

Case No: 2021-L-0000283

Wrongful Death - Medical Malpractice

distress syndrome, cervical spondylosis, chronic obstructive pulmonary disease, obstructive sleep apnea, coronary artery calcification, DVT, atrial fibrillation, and obesity.

6. On April 7, 2021, and at all times relevant, Dr. Wirth attempted a lower arch edentulation with conscious sedation on Lyle Schmidt.

7. On April 7, 2021, and at all times relevant, Dr. Wirth utilized IV sedation during the tooth extraction on Lyle Schmidt.

8. On April 7, 2021, and at all times relevant, Lyle Schmidt took the following medications: Benztropine, Cyclobenzaprine, Diazepam, Divalproex, Oxycodone, Sertraline, Trazodone, Triamterene-HCL, and Diltiazem.

9. On April 7, 2021, Dr. Wirth administered the following drugs to Lyle Schmidt via IV during the tooth extraction: Lorazepam 2.5 mg., Promethazine 15mg, Fentanyl 100mcg., Versed 3mg, and Ketamine 30mg.

10. On April 7, 2021, upon information and belief, approximately 20 to 30 minutes into the tooth extraction procedure, Lyle Schmidt indicated that he needed to go to the bathroom.

11. On April 7, 2021, upon information and belief, Dr. Wirth had removed 3 or 4 teeth at the time when Lyle Schmidt indicated he had to go to the bathroom.

12. On April 7, 2021, upon information and belief, Dr. Wirth administered Flumazenil and Naloxone after Lyle Schmidt indicated that he wanted to go the bathroom.

13. On April 7, 2021, upon information and belief, Lyle Schmidt's saturated oxygenation level declined after Flumazenil and Naloxone were administered.

14. On April 7, 2021, upon information and belief, following the administration of Flumazenil and Naloxone, Lyle Schmidt fell backward and stopped breathing.

15. On April 7, 2021, Lyle Schmidt suffered a cardiac arrest during the tooth extraction.

16. On April 7, 2021, Lyle Schmidt was transferred via ambulance to Saint Anthony Medical Center.

17. From, April 7, 2021, to April 10, 2021, Lyle Schmid remained hospitalized and received medical treatment until his death on April 10, 2021.

18. On April 7, 2021, and at all times relevant, Dr. Wirth had a duty to possess and apply the knowledge, skill, and care ordinarily used by a reasonably careful dentist in the same or similar circumstances to Lyle Schmidt.

19. On April 7, 2021, Dr. Wirth breached his duty and was negligent in one or more of the following respects:

- a. failure to adequately assess the risk for an office based anesthetic;
- b. improperly administered IV anesthetic in an office setting for a high risk patient;
- c. failed to formulate an appropriate intra-operative anesthetic plan;
- d. failed to adequately protect, monitor and manage the airway;
- e. failed to adequately monitor sedation;
- f. failed to refer Lyle Schmidt to an oral maxillofacial surgeon for tooth extraction and anesthetic management;
- g. utilized deep sedation without a license to do so; and
- h. failed to obtain informed consent for the proposed sedation.

20. As a direct and proximate result of one or more of the foregoing negligent acts and/or omissions of the Defendant, Dr. Wirth, Lyle Schmidt suffered a cardiac arrest leading to severe and permanent injuries, causing his death on April 10, 2021.

21. Jeffrey Schmidt, as Independent Administrator of the Estate of Lyle Schmidt, brings this action pursuant to 740 ILCS 180/1, 180/2, 180/2.1, commonly referred to as the

Wrongful Death Act. (Attached hereto as Exhibit A is a copy of the letters of office appointing Jeffrey Schmidt as the Independent Administrator of the Estate of Lyle Schmidt).

22. Plaintiff attaches an attorney affidavit and certificate of merit pursuant to 735 ILCS 5/2-622. (*See* Group Exhibit B).

