

STATE OF INDIANA)
)SS:
COUNTY OF MARION) CAUSE NO.:

DUSTIN FOGT and LAUREN FOGT

Plaintiffs,

v.

ACADIA HEALTHCARE COMPANY, INC.,
OPTIONS TREATMENT CENTER
ACQUISITION CORPORATION, a Domestic
For-Profit Corporation, d/b/a OPTIONS
BEHAVIORAL HEALTH SYSTEM,

Defendants.

COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL

Come now Plaintiffs, Dustin Fogt and Lauren Fogt, by counsel, and for their Complaint
for Damages and Demand for Jury Trial allege and state as follows:

PARTIES

1. Plaintiff, Dustin Fogt, is a resident of the State of Indiana, County of Hancock, and was admitted for care at Options Behavioral Health System and was harmed by the conduct of Defendants in Marion County, Indiana.

2. Plaintiff, Lauren Fogt, is a resident of the State of Indiana, County of Hancock, and has been, at all times relevant, the wife of Plaintiff, Dustin Fogt.

3. Defendant, Acadia Healthcare Company, Inc., is a for-profit corporation formed in the state of Delaware operating a network of for-profit mental healthcare service providers with its principal office located at 6100 Tower Circle, Suite 1000, Franklin, Tennessee, 37067.

4. Defendant, Options Treatment Center Acquisition Corporation, is an Indiana corporation with its principal office located at 6100 Tower Circle, Suite 1000, Franklin, Tennessee, 37067.

5. Defendant, Options Behavioral Health System is located at 5602 Caito Drive, Indianapolis, Indiana 46226 in Marion County, Indiana. Options Behavioral Health System is an assumed name of Options Treatment Center Acquisition Corporation.

6. Defendants own and operate Options Behavioral Health System, an inpatient psychiatric hospital in the State of Indiana, County of Marion, City of Indianapolis.

7. Defendants are legally responsible for their employees and agents providing care to patients, including Plaintiff Dustin Fogt, at Options Behavioral Health System.

ALLEGATIONS COMMON TO ALL COUNTS

8. Plaintiff Lauren Fogt observed her husband in an apparent mental health crisis on or about March 3, 2024 at their home. She transported her husband to the emergency department for care.

9. Plaintiff Dustin Fogt presented to the emergency department at Indiana University Health Saxony Hospital on or about March 3, 2024.

10. Plaintiffs are the parents of young children. Lauren Fogt left the hospital with their children and understood that Dustin would be monitored and that a consultation with psychiatry would be arranged.

11. Lauren was advised that she would be contacted after the psychiatry consultation was completed as to whether Dustin would be kept at the hospital for observation or if the hospital staff was recommending inpatient admission to a mental health facility for Dustin.

12. Lauren never received a call from anyone at Indiana University Health Saxony Hospital regarding the planned psychiatry consultation or recommendations for her husband's care.

13. Unbeknownst to Dustin and Lauren, staff at Indiana University Health Saxony Hospital contacted Options Behavioral Health System to arrange for an admission to Options and transported Dustin there without ever speaking with Lauren or securing informed consent from Dustin.

14. Lauren received a call from Dustin explaining that he was being held somewhere, that he could hear screaming outside of his door and that he did not know where he was.

15. In the early morning hours of March 4, 2024 Dustin was held in Intake Room #4 and told that he had to surrender his watch and cellular phone and provide staff with the passcode so that they could have access to his telephone. Dustin refused to provide them with the passcode and explained that he refused to give them his personal items if they persisted in requiring that he give them access to the personal data on his telephone.

16. A "Code" was called and Dustin was shortly surrounded by 4-6 staff members who forcibly restrained Dustin and removed his watch and phone. At least one staff member forcibly struck Dustin during this attack.

17. Dustin received no evaluation and no therapy. Dustin requested on multiple occasions to sign himself out of the facility. Options staff advised Dustin that he could persist in those efforts, but that they could simply secure a court order detaining him there for a period of fourteen (14) days if he persisted in his efforts to leave. This warning was repeated to both Dustin and to other residents in his view.

