

IN THE CIRCUIT COURT FOR OBION COUNTY, TENNESSEE  
AT UNION CITY

JUL 10 2015

HARRY JOHNSON

cm D.C.

SYBLE CARTER,

Plaintiff,

VS.

CIVIL ACTION NO. CC-15-CV-16

GLASSMAN, WYATT, TUTTLE &  
COX, PC., JOHN TIMOTHY EDWARDS, LAUREN STIMAC,  
AND RICHARD GLASSMAN,

Defendants.

COMPLAINT

COMES NOW, the Plaintiff, Syble Carter, and for cause of action against the Defendants would state as follows:

1. Plaintiff, Syble Carter, is and at all times herein mentioned, was a citizen and resident of Dyersburg, Dyer County, Tennessee.
2. On information and belief, Defendant, Glassman, Wyatt, Tuttle and Cox, PC, hereinafter referred to as ("Glassman-Wyatt"), is and at all times herein mentioned, was a professional cooperation duly organized and existing under the laws of the State of Tennessee with its principal office and place of business in Memphis, Shelby County, Tennessee.

3. Defendant, John Timothy Edwards, hereinafter referred to as (“Edwards”), is and was at all times herein mentioned, was an individual and an attorney licensed to practice law in the State of Tennessee with an office in Memphis, Shelby County, Tennessee.

4. Defendant, Lauren Stimac, hereinafter referred to as (“Stimac”), is and at all times herein mentioned, was an individual and an attorney licensed to practice law in the State of Tennessee with an office in Memphis, Shelby County, Tennessee.

5. Defendant, Richard Glassman, hereinafter referred to as (“Glassman”), is and at all times herein mentioned, was an individual and an attorney licensed to practice law in the State of Tennessee with an office in Memphis, Shelby County, Tennessee.

6. At all times herein mentioned, Defendants, Glassman-Wyatt, Edwards, Stimac, and Glassman, were partners or employees and agents/servants of the Defendant, Glassman-Wyatt, and in doing the things herein mentioned were acting within the scope of such employment and agency.

7. At all times herein mentioned, Defendant, Glassman-Wyatt, was the employer of all the individual Defendants, Edwards, Stimac and Glassman, and therefore is vicariously liable for the acts and omissions and conduct of all Defendants, Edwards, Stimac and Glassman.

8. Plaintiff alleges that on or about March 21, 2012, Dr. Thomas Wright Jernigan performed a total thyroidectomy on Plaintiff, Syble Carter. In the course of performing said surgical procedure Dr. Jernigan injured Ms. Carter's vocal cord and/or recurrent laryngeal nerve, which caused Ms. Carter permanent, painful and serious injuries.

9. Plaintiff alleges that as a result of the medical services provided by Dr. Thomas Wright Jernigan, she contacted the Glassman-Wyatt law firm to represent her in a medical negligence action against Dr. Thomas Wright Jernigan.

Glassman-Wyatt agreed to provide legal services to her in connection with her medical negligence claim and filed a complaint for medical negligence against Dr. Thomas Wright Jernigan and Jernigan Surgery Center, PLLC in the Obion Circuit Court on or about June 26, 2013, being case number, CC-13-CV-30. (A copy of Complaint is attached hereto as Exhibit A to this Complaint.)

10. Defendants, and each of them, had a duty to use such skill, prudence and diligence as members of the legal profession commonly possessed and exercised, in providing legal services to Plaintiff, Syble Carter.

11. Plaintiff alleges that the legal services provided to her in her medical negligence case against Dr. Thomas Wright Jernigan, et al., fell below the acceptable standard of care for professional legal services commonly possessed and exercised by members of the legal profession in similar matters.

12. The conduct of the Defendants, and each of them, in doing the acts and omissions herein alleged directly resulted in damages and harms to Plaintiff as set forth herein.

13. The Defendants in the medical negligence action, Dr. Thomas Wright Jernigan, et al., hired Attorney Hubert Jones of Dyersburg, Tennessee, to represent them in connection with said medical negligence suit. Mr. Jones filed an answer on behalf of both Defendants. (Jernigan Answer attached hereto as Exhibit B to this Complaint.)

14. On or about July 14, 2014, Defendants' attorney, Hubert Jones, filed a Motion for Summary Judgment in the case of Carter v. Jernigan, et al., alleging that service of process on both Dr. Jernigan and Jernigan Surgery Center, PLLC, was insufficient. Specifically, the Defendants' Motion for Summary Judgment argued that service of process on both Defendants was insufficient and since the original statute of limitations for medical negligence actions against either Defendant had expired, that the case should be dismissed with prejudice. (Motion for Summary Judgment, Memorandum of Law in Support of Motion for Summary Judgment, Statement of Undisputed Material Facts, Affidavit of Thomas Wright Jernigan, M.D. and Affidavit of Samantha Jernigan attached as Collective Exhibit C to this Complaint.)

