

IN THE FIRST JUDICIAL CIRCUIT COURT
IN AND FOR ESCAMBIA COUNTY, FLORIDA
CIVIL DIVISION

TAYLOR LEWAN,)	
)	
Plaintiff,)	
v.)	
)	CASE NO.:
JAMES ANDREWS, M.D., BENJAMIN)	
SHERMAN, D.O., BAPTIST HEALTH)	
CARE, INC., BAPTIST MEDICAL)	
GROUP, LLC, and ANDREWS)	
INSTITUTE ASC, LLC,)	
)	
Defendants.)	
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COMPLAINT

COMES NOW the Plaintiff, TAYLOR LEWAN, and sues the Defendants, JAMES ANDREWS, M.D., BENJAMIN SHERMAN, D.O., BAPTIST HEALTH CARE, INC., BAPTIST MEDICAL GROUP, LLC, and ANDREWS INSTITUTE ASC, LLC, and alleges, based on information and belief:

INTRODUCTION

1. At all times material hereto, Plaintiff TAYLOR LEWAN was a 3-time Pro Bowl offensive tackle for the National Football League’s (“NFL”) Tennessee Titans team, one of the greatest to play at that position, and a leader in the NFL.

2. On or about October 27, 2020, Plaintiff TAYLOR LEWAN presented to Defendants for a scheduled right knee anterior cruciate ligament reconstruction (“ACL Repair”) and was under the care of Defendants JAMES ANDREWS, M.D., BENJAMIN SHERMAN, D.O., BAPTIST HEALTH CARE, INC., BAPTIST MEDICAL GROUP, LLC, and ANDREWS INSTITUTE ASC, LLC (hereinafter collectively “Defendants”).

3. During the procedure, Defendants improperly performed the ACL repair, causing permanent injury to his right knee, and surrounding structures, tendons, cartilage, and ligaments.

4. As a result of Defendants' negligent acts and omissions, Plaintiff TAYLOR LEWAN's career in the NFL was cut short.

THE PARTIES

5. At all times material hereto, Defendant, JAMES ANDREWS, M.D., was licensed to and practicing medicine in Florida and provided medical treatment to Plaintiff, TAYLOR LEWAN.

6. At all times material hereto, Defendant, BENJAMIN SHERMAN, D.O., was licensed to and practicing medicine in Florida and provided medical treatment to Plaintiff, TAYLOR LEWAN.

7. At all times material hereto, Defendant, BAPTIST HEALTH CARE, INC., was a duly organized health care provider, organized under the laws of the State of Florida, with its principal place of business in Escambia County, Florida, and provided medical treatment to Plaintiff, TAYLOR LEWAN.

8. At all times material hereto, Defendant, BAPTIST HEALTH CARE, INC. is the successor and parent company to Baptist Health Care Corporation, which it owns, controls, manages, and operates.

9. At all times material hereto, Defendant, BAPTIST HEALTH CARE, INC. is the successor and parent company to Baptist Hospital, Inc., which it owns, controls, manages, and operates.

10. At all times material hereto, Defendant, BAPTIST HEALTH CARE, INC. is an alter-ego to Baptist Hospital, Inc.

11. At all times material hereto, Defendant, BAPTIST HEALTH CARE, INC. owns, controls, manages, and operates Defendant, BAPTIST MEDICAL GROUP, LLC.

12. At all times material hereto, Defendant, BAPTIST HEALTH CARE, INC. owns, controls, manages, and operates Defendant, ANDREWS INSTITUTE ASC, LLC.

13. At all times material hereto, Defendant, BAPTIST MEDICAL GROUP, LLC, was a duly organized health care provider, organized under the laws of the State of Florida, with its principal place of business in Escambia County, Florida, and provided medical treatment to Plaintiff, TAYLOR LEWAN.

14. At all times material hereto, Defendant, ANDREWS INSTITUTE ASC, LLC, was a duly organized health care provider, organized under the laws of the State of Florida, with its principal place of business in Florida, and provided medical treatment to Plaintiff, TAYLOR LEWAN.

15. At all times material hereto, Defendant JAMES ANDREWS, M.D., was an actual employee, agent, or apparent agent of BAPTIST HEALTH CARE, INC., BAPTIST MEDICAL GROUP, LLC, and ANDREWS INSTITUTE ASC, LLC.

