



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
Case No. N14C-10-087 VLM
IN AND FOR NEW CASTLE COUNTY

NMC-10-087 VLM

[REDACTED] WALLS,
Plaintiff,

v.

DELAWARE SURGERY CENTER, LLC
A Delaware limited liability company,
EDEN HILL SURGICAL GROUP, P.A.,
a Delaware corporation,

Defendants.

C.A. No. N14C-

JURY TRIAL DEMANDED

COMPLAINT

1. The Plaintiff, [REDACTED] Walls, is a resident of the State of Delaware and resides at [REDACTED] Street, Magnolia, Delaware 19962.
2. The Defendant, Delaware Surgery Center, LLC, is a Delaware limited liability company and conducts business at 200 Banning Street, Suite 110, Dover, Delaware 19904.
3. The Defendant Eden Hill Surgical Group, P.A., is a Delaware corporation and can be served via its registered agent, R. Brandon Jones, Esquire, 225 South State Street, Dover, Delaware 19901.
4. On or about October 12, 2012, the Plaintiff was a business invitee and was on the premises of the Defendants to undergo a colonoscopy.
5. At or about the same time and place, the Defendants were responsible for the care of the Plaintiff as he underwent a colonoscopy. In order to facilitate the colonoscopy procedure, the patient was placed under anesthesia under the care and direction of an agent of the Defendants.
6. When the Plaintiff recovered from the effects of the anesthesia administered by Defendants, he awoke to realize that while he was unconscious pink women's underwear had

been placed on his body. When the Plaintiff initially presented for his colonoscopy he had not been wearing pink women's underwear and at no time did the Plaintiff voluntarily, knowingly, or intentionally place the pink women's underwear upon himself.

7. As a result of the Defendants' extreme and outrageous conduct, the Defendants have intentionally or recklessly caused the Plaintiff to experience severe emotional distress.

COUNT I – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

8. The Plaintiff hereby incorporates by referenced paragraphs 1 through 7 of the Complaint the same as if set forth at length herein.

9. The Defendants extreme and outrageous conduct went beyond all possible bounds of decency and, intentionally or recklessly, caused severe emotional distress which caused the present injury and emotional distress to Plaintiff by placing an inappropriate undergarment on the Plaintiff, the Defendants jointly and severally, acting in concert, in a public medical setting with the intent to embarrass and/or harass Plaintiff and to cause extreme and outrageous severe emotional distress and injury to the Plaintiff.

10 The Defendants accepted responsibility for the care and safety of the Plaintiff when the Defendants, and or its agents or employees, in fact, acting in an extreme and outrageous manner which caused, shame, embarrassment, and personal humiliation to the Plaintiff.

11. The Defendants, and/or its agents, and/or its employees, failed to maintain proper policies and procedures for the care of patients with respect to not engaging in extreme and outrageous conduct which caused the Plaintiff severe emotional distress.

12. As a direct and proximate result of the foregoing, the Plaintiff has been caused to incur and pay various expenses for which the Plaintiff is entitled to compensation in this proceeding, along with all recoverable damages as a direct and proximate result of the aforesaid

intentional reckless and outrageous conduct of the Defendants, the Plaintiff has suffered the following injuries and damages:

- (a) Extreme emotional distress, embarrassment, and humiliation;
- (b) Consequential damages.

13. As a result of the Defendants' intentional reckless and outrageous conduct, the Plaintiff is entitled to punitive damages.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally for the intentional infliction of emotion distress, related expenses, consequential damages, punitive damages, interest pursuant to 6 Del.C. §2301(d), and Court costs.

COUNT II - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

14. The Plaintiff hereby incorporates by referenced paragraphs 1 through 13 of the Complaint the same as if set forth at length herein.

15. The Defendants extreme and outrageous conduct negligently caused severe emotional distress which caused the present injury and emotion distress to Plaintiff by placing an inappropriate undergarment on the Plaintiff, the Defendants jointly and severally, acting in concert, negligently and with conscious disregard to the Plaintiff caused severe emotional distress which caused the Plaintiff to lose his employment.

16 The Defendants accepted responsibility for the care and safety of the Plaintiff when the Defendants, and or its agents or employees, in fact, acting in an extreme and outrageous manner which cause, shame, embarrassment, and personal humiliation to the Plaintiff.

17. The Defendants, and/or its agents, and/or its employees, failed to maintain proper policies and procedures for the care of patients with respect to not engaging in extreme and outrageous conduct which caused the Plaintiff severe emotional distress.

18. As a direct and proximate result of the foregoing, the Plaintiff has been caused to incur and pay various expenses for which the Plaintiff is entitled to compensation in this proceeding, along with all recoverable damages as a direct and proximate result of the aforesaid intentional reckless and outrageous conduct of the Defendants, the Plaintiff has suffered the following injuries and damages:

- (a) Extreme emotional distress, embarrassment, and humiliation;
- (b) Consequential damages;
- (c) Mental anguish;
- (d) Lost wages and loss of earning capacity.

19. As a result of the Defendants' intentional reckless and outrageous conduct, the Plaintiff is entitled to punitive damages.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally for the intentional infliction of emotional distress, related expenses, consequential damages, mental anguish, lost wages and loss of earning capacity, punitive damages, interest pursuant to 6 Del.C. §2301(d), and Court costs.

WEIK, NITSCHKE, DOUGHERTY & GALBRAITH

BY: /s/ Gary S. Nitsche
GARY S. NITSCHKE, P.A. I.D. No. 2617
KIADII S. HARMON, ESQ. I.D. No. 5714
305 N. Union Street, Second Floor
P.O. Box 2324
Wilmington, DE 19899
(302) 655-4040
Attorneys for Plaintiff