WHEREFORE, the Plaintiff, JEFFREY SCHMIDT, as Independent Administrator of the Estate of Lyle Schmidt, deceased, by and through his attorneys, SALVI, SCHOSTOK & PRITCHARD, P.C., demands judgment against the Defendant, KURTIS E. WIRTH, DDS, in a sum of money in excess of \$50,000.00 together with the costs of this action.

COUNT II
Survival Action - Medical Malpractice

NOW COMES the Plaintiff, JEFFREY SCHMIDT, as Independent Administrator of THE ESTATE OF LYLE SCHMIDT, deceased, by and through his attorneys, SALVI, SCHOSTOK & PRITCHARD, P.C., and complaining of the Defendant, KURTIS E. WIRTH, DDS, states as follows:

1-19. Plaintiff restates and incorporates by reference paragraphs 1-19 of Count I, including all subparagraphs, for paragraphs 1-19 of Count II.

20. As a direct and proximate result of one or more of the foregoing negligent acts and/or omissions of the Defendant, Dr. Wirth, Lyle Schmidt sustained conscious pain and suffering, disability, and disfigurement prior to his death, and incurred substantial medical expenses and had he survived, he would have been entitled to bring such an action for injuries and damages.

21. Jeffrey Schmidt, as Independent Administrator of the Estate of Lyle Schmidt, brings this action pursuant to 755 ILCS 5/27-6, commonly referred to as the Survival Act. (Attached hereto as Exhibit A is a copy of the letters of office appointing Jeffrey Schmidt as the Independent Administrator of the Estate of Lyle Schmidt).

22. Plaintiff attaches an attorney affidavit and certificate of merit pursuant to 735 ILCS 5/2-622. (See Group Exhibit B).

WHEREFORE, the Plaintiff, JEFFREY SCHMIDT, as Independent Administrator of the Estate of Lyle Schmidt, deceased, by and through his attorneys, SALVI, SCHOSTOK & PRITCHARD, P.C., demands judgment against the Defendant, KURTIS E. WIRTH, DDS, in a sum of money in excess of \$50,000.00 together with the costs of this action.

PLAINTIFF DEMANDS TRIAL BY JURY

/s/ John A. Mennie

One of the Attorneys for Plaintiff

Matthew L. Williams (ARDC #6256858)
John A. Mennie (ARDS #6311221)
SALVI, SCHOSTOK & PRITCHARD, P.C.
218 N. Martin Luther King Jr. Avenue
Waukegan, Illinois 60085
(847) 249-1227
mwilliams@salvilaw.com
jmennie@salvilaw.com

UNITED STATES OF AMERICA
STATE OF ILLINOIS - COUNTY OF MCHENRY
IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL CIRCUIT

FILED
SEP 16 2021
KATHERINE M. KEEFE
McHENRY CTY. CIR. CLK.

Estate of

Case No. 21PR000336

LYLE HARVEY SCHMIDT

Deceased

LETTERS OF OFFICE - DECEDENT'S ESTATE

Deceased: LYLE HARVEY SCHMIDT

Date of Death: 4/10/2021

JEFFREY E SCHMIDT has been appointed ADMINISTRATOR - INDEPENDENT and

is authorized to take possession of and collect the estate of the decedent, and to do all acts required by law.

WITNESS:

Katherine M. Keefe, Clerk of the Twenty-Second Judicial Circuit, and the seal thereof, at Woodstock,
Illinois.



SEP 16 2021

Dated: _____

Katherine M. Keefe

Clerk of the Twenty-Second Judicial Circuit

CERTIFICATE

I certify that this is a copy of the Letters of Office now in force and effect on this date in this estate.



Dated: _____

Katherine M. Keefe

Clerk of the Twenty-Second Judicial Circuit

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY, ILLINOIS

JEFFREY SCHMIDT, as Independent
Administrator of THE ESTATE OF LYLE
SCHMIDT, deceased,

Plaintiffs,

vs.

