

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT  
IN AND FOR FLAGLER COUNTY, FLORIDA

J.M., an Individual,

CASE NO.: 2020 CA 000184  
DIVISION:

Plaintiff,

vs.

FLORENCE ROBERT FRUEHAN,  
PALM HARBOR FAMILY PRACTICE  
AND WALK-IN CLINIC, P.A., a Florida Corporation,  
SEETA FRUEHAN, PINE CONE DEVELOPMENT L.C.,  
and KEM ASSOCIATES, LLC,

Defendants.

---

**PLAINTIFF'S ORIGINAL COMPLAINT**

COMES NOW the Plaintiff, J.M., an Individual (hereinafter referred to as the "Plaintiff"), by and through undersigned counsel, sue the Defendants, FLORENCE ROBERT FRUEHAN, an individual, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., a Florida corporation, SEETA FRUEHAN, an individual, PINE CONE DEVELOPMENT, L.C., and KEM ASSOCIATES, LLC, (hereinafter referred to as "Defendants"), and alleges as follows:

**GENERAL ALLEGATIONS**

1. This is an action for damages in excess of \$30,001.00.
2. All incidents complained of herein occurred in the city of Palm Coast, Flagler County, Florida.
3. All conditions precedent to bringing this action have occurred.
4. On June 29, 2018, the Florida Department of Health entered an Order of Emergency Restriction of License pertaining to the Defendant, FLORENCE ROBERT FRUEHAN, and made findings of fact that Defendant FRUEHAN had grabbed the breasts of the

Plaintiff, J.M. The State also concluded that Defendant FRUEHAN violated Florida Statute § 120.60(6) and Florida Statute § 459.015(1)(1), by attempting to engage in sexual activity by touching and fondling the breasts of the Plaintiff, J.M. As a direct result of said investigations into Defendant FRUEHAN, Defendant FRUEHAN voluntarily surrendered his medical license.

5. At all times material hereto, the Plaintiff, J.M., was age 65, a resident of Flagler County, Florida, and a patient of the Defendants.

6. At all times material hereto, Defendant, FLORENCE ROBERT FRUEHAN, held medical license number OS-5359, and practiced medicine in Palm Coast, Florida, with Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A.

7. At all times material hereto, Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., was in a medical practice located at 9 Pine Cone Drive, Suite 102A, in the city of Palm Coast, Flagler County, Florida

8. The Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., employed Defendant FLORENCE ROBERT FRUEHAN, and with full knowledge permitted him to engage in routine and predatory acts for years, without supervision or remedial action despite knowledge of his illegal conduct towards female patients and business invitees of the Defendants.

9. The Defendant, SEETA FRUEHAN, is an owner of Defendant PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., and the co-owner of the premises where the incidents occurred. Based upon information and belief, for many years Defendant, SEETA FRUEHAN, had notice and knowledge of the dangerous and illegal acts performed by Defendant FLORENCE ROBERT FRUEHAN, and failed to take any remedial action to warn female business

invitees, specifically the Plaintiff, and/or failed to bar the illegal activities of Defendant, FLORENCE ROBERT FRUEHAN.

10. The Defendant, PALM COAST DEVELOPMENT, L.C. is the co-owner of the premises where these incidents occurred. Based on information and belief, for many years Defendant had notice and knowledge of the dangerous and illegal acts performed by Defendant, FLORENCE ROBERT FRUEHAN, and failed to take any remedial action to warn female business invitees, specifically the Plaintiff, and/or failed to bar the illegal activities of Defendant, FLORENCE ROBERT FRUEHAN.

11. The Defendant, KEM ASSOCIATES LLC, is the co-owner of the premises where these incidents occurred. Based on information and belief, for many years Defendant had notice and knowledge of the dangerous and illegal acts performed by Defendant, FLORENCE ROBERT FRUEHAN, and failed to take any remedial action to warn female patients, specifically the Plaintiff, and/or failed to bar the illegal activities of Defendant, FLORENCE ROBERT FRUEHAN.

12. Female patients of the Defendants have reported inappropriate sexual conduct of the Defendant, FLORENCE ROBERT FRUEHAN, for at least the last fifteen (15) years.

13. At all times material hereto, all Defendants have been placed on notice that Defendant, FLORENCE ROBERT FRUEHAN's conduct was both illegal, harassing, inappropriate, and in violation of Florida civil and criminal laws. Despite this knowledge, none of the Defendants did anything to stop the said illegal conduct and did nothing to warn or protect its female patients who came into contact with Defendant, FLORENCE ROBERT FRUEHAN.

14. Further, Defendants continued to permit Defendant, FLORENCE ROBERT FRUEHAN to continue his predatory sexual behaviors.

