

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

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
SEAN LYNN'S COMPLAINT
ON BEHALF OF SEPARATE DEFENDANT
NATHAN ERNST

Sean Lynn and his mother Laura Hammett have filed a massive lawsuit grounded in allegations of medical negligence against the Board of Trustees of the University of Arkansas as well as 81 individuals employed or formerly employed at the University of Arkansas for Medical Sciences (UAMS). The complaint claims that the individually named defendants are responsible in some way for a variety of tort actions, including medical negligence, against Lynn while he was hospitalized for a traumatic brain injury at UAMS. Nathan Ernst, who was an emergency room nurse when Lynn was brought in, is listed specifically in a claim for trespass to chattels. Complaint, ¶¶ 363, 365, 366. Ernst is entitled to dismissal of the lawsuit on all claims for the following reasons. (1) As a state employee, Ernst is immune from suit in both his official and individual capacities. (2) Lynn has not served Ernst with the Complaint; thus, required due process requirements have not been met. (3) Lynn fails to make fact-specific allegations to state a claim for relief against Ernst.

Ernst is Immune from Suit

While the Complaint states that “defendants are named as individuals,” the facts as pled are clearly directed at the defendants for actions taken in the

performance of their duties as UAMS employees. As such, out of an abundance of caution, Ernst makes the argument for immunity in both his official capacity and individual capacity. In his official capacity, the state law claims raised in this lawsuit are prohibited under Article 5, section 20 of the Arkansas Constitution and interpreting case law. Article 5, section 20 provides: “The State of Arkansas shall **never** be made a defendant in any of her courts.” (emphasis added). Suits against the State are expressly forbidden by this provision. *Grine v. Bd. of Trustees*, 338 Ark. 791, 796, 2 S.W.3d 54, 57-58 (1999). The Arkansas Supreme Court stated long ago in *Pitcock v. State*, 91 Ark. 527, 535, 121 S.W. 742 (1909), “[A] sovereign State cannot be sued except by its own consent; and such consent is expressly withheld by the Constitution of this State.”¹ The state’s sovereign immunity extends to state officials as well. It is well established that “[a] suit against a state official in his or her official capacity is not a suit against that person, but rather is a suit against that official’s office.” *Simons v. Marshall*, 369 Ark. 447, 451 (2007) (citations omitted).

With regard to the lawsuit against Ernst in his individual capacity, he acted in good faith in performing his duties as an emergency room nurse and is entitled to statutory immunity. The legislature has chosen to grant limited immunity to the state’s officers and employees by statute. Arkansas Code Annotated § 19-10-305(a) provides: “Officers and employees of the State of Arkansas are immune from liability and from suit, except to the extent that they may be covered by liability insurance,

¹ For additional argument on the state’s sovereign immunity specific to a campus of the University of Arkansas, Separate Defendant Ernst refers the Court to the Board of Trustees filing on March 2, 2026 which Ernst adopts and incorporates by reference pursuant to Rule 10(c) of the Arkansas Rules of Civil Procedure.

for damages for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment.”

Plaintiff’s Complaint makes no allegation that Ernst maintains liability insurance that would subject him to this lawsuit. The Complaint also fails to allege any specific acts he took which fell outside the course and scope of his employment. Finally, the Complaint is devoid of any allegation allowing the Court to conclude that Ernst acted with the malice necessary to lose his statutory immunity. As explained by the Arkansas Supreme Court, the public official immunity statute “provides state employees with statutory immunity from civil liability for non-malicious acts occurring within the course of their employment.” *Simons v. Marshall*, 369 Ark. 447, 452, 255 S.W.3d 838, 842 (2007). In applying the statute, the Court has held that “a bare allegation of willful and wanton conduct will not suffice to prove malice.” *Id.* at 453, 255 S.W.3d at 843 (quotations & citations omitted).

In *Simons*, the Supreme Court summarized the definition of “malice” for purposes of Arkansas law as follows:

It is true that in law malice is not necessarily personal hate. It is rather an intent and disposition to do a wrongful act greatly injurious to another. Malice is also defined as the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or under circumstances that the law will imply an evil intent. . . . A conscious violation of the law . . . which operates to the prejudice of another person. A condition of the mind showing a heart . . . fatally bent on mischief.

