

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

MAY 19 P 1:10  
A  
CIVIL DISTRICT COURT

NO.: 16-5046

DIVISION:

SECTION:

BRITNEY ELLIS

SECTION 15

VERSUS

KEVIN WORK, M.D. AND CANAL WOMEN'S CLINIC, L.L.C.

FILED: \_\_\_\_\_

DEPUTY CLERK

PETITION FOR DAMAGES

Britney Ellis, through undersigned counsel, respectfully represents:

I. DALE N. ATKINS  
CLERK, CIVIL DISTRICT COURT

Britney Ellis is a person of the full age of majority, domiciled and residing in Orleans Parish, Louisiana.

121 LOYOLA AVENUE - ROOM 402  
NEW ORLEANS, LA 70112  
504-407-0000

II.

Receipt Date 5/20/2015 8:32:00 AM  
Receipt Number 502212  
Register CDDCASH1  
Doc. Number 2016-05046

Made Defendant herein is Kevin Work, M.D., a specialist in the field of gynecology, and Canal Women's Clinic, L.L.C., a limited liability company authorized to do and doing business in Orleans Parish at: 3316 Canal Street, New Orleans, Louisiana 70119.

Grand Total \$ 535.00  
Amount Received \$ 535.00  
Balance Due \$ 0.00  
Change Due \$ 0.00

III.

The dates of the malpractice for which recovery is sought span from August 21, 2013 to August 5, 2015. Plaintiff discovered the malpractice of August 21, 2013 on October 14, 2015.

Therefore, under La. R.S. 9:5628, this suit is timely filed.

IV.

Item	Charged	Paid	Balance
Petition for Damages	\$444.00	\$444.00	\$0.00
Building Fund Fee	\$25.00	\$25.00	\$0.00
Indigent Legal Fee	\$10.00	\$10.00	\$0.00
Supreme Court-Proc	\$10.00	\$10.00	\$0.00
Exhibits (Paper)	\$18.00	\$18.00	\$0.00

On August 21, 2013, the patient underwent a pap smear at Dr. Kevin Work's office. However, the office notes from this visit were not included with the patient's chart. Instead, the pap smear results for August 21, 2013 are listed in the visit notes for December 3, 2014. The August 21, 2013 pap smear came back as "Abnormal." The comments state, "Epithelial cell abnormality. Low-grade squamous intraepithelial lesion, mild dysplasia, at least, is present. Cells suspicious for a high-grade lesion are also present." The results also state, "The HPV DNA reflex criteria were not met with this specimen result, therefore, no HPV testing was performed." In a deviation from the standard of care, these results were never communicated to the patient. Instead, the patient was incorrectly informed that her pap smear for this visit was normal. There are no

VERIFIED  
Page 1 of 1  
S. 21/16

notes regarding informing the patient of any pap smear results in her chart.

V.

On October 1, 2014, the patient presented to Dr. Kevin Work for a gynecological visit. The chart incorrectly indicates this was her “initial” visit with the Canal Women’s Clinic. Her prior gynecological exam was noted as August 15, 2013. The patient was noted to be 25 years old. It was indicated in the chart that the patient’s “cervix exam reveals no pathology.” A pap smear was obtained and sent for manual screening. The chart indicated the patient had cervical dysplasia, “suspicious for high-grade.” The patient was to follow up in two weeks.

VI.

The results of this pap smear, which were dated October 11, 2014, revealed low-grade squamous intraepithelial lesion (LSIL) and were positive for bacteria vaginosis. The patient was not tested for HVP. There is no indication in the patient’s chart that shows these results were ever communicated to the patient. In fact, the patient reported that she was told over the phone that her pap smear was normal.

VII.

The patient returned on December 3, 2014. The patient was reported to be pregnant. A cervix exam was listed as “reveals no pathology.” The patient’s pap smear results were listed in the chart as “abnormal cells identified, ASCUS, HPV, +BV, and mild dysplasia.” As stated above, the abnormal results from the patient’s August 21, 2013 were included in this visit note. However, at no time was the patient informed of the abnormal results from this test or the October 2014 test. The patient’s diagnoses included “papanicolaou smear of cervix with low grade squamous intraepithelial lesion (LGSIL).” A pap smear was ordered. The patient was to follow-up in one week. It was noted that the patient had had two abnormal paps for LSIL and that she may need a colposcopy after delivery. However, this was not communicated to the patient. Further, no pap smear was ever performed on this patient at this visit as ordered.

VIII.

In December 2014, the patient suffered a miscarriage.

IX.

