

02 9637

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

LARAVIAN SAWYER,

Plaintiff,

SAWYER, LARAVIAN v DETROIT MEDICAL CENTER  
Hon. Brian R. Sullivan 07/20/2012



12-009637-NH

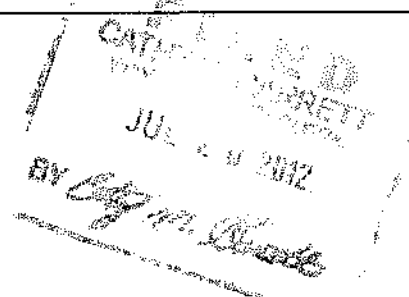
vs.

THE DETROIT MEDICAL <sup>Center</sup> ~~CENTER~~, an assumed name for VHS OF MICHIGAN, INC., a Delaware corporation, DETROIT RECEIVING HOSPITAL AND UNIVERSITY HEALTH CENTER, an assumed name for VHS DETROIT RECEIVING HOSPITAL, INC., a Delaware Corporation, DR. SUSAN HENDRIX and DR. BRENDA PEREDA, jointly and severally,

Defendants.

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PASKEL, TASHMAN & WALKER, P.C.  
BY: CLIFFORD PASKEL P18680  
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COMPLAINT AND AFFIDAVIT OF MERIT

There is no civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred or otherwise disposed of after having been assigned to a judge in this Court

*Clifford Paskel*

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Plaintiff **LARAVIAN SAWYER**, by and through her attorneys PASKEL, TASHMAN & WALKER, P.C., by Clifford Paskel, and for her Complaint against Defendants states as follows:

1. Plaintiff **LARAVIAN SAWYER** is a resident of the City of Highland Park, Wayne County, Michigan.

2. Defendant **THE DETROIT MEDICAL CENTER**, an assumed name for VHS OF MICHIGAN, INC., is a medical facility and for profit corporation, maintaining, managing, staffing and running various hospitals and other medical facilities including clinics in and around the Metropolitan Detroit area and is the parent corporation of Detroit Receiving Hospital and University Health Center.

3. Defendant **DETROIT RECEIVING HOSPITAL AND UNIVRSITY HEALTH CENTER**, an assumed name for VHS DETROIT RECEIVING HOSPITAL, INC., is a Delaware corporation, hereinafter referred to as Defendant **Hospital**, was a health care corporation organized under the laws of the State of Delaware and conducting business in the State of Michigan and held itself out to the general public as a major Center capable of treating patients with complaints of the type and nature suffered by Plaintiff and similarly situated patients.

4. Defendants **DR. SUSAN HENDRIX** and **DR. BRENDA PEREDA, MD** were at all material times herein physicians or residents of Defendant **THE DETROIT MEDICAL CENTER** and **DETROIT RECEIVING HOSPITAL AND UNIVERSITY HEALTH CENTER**, specializing in the field of obstetretics and gynecology. Both individual Defendants herein held themselves out as agents of Corporate Defendants either actual or ostensible and both participated in the surgery that is the subject matter of this lawsuit.

5. On March 31, 2010, Plaintiff, a 37 year old female, was sent from the Emergency Department at The Detroit Medical Center operated by Detroit Receiving Hospital to Dr. Susan Hendrix, employee or ostensive agent of The Detroit Medical Center and Detroit Receiving Hospital, for evaluation of abdominal pain thought to be caused by an ovarian cyst. A history of prior abdominal surgery was elicited. Dr. Hendrix recommended and scheduled Plaintiff for robotic laparoscopic surgery for treatment of a 3.7 x 2.7 x 2.5 complex left adnexal mass – complex free fluid in cul-de-sac by ultrasound dated March 27, 2010.

6. On April 26, 2010, Dr. Hendrix performed robotic assisted operative laparoscopy/extensive Lysis of adhesions/left-ovarian endometrioma aspiration. Pre-op diagnosis was said to be "endometriosis." Post-op diagnosis was said to be "endometriosis." Dr. Brenda Pereda was a resident attendee during the performance of the surgery. The Operative Report does not disclose the extent or nature of the participation of the health care providers said to be attending and participating in the surgery. The April 26, 2010 Operative Report, which was amended five (5) times, states: "To ensure bowel wall integrity. . . . Dr. Webber was consulted intra-operatively and observed/participated in the dissection throughout." On Information and belief, the Dr. Webber referred to in the Operative Report, is Dr. John Webber, General Surgeon. On The DMC website, Dr. John D. Webber is the only Webber practicing general surgery or for that matter, any specialty under the auspices of The DMC. Dr. John D. Webber signed an Affidavit of Non-Involvement (Complaint **Exhibit A**).

7. On April 26, 2010, during the performance of the surgery, the bowel was injured and/or perforated by Dr. Hendrix or Dr. Pereda. The bowel injury or perforation

was not recognized, treated or repaired during the procedure. Because of signs and symptoms compatible with bowel perforation, the Plaintiff was kept in the hospital through May 2, 2010 with discharge instructions to see Dr. Hendrix on June 14, 2010 and to be seen in the General Surgery Clinic within one to two weeks.

