IN THE CIRCUIT COURT OF PULASKI, ARKANSAS

SEAN LYNN; and
LAURA HAMMETT — PLAINTIFFS

v. Case No. 60CV-26-216

BOARD OF TRUSTEES of the UNIVERSITY of ARKANSAS, in their official capacity; et al. — DEFENDANTS

Plaintiffs' Brief in Support of Joint Opposition to Joseph F. Benjamin L. Davis's Motion to Dismiss Laura Hammett's Claims

Co-Plaintiffs Sean Lynn ("Sean")[1] and Laura Hammett ("Laura") joined on a complaint pursuant to Ark. R. Civ. P. 20. Their claims arise from the same two-week-long continuous transaction and occurrence and share a common nucleus of both fact and law. Benjamin L. Davis contends that Laura did not include enough individualized facts about Benjamin L. Davis to state a claim on which relief can be granted. While structuring the complaint differently would improve it, there are adequate facts presented that taken as true entitle Laura to relief from Benjamin L. Davis.

[1] Common names are used because UAMS employees wrote versions of Laura Lynn in the medical report, and using "Lynn" may be confusing.

I. Laura Hammett stated facts upon which relief can be granted.

a. Laura Hammett stated actionable claims against Benjamin L. Davis for negligence and outrage arising from the two weeks of trauma to which Benjamin L. Davis contributed.

Benjamin L. Davis should be able to understand the claims against him as currently pleaded. However, Plaintiffs intend to amend the Complaint to add a separate section describing Benjamin L. Davis's known individual conduct. This will be in addition to the existing allegations regarding the defendants' coordinated actions and allegations involving conduct that Plaintiffs know occurred, but cannot yet attribute to a specific defendant without further discovery.

Benjamin L. Davis misstated:

> *Arkansas Department of Environmental Quality v. Brighton Corporation, et al*. 352 Ark. 396, 102 S.W.3d 458 (2003). In that case, Plaintiff made allegations as to a corporation, along with several other individual defendants. *Id.* However, the plaintiff only generally alleged that the "defendants . . . transported and/or disposed of hazardous wastes contrary to the rules, regulations, permits, or orders issued…." *Id.*, 102 S.W.3d at 466 (internal quotations omitted).

BL Davis Br. in Supp. Mot., at p. 4.

Two paragraphs later, the *AEDQ* court wrote:

> As we pointed out above, the only paragraph directly linking the defendants to USI is paragraph 31, and clearly, that paragraph states only that the defendants were customers who brought their waste oil to USI for disposal. It contains no factual allegations specifying which, if any, of the defendants contributed any PCB-containing oil to the site, how much or when any given defendant may have contributed used oil, or the purposes for which the defendants conducted business with USI. The mere recitation that the defendants were "generators" or "transporters" who brought hazardous substances or hazardous waste to the USI site "for disposal," without any further facts to support a conclusion that the

> defendants came within the meanings of these terms, simply fails to comport with our fact-pleading requirements.

Arkansas Dep't of Env't Quality, 352 Ark. at 408–09, 102 S.W.3d at 466.

Brighton was a defunct company that had illegally disposed of hazardous waste and the ADEQ complained about past customers of the polluter. UAMS violated the laws against treatment without consent, and Sean and Laura are now complaining about employees who were acting in the course of their employment. The Brighton customers did not act in concert. The UAMS employees called themselves a "team." Sean and Laura did not name each specific action that each individual took. But Sean and Laura gave specific actions that each "Clinician Defendant" took.

Plaintiffs ask leave to amend the complaint to make separate sections for each defendant who is served a summons timely, giving not all, but ample specific actions taken by each. That includes a section for Benjamin L. Davis.

Laura's claims arise out of being subjected to watching her son be traumatized and battered for two weeks; and the fraud Benjamin L. Davis and his co-defendants used to convince Laura that Sean's drugged behavior was a result of falling 35 feet onto his head instead of from being drugged by Benjamin L. Davis and his co-defendants. Laura intends to add a claim of fraud and a claim of unjust enrichment against Benjamin L. Davis.

These are averments in the complaint that are specifically about Laura's claims against Benjamin L. Davis: (preceded by the paragraph number in the complaint)

¶ 3. Benjamin L. Davis is a medical doctor. *Compl.*, at p. 4.

¶ 60. "Benjamin Davis deemed [Sean]'s decision to leave as agitation and, on that basis, unlawfully assumed decision-making authority over him." *Compl.*, at p. 14.

¶ 61. "No valid consent was ever obtained. [Sean] does not recall signing any consent form. The only document purporting to be consent is dated January 14 at 4:09 p.m. and lists the signatory

as “significant,” with a signature resembling [Sean]’s.” Because “no” valid consent was ever obtained, this means Benjamin L. Davis did not obtain valid consent. *Compl.*, at p. 14.

¶ 107. “Despite repeatedly referring to [Sean] as being on a ‘72-hour hold,’ Defendants failed to produce, serve, or document any lawful hold order. Instead, defendants including but not limited to [others and] Benjamin Davis, repeatedly “restarted” or extended purported holds without notice, process, or legal authority, subjecting [Sean] to continuous confinement.” *Compl.*, at p. 22.

¶ 182. “January 22: Benjamin Davis ordered dexMEDEtomidine (Precedex) 400 mcg/NaCl 0.9 % 100 mL (4 mcg/mL) infusion into [Sean]’s body without consent.” *Compl.*, at p. 33.

¶ 186. “January 23: Benjamin Davis ordered dexMEDEtomidine (Precedex) 400 mcg/NaCl 0.9 % 100 mL (4 mcg/mL) infusion into [Sean]’s body without consent.” *Compl.*, at p. 34.

¶ 188. “January 23: Benjamin Davis ordered and Christian Rosenbaum drew blood from [Sean] without consent.” *Compl.*, at p. 34.

¶ 196. “January 24 at 2:02 p.m.: dexMEDEtomidine (Precedex) IV ordered by Benjamin Davis.” *Compl.*, at p. 35.

