

IN THE DISTRICT COURT, HARRIS COUNTY

234th Judicial District

Mark Burke)	SECOND AMENDED
)	COMPLAINT, CAUSE
Plaintiff)	No. 2022-68307
)	
vs.)	
)	
KPH - Consolidation Inc.,)	
DBA HCA Houston Healthcare)	
Kingwood, a domestic For-Profit)	
Corporation,)	
)	
Defendant)	

**PLAINTIFF & COUNTER-DEFENDANT'S SECOND AMENDED
PETITION**

Mark Burke, Plaintiff, files this second amended petition complaining of KPH - Consolidation Inc., DBA HCA Houston Healthcare Kingwood, a domestic For-Profit Corporation, Defendant herein, and respectfully show

the court the following;

Parties

Plaintiff is an individual residing in Harris County, Texas. The last 3 numbers of Texas Driving License: 949; and Social Security Number: 162.

Defendant KPH – Consolidation, Inc., DBA HCA Houston Healthcare Kingwood (“HCA”), is a domestic corporation which operates as a Hospital in Harris County, Texas. HCA has been served; **Defendant** Nicole Andrews has made an appearance as (lead) counsel for HCA; **Defendant** Madison Addicks has made an appearance as counsel for HCA; **Defendant** Benjamin Hamel has made an appearance as counsel for HCA (over objection of Plaintiff); **Defendant** Jeffery Addicks has been served; **Defendant** Sharon Addicks has been served; **Defendant** Hon. Lauren Reeder has been made an appearance as District Judge, and; **Defendant** Hon. Susan Brown has been made an appearance as Presiding Judge.

Jurisdiction and Venue

This court has subject-matter jurisdiction over this case under its general jurisdiction as conferred by the Texas Constitution because the amount of the controversy is within the Court's jurisdictional limits. Venue for this civil action lies in Harris County, Texas, pursuant to Texas Civil Practices and Remedies Code Section 15.002(a)(1) on the basis all or a substantial part of the events or omissions giving rise to the claim occurred.

For the purposes of post-original petition jurisdictional movements, Plaintiff wishes to confirm the following;

Defendants have maintained, and Plaintiff vehemently denied the necessity for an "expert report", on the wrong assumption that Plaintiff's lawsuit was purely a Texas Medical Liability Act ("TMLA") claim which invokes a mandatory expert report. On that false presumption, any purported requirement for this expert report would fall due on or before March 17, 2023.

Plaintiff also contends there are causes of action ("Counts") which are

separate from any perceived medical negligence claim, and a counterclaim brought in retaliation and bad faith during this litigation. There is also the matter of the now tolled sanctions hearing, which addresses the bad faith conduct of Defendants and the unethical practices and tactics employed to ensure Plaintiff could not non-suit the case without prejudice should he have elected to do so, by maintaining the Counterclaim despite the Order of Jan. 10, 2023 completely extinguishing their bad faith claims.

Plaintiff relies upon the automatic tolling of this case when Plaintiff filed his Motion to Disqualify, which has tolled any action by the judge in relation to filings and/or scheduled hearings thereafter, including the submission of Defendants' premature motion to dismiss (and which failed to address their own counterclaim¹ despite listing themselves as "Counter-

¹ *Dewoody v. Rippley*, 951 S.W.2d 935, 942 (Tex. App. 1997) (" the DeWoodys' amended petition contains new causes of action against appellees based on conduct not alleged in the original petition. Because the DeWoodys' amended petition asserts new causes of action based on facts not alleged in their original petition, we cannot say that the appellees' motion for summary judgment contemplated and embraced the additional claims in the amended petition.").

And a counterclaim is generally considered a "new cause of action" because it is a

Plaintiff”), and/or the “equitable tolling doctrine”, which is applicable in this civil action, and allows Plaintiff to toll, or temporarily pause, the running of a statutory deadline if they can demonstrate that they were prevented from meeting the deadline due to circumstances beyond their control. The Plaintiff can prove the doctrine applies in the instant suit.

First, Plaintiff filed “Opposed First Motion for Extension of Time to Provide Plaintiff's Expert Report”, Image No. 106641486, docketed Feb. 20, 2023 with the court for an extension of time for one business day to allow for the sanctions hearing on Monday, March 20, 2023 to address the alleged statutory requirement for the expert report (by examining the subpoena’d Police Sergeant responsible for the criminal stalking investigation (“the expert”) during this in-person hearing). In an order which was signed nearly a month later and just before the scheduled hearing, on March 15, but not uploaded until March 16 on the docket, Image No. 107106189, the court

separate legal claim made by the defendant against the plaintiff in response to the plaintiff's initial complaint. A counterclaim asserts that the plaintiff has also violated the law or breached a contract and seeks relief from the court.

denied the one day extension of time. The court was provided 2 dates agreed between the parties for the hearing, one within the expert report deadline and the other, just past the deadline. The court chose to schedule the hearing at a later date, which was beyond the control of Plaintiff, as discussed in his motion.

Second, the doctrine applies to the Counterclaim, which frivolously extended the litigation and which the Defendants refused to release their claim when asked by Plaintiff, even though their arguments therein have been rejected by the court in an order signed on Jan. 10, 2023.

However, see; *Richardson v. Tex. Workforce Comm'n*, No. 01-13-00403-CV, at *9 n.1 (Tex. App. June 5, 2014) ("Ordinarily, an amended pleading adding a new party does not relate back to the original pleading."). That stated, Texas Rules of Civil Procedure ("TRCP") Rule 97 governs the assertion of counterclaims. Rule 97 of the TRCP allows a party to assert a counterclaim that arises out of the same transaction or occurrence as the

opposing party's claim, even if it was not included in the original pleading.

Under Rule 97(a), a Defendant may plead as a counterclaim any claim that is within the jurisdiction of the court and that the Defendant has against any opposing party. The counterclaim may include a claim that was not previously asserted, as long as it arises out of the same transaction or occurrence as the opposing party's claim. Rule 97(b) allows the plaintiff to reply to the counterclaim within the time provided by the rules.

In short, this Second Amended Petition survives adding the new parties as defined in the complaint.

On Friday March 17, 2023, Plaintiff submitted "Plaintiff's Motion to Disqualify Judge Lauren Reeder and Verified Declaration, Image No. 107121410, and Plaintiff's Verified Declaration in Support of Motion to Disqualify Judge Lauren Reeder Image No. 107121411.

The post-administration of the above motion re Judge Reeder has been a statutory absurdity, with the ultimate decisions being made in absence of

all jurisdiction by the Administrative and allegedly Presiding Judge Brown. In the latest notice from Judge Brown's Eleventh Administrative Judicial Region of Texas, there is a hearing set for Wednesday, at 0830 hrs before "Presiding Judge" Brown. The Plaintiff has provided responses and reasons why Judge Brown was automatically disqualified (mandatory) and yet she has continued to set a hearing in absence of all jurisdiction. This objection documented, any dispute regarding this matter is now resolved, as Hon. Susan Brown is named as a Defendant to the proceedings, along with Hon. Lauren Reeder.

However, see; *Aguilar v. Morales*, No. 08-20-00242-CV, at *18 n.13 (Tex. App. Oct. 5, 2022) ("This is not to say, however, that a judge is automatically disqualified merely because a party names them in their lawsuit. Instead, the court considering the issue must first determine whether the allegations against the judge has any merit.").

Here, Judge Reeder held ex parte communications with opposing

counsel in the absence of Plaintiff. Plaintiff subpoena'd the court reporter and witness to cross-examine her statement to Plaintiff via email that she was a party present at the time of these ex parte discussions. The court reporter's attendance would be quashed by Judge Reeder on her own submission, despite a clear and obvious conflict of interest, and over the written objections of Plaintiff. Ex parte communications are not protected by judicial immunity. See; *Thoma, in re*, 873 S.W.2d 477, 496 (Tex. 1994) (" Ex parte communications are "those that involve fewer than all of the parties who are legally entitled to be present during the discussion of any matter. They are barred in order to ensure that `every person who is legally interested in a proceeding [is given the] full right to be heard according to law.'""). The summary disposition in *Thoma* could easily apply here as many of the grievances raised and judicially reviewed are mirrored in these proceedings, see; *Thoma, in re*, 873 S.W.2d 477, 513 (Tex. 1994) ("we affirm the recommendation of the State Commission on Judicial Conduct and further order that Respondent, John N. Thoma, be removed as Judge of the

County Court at Law No. One of Galveston County, Texas, and further, that he be forever barred from holding judicial office”).

And, as stated, fellow Judge Brown’s acts after mandatory disqualification are void for lack of jurisdiction, in violation of statute and an ultra vires act. Her reasoning, if any can be taken from her complete lack of jurisdiction, is absurd. Any related “Order(s)” and “Notice(s)” by Judge Brown are void.

As such, both judges are therefore prevented from presiding over this case in any judicial capacity. In summary, Plaintiff’s docketed filings automatically toll the lawsuit.

When it does restart, this Second Amended Petition (“Complaint”) should be filed as though it was timely filed on Friday, March 17, 2023, and based on this superseding complaint, there is absolutely no doubt, an expert report is not required for a “Stalking Complaint” against HCA Houston Healthcare Kingwood. (Any criminal report and testimony can be provided

by the subpoena'd Harris County Police Sergeant at a time to be decided in the future). The other counts relate to, in the majority, violations during litigation. Furthermore, and as discussed, there are new Defendants and new causes of action² ("Counts") as a direct result of this lawsuit as detailed herein.

Agency, Respondeat Superior & Vicarious Liability

Whenever in this petition it is alleged that Defendant did any act or omission, it is meant that Defendant themselves or their agents, officers, servants, employees, and/or representatives did such act or omission, and it was done with the full authorization or ratification of Defendant or done in the normal routine, course and scope of the agency or employment of/by Defendant or their agents, officers, servants, employees and/or representatives.

Discovery Control Plan

² *Dewoody v. Rippley*, 951 S.W.2d 935, 942 (Tex. App. 1997) .

Plaintiff respectfully requests this case be governed by Level 3, Texas Rules of Civil Procedure 190.4.

Relevant Facts

Tuesday: Check-in at HCA Kingwood

On Tuesday, 9th August 2022, Plaintiff had made an appointment with a general practicing Doctor to seek advice about why he was feeling very sick. The Doctor, Huong “Mindy” Hoang, MD of Genesis Medical Group examined and questioned Plaintiff and advised him needed to go to the ER right away to obtain immediate ‘professional’ medical attention. Early that evening, Plaintiff attended HCA’s Kingwood Hospital Emergency Room at 22999 US Hwy 59 N., Kingwood, TX, 77339 where he was admitted.

Wednesday: The Imposter Doctor’s First Visit

No sooner than Plaintiff arrived at Room 376, on Wednesday, the Imposter Doctor Aguilar appeared for the first time. Dr Aguilar would be around 38 years old, clean shaven, dark hair and built like a stocky U.S. Marine, with broad shoulders leading down to his v-shaped abdomen. He

had a heavy Latin American accent and was wearing light blue Doctor scrubs with a name/credentials on his top pocket.

He was armed with a pen and a small notepad, notably no laptop as most Doctors carry. He introduced himself as Dr. Aguilar, and claimed he was Plaintiff's lead Doctor during his visit. Plaintiff advised him that he was feeling discomfort, but he ignored this comment. A short question and answer session would follow and then he performed a quick, hands on body assessment (focusing on the lower stomach). He summarized his notes, during which he made a couple of unbecoming comments for a Doctor, and assured Plaintiff he would return tomorrow, and then left and fast as he arrived.

The "Real Doctors" Arrive

Within 30 minutes, a specialist junior Doctor Mike Wong³ arrived to introduce himself. He was carrying a laptop and after another quick question

³ See; EXHIBIT Who is Dr. Mike Wong?
<https://kingwooddr.com/who-is-dr-mike-wong/>

and answer assessment, said he would be back in 30 mins to an hour with his 'boss', Dr Randy Chung.⁴ True to his word they came back, with another unknown third individual in tow. During this session, Dr. Chung advised he was the lead, Doctor. After a quick introduction and conversation, the Doctors left and said they would return the following morning after bloodwork was analyzed and other test results were reviewed, including the CT Scans performed at ER around 9.45 pm the prior evening.

Thursday: The Imposter Doctor's Second Visit

The hospital shift changes at 0700 hours and Imposter Doctor Aguilar arrived around 0730 hours, just as Plaintiff was exiting the restroom. His opening sentence was "Good morning, Mark, do you remember me?" who replied in the affirmative, "Yes, you're Dr. Aguilar", to which he replied, "That's correct, Doctor Aguilar". Plaintiff took a seat at the end of the bed facing the chair which Dr. Aguilar sat on, with the same notepad and pen

⁴ See; EXHIBIT Who is Dr. Randy Chung?
<https://kingwooddr.com/who-is-dr-randy-chung/>

and wearing the same attire. Another update along with a Q & A session took place and he left.

Dr Wong and Dr Chung's Second Visit

Shortly thereafter, Dr. Wong attended his pre-meeting session and that would be followed by Dr. Wong, Dr. Chung., and the unknown staff member returning for an in-depth consultation with Plaintiff.

Friday: The Imposter Doctor's a 'No Show'

After the shift change at 0700 hours, however, Dr. Aguilar was notably absent, and he would be a complete no-show that day.

Dr Wong's Third Visit

This was followed-up by a lengthy delay before Dr. Wong attended Plaintiff that morning. During this pre-session, Plaintiff questioned why Dr. Aguilar had not attended and to be frank, Dr. Wong looked completely bamboozled and didn't address the issue. Dr Wong returned with Dr Chung and two other unknown individuals this day. During this meeting Plaintiff once again raised the question as to why Dr. Aguilar was a no-show on the

important 'results day' to which Dr Chung responded with a quizzical look, "Dr. Aguilar?".

He immediately informed Plaintiff that he was the lead Doctor on Plaintiff's case, and he was not familiar with that name, Dr. Aguilar and despite further specifics from Plaintiff, said he did not know who this Doctor was but that he was the lead on this case and continued with the consultation. This immediately alarmed Plaintiff and when they left, Plaintiff instantly performed a Doctor search for Dr. Aguilar and came up blank. That is highly unusual, as most admitted hospital Doctors are on several local and national platforms like healthgrades.com etc.

