

STATE OF MICHIGAN
COURT OF APPEALS

LEON PEDELL, M.D.,

Plaintiff-Appellant,

v

HEARTLAND HEALTH CARE CENTER,
GEORGIAN BLOOMFIELD, INC., HCR-
MANOR CARE SERVICES, LETTY AZAR,
KEVIN O'CONNOR,

Defendants-Appellees.

UNPUBLISHED

March 20, 2007

No. 271276

Oakland Circuit Court

LC No. 2005-068289-CK

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Plaintiff, Leon Pedell, M.D., appeals as of right from the trial court's order granting summary disposition to defendants. On appeal, plaintiff argues that the trial court (1) incorrectly applied the economic reality test to determine whether plaintiff was an employee or an independent contractor; (2) erred in granting summary disposition of plaintiff's breach of contract claims; (3) prematurely granted summary disposition in light of ongoing discovery; and (4) erred in granting summary disposition of plaintiff's interference with a business expectancy claim. Plaintiff also argues that his civil conspiracy claim should be reinstated upon the reinstatement of the other claims. We affirm.

I.

A.

Defendant Heartland Health Care Center, d.b.a. Georgian Bloomfield, Inc. (Georgian Bloomfield), is a nursing care institution operating a facility in Bloomfield Hills. Defendant HCR-Manor Care Services, Inc., owns and manages Georgian Bloomfield. Defendant Letty Azar is the administrator of Georgian Bloomfield. Defendant Kevin O'Connor is an attorney with HCR-Manor Care Services, Inc. Plaintiff is an internist specializing in hospital-based care of acutely-ill patients and in elder care medicine.

B.

In September 2004, after being recruited by Georgian Bloomfield, plaintiff became an attending physician at Georgian Bloomfield. Beginning in March 2005, plaintiff also became the medical director for Heath Care Retirement Corporation of America, d.b.a. Heartland Heath Care Center – Georgian Bloomfield, pursuant to an agreement signed by plaintiff and Azar which identified plaintiff as an independent contractor:

IV. INDEPENDENT CONTRACTOR STATUS

None of the provisions of this Agreement are intended to create (nor shall be deemed or construed to create) any relationship between the parties other than that of an independent entities [sic] contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the parties hereto . . . shall have authority to bind the other or shall be deemed or construed to be the agent, employee or representative of the other, except as may be specifically provided herein. Neither party, nor any employees or agents thereof, shall have any claim under this Agreement or otherwise against the other party for . . . employee benefits of any kind.

The agreement provided as follows regarding its term and termination:

VII. TERM; TERMINATION

This Agreement shall commence as of the date first set forth above and shall continue in full force and effect unless and until terminated by either the Medical Director [i.e., plaintiff] or the Center by written notice given to the other of them not less than thirty (30) days prior to the date upon which this Agreement is to terminate, whereupon this Agreement shall terminate in accordance with any such notice. . . .

All of plaintiff's income was paid to Leon Pedell, M.D., P.C.

On July 11, 2005, Azar sent an email to O'Connor stating: "I spoke with Linda [Neumann¹] today, we can move forward with the 30 day." Azar testified that she was asking O'Connor to move forward with terminating plaintiff, giving him his 30 day notice.

On July 12, 2005, Deborah Davis, R.N., the director of nursing, allegedly wrote an unauthorized "verbal order" (an order allegedly based on verbal instructions from plaintiff) at 12:00 noon for a psychiatry consult concerning a patient under plaintiff's care. Apparently, Davis rescinded this order and at 1:30 p.m., Davis called plaintiff and asked for approval to write

¹ According to defendants, Neumann was the regional director of operations. Plaintiff contends that Neumann was "the HCR Manor Care supervisor ultimately responsible for the decision to fire Dr. Pedell[.]"

a verbal order for a urinalysis. Plaintiff approved the order for urinalysis. Also on July 12, 2005, at 4:06 p.m., O'Connor sent an email to Azar regarding "Pendell termination," stating: "Attached is a draft letter to Dr. Pendell terminating the Medical Director Agreement. . . ."

The following day, July 13, 2005, plaintiff read the patient's chart and discovered that Davis had written a verbal order for a psychiatry consult, purporting to have been given by plaintiff at 12:00 noon even though Davis had not contacted him, and that at 1:30 p.m. on July 12, 2005, Davis had written another unauthorized verbal order canceling the psychiatry consult before ordering the urinalysis. Plaintiff was upset that Davis never advised him either of the issuance or canceling of the 12:00 noon psychiatry consult order.

