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IN THE COURT OF CLAIMS FOR THE STATE OF OHIO

Cyrelle McNew
99 Needham St. #1121
Newton, MA 02461

ORIGINAL

and

Matthew Ries as Administrator for the
Estate of Michael McNew, deceased
536 South High Street
Columbus, OH 43215

Case No.:

2010-10335

Plaintiffs,

Judge

JUDGE JOSEPH T. CLARK

vs.

The Ohio State University
Medical Center
C/O Statutory Agent
Nancy J. Miller
200 Meiling Hall
370 West 9th Avenue
Columbus, Ohio 43210

Defendant.

COMPLAINT

Now come Plaintiffs, by and through counsel, on behalf of the Decedent Michael McNew, and for their causes of action state as follows:

PARTIES:

1. Until his death, Decedent Michael McNew was a resident of 6190 Avery Crossing Blvd., City of Dublin, County of Franklin, and State of Ohio.
2. At all times relevant herein, Plaintiff Cyrelle McNew was a resident of 6190 Avery Crossing Blvd., City of Dublin, County of Franklin, and State of Ohio.
3. At all times relevant herein, Plaintiff Matthew Ries was a resident of the State of Ohio.

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4. At all times relevant herein, Defendant The Ohio State University Medical Center was a professional corporation organized and existing under the laws of the State of Ohio or some other state of the United States of America, or some foreign jurisdiction, and at all times relevant and material to this action employed physicians, nurses, and other personnel to evaluate, care for, and treat patients.
5. At all times relevant herein, the acts and omissions performed by employees, servants, or agents of Defendant OSU Medical Center were within the scope of their express, implied, or apparent authority as agents of Defendant OSU Medical Center.

JURISDICTION AND VENUE:

6. Jurisdiction is conferred on this Court by Ohio Rev. Code § 2743.03

COMMON ALLEGATIONS:

7. At the beginning of August 2009 Decedent Michael McNew began to experience the following symptoms: nausea; diarrhea; sore throat; and fatigue.
8. Decedent presented to a doctor of internal medicine at Ohio State University Medical Center.
9. On September 14, 2009 Decedent presented to OSU Internal Medicine at Stone Ridge with complaints of extreme rectal pain. Decedent was prescribed Tramadol and referred to Dr. Hussain.
10. The following day on September 15, 2009 Decedent presented to Dr. Hussain. Dr. Hussain made an incision in Decedent's hemorrhoid in order to drain it and prescribed Decedent Oxycodone.

11. During the evening of September 15, 2009, after his appointment with Dr. Hussain, Decedent called Dr. Hussain complaining of a large amount of bleeding.
12. On September 16, 2009, Decedent spoke again to Dr. Hussain via phone and informed Dr. Hussain that he was continuing to have a lot of bleeding and that he noticed bruising on his arm. Dr. Hussain instructed Decedent to cease taking Tramadol but to continue taking Oxycodone.
13. On September 17, 2009 Decedent began having shortness of breath.
14. On September 18, 2009 Decedent called Dr. Hussain twice with complaints of severe pain. At approximately 2:30 pm Dr. Hussain returned Decedent's call and instructed Decedent to take more Oxycodone for the pain. Dr. Hussain reassured Decedent that his shortness of breath was not caused by the Oxycodone.
15. During the evening of September 18, 2009 Decedent lost consciousness and was taken via ambulance to Dublin Methodist Hospital.
16. After being transferred to Riverside Methodist Hospital, Michael McNew died on September 19, 2009.
17. Decedent's cause of death was a cerebral hemorrhage from thrombotic thrombocytopenia, which went undiagnosed until after his death.

PLAINTIFFS' FIRST CAUSE OF ACTION
[Negligence and Medical Malpractice]

18. Plaintiffs incorporate the preceding paragraphs as if fully restated herein.
19. The doctors, nurses, administrators, staff, and employees of Defendant OSU Medical Center fell below the accepted standard of care, skill, and diligence for health care providers and medical provider employees in Ohio or other similar communities in the care and treatment of Decedent. Defendant and its doctors,

nurses, administrators, staff, and employees failed to meet the accepted standard of care, skill, and diligence including, but not limited to their: (1) failing to properly diagnose Decedent's thrombocytopenia; (2) failing to order the appropriate tests and procedures to diagnose Decedent's thrombocytopenia; (3) failing to initiate and execute the appropriate treatment plan for Decedent; (4) failing to order blood work during Decedent's August 30, 2009 physical; (5) failing to evaluate Decedent, or order blood work, based upon new complaints of bleeding, bruising, and shortness of breathe; (6) failing to refer Decedent to an Emergency Room for evaluation; and/or (7) any other negligent acts.

