

ORIGINAL IN THE OHIO COURT OF CLAIMS

YONG HUI SHEFFIELD,
Individually and as Executrix of the
Estate of Daniel F. Sheffield, deceased.
100 Buckeye Drive
Powell, Ohio 43065

and

AMBER SHEFFIELD
100 Buckeye Drive
Powell, Ohio 43065

Plaintiffs,

-v-

THE STATE OF OHIO
The Ohio State University Medical
Center
Attn: Administrator
410 W. 10th Avenue
Columbus, Ohio 43210

Defendant.

Case No. 2013-00013

Judge Dale Crawford

FIRST AMENDED COMPLAINT

2014 JAN 21 PM 2:05

FILED
COURT OF CLAIMS
OF OHIO

PARTIES AND JURISDICTION

1. This Court has exclusive jurisdiction of the claims filed herein pursuant to Ohio Revised Code Chapter 2473 as the Defendant is a state entity. See Boggs v. State, (1983), 8 Ohio St.3d 15.

2. At all times relevant herein, Plaintiff's decedent Daniel F. Sheffield was a resident of Powell, Delaware County, State of Ohio, who passed away prematurely on September 25, 2012. Plaintiff Yong Hui Sheffield was appointed executrix of the estate of her husband by the Probate Court of Delaware County, Ohio in Case Number 12111472PES. She brings this action pursuant to Ohio Revised Code Section 2125.01 et seq., for the wrongful death of Daniel F. Sheffield and for the exclusive benefit of his survivors. Further, Plaintiff brings this action on

behalf of the Estate of Daniel F. Sheffield as a survivorship action under Ohio Revised Code 2305.21.

3. At all times relevant herein, Defendant State of Ohio, by and through The Ohio State University Medical Center (hereinafter “the Defendant”), engaged in the business of providing medical treatment and hospital services for consideration to those in need of medical care.

4. At all times relevant herein, Paul Gullett, RN, and other unidentified physicians, nurses and/or health care providers were officers and/or employees of Defendant pursuant to R.C. 109.36 and were involved in the care and treatment of Plaintiff’s decedent Daniel Sheffield.

5. Pursuant to Ohio Civ.R. 10(D), the Affidavits of Merit of Dan Gzesh, M.D. and Carolyn Cassutt, R.N. are attached hereto.

FIRST CLAIM FOR RELIEF – MEDICAL NEGLIGENCE AND SURVIVORSHIP

6. Plaintiffs hereby incorporate paragraphs one through five of this Complaint as if fully restated herein.

7. At all times relevant herein, there existed a professional medical relationship between Plaintiff Daniel Sheffield and the Defendant, by and through its agents and employees, with all the rights, duties and obligations attendant thereto.

8. On or about June 14, 2012, Plaintiff’s decedent Daniel Sheffield was admitted to The Ohio State University Medical Center to be treated for an infection. A central line venous catheter was placed while he was in the emergency room prior to being transferred to the ICU, where he remained until being transferred to the MICU unit approximately one week later.

9. On or about July 5, 2012, Paul Gullett, RN, an officer and/or employee of Defendant pursuant to R.C. 109.36, and in course and scope of said employment, was negligent

in removing the central line venous catheter. Said negligence includes, but is not necessarily limited to, failing to ensure that Mr. Sheffield was in a proper position both during and after the removal of the central line venous catheter, failing to instruct the patient to hold his breath or bear down during the removal, failing to immediately cover the insertion site upon removal, failing to utilize any ointment or other occlusive dressing to cover the insertion site, and in failing to apply pressure to the insertion site for a sufficient time following removal of the central line venous catheter. Paul Gullett, RN was negligent in other respects as well.

10. The medical care and treatment provided by Defendant, by and through its employees and/or agents, including Paul Gullett, RN, was performed in a negligent and unskillful manner in that they failed to exercise the degree of skill and care an ordinarily prudent nurse and/or other health care provider would have exercised under like or similar circumstances.