Plaintiff asserts that because he believed Davis' conduct was illegal, he immediately reported Davis' conduct to Azar, who was on vacation, and that Azar promised to meet with plaintiff and Davis to discuss the issue on her return to the facility. Plaintiff testified that he had contacted the department of state government responsible for nursing and "was told by a supervisor that this [Davis's unauthorized order] was clearly outside the scope of nursing practice" This phone call to the state occurred on July 13, 2005.

According to plaintiff's written account, "On 7/20/05, Ms. Azar called me in and terminated me as medical director and as an attending physician." Plaintiff also stated: "Ms. Azar said to me in front of the corporate attorney present for that meeting, Kevin O'Connor, that the Noon order didn't matter because it was later cancelled." Plaintiff's later written account claimed that "[t]his action by Ms. Davis and condoned by Ms. Azar was clearly outside the scope of a nurse's licensure and requires investigation." A termination letter was handed to plaintiff at the July 20, 2005, meeting (although the letter was dated July 18, 2005).

There was also a quality care meeting on July 20, 2005, and plaintiff later prepared notes about items he would have discussed at that meeting had he not been fired before he could attend it. Plaintiff prepared the notes on November 20, 2005. The topics in his November 20, 2005, notes were topics that plaintiff was going to discuss from memory. Issues identified in plaintiff's notes included answering call lights and patient care, an "outbreak" of a Norwalk virus gastroenteritis in January and February 2005

Azar testified that plaintiff was terminated because he failed to meet certain "professional standards." Specifically, plaintiff had called the home of an employee who had been terminated, and teased her about why her job duties weren't being carried out that day. Plaintiff also had a confrontation with a nurse named Dee Falconer, during which plaintiff raised his voice and told Falconer to shut up." In addition, plaintiff had discussions about the job duties and compensation of another nurse, he encouraged this nurse to approach Azar to complain that the compensation was unfair. Azar considered this an inappropriate topic of discussion between the medical director and the employee team.

After plaintiff's termination, O'Connor told an attorney who had used plaintiff as an expert witness on medical malpractice actions about plaintiff's change in employment status, i.e., that plaintiff was "no longer at Georgian Bloomfield[.]" Plaintiff was not aware of other specific conversations or whether any disparaging remarks were made about him by defendants.

C.

Plaintiff filed the instant action, alleging (1) violation of the Whistleblowers' Protection Act (WPA), MCL 15.361 et seq.; (2) concert of action (civil conspiracy); (3) breach of contract; (4) breach of contract (sic); (5) invasion of privacy; (6) business defamation; and (7) tortious interference with economic expectancy.

Following discovery, defendants filed a motion for summary disposition, arguing that there is no genuine issue of material fact for a jury to decide, and that they are entitled to judgment as a matter of law. Defendants argued that: (1) plaintiff is not an employee under the WPA; (2) there is no causal connection between the protected activity and the discharge; (3) the breach of contract claims lack merit because plaintiff was terminable at will; (4) plaintiff cannot claim an expectancy of privacy with respect to information that he himself circulated to numerous individuals and firms; (5) the statements to Hessburg that plaintiff was no longer employed at Georgian Bloomfield were true, and truth is a defense to the defamation claim; (6) plaintiff did not have a realistic expectation of future economic benefit, because plaintiff had no reasonable expectancy to see the patients at Georgian Bloomfield if he was terminated from an at-will relationship; and (7) because no actionable tort was committed, the concert of action claim must also fail.

Plaintiff thereafter filed a "motion to compel opportunity for re-deposition of defendant Kevin O'Connor and Defendant Letty Azar or in the alternative, to strike Exhibit J and Exhibit K from the Defendants' motion for summary disposition and any consideration of those exhibits by the court." Plaintiff argued that defendants asserted the attorney-client privilege in the depositions, and then waived that privilege by attaching the July 11 email from O'Connor to Azar and the July 12 email from Azar to O'Connor regarding plaintiff's termination.

