

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

ANA M. CORREA BONILLA and CARMEN M. RIVERA
CORREA,

Plaintiffs,

v.

DR. ROHEL PASCUAL VILLARONGA, DR. BRUNILDA
BABILONIA, SINDICATO DE ASEGURADORES PARA
LA SUSCRIPCION CONJUNTA DE SEGURO DE
RESPONSABILIDAD PROFESIONAL MEDICO-
HOSPITALARIA (SIMED), ABC INSURANCE, JOHN
DOE, JAMES ROE, and DOE-ROE CONJUGAL
PARTNERSHIPS,

Defendants .

CIVIL NO. 13-1374 ()

RE: TORT ACTION FOR
MEDICAL MALPRACTICE
PURSUANT TO ARTS. 1802
AND 1803, 31 P. R. Laws
Ann. §§ 5141 AND 5142.

JURY TRIAL DEMANDED

COMPLAINT

TO THE HONORABLE COURT :

APPEAR NOW the Plaintiffs , ANA M. CORREA BONILLA AND CARMEN M. RIVERA
CORREA (hereinafter referred to as "Plaintiffs"), through the undersigned counsel, and
hereby states, alleges, and requests as follows:

JURISDICTIONAL BASIS

1. Plaintiffs are citizens of the state of Florida, where they reside and are domiciled.
2. All Defendants are citizens of Puerto Rico.
3. The matter in controversy exceeds the sum of SEVENTY FIVE THOUSAND
DOLLARS (\$75,000.00), exclusive of interest and costs, thus vesting jurisdiction on
this Honorable Court pursuant to 28 U.S.C. § 1332.

THE PARTIES

4. Plaintiff Ana M. Correa Bonilla (“Mrs. Correa”) is a citizen of Florida who sought medical services from defendants.
5. Plaintiff Carmen M. Rivera Correa (“Ms. Rivera”) is the daughter of co-Plaintiff Ana M. Correa Bonilla and is a citizen of Florida.
6. Co-Defendant Dr. Rohel Pascual Villaronga (hereinafter referred to as “Dr. Pascual”), is citizen of Puerto Rico who is a urologist and gynecologist, with license to practice medicine in the Commonwealth of Puerto Rico.
7. Co-Defendant, Dr. Brunilda Babilonia (hereinafter Dr. Babilonia) is a citizen of Puerto Rico who is an internal medicine physicians, with a license to practice medicine in the Commonwealth of Puerto Rico.
8. Co-Defendant **Sindicato de Aseguradores para la Suscripción Conjunta de Seguro de Responsabilidad Profesional Médico-Hospitalaria** (hereinafter, “**SIMED**”) is an insurance company organized, existing, and with its principal place of business in Puerto Rico or a state or territory other than Florida, which issued insurance policies for medical malpractice on behalf of one or more of the physician co-Defendants which are joint tortfeasors in this case, for the acts and/or omissions described herein, encompassing the relevant period of time.
9. Co-Defendant **ABC INSURANCE** is a corporation organized or operating under the laws of the Commonwealth of Puerto Rico, with its principal place of business in

Puerto Rico or in a state other than Florida, which has issued insurance policy(ies) for medical malpractice on behalf of one or more of the physician co-Defendants which are joint tortfeasors in this case, for the acts and/or omissions described herein, encompassing the relevant period of time.

10. Co-Defendants unknown tortfeasors **JOHN DOE** and **JAMES ROE** are physicians or other health care providers fictitiously named herein, to be later replaced by their actual names which may become known through further discovery in this litigation, and are liable to Plaintiffs, jointly and severally with one or more of the named defendants, for the actions and/or omissions herein described, encompassing the relevant period of time, and the damages suffered by Plaintiffs.
11. Co-Defendants Doe-Roe Conjugal Partnerships Pascual/Bibilonia, are the conjugal partnerships that benefited from the activities of the individual defendant doctors who caused Plaintiffs' damages. They are referred to herein as Doe-Roe Conjugal Partnerships, as Plaintiff lacks information as to the actual names of the respective wives and/or husbands. Each conjugal partnership is jointly and severally liable to Plaintiffs for the damages caused by the individual physician Defendants.
12. Pursuant to 26 P.R. Laws Ann. § 2001, a direct action may be brought in the Commonwealth of Puerto Rico against a casualty or liability insurance carrier for the negligence or fault of its insured.
13. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined with an action against its insured.

