

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT
C. A. No.

ROBERT ROE Nos. 1 - 11,)
Plaintiffs)
)
v.)
)
CHILDREN'S HOSPITAL)
MEDICAL CENTER, and)
MICHAEL MOE Nos. 1 - 10,)
Defendants)

COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTORY STATEMENT

1. This is an action in which former child patients of the late Melvin Levine in North Carolina, now adults, bring this action against CHILDREN'S HOSPITAL MEDICAL CENTER for negligence in failing properly to supervise Levine who, over a period of twenty (20) years, improperly treated and/or sexually abused in excess of fifty (50) minor patients in Massachusetts. As a result of CHILDREN'S negligence, Levine was able to continue his sexual abuse of child patients in North Carolina for an additional twenty years.

PARTIES

2. Plaintiffs are individuals who bring this action in the names ROBERT ROE Nos. 1 through 11 . They are identified in separate Affidavits which will be served upon the defendants.
3. Defendant CHILDREN'S HOSPITAL MEDICAL CENTER, also known as Children's Hospital ("CHILDREN'S"), is a corporation duly organized under the laws of the Commonwealth of Massachusetts with an usual place of business at 300 Longwood Avenue, Boston, Suffolk County, Massachusetts.

4. Defendants MICHAEL MOE Nos. 1 - 10 are individuals who took part in the conspiracy to hide the instances of abuse alleged, whose names are presently unknown to the plaintiff.

FACTS COMMON TO ALL COUNTS

5. At all times relevant to this action, the late Melvin Levine (“Levine”) was a physician duly licensed under the laws of the Commonwealth of Massachusetts. After 2009, he was no longer licensed to practice medicine.
6. At all times relevant to this action, defendant CHILDREN’S was a hospital duly licensed under the laws of the Commonwealth of Massachusetts.
7. At all times relevant to this action, from 1966 to 1985, Levine was a physician, specializing in pediatrics, employed by defendant CHILDREN’S. A copy of his Curriculum Vitae is annexed, marked “A.”
8. In 1985, Levine left defendant CHILDREN’S, and joined the UNC Chapel Hill School of Medicine, and maintained a pediatric medical practice there.
9. On March 19, 2009, Levine signed a Consent Order, agreeing to surrender permanently his medical license, after the North Carolina Medical Board received complaints from five (5) pediatric patients, alleging that between 1987 and 2006 Levine had performed genital examinations on them which were not medically indicated. The Medical Board imposed two conditions: Levine could not ever apply for reinstatement, and he could never practice medicine in any other jurisdiction. A copy of the Consent Order is annexed, marked “B.”
10. Seven former patients of Levine made allegations of record that he performed genital examinations upon them which were not medically indicated, during which he stroked, massaged and manipulated the genitals of his patients in a manner which was not medically necessary.
11. JOHN DOE No. 6 filed suit in U.S. District Court (MA), C. A. No. 88-0739, in 1988.

A copy of the Complaint is annexed, marked "C."

12. JOHN DOE No. 7 complained to the Massachusetts Board of Registration in Medicine in 1993. A copy of his complaint form is annexed, marked "D."
13. JOHN DOE No. 1 filed suit in Suffolk Superior Court, Civil Action No. 05-2828 (G), in 2005.
14. JOHN DOE No. 2 filed suit in Suffolk Superior Court, Civil Action No. 06-0385 (A), in 2006.
15. JOHN DOE No. 3 and JOHN DOE No. 4 filed suit in Suffolk Superior Court, Civil Action No. 06-3170 (D), in 2006.
16. JOHN DOE No. 5 filed suit in Suffolk Superior Court, Civil Action No. 08 - 1443 (H), in 2008.
17. On February 17, 2011, JOHN DOE Nos. 8 through 12 filed suit in Suffolk Superior Court, Civil Action No. 11 - 0607 (G), alleging that they were former patients of Levine at CHILDREN'S, where he performed genital examinations upon them, and numerous other child patients, which were not medically indicated, during which he stroked, massaged and manipulated the genitals of his patients in a manner which was not medically necessary.
18. JOHN DOE Nos. 8 through 12 are seeking class status for all of Levine's Massachusetts patients, which they believe to number approximately 5,000.
19. During each year of the period of time from 1966 through 1985, while he was a pediatrician at defendant CHILDREN'S, Levine deviated from accepted medical standards, in that he performed genital examinations of numerous other minor patients which were not medically indicated, in that he stroked, massaged and manipulated the genitals of his patients in a manner which was not medically necessary, including the following individuals, who are listed in chronological order:
John Doe No. 13, born 1956, treated approximately 1966-7, at about ages 9-11.

