

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT OF FLORIDA, IN
AND FOR PALM BEACH COUNTY

CASE NO: 50-2017-CA-006290XXXXMB

JANE COSTELLO,

Plaintiff,

vs.

SELECT SPECIALTY
HOSPITAL – PALM BEACH, INC., and
PUBLIC HEALTH TRUST OF MIAMI-
DADE COUNTY d/b/a JACKSON
MEMORIAL HOSPITAL,

Defendants.

MOTION TO AMEND COMPLAINT AS A MATTER OF COURSE

COMES NOW the Plaintiff, JANE COSTELLO, amends her Complaint as a matter of course, pursuant to Florida Rule of Civil Procedure 1.190(a), and adds Defendants, JFK Medical Center (West Palm Hospital and JFK Medical Center) and Palms West Hospital, and as grounds therefore states as follows:

1. This is a hospital-acquired pressure ulcer lawsuit involving serious injury to JANE COSTELLO. The Defendants in this action are the owners/operators of the hospitals that provided care to JANE COSTELLO during her skin breakdown.
2. The Plaintiff timely initiated the statutorily required pre-suit against all hospital Defendants. At the request of JFK and Palms West's attorney, the Plaintiff agreed to a voluntary extension of the pre-suit period against those Defendants. Plaintiff then completed its pre-suit period with the Select and Jackson Defendants, and filed its initial Complaint on or around June 6, 2017, naming Jackson and Select as Defendants.

3. Plaintiff did not serve this Complaint.
4. The presuit period with JFK and Palms West has now ended. Plaintiff now amends its original Complaint as a matter of course to add the above referenced Defendants.
5. Pursuant to Florida Rule of Civil Procedure 1.190(a), Plaintiff hereby amends its Complaint and files its Amended Complaint (*attached as Exhibit A*) as a matter of course and pursuant to the rule, the Amended Complaint is hereby filed on the date of this filing.
6. The trial of this case is not set. No responsive pleading has been filed at the original Complaint and the original Complaint was not served on any party. No Defendant will be prejudiced by the granting of this Amendment.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to all Counsel on the attached list, this 10th day of August, 2017.

/s/ Michael J. Brevda, Esq.

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IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT OF FLORIDA, IN
AND FOR PALM BEACH COUNTY

CASE NO: 50-2017-CA-006290XXXXMB

JANE COSTELLO,

Plaintiff,

vs.

JFK MEDICAL CENTER LIMITED
PARTNERSHIP d/b/a JFK MEDICAL
CENTER NORTH CAMPUS a/k/a WEST
PALM BEACH HOSPITAL f/k/a
COLUMBIA HOSPITAL, also d/b/a JFK
MEDICAL CENTER, PALMS WEST
HOSPITAL LIMITED PARTNERSHIP,
SELECT SPECIALTY
HOSPITAL – PALM BEACH, INC., and
PUBLIC HEALTH TRUST OF MIAMI-
DADE COUNTY d/b/a JACKSON
MEMORIAL HOSPITAL,

Defendants.

AMENDED COMPLAINT

COMES NOW, the Plaintiff, JANE COSTELLO, by and through undersigned counsel, and hereby sues the Defendants, JFK MEDICAL CENTER LIMITED PARTNERSHIP (hereafter “JFK MEDICAL CENTER”), PALMS WEST HOSPITAL LIMITED PARTNERSHIP (hereafter “PALMS WEST HOSPITAL”), SELECT SPECIALTY HOSPITAL – PALM BEACH, INC. (hereafter “SELECT SPECIALTY HOSPITAL”), and PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY d/b/a JACKSON MEMORIAL HOSPITAL (hereafter “JACKSON MEMORIAL HOSPITAL”), and alleges:

JURISDICTIONAL ALLEGATIONS

1. This is an action for medical malpractice which resulted in severe injuries to JANE COSTELLO.

2. The amount in controversy exceeds \$15,000.00, exclusive of interest and costs.

3. Venue is proper in this Circuit because the Defendant Hospitals are located in Palm Beach County, Florida and the events/medical care on which this claim is based occurred in Palm Beach County, Florida.

4. JANE COSTELLO, is an adult resident of Palm Beach County, Florida.

5. The Defendants, JFK MEDICAL CENTER, SELECT SPECIALTY HOSPITAL and PALMS WEST HOSPITAL, are businesses organized and existing under the laws of the State of Florida. Said Defendants were doing business in Palm Beach County in the State of Florida, as for-profit hospitals.

6. JACKSON MEMORIAL HOSPITAL is a non-profit entity doing business as a hospital, organized and existing under the laws of the State of Florida. Notice to the sovereign entity was given in accordance with F.S. Sect. 768.28 and the claim was denied.

