



AlaFile E-Notice

02-CV-2019-900178.00

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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

DOUG JOHNSON V. KATHERINE CRAFTON ET AL
02-CV-2019-900178.00

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IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

DOUG JOHNSON and
EMILY JOHNSON, as personal
representative of the estate of Patricia
Johnson,

Plaintiff,

vs.

CRAFTON CHIROPRACTIC, INC.; and
KATHERINE CRAFTON,

Defendants.

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CV No.: 2019-900178

THIRD AMENDED COMPLAINT

Plaintiffs Doug Johnson, individually, and Emily Johnson, as personal representative of the estate of Patricia Johnson, state the following as their complaint against Crafton Chiropractic, Inc. and Katherine Crafton:

I. INTRODUCTION

1. This is a breach of contract, breach of warranty, fraud, and wrongful death case. In November 2017, Patty Johnson – the wife of Doug Johnson – was diagnosed with a recurrence of her breast cancer. During Patty’s search for treatment options, she discovered Defendants Katherine Crafton and Crafton Chiropractic, Inc. Patty and/or Doug met with Crafton twice in late 2017. During these meetings, Katherine Crafton falsely represented to the Johnsons that she could cure Patty’s breast cancer through alternative therapies that, unbeknownst to the Johnsons, are commonly referred to in the medical community as “quackery.”

2. As a result of Katherine Crafton's false representation, Patty Johnson decided to forego traditional medical treatment, which would have prolonged her life by 3 to 10 years. She began treatment with Katherine Crafton on January 2, 2018. Over the next three months, the Johnsons paid Crafton Chiropractic, Inc. thousands of dollars in reliance on Katherine Crafton's claim that she could cure Patty's breast cancer. Throughout this treatment, Katherine Crafton falsely represented to the Johnsons that the treatment was working when, in reality, the cancer was rapidly metastasizing throughout Patty's body. Patty died on May 5, 2018, just over three months after she began treatment with Crafton Chiropractic, Inc.

II. PARTIES

3. Doug Johnson is over the age of 19 and a resident and citizen of the State of Alabama. He is the husband of Patty Johnson.

4. Emily Johnson is the daughter of Patty Johnson. She was appointed as the personal representative of Patty Johnson's estate on February 7, 2020.

5. Defendant Katherine Crafton is over the age of 19 and is a resident and citizen of the State of Alabama. She is the owner and/or manager of Crafton Chiropractic, Inc.

6. Defendant Crafton Chiropractic, Inc. ("Crafton Chiropractic") is a corporation organized and existing under the laws of Alabama. Crafton Chiropractic, Inc.'s principal place of business is in Mobile, Alabama.

III. STATEMENT OF FACTS

A. Overview of Crafton Chiropractic and its Health Patient Program

7. Crafton Chiropractic is owned and operated by Katherine Crafton, who is a licensed chiropractor. Crafton Chiropractic markets two distinct lines of services to its customers. The

first line of services is traditional chiropractic care. The second line of services is referred to by Crafton Chiropractic and Katherine Crafton as “alternative natural health activities” or its “Health Patient Program.”

8. Crafton Chiropractic’s health patient program is separate and distinct from its chiropractic practice. On its website, Crafton Chiropractic refers to its Health Patient Program as a “non-governed” health activity and states that the program “is kept distinct from the professional business as these health activities can be offered totally outside any profession.” The Crafton Chiropractic website also makes the following representations about its Health Patient Program:

- The Health Patient Program is “administered by nonprofessionals . . . because the activities require no specialized education.”
- Because the Health Patient Program is a “non-governed health activity . . . no ‘medical records’ are required or kept.”
- “[W]e choose to not confuse these [health program] activities with specific chiropractic treatment”
- “There can be no specific professional observation other than financial records showing what was purchased as an activity or supplement.”
- The Health Patient Program “is to be viewed no differently than how it is monitored by a health store owner selling nutritional supplements”

9. Because Crafton Chiropractic’s Health Patient Program is separate and distinct from its chiropractic services, is a non-governed health activity, requires no specialized education, and can be administered by non-professionals, the program is not covered or protected by the

Alabama Medical Liability Act, the Alabama Medical Liability Act of 1987, or the Alabama Medical Liability Act of 1996.

B. Crafton Chiropractic's false representations regarding its Health Patient Program and "cancer protocol."

10. In 2014, Patty Johnson was diagnosed with breast cancer. Shortly thereafter, she underwent a full mastectomy. Following chemotherapy, she went into complete remission.

