

IN THE CIRCUIT COURT FOR DALE COUNTY, ALABAMA

ANN WAYMAN, surviving spouse)
of CHARLES R. WAYMAN, deceased)

Plaintiffs,)

v.)

CHARLES A. WOOD, M.D.;)
OZARK INTERNAL MEDICINE)
AND PEDIATRICS, P.C. and)
DAVID CLAASSEN, M.D.)

Defendants.)

No. _____

JURY DEMAND

COMPLAINT

Comes now the Plaintiff, and for cause of action shows as follows:

PARTIES

1. Plaintiff Ann Wayman is a resident of Ariton, Dale County, Alabama. She is the surviving spouse of Charles R. Wayman, who died on December 30, 2004 from complications of Rocky Mountain Spotted Fever which Defendants negligently failed to diagnose and treat.

2. Defendant Charles A. Wood. M.D. is a resident of Ozark, Alabama. He may be served with process at 218 Hospital Ave., Suite A, Ozark, AL 36360.

3. Defendant Ozark Internal Medicine and Pediatrics, P.C. is an Alabama corporation that may be served with process by service on its registered agent Charles A. Wood, M.D., 1194 E. Andrews Ave, Ozark, AL 36360. Plaintiff avers Defendant Charles A. Wood. M.D. was an employee or agent of

Ozark Internal Medicine and Pediatrics, P.C. and is thus liable under the principle of *respondeat superior*.

4. Defendant David Claassen, M.D is a resident of Ozark, Alabama. Drive, Ozark, AL 36360. He may be served with process at 126 Hospital Avenue, Ozark, Alabama 36360.

FACTUAL BACKGROUND

5. This is a medical malpractice wrongful death case that arises from the failure of Defendants to diagnose and treat Charles Wayman within the standard of care by negligently failing to administer life-saving antibiotics to treat Rocky Mountain Spotted Fever (RMSF). Charles Wayman died on December 30, 2004 from Rickettsial disease that caused vascular injury and multiple pulmonary emboli. (Autopsy findings, December 30, 2004).

6. On December 18, 2004 Mr. Wayman presented to the Dale Medical Center emergency room (ER) with complaints of “body aches” and “vomiting.” He was released with a clinical impression of gastroenteritis, dehydration and diabetes mellitus.

7. On December 19, 2004 Mr. Wayman presented to the Dale Medical Center ER with a temperature of 99.3° and pulse of 124. He reported complaints of increased vomiting, fever and weakness. He was seen by ER physician Dr. Claassen and was admitted to the hospital by Dr. Wood as the treating physician.

8. Upon admission the “Initial Interview” medical record recorded: “Left, scratch exterior approx 4 inches in length no s/s [signs or symptoms] of

infection dry to touch. Small 14 [1/4] inch scab top side of left foot. Pt. states "It itched last night—I thought something bit me."

9. On December 20, 2006 nurse Donna Flake noted at 1530 that Mr. Wayman "has rash to trunk, legs, red spots." At 1958 Nurse Flake noted "no change in rash on body."

10. Mr. Wayman continued to run a fever (e.g., 103.4° at 2000 on 12/21) and was reported "shaking".

11. On December 22nd nursing notes recorded (at 1627) that a "red patch" was "noted on pt's left side" and (at 1747) "redness to left side of back, rash to entire body" and rash location was "red, trunk, arms, leg."

12. Fever, a red rash, and weakness are the hallmarks of a disease caused by a tickbite: Rocky Mountain Spotted Fever.

13. Dr. Wood discharged Mr. Wayman on December 23, 2006 with a diagnosis of dehydration and gastroenteritis.

14. On December 24, 2006 Mr. Wayman returned to the Dale Medical Center ER and was seen by Dr. Claassen. His feet were swelling and he reported a fever and vomiting. He was also seen by Dr. Wood. Dr. Claassen told Mr. Wayman and his wife he (Dr. Claassen) was pretty sure Mr. Wayman had Rocky Mountain Spotted Fever. Dr. Wood examined Mr. Wayman and admitted him to the hospital. Dr. Wood ordered tests for Rocky Mountain Spotted Fever and Lyme disease on the morning on December 24, 2004. Dr. Wood's History and Physical outlined, as part of the treatment plan "Going to get viral titers, lyme titers, nasal swab for viral culture."

