

IN THE CIRCUIT COURT FOR THE 21st JUDICIAL DISTRICT
AT WILLIAMSON COUNTY, TENNESSEE

SHARON WALKER,)	
)	
Plaintiff,)	
)	
v.)	No. 18CV-546
)	JURY DEMAND
STEPHEN K. LUTZAK, M.D.,)	
INDIVIDUALLY AND D/B/A MIDDLE)	
TENNESSEE VEIN CLINIC,)	
)	
Defendant.)	

FILED
JUN 18 2024
 Debbie McMillan Barrett
 Circuit Court

JUDGMENT ORDER

This medical liability action was before this Court from Monday, June 3, 2023 to Thursday, June 6, 2024, for trial on the merits before a jury. After Plaintiff Sharon Walker concluded her case in chief, Defendant Stephen Lutzak, M.D., individually and d/b/a Middle Tennessee Vein Clinic, moved for a directed verdict on Plaintiff’s sole remaining claim of vicarious liability¹ for the alleged actions of a Nurse Sainato, a registered nurse employed by Dr. Lutzak, in failing to obtain informed consent. The Court took Dr. Lutzak’s motion for directed verdict under advisement and, while the parties’ attorneys were later arguing this motion, the jury returned with a verdict.²

The jury unanimously answered the following question submitted to it by this Court:³

¹ On August 18, 2022, the Court entered a *Memorandum and Order* granting Dr. Lutzak’s *Motion for Summary Judgment* “with respect to all claims made by Ms. Walker except for her claim of vicarious liability for Nurse Sainato’s failure to obtain informed consent.” *Memorandum and Order*, 7.

² At the outset of the trial’s resumption on the morning of June 5, 2024, Ms. Walker concluded her case in chief in the presence of the jury. Counsel for the parties then approached the bench and Dr. Lutzak orally moved for a directed verdict. Rather than send the jury back to the jury room after just having them enter the courtroom, the Court stated it would take the motion under advisement and hear argument on the motion later, outside the presence of the jury. The first opportunity to hear argument on Dr. Lutzak’s motion for directed verdict was after the jury was charged and left to deliberate. While the parties’ attorneys were arguing Dr. Lutzak’s motion for directed verdict, one of the Court’s court officers returned to the courtroom to inform the Court that the jury reached a verdict. Dr. Lutzak’s motion was mooted as a result of the jury’s verdict, as stated *infra*.

³ The Court submitted several other questions to the jury to unanimously answer but they did not reach these additional questions based upon their unanimous answer to the first question.

1. Do you find the Defendant to be at fault? (The Plaintiff has the burden of proof.)

Yes _____ No

If your answer is "no", stop here, sign the verdict form and return to the Court. If you answer "yes", proceed to question 2.

Verdict Form (filed June 6, 2024).

IT IS THEREFORE ORDERED THAT: Pursuant to this Court's *Memorandum and Order* entered on August 18, 2022, Dr. Lutzak is hereby awarded a judgment on his *Motion for Summary Judgment* with respect to all of Ms. Walker's claims except her claim for vicarious liability for Nurse Sainato's failure to obtain informed consent, and those claims are hereby dismissed.

IT IS FURTHER ORDERED THAT: The jury having found that Dr. Lutzak was not at fault for any damages incurred by Sharon Walker, Sharon Walker's claim of vicarious liability against Dr. Lutzak is hereby dismissed.

IT IS FURTHER ORDERED THAT: The costs included in the bill of costs prepared by the Clerk in accordance with Rule 54.04(1) of the Tennessee Rules of Civil Procedure are taxed to the Sharon Walker, for which execution may issue according to law.

IT IS FURTHER ORDERED THAT: Dr. Lutzak is hereby granted leave to file, not later than thirty days after the entry of this *Judgment Order*, a motion requesting an award of discretionary costs, pursuant to Rule 54.04(2) of the Tennessee Rules of Civil Procedure.

IT IS FURTHER ORDERED THAT: The *Memorandum and Order* entered on August 18, 2022, together with this *Judgment Order* constitutes a final judgment from which either party may appeal pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure.

IT IS SO ORDERED THIS 18 **DAY OF JUNE, 2024.**


JOSEPH A. WOODRUFF, Circuit Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify a true and exact copy of the foregoing *Judgment Order* was mailed, postage prepaid, and/or emailed, and/or faxed, to:

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This 18 day of June, 2024.


Circuit Court Clerk/Deputy Clerk