

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

SUZANNE STORMENT,

Plaintiff,

v.

Case No. D-202-CV-2021-04807

WALGREEN, CO., an Illinois Corporation, and  
DOES 1-10,

Defendants.

**COMPLAINT FOR PERSONAL INJURY, NEGLIGENCE,  
AND RESPONDEAT SUPERIOR**

COMES NOW the Plaintiff, Suzanne Storment, in the above-entitled and numbered cause of action, and by and through her attorney of record, the Branch Law Firm (Margaret M. Branch) and for her causes of action, states as follows:

**PARTIES AND JURISDICTION**

1. This is an action for Negligence, Personal Injury, and Respondeat Superior.
2. Plaintiff, Suzanne Storment, was, at all times material herein, a resident of the City of Albuquerque, County of Bernalillo, State of New Mexico.
3. Defendant Walgreens Co., Inc., (hereinafter "Walgreens") is incorporated under the laws of the State of Illinois. Upon information and belief, and at all times relevant hereto, Walgreens was engaged in the business of retail pharmacy, which includes such activities as dispensing pharmaceutical medications to its customers, and counseling customers regarding pharmaceutical products. Plaintiff alleges, on information and belief, that Walgreens, Co., Inc. has done, and continues to do business in the State of New Mexico as Walgreens or Walgreens

Pharmacy. Defendant Walgreens may be served through its registered agent, The Prentice Hall Corporation System, Inc., 121 E. Palace Avenue, Santa Fe, New Mexico 87501.

4. Based upon information and belief, Defendant John Does 1-10, employees and/or contractors of Defendant City of Albuquerque and/or the Albuquerque Museum, were, at all times material herein, residents of the City of Albuquerque, County of Bernalillo, State of New Mexico. Plaintiff is ignorant of the true names of defendants sued herein as Defendant John Does 1-10 (hereinafter “Defendant Does 1-10”), and, therefore, sues these defendants by such fictitious names. Plaintiff will amend this Complaint to insert their true names when they are ascertained.

5. The acts complained of herein occurred in the City of Albuquerque, County of Bernalillo, State of New Mexico, at the Walgreens Pharmacy located at 8011 Harper Road, Albuquerque, Bernalillo County, State of New Mexico.

6. The acts and omissions of Walgreens’ employees or agents under the doctrine of Respondeat Superior are the actions and omissions of Walgreens.

7. All acts complained of herein occurred in the City of Albuquerque, County of Bernalillo, State of New Mexico.

8. Venue and jurisdiction are proper in Bernalillo County, pursuant to NMSA 1978, Section 41-4-18, and NMSA 1978, 38-3-1(A) (1988).

#### **STATEMENT OF FACTS**

9. Plaintiff incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though they were fully set forth herein.

10. At all times material to this Complaint, Suzanne Storment (hereinafter “Plaintiff”) was a thirty-five (35) year-old woman.

11. On or about February 26, 2021, Plaintiff went to Walgreens located at 8011 Harper Drive, NE, Albuquerque, New Mexico, for her first dose of the COVID vaccine.

12. The pharmacy department did not have chairs for customers to sit after receipt of the vaccine so, after receiving the shot, she was advised that she could walk around the store or go sit in her car for fifteen (15) minutes, or if she felt really good, she could not wait at all and just go home.

13. Plaintiff felt a bit of dizziness, so she chose to stay in the store and see if she could find a chair somewhere to sit. Having found no chair, she bought a bottle of water and headed to her car to sit down.

14. Plaintiff's car was parked on the front row next to the entrance. When she got to her car, she bent down to put her purse and water in the front passenger seat. As she stood, she was so dizzy she couldn't steady herself as she tried to reach for the car door. Plaintiff remembers the sensation of falling and seeing the pavement coming towards her. She landed full force on her bent left arm. The pain was intense and spread from elbow to hand. When she retained some sense of bearings, she found her service dog sitting next to her as she was lying on the pavement towards the parking lot to the right of her car. Plaintiff was finally able to get up and a woman assisted her to the sidewalk outside the store and helped her sit down then went into the store for help.

15. A Walgreens employee came out of the store with a first aid kit and put pressure on Plaintiff's elbow which was bleeding. 911 was called and Plaintiff contacted a friend to come to pick up her service dog.

16. One of the pharmacist's came out to see what had happened. He asked Plaintiff if she was still dizzy, to which she responded yes. The pharmacist then flatly stated "yeah, that is fairly common after the vaccine, not a big deal."

17. Plaintiff was transported by ambulance to the emergency room at University of New Mexico Hospital in Albuquerque where she was diagnosed with a compound fracture of the left elbow with fractures in both radial and ulnar bones with dislocation of the elbow.

18. Plaintiff was admitted to the hospital and the open wound was cleaned and stitched, the dislocation was corrected. The next day, February 27, 2021, she underwent surgery for the multiple fractures in her elbow.

19. Upon information and belief, at the time of Plaintiff's fall, neither Defendant Walgreens nor Defendant Does 1-10 took any actions or precautions to reduce the hazards created by vaccinating patients with a COVID vaccination and providing a place to sit for fifteen to thirty (15-30) minutes after receipt of the vaccination.

20. Upon information and belief, Walgreens and Defendant Does 1-10 knew that the COVID vaccination could cause a patient to become dizzy causing a high-risk of falling and injury.

21. Plaintiff's fall was the direct result of Defendant Walgreens and Defendant Does 1-10's failure to properly provide a seat or area to be seated after receiving the COVID vaccination.

22. After her fall, Plaintiff suffered significant pain in and loss of use of her left arm.

23. As a direct and proximate result of Plaintiff's fall after receipt of the COVID vaccination and not being provided a place to sit thereafter, Plaintiff suffered a compound fracture of the left elbow with fractures in both radial and ulnar bones with dislocation of the elbow.

24. Plaintiff suffered and continues to suffer from the injuries she sustained due to the negligence of Defendant Walgreens and/or Defendant Does 1-10.

25. Defendant Walgreens had actual, constructive, and/or implied notice of the side effects of the COVID vaccination.

26. Defendant Walgreens and/or Defendant Does 1-10 owed Plaintiff a duty to provide her with a place to sit after receipt of the COVID vaccination.

27. Defendant Walgreens and/or Defendant Does 1-10 breached the duty they owed to Plaintiff.

**COUNT I**  
**NEGLIGENCE**

28. Plaintiff incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though they were fully set forth herein.

29. Defendant Walgreens owes customers and/or patients, specifically Plaintiff, the duty to use ordinary care when providing vaccinations to customers and/or patients.

30. Defendant Walgreens has a duty to provide customers and/or patients with a place to sit for observation after the customer and/or patient has been given a vaccination.

31. Defendant Walgreens and Defendant Does 1-10 failed to take reasonable precautions to prevent injuries to the public and, more specifically, Plaintiff.

32. Defendant Walgreens and Defendant Does 1-10 failed to use ordinary care to ensure the safety of customers and/or patients, including Plaintiff.

33. Defendant Walgreens and Defendant Does 1-10 breached their duty owed to Plaintiff because they knew of or, by the exercise of reasonable care, should have known that a side-effect of the COVID vaccination is dizziness causing a danger and a hazard to the safety of the public, specifically Plaintiff.

34. On or about February 26, 2021, upon information and belief, Defendant Walgreens failed to provide a place for customers and/or patients to sit after receiving a COVID vaccination.

35. On or about February 26, 2021, upon information and belief, Defendant Walgreens failed to implement and enforce policies to ensure a safe environment for customers and/or patients, including Plaintiff.

36. As a direct and proximate result of the negligent acts and/or omissions as stated above of Defendant Walgreens and Defendant Does 1-10, Plaintiff became dizzy after a COVID vaccination which caused her to fall, thereby suffering injuries, damages, and losses complained of herein.

37. Specifically, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff has suffered serious and permanent physical injuries.

38. Further, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff necessitated medical treatment for her injuries and has incurred substantial medical expenses.

39. Further, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff has suffered loss of household services and loss of enjoyment of life (hedonic damages).

