App. 1

PUBLISHED OPINION–7TH CIRCUIT

2 F.4th 1020 (2021)

Isabella NARTEY, Plaintiff-Appellant,
v.
FRANCISCAN HEALTH HOSPITAL, Defendant-Appellee.

No. 19-3342.

United States Court of Appeals, Seventh Circuit.

Submitted May 24, 2021.[*]

Decided June 28, 2021.

Isabella Nartey, Westmont, IL, Pro Se.

Bradford D. Roth, Lynsey Anne Stewart, Julie Ann Teuscher, Attorneys, Cassiday Schade LLP, Chicago, IL, for Defendant-Appellee.

Before HAMILTON, SCUDDER, and KIRSCH, Circuit Judges.

1022*1022 PER CURIAM.

In August 2016 Millicent Nartey was admitted to a hospital where she suffered a stroke and eventually passed away. Her daughter, Isabella Nartey, sued the hospital, alleging that its treatment did not comply with federal and state law. The district court dismissed the complaint but allowed Nartey 30 days to file an

---

* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

amended one. Nartey missed the deadline, leading the district court to enter judgment against her. Nartey failed to file a formal notice of appeal within the initial time limit prescribed by Federal Rule of Appellate Procedure 4, causing us to question our jurisdiction to hear this appeal. But we can still reach the merits of Nartey's arguments because she gave sufficient notice of her intent to appeal in other timely post-judgment filings. In the end, though, we agree with the district court that Nartey failed to state a claim, and so we affirm the dismissal of her complaint.

I

A

During the afternoon of August 3, 2016, paramedics rushed Millicent Nartey to the hospital after she complained of being unable to support her weight. She arrived at Franciscan Health Olympia Fields, a designated acute-stroke-ready hospital, with her husband and children, including her daughter Isabella Nartey. Finding Millicent at risk of a stroke, the hospital transferred her to its intensive care unit.

Three days later, Millicent suffered a stroke. Her condition deteriorated quickly, and she was put on life support. Over the next few days, the family expressed concern about the adequacy of care at Franciscan and sought to transfer Millicent to another facility. Franciscan assisted in submitting the transfer paperwork to two other hospitals. But both declined the requests for insurance reasons. On August 17, while a third

transfer request was pending, Franciscan advised the family that Millicent was brain dead and that the hospital had decided to stop treatment and cancel the outstanding transfer request.

Nearly two years later, Nartey reviewed her mother's medical records from Franciscan. She claimed the records lacked the transfer paperwork and some test results, including an MRI and CT scan. On August 3, 2018, Nartey, acting *pro se*, sued the hospital alleging numerous claims under state and federal law.

The district court grouped Nartey's 25-count amended complaint into three overarching claims. First, Nartey alleged that Franciscan violated the federal Emergency Medical Treatment and Active Labor Act (often shorthanded as EMTALA) by failing to provide adequate care to her mother, or alternatively to transfer her to another hospital. See 42 U.S.C. § 1395dd. 1023*1023 Second, Nartey contended that Franciscan violated Title VI of the Civil Rights Act, which prohibits federally funded programs from discriminating on the basis of race, color, or national origin. See 42 U.S.C. § 2000d. Third, Nartey alleged that Franciscan fraudulently concealed test results, preventing Nartey from timely bringing a medical malpractice claim.

B

The district court granted Franciscan's motion to dismiss each of Nartey's claims. The court determined that Nartey's own factual allegations, even if accepted as true, did not establish a violation of the EMTALA.

Nor, the district court added, did the complaint assert anything more than conclusory allegations of discrimination. The district court also determined that Nartey's fraudulent concealment claim rooted itself in allegations of medical malpractice. But because Nartey failed to adhere to an Illinois law that requires a plaintiff to support medical malpractice claims with an affidavit affirming consultation with a medical expert, the district court dismissed the claim. See 735 ILCS 5/2-622(a). In dismissing Nartey's complaint, the district court afforded her 30 days to file a second amended complaint.

On the last day to do so, Nartey sought permission to add new parties, but failed not only to attach a proposed amended pleading naming them, but also to file a notice of presentment as required by Local Rule 5.3(b). The district court denied Nartey's motion for these procedural failings and entered final judgment against her.

Nartey's ensuing post-judgment filings were not a model of clarity, but for now we need note only that after denying her Rule 59(e) and 60(b) motions, the district court granted Nartey an extension of time within which to appeal, a deadline that she complied with.

II

Before turning to the merits of the appeal, we pause (as we must) to address our appellate jurisdiction. The question arises against the backdrop of the extension of time to appeal afforded by the district court.

Most civil litigants have 30 days from the entry of judgment to file a notice of appeal in district court. See 28 U.S.C. § 2107(a); FED. R. APP. P. 4(a)(1)(A). This period is automatically extended for another 30 days upon the timely filing of a first post-judgment motion under certain rules, including Federal Rule of Civil Procedure 59(e). See FED. R. APP. P. 4(a)(4)(A)(iv)-(v). We know from *Bowles v. Russell* that the "timely filing of a notice of appeal in a civil case is a jurisdictional requirement." 551 U.S. 205, 214, 127 S.Ct. 2360, 168 L.Ed.2d 96 (2007).

After the district court entered a final judgment dismissing Nartey's complaint on August 29, 2019, she filed a timely Rule 59(e) motion on September 7. The district court denied that motion on September 13, leaving Nartey until October 14 to appeal both the final judgment and the denial of her Rule 59(e) motion.

On September 25, Nartey filed a second post-judgment motion, this time under Rule 60(b). But because Nartey's Rule 59(e) motion had already extended her appellate deadline, the Rule 60(b) motion did not provide another automatic extension. See *Armstrong v. Louden*, 834 F.3d 767, 769 (7th Cir. 2016) ("Successive post-judgment motions do not allow an effective extension of the time to appeal."). What this means here is that the deadline for Nartey to appeal the district court's final judgment remained October 14.

On November 7, Nartey requested more time to appeal, explaining that she remained 1024*1024 in the process of trying to retain new counsel and was

unfamiliar with the rules setting the time to appeal. This motion was timely under Rule 4(a)(5)(A)(i), which allows a party to seek such an extension "no later than 30 days after the time prescribed by this Rule 4(a) expires." Again, the Rule 4(a) deadline here, was October 14, less than 30 days prior to this November 7 filing. Out of "an abundance of caution"—presumably, regarding whether an extension was needed—the district court granted a 14-day extension to November 22. Nartey filed her notice of appeal on the last day of the extension, November 22. But whether the grant of the extension itself was correct, gives us pause.

