

MALPRACTICE

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION
NO.

MUNACHI OKOLI, PPA NNEENA MUOMAH,
NNEENA MUOMAH, AND
CHUCKMUDERA OKOLI,

Plaintiff,

V.

ALICE MARK, M.D.,
BETH BUTLER, R.N., AND
KATHY TRAINOR, R.N.,

Defendants.

08-1652

2008 APR 11 PM 2:22
MICHAEL J. ...
CLERK OF SUPERIOR COURT

COMPLAINT

Count I.

1. The plaintiff, Munachi Okoli, is a minor who brings this action through her mother and next friend, Nneena Muomah, a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice his profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Alice Mark, M.D., represented and held himself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that he was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 1/18/07.
4. On or about 1/18/07, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Alice Mark, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Munachi Okoli, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Alice Mark, M.D., including, but not limited to the following:

Defendant's misrepresentations to the minor plaintiff's parents that he was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 1/18/07;

Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 1/18/07, and his failure to prescribe proper and timely treatment for said condition;

Defendant's failure to recognize, or have the knowledge to recognize his inability and lack of skill to diagnose and treat the minor plaintiff and her mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of his inability and failure to properly and skillfully provide the minor plaintiff and her mother with acceptable medical and diagnostic services;

Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing his specialty; and

Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.

6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Alice Mark, M.D., the minor plaintiff, Munachi Okoli, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

Count II.

1. The minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, repeats and reavers fully herein Paragraphs One through Six of Count I of this complaint as if each were set forth here in its entirety.
2. On or about 1/18/07, the defendant, Alice Mark, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's medical care and treatment.
3. The defendant, Alice Mark, M.D., expressly and impliedly warranted to the minor plaintiff's parents that he would perform and render said professional services in

accordance with accepted standards for the practice of medicine, and that he would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing his specialty.

4. On or about 1/18/07, the defendant, Alice Mark, M.D., breached his express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing his specialty.
5. As a direct and proximate result of the defendant, Alice Mark, M.D.'s breach of express and implied warranties, the minor plaintiff, Munachi Okoli, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

Count III.

1. The minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, repeats and reavers fully herein Paragraphs One through Six of Count I and Paragraphs One through Five of Count II of this complaint as if each were set forth here in its entirety.
2. On or about 1/18/07, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
3. On or about 1/18/07, the defendant, Alice Mark, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
4. On or about 1/18/07, the defendant, Alice Mark, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother.
5. If the defendant, Alice Mark, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.

6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Alice Mark, M.D.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Munachi Okoli, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

Count IV.

1. The plaintiff, Nneena Muomah, is the mother of Munachi Okoli, and the person responsible for her support and medical care and a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice in the Commonwealth of Massachusetts.
3. The plaintiff, Nneena Muomah, repeats and reavers fully herein the allegations contained in the aforementioned Counts pleaded by the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, against the defendant, Alice Mark, M.D., in this complaint as if each were set forth here in its entirety.
4. As a direct and proximate result of the defendant, Alice Mark, M.D.'s negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Nneena Muomah, has incurred and will continue to incur great expense for the medical, surgical, and hospital care and treatment of Munachi Okoli, throughout the life of Munachi Okoli.

WHEREFORE, the plaintiff, Nneena Muomah, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

Count V.

1. The plaintiff, Nneena Muomah, is the mother of Munachi Okoli, and a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice in the Commonwealth of Massachusetts.

3. The plaintiff, Nneena Muomah, repeats and reavers fully herein the allegations contained in the aforementioned Counts pleaded by the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, against the defendant, Alice Mark, M.D., in this complaint as if each were set forth here in its entirety.
4. As a direct and proximate result of the defendant, Alice Mark, M.D.'s negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Nneena Muomah, has suffered and will continue to suffer severe emotional distress resulting in substantial physical injury.

WHEREFORE, the plaintiff, Nneena Muomah, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

Count VI.

1. The plaintiff, Nneena Muomah, is the mother of Munachi Okoli, and a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice in the Commonwealth of Massachusetts.
3. The plaintiff, Nneena Muomah, repeats and reavers fully herein the allegations contained in the aforementioned Counts pleaded by the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, against the defendant, Alice Mark, M.D., in this complaint as if each were set forth here in its entirety.
4. As the direct and proximate result of the negligence, breach of warranties, and failure to obtain informed consent of the defendant, Alice Mark, M.D., the plaintiff, Nneena Muomah, has had severely restricted the benefit of the full services, society, and affection of Munachi Okoli.

