

IN THE DISTRICT COURT OF DOULGAS COUNTY, NEBRASKA

KYLE KNUTSON,	)	CASE NO.
	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	
NEBRASKA METHODIST HEALTH	)	
SYSTEM, INC.; INTERVENTIONAL	)	
RADIOLOGY CENTER; ONCOLOGY	)	
ASSOCIATES, P.C.;	)	
JOHN DOE CORPORATION;	)	
JOHN DOE, MD;	)	
RICHARD KUTILEK, MD	)	
	)	
Defendants.	)	

COMES NOW the Plaintiff and for his cause of action against the Defendants states:

**PARTIES**

1. Plaintiff is resident of Omaha, Douglas County, Nebraska.
2. Defendant Nebraska Methodist Health System, Inc., is a medical provider organized and existing under the laws of the State of Iowa and doing business in Omaha, Douglas County, Nebraska.
3. Defendant Interventional Radiology Center, is a corporation organized and existing under the laws of the State of Nebraska and medical provider licensed to practice medicine in the State of Nebraska and doing so in Omaha, Douglas County, Nebraska.
4. Defendant Oncology Associates, P.C. is a corporation organized and existing under the laws of the State of Nebraska and medical provider licensed to practice medicine in the State of Nebraska and doing so in Omaha, Douglas County, Nebraska.

5.. Defendant John Doe Corporation is a corporation organized and existing under the laws of the State of Nebraska and medical provider licensed to practice medicine in the State of Nebraska and doing so in Omaha, Douglas County, Nebraska.

6. Defendant John Doe, M.D. is a medical provider licensed to practice medicine in the State of Nebraska and doing so in Omaha, Douglas County, Nebraska.

7. Defendant Richard Kutilek, M.D. is a medical provider licensed to practice medicine in the State of Nebraska and doing so in Omaha, Douglas County, Nebraska

### **FACTS**

8. That on January 14, 2014, Plaintiff was diagnosed with testicular cancer.

9. That on January 21, 2014, Plaintiff underwent surgery to remove his cancerous testicle.

10. That on January 24, 2014 Defendants undertook a procedure to place a port in Plaintiff's chest to allow for direct delivery of chemotherapy treatment.

11. That on January 24, 2014 Defendants administered the first bout of chemotherapy medication into the port. That during the first treatment, Plaintiff experienced extreme pain and suffering and complications.

12. That on or about January 24 Defendants advised that they undertook a procedure known as a port analysis to ensure that the port was properly placed. That the Defendants advised Plaintiff that the port was properly placed after conducting this analysis.

13. That on January 27, 2014 the second bout of chemotherapy was administered and, again Plaintiff experienced extreme pain and suffering.

14. That on January 28 a chest x-ray was conducted by which revealed that the port was not placed in the artery, but rather placed into the Plaintiff's chest wall.

15. That upon determining that the port was misplaced, chemotherapy had to be suspended. That a further surgical procedure was then undertaken to re-place the port.

### **MEDICAL NEGLIGENCE**

16. That the Defendants had a duty to properly place the port into Plaintiff's artery.
17. That the Defendants were negligent in the following particulars, to wit:
  - a. In inserting the port into the chest wall rather than the intended artery;
  - b. In failing to ensure that the port was properly placed via radiologic techniques;
  - c. In failing to conduct a port analysis post placement of the port;
  - d. In administering chemotherapy medication into chest of Plaintiff rather than his artery.
18. That as a direct and proximate cause of Defendants' negligence, Plaintiff sustained chest injuries, further medical treatment and other damages as more fully set forth below.

### **DAMAGES**

19. That as a direct and proximate result of Defendants' negligence, the Plaintiff sustained severe and permanent injury to his chest.
20. That as a direct and proximate result of Defendants' negligence, the Plaintiff had to undergo a second surgical procedure to place the port.
21. That as a direct and proximate result of Defendants' negligence, the Plaintiff sustained permanent injury to his chest wall.
22. That as a direct and proximate result of Defendants' negligence, the Plaintiff has incurred significant medical expenses.
23. That as a direct and proximate result of Defendants' negligence, the Plaintiff has endured pain and suffering and will continue to do so for the rest of his life.

24. That as a direct and proximate result of Defendants' negligence, the Plaintiff will incur medical expenses and miscellaneous expenses associated with damage to his chest wall.

#### **COMPLIANCE WITH THE NEBRASKA HOSPITAL MEDICAL LIABILITY ACT**

25. To the extent the Nebraska Hospital Medical Liability Act found at §44-2801 et seq., Nebraska Revised Statutes, is applicable to Plaintiff's claims, Plaintiff affirmatively waives her right to a panel review pursuant to §44-2840 (4) Nebraska Revised Statutes.

26. Contemporaneously with the filing of this Complaint, Plaintiff has served a copy of the Complaint upon the Director of the Department of Insurance, State Capitol Building, Lincoln, Nebraska 68509, by regular U.S. mail.

WHEREFORE, Plaintiff prays for judgment against the Defendants for damages as are reasonable in the premises, for his special damages, special damages to be incurred in the future, general damages and for costs expended herein.

KYLE KNUTSON, Plaintiff

By: /s/Timothy J. O'Brien  
David J. Cripe, #21463  
Timothy J. O'Brien, #16011  
HAUPTMAN, O'BRIEN, WOLF,  
& LATHROP, P.C.  
1005 South 107<sup>th</sup> Avenue, Suite 200  
Omaha, Nebraska 68114  
(402) 390-9000  
[dcripe@hauptman-obrien.net](mailto:dcripe@hauptman-obrien.net)  
ATTORNEYS FOR PLAINTIFF