16. At all times material hereto, Defendant JAMES ANDREWS, M.D. was in a joint venture with Defendant BAPTIST HEALTH CARE, INC. with regard to the provision of medical services to Plaintiff, TAYLOR LEWAN.

17. At all times material hereto, Defendant BENJAMIN SHERMAN, D.O. was an actual employee, agent, or apparent agent of BAPTIST HEALTH CARE, INC., BAPTIST MEDICAL GROUP, LLC, ANDREWS INSTITUTE ASC, LLC and JAMES ANDREWS, M.D.

18. This is an action for medical malpractice and for damages in excess of Fifty Thousand Dollars (\$50,000.00).

19. Pursuant to Chapter 766, Florida Statutes, all conditions precedent to the filing of this claim have been met. The Defendants have denied or otherwise failed to settle or resolve all claims.

COUNT I
(Negligence of James Andrews, M.D.)

20. Plaintiff re-alleges paragraphs 1 through 19 as if fully set forth below.

21. At all times material hereto, Plaintiff TAYLOR LEWAN was a patient of Defendant JAMES ANDREWS, M.D.

22. At all times material hereto, Defendant JAMES ANDREWS, M.D., owed a duty to Plaintiff, TAYLOR LEWAN, to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

23. Defendant JAMES ANDREWS, M.D., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;

- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

24. As a direct and proximate result of Defendant JAMES ANDREWS, M.D.'s negligence and failure to properly monitor and treat Plaintiff, TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by TAYLOR LEWAN are permanent in nature. TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus cost, interest, and other such relief as the Court deems proper.

COUNT II
(Negligence of Benjamin Sherman, D.O.)

25. Plaintiff re-alleges paragraphs 1 through 19 as if fully set forth below.

26. At all times material hereto, Plaintiff TAYLOR LEWAN was a patient of Defendant BENJAMIN SHERMAN, D.O.

27. At all times material hereto, Defendant BENJAMIN SHERMAN, D.O., owed a duty to Plaintiff, TAYLOR LEWAN, to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

28. Defendant BENJAMIN SHERMAN, D.O., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;

- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

29. As a direct and proximate result of Defendant BENJAMIN SHERMAN, D.O.'s negligence and failure to properly monitor and treat Plaintiff, TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by TAYLOR LEWAN are permanent in nature. TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus cost, interest, and other such relief as the Court deems proper.

COUNT III

(Vicarious Liability of James Andrews, M.D. as to Benjamin Sherman, D.O.)

30. Plaintiff re-alleges paragraphs 1 through 19 and 25 through 29 as if fully set forth below.

31. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant JAMES ANDREWS, M.D., through his actual employee, agent, or apparent agent.

32. At all times material hereto, Defendant BENJAMIN SHERMAN, D.O., was an actual employee, agent, or apparent agent of Defendant JAMES ANDREWS, M.D., and was working within the course and scope of his employment and agency such that any negligence of Defendant BENJAMIN SHERMAN, D.O., would vicariously be the responsibility of Defendant JAMES ANDREWS, M.D.

33. Defendant JAMES ANDREWS, M.D., selected Defendant BENJAMIN SHERMAN, D.O., and expressly and/or implicitly presented Defendant BENJAMIN SHERMAN, D.O., as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

34. At all times material hereto, Defendant JAMES ANDREWS, M.D., through his actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

35. Defendant, JAMES ANDREWS, M.D., was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

36. Defendant, JAMES ANDREWS, M.D., through its actual employee, agent, and apparent agent, including, but not limited to, Defendant BENJAMIN SHERMAN, D.O., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and

I. Negligently failed to provide proper post-surgical care.

37. As a direct and proximate result of Defendant BENJAMIN SHERMAN, D.O.'s negligence and failure to properly diagnose and treat Plaintiff for which Defendant JAMES ANDREWS, M.D., is vicariously responsible, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT IV

(Vicarious Liability of Baptist Health Care, Inc. as to James Andrews, M.D.)

38. Plaintiff re-alleges paragraphs 1 through 24 as if fully set forth below.

39. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant BAPTIST HEALTH CARE, INC. through its actual employees, agents, or apparent agents.

40. At all times material hereto, Defendant JAMES ANDREWS, M.D., was an actual employee, agent, or apparent agent of Defendant BAPTIST HEALTH CARE, INC. and was working within the course and scope of his employment and agency such that

any negligence of Defendant JAMES ANDREWS, M.D., would vicariously be the responsibility of Defendant BAPTIST HEALTH CARE, INC.

