**PDFSage Inc. | MA Superior Court Middlsex County**

**COMMONWEALTH OF MASSACHUSETTS**

**MIDDLESEX SUPERIOR COURT**

**CIVIL ACTION NO. \_\_\_\_\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**BO SHANG,**

Plaintiff,

v.

**THE EDINBURGH CENTER PACT PROGRAM,**

Defendant.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**COMPLAINT**

**1 PARTIES**

1.1. Plaintiff, Bo Shang, is an individual residing in Middlesex County, Commonwealth of

Massachusetts.

1.2. Upon information and belief, The Edinburgh Center PACT Program is a healthcare

provider located in Middlesex County, Commonwealth of Massachusetts, and is

subject to the laws of the Commonwealth regarding the practice of mental health

treatment and related services. See G.L. c. 112, § 129A; G.L. c. 111, § 203; see also

G.L. c. 123, § 1 et seq. Healthcare providers in Massachusetts, including mental

health providers, must comply with the standards of professional conduct established

by boards of registration and applicable statutes, and they may be held liable in tort

if they deviate from the accepted standard of care. See Santos v. Kim, 429 Mass. 130,

133 (1999); Kapp v. Ballantine, 380 Mass. 186, 193 (1980); Forlano v. Hughes, 393

Mass. 502, 505–06 (1984); Felton v. Spiro, 188 Mass. 563, 567–68 (1905); Morgan

v. Lalumiere, 22 Mass. App. Ct. 262, 265 (1986). Under the doctrine of respondeat

superior, a facility can be liable for the negligence of its employees acting within the

scope of employment. See Dias v. Brigham Med. Assocs., Inc., 438 Mass. 317, 319

n.1 (2002).

**2 JURISDICTION AND VENUE**

2.1. This Court has subject matter jurisdiction over this action pursuant to G.L. c. 212,

§ 4, as the amount in controversy exceeds the jurisdictional threshold of the Superior

Court, and the claims arise under the laws of the Commonwealth of Massachusetts.

See Maxwell v. AIG Domestic Claims, Inc., 460 Mass. 91, 99 (2011); G.L. c. 231,

§ 60B; Mello v. Stop & Shop Cos., 402 Mass. 555, 557 (1988). See also the general

requirement that medical malpractice claims be brought in the Superior Court. Held

v. Bail, 28 Mass. App. Ct. 919, 920 (1989).

2.2. Venue is proper in Middlesex County under G.L. c. 223, §§ 1, 2, because the cause of

action arose in Middlesex County and Defendant conducts business and provides

services in Middlesex County. See Salomon S. v. C., 360 Mass. 795, 796 (1972); see

also G.L. c. 223, § 5; Dall v. Kaylor, 88 Mass. App. Ct. 1112 (2015) (Rule 1:28

decision).

**3 FACTUAL ALLEGATIONS**

3.1. Plaintiff sought mental health care from Defendant beginning in or around September

2021. See G.L. c. 123, § 1 et seq.; Toste v. Somerset County Guidance Ctr., 5 Mass.

App. Ct. 326, 329 (1977).

3.2. Between approximately September 2021 and December 2024, Defendant misdiagnosed

Plaintiff as suffering from schizophrenia. This alleged diagnosis remained on

Plaintiff’s medical records and was relied upon by Defendant’s employees and agents

when determining courses of treatment. See Kapp v. Ballantine, 380 Mass. 186, 193,

402 N.E.2d 463 (1980); N.L. v. Children’s Hosp. Boston, 450 Mass. 109, 114 (2007);

Glicklich v. Spievack, 16 Mass. App. Ct. 488, 492 (1983); Forlano v. Hughes, 393

Mass. 502, 505–06 (1984); Morgan, 22 Mass. App. Ct. at 265.

3.3. As a result of this misdiagnosis, Plaintiff was unable to obtain the necessary and

appropriate medication for Attention Deficit Hyperactivity Disorder (“ADHD”).

Without proper ADHD medication, Plaintiff’s ability to function as a software

engineer was severely compromised. See Palandjian v. Foster, 446 Mass. 100, 105

(2006); Vaidyanathan v. Days Inns of Am., Inc., 7 Mass. L. Rptr. 512, 1997 WL

94544, at \*5 (Mass. Super. Ct. 1997); Walsh v. Baxter Healthcare Corp., 62 Mass.

App. Ct. 853, 855–56 (2005); Glenn v. Aiken, 409 Mass. 699, 706 (1991) (plaintiff

must show negligence was a substantial factor in bringing about harm).

3.4. Plaintiff experienced extended periods of unemployment from September 2021

through December 2024 directly attributable to the lack of proper ADHD treatment.

