

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

JULIE CHISM,

Plaintiff,

v.

No. CT-004867-16
JURY DEMANDED

METHODIST LE BONHEUR HEALTHCARE,

Defendant.

COMPLAINT

COMES NOW the Plaintiff, Julie Chism, by and through the undersigned counsel, and for cause of action against Defendant Methodist Le Bonheur Healthcare, would hereby show and state as follows:

JURISDICTION AND VENUE

1. Plaintiff Julie Chism is an adult resident citizen of Shelby County, Tennessee, residing therein at 5659 Redford Avenue, Bartlett, Tennessee 38135.

2. Defendant Methodist Le Bonheur Healthcare ("Defendant Methodist") is a Tennessee nonprofit corporation licensed to do business in the State of Tennessee and maintains its principal place of business at 1211 Union Avenue, Suite 700, Memphis, Tennessee 38104-6600. Defendant Methodist is a hospital and medical system that is in the business of providing medical care and medical services to the public at large. Upon information and belief, Defendant Methodist may be served with process through its registered agent for service of process, Lynn Field, 1211 Union Avenue, Suite 700, Memphis, Tennessee 38104-6600. At all times material

hereto, Defendant Methodist, through its agents, employees, and/or contractors, provided medical, nursing, and/or hospital care and services to Julie Chism in August 2015.

3. Defendant Methodist is vicariously liable for the actions, omissions, and negligence of its respective employees, agents, and/or contractors who provided negligent medical, nursing, and/or hospital care and services to Julie Chism.

4. All medical, nursing, and/or hospital care and services that are the subject of this Complaint occurred in Shelby County, Tennessee. Because the wrongs complained of herein occurred in Shelby County, Tennessee, the county in which this action is brought, this action may be maintained in Shelby County, Tennessee, and venue is therefore proper.

5. Pursuant to and in compliance with T.C.A. § 29-26-121, by letter dated February 15, 2016, at least sixty (60) days prior to the filing of this action, notice of a potential claim against Defendant Methodist was provided via certified mail, return receipt requested, to and through Julie Chism's last place of treatment located at 7691 Poplar Avenue, Germantown, Tennessee 38138, and to Defendant Methodist's principal place of business and registered agent for service of process, Lynn Field, located at 1211 Union Avenue, Suite 700, Memphis, Tennessee 38104-6600, which was returned as received.

6. Photocopies of all notice letters, together with the certified mail cards and certificates of mailing, are attached to the accompanying Affidavit of J. Mark Benfield, which is attached to this Complaint. All attachments hereto are hereby incorporated by reference as if stated in their entirety herein. Consequently, this action is filed at least sixty (60) days after the issuance of written notice required by T.C.A. § 29-26-121.

7. As required by T.C.A. § 29-26-121, the notice letters referred to above and attached to the accompanying Affidavit of J. Mark Benfield as an exhibit thereto were

accompanied by a list of all providers to whom notice was being given, along with a medical authorization permitting each provider receiving the notice to obtain complete medical records from each other provider being sent the notice. Also being filed contemporaneously with this Complaint is a Certificate of Good Faith signed by J. Mark Benfield, stating that J. Mark Benfield has consulted with an expert and obtained a written letter from the expert pursuant to and in compliance with T.C.A. § 29-26-122. This Certificate of Good Faith is hereby incorporated by reference as if fully stated herein *verbatim*.

8. This cause of action arises from medical, nursing, and/or hospital care and services provided to Julie Chism by the Defendant, as well as the Defendant's employees, agents, and/or contractors. This care fell below the recognized standard of acceptable professional practice of medical, nursing, and/or hospital care and services in the Memphis, Shelby County, Tennessee community and/or similar communities causing harm which would not have otherwise occurred.

FACTS

9. Plaintiff re-alleges and incorporates all of the allegations in the Complaint as if fully set forth herein *verbatim*.

10. On or about August 4, 2015 at approximately 3:00 a.m., Plaintiff Julie Chism ("Mrs. Chism") presented to Defendant Methodist for a scheduled labor and delivery. At that time, she was told that her scheduled labor and delivery would be postponed until 3:00 a.m. on the following day due to scheduling conflicts in the hospital and/or with her treating physician.

11. Later that same night at approximately 11:00 p.m., Mrs. Chism again presented to Defendant Methodist in active labor. At this time, Mrs. Chism was told that no rooms were available and was instructed to wait in the waiting area of the Labor and Delivery Unit. Ms.

Chism reiterated that she was in active labor but was again instructed to wait in the waiting room.

