

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

CIVIL ACTION NO. 1:23-CV-00523

LILLIAN BERNIER,
Plaintiff

v.

TURBOCAM, INC., HEALTH PLANS, INC., &
HARVARD PILGRIM HEALTH CARE OF NEW ENGLAND,
Defendants

DEFENDANT, TURBOCAM, INC.’S MOTION TO DISMISS PLAINTIFF’S COMPLAINT

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant, Turbocam, Inc. (“Turbocam”), moves to dismiss Plaintiff, Lillian Bernier’s (“Bernier”) Complaint for failure to state a claim. As set forth in Turbocam’s accompanying memorandum of law in support of this motion, Plaintiff’s motion should be dismissed because: (1) Turbocam’s health plan’s exclusion for “gender dysphoria treatment” does not discriminate “because of sex,” as it applies equally to all employees, regardless of sex, and the exclusion is just one of many other surgical and treatment exclusions in the plan; and (2) Bernier neither alleges facts nor argues that her diagnosis of gender dysphoria was the result of a physical impairment.

WHEREFORE, Defendant, Turbocam, Inc. respectfully requests that this Honorable Court order and direct that:

- A. Defendant, Turbocam, Inc.’s Motion to Dismiss is granted;
- B. Plaintiff’s Complaint is dismissed with prejudice; and
- C. Defendant, Turbocam, Inc. be granted such additional relief as may be proper and just.

WHEREFORE, for all the foregoing reasons, Defendant, Turbocam, Inc. respectfully requests that this Court dismiss Counts I-V pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,
Turbocam, Inc.,
By its attorney,

/s/ Bethany P. Minich

February 29, 2024

Bethany P. Minich, N.H. Bar # 265413
Litchfield Cavo LLP
6 Kimball Lane, Suite 200
Lynnfield, MA 01940
(781) 309-1500
minich@litchfieldcavo.com

CERTIFICATE OF SERVICE

I, Bethany Minich, hereby certify that on February 29, 2024, the foregoing document, filed through the CM/ECF System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Bethany P. Minich

Bethany Minich