



D48277221

COURT OF COMMON PLEAS
HAMILTON, COUNTY, OHIO

ANGELA GARCIA
2444 MADISON ROAD. #1411
CINCINNATI, OH 45208

PLAINTIFF,

v.

ALLIANCE PRIMARY CARE
2123 AUBURN AVE., STE. 520
CINCINNATI, OH 45219

AND

LAURA TOEBBE, M.D.
c/o ALLIANCE PRIMARY CARE
2123 AUBURN AVE., STE. 520
CINCINNATI, OH 45219

AND

KATHERINE D. HEWITT, M.D.
KATZ, KADE & HEWITT, M.D.'S
71 E. HOLLISTER
CINCINNATI, OH 45219

AND

JOHN SHOCKLEY, M.D.
c/o ALLIANCE PRIMARY CARE
2123 AUBURN AVE., STE. 520
CINCINNATI, OH 45219

DEFENDANTS.

:
:
: COMPLAINT

:
:
: CASE NO.

A0107214

ORIG. COMP. PARTIES, SUMMONS	✓D	
() CERT MAIL	() SHERIFF	() WAVE
() PROCESS SERVER	() NONE	
CLERKS FEES		TIC
SECURITY FOR COST	125	
DEPOSITED BY	29997	
FILING CODE	A340	

FILED
Oct 18 1 54 PM '01
JAMES DISCELLO
CLERK OF COURTS
HAMILTON CO. OHIO


Now comes the Plaintiff, *pro se*, and states the following for her Complaint:

1. All defendants are citizens of, or have their primary place of business in Hamilton County, Ohio.
2. On or about April 23, 2001, I sent notice extending the statute of limitations pursuant to R.C. § 2305.11.
3. Defendants Dr. Toebe and Dr. Shockley are agents or employees of Defendant Alliance Primary Care and at all time relevant to this action were acting within the scope of their employment or agency.
4. I had been a patient of Defendant Dr. Toebe since August of 1998.
5. On May 26, 1999, I went to see Defendant Dr. Hewitt with complaints of pelvic pain. Dr. Hewitt performed an ultrasound on May 27, 1999 and again saw me on August 19, 1999. She diagnosed me with dysmenorrhea and told me to return in one year.
6. In October of 1999, I returned to see Dr. Toebe at Alliance Primary Care for a check-up and complained of pelvic pain and irregular bleeding.
7. During the next four months, I returned repeatedly to see Dr. Toebe with complaints of abdominal pain, fatigue and weight loss.
8. I saw Defendant Dr. Shockley at Alliance Primary Care on December 23, 1999 with complaints of abdominal pain.
9. After having continuing symptoms, I consulted with additional doctors who performed tests and diagnosed me with Grade III (out of III) uterine cancer. I was told of the diagnosis on May 1, 2000.

10. Defendants rendered medical care and treatment to me that was negligent in that they failed to timely diagnose and treat my uterine cancer.

11. As a result of Defendants' negligence, I have incurred medical bills in an amount yet to be determined and will continue to incur bills in the future and have incurred great pain of both mind and body, which is believed to be permanent in nature. I have also incurred a diminished earning capacity. Finally, as a result of Defendants' negligence, I have incurred a loss of enjoyment of life.

WHEREFORE, Plaintiff demands judgment in excess of \$25,000 together with costs, interest and any other relief to which I am entitled.