8. From May 2, 2010 through May 9, 2010 Plaintiff continued to have peritoneal signs. On May 9, 2010 Plaintiff was brought by EMS to The Detroit Medical Center/Detroit Receiving Hospital as a medical code with obvious peritoneal signs. She was resuscitated. A CT revealed massive pneumoperitoneum with massive amount of free fluid. On May 10, 2010, Dr. Lawrence N. Diebel performed exploratory laparotomy resection and anastomosis of perforation of the distal ileum with wash out of massive peritoneal contamination due to delayed diagnosis of perforated viscus. Plaintiff remained in the hospital for further surgeries and was discharged home on May 25, 2010. Plaintiff continues to suffer sequelae and complications from the original laparoscopic procedure and has been hospitalized on several occasions since May of 2010 and continues to suffer sequelae of bowel injury and severe infection to the present date.

9. At all material times herein Defendants, jointly and severally, owed Plaintiff duties of reasonable care, including but not limited to complying with standards of care in the treatment of Plaintiff's medical conditions and appropriate discharge but deviated from said standards of care in one or more of the following manners so as is presently known:

- a. A gynecologist or gynecology resident would not perform robotic surgery to treat and/or diagnose fibroids, endometriosis, or ovarian cysts without specific training to acquire skills in using the robotic device. Individually Defendants did not have the requisite training required as set forth by laparoscopic societies, the manufacturer of the device, and practice patterns established by obstetricians and gynecologists across the nation to perform this procedure and deviated from acceptable standards of care.

- b. A gynecologist or gynecology resident of ordinary learning, judgment and skill when performing robotic surgery in a similarly situated patient as Plaintiff at risk for bowel injury, would carefully examine the bowel for injury from burns or otherwise and carefully examine the bowel for signs of perforation before closing the patient; if incompetent to do so, a gynecologist or gynecology resident of ordinary learning, judgment and skill to ensure bowel wall integrity throughout the procedure, would call in a general surgeon to consult intra-operatively and observe and participate in the dissection throughout.
- c. Following robotic surgery on April 26, 2010, Plaintiff developed signs and symptoms of abdominal infection. A gynecologist of ordinary learning, judgment and skill would consider bowel perforation in a differential diagnosis. A gynecologist of ordinary learning, judgment and skill would have kept Plaintiff in the hospital until bowel perforation was ruled out as the cause of the patient's signs, symptoms and complaints. Individual Defendants discharged Plaintiff from the hospital with signs and symptoms of bowel perforation, deviating from acceptable standards of care.
- d. A gynecologist or gynecological resident of ordinary learning, judgment and skill would not discharge a similarly situated patient as Plaintiff on May 2, 2010 without specific instructions to the patient to return for treatment of increased pain, nausea, vomiting, bowel dysfunction, shortness of breath or fever. Individual Defendants did not instruct Plaintiff as hereinbefore stated, deviating from acceptable standards of care.
- e. Defendants, The Detroit Medical Center and Detroit Receiving Hospital and University Health Center are liable for the acts and omissions of its agents, both actual and ostensible. Plaintiff had no prior physician-patient relationship with any of the individually named Defendant physicians and Plaintiff looked solely to the Hospital for treatment. Defendant Hospital further breached duties to Plaintiff by failing to use reasonable care in maintaining safe and adequate facilities and medical equipment, failing to select and retain only competent personnel by allowing inadequately trained physicians to perform a robotic surgery, failing to oversee the patient care provided by all those who practice medicine within its walls and failing to inform, adopt and enforce adequate rules and policies, including but not limited to credentialing and discharge planning to ensure quality care.
- f. Plaintiff reserves the right to amend this Complaint to add additional counts of negligence and deviations from acceptable standards of care as they are revealed throughout discovery.

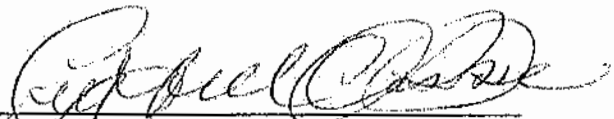
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10. As a direct and proximate result of deviations from acceptable care standards, Plaintiff was caused to suffer bowel perforation, infection and required extensive surgery resulting in physical and psychological pain and suffering, permanent deformity, scarring and disability requiring continuing surgery and medical care. Plaintiff has expended or became liable for payments of medical bills, which will continue in the future. Plaintiff has suffered loss of earning capacity and will continue to do so in the future. The physical, mental and economic consequences suffered by Plaintiff as a result of Defendants' negligence have diminished Plaintiff's enjoyment of life's pleasures as she had prior to the incident complained of.

**WHEREFORE**, Plaintiff claim damages in any amount over Twenty-Five Thousand (\$25,000.00) Dollars, together with costs, interest and attorneys' fees.

Respectfully submitted,

PASKEL, TASHMAN & WALKER, P.C.

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DATED: