

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA**

**FLORIDA SPINE & ORTHOPEDICS INC.,
a Florida Corporation,**

CASE NO.: _____

Plaintiff,

v.

**TODD M. BENTLE, individually;
and FLORIDA INJURY LAW FIRM, P.A.,
a Florida professional corporation,**

Defendants.

_____ /

COMPLAINT

Plaintiff, Florida Spine & Orthopedics, Inc., by the undersigned counsel, hereby sues Defendants, Todd M. Bentle, and Florida Injury Law Firm, P.A., and states as follows:

1. This is an action for damages in excess of \$15,000, exclusive of interest, costs, and attorney's fees, and for injunctive relief.

2. Plaintiff, Florida Spine & Orthopedics, Inc. ("Florida Spine"), is a Florida corporation with its principal place of business in Winter Park, Orange County, Florida.

3. Defendant, Todd Bentle, ("Bentle"), is an individual who resides in Poinciana, Polk County, Florida.

4. Defendant, Florida Injury Law Firm, P.A. (the "Injury Firm"), is a Florida corporation with its principal place of business in Orlando, Orange County, Florida.

5. This Court has subject matter jurisdiction over this action pursuant to § 26.012, Fla. Stat.

6. Venue of this action is properly before this Court pursuant to §§ 47.011 and 47.051, Fla. Stat., because the cause of action arose in Orange County, Florida where

Florida Spine provided medical treatment to Defendant and one of the Defendants resides within Orange County, Florida.

GENERAL ALLEGATIONS

7. Florida Spine is a medical practice that provides top-quality orthopedic care, neurological care, and cutting edge spine treatment options.

8. Bentle sustained injuries as the result of an accident and received medical care from Florida Spine for his injuries.

9. The Injury Firm is a law firm that represented Bentle in a personal injury lawsuit he commenced to recover damages for the injuries he sustained in the accident.

10. On July 12, 2017, Bentle signed a financial agreement with Florida Spine and agreed to be personally responsible for all medical bills he incurred while under the care of Florida Spine for the injuries he sustained. A genuine copy of the Financial Agreement between Florida Spine and Bentle is attached hereto as Exhibit 1.

11. In addition to making it clear that Bentle is personally obligated to pay for Florida Spine's services, the Financial Agreement attached hereto as Exhibit 1 also grants Florida Spine a lien "for all funds owing to [Bentle] from [his] case by way of insurance payments, judgment, verdict or other source which may be paid to [Bentle's] attorney or [Bentle]."

12. On April 26, 2018, Florida Spine performed a successful surgery on Bentle's spine.

13. Bentle also received pre-surgery and post-surgery care from Florida Spine.

14. On a date unknown to Florida Spine, Defendants settled Bentle's personal injury lawsuit. Upon information and belief, the Injury Firm is holding settlement proceeds

in a trust account specifically established to receive and disburse the proceeds of Bentle's settlement.

15. The cost of the medical care which Florida Spine provided to Bentle was \$49,302.28, which is reasonable and in accordance with customary rates in the community.

16. Bentle was sent an invoice for Florida's Spine's services. A genuine copy of the invoice is attached hereto as Exhibit 2. Bentle failed to pay the invoice and \$49,302.28 is still owed to Florida Spine

17. Florida Spine has made numerous demands upon Defendants for payment of the balance due from Bentle, but payment has not been made.

18. Florida Spine has retained the undersigned law firm and agreed to pay for its services.

19. According to the terms of the Financial Agreement, Florida Spine is entitled to recover its attorney's fees and costs.

20. All conditions precedent to the bringing of this action and to Florida Spine's entitlement to recover hereunder have occurred, been waived, or have otherwise been satisfied and all notice required by law has been given.

COUNT I
(Breach of Contract - Bentle)

21. The allegations set forth in paragraphs 1 through 20 are incorporated by reference as if fully repeated herein.

22. This is a cause of action for Breach of Contract against Bentle.

23. Florida Spine and Bentle entered into a Financial Agreement pursuant to which Bentle agreed to pay for any unpaid medical bills he incurred with Florida Spine.

The Financial Agreement between Florida Spine and Bentle is attached hereto as Exhibit 1.

24. The Financial Agreement between Florida Spine and Bentle was supported by legally sufficient consideration.

25. Florida Spine complied with its part of the agreement by providing necessary and appropriate medical care to Bentle.

26. Florida Spine sent Bentle an invoice for the medical care provided to him, but the invoice was not paid. A genuine copy of the invoice is attached hereto as Exhibit 2.

27. Bentle breached the terms and conditions of the Financial Agreement by failing to pay the amounts due for the medical care he requested and received from Florida Spine.

28. Bentle's breach was the direct and proximate cause of damages to Florida Spine.

29. Pursuant to his Financial Agreement with Florida Spine, the unpaid balance on Bentle's account with Florida Spine is subject to a finance charge of 1.5% per month (18% APR).

30. Pursuant to the Financial Agreement, Bentle expressly agreed to pay all costs of collection, including Florida Spine's reasonable attorneys' fees.

31. The amount due for the medical care Florida Spine provided to Bentle is \$49,302.28, plus interest, delinquency fees, collection costs, attorney's fees, and other charges that continue to accrue.

WHEREFORE, Plaintiff, Florida Spine & Orthopedics, Inc., respectfully requests that judgment be entered in its favor and against Defendant, Todd Bentle, in the amount of \$49,302.28, plus pre-judgment interest, post-judgment interest, attorney's fees, costs, and such other relief as may be appropriate.

COUNT II
(Breach of Escrow Agent's Fiduciary Duties – Florida Injury Law Firm, P.A.)

32. The allegations set forth in paragraphs 1 through 20 are incorporated by reference as if fully repeated herein.

33. This is an action against the Injury Firm for Breach of Escrow Agent's Fiduciary Duties.

34. The Injury Firm represented Bentle in his personal injury case.

35. During the course of the representation, Bentle received medical care and treatment from Florida Spine.

36. Bentle agreed to pay Florida Spine for any unpaid medical bills associated with his medical treatment from Florida Spine. A genuine copy of the Financial Agreement between Florida Spine and Bentle is attached hereto as Exhibit 1.

37. The Injury Firm, had actual knowledge that Bentle owed medical fees to Florida Spine, that Florida Spine had a legitimate claim against Bentle for these unpaid fees, and that, as a result of the Financial Agreement attached hereto as Exhibit 1, Florida Spine has a lien against any funds received by the Injury Firm

38. Bentle recovered a settlement for his personal injury case.

39. The Injury Firm notified Florida Spine that the settlement proceeds from Bentle's personal injury case had been received and it was holding funds to pay Bentle's medical expenses in trust as escrow agent.

40. Florida Spine submitted an invoice for Bentle's unpaid medical fees to The Injury Firm and requested payment out of the escrowed settlement proceeds. A genuine copy of the invoice is attached hereto as Exhibit 2.

41. The Injury Firm refused to disburse payment to Florida Spine for the unpaid medical fees owed to it by Bentle.

42. The Injury Firm has also refused to provide Florida Spine with an accounting of the funds held in trust.

43. By undertaking to act as an escrow holder, the Injury Firm assumed fiduciary duties as a matter of law to Florida Spine.

44. The Injury Firm breached that duty when it failed and refused to pay for Bentle's unpaid medical fees from the funds held in trust by the Injury Firm

45. Florida Spine has suffered damages as the direct and proximate result of the Injury Firm's breach.

46. The Injury Firm's actions are in derogation of its fiduciary duties to Florida Spine, as established in The Florida Bar Rules Regulating Trust Accounts.

47. Specifically, Rule 5-1.1(e) of the Florida Bar Rules Regulating Trust Accounts provides as follows:

Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

48. Further, Rule 5-1.1(f) of the Florida Bar Rules Regulating Trust Accounting provides:

When in the course of representation a lawyer is in possession of property in which 2 or more persons (1 of whom may be the lawyer) claim interests, the property shall be treated by the lawyer as trust property, but the portion belonging to the lawyer or law firm shall be withdrawn within a reasonable time after it becomes due unless the right of the lawyer or law firm to receive it is disputed, in which event the portion in dispute shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

49. The Financial Agreement between Florida Spine and Bentle mandate the performance of the Injury Firm's fiduciary obligations under the above-referenced Florida Bar Rules.

50. The current amount due for Bentle's unpaid medical fees to Florida Spine is \$49,302.28, plus pre-judgment interest, post-judgment interest, costs, and for such other relief as may be appropriate.

WHEREFORE, Plaintiff, Florida Spine & Orthopedics, Inc., respectfully requests that judgment be entered in its favor and against Defendant, Florida Injury Law Firm, P.A., in the amount of \$49,302.28, plus pre-judgment interest, post-judgment interest, costs, and for such other relief as may be appropriate.

