

16-MMP-1067

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

THE ESTATE OF NANCY A.
GLUMSKE, BY SPECIAL
ADMINISTRATOR GERALD
GLUMSKE,
802 Kavanaugh Street
Elroy, WI 53929

Case No.: 16-CV-1847
Code No.: 30103 – Medical
Malpractice –Other;
30104 – Medical
Malpractice Ch. 655

RECEIVED

SEP 23 2016

Medical Mediation
Panels

and

GERALD GLUMSKE,
802 Kavanaugh Street
Elroy, WI 53929

Plaintiffs,

vs.

SEAN YETMAN, M.D.,
64 Woodstock Ave., Apt. 14
Brighton, MA 02135

ABC INSURANCE COMPANY

MERITER MEDICAL GROUP, INC.,
a domestic non-stock corporation,
202 S. Park St.
Madison, WI 53715

DEF INSURANCE COMPANY

MERITER HOSPITAL, INC.
a domestic non-stock corporation,
202 S. Park St.
Madison, WI 53715

GHI INSURANCE COMPANY

MERITER HEALTH SERVICES, INC.,
a domestic non-stock corporation,
202 S. Park St.
Madison, WI 53715

JKL INSURANCE COMPANY

MERITER HEALTH ENTERPRISES, INC.,
a domestic corporation
202 S. Park St.
Madison, WI 53715

MNO INSURANCE COMPANY

MERITER MANAGEMENT SERVICES, INC.
a domestic corporation,
202 S. Park St.
Madison, WI 53715

PQR INSURANCE COMPANY

MERITER FOUNDATION, INC.
a domestic non-stock corporation,
202 S. Park St.
Madison, WI 53715

STU INSURANCE COMPANY

MERITER UW PHYSICIANS CONTRACTING
COMPANY, LLC, a domestic limited liability
company,
202 S. Park Street
Madison WI 53715

VWX INSURANCE COMPANY

IOWA HEALTH SYSTEM, d/b/a UNITY
POINT HEALTH, a foreign non-stock
corporation,
1776 W. Lakes Parkway, Suite 400
West Des Moines Iowa 50266

AAA INSURANCE COMPANY

UNIVERSITY HEALTH CARE, INC.,
a domestic non-stock corporation,
301 S. Westfield Rd., Suite 320
Madison, WI 53717

BBB INSURANCE COMPANY

UNIVERSITY OF WISCONSIN
MEDICAL FOUNDATION, INC., a
domestic non-stock corporation,
7974 UW Health Court
Middleton, WI 53562

CCC INSURANCE COMPANY

UNIVERSITY OF WISCONSIN
HOSPITALS AND CLINICS
AUTHORITY, a domestic political
corporation or entity,
600 Highland Ave.
Madison, WI 53792

DDD INSURANCE COMPANY

UNIVERSITY OF WISCONSIN SCHOOL OF
MEDICINE AND PUBLIC HEALTH, a
domestic corporation or entity
750 Highland Ave.
Madison, WI 53705

EEE INSURANCE COMPANY

UNIVERSITY OF WISCONSIN HOSPITALS
AND CLINICS, a domestic corporation or entity,
600 Highland Avenue
Madison, WI 53792

FFF INSURANCE COMPANY

123 COMPANY,

GGG INSURANCE COMPANY,

INJURED PATIENTS & FAMILIES
COMPENSATION FUND, a domestic
statutorily-created legal corporation or entity,
125 South Webster Street
Madison, WI 53703

CENTERS FOR MEDICARE AND
MEDICAID SERVICES (CMS),
c/o U.S. Attorney's Office – Leslie K. Herje
P.O. Box 1585
Madison, WI 53701

UNITEDHEALTHCARE OF
WISCONSIN, INC., a domestic insurance
company,
10701 W. Research Dr.
Wauwatosa, WI 53226

UNITEDHEALTHCARE
INSURANCE COMPANY, a foreign
insurance company,
185 Asylum
Harford CT 06103

Defendants.

PLAINTIFF'S STATEMENT OF THE CASE

Nancy Glumske died due to the negligence of Dr. Sean M. Yetman. Dr. Yetman performed a mitral valve repair and bypass surgery at Meriter on July 20, 2011. Due to Dr. Yetman's negligence, complications ensued and Nancy tragically died on August 15, 2011.

