

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR INGHAM COUNTY

JAMES ST. CLAIR

Plaintiff,

v

JOHN LAURAIN, individually,
EDWARD W. SPARROW HOSPITAL
ASSOCIATION, a domestic nonprofit
corporation d/b/a SMG LANSING
INTERNAL MEDICINE, and
EDWARD W. SPARROW HOSPITAL
ASSOCIATION, a domestic nonprofit
corporation,

Defendants.

COMPLAINT AND JURY DEMAND

File No. 19- 153 -NI

Honorable CLINTON CANADY III

Manvir S. Grewal, Sr. (P48082)
Nolan L. Erickson (P72661)
GREWAL LAW, PLLC
Attorney for Plaintiff
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Okemos, MI 48864
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2019 FEB 26 P 1:55

FILED

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff James St. Clair, by and through his attorneys, GREWAL LAW, PLLC, and for the General Allegations of his Complaint states as follows:

GENERAL ALLEGATIONS AND VENUE

1. Plaintiff James St. Clair ("Plaintiff"), at all times relevant herein, was a resident of the City of Lansing, Ingham County, Michigan.

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2. Defendant John Laurain (“Defendant Laurain”), at all times relevant herein, was an employee at Sparrow Hospital in Lansing, Michigan and was a resident of the City of Mason, Ingham County, Michigan.
3. Defendant Edward W. Sparrow Hospital Association d/b/a SMG Lansing Internal Medicine and Defendant Edward W. Sparrow Hospital Association (collectively “Defendant Sparrow”) is domestic nonprofit corporation authorized and licensed to, and doing business in Ingham County, Michigan.
4. The incidents which are the subject matter of this lawsuit occurred in Ingham County, Michigan.
5. Venue in Ingham County, Michigan is proper pursuant to MCL 600.1621(a), (b) and MCL 600.1627.
6. This Honorable Court has personal jurisdiction over all Defendants in this action pursuant to MCL 600.705.
7. The amount in controversy exceeds the sum of Twenty-Five Thousand (\$25,000) Dollars.

SPECIFIC FACTUAL ALLEGATIONS

8. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.
9. At all times relevant herein, Defendant Laurain was under the direction, supervision, and/or control of Defendant Sparrow as its employee, agent, and/or ostensible agent.
10. At all times relevant herein, Defendant Laurain was board certified in internal medicine.
11. At the time of the incident, Plaintiff had been regularly visiting Defendant Laurain as his primary care physician for approximately two years.
12. Prior to the incident, Defendant Laurain had a disciplinary action filed against him through the Michigan Department of Licensing and Regulatory Affairs (“LARA”) in July of 2011.

dysfunction, however, Plaintiff never complained of erectile dysfunction to Defendant Laurain.

17. On September 21, 2017, Plaintiff was evaluated by Defendant Laurain and presented with a fine tremor affecting both hands. Defendant Laurain again performed a prostate exam without gloves and failed to examine or take a culture of Plaintiff's anal region. Defendant Laurain's notes indicated that Plaintiff had medication induced erectile dysfunction and medication induced tremors, however, Plaintiff never complained of erectile dysfunction to Defendant Laurain.
18. On February 8, 2018, Plaintiff presented again with persisting perianal pain. Defendant Laurain again performed a prostate exam without gloves and failed to examine or take a culture of Plaintiff's anal region.
19. In April of 2018, cultures revealed that Plaintiff had a Methicillin resistant Staphylococcus aureus infection as well as a streptococci infection in his perianal region.
20. At every subsequent appointment after the initial one, Defendant Laurain performed unnecessary and non-indicated prostate exams on Plaintiff without using gloves which caused or contributed to Plaintiff's infections.
21. At every appointment, Defendant Laurain made inappropriate sexual comments and gestures to Plaintiff which included, but was not limited to, pointing out his erection to Plaintiff, showing Plaintiff his Grinder profile, informing Plaintiff that gay men cannot be monogamous, encouraging Plaintiff to engage in sexually promiscuous behavior, sharing his personal sexual information with Plaintiff, and unnecessarily touching Plaintiff's genitals, prostate, and nipples.

COUNT I – Assault and Battery – Defendant Laurain

22. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.
23. The acts committed by Defendant Laurain against Plaintiff described herein constitute assault and battery, actionable under the laws of Michigan.
24. Specifically, Defendant Laurain committed acts which caused injury to Plaintiff by subjecting him to an imminent battery and/or intentional invasion of his rights to be free from offensive and harmful contact, and said conduct demonstrated that Defendant Laurain had a present ability to subject Plaintiff to an immediate, intentional, offensive and harmful touching.
25. During the course of his treatments, Defendant Laurain used his hands to make unlawful and unconsented contact with Plaintiff's body under the guise of medical treatment.
26. While making said inappropriate and unlawful contact with Plaintiff's body, Defendant Laurain would make inappropriate comments and gestures to Plaintiff to signify he was receiving sexual gratification from the inappropriate touching which included, but was not limited to, pointing out his erection to Plaintiff, showing Plaintiff his Grinder profile, informing Plaintiff that gay men cannot be monogamous, encouraging Plaintiff to engage in sexually promiscuous behavior, sharing his personal sexual information with Plaintiff, and unnecessarily touching Plaintiff's genitals, prostate, and nipples.
27. Defendant Laurain assaulted Plaintiff by performing many unnecessary prostate exams without the use of gloves and by intentionally failing to properly treat Plaintiff so that Defendant could continue to examine Plaintiff's anus, scrotum, and perineal area for his own personal pleasure.

