

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO.

HANK R. WILLIAMS, JR., as Personal
Representative of the ESTATE OF
MARY JANE WILLIAMS, deceased, and on
behalf of her survivors,

Plaintiffs,

v.

HAROLD BAFITIS, D.O.,
BAFITIS PLASTIC SURGERY, P.A., and
PLASTIC SURGERY INSTITUTE OF
THE PALM BEACHES, INC.,

Defendants.

COMPLAINT FOR DAMAGES

The Plaintiff HANK R. WILLIAMS, JR., as Personal Representative of the Estate of MARY JANE WILLIAMS, deceased, (the “Williams Estate”) and on behalf of the Williams Estate’s survivors, himself and Sam Williams, sues the Defendants, HAROLD BAFITIS, D.O., BAFITIS PLASTIC SURGERY, P.A., and PLASTIC SURGERY INSTITUTE OF THE PALM BEACHES, INC., and alleges as follows:

JURISDICTIONAL STATEMENT AND IDENTIFICATION OF PARTIES

1. This is an action for damages in excess of this Court’s minimum jurisdictional limits, exclusive of interest and costs. It arises out of the wrongful death of Mary Jane Williams (“Mrs. Williams”) due to the negligence of the Defendants.

2. Plaintiff Hank R. Williams, Jr. is the duly appointed Personal Representative of the Williams Estate and the surviving spouse of Mrs. Williams. Plaintiff brings the claims asserted below on behalf of the Williams Estate and its statutory survivors, himself, and Sam Williams, Mrs. Williams' 24-year-old son at the time of her death.

3. Defendant Harold Bafitis, D.O. ("Dr. Bafitis") is a licensed medical doctor specializing in plastic surgery. Dr. Bafitis was an owner, controller, employee, and agent of the Defendants when he provided treatment to Mrs. Williams.

4. Defendant Bafitis Plastic Surgery, P.A. ("BPS") is a Florida professional association with its principal place of business in Jupiter, Florida. At all times material, Dr. Bafitis was the owner and president of BPS, and practiced medicine through this entity.

5. Defendant Plastic Surgery Institute of the Palm Beaches, Inc. ("PSIPB") is a Florida corporation with its principal place of business in Jupiter, Florida. At all times material, PSIPB was an outpatient surgical center owned and directed by Dr. Bafitis. Dr. Bafitis was also the designated physician for PSIPB when he provided treatment to Mrs. Williams.

6. At all times material, the nursing staff responsible for Mrs. Williams' care and treatment in March of 2022 was employed by Defendant PSIPB in conjunction with Defendant BPS.

7. Venue is proper in Palm Beach County, Florida, where one or more of the Defendants reside and the events giving rise to this action occurred.

**COMPLIANCE WITH CONDITIONS PRECEDENT
AND FLORIDA STATUTE SECTION 766.106(2)**

8. Notice of Intention to Initiate Litigation against the Defendants named in this Complaint was given and acknowledged in accordance with the requirements of Fla. Stat. 766.106(2). The Plaintiff has complied with all requirements of the Department of Health,

Agency for Health Care Administration. A copy of the Complaint will be sent to that entity at the time the Complaint is filed. This action is properly brought within two years of when the alleged negligent incident occurred or within two years from the date the alleged negligent incident could have been discovered with the exercise of due diligence. Any and all conditions precedent to the filing of this lawsuit have been complied with.

CERTIFICATE OF COUNSEL

9. Through counsel's signature below, it is hereby certified, pursuant to Florida Statute section 766.203, that counsel for the Plaintiff, before filing this action, made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there was negligence in the care and treatment of the deceased Mary Jane Williams. Such reasonable investigation has given rise to a good faith belief that grounds exist for an action against the named Defendants.

FACTS GIVING RISE TO CAUSE OF ACTION

10. On March 7, 2022, Mrs. Williams, a 58-year-old woman, had an initial consultation with Dr. Bafitis due to neck, back, and breast pain she'd been experiencing.

11. Dr. Bafitis examined Mrs. Williams following which he recommended a breast reduction procedure and abdominal and flank liposuction with fat transfer Surgery.

