

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION**

LAURI MAZURKIEWICZ,

Plaintiff,

v.

NORTHWESTERN MEMORIAL
HOSPITAL, an Illinois corporation,
BRIDGET WICHEREK, JAY ANDERSON,
and UNKNOWN EMPLOYEES,

Defendants.

Case No. 2020 L 3511

MEMORANDUM OPINION AND ORDER

Before the Court is defendants' section 2-619.1 motion to dismiss. The motion is fully briefed, and the Court has reviewed all submitted materials.

This case arises out of the termination of plaintiff Lauri Mazurkiewicz's position as a nurse at defendant Northwestern Memorial Hospital ("NMH"). As of March 2020, the United States, including the State of Illinois, was in the grips of the COVID-19 pandemic. On March 18, 2020, plaintiff sent an e-mail to her supervisors and co-workers which stated that she would wear an N95 mask (rather than just the masks provided by NMH) and encouraged her co-workers to "[d]emand proper PPE's!!!!" (personal protective equipment). NMH fired plaintiff that day. Plaintiff now asserts a claim for retaliatory discharge against NMH.

As an initial matter, plaintiff has agreed to voluntarily dismiss her claims against the individual defendants (Counts 1 and 2); the Illinois Whistleblower Act claim under 749 ILCS 174/20.1 against all defendants (Count 2); and the *respondeat superior* claim (Count 3). Accordingly, Count 1 is dismissed as against the individual defendants and Counts 2 and 3 are

dismissed in their entirety with prejudice. Plaintiff's sole remaining cause of action is her claim for common law retaliatory discharge against NMH (Count 1), which NMH moves to dismiss pursuant to section 2-615.

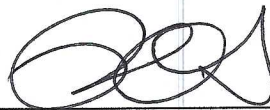
A motion to dismiss under section 2-615 attacks the legal sufficiency of a complaint based upon defects apparent on the face of the complaint. *Bogenberger v. Pi Kappa Alpha Corp.*, 2018 IL 120951, ¶ 23. In order to withstand a 2-615 motion to dismiss, a complaint must contain sufficient averments of fact to state a cause of action. *Lester v. Chicago Park District*, 159 Ill.App.3d 1054, 1057 (1st Dist. 1987). "The critical inquiry is whether the allegations of the complaint, when construed in a light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief may be granted." *Bogenberger*, 2018 IL 120951, ¶ 23. In making this determination, the Court must take all well-pleaded facts in the complaint as true. *Id.* However, legal conclusions must be disregarded. *Safeway Ins. Co. v. Daddono*, 334 Ill. App. 3d 215, 218 (1st Dist. 2002). Dismissal is appropriate when "it is clear that a plaintiff cannot prove a set of facts that will entitle him to the relief sought." *Id.*

To state a valid retaliatory discharge claim an employee must show: (1) the employer discharged the employee, (2) in retaliation for the employee's activities, and (3) the discharge violates a clear mandate of public policy. *Turner v. Mem'l Med. Ctr.*, 233 Ill. 2d 494, 500 (2009). NMH argues in passing that plaintiff (a temp worker) was not an "employee" of NMH, but the Court finds that plaintiff has sufficiently alleged that she was in fact employed by NMH. *See Coontz v. Industrial Com.*, 19 Ill. 2d 574, 577-78 (1960). NMH next argues that the retaliatory discharge claim fails because plaintiff cannot identify a clearly mandated public policy that NMH allegedly violated. The Court disagrees, as it goes without saying that Illinois has a clearly mandated public policy of stopping the spread of COVID-19 and protecting the health and safety

of its citizens, and that public policy is clearly implicated by the use of facemasks by healthcare workers. *See Palmateer v. Int'l Harvester Co.*, 85 Ill. 2d 124, 132 (1981). Lastly, NMH argues that plaintiff cannot state a claim because “[p]laintiff’s internal e-mail expressing her personal thoughts about N95 facemasks [was] little more than a personal gripe.” (Motion at 8 (citing *Pratt v. Caterpillar Tractor Co.*, 149 Ill. App. 3d 588, 591 (3d Dist. 1986))). The Court again disagrees, and finds that plaintiff’s e-mail was not sheerly a “private” concern, but rather one that relates to the spread of COVID-19 within her hospital work environment and therefore one that has an “impact on the general welfare of Illinois citizens as a whole.” *See id.*

For the reasons given, defendants’ motion to dismiss is granted in part and denied in part. Count 1 is dismissed voluntarily as against the individual defendants and Counts 2 and 3 are dismissed voluntarily in their entirety with prejudice. Defendants’ 2-619 motion to dismiss is denied as moot, as it only concerned one individual defendant who has been dismissed. Defendants’ section 2-615 motion to dismiss Count 1 as against Northwestern Memorial Hospital is denied.

ENTERED:



Judge Patricia O’Brien Sheahan
Circuit Court of Cook County

Judge Patricia O'Brien Sheahan
SEP 15 2020
Circuit Court - 2136