

247213

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY TENNESSEE
TWENTIETH JUDICIAL DISTRICT

2019 APR -1 PM 3:20
D.C.
CLERK

P.H.,

Plaintiff,

v.

GREGORY O. COLE,

Defendant.

Docket No. 19C809

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff and for her complaint in this matter states as follows:

THE PARTIES

1. P.H. ("Plaintiff") is an adult resident of Nashville, Davidson County, Tennessee.
2. Defendant Gregory O. Cole ("Defendant") is an adult resident of Brentwood,

Davidson County, Tennessee.

JURISDICTION AND VENUE

3. This court has subject matter jurisdiction over this action pursuant to Tenn. Code Ann. § 16-10-101 in that this is an action seeking money damages for causes of action sounding in tort.

4. This court has personal jurisdiction in this matter pursuant to Tenn. Code Ann. § 20-2-223.

5. Venue is appropriate in this court pursuant to TN Code §20-4-101(b) in that the cause of action alleged in this complaint arose in Davidson, County, Tennessee and both parties reside in Davidson County, Tennessee.

FACTS

6. Plaintiff first met Defendant in or around October 2010.

7. Plaintiff and Defendant reconnected in or around the first week of November 2013 and began a sexual relationship in or around March 2014, which continued into 2018.

8. Prior to entering into a sexual relationship with Defendant, Plaintiff was confirmed to be free of any sexually transmitted disease (“STD”).

9. Plaintiff is heterosexual and was at all times monogamous with Defendant.

10. Defendant advised Plaintiff that he had not been in a relationship for 11 years, since his divorce, and that he was not involved with anyone else.

11. Plaintiff therefore believed Defendant to be heterosexual and did not believe he was engaging in sexual relations with anyone else while they were together.

12. On April 1, 2018, at 2:31 p.m., Defendant dialed Plaintiff’s cell phone from his cell phone, apparently accidentally, while he was in the midst of a sexual encounter with an unknown male.

13. The encounter lasted for approximately one (1) hour and twenty-eight (8) minutes. Plaintiff listened to the entire sexual encounter, which included explicit sexual conversation and Defendant narrating various actions in which he and his male partner were engaging.

14. Distraught, Plaintiff later contacted Defendant to advise him of what she had heard and made several attempts to discuss it with him, but he refused.

15. Plaintiff was thereafter tested for sexually transmitted diseases and was devastated to learn from her physician that she was infected with HSV-2, genital herpes, an incurable STD.

16. Plaintiff made many attempts to discuss this matter with Defendant, all of which were unsuccessful as he refused to speak or communicate with Plaintiff and ignored her pleas that he be tested and advise his other sexual partners.

17. Defendant ignored an attempt by Plaintiff's physician to contact him to advise of Plaintiff's test results.

18. Plaintiff was prescribed prophylactic medication to deter any herpes outbreaks which can be extremely painful.

19. Plaintiff has been advised to undergo testing in the future to ensure that she has not been infected with the HIV virus.

20. Plaintiff sought treatment and thereafter underwent, and continues to undergo, psychotherapy as a result of Defendant's actions.

COUNT I

BATTERY

21. Plaintiff incorporates paragraphs 1-20 of this Complaint by reference as if stated fully herein.

22. Upon information and belief, Defendant knew and/or recklessly disregarded the risk that he was infected with genital herpes.

23. Defendant's conduct was substantially certain to result in harm to Plaintiff.

24. Through his actions, Defendant intentionally inflicted a harmful, offensive physical contact upon Plaintiff's person without her consent, transmitting incurable genital herpes to her.

25. Defendant's conduct infringed upon the Plaintiff's personal dignity normally recognized in a civilized society.

26. Defendant's contact with Plaintiff was unreasonable and not necessary to accomplish any legitimate purpose.

27. Plaintiff suffered injury and harm as a result of Defendant's conduct, including bodily injury, pain and suffering, medical expenses, negative effects on her personal life, loss of the ability to perform her daily functions, loss of enjoyment of life, profound embarrassment, and severe emotional distress.

COUNT II

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

28. Plaintiff incorporates paragraphs 1-27 of this Complaint by reference as if stated fully herein.

29. Defendant engaged in intentional or reckless conduct against Plaintiff.

30. Defendant's conduct toward Plaintiff was so outrageous that it should not be tolerated by a civilized society.

31. Defendant's conduct has resulted in serious, severe and prolonged emotional distress to the Plaintiff, that no reasonable person would be expected to endure, including bodily injury, pain and suffering, medical expenses, negative effects of her personal life, loss of the ability to perform her daily functions, loss of enjoyment of life, profound embarrassment, and severe emotional distress.

COUNT III

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

32. Plaintiff incorporates paragraphs 1-31 of this Complaint by reference as if stated fully herein.

33. Defendant owed Plaintiff an obligation to use ordinary and reasonable care before engaging in sexual intercourse with Plaintiff.

34. Defendant breached that duty by among other things failing to take precautions to protect Plaintiff from harm and failure to warn Plaintiff of the risk of injury and harm.

35. Defendant knew or should have known that his acts and omissions could cause harm to Plaintiff.

36. Defendant's conduct did cause harm to Plaintiff.

37. Plaintiff suffered injury and harm including bodily injury, pain and suffering, medical expenses, negative effects on her personal life, loss of the ability to perform her daily functions, loss of enjoyment of life, profound embarrassment and severe emotional distress, all of which were proximately caused by Defendant's breach of duty and were foreseeable.

COUNT IV

NEGLIGENCE PER SE

38. Plaintiff incorporates paragraphs 1-37 of this Complaint by reference as if stated fully herein.

39. Defendant's conduct as detailed herein violates Tenn. Code Ann. § 68-10-107, which constitutes negligence *per se*.

40. Defendant's negligence was the proximate cause of Plaintiff's injuries and losses as referenced herein.

COUNT V

FRAUD

41. Plaintiff incorporates paragraphs 1-40 of this Complaint by reference as if stated fully herein.

42. Prior to engaging in sexual relations with Plaintiff, Defendant intentionally misrepresented past and/or existing facts to Plaintiff, to wit that he was STD-free, that he had not been in a relationship for 11 years since his divorce, and that he was not involved with anyone else.

43. Defendant made these representations to Plaintiff knowing that they were false.

44. Alternatively, Defendant made these representations recklessly, without belief or regard for whether they were the truth.

45. Plaintiff reasonably relied upon Defendant's representations, resulting in harm, losses and damages.

WHEREFORE, Plaintiff demands judgment against Defendant in the amount of \$1,000,000, together with all costs of this action, pre- and post-judgment interest, attorneys' fees and all other appropriate legal and equitable relief to be determined by the court.

Dated this the 1st day of April 2019.

Respectfully submitted,



Susan M. Palmer TN Bar #31607
SUE PALMER & ASSOCIATES, PLLC
301 Demonbreun Street Suite #805
Nashville, TN 37201
Attorney for Plaintiff

Jury Demand

Plaintiff demands a trial by jury on all claims set forth in this Complaint.

CERTIFICATE OF SERVICE

I hereby certify that on this the 1st day of April 2019 the foregoing was filed with the Clerk
of the Court to be served as follows:

Via Sheriff Service:
Gregory Cole
5833 Petersburg Lane
Brentwood, TN 37027
(Davidson County)



Susan M. Palmer