

**IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA**

CRIS A. NELSON and)	
DEBORAH A. NELSON,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
vs.)	
)	FILE NO.
EMORY HEALTHCARE, INC.,)	
CHARISSA HURST, M.A.,)	
EMORY SPECIALTY ASSOCIATES,)	
L.L.C., and JOHN/JANE DOE(S) 1-3,)	
)	
Defendants.)	

PLAINTIFFS' COMPLAINT FOR DAMAGES

COME NOW, CRIS A. NELSON and DEBORAH A. NELSON, Plaintiffs in the above-styled action, and hereby file this Complaint for Damages against Emory Healthcare, Inc., Charissa Hurst, M.A., and Emory Specialty Associates, L.L.C., and show this Honorable Court the following:

PARTIES, JURISDICTION AND VENUE

1.

Plaintiff Cris A. Nelson is an individual and resident of Georgia.

2.

Plaintiff Deborah A. Nelson is, and has been, lawfully married to Plaintiff Cris A. Nelson during all times relevant to this lawsuit, and is a resident of Georgia.

3.

Defendant Emory Healthcare, Inc. ("Emory Healthcare") is a Georgia corporation whose principal office is located at 201 Dowman Drive N.E., 102 Administration Building, Atlanta, (Fulton County) GA 30322. Once served, Defendant Emory Healthcare is subject to the

jurisdiction of this Court. Unless service is acknowledged, Defendant Emory Healthcare may be served with process through its registered agent, Jane E. Jordan, at 201 Dowman Drive N.E., 102 Administration Building, Atlanta, (DeKalb County) GA 30322.

4.

Defendant Charissa Hurst, M.A. is a Georgia citizen who is subject to the jurisdiction of this Court and may be served with process at her residence address, 1320 Milstead Avenue NE, Conyers, (Rockdale County) GA 30012.

5.

Defendant Emory Specialty Associates, L.L.C. ("Emory Specialty") is a Georgia corporation whose principal office is located at 201 Dowman Drive N.E., 102 Administration Building, Atlanta, (Fulton County) GA 30322. Once served, Defendant Emory Specialty is subject to the jurisdiction of this Court. Unless service is acknowledged, Defendant Emory Specialty may be served with process through its registered agent, Jane E. Jordan, at 201 Dowman Drive N.E., 102 Administration Building, Atlanta, (DeKalb County) GA 30322.

6.

Defendants John/Jane Doe(s) 1-3 are those yet unidentified individuals and/or entities who may be liable, in whole or part, for the damages alleged herein. Once served with process, John/Jane Doe(s) 1-3 are subject to the jurisdiction and venue of this Court.

7.

This court has subject matter jurisdiction, and venue is proper in DeKalb County.

FACTUAL BACKGROUND

8.

At all times material to this lawsuit, Defendant Emory Healthcare and/or Defendant Emory Specialty provided medical care and treatment to Plaintiff Cris A. Nelson through physicians, nurses, medical assistants, and other healthcare providers acting incident to and within the course and scope of their employment or agency with Defendant Emory Healthcare and/or Defendant Emory Specialty.

9.

At all times material hereto, Defendant Emory Healthcare and/or Defendant Emory Specialty held itself out to Plaintiff Cris A. Nelson, its patients, and members of the general public as being competent to furnish comprehensive and competent healthcare services to its patients through its physicians, nurses, medical assistants, and other healthcare personnel.

10.

At all times material hereto, Plaintiff Cris A. Nelson relied upon the reputation of Defendant Emory Healthcare and/or Defendant Emory Specialty as being competent to furnish comprehensive and reasonable healthcare through its physicians, nurses, medical assistants, and other healthcare personnel.

11.

At all times material hereto, the nurses, medical assistants, and technicians caring for Plaintiff Cris A. Nelson on October 17, 2012, were employees or agents of Defendant Emory Healthcare and/or Defendant Emory Specialty.

12.