He also endured pain and suffering, mental anguish, and stress due to the incorrect

diagnosis and the failure to treat his actual condition. See Rodgers v. Boynton, 315

Mass. 279, 280 (1943); Franklyn v. Peabody, 249 Mass. 478, 482 (1924); Conway v.

Smerling, 37 Mass. App. Ct. 1, 9 (1994); Goguen v. Taylor, 374 Mass. 152, 160

(1978); Anderson v. Nat’l Union Fire Ins. Co., 45 Mass. App. Ct. 288, 294 (1998)

(mental anguish compensable in negligence).

3.5. During this same period, Nurse Practitioner Pam Miller, employed or affiliated with

Defendant, attempted to prescribe a game purportedly authorized by the U.S. Food

and Drug Administration to address ADHD in children aged eight to seventeen.

Plaintiff, then age 36, was outside the indicated age range for such therapy. See Harlow

v. Chin, 405 Mass. 697, 702 (1989); Koch v. Kennedy, 398 Mass. 421, 426 (1986);

Fearon v. Dermody, 72 Mass. App. Ct. 88, 93 (2008).

3.6. The above actions and omissions by Defendant represent a departure from accepted

standards of mental health care, proximately caused Plaintiff’s injuries, and

contributed to his damages as more fully described below. See Brune v. Belinkoff, 354

Mass. 102, 109 (1968); Zeller v. Cantu, 395 Mass. 76, 79 (1985); Kelly v. Rossi, 395

Mass. 659, 662 (1985); Matsuyama v. Birnbaum, 452 Mass. 1, 17–18 (2008); Morgan,

22 Mass. App. Ct. at 265.

**4 COUNT I – MEDICAL NEGLIGENCE (MEDICAL MALPRACTICE)**

4.1. Plaintiff restates and re-alleges each and every allegation set forth above as if fully

set forth herein.

4.2. Under Massachusetts law, a medical provider owes a duty to exercise that degree of

care and skill of the average qualified practitioner in the field. See Brune v. Belinkoff,

354 Mass. 102, 109 (1968); Kapp v. Ballantine, 380 Mass. 186, 193 (1980). This

standard of care applies equally to mental health professionals. See Zeller v. Cantu,

395 Mass. 76, 79 (1985); Blood v. Lea, 403 Mass. 430, 434–35 (1988); Morgan,

22 Mass. App. Ct. at 265. Liability arises when there is a deviation from this standard

of care that proximately causes harm to the patient. See Harlow v. Chin, 405 Mass.

697, 702 (1989); Glicklich v. Spievack, 16 Mass. App. Ct. 488, 492 (1983); Glenn v.

Aiken, 409 Mass. 699, 706 (1991).

4.3. Defendant and its agents and employees owed Plaintiff a duty of reasonable care in

providing accurate diagnoses and appropriate treatment for his mental health

condition(s). See Stepakoff v. Kantar, 393 Mass. 836, 841 (1985); Santos v. Kim, 429

Mass. 130, 133 (1999); Kapp v. Ballantine, 380 Mass. 186, 193 (1980); Fearon,

72 Mass. App. Ct. 88, 93 (2008).

4.4. By misdiagnosing Plaintiff as schizophrenic from September 2021 through December

2024, and by failing to prescribe or facilitate appropriate ADHD medication,

Defendant breached its duty to Plaintiff. See Brune, 354 Mass. at 109; Harlow, 405

Mass. at 702; N.L. v. Children’s Hosp. Boston, 450 Mass. 109, 114 (2007); Forlano,

393 Mass. at 505–06; McGuinness v. Cotter, 412 Mass. 617, 624 (1992) (breach of

the applicable standard of care).

4.5. The improper diagnosis and consequent failure to provide effective ADHD medication

were the direct and proximate cause of Plaintiff’s damages, including unemployment

and pain and suffering. See Mays v. Babenko, 37 Mass. App. Ct. 495, 498 (1994);

Doherty v. Hellman, 406 Mass. 330, 333–34 (1989); Kent v. Commonwealth, 437

Mass. 312, 320 (2002); Glicklich, 16 Mass. App. Ct. at 492; Matsuyama, 452 Mass.

at 25.

4.6. As a foreseeable result of Defendant’s negligence, Plaintiff was unable to maintain

consistent employment, leading to significant financial losses and ongoing mental and

emotional distress. See Rodgers, 315 Mass. at 280; Conway v. Smerling, 37 Mass. App.

Ct. 1, 9 (1994); Halley v. Birbiglia, 390 Mass. 540, 546 (1983); Goguen, 374 Mass.

at 160; Anderson, 45 Mass. App. Ct. at 294.

