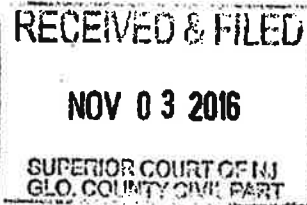


MARK J. MOLZ, ESQUIRE
1400 Route 38 East, Box 577
Hainesport, New Jersey 08036
(609) 267-8884
Attorney for Plaintiff(s)
Attorney ID No. 038271985



RAYMOND MELINCAVAGE and : SUPERIOR COURT OF NEW JERSEY
KATHLEEN M. MELINCAVAGE : GLOUCESTER COUNTY
His wife : LAW DIVISION

Plaintiff(s), : DOCKET NO. L1384-16

vs.

: Civil Action (Tort/Contract)

FRANKLIN TOWNSHIP POLICE :
DEPARTMENT, OFFICER D. :
JERNEGAN, MONROE :
TOWNSHIP POLICE :
DEPARTMENT, OFFICER DEREK :
E. JACOBUS, KENNEDY :
MEMORIAL HOSPITAL, DANIEL :
WEEKS, DO., KISHAN PATEL, :
DO., JAN MINSKY, RN., MICHAEL :
NOSEL, RN, JOHN DOES 1-10; :
individually, jointly & severally; :

: COMPLAINT
: WITH JURY DEMAND
: AND DISCOVERY REQUESTS

Defendants. :

Raymond Melincavage and Kathleen M. Melincavage residing at 630 Marino Avenue,
Blackwood, New Jersey 08012 by way of complaint state:

1. At all relevant times, Defendant Franklin Township Police Department maintains principal offices and facilities at 1672 Coles Mill Road, Franklinville, New Jersey 08322.
2. At all relevant times, Defendant Officer D. Jernegan is a police officer employed by the Township of Franklin which maintains principal offices and facilities at 1672 Coles Mill Road, Franklinville, New Jersey 08322.

3. At all relevant times, Defendant Monroe Township Police Department maintains principal offices and facilities at 125 Virginia Avenue, Williamstown, New Jersey 08094.
4. At all relevant times, Defendant Patrolman Derek E. Jacobus, (7184) was a police officer employed by the Township of Monroe which maintains principal offices and facilities at 125 Virginia Avenue, Williamstown, New Jersey 08094.
5. At all relevant times, Kennedy Memorial Hospital maintains principal offices and facilities at 540 Egg Harbor Road, Sewell Township, Gloucester County.
6. The Defendant Daniel Weeks DO was a medical doctor licensed by the State of New Jersey and maintains principal offices and facilities at 540 Egg Harbor Road, Sewell Township, Gloucester County.
7. The Defendant Kishan Patel DO was a medical student/resident and maintains principal offices and facilities at 540 Egg Harbor Road, Sewell Township, Gloucester County.
8. At all relevant times Defendant Jan Minsky RN was a medical nurse licensed with the State of New Jersey with principal offices located at 540 Egg Harbor Road, Sewell Township, Gloucester County.
9. At all relevant times Defendant Michael Nosel, RN, was a nurse licensed by the State of New Jersey with principal offices located at 540 Egg Harbor Road, Sewell Township, Gloucester County.
10. John Doe 1-10 is a fictitious designation for a nurse including RN, RNDS, LPN or practical nurse who provided care to the Plaintiff including inspection and skin care.

11. John Doe 1-10 is also a fictitious designation for a Medical Doctor or other professional or medical provider or group, professional association or other business entity who provided care to the Plaintiff including inspection and skin care.
12. The principal is responsible for the acts or omissions of its agents, servants or assigns.

COUNT I

1. Plaintiffs repeats the previous allegations as though set forth at length herein.
2. On or about November 4, 2014, the Plaintiff Raymond Melincavage was traveling in a company truck on his way to work.
3. Plaintiff Raymond Melincavage did not feel well and pulled over to the side of the road in Franklin Township.
4. Plaintiff Raymond Melincavage's truck was running but he passed out.
5. Patrol Officer D. Jernegan (badge number 1148) arrived on the scene.
6. During his initial encounter with Officer Jernegan at the Franklin Township police department, observations were made the Mr. Melincavage appeared sleepy, his eyelids were droopy and that he was not making sense.
7. Mr. Melincavage was unable to complete physical balance tests and was placed under arrest for DWI.
8. It was later determined that he had a blood alcohol of .00 and that repeated administrations of Narcan did not affect his worsening health.
9. If Mr. Melincavage was under the influence of oxycodone or oxycoton, it would be expected that the Narcan would have made a significant change for the better in his breathing and physical capabilities.

