

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO

BARBARA B. RICHARDS AND
R. L. RICHARDS
c/o Cooper Elliott
305 West Nationwide Boulevard
Columbus, Ohio 43215,

Plaintiffs,

v.

ORTHOPEDIC ONE, INC.
c/o Taft Service Solutions Corp.
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

and

MILAN BENDER HERCEG, M.D.
4605 Sawmill Road
Columbus, Ohio 43220

and

JOHN DOE CORPORATIONS #1-5
Names and addresses
unknown to Plaintiff

and

JOHN DOE PHYSICIANS #1-5
Names and addresses
unknown to Plaintiff,

Defendants.

Case No.

Judge

JURY DEMAND
ENDORSED HEREIN

COMPLAINT

This case arises from the damage suffered by Barbara B. Richards and R. L. Richards due to medical negligence.

THE PARTIES

1. Plaintiff Barbara B. Richards is an individual who is a resident and citizen of Franklin County, Ohio.

2. Plaintiff R. L. Richards is an individual who is a resident and citizen of Franklin County, Ohio. R. L. is Barbara's husband.

3. Defendant Orthopedic One, Inc. is a for-profit corporation with its principal place of business in Franklin County, Ohio. Orthopedic One employed physicians, fellows, residents, interns, nurses, technicians, administrators, and other personnel to evaluate, care for, and treat patients at hospitals, clinics, and outpatient facilities throughout Ohio, at all times relevant to this action.

4. At all times relevant to this action, Defendant Orthopedic One acted through its agents, employees, and independent contractors, including physicians, fellows, residents, interns, nurses, technicians, administrators, and other personnel, each of whom was acting within the course and scope of his or her employment and authority when he or she provided medical care and treatment to Barbara B. Richards. At all times relevant to this action, the acts and omissions performed by agents, employees, and independent contractors of Defendant Orthopedic One were within the scope of their express, implied, or apparent authority as agents of Orthopedic One.

5. At all times relevant to this action, Defendant Orthopedic One held itself out to the public as a provider of medical services and offered care and treatment through its actual or ostensible agents and employees to those in need of health care. At all times relevant to this action, Defendant Orthopedic One represented to the public that the physicians and nurses who provided care possessed the degree of skill, knowledge, and ability ordinarily possessed by reasonably competent physicians and nurses. Barbara B. Richards, and providers who treated Barbara B. Richards, relied on those representations.

6. At all times relevant to this action, Defendant Milan B. Herceg, M.D., was domiciled in Ohio, was duly licensed to practice medicine in Ohio, had a principal place of business in Franklin County, Ohio, and held himself out as a medical doctor as he received and treated patients for consideration. At all times relevant to this action, Dr. Herceg was employed by Defendant Orthopedic One, and he was acting within the course and scope of his employment and authority when he provided medical care and treatment to Barbara B. Richards.

7. The true names and capacities of John Doe Physicians #1-5, John Doe Nurses #1-5, and John Doe Employees #1-5 are unknown to Plaintiffs at this time, and Plaintiffs have accordingly sued these unknown Defendants under said fictitious names. When the true names of said John Doe Physicians #1-5, John Doe Nurses #1-5, and John Doe Employees #1-5 have been ascertained, Plaintiffs will seek leave to amend the Complaint accordingly. Plaintiffs are informed and believe that the John Doe Defendants are legally responsible for the events and occurrences herein described and that the John Doe Defendants caused injuries and damages to Barbara B. Richards.

8. At all times relevant to this action, John Doe Corporations #1-5 were professional corporations, or other legal entities, incorporated or acting under the laws of the State of Ohio, which employed physicians, residents, nurses, and other personnel to evaluate, care for, and treat patients of John Doe Corporations #1-5. The true names and capacities of John Doe Corporations #1-5 are unknown to Plaintiffs at this time and Plaintiffs have accordingly sued these unknown Defendants under said fictitious names. When the true names of said John Doe Corporations have been ascertained, Plaintiffs will seek leave to amend the Complaint accordingly. Plaintiffs are informed and believe that John Doe Corporations are legally responsible for the events and

occurrences herein described, and that John Doe Corporations caused injuries and damages to Barbara B. Richards.