15. In 2006, another female patient of Defendants filed a criminal report against Defendant, FLORENCE ROBERT FRUEHAN, for felony sexual battery. Once again, Defendants failed to intervene and/or attempt to stop the Defendant's illegal behavior.

16. Defendant FLORENCE ROBERT FRUEHAN's conduct is so notorious, that his nickname in the Palm Coast, Florida medical community is "*Doctor Freehands.*"

17. At all times material hereto, the Plaintiff was a patient under the care of the Defendants, specifically, Defendant FLORENCE ROBERT FRUEHAN.

18. On or about May 24, 2018, the Plaintiff appeared for her appointment at the office of Defendants for a routine check-up and a prescription refill.

19. During this appointment, the Plaintiff was placed into an examination room, and evaluated by a physician's assistant.

20. Defendant, FLORENCE ROBERT FRUEHAN, entered the examination room and agreed to refill the Plaintiff's prescription. Defendant, FLORENCE ROBERT FRUEHAN, made an inquiry as to whether Plaintiff had a recent mammogram and then instructed the Plaintiff to exit the room.

21. Thereafter the Defendant, FLORENCE ROBERT FRUEHAN, escorted Plaintiff towards the reception desk, inquired about her employment, and further asked specific personal questions relating to her marital status and history.

22. Although the Plaintiff was shocked about the Defendant's inquiries regarding her marital status and history, Plaintiff responded that although she was recently widowed, she considered herself married. Plaintiff then asked the Defendant to refer her to an OB/GYN.

23. At that point, Defendant, FLORENCE ROBERT FRUEHAN, instructed the Plaintiff to enter a dark unoccupied examination room, near the reception area.

24. The Plaintiff complied with Defendant's instructions and entered the examination room, followed immediately by Defendant, FLORENCE ROBERT FRUEHAN. Suddenly, with no medical reason nor necessity, Defendant, FLORENCE ROBERT FRUEHAN, grabbed and fondled the Plaintiff's breasts.

25. Thereafter, Defendant, FLORENCE ROBERT FRUEHAN, told the Plaintiff he was sorry for the death of her husband. and abruptly left the room.

26. The Plaintiff, shocked and appalled by the conduct of the Defendant, FLORENCE ROBERT FRUEHAN, left the office confused and in a state of horror and disgust.

**COUNT I - ASSAULT**  
**AGAINST FLORENCE ROBERT FRUEHAN**

27. The Plaintiff, J.M., hereby realleges and reincorporates Paragraphs 1-26 above as if fully set forth herein.

28. The Defendant, FLORENCE ROBERT FRUEHAN, first assaulted the Plaintiff when he placed her in fear of imminent, unwanted, and offensive touching, when he intentionally touched her breasts as alleged hereinabove.

29. The Plaintiff did not consent to the inappropriate, willful and intentional conduct by the Defendant, FLORENCE ROBERT FRUEHAN, which constituted unauthorized groping and touching of the Plaintiff.

30. The Plaintiff reasonably feared for her safety and wellbeing during and after the unwanted touching and assault by the Defendant.

31. As a direct and proximate result of the Defendant's aforesaid conduct, the Plaintiff had a well-founded fear of imminent imperil caused by the Defendant's position as a medical doctor and his ability to commit unwanted and highly offensive touching.

32. As a direct and proximate result of this assault, the Plaintiff has suffered, and will continue to suffer humiliation, embarrassment, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, damage to her reputation and other non-pecuniary losses for which compensatory damages should be awarded. These losses are permanent and continuing in nature.

WHEREFORE, the Plaintiff, J.M., prays for all legal and equitable relief allowed by law, including compensatory damages, emotional distress, pain and suffering, wage loss, economic loss, costs, and all other such relief as this Court may deem just and proper and hereby demands a jury trial on all issues so triable.

**COUNT II - BATTERY**  
**AGAINST FLORENCE ROBERT FRUEHAN**

33. The Plaintiff, J.M., hereby realleges and reincorporates Paragraphs 1-26 above as if fully set forth herein.

34. Defendant, FLORENCE ROBERT FRUEHAN, committed the tort of battery upon the Plaintiff when he groped her and touched her breasts without her permission and/or consent.

35. The Plaintiff did not consent to the inappropriate, willful and intentional conduct by the Defendant, FLORENCE ROBERT FRUEHAN, which constituted unauthorized groping and touching of the Plaintiff.

36. The Plaintiff feared for her safety and well-being during this battery.

37. As a direct and proximate result of the aforesaid conduct by the Defendant, Plaintiff had a well-founded fear of imminent peril, caused by the Defendant's ability to commit offensive and unwanted and highly offensive touching.

