

ASHLEY E PELOQUIN

vs.

DOMENICK BRACCIA

NO. 2015-26259

NOTICE TO DEFEND - CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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(610) 279-9660, EXTENSION 201

ASHLEY E PELOQUIN

vs.

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CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: CHARLES P HEHMEYER, Esq., ID: 48167

Self-Represented (Pro Se) Litigant

Class Action Suit Yes No

MDJ Appeal Yes No

Money Damages Requested

Commencement of Action:

Amount in Controversy:

Complaint

Case Type and Code

Tort: _____

Other _____

Other: MEDICAL MALPRACTICE

RAYNES McCARTY

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Attorneys for Plaintiff

ASHLEY E. PELOQUIN



and

TIMOTHY A. PELOQUIN



PLAINTIFFS

v.

DOMENICK BRACCIA, D.O.

345 Main Street, Suite 4
Harleysville, PA 19438

and

HAVERFORD WELLNESS CENTER, LLC

345 Main Street, Suite 4
Harleysville, PA 19438

DEFENDANTS


: COURT OF COMON PLEAS
: MONTGOMERY COUNTY, PA
: CIVIL ACTION - LAW

: NO.

: **JURY TRIAL DEMANDED**

COMPLAINT
2070-Medical Malpractice

THE PARTIES

1. Plaintiff, Ashley E. Peloquin, is an adult citizen and resident of Pennsylvania who lives
at 

2. Plaintiff, Timothy A. Peloquin, is an adult citizen and resident of New Hampshire who lives at [REDACTED]
3. Defendant, Domenick Braccia, D.O., is an osteopathic physician, licensed to practice medicine in the Commonwealth of Pennsylvania, who is a self-proclaimed “Lyme literate” doctor, specializing in diagnosing and treating Lyme disease. He practices at 345 Main Street, Suite 4, Harleysville, PA 19438. Plaintiffs are bringing a professional malpractice claim against this defendant.
4. Defendant, Haverford Wellness Center, LLC, is a healthcare entity organized and existing under the laws of the Commonwealth of Pennsylvania, with offices located at 345 Main Street, Suite 4, Harleysville, PA 19438. Plaintiffs are bringing a professional malpractice claim against this defendant.
5. At all times relevant hereto, Haverford Wellness Center, LLC, acted by and through defendant, Domenick Braccia, D.O., who was its authorized agent, servant or employee acting within the course and scope of his employment.

BACKGROUND

6. In November 2013, Ashley E. Peloquin, age 20, presented to Haverford Wellness Center (HWC) with a history of intermittent fatigue, joint pain, headaches, muscle weakness, vertigo, insomnia, and possible lapses in attention and memory.
7. At the time, Ms. Peloquin was attending Lancaster Bible College in Lancaster, PA., and was working part time.
8. On November 20, 2013, Ms. Peloquin was seen at HWC by a physician’s assistant, Kenneth R. Baird, PA-C.

9. Ms. Peloquin reported to Mr. Baird that she had received prior treatment for Lyme disease, consisting of 21 days of doxycycline, an antibiotic.
10. Mr. Baird ordered blood testing for Lyme and other parasites and instructed Ms. Peloquin to return in four weeks.
11. On December 11, 2013, Ms. Peloquin again presented to HWC.
12. On December 11, 2013 she saw the defendant, Dr. Braccia. On December 11, 2013, Dr. Braccia's plan was to hold oral antibiotics and "consider" IV antibiotics.
13. On January 9, 2014 she saw PA Baird. On January 9, 2014, PA Baird ordered oral antibiotics.
14. On January 20, 2014, Ms. Peloquin presented again to HWC, and Dr. Braccia had what he terms a "treatment talk" with Ms. Peloquin.
15. In this January 20, 2014, meeting, Dr. Braccia told Ms. Peloquin that she had "late stage" Lyme disease, anaplasmosis, and a mycoplasma infection.
16. Dr. Braccia told Ms. Peloquin that these problems were causing her symptoms, and that, without treatment, she would get worse. Dr. Braccia told Ms. Peloquin that she had failed oral antibiotics and would not get better without long-term intravenous (IV) antibiotics.
17. Dr. Braccia told Ms. Peloquin that Lyme disease (and potentially another organism) had entered her brain and that only IV antibiotic therapy could cross the blood brain barrier and kill the organism(s) responsible for her problems.
18. Dr. Braccia told Ms. Peloquin that she would need a PICC line surgically inserted to provide IV access for the antibiotics.