11. In November 2017, Patty had breast reconstruction surgery. During the surgery, her surgeon identified a lump that was subsequently diagnosed as a recurrence of her breast cancer. Patty's oncologist offered her chemotherapy and stated it would extend her life by 3 to 10 years.

12. Following this discussion with her oncologist, Patty began researching various treatment options for her cancer, including alternative therapies. During her research, Patty discovered Crafton Chiropractic and subsequently scheduled an appointment with Katherine Crafton.

13. Patty met with Katherine Crafton at Crafton Chiropractic's Mobile, Alabama office in December 2017. During this initial meeting, Katherine Crafton discussed Crafton Chiropractic's Health Patient Program with Patty. Among other things, Crafton told Patty that Crafton Chiropractic's Health Patient Program included a "cancer protocol" that would cure Patty's breast cancer.

14. Following this first meeting and prior to the end of 2017, Patty brought her husband, Doug Johnson, into Crafton Chiropractic for a second meeting with Katherine Crafton. During this second meeting, Katherine Crafton told Patty and Doug that Crafton Chiropractic's "cancer protocol" was far less expensive than traditional medical treatment. She told them that studies had been conducted using the "cancer protocol" and these studies demonstrated that the protocol would

cure Patty's cancer. Katherine Crafton also told Patty and Doug that she had a 100% success rate in curing cancer. When Doug asked Katherine Crafton why she was not telling the world about her cancer cure, she told Doug that the American Medical Association would shut her down if it knew she could cure cancer.

15. In reliance on the representations made by Katherine Crafton, Patty and Doug paid Crafton Chiropractic an initial deposit of several thousand dollars to begin the "cancer protocol." Over the next three months, Patty spent approximately 30 hours a week in treatment at Crafton Chiropractic's clinic. The treatment modalities that Patty received included the following:

- Sitting under a lumen photon light;
- Infrared sauna sessions;
- Placing magnets on or around her body;
- Sending electrical currents through her body using an E-power machine;
- Foot baths;
- Whole body vibration using a Turbosonic machine; and
- Low pressure hyperbaric oxygen therapy using a device Katherine Crafton purportedly won at a conference.

16. In addition to the above treatment modalities, Crafton Chiropractic's "cancer protocol" also required Patty and Doug to purchase thousands of dollars' worth of supplements from Crafton Chiropractic. Patty and Doug purchased these supplements for Patty based on Katherine Crafton's representations that she could cure Patty's cancer. The supplements included:

- Food Research Calcium Complex
- Jarro-Dolphilus + FOS Probiotic
- Food Research Vitamin-Mineral

- Standard Process Adrenal Desiccated
- American Nutraceuticals Natura 401
- Food Research B Stress Complex
- American Nutraceuticals S.O.D. Support
- Euro Medica Vitamin D3 5,000 IU
- Nutrisail B Lite Daily Energizer
- Food Research Zinc Complex
- Euro Medica Tri-Iodine
- Standard Process Pituitrophin PMG
- Standard Process Antronex 1110
- Standard Process Pneumotrophin PMG
- Standard Process Mammary PMG
- Culturelle tablets
- American Nutraceuticals Vitality Boost
- Desbio Homeopathic Lymph Drainage
- NAET Homeopathic Brain Balance Core Formula
- Desbio Homeopathic Bacteria Plus
- Desbio Homeopathic Virus Plus
- CV Sciences Plus Cannabidiol (CBD) Oil
- Sunfood Super Foods Pure & Potent Magnesium Oil
- Black Salve
- Nutribiotic Maximum GSE Liquid Concentrate

17. None of these treatment modalities or supplements have ever been proven to cure or effectively treat cancer. In fact, many of these treatment modalities and supplements have been designated as “fake” cancer cures by the Food and Drug Administration, the American Cancer Society, or other reputable medical organizations.

18. During the three months that Patty participated in Crafton Chiropractic’s “cancer protocol,” her condition progressively worsened. However, Katherine Crafton repeatedly discounted the progression of Patty’s cancer and falsely told Patty and Doug that Patty was simply experiencing a “healing crisis.” Specifically, Katherine Crafton told Patty and Doug that Patty’s “healing crisis” was entirely normal and part of the process of curing Patty’s cancer.

19. In reality, during the time that Patty was going through Crafton Chiropractic’s “cancer protocol,” Patty’s breast cancer was rapidly metastasizing through her body. Nonetheless, Katherine Crafton continued to falsely represent to Patty and Doug that the “cancer protocol” was working.

