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COUNTY OF COOK COUNTY)
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STATE OF ILLINOIS)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

JACQUELINE GRAYCZYK,)
)
)
 Plaintiff,)
) 2023L008815
 v.)
)
)
 VERNON T. CANNON, M.D.,)
 DUPAGE MEDICAL GROUP LTD,)
 MIDWEST PHYSICIAN ADMINISTRATIVE)
 SERVICES, LLC, DULY HEALTH AND)
 CARE,)
)
 Defendants.)

COMPLAINT AT LAW

NOW COMES the plaintiff, JACQUELINE GRAYCZYK, by her attorneys in this regard, Hurley McKenna & Mertz, and as her Complaint at Law against defendants VERNON T. CANNON, M.D., DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE, she states as follows:

FACTS COMMON TO ALL OF PLAINTIFF JACQUELINE GRAYCZYK'S ALLEGATIONS

1. Plaintiff JACQUELINE GRAYCZYK is an adult female and was a gynecological and obstetrical patient of Defendant VERNON T. CANNON, M.D.
2. Plaintiff JACQUELINE GRAYCZYK had been a longstanding patient of DUPAGE MEDICAL GROUP, LTD.'s obstetrics and gynecology practice and first saw VERNON T. CANNON, M.D. in approximately March of 2011.

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3. Defendant VERNON T. CANNON, M.D, examined plaintiff during prenatal exams while pregnant with her first child who was born in November 2011 and while pregnant with her second child who was born in August 2014.

4. Defendant and Plaintiff scheduled an appointment in March of 2011.

5. During that appointment with Defendant VERNON T. CANNON, M.D, Plaintiff observed that Defendant VERNON T. CANNON, M.D. appeared to be intoxicated and/or impaired.

6. Plaintiff observed that Defendant VERNON T. CANNON, M.D. slurred his speech.

7. Plaintiff observed that Defendant VERNON T. CANNON, M.D. would shift between “very hyper or very tired” behavior within the same appointment.

8. Plaintiff observed that Defendant VERNON T. CANNON, M.D. would abruptly leave the examination room for about 10 minutes in the middle of the appointment without any explanation.

9. During one of Plaintiff’s prenatal appointments in 2011, Defendant VERNON T. CANNON, M.D. swirled his fingers inside Plaintiff’s vagina without gloves, without sanitizing his hands, and without using proper medical tools.

10. During the aforementioned prenatal appointments, Defendant VERNON T. CANNON, M.D., rubbed his hands down Plaintiff’s leg and exclaimed, “spread them girl” prior to conducting the gynecological examinations.

11. During one of the aforementioned prenatal exams, Defendant VERNON T. CANNON, M.D. conducted a breast examination on Plaintiff without her consent.

12. While Plaintiff was in labor with her first child, plaintiff waited a long period of time for Defendant VERNON T. CANNON, M.D. to come to the hospital.

13. When Defendant VERNON T. CANNON, M.D. finally arrived to Plaintiff’s hospital room, he appeared with his shirt half-unbuttoned.

14. Defendant VERNON T. CANNON, M.D. failed to wash his hands or wear gloves while he examined Plaintiff.

15. Defendant and Plaintiff scheduled a gynecological appointment on January 14, 2014.

16. During that appointment, Defendant VERNON T. CANNON, M.D. again failed to follow proper hygiene protocol during a vaginal exam.

17. Plaintiff experienced an abnormal level of pain when Defendant VERNON T. CANNON, M.D. performed routine procedures.

18. The relationship between Plaintiff and Defendant VERNON T. CANNON, M.D. as her OBGYN and the relationship with Defendants DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE as her medical providers was built on trust, respect, and reliance such that it constitutes a special relationship as defined by Illinois law.

19. Based on the above described special relationship, Plaintiff could not have anticipated that Defendant VERNON T. CANNON would examine her while drunk.