40. Further, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff has suffered and will continue to suffer mental anguish, emotional distress, and pain and suffering.

**COUNT II**  
**NEGLIGENCE AND RESPONDEAT SUPERIOR**

41. Plaintiff incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though they were fully set forth herein.

42. At all times material hereto, acting within the course and scope of their employment, agency relationship, or contract, Defendant Does 1-10, as employees and/or agents that Defendant Walgreens had sufficient control over, failed to exercise ordinary care in providing seating on the premises of the Walgreens to allow for customers and/or patients to sit after receiving COVID vaccination, including, but not limited to:

a. Failing to develop, employ, monitor, and follow appropriate policies and procedures with regard to immediate after care following a COVID vaccination for customers and/or patients, including Plaintiff;

b. Failing to take the reasonable precautions that were necessary to prevent damage and injury to the health and safety of Plaintiff;

c. Failure to anticipate and provide appropriate seating needed to lessen the likelihood of injury to Plaintiff; and

d. By other means as learned through discovery during this litigation.

43. At all times material hereto, the aforementioned acts and/or omissions were committed by employees, agents, apparent or ostensible agents, and/or representatives of Defendant Walgreens during the course and scope of their employment, agency relationship, or contract and over whom Defendant Walgreens had sufficient control, thereby making Defendant Walgreens liable pursuant to *respondeat superior*.

44. As a direct and proximate result of the negligent acts and/or omissions as stated above of Defendant Walgreens and Defendant Does 1-10, Plaintiff fell in Defendant Walgreens' parking lot after receiving a COVID vaccination, thereby suffering injuries, damages, and losses complained of herein.

45. Specifically, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff has suffered serious and permanent physical injuries.

46. Further, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff necessitated medical treatment for her injuries and has incurred substantial medical expenses.

47. Further, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff has suffered loss of household services and loss of enjoyment of life (hedonic damages).

48. Further, as a direct and proximate result of the negligent acts and/or omissions of Defendant Walgreens and Defendant Does 1-10, Plaintiff has suffered and will continue to suffer mental anguish, emotional distress, and pain and suffering.

49. All injuries suffered by Plaintiff relating to this incident, past, present and future, were due to the negligence of Defendants, without any contributing negligence on the part of the Plaintiff.

### **COUNT III** **DAMAGES**

50. Plaintiff incorporates by reference each and every allegation contained in the previous paragraphs of this Complaint as though they were fully set forth herein.

51. *Ad damnum* specified amounts will be determined upon further, thorough discovery and to be presented at trial.

52. As a result of the aforementioned negligent acts and omissions, Plaintiff sustained a compound fracture of the left elbow with fractures in both radial and ulnar bones with dislocation of the elbow.



53. By these injuries, Plaintiff has been made incapable of any gainful activity, has suffered great physical and mental pain, and has incurred expenses in an amount to be specified upon further discovery and to be presented at trial for medicine, medical attention, and hospitalization.

54. Plaintiff is entitled to recover: past, present, and future medical care as allowed for specialized life care planning and attention on a daily basis to allow Plaintiff to function in a manner possible for future welfare and rehabilitation. Further, Plaintiff is entitled to recover: pain and suffering, loss of enjoyment of life (hedonic damages), and for all necessary and related losses for care and treatment as allowed by statute, code, or regulation, or what the Court finds to be just and proper in this case.

55. All acts and omissions as to all counts set forth herein are adopted in general and Plaintiff's injuries described herein are proximately caused by the aforementioned negligent acts and omissions, whether or not the sole cause, last cause, or contributing cause.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that Judgment be entered in her favor, and against Defendant Walgreens and Defendant John Does 1-10 in an amount to be proven at the time of trial, for any and all damages provided under the New Mexico Tort Claims Act, including compensatory damages, future costs and medical needs, loss of enjoyment of life (hedonic damages), for costs associated with the bringing of this cause of action, for post-judgment interest, and for such other and further relief as will be determined at the time of trial and as the Court deems just and proper.

Dated this 13<sup>th</sup> day of August, 2021.

Respectfully submitted,

**BRANCH LAW FIRM**

*/s/ Margaret M. Branch*

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