

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

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GARY JORGENSEN  
& JANNENE JORGENSEN,

PLAINTIFFS,

V.

COMPLAINT

THE NEBRASKA METHODIST HOSPITAL,  
ABBY SHIFFERMILLER, MD,  
ANGELA FISHER, MD,  
MIDWEST NEUROSURGERY, PC,  
DOUGLAS LONG, MD,

DEFENDANTS.

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NEBRASKA HOSPITAL—MEDICAL LIABILITY ACT

1. This is a medical malpractice claim filed under the Nebraska Hospital—Medical Liability Act (NHMLA). Neb. Rev. Stat. §44-2801-2855 (2010).
2. Each defendant was NHMLA qualified when the healthcare in question occurred. §44-2821(2), 2827.
3. The patient did not opt out of NHMLA before receiving the healthcare in question. §44-2821(3), 2836(3).
4. A panel review of the claim is waived. §44-2820(4).

STATUTE OF LIMITATIONS

5. This action is filed within two years of the date of when the healthcare in question occurred. §44-2828.

## JURISDICTION

6. The district court has jurisdiction over NHMLA cases. §44-2822.

## VENUE

7. This action is filed in the county where the healthcare in question occurred.  
§25-403.01(2).

## PARTIES

8. Plaintiff Gary Jorgensen:
  - A. Is a NHMLA defined patient. §44-2805.
  - B. Is married to the co-plaintiff.
9. Plaintiff Jannene Jorgensen:
  - A. A NHMLA defined patient representative. §44-2808.
  - B. Married to the co-plaintiff.
10. Defendant The Nebraska Methodist Hospital:
  - A. Is a NHMLA defined hospital. §44-2806
  - B. At the time of the healthcare in question, employed:
    1. Physician Staff to care for its patients, including:
      - a. Abby Shiffermiller, MD.
      - b. Angela Fisher, MD.
    2. Nursing staff to care for its patients.

3. PA staff to care for its patients.

11. Defendant Abby Shiffermiller, MD, is:

- A. Is a NHMLA defined physician. §44-2804.
- B. Is a hospitalist.

12. Defendant Angela Fisher, MD:

- A. Is a NHMLA defined physician. §44-2804.
- B. Is a hospitalist.

13. The defendant Midwest Neurosurgery, PC:

- A. Is a NHMLA defined healthcare provider. §44-2803.
- B. At the time of the healthcare in question, employed:
  - 1. Physicians to care for its patients, including:
    - a. Douglas Long, MD.
  - 2. Nursing staff to care for its patients.
  - 3. PA staff to care for its patients.

14. Defendant Douglas Long, MD:

- A. Is a NHMLA defined physician. §44-2804.
- B. Is a neurosurgeon.

#### AGENCY

15. When the healthcare in question occurred, members of the defendant The Nebraska Methodist Hospital's nursing staff who cared for the plaintiff

patient were acting in the scope of their employment with defendant The Nebraska Methodist Hospital.

16. When the healthcare in question occurred, members of the defendant The Nebraska Methodist Hospital's PA staff who cared for the plaintiff patient were acting in the scope of their employment with defendant The Nebraska Methodist Hospital.

17. When the healthcare in question occurred, members of the defendant The Nebraska Methodist Hospital's physician staff who cared for the plaintiff patient were acting in the scope of their employment with defendant The Nebraska Methodist Hospital.

18. When the healthcare in question occurred, the defendant physician Shiffermiller was acting in the scope of her employment with the co-defendant The Nebraska Methodist Hospital.

19. When the healthcare in question occurred, the defendant physician Fisher was acting in the scope of her employment with the co-defendant The Nebraska Methodist Hospital.

20. When the healthcare in question occurred, members of the defendant Midwest Neurosurgery, PC, nursing staff who cared for the plaintiff patient were acting in the scope of their employment with Midwest Neurosurgery, PC.

