

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT IN AND
FOR DUVAL COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

BRIAN FORD,

CASE NO.:

Plaintiff,

v.

PHYSICIANS GROUP SERVICES, P. A.
d/b/a FAMILY MEDICAL CENTERS,

Defendant.

COMPLAINT

Plaintiff, BRIAN FORD, by and through his undersigned counsel, hereby files this Complaint against Defendant, PHYSICIANS GROUP SERVICES, P. A. d/b/a FAMILY MEDICAL CENTERS, and alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff, BRIAN FORD (hereinafter "FORD"), is an unmarried adult male and a resident of Comal County, Texas.
2. PHYSICIANS GROUP SERVICES, P. A. d/b/a FAMILY MEDICAL CENTERS (hereinafter "PHYSICIANS") is a medical facility organized as a Florida for-profit corporation and existing under the laws of the State of Florida with its headquarters in Duval County, Florida.
3. At all times material, PHYSICIANS was responsible for the selection, assignment and supervision of its healthcare providers, the safety of its patients, and the implementation of policies and procedures at its medical facility including safety protocols.

4. Venue properly lies in this judicial circuit in that PHYSICIANS is headquartered in this judicial circuit and the tortious activity that is the subject of this lawsuit occurred in this judicial circuit. This Court has jurisdiction in that this is a claim for damages in excess of \$50,000.00, exclusive of interest, costs, and attorney's fees.

SEXUAL ABUSE OF FORD

5. PHYSICIANS is a general practice medical facility. To that end, it employs medical professionals to provide healthcare to its patients.

6. At all times material, JESSICA VOLPE (hereinafter "VOLPE"), was a Florida-licensed advanced practice registered nurse (hereinafter "APRN") having been issued license number APRN 9202467.

7. At all times material, VOLPE was a healthcare professional and employee of PHYSICIANS.

8. At all times material, FORD was a patient of PHYSICIANS.

9. On or about March 16, 2020, FORD visited PHYSICIANS to consult with his primary care physician, Dr. James Fetchero. When Dr. Fetchero was not available, FORD was treated by VOLPE for the first time.

10. FORD was subsequently treated by VOLPE at PHYSICIANS on or about the following dates: June 15, 2020; July 16, 2020; July 20, 2020; and July 27, 2020. During the course of his treatment by VOLPE at PHYSICIANS, FORD was reliant on VOLPE for medical diagnosis, treatment, prescription medicine, and her recommendations as to future treatment.

11. After FORD's March 16, 2020 appointment, VOLPE texted FORD on FORD's personal cellphone about a prescription that she needed permission to fill from FORD's pain management physician. FORD was confused as to who was texting him because he had never previously received a

direct text message from a doctor or APRN.

12. Beginning on or before March 26, 2020, VOLPE sexually exploited FORD while he was still a patient of, and under the care of, VOLPE.

13. The sexual contact between FORD and VOLPE continued for a period of months and included, but was not limited to, daily visits between the hours of 5:30 and 6:30 P.M. when FORD and VOLPE would talk and “make out” in one of their vehicles in the parking lot located directly outside of PHYSICIANS; sexual intercourse, at least one time which occurred in VOLPE’s vehicle in the parking lot located directly outside of PHYSICIANS; and VOLPE sending FORD lewd photos of herself, including photos of her bare breasts, buttocks, and vagina.

14. The photos that VOLPE sent FORD, that were sexually graphic in nature, and which included photos of VOLPE’s bare breasts, buttocks, and vagina were sent no later than July 23, 2020, before FORD’s final professional consultation with VOLPE on July 27, 2020, and prior to VOLPE’s final day of employment at PHYSICIANS on August 19, 2020.

15. The sexual misconduct by VOLPE alleged herein did not arise out of any legitimate diagnosis, treatment, or care of Plaintiff nor even under the guise of medical treatment or healthcare. In particular, Plaintiff does not allege in this action that Defendant violated any professional standard of care for medical treatment, but rather that he was sexually exploited by VOLPE while he was her patient and under her care at PHYSICIANS.