10. The original EMT's came to the scene at 10:00 and did not provide any medical treatment.
11. Next, Patrolman D. Jernegan took the Plaintiff Raymond Melincavage to Franklin Township where he was administered an Alcotest and came back .00.
12. Patrolman D. Jernegan next transported the Plaintiff Raymond Melincavage to the Monroe Township police department where he took a second Alcotest which came back .00.
13. Plaintiff was further detained and given a drug recognition evaluation by Defendant Patrolman Derek E. Jacobus who is apparently certified by the International Association of Chief's of Police.
14. All the while, Plaintiff Raymond Melincavage was experiencing dehydration, pneumonia, kidney failure and a heart attack.
15. Defendants Franklin Township Police Department, Officer D. Jernegan, Monroe Township Police Department, Patrolman Derek E. Jacobus and/or John Doe 1-10 deprived Plaintiff Raymond Melincavage of his civil rights by holding him in custody and depriving him of hydration, diagnosis and/or medical treatment during his episode(s) of systemic failure.
16. As a direct and proximate result of these civil rights violation(s) by Defendants Franklin Township Police Department, Officer D. Jernegan, Monroe Township Police Department, Patrolman Derek E. Jacobus and/or John Doe 1-10, Plaintiff Raymond Melincavage suffered serious bodily injury and experienced pain and suffering, stress, worsening of pre-existing conditions and morbidities and injuries both temporary and permanent.

WHEREFORE, Plaintiff Raymond Melincavage demands judgment on this Count against Defendants Franklin Township Police Department, Officer D. Jernegan, Monroe Township Police Department, Patrolman Derek E. Jacobus and/or John Doe 1-10 for compensatory damages, interest, attorney's fees and costs of suit.

COUNT II

17. Plaintiff repeats the previous allegations as though set forth at length herein.
18. Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 had a duty to properly diagnose, treat and/or monitor their patient Raymond Melincavage.
19. Defendants Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 violated standards of care and/or hospital protocol by failing to notify the attending physicians of Plaintiff's worsening condition.
20. Defendants Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 violated standards of care and/or hospital protocol by failing to care for Plaintiff in connection with his pre-existing conditions and/or his dehydration, stress and worsening condition.
21. The above said negligence and/or deviations from applicable standards of care by Defendants Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 was a proximate cause of severe injury, pain and disability, physical and emotional harm to Plaintiff Raymond Melincavage.

WHEREFORE, Plaintiff Raymond Melincavage demands judgment on this Count against Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 for compensatory damages, interest, attorney's fees and costs of suit.

COUNT II

22. Plaintiffs repeats the previous allegations as though set forth at length herein.
23. Defendant Daniel Weeks DO was the emergency department attending physician.
24. Defendant Kishan Patel DO was a medical student/resident who did the initial evaluation and entered orders in the emergency department but wasn't licensed until 5/11/16
25. Defendant Jan Minsky RN was the ED triage nurse who performed no physical assessment
26. Defendant Michael Nosel RN was the ED nurse who did not pre/post narcan evaluation or initial assessment.
27. No Narcan was administered at 10:00 a.m. despite the Defendants belief that Plaintiff was under the influence of narcotics.
28. The narcan administered at 1:00 p.m. had no effect and was repeated with no effect leading to the conclusion that there was no narcotic intoxication.
29. The emergency department staff received the patient at 13:56, nearly four hours after the initial stop by the police. There was no physical assessment completed by a nurse.
30. Plaintiff Raymond Melincavage was seen by Dr. Patel at 14:28 who was a medical student or resident. Plaintiff Raymond Melincavage was described as sleepy but

arousable, he was also described by the same author as alert and oriented to persons, place and time.