It should be noted, attending Friday's consultation, there was a fourth Doctor, who Plaintiff assumes is Dr Mowla, listed on the care team. Indeed, it is Dr Mowla who authored the midday Friday report, despite being a bystander (which Plaintiff obtained via the hospital CRM, post- discharge).

Plaintiff questioned why Dr Aguilar was a no show this morning. They

thought Plaintiff was meaning Dr Agrawal, a known Doctor but Plaintiff said no, it is Dr Aguilar, the lead Doctor, and he's been at Plaintiff's bedside before Dr Wong on Wednesday and Thursday but now he's conveniently absent today. Dr Chung stated he was the lead Doctor, and they were unfamiliar with any Dr Aguilar, but certainly Chung was Plaintiff's main treating physician. That raised red flags for Plaintiff. Who is this mysterious Doctor?

Devon Alexander, a Key HCA Executive, Blanks Plaintiff

Plaintiff was visited by Devon Alexander, Director of Community and Public Relations on Friday at Room 376. She had introduced herself directly one day prior and stated she was responsible for ensuring Plaintiff was comfortable during his stay and would consider any questions or feedback to ensure that remained the case. Plaintiff advised Ms. Alexander about the Imposter Doctor and could she investigate as the Doctors attending did not know any Dr Aguilar. Promising to do so, she left the Room and by

lunchtime, no response forthcoming, he called her office and requested an update. She said she was working on it. Plaintiff called again later that Friday afternoon and the call was directed to voicemail. Plaintiff never heard from her before his self-checkout on Saturday morning.

Saturday: Mark Burke Checked Out of HCA Kingwood

Mark Burke elected to self-checkout at around 0700 hours that morning. On returning home and after checking in on his parents, Plaintiff registered with the hospital CRM to access his newly created medical records. Plaintiff noted there was a list of physicians and Doctors assigned to Plaintiff. There was no Dr. Aguilar listed.

After Self-Discharge, What's Been Going On?

Kingwood Police Station

At around 1330 hours, Plaintiff walked into his local police station to file a report, as he was extremely concerned about his personal safety and well-being, along with the breach of his medical records. He was advised by the attending officer that it was change of shift and to return at 1500 hours.

Noting the time delay, Plaintiff asked if he needed to provide a written statement and the officer stated that was not necessary. He asked what the issue was. After hearing the brief summary, the officer said, "Come back at 3pm".

At 1500 hrs, Plaintiff returned and the same officer stood in front of him and listened to a fuller account of the events. Plaintiff reaffirmed the most important part of this investigation is to recover the video recordings from the hospital to help identify this Imposter Doctor. Shockingly, the officer refused to take the report because 'no crime had been committed'. Plaintiff challenged the officer, asking for his name and badge and advising him that refusing to take a police report is in violation of the law and which point he paused for a moment and said, "Do you want to speak to a supervisor?" to which Plaintiff responded in the affirmative.

During the 10-15 minute wait, Plaintiff googled whether it was a crime to impersonate a Doctor and the response confirmed Plaintiff's thoughts, it

can be a misdemeanor or felony depending on the State and/or facts surrounding the case. Plaintiff believes this crime is a felony due to the alarming events that an imposter Doctor can walk into a patients room two days straight without being challenged and armed with every medical detail about that patient and his visitation medical exams and notes.

When the supervising officer came out, it didn't take long for him to comply and stand down, stating Kingwood police office was a traffic (patrol) office and that only a basic report could be completed, which would be sent to Houston for further investigation. Plaintiff said that's all he wanted, was a report of the incident. Subsequently, the refusing officer would then take a copy of Plaintiff's ID, photocopy it and use that sheet of paper to manually ask questions and make notes. He then returned with a receipt and case number which was labeled as a "Stalking" complaint. Plaintiff asked him if he was "Officer Brown", to which he replied "Yes". Plaintiff thanked him for his time and left.

Spoilation Letter I

On August 14, 2022, Plaintiff sent his first spoilation letter.⁵

On August 24, 2022, HCA acknowledged Plaintiff's spoilation letter and stated they would investigate.⁶

HCA Kingwood's Contemptuous Response

On September 8, HCA replied⁷ to Plaintiff's spoilation letter with a general denial signed by an unknown 'John Doe', and which failed to address the main purpose of the letter, the video surveillance footage.

Spoilation Letter II

On September 26, 2022, Plaintiff sent his second spoilation letter to HCA Kingwood.⁸

⁵ See; EXHIBIT First Spoilation Letter to HCA, Aug. 14, 2022;
<https://kingwooddr.com/spoilation-letter-to-hca-kingwood/>

⁶ See; EXHIBIT: HCA's Initial Response Letter, Aug. 24, 2022;
<https://kingwooddr.com/wp-content/uploads/2022/09/hca-initialresponse-aug24.pdf>

⁷ See; EXHIBIT HCA Letter reply to Spoilation Letter I, Sep. 8, 2022.
<https://kingwooddr.com/wp-content/uploads/2022/09/hca-reply-spoil-i.pdf>

⁸ See; EXHIBIT Second Spoilation Letter to HCA, Sep. 26, 2022;

Plaintiff's Reply to HCA Kingwood

On September 30, 2022, Plaintiff responded⁹ to HCA's 'investigation' and general denial.

Plaintiff's Reminder to HCA

On October 10, 2022, Plaintiff emailed¹⁰ HCA, copying known counsel for HCA¹¹ in Harris County, Ms. Nicole G. Andrews of Serpe Andrews.

Plaintiff's Reminder to Houston Police

On October 13, 2022, Plaintiff emailed Houston Police Department

<https://kingwoodr.com/spoilation-letter-ii-to-hca-kingwood/>

⁹ EXHIBIT Burke's Response to Contemptuous HCA Letter, Sep. 30, 2022.

<https://kingwoodr.com/response-to-hca-kingwoods-contemptuous-general-denials-re-spoilation-letter-i/>

¹⁰ EXHIBIT Email Sent to Known Counsel Nicole Andrews and HCA on Oct. 10, 2022, also on the docket, Image #105682672, Dec. 20, 2022.

<https://kingwoodr.com/email-reminder-to-hca-kingwood-re-spoilation-letters-adding-known-counsel-for-hca-nicole-andrews/>

¹¹ There would be a curt "John Doe" response from HCA, dated Oct. 17, 2022, which would arrive by mail after the lawsuit had been initiated on Oct. 18, 2022, see; EXHIBIT HCA Letter reply to Spoilation Letter II, Oct. 17, 2022;

https://kingwoodr.com/wp-content/uploads/2023/02/EXHIBIT_HCA_Letter_replyto_Spoilation_Letter_II.pdf

requesting an update to the two-month old complaint.¹² The movements thereafter are available on the docket and discussed herein , including the subpoena of the Police Sergeant assigned to the criminal stalking investigation.

After Filing the Lawsuit: Incredulous Events During Litigation

As a result of the well documented events post original complaint, Plaintiff is now suing those parties added to this Second Amended Complaint for the following reasons;

Sanctions and Disqualification of Opposing Counsel and HCA's Law Firm, trading as Serpe Andrews, PLLC ("HCA Lawyers")

As well documented on the docket and as the Court is aware, Plaintiff has been subjected to increased time and expense and considerable delays by HCA Lawyers in this matter. As such, Mark Burke submitted a motion to disqualify and sanction HCA Lawyers. This stimulated a timely response, for once.

¹² See; EXHIBIT HPD Complaint and Sworn Affidavit, Dec. 23, 2022.
<https://kingwooddr.com/police-incident-report-a-follow-up-after-no-response-from-hpd-in-two-months/>

A Baseless and Malicious Counterclaim with Application for Injunctive Relief by HCA and HCA Lawyers (Denied)

In less than 24 hours, HCA Lawyers retaliated with a baseless and malicious counterclaim with applications for injunctive relief in retaliation which would chill Mark Burke's free speech in violation of both the United States and Texas Constitution. However, the most scandalous element of the Counterclaim was stating that Mark Burke was criminally 'harassing and stalking' a laundry list of people and organizations known to HCA and HCA Lawyers, without a scintilla of evidence - as there could not possibly be any evidence - and where not a single witness would attend the Temporary Injunction hearing on January 9, 2023. This resulted in several more filings, which included a Plea in Abatement, which Plaintiff avers continued the Temporary Injunction hearing on January 9, 2023 by the operation of law, as per the arguments and case law provided in the Plea in Abatement and subsequent pleadings.

Mark Burke notified the Court he would not be attending the in-person hearing for reasons stated in emails and filings. The Court proceeded to hold said hearing in his absence, and that of Counsel of

record, Nicole Andrews, replaced without notice to the Court or Plaintiff by Benjamin “Ben” Hamel. He would be accompanied by the second Counsel of record, Madison Addicks, however, per the Court transcript, only Mr. Hamel would engage with the Court and Judge Lauren Reeder.

Post hearing, on the morning of Tuesday, January 10, 2023, HCA Lawyers submitted a Proposed Temporary Injunction to the Court. Shortly thereafter, the Court provided an Order denying the Temporary Injunction.

The Scheduled March 20, 2023 Sanctions Hearing

In response to the denial of the Temporary Injunction, Plaintiff emailed HCA Lawyers and asked if they would now be terminating their baseless Counterclaim, thus reducing the time and expense to file more motions, pleadings and arguments with the Court. HCA and HCA Lawyers refused point blank, and forcefully asserted their frivolous arguments. Not only did HCA refuse to terminate their Counterclaim, Plaintiff received an email¹³ from HCA Lawyer, Mr. Hamel threatening

¹³ See; Exhibit "Email from HCA's Ben Hamel Dated Jan 19, 2023"; and per docket; Exhibit "Email from HCA's Ben Hamel Dated Jan 19, 2023" Image no. 106223356, Jan. 27, 2023.

more retaliatory conduct if the Plaintiff did not stand down from his motion for sanctions and scheduled hearing (now rescheduled), by seeking monetary damages via a counter-sanctions motion, in part;

“...for your violations of TCPRC Rule 10.001 and TRCP 13 including, but not limited to, reasonable and necessary attorneys fees incurred in responding to your improper and frivolous motion as well as any and all other relief available pursuant to TCPRC 10.002.”.

Plaintiff immediately responded, and suggested that would be ill-considered, providing reasons¹⁴ Post hearing, Plaintiff obtained a transcript of the hearing from the Court reporter¹⁵, and during email conversations¹⁶, it became apparent that there may have been ex-parte conversations after the hearing ended. As a result, a subpoena was

¹⁴ See; EXHIBIT Emailed Letter to HCA Lawyers, Jan. 19, 2022; and per docket; Exhibit "Responding to Threat by HCA and HCA Lawyers, Dated Jan 19, 2023", Image no. 106223358, Jan. 27, 2023.

¹⁵ See; EXHIBIT Court Reporter Transcript of TI Hearing, Jan. 9, 2023.
https://kingwooddr.com/wp-content/uploads/2023/02/EXHIBIT_CourtReporterTranscript_Jan9_2023.pdf

¹⁶ See: EXHIBIT "Email Thread Between Mark Burke and Norma Duarte Court Report Dated Jan. 17, 2023"; and per docket; Exhibit "Email Thread Between Mark Burke and Norma Duarte Court Report Dated Jan. 17, 2023", Image no. 106223357, Jan. 27, 2023.
https://kingwooddr.com/wp-content/uploads/2023/02/Exhibit_Email_Thread_Duarte_Court_Reporter106223357.pdf

issued for the Court reporter for the upcoming sanctions and disqualification hearing on March 20, 2023, wherein testimony would help in determining what happened once the record and transcript report ended. Alas, Judge Reeder would quash the subpoena as discussed herein.

Who's Being Sued, in What Capacity and Under What Legal Theory?

Nicole Andrews, Madison Addicks, and Benjamin 'Ben' Hamel in their personal capacity for retaliation, conspiracy, and "intentional infliction of emotional distress" for falsely claiming criminal harassment and stalking against Mark Burke and seeking both temporary and permanent injunctive relief;

Nicole Andrews, Madison Addicks, Benjamin 'Ben' Hamel and Serpe Andrews, PLLC in their corporate capacity for retaliation, conspiracy (with HCA and the Addicks), breach of fiduciary duty, and "malicious use of process" (also known as "abuse of process") , including but not limited to falsely submitting attorney fees for works performed before Plaintiff's lawsuit was actually filed and later filing a

false counterclaim claiming criminal harassment and stalking¹⁷ against Mark Burke and seeking both temporary and permanent injunctive relief and ;

Jeffery Addicks and Sharon Addicks (both active Texas lawyers) for conspiracy (with HCA and Serpe Andrews, PLLC), “malicious use of process” (also known as “abuse of process”), infliction of emotional distress, and retaliation, including but not limited to filing to quash subpoenas on meritless legal arguments and attempting to obtain attorney fees on frivolous and baseless arguments and materially increasing the cost of time expended on Plaintiff having to defend this frivolous litigation, including further litigation costs and expenses;

HCA for retaliation, conspiracy, infliction of emotional distress, and “malicious use of process” (also known as “abuse of process”), including but not limited to allowing the lawsuit to transgress into a personal vendetta against Mark Burke via unlawful, devious, and malicious acts with co-conspirators named herein.

¹⁷ Citing Tex. Pen. Code § 42.07 and Tex. Pen. Code § 42.072.

District Judge Lauren Reeder is sued for due process violations, including but not limited to ex parte communications with HCA counsel at the in-person January 9, 2023 hearing, and where Plaintiff was not in attendance after his formal dispute over the hearing, as noted and admitted by Judge Reeder during the hearing. HCA counsel and the law firm, Serpe Andrews, PLLC, provided substantial funding to Judge Reeder's 2022 judicial election campaign and whilst money donations in political campaigns are allowed, the fact she held ex parte communications off the record is clearly not allowed.

Administrative Judge Susan Brown is sued to prevent future injuries resulting from her due process violations and continued ultra vires acts, including her void judgments, notice(s) of future hearings, and lack of jurisdiction as outlined above and in Plaintiff's detailed letters submitted in response to these unlawful and void acts by Judge Brown.

