

ORIGINAL

FILED
COURT OF CLAIMS
OF OHIO

2014 MAY 14 PM 1:48

IN THE COURT OF CLAIMS OF OHIO

Bryan A. Huff :
817 Masonic Park Rd., Lot 12 :
DeVola, OH 45750 :

Plaintiff :

vs. :

THE OHIO STATE UNIVERSITY :
MEDICAL CENTER :
c/o Ohio Attorney General Mike DeWine :
30 East Broad Street, 14th Floor :
Columbus, OH 43215 :

and :

Defendant. :

Case No.:

2014-00468

Judge:

COMPLAINT

FIRST CLAIM: DETERMINATION OF EMPLOYMENT STATUS PURSUANT TO R.C. §2743.02(F)

1. Plaintiff seeks a determination, pursuant to R.C. §2743.02(F), as to whether Joseph Werner, M.D.; Christopher Rosile, CRNA; Susan Harper, CRNA; Caroline Criswell, CRNA; Nicole Amore, CRNA; Daniel San Filippo, CRNA, Mary Gyor, Perfusionist; David Mast, Perfusionist; and Edward Stover, Perfusionist., among others, as well as any and all physicians, fellows, resident physicians, interns, CRNA's, perfusionists, nurses and/or technicians were acting within the course and scope of any state employment in their rendition of care to Bryan A. Huff during his admission to The Ohio State University Medical Center from February 21, 2013 to March 12, 2013 and, during any post operative treatment through the present date.

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SECOND CLAIM: MEDICAL NEGLIGENCE/WRONGFUL DEATH

2. Plaintiff incorporates by reference each and every allegation contained in Paragraph One (1) of this Complaint as if fully rewritten herein.

3. At all times relevant herein, Plaintiff Bryan A. Huff was a resident of Marietta, Washington County, Ohio.

4. At all times relevant herein, Defendant The Ohio State University Medical Center (hereinafter referred to as “Defendant OSUMC”) provided education and training to physicians, fellows, residents, interns, CRNA's, perfusionists, nurses and/or technicians within its programs and provided medical services to the general public at various facilities in Columbus, Franklin County, Ohio.

5. At all times relevant herein, Defendant acted through agents and employees and/or independent contractors, including, but not limited to physicians, fellows, residents, interns, CRNA's, perfusionists, nurses and technicians who were within the course and scope of their employment and authority.

6. At all times relevant herein, and to the best of Plaintiff's knowledge and belief, Joseph Werner, M.D. was a physician providing medical care and treatment to patients at Defendant OSUMC located at 410 W. Tenth Avenue, Columbus, Franklin County, Ohio, and, was an agent or employee of Defendant OSUMC acting within the scope and course of his employment and authority in his care to Plaintiff Bryan A Huff. Furthermore, Dr. Werner was responsible for overseeing the medical care rendered to Plaintiff Bryan Huff by Certified Registered Nurse Anesthetists, including but not limited to Christopher J. Rosile, Daniel San Filippo, Susan M. Harper, Caroline Criswell and Nicole A Amore.

7. At all times relevant herein, and to the best of Plaintiff's knowledge and belief, Mary Gyor, David Mast, and Edward Stover, were perfusionists who were agents and/or employees of Defendant OSUMC acting within the scope and course of their employment and authority in their care to Plaintiff Bryan A. Huff.

8. At all times relevant herein, and to the best of Plaintiff's knowledge and belief, Christopher J. Rosile, Daniel San Filippo, Susan M. Harper, Caroline Criswell and Nicole A Amore were certified registered nurse anesthetists who were employees and/or agents of Defendant OSUMC acting within the scope and course of their employment and authority in their care to Plaintiff Bryan A. Huff.

9. At all times relevant herein, and specifically from February 21, 2013 through the current date, employees and/or agents and/or independent contractors of Defendant OSUMC provided care and treatment to Plaintiff Bryan Huff at OSUMC, OSU Dodd Hall, OSU Ross Heart Center and at its outpatient offices and facilities located in Columbus, Franklin County, Ohio.

10. At all times relevant hereinafter, there existed a professional medical relationship by and between Plaintiff Bryan A. Huff and the Defendant, with all the rights, duties and obligations attendant thereto.

