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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CV01-23-06140

DAVID BASSIRI and JEANNY BASSIRI,  
husband and wife,

Plaintiffs,

-vs-

RYAN N. COLE, M.D.; and COLE  
DIAGNOSTICS, INC., an Idaho corporation,

Defendants.

CASE NO. \_\_\_\_\_

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

Fee Category: A  
Filing Fee: \$221.00

COME NOW, the above-named Plaintiffs, by and through their counsel of record, the law firm of ROSSMAN LAW GROUP, PLLC, and for a cause of action against the Defendants, Ryan N. Cole, M.D., and Cole Diagnostics, Inc., and COMPLAIN AND ALLEGE as follows:

### **PARTIES**

1. At all times mentioned herein, Plaintiffs were and are married individuals residing in Ada County, Idaho.

2. At all times herein mentioned, Defendant Ryan N. Cole, M.D. ("Cole") was a medical doctor licensed to practice medicine in the State of Idaho, with his principal place of practice in Ada County, Idaho.

3. Defendant Cole Diagnostics, Inc. ("Cole Diagnostics") was and is a corporation organized under the laws of the State of Idaho and is transacting business in Ada County, Idaho.

4. Upon information and belief, at all times relevant herein, Dr. Cole was and now is an agent, apparent agent, ostensible agent, employee, and/or representative of Cole Diagnostics.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this matter pursuant to Idaho Code § 1-705.

6. Venue is appropriate in this Court pursuant to Idaho Code § 5-404.

### **GENERAL ALLEGATIONS**

7. On July 1, 2021, Plaintiff Jeanny Bassiri consulted her primary care provider, Colleen Shackelford, NP, at Center for Lifetime Health for heavy vaginal bleeding. After examination, Ms. Shackelford ordered labs and a pelvis, transabdominal, and transvaginal ultrasound. Ultrasound results were abnormal and Plaintiff Jeanny Bassiri returned to see Ms. Shackelford on July 6, 2021 for an endometrial biopsy.

8. The tissue from the biopsy was sent to Cole Diagnostics for analysis. Dr. Cole performed an analysis of the tissue and noted “endometrial carcinoma, serous papillary type, FICO grade 2 (of 3) in a background of complex hyperplasia.”

9. On July 13, 2021, Plaintiff Jeanny Bassiri had a televisit with Ms. Shackelford to go over the pathology results and Ms. Shackelford referred Ms. Bassiri to an oncologist and gynecologic oncologist for treatment.

10. Plaintiff Jeanny Bassiri consulted Gerardo M. Perez, MD on July 20, 2021. At that time and relying on Dr. Cole’s pathology report, Dr. Perez discussed various treatment options with Ms. Bassiri including chemotherapy, radiation therapy and surgery. Ms. Bassiri opted for surgical intervention and on July 26, 2021, a robotic hysterectomy, bilateral salpingo-oophorectomy, bilateral pelvic and aortic lymph node dissection, and omentectomy was performed at St. Luke’s Boise Medical Center by Dr. Perez.

11. Ms. Bassiri’s tissues were collected and tested and a pathologist at St. Luke’s, Jeffrey B. Walker, MD, determined that the tissue samples were negative for any malignancy. The hysterectomy slides were also reviewed by Karen Johnson, MD and Morgan Ballard, MD who both agreed that no malignancy was identified in the tissue samples.

12. At the request of Dr. Perez, Dr. Walker made a request to Cole Diagnostics for the biopsy tissue samples that Dr. Cole had reviewed in July of 2021. On August 4, 2021 Dr. Walker reviewed the biopsy tissue samples and he concluded that the tissue was negative for atypia or malignancy. Karen Johnson, MD and Elizabeth Williams, MD, pathologists at St. Luke's, concurred with Dr. Walker's findings.

13. On August 30, 2021, Plaintiffs were advised by Dr. Perez's office that the final pathology on the tissue samples showed that Ms. Bassiri never had cancer.

14. The erroneous diagnosis of cancer caused Ms. Bassiri to undergo an unnecessary surgery and the resultant pain and suffering from such surgery. The erroneous cancer diagnosis caused Plaintiffs substantial emotional trauma in believing that Ms. Bassiri had cancer and then in being told that she did not have cancer.

### **COUNT ONE**

#### ***Negligence (Cole)***

15. Plaintiffs reallege and incorporate by this reference all the allegations contained in Paragraphs 1 through 14 above as if set out in full.

16. The medical treatment provided to Plaintiff Jeanny Bassiri by Dr. Cole was negligent and fell below the applicable standard of care owed to the patient by Dr. Cole at the times and places alleged hereinabove.

