STATE OF MICHIGAN

COURT OF CLAIMS

FRANCESCA GOTSCH,

Plaintiff,

v

Case No. 23-000173-MZ

STANLEY M. BERRY, MARK E. SCHWEITZER, LASHARA MONTGOMERY, and LAURE BORDAS-ISNER,

Hon. James Robert Redford

Defendants.
_____/

OPINION AND ORDER GRANTING DEFENDANTS' DECEMBER 22, 2025 MOTIONS FOR SUMMARY DISPOSITION

On December 2, 2025, the Court permitted plaintiff to file a second amended complaint raising a single count of negligent misrepresentation against the current named defendants. On December 22, 2025, defendant Stanley M. Berry and defendants Mark E. Schweitzer, Lashara Montgomery, and Laure Bordas-Isner moved for summary disposition based on governmental immunity. Defendant Berry also seeks summary disposition under MCR 2.116(C)(10).

The record evidence does not support conduct rising to the level of gross negligence. Accordingly, defendants are entitled to summary dismissal of plaintiff's claim on immunity grounds. The Court GRANTS defendants' motions for summary disposition and DISMISSES plaintiff's second amended complaint with prejudice.

I. BACKGROUND

Plaintiff, a doctor with Italian citizenship, initially filed suit on December 5, 2023, challenging the termination of her position as a medical instructor at Wayne State University (WSU) Medical School. Plaintiff was invited by Dr. Roberto Romero to apply to teach at WSU and conduct research at the Perinatal Research Branch (PRB), a federally funded program with a satellite at WSU medical school.[1] Plaintiff applied and was hired. Her salary was funded in part by WSU, but the majority came from a federal grant.

The PRB is a branch of the National Institute of Health (NIH). The WSU satellite of the PRB opened in the mid-1990s and was renewed every 10 years. The NIH decided not to renew the WSU PRB contract in early 2023. As a result, plaintiff's position was no longer funded and was terminated by WSU. In her second amended complaint, plaintiff alleged that the named defendants were grossly negligent in applying for her H-1B work visa and signing off on her employment offers without verifying that there was guaranteed funding for her salary through the September 30, 2023 end of her contract term.

As noted in the Court's July 22, 2024 opinion and order granting in part defendants' motion for summary disposition of plaintiff's first amended complaint, the parties entered an employment agreement on July 30, 2021, stating in relevant part:

> 1. Faculty and academic staff at WSU are represented by the American Association of University Professors-American Federation of Teachers (AAUP-AFT). The Collective Bargaining Agreement (CBA) is available online from the Provost's website . . .

[1] Plaintiff had worked at the PRB with Dr. Romero from 2006 through 2009 as well. She denied that Romero "recruited" her to return in 2021.

* * *

2. This offer carries no presumption of reappointment or continuing tenure.

* * *

4. It must be understood that at least a major portion of your salary is being derived from grant/contract funds; that is, your appointment is specifically conditioned on subsidy with WSUCA Sections 2.51.01.110 and 2.51.01.120 applying with full force and effect. Any renewal or extension of assignment is entirely dependent upon your satisfactory performance and upon the continuation of the subsidy. Should the subsidy be terminated or reduced, it must be understood that there is no direct, indirect, or implied commitment by the Department, the School, or [WSU] to continue your employment (salary and fringe benefits) beyond the cessation of, or reduction in, the subsidy. Under WSUCA Sections 2.51.01.110 and 2.51.01.120, term appointments conditioned on subsidy carry no implication of continuing tenure.

WSUCA § 2.51.01.120 states that appointments to an instructor position "which are expressly related to a subsidy of limited duration, terminate with the cessation of the subsidy." Between July and November of 2021, the parties entered amended employment agreements that included additional benefits, such as moving expenses, but retained these provisions. The employment agreements were signed by defendants Stanley Berry, as interim chair of WSU Medical School's Department of Obstetrics and Gynecology, and Mark Schweitzer, as dean of the medical school.

