

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO.:

LYNDSEY SUTHERLAND, AS
PERSONAL REPRESENTATIVE
OF THE ESTATE OF JASMINE
VINCENT,

Plaintiff,

v.

MARTIN'S POINT HEALTH
CARE, INC.

and

MID COAST MEDICAL GROUP,

Defendants

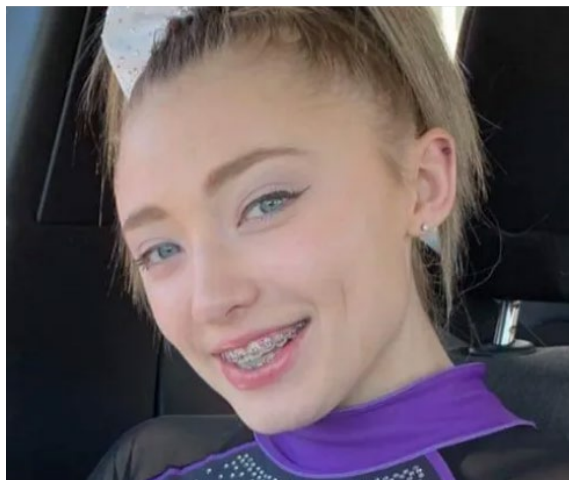
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COMPLAINT

Lyndsey Sutherland, as Personal Representative of the Estate of Jasmine Vincent, by and through counsel, states as follows for this Complaint.

Introduction

1. This is Jasmine ("Jazzy") Vincent:



2. Jazzy was a competitive cheerleader and an aspiring fashion designer, who was adored by her family and friends.

3. She died on August 1, 2021, at 15 years old. Had she lived, she would be 18 years old today, enjoying her senior year of high school, looking forward to an entire life ahead of her.

4. Her death was senseless and completely avoidable.

5. On July 22, 2021, Jazzy presented to her pediatric provider at Martin's Point with concerning symptoms, including difficulty breathing, a terrible cough, as well as signs of respiratory distress.

6. Without ordering any imaging or bloodwork, her provider at Martin's Point diagnosed her with pneumonia.

7. Over the next few days, Jazzy developed increasingly alarming symptoms, including swollen, painful, and discolored breasts, and distended veins running from her neck to her breast.

8. Nonetheless, neither Jazzy's primary care provider or her gynecologist, both of whom were involved in her care during late July, ever reconsidered the diagnosis of pneumonia, even after a diagnosis of pneumonia could no longer plausibly explain her constellation of signs and symptoms.

8. On July 30, two days before Jazzy's death, Jazzy's primary care provider instructed her staff to tell Jazzy's mother, Lyndsey Sutherland, to bring Jazzy to the Emergency Department.

9. Despite the prolonged and inexcusable delay in investigating Jazzy's symptoms, if Martin's Point had only sent Jazzy to the Emergency Department on July 30, as Jazzy's primary care provider instructed, Jazzy likely would have survived.

10. However, the staff at Martin's Point failed to follow up with Lyndsey. Lyndsey was not told to take Jazzy to the Emergency Department until Lyndsey called Martin's Point again the next day.

11. By the time Jazzy arrived at Maine Medical Center on the evening of July 31, Jazzy had a pleural effusion (excess fluid around her lungs) and a pericardial effusion (excess fluid in the sac around her heart), which made it difficult for her to breathe. Before the providers at Maine Medical Center addressed the pericardial effusion, Jazzy's heart gave out, and she went into cardiac arrest.

12. Jazzy's pericardial effusion was a result of undiagnosed pediatric leukemia/lymphoma. However, the cancer itself was highly treatable. Had Jazzy's providers at Maine Medical Center had sufficient time to treat Jazzy's acute illness, she would very likely have survived her cancer.

Parties

13. Plaintiff Lyndsey Sutherland is the duly-appointed Personal Representative of the Estate of Jasmine Vincent, who died, at the age of 15, on August 1, 2021.

14. Jazzy was Lyndsey's youngest child.

15. Defendant Martin's Point Health Care, Inc. ("Martin's Point") is a registered Maine corporation that, among other things, provides primary health care services in Southern Maine.

16. Katharine Swan Potter, NP, is a family nurse practitioner licensed to practice in Maine. At all times relevant to this Complaint, Ms. Potter was an employee of Martin's Point acting within the scope of her employment.

17. Sarah Sedney, MD, is a physician licensed to practice in Maine with a specialty in pediatrics. At all times relevant to this Complaint, Dr. Sedney was an employee of Martin's Point acting within the scope of her employment.

