



**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**

Submitted Date:26/11/2025 15:40

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CLAIM NO. ANUHCV2025/

BETWEEN:

ANANTHSA MCDONALD

Claimant

AND

DR JOSEPH “JOEY” JOHN

First Defendant

MEDICAL SURGICAL ASSOCIATES

Second Defendant

CLAIM FORM

The claimant, **ANANTHSA MCDONALD** of Powells Estate in the Parish of St. George in the State of Antigua and Barbuda

Claims against:

The defendants, **DR JOSEPH “JOEY” JOHN** and **MEDICAL SURGICAL ASSOCIATES**, both of Lauchland Benjamin Drive in the parish of St. John in the State of Antigua and Barbuda

For:

Damages for personal injuries, loss and damage suffered by the Claimant arising out of the alleged negligent performance of a Nissen fundoplication procedure and negligent post-operative care by the First Defendant at the medical practice operated by the Second Defendant, together with damages for breach of statutory implied terms under the Supply of Goods and Services (Implied Terms) Act, Cap 421A, and breach of implied contractual terms to exercise reasonable care and skill in the provision of medical and surgical services.

The Claim is for:

- a) Damages, including general damages for pain, suffering and loss of amenity and aggravated and/or exemplary damages for the distress and

inconvenience occasioned by the Defendants' conduct, including the refusal to release her medical records;

- b) Damages for breach of statutory implied terms under the Supply of Goods and Services (Implied Terms) Act, Cap 421A, including sections 11 and 12;
- c) Damages for breach of the implied terms of the contract between the Claimant and the Defendants to exercise reasonable care and skill in providing medical and surgical treatment and aftercare;
- d) Damages in the tort of negligence;
- e) Special damages, particularised in Schedule "A" – Special Damages;
- f) Interest pursuant to the Eastern Caribbean Supreme Court (Antigua and Barbuda) Act and/or the Civil Procedure Rules 2023 at such rate and for such period as the Court thinks fit, including pre-judgment interest from a date to be determined (including but not limited to the date of the Nissen fundoplication and/or the date of the corrective surgery) to the date of judgment;
- g) Costs, to be assessed if not agreed; and
- h) Such further or other relief as this Honourable Court deems just.

NOTICE TO THE DEFENDANT — See the notes served with this claim form

This claim form must contain or have served with it either a statement of claim or a copy of a court order entitling the claimant to serve the claim form without a statement of claim. If you do not complete the form of acknowledgment of service served on you with this claim form and deliver or send it to the court office (address below) so that they receive it within 14/21 days of service of this claim form on you, the claimant will be entitled to apply to have judgment entered against you. The form of acknowledgment of service may be completed by you or a legal practitioner acting for you.

You should consider obtaining legal advice with regard to this claim.

This claim form has no validity if it is not served within 6 months of the date of Filing unless it is accompanied by an order extending that time or is a claim form filing pursuant to rule 8.12(2).

The court office is at Parliament Drive, St. John's Antigua. The telephone number is 468-2000. The office is open between 8:30 a.m. and 4:30 p.m.]Mondays to Thursdays and 8:30 a.m. and 3:00 p.m. on Fridays except public holidays.

The claimants' address for service is: Wendel G. Alexander, Attorney-at-Law, Sir George Walter Hwy, Ste 113 Utopia Park, St. John Parish, Antigua, Telephone no. 12685615963, 12687739953. Email wendel.robinson@runbox.com
Wendelalexander4@gmail.com.

STATEMENT OF CLAIM

1. The Claimant, ANANTHSA MCDONALD, is a national of Antigua and Barbuda, born on 6 July 1981. She resides at Powells Estate in the Parish of St George, Antigua and Barbuda. She holds a Bachelor of Health Science degree from the American University of Antigua and is employed as a lecturer. She has also served as a Public Relations Officer.
2. The First Defendant, Dr Joseph “Joey” John, is and was at all material times a medical practitioner registered and practising in Antigua and Barbuda, with a specialism in general surgery and laparoscopic surgery. He formerly served as Chief Surgeon of the Sir Lester Bird Medical Centre and as Medical Superintendent of the former Holberton Hospital.
3. The Second Defendant, Medical Surgical Associates, is and was at all material times a firm carrying on the business of a medical and surgical clinic under that name in Antigua and Barbuda, with its principal place of business on Lauchland Benjamin Drive, where it provides consultation and surgical services to the public.
4. At all material times the Second Defendant operated the medical practice known as “Medical Surgical Associates” and employed or engaged the First Defendant as its servant and/or agent. The medical treatment and surgery complained of were provided in the course of the First Defendant’s engagement by the Second Defendant. The Second Defendant is therefore vicariously liable for the negligent acts and omissions of the First Defendant as particularised below.
5. In or about May 2020, the Claimant began to experience chest pains and shortness of breath. She consulted a number of medical practitioners, including Dr Petra Nanton, and was eventually referred to and examined by the First Defendant in or about June 2020.
6. On or about June 2020, the First Defendant examined the Claimant, arranged an ultrasound examination and blood tests, and informed the Claimant that she had a hiatal hernia. The First Defendant advised the Claimant that the best option to address her symptoms was to undergo a Nissen fundoplication procedure. Relying on the First Defendant’s

professional advice and opinion, the Claimant agreed to undergo the recommended surgery.