¶ 251. “Numerous defendants told [Laura] that police would stop [Sean] and her from leaving. Dr. Benjamin L. Davis, M.D. noted on January 27 in contradiction. ‘It was made clear to me the police would be no help without a 72 hour psych hold, which, as stated above, was impossible.’” *Compl.*, at p. 44.

¶ 252. “On January 27, Benjamin Davis wrote: On morning rounds Mr. Lynn appeared physically robust but asked the same question (when can I go home?) repeatedly, despite repeated exhortations that he needs eunatremia and TBI rehab. He was told by his nurse and at least THREE physicians today, on multiple occasions that going home isn't safe. As was his mother, as this was

in her presence every single time. She stated her intention to leave with him. We attempted to place a 72 hour hold but then learned he'd already had one this admission, and a second one isn't possible. We asked psych to weigh in but ultimately, it is clear that the patient himself does not have capacity, but determination about his mother's decision making capabilty [sic] was outside their realm of expertise since she is not a patient." *Compl.*, at p. 44.

¶ 253. "At no time during [Sean]'s two-week confinement did Defendants request or obtain consent from [Laura] for treatment, restraint, sedation, nor invasive procedures." *Compl.*, at p. 44. This means Benjamin L. Davis did not request or obtain consent from Laura.

In paragraphs 254 to 257, the plaintiffs claimed that a representative of Benjamin L. Davis's insurer, The Doctors Insurance, wrote to Sean, without a copy to Laura, that Laura was onboard with allowing the physical and chemical restraints. The plaintiffs gave facts that prove that was a lie. Benjamin L. Davis's agent made malicious, false statements about Laura that were reasonably meant to cause disharmony between the plaintiffs, mother and son. "Such conduct demonstrates consciousness of wrongdoing and an effort to reframe unlawful confinement as voluntary medical care after the fact." *Compl.*, at p. 45.

¶ 293. "On January 23 at 2:21 p.m., Benjamin Davis wrote that he spent 35 minutes of discontinuous critical care time with [Sean] that was 'exclusive of procedures or educational activities.' [Sean]'s entire hospitalization was for educational activities that benefited the professors, such as Assistant Professor Benjamin Davis who was paid $571,750.96 in fiscal year 2024, and the residents and trainees who used [Sean] as an unwilling educational tool." *Compl.*, at p. 53.

In addition, in paragraph 3, the plaintiffs said Benjamin L. Davis, M.D. is a "clinician defendant." Where "each clinician defendant" or "all clinician defendants" were discussed, that

includes Benjamin L. Davis. Likewise, where "the defendants" acted, that includes Benjamin L. Davis. Where "no" person took an action, that means Benjamin L. Davis failed to take that action also.

"The clinician defendants unlawfully violated [Sean]'s right to refuse treatment after mistakenly adopting an erroneous report of how an injury occurred." Compl., at p. 6 (heading before paragraph 11). "The clinician defendants" includes each clinician defendant including Dr. Benjamin L. Davis.

¶ 31. Benjamin L. Davis and all "the clinician defendants should have inquired from the only witness, [Sean], or wrote 'unknown' as to how the blunt force trauma occurred." *Compl.*, at p. 8-9.

¶ 57. "Under Arkansas law, where a patient refuses care and no valid surrogate exists, treatment may proceed only upon a court granting a petition supported by medical certification of necessity. Ark. Code Ann. § 20-9-604. No such petition was sought or obtained for the clinician defendants [including Benjamin L. Davis] to treat [Sean]. Instead, Defendants disregarded [Sean]'s refusal and proceeded without lawful consent." *Compl.*, at p. 13.

¶ 67. "From the moment [Laura] arrived on January 14, she consistently communicated [Sean]'s refusal of further treatment and his longstanding aversion to institutional medical care." *Compl.*, at p. 15. This includes all communications Laura had with Benjamin L. Davis, also.

¶ 79. "The clinician defendants kept telling [Sean] death was imminent." *Compl.*, at p. 18. Benjamin L. Davis, when present or transmitted by one of his underlings, told Sean this and told Laura when she was present.

¶ 81. "Despite [Sean]'s reasonable refusal of treatment, all Defendants imprisoned him in UAMS Medical Center for two weeks. He was confined to a room, half the time with no shower

and no bed for his visitors [including Laura], with no refrigerator nor cooking facilities, and with annoying noises." *Compl.*, at p. 18.

¶ 82. "All Defendants denied visitation from [Sean]'s then eight-year-old daughter, even though one of the staff noted the positive effect just speaking to his daughter on the telephone had on [Sean]." *Compl.*, at p. 18. This includes Benjamin L. Davis and caused a dilemma for Laura, discussed elsewhere, as Laura provided transportation and care for Sean's daughter when school was not in session.

¶ 103. "Despite the absence of any documented ENT emergency, and no petition filed by Navuluri, Boyette or any clinician defendant, [Sean] remained confined and subject to ongoing restraint and sedation." *Compl.*, at p. 21. Dr. Benjamin L. Davis did not file a petition for a medical hold. Neither did any clinician defendant.

¶ 105. "[Sean], when not in a drug-induced stupor, continually tried to escape or convince the clinician defendants to allow him safe passage." *Compl.*, at p. 22.

¶ 120. "All clinician defendants deprived [Sean] of sleep by both physical contact and nuisance." *Compl.*, at p. 24.

¶ 206. "During several attempts by the clinician defendants to apply physical restraints or capture [Sean] who was running down hallways trying to escape, there was transference of the battery to [Laura]." *Compl.*, at p. 36. It is likely that Benjamin L. Davis was involved in ordering, and maybe physically participating in the struggles that resulted in harm to Laura.

¶ 207. "The clinician defendants caused [Sean] to experience exacerbated aphasia and auditory impairment that affected his ability to express himself verbally, though he retained comprehension and reasoning." *Compl.*, at p. 36.

¶ 208. "The defendants mischaracterized these communication impairments as lack of capacity and failed to provide reasonable accommodations. Instead of adjusting communication methods, the defendants used Sean's impaired speech as rationalization to override Sean's expressed refusal of their involvement." *Compl.*, at p. 36.