31. Dr. Patel noted, "symptoms not reviewed, unable, emergency room caveat revoked due to intoxicated patient". This was done despite two blood alcohol tests and a negative ethyl alcohol level in the ED.
32. At 16:45 the Plaintiff Raymond Melincavage was seen by Neveen Malik, DO, admitting/attending at the ICU shortly after three doses of narcan at 15:40, 16:13, and 16:28 with no noticeable improvement in mentation.
33. In fact Plaintiff Raymond Melincavage had deteriorated post-narcan, RR 14, 93% 4L.
34. A history and physical dictated at 17:06 described Plaintiff Raymond Melincavage as unresponsive and acknowledged his history of obstructive sleep apnea but does not suggest intubation, C-Pap or Bi-Pap.
35. Nothing was done by medical defendants to address history of obstructive sleep apnea and somnolent mental status.
36. Changes in mental status went unaddressed, no arterial blood gas draw to determine if the plaintiff was retaining CO₂, no cardiac enzyme and no psyche evaluation after the administration of the narcan.
37. Eventually, the plaintiff was discharged from the hospital with a heart attack that was undiagnosed.
38. Plaintiff Raymond Melincavage never returned to work because of his injuries and has required oxygen twenty four hours per day, every day.

39. Plaintiff Raymond Melincavage lost his job at approximately \$47,000 per year plus benefits. He also suffers from short term memory loss. The 99.9% blockage in in LED was never discovered resulting in the need for surgery January 2015.

40. As a result of the negligence of Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10, and breach of the obligation of informed consent as aforesaid, Plaintiff Raymond Melincavage was caused to suffer serious and permanent injuries, damages, losses and expenses and such other damages as discovery may reveal.

41. The negligence and breach of the duty of informed consent by DefendantS Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 and was a proximate cause of severe emotional and physical harm to Plaintiff, Raymond Melincavage, and/or significantly increased his risk of harm and/or cost Mr. Melincavage a significant chance at a better outcome.

WHEREFORE, Plaintiff demands judgment on this Count against Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 for compensatory damages, interest, attorney's fees and costs of suit.

COUNT VI

42. Plaintiffs repeats the previous allegations as though set forth at length herein.

43. Defendant Kennedy Memorial Hospital is a business entity providing medical services and care to patients.

44. At all times relevant hereto, and/or John Doe 1-10 acted as an agent, servant and/or employee of Defendant Kennedy Memorial Hospital; alternatively, these

Defendant(s) was/were ostensibly an agent of Defendant Kennedy Memorial Hospital pursuant to Arthur v. St. Peters Hospital, 169 NJ Super. 575 (Law Div. 1979).

45. At all times relevant hereto, Defendants Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 had a duty to follow the rules, regulations and protocols of Defendant Kennedy Memorial Hospital.
46. Defendant Kennedy Memorial Hospital is/was responsible to use proper care in the hiring, supervising of and continuing medical education of Defendants, Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10.
47. Defendant Kennedy Memorial Hospital is/was negligent in the hiring, supervising of and continuing medical education of Defendants Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10.
48. Defendant Kennedy Memorial Hospital is responsible for the negligent acts committed by Defendant's Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 or each of them and the damages suffered by Plaintiff Raymond Melincavage as a result thereof.
49. Alternatively, as a result of the negligence of an agent, servant and/or employee of Defendant Kennedy Memorial Hospital, or due to the negligence of any ostensible agents as aforesaid, Defendant Kennedy Memorial Hospital is/was responsible under the doctrine of respondeat superior.

50. Plaintiff Raymond Melincavage was caused to suffer serious and permanent injuries, damages, losses and expenses, and such other damages as discovery may reveal, and is Defendants are responsible for same by virtue of its own direct negligence/breach of duty as well as under the doctrine of respondeat superior.

WHEREFORE, Plaintiff Raymond Melincavage demands judgment on this Count against Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 jointly, severally and in the alternative, for compensatory damages, interest, attorney's fees and costs of suit.

COUNT VI

51. Plaintiffs repeat each and every allegation in the preceding Counts as though set forth at length herein.

52. Plaintiffs allege that an insufficient amount of time has passed within which to determine the identity of any other medical personnel, individuals or entities whose negligence may be responsible in whole or in part for the care of treatment of Plaintiff.