18. Defendant Mid Coast Medical Group (“Mid Coast”) is a registered Maine corporation that provides primary and specialty medical care, including obstetrical and gynecological care, in Cumberland County and Sagadahoc County, Maine.

19. Danielle Salhany, DO, is a physician licensed to practice in Maine with a specialty in obstetrics/gynecology. At all times relevant to this Complaint, Dr. Salhany was an employee of Mid Coast acting within the scope of her employment.

System Failure, Agency, Direct and Vicarious Liability

20. Like all corporations, Defendants act through its employees and its agents, including medical doctors, mid-level providers, nurses and other staff and personnel who combine to create a system of health-care delivery to outpatients.

21. All references to Defendants, Martin’s Point, and/or Mid Coast within this Complaint are intended to be inclusive of all Defendants’ employees or agents—whether specifically identified in the medical chart or not; or specifically identified by name in this Complaint or not—who participated in and collectively comprised the system of medical care relied upon by Lyndsey and her daughter, and which Plaintiff alleges, through this Complaint, failed to comply with reasonable standards for delivery of medical care.

22. Plaintiff alleges that each and every person involved in the system of medical care upon which she and her daughter relied on was an actual or implied agent of Martin’s Point or Mid Coast, because each person had authority conferred by Martin’s Point or Mid Coast to participate in Jazzy’s medical care and Jazzy and Lyndsey reasonably believed and relied upon the belief that Martin’s Point and Mid Coast would appropriately select, in both quality and quantity, sufficient personnel with the necessary qualifications, experience, training and supervision to fulfill his or her role within the system of medical care, such that the system as a whole was safe, met the needs

of Jazzy as a patient, and thus complied with the standard of reasonable medical care expected of medical providers like Martin's Point and Mid Coast.

23. Plaintiff specifically contends that Martin's Point and Mid Coast were directly negligent based upon Defendants' negligent hiring, training, staffing, supervision, policies, communication, documentation, medical record-keeping, culture and systems, as well as vicariously liable for the negligence of each and every one of its personnel whose conduct, either individually or in combination with other personnel, contributed to the failure of such individual(s) and the system to meet the standard of reasonable care to the decedent.

Factual Background

24. Jazzy was born on August 19, 2005.

25. On July 14, 2021, Jazzy presented to her primary care provider, Martin's Point, in Brunswick. She was evaluated by Sarah Sedney, MD.

26. Dr. Sedney took a history of allergy-like symptoms over the course of several weeks, worsening over the past few days, and pain in her throat. A rapid step test was negative.

27. Dr. Sedney diagnosed a mild asthma exacerbation and viral pharyngitis. She instructed Jazzy to call the office in a week if Jazzy had not improved or if she developed new symptoms.

28. On July 22, Jazzy returned to Martin's Point, where she was seen by Ms. Potter. Jazzy now complained of a violent cough causing her to vomit, worsening stomach pain, lethargy, and difficulty eating over the past few days.

29. Jazzy's blood pressure was 129/91. Her heart rate was 110 beats per minute. These are abnormally high vital signs.

30. Jazzy was “tripoding”—i.e., leaning over with her hands on her knees. This is a concerning sign of respiratory distress.

31. Ms. Potter performed a physical exam, documenting “wet rales/crackles (LL lobe).”

32. Ms. Potter diagnosed pneumonia and prescribed an antibiotic and a steroid.

33. She did not order any imaging.

34. On July 26, 2021, Lyndsey called Mid Coast. She informed a secretary that Jazzy had been diagnosed with walking pneumonia, and that Jazzy was now experiencing new symptoms, including increased bulging in the veins on the left side of the neck to breast. Lyndsey also reported that both of Jazzy’s breasts had increased in size and had become black and blue and stiff. Jazzy was scheduled to see Dr. Salhany at 3:20 pm that day.

35. At approximately 3:20 pm, Lyndsey brought Jazzy into the Mid Coast office.

36. Jazzy was taken into an examination room, where she gave a history to a medical assistant. She complained of enlarged, discolored, painful breasts, as well as bulging veins from the left side of her neck down to the breast.

37. Dr. Salhany came into the examination room. She performed a physical examination, documenting bilateral markedly large and engorged breasts.

38. Dr. Salhany did not notice, or consider the relevance of, the enlarged vein running from Jazzy’s chest to her neck on the left side.

38. Dr. Salhany determined that the breast enlargement, discoloration, and pain were due to the prednisone Jazzy was taking. She advised her to stop taking prednisone, and to follow up with her primary care provider.

39. On July 27, Lyndsey spoke by telephone with an employee at Martin's Point. She reported that Jazzy's "swollen chest and breast make it difficult to breath [sic] but pt is breathing a little better than when she saw Katie."