¶ 210. "Emily Gray observed clear non-verbal communication of [Sean]'s desire for food and inexplicably recommended withholding food—a recommendation that was adopted by all the clinician defendants." *Compl.*, at p. 37. "All" includes Benjamin L. Davis.

¶ 218. "[Laura] brought high sodium bottled soup and the clinician defendants left it unopened. [Laura] brought shelf safe pureed fruits and vegetables, and the clinician defendants did not offer them to [Sean] when he was physically restrained—which was a high percentage of the time." *Compl.*, at p. 38. Benjamin L. Davis failed to order or himself feed Sean the food he wanted and that helped heal the hyponatremia within four days of leaving UAMS.

¶ 220. "The food provided consisted of small portions of highly processed, high-sugar items with minimal protein or sodium. When [Sean]'s sodium levels declined precipitously, the clinician defendants did not respond with targeted nutritional support." *Compl.*, at p. 39 (discussing Benjamin L. Davis).

¶ 222. "Instead, nutrition support was initiated solely because [Sean] had been chemically sedated by the clinician defendants." *Compl.*, at p. 39 (discussing Benjamin L. Davis).

¶ 228. "By denying Sean adequate nutrition while preventing his family from caring for him, the clinician defendants [including Benjamin L. Davis] acted with malice—consciously disregarding their custodial obligations and exposing Sean to foreseeable physical and psychological harm during a period of forced confinement." *Compl.*, at p. 40.

"The defendants gave [Laura] distressful misinformation and false promises to enlist her support." *Compl.*, at p. 42 (heading before ¶ 234).

¶ 236 describes how the clinician defendants, that includes Benjamin L. Davis, defrauded Laura into trying to keep Sean from leaving UAMS from January 19 until January 21 when it was apparent Benjamin L. Davis and the others were lying to her. *Compl.*, at p. 42.

The entire Count I concerning harms to Sean refers to Benjamin L. Davis, M.D. including but not limited to:

¶ 315. "Each supervising physician and attending clinician was responsible not only for his or her own acts and omissions, but also for the supervision and conduct of trainees acting under their orders and authority." *Compl.*, at p. 58.

¶ 318. "Each individual defendant, by acts or omissions, directly restrained [Sean], confining him with no reasonable means of escape." *Compl.*, at p. 58.

¶ 320. "Each Defendant was required to be familiar with UAMS policy, derived from Constitutional law, that patients, barring a legal order, have the right to refuse treatment." *Compl.*, at p. 58.

¶ 323. "Each Individual Defendant took part in or facilitated harmful physical contact with [Sean]. Some administered medication or restraints; others chased and tackled [Sean] or stood by while it occurred, despite having a duty to intervene." *Compl.*, at p. 59.

¶ 375. "[Laura] asserts her claim against all clinician defendants, as each participated in, authorized, or failed to intervene in conduct that created a foreseeable risk of harm. Discovery will further identify the specific acts and actors involved." *Compl.*, at p. 68.

¶ 376. "At the time of these events, [Laura] was a sixty-one-year-old woman with Hashimoto's disease and chronic insomnia, both of which were controlled prior to [Sean]'s

confinement. As a result of Defendants' negligence, [Laura]'s sleep was severely disrupted, her medically necessary dietary restrictions were abandoned, and her physical recovery regressed." *Compl.*, at p. 68.

¶ 377. "Defendants' conduct also interfered with [Laura]'s daily functioning and obligations, including her ability to study for the LSAT, attend her own medical appointments without undue burden, and provide transportation for [Sean]'s minor child." *Compl.*, at p. 68.

This was only a sampling of Benjamin L. Davis's conduct. It is significantly more specificity than Benjamin L. Davis stated in his motion to dismiss. His name appears 65 times in the version of the medical report provided to the plaintiffs on May 5, 2025. The plaintiffs can list each of the recorded instances in a "Benjamin L. Davis" section of the first amended complaint. It would be easier to accomplish if UAMS would use a function on its software to create a report by user name. UAMS has explicitly refused to do this.

The plaintiffs cannot know with certainty each time Benjamin L. Davis entered the room of confinement, because Benjamin L. Davis did not request that the surveillance videos be preserved. Plaintiffs intend to file a motion for spoliation sanctions similar to the motion that was pending at the Claims Commission when UAMS requested that Plaintiffs exhaust insurance. There was video taken in the hallways and stairwells that would show when Dr. Benjamin L. Davis entered the room of confinement, but Dr. Benjamin L. Davis did not request those videos be preserved. *Surveillance Videos That Were Destroyed*. An aggrieved party can request that a jury be instructed to draw a negative inference against a spoliator, and plaintiff can ask for discovery sanctions or seek to have criminal prosecution initiated against the party who destroyed relevant evidence. *Goff v. Harold Ives Trucking Co., Inc.*, 342 Ark. 143, 150, 27 S.W.3d 387, 391 (2000).

A. Benjamin L. Davis supervised the events that could foreseeably become an outrageous and horrifying experience for Laura.

The most horrifying and disturbing experience in Laura Lynn Hammett's life started with the false imprisonment of her son, Sean Lynn. The actions and decisions made by Assistant Professor Benjamin L. Davis, M.D. during Sean's hospitalization were a substantial factor in bringing about the subsequent damage to Laura, physical, economic and emotional.

Civil False imprisonment is the unlawful violation of the personal liberty of another consisting of detention without sufficient legal authority. *Headrick v. Wal-Mart Stores, Inc.*, 293 Ark. 433, 435, 738 S.W.2d 418, 420 (1987).

There is no video preserved and no notes in the medical report that describe how Benjamin L. Davis was able to physically restrain Sean before or after the chemical restraints were injected. *Compl.*, at p. 32, 35, 36; *Surveillance Videos That Were Destroyed*.