Plaintiff testified at her deposition that her position with PRB from 2006 through 2009 was through the NIH. She was granted a fellowship and the low salary that came with that position came from the NIH. In 2021, however, plaintiff was hired as a professor at WSU, not simply as a researcher with the PRB. Further, Dr. Romero worked with Dean Schweitzer to approve a higher salary for plaintiff. Accordingly, plaintiff asserted, she was not aware that her most recent position was also partially funded by the NIH. Plaintiff conceded that her offer letter stated that the funding source of her salary was "other." The letter stated that $250,000 of her salary was from a "medical school supplement." Plaintiff claimed she did not seek additional information "[b]ecause to [her],

this was clear. This was [WSU]." In plaintiff's opinion, the language in the employment agreement about funding coming from a subsidy appeared to be a statement that would appear in anyone's employment offer letter. During the application and negotiation process, plaintiff did not speak to Dean Schweitzer. Plaintiff testified that Dean Schweitzer and Dr. Romero should have known that the PRB would be closing. Plaintiff testified that the statements made in a visa application are made under penalty of perjury so she believed Lashara Montgomery and Laure Bordas-Isner from WSU's Office of International Students and Scholars (OISS) were dutybound to verify the information provided. Plaintiff knew the PRB satellite office had been open for approximately 30 years and had been renewed on many occasions.

In October 2022, Dr. Romero shared an email with plaintiff indicating that the PRB contract was set to expire on January 31, 2023, and that WSU leadership was in "ongoing conversations" with the NIH about renewing the contract. Plaintiff testified that rumors that the PRB at WSU would be closing grew in 2022. Plaintiff initially thought her position was safe because she was hired by WSU, not PRB. After she learned about the closure and the loss of her position, plaintiff did not ask Dr. Romero when he knew the PRB would be closing. She asserted that before she received the termination notice and airfare reimbursement letter from Dr. Berry in December 2022, "there were no hints anywhere that I was funded partially by a federal contract," and so she made no inquiries. She also believed "no one in the real world" would offer a position through September 30, 2023, when they knew the funding would end on January 31, 2023.

At all relevant times, defendant Berry was the interim chairman of WSU Medical School's Department of Obstetrics and Gynecology. He signed the offer letters at issue in this case. Dr. Berry believed the information about plaintiff's terms of employment were correct because he received an e-mail indicating that Dr. Romero, director of the PRB, spoke with Dean Schweitzer,

dean of the medical school, and reassured the dean that the funds for plaintiff's salary were coming from NIH or PRB funds. Dr. Berry did not have any discussions with Dr. Romero about the salary source. He had no conversations with anyone from the OISS before signing the offer letter, "[e]specially not for the funding of the salary." Dr. Berry knew the PRB contract would expire in 2023, but he also believed it would be renewed as it had been in 2003 and 2013. Dr. Berry noted that WSU "had always managed to get the contract renewed" in the past and he "had every expectation for a number of reasons that the contract would be renewed." Those reasons included the length of time the PRB satellite had been housed at WSU, the good relationship they had with the director of the National Institute of Child Health and Human Development (NICHD), and "because it was probably one of the most productive units within all of NIH, having published over a thousand papers and probably over 1200 peer review publications in the 30 years that it had been at [WSU]." Dr. Berry would not have expected plaintiff to contact him if she wanted clarification regarding the funding source of her salary. Dr. Romero was her direct supervisor and the person who recruited her, making him the more reasonable contact person.

Dean Schweitzer spoke to Dr. Romero periodically but did not discuss the offer to plaintiff. Dean Schweitzer did not discuss plaintiff's salary with Dr. Romero and did not recall having any concerns about the amount of her salary. He assumed that individuals "at the levels below" him conducted the additional verification necessary to ensure there was adequate funding for plaintiff's offered salary.

Defendant Laure Bordas-Isner, was an advisor in the OISS and was trained to follow a certain process in preparing H-1B visa applications. The sponsoring department provides necessary documentation. She reviews the documents to ensure the applicant is eligible for the

visa. She explained that an administrative assistant in her department was tasked with communicating with the hiring department.

