

which could have revoked her nursing license if the alleged abuse had been substantiated.

{¶ 3} After losing her job, plaintiff filed an application for unemployment benefits, which CPH challenged. The Unemployment Compensation Board of Review found that plaintiff was unfairly terminated and granted her application for benefits. Plaintiff also filed a grievance and participated in arbitration proceedings in December 2000. The arbitrator ruled, in February 2001, that plaintiff had been unfairly terminated. It was ordered that she be reinstated with back pay; however, it was also recommended that a written reprimand be placed in plaintiff's file for failing to properly chart the February incident. Finally, the Nursing Board looked into the matter and elected to drop its investigation.

{¶ 4} Prior to the alleged incident, plaintiff consistently received positive employee evaluations, and she was never subjected to discipline for any other reason. Although the arbitrator ordered that she be reinstated, plaintiff testified that she was too humiliated to return to CPH. She stated that, among other things, she felt that she had lost the respect of her peers; that she could no longer be an effective supervisor without the confidence of her co-workers; and that she would always fear that the persons who had wanted her prosecuted could start the whole process again. Instead, plaintiff continued to work at Mt. Carmel East Hospital in Columbus, Ohio, where she had commenced employment in October 2000. The Mt. Carmel position paid approximately \$15 less per hour than her job at CPH, and did not include the medical or retirement benefits that she had enjoyed through her state employment with CPH.

{¶ 5} Plaintiff is seeking an award of general damages in the amount \$50,000 to compensate her for her mental anguish and suffering, plus pecuniary damages in the amount of \$20,000 per year for 15 years to compensate her for the difference in her salary and benefits up to the date of her retirement. In contrast, defendant urges this court to award plaintiff only nominal damages, in the amount of \$25, to compensate her for the filing fee that she paid to commence this action.

{¶ 6} Upon review of the evidence, and the arguments of counsel, the court makes the following determination.

{¶ 7} At the outset, the court is mindful that malicious prosecution actions are not favored by the law. Cases abound on the subject of excessiveness and/or inadequacy of damages awarded for such actions. This is true because of the strong public policy in favor of uncovering crime and bringing criminals to justice. See, generally, Annotation, Excessiveness or Inadequacy of Compensatory Damages for Malicious Prosecution (2004), 50 A.L.R. 4th 843. In light of such concerns, courts are necessarily reluctant to impose large damages awards against persons who may only have been attempting to perform their "civic duty." Id.

{¶ 8} In the instant case, the court finds that the facts differ from those types that public policy generally militate against. Here, the charges against plaintiff occurred in the scope of her employment; they were made by a mentally ill patient whose credibility was questionable, at best; the evidence against plaintiff was conflicting; and she had never been accused of any incident of this nature in her many years of service as a

psychiatric nurse. In short, this was not a situation where an ordinary citizen observes or suspects that another is involved in criminal activity. However, the court also recognizes that plaintiff was never arrested, summoned into court, or put through the expense and trauma of a public trial. In any event, the court has found that plaintiff proved each and every element of her claim; thus, she is entitled to damages.

{¶ 9} "A prevailing plaintiff in an action of malicious prosecution may recover all such damages as are the natural and probable consequences of the action complained of, whether such action is for the wrongful prosecution of a civil or a criminal proceeding, and the damages recoverable in such an action should be commensurate with the injury sustained by reason of such prosecution." 45 Ohio Jurisprudence §133 False Imprisonment and Malicious Prosecution (3d Ed.), 2003. Additionally, a prevailing plaintiff "may ordinarily recover for any financial loss resulting to [her] directly from the prosecution, such as *** loss of employment or wages." Id.

{¶ 10} The court is persuaded that plaintiff was thoroughly humiliated by the allegations and the ongoing processes to which she was subjected; that her reputation and standing in her community suffered; and that the consequences of the entire series of events were far more devastating and pervasive than defendant's counsel suggests. Given the nature of the allegation, and the fact that it occurred in the course of her professional responsibilities, the court is further persuaded that this amount claimed is not excessive. Based upon the totality of the evidence presented, and considering plaintiff's candid, credible testimony,

the court finds that damages in the amount of \$50,000 are reasonable as compensation for plaintiff's mental anguish and suffering.

{¶ 11} With respect to plaintiff's lost wages and benefits, the evidence was sufficient to suggest a \$20,000 per year comprehensive difference. The court does not find that plaintiff failed to mitigate this loss by electing not to return to CPH after the arbitrator ruled that she be reinstated. Defendant's argument in that regard was simply without merit. However, the court does struggle with the reasonableness of the per-year difference occurring up to the date of plaintiff's retirement. Indeed, in its liability decision, this court stated that: "there is nothing in plaintiff's employment record to indicate that she had ever been anything other than a consummate professional and devoted employee." In light of plaintiff's impressive work record and her overall personality, intelligence, and demeanor on the witness stand, the court is not persuaded that her career prospects will always fall behind what she enjoyed in state employment. Accordingly, the court finds that \$100,000 (\$20,000 per year for a five-year period) is reasonable compensation for the time period it is likely to take for plaintiff to advance to the earnings and benefits level that she had at CPH.

{¶ 12} For these reasons, judgment shall be rendered in favor of plaintiff in the amount of \$150,025, which includes the \$25 filing fee which she incurred to commence this action.

PATRICIA FROEHLICH

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Plaintiff

:

CASE NO. 2001-08129
Judge J. Warren Bettis

v.

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JUDGMENT ENTRY

STATE OF OHIO, DEPARTMENT OF
MENTAL HEALTH, etc.

:

:

Defendant

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This case was tried to the court on the issue of plaintiff's damages. The court has considered the evidence and, for the reasons set forth in the decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$150,025, which includes the \$25 filing fee paid by plaintiff. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

J. WARREN BETTIS
Judge

Entry cc:

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JUDGMENT ENTRY

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