7. This action is being filed within the applicable statute of limitations, pursuant to Fla. Stat. Ch. 766 and 768.

8. All conditions required pursuant to Chapter 766 and 768, Florida Statutes, have been met or waived.

FACTS GIVING RISE TO THIS ACTION

BEFORE COSTELLO'S HOSPITALIZATIONS

9. In April of 2015, JANE COSTELLO was living independently. Ms. Costello had recently relocated to Florida after leaving her position as an Epidemiologist at the Arkansas Department of Health. She handled her own shopping, meal preparation and activities of daily living and was alert and oriented times three. Ms. Costello had a 2-year history of lymphedema with prior placement of a spinal cord stimulator, and subsequently an intrathecal pump for pain control.

10. In April of 2015, she began experiencing back pain. On April 24, 2015, she presented to Dr. Marc Slonimski's office for back and lower extremity pain. She had weakness in her lower extremities, but had not lost control of her bladder or bowel. Notably, her skin was intact and free of pressure ulcers.

11. She followed up with Dr. Slonimski on April 28, 2015 after receiving a Medrol dose pack. The swelling in her feet and ankles had improved and she had better sensation in her legs. Her skin remained intact with no pressure ulcers or skin breakdown.

12. On April 29, 2015, Dr. Slonimski performed an intrathecal catheter dye study at West Palm Hospital to look at Ms. Costello's intrathecal pump malfunction. During the procedure, Ms. Costello was lying on her stomach, and the doctor noted zero redness or skin breakdown to Ms. Costello's sacrum.

13. Dr. Slonimski saw Ms. Costello again on May 7, 2015. She presented to his office with right leg numbness, but she could ambulate. After a full physical examination, it was confirmed that Ms. Costello suffered no pressure ulcers or redness to her backside.

14. On May 12, 2015, Jane Costello was transported by ambulance to West Palm Hospital at 16:24 (4:24 PM) due to difficulty with walking and urinary retention. The Palm Beach County Fire Rescue team did not note any skin breakdown.

WEST PALM HOSPITAL

15. Upon her May 12, 2015 admission to West Palm Hospital, Ms. Costello was examined at 16:48 (4:48 PM) and her skin was noted to have “no rashes, warm/dry” with no pressure ulcers, redness or bedsores noted.

16. Ms. Costello was admitted as an inpatient at West Palm Hospital. At 20:30 (8:30 PM) that same day, Ms. Costello was examined by Dr. Chad Saunders and Dr. Katerina Erokhina. The examining physicians noted her skin to be “dry, intact with no gross abnormalities.” No pressure ulcers were noted.

17. Unfortunately, Jane Costello was neglected while hospitalized and not turned or positioned timely in bed. As a result, she developed a Stage III pressure ulcer on her sacrum and redness on her left buttocks. These wounds were first noted on May 13, 2015. It is only after these wounds developed that an order was given to turn and reposition the patient every 2 hours.

18. On May 14, 2015, it was decided that Ms. Costello needed to be transferred to JFK Medical Center for neurosurgical evaluation. In the discharge summary, there is no mention of her pressure sores or the treatment orders relative to the pressure sores.

19. Ms. Costello was then transferred by EMS transport from West Palm Beach Hospital to JFK Medical Center on May 15, 2015 at 10:35 AM.

JFK MEDICAL CENTER

20. Upon admission to JFK, Ms. Costello's open wounds were noted, but no initial nursing orders related to repositioning or a special pressure bed were given. Further, the JFK admission assessment was silent on any skin abnormalities and failed to document the wounds sizes and stages.

21. Ms. Costello was neglected at JFK Medical Center and her skin breakdown worsened. It was noted on May 16, 2015 by Nurse "MF" that Ms. Costello is "unable to turn side to side."

22. On May 20, 2015, Dr. Christian Cesa notes that Ms. Costello's sacral pressure ulcer is "not grossly infected", "no surgery at this time required", and that Ms. Costello is to be transferred to Jackson Memorial Hospital.

JACKSON MEMORIAL HOSPITAL

23. On May 21, 2015, Ms. Costello was transferred to Jackson Memorial. Unfortunately, at Jackson, Ms. Costello was neglected and her skin breakdown worsened.

24. While at Jackson, Ms. Costello had multiple sacral pressure sore debridements and a diverting colostomy as a result of the wound.

JFK MEDICAL CENTER, PART II

25. On July 7, 2015, Ms. Costello was transferred to JFK Medical Center “primarily to continue care and address the sacral decubitus ulcer.” The wound was described as an “extensive, large sacral decubitus, stage 4.”

26. At JFK she underwent more surgical debridements. It was then confirmed that the sacral pressure ulcer tested positive for bacterial infection. Ms. Costello was then discharged on July 17, 2015 to Select Specialty Hospital.

SELECT SPECIALTY HOSPITAL

27. At Select Specialty Hospital, Ms. Costello’s skin breakdown deteriorated. She underwent further painful debridement of the wound, as well as a Flap surgery on the sacral wound.

