

Filing # 94021631 E-Filed 08/12/2019 02:45:58 PM

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY FLORIDA

ROSE MARIE NODAR  
*Plaintiff*

v.

BETHESDA HOSPITAL EAST, BAPTIST  
HEALTH SOUTH FLORIDA, INC., AND  
BETHESDA HEALTH, INC.;  
*Defendants*

§ Case No.

§

§

§

§

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

§

§

§

§

§

---

Plaintiff, ROSEMARIE NODAR, through the undersigned counsel, files suit against  
Defendants BETHESDA HOSPITAL EAST, and BAPTIST HEALTH SOUTH FLORIDA, and  
alleges the following:

**PARTIES, JURISDICTION, AND VENUE**

**Parties**

1. Plaintiff Rose Marie Nodar (hereinafter (hereinafter “Ms. Nodar”) is a resident of  
Palm Beach County, Florida.

2. Defendant Bethesda Hospital East (hereinafter “Hospital”) is a hospital located at  
2815 S. Seacrest Blvd, Boynton Beach, FL, 33435. Bethesda Hospital East is owned and  
operated by Bethesda Health, Inc.

3. Defendant Bethesda Health, Inc. (hereinafter “Bethesda”), is a corporation  
organized under the laws of Florida, with a principal place of business at 2815 S. Seacrest Blvd,  
Boynton Beach, FL, 33435.

4. Defendant Baptist Health South Florida, Inc. (hereinafter “Baptist Health”), is a  
non-profit healthcare and clinical care organization, with a principal place of business at 6855

Red Road Suite 600, Coral Gables, FL 33143. At all material times, Defendant Baptist Health assisted Defendants Hospital and Bethesda in the staffing, management, and supervision of Bethesda Hospital East.

### **Jurisdiction and Venue**

5. This court is vested with jurisdiction over the Defendants because the Defendants conduct substantial business within the State of Florida and in this County.

6. Plaintiff has suffered damages in excess of \$15,000.00.

7. Venue is proper in Palm Beach County under Florida Statutes § 47.051 because the actions and omissions giving rise to this cause of action occurred within Palm Beach County, Florida.

### **FACTS**

8. On or about August 13, 2019, Rosemarie Nodar (“Ms. Nodar”) went to Bethesda East Hospital to seek treatment for symptoms related to an apparent asthmatic attack.

9. While at Bethesda, the Hospital administered sedative drugs to Ms. Nodar, and performed a CT scan on her.

10. After the CT scan, a male nurse (referred to hereinafter as “John Doe”) informed Ms. Nodar that she was being admitted to Bethesda for overnight monitoring.

a. At all times relevant to this lawsuit, John Doe was an agent and/or employee, and otherwise subject to the supervision and control of Defendant Bethesda.

b. In the alternative to Paragraph 10b at all times relevant to this lawsuit, John Doe was an agent and/or employee, and otherwise subject to the supervision and control of Defendant Baptist Health.

- c. In the alternative to Paragraphs 10a and 10b, at all times relevant to this lawsuit, John Doe was an agent and/or employee, and otherwise subject to the supervision and control of Defendant Hospital.

11. At the time, he informed Ms. Nodar that she was to be admitted to the hospital, a male orderly and another female staff member were in the same room as Ms. Nodar and John Doe.

12. Prior to Ms. Nodar being informed that she was being admitted to the Hospital, multiple people were always present with Ms. Nodar.

13. After informing Ms. Nodar that she was being admitted to the Hospital, John Doe told the male orderly and female staff member in the room that they were dismissed.

14. At the time John Doe dismissed the orderly and female staff member, Ms. Nodar was still under the influence of sedative drugs, and was in a hospital gurney.

15. After dismissing the male orderly and female staff member, John Doe then wheeled Ms. Nodar into a hospital room.

16. John Doe was completely unsupervised and unaccompanied when he wheeled Ms. Nodar to the hospital room.

17. While wheeling Ms. Nodar through the halls of the hospital, John Doe began to persistently and continually tell Ms. Nodar that he was attracted to her and that she was beautiful.

18. John Doe took Ms. Nodar to her hospital room, and another employee/agent of Defendants came into the room.

19. John Doe instructed this employee/agent of Defendants to leave the room.

20. After he was once again alone with Ms. Nodar, John Doe then began pacing in the room, and continued to talk about how beautiful Ms. Nodar was and how much he was attracted to her.

