

IN THE CIRCUIT COURT OF COUNTY OF ST. CHARLES
STATE OF MISSOURI

MATTHEW CASWELL,)
)
Plaintiff,)
)
vs.)
)
THE WASHINGTON UNIVERSITY,)
Serve:)
Registered Agent)
Brian Phillips)
4400 Chouteau)
St. Louis, MO 63110,)
)
and)
)
BRIAN L. WEBER, M.D.)
Serve:)
Progress West Hospital)
2 Progress Point Parkway)
O'Fallon, MO 63368-2208)
)
and)
)
KATHLEEN M. O'LEARY, CRNA)
Serve:)
Progress West Hospital)
2 Progress Point Parkway)
O'Fallon, MO 63368-2208)
)
Defendants.)

Cause No.:

Division No.:

PETITION – MEDICAL MALPRACTICE

COUNT I

COMES NOW plaintiff Matthew Caswell and for his claim and cause of action against
the defendant The Washington University and states and alleges as follows:

1. Plaintiff was at all times mentioned herein an individual residing in the State of
Missouri.

2. That at all times mentioned herein defendant The Washington University was a non-profit corporation duly licensed, in good standing and doing business in the State of Missouri.

3. That plaintiff's cause of action against The Washington University occurred in the County of St. Charles, State of Missouri.

4. That at all times pertinent to this lawsuit, defendant The Washington University acted by and through its agents, servants, and employees, including ostensible or apparent agents who were held out as employees and agents of The Washington University to the public and to the plaintiff, and further, acted by and through its physicians, residents, fellows, interns and nurses; and all of said individuals were acting within the scope and course of their employment.

5. That on July 30, 2020, Matthew Caswell was a patient at Progress West Hospital and was admitted for a hernia repair and removal of a lipoma on his neck..

6. Plaintiff was placed in operating room and anesthesia care was rendered by Bruce L. Weber, M.D. and Kathleen M. O'Leary, CRNA who were an agents, servants and/or employees of defendant The Washington University.

7. That as a direct result or a direct contributing result of the negligence of The Washington University, plaintiff Matthew Caswell suffered great physical and mental suffering due to the failure of defendant to properly administer anesthetics to him before and during his hernia and lipoma surgeries.

8. That defendant The Washington University was careless and negligent in the following respects:

a) Defendant administered a paralyzing drug to plaintiff but failed to administer an amnestic inhalational anesthetic before starting the surgical procedures;

b) Defendant allowed and permitted said surgical procedures to be performed on plaintiff while he was conscious and aware in that the surgeon made three separate incisions on his abdomen, inserted trocars beginning the operation and furthermore, insufflated his abdomen all while he was conscious and unable to speak or move;

c) Defendant failed to recognize that Matthew Caswell was awake and able to feel pain and hear everything that was said in the operating room for at least thirteen minutes while he was being operated on;

d) Defendant failed to provide properly functioning medical equipment to monitor plaintiff's ability to feel pain during said medical procedures; and

e) Defendant failed to provide a safe environment, including qualified clinical staff, for the delivery of anesthetic to plaintiff.

9. That as a direct and proximate result of the carelessness and negligence of the defendant as aforesaid, Matthew Caswell has suffered great physical pain, and mental suffering, post-traumatic stress disorder and panic attacks and continues to suffer great pain, anxiety, mental and emotional damage and distress, and permanent disability to the body as a whole, as well as impairment of his enjoyment of life and impairment of his activities of his daily living, and loss of income, earning capacity, and his ability to work and labor in his chosen occupation and will continue to suffer said physical and mental injuries and will continue to incur medical expenses and loss income in amounts not definitely ascertainable at this time.

10. That all of the aforesaid injuries were the direct and proximate result of the carelessness and negligence of the defendant, and all of said injuries are permanent and progressive.

WHEREFORE, plaintiff prays judgment against defendant The Washington University under Count I of his Petition in an amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00), and for his costs herein expended.

COUNT II

COMES NOW plaintiff Matthew Caswell, and for his claim and cause of action against defendant Bruce L. Weber, M.D., and states and alleges as follows:

1. Plaintiff restates, realleges and incorporates by reference paragraphs 1 through 10 of Count I of this Petition as if fully hereinafter set forth.

2. That at all times mentioned herein, Bruce L. Weber, M.D. was a duly licensed physician, in good standing and doing business in the State of Missouri.