COUNT III
(Injunctive Relief)

51. The allegations set forth in paragraphs 1 through 20 and 34 through 50 are incorporated by reference as if fully repeated herein.

52. This is an action for injunction relief against the Injury Firm.

53. Florida Spine seeks an injunction to prevent the dissipation of settlement proceeds currently held in escrow by the Injury Firm and compelling disbursement of these funds to Florida Spine.

54. Upon information and belief, the Injury Firm's principal reason for setting up the escrow account was to ensure the proper disbursement of the settlement proceeds it received on behalf of Bentle, including payment of all related medical fees.

55. Florida Spine has an actual interest in the settlement proceeds being held in escrow by the Injury Firm

56. Florida Spine is entitled to be paid from the escrowed settlement proceeds for the medical care Bentle received from Florida Spine.

57. The current amount due for Bentle's unpaid medical fees to Florida Spine is \$49,302.28.

58. Florida Spine will suffer irreparable harm should the proceeds be disbursed to Bentle because the likelihood that Bentle would dissipate the proceeds is great. Florida Spine will not be made whole with a money judgment if the proceeds are released to Bentle because, upon information and belief, Bentle is not financially able to pay Florida Spine for his medical fees.

59. Florida Spine has no adequate remedy at law to redress the harm caused by Bentle and The Injury Firm

60. Florida Spine is likely to succeed on the merits in this action against Bentle and the Injury Firm, as Defendants have acknowledged the debt owed to Florida Spine.

61. The ordering of injunctive relief against the Injury Firm is not contrary to the public health, safety, or welfare, and all equities in this action favor Florida Spine.

WHEREFORE, Plaintiff, Florida Spine & Orthopedics, Inc., respectfully requests that the Court enter temporary and permanent orders and/or judgments:

A. Enjoining the Injury Firm from disbursing any additional monies to Bentle (or any other person or entity) from the settlement proceeds in escrow until such time as this Court has properly adjudicated the claims made by Florida Spine;

B. Enjoining the Injury Firm to provide Florida Spine with an accounting of the funds held in trust;

C. Enjoining the Injury Firm to distribute to Florida Spine an amount sufficient to pay Florida Spine for the amounts owed by Bentle (including interest and other accruals), or, alternatively, enjoining the Injury Firm to interplead and deposit the disputed sums into the registry of this Court;

D. Awarding Florida Spine reasonable attorney's fees and costs incurred in this action; and

E. Awarding such supplemental and incidental relief as the Court deems just and appropriate.

/s/Charles M. Greene
Charles M. Greene
Florida Bar No.: 938963
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Counsel for Plaintiff

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1936 Lee Road
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Winter Park, Florida 32789
Office: (321) 316-4665 Fax: (321) 972-2942

FINANCIAL POLICY

- **BASIC POLICY:** The patient is responsible for medical bills in our office. Our staff will help with completion of insurance forms as an accommodation and convenience to you without charge. It is the patient's responsibility to know your contract benefits, assure collection of insurance payments to us, and to negotiate with your insurance company over any disputed claims.
- **IF YOU DO NOT HAVE INSURANCE:** Our policy requires payment in full today, unless other arrangements are made. If you cannot pay in full now, we request partial payment today as you arrange for credit on your account with a payment plan agreement with our Credit and Collections Manager.
- **IF YOU HAVE INSURANCE:** Fill out the patient's section of our form. Florida Spine & Orthopedics, Inc. does not accept Medicaid or any HMO plan. If you are covered by private insurance or PPO with out of network benefits, please present your identification card to the receptionist at the time of your appointment.
- **WORKMAN'S COMPENSATION:** In the event it is determined by the Worker's Compensation Board that the illness or injury is not a result of a compensable Worker's Compensation Case, I hereby agree to pay the usual and customary fees for the services rendered.
- **REJECTED CLAIMS:** If your insurance company rejects your claim, or if they pay less than the total bill, our policy requires you to pay the balance in full upon receipt of your statement. If you cannot pay your balance in full after your insurance payment, call Florida Spine & Orthopedics, Inc.
- **FORMS OF PAYMENT:** We accept payments in cash, check, or money order. Checks must be made payable to Florida Spine & Orthopedics, Inc.
- **RETURNED CHECKS:** A \$100.00 handling charge is applied to all returned checks.
- **DELINQUENT ACCOUNTS:** Delinquent accounts over 90 days are turned over to our Collection Manager, unless other arrangements are made. If the bill remains unpaid and satisfactory arrangements for payment are not made, the Collection Manager will review the account with the doctor to decide appropriate legal action including placing a lien on a third party case. We reserve the right to add late charges for delinquent accounts requiring collections action and to add attorney fees, court costs, and/or collections agency fees. If your account is placed with a 3rd party, they have the right to contact you at any number provided to our office.
- **MONTHLY STATEMENTS:** Once your insurance has paid you are responsible for the unpaid balance. You will receive an itemized monthly statement of any patient balance until your bill is paid in full. Interest of 1.5% (18% per year) will be applied to any amount not paid after 30 days with a minimum charge of \$0.50 per month.