Lashara Montgomery (now Clemons) was a program specialist in WSU's OISS department. Montgomery was tasked with preparing labor condition applications or agreements with the United States Department of Labor. Montgomery was only familiar with H-1B visas, which are issued to foreign nationals for scholarly employment. The application is prepared with information provided by the hiring department regarding the salary, position location, and term of employment. An advisor reviews the information, communicates with the hiring department to ensure accuracy, and then passes it on to the program specialist for processing. Montgomery indicated that the necessary forms are provided by the OISS. In this case, Montgomery asserted that Bordas-Isner was the advisor who verified the information and assigned the case to her. The only occasions requiring Montgomery to follow up are when the listed salary "does not match or exceed the prevailing wage by the state of Michigan in conjunction with higher education salaries." The hiring department is tasked with reading over the forms, collecting the necessary materials regarding the foreign national, and providing it to the OISS. If the hiring department has any questions, a representative contacts an OISS advisor.

WSU's OISS has a guidance memo for individuals preparing H-1B visas. It states that an "H-1B application should not be requested for a period longer than guaranteed funding availability." Montgomery indicated that it is not her responsibility to verify that information. She did not ask Bordas-Isner if she verified that information. Montgomery stated that it was the hiring department's responsibility to be truthful in the funding information provided to the OISS. If an employee is terminated early due to a lack of funding, the hiring department notifies OISS and

OISS notifies the Department of Labor and United States Citizenship and Immigration Services (USCIS).

Montgomery believed that Bordas-Isner verified the accuracy of the information provided by the hiring department, but Bordas-Isner believed Montgomery conducted this accuracy review. Similarly, Dean Schweitzer believed the individuals below him in the organizational chart verified the accuracy of the terms of plaintiff's employment, but Dr. Berry, Bordas-Isner, and Montgomery testified they did not. Dr. Berry believed it was Dr. Romero's duty to provide accurate information.

Ultimately, WSU sponsored plaintiff for an H-1B visa. The visa application stated that the duration of employment for plaintiff was July 1, 2021 through September 30, 2023. However, the federal government did not renew the grant that funded plaintiff's employment. Accordingly, on December 21, 2022, WSU notified plaintiff that her employment would terminate on January 31, 2023.

II. SUMMARY DISPOSITION STANDARDS

Defendants move for summary disposition under MCR 2.116(C)(7) and (10). Summary disposition is warranted under (C)(7) when a claim is barred by governmental immunity.

> When reviewing a motion under MCR 2.116(C)(7), this Court must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them. If any affidavits, depositions, admissions, or other documentary evidence are submitted, the court must consider them to determine whether there is a genuine issue of material fact. If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court. However, if a question of fact exists to the extent that factual development could provide a basis for recovery, dismissal is inappropriate. [*Dextrom v Wexford Co*, 287 Mich App 406, 428-429; 789 NW2d 211 (2010)(citations omitted).]

Summary disposition under (C)(10) tests the factual sufficiency of the plaintiff's claims. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). Similar to a (C)(7) motion:

> When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion. A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact. A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ. [*Id.* (quotation marks and citations omitted).]

III. GOVERNMENTAL IMMUNITY

The Court outlined the standard for governmental immunity in its July 22, 2024 opinion and order. The test has not changed:

> The GTLA . . . grants immunity to lower-level governmental employees of a governmental agency for negligent and intentional conduct if certain specified conditions are met. MCL 691.1407(2), (3). When negligence is involved, MCL 691.1407(2) controls, and provides:
>
> > Except as otherwise provided in this section, and without regard to the discretionary or ministerial nature of the conduct in question, each officer and employee of a governmental agency . . . is immune from tort liability for an injury to a person or damage to property caused by the officer, employee, or member while in the course of employment or service . . . if all of the following are met:
> >
> > (a) The officer, employee, member, or volunteer is acting or reasonably believes he or she is acting within the scope of his or her authority.
> >
> > (b) The governmental agency is engaged in the exercise or discharge of a governmental function.
> >
> > (c) The officer's, employee's, member's, or volunteer's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.
>
> Thus, an employee of a governmental agency who is acting within the scope of his or her authority and engaged in carrying out a governmental function is immune from liability for negligence unless his or her conduct constitutes gross negligence that is the proximate cause of injury or damage. The term "gross negligence" means

"conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results." MCL 691.1407(8)(a). Evidence of ordinary negligence or allegations that an actor could have done more are insufficient to meet the standard of gross negligence. *Doughtery v City of Detroit*, 340 Mich App 339, 350; 986 NW2d 467 (2021). [July 22, 2024 Opinion and Order, p 11.]