16. On or about January 4, 2023, VOLPE was suspended by the State of Florida Board of Nursing for violating Sections 456.072(1)(v) and 456.063(1), Florida Statutes in connection with her sexual misconduct with FORD for exploiting and using the professional relationship, between a healthcare provider and a patient, to induce or engage in sexual activity with a patient.

17. Throughout FORD’s course of treatment at PHYSICIANS, VOLPE purported to express empathy and understanding for FORD’s emotional turmoil as FORD required treatment for a

serious physical injury in addition to having marital difficulties.

18. In fact, FORD's July 16, 2020, visit to PHYSICIANS was due to increased anxiety which FORD reiterated to VOLPE, in her capacity as a healthcare professional, was a result of, in part, mounting marital issues.

19. A healthcare professional must never engage in intimate sexual behavior with a person whom she is treating.

20. VOLPE's duties at PHYSICIANS included providing medical treatment and advice to patients.

21. In fact, VOLPE's treatment notes of FORD's, July 16, 2020, visit to PHYSICIANS states that VOLPE "counselled" FORD "to remove himself from current living situation asap."

22. After FORD began treatment with VOLPE, VOLPE preyed on the imbalance of power with FORD and exploited FORD's emotional fragilities that she learned about during her treatment of FORD. VOLPE continued a sexual relationship with FORD while continuing to serve as his healthcare professional. During this period, VOLPE also sent FORD photographs of VOLPE's bare breasts, buttocks, and vagina.

23. VOLPE exploited FORD's fragile emotional state to gain his trust and confidence. VOLPE used the insight she gained from her healthcare provider-patient relationship with FORD to forge exploitive extramarital sexual encounters with her patient, FORD, a vulnerable man who was not in an emotional state to be in such a relationship, much less one involving an imbalance of power.

24. FORD submitted to the pressure being exerted by VOLPE and was sexually exploited by VOLPE.

25. Throughout the period of FORD and VOLPE's sexual contact, VOLPE took advantage of FORD's vulnerability and reliance on her for medical treatment and/or prescriptions to induce or engage FORD into sexual activity.

26. Over a period of approximately six months, VOLPE continued to exercise her influence and control over FORD through her sexual behavior while simultaneously serving as FORD's healthcare provider.

27. VOLPE abused her position of authority over FORD while VOLPE was acting on behalf of PHYSICIANS as FORD's healthcare provider and in the course and scope of her employment with PHYSICIANS.

28. In fact, on FORD's July 27, 2020, visit, VOLPE engaged in sexual contact with FORD onsite at PHYSICIANS when FORD presented to PHYSICIANS for medical treatment. At this appointment, VOLPE further solicited FORD to engage in oral sex onsite at PHYSICIANS in lieu of medical treatment.

29. The sexual exploitation by VOLPE and the breach of fiduciary duty owed to FORD caused and exacerbated FORD's emotional pain resulting in the dissolution of FORD's marriage.

COUNT I
(NEGLIGENCE)

30. Plaintiff repeats and re-alleges Paragraphs 1 through 29 above.

31. At all times material, FORD received healthcare at PHYSICIANS, where VOLPE served as an APRN and regularly interacted with and provided treatment and counseling to patients.

32. At all times material, PHYSICIANS owed a duty to exercise reasonable care in the selection, assignment, and supervision of healthcare professionals and in ensuring the safety of its patients. In so doing, PHYSICIANS had an affirmative duty to exercise reasonable care to promote its patients' best interests and to protect them from emotionally and sexually exploitive conduct by its employees.

33. PHYSICIANS knew or in the exercise of reasonable care should have known, that VOLPE was unfit for the intimate duties assigned as an APRN, had a temperament that rendered her

unsuitable to be alone with male clients, had boundary issues with patients, and/or posed a risk of sexual misconduct by abusing her position of power and trust with patients.

