

Phelps v Cayuga Med. Ctr. at Ithaca, Inc.
2019 NY Slip Op 34284(U)
July 15, 2019
Supreme Court, Tompkins County
Docket Number: Index No. EF2017-0049
Judge: Joseph A. McBride
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At a Motion Term of the Supreme Court of the State of New York held in and for the Sixth Judicial District at the Tompkins County Courthouse, Ithaca, New York, on the 17th day of May 2019.

PRESENT: HON. JOSEPH A. MCBRIDE
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : TOMPKINS COUNTY

ALLEN PHELPS, Individually and as Administrator
of the Estate of LLOYD ROBERT PHELPS,

Plaintiff,

-vs-

CAYUGA MEDICAL CENTER AT ITHACA, INC.,
DANIELLE EDWARDS, R.N.; STEVEN J. ELLIOT, M.D.,
CAYUGA EMERGENCY PHYSICIANS, LLP, and
CORPORATION X dba SUPPLEMENTAL HEALTHCARE,

Defendants.

DECISION AND ORDER

Index No. EF2017-0049
RJI No.: 2017-0347-J

APPEARANCES:

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JOSEPH A. MCBRIDE, J.S.C.

There are currently two motions before the court. First, Defendants Danielle Edwards, R.N. (“Nurse Edwards”) and Supplemental Health Care (“SHC”) seek partial summary judgment pursuant CPLR §3212 as to the punitive damages claim asserted by Plaintiff Allen Phelps (“Plaintiff”), Individually and as Administrator of the Estate of Lloyd Robert Phelps (“Decedent”). Second, Defendant Cayuga Medical Center at Ithaca, Inc. (“CMC”) also seeks partial summary judgment as to the punitive damages claim asserted by Plaintiff. The facts of which, and initial discussion, merge. The case at hand follows a complaint alleging medical malpractice and wrongful death. Plaintiff filed a response in opposition, and each appeared through counsel for oral argument on May 17, 2019. At oral argument, Plaintiff conceded that punitive damages are not appropriate for SHC and therefore, the punitive damages claim against SHC only will be dismissed without further discussion. Court received and reviewed said motions and decided; as discussed below.¹

BACKGROUND FACTS

On January 19, 2017, Decedent was found asleep by Ithaca Police at a local grocery store and eventually transported to CMC by EMT personnel. Descendent arrived at the CMC emergency room at approximately 6:09 pm and upon instruction of the CMC staff, was left in the waiting room. Nurse Edwards, a traveling nurse, was assigned as triage nurse that evening. Decedent’s hospital chart indicates that vitals were taken as approximately 6:15 pm. After Decedent sat in a wheelchair in the waiting room the entire time, at approximately 8:37 pm that same evening, he was found unresponsive and pronounced dead. Upon an investigation by the Hospital, the following was determined: Nurse Edwards documented the triage and indicated vitals in Decedent’s chart despite never actually having triaged the Decedent, concluding that the records were falsified and therefore Nurse Edwards was fired. At deposition, Nurse Edwards testified that she attempted to triage the Decedent, but he refused to have his vitals taken. She checked on him an hour later where he seemed to be fine. Nurse Edwards claims she

¹ All the papers filed in connection with this motion are included in the electronic file maintained by the County Clerk and have been considered by the Court.

inadvertently made an error in entering another patient's vital signs into Decedent's record. Nurse Edwards received her nursing degree in 2006 and is a certified registered nurse that worked previously at Rochester General Hospital and had been working at CMC for approximately six months prior to the incident. Nurse Edwards claims she informed CMC that she was not trained as a triage nurse, yet they assigned her to triage despite her protest. There are further allegations that complaints are regularly made that CMC is repeatedly understaffed. In his complaint, Plaintiff calls for punitive damages against Nurse Edwards alleging she falsified the decedent's medical records and against CMC alleging they knowingly maintained an understaffed hospital with inadequately trained personnel. Each defendant filed separate motions for partial summary judgment as to the punitive damages causes of action.

LEGAL DISCUSSION AND ANALYSIS

Pursuant CPLR §3212(b), the motion for summary judgment shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of either party. When seeking summary judgment, the movant must make a *prima facie* showing of entitlement to judgment as a matter of law, by offering evidence which establishes there are no material issues of fact. Winegrad v. N.Y. Univ. Med. Ctr., 64 N.Y.2d 851, 853 (Ct. of App. 1985); Zuckerman v. New York, 49 N.Y.2d 557 (Ct of App. 1980). Once this burden is met, the burden shifts to the respondent to establish that a material issue of fact exists. Alvarez v. Prospect Hosp., 68 NY2d 320, 324 (Ct. of App. 1986); Winegrad, 64 N.Y.2d 851, 853. "When faced with a motion for summary judgment, a court's task is issue finding rather than issue determination (see, Sillman v. Twentieth Century-Fox Film Corp., 3 NY2d 395, 404 [Ct. of App. 1957]) and it must view the evidence in the light most favorable to the party opposing the motion, giving that party the benefit of every reasonable inference and ascertaining whether there exists any triable issue of fact." Boston v. Dunham, 274 AD2d 708, 709 (3rd Dept. 2000); see, Boyce v. Vazquez, 249 AD2d 724, 726 (3rd Dept. 1998). The motion "should be denied if any significant doubt exists as to whether a material factual issue is present or even if it is arguable that such an issue exists." Haner v. DeVito, 152 AD2d 896, 896 (3rd Dept. 1989); Asabor v. Archdiocese of N.Y., 102