We review a district court's decision to extend the time to appeal for an abuse of discretion. See *Mayle v. Illinois*, 956 F.3d 966, 968 (7th Cir. 2020). A district court may exercise its discretion to extend the appellate deadline only upon a litigant's motion demonstrating good cause or excusable neglect. See 28 U.S.C. § 2107(c); see also FED. R. APP. P. 4(a)(5)(A)(ii). The district court found that Nartey's need for more time as she sought to retain new counsel amounted to good cause.

We acknowledge that our case law in this area is messy. Compare *Mayle*, 956 F.3d 966, with *Nestorovic v. Metro. Water Reclamation Dist. of Greater Chicago*, 926 F.3d 427 (7th Cir. 2019). But two broader and interrelated observations seem unobjectionable. First, district courts enjoy wide latitude in determining whether a litigant's explanation for missing a deadline amounts to "good cause" or "excusable neglect." See, *e.g.*, *Mayle*, 956 F.3d at 969 ("The district judge would not have abused his discretion if he had denied the extension, but he also

did not abuse his discretion by granting it."). Second, as a court of review, our role is not to micromanage district court exercises of discretion in this area. See *Nestorovic*, 926 F.3d at 431-32 (explaining that we will only find an abuse of discretion "when the record contains no evidence on which [the district court] could have rationally based its decision or when the decision rests on an erroneous view of the law"). We are sure to see future appeals presenting hard questions at the outer bounds of what constitutes good cause or excusable neglect.

But today's case does not require any such difficult line-drawing because Nartey's post-judgment statements and filings in the district court provided enough notice of her intent to appeal to satisfy our jurisdictional inquiry.

Conduct that evinces a litigant's intent to appeal, including other motions filed within the allotted time for an appeal, can serve as proper notice. *Owens v. Godinez*, 860 F.3d 434, 437 (7th Cir. 2017). Nartey signaled her ultimate wish to appeal multiple times, including in statements she made in open court where she clearly expressed her intention to appeal and her desire that her case remain closed. So, too, in her Rule 60(b) motion filed on September 25, 2019 did Nartey say that she "understands she has 30-days from this Honorable Court's September 13, 2019, order *to appeal any part of final judgment.*" The motion also requested relief from the denial of her Rule 59(e) motion, signaling her intent to appeal that ruling in addition to the final judgment. In these circumstances, and mindful of

Nartey's status as a *pro se* litigant, that was enough—her appeal was timely.

We also have jurisdiction to review the district court's denial of Nartey's Rule 60(b) motion. Nartey's November 7 request for an extension to file her appeal signaled a specific intent to appeal the court's denial of the Rule 60(b) motion and 1025*1025 was filed within 30 days of the district court's judgment dismissing her Rule 60(b) motion. This amounts to adequate notice under *Owens* and allows us to hear Nartey's appeal of this judgment as well.

III

Turning to the appeal's merits, we follow the district court's grouping of the claims. Beginning with the EMTALA claims, we agree that the operative complaint alleges no facts that would establish a violation of the statute. To the contrary, the complaint acknowledges that Franciscan met the Act's screening requirement by examining Nartey's mother and determining an emergency condition existed. See 42 U.S.C. § 1395dd(a). At that point, the Act required that Franciscan either provide further treatment or transfer Nartey's mother in accordance with certain parameters. See *Id.* § 1395dd(b)(1). Franciscan met its obligation by choosing the former – admitting Nartey's mother into the ICU. 42 C.F.R. § 489.24(d)(2)(i). Indeed, the Act discourages transferring patients instead of providing treatment. See § 1395dd(b)(1)(A)-(B); see

also *Beller v. Health & Hosp. Corp. of Marion Cnty., Ind.*, 703 F.3d 388, 390 (7th Cir. 2012).

Nartey is dissatisfied with the quality and scope of the treatment her mother received at Franciscan, but the EMTALA is not a malpractice statute covering treatment after an emergency patient is screened and admitted. We therefore join the chorus of circuits that have concluded the EMTALA cannot be used to challenge the quality of medical care. See, *e.g.*, *Smith v. Crisp Reg'l Hosp., Inc.*, 985 F.3d 1306, 1308 (11th Cir. 2021); *Williams v. Dimensions Health Corp.*, 952 F.3d 531, 538 (4th Cir. 2020); *Torretti v. Main Line Hosps., Inc.*, 580 F.3d 168, 173 (3d Cir. 2009); *Hunt ex rel. Hunt v. Lincoln Cnty. Mem'l Hosp.*, 317 F.3d 891, 894 (8th Cir. 2003); *St. Anthony Hosp. v. U.S. Dep't of Health & Hum. Servs.*, 309 F.3d 680, 694 (10th Cir. 2002); *Bryant v. Adventist Health Sys./W.*, 289 F.3d 1162, 1166 (9th Cir. 2002); *Hardy v. N. Y. City Health & Hosp. Corp.*, 164 F.3d 789, 792-93 (2d Cir. 1999).

Nor did Franciscan's inability to transfer Nartey's mother violate Title VI. While Nartey presents some statistical evidence that hospital transfers are less common among racial minorities, her own complaint establishes that Franciscan was not responsible for Millicent remaining there. Franciscan assisted Nartey in requesting transfers, but the receiving hospitals denied those requests. And even if state law were relevant to an alleged Title VI violation, Nartey is mistaken that Illinois law required Franciscan to transfer Millicent to a specialized facility. As with the EMTALA, Illinois law provides hospitals with the

option of admitting the patient for appropriate care *or* transferring the patient to another facility. See 210 ILCS 50/3.117(b)(3)(B), (b)(3)(H).

