

IN THE CIRCUIT COURT OF BUCHANAN COUNTY, MISSOURI

DEBBIE D. JACKSON)
30069 E State Highway CC)
Ridgeway, MO 64481)

Plaintiff,)

v.)

HEARTLAND REGIONAL)
MEDICAL CENTER d/b/a MOSAIC)
LIFE CARE,)
5325 Faraon St.)
St. Joseph, MO 64506)
(Serve: John P. Wilson)
5325 Faraon St.)
St. Joseph, MO 64506))

Case No.

and)

PLASTIC SURGERY CENTER OF)
ST. JOSEPH, INC.)
Serve: Barbara Braznell)
Registered Agent)
2902 Frederick)
St. Joseph, MO 64506)

Division No.

MICHAEL DEPRIEST, M.D.)
Serve at work:)
2111 North Woodbine Road)
St. Joseph, MO 64506)

and)

JANE JONES, D.O)
Serve at work:)
5325 Faraon St.)
St. Joseph, MO 64506)

Defendants.)

PETITION FOR DAMAGES

Comes now plaintiff Debbie D. Jackson, by and through counsel, and for her cause of action states and alleges as follows:

1. Plaintiff is an individual residing in Ridgeway, Missouri. Plaintiff brings this lawsuit for medical negligence. Following breast, abdominal and eyelid plastic surgery performed on May 31, 2017, Ms. Jackson woke up with pain, numbness, paralysis, loss of use and damage to her right leg, ankle and foot which continues to this day.
2. The tortious acts and omissions involved in this case first occurred in Buchanan County, Missouri. Jurisdiction and venue are proper in Buchanan County, Missouri.
3. Defendant Heartland Regional Medical Center d/b/a Mosaic Life Care (“HRMC”) is a non-profit corporation duly organized and existing under the laws of the State of Missouri doing business at 5325 Faraon Street, St. Joseph, MO. At all times hereinafter mentioned and for many years past, defendant has engaged in operating a private hospital where persons afflicted with illness, disease and various medical conditions, for consideration paid by them, are given care and treatment including nursing treatment, and by virtue of state law and its accreditation status is required to staff and operate its hospital in accordance with standards promulgated by the state and by the Joint Commission. It has provided personnel, including physicians, nurses, care assistants and other persons, to work at the hospital facility, and has supervised the creation and implementation of nursing and care staff policies, procedures, and protocols utilized there. At all relevant times, defendant acted through its servants and agents, including its nursing staff, medical staff and administrators.

4. Plastic Surgery Center of St. Joseph, Inc. (“PSSJ”) is a for-profit corporation duly organized and existing under the laws of the State of Missouri doing business at 2111 North Woodbine Road, St. Joseph, MO. At all times hereinafter mentioned, defendant has engaged in operating a private plastic surgery center. At all relevant times, defendant acted through its servants and agents, including its nursing staff, medical staff and administrators.
5. Defendant Michael DePriest, M.D. (“DePriest”) is and was at all times hereinafter mentioned a licensed physician in the practice of medicine, representing and holding himself out to the public, and in particular to Debbie Jackson, as a specialist in the field of plastic surgery. On information and belief, at all relevant times, he was employed by PSSJ as its servant and agent, and acted within the course and scope of his duties as PSSJ’s employee, servant and/or agent.
6. Defendant Jane Jones, D.O. (“Jones”) is and was at all times hereinafter mentioned a licensed physician in the practice of medicine, representing and holding herself out to the public, and in particular to Debbie Jackson, as a specialist in the field of anesthesiology. On information and belief, at all relevant times, she was employed by Heartland as its servant and agent or was allowed to practice her specialty Heartland’s facilities, and acted within the course and scope of her duties as Heartland’s employee, servant and/or agent.
7. At all relevant times, each defendant owed a duty to Debbie Jackson to use that degree of skill, care and learning ordinarily used by members of his/her/its respective profession under the same or similar circumstances.