Plaintiff also opposed defendants' motion for summary disposition, arguing that he was defendant's employee when he was fired, that he was fired because he was unable and unwilling to cooperate in the financial exploitation of the patients, that defendants created phony reasons for firing plaintiff, that there was an unwritten expectation and reliance upon an implied duty of good faith as a term of the contract, that defendants had asserted attorney-client privilege in discovery and then selectively waived attorney-client privilege in their motion, that the business defamation claim has merit because O'Connor communicated negative information to Hessburg, and that the tortious interference with business expectancy claim has merit because defendants committed unreasonable interference with plaintiff's economic expectations arising out of specific relationships.

In reply, defendants argued that plaintiff failed to meet his evidentiary burden in opposing summary disposition, and moreover, that Michigan law does not recognize an implied covenant of good faith and fair dealing in cases involving at-will employment, citing *Hammond v United of Oakland, Inc*, 193 Mich App 146; 483 NW2d 652 (1991). In response to plaintiff's motion to compel, defendants argued that the attorney-client privilege had not been waived by the disclosure of the emails between Azar and O'Connor. Thereafter, plaintiff supplemented his response to defendant's summary disposition motion, asserting again that issues of fact precluded summary disposition. Defendants responded to plaintiff's supplemental brief by again asserting that "no evidence whatsoever has been provided by plaintiff to establish that Dr. Pedell ever indicated his intention to report the issue of psychiatric consultations or anything else to a

‘public body’ prior to July 11, 2005 (the date the decision was made to terminate Dr. Pedell’s status . . .).”

Following oral arguments on the motion for summary disposition, the trial court, citing *Chilingirian v City of Fraser*, 194 Mich App 65, 69-70; 486 NW2d 347 (1992), for the proposition that the economic reality test is used to determine whether a person is an employee under the WPA, concluded that plaintiff was not an employee of the corporate defendants, and that the claim under the WPA should be dismissed. The trial court dismissed the breach of contract counts on the basis that plaintiff failed to establish that he was anything other than an at-will employee, granted dismissal of the invasion of privacy and defamation claims on the grounds that plaintiff established no right of privacy that would preclude disclosure of his termination, that he was not aware of any disparaging remarks made about him by defendants, and that he had also informed people about his termination.

The trial court also granted summary disposition of the claim of tortious interference with an advantageous business relationship. The trial court reasoned that plaintiff provided no factual source for the facts alleged, and that plaintiff had not shown that he had an expected business relationship for continuing to treat patients at the facility. Finally, the trial court dismissed the concert of action claim, because plaintiff did not show that a civil conspiracy to accomplish a criminal or unlawful purpose existed, and because no actual tort had been committed. The trial court declined to rule on the pending motion for re-discovery, since the ruling granted summary disposition on favor of defendants rendered the other pending motions moot.

II.

This Court reviews summary dispositions de novo. *Brown v Mayor of Detroit*, 271 Mich App 692, 705; 723 NW2d 464 (2006). A motion filed under MCR 2.116(C)(10) tests the factual support for a claim, *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003), and should be granted when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Miller v Purcell*, 246 Mich App 244, 246; 631 NW2d 760 (2001). When the burden of proof at trial would rest on the nonmoving party, the nonmovant may not rely on mere allegations or denials in the pleadings, but must, by documentary evidence, set forth specific facts showing that there is a genuine issue for trial. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). A genuine issue of material fact exists when the record, viewed in the light most favorable to the nonmoving party, leaves open an issue on which reasonable minds could differ. *West v General Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003). When deciding a motion for summary disposition under MCR 2.116(C)(10), a court must consider the pleadings, affidavits, depositions, admissions, and other documentary evidence filed in the action. MCR 2.116(G)(5); *Ritchie-Gamester v City of Berkley*, 461 Mich 73, 76; 597 NW2d 517 (1999). But such materials “shall only be considered to the extent that the[y] . . . would be admissible as evidence . . .” MCR 2.116(G)(6).

III.

A.

The WPA provides:

An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action. [MCL 15.362 (emphasis added).]

There are three elements to a prima facie case under the WPA: “(1) that plaintiff was engaged in protected activities as defined by the act; (2) that plaintiff was subsequently discharged, threatened, or otherwise discriminated against; and (3) that a causal connection existed between the protected activity and the discharge, threat, or discrimination.” *Brown, supra* at 706 (internal quotation marks and citations omitted). “Protected activity” refers to (1) reporting to a public body a violation of a law, regulation or rule, (2) being about to report such a violation to a public body, or (3) being asked by a public body to participate in an investigation. MCL 15.362.

