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Who's giving injections at Planned Parenthood?

Court case pits nurse practitioner against former employer

By Moss Gropen, July 3, 2015

There's a showdown downtown scheduled for Friday, August 14, when the case of *Murray v. Planned Parenthood of the Pacific Southwest* goes to trial in superior court.

Carla M. Murray, a nurse practitioner, had worked at the Planned Parenthood Clinic in Chula Vista since 2002. By the time she was fired on March 30, 2013, her pay had climbed to \$51.15 an hour plus bonuses. Those facts are undisputed, but just about everything else surrounding the reasons behind Murray's departure has been the subject of litigation.

The legal battle began on June 10, 2014, when Murray's attorneys, David P. Strauss and Kristin Rizzo of San Diego, filed a complaint against Planned Parenthood, represented by Gary D. Fields of Long Beach. In the ensuing year, according to the court's records, 50 or so entries have illustrated a string of motions, conferences, and other machinations, as each side vies for a tactical advantage before trial.

According to the allegations, Murray's problems at Planned Parenthood began during late summer or early fall of 2012, when Murray complained to her supervisor, Thelma Mendoza, that the clinic was violating the law by permitting non-licensed personnel to gain access to a locked medication cabinet and dispense medication to patients. The allegations go on to state that although Murray had amassed a stellar record as an employee, she was subsequently subjected to a series of reprimands and write-ups that had no legitimate basis and were done solely for purposes of retaliation.

Things came to a head on March 8, 2013, when a teenaged girl came to the clinic with her stepmother. According to the complaint, the girl did not want to receive birth control, but her stepmother insisted that she be administered an injection of Depo-Provera. Murray, it's alleged, felt that it would be inappropriate to proceed with the injection and instead decided, after conferring with another staff member, to provide the girl with "emergency contraception, condoms and educational handouts." However, after the stepmother became irate (Murray states that she heard her "screaming in the lobby"), Thelma Mendoza ordered the injection without the authority to do so.

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On March 12, Murray reported the incident to Planned Parenthood's risk-management department, which conducted and soon thereafter closed a perfunctory investigation. On March 30, Planned Parenthood terminated Murray, citing the reason as "below expectations" performance. However, Murray contends that her firing was prompted by her blowing the whistle.

In part, Murray's attorneys have based the lawsuit on alleged violations of several California statutory schemes, including the Business & Professions Code and the Health & Safety Code, the latter of which regulates clinics and health facilities and which "specifically prohibit[s] the issuance of a prescription drug, or the dispensing of a prescription drug by anyone other than a physician, nurse practitioner, or other licensed personnel."

On February 11, 2015, Planned Parenthood, as defendant, filed its answer, which — consistent with the manner in which civil pleadings are conducted in California and other jurisdictions — is comprised, in part, of a blanket denial of all the plaintiff's allegations.

In addition, the defendant's attorney sets forth a litany of "affirmative defenses," which, he contends, bar Murray from recovery. Among those are contentions that Murray waited too long to bring the action, failed to mitigate her losses, and was wholly or partly responsible for the damages she claims. Another proffered defense is that the defendant's actions were "taken in good faith [without] malicious intent to injure Plaintiff and constitute lawful, proper and justified means to protect the assets, good will and interests of both Defendant and Plaintiff."

But there's one thing upon which both sides — at least their respective counselors — agree: No one's cooperating with the press, lest a stray word in a terse article tip the scales of justice by as much as a microgram. Are Strauss and Rizzo scared of missing out on a hefty contingency fee? Is Fields worried about subjecting his client to a significant loss and a bad rap?

On Friday, August 14, a dozen locals tapped for jury duty, under the watchful eye of judge Ronald S. Prager, will attempt to sort it all out.

Both David Strauss and Gary Fields refused to comment on the case.

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eastlaker July 3, 2015 @ 6:10 p.m.

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This is worrisome. I hope Planned Parenthood is 'minding the store' a great deal better now. I wonder what the replacement hire(s) did.

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