17. Dr. Cole's negligence was the direct and proximate cause of Plaintiffs' injuries.

18. As a direct and proximate result of Dr. Cole's negligence, Plaintiffs have sustained both economic and non-economic losses, the precise amount of damage which will be proven at the time and place of trial in this action, but in any event exceed \$25,000.00.

19. Dr. Cole's conduct was reckless and outrageous as alleged hereinabove, constituting an extreme deviation from reasonable standards of conduct, and Dr. Cole's conduct was performed with an understanding of, or disregard for, its likely consequences.

20. Plaintiffs are entitled to recover their attorney fees and costs incurred in the prosecution of this action pursuant to Idaho Code §§ 12-120, 12-121, Idaho Rules of Civil Procedure 54(d) and 54(e), and all other applicable state law.

21. Plaintiffs reserve this paragraph for the inclusion of a claim for punitive damages under Idaho Code § 6-1604.

## **COUNT TWO**

### ***Vicarious Liability (Cole Diagnostics)***

22. Plaintiffs reallege and incorporate by this reference all the allegations contained in Paragraphs 1 through 21 above as set out in full.

23. Upon information and belief, Dr. Cole is an authorized agent, apparent agent, ostensible agent, employee, and/or representative of Cole Diagnostics.

24. Dr. Cole was acting within the course and scope of his authority at the time he provided medical services to Plaintiff Jeanny Bassiri.

25. Cole Diagnostics was/is Dr. Cole's principal at all times relevant to Dr. Cole's care and treatment of Plaintiff Jeanny Bassiri. Dr. Cole was acting within the course and scope of authority at the time he provided medical services to Plaintiff Jeanny Bassiri and therefore, Defendant Cole Diagnostics is liable for damages caused to Plaintiffs as a result of Dr. Cole's negligence.

26. As a direct and proximate result of the negligence of Dr. Cole, as imputed to Defendant Cole Diagnostics under a theory of vicarious liability, as set forth above, Plaintiffs have suffered damages in an amount in excess of \$25,000.00 to be proven at trial.

27. Plaintiffs are entitled to recover their attorney fees and costs incurred in the prosecution of this action pursuant to Idaho Code §§ 12-120, 12-121, Idaho Rules of Civil Procedure 54(d) and 54(e), and all other applicable state law.

28. Plaintiffs reserve this paragraph for the inclusion of a claim for punitive damages under Idaho Code §§ 6-1604 and/or 6-1607.

### **COUNT THREE**

#### ***Negligent Infliction of Emotional Distress (All Defendants)***

29. Plaintiffs reallege and incorporate by this reference all the allegations contained in Paragraphs 1 through 28 above as if set out in full.

30. The medical treatment provided to Plaintiff Jeanny Bassiri by the aforementioned Defendants was negligent and fell below the applicable standards of care owed to the patient by each and every Defendant at the times and places alleged hereinabove.

31. As a direct and proximate result of Defendants' reckless and/or negligent conduct, as alleged hereinabove, Plaintiffs have incurred severe mental suffering manifested by physical symptoms. Plaintiff David Bassiri suffers from insomnia and anxiety due to the effects this incident has had on his wife and marriage. Plaintiff Jeanny Bassiri suffers from severe and chronic insomnia, anxiety, fear of doctors and severe headaches.

32. As such, Plaintiffs are entitled to recover monetary damages from Defendants representing fair and reasonable compensation for the emotional distress suffered by

Plaintiffs as a result of the wrongful conduct alleged hereinabove in an amount in excess of \$25,000.00 to be proven at trial.

33. Plaintiffs are entitled to recover their attorney fees and costs incurred in the prosecution of this action pursuant to Idaho Code §§ 12-120, 12-121, Idaho Rules of Civil Procedure 54(d) and 54(e), and all other applicable state law.

34. Plaintiffs reserve this paragraph for the inclusion of a claim for punitive damages under Idaho Code § 6-1604.

WHEREFORE, Plaintiffs pray for Judgment of this Court as follows:

1. For money damages for Plaintiffs from Defendants under the theories of negligence, vicarious liability and negligent infliction of emotional distress in a sum to be determined at trial in excess of \$25,000.00, and representing Plaintiffs' economic damages relating to lost contribution of services, past medical expenses, supplies, nursing and physician care, pain and suffering, and loss of enjoyment of life;

2. For Plaintiffs' reasonable attorney fees necessitated in this action pursuant to Idaho Code §§ 12-120 and 12-121, Idaho Rules of Civil Procedure 54(d) and 54(e), and all other applicable state law;

3. For costs of suit incurred herein; and

4. For such other and further relief as to the Court is just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury of no less than twelve (12) persons on all issues so triable pursuant to Idaho Rule of Civil Procedure 38(b).

DATED this 12<sup>th</sup> day of April, 2023.

ROSSMAN LAW GROUP, PLLC

By 

Eric S. Rossman  
Attorneys for Plaintiffs

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