

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO



SHAWNNA WORNSTAFF,
Individually and on Behalf of Her Minor Child
ALYSON WORNSTAFF
4490 Woodstone Avenue, N.W.
Massillon, Ohio 44647

and

HAYDEN WORNSTAFF
4490 Woodstone Avenue, N.W.
Massillon, Ohio 44647

Plaintiffs

v.

AULTMAN HOSPITAL
C/O Registered Agent, Mark N. Rose
2600 6th Street, S.W.
Canton, OH 44710

Defendant

JUDGE:

Farmer

CASE NO.

2019CV01985

COMPLAINT
WITH JURY DEMAND

Plaintiff Shawna Wornstaff, individually and on behalf of her minor child Alyson Wornstaff, and Plaintiff Hayden Wornstaff bring this Complaint against Defendant Aultman Hospital, and allege as follows:

PARTIES & VENUE

1. Plaintiff Shawna Wornstaff resides at the captioned address in Stark County, Ohio.
2. Plaintiff Shawna Wornstaff is the mother and sole legal guardian of her minor child, Alyson Wornstaff.
3. Plaintiff Hayden Wornstaff resides at the captioned address in Stark County, Ohio.
4. Defendant Aultman Hospital is a corporation and/or business entity organized and existing under the laws of the State of Ohio and licensed to do and is doing business in Stark County, Ohio.

5. The events giving rise to Plaintiffs' claims occurred in Stark County. Therefore, venue is proper in this Court under Civil Rule 3(C)(3).

BACKGROUND FACTS: A MILITARY FAMILY

6. Prior to his death, Army Sgt. 1st Class (ret.) Robert Wornstaff was happily married to Plaintiff Shawna Wornstaff. The couple had two children, Alyson (minor) and Hayden Wornstaff, who lived with them in their Massillon, Ohio home.

7. Robert served twenty-one (21) years in the United States Army, including three tours of combat duty in Iraq, and was awarded the Bronze Star in 2008.

8. Prior to each of his tours of duty in Iraq, Robert and Shawna discussed Robert's wishes in the event of his death. Robert told Shawna that he wanted an open-casket wake and funeral in his U.S. Army uniform.

9. Robert retired from the U.S. Army in 2015.

10. Following his retirement from the U.S. Army, Robert remained physically fit, active, and healthy.

THE UNEXPECTED FATAL ACCIDENT

11. On May 15, 2019, Robert was employed by the City of Massillon in the Parks & Recreation Department.

12. On May 15, 2019, Robert was involved in a lawnmower accident in which he was pinned under shallow water. He was found face-down in the water with no signs of life.

13. Robert was transported to Aultman Hospital where he was resuscitated and his vital signs returned, but he remained unconscious. Following CT scans of his brain, Robert was diagnosed with an anoxic brain injury.

14. On May 17, 2019, because of Robert's condition and the severity of his injuries, the decision was made to remove him from life support.

15. At 1:50 p.m. on May 17, 2019, Robert was pronounced dead at Aultman Hospital.

16. Robert was 44 years old at the time of his death.

17. Robert's accident was sudden, unforeseen, and emotionally traumatic for Shawwna, Alyson, and Hayden.

AULTMAN HOSPITAL FAILS TO PRESERVE ROBERT'S BODY

18. Robert Wornstaff's body was in the exclusive possession and control of Defendant Aultman Hospital from the time of his death at 1:50 p.m. on May 17, 2019, until approximately 10:40 a.m. on May 18, 2019.

19. JOHN and/or JANE DOE are one or more unidentified employees, principals, agents, and/or contractors of Defendant Aultman Hospital.

20. The identities of the JOHN and/or JANE DOE employees, principals, agents and/or contractors are not currently known to Plaintiffs but are known to Defendant. Plaintiffs anticipate that discovery will reveal their identities, necessitating an eventual amendment of this Complaint.

21. At all relevant times, it was reasonably foreseeable to Defendant Aultman Hospital and/or its JOHN and/or JANE DOE employees, principals, agents, and/or contractors that the failure to properly refrigerate Robert's body would cause Robert's body to decompose.

