

10/22/20 REUTERS LEGAL 17:43:36

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October 22, 2020

## Hospital escapes negligence, contract claims in suit over Facebook posting

Sara Merken

(Reuters) - A federal judge in Los Angeles granted a California hospital's bid to dismiss negligence-based and contract-based claims in a lawsuit brought after an employee inadvertently posted photographs with a patient's information on a public Facebook account.

U.S. District Judge Otis Wright found that plaintiff Sallie Holly's "conclusory and vague" allegations against Alta Newport Hospital Inc. aren't enough to establish that she suffered actual damages as a result of the incident, according to the Wednesday order in the U.S. District Court for the Central District of California.

The judge also granted a bid by Alta Newport Hospital, which goes by Foothill Regional Medical Center, to strike Holly's class allegations, concluding that her allegations did not meet numerosity requirements.

The court in previous orders had granted the hospital's motion to strike and had partly granted its motion to dismiss, with leave to amend. The plaintiff amended her complaint, which the court said is "essentially the same" as the prior one.

Michael Amir, a lawyer from Doll Amir and Eley representing the hospital, said in an email that they are pleased with the court's opinion. "This is a case that should never have been filed in the first place, much less as a purported 'class action,'" he said.

Lawyers for the plaintiff of the Law Offices of Sanford Jossen didn't immediately respond to a request for comment.

The case stems from an August 2017 incident in which a new hospital employee viewed medical records on a computer as part of training and took six photographs of records on her personal cell phone, including Holly's. The employee accidentally posted the pictures on her public Facebook account, which included Holly's name, birth date and other personal and medical information, according to the complaint. A physician notified the hospital about the photographs the next day.

Holly's second amended complaint accused the hospital of failing to have reasonable security measures to protect personal and medical information, alleging that as a result of the incident, she suffered emotional harm and distress and experienced fear of identity theft, embarrassment, anxiety and stress.

The court found that her allegation of increased risk of identity theft is too speculative to show actual damages, and the allegations concerning physical and emotional pain are "too sparse and conclusory."

On the class allegations, Holly's suggestion that the six photographs posted online may have contained medical records of other people, without more detail, "does not meritoriously establish numerosity on its own," the court said.

The case is Sallie Holly v. Alta Newport Hospital, Inc. et al, U.S. District Court for the Central District of California, No. 2:19-cv-07496-ODW-MRW

For Holly: Owen Sutanto and Sanford Jossen of the Law Offices of Sanford Jossen

For Alta Newport Hospital: Lloyd Vu and Michael Amir of Doll Amir and Eley

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News Subject: (Judicial Cases & Rulings (1JU36); Legal (1LE33); Liability (1LI55))

Industry: (Healthcare (1HE06); Healthcare Service Providers (1HE78); Healthcare Services (1HE13); Hospital Administration (1HO60); Hospitals (1HO39))

Region: (Americas (1AM92); California (1CA98); North America (1NO39); U.S. West Region (1WE46); USA (1US73))

Language: EN

Other Indexing: (Alta Newport Hospital Inc.) (Sallie Holly; Sanford Jossen; Michael Amir; Otis Wright; Owen Sutanto; Lloyd Vu; Eley)

Keywords: health; dataprivacy; fedlit

Word Count: 483

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