

Attorney I.D. 23895

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

RODNEY DAUMER, Individually and as)
Administrator of the Estate of Maria L. Leho,)
Deceased,)
Plaintiff,)

vs.)

FAMILY PLANNING ASSOCIATES MEDICAL)
GROUP, INC., a corporation; FAMILY)
PLANNING ASSOCIATES MEDICAL GROUP,)
LTD., a corporation; DR. JOHN WEITZNER;)
LAWRENCE HILL, CRNA; TANYA HALL, R.N.;)
and YVETTE JOHNSON, R.N.,)
Defendants.)

01L 006856
CALENDAR F
OTHER PERSONAL INV

No.

2001 JUN 28 11:19:41
2001 JUN -9 11:4:05
CLERK

COMPLAINT

[Medical Negligence]

Plaintiff Rodney Daumer, by his attorney William A. Vlasek, P.C., complains against defendants Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., John Weitzner, M.D., Lawrence Hill, C.R.N.A., Tanya Hall, R.N., and Yvette Johnson, R.N., as follows:

COUNT I

(Wrongful Death - specific conduct)

1. On June 9, 1999, Maria Leho was a patient at a clinic owned and operated by defendants Family Planning Associates Medical Group, Inc., and Family Planning

Associates Medical Group, Ltd., (referred to hereafter collectively as the defendant clinic) in Chicago, Illinois.

2. Ms. Leho was less than 13 weeks pregnant at that time and was a patient there for the purposes of terminating that pregnancy through a medical procedure.

3. Defendants Family Planning Associates Medical Group, Inc., and Family Planning Associates Medical Group, Ltd., at all relevant times owned and operated that clinic and held itself open to the general public for medical treatment including the performance of abortions.

4. Maria Leho was admitted to the defendant clinic that morning and was scheduled to undergo an abortion by defendant John Weitzner, M.D.

5. Defendant Weitzner was an agent and employee of the defendant clinic.

6. Defendant Weitzner performed an abortion procedure on Ms. Leho at that time and place, using a method known as suction curettage.

7. During that procedure, Ms. Leho was administered an anesthetic agent by an anesthesiologist and by defendant Lawrence Hill, a certified registered nurse anesthetist.

8. Defendant Hill was an agent and employee of the defendant clinic.

9. The anesthesia was begun at 12:40 p.m. and stopped at 12:44 p.m.

10. Ms. Leho was then moved to a recovery room.

11. Ms. Leho was moved to the recovery room on a cart by defendant Hill.

12. A pulse oximeter had been used during the surgical procedure to monitor the patient's status, and was removed before Ms. Leho was transferred to the recovery room.

- c) Failed to continue to monitor the condition of Ms. Leho after she entered the recovery room;
- d) Failed to correctly and timely resuscitate Mr. Leho;
- e) Failed to timely call paramedics.

B. As to defendants Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., and Lawrence Hill:

- f) Failed ensure that Ms. Leho was medically stable before transferring her from the operating room;
- g) Failed to ensure that Ms. Leho was stable before he left the recovery room to perform a procedure elsewhere;
- h) Failed to continue to monitor the condition of Ms. Leho after she entered the recovery room;
- i) Failed to correctly and timely resuscitate Mr. Leho;
- j) Failed to timely call paramedics.

C. As to defendants Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., and Tanya Hall:

- k) Failed to monitor the condition of Ms. Leho after she was brought to the recovery room;
- l) Left the recovery room before Ms. Leho recovered from the effect of the anesthesia;
- m) Failed to promptly begin resuscitation measures;
- n) Failed to promptly seek assistance from defendants Weitzner and Hill;
- o) Failed to correctly perform resuscitation measures.

D. As to defendants Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., and Yvette Johnson:

- p) Failed to monitor the condition of Ms. Leho after she was brought to the recovery room;
- q) Failed to promptly begin resuscitation measures;
- r) Failed to promptly seek assistance from defendants Weitzner and Hill;
- s) Failed to correctly perform resuscitation measures.

E. As to defendant Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., individually:

- t) Failed to properly equip the recovery room so as to have proper resuscitative emergency supplies immediately available;
- u) Equipped its recovery room with a pulse oximeter that did not function properly;
- v) Failed to properly train their agents and employees so that they would understand the need to continually monitor the condition of patients in the recovery room;
- w) Failed to properly train its agents and employees so that they understood the need to promptly call paramedics in this situation.