7. On or about 15 June 2020, at the Second Defendant's facility on Lauchland Benjamin Drive, the First Defendant performed a Nissen fundoplication procedure (otherwise known as the Frankenstein surgery) on the Claimant under general anaesthesia.
8. The First Defendant assured the Claimant that she would be fully recovered and able to resume normal activities within approximately six (6) weeks of the surgery.
9. Following the surgery, and within the period in which she was told she would recover, the Claimant commenced employment on 6 July 2020 as Public Relations Officer at the Ministry of Health. However, she continued to experience significant and worsening post-operative symptoms.
10. After the surgery, the Claimant experienced severe burning and tightness in her throat, difficulty swallowing, profound loss of appetite, anxiety associated with eating, significant weight loss and debilitating fatigue. She had increasing difficulty carrying out ordinary daily activities and household chores.
11. The Claimant returned to the First Defendant on multiple occasions, complaining of her ongoing and worsening symptoms, including difficulty swallowing, chest pain and general unwellness. The First Defendant failed to provide any adequate explanation, investigation or treatment, and instead repeatedly suggested that she should see Dr James King, a psychiatrist, who was the Medical Superintendent at the Clarevue Psychiatric Hospital, implying that her symptoms were primarily psychological.
12. The Claimant's post-operative symptoms persisted and worsened. She developed severe chest and mid-back pain, dizziness, episodes of faintness, brain "fog", difficulty concentrating, anxiety and panic attacks, together with ongoing swallowing difficulties and abdominal discomfort. She was prescribed various pain medications and other drugs by several practitioners, including Dr Sabbiah RadhaKrishnan who also ordered imaging tests, but remained unwell.

13. As a result of these symptoms, the Claimant struggled to maintain employment. She obtained three jobs following the surgery, each of which she was compelled to leave prematurely due to her ongoing condition:
- a. Ministry of Health - Public Relations Officer: the Claimant commenced employment on 6 July 2020, but was only able to remain employed for approximately six months. During this period, she suffered dizzy spells, extreme difficulty swallowing and eating, visual disturbance ("foggy vision"), impaired concentration, weakness and fatigue. She took frequent sick leave and was unable to perform her duties effectively.
 - b. La Bussola Restaurant - Host: the Claimant later worked as a host at La Bussola Restaurant for approximately three months, but continued to suffer dizziness and feelings of faintness which interfered with her duties. A letter from management of La Bussola Restaurant confirming this is exhibited hereto and marked "**AMD1**".
 - c. Royalton Antigua - Housekeeping Coordinator: the Claimant subsequently obtained employment as an Administrative Assistant in the Housekeeping Department at Royalton Antigua, but her symptoms persisted, and she remained employed there for only about one month.
14. Between approximately June 2020 and 15 August 2022, the Claimant's earning capacity and employment were significantly disrupted by her post-operative symptoms. But for the Defendants' negligence, the Claimant would have been able to maintain continuous full-time employment in roles commensurate with her qualifications and experience, including but not limited to her position as Public Relations Officer at the Ministry of Health or similar posts.
15. As a result of her symptoms, the Claimant was compelled to leave successive employments at the Ministry of Health, La Bussola Restaurant and Royalton Antigua, and experienced periods when she was unable to work at all. The Claimant will contend that she has thereby suffered past loss of earnings for the period from approximately June 2020 to 15 August 2022, being the difference between what she would have earned in continuous, uninjured employment and what she in fact earned during that period. The precise amounts will be particularised in her Schedule of Special Damages following disclosure of employment and payroll records.

16. By late 2021, the Claimant's post-surgical symptoms, including chest and back pain, severe swallowing difficulty, and panic and anxiety attacks, had become intolerable. On 23 December 2021, she was seen and examined by Dr Dwayne Twaites, MD; FACS; OM, Diplomate of the American Board of Urology.
17. Dr Twaites prepared a referral letter in respect of the Claimant's multiple symptomatic complaints. He opined that there was a tightening at the esophageal junction, with imaging showing tightness of the esophagus, and suggested that the Claimant's difficulty eating, severe back pain and abdominal discomfort were symptoms of a tight esophageal junction, suggesting recurrent laryngeal nerve injury. He advised that the Claimant required Release of Plication of Esophageal Junction Dilation to help with her symptoms. A copy of Dr Twaites' referral letter is exhibited hereto and marked **"AMD2"**.
18. Acting on that advice, the Claimant travelled to Munich, Germany and consulted Dr Bernd Ablassmaier, a world-renowned surgeon of some 30 to 40 years' experience in laparoscopic surgery and related procedures.
19. On 14 January 2022, Dr Ablassmaier performed a six-hour laparoscopic procedure on the Claimant at a cost of approximately US\$10,000. The Medical Benefits Scheme in Antigua and Barbuda covered the cost of the corrective surgery. In his surgical report, he diagnosed the Claimant as suffering from:
 - a. Hiatal hernia; and
 - b. Stenosis at the cardia (the gastro-esophageal junction) following the prior Nissen fundoplication.
20. He set out the therapy undertaken, including laparoscopy, adhesiolysis and ventral hiatoplasty. A copy of this surgical report is exhibited hereto and marked **"AMD3"**. This report is relied upon as the medical practitioner's report for the purpose of rule 8.10(3) of the Civil Procedure Rules (Revised Edition) 2023.

21. In an earlier letter dated 17 December 2021, Dr Ablassmaier further opined, inter alia, that:

- a. There had been an increasing constriction in the operating area, such that the transition from the esophagus to the stomach had become too narrow;
- b. This narrowing made it increasingly difficult for food to pass from the esophagus to the stomach, causing food to remain in the esophagus for too long and damaging the esophagus;
- c. There was extreme dilatation of the esophagus; and
- d. The urgency of corrective surgery arose because:
 - i. there was extreme stenosis at the entrance to the stomach;
 - ii. there was already significant esophageal dilatation;
 - iii. if left untreated, a “point of no return” would be reached requiring further very difficult surgical interventions; and
 - iv. if surgery were not performed promptly, the mucosa of the esophagus would be impaired and the risk of cancer would be dramatically elevated.

22. A copy of this letter is exhibited hereto and marked **“AMD4”**.

23. Following the corrective surgery performed by Dr Ablassmaier, the Claimant has experienced a gradual but substantial improvement in her condition. Her symptoms have largely resolved, although she continues to experience some burning mouth syndrome, which has now significantly reduced. She has since been able to obtain and maintain full-time employment as a lecturer at the American University of Antigua from 15 August 2022 to date.

24. Before and after her corrective surgery in Germany, the Claimant repeatedly requested from the First Defendant copies of her medical records and file held by the Second Defendant in relation to her treatment and surgery. Despite numerous requests, the First Defendant and/or Second Defendant refused and/or failed to provide the Claimant with copies of her records. Her medical records were never released to her.