Benjamin L. Davis only record of discussing Sean's forced confinement with legal counsel, or filing a petition under either a psychiatric hold or an emergency medical hold, was a note he wrote on January 27, 2024. After Sean lft UAMS, Benjamin L. Davis wrote, "I also discussed the case with CMO of the day (and via CMO, hospital council (sic)[]."

Benjamin L. Davis detained Sean with no lawful authority, the definition of civil false imprisonment.

Benjamin L. Davis also committed criminal false imprisonment against Sean. A person commits the offense of false imprisonment in the first degree if, without consent and without lawful authority, the person knowingly restrains another person so as to interfere substantially with the other person's liberty in a manner that exposes the other person to a substantial risk of serious physical injury. Ark. Code Ann. § 5-11-103. False Imprisonment in the second degree does not expose the victim to serious bodily injury. Ark. Code Ann. § 5-11-104.

As seen in the list of citations to the complaint above, and augmented below with facts that can be added by amendment, Benjamin L. Davis participated in administering chemical restraints to Sean. Benjamin L. Davis did this because he equated Sean's desire to be free of restraints and to leave the hospital before the entirety of his assets would be owed to Davis's employer, with mental illness. This disease, Drapetomania, pathologizes normal human resistance to oppression.

Laura had to provide high sodium, healthful foods for Sean, which Benjamin L. Davis forbid Sean to eat by ordering or allowing Sean to be restrained. After taking Sean out AMA with an alarmingly low sodium level, Laura was able to help Sean achieve a healthy level in a few days. Benjamin L. Davis was actively participating in Sean's treatment when his sodium level fell to critical, proximately causing the electrolyte imbalance.

Plaintiffs are not arguing the standard of medical care here. They are arguing that even if Benjamin L. Davis was providing the standard treatment for a traumatic brain injury, Sean did not consent to the treatment. *Compl.*, at p. 2, 6, 13, 14-17, 21, 24-36, 44, 45, 49, 51, 53, 59, 61, 63. Sean found the risks would outweigh the benefits, and Sean has a right to bodily autonomy arising from the Fourteenth Amendment of the United States Constitution.

Benjamin L. Davis knew or definitely should have known his legal obligation to petition a court before performing non-censensual treatment. *Compl.*, at p. 13. Benjamin L. Davis also should know that he is not allowed to authorize students and residents he supervises to treat patients who have not signed consent to be worked on by trainees. See *Compl.*, at 53 (this point will be included directly on amendment). There was no consent form in the medical report at the time Benjamin L. Davis was actively treating Sean, *compl.*, at p. 14 (there was a consent signed by "significant" at 4:09 p.m.), and Benjamin L. Davis did not note any action on his part to obtain consent. The following opinion is only persuasive, but eloquently states the duty Benjamin L. Davis failed:

> A physician occupies a position of trust and confidence as regards his patient - a fiduciary position. It is his duty to act with the utmost good faith. This duty of the physician flows from the relationship with his patient and is fixed by law - not by the contract of employment. 21 R.C.L. 379; *Parkell v. Fitzporter et al*, Mo. Sup., 256 S.W. 239. The law's exaction of good faith extends to all dealings between the physician and the patient. A person in ill health is more subject to the domination and influence of another than is a person of sound body and mind. The physician has unusual opportunity to influence his patient. Hence, all transactions between physician and patient are closely scrutinized by the courts which must be assured of the fairness of those dealings. In regard to any contract between physician and patient, it is the rule that the physician has the burden of proving that the patient entered into it voluntarily and advisedly, and without undue influence. *41 Am. Jur., Physicians and Surgeons*, Sec. 74.

Moore v. Webb, 345 S.W.2d 239, 243 (Mo. Ct. App. 1961)

Had Benjamin L. Davis stopped the false imprisonment, Laura would have been able to care for Sean in the comfort of their homes. Laura would be able to continue studying for the LSAT that she was scheduled to take on January 23, 2024. She would not be exhausted and stressed out when she took the LSAT. And she would get into law school a year earlier.

Laura was so upset during the confinement that she lost a year of her already short law career. Laura scored 157 on the last practice LSAT she took before January 13, 2024. She scored 145 or less on the LSAT she took on January 23, 2024. In August 2024, she scored 162.The pattern of Laura's scores shows that she was significantly stressed on January 23, 2024.

It was foreseeable to a reasonably prudent person that holding a person's son against his will, telling the mother an unverified story that her son fell 35 feet, and not informing her that her son's behavior was caused by psychogenic polydipsia would cause her damages of many types, physical, economic and emotional.

B. Benjamin L. Davis battered Sean in front of Laura.

Section A above is incorporated here as if word for word.

Civil battery is when a person intends to cause some harmful or offensive contact with another person, and that harmful or offensive contact results. *Mann v. Pierce*, 2016 Ark. 418, 7, 505 S.W.3d 150, 154 (2016). Liability for battery is not limited to the individual who makes the contact; an accomplice that enables or assists the act is liable as a principal and responsible for its full consequences. *Costner*, 82 Ark. App. 148, 156, 121 S.W.3d 164, 170.

Benjamin L. Davis caused Sean to be drugged, pricked, tied up and have tubes forced into him along with other atrocities. *Compl.*, at p. 33, 34, 35; *Surveillance Videos That Were Destroyed*. Benjamin L. Davis was supervising those who left Sean naked, forcing Laura to see and cover-up her grown son's genitals. *Compl.*, at p. 18, 67.

A person commits criminal battery in the first degree if acting alone or with one (1) or more other persons the person commits or attempts to commit a felony; and in the course of and in furtherance of the felony or in immediate flight from the felony the person or an accomplice causes serious physical injury to any person under circumstances manifesting extreme indifference to the value of human life. Ark. Code Ann. § 5-13-201.

Benjamin L. Davis attempted and indeed committed the felony of false imprisonment (discussed above) by using physical and chemical restraints or having an accomplice use physical or chemical restraints on Sean, showing complete indifference to the fact that Sean might be allergic to the drugs administered. *Compl.*, at p. 33, 34, 35; *Surveillance Videos That Were Destroyed*. Also, Sean had a history of substance abuse that he recovered from 10 years earlier and reintroducing drugs into Sean's system might cause him to start using again. *Compl.*, at p. 27. In the later case, Sean might eventually die and have a traumatic life in the meantime.

