

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

David Bourke	)	
	)	
<i>Plaintiff,</i>	)	
	)	
<i>-vs-</i>	)	No. 20-cv-_____
	)	
United States of America,	)	
	)	
<i>Defendants.</i>	)	

**COMPLAINT**

Plaintiff, by counsel, alleges as follows:

1. This is a civil action arising under 28 U.S.C. § 2674. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1346(b).
2. Plaintiff David Bourke is a resident of the Northern District of Illinois.
3. Plaintiff seeks damages for injuries he incurred because of healing arts malpractice committed by employees of the United States Department of Veterans Affairs (“VA”).
4. The alleged healing arts malpractice occurred during the treatment of injuries which plaintiff believes occurred in the course of his employment at the Hines VA Medical Center.
5. Plaintiff pursued two administrative claims about his injuries:

a. Plaintiff presented a workplace injury claim to the VA under the Federal Employees Compensation Act, 5 U.S.C. § 8101 et seq.

b. Plaintiff presented a healing arts malpractice claim to the VA by filing a “Form 95.”

6. On January 27, 2020, the United States Department of Labor, Employees Compensation Appeals Board, concluded that plaintiff had failed to establish any workplace injury. Docket No. 19-0514.

7. On January 31, 2020, the VA denied plaintiff’s administrative tort claim.

8. Plaintiff timely files this action within six months of the mailing of the notice of January 31, 2020.

9. Plaintiff received medical treatment at the Hines VA Hospital in 2015 from physicians and medical personnel (hereinafter “health care providers”) employed by the United States.

10. In the course of providing the above described medical treatment, the health care providers breached the appropriate standard of care in one or more the following:

a. Misdiagnosed the nature of plaintiff’s medical condition;

- b. Failed to advise plaintiff of the risks, dangers, and side effects of prescribing steroids;
- c. Prescribed inappropriate medication at an excessive dosage; and
- d. Failed to monitor plaintiff's blood levels, which would have indicated that the improper medication has been prescribed at an excessive level for too long.

11. As the direct and proximate result of the above-described healing arts malpractice, plaintiff has incurred serious personal injuries, including but not limited to steroid-associated osteoporosis, fracture of thoracic vertebrae, and compression back fractures.

WHEREFORE plaintiff requests that he be awarded appropriate compensatory damages up to the amount claimed in his Form 95 claim.

/s/ Kenneth N. Flaxman  
Kenneth N. Flaxman  
ARDC No. 830399  
Joel A. Flaxman  
200 S Michigan Ave Ste 201  
Chicago, IL 60604-2430  
(312) 427-3200  
*Attorneys for Plaintiff*