8. On or about May 31, 2017 Debbie Jackson underwent bilateral breast reconstruction surgery to repair damage caused by bilateral breast cancer surgery; surgery for correction of abdominal wall laxity and hernias; and upper eyelid surgery.
9. On or about May 31, 2017, HRMC and/or PSSJ and/or DePriest and/or Jones had or should have had policies and procedures governing patient positioning and safety during and after operative procedures which required proper body positioning; uncrossed feet; arm positioning and securement; leg positioning and securement; presence and positioning of gel pads, boards and pillows; safety straps for thighs, legs and arms; body alignment; pressure point awareness and observation and body alignment observation. (the "Policy").
10. At all relevant times HRMC and/or PSSJ and/or DePriest and/or Jones and their employees and agents knew or should have known that failure to follow the policies and procedures set forth in paragraph 8 above (or to otherwise properly secure and monitor a patient's arms, legs, feet, positioning and securement during surgery) could result in compression or other serious injuries to patients during or after surgery including injuries to their legs, ankles and feet.
11. At all relevant times HRMC and/or PSSJ and/or DePriest and/or Jones and their employees and agents knew or should have known that failure to follow the policies and procedures set forth in paragraph 8 above (or to otherwise properly secure and monitor a patient's arms, legs, feet, positioning and securement during and after surgery) placed patients at higher risk of compression or other serious injuries to their body during and after surgery including their legs, ankles and feet.

12. HRMC and/or PSSJ and/or DePriest and/or Jones' aforesaid policies were or should have been put in place because HRMC and/or PSSJ and/or DePriest and/or Jones knew or should have known that the policy was necessary and appropriate to help keep patients safe by reducing the risk of compression or other serious injuries to their body during and after surgery including injuries to their legs, ankles and feet.
13. The doctors and/or nurses and/or assistants involved in Ms. Jackson's surgery and post-surgical care knew or should have known of the aforesaid policies during and after and Ms. Jackson's surgery.
14. The doctors and/or nurses and/or assistants involved in Ms. Jackson's surgery and post-surgical care knew or should have known that failing to properly secure and monitor Ms. Jackson's arms, legs, feet, positioning and securement during and after surgery would expose Ms. Jackson to a greater risk of compression or other serious injuries to her body during and after surgery including injuries to her legs, ankles and feet.
15. At some point either during or after the surgery, HRMC and/or PSSJ and/or DePriest and/or Jones and/or their employees or agents negligently and recklessly failed to properly secure and monitor Ms. Jackson's body and her right leg. When she woke up after the surgery Ms. Jackson had numbness, weakness and paralysis in her right leg, ankle and foot which has never healed. She has severe pain and limitations on the use of her right leg, ankle and foot which have required and will require additional medical treatment in the future.
16. Alternatively, HRMC and/or PSSJ and/or Depriest and/or Jones and their employees and agents negligently and carelessly put improper traction on Ms. Jackson during the surgery and caused damage to her right leg, angle and foot.

17. On June 2, 2017, DePriest saw Ms. Jackson and noted in the medical records: “Confused and stuporous. She does not follow commands. *Nurse alerted me to fact that she has sensory disturbance & weakness right leg.*”
18. On June 3, 2017, DePriest recognized that Ms. Jackson’s right leg injury could have been, “*due to traction on ilioinguinal or genitofemoral nerve with the abdominal repair.*”
19. At DePriest’s request, HRMC performed a neurology consultation with Dr. David Ewing. Dr. Ewing reported as follows: “Numbness and weakness in the right leg below the knee. The patient does not have foot drop, but rather has paralysis of the leg below the level of the knee. This would tend to indicate that she *probably had some compression in or about the knee, although it is not exactly clear how that occurred.*”
20. HRMC and/or PSSJ and/or DePriest and/or Jones and their employees or agents negligent failure to properly secure and monitor Ms. Jackson’s body and her right leg before, during or after the surgery or in placing improper traction on her body during the surgery directly caused or contributed to cause Ms. Jackson to be permanently and severely injured and to suffer pain, limited range of motion, embarrassment, and continued medication and medical care. The gross and reckless carelessness and negligence of HRMC and/or PSSJ and/or DePriest and/or Jones and their employees and agents directly caused or contributed to cause Ms. Jackson permanent injuries which have interfered with her daily life activities and will require in the future additional medication, medical devices and treatment.
21. HRMC and/or PSSJ and/or DePriest and/or Jones’ and their employees or agents aforesaid acts and omissions were outrageous and showed a complete indifference or reckless

disregard for the rights and/or safety of Ms. Jackson and other patients such that punitive damages should be awarded to punish them and deter them and others from like conduct.

22. Any limitations on damages for Defendants' negligence provided by R.S.Mo. § 538 et seq. as it existed when the negligent acts and omissions occurred are unconstitutional—having impermissible retroactive application, infringing Plaintiff's right to trial by jury and to equal protection under the law.

