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IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

JOSEPH C. GENOVESI AND MARY L. GENOVESI,

Plaintiffs,

v.

THE NEBRASKA METHODIST HOSPITAL, a CORPORATION,

Defendant.

CASE NO.: CI 17 - 2100

**AMENDED COMPLAINT**

Plaintiffs states:

1. That Plaintiffs are residents of Omaha, Douglas County, Nebraska.

2. That Defendant, The Nebraska Methodist Hospital, a Corporation is a Nebraska Corporation doing business in the State of Nebraska, with its principal place of business located at 8511 W. Dodge Road, Omaha, Douglas County, Nebraska.

3. That the Defendant employs various staff, including nurses' aides, nurses, agents, and representatives, for which Defendant is responsible, under vicarious liability or *Respondeat Superior,* for the acts of its employees including transferring patients from a gurney to an operating room table.

4. That at all times herein mentioned, the Defendant, was qualified under the Nebraska Hospital-Medical Liability Act and that the Plaintiffs pursuant to § 44-2801, waives their right to a panel review and elect to proceed with this Complaint in the District of Douglas County, Nebraska. That Plaintiffs have further complied with § 44-2801, et seq., and that a copy of this Complaint was mailed by the United States Mail, Certified, Return Receipt Requested to the Department of Insurance for the State of Nebraska. That the Nebraska Hospital-Medical Liability Act, Neb. Rev. Stat. § 44-2855, inclusive and that criteria established by these statutes, do not promote the health, safety or general welfare of the public and serve no public purpose in

that these statutes limit the amount of monetary recovery available to claimants such as the Plaintiff without any reasonable basis or relationship to the injuries sustained by Plaintiff, Joseph C. Genovesi and, therefore, is consequentially in conflict with the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution, as well as Sections I, III, XVI, XXI and XVI of Article I of the Constitution of the United States of America,

5. On or about September 9, 2016, Plaintiff Joseph C. Genovesi, was admitted to Methodist Hospital as a patient suffering with a low heart rate and needing a pacemaker to correct his heart rate. That on September 12, 2016, while nurses were transferring Plaintiff, who was conscious and awake, on to the surgical table, they negligently, as hereinafter more specifically set forth in paragraph 6, dropped him onto the concrete floor of the operating room causing him severe and permanent personal injuries, hereinafter more specifically set forth in paragraph 7.

6. That the Defendant, by and through its nurses' aides, nurses, agents, and staff, was negligent in one or more of the following particulars, including but not limited to:

a. In failing to use ordinary care under the circumstances;

b. In failing to properly train its staff on patient fall prevention;

c. In failing to properly train its staff on transferring patients onto the surgery table;

d. In failing to provide Plaintiff with proper patient care; and

e. In failing to properly transfer Plaintiff onto the surgical table.

7. That as a direct and a proximate result of the negligence of the Defendant, as heretofore set forth above, Plaintiff Joseph C. Genovesi suffered a large brain bleed on the left temple area behind and above his left ear where he had hit the floor. Plaintiff also incurred and suffered bruises and scrapes on his left shoulder, his back, left knee, right calf and left butt cheek

and aggravation and inconvenience. That these injuries are all permanent in nature. That this Plaintiff has suffered, now suffers, and will in the future continue to suffer great and excruciating permanent physical pain and mental anguish. That Plaintiff has incurred fair and reasonable medical expenses for treatment of these injuries and he will incur fair and reasonable medical expenses in the future. That because of these injuries, Plaintiff's earning capacity has been permanently diminished and impaired.

WHEREFORE, Plaintiff, Joseph C. Genovesi, prays for judgment against the Defendant for special damages and general damages, together with his costs herein expended.

**SECOND CAUSE OF ACTION**
**(LOSS OF CONSORTIUM)**

8. That Plaintiff Mary L. Genovesi, individually, realleges and incorporates herein, as if fully set forth at length, Paragraphs 1 through 7 of this Complaint as if fully set forth herein again.

9. That this Plaintiff was, and at all times material herein, the spouse of Plaintiff Joseph C. Genovesi.

10. That as a direct and proximate result of the negligence of the Defendant, and the injuries suffered by Plaintiff Joseph C. Genovesi, this Plaintiff has been deprived of her husband's aid, services, support, affection, society, companionship and consortium.

WHEREFORE, Plaintiff, Mary L. Genovesi, prays for judgment against the Defendant for special damages and general damages, together with her costs herein expended.

DATED on this 13th day of April, 2017.

JOSEPH C. GENOVESI AND MARY L. GENOVESI, Plaintiffs,

By: _____

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# Certificate of Service

I hereby certify that on Thursday, April 13, 2017 I provided a true and correct copy of the Amended Complaint to the following:

Nebraska Methodist Health System service method: No Service

Signature: /s/ Welsh,James,R (Bar Number: 14459)