

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

JAMES F. OSTERBUR,)	
)	
Plaintiff,)	
)	
vs.)	No. 09-LM-1414
)	
PROVENA COVENANT)	
MEDICAL CENTER,)	
)	
Defendant.)	

REPORT OF PROCEEDINGS of the electronic
recording of the hearing before CIRCUIT JUDGE THOMAS J.
DIFANIS on August 23, 2010.

APPEARANCES:

Mr. James F. Osterbur, pro se
the Plaintiff

MR. DANIEL SLAYDEN, Attorney at Law,
for the Defendant

Electronically recorded proceedings transcribed by:

Melissa Clagg, CSR, RDR, CRR, CBC
Official Court Reporter
Champaign County Courthouse
Urbana, Illinois 61801

1 AUGUST 23, 2010

2 THE COURT: This is 9-LM-1414, Osterbur vs.
3 Provena Covenant Medical Center.

4 There is on file as of March 29th of this year a
5 motion to dismiss. Mr. Osterbur's present.

6 Mr. Slayden?

7 MR. SLAYDEN: Yes, sir.

8 THE COURT: Mr. Slayden for the Defendant.

9 Mr. Slayden, as to your motion to dismiss?

10 MR. SLAYDEN: It's my understanding, and maybe
11 I'm reading this wrong, I had a -- we'd, on behalf of
12 Provena, had filed a motion to dismiss that had been
13 granted.

14 THE COURT: Right.

15 MR. SLAYDEN: And the Plaintiff had filed an
16 amended complaint, and I had filed a second motion to
17 dismiss that had also been granted.

18 At that point, the Plaintiff had some time to
19 file an amended complaint, but I never received any type
20 of amended complaint being filed again.

21 Next thing I received was the patient -- was the
22 Plaintiff's motion to arrest judgment and establish the
23 law.

24 THE COURT: Right.

1 MR. SLAYDEN: So, I'm not sure at this point,
2 and I apologize, I didn't think at this point there was
3 even a complaint on file; that the motions to dismiss had
4 both been granted and that there was nothing left to do.

5 MR. OSTERBUR: I had --

6 MR. SLAYDEN: Except this motion.

7 THE COURT: All right.

8 MR. OSTERBUR: I had sent you the --

9 THE COURT: Mr. Osterbur, you talk to the Court.
10 You don't talk to anybody else.

11 Mr. Osterbur, what do you have to say about what
12 it is you filed on July 22nd and June 14? You have a
13 motion to arrest judgment -- you have an amended
14 complaint filed June 14. What do you have to say about
15 what you have filed at this point, sir?

16 MR. OSTERBUR: I simply believe that the law is
17 that we've got some grievances allowed and reasonably
18 stated in this trial. I believe that there is a problem
19 with all manner of health care and all manner of payments
20 and the right of a citizen or a patient to come to a
21 courtroom and be heard as far as, you know, why this is
22 or is not legitimate cost to me.

23 I really believe that we, as a society, have
24 lots of problems in health care and regress (phonetic)

1 grievances or accountability to us all is a reasonable
2 and respectful means of looking at this situation and
3 searching for a better answer than we have today.

4 THE COURT: All right.

5 MR. OSTERBUR: We spend five trillion dollars,
6 according to one report, I don't have that report with
7 me, on health care today. We cannot afford that.

8 I really believe that my right to ask a jury of
9 12 if we should not ask the county or the state or the
10 nation to have an accountability or a personal or as
11 owners of this country what we might want to do for
12 ourselves as opposed to our leaders have done for us.

13 THE COURT: Well, sir, on an order that Judge
14 Leonhard entered February 16, "The Defendant's motion to
15 dismiss Plaintiff's complaint is granted. The Court
16 orders the complaint be dismissed. The Court will permit
17 Plaintiff to file a second complaint. Plaintiff must
18 file that complaint with the Circuit Clerk on or before
19 March 22nd. The Plaintiff must comply with the
20 requirement that his second complaint contain a claim and
21 concise statement of his claim against the Defendant."

22 Now, this was dated on the 16th of February.

23 On the 1st of March, there was filed again
24 Osterbur vs. Provena, illegal action by Judge Leonhard.

1 And then there was also filed on February 22nd,
2 "Plaintiff states unequivocally, 'I shall not refile.
3 You shall present me with the law and your signature as a
4 judge in this case as filed.'"

5 And now we subsequently have what's been filed
6 motion to arrest judgment and establish the law on July
7 22nd.

8 On June 14, we have now an amended complaint,
9 which is well after the time that was granted.

10 And, again --

11 MR. OSTERBUR: I would agree I actually filed an
12 amended complaint with the preparations for trial that
13 occurred very closely afterward.

14 THE COURT: All right. And then on June 9th of
15 2010, the Defendant's motion to dismiss filed March 29 is
16 allowed. You were given 30 days to refile. That was as
17 of June 9, and you filed it on the 14th. But, again, it
18 is not a clear and concise statement of your position.

19 I am going to grant the oral motion to dismiss
20 at this point, and the matter is dismissed with
21 prejudice.

22 Counsel, you've prevailed. I'll expect a
23 written order.

24 We'll be in recess.

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(END OF PROCEEDINGS.)

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

CERTIFICATE

I, Melissa Clagg, an Official Court Reporter for the Circuit Court of Champaign County, Sixth Judicial Circuit of Illinois, transcribed the electronic recording of the proceeding in the above-entitled cause to the best of my ability and based on the quality of the recording, and I hereby certify the foregoing to be a true and accurate transcript of said electronic recording.

Official Court Reporter

Dated this 25thDay day
of August, 2010