IV. NEGLIGENT MISREPRESENTATION CLAIMS

In plaintiff's first amended complaint, she raised a count of negligent misrepresentation against these same defendants. In that complaint, plaintiff alleged:

88. Defendants had a general duty of reasonable care to disclose to Plaintiff that her employment had a pre-determined end date that was not disclosed anywhere within the written employment offers/contract or in the applications submitted to USCIS and the Department of Labor.

89. Defendants also had a legal duty to provide truthful and accurate information to USCIS and the Department of Labor regarding Plaintiff's length of employment.

90. Defendants knew that WSU's contract with [the U.S. Department of Health and Human Services (HHS)] contained a pre-determined end date.

91. Despite this knowledge, Defendants represented to Plaintiff, USCIS, and the Department of Labor that Plaintiff's employment could extend several months beyond the pre-determined end date, in violation of their duty of care.

* * *

94. In direct contradiction to the situation that was represented to her by Defendants, Plaintiff was prematurely and unexpectedly terminated from her position and forced to relocate her family back to Italy, without employment.

95. Plaintiff's claim is not barred by governmental immunity because (1) Defendants' conduct was grossly negligent and (2) Defendants were engaged in ultra vires activity.

96. Defendants' conduct was ultra vires activity because Defendants had no legal authority (impliedly or expressly) to represent to Plaintiff, USCIS, or the Department of Labor that Plaintiff's employment could extend to September 30, 2023, because the federal contract from which the funds underlying Plaintiff's salary derived had a pre-determined end date of January 31, 2023.

97. Defendants Wilson, Berry, Schweitzer, Montgomery, and Bordas-Isner were acting outside the scope of their authority when they represented to Plaintiff,

USCIS, and the Department of Labor that Plaintiff's employment could extend through September 30, 2023.

98. Defendants Wilson, Berry, Montgomery, and Bordes-Isner's conduct was grossly negligent. Defendants Wilson, Berry, Montgomery, and Bordes-Isner knew that Plaintiff's employment could not possibly extend to September 30, 2023 due to the predetermined end date within the HHS contract. Despite such knowledge, Defendants represented to Plaintiff that her contract could extend through that date with a substantial lack of concern whether an injury could result.

This Court concluded that the individual defendants enjoyed governmental immunity from the negligent misrepresentation claim. The Court determined that plaintiff failed to identify any acts or omissions by these defendants rising to the level of gross negligence. "The mere failure to disclose, arising from inadvertence or a lack of care, is, at most, ordinary negligence." (July 22, 2024 Opinion, p 12.)

In her second amended complaint, plaintiff alleged that each individual defendant was grossly negligent in ignoring their duties to verify the information in plaintiff's employment offer letters. Specifically, plaintiff alleged:

63. Defendants had a general duty of reasonable care to disclose to Plaintiff that her employment had a pre-determined end date that was not disclosed anywhere within the written employment offers/contract or in the applications submitted to USCIS and the Department of Labor.

64. Defendants Berry and Schweitzer had a duty to read and verify the content of the offer letters they signed.

65. Defendants Bordas-Isner and Montgomery had a legal duty to provide truthful and accurate information to USCIS and the Department of Labor regarding Plaintiff's length of employment.

66. Defendants knew or should have known, through standard procedures of confirming information, that WSU's contract with HHS contained a pre-determined end date.

67. Despite this knowledge, Defendants represented to Plaintiff, USCIS, and the Department of Labor that Plaintiff's employment could [sic would] last eight months beyond the pre-determined end date, in violation of their duty of care.