Benjamin L. Davis should have foreseen that reintroducing drugs into a former drug addict, in front of the man's mother, would cause his mother severe distress and the physical response of PTSD. Laura's cortisol levels were probably dangerously high for the entire 13 days.

The unbroken chain of events with Benjamin L. Davis's accomplices left Sean with severe hyponatremia. It is also clear from the refusal of one accomplice, Edward Williams, to allow Sean free outpatient testing for his sodium level for three days, that the accomplices did not "treat" Sean out of concern or "love"—but out of a desire to generate revenue. *Compl.* ¶ 286.

C. Benjamin L. Davis's Negligent conduct was a proximate cause of Sean's damages.

All previous sections are incorporated herein as if stated word for word.

Negligence is the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do. *Schubert v. Target Stores, Inc.*, 2010 Ark. 466, 4, 369 S.W.3d 717, 719 (2010). To prove negligence, it must be shown that the defendant failed to exercise reasonable care in carrying out a legal duty owed to the plaintiff under the circumstances. *Shannon v. Wilson*, 329 Ark. 143, 158, 947 S.W.2d 349, 356 (1997). A negligent act occurs when a reasonable person in the same circumstances would recognize a significant risk of harm to others and would either refrain from acting or proceed with greater caution. *Ouachita Wilderness*, 329 Ark. at 412, 947 S.W.2d at 784.

Proximate cause is that which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred. *Chambers v. Stern*, 347 Ark. 395, 406, 64 S.W.3d 737, 744 (2002), cert. denied, 536 U.S. 940 (2002). There must be a causal connection between the negligence of the defendant and the

damage shown by the evidence to prove negligence. *Chambers*, 347 Ark. at 406, 64 S.W.3d at 744 (2002), cert. denied, 536 U.S. 940.

Negligence is the proximate cause of an injury only if the injury is the natural and probable consequence of the negligent act and ought to have been foreseen in the light of attending circumstances. *Lindle Shows v. Shibley*, 249 Ark. 671, 675, 460 S.W.2d 779, 782 (1970). To prove negligence in this state, the injury must have been reasonably foreseeable. *Benson v. Shuler Drilling Co*., 316 Ark. 101, 112, 871 S.W.2d 552, 558 (1994).

Medical injury requires that the medical provider falls below the "standard of care." But standard of care extends to conduct that can be comprehended without the expertise of another medical provider. For example, leaving a sponge in the patient after surgery, as Co-defendant Joseph Benjamin L. Davis did to Carl Sullivan, is something that a person with no medical training would understand to create a foreseeable risk. *Sullivan v. Bd. of Trs. of the Univ. of Ark.*, 60-CV-5497.

"[E]xpert testimony is not necessary in every malpractice case. *See Dodd v. Sparks Reg'l Med. Ctr.*, 90 Ark. App. 191, 197, 204 S.W.3d 579, 583 (2005). Classic examples in which these elements are satisfied without the need for an expert include instances when a surgeon might fail to sterilize the instruments, wash his hands, or remove a sponge before closing an incision. *Id.* (citing *Lanier,* 207 Ark. 372, 180 S.W.2d 818 (1944))." *Daniels v. Lyle*, 2025 Ark. App. 197, 13, 713 S.W.3d 15, 23 (2025), *reh'g denied* (May 7, 2025), *review denied* (Sept. 25, 2025).

"In Arkansas, the violation of statutes may be considered evidence of negligence. *See Jackson v. Cadillac Cowboy, Inc.,* 337 Ark. 24, 986 S.W.2d 410 (1999); *Watkins v. Arkansas Elder Outreach of Little Rock, Inc.,* 2012 Ark. App. 301, 420 S.W.3d 477." *Young v. Blytheville Sch. Dist.*, 2013 Ark. App. 50, 6, 425 S.W.3d 865, 871 (2013). The Young Court went on to explain:

> The Restatement (Second) of Torts, section 286 (1965) provides the following analysis for legislative enactments to be considered evidence of negligence:
>
> The court may adopt as the standard of conduct of a reasonable man the requirements of a legislative enactment or an administrative regulation whose purpose is found to be exclusively or in part:
>
> (a) to protect a class of persons which includes the one whose interest is invaded, and
>
> (b) to protect the particular interest which is invaded, and
>
> (c) to protect that interest against the kind of harm which has resulted, and
>
> (d) to protect that interest against the particular hazard from which the harm results.

Young, 2013 Ark. App. at 6, 425 S.W.3d at 871.

For example, under Arkansas law, where a patient refuses care and no valid surrogate exists, treatment may proceed only upon a court granting a petition supported by medical certification of necessity. Ark. Code Ann. § 20-9-604. *Compl.*, at p. 13. This statute protects persons who want to refuse treatment against the advice of medical providers. *Compl.*, at p. 19, 46-47 (the first and only notation in the mdical report that discussed a legal consultation requested by the defendants, including Benjamin L. Davis). It protects the patient's right to bodily autonomy, against confinement without due process, and against a seizure of the patient's assets to pay charges by the medical provider. It protects against the denial of the patient to self-treat or use family care. And it protects a patient who is highly sensitive to many substances and who has a history of substance abuse from being forced to medicate. It protects the patient who has the capacity to understand he is held unlawfully from harms when he attempts escape.

UAMS, where Benjamin L. Davis was an assistant professor of medicine in 2024, was not aware of this statute or was purposefully creating an inaccurate record. On January 27, 2024, simultaneously with Sean's release AMA, a note was made in the medical report. "Arkansas has no law (and UAMS, no policy) that covers so-called 'medical holds,'[]." *Compl*., at p. 19, 46-47. This note was written by someone on the ethics committee, not general counsel. *Compl*., at p. 46.

Still it is disturbing that one whose job it is to study bioethics was unaware that patients have a statutory right to refuse treatment. Assistant Professor of Medicine Benjamin L. Davis also noted that he was aware there was hospital counsel that should consult on a case like Sean's, where mother and patient demand to leave.