On or about October 17, 2012, Defendant Hurst was a medical assistant at Emory Newton Medical Associates.

13.

On or about October 17, 2012, Mr. Nelson was seen for a wellness exam at Emory Newton Medical Associates, located at 6175 Newton Drive, Covington, Georgia. Emory Newton Medical Associates is owned and/or operated by Defendant Emory Healthcare.

14.

At 10:25 a.m., Mr. Nelson's wellness exam was completed. The exam results were normal, with no complaints of headaches, chest pain, or shortness of breath.

15.

At approximately 10:27 a.m., Medical Assistant Hurst ("MA Hurst") entered the examination room to draw blood from Mr. Nelson for routine laboratory testing.

16.

In order to perform the blood draw, MA Hurst seated Mr. Nelson upright on the examining table, rather than placing him in a secure position.

17.

As his blood was being drawn, Mr. Nelson lost consciousness and fell off the examination table onto the floor.

18.

At the time, a nurse practitioner, Carol Walker ("NP Walker"), was outside the examination room and heard a loud thump, followed by MA Hurst calling her by name.

19.

NP Walker ran into the examination room and found Mr. Nelson lying unconscious on the floor in a prone position, with his face against the floor, bleeding from the head, his arms by his side, and his legs minimally flexed against a trashcan.

20.

Dr. Heath Hampton also heard the thump from Mr. Nelson falling to the floor and the yelling coming from the examination room. He entered the room and examined Mr. Nelson. Dr. Hampton performed a neurological exam and a cervical spine immobilization, with a high suspicion of cervical injury.

21.

Upon regaining consciousness, Mr. Nelson complained of tingling in his arms, and tingling and numbness in his legs.

22.

At 10:43 a.m., an ambulance arrived. Mr. Nelson's cervical spine was secured with a cervical collar, he was placed on a long spine board, and transported to the Atlanta Medical Center trauma center.

23.

As a result of the fall, Mr. Nelson sustained a broken neck and spinal cord injury that has rendered him a C5-8 quadriplegic.

24.

At the time of the blood draw, MA Hurst was acting in the course and scope of her employment or agency with Defendant Emory Healthcare and/or Defendant Emory Specialty.

**COUNT I- NEGLIGENCE OF EMORY HEALTHCARE, INC.
AND/OR EMORY SPECIALTY ASSOCIATES, L.L.C.**

25.

Plaintiffs incorporate by reference, as if fully set forth herein, Paragraphs 1-24 of this Complaint.

26.

MA Hurst while acting incident to and within the course and scope of her employment or agency with Defendant Emory Healthcare and/or Defendant Emory Specialty, and in furtherance of the interests of her employer, was negligent in the medical care delivered to patient, Plaintiff Cris E. Nelson, by failing to exercise that degree of care, skill, and diligence ordinarily employed by a medical assistant generally under similar conditions and like surrounding circumstances.

27.

More specifically, MA Hurst failed to comply with the applicable standard of care by seating Mr. Nelson upright on the examining table, rather than placing him in an appropriate venipuncture chair, when it was foreseeable that the blood draw could cause him to faint or become dizzy and fall to the floor. MA Hurst also failed to comply with the applicable standard of care by failing to take proper precautions to prevent the patient from suffering a serious fall during or after the blood draw.

28.

As a direct and proximate result of the negligence of MA Hurst, acting incident to and within the course and scope of his employment or agency with Defendant Emory Healthcare and/or Defendant Emory Specialty, or the negligence of Defendant Emory Healthcare and/or Defendant Emory Specialty, acting through its employees or agents, or a combination of both, Mr. Nelson suffered bodily injury. As such, Mr. Nelson is entitled to recover for all damages

suffered, including physical, emotional, and economic damages, both past and future.

29.

The affidavit of Christina Turner, RN, an expert witness who is competent to testify as to the standard of care required of M.A. Hurst identifying at least one negligent act or omission and the factual basis for each such claim, is attached hereto as Exhibit 1.

