

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS
COUNTY, MISSISSIPPI**

MARGIE KEMP

PLAINTIFF

VS.

CAUSE NO. _____

**MISSISSIPPI FOUNDATION OF CENTRAL
MISSISSIPPI, INC., AND MISSISSIPPI
DISCOUNT DRUGS OF CLINTON, INC.**

DEFENDANTS

**FIRST AMENDED COMPLAINT
(*Jury Trial Requested*)**

COMES NOW, the Plaintiff, Margie Kemp and files this First Amended Complaint against the Defendants, Mississippi Foundation of Central Mississippi, Inc. and Mississippi Discount Drugs of Clinton, Inc. and in support hereof would show unto the Court the following, to wit:

A. Parties

1. The Plaintiff, Margie Kemp, is an adult resident citizen of Hinds County, Mississippi.
2. The Defendant, Mississippi Foundation of Central Mississippi, Inc., is a Mississippi corporation and may be served with process through its agent for service of process, William Grete at 1225 North State Street, Jackson, Mississippi 39201.
3. The Defendant, Mississippi Discount Drugs of Clinton, Inc. is a Mississippi corporation and may be served with process through its agent for service of process, Cary L. Parks, 224 Clinton Boulevard, Clinton, Mississippi 39056.

B. Jurisdiction and Venue

4. This Court has jurisdiction over this matter and venue is appropriate in the Circuit Court of the First Judicial District of Hinds County, Mississippi as the negligence of the Defendants occurred in the First Judicial District of Hinds County, Mississippi.

C. Compliance with Statutes

5. Proper written notice of intention to file this action has been provided to the Defendants via regular mail and certified mail more than sixty days prior to initiating this action. A copy of said notice letters is attached hereto collectively as Exhibit "A."

6. Attached to this Complaint as Exhibit "B" is a Certificate of Compliance and expert consultation pursuant to the requirements of Miss. Code Ann. §11-11-58(1)(a).

D. Facts Which Give Rise to Cause of Action

7. Since at least August, 2008, Ms. Kemp has taken Warfarin at the direction of Dr. Alfredo Figueiroa, who upon information and belief, is a partner/member in defendant, Mississippi Foundation of Central Mississippi, Inc. The dosage of Warfarin taken by Ms. Kemp has varied. As of December, 2008, and at all times relevant to this matter, Ms. Kemp was prescribed and was, in fact, taking 1mg of Warfarin every other day, alternating with 2mg every other day. Ms. Kemp took the medication by taking one full 2mg tablet every other day, alternating with one-half 2mg tablet every other day.

8. On December 15, 2008, a prescription for Warfarin was called into the Defendant, Mississippi Discount Drugs of Clinton, Inc. by agents, servants and employees of Defendant, Mississippi Foundation of Central Mississippi, Inc.

9. Through its agents, servants and employees, the Defendant, Mississippi Discount

Drugs of Clinton, Inc. filled the prescription and dispensed to Ms. Kemp a thirty day supply of 10mg tablets of warfarin.

10. Within days of receipt of the warfarin received at Mississippi Discount Drugs of Clinton, Ms. Kemp began taking the medication as she had been instructed, taking one full tablet every other day, alternating with one-half tablet every other day.

11. Unbeknownst to Ms. Kemp, she had been given 10mg tablets of warfarin instead of the usual 2mg tablets. Consequently, she was taking 10mg doses of warfarin, alternating with 5mg doses, thereby receiving a much higher dose of warfarin than had been prescribed by Dr. Figueroa.

12. On January 3, 2009, Ms. Kemp collapsed at home and was rushed to Central Mississippi Medical Center where she was diagnosed with Warfarin toxicity, coagulopathy, acute blood loss, anemia, intra-abdominal bleeding and a ruptured spleen all as the result of a Warfarin overdose. Ms. Kemp underwent the surgical removal of her ruptured spleen and was not discharged from the hospital until January 12, 2009.