Count I

Stalking

Plaintiff re-alleges and incorporates each allegation set forth above as

if fully written herein. Texas has a statutory civil cause of action for stalking; *Long v. State*, 931 S.W.2d 285, 292 (Tex. Crim. App. 1996); updated in 1997, see; TEX.CIV.PRAC. REM.CODE § 85, Title 4, Liability in Tort, Chapter 85, Liability in Stalking. As discussed in this complaint, Plaintiff has been stalked by an unknown person, impersonating himself as a Doctor and who put his hands on Plaintiff in doing so.

Plaintiff was stalked during his stay at HCA Kingwood Hospital and to this very day, Plaintiff is constantly watching his surroundings when outside of his main residence, living in constant fear for his personal safety and those closest to him, by this unknown and unidentified threat. Mark Burke is very aware the personal threat to Plaintiff and potentially those closest to him by this unknown person whilst he remains at-large.

Despite reaching out to HCA Houston Healthcare Kingwood many times, they have treated Plaintiff's complaint(s) by delay, avoidance, lies, and contempt. The one 'investigation' HCA claim to have conducted in a letter of denial of any wrongdoing, is signed by an unnamed John Doe. It is

without doubt a fraud on the Plaintiff. If, as HCA stated, nobody was seen entering or leaving Plaintiff's Room, then they would not be hiding the video surveillance and would be sharing that video with Plaintiff. HCA would have willingly provided Plaintiff the names and personal addresses of the staff involved in the investigation so Mark Burke could submit his planned Perpetuate Testimony civil action if they were confident in their own statements. Instead, they refused to discuss the matter which resulted in this civil litigation by Plaintiff, in a search for the truth. In conclusion, HCA's response to the stalking of Plaintiff by Imposter Doctor Aguilar is based on malicious mischaracterizations, deception and lies. The stalking threat to Plaintiff and those closest to him is both real and ongoing.

Count II, and III

Conspiracy and Breach of Fiduciary Duty

Conspiracy

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein. "The actions of one member in a conspiracy might

support a finding of liability as to all of the members. See *Ins. Co. of N. Am. v. Morris* , 981 S.W.2d 667, 675 (Tex. 1998). But even where a conspiracy is established, wrongful acts by one member of the conspiracy that occurred before the agreement creating the conspiracy do not simply carry forward, tack on to the conspiracy, and support liability for each member of the conspiracy as to the prior acts. See *Swinnea* , 318 S.W.3d at 881. Rather, for conspirators to have individual liability as a result of the conspiracy, the actions agreed to by the conspirators must cause the damages claimed.” *First United Pentecostal Church of Beaumont v. Parker*, 514 S.W.3d 214, 224 (Tex. 2017).

In this lawsuit, we have HCA lawyers Benjamin Hamel, Madison Addicks and Nicole Andrews conspiring, as purported legal counsel with HCA, and knowingly acting with malice, which includes deceit, deception, and withholding evidence subject to a criminal inquiry by Houston Police Department. It has been recently admitted by HCA’s own billing statements, that Nicole Andrews was advising HCA on Plaintiff’s direct

complaints (Spoilation letters). And despite this fact, Nicole Andrews refused to waive service when requested by Plaintiff. It is without doubt, the conspirators have both corporate and individual liability resulting from this conspiracy, as the actions must have been agreed by all the conspirators in order to submit a general denial as their Reply, an outrageous Counterclaim and Applications for Injunctions on the record, which effectively denies any conspiracy or liability to Plaintiff.

Patently, discovery is necessary at this stage of proceedings to ultimately prove all elements of the conspiracy, which relies upon, in the majority, obtaining the engagement letter between HCA and HCA lawyers pertinent to this lawsuit representation by Addicks and Andrews, investigating the 'lawyer as a witness' sanctions further by cross-examination, as well as recovery of the video surveillance footage unlawfully withheld by Defendant or, in the alternative, confirmation the video surveillance footage in possession of the Defendant has been intentionally spoiled or similar, in direct contempt of the Spoilation letters

provided by Plaintiff to Defendant.

Breach of Fiduciary Duty

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein. Under Texas law, a Defendant can be held jointly and severally liable for his or her knowing participation in another's breach of fiduciary duty, even if Defendant doesn't owe its own fiduciary duty to the Plaintiff. Texas recognizes the tort of "knowing participation in a breach of fiduciary duty." In this tort, a person who knowingly participates in another's breach of fiduciary duty can be held jointly and severally liable for the damages caused by the breach, even if the person does not owe a fiduciary duty to the Plaintiff. This means that the Plaintiff can recover the full amount of damages from any one of the Defendants who participated in the breach, and the Defendant who pays can then seek contribution from the other Defendants who were also liable.

It's important to note that the Plaintiff must prove that the Defendant

knew of the breach of fiduciary duty and knowingly participated in it, rather than simply being a bystander or innocent participant. The Defendant's level of knowledge and involvement will be a key factor in determining liability.

Count IV

Retaliation

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein. The underlying strategy in this case by the named Defendants has been to delay, followed by retaliation by filing malicious, outrageous, baseless and frivolous allegations and filings. And despite the court rejecting their allegations after an in-person hearing on the matter, they continued to threaten and retaliate against Plaintiff, all of which has been documented herein and/or on the court's docket.

Count V

Due Process Violations **District Judge Lauren Reeder**

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein.

Ex parte communications in this case are a violation of Plaintiff's right to due process, which is guaranteed by the United States Constitution. Due process requires that all parties to a legal proceeding have an opportunity to be heard and to present evidence in support of their case. If a judge engages in ex parte communications, it may give one party an unfair advantage over the other.

Judicial misconduct: Ex parte communications are generally considered to be a form of judicial misconduct. As stated earlier, Judge Reeder's misconduct should be grounds for disqualification, disciplinary action, and/or removal from the bench.

Bias or prejudice: If a judge engages in ex parte communications as witnessed here, it is clearly direct and uncontroverted evidence of bias and prejudice against Plaintiff in this case. This bias and prejudice mandates Judge Reeder's disqualification.

Violation of ethical rules: Judges are held to high ethical standards

and are required to follow certain rules of conduct. When, as here, a judge engages in ex parte communications, they are in direct contempt and violation of these rules and should be subject to disciplinary action.

The Texas Constitution refers to “due process” as the "due course of law." Section 19 of Article I of the Texas Constitution states:

"No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land."

This language is similar to the due process clause found in the U.S. Constitution's Fifth and Fourteenth Amendments, which prohibits the government from depriving any person of life, liberty, or property without due process of law.

The concept of "due course of law" in Texas has been interpreted by courts to require that legal proceedings must be fair, impartial, and follow established procedures. It guarantees that individuals have a right to notice of any legal actions against them, the opportunity to be heard, the right to legal counsel, and the right to a fair and impartial decision-maker.

In summary, "due course of law" in the Texas Constitution serves as a protection against arbitrary and unfair government actions and provides Texans with similar protections to those guaranteed by the U.S. Constitution's due process clause.

Plaintiff's Motion to Disqualify Judge Lauren Reeder and Verified Declaration and Plaintiff's Verified Declaration in Support of Motion to Disqualify Judge Lauren Reeder provides the necessary background and arguments in support of the due process violations in this case, and why she should be disqualified and disciplined.

Judge Susan Brown

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein.

Judge Brown is in violation of due course of law in this case as discussed herein.

Count VI

Ultra Vires

Eleventh Administrative Judicial Region of Texas Judge Susan Brown

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein.

Ultra Vires acts and orders signed as a judge while disqualified are void. Judge Brown's lack of jurisdiction is clear and obvious. Her Order(s) and Notice(s) are void, a nullity in law. Despite her own and ongoing actions, which infers jurisdiction, Plaintiff asserts she cannot sit as the Presiding Judge in the pending matter, the Motion to Disqualify Judge Lauren Reeder. The Plaintiff refers to communications regarding this topic available from the court and on the docket for the underlying civil action, and which Plaintiff asks the court to take judicial notice.

Count VII

Malicious Use of Process aka Abuse of Process

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein.

"The elements of abuse of process are (1) an illegal, improper, or perverted use of the process, neither warranted nor authorized by the process, (2) an ulterior motive or purpose in exercising such use, and (3)

damages as a result of the illegal act. *Bukaty*, 248 S.W.3d at 897. " *LaCore Enters. v. Angles*, No. 05-21-00798-CV, at *29 (Tex. App. Mar. 23, 2023).

All elements apply in this case as described in this complaint and supporting docketed pleadings, motions, and exhibits.

Count VII

Intentional Infliction of Emotional Distress

Plaintiff re-alleges and incorporates each allegation set forth above as if fully written herein.

Intentional Infliction of Emotional Distress. The elements of intentional infliction of emotional distress are that (1) the Defendants acted intentionally or recklessly, (2) the conduct was extreme and outrageous, (3) the actions of the Defendants caused the plaintiff emotional distress, and (4) the emotional distress was severe. *Twyman v. Twyman*, 855 S.W.2d 619, 621 (Tex. 1993). All elements apply in this case as described in this complaint and supporting docketed pleadings, motions and exhibits.

Prayer & Relief

Based on the foregoing Plaintiff and Counter-Defendant seeks the following relief: An award of actual and consequential damages within the jurisdictional limits of this Court; An award of exemplary damages and/or punitive damages for all claims for which such damages are authorized; An award of pre-and-post-judgment interest as permitted by law; and such other relief the Court may deem just, proper and /or necessary under the circumstances.

Jury Trial

Plaintiff demands a jury trial.

RESPECTFULLY submitted this 17th day of April, 2023.
I declare under penalty of perjury that the foregoing is true and correct.
This declaration under Chapter 132, Civil Practice and Remedies Code.



Mark Burke
State of Texas / Pro Se

46 Kingwood Greens Dr
Kingwood, Texas 77339
Phone Number: (281) 812-9591
Fax: (866) 705-0576
Email: browserweb@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing First Amended Petition and Jury Demand has been forwarded to all named Defendants by electronic filing notification and/or electronic mail and/or facsimile and/or certified mail, return receipt requested, this the 17th day of April, 2023.



Mark Burke
State of Texas / Pro Se

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 74724298

Filing Code Description: Amended Filing

Filing Description: PLAINTIFF & COUNTER-DEFENDANTs SECOND AMENDED PETITION

Status as of 4/17/2023 3:45 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Cynthia L.Saiter		csaiter@scottdoug.com	4/17/2023 3:39:06 PM	SENT
Nicole G.Andrews		nandrews@serpeandrews.com	4/17/2023 3:39:06 PM	SENT
Priscilla Martinez		pmartinez@serpeandrews.com	4/17/2023 3:39:06 PM	SENT
Amanda Johnson		ajohnson@serpeandrews.com	4/17/2023 3:39:06 PM	SENT
Benjamin Hamel		bhamel@serpeandrews.com	4/17/2023 3:39:06 PM	SENT
Madison Addicks		maddicks@serpeandrews.com	4/17/2023 3:39:06 PM	SENT
Michelle Joyner		mjoyner@scottdoug.com	4/17/2023 3:39:06 PM	SENT
Abril Rivera		arivera@scottdoug.com	4/17/2023 3:39:06 PM	SENT
Rachel Fraser		rachel.fraser@harriscountytexas.gov	4/17/2023 3:39:06 PM	SENT
Mark Burke		browserweb@gmail.com	4/17/2023 3:39:06 PM	SENT

EXHIBIT
Burke's Response to
Contemptuous HCA
Letter, Sep. 30, 2022.

Mark Burke
46 Kingwood Greens Dr.,
Kingwood, TX, 77339
Email: markburkesusa@gmail.com
Fax: 1-866-705-0576
Mobile: 832-781-6887

By Priority Mail

John Corbeil
Chief Executive Officer
HCA Houston Healthcare Kingwood
22999 US Hwy 59 N
Kingwood, TX, 77339

Cc; Laura Monsivais
Patient Safety and Risk Coordinator
Email; KWMC.PatientAdvocate@HCAHealthcare.com¹

September 30, 2022

Spoilation Letter I, August 14, 2022

¹ Please ensure your IT Department whitelists markburkesusa@gmail.com and doctor@kingwooddr.com so my emails are delivered and can offer a more timely method of communication.

I refer to my first and very specific spoliation letter to HCA. I received two letters in response.

HCA Letter I, an acknowledgment letter dated August 24, 2022, stating you were commencing an investigation, signed by *Laura Monsivais*, Patient Safety and Risk Coordinator.

HCA Letter II, dated September 8, 2022, signed by "*Unknown John Doe*" for the Patient Safety Department.

The letter can be summarized as a general denial of any wrongdoing and a denial of any "*imposter doctor*", which included reviewing "*security footage*".

The letter also stated that I may be "*confused*" with another resident doctor with a similar name, but the name is withheld from disclosure in the letter.

HCA also claim to have reached out by phone and email multiple times without success, but you are open to maintaining dialogue in this matter.

Security Video Footage: It is my intention to recover the video footage for the period specified in my spoliation letter. My questions are as follows;

- (i) Are you willing to provide this video footage directly to me?
- (ii) If not, are you willing to provide the name(s), telephone numbers and personal home addresses for the person(s) involved in the

‘investigation’? If there is more than one person involved in the investigation, HCA’s response should identify with particularity the title and role of each person, along with a general bio of their experience in such matters and how long they have been employed with HCA. I will require this information when legally serving the person(s) involved in a *Petition to Perpetuate Testimony*.

(iii) Your letter stated that no *imposter doctor* was observed entering my room on the days advised (after reviewing video footage and talking to staff) and I must be “*confused*” with another unnamed resident doctor with a similar name.

a. **I was Never “Confused”:** I take great issue with your assessment of my state of mind as “*confused*”. This statement is knowingly malicious and untruthful when considering my statement in Spoilation letter, which also details the criminal complaint lodged with the local Police Station on the same day I self-checked out of the hospital (on a Saturday). HCA’s response is outrageous.

b. **The Resident Doctor Must Be on the Video Footage:** In support of a., and relying upon your own written response, the investigator(s) who reviewed the video footage must have seen this “*resident doctor with a similar name*” entering my room on

two consecutive days, each time shortly before the visit of Dr. Michael "Mike" Wong, as detailed in my Spoilation letter. Can you confirm this to be true?