20. In fact, on April 2, 2017, Katherine Crafton performed a ZYTO scan on Patty. A ZYTO scan involves a person placing their hand on a small hand cradle. During the scan, energetic impulses are sent through the person’s hand. The ZYTO scan software then records the body’s response to the impulses. The Food and Drug Administration has stated that ZYTO scans cannot be used for diagnostic purposes. Nonetheless, after reviewing Patty’s ZYTO scan, Katherine Crafton told Patty and Doug that the scan indicated that Patty was cancer free.

21. Following the ZYTO scan, Katherine Crafton ordered a blood test to confirm that Patty was cancer free. Patty’s blood was drawn on April 18, 2018. The following day, she was admitted into the Intensive Care Unit at Mobile Infirmary due to the progression of her cancer. On

April 26, 2018, Patty's blood test came back and indicated that her breast cancer had worsened. Patty died from breast cancer on May 5, 2018.

IV. CAUSES OF ACTION

A. Intentional Misrepresentation

22. Katherine Crafton and Crafton Chiropractic, Inc. falsely represented to Doug and Patty Johnson that they could cure Patty Johnson's breast cancer. Katherine Crafton and Crafton Chiropractic, Inc. knew that they could not cure Patty's Johnson's breast cancer when they made this representation to the Johnsons.

23. Doug Johnson reasonably relied on Katherine Crafton and Crafton Chiropractic, Inc.'s false representation that they could cure Patty Johnson's breast cancer.

24. Doug Johnson suffered damages as a result of his reliance on Katherine Crafton and Crafton Chiropractic, Inc.'s false representation.

WHEREFORE, Plaintiff, Doug Johnson, demands judgment against Katherine Crafton and Crafton Chiropractic, Inc. for compensatory and punitive damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

B. Reckless Misrepresentation

25. Katherine Crafton and Crafton Chiropractic, Inc. falsely represented to Doug and Patty Johnson that they could cure Patty Johnson's breast cancer. Katherine Crafton and Crafton Chiropractic recklessly failed to ascertain the truth of this representation.

26. Doug Johnson reasonably relied on Katherine Crafton and Crafton Chiropractic, Inc.'s false representation that they could cure Patty Johnson's breast cancer.

27. Doug Johnson suffered damages as a result of his reliance on Katherine Crafton and Crafton Chiropractic, Inc.'s false representation.

WHEREFORE, Plaintiff, Doug Johnson, demands judgment against Katherine Crafton and Crafton Chiropractic, Inc. for compensatory and punitive damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

C. Negligent Misrepresentation

28. Katherine Crafton and Crafton Chiropractic, Inc. falsely represented to Doug and Patty Johnson that they could cure Patty Johnson's breast cancer. Katherine Crafton and Crafton Chiropractic negligently failed to ascertain the truth of this representation.

29. Doug Johnson reasonably relied on Katherine Crafton and Crafton Chiropractic, Inc.'s false representation that they could cure Patty Johnson's breast cancer.

30. Doug Johnson suffered damages as a result of his reliance on Katherine Crafton and Crafton Chiropractic, Inc.'s false representation.

WHEREFORE, Plaintiff, Doug Johnson, demands judgment against Katherine Crafton and Crafton Chiropractic, Inc. for compensatory and punitive damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

D. Fraudulent Suppression

31. Katherine Crafton and Crafton Chiropractic, Inc. were under an obligation to disclose to Doug Johnson that they could not cure Patty's Johnson's breast cancer.

32. Katherine Crafton and Crafton Chiropractic, Inc. failed to disclose to Doug Johnson that they could not cure Patty's Johnson's breast cancer.

33. Doug Johnson suffered damages as a result of Katherine Crafton and Crafton Chiropractic, Inc.'s failure to disclose to him that they could not cure Patty Johnson's breast cancer.

WHEREFORE, Plaintiff, Doug Johnson, demands judgment against Katherine Crafton and Crafton Chiropractic, Inc. for compensatory and punitive damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

E. Breach of Contract

34. Doug and Patty Johnson entered into a contract with Katherine Crafton and Crafton Chiropractic whereby Katherine Crafton and Crafton Chiropractic, Inc. agreed to cure Patty Johnson's breast cancer.

35. Katherine Crafton and Crafton Chiropractic, Inc. breached the contract in that they failed to cure Patty Johnson's breast cancer.

36. Doug Johnson and Patty Johnson suffered damages as a result of Katherine Crafton and Crafton Chiropractic, Inc.'s breach of the contract.