Finally, the district court properly dismissed Nartey's fraud claims for failing to allege the necessary elements of fraudulent concealment. To be sure, the district court erred in dismissing Nartey's claims for failing to attach an affidavit from a medical professional as required under Illinois medical malpractice law. See 735 ILCS 5/2-622(a)(1); see also *McDonald v. Lipov*, 382 Ill.Dec. 766, 13 N.E.3d 179, 186 (Ill. App. Ct. 2014). We have instructed district courts not to dismiss a complaint at the pleading stage for failing to attach a 5/2-622 affidavit. See *Young v. United States*, 942 F.3d 349, 351 (7th Cir. 2019). More to it, this is not the type of case in which the requirement would apply: Nartey sought damages for the concealment of test results, not for medical malpractice.

1026*1026 But the district court also dismissed these counts in Nartey's complaint because they did not state a fraudulent concealment claim. We agree. Fraudulent concealment occurs when a defendant intentionally induces a false belief through the concealment of a material fact while under a duty to speak. See *Abazari v. Rosalind Franklin Univ. of Med. & Sci.*, 396 Ill.Dec. 611, 40 N.E.3d 264, 274 (Ill. App. Ct. 2015). For the concealment to be fraudulent, it must not be discoverable through a reasonable inquiry. See *id.* Nartey alleged that Franciscan intended to hide certain test results by omitting them from her mother's records so that she could not uncover alleged malpractice.

But her pleadings also established that she knew to look for certain test results in her mother's records because the doctors who ran the tests told her about them. In short, a reasonable inquiry would have discovered the alleged concealment.

Nartey also challenges the district court's refusal to allow her to again amend her complaint before or after it entered judgment. She passes over the fact that the district court dismissed her "corrected" amended complaint (her third pleading) without prejudice, allowing 30 days to file another amended complaint. It entered judgment only after she failed to timely amend, to explain why she could not comply with the deadline or to comply with local rules regarding the presentment of motions. Such efforts at accommodation do not show that the district court abused its discretion by denying the motion. See *Hinterberger v. City of Indianapolis*, 966 F.3d 523, 528 (7th Cir. 2020).

We have considered Nartey's other arguments and determined they lack merit.

AFFIRMED.

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois –
CM/ECF LIVE, Ver 6.3.1
Eastern Division

Isabella Nartey,

Plaintiff,

v.

Franciscan Health hospital,

Defendant.

Case No. 1:18-cv-05327
Honorable
Sharon Johnson Coleman

NOTIFICATION OF DOCKET ENTRY

(Filed Oct. 9, 2019)

This docket entry was made by the Clerk on Wednesday, October 9, 2019:

MINUTE entry before the Honorable Sharon Johnson Coleman: Motion hearing held on 10/9/2019. The Court heard brief oral argument related to plaintiff's second motion for relief from judgment [61] (although pursuant to different Federal Rules of Civil Procedure). Plaintiff stated that she believed her motion was necessary before she could file an appeal. Defendant stood on all prior arguments and requested that the case remain closed. The Court denied plaintiff's motion [61]. The Court granted plaintiff's oral motion to redact personal identifies in exhibits [62] supporting the motion [61]. This case remains closed. If plaintiff wishes to take any further action, she must pursue it at the appellate level. Mailed notice. (ym,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at ***www.ilnd.uscourts.gov***.

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

Isabella Nartey, Plaintiff(s), v. Franciscan Health hospital, Defendant(s).	Case No. 18 CV 5327 Judge Sharon Johnson Coleman

JUDGMENT IN A CIVIL CASE

Judgment is hereby entered (check appropriate box):☒

☐ in favor of plaintiff(s)
and against defendant(s)
in the amount of $,

which ☐ includes pre–judgment interest.
☐ does not include pre–judgment interest.

Post judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

☐ in favor of defendant(s)
and against plaintiff(s)

Defendant(s) shall recover costs from plaintiff(s).

☒ other: Case is dismissed for failure to comply to Local Rule 5.4 and failure to prosecute pursuant to Local Rule 78.2.

This action was (check one):

☐ tried by a jury with Judge presiding, and the jury has rendered a verdict.
☐ tried by Judge without a jury and the above decision was reached.
☒ decided by Judge Sharon Johnson Coleman.

Date: 8/29/2019 Thomas G. Bruton, Clerk of Court

Yvette Montanez, Deputy Clerk

App. 16

(Unreported: 2019 WL 3037082)

United States District Court,

N.D. Illinois, Eastern Division.

ISABELLA NARTEY, Plaintiff,

v.

FRANCISCAN HEALTH, Defendant.

Case No. 18-cv-5327

Signed 07/11/2019

Attorneys and Law Firms

Isabella Nartey, Chicago Heights, IL, pro se.

Bradford D. Roth, Robert H. Summers, Jr., Daniel J. Broderick, Jr., Andrew J. Holmstrom, Cassiday Schade LLP, Chicago, IL, for Defendant.

MEMORANDUM OPINION AND ORDER

SHARON JOHNSON COLEMAN, United States District Court Judge

*1 Plaintiff Isabella Nartey (the "Plaintiff") filed a twenty-five count Corrected Amended Complaint against Franciscan Health alleging various claims related to the medical care and treatment of her mother, Millicent Nartey ("Nartey").

Franciscan moves to dismiss Nartey's Corrected Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). The Court held oral argument on June 5, 2019. For the reasons outlined below, Franciscan's Motion to Dismiss [37] is granted.

Background

On August 3, 2016, Nartey was transported via ambulance to the emergency department at Franciscan after experiencing weakness and an elevated blood pressure. Plaintiff and her other family members informed Franciscan that Nartey had a history of high blood pressure and opted not to control it with prescribed medications due to adverse side effects.

Franciscan's emergency medical team screened Nartey and initiated treatment upon her arrival in the emergency room. The emergency medical team identified that Nartey's potassium levels were low, her heart displayed evident damage, and her current condition mandated additional diagnostic tests. Nartey was subsequently admitted to the intensive care unit at Franciscan for further tests and overnight observation due to concern for Nartey's cardiac condition and potential stroke. Nartey's native language was the West African language TWI. Plaintiff informed a nurse in the Franciscan intensive care unit that although English was not her native language, Nartey "understood and could converse in English, but . . . the Franciscan medical team may need to speak more slowly and calmly." (Dkt. 33-1 at ¶ 28(e).)

Indeed, Nartey at one point requested to leave Franciscan in English. Plaintiff also indicated that she and other family members were available to translate as the need arose.