(iv) In response to reaching out several times via email and the telephone;

a. **Phone Voicemails:** I did receive several voicemails but purposefully did not return any calls for two reasons. **First**, I will not discuss anything on a phone or in person that is not legally recorded between HCA and myself, as it is anticipated that this matter will most likely result in litigation. **Second**, I was unavailable emotionally, and physically, as explained to HCA in *Spoilation Letter II*, which you received on September 28, 2022.

b. **Emails:** I have never received an email from HCA before, during or after your investigation into *Spoilation Letter I*.

This is my response with requests for answers which will be relied upon, if necessary, in a court of law.

HCA have failed to address the specific elements of my initial spoilation letter, in particular the video footage.² I am providing you an opportunity to address this deficiency by return.

² See; Section labeled 'Preservation' in my spoilation letter.

Please note that your failure to respond in a timely manner or preserve any of the evidence as detailed in *Spoilation letter I* may be used against you in any civil proceeding and may result in a spoliation instruction.

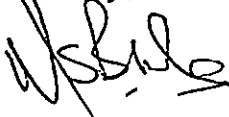
Finally, as you have now received *Spoilation letter II*, you should recognize that my complaint has become far more personal and far more serious for HCA.

If I may suggest, HCA should take my complaint(s) and notice(s) under careful advisement before sending out another contemptuous general denial letter.

Delay will not be your friend; I can assure you that after collecting my father's ashes this week. You have [my father's] blood on your hands and I have my mother's tears drenching my shirts daily.

If, as HCA suggests, your channels are always open to communication, and that includes settlement discussions, I firmly recommend this would be the time to act.

Sincerely,



Mark Burke

Disclaimer; Critically acclaimed for my digital publishing platform[s] and strategic approach to public communications, it would be remiss not to 'practice what you preach'. As such, I have launched a public 'gripe site' at KingwoodDr.com which maintains a record of all communications between HCA and myself in this matter, along with other articles of public concern, including "[HCA holds the record for the largest Health Care FRAUD in American history](#)". This article confirms Congress is currently seeking another federal probe into HCA (as at Sept 2022).

EXHIBIT
Court Reporter
Transcript of TI
Hearing, Jan. 9, 2023.

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REPORTER'S RECORD
VOLUME 1 OF 1 VOLUME
TRIAL COURT CAUSE NO. 2022-68307

MARK BURKE,) IN THE DISTRICT COURT
Plaintiff)
)
vs.) HARRIS COUNTY, TEXAS
)
KPH CONSOLIDATION, INC.)
(d/b/a HCA HOUSTON)
HEALTHCARE KINGWOOD),)
Defendant) 234TH JUDICIAL DISTRICT

TEMPORARY INJUNCTION

On the 9th day of January, 2023, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable LAUREN REEDER, Judge Presiding, held in Houston, Harris County, Texas.

Proceedings reported by computerized stenotype machine.

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APPEARANCES

Mark Burke
State of Texas Pro Se
46 Kingwood Greens Dr.
Kingwood, Texas 77339
Telephone: (281) 812-9591
Pro Se Litigant

Benjamin 'Ben' Hamel
SBOT NO. 24103198
Madison Johanna Addicks
SBOT NO. 24132017
SERPE ANDREWS, PLLC
2929 Allen Parkway, Suite 1600
Houston, Texas 77019
Telephone: (713) 432-4460
Attorneys for Defendant

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VOLUME 1

TEMPORARY INJUNCTION

January 9, 2023

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EXHIBITS OFFERED BY THE DEFENSE

EXHIBIT	DESCRIPTION	OFFERED	ADMITTED	VOL.
1	Kingwood Hospital 1/8/23 68 pgs	13	13	1
2	Kingwood Hospital 12/9/22 40 pgs	13	13	1
3	Kingwood Hospital 1/6/23 150 pgs	13	13	1

1 (Temporary Injunction at 1:10 p.m.)

2 THE COURT: All right. You ready,
3 Norma?

4 COURT REPORTER: Yes, Judge.

5 THE COURT: All right. We're on the
6 record in Case No. 2022-68307 **Mark Burke versus KPH**
7 **Consolidation, Inc. d/b/a HCA Houston Healthcare**
8 **Kingwood.**

9 The record will reflect that plaintiff
10 Mark Burke who is a self-represented litigant is not
11 present today in the courtroom. The Court will put
12 on more on the record related to prior context with
13 Mr. Burke.

14 But in the mean time, would counsel
15 for defense please make their appearances for the
16 record?

17 MR. HAMEL: Yes, Your Honor. Benjamin
18 Hamel and Madison Addicks on behalf of the defendants
19 HCA.

20 THE COURT: All right. We're here
21 today on defendant's temporary -- request for a
22 temporary injunction on counterclaims filed by
23 defendant.

24 Prior to this hearing, Mr. Burke did
25 have notice of this hearing. And has had multiple

1 e-mail correspondences with the lead clerk of this
2 Court, Ms. Shannon North. Many of those e-mail
3 correspondences did include defense counsel.

4 And since then, all of those e-mail
5 correspondences have been added to the Court's file.
6 And the Court will take judicial notice of its file.

7 Mr. Burke stated he believed that this
8 hearing should be canceled based on what he believes
9 is an automatic abatement of the case when he filed a
10 plea in abatement. And, therefore, also indicated to
11 my clerk that he would not be appearing for this
12 hearing.

13 He also stated that even if the Court
14 determined that this hearing should proceed, that it
15 should not be in person. But it should, instead, be
16 a remote hearing in accordance with the emergency
17 order of the Texas Supreme Court.

18 The Court will also notice that
19 there's nothing in the Texas Supreme Court's prior or
20 most current order that requires remote hearings.
21 It, instead, only states that a Court may allow or
22 require parties to appear remotely.

23 However, the Court will also note that
24 for this, which is a temporary injunction which is an
25 evidentiary hearing, the Court may not require

1 testimony be taken outside or by remote means over
2 the objection of the parties.

3 Nevertheless, prior to this hearing,
4 my clerk attempted to call Mr. Burke at the only
5 number that is on his pleadings, to which we received
6 a busy cell phone signal.

7 The Court was going to allow him to
8 appear by Zoom. The Court will also note that on the
9 Court's website, which Mr. Burke is aware of because
10 he has posted on his website things related to this
11 Court's procedures. And I believe has included them
12 as exhibits in many of his pleadings. That the Court
13 allows remote proceedings, and in fact has the link
14 to the Zoom on it.

15 Mr. Burke is not present on the Zoom
16 today, nor is he present in the courtroom; which is
17 no surprise, because he stated my clerk that he would
18 not be appearing.

19 Mr. Hamel, you may proceed with
20 presenting your evidence in support of your temporary
21 relief sought.

22 *MR. HAMEL:* Yes, Your Honor, thank
23 you.

24 Would you prefer that we address the
25 Court standing or from --

1 *THE COURT:* Standing, please.

2 *MR. HAMEL:* Standing.

3 Would a brief recitation of the facts
4 be beneficial for the Court?

5 *THE COURT:* It would be. And it would
6 be -- certainly be beneficial for the record.

7 *MR. HAMEL:* Understood, Your Honor.

8 Just briefly, litigation was initiated
9 by Mr. Burke against HCA Houston Healthcare Kingwood,
10 the substance of which relates to a period of time
11 that he was receiving treatment there.

12 The general gravamen of Mr. Burke's
13 complaints are that impostor physician, who has not
14 been identified by the facility or otherwise, was
15 apparently or allegedly given access to the full slew
16 of his medical records. Spoke with him regarding his
17 medical records. Spoke with him regarding potential
18 treatment.

19 However, Mr. Burke alleges that
20 whoever that individual was, is an impostor; is not a
21 physician. He filed a police report to that effect.
22 The end result of which we're not aware of.

23 But, generally, he alleges that this
24 was a violation of the standard of care of the
25 facility. And has filed a medical malpractice action

1 under Chapter 74 seeking relief for that.

2 Related to Mr. Burke's allegations he
3 started what, I believe, is commonly referred to as a
4 gripe website. Where he posted his various
5 allegations, other news articles related to HCA and
6 HCA's attorneys.

7 The basis -- excuse me, related to
8 that, we have filed a counterclaim for harassment,
9 stocking, and tortious interference with contract.
10 And are seeking a temporary injunction today
11 specifically related to various postings on that
12 website, which show the personal address and
13 photographs of the homes of various individuals
14 involved in the litigation from our firm, as well as
15 their parents and other family members.

16 As I'm sure the Court is aware, a
17 temporary injunction does not determine any of the
18 underlying merits of litigation, simply preserves the
19 status quo between the parties. As such, during the
20 pendency before the determination can be made
21 regarding our harassment claim, we believe that a
22 temporary injunction is necessary to maintain the
23 status quo.

24 Specifically, given that the
25 harassment statute provides a cause of action if a

1 person with the intent to harass, annoy, alarm,
2 abuse, torment or embarrass another publishes on an
3 Internet website, including a social media platform,
4 repeated electronic communications in a manner
5 reasonably likely to cause emotional distress, abuse,
6 or torment.

7 Based on that, we're seeking a
8 temporary injunction against Mr. Burke to have him
9 remove the postings from his website related to the
10 personal addresses and photographs of the homes of
11 the unrelated attorneys from our firm and their
12 family members.

13 On the basis that during the pendency
14 of this litigation, before we can determine whether
15 harassment has actually occurred, that those
16 individuals have a right to be free from annoyance of
17 use, an intent to harass, and in this specific
18 instance the potential harm to their personal safety.

19 *THE COURT:* And before you put on your
20 evidence of those postings, Mr. Burke had filed a
21 response either in opposition to the temporary
22 injunction or in one of his other filings. That,
23 again, the Court has taken notice of its file with
24 some case law about prior strike on speech.

25 Could you address those issues as well

1 as talk to me about the modification of the temporary
2 injunction that you're seeking and the relief, and
3 any case law to support the relief that you're
4 seeking today?

5 *MR. HAMEL:* Yes, Your Honor.

6 So to -- to clarify, and I think our
7 original order that was attached to our injunction
8 was unclear.

9 We are not seeking to have any prior
10 restraint on any speech from Mr. Burke. Rather, we
11 are seeking mandatory injunctive relief to have the
12 posts that have already been made that show various
13 individual's homes and their personal addresses and
14 other financial information, to have those posts
15 removed.

16 So we're not seeking -- we're not
17 seeking to restrain any potential future speech from
18 Mr. Burke, just the postings that have already been
19 made. So --

20 *THE COURT:* And nor are you seeking a
21 removal -- a wholesale removal of his website or any
22 of the postings related to filings in this Court. Or
23 I believe he's filed -- he basically kind of put the
24 entire record on his -- the website.

25 *MR. HAMEL:* Correct.

1 *THE COURT:* Based on my reading of
2 the -- the -- the filings.

3 And you're not -- and as well as maybe
4 some news articles, you're not seeking removal of
5 that or taking down of this website.

6 *MR. HAMEL:* Correct, Your Honor.

7 We're not seeking removal of anything
8 related to the pleadings of this case or anything
9 like that. Just, specifically, the photographs of
10 individual's homes and their personal addresses,
11 which given the entire --

12 *THE COURT:* Uh-huh.

13 *MR. HAMEL:* -- you know, context of
14 the website, our position is that based on the
15 objective standard for the harassment statute is
16 clearly intended to annoy, abuse, or harass the
17 individuals involved in this litigation.

18 *THE COURT:* Okay. You may proceed
19 with putting on your evidence.

20 *MR. HAMEL:* Yes, Your Honor.

21 So, first, we'd just like the Court to
22 take judicial notice of Exhibits A through X, which
23 were attached to Defendant's original counterclaim
24 and application for temporary injunction and
25 permanent injunction filed on November 23rd, 2022.

1 *THE COURT:* All right. The Court will
2 take judicial notice of Exhibits A through X, which
3 were attached to that filing.

4 *MR. HAMEL:* And in addition to that,
5 Your Honor, we have three more exhibits that I
6 believe were filed subsequently, which we will mark
7 as Exhibits 1, 2, and 3, excuse me, Defendant's
8 Exhibits 1, 2, and 3 as part of the hearing today.

9 *THE COURT:* All right. Defendant's
10 Exhibits 1 through 3 are admitted for purposes of
11 this hearing.

12 *MR. HAMEL:* Permission to approach,
13 Your Honor?

14 *THE COURT:* Yes.

15 *MR. HAMEL:* And to clarify, Your
16 Honor, we are not seeking to have the entirety of
17 these postings removed, just the portions that we
18 discussed that contain personal information,
19 photographs of individual's homes, and other
20 financial information for individuals who are have no
21 involvement in this litigation.

22 I'd like to direct the Court's
23 attention, if I may, Your Honor --

24 *THE COURT:* Uh-huh.

25 *MR. BURKE:* -- to a case that we

1 believe is on point from the First Court of Appeals
2 that was argued in 2019. Caption is ***Bui, B-u-i v***
3 ***Dangelas, D-a-n-g-e-l-a-s***. Currently, I believe the
4 only citation available is the Westlaw citation which
5 is 2019 WL 7341671.

6 In this matter, which was a defamation
7 case, so slightly different than the one that's
8 before the Court. The 152nd Court, and ultimately
9 the First Court of Appeals, determined in instances
10 such as these injunctive relief related to personal
11 addresses -- I think the specific context of that
12 case was someone was alleged to be related to the
13 Viet Cong posting on Facebook.

14 And the Court determined that ordering
15 the defendants to remove those Facebook postings
16 during the pendency of the underlying litigation,
17 that provided personal addresses and things of that
18 nature did not violate any constitutional implication
19 to free speech.

20 *THE COURT:* Can you give me that
21 Westlaw site again?

22 *MR. HAMEL:* Absolutely, Your Honor.
23 It's 2019 WL 7341671. I have a copy for the Court,
24 if you'd like it.

25 *THE COURT:* Okay. I'll take it.

1 MR. HAMEL: May I approach?

2 THE COURT: You may. Do you happen to
3 have a copy or a cite for the Trial Court Case No. in
4 that case? Is it on there? Out of the 152nd.

5 MR. HAMEL: Yes, Your Honor, Trial
6 Court Cause No., excuse me, Case No. 2018-55787.

7 THE COURT: Thank you. Okay.

8 MR. HAMEL: Just generally, Your
9 Honor, relying on the authority from that case and
10 the language of the harassment statute itself, we
11 feel that these posts by Mr. Burke are not related to
12 the underlying litigation in any way, shape, or form.

