

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

TRUDY A. SALKIN and MICHAEL H. SALKIN,

Plaintiffs,

v.

THE NEBRASKA METHODIST HOSPITAL, a Corporation., and JOHNATHAN L. COLLING, M.D., and NORMAN L. GROSBACH, M.D., and AMIR SASAN GHOLAMI, M.D., and STEVEN O TENNY, M.D.

Defendants.

Plaintiffs state:

1. That Plaintiffs, Trudy A Salkin (hereinafter referred to as “Trudy Salkin”) and Michael H. Salkin (hereinafter referred to as “Michael Salkin”) are residents of Omaha, Douglas County, Nebraska.

2. That the Defendants, Johnathan L. Colling, M.D., (hereinafter referred to as “Colling”), Norman L. Grosbach, M.D., (hereinafter referred to as “Grosbach”), Amir Sasan Gholami, M.D., (hereinafter referred to as “Gholami”), and Steven O. Tenny, M.D., (hereinafter referred to as “Tenny”) are all physicians duly licensed and qualified to practice medicine in the State of Nebraska and are residents of Omaha, Douglas County, Nebraska. That at all times hereinafter mentioned, Colling, Grosbach, Gholami, and Tenny held themselves out to the Plaintiffs that they were proper and qualified physicians. That these Defendants, and each of them, invited the public, including Plaintiffs, to use their services and to charge a remuneration for such services. That these Defendants, and each of them, undertook to render proper medical care and treatment to Plaintiff, Trudy Salkin, and then and there it became their duty to exercise reasonable care to insure that Plaintiff received and obtained proper medical examination, diagnosis, treatment, care and attention.

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AMENDED COMPLAINT

3. That Defendant, The Nebraska Methodist Hospital, A corporation, Nebraska Corporation doing business in the State of Nebraska, with its principal place of business located at 8511 W Dodge Road Omaha, NE 68114. That this Defendant, at all time hereinafter mentioned, held itself out through its nurses, nurses aids, residents, physicians, agents, representatives, employees, medical and hospital staff including the Defendants doctors heretofore set in paragraph 2, as capable of making and/or giving proper medical examination, care, including proper and timely following of physicians orders, and further to timely advise attending physicians of their patients' medical conditions, signs and symptoms arising from any cause. That the Defendant Nebraska Methodist Hospital invited the public, including the Plaintiff, Trudy Salkin, to use its services and to charge Plaintiffs remuneration for such services.

4. That Defendant Nebraska Methodist Hospital, by and through its nurses, nurses aids, residents, physicians, agents, representatives, employees, medical and hospital staff undertook to render proper medical care and assistance to Plaintiff, Trudy Salkin, and that then and there it became its duty to exercise reasonable care to insure that Plaintiff, Trudy Salkin, received proper medical care, monitoring and attention while a patient at Nebraska Methodist Hospital. That any negligence alleged and found against its physicians, agents, representatives and employees is imputed to the Defendant Nebraska Methodist Hospital pursuant to the *Doctrine of Respondeat Superior*.

5. That at all times herein mentioned, the Defendants, and each of them, were qualified under the *Nebraska Hospital-Medical Liability Act* and that the Plaintiffs pursuant to *Neb Rev Stat* § 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 Plaintiffs without any reasonable basis or relationship to the injuries sustained by Plaintiff, Trudy Salkin and, therefore, are 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,

6. On or about January 30, 2015 Plaintiff, Trudy Salkin, was admitted to Nebraska Methodist Hospital emergency department for increasing neck pain with a history of two spinal fusions for spinal stenosis. She was medically examined and treated by Defendant, Colling. Colling ordered a C.T., without contrast, which showed extensive erosive changes involving the odontoid of the C2 vertebral body without fracture. Plaintiff was also diagnosed with a right upper lobe and speculated mass, further radiology was ordered. Defendant, Colling, after speaking with Defendant Grosbach, discharged her on pain medication without ruling out spinal cord compression as her pain.

7. On or about January 31, 2015, Plaintiff Trudy Salkin was again admitted by Defendant Grosbach to Nebraska Methodist Hospital for severe neck and shoulder pain and with a history of two previous neck decompression surgeries. She was seen and examined by Defendants Colling, Grosbach, Gholami, Tenny, and medical staff of Defendant Methodist Hospital. Even though these Defendants, and each of them, were aware of this Plaintiff's history

of spinal cord compression they negligently failed to timely recommend surgery to relieve her of spinal cord compression at C1.

8. Finally, on February 8, 2015 Plaintiff, Trudy Salkin, was taken to the operative room where a decompressive cervical laminectomy C1 was performed to decompress her severe cervical stenosis C1.

9. That the Defendants, and each of them, were negligent in one or more of the following particulars to wit:

- a. In failing to use ordinary care under the circumstances;
- b. In failing to read operative reports from Plaintiff's previous decompression surgeries
- c. In failing to timely diagnosis Plaintiff's spinal cord compression based on her medical history of two (2) cord compression surgeries;
- d. In prescribing heavy doses of pain medications;
- e. In failing to timely order an MRI to diagnose Plaintiff's spinal cord compression,
- f. In failing to timely refer Plaintiff to a neuro surgeon for spinal cord decompression surgery; and
- g. In failing to initially contact and consult Dr. Stephen E. Dorn concerning his two previous decompression surgeries to Plaintiff.

10. That as a direct and a proximate result of the negligence of the Defendants, and each of them, as heretofore set forth above, Plaintiff, Trudy Salkin, was seriously and permanently injured in that she suffered quadriplegia, severe shock to her nervous system, loss of enjoyment of life, 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 she will incur fair and reasonable medical expenses in the future. That Plaintiff has lost income and wages and will lose income in the future because of these injuries. That because of these injuries, Plaintiff's earning capacity had been permanently diminished and impaired.

WHEREFORE, Plaintiff, Trudy Salkin, prays for judgment against the Defendant, and each of them, for special damages and general damages, together with her costs herein expended.

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

9. That Plaintiff, Michael Salkin, individually re-alleges and incorporates herein, as if fully set forth at length, Paragraphs 1 through 8 of this Complaint as if fully set forth herein again.

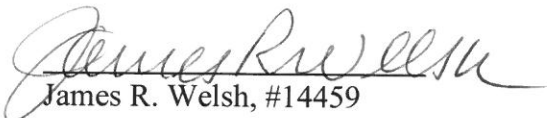
10. That this Plaintiff was, and at all times material herein, the spouse of Plaintiff Trudy Salkin.

11. That as a direct and proximate result of the negligence of the Defendants, and each of them, and the injuries suffered by Plaintiff Trudy Salkin, this Plaintiff was deprived of his wife's aid, services, support, affection, society, companionship and consortium.

WHEREFORE, this Plaintiff, Michael Salkin, prays for judgment against the Defendant for special damages and general damages, together with his costs herein expended.

DATED on this 27th day of January, 2017.

TRUDY A. SALKIN SALKIN
MICHAEL H. SALKIN, Plaintiffs,

By: 
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Christopher P. Welsh, #22279
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ATTORNEYS FOR PLAINTIFFS

Certificate of Service

I hereby certify that on Monday, January 30, 2017 I provided a true and correct copy of the Amended Complaint to the following:

Colling,Johnathan,L service method: First Class Mail

Gholami,Amir,S service method: First Class Mail

Grosbach,Norman,L service method: First Class Mail

Tobias Salkin,Trudy,A represented by Welsh,Christopher, (Bar Number: 22279) service method: Electronic Service to laurie@welsh-law.com

The Nebraska Methodist Hospital service method: First Class Mail

Tenny,Steven,O service method: First Class Mail

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