4.7. Pursuant to G.L. c. 231, § 60B, this claim is subject to a medical malpractice tribunal.

If the tribunal finds that Plaintiff’s allegations present a legitimate question of liability,

the matter shall proceed in this Court. See Denton v. Beth Israel Hosp., 392 Mass. 277,

279–81 (1984); Little v. Rosenthal, 376 Mass. 573, 575–76 (1978); Faircloth v.

DiLillo, 33 Mass. App. Ct. 928, 928–29 (1992). The statute of limitations for

medical malpractice in Massachusetts is generally three years from the date the

cause of action accrues, subject to the discovery rule. See G.L. c. 260, § 4; Franklin

v. Albert, 381 Mass. 611, 618 (1980).

**5 COUNT II – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

5.1. Plaintiff restates and re-alleges each and every allegation set forth above as if fully

set forth herein.

5.2. Under Massachusetts law, a claim for negligent infliction of emotional distress

requires the plaintiff to demonstrate (a) negligence, (b) causation, (c) that emotional

distress was foreseeable, and (d) that the emotional distress was severe. See Payton v.

Abbott Labs, 386 Mass. 540, 557–58 (1982); Sullivan v. Boston Gas Co., 414 Mass.

129, 132 (1993); Cohen v. McDonnell Douglas Corp., 389 Mass. 327, 336 (1983).

5.3. Defendant’s conduct in misdiagnosing Plaintiff’s mental health condition and failing

to provide appropriate treatment fell below the standard of care, constituting

negligence. See Brune, 354 Mass. at 109; Zeller, 395 Mass. at 79; Miles v. Edward

O. Tabor, M.D., Inc., 387 Mass. 783, 785–86 (1982); Blood, 403 Mass. at 434–35.

5.4. The misdiagnosis and inadequate treatment caused severe and ongoing emotional

distress to Plaintiff, who struggled without effective treatment and experienced

significant disruptions to his professional livelihood. See Payton, 386 Mass. at 557–58;

Cohen, 389 Mass. at 336; O’Connor v. Raymark Indus., Inc., 401 Mass. 586, 591–92

(1988).

5.5. It was reasonably foreseeable that the failure to provide appropriate care and the

continued misdiagnosis would cause severe emotional distress to an individual seeking

competent mental health treatment. See Sullivan, 414 Mass. at 137; Aldoupolis v.

Globe Newspaper Co., 398 Mass. 731, 737 (1986); Mullins v. Pine Manor Coll., 389

Mass. 47, 51 (1983); Goguen, 374 Mass. at 160.

5.6. Plaintiff sustained severe emotional distress, including anxiety, humiliation, and

depression, as a direct and proximate result of Defendant’s negligence. See Sullivan,

414 Mass. at 137–38; Wyman v. Ayer Properties, LLC, 469 Mass. 64, 75 (2014);

Rodgers, 315 Mass. at 280; Trudel v. Gagne, 328 Mass. 464, 468 (1952) (mental

anguish as recoverable harm).

**6 DAMAGES**

6.1. As a result of Defendant’s negligence, Plaintiff suffered:

a. Loss of gainful employment and income from September 2021 through December

2024;

b. Ongoing pain and suffering, mental anguish, and emotional distress;

c. Medical expenses related to inappropriate or ineffective treatments and any

subsequent treatments required to address the misdiagnosis;

d. Diminished earning capacity due to the extended disruption in Plaintiff’s career,

given the nature of software engineering employment; and

e. Other damages as shall be proven at trial.

**7 PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

A. Enter judgment in Plaintiff’s favor on all counts;

B. Award Plaintiff compensatory damages, including but not limited to lost wages, lost

earning capacity, medical expenses, and pain and suffering, in an amount to be

determined at trial; see Kapp v. Ballantine, 380 Mass. 186, 193 (1980); G.L. c. 231,

§ 85K; G.L. c. 231, § 60H; Matsuyama, 452 Mass. at 27;

C. Award Plaintiff interest, costs, and attorney’s fees as permitted by law; see G.L. c. 231,

§ 6B; G.L. c. 261, §§ 1 et seq.; Waldman v. American Honda Motor Co., 413 Mass.

320, 322 (1992);

D. Grant such other and further relief as this Court deems just and proper.

**8 JURY DEMAND**

Plaintiff hereby demands a trial by jury on all claims so triable pursuant to Mass. R. Civ. P.

38(b).

Respectfully submitted,

**BO SHANG**

Date: 3/1/2025 Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name: Bo Shang

Address: 10 McCafferty Way

Burlington, MA 01803

Phone: 781-999-4101

Email: bo@shang.software