

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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James Farner, Individually, and as
a Parent and Natural Guardian of E.F., an Infant,

Plaintiff,

-against-

Jennifer Leong, M.D., Westchester County Medical Center,
and Westchester County Health Care Corporation,

Defendants.

Index No. _____

COMPLAINT

PLAINTIFF DEMANDS
TRIAL BY JURY

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Plaintiff, James Farner, Individually, and as a Parent and Natural Guardian of E.F., an Infant (“Plaintiff”), by and through his attorneys, Law Office of Todd J. Krouner, P.C., hereby complains of defendants Jennifer Leong, M.D. (“Dr. Leong”), Westchester Medical Center (“WMC”), Westchester County Health Care Corporation (“WCHCC”) and Jane and John Does, 1-10 (collectively, the “Defendants”), and respectfully states and alleges upon information and belief as follows:

NATURE OF THE CASE

1. On August 16, 2024, E.F. fell at a playground and injured her left arm.
2. Soon thereafter, on August 16, 2024, E.F. was admitted to the emergency room at WMC. An X-ray revealed that E.F. had “an acute, displaced Salter-Harris type II fracture of the proximal radius.” The report continued: “There is rotation of the radial head, such that the articular surface is nearly parallel to the long axis of the radius. A proximal ulnar fracture is seen. There is diffuse soft tissue edema at the elbow. There is an elbow effusion.” The doctors at WMC did not indicate to E.F. or her parents that the fracture was complicated or required a specialist. They also failed to recognize that E.F.’s X-Ray clearly demonstrated that E.F.’s elbow

was anteriorly dislocated.

3. On August 16, 2024, at or about 11:00 P.M., Ruby Patel, M.D. (“Dr. Patel”), attempted a left proximal radius and ulna reduction procedure, but it was unsuccessful. Dr. Garcia indicated that E.F. required surgery and that Dr. Leong would perform it the following day, August 17, 2024. Again, there was no indication that the fracture was complicated or required a specialist.

4. On August 17, 2024, radiologists Jinhye Kim, M.D., and Andrea Franklin, D.O., signed a report indicating “Overlying cast material limits evaluation of fine osseous detail. Again seen acute displaced salter-Harris type II fracture of the proximal radius and nondisplaced proximal ulnar fracture.” Post-reduction report did not mention elbow dislocation despite the fact that the lateral X-Ray clearly revealed elbow dislocation.

5. On August 17, 2024, Dr. Leong performed a closed reduction with percutaneous pin fixation left displaced radial neck fracture procedure on E.F., intending to realign E.F.’s elbow. Following the procedure, Dr. Leong indicated that the surgery was a success and that E.F.’s recovery would be straightforward and would not require physical therapy. Again, Dr. Leong failed to recognize that E.F.’s X-ray clearly demonstrated that E.F.’s elbow was anteriorly dislocated, and did nothing to fix it.

6. On August 23, 2024, E.F. returned to WMC for post-operative X-ray imaging ordered by Dr. Leong. Dr. Leong saw E.F. that day and wrote: “patient is overall doing well.” The radiologist who performed E.F.’s E-ray, Dean Kolnick, M.D. (“Dr. Kolnick”) noted in E.F.’s medical records: “Casted pinned radial head fracture in improved alignment.” Dr. Kolnik and Dr. Leong once again failed to recognize that E.F.’s elbow was still dislocated.

7. On September 4, 2024, it became apparent to E.F.’s parents that E.F.’s cast had

become offset. WMC recommended that E.F. come in for further imaging.

8. On September 6, 2024, E.F. had additional X-ray imaging taken at WMC. The X-ray clearly demonstrated that E.F.'s elbow was dislocated and the radial head fracture was malreduced. Attending radiologist Jessica Kurian, M.D. ("Dr. Kurian"), finally correctly interpreted the X-ray: "Left elbow casted and pinned fracture of the left radial neck. Hardware appears intact. Healing olecranon fracture, not well seen due to the cast. Unchanged widening of the space between the distal humerus and ulna on the lateral view, and disruption of the radiocapitellar alignment." However, physician's Assistant Brooke Terracino ("Ms. Terracino") whom E.F. saw that day, and Damon DelBello, M.D. ("Dr. DelBello"), with whom Ms. Terracino consulted, failed to read and/or interpret and address Dr. Kurian's report and recognize that E.F.'s left elbow was still dislocated. All Ms. Terracino and Dr. DelBello did was to determine that E.F. would require physical therapy to recover her range of motion. Ms. Terracino informed E.F.'s parents that E.F. was not making any improvements, and that it would take six to 12 months for E.F. to recover her range of motion.

