

**IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI**

JANE DOE V,)	
)	
Plaintiff,)	
)	Cause No.:
v.)	
)	Division:
MICHELE KOO, M.D.)	
)	
Serve:)	
Michele Koo, M.D.)	
333 S. Kirkwood, Suite 203)	
St. Louis, MO 63122)	
)	
Defendant.)	

PETITION – INVASION OF PRIVACY

PARTIES

1. Plaintiff is an individual residing in the State of Missouri.
2. Defendant is an individual residing in the State of Missouri and doing business as Michele Koo, M.D., FACS in St. Louis County, Missouri.
3. The injury to plaintiff occurred in the County of St. Louis, State of Missouri by way of unauthorized publication on the internet.

ALLEGATIONS COMMON TO ALL COUNTS

4. On or about May 19, 2008 plaintiff Jane Doe V underwent cosmetic surgery performed by Defendant Dr. Koo.
5. Prior to the surgery in May 2008, Dr. Koo took “before” pictures of the plaintiff. Following her surgery “after” pictures were taken of the plaintiff. These photographs depict plaintiff naked from the chin to the waist.

6. At all times the photographs were part of the medical records of the plaintiff and were obtained by Defendant for the limited and sole purpose of rendering medical treatment and administrations to the plaintiff.

7. At all times herein the medical records of plaintiff including the photographs were subject to confidentiality requirements imposed by the physician/patient relationship.

8. Plaintiff was specifically advised that neither she, nor any member of her family would be identified by name in the photographs.

9. On various occasions, the dates of which are unknown to plaintiff, Defendant Dr. Koo disseminated and distributed the medical records and information concerning the plaintiff to persons whose identities are unknown to the plaintiff, including but not limited to MedNev Technologies in conjunction with the creation or maintenance of website advertising and promoting treatment by Dr. Koo. Plaintiff did not consent to or authorize the release of the photographs identifying her, her personal information or medical records to any person or persons.

10. The dissemination and disclosure of plaintiff's medical record, photographs and her name in connection with the photographs was in complete disregard to the promises and obligations made to the plaintiff.

11. On or about April 28, 2011, Defendant Dr. Koo maintained a website promoting her practice and advertising the types of cosmetic surgeries performed.

12. Plaintiff's photographs were used and included in this website advertisement.

13. Contemporaneously with the publication and distribution of the photographs, an internet search of plaintiff's name revealed plaintiff's photographs.

14. Plaintiff did not consent to the use of her photographs or the disclosure of her name on the internet. Plaintiff was not notified or advised that her photographs were on the internet either before or after the photographs and name were published by Dr. Koo.

15. Defendant Dr. Koo knew or should have known through the exercise of reasonable care that plaintiff's photographs and name had been improperly disseminated and used and knew or should have known that they did not have authorization to disseminate and use the plaintiff's photographs or personal information.

16. Defendants knew or should have known that plaintiff's photographs had been obtained by virtue of a relationship of trust and confidence and the release of the medical records were without justification or excuse.

COUNT I - INVASION OF PRIVACY

COMES NOW Plaintiff and for her first cause of action against the Defendant, Dr. Koo, states the following:

17. Plaintiff re-alleges and re-states herein her allegations contained in Paragraphs 1 through 16 inclusive.

18. At all times herein, Plaintiff was entitled to her seclusion and solitude and to protection in her private affairs.

19. The actions of Defendant, all as previously stated, constituted an unlawful, unpermitted and unauthorized intrusion into the seclusion, solitude and private affairs of the Plaintiff.

20. As a direct and proximate result of the action of the Defendant, as previously stated, Plaintiff suffered shame, humiliation, embarrassment, anxiety, nervousness, loss of sleep and interference with her enjoyment of life, all of which will continue into the future.

21. As a direct and proximate cause of the actions of the Defendant, Plaintiff has suffered actual damages and in the future will suffer additional actual damages, in an amount in excess of \$25,000.00, exclusive of costs.

22. All of the actions of Defendant, Dr. Koo, were careless and reckless and performed in complete disregard of the law and the rights of the Plaintiff, for which conduct and actions, punitive damages are properly imposed in such amounts as will punish the Defendant for her wrongful conduct and deter her and others from like conduct in the future.

WHEREFORE, Plaintiff prays judgment against Defendant, in an amount that is fair and reasonable, in excess of \$25,000.00; for an award of punitive damages against the Defendant that will punish the Defendant and deter the Defendant and others from like conduct; for an award of reasonable attorneys fees expended; for costs and expenses incurred herein; and for such other and further relief as this Court deems just and proper.

COUNT II – INVASION OF PRIVACY AND UNREASONABLE PUBLICITY

COMES NOW Plaintiff and for her further cause of action against the Defendant, Dr. Koo, and states the following:

23. Plaintiff re-alleges and re-states herein her allegations contained in Paragraphs 17 through 22 inclusive.

24. At all times herein the medical records and photographs of Plaintiff depicting her conditions for which she sought medical treatment from the Defendant were private matters in which the public has no legitimate concern.

25. The publication and display of nude photographs of a patient and public discussion of the patient's medical conditions and records are actions which would cause shame or humiliation to a person of ordinary sensibilities.

26. The actions of Defendant, all as aforesaid, constituted an unlawful, unpermitted and unauthorized publication and display of Plaintiff's medical conditions and records and caused unreasonable publicity to the private life and affairs of the Plaintiff.

27. As a direct and proximate result of the action of the Defendant, as previously stated, Plaintiff suffered shame, humiliation, embarrassment, anxiety, nervousness, loss of sleep and interference with her enjoyment of life, all of which will continue into the future.

28. As a direct and proximate cause of the actions of the Defendant, Plaintiff has suffered actual damages and in the future will suffer additional actual damages, in an amount in excess of \$25,000.00, exclusive of costs.

