

FILED  
06-20-2022  
Clerk of Circuit Court  
Racine County  
2022CV000678  
Honorable Jon E.  
Fredrickson  
Branch 7

STATE OF WISCONSIN : CIRCUIT COURT : RACINE COUNTY

PATRICK KEESE-RATH  
424 James Street  
Burlington, WI 53105

Case No. \_\_\_\_\_  
Case Code: 30107

Plaintiff,

v.

CHARLES MESEC, DDS  
341 S. Kane Street  
Burlington, WI 53105

BURLINGTON FAMILY DENTISTRY, S.C.  
240 N. Main Street  
Burlington, WI 53105

CINCINNATI INSURANCE COMPANY  
c/o Registered Agent Kasdorf Lewis & Swietlik SC  
11270 W. Park Place, 5<sup>th</sup> Floor  
Milwaukee, WI 53224

ABC INSURANCE COMPANY  
*A fictitious company*

Defendants.

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## SUMMONS

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### THE STATE OF WISCONSIN

#### TO THE ABOVE-NAMED DEFENDANTS:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the Complaint.

The Court may reject or disregard an answer that does not follow the requirements of the statutes.

The answer must be sent or delivered to the **CLERK** for the **CIRCUIT COURT FOR RACINE COUNTY, WISCONSIN**, whose address is 730 Wisconsin Avenue, Racine WI 53403; and, to **JAMES PAYNE, R.F. WITTMAYER, LTD.**, Plaintiff's attorneys, whose address is 2101 S. Arlington Heights Road, Suite 103, Arlington, Heights, IL 60005. You may have an attorney help or represent you.

If you do not provide a proper answer within (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint.

A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

**Dated** in Kenosha, Wisconsin, this 20th day of June, 2022.

**R.F. WITTMAYER, LTD.**

*Attorneys for Plaintiff Patrick Keese-Rath*

*Electronically signed by James M. Payne*

BY:

\_\_\_\_\_  
James M. Payne  
State Bar No. 1105889

**Mailing Address**

2101 S. Arlington Heights Rd., Ste. 103  
Arlington Heights, IL 60005  
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## COMPLAINT

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NOW COMES Plaintiff, Patrick Reese-Kath, by and through his attorneys, R.F. Wittmeyer, Ltd., James M. Payne, and as for his Complaint states and avers as follows:

### INTRODUCTION

1. This is a dental malpractice civil action seeking monetary damages against Defendants for committing acts of negligence against Plaintiff.

### **PARTIES**

2. Plaintiff, Patrick Keese-Rath, is an adult resident of the State of Wisconsin who resides at the address stated in the caption.
3. Defendant, Charles Mesec, DDS, ("MESEC"), is an adult resident of the State of Wisconsin with a residential address as stated in the caption who was at all relevant times licensed to practice dentistry in the State of Wisconsin. As a result of the events alleged below, MESEC is liable to Plaintiff for personal injuries he sustained due to the Defendant's negligence.
4. Defendant, Burlington Family Dentistry, S.C., ("BFD"), is a domestic service corporation with an address for its registered agent and principal place of business as stated in the caption. As a result of the events alleged below, BFD is liable to Plaintiff for personal injuries he sustained due to the Defendant's negligence.
5. Defendant, the Cincinnati Insurance Company ("CINCINNATI"), is a foreign corporation with an address for its registered agent in the State of Wisconsin as provided in the caption. Upon information and belief, at all times relevant hereto, CINCINNATI had in full force and effect a policy of liability insurance providing coverage to Defendants MESEC or BFD for the negligence and acts as described below. By virtue of existence of said policy of insurance, Defendant CINCINNATI is a property party in this action pursuant to Wisconsin's Direct Action Statute.
6. Defendant, ABC Insurance Company ("ABCCO"), is a fictitious company named pursuant to Wis. Stat. § 807.12. Upon information and belief, one or more additional insurers may have provided insurance coverage for the acts of negligence as described below. By virtue of existence of said policy of insurance,

ABCCO is a property party in this action pursuant to Wisconsin's Direct Action Statute.

