

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SIDNEY L. PETERSON,)
)
Plaintiff,)
) Case no. 19-cv-00415
)
v.)
) Honorable Charles P. Kocoras
SARAH MAYS,)
)
Defendant.)

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant Sara Mays, by her attorney Kwame Raoul, Attorney General of the State of Illinois, and for her Answer to Plaintiff's Complaint states the following:

1. Plaintiff brought this case pursuant to 42 U.S.C. § 1983, invoking the jurisdiction of this Court pursuant to 28 U.S.C. § 1333 and 28 U.S.C. § 1337. On remand, following the decision of the Court of Appeals, 986 F.3d 746 (7th Cir. 2021), the Court elected to retain jurisdiction of Plaintiff's state law claim.

RESPONSE: Admit.

2. Plaintiff Sidney L. Peterson is a resident of the Northern District of Illinois.

RESPONSE: Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the above paragraph.

3. The events giving rise to plaintiff's claims occurred at the Stateville Correctional Center in Joliet, Illinois and were at issue in 16-cv-1135, voluntarily dismissed on January 25, 2018.

RESPONSE: Admit.

4. Defendant Sarah Mays was at all times relevant a licensed practical nurse employed at the Stateville Correctional Center.

RESPONSE: Admit.

5. On or about January 19, 2015, a physician at the Stateville Correctional Center prescribed for plaintiff a medication known as "Podocon-25."

RESPONSE: Admit.

6. On January 19, 2015 and again on February 27, 2015, the physician directed that the medication be administered by a nurse.

RESPONSE: Admit.

7. Podocon-25 is composed of Podophyllin in a Benzoin Tincture.

RESPONSE: Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the above paragraph.

8. Podophyllin is a powerful caustic and severe irritant prescribed for the removal of soft genital warts. It is to be applied topically.

RESPONSE: Defendant admits that Podophyllin is a prescription that is used for the removal of genital warts. Defendant admits that it is applied topically. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in the above paragraph.

9. The packaging for "Podocon-25," in accordance with the regulations of the United States Food and Drug Administration, includes repeated warnings, in bold, capital letters that "PODOCON-25© IS TO BE APPLIED ONLY BY A PHYSICIAN. IT IS NOT TO BE DISPENSED TO THE PATIENT."

RESPONSE: Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the above paragraph.

10. On March 9, 2015 and again on March 11, 2014 defendant Mays gave plaintiff a package of Pocodon-25 and told him to apply it to his penis.

RESPONSE: Denied.

11. At all times relevant, the standard of care of administering Podophyllin is that it must be administered by a physician.

RESPONSE: Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the above paragraph.

12. Defendant Mays breached that standard of care when she gave plaintiff a package of Podocon-25 and told him to apply it to his penis.

RESPONSE: Denied.

13. As a result of the foregoing acts of defendant Mays, plaintiff suffered personal injuries to his penis caused by applying the Podocon-25 to his genital warts.

RESPONSE: Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the above paragraph.

14. Plaintiff demands trial by jury.

RESPONSE: Defendant hereby requests trial by jury on all claims so triable.

WHEREFORE plaintiff requests that judgment be entered against defendant for appropriate compensatory and punitive damages, and that the costs of this action be taxed against defendants.

RESPONSE: Defendants deny that Plaintiff is entitled to any relief.

AFFIRMATIVE DEFENSES

1. First Affirmative Defense

To the extent to which Plaintiff failed to mitigate his damages, he is barred from recovery.

Date: October 23, 2023

Respectfully Submitted,

KWAME RAOUL
Attorney General of Illinois

/s/ Kevin Fitzgerald
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CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2023, I electronically filed the foregoing **Defendant's Answer to Plaintiff's Complaint** with the Clerk of Court using the CM/ECF system.

/s/ *Kevin Fitzgerald*