

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

KRISTIN BOECKH AND)	
SHAWN BOECKH,)	CIVIL ACTION
PLAINTIFFS,)	
— <i>versus</i> —)	FILE NO. SC 19 CV 178
JOHN ROBERT WALL, DO)	
AMSOL PHYSICIANS OF GA, P.C.)	
THE MEDICAL CENTER, INC. (D/B/A “MIDTOWN MEDICAL CENTER”))	
COLUMBUS REGIONAL HEALTHCARE SYSTEM, INC.)	
PIEDMONT HEALTHCARE, INC.)	
JOHN/JANE DOE 1-5,)	
DEFENDANTS)	

PLAINTIFFS’ FIRST AMENDED COMPLAINT FOR DAMAGES

1. This amended Complaint (or the “Complaint”) adds a claim against Midtown Medical, Columbus Regional, and Piedmont for negligence in

administering the hospital, including negligent credentialing or supervision of Dr. John Robert Wall. This addition appears in a new “Count 5.”

2. This amended Complaint also adds additional allegations concerning Dr. Wall’s competence. Those additions appear in Count 1.

3. This amended Complaint incorporates and relies upon everything contained in the original Complaint.

4. This amended Complaint incorporates the Affidavit of Steve B. Lowenthal, MD, MPH, FACS, attached hereto as Exhibit 2.

Nature of the Action

5. This is a medical malpractice action based upon allegations of professional negligence, arising out of the medical care and treatment of Kristin Boeckh from on or about August 3, 2017, while a patient under the care of the Defendants identified above.

6. Pursuant to OCGA § 9-11-9.1, the Affidavit of Edward T. Riley, MD is attached hereto as Exhibit 1.

Parties, Jurisdiction, and Venue

7. Plaintiff Kristin Boeckh is a Georgia citizen residing in Muscogee County and subject to the jurisdiction and venue of this Court.

8. Plaintiff Shawn Boeckh is a Georgia citizen residing in Muscogee County and subject to the jurisdiction and venue of this Court. Shawn Boeckh is the spouse of Plaintiff Kristin Boeckh.

9. Defendant John Robert Wall, DO, is a Georgia citizen residing in Henry County. Pursuant to OCGA 9-10-31, Dr. Wall is subject to the jurisdiction and venue of this Court as a joint tortfeasor, because one or more other joint tortfeasors reside in Muscogee County. Defendant Wall may be served with process at his residence: 3308 E Fairview Road SW, Stockbridge, GA 30281.

10. In August 2017, Dr. Wall was an employee or agent of Amsol Physicians of GA, P.C.

11. In August 2018, Dr. Wall was also an employee or agent of The Medical Center, Inc.

12. Defendant Amsol Physicians of GA, P.C. (“Amsol”) is a domestic corporation. Amsol’s registered agent is InCorp Services, Inc, whose address is 2000 Riveredge Pkwy. NW, Suite 885, Atlanta, GA, 30328.

13. Defendant The Medical Center, Inc., doing business as “Midtown Medical Center,” (“Midtown Medical” or “Midtown”) is a domestic corporation whose principal place of business is 710 Center Street, Columbus, Georgia 31901. Defendant Midtown is subject to the jurisdiction and venue of this Court. Defendant Midtown’s registered agent is CSC of Cobb County, Inc., whose physical address is 192 Anderson Street SE, Suite 125, Marietta, GA, 30060.

14. In August 2017, Midtown Medical was owned and managed by Columbus Regional Healthcare System, Inc.

15. Defendant Columbus Regional Healthcare System, Inc. (“Columbus Regional”) is a domestic corporation whose principal office address is PO Box 790,

Columbus, GA, 31902. Columbus Regional's registered agent is CSC of Cobb County, Inc., whose address is 192 Anderson Street SE, Suite 125, Marietta, GA, 30060.