21. Ms. Nodar, still under the influence of sedatives, dozed off while John Doe was pacing the room.

22. When Ms. Nodar regained consciousness, John Doe's penis was inserted in her mouth. John Doe then ejaculated in Ms. Nodar's mouth. (Hereinafter this incident is referred to as the "Sexual Assault").

23. Ms. Nodar then lost consciousness.

24. Ms. Nodar was awakened by a female nurse. Ms. Nodar, frightened and confused, asked this female nurse if John Doe would be returning, and was informed that he had left.

25. The following morning, Ms. Nodar was released from the Hospital.

26. Ms. Nodar informed her daughter of the Sexual Assault.

27. On or about August 14, 2019, Ms. Nodar's daughter then the Hospital and reported the Sexual Assault of her mother.

28. During this phone call, the Hospital informed Ms. Nodar's daughter that the Sexual Assault perpetrated by John Doe against Ms. Nodar would be investigated, and that the Hospital would follow up with Ms. Nodar and her daughter.

29. On or about the evening of August 14, 2019, Ms. Nodar was admitted to Bethesda Hospital West.

30. Upon being admitted to Bethesda Hospital West, Ms. Nodar was informed that she never should have been released from care at Bethesda Hospital East.

31. The Hospital never followed up with Ms. Nodar or her daughter about the results of their investigation into the sexual assault.

32. The Sexual Assault has caused profound and lasting psychological damage to the Plaintiff.

## **CAUSES OF ACTION**

### **Count I: Negligent Supervision**

33. The Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs of this Complaint as if set forth in full herein.

34. The Defendants owed a duty of care to the Plaintiff and all other patients at the Hospital to ensure that patients would be safe from sexual assaults while being treated at the Hospital.

35. The Defendant had a duty to properly supervise, train, and monitor its employees to ensure that patients, including the Plaintiff, would be safe from sexual assaults while on the premises of the Hospital, particularly sexual assaults perpetrated by agents and employees of the Hospital.

36. The Defendants breached this duty of care owed to the Plaintiff. The Defendants' breach led to an unreasonable and foreseeable risk of sexual assault to individuals including the Plaintiff.

37. The Defendants' breach was the proximate cause of the injuries suffered by Plaintiff.

### **Count II: Negligent Hiring, Retention, and Screening**

38. The Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs of this Complaint as if set forth in full herein.

39. The Defendants owed a duty of care to the Plaintiff and all other Patients at the Hospital exercise reasonable care in hiring and/or retaining agents and employees who did not pose an unreasonable risk of sexual assault to patients at the Hospital.

40. John Doe's wife was a managerial employee at either the Hospital, or with Bethesda Health, Inc.

41. The Defendants knew, or should have known, that John Doe posed an unreasonable risk of sexual assault to patients at the Hospital.

42. Defendants breached their duty to exercise reasonable care in hiring and/or retaining agents and employees who did not pose an unreasonable risk of sexual assault to patients at the Hospital.

43. The Defendants breached this duty of care owed to the Plaintiff. The Defendants' breach led to an unreasonable and foreseeable risk of sexual assault to individuals including the Plaintiff.

44. The Defendants' breach was the proximate cause of the injuries suffered by Plaintiff.

45. The Defendants further owed a duty of care to the Plaintiff and all other Patients at the Hospital exercise reasonable care in screening potential agents and employees who did not pose an unreasonable risk of sexual assault to patients at the Hospital.

46. The Defendants breached this duty of care owed to the Plaintiff. The Defendants' breach led to an unreasonable and foreseeable risk of sexual assault to individuals including the Plaintiff.

47. The Defendants' breach was the proximate cause of the injuries suffered by Plaintiff.

### **Count III: Negligent Training**

48. The Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs of this Complaint as if set forth in full herein.

49. The Defendants owed a duty of care to the Plaintiff and all other patients at the Hospital to exercise reasonable care in establishing procedures and training their agents and employees to prevent sexual assaults

50. The Defendant had a duty to properly supervise, train, and monitor its employees to ensure that patients, including the Plaintiff, would be safe from sexual assaults while on the premises of the Hospital, particularly sexual assaults perpetrated by agents and employees of the Hospital.

51. The Defendants breached this duty of care owed to the Plaintiff. The Defendants' breach led to an unreasonable and foreseeable risk of sexual assault to individuals including the Plaintiff.

52. The Defendants' breach was the proximate cause of the injuries suffered by Plaintiff.

### **Count IV: Vicarious Liability – Defendant Hospital**

53. The Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs of this Complaint as if set forth in full herein.

54. At all material times John Doe was an agent and/or employee, and otherwise subject to the supervision and control of Defendant Hospital.