12. Mrs. Williams consented to the proposed surgical procedures, and they were scheduled to be performed by Dr. Bafitis at PSIPB on March 21, 2022.

13. On March 21, 2022, Mrs. Williams presented to PSIPB where Dr. Bafitis, with the assistance of his surgical and nursing staff, performed three separate surgical procedures upon Mrs. Williams, which included the following:

- a. liposuction of the abdomen, hip, mid-back, and arms;

- b. fat transfer to the superior trochanteric depression and gluteal areas bilaterally;
- c. bilateral breast reduction and revision.

(the “Surgery”)

14. The anesthesia record for the procedures indicated that Mrs. Williams was under general anesthesia from 9:15 a.m. to 6:15 p.m., representing a total anesthesia time of 9 hours.

15. Dr. Bafitis dictated three separate operative reports following the Surgery, each noting no intraoperative or postoperative complications being encountered.

16. Later that evening, and not long after her 9-hour Surgery, Mrs. Williams was discharged by the Defendants to the care of a private duty nurse arranged for by Dr. Bafitis. However, there are no documents, medical records or notes regarding any post-operative care and assessments of Mrs. Williams prior to her discharge. There was no documentation that Mrs. Williams was provided any post-anesthesia care, recovery room care, and or a final physician assessment before being discharged from PSIPB. In fact, there’s no documentation that Mrs. Williams was coherent at the time of her discharge. The only post-operative pre-discharge documentation prepared and maintained by the Defendants relates to medications that Dr. Bafitis ordered for Mrs. Williams. Yet, these documents are incomplete as they fail to provide dosages for the medications and if the medications were tolerated by Mrs. Williams.

17. Nevertheless, in the early evening of March 21, 2022, Mrs. Williams was discharged by the Defendants and transferred and admitted to a room at the Jupiter Beach Resort & Spa (the “Resort”), where she would be monitored by private duty nurses during her recovery.

18. The next day, March 22, 2022, at approximately 5:00 p.m., Mrs. Williams was found unresponsive in her bed at the Resort.

19. Paramedics were called and responded to the scene, where CPR was immediately

administered to Mrs. Williams. However, Mrs. Williams failed to respond to these efforts and was thereafter transported via ambulance to the emergency department of Jupiter Medical Center.

20. At 5:54 p.m. on March 22, 2022, Mrs. Williams was pronounced deceased by the attending emergency department physician at Jupiter Medical Center.

21. The Palm Beach County Medical Examiner's Office performed a postmortem examination of Mrs. Williams (the "Autopsy"). The Autopsy identified Mrs. Williams' cause of death as being a right lung pneumothorax due to a perforated parietal pleura during liposuction with autologous fat reinjection procedure. Included in the Autopsy findings was a tension pneumothorax, left mediastinal deviation, collapsed right lung, and partial pleura defect of right costophrenic junction. Indeed, these catastrophic injuries were caused by the Defendants.

22. Accordingly, Mrs. Williams' tragic and untimely death was a direct and proximate result of negligent acts and omissions of the Defendants.

COUNT I

CLAIM AGAINST DEFENDANT HAROLD BAFITIS, D.O. NEGLIGENCE

23. The Plaintiff adopts and realleges paragraphs 1-22 and further alleges:

24. Defendant Dr. Bafitis is a health care provider who had accepted and undertook the duty to provide Mrs. Williams with medical care and treatment in accordance with the accepted standard of medical care for similar health care providers under the same or similar circumstances.

25. Dr. Bafitis, however, breached his duty of care owed to Mrs. Williams and was negligent in the following ways:

- a. Performing the 9-hour Surgery outside of a hospital setting.

