

94-CP-32-1063

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
94-CP-32-

Roxanne S. Bedenbaugh,)
Personal Representative of the)
Estate of Kristi A.)
Bedenbaugh,)

Plaintiff,)

vs.)

Gerald V. Long, D.C.,)
Defendant.)

SUMMONS)
(WRONGFUL DEATH AND SURVIVAL)
ACTION))
(JURY TRIAL REQUESTED))

THOMAS H. COOPER, III
CLERK OF COURT
LEXINGTON, S.C.
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TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in the above-entitled action, a copy of which is herewith served upon you, the original of which has been filed in the Office of the Clerk of Court for Lexington County, and to serve a copy of your Answer upon the subscribers at their offices, 1508 College Street, Newberry, South Carolina, within thirty (30) days from the date of such service, exclusive of the date of service; and if you fail to answer the said Complaint within the time aforesaid, or within the time aforesaid, if you otherwise fail to appear and defend as required by the rules of this Court, the Plaintiff will apply to the Court for judgment by default for the relief demanded in the said Complaint.

POPE AND HUDGENS, P.A.

BY: 

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Newberry, South Carolina
May 5, 1994

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

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94-CP-32-

Roxanne S. Bedenbaugh,)
Personal Representative of the)
Estate of Kristi A.)
Bedenbaugh,)

Plaintiff,)

vs.)

Gerald V. Long, D.C.,)
)
Defendant.)

COMPLAINT)
(WRONGFUL DEATH AND SURVIVAL)
ACTION)
(JURY TRIAL REQUESTED))

THOMAS H. COOPER, JR.
CLERK OF COURT
LEXINGTON, S.C.
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The Plaintiff, complaining of the Defendant, alleges:

FOR A FIRST CAUSE OF ACTION
(WRONGFUL DEATH)

1. That the Plaintiff is a citizen and resident of Newberry County and is the duly appointed and acting Personal Representative of the Estate of Kristi A. Bedenbaugh, deceased. Kristi A. Bedenbaugh was a resident of Newberry County at the time of her death on June 14, 1993, and said appointment has been duly made by Order of the Probate Court of Newberry County.

2. That the Defendant is a chiropractic physician licensed to practice chiropractic medicine in the State of South Carolina and is a citizen and resident of Lexington County, South Carolina, and at all times pertinent to this Complaint maintained an office for the practice of chiropractic medicine in said county.

3. That the Plaintiff brings this action in her fiduciary capacity for the beneficiaries of the Estate of Kristi A. Bedenbaugh, pursuant to § 15-51-10 et seq. of the 1976 Code of Laws

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of South Carolina, as amended. The decedent was the daughter of Roxanne S. Bedenbaugh and was unmarried at the time of her death in Richland County, South Carolina, on June 14, 1993.

4. That Kristi A. Bedenbaugh did specifically advise the Defendant both in 1989 and again in June, 1993, prior to Defendant's treatment set forth below, that she was taking birth control pills, and that Defendant knew or should have known in the reasonable exercise of professional judgment that Kristi A. Bedenbaugh was taking birth control pills at all times relevant to this Complaint.

5. That Kristi A. Bedenbaugh was female and was twenty-four years old in June of 1993, prior to her death, and that these facts were known to the Defendant or should have been known to him in the reasonable exercise of his professional judgment.

6. That in early June 1993 Kristi A. Bedenbaugh was suffering from headaches and other discomfort for which she sought chiropractic evaluation and/or treatment from the Defendant.

7. That on or about Wednesday, June 9, 1993, the Defendant in his office at Chapin, South Carolina, did render professional chiropractic services to Kristi A. Bedenbaugh by evaluating her, by determining her need for treatment, and by manipulating her cervical spine and head so as to perform an adjustment on the vertebrae in her cervical spine.

8. That again on the afternoon of Friday, June 11, 1993, the decedent visited the Defendant's office suffering with headaches and discomfort, and the Defendant in his office at

Chapin, South Carolina, did render professional chiropractic services to Kristi A. Bedenbaugh by undertaking to determine her need for treatment and to give treatment to her by manipulating her spine and head so as to perform an adjustment on the vertebrae in her cervical spine.

9. That as a direct and proximate result of the adjustments on the cervical spine of Kristi A. Bedenbaugh by the Defendant as previously set forth, the Defendant did cause both vertebral arteries in the cervical spine of Kristi A. Bedenbaugh, at a point near the junction of the cervical spine and the base of the skull, to be dissected and to thereby interrupt the flow of blood to the lower part of the brain on Kristi A. Bedenbaugh.

