

IN THE CIRCUIT COURT IN AND FOR
ORANGE COUNTY, FLORIDA

CASE NO.: 2012-CA-004185-0

JAMES E. CHRONISTER as
Personal Representative of the
Estate of LUCETTE J. CHRONISTER,
Deceased,

Plaintiff

Vs.

INTUITIVE SURGICAL, INC.

Defendant

COMPLAINT

COMES NOW the Petitioner, JAMES E. CHRONISTER, as Personal Representative of the Estate of LUCETTE J. CHRONISTER, Deceased, and sues INTUITIVE SURGICAL INC., and alleges as follows:

1. At all times material to this action, JAMES CHRONISTER and LUCETTE CHRONISTER were residents of Orange County Florida.

2. At all times material to this action, INTUITIVE SURGICAL, INC. was a corporation existing under the laws of the State of Delaware and doing business in Orange County Florida.

3. This cause of action arose in Orange County, Florida.

4. This is an action for damages in excess of Fifteen Thousand Dollars exclusive of interest and costs.

5. On or about February 24, 2010, LUCETTE CHRONISTER was admitted to Orlando Regional Medical Center, dba Orlando Health, for the purpose of having a hysterectomy that same day.

6. Said surgery was to be performed by Alan Gordon, M.D. using the De Vinci robotic Arm that was designed and manufactured by Defendant, INTUITIVE, SURGICAL, INC. and sold to Orlando Health for use on its patients.

7. The De Vinci is designed to be operated by the surgeon via a video screen that is located several feet away from the patient.

8. Surgeon, Alan, Gordon, M.D. was provided initial training using the De Vinci robotic arm by Defendant, INTUITIVE SURGICAL, INC.

9. While Dr. Gordon was performing node dissection during the surgical hysterectomy on LUCETTE CHRONISTER, he made a small cut using the De Vinci to free the pedicle and also cut the internal iliac artery and vein and causing bleeding from those vessels.

10. Dr. Gordon then caused the scissors to be removed via the De Vinci and replaced with Maryland forceps. Using the ProGrasp and Marylands, the site of the injury was dissected free and pressure applied to maintain hemostasis. A Hemoclip applier was brought through the accessory port to try and clip the area of bleeding. However, as Dr. Gordon applied the clip and removed the instrument using the De Vinci,, the clip tore through the area where it had been applied causing significant hemorrhage from the pelvic vessels.

11. Dr. Gordon then removed all the De Vinci instruments from LUCETTE CHRONISTER and undocked the robot before he could emergently change the procedure to an open laparotomy.

12. While LUCETTE CHRONISTER survived the surgery, she died on March 13, 2010 as a result of the injuries she received described above.

STRICT LIABILITY

13. Plaintiff realleges Paragraphs 1 through 12 as if fully set forth herein and alleges:

14. INTUITIVE SURGICAL, INC. designed, manufactured and placed into the stream of commerce, to hospitals, specifically to Orlando Health, the De Vinci Robotic Arm that is unreasonable dangerous in the following ways:

a. The De Vinci was defective as designed as it removes from the surgeon the sense of touch in performing surgery;

b. The De Vinci was defective as it did not perform as expected and the magnitude of the danger-in-fact outweighed the utility of the product;

c. The De Vinci was defective in that it requires that surgeon practice on actual patients to become proficient in using it;

d. The De Vinci was defective in that the clip used to control bleeding caused a tear in the patient's vessels.

15. INTUITIVE SURGICAL INC., failed to warn its users of the inherent dangers in using the De Vinci.

16. The injury and death of LUCETTE CHRONISTER was a foreseeable consequence of the De Vinci's design.

17. The defects existed at the time the De Vinci left the hands of the Defendant.

18. Pursuant to Florida Statute Sec. 768.19, JAMES CHRONISTER, as Personal Representative of the ESTATE OF LUCETTE CHRONISTER, deceased, is entitled to recover damages on behalf of the beneficiaries for:

a. JAMES CHRONISTER'S loss of the care, comfort, consortium, services, support, society and companionship of his wife LUCETTE CHRONISTER and mental pain and suffering from the date of death and continuing into the future.

b. Net accumulations as defined by law.

c. Medical and funeral expenses.

WHEREFORE, the petitioner, JAMES E. CHRONISTER, as Personal Representative of the Estate of LUCETTE J. CHRONISTER, Deceased, demands judgment against the Defendant, INTUITIVE SURGICAL INC., in excess of Fifteen Thousand Dollars and trial by jury of all issues triable as of right by jury.

NEGLIGENCE

19. Plaintiff realleges each and every allegation contained in paragraphs 1 through 12 as if fully set forth herein and further states:

20. That at all times material to this cause, INTUITIVE SURGICAL INC., did manufacture and sell into the stream of commerce, a De Vinci robotic arm recommended by the Defendant to be used for performing surgical procedures including hysterectomies and node dissections.

21. INTUITIVE SURGICAL INC. breached its duty of care to the Plaintiff through acts of commission and omission which include, but are not limited to:

- a. Manufacturing and selling a defective machine that removes the sense of touch from the surgeon when used;
- b. Failing to inspect the materials and finished product for defects;
- c. Failing to repair or correct the dangerous condition that existed and allowing said condition to continue;
- d. Failing to warn the Plaintiff of the hazardous condition that existed in said De Vinci robotic arm;
- e. Failure to provide sufficient training to surgeons using the De Vinci.

22. At all times material to this action, Defendant INTUITIVE SURGICAL INC. knew or should have known of the dangerous condition that existed in the De Vinci.

23. Defendant INTUITIVE SURGICAL INC. knew, or in the exercise of reasonable care, should have known that the De Vinci was defective.

24. Pursuant to Florida Statute Sec. 768.19, JAMES CHRONISTER, as Personal Representative of the ESTATE OF LUCETTE CHRONISTER, deceased, is entitled to recover damages on behalf of the beneficiaries for:


a. JAMES CHRONISTER'S loss of the care, comfort, consortium, services, support, society and companionship of his wife LUCETTE CHRONISTER and mental pain and suffering from the date of death and continuing into the future.

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DATED this 13th day of March, 2012


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