Although a CT scan and several other exams did not show any signs of stroke, Nartey's medical providers were concerned that she may be "trending towards a stroke" based on neurological exams. (Dkt. 33-1 at ¶ 35.) Plaintiff and Nartey's other family members declined certain other medical care, such as the placement of a "trach tube," and inquired about discharging Nartey. (Id. at ¶¶ 40–41.) Plaintiff was informed that due to the possibility of Nartey suffering a stroke Nartey could not be discharged before additional testing was completed, including a swallow test, additional CT scan, and MRI. Nartey's husband was contacted as power of attorney for Nartey prior to performing additional tests and the MRI.

After being informed that the MRI showed signs of severe ischemic stroke, Plaintiff inquired about transferring her mother to another facility. Plaintiff alleges that the Franciscan neurologist told her that there was no need to inconvenience Nartey with a hospital transfer. Another Franciscan representative told Plaintiff that a transfer was unlikely due to Nartey's care plan. Plaintiff subsequently provided paperwork seeking to transfer Nartey to the University of Chicago, Loyola University, and other hospitals, but the requests to transfer were denied by the other facilities due to financial and insurance reasons. Although an apnea test was delayed following Plaintiff's request (so that

Nartey's husband could be present when the results were known), Nartey was found to be clinically brain dead on August 17, 2016, and subsequently passed away. Plaintiff requested in writing and received Nartey's medical records.

In January 2019, Plaintiff discovered that Franciscan omitted or excluded various "key documents" from Nartey's medical records.

*2 Plaintiff alleges claims pursuant to Emergency Medical Treatment and Active Labor Act ("EMTALA"), Title VI of the Civil Rights Act of 1964, and fraudulent concealment of medical negligence allegedly arising from the medical treatment provided to Nartey in August 2016 at Franciscan.

Franciscan now moves to dismiss the Corrected Amended Complaint for failure to state a claim.

Legal Standard

When considering a Rule 12(b)(6) motion, the court accepts all of the plaintiff's allegations as true and views them "in the light most favorable to the plaintiff." Lavalais v. Vill. Of Melrose Park, 734 F.3d 629, 632 (7th Cir. 2013). A complaint must contain allegations that "state a claim to relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). Pro se motions, particularly, should be construed liberally. Otis v. Demarasse, 886 F.3d 639, 644 (7th Cir. 2018). However, "even pro se litigants must follow rules of civil procedure." Cady v. Sheahan,

467 F.3d 1057, 1061 (7th Cir. 2006). The plaintiff does not need to plead particularized facts, but the allegations in the complaint must be sufficient to "raise a right to relief above the speculative level." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007).

Analysis

Franciscan first contends that Nartey fails to state a claim for violations of EMTALA because the purpose of EMTALA is to protect patients from being denied emergency treatment due to an inability to pay and Plaintiff alleges that Nartey was examined and screened in compliance with the Act. Plaintiff responds that Franciscan violated its EMTALA duties to screen, treat, stabilize, and transfer Nartey by failing to comply with national and community standards of care.

Where an emergency condition exists, "the patient may not be transferred to another hospital or discharged until he or she has received stabilizing treatment." *Curry v. Advocate Bethany Hosp.*, 204 F. App'x 553, 556 (7th Cir. 2006) (citing 42 U.S.C. § 1395dd).

A plaintiff can plead herself out of court by pleading facts that undermine the allegations in her complaint. *Curry*, 204 F. App'x at 556. Plaintiff has done that with respect to her EMTALA claims. She alleges that Franciscan screened Nartey and initiated treatment upon her arrival at the emergency room. Specifically, after an hour in the emergency room, the Franciscan emergency medical team identified Nartey's low potassium

levels and existing damage on her heart and determined additional diagnostic tests that it would perform. Due to concern for Nartey's cardiac condition and potential stroke, Franciscan subsequently admitted Nartey to its intensive care unit for further tests and overnight observation. Thus, by pleading that Franciscan determined that Nartey had an emergency medical condition, Plaintiff necessarily asserts that Nartey received screening as required by EMTALA. See *Woessner v. Freeport Mem'l Hosp.*, No. 91 C 20005, 1992 WL 88302, at *3 (N.D. Ill. Apr. 24, 1992) (Reinhard, J.); 42 U.S.C. § 1395dd(b).

Plaintiff further alleges that Franciscan failed to stabilize or transfer Nartey as required by EMTALA. Here, too, Plaintiff has alleged facts that undermine these allegations.

Plaintiff alleges that Nartey's medical providers conducted neurological exams that indicated she may be "trending towards a stroke" and recommended placing a "trach tube," which Plaintiff declined on behalf of Nartey. Due to the possibility of Nartey suffering a stroke, Franciscan informed Plaintiff that Nartey could not be discharged before additional testing was completed, including a swallow test, CT scan, and MRI.

Franciscan also informed Plaintiff that transferring Nartey to another hospital likely would not be possible due to Nartey's care plan. Still, Plaintiff requested that Franciscan transfer Nartey to another medical facility. Franciscan could not transfer Nartey because the requests were denied by the other facilities due financial

and insurance reasons. A hospital cannot legally transfer a patient to a facility that had not agreed to accept her transfer. See 42 U.S.C. § 13955dd(c)(2).

Following the denials, Franciscan continued to provide care to Nartey.

*3 EMTALA does not require that the treatment satisfy any national or community standard of care, and Franciscan's actions demonstrate that it continued to treat Nartey. See *Smith v. St. James Hosp. & Health Centers*, No. 02 C 2953, 2003 WL 174195, at *3 (N.D. Ill. Jan. 27, 2003) (Andersen, J.). "EMTALA is not a federal malpractice statute," so even if Franciscan may have misdiagnosed Nartey, EMTALA does not provide an avenue to recover for her unsuccessful treatment. *Curry*, 204 F. App'x at 556. Thus, Plaintiff's allegations for failure to stabilize also fail because Franciscan provided ongoing care to Nartey, beginning with her admission to the hospital. The Court dismisses Counts I–IXX.

