

IN THE CIRCUIT COURT OF WILSON COUNTY, TENNESSEE

NANDIGAM NEUROLOGY, PLC,

Plaintiff,

KELLY BEAVERS

and

DEVIN YOUNT,

Defendants.

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Case No.: 2019-cv-663

Judge Clara W. Byrd

**ORDER FILED**

MAR - 5 2020

DEBBIE MOSS, CIRCUIT COURT CLERK  
WILSON COUNTY, TN

ORDER LODGED  
DATE 2-25-20 20  
DEBBIE MOSS  
CIRCUIT COURT CLERK  
WILSON COUNTY, TN

**ORDER GRANTING DEFENDANT BEAVERS'S MOTION TO ALTER OR AMEND JUDGMENT**

This matter came before the Court for hearing on February 21, 2020, upon Defendant Kelly Beavers's Motion to Alter or Amend the Court's January 14, 2020 Order dismissing the Plaintiff's claims against Defendant Beavers without prejudice. Upon review of Defendant Beavers's Motion, the Plaintiff's Response thereto, Defendant Beavers's Reply, the arguments of counsel, and the entire record, the Court holds that Defendant Beavers's Motion is well-taken and should be **GRANTED**, and the Court further **FINDS** and **ORDERS** as follows:

1. Defendant Beavers's *Motion to Dismiss and Tennessee Code Annotated § 20-17-104(a) Petition to Dismiss the Plaintiff's Complaint Pursuant to the Tennessee Public Participation Act* presented evidence outside the pleadings in support of her claims for dismissal and claims for an affirmative right to dismissal of the Plaintiff's claims against her under Tennessee Code Annotated § 20-17-105(b) and (c). Accordingly, Defendant Beavers's Motion functioned as—and was converted to—a motion for summary

judgment under Rule 56 of the Tennessee Rules of Civil Procedure.

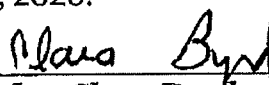
2. Defendant Beavers's *Motion to Dismiss and Tennessee Code Annotated § 20-17-104(a) Petition to Dismiss the Plaintiff's Complaint Pursuant to the Tennessee Public Participation Act* was pending when the Plaintiff dismissed its claims against her. As such, pursuant to Tennessee Rule of Civil Procedure 41.01(1), the Plaintiff lacked a right to take a voluntary nonsuit to dismiss its claims against Ms. Beavers without prejudice, and the Court's January 14, 2020 Order is accordingly amended to reflect that the Plaintiff's claims against Ms. Beavers are dismissed with prejudice.

3. The affirmative claims raised in Defendant Beavers's Tennessee Public Participation Act Petition, including her claims for "[c]ourt costs, reasonable attorney's fees, discretionary costs, and other expenses" and "[a]ny additional relief, including sanctions, that the court determines necessary to deter repetition of the conduct by the party who brought the legal action or by others similarly situated" pursuant to Tennessee Code Annotated § 20-17-107(a), survive the Plaintiff's dismissal of this action and remain pending. Accordingly, following entry of this order, Defendant Beavers shall set her Tennessee Public Participation Act Petition for hearing.

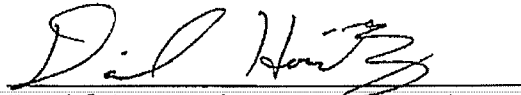
4. For the reasons set forth in Defendant Beavers's Reply, Plaintiff's motion to stay these proceedings and to consolidate the Plaintiff's appeal of General Sessions Case Number 2020-CV-152, raised in Plaintiff's Response to Defendant Beavers's Motion to Alter or Amend, is not properly before the Court, is not well-taken, and is **DENIED**.

It is so **ORDERED**.

ENTERED this 5 day of March, 2020.

  
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**Judge Clara Byrd**  
Circuit Court Judge

**APPROVED FOR ENTRY BY:**



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*Counsel for Defendant Kelly Beavers*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of February, 2020, a copy of the foregoing was sent via USPS, postage prepaid, and/or by email to the following:

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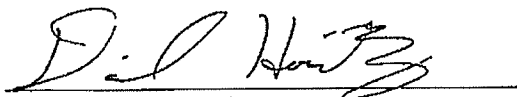
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By:

  
Daniel A. Horwitz, Esq.