AD3d 524 (1st Dept. 2013). Mere conclusions and expressions of hope are insufficient to conquer a motion for summary judgment and the defendant must submit admissible evidence when stating their defense. See Zuckerman, 49 N.Y.2d 557. Finally, it “is not the function of a court deciding a summary judgment motion to make credibility determinations or findings of fact.” Vega v. Restani Constr. Corp., 18 NY3d 499, 505 (Ct. of App. 2012).

In the case at bar, the Defendants, as the moving party, must establish a *prima facie* case that they are barred from a punitive damage claim as a matter of law. Generally, in a medical malpractice action, punitive damages are only recoverable where the conduct in question involves “a wrongful motive, willful or intentional misdoing, or a reckless indifference equivalent to willful or intentional misdoing.” Brooking v. Polito, 16 A.D.3d 898, 899 (3rd Dept. 2005). However, “a plaintiff may also recover punitive damages for the medical professional’s act of altering or destroying medical records in an effort to evade potential medical malpractice liability.” Gomez v. Cabatic, 159 A.D.3d 62, 76 (2nd Dept. 2018); see also Marsh v. Arnot Ogden Med. Ctr., 91 A.D.3d 1070, 1072 (3rd Dept. 2012). In Marsh, the Third Department denied the motion for summary judgment because there were questions of fact as to whether the medical professional’s conduct in administering the incorrect medication was mere carelessness or reckless indifference to the decedent’s medical care to justify punitive damages. 91 A.D.3d at 1072.

CMC Motion

Here, the Court finds that CMC established a *prima facie* defense to the punitive damages claim and that they are entitled to partial summary judgment as a matter of law. Moreover, after the burden shifts, the Court finds that the Plaintiff cannot illustrate a triable question of fact to hold CMC liable for punitive damages. First, the Court is not persuaded that CMC knowingly and maliciously acted with any wrongful motive or reckless indifference to rise to the level of punitive damages. Nurse Edwards, an interested party in this lawsuit, claims that she informed CMC that she lacked the training as a triage nurse, yet they assigned her to triage duty on the date of the incident. However, depositions reveal that Nurse Edwards is a registered nurse, with over eleven years of experience and has worked in triage specifically at CMC on five separate

occasions prior to the date of the incident. Further, despite a claim of being repeatedly understaffed, the Court finds that is the opinion of the other employees, as CMC staffs the hospital above the national standard required by law. The Court concludes there are no triable questions of fact on the punitive damages claim against CMC. Therefore, CMC's motion for partial summary judgment is GRANTED and the punitive damages claim against CMC is DISMISSED.

Nurse Edwards Motion

Alternatively, the Court finds there are triable questions of fact as to the punitive damages claim against Nurse Edwards. The Court's role is to spot whether there are outstanding questions of fact, not to determine the outcome of a fact question. It is undisputed that Nurse Edwards did not take the decedent's vitals, the night of the incident. However, there are vitals documented in the decedent's chart. The Court finds that the question for the jury to decide is whether Nurse Edwards, mistakenly entered someone else's vitals, falsified medical records to cover up an act of wrongdoing, or if Nurse Edwards acted with a reckless indifference equivalent to a willful or intentional misdoing. Further, there is a video without audio. In the Court's opinion, it is not clear from the video if Nurse Edwards approached the decedent as she claims, or if she blatantly disregarded this patient. This too is a question of fact for the jury to decide.

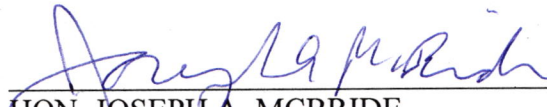
Therefore, looking at the facts in the light most favorable to the Plaintiff and giving every reasonable inference, he successfully defeats the motion for summary judgment by presenting admissible evidence that raises questions of fact for the jury to decide. The Defendant's motion for partial summary judgment as to punitive damages for Nurse Edwards is DENIED.

CONCLUSION

Based on all the factors and the foregoing discussion, CMC's motion for partial summary judgment as to punitive damages is GRANTED and Nurse Edwards motion for partial summary judgment as to punitive damages is DENIED.

This constitutes the **DECISION AND ORDER** of the Court. The transmittal of copies of this **DECISION AND ORDER** by the Court shall not constitute notice of entry (see CPLR 5513).

Dated: 7/15, 2019
Ithaca, New York


HON. JOSEPH A. MCBRIDE
Supreme Court Justice

Entered 07/15/2019