Angela Garcia
2444 Madison Road, #1411
Cincinnati, OH 45208
(513) 533-0976



D48277218

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIOCLASSIFICATION FORM
(REV 6-12-00)
WWW.COURTCLERK.ORGJAMES CISSELL
CLERK OF COURTSCASE NUMBER A0107214PLAINTIFF: Angela Garcia

PURSUANT TO SUPERINTENDENCE RULE 4, THIS CASE WAS ORIGINALLY FILED AND DISMISSED

UNDER CASE NUMBER: _____ BY JUDGE _____

PLEASE INDICATE CLASSIFICATION INTO WHICH THIS CASE FALLS:

☐ OTHER TORT - C360

- ☐ Personal Injury - C310
- ☐ Wrongful Death - C320
- ☐ Vehicle Accident - C370

☐ PROFESSIONAL TORT - A300

- ☐ Personal Injury - A310
- ☐ Wrongful Death - A320
- ☐ Legal Malpractice - A330
- ☒ Medical Malpractice - A340

☐ PRODUCT LIABILITY - B350

- ☐ Personal Injury - B310
- ☐ Wrongful Death - B320

WORKER'S COMPENSATION

- ☐ Non-Compliant Employer - D410
- ☐ Appeal - D420

FORECLOSURE

- ☐ Foreclosure - E510
- ☐ Foreclosure-Taxes - E520
- ☐ Foreclosure-Mechanics Lien - E530

☐ ADMINISTRATIVE APPEALS - F600

- ☐ Appeal Civil Service - F610
- ☐ Appeal Motor Vehicle - F620
- ☐ Appeal Unemployment - F630
- ☐ Appeal Liquor - F640
- ☐ Appeal Taxes - F650
- ☐ Appeal Zoning - F660

☐ OTHER CIVIL - H700-34

- ☐ Appropriation - H710
- ☐ Accounting - H720
- ☐ Beyond Jurisdiction - H730
- ☐ Breach of Contract - H740
- ☐ Cancel Land Contract - H750
- ☐ Change of Venue - H760
- ☐ Class Action - H770
- ☐ Convey Declared Void - H780
- ☐ Declaratory Judgment - H790
- ☐ Discharge Mechanics Lien - H800
- ☐ Dissolve Partnership - H810
- ☐ CONSUMER SALES ACT (1345 ORC) - H82
- ☐ Check here if relief includes declaratory judgment, injunction or class action recovery - H825
- ☐ Habeas Corpus - H830
- ☐ Injunction - H840
- ☐ Mandamus - H850
- ☐ On Account - H860
- ☐ Partition - H870
- ☐ Quiet Title - H880
- ☐ Replevin - H890
- ☐ Sale of Real Estate - H900
- ☐ Specific Performance - H910
- ☐ Restraining Order - H920
- ☐ Testimony - H930-21
- ☐ Environmental - H940
- ☐ Cognovit - H950
- ☐ Menacing by Stalking - H960
- ☐ Repo Title - Transfer of Title Only - H970
- ☐ Repo Title - With Money Claim - H980

DATE: 10/18/01

ATTORNEY (PRINT):

Kim M. BURTON
401 E. COURT ST.

OHIO SUPREME COURT NUMBER: _____

OCT 18 11 53 PM '01
JAMES CISSELL
CLERK OF COURTS
HAMILTON COUNTY, OHIO

FILED

C. M. H. 45202



HAMILTON COUNTY CLERK OF COURTS
CASE COST STATEMENT

CASE NUMBER = A 0107214

Page 1
CMSR5018

D48564589

CASE NUMBER : A 0107214

LAST ACTIVITY DATE : 11/16/2001

ANGELA GARCIA vs. ALLIANCE PRIMARY

FILING DATE : 10/18/2001

FILING : A340 PROF TORT- MEDICAL MALPRACTICE

CURRENT JUDGE : 15 ROBERT S KRAFT
PREVIOUS JUDGE :

ASSIGN DATE : 10/24/2001

Count: DISPOSITION: H DISMISSAL

IMAGE: DATE: 11/14/2001

NOTE :

COST APPL DATE : 11/16/2001
APPLIED COSTS: \$ 142.00

LAST BILLING DATE :

