

AMY MICHELE MODICA  
VS.  
Dr. WILCOX  
PREVENTATIVE MEDICINE

§ CAUSE NO. D182-951  
§  
§ IN THE DISTRICT COURT OF  
§  
§ JEFFERSON COUNTY, TEXAS  
§ 136th JUDICIAL DISTRICT  
§

PLAINTIFF'S ORIGINAL PETITION

I.

I, Amy Michele Modica, the Plaintiff, am complaining on this date of December 23, 2008 that my primary care physician has caused **PERSONAL INJURIES, ABUSE, and NEGLECT** to me. This is **MEDICAL MALPRACTICE**. On this date, Dr. Wilcox gave me a heart attack. The phrase "heart attack" is sometimes used incorrectly to describe sudden cardiac death, which may or may not be the result of acute myocardial infarction. A heart attack is different from, but can be the cause of cardiac arrest, which is the stopping of the heartbeat, and cardiac arrhythmia, an abnormal heartbeat. It is also distinct from heart failure, in which the pumping action of the heart is impaired; severe myocardial infarction may lead to heart failure, but not necessarily.

08 DEC 30 P 2:53  
LOUISIANA  
NOTARY PUBLIC  
Loretta N. New

I did not go into Dr. Wilcox's office having chest pain. I was pain free in my chest and heart area. I was having difficulty with my extremities going to sleep on me (circulation problems are worsening), and that gives an uncomfortable feeling. When the discomfort last for hours, it becomes painful. This was my cause for being there along with other important matters. While I was there and trying to tell this man of my symptoms, he stopped me before I could finish all of what I needed to say, and said that it was NORMAL. I had a heart attack right then and there. I believe that he likes to rile his patients up, those who he chooses. He cut in and began on this tangent of saying that having arms that go to sleep is normal. It is NOT. I was upset and had EVERY RIGHT to be. The only way that I am to get the help that I need is to tell my doctor of my symptoms. I'm in the middle of trying to tell him the entire situations, and being cut off in mid sentence is wrong. I lose my train of thought and I don't get to finish what all I wanted to say. I was made to have a heart attack right there in his office. And, that is true. It would not have happened if this man would have decency to listen fully, and have regard for what symptoms I am notifying him of. I had to emphasize to him that this is NOT NORMAL. It is ridiculous that each time I go to my doctor, he exhibits personality clash patterns within his intrapersonal skills, something that a physician should not display to patients for many reasons. My life is in this man's hands. These patterns seem consistent with the ego integrity of the individual, and therefore, perceived to be appropriate by that individual. Dr. Wilcox probably believes that he is doing no wrong. He gives off the impression of

one having an exaggerated sense of self-importance and a feeling of superiority to other people. It is a SERIOUS PROBLEM when it becomes a pattern. Patients do not go in wanting to have to argue in order to be heard. But, I do want the respect I deserve. I can assure you that when patients are experiencing pain and need the help of their physician, they only desire care, compassion, kindness, a listening ear...AND TREATMENT...NOT AN ARGUMENT. This man forces me to have to emphasize things in order to get him to hear me. It's ridiculous. I am experiencing real physical pains. These are not non-existent ailments. I'm not "faking it." I am experiencing the *natural results* of emotional upsets, such as very high amounts of stress because of people like Dr. Wilcox. To add all of that up, my emotions have cognitive, physiological, and feeling components. I can't cry right now, for I am very upset. The famous words of a British psychiatrist, Henry Maudsley are this, "*Grief that finds no vent in tears makes other organs weep.*" There might be some truth in that saying.

It is my sincerest recommendation that a psychoanalysis should be in order for Dr. Harold Wilcox. I'm not trying to be mean to him. I'm just very serious in that there is a "PATTERN" of behavior that is CONDUCT UNBECOMING and MALPRACTICE. Any time there is a pattern, there is a serious issue that needs to be addressed. I am PUSHED to the limit by this doctor, and thus a lawsuit is filed. I have grounds on the basis of personal injuries, neglect, and abuse, as well as bedside manner. Dr. Wilcox is sharp, rude, cuts me off, and does not care about how he is mistreating me. He is insensitive and unfeeling when it comes to my health. His closed-mindedness and unwillingness to listen to me, saying cruel statements are all so very STRESSFUL to me, displaying an....

## **Unethical Bedside Manner**

BEDSIDE MANNER is defined as manner or conduct of a physician in the presence of a patient.