25. At all material times the First Defendant owed the Claimant a duty of care in tort and contract to exercise all the skill and care to be expected of a reasonably competent general and laparoscopic surgeon in providing advice, treatment, surgery and post-operative care.
26. At all material times the Second Defendant owed the Claimant a duty to ensure that the medical and surgical services it provided, through the First Defendant and other staff, were delivered with reasonable care and skill.
27. Further, the Defendants owed the Claimant statutory duties pursuant to the Supply of Goods and Services (Implied Terms) Act, Cap 421A, including but not limited to the implied terms under sections 11 and 12 that services supplied would be carried out with reasonable care and skill and within a reasonable time.
28. The First Defendant repeatedly breached his duty of care to the Claimant and the implied terms of his contract with her. The Second Defendant is vicariously liable for those breaches and, in any event, also breached its own duty of care.

PARTICULARS OF NEGLIGENCE AND/OR BREACH OF DUTY

The Claimant will contend that the First Defendant was negligent and in breach of his duties in that he:

- a. Failed adequately to assess and investigate the Claimant's condition before recommending a Nissen fundoplication, including failing to conduct or arrange such further diagnostic tests and assessments as were reasonably required.
- b. Failed to advise the Claimant properly and fully as to:
 - i. the nature and risks of a Nissen fundoplication;
 - ii. alternative conservative or less invasive treatments; and
 - iii. the potential complications associated with an excessively tight fundoplication.
- c. Performed the Nissen fundoplication negligently, so that the gastro-esophageal junction was narrowed excessively, resulting in extreme

stenosis at the entrance to the stomach and dilatation of the esophagus as subsequently identified by Dr Ablassmaier.

- d. Failed to recognise, investigate and treat the Claimant's post-operative symptoms, including severe difficulty swallowing, persistent chest and back pain, weight loss, dizziness and anxiety, within a reasonable time or at all.
 - e. Failed to refer the Claimant promptly to an appropriate specialist surgeon or other appropriate specialist when it was, or ought to have been, apparent that her post-operative course was abnormal and that serious complications of the fundoplication were likely.
 - f. Failed to provide timely and appropriate aftercare, advice, review and follow-up to the Claimant in the period following surgery.
 - g. Failed to provide the Claimant with copies of her medical records when reasonably requested, thereby hindering her ability to obtain timely second opinions and corrective treatment and exacerbating her distress.
 - h. In all the circumstances, failed to exercise the skill and care to be expected of a reasonably competent surgeon in like circumstances.
29. By reason of the matters aforesaid, the First Defendant's performance of the Nissen fundoplication and his subsequent management of the Claimant fell well below the standard of a reasonably competent surgeon, and the Defendants breached their duties of care in negligence, contract and statute.
30. As a result of the Defendants' negligence and breaches of duty, the Claimant:
- a. Developed a tight esophageal junction, extreme esophageal dilatation and associated structural and functional abnormalities, necessitating urgent major corrective surgery in Germany.
 - b. Endured severe and persistent symptoms, including:
 - i. chest and mid-back pain;

- ii. difficulty swallowing and eating;
- iii. severe burning and tightness of the throat;
- iv. abdominal discomfort and bloating;
- v. dizziness, episodes of faintness and profound fatigue;
- vi. anxiety and panic attacks, eating-related anxiety and emotional distress;
- vii. brain “fog”, difficulty concentrating and cognitive impairment.

- c. Suffered significant psychiatric and emotional harm, including panic and anxiety attacks and a sustained anxiety disorder related to her health and eating.
 - d. Was compelled to undergo lengthy and invasive corrective surgery abroad, with attendant pain, suffering and loss of amenity.
 - e. Was unable to maintain stable employment for a considerable period, losing income and career opportunities as particularised in paragraphs 13 and 22 below.
31. The Claimant has also suffered and continues to suffer pain, suffering and loss of amenity, together with residual symptoms including burning mouth syndrome, although these have improved following the corrective surgery.
32. Further, the Claimant has suffered financial loss and expense, including but not limited to:
- a. Travel expenses for herself to and from Germany;
 - b. Hotel and subsistence expenses for approximately two weeks at the Best Western Hotel near the hospital where the corrective surgery was performed;
 - c. Travel and related expenses for her mother, Patricia McDonald, who travelled to Germany to provide post-operative support and care;
 - d. Loss of earnings and benefits arising from her inability to maintain employment at the Ministry of Health, La Bussola Restaurant and Royalton Antigua as particularised above; and
 - e. Other out-of-pocket expenses reasonably incurred as a result of the Defendants’ negligence.

33. Particulars of the Claimant's special damages will be set out in a Schedule of Special Damages (Schedule "A") to be attached to and forming part of this Statement of Claim.
34. On 7 February 2025, the Claimant's then counsel, Mr Damien Benjamin, wrote to the First Defendant setting out the Claimant's post-surgical problems and asserting that the Nissen fundoplication had been performed negligently. The letter also complained of the First Defendant's refusal to provide the Claimant with her medical records despite multiple requests and noted that the First Defendant had suggested that the Claimant should see Dr James King, psychiatrist at Clarevue Psychiatric Hospital. A copy of that letter is exhibited hereto and marked "**AMD5**".
35. Following that letter, there were numerous emails and further correspondence between Mr Benjamin and Ms Kamilah Roberts, Attorney-at-Law, over several months in an attempt to resolve the matter. No satisfactory settlement was reached and the Defendants have failed to admit liability or compensate the Claimant. The Claimant is therefore constrained to bring these proceedings.
36. At all material times, in addition to duties in negligence, the Defendants supplied medical and surgical services to the Claimant pursuant to a contract and within the meaning of the Supply of Goods and Services (Implied Terms) Act, Cap 421A.
37. By virtue of that Act, and in particular sections 11 and 12, the Defendants were bound by implied terms that:
- a. The services provided would be carried out with reasonable care and skill; and
 - b. The services would be performed within a reasonable time.
38. By reason of the matters set out above, the Defendants breached those implied terms, causing the Claimant to suffer the losses and damage herein claimed.