On July 29, 2015, the patient returned to Dr. Work for an exam and pap smear. The date of her last exam was listed as December 19, 2014. The patient was reported to be 26 years old. Her cervical exam revealed “no pathology.” There was no reference to the patient’s prior abnormal

results, and again, the patient was not informed of her prior abnormal tests. A pap smear was performed, and the patient was told to follow-up in two weeks.

X.

On August 5, 2015, the patient's pap smear came back as high grade squamous intraepithelial lesion (HSIL). The prior history of the report notes that the patient was diagnosed as LSIL on October 11, 2014. The patient's HPV results listed her as a "high risk." There is no documentation in the patient's chart that the patient was ever informed of these results. The patient again believed her results were normal.

XI.

On October 9, 2015, the patient went to the Women's Medical Center in Gretna, Louisiana and saw Dr. Ilsa Leon for an annual gynecological exam. It was noted that her last exam was "last year with Dr. Work." A cervical exam was normal in appearance with no lesions. Her history did not mention any previous abnormal pap smears. A pap smear was performed, and the patient was to return in 6 months for follow-up on her weight loss and irregular menses.

XII.

On October 14, 2015, the patient's pap results came back as abnormal. It showed low grade squamous intraepithelial lesion, with the possibility of a more advanced lesion. The pathology report suggested a colposcopy and cervical/endocervical sampling, as clinically indicated. On this day, Dr. Leon's office called the patient and reported that she had LSIL and that she needed an colposcopy.

XIII.

On October 19, 2015, the patient returned for a colposcopy. During the procedure, acetowhite lesion(s) were noted circumferentially around the os, with mild punctation at 8 o'clock. An ectocervical biopsy was performed of the lesion at 8 o'clock. An ECC was performed. The plan was to review the results and repeat a pap smear in 6 months if the diagnosis was CIN 1 or less.

XIV.

On October 21, 2015, the pathology of the patient's biopsy showed the patient had mild to moderate metaplastic dysplasia (CIN 1-2). On this day, Dr. Leon's office called the patient and reported her abnormal pap results. The patient was recommended to undergo an excision or ablation due to her CIN 2 results.

XV.

On October 28, 2015, the patient presented to Dr. Leon for a LEEP procedure secondary to her LSIL pap smear with subsequent CIN 2 on colposcopy. A visible lesion was present circumferentially around the cervix o'clock. An ectocervical biopsy was performed on the lesion. An ECC was performed. The cervical bed was then cauterized. The patient was to have a follow-up pap smear in 6 months, depending on the results.

XVI.

On November 3, 2015, the pathology report showed that the patient's posterior LEEP tissue was positive for CIN 2. Moderate dysplasia extended to the specimen's cauterized endocervical margins. The patient's anterior LEEP tissue showed moderate to severe squamous dysplasia (CIN 2 and CIN 3), with the high grade dysplasia extending to the surgical margins. The endocervix tissue was benign. On this day, Dr. Leon's office called the patient and reported the results of her LEEP. The recommendations were for a close follow-up with cytology in 4 to 6 months due to the positive cauterized margins.

XVII.

On November 20, 2015, the patient returned for a follow-up appointment after she experienced discharge and bleeding after her LEEP. The patient was well-healing and was to return in 3 to 4 weeks for another exam.

XVIII.

On November 30, 2015, the patient reported that she was still experiencing discharge. She was told to keep her appointment to examine the cervical bed.

XIX.

The deviations from the standard of care applicable to Dr. Work include, but are not limited to, the following:

1. In failing to inform the patient of her abnormal pap results on August 21, 2013, October 11, 2014, December 3, 2014, and August 5, 2015;
2. In failing to order a colposcopy when a high grade lesion was suspected on August 21, 2013;
3. In failing to order HPV testing after the patient's pap smear showed LSIL on August 21, 2013;
4. In failing to order HPV testing with the patient's pap smear performed on October 1, 2014 in light of the patient's prior abnormal results;
5. In failing to order a colposcopy after the patient had a second abnormal pap smear positive for LSIL on October 11, 2014;

6. In failing to perform a pap smear on December 3, 2014 as ordered;
7. In failing to order a colposcopy and/or excisional treatment after the patient's results indicated a HSIL and high risk for HPV on August 5, 2015;
8. In failing to keep adequate records of this patient; and
9. In such other respects as will be proven at trial.

XX.

The deviations from the standard of care applicable to the nursing staff of the Canal Women's Clinic include, but are not limited to, the following:

1. In failing to inform the patient of her abnormal pap results on August 21, 2013, October 11, 2014, December 3, 2014, and August 5, 2015;
2. In failing to perform a pap smear on December 3, 2014 as ordered;
3. In failing to keep adequate records of this patient; and
4. In such other respects as will be proven at trial.