COUNT I – NEGLIGENCE - MEDICAL MALPRACTICE - HRMC

COMES NOW Plaintiff Debbie Jackson and for her cause of action for negligence - medical malpractice against Defendant HRMC states and alleges as follows:

23. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 22 of Plaintiff's Petition as if fully set forth herein.
24. Commencing on or about May 31, 2017, and continuing thereafter, defendant HRMC, by and through its servants, agents, employees and/or members, was negligent and failed to use that degree of skill and learning ordinarily used by members of the profession under the same or similar circumstances in one or more of the following respects:
- (a) failed to follow even minimum standards for properly securing and monitoring Ms. Jackson's body and her right leg before, during or after the surgery;
 - (b) placed improper traction on Ms. Jackson during the surgery and caused damage to her right leg, ankle and foot;
 - (c) failed to properly monitor and supervise staff to ensure they understood and followed the policies, procedures, guidelines or standards for securing and monitoring Ms.

Jackson's body, right leg and foot before, during or after the surgery or for not placing improper traction on her body.

25. On and after May 31, 2017, defendant HRMC failed to use that degree of skill and learning ordinarily used by members of its profession under the same or similar circumstances in one or more of the following respects:

(a) it failed to have and enforce adequate policies and procedures for properly securing and monitoring Ms. Jackson's (and other patients') body and her right leg before, during or after the surgery;

(b) it failed to have and enforce adequate policies and procedures for placing traction on Ms. Jackson (and other patients) during surgery and caused damage to her right leg, angle and foot.

(c) it failed to have adequately trained staff for treating and caring for Ms. Jackson.

26. The acts and omissions of Defendant Jones as HRMC's servant, agent and/or employee set forth below are incorporated herein by reference and are the acts and omissions of Defendant HRMC.

27. The negligent acts, omissions and conduct of the defendant as set out herein directly caused or contributed to cause Ms. Jackson damage and she continues to experience pain, discomfort, suffering and anguish; to incur additional medical bills and procedures; to be deprived of her capacity to enjoy life and will in the future require medications and medical treatment.

28. The acts and omissions of Defendant HRMC and its employees as set forth herein were grossly negligent and showed a complete indifference and/or reckless disregard for the

rights and/or safety of Ms. Jackson and others and, therefore, Plaintiff is entitled to punitive damages from Defendant to punish and deter Defendant and others from like conduct.

WHEREFORE, Plaintiff Debbie Jackson prays for judgment in her favor and against Defendant HRMC, for a fair and reasonable amount, in excess of \$25,000.00, together with costs incurred herein, for punitive damages and for such other and further relief as this Court may deem just and proper under the circumstances.

COUNT II – NEGLIGENCE - MEDICAL MALPRACTICE - PSSJ

COMES NOW Plaintiff Debbie Jackson and for her cause of action for negligence - medical malpractice against Defendant PSSJ states and alleges as follows:

29. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 22 of Plaintiff's Petition as if fully set forth herein.
30. Commencing on or about May 31, 2017, and continuing thereafter, defendant PSSJ, by and through its servants, agents, employees and/or members, was negligent and failed to use that degree of skill and learning ordinarily used by members of the profession under the same or similar circumstances in one or more of the following respects:
 - (a) failed to follow even minimum standards for properly securing and monitoring Ms. Jackson's body and her right leg before, during or after the surgery;
 - (b) placed improper traction on Ms. Jackson during the surgery and caused damage to her right leg, angle and foot;
 - (c) failed to properly monitor and supervise staff to ensure they understood and followed the policies, procedures, guidelines or standards for securing and monitoring Ms.

Jackson's body, right leg and foot before, during or after the surgery or for not placing improper traction on her body.

31. On and after May 31, 2017, defendant PSSJ failed to use that degree of skill and learning ordinarily used by members of its profession under the same or similar circumstances in one or more of the following respects:

(a) it failed to have and enforce adequate policies and procedures for properly securing and monitoring Ms. Jackson's (and other patients') body and her right leg before, during or after the surgery;

(b) it failed to have and enforce adequate policies and procedures for placing traction on Ms. Jackson (and other patients) during surgery and caused damage to her right leg, angle and foot.

(c) it failed to have adequately trained staff for treating and caring for Ms. Jackson.

32. The acts and omissions of Defendant Depriest as PSSJ's servant, agent and/or employee set forth below are incorporated herein by reference and are the acts and omissions of Defendant HRMC.

33. The negligent acts, omissions and conduct of the defendant as set out herein directly caused or contributed to cause Ms. Jackson damage and she continues to experience pain, discomfort, suffering and anguish; to incur additional medical bills and procedures; to be deprived of her capacity to enjoy life and will in the future require medications and medical treatment.