28. Defendant Laurain's actions constituted a willful and intentional touching of Plaintiff's person against his will.
29. As a direct and proximate result of Defendant Laurain's sexual assault and battery, Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1) Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6) humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

WHEREFORE Plaintiff James St. Clair makes claim for all non-economic losses and any economic losses exceeding the sum of Twenty-Five Thousand (\$25,000) Dollars. Further, Plaintiff makes claim for any amount that he may be entitled to, plus costs and interest and for whatever amount this Honorable Court may deem just and proper and the nature of this case may allow.

COUNT II – Negligence – Defendant Laurain

30. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.
31. Defendant Laurain was hired and compensated by Defendant Sparrow as a physician to provide medical treatment in internal medicine and thereby was given limited consent to make contact with certain areas of patients' bodies.
32. As such, Defendant Laurain maintained a duty to operate within these consented to parameters and not to commit any unwanted touching and/or sexual assault and battery upon his patients.

33. Defendant Laurain breached this duty by making unlawful and unconsented contact with Plaintiff's genital area without gloves for his own gratification.
34. As a direct and proximate result of Defendant Laurain's negligence, Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1) Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6) humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

WHEREFORE Plaintiff James St. Clair makes claim for all non-economic losses and any economic losses exceeding the sum of Twenty-Five Thousand (\$25,000) Dollars. Further, Plaintiff makes claim for any amount that he may be entitled to, plus costs and interest and for whatever amount this Honorable Court may deem just and proper and the nature of this case may allow.

COUNT III – Invasion of Privacy – Defendant Laurain

35. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.
36. Defendant Laurain intruded upon Plaintiff's seclusion, solitude, and private affairs by sexually assaulting Plaintiff without Plaintiff's consent.
37. Plaintiff's genital area is a secret and private subject matter.
38. Defendant Laurain's method of sexually assaulting and abusing Plaintiff is objectionable to a reasonable person.
39. As a direct and proximate result of Defendant Laurain's invasion of Plaintiff's privacy, Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1)

Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6) humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

40. In the alternative, the actions or inaction of Defendant Laurain was so reckless as to demonstrate a substantial lack of concern for whether an injury would result to Plaintiff and constitutes gross negligence that is the proximate cause of Plaintiff's damages. Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1) Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6) humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

WHEREFORE Plaintiff James St. Clair makes claim for all non-economic losses and any economic losses exceeding the sum of Twenty-Five Thousand (\$25,000) Dollars. Further, Plaintiff makes claim for any amount that he may be entitled to, plus costs and interest and for whatever amount this Honorable Court may deem just and proper and the nature of this case may allow.

COUNT IV – Intentional Infliction of Emotional Distress – Defendant Laurain

41. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

42. Defendant Laurain intentionally and/or recklessly acted with such extreme and outrageous conduct such that any reasonable person would know that emotional distress would result.
43. Due to Defendant Laurain's access to privileged medical information, he knew that Plaintiff was particularly susceptible to emotional distress.
44. Defendant Laurain's conduct went beyond all possible bounds of decency and, as a result, Plaintiff suffered severe emotional distress.
45. As a direct and proximate result of Defendant Laurain's intentional and egregious conduct, Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1) Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6) humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

WHEREFORE Plaintiff James St. Clair makes claim for all non-economic losses and any economic losses exceeding the sum of Twenty-Five Thousand (\$25,000) Dollars. Further, Plaintiff makes claim for any amount that he may be entitled to, plus costs and interest and for whatever amount this Honorable Court may deem just and proper and the nature of this case may allow.

COUNT V – Fraud and Misrepresentation – Defendant Laurain

46. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.
47. Plaintiff had a special relationship with Defendant Laurain given their physician-patient relationship.

48. Given the special relationship, Defendant Laurain had an affirmative duty to disclose and to warn and protect his patients who sought his medical treatment from sexual abuse, assault, and battery.
49. Defendant Laurain committed fraudulent concealment by committing fraud and concealing the existence of Plaintiff's claim at the time Defendant Laurain's sexual assaults occurred by making material misrepresentations to Plaintiff involving a past or existing fact by convincing Plaintiff that the numerous prostate exams performed without gloves was medical "treatment" for a legitimate medical purpose.
50. The material representations made to Plaintiff by Defendant Laurain were false in that he performed many unnecessary prostate exams without gloves for his own sexual gratification.
51. When Defendant Laurain made the material representations, he knew that they were false, in that he knew that the "treatments" were not proper, appropriate, legitimate and/or considered within the standard of care by any physician of any specialty.
52. Defendant Laurain made said material misrepresentations with the intention of inducing Plaintiff's reliance.
53. Plaintiff acted in reliance upon Defendant Laurain's material representations, in that Plaintiff:
 - a. Reasonably believed that the "treatments" were in fact "treatments;"
 - b. Reasonably believed that the "treatments" were proper, appropriate, and legitimate;
 - c. Reasonably did not believe that he had been sexually assaulted;
 - d. Believed that he should continue the "treatments;"