XXI.

The Canal Women's Clinic is responsible for any and all acts and/or omissions of its nursing staff and employed physicians under the doctrine *respondeat superior* and/or vicarious liability.

XXII.

Claims against Dr. Work and Canal Women's Clinic, L.L.C. were initially filed with the Division of Administration on May 3, 2016. Plaintiffs were notified that Dr. Work and Canal Street Women's Clinic, L.L.C. were not qualified under Louisiana's Medical Malpractice Act, La. R.S. 40:1231.8, by letter dated May 11, 2016. (See Exhibit A).

XXIII.

As a result of the deviations described above, Britney Ellis suffered pain and suffering, emotional distress, loss of enjoyment of life, and past and future medical expenses.

**WHEREFORE**, Plaintiff prays that after due proceedings, there be judgment rendered herein in favor of Plaintiff and against Defendants, Kevin Work, M.D. and Canal Women's Clinic, L.L.C., for such damages as are reasonable in the premises, judicial interest from judicial demand, all cost of these proceedings, including all cost of experts, and for all other general and equitable relief allowed by law.

Respectfully submitted,



---

DAVID A. BOWLING, ESQ., NO. 1726  
BRIANA E. WHETSTONE, ESQ., NO. 35383  
THE BOWLING LAW FIRM, A.P.L.C.  
1615 POYDRAS STREET, SUITE 1050  
NEW ORLEANS, LA 70112  
Telephone: (504) 586-5200  
Facsimile: (504) 586-5201  
ATTORNEYS FOR PLAINTIFF

**PLEASE SERVE:**

KEVIN WORK, M.D.  
2316 ESPLANADE AVENUE B  
NEW ORLEANS, LA 70119

CANAL WOMEN'S CLINIC, L.L.C.  
THROUGH ITS REGISTERED AGENT  
KEVIN WORK, M.D.  
3316 CANAL STREET  
NEW ORLEANS, LA 70119

Patient's Compensation Fund

State of Louisiana  
Division of Administration



John Bel Edwards  
Governor

Ken Schnauder, Executive Director  
May 11, 2016

FILED

1035 MAY 19 2 10  
Catha Wardlow  
P.O. BOX 3718  
BATON ROUGE, LA 70821  
(225) 342-5200  
(866) 469-9555

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

Briana E. Whetstone  
The Bowling Law Firm  
1615 Poydras Street, Suite 1050  
New Orleans, LA 70112

**Re: Britney Ellis vs. Dr. Kevin Work, et al**  
**PCF File No.: 2016-00470**  
**File Date: 5/3/2016**

Dear Ms. Whetstone:

This will acknowledge receipt of your letter dated May 03, 2016, submitting the above referenced panel request.

The defendant(s) **Kevin Work** and **Canal Women Clinic** named in the petition are considered not qualified and do not have coverage in the Patient's Compensation Fund under the provisions of Louisiana Revised Statutes 40:1231.8, et seq.

**This is to also acknowledge receipt on May 06, 2016 of your check in the amount of \$200.00 dated May 03, 2016. A refund will be issued.**

The above PCF file number is for reference purposes only. The Oversight Board reserves the right to revise its qualification and coverage determination upon receipt of additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Gremillion".

Susan Gremillion  
Medical Malpractice Compliance Director

CW  
cc: State MRP

**A**

Patients' Compensation Fund

State of Louisiana

Division of Administration

FILED



2016 MAY 19 P 1:10

Catha Wardlow  
P.O. BOX 3718  
BATON ROUGE, LA 70821  
(225) 342-5200  
(866) 469-9555

John Bel Edwards  
Governor

Ken Schnauder, Executive Director  
May 10, 2016

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

Kevin Govan Work  
Canal Women's Clinic, LLC  
C/O Correct Health, LLC  
3384 Peachtree Road, Ne, Suite 700  
Atlanta GA 30326

**Re:** Britney Ellis vs. Dr. Kevin Work, et al  
**PCF File No.:** 2016-00470

Dear Dr. Work:

Please be advised that a medical malpractice panel request has been filed with this office naming you as defendant. The plaintiff in this matter has requested a medical review panel as provided for in R.S. 40:1231.8, et seq.

In compliance with the statute, a copy of the documents filed with this office has been enclosed or was previously provided.

However, please note that a medical review panel may be convened only if the health care provider against whom a claim is made has coverage in the Patients' Compensation Fund under the provisions of R.S. 40:1231.8, et seq.

Our records indicate that **coverage was not provided for this claim**; therefore, you **ARE NOT QUALIFIED** for the panel review.

