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DOROTHY BROWN
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2018L007715

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

FILED DATE: 7/19/2018 5:21 PM 2018L007715

DONNA MCDEVITT, as Administrator of the)	
Estate of PAUL BAUER, deceased,)	
)	
Plaintiffs,)	
)	
v.)	No.
)	
THE UNIVERSITY OF CHICAGO MEDICAL)	
CENTER, an Illinois not-for-profit corporation,)	
IMRE NOTH, M.D., and DANIELLE)	
STAHLBAUM, M.D.,)	
)	
Defendants,)	
)	
and MICHAEL HAWKING, M.D.,)	
)	
Respondent in Discovery.)	

VERIFIED COMPLAINT AT LAW

NOW COMES Plaintiff, DONNA MCDEVITT, as Administrator of the Estate of PAUL BAUER, deceased, by and through her attorneys, LAW OFFICE OF JILL M. WEBB, LLC., and complaining of Defendants, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, IMRE NOTH, M.D., and DANIELLE STAHLBAUM, M.D., and hereby states as follows:

FACTS COMMON TO ALL COUNTS

1. On and prior to January 18, 2017, Plaintiff, DONNA MCDEVITT, was the lawful spouse of PAUL BAUER, deceased.
2. On or about March 2, 2017, Plaintiff, DONNA MCDEVITT, was appointed administrator of the Estate of PAUL BAUER, deceased.

3. At all relevant times, Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, acting through its agents, servants, and employees, owned, operated, maintained, and controlled a certain hospital in the County of Cook, State of Illinois.

4. At all relevant times, Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, acting through its agents, servants, and employees, owned, operated, maintained, and controlled a certain hospital where it made facilities available to persons in need of medical and surgical procedures.

5. At all relevant times, Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, held itself out as providing capable, quality, and superior medical services, care, and treatment.

6. At all relevant times, PAUL BAUER relied upon Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, to provide capable, quality, and superior medical services, care, and treatment.

7. At all relevant times, Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, employed nursing staff and resident physicians who provided care of and to PAUL BAUER, deceased.

8. At all relevant times, no one informed PAUL BAUER or Plaintiff, DONNA MCDEVITT, that any physician, nurse, or resident physician was not an employee of THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation.

9. On January 14, 2017, PAUL BAUER was admitted to the Medical Intensive Care Unit of THE UNIVERSITY OF CHICAGO MEDICAL CENTER for medical care relating to non-small cell lung cancer.

10. PAUL BAUER died at THE UNIVERSITY OF CHICAGO MEDICAL CENTER on January 18, 2017.

11. At all relevant times, Defendant, IMRE NOTH, M.D., was a physician licensed to practice medicine in the State of Illinois.

12. At all relevant times, Defendant, IMRE NOTH, M.D., was practicing medicine as an actual agent, servant, or employee of THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, or pleading in the alternative, was practicing medicine as an apparent agent, servant, or employee of THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation.

13. Defendant, IMRE NOTH, M.D., was the attending physician in charge of the care of PAUL BAUER while PAUL BAUER was hospitalized at THE UNIVERSITY OF CHICAGO MEDICAL CENTER from January 14, 2017 through January 18, 2017.

14. At all relevant times, Defendant, DANIELLE STAHLBAUM, M.D., was a physician licensed to practice medicine in the State of Illinois.

15. At all relevant times, Defendant, DANIELLE STAHLBAUM, M.D., was practicing medicine as an actual agent, servant, or employee of THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, or pleading in the alternative, was practicing medicine as an apparent agent, servant, or employee of THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation.

COUNT I – MEDICAL BATTERY – WRONGFUL DEATH
(AGAINST ALL DEFENDANTS)

1.-15. Plaintiff re-alleges and incorporates herein the allegations in paragraphs one through fifteen of the Facts Common to All Counts as if specifically plead herein.

16. At all relevant times, it was the duty of Defendants, DANIELLE STAHLBAUM M.D. and IMRE NOTH, M.D., individually and as agents, employees, or servants of Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, to refrain from any unauthorized, harmful and/or offensive contact to PAUL BAUER.

17. At the time of his admission to THE UNIVERSITY OF CHICAGO MEDICAL CENTER on January 14, 2017, PAUL BAUER had not executed a living will, health care power of attorney, or an Illinois Department of Public Health Do Not Resuscitate (DNR)/Practitioner Order for Life Sustaining Treatment (POLST) form, or other advance directive for medical care.