AND THE CLAIMANT CLAIMS:

- a) Damages, including general damages for pain, suffering and loss of amenity and aggravated and/or exemplary damages for the distress and inconvenience occasioned by the Defendants' conduct, including the refusal to release her medical records;
- b) Damages for breach of statutory implied terms under the Supply of Goods and Services (Implied Terms) Act, Cap 421A, including sections 11 and 12;
- c) Damages for breach of the implied terms of the contract between the Claimant and the Defendants to exercise reasonable care and skill in providing medical and surgical treatment and aftercare;
- d) Damages in the tort of negligence;
- e) Special damages, particularised in Schedule "A" – Special Damages;
- f) Interest pursuant to the Eastern Caribbean Supreme Court (Antigua and Barbuda) Act and/or the Civil Procedure Rules 2023 at such rate and for such period as the Court thinks fit, including pre-judgment interest from a date to be determined (including but not limited to the date of the Nissen fundoplication and/or the date of the corrective surgery) to the date of judgment;
- g) Costs, to be assessed if not agreed; and
- h) Such further or other relief as this Honourable Court deems just.

Dated 25 November 2025

A handwritten signature in black ink, appearing to read 'W. Alexander', with a long horizontal flourish extending to the right.

**Wendel G. Alexander Esq.
Attorney-at-Law
W.G. Alexander & Associates**

CERTIFICATE OF TRUTH

I, **ANANTHSA MCDONALD**, herein certify that I believe that the facts stated in this Claim Form & Statement of Claim are true and correct.

Dated *25th* November 2025

A handwritten signature in black ink, appearing to read 'A. McDonald', written over a horizontal line.

The Court Office is at Parliament Drive, Saint John's, Antigua, W.I., telephone number 268-462-3929, fax number 268-462-3929. The Office is open between 8:30 a.m. and 4:30 p.m., Monday to Friday except public holidays.

Filed by Wendel G. Alexander Esq. Attorney-at-Law, 113 Utopia Park Airport Road, St. John's, Antigua, Telephone no. 12685615963, 12687739953. Email: wendel.robinson@runbox.com. Wendelalexander4@gmail.com. Attorney for the above-named Claimant(s) whose address for service is the same.

Schedule “A” (Special Damages)

SCHEDULE “A” – SPECIAL DAMAGES (to Statement of Claim of ANANTHSA McDONALD)

Unless otherwise stated, all sums are claimed as having been reasonably incurred as a direct consequence of the Defendants’ negligence and breaches of duty.

A. Medical expenses in Antigua

Item	Date / Period	Particulars	Amount
A1	12 April 2021	Payment to Belmont Clinic for imaging tests, including X-ray contrast study of the upper gastrointestinal tract and X-ray contrast study of the oesophagus on referral by Dr Sabbiah Radhakrishnan	EC\$1,000.00
A2	15 July 2020	Payment to Second Defendant (Medical Surgical Associates) for “medical services” in connection with Nissen fundoplication (receipt showing EC\$1,000.00 paid and balance then shown as EC\$15,400.00)	EC\$1,000.00
A3	5 November 2020	Further payment to Second Defendant (Medical Surgical Associates) for “medical services” (receipt showing EC\$1,000.00 paid and balance then shown as EC\$16,750.00)	EC\$1,000.00

Subtotal (A) – Medical expenses in Antigua (known payments):
EC\$3,000.00

Further surgery-related payments (to be particularised) and the Claimant reserves the right to amend this Schedule accordingly.

B. Travel and accommodation expenses – Germany (corrective surgery)

Item	Date / Period	Particulars	Amount
B1	9 January 2022 – 14 January 2022	Hotel accommodation at Best Western near the hospital in Munich, Germany, for the Claimant in connection with corrective surgery	€485.00

B2	16 January 2022 – 22 January 2022	Hotel accommodation at Best Western near the hospital in Munich, Germany, for the Claimant in connection with post-operative recovery and follow-up	€582.00
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Subtotal (B) – Hotel accommodation (Germany): €1,067.00

Item	Date / Period	Particulars	Amount
B3	January 2022	Return air travel for the Claimant and her mother, Patricia McDonald , to Munich, Germany and back, paid on a family member's card	US\$2,763.24
B4	January 2022	Flight insurance for Patricia McDonald in connection with the above travel	Amount to be particularised

Subtotal (B3) – Air travel (known): US\$2,763.24

Subtotal (B4) – Flight insurance: to be particularised

C. Past loss of earnings (June 2020 – 15 August 2022)

C1. As pleaded in the Statement of Claim, the Claimant's ability to maintain regular employment was significantly disrupted following the Nissen fundoplication in June 2020. She obtained and then was compelled to leave employment at:

- the **Ministry of Health** (Public Relations Officer), after approximately six months;
- **La Bussola Restaurant** (Host), after approximately three months; and
- **Royalton Antigua** (Administrative Assistant in the Housekeeping Department), after approximately one month,

due to the post-operative symptoms and complications particularised in the Statement of Claim.

C2. But for the Defendants' negligence, the Claimant would, on the balance of probabilities, have been able to maintain **continuous full-time employment** in roles commensurate with her qualifications and experience throughout the period from approximately **June 2020 to 15 August 2022**, without the enforced job losses and gaps in employment caused by her symptoms.

C3. The Claimant will accordingly claim past loss of earnings for the period from approximately June 2020 to 15 August 2022, being the difference between:

- a. the net earnings which she would have received over that period in continuous employment but for the injury; and
- b. the net earnings which she in fact received over that period in the disrupted pattern of employment described above.

C4. The precise figures for the Claimant's actual earnings at the Ministry of Health, La Bussola Restaurant and Royalton Antigua, together with her likely uninjured earnings over the same period, are not fully known at the date of filing. The Claimant will obtain and rely on employment and payroll records (including payslips, contracts and letters from the relevant employers) and will particularise this head of loss more fully and update this Schedule.

