

IN THE CIRCUIT COURT OF WEAKLEY COUNTY, TENNESSEE

CODY LEE WADE, Individually,  
By and through His Next Friends  
and Conservators,  
RONALD WADE and REBA WADE,  
and RONALD WADE and REBA WADE,  
Conservators of CODY LEE WADE,  
  
Plaintiffs,

vs.

HEALTHSOUTH CORPORATION, d/b/a  
HEALTHSOUTH CANE CREEK  
REHABILITATION HOSPITAL;  
HEALTHSOUTH CANE CREEK  
REHABILITATION HOSPITAL;  
SUSAN S. LOWRY, M.D.; and  
WILLIAM C. EASON, M.D.,  
  
Defendants.

FILED  
WEAKLEY COUNTY

JUL 23 2008

PAM BELEW  
CIRCUIT COURT CLERK  
*Pam Belew* SLERK

Case No. 4253

COMPLAINT

JURISDICTION AND VENUE

1. The Plaintiff, Cody Lee Wade, is a citizen and resident of Weakley County, Tennessee. His date of birth is September 11, 1989.
2. Cody Wade has been incompetent since August 11, 2007, when he suffered injuries as a direct result of the negligence of the defendants.
3. Cody Wade's grandparents, Ronald Wade and Reba Wade, were appointed as his conservators by the Chancery Court of Weakley County, Tennessee, where they reside.
4. Defendant HealthSouth Corporation is a Delaware corporation, authorized to conduct business in Tennessee, with a place of business in Martin, Weakley County, Tennessee.

HealthSouth Corporation owned and operated HealthSouth Cane Creek Rehabilitation Hospital at the time of the matters complained of herein. In the alternative, HealthSouth Corporation did business in whole, or in part, as HealthSouth Cane Creek Rehabilitation Hospital. The agent for service of process is CT Corporation System, 800 S. Gay Street, Suite 2021, Knoxville, Tennessee 37929.

5. Defendant HealthSouth Cane Creek Rehabilitation Hospital is a hospital facility, providing medical services for monetary consideration in Martin, Weakley County, Tennessee. The agent for service of process is CT Corporation System, 800 S. Gay Street, Suite 2021, Knoxville, Tennessee 37929.

6. Hereinafter, all of the above named defendants will be referred to as "Cane Creek Hospital" or "Cane Creek".

7. The relationship of patient and hospital existed between Cody Wade and Cane Creek Hospital from July 24, 2007 through August 11, 2007.

8. Upon admission to Cane Creek, he came under the care of agents (actual and/or apparent), members, and/or employees of Cane Creek including, but not limited to, nursing staff, medical doctors, and other health care providers. Whenever these individuals provided any professional services, medical and/or nursing care whatsoever to Cody Wade, they were doing so within the course and scope of their employment or agency for and on behalf of Cane Creek Hospital. Their negligence is imputed by law to Defendant Cane Creek Hospital under the doctrines of agency and/or respondeat superior.

9. The Defendant, Susan S. Lowry, M.D. ("Dr. Lowry"), is a physician engaged in the practice of medicine, licensed as such in the State of Tennessee, and was so at the time of the matters complained of herein.

10. At all times complained of herein, Dr. Lowry was an agent (apparent and/or actual), member and/or employee of Cane Creek Hospital. Whenever Dr. Lowry provided any medical care whatsoever to Cody Wade, she was doing so within the course and scope of her employment or agency for and on behalf of Cane Creek Hospital. Therefore, any negligence of Dr. Lowry is imputed by law to Defendant Cane Creek Hospital under the doctrines of agency and/or respondeat superior.

11. The Defendant, William C. Eason ("Dr. Eason"), is a physician engaged in the practice of medicine, licensed as such in the State of Tennessee, and was so at the time of the matters complained of herein. Dr. Eason was employed by the Defendant Cane Creek Hospital as the Medical Director of that facility at the time of the events giving rise to this cause of action. At all times complained of herein, Dr. Eason was an agent (apparent and/or actual), member and/or employee of Cane Creek Hospital.

12. Whenever Dr. Eason provided any medical care or professional services whatsoever to Cody Wade, he was doing so within the course and scope of his employment or agency for and on behalf of Cane Creek Hospital. Therefore, any negligence of Dr. Eason is imputed by law to Defendant Cane Creek Hospital under the doctrines of agency and/or respondeat superior.

13. Venue is proper in Weakley County, Tennessee, in that the events giving rise to this cause of action occurred in Weakley County, Tennessee at Cane Creek Hospital.

#### **FACTUAL BACKGROUND**

14. On June 24, 2007, Cody Wade was injured, transported to the Regional Medical Center in Memphis, and admitted to the trauma unit.

15. After he was admitted, a tracheostomy was performed and he was placed on a

ventilator.

16. Cody Wade's condition progressively improved over the next few weeks.

17. He was weaned from the ventilator. The tracheostomy tube was removed. However, when the tube was removed he had difficulties. The tube was immediately reinserted and his airway secured.

