



IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

TEIRANNI KIDD, as mother and next
friend of Nicko Silar and as personal
Representative of the Estate of Nicko
Silar, deceased, and TEIRANNI KIDD,
Individually,

Plaintiff,

v.

SPRINGHILL HOSPITALS, INC.,
d/b/a SPRINGHILL MEMORIAL
HOSPITAL; BAY AREA
PHYSICIANS FOR WOMEN, P.C.;
KATELYN BRASWELL PARNELL,
MD, et al.,

Defendants.

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CIVIL ACTION NUMBER:

CV-20-900171-BBH

**DEFENDANT SPRINGHILL HOSPITALS, INC.'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant Springhill Hospitals, Inc., d/b/a Springhill Memorial Hospital (hereinafter “Springhill”), pursuant to Ala. R. Civ. P. 56, moves for summary judgment on Count One of Plaintiff Teiranni Kidd’s Second Amended Complaint (“Complaint”) (Doc. 703) alleging “Fraudulent Non-Disclosure” in its entirety, and on the portions of Counts Two, Three, Four, and Five which are based on the same alleged duty to disclose which forms the basis for Count One. Springhill further moves for summary judgment on the portions of Counts Two, Three, Four, and Five which are based on Springhill’s hiring, retaining, training, or supervision of its nursing staff. In support of this motion, Springhill states as follows:

1. On July 8, 2019, Springhill discovered it was the victim of a cyberattack which affected hospital systems (the “Cyber Incident”). (Doc. 703 ¶ 9).

2. On July 16, 2019, Plaintiff Teiranni Kidd presented to Springhill and was admitted by her treating physician for labor and delivery. (*Id.* ¶ 12).

3. Plaintiff alleges Springhill did not tell her about the Cyber Incident or the impact on hospital systems. (*Id.*).

4. On July 17, 2019, Plaintiff delivered her child with a nuchal cord (*id.* ¶ 31) and the child was subsequently diagnosed with hypoxic ischemic encephalopathy, among other conditions (*id.* ¶ 33).

5. The child was transferred to USA Women's and Children's Hospital, spent months in neonatal intensive care unit, was profoundly brain injured, and subsequently died on April 16, 2020. (*Id.* ¶¶ 34, 35, 47).

6. Plaintiff alleges Springhill should have, but failed to, disclose information about the Cyber Incident's impact on hospital systems, that the non-disclosure caused her injuries (including the death of her child), and that had she been so informed, she would have gone to a different hospital. (*Id.* ¶¶ 41, 42, 45, 46, 47).

7. Plaintiff further alleges that Springhill breached other medical/clinical standards of care which caused her injuries. (*See, e.g., id.* ¶¶ 54–56, 61–62, 67–69, 74–75).

8. Based on these allegations, Plaintiff asserts six (6) causes of action against Springhill: (1) fraudulent non-disclosure; (2) wantonness; (3) Alabama Wrongful Death Act – wantonness; (4) negligence; (5) Alabama Wrongful Death Act – negligence; and (6) breach of implied contract.

9. Plaintiff's first cause of action—fraudulent non-disclosure—should be dismissed in its entirety for multiple reasons.

a. To overcome summary judgment on a claim of fraudulent non-disclosure—commonly referred to as fraudulent suppression—Plaintiff must present substantial evidence of four elements: (1) a duty to disclose, (2) non-disclosure or concealment of material facts, (3) inducement of the Plaintiff to act or refrain from acting, and (4) action by Plaintiff to her detriment. *See Mason v. Chrysler Corp.*, 653 So. 2d 951, 954 (Ala. 1995); *Dodd v. Nelda Stephenson Chevrolet, Inc.*, 626 So. 2d 1288, 1293 (Ala. 1993). To the extent a plaintiff premises such a claim on third-party fraud, she must also present evidence of an intent on the part of the defendant to induce a plaintiff to act (or refrain from acting). *See Seward v. Dickerson*, 844 So. 2d 1207, 1212 (Ala. 2002).

b. Plaintiff cannot present substantial evidence of the first element of her fraudulent non-disclosure claim—duty to disclose—because under Alabama law, “the duty to obtain a patient’s informed consent rests solely with the patient’s physician, rather than with a hospital or its nurses.” *Wells v. Storey*, 792 So. 2d 1034, 1038 (Ala. 1999) (citation omitted). Springhill did not voluntarily assume a duty (through public statements, policies, or otherwise), and there is no confidential relationship (between hospital and patient) or other special circumstances that might create such a duty to disclose. Further, Springhill had no duty to conduct a clinical risk profile and report those results to the Plaintiff, Plaintiff did not plead that theory of duty in her Complaint, and Plaintiff’s clinical-risk-profile theory of duty is not cognizable under the Alabama Medical Liability Act, Ala. Code § 6-5-540 *et seq.* (the “AMLA”).

c. To the extent Plaintiff’s fraudulent non-disclosure claim is premised on third-party fraud, vis-à-vis Plaintiff’s treating physician, Dr. Parnell, there is no evidence that Springhill intended and expected Dr. Parnell to be unable to disclose information about the Cyber Incident to Plaintiff.