D. Other out-of-pocket expenses

D1. The Claimant also claims such further reasonable out-of-pocket expenses as may be properly evidenced and quantified (including additional medication, transport to and from medical appointments and related incidental expenses). Particulars will be supplied and this Schedule will be amended as necessary following disclosure and receipt of further documentation.

E. Summary of known special damages (as presently quantified)

- **Medical expenses in Antigua (known payments):** EC\$3,000.00
- **Hotel accommodation in Germany:** €1,067.00
- **Return air travel (Claimant and mother):** US\$2,763.24
- **Past loss of earnings (June 2020 – 15 August 2022)** – to be particularised

Further special damages are claimed under items A4, B4, C1 and D1 above, the precise amounts of which will be particularised and/or amended following disclosure and further information.

The Claimant reserves the right to amend and/or augment this Schedule of Special Damages pursuant to Part 20 of the Civil Procedure Rules 2023 as further information and documents become available.

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**

CLAIM NO. ANUHCV2025/

BETWEEN:

ANANTHSA MCDONALD

Claimant

AND

DR JOSEPH “JOEY” JOHN

First Defendant

MEDICAL SURGICAL ASSOCIATES

Second Defendant

EXHIBITS

These are the Exhibits marked **“AMD1”**, to **“AMD5”** referred to in the
Statement of Claim of **ANANTHSA MCDONALD**.

La Bussola

Restaurant Pizzeria Bar



Dutchman's Bay, St. John's, Antigua
Phone 268 462 8411
Cell 268 785 5416
Labussolaantigua@hotmail.com

Antigua, November 22nd, 2021

To: Ann McDonald

Dear Miss McDonald,

We regret to inform you that the company has decided not to continue this probation period of time working in our establishment.

We have noticed multiple and constant issues prolonging during this time that are just not in accordance with our working protocols.

We wish the best for your future endeavours

Yours truly,

Cristian & Omar Tagliaventi

Owner/Manager



MEDICAL SPECIALIST CLINIC

Upper Nevis Street
St. John's, Antigua
Tel: (268) 562-8270 / 720-9969

AMD2

December 23, 2021

Re: Ananthsa McDonald-DOB-06-07-81

To whom it may concern

Ms. McDonald was seen by me with S[P Nissen Fundoplication with minimal symptoms of a Hiatal Hernia and surgery was suggested.

She is now with multiple symptomatic complaints which suggest tight esophageal Junction, images also show the tightness and her severe symptoms suggest recurrent laryngeal nerve injury. She has difficulty eating, severe back pain and abdominal discomfort, which are symptoms of a tight Esophageal Junction.

She needs Release of Plication of Esophageal Junction Dilation to help her with these symptoms.

If you require any further information regarding this patient, please contact me at 268-562-8270 or dwaynethwaites@hotmail.com.

Sincerely,

Dwayne Thwaites MD, FACS, OM
Diplomat of the American Board of Urology

Privatdozent Dr. med. Claus Bernd Ablassmaier
 Minimal invasive sanfte Chirurgie
 Chefarzt Refluxzentrum
 Chirurg
 Visceral-, Thorax-, Gefäßchirurg

Fon: +49 17 23 26 50 32
 Fax: +49 89 72 48 14 06
 e-mail: info@ablassmaier.de
 web: www.ablassmaier.de
www.sodbrennen-zwerchfellbruch.de

Praxis:
 Theatinerstr. 36
 D-80333 München

ARABELLA KLINIK
 Arabellastr. 5
 D-81925 München

Büro: Ablassmaier, Wolfratshauser Str. 44 a, D-82049 Pullach

14.01.2022

Surgical report

Name: Mc Donald Ananthsa
 Date of birth: 06.07.1981
 Date of OP: 14.02.2022

Diagnosis: Hiatal hernia, recidiv, GERD, stenosis at the cardia after Nissen fundoplication
 Therapy: laparoscopy
 adhesiolysis
 ventral hiatoplasty,

Surgeon: Bernd Ablassmaier

In the left central abdomen, the capnoperitoneum is positioned with a Verress cannula, click, injection, Aspiration, slurp and manometer test, insufflation of CO2 gas up to a pressure of 12 mmHg. Insertion of the 10 mm trocar with sleeve. Introducing the optical system with video camera.
 Insertion of 4 more trocars.
 Insertion of the liver retractor through a 5 mm sleeve in the right upper abdomen.

There are adhesions between the left lobe of the liver and the stomach. These will be resolved.

After adhesiolysis there is a hiatal hernia through which the stomach can shift mediastinally.
 The 360° cuff lies tightly around the esophagus and leads to a constriction and is therefore probably responsible for the pronounced dysphagia.

The 360° gastric cuff is completely loosened. The portion of the fundus to the right of the esophagus from dorsal to ventral is thinned by the dissection in the wall area and is sutured over with a Vicryl suture and thus at the same time turned inside and shifted dorsal to the esophagus from right to left back into the left upper abdomen.

The gastric fundus is now back as it was originally in the left upper abdomen.
 The originally left part of the cuff is still close to the left side of the esophagus and thus, as with the original BICORN procedure, leads to an accentuation of the His angle. 2 additional sutures are placed for the His angle reconstruction.

Dorsal and ventral hiatoplasty with Ethibond (Z-stitch) is performed to close the hiatus.
 Removal of all instruments and trocar sleeves under direct vision.

Extensive local anesthesia on the 5 incisions. Subcutaneous stitches with monocryl. Skin gluing with Dermabond.

Bernd Ablassmaier



Bernd Ablasmaier

Chefarzt Refluxzentrum
 Visceral-, Thorax-, Gefäßchirurg
 Arabella – Herzogpark – Klinik
 Minimal invasive Chirurgie

Mobil: +49 17 23 26 50 32
 Fax: +49 89 72 48 14 06
 e-mail: info@ablassmaier.de
 web: www.ablassmaier.de
www.sodbrennen-zwerchfellbruch.de

Praxis:

Theatinerstr. 36
 D-80333 München

ARABELLA KLINIK

Arabellastr. 5
 D-81925 München

Ablasmaier, Büro: Wolfstratshauser Str. 44 a, D-82049 Pullach

December 17, 2021 CBA

To whom It may concern

Case:

Mrs. Ananthsa McDonald,
 born July 06, 1981,
 Scott Hill, St. John's Antigua

Two questions need to be answered here:

- 1.: why does Mrs. Ananthsa McDonald urgently need a surgical intervention?
- 2nd: why should this intervention be done in Munich?