DAMAGES

30.

Plaintiffs incorporate by reference, as if fully set forth herein, Paragraphs 1-29 of this Complaint.

31.

As a direct and proximate result of the Defendants' individual and collective conduct, Plaintiff Cris E. Nelson is entitled to recover from Defendants reasonable compensatory damages in an amount in excess of \$10,000.00 to be determined by a fair and impartial jury for all damages Plaintiff suffered, including physical, emotional, and economic injuries.

PERTAINING TO THE CLAIMS OF DEBORAH A. NELSON

32.

Plaintiffs incorporate by reference, as if fully set forth herein, Paragraphs 1-31 of this Complaint.

33.

At all times material to this action, Deborah A. Nelson and Cris E. Nelson were lawfully married.

34.

As a direct and proximate result of the negligence of the Defendants' individual and

collective conduct, Plaintiff Deborah A. Nelson has suffered the loss of her husband's consortium and is entitled to damages as provided by law.

WHEREFORE, Plaintiffs demand a trial by jury and judgment against the Defendants as follows:

- a) Compensatory damages in an amount in excess of \$10,000 to be determined by a fair and impartial jury;
- b) All costs of this action; and
- c) Such other and further relief as the Court deems just and proper.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY TO TRY ALL ISSUES TRIABLE BY JURY.

Respectfully submitted,

/s/ Lloyd N. Bell

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Georgia Bar No. 048800
MICHAEL K. WATSON
Georgia Bar No. 741526

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Attorneys for Plaintiffs

STATE OF PENNSYLVANIA
COUNTY OF Franklin

AFFIDAVIT OF CHRISTINA TURNER, RN

Personally appeared before me, the undersigned officer duly authorized by law to administer oaths, CHRISTINA TURNER, RN, Affiant, who, after being duly sworn, says and deposes under oath as follows:

1.

My name is Christina Turner. I am over the age of eighteen (18) years, am suffering under no legal disabilities, and am competent to make this Affidavit. I understand that this Affidavit is to be used by the attorneys representing Cris Nelson in a medical malpractice action against certain medical providers in the state of Georgia arising from the medical care that he received at Emory Newton Medical Associates in Covington, Georgia on October 17, 2012.

2.

I am a licensed and practicing Registered Nurse (RN) in the state of Pennsylvania who has worked as an RN since 1986. I have served as the administrative supervisor for a 250-bed acute care hospital since 2004, where I supervise and serve as a clinical resource for all staff members. In that capacity, as well by virtue of previous leadership positions in both hospitals and within a



community Home Health Nurse capacity, I frequently performed and supervised blood draws. I have been actively involved in the practice of nursing, as well as in the training and supervision of nurses, technicians, medical assistants, and other staff members for more than twenty-five years. I am familiar with the standard of care applicable to the nursing profession generally as well as to medical assistants working under the supervision of licensed nurses. Attached hereto and incorporated herein by reference is a copy of my Curriculum Vitae summarizing my educational and professional background.

3.

I make this Affidavit based upon my own personal knowledge as a licensed and trained Registered Nurse upon a review of the records provided to me in connection with the care and treatment rendered to Cris Nelson at Emory Newton Medical Associates.

4.

I have personal knowledge of the standard of care and skill generally required of nurses and medical assistants in a primary care setting under the same conditions and like circumstances as those presented by Cris Nelson when he was seen at Emory Newton Medical Associates on October 17, 2012. Specifically, I have personal knowledge of the standard of care applicable to a nurse, medical

assistant or other primary care provider when drawing blood from a patient for laboratory testing during a routine physical examination. I am familiar with venipuncture procedures and am experienced at performing them and supervising those who do.

5.