9. Jurisdiction and venue are proper in this Court because Defendants practiced medicine, reside, and/or have their principal places of business in Franklin County; Defendants committed acts causing tortious injury to Plaintiffs in Franklin County; and/or because all or part of the claims arose in Franklin County.

JURISDICTION, VENUE & AFFIDAVIT OF MERIT

10. This Court has jurisdiction under R.C. 2305.01.

11. Pursuant to Ohio Civil Rules of Procedure 3(C)(1), (2), (3), and (6), venue is proper in Franklin County, Ohio.

12. The damage suffered by Barbara and R.L. Richards exceeds \$25,000.

13. Pursuant to Ohio Rule of Civil Procedure 10(D), one or more Affidavits of Merit are attached.

FACTS

14. In May 2024, Barbara and R. L. were on vacation in Italy when Barbara began experiencing extreme lower back pain that radiated down her legs and feet.

15. Barbara underwent conservative interventions and saw no clinical improvement.

16. In May 2024, Barbara had an MRI that revealed degenerative changes with severe spinal canal stenosis.

17. Meanwhile, she also had a consultation with Defendant Dr. Milan Herceg, and he recommended surgery.

18. Prior to the surgery, Dr. Herceg did not obtain a complete history of Barbara's back pain, did not evaluate the conservative interventions attempted and Barbara's response to those, and did not order a bone density test despite evidence of scoliosis caused by degenerative disease.

19. On July 9, 2024, Barbara underwent a L4-5 posterolateral fusion; L3,L4,L5 lumbar laminectomy decompression, and L3-L5 posterior instrumentation, performed by Dr. Herceg.

20. Sometime during or after the surgery, a pedicle screw became misplaced.

21. Dr. Herceg failed to diagnose the misplaced pedicle screw, even though Barbara bled significantly postoperatively.

22. After the surgery, Barbara continued to complain of pain to Dr. Herceg, seeking follow-up care from Dr. Herceg.

23. On August 22, 2024, Dr. Herceg performed another procedure on Barbara, a lumbar wound dehiscence, but still failed to diagnose the misplaced pedicle screw.

24. So, for several months, Dr. Herceg failed to diagnose the misplaced pedicle screw, even though Barbara was suffering from and complained of significant pain and nerve issues down her back and lower extremities.

25. Finally, on December 18, 2024, a neurosurgeon at The Ohio State University Wexner Medical Center discovered the misplaced pedicle screw.

26. Since, Barbara has undergone significant treatment, including a major revision surgery at The Ohio State University Wexner Medical Center.

COUNT ONE: MEDICAL NEGLIGENCE

27. Defendants, jointly and severally, negligently and/or recklessly fell below the accepted standard of care, skill, and diligence for health care providers and medical provider employees in their diagnostic care and medical treatment of Barbara B. Richards. Specifically, the Defendants, individually and through their physicians, nurses, technicians, aides, administrators, staff, and employees, were negligent and not reasonably careful in their care and treatment of Barbara B. Richards under the circumstances and thus failed to meet the accepted standard of care, skill, and diligence by, among other things, failing to timely and properly diagnose Barbara B.

Richards' condition and failing to timely and properly monitor and treat Barbara B. Richards postoperative care. Defendants were negligent in other respects as well.

28. By virtue of the doctrine of *respondeat superior* or the doctrine of agency by estoppel, Defendant Orthopedic One is liable for the negligent acts and omissions of their employees and agents, including, but not limited to, the medical personnel identified in this Complaint.

29. As a direct and proximate result of Defendants' failures to meet the accepted standards of care, Barbara B. Richards suffered permanent and severe injuries, as well as, physical pain, loss of chance of survival, mental anguish, and fear of impending death.

30. As a further direct and proximate result of Defendants' failures to meet the accepted standards of care, Barbara B. Richards has incurred economic loss, as well as hospital, medical, and other related expenses.

31. This claim seeks damages exceeding \$25,000.

COUNT TWO: LOSS OF CONSORTIUM

32. As a result of their misconduct, Defendants are liable to Barbara B. Richards' husband, R. L. Richards, for his loss of consortium.

33. As a direct and proximate result of Defendants' misconduct toward Barbara B. Richards, R. L. Richards has suffered damages, including, but not limited to, deprivation of the services, society, comfort, and companionship of Barbara.

