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IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

P.S.P.,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
vs.	)	Case No.
	)	
ASCENSION VIA CHRISTI HOSPITALS	)	<b>JURY TRIAL DEMANDED</b>
WICHITA, INC.,	)	
	)	
<i>Defendant.</i>	)	
	)	

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PURSUANT TO K.S.A. CHAPTER 60

**PETITION**

COMES NOW the plaintiff, P.S.P., through her attorneys, Hutton & Hutton Law Firm L.L.C., and for her claims against defendant ASCENSION VIA CHRISTI HOSPITALS WICHITA, INC., states as follows:

**THE PARTIES, JURISDICTION & VENUE**

1. Plaintiff P.S.P. is an adult female who resides in Wichita, Sedgwick County, Kansas.<sup>1</sup>
2. Defendant Ascension Via Christi Hospitals Wichita, Inc. (hereinafter referred to as “defendant Via Christi”) is a Kansas not-for-profit corporation organized and duly registered to do business in the state of Kansas. At all times relevant, defendant Via Christi operated Ascension Via Christi St. Francis hospital, located at 929 N. St. Francis Street in Wichita, Sedgwick County,

<sup>1</sup> Plaintiff’s name is redacted and her initials, P.S.P., are used pursuant to 2023 Kan. S. Ct. R. 24(b)(2).

Kansas. Defendant Via Christi may be served through its registered agent, Corporation Service Company, at 100 SW Wanamaker Drive, Ste. 103, Topeka, Kansas, 66604. At all times further relevant, defendant Via Christi had within its employ members of its nursing staff, security personnel, and other personnel who are not health care providers subject to compliance requirements through the Kansas Health Care Stabilization Fund, and the negligence of such employees/agent nurses is likewise the negligence of defendant Via Christi. A hospital-patient relationship existed between defendant Via Christi and P.S.P. at all times relevant herein.

3. The Court has jurisdiction over the parties and the subject matter.

4. This cause of action arose in Sedgwick County, Kansas, and venue is proper in the Eighteenth Judicial District.

5. Pursuant to the notice provisions of K.S.A. § 40-3409, a file-stamped copy of this Petition will be sent by Certified U.S. Mail to Rita L. Noll, Attorney for the Board of Governors, Kansas Health Care Stabilization Fund, 300 S.W. 8th Street, 2nd Floor, Topeka, Kansas 66603. Such notice shall be served within the statutory time period and the original return receipt card will be filed of record.

6. The matter in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs.

### **FACTUAL ALLEGATIONS**

Plaintiff hereby adopts by reference paragraphs one through six (1-6) and, in addition, states:

7. On June 15, 2023, P.S.P. was a patient Ascension Via Christi St. Francis hospital, located at 929 N. St. Francis Street in Wichita, Sedgwick County, Kansas.

8. In the early morning hours of June 15, 2023, P.S.P. woke up to a male manipulating her Purewick™ external catheter.

9. P.S.P. began to feel discomfort and then repeatedly felt the male's fingers in her vagina.

10. The male told P.S.P. that he was a nursing student and that a doctor would be in soon.

11. The male had dark curly hair and was wearing a light-colored shirt and blue basketball style shorts.

12. P.S.P. did not believe the male was a nursing student as he was not wearing medical attire or gloves.

13. Nurse M.P. came into P.S.P.'s room responding to a bed alarm indicating that perhaps P.S.P. was trying to get up from her bed.

14. Nurse M.P. observed the unknown male sitting a chair to the side of P.S.P. The male's hands were near P.S.P.'s vaginal area. The male told nurse M.P. he was a nurse-in-training, and that he was addressing a leaking catheter on P.S.P.

15. Nurse M.P. did not question the unknown male, and she left P.S.P.'s room.

16. After Nurse M.P. left, P.S.P. grabbed her call light and pushed the button to get the unknown male to quit touching her. Once she was able to press the call button, the unknown male stopped raping her and immediately left the room.

17. Nurse M.P. returned to P.S.P.'s room after approximately five minutes.

18. P.S.P. informed Nurse M.P. of what happened, and that P.S.P. did not know the unknown male.

19. P.S.P. did not consent to being touched by the unknown male.

20. The unknown male was later identified as Miguel Rodela.
21. Video shows Rodela entering the hospital at approximately 0014 hours on June 15, 2023.
22. Rodela entered the hospital through a door behind an employee of defendant Via Christi.
23. Upon belief, additional video exists showing Rodela entering P.S.P.'s room on the 8<sup>th</sup> floor at 0054 hours and leaving at 0115 hours, 21 minutes later, on June 15, 2023.
24. After leaving P.S.P.'s room on the 8<sup>th</sup> floor, Rodela proceeded to the 7<sup>th</sup> floor.
25. While on the 7<sup>th</sup> floor, Rodela sexually assaulted a second patient. Rodela was observed by a nurse technician kneeling beside the patient's bed with both of his hands under the patient's blankets near the thigh area. Rodela was asked by the nurse technician if he was a family member to the patient, and Rodela responded that he was a "nurse tech."
26. Rodela left the 7<sup>th</sup> floor, and proceeded to the 6<sup>th</sup> floor of the hospital.
27. Rodela entered a third patient's room. A certified nurse aid (CNA) entered the third patient's room and observed Rodela in the room. The CNA inquired if Rodela was family to the third patient, and Rodela answered in the affirmative. The CNA asked for Rodela's assistance in adjusting the third patient's body position. Rodela assisted the CNA. The CNA left the room. Security later located Rodela in the third patient's room. Rodela was on top of the third patient lifting up the third patient's shirt.
28. Rodela was subdued by two hospital security officers and law enforcement was contacted.
29. Rodela admitted post-*Miranda* to law enforcement that he digitally penetrated P.S.P.'s vagina to sexually gratify himself and fulfill his sexual fantasies.

