

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**PHYLLIS SICARD, INDIVIDUALLY, AND
ON BEHALF OF THE WRONGFUL DEATH
BENEFICIARIES OF MARY KAY THOMPSON**

PLAINTIFF

VS.

CIVIL ACTION NO. 3:21-cv-464-KHJ-FKB

**SELECT SPECIALTY HOSPITAL-
JACKSON, INC.; and JOHN DOES 1-10**

DEFENDANTS

COMPLAINT

JURY TRIAL REQUESTED

COMES NOW, Plaintiff, Phyllis Sicard, Individually, and on Behalf of the Wrongful Death Beneficiaries of Mary Kay Thompson, and files this civil action against the above-named Defendants, and in support thereof, Plaintiff would state as follows:

PARTIES

1. Plaintiff, Phyllis Sicard (hereinafter “Plaintiff”) is an adult resident citizen of St. Landry Parish, Louisiana, residing at 9745 Hwy 105, Melville, LA 71353. She is the natural daughter of Mary Kay Thompson, Deceased.

2. Defendant, Select Specialty Hospital-Jackson, Inc. (hereinafter “Defendant” or “Select”) is and was at all times relevant hereto a profit corporation licensed by the state of Mississippi. Per the Mississippi Secretary of State, its’ members are David S. Chernow, Scott A. Romberger, Michael E. Tarvin, and John F. Duggan, all residents of Mechanicsburg, Pennsylvania.

Defendant Select may be served with process of the Summons and Complaint through its registered agent, CT Corporation System, located at 645 Lakeland East Dr, Ste 101, Flowood, Mississippi 39232.

3. Defendant John Does 1-10 are unknown individuals and/or entities that may be liable to Plaintiff for the damages alleged herein. The names and capacities of Defendants John Does 1-10 inclusive, whether individual, corporation or otherwise, are presently unknown to Plaintiff, who therefore sues said Defendants by fictitious names and will further seek leave of court to amend this Complaint to show their true names and capacities when and if the same are ascertained. Plaintiff alleges upon information and belief that each of the Defendants designated herein as a John Doe may be responsible in some manner and liable herein to Plaintiff by reason of negligence, gross negligence, wanton and reckless conduct, and/or in some other manner, and by such wrongful conduct, said Defendants John Does 1-10, proximately caused or contributed to the injury and damage to Mary Kay Thompson as set forth herein.

JURISDICTION AND VENUE

4. Jurisdiction and venue are vested in this Court pursuant to 28 U.S.C. § 1332, as there is diversity of citizenship between Plaintiff, a Louisiana resident and Defendant. Furthermore, the total amount in controversy exceeds \$75,000.00.

STATUTORY COMPLIANCE

5. Proper written notice of intention to file this action has been provided to Defendant, via certified mail return receipt requested, pursuant to the Miss. Code Ann. §15-1-36 (15). *See Plaintiff's Notice of Intention to Sue and Certified Mail Receipts, attached hereto as Exhibit "A."*

6. Further attached hereto is a Certificate of Consultation pursuant to the requirements of Miss. Code Ann. §11-1-58(1)(a).

FACTS

7. On May 11, 2019, Ms. Mary Kay Thompson (“Ms. Thompson”) was transported from Neshoba County General Hospital to St. Dominic Jackson Memorial Hospital (“St. Dominic”) located in Jackson, Mississippi, for complaints of bilateral lower extremity weakness and bilateral hand numbness/tingling.

8. Ms. Thompson was admitted to the facility for further work-up, and physicians ultimately determined Ms. Thompson’s presentation was consistent with Guillain Barre. She was intubated, and a tracheostomy was subsequently placed on May 21st. A PEG tube was also placed on May 23rd to address her ongoing nutritional needs.

9. On June 6, 2019, Ms. Thompson was transferred to Select Specialty Hospital – Jackson (“Select”) for additional medical management, specifically to be weaned from the ventilator. During her admission to Select, she developed pressure sores, which continued to worsen during the course of her treatment.

10. Ms. Thompson’s condition further deteriorated until August 22nd when she was transferred back to St. Dominic for surgical intervention to her wounds (i.e., incision and drainage by general surgery).

11. Upon re-admission to St. Dominic, it was discovered that Ms. Thompson had lower extremity wounds with cellulitis and a suspected abscess to the right thigh. The infection in her sacral decubitus tracked to her right hip. Sputum cultures were also taken, which were positive for Pseudomonas, E.coli, and Klebsiella pneumoniae.

12. Ms. Thompson remained hospitalized at St. Dominic until her death on September 11, 2019. The death certificate attributes her death to septic shock secondary to abdominal and groin abscess. *See Mary Kay Thompson's Death Certificate attached hereto as Exhibit "B."*

13. At all times material herein, Defendant Select was a medical treatment facility engaged in the business of providing medical care and treatment by and through its approved medical staff, agents, servants, and/or employees. At all times material herein, specifically on June 6 – August 22, 2019, the medical and nursing staff that provided care and treatment to Mary Kay Thompson were agents, servants, or employees of Defendant Select and were acting in the course and scope of that employment and/or agency relationship.

CAUSES OF ACTION

14. Plaintiff reasserts all previous statements as if fully stated herein.

15. At all times relevant to this cause of action, Defendant owed Mary Kay Thompson a duty to provide accurate and timely medical diagnoses and treatment based on all known or knowable circumstances. Defendant further owed to Mary Kay Thompson a duty to exercise that degree of medical care of a reasonably prudent person, as well as that degree of skill, care, and competence normally exercised by minimally competent, reasonably prudent healthcare providers under the same or similar circumstances. Defendant failed to exercise the requisite degree of care, were negligent, and breached said duties owed to Mary Kay Thompson. As a direct result of the negligence of Defendant, Mary Kay Thompson suffered an untimely and painful death on September 11, 2019.

16. Plaintiff alleges that at all times material herein, Defendant Select, by and through its medical staff, nursing staff, employees and/or agents, had a non-delegable duty to Mary Kay

Thompson to:

- a. Provide health care services consistent with national and state standards through its employed and/or approved medical staff, nurses, and all other medical personnel;
- b. Hire, train and staff physicians, nurses, and other medical personnel who provide health care services consistent with the nationally recognized minimum standards of competency;
- c. Maintain, implement and enforce adequate standards, policies, and procedures for credentialing physicians, nurses, and other medical personnel to provide competent medical care and for the provision of care by its properly credentialed physicians and medical personnel to properly diagnose and treat conditions such as those presented by Mary Kay Thompson from June 6 – August 22, 2019; and
- d. Maintain, implement and enforce adequate standards, policies, and procedures to ensure proper physician and nurse oversight and safeguards to protect patient health and welfare.

17. Defendant Select, as well as its employees and/or agents, breached each of the duties set out above, which were owed to Mary Kay Thompson.

18. Defendant Select is legally responsible for the tortious conduct of each of its' employees and/or agents, under the legal doctrines of *respondeat superior* and ostensible agency.

19. Additionally, Plaintiff asserts that the actions and/or inactions of Defendant evidence such reckless conduct as to be deemed gross negligence under the applicable laws of the state of Mississippi.

20. The negligence, gross negligence, and/or reckless conduct of Defendant in failing

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