STATE OF MICHIGAN

COURT OF APPEALS

KATHLEEN REGAN, Plaintiff-Appellant,	UNPUBLISHED August 3, 2001
v	No. 223491 Berrien Circuit Court
LAKELAND REGIONAL HEALTH SYSTEM, Defendant-Appellee.	LC No. 98-003803-CZ

KATHLEEN REGAN, Plaintiff-Appellee,	
v	No. 224762 Berrien Circuit Court
LAKELAND REGIONAL HEALTH SYSTEM, Defendant-Appellant.	LC No. 98-003803-CZ

Before: Collins, P.J., and Hoekstra and Gage, JJ.

PER CURIAM.

In Docket No. 223491, plaintiff appeals as of right a trial court order granting defendant summary disposition of her wrongful discharge claims. In Docket No. 224762, defendant appeals by leave granted an order awarding it mediation sanctions equaling less than the full amount of its requested attorney fees. We affirm.

Plaintiff first contends that in granting defendant summary disposition of her wrongful discharge claim, the trial court ignored genuine issues of fact regarding plaintiff's reporting of Medicare violations that brought her within a public policy exception to the at will employment doctrine. We review de novo a trial court's grant of summary disposition. In reviewing a motion brought under MCR 2.116(C)(10), we examine all relevant documentary evidence in the light most favorable to the nonmoving party to determine whether a genuine issue of material fact exists to warrant trial, or whether the moving party is entitled to judgment as a matter of law.

Nesbitt v American Community Mut Ins Co, 236 Mich App 215, 219-220; 600 NW2d 427 (1999).

Plaintiff asserts that her attempts to eradicate Medicare violations by defendant constituted either the exercise of a well established statutory right, or a refusal to violate the law. *Suchodolski v Michigan Consolidated Gas Co*, 412 Mich 692, 695-696; 316 NW2d 710 (1982). We note that plaintiff did not actually report alleged Medicare fraud, however, either pursuant to the federal statute encouraging such reporting[1] or the False Claims Act.[2] Plaintiff explicitly stated during her deposition that she is "not a whistleblower," explaining that it would not have been productive to report any fraud by defendant to the federal authorities. Plaintiff's failure to report precludes her reliance on either the federal legislation encouraging reports of Medicare fraud to the federal government or Michigan's whistleblower's protection act.[3] Even assuming that the conduct of defendant's employees regarding which plaintiff expressed concern qualified as Medicare fraud, no established legislative enactment exists that encourages employees to sensitize their employers to potential fraud. Because plaintiff presented no evidence showing her statutorily protected reporting of defendant's allegedly illegal conduct, we conclude that the trial court properly granted defendant summary disposition of plaintiff's public policy claim pursuant to MCR 2.116(C)(10).

Plaintiff next argues that the trial court erred in granting defendant summary disposition of her promissory estoppel claim under subsection (C)(10) because plaintiff presented evidence demonstrating her detrimental reliance on defendant's promise of long term employment. We discern from the record, however, no evidence of a clear and definite promise of continued employment by defendant. *Barber v SMH (US), Inc*, 202 Mich App 366, 375-376; 509 NW2d 791 (1993). The assurances that plaintiff attributes to defendant, specifically that (1) plaintiff "would have ongoing employment with Lakeland," (2) plaintiff's employment "could not be arbitrarily terminated," and (3) possibilities for career advancement existed, do not clearly and definitively demonstrate defendant's intent to employ plaintiff for any particular period or that defendant would fire plaintiff only for certain particular reasons. Plaintiff acknowledged at her deposition that no representative of defendant either guaranteed her employment for any specific length of time, or discussed termination or any specific circumstances under which termination of plaintiff's employment could occur. Furthermore, the employment application plaintiff signed described her employment as at will, although plaintiff denies understanding the significance of the language when she signed the application. To the extent that plaintiff cites defendant's recruiter's statements concerning an eighteen-month employment commitment, the recruiter expressed defendant's desire that plaintiff remain in defendant's employ for eighteen months, but did not assure plaintiff that defendant agreed to retain her services for eighteen months. Because we find from the available evidence no clear and definite promise of employment by defendant, we conclude that the trial court correctly granted defendant summary disposition of plaintiff's promissory estoppel claim.

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[1] 42 USC 1395b-5.

[2] 31 USC 3729 *et seq*.

[3] MCL 15.361 *et seq*.

Defendant, which ultimately prevailed on the merits after plaintiff declined a mediation award that defendant accepted, appeals from the trial court's decision "in the interest of justice" to award less than the full amount of defendant's requested attorney fees as mediation sanctions. MCR 2.403(O)(11). We review for an abuse of discretion the trial court's determination to what extent defendant's requested attorney fees served the interest of justice. *Cole v Eckstein*, 202 Mich App 111, 117; 507 NW2d 792 (1993).

The interest of justice exception is not established, thus warranting a reduction in mediation sanctions, merely because a party reasonably rejected a mediation offer, the parties occupied disparate economic positions, or a party's claim qualified as nonfrivolous. *Luidens v 63rd District Ct*, 219 Mich App 24, 33; 555 NW2d 709 (1996) (interpreting MCR 2.405(D)(3)'s "interest of justice" exception to mediation sanctions). The interest of justice may be satisfied, however, when a case presents a legal issue of first impression or a case involving an issue of public interest that should be litigated. *Id*. at 35. In this case, the trial court specifically identified on the record its view that plaintiff's good faith presentation of an argument to extend the public policy exceptions to the at will employment doctrine, specifically to recognize as protected behavior plaintiff's internal investigation and reporting of suspected Medicare fraud, warranted a reduced award of mediation sanctions. Because the trial court clearly expressed a recognized circumstance satisfying the interest of justice, *id*., we cannot conclude that the trial court abused its discretion in awarding defendant mediation sanctions consisting of its costs plus $1000 for attorney fees.

Affirmed.

/s/ Jeffrey G. Collins
/s/ Joel P. Hoekstra
/s/ Hilda R. Gage