KURTIS E. WIRTH, DDS,

Defendant,

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Case No:

AFFIDAVIT

I, John A. Mennie, being first duly sworn on oath, deposes and states as follows:

1. I am one of the attorneys for the Plaintiff herein and offers this Affidavit in compliance with Section 2-622 of the Code of Civil Procedure.

2. I have consulted with and reviewed the facts of this case with a health care professional who I reasonably believe is knowledgeable of the relevant issues set forth in Plaintiff's Complaint at Law. The professional has practiced for more than 30 years in the area of dentistry, which is an area of medicine at issue in this case.

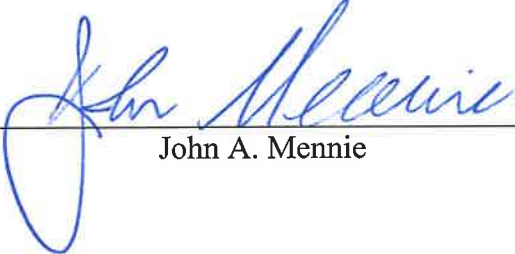
3. Affiant further states that the reviewing health care professional is qualified to discourse upon the subject of this case and have determined, in written report, after a review of all medical records and other relevant material, there is a reasonable and meritorious cause of action existing.

4. Affiant further states that I have concluded, on the basis of the physician's review and affiant's consultation with these health care professionals, a reasonable and meritorious cause of action exists against Kurtis E. Wirth, DDS.

5. That said health care professional is a physician licensed to practice dentistry and is qualified to practice in all branches.

6. That a copy of his report is attached to the Affidavit in accordance with the requirements of Section 2-622 of the Illinois Code of Civil Procedure.

FURTHER YOUR AFFIANT SAYETH NOT.


John A. Mennie

Subscribed and Sworn to before me
this 5th day of October, 2021.


Notary Public
OFFICIAL SEAL
SUSAN R HINES
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES: 11/09/22

Matthew L. Williams (ARDC No. 6256858)
John A. Mennie (ARDC No. 6311221)
SALVI, SCHOSTOK & PRITCHARD P.C.
218 N. Martin Luther King Jr. Ave.
Waukegan, Illinois 60085
(847) 249-1227

CERTIFICATE FOR AN ACTION IN MEDICAL MALPRACTICE
PURSUANT TO 735 ILCS 5/2-622

I am a board-certified oral and maxillofacial surgeon licensed to practice dentistry and to administer parenteral anesthesia in the State of Virginia. I have been in active practice for over thirty years. I am familiar with the appropriate standard of care for a reasonably careful dentist providing dental care and treatment to patients like Lyle Schmidt.

I have reviewed in detail the records, facts, and other relevant materials pertaining to the care and treatment provided to Lyle Schmidt, including but not limited to, medical records from Kurtis E. Wirth, DDS, Saint Anthony Medical Center, Northwestern Medicine, and the Winnebago County Coroner's Office.

For the reasons that follow below, it is my opinion, which I hold to a reasonable degree of medical and dental certainty, that a meritorious basis for filing an action exists against Kurtis E. Wirth, DDS.

It is my opinion that Dr. Wirth deviated from the standard of care in treating Lyle Schmidt in the following respects:

- a. failure to adequately assess the risk for an office based anesthetic;
- b. improperly administered IV anesthetic in an office setting for a high risk patient;
- c. failed to formulate an appropriate intra-operative anesthetic plan;
- d. failed to adequately protect, monitor and manage the airway;
- e. failed to adequately monitor sedation;
- f. failed to refer Lyle Schmidt to an oral maxillofacial surgeon for tooth extraction and anesthetic management;
- g. utilized deep sedation without a license to do so; and
- h. failed to obtain informed consent for the proposed sedation.

In sum, it is my opinion that the above-referenced deviations in the standard of care, individually, and in combination with each other caused Lyle Schmidt to experience permanent injuries leading to his premature death.