DEPOSIT MOTION FLAG : Y

PARTY REFERENCE

STATUS DATE	PARTY NBR	PARTY NAME ADDRESS	ATTORNEY NBR	ATTORNEY NAME ADDRESS
A 10/18/2001	D-1	ALLIANCE PRIMARY CARE STE 520 2123 AUBURN AVE CINCINNATI OH 45219	39350	KAREN A CARROLL SUITE 310 250 EAST FIFTH STREET CINCINNATI OH 45202
A 10/18/2001	D-2	LAURA TOEBBE MD & ALLIANCE PRIMARY CARE 2123 AUBURN AVE STE 520 CINCINNATI OH 45219	39350	KAREN A CARROLL SUITE 310 250 EAST FIFTH STREET CINCINNATI OH 45202
A 10/18/2001	D-3	KATHERINE D HEWITT MD KATZ KADE & HEWITT MDS 71 E HOLLISTER CINCINNATI OH 45219		
A 10/18/2001	D-4	JOHN SHOCKLEY MD & ALLIANCE PRIMARY CARE 2123 AUBURN AVE STE 520 CINCINNATI OH 45219	39350	KAREN A CARROLL SUITE 310 250 EAST FIFTH STREET CINCINNATI OH 45202
A 10/18/2001	P-1	ANGELA GARCIA NO 1411 2444 MADISON ROAD CINCINNATI OH 45208	29997	PRO SE

HAMILTON COUNTY CLERK OF COURTS
CASE COST STATEMENT

CASE NUMBER = A 0107214

Page 2
CMSR5018

DOCKET ENTRIES

DOC NBR	ENTRY TYP	DOCK CODE	ENTRY DATE	IMAGE NUMBER	DOCKET DESCRIPTION/ DOCKET COMMENT	AMOUNT	APPLIED
48564589		600	11/16/2001		- Cashier's Application Run -		
48564584	M	3SCP	11/16/2001		COSTS PAID BY AND CHECK ISSUED TO : ANGELA GARCIA	33.00	Y
48541002	D	KFD	11/14/2001		NOTICE OF DISMISSAL	1.00	Y
48500748		FNFP	11/08/2001		NOTIFICATION FORM FILED.		
48501228	D	FA	11/08/2001		ANSWER OF DEFENDANTS ALLIANCE PRIMARY CARE, LAURA TOEBBE, M.D., AND JOHN SHOCKLEY, M.D. TO PLAINTIFF'S COMPLAINT	5.00	Y
48387093		JPR	10/29/2001		POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO JOHN SHOCKLEY MD ON 10/25/01, FILED		
48416747		JPR	10/29/2001		POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO ALLIANCE PRIMARY CARE ON 10/25/01, FILED		
48385957		JPR	10/29/2001		POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO LAURA TOEBBE MD ON 10/25/01, FILED		
48385105		JPR	10/25/2001		POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO KATHERINE D HEWITT MD ON 10/24/01, FILED		
48334568		245	10/24/2001		JUDGE ASSIGNED CASE ROLLED TO KRAFT/ROBERT/S PRIMARY		
48287774	D	SUMA	10/19/2001		SUMMONS ISSUED BY CERTIFIED MAIL TO JOHN SHOCKLEY MD	4.00	Y
48287744	D	SUMA	10/19/2001		SUMMONS ISSUED BY CERTIFIED MAIL TO KATHERINE D HEWITT MD	4.00	Y
48287651	D	SUMA	10/19/2001		SUMMONS ISSUED BY CERTIFIED MAIL TO LAURA TOEBBE MD	4.00	Y
48287592	D	SUMA	10/19/2001		SUMMONS ISSUED BY CERTIFIED MAIL TO ALLIANCE PRIMARY CARE	4.00	Y
48287773	D	MAIA	10/19/2001		CERTIFIED MAIL SERVICE ISSUED TO JOHN SHOCKLEY MD	5.00	Y
48287741	D	MAIA	10/19/2001		CERTIFIED MAIL SERVICE ISSUED TO KATHERINE D HEWITT M D	5.00	Y
48287648	D	MAIA	10/19/2001		CERTIFIED MAIL SERVICE ISSUED TO LAURA TOEBBE MD	5.00	Y
48287591	D	MAIA	10/19/2001		CERTIFIED MAIL SERVICE ISSUED TO ALLIANCE PRIMARY CAR E	5.00	Y
48277221	D	COMP	10/18/2001		COMPLAINT FILED	10.00	Y
48277220	D	POST	10/18/2001		POSTAGE: COST DESK	2.00	Y
48277219	D	LAA	10/18/2001		O.R.C. SECTION 2303.201	15.00	Y
48277218	D	FCF	10/18/2001		CLASSIFICATION FORM FILED.	0.00	Y
48277217	D	CMPA	10/18/2001		COURT MEDIATION PROGRAM FEE PER ENTRY 8/3/99 IMAGE 164; M-9900002.	25.00	Y
48277216	D	CLR	10/18/2001		COMPUTER LEGAL RESEARCH	3.00	Y
48277215	D	CLK	10/18/2001		CLERK FEE FOR EACH CAUSE	25.00	Y
48277214	D	CI	10/18/2001		COURT INDEX	14.00	Y
48277213	D	CCA	10/18/2001		COURT AUTOMATION	6.00	Y
48277212	P	FIVE	10/18/2001		INITIAL CASE DEPOSIT PAID BY ANGELA GARCIA	-175.00	Y