Next, Franciscan asserts that Plaintiff fails to set forth a claim under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, because Plaintiff only includes conclusory allegations without any facts supporting that Nartey was intentionally discriminated against based on her language proficiency. Plaintiff responds that Franciscan acknowledged Nartey's limited English proficiency, but failed to assess her understanding and did not accommodate Nartey. Title VI provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from

participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. To receive protection, a plaintiff must allege proof of intentional discrimination. *Dunnet Bay Const. Co. v. Borggren*, 799 F.3d 676, 697 (7th Cir. 2015).

Here, Plaintiff has once more alleged facts contrary to her allegations that Nartey was intentionally discriminated against based on her language proficiency. Although English was not Nartey's native language, Plaintiff alleges that Nartey "understood and could converse in English" and that Nartey asked to leave the hospital in English. Further, Plaintiff alleges that she and other family members could translate for Franciscan staff members, if needed. Together these allegations demonstrate that Nartey was able to communicate with her care providers at Franciscan. The Corrected Amended Complaint fails to allege plausible factual allegations of intentional discrimination. The Court dismisses Counts XX–XXII.

Finally, Franciscan contends that Plaintiff's claims for fraudulent concealment are impermissibly duplicative, fail to meet the requirements of a state law medical negligence claim, and fail to state a claim. Nartey responds that the Corrected Amended Complaint states the circumstances constituting fraud with particularity and that she is not alleging that Nartey's damages arose through medical malpractice.

Claims XXIII–XXV each allege facts seeking damages for death by reason of hospital malpractice. Illinois law

requires a p arty asserting a claim for medical malpractice to file an affidavit declaring that the affiant reviewed the facts of the case with a health professional and a report from the professional concluding that there is a meritorious claim of medical neglect or stating an acceptable reason why such an opinion and report could not be obtained. See 735 ILCS 5/2-622(a); see also *Williams v. Erickson*, 21 F. Supp. 3d 957, 958 (N.D. Ill. 2013) (Kennelly, J.). The statute requires that "failure to file a certificate required by this Section shall be grounds for dismissal." 735 ILCS 5/2-622(g); see also *Hahn v. Walsh*, 762 F.3d 617, 628–29 (7th Cir. 2014). No version of the complaint has contained the affidavit, the report, or any explanation regarding why it was absent, although the Corrected Amended Complaint states that Plaintiff "understands that Illinois courts required a medical affidavit of merit to bring forth claims of negligence, medical malpractice, and wrongful death." (Dkt. 33-1 at 62.)

Plaintiff has not filed the certificate, and Counts XXIII–XXV are dismissed.

*4 Even if Plaintiff could survive the state affidavit requirement, her complaint fails to state a claim for fraudulent concealment. To allege fraudulent concealment, Plaintiff must allege: (1) the concealment of a material fact; (2) the concealment was intended to induce a false belief, under circumstances creating a duty to speak; (3) the innocent party could not have discovered the truth through a reasonable inquiry or inspection, or was prevented from making a reasonable inquiry or inspection, and relied upon the silence

as a representation that the fact did not exist; (4) the concealed information was such that the injured party would have acted differently had she been aware of it; and (5) that reliance by the person from whom the fact was concealed led to her injury.

Taylor v. Feinberg, No. 08-CV-5588, 2009 WL 3156747, at *6 (N.D. Ill. Sept. 28, 2009) (Lefkow, J.) (citing *Schrager v. N. Cmty. Bank*, 328 Ill. App. 3d 696, 706–07, 767 N.E.2d 376 (1st Dist. 2002)).

Plaintiff alleges that she obtained incomplete medical records for Nartey, but does not allege that any omission from the medical records was intended to cover up actions taken during Nartey's medical treatment at Franciscan. Further, Plaintiff alleges that she discovered the omitted documents herself, demonstrating that she was able to discover the "truth" through a reasonable inspection. Counts XXIII–XXV also fail to state a claim.

Conclusion

Based on the foregoing, Defendant's Motion to Dismiss [37] is granted. If Plaintiff believes that she can cure the deficiencies in her Corrected Amended Complaint, she may file amended papers with the Court within 30 days of the date of this Order.

IT IS SO ORDERED.

Not Reported in Fed. Supp., See 2019 WL 3037082

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604
September 10, 2021

Before
DAVID F. HAMILTON, Circuit Judge
MICHAEL Y. SCUDDER, Circuit Judge
THOMAS L. KIRSCH II, Circuit Judge

No. 19-3342
ISABELLA NARTEY, Plaintiff-Appellant,
v. FRANCISCAN HEALTH HOSPITAL,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division. No. 1:18-cv-05327
Sharon Johnson Coleman, Judge.

ORDER

Plaintiff-Appellant filed a petition for rehearing and rehearing en banc on August 26, 2021. No judge* in regular active service has requested a vote on the petition for rehearing en banc, and all members of the original panel have voted to deny panel rehearing.

The petition for rehearing and rehearing en banc is therefore DENIED.

---

* Circuit Judge Candace Jackson-Akiwumi did not participate in the consideration of this matter.

Case: 1:18-cv-05327 Document #: 62-1
Filed: 09126/19 Page 2 of 4 PagelD #:380

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

ISABELLA NARTEY,	) Case No.: 1:18-cv-05327
Plaintiff,	) AFFIDAVIT
v.	) JUDGE
FRANCISCAN HEALTH,	) S. JOHNSON COLEMAN
Defendant	) JURY TRIAL DEMANDED

AFFIDAVIT IN SUPPORT OF PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT AND ADDITIONAL FINDINGS

I, Isabella Nartey, certify pursuant to 28 U.S.C. Section 1746 and Federal Rules of Civil Procedure 52 and 60 that I have personal knowledge of the following facts and I am competent to testify:

I am daughter to Maxwell Nartey and Millicent Nartey.

I am listed as the sole plaintiff in Case No.: 1:18-ev-05327

I participated in oral argument for Case No.: 1:18-cv-05327 on June 5, 2019.

I prepared my third amended complaint in a diligent fashion using the assistance of the Hibbler Pro se

Assistance program ready during the 30 days following this Honorable Court's July 11, 2019 order.

I discarded all outdated and copies of my amended complaint after each Hibbler Pro se Assistance program session to ensure I did not get confused after making the suggested changes.

I confirmed the due date for my third amended complaint as August 12, 2019 directly to ensure my compliance following this Honorable Court's July 11, 2019 order.

I was ready and able to file my third amended complaint, saved directly on my laptop's hard drive, on August 12, 2019, pursuant to this Honorable Court's July 11, 2019 order.