12. A few minutes thereafter, Mrs. Chism went to use the restroom and realized she was currently in the process of giving birth. Mrs. Chism rushed back to the waiting room and screamed for help. At this point, Mrs. Chism was forced to give birth in the waiting area of the Labor and Delivery Unit of Defendant Methodist with several strangers present.

13. Immediately upon his birth, Jackson Chism, Mrs. Chism's son, was bagged because he was not breathing. Further, Jackson Chism had an irregular heartbeat and jaundice.

14. Mrs. Chism was forced to give birth in the waiting area in front of several strangers, causing severe emotional trauma and Post-Traumatic Stress Disorder, as direct and proximate result of deviations from the standard of care in the Memphis, Shelby County, Tennessee community and similar communities by Defendant Methodist and its employees, agents, and/or contractors. Such deviations from the standard of care were a result of the negligent acts and omissions of the employees, agents, and/or contractors of Defendant Methodist, and Defendant Methodist is therefore vicariously liable for the damages resulting from said negligence by its employees, agents, and/or contractors.

VIOLATION OF THE TENNESSEE HEALTH CARE LIABILITY ACT

15. Plaintiff re-alleges and incorporates all of the allegations in the Complaint as if fully set forth herein *verbatim*.

16. As set forth hereinabove, Defendant Methodist and its agents, employees, and/or contractors were charged with the responsibility of providing health care and health services to and for Julie Chism and Jackson Chism and are guilty of deviations from the recognized accepted standard of medical, nursing, and/or hospital care in the Memphis, Shelby County,

Tennessee community and/or similar communities, which caused injuries that would not have otherwise occurred.

17. The acts of negligence of Defendant Methodist and its employees, agents, and/or contractors include, but are not limited to: the negligent failure to implement and follow proper policies and procedures for treatment of patients in active labor; the negligent failure to evaluate Mrs. Chism to ensure she was not in active labor; the negligent failure to timely and appropriately recognize that Mrs. Chism was in active labor; the negligent failure to provide Mrs. Chism immediate medical attention in a private area, evaluation room, emergency room, labor and delivery room, or similar medical area that would provide privacy and allow for appropriate and timely medical care for Mrs. Chism to give birth in a dignified and private manner; and the negligent failure to perform the labor and delivery as originally scheduled. All of these acts of negligence directly and proximately caused Mrs. Chism to suffer severe mental and emotional injuries.

18. Said negligent acts and omissions constitute deviations from the recognized and accepted standard of care for the Memphis, Shelby County, Tennessee community and similar communities.

19. Had Defendant Methodist and its employees, agents, and/or contractors acted in accordance with the applicable standard of care, Mrs. Chism would not have suffered severe mental and emotional pain and suffering. Therefore, these deviations from the recognized and accepted standard of medical care in the Memphis, Shelby County, Tennessee community and similar communities directly and proximately caused Mrs. Chism to suffer severe mental and emotional injuries.

DAMAGES

20. Plaintiff re-alleges and incorporates all of the allegations in the Complaint as if fully set forth herein *verbatim*.

21. As a direct and proximate result of the negligent acts and omissions of the Defendant and its employees, agents, and/or contractors as set forth herein, Plaintiff Julie Chism claims injuries for which she seeks compensation, including, but not limited to:

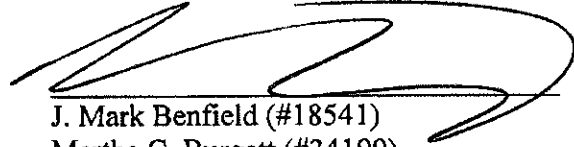
- a. severe emotional and mental pain and suffering of Julie Chism;
- b. humiliation, embarrassment, degradation, and fright of Julie Chism;
- c. loss of dignity and respect of Julie Chism;
- d. additional medical expenses; and
- e. all such other relief, both general and specific, to which Plaintiffs may be entitled under the premises pursuant to applicable law.

PRAYER FOR RELIEF

WHEREFORE PREMISES CONSIDERED, Plaintiffs Julie Chism and Caleb Chism, individually, and on behalf of Jackson Chism, sue the Defendant for the injuries described herein and pray for a judgment and an award of compensatory damages against the Defendant in such an amount as may be fair and reasonable to a jury and for all such other relief, both general and specific, to which they may be entitled under the premises. **A trial by jury is respectfully demanded.**

Respectfully submitted,

APPERSON CRUMP PLC

A handwritten signature in black ink, appearing to read 'J. Mark Benfield', written over a horizontal line.

J. Mark Benfield (#18541)
Martha C. Burgett (#34199)
6070 Poplar Ave., Suite 600
Memphis, TN 38119
(901) 756-6300
Counsel for Plaintiff