

STATE OF NORTH CAROLINA

File No.

23-CVS- **4731**

FORSYTH County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

NORTH CAROLINA BAPTIST HOSPITAL

Address

c/o BELL, DAVIS & PITT, PA

City, State, Zip

PO Box 21029, Winston-Salem, NC 27120

VERSUS

Name Of Defendant(s)

ALEXIS RATCLIFF

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

ALEXIS RATCLIFF

North Carolina Baptist Hospital

Reynolds Tower, 6th Floor, IMC Room 603

1 Medical Center Blvd., Winston-Salem NC 27157

Name And Address Of Defendant 2



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!

Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Michael D. Phillips

BELL, DAVIS & PITT, PA

PO Box 21029

Winston-Salem, NC 27120-1029

Date Issued

09.15.2023

Time

11:39

☒ AM ☐ PM

Signature

[Signature]

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF FORSYTH

23-CVS- 473

NORTH CAROLINA
BAPTIST HOSPITAL,

2023 SEP 15 A 11: 39

FORSYTH CO., G.S.C.

Plaintiff,

BY mKefley

vs.

VERIFIED COMPLAINT

ALEXIS RATCLIFF,

Defendant.

Plaintiff North Carolina Baptist Hospital alleges as follows:

1. Plaintiff North Carolina Baptist Hospital ("Plaintiff" or the "Hospital") is a non-profit business corporation organized and existing under the laws of the State of North Carolina with a principal place of business in Forsyth County, North Carolina.
2. Upon information and belief, Defendant Alexis Ratcliff ("Defendant" or "Ms. Ratcliff") is a citizen and resident of Surry County, North Carolina.
3. This Court has subject matter jurisdiction over this action.
4. This Court has personal jurisdiction over Defendant.
5. Venue is proper in Forsyth County, North Carolina.

FACTS

6. The Hospital operates as a regional and multi-state hospital facility in Winston-Salem, North Carolina known as Atrium Health Wake Forest Baptist Medical Center, which includes a pediatric hospital known as Brenner Children's Hospital.
7. Ms. Ratcliff is a ventilator-dependent quadriplegic as a result of a cervical spine fracture that occurred when she was a juvenile.

8. On January 30, 2019, when she was approximately 13½ years old, Ms. Ratcliff was first admitted as a juvenile patient in the pediatric intensive care unit ("ICU") at Brenner Children's Hospital.

9. The pediatric ICU is the only setting in Brenner Children's Hospital capable of providing care for juvenile ventilator-dependent patients such as Ms. Ratcliff.

10. Although there was no medical necessity for Ms. Ratcliff's long-term hospitalization, she remained in the pediatric ICU at Brenner Children's Hospital for almost two years because of insufficient social support at home and opposition to her placement in a safe and appropriate skilled nursing facility by Surry County Department of Social Services ("Surry County DSS").

11. On December 15, 2021, Ms. Ratcliff was discharged from Brenner Children's Hospital to a residential placement with a foster family selected by Surry County DSS.

12. On June 2, 2022, Ms. Ratcliff was re-admitted as a juvenile patient in the pediatric ICU at Brenner Children's Hospital after her foster family placement failed and she developed medical conditions requiring hospitalization.

13. After Ms. Ratcliff's condition stabilized, her physicians determined that there was no longer any medical necessity for her to remain at Brenner Children's Hospital and sought to discharge her to a safe and appropriate skilled nursing facility capable of providing care for ventilator-dependent juvenile patients.

14. Surry County DSS again opposed Ms. Ratcliff's discharge to a skilled nursing facility and, on May 4, 2023, obtained an Order from Surry County District Court that Ms. Ratcliff was to remain in the pediatric ICU at Brenner Children's Hospital until appropriate placement was identified or Ms. Ratcliff turned 18 years old, whichever occurred earlier, following which Surry

County District Court would no longer have jurisdiction over the case and further orders regarding her status as a minor child would no longer be valid.

15. On August 3, 2023, after she reached the age of 18, Ms. Ratcliff was transferred from the pediatric ICU at Brenner Children's Hospital to the adult ICU at the Hospital because she was no longer a minor child.

16. Like the pediatric ICU at Brenner Children's Hospital, the adult ICU is the only setting at the Hospital capable of providing care for adult ventilator-dependent patients such as Ms. Ratcliff.

17. On August 29, 2023, Ms. Ratcliff's physicians determined that she no longer needed acute inpatient hospital services and discharged her from the Hospital.

18. For ventilator-dependent patients with no medical need for acute inpatient hospital services such as Ms. Ratcliff, there is no "step-down" from the ICU to a less-intensive care setting within the Hospital. Such patients must be discharged to a skilled nursing facility capable of providing care and maintenance for ventilator-dependent patients.

19. Despite significant effort, the Hospital has been unable to locate a skilled nursing facility in the State of North Carolina willing to accept Ms. Ratcliff.

20. However, Hospital physicians and social workers located and provided Ms. Ratcliff with referrals for three (3) safe and appropriate out-of-state skilled nursing facilities in Ohio and Virginia capable of meeting Ms. Ratcliff's care needs.

21. One of the skilled nursing facilities referred to Ms. Ratcliff by the Hospital was a 4-star facility located relatively close in Bastian, Virginia (approximately 65 miles from Ms. Ratcliff's home in Mount Airy, North Carolina), which, in addition to providing safe and appropriate ventilator care, would offer Ms. Ratcliff a substantially less restrictive care setting than the ICU, greater independence, and peers who are close in age to Ms. Ratcliff.

