

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**SUSIE ANNIE BALFOUR a/k/a
SUSAN ANN BALFOUR**

PLAINTIFF

VS.

CIVIL ACTION NO. 3:24-CV-00093-KHJ-MTP

**JACKSON HMA, LLC dba
MERIT HEALTH CENTRAL, et al.**

DEFENDANTS

**DEFENDANTS' YVONNE BARTON, KATRICE FUNCHESS,
IRISH HARRIS, AND LINDA NOLAN'S MOTION TO DISMISS**

COMES NOW Defendants, Yvonne Barton, Katrice Funchess, Irish Harris and Linda Nolan under Rule 12(b)(6) of the Federal Rules of Civil Procedure and file this, this their Motion to Dismiss, and in support would show unto the Court the following:

I.

Defendants Barton, Funchess, Harris and Nolan (herein after referred to collectively as "MDOC Defendants") are entitled to dismissal from this matter for two reasons: 1) the Amended Complaint fails to allege sufficient facts showing the MDOC Defendants' personal involvement with any alleged violation of Plaintiff's Eighth Amendment rights; and 2) the Amended Complaint does not allege or demonstrate deliberate indifference on behalf of the MDOC Defendants. Thus, the MDOC Defendants are entitled to qualified immunity.

II.

Balfour, a former inmate at the Mississippi Department of Corrections ("MDOC"), alleges that Yvonne Barton, Katrice Funchess, Irish Harris and Linda Nolan

were responsible for providing medical treatment and care to individuals in the custody of MDOC, and thus they were responsible for Ms. Balfour's medical care. However, Plaintiff does not make any the MDOC Defendants in their individual capacities. Rather, Plaintiff claims that Defendants Wexford, Centurion and/or Vital Corp are vicariously liable for the "negligent acts and omissions of its agents." Based on these facts alone, and for the reasons more fully discussed in the accompanying Memorandum of Authorities, the Defendants are entitled to qualified immunity as there are no facts that would show that they are individually liable for violating Balfour's clearly establish constitutional rights.

III.

In support of the instant Motion to Dismiss, Defendants rely on the following:

- Memorandum of Authorities in Support of Motion to Dismiss
- All pleadings previously filed herein.

WHEREFORE PREMISES CONSIDERED, Defendants respectfully requests that this Court dismiss this action pursuant to Rule 12(b)(6).

RESPECTFULLY SUBMITTED, this the 26th day of November 2024.

**YVONNE BARTON, KATRICE
FUNCHESS, IRISH HARRIS and LINDA
NOLAN, Defendants**

BY: LYNN FITCH
Attorney General of Mississippi

/s/ Claire Barker
Claire Barker, MSB #101312
Special Assistant Attorney General

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the ECF system which provided notice to all counsel of record.

This, the 26th day of November 2024.

/s/ Claire Barker
Claire Barker