

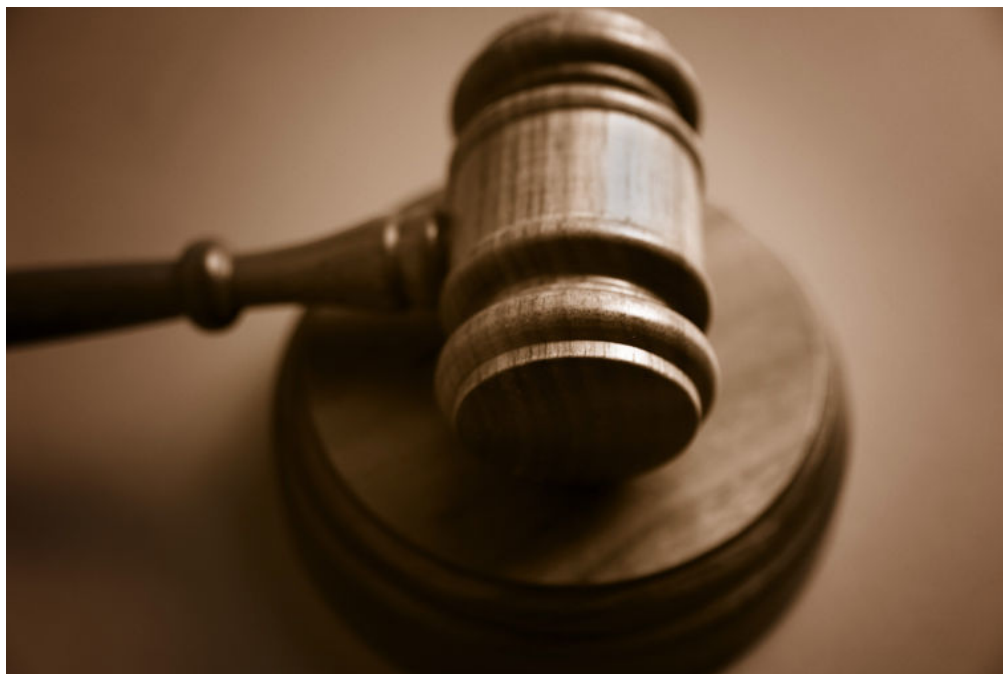
See Actual Lawsuit Attached

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TOP STORY

Malpractice lawsuit headed for 2019 trial

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A civil malpractice lawsuit filed by a Maryville, Missouri, man against Heartland Regional Medical Center, now known as Mosaic Life Care, will have a jury trial unless the two sides come to an agreement by a 2019 trial date.

William Chaney claims medical malpractice by Heartland, Dr. Norman Baade and nurse Jeanne Kerner.

Chaney was injured years before in a trench cave-in, and physicians had installed a morphine pump in his abdomen to assist him in controlling pain. On Dec. 1, 2016, Chaney went to Heartland's Pain Management clinic in order to receive a morphine refill for the pump, which would dispense the drug in measured amounts over time. The lawsuit alleges Kerner negligently injected the entire dosage into Chaney's body or the wrong reservoir in the pump.

The overdose and follow-up lifesaving efforts resulted in broken ribs, repeated strokes, a decline in his physical and mental condition and an extended medical treatment, long-term care and an inability to receive adequate pain relief.

"His pre-existing conditions worsened and he may, in fact, die from his injuries," stated William Bird, Chaney's attorney.

Chaney seeks an amount in excess of \$25,000 from each defendant, all costs, punitive damages and other relief the court deems appropriate.

Sean McGrevey, the attorney for the three defendants, filed an answer denying the allegations, claimed a U.S. Constitutional defense against aggravating circumstances and sought a dismissal of the lawsuit, which hasn't been granted.

Circuit Judge Daniel Kellogg has set the civil lawsuit for a jury trial on October 21, 2019.

Marshall White can be reached at marshall.white@newspressnow.com. Follow him on Twitter: @SJNPWhite.

Marshall White

IN THE CIRCUIT COURT OF BUCHANAN COUNTY, MISSOURI

WILLIAM R. CHANEY)
1101 E. 5th Street)
Maryville, MO 64468)

Plaintiff,)

v.)