John Doe No. 4, born 1957, treated approximately 1967-68, at about ages 10-12.

John Doe No. 14, born 1954, treated approximately 1968-72, at about ages 12-17.

John Doe No. 15, born 1963, treated approximately 1971, at about age 8.

John Doe No. 16, born 1958, treated approximately 1971-73, at about ages 13-15.

John Doe No. 8, born 1960, treated approximately 1971-74, at about ages 10-13.

John Doe No. 17, born 1960, treated approximately 1972, at about age 12.

John Doe No. 18, born 1963, treated approximately 1973-74, at about ages 10-11.

John Doe No. 9, born 1962, treated approximately 1973-74, at about ages 10-11.

John Doe No. 19, born 1966, treated approximately 1973-76, at about ages 7-10.

John Doe No. 20, born 1966, treated approximately 1973-76, at about ages 7-10.

John Doe No. 21, born 1967, treated approximately 1973-78, at about ages 8-11.

John Doe No. 1, born 1962, treated approximately 1974-75, at about ages 12-13.

John Doe No. 10, born 1964, treated approximately 1974-75, at about ages 10-11.

John Doe No. 22, born 1966, treated approximately 1975-76, at about age 9.

John Doe No. 23, born 1968, treated approximately 1975-77, at about ages 7-9.

John Doe No. 24, born 1966, treated approximately 1975-80, at about ages 9-14.

John Doe No. 11, born 1971, treated approximately 1975-84, at about ages 4-12.

John Doe No. 12, born 1965, treated approximately 1976-77, at about ages 11-12.

John Doe No. 2, born 1966, treated approximately 1977-80, at about ages 10-13.

John Doe No. 25, born 1969, treated approximately 1977-83, at about ages 8-14.

John Doe No. 26, born 1970, treated approximately 1977-84, at about ages 7-14.

John Doe No. 27, born 1972, treated approximately 1978, at about age 6.

John Doe No. 28, born 1967, treated approximately 1978-85, at about ages 11-18.

John Doe No. 6, born 1970, treated approximately 1978-79, at about ages 12-13.

John Doe No. 7, born 1970, treated approximately 1978-84, at about ages 7-13.

John Doe No. 29, born 1967, treated approximately 1979-83, at about ages 11-15.

John Doe No. 30, born 1967, treated approximately 1979-80, at about ages 11-12.

John Doe No. 31, born 1969, treated approximately 1980, at about age 10.

John Doe No. 5, born 1972, treated approximately 1980-85, at about ages 8-13.

John Doe No. 32, born 1971, treated approximately 1981-82, at about ages 10-11.

John Doe No. 33, born 1968, treated approximately 1982, at about ages 13-14.

John Doe No. 3, born 1977, treated approximately 1982-84, at about ages 5-7.

John Doe No. 34, born 1968, treated approximately 1983, at about age 15.

John Doe No. 35, born 1973, treated approximately 1983, at about age 9.

John Doe No. 36, born 1970, treated approximately 1983-84, at about age 13.

20. Levine has stated that he treated over 15,000 patients during his career.
21. Plaintiffs are informed and believe that Levine treated approximately five thousand (5,000) male, minor patients at defendant CHILDREN'S, between the years 1966 through 1985.
22. Levine's practices and procedures indicate the likelihood that he deviated from accepted medical standards, in that he performed genital examinations which were not medically indicated, and/or were improperly conducted, on many, if not all, of his minor male patients at defendant CHILDREN'S.
23. Defendant CHILDREN'S was informed, by the parent of a minor male pediatric patient, in 1967, that Levine had sexually assaulted her son.
24. Plaintiffs are informed and believe that other parents made complaints to defendant CHILDREN'S regarding LEVINE's performance of genital examinations which were not medically indicated, and/or were improperly conducted.
25. Defendant CHILDREN'S, knew, or in the exercise of reasonable care should have known, of Levine's performance of genital examinations which were not medically indicated, and/or were improperly conducted.
26. Defendant CHILDREN'S knew, or in the exercise of reasonable care should have