18. Dustin Fogt advised family of the incident where his personal property was forcibly seized from him and that he was being held without recourse. His family notified police, who sent an officer to Options to investigate on March 4, 2024.

19. Dustin was confronted by an Options staff member, believed to be the Director of Admissions, shortly before the police officer arrived. The Options staff threatened Dustin by explaining that he would “get out a lot sooner” if he cooperated and did not express complaints to or press charges with the police officer.

20. The same staff member who had threatened Dustin earlier was in attendance for the meeting that Dustin had with the police officer. Dustin reasonably understood that Options would seek to punish him for not complying with the given instructions by seeking to detain him even longer. Dustin declined to elaborate on anything he had experienced beyond the police officer watching the video and noting that Dustin still had marks on his wrists from the earlier attack.

21. Dustin was not released following the interview but was held against his will for several days following it and advised that efforts to seek early release would be used against him.

22. Dustin was never evaluated by a psychiatrist at any time while he was forced to remain at Options.

23. Options staff either remained intentionally ignorant of Dustin’s medical needs and concerns, or otherwise ignored them, and based treatment decisions and his length of stay upon the maximum amount Options could bill Dustin’s insurance.

24. Options willfully and intentionally held Dustin against his will and without any medical basis, consistent with its established business practices.

25. Options staff utilized threats and intimidation to prevent Dustin from leaving the facility despite the fact that he did not pose a threat of harm to himself or others.

26. Dustin has suffered tremendous harm because of Defendants' conduct, including physical injuries and grave fear at the prospect of seeking mental health care at any time since he was released from Options.

27. Lauren Fogt, as the wife of Dustin Fogt, has suffered injuries for which she is entitled to compensation under Indiana law.

COUNT 1 – MEDICAL NEGLIGENCE

28. Defendants, individually and/or through their agents, were negligent in providing medical care to Dustin Fogt that failed to meet the applicable standard of care. Plaintiffs allege that the conduct of Defendants fell beneath the standard of care in one or more of the following non-exhaustive ways:

- a. Defendants failed to obtain informed consent for treatment and services provided to Plaintiff, Dustin Fogt;
- b. Defendants failed to use reasonable skill and care in providing care to Plaintiff, Dustin Fogt;
- c. Defendants failed to use reasonable skill and care in diagnosing Plaintiff, Dustin Fogt;
- d. Defendants failed to use reasonable skill and care by failing to provide necessary referrals for the further care of Plaintiff, Dustin Fogt;
- e. Defendants were negligent in failing to discharge Plaintiff, Dustin Fogt; when medically indicated;
- f. Defendants' refusal to discharge Plaintiff, Dustin Fogt and preventing his from leaving the facility without proper authority and when he did not pose a threat to himself or others constitutes false imprisonment by Defendants; and/or

g. Defendants were otherwise negligent in the provision of care and services to Plaintiff, Dustin Fogt;

29. As a direct and proximate result of Defendants' negligence, Plaintiff, Dustin Fogt; has unnecessarily suffered injuries, including but not limited to physical pain and suffering, emotional distress and anguish, and other injuries and damages; as well as the need for future treatment and expenses and unavoidable pain and suffering,.

30. Plaintiff Lauren Fogt, is and was, at all times relevant to this action, the wife of Plaintiff, Dustin Fogt. She asserts all claims for damages incurred as the spouse of Plaintiff, Dustin Fogt.

COUNT 2 – VIOLATIONS OF INDIANA CRIME VICTIM'S RELIEF ACT

31. Defendants made false or misleading statements as to Plaintiff Dustin Fogt's condition to improperly obtain pre-approval for unnecessary medical expenses.

32. Defendants, with the intent to obtain property to which Defendants were not entitled knowingly or intentionally made false or misleading statements all in violation of I.C. 35-43-5-4(a)(1).

33. Defendants made false or misleading statements to Dustin Fogt regarding his status at the hospital to improperly obtain payment for unnecessary medical expenses.

34. Defendants, with the intent to obtain property to which Defendants were not entitled knowingly or intentionally created a false impression in another person all in violation of I.C. 35-43-5-4(a)(1).

