

NO. E 182086

JOSHUA BUSH,
Plaintiff,

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IN THE DISTRICT COURT

v.

172nd JUDICIAL DISTRICT

DAVID PARKUS, M.D. and CHRISTUS
HEALTH,
Defendants.

JEFFERSON COUNTY, TEXAS

PLANTIFF'S ORIGINAL PETITION & REQUEST FOR DISCLOSURE

A. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.2.

B. PARTIES

2. Plaintiff, Joshua Bush, is an individual.
3. Defendant, David Parkus, M.D., an individual, may be served with process at defendant's usual place of business, Christus St. Elizabeth Hospital, 2830 Calder Street, Beaumont, Jefferson County, Texas 77702.

4. Defendant, Christus Health, a Texas non-profit corporation, may be served with process by serving its resident agent for service of process, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

C. VENUE

5. Venue is proper in Jefferson County under Texas Civil Practice & Remedies Code section 15.002 because all or a substantial part of the events or omissions occurred in Jefferson County.

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Page 1 of 5

D. FACTS

6. On October 29, 2006, the City of Port Arthur, Texas Police Department transported Joshua Bush to Christus St. Elizabeth Hospital in Beaumont, Jefferson County, Texas. At that time, Joshua Bush was an inmate in the custody of the Texas Department of Criminal Justice. The City of Port Arthur Police Department desired to use the bullet as evidence against Mr. Bush in a criminal prosecution. Mr. Bush did not consent to undergo this surgical procedure. In fact, Mr. Bush expressly told the physician, defendant Dr. David Parkus, M.D. to refrain from touching him and verbally prohibited Dr. Parkus from performing the surgery. On October 29, 2006, and without Mr. Bush's consent, Dr. Parkus performed an invasive surgical procedure on Mr. Bush in an attempt to remove the bullet.

E. COUNT 1 – MEDICAL BATTERY

7. Defendant Parkus made offensive physical contact with plaintiff's person. Specifically, Defendant Parkus cut into defendant's forehead with a scalpel in an attempt to remove a bullet.

8. Defendant Parkus made the physical contact knowingly. Dr. Parkus made the offensive contact while Mr. Bush was strapped to a gurney and after Mr. Bush verbally instructed Dr. Parkus to refrain from operating on him or touching him in any manner.

9. Defendant Parkus knew or reasonably should have known that plaintiff would regard the physical contact as offensive.

10. Defendant's actions directly and proximately caused injury to plaintiff, which resulted in the following damages: actual damages, mental anguish damages.

11. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

F. COUNT 2 – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

12. In addition to other counts, defendants caused plaintiff emotional distress. Defendants' conduct in performing an invasive surgical procedure on plaintiff's person was intentional, reckless, extreme and outrageous.

13. Defendants' conduct proximately caused severe emotional distress to plaintiff and this emotional distress cannot be remedied by any other cause of action.

14. Defendants' wrongful conduct caused actual and mental anguish damages.

G. COUNT 3 – VICARIOUS LIABILITY

15. At all times relevant to the events giving rise to plaintiff's claims, defendant Christus Health had intentionally granted defendant David Parkus, M.D. the authority to act on defendant Christus Health's behalf.

16. In the alternative and in addition to the other counts, at all times relevant to the events giving rise to plaintiff's claims, defendant Christus Health had intentionally allowed defendant David Parkus, M.D. to believe that defendant David Parkus, M.D. had authority to act on defendant Christus Health's behalf.

17. In the alternative and in addition to the other counts, at all times relevant to the events giving rise to plaintiff's claims, defendant Christus Health, through lack of due care, allowed defendant David Parkus, M.D. to believe that actions taken on behalf of defendant Christus Health were authorized.

18. In the alternative and in addition to the other counts, at all times relevant to the events giving rise to plaintiff's claims, defendant Christus Health affirmatively held defendant David Parkus, M.D. out as having authority to act on defendant Christus Health's behalf.

19. In the alternative and in addition to the other counts, at all times relevant to the events giving rise to plaintiff's claims, defendant Christus Health knowingly and voluntarily permitted the appearance that defendant David Parkus, M.D. were authorized to act on defendant Christus Health's behalf.

20. In the alternative and in addition to the other counts, at all times relevant to the events giving rise to plaintiff's claims, defendant Christus Health acted with such a lack of ordinary care as to clothe defendant David Parkus, M.D. with the indicia of authority to act on defendant Christus Health's behalf.

H. JURY DEMAND

21. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

I. REQUEST FOR DISCLOSURE

22. Under Texas Rule of Civil Procedure 194, plaintiff requests that defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

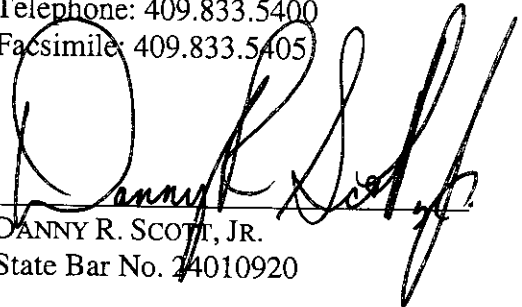
J. PRAYER

23. For these reasons, plaintiff asks that the court issue citation for to defendants to appear and answer, and that plaintiff be awarded a judgment against defendant for the following:

- a. Actual damages.
- b. Exemplary damages.
- c. Prejudgment and postjudgment interest.
- d. Court costs.
- e. All other relief to which plaintiff is entitled.

Respectfully submitted,

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