53. For the purposes of the within Complaint, said individuals and business entities have been designated as John Doe 1-10.

54. Plaintiff, pursuant to the Rules of Court for the State of New Jersey, reserve the right to amend the within Complaint to add additional Defendants when and if the identity of said individuals or business entities become known.

WHEREFORE, Plaintiffs Raymond Melincavage demands judgment on this Count against John Does Medical Providers, nurses, Practitioners 1-10 (multiple fictitious entities) for compensatory damages, interest, attorney's fees and costs of suit.

COUNT VII

55. Plaintiffs repeat each and every allegation in the preceding Counts as though set forth at length herein.

56. Plaintiffs allege that the care and actions of Defendants Defendants Kennedy Memorial Hospital, Daniel Weeks DO, Kishan Patel DO, Jan Minsky RN, Michael Nosel, RN, and/or John Doe 1-10 were willful, wanton and reckless and should result in the imposition of punitive damages.

WHEREFORE, Plaintiff Raymond Melincavage demands judgment on this Count against Defendants and/or John Doe 1-10 jointly, severally and in the alternative, for punitive damages, compensatory damages, interest, attorney's fees and costs of suit.

COUNT VIII

57. Plaintiffs repeat each and every allegation in the preceding Counts as though set forth at length herein.

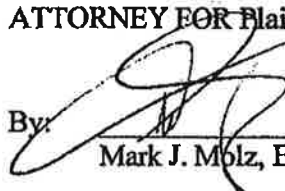
58. Plaintiff Kathleen Melincavage is the legal wife of Plaintiff Raymond Melincavage and is entitled to his usual good humor, care and consortium.

59. Plaintiff Kathleen Melincavage, by virtue of the acts and omissions set forth herein, has been deprived of her husband's good humor, care and consortium.

WHEREFORE, Plaintiff Kathleen Melincavage demands judgment on this Count against Defendants and/or John Doe 1-10 jointly, severally and in the alternative, for punitive damages, compensatory damages, interest, attorney's fees and costs of suit.

MARK J. MOLZ, ESQUIRE
ATTORNEY FOR Plaintiff(s)

DATED: October 26, 2016

By: 

Mark J. Molz, Esquire

JURY DEMAND

Plaintiff's hereby demands a trial by jury on all issues raised by these pleadings.

NOTICE OF PER DIEM TIME-UNIT CLOSING ARGUMENT

PLEASE TAKE NOTICE that Plaintiff(s) will use per diem argument during closing argument at Trial and suggest to Jury that unliquidated damages be calculated on a time-unit basis without reference to a specific sum, pursuant to Rule 1:7-1(b). Proper explanatory instructions to jury shall be requested in accordance with the Rule.

DEMAND FOR DESIGNATION OF SPECIALTY

Plaintiff demands that each named medical defendant declare his/her medical training and/or specialty.

DEMAND FOR TRANSCRIPTION OF ALL RECORDS

Plaintiff demands that each named medical defendant transcribe all records in complete legible form,

DESIGNATION OF TRIAL COUNSEL

Mark J. Molz, Esquire is hereby designated as Trial Counsel in the within litigation pursuant to R. 4:25-4.

DEMAND FOR INSURANCE COVERAGE

In accordance with R. 4:10-2, Defendants are demanded to provide a complete copy of their applicable liability insurance policies including any excess or umbrella policies with declaration sheets within thirty (30) days of service of this Complaint.

DEMAND FOR DOCUMENTS

Plaintiffs demand that, within thirty (30) days of service of this Complaint, each Defendant produce legible copies of their complete files regarding the Plaintiff, all facts and findings of any review, self critical analysis [or similar peer review] and those documents requested in the attached Notice to Produce.

DEMAND FOR TRANSCRIPTION

Plaintiffs demand that each Defendant produce a typed transcription of any and all of his/her handwritten office records and hospital records, within thirty (30) days of service of the Complaint.

