

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

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April 13, 2017

MEMO TO COUNSEL RE: Cimenga Tshibaka, M.D. v. Carroll Hospital Center
Civil No. JFM-13-2760

Dear Counsel:

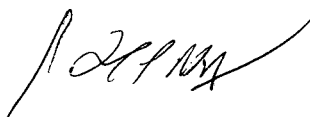
I have reviewed the papers submitted in connection with defendant Jaime Elliott's motion to dismiss. The motion (document 100) is granted. I remain of the view that Elliott is entitled to absolute immunity. The Court of Appeals of Maryland has applied the absolute privilege in non-judicial proceedings when "the same policy considerations which underlie the application of the privilege in the judicial sphere are . . . present." *Imperial v. Drapeau*, 716 A.2d 244, 249 (Md. 1998).

In any event, defendant is entitled to qualified immunity under the Healthcare Quality Improvement Act. She was a "person who participate[d] with or assist[ed] the [professional review] body" with respect to the [professional review action]," pursuant to 42 U.S.C. §1111(a)(1)(d).

To the extent that plaintiff complains about Elliott having discussed the matter with two of her supervisors, before preparing and submitting her formal complaint, she was acting in accordance with the dictates of the Medical Staff Code of Conduct Policy. In any event, plaintiff's claim for damages is based on the fact that her privileges were revoked, not upon Elliott's discussion with her supervisors.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,



J. Frederick Motz
United States District Judge

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DISTRICT OF MARYLAND
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