- b. Failing to adhere to the State of Florida's Department of Health's surgical specifications in performing in-office surgical procedures.
- c. Exceeding Florida's Department of Health's surgical guidelines for in-office surgical Surgery.
- d. Violating Florida Statute 459.0138, by removing 3,300 cubic centimeters of supernatant fat from Mrs. Williams during her liposuction and fat transfer procedure that occurred at PSIPB-a surgical outpatient center.
- e. Injuring Mrs. Williams' right lung pleura during the Surgery.
- f. Failing to recognize and treat the injury he caused to Mrs. Williams' right lung pleura, which developed a pneumothorax and evolved to a tension pneumothorax.
- g. Failing to properly train the nursing staff to provide proper post-operative care to patients such as Mrs. Williams.
- h. Failing to assure that the nursing staff was competent to provide post-operative care to Mrs. Williams after her extended and lengthy Surgery.
- i. Failing to assure that the nursing staff was competent to provide post-operative care to a patient who was under general anesthesia for 9-hours.
- j. Failing to adequately monitor and supervise the nursing staff to assure they were providing and documenting the proper care for Mrs. Williams.
- k. Improperly discharging Mrs. Williams.
- l. Failing to perform a complete and thorough post-operative physical assessment/examination of Mrs. Williams.
- m. Failing to perform a complete and thorough pre-discharge physical assessment/examination of Mrs. Williams before transferring the patient's care to the private duty nurse on the evening of March 21, 2022.
- n. Failing to create and maintain post-operative records and notes for Mrs. Williams, including post-anesthesia care records, recovery room records, and discharge assessment records detailing the physical status of Mrs. Williams following her Surgery.

26. As a direct and proximate result of the negligence of Dr. Bafitis, Mrs. Williams died of these injuries on March 22, 2022.

27. Accordingly, the Plaintiff claims the damages set forth below.

COUNT II

CLAIM AGAINST DEFENDANT BAFITIS PLASTIC SURGERY, P.A. VICARIOUS LIABILITY FOR THE NEGLIGENCE OF HAROLD BAFITIS, D.O. (ACTUAL AGENCY)

28. The Plaintiff adopts and realleges paragraphs 1-27 and further alleges:

29. At all times material, Dr. Bafitis was an employee of Defendant BPS and was acting within the course and scope of his employment while treating Mrs. Williams. In fact, Dr. Bafitis was at all times material the owner and president of Defendant BPS.

30. Accordingly, Defendant BPS is vicariously liable for the negligence of Dr. Bafitis as alleged in Count I.

31. As a direct and proximate result of the negligence of Defendant Bafitis, for whom Defendant BPS is vicariously liable, Mrs. Williams was killed.

32. Accordingly, the Plaintiff claims the damages set forth below.

COUNT III

CLAIM AGAINST DEFENDANT BAFITIS PLASTIC SURGERY, P.A. NEGLIGENCE OF ITS NURSING STAFF

33. The Plaintiff adopts and realleges paragraphs 1-27 and further alleges:

34. At all times material, Defendant BPS operated a medical facility that provided medical services to Mrs. Williams, including the services of its nursing staff.

35. Thus, Defendant BPS owed a duty of reasonable care to Mrs. Williams to provide her with non-negligent nursing care.

36. However, by and through its nursing staff, Defendant BPS breached its duty of care to Mrs. Williams and was negligent in the following ways:

- a. Failing to properly monitor Mrs. Williams during the Surgery.

- b. Failing to recognize the injury to Mrs. Williams' right lung pleura during the Surgery.
- c. Failing to provide Mrs. Williams with the proper post-operative care, including post-anesthesia care, recovery room care, and discharge care.
- d. Failing to properly monitor Mrs. Williams post-operatively, such as monitoring and charting her vital signs.
- e. Failing to create and maintain post-anesthesia care notes, recovery room notes, and discharge assessment notes for Mrs. Williams.
- f. Failing to document Mrs. Williams' vital signs, medical status, and level of function prior to Mrs. Williams' discharge.

37. As a direct and proximate result of the negligence of Defendant BPS, by and through its nursing staff, Mrs. Williams was killed.

38. Accordingly, the Plaintiff claims the damages set forth below.

COUNT IV

CLAIM AGAINST DEFENDANT PLASTIC SURGERY INSTITUTE OF THE PALM BEACHES, INC. VICARIOUS LIABILITY FOR THE NEGLIGENCE OF HAROLD BAFITIS, D.O. (ACTUAL AGENCY)

39. The Plaintiff adopts and realleges paragraphs 1-27 and further alleges:

40. At all times material, Dr. Bafitis was an employee of Defendant PSIPB and was acting within the course and scope of his employment in treating Mrs. Williams. In fact, Dr. Bafitis was at all times material the owner and director of Defendant PSIPB.