41. At all times material hereto, Defendant JAMES ANDREWS, M.D., was actively employed by Defendant BAPTIST HEALTH CARE, INC. and its successors and subsidiaries.

42. At all times material hereto, Defendant JAMES ANDREWS, M.D.'s salary was paid by Defendant BAPTIST HEALTH CARE, INC. and its successors and subsidiaries.

43. Defendant BAPTIST HEALTH CARE, INC. selected Defendant JAMES ANDREWS, M.D., and expressly and/or implicitly presented Defendant JAMES ANDREWS, M.D., as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

44. At all times material hereto, Defendant BAPTIST HEALTH CARE, INC., through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

45. Defendant, BAPTIST HEALTH CARE, INC., was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

46. Defendant, BAPTIST HEALTH CARE, INC., through its actual employee, agent, and apparent agent, including, but not limited to, Defendant JAMES ANDREWS, M.D., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

47. As a direct and proximate result of Defendant JAMES ANDREWS, M.D.’s negligence and failure to properly diagnose and treat Plaintiff for which Defendant BAPTIST HEALTH CARE, INC. is vicariously responsible, Plaintiff TAYLOR LEWAN

sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT V

(Vicarious Liability of Baptist Health Care, Inc. as to Benjamin Sherman, D.O.)

48. Plaintiff re-alleges paragraphs 1 through 19 and 25 through 29 as if fully set forth below.

49. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant BAPTIST HEALTH CARE, INC. through its actual employees, agents, or apparent agents.

50. At all times material hereto, Defendant BENJAMIN SHERMAN, D.O., was an actual employee, agent, or apparent agent of Defendant BAPTIST HEALTH CARE, INC. and was working within the course and scope of his employment and agency such that any negligence of Defendant BENJAMIN SHERMAN, D.O., would vicariously be the responsibility of Defendant BAPTIST HEALTH CARE, INC.

51. Defendant BAPTIST HEALTH CARE, INC. selected Defendant BENJAMIN SHERMAN, D.O., and expressly and/or implicitly presented Defendant BENJAMIN SHERMAN, D.O., as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

52. At all times material hereto, Defendant BAPTIST HEALTH CARE, INC., through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

53. Defendant, BAPTIST HEALTH CARE, INC., was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

54. Defendant, BAPTIST HEALTH CARE, INC., through its actual employee, agent, and apparent agent, including, but not limited to, Defendant BENJAMIN SHERMAN, D.O., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;

- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

55. As a direct and proximate result of Defendant BENJAMIN SHERMAN, D.O.'s negligence and failure to properly diagnose and treat Plaintiff for which Defendant BAPTIST HEALTH CARE, INC. is vicariously responsible, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT VI

(Vicarious Liability of Baptist Health Care, Inc. as to Baptist Medical Group, LLC)

56. Plaintiff re-alleges paragraphs 1 through 29 as if fully set forth below.

57. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant BAPTIST HEALTH CARE, INC. through its actual employees, agents, or apparent agents.

58. At all times material hereto, Defendant BAPTIST MEDICAL GROUP, LLC was an actual employee, agent, or apparent agent of Defendant BAPTIST HEALTH CARE, INC. and was working within the course and scope of his employment and agency such that any negligence of Defendant BAPTIST MEDICAL GROUP, LLC would vicariously be the responsibility of Defendant BAPTIST HEALTH CARE, INC.

59. Defendant BAPTIST HEALTH CARE, INC. selected Defendant BAPTIST MEDICAL GROUP, LLC and expressly and/or implicitly presented Defendant BAPTIST MEDICAL GROUP, LLC as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

60. At all times material hereto, Defendant BAPTIST HEALTH CARE, INC., through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

61. Defendant, BAPTIST HEALTH CARE, INC., was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

62. Defendant, BAPTIST HEALTH CARE, INC., through its actual employee, agent, and apparent agent, including, but not limited to, Defendant BAPTIST MEDICAL GROUP, LLC, was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;

- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

63. As a direct and proximate result of Defendant BAPTIST MEDICAL GROUP, LLC's negligence and failure to properly diagnose and treat Plaintiff for which Defendant BAPTIST HEALTH CARE, INC. is vicariously responsible, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. Plaintiff TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT VII

(Vicarious Liability of Baptist Health Care, Inc. as to Andrews Institute ASC, LLC)

64. Plaintiff re-alleges paragraphs 1 through 29 as if fully set forth below.

65. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant BAPTIST HEALTH CARE, INC. through its actual employees, agents, or apparent agents.

