

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION

KASHMIRA KARANJIA

Plaintiff,

No.: 6000 - 12022

v.

COMPLAINT IN CIVIL ACTION

TLC, THE LASER CENTER
INCORPORATED; TLC
ALLSIGHT LASER CENTER;
M.E. WHITTEN, M.D.; and
CHARLES M. TARNOFF, O.D.

Defendants.

Filed on behalf of: Plaintiffs,
Kashmira Karanjia

Counsel of Record for
this Party:

Alan H. Perer, Esquire
Pa. I.D. # 23603

SWENSEN PERER & KONTOS
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COMPLAINT IN CIVIL ACTION

AND NOW, COMES the Plaintiff, by and through their undersigned attorneys, Alan H. Perer, Esquire and Swensen Perer & Kontos, and brings this Complaint in Civil Action where the following is a statement:

1. The Plaintiff is a resident of [REDACTED]
Florida [REDACTED]
2. TLC, The Laser Center, Inc. is a corporation incorporated in Canada with offices at 2591 Wexford-Bayne Road, Suite 104, Sewickley, Pennsylvania 15143.
3. Mark E. Whitten, M.D., is a medical doctor specializing in the area of ophthalmology and he performs LASIK surgeries on a regular basis at the TLC Allsight Laser Center at 2591 Wexford-Bayne Road, Suite 104, Sewickley, Pennsylvania 15143.
4. Charles M. Tarnoff is an optometrist with a regular place of business located at 120 Seventh Street, Indiana, Indiana County, Pennsylvania 15701.
5. Prior to March 9, 1999, the Plaintiff had worn contact lenses, but had become contact lens intolerant, and was required to wear glasses for her nearsightedness, (prescription - 3.75).
6. In March of 1999, the Plaintiff was desirous of obtaining LASIK surgery which is a treatment for nearsightedness using lasers.
7. On or about March 8, 1999, Defendant Tarnoff performed a pre-procedure examination and screening of the Plaintiff on behalf of the Defendants, TLC.
8. Said Defendant Tarnoff, an employee of Defendants TLC, had Plaintiff execute

various informed consent forms which are attached as Exhibit "A"

9. As part of said procedure, the Defendant Tarnoff also measured the plaintiff's pupil size and recorded the same as being 8 millimeters in dim light and 6 millimeters in normal light.

10. On March 9, 1999, the Plaintiff reported to the TLC center in Sewickley, Pennsylvania in order to have the procedure performed.

11. At said time and place, the Plaintiff received a further pre-procedure evaluation performed by employees of TLC.

12. Said procedure sheet was also signed by Defendant Whitten. At the time of said pre-procedure evaluation, the plaintiff's pupil size which was originally provided by Dr. Tarnoff, was changed to read 6 millimeters in dim light and 4 millimeters in normal light.

13. Following said pre-procedure examination, the Plaintiff underwent the LASIK procedure on March 9, 1999 performed at the TLC Center by Defendant Whitten.

14. As a result of the negligence and breach of the standard of care by the Defendants, as well as a lack of informed consent, as should be more fully set hereinafter, Plaintiff suffered severe and debilitating injuries, some or all of which may be of a permanent nature.

COUNT I

Karanjia v. Tarnoff **Lack of Informed Consent**

15. Plaintiff hereby incorporates by reference paragraphs 1 through 14 of the complaint as though set forth more fully at length herein.

16. At all times relevant hereto, Defendant Tarnoff acted as an agent, of the other Defendants in performing a pre-treatment screening and evaluation. It is further believed that Dr. Tarnoff received referral payment from the co-defendants in exchange for performing said

services.

17 As such, it is averred that Dr. Tarnoff had a further responsibility to inform the patient of all risks and alternatives that a reasonably prudent patient would require to make an informed decision prior to undergoing such procedure.

18. At no time did Dr. Tarnoff informed the patient that due to her large pupil size, she was at a higher risk for certain complications of the procedure including, but not limited to, starbursts, blurred vision, severe glare, loss of depth perception, poor tracking ability, ghosting, severe impact on night vision, light distortion, resulted eye strain, severe headaches and nausea.

19. Had the Plaintiff been informed of the increased risks due to her pupil size, Plaintiff would not have undergone the procedure.

20. As a result the Defendants committed a battery on the Plaintiff for which Plaintiff suffered the injuries and damages set forth in Paragraphs 29 and 30, which are incorporated by reference.

WHEREFORE, Plaintiff claims damages in excess of \$25,000, Jury Trial Demanded.

COUNT II
Karanjia v. Whitten
Lack of Informed Consent

21. Plaintiff hereby incorporates by reference paragraphs 1 through 20 of the complaint as though set forth more fully at length herein.

22. On March 9, 1999, Plaintiff receive a pre-procedure evaluation from the Defendants, TLC and Whitten. Plaintiff was not informed that she had large pupils that placed her at increased risk of complications.

23. At the time Plaintiff had received her pre-procedural evaluation on March 9, 1999,

the Plaintiff was not informed that the Defendants in fact had changed the measurement of her pupil size significantly; or that there was some question as to her actual pupil size; or whether she was a proper candidate for the procedure; or whether she faced increased complications due to her pupil size.

24. Defendants failed to advise Plaintiff that she was at an increased risk for the following complications: starbursts, blurred vision, severe glare, loss of depth perception, poor tracking ability, ghosting, severe impact on night vision, light distortion, resulted eye strain, severe headaches and nausea.

