

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

PATRICIA ALLVIN, Administrator of the)
Estate of MELISSA L. HEIM, Deceased,)
Plaintiffs,)

v.)

ACCESS HEALTH CENTER, LTD., VICTOR)
ESPINOSA, M.D., PAT HURT,)
and A ALFONSO DEL GRANADO, M.D.)

Defendants.)

No. 03 L 000694

FILED
2001 DEC -2 PM 12:52
CLERK

SECOND AMENDED COMPLAINT AT LAW

COUNT I

ACCESS HEALTH CENTER, LTD. (WRONGFUL DEATH ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP, complaining of the Defendant, Access Health Center, Ltd. (hereinafter referred to as "Access"), stating as follows:

1. During the year 2001, and at all relevant times herein, the Defendant, Access, was a licensed health care facility providing medical services and facilities for the termination of pregnancies in the City of Downers Grove, County of DuPage and State of Illinois.
2. In 2001, and at all relevant times herein, the Defendant, Pat Hurt, was an agent and/or employee of the Defendant, Access.
3. At all relevant times herein while the Defendant, Pat Hurt, was rendering care and treatment to Melissa L. Heim, she was acting within the scope of her employment with the Defendant, Access.
4. In 2001, and at all relevant times herein, the Defendant, Access, held out to Melissa L. Heim that the Defendants, Victor Espinosa, M.C. and A Alfonso Del Granado, M.D., were agents of the Defendant, Access; Melissa L. Heim relied upon this representation; and this reliance was reasonable.

5. At all relevant times herein while the Defendants, Victor Espinosa, M.C. and Alfonso Del Granado, M.D., were rendering care and treatment to Melissa L. Heim, they were acting within the scope of their apparent agency with the Defendant, Access.

6. During the year 2001, and at all relevant times herein, the Defendant, Pat Hurt, was a registered nurse duly licensed under the laws of the State of Illinois and was engaged in the practice of nursing in DuPage County, Illinois.

7. On or about January 22, 2001, Plaintiff's Decedent, Melissa L. Heim, received treatment at Access Health Center, Ltd. from Defendant's, Access, agents and/or employees, including but not limited to Pat Hurt, and the Defendants, Victor Espinosa, M.D., and Alfonso Del Granado, M.D., for termination of a pregnancy.

8. During the time Plaintiff's Decedent, Melissa L. Heim, was at Access Health Center, Ltd., she was continuously under the control of the Defendants, Access, Pat Hurt, Victor Espinosa, M.D. and Alfonso Del Granado, M.D.

9. During the surgical procedure, Plaintiff's Decedent, Melissa L. Heim was administered sedating medications, including but not limited to Versed, Fentanyl and Brevital, for the purposes of "twilight anesthesia".

10. Following the procedure, which lasted from approximately 11:45 a.m. until 12 noon, Plaintiff's Decedent, Melissa L. Heim, was in a recovery-type area where she was to be monitored as is customary following "twilight anesthesia".

11. At or about 12:32, Plaintiff's Decedent, Melissa L. Heim, experienced a respiratory and cardiac arrest.

12. Although Plaintiff's Decedent, Melissa L. Heim, was resuscitated by paramedics, she suffered severe brain injury.

13. On January 26, 2001, Melissa L. Heim died.

14. There was a duty on the part of the Defendant, Access, by and through its agents and/or employees, including but not limited to Defendant, Pat Hurt, to diagnose and treat Melissa L. Heim in accordance with accepted standards of prevailing medical and nursing practice and opinion in DuPage County, Illinois.

15. After assuming the care and treatment of Melissa L. Heim, the Defendant, Access, by and through its agents and/or employees, including but not limited to Defendant, Pat Hurt, was guilty of one or more of the following wrongful acts and/or omissions in treating Melissa L. Heim:

- a. Negligently and carelessly failed to properly monitor Melissa L. Heim post-procedure for hypoxia and hypoventilation; and
- b. Negligently and carelessly failed to perform appropriate and timely cardiopulmonary resuscitation.

16. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Access, by and through its agents and/or employees, including but not limited to Defendant, Pat Hurt, Melissa L. Heim, died.

17. Melissa L. Heim left surviving her: her mother, Patricia Allvin, her father, Mark Heim; and her siblings Joshua Heim and Kathleen Allvin.

18. By reason of the death of Melissa L. Heim, Patricia Allvin, Mark Heim, Joshua Heim and Kathleen Allvin have been deprived of her comfort, society, companionship and protection and have sustained pecuniary damages, all to their great loss and damage.

19. The Plaintiff, Patricia Allvin, is the Administrator of the Estate of Melissa L. Heim, being so appointed on December 6, 2002 by the Circuit Court of Jo Daviess, No. 02-P-59.