To 1:

In august 2020, Mrs. McDonald was surgically treated for extreme gastroesophageal reflux disease (silent reflux) using an antireflux procedure with a wrap of 360 ° in the Nissen technique.

Unfortunately there has been an increasing constriction in the operating area, i.e. the transition from the esophagus to the stomach narrowed too much.

This makes it increasingly difficult for food to pass from the esophagus to the stomach. The food stays in the esophagus too long and damages it.

This is clearly demonstrated by radiologic examination, the so-called barium swallow. This examination shows also an extreme dilatation of the esophagus.

The stasis of food in the esophagus leads to an increase in pressure in the esophagus, so the esophagus dilates.

At a certain point of the esophageal widening there will be a point of no return: then this esophageal widening is irreversible. This then leads to further complications that have not yet occurred.

The urgency of the operation is therefore due to the following reasons:

First:

extreme stenosis at the entrance to the stomach

Secondly:
dilatation of the esophagus that has already occurred

Third:
When this extreme dilatation of the esophagus is not treated rapidly: there will be a point of no return: this would necessitate further very difficult surgical interventions.

Forth:
If surgery is not done rapidly: the mucosa of the esophagus is impaired and risk of cancer is dramatically elevated.

The here described laparoscopic revision is planned:
Adhesiolysis + removal the 360° cuff + new hiatoplasty and gastropexy: I call it the BICORN procedure.

To 2.:

Now to the second question, why I recommend having the operation carried out by me here in Munich:

I, Bernd Ablasmaier, have more than 40 years of experience in laparoscopic surgery. Since 1993 I have been performing exactly this procedure, which is now necessary. Around 4000 such operations so far.

There are few specialists in the world who have similar experience in this field. (noticed in passing, there are few surgeons who have completed the following triple specialization I have completed: visceral surgery, thoracic surgery, and vascular surgery.)

In the mid-nineties I developed the technique of laparoscopic gastric surgery at the Berlin university Clinic: the Charité.

I managed the following project of the German BMFT, "Federal Ministry for Research and Technology" with an international program with studies in Germany, the Netherlands, Poland, Hungary and Austria, and at that time I carried out as results of these studies for the first time worldwide at the Berlin Charité "the complete stomach removal by laparoscopy for stomach cancer".


I have specialized in laparoscopic surgery of the gastric entrance and currently perform around 350 operations of exactly this kind annually: i.e. laparoscopic operations at the gastric entrance, as is now required by Mrs. Ananthsa McDonald.

Overall, I have experience of about 4000 laparoscopic interventions at the gastric entrance with an extremely low rate of complications.

Actually it is a simple procedure, on the other hand, like concerning Mrs. Ananthsa McDonald, it can lead to serious complications.

The first intervention is usually relatively easy to carry out.
Revision interventions, as required for Mrs. Ananthsa McDonald, are significantly more complicated and time-consuming and require many years of expertise in order to avoid further serious complications.

I have the opportunity to perform the operation on Mrs. Ananthsa McDonald on Friday,
January 14th here in Munich.



Bernd Ablasmaier

Specialization:

Board certified specialist in surgery
Board certified specialist in visceral surgery
Board certified specialist in thoracic surgery
Board certified specialist in vascular surgery

Academic degrees:

Dr. med.
Private (PhD): lecturer for surgery
Professor of Surgery



P.O.Box W411
Sonia King Building
St. Mary's Street
St. John's
Antigua

7th February 2025

Dr. Joseph A John
Medical Surgical Associates
Lauchland Benjamin Drive
St. John's
Antigua

RE: Medical treatment of Ms. Ananthsa Mc Donald

Dear Sir,

I act for and on the behalf of Ms. Ananthsa McDonald of Powells in the Parish of Saint John in the State of Antigua and Barbuda.

I have been informed and do verily believe that you did a surgery for my client for a hiatal hernia. My client informed me that you carried out your examinations and your diagnosis was she had a hiatal hernia. Consequently requiring an operation called the Nissen Fundoplication to correct the symptoms of the hiatal hernia.

I am informed by my client that instead of correcting the problem caused by the hiatal hernia, you caused the symptoms to be much worse. I am informed and do believe that my client has contacted you on numerous occasions complaining of the issues and increases of symptoms she was experiencing after the surgery to no avail, after being told she would recovery in 6 weeks.

My client explained that she suffered from fatigue, pain, numbness of limbs, anxiety attacks, brain fog, vision issues, esophageal tightness, pain in the left side rib and back, breathing issues, mobility issues, stomach bloating, anxiety related to eating and a number of chronic issues as a result of the surgery you performed. I am informed by my client that after the surgery she has made numerous requests to you for her medical records which you have refused to provide to her. She also spoke about symptoms of depression as a result. You then suggested to her to see Dr King a psychologist.

One of the symptoms she still has lingering is burning mouth syndrome, which after research on a support group is triggered by the surgery you performed – the Nissan Fundoplication.

Further, I am told that my client went to few Doctors on the island of Antigua and Barbuda to seek medical attention but was refused to be addressed due to the serious nature and extent of

symptom she was experiencing as a result of the surgery and refused to correct the procedure carried out by you.

I am informed that Dr. Thwaites had to write a letter of referral for my client to see Dr. Med. Berndhard Ablassmaier in Germany to perform a reversal surgery to correct the issues which my client was experiencing as a result of your surgery.