I am a heart patient. Heart patients need special care and special considerations without being attacked with rudeness and insensitivity. They need someone to listen to them and take extra precautions and EXTRA CARE. I, being the patient, should not have to be made to have fear in going to see my physician. On this day, I needed to obtain treatment and the necessary signed data to give me relief in my handicapping conditions. I DESERVE *now* to have special access. It is MEDICALLY NECESSARY at this time. I was not given either of the two [treatment or signed data], but rather instead, Dr. Wilcox...

## **Caused a Heart Attack**

## II.

I, Amy Michele Modica, the Plaintiff, am a resident of Beaumont, Jefferson County, Texas. I am DISPLACED at this time which has also made me a resident in the District of Columbia. I am an American citizen and a resident of the United States of America.

1. It is considered for purposes of this litigation that the United States is a citizen of the State of Texas.
2. Service of process may be made upon Dr. Wilcox at 5875 Major Drive, Beaumont, Texas. (409) 892-2262.
3. Service of process may also be made upon him at his home. A home is a place of residence or refuge. It is usually a place in which an individuals or a families can rest and be able to store personal property. Most modern-day households contain sanitary facilities and a means of preparing food. Since it can be said that humans are generally creatures of habit, the state of a person's home has been known to physiologically influence their behavior, emotions, and overall mental health. Dr. Wilcox's HOME is located at 750 Goodhue Road, Beaumont, Texas 77706.

## III.

### Statistics

#### *Main article: Medical error*

A 2004 study of medical malpractice claims in the United States examining primary care malpractice found that though incidence of negligence in hospitals produced a greater proportion of severe outcomes, the total number of errors and deaths due to errors were greater for outpatient settings. No single medical condition was associated with more than five percent of all negligence claims, and one-third of all claims were the result of misdiagnosis.<sup>[6]</sup>

A recent study by Healthgrades found that an average of 195,000 hospital deaths in each of the years 2000, 2001 and 2002 in the U.S. were due to potentially preventable medical errors. Researchers examined 37 million patient records and applied the mortality and economic impact models developed by Dr. Chunliu Zhan and Dr. Marlene R. Miller in a study published in the Journal of the American Medical Association (JAMA) in October 2003. The Zhan and Miller study supported the Institute of Medicine's (IOM) 1999 report conclusion, which found that medical errors caused up to 98,000 deaths annually and should be considered a national epidemic.<sup>[7]</sup> Some researchers questioned the accuracy of the 1999 IOM study, reporting both significant subjectivity in determining which deaths were "avoidable" or due to medical error and an erroneous assumption that 100% of patients would have survived if optimal care

had been provided. A 2001 study in *JAMA* estimated that only 1 in 10,000 patients admitted to the hospital would have lived for 3 months or more had "optimal" care been provided.<sup>[6]</sup>

A 2006 follow-up to the 1999 Institute of Medicine of the National Academies study found that medication errors are among the most common medical mistakes, harming at least 1.5 million people every year. According to the study, 400,000 preventable drug-related injuries occur each year in hospitals, 800,000 in long-term care settings, and roughly 530,000 among Medicare recipients in outpatient clinics. The report stated that these are likely to be conservative estimates. In 2000 alone, the extra medical costs incurred by preventable drug related injuries approximated \$887 million - and the study looked only at injuries sustained by Medicare recipients, a subset of clinic visitors. None of these figures take into account lost wages and productivity or other costs.

#### IV.

I intend to show to the court all of the stresses that this man has caused. There was one particular incident to which I left so hurt and distraught by him that his nurse, by way of telephone discussion gave apology for his actions. Needless to say, I was highly upset by his inflicted stress that was unwarranted. And, of all people in this world, with what traumas and horrific hate crimes of violence, rape, and tortures in which I have suffered, it is not right to have a physician to cause me stress and set me back further. I'm a SURVIVOR. I need to keep moving forward in the right direction...not being knocked down and trampled on by someone being paid to care. Dr. Wilcox gets a paycheck to care. I have had to go this entire phase of recovery alone and with God.... for physicians, psychologists, psychiatrists, counselors...those paid to care...DON'T. I've been jaded by MOST all physicians that I've encountered, especially in the last 20 years. Dr. Wilcox, my own treating physician has...