If you are providing services for or on behalf of the State of Louisiana, your medical malpractice coverage is provided by a different statute (La.R.S.40:1237.2, et seq).

If you have any questions pertaining to coverage under this statute, please contact this office.

Sincerely,

Susan Gremillion  
Medical Malpractice Compliance Director

CW



# Patient's Compensation Fund

State of Louisiana

Division of Administration



John Bel Edwards  
Governor

Catha Wardlow  
P.O. BOX 3718  
BATON ROUGE, LA 70821  
(225) 342-5200  
(866) 469-9555

Ken Schnauder, Executive Director  
May 11, 2016

## CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Canal Women's Clinic, LLC  
3316 Canal Blvd.  
New Orleans LA 70119

**Re:** Britney Ellis vs. Dr. Kevin Work, et al  
**PCF File No.:** 2016-00470

Dear Sir or Madam:

Please be advised that a medical malpractice panel request has been filed with this office naming you as defendant. The plaintiff in this matter has requested a medical review panel as provided for in R.S. 40:1231.8, et seq.

In compliance with the statute, a copy of the documents filed with this office has been enclosed or was previously provided.

However, please note that a medical review panel may be convened only if the health care provider against whom a claim is made has coverage in the Patients' Compensation Fund under the provisions of R.S. 40:1231.8, et seq.

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If you are providing services for or on behalf of the State of Louisiana, your medical malpractice coverage is provided by a different statute (La.R.S.40:1237.2, et seq).

If you have any questions pertaining to coverage under this statute, please contact this office.

Sincerely,

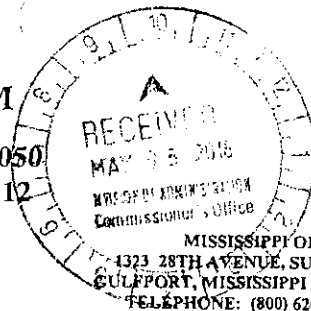
Susan Gremillion  
Medical Malpractice Compliance Director

CW

**THE BOWLING LAW FIRM**  
A PROFESSIONAL LAW CORPORATION  
1615 POYDRAS STREET, SUITE 1050  
NEW ORLEANS, LOUISIANA 70112

DAVID A. BOWLING,  
ZACHARY R. CHRISTIANSEN\*  
BRIANA E. WHETSTONE\*  
VICTORIA M. CHAMBERLAIN-

TELEPHONE (504) 586-5200  
FACSIMILE (504) 586-5201  
E-MAIL: attorneys@lawbowling.com  
WEBSITE: www.lawbowling.com



† ADMITTED TO PRACTICE IN LOUISIANA AND MISSISSIPPI  
\* ADMITTED TO PRACTICE IN LOUISIANA  
- ADMITTED TO PRACTICE IN MISSISSIPPI

MISSISSIPPI OFFICE  
4323 28TH AVENUE, SUITE A  
GULFPORT, MISSISSIPPI 39501  
TELEPHONE: (800) 620-1287

May 3, 2016

PLEASE RESPOND TO THE  
NEW ORLEANS OFFICE

Via Certified Mail Receipt No.: 7014 0150 0001 6194 3273

Return Receipt Requested

Jay Dardenne  
Commissioner of Administration  
Division of Administration  
State of Louisiana  
ATTN: Medical Review Panel  
P.O. Box 44336  
Baton Rouge, Louisiana 70804-4336

Re: **Request for Medical Review Panel**  
**Britney Ellis**  
**Date of Incident: August 21, 2013 to August 5, 2015**  
**Our File No.: 31151**

RECEIVED

MAY 06 2016

LPCF

COMPLAINT AND REQUEST FOR FORMATION OF A MEDICAL REVIEW PANEL  
PURSUANT TO LA. R.S. 40:1231.8

Dear Mr. Dardene:

Please accept this letter as a complaint of medical malpractice and a request for the formation of a Medical Review Panel to review this claim pursuant to La. R.S. 40:1231.8. The claimant is the patient, Britney Ellis.

Made Defendants herein is Kevin Work, M.D., a specialist in the field of gynecology, and The Canal Women's Clinic. I am enclosing a check in the amount of \$200.00 for the filing fee. The dates of the alleged malpractice for which recovery is sought span from August 21, 2013 to August 5, 2015. Ms. Ellis discovered the malpractice of August 21, 2013 on October 14, 2015.

