

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF TENNESSEE
SOUTHERN DIVISION**

THOMAS J. BROOKS, III, M.D.

Plaintiff,

vs.

**KEVIN SPIEGEL, in his individual capacity
and in his official capacity as the Chief
Executive Officer of Chattanooga-Hamilton
Hospital Authority (Doing Business as
Erlanger Health System)**

Defendant.

Civil Action File No.: _____

JURY TRIAL DEMAND

**Complaint under the Civil Rights Act 42
U.S.C. § 1983**

COMPLAINT

I.

Comes the Plaintiff, Thomas J. Brooks, III, M.D., and shows the Court the following as his Complaint against the Defendant, Kevin Spiegel, in his individual and his official capacity as President and Chief Executive Officer of the Chattanooga-Hamilton County Hospital Authority, doing business as Erlanger Health System:

II.

This Court has jurisdiction of this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1343, as it involves a violation of 42 U.S.C. 1983; the equal protection clause and due process clause of the 14th amendment of the United States Constitution, and the 1st and 14th amendments of the United States Constitution.

III.

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This Court is the proper venue of this action as a substantial part of the events or omissions giving rise to the Plaintiff's claim occurred in this judicial district (28 U.S.C. § 1391).

IV.

Thomas J. Brooks, III, M.D., is a physician licensed to practice medicine in Tennessee since 5-12-1981. He has had hospital privileges at Erlanger Medical Center, owned and controlled by Chattanooga-Hamilton County Hospital Authority, since approximately 1978 as an intern and resident, and since 1982 as a staff physician.

V.

Defendant, Kevin Spiegel, may be served with process at 975 E. 3rd Street, Chattanooga, Tennessee, 37403.

VI.

Thomas J. Brooks, III, M.D., who is an African-American citizen of the United States, has been complaining to agents and employees of the Chattanooga-Hamilton County Hospital Authority for many years about racial discrimination by the Hospital Authority against him and other African-American healthcare providers. Kevin Spiegel and Thomas J. Brooks, III, M.D. have dealt directly about these issues many times. Dr. Brooks has documented complaints for years, as well as the responses or lack of response by the hospital authority.

VII.

Plaintiff demands a trial by jury on each and every one of his claims.

VIII.

Defendant named in this action was at all times mentioned in this Complaint acting under color of the law of the of the State of Tennessee. Chattanooga-Hamilton County Hospital

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Authority is a governmental entity with trustees appointed by the Mayor of Hamilton County, Tennessee, and the General Assembly of Tennessee.

IX.

Chattanooga-Hamilton County Hospital Authority became aware of the actions of Kevin Spiegel in this case and has ratified the actions of Mr. Spiegel.

X.

The actions of Mr. Spiegel were done intentionally, willfully, maliciously, negligently, and with reckless disregard for and deliberate indifference to the Plaintiff's rights under the United States Constitution.

XI.

Erlanger health System, in an attempt to deprive Thomas J. Brooks, III, M.D., of his rights under the First and Fourteenth Amendments to the United States Constitution, suspended the hospital privileges of Thomas J. Brooks, III, M.D., with Erlanger Health System for no legal reason. Erlanger agents and employees at the direction of Kevin Spiegel, arbitrarily demanded that Thomas J. Brooks, III, M.D., submit to medical and psychological examinations and have continued to deprive Thomas J. Brooks, III, M.D., of his hospital privileges.

XII.

Kevin Spiegel had full knowledge of the racial discrimination complaints of Thomas J. Brooks, III, M.D., and other African-American physicians at Erlanger Health System. Both, Mr. Spiegel and previous Chief Executive Officers have not only been aware of the complaints of African-American physicians, but have gone out of their way to ignore and not address these complaints. When Mr. Siegel first assumed the office of President, he visited the health facility that Dr. Brooks was associated with (FHS) along with Elizabeth Appling, the Director of

Diversity at Erlanger and assured Dr. Brooks that what African-American physicians had accomplished at FHS was significant to the community and that it was "only right" that Erlanger develop a positive relationship with the physicians and FHS facility. Talk did not turn into action.

Mr. Spiegel stated that an executive at Erlanger Hospital would assist in developing a relationship between Erlanger Hospital and the physicians of FHS. This never materialized. Mr. Spiegel is aware of all communications Dr. Brook has had with Erlanger Medical Center concerning racial discrimination since he became CEO. Dr. Brooks has sent copies of all emails and concerns directly to Mr. Spiegel.

XIII

Mr. Spiegel is required to be involved in almost all steps in the disciplining of medical staff physicians pursuant to the By Laws of the Erlanger Medical Staff. There is no part of the disciplining of Dr. Brooks that Mr. Spiegel has not been involved in. Mr. Siegel has created a custom of Erlanger ignoring complaints of racial discrimination and pushing back against complaints. Mr. Spiegel has directly participated in the violation of Dr. Brooks' rights and also his inaction to what his subordinates have done amounts to reckless disregard, deliberate indifference to or tacit authorization of constitutional violations. There was an affirmative causal link between Mr. Spiegel's actions and inactions and the constitutional violations suffered by Dr. Brooks. Mr. Spiegel directed, encouraged, tolerated or acquiesced in the unlawful conduct of his subordinates.

WHEREFORE, Plaintiff prays for relief as follows:

- a. Award Plaintiff compensatory damages against the defendant for loss of earnings as a physician and emotional distress, both in the past and for the future;

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- b. Award Plaintiff punitive damages;
- c. Award attorney's fees pursuant to 42 U.S.C. § 1988;
- d. Award costs of suit pursuant to 42 U.S.C. § 1920 and 1988;
- e. Award such other and further relief as the Court may deem appropriate;
- f. A jury trial;
- g. That Plaintiff have his hospital privileges reinstated.

RESPECTFULLY SUBMITTED, this 22nd day of January, 2018.

CHARLES G. WRIGHT, JR., BPR # 915
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AFFIDAVIT

STATE OF TENNESSEE
COUNTY OF HAMILTON

Thomas J. Brooks, III, M.D., after being duly sworn, states that the information contained in the Complaint is true and correct.

THOMAS J. BROOKS, III, M.D. - Plaintiff

SWORN TO and SUBSCRIBED BEFORE

This 18th day of January, 2018.

Notary Public

My commission expires: 3-7-2021



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