18. The medical code status of a patient who does not have an authorized Do Not Resuscitate (DNR) order is “full code,” meaning that the patient should receive all necessary medical interventions if the patient’s heart or breathing stops.

19. A Do Not Resuscitate (DNR) order is the opposite of full code status and means the patient does not want any resuscitation measures taken.

20. Under Illinois law, a DNR order must be signed by the patient or the patient’s representative and witnessed by a third party.

21. From the date of PAUL BAUER’s admission to THE UNIVERSITY OF CHICAGO MEDICAL CENTER on January 14, 2017 until the date of his death on January 18, 2017, no agent or employee of THE UNIVERSITY OF CHICAGO MEDICAL CENTER ever asked PAUL BAUER if he wished to execute an advance directive.

22. During his hospitalization at THE UNIVERSITY OF CHICAGO MEDICAL CENTER from January 14, 2017 to January 18, 2017, PAUL BAUER never signed an advance directive.

23. On January 14, 2017, PAUL BAUER was an adult with decisional capacity, and was alert and coherent.

24. On January 14, 2017, PAUL BAUER stated to non-defendant Jane Churpek, M.D., a physician at THE UNIVERSITY OF CHICAGO MEDICAL CENTER, that he wanted cardiopulmonary resuscitation if necessary.

25. On January 14, 2017, PAUL BAUER stated to non-defendant Jane Churpek, M.D., a physician at THE UNIVERSITY OF CHICAGO MEDICAL CENTER, that he wanted intubation with a breathing tube if necessary in connection with cardiopulmonary resuscitation.

26. On January 15, 2017, PAUL BAUER was an adult with decisional capacity, and was alert and coherent.

27. On January 15, 2017, PAUL BAUER expressly stated to Respondent In Discovery Michael Hawking, M.D., a physician at THE UNIVERSITY OF CHICAGO MEDICAL CENTER, that he wanted any necessary resuscitation and wanted his medical code status to remain full code.

28. On January 16, 2017, PAUL BAUER was an adult with decisional capacity, and was alert and coherent.

29. On January 16, 2017, PAUL BAUER was seen by Defendant, DANIELLE STAHLBAUM, M.D.

30. On January 16, 2017, PAUL BAUER did not state to DANIELLE STAHLBAUM, M.D., that he wanted his code status changed from full code to DNR.

31. On January 16, 2017, PAUL BAUER did not state to DANIELLE STAHLBAUM, M.D., that he wanted "comfort care."

32. On January 16, 2017, DANIELLE STAHLBAUM, M.D., entered an electronic order changing PAUL BAUER'S code status to DNR/DNI (Do Not Resuscitate/Do Not Intubate).

33. On January 16, 2017, DANIELLE STAHLBAUM, M.D., entered an electronic order to put PAUL BAUER on "comfort care" and begin titration of morphine.

34. On January 16, 2017, DANIELLE STAHLBAUM, M.D., entered an electronic order to discontinue all labs for PAUL BAUER.

35. On January 16, 2017, DANIELLE STAHLBAUM, M.D. entered an electronic order to discontinue tube feeds for PAUL BAUER.

36. On January 16, 2017, DANIELLE STAHLBAUM, M.D. entered an electronic order to discontinue parenteral nutrition for PAUL BAUER.

37. The orders described in paragraphs 32 to 36 were approved and electronically signed by Defendant, IMRE NOTH, M.D.

38. On January 16, 2017, PAUL BAUER did not consent to a code status of DNR/DNI.

39. On January 16, 2017, PAUL BAUER was not given, provided, or otherwise asked to sign a written DNR Order or any other document consenting to a change in code status.

40. On January 16, 2017, PAUL BAUER did not sign any document consenting to a code status of DNR.

41. On January 16, 2017, PAUL BAUER did not consent to "comfort care."

42. On January 16, 2017, PAUL BAUER did not sign any document consenting to "comfort care."

43. On January 16, 2017, PAUL BAUER did not consent to have all labs discontinued.

44. On January 16, 2017, PAUL BAUER did not consent to have tube feeds discontinued.

45. On January 16, 2017, PAUL BAUER did not consent to have parental nutrition discontinued.

46. Before approving the orders referenced in paragraphs 32 to 36, on January 16, 2017, Defendant, IMRE NOTH, M.D., did not consult with PAUL BAUER to confirm or verify that PAUL BAUER consented to "comfort care."

47. Before approving the orders referenced in paragraphs 32 to 36, on January 16, 2017, Defendant, IMRE NOTH, M.D., did not consult with PAUL BAUER to confirm or verify that PAUL BAUER consented to change his resuscitation status.