20. Based on the above described special relationship, Plaintiff could not have anticipated that Defendants DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE would have allowed Defendant VERNON T. CANNON to examine Plaintiff while drunk.

21. In fact, after Plaintiff's disturbing encounters with Defendant VERNON T. CANNON, M.D. on the above referenced appointments, Plaintiff expressed her concerns to staff at Defendant DUPAGE MEDICAL GROUP LTD and filled out an online survey.

22. Staff at Defendant DUPAGE MEDICAL GROUP LTD. informed Plaintiff that they would investigate the matter and follow-up with Plaintiff.

23. DUPAGE MEDICAL GROUP LTD. never followed-up with Plaintiff, invalidated Plaintiff's concerns, never took action against Defendant VERNON T. CANNON, M.D., and concealed the Defendants wrongdoing from Plaintiff.

24. Plaintiff subsequently learned of VERNON T. CANNON, M.D.'s history of practicing while intoxicated and concluded that CANNON was intoxicated during her appointments with him.

25. Under no circumstances would Plaintiff have consented to medical care provided by an intoxicated physician.

26. The medical exams described above and any associated touching was unwanted by Plaintiff.

27. All physical contact initiated by VERNON T. CANNON, M.D. while intoxicated and/or impaired was unwanted, unwelcomed, harmful, and damaging to Plaintiff and was done without Plaintiff's consent.

28. Defendant VERNON T. CANNON, M.D. knew or should have known that his contact with Plaintiff while intoxicated and/or impaired was unwanted, unwelcomed, harmful, and/or damaging to the Plaintiff.

COUNT I – BATTERY/LACK OF INFORMED CONSENT –
VERNON T. CANNON, M.D.

1-28. Plaintiff re-states and re-incorporates paragraphs 1-28 of "Facts Common to All Counts" as and for paragraphs 1-28 of this Count.

29. As a physician, VERNON T. CANNON, M.D. owed Plaintiff a duty to not perform exams and consults while intoxicated and/or impaired.

30. VERNON T. CANNON, M.D. breached that duty and battered and failed to obtain the Plaintiff's informed consent when he:

- a. Performed an exam and consult while intoxicated;
- b. Made contact with Plaintiff while intoxicated;
- c. Performed an exam and consult while impaired;
- d. Made contact with Plaintiff while impaired;
- e. Engaged in unwanted, unwelcomed, harmful, and/or damaging touching while intoxicated when Plaintiff was in a particularly vulnerable position and unable to defend herself; and
- f. Failed to disclose to Plaintiff he was intoxicated.

31. Defendant VERNON T. CANNON, M.D. breached his duty of care to Plaintiff when he engaged in intoxicated medical examinations during her pregnancies in 2011 and 2014. As a proximate cause of the acts described above, Plaintiff suffered personal and pecuniary damages, including but not limited to pain and suffering, preeclampsia, and loss of normal life.

WHEREFORE, the Plaintiff, JACQUELINE GRAYCZYK, by and through Plaintiff's attorneys, Hurley McKenna & Mertz, prays for damages against defendant VERNON T. CANNON, M.D. in a sum in excess of \$50,000.00, plus the costs of suit, and all other relief permitted by law.

**COUNT II – NEGLIGENCE – INSTITUTIONAL NEGLIGENCE –
DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE
SERVICES, LLC, and DULY HEALTH AND CARE**

1-28. Plaintiff re-states and re-incorporates paragraphs 1-28 of "Facts Common to All Counts" as and for paragraphs 1-28 of this Count.

29. As a sophisticated medical practice, employing doctors in a variety of medical practices,

Defendants owed its patient, JACQUELINE GRAYCZYK, a duty to implement policies and procedures, screen physicians, and supervise physicians so as to prevent battery by gynecologists, including VERNON T. CANNON, M.D.

30. Beginning by at least 2018, Defendant VERNON T. CANNON, M.D. was regularly consuming alcohol before, during and after work and practicing as a gynecologist while intoxicated.