13 And are solely to -- to clarify, the
14 statute doesn't require that it be solely for the
15 purpose of. But -- or solely for the purpose of, and
16 made with an intent to harass, annoy, alarm, abuse,
17 and torment the individuals whose personal
18 identifying information is contain within these
19 posts.

20 And on that basis, we would request
21 injunctive relief from the Court during the pendency
22 of the underlying litigation, until such time as the
23 merits of the counterclaim can be determined.

24 THE COURT: And do you have a copy of
25 the proposed order that you would like to enter?

*Certificate
January 9, 2023*

1 *MR. HAMEL:* Yes, I do, Your Honor.

2 *THE COURT:* May I see it?

3 *MR. HAMEL:* Yes. Primary language
4 would be on the back page.

5 *THE COURT:* Have you filed this?

6 *MR. HAMEL:* We have not, Your Honor.
7 However, I'm happy to supplement it as soon as we get
8 done --

9 *THE COURT:* Okay.

10 *MR. BURKE:* -- with the hearing.

11 *THE COURT:* (*Reading*) Is there
12 anything else that you would like to put on the
13 record?

14 *MR. HAMEL:* No, Your Honor.

15 *THE COURT:* All right. Let's go off
16 the record.

17 (*We adjourned at 1:23 p.m.*)

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Certificate
January 9, 2023

1 STATE OF TEXAS
2 COUNTY OF HARRIS

3
4 I, Norma Alicia Thieme, Official Court Reporter
5 in and for the 234TH District Court of Harris, State
6 of Texas, do hereby certify that the above and
7 foregoing contains a true and correct transcription
8 of all portions of evidence and other proceedings
9 requested in writing by counsel for the parties to be
10 included in this volume of the Reporter's Record in
11 the above-styled and numbered cause, all of which
12 occurred in open court or in chambers and were
13 reported by me.

14 I further certify that this Reporter's Record of
15 the proceedings truly and correctly reflects the
16 exhibits, if any, offered by the respective parties.

17 I further certify that the total cost for the
18 preparation of this Reporter's Record is \$144.00 was
19 paid by MARK BURKE.

20
21 /s/NORMA ALICIA DUARTE

22 Norma Alicia Thieme, CSR
23 Texas CSR 7751
24 Official Court Reporter
25 234TH District Court
Harris County, Texas
201 Caroline, Room 1304
Houston, Texas 77002
Telephone: (832) 927-2227
Expiration: 12/31/25

EXHIBIT
"EMAIL FROM HCA's
BEN HAMEL DATED
JAN 19, 2023"

SPAM RE: Conference regarding Plaintiff/Counter-Defendant's First Amended Motion for Sanctions filed on D...



Benjamin Hamel <BHamel@serpeandrews.com>

To doctor@kingwooddr.com; Madison Addicks; Nicole Andrews

Cc browserweb@gmail.com; Amanda Johnson; Brenda Hernandez; Priscilla Martinez



Reply

Reply All

Forward



Thu 1/19/2023 2:37 PM

You replied to this message on 1/20/2023 5:26 AM.

Mr. Burke,

Please let this correspondence serve as a request for conference regarding your motion for sanctions ("Motion") currently set for oral hearing on January 30, 2023. Having reviewed the Motion, it is our position that it has been filed in contravention of Texas Civil Practice and Remedies Code 10.001 and Texas Rules of Civil Procedure Rule 13 in that the claims and legal contentions contained therein are not warranted by existing law or by nonfrivolous argument for extension, modification, or reversal of existing law as well as that the Motion was filed for the improper purpose of harassment and to needlessly increase the cost of litigation. Accordingly, please advise whether you will be withdrawing your Motion and passing the January 30th hearing. Failing that, please be advised that Defendants intend to seek sanctions for your violations of TCPRC Rule 10.001 and TRCP 13 including, but not limited to, reasonable and necessary attorneys fees incurred in responding to your improper and frivolous motion as well as any and all other relief available pursuant to TCPRC 10.002. Please advise in writing whether you intend to withdraw the Motion and cancel the hearing. If we do not hear from you by close of business on Friday January 20, 2023, we will assume that you intend to move forward with the Motion and will respond accordingly.

Best, Ben

Benjamin Hamel
Associate Attorney



2929 ALLEN PARKWAY, SUITE 1600 | HOUSTON, TEXAS 77019
713.452.4460 DIRECT | 713.452.4400 MAIN | 713.452.4499 FAX
bhamel@serpeandrews.com | www.serpeandrews.com

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EXHIBIT
"EMAIL THREAD
BETWEEN MARK
BURKE AND
NORMA DUARTE,
COURT REPORTER,
DATED JAN 17, 2023"

Re: CASE 2022-68307 BURKE v. HCA HEALTHCARE KINGWOOD

ND Norma Duarte <nad7500@gmail.com>
To: doctor@kingwooddr.com

👍 Reply Reply All Forward ... Tue 1/17/2023 10:55 AM

📌 You replied to this message on 1/17/2023 11:07 AM.

I cannot confirm but I do not know what was said.

On Tue, Jan 17, 2023 at 10:52 AM <doctor@kingwooddr.com> wrote:

Please confirm: you left before the judge and parties exited this specific hearing?

From: Norma Duarte <nad7500@gmail.com>
Sent: Tuesday, January 17, 2023 10:13 AM
To: doctor@kingwooddr.com
Subject: Re: CASE 2022-68307 BURKE v. HCA HEALTHCARE KINGWOOD

Yes, most of the time I will exit the courtroom when the hearing is concluded as there are other matters to attend to, in answer to your question.

On Tue, Jan 17, 2023, 10:11 AM Norma Duarte <nad7500@gmail.com> wrote:

It is not uncommon or unusual. It happens quite often.

On Tue, Jan 17, 2023, 10:02 AM <doctor@kingwooddr.com> wrote:

It's a highly unusual way to end a hearing, I've never witnessed such in any transcripts I have read, and where there is no determination of the injunction. So are you saying you left before the judge and the parties left the courtroom?

Re: CASE 2022-68307 BURKE v. HCA HEALTHCARE KINGWOOD

ND Norma Duarte <nad7500@gmail.com>
To: doctor@kingwooddr.com

👍 Reply Reply All Forward ... Tue 1/17/2023 10:55 AM

📌 You replied to this message on 1/17/2023 11:07 AM.

From: Norma Duarte <nad7500@gmail.com>
Sent: Tuesday, January 17, 2023 9:57 AM
To: doctor@kingwooddr.com
Subject: Re: CASE 2022-68307 BURKE v. HCA HEALTHCARE KINGWOOD

I couldn't tell you as I usually wrap up my job or go to my office.

On Tue, Jan 17, 2023, 9:54 AM <doctor@kingwooddr.com> wrote:

Received, thank you.

Question, did the conversation continue after the final sentence, wherein it states

"THE COURT: All right. Let's go off the record."?

From: Norma Duarte <nad7500@gmail.com>
Sent: Tuesday, January 17, 2023 9:29 AM
To: doctor@kingwooddr.com
Subject: Re: CASE 2022-68307 BURKE v. HCA HEALTHCARE KINGWOOD

At your earliest convenience, please confirm the receipt of the transcript.

Norma

Exhibit
"Email Sent to Known Counsel Nicole
Andrews and HCA on Oct. 10, 2022"

RE: RESPONSE TO HCA RE SPOILATION LETTER I



doctor@kingwooddr.com
To: 'KWMC.PatientAdvocate@HCAHealthcare.com'; 'NAndrews@serpeandrews.com'
Cc: 'Mark Burke'

Reply Reply All Forward

Mon 10/10/2022 10:35 AM

You replied to this message on 10/18/2022 4:42 PM.

Reminder II:

[Letter in Response to HCA.](#)

I have included HCA's [known legal counsel](#), Ms. Nicole G. Andrews who would be responsible for addressing the Perpetuate Testimony filing in Harris County District Court.

Furthermore, I am still waiting for a response from HCA re [Spoilation Letter II](#).

I look forward to a response by email.

Cheers

Mark Burke

Cell: +1 (832) 781-6887
Fax: +1 (866) 705-0576
Email: doctor@kingwooddr.com
Web: KingwoodDr.com

Disclaimer; Critically acclaimed for my digital publishing platform[s] and strategic approach to public communications, it would be remiss not to 'practice what you preach'. As such, I have launched a public 'gripe site' at KingwoodDr.com which maintains a record of all communications between HCA and myself in this matter, along with other articles of public concern, including "[HCA holds the record for the largest Health Care FRAUD in American history](#)". This article confirms Congress is currently seeking another federal probe into HCA (as at Sept 2022).

EXHIBIT
Emailed Letter to
HCA Lawyers,
Jan. 19, 2022.

46 Kingwood Greens Dr.,
Kingwood, TX, 77339
T: 832 781 6887
F: 866 705 0576

January 19, 2023

Mr. Hamel

Thank you for noticing that you are conferring for the first time in 3 months.

Summary of motion:

I have reviewed my first amended motion and note the key arguments raised therein for sanctions include, but are not exhaustive or restated fully for brevity.

As with your latest email, it includes citing chapter 10 and rule 13 e.g., bad faith;

- (i) Failure to waive service...not conferring or communicating...for the purposes of delay
- (ii) Filing a fraudulent and retaliatory counterclaim...for the purposes of delay...
- (iii) Violating rule 193.7.
- (iv) Violating rule 194.2, which I retracted as noticed to the court and HCA/HCA Lawyers. (I can amend the motion to remove this before the scheduled hearing).
- (v) Lawyer as a witness...(lawyer-witness doctrine).

- (vi) Judicial donations to only Judge Reeder in 2022 by Serpe Andrews...(appearance of bias/conflict).
- (vii) Plea in abatement...the hearing on Jan. 9 should never have taken place as your claims were soaked in defamation...

And post-denial of your application for a temporary injunction - where you had nobody there as witnesses, and provided one new case cite, which was a defamation/slander/libel case - you have advised you intend to pursue the counterclaim (email Jan. 13).

Requested relief:

In my first amended motion I requested non-monetary relief in the form of bar referral of one Partner and lawyer with many decades of experience, Ms. Nicole Andrews.

That stated, at the time of filing I did not wish for the new associate to be referred and/or sanctioned by the State Bar of Texas, namely Ms. Madison Addicks.

Furthermore, I requested the video surveillance footage from Kingwood Hospital, which HCA have intentionally refused to provide, nor the names of personnel, doctors, staff, security and similar. I have now requested those separately.

Your request or consequences, if denied:

It would appear you wish to challenge my sanctions motion above in a sweeping reference to general laws and rules (10 and 13). Respectfully, I cannot possibly answer nor confer about the substance of my motion and hearing, with such a broad request.

Secondly, you wish to maintain a baseless counterclaim, despite the temporary injunction being denied, which you are massaging is 'not based on the merits'. Verbiage aside, I disagree.

Furthermore, accommodating your email from Friday, it hamstrings you from discussing anything *of value* with a non-prisoner.

That stated, I am transparent and direct. If you truly wish to confer, you'll have to breakdown the above summary of my motion and explain your basis for relying upon 10 and 13. Certainly, I cannot currently see a valid argument which would allow me to reconsider my motion, and when you wish to maintain the counterclaim.

Summary:

I have provided an opportunity for you to continue the conversation. However, if you wish to pursue with monetary sanctions (attorney fees), I shall be amending my motion to include monetary relief available to pro se litigants.

Cheers,

Mark Burke

browserweb@gmail.com

doctor@kingwooddr.com

KingwoodDr.com

EXHIBIT
HCA's Initial Response
Letter, Aug. 24, 2022.

August 24, 2022

Mark Burke
46 Kingwood Greens Dr.
Kingwood, TX 77339

Dear Mr. Burke:

I am responding to you on behalf of HCA Houston Healthcare Kingwood subsequent to a complaint received on August 23, 2022, concerning your care at our hospital. While this process is confidential, please be assured that we take seriously any concerns expressed by our patients or their family.

We have started to investigate your concern. The investigation may take up to 21 days; however, we expect to be able to provide you with a response much sooner. You will receive a response in writing.

If you wish to request a copy of your medical record, one may be obtained by going to the following website: <https://hcahoustonhealthcare.com/patients-and-visitors/medical-records.dot>. If you have any additional concerns, you may contact me at 281-348-8248 or by email at KWMC.PatientAdvocate@HCAHealthcare.com

Sincerely,



Laura Monsivais
Patient Safety and Risk Coordinator

EXHIBIT
HCA's Letter, Sept. 8, 2022.

September 8, 2022

Mark Burke
46 Kingwood Greens Dr.
Kingwood, TX 77339

Dear Mr. Burke:

We are responding to you on behalf of HCA Houston Healthcare Kingwood subsequent to a letter we received on August 23, 2022 concerning your recent visit to our hospital. We are disappointed to hear that we did not meet your expectations during your hospital stay.

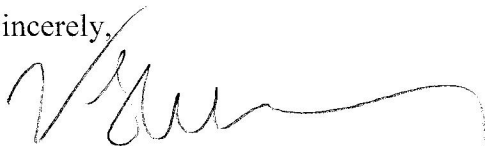
Please be assured that we take seriously any concerns expressed by our patients or their family members. We initiated an investigation on August 23, 2022 and it was completed on September 8, 2022. Your concerns were shared with our Administration, Nursing Unit Director, Security Director, Patient Advocacy and the Patient Safety Director. As part of our investigation, we reviewed your medical records, reviewed security footage, and conducted interviews with staff that were involved in your care.

Our investigation consisted of the concerns you expressed to us regarding your medical treatment during your hospital visit. You stated that you were seen by an imposter doctor while at our facility. After conducting a complete and thorough review, we were unable to substantiate your claim based on the information provided in your letter. However, we were able to find a resident with a similar name who saw you on August 10, 2022 and August 11, 2022. We believe this may be the doctor you referred to in your letter, and we apologize for any distress this confusion has caused you.

At HCA Houston Healthcare Kingwood, our goal is to always provide high quality healthcare to the patients and communities we serve, and we take patient's feedback very seriously. We have made multiple attempts to contact you by the email and phone number provided in your letter, and we have left messages for you to return our calls so that we can discuss your concerns with you directly. If you have more information you would like to share with us, we will remain open to speaking with you regarding your concerns at any time in the future.