A nonreporting employee must establish that he was about to report a violation or a suspected violation by clear and convincing evidence. MCL 15.363(4). When considering claims under the WPA, this Court applies the burden-shifting analysis used in retaliatory discharge claims under the Civil Rights Act, MCL 37.2101 *et seq.* *Roulston v Tendercare (Michigan), Inc.*, 239 Mich App 270, 280-281; 608 NW2d 525 (2000). If the plaintiff has successfully proved a prima facie case under the WPA, the burden shifts to the defendant to articulate a legitimate business reason for the plaintiff’s discharge. *Id.* If the defendant produces evidence establishing the existence of a legitimate reason for the discharge, the plaintiff then has the opportunity to prove that the legitimate reason offered by the defendant was not the true reason, but was only a pretext. *Id.*

Although the trial court applied the economic reality test to determine whether the corporate defendants were plaintiff’s employer, the WPA contains its own definitions of “employer” and “employee.” “Employer” is defined as “a person who has 1 or more employees. Employer includes an agent of an employer . . .” MCL 15.361(b). “Employee” is defined as “a person who performs a service for wages or other remuneration under a contract for hire, written or oral, express or implied.” MCL 15.361(a). A “contract for hire” is:

a legal term of art consonant with the term employee but not broad enough to include professionals who work as independent contractors. [For example, a]n attorney representing a client by retainer of some type has not agreed to work under a “contract for hire,” but rather has agreed to perform professional services as an independent contractor for a specific sum or under a method of calculating a specific sum. [*Chilingirian v City of Fraser (On Remand)*, 200 Mich App 198, 199; 504 NW2d 1 (1993) (“*Chilingirian II*”).]

The “economic reality test” is used² to determine whether a person is an employee or an independent contractor. *Chilingirian v City of Fraser*, 194 Mich App 65, 69; 486 NW2d 347 (1992), remanded 442 Mich 874 (1993) (“*Chilingirian I*”). The economic reality test looks to the totality of the circumstances, including: “(1) control of a worker’s duties; (2) payment of wages; (3) right to hire, fire, and discipline, and (4) performance of the duties as an integral part of the employer’s business toward the accomplishment of a common goal.” *Id.*

First, viewed most favorably to plaintiff, the evidence indicates that plaintiff’s duties were not subject to defendants’ control. There is no evidence in the record that plaintiff, in his capacity either as medical director or attending physician, was subject to the control of defendants. Rather, plaintiff exercised independent medical judgment in treating patients.

Second, there is no evidence that defendants paid plaintiff wages. Rather, plaintiff billed Medicare directly for his professional services in treating residents of Georgian Bloomfield. As medical director, plaintiff received not wages but flat fees from Georgian Bloomfield in the amount of \$1,700 per month. The fees were paid to plaintiff’s corporation, not directly to plaintiff.

Third, viewing the evidence most favorably to plaintiff, the corporate defendants did have the right to hire and fire plaintiff, but there is a lack of evidence that they had the right to discipline him in his work. Thus, this factor may be viewed as neutral.

Fourth, plaintiff’s duties do appear to have been an integral part of the accomplishment of common goals, to wit: providing care and treatment to residents of Georgian Bloomfield. Thus, the fourth factor favors the finding that plaintiff was an employee.

The first two factors favor the finding that plaintiff was an independent contractor. Only one factor favors the finding that plaintiff was an employee. Therefore, the totality of the circumstances favors the finding that plaintiff was an independent contractor and not an employee as that term is defined by the WPA. Because the trial court correctly found that plaintiff was not an employee, plaintiff cannot establish a prima facie case, and the trial court correctly granted summary disposition of the WPA claim.

B.

“Employment contracts for an indefinite duration are presumptively terminable at the will of either party for any reason or for no reason at all.” *Rood v Gen Dynamics Corp*, 444 Mich 107, 116; 507 NW2d 591 (1993). “However, an exception has been recognized to that rule, based on the principle that some grounds for discharging an employee are so contrary to public policy as to be actionable.” *Suchodolski v Michigan Consolidated Gas Co*, 412 Mich 692, 695;

² Plaintiff admits in his brief that the economic reality test factors must be applied to determine whether an employment relationship exists. Plaintiff extensively applies the economic reality test in his brief. Plaintiff does not argue in his brief that application of the economic reality test was itself erroneous.

