

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT  
C. A. No.

JOHN DOE No. 5 )  
Plaintiff )

**COMPLAINT**

v. )

MELVIN D. LEVINE, M.D., )  
a/k/a DR. MEL LEVINE, and )  
CHILDREN'S HOSPITAL )  
MEDICAL CENTER, )  
Defendants )

**JURY TRIAL DEMANDED**

**INTRODUCTORY STATEMENT**

1. This is an action in which a former child patient, now an adult, brings this action against MELVIN D. LEVINE, M.D., for medical malpractice and/or sexual abuse, and against CHILDREN'S HOSPITAL MEDICAL CENTER for negligence in failing properly to supervise LEVINE, over a period of more than seventeen (17) years, during which time LEVINE improperly treated and/or sexually abused at least seven (7) minor patients.

**PARTIES**

2. Plaintiff is an individual who brings this action in the name JOHN DOE No. 5 ("JOHN No. 5"). He is identified in a separate Affidavit which will be served upon the defendants.
3. Defendant MELVIN D. LEVINE, M.D. ("LEVINE"), also known as Dr. Mel Levine, is an individual residing at Sanctuary Farm, 8218 McKee Road,

Rougemont, North Carolina.

4. Defendant CHILDREN'S HOSPITAL MEDICAL CENTER, also known as Children's Hospital ("CHILDREN'S"), is a corporation duly organized under the laws of the Commonwealth of Massachusetts with an usual place of business at 300 Longwood Avenue, Boston, Suffolk County, Massachusetts.

### **JURISDICTION**

5. The Court has jurisdiction over defendant LEVINE under Massachusetts General Laws, Chapter 223A, §3, in that defendant, at all relevant times, (a) transacted business, (b) contracted to supply services, and (c) caused tortious injury by acts and omissions, all in the Commonwealth of Massachusetts.

### **FACTS COMMON TO ALL COUNTS**

6. At all times relevant to this action, defendant LEVINE was a physician duly licensed under the laws of the Commonwealth of Massachusetts.
7. At all times relevant to this action, defendant CHILDREN'S was a hospital duly licensed under the laws of the Commonwealth of Massachusetts.
8. At all times relevant to this action, defendant LEVINE was a physician employed by defendant CHILDREN'S, and during some of that time, as its Chief of the Division of Ambulatory Pediatrics.
9. Plaintiff JOHN No. 5 was born on January 15, 1972.
10. In 1980, when he was 8 years old, JOHN No. 5's parents determined that he would benefit from counseling and brought him to defendant CHILDREN'S for

that purpose.

11. From 1980, until sometime in 1985, when JOHN No. 5 was 12 years old, defendant LEVINE provided psychotherapy services to the plaintiff.
12. During the course of his treatment of JOHN No. 5, defendant LEVINE deviated from accepted therapeutic standards.
13. Defendant LEVINE negligently and carelessly failed to treat, or improperly treated the plaintiff who were suffering from material psychological problems.
14. Defendant LEVINE failed to divulge in a reasonable manner to the plaintiff sufficient information to enable plaintiff to give or withhold his consent to the course of treatment followed by defendant LEVINE.
15. Defendant LEVINE failed to maintain proper therapeutic boundaries.
16. Defendant LEVINE mishandled the transference and counter-transference phenomena which arose out of the therapeutic relationship.
17. Defendant LEVINE negligently conducted or handled the termination of his professional relationship with plaintiff and terminated that relationship improperly, and/or failed to assist plaintiff in obtaining other professional treatment in accordance with accepted therapeutic procedure or practice.
18. Defendant LEVINE negligently undertook to treat plaintiff who were suffering from psychological problems which were beyond defendant LEVINE's capacity to treat.
19. Defendant LEVINE negligently failed to refer plaintiff to another more

competent professional person for proper treatment.

20. The treatment defendant LEVINE provided to the plaintiff violated the applicable professional and ethical principles and standards of his profession.

### **COUNT I**

21. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
22. Defendant LEVINE owed a duty of care to the plaintiff.
23. Defendant LEVINE breached his duty in that the treatment LEVINE provided was inappropriate and sub-standard, and violated the standards of therapeutic practice and the duty of care owed the plaintiff.
24. As a direct and proximate result of defendant LEVINE's negligence, carelessness and lack of skill the plaintiff has suffered and continues to suffer severe pain of body and anguish of mind and is entitled to recover damages for the injuries sustained.

### **COUNT II**

25. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
26. Defendant LEVINE held himself out to be a person skilled in and capable of providing therapy to the plaintiff, and for the consideration plaintiff provided to him, LEVINE agreed to provide therapy in a manner consistent with accepted therapeutic practices.

27. Defendant LEVINE breached said agreement, and plaintiff has been injured as a direct and proximate cause of that breach.

### **COUNT III**

28. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

29. Defendant LEVINE, as a therapist, had a fiduciary relationship with the plaintiff and owed plaintiff a duty of trust and loyalty.