16. In 2018, Columbus Regional entered into a transaction with Piedmont Healthcare, Inc. ("Piedmont").

17. Piedmont acquired various assets and assumed various liabilities of Columbus Regional and its subsidiaries.

18. Liability for the medical malpractice discussed in this Complaint is among the liabilities Piedmont assumed.

19. Defendant Piedmont Healthcare, Inc. is a domestic corporation whose principal office address is 1800 Howell Mill Road, Suite 850, Atlanta, GA, 30318. Piedmont's registered agent is CSC of Cobb County, Inc., whose address is 192 Anderson Street, N.E., Suite 125, Marietta, GA, 30060.

20. Piedmont has an office and does business in Muscogee County — namely, at the medical facility previously doing business under the name Midtown Medical.

21. Defendants John/Jane Doe 1-5 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 1-5 are subject to the jurisdiction and venue of this Court.

22. This Court has subject matter jurisdiction, and venue is proper as to all Defendants in Muscogee County.

Facts

23. This Complaint incorporates and relies upon the information contained in the attached affidavit of Dr. Riley.

24. On August 3, 2017, Kristin Boeckh was pregnant and was at Midtown Medical for treatment.

25. Defendant Wall administered an epidural injection to Ms. Boeckh, to provide local analgesia that would assist her in giving birth.

26. We use the term “standard of care” to refer to that degree of care and skill ordinarily exercised by members of the medical profession generally under the same or similar circumstances and like surrounding conditions as pertained here.

27. The standard of care for the procedure Dr. Wall performed requires the physician to avoid injecting the needle in a location or manner that causes serious permanent injury to the woman’s spinal cord.

28. The standard of care required Dr. Wall to insert the needle caudad to the Conus Medullaris, because placement at or cephalad to the Conus carries unwarranted risk of serious, permanent neurological injuries.

29. Defendant Wall injected the needle in the wrong spot in Ms. Boeckh’s back.

30. Defendant Wall injected the needle well away from the area in which an epidural can safely or reasonably be given to a pregnant woman for purposes of helping with delivery of a baby.

31. Defendant Wall injected the needle in a way that injured Ms. Boeckh's Conus Medullaris.

32. Defendant Wall violated the standard of care.

33. Defendant Wall's placement of the needle caused serious, permanent injury to Ms. Boeckh's spinal cord.

34. Among other permanent injuries she suffered from Defendant Wall's negligent epidural, Ms. Boeckh suffers significant, permanent loss of sensation in her lower body and significant, permanent impairment of her ability to walk. In addition, Ms. Boeckh suffers other serious, permanent physical effects from the injury to her spinal cord.

35. Ms. Boeckh's injuries impair her abilities for gainful employment.

36. Ms. Boeckh's injuries substantially impair her ability to perform ordinary household work and to participate normally in family life.

37. Ms. Boeckh's injuries negatively alter the relationship between herself and her husband, Shawn.

38. Ms. Boeckh's injuries deprive Mr. Boeckh of a substantial part of the normal relationship between husband and wife, including practical domestic support, mental and emotional support, and physical companionship.

Count 1 – Professional Negligence of John Robert Wall, DO

39. Plaintiffs incorporate by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

40. By agreeing to administer an epidural injection to Kristin Boeckh, Defendant Wall entered into a physician-patient relationship with her.

41. Defendant Wall owed Ms. Boeckh a duty to exercise reasonable care and skill, namely that degree of care and skill ordinarily employed under similar conditions and like circumstances by the medical profession generally (“the standard of care”).

42. Dr. Wall is ignorant of basic facts concerning the spinal cord, the potential to injure the spinal cord, and the effects of such injuries.

43. As of May 22, 2019, when he answered Plaintiffs’ Requests for Admission, Dr. Wall did not know that injury to the Conus Medullaris of the spinal cord by a needle or catheter can cause serious, permanent harm to the spinal cord.

44. Dr. Wall responded to Plaintiffs’ Request for Admission as follows:

30.