On August 21, 2013, the patient apparently underwent a pap smear at Dr. Kevin Work's office. However, the office notes from this visit were not included with the patient's chart. Instead, the pap smear results for August 21, 2013 are listed in the visit notes for December 3, 2014. The August 21, 2013 pap smear came back as "Abnormal." The comments state, "Epithelial cell abnormality. Low-grade squamous intraepithelial lesion, mild dysplasia, at least, is present. Cells suspicious for a high-grade lesion are also present." The results also state, "The HPV DNA reflex criteria were not met with this specimen result, therefore, no HPV testing was

Jay Dardenne  
Commissioner of Administration  
Attention: Medical Review Panel  
Date: May 3, 2016  
Page 2

performed." In a deviation from the standard of care, these results were never communicated to the patient. Instead, the patient was incorrectly informed that her pap smear for this visit was normal. There are no notes regarding informing the patient of any pap smear results in her chart.

On October 1, 2014, the patient presented to Dr. Kevin Work for a gynecological visit. The chart incorrectly indicates this was her "initial" visit with the Canal Women's Clinic. Her prior gynecological exam was noted as August 15, 2013. The patient was noted to be 25 years old. It was indicated in the chart that the patient's "cervix exam reveals no pathology." A pap smear was obtained and sent for manual screening. The chart indicated the patient had cervical dysplasia, "suspicious for high-grade." The patient was to follow up in two weeks.

The results of this pap smear, which were dated October 11, 2014, revealed low-grade squamous intraepithelial lesion (LSIL) and were positive for bacteria vaginosis. The patient was not tested for HVP. There is no indication in the patient's chart that shows these results were ever communicated to the patient. In fact, the patient reported that she was told over the phone that her pap smear was normal.

The patient returned on December 3, 2014. The patient was reported to be pregnant. A cervix exam was listed as "reveals no pathology." The patient's pap smear results were listed in the chart as "abnormal cells identified, ASCUS, HPV, +BV, and mild dysplasia." As stated above, the abnormal results from the patient's August 21, 2013 were included in this visit note. However, at no time was the patient informed of the abnormal results from this test or the October 2014 test. The patient's diagnoses included "papanicolaou smear of cervix with low grade squamous intraepithelial lesion (LGSIL)." A pap smear was ordered. The patient was to follow-up in one week. It was noted that the patient had had two abnormal paps for LSIL and that she may need a colposcopy after delivery. However, this was not communicated to the patient. Further, no pap smear was ever performed on this patient at this visit as ordered.

In December 2014, the patient suffered a miscarriage.

On July 29, 2015, the patient returned to Dr. Work for an exam and pap smear. The date of her last exam was listed as December 19, 2014. The patient was reported to be 26 years old. Her cervical exam revealed "no pathology." There was no reference to the patient's prior abnormal results, and again, the patient was not informed of her prior abnormal tests. A pap smear was performed, and the patient was told to follow-up in two weeks.

On August 5, 2015, the patient's pap smear came back as high grade squamous intraepithelial lesion (HSIL). The prior history of the report notes that the patient was diagnosed as LSIL on October 11, 2014. The patient's HPV results listed her as a "high risk." There is no documentation in the patient's chart that the patient was ever informed of these results. The patient again believed her results were normal.

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MAY 06 2016

LPCF

Jay Dardenne  
Commissioner of Administration  
Attention: Medical Review Panel  
Date: May 3, 2016  
Page 3

On October 9, 2015, the patient went to the Women's Medical Center in Gretna, Louisiana and saw Dr. Ilsa Leon for an annual gynecological exam. It was noted that her last exam was "last year with Dr. Work." A cervical exam was normal in appearance with no lesions. Her history did not mention any previous abnormal pap smears. A pap smear was performed, and the patient was to return in 6 months for follow-up on her weight loss and irregular menses.

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On October 19, 2015, the patient returned for a colposcopy. During the procedure, acetowhite lesion(s) were noted circumferentially around the os, with mild punctation at 8 o'clock. An ectocervical biopsy was performed of the lesion at 8 o'clock. An ECC was performed. The plan was to review the results and repeat a pap smear in 6 months if the diagnosis was CIN 1 or less.

On October 21, 2015, the pathology of the patient's biopsy showed the patient had mild to moderate metaplastic dysplasia (CIN 1-2). On this day, Dr. Leon's office called the patient and reported her abnormal pap results. The patient was recommended to undergo an excision or ablation due to her CIN 2 results.

On October 28, 2015, the patient presented to Dr. Leon for a LEEP procedure secondary to her LSIL pap smear with subsequent CIN 2 on colposcopy. A visible lesion was present circumferentially around the cervix o'clock. An ectocervical biopsy was performed on the lesion. An ECC was performed. The cervical bed was then cauterized. The patient was to have a follow-up pap smear in 6 months, depending on the results.

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**RECEIVED**

**MAY 06 2016**

**LPCF**