

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR JACKSON COUNTY

Patti L. Wilson for the ESTATE OF HORACE
EARL WILSON,

Plaintiff,

v.

ASANTE, an Oregon corporation; DANI
MARIE SCHOFIELD, RN;

Defendants.

Case No.24CV09759

COMPLAINT

(Personal Injuries and Wrongful Death)
(Claim Over \$50,000.00)

(Not Subject to Mandatory Arbitration)
(Fee Authority ORS 21.160(1)(e))

(Prayer Amount – \$11,475,000.00)

Plaintiff alleges:

1.

Patti L. Wilson is the Personal Representative of THE ESTATE OF HORACE EARL WILSON
in Jackson County Circuit Court Case Number 22PB01933.

2.

At all material times, Defendant ASANTE was an Oregon corporation doing business under
the assumed business name of Rogue Regional Medical Center (RRMC) located at 2825 East Barnett
Road, Medford, Jackson County, Oregon.

3.

At all material times, Defendant DANI MARIE SCHOFIELD, RN was an employee, agent,
and servant of Defendant ASANTE.

4.

At all material times, Horace Wilson was a 65-year-old patient at RRMC.

1 5.

2 On January 27, 2022, Horace Wilson presented to RPMC for care after falling from a ladder at
3 a height of approximately ten feet. He complained of left-sided abdominal pain and left shoulder pain.
4 A CT scan of his abdomen and pelvis showed broken ribs on the left side as well as a laceration of his
5 spleen with active bleeding.

6 6.

7 On January 28, 2022, ASANTE physicians performed a splenectomy, during which Horace
8 Wilson was intubated (a breathing tube was placed into his trachea, and he was mechanically
9 ventilated). His blood pressure remained low (known as hypotension), so he was provided with
10 blood products and IV fluids while in the intensive care unit.

11 7.

12 From January 29, 2022 to February 2, 2022, Horace Wilson appeared to be improving and
13 was extubated. During this time, ASANTE employees and agents continued to administer multiple
14 potent medications through a central venous catheter (known as vasopressors) to maintain a
15 minimally safe blood pressure.

16 8.

17 On February 3, 2022, Horace Wilson's clinical course took a turn for the worse. He required
18 three operations to treat a breakdown of his surgical repair, requiring him to be intubated again during
19 the third procedure.

20 9.

21 As his stay in the intensive care unit continued, Horace Wilson demonstrated multiple clear
22 markers of suffering from an infection. He suffered episodes of fever and a steadily increasing white
23 blood cell count. He experienced persistent hypotension, which should have stabilized after the
24 splenectomy. Persistent hypotension is a hallmark of a state of sepsis.

10.

Due to the presence of clear markers of bacteremia (bacterial infection of the bloodstream) and of sepsis, ASANTE employees and agents obtained blood cultures on multiple occasions. On February 5, 2022, Horace Wilson had blood cultures that were positive for bacterial growth of a gram-positive cocci. On February 6, 2022, this bacteria was identified by the microbiology laboratory as *Staphylococcus epidermidis*. This identification was confirmed by further blood cultures on February 8, 2022.

11.

During Horace Wilson's time in the intensive care unit, ASANTE ordered Defendant DANI MARIE SCHOFIELD, RN to administer the drug fentanyl through infusion via the patient's central line. Defendant SCHOFIELD was ordered to attach "hang bags" of 1250 micrograms of fentanyl in 250 mL of 0.9% NaCL solution to a programmable pump which dripped the medication to Horace Wilson at the prescribed rate.

12.

Defendant SCHOFIELD charted that she administered fentanyl to Horace Wilson on several dates beginning on January 29, 2022.

13.

In order to divert the fentanyl, Defendant SCHOFIELD replaced this entire quarter of a liter of "missing fluid" with non-sterile tap water, thus reintroducing new inoculums of the bacterium *Staphylococcus epidermidis* into Horace Wilson's bloodstream via his central line each time she administered the solution.

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14.

Due to its propensity to form protective biofilms which are hard to treat, the *Staphylococcus epidermidis* rapidly colonized several foreign material surfaces within Horace Wilson's bloodstream (medical devices and catheters) and thereafter became essentially impossible to eradicate.

15.

On February 12, 2022, ASANTE clinicians noted unexplained high fevers, very high white blood cell counts, and a precipitous decline. As a result of persistent treatment-resistant sepsis, Horace Wilson progressed to multi-system organ failure. He developed worsening sepsis-induced brain dysfunction which in turn led to worsening encephalopathy, severe confusion, and ongoing ventilator dependence. He required exchange of his endotracheal tube for a tracheostomy (surgical procedure that involves creating an opening into the neck and into the trachea).