Id. at 452-53, 255 S.W.3d at 842-43 (quotations and citations omitted) (alterations in original). The Court in *Simons* examined whether the plaintiff sufficiently pleaded facts to establish personal liability for a state employee to preclude the application of statutory immunity. The dispositive element is whether a party pleads facts

establishing malice, and “a bare allegation of willful and wanton conduct is not enough to demonstrate malice.” *Id.* at 454, 255 S.W.3d at 845.

Here, Lynn has not alleged the necessary malice or evil intent required to circumvent Ernst’s entitlement to statutory immunity. As a result, Ernst is immune from Lynn’s lawsuit in both his official and individual capacities.

Lynn Has Not Served the Complaint on Ernst

Similar to Separate Defendant Dr. Karrar Aljiboori, Ernst received a summons and copy of the Complaint in this matter from Separate Plaintiff Laura Hammett, but he has not been served by Separate Plaintiff Lynn. Pursuant to Rule 10(c) of the Arkansas Rules of Civil Procedure, Ernst adopts and incorporates by reference the argument on this issue raised by Separate Defendant Dr. Aljiboori in his motion to dismiss. See Dr. Aljiboori’s Brief in Support of Motion to Dismiss, I., pp. 1-2, filed on April 22, 2026. Because Lynn has not made proper service on Ernst, due process requirements are not satisfied, and this Court lacks personal jurisdiction over Separate Defendant Ernst.

Lynn Fails to State Facts Upon Which Relief May be Granted as to Ernst

The only claim Lynn appears to specifically raise against Ernst is a claim for trespass to chattels for the alleged confiscation of his cell phone while in the emergency room at UAMS. Complaint, ¶¶ 361-366. Despite including Ernst’s name in several paragraphs under that count in the Complaint, Lynn doesn’t actually state that Ernst is the one who took his phone. Instead, his name is listed along with “doe defendants.” Complaint, ¶¶ 363, 365, 366.

Trespass to chattels “is the intentional use of or interference with a chattel that is in the possession of another.” 7 American Law of Torts § 23:28. While there is not a lot of case law on the subject in Arkansas, what case law there is suggests that for a court to impose liability for trespass of chattel, the item must be “impaired as to its condition, quality or value.” *Arkansas Louisiana Gas Co. v. Cent. Utilities Constructors, Inc.*, 278 Ark. 101, 103, 643 S.W.2d 566, 567 (1982). The Complaint lacks any allegation that Ernst is the person who took his phone or that the phone was damaged in any way prior to being returned to him. As a result, Lynn cannot maintain a claim for trespass to chattels against Ernst.

Assuming for the purposes of this motion that Lynn is also attempting to pursue any of the other claims against Ernst when he references “clinician defendants,” Lynn’s claims must fail for lack of specificity. Lynn must make specific factual allegations against specific individual defendants raising a cognizable claim. Rather than restating the same arguments and supporting case law already before the Court on this issue, Ernst adopts and incorporates by reference, pursuant to Rule 10(c) of the Arkansas Rules of Civil Procedure, the arguments made by Dr. Aljiboori. See Dr. Aljiboori’s Brief in Support of Motion to Dismiss, II., pp. 2-4. Lynn has not alleged facts showing the who, what, where, when or how any of the claims he raises apply specifically to Ernst; thus, his allegations are nothing more than “mere conclusions” and are insufficient under the law.

Conclusion

Lynn has not provided any allegations or support for maintaining his complaint against Separate Defendant Ernst. Ernst is immune from the claims raised

against him, he has not been served with the summons and complaint by Lynn, and Lynn has not pled specific facts upon which relief may be granted. Consequently, Lynn's claims against Ernst should be dismissed.

WHEREFORE, Separate Defendant, Nathan Ernst, respectfully requests that the Complaint be dismissed as to him and for all other relief to which he is entitled.

Respectfully submitted,

THE BOARD OF TRUSTEES OF
THE UNIVERSITY OF ARKANSAS,
Acting for and on behalf of Nathan Ernst

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CERTIFICATE OF SERVICE

I, Sherri L. Robinson, hereby certify that on April 30, 2026, I filed the foregoing electronically with the Clerk of Court using the Arkansas Judiciary Electronic Filing System, which shall send notification to any other attorneys in this matter. I also mailed a copy by U.S. Mail, postage prepaid to both Plaintiffs:

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