15. Plaintiff had no actual knowledge or constructive knowledge of any facts that would put a reasonable person on notice that she had a cause of action for legal

malpractice against the Defendants until she received an email from the Defendant, Glassman, on December 12, 2014, attempting to set forth information that explained the Defendants' Motion for Summary Judgment and its effect on Plaintiff's medical negligence case. (Copy of said email is attached hereto as Exhibit D to this Complaint.)

Therefore, Plaintiff's cause of action for medical malpractice against these Defendants did not accrue until she received the December 12, 2014 email from her attorney, Defendant, Glassman, informing her of Defendants' Motion for Summary Judgment.

Therefore, this Complaint for legal malpractice has been timely filed pursuant to T.C.A. §28-3-104 et seq.

16. Defendants are also guilty of fraudulent concealment in this case. Plaintiff alleges that she should have been notified in a reasonable time period that the Defendants' Motion for Summary Judgment had been filed in her medical negligence case, but she did not receive that notice until approximately six months after the filing of said Motion for Summary Judgment. None of the Defendants offered any explanation why they waited six months to notify her that her case may be dismissed by the Court on summary judgment.

The fraudulent concealment of the Defendants not only tolled the applicable statute of limitation set forth in T.C.A. §28-3-104 et seq., but it also creates grounds for an award of punitive damages against all Defendants.

17. Plaintiff alleges that the Defendants' conduct, their acts and omissions, fails to meet the acceptable standard of professional legal services required of them in the medical negligence case hereinabove mentioned.

18. Plaintiff alleges that the Defendants' deviations from the accepted standard of care for legal services and legal practice in the community and commonly exercised and possessed by other attorneys, includes, but is not limited to the following:

(a) Failing to make sure that service of process was sufficiently served on both Defendants in the case of Carter v. Jernigan, et al.

(b) Failing to take necessary action to correct the insufficiency of service of process when it became apparent that that defense was being claimed by Attorney Hubert Jones in his Answer filed on behalf of both Defendants.

(c) In failing to carefully read the allegations of the original Answer filed by the Defendants in the medical negligence case, which would have put a reasonable attorney on notice that a defense of insufficiency of service of process was being claimed by Defendants and that a further investigation and additional work was necessary to assure that service of process was sufficient against both Defendants, so that the statute of limitations would not bar her claim in that action.

19. Plaintiff alleges that as a result of the Defendants' negligence, Plaintiff, Syble Carter, has sustained substantial loss and damages, all related to the Defendants' negligence in the original medical malpractice case.

20. Plaintiff has suffered economic and non-economic damages and injuries as a result of the Defendants' breach of their standard of care and duty owed to her. Such damages and injuries would not have occurred but for the negligence of the Defendants, their agents, servants and/or employees.

21. Plaintiff, Syble Carter's, damages include, but are not limited to the following:

(a) All losses and damages associated with Ms. Carter's original medical negligence suit filed by these Defendants against Dr. Jernigan and Jernigan Surgery Center, PLLC, including, but not limited to: Medical care and expenses; loss of earnings; future medical and care expense; pain and suffering, mental and emotional suffering; loss of enjoyment of life; disfigurement; permanent impairment and inconvenience.

22. Defendants' breach of their duty owed to Plaintiff was the proximate cause of Plaintiff's losses and damages.

23. Plaintiff alleges that the Defendants' fraudulent concealment hereinabove sets forth and creates a cause of action allowing a claim for punitive damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays:

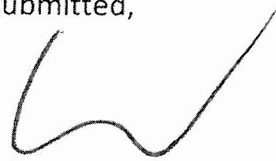
1. That the Defendants be required to answer this Complaint within the manner and time required by law;

2. That the Plaintiff recover from the Defendants the sum within the jurisdictional limits of this Court to which the pleadings are addressed. Plaintiff's

compensatory damages exceed \$3,000,000.00 (Three Million Dollars) in this cause. Plaintiff also claims punitive damages in the amount of \$3,000,000.00 (Three Million Dollars) in this cause.

3. That the Plaintiff recover from the Defendants such other and further relief, both general and special, to which the Plaintiff is entitled in this cause.

Respectfully submitted,

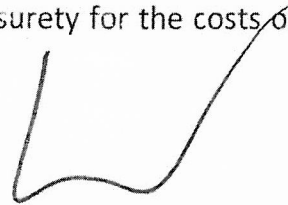


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**CHARLES M. AGEE, JR. #005042**  
Attorney for Plaintiff  
470 Hwy. 51 Bypass W.  
P. O. Box 280  
Dyersburg, TN 38025-0280  
731-285-8747

**COST BOND**

I, the undersigned, hereby acknowledge myself surety for the costs of this cause not to exceed \$1,000.00 (One Thousand Dollars).



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**CHARLES M. AGEE, JR.**