Based upon my review of the foregoing medical records and the facts that I have been asked to assume for purposes of this affidavit, it is my opinion that the Emory Newton staff member who performed the blood draw on Cris Nelson on October 17, 2012 failed to exercise that degree of skill and care ordinarily required of nurses, medical assistants, or other primary care providers in general under like conditions and similar circumstances, and that it was foreseeable that Chris Nelson would fall and sustain a serious injury as a result of such failure to comply with the standard of care.

6.

My review of the pertinent medical records and documents indicates the following:

- a) On the morning October 17, 2012, Cris Nelson was seen at Emory Newton Medical Associates' primary care clinic at 4175 Newton Drive in Covington, Georgia for a wellness exam.

- b) His physical exam was completed at 10:25 a.m. and was normal, with no complaints of headache, chest pain or shortness of breath.
- c) At approximately 10:27 a.m. a medical assistant (Charissa Hurst, MA) went into the exam room to draw Mr. Nelson's blood.
- d) A nurse practitioner outside the exam room (Carol Walker, NP) heard a loud thump and then heard Charissa Hurst calling her by name. NP Walker ran to the exam room and found Mr. Nelson lying unconscious on the floor in a prone position with his face against the floor, blood oozing on the floor, his arms by his side, and his legs minimally flexed against a trashcan.
- e) Upon regaining consciousness Mr. Nelson complained of tingling in his arms and tingling numbness in his legs with the need to move his legs, but he denied any pain. He was able to move his arms at the scene and was able to squeeze someone's hands lightly.
- f) Dr. Heath Hampton, who also heard the thump and yelling from the examining room, then entered the room and examined Mr. Nelson. He performed a neurological exam and performed a cervical spine immobilization with a high suspicion of cervical injury.

- g) EMS was called, and the ambulance arrived at 10:43 a.m. Mr. Nelson's cervical spine was secured with a cervical collar, he was placed on a long spinal board, and he was transported to the Atlanta Medical Center trauma facility.

7.

In reviewing the records, I have also been asked to assume that the following facts are true:

- a) That Charissa Hurst, MA seated Mr. Nelson upright on an examining table in order to perform the blood draw, rather than placing him in a secure position to prevent him from falling.
- b) That as the blood was being drawn, Mr. Nelson lost consciousness and fell from the examining table to the floor.
- c) That Mr. Nelson broke his neck during the fall and suffered a spinal cord injury that has rendered him a C5-8 quadriplegic.

8.

Based upon my review of the foregoing facts and records, and based upon my knowledge, education and experience as a nurse and nursing supervisor, it is my opinion that the care provided to Cris Nelson by the staff at Emory Newton Medical Associates fell below the standard of care applicable to the circumstances

and conditions then existing as follows: 1) by seating the patient upright on the examining table, rather than placing him in an appropriate venipuncture chair, when it was foreseeable that the blood draw could cause him to faint or become dizzy and fall to the floor; and 2) by otherwise failing to take proper precautions to prevent the patient from suffering a serious fall during or after the blood draw.

9.

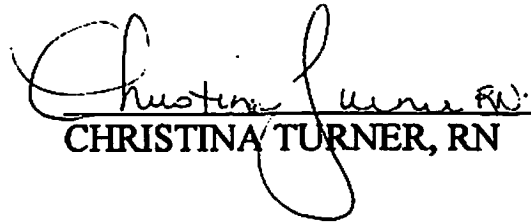
The standard of care, as well as the foreseeability that a serious injury could result from any deviation from the standard of care, should have been obvious to anyone on the staff at Emory Newton Medical Associates under well-established standards published by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the World Health Organization (WHO), the American Society for Clinical Laboratory Science, and the Clinical and Laboratory Standards Institute.

10.


I make this Affidavit under oath, after having been duly sworn, on the basis of my professional training, education and experience. This Affidavit is executed for the purpose of being attached to and used in support of a lawsuit to be filed on behalf of Cris Nelson against the aforesaid medical providers and any persons and

entities that may be responsible for the negligence or other misconduct of said medical providers, and for all other purposes allowed by law.

FURTHER AFFIANT SAITH NOT.