31. Records in the possession of Defendant DUPAGE MEDICAL GROUP, LTD. document two instances of patients complaining about VERNON T. CANNON, M.D.'s drinking while providing medical care and at least two additional instances calling into question his professionalism.

32. DUPAGE MEDICAL GROUP, LTD. sends patients surveys following appointments.

33. Those surveys allow for patients to rate physicians and staff and to make comments about their medical care.

34. In 2018, a patient complained that Dr. Cannon "was under the influence of alcohol. He was slurring his words and had a strong odor of an alcoholic beverage coming from his breath."

35. A subsequent entry, the 16th of approximately 90 entries for 2018, indicates that the patient "will never recommend" Dr. Cannon.

36. In the 17th entry for 2018, a patient described VERNON T. CANNON, M.D. as "very unprofessional."

37. On January 8, 2019, a patient described VERNON T. CANNON, M.D. as, "he was very difficult to understand when he finally came in and seemed to be slurring when talking to me. He was nice but he did not instill me with confidence of being a reliable doctor. I hope he is not on call when I have my baby. I would not feel good about it at all."

38. Though VERNON T. CANNON, M.D.'s drinking appears to have been reported to DUPAGE MEDICAL GROUP, LTD. in 2018, DUPAGE MEDICAL GROUP, LTD. did nothing with those reports in terms of an investigation.

39. Then, on September 18, 2019, Dr. Kevin Most of Northwestern, emailed Donald Hoscheit of DuPage Medical Record the following:

Don, some major concerns have been raised recently with Dr. Cannon. I am at a point where I feel I need to bring him in and get him assessed. I am wondering if DMG would rather do that now for 2 reasons, one you would have the information needed and two it would stay off his record here at CDH. This is the second concern that has been raised about concern that he has been drinking.

40. Had DUPAGE MEDICAL GROUP, LTD. investigated, they would have learned that VERNON T. CANNON, M.D. had been charged with two counts of Domestic Violence on April 1, 2016.

41. Had DUPAGE MEDICAL GROUP, LTD. investigated, they would have learned that Warrenville Police Department responded to a neighbor calling 911 at an apartment complex in Warrenville, Illinois.

42. The Warrenville Police Department went to the apartment and identified a victim of domestic abuse with "visible injuries to her face" and "blood in various locations from the bed to the carpet and into the hallway and bathroom."

43. Ultimately, the Warrenville Police Department identified Vernon T. Cannon, M.D. as the perpetrator and contacted the Arlington Heights Police Department to detain Vernon T. Cannon, M.D.

44. The Warrenville Police Department also described that both the victim and Dr. Cannon were "drinking bourbon" prior to the incident.

45. Photographs depict injuries to the face of the victim and injuries to the hand of Dr. Cannon.

46. Vernon T. Cannon, M.D. was arrested and charged with two counts of Domestic Violence: Count I: “Knowing and without legal justification, made physical contact of a provoking nature with [the victim], an individual the defendant has a child in common with, in that said defendant placed his hands upon the face of [the victim.]”

47. Count II read as follows: “Knowingly and without legal justification, caused bodily harm to [the victim], an individual the defendant has a child in common with, in that said defendant struck [the victim] in the face with his hands causing bloody and puffy lips.”

48. Had DUPAGE MEDICAL GROUP, LTD. investigated, they would have learned that VERNON T. CANNON, M.D. lied at least twice in his April 17, 2017 response to the Health Care Professionals Recredentialing and Business Data Gather Form.

49. Specifically, DUPAGE MEDICAL GROUP, LTD. would have learned that Vernon T. Cannon, M.D. lied when he responded “No” to the following question: “Have you been charged with or convicted of a crime (other than a minor traffic offense) in this or any other state or country and/or do you have any criminal charges pending other than minor traffic offenses in this state or any other state or country.”