## Denied Treatment Medications

#### V.

It is medically necessary for me to have HANDICAPPED ACCESSIBILITY at this time. I cannot go any longer without the HANDICAPPED ACCESS that I need in all respects. The Beaumont Municipal Transit System requires that an application must be completed in order to determine eligibility and to establish individual needs and services desired. The letter from Mrs. Heather Gazaway, the STS Scheduler, states that the passenger and the physician must complete the application. I tried to do this with him. My physician, Dr. Wilcox, was UNWILLING to fill out the form!!! He said that he cannot sign

my data to allow for me to have access for the door to door Handicap Access Bus within The Beaumont Municipal Transit System because he does not have a diagnosis. To not give me that access also takes away my rights to Handicap Access by way of Handicap Hang Tag for Parking, and for my apartment unit that I am in need of, along with other such HANDICAP ACCESS TO MODIFICATIONS needed at this time. The short bus was a "modification" that I needed. I am dying. To have a physician to deny me HANDICAPPED ACCESS is the most CRUEL AND UNUSUAL PUNISHMENT that a dying person can have. This is undeniably MEDICAL ABUSE. Dr. Wilcox has....

## Denied me HANDICAP ACCESS

This man has NEGLECTED me by way of not considering that my symptoms combined are what is important. He has abandoned me and not cared for me, causing more injury. He could have filled out the data to allow me ACCESS. He just does not want to. That is ABUSE!!!! I am being abused by this man. While I need a handicapped parking hang tag and other such handicapped ACCESS, my physician is NEGLIGENTLY REFUSING. That is sick.

Adding up all of the PERSONAL INJURIES, ABUSE, AND NEGLECT, the result is...

## Medical Malpractice

### VI.

Dr. Wilcox, being my treating physician does not keep good medical records. I was shocked when I saw what little he has for me. It is incomprehensible. Just ordering a test does not make you a good doctor if you do not get the results and follow up. This has happened more than once for me. He does not do what is expected of him as a treating physician. He does not care to find out the outcome. I should think that he, being my primary care physician, should be taking care of the total body in general...the follow-up care or after-care. If I am to be on any orthopedic medications, I would not drive back and forth to Houston to get a prescription. I would get that from my primary care physician because the two of them would be taking care of me. I don't ever get that. I get nothing from this man but MALPRACTICE. If I were a doctor, I'd see to it that I was nice to my patients and I would follow through with CONTINUITY OF CARE. I believe in this...DO NO HARM. And, if I were a doctor, I would take into account all of the symptoms and I would not deny ACCESS to anyone who is disabled. I

would want to know the outcome after I referred a patient to another treating physician. It is a duty to know your patient. It is unreasonable to not. He does not provide to the patient ongoing treatment medications. In the case of what this man is doing, almost anyone could refer all patients to other doctors. Then all he has to worry about is the common cold basically-not really-but a point is made here. And, I don't go to a doctor for the common cold. For that, I take over-the-counter medicines. He just gets a paycheck and expects all of the other doctors to do his work in my case. I cannot speak for other cases. I do not even understand why this man does not have my orthopedic records or even cared to obtain them. That is the most asinine unintelligent thing ever with regard to medical care. And, I do not know who I went to see in Houston now. As for my knowing that he does not have my records, on December 23, 2008, he looked through the small chart of what little he had as I was watching, and he said that he did not have the records. While watching, I noted that he does not keep good medical records. I am wondering just how many others he has mistreated like this. It is so horrible to place your trust and care into one person, and then you realize that all along this has been the biggest Wantonly act of tom-foolery monkey business ever imaginable. It has just hit me like a ton of bricks. I cannot afford to pay medical costs to which I get no TREATMENT. Not having the records is a PATTERN, too, of his. This has happened before. Money down the drain-he didn't have what was necessary for my care. I just received a statement saying that I still owe them \$11.33. I've been paying to this office what Medicare does not pay. And, before Medicare, I was paying what the medical insurance did not pay. In order to continue to see your primary physician, your balance is supposed to be paid in full. They have said to me that they will not schedule another appointment for me unless I am current. They want PAYMENT UPON SERVICES RENDERED. I cannot afford to waste my money on a doctor who does nothing for me. I also cannot afford to waste my time, for that is very dear and precious to me. And, now, at having to start over at SQUARE 1 with another treating physician, this is causing the most horrible STRESS ever to me. I will have a hard time finding a treating physician. This is gross treble negligence what this man has done when you see the big picture of it. The outcome that he has given to me is that he wants me to suffer more, and to walk more, and to not have the modifications that I need.