13. On January 30, 2009, Ms. Kemp was admitted to St. Dominic's Hospital and diagnosed with hospital acquired pneumonia which proximately resulted from the Warfarin overdose and lengthy hospital stay at Central Mississippi Medical Center. Ms. Kemp was not discharged from St. Dominic's Hospital until February 7, 2009. Because her physical condition had deteriorated significantly, Ms. Kemp was transferred to Trinity Health and Rehab for rehabilitation following her discharge from St. Dominic's.

14. As the result of the Warfarin overdose, Ms. Kemp sustained significant and permanent bodily injury, pain and suffering and mental and emotional distress. Further, she

incurred significant medical expenses.

E. Cause of Action

15. At all times relevant to this cause of action, Defendant, Mississippi Foundation of Central Mississippi, Inc., owed Ms. Kemp the duty to exercise reasonable care with regard to the refilling of her Warfarin prescription. Defendant Mississippi Foundation of Central Mississippi, Inc., through its agents, servants and employees, was negligent and breached said duty by telephoning to Defendant Mississippi Discount Drugs of Clinton, the incorrect dose of 10mg tablets for Ms. Kemp's prescription instead of 2mg tablets.

16. Alternatively, and at all times relevant to this cause of action, Defendant Mississippi Discount Drugs of Clinton, owed Ms. Kemp the duty to exercise reasonable care with regard to the refilling of her Warfarin prescription. Defendant, Mississippi Discount Drugs of Clinton, through its agents, servants and employees, was negligent and breached said duty by incorrectly dispensing 10mg tablets of Warfarin instead of 2mg tablets.

17. As a proximate result of the negligence of Defendant, Mississippi Foundation of Central Mississippi, Inc., and/or Defendant, Mississippi Discount Drugs of Clinton, Ms. Kemp sustained severe and permanent bodily injuries, mental and emotional distress, pain and suffering and she incurred extensive medical expenses.

F. Damages

18. As a direct and proximate result of the negligence of Mississippi Foundation of Central Mississippi, Inc. and/or Mississippi Discount Drugs of Clinton, Plaintiff is entitled to recover all damages allowed by law including, but not limited to:

(a) physical, mental and emotional pain and suffering and mental anguish; and

(b) past, present and future medical expenses.

G. Prayer for Relief

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Margie Kemp, hereby demands judgment against the Defendants, Mississippi Foundation of Central Mississippi, Inc. and/or Mississippi Discount Drugs of Clinton, Inc. in an amount in excess of the jurisdictional minimums of this Court, for all costs of this action, pre-judgment and post-judgment interest and for any other relief appropriate under the law.

This the _____ day of July, 2009.

MARGIE KEMP, PLAINTIFF

BY: _____
Walter C. Morrison, IV

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this day caused to be delivered via United States Postal Service, first class, postage prepaid, a true and correct copy of the above and foregoing document to:

Stephen P. Kruger, Esq.
Page, Kruger & Holland, P.A.
P. O. Box 1163
Jackson, MS 39215

Patricia T. Cronin, Esq.
Senior General Adjuster
Farmers Insurance Company
P. O. Box 268994
Oklahoma City, OK 73126-8994

This the ____ day of July, 2009.

Walter C. Morrison, IV

CERTIFICATE OF COMPLIANCE

I, Walter C. Morrison, IV, pursuant to *Miss. Code Ann.* §11-1-58, hereby certify that I have reviewed the facts of this case and have consulted with at least one (1) expert qualified pursuant to the *Mississippi Rules of Civil Procedure* and the *Mississippi Rules of Evidence*, who is qualified to give expert testimony as to standard of care or negligence, and who I reasonably believe is knowledgeable in the relevant issues involved in this particular action. I have further concluded on the basis of such review and consultation that there is a reasonable basis for the commencement of this action

DATED this the _____ day of July 2009.

Walter C. Morrison, IV