28. On September 2, 2015, Ms. Costello was discharged from Select Hospital to Palms West Medical Center.

PALMS WEST MEDICAL CENTER

29. Upon admission to Palms West, Ms. Costello was noted to have a large stage 4 sacral pressure sore as well as a large stage 4 left ischial pressure sore.

30. On September 3, 2015, she underwent an excisional closing of the sacral pressure sore and the left ischial pressure sore, performed by Dr. Jeroen Balledux. She was then transferred to ICU on a ventilator with a diagnosis of sepsis from her wounds.

31. Following her September wound surgeries, proper care was not performed by Palms West nurses and the surgically-closed sacral pressure sore re-opened into a 13 x 10.5 cm

wound, with a depth of 30 cm, 23 cm of tunneling and bloody discharge noted. As a result, more painful bedsore debridements were performed.

32. By November 10, 2015, Jane Costello's sacral wound encompassed her entire buttocks and sacrum, and was larger than the hospital measurement ruler. *See, 11/10/15 sacral decubitus ulcer photo, Exhibit A.*

33. On November 25, 2015 Ms. Costello was noted to have a new wound on her right superior leg (behind the knee) which was open to the bone.

34. On January 26, 2016, Ms. Costello was noted to have a worsening new left heel wound that is expanding in size. Photographs of the new heel pressure sore show a 4x3 cm wound with the skin still intact.

35. By February 23, 2016, Dr. Xavier Sanchez was called in to begin 'more aggressive wound care' to the new heel wound. He staged the heel bedsore as a stage 2 at the time.

36. Ms. Costello underwent further debridements of the sacral bedsore. By March 15, 2016, the wound was infected yet again, only 8 days after Infectious Disease signed off on the patient as being clear of pressure sore infection.

37. On April 7, 2016, Dr. Xavier Sanchez performed an operation on the newly acquired heel pressure sore. Dr. Sanchez notes that this new heel wound is a stage 4 ulcer with concern for osteomyelitis. She underwent another left heel debridement and application of a Wound Vac on April 26, 2016. On April 29, 2016, Dr. Panupong confirmed that this left heel wound has osteomyelitis (infection down to the bone).

38. Upon her April 29, 2016 discharge, Ms. Costello suffered from stage 4 pressure ulcers on her sacrum, ischium, and left heel.

39. She was transferred to the Consulate of West Palm Beach nursing home, where she resides to this day, due to her pressure ulcers.

40. Unfortunately, JANE COSTELLO was neglected while hospitalized and developed multiple Stage IV hospital-acquired pressure ulcers, a “never event” in healthcare.¹

JANE COSTELLO WAS A VULNERABLE ADULT DURING HER HOSPITALIZATIONS

41. In the time following her initial admission until present, JANE COSTELLO, lacked any independent bed mobility. She was dependent on hospital nurses to move in bed. She suffered incontinence and relied on nurses to keep her clean. At all material times, JANE COSTELLO, was a “vulnerable adult”, as defined by Section 415.102, because she was a person over 18 years of age whose ability to perform the normal activities of daily living, and to provide for her own care, was impaired due to her compromised physical and mental state.

COUNT I: JANE COSTELLO VS. JFK MEDICAL CENTER

42. Plaintiffs re-allege paragraphs 1 through 41 and further allege:

43. JFK MEDICAL CENTER, by and through its nurses, employees, agents and staff at both JFK MEDICAL CENTER NORTH CAMPUS a/k/a WEST PALM BEACH HOSPITAL f/k/a COLUMBIA HOSPITAL, and also at JFK MEDICAL CENTER in Atlantis, FL, failed to administer health care in accord with the prevailing professional standard of care through its

¹ “The term “Never Event” was first introduced in 2001 by Ken Kizer, MD, former CEO of the National Quality Forum (NQF), in reference to particularly shocking medical errors (such as wrong-site surgery) that should never occur”... and include “Any stage 3, stage 4, or unstageable pressure ulcers acquired after admission/presentation to a health care facility” <https://psnet.ahrq.gov/primers/primer/3/never-events>

employees, agents and/or apparent agents, including but not limited to nurses, C.N.A.'s, therapists, doctors and others, all of whom were acting within the course and scope of their agency, real or apparent, such that they were negligent in the following respects:

- a. Failing to identify JANE COSTELLO's risk for skin compromise;
- b. Failing to develop an appropriate plan for care to prevent the development of skin compromise;
- c. Failing to implement appropriate measures to avoid the development of skin compromise;
- d. Failing to modify the treatment plan to promote the healing of skin compromise;
- e. Failing to recognize JANE COSTELLO's risk of infection;
- f. Failing to prevent infection in JANE COSTELLO;
- g. Failing to appropriately react to JANE COSTELLO's infection;
- h. Failing to recognize JANE COSTELLO's risk of skin breakdown;
- i. Failing to heal existing skin breakdown;
- j. Failing to timely obtain wound care; and
- k. Failing to act reasonably under the circumstances.

