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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE

ROGERS,)	
)	Case No.
Plaintiff,)	
)	COMPLAINT AND DEMAND FOR
v.)	JURY TRIAL (Medical Malpractice)
)	
PEACEHEALTH, dba SACRED HEART)	NOT SUBJECT TO MANDATORY
MEDICAL CENTER AT RIVERBEND, a)	ARBITRATION
foreign corporation; NEIL ROUNDY, M.D.;)	
and, NEUROSURGERY SPECIALISTS,)	AMOUNT OF PRAYER: 2,375,000
LLC, dba OREGON NEUROSURGERY,)	Fee - \$834.00 ORS 21.160(1)(d)
)	
Defendants.		

COMES NOW plaintiff Rogers and for his claim for relief against defendants alleges as follows:

1.

At all time material herein, plaintiff Rogers was a resident of Lane County, Oregon and received medical care from defendants in Lane County, Oregon.

2.

At all times material herein, defendant PeaceHealth, dba Sacred Heart Medical Center at Riverbend (Defendant "Hospital"), was a foreign corporation and the owner and operator of Sacred Heart Medical Center at Riverbend, in Springfield, Oregon. Defendant Hospital was in the business of providing hospital care and surgical services to patients in Lane County, Oregon, and surrounding areas, and provided medical personnel for surgical services to members of the public, including plaintiff herein, and maintained, operated, advertised, and held out surgeons, including defendant Dr. , who provided surgery and related services at defendant Hospital.

1 3.

2 At all times material herein, defendant Hospital was responsible for and had a non-
3 delegable duty to provide quality care within its facility under ORS 441.055, and is therefore
4 directly and vicariously liable for the negligent conduct of defendant Dr.

5 4.

6 At all times material herein, defendant Neurosurgery Specialists, LLC, doing business as
7 Oregon Neurosurgery (hereinafter, defendant "Oregon Neurosurgery"), was an Oregon
8 corporation, and provided medical services to members of the public, including Rogers
9 herein, and conducted regular and sustained business activity in Lane County, Oregon.

10 5.

11 At all times material herein, defendant , M.D. was a physician and surgeon
12 licensed to practice medicine and surgery in Oregon, and was an agent or employee of defendant
13 Oregon Neurosurgery and/or defendant Hospital and was acting in the course and scope of his
14 agency and/or employment with defendant Hospital and/or Oregon Neurosurgery when he
15 provided medical care and treatment to plaintiff Rogers.

16 6.

17 On or about April 27, 2017, Dr. performed a surgical procedure on plaintiff's
18 lumbar spine, including a posterior lumbar interbody fusion at the L4-L5 level, and a posterior
19 fusion using bilateral pedicle screws at L4-L5 using stereotactic navigation for placement of
20 screws to address an injury to plaintiff's lumbar spine plaintiff suffered at work. During the
21 procedure, Dr. had a "misplacement of a screw slightly at L4 on the right side secondary
22 to navigation being off," which Dr. then repositioned. However, Dr. replaced
23 the screw into the L4 nerve root.

24 7.

25 Immediately following the April 27, 2017, surgery, plaintiff experienced severe pain in
26 his lower back which was out of proportion to what would normally be expected following this

1 surgical procedure. In addition, plaintiff experienced significant neurological symptoms in his
2 right leg and foot, including radiating pain and numbness, which were not present before the
3 April 27, 2017, surgery. By April 30, 2017, plaintiff was still unable to bear weight on his right
4 leg.

5 8.

6 Between on or about April 27, 2017, following surgery, and May 1, 2017, plaintiff was
7 evaluated in the hospital by several employees or agents of defendant Oregon Neurosurgery,
8 including Schultz, NP, , ARNP, and . Hutton, DO. During that
9 period of time, plaintiff complained of severe pain and numbness in his right leg, which was far
10 in excess of what he had experienced prior to the April 27, 2017, surgery by Dr. , and
11 unusual for the type of procedure done on that date. However, no imaging studies were ordered
12 to evaluate or assess the source of plaintiff's severe pain and new neurological symptoms until
13 the morning of May 1, 2017, when a CT scan of plaintiff's lower back was ordered and
14 performed.

15 9.

16 On or about the morning of May 1, 2017, a CT scan of plaintiff's lower back revealed the
17 likely source of plaintiff's severe right leg pain and numbness to be a misplaced pedicle screw
18 encroaching at the neuroforamen on the right side. At that time, Dr. took the plaintiff
19 back to surgery to remove the screw causing the pain and numbness in his right leg. During that
20 procedure, Dr. removed and replaced the right pedicle screw encroaching on plaintiff's
21 L4 nerve that had been misplaced during the surgery of April 27, 2017. However, by that time
22 plaintiff had suffered permanent injury to his right L4 nerve.

23 10.

24 Defendants Oregon Neurosurgery and Dr. were negligent in one or more of the
25 following ways, which caused permanent injury to the plaintiff:

26 (a) In misplacing the right sided pedicle screw such that it encroached upon plaintiff's

1 right sided neuroforamen and L4 nerve root during the surgery of April 27, 2019;

2 (b) In failing to navigate the trajectory of the right sided pedicle screw so as to avoid
3 injury to the spinal nerves;

4 (c) In failing to recognize during the surgery of April 27, 2017, that the right sided
5 pedicle screw was encroaching on the neuroforamen and nerve root;

6 (d) In failing to follow existing protocols to prevent misplacement of the right sided
7 pedicle screw into the neuroforamen and nerve root;

8 (e) In failing to order any imaging on plaintiff's lumbar spine after the surgery of April
9 27, 2017, until the morning of May 1, 2017, which would have revealed the misplaced right
10 sided screw;

11 (f) In failing to return plaintiff to surgery to correct the misplaced right sided screw at
12 anytime after the surgery of April 27, 2017, and the morning of May 1, 2017.

13 11.

14 As a result of defendants' negligence, directly, and by and through the actions of its
15 employees and/or agents, as described above, plaintiff suffered permanent injury to his right L4
16 nerve root, causing permanent pain and numbness in his right leg, loss of sexual function, and
17 decreased mobility. In addition, plaintiff has undergone additional surgery to attempt to mitigate
18 the harm caused by defendants' negligence described herein.

19 12.

20 As a direct result of defendant's negligence, plaintiff has incurred economic damages in
21 the amount of \$250,000 for medical expenses and approximately \$125,000 in lost income.
22 Plaintiff reserves the right to amend or supplement economic damages up to and including
23 through the time of trial.

24 10.

25 As a direct result of defendant's negligence, plaintiff has incurred non-economic damages
26 in the amount of \$2,000,000.

1 WHEREFORE, Plaintiff prays for judgment against defendants as follows:

2 (a) \$2,000,000 in non-economic damages;

3 (b) \$375,000 in economic damages; and

4 (c) Plaintiff's costs and disbursements incurred herein.

5 DATED this 26th day of April, 2019.

6
7 *s/ Robert Beatty-Walters*

8

Robert Beatty-Walters, OSB #954497
Attorney for Plaintiff

9 Trial Attorney:
10 Robert Beatty-Walters, OSB #954497
11 (503)