We thank you for choosing HCA Houston Healthcare Kingwood and hope you are recovering well. If you have any additional concerns, you may contact us at 281-348-8248 or by email at KWMC.PatientAdvocate@HCAHealthcare.com

Sincerely,



Patient Safety Department

EXHIBIT
HCA Letter reply to
Spoilation Letter II,
Oct. 17, 2022.

October 17, 2022

Mark Burke
46 Kingwood Greens Dr.
Kingwood, TX 77339

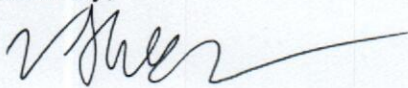
Dear Mr. Burke:

We have reviewed and evaluated the concerns expressed in the most recent correspondence. The concerns raised were investigated and previously addressed in the letter dated September 8, 2022.

We understand that you remain unsatisfied with both the treatment and the response; However, based on our review, the services provided to you were appropriate and in accordance with standard clinical practices.

If you have any additional concerns, you may contact us at 281-348-8248 or by email at KWMC.PatientAdvocate@HCAHealthcare.com

Sincerely,



Patient Safety Department

EXHIBIT
Who is Dr. Mike
Wong?



Kingwood Hospital

Home > Who is Dr Mike Wong?

Who is Dr Mike Wong?



doctor

August 20, 2022 · 1 minute read



Share



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DR. MIKE ALAN WONG MD NPI 1407506496

Student in an Organized Health Care Education/Training Program in Kingwood,
TX

ABOUT DR. MIKE ALAN WONG MD

Mike Wong is a primary care provider established in Kingwood, Texas and his medical specialization is Student In An Organized Health Care Education/training Program.

[The NPI number of Mike Wong is 1407506496](#) and was assigned on March 2022.

The practitioner's primary taxonomy code is 390200000X.

The provider is registered as an individual and his NPI record was last updated March 2022.

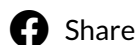
A primary care provider (PCP) like Dr. Mike Alan Wong Md sees people with common medical problems.

The primary care provider might be a doctor, physician assistant, nurse practitioner or clinic that are usually involved in your long-term care.

A PCP might provide preventive care, treat common medical conditions, identify urgent medical problems and refer you to specialists when necessary.

Primary care is usually provided in an outpatient facility but if you are admitted to a hospital your PCP may assist in your care.

The most common medical conditions seen by primary care providers are: hypertension, upper respiratory tract infections, depression or anxiety, back pain, arthritis, dermatitis, diabetes, urinary tract infections, etc.





doctor



Related Tags

310 Kingwood Executive Dr Ste B, American Board of Internal Medicine, Baylor College of Medicine, cantonese, Certified in Gastroenterology, Certified in Internal Medicine, chinese, Colonoscopy, digestive and liver diseases, Dr Aguilar, Dr Mike Wong, dr mike wong assists dr randy chung, Economics, Fellowship, gastroenterology, GI procedures, Google Patient Reviews Dr. Randy Chung, google reviews dr chung, HCA Houston Healthcare Kingwood, imposter doctor, internist, kingwood hospital, lead doctor, Medical School and Residency, mike wong assists randy chung, patient reviews dr randy chung, patient reviews randy chung md, physician, Randy Chung M.D., Rice University, student, student doctor, Student In An Organized Health Care Education/training Program, Texas Digestive Disease Consultants, TX State Medical License, University Of Texas Southwestern Medical School, Upper Endoscopy, vitals.com dr randy chung, who is dr mike wong kingwood texas, who is dr randy chung kingwood texas

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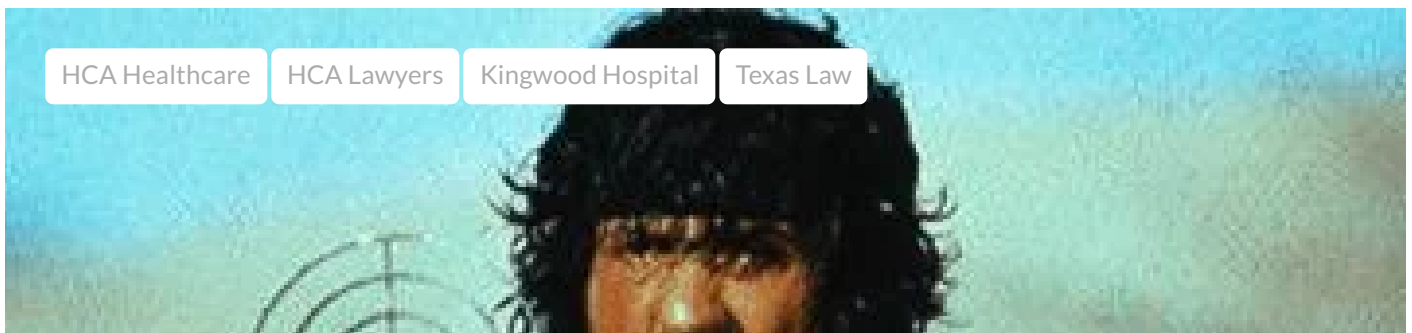


EXHIBIT
Who is Dr. Randy
Chung?



Home > Who is Dr Randy Chung?

Who is Dr Randy Chung?



doctor

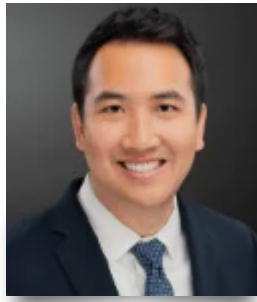
August 20, 2022 · 4 minute read

Share

Tweet



About Randy Chung, M.D.



Texas Digestive Disease Consultants – Kingwood, TX

Gastroenterology in Kingwood, TX

310 Kingwood Executive Dr., Ste B

Kingwood,

TX

77339

281-764-9500

Dr. Randy Chung is a Gastroenterologist with Texas Digestive Disease Consultants. He is affiliated with HCA Houston Healthcare Kingwood Hospital.

Dr. Chung is a Houston native and graduated from Rice University with summa cum laude. He earned his medical degree from UT Southwestern Medical School in Dallas. Dr. Chung then returned to Houston where he completed his residency in Internal Medicine at Baylor College of Medicine. He completed his fellowship in Gastroenterology and Hepatology at UT Southwestern Medical Center and served as Chief GI Fellow.

Dr. Chung provides comprehensive and **compassionate care** to patients with a wide range of digestive and liver diseases. He is specialized in performing a variety of GI

procedures, including Upper Endoscopy and Colonoscopy. He is fluent in English and Chinese (Cantonese).

Education & Experience

Medical School & Residency

University of Texas Southwestern Medical Center
Fellowship, Gastroenterology, 2016-2019

Baylor College of Medicine
Residency, Internal Medicine, 2013-2016

University of Texas Southwestern Medical School
Medical School

Economics

Other Training, Economics, 2005-2009

Certifications & Licensure

American Board of Internal Medicine
Certified in Internal Medicine
American Board of Internal Medicine
Certified in Gastroenterology
TX State Medical License
Active through 2024

Publications

Effectiveness of surveillance for hepatocellular carcinoma in clinical practice: A United States cohort.

Sahil Mittal, Fasiha Kanwal, Jun Ying, Randy Chung, Yvonne H. Sada, Sarah Temple, Jessica A. Davila, Hashem B. El-Serag

Vitals.com Patient Reviews Dr. Randy Chung

January 8th, 2022

This guy should not be dealing with people on any level.

We go to doctors to get better and become educated about our illnesses.

We need them, they are content experts of their field, and never have I had a doctor be so blasé towards me.

I dropped over 180 dollars to essentially get called a liar and feel less than human.

I honestly wouldn't treat someone I didn't like, the way he treated me.

I will not go back to this doctor under ANY circumstance.

If you want a more detailed account of this train wreck of an appointment look at my google review.

Alicia M

Google Patient Reviews Dr. Randy Chung

I do not recommend this doctor at all.

He walked in and asked me my name and what brought me to the office (which is a terrible way to start a doctor visit, especially a Specialist.)

He should have at least known my name, and I was completely aware that he had my records and told him I saw the nurse forward them to him after he argued with me.

I tried to talk to him and he told me DON'T TALK, twice!

He did not care to know anything about my symptoms and made his mind up I had an ulcer, which I do not.

I tried to discuss with him my symptoms again and he dismissed me.

He made his mind up and that was final, no questions, no bedside manner, no compassion and he made it very clear he had no interest in being a human being at all.

I left in tears and he did not care at all.

I talked to my doctor that referred me to him and he said it was the second complaint about this guy in a week!

He needs to be in the lab.

Didn't even want to give him one star.

ago
 doctor at all. He walked in and asked me my ns
 way to start a doctor visit, especially a Speciali
 ras completely aware that he had my records a
 r he argued with me. I tried to talk to him and hi
 thing about my symptoms and made his mind t
 n my symptoms again and he dismissed me. Hi
 dside manner, no compassion and he made it
 all. I left in tears and he did not care at all. I talk
 i the second complaint about this guy in a week
 him one star.

Patricia Martin



Patricia A Martin

13 reviews



★★★★☆ 2 months ago

Response from the owner 2 months ago

Dear Patricia A Martin, we would like the opportunity to better understand the details related to your review score. The practice manager has been notified, but please feel free to reach out to our Patient Experience Hotline at (800) ... [More](#)

Miss Jay



Miss Jay

10 reviews



★★★★☆ 3 weeks ago **NEW**

Response from the owner 3 weeks ago

Dear Miss Jay, we are committed to providing exceptional customer service and would like the opportunity to better understand the details related to your review score. The practice manager has been notified, but please feel free to reach ... [More](#)

RANDY CHUNG M.D. NPI 1427492701

Internal Medicine – Gastroenterology in Kingwood, TX

ABOUT RANDY CHUNG M.D.

Randy Chung is an internist established in Kingwood, Texas and his medical specialization is Internal Medicine with a focus in gastroenterology with more than 10 years of experience.

He graduated from University Of Texas Southwestern Medical School At Dallas in 2013.

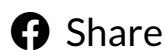
The NPI number of Randy Chung is [1427492701](#) and was assigned on April 2013.

The practitioner's primary taxonomy code is 207RG0100X with license number S0268 (TX).

The provider is registered as an individual and his NPI record was last updated 3 years ago.

An internist like Randy Chung M.d. is a physician who has completed an internal medicine residency and is board-certified or board-eligible in an internist specialty.

Internists are trained to care for adults of all ages for many different medical conditions. An internist typically monitors chronic physical conditions, identifies acute diseases, provides family planning, provides counseling about wellness and disease prevention, etc.



doctor



Related Tags

310 Kingwood Executive Dr Ste B, American Board of Internal Medicine, Baylor College of Medicine, cantonese, Certified in Gastroenterology, Certified in Internal Medicine, chinese, Colonoscopy, digestive and liver diseases, Dr Aguilar, Economics, Fellowship, gastroenterology, GI procedures, Google Patient Reviews Dr. Randy Chung, google reviews dr chung, HCA Houston Healthcare Kingwood, imposter doctor, internist, kingwood hospital, lead doctor, Medical School and Residency, patient reviews dr randy chung, patient reviews randy chung md, physician, Randy Chung M.D., Rice University, Texas Digestive Disease Consultants, TX State Medical License, University Of Texas Southwestern Medical School, Upper Endoscopy, vitals.com dr randy chung, who is dr randy chung kingwood texas

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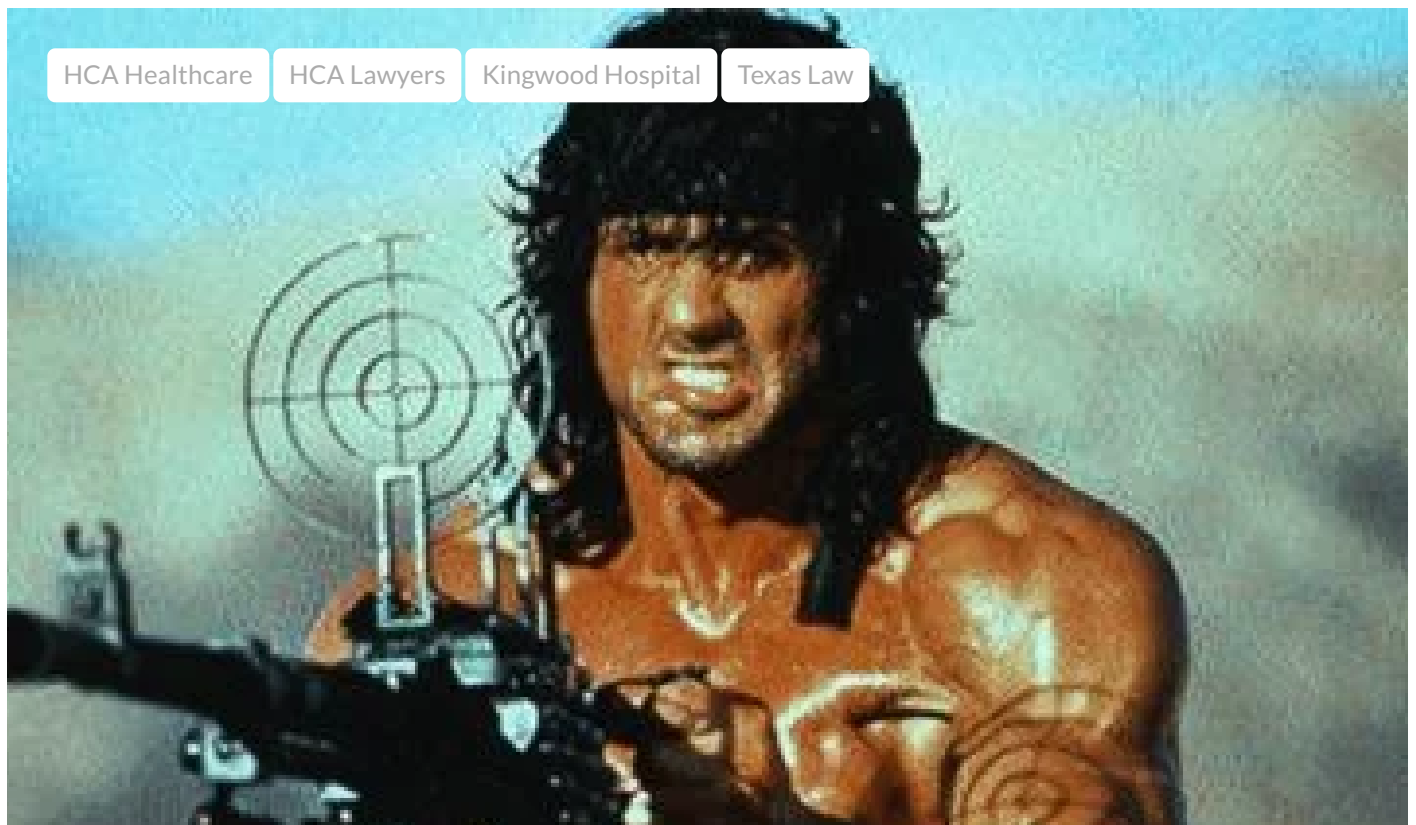


EXHIBIT
HPD Complaint and
Sworn Affidavit,
Dec. 23, 2022.