**FIRST CAUSE OF ACTION: PROFESSIONAL NEGLIGENCE**

7. Plaintiff repeats, re-alleges, and incorporates by reference the allegations contained in paragraphs 1-6 above with the same force and effect as if set forth at length herein.
8. At all times relevant hereto, MESEC was a licensed dentist who provided dental services to patients at 240 N. Main Street in Burlington, Wisconsin.
9. MESEC provided dental services at this location under the name Burlington Family Dentistry – and, upon information and belief, organized his practice as a service corporation, i.e., co-defendant BFD.
10. In 2018 to 2019, Plaintiff sought treatment from MESEC for dental issues.
11. During this time period, MESEC provided treatment to Plaintiff's teeth including teeth numbers 2, 3, 4, 5, 6, 8, 10, 12, 13, 15, 19, 28, 30, 31.
12. Subsequently, in 2021, Plaintiff sought treatment from a new dentist where he learned that the treatment provided by MESEC would need to be redone, reworked, or otherwise fixed. The treatment provided by MESEC was substandard and not properly done.
13. Plaintiff learned that dental repair and fixes necessary were in excess of \$15,000.00.
14. At all times relevant hereto, MESEC owed Plaintiff a duty to provide professional dental services using the degree of care, skill, and judgment which reasonable

- dentists would exercise in the same or similar circumstances, having due regard for the state of dental science at the time of treatment of Plaintiff.
15. In breach thereof, MESEC's treatment of Plaintiff fell below the standard of care of reasonable dentists under the circumstance present at the time of treatment of Plaintiff causing him injuries.
  16. As a direct and proximate result of one of the aforesaid negligent and careless acts or omissions of the Defendant, the Plaintiff suffered the following: serious, painful, and permanent bodily injuries, significant physical and mental pain and anguish, severe and substantial emotional pain, and loss of capacity for the enjoyment of life; was, is, and will be required to undergo medical treatment and to incur medical costs and expenses in order to alleviate injuries, pain and suffering; and was, is, and will be precluded from engaging in normal activities and pursuits, including permanent injuries.
  17. The accident occurred as a result of Defendants' aforesaid negligent acts or omissions. As a result, Defendants are liable to Plaintiff in an amount to be determined for past pain and suffering, past medical expenses, future pain and suffering, future medical expenses, permanent injuries, and out-of-pocket expenses.

**SECOND CAUSE OF ACTION: DIRECT ACTION**

18. Plaintiff repeats, re-alleges, and incorporates by reference the allegations contained in paragraphs 1-18 above with the same force and effect if set forth at length herein.

19. As a result of the Defendants MESEC and BFD's negligent acts or omissions as stated above, insurers CINCINNATI and ABCCO are liable for the Defendants' negligent acts or omissions as provided under Wisconsin's Direct Action Statute, Wis. Stat. § 632.24.

**RELIEF**

WHEREFORE, Plaintiff Patrick Keese-Rath demands judgment against the Defendants MESEC, BFD, and ABCCO as follows:

- I. On behalf of Plaintiff, for a monetary award on the first and second causes of action in an amount to be determined in excess of the small claims limit for personal injuries, past and future pain and suffering, past and future medical expenses, permanent injuries, emotional distress and mental anguish, and out-of-pocket expenses;
- II. For an award of actual and statutory attorney's fees, costs, pre- and post judgment interest, and disbursements; and
- III. For all other relief the Court finds just and equitable.

**TRIAL BY JURY OF TWELVE (12) IS HEREBY DEMANDED**

Dated in Kenosha, Wisconsin, this 20th day of June, 2022.

**R.F. WITTMAYER, LTD.**

*Attorneys for Plaintiff Patrick Keese-Rath*

*Electronically signed by James M. Payne*

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