44. As a direct and proximate result of the negligence of Defendant, as described above, JANE COSTELLO suffered bodily injury, resulting pain and suffering, aggravation of a pre-existing condition, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expensive hospitalization, medical and nursing care and treatment.

WHEREFORE, Plaintiff, JANE COSTELLO, demands judgment against the Defendant, JFK MEDICAL CENTER, and demands trial by jury.

COUNT II: CH. 415 CLAIM VS. JFK MEDICAL CENTER

45. Plaintiff re-alleges paragraphs 1 through 41 and further alleges:

46. This Count involves allegations of Ch. 415 violations by the above Defendant.

47. At all times during her hospitalization at the above Defendant's hospitals, the nurses and staff responsible for caring JANE COSTELLO while she was hospitalized were employees and/or agents of the JFK MEDICAL CENTER. These nurses and staff were specifically tasked with providing helping JANE COSTELLO with activities of daily living, like repositioning in bed, while she was a patient at the hospital.

48. After her admission to West Palm Hospital and to JFK Medical Center (Atlantis, FL), the nurses and staff at JFK MEDICAL CENTER became JANE COSTELLO'S "caregivers", as defined by Section 415.102, because said nurses and staff were entrusted with or assumed the responsibility for frequent and regular care of or services to JANE COSTELLO on a temporary or permanent basis and had a commitment, agreement, or understanding with JANE COSTELLO or JANE COSTELLO 's guardian that a caregiver role exists. This caregiver relationship began when the nurses/staff began treating vulnerable adult JANE COSTELLO as a patient following her admission and obvious immobility in bed. As referenced above, JANE COSTELLO could not care for herself, move herself, reposition herself in bed or perform activities of daily living, therefore, JANE COSTELLO'S nurses and staff assumed the responsibility for the repositioning of JANE COSTELLO.

49. Despite occupying the role of “caregiver” to JANE COSTELLO, JFK MEDICAL CENTER nurses and staff “neglected” JANE COSTELLO, as that term is defined by Section 415.102. JFK MEDICAL CENTER nurses and staff, as caregivers of JANE COSTELLO, failed to provide the care, supervision, and services necessary to maintain the physical and mental health of JANE COSTELLO, including, but not limited to, repositioning the vulnerable adult in bed and keeping the vulnerable adult clean, that a prudent person would consider essential for the well-being of JANE COSTELLO.

50. Specifically, JFK MEDICAL CENTER nurses and staff “neglected” JANE COSTELLO by failing to administer health care in accord with the prevailing professional standard of care, such that they were negligent in the following respects:

- a. Failing to reposition and move the vulnerable adult in bed;
- b. Failing to keep the vulnerable adult clean;
- c. Ignoring the vulnerable adult’s needs; and
- d. Failing to act reasonably under the circumstances.

51. As a direct and proximate result of the aforementioned violations of Chapter 415 by Defendant’s nurses and staff, JANE COSTELLO, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition.

52. Plaintiff has incurred and/or will incur attorney’s fees and costs related to pursuing its claim against this Defendant.

53. Pursuant to Section 415.1111, if Plaintiff prevails in this action, Plaintiff is entitled to attorney's fees and costs.

WHEREFORE, Plaintiff, JANE COSTELLO, demands all damages, and recovery of all attorney's fees and costs as afforded under Florida Statute § 415.1111, allowable against Defendant, JFK MEDICAL CENTER and demands trial by jury.

COUNT III: JANE COSTELLO VS. PALMS WEST HOSPITAL

54. Plaintiffs re-allege paragraphs 1 through 41 and further allege:

55. PALMS WEST HOSPITAL MEMORIAL HOSPITAL, by and through its nurses, employees, agents and staff, failed to administer health care in accord with the prevailing professional standard of care through its employees, agents and/or apparent agents, including but not limited to nurses, C.N.A.'s, therapists, doctors and others, all of whom were acting within the course and scope of their agency, real or apparent, such that they were negligent in the following respects:

- a. Failing to identify JANE COSTELLO's risk for skin compromise;
- b. Failing to develop an appropriate plan for care to prevent the development of skin compromise;
- c. Failing to implement appropriate measures to avoid the development of skin compromise;
- d. Failing to modify the treatment plan to promote the healing of skin compromise;
- e. Failing to recognize JANE COSTELLO's risk of infection;
- f. Failing to prevent infection in JANE COSTELLO;

- g. Failing to appropriately react to JANE COSTELLO's infection;
- h. Failing to recognize JANE COSTELLO's risk of skin breakdown;
- i. Failing to heal existing skin breakdown;
- j. Failing to timely obtain wound care; and
- k. Failing to act reasonably under the circumstances.

56. As a direct and proximate result of the negligence of Defendant, as described above, JANE COSTELLO suffered bodily injury, resulting pain and suffering, aggravation of a pre-existing condition, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expensive hospitalization, medical and nursing care and treatment.

