

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Donna Houck,)	CIVIL ACTION NO.:
)	
Plaintiff,)	
)	
v.)	<u>COMPLAINT</u>
)	<i>(Jury Trial Requested)</i>
)	
Low Country Health Care System,)	
Inc.,)	
)	
Defendant.)	
_____)	

COMES NOW Donna Houck for causes of action against the Defendant and herein alleges, based on information and belief:

JURISDICTION & VENUE

1. This action is brought pursuant to the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2671 *et seq.*, against the Low Country Health Care System, Inc., which vests exclusive subject matter jurisdiction of Federal Tort Claims litigation in the Federal District Court.

2. Venue is proper in the Aiken Division pursuant to 28 U.S.C. §§ 1391(b)(1) and/or 1391(b)(2), as well as 28 U.S.C. § 1391(e)(1), because the Defendant Low Country Health Care System (“LCHCS”) is a healthcare organization that operates a primary care practice in the Town of Fairfax and has its headquarters and principal place of business in Allendale County of the State of South Carolina.

3. At all times relevant hereto, Defendant LCHCS was an entity receiving federal grant money from the United States Public Health Service pursuant to 42 U.S.C. §§ 254b, 254c, 256, or 256a. Pursuant to 42 U.S.C. § 233(h), the United States Department of Health and Human Services has deemed Defendant LCHCS to be an

employee of the federal government only for purposes of coverage under the Federal Tort Claims Act, 28 U.S.C. §§ 2671, *et seq.*, effect for acts and omissions effective January 1, 2011 through December 31, 2011.

NATURE OF THE ACTION

4. That at all times relevant hereto, Dr. Robert Jones was a physician employed by and under the control of Defendant LCHCS, and that at all times relevant to this complaint, Dr. Jones was acting on behalf of and within the scope of his employment or relationship with Defendant LCHCS.

5. That on or about September 19, 2011, the Plaintiff presented to Defendant LCHCS for medical care and treatment, was escorted back to a private examination room, and was left alone to wait for Defendant LCHCS to assign a physician to provide the Plaintiff with care and treatment.

6. That on September 19, 2011, Dr. Jones was tasked with providing the Plaintiff with care and treatment on behalf of Defendant LCHCS.

7. That Dr. Jones approached Plaintiff but began walking back and forth from the examination room to the hallway looking both ways.

8. That Plaintiff was concerned about the odd conduct of Dr. Jones and walked into the hall to discern what Dr. Jones was doing and why.

9. That upon Dr. Jones' return to the examination room, he approached Plaintiff and placed his hand in Plaintiff's face, creating fear and anxiety.

10. That Dr. Jones began improperly touching, molesting, and groping Plaintiff's breasts and vagina without her consent.

11. That Dr. Jones then began walking in and out of the examination room indicating he desired to examine Plaintiff while she was unattended by a female nurse or medical assistant.

12. That Dr. Jones returned to the examination room and proceeded to again sexually assault the Plaintiff, grabbing Plaintiff's breasts and placing his hand in her underwear.

13. That Plaintiff attempted to escape but Dr. Jones yelled at her that she needed to get a blood test.

14. That when Plaintiff advised that the blood test had been done, Dr. Jones began to look at her file and Plaintiff perceived this is a chance to escape, gathering her coat and purse and walked out of the room.

15. That as Plaintiff attempted to leave the building, Dr. Jones rapidly approached her.

16. As Plaintiff was in fear of being assaulted again, Plaintiff slapped Dr. Jones and ran to her car seeking safety in an attempt to leave the premises.

17. That, upon information and belief, Dr. Jones has been charged with criminal assault and battery offenses as a result of his elicited actions that occurred on September 19, 2011.

18. That Defendant LCHCS was aware and had knowledge of numerous accounts of improper elicited actions, including sexual advances, improper touching, groping, and molestations, by Dr. Jones but nonetheless continued to employ and permit him to practice medicine at Defendant LCHCS's facility in the Town of Fairfax, South Carolina.

PARTIES

19. Plaintiff Donna Houck is a citizen and resident of the County of Bamberg in the State of South Carolina.

20. At all times relevant hereto, Defendant LCHCS acted through its agent, representative and employee, Dr. Robert Jones.

21. At all times relevant hereto, the Defendant and its aggregates, corporates, associates, and partners, and was the agent, servant, employee, assignee, and representative, was acting within the times, purpose, course and scope of such relationship; and all acts or omissions alleged herein of Dr. Jones were authorized, adopted, approved, or ratified by the Defendant.

**STATUTORY BASIS OF LIABILITY AGAINST
LOW COUNTRY HEALTH CARE SYSTEM**

22. This case is brought against the Low Country Health Care System pursuant to 28 U.S.C. § 2671 *et seq.*, commonly referred to as the “Federal Tort Claims Act”. Defendant LCHCS was an entity receiving federal grant money from the United States Public Health Service pursuant to 42 U.S.C. §§ 254b, 254c, 256, or 256a. Pursuant to 42 U.S.C. § 233(h), the United States Department of Health and Human Services has deemed Defendant LCHCS to be an employee of the federal government only for purposes of coverage under the Federal Tort Claims Act, 28 U.S.C. §§ 2671, *et seq.*, effect for acts and omissions effective January 1, 2011 through December 31, 2011. Liability of Defendant LCHCS is predicated specifically on 28 U.S.C. §§ 1346(b)(1) and 2674 because the personal injuries and resulting damages that form the basis of this Complaint, were proximately caused by the negligence, wrongful acts and/or omissions of employees of the United States of America through its agency, Low Country Health Care System. These employees were acting within the course and scope of their office or

employment, under circumstances were the United States of America, if a private person, would be liable to the Plaintiff in the same manner and to the same extent as a private individual under the laws of the State of South Carolina.

23. Pursuant to 28 U.S.C. § 2675, this claim was presented to the appropriate agency of Defendant, namely the United States Department of Health and Human Services (“DHHS”) on August 24, 2015 for the claims of Plaintiff Linda Lee. Plaintiff was informed that the DHHS denied her administrative tort claim on January 22, 2019.

FIRST CAUSE OF ACTION
(Negligence)

24. The above paragraphs are re-alleged as if repeated verbatim.

25. That the Defendant LCHCS was negligent, grossly negligent, reckless, and wanton in one or more of the following particulars:

- a. In failing to provide adequate care and treatment to the Plaintiff;
- b. In failing to provide a safe and respectful environment;
- c. In failing to exercise reasonable care for the safety and well-being of the Plaintiff;
- d. In failing to properly supervise and entrust its employees, agents, and individuals under their control;
- e. In failing to conduct and adequately investigate allegations of illicit actions at the Defendant LCHCS’s facility;
- f. In failing to discipline and/or remove Dr. Jones from his position;
- g. In failing to properly respond to the victims of Dr. Jones illicit actions;
- h. In failing to exercise that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances; and
- i. In such other particulars as the evidence may establish.

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