20. Plaintiff brings this action under 740 ILCS 180/1 & 2 governing wrongful death actions.

WHEREFORE, Plaintiff asks for judgment against the Defendant, Access Health Center, Ltd., in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT II
ACCESS HEALTH CENTER. (SURVIVAL ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP, complaining of the Defendant, Access Health Center, Ltd. (hereinafter referred to as "Access"), stating as follows:

1.-15. Plaintiffs adopt and incorporate paragraphs 1-15 inclusive of Count I of this Second Amended Complaint at Law as paragraphs 1-15 inclusive of this Count II as though fully set forth herein.

16. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Access, Melissa L. Heim, experienced prolonged pain and suffering and irreversible damage to her body.

17. Plaintiff brings this action pursuant to 755 ILCS 5/27-6, governing survival of actions.

WHEREFORE, Plaintiff asks for judgment against the Defendant, Access Health Center, Ltd., in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT III
PAT HURT (WRONGFUL DEATH ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP, complaining of the Defendant, Pat Hurt (hereinafter referred to as "Hurt"), stating as follows:

1. During the year 2001, and at all relevant times herein, the Defendant, Hurt, was a registered nurse duly licensed under the laws of the State of Illinois and was engaged in the practice of nursing in DuPage County, Illinois.

2. On or about January 22, 2001, Plaintiff's Decedent, Melissa L. Heim, received treatment at Access Health Center, Ltd. from Defendants, Access Health Center, Ltd., Hurt, Victor Espinosa, M.D., and Alfonso Del Granado, M.D., for termination of a pregnancy.

3. During the time Plaintiff's Decedent, Melissa L. Heim, was at Access Health Center, Ltd., she was continuously under the control of the Defendants, Access Health Center, Ltd., Hurt, Victor Espinosa, M.D. and Alfonso Del Granado, M.D.

4. During the surgical procedure, Plaintiff's Decedent, Melissa L. Heim was administered sedating medications, including but not limited to Versed, Fentanyl and Brevital, for the purposes of "twilight anesthesia".

5. Following the procedure, which lasted from approximately 11:45 a.m. until 12 noon, Plaintiff's Decedent, Melissa L. Heim, was in a recovery-type area where she was to be monitored as is customary following "twilight anesthesia".

6. At or about 12:32, Plaintiff's Decedent, Melissa L. Heim, experienced a respiratory and cardiac arrest.

7. Although Plaintiff's Decedent, Melissa L. Heim, was resuscitated by paramedics, she suffered severe brain injury.

8. On January 26, 2001, Melissa L. Heim died.

9. There was a duty on the part of the Defendant, Hurt, to care for and treat Melissa L. Heim in accordance with accepted standards of prevailing nursing practice and opinion in DuPage County, Illinois.

10. After assuming the care and treatment of Melissa L. Heim, the Defendant, Hurt, was guilty of one or more of the following wrongful acts and/or omissions in treating Melissa L. Heim:

- a. Negligently and carelessly failed to properly monitor Melissa L. Heim post-procedure for hypoxia and hypoventilation; and
- b. Negligently and carelessly failed to perform appropriate and timely cardiopulmonary resuscitation.

11. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Hurt, Melissa L. Heim, died.

12. Melissa L. Heim left surviving her: her mother, Patricia Allvin, her father, Mark Heim; and her siblings Joshua Heim and Kathleen Allvin.

13. By reason of the death of Melissa L. Heim, Patricia Allvin, Mark Heim, Joshua Heim and Kathleen Allvin have been deprived of her comfort, society, companionship and protection and have sustained pecuniary damages, all to their great loss and damage.

14. The Plaintiff, Patricia Allvin, is the Administrator of the Estate of Melissa L. Heim, being so appointed on December 6, 2002 by the Circuit Court of Jo Daviess, No. 02-P-59.

15. Plaintiff brings this action under 740 ILCS 180/1 & 2 governing wrongful death actions.

WHEREFORE, Plaintiff asks for judgment against the Defendant, Pat Hurt, in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT IV
PAT HURT (SURVIVAL ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP, complaining of the Defendant, Pat Hurt (hereinafter referred to as "Hurt"), stating as follows:

1.-10. Plaintiffs adopt and incorporate paragraphs 1-10 inclusive of Count III of this Second Amended Complaint at Law as paragraphs 1-10 inclusive of this Count IV as though fully set forth herein.

11. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Hurt, Melissa L. Heim, experienced prolonged pain and suffering and irreversible damage to her body.

12. Plaintiff brings this action pursuant to 755 ILCS 5/27-6, governing survival of actions.

WHEREFORE, Plaintiff asks for judgment against the Defendant, Pat Hurt, in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT V
VICTOR ESPINOSA, M.D. (WRONGFUL DEATH ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP, complaining of the Defendant, Victor Espinosa, M.D. (hereinafter referred to as "Espinosa"), stating as follows:

1. During the year 2001, and at all relevant time herein, the Defendant, Espinosa, a resident of Cook County, was a physician duly licensed under the laws of the State of Illinois and was engaged in the practice of anesthesiology in DuPage County, Illinois.