30. Plaintiff reasonably reposed trust and confidence in LEVINE as his therapist.

31. Defendant LEVINE violated said trust and confidence, breached his fiduciary duty and thereby proximately caused injury to the plaintiff.

### **COUNT IV**

32. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

33. Defendant LEVINE negligently inflicted emotional distress upon the plaintiff.

### **COUNT V**

34. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

35. Defendant LEVINE sexually assaulted, battered and abused the plaintiff JOHN No. 5 during his treatment at CHILDREN'S.

36. In 1980 - 1985, defendant LEVINE, during his treatment sessions, under the guise of performing repeated, but unnecessary, physical examinations,

sexually assaulted JOHN No. 5, including numerous acts of genital fondling, masturbation, and other attempted and threatened acts of assault.

37. Until February, 2006, plaintiff JOHN No. 5 was unable to recall and to understand the damage which defendant LEVINE had inflicted upon him by these acts.

38. As a result of the acts of defendant LEVINE, the plaintiff JOHN No. 5 has been severely injured, has been required to undergo psychological treatment and therapy, and will continue to require this treatment and therapy in the future.

#### **COUNT VI**

39. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

40. Defendant LEVINE, by his several acts, intentionally inflicted severe emotional distress upon JOHN No. 5.

#### **COUNT VII**

41. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.

42. Defendant LEVINE interfered with plaintiff JOHN No. 5's rights under the constitution and laws of the United States and of the Commonwealth of Massachusetts, and is liable to plaintiff JOHN No. 5 in accordance with G.L. c. 12, §11H & I.

## COUNT VIII

43. Plaintiff realleges and incorporates herein the allegations contained in each and every other paragraph of this Complaint.
44. During a period of more than seventeen (17) years, from 1967 to about 1984, at least seven (7) minors were sexually assaulted by defendant LEVINE while they were patients at defendant CHILDREN'S.
45. The first, in chronological order, identified as JOHN DOE No. 4 in Suffolk Superior Court Civil Action No. 06-3170 (D), was sexually assaulted and abused by defendant LEVINE, during the years 1967- 1969, when he was 10 - 12 years old.
46. The second individual, identified as JOHN DOE in Suffolk Superior Court Civil Action No. 05-2828 (G), was sexually assaulted and abused by defendant LEVINE, in the years 1974 and 1975, when he was 12 - 13 years old.
47. The third individual, identified as JOHN DOE No. 2 in Suffolk Superior Court Civil Action No. 06-0385 (A), was sexually assaulted and abused by defendant LEVINE, during the years 1977 - 1980, when he was 10 - 13 years old.
48. The fourth individual was an unnamed minor, who complained to the Massachusetts Board of Registration in Medicine, that he was a patient of defendant LEVINE for "two years in the late seventies" and was sexually abused by him when was "entering puberty."
49. The fifth individual, who filed suit in Walsh v. Levine, U.S. District Court (MA)

C. A. No. 88-0739, was sexually abused by defendant LEVINE, starting in 1978, when he was 7 years old, and continuing until 1984.

50. The sixth individual, identified as JOHN DOE No. 3 in Suffolk Superior Court Civil Action No. 06-3170 (D), was sexually assaulted and abused by defendant LEVINE, starting in the year 1982, when he was 5 years old, and continuing to 1984.
51. The seventh individual, plaintiff JOHN No. 5, was sexually assaulted and abused by defendant LEVINE, starting in the year 1980, when he was 8 years old, and continuing to 1985.
52. The plaintiff is informed and believes that other minors were sexually abused by defendant LEVINE at defendant CHILDREN'S.
53. Defendant CHILDREN'S, knew, or in the exercise of reasonable care should have known, of defendant LEVINE's prior and on-going sexual assaults.
54. Defendant CHILDREN'S knew, or in the exercise of reasonable care should have known, that defendant LEVINE was not a fit person to be placed in charge of the treatment of young males, or to be allowed to provide unsupervised care.
55. Defendant CHILDREN'S knew, or in the exercise of reasonable care should have known, that defendant LEVINE was not a fit person to be retained in a position in which he would have access to young males.
56. Defendant CHILDREN'S knew, or in the exercise of reasonable care should

have discovered, that defendant LEVINE was engaged in illegal and inappropriate sexual conduct with young males under his treatment.

57. Defendant CHILDREN'S failed to train defendant LEVINE properly to perform his duties in the treatment of young males.
58. Defendant CHILDREN'S failed to supervise defendant LEVINE properly in the performance of his duties in the treatment of young males.
59. As a result of defendant LEVINE's assaults upon him, and the negligence of defendant CHILDREN'S, the plaintiff has been seriously and permanently injured.

### **RELIEF REQUESTED**

Plaintiff demands judgment against the defendants on each of the Counts stated, in an amount which is fair, just and adequate for the injuries and damages sustained, and the pain and suffering endured, plus attorneys' fees, interest and the costs of suit; and such further relief as the Court deems necessary and proper.

### **PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL CLAIMS**

By his Attorney,

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March 31, 2008