At some point before Sean was confined with no legal authority, someone at UAMS might have known about Ark. Code Ann. § 20-9-604 and the Fourteenth Amendment of the United States Constitution. The patients' rights, enumerated on a form that Laura found online after Sean's release, included the right to refuse treatment. *Compl.*, at p. 61. Surely Benjamin L. Davis should be familiar with the UAMS written patient's rights that is supposed to be given to each patient or surrogate when asked to sign the consent form.

Failure to learn of one's legal obligation before forcing controlled substances on another and binding that person naked to a bed for days at a time is evidence of negligence that does not need to be explained by an expert on standard of care. Benjamin L. Davis, Ernst, Cobb, and every other team member who failed to petition a court to override Sean's refusal of treatment violated the statute. The statute's purpose was to protect Sean's right to refuse treatment. It was meant to protect Sean's right to bodily autonomy, against confinement without due process, and against seizure of his assets to pay charges by UAMS that went in part to paying Benjamin L. Davis. It was meant to protect Sean's right to treat at home, to eat and drink nutritiously, to sleep in a comfortable bed, to have the company of his mother and child, and to be free of bondage, toxins, and brutality. And it was meant to protect Sean, who is highly sensitive to many substances and who has a history of substance abuse, from being forced to medicate. It was meant to protect Sean, who had the capacity to understand he was held unlawfully, from having his head bashed against hard surfaces and be catheterized when he attempted escape.

Benjamin L. Davis relied upon the unwitnessed assumptions of an EMT regarding the mechanism of Sean's injury as the sole basis for a Level 2 trauma activation, without reconciling that narrative with his own clinical observations." Benjamin L. Davis's failure to ask Sean how he was injured, instead demanding that Sean fell 35 feet was a reckless disregard for the truth. *Compl.*, at 58 (¶ 316).

Benjamin L. Davis acted in utter disregard of Sean's legal rights, knowing they denied Sean due process as required for a 72-hour psychiatric hold or a medical hold to treat an imminent life-threatening condition. *Compl.*, at 58 (¶ 319).

Proving that a medical provider fell below the standard of care for persons in the same field in the same area is easy when the standard of care of a medical provider who is in a fiduciary relationship falls below the standard of care of the non-professional, reasonably prudent person.

Benjamin L. Davis's conduct was a proximate cause of the entire two weeks of brutality suffered by Sean and witnessed by Laura. Benjamin L. Davis knew or should have known that allowing trainees to treat Sean without consent and without a petition for a court order and no legal representation appointed to Sean would cause Sean extreme harm. It is foreseeable that a person unlawfully held will try to escape. It is foreseeable that nurses and patient care technicians who see a doctor acting as if the confinement was legal, might themselves fail to make a reasonable inquiry into the propriety of disobeying the patient's demands to stop.

It is foreseeable that Laura, when seeing this conduct, would use every bit of her energy to help release Sean without having Sean or Laura shot in the face by UAMS PD, like they did to Tyrone Washington. *Compl.*, at p. 42.

Benjamin L. Davis acted negligently as an individual, but he is also liable for the damages caused by the Team as an aider and abettor as discussed below.

D. **Benjamin L. Davis's conduct was outrageous**.

All previous sections are incorporated herein as if stated word for word.

To prevail on an outrage claim in Arkansas, a plaintiff must prove four elements: (1) the defendant intended to inflict emotional distress or knew or should have known that emotional distress was the likely result of the conduct; (2) the conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community; (3) the defendant's actions caused the plaintiff's distress; and (4) the emotional distress was so severe that no reasonable person could be expected to endure it. *Croom v. Younts*, 323 Ark. 95, 101, 913 S.W.2d 283, 286 (1996). Arkansas courts have emphasized that the tort "requires clear-cut proof" and that merely describing conduct as outrageous does not make it so. *Fam. Dollar Trucking, Inc. v. Huff*, 2015 Ark. App. 574, 9, 474 S.W.3d 100, 107 (2015).

If conduct is sufficiently flagrant to give rise to the tort of outrage, then "the injury the law seeks to redress is the anguish itself and it need not rest, parasitically, on more demonstrative loss or injury." *Growth Props. I v. Cannon*, 282 Ark. 472, 474, 669 S.W.2d 447, 448 (1984)(the defendants asserted "that none of the appellees testified to any loss or injury 'except some rather vague references to feeling bad about it, or being "heartsick".'"). Neither is physical injury a prerequisite to a recovery for mental suffering when wrongs are committed deliberately or wantonly and in both cases awards of punitive damages superimposed on compensatory damages where the insult was injured feelings without corporal injury were upheld. *Growth Props.*, 282 Ark. at 474, 669 S.W.2d at 448.

In *Growth Props.*, a cemetery was desecrating the plaintiffs' family graves by driving over them with construction equipment during an extended project. See *id.* One plaintiff was told by

one of the cemetery's employees, evidently with some abruptness, not to come back until the work was finished if she found it upsetting. *Id.*, at 476. The plaintiffs prevailed, and damages totaling $55,000 in 1984. *Id.*, at 474.

Another defendant was ordered to pay $25,000 in compensatory and $50,000 in punitive damages in 1985 for the outrageous conduct of making false reports and keeping surveillance on the plaintiff. *Hess v. Treece*, 286 Ark. 434, 437, 693 S.W.2d 792, 794 (1985).

The outrageous conduct by Benjamin L. Davis toward Sean and the outrageous conduct by Benjamin L. Davis toward Laura is inextricably intertwined. There was a whole team of residents and nurses discussing Sean's case outside the room he was held in on January 24 at approximately 8:40 a.m. *Compl.*, at p. 27; *Surveillance Videos That Were Destroyed*. It is possible Benjamin L. Davis was leading that class and heard Laura's pleas to release Sean made to the entire group. *Compl.*, at p. 27; *Surveillance Videos That Were Destroyed*. The professor let Laura speak for many minutes before shutting her down abruptly. *Compl.*, at p. 27; *Surveillance Videos That Were Destroyed*. There was also video surveillance that would show if Benjamin L. Davis went into Sean's room at other times that are not in the medical report, but that video was not preserved. *Compl.*, at p. 52, 54; *Surveillance Videos That Were Destroyed*.