10. That Kristi A. Bedenbaugh exhibited signs and symptoms of trauma to her cervical spine and vertebral arteries immediately upon the making of the chiropractic adjustment to her cervical spine at or about 5:45 p.m. on the afternoon of June 11, 1993, in the treatment room of the Defendant and in his presence, said signs and symptoms including vomiting, projectile vomiting, loss of motor control, dizziness, slurred speech, and loss of control of the use of her limbs and inability to walk unassisted.

11. That immediately after the onset of the symptoms, Defendant directed Roxanne Bedenbaugh, mother of Kristi A. Bedenbaugh, to take Kristi from Defendant's office to the Chapin Family Practice Center, which she did, and immediately thereafter Kristi was taken from Chapin Family Practice Center by ambulance to the Richland Memorial Hospital where she was admitted and remained

until her death on June 14, 1993.

12. That Defendant in his treatment of Kristi A. Bedenbaugh failed to exercise the degree of care and skill commonly exercised by practitioners acting in the same or similar circumstances in general and in the following particulars:

a. in undertaking to provide chiropractic treatment when no treatment was required or indicated;

b. in performing a procedure on the cervical spine of Kristi A. Bedenbaugh that was known to present a high risk of injury to her by reason of her age, sex, and the medications that she was taking;

c. in failing to perform the appropriate chiropractic procedure;

d. in failing to properly perform the chiropractic procedure;

e. in failing to perform or obtain proper chiropractic evaluation prior to cervical manipulation to determine whether or not Kristi A. Bedenbaugh was at risk for the procedure that was to be performed;

f. in improperly using chiropractic appliances or devices in performing the adjustments to the cervical spine of Kristi A. Bedenbaugh;

g. in failing to use the usual ordinary or accepted method of performing such chiropractic procedures;

h. in failing to advise Kristi A. Bedenbaugh of

the risks associated with the procedures that were undertaken by the Defendant, and which risks were known to the Defendant or should have been known to the Defendant, and which should have been communicated to Kristi A. Bedenbaugh;

i. in failing to obtain the informed consent of Kristi A. Bedenbaugh prior to undertaking the procedures that were administered by the Defendant at the times relevant to this Complaint.

13. Each and all of the foregoing acts, *in sending her to a Dr's office by car without stabilizing her neck - an ambulance should have been called to go to hospital* and commission, were negligent, grossly negligent each and all were a proximate cause of the injuries to Kristi A. Bedenbaugh, said acts being violation of the State of South Carolina.

14. As a direct and proximate result of the Defendant's negligence, gross negligence, willfulness and recklessness, the Plaintiff, pursuant to the Wrongful Death Statute is entitled to recover damages for the following:

- a. wounded feelings for the loss of her child;
- b. mental shock and suffering;
- c. grief and sorrow;
- d. losing the companionship of the decedent daughter;
- e. being deprived of the use and comfort of the decedent's society;
- f. pecuniary loss;
- g. funeral and burial expenses.

15. That the Defendant was grossly negligent, willful, wanton and reckless in his conduct toward Plaintiff's decedent, and that Plaintiff is entitled to punitive damages from the Defendant thereby.

16. That Plaintiff is entitled to judgment against the Defendant for actual damages in an amount to be determined by the trier of fact, plus punitive damages in an amount to be determined by the trier of fact, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

FOR A SECOND CAUSE OF ACTION
(SURVIVAL ACTION)

17. The Plaintiff repeats and realleges all of the foregoing allegations as if repeated verbatim herein.

18. This action is brought by the Plaintiff pursuant to the provisions of § 15-5-90 of the South Carolina Code of Laws for the benefit of the decedent's estate.

19. As a direct and proximate result of the acts and omissions of the Defendant, the decedent suffered extreme pain and mental anguish prior to her death and was caused to endure conscious pain and suffering needlessly and incurred medical and funeral expenses, all of which would have been prevented by the proper degree of knowledge, skill, and care by the Defendant.

20. That this cause of action for the damages suffered by Kristi A. Bedenbaugh survived her death and is properly prosecuted by the Personal Representative of her Estate.

21. That Plaintiff is entitled to judgment against the

Defendant for actual damages in an amount to be determined by the trier of fact, plus punitive damages in an amount to be determined by the trier of fact, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

WHEREFORE, having fully set forth her Complaint, the Plaintiff prays for an Order of the Court:

- A. Granting her a trial by jury;
- B. Granting her judgment against the Defendant for actual damages in an amount to be determined by the trier of fact;
- C. Granting her judgment against the Defendant for punitive damages in an amount to be determined by the trier of fact;
- D. Granting such other and further relief as the Court deems just and proper.

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May 2, 1994