316 NW2d 710 (1982). Courts have recognized that there is an implied prohibition on “retaliatory discharges when the reason for the discharge was the employee’s exercise of a right conferred by a well-established legislative enactment.” *Id.* at 696.

In *Suchodolski*, our Supreme Court recognized three situations where the discharge is so contrary to public policy as to be actionable though the employment is at will. The three public policy exceptions to the at-will doctrine apply when (1) the employee is discharged in violation of an explicit legislative statement prohibiting discharge of employees who act in accordance with a statutory right or duty, (2) the employee is discharged for the failure or refusal to violate the law in the course of employment, and (3) the employee is discharged for exercising a right conferred by a well-established legislative enactment. [*Edelberg v Leco Corp*, 236 Mich App 177, 180; 599 NW2d 785 (1999), citing *Suchodolski, supra* at 695-696.]

Here, as concluded above, plaintiff was an independent contractor and not an employee. The public policy exception is an exception to the general rule that “[e]mployment contracts . . . are presumptively terminable at the will of either party” *Rood, supra* at 116 (emphasis added). Thus, the public policy exception is an exception to the general rule that *employees* are terminable at will. *Suchodolski, supra; Rood, supra*. The public policy exception cannot apply to independent contractors, because independent contractors are, by definition, not employees. *Suchodolski, supra* at 695. Therefore, the public policy exception does not apply to plaintiff.

C.

Plaintiff’s invasion of privacy and defamation claims were also properly dismissed. In order to maintain an action for false-light invasion of privacy, a plaintiff must show that the defendant broadcast to the public in general, or to a large number of people, information that was unreasonable and highly objectionable by attributing to the plaintiff characteristics, conduct, or beliefs that were false and placed the plaintiff in a false position. *Porter v Royal Oak*, 214 Mich App 478, 486-487; 542 NW2d 905 (1995). As this definition implies, truth is a defense to this claim. *Id.* at 478.

Similarly, the elements of a defamation claim are: “(1) a false and defamatory statement concerning the plaintiff, (2) an unprivileged communication to a third party, (3) fault amounting at least to negligence on the part of the publisher, and (4) either actionability of the statement irrespective of special harm (defamation per se) or the existence of special harm caused by publication.” *Mitan v Campbell*, 474 Mich 21, 24; 706 NW2d 420 (2005).

If summary disposition is granted before discovery on a disputed issue is complete, it is generally considered premature. *Oliver v Smith*, 269 Mich App 560, 567; 715 NW2d 314 (2006). However, the mere fact that discovery is incomplete does not preclude summary disposition. *Van Vorous v Burmeister*, 262 Mich App 467, 476-477; 687 NW2d 132 (2004). The nonmoving party must present some independent evidence that a genuine issue of material fact exists. *Id.* Summary disposition may be granted before the end of discovery if further discovery does not stand a reasonable chance of uncovering factual support for the opposing party’s position. *Trentadue v Buckler Automatic Lawn Sprinkler Co*, 266 Mich App 297, 306; 701 NW2d 756 (2005).

There is no dispute regarding what O'Connor said to Hessburg. Plaintiff testified that O'Connor told Hessburg about plaintiff's change in employment status, i.e., that plaintiff was "no longer at Georgian Bloomfield[.]" Plaintiff also testified that he did not know whether any disparaging remarks were made about him. It is also undisputed that plaintiff himself disclosed his change in employment status to various individuals and firms who contacted him to do work as an expert witness. Plaintiff also disclosed his change in employment status to prospective employers he contacted. In light of the foregoing, discovery does not stand a reasonable chance of uncovering factual support for plaintiff's position with respect to the defamation claim. Plaintiff cannot sue in defamation for disclosure of a true fact that plaintiff himself disclosed many times. *Mitan, supra* at 24 (there must be a false statement for a defamation claim). Therefore, the trial court did not prematurely grant summary disposition even though plaintiff had a motion to compel redeposition of certain witnesses.

Plaintiff also contends that defendants improperly asserted, in depositions, the attorney-client privilege, and then selectively waived the attorney-client privilege in their motion for summary disposition. Plaintiff argues that it is not clear what O'Connor told Hessburg because defendants claimed attorney-client privilege at O'Connor's deposition with respect to that conversation.