WHEREFORE, Plaintiff, JANE COSTELLO, demands judgment against the Defendant, PALMS WEST HOSPITAL MEMORIAL HOSPITAL, and demands trial by jury.

COUNT IV: CH. 415 CLAIM VS. PALMS WEST HOSPITAL

57. Plaintiff re-alleges paragraphs 1 through 41 and further alleges:
58. This Count involves allegations of Ch. 415 violations by the above Defendant.
59. At all times during her hospitalization at the above Defendant's hospital, the nurses and staff responsible for caring JANE COSTELLO while she was hospitalized were employees and/or agents of the PALMS WEST HOSPITAL MEMORIAL HOSPITAL. These nurses and staff were specifically tasked with providing helping JANE COSTELLO with activities of daily living, like repositioning in bed, while she was a patient at the hospital.

60. After her admission to PALMS WEST HOSPITAL MEMORIAL HOSPITAL, the nurses and staff at PALMS WEST HOSPITAL MEMORIAL HOSPITAL became JANE

COSTELLO'S "caregivers", as defined by Section 415.102, because said nurses and staff were entrusted with or assumed the responsibility for frequent and regular care of or services to JANE COSTELLO on a temporary or permanent basis and had a commitment, agreement, or understanding with JANE COSTELLO or JANE COSTELLO 's guardian that a caregiver role exists. This caregiver relationship began when the nurses/staff began treating vulnerable adult JANE COSTELLO as a patient following her admission and obvious immobility in bed. As referenced above, JANE COSTELLO could not care for herself, move herself, reposition herself in bed or perform activities of daily living, therefore, JANE COSTELLO'S nurses and staff assumed the responsibility for the repositioning of JANE COSTELLO.

61. Despite occupying the role of "caregiver" to JANE COSTELLO, PALMS WEST HOSPITAL MEMORIAL HOSPITAL nurses and staff "neglected" JANE COSTELLO, as that term is defined by Section 415.102. PALMS WEST HOSPITAL MEMORIAL HOSPITAL nurses and staff, as caregivers of JANE COSTELLO, failed to provide the care, supervision, and services necessary to maintain the physical and mental health of JANE COSTELLO, including, but not limited to, repositioning the vulnerable adult in bed and keeping the vulnerable adult clean, that a prudent person would consider essential for the well-being of JANE COSTELLO.

62. Specifically, PALMS WEST HOSPITAL MEMORIAL HOSPITAL nurses and staff "neglected" JANE COSTELLO by failing to administer health care in accord with the prevailing professional standard of care, such that they were negligent in the following respects:

- a. Failing to reposition and move the vulnerable adult in bed;
- b. Failing to keep the vulnerable adult clean;

- c. Ignoring the vulnerable adult's needs; and
- d. Failing to act reasonably under the circumstances.

63. As a direct and proximate result of the aforementioned violations of Chapter 415 by Defendant's nurses and staff, JANE COSTELLO, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition.

64. Plaintiff has incurred and/or will incur attorney's fees and costs related to pursuing its claim against this Defendant.

65. Pursuant to Section 415.1111, if Plaintiff prevails in this action, Plaintiff is entitled to attorney's fees and costs.

WHEREFORE, Plaintiff, JANE COSTELLO, demands all damages, and recovery of all attorney's fees and costs as afforded under Florida Statute § 415.1111, allowable against Defendant, PALMS WEST HOSPITAL MEMORIAL HOSPITAL and demands trial by jury.

COUNT V: JANE COSTELLO VS. JACKSON

66. Plaintiffs re-allege paragraphs 1 through 41 and further allege:

67. JACKSON MEMORIAL HOSPITAL, by and through its nurses, employees, agents and staff, failed to administer health care in accord with the prevailing professional standard of care through its employees, agents and/or apparent agents, including but not limited to nurses, C.N.A.'s, therapists, doctors and others, all of whom were acting within the course and scope of their agency, real or apparent, such that they were negligent in the following respects:

- a. Failing to identify JANE COSTELLO's risk for skin compromise;
- b. Failing to develop an appropriate plan for care to prevent the development of skin compromise;
- c. Failing to implement appropriate measures to avoid the development of skin compromise;
- d. Failing to modify the treatment plan to promote the healing of skin compromise;
- e. Failing to recognize JANE COSTELLO's risk of infection;
- f. Failing to prevent infection in JANE COSTELLO;
- g. Failing to appropriately react to JANE COSTELLO's infection;
- h. Failing to recognize JANE COSTELLO's risk of skin breakdown;
- i. Failing to heal existing skin breakdown;
- j. Failing to timely obtain wound care; and
- k. Failing to act reasonably under the circumstances.

68. As a direct and proximate result of the negligence of Defendant, as described above, JANE COSTELLO suffered bodily injury, resulting pain and suffering, aggravation of a pre-existing condition, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expensive hospitalization, medical and nursing care and treatment.

