

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss

SUPERIOR COURT  
CIVIL ACTION

JOHN FITZGERALD )  
)  
Plaintiff, )  
v. )  
)  
NIRAV SHAH, M.D. and )  
NORTH SHORE PAIN MANAGEMENT )  
Defendants )

FIRST AMENDED  
COMPLAINT AND  
DEMAND FOR JURY  
TRIAL

The Parties

1. Plaintiff John Fitzgerald is a resident of Essex County, Massachusetts.
2. Defendant Nirav Shah, M.D. is a physician licensed to practice medicine in the State of Massachusetts and regularly engages in the practice of medicine in Essex County, Massachusetts.
3. Defendant Northshore Pain Management is a Massachusetts Corporation with a principal office located at 900 Cummings Center Suite 221U, Beverly, MA 01915.
4. At all relevant times, Defendant Dr. Shah was an employee or agent of Defendant North Shore Pain Management.

Factual Background

5. On February 4, 2020, Plaintiff presented to North Shore Pain Management with lower back pain radiating into his buttocks and right-sided thigh numbness.
6. Defendant Dr. Shah created a plan that Plaintiff would receive injections, pain medication, physical therapy, and radiofrequency lesioning (“RFL”) procedures.

7. On February 13, 2020, Dr. Shah performed a right lumbar spine RFL procedure on Plaintiff.
8. On June 16, Dr. Shah performed a second RFL procedure on Plaintiff, this time, on the left side of Plaintiff's lumbar spine.
9. On July 21, Plaintiff began experiencing neck pain.
10. On August 3, Dr. Shah recommended that Plaintiff undergo a right cervical RFL.
11. On August 7, Dr. Shah performed a right-sided cervical RFL procedure on Plaintiff.
12. On September 18, Dr. Shah created a plan for Plaintiff to undergo left-sided medial branch block procedure in anticipation of two left sided RFL procedures.
13. Dr. Shah performed Plaintiff's first left-sided medial branch block procedure on September 23, and the second on September 25.
14. Dr. Shah's September 25 operative note recorded that Plaintiff's "preprocedure pain score was a 3-4/10 and [his] postprocedure pain score was a 2/10."
15. Plaintiff tolerated the procedure well and ambulated to the recovery area.
16. On October 7, Dr. Shah performed a left-sided cervical RFL procedure on Plaintiff.
17. After the procedure, Plaintiff experienced weakness in his left arm and leg and was noted as having "0/5" strength.
18. Plaintiff remained at North Shore Pain Management and was monitored for 5-6 hours, only to have his left arm and leg strength improve to 3/5.
19. Dr. Shah noted that the Plaintiff was "not at his neurologic baseline" and transferred him to the Beverly Hospital Emergency Room.

20. There, Plaintiff underwent an MRI of his cervical spine because providers were suspicious for direct spinal cord injury given the Plaintiff's recent RFL procedure.

21. The following day, October 8, Plaintiff received an MRI which demonstrated spinal cord injury in setting of RFL.

22. Plaintiff has been diagnosed with Brown-Sequard syndrome, a condition resulting from injury to one side of the spinal cord.

23. Plaintiff's deficits include but are not limited to weakness in his upper and lower extremities and decreased sensory function on his right side.

24. At this time, Plaintiff requires supervision and assistance to sit, stand, walk. Additionally, Plaintiff requires supervision with ADL's, such as bathing, dressing, and self-care.

### **Count I: Medical Negligence**

25. Plaintiff realleges the preceding allegations as if set forth fully herein.

26. Defendants owed Plaintiff a duty to provide physician and pain management services to the standard that a reasonable physician and pain management clinic would have provided under the same or similar circumstances.

27. Defendants each individually and collectively breached the duty owed to Plaintiff for reasons including but not limited to the following:

- a. Unreasonable failure to recommend the appropriate procedures and therapies to treat Plaintiff's back and neck pain;
- b. Unreasonable failure to appropriately perform the RFA procedure on October 7, 2020;
- c. Unreasonable documentation and communication of information necessary to keep Plaintiff safe and meet his medical needs

- d. Unreasonable lack or enforcement of systems, policies, practices, or procedures necessary to keep Plaintiff safe and to meet his medical needs

28. As a direct and proximate result of the breach of the duty outlined above, Plaintiff has suffered from severe, ongoing, and permanent effects of spinal cord injury, including weakness, paralysis, sensory deficits, pain, and immobility. Plaintiff continues to require full-time nursing care and assistance with daily living, which he will require for the rest of his life.

WHEREFORE, Plaintiff requests judgment against Defendants and damages in an amount to be determined by a jury, including compensatory damages, past and future medical expenses, emotional distress, lost enjoyment of life, costs, attorneys' fees and such other and further relief as this Court deems just and appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on issues so triable

Dated: March 23, 2022



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/s/John Naranja

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