38. As a direct and proximate result of this battery, Plaintiff has suffered, and will continue to suffer humiliation, embarrassment, emotional pain, suffering, inconvenience, mental

anguish, loss of enjoyment of life, damage to her reputation and other non-pecuniary losses for which compensatory damages should be awarded. These losses are permanent and continuing in nature.

WHEREFORE, the Plaintiff, J.M., prays for all legal and equitable relief allowed by law, including compensatory damages, emotional distress, pain and suffering, wage loss, economic loss, costs, and all other such relief as this Court may deem just and proper and hereby demands a jury trial on all issues so triable.

**COUNT III – NEGLIGENT INFLICTION OF EMOTION DISTRESS**  
**AGAINST DEFENDANT FLORENCE ROBERT FRUEHAN**

39. The Plaintiff, J.M., hereby realleges and reincorporates Paragraphs 1-26 above as if fully set forth herein.

40. Defendant, FLORENCE ROBERT FRUEHAN, committed the tort of battery on Plaintiff when he groped her and touched her breasts without her permission and/or consent.

41. This inappropriate, willful and intentional conduct by the Defendant was not consented to by the Plaintiff and constituted an unauthorized and unwanted assault and battery on the Plaintiff.

42. Plaintiff was placed in fear for her safety and wellbeing during and after this unwanted touching by the Defendant.

43. As a direct and proximate result of the aforesaid circumstances, the Defendant created a well-founded fear of imminent peril, caused by the Defendant's position as a medical doctor and his ability to commit unwanted and highly offensive touching and attacks.

44. As a direct and proximate result of the aforesaid circumstances, the Plaintiff has suffered, and will continue to suffer humiliation, physical injuries emanating from the psychological trauma, embarrassment, emotional pain, suffering, inconvenience, mental anguish,

loss of enjoyment of life, damage to reputation and other non-pecuniary losses for which compensatory damages should be awarded. These losses are permanent and continuing in nature.

WHEREFORE, the Plaintiff, J.M., and prays for all legal and equitable relief allowable by law including actual and compensatory damages, mental anguish and suffering, costs, and all other such relief as the Court may deem just and proper and hereby demands a jury trial on all issues so triable.

**COUNT IV – NEGLIGENCE AND NEGLIGENT SUPERVISION AND RETENTION  
AGAINST PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A.**

45. The Plaintiff, J.M., hereby realleges and reincorporates Paragraphs 1-26 above as if fully set forth herein.

46. For many years prior to this incident, Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., had actual and/or constructive knowledge of the inappropriate and illegal conduct of Defendant, FLORENCE ROBERT FRUEHAN towards this Plaintiff, and many other women.

47. At all times material hereto, Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., had a duty to supervise its employees, agents, and doctors and to investigate, intervene, and stop any unlawful conduct, including the unlawful conduct of the Defendant, FLORENCE ROBERT FRUEHAN, for sexual harassment, physical assaults and batteries and/or sexual assaults and batteries.

48. At all times material hereto, Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., had a duty to the Plaintiff to reasonably ensure that their doctors were fit for their position and to ensure that the employees of the practice who were unfit, would be removed from their position.



49. The Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., had a duty to take remedial action based on the actual and/or constructive knowledge regarding the illegal conduct of its employees and doctors.

50. Despite the actual and/or constructive knowledge of the relentless sexual batteries and assaults towards women, and specifically, towards the Plaintiff, the Defendant breached its duty of reasonable care to this Plaintiff by continuing to retain Defendant, FLORENCE ROBERT FRUEHAN, and took no actions to stop his offensive behaviors.

51. The Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., was negligent and breached its duty of reasonable care to the Plaintiff, in the following ways: (a) Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., knew or should have known in the exercise of ordinary care that its doctor was engaging in sexual assaults, batteries and threatening behavior towards the Plaintiff and other female patients of the Defendant and/or (b) Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., failed to take any reasonable steps of any sort to determine that its employee, FLORENCE ROBERT FRUEHAN, had engaged in and continued to engage in sexual assaults and batteries towards the Plaintiff and many other women for many years and/or (c) Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., failed to take any reasonable steps of any sort to determine that its employees, specifically, FLORENCE ROBERT FRUEHAN, posed a continuing and ongoing extreme danger to this Plaintiff and other similarly situated female patients.

52. The Plaintiff reasonably relied on the Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A., to perform its legally obligated duty to manage, supervise, investigate, discipline and remove its employees and doctors, specifically, FLORENCE

ROBERT FRUEHAN, who posed an unreasonable risk of harm to its patients and to remove them from their position.

53. As a direct and proximate result of Defendant, PALM HARBOR FAMILY PRACTICE AND WALK-IN CLINIC, P.A.'s negligent acts and omissions as described above, the Plaintiff was sexually harassed, abused, assaulted, and battered by Defendant, FLORENCE ROBERT FRUEHAN.