Injury to the Conus Medullaris of the spinal cord by a needle or catheter can cause serious, permanent harm to the spinal cord.]

Response: Denied as stated.

45. As of May 22, 2019, Dr. Wall did not know that injury to the Conus Medullaris can cause significant, permanent loss of sensation in a patient’s lower body.

46. Dr. Wall responded to Plaintiffs’ Request for Admission as follows:

31.

Injury to the Conus Medullaris can cause significant, permanent loss of sensation in a patient's lower body.

Response: Denied.

47. As of May 22, 2019, Dr. Wall did not know that injury to the Conus Medullaris can cause significant, permanent impairment of a patient's ability to walk.

48. Dr. Wall responded to Plaintiffs' Request for Admission as follows:

32.

Injury to the Conus Medullaris can cause significant, permanent impairment of a patient's ability to walk.

Response: Denied.

49. As of May 22, 2019, Dr. Wall did not know that in giving epidural injections to assist with giving birth, anesthesiologists generally inject the needle well away from the Conus Medullaris, because an injection at the Conus carries unwarranted risk of serious, permanent neurological injuries.

50. Dr. Wall responded to Plaintiffs' Request for Admission as follows:

33.

In giving epidural injections to assist with giving birth, anesthesiologists generally inject the needle well away from the Conus Medullaris, because an injection at the Conus carries unwarranted risk of serious, permanent neurological injuries.

Response: Denied as stated.

51. As of May 22, 2019, Dr. Wall did not know that the standard of care required him to inject the needle so as to avoid the Conus Medullaris.

52. Dr. Wall responded to Plaintiffs' Request for Admission as follows:

34.

The standard of care required Dr. Wall to inject the needle so as to avoid the Conus Medullaris.

Response: This Defendant states that Dr. Wall did not inject into the Conus Medullaris. The allegations contained in Request 34 are denied as stated.

53. As of May 22, 2019, Dr. Wall did not know that it would have been a violation of the standard of care for him to inject the needle so as to injure the Conus Medullaris of the spinal cord.

54. Dr. Wall responded to Plaintiffs' Request for Admission as follows:

35.

It would have been a violation of the standard of care for Dr. Wall to inject the needle so as to injure the Conus Medullaris of the spinal cord.

Response: Denied as stated.

55. Defendant Wall gave Ms. Boeckh an epidural injection in a location and manner that caused serious permanent injury to her spinal cord.

56. Defendant Wall breached his duty to exercise reasonable care and skill in his treatment of Ms. Boeckh.

57. Defendant Wall failed to comply with the applicable standard of care in his treatment of Ms. Boeckh.

58. As a direct and proximate result of the negligence of Defendant Wall, Ms. Boeckh suffered serious bodily injury.

59. Ms. Boeckh is entitled to recover from Defendant Wall for all damages suffered, including physical, emotional, and economic damages, as well as all other damages allowable under Georgia law.

60. Dr. Edward T. Riley, M.D., is an expert witness competent to testify as to the standard of care required of Defendant Wall.

61. Dr. Riley's affidavit — identifying at least one negligent act or omission and the factual basis for each such claim — is attached hereto as Exhibit 1, as required by OCGA 9-11-9.1.

Count 2 – Consortium Claim of Shawn Boeckh

62. Plaintiffs incorporate by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

63. At all times material to this action, Kristin Boeckh and Shawn Boeckh were lawfully married.

64. Plaintiff Shawn Boeckh has suffered loss of consortium because of his wife's physical impairments caused by the spinal cord injury Defendant Wall caused by negligently administering an epidural injection to Kristin Boeckh.

65. The Defendants' individual and collective professional negligence caused Ms. Boeckh's spinal cord injury and resulting impairments and thereby directly and proximately caused Mr. Boeckh's loss of consortium.

