

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

**FILED
2nd JUDICIAL DISTRICT COURT
Bernalillo County
2/11/2019 3:39 PM
James A. Noel
CLERK OF THE COURT
Catherine Chavez**

CATHERINE JUAREZ,

Plaintiff,

v.

Case No. D-202-CV-2019-01169

**THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEW MEXICO and
UNIVERSITY OF NEW MEXICO HEALTH
SCIENCES CENTER, and
UNIVERSITY OF NEW MEXICO MEDICAL
GROUP, and
MAXINE DORIN, M.D. and
BETSY TAYLOR, M.D. and
MEGHAN BEDDOW, M.D. and
JOHN AND JANE DOES 1-20**

Defendants.

**COMPLAINT FOR PERSONAL INJURIES
FROM MEDICAL NEGLIGENCE**

I. Parties, Jurisdiction and Venue

1. The subject matter of this lawsuit is medical care and operative services provided to Plaintiff Catherine Juarez (hereinafter Catherine) by Defendants.
2. Catherine is a resident of Sandoval County, New Mexico.
3. The defendant Board of Regents of the University of New Mexico (“Board of Regents”) is an entity established by the New Mexico Constitution to govern, operate, and control the University of New Mexico (hereinafter UNM) an educational entity established by the New Mexico Constitution, principally located in Bernalillo County, New Mexico. The Board of Regents and the UNM own, operate, and control

UNM Health Sciences Center, which includes UNM Hospital (hereinafter UNMH), which is a general hospital open to members of the public and which provides general emergency, medical and surgical care, including care for in the specialized field of OB/GYN.

4. The Board of Regents and UNM also own, operate and direct the UNM Medical Group, Inc. (hereinafter “Group”), which is a not-for-profit corporation that was formed in 2007 and has brought together more than 1,100 clinical practitioners in 152 specialties. The Group includes faculty at the University of New Mexico School of Medicine and serves as the exclusive caregivers to the state’s only academic medical center, University of New Mexico Hospital. The medical group operates 14 clinics serving about 45,000 patients and provides care at the hospital’s 76 clinics.

5. The principal offices of the Board of Regents, UNMH, and the Group (hereinafter Defendants) are in Bernalillo County, New Mexico.

6. Pursuant to NMSA 41-4-18 B, this matter is proper in this venue based upon the statutory directive that “venue for all other claims pursuant to the Tort Claims Act, shall be in the county in which the principal offices of the governing body of the local public body are located.”

7. The Defendant doctors Maxine Dorin, M.D., Betsy Taylor, M.D., and Meghan Beddow, M.D. (hereinafter Defendant Doctors) were employees of Defendants working within the scope and course of their employment as licensed medical physicians at all times at issue in this matter. Upon information and belief, Defendant Doctors reside or practice in Bernalillo County, New Mexico

8. The Defendants' staff employees, the John and Jane Does yet to be determined and named (hereinafter Defendant Staff) including operating room staff, operating room schedulers, and others were employees or agents of Defendants working within the scope and course of their employment at all times at issue in this matter. Upon information and belief, Defendant Staff reside or practice or work in Albuquerque, Bernalillo County, New Mexico.

9. Venue is proper in this action.

10. This Honorable Court has subject matter jurisdiction over this case.

11. This Honorable Court has personal jurisdiction over the Parties to this action.

II. Facts Common to All Counts:

12. Plaintiff incorporates herein all facts, allegations and assertions as stated previously.

13. Prior to her care by all Defendants, Catherine had a condition known as Polycystic Ovary Syndrome (hereinafter PCOS).

14. Catherine had been on birth control medications for over 25 years in an attempt to control her PCOS. She was also on the medication metformin on and off, as her body would tolerate, to treat the insulin resistance caused by the PCOS. She also developed a metabolic syndrome which then contributed to a host of other health issues.

15. Prior to her care by Defendants and Defendant Doctors, Catherine had always been active, even playing competitive soccer. As the PCOS progressed it caused problems of weight gain which further aggravated the insulin resistance, thereby placing her at risk of developing diabetes. As well as insulin resistance, PCOS creates risk of

hypertension, obesity, and increased risk of heart disease. Catherine dealt with a vicious cycle of weight gain, hair growth, hypertension, anxiety and depression. She was told nothing could help other than the birth control and metformin she was taking, but her quality of life and health issues only got worse.

16. Given these issues, Catherine's primary care physician was willing to take other steps to provide her with a better quality of life. Catherine tried pellet hormone replacement therapy (bioidentical hormones) in December 2017 along with progesterone to help not only with the PCOS, but the increased pelvic pain she was experiencing. The hormone therapy and progesterone helped slightly with her pain and menstrual cycles. Catherine then had an ultrasound to attempt to determine what could be causing the pain and to check the status of the ovaries. The results of the ultrasound showed a thickened endometrium and she still had hemorrhagic ovaries – PCOS.

17. Catherine discussed with her primary care provider the option of a hysterectomy and removal of her ovaries as a means of addressing the PCOS. Surgical Oophorectomy (surgical removal of the ovaries) is a recognized treatment for PCOS. This surgery was discussed given the absence of improvement in her quality of life, weight gain, and health issues absent this surgical intervention.

18. Catherine saw Defendant Dorin, an OB/GYN, who is one of the Defendant Doctors. Catherine met with Defendant Dorin beginning on May 31, 2018 for several visits and Catherine repeatedly expressed her desire for a hysterectomy **with removal of both ovaries at the time of the surgery**. Defendant Dorin agreed with this plan. Defendant Dorin fully understood, and confirmed with Catherine, that removal of

the ovaries would not only be part of the surgery but was the primary purpose for the surgery.