25. Had the Plaintiff been informed that she had an increased risk of complications due to her pupil size, Plaintiff would not have undergone the procedure

26. As a result the Defendants committed a battery on the Plaintiff for which Plaintiff suffered the injuries and damages set forth in Paragraphs 29 and 30, which are incorporated by reference.

WHEREFORE, Plaintiff claims damages in excess of \$25,000, Jury Trial Demanded.

COUNT III
Karanjia v. Tarnoff
Negligence

27. Plaintiff hereby incorporates by reference paragraphs 1 through 26 of the complaint as though set forth more fully at length herein.

28. The injuries and damages sustained by the Plaintiff as set forth hereinafter were caused by the negligence of the Defendant Tarnoff and the breach of standard care by Defendant Tarnoff generally in the following particulars:

- a. In approving Plaintiff and recommending Plaintiff for LASIK procedure when Defendant knew or should have known that the Plaintiff was not a good candidate for the procedure due to her pupil size.
- b. In failing to determine that the Plaintiff was not a proper candidate for LASIK surgery.
- c. In failing to advise the Plaintiff of the possible complications and heightened risks of complications due to her pupil size as set forth hereinbefore in Paragraph 18 which is incorporated by reference.
- d. In altering or approving the alteration of the original pupil size measurements.

29. As a result of the negligence of the Defendant as aforesaid, Plaintiff sustained the following injuries, some or all which may be of a permanent nature:

- a. Severe glare disability;
- b. Severe focusing problems and blurring;
- c. Loss of depth perception (impaired driving ability);
- d. Over convergence and poor visual organization (impaired reading ability);
- e. Poor tracking ability;
- f. "Ghosting";
- g. Severe problem with night vision including starbursts and "halos";
- h. Dizziness;
- i. Nausea;
- j. Debilitating headaches; and
- k. Corneal irregularities.

30. As a result of the injuries suffered by the Plaintiff, some or all may be of permanent nature, the Plaintiff suffered the following damages:

- a. Pain, suffering, inconvenience and mental anguish;

- b. Loss of earnings and earning capacity;
- c. Future loss of earning capacity; and
- d. Loss of the pleasures of life;
- e. The Plaintiff has incurred medical expenses for the care and treatment of her injuries and will continue to do so in the future.

WHEREFORE, Plaintiff claims damages in excess of \$25,000, Jury Trial Demanded.

COUNT IV
Karanjia v. Whitten,
TLC The Laser Center Inc. and Allsight Laser Center
Negligence

31. Plaintiff hereby incorporates by reference paragraphs 1 through 30 of the complaint as though set forth more fully at length herein.

32. At all times relevant hereto, Defendant Whitten was an agent, servant and employee of TLC The Laser Center Inc. and Allsight Laser Center and acted on behalf of said co-defendant within the course and scope of his employment/agency for said Defendants.

33. Plaintiff's injuries and damages were caused by the negligence of the Defendants through agents, servants and employees generally and the breach of the standard of care required generally in the following particulars:

- a. In failing to properly screen the Plaintiff pre-procedure;
- b. In failing to properly measure the Plaintiff's pupil size as part of a pre-procedural work-up in the office;
- c. In Dr. Whitten signing off on a pre-procedural form without properly measuring Plaintiff's pupil size or recognizing a discrepancy in the measurements.
- d. In failing to disqualifying the Plaintiff's as a good candidate for the

procedure due to her pupil size.

- e. In failing to advise the Plaintiff that due to her large pupil size she was at an increased risk of suffering from complications from the procedure as set forth hereinbefore in Paragraph 18.
- f. In proceeding to perform the procedure when the Defendant knew or should have known that the Plaintiff was not a good candidate for the procedure due to her pupil size.
- g. In altering the original measurements of plaintiff's pupil size by Dr. Tarnoff.
- h. For failing to recognize that due to plaintiff's large pupil size, she was not a good candidate for the procedure.
- i. In proceeding to operate on the Plaintiff when the Defendants knew or should have known that there was a discrepancy in the pupil size measurements.

34. As a result of the negligence of the Defendant as aforesaid, Plaintiff sustained the following injuries, some or all which may be of a permanent nature:

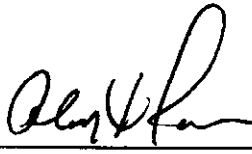
- a. Severe glare disability;
- b. Severe focusing problems and blurring;
- c. Loss of depth perception;
- d. Over convergence and poor visual organization;
- e. Poor tracking ability;
- f. "Ghosting";
- g. Severe problem with night vision including starbursts and "halos";
- h. Dizziness;
- i. Nausea; and
- j. Debilitating headaches;

35. As a result of the injuries suffered by the Plaintiff, some or all may be of permanent nature, the Plaintiff suffered the following damages:

- a. Pain, suffering, inconvenience and mental anguish;
- b. Loss of earnings and earning capacity;
- c. Loss of the pleasures of life;
- d. Future loss of earning capacity; and
- e. The Plaintiff has incurred medical expenses for the care and treatment of her injuries and will continue to have expenses in the future.

WHEREFORE, Plaintiff claims damages in excess of \$25,000. Jury Trial Demanded.

Respectfully submitted,
SWENSEN PERER & KONTOS

By 

Alan H. Perer, Esquire
Attorney for Plaintiff