66. Mr. Boeckh is entitled to damages as provided by law for his loss of consortium.

Count 3 – Vicarious Liability of The Medical Center, Inc. d/b/a Midtown Medical Center, Columbus Regional Healthcare System, Inc., and Piedmont Healthcare, Inc.

67. Plaintiffs incorporate by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

68. At all times relevant to the allegations contained in this Complaint for Damages, in his treatment of Ms. Boeckh, Defendant Wall was acting in the course and scope of his employment or agency with Defendant The Medical Center, Inc. doing business as “Midtown Medical Center” (“Midtown Medical”).

69. In August 2017, Midtown Medical was owned and operated by Defendant Columbus Regional Healthcare System, Inc. (“Columbus Regional”).

70. Midtown Medical acted as an agent of Columbus Regional.

71. Defendant Piedmont Healthcare, Inc. later bought certain assets and assumed certain liabilities of Columbus Regional and its subsidiaries, including Midtown Medical.

72. Piedmont assumed certain liabilities, including liability for the medical malpractice alleged in this Complaint.

73. Defendants The Medical Center, Inc. d/b/a Midtown Medical Center, Columbus Regional Healthcare System, Inc., and Piedmont Healthcare, Inc. (the “Corporate Defendants”) are vicariously liable for any negligence of Defendant Wall in his treatment of Plaintiff Kristin Boeckh.

74. Kristin and Shawn Boeckh are entitled to recover from the Corporate Defendants for all damages suffered as a proximate result of any negligence by Defendant Wall in his treatment of Ms. Boeckh.

75. Kristin and Shawn Boeckh’s damages recoverable from the Corporate Defendants include physical, emotional, and economic injuries, as well as loss of consortium.

Count 4 – Vicarious Liability of Amsol Physicians of GA, P.C.

76. Plaintiffs incorporate by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

77. At all times relevant to the allegations contained in this Complaint, in his treatment of Ms. Boeckh, Defendant Wall was acting in the course and scope of his employment or agency with Defendant Amsol Physicians of GA, P.C. (“Amsol”).

78. Defendant Amsol is vicariously liable for any negligence of Defendant Wall in his treatment of Plaintiff Kristin Boeckh.

79. Kristin and Shawn Boeckh are entitled to recover from Defendant Amsol for all damages suffered as a proximate result of any negligence by Defendant Wall in his treatment of Ms. Boeckh.

80. Kristin and Shawn Boeckh’s damages recoverable from Defendant Amsol include physical, emotional, and economic injuries, as well as loss of consortium.

Count 5 – Negligent credentialing or supervision of Dr. Wall; Negligent administration

81. Plaintiffs incorporate by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

82. A hospital is a complex institution, and it requires thoughtful design and administration, to ensure that medical services are provided competently.

83. The owners and administrators of a hospital are responsible for ensuring that the hospital is designed and administered for the purpose of ensuring that medical services are provided competently.

84. The owners and administrators of Midtown Medical have demonstrated egregious incompetence in a variety of aspects critical to patient safety.

Credentialing and supervision of novice physicians

85. The owners and administrators of a hospital are responsible for ensuring that medical providers authorized to work at the hospital are qualified and competent.

86. The owners and administrators of a hospital are responsible for ensuring that novice physicians be given supervision appropriate to their degree of competence as judged by their education, training, and experience.

87. When he attempted to give Kristin Boeckh epidural analgesia to assist with childbirth (an “epidural”), Dr. Wall was only 34 days out from the end of his training at Larkin Community Hospital.

88. If an epidural is given the wrong way, it can injure the patient's spinal cord and cause serious, permanent injury.

89. Policies should have been in place at Midtown Medical requiring Dr. Wall to give the epidural only with the supervision of a more experienced doctor.

90. No policy was in place at Midtown Medical requiring Dr. Wall to attempt to give the epidural to Kristin Boeckh only with the supervision of a more experienced doctor.

