

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

Heather Elledge, f.k.a.  
Heather Williams,  
Plaintiff.

Case No. NH

v.

Michael Salesin, M.D.;  
Lina A. Obaid, RPh; Northland Family  
Planning Clinic, Inc.-West.; Woodward  
Detroit CVS, LLC f.k.a. Arbor Drugs, Inc.  
d.b.a. CVS Pharmacy, jointly and  
severally,  
Defendants.

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**Complaint, Jury Demand and Affidavits of Meritorious Claim**

Now Comes plaintiff Heather Elledge, f.k.a. Heather Williams, by and through her attorney, Richard J. Dimanin, and hereby complains against the defendants as follows:

1. The amount in controversy exceeds \$25,000, excluding costs, interest, and attorney fees.
2. Plaintiff Heather Elledge, f.k.a. Heather Williams, was, at all times pertinent hereto, a resident of the city of Plymouth, Wayne County, Michigan.
3. Defendant Michael Salesin, M.D. was, at all times pertinent hereto, a licensed and practicing physician specializing in obstetrics and gynecology and was an agent,

servant, and/or employee of defendant Northland Family Planning Clinic, Inc.-West and provided medical/surgical services to plaintiff in the city of Westland, Wayne County, Michigan.

4. Defendant Northland Family Planning Clinic, Inc.-West is a Michigan for-profit corporation located in the city of Westland, Wayne County, Michigan and, at all times pertinent hereto, provided healthcare services to plaintiff.

5. Defendant Lina A. Obaid, RPh was, at all times pertinent hereto, a duly licensed and practicing pharmacist and an agent, servant and/or employee of Woodward Detroit CVS, L.L.C., f.k.a. Arbor Drugs, Inc., d.b.a. CVS pharmacy, and dispensed prescription medication to plaintiff in the city of Northville, Wayne County, Michigan on March 8, 2012.

6. Defendant Woodward Detroit CVS, L.L.C., f.k.a. Arbor Drugs, Inc., d.b.a. CVS Pharmacy, is a Michigan for-profit limited liability company and owned, operated and/or maintained a pharmacy located in the city of Northville, Wayne County Michigan where plaintiff obtained prescription medication from defendant Lina A. Obaid, RPh. on March 8, 2012, to wit, pharmacy #08163.

7. On March 8, 2012, plaintiff Heather Elledge presented to defendant Northland Family Planning Clinic, Inc.-West, to undergo an outpatient surgical procedure to be performed by defendant Michael Salesin, M.D. Further, plaintiff's preoperative paper work and medical records clearly indicated that plaintiff had an allergy to penicillin, a member of the Beta lactam family of antibiotics.

8. Following the completion of the surgical procedure, defendant Salesin prescribed amoxicillin to be taken by plaintiff postoperatively, even though amoxicillin is a member of the Beta lactam family of antibiotics and is closely related to penicillin.

9. On March 8, 2012, plaintiff Heather Elledge's prescription for the amoxicillin was presented to defendant Woodward Detroit CVS, L.L.C.'s pharmacy #08163 to be filled.

10. Despite that plaintiff's prescription profile at defendant Woodward Detroit CVS, L.L.C pharmacy #08163 indicated that she had an allergy to penicillin, defendant Lina A. Obaid, RPh and/or another agent, servant, and/or employee of defendant Woodward Detroit CVS, L.L.C. nevertheless dispensed the amoxicillin to plaintiff Heather Elledge.

11. Plaintiff Heather Elledge ingested the prescription of amoxicillin in the exact dosage and duration as indicated on the prescription bottle.

12. On March 10, 2012, plaintiff Heather Elledge presented to the emergency department at St. Mary Mercy Hospital in Livonia with an anaphylactic and/or adverse reaction to the amoxicillin prescribed by defendant Salesin and dispensed by defendant Obaid and/or another agent, servant, and/or employee of defendant Woodward Detroit CVS, L.L.C.

13. Subsequently, plaintiff developed severe headaches, tunnel vision, visual disturbances and vertigo type symptoms and sought additional medical care and treatment. She was diagnosed as having, inter alia, a symptomatic, enlarged pineal gland and/or cyst and a hypersensitivity syndrome, both of which were directly and proximately caused by the her adverse reaction to the amoxicillin prescribed by

defendant Salesin and dispensed by defendant Obaid and/or another agent, servant, and/or other employee of defendant Woodward Detroit CVS, L.L.C.

14. Defendants, by and through their respective agents, servants, and/or employees, owed plaintiff Heather Elledge the following duties:

**I. As to defendant Michael Salesin, M.D.:**

(a). A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to refrain from prescribing amoxicillin to a patient who had a known allergy to penicillin;

(b). A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to prescribe alternative antimicrobial agents other than amoxicillin, i.e. other antibiotics which can be safely prescribed to patients with an allergy to penicillin and/or its related compounds;

(c). A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to inform the patient that amoxicillin is an antibiotic in the same family as penicillin and that ingesting such a medication could cause an adverse reaction and/or fatal anaphylactic reaction;

(d). A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to himself consult with and/or refer that patient to an appropriate medical specialist to determine the proper antimicrobial agent to be given postoperatively to that patient;

(e) A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to obtain that patient's prior medical records and/or to contact that patient's primary care physician to verify and/or determine whether she had an allergy to penicillin and/or amoxicillin prior to prescribing such medications;

(f) A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to train, monitor and observe any and all medical personnel responsible for disseminating and/or providing prescriptions to patients to ensure that prescriptions for amoxicillin would not be given to persons with a penicillin allergy;

(g) A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated

by plaintiff Heather Elledge had a duty to rule in and/or rule out a penicillin allergy by any and all reasonable means.