Enclosed with this statement are the following:

1. Wisconsin Department of Safety and Professional Services March 9, 2015 Final Decision and Order in *In the Matter of Disciplinary Proceedings Against Sean M. Yetman, M.D.*
2. January 17, 2016 Wisconsin State Journal Article, *Special Report: When it comes to disciplining doctors, reprimands still most common sanction.*
3. The following medical records: Dr. Yetman's record of his 7/01/2011 consultation with Nancy Glumske; operative report of Dr. Yetman's 7/20/2011 surgery on Nancy; operative report of Dr. Yetman's 7/26/2011 delayed sternum wound closure; and Dr. Yetman's 8/19/2011 discharge report.

Nancy Glumske was born on July 17, 1950 and was 61 at the time of her death. At the time of her death she was married to Gerald Glumske.

After being seen at another institution for chest, jaw, and left arm pain, Nancy was transferred to Meriter on July 1, 2011 for treatment of acute coronary syndrome. Cardiac catheterization and coronary angiography showed significant coronary disease and moderate to severe mitral insufficiency. A cardiac surgeon recommended mitral valve repair or replacement along with bypass surgery. Nancy was discharged to await surgery and was readmitted to Meriter on July 18, 2011. On July 20, 2011, Dr. Yetman attempted mitral valve repair as well as a bypass of the left anterior descending coronary artery with the left internal mammary artery. The procedure required over ten hours of pump time and almost eight hours of aortic cross clamp time. An intra-aortic balloon pump and multiple vasopressors were also placed. Nancy's chest was left open until July 25, 2011 and the intra-aortic balloon pump was removed at that time.

Post-operative echocardiograms showed severe mitral insufficiency with reversal of flow in the pulmonary veins. Nancy soon developed renal failure and, thereafter acute respiratory distress syndrome and liver failure. Nancy died on August 15, 2011.

Dr. Yetman breached the standard of care when he operated on Nancy, making Meriter liable via *respondent superior*. In addition, Dr. Yetman's mistreatment of Nancy was clearly not an isolated incident. Dr. Yetman was clearly an incompetent and unqualified surgeon who had serious general professional deficiencies. Meriter clearly was negligent in its credentialing of Dr. Yetman.

The Medical Examining Board brought disciplinary proceedings against Dr. Yetman based on his treatment of Nancy as well as another patient. Dr. Yetman agreed to and the Board accepted the surrender of his medical license. It is clear that Dr. Yetman left Nancy on the heart bypass

machine too long and he should have replaced her heart valve, not attempted to repair it. Nancy died as a result of Dr. Yetman's breaches of the standard of care. In addition, Dr. Yetman was employed at Meriter for a very short time, performing only seven surgeries while employed there. However, despite the small number of surgeries he performed, Meriter hired a consultant to review Dr. Yetman's surgeries and Meriter ultimately terminated his employment. Dr. Yetman should never have been credentialed and granted the surgical privileges he had at Meriter.

Following Nancy's death, neither Dr. Yetman nor anyone at Meriter ever explained to Gerald what had happened, why Nancy had died, or that Dr. Yetman had improperly performed the surgery. Gerald was shocked when he read the enclosed January, 2016 State Journal article discussing Dr. Yetman and Nancy's surgery. Gerald had absolutely no indication that Nancy had died as a result of surgical incompetence until he read the enclosed article.

We are confident that if this case were submitted to a jury, the jury would find that Dr. Yetman breached the standard of care and that breach resulted in Nancy's death. A jury would also certainly find that Meriter's credentialing of Dr. Yetman was negligent and that that failure also resulted in Nancy's death.

We are also confident that a jury would award substantial damages for the loss of Nancy's life. Gerald and Nancy had been married for 19 years and had a loving, healthy, and amicable marital relationship. If this case were the subject of a trial, we are confident that a jury/court would place the maximum value on Gerald's claim for the loss of Nancy's society and companionship - \$350,000.