As in *Growth Props.*, Laura was given the option to leave or to watch her son be brutalized, while he begged and cried to be released. In addition, Laura was not permitted to bring Sean's daughter to visit him. As a result, Laura was forced to choose between leaving Sean alone or leaving her eight-year-old granddaughter home alone while school was out and the child's mother worked long hours, sometimes until midnight.

Benjamin L. Davis knew or should have known that emotional distress was the likely result of confining Sean without consent. Benjamin L. Davis knew or should have known that both Laura

and Sean would be emotionally damaged by Benjamin L. Davis's conduct. One or more defendants, plausibly including Benjamin L. Davis, hid the triage report from Sean and Laura until May 5, 2025, not informing them about the administration of fentanyl until then. *Compl.*, at p. 53.

Benjamin L. Davis's conduct toward Sean was clearly outrageous. Benjamin L. Davis allowed his students, trainees, residents to leave Sean exposed and to force Sean to use a bedpan to defacate. This caused Laura to not only see her grown son naked, but wipe his genitals where Benjamin L. Davis's students did not clean him of blood and feces. *Compl.*, at p. 34.

Now, to show his disregard for truth and justice, Benjamin L. Davis contends that Sean and Laura did not state facts that, taken as true, show that Benjamin L. Davis's conduct was outrageous.

b. Benjamin L. Davis acted in concert with the "Team" and therefore is liable for each intentional tort committed under an aiding and abetting theory.

Liability for intentional torts is not necessarily restricted to the primary actor; any person who is present, encouraging, or inciting harmful conduct by any means, such as words, gestures, looks, or signs, aids and abets the action. Thereby, liability is imputed on the aider and abettor as a principal. *Costner v. Adams*, 82 Ark. App. 148, 156, 121 S.W.3d 164, 170 (2003).

The United States Supreme Court adopted the "Halberstam elements" and elaboration of "substantial assistance" to define aiding and abetting. *Twitter, Inc. v. Taamneh*, 598 U.S. 471, 471 (2023). Three main elements were established: "(1) the party whom the defendant aids must perform a wrongful act that causes an injury, (2) the defendant must be generally aware of his role as part of an overall illegal or tortious activity at the time that he provides the assistance, and (3) the defendant must knowingly and substantially assist the principal violation." *Twitter*, 598 U.S. 471, 486 (quoting *Halberstam v. Welch*, 705 F.2d 472, 477 (D.C. Cir. 1983)).

The court weighs the following factors to determine if assistance is "substantial": (1) the nature of the act assisted, (2) the amount of assistance provided, (3) whether the defendant was present at the time of the principal tort, (4) the defendant's relation to the tortious actor, (5) the defendant's state of mind, and (6) the duration of the assistance given. *Id.*

Halberstam clarified that those who aid and abet "a tortious act may be liable" not only for the act itself but also "for other reasonably foreseeable acts done in connection with it." *Halberstam*, 705 F.2d at 477. In fact, in *Halberstam*, the aider and abettor was not present when the tortious conduct occurred. Id. Halberstam was killed during a burglary committed by Bernard Welsh. *Id.* Linda Hamilton was Welsh's cohabitating girlfriend. *Id.* Over the five years prior to Halberstam's wrongful death, Hamilton and Welsh built a substantial fortune where Welsh would steal jewelry, melt it down and Hamilton would sell the gold and silver. *Id.* Then, Hamilton washed the money through her bank account to help Welsh avoid detection. *Id.*

Because Hamilton knew Welch was committing a 'personal property crime' that carried a foreseeable risk of violence and death, the court concluded she substantially assisted Welch and was liable for Halberstam's death. *Id.*

Aiding and abetting does not require the defendant to have known "all particulars of the primary actor's plan." RESTATEMENT (THIRD) OF TORTS: INTENTIONAL TORTS TO PERSONS § 10, cmt. c, at 104 (AM. L. INST., Tentative Draft No. 3, 018). To illustrate, a person who intentionally helps others break into a building at night may be liable for aiding and abetting its burning if the intruders, without his knowledge, use torches and inadvertently start a fire. See *American Family Mutual Ins. Co. v. Grim*, 201 Kan. 340, 345-347, 440 P.2d 621, 625-626 (1968); RESTATEMENT (SECOND) OF TORTS § 876, cmt. d, Illus. 10, at 318.

Aiding and abetting, unlike conspiracy, requires no agreement with the principal actor, eliminating a significant restriction on liability. See *Nye & Nissen v. United States*, 336 U.S. 613, 620 (1949).

The *Twitter* court cautioned that some restraint should be shown when applying accomplice liability. *Twitter*, 598 U.S. 471, 490-91. Some decisions require a clear nexus between the defendant's assistance and the trespass, along with an intent that the assistance lead to its commission, before liability will attach. *Id.*, at 491. Other courts have required a showing of culpable conduct and at least some awareness that the defendant's actions were assisting the primary wrongdoer before imposing secondary liability. *Id.* Still others have found that culpability of some sort is necessary to attach fault to a secondary actor, lest mostly passive actors like banks become liable for all of their customers' crimes by virtue of carrying out routine transactions. *Id.*

The plaintiffs did not name the pharmacists or the orderlies who brought Sean his meals of pudding and high fructose corn syrup water. Those employees carry out orders and might not know that Sean was a prisoner. There are legitimate uses of restraints; the orderlies might not know that Sean was being abused.

In contrast, Benjamin L. Davis knew or should have known Sean refused to consent. *Compl.*, at p. 37. Benjamin L. Davis was an assistant professor at UAMS and therefore responsible for all the actions the students, trainees and residents working under him took in the performance of their work. UAMS denied all allegations at the Claims Commission. Benjamin L. Davis's motion is based on his contention that Laura's complaint, even taken as true, does not state a claim against him. Therefore, Benjamin L. Davis is saying he had no duty to insist that his students, trainees and residents petition a court before treating a patient who clearly refused consent.