GENERAL ALLEGATIONS

14. In December of 2010, Ana M. Correa underwent surgery at the Dr. Luis A. Vázquez, Inc. Ambulatory Clinic in Mayagüez. Said surgery was performed by Dr. Román Avilés, gynecologist, who extracted a few warts from her genital area.
15. After the surgery, Ms. Correa began to experience urinary incontinency.
16. Throughout this time, Dr. Babilonia was her primary care physician.
17. Due to said incontinency, Dr. Babilonia referred Mrs. Correa to Dr. Rohel Pascual who specializes in urology and gynecology.
18. During the month of July 2011, Mrs. Correa visited Dr. Pascual for the first time at his private office.
19. Dr. Pascual told Mrs. Correa that her incontinency was due to a sagging bladder for which he recommended the insertion of a surgical mesh for pelvic prolapse.
20. Dr. Pascual never informed Mrs. Correa of the inherent risks related to the insertion of a surgical mesh pelvic prolapse.
21. A written consent form was not signed or obtained from Mrs. Correa at Dr. Pascual's private clinic.
22. That surgery, as well as the insertion of the pelvic mesh, took place at the San Antonio Hospital in Mayagüez on July 26th, 2011, where Dr. Pascual has medical privileges to perform this type of surgical procedure.
23. During the admission process at the San Antonio Hospital, Mrs. Correa was given many documents to sign, including a consent form for medical treatment.

24. Mrs. Correa was required to sign that form in order to proceed with her admission, however, Dr. Pascual never discussed the contents of said form with her, nor did any person from the Hospital staff.
25. Soon after the surgery, Mrs. Correa began to experience infections and a great deal of pain.
26. Mrs. Correa was admitted on several occasions at the Perea Clinic in Mayagüez, where she would be treated with antibiotics by vein and discharged when treatment was completed.
27. Meanwhile, Mrs. Correa continued to be seen by Dr. Pascual for nearly a year after the surgery.
28. During the whole time, Mrs. Correa consistently complained to Dr. Pascual that her pelvic pains had worsened, that the infections continued, and that she was still experiencing urinary incontinence.
29. Dr. Pascual neither gave Mrs. Correa any medicine for the pain, nor prescribed antibiotics nor administered the appropriate tests to determine the cause of Mrs. Correa's symptoms.
30. Dr. Pascual never ordered any CAT Scans, pelvic sonograms or MRI's to detect the cause of the pain or of the recurring infections.
31. Dr. Pascual would only schedule follow-up visits every month and instruct Mrs. Correa to take the antibiotics being prescribed to her by her primary physician Dr. Babilonia.

32. Dr. Babilonia as well, periodically saw Mrs. Correa and would treat Mrs. Correa for her recurring urinary infections without assessing the cause of the infection, and without ordering any ct scans, pelvic sonograms or MRI's to be performed.
33. Mrs. Correa, upon recommendation of her pulmonologist went to see a different urologist, Dr. Hernandez Blazquez in an effort to correct her condition.
34. That urologist performed a simple pelvic study of Mrs. Correa in his clinic and immediately found that the pelvic mesh that Dr. Rohel Pascual had inserted into Mrs. Correa was located inside the urinary bladder and was the cause of Mrs. Correa's urinary infections, terrible pain and disabling condition.
35. Dr. Hernandez Blazquez was incensed by what he found, prepared a medical note for Dr. Pascual, and asked Mrs. Correa to go visit Dr. Pascual with the note and tests results.
36. Dr. Hernandez also told Mrs. Correa that she needed to have immediate surgery to remove the pelvic mesh that was infected in her bladder.
37. When Mrs. Correa went to Dr. Pascual's office and gave him the test results, Dr. Pascual told her he would contact Dr. Hernandez, discuss it with Dr. Hernandez, and call her back later that same week.
38. That same day, Mrs. Correa asked Dr. Pascual for a prescription for adult diapers, since her medical insurance covered them.
39. Dr. Pascual told her he would send them with a medical equipment company.
40. Dr. Pascual never called nor did he carry out the prescription process so that Mrs. Correa would received the adult diapers.
41. During all that time, Mrs. Correa's health was severely affected.

42. The recurrent urinary infections and terrible pain had brought on other complications.
43. Mrs. Correa had to be taken by her daughter Ms. Rivera, to the emergency room at the Mayagüez Medical Center with unbearable pain and strange secretions.
44. Mrs. Correa was admitted and hospitalized for nearly a month.
45. During that month, the doctors at MMC had to first control and treat the infection to be able to perform the necessary surgery to remove the pelvic mesh.
46. The surgery to remove the pelvic mesh from Mrs. Correa was finally done on May 26th, 2012.
47. After that, Mrs. Correa remained in the hospital recovering for over three weeks until June 19th, 2012.
48. The delay had caused the mesh to disintegrate so severely within the bladder that the doctors were only able to remove a portion of it.
49. Other parts of the mesh could not be removed due to the severity of the infected area.
50. As a result, Mrs. Correa requires additional surgery to remove the other portions of the mesh that remain disintegrated within her bladder.
51. After the operation, Mrs. Correa's condition has improved markedly but she continues to suffer from some other complications related to the surgical pelvic mesh implanted by Dr. Pascual.