48. Before approving the orders referenced in paragraphs 32 to 36, on January 16, 2017, Defendant, IMRE NOTH, M.D., did not verify whether PAUL BAUER signed any consent for any of the orders.

49. On January 16, 2017, Defendant, DANIELLE STAHLBAUM, M.D., violated Defendant UNIVERSITY OF CHICAGO's policies and/or procedures by failing to obtain written consent by PAUL BAUER for the orders referenced in paragraphs 32 to 26.

50. Pleading in the alternative to the preceding paragraph, the THE UNIVERSITY OF CHICAGO MEDICAL CENTER failed to have written policies and/or procedures requiring written, signed, consent by PAUL BAUER before the orders referenced in paragraphs 32 to 36 were entered, signed, co-signed, or followed.

51. The actions of Defendants, DANIELLE STAHLBAUM, M.D., IMRE NOTH, M.D., and THE UNIVERSITY OF CHICAGO MEDICAL CENTER, violated state and federal

regulations, statutes, and accreditation standards including 77 Ill. Adm. Code 515.380, and the Joint Commission's accreditation standards.

52. As a direct and proximate result of the orders described in paragraphs 32 to 36, on and after January 16, 2017, PAUL BAUER, was put on a high level of morphine, taken off his regular medications, and deprived of nutrition and hydration.

53. The process of putting a patient on "comfort care" involving the administration of morphine in combination with the withdrawal of food and hydration, without the patient's knowledge or consent, is referred to in the medical community by various names including "stealth euthanasia."

54. Involuntary euthanasia of a patient is illegal in all states, including Illinois.

55. After the orders referenced in paragraphs 32 to 36 were entered on January 16, 2017, neither IMRE NOTH, M.D. nor DANIELLE STAHLBAUM, M.D., saw or provided care or treatment PAUL BAUER.

56. On January 18, 2017, as PAUL BAUER's vital signs declined, neither IMRE NOTH, M.D., DANIELLE STAHLBAUM, M.D., nor any other member of the medical staff at THE UNIVERSITY OF CHICAGO MEDICAL CENTER attempted to resuscitate PAUL BAUER.

57. PAUL BAUER died on January 18, 2017, at 4:25 p.m. at the UNIVERSITY OF CHICAGO MEDICAL CENTER.

58. On and prior to January 18, 2017, Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, acting through its actual or apparent agents, DANIELLE STAHLBAUM, M.D. and IMRE NOTH, M.D., did not have policies and procedures in place to determine and document patients' decisions regarding their resuscitation code status, or pleading in the

alternative, did not follow the policies and procedures for determining and documenting patients' decisions regarding their resuscitation code status.

59. Pleading in the alternative, on and prior to January 18, 2017, Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, acting through its actual or apparent agents, DANIELLE STAHLBAUM, M.D., and IMRE NOTH, M.D., did not have proper policies and procedures in place to determine and document patients' decisions regarding their resuscitation code status.

60. On and prior to January 18, 2017, **Defendants DANIELLE STAHLBAUM, M.D. and IMRE NOTH, M.D.**, individually and as agents, employees, or servants of Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, engaged in unauthorized, harmful and/or offensive contact to PAUL BAUER by withholding lifesaving medicine, care, and nutrition, and by injecting PAUL BAUER with high levels of morphine.

61. On and prior to January 18, 2017, the harmful and/or offensive contact to PAUL BAUER occurred without the consent or authorization of PAUL BAUER.

62. On and prior to January 18, 2017, the harmful and/or offensive contact to PAUL BAUER was against PAUL BAUER's expressly stated wishes.

63. On and prior to January 18, 2017, the harmful and/or offensive contact to PAUL BAUER occurred without the consent or authorization of Plaintiff, DONNA MCDEVITT.

64. At all relevant times, there was in full force and effect in the State of Illinois the Wrongful Death Act, 740 ILCS 180/1.

65. As a direct and proximate result of the unauthorized, harmful and/or offensive contact by Defendants, DANIELLE STAHLBAUM, M.D. and IMRE NOTH, M.D., individually

and as agents, employees, or servants of Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, PAUL BAUER died an untimely and premature death, which otherwise should not have occurred but for the foregoing acts by the Defendants.

66. PAUL BAUER left surviving him Plaintiff, DONNA MCDEVITT, his lawful spouse, who has sustained pecuniary injury as a result of the decedent's untimely death, including but not limited to grief and sorrow, loss of support, society, services, companionship, love, affection, medical, and funeral costs.