There is no indication in the medical report and no surveillance videos that show Benjamin L. Davis was not being a Team player, a Team leader, aiding and abetting in the two weeks of continual false imprisonment and battery.

II. Laura Hammett can add facts to the complaint, incorporate exhibits, or both.

Sean's forced hospitalization at UAMS was two intense weeks. Plaintiff's thought that discussing common conduct and a few specific actions by each defendant would be sufficient to meet the fact standard of pleading.

Given leave to amend, the plaintiffs would add the following specific facts about Benjamin L. Davis, all that are based on notes made in the medical report by Benjamin L. Davis:

On January 13, 2024, Benjamin L. Davis was "attending provider" when Sean was admitted as an inpatient at 5:48 p.m. without obtaining consent. Benjamin L. Davis did not make any attempt to contact Sean's family, though Sean's wallet and cellphone were in the possession of UAMS staff.

Benjamin L. Davis was attending provider when fentanyl was first administered at 5:49 p.m., over Sean's objections.

Benjamin L. Davis made no notes as to how Sean came to be bound to the hospital cot railings when his significant other called Sean's phone on January 14, 2024 and a nurse answered. There was a note by Nurse Lyrex Williams that she administered Lorazepam before the second CT scan was taken on January 14, 2024.

On January 21, 2024, a urethral catheter was placed without consent. The note was electronically signed by resident Arthur Rezayev on January 22, 2024 at 10:34 a.m. Benjamin L. Davis electronically signed on January 23, 2024 at 2:21 p.m.

On January 22, 2024, along with the Precedex noted in the original complaint, Benjamin L. Davis ordered an intravenous Sodium Chloride hypertonic infusion. He wrote a "postoperative observation" though there was no operation performed on Sean. Benjamin L. Davis wrote "this patient is critically ill" and needs "frequent assessments." Sean's sodium had fallen from 139 at admittance to 119. Benjamin L. Davis did not mention Sean's Hospital Acquired Hearing Loss nor dislocated oscillator chain.

On January 23, 2024, Benjamin L. Davis added a page of notes to Sean's file that discuss a patient named "Mr. Pryor" who was also assessed as "critically ill" in an almost identical boilerplate note as for Sean. The difference was that "requires frequent assessments in the intensive care unit under my direct care" was replaced with "requires Extracorporeal Membrane Oxygenationtherapy to minimize the risk…" Mr. Pryor had a Glasgow Coma Scale of 3T. Sean's GCS upon entry to the Emergency Department was 13 or 14.

On January 23, 2024, Benjamin L. Davis is listed as staffed by on a note written by Resident Arthur Rezayev. Sean never consented to being worked on by a resident or student. Rezayev wrote "Pulled foley a second time, replaced." There is no consultation or decision making process as to why a resident would replace a urethra catheter that a patient pulled out –twice! The probable reason for using the catheter without consent and with clear refusal, was so the Team would not need to take the restraints off Sean when he needed to urinate. No one, including staff supervisor Benjamin L. Davis cosigned.

The third time Sean pulled the catheter out, the defendants stopped using one. Sean did not die.

On January 25, 2024, Benjamin L. Davis ordered administration of Precedex that the plaintiffs did not include in the facts in the complaint.

On January 27, 2024, after Sean was able to leave UAMS without further battery, Benjamin L. Davis wrote notes in the Medical Report generated April 29, 2025. In addition to the notes discussed in the complaint, Benjamin . Davis listed "Visit Diagnoses." Several of the diagnoses had a billing code "HCC" meaning Hierarchial Condition Category. This is paid by Medicare at a higher rate. He used no "HAC" meaning Hospital Acquired Condition, that is often not allowed to be paid by Medicare. Dr. Benjamin L. Davis did not list any HAC even though Hyponatremia, Cognitive impairment, Irritability, Foley catheter problem, and delirium, that he attributed to "general medical condition" were all hospital acquired.

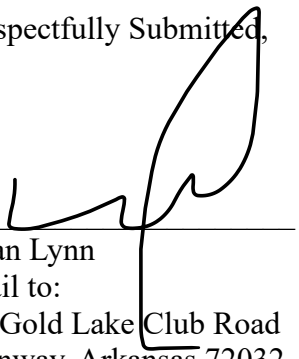
Dr. Benjamin L. Davis did not document hearing loss or dislocation of the oscillator chain.

Dr. Benjamin L. Davis documented that Sean had been on a "psych hold" without any mention of imminent death or disfigurement. First, it is insane to put someone on a psych hold with no indication of mental illness, then pump them with a fentanyl-benzo-barbiturate cocktail. But under no circumstances in the state of Arkansas, can a "psych hold" last more than 72-hours without a court order. And the court order cannot be retroactive.

Therefore, Plaintiffs stated a claim in their original complaint that Dr. Benjamin L. Davis falsely imprisoned and battered Sean Lynn. Plaintiffs stated a plausible claim that Dr. Benjamin L. Davis was negligent to base a level two trauma activation on an unattributed and erroneous mechanism of injury. He was negligent to treat Sean and let students and residents treat Sean with no consent. It was outrageous to make Laura watch her son be battered for two weeks or abandon him. And it was negligent for the doctor to not know the laws and University of Arkansas policy regarding consent and surrogacy.

Wherefore the plaintiffs ask that Benjamin L. Davis's motion to dismiss be denied, or if granted, that plaintiffs be given leave to amend to add claims and write a section addressing specific conduct and liability of each defendant who has been served.

Respectfully Submitted,



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Certificate of Service

I, Laura Hammett, hereby certify that on May 25, 2026, I entered for filing the foregoing electronically with the Clerk of Court using the Arkansas Judiciary Electronic Filing System, which shall send notification to all attorneys in this matter. I will also deliver a file stamped copy by email to Plaintiff Sean Lynn who joined in this motion at SeanLynnP@yahoo.com.

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