22. At all relevant times, it was reasonably foreseeable to Defendant Aultman Hospital and/or its JOHN and/or JANE DOE employees, principals, agents, and/or contractors that the failure to properly refrigerate Robert's body would cause extreme emotional distress to Robert's family members, including Plaintiffs.

23. Defendant Aultman Hospital and its JOHN and/or JANE DOE employees, principals, agents, and/or contractors owed a duty to the families of deceased patients, including Plaintiffs, to exercise reasonable care to properly refrigerate or otherwise preserve deceased patients' bodies, including Robert's body.

24. Defendant Aultman Hospital and its JOHN and/or JANE DOE employees, principals, agents, and/or contractors owed a duty to the families of deceased patients, including Plaintiffs, to exercise reasonable care to prevent the decomposition of deceased patients' bodies, including Robert's body

25. Defendant Aultman Hospital, directly and/or through its employees, principals, agents, and/or contractors, owed a duty to Plaintiffs to exercise reasonable care in the hiring, training, supervision, and retention of its employees, principals, agents, and/or contractors with responsibilities for preserving the bodies of deceased patients, including Robert's body.

26. Defendant Aultman Hospital, directly and/or through its employees, principals, agents, and/or contractors, owed a duty to Plaintiff Shawwna Wornstaff to exercise reasonable care so as to not interfere with her right to sepulcher.

27. While Robert's body was in the exclusive possession and control of Defendant Aultman Hospital, Robert's body began to decompose.

28. While in the exclusive possession and control of Defendant Aultman Hospital, Robert's body began to smell from decomposition.

29. While in the exclusive possession and control of Defendant Aultman Hospital, fluid was purging from Robert's nose and mouth due to decomposition.

30. While in the exclusive possession and control of Defendant Aultman Hospital, Robert's body became greenish in color due to decomposition.

31. While in the exclusive possession and control of Defendant Aultman Hospital, Robert's face became green-black in color due to decomposition.

32. While in the exclusive possession and control of Defendant Aultman Hospital, Robert's ears, head, neck, trunk, and extremities became bloated due to decomposition.

33. While in the exclusive possession and control of Defendant Aultman Hospital, the skin on Robert's body began to slip due to decomposition.

34. At approximately 10:40 a.m. on May 18, 2019, Mike Hunter of Hunter Mortuary Services arrived at the Aultman Hospital morgue to pick up Robert's body for transport to the Stark County Coroner's office.

35. When Mr. Hunter first examined Robert's body at Aultman Hospital, he observed that the body was decomposing. Specifically, Mr. Hunter observed and documented: (1) Robert's body had the smell of decomposition; (2) there was purging of fluid from the nose and mouth; and (3) Robert's body had a greenish discoloration.

36. At the time Defendant Aultman Hospital transferred possession of Robert's body to Hunter Mortuary Services for transport to the Stark County Coroner's office: (1) Robert's body had the smell of decomposition; (2) there was purging of fluid from the nose and mouth; (3) Robert's body had a greenish discoloration; (4) Robert's body was decomposing.

37. Prior to Defendant Aultman Hospital transferring possession of Robert's body to Hunter Mortuary Services, Robert's body was decomposing.

38. On May 18, 2019, Hunter Mortuary Services delivered Robert's body to the Stark County Coroner's morgue.

39. On information and belief, the Stark County Coroner properly refrigerated Robert's body.

40. As Stark County Deputy Coroner Dr. Frank Miller was preparing to perform the autopsy on May 19, 2019, he observed decomposition of Robert's body.

41. During the autopsy, Dr. Miller observed and documented in the Autopsy Report, *"decompositional changes of the head, trunk and extremities with bloating noted."*

42. During the autopsy, Dr. Miller observed and documented in the Autopsy Report that Robert's face was *"green-black with fluid purging."*

43. During the autopsy, Dr. Miller observed and documented in the Autopsy Report, *"bloating and discoloration"* of the ears and neck.