30. On June 21, 2023, Rodela was charged in the Eighteenth Judicial District of Sedgwick County Kansas with two (2) counts of rape (in the alternative) relative to P.S.P., and two counts of attempted rape relative to the other two patients in case number 2023-CR-1307.

31. On June 27, 2023, unionized nurses from defendant Via Christi held a one-day strike.

32. Nurses and/or staff of defendant Via Christi spoke with the media about the strike.

33. Nurses identified that safety is their number one concern and is one of the main reasons for the one-day strike week. Nurses also stated concerns about what they call a lack of transparency and want to see changes.<sup>2</sup>

34. Lisa Watson, a nurse at Ascension Via Christi St. Francis, informed local media that “[t]hese are concerns that nurses have had for a long time. We’ve been to management. Unfortunately, this is a trend that’s continuing, and it’s getting worse.” Watson said the issues were not being addressed by management. “...[W]hen they’re publicly avoiding things like rapes in the hospital, they’re not going to get people to work here.”<sup>3</sup>

35. Defendant Via Christi is a healthcare provider.

36. The term “never-event” is a term used in healthcare and patient safety that identifies serious, preventable, and costly medical errors by healthcare providers that should never happen to a patient.

37. The list of never-events was initially developed approximately in 2002 by the National Quality Forum. It has been revised multiple times and now consists of 29 events grouped

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<sup>2</sup> <https://www.kwch.com/2023/06/23/nurses-ascension-via-christi-concerned-hospital-safety-after-rape-arrest/>

<sup>3</sup> *Ibid.*

into 7 categories. The list contains events such as surgical procedures on the wrong body part or wrong patient.

38. The list of never-events also includes two criminal events: any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider; and sexual abuse/assault on a patient within or on the grounds of a health care setting.

39. Defendant Via Christi owed a duty of care to P.S.P. as a patient, including the duty to provide a safe environment free from harm.

40. P.S.P. has suffered damages including physical injuries, emotional distress, mental anguish, lost wages, and other such damages, economic and non-economic in nature, to be proven at trial.

**FIRST CLAIM:**

***Medical Negligence, Ordinary Negligence and Premise Liability of Defendant Via Christi***

Plaintiff adopts by reference paragraphs one through forty (1-40), and in addition, states:

41. In the course of the care and treatment rendered to P.S.P., defendant Via Christi was negligent, careless and deviated from standard approved medical practice in that it allowed for an offender to pose as a nurse or other hospital staff to rape a patient under the guise of providing care, although the offender, Rodela, was clearly not a health care provider, nurse or staff member based upon his appearance.

42. Furthermore, in the course of the care and treatment rendered to P.S.P., defendant Via Christi was negligent, careless and deviated from standard approved medical practice in that it allowed for the sexual abuse/assault on a patient to occur on the grounds of a health care setting.

43. The Defendant had a duty to exercise reasonable care in hiring, training, and supervising its employees and staff.

44. The Defendant breached its duty by negligently hiring, training, and/or supervising its employees, which allowed Miguel Rodela to gain access to P.S.P. and perpetrate the rape.

45. Defendant Via Christi owed a duty of care to P.S.P. as a patient, including the duty to provide a safe environment free from harm, and to maintain a safe and secure premises.

46. The Defendant breached its duty of care by failing to implement appropriate adequate security measures, failing to monitor the premises adequately, and failing to prevent foreseeable harm, including the rape of P.S.P.

47. Defendant Via Christi was negligent in other such ways as will be born out through discovery and evidence all resulting in the rape and injury of P.S.P.

48. The conduct of defendant Via Christi, its agents, employees and/or its nursing staff was reckless and/or wanton, and plaintiff will seek leave of Court to amend her petition to assert a claim for punitive damages.

49. As a result of defendant Via Christi's negligence, P.S.P. was injured leading to significant damages, both economic and non-economic in nature.

WHEREFORE, plaintiff prays for damages against defendant Via Christi in an amount in excess of seventy-five thousand dollars (\$75,000.00), together with costs incurred herein and any other relief the Court deems just and equitable.

**SECOND CLAIM:**  
***Loss of Consortium***

Plaintiff adopts by reference paragraphs one through forty-nine (1-49), and in addition, states:

50. R.P. is the husband of P.S.P.

51. As a direct result of the injuries and damages of P.S.P., R.P. has sustained damages for, but not limited to, loss of society, companionship and comfort, loss of marital care, attention, advice, counsel, and other pecuniary damages.

52. Pursuant to K.S.A. 23-2605, R.P.'s losses are vested in plaintiff P.S.P., and as a further result of R.P.'s losses, plaintiff P.S.P. has sustained damages in excess of Seventy-Five Thousand Dollars (\$75,000.00)

WHEREFORE, plaintiff prays for damages against defendant Via Christi in an amount in excess of seventy-five thousand dollars (\$75,000.00), together with costs incurred herein and any other relief the Court deems just and equitable.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff P.S.P., prays for damages against the defendant in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with costs incurred herein and any other relief the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury pursuant to K.S.A. 60-238.

Respectfully submitted,

HUTTON & HUTTON Law Firm L.L.C.

/s/ Matthew M. Dwyer, #22492

Andrew W. Hutton, #10264

Blake A. Shuart, #24463

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