2. On or about January 22, 2001, Plaintiff's Decedent, Melissa L. Heim, received treatment at Access Health Center, Ltd. from Defendants, Access Health Center, Ltd., Pat Hurt, Espinosa, and Alfonso Del Granado, M.D., for termination of a pregnancy.

3. During the time Plaintiff's Decedent, Melissa L. Heim, was at Access Health Center, Ltd., she was continuously under the control of the Defendants, Access Health Center, Ltd., Pat Hurt, Espinosa, and Alfonso Del Granado, M.D.

4. During the surgical procedure, Plaintiff's Decedent, Melissa L. Heim, was administered sedating medications, including but not limited to Versed, Fentanyl and Brevital, for the purposes of "twilight anesthesia".

5. Following the procedure, which lasted from approximately 11:45 a.m. until 12 noon, Plaintiff's Decedent, Melissa L. Heim, was in a recovery-type area where she was to be monitored as is customary following "twilight anesthesia".

6. At or about 12:32, Plaintiff's Decedent, Melissa L. Heim, experienced a respiratory and cardiac arrest.

7. Although Plaintiff's Decedent, Melissa L. Heim, was resuscitated by paramedics, she suffered severe brain injury.

8. On January 26, 2001, Melissa L. Heim died.

9. There was a duty on the part of the Defendant, Espinosa, to diagnose and treat Melissa L. Heim, M.D. in accordance with accepted standards of prevailing anesthesia practice and opinion in DuPage County, Illinois.

10. After assuming the care and treatment of Melissa L. Heim, the Defendant, Espinosa, was guilty of one or more of the following wrongful acts and/or omissions in treating Melissa L. Heim:

- a. Negligently and carelessly failed to properly monitor Decedent post-procedure for hypoxia and hypoventilation;
- b. Negligently and carelessly failed to perform appropriate and timely cardiopulmonary resuscitation; and
- c. Negligently and carelessly failed to supervise the post-procedure monitoring of Plaintiff's Decedent, including, but not limited to providing appropriate instructions and guidance to Recovery Room nurse(s) as to monitoring procedures and emergency management of hypoxia, hypoventilation, and cardiopulmonary resuscitation.

11. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Espinosa, Melissa L. Heim, died.

12. Melissa L. Heim left surviving her: her mother, Patricia Allvin, her father, Mark Heim; and her siblings Joshua Heim and Kathleen Allvin.

13. By reason of the death of Melissa L. Heim, Patricia Allvin, Mark Heim, Joshua Heim and Kathleen Allvin have been deprived of her comfort, society, companionship and protection and have sustained pecuniary damages, all to their great loss and damage.

14. The Plaintiff, Patricia Allvin, is the Administrator of the Estate of Melissa L. Heim, being so appointed on December 6, 2002 by the Circuit Court of Jo Daviess, No. 02-P-59.

15. Plaintiff brings this action under 740 ILCS 180/1 & 2 governing wrongful death actions.

WHEREFORE, Plaintiff asks for judgment against the Defendant, Victor Espinosa, M.D., in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT VI
VICTOR ESPINOSA, M.D. (SURVIVAL ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP, complaining of the Defendant, Victor Espinosa, M.D. (hereinafter referred to as "Espinosa"), stating as follows:

1.-10. Plaintiffs adopt and incorporate paragraphs 1-10 inclusive of Count V of this Second Amended Complaint at Law as paragraphs 1-10 inclusive of this Count VI as though fully set forth herein.

11. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Espinosa, Melissa L. Heim, experienced prolonged pain and suffering and irreversible damage to her body.

12. Plaintiff brings this action pursuant to 755 ILCS 5/27-6, governing survival of actions.

WHEREFORE, Plaintiffs ask for judgment against the Defendant, Victor Espinosa, M.D., in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT VII
ALFONSO DEL GRANADO, M.D. (WRONGFUL DEATH ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP,

complaining of the Defendant, Alfonso Del Granado, M.D. (hereinafter referred to as "Del Granado"), stating as follows:

1. During the year 2001, and at all relevant time herein, the Defendant, Del Granado, a resident of Cook County, was a physician duly licensed under the laws of the State of Illinois and was engaged in the practice of obstetrics and gynecology in DuPage County, Illinois.

2. On or about January 22, 2001, Plaintiff's Decedent, Melissa L. Heim, received treatment at Access Health Center, Ltd. from Defendants, Access Health Center, Ltd., Pat Hurt, Victor Espinosa, M.D. and Del Granado, for termination of a pregnancy.

3. During the time Plaintiff's Decedent, Melissa L. Heim, was at Access Health Center, Ltd., she was continuously under the control of the Defendants, Access Health Center, Ltd., Pat Hurt, Victor Espinosa, M.D. and Del Granado.