44. During the autopsy, Dr. Miller observed and documented in the Autopsy Report, *"The trunk [of Robert's body] has skin slippage, bloating, and discoloration."*

45. During the autopsy, Dr. Miller observed and documented in the Autopsy Report, *"The arms are bloated and discolored."*

46. During the autopsy, Dr. Miller observed and documented in the Autopsy Report, *"The bilateral thighs have marbling."*

47. In the Autopsy Report, Dr. Miller's Final Anatomic Diagnosis included his finding that Robert's body had undergone *"Postmortem decomposition, moderate."*

48. On or about May 19, 2019, Stark County Coroner's Office Chief Investigator Harry M. Campbell called Plaintiff Shawna Wornstaff to inform her of the decomposed condition of Robert's body. Mr. Campbell asked Shawna what the family's plans were relative to the wake and funeral.

49. Plaintiff Shawna Wornstaff informed Mr. Campbell that she planned to have an open-casket wake and funeral followed by the cremation of Robert's body.

50. Prior to speaking with Mr. Campbell, Plaintiff Shawwna Wornstaff planned to have an open-casket and wake and funeral in which Robert's body was dressed in his U.S. Army uniform.

51. Mr. Campbell informed Shawwna that an open-casket wake and funeral would not be possible.

52. Robert's body was too decomposed for Plaintiffs to have an open-casket wake and funeral.

53. Mr. Campbell informed Shawwna of the condition in which Robert's body was found at Aultman Hospital when it was picked up for transport to the Coroner's office.

54. Mr. Campbell informed Shawwna that Robert's body had begun to decompose at Aultman Hospital, that the skin had shifted and become discolored, and that the body had purged itself of fluids.

55. Mr. Campbell informed Shawwna that when the body bag was opened, it appeared as if Robert's body was lying in water in the body bag.

56. Mr. Campbell advised Shawwna that the only way Robert's body would have decomposed before it was picked up for transport to the Coroner's Office would have been if Defendant Aultman Hospital had failed to refrigerate the body or had kept it at an improper temperature after Robert's death.

57. Robert's body began to decompose at the hospital after his death because Defendant Aultman and/or one or more of its JOHN DOE or JANE DOE employees, principals, agents, and/or contractors failed to refrigerate the body and/or kept the body at an improper temperature after the death.

58. Immediately upon hearing of the condition of Robert's body from Mr. Campbell, Shawwna broke down sobbing.

59. As a nurse who trained at Aultman Hospital, Shawwna Wornstaff had been taught that all patients, as well as the bodies of deceased patients, should be treated with dignity and respect.

60. Learning that Defendant Aultman Hospital had allowed Robert's body to decompose caused Shawwna extreme emotional distress at a time when she was already in an emotionally fragile state.

61. Shawwna was horrified that she would never be able to see the face of her husband again.

62. Shawwna was distressed that family and friends would not be able to mourn Robert's sudden death through an open-casket wake and funeral.

63. Shawwna was outraged that Defendant and its employees, agents, principals, and/or independent contractors had such little regard for Robert's body to take the simple steps necessary to refrigerate or otherwise preserve his body.

64. Shawwna was never contacted by Defendant regarding the condition of Robert's body.

65. After finishing the call with Mr. Campbell, Shawwna informed Alyson and Hayden of what had happened to their father's body.

66. Shawwna conveyed the same details to Alyson and Hayden that Mr. Campbell had conveyed to her: that the body was too decomposed to have an open-casket wake and funeral, that skin had shifted and become discolored, and that the body had purged itself of fluids and appeared as if it were lying in water inside the body bag.

67. Hayden and Alyson were horrified that they would never be able to see the face of their dad again.

68. Hayden and Alyson were distressed that family and friends would not be able to mourn their dad's sudden death through an open-casket wake and funeral.

69. Hayden and Alyson were outraged that Defendant and its employees, agents, principals, and/or independent contractors had such little regard for their dad's body to take the simple steps necessary to refrigerate or otherwise preserve his body.

70. The emotional effects of knowing that Robert's body was allowed to decompose at Aultman Hospital were severe and debilitating to Shawna, Alyson, and Hayden.