3. That at all times mentioned herein, Bruce L. Weber, M.D. was an agent, servant, and/or employee of The Washington University and at all times mentioned herein was acting within the scope and course of his employment.

4. That defendant Bruce L. Weber, M.D. was careless and negligent in the following further respects:

a) Defendant administered a paralyzing drug to plaintiff but failed to administer an amnestic inhalational anesthetic before starting the surgical procedures;

b) Defendant allowed and permitted said surgical procedures to be performed on plaintiff while he was conscious and aware in that the surgeon made three separate incisions on his abdomen, inserted trocars beginning the operation and furthermore, insufflated his abdomen all while he was conscious and unable to speak or move;

c) Defendant failed to recognize that Matthew Caswell was awake and able to feel pain and hear everything that was said in the operating room for at least thirteen minutes while he was being operated on;

d) Defendant failed to provide properly functioning medical equipment to monitor plaintiff's ability to feel pain during said medical procedures; and

e) Defendant failed to provide a safe environment, including qualified clinical staff, for the delivery of anesthetic to plaintiff.

5. That as a direct and proximate result of the carelessness and negligence of defendant Bruce L. Weber, M.D. as aforesaid, Matthew Caswell has suffered great physical pain, and mental suffering, post-traumatic stress disorder and panic attacks and continues to suffer great pain, anxiety, mental and emotional damage and distress, and permanent disability to the body as a whole, as well as impairment of his enjoyment of life and impairment of his activities of his daily living, and loss of income, earning capacity, and his ability to work and labor in his chosen occupation and will continue to suffer said physical and mental injuries and will continue to incur medical expenses and loss income amounts not definitely ascertainable at this time.

WHEREFORE, plaintiff prays judgment against defendant Bruce L. Weber, M.D. under Count II of his Petition in an amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00), together with his costs herein expended.

COUNT III

COMES NOW plaintiff Matthew Caswell, and for her claim and cause of action against defendant Kathleen M. O'Leary, CRNA and states and alleges as follows:

1. Plaintiff restates, realleges and incorporates by reference paragraphs 1 through 10 of Count I of this Petition as if fully hereinafter set forth.

2. That at all times hereinafter mentioned, the defendant Kathleen M. O'Leary, CRNA was a duly licensed certified registered nurse anesthetist, in good standing and doing business in the state of Missouri.

3. That at all times hereinafter mentioned, Kathleen M. O'Leary, CRNA was an agent, servant, employee and/or employee of The Washington University and at all times mentioned herein was acting within the scope and course of her employment.

4. That as a direct result or direct contributing result of the negligence of Kathleen M. O'Leary, CRNA, plaintiff Matthew Caswell suffered the permanent injuries to his body and mind as previously set forth.

5. That defendant Kathleen M. O'Leary, CRNA was careless and negligent in the following further respects:

- a) Defendant administered a paralyzing drug to plaintiff but failed to administer an amnestic inhalational anesthetic before starting the surgical procedures;
- b) Defendant allowed and permitted said surgical procedures to be performed on plaintiff while he was conscious and aware in that the surgeon made three separate incisions on his abdomen, inserted trocars beginning the operation and furthermore, insufflated his abdomen all while he was conscious and unable to speak or move;
- c) Defendant failed to recognize that Matthew Caswell was awake and able to feel pain and hear everything that was said in the operating room for at least thirteen minutes while he was being operated on;
- d) Defendant failed to provide properly functioning medical equipment to monitor plaintiff's ability to feel pain during said medical procedures; and

e) Defendant failed to provide a safe environment, including qualified clinical staff, for the delivery of anesthetic to plaintiff.

6. That as a direct and proximate result of the carelessness and negligence of defendant Kathleen M. O'Leary, CRNA as aforesaid, Matthew Caswell has suffered great physical pain, and mental suffering, post-traumatic stress disorder and panic attacks and continues to suffer great pain, anxiety, mental and emotional damage and distress, and permanent disability to the body as a whole, as well as impairment of his enjoyment of life and impairment of his activities of his daily living, and loss of income, earning capacity, and his ability to work and labor in his chosen occupation and will continue to suffer said physical and mental injuries and will continue to incur medical expenses and loss income amounts not definitely ascertainable at this time.

WHEREFORE, plaintiff prays judgment against defendant Kathleen M. O'Leary, CRNA under Count III of his Petition in an amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00), together with his costs herein expended.

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