As I uploaded my work during the eleventh hour and attempted to convert my amended pleading to PDF for a timely electronic submission, my laptop froze then the screen went blue citing a system failure.

In performing the required Windows System Restore to save my laptop, the necessary system restore reset also cleared two months of files leaving me no record of my hard work done to satisfy this Honorable Court's order.

Once my computer came back online, I promptly filed a motion alerting this Honorable Court of my need for an extension to file my amended complaint and jointly requested leave to included co-Defendants. [Dkt. 48].

I immediately began re-creating my amended complaint even though I had lost my legal research and had no hard copies of my previous efforts.

I also promptly notified both this Honorable Court's Deputy Clerk and Defendant's counsel of her computer failure and resulting data loss and missing third amended complaint to minimize an prejudice from the inadvertent delay.

I called the Dirksen Help Desk for clarification on local rules, but they said any response could be interpreted *as* forbidden legal advice.

I worked as fast as I could, around my family caregiver obligations, employment and contractor obligations, and unexpected personal illness to submit my third amended complaint.

I received notice of this Honorable Court's final judgment the day of my belated submission.

My understanding of local rules was that I could not do a Notice of Motion to come before this Honorable Court to demonstrate my excusable neglect until I had attached my third amended complaint to my Motion. I apologize for my inadvertence.

This pleading is very important to me and I am sorry my computer failure gave the impression that I did not intend to prosecute my claims.

Distraught but diligent, I found a way to motion post-judgment to submit my amended complaint. [Dkt. 53]

I have also exercised due diligence to secure legal representation for my claims and also for any separate claims belonging to the estate, both before and during these proceedings.

To date, all interested attorneys, and one pro se-friendly third party medical forensics firm, demand I product a certified copy of Millicent Nartey's medical records prior to any discussion of legal representation due to potential statute of limitation complications for the estate's claims.

I submitted a request for the examination and copying of records as permitted by 735 ILCS 5/8-2001.5 and pursuant to 735 ILCS 5/2-622 prior to the filing of my complaint on August 3, 2018.

To date, the party required to comply under those sections, Franciscan, has failed to produce complete or certified copies of all requested records within 60 days of receipt of any written request.

I declare and certify under penalty of perjury that I have made every effort to be timely and compliant during my time representing my personal claims in this Honorable Court.

I declare and certify under penalty of perjury that the foregoing is true and correct

Executed on September 25, 2019.

/s/ Isabella Nartey
AFFIANT: ISABELLA NARTEY

/s/ Christy Parente
NOTARY/DATE

CHRISTY L. PARENTE
Official Seal
Notary Public - State of Illinois
My Commission
Expires May 9, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ISABELLA NARTEY, Plaintiff, v. FRANCISCAN HEALTH HOSPITAL, Defendant.	)))))))	No. 18 C 5327 January 25, 2019 Chicago, Illinois 9:10 a.m. Status Hearing

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
HONORABLE SHARON JOHNSON COLEMAN

APPEARANCES:

Pro se Plaintiff: MS. ISABELLA NARTEY
P.O. Box 1184
Chicago Heights, Illinois 60411

For the Defendant: O'HAGEN MEYER LLC
One East Wacker Drive
Suite 3400
Chicago, Illinois 60601
BY: MR. ANDREW J. HOLMSTROM

TRACEY DANA McCULLOUGH, CSR, RPR
Official Court Reporter
219 South Dearborn Street
Room 1232
Chicago, Illinois 60604
(312) 435-5570

[2] THE CLERK: 18 CV 5327, Nartey versus Franciscan Health Hospital.

MR. HOLMSTROM: Good morning, Your Honor. Andrew Holmstrom for the defendant.

MS. NARTEY: Good morning, Your Honor. Belle Nartey for the plaintiff.

THE COURT: 101 right. Thank you. So defendant's answer was due.

MR. HOLMSTROM: We –

THE COURT: As of a few days ago the Court hadn't seen it.

MR. HOLMSTROM: Correct. We just got the file, so we filed our appearance. Were hoping to get an extension to file our responsive pleading.

THE COURT: When did you come on the case, Counsel?

MR. HOLMSTROM: We filed our appearance Wednesday.

THE COURT: Okay. And how long do you need?

MR. HOLMSTROM: If we can get 21 days.

THE COURT: How do you feel about that?

MS. NARTEY: That's fair. They can respond.

THE COURT: Well, I don't know if it's fair. I know they just came in, but their client's answer was due by the, by the 18th. And so – of December. And they haven't come in until now. But because they're coming

in, they'll move this case, that part's fair. All right. 21 days, Counsel.

[3] MR. HOLMSTROM: Thank you, Judge.

THE CLERK: It's February 15th.

THE COURT: And let's set a status as close to that after as we can.

THE CLERK: February 18 – I'm sorry. February 19th at 9:00 a.m.

THE COURT: All right. And, Miss Nartey, you do understand that they could file in their responsive pleading a motion to dismiss? You understand that?

MS. NARTEY: Yes, I understand that.

THE COURT: All right. And so if that happens, then we're going to go ahead and set a briefing schedule. So it may not be as clearcut moving forward as you might think. All right.

MS. NARTEY: Okay. I understand.

THE COURT: All right.

MS. NARTEY: And, Your Honor, I still have the opportunity to amend the complaint based on their response?

THE COURT: Well, I don't know about the opportunity. If you think you – if you think your complaint is good, stand on it. If you feel you need to amend it and you have a good reason to try to do that, then

the Court will consider it. But as a matter of course, people don't just file something and then wait and see if somebody wants to dismiss it and then say, oh, I can now fix it. That's really not the way it works. [4] Okay.

MS. NARTEY: I understand, Your Honor.

THE COURT: But, but you can make the motion, yes. All right?

MS. NARTEY: Okay.

THE COURT: All right.

MS. NARTEY: There's new information come to light that would cause – that would cause a need for an amendment actually.

THE COURT: Well, then you can take care of that without waiting for them.

MS. NARTEY: Okay.

THE COURT: And you need to do so sooner than later.

MS. NARTEY: Yes, ma'am.

THE COURT: All right?

MS. NARTEY: Yes, Your Honor.

THE COURT: Okay. Thank you.

