

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

RICHARD E. PETERS,	)	Case No. CI 15-_____
	)	
Plaintiff,	)	
	)	COMPLAINT AND WAIVER
vs.	)	OF PANEL REVIEW
	)	
PHYSICIANS CHOICE HOME HEALTH	)	
CARE, FIRST CARE HOLDINGS, LLC,	)	
A NEBRASKA LIMITED LIABILITY	)	
COMPANY, AND HEATHER WULF,	)	
	)	
Defendants.	)	

PLAINTIFF states:

1. Plaintiff, Richard Peters, is a resident of Omaha, Douglas County, Nebraska.
2. At all times relevant herein, Physicians Choice Home Health Care is a Trademark or Service Mark of First Care Holdings, LLC, a Nebraska Limited Liability Company, with its principle place of business in Omaha, Douglas County, Nebraska.
3. At all times relevant herein, Defendant First Care Holdings, LLC, a Nebraska Limited Liability Company, is a limited liability company organized and existing under the laws of the State of Nebraska, and was the owner of the Trademark or Service Mark "Physicians Choice Home Health Care" as filed with the Secretary of State for the State of Nebraska, and was doing business under the name Physicians Choice Home Health Care.
4. At all times relevant herein, Defendant Heather Wulf is a resident of Omaha, Douglas County, Nebraska.
5. At all times relevant herein, Defendant First Care Holdings, LLC, operated an entity under the Trademark or Service Mark Physicians Choice Home Health Care, which provided in-house medical care and treatment to individuals such as the Plaintiff, Richard E. Peters, and the Defendant Heather Wulf was an employee of Physicians Choice Home Health

Care and First Care Holdings, LLC, and was engaged within the scope and course of her employment. Any acts of negligence of Heather Wulf are imputed to the Defendants Physicians Choice Home Health Care and First Care Holdings, LLC, under the doctrine of respondeat superior.

6. That all defendants have elected to come under the provisions of the Nebraska Hospital-Medical Liability Act, Neb. Rev. Stat. §§44-2801 – 44-2855.

7. That the Plaintiff, Richard E. Peters, pursuant to §44-2840(4) waives his right to a panel review and elects to proceed with his Complaint in the District Court of Douglas County, Nebraska. Plaintiff has further complied with §44-2840 et. seq. That a copy of this Complaint was sent via certified mail to the Department of Insurance of the State of Nebraska.

8. That on February 11, 2013, the Defendant Heather Wulf drew blood from the left long finger of the Plaintiff, Richard E. Peters. Her purpose in drawing this blood was to have it analyzed by a laboratory. During the course of drawing this blood, Heather Wulf negligently, as set forth below, placed a needle or other sharp object used for drawing blood through the tip of the Plaintiff's left long finger and distal phalanx. That the Defendants continued to draw blood from the Plaintiff's left upper extremity for an extended period of time after February 11, 2013.

9. Immediately after penetrating the finger of the Plaintiff, said Plaintiff Richard E. Peters began to experience pain in the area of his left long finger and hand. At this time, Plaintiff was also unable to flex his left long finger or his left hand.

10. Immediately after this blood draw from his left long finger, Plaintiff's left long finger began to swell, and he subsequently developed an infection. This swelling and infection required antibiotic treatment, as well as the services of an orthopedic surgeon in an attempt to remedy the problems he was experiencing in the affected finger.

11. That Plaintiff was diagnosed with septic arthritis and had to undergo an operative procedure in an attempt to eradicate the infection.

12. That the injury and subsequent medical treatment for said injury were a direct and proximate result of the negligence of the Defendants and each of them in each of the following respects:

- (a) In failing to properly position the left arm and hand of Richard E. Peters prior to attempting to withdraw blood from his left long finger;
- (b) In drawing blood on February 11, 2013, from an improper area of Richard E. Peters' finger;
- (c) In placing a needle into the tip and through the nail of Richard E. Peters' left long finger;
- (d) In failing to properly cleanse the area from where the blood was to be drawn;

That as a direct and proximate result of the negligence of the Defendants and each of them, Plaintiff has suffered the following by way of damages:

- (a) Pain and suffering in the past and it is reasonably certain that he will sustain pain and suffering for an indefinite period of time into the future;
- (b) Medical bills in the past and it is reasonably certain that he will incur medical bills for an indefinite period of time into the future;
- (c) Surgery for the septic arthritic condition of his left long finger, and it is reasonably certain that he will require additional surgery in the future for this condition;


- (d) Permanent injury to his left long finger and left hand;
- (e) The inability to fully utilize his left hand and, in particular, his left long finger.

WHEREFORE, Plaintiff prays for judgment against the Defendants and each of them for her special damages, general damages, costs, and for such other and further relief as the court may deem just and equitable.

DATED this 4th day of February, 2015.

RICHARD E. PETERS, Plaintiff

By:



E. Terry Sibbernson #13826  
SIBBERNSEN, STRIGENZ, &  
SIBBERNSEN P.C.  
1111 N. 102<sup>nd</sup> Ct., #330  
Omaha, NE 68114  
(402) 493-7221

ATTORNEY FOR PLAINTIFF