29. All of the actions of Defendant, Dr. Koo, were careless and reckless and performed in complete disregard of the law and the rights of the Plaintiff, for which conduct and actions, punitive damages are properly imposed in such amounts as will punish the Defendant for her wrongful conduct and deter her and others from like conduct in the future.

30. WHEREFORE, Plaintiff prays judgment against Defendant, in an amount that is fair and reasonable, in excess of \$25,000.00; for an award of punitive damages against the Defendant that will punish the Defendant and deter the Defendant and others from like conduct; for an award of reasonable attorneys fees expended; for costs and expenses incurred herein; and for such other and further relief as this Court deems just and proper.

COUNT III – BREACH OF FIDUCIARY DUTY

COMES NOW Plaintiff and for her further cause of action against the Defendant, Dr. Koo, and states the following:

31. Plaintiff re-alleges and re-states herein her allegations contained in Paragraphs 23 through 30 inclusive.

32. At all times here pertinent, the relationship between Plaintiff and Defendant was that of physician and patient in which the Defendant caused and encouraged Plaintiff to place in her Plaintiff's trust and confidence.

33. At all times here pertinent, the Defendant caused and encouraged the Plaintiff to believe that the Plaintiff's confidential medical information and photographs provided to them was necessary for the proper treatment of Plaintiff and would not be disclosed in such a manner as to identify the Plaintiff.

34. At all times here pertinent, the relationship between and among Plaintiff and the Defendant was a fiduciary relationship in which the Defendant had a duty to act in the best interest of the Plaintiff.

35. The actions of Defendant, all as aforesaid, constituted an unlawful, unpermitted and unauthorized publication and display of Plaintiff's medical conditions and records and photographs which breached the fiduciary duties of Defendant to Plaintiff.

36. As a direct and proximate result of the action of the Defendant, as previously stated, Plaintiff suffered shame, humiliation, embarrassment, anxiety, nervousness, loss of sleep and interference with her enjoyment of life, all of which will continue into the future.

37. As a direct and proximate cause of the actions of the Defendant, Plaintiff has suffered actual damages and in the future will suffer additional actual damages, in an amount in excess of \$25,000.00, exclusive of costs.

38. All of the actions of Defendant, Dr. Koo, were careless and reckless and performed in complete disregard of the law and the rights of the Plaintiff, for which conduct and actions, punitive damages are properly imposed in such amounts as will punish the Defendant for her wrongful conduct and deter her and others from like conduct in the future.

WHEREFORE, Plaintiff prays judgment against Defendant, in an amount that is fair and reasonable, in excess of \$25,000.00; for an award of punitive damages against the Defendant that will punish the Defendant and deter the Defendant and others from like conduct; for an award of reasonable attorneys fees expended; for costs and expenses incurred herein; and for such other and further relief as this Court deems just and proper.

**COUNT IV – WRONGFUL COMMERCIAL APPROPRIATION AND EXPLOITATION
OF PLAINTIFF’S IMAGE AND MEDICAL INFORMATION**

COMES NOW Plaintiff and for her further cause of action against the Defendant, Dr. Koo, and states the following:

39. Plaintiff re-alleges and re-states herein her allegations contained in Paragraphs 31 through 38 inclusive.

40. In the course of providing medical treatment to Plaintiff, Defendant represented to Plaintiff that disclosures by Plaintiff to Defendant of confidential information and the taking of the photographs of Plaintiff were necessary for Plaintiff’s treatment and that such information and photographs would remain confidential.

41. In reliance upon Defendant’s representations to her that her medical records, medical information and photographs would be kept confidential, Plaintiff provided information to the Defendant and allowed the Defendant to photograph her.

42. As part and parcel of the Defendant’s attempts to publicize and financially benefit from a variety of surgical procedures offered by her, Defendant met with, consulted with, and supplied information to persons including persons preparing an internet website concerning surgical procedures offered by Defendant.

43. As part and parcel of the Defendant’s attempts to publicize and financially benefit from performing advertised surgeries, the Defendant provided to persons, including a healthcare

website developer, frontal nude photographs of the Plaintiff, which photographs were discussed by Defendant with persons other than as part of Plaintiff's medical treatments and Plaintiff's photographs and name were subsequently published on the internet and otherwise displayed and available by internet search of Plaintiff's name.

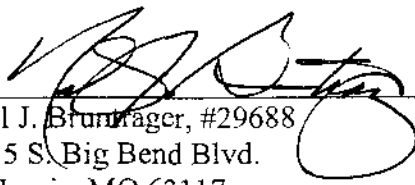
44. As a direct and proximate result of the action of the Defendant, as previously stated, Plaintiff suffered shame, humiliation, embarrassment, anxiety, nervousness, loss of sleep and interference with her enjoyment of life, all of which will continue into the future.

45. As a direct and proximate cause of the actions of the Defendant, Plaintiff has suffered actual damages and in the future will suffer additional actual damages, in an amount in excess of \$25,000.00, exclusive of costs.

46. All of the actions of Defendant, Dr. Koo, were careless and reckless and performed in complete disregard of the law and the rights of the Plaintiff, for which conduct and actions, punitive damages are properly imposed in such amounts as will punish the Defendant for her wrongful conduct and deter her and others from like conduct in the future.

WHEREFORE, Plaintiff prays judgment against Defendant, in an amount that is fair and reasonable, in excess of \$25,000.00; for an award of punitive damages against the Defendant that will punish the Defendant and deter the Defendant and others from like conduct; for an award of reasonable attorneys fees expended; for costs and expenses incurred herein; and for such other and further relief as this Court deems just and proper.

BRUNTRAGER & BILLINGS, P.C.

By 
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