11. As a direct and proximate result of the negligence described above, Plaintiff's decedent suffered an open air embolism shortly following the removal of the central line venous catheter on July 5, 2012, leading to a massive stroke and three seizures. As a direct and proximate result of the negligence described above and the resulting stroke, Plaintiff's decedent endured severe pain and suffering, anxiety, emotional distress, disability, loss of enjoyment of life, and ultimately a premature and wrongful death on September 25, 2012.

12. As a direct and proximate result of the negligence described above and the resulting stroke, Plaintiff's decedent and his Estate incurred substantial medical expenses for the treatment of his condition until his premature and wrongful death on September 25, 2012.

SECOND CLAIM FOR RELIEF – NEGLIGENT TRAINING AND SUPERVISION

13. Plaintiffs hereby incorporate paragraphs one through twelve of this Complaint as if fully restated herein.

14. At all times relevant herein, Defendant The Ohio State University Medical Center was negligent in failing to properly train, instruct, and or otherwise supervise its employee nurses and other working at OSU Medical Center as to the proper procedure and protocols to be utilized when removing a patient's central line venous catheter.

15. As a direct and proximate result of the negligence of Defendant The Ohio State University Medical Center, Plaintiff's decedent suffered an open air embolism shortly following the removal of the central line venous catheter on July 5, 2012, leading to a massive stroke and three seizures and the resulting damages described herein.

THIRD CLAIM FOR RELIEF – LOSS OF CONSORTIUM

16. Plaintiffs hereby incorporate paragraphs one through fifteen of this Complaint as if fully restated herein.

17. At all times relevant herein, Plaintiff Yong Hui Sheffield was the wife of Daniel Sheffield. As a direct and proximate result of the negligence of Defendant described above, Plaintiff Yong Hui Sheffield suffered a loss of the society, support, services and consortium of her husband until his premature and wrongful death on September 25, 2012.

18. At all times relevant herein, Plaintiff Amber Sheffield was the daughter of Daniel Sheffield. As a direct and proximate result of the negligence of Defendant described above, Plaintiff Amber Sheffield suffered a loss of the society, support, services and consortium of her father until his premature and wrongful death on September 25, 2012.

19. As a direct and proximate result of the negligence as set forth above, Plaintiffs Yong Hui Sheffield and Amber Sheffield provided reasonable and necessary care and services for Plaintiff's decedent prior to his premature and wrongful death on September 25, 2012.

Pursuant to *Hutchings v. Childress* (2008), 119 Ohio St.3d 486, Plaintiffs Yong Hui Sheffield and Amber Sheffield are entitled to be compensated for the value of their services in this regard.

FOURTH CLAIM FOR RELIEF – AGENCY BY ESTOPPEL

20. Plaintiffs hereby incorporate paragraphs one through nineteen of this Complaint as if fully restated herein.

21. At all times relevant herein, Defendant The Ohio State University Medical Center held itself out to the public as a provider of medical services. They specifically made available to Plaintiff's decedent Daniel Sheffield medical services when he was in need of medical care and treatment in a hospital setting.

22. Plaintiff's decedent Daniel Sheffield relied on Defendant The Ohio State University Medical Center to provide necessary and proper medical services, including nursing care, during his June 14, 2012 and at the time of the subject incident on July 5, 2012. Further, Plaintiff's decedent had the right to assume and expect that said nursing services were being provided by employees and/or agents of the hospital, thereby creating an agency by estoppel. *See Clark v. Southview Hosp. & Family Health Ctr.*, 68 Ohio St.3d 425 (1994).

FIFTH CLAIM FOR RELIEF – WRONGFUL DEATH

23. Plaintiffs hereby incorporate paragraphs one through twenty-two of this Complaint as if fully restated herein.

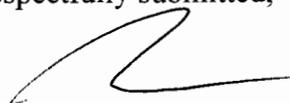
24. As a direct and proximate result of the negligence of Defendant as set forth above, the Estate of Plaintiff's decedent Daniel Sheffield has incurred medical, funeral and burial expenses.