22. On August 31, 2023, Ms. Ratcliff rejected all of the skilled nursing facility referrals proposed by the Hospital and stated that she instead preferred a residential placement, which, upon information and belief, is presently not an option for Ms. Ratcliff.

23. The Hospital is unaware of any residential setting that is presently available to Ms. Ratcliff and capable of safely and appropriately meeting her care needs.

24. Ms. Ratcliff has failed to identify any residential setting that is presently available and capable of safely and appropriately meeting her care needs.

25. Ms. Ratcliff refuses to leave the Hospital and refuses to accept transfer to a safe and appropriate skilled nursing facility after being asked to do so.

26. By refusing to leave the Hospital, Ms. Ratcliff is diverting vital ICU resources that she does not need from other patients who actually require the ICU level of medical care.

27. By refusing to leave the Hospital, Ms. Ratcliff is taking up a bed in the ICU and preventing admission of other patients with critical medical needs who actually require the ICU level of care.

28. Ms. Ratcliff's hospitalization in the ICU is not medically necessary and does not meet Medicaid coverage criteria for acute inpatient hospital services.

29. The Hospital cannot allow Ms. Ratcliff to remain in the ICU after discharge and without medical necessity for such level of care.

30. Ms. Ratcliff's case has been reviewed by two additional physicians licensed to practice medicine in the State of North Carolina, who are also of the opinion that Ms. Ratcliff should be discharged from the Hospital because she no longer requires acute inpatient hospital services.

31. The Hospital seeks an Order requiring Ms. Ratcliff to leave the Hospital and accept transfer to the next available skilled nursing facility placement that the Hospital determines is safe and appropriate for Ms. Ratcliff's care needs.

FIRST CLAIM FOR RELIEF
(Trespass)

32. The Hospital incorporates by reference the preceding paragraphs as if fully set forth herein.

33. At all times relevant hereto, the Hospital has occupied, had title to, and been in possession of the Hospital premises, including, but not limited to, the ICU.

34. Ms. Ratcliff has been discharged from the Hospital by physicians because she does not need acute inpatient hospital services.

35. Despite being discharged and provided with multiple referrals for safe and appropriate skilled nursing facilities capable of meeting her care needs, Ms. Ratcliff intentionally refuses to leave the Hospital and refuses to accept transfer to a skilled nursing facility.

36. Ms. Ratcliff's continued presence at the Hospital after her discharge is unauthorized.

37. Pursuant to North Carolina common law and N.C.G.S. § 131E-90, Ms. Ratcliff's refusal to leave the Hospital after discharge constitutes a trespass.

SECOND CLAIM FOR RELIEF
(Preliminary and Permanent Mandatory Injunction)

38. The Hospital incorporates by reference the preceding paragraphs as if fully set forth herein.

39. Pursuant to North Carolina common law and N.C.G.S. § 131E-90, Ms. Ratcliff's refusal to leave the Hospital after discharge constitutes a trespass.

40. The Hospital, as well as patients for whom the ICU level of medical care is medically necessary, have suffered and will continue to suffer immediate, real, and irreparable harm unless Ms. Ratcliff is required to leave the Hospital and accept transfer to the next available

skilled nursing facility placement that the Hospital determines is safe and appropriate for her care needs.

41. The Hospital has demonstrated a likelihood of success on the merits of the cause of action for trespass asserted in this action.

42. The harm to the Hospital and patients for whom the ICU level of medical care is medically necessary outweighs any potential harm that a mandatory injunction may cause Ms. Ratcliff by transferring her to a safe and appropriate skilled nursing facility.

43. The Hospital is entitled to a preliminary and permanent mandatory injunction requiring Ms. Ratcliff to leave the Hospital and accept transfer to the next available skilled nursing facility placement that the Hospital determines is safe and appropriate for her care needs.

WHEREFORE, Plaintiff North Carolina Baptist Hospital respectfully requests that the Court grant the following relief:

1. That the Court enter an Order adjudicating Defendant Alexis Ratcliff liable to Plaintiff for trespass pursuant to North Carolina common law and N.C.G.S. § 131E-90.

2. That the Court issue a preliminary and permanent mandatory injunction ordering Ms. Ratcliff to leave the Hospital and accept transfer to the next available skilled nursing facility placement that the Hospital determines is safe and appropriate for her care needs.

3. For such other and further relief as the Court deems just and proper.

This the 15th day of September, 2023.



Michael D. Phillips

N.C. State Bar No. 31730

Alan M. Ruley

N.C. State Bar No. 16407

Attorneys for Plaintiff North Carolina Baptist Hospital

OF COUNSEL:

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STATE OF NORTH CAROLINA

VERIFICATION

COUNTY OF FORSYTH

The undersigned, RICHARD ARONSON, M.D., first duly sworn, deposes and says that he has read the foregoing Verified Complaint and know the contents thereof; and that the same is true of his own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters he believes them to be true.

This the 12 day of September, 2023.



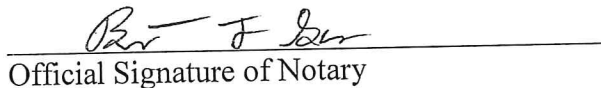
RICHARD ARONSON, M.D.

STATE OF NORTH CAROLINA

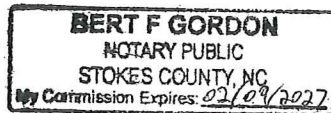
COUNTY OF FORSYTH

Signed and sworn to (or affirmed) before me this day by RICHARD ARONSON, M.D.

Date: 09/12/2023


Official Signature of Notary

(Official Seal)



Bert F. Gordon
Notary's Typed or Printed Name, Notary Public

My Commission expires: 02/09/2027