40. Later that day, Dr. Sedney extended Jazzy's antibiotic, and recommended rechecking Jazzy the week of August 2.

41. On the morning of July 30, Lyndsey called Martin's Point again. This time, she reported that Jazzy's "pneumonia symptoms seem to be getting worse. She is vomiting more and have [sic] more stomach pain and discomfort."

42. A message was sent to Ms. Potter on Martin's Point's internal messaging system, informing her of Lyndsey's report.

43. At 11:23am, Ms. Potter responded to the message, instructing her staff to recommend to Lyndsey that she take Jazzy to the Emergency Department.

44. On the morning of July 31, Lyndsey called Martin's Point again, "as she had not heard back." At this point, an employee of Martin's Point told Lyndsey she should either take Jazzy to the Emergency Department or bring her into the office. Lyndsey chose to bring Jazzy to the Emergency Department.

45. At approximately 3:00 pm on July 31, Jazzy presented to the Emergency Department at Mid Coast Hospital. She was "quite ill-appearing on arrival." Her blood pressure was 143/86 and her pulse was 122. A chest x-ray demonstrated a large left pleural effusion.

46. Jazzy was transferred by ambulance to Maine Medical Center.

47. At 7:21 pm on July 31, Jazzy arrived at the Emergency Department at Maine Medical Center. She was tachycardic and tachypneic. A bedside ultrasound demonstrated large left pleural effusion and a moderate pericardial effusion.

48. At approximately 10:21pm, Jazzy was admitted to the pediatric intensive care unit.

49. At approximately 11:07pm, a pediatric intensivist at Maine Medical Center performed a thoracentesis to drain the pleural effusion.

48. Early in the morning on August 1, Jazzy's heartrate became abnormally slow.

49. Around 2:45 am, Jazzy coded.

50. Approximately one hour later, Jazzy was declared dead.

51. After her death, fluid from Jazzy's pulmonary effusion was determined to be indicative of T Lymphoblastic Leukemia/Lymphoma.

COUNT I: SURVIVAL CLAIM

52. Plaintiff re-alleges the preceding allegations.

53. Defendant Martin's Point, acting through its agents and employees—including but not limited to those set forth above—failed to meet the standard of care for provider of primary care in the care it provided to Jazzy. Its negligence included, but was not limited to, the following:

- (a) failing to recommend and order imaging and blood work in a timely manner;
- (b) failing to recommend that Jazzy go to the Emergency Department in a timely manner;
- (c) failing to have appropriate systems in place;
- (d) failing to communicate with Jazzy and/or Lyndsey in a timely manner;
- (e) failing to create an appropriate differential diagnosis;
- (f) and failing to follow medically-accepted and reasonable standards, rules, and approaches to prioritize the safety of the patient.

54. Defendant Mid Coast, acting through its agents and employees—including but not limited to those set forth above—failed to meet the standard of care for provider of gynecologic care in the care it provided to Jazzy. Its negligence included, but was not limited to, the following:

- (a) failing to appreciate and act on concerning signs and symptoms evident during their examination of Jazzy;
- (b) failing to create an appropriate differential diagnosis;
- (c) failing to recommend and order imaging and blood work in a timely manner;
- (d) failing to have appropriate systems in place, including, *inter alia*, systems to ensure that medical records sent from other providers were placed into the patient's record;
- (e) failing to recommend that Jazzy go to the Emergency Department in a timely manner;
- (f) failing to communicate with Jazzy's referring provider in an appropriate and timely manner;
- (g) and failing to follow medically-accepted and reasonable standards, rules, and approaches to prioritize the safety of the patient.

55. As a result of Defendants' negligence, the Estate has been injured.

56. Plaintiff, as Personal Representative of the Estate of Jasmine Vincent, seeks all categories of damages recoverable, including pecuniary injuries; medical expenses; loss of future wages and earning capacity; conscious pain and suffering; and emotional distress.

COUNT II: WRONGFUL DEATH

57. Plaintiff re-alleges the preceding allegations.

58. As a result of the negligence detailed above, Jazzy Vincent died.

59. Plaintiff, as Personal Representative of the Estate of Jasmine Vincent, seeks all categories of damages recoverable pursuant to Maine's Wrongful Death Act, 18-C MRSA Section 2-807, including pecuniary injuries; medical, surgical and hospital care and treatment; reasonable funeral expenses; loss of comfort, society and companionship of the deceased; and emotional distress.

Request for Judgment

WHEREFORE, Plaintiff requests judgment in her favor for damages, together with costs, interest, attorney fees, and such other and further relief as this Court finds just and appropriate.

Dated: October 25, 2023



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