25. As a direct and proximate result of the negligence of Defendant as set forth above, Daniel Sheffield's survivors, including his wife Yong Hui Sheffield, his daughter Amber

Sheffield, as well as all other next of kin, have suffered the loss of his society, support, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training and education, and have suffered extreme mental anguish and grief, and have been otherwise damaged since his premature and wrongful death on September 25, 2012. As such, his survivors and next of kin are entitled to compensation in an amount reasonable and proper to commensurate with their losses as set forth herein. Decedent's wrongful death beneficiaries further suffered and incurred all other damages contemplated by Ohio Revised Code Chapter 2125.

WHEREFORE, Plaintiffs hereby demand judgment against the Defendant for compensatory damages in an amount in excess of Twenty-Five Thousand Dollars (\$25,000), plus interest, pre-judgment interest as determined by law, their costs herein expended, and any other relief this Court deems just and proper.

Respectfully submitted,



Robert P. Miller (0073037)
Michael J. Rourke (0022950)
ROURKE & BLUMENTHAL, LLP
495 S. High Street, Suite 450
Columbus, Ohio 43215
(614) 220-9200 – Telephone
(614) 220-7900 – Facsimile
rmiller@randblp.com
mrourke@randblp.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

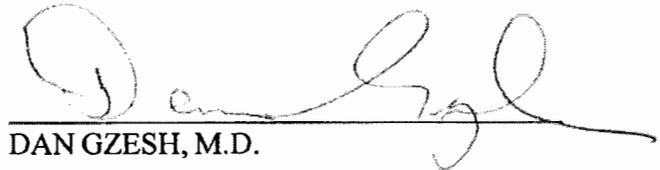
The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon the following counsel of record via ordinary U.S. mail, postage prepaid, this 21st day of January, 2013:

Karl Schedler, Esq.
Daniel Forsythe, Esq.
Assistant Attorneys General
Court of Claims Defense Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215

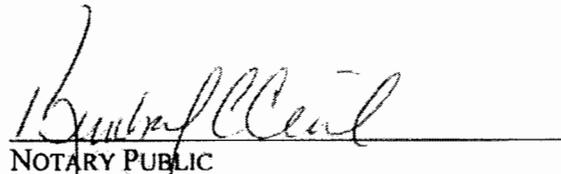

Robert P. Miller (0073037)

the Defendant, by and through its employees, breached the standard of reasonable care in failing to prevent an open air emboli when removing Mr. Sheffield's central line venous catheter. Plaintiffs' decedent suffered injury and death as a direct and proximate cause of the breach of the standard of care.

Further affiant sayeth naught.


DAN GZESH, M.D.

Sworn to before me and subscribed in my presence this 4th day of
January, 2013.


NOTARY PUBLIC



KIMBERLY C. CECIL
Notary Public, State of Ohio
My Commission Expires ~~06-18-2012~~
8/13/2017

AFFIDAVIT OF MERIT OF CAROLYNN CASSUTT, RN

STATE OF COLORADO)
COUNTY OF ARAPAHOE) ss:

I, CAROLYNN CASSUTT, RN, being first duly sworn according to the law, deposed and states as follows:

1. I submit this Affidavit of Merit in accordance with the Ohio Rules of Civil Procedure Rule 10(D)(2)(a).
2. I am a registered nurse licensed to practice medicine in the State of Colorado.
3. I am familiar with the standard of care in this case.
4. I have been provided with and have reviewed the medical records of Plaintiff's decedent Daniel Sheffield reasonably available to the Plaintiff concerning the allegations contained in Plaintiff's Complaint.
5. Based on the information and documentation provided to me, and based upon my education, experience, and review of the medical records of Plaintiff's decedent Daniel Sheffield, it is my opinion to a reasonable degree of medical probability that the standard of care was breached by employees of the Defendant. Specifically, the Defendant, by and through its nurses and employees, breached the standard of reasonable care in failing to take adequate measures to prevent an air embolism when removing Mr. Sheffield's central venous catheter.

Further affiant sayeth naught.

Carolynn Cassutt
CAROLYNN CASSUTT, RN

Sworn to before me and subscribed in my presence this 3 day of
January, 2013.

[Signature]
NOTARY PUBLIC

BARBI L CARTER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20044041753
MY COMMISSION EXPIRES NOVEMBER 18, 2016