This position is not tenable and will not be allowed to continue. In the circumstances, my client is requesting the following:-

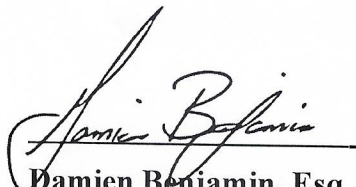
1. All medical documents, Ultrasounds etc. pertaining to your treatment of Ms. Ananthsa McDonald.
2. The sum of One Hundred and Twenty Thousand Eastern Caribbean Dollars (\$120,000.00 XCD) for monies paid to you and other doctors as a result of the surgery conducted by you and subsequent operation to correct the procedure.
3. The sum of Three Hundred and Ten Thousand Eastern Caribbean Dollars (\$310,000.00 XCD) in damages for loss of income, opportunity and general damages incurred during the period of 2020 to 2022 as a result of the surgery conducted, including loss of 3 jobs due to symptoms.

In the circumstances, I am requesting that you contact our chambers within seven (7) days of the date of this letter herein to provide the medical records and to discuss settlement of your indebtedness to my client.

Should you fail to contact our chambers with stipulated seven (7)7 days, I will have no choice but to institute legal proceedings against you without notice.

Please be guided accordingly.

Regards


Damien Benjamin, Esq
Barrister/Attorney

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**

CLAIM NO. ANUHCV2025/

BETWEEN:

ANANTHSA MCDONALD

Claimant

AND

DR JOSEPH “JOEY” JOHN

First Defendant

MEDICAL SURGICAL ASSOCIATES

Second Defendant

CLAIM FORM & STATEMENT OF CLAIM

Wendel Alexander
W. G. Alexander & Associates
#113 Utopia Park
Sir George Walter Highway4

Form 5: Defence and Counterclaim

[Rule 10.2 (1)]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**

CLAIM NO. ANUHCV2025/

BETWEEN:

ANANTHSA MCDONALD

Claimant

AND

DR JOSEPH “JOEY” JOHN

First Defendant

MEDICAL SURGICAL ASSOCIATES

Second Defendant

Defence

I dispute the claim on the following grounds —

I certify that all the facts set out in my defence are true to the best of my knowledge information and belief.

My address for service is

Telephone no.

Dated

Signed

[Defendant in person]

We are acting for the defendant; our address for service is:

Signed (Legal practitioner for the defendant)

The court office is at Parliament Drive, St. John's Antigua. The telephone number is 468-2000. The office is open between [8:30 a.m.] and [4:30 p.m.] Mondays to Thursdays and [8:30 a.m.] and [3:00 p.m.] on Fridays except public holidays.

Counterclaim

I claim against the claimant on the following grounds —
(set out details of the remedy or relief sought)

I certify that all the facts set out in my counterclaim are true to the best of my knowledge information and belief and that I am entitled to the remedy claimed

Dated

Signed

[Defendant in person]

We are acting for the defendant; our address for service is:

Signed

(Legal practitioner for the defendant)

Notes:

(a) The defendant may set out the defendant's defence in another manner — it is not necessary to use this form.

(b) the defendant must:

- state which allegations in the claim are admitted

- which are denied

- which are neither admitted or denied because the defendant does not know whether they are true.

- identify any documents considered necessary to the defendant's case.

(c) The defendant must give reasons for denying any allegations made by the claimant.

(d) The defendant must set out clearly all the facts on which the defendant relies to dispute the claim and must set out any different version of events on which the defendant relies.

(e) The defendant may not be allowed to give evidence about any fact which is not set out in the defence.

(f) If the defendant wishes to counterclaim the defendant must

- specify any remedy that the defendant seeks against the claimant

- include a short statement of all facts on which the defendant relies

- identify any documents which the defendant considers necessary to the defendant's case.

(g) If the defendant is represented by a legal practitioner, the defendant must also sign the form and give the defendant's address for service. the defendant considers necessary to the defendant's case.

[Rule 9.2(1)]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**

CLAIM NO. ANUHCV2025/

BETWEEN:

ANANTHSA MCDONALD

Claimant

AND

DR JOSEPH “JOEY” JOHN

First Defendant

MEDICAL SURGICAL ASSOCIATES

Second Defendant

ACKNOWLEDGEMENT OF SERVICE

WARNING: If this form is not fully completed and returned to the court at the address below within 14/28 days of service of the claim form on you, the claimant will be entitled to apply to have judgment entered against you. If the claimant does so, you will have no right to be heard by the court except as to costs or the method of paying any judgment unless you apply to set judgment aside.

- | | |
|---|-------------|
| 1. Have you received the claim form with the above claim number? | YES/NO |
| 2. If so, when? | ___/___/___ |
| 3. Did you also receive the claimant’s Statement of Claim? | YES/NO |
| 4. If so, when? | ___/___/___ |
| 5. Did you also receive an authorisation code generated by the Electronic Litigation Portal in the prescribed form? | YES/NO |
| 6. If so, on what date did you receive it? | ___/___/___ |
| 7. Are your names properly stated on the claim form? | YES/NO |
| 8. If not, what are your full names? | |
| 9. Do you intend to defend the claim? | YES/NO |

The court office is at Parliament Drive, St. John's Antigua. The telephone number is 468-2000. The office is open between [8:30 a.m.] and [4:30 p.m.] Mondays to Thursdays and [8:30 a.m.] and [3:00 p.m.] on Fridays except public holidays.

Form 3: Application to Pay by Instalments

[Rule 8.15(1)]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**

CLAIM NO. ANUHCV2025/

BETWEEN:

ANANTHSA MCDONALD

Respondent/Claimant

AND

DR JOSEPH “JOEY” JOHN

First Applicant/Defendant

MEDICAL SURGICAL ASSOCIATES

Second Applicant/Defendant

The Applicant, (full names), of (full address)
owes the claimant the amount of \$ claimed on the claim form and
cannot pay the amount in one lump sum.