(h) A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to presume that patients who are allergic to penicillin are allergic to all antibiotics in the beta lactam family, including amoxicillin.

(i) A reasonable and prudent, licensed and practicing medical doctor who holds himself out as having or has a specialty in obstetrics and gynecology when encountering a patient exhibiting the signs and symptoms such as those demonstrated by plaintiff Heather Elledge had a duty to obtain a complete and thorough history from that patient, including any prior allergic and/or adverse reactions to medications, prior to prescribing any medication.

## **II. As to Defendant Northland Family Planning Clinic, Inc.-West**

(j) A licensed and accredited healthcare facility when encountering a patient such as plaintiff had a duty to create, implement and enforce protocols and procedures whereby patients would not be prescribed medications to which they had reported allergies and/or their related biochemical family;

(k) A licensed and accredited healthcare facility when encountering a patient such as plaintiff had a duty to train, monitor and observe its agents, servants, and/or employees, including, but not limited to, Michael Salesin, M.D. and its medical staff, to ensure that these individuals did not prescribe medications to patients who reported allergies to these substances and/or their related biochemical family;

### **III. As to Defendant Lina A. Obaid, RPh.**

(l) A reasonable and prudent, licensed and practicing pharmacist when encountering a patient with a known allergy to penicillin who presents with a prescription for amoxicillin had a duty to refrain from dispensing amoxicillin to that patient ;

(m). A reasonable and prudent, licensed and practicing pharmacist when encountering a patient with a known allergy to penicillin who presents with a prescription for amoxicillin had a duty to contact the prescribing physician and inform him/her that the patient had reported a penicillin allergy and should not be given amoxicillin;

(n) A reasonable and prudent, licensed and practicing pharmacist when encountering a patient with a known allergy to penicillin who presents with a prescription for amoxicillin had a duty to inform the patient that amoxicillin is closely related to penicillin and that persons with a penicillin allergy should not ingest amoxicillin;

(o) A reasonable and prudent, licensed and practicing pharmacist when encountering a patient with a known allergy to penicillin who presents with a prescription for amoxicillin had a duty to review that patient's allergy history prior to dispensing amoxicillin;

(p) A reasonable and prudent, licensed and practicing pharmacist when encountering a patient with a known allergy to penicillin who presents with a prescription for amoxicillin had a duty to train, monitor and observe his/her pharmacy assistant(s) to ensure that they were not dispensing amoxicillin to a patient with a reported penicillin allergy.

(q) A reasonable and prudent, licensed and practicing pharmacist when encountering a patient who presents with a prescription for amoxicillin had a duty to

presume that patients who are allergic to penicillin are allergic to all antibiotics in the beta lactam family, including amoxicillin.

#### **IV. As to Defendant Woodward Detroit CVS, L.L.C.**

(r) A duly licensed entity, which holds itself out to the public and to plaintiff in particular as being capable and competent of properly providing/dispensing prescription medications to patients, had a duty to create, implement and enforce protocols and procedures whereby patients would not be provided and/or dispensed medications to which they had reported allergies and/or their related biochemical family;

(s) A duly licensed entity, which holds itself out to the public and to plaintiff in particular as being capable and competent of properly providing/dispensing prescription medications to patients, had a duty to train, monitor and observe their agents, servants, and/or employees, including, but not limited to, Lina A. Obaid, RPh and its pharmacy staff, to ensure that these individuals did not dispense medications to patients who reported allergies to prescribed substances and/or their related biochemical family.

15. Defendants, by and through their respective agents, servants, and/or employees, did none of the things set forth in paragraph 14 above and these failures were below the applicable standard of care and constituted negligence.

16. As a direct and proximate result of the negligent and tortious acts of the defendants herein, jointly and severally, plaintiff Heather Elledge suffered, inter alia, an anaphylactic reaction and/or adverse reaction to amoxicillin, severe headaches, tunnel vision, floaters in her eyes, vision disturbances, vertigo-type symptoms, inflammation and/or enlargement of the pineal gland and/or cyst, aqueductal stenosis, obstructive hydrocephalus, dizziness, short term memory loss, difficulty sleeping, decreased



cognitive function, new onset of multiple allergies and asthma, hypersensitivity syndrome, shock, embarrassment, humiliation, depression, withdrawal from social relationships and norms, inability to drive an automobile, child care expenses, multiple hospital, physician, diagnostic and rehabilitative expenses, loss of wages and of wage earning capacity and other injuries and/or damages, all of which are past, present and future.

WHEREFORE, plaintiff Heather Elledge requests that this Honorable Court grant her judgment in whatever amount above \$25,000 she is deemed entitled, together with costs, interest, attorney fees and all other damages permissible under Michigan law.

Respectfully Submitted,

/s/ Richard J. Dimanin P30287

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Dated: January 20, 2014

**Demand for Jury Trial**

Plaintiff Heather Elledge, by and through her attorney, Richard J. Dimanin, hereby demands a trial by jury of all issues in this case.

Respectfully Submitted,

/s/ Richard J. Dimanin P30287

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Dated: January 20, 2014