9. On September 30, 2024, E.F. had an appointment with Dr. Leong, who ordered another X-ray. Dr. Kurian once again noted: "The proximal ulna is posteriorly displaced relative to the distal humerus." Dr. Leong failed to read and/or interpret and address Dr. Kurian's report and recognize that E.F.'s left elbow was still dislocated.

10. By June 18, 2025, E.F. had not made any significant improvements. On that day, she had another appointment with Dr. Leong. Dr. Kolnik performed an X-ray and noted "no dislocation" on his report. After reviewing E.F.'s X-ray, Dr. Leong wrote in the chart: "She has full extension of her left elbow but she is unable to bend more than 90 degrees she has limited pronation and supination of her left arm." Dr. Leong suggested that E.F. get a CT scan to get a

better picture. Dr. Leong did mention E.F.'s lack of pronation. At that appointment, Dr. Kolnik failed to recognize that E.F.'s left elbow was still dislocated. Dr. Leong failed to read and/or interpret and address Dr. Kurian's prior reports and recognize that E.F.'s left elbow was still dislocated.

11. Dr. Leong, WMC, and its other physicians and health care providers, treated E.F. on a continuous basis from August 17, 2024, through June 18, 2025, for the same condition, symptoms and complaints, to wit, a displaced fracture of her left elbow. Despite additional X-Ray imaging, Dr. Leong and WMC's doctors, radiologists, and its staff repeatedly failed to diagnose and treat E.F.'s left elbow dislocation in a timely fashion, which led to chronic disclosure distraction of joint, permanent loss of elbow and forearm function, post-traumatic arthritis and the need for multiple further revision surgeries.

12. On June 25, 2025, E.F. had a CT scan performed at the Hospital for Special Surgery ("HSS"). Dan Zlotolow, M.D. ("Dr. Zlotolow") reviewed E.F.'s imaging. Dr. Zlotolow observed that E.F.'s left elbow had been dislocated since the August 12, 2024, fall and that because the elbow had been dislocated for so long, there was permanent damage. Dr. Zlotolow observed that E.F.'s radius and ulna had fused together, which resulted in E.F. losing her ability to pronate or supinate her left wrist. Dr. Zlotolow also pointed out that E.F. no longer had an elbow joint, and that there was additional bone growth in incorrect locations.

13. On September 24, 2025, in attempting to recover elbow flexion, at Shriners Hospital for Children, in Philadelphia, Pennsylvania, Dr. Zlotolow and Scott Kozin, M.D., performed extensive capsular release of E.F.'s left elbow, ulnar nerve transposition and recreation or burring of the coronoid fossa to allow for the joint reconstruction.

14. On October 8, 2025, Dr. Zlotolow noted on E.F.'s chart "chronic posttraumatic

deformity of the proximate radius and ulna with premature fusion of the radial head physis.”

15. On October 23, 2025, following E.F.’s continued difficulty contracting and extending the elbow joint, Dr. Zlotolow performed E.F.’s left elbow manipulation under anesthesia and left ulnar nerve decompression at the elbow. To date, E.F.’s prognosis concerning the mobility of her left elbow are still unknown.

PARTIES

16. Plaintiff is a resident of the County of Palm Beach, State of Florida.

17. Dr. Leong was and is a physician, duly licensed to practice medicine in the State of New York.

18. WMC was and is a New York State public benefit corporation with its principal place of business at 100 Woods Road, Valhalla, New York 10595.

19. WCHCC was and is a New York State public benefit corporation with its principal place of business at 100 Woods Road, Valhalla, New York 10595.

JURISDICTION

20. Jurisdiction exists pursuant to 28 U.S.C. § 1332, based on diversity of citizenship, because plaintiff is a resident and citizen of the State of Florida, and the Defendants are residents and citizens of the State of New York, and the amount in controversy exceeds SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs.