The Applicant applies to the court for an order to pay the amount due by instalments
of \$ per week/month and provides the following information:

1. Marital status: ☐ Married ☐ Single ☐ Other *(specify)*
2. Age:
3. Dependants: Children: *(state names and ages)*
4. Other Dependants *(state names and give details)*
5. If employed state nature of employment and name and address of employer:
6. If self-employed, give particulars of annual receipts of the business:
7. Give details of any job other than main job:
8. Give details of -
 - (a) contracts and other work in hand and
 - (b) any sums due for work done

9. If unemployed, say how long unemployed

10. Pensioner: Yes/No

11. List cash assets

12. I live in my own property jointly owned property rented property lodgings other
(specify)

(a) My usual take home pay is \$

(b) My pension is \$

(c) Other income \$

Total Income \$

13. My regular expenses are as follows:

(a) Mortgage \$

(b) Rent \$

(c) Electricity \$

(d) Water \$

(e) Cooking gas \$

(f) Telephone \$

(g) Hire Purchase repayments \$

(h) Food \$

(i) School fees \$

(j) Travelling expenses \$

(k) Children's clothing \$

(i) Maintenance payments \$

(m) Others (do not include court orders and debts listed in 14, 15 and 16) \$

..... \$

..... \$

..... \$

..... \$

Total expenses \$

14. I am in arrears as follows:

(a) Rent arrears \$

(b) Mortgage arrears \$

(c) Water arrears \$

(d) Electricity arrears	\$
(e) Telephone arrears	\$
(f) Maintenance arrears	\$
(g) Others	\$
.....	\$
.....	\$
.....	\$
Total arrears	\$

15. I am making court ordered payments as follows: (specify particulars of case(s) and instalments or amounts ordered to be paid)

\$

16. I have loans and credit card debts as follows:

..... \$

..... \$

Of the above payments, I am behind with payments to (please list)

..... \$

..... \$

..... \$

..... \$

I declare that the details I have given above are true to the best of my knowledge.

Dated

Signed

Applicant

NOTICE:

This application will be heard by [the Judge in Chambers/Master xxxxx] on the

day of ..., 20...at a.m./p.m. at [xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

NB This notice of application must be served as quickly as possible on the respondent to the application.

The court office is at Parliament Drive, St. John's Antigua. The telephone number is 468-2000. The office is open between [8:30 a.m.] and [4:30 p.m.] Mondays to Thursdays and [8:30 a.m.] and [3:00 p.m.] on Fridays except public holidays.

Form 1A: Notes for Defendant

[Rule 8.15 (1)]

Notes for Defendant

This form is important.

When you get this document, you should consider getting legal advice.

You should have also received together with the claim an authorisation code generated by the Electronic Litigation Portal. This authorisation code is important. If you are represented by a legal practitioner, it allows your legal practitioner to access the Electronic Litigation Portal and file and serve court documents electronically on your behalf. Upon receipt of the authorisation code in the prescribed form, it is advised that you provide your legal practitioner with it as soon as possible. For further information on the use of the Electronic Litigation Portal, you may wish to review Part 5A of these Rules.

If you choose not to be represented by a legal practitioner, you must consult the service bureau at the relevant court office to obtain assistance with filing and serving your court documents electronically via the Electronic Litigation Portal.

Action to be Taken on Receipt of the Form

The claimant is making a claim against you in the court. If you do nothing judgment may be entered against you. That means that the claimant will be entitled to take steps to enforce payment from you of any money the claimant is claiming and you will have no right to be heard except as to the amount of any costs claimed or as to the way in which you can pay the judgment, unless you apply to set judgment aside.

WHAT YOU CAN DO

You can -

A. Defend the claim:

If you would like to do this you must:

— Complete the form of acknowledgment of service and return it to the court office so that they receive it within 14/21 days of the date on which you received this form.

- AND, if a statement of claim was served on you with the claim form:
 - Complete the form of defence or submit some other form of defence showing why you dispute the claim giving full details of all the facts on which you intend to rely if there is a trial;
 - Deliver or send the form of defence to the court office so that they receive it within 28/42 days of the date on which you received this form;
 - Serve a copy of the form of defence on the claimant's legal practitioner (or the claimant if the claimant has no legal practitioner) at the address given on the claim form;
- If no statement of claim is served with the claim form you need not file and serve a defence until 28/42 days after the statement of claim is served on you;
- After you have filed your defence you will be given details of the date, time and place of a case management conference at which a judge will decide what issues have to be determined by the court and give directions about what needs to be done before the case is tried.
- You must attend the case management conference.

B. Admit the whole of the claim:

If you would like to do this you must:

- Complete the form of acknowledgment of service stating that you admit the claim and return it to the court office so that they receive it within 14/21 days of the date on which you received this form.
- If you can pay the amount stated on the claim form including fees, costs and interest you should pay this to the claimant within 8/21 days and no further steps can be taken against you. You must add interest at the daily rate shown from the date stated on the claim form.
- If you cannot pay this sum in full you may apply to the court to pay by instalments. If you wish to do so you must complete the Application to Pay by Instalments form and return it to the court with your acknowledgment of service.

C. Admit part of the claim and defend the rest:

If you would like to do this you must:

— Complete the form of acknowledgment of service stating how much you admit and return it to the court office so that they receive it within 14/21 days of the date on which you received this form;

AND complete the form of defence as under section A above.

— You may also:

- pay the amount that you admit direct to the claimant; OR
- apply to pay that sum by instalments.

If so you should follow the procedure indicated under B.

D. Make a claim against the claimant:

If you would like to do this you must:

— Complete the form of acknowledgment of service and return it to the court office so that they receive it within 14/21 days of the date on which you received this form.

— Complete the form of defence giving details of your defence (if any) to the claim as under A above and also the claim that you are making against the claimant and return it to the court office so that they receive it within 28/42 days of the date on which you received this form.

— If you admit the claim but wish to counterclaim you should say so. If your counterclaim is for a lower sum than the claim you may pay the difference between the amount that the claimant claims from you and the amount that you claim from him direct to the claimant OR apply (using the procedure indicated under B) to pay that sum by instalments. You will be given details of the date, time and place of a case management conference at which a judge will decide what issues have to be determined by the court and give directions about what needs to be done before the case is tried.

REMEMBER THAT IF YOU DO NOTHING, JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT ANY FURTHER WARNING.