21. When the healthcare in question occurred, members of the defendant Midwest Neurosurgery, PC, PA staff who cared for the plaintiff patient were acting in the scope of their employment with Midwest Neurosurgery, PC.
22. When the healthcare in question occurred, members of the defendant Midwest Neurosurgery, PC, physician staff who cared for the plaintiff patient were acting in the scope of their employment with Midwest Neurosurgery, PC.
23. When the healthcare in question occurred, the defendant physician Long was acting in the scope of his employment with the co-defendant Midwest Neurosurgery, PC.

#### PATIENT RELATIONSHIP

24. When the healthcare in question occurred, the defendant The Nebraska Methodist Hospital nursing staff who cared for the plaintiff patient had a provider/patient relationship with him.
25. When the healthcare in question occurred, the defendant The Nebraska Methodist Hospital PA staff who cared for the plaintiff patient had a provider/patient relationship with him.
26. When the healthcare in question occurred, the defendant The Nebraska Methodist Hospital physician staff who cared for the plaintiff patient had a provider/patient relationship with him.

27. When the healthcare in question occurred, the defendant physician Shiffermiller had a provider/patient relationship with the plaintiff patient.
28. When the healthcare in question occurred, the defendant physician Fisher had a provider/patient relationship with the plaintiff patient.
29. When the healthcare in question occurred, defendant Midwest Neurosurgery, PC, nursing staff who cared for the plaintiff patient had a provider/patient relationship with him.
30. When the healthcare in question occurred, defendant Midwest Neurosurgery, PC, PA staff who cared for the plaintiff patient had a provider/patient relationship with him.
31. When the healthcare in question occurred, defendant Midwest Neurosurgery, PC, physician staff who cared for the plaintiff patient had a provider/patient relationship with him.
32. When the healthcare in question occurred, the defendant physician Long had a provider/patient relationship with the plaintiff patient.

## FACTS

33. On December 18, 2013, at Nebraska Methodist Hospital in Omaha, Douglas County, Nebraska:
- A. Defendant Douglas Long, MD, performed a spinal fusion surgery for spondylolisthesis on the plaintiff patient, Gary Jorgensen, then, age 63.

- B. After the surgery, Dr. Long transferred Mr. Jorgensen, to the PACU and, then, to the floor for post surgery recovery.
34. From December 18, 2013, until discharge from The Nebraska Methodist Hospital on December 27, 2013.
- A. Defendants Shiffermiller, Fisher, and Long cared for the plaintiff patient.
  - B. Physician, nursing, and PA staffs from both The Nebraska Methodist Hospital and Midwest Neurosurgery, PC, cared for the plaintiff patient.
35. On December 27, 2013, the plaintiff patient was discharged with an undiagnosed infection at the surgical site.
36. On January 15, 2014, the plaintiff was readmitted to The Nebraska Methodist Hospital because the infection at the surgical site had spread to the spine.
37. On January 28, 2014, plaintiff patient was discharged again from The Nebraska Methodist Hospital:
- A. With permanent bilateral drop foot secondary to the infection at the surgical site, and
  - B. With a need to be prescribed antibiotics for the rest of his life to treat the residual, permanent infection that will not leave his body.

MALPRACTICE—§44-2810

38. The defendant physicians Long, Shiffermiller, and Fisher were jointly and severally professionally negligent because, during the post surgery time

spent in The Nebraska Methodist Hospital from December 18, 2013, until discharge on December 27, 2013, they each failed to diagnose and appropriately treat the infection that developed at or near the plaintiff patient's surgical site.

39. The physician, nursing, and PA staffs at both The Nebraska Methodist and Midwest Neurosurgery, PC, who cared for the plaintiff patient were jointly and severally professionally negligent because, during the post surgery time the plaintiff patient spent in The Nebraska Methodist Hospital from December 18, 2013, until discharge on December 27, 2013, they each failed to bring to the attention of either Dr. Long, Dr. Shiffermiller, and/or Dr. Fisher the signs of infection that developed at or near the plaintiff patient's spinal surgical site.

#### DAMAGES—§44-2819(2)

40. The professional negligence proximately caused the plaintiff patient permanent damages.

#### CONSORTIUM

41. The professional negligence proximately caused the plaintiff patient's spouse consortium damages.

WHEREFORE, we ask for such damages as are reasonable in the premises. §44-2822.

ATTORNEY FOR THE PLAINTIFFS

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