WHEREFORE, the plaintiff, Nneena Muomah, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

Count VII.

1. The plaintiff, Chuckmudera Okoli, is the father of Munachi Okoli, and the person responsible for her support and medical care and a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice in the Commonwealth of Massachusetts.
3. The plaintiff, Chuckmudera Okoli, repeats and reavers fully herein the allegations contained in the aforementioned Counts pleaded by the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, against the defendant, Alice Mark, M.D., in this complaint as if each were set forth here in its entirety.

4. As a direct and proximate result of the defendant, Alice Mark, M.D.'s negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Chuckmudera Okoli, has incurred and will continue to incur great expense for the medical, surgical, and hospital care and treatment of Munachi Okoli, throughout the life of Munachi Okoli.

WHEREFORE, the plaintiff, Chuckmudera Okoli, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

Count VIII.

1. The plaintiff, Chuckmudera Okoli, is the father of Munachi Okoli, and a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice in the Commonwealth of Massachusetts.
3. The plaintiff, Chuckmudera Okoli, repeats and reavers fully herein the allegations contained in the aforementioned Counts pleaded by the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, against the defendant, Alice Mark, M.D., in this complaint as if each were set forth here in its entirety.
4. As a direct and proximate result of the defendant, Alice Mark, M.D.'s negligence, breach of warranties and failure to obtain informed consent, the plaintiff, Chuckmudera Okoli, has suffered and will continue to suffer severe emotional distress resulting in substantial physical injury.

WHEREFORE, the plaintiff, Chuckmudera Okoli, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

Count IX.

1. The plaintiff, Chuckmudera Okoli, is the father of Munachi Okoli, and a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice in the Commonwealth of Massachusetts.
3. The plaintiff, Chuckmudera Okoli, repeats and reavers fully herein the allegations contained in the aforementioned Counts pleaded by the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, against the defendant, Alice Mark, M.D., in this complaint as if each were set forth here in its entirety.
4. As the direct and proximate result of the negligence, breach of warranties, and failure to obtain informed consent of the defendant, Alice Mark, M.D., the plaintiff, Chuckmudera Okoli, has had severely restricted the benefit of the full services, society, and affection of Munachi Okoli.

WHEREFORE, the plaintiff, Chuckmudera Okoli, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

Count X.

1. The plaintiff, Munachi Okoli, is a minor who brings this action through her mother and next friend, Nneena Muomah, a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Beth Butler, R.N., was at all times relevant to this complaint a nurse licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Beth Butler, R.N., represented and held herself out to be a nurse, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 1/18/07.
4. On or about 1/18/07, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Beth Butler, R.N., who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Munachi Okoli, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Beth Butler, R.N., including, but not limited to the following:

Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 1/18/07;

Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 1/18/07, and her failure to prescribe proper and timely treatment for said condition;

Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the minor plaintiff and her mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her inability and failure to properly and skillfully provide the minor plaintiff and her mother with acceptable nursing services;

Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the nursing profession practicing her specialty; and

Count XXVII.

1. The plaintiff, Chuckmudera Okoli, is the father of Munachi Okoli, and a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Kathy Trainor, R.N., was at all times relevant to this complaint a nurse licensed to practice in the Commonwealth of Massachusetts.
3. The plaintiff, Chuckmudera Okoli, repeats and reavers fully herein the allegations contained in the aforementioned Counts pleaded by the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, against the defendant, Kathy Trainor, R.N., in this complaint as if each were set forth here in its entirety.
4. As the direct and proximate result of the negligence, breach of warranties, and failure to obtain informed consent of the defendant, Kathy Trainor, R.N., the plaintiff, Chuckmudera Okoli, has had severely restricted the benefit of the full services, society, and affection of Munachi Okoli.

WHEREFORE, the plaintiff, Chuckmudera Okoli, prays judgment against the defendant, Kathy Trainor, R.N., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

PLAINTIFFS CLAIM TRIAL BY JURY.

Respectfully submitted,
The plaintiffs,
By their attorney,

Andrew C. Meyer Jr.

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