HAMILTON COUNTY CLERK OF COURTS
C A S E C O S T S T A T E M E N T

CASE NUMBER = A 0107214

Page 3
CMSR5018

CASE BALANCE ** CASE BALANCE **** CASE BALANCE ** ==> 0.00

Total Deposits : 175.00 CR
Total Costs : 142.00
Total Credits : 0.00
Total Money Out : 33.00

Unapplied Deposits : 0.00
Unapplied Costs : 0.00

Account	Account Name	Amount:	Applied Amount:
1000-0131	CASE DEPOSIT (ISSUE) #1	175.00 CR	175.00 CR
1000-0132	COURT INDEX	14.00	14.00
1000-0211	CLERK FEES	25.00	25.00
1000-0275	COURT MEDIATION PROGRAM	25.00	25.00
1000-0278	COMPUTERIZED LEGAL RESEARCH	3.00	3.00
1000-0279	COURT AUTOMATION	6.00	6.00
1000-0804	O.R.C. SECTION 2303.201	15.00	15.00
2000-0211	CLERK FEES	32.00	32.00
2000-0752	POSTAGE	22.00	22.00
3000-0999	SUNDRY; CHECKS ISSUED	33.00	33.00
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		0.00	0.00



D48599541

IN THE COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

FILED

Nov 15 11 40 AM '01

Angela Garcia,

Plaintiff,

vs.

Katherine D. Hewitt, M.D.,

Defendant.

Case No. A 0107214

Judge Kraft

JURY DEMAND ENDORSED HEREON

ANSWER OF DEFENDANTS,
KATHERINE D. HEWITT, M.D. & KATZ, KADE & HEWITT, M.D.'S
TO PLAINTIFF'S COMPLAINT

Now come Defendants, Katherine D. Hewitt, M.D. and Katz, Kade & Hewitt, M.D.'s, by and through counsel, and hereby answer the allegations of Pro Se Plaintiff's Complaint, as follows:

1. Defendants deny the allegations set forth in Paragraphs 1, 3, 4, 6, 7, 8 and 9 of the Complaint for want of knowledge.
2. Defendants deny the allegations set forth in Paragraphs 2, 10 and 11 of the Complaint.
3. In response to the allegations set forth in Paragraph 5 of the Complaint, Defendants admit that Dr. Hewitt saw the patient on May 26, 1999 and again on August 19, 1999, but deny the allegations as specifically stated in that paragraph of the Complaint.
4. Defendants deny each and every allegation of Plaintiff's Complaint not specifically admitted in this Answer.

