

November 22, 2021

**Via Virginia Judiciary E-Filing System**

Honorable David W. Lannetti  
City of Norfolk Circuit Court  
c/o George E. Schaefer, Clerk  
150 St. Paul's Boulevard  
7th Floor  
Norfolk, Virginia 23510-2773

**Re: Dr. Paul E. Marik v. Sentara Healthcare  
Case No. CL21013852-00  
City of Norfolk Circuit Court**

Dear Judge Lannetti:

We write to inform the Court of substantial new events, including a possible material misrepresentation by the Defendant to this Court at our hearing on November 18.

Dr. Marik reported for work on Saturday morning, November 20, 2021, to resume his duties as on-call attending physician at the Sentara Norfolk General Hospital ICU. He found on his desk a letter informing him that his hospital privileges had been suspended for fourteen days.

The letter was dated November 18, 2021—the very date of the hearing just held before your Honor in this matter. Evidently Sentara chose, for reasons of its own, not to disclose this suspension either to the Court or to Plaintiff at that hearing.

The letter indicates that it was also delivered to Dr. Marik by e-mail and overnight delivery. It was not. Dr. Marik knew nothing of the suspension until he found the letter on his desk.

The letter gives no explanation whatsoever for the “coincidence” of Sentara’s choosing to suspend Dr. Marik at this particular moment, leaving only one realistic conclusion. Sentara has engaged in a blatant act of retaliation against Dr. Marik for filing this suit and for exposing to the public Sentara’s unlawful, unjustified denial of safe, potentially life-saving medicines to its COVID patients in violation of Virginia

statutory law and public policy.

Sentara's letter summons Dr. Marik to a secretive proceeding before a committee on December 2, 2021, at which, the letter says, no lawyer representing Dr. Marik will be permitted and "no recording (audio/video) or transcript . . . will be made." We are not attaching the letter hereto, as to which Sentara asserts "peer review privilege," but Dr. Marik is of course more than willing to show your Honor the letter *in camera* or under seal.

One sentence from Sentara's letter, however, must be quoted here because it raises a serious question of litigation misconduct. Sentara says that the suspension is based in part on an allegation that that "you informed [COVID] patients that 'your hands were tied' and that there was nothing more you could do for them."

At the just-concluded hearing on November 18, 2021, Sentara expressly represented to this Court that it would *not* discipline Dr. Marik in any way for informing his COVID patients that Sentara was preventing him from giving them alternative treatments that are, in his medical judgment (and based on unrefuted evidence), safe, potentially life-saving, and medically appropriate for them. Yet Sentara has now done exactly that. Indeed it had apparently *already* done exactly that when it was representing to the Court that it would not do so. Intentional or not, this was a materially false representation made to the Court, and Plaintiff respectfully requests that Sentara be held to account for it.

Sentara cannot be permitted to try to deprive Dr. Marik of standing through a retaliatory, pretextual suspension that Sentara has kept secret from the Court, perhaps hoping that Dr. Marik would respond to Sentara by offering to withdraw this suit if Sentara would withdraw its suspension. Such behavior is unethical and unacceptable.

Regardless of Sentara's retaliation, the law remains clear: "[A] hospital has a duty to obey the instructions of a patient's physician, so long as the instructions are not obviously negligent or dangerous." *Franken v. Davis*, No. 5:93CV79-V, 1997 U.S. Dist. LEXIS 16081 at \*36 (W.D.N.C. July 25, 1997); *Burns v. Forsyth County Hospital Authority, Inc.*, 81 N.C. App. 556, 563 (1986) (same); *Muse v. Charter Hosp.*, 117 N.C. App. 468, 474 (1995) ("axiomatic that the hospital has the duty not to institute policies or practices which interfere with the doctor's medical judgment"). Sentara is violating this clear rule of law, and the danger of unjustified, unnecessary death among COVID patients at the Hospital remains as urgent as ever.

Plaintiff Dr. Marik respectfully requests a supplemental hearing at the Court's earliest convenience to redress these material facts evidencing misrepresentations before this Court.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred D. Taylor". The signature is fluid and cursive, with a prominent horizontal line above the letters.

Fred D. Taylor

FDT/dgb

Cc: Jason Davis, Esq.