SWORN AFFIDAVIT

STATE OF TEXAS
COUNTY OF HARRIS

DATE: _____
TIME: _____

Before me, the undersigned authority, appeared MARK STEPHEN BURKE
(Print Affiant's Name) who after being duly sworn on his/her oath deposes and says:

My full name is: MARK STEPHEN BURKE. I am 55 years of age,
and my date of birth is: JUNE 20, 1967. I currently reside at: 46 KINGWOOD
GREENS DR., in (city):
KINGWOOD, (state) TX, Zip Code: 77339. My home telephone
number is: 281 812 9591, and my work number is 346 763
2074. I can also be contacted at (other number, pager, cell, etc...) 832 781
6887. My driver's license or official identification number is:
22546949, and my Social Security Number is: 639928162.

**I HAVE BEEN INFORMED THAT UNDER TEXAS LOCAL GOVERNMENT CODE,
SECTION 143.123 THAT:**

**"AN INVESTIGATOR MAY NOT CONDUCT AN INTERROGATION OF A
FIREFIGHTER OR POLICE OFFICER BASED UPON A COMPLAINT BY A
COMPLAINANT (PERSON) WHO IS NOT A PEACE OFFICER UNLESS THE
COMPLAINANT (PERSON) VERIFIES THE COMPLAINT IN WRITING BEFORE A
PUBLIC OFFICER WHO IS AUTHORIZED BY LAW TO TAKE STATEMENTS
UNDER OATH."**

In order to conduct a complete and thorough investigation of your complaint, we need you to
answer the following questions. Please be as specific as possible.

1. Date of Incident: AUGUST 13, 2022 Time of Incident: 3 PM
2. Location of the incident (address): KINGWOOD POLICE
STATION
3. Number of Houston Police Officers/Employees involved: 2
List any names, badge numbers, vehicle numbers and/or license plate numbers,
And/or provide physical descriptions of the officer(s) involved:
 - A. OFFICER BROWN _____
 - B. SUPERVISOR (UNKNOWN RANK, NAME) _____
 - C. _____

(Use separate page if necessary)

4. Number of witnesses who observed the incident: 1
Provide full names, addresses, phone numbers, and any other identifying data. If there are no witnesses, please write the word "NONE."

- A. SUPERVISOR STATED ABOVE
- B. _____
- C. _____
- D. _____
- E. _____

5. Did you sustain any injuries? NO If yes, please list the type of injuries which were a result of this particular incident: _____

(Use separate page if necessary)

6. Did you receive any medical attention? NO. If yes, please provide the name, address, and telephone number(s) of any doctor's office and/or hospital, as well as the date you received treatment. _____

7. Were you arrested? NO Were you issued any tickets? NO If yes to either question, please list the charges filed and/or citations issued and the disposition.

(Please use additional page if necessary)

8. Please give a detailed accounting of what happened.

(Use additional pages if necessary)

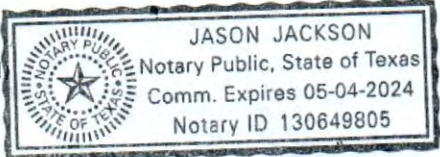
I have completed 18 years of school and can read and write the English Language. I have read this statement in its entirety and certify that it is correct and true to the best of my knowledge.

MARK STEPHEN BURKE
(Name: Printed)

Mark Stephen Burke
(Signature)

Subscribed and sworn to before me this 23 day of December, 2022.

Notary Signature: [Signature]

(Notary Stamp/Seal) 

(NOTE: A typed or hand-written statement may be attached in lieu of section 8 of this document. However, the document must be dated and signed in the presence of a Notary Public). All pages of the statement must be dated and initialed.

AFFIDAVIT FACTS

Notarized Police Complaint by Mark Stephen Burke, TDL, 22546949 **with Supporting Exhibits**

It has been 4 months since the “complaint” (INCIDENT REPORT No. 108 3343 22)¹ was filed at Kingwood Police station, and where nobody has followed up with Mark Burke regarding this serious stalking complaint from either Kingwood or Houston Police Department. This affidavit details the facts of this follow-up Police complaint.

Kingwood Police Station (Saturday, August 13, 2022)

At around 1330 hours, Mark Stephen Burke (“Affiant”) walked into his local police station to file a Police Report, as he was extremely concerned about his personal safety and well-being, along with the breach of his medical records while an admitted patient² at HCA Houston Healthcare Kingwood Hospital.

He was advised by the attending officer that it was change of shift and to return at 1500 hours.

¹ Exhibit: Scanned_PoliceReport_re_ImposterDoctor_KingwoodHospital.pdf

² Exhibit: Scan_MBurke_Wristband_KingwoodHospital.pdf

Noting the time delay, Affiant asked if he needed to provide a written statement and the officer stated that was not necessary.

He asked what the issue was.

After hearing the brief summary, the officer said, "Come back at 3pm".

At 1500 hrs Affiant returned and the same officer stood in front of him and listened to a fuller account of the events.

Affiant reaffirmed the most important part of this investigation is to recover the video recordings from the hospital to help identify this Imposter Doctor.

Shockingly, the officer refused to take the report because 'no crime had been committed'.

Affiant challenged the officer, asking for his name and badge and advising him that refusing to take a police report is in violation of the law and which point he paused for a moment and said, "Do you want to speak to a supervisor?" to which Affiant responded in the affirmative.

During the 10-15 minute wait, Affiant googled whether it was a crime to impersonate a Doctor and the response confirmed Affiant's thoughts, it can be a misdemeanor or felony depending on the State and/or facts surrounding the case.

Affiant believes this crime is a felony due to the alarming events that an "Imposter Doctor" can walk into a patients room two days straight at HCA Houston Healthcare Kingwood Hospital without being challenged and armed with every medical detail about that patient, his visitation medical exams and notes.

When the supervising officer came out, it didn't take long for him to comply and stand down, stating Kingwood police office was a traffic (patrol) office and that only a basic report could be completed, which would be sent to Houston for further investigation.

Affiant said that's all he wanted, was a report of the incident at Kingwood, as he was aware this would ultimately be investigated by Houston Police.

Subsequently, the refusing officer would then take a copy of Affiant's ID, photocopy it, and use that sheet of paper to manually ask questions and make notes.

He then returned with a receipt and case number which was labeled as a "Stalking" complaint.³

Affiant asked him if he was "Officer Brown", to which he replied "Yes". Affiant thanked him for his time and left.

³ Exhibit: Scanned_PoliceReport_re_ImposterDoctor_KingwoodHospital.pdf

Houston Police Department (Thursday, October 13, 2022)

The first email sent to Houston Police Department ("HPD") was 2 months to the day after he walked into Kingwood Police Station. In the intervening period, Affiant's father had died because of pneumonia on September 4, 2022 at Memorial Hermann Northeast (Humble) ICU as a direct result of visiting Affiant at Kingwood Hospital.

As such, there was a period of mourning and comforting his wife and Affiant's mother prior to following up on this outstanding complaint.

A copy of this correspondence and auto-reply is provided in Exhibit: Mark_Burke_Police_Complaint_Correspondence.pdf.

Houston Police Department (Thursday, October 19, 2022)

The second email sent to Houston Police Department ("HPD") was added to the first email and incorporated a copy of the civil action commenced by Affiant against HCA Houston Healthcare Kingwood Hospital on October 18, 2022 and wherein it stated;

"Please find attached civil action filed in Harris County District Court which will provide additional information for your investigation and where you may become a party or witness. The case number is 202268307."⁴

A copy of this correspondence and auto-reply is provided in Exhibit: Mark_Burke_Police_Complaint_Correspondence.pdf.

Houston Police Department (Wednesday, October 26, 2022)

Attempting to reach a live person, affiant called HPD at the telephone number provided, twice. Both times he was unsuccessful.

A screenshot of these calls and commentary is provided in Exhibit: Mark_Burke_Police_Complaint_Correspondence.pdf.

Houston Police Department (Tuesday, November 29, 2022)

The third email sent to Houston Police Department ("HPD") was added to the first and second email thread and incorporated a copy of the civil action commenced by Affiant against HCA Houston Healthcare Kingwood Hospital on October 18, 2022 and wherein it stated;

"This is my third request for an incident investigation update from Houston, as reported to Kingwood Police Station on August 13, 2022.

⁴ See; 202268307 - BURKE, MARK vs. KPH-CONSOLIDATION INC (DBA HCA HOUSTON HEALTHCARE KINGWOOD) (Court 234), HARRIS COUNTY DISTRICT COURT, available online at www.hcdistrictclerk.com.

I am respectfully including **Major Patrick Dougherty, Harris County Sheriff's Office**⁵ in this email to ensure this matter is escalated and achieve an investigator's response, including but not limited to, whether my complaint has resulted in obtaining the video surveillance footage from HCA Houston Healthcare's Kingwood Hospital pertaining to the imposter Doctor who attended my bedside for 2 consecutive days.

Please find attached **civil action filed in Harris County District Court** which will provide additional information for your investigation and where you may become a party or witness. The case number is **202268307, Court 234, Judge Lauren Reeder presiding.**"

A copy of this correspondence and auto-reply is provided in Exhibit: [Mark_Burke_Police_Complaint_Correspondence.pdf](#).

Complaint Against Officer Brown, Kingwood Police Station

The complaint is against Officer Brown as he is the only person who Affiant has had direct contact with. Officer Brown's initial unconstitutional denial of Affiant's request to file a Police complaint (INCIDENT REPORT No. 108 3343 22) raises concerns as to whether the actual 'complaint' made it to HPD.

⁵ Major Patrick Dougherty's email: patrick.dougherty@sheriff.hctx.net

However, the follow up attempts made by the Affiant in relation to this complaint should have triggered a response from HPD, other than the auto-responses. It did not do so.

Affiant is a supporter of the Blue and objects to attempts to "defund the police". As such, he has been extremely patient and understanding in waiting his turn in the 'complaint' process. However, 4 months have passed since this serious incident at HCA Houston Healthcare Kingwood Hospital. The silence cannot continue and this complaint is necessary to ensure Affiant's complaint (INCIDENT REPORT No. 108 3343 22) is reviewed and more importantly, addressed in a timely manner.

Affiant awaits the results of HPD's investigation and is hopeful the video surveillance footage at HCA Houston Healthcare Kingwood Hospital will be inspected by the Police, the stalker ("the Imposter Doctor calling himself Dr. Aguilar) identified, captured, and interviewed to prevent any further breaches of Patient safety, and also to ensure the safety of Affiant and his family.

Affiant looks after his elderly mother, and after the recent loss of her husband, both the Affiant and his mother are in fear for their lives, and will remain so until this matter is resolved, the imposter is identified, captured, and imprisoned for his heinous crimes.

Mark Burke's Sworn Affidavit (Facts)

NAME: Mark Stephen Burke (Affiant)

SIGNATURE: Mark Stephen Burke

DATE: 23 December 2022



CERTIFICATE OF ACKNOWLEDGMENT

The State of Texas

County of Harris

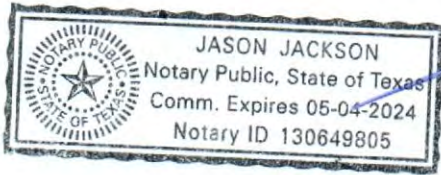
Before me, Jason Jackson (insert the name and character of the officer),

on this day personally appeared Mark Stephen Durke, known to me (or proved to me on the oath of _____ or through Texas Driver License

(description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

(Seal)

Given under my hand and seal of office this 23 day of December, 2022.



Jason Jackson
(Notary's Signature)
Notary Public, State of Texas

Follow Up Attempts by Affiant, Mark Stephen Burke, in relation to Original Police Complaint Filed August 13, 2022 at Kingwood Police Station. No responses ever received.

Attempt I (October 13, 2022)

INCIDENT REPORT No. 108 3343 22

Mark Burke (mailto:mburke001@gmail.com)
to: hcc@kingwoodpolice.com

Dear Sir or Madam

I filed a report directly upon leaving HCA Healthcare Kingwood Hospital with my local police station on August 13, 2022. I have attached a scanned copy of the receipt I received herein along with my hospital wristband tag (to confirm my stay at Kingwood Hospital). Officer Brown, who took my report about an 'imposter doctor' visiting my bedside for 2 days, during my 3-day stay before I self-checked out on the Saturday morning, along with his supervisor, told me the incident report would be forwarded to Houston and that they would get in touch as Kingwood Police Station is mainly a traffic patrol station.

It has been 2 months since this report was filed and I would like to inquire as to why I have not been contacted. Specifically, this is a criminal matter, when someone is pretending to be a doctor and they are not.

I would be obliged if you could advise by return the status of my incident report.

My cell phone is 632-781-6887 but the reception in Kingwood is horrible so please leave a message if it goes straight to voicemail and I will return your call. Alternatively you have my email.

Thank you for your assistance.

Mark Burke
30 Kingwood Central Dr
Kingwood, TX 77339

2 Attachments - Scanned by Gmail



Text Content of email (from screenshot):-

“Dear Sir or Madam

I filed a report directly upon leaving HCA Healthcare Kingwood Hospital with my local police station on August 13, 2022. I have attached a scanned copy of the receipt I received herein along with my hospital wristband tag (to confirm my stay at Kingwood Hospital).