WHEREFORE, Plaintiff, DONNA MCDEVITT, prays that this Court enter judgment against Defendants, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, IMRE NOTH, M.D., and DANIELLE STAHLBAUM, M.D. in an amount in excess of \$50,000, plus costs.

COUNT II – MEDICAL BATTERY – SURVIVAL
(AGAINST ALL DEFENDANTS)

1.- 66. Plaintiff re-alleges and incorporates herein the allegations in paragraphs one through sixty-six of Count I as if specifically plead herein.

67. At all relevant times, there was in full force and effect in the State of Illinois a statute commonly known as the Survival Act, 755 ILCS 5/27-6.

68. As a direct and proximate result of the unauthorized, harmful and/or offensive contact to PAUL BAUER by Defendants, DANIELLE STAHLBAUM, M.D., and IMRE NOTH, M.D., individually and as agents, employees, or servants of Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, PAUL BAUER suffered severe injuries and damages including, but not limited to, conscious pain and suffering, disability, loss of a normal life, and caused him to incur medical expenses, up and until the time of his death.

WHEREFORE, Plaintiff, DONNA MCDEVITT, prays that this Court enter judgment against the Defendants, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, IMRE NOTH, M.D., and DANIELLE STAHLBAUM, M.D., in an amount in excess of \$50,000, plus costs.

COUNT III - INFLICTION OF EMOTIONAL DISTRESS
(AGAINST ALL DEFENDANTS)

1.-15. Plaintiff re-alleges and incorporates herein the allegations in paragraphs one through fifteen of the Facts Common to All Counts as if specifically plead herein.

16. – 66. Plaintiff re-alleges and incorporates herein the allegations in paragraphs sixteen through sixty-six of Count One, as if specifically plead herein.

67. – 68. Plaintiff re-alleges and incorporates herein the allegations in paragraphs sixty-seven and sixty-eight of Count Two, as if specifically plead herein.

69. On and prior to January 18, 2017, Plaintiff, DONNA MCDEVITT, was the wife of PAUL BAUER.

70. On and prior to January 18, 2017, Plaintiff, DONNA MCDEVITT, was a direct witness to the battery of her husband, PAUL BAUER.

71. On and prior to January 18, 2017, Plaintiff, DONNA MCDEVITT, was within the zone of danger of the battery on her husband.

72. As a close relative of the victim who was within the zone of danger, Plaintiff, DONNA MCDEVITT, is entitled to recover damages for negligent and/or intentional infliction of emotional distress.

73. At all relevant times, Defendants, DANIELLE STAHLBAUM, M.D. and IMRE NOTH, M.D., individually and as agents, employees, or servants of Defendant, THE

UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, acted with extreme and outrageous conduct that led to the premature death of PAUL J. BAUER.

74. At all relevant times, Defendants DANIELLE STAHLBAUM, M.D. and IMRE NOTH, M.D., individually and as agents, employees, or servants of Defendant, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, an Illinois not-for-profit corporation, knew that there was a high probability that their extreme and outrageous conduct would cause Plaintiff, DONNA MCDEVITT, to suffer severe emotional distress.

75. As a result of the intentional acts or omissions, Plaintiff, DONNA MCDEVITT, suffered severe emotional distress, pain and suffering, and diminished enjoyment of life, and inability to live a normal life.

WHEREFORE, Plaintiff, DONNA MCDEVITT, prays that this Court enter judgment against the Defendants, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, IMRE NOTH, M.D., and DANIELLE STAHLBAUM, M.D. in an amount in excess of \$50,000, plus costs, plus punitive damages.

COUNT IV- CONSUMER FRAUD
(AGAINST DEFENDANT IMRE NOTH, M.D. AND
THE UNIVERSITY OF CHICAGO MEDICAL CENTER)

1.-15. Plaintiff re-alleges and incorporates herein the allegations in paragraphs one through fifteen of the Facts Common to All Counts as if specifically plead herein.

76. At all relevant times, PAUL BAUER was an insured under a medical insurance policy issued to Plaintiff, DONNA MCDEVITT, by Empire Blue Cross Blue Shield.

77. For each of the five days during which PAUL BAUER was hospitalized at THE UNIVERSITY OF CHICAGO MEDICAL CENTER (January 14, 2017 through January 18, 2017), IMRE NOTH M.D. billed Empire Blue Cross Blue Shield for services coded as 99291 as

set forth in the American Medical Association's Current Procedural Terminology ("CPT") Codebook.