50. VERNON T. CANNON, M.D.’s “no” answer was false because he had been charged with a crime in 2016.

51. DUPAGE MEDICAL GROUP, LTD. would also have learned that Vernon T. Cannon, M.D. lied when he responded “No” to the following question: “Have you been the subject of a civil or criminal complaint or administrative action or been notified in writing that you are being investigated as the possible subject at a civil, criminal or administrative action regarding sexual misconduct, child abuse, domestic violence or elder abuse?”

52. VERNON T. CANNON, M.D.'s "no" answer was false because he had been charged with two counts of domestic violence.

53. On or about July 6, 2011, just prior to giving birth to her second child on July 12, 2011, another patient of Defendants VERNON T. CANNON, M.D. and DUPAGE MEDICAL GROUP, LTD. reported to Stuart C. Heimbürger, M.D. of Defendant DUPAGE MEDICAL GROUP, LTD. that during an appointment at the Bloomingdale office she observed the following concerning behavior from Defendant VERNON T. CANNON, M.D. during previous prenatal exams: slurred speech, glassy eyes, the inability to answer simple questions, and/or signs of impairment or intoxication.

54. On or about July 6, 2011, in response to the report of the above described concerning behavior exhibited by Defendant VERNON T. CANNON, M.D., Stuart C. Heimbürger, M.D. and Defendant DUPAGE MEDICAL GROUP, LTD. dismissed her concerns by stating, Defendant VERNON T. CANNON, M.D. is "not everyone's cup of tea" and that she "should brush it off".

55. Had Stuart C. Heimbürger, M.D. and Defendant DUPAGE MEDICAL GROUP, LTD. not dismissed their patient's concerns and investigated the above described conduct of Defendant VERNON T. CANNON, M.D. that was observed during prenatal exams, Defendant DUPAGE MEDICAL GROUP, LTD. would have learned that Defendant VERNON T. CANNON, M.D. was treating women while intoxicated and/or impaired by at least July 2011 and forward.

56. An obstetrician has a duty to practice obstetrics sober.

57. An intoxicated obstetrician poses a particular risk to women of engaging in non-consensual touching, including but not limited to, sex acts.

58. Medical professional publications indicate that approximately one-half of sexual assault cases involve alcohol consumption by either the perpetrator, the victim, or both.

59. Other surveys of literature demonstrate that alcohol consumption in men is positively associated with sexual assault perpetration.

60. As a sophisticated medical group, DUPAGE MEDICAL GROUP, LTD. knew or should have known that alcohol consumption by a physician, particularly an obstetrician, posed a threat to his female patients.

61. As a sophisticated medical group, DUPAGE MEDICAL GROUP, LTD. knew or should have known that a gynecology patient could not and would not consent to examinations by a physician in either an intoxicated state or with a history of examining women while intoxicated.

62. For these, and other reasons, Defendant DUPAGE MEDICAL GROUP, LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE owed a duty to ensure that its obstetricians, including VERNON T. CANNON, M.D. practiced medicine sober and did not engage in non-consensual touching and/or sexual contact with patients, including Plaintiff.

63. At all times relevant hereto, Defendants DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE owed a duty to operate its institution and practice in a reasonably careful manner.

64. Defendants DUPAGE MEDICAL GROUP, LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE breached that duty when it allowed Defendant VERNON T. CANNON, M.D. to engage in intoxicated medical examinations during her pregnancies in 2011 and 2014.

65. DUPAGE MEDICAL GROUP, LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE breached their duty and were negligent as an institution in one or more of the following ways:

- a. Failed to adopt policies and procedures requiring chaperones to be present with Dr. Cannon during gynecological examinations;
- b. Failed to adopt policies and procedures requiring chaperones to be present with Dr. Cannon during examinations in light of the history of complaints of his intoxication and his unprofessionalism;
- c. Failed to adopt policies and procedures that protected patients from unwanted touching by Vernon T. Cannon, M.D.;
- d. Failed to conduct any investigation into Dr. Cannon after patients reported his apparent intoxication;
- e. Failed to follow its own procedures in investigating Dr. Cannon;
- f. Failed to take any remedial measures to address Dr. Cannon's drinking and, instead, allowed him to continue to practice obstetrics and gynecology.
- g. Negligently managed its practice and the physicians within the practice.