Case No. _____)

HEARTLAND REGIONAL MEDICAL)
CENTER a/k/a MOSAIC LIFE CARE)
5235 Faraon St.)
St. Joseph, MO 64506)

Serve: Dwain Stilson)
Registered Agent)
5325 Faraon)
St. Joseph, MO 64501)

NORMAN F. BAADE, M.D.)
Serve at work:)

Mosaic Life Care at St. Joseph)
Pain Management)
802 North Riverside)
Heartland Plaza 1, Suite 100)
St. Joseph, MO 64507-2507)

JEANNE KERNER, R.N.)
Serve at work:)

Mosaic Life Care at St. Joseph)
Pain Management)
802 North Riverside)
Heartland Plaza 1, Suite 100)
St. Joseph, MO 64507-2507)

Defendants.)

PETITION FOR DAMAGES

Comes now plaintiff WILLIAM R. CHANEY, by and through counsel, and for his cause of action states and alleges as follows:

1. Plaintiff is an individual residing in Maryville, Missouri. Plaintiff brings this lawsuit for medical malpractice.

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 a/k/a Mosaic Life Care (“HRMC”) is a 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 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. Defendant Norman F. Baade, M.D. (“Baade”) 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 William Chaney, as a specialist in the field of pain management. At all relevant times, he was employed by HRMC as its servant and agent, allowed to practice his specialty in the Mosaic Life Care at St. Joseph Pain Management clinic, and acted within the course and scope of his duties as HRMC’s employee and agent.

5. On information and belief at all relevant times Defendant Baade was in charge of the St. Joseph Pain Management Clinic and responsible for the training, monitoring and oversight of nursing personnel including, but not limited to, Defendant Kerner in carrying out their duties

and providing services to patients including, but not limited to, Plaintiff William Chaney .

6. Defendant Jeanne Kerner, R.N. (“Kerner”) is and was at all times hereinafter mentioned a health care provider, representing and holding herself out to the public, and in particular to William Chaney, as competent care provider in the field of pain management. At all relevant times, she was employed by HRMC as its servant and agent, allowed to practice in the Mosaic Life Care at St. Joseph Pain Management clinic, and acted within the course and scope of her duties as HRMC’s employee and agent. On information and belief she was under the supervision of Defendant Baade at all relevant times.

7. At all relevant times, each defendant owed a duty to William Chaney 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 December 1, 2016, William R. Chaney presented to Heartland Regional Medical Center’s Pain Management clinic in St. Joseph, Buchanan County, Missouri. Many years prior he had been crushed in a trench cave-in and physicians had installed a morphine pump in his abdomen to help him control his pain. The office visit on or about December 1, 2016 (“Office Visit”) was for the purpose of re-filling his morphine pump with several months of morphine which the pump was supposed to meter out over time.

9. During the Office Visit, Defendant Kerner was the nurse responsible for monitoring Mr. Chaney’s morphine pump to make sure it was working properly and for re-filling the pump.

10. While Ms. Kerner was filling Mr. Chaney’s morphine pump, instead of getting the several-month supply of morphine placed into the proper reservoir in the pump, Ms. Kerner negligently and with reckless indifference to the safety of Mr. Chaney injected the entire,

several-month supply of morphine into Mr. Chaney's body either directly or through the wrong reservoir on the pump.

11. As a result, Mr. Chaney received the entire, several-month dose of morphine in a single-dose. He became unresponsive on the drive to his family physician's office as a direct result of the morphine overdose.

12. Mr. Chaney's family physician ran to his car and found Mr. Chaney unresponsive. She instituted life-saving measures and Mr. Chaney was life-flighted back to Heartland Regional Medical Center where he underwent numerous efforts to keep him alive.

13. The morphine overdose and follow-up life-saving efforts at Heartland cause substantial damage to Mr. Chaney's body as a whole precipitating pain and suffering, broken ribs, repeated strokes, decline in his physical and mental condition and an extended course of medical treatment, hospitalizations, removal from his home and family and placement in long term care facilities and an inability to receive adequate pain relief. As a direct and proximate result of the gross and reckless carelessness and negligence of the Defendants, Mr. Chaney's pre-existing conditions were worsened and exacerbated and he may in fact die from his injuries.

14. The limitations on damages for Defendants' negligence provided by R.S.Mo. § 538 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 William R. Chaney and for his cause of action for negligence - medical malpractice against Defendant HRMC states and alleges as follows:

15. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 14 of Plaintiff's Petition as if fully set forth herein.