11. In accordance with the Ohio Rule of Civil Procedure 10(D)(2), Plaintiff attaches hereto an Affidavit of Merit from Jesse Henry Marymond, III, M.D..

THIRD CLAIM: MEDICAL NEGLIGENCE

12. Plaintiff hereby incorporates by reference each and every allegation contained in Paragraphs One (1) through Eleven (11) of Plaintiff's Complaint as if fully rewritten herein.

13. On or about February 22, 2013, Plaintiff Bryan A. Huff underwent multi-level corrective thoracolumbar spinal surgery performed by Dr. Farhadi at OSU. During the course of the procedure, air was detected in one of the tubing/lines connected to the central venous catheter. Said care and treatment was administered and performed in a negligent and unskillful manner, in that the Defendant, through its agents and/or employees, failed to exercise the degree of skill, care and diligence an ordinarily prudent physician, anesthesiologist, resident, CRNA, perfusionists, nurse, technician and/or other health care provider would have exercised under the like or similar circumstances. Specifically, Defendant, through its agents and/or employees, was negligent in allowing air to travel through the line and enter Plaintiff Bryan Huff's blood circulatory system. Defendant was negligent in other respects as well.

14. In addition, Defendant, through its employees and/or agents, failed to recognize said negligence harm caused to Plaintiff resulting in Plaintiff seeking further medical evaluation and treatment from other physicians and facilities and undergoing additional medical procedures.

15. As a direct and proximate result of the joint and several negligence and failures of Defendant, Plaintiff Bryan Huff, suffered an air embolism during his February 22, 2013 surgical procedure that resulted multiple medical complications, including but not limited to, myocardial infarctions, brain infarcts, spinal cord ischemia/infarcts; pulmonary emboli; paraparesis of upper and lower extremities in lower extremities; bowel & bladder incontinence; vision complications, numbness and tingling from his chest down, among other injuries, which caused him severe anxiety, prolonged pain and suffering, severe physical pain, mental anguish, emotional distress, loss of enjoyment of life and, loss of ability to perform usual and customary activities, among other things.

16. Plaintiff Bryan Huff has incurred reasonable and necessary medical expenses as a result thereof.

17. Since Plaintiff Bryan Huff's injuries are permanent, he will incur further medical expenses, pain and suffering, severe anxiety, mental anguish; severe physical pain; emotional distress; loss of enjoyment of life and loss of ability to perform usual and customary activities; and disabilities into the future.

FOURTH CLAIM: UNCONSTITUTIONALITY OF O.R.C. §2323.43

18. Plaintiff incorporates by reference each and every allegation contained in Paragraphs One (1) through Seventeen (17) of this Complaint as if fully rewritten herein.

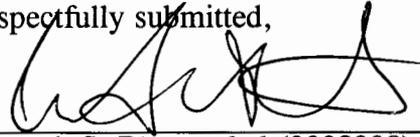
19. To the extent that O.R.C. §2323.43 applies to this action, it is in violation of both the Ohio and United States Constitutions.

WHEREFORE, as to Claim One, Plaintiff Bryan A Huff seeks a determination, pursuant to R.C. §2743.02(F), as to whether Joseph Werner, M.D.; Christopher Rosile, CRNA; Susan Harper, CRNA; Caroline Criswell, CRNA; Nicole Amore, CRNA; Daniel San Filippo, CRNA, Mary Gyor, Perfusionist; David Mast, Perfusionist; and Edward Stover, Perfusionist., among others, as well as any and all physicians, fellows, resident physicians, interns, CRNA's, perfusionists, nurses and/or technicians were acting within the course and scope of any state employment in their rendition of care to Bryan A. Huff during his admissions to The Ohio State University Medical Center from February 21, 2013 to March 12, 2013 and, during any post operative treatment through the present date.

WHEREFORE, as to Claim Two, Three, and Four, Plaintiff Bryan A. Huff demands judgment against the Defendant in an amount which will fully and fairly compensate Plaintiff for his injuries and damages, which is an amount in excess of the

jurisdictional limits of this Court, plus interest, pre-judgment interest as provided by law, his costs herein expended, and all other relief to which he may be legally and equitably entitled.

Respectfully submitted,



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