18. Cody's condition improved to the point that his physicians in Memphis arranged for him to be transferred to the Cane Creek Rehabilitation Hospital.

19. Cody Wade was transferred to Cane Creek on July 24, 2007. At the time of his admission, the tracheostomy tube securing his airway remained in place.

20. The tracheostomy tube was removed on August 10, 2007. Over the next several hours, Cody's respiratory status deteriorated and he struggled to breathe.

21. By 4:00 a.m. on August 11, 2007, Cody was experiencing extreme respiratory distress as a result of not having an adequate airway.

22. At or near 5:00 a.m., he suffered a respiratory arrest.

23. The respiratory arrest deprived Cody's brain of oxygen for an extended period of time, causing a severe and irreversible anoxic brain injury.

## **WRONGS COMPLAINED OF THE DEFENDANTS**

### **I. SUSAN S. LOWRY, M.D.**

24. The Defendant, Susan Lowry, M.D., negligently failed to provide reasonable care to her patient, Cody Wade during the time she provided care. At the time of the matters complained of herein, Dr. Lowry failed to act with ordinary and reasonable care, recognized as the standard of acceptable practice. Without limiting any general allegation of negligence, the Defendant was negligent further in the following ways:

- A. Dr. Lowry negligently did not take appropriate measures to evaluate the stability of the patient's airway prior to pulling the trach;
- B. Dr. Lowry negligently did not seek a consultation from a medical doctor with expertise in the care of patients with medical needs such as Cody Wade;
- C. After pulling the trach tube, Dr. Lowry negligently failed to replace it;
- D. Dr. Lowry negligently did not seek help from a more qualified physician;
- E. Dr. Lowry negligently mismanaged the care and treatment of Cody Wade during the period of her service as his physician, from July 24 through August 11, 2007.

## **II. WILLIAM C. EASON, M.D.**

25. The Defendant, William C. Eason, M.D., negligently failed to provide reasonable care to his patient, Cody Wade during the time he provided care. At the time of the matters complained of herein, Dr. Eason failed to act with ordinary and reasonable care, recognized as the standard of acceptable practice. Without limiting any general allegation of negligence, the Defendant was negligent further in the following ways:

- A. Dr. Eason negligently did not take appropriate measures to evaluate the stability of the patient's airway prior to the pulling of the trach;
- B. Dr. Eason negligently did not seek a consultation from a medical doctor with expertise in the care of patients with medical needs such as Cody Wade;
- C. Dr. Eason negligently mismanaged the care and treatment of Cody Wade during the period of his service as his physician, from July 24 through August 11, 2007.

## **III. HEALTHSOUTH CANE CREEK HOSPITAL**

- 26. The Defendant, Cane Creek Hospital, through its agents (actual and/or apparent),

and employees, negligently failed to provide reasonable care to Cody Wade. At the time of the matters complained of herein (July 24 through August 11, 2007), Cane Creek Hospital failed to act with ordinary and reasonable care, recognized as the standard of acceptable practice. Without limiting any general allegation of negligence, the Defendant was negligent further in the following ways:

A. Defendant HealthSouth Cane Creek Hospital was negligent in failing to provide reasonable care to Cody Wade both as an entity unto itself, through its credentialing process, as well as through its employees and agents. The negligence of its employees and agents (apparent and/or actual), and the negligence of the individual defendants is imputed to Cane Creek Hospital by virtue of the doctrines of agency and respondeat superior;

B. The hospital negligently did not have adequate protocols and policies in place, and/or did not follow the ones they had, for providing safe care for patients with medical needs such as Cody Wade.

C. The hospital was negligent, acting through its employees, its physicians, its agents and apparent agents.

#### CAUSATION

27. The defendants breached their duty owed to Cody Wade, and the negligent conduct of the defendants directly, legally and proximately caused Cody Wade to suffer needlessly and sustain injuries that would otherwise not have occurred.

#### DAMAGES

28. As a direct and proximate result of the negligence of the defendants, the Plaintiff,

Cody Wade, was severely injured. He is permanently and irreversibly injured. His life has been devastated.

**PRAYER FOR RELIEF**

29. The Plaintiffs respectfully ask for a reasonable sum of money compensation from the defendants that will reasonably compensate under Tennessee law for all damages sustained.

33. The Plaintiffs respectfully reserve the right to amend this Complaint to conform to the evidence as it develops.


Respectfully submitted,

KINNARD CLAYTON & BEVERIDGE



Randall L. Kinnard (#4714)  
The Woodlawn  
127 Woodmont Boulevard  
Nashville, Tennessee 37205  
(615) 297-1007  
(615) 297-1505 FAX

HERRON LAW OFFICE

  
Roy Herron (#7051)  
P.O. Box 5  
Dresden, Tennessee 38225  
(731) 364-5415  
(731) 364-5658 FAX

ATTORNEYS FOR THE PLAINTIFFS