16. Commencing on or about December 1, 2016, and continuing thereafter, defendant, by and through its employees, 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 morphine pump monitoring and refill;
- (b) failed to timely and properly monitor Mr. Chaney following the morphine pump refill and to identify the existence and cause of Mr. Chaney's overdose;
- (c) failed to properly train, monitor and supervise staff to ensure they understood and followed the policies, procedures, guidelines or standards for morphine pump monitoring and refill and patient care.

17. On and after December 1, 2016, defendant HRMC failed to use that degree of skill and learning ordinarily used by members of the hospital 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 morphine pump monitoring and refill;
- (b) it failed to have sufficient staff or adequate scheduling so that staff were not capable of properly attending to morphine pump monitoring and refill; and
- (c) it failed to have adequately trained staff for morphine pump monitoring and refill.

18. As a direct and proximate consequence of the acts, omissions and conduct of the defendant as set out herein, Mr. Chaney suffered damages and continues to experience pain and discomfort and incurred additional medical bills and has been deprived of his capacity to enjoy life, and experienced emotional pain, suffering and anguish.

19. The acts and omissions of Defendant HRMC and its employees as set forth herein

were aggravated and showed a complete indifference and/or reckless disregard for the rights and/or safety of Mr. Chaney and, therefore, Plaintiff is entitled to punitive damages from Defendant to punish and deter Defendant and others from like conduct.

WHEREFORE, Plaintiff William R. Chaney prays for judgment in his 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 - BAADE

COMES NOW Plaintiff William R. Chaney and for his cause of action for negligence - medical malpractice against Defendant Baade states and alleges as follows:

20. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 14 of Plaintiff's Petition as if fully set forth herein.

21. Commencing on or about December 1, 2016, and continuing thereafter, defendant Baade, 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 morphine pump monitoring and refill;
- (b) failed to timely and properly monitor Mr. Chaney following the morphine pump refill and to identify the existence and cause of Mr. Chaney's overdose;
- (c) failed to properly train, monitor and supervise staff to ensure they understood and followed the policies, procedures, guidelines or standards for morphine pump monitoring and refill and patient care.

22. On and after December 1, 2016, defendant Baade 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 have and enforce adequate policies and procedures for morphine pump monitoring and refill with the staff under his direction;
- (b) failed to have sufficient staff or adequate scheduling so that staff were not capable of properly attending to morphine pump monitoring and refill; and
- (c) failed to have adequately trained staff for morphine pump monitoring and refill.

23. As a direct and proximate consequence of the acts, omissions and conduct of the defendant as set out herein, Mr. Chaney suffered damages and continues to experience pain and discomfort and incurred additional medical bills and has been deprived of his capacity to enjoy life, and experienced emotional pain, suffering and anguish.

24. The acts and omissions of Defendant Baade and defendant Kerner as set forth herein were aggravated and showed a complete indifference and/or reckless disregard for the rights and/or safety of Mr. Chaney and, therefore, Plaintiff is entitled to punitive damages from Defendant to punish and deter Defendant and others from like conduct.

WHEREFORE, Plaintiff William R. Chaney prays for judgment in his favor and against Defendant Baade, 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 - KERNER

COMES NOW Plaintiff William R. Chaney and for his cause of action for negligence - medical malpractice against Defendant Kerner states and alleges as follows:

25. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 14 of Plaintiff's Petition as if fully set forth herein.

26. Commencing on December 1, 2016, and continuing thereafter, defendant Kerner 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 morphine pump monitoring and refill;
- (b) failed to timely and properly monitor Mr. Chaney following the morphine pump refill and to identify the existence and cause of Mr. Chaney's overdose;
- (c) failed to obtain proper training or to follow policies, procedures, guidelines or standards regarding morphine pump monitoring, refill and patient care.

27. As a direct and proximate consequence of the acts, omissions and conduct of the defendant as set out herein, Mr. Chaney suffered damages and continues to experience pain and discomfort and incurred additional medical bills and has been deprived of his capacity to enjoy life, and experienced emotional pain, suffering and anguish.

28. The acts and omissions of Defendant Kerner as set forth herein were aggravated and showed a complete indifference and/or reckless disregard for the rights and/or safety of Mr. Chaney and, therefore, Plaintiff is entitled to punitive damages from Defendant to punish and deter Defendant and others from like conduct.

WHEREFORE, Plaintiff William R. Chaney prays for judgment in his favor and against Defendant Kerner, 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.

By: /s/William W. Bird

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