

BEFORE THE INDIANA DEPARTMENT OF INSURANCE

DAVID BLUE,)
)
 Plaintiff,)
)
 vs.)
)
 WAI HUNG LEE, M.D.; LUISITO)
 GONZALES, M.D.; BEACON MEDICAL)
 GROUP, INC.; ELKHART CARDIOLOGY;)
 ELKHART GENERAL HOSPITAL, INC.; and)
 BEACON HEALTH SYSTEM, INC.,)
)
 Defendants.)

FILED

FEB 22 2023

State of Indiana
Department of Insurance

PROPOSED COMPLAINT FOR DAMAGES

Comes now the Plaintiff, by counsel, and for his Proposed Complaint against the Defendants, alleges and states:

1. Plaintiff, David Blue, is a resident of Elkhart County and was a patient of the Defendants from June of 2016 through April of 2022. During that period of time, Plaintiff underwent an unnecessary cardiac catheterization, unnecessary cardiac artery stenting, and an unnecessary loop recorder implantation.
2. Defendant Wai Hung Lee, M.D. (“Dr. Lee”) treated the Plaintiff during the time period set forth in paragraph 1 above. Dr. Lee is believed to be a Qualified Health Care Provider and an agent and/or employee of Beacon Medical Group, Elkhart Cardiology, Elkhart General Hospital, and Beacon Health System, Inc. (which may hereinafter be referred to as the “Medical Entity Defendants.”)
3. Defendant Luisito Gonzales, M.D. (“Dr. Gonzales”) treated the Plaintiff during the time period set forth in paragraph 1 above. Dr. Gonzales is believed to be a Qualified Health Care Provider and an agent and/or employee of the Medical Entity Defendants.

4. Defendant, Beacon Medical Group, Inc. is believed to be a Qualified Health Care Provider and an employer or principal of Doctors Lee and Gonzales, per Plaintiff's medical billing records, and is responsible for the conduct of Doctors Lee and Gonzales.
5. Defendant Elkhart Cardiology is believed to be the predecessor of Beacon Medical Group, Inc. a Qualified Health Care Provider, and an employer or principal of Doctors Lee and Gonzales, and is responsible for their conduct.
6. Defendant, Elkhart General Hospital ("Elkhart Hospital") is a hospital located in Elkhart, Indiana, is believed to be a Qualified Health Care Provider, and is further believed to be an employer or principal of Doctors Lee and Gonzales. Elkhart Hospital is alleged herein as having negligently supervised and credentialed Doctors Lee and Gonzales.
7. Defendant, Beacon Health System, Inc. ("Beacon") is believed to have acquired and become the owner of the other Medical Entity Defendants. It is believed to be a Qualified Health Care Provider. It is likewise responsible for the conduct of the remaining Defendants and is also alleged to have negligently supervised and credentialed Doctors Lee and Gonzales.

FACTUAL BACKGROUND

8. On or about June 28, 2016, Plaintiff was treated by Doctors Lee and Gonzales. Even though the Plaintiff had just undergone a cardiac stress test which was normal, Defendants subjected the Plaintiff to an unnecessary cardiac catheterization. Even though Plaintiff had insufficient blockage in his LAD coronary artery to justify a stent, Doctors Lee and Gonzales unnecessarily deployed stents to the Plaintiff's LAD.

Doctors Lee and Gonzalez falsely represented to the Plaintiff that the catheterization and stenting were necessary. Plaintiff only recently discovered that the catheterization and stenting were unnecessary and had no suspicion or reason to suspect the treatment was unnecessary until recently.

9. On or about March of 2022, the Plaintiff was treated by Doctors Lee and Gonzales. Although Plaintiff was not placed on an external cardiac event monitor for fourteen days, as required by recognized Guidelines, Defendants implanted an unnecessary Medtronic loop recorder at great expense to the Plaintiff. Doctors Lee and Gonzales falsely represented to the Plaintiff that the loop recorder was necessary.
10. The conduct alleged in paragraphs 8 and 9 above constitute separate acts of medical malpractice causing separate and distinct damages and injuries.
11. The conduct of Doctors Lee and Gonzales fell below the applicable standard of care.
12. Dr. Lee has been reported as the number 3 highest ranked provider of cardiology procedures in the State of Indiana. Both Doctors Lee and Gonzales are known to have very busy cardiology practices and to perform an extraordinarily large number of procedures in the Elkhart Hospital Cath lab even though Elkhart County's population pales in comparison to several other counties in Indiana.
13. Upon information and belief, based on the plethora of procedures performed by these physicians, the administration and committees of Elkhart Hospital were aware that Doctors Lee and Gonzales were performing unnecessary cardiac procedures on patients such that the Hospital negligently credentialed, re-credentialed and negligently supervised Doctors Lee and Gonzales. In this case, Doctors Lee and Gonzales performed only two procedures on the Plaintiff and both were unnecessary.

14. Upon information and belief, many agents and employees of Elkhart Hospital were aware that Doctors Lee and Gonzales were performing unnecessary cardiac procedures on patients.