34. The acts and omissions of Defendant PSSJ and its employees and agents as set forth herein were grossly negligent and showed a complete indifference and/or reckless disregard for

the rights and/or safety of Ms. Jackson and others and, therefore, Plaintiff is entitled to punitive damages from Defendant to punish and deter Defendant and others from like conduct.

WHEREFORE, Plaintiff Debbie Jackson prays for judgment in her favor and against Defendant PSSJ, for a fair and reasonable amount, in excess of \$25,000.00, together with costs incurred herein, for punitive damages and for such other and further relief as this Court may deem just and proper under the circumstances.

COUNT III – NEGLIGENCE - MEDICAL MALPRACTICE - DePriest

COMES NOW Plaintiff Debbie Jackson and for her cause of action for negligence - medical malpractice against Defendant DePriest states and alleges as follows:

35. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 22 of Plaintiff's Petition as if fully set forth herein.
36. Commencing on or about May 31, 2017, and continuing thereafter, defendant DePriest, was negligent and failed to use that degree of skill and learning ordinarily used by members of his profession under the same or similar circumstances in one or more of the following respects:
 - (a) failed to follow even minimum standards for properly securing and monitoring Ms. Jackson's body and her right leg before, during or after the surgery;
 - (b) placed improper traction on Ms. Jackson during the surgery and caused damage to her right leg, angle and foot;
 - (c) failed to properly monitor and supervise staff to ensure they understood and followed the policies, procedures, guidelines or standards for securing and monitoring Ms.

Jackson's body and her right leg before, during or after the surgery or to for not placing improper traction on her body.

37. The negligent acts, omissions and conduct of the defendant as set out herein directly caused or contributed to cause Ms. Jackson damage and she continues to experience pain, discomfort, suffering and anguish; to incur additional medical bills and procedures; to be deprived of her capacity to enjoy life and will in the future require medications and medical treatment.

38. The acts and omissions of Defendant DePriest and his employees or agents as set forth herein were grossly negligent and showed a complete indifference and/or reckless disregard for the rights and/or safety of Ms. Jackson and others and, therefore, Plaintiff is entitled to punitive damages from Defendant to punish and deter Defendant and others from like conduct.

WHEREFORE, Plaintiff Debbie Jackson prays for judgment in her favor and against Defendant DePriest, for a fair and reasonable amount, in excess of \$25,000.00, together with costs incurred herein, for punitive damages and for such other and further relief as this Court may deem just and proper under the circumstances.

COUNT IV – NEGLIGENCE - MEDICAL MALPRACTICE - JONES

COMES NOW Plaintiff Debbie Jackson and for her cause of action for negligence - medical malpractice against Defendant JONES states and alleges as follows:

39. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 22 of Plaintiff's Petition as if fully set forth herein.

40. Commencing on or about May 31, 2017, and continuing thereafter, defendant Jones, was negligent and failed to use that degree of skill and learning ordinarily used by members of her profession under the same or similar circumstances in one or more of the following respects:

- (a) failed to follow even minimum standards for properly securing and monitoring Ms. Jackson's body and her right leg before, during or after the surgery;
- (b) placed improper traction on Ms. Jackson during the surgery and caused damage to her right leg, angle and foot;
- (c) failed to properly monitor and supervise staff to ensure they understood and followed the policies, procedures, guidelines or standards for securing and monitoring Ms. Jackson's body and her right leg before, during or after the surgery or to avoid placing improper traction on her body.

41. The negligent acts, omissions and conduct of the defendant as set out herein directly caused or contributed to cause Ms. Jackson damage and she continues to experience pain, discomfort, suffering and anguish; to incur additional medical bills and procedures; to be deprived of her capacity to enjoy life and will in the future require medications and medical treatment.

42. The acts and omissions of Defendant Jones and her employees or agents as set forth herein were grossly negligent and showed a complete indifference and/or reckless disregard for the rights and/or safety of Ms. Jackson and others and, therefore, Plaintiff is entitled to punitive damages from Defendant to punish and deter Defendant and others from like conduct.

WHEREFORE, Plaintiff Debbie Jackson prays for judgment in her favor and against Defendant Jones, for a fair and reasonable amount, in excess of \$25,000.00, together with costs incurred herein, for punitive damages and for such other and further relief as this Court may deem just and proper under the circumstances.

THE BIRD LAW FIRM, P.C.

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