Officer Brown, who took my report about an 'imposter doctor' visiting my bedside for 2 days, during my 3-day stay before I self-checked out on the Saturday morning, along with his supervisor, told me the incident

report would be forwarded to Houston and that they would get in touch as Kingwood Police Station is mainly a traffic patrol station.

It has been 2 months since this report was filed and I would like to inquire as to why I have not been contacted. Specifically, this is a criminal matter, when someone is pretending to be a doctor and they are not.

I would be obliged if you could advise by return the status of my incident report.

My cell phone is 832-781-6887 but the reception in Kingwood is horrible so please leave a message if it goes straight to voicemail and I will return your call. Alternatively you have my email.

Thank you for your assistance. Mark Burke, 46 Kingwood Greens Dr., Kingwood, TX 77339."

Auto Reply Confirmation (October 13, 2022)

Automatic reply: INCIDENT REPORT No. 108 3343 22



HPD - Community Affairs (HPD.CommunityAffairs@houstonpolice.org)

Thu, Oct 13, 9:15 PM ☆ Reply

Notice: This email account is not monitored 24 hours a day, 7 days a week. Email is checked during normal business hours (9 a.m. to 5 p.m. Central Time) Monday through Friday, with the exception of City of Houston holidays.

For this reason, do NOT send email to this address reporting a crime or any type of incident requiring a police response.

To report a crime within the city limits of Houston you MUST call us or use one of our online reporting services on our website.

Dial 911 for an emergency.

Call 713-884-3131 for other criminal incidents or suspicious activity.

Theft or criminal mischief (under \$5,000) may be reported using our Online Police Report and suspicious activity can be reported using the Patrol Alert Slip. Both the Online Police Report and the Alert Slip are available at www.houstonpolice.org.

If you live outside the city limits of Houston, please contact your local law enforcement agency.

Thank you for writing to us. Your email has been received and will be reviewed.

Text Content of email (from screenshot):-

Automatic reply: INCIDENT REPORT No. 108 3343 22

Notice: This email account is not monitored 24 hours a day, 7 days a week. Email is checked during normal business hours (9 a.m. to 5 p.m. Central Time) Monday through Friday, with the exception of City of Houston holidays.

For this reason, do NOT send email to this address reporting a crime or any type of incident requiring a police response.

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If you live outside the city limits of Houston, please contact your local law enforcement agency.

Thank you for writing to us. **Your email has been received and will be reviewed.**

Exhibit: Mark Burke's Police Complaint Correspondence

Attempt II (October 19, 2022)



Text Content of email (from screenshot):-

“Please find attached civil action filed in Harris County District Court which will provide additional information for your investigation and where you may become a party or witness.

The case number is 202268307. Cheers, Mark Burke”.

Auto Reply Confirmation (October 19, 2022)



Text Content of email (from screenshot):-

Automatic reply: INCIDENT REPORT No. 108 3343 22

Notice: This email account is not monitored 24 hours a day, 7 days a week. Email is checked during normal business hours (9 a.m. to 5 p.m. Central Time) Monday through Friday, with the exception of City of Houston holidays.

For this reason, do NOT send email to this address reporting a crime or any type of incident requiring a police response.

To report a crime within the city limits of Houston you MUST call us or use one of our online reporting services on our website.

Dial 911 for an emergency.

Call 713-884-3131 for other criminal incidents or suspicious activity.

Theft or criminal mischief (under \$5,000) may be reported using our Online Police Report and suspicious activity can be reported using the Patrol Alert Slip. Both the Online Police Report and the Alert Slip are available at www.houstontx.gov/police .

If you live outside the city limits of Houston, please contact your local law enforcement agency.

Thank you for writing to us. **Your email has been received and will be reviewed.**

Attempt III (October 26, 2022)



On October 26, Affiant attempted twice to talk to a live person at the telephone number provided by HPD. He listened intently to the extension options provided, noting none of which have a category extension number for “stalking” or similar. Both calls failed to obtain a live person to discuss the case.

Attempt IV (November 29, 2022)

Mark Burke (markburke@protonmail.com)
to Patrick Dougherty (pdougherty@harriscountysheriff.com)

Nov 29, 2022 9:01 AM

INCIDENT REPORT No. 108 3343 22

This is my third request for an incident investigation update from Houston, as reported to Kingwood Police Station on August 13, 2022.

I am respectfully including Major Patrick Dougherty, Harris County Sheriff's Office in this email to ensure this matter is escalated and achieve an investigator's response, including but not limited to, whether my complaint has resulted in obtaining the video surveillance footage from HCA Houston Healthcare's Kingwood Hospital pertaining to the imposter Doctor who attended my bedside for 2 consecutive days.

Please find attached civil action filed in Harris County District Court which will provide additional information for your investigation and where you may become a party or witness. The case number is 202268307, Court 234, Judge Lauren Reeder presiding.

One attachment • Scanned by Gmail



Reply Reply all Forward

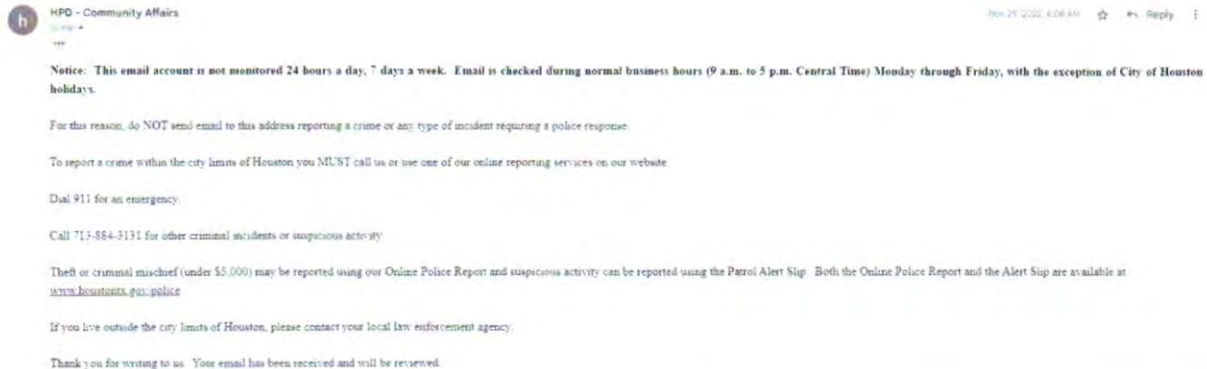
Text Content of email (from screenshot):-

“This is my third request for an incident investigation update from Houston, as reported to Kingwood Police Station on August 13, 2022.

I am respectfully including **Major Patrick Dougherty, Harris County Sheriff's Office** in this email to ensure this matter is escalated and achieve an investigator's response, including but not limited to, whether my complaint has resulted in obtaining the video surveillance footage from HCA Houston Healthcare's Kingwood Hospital pertaining to the imposter Doctor who attended my bedside for 2 consecutive days.

Please find attached **civil action filed in Harris County District Court** which will provide additional information for your investigation and where you may become a party or witness. The case number is **202268307, Court 234, Judge Lauren Reeder presiding.**”

Auto Reply Confirmation (November 29, 2022)



Text Content of email (from screenshot):-

Automatic reply: INCIDENT REPORT No. 108 3343 22

Notice: This email account is not monitored 24 hours a day, 7 days a week. Email is checked during normal business hours (9 a.m. to 5 p.m. Central Time) Monday through Friday, with the exception of City of Houston holidays.

For this reason, do NOT send email to this address reporting a crime or any type of incident requiring a police response.

To report a crime within the city limits of Houston you MUST call us or use one of our online reporting services on our website.

Dial 911 for an emergency.

Call 713-884-3131 for other criminal incidents or suspicious activity.

Theft or criminal mischief (under \$5,000) may be reported using our Online Police Report and suspicious activity can be reported using the Patrol Alert Slip. Both the Online Police Report and the Alert Slip are available at www.houstontx.gov/police .

If you live outside the city limits of Houston, please contact your local law enforcement agency.

Thank you for writing to us. **Your email has been received and will be reviewed.**



Houston Police Department

Incident No.: 1083843-22
Title: STALKING
Address: 22949 EASTEX
Date: 8-13-22
Officer's Name: BROWN
Unit No.: 80020E
Crime Prevention: www.houstonpolice.org
Report Gang Tips: www.stophoustongangs.org

BURKE MARK
CD0222272344 PRE ER UFN CD720875 08/09/22
DOB: 06/20/67 55 M
HCA Hutchon Kimmond



EXHIBIT
First Spoilation Letter to HCA,
Aug. 14, 2022.

Mark Burke
46 Kingwood Greens Dr.,
Kingwood, TX, 77339
Email: markburkesusa@gmail.com
Fax: 1-866-705-0576
Mobile: 832-781-6887

By Priority Mail

John Corbeil
Chief Executive Officer
HCA Houston Healthcare Kingwood
22999 US Hwy 59 N
Kingwood, TX, 77339

August 14, 2022

Spoilation Letter

Background

Mark Burke (“MB”), with date of birth June 20, 1967, was a resident of the hospital ER on Tuesday 9th August, 2022. MB was removed to the general ward, South Tower, Room No. 367 on the morning of Wednesday, 10th August. He stayed there until self-discharging on or around 0700 hrs on Saturday, 13th August, 2022.

Preservation

MB is specifically seeking preservation of all video footage, audio, and photographs internal and external (car parks and lobby pickup points) for the tower and surrounding areas, as well as any and all areas which could provide access to, and from Room 376 during the above specified period.

Facts Leading to this Letter and Request

The reason for this request is two-fold. On Saturday, 13th August, around 4pm a Police Report was filed at Kingwood Police Station to investigate the “Imposter Doctor”, Dr. Aguilar (“Dr. A”) who falsely impersonated to MB he was the lead doctor in his case. That is a criminal offence and MB has commenced those proceedings by filing of the Police Report.

Wednesday

During his first visit on Wednesday, at Room 376 and where he put his hands on MB to personally inspect his abdomen and body. At all times during this meeting, he held a notepad and pen, making notes, and knew every detail of MB’s hospital history from admittance to moving to Room 376.

Thursday

Dr. A would return on Thursday morning, on both occasions just prior to Dr Mike Wong's first (solo) attendance. On the important 'results day', Friday, Dr. A. never showed.

Friday

On Friday, MB notified the GI Doctors, Mike Wong and Randy Chung, et al of this fact and immediately Dr. Chung denied knowing a Dr. Aguilar and that he was the lead doctor in MB's case. This instantly alarmed MB as to his immediate and future personal safety, the fact this imposter doctor put his hands on MB to perform a 'medical assessment', was alone with MB in a room for an extended period, as well as the privacy breach of MB's intimate hospital records by Dr. A.

Saturday

On Saturday, after discharge, MB registered with the hospital CRM, MyHealthOne to access his medical data for this recent stay. MB checked the list of doctors assigned to MB's care and nowhere was there a Dr. A. This confirmed MB's suspicions that Dr. A was impersonating a doctor, for reasons unknown, but extremely terrifying.

These are the important facts leading to this spoliation letter. Please note that your failure to preserve any of this evidence may be used against you in any civil proceeding and may result in a spoliation instruction.

Sincerely,

Mark Burke

Copy via email to: Devon.Alexander@HCAHoustonHealthCare.com

EXHIBIT
Second Spoilation Letter to
HCA, Sep. 26, 2022.

Mark Burke
46 Kingwood Greens Dr.,
Kingwood, TX, 77339
Email: markburkesusa@gmail.com
Fax: 1-866-705-0576
Mobile: 832-781-6887

By Priority Mail

John Corbeil
Chief Executive Officer
HCA Houston Healthcare Kingwood
22999 US Hwy 59 N
Kingwood, TX, 77339

Sep 26, 2022

Spoilation Letter II, In re: John Burke and Joanna Burke

Background

Mark Burke (“MB”), with date of birth June 20, 1967, was a resident of the hospital ER on Tuesday 9th August, 2022. MB was removed to the general ward, South Tower, Room No. 367 on the morning of Wednesday, 10th August. He stayed there until self-discharging on or around 0700 hrs on Saturday, 13th August, 2022.

Preservation

MB is specifically seeking preservation of all video footage, audio, and photographs internal and external (car parks and lobby pickup points) for the tower and surrounding areas, as well as any and all areas which could provide access to, and from Room 376 during the above specified period.

Facts Leading to this Letter and Request

The reason for this request is my elderly parents were 'visitors' at both the ER and when I was removed to Room 376.

ER Admission Took All Evening

My parents were at the ER from early evening until I was finally admitted to a temporary room in ER around midnight and they didn't get home until the early morning hours and were back at Room 376 early the next morning.

The Rooms Were Too Cold

Both my parents and I were 'frozen' during our time in your hospital and the thermostats in the rooms were fixed, you could not adjust the temperature. The video footage will confirm the movements of my parents during the visit to my room, including my parents going to a restaurant and my father standing outside the hospital building to try and 'defrost'.

Nurses and Security Threatened to Evict Me and My Parents

It is safe to say that both HCA Kingwood hospital video footage, combined with the video recording I have from my iPhone, will provide the necessary visual aids and confirm the appalling events that led to my parents not wanting to leave my side, due to the abuses we all received at the hands of your 'nursing' staff and security after my transfer to Room 376. That horrific experience accelerated their 'coldness', as they stayed far longer at my side and in the hospital as a result of the unfounded attacks by your staff.

My Father Died as a Result of Visiting Me in Hospital

After I left the hospital (self-checkout) on Saturday and returned home via an Uber, where I care for my elder parents, it was clear that both were suffering from cold/pneumonia type symptoms. As a result, my parents were determined by paramedics to have 'abnormal' medical readings. My mother managed to slowly recover, but my father's health declined rapidly.

I had to call 911, and refused to allow the attending paramedics to take him to your hospital, despite their attempts to redirect him to HCA Kingwood. He was admitted to Humble Memorial ER, transferred to ICU and died on Sep. 4, 2022, leaving his wife of 64 years completely devastated. She blames your

Hospital for killing her husband, and I agree. We are mourning his loss every day and it is without question, he died because of his visit to Kingwood HCA.

Conclusion

These are the important facts leading to this spoliation letter. Please note that your failure to preserve any of this evidence may be used against you in any civil proceeding and may result in a spoliation instruction.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Burke". The signature is written in a cursive style with a large, sweeping initial "M".

Mark Burke