FIRST CLAIM ***For Medical Malpractice***

21. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 20, above.

22. The medical care, treatment, advice, surgeries, and services rendered to Plaintiff by the Defendants, their agents, servants, and employees, were done in a negligent manner and not in

accordance with good and accepted medical and surgery practice.

23. Dr. Leong, individually and/or through her agents, servants, and employees, was negligent and committed malpractice in that the orthopedic treatment and advice, care, and services were rendered in an improper, negligent, and careless manner, including but not limited to:

- a. failing to adhere to his duty to care for E.F. using the standard of care normally exercised by physicians generally under like conditions and similar surroundings;
- b. failing to render appropriate medical care and treatment to E.F.;
- c. failing to properly examine E.F.
- d. repeatedly failing properly to interpret E.F.'s X-Ray images;
- e. failing to recognize, diagnose, and properly treat E.F.'s anterior elbow dislocation in a timely manner;
- f. failing to inform E.F. and her parents that the fracture was complex and required specialist care;
- g. failing appropriately to reduce the fracture and realign the elbow joint during surgery on August 17, 2024;
- h. failing to review and act appropriately upon post-operative and follow-up imaging showing persistent elbow dislocation and malreduction;
- i. failing to provide or recommend appropriate post-operative interventions, including timely surgical correction, physical therapy, or referral to a specialist;
- j. providing continuous treatment from August 17, 2024, through June 18, 2025, without properly diagnosing or correcting the elbow dislocation;
- k. failing to heed E.F.'s condition;
- l. departing from accepted standards in the procedures and treatment performed; and

m. failing to follow appropriate practice.

24. One or more of the foregoing acts or omissions by Dr. Leong was a proximate cause of the injuries and damages sustained by E.F.

25. As a direct and proximate result of the negligence of Dr. Leong, E.F. experienced excruciating pain and suffering, the need for two additional surgeries to date, suffered progressive and permanent deformity, loss of function, and permanent damage to her left elbow.

26. As a direct and proximate result of the Defendants' negligence, Plaintiff has incurred and will continue to incur expenses related to the care and treatment of E.F., including but not limited to:

- a. Medical and non-medical expenses for transportation, special care, and treatment;
- b. Costs of additional surgeries, therapy, and rehabilitation; and
- c. Other incidental expenses reasonably necessary for the care of his minor child.

27. WMC and WCHCC are vicariously liable under the laws of agency and respondeat superior for the acts and omissions of its agents, servants and/or employees who negligently treated and/or negligently cared for the Plaintiff, while she was a patient of the Defendants.

28. WMC and WCHCC, through their agents, servants, and employees, were negligent and committed malpractice in that the medical treatment and advice, care, and services were rendered in an improper, negligent, and careless manner, including but not limited to:

- a. failing to train, supervise and manage Dr. Leong; and
- b. failing to promulgate and/or enforce surgical protocols to prevent the negligent acts complained of herein.

29. One or more of the foregoing acts or omissions by WMC and WCHCC was a proximate cause of the injuries and damages sustained by E.F.

30. By reason of the foregoing negligence and malpractice of the Defendants, E.F. was caused to and did sustain grave, serious and permanent personal injuries.

31. By reason of the foregoing, E.F. was incapacitated from her usual activities.

32. By reason of the foregoing, E.F. sustained future lost wages, economic damages, and impairment of earning capacity.

33. By reason of the foregoing, E.F. suffered emotional distress.


34. As a result of the foregoing, E.F. has been damaged in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff prays that judgment be entered against Defendants WMC and Dr. Leong for:

- a. Compensatory damages on behalf of E.F., in an amount to be determined at trial, including for pain, suffering, disability, and future medical care;
- b. Compensatory damages on behalf of Plaintiff, in an amount to be determined at trial, for expenses incurred for the care and treatment of E.F.;
- c. Costs of this action, including attorneys' fees, and experts' fees;
- d. Pre- and post-judgment interest as permitted by law; and
- e. Such other and further relief as the Court deems just and proper.

Dated: November 10, 2025
Chappaqua, New York

LAW OFFICE OF TODD J. KROUNER, P.C.

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