54. As a further direct and proximate result of the assaults, harassment, and batteries upon Plaintiff, the Plaintiff has suffered severe emotional distress, damages, experienced humiliation, severe mental anguish, depression, emotional distress, and will continue to suffer the same in the future. The Plaintiff has suffered a loss of enjoyment of a normal life as a consequence of her emotional injuries and she has lost her ability to engage in normal activities. These losses are permanent and continuing in nature.

WHEREFORE, the Plaintiff, J.M., prays for all legal and equitable relief allowed by law including actual and compensatory damages, mental anguish and suffering, costs, and all other such relief as the Court may deem just and proper and hereby demands a jury trial on all issues so triable.

**COUNT V - NEGLIGENCE AND NEGLIGENT SUPERVISION AND RETENTION**  
**AGAINST SEETA FRUEHAN, PINE CONE DEVELOPMENT L.C.,**  
**AND KEM ASSOCIATES LLC**

55. The Plaintiff, J.M., hereby realleges and reincorporates Paragraphs 1-26 above as if fully set forth herein.

56. At all times material hereto, Defendants SEETA FRUEHAN, PINE CONE DEVELOPMENT L.C., and KEM ASSOCIATES LLC, owned, operated, managed and were in

control of the premises and facility known as Palm Harbor Family Practice and Walk-In Clinic, P.A., 9 Pine Cone Drive, Suite 102A. Palm Coast, Flagler County, Florida.

57. Defendants, SEETA FRUEHAN, PINE CONE DEVELOPMENT L.C., and KEM ASSOCIATES LLC, owed a duty of reasonable care to all persons to maintain and secure the premises in a safe and reasonable manner. Included in that was a specific duty to take precautions that were reasonably necessary to protect invitees, including this Plaintiff, from dangers which were reasonably foreseeable to protect its invitees on its premises.

58. On or about May 24, 2018, the Plaintiff was legally upon said premises as a member of the general public that was invited upon said premises for the benefit of these Defendants.

59. As stated hereinabove, Defendant, FLORENCE ROBERT FRUEHAN, intentionally assaulted and battered this Plaintiff and caused her emotional trauma and harm while she was in his care as his patient.

60. At the aforesaid time and place, all Defendants knew, or in the exercise of reasonable care should have known, that Defendant, FLORENCE ROBERT FRUEHAN, was a danger to his female patients, including this Plaintiff, and had actual knowledge of Defendant's conduct based on prior complaints from female patients relating to sexual batteries. Despite this knowledge, Defendants failed to take any action to stop or bar the behaviors of Defendant, FLORENCE ROBERT FRUEHAN, and failed to warn its female patients and business invitees of dangers created by conduct of their employee FLORENCE ROBERT FRUEHAN.

61. At all times material hereto, Defendants failed to warn, failed to hire security, and failed to take any actions to prohibit the illegal actions that were occurring to female patients legally on their premises.

62. All Defendants had a sufficient period of time to train, instruct, and/or hire security personnel to protect, guard and/or secure the safety of its invitees, including this Plaintiff, from the unreasonable dangerous conduct of Defendant, FLORENCE ROBERT FRUEHAN.

63. Defendants, SEETA FRUEHAN, PINE CONE DEVELOPMENT L.C., and KEM ASSOCIATES LLC, by and through agents, personnel, and/or employees, exposed Plaintiff to a zone of danger by allowing Defendant, FLORENCE ROBERT FRUEHAN, to continually assault their female patients, and in particular, this Plaintiff.

64. As a direct and proximate result of this battery, the Plaintiff has suffered and will continue to suffer humiliation, physical injuries emanating from the psychological trauma, embarrassment, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, damage to reputation and other non-pecuniary losses for which compensatory damages should be awarded. All losses are permanent and continuing in nature.

WHEREFORE, the Plaintiff, J.M., prays for all legal and equitable relief allowed by law including actual and compensatory damages, mental anguish and suffering, costs, and all other such relief as the Court may deem just and proper and hereby demands a jury trial on all issues so triable.

DEMAND FOR JURY TRIAL

65. The Plaintiff hereby demands a jury trial for all claims so triable as of right.

DATED this 7<sup>th</sup> April day of ~~March~~, 2020.

Respectfully Submitted,

VASILAROS WAGNER

 for EBN: 91587

---

STEVEN T. VASILAROS, ESQUIRE

Florida Bar No.: 0456713

JOSHUA J. WAGNER, ESQUIRE

Florida Bar No.: 0012209

721 Beville Road

South Daytona, Florida 32118

Telephone: (386) 777-7777

Facsimile: (386) 675-1449

Email: [pleadings@accidentfirm.com](mailto:pleadings@accidentfirm.com)

*Attorney for Plaintiff.*