71. Alyson and Haden were both extremely upset that they would never be able to see their father's face again.

72. Shawna, Alyson, and Hayden are each currently in counseling to help cope with both Robert's sudden death and the distress of knowing that Robert's body was allowed to decompose before it was released from Aultman Hospital.

73. Alyson has had difficulty coping with the knowledge of what happened to her father's body and has had trouble sleeping.

74. Alyson has been placed on sleeping medication in an attempt to remedy her sleep issues.

75. Hayden has had difficulty coping with the knowledge of what happened to his father's body and understanding how Defendant Aultman Hospital could allow this to happen to his father.

76. Since learning of the decomposition of Robert's body at Aultman Hospital, Hayden has had nightmares and difficulty sleeping and struggling with depression.

77. As a direct and proximate result of Aultman Hospital's mishandling of Robert's body, Shawna, Alyson, and Hayden will never have the closure that they deserved after Robert's sudden accidental death.

78. As a direct and proximate result of Aultman Hospital's mishandling of Robert's body, Shawna, Alyson, and Hayden's grief and sense of loss was aggravated.

FIRST CAUSE OF ACTION
Tortious Infliction of Emotional Distress
(Plaintiff Shawna Wornstaff)

79. Plaintiffs incorporate all paragraphs of this Complaint as if fully rewritten herein.

80. At all relevant times Defendant Aultman Hospital's JOHN DOE and/or JANE DOE employees, principals, agents, and/or contractors were working within the course and scope of their employment, agency, and/or authority with Defendant Aultman Hospital.

81. Defendant Aultman Hospital is vicariously liable for the negligence of its JOHN DOE and/or JANE DOE employees, principals, agents, and/or contractors pursuant to the doctrine of *respondeat superior*.

82. While Robert's body was in its exclusive possession and control, Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors owed a duty to Plaintiffs to act with reasonable care to:

- a. Prevent the decomposition of Robert's body;
- b. Preserve Robert's body until it was released for transport to the Stark County Coroner's morgue;
- c. Keep Robert's body refrigerated at a proper temperature to prevent decomposition;
- d. Maintain, repair, and/or monitor its equipment to prevent the decomposition of dead bodies in its possession, including Robert's body;

- e. Hire, train, supervise, and properly retain its employees, principals, agents, and/or contractors with responsibilities for preserving the bodies of deceased patients, including Robert's body; and
- f. Not interfere with Plaintiff Shawwna Wornstaff's right to sepulcher.

83. Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors was negligent, reckless, willful, and wanton in its breach of duties by:

- a. Consciously disregarded the rights of Plaintiff Shawwna Wornstaff;
- b. Intentionally failing to do what should be done to preserve Robert's body. They knew, or should have known, that such conduct would probably cause Robert's body to decompose and cause severe emotional distress to Plaintiff Shawwna Wornstaff; and
- c. Being aware, from their knowledge of the circumstances and conditions, that their conduct would probably cause Robert's body to decompose and cause Shawwna to experience severe emotional distress. They demonstrated indifference to the consequences of their actions, when the probability was that those actions would result in great harm, which they should have appreciated.

84. As a direct and proximate result of Defendant Aultman Hospital's tortious conduct, by itself or by virtue of the doctrine of *respondeat superior*, Robert's body decomposed while in their exclusive possession and control.

85. As a direct and proximate result of Defendant Aultman Hospital's tortious, reckless, willful, and wanton misconduct, by itself or by virtue of the doctrine of *Respondeat Superior*, Plaintiff Shawwna Wornstaff sustained severe emotional distress, psychological injury, medical

bills, physical and emotional pain, suffering, economic and non-economic damages, and such other harms, losses, and damages in an amount as will be proven at the trial of this matter.

86. The emotional distress suffered by Plaintiff Shawwna Wornstaff was severe and debilitating such that a reasonable person, normally constituted, would be unable to cope adequately with the mental distress engendered by the aforementioned circumstances.

87. Plaintiff Shawwna Wornstaff's severe emotional distress resulted from the direct emotional impact of learning that Robert's body had decomposed while at Aultman Hospital.

88. Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors as described herein, evinces a conscious disregard for the rights and safety of other persons which has a great probability of causing substantial harm. Therefore, the imposition of punitive damages is warranted in this case.