WHEREFORE, Plaintiff Doug Johnson and Plaintiff Emily Johnson, as personal representative of the estate of Patty Johnson, demand judgment against Katherine Crafton and Crafton Chiropractic, Inc. for compensatory damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

F. Breach of Warranty

37. Katherine Crafton and Crafton Chiropractic, Inc. warranted that the goods and services they sold to Patty and Doug Johnson would cure Patty Johnson's breast cancer.

38. Katherine Crafton and Crafton Chiropractic, Inc. breached their warranty to Patty and Doug Johnson in that the goods and services they provided to Patty Johnson did not cure her cancer.

39. Doug Johnson has suffered damages as a result of Katherine Crafton and Crafton Chiropractic, Inc.'s breach of warranty.

40. Patty Johnson also suffered damages as a result of Katherine Crafton and Crafton Chiropractic, Inc.'s breach of warranty. The damages she suffered include, but are not limited to: pain and suffering, mental anguish, and loss of enjoyment of life. These damages are recoverable pursuant to *Benefield v. Aquaslide N Dive Corp.*, 406 So. 2d 873 (Ala. 1981).

WHEREFORE, Plaintiff Doug Johnson and Plaintiff Emily Johnson, as personal representative of the estate of Patty Johnson, demand judgment against Katherine Crafton and Crafton Chiropractic, Inc. for compensatory damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

G. Wrongful Death

41. Patty Johnson's death was caused by the wrongful conduct of Katherine Crafton and Crafton Chiropractic, Inc. as described in the preceding paragraphs of this complaint. This wrongful conduct included:

- a. Intentionally misrepresenting that they could cure Patty Johnson's cancer;
- b. Recklessly misrepresenting that they could cure Patty Johnson's cancer;
- c. Negligently representing that they could cure Patty Johnson's cancer;
- d. Fraudulently suppressing that they could not cure Patty Johnson's cancer;

- e. Breaching warranties related to the goods and services that were provided to Patty Johnson; and
- f. Breaching the contract related to the goods and services that were provided to Patty Johnson.

42. The above described wrongful conduct on the part of Katherine Crafton and Crafton Chiropractic, Inc. induced Patty Johnson to forego traditional medical treatment and was the proximate cause of her death on May 5, 2018.

WHEREFORE, Plaintiff, Emily Johnson, as the personal representative of the estate of Patricia Johnson, demands judgment against Defendants Katherine Crafton and Crafton Chiropractic Inc., separately and severally, for punitive damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

H. Alternative Claim under the Alabama Medical Liability Act

43. The Defendants have asserted that Plaintiffs' claims are governed by the Alabama Medical Liability Act of 1987, 1996, including §6-5-480, et seq. and §6-5-540 through § 6-5-552, Code of Alabama. Accordingly, pursuant to Rule 8(e) of the Alabama Rules of Civil Procedure, Plaintiffs plead the following claim in the alternative:

44. Plaintiffs incorporate paragraphs 1-8 and 10-21 above, as if fully set forth herein.

45. In treating Patty Johnson, Defendants Katherine Crafton and Crafton Chiropractic, Inc. negligently departed from the standard of care applicable to a chiropractor in one or more of the following respects:

- a. Intentionally misrepresenting that they could cure Patty Johnson's cancer;
- b. Recklessly misrepresenting that they could cure Patty Johnson's cancer;

- c. Negligently representing that they could cure Patty Johnson's cancer;
- d. Wantonly representing that they could cure Patty Johnson's cancer; and
- e. Fraudulently suppressing that they could not cure Patty Johnson's cancer.

46. Doug Johnson suffered damages as a result of Katherine Crafton and Crafton Chiropractic, Inc.'s misrepresentations and failure to disclose to him that they could not cure Patty Johnson's breast cancer.

47. The above described wrongful conduct on the part of Katherine Crafton and Crafton Chiropractic, Inc. induced Patty Johnson to forego traditional medical treatment and was the proximate cause of her death on May 5, 2018.

WHEREFORE, Plaintiff Doug Johnson and Plaintiff Emily Johnson, as personal representative of the estate of Patty Johnson, demand judgment against Katherine Crafton and Crafton Chiropractic, Inc. for compensatory and punitive damages in excess of the minimal jurisdictional requirements of this Court, plus interest and costs.

PLAINTIFF DEMANDS A JURY TRIAL

Respectfully submitted,

/s/ William E. Bonner

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CERTIFICATE OF SERVICE

The undersigned, by affixing his signature hereto, certifies that on January 20, 2021, he electronically filed the foregoing with the Clerk of the Court using the AlaFile system, which will send notification of such filing to all counsel of record.

/s/ William E. Bonner