66. At all times material hereto, Defendant ANDREWS INSTITUTE ASC, LLC was an actual employee, agent, or apparent agent of Defendant BAPTIST HEALTH CARE, INC. and was working within the course and scope of his employment and agency such that any negligence of Defendant ANDREWS INSTITUTE ASC, LLC would vicariously be the responsibility of Defendant BAPTIST HEALTH CARE, INC.

67. Defendant BAPTIST HEALTH CARE, INC. selected Defendant ANDREWS INSTITUTE ASC, LLC and expressly and/or implicitly presented Defendant ANDREWS INSTITUTE ASC, LLC as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

68. At all times material hereto, Defendant BAPTIST HEALTH CARE, INC., through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

69. Defendant, BAPTIST HEALTH CARE, INC., was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

70. Defendant, BAPTIST HEALTH CARE, INC., through its actual employee, agent, and apparent agent, including, but not limited to, Defendant ANDREWS INSTITUTE ASC, LLC, was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

71. As a direct and proximate result of Defendant ANDREWS INSTITUTE ASC, LLC’s negligence and failure to properly diagnose and treat Plaintiff for which Defendant BAPTIST HEALTH CARE, INC. is vicariously responsible, Plaintiff TAYLOR LEWAN

sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. Plaintiff TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT VIII

(Vicarious Liability of Baptist Medical Group, LLC as to James Andrews, M.D.)

72. Plaintiff re-alleges paragraphs 1 through 24 as if fully set forth below.

73. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant BAPTIST MEDICAL GROUP, LLC through its actual employees, agents, or apparent agents.

74. At all times material hereto, Defendant JAMES ANDREWS, M.D., was an actual employee, agent, or apparent agent of Defendant BAPTIST MEDICAL GROUP, LLC and was working within the course and scope of his employment and agency such that any negligence of Defendant JAMES ANDREWS, M.D., would vicariously be the responsibility of Defendant BAPTIST MEDICAL GROUP, LLC.

75. Defendant BAPTIST MEDICAL GROUP, LLC selected Defendant JAMES ANDREWS, M.D., and expressly and/or implicitly presented Defendant JAMES

ANDREWS, M.D., as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

76. At all times material hereto, Defendant BAPTIST MEDICAL GROUP, LLC, through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

77. Defendant, BAPTIST MEDICAL GROUP, LLC, was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

78. Defendant, BAPTIST MEDICAL GROUP, LLC, through its actual employee, agent, and apparent agent, including, but not limited to, Defendant JAMES ANDREWS, M.D., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;

- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

79. As a direct and proximate result of Defendant JAMES ANDREWS, M.D.'s negligence and failure to properly diagnose and treat Plaintiff for which Defendant BAPTIST MEDICAL GROUP, LLC is vicariously responsible, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. Plaintiff TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT IX

(Vicarious Liability of Baptist Medical Group, LLC as to Benjamin Sherman, D.O.)

80. Plaintiff re-alleges paragraphs 1 through 19 and 25 through 29 as if fully set forth below.

81. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant BAPTIST MEDICAL GROUP, LLC through its actual employees, agents, or apparent agents.

82. At all times material hereto, Defendant BENJAMIN SHERMAN, D.O., was an actual employee, agent, or apparent agent of Defendant BAPTIST MEDICAL GROUP, LLC and was working within the course and scope of his employment and agency such that any negligence of Defendant BENJAMIN SHERMAN, D.O., would vicariously be the responsibility of Defendant BAPTIST MEDICAL GROUP, LLC.