34. PHYSICIANS breached its duty owed to FORD by hiring and retaining VOLPE and by failing to properly supervise VOLPE.

35. PHYSICIANS retained and failed to properly supervise VOLPE's interactions with FORD, including the open and obvious undue attention VOLPE gave to FORD, and/or by failing to prevent VOLPE'S emotional exploitation and sexual abuse of FORD.

36. These acts and omissions by PHYSICIANS constitute a breach of the duty of care owed to FORD with regard to its supervision of healthcare professionals.

37. As a direct and proximate cause of the foregoing, FORD was sexually exploited by VOLPE and has suffered physical, psychological and emotional injuries, mental anguish and the loss of enjoyment of life.

WHEREFORE, Plaintiff, BRIAN FORD, demands judgment against Defendant, PHYSICIANS GROUP SERVICES, P.A. d/b/a FAMILY MEDICAL CENTERS, for compensatory damages, costs and such other and further relief as this Court may deem appropriate.

COUNT II
(BREACH OF FIDUCIARY DUTY)

38. Plaintiff repeats and re-alleges Paragraphs 1 through 29 above.

39. At all times material, FORD received healthcare at PHYSICIANS, where VOLPE served as an APRN and regularly interacted with and provided treatment and counseling to patients.

40. At all times material, FORD and VOLPE formed a nurse-patient relationship, which was based upon trust and confidence.

41. The dynamics of the relationship between health care provider and patient include a power imbalance where the patient is dependent upon the provider's knowledge and training to provide

care. In addition, patients provide personal information and/or allow the healthcare provider to conduct intimate examinations. The transfer of information is one-sided. This was particularly true in the case of FORD. FORD shared intimate details about his life with VOLPE in connection with his treatment and was extraordinarily reliant upon VOLPE's care and prescriptions for his health at a vulnerable stage in his life.

42. PHYSICIANS, through VOLPE's counseling relationship with FORD, occupied and accepted a position of trust and confidence in FORD's life, and in so doing, undertook a fiduciary relationship.

43. VOLPE formed this fiduciary relationship with FORD in the course and scope of her employment with PHYSICIANS and as an agent, healthcare professional, and counselor of PHYSICIANS.

44. By virtue of FORD's treatment at PHYSICIANS and the healthcare provider-patient relationship between VOLPE and FORD, PHYSICIANS owed a fiduciary duty to FORD to protect him from abusive conduct by its employees.

45. PHYSICIANS breached its fiduciary duty owed to FORD when it failed to prevent VOLPE'S emotional and sexual exploitation of FORD despite the fact that PHYSICIANS knew or should have known that VOLPE was unfit for the intimate duties assigned as an APRN, had a temperament that rendered her unsuitable to be alone with male clients, had boundary issues with patients, and/or posed a risk of sexual misconduct by abusing her position of power and trust with patients.

46. PHYSICIANS further breached its duty owed to FORD by failing to address the open and obvious undue attention VOLPE gave to FORD and/or by failing to prevent VOLPE'S emotional and sexual exploitation abuse of FORD.

47. As a direct and proximate cause of the foregoing, FORD was sexually exploited by

VOLPE and has suffered physical, psychological and emotional injuries, mental anguish and the loss of enjoyment of life.

WHEREFORE, Plaintiff, BRIAN FORD, demands judgment against Defendant, PHYSICIANS GROUP SERVICES, P.A. D/B/A FAMILY MEDICAL CENTERS, for compensatory damages, costs and such other and further relief as this Court may deem appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

CERTIFICATE RE: E-FILING AND E-SERVICE

I HEREBY CERTIFY that this Complaint was filed electronically in compliance with Florida Rules of Judicial Administration 2.515 and 2.516(e).

I FURTHER CERTIFY for purposes of service of any documents after initial process that adam@adamhorowitzlaw.com and eric@adamhorowitzlaw.com are primary.

DATED: December 11, 2023

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