If this account is assigned to an attorney for collections and/or suit, Florida Spine & Orthopedics, Inc. will be entitled to attorney's fees and costs of collection.

I hereby further give a lien to Healthcare Provider for all funds owing to me from my case by way of insurance payments, judgment, verdict or other source which may be paid to my attorney or myself.

In addition to the foregoing, in order to secure my obligation to pay the amount of my charges to Healthcare Provider, and in consideration for Healthcare Provider's agreements set forth herein, I hereby grant to Healthcare Provider, in accordance with the Uniform Commercial Code as in effect in the applicable jurisdiction, a security interest in and lien upon: (i) the proceeds; and (ii) all proceeds thereof, in each case whether now owned or hereafter existing, acquired or arising, and wherever located. I authorize Healthcare Provider to file one or more UCC financing statements (and continuations thereof) naming me as debtor and evidencing Healthcare Provider's security interest in such collateral.

To the extent necessary to determine liability for payment and to obtain reimbursement, I authorize disclosure of portions of the patient's record.

I hereby assign all medical and/or surgical benefits, to include major medical benefits to which I am entitled, including private insurance, and other health plans to:

This assignment will remain in effect until revoked by me in writing. A photocopy of this assignment is to be considered valid as an original. I understand that I am financially responsible for all charges whether or not paid by said insurance.

I have read and agree to the Financial Policy of this office.

X Joel Bentle APPT DATE 7/12/17

Signature (Parent If Minor)

Send payment to:
 Florida Spine and Orthopedics
 1936 Lee Road, Suite 250
 WINTER PARK
 FL, 32789
 Phone No : 321-316-4665 Fax : 321-972-2942

Page Account# Statement Date
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Bill to:
 TODD BENTLE
 619 BILTEEN COURT
 KISSIMMEE, FL
 LAKE, 34755

**TOTAL BALANCE: \$49,302.28
 (PLEASE PAY THIS AMOUNT)**

Patient: TODD BENTLE (164837)

Date	Description	Charges	Payment	Balance
You are responsible for the following charges:				
07/18/18	POST OP	0.00	0.00	0.00
05/18/18	POST OP	0.00	0.00	0.00
04/26/18	L3-S1 L3-5 Medial Branch Neurotomy Corresponding to L3-S1 Facet Joint Complex, Left Sided / Intraoperative Fluoroscopy with Interpretation	7,897.63	0.00	7,897.63
04/26/18	L4-5 L4-5 Posterior Decompression with Laminectomy & Microdiscectomy, Intraoperative Fluoroscopy with Interpretation, Intraoperative Microscope Use	37,641.85	0.00	37,641.85
04/25/18	EST. PATIENT MOD. HIGH COMPLEX	400.00	0.00	400.00
04/05/18	EST. PATIENT MOD. HIGH COMPLEX	400.00	0.00	400.00
04/05/18	MRI OF LUMBAR W/O CONTRAST	250.00	0.00	250.00
10/11/17	EST. PATIENT MOD. HIGH COMPLEX	400.00	0.00	400.00
08/30/17	EST. PATIENT MOD. HIGH COMPLEX	400.00	0.00	400.00
08/17/17	SI JOINT INJECTION, 1 LEVEL	912.80	0.00	912.80
07/12/17	NEW PATIENT, COMPREH, MODERATE	750.00	0.00	750.00
07/12/17	MRI OF LUMBAR W/O CONTRAST	250.00	0.00	250.00
TOTAL BALANCE			----->	\$49,302.28

Total Charges	49,302.28
Total Payments	0.00
Total Adjustments	0.00

Balance	49,302.28
Insurance Balance	0.00
Patient Balance	49,302.28