19. Over the next five months, Dr. Braccia treated Ms. Peloquin with many powerful antibiotics, both by IV and orally.
20. Ms. Peloquin's insurance carrier, Capital Blue Cross, would not pay for this "treatment" because it was well outside the medical standard of care.
21. Plaintiffs, Ashley E. Peloquin and Timothy A. Peloquin, were forced to pay Dr. Braccia/HWC out of pocket for Ms. Peloquin's "treatment." Because Ms. Peloquin did not have adequate funds to pay Dr. Braccia, her father, plaintiff, Timothy A. Peloquin, had to pay.
22. Dr. Braccia's "treatments" cost between \$1,300 and \$1,700 per week.
23. After starting "treatment," Ms. Peloquin began suffering significant side effects, including nausea and vomiting, abdominal pain, weakness, palpitations, anxiety, and ultimately seizures.
24. Dr. Braccia told Ms. Peloquin that she was feeling bad because the antibiotics he administered were killing the Lyme bacteria in her body, which releases toxins. He said that this process was necessary and "you have to get worse to get better."
25. Dr. Braccia told Ms. Peloquin that the reaction she was having is called, in medical parlance, a "herx," and that such patients are described as "herxing."
26. Ms. Peloquin was commuting from Lancaster County to Harleysville, approximately two hours each way, for Dr. Braccia's antibiotic therapy, five days a week.
27. After treatment started, due to symptoms from Dr. Braccia's antibiotic treatment, Ms. Peloquin suffered a serious car accident on the Pennsylvania turnpike.

28. Ms. Peloquin eventually became so ill that she had to stop working, and in February 2014, Dr. Braccia supported Ms. Peloquin reporting to the Pennsylvania Department of Public Welfare that she was disabled from “late stage” Lyme disease.
29. In February/March 2014, Dr. Braccia diagnosed Ms. Peloquin with “Lyme rage.” He prescribed further powerful antianxiety medications to treat this supposed “condition.”
30. Ms. Peloquin became so ill from all the medications that Dr. Braccia had prescribed that in March 2014 she informed Dr. Braccia that she was no longer physically able to commute to his office from Lancaster.
31. At that juncture, Dr. Braccia and his wife and office manager, Kim, advised Ms. Peloquin to begin living in a nearby home that belonged to someone in Kim’s family. They told Ms. Peloquin that if she did not move into this home and continue IV antibiotic treatment she would not get better and likely would get worse.
32. Thus, at the recommendation of Dr. Braccia, Ms. Peloquin began living at this home with some other of Dr. Braccia’s patients who also, according to Dr. Braccia, were “herxing.” Ms. Peloquin was required to pay utility and other expenses there.
33. Eventually, in June 2014, Ms. Peloquin became critically ill. Ms. Peloquin was admitted to Grandview hospital for acute cholecystitis, caused by her chronic antibiotic therapy. She underwent a cholecystectomy.
34. Ms. Peloquin remained in Grandview Hospital for a week while treaters at Grandview essentially detoxed her from the antibiotics that Dr. Braccia had prescribed and addressed their profound concerns that this 20-year-old woman was living in a home controlled by Dr. Braccia and receiving therapy that she not only didn’t need but was dangerous to her.

35. At Grandview Hospital, Ms. Peloquin learned from providers there that Dr. Braccia's diagnosis was not supported by any objective laboratory data and that her antibiotic therapy had been unnecessary. This opinion also was corroborated by an infectious disease specialist in New Hampshire near Mr. Peloquin's home.
36. National consensus Lyme disease diagnosis and treatment standards have been established by, inter alia, the Centers for Disease Control (CDC) and the Infectious Disease Society of America (IDSA), which is the flagship organization for medical specialists in the United States who treat infectious diseases.
37. The medical standard of care is clear that Lyme disease and other like bacterial parasites are treated with an appropriate oral antibiotic, such as doxycycline, for a period of two to three weeks and no longer.
38. Infectious disease experts have extensively studied the notion of "Late Lyme disease," and there are no valid scientific data to support this diagnosis or antibiotic treatment for it.
39. Because qualified laboratories used by the medical community report Lyme disease testing according to generally accepted medical standards, Dr. Braccia sends blood samples for Lyme testing to fringe laboratories that support so-called Lyme literate doctors who wish to treat Lyme disease and other parasites without objective medical data to support the diagnosis.
40. Dr. Braccia sent Ms. Peloquin's blood samples to, inter alia, such a laboratory in an effort to provide sham laboratory support for a fictitious Lyme disease diagnosis.