Nancy's Estate would also receive a substantial award for conscious pain and suffering. Dr. Yetman put Nancy through extensive surgical procedures that resulted in significant painful and life-threatening complications. Her final weeks of life were spent in a hospital struggling to

survive the insurmountable challenges created by Dr. Yetman's professional negligence. We have placed a value of \$150,000 on Nancy's Estate's claim for her conscious pain and suffering between the time of surgery and her death.

Nancy's Estate is also entitled to advance a claim for the medical expenses incurred because of Dr. Yetman's negligence. The bills for Nancy's stay, the bulk of which was due to treatments and hospitalization caused by Dr. Yetman's negligence or complications resulting from it, total \$733,418.73. Although the bill was satisfied by Medicare, it is nonetheless a recoverable item of damages.

In addition, Gerald's economic damages would be substantial.

Nancy received social security disability payments in the amount of \$941 per month. Nancy would have continued to receive these benefits for the remainder of her 25-year life expectancy, representing a loss of \$282,300.00.

Although Nancy was not working at the time of her death, she accordingly was free and able to make significant contributions to her and Gerald's household and home. Nancy was industrious and active. Nancy was a vigorous gardener and her regular contributions to her and Gerald's household included caring for and maintaining their large (approximately 75' x 40') garden. Nancy grew cucumbers, tomatoes, carrots, corn, brussel sprouts, lettuce, and asparagus. In addition, Nancy canned many of the vegetables she grew, regularly canning up to one hundred quarts of vegetables each year. Nancy was also an artist and had a shop behind her house where she sandblasted and etched glass and mirrors. She also had an indoor studio. Nancy etched champagne bottles and flutes, wedding-related items, and mirrors. She also did wood carvings on and checkered gunstocks (carving a pattern into the gun's wooden stock). Nancy's crafts were not

merely hobbies she used to stay active. Nancy accepted orders for her craftwork and made money from them. She regularly traveled to craft fairs and gun shows to promote and sell her work.

Gerald will experience a loss of his wife's housekeeping, yard maintenance, and household management services as a result of Nancy's death. Given that Nancy did and was able to make a significant contribution to their household, we have assumed that but for her death, she would have performed tangible housekeeping chores and provided household management services at an average rate of approximately six hours per day for the duration of her 25-year life expectancy. The hourly value of housekeeping, yard maintenance, and household managements services is based upon the mean hourly earnings of painters, child care workers, waiters and waitresses, landscapers, private household cooks, laundry and dry cleaning workers, maids and housekeeping cleaners, bookkeeping, accounting and auditing clerks, and taxi drivers and chauffeurs which is conservatively estimated at \$15.00 per hour. This wage data is based upon information from the United States Bureau of Labor and other statistical compilations. Assuming the foregoing rate, and daily contribution of said services, the average annual value of this aspect of Nancy's contribution to the household is \$32,850. Assuming that Nancy's contributions would continue for the duration of Nancy's life expectancy of an additional 25 years, the total value of Gerald's claim for loss of household/family, housekeeping, yard maintenance, and household management services is approximately \$821,250.

In addition to experiencing the loss of the value of her services, Gerald will also experience a loss of household/family advice, counsel, guidance, instruction, and training services. Valuing the tangible, economic loss of household family services beyond the physical housekeeping chores has been recognized in the economic literature and in case law for a long time. See, for example, Frank D. Tinari, "Household Services: Toward a More Comprehensive Measure," Journal of

Forensic Economics, Vol. 11, No. 3, Fall 1998, pp. 253-265, and Michigan Central v. Vreeland, 227 U.S. 57 (1913). We believe that economists will opine that the hourly value of the loss may reasonably be based upon the mean hourly earnings of educational, vocational, and school counselors; marriage and family therapists, child, family and school social workers, social and human services assistants; clergy; directors of religious activities and education; coaches; elementary school teachers; and personal financial advisors which is approximately \$25.00 per hour. This wage data is based upon information from the U.S. Bureau of Labor Statistics and other well-recognized statistical compilations. Based up on a benchmark loss of 1 hour per day, the annual amount of Gerald's loss is \$9,125.00. Assuming that this loss will continue for the duration of Nancy's 25-year life expectancy, the total value of the loss of household/family advice, counsel, guidance, instruction and training services is approximately \$228,125.