89. Upon the imposition of punitive damages, an award of Plaintiff Shawwna Wornstaff's reasonable attorney fees is also warranted. Such fees are an element of compensatory damages.

SECOND CAUSE OF ACTION

Tortious Infliction of Emotional Distress

(Plaintiff Shawwna Wornstaff on Behalf of her Minor Child Alyson Wornstaff)

90. Plaintiffs incorporate all paragraphs of this Complaint as if fully rewritten herein.

91. At all relevant times Defendant Aultman Hospital's JOHN DOE and/or JANE DOE employees, principals, agents, and/or contractors were working within the course and scope of their employment, agency, and/or authority with Defendant Aultman Hospital.

92. Defendant Aultman Hospital is vicariously liable for the negligence of its JOHN DOE and/or JANE DOE employees, principals, agents, and/or contractors pursuant to the doctrine of *respondeat superior*.

93. While Robert's body was in its exclusive possession and control, Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors owed a duty to Plaintiffs to act with reasonable care to:

- a. Prevent the decomposition of Robert's body;
- b. Preserve Robert's body until it was released for transport to the Stark County Coroner's morgue;
- c. Keep Robert's body refrigerated at a proper temperature to prevent decomposition;
- d. Maintain, repair, and/or monitor its equipment to prevent the decomposition of dead bodies in its possession, including Robert's body;
- e. Hire, train, supervise, and properly retain its employees, principals, agents, and/or contractors with responsibilities for preserving the bodies of deceased patients, including Robert's body; and
- f. Not interfere with minor child Alyson Wornstaff's right to sepulcher.

94. Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors was negligent, reckless, willful, and wanton in its breach of duties by:

- a. Consciously disregarded the rights of minor child Alyson Wornstaff;
- b. Intentionally failing to do what should be done to preserve Robert's body. They knew, or should have known, that such conduct would probably cause Robert's body to decompose and cause severe emotional distress to minor child Alyson Wornstaff; and
- c. Being aware, from their knowledge of the circumstances and conditions, that their conduct would probably cause Robert's body to decompose and cause minor child

Alyson Wornstaff to experience severe emotional distress. They demonstrated indifference to the consequences of their actions, when the probability was that those actions would result in great harm, which they should have appreciated.

95. As a direct and proximate result of Defendant Aultman Hospital's tortious conduct, by itself or by virtue of the doctrine of *respondeat superior*, Robert's body decomposed while in their exclusive possession and control.

96. As a direct and proximate result of Defendant Aultman Hospital's tortious, reckless, willful, and wanton misconduct, by itself or by virtue of the doctrine of *respondeat superior*, minor child Alyson Wornstaff sustained severe emotional distress, psychological injury, medical bills, physical and emotional pain, suffering, economic and non-economic damages, and such other harms, losses, and damages in an amount as will be proven at the trial of this matter.

97. The emotional distress suffered by minor child Alyson Wornstaff was severe and debilitating such that a reasonable person, normally constituted, would be unable to cope adequately with the mental distress engendered by the aforementioned circumstances.

98. Minor child Alyson Wornstaff's severe emotional distress resulted from the direct emotional impact of learning that Robert's body had decomposed while at Aultman Hospital.

99. Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors as described herein, evinces a conscious disregard for the rights and safety of other persons which has a great probability of causing substantial harm. Therefore, the imposition of punitive damages is warranted in this case.

100. Upon the imposition of punitive damages, an award of minor child Alyson Wornstaff's reasonable attorney fees is also warranted. Such fees are an element of compensatory damages.

THIRD CAUSE OF ACTION
Tortious Infliction of Emotional Distress
(Plaintiff Hayden Wornstaff)

101. Plaintiffs incorporate all paragraphs of this Complaint as if fully rewritten herein.

102. At all relevant times Defendant Aultman Hospital's JOHN DOE and/or JANE DOE employees, principals, agents, and/or contractors were working within the course and scope of their employment, agency, and/or authority with Defendant Aultman Hospital.