MS. NARTEY: Thank you.

MR. HOLMSTROM: Thank you, Judge.

---

[5] CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, correct and complete transcript of the proceedings had at the hearing of the aforementioned cause on the day and date hereof.

/s/TRACEY D. McCULLOUGH *December 12, 2019*

Official Court Reporter — Date
United States District Court
Northern District of Illinois
Eastern Division

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ISABELLA NARTEY,	)	No. 18 C 5327
Plaintiff,	)	October 9, 2019
v.	)	Chicago, Illinois
FRANCISCAN HEALTH HOSPITAL,	)	9:40 a.m.
	)	Motion Hearing
Defendant.	)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
HONORABLE SHARON JOHNSON COLEMAN

APPEARANCES:

Pro se Plaintiff: MS. ISABELLA NARTEY
P.O. Box 1184
Chicago Heights, Illinois 60411

For the Defendant: O'HAGEN MEYER LLC
One East Wacker Drive
Suite 3400
Chicago, Illinois 60601
BY: MS. DINA LUPANCU

TRACEY DANA McCULLOUGH, CSR, RPR
Official Court Reporter
219 South Dearborn Street
Room 1232
Chicago, Illinois 60604
(312) 435-5570

[2] THE CLERK: 18 CV 5327, Nartey versus Franciscan Health Hospital.

THE COURT: Good morning.

MS. LUPANCU: Good morning, Your Honor. Dina Lupancu on behalf of Franciscan Health.

MS. NARTEY: Isabella Nartey, plaintiff.

THE COURT: All right. Representing yourself, is that correct?

MS. NARTEY: Yes, pro se.

THE COURT: All right. So, Miss Nartey, you have filed – you keep trying. All right. Briefly state, briefly state your motion that you have on file now.

MS. NARTEY: Certainly. The motion that I have on file now is pursuant to Federal Rule of Civil Procedure 60 and 52 mainly. I did submit an affidavit demonstrating my excusable neglect and the only reason I didn't file on time, and –

THE COURT: And the Court read it and appreciates and accepts the apologies that you made in there. So I read it fully. And I understand what you're claiming. Proceed.

MS. NARTEY: Yes, ma'am. Thank you. Yes, Your Honor. Thank you. And then also pursuant to 60 (d) but a different part, I think 6, for other reasons for relief. The defendant in their oral argument misstated their EMTALA obligations, and their statements were in direct contradiction [3] to the language of the statute. And I –

THE COURT: And what did the Court tell you the last several times you've been here, that if you have a dispute that – with the Court's finding and you're saying the facts weren't there, that there is another avenue. You're going through and finding every possible rule that might allow you to stay in this court instead of understanding that this has been a final judgment and going to the Appellate Court.

MS. NARTEY: Yes, ma'am. I actually found it while I was preparing for the Appellate Court. And many Appellate Court decisions find that if the plaintiff or the appellee didn't make – didn't bring it up in the lower court, then they have waived their right to bring it up in the Appellate Court. That –

THE COURT: Didn't bring up what?

MS. NARTEY: The fact that the defendant misstated their – in response to your questions during oral argument, Your Honor, the defendant misstated their EMTALA obligations, and their misstatements were in direct contradiction to the language of the statute as written, so . . .

THE COURT: All right. And so that was your reason for following up, is that correct?

MS. NARTEY: That was my reason, yes, ma'am.

THE COURT: All right.

MS. NARTEY: And, and then –

[4] THE COURT: Really quickly what's the last one?

MS. NARTEY: The last one was just under Rule 52, in light of their misstatements for additional, for additional findings. That's all.

THE COURT: All right. And the Court – you note that all of those rules are worded in *may.* It's at the Court's discretion based on what the Court has found, correct? You understand that?

MS. NARTEY: At this Court's discretion, yes, ma'am.

THE COURT: All right. Very quick response.

MS. LUPANCU: Your Honor, we're now here present before you a second time on a matter that's been closed. We would stand on all prior arguments. And seeing in light that it looks like plaintiff brought this in order to reserve any arguments on appeal, we would just stand on all prior arguments and respectfully request that this matter remain closed.

THE COURT: All right. And so the Court has heard – the Court notes and takes well note of the very organized presentation that Miss Nartey has presented. When you go to make your Appellate Court argument, you have everything at your disposal. You shouldn't have to do a whole lot more. It is time for this case to move on, and I'm going to enter that in the order. All right.

MS. NARTEY: Okay. Yes, ma'am. And seeing as how were moving on, I didn't realize that one of my exhibits filed [5] actually had personal identifiers like my mom's last four of her Social and addresses, and things like that. So I have a motion that I was going to file just to seal that. And I don't know whether it's more – if we can just seal pages 20 and 21 of Exhibit D part two, or if I need to seal all of Exhibit D and –

THE COURT: Well, you don't need to seal it. All you need to do is if you plan on taking it up, just block out – just redact those dates that are concerning – that information that's concerning to you, and the Court will allow you to replace the redacted version on, on the docket.

MS. NARTEY: Okay. So I don't need to file – refile all of Exhibit D? I can just file those two pages –

THE COURT: The Court is already granting you permission –

MS. NARTEY: Okay.

THE COURT: – to redact personal identifiers.

MS. NARTEY: Okay.

THE COURT: All right. You just do that with the Clerk's office. My order will – it will be written in my order for today too. Okay.

MS. NARTEY: Okay.

THE COURT: All right. Anything else defense?

MS. LUPANCU: No, nothing at all.

THE COURT: All right. Thank you. Good luck to you, [6] Miss Nartey.

MS. NARTEY: Thank you.

MS. LUPANCU: Thank you, Your Honor.

MS. NARTEY: Thank you, Your Honor.

THE COURT: All right.

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, correct and complete transcript of the proceedings had at the hearing of the aforementioned cause on the day and date hereof.

