

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DEBRA A. MARTIN,

Plaintiff,

**COMPLAINT**

vs.

MIDDLETOWN COMMUNITY HEALTH CENTER, INC.,

Defendant.  
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By and through her counsel, Sussman & Watkins, plaintiff complains of defendant as follows:

I. **PARTIES**

1. Plaintiff Debra A. Martin is an adult of legal age who resides within this judicial district.
2. Defendant Middletown Community Health Center is a federally and state funded health care provider operating within this judicial district.

II. **JURISDICTION**

3. As plaintiff alleges that defendant retaliated against her for making disclosures concerning improprieties in the use of federal funds, this Honorable Court has jurisdiction pursuant to 28 U.S.C. secs 1331, 1343 and 31 U.S.C. sec. 3730(h).

### III. FACTUAL ALLEGATIONS

4. After many years of working for the defendant, in 2014, plaintiff received greater responsibility for assisting the defendant resolve financial issues, caused by low patient visits, rejection of claims made for reimbursement and low employee productivity.

5. Defendant is a health care center which, pursuant to federal law, is a grantee and recipient of federal health care funds.

6. In her altered role, plaintiff learned that the agency was misusing federal and state funds by, *inter alia*, illegally spending down funds received from the federal Health Resources and Services Administration [hereinafter "HRSA"], spending such funds on disapproved activities, and mis-billing Medicare and Medicaid for medical services not in fact rendered.

7. Such practices were known to, approved and often directed by the Director of the agency, Theresa Butler.

8. Starting in or about November 2014 and continuing through July 2015, plaintiff regularly and repeatedly told Joe Palughi, the president of defendant's Board of Directors, of these practices.

9. During their conversations, plaintiff advised Palughi that the agency was misusing HRSA funds, engaging in fraudulent billing practices and had misused federal funds in a manner not contemplated by the grants which yielded them.

10. During these conversations, plaintiff repeatedly expressed concern that if Butler learned that she was making such disclosures to Palughi, she would be fired.

11. In May 2015, plaintiff told Palughi that Butler was drawing down sums from a HRSA grant in amounts much larger than permitted by regulation and that continuing to do so would leave the agency cash poor by October 2015, four months before these funds were supposed to be exhausted.

12. In May through August 2015, plaintiff also reported to Palughi that the defendant was not paying bills required to maintain medical supplies necessary for the proper operation of the health care center.

13. In the same time period, plaintiff also advised Palughi that the agency was not paying health insurance premiums for employees even though it was deducting from employees' payroll checks the sums required to pay such premiums. She told him that the agency was co-mingling those deductions with general operating funds.

14. In the same time period, plaintiff also told Palughi that Butler was using funds from restricted accounts for purposes other than those associated with the accounts.

15. Plaintiff continued to advise Palughi of these irregularities and violations of federal law and regulations through their last phone call on August 6, 2015.

16. Plaintiff used her access to the defendant's books and records to investigate whether it had engaged in further misuse of federal funds and engaged in such activity with the intent of filing a **qui tam** action.

17. Palughi was an officer of the Board of Directors which, under federal law, had responsibility to insure that defendant was operating in a manner consistent with federal law and for monitoring center activities, including compliance with HRSA financial performance measures and guidelines.

18. Said Board also had responsibility to address defendant's misconduct, as set forth above.

19. As such, disclosure to Palughi of this information, which plaintiff reasonably believed evidenced gross mismanagement of a federal contract or grant and violations of the rules governing such grants, was protected activity under federal law.

20. As President of defendant's Board of Directors, Palughi knew that plaintiff was investigating agency financial practices and reporting the same to him, both forms of related protected activity.

21. On or about August 24, 2015, having been advised by Palughi about plaintiff's activities, Butler terminated plaintiff's employment, alleging that she had breached confidentiality and asserting no other basis for this adverse action.

22. When plaintiff contacted Palughi, who had assured her that he would not disclose her discussions with him to Butler, Palughi steadfastly ignored plaintiff and did not respond to her efforts to speak.

23. In fact, plaintiff's termination was informed by and only by plaintiff's disclosures concerning the agency's misuse of federal funds to Palughi and his knowledge and understanding, conveyed to Butler, that plaintiff was investigating the agency's financial practices and had uncovered substantial misconduct with regard to the use of such funds.

24. Plaintiff's unlawful termination has damaged her in that she has lost salary, health and life insurance and suffered diminished reputational and professional standing, as well as emotional anguish and distress.

#### IV. CAUSE OF ACTION

25. Plaintiff incorporates paras. 1-24 as if fully restated herein.

26. By terminating plaintiff as she was investigating financial irregularities in contemplation of bringing an action to recover said funds, defendant violated 31 U.S.C. section 3730(h).

WHEREFORE, plaintiff prays that this Honorable Court accept jurisdiction over this matter, empanel a jury to hear and decide all issues within its authority, award to plaintiff compensatory damages as permitted by law, including back and front pay and an award to compensate her for the loss of benefits and the emotional

distress she has experienced as a consequence of defendant's unlawful conduct, as well as the attorneys' fees and reasonably incurred litigation costs associated with this action and any other relief which the court deems equitable and necessary, including the restoration of plaintiff's former employment status and the removal of those persons it adjudges to have violated the law.

Respectfully submitted.

  
MICHAEL H. SUSSMAN [3497]

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Dated: December 21, 2015