41. In fact, the laboratory data obtained by Dr. Braccia, even from the fringe laboratory he used, showed no evidence that Ashley E. Peloquin had acute Lyme disease or any other parasite.
42. Dr. Braccia recognizes in his own website that: “Obviously if we can’t clearly prove that an individual’s symptoms are due to infection with Lyme disease, treatment of non-infected individuals can only lead to unnecessary complications, and not help the patient get well. It can even delay further evaluation that may lead to the correct diagnosis.” Nevertheless, Dr. Braccia did just that in Ms. Peloquin’s case, causing her substantial harm, in violation of the medical standard of care.
43. Dr. Braccia has created a medical practice that preys on vulnerable patients who are chronically ill without a diagnosis. The design of the practice is to convince such patients that they have Lyme disease and/or some other parasite, which Dr. Braccia claims will not be recognized by “traditional” doctors and “traditional” medical testing. Dr. Braccia tells such patients that they can only be cured through the use of expensive IV antibiotics.
44. This practice is not covered by medical insurance because all insurers recognize that such “treatment” has never been scientifically validated and is well outside the medical standard of care: In short, there is no proof it is effective, and it poses a significant danger to the patient.
45. When patients become sick from Dr. Braccia’s bogus therapy, he reassures them that the treatment is working by telling them that they are “herxing,” which is a made-up medical concept in this context.

46. Dr. Braccia even induces some of his vulnerable patients, including Ms. Peloquin, to continue paying cash for his bogus treatment by recommending that they stay in a nearby home with other patients; the home is controlled by Dr. Braccia's wife and office manager, creating a cult-like atmosphere where patients are discouraged from seeking outside medical opinions.
47. Dr. Braccia further induces some of his vulnerable patients, including Ms. Peloquin, to continue paying cash for his bogus treatment by recommending that patients see other medical practitioners affiliated with Dr. Braccia, with whom he has a referral relationship. Dr. Braccia knows that such practitioners will discourage patients from leaving his practice.
48. Dr. Braccia further induces some of his vulnerable patients, including Ms. Peloquin, to continue paying cash for his bogus treatment by diagnosing them with "Lyme rage," which is a made-up diagnosis. Dr. Braccia knows or should know that such patients are anxious, not from "Lyme rage," but as a complication from the unnecessary antibiotics he prescribes.
49. Defendants' improper conduct and care caused serious physical, emotional and financial harm to plaintiff Ashley E. Peloquin, including:
 - a. The out-of-pocket payment of fees directed to Dr. Braccia and HWC of over \$30,000 for unnecessary treatment;
 - b. Significant costs for medications that were unnecessary;
 - c. Travel and out-of-pocket expenses that were unnecessary;
 - d. Lost tuition of \$5,000 when Ms. Peloquin had to withdraw from college due to complications from Dr. Braccia's unnecessary and dangerous treatment;

- e. Past and future lost wages;
- f. Past and future medical and counseling expenses relating to injuries suffered as the result of Dr. Braccia's unnecessary and dangerous treatment;
- g. Pain and suffering and loss of life's pleasures;
- h. Scarring and disfigurement;
- i. Loss of Ms. Peloquin's gall bladder, which resulted in unnecessary surgery and ongoing digestive problems;
- j. Post-traumatic stress syndrome;
- k. Motor vehicle damage and emotional distress from Ms. Peloquin motor vehicle accident, which occurred because she lost control of a vehicle on the Pennsylvania Turnpike due to severe symptoms from prolonged IV antibiotics.

50. Defendants' improper conduct and care caused financial harm to plaintiff, Timothy A.

Peloquin, including:

- a. The out-of-pocket payment of fees directed to Dr. Braccia and HWC of well over \$30,000 for unnecessary treatment;
- b. Costs for medications that were unnecessary;
- c. Travel expenses and out-of-pocket expense;
- d. Lost tuition of \$5,000 when Ms. Peloquin had to withdraw from college due to complications from Dr. Braccia's unnecessary and dangerous treatment;
- e. Past and future lost wages;
- f. Past and future medical and counseling expenses relating to injuries Ms. Peloquin suffered as the result of Dr. Braccia's unnecessary and dangerous treatment.