AFFIRMATIVE DEFENSES

5. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
6. Plaintiff's Complaint is barred, in whole or in part, by the applicable statutes of limitations.

7. Plaintiff's alleged injuries and damages, if any, were caused or contributed to by third persons, parties or entities over whom Defendants had no power, authority or control.

8. Plaintiff's alleged injuries and damages were caused, or contributed to, by Plaintiff's own negligence, which negligence is in an amount greater than the alleged negligence of Defendants, which negligence is specifically denied.

9. Defendants are entitled to a set-off of damages and/or limitation of damages, pursuant to statute.

10. Plaintiff has failed to join indispensable parties to this action.

11. Plaintiff assumed the risks of the alleged injuries and damages of which she complains as set forth in the Complaint.

WHEREFORE, having fully answered the allegations of Plaintiff's Complaint, Defendants, Katherine D. Hewitt, M.D. and Katz, Kade & Hewitt, M.D.'s, respectfully request that Plaintiff's Complaint be dismissed as against them, with prejudice, and that Plaintiff be ordered to pay all court costs, and further ordered to pay all costs incurred in the defense of this matter, including attorney's fees, with interest.

Respectfully submitted,

CALDERHEAD & ASSOCIATES

By: 

David C. Calderhead, Esq. (#0039013)
100 TechneCenter Dr., Suite 108
Milford, OH 45150
Tel.: (513) 576-1060

Counsel for Defendants,
Katherine D. Hewitt, M.D. and
Katz, Kade & Hewitt, M.D.'s

JURY DEMAND

Defendants, Katherine D. Hewitt, M.D. and Katz, Kade & Hewitt, M.D.'s, demand trial
by jury of the within action.



David C. Calderhead

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was
served upon all parties or counsel of record by regular U.S. mail, postage prepaid, this

14th day of November, 2000.

Angela Garcia
2444 Madison Ave., #1411
Cincinnati, OH 45208
Plaintiff In Pro Se

Karen A. Carroll, Esq.
ROETZEL & ANDRESS
250 E. Fifth St., Suite 310
Cincinnati, OH 45202
Attorney for Defendants,
Laura Toebe, M.D.,
John Shockley, M.D. &
Alliance Primary Care



David C. Calderhead

FILED

IN THE COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

Angela Garcia
Nov 23 12:57 PM '01

Plaintiff,
vs.
HAMILTON COUNTY, OHIO

Katherine D. Hewitt, M.D.,

Defendant.

Case No. A 0107214

Judge Kraft

NOTICE OF SERVICE OF DISCOVERY

Defendants, Katherine D. Hewitt, M.D. and Katz, Kade & Hewitt, by and through counsel, hereby give Notice of Service upon Plaintiff of Interrogatories and Request for Admissions, directed to Plaintiff this 28th day of November, 2001.

Respectfully submitted,

CALDERHEAD & ASSOCIATES



048722670

By:

David C. Calderhead, Esq. (#0039013)
100 TechneCenter Dr., Suite 108
Milford, OH 45150
Tel.: (513) 576-1060

Counsel for Defendants,
Katherine D. Hewitt, M.D. and
Katz, Kade & Hewitt, M.D.'s

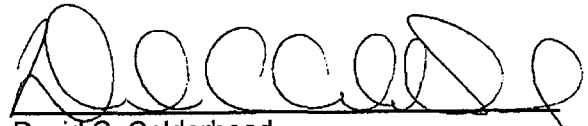
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon all parties or counsel of record by regular U.S. mail, postage prepaid, this

28th day of November, 2000.

Angela Garcia
2444 Madison Ave., #1411
Cincinnati, OH 45208
Plaintiff In Pro Se

Karen A. Carroll, Esq.
ROETZEL & ANDRESS
250 E. Fifth St., Suite 310
Cincinnati, OH 45202
Attorney for Defendants,
Laura Toebbe, M.D.,
John Shockley, M.D. &
Alliance Primary Care



David C. Calderhead