

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

CASE NO.:

CHRISTIAN AVELLANEDA,

Plaintiffs,

vs.

SARA LEVINE, D.C. and ANODYNE OF BOCA RATON
d/b/a VHW MEDICAL GROUP, LLC

Defendants.

COMPLAINT

COME NOW the Plaintiff, CHRISTIAN AVELLANEDA, by and through his undersigned attorneys, and hereby sues the Defendants, SARA LEVINE, D.C. and ANODYNE OF BOCA RATON d/b/a VHW MEDICAL GROUP, LLC and states:

JURISDICTION AND IDENTIFICATION OF THE PARTIES

1. This is an action for damages in excess of \$50,000.00, exclusive of interest and costs, and within the jurisdiction of this Court.
2. Plaintiff CHRISTIAN AVELLANEDA is currently a resident of Palm Beach County, Florida.
3. All conditions precedent have been met or waived, including all requirements of F.S. §766 et seq, F.S. §768, and Rule 1.650, Florida Rule of Civil Procedure.
4. Venue is proper is proper in this Court, because the acts complained of took place in Palm Beach County, Florida.

5. At all times material hereto, Defendant, SARA LEVINE, DC. (hereinafter “LEVINE”) was a chiropractor licensed by the State of Florida, practicing in Palm Beach County, Florida and therefore subject to the jurisdiction of this Court.

6. At all times material hereto, Defendant, ANODYNE OF BOCA RATON d/b/a VHW MEDICAL GROUP, LLC (“VHW”) was and is a Florida corporation authorized and doing business in Palm Beach County, Florida and therefore subject to the jurisdiction of this Court.

7. Defendant, VHW, held itself out to the public as a healthcare provider having the facilities, staff and trained personnel to examine, diagnose and treat patients such as Plaintiff, CHRISTIAN AVELLANEDA.

8. At all times material hereto, Defendant LEVINE was acting within the course and scope of her employment and/or agency with Defendant, ANODYNE OF BOCA RATON d/b/a VHW MEDICAL GROUP, LLC.

FACTS GIVING RISE TO CLAIM

9. On November 15, 2021, CHRISTIAN AVELLANEDA presented for treatment with LEVINE at a facility operated by ANODYNE OF BOCA RATON d/b/a VHW MEDICAL GROUP, LLC.

10. Prior to scheduling the November 15, 2021 appointment, upon LEVINE’s request, CHRISTIAN AVELLANEDA agreed to serve as a “back model” for LEVINE, and agreed to be photographed while LEVINE rendered care, presumably for LEVINE to utilize and market her services and to provide social media content.

11. LEVINE performed chiropractic treatments on CHRISTIAN AVELLANEDA which included manual therapy via cupping and scraping, along with chiropractic manipulation and electrotherapy (TENS).

12. Electrodes were placed on CHRISTIAN AVELLANEDA's back in various locations before the TENS machine was started.

13. LEVINE was negligent as she did not assess or clean CHRISTIAN AVELLANEDA's skin prior to applying electrode pads and a TENS unit for treatment.

14. LEVINE failed to appropriately cleanse or prepare Plaintiff for electrotherapy by failing to sanitize, clean or remove any and all substances including, but not limited to, oils from Mr. Avellaneda's back prior to the placement of the electrodes.

15. After a few minutes of TENS treatment, CHRISTIAN AVELLANEDA reported he felt a burning sensation and asked the attendant to deactivate the TENS machine.

16. As a result of LEVINE's negligent treatment of CHRISTIAN AVELLANEDA at VHW, he suffered full thickness burns to his back which subsequently required surgical intervention.

COUNT I – NEGLIGENCE OF LEVINE

17. Plaintiffs reallege and reaver paragraphs 1 through 16 as if fully set forth herein and would further state:

18. Defendant, LEVINE, had a duty to exercise that degree of care and skill in examining, diagnosing, and treating Plaintiff commensurate with the prevailing and professional standard of care for a chiropractic physician practicing in the State of Florida. Defendant, LEVINE deviated or departed from the prevailing professional standard of care in treating Plaintiff in one or more of the following ways:

- a) Failure to assess Mr. Avellaneda's skin prior to applying electrode pads and a TENS unit for treatment.
- b) Failure to clean Mr. Avellaneda's skin prior to applying electrode pads and a TENS unit for treatment.

- c) Failure to ensure the proper electrode pad was used for the TENS unit treatment.
- d) Failure to check the integrity of the electrode pads prior to applying them to Mr. Avellaneda's skin for a TENS unit treatment
- e) Failure to clean the electrode pads prior to applying them to Mr. Avellaneda's skin to ensure they were clean and sanitary.
- f) Failure to properly place the electrode pads in the correct area for a TENS unit treatment.
- g) Failure to document the type, integrity, cleanliness, and placement of the electrode pads used for Mr. Avellaneda's TENS unit treatment.
- h) Failure to monitor Mr. Avellaneda's skin integrity during a TENS treatment.
- i) Failure to assess Mr. Avellaneda's skin post TENS treatment.
- j) Failure to document how Mr. Avellaneda tolerated the treatment(s).
- k) Failure to give home instructions.
- l) Failure to educate Mr. Avellaneda of the possible complications that could arise when combining therapies in the same area(s).
- m) Failure to take the necessary steps to ensure the safety of Mr. Avellaneda during a TENS treatment.
- n) Failure to provide adequate education to staff using TENS units for patient treatment.
- o) Failure to check and ensure the proper maintenance schedule to ensure no defects of a TENS utilized to perform patient treatments; and
- p) Failure to provide the level of care, skill and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by a

reasonably prudent similar healthcare provider.

19. As a direct and proximate cause of aforementioned breaches of the recognized standard of care, Plaintiff, CHRISTIAN AVELLANEDA, suffered bodily injury, resulting pain and suffering, disability, physical impairment, mental anguish, inconvenience, aggravation of preexisting disease or defect, expense of hospitalization, medical and nursing care and treatment, rehabilitative expenses, extraordinary expenses and the loss of capacity for the enjoyment of life. These losses are continuing in nature and Plaintiff will suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment plus costs and interest for damages against Defendant, LEVINE, and further demands trial by jury.

COUNT II – NEGLIGENCE OF ANODYNE OF BOCA RATON
d/b/a VHW MEDICAL GROUP, LLC

20. Plaintiffs reallege and reaver paragraphs 1 through 19 as if fully set forth herein and would further state:

21. At all times material hereto, Defendant LEVINE, was an employee, agent or apparent agent of Defendant, VHW.

22. At all times material hereto, Defendant, VHW held itself out to the public and to the Plaintiffs that Defendants LEVINE was either an employee, agent or apparent agent of Defendant, VHW.

23. At all times material hereto, Defendant LEVINE was acting within the course and scope of their authority with Defendant VHW.

24. Defendant VHW is vicariously liable for all the acts of negligence for Defendant LEVINE relative to the care and treatment of Plaintiff, CHRISTIAN AVELLANEDA, and all damages sustained by Plaintiff.

WHEREFORE, Plaintiff demands judgment plus costs and interest for damages against Defendant, VHW, and further demands trial by jury.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury and all issues triable as a matter of right.

CERTIFICATE OF GOOD FAITH

Pursuant to Florida Statute 766.203, the undersigned attorney of record, does hereby certify that a reasonable investigation has been conducted as to the matters alleged herein and it has been determined that there are grounds for a good faith belief that there has been negligence and medical malpractice in the care and treatment of Plaintiff, and that grounds exist for the filing of this action against the Defendants.

Dated this 15th day of November 2023.

SCHULER, WEISSER, ZOELLER,
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