**FIRST CAUSE OF ACTION
FOR NEGLIGENCE UNDER ARTICLES 1802 & 1803
OF THE PUERTO RICO CIVIL CODE
AGAINST DR. ROHEL PASCUAL VILLARONGA**

52. The allegations contained above are incorporated by reference as if again fully set forth herein.
53. Co-Defendant Dr. Pascual's intervention with Mrs. Correa was below the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching and, as such, directly caused and/or contributed to causing the injuries that Mrs. Correa suffered as result of the negligent insertion of the surgical mesh for pelvic prolapse, and his failure to detect it on time to avoid the other injuries she has suffered as described herein.
54. Co-Defendant Dr. Pascual negligently and carelessly failed to conduct the surgery that Mrs. Correa entrusted to him in keeping with the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching and, as such, directly caused and/or contributed to causing the injuries that Mrs. Correa suffered as result of the negligent insertion of the surgical mesh for pelvic prolapse, and his failure to detect it on time to avoid the other injuries she has suffered as described herein.
55. Defendant Dr. Pascual negligently and carelessly failed to evaluate, monitor, treat, diagnose and timely manage Mrs. Correa's medical condition during and after the insertion of the pelvic mesh.
56. Co-Defendant Dr. Pascual failed to fully and carefully inform and explain to Mrs. Correa the procedure he would be performing on her and the dangers involved, which included, among others, erosion through vaginal epithelium, infection, pain, urinary problems, and recurrence of prolapse.
57. Co-Defendant Dr. Pascual therefore, failed to obtain adequate informed consent from

Mrs. Correa prior to the surgery.

58. Since Co-Defendant Pascual failed to obtain adequate informed consent from Mrs. Correa prior to the surgery, he committed a battery upon her person.
59. As a direct and proximate cause of Co-Defendant Dr. Pascual's failures, during the surgery and subsequently, Plaintiffs herein sustained severe injuries and other damages as described below.
60. In so doing, Co-Defendant Dr. Pascual committed professional negligence, including lack of expertise, fault and malpractice, which directly and proximately caused the injuries and damages suffered by Plaintiff, as detailed herein.
61. As a direct and proximate cause of Co-Defendant Dr. Pascual's negligence in failing to properly conduct surgery, treat and advise Mrs. Correa, Plaintiffs sustained severe injuries and other damages, as described below.

**SECOND CAUSE OF ACTION
FOR NEGLIGENCE UNDER ARTICLES 1802 & 1803
OF THE PUERTO RICO CIVIL CODE AGAINST
DR. BRUNILDA BABILONIA**

62. The allegations contained above are incorporated by reference as if again fully set forth herein.
63. Co-Defendant Dr. Babilonia's intervention with Mrs. Correa as her primary physician was below the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching and, as such, directly caused and/or contributed to causing the injuries that Mrs. Correa suffered as result of her failure to evaluate, monitor, treat, diagnose and timely manage Mrs. Correa's medical condition after the insertion of the surgical mesh for pelvic

prolapse performed by Dr. Pascual, to whom she had referred Mrs. Correa as her patient.

64. Co-Defendant Dr. Babilonia's intervention with Mrs. Correa as her primary physician , should have much earlier determined her Patient needed further testing to determine cause of her debilitating condition, instead she failed to administer appropriate tests and merely continued month after month referring to same physician who was not addressing the patient's health problem.
65. Co-Defendant Dr. Babilonia's intervention with Mrs. Correa as her primary physician should have timely referred her to another urologist or health professional to immediately determine the cause of the patient's serious health problems.
66. Co-Defendant Dr. Babilonia's involvement only further delayed and/or obstructed the appropriate care of Mrs. Correa, who should have timely referred her to another urologist or health professional to immediately determine the cause of the patient's serious health problems.
67. As a direct and proximate cause of Co-Defendant Dr. Babilonia's negligence in treating Mrs. Correa, Plaintiffs sustained severe injuries and other damages, as described below.

**THIRD CAUSE OF ACTION
FOR NEGLIGENCE UNDER ARTICLES 1802 & 1803
OF THE PUERTO RICO CIVIL CODE
AGAINST ABC INSURANCE CO.**

68. The allegations contained above are incorporated by reference as if again fully set forth herein.

69. Co-Defendant ABC Insurance Co. was at all times herein pertinent as an insurance company authorized to do business in the Commonwealth of Puerto Rico which had issued insurance policy(ies) for medical malpractice on behalf of one or more of the physician co-Defendants which are joint tortfeasors in this case, for the acts and/or omissions described herein, encompassing the relevant period of time.
70. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.
71. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.
72. Therefore, Co-Defendant ABC Insurance Company is jointly and severally liable to all Plaintiffs for the damages caused to them by Co-Defendant Sur Med.