- e. Did not believe that he should question and/or report the conduct to appropriate authorities; and
 - f. Did not reasonably believe that he had and was not aware of a possible cause of action that he had against Defendant Laurain.
54. The actions and/or inactions of Defendant Laurain, as described in the preceding paragraphs, constitute fraudulent concealment.
55. At all times relevant herein, Plaintiff was entirely free of any negligence contributing to his injuries and damages.
56. As a direct and proximate result of Defendant Laurain's fraudulent concealment, Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1) Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6) humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

WHEREFORE Plaintiff James St. Clair makes claim for all non-economic losses and any economic losses exceeding the sum of Twenty-Five Thousand (\$25,000) Dollars. Further, Plaintiff makes claim for any amount that he may be entitled to, plus costs and interest and for whatever amount this Honorable Court may deem just and proper and the nature of this case may allow.

COUNT VI- Respondeat Superior – Defendant Sparrow

57. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

58. At all times relevant herein, Defendant Laurain was employed and working in the course of his employment at Defendant Sparrow's facility.
59. Any negligence on the part of Defendant Laurain while acting as an employee, agent, or ostensible agent is imputed to and becomes the negligence of Defendant Sparrow through the doctrine of respondeat superior.
60. As a direct and proximate result of Defendant Laurain's negligence and Defendant Sparrow's subsequent liability, Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1) Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6) humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

WHEREFORE Plaintiff James St. Clair makes claim for all non-economic losses and any economic losses exceeding the sum of Twenty-Five Thousand (\$25,000) Dollars. Further, Plaintiff makes claim for any amount that he may be entitled to, plus costs and interest and for whatever amount this Honorable Court may deem just and proper and the nature of this case may allow.

COUNT VII – Negligent Hiring, Retention, and Supervision – Defendant Sparrow

61. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.
62. At all times relevant herein, Defendant Laurain was under the direction, supervision, and/or control of Defendant Sparrow as its employee, agent, and/or ostensible agent.

63. A duty of reasonable care for the safety of Defendant Sparrow's patients, patrons, and/or other invitees is imposed upon an employer whose employees are brought into contact with the general public in the course of the company's business.
64. In fulfilling its duty, an employer – in this case, Defendant Sparrow – must use due care to avoid the selection and/or retention of an employee, agent, or ostensible agent whom it knows or should know is a person unworthy, by habits, temperament, or nature to deal with the persons with whom the employees, agents, and/or ostensible agents interact during the normal course of business.
65. An employer's knowledge of past acts of impropriety, violence, or disorder on the part of the employee, agent, or ostensible agent is generally sufficient to forewarn the employer who selects and/or retains such an employee that said employee may eventually cause harm.
66. Upon information and belief, Defendant Sparrow had prior knowledge that Defendant Laurain was using his capacity as a physician to commit sexual assault and battery on patients.
67. Upon information and belief, even after obtaining the knowledge of Defendant Laurain's unlawful actions, Defendant Sparrow took no action to discipline, supervise, and/or terminate Defendant Laurain from his position.
68. As a direct and proximate result of Defendant Sparrow's negligent hiring, retention, and supervision of Defendant Laurain, Plaintiff was seriously injured, sustaining injuries including, but not limited to: (1) Methicillin resistant Staphylococcus aureus infection in the perianal region; (2) streptococci infection in the perianal region; (3) nerve damage; (4) a chronic rash, burning, and scarring in the perianal area; (5) embarrassment; (6)

humiliation; (7) increased anxiety; (8) increased depression; (9) mistrust of doctors; (10) post-traumatic stress disorder with physical manifestations; (11) mental pain and anxiety; (12) past, present, and future medical treatment; (13) psychological harm and injury.

WHEREFORE Plaintiff James St. Clair makes claim for all non-economic losses and any economic losses exceeding the sum of Twenty-Five Thousand (\$25,000) Dollars. Further, Plaintiff makes claim for any amount that he may be entitled to, plus costs and interest and for whatever amount this Honorable Court may deem just and proper and the nature of this case may allow.

JURY DEMAND

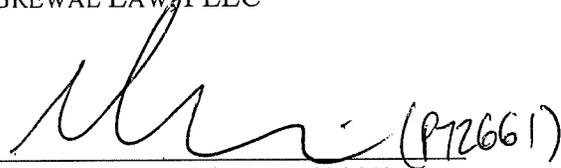
NOW COMES Plaintiff James St. Clair, by and through his attorneys, GREWAL LAW, PLLC, and demands trial by jury in reference to the above-entitled matter.

Respectfully Submitted,

GREWAL LAW, PLLC

Dated: February 26, 2019

By:

 (P72661)
Manvir S. Grewal, Sr. (P48082)
Nolan L. Erickson (P72661)
Attorneys for Plaintiff