NOTICE OF DEPOSITION OF ANSWERING DEFENDANT

Pursuant to R. 4:14 of the New Jersey Court Rules, Plaintiff(s) hereby demand that the answering party (or, if answering party is a non-individual entity, answering party's designated representative most knowledgeable of the circumstances described in the pleadings) appear at the Law Offices of Mark J. Molz, 1400 Route 38 East, Hainesport, New Jersey at 10:00 a.m. on the 35th day following service of this Summons and Complaint, at which time said deponent(s) shall give testimony by Deposition upon oral examination before a person authorized by the laws of the State of New Jersey to administer oaths, and shall produce originals (or true copies if originals unavailable) of all documents and things requested in the attached Request for Production of Documents, and shall provide full and complete answers to all Interrogatories propounded herein. Answering party is required to contact the Law Offices of Mark J. Molz at (609) 267-8884 prior to the date of deposition to confirm appearance. Failure to appear for Deposition in accordance with this Demand will subject answering party to penalties and sanctions as allowed by the New Jersey Court Rules. Failure to produce all requested documents and things, or failure to give complete answers to Interrogatories, at or before the Deposition will result in the Deposition being taken again after such responses are provided.

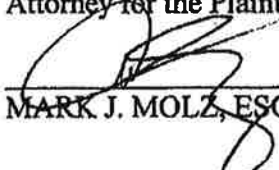
CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that to the best of my knowledge, information and belief that this matter in controversy is not the subject of any other action pending in any court or in any arbitration proceeding, nor is any other action or arbitration proceeding contemplated. To the best of my knowledge at this time, all parties who should have been joined in this action have been joined.

MARK J. MOLZ, ESQUIRE
Attorney for the Plaintiff

Dated: October 26, 2016

By:


MARK J. MOLZ, ESQUIRE

13,054J

James R. Birchmeier, Esquire

Attorney ID#: 022821986

BIRCHMEIER & POWELL LLC

Counsellors at Law

1891 State Highway 50

P.O. Box 582

Tuckahoe, New Jersey 08250

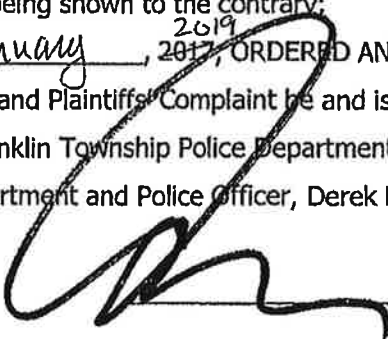
(609) 628-3414

Attorneys for Defendants, Franklin Township Police Department; Police Officer D. Jernegan;
Monroe Township Police Department and Police Officer, Derek E. Jacobus

Plaintiffs, RAYMOND MELINCAVAGE and KATHLEEN MELINCAVAGE, his wife, v. Defendants, FRANKLIN TOWNSHIP POLICE DEPARTMENT; OFFICER D. JERNEGAN; MONROE TOWNSHIP POLICE DEPARTMENT; OFFICER DEREK E. JACOBUS; KENNEDY MEMORIAL HOSPITAL; DANIEL WEEKS, D.O.; KISHAN PATEL, D.O.; JAN MINSKY, RN; MICHAEL NOSEL, RN; JOHN DOES 1-10	SUPERIOR COURT OF NEW JERSEY LAW DIVISION – GLOUCESTER COUNTY DOCKET NO. GLO-L-1384-16 Civil Action ORDER GRANTING SUMMARY JUDGMENT AND DISMISSING PLAINTIFFS' COMPLAINT
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THIS MATTER having been brought before the Court of a Motion filed by James R. Birchmeier, Esquire of Birchmeier & Powell, LLC Attorneys for Defendants, Franklin Township Police Department; Police Officer D. Jernegan; Monroe Township Police Department and Police Officer, Derek E. Jacobus, and the Court having heard the arguments of counsel, and having considered same, and no cause being shown to the contrary:

IT IS on this 25th day of January, ²⁰¹⁹~~2017~~, ORDERED AND ADJUDGED that summary judgment is hereby GRANTED and Plaintiffs' Complaint be and is hereby dismissed with prejudice as to the Defendants, Franklin Township Police Department; Police Officer D. Jernegan; Monroe Township Police Department and Police Officer, Derek E. Jacobus.


Darrell M. Fineman, J.S.C. J.S.C.