66. As a proximate result of the acts or omissions described above, Plaintiff suffered personal and pecuniary damages, including but not limited to pain and suffering and loss of normal life.

67. Plaintiff did not and could not discover her cause of action against these Defendants until January of 2023 because these Defendants:

- a. Were in sole possession of the documents confirming they had notice of Dr. Cannon's intoxication while practicing;
- b. Fraudulently concealed those documents from the public from the time of the documents' creation to the present day;
- c. Allowed Dr. Cannon to continue to practice while knowing he was intoxicated while providing medical care;

- d. Failed to disclose to Plaintiff that their physician, Dr. Vernon Cannon, routinely practiced while intoxicated;
- e. Otherwise covered up and concealed their liability.

68. As such, both the statute of limitations and statute of repose are tolled by the fraudulent and deceptive acts by Defendants, all of which were meant to conceal this and other Plaintiff's causes of action.

69. Accordingly, both the statute of limitations and statute of repose in this case have been and continue to be tolled and the Complaint is timely filed.

WHEREFORE, the Plaintiff, JACQUELINE GRAYCZYK, by and through Plaintiff's attorneys, Hurley McKenna & Mertz, prays for damages against defendant DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE in a sum in excess of \$50,000.00, plus the costs of suit, and all other relief permitted by law.

COUNT III – NEGLIGENCE – DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE – NEGLIGENT SUPERVISION AND RETENTION

1-61. Plaintiff re-asserts and re-alleges Paragraphs 1-61 of Count II as and for Paragraphs 1-61 of this Count.

62. At all times relevant to this Complaint, Defendants DUPAGE MEDICAL GROUP LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE had a duty to behave reasonably carefully when it came to supervising and retaining physicians.

63. Defendants DUPAGE MEDICAL GROUP, LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE breached that duty

when it allowed Defendant VERNON T. CANNON, M.D. to engage in intoxicated medical examinations during her pregnancies in 2011 and 2014.

64. DUPAGE MEDICAL GROUP, LTD., MIDWEST PHYSICIAN ADMINISTRATIVE SERVICES, LLC, and DULY HEALTH AND CARE breached their duty in one or more of the following ways:

- a. Negligently retained Dr. Cannon when it knew or should have known he had engaged in inappropriate relationships with patients prior to his assault of Plaintiff;
- b. Negligently retained Dr. Cannon when it knew or should have known he had been reported as under the influence and/or slurring his words while examining patients;
- c. Failed to adequately supervise Vernon T. Cannon, M.D. during his examination of Plaintiff;
- d. Failed to adequately supervise Vernon T. Cannon, M.D. during his examination of Plaintiff in light of his history of conducting examinations of women while intoxicated;
- e. Otherwise failed to adequately supervise its physicians.

65. As a proximate result of the acts or omissions described above, Plaintiff suffered personal and pecuniary damages, including but not limited to pain and suffering and loss of normal life.

66. Plaintiff did not and could not discover her cause of action against these Defendants until January of 2023 because these Defendants:

- a. Were in sole possession of the documents confirming they had notice of Dr. Cannon's intoxication while practicing;

- b. Fraudulently concealed those documents from the public from the time of the documents' creation to the present day;
- c. Allowed Dr. Cannon to continue to practice while knowing he was intoxicated while providing medical care;
- d. Failed to disclose to Plaintiff that their physician, Dr. Vernon Cannon, routinely practiced while intoxicated;
- e. Otherwise covered up and concealed their liability.

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HURLEY MCKENNA & MERTZ

By: /s/Christopher C. Cortese
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