* * *

70. In direct contradiction to the situation that was represented to her by Defendants, Plaintiff was prematurely and unexpectedly terminated from her position and forced to relocate her family back to Italy, without employment.

71. Plaintiff's claim is not barred by governmental immunity because Defendants' conduct was grossly negligent.

72. Defendant Berry was aware of the grant-end-date, knew the offer letter would not advise Plaintiff of the end date or source of funding, and knew that she could not be hired by WSU without the additional funding. Defendant Berry simultaneously did not verify the contents of the offer letter before signing it, despite knowing Plaintiff would rely on the offer letter to dictate the terms of her employment. Dr. Berry acted without regard to Plaintiff or the consequences of what may happen to her.

73. Defendant Schweitzer signed Plaintiff's offer letters without reading them, as was the practice of the Dean of the WSU School of Medicine before he arrived, and before he was hired to fix the failing school. Defendant Schweitzer similarly did not confer with the drafters of the letters and did not have any process in place to check accuracy or sufficiency of the letters. Defendant Schweitzer had reason to know this practice was problematic, but continued to do so anyway. He showed no regard for the consequences or potential impact on recipients, including Plaintiff.

74. Defendants Bordas-Isner and Montgomery ignored official [OISS] instructions for preparing visa documents, assumed others would check for accuracy and incomplete information, and submitted forms without confirming accuracy of their contents, as was their established practice (despite it being their jobs to do so and required by WSU policy).

75. Defendant Bordas-Isner did not check whether funding was guaranteed while preparing the visa forms, in contradiction to specific instructions to do so.

76. Defendants Bordas-Isner and Montgomery knew that the forms would be relied upon by the U.S. Government and applicants like Plaintiff, yet took no care to ensure the accuracy of the forms' contents.

77. Had Defendants Bordas-Isner and Montgomery verified the funding source, as expected per WSU policy, they would have learned it had a predetermined end date of January 31, 2023. Not a single Defendant fulfilled their duty of verifying the content of the respective form he or she completed or signed.

V. ANALYSIS

This Court previously determined that the negligent misrepresentation allegations in the first amended complaint did not rise to the level of gross negligence. Reviewing the allegations in the second amended complaint and the proffered evidence in the light most favorable to plaintiff as the nonmoving party, the Court again reaches that conclusion.

First, defendants were not grossly negligent as a matter of law in believing plaintiff's term of employment would continue through September 30, 2023. The NIH had contracted with WSU for 30 years to manage the PRB satellite. Dr. Berry described in detail the reasons he expected the NIH to renew the contract in 2023. The witnesses were shocked when the NIH cancelled the contract. Plaintiff offered no evidence to suggest that defendants were grossly negligent in this belief.

Second, it is clear that defendants were confused about their duties to review and verify the terms of plaintiff's employment before signing the employment offers or processing the H-1B visa application. However, this confusion did not amount to gross negligence *causing* plaintiff's harm. Even if the named defendants sat down together to discuss the details of plaintiff's employment, they would still have believed the PRB contract would be renewed and that September 30, 2023 was a legitimate employment end date. No amount of verification would have changed that result.

Moreover, plaintiff has not demonstrated that defendants were grossly negligent in describing the source of her salary. Plaintiff's employment agreement advised her "that at least a major portion of your salary is being derived from grant/contract funds." Her employment offer letter additionally listed the source of plaintiff's salary as "other" and "medical school supplement." Contrary to plaintiff's deposition testimony, it was not "clear" that her salary was

being paid in full by WSU. Indeed, the employment agreement and employment offer directly contradict plaintiff's belief in this regard.

Ultimately, absent a showing of gross negligence, plaintiff cannot avoid governmental immunity and her claims must be dismissed.

Accordingly, IT IS ORDERED:

1. The Court GRANTS defendants' motions for summary disposition under MCR 2.116(C)(7).
2. The Court DISMISSES plaintiff's complaint in full and with prejudice.
3. This is a final order resolving all issues in this case.

Date: March 27th, 2026

James Robert Redford
Judge, Court of Claims