41. Accordingly, Defendant PSIPB is vicariously liable for the negligence of Dr. Bafitis as alleged in Count I.

42. As a direct and proximate result of the negligence of Defendant Bafitis, for whom Defendant PSIPB is vicariously liable, Mrs. Williams was killed.

43. Accordingly, the Plaintiff claims the damages set forth below.

COUNT V

**CLAIM AGAINST DEFENDANT
PLASTIC SURGERY INSTITUTE OF THE PALM BEACHES, INC.
NEGLIGENCE OF ITS NURSING STAFF**

44. The Plaintiff adopts and realleges paragraphs 1-27 and further alleges:

45. At all times material, Defendant PSIPB operated an outpatient surgical center that provided medical services to Mrs. Williams, including the services of its nursing staff.

46. Thus, Defendant PSIPB owed a duty of reasonable care to Mrs. Williams to provide her with non-negligent nursing care.

47. However, by and through its nursing staff, Defendant PSIPB breached its duty of care to Mrs. Williams and was negligent in the following ways:

- a. Failing to properly monitor Mrs. Williams during the Surgery.
- b. Failing to recognize the injury to Mrs. Williams' right lung pleura during the Surgery.
- c. Failing to provide Mrs. Williams with the proper post-operative care, including post-anesthesia care, recovery room care, and discharge care.
- d. Failing to properly monitor Mrs. Williams post-operatively, such as monitoring and charting her vital signs.
- e. Failing to create and maintain post-anesthesia care notes, recovery room notes, and discharge assessment notes for Mrs. Williams.
- f. Failing to document Mrs. Williams' vital signs, medical status, and level of function prior to Mrs. Williams' discharge.

48. As a direct and proximate result of the negligence of Defendant PSIPB, by and through its nursing staff, Mrs. Williams was killed.

49. Accordingly, the Plaintiff claims the damages set forth below.

**CLAIMS OF PERSONAL REPRESENTATIVE FOR DAMAGES
AGAINST ALL DEFENDANTS**

50. As a direct and proximate result of the Defendants' negligence as described above, which caused the death of Mary Jane Williams, Plaintiff Hank R. Williams Jr., as Personal Representative of the Williams Estate, sets forth the below listed claims for damages on behalf of the Williams Estate and the statutory survivors pursuant to the Florida Wrongful Death Act:

CLAIM OF THE WILLIAMS ESTATE

51. The Williams Estate has in the past suffered and will in the future continue to suffer the following damages:

- a. Medical, funeral, and burial expenses which have been incurred due to the decedent's death that have become a charge against her estate or that were paid by or on behalf of the decedent.

Wherefore, the Plaintiff demands judgment against the Defendants for all damages recoverable under the laws of the State of Florida.

CLAIM OF HANK R. WILLIAMS JR., AS SURVIVING HUSBAND

52. Hank R. Williams Jr., as the surviving spouse of the decedent, Mary Jane Williams, has in the past suffered and will in the future continue to suffer the following damages:

- a. The value of lost support and services from the date of the decedent's injury to her death, with interest, and future loss of support and services to the date of death and, to the extent of his normal life expectancy;
- b. Loss of the decedent's companionship and protection, and
- c. Mental pain and suffering from the date of injury.

Wherefore, the Plaintiff demands judgment against the Defendants for all damages recoverable under the laws of the State of Florida.

CLAIM OF SAM WILLIAMS, AS SURVIVING MINOR SON

53. Sam Williams, as the surviving minor son of the decedent Mary Jane Williams, has in the past suffered and will in the future continue to suffer the following damages:

- a. The value of lost support and services from the date of the decedent's injury to her death, with interest, and future loss of support and services to the date of death and, to the extent of her normal life expectancy;
- b. Loss of the decedent's companionship and protection, and
- c. Mental pain and suffering from the date of injury.

Wherefore, the Plaintiff demands judgment against the Defendants for all damages recoverable under the laws of the State of Florida.

DEMAND FOR JURY TRIAL

54. The Plaintiff demands trial by jury of all issues triable as of right by jury.

Dated this 7th day of June 2023.

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