At a particular time in my life, when I went to him crying tears in a depressed state of mind, with confusion of my past that was not sorted out yet, I asked for treatment. He denied me. That was MEDICAL NEGLECT right there. At another such time when I had an emergency fast appointment for a lump in my breast, it happened to be that the night before, I was having chest pain. My husband would not allow for me to go to the hospital, I believe. It was on some of those nights close within that time that I was disallowed to go to the hospital by my husband. The next morning during my appointment, it was my responsibility to tell my treating physician, for I need his help in this matter. What did I get from him? A caustic and callous attitude from him to reprimand me that I needed to have told the nurse/scheduler of my cardiac situation before going to him so that he could block more time for that.

He point blank, in so many words, said that he did not have time for my chest pain because he needed to see all of his other patients. How could it be possible to have planned his blocked time schedule if I could not foresee this heart pain ahead of time? That is so preposterous of him to be rude to me over this. THIS WAS AN EMERGENCY FOR BOTH MEDICAL CONCERNS [LUMP IN MY BREAST AND CHEST PAIN] FOR ME ON THAT DAY. I had to grab the quickest available appointment that I could. In fact, I went in person prior to see if it was possible for him to work me in. It wasn't possible. He was more concerned about TIME ISSUES and his other patients than to have serious special concern for me, one of his patients who is a heart patient. I was caused emotional upset on that day, for there was lack of COMMON SENSE or CARE on his behalf. That was ABUSE right there. I honestly believe that if he has a pattern of doing this type of business, and he does, then his medical license should be suspended or revoked or something needs to happen while an investigation is in order. Bedside manner is important. To be a doctor is to give CARE. This man does not care about me. If he did, it would have been very simple to sign the data necessary giving my HANDICAP ACCESS. He would have given a detailed description of the disabling problems I'm having. In order to get the best possible health care, I must be responsible for telling my doctor all of my symptoms. He does not give important attention to anything that I've said to him. He put it off as being NORMAL for my symptoms to be as such that they are. He is rude and causes my heart rate to speed up. I get a different arrhythmia, a skipped heart beat and other such STRESS from him. He doesn't medically give treatment to me. I have most definitely deemed this to be MEDICAL MALPRACTICE. There are just way too many circumstances of neglect which has ultimately turned into NEGLIGENCE and ABUSE and UNPROFESSIONAL CONDUCT. I am hurt to the EXTREME now. Medical malpractice is professional negligence by act or omission by a health care provider in which care provided deviates from accepted standards of practice in the medical community and causes injury to the patient.

## VII.

I, Amy Michele Modica, pray that Dr. Wilcox be cited to appear in court and answer herein as the law directs. I pray that upon final hearing that I am given relief by this physician. It is prayed that my evidence shows clearly and suitable at the time of trial and that I recover judgment of and from the Defendant. It is asked that I receive compensatory damages for medical expenses and life care expenses for past and future losses. It is also asked that I receive non-economic damages due to reduced enjoyment of life, pain, and emotional distress. Further, because Dr. Wilcox has denied me HANDICAPPED ACCESS and I cannot walk long distances without getting short of breath and my joint pain is worsening, I am suing him personally for taxi cab money for the special times that I need door-to-door HANDICAPPED ACCESS. I cannot walk without difficulty and pain from the bus stops to whatever distance it is to the grocery store. Then from the grocery store, I cannot push a loaded grocery

cart back to the stop where the bus picks up. So, I am suing for taxi cab money for such times that I need assistance in getting to where I am going in order to have a better quality of life. And, for all of the times that I must ride the bus without the special transit handicapped services that is available to all other handicapped people, I will ask that the courts reward me for pain, and emotional distress. I am also seeking punitive damages for wantonly acts and reckless conduct. I also pray that court costs and further relief, both general and special, such as prejudgment and post judgment interest which may be authorized by law, and for such other and further relief IN THE NAME OF JUSTICE, I am with good reason entitled to receive.

Respectfully submitted,  
Amy Michele Modica

By: Amy Michele Modica

Amy Michele Modica  
7175 Sweetgum  
Beaumont, Texas 77701  
409-2276  
409/926-2576

**DISPLACED / HOMELESS**

Pro se Legal Representative

JURY DEMAND

Plaintiff, Amy Michele Modica, respectfully demands a Jury to try this case.

Amy Michele Modica

Amy Michele Modica  
Pro se Legal Representative