WHEREFORE, Plaintiff, JANE COSTELLO, demands judgment against the Defendant, JACKSON MEMORIAL HOSPITAL, and demands trial by jury.

COUNT VI: CH. 415 CLAIM VS. JACKSON

69. Plaintiff re-alleges paragraphs 1 through 41 and further alleges:

70. This Count involves allegations of Ch. 415 violations by the above Defendant.

71. At all times during her hospitalization at the above Defendant's hospital, the nurses and staff responsible for caring JANE COSTELLO while she was hospitalized were employees and/or agents of the JACKSON MEMORIAL HOSPITAL. These nurses and staff were specifically tasked with providing helping JANE COSTELLO with activities of daily living, like repositioning in bed, while she was a patient at the hospital.

72. After her admission to JACKSON MEMORIAL HOSPITAL, the nurses and staff at JACKSON MEMORIAL HOSPITAL became JANE COSTELLO'S "caregivers", as defined by Section 415.102, because said nurses and staff were entrusted with or assumed the responsibility for frequent and regular care of or services to JANE COSTELLO on a temporary or permanent basis and had a commitment, agreement, or understanding with JANE COSTELLO or JANE COSTELLO 's guardian that a caregiver role exists. This caregiver relationship began when the nurses/staff began treating vulnerable adult JANE COSTELLO as a patient following her admission and obvious immobility in bed. As referenced above, JANE COSTELLO could not care for herself, move herself, reposition herself in bed or perform activities of daily living, therefore, JANE COSTELLO'S nurses and staff assumed the responsibility for the repositioning of JANE COSTELLO.

73. Despite occupying the role of "caregiver" to JANE COSTELLO, JACKSON MEMORIAL HOSPITAL nurses and staff "neglected" JANE COSTELLO, as that term is defined by Section 415.102. JACKSON MEMORIAL HOSPITAL nurses and staff, as caregivers of JANE COSTELLO, failed to provide the care, supervision, and services necessary to maintain

the physical and mental health of JANE COSTELLO, including, but not limited to, repositioning the vulnerable adult in bed and keeping the vulnerable adult clean, that a prudent person would consider essential for the well-being of JANE COSTELLO.

74. Specifically, JACKSON MEMORIAL HOSPITAL nurses and staff “neglected” JANE COSTELLO by failing to administer health care in accord with the prevailing professional standard of care, such that they were negligent in the following respects:

- a. Failing to reposition and move the vulnerable adult in bed;
- b. Failing to keep the vulnerable adult clean;
- c. Ignoring the vulnerable adult’s needs; and
- d. Failing to act reasonably under the circumstances.

75. As a direct and proximate result of the aforementioned violations of Chapter 415 by Defendant’s nurses and staff, JANE COSTELLO, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition.

76. Plaintiff has incurred and/or will incur attorney’s fees and costs related to pursuing its claim against this Defendant.

77. Pursuant to Section 415.1111, if Plaintiff prevails in this action, Plaintiff is entitled to attorney’s fees and costs.

WHEREFORE, Plaintiff, JANE COSTELLO, demands all damages, and recovery of all attorney's fees and costs as afforded under Florida Statute § 415.1111, allowable against Defendant, JACKSON MEMORIAL HOSPITAL and demands trial by jury.

COUNT VII: JANE COSTELLO VS. SELECT

78. Plaintiffs re-allege paragraphs 1 through 41 and further allege:

79. SELECT SPECIALTY HOSPITAL, by and through its nurses, employees, agents and staff, failed to administer health care in accord with the prevailing professional standard of care through its employees, agents and/or apparent agents, including but not limited to nurses, C.N.A.'s, therapists, doctors and others, all of whom were acting within the course and scope of their agency, real or apparent, such that they were negligent in the following respects:

- a. Failing to identify JANE COSTELLO's risk for skin compromise;
- b. Failing to develop an appropriate plan for care to prevent the development of skin compromise;
- c. Failing to implement appropriate measures to avoid the development of skin compromise;
- d. Failing to modify the treatment plan to promote the healing of skin compromise;
- e. Failing to recognize JANE COSTELLO's risk of infection;
- f. Failing to prevent infection in JANE COSTELLO;
- g. Failing to appropriately react to JANE COSTELLO's infection;
- h. Failing to recognize JANE COSTELLO's risk of skin breakdown;
- i. Failing to heal existing skin breakdown;

- j. Failing to timely obtain wound care; and
- k. Failing to act reasonably under the circumstances.

80. As a direct and proximate result of the negligence of Defendant, as described above, JANE COSTELLO suffered bodily injury, resulting pain and suffering, aggravation of a pre-existing condition, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expensive hospitalization, medical and nursing care and treatment.

WHEREFORE, Plaintiff, JANE COSTELLO, demands judgment against the Defendant, SELECT SPECIALTY HOSPITAL, and demands trial by jury.