4. During the surgical procedure, Plaintiff's Decedent, Melissa L. Heim was administered sedating medications, including but not limited to Versed, Fentanyl and Brevital, for the purposes of "twilight anesthesia".

5. Following the procedure, which lasted from approximately 11:45 a.m. until 12 noon, Plaintiff's Decedent, Melissa L. Heim, was in a recovery-type area where she was to be monitored as is customary following "twilight anesthesia".

6. At or about 12:32, Plaintiff's Decedent, Melissa L. Heim, experienced a respiratory and cardiac arrest.

7. Although Plaintiff's Decedent, Melissa L. Heim, was resuscitated by paramedics, she suffered severe brain injury.

8. On January 26, 2001, Melissa L. Heim died.

9. There was a duty on the part of the Defendant, Del Granado, to diagnose and treat Melissa L. Heim, M.D. in accordance with accepted standards of prevailing obstetrical and gynecological practice and opinion in DuPage County, Illinois.

10. After assuming the care and treatment of Melissa L. Heim, the Defendant, Del Granado, was guilty of one or more of the following wrongful acts and/or omissions in treating Melissa L. Heim:

- a. Negligently and carelessly failed to perform appropriate and timely cardiopulmonary resuscitation.

11. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Del Granado, Melissa L. Heim, died.

12. Melissa L. Heim left surviving her: her mother, Patricia Allvin, her father, Mark Heim; and her siblings Joshua Heim and Kathleen Allvin.

13. By reason of the death of Melissa L. Heim, Patricia Allvin, Mark Heim, Joshua Heim and Kathleen Allvin have been deprived of her comfort, society, companionship and protection and have sustained pecuniary damages, all to their great loss and damage.

14. The Plaintiff, Patricia Allvin, is the Administrator of the Estate of Melissa L. Heim, being so appointed on December 6, 2002 by the Circuit Court of Jo Daviess, No. 02-P-59.

15. Plaintiff brings this action under 740 ILCS 180/1 & 2 governing wrongful death actions.

WHEREFORE, Plaintiff asks for judgment against the Defendant, DelGranado, in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT VIII
ALFONSO DEL GRANADO, M.D. (SURVIVAL ACTION)

NOW COMES the Plaintiff, Patricia Allvin, Administrator of the Estate of Melissa L. Heim, Deceased, by and through her attorneys, Cirignani, Heller, Harman & Lynch, LLP, complaining of the Defendant, Alfonso Del Granado, M.D. (hereinafter referred to as "Del Granado"), stating as follows:

1.-10. Plaintiffs adopt and incorporate paragraphs 1-10 inclusive of Count VII of this Second Amended Complaint at Law as paragraphs 1-10 inclusive of this Count VIII as though fully set forth herein.

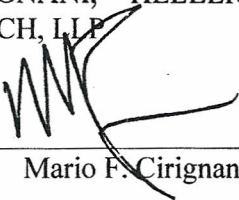
11. As a direct and proximate result of one or more of the aforementioned acts and/or omissions of the Defendant, Del Granado, Melissa L. Heim, experienced prolonged pain and suffering and irreversible damage to her body.

12. Plaintiff brings this action pursuant to 755 ILCS 5/27-6, governing survival of actions.

WHEREFORE, Plaintiffs ask for judgment against the Defendant, Alfonso Del Granado, M.D., in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

Respectfully submitted,

CIRIGNANI, HELLER, HARMAN &
LYNCH, LLP

By: 

Mario F. Cirignani

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

PATRICIA ALLVIN, Administrator of the)
Estate of MELISSA L. HEIM, Deceased,)

Plaintiffs,)

v.)

No. 03 L 000694

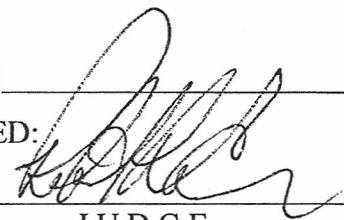
ACCESS HEALTH CENTER, LTD., VICTOR)
ESPINOSA, M.D., PAT HURT,)
and A ALFONSO DEL GRANADO, M.D.)

Defendants.)

ROUTINE ORDER FOR VOLUNTARY DISMISSAL

THIS MATTER coming to be heard on Plaintiff's Motion for Voluntary Dismissal, the Court being fully advised orders that the Defendants, Access Health Center, Ltd., Victor Espinosa, M.D., Pat Hurt, and A. Alfonso Del Granado, M.D. and the entire case are voluntarily dismissed without prejudice pursuant to 735 ILCS 5/2-1009. 4040

Costs are waived.

DATED: _____
ENTERED: _____


JUDGE
Judge Robert Lopez Cepero

DEC 09 2005

Circuit Court - 1627

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