STATE OF MICHIGAN

COURT OF CLAIMS

AMBER HARBERT,

Plaintiff,

v

Case No. 26-000087-MZ

MICHIGAN DEPARTMENT OF CORRECTIONS,

Hon. Randy J. Wallace

Defendant.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION UNDER MCR 2.116(C)(7)

On January 9, 2026, plaintiff initiated this lawsuit in Wayne Circuit Court raising claims of retaliation under the Elliott-Larsen Civil Rights Act (ELCRA), MCL 37.2101 *et seq*. (Count I); intentional infliction of emotional distress (Count II); and breach of contract (Count III). The claims arise from the January 11, 2023 termination of plaintiff's employment with defendant Michigan Department of Corrections.

On April 27, 2026, defendant transferred Counts II and III to this Court under MCL 600.6404(3) of the Court of Claims Act (COCA), MCL 600.6401 *et seq*. On the same day, defendant moved for summary disposition of the complaint under MCR 2.116(C)(7) and (8).[1]

[1] Under Court of Claims LCR 2.119(C), plaintiff had 14 days to respond to defendant's motion for summary disposition. No response has been filed and, therefore, defendant's motion is treated as uncontested. Court of Claims LCR 2.119(C)(3).

Because the Court concludes that dismissal of the action is required under MCR 2.116(C)(7), the Court will not address defendant's arguments under MCR 2.116(C)(8).

Under MCR 2.116(C)(7), summary disposition is appropriate when "immunity granted by law" bars the plaintiff's claims. In assessing a motion under that rule, this Court must review the "affidavits, pleadings, and other documentary evidence presented by the parties," accepting "plaintiff's well-pleaded allegations as true, except those contradicted by documentary evidence," to determine whether immunity applies as a matter of law. *McLean v Dearborn*, 302 Mich App 68, 72-73; 836 NW2d 916 (2013). Such documentary evidence must be viewed in the light most favorable to the plaintiff as the nonmoving party. *Lavey v Mills*, 248 Mich App 244, 250; 639 NW2d 261 (2001). If "no facts are in dispute" and "reasonable minds could not differ regarding the legal effect of those facts," whether the claim is barred "is an issue of law for the court." *Dextrom v Wexford Co*, 287 Mich App 406, 429; 789 NW2d 211 (2010). Immunity is the applicable defense when a governmental entity seeks summary disposition for failure to comply with the notice requirements of the COCA. *McCahan v Brennan*, 492 Mich 730, 736-738; 822 NW2d 747 (2012).

The notice requirements in MCL 600.6431 of the COCA "apply to all claims against the state," except as expressly exempted in the COCA itself.[2] *Christie v Wayne State Univ*, 511 Mich 39, 52; 993 NW2d 203 (2023). This requirement applies to all claims against the state, including those filed in circuit court. *Id*. at 44-45. MCL 600.6431(1) of the COCA prohibits a claim from being "maintained against this state unless the claimant, within one year after the claim has

[2] See MCL 600.6431(5) ("This section does not apply to a claim for compensation under the wrongful imprisonment compensation act, 2016 PA 343, MCL 691.1751 to 691.1757").

accrued," files either a written claim or written notice of intention to file a claim. For a claim against the state for property damage or personal injuries, the claimant "shall file the claim or notice . . . within 6 months after the event that rise to the claim." MCL 600.6431(4).

The Court need not determine whether plaintiff's claims constitute personal injury or property claims because all of her claims were filed more than one year after accrual. A claim "accrues at the time the wrong upon which the claim is based was done regardless of the time when damage results." MCL 600.5827; *Mays v Governor*, 506 Mich 157, 181-182; 954 NW2d 139 (2020) (opinion by BERNSTEIN, J). "[T]o determine when a claim accrued, it is necessary to determine the date on which plaintiff[] first incurred the harm [it] assert[s], and the 'relevant harms' for that purpose are the actionable harms alleged in a plaintiff's cause of action." *Mt Pleasant v Acting Dir of Dep't of Technology, Mgt, & Budget*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367866); slip op at 13.

The allegations in plaintiff's complaint demonstrate that each of plaintiff's claims accrued on January 11, 2023, when defendant terminated her employment. Plaintiff's complaint was filed two days shy of three years after her claims accrued, and she did not file a notice of intent to file a claim with the clerk of this Court. Because plaintiff failed to comply with the notice requirements of MCL 600.6431, dismissal of the case is mandated. *Elia Cos, LLC v Univ of Mich Regents*, 511 Mich 66, 75; 993 NW2d 392 (2023). The Court therefore GRANTS summary disposition to defendant under MCR 2.116(C)(7).

IT IS SO ORDERED. This is a final order that resolves the last pending claim and closes the case.

Date: May 18, 2026

Hon. Randy J. Wallace
Judge, Court of Claims