103. Defendant Aultman Hospital is vicariously liable for the negligence of its JOHN DOE and/or JANE DOE employees, principals, agents, and/or contractors pursuant to the doctrine of *respondeat superior*.

104. While Robert's body was in its exclusive possession and control, Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors owed a duty to Plaintiffs to act with reasonable care to:

- a. Prevent the decomposition of Robert's body;
- b. Preserve Robert's body until it was released for transport to the Stark County Coroner's morgue;
- c. Keep Robert's body refrigerated at a proper temperature to prevent decomposition;
- d. Maintain, repair, and/or monitor its equipment to prevent the decomposition of dead bodies in its possession, including Robert's body;
- e. Hire, train, supervise, and properly retain its employees, principals, agents, and/or contractors with responsibilities for preserving the bodies of deceased patients, including Robert's body; and
- f. Not interfere with Plaintiff Hayden Wornstaff's right to sepulcher.

105. Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors was negligent, reckless, willful, and wanton in its breach of duties by:

- a. Consciously disregarded the rights of Plaintiff Hayden Wornstaff;
- b. Intentionally failing to do what should be done to preserve Robert's body. They knew, or should have known, that such conduct would probably cause Robert's body to decompose and cause severe emotional distress to Plaintiff Hayden Wornstaff; and
- c. Being aware, from their knowledge of the circumstances and conditions, that their conduct would probably cause Robert's body to decompose and cause Plaintiff Hayden Wornstaff to experience severe emotional distress. They demonstrated indifference to the consequences of their actions, when the probability was that those actions would result in great harm, which they should have appreciated.

106. As a direct and proximate result of Defendant Aultman Hospital's tortious conduct, by itself or by virtue of the doctrine of *respondeat superior*, Robert's body decomposed while in their exclusive possession and control.

107. As a direct and proximate result of Defendant Aultman Hospital's tortious, reckless, willful, and wanton misconduct, by itself or by virtue of the doctrine of *respondeat superior*, Plaintiff Hayden Wornstaff sustained severe emotional distress, psychological injury, medical bills, physical and emotional pain, suffering, economic and non-economic damages, and such other harms, losses, and damages in an amount as will be proven at the trial of this matter.

108. The emotional distress suffered by Plaintiff Hayden Wornstaff was severe and debilitating such that a reasonable person, normally constituted, would be unable to cope adequately with the mental distress engendered by the aforementioned circumstances.

109. Plaintiff Hayden Wornstaff's severe emotional distress resulted from the direct emotional impact of learning that Robert's body had decomposed while at Aultman Hospital.

110. Defendant Aultman Hospital, itself or through one or more JOHN DOE or JANE DOE employees, principals, agents, and/or contractors as described herein, evinces a conscious disregard for the rights and safety of other persons which has a great probability of causing substantial harm. Therefore, the imposition of punitive damages is warranted in this case.

111. Upon the imposition of punitive damages, an award of Plaintiff Hayden Wornstaff's reasonable attorney fees is also warranted. Such fees are an element of compensatory damages.

PRAYER FOR RELIEF

Plaintiff Shawwna Wornstaff demands judgment against Defendant in an amount in excess of \$25,000 on her individual complaint for compensatory damages, as well as an amount in excess of \$25,000 on her individual complaint for punitive damages, as well as any other appropriate relief, including pre- or post-judgment interest, attorneys' fees, or costs.

Plaintiff Shawwna Wornstaff also demands judgment against Defendant in an amount in excess of \$25,000 on behalf of her minor child Alyson Wornstaff's complaint for compensatory damages, as well as an amount in excess of \$25,000 on her minor child Alyson Wornstaff's complaint for punitive damages, as well as any other appropriate relief, including pre- or post-judgment interest, attorneys' fees, or costs.

Plaintiff Hayden Wornstaff demands judgment against Defendant in an amount in excess of \$25,000 on his complaint for compensatory damages, as well as an amount in excess of \$25,000 on his complaint for punitive damages, as well as any other appropriate relief, including pre- or post-judgment interest, attorneys' fees, or costs.

JURY DEMAND

Plaintiffs demand a trial by jury.

Respectfully submitted,



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