Gerald will also experience the loss of Nancy's accompaniment services. Valuing the tangible economic loss of household family services beyond physical housekeeping chores is well recognized in the economic literature and in case law. See, for example, Frank D. Tinari, "Household Services: Toward a More Comprehensive Measure," Journal of Forensic Economics, Vol. 11, No. 3, Fall 1998, pp. 253-265, and Michigan Central v. Vreeland discussed in the Household Replacement Services Appendix. The hourly value of the loss of accompaniment services is based on the mean hourly earnings of orderlies and attendants; home health aides; and personal and home care aides, which is approximately \$12.00 per hour. This wage data is based on information from the U.S. Bureau of Labor Statistics and other statistical compilations. Based on a benchmark loss of 6 hours per day for Gerald through Nancy's 25-year life expectancy, the total value of Gerald's loss of accompaniment is approximately \$657,000.00.

Nancy also lost the value of her life. Economists have long agreed that life is valued at more than lost earning capacity. Methods economists use to determine the economic value of a life include economic studies on what we, as a society, actually pay to preserve the ability to lead a normal life. The studies examine incremental pay for risky occupations as well as a multitude of data regarding expenditures for life savings by individuals, industry, and state and federal agencies. Our estimate of the value of a life is consistent with estimates published in studies that examine and review the broad spectrum of economic literature on the value of life. Among these is "The Plausible Range for the Value of Life", Journal of Forensic Economics, Vol. 3, No. 3, Fall 1990, pp. 17 – 39, by T.R. Miller. This study reviewed 67 different estimates of the value of life published by economists in peer-reviewed academic journals. The Miller results, in most instances, show the value of life to range from approximately \$1.6 million to \$2.9 million after-tax dollars with a mean of approximately \$2.2 million. In "The Value of Life: Estimates with Risks by Occupation and Industry", Economic Inquiry, Vol. 42, No. 1, by May 2003, pp. 29 – 48, Professor W.K. Viscusi estimates the value of life to be approximately \$4.7 million in year 2000 dollars. Richard Thaler and Sherwin Rosen wrote an early seminal paper on the value of life, "The Value of Saving a Life: Evidence From the Labor Market in N.E. Terlickyj (ed.), Household Production and Consumption, New York: Columbia University Press, 1975 pp. 265 – 300. The Meta-Analyses Appendix to this report reviews additional literature suggesting a value of life of approximately \$5.4 million in 2008 dollars.

Based on the average value of a statistical life and life expectancy of 86 years, we value Nancy's life at approximately \$125,000 per year for her remaining life expectancy of 25 years, for an approximate total of \$3,125,000.

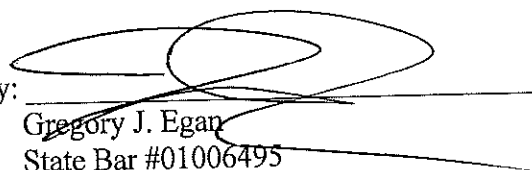
As set forth below, Gerald Glumske and the Estate of Nancy Glumske are willing to compromise any and all claims he may have against the above-named defendants for the total sum of \$6,347,093.00:

Nancy's conscious pain and suffering	\$ 150,000.00
Medical Expenses	\$ 733,418.73
Gerald's Loss of Social Security Benefits	\$ 282,300.00
Gerald's Loss of Society and Companionship	\$ 350,000.00
Gerald's Loss of Household and Family Services and Chores	\$ 821,250.00
Gerald's Loss of Household/Family Advice, Guidance, and Counsel	\$ 228,125.00
Gerald's Loss of Accompaniment Services	\$ 657,000.00
Loss of Value of Nancy's Life	\$3,125,000.00
Total of above damages	\$6,347,093.00

Dated this 20th day of September, 2016.

O'FLAHERTY HEIM EGAN & BIRNBAUM, LTD.

By: _____


Gregory J. Egan
State Bar #01006495
James W. Richgels
State Bar #1046173
Attorneys for Plaintiffs
201 Main Street, Suite 1000
La Crosse, WI 54601
(608) 784-1605