

IN THE CIRCUIT COURT OF MERCER COUNTY, WEST VIRGINIA

EDNA REED,

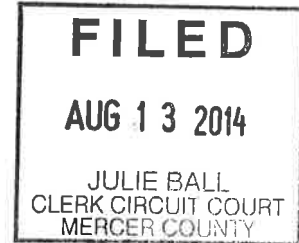
Plaintiff,

v.

Civil Action No. 14-C- 472-DS

**WALID H. AZZO, M.D. and
AZZO ORTHOPEDICS, PLLC**

Defendants.



COMPLAINT

NOW COMES Plaintiff Edna Reed, by counsel R. Dean Hartley, Mark R. Staun and Hartley & O'Brien, PLLC and Kathryn R. Bayless and the Bayless Law Firm, PLLC and for her Complaint against defendants Walid H. Azzo, M.D. and Azzo Orthopedics, PLLC states as follows:

PARTIES AND JURISDICTION

1. Plaintiff Edna Reed, was at all times relevant to the events underlying this Complaint, a citizen and resident of Mercer County, West Virginia.
2. Defendant Walid H. Azzo, M.D. (hereinafter sometimes referred to as "Dr. Azzo"), is a medical doctor specializing in the field of orthopedic surgery whose primary work location is 512 Cherry Street, Bluefield, Mercer County, West Virginia 24701.
3. Defendant Azzo Orthopedics, PLLC is a West Virginia Professional Limited Liability Company with the Organizer, Member and Agent of Service of Process being Walid H. Azzo, M.D.
4. Azzo Orthopedics, PLLC is the employer Walid H. Azzo, M.D.
5. Edna Reed received treatment from Dr. Azzo in Mercer County, West Virginia which treatment forms the basis of plaintiff's complaint.

6. Jurisdiction and venue are proper in the Circuit Court of Mercer County, West Virginia as Dr. Azzo and Azzo Orthopedics, PLLC conduct business in Mercer County, West Virginia and the acts and/or failures to act giving rise to the action occurred in Mercer County, West Virginia.

OPERATIVE FACTS

7. On January 27, 2013, Edna Reed sustained a slip and fall incident at home on the ice and injured her right ankle.

8. Edna Reed was transported to the Bluefield Regional Medical Center Emergency Department and was diagnosed as having suffered a right ankle trimalleolar fracture.

9. Edna Reed was treated at the Bluefield Regional Medical Center Emergency Department by the emergency room staff. Defendant Dr. Azzo was called for an orthopedic consultation.

10. Edna Reed was a very high risk patient having a long-standing history of peripheral vascular disease and cardiac disease which would put her at a high risk for wound healing as well as fracture healing.

11. Edna Reed also had a diabetic neuropathy which would give her less sensation of pain.

12. Dr. Azzo was aware of Edna Reed's complex medical history when he accepted her as a patient.

13. On January 27, 2013, Dr. Azzo performed a closed reduction of the fracture and placed Edna Reed in a long leg splint.

14. On January 28, 2013, Dr. Azzo performed an open reduction, internal fixation of Edna Reed's right ankle trimalleolar fracture.

15. Edna Reed was discharged from Bluefield Regional Medical Center by Dr. Azzo on January 29, 2013.

16. Dr. Azzo notes in the discharge summary that Edna Reed was permitted to be weight bearing as tolerated with a Samson boot.

17. On February 13, 2013, Edna Reed presented to Dr. Azzo's office for her first post-operative visit.

18. Edna Reed presented to Dr. Azzo's office again on February 22, 2013 wherein he notes that Edna Reed was complaining of problems with the lateral side of the surgical wound. Dr. Azzo's pertinent findings included pain, point tenderness, redness around the incision site and swelling. In addition, Dr. Azzo notes a partial wound dehiscence with drainage.

19. No lab studies were performed on February 22, 2013 nor were any wound cultures taken.

20. There were no x-rays performed on February 22, 2013.

21. On March 1, 2013, Edna Reed was readmitted to the Bluefield Regional Medical Center with a diagnosis of wound dehiscence and exposed hardware. Dr. Azzo performed an irrigation and debridement of right ankle wound dehiscence, hardware removal of the plate and packing of the open wound.

22. No x-rays were taken during this admission and there is no documentation of any antibiotics being administered nor was an infectious disease consult ordered on or about March 1, 2013.

23. On March 4, 2013, Dr. Azzo performed a planned incision and drainage and secondary wound closure with a silicon artificial skin device. Dr. Azzo's pre-operative and post-operative diagnosis was "Right open ankle wound, infected hardware".

24. The wound was treated post-surgery with multiple dressing changes and no consultations were obtained by infectious disease, wound care, or plastic surgery nor were any x-rays taken pre or post-operatively.

25. After the March 4, 2013 surgery, Edna Reed's wound was not managed with a wound VAC.

26. Edna Reed returned to Dr. Azzo's office on March 8, 2013. No x-rays were taken or ordered during this visit.

27. Dr. Azzo determined on March 8, 2013 that debridement with a split-thickness skin graft was necessary.

28. On March 25, 2013, Dr. Azzo performed a debridement and split-thickness skin graft, his fifth surgical procedure on Edna Reed. No x-rays were taken or ordered during this admission.

29. Edna Reed returned to Dr. Azzo's office on April 10, 2013. Dr. Azzo stated in his notes that Edna Reed's wound was clean and dry with no drainage and she was allowed full activity with no restrictions. No x-rays were taken or ordered during this visit.