78. CPT Code 99291 is used to record the first 30 to 74 minutes of "Critical Care Services" provided by a doctor to a patient on any calendar date.

79. A teaching physician at a teaching hospital may only bill for CPT Code 99291 services if the physician is physically present in the room with the patient and providing "Critical Care Services."

80. A teaching physician may not bill CPT Code 99291 for time spent with a patient by residents under the teaching physician's supervision without the teaching physician being physically present in the patient's room.

81. THE UNIVERSITY OF CHICAGO MEDICAL CENTER is a teaching hospital.

82. At all relevant times, Defendant, IMRE NOTH M.D. was a teaching physician at THE UNIVERSITY OF CHICAGO MEDICAL CENTER.

83. Defendant, IMRE NOTH M.D. did not provide 30 to 74 minutes of "Critical Care Services" to PAUL J. BAUER on January 14, 2017.

84. Defendant, IMRE NOTH M.D. did not provide 30 to 74 minutes of "Critical Care Services" to PAUL J. BAUER on January 15, 2017.

85. Defendant, IMRE NOTH, M.D. did not see PAUL BAUER at any time on January 16, 2017, the date on which DANIELLE STAHLBAUM, M.D., acting under the supervision of IMRE NOTH, M.D., entered an order placing PAUL BAUER on "comfort care" and changing his code status from "Full Code" to DNR/DNI.

86. Defendant, IMRE NOTH, M.D. did not see PAUL BAUER at any time on January 17, 2017.

87. Defendant, IMRE NOTH, M.D. did not see PAUL BAUER at any time on January 18, 2017.

88. Defendant, IMRE NOTH, M.D., intended for Empire Blue Cross Blue Shield and/or Plaintiff, DONNA MCDEVITT, to rely on and pay his fraudulent billings for the provision of CPT Code 99291 "Critical Care Services" to PAUL BAUER.

89. Plaintiff, DONNA MCDEVITT, was billed by Empire Blue Cross Blue Shield for the portion of IMRE NOTH, M.D.'s billings to CPT Code 99291 that were not covered under Plaintiff's medical insurance policy with Empire Blue Cross Blue Shield.

90. At the time Plaintiff, DONNA MCDEVITT, was billed by Empire Blue Cross Blue Shield for a portion of IMRE NOTH, M.D.'s billings to CPT Code 99291, Plaintiff did not know, and had no reason to know, that IMRE NOTH, M.D.'s billings to CPT Code 99291 for "Critical Care Services" for PAUL BAUER were fraudulent.

91. Plaintiff, DONNA MCDEVITT, paid Empire Blue Cross Blue Shield for the portion of IMRE NOTH, M.D.'s billings to CPT Code 99291 that were not covered under Plaintiff's medical insurance policy with Empire Blue Cross Blue Shield.

92. As a result of the aforementioned acts, Plaintiff, DONNA MCDEVITT, has suffered monetary damages.

93. The aforesaid conduct was willful, wanton, or intentional and thus warrants the imposition of punitive damages.

WHEREFORE, Plaintiff, DONNA L. MCDEVITT, prays that this Court enter judgment against the Defendants, THE UNIVERSITY OF CHICAGO MEDICAL CENTER, and IMRE NOTH, M.D., in an amount in excess of \$50,000, plus costs, plus punitive damages.

COUNT V – RESPONDENT IN DISCOVERY - MICHAEL HAWKING, M.D.

Plaintiff, DONNA L. MCDEVITT, by and through her attorneys, LAW OFFICE OF JILL M. WEBB LLC., makes the following allegations as to the Respondent in Discovery:

1. Plaintiff re-alleges and incorporates herein the allegations in paragraphs one through twenty of the Facts Common to All Actions as if specifically plead herein.
2. Plaintiff restates, re-alleges, and reincorporates each and every allegation contained in Counts I-IV as though fully set forth herein.
3. The Respondent in Discovery, MICHAEL HAWKING, M.D., provided medical care to PAUL J. BAUER during the period of time complained of and is being named as a Respondent in Discovery so that he may be requested to respond to discovery pursuant to the Illinois Statute which is commonly cited at 735 ILCS 5/2-402.

VERIFICATION

I, DONNA McDEVITT, hereby swear to, under oath, the foregoing statements in this Verified Complaint at Law are true and accurate to the best of my knowledge.

Donna McDevitt
Donna McDevitt

Subscribed and sworn to
Before me this 19th
Day of July, 2018

Genoveva Salmon
NOTARY PUBLIC



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