55. Prior to the Sexual Assault, the Defendant Hospital knew, or should have known that John Doe posed an unreasonable risk of sexual assault to the patients at the Hospital.

56. The Defendant Hospital negligently or recklessly ignored this unreasonable risk of sexual assault posed by John Does.

57. While employed with, and/or acting under the supervision and control or Defendant Hospital, John Doe sexually assaulted Plaintiff.

58. As a direct and proximate cause of this sexual assault, Plaintiff suffered numerous past and future injuries, enumerated within this Complaint and to be elaborated upon throughout the course of these proceedings.

**Count V: Vicarious Liability – Defendant Bethesda**

59. The Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1-52 of this Complaint as if set forth in full herein.

60. At all material times John Doe was an agent and/or employee, and otherwise subject to the supervision and control of Defendant Bethesda.

61. Prior to the Sexual Assault, the Defendant Bethesda knew, or should have known that John Doe posed an unreasonable risk of sexual assault to the patients at the Hospital.

62. Defendant Bethesda negligently or recklessly ignored this unreasonable risk of sexual assault posed by John Does.

63. While employed with, and/or acting under the supervision and control or Defendant Bethesda, John Doe sexually assaulted Plaintiff.

64. As a direct and proximate cause of this sexual assault, Plaintiff suffered numerous past and future injuries, enumerated within this Complaint and to be elaborated upon throughout the course of these proceedings.

**Count VI: Vicarious Liability – Defendant Baptist Health**

65. The Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1-52 of this Complaint as if set forth in full herein.

66. At all material times John Doe was an agent and/or employee, and otherwise subject to the supervision and control of Defendant Baptist Health.



67. Prior to the Sexual Assault, the Defendant Baptist Health knew, or should have known that John Doe posed an unreasonable risk of sexual assault to the patients at the Hospital.

68. Defendant Baptist Health negligently or recklessly ignored this unreasonable risk of sexual assault posed by John Does.

69. While employed with, and/or acting under the supervision and control of Defendant Baptist Health, John Doe sexually assaulted Plaintiff.

70. As a direct and proximate cause of this sexual assault, Plaintiff suffered numerous past and future injuries, enumerated within this Complaint and to be elaborated upon throughout the course of these proceedings.

#### **DAMAGES:**

71. As a direct and proximate cause of Defendants' negligence, Plaintiff suffered damages including, but not limited to:

- a. Past and future mental anguish;
- b. Past and future physical pain and suffering;
- c. Past and future medical and medical related expenses;
- d. Past and future emotional distress;
- e. Past and future loss of earning capacity; and
- f. And other ordinary, incidental, and consequential damages as would be anticipated to arise under the circumstances.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the entry of judgment against Defendants as follows:

- 1) That the Court award Plaintiff judgment against Defendant in such sums as shall be determined to fully and fairly compensate Plaintiff for all general, special, incidental, and consequential damages incurred, or to be incurred, by Plaintiff as the direct and proximate result of the Defendant's negligent acts and omissions. These include, but are not limited to Past and future mental anguish, past and future physical pain and suffering, past and future medical and medical related expenses, past and future emotional distress, past and future loss of earning capacity; and all other ordinary, incidental, and consequential damages as would be anticipated to arise under the circumstances;
- 2) That the Court award Plaintiff her costs incurred in prosecuting this action;
- 3) That the Court award Plaintiff the opportunity to amend or modify the provisions of this complaint as necessary or appropriate after additional or further discovery is completed in this matter, and after all appropriate parties have been served; and
- 4) That the Court award such other and further relief as it deems necessary and proper in the circumstances.

#### DEMAND FOR A JURY TRIAL

Plaintiff demands a jury trial for all issues so triable.

Respectfully submitted,

**BARON & BUDD, P.C.**

By: /s/ Holly Werkema

Holly Werkema

FL Bar No. 0071133

[hwerkema@baronbudd.com](mailto:hwerkema@baronbudd.com)

Bryan A. Green

*Motion for admission pro hac vice forthcoming*

(Texas Bar No. 24062496)

[bgreen@baronbudd.com](mailto:bgreen@baronbudd.com)

Andrew S. Patchan  
*Motion for admission pro hac vice forthcoming*  
(Texas Bar No. 24102332)  
[apatchan@baronbudd.com](mailto:apatchan@baronbudd.com)  
3102 Oak Lawn Avenue, Suite 1100  
Dallas, Texas 75219  
214-521-3605  
214-520-1181 (fax)

*Attorneys for Plaintiff Rose Marie Nodar*

NOT A CERTIFIED COPY