16.

Eventually, Horace Wilson was weaned from sedation and recovered enough mental function to communicate to the ICU staff that he no longer wished to live this way.

17.

Horace Wilson died on February 25, 2022 while at ASANTE RRMCMC.

18.

In 2021, Defendant ASANTE RRMCMC reported three central line-associated bloodstream infections, which spiked to 15 cases in 2022.

19.

On April 14, 2023, Defendant ASANTE acknowledged that central line-associated bloodstream infections had been linked to bacteria but reported no water contamination at their facilities.

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20.

On November 22, 2023, Defendant SCHOFIELD and the Oregon Board of Nursing agreed to refrain from practice or to suspend license pending completion of an investigation.

21.

In early December 2023, officials from Defendant ASANTE contacted Medford Police Department regarding a former employee that they believe was involved in the theft of fentanyl prescribed to patients resulting in some adverse patient outcomes.

22.

In December 2023, ASANTE began contacting patients and their relatives telling them a nurse had replaced fentanyl with tap water causing bacterial infections.

23.

As a care provider, Defendant ASANTE had a duty to use the degree of care, skill, and diligence used by like facilities in the same or similar circumstances to prevent central line infections.

24.

Defendant ASANTE knew or should have known of the high likelihood of opioid diversion by one of its employees for their own use given the prevalence of such acts throughout the United States, especially after Asante discovered diversion of controlled substances by one of its nurses from about August 2016 through July 2017.

25.

Acting by and through its employees, agents and servants, Defendant ASANTE failed to use such care, skill and diligence and was thereby negligent in one or more of the following ways:

- a) In failing to prevent the introduction of bacteremia in Plaintiff’s central line infusion;
- b) In failing to inspect the fentanyl solution that was being administered via central line infusion to Plaintiff;

- 1 c) In failing to establish and follow protocols to ensure the security of fentanyl and
2 preventing the foreseeable diversion of fentanyl by employees;
3 d) In failing to properly supervise Defendant SCHOFIELD in her administration of
4 fentanyl to Plaintiff;

5 26.

6 Defendant SCHOFIELD failed to use such care, skill, and diligence and was thereby
7 negligent in one or more of the following ways:

- 8 a) In failing to administer fentanyl as prescribed; and
9 b) In replacing fentanyl with tap water and thus introducing bacteremia into Plaintiff's
10 bloodstream.

11 **First Claim for Relief**

12 **(Survival Claim)**

13 27.

14 Plaintiff realleges paragraphs 1-26, as if set forth again.

15 28.

16 As a result of Defendants' negligence, Plaintiff is entitled to full and fair compensation for
17 Horace Wilson's pre-death pain and suffering caused by Defendants' failure to administer fentanyl
18 which would have alleviated the pain he experienced while under Defendants' care. Plaintiff should
19 be fully compensated for these non-economic damages in a sum that is just but not expected to
20 exceed \$10,000,000.

21 29.

22 As a further result of Defendants' negligence, Plaintiff has incurred medical expenses not
23 expected to exceed \$975,000.

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1 30.

2 As a further result of the harms inflicted on Horace Wilson, his estate is entitled to attorney
3 fees under ORS 30.075(2).

4 **Second Claim for Relief**
5 **(in the Alternative, Wrongful Death Claim)**

6 31.

7 Plaintiff realleges paragraphs 1-30 above, as if set forth again.

8 32.

9 In addition to causing Horace Wilson's pre-death pain and suffering, the negligent actions of
10 Defendants also caused the wrongful death of Horace Wilson by allowing introduction of bacteremia
11 in Plaintiff's central line infusion as described above.

12 33.

13 Horace Wilson's death deprives his family of his society, companionship, advice, love, care,
14 relationship, and services. His family is entitled to full and fair compensation in a sum not to exceed
15 \$500,000 to compensate for the loss of their husband and father.

16 WHEREFORE, Plaintiff prays for judgment against Defendants, for damages as follows:

- 17 1. A sum not expected to exceed \$10,000,000 for the pre-death pain and suffering Horace
18 Wilson endured;
- 19 2. A sum not expected to exceed \$975,000 for Plaintiff's medical expenses;
- 20 3. Attorney fees for the survival claim under ORS 30.075(2);
- 21 4. In the alternative to the survival claim, an amount not to exceed \$500,000 for the heirs
22 for the untimely loss of their spouse and father under the wrongful death claim;
- 23 5. Plaintiff's costs and disbursements incurred herein; and
- 24 6. For such other and further relief as the Court may deem just and equitable.

1 EXECUTED February 26, 2024.

2 IDIART LAW GROUP, LLC

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