19. At the H&P Outpatient visit on September 4, 2018, Defendant Dorin confirmed this by scheduling of a RATLHBSO for September 21, 2018.

20. The abbreviation “**BSO**” as found multiple times in Catherine’s medical records, including the Surgical Consent Form signed by Catherine, means Bilateral Salpingectomy and Oophorectomy. Bilateral means both sides. Salpingectomy means removal of the fallopian tubes. **Oophorectomy means removal of the Ovaries.** The scheduled procedure “RATLHBSO” means a Robotic Assisted Total Laparoscopic Hysterectomy with Bilateral Salpingectomy **and Oophorectomy.** This was the procedure that Defendant Dorin and Catherine agreed and confirmed would be done and for which Catherine was consented for. This procedure was designed to remove Catherine’s ovaries and therefore surgically address her PCOS.

21. On September 21, 2018, Catherine presented to UNMH for the surgery. The Anesthesia Pre-Op Note documented a **BSO** as the procedure to be performed. The Consent for Surgery signed by Catherine on September 4, 2018 at the Pre-Op H&P visit with Defendant Dorin confirmed the fact of the oophorectomy.

22. Then, inexplicably, the actual surgical operation on Catherine by the Defendant Doctors and Defendant Staff at Defendants’ hospital did not remove Catherine’s ovaries, was not a BSO as planned, and Catherine was returned to her room after surgery with the ovaries not having been surgically removed by Defendant Doctors.

23. The Operative Report by Defendant Dorin for the surgery on September 21st then entirely mis-states the procedure, and the primary purpose for the procedure, by noting it as performed without the oophorectomy.

24. Notwithstanding paragraph 18 above, on the second page of Defendant Dorin's operative note she states that she submitted "ovaries" to pathology. It is clear that she could not have done so, because they were not surgically removed from Catherine as planned and promised, but rather still inside her.

25. It is clear that Defendant Dorin and Defendant Doctors and Defendant Staff had intended to take out Catherine's ovaries because their Operative Reports states the ovaries as having been submitted to Pathology for examination. But, they did not.

26. Notwithstanding Defendant Dorin's operative note about submitting the ovaries to pathology, the pathology report then confirms that no ovaries were submitted to pathology for examination.

27. Despite all of the pre-operative focus on the removal of the ovaries, and all of the documentation of it in the medical records, when the Defendant Doctors and Defendant Staff actually performed the procedure, the ovaries were not removed. There is nothing to explain this other than the fact that the Defendant Doctors and the Defendant Staff forgot to take them out.

28. This is supported by the subsequent actions of Defendant Dorin when she came into Catherine's room after the operation and apologized to Catherine and said that *"we forgot to take out your ovaries."*

29. After that one single post-op visit to Catherine's room, neither Defendant Dorin nor any of the Defendant Doctors ever attempted to see or talk to Catherine again, most likely because they were embarrassed about the critical surgical error.

30. There are procedures in place at Hospital's that perform surgery to prevent what happened to Catherine. These procedures are called "Time Out's or other similar terms. The Time Out is designed to stop everything prior to the start of the surgery so that all participants in the surgery, including the surgeons, the anesthesiologists, the scrub nurses and circulating nurse and all others involved in taking care of the patient in surgery, have a calm and purposefully directed opportunity to examine the consent form, talk to the patient, and all come to a concensus as the procedure to be performed and the means of performing the procedure.

31. It is clear that in this case, the Defendants failed in their duty to Catherine to have in place, and properly use, the necessary policies, procedures, and protocols to use and implement Time Outs or other means to prevent this type of wholly avoidable surgical mistake.

32. As a result of this grossly negligent error by the Defendants, the Defendant Doctors, and the Defendant Staff, Catherine is not only right back where she started from the standpoint of still having her ovaries and PCOS health issues, but she is instead in much worse condition than when she started this process. The pre-operative hormone management to prepare for the removal of her ovaries and prevent surgically induced menopause, has now placed her in an even more precarious position as to this condition than before the surgery.

33. Catherine has suffered severe and ongoing injuries and damages as a result of the negligence of the Defendants, the Defendant Doctors, and the Defendant Staff.

III. Negligence and Causation:

34. Plaintiff incorporates herein all facts, allegations and assertions as stated previously.

35. In treating and operating upon their patient Catherine, the Defendant Doctors, as specialists in the field of OB/GYN were under the duty to possess and apply the knowledge and to use the skill and care ordinarily used by reasonably well-qualified specialists of the same medical specialty, practicing under similar circumstances and giving due consideration to the locality involved. By failing to do so they were negligent.

36. In treating and operating upon their patient Catherine, the Defendants and the Defendant Staff and all of their other employees and agents of the Defendants, providing care as a hospital holding itself as providing services in the specialized field of OB/GYN surgery, were under the duty to possess and apply the knowledge and to use the skill and care ordinarily used by reasonably well-qualified specialty facilities and staff in the same medical specialty, practicing under similar circumstances and giving due consideration to the locality involved. By failing to do so they were negligent.

37. As a proximate result of the breach of their duty to Catherine, the Defendants, the Defendant Doctors, and the Defendant Staff proximately caused severe injury and suffering and other damages to Catherine, all as to be proven at trial.

IV. Relief Sought:

38. Plaintiff incorporates herein all facts, allegations and assertions as stated previously.

39. Plaintiff Catherine Juarez respectfully requests the entry of a Judgment by this Honorable Court, following a trial by a Jury of Twelve (12) Persons on the merits, and for the imposition of such Judgment for negligence, causation, and damages to compensate Plaintiff for the injuries and damages caused by the negligence of all named Defendants, for pre-and post-judgment interest, for costs, and for such other and further relief as the Court deems proper, all to the extent allowed by law.

Respectfully Submitted,

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