- known, that Levine was not a fit person to be placed in charge of the treatment of minor male pediatric patients, or to be allowed to provide unsupervised care.
27. Defendant CHILDREN'S knew, or in the exercise of reasonable care should have known, that Levine was not a fit person to be retained in a position in which he would have access to minor male pediatric patients.
 28. Defendant CHILDREN'S knew, or in the exercise of reasonable care should have discovered, that Levine was engaged in illegal and inappropriate conduct with minor male pediatric patients under his treatment.
 29. Defendant CHILDREN'S failed to train Levine properly to perform his duties in the treatment of minor male pediatric patients.
 30. Defendant CHILDREN'S failed to supervise Levine properly in the performance of his duties in the treatment of minor male pediatric patients.
 31. Defendant CHILDREN'S failed to discipline Levine properly for his deviations from accepted medical practice in the performance of his duties in the treatment of minor male pediatric patients.
 32. Defendant CHILDREN'S failed to report Levine's conduct to the Massachusetts Board of Registration in Medicine, the National Practitioner Databank, or any other public, quasi-public, or private licensing or accrediting authority or agency.
 33. Defendant CHILDREN'S failed to report Levine's conduct to the North Carolina Board of Medicine.
 34. Defendant CHILDREN'S failed to provide any information about Levine's conduct to the University of North Carolina.
 35. As result of CHILDREN'S several failures, Melvin Levine was able to obtain a license to practice medicine in North Carolina.
 36. As result of CHILDREN'S several failures, Melvin Levine was able to obtain a position as a pediatrician at the University of North Carolina.

37. As result of CHILDREN'S several failures, Melvin Levine was able to treat, and to sexually abuse, ROBERT ROE Nos. 1 through 11.
38. ROBERT ROE Nos. 1 through 11 were all patients of Levine in North Carolina, were treated by him, between the years 1985 through 2006, when they were between the ages of 8 and 17 years of age.
39. During the course of his treatment of ROBERT ROE Nos. 1 through 11, Levine deviated from accepted medical standards, in that he performed genital examinations of his patients which were not medically indicated, during which he stroked, massaged and manipulated the genitals of his patients in a manner which not medically necessary.
40. ROBERT ROE Nos. 1 through 11 each did not know, understand or remember that they had been harmed by Levine's conduct until after March 31, 2008.
41. Levine failed to divulge in a reasonable manner to the plaintiffs, or their respective parents, sufficient information to enable them to give or withhold their consent to the course of treatment followed by Levine, and he failed to disclose the manner of his treatment, or to obtain their consent.
42. The treatment Levine provided to the plaintiffs violated the applicable professional and ethical principles and standards of his profession.

COUNT I

43. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
44. Defendant CHILDREN'S, along with persons whose names are presently unknown, knew, as early as 1967, that Levine had sexually assaulted a minor male patient of the hospital.
45. Defendant CHILDREN'S received complaints, at various times, that Levine was engaging in medical treatment which was unwarranted, improper and/or not in

accordance with accepted medical practice.

46. Defendant CHILDREN'S had a duty to protect its minor patients from sexual assaults, and from medical treatment which was unwarranted, improper and/or not in accordance with accepted medical practice.
47. Defendant CHILDREN'S breached said duty by failing to take any action to prevent Levine from committing assaults and/or rendering medical treatment which was unwarranted, improper and/or not in accordance with accepted medical practice.
48. Plaintiffs did not know, and could not have learned of defendant CHILDREN'S' breach of its duty before March 31, 2008.
49. As a result of defendant CHILDREN'S breach of its duty, the plaintiffs have been seriously and permanently injured.

COUNT II

50. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
51. Defendant CHILDREN'S engaged in a conspiracy, along with persons whose names are presently unknown, to suppress, conceal, and prevent the disclosure of Levine's sexual abuse of his patients.
52. Plaintiffs did not know, and could not have learned of defendant CHILDREN'S' acts to suppress, conceal, and prevent the disclosure of Levine's sexual abuse of his patients before March 31, 2008.
53. As a result of defendant CHILDREN'S intentional acts, the plaintiffs have been seriously and permanently injured.

COUNT III

54. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
55. Defendant CHILDREN'S, along with persons whose names are presently unknown,

fraudulently suppressed, concealed, and intentionally prevented the disclosure of Levine's sexual abuse of his patients.

56. Plaintiffs did not know, and could not have learned of defendant CHILDREN'S' acts to fraudulently suppress, conceal, and intentionally prevent the disclosure of Levine's sexual abuse of his patients before March 31, 2008.
57. As a result of defendant CHILDREN'S intentional acts, the plaintiffs have been seriously and permanently injured.

RELIEF REQUESTED

Plaintiffs demand that:

- A. Judgment enter against all of the defendants, jointly and severally, on each of the Counts stated, including multiple damages where authorized by law, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus attorneys' fees, interest and the costs of suit; and
- B. Such other and further relief as the Court deems necessary and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL CLAIMS

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