34. This claim seeks damages exceeding \$25,000.

WHEREFORE, for each claim, Plaintiffs demand compensatory damages in an amount exceeding Twenty-Five Thousand Dollars (\$25,000), punitive damages in an amount to be determined at trial, attorneys' fees, and any other relief to which it may be entitled, including the costs of this action.

Respectfully submitted,

/s/ Rex H. Elliott

Rex H. Elliott (0054054)

Abigail F. Chin (0097928)

Cooper Elliott

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Attorneys for Plaintiffs

Barbara and R.L. Richards

JURY DEMAND

Pursuant to Rule 38(B) of the Ohio Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury.

/s/ Rex H. Elliott

AFFIDAVIT OF MERIT

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO

Barbara Richards, et al.,

Plaintiffs,

v.

Orthopedic One, Inc., et al.

Defendants.

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:
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Case No.

Judge

AFFIDAVIT OF MERIT
ANAND VEERAVAGU, M.D

I, Anand Veeravagu, M.D., hereby state under oath and penalty of perjury as follows:

1. I am licensed to practice medicine in the state of California, and I devote at least one-half of my professional time to active clinical practice in my field of licensure.
2. I graduated from Johns Hopkins University and Stanford University School of Medicine in 2009. I am board certified in Neurological Surgery. I am the current director of Minimally Invasive NeuroSpine Surgery, Associate Professor of Neurosurgery and Orthopedic Surgery at Stanford University School of Medicine, and Team Neurosurgeon for the San Francisco 49ers. I have specialized knowledge, skill, experience, training, and education regarding the diagnosis, care and treatment of individuals like Barbara Richards.
3. I have reviewed the reasonably available pertinent medical records and imaging studies concerning Barbara Richards; specifically, records from Central Ohio Primary Care, Orthopedic One, OhioHealth Dublin Methodist Hospital, Ohio Orthopedic Surgery Center, Real Time Neuromonitoring Associates, and Ohio State University Wexner Medical Center.
4. I am providing this affidavit based on my review of the pertinent medical records together with my education, training and experience.
5. I am familiar with the standard of care applicable to the evaluation, diagnosis, care and treatment of individuals who, like Barbara Richards, have signs and symptoms like

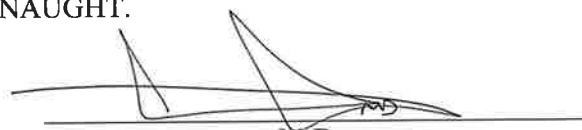
those noted in her medical records. Throughout my medical career I have treated patients with spinal canal stenosis, including performing posterolateral fusion, lumbar laminectomy decompression and posterior instrumentation surgical procedures.

6. Based on my education, training and experience, and within a reasonable degree of medical probability, it is my opinion that Milan Herceg, M.D. and the Defendants who provided care and treatment at Orthopedic One, Inc., who are identified in the complaint to which this affidavit is attached, fell below accepted standards of care in their care and treatment of Barbara Richards by failing to timely and properly diagnose Barbara Richards' condition and failing to timely and properly monitor and treat her postoperative case.

7. Further, to a reasonable degree of medical probability, this negligence proximately caused serious injury to Barbara Richards.

8. It is my understanding that to the extent this affidavit is required to establish the adequacy of the complaint, it shall not otherwise be admissible as evidence or used for purposes of impeachment.

FURTHER AFFIANT SAYETH NAUGHT.


Anand Veeravagu, M.D.

Sworn to before me and subscribed in my presence this 30th day of May, 2025.

See Attached Certificate

Notary Public

CALIFORNIA ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

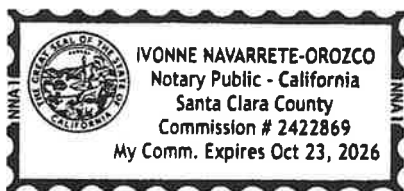
State of California }

County of SANTA CLARA

On MAY 30, 2025 before me, IVONNE NAVARRETE - OROZCO
Date Here Insert Name and Title of the Officer

personally appeared ANAND VEERAYAGU
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature

Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: AFFIDAVIT OF MERIT ANAND VEERAYAGU, M.D.

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____