35. Plaintiffs have suffered a pecuniary loss as a result of Defendants' violations of I.C. 35-43 under I.C. 34-24-3-1. As such, Plaintiffs are entitled to compensation for actual damages,

treble damages, costs of this action, a reasonable attorney's fee, expenses for producing witnesses in this cause, Plaintiffs' time for filing papers and attending court proceedings, and all other reasonable costs of collection. I.C. 35-24-3-1.

COUNT 3 – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

36. Defendants' conduct as alleged herein was extreme and outrageous in that it went beyond all possible bounds of decency, was atrocious and utterly intolerable in a civilized society.

37. Defendants, through their extreme and outrageous conduct intentionally or recklessly caused severe emotional distress to Plaintiff Dustin Fogt.

38. Plaintiff Dustin Fogt is entitled to compensation for the emotional distress he experienced.

COUNT 4 – WILLFUL AND WANTON CONDUCT

39. Defendants' conduct as alleged herein was willful and wonton misconduct and done with malice, fraud, gross negligence or oppressiveness.

40. Defendants' conduct as alleged herein was not the product of a mistake of fact, an honest error of judgment, overzealousness, ordinary negligence or other human failing.

41. Defendants' conduct as alleged herein entitles Plaintiffs to punitive damages.

COUNT 5 – GENERAL NEGLIGENCE

42. Defendants' conduct as alleged herein was negligent in that Defendants knew or should have known that their conduct would cause an unacceptably high risk of injury to Plaintiffs.

43. Defendants' conduct as alleged herein was the responsible cause of injuries suffered by Plaintiffs.

44. Plaintiffs are entitled to compensatory damages for all injuries of any kind proximately caused by Defendants' conduct as alleged herein.

45. Defendants' conduct as alleged herein was the responsible cause of Plaintiff, Lauren Fogt's loss of services, society and companionship of his wife and he is entitled to an award of damages to compensate him for those losses.

COUNT 6 – CIVIL REMEDY FOR RACKETEERING ACTIVITY

46. Defendants' conduct as alleged herein constitutes violations of I.C. 35-43-5 and qualify as "racketeering activity" under I.C. 34-45-6-1(17).

47. Defendants have knowingly and intentionally received proceeds both directly and indirectly from a pattern of racketeering activity.

48. Defendants have used the proceeds from a pattern of racketeering activity and the proceeds derived therefrom to acquire an interest and property and to operate an enterprise, namely Options Behavioral Health System and other Acadia facilities.

49. Defendants' conduct as alleged herein constitutes at least two (2) incidents of "racketeering activity" and as such qualifies as a "pattern of racketeering activity" under I.C. 34-45-6-1(d).

50. Plaintiffs are entitled to damages under I.C. 34-24-2-6 as aggrieved persons of the corrupt business enterprise as detailed herein.

51. Plaintiffs seek under this count an amount up to three (3) times Plaintiffs' actual damages, costs of this action, a reasonable attorney's fee, and punitive damages.

COUNT 7 – BATTERY

52. Defendants' conduct as alleged herein constitutes a knowing and intentional unauthorized touching of a person in a rude, insolent, or angry manner.

53. At no time did Plaintiff Dustin Fogt authorize the touching which was knowing and intentional.

54. Defendants' employees and agents committed a battery against Dustin Fogt within the scope of employment and their activities were expressly or impliedly authorized by Defendants or were incidental to the employees' authorized activities.

55. Plaintiffs are entitled to damages for the physical and emotional distress experienced by Dustin Fogt.

JURY TRIAL DEMAND

56. Plaintiffs demand trial by jury on all issues so triable.

Wherefore, Plaintiffs pray for judgment against Defendants, in an amount which will compensate Plaintiffs for their injuries and damages, treble damages, punitive damages, a reasonable attorney fee and for all other just and proper relief in premises.

Respectfully submitted,

COHEN & MALAD, LLP

By:



David J. Cutshaw, Attorney #3997-49
Justin C. Kuhn, Attorney #32042-49
Chad J. Bradford, Attorney #23516-53