30. On May 8, 2013, Edna Reed returned to Dr. Azzo's office for her final visit. Dr. Azzo notes that Edna Reed was feeling better with resolved pain, point tenderness, redness around the incision site and swelling.

31. On May 8, 2013 Dr. Azzo notes the clinical diagnosis of a calcaneal varus deformity but orders no x-rays. Edna Reed was told to weight bear to tolerance. No x-rays were taken or ordered during this visit.

32. Despite the comments in Dr. Azzo's notes as to her improved status, Edna Reed continued to have difficulties with her ankle. Edna Reed was seen by Northwest Orthopedic and Sports Medicine at the request of a family member on May 29, 2013.

33. X-rays were performed by Northwest Orthopedic and Sports Medicine. These were the first x-rays ordered and performed since the initial injury on January 27, 2013.

34. The x-rays demonstrated, *inter alia*, a varus deformity and malunion of the trimalleolar fracture that Dr. Azzo operated on. The lateral view of the x-ray demonstrated asymmetry of the talus vs. the distal tibia. The x-ray also showed that the posterior malleolar fragment was not healed.

35. The physicians at Northwest Orthopedics and Sports Medicine discussed with Edna Reed and her daughter that she would require a revision surgical procedure which would be either a tibiotalar or tibial calcaneal arthrodesis.

36. On June 25, 2013, Edna Reed underwent right ankle hardware removal and a biopsy of the distal tibia and fibula with cultures by Brain McCall, M.D. Dr. McCall states in his operative report:

The patient is a 70-year-old, diabetic, with neuropathic ankle, sustained an ankle fracture, treated in West Virginia, subsequently had infection with removal of her lateral hardware. This was treated without antibiotics, but with the skin left open for three weeks and then subsequently skin grafted. She has a dislocated ankle and physical findings and lab findings consistent with osteomyelitis. She will require reconstruction and fusion of her hindfoot, but we discussed biopsying and treating her osteomyelitis prior to moving forward with surgical intervention.

37. Edna Reed had an infectious disease consultation and was treated with intravenous antibiotics for osteomyelitis prior to further surgical intervention.

38. At the conclusion of her course of intravenous antibiotics, Brain McCall, M.D. performed a right ankle and subtalar arthrodesis with tibiototalcalcaneal rod fibular osteotomy on August 27, 2013. Dr. McCall's pre-operative and post-operative diagnosis was "Malunion posttraumatic arthritis right ankle with neuropathy".

COUNT I
NEGLIGENCE AND GROSS NEGLIGENCE OF WALID H. AZZO, M.D.

39. Plaintiff incorporates all allegations above the same as if fully restated and alleged and Plaintiff further complains and says as follows:

40. The standard of care required Defendant Walid H. Azzo, M.D. to properly assess Edna Reed's high risk medical history and medical condition during the course of his five (5) surgical procedures and follow-up.

41. The standard of care required Defendant Walid H. Azzo, M.D. to keep Edna Reed non-weight bearing for at least one (1) month after his January 28, 2013 surgery.

42. The standard of care required Defendant Walid H. Azzo, M.D. to perform or cause to be performed post-operative x-rays in the time period after the January 28, 2013 open reduction and internal fixation procedure to monitor the healing of her fracture.

43. The standard of care required Defendant Walid H. Azzo, M.D. to document culture results and order consultations for infectious disease, wound care and plastic surgery.

44. Defendant Walid H. Azzo, M.D. breached the standard of care by not properly assessing Edna Reed's high risk medical history and medical condition during the course of his five (5) surgical procedures and follow-up.

45. Defendant Walid H. Azzo, M.D. breached the standard of care by permitting Edna Reed to bear weight to tolerance prior to objective evidence of healing of her ankle fracture given that she was a high risk patient.

46. Defendant Walid H. Azzo, M.D. breached the standard of care by failing to perform or cause to be performed post-operative x-rays in the time period after the January 28, 2013 open reduction and internal fixation procedure to monitor the healing of her fracture.

47. Defendant Walid H. Azzo, M.D. breached the standard of care by failing to document culture results and order consultations for infectious disease, wound care and plastic surgery.

48. As a direct and proximate result of Dr. Azzo's acts and/or failures to act and negligence, Edna Reed suffered a failed surgical procedure at the hands of Dr. Azzo that went undiagnosed during the entire course of Dr. Azzo's treatment.

49. As a direct and proximate result of Dr. Azzo's acts and/or failures to act and negligence, Edna Reed suffered infection and had to undergo an extensive intravenous antibiotic course prior to the reconstructive surgery performed by Dr. McCall, all necessitated by Dr. Azzo's failed surgery, failure to obtain the proper consultations and his failure to diagnose the same in a timely manner.

50. As a direct and proximate result of Dr. Azzo's acts and/or failures to act and negligence, Edna Reed has suffered and will continue to suffer enormous pain and suffering, physically, mentally and emotionally.

51. As a direct and proximate result of Dr. Azzo's acts and/or failures to act and negligence, Edna Reed has suffered and will continue to suffer a loss of enjoyment of life and a loss of her independence as a result of her permanent disability caused by the right ankle and subtalar arthrodesis necessitated by Dr. Azzo's negligence.

WHEREFORE, plaintiff demands compensatory damages from defendants Dr. Azzo and Azzo Orthopedics, PLLC in an amount to be determined by the trier of fact, as well as an award of punitive damages in an amount to be determined by the trier of fact. Plaintiff further demands prejudgment and post-judgment interest, as well as such other relief as a judge or jury shall find fair and just.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Dated: August 12, 2014



**EDNA REED,
Plaintiff,**

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