

SAMPLE

PRE-MEDIATION EVALUATION

Submitted by: Ted Cowan

Court/Cause Number/Style of Case:

CAUSE NO. 156-248392-10

SARA SAMUELSON	§	IN THE DISTRICT COURT
	§	
VS.	§	156 TH JUDICIAL DISTRICT
	§	
EDNA RODRIGEZ, M.D., AND	§	
MCGUIRE MEDICAL	§	
CENTER	§	SMITH COUNTY, TEXAS

Nature of Case:

This is an alleged medical negligence cause of action stemming from an admission to McGuire Medical Center on September 23, 2009. Plaintiff's allegations pertain to a bilateral tubal ligation which took place without the patient's consent after the Cesarean delivery of her child. At the time of the incident, Sara Samuelson was 28 years old. This was her second child. The child was born healthy without any complications. As a result of the incident, Plaintiff sued her ob/gyn Edna Rodriguez, M.D., and McGuire Medical Center.

Plaintiff Sara Samuelson was admitted to McGuire Medical Center on the morning of September 23, 2009, by Edna Rodriguez, M.D., to undergo an elective C-section. *See Admission Record*. Dr. Rodriguez had been Ms. Samuelson's ob/gyn throughout her entire pregnancy. During the pregnancy, she and Dr. Rodriguez apparently had discussions about whether Sara Samuelson wanted her tubes tied after the C-section. Sara Samuelson denied ever telling Dr. Rodriguez she wanted a tubal ligation. *See Testimony of Sara Samuelson* [Unrelated Sample Video].

When she was admitted to McGuire Medical Center on September 23, 2009, the patient went through all the pre-operative measures that a surgical patient goes through, including but not limited to, consenting to the procedures to be performed. *See Consent Form*.

During the pre-operative phase of this admission, Sara Samuelson was asked whether she wanted to have a bilateral tubal ligation, and the medical records confirm that she did not. [See Pre-op Record](#). In other words, she was only there for a C-section and only consented to a C-section. Nonetheless, the operative report notes the patient underwent a repeat C-section with bilateral tubal ligation. [See Operative Report](#). Therefore, Plaintiff's allegation is that she was sterilized as a result of the bilateral tubal ligation that was performed without her consent.

There is a universal protocol with regard to time outs being performed before every procedure to confirm proper person, proper site, and proper procedure. [See Hospital Policy & Procedures](#). The time out is the responsibility of every person in the operating room, including the hospital staff, the surgeon, the anesthesiologist/CRNA, and any other individuals in the room. This is true as per the universal protocol, as well as the policy and procedure in effect at McGuire Medical Center at the time of the incident made the basis of this suit.

Given the fact that the medical records show the patient was not scheduled for a tubal, yet had one performed, Defendant McGuire Medical Center has stipulated as to negligence. The other Defendant, Dr. Rodriguez, has not stipulated to negligence. In fact, Dr. Rodriguez, when deposed, testified that she acted in accordance with the standard of care in performing the tubal ligation. [See Testimony of Dr. Rodriguez](#) [Unrelated Sample Video]. Essentially, it is her position that after the C-section was completed, she asked the scrub technician whether Sara Samuelson was scheduled for a bilateral tubal ligation. According to Dr. Rodriguez's testimony, the scrub technician indicated that Sara Samuelson was, in fact, scheduled for a tubal ligation. For this reason, she testified she acted in accordance with the standard of care. [See Testimony of Dr. Rodriguez](#) [Unrelated Sample Video].

Defendant McGuire Medical Center adamantly denies that Dr. Rodriguez ever asked the scrub technician or any other person in the operating room whether or not this patient was scheduled for a tubal ligation in addition to the C-section. Not only does the testimony of all the hospital employees deposed refute what Dr. Rodriguez has said, the Plaintiff and her husband testified that they never heard Dr. Rodriguez ask anyone whether the patient was for a tubal during the procedure, and the CRNA in the room at the time will testify that he never overheard Dr. Rodriguez ask anyone if the patient was for a tubal. Therefore, the only person in the room that is making such an allegation is Dr. Rodriguez herself. Everyone else, including the Plaintiff and her husband, refute that such a statement was made by Dr. Rodriguez. She continues to allege that she acted in accordance with the standard of care. In reality, regardless of whether she asked the scrub technician or not, it does not change the fact that no time out was performed. The fact that no time out was performed is just as much her responsibility as it is of any other member of the health care team in the operating room. Because of this, there is potential for dispute amongst the Defendants as to percentage of liability.

REMAINING SECTIONS OMMITTED.

SAMPLE REPORT