20. The care and treatment rendered to Decedent by employees, agents, and servants of Defendant OSU Medical Center fell below the accepted standards of care, skill, and diligence for physicians, nurses, administrators, staff, and other health care personnel and breached its duty of care owed to Decedent and that breach proximately resulted in injury, and ultimately, Decedent's death.

21. Defendant OSU Medical Center, by and through its agents, servants, and employees, breached its duty of reasonable care owed Decedent and is liable for the negligent acts and omissions of its employees.

22. As a direct and proximate result of the failure of Defendant OSU Medical Center to discharge its duty of care owed to Decedent and its failure to meet the accepted standards of care, skill, and diligence, Decedent suffered physical pain, mental anguish, extreme emotional distress, lost earning capacity, medical expenses, and, ultimately, death.

PLAINTIFFS' SECOND CAUSE OF ACTION
[Respondeat Superior]

23. Plaintiffs incorporate all allegations contained in the proceeding paragraphs as if fully rewritten herein.
24. At all times relevant hereto, doctors, nurses, administrators, staff, and other employees were duly employed by and/or acting on the behalf of their employer, Defendant OSU Medical Center.
25. By virtue of the doctrine of respondeat superior, Defendant OSU Medical Center is and remains liable for Decedent's injuries and ultimate death.
26. By virtue of the doctrine of agency by estoppel, Defendant OSU Medical Center is and remains liable for Decedent's injuries and ultimate death.

PLAINTIFFS' THIRD CAUSE OF ACTION
[Wrongful Death]

27. Plaintiffs incorporate the preceding paragraphs as if fully restated herein.
28. Defendant OSU Medical Center, by and through its agents, servants, and employees, fell below the accepted standards of care, skill, and diligence for health care providers and medical provider employees in Ohio and other similar communities in the care and treatment of Decedent. Defendant and its agents, servants, and employees failed to meet the accepted standards of care, skill, and diligence including, but not limited to their: (1) failing to properly diagnose Decedent's thrombocytopenia; (2) failing to order the appropriate tests and procedures to diagnose Decedent's thrombocytopenia; (3) failing to initiate and execute the appropriate treatment plan for Decedent; (4) failing to order blood work during Decedent's August 30, 2009 physical; (5) failing to evaluate

Decedent, or order blood work, based upon new complaints of bleeding, bruising, and shortness of breathe; (6) failing to refer Decedent to an Emergency Room for evaluation; and/or (7) any other negligent acts.

29. Defendant OSU Medical Center, by and through its agents, servants, and employees, breached its duty of reasonable care owed to Decedent and is liable for the negligent acts and omissions of its employees. The care and treatment rendered to Decedent by employees, agents, and servants of Defendant fell below the accepted standards of care and breached their duties of care owed to Decedent.

30. As a direct and proximate result of the failure of the Defendant to meet the accepted standards of skill, care, and diligence, Decedent died wrongfully on September 19, 2009.

31. As a direct and proximate result of the failure of the Defendant to discharge its duty of care owed to Decedent, and its failure to meet the accepted standards of care, skill, and diligence, Decedent died and Plaintiff Cyrelle McNew and Decedent's next of kin have suffered mental anguish, extreme emotional distress, lost earning capacity, and loss of consortium, and will continue to suffer indefinitely into the future.

PLAINTIFFS' FOURTH CAUSE OF ACTION
[Loss of Consortium]

32. Plaintiffs incorporate all allegations contained in the preceding paragraphs as if fully rewritten herein.

33. At all times relevant hereto, Plaintiff Cyrelle McNew was the lawful husband of Decedent Michael McNew.

34. Plaintiff Cyrelle McNew states that by virtue of the conduct of Defendant OSU Medical Center, and the resulting injuries and death of her husband, she sustained a loss of society, companionship, services, attention, consortium, and care, and also sustained mental anguish, in connection with the treatment and care of her husband, or otherwise.

DEMAND

WHEREFORE, Plaintiffs demand judgment against the Defendant for lost wages, compensatory, consequential, incidental, special, and medical damages in the amount greater than Twenty-Five Thousand Dollars (\$25,000.00) together with costs herein expended and such other relief as may be just and appropriate in this case.



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