This argument lacks merit. While O'Connor told Hessburg about plaintiff's change in employment status, the emails between Azar and O'Connor (the July 11 email from Azar and the July 12 email from O'Connor) were the only conversations disclosed in discovery. Defendant's disclosure of communications between Azar and O'Connor does not constitute a waiver of any privilege *with respect to the conversation between O'Connor and Hessburg*. In any event, since O'Connor's statement to Hessburg, that plaintiff's employment status at Georgian Bloomfield had changed was true, Plaintiff does not have a sustainable invasion of privacy or defamation claim because truth is a defense to such claims. *Porter, supra* at 478; *Mitan, supra* at 24.

For the foregoing reasons, the trial court correctly held that summary disposition could be granted even though discovery was allegedly incomplete, and correctly granted summary disposition of the invasion of privacy and defamation claims.

D.

Plaintiff's claim for interference with a business expectancy was also properly dismissed. In *PT Today, Inc v Comm'r of Office of Financial & Ins Services*, 270 Mich App 110, 148; 715 NW2d 398 (2006), this Court described the elements of this claim:

The elements of tortious interference with a business relationship or expectancy are (1) the existence of a valid business relationship or expectancy, (2) knowledge of the relationship or expectancy by the interferer, (3) an intentional and wrongful interference inducing or causing a breach or termination of the relationship or expectancy, and (4) resultant damage to the party whose relationship or expectancy was disrupted. [Citation omitted.]

Winiemko v Valenti, 203 Mich App 411, 416; 513 NW2d 181 (1994), also describes the elements of a tortious interference with a business relationship or expectancy:

The basic elements which establish a prima facie tortious interference with a business relationship are the existence of a valid business relation (not necessarily evidenced by an enforceable contract) or expectancy; knowledge of the relationship or expectancy on the part of the interferer; an intentional interference inducing or causing a breach or termination of the relationship or expectancy; and resultant damage to the party whose relationship or expectancy has been disrupted. One is liable for commission of this tort who interferes with business relations of another, both existing and prospective, by inducing a third person not to enter into or continue a business relation with another or by preventing a third person from continuing a business relation with another. [Internal quotation marks and citations omitted.]

One who alleges tortious interference with a contractual or business relationship must allege the intentional doing of a per se wrongful act or the doing of a lawful act with malice and unjustified in law for the purpose of invading the contractual rights or business relationship of another. *Badiee v Brighton Area Schools*, 265 Mich App 343, 367; 695 NW2d 521 (2005) (quotation marks and citations omitted). A wrongful act per se is an act that is inherently wrongful or an act that can never be justified under any circumstances. *Id.* (quotation marks and citations omitted). If the defendant's conduct was not wrongful per se, the plaintiff must demonstrate specific, affirmative acts that corroborate the unlawful purpose of the interference. *Id.* (quotation marks and citations omitted).

Here, plaintiff lacks evidence that defendants' *intentionally* interfered with plaintiff's business expectancies, as required. *Winiemko, supra* at 416. Even if the other elements of this claim are satisfied, plaintiffs do not cite evidence that when defendants fired plaintiff, they did so in order to interfere with his business expectancies. On the contrary, the evidence suggests that when defendants fired plaintiff, they did so because of behavior they considered unprofessional. There is insufficient evidence to raise a genuine issue of material fact in regard to this element. Further, there is insufficient evidence that defendants' action in terminating their relationships with plaintiff was "wrongful," as required. *PT Today, Inc, supra* at 148. Rather, defendants were entitled to terminate their relationships with plaintiff because they were at-will relationships. Accordingly, the trial court did not err in granting summary disposition of this claim.

E.

A civil conspiracy is a combination of two or more persons, by some concerted action, to accomplish a criminal or unlawful purpose, or to accomplish a lawful purpose by criminal or unlawful means. *Advocacy Org for Patients & Providers v Auto Club Ins Ass'n*, 257 Mich App 365, 384; 670 NW2d 569 (2003) (quotation marks and citation omitted). However, a claim for civil conspiracy requires proof of a separate, underlying actionable tort. *Id.* Here, because plaintiff's tort claims were properly dismissed, plaintiff's civil conspiracy claim was also correctly dismissed. *Advocacy Org for Patients & Providers, supra* at 384.

IV.

The trial court correctly granted summary disposition of plaintiff's claims.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Kurtis T. Wilder