COUNT VIII: CH. 415 CLAIM VS. SELECT

- 81. Plaintiff re-alleges paragraphs 1 through 41 and further alleges:
- 82. This Count involves allegations of Ch. 415 violations by the above Defendant.
- 83. At all times during her hospitalization at the above Defendant's hospital, the nurses and staff responsible for caring JANE COSTELLO while she was hospitalized were employees and/or agents of the SELECT SPECIALTY HOSPITAL. These nurses and staff were specifically tasked with providing helping JANE COSTELLO with activities of daily living, like repositioning in bed, while she was a patient at the hospital.
- 84. After her admission to SELECT SPECIALTY HOSPITAL, the nurses and staff at SELECT SPECIALTY HOSPITAL became JANE COSTELLO'S "caregivers", as defined by Section 415.102, because said nurses and staff were entrusted with or assumed the responsibility for frequent and regular care of or services to JANE COSTELLO on a temporary or permanent basis and had a commitment, agreement, or understanding with JANE COSTELLO or JANE

COSTELLO 's guardian that a caregiver role exists. This caregiver relationship began when the nurses/staff began treating vulnerable adult JANE COSTELLO as a patient following her admission and obvious immobility in bed. As referenced above, JANE COSTELLO could not care for herself, move herself, reposition herself in bed or perform activities of daily living, therefore, JANE COSTELLO'S nurses and staff assumed the responsibility for the repositioning of JANE COSTELLO.

85. Despite occupying the role of "caregiver" to JANE COSTELLO, SELECT SPECIALTY HOSPITAL nurses and staff "neglected" JANE COSTELLO, as that term is defined by Section 415.102. SELECT SPECIALTY HOSPITAL nurses and staff, as caregivers of JANE COSTELLO, failed to provide the care, supervision, and services necessary to maintain the physical and mental health of JANE COSTELLO, including, but not limited to, repositioning the vulnerable adult in bed and keeping the vulnerable adult clean, that a prudent person would consider essential for the well-being of JANE COSTELLO.

86. Specifically, SELECT SPECIALTY HOSPITAL nurses and staff "neglected" JANE COSTELLO by failing to administer health care in accord with the prevailing professional standard of care, such that they were negligent in the following respects:

- a. Failing to reposition and move the vulnerable adult in bed;
- b. Failing to keep the vulnerable adult clean;
- c. Ignoring the vulnerable adult's needs; and
- d. Failing to act reasonably under the circumstances.

87. As a direct and proximate result of the aforementioned violations of Chapter 415 by Defendant's nurses and staff, JANE COSTELLO, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and aggravation of a previously existing condition.

88. Plaintiff has incurred and/or will incur attorney's fees and costs related to pursuing its claim against this Defendant.

89. Pursuant to Section 415.1111, if Plaintiff prevails in this action, Plaintiff is entitled to attorney's fees and costs.

WHEREFORE, Plaintiff, JANE COSTELLO, demands all damages, and recovery of all attorney's fees and costs as afforded under Florida Statute § 415.1111, allowable against Defendant, SELECT SPECIALTY HOSPITAL and demands trial by jury.

DATED this 10th day of August, 2017.

/s/ Michael J. Brevda, Esq.
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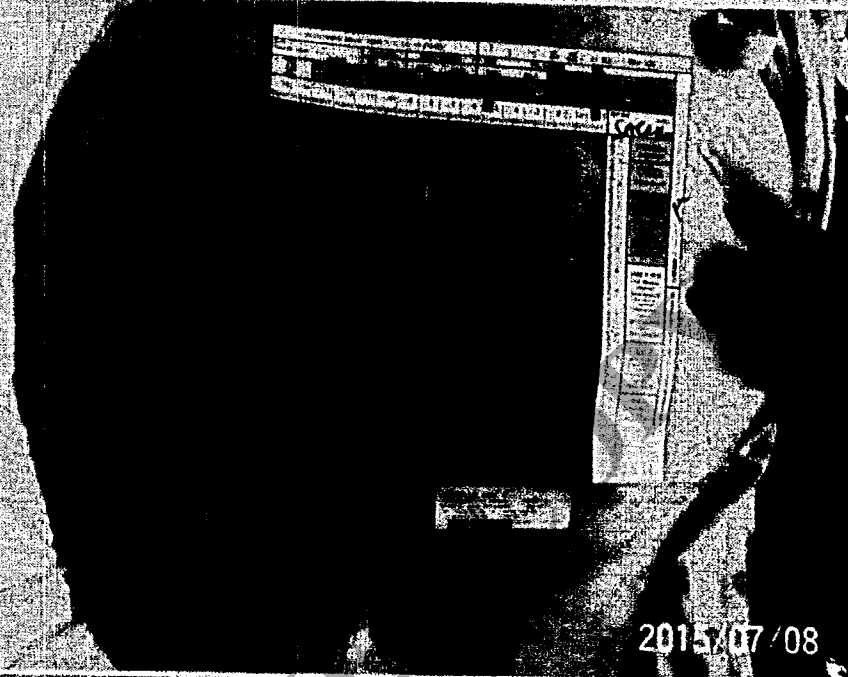
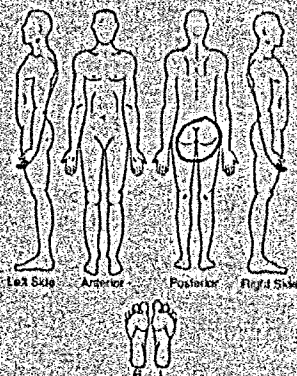
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NE1™ PHOTOGRAPHIC WOUND DOCUMENTATION

