employed by Montefiore as the Assistant Director of Nursing.

7. The Plaintiffs were never employed by Menorah Park, MP at Home, The Montefiore Foundation, MP Foundation, or MP W&M Assn.

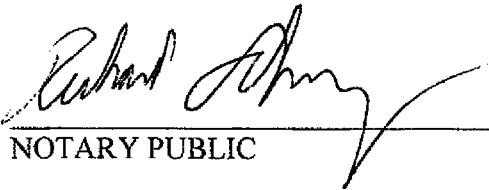
8. Montefiore and Menorah Park both were involved in the day-to-day operation of Montefiore, including the investigation of and decision to terminate the Plaintiffs’ employment. Montefiore and Menorah Park also were involved in the communications with staff and family members relating to the Plaintiffs’ discharge that are alleged in Paragraph 16 of the Complaint in the above-captioned matter.

9. MP at Home, The Montefiore Foundation, MP Foundation and MP W&M Assn. have no involvement in the day-to-day operations of and/or decision making at Montefiore. MP at Home, The Montefiore Foundation, MP Foundation and MP W&M Assn. were not involved in the investigation of Plaintiffs and/or decision to terminate Plaintiffs’ employment with Montefiore. MP at Home, The Montefiore Foundation, MP Foundation and MP W&M Assn. were not involved in the creation and/or dissemination of any of the communications that are alleged in Paragraph 16 of the Complaint in the above-captioned matter.

FURTHER AFFIANT SAYETH NAUGHT


James Newbrough

SWORN TO BEFORE ME, and subscribed in my presence, this 8th day March, 2021.


NOTARY PUBLIC

RICHARD SCHWALBERG
NOTARY PUBLIC • STATE OF OHIO
Recorded in Cuyahoga County
My commission expires July 24, 2021