91. When Dr. Wall attempted to give the epidural to Kristin Boeckh, he did not do so with the supervision of a more experienced doctor.

92. Midtown Medical violated the standard of care for hospital administration, by failing to adopt policies that would require Dr. Wall to give the epidural to Kristin Boeckh only with the supervision of a more experienced doctor.

93. Midtown Medical violated the standard of care for hospital administration, by failing to adopt procedures that would ensure Dr. Wall would give the epidural to Kristin Boeckh only with the supervision of a more experienced doctor.

94. Despite the alarming ignorance and incompetence to which Dr. Wall admits (as discussed in Count 1), Midtown Medical continues to allow Dr. Wall to practice on Midtown's patients.

Development and maintenance of policies & procedures

95. Beyond this particular failing, Midtown Medical is negligent more broadly in the design and operation of the hospital.

96. The owners and administrators of a hospital are responsible for creating and maintaining systems to develop and keep policies and procedures related to the operation of the hospital.

97. The owners and administrators of a hospital are responsible for keeping records of policies and procedures in an orderly fashion, so that administrators can find the policies and procedures when they need them.

98. The owners and administrators of a hospital are responsible for making sure that medical providers know about the policies and procedures that pertain to the medical providers.

99. As of April 26, 2019 when they responded to Plaintiffs' Requests for Admission, Midtown Medical did not know whether policies were in place at Midtown Medical requiring Dr. Wall to attempt to give the epidural to Kristin Boeckh only with the supervision of a more experienced doctor.

100. Midtown Medical gave this response to Plaintiffs' Request for Admission:

¶7. Policies were not in place at Midtown Medical requiring Dr. Wall to attempt to procedure only with the supervision of a more experienced doctor.

RESPONSE: These Defendants have made a reasonable inquiry and the information readily obtainable by them is insufficient to allow Defendants to either admit or deny the allegations contained in this Request.

101. As of May 22, 2019, Dr. Wall did not know whether any policy at Midtown Medical requiring Dr. Wall to attempt to give the epidural only with the supervision of a more experienced doctor.

102. Dr. Wall gave this response to Plaintiffs' Request for Admission:

47.

Policies were not in place at Midtown Medical requiring Dr. Wall to attempt the procedure only with the supervision of a more experienced doctor.

Response: This Defendant has made reasonable inquiry into the statements and allegations contained in this Request and is unable to admit or deny the allegations contained in Request for Admission No. 47.

Maintenance of medical records

103. The owners and administrators of a hospital are responsible for creating and maintaining medical records for their patients.

104. The owners and administrators of a hospital are responsible for keeping medical records in an orderly fashion, so that administrators and medical providers can find information in the records when they need to.

105. As of April 26, 2019, Midtown Medical did not know and could not readily find out whether in August 2017, Kristin Boeckh was pregnant and at Midtown Medical for treatment.

106. Midtown Medical gave this response to Plaintiffs' Request for Admission:

28. On August 3, 2017, Kristin Boeckh was pregnant and was at Midtown Medical for treatment.

RESPONSE: These Defendants have made a reasonable inquiry and the information readily obtainable by them is insufficient to allow Defendants to either admit or deny the allegations contained in this Request. These Defendants further state that the medical records of Plaintiff may contain information that more accurately responds to the allegations contained in Plaintiffs' Request for Admission Number 28.

107. As of April 26, 2019, Midtown Medical did not know and could not readily find out whether, in August 2017, Dr. Wall attempted to give Kristin Boeckh an epidural.

108. Midtown Medical gave this response to Plaintiffs' Request for Admission:

29. On August 3, 2017, Dr. Wall attempted to provide neuraxial analgesia for labor by placing an epidural catheter and/or performing a combined spinal/epidural ("CSE") in Ms. Boeckh to assist with delivery of a baby.