d. Plaintiff cannot present substantial evidence of the second element of her fraudulent non-disclosure claim—non-disclosure or concealment of material facts—because Dr. Parnell knew all material facts and she testified that Ms. Kidd knew everything she did. Further, the status of hospital systems not used in Ms. Kidd’s care—and not typically used in the course of a labor and delivery—as well as the status of systems that functioned as clinically intended with respect to Ms. Kidd, do not constitute material facts. These systems include Solomon, Work Brain, Lawson, Provation, Exit Care, Health Nautica, Welch Allyn, Optiflex Materials Management, Massimo, Sunquest, Omnicell, and iStat. Finally, to the extent Plaintiff’s claim is premised on the non-disclosure of the results of a clinical risk analysis (which Plaintiff contends Springhill did not even conduct), that claim fails because a party cannot suppress information it did not know.

e. Plaintiff cannot present substantial evidence of the third element of her fraudulent non-disclosure claim—inducement of the Plaintiff to act or refrain from acting—because Dr. Parnell’s admitted knowledge of impacted hospital systems prevents Plaintiff from showing or establishing that Springhill’s alleged non-disclosures to Dr. Parnell played any role in her decision to deliver Nicko Silar at Springhill.

f. Plaintiff cannot present substantial evidence of the fourth element of her fraudulent non-disclosure claim—action by Plaintiff to her detriment, or proximate causation—because any alleged non-disclosure to Ms. Kidd or to Dr. Parnell by Springhill was not the legal cause of Plaintiff’s injuries. Specifically, alleged non-disclosures regarding hospital systems not used in connection with Ms. Kidd’s care—and not typically used in the course of a labor and delivery—as well as alleged non-disclosures regarding systems that functioned as clinically intended with respect to Ms. Kidd, do not even rise to the level of being a cause in fact. Non-disclosures regarding other hospital systems—including Sunrise, Periwatch/Perigen, and PACs—

are not the proximate cause of Ms. Kidd's injuries for multiple reasons (even assuming they could qualify as a cause in fact).

10. Plaintiff's second, third, fourth, and fifth causes of action, alleging wantonness, wrongful death – wantonness, negligence, and wrongful death – negligence, respectively, should be dismissed to the extent they are based on the same alleged duty to disclose alleged in support of Plaintiff's fraudulent non-disclosure claim. That is because, as explained above, Springhill owed no duty to disclose to Ms. Kidd or to Dr. Parnell.

11. Plaintiff's second, third, fourth, and fifth causes of action should also be dismissed to the extent they are based on alleged Springhill's hiring, retaining, training, or supervision of nurses. That is because there is no substantial evidence to support such claims, and Plaintiff has failed to identify any expert who has testified to any breach related to hiring, retaining, training, or supervising Springhill nurses.

12. This motion is further supporting by two memoranda of law, filed contemporaneously with this motion.

13. In addition to documents filed in the record and cited in the memoranda of law, Springhill further relies on the following:

- a. January 3, 2019, e-mail from Karen Wilson to Austin Cadden (Springhill_0002844);
- b. Public statements issued by Springhill (Springhill_0001051–Springhill_0001054; Springhill_0001934; Springhill_0001928);
- c. July 11, 2019, OBGYN Committee Meeting Minutes (Springhill_0002845–Springhill_0002847);
- d. Dr. Parnell's January 29, 2021, Responses to Springhill's First Requests for Admission;
- e. May 9, 2023, Deposition of Teiranni Kidd;

- f. May 9, 2023, Deposition of Bobbi Kidd;
- g. May 10, 2023, Deposition of June Vaughn;
- h. May 16, 2023, Deposition of Lorie Bush;
- i. May 16, 2023, Deposition of Kimberly Pope;
- j. May 17, 2023, Rule 30(b)(6) Deposition of Springhill, via Jeff St. Clair;
- k. May 17, 2023, Rule 30(b)(6) Deposition of Springhill, via Sherri Stroud;
- l. June 29, 2023, Deposition of Katelyn Parnell;
- m. Plaintiff's August 1, 2023, Expert Disclosure;
- n. November 15, 2023, Deposition of Elizabeth Buck; and
- o. January 9, 2024, Deposition of Bay Area, via Katelyn Parnell;
- p. Plaintiff's February 5, 2024, Supplemental Expert Disclosure;
- q. Plaintiff's February 23, 2024, Responses to Springhill's First Set of Requests for Admission; and
- r. Plaintiff's February 23, 2024, Responses to Springhill's Second Set of Interrogatories.

CONCLUSION

For these reasons and those set forth in the accompanying memoranda of law, the Court should grant Springhill's Motion for Partial Summary Judgment and dismiss the following claims:

- a. Plaintiff's first cause of action, in its entirety; and
- b. Plaintiff's second, third, fourth, and fifth causes of action to the extent they are based on the same duty to disclose undergirding Plaintiff's first cause of action; and
- c. Plaintiff's second, third, fourth, and fifth causes of action to the extent they are based on Springhill's hiring, retaining, training, or supervision of nurses.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have on this the 29th day of February 2024, caused a copy the foregoing to be served on the following parties using the AlaCourt electronic filing system:

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