51. The misconduct of the defendants described herein increased the risk of harm to the plaintiffs.

COUNT I
Medical Negligence/Malpractice
Plaintiff Ashley E. Peloquin vs. All Defendants

52. Plaintiff incorporates all of the foregoing allegations herein.

53. Defendants Dr. Braccia and HWC, acting by and through their employees, servants, actual and ostensible agents, acting within the course and scope of their agency and employment, were negligent and careless and breached the medical standard of care in the following respects:

- a. Failing to adhere to the National consensus Lyme disease diagnosis and treatment standards established by, inter alia, the Centers for Disease Control (CDC) and the Infectious Disease Society of America (IDSA).
- b. Breaching the medical standard of care for treatment of Lyme disease and other like bacterial parasites.
- c. Improperly diagnosing plaintiff, Ashley E. Peloquin with “Late Lyme disease” when there are no valid scientific data to support this diagnosis or antibiotic treatment for it.
- d. Sending Ms. Peloquin’s blood samples to an unreliable laboratory that serves so-called Lyme literate doctors in an effort to provide sham laboratory support for a fictitious diagnosis.
- e. Improperly diagnosing Ms. Peloquin with “late stage” Lyme disease, when the laboratory data obtained by Dr. Braccia, even from the fringe laboratory he used,

showed no evidence that Ashley E. Peloquin had acute Lyme disease or any other parasite.

- f. Causing Ms. Peloquin to suffer unnecessary complications from the improper course of treatment prescribed and administered by defendants;
- g. Delaying the correct diagnosis of Ms. Peloquin's symptoms;
- h. Prescribing and administering a medically unproven and potentially dangerous course of treatment for Ms. Peloquin;
- i. Improperly intimidating/persuading Ms. Peloquin to continue the medically unproven and potentially dangerous course of treatment that defendants prescribed;
- j. Improperly informing Ms. Peloquin that she had "Lyme rage," a diagnosis which has no medical or scientific basis;
- k. Improperly inducing Ms. Peloquin to continue taking and paying cash for the medically unproven and potentially dangerous treatment that defendants prescribed and administered;
- l. Inaccurately diagnosing Ms. Peloquin's worsening symptoms as the proper response to the treatment defendants prescribed and administered;
- m. Improperly misleading Ms. Peloquin to believe that her worsening symptoms were a sign that the treatment defendants prescribed and administered was working.

54. Defendants' conduct was wanton, willful and reckless.

55. Defendant, HWC is vicariously liable for the misconduct of Dr. Braccia.

56. Defendants' improper conduct and care caused the serious physical, emotional and financial harm to plaintiff, Ashley E. Peloquin as set forth above and incorporated herein.

WHEREFORE, plaintiff demands of defendants, jointly and severally, a sum in excess of the statutory limit for arbitration and damages under Pennsylvania Rule of Civil Procedure 238, together with lawful interest and cost of suit and brings this action to recover same.

Plaintiff also seeks an award of punitive damages.

COUNT II
Negligent Misrepresentation
Plaintiff, Ashley E. Peloquin v. All Defendants

57. Plaintiff incorporates all of the foregoing allegations herein.

58. Dr. Braccia negligently misrepresented to Ms. Peloquin that she had "late Lyme" disease and Lyme rage.

59. Dr. Braccia failed to disclose to plaintiffs that Ms. Peloquin's laboratory testing did not support such diagnoses.

60. Dr. Braccia failed to disclose that the late Lyme disease diagnosis had been rejected by all relevant national standards organizations, including the CDC and IDSA, and that there is broad consensus in the medical community that the risk of long-term IV antibiotics greatly outweighs any possible benefit of long-term IV antibiotics in her situation and thus was well outside the accepted medical standard of care.

61. Plaintiff, Ashley E. Peloquin, relied to her detriment upon the negligent misrepresentations of the defendants.

62. Such representations were material.

63. Defendant HWC is vicariously liable for Dr. Braccia's negligent misrepresentations.

64. Dr. Braccia's improper conduct and care described above caused serious physical, emotional and financial harm to plaintiff, Ashley E. Peloquin, as set forth above and incorporated herein.