RESPONSE: These Defendants have made a reasonable inquiry and the information readily obtainable by them is insufficient to allow Defendants to either admit or deny the allegations contained in this Request. These Defendants further state that the medical records of Plaintiff may contain information that more accurately responds to the allegations contained in Plaintiffs' Request for Admission Number 29.

Access to medical expertise

109. The owners and administrators of a hospital are responsible for ensuring that the hospital has access to general medical expertise.

110. As of April 26, 2019, Midtown Medical did not know and could not readily find out whether injury to the Conus Medullaris of the spinal cord by a needle or catheter can cause serious, permanent harm to the spinal cord.

111. Midtown Medical gave this response to Plaintiffs' Request for Admission:

30. Injury to the Conus Medullaris of the spinal cord by a needle or catheter can cause serious, permanent harm to the spinal cord.
RESPONSE: These Defendants have made a reasonable inquiry and the information readily obtainable by them is insufficient to allow Defendants to either admit or deny the allegations contained in this Request.

112. As of April 26, 2019, Midtown Medical did not know and could not readily find out whether in giving epidural injections to assist with giving birth, anesthesiologists generally inject the needle well away from the Conus Medullaris, because an injection at the Conus carries unwarranted risk of serious, permanent neurological injuries.

113. Midtown Medical gave this response to Plaintiffs' Request for Admission:

33. In giving epidural injections to assist with giving birth, anesthesiologist generally inject the needle well away from the Conus Medullaris, because an injection at the Conus carriers unwarranted risk of serious, permanent neurological injuries.
RESPONSE: These Defendants have made a reasonable inquiry and the information readily obtainable by them is insufficient to allow Defendants to either admit or deny the allegations contained in this Request.

114. As of April 26, 2019, Midtown Medical did not know and could not readily find out whether the standard of care required Dr. Wall to inject the needle so as to avoid the Conus Medullaris.

115. Midtown Medical gave this response to Plaintiffs' Request for Admission:

34. The standard of care required Dr. Wall to inject the needle so as to avoid the Conus Medullaris.

RESPONSE: These Defendants have made a reasonable inquiry and the information readily obtainable by them is insufficient to allow Defendants to either admit or deny the allegations contained in this Request.

116. As of April 26, 2019, Midtown Medical did not know and could not readily find out whether it would have been a violation of the standard of care for Dr. Wall to inject the needle so as to injure the Conus Medullaris of the spinal cord.

117. Midtown Medical gave this response to Plaintiffs' Request for Admission:

35. It would have been a violation of the standard of care for Dr. Wall to inject the needle as to injure the Conus Medullaris of the spinal cord.

RESPONSE: These Defendants have made a reasonable inquiry and the information readily obtainable by them is insufficient to allow Defendants to either admit or deny the allegations contained in this Request.

118. Wittingly or unwittingly, Midtown Medical admits: (a) that they do not develop and maintain policies and procedures to ensure patient safety, (b) that

they're so disorganized they don't even know what policies they have, (c) that they can't find basic information in their own medical records, and (d) that they don't have access to even the most elementary medical expertise on which the safety of their patients depends.

119. Midtown Medical's negligent credentialing or supervision of Dr. Wall — with or without contributions from their broader administrative negligence — caused harm to Kristin Boeckh and, through the injury to her, to her husband Shawn, as well.

120. The sloppiness and incompetence to which Midtown Medical admits also poses danger to the broader community.

Damages

121. Plaintiffs incorporate by reference, as if fully set forth herein, all preceding paragraphs of this Complaint.

122. As a direct and proximate result of the Defendants' individual and collective conduct, Plaintiffs Kristin Boeckh and Shawn Boeckh are entitled to recover from Defendants reasonable compensatory damages in an amount exceeding \$10,000.00 to be determined by a fair and impartial jury for all damages Plaintiffs suffered, including physical, emotional, and economic injuries.

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

- a. Compensatory damages in an amount exceeding \$10,000.00 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.

Respectfully submitted,

/s/ Lloyd N. Bell

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