

**CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
16TH DIVISION**

**SEAN LYNN
AND LAURA HAMMETT**

PLAINTIFFS

V.

CASE NO: 60CV-26-216

**BOARD OF TRUSTEES OF
THE UNIVERSITY OF ARKANSAS;
ET AL**

DEFENDANTS

**BRIEF IN SUPPORT OF
MOTION TO DISMISS
CLAIMS BROUGHT BY PLAINTIFF HAMMETT
ON BEHALF OF SEPARATE DEFENDANT
KARRAR ALJIBOORI, M.D.**

Plaintiffs filed a Complaint against Dr. Aljiboori and others on January 7, 2026. However, Separate Plaintiff Laura Hammett served Dr. Aljiboori with defective process.¹ Additionally, Hammett has failed to plead facts that, if true, entitle her to relief from Separate Defendant Dr. Aljiboori as a matter of law. Accordingly, Hammett’s claims should be dismissed against Dr. Aljiboori.

I. Hammett did not Serve Dr. Aljiboori with Proper Process.

Arkansas law is clearly established that statutory service requirements, being in derogation of common-law rights, must be strictly construed and

¹ Dr. Aljiboori asserts Separate Plaintiff Sean Lynn’s claims should be dismissed on separate grounds and is filing a separate motion to dismiss contemporaneously herewith.

compliance with them must be exact. *Carruth v. Design Interiors, Inc.*, 324 Ark. 373, 375, 921 S.W.2d 944, 945 (1996).

Arkansas Rule of Civil Procedure 4(b) clearly states the requirements for the summons to be served on each defendant:

(4) the time within which these rules require that the defendant to be served must appear, file a responsive pleading or motion, and defend; and

(5) notice that the defendant's failure to appear, respond, and defend within the time allowed may result in entry of judgment by default against the defendant for the relief demanded in the complaint.

However, Ms. Hammett's summons does not comply with these requirements. Ms. Hammett provided a deadline in her summons but failed to note that Dr. Aljiboori must appear **and defend**. Likewise, Ms. Hammett stated that failure to respond may result in default but did not state that failure to respond **and defend** may result in default. Not only does this summons fail to strictly comply with Rule 4, but it creates a different standard that the defendant must meet altogether.

It is well-established that proper service and proper process are necessary to ensure due process for the defendant. *Cogburn v. Marsh*, 2023 Ark. App. 114 at 3, 663 S.W.3d at 406-07. Without proper process served on Dr. Aljiboori, due process requirements are not satisfied, and this Court lacks personal jurisdiction over the defendant.

II. Hammett failed to State Facts Upon Which Relief May be Granted as to Dr. Aljiboori.

Hammett asserts a claim for negligence and outrage. The elements to be

plead for negligence are a duty to the plaintiff, a breach of that duty, and proximate cause of the plaintiff's injuries. See *Ark. Dep't Finance Authority v. Wiley*, 2020 Ark. 395, at 7-8, 611 S.W.3d 493, 499. The elements to be plead for outrage are (1) the actor intended to inflict emotional distress, or that the actor knew or should have known the emotional distress was the likely result of his conduct; (2) conduct extreme and outrageous and utterly intolerable in a civilized community; (3) the conduct was the cause of the plaintiff's distress; and (4) the plaintiff's emotional distress was so severe in nature that no reasonable person could be expected to endure it. See *Perrodin v. Rooker*, 322 Ark. 117, 121, 908 S.W.2d 85, 87-88 (1995)(internal citation omitted). Arkansas courts have often held that where a plaintiff fails to state facts to support an essential element of her claim, the complaint should be dismissed. See *Faulkner*, 347 Ark. at 957, 69 S.W.3d at 403.

Here, the only facts that pertain to Dr. Aljiboori are that (1) he was a doctor at UAMS; (2) he charted no neurosurgical intervention was warranted; and (3) he charted that Lynn intermittently asked for family members while being restrained. Plaintiffs' Complaint, ¶¶ 3, 45, 88. If true, these facts are not negligence or outrage, and do not entitle Hammett to relief. The gist of Hammett's claims is that she thinks the hospital should have discharged her adult son earlier than the discharge took place. This is a mere conclusion, not supported by any fact. Further, she claims this against a number of individuals, and in fact, an entire institution, without setting forth facts to any particular defendant, or how Hammett suffered injury due to the actions of each defendant.

Simply offering a vague conclusion that Ms. Hammett was injured by a group of people or entities is clearly insufficient. This principle is illustrated in *Arkansas Department of Environmental Quality v. Brighton Corporation, et al.* 352 Ark. 396, 102 S.W.3d 458. In that case, Plaintiff made allegations as to a corporation, along with several other individual defendants. *Id.* at 408, 102 S.W.3d at 466. However, the plaintiff only generally alleged that the “**defendants** . . . transported and/or disposed of hazardous wastes contrary to the rules, regulations, permits, or orders issued.” *Id.*, 102 S.W.3d at 466 (internal quotations omitted). This was not sufficient. The trial court dismissed plaintiff’s claims under 12(b)(6), finding the complaint was “generalities and conclusions of law **with no specifics alleged as to the individual defendants.**” *Id.*, 102 S.W.3d at 466 (emphasis added). The Arkansas Supreme Court affirmed, and in greater detail, found there were “no factual allegations **specifying which, if any, of the defendants** contributed [to the allegations at issue.]” *Id.*, 102 S.W.3d at 466 (emphasis added).

The same problem is present here. As discussed above, Plaintiff’s Complaint lists multiple allegations against the defendants generally, but Ms. Hammett has failed to make allegations against Dr. Aljiboori, specifically. Dr. Aljiboori is an individual person, with rights that are separate and distinct from the other defendants. To recover against Dr. Aljiboori, Ms. Hammett must plead facts showing the elements of negligence and outrage against Dr. Aljiboori. Without “factual allegations specifying which, if any, of the defendants” erred, there are “no specifics alleged as to the individual defendants” and the Complaint

must be dismissed. *Ark. Dep't Environ. Quality*, 352 Ark. at 408, 102 S.W.3d at 466.

Further, conclusory assertions, such as Ms. Hammett makes in this case, are not sufficient. *See e.g., id.*, 352 Ark. at 408, 102 S.W.3d at 466 (stating that failure to plead “how much and when any given defendant” generated or transported hazardous substances in an environmental lawsuit regarding the same was insufficient pleading for allegations regarding the same). Ms. Hammett has only plead conclusions as to the defendants, without pleading facts to support those conclusions. As a few examples, Hammett has alleged the defendants “engaged in chaotic and forceful restrain efforts” and “made false and misleading statements to Hammett regarding Lynn’s condition.” Plaintiff’s Complaint, ¶¶ 374, 382. These are nothing more than bare conclusions, without any factual support for what the standard of care required, or how it was allegedly not met. Without any facts showing the who, what, where, when, or how, these allegations are “mere conclusions.” Accordingly, Ms. Hammett’s claims should also be dismissed for failure to state facts upon which relief can be granted.

CONCLUSION

Separate Plaintiff Laura Hammett has not served Separate Defendant Karrar Aljiboori with proper process. Further, she has not plead facts upon which relief maybe granted. Accordingly, Hammett’s claims against Dr. Aljiboori

should be dismissed pursuant to Arkansas Rules of Civil Procedure 12(b)(2), (4), (5), and (6) at this time.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, William M. Griffin III, hereby certify that a true and correct copy of the foregoing was served this 22nd day of April, 2026, via the Court's ECF notification system to the following counsel of record, and was mailed by U.S. Mail, postage prepaid to the pro se Plaintiffs:

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