65. Defendants' conduct was wanton, willful and reckless.

WHEREFORE, plaintiff demands of defendants, jointly and severally, a sum in excess of the statutory limit for arbitration and damages under Pennsylvania Rule of Civil Procedure 238, together with lawful interest and cost of suit and brings this action to recover same. Plaintiffs also seek an award of punitive damages.

COUNT III
FAILURE TO OBTAIN INFORMED CONSENT
Plaintiff, Ashley E. Peloquin v. Dr. Braccia

66. Plaintiff incorporates all of the foregoing allegations herein.

67. Dr. Braccia failed to obtain proper informed consent from Ms. Peloquin to place a PICC line and provide IV antibiotics for "late Lyme" disease and Lyme rage. He failed to properly disclose the benefits (which are none) and risks of the treatment he proposed.

68. The placement of a PICC line was surgery, and the administration of IV antibiotics in this situation was use of an approved medication in an experimental manner, as set out in 40 P.S. § 1303.504(a).

69. Dr. Braccia failed to disclose to plaintiff that Ms. Peloquin's laboratory testing did not support such diagnoses.

70. Dr. Braccia failed to disclose that the late Lyme disease diagnosis had been rejected by all relevant national standards organizations, including the CDC and IDSA, and that there is broad consensus in the medical community that the risk of long-term IV antibiotics

greatly outweighs any possible benefit of long-term IV antibiotics in her situation and thus was well outside the accepted medical standard of care.

71. Dr. Braccia's improper conduct and care described above caused serious physical, emotional and financial harm to plaintiff, Ashley E. Peloquin, as set forth above and incorporated herein.

72. Defendant's conduct was wanton, willful and reckless.

COUNT IV
Plaintiff, Timothy A. Peloquin v all Defendants

73. Plaintiff incorporates all of the foregoing allegations herein.

74. The misconduct of the defendants described above, has caused the serious financial harm to plaintiff, Timothy A. Peloquin as set forth above and incorporated herein.

WHEREFORE, plaintiff demands of defendant Dr. Braccia, a sum in excess of the statutory limit for arbitration and damages under Pennsylvania Rule of Civil Procedure 238, together with lawful interest and cost of suit and brings this action to recover same. Plaintiffs also seek an award of punitive damages.

COUNT V
Plaintiffs vs. All Defendants
Punitive Damages

75. Plaintiff incorporates all of the foregoing allegations herein.

76. The misconduct of the defendants, as set forth above, was wanton, willful and done with reckless disregard for the safety of Ashley E. Peloquin.

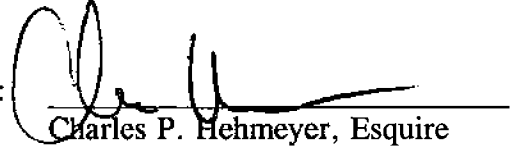
77. The defendants' misconduct was committed when they knew or certainly had reason to know that their acts or omissions created a high degree of risk of physical, emotional and financial harm to plaintiffs and defendants proceeded to act in conscious disregard, or indifference, to that risk.

WHEREFORE, plaintiffs demand of defendants an award of punitive damages.

RAYNES McCARTY

Date: September 29, 2015

BY:


Charles P. Hehmeyer, Esquire
Attorney for Plaintiffs

VERIFICATION

I hereby affirm that the following facts are correct:

The attached Complaint is based upon information I have furnished to my counsel and/or information that has been gathered by my counsel in preparation of the lawsuit. The language of the Complaint is that of counsel and not mine. I have read the Complaint and, to the extent that the Complaint is based on information I have given to our counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, I have relied upon counsel in making this Verification. I hereby acknowledge that the facts set forth in the aforesaid Complaint are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.


Ashley E. Peloquin

Date: 9-15-15

VERIFICATION

I hereby affirm that the following facts are correct:

The attached Complaint is based upon information I have furnished to my counsel and/or information that has been gathered by my counsel in preparation of the lawsuit. The language of the Complaint is that of counsel and not mine. I have read the Complaint and, to the extent that the Complaint is based on information I have given to our counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, I have relied upon counsel in making this Verification. I hereby acknowledge that the facts set forth in the aforesaid Complaint are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.


Timothy A. Pelouquin

Date: 09-15-2015