**FOURTH CAUSE OF ACTION
FOR NEGLIGENCE UNDER ARTICLES 1802 & 1803
OF THE PUERTO RICO CIVIL CODE
AGAINST JOHN DOE AND JAMES ROE UNKNOWN JOINT TORTFEASORS**

73. The allegations contained above are incorporated by reference as if again fully set forth herein.
74. Co-Defendants John Doe and James Roe are so designated for lack of knowledge at this point in the proceedings.
75. Co-Defendants John Doe and James Roe's intervention in the nursing, technical or medical care of Mrs. Correa during and after the pelvic mesh surgery, was below the nursing, technical and medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching and, as such, directly caused and/or contributed to

causing Ana's death and, thus, the pain and suffering of all Plaintiffs upon the worsening of her urinary incontinency and continued pain and infection and , as described herein.

76. Co-Defendants John Doe and James Roe negligently and carelessly, breaching the medical standard that satisfies the exigencies generally recognized by the medical profession in light of the modern means of communication and teaching, failed to adequately treat Ana and thus caused the pain and suffering such death caused upon the Plaintiffs.

77. As a direct and proximate cause of Co-Defendants John Doe and James Roe' s negligence in failing to properly treat Ana, Plaintiffs sustained severe pain and suffering.

**FIFTH CAUSE OF ACTION AGAINST
THE CONJUGAL PARTNERSHIPS**

78. The allegations contained above are incorporated by reference as if again fully set forth herein.

79. The activities by which the individual defendant doctors caused Plaintiffs' damages were activities that benefitted their respective conjugal partnerships, referred to herein as Doe-Roe Conjugal Partnerships Pascual and Babilonia, as Plaintiff lacks information as to the actual names of the respective wives and/or husbands.

80. As such, each conjugal partnership is jointly and severally liable to Plaintiff for the damages caused by the individual physician Defendants.

**SIXTH CAUSE OF ACTION
AGAINST SIMED**

81. The allegations contained above are incorporated herein by reference as if again fully set forth herein.

82. Co-Defendant SIMED was at all times herein pertinent, an insurance company authorized to do business as such in the Commonwealth of Puerto Rico which issued a public liability and/or malpractice insurance policy on behalf of one or more of the Co-Defendants.

83. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is liable for the negligence or fault of its insured.

84. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.

85. Therefore, Co-Defendant SIMED is jointly and severally liable to Plaintiffs for the damages caused to them by any and/or all physician Co-Defendants.

DAMAGES

86. The allegations contained above are incorporated herein by reference as if again fully set forth.

87. As a result of the professional negligence, lack of expertise, fault, and malpractice of Co-Defendants, Plaintiff Mrs. Correa unnecessarily had to withstand terrible physical and emotional pain for almost a year.

88. As a result of the professional negligence, lack of expertise, fault, and malpractice of Co-Defendants, Plaintiff Mrs. Correa unnecessarily had to deal with visits to doctors and hospitals for her debilitating condition.

89. As a direct and proximate result of the negligence of Defendants, Plaintiff Mrs. Correa suffered from a worsened incontinence, which severely affected her personal and social life.
90. As a direct and proximate result of the negligence of Defendants, Plaintiff Mrs. Correa suffered a terribly debilitating condition, one that affected her self esteem and emotional health.
91. As a direct and proximate result of defendants' negligence Mrs. Correa withdrew from the life activities she loved to participate in and became terribly depressed.
92. As a direct and proximate result of the negligence of all Defendants, Plaintiff Mrs. Carmen Rivera Correa suffered as she watched her mother in constant physical and emotional pain.
93. As a direct and proximate result of the negligence of Defendants, Plaintiff Mrs. Carmen Rivera Correa, had to drastically change her own life in order to take care of her mother and her debilitating condition.
94. As a direct and proximate result of the negligence of Defendants, Plaintiff Mrs. Carmen Rivera Correa took on additional responsibilities of caring for her mother physically and emotionally and her own life became a nightmare as a result of defendants' negligence.
95. The negligent acts and omissions of the Defendants have caused Plaintiff Mrs. Correa intense physical damages equal to a sum not less than **FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00)**.
96. The negligent acts and omissions of the Defendants have caused Plaintiff Carmen Hernández intense emotional pain and suffering, frustration and a grave sense of

injustice equal to a sum not less than **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**.

TRIAL BY JURY DEMANDED

97. Plaintiffs demand trial by jury on all causes of action herein raised.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against all Defendants jointly and severally, in an amount not less than **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)**, as well as costs incurred, reasonable attorneys' fees, and such other and further relief as this Honorable Court may deem just and proper under the law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 13th day of May, 2013.

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