83. Defendant BAPTIST MEDICAL GROUP, LLC selected Defendant BENJAMIN SHERMAN, D.O., and expressly and/or implicitly presented Defendant BENJAMIN SHERMAN, D.O., as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

84. At all times material hereto, Defendant BAPTIST MEDICAL GROUP, LLC, through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

85. Defendant, BAPTIST MEDICAL GROUP, LLC, was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

86. Defendant, BAPTIST MEDICAL GROUP, LLC, through its actual employee, agent, and apparent agent, including, but not limited to, Defendant BENJAMIN SHERMAN, D.O., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and

I. Negligently failed to provide proper post-surgical care.

87. As a direct and proximate result of Defendant BENJAMIN SHERMAN, D.O.'s negligence and failure to properly diagnose and treat Plaintiff for which Defendant BAPTIST MEDICAL GROUP, LLC is vicariously responsible, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. Plaintiff TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT X

(Vicarious Liability of Andrews Institute ASC, LLC as to James Andrews, M.D.)

88. Plaintiff re-alleges paragraphs 1 through 24 as if fully set forth below.

89. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant ANDREWS INSTITUTE ASC, LLC through its actual employees, agents, or apparent agents.

90. At all times material hereto, Defendant JAMES ANDREWS, M.D., was an actual employee, agent, or apparent agent of Defendant ANDREWS INSTITUTE ASC, LLC and was working within the course and scope of his employment and agency such

that any negligence of Defendant JAMES ANDREWS, M.D., would vicariously be the responsibility of Defendant ANDREWS INSTITUTE ASC, LLC.

91. Defendant ANDREWS INSTITUTE ASC, LLC selected Defendant JAMES ANDREWS, M.D., and expressly and/or implicitly presented Defendant JAMES ANDREWS, M.D., as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

92. At all times material hereto, Defendant ANDREWS INSTITUTE ASC, LLC, through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

93. Defendant, ANDREWS INSTITUTE ASC, LLC, was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

94. Defendant, ANDREWS INSTITUTE ASC, LLC, through its actual employee, agent, and apparent agent, including, but not limited to, Defendant JAMES ANDREWS, M.D., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;

- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

95. As a direct and proximate result of Defendant JAMES ANDREWS, M.D.'s negligence and failure to properly diagnose and treat Plaintiff for which Defendant ANDREWS INSTITUTE ASC, LLC is vicariously responsible, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. Plaintiff TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings,

past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT XI

(Vicarious Liability of Andrews Institute ASC, LLC as to Benjamin Sherman, D.O.)

96. Plaintiff re-alleges paragraphs 1 through 19 and 25 through 29 as if fully set forth below.

97. At all times material hereto, Plaintiff TAYLOR LEWAN was under the care of Defendant ANDREWS INSTITUTE ASC, LLC through its actual employees, agents, or apparent agents.

98. At all times material hereto, Defendant BENJAMIN SHERMAN, D.O., was an actual employee, agent, or apparent agent of Defendant ANDREWS INSTITUTE ASC, LLC and was working within the course and scope of his employment and agency such that any negligence of Defendant BENJAMIN SHERMAN, D.O., would vicariously be the responsibility of Defendant ANDREWS INSTITUTE ASC, LLC.

99. Defendant ANDREWS INSTITUTE ASC, LLC selected Defendant BENJAMIN SHERMAN, D.O., and expressly and/or implicitly presented Defendant Benjamin Sherman, D.O., as its actual employee, agent, or apparent agent, and Plaintiff TAYLOR LEWAN relied on those representations.

100. At all times material hereto, Defendant ANDREWS INSTITUTE ASC, LLC, through its actual employees, agents or apparent agents, owed a duty to Plaintiff TAYLOR LEWAN to exercise that level of care, skill, and treatment recognized by reasonably prudent health care providers under similar conditions and circumstances.

101. Defendant, ANDREWS INSTITUTE ASC, LLC, was and is vicariously responsible for the negligent acts of its actual employee, agent, or apparent agent, and doctors.

102. Defendant, ANDREWS INSTITUTE ASC, LLC, through its actual employee, agent, and apparent agent, including, but not limited to, Defendant BENJAMIN SHERMAN, D.O., was negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;
- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;

- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

103. As a direct and proximate result of Defendant BENJAMIN SHERMAN, D.O.'s negligence and failure to properly diagnose and treat Plaintiff for which Defendant ANDREWS INSTITUTE ASC, LLC is vicariously responsible, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. Plaintiff TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

COUNT XII
**(Vicarious Liability of Baptist Health Care, Inc. as to
Co-Venturer James Andrews, M.D.)**

104. Plaintiff re-alleges paragraphs 1 through 24 as if fully set forth below.

105. At all times material, Defendant BAPTIST HEALTH CARE, INC., and Defendant JAMES ANDREWS, M.D., were engaged in a joint venture to provide medical services.