15. Despite the strong suspicion (and clinical evidence) for Rocky Mountain Spotted Fever, neither Dr. Claassen or Dr. Wood prescribed the appropriate antibiotic to treat the disease. This was a violation of the standard of care and CDC Guidelines. CDC Guidelines, in place and active as of December 2004 provided as follows:

“Rocky Mountain spotted fever

Treatment

Appropriate antibiotic treatment should be initiated *immediately* when there is a suspicion of Rocky Mountain spotted fever on the basis of clinical and epidemiologic findings. Treatment should *not* be delayed until laboratory confirmation is obtained.

If the patient is treated within the first 4-5 days of the disease, fever generally subsides within 24-72 hours after treatment with an appropriate antibiotic (usually a tetracycline) . . .

Doxycycline (100 mg every 12 hours for adults or 4 mg/kg body weight per day in two divided doses for children under 45 kg [100 lbs]) is the drug of choice for patients with Rocky Mountain spotted fever. Therapy is continued for at least 3 days after fever subsides and until there is unequivocal evidence of clinical improvement, generally for a minimum total course of 5 to 10 days. Severe or complicated disease may require longer treatment courses. Doxycycline is also the preferred drug for patients with ehrlichiosis, another tick-transmitted infection with signs and symptoms that may resemble Rocky Mountain spotted fever. “ (emphasis in original)

Available at:

<http://web.archive.org/web/20041019075825/http://www.cdc.gov/ncidod/dvrd/rmsf/Treatment.htm>

16. Charles Wayman did not receive tetracycline or doxycycline despite the fact that titers were ordered to test for the presence of the disease.

17. Charles Wayman died while a patient at Dale Medical Center on December 30, 2006. An autopsy performed on December 30, 2006 by Dr. Kim M.

Parker included a test for RMSF IgG titers which conclusively proved the presence of the disease (test result was 1:2048; positive test is anything greater than 1:256).

18. The autopsy concluded that “the immediate cause of death was multiple pulmonary thromboemboli, with subsequent respiratory and cardiovascular collapse. Rickettsial disease [RMSF] with early vascular injury vascular injury was most likely the underlying process that led to the development of thromboemboli.”

19. Defendants’ substandard treatment was a direct and proximate cause of Mr. Wayman’s death. Specifically, with proper care, diagnosis and timely treatment in accordance with the standard of care Mr. Wayman would have received timely and life-saving medical treatment, including administration of appropriate antibiotics. Unfortunately, because of Defendants’ negligence and proximal delay, Mr. Wayman’s condition became critical and he died an unnecessary and preventable death.

WRONGS COMPLAINED OF DEFENDANTS

20. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth herein.

21. Defendants were negligent, in general, and were negligent as set forth in the preceding paragraphs. Defendants were further negligent in the following general respects:

- A. Failing to obtain an adequate medical history, particularly the history of a bite on the foot;

- B. Failing to review the medical records which revealed the presence of a bite;
- C. Failing to perform an adequate physical examination, including examining the patient for a bite;
- D. Failing to administer proper antibiotics in accordance with the standard of care;
- E. Failing to diagnose Rocky Mountain Spotted Fever; and
- F. Failing to treat the patient with appropriate antibiotics given the clinical evidence and suspicion for Rocky Mountain Spotted Fever.

22. At the time of his death, Mr. Wayman was 67 years old. In accordance with Alabama law, Plaintiff sues for punitive damages for the wrongful death of Charles Wayman.

WHEREFORE premises considered, Plaintiff prays that Defendants be served with process and answer herein, and that a jury of twelve (12) be empanelled to hear the case.

Respectfully Submitted,

LAW OFFICES OF WILLIAM C. MADDOX, P.C.

By: _____

William C. Maddox
567 West Main Street
Dothan, Alabama 36303
Telephone: (334) 678-8100

David Randolph Smith
LAW OFFICES OF DAVID RANDOLPH SMITH
& EDMUND J. SCHMIDT, III
1913 21st Avenue South
Nashville, Tennessee 37212
Phone: (615) 742-1775