LOCATION (ANATOMICAL SITE):

SACRUM

Mark Wound Location



2015/07/08

WORST TISSUE TYPE

- | | |
|---|---|
| <input type="checkbox"/> Normal or Closed Skin (Epithelialized) | <input type="checkbox"/> Exposed Muscle/Tendon/Bone |
| <input type="checkbox"/> Red/Pink/Erythema (intact skin) | <input type="checkbox"/> Purple/Maroon/Deep Hues of Red (or blood filled blister) |
| <input type="checkbox"/> Opaque (intact serum filled blister) | <input type="checkbox"/> Yellow (Slough) |
| <input type="checkbox"/> Red/Moist/Smooth/Shallow | <input type="checkbox"/> Black/Tan (Eschar) |
| <input type="checkbox"/> Red/Moist/Bumpy (Granulation) | |

WOUND TYPE:

Pressure Ulcer:

- | | | |
|--------------------------------------|------------------------------------|---|
| <input type="checkbox"/> Closed | <input type="checkbox"/> Stage II | <input type="checkbox"/> Suspected Deep Tissue Injury |
| <input type="checkbox"/> Pre-Stage I | <input type="checkbox"/> Stage III | <input type="checkbox"/> Unstageable |
| <input type="checkbox"/> Stage I | <input type="checkbox"/> Stage IV | |

Other:

- | | | | |
|---------------------------------|--------------------------------------|--|---|
| <input type="checkbox"/> Closed | <input type="checkbox"/> Superficial | <input type="checkbox"/> Partial Thickness | <input type="checkbox"/> Full Thickness |
|---------------------------------|--------------------------------------|--|---|

I have reviewed and agree with the findings above.

☐ Pressure Ulcer: Present on Admission ☐ YES ☐ NO

Physician Signature _____

Date _____

Time _____

Authenticated by
Christopher Lucas, MD
On 07/27/2015 12:20:00 PM



PNS

N6401BC 07/2011

PALPATED (Touched):

Skin wound compared to adjacent tissue

- | | | | |
|--------------|--------------------------------------|--|--|
| Temperature: | <input type="checkbox"/> Cool | <input checked="" type="checkbox"/> Normal | <input type="checkbox"/> Warm |
| Texture: | <input type="checkbox"/> Intact Skin | <input type="checkbox"/> Boggy | <input type="checkbox"/> Soft |
| | <input type="checkbox"/> Firm | <input type="checkbox"/> Hard | <input checked="" type="checkbox"/> Non-Intact |
| | <input type="checkbox"/> Bumpy | <input type="checkbox"/> Bone | <input type="checkbox"/> Muscle |
| | | | <input type="checkbox"/> Normal |
| | | | <input type="checkbox"/> Smooth |
| | | | <input type="checkbox"/> Tendon |

Blanch Test: (capillary refill of intact skin)

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> Blanchable | <input checked="" type="checkbox"/> Non-Blanchable |
|-------------------------------------|--|

DETAILS:

Diabetes: ☐ Y ☒ N

Size (cm) (L x W):

Depth (cm):

Tunneling (cm):

Undermining (cm):



EXUDATE:

Foul Odor: ☐ Y ☒ N

- | | | | |
|-------|---------------------------------|-----------------------------------|---|
| Type: | <input type="checkbox"/> None | <input type="checkbox"/> Serous | <input checked="" type="checkbox"/> Serosanguineous |
| | <input type="checkbox"/> Bloody | <input type="checkbox"/> Purulent | |

- | | | | | |
|---------|-------------------------------|---|-----------------------------------|--------------------------------|
| Amount: | <input type="checkbox"/> None | <input checked="" type="checkbox"/> Small | <input type="checkbox"/> Moderate | <input type="checkbox"/> Large |
|---------|-------------------------------|---|-----------------------------------|--------------------------------|

Nurse/PT Signature _____

Date _____

Time _____

PATIENT IDENTIFICATION:

COSTELLO, JANE F 45-4017
000070619548 ID#1146581 PCP: Does Not K
07/08/15 Dr: Lucas, Christopher MD IN
DOB: 01/26/50'65 PACS# J26438J
JFK MEDICAL CENTER ATLANTA, GA
SVC: MED