/s/TRACEY D. McCULLOUGH *November 25, 2019*

Official Court Reporter — Date
United States District Court
Northern District of Illinois
Eastern Division

Stroke Certification Programs – Program Concept Comparison

Program Concept	ASRH	PSC	CSC
Program Medical Director	Sufficient knowledge of cerebrovascular disease	Sufficient knowledge of cerebrovascular disease	Has extensive expertise; available 24/7; 8 hours of stroke education annually
Acute Stroke Team	Available 24/7, at bedside within 15 minutes; at least 4 hours of stroke education annually	Available 24/.7, at bedside within 15 minutes; at least 8 hours of stroke education annually	Available 24/7, at bedside within 15 minutes; at least 8 hours of stroke education annually
Emergency Medical Services Collaboration	Access to protocols used by EMS	Access to protocols used by EMS	Access to protocols used by EMS, routing plans; records from transfer
Stroke Unit	No designated beds for acute care of stroke patients	Stroke unit or designated beds for the acute care of stroke patients	Dedicated neuro intensive care beds for complex stroke patients available 24/7
Initial Assessment of Patient	Emergency Department physician, nurse practitioner, or physician assistant	Emergency Department physician	Emergency Department physician
Diagnostic Testing Capability	CT, MRI, labs 24/7	CT, MRI, labs, CTA, MRA 24/7, and cardiac imaging when necessary	CT, MRI, labs, CTA, MRA, other cranial and carotid duplex ultrasound, TEE, TTE, catheter angiography 24/7 and cardiac imaging when necessary
Neurologist Accessibility	24/7 via in person or telemedicine	24/7 via in person or telemedicine	Meets concurrently emergent needs of multiple complex stroke patients; Written call schedule for attending physicians providing availability 24/7
Neurological Services	Within 3 hours (provided through transferring the patient)	Within 2 hours; OR is available 24/7 in PSCs providing neurosurgical services	24/7 availability: Neurointerventionalist; Neuroradiologist; Neurologist, Neurosurgeon
Telemedicine	Within 20 minutes of it being necessary	Available if necessary	Available if necessary

Treatment Capabilities	IV thrombolytics; Anticipate transfer of patients who have received IV thrombolytics	IV thrombolytics; May have the ability to perform the following: Neurovascular interventions for aneurysms, Stenting of carotid arteries, Carotid endarterectomy, and Endovascular therapy	IV thrombolytics; Microsurgical neurovascular clipping of aneurysms; Neuroendovascular coiling of aneurysms; Stenting of extracranial carotid arteries; Carotid endarterectomy; Endovascular therapy
Transfer protocols	With one PSC or CSC	For neurosurgical emergencies	Receiving transfers and circumstance for not accepting transferred patients
Staff Education Requirements	ED staff – a minimum of twice a year	ED staff – a minimum of twice a year	Nurses and other ED staff – 2 hours annually; Stroke nurses - 8 hours annually
Provision of Educational Opportunities	Provides educational opportunities to prehospital personnel	Provides educational opportunities to prehospital personnel; Provides at least 2 stroke education activities per year to public	Sponsors at least 2 public educational opportunities annually; UPs and staff present 2 or more educational courses annually for internally staff or individuals external to the comprehensive stroke center (e.g., referring hospitals)
Clinical Performance Measures	Non-Standardized Measures: Organization chooses 4 measures, at least 2 are clinical measures related to clinical practice guidelines	Standardized Measures: 8 core stroke measures	Standardized Measures: 8 core stroke measures and 8 comprehensive stroke measures for a total of 16
Research	N/A	N/A	Participates in patient-centered research that is approved by the IRB
Guidelines	Recommendations from Bain Attack Coalition for Acute Stroke Ready Hospitals, 2013	Recommendation from Brain Attack Coalition for Primary Stroke Centers, 2011	Recommendations from Brain Attack Coalition for Comprehensive Stroke Centers, 2005
Review	One Review, One Day	One Reviewer, One Day	Two Reviewers, Two Days

EXHIBIT C: EVIDENCE OF DISCRIMINATORY INTENT

"African Americans experienced stroke nearly twice as often as whites[1].

Per the video at the bottom of Franciscan's stroke 'website page[2], Kaityln Holton (who is white) declares that after arriving at Franciscan to be checked for stroke concerns, she was:

a. Promptly given access to Franciscan's brain imaging services, unlike Millicent who is black and who also qualified per her stroke alert triage status.

b. Promptly given access to a neurologist consultation, unlike Millicent who is black and denied this consultation service even though she qualified for it as an outpatient.

c. Promptly given access to Franciscan's catheterization lab for additional screening to detect the true origin of her stroke-like symptoms, unlike Millicent who was black and denied the services in Franciscan's catheterization lab[3] even though she qualified for them.

---

[1] Centers for Disease Control and Prevention. 'Stroke Facts." https://www.cdc.gov/stroke/facts.htm

[2] Franciscan Health. "Strokes Happen Fast Stroke Care Needs to Be Fast Too." https://www.franciscanheafth.org/healthcareservices/stroke-care-369

[3] Franciscan Health. "Cardiac Catheterization: Stopping Heart Attacks in Their Tracks." https://www.franciscanhealth.org]health-careservices/cardiac-catheterization-83

d. Promptly allowed to have her patient representative (who was also white) ask "two pages worth of questions" during a face-to-face consultation with her specialist, unlike Millicent who was black and also qualified to have her authorized representatives (also black) ask questions on her behalf while on outpatient status at Franciscan.

e. Promptly received answers all questions asked by her authorized representative (who was also white) in a kind, professional, unrushed manner, unlike Millicent who was black and also qualified to have questions about her emergency medical condition answered while on outpatient status at Franciscan.

f. Promptly scheduled for vascular surgery as an outpatient at Franciscan to minimize organ damage and disability risk as a result of her diagnosed stroke, unlike Millicent who was black and also qualified for surgical interventions while on outpatient status at Franciscan.

g. Successfully went home alive one day after her outpatient surgical procedure to fix her complex cardiovascular conditions, unlike Millicent who is black and was also qualified per her stroke alert triage status.

On August 3,2016, Millicent's experience as a black American on stroke alert in Franciscan's emergency department was remarkably different from and inferior to what Kaitlyn Holton, a white woman who

also came to Franciscan with emergent stroke concerns.

On August 3, 2016, Plaintiff I. Nartey's experience as a black authorized representative in Franciscan's emergency department was remarkably different from and inferior to what Kaitlyn Holton's mother, a white woman exercising her same authority as an authorized representative, experienced.

On August 3,2016 and at all material times, Franciscan treated Plaintiff I. Nartey differently than white authorized representatives."