106. At all times material hereto, Defendant BAPTIST HEALTH CARE, INC. and Defendant JAMES ANDREWS, M.D., were in a continuing business relationship transaction in which they each had a common interest in the delivery of medical services at BAPTIST HEALTH CARE, INC.

107. At all times material hereto, Defendant BAPTIST HEALTH CARE, INC. and Defendant JAMES ANDREWS, M.D., were engaged in a business venture whereby Defendant JAMES ANDREWS, M.D., provided the expertise, professional services and licensure necessary for medical services in a Florida hospital and Defendant BAPTIST HEALTH CARE, INC. provided the facilities, staff, hospital licensure, salary, compensation and other activities necessary to provide the services being undertaken.

108. At all times material hereto, as part of their joint venture, Defendant BAPTIST HEALTH CARE, INC. and Defendant JAMES ANDREWS, M.D., entered into a contract whereby Defendant JAMES ANDREWS, M.D., agreed to render medical services to patients, including but not limited to Plaintiff, TAYLOR LEWAN, exclusively through Defendant BAPTIST HEALTH CARE, INC. in exchange for compensation, benefits, facilities, support, staff, and insurance coverage.

109. At all times material hereto, as part of their joint venture, Defendant BAPTIST HEALTH CARE, INC. and Defendant JAMES ANDREWS, M.D., had joint control or a right of control over the provision of medical services.

110. At all times material hereto, as part of their joint venture, Defendant BAPTIST HEALTH CARE, INC. and Defendant JAMES ANDREWS, M.D., had a joint interest in the financial benefits and profits generated by the combination of their resources and services.

111. At all times material hereto, as part of their joint venture, Defendant BAPTIST HEALTH CARE, INC. and Defendant JAMES ANDREWS, M.D., shared profits and losses on a pro rata basis.

112. At all times material hereto, Defendant BAPTIST HEALTH CARE, INC. and Defendant JAMES ANDREWS, M.D., in the course and scope of their joint venture, were negligent and departed from the appropriate standard of care in the following respects:

- a. Negligently failed to properly treat right knee anterior cruciate ligament (“ACL”) injury;
- b. Negligent failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft;
- c. Negligently failed to properly perform right knee ACL reconstruction using ipsilateral bone-tendon-bone autograft due to selection, length, and placement of graft;
- d. Negligently failed to create the proper tunnel position, length, and angle in the tibia;
- e. Negligently failed to properly protect knee cartilage;

- f. Negligently caused cartilage injury;
- g. Negligently performed October 27, 2020 surgery;
- h. Negligently failed to utilize requisite surgical technique during the October 27, 2020 surgery;
- i. Negligently failed to properly repair all injuries during the October 27, 2020 surgery;
- j. Negligently failed to properly supervise residents and fellows during the October 27, 2020 surgery;
- k. Negligently failed to properly perform right knee medial meniscus repair; and
- l. Negligently failed to provide proper post-surgical care.

113. As a direct and proximate result of the negligence of Defendant JAMES ANDREWS, M.D., for whom Defendant BAPTIST HEALTH CARE, INC. is vicariously liable as a joint venturer, Plaintiff TAYLOR LEWAN sustained severe and permanent injuries, including, but not limited to, permanent damage to his right knee and surrounding structures, tendons, cartilage, and ligaments. The effects of the negligence suffered by Plaintiff TAYLOR LEWAN are permanent in nature. Plaintiff TAYLOR LEWAN has a permanent injury and has suffered loss and damage, including, but not limited to, severe pain and disability, suffering, disfigurement, loss of ability to enjoy life, past and future medical expenses, past and future loss of earnings, past and future loss of career earnings, past and future loss of career opportunities, and mental distress, with all such losses being of permanent and ongoing nature.

WHEREFORE, Plaintiff demands a trial by jury and a judgment for whatever damages in excess of Fifty Thousand Dollars (\$50,000.00) the Court finds Plaintiff to be entitled, plus costs, interest, and other such relief as the Court deems proper.

F.S. 766.104 CERTIFICATE

I HEREBY CERTIFY that a reasonable investigation and analysis appropriate to the circumstances gave rise to a good faith belief by counsel that grounds exist for an action against each Defendant named in this pleading.

/s/Christopher P. Janes
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DATE: May 1, 2023