COUNT I AGAINST DOCTORS LEE AND GONZALES

15. Plaintiff incorporates, by reference, as if fully set forth herein, the material allegations of rhetorical paragraphs 1 through 14 above.

16. In caring for and treating Plaintiff, Doctors Lee and Gonzales fell below the applicable standard of care.

17. As a direct and proximate result of said negligence, the Plaintiff suffered permanent physical injuries and disabilities, pain and suffering, emotional distress, mental trauma, medical expenses, and other injuries and damages yet to be determined, including, but not limited to, future medical expenses.

18. The statute of limitations applicable to the allegations contained in paragraph 8 above is unconstitutional as applied to the Plaintiff, as the Plaintiff could not reasonably be expected to learn of Defendants' conduct within the two-year statute of limitations due to the false statements and fraudulent concealment by Doctors Lee and Gonzales that the 2016 catheterization and stents were necessary.

19. Defendants Lee and Gonzales fraudulently concealed their negligence from Plaintiff, and engaged in a continuing wrong, thereby extending the statute of limitations.

WHEREFORE, Plaintiff prays for damages against Defendants, Doctors Lee and Gonzales, as are reasonable in the premises, the costs of this action, prejudgment interest, and for all other just and proper relief.

COUNT II AGAINST BEACON MEDICAL GROUP AND ELKHART CARDIOLOGY

20. Plaintiff incorporates, by reference, as if fully set forth herein, the material allegations of rhetorical paragraphs 1 through 19 above.
21. The skilled agents and employees of Beacon Medical Group and Elkhart Cardiology, including Doctors Lee and Gonzales, cared for and treated Plaintiff. In caring for and treating Plaintiff, the skilled employees and agents of Beacon Medical Group, Inc. and Elkhart Cardiology, while acting within the scope of their agency and/or employment, breached the applicable standard of care.
22. At all times relevant, Beacon Medical Group and Elkhart Cardiology, by and through their agents and employees, officers, administrators, board and committee members, had a duty to use reasonable care to supervise Doctors Lee and Gonzales and to ensure they were competently and properly caring for and treating their patients while employed by Beacon Medical Group and Elkhart Cardiology.
23. Beacon Medical Group and Elkhart Cardiology, by and through their agents, breached their duty of supervision and were negligent in their supervision of Doctors Lee and Gonzales.
24. As a direct and proximate result of said negligence, Plaintiff suffered and will continue to suffer the injuries and damages set forth in paragraph 17 above.
25. The statute of limitations applicable to the allegations in paragraph 8 above and the concomitant duty to supervise to prevent such conduct, is unconstitutional as applicable to the Plaintiff, as Plaintiff could not be expected to learn of Defendants' conduct within the two-year statute of limitations due to the false statements made by

Doctors Lee and Gonzales and their fraudulent concealment that the catheterization and stenting were unnecessary.

26. Beacon Medical Group and Elkhart Cardiology also fraudulently concealed their negligence from Plaintiff, and engaged in a continuing wrong, thereby extending the statute of limitations.

WHEREFORE, Plaintiff, by counsel, prays for damages against Defendants Beacon Medical Group and Elkhart Cardiology as are reasonable in the premises, the costs of this action, prejudgment interest, and for all other just and proper relief.

**COUNT III AGAINST ELKHART GENERAL HOSPITAL AND
BEACON HEALTH SYSTEM, INC.**

27. Plaintiff incorporates, by reference, as if fully set forth herein, the material allegations of rhetorical paragraphs 1 through 26 above.
28. In caring for and treating Plaintiff, the skilled agents of Elkhart Hospital and Beacon Health System, Inc., while acting within the scope of their agency and employment, breached the applicable standard of care causing the above-mentioned injuries and damages to Plaintiff.
29. At all relevant times, Elkhart Hospital and Beacon Health System, Inc. by and through their agents, employees, officers, administrators, board members, and committee members, had a duty to use reasonable care to supervise, credential, and re-credential Doctors Lee and Gonzales to ensure said physicians were properly and competently caring for and treating their patients, which duties they breached.
30. As a direct and proximate result of the negligent supervision and credentialing of Doctors Lee and Gonzales, Plaintiff sustained injuries and damages as aforementioned.

31. The statute of limitations applicable to the allegations contained in paragraph 8 above (and the concomitant duty to supervise/properly credential) is unconstitutional as applied to the Plaintiff, as Plaintiff could not have reasonably expected to learn the agents of Beacon Health System, Inc. and Elkhart Hospital negligently supervised and credentialed Doctors Lee and Gonzales. Said Defendants also fraudulently concealed their negligence and engaged in a continuing wrong, thereby extending the statute of limitations.

WHEREFORE, Plaintiff prays for damages against Defendants Elkhart Hospital and Beacon Health System, Inc. as are reasonable in the premises, the costs of this action, prejudgment interest, and for all other just and proper relief.

Respectfully submitted,

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