CHRISTINA TURNER, RN

Sworn to and subscribed before
me this 15 day of March, 2014.


Notary Public
My commission expires: 11/20/17

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
DANNA MISHELL BALAN ARANA
NOTARY PUBLIC
CHAMBERSBURG BOROUGH, FRANKLIN COUNTY
MY COMMISSION EXPIRES November 20, 2017

Christina Turner RN

1460 Siloam Road
Chambersburg, PA 17201
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PROFESSIONAL LICENSES

- Pennsylvania Professional Nurse #RN 284209L - Active Status
- Maryland Registered Nurse #R10242 - Inactive Status

EMPLOYMENT

Chambersburg Hospital, Chambersburg, PA December 2004-Present

Administrative Supervisor / Resource Coordinator for 250-bed acute care hospital

Responsibilities: Supervision of/ and clinical resource for all hospital staff, inpatient census, all departments and emergency room, medical resource specialist for all physicians, nurses in addition to general staff; liaison between law enforcement personnel, investigators, coroners, hospital staff, patients and/or relatives. Medical record review and corporate compliance enforcement; OSHA, TJC, Medicare and health insurance resource.

Carlisle Regional Medical Center, Carlisle, PA

October 2000-April 2005

Administrative Supervisor for 140-bed acute care hospital

Responsibilities: Supervision of all hospital staff, Inpatient census, all departments and emergency room, medical resource specialist for all physicians, nurses in addition to general staff; liaison between law enforcement personnel, investigators, coroners, hospital staff, patients and/or relatives. Medical record review and corporate compliance enforcement; OSHA, JCAHO, Medicare and health insurance resource.

Carlisle Regional Medical Center, Carlisle, PA

July 1998-October 2000

Staff and Charge Nurse RN on Medical/Surgical Inpatient Unit and Intensive Care Unit

Responsibilities: Utilizing assessment skills and medical knowledge to provide optimal care to inpatient census; quality assurance and case review as needed to assure quality of care.

Lutheran Home Care Services Inc., Chambersburg, PA

May 1988-Feb. 1997

Positions held:

Rehabilitation Nursing Supervisor

May 1993-1997

Responsibilities:

Supervision of professional and ancillary staff to insure effective and efficient agency functioning. Community medical representative for staff and patients. Standard of care review.

Ancillary Services Coordinator

June 1992-May 1993

Responsibilities:

Supervision of twenty-five staff including physical therapists, occupational and speech therapists, skilled nursing staff and medical social workers.

Community Health Nurse Preceptor

July 1989-June 1992

Responsibilities:

Orient, train and evaluate new home care staff; provide skilled nursing care and case management to home care clients; case and medical record compliance review.

Community Health Nurse

May 1988-June 1989

Responsibilities:

Provided skilled nursing care and case management to home care clients, chart review and quality assurance review for standard of care compliance.

Chambersburg Hospital, Chambersburg, PA

June 1986- May 1988

Intensive Care staff and Charge nurse.

Responsibilities:

Intensive delivery of care in an 18-bed ICU/CCU department

Staff LPN in ICU department during the summer months while attending college Sept. 1982-1986

ADDITIONAL EXPERIENCE

- 1991,1993 & 1996: Summer Camp Nurse at St. John's UCC camp for children, Fort Loudon, PA
- 1999, 2000, 2001, 2002, 2003 Summer Camp Nurse at Good News Camp through Child Evangelism, Waynesboro, PA
- 2008 Summer Camp Nurse at Rhodes Grove United Brethren Church Camp, Chambersburg, PA

EDUCATION

1986 **St. Joseph's Hospital School of Nursing, Lancaster, PA**
 RN Diploma

1983-1986 **Millersville University, Millersville, PA**
 RN Diploma course materials

1982 **Franklin County Area Vocational Technical School, Chambersburg, PA**
 LPN - Recipient of the Excellence in Pediatric Nursing Award