33. As a direct and proximate consequence of said negligent acts and omissions, Maria Leho died on June 11, 1999.

34. Ms. Leho left surviving Manuel Silvas, her son, a minor born July 15, 1992, Emilio Leho, her son, a minor born June 11, 1997, Rodney Daumer, her father, and Joyce Ann Verbanciscs, who were dependent on her.

35. As a direct and proximate consequence of those negligent acts and omissions, her surviving next of kin sustained monetary and mental injuries and damages, including but not limited to the loss of society of the decedent.

36. Rodney Daumer is the duly appointed administrator of the Estate of Maria Leho.

Wherefore Plaintiff Rodney Daumer, Individually and as Administrator of the Estate of Maria Leho, requests entry of judgment against defendants Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., John Weitzner, M.D., Lawrence Hill, Tanya Hall, R.N., and Yvette Johnson, R.N., and each of them, pursuant to the Wrongful Death Act (740 ILCS 180/0/0.01, et seq.) in an amount commensurate with the damages suffered by the surviving next of kin, which damages are in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

COUNT II

(Wrongful Death - res ipsa loquitur)

1. Plaintiff incorporates by reference paragraphs 1 through 31 of Count I as paragraphs 1 - through 31 of Count II.

32. During the entire period of time following the administration of an anesthesia to Maria Leho up to the time she was transferred to Rush-Presbyterian-St. Lukes Hospital, Ms. Leho remained unconscious and unable to care for herself.

33. During that entire period of time, Ms. Leho was under the control of defendants Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., John Weitzner, M.D., Lawrence Hill, C.R.N.A., Tanya Hall, R.N., and Yvette Johnson, R.N.

34. In the ordinary course of such affairs, this patient would have been successfully resuscitated without any permanent injury but for negligent conduct on the part of those who exercised control over her person.

35. The death of Maria Leho would not have occurred in the ordinary course of affairs but for negligent conduct during the time she was under the care and control of the defendants.

36. Plaintiff incorporates by reference paragraphs 34 through 36 of Count I as paragraphs 36 through 38 of Count II.

Wherefore Plaintiff Rodney Daumer, Individually and as Administrator of the Estate of Maria Leho, requests entry of judgment against defendants Family Planning Associates Medical Group, Inc., John Weitzner, M.D., Lawrence Hill, Tanya Hall, R.N., and Yvette Johnson, R.N., and each of them, pursuant to the Wrongful Death Act in an amount commensurate with the damages suffered by the surviving next of kin, which damages are in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

COUNT III
(Survival Act and
Family Expense Act - specific conduct)

1. Plaintiff incorporates by reference paragraphs 1 through 32 of Count I as paragraphs 1 through 32 of Count III.

33. As a direct and proximate consequence of those negligent acts and omissions, Maria Leho was caused to suffer physical and mental damages and to incur medical expenses before her death.

34. As a direct and proximate consequence of those negligent acts and omissions, the estate of Maria Leho was caused to incur funeral and burial expenses.

Wherefore Plaintiff Rodney Daumer, Individually and as Administrator of the Estate of Maria Leho, requests entry of judgment against defendants Family Planning Associates Medical Group, Inc., John Weitzner, M.D., Lawrence Hill, Tanya Hall, R.N., and Yvette Johnson, R.N., and each of them, pursuant to the Survival Act (755 ILCS 5/27-6) in an amount commensurate with the damages suffered by the decedent, and pursuant to the Family Expense Act for the funeral and burial expenses, which damages are in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

COUNT IV
(Survival Act and
Family Expense Act - *res ipsa loquitur*)

1. Plaintiff incorporates by reference paragraphs 1 through 31 of Count I as paragraphs 1 through 31 of Count III.

32. During the entire period of time following the administration of an anesthesia to Maria Leho up to the time she was transferred to Rush-Presbyterian-St. Lukes Hospital, Ms. Leho remained unconscious and unable to care for herself.

33. During that entire period of time, Ms. Leho was under the control of defendants Family Planning Associates Medical Group, Inc., Family Planning Associates Medical Group, Ltd., John Weitzner, M.D., Lawrence Hill, C.R.N.A., Tanya Hall, R.N., and Yvette Johnson, R.N.

34. In the ordinary course of such affairs, this patient would have been successfully resuscitated without any permanent injury but for negligent conduct on the part of those who exercised control over her person.

35. The death of Maria Leho would not have occurred in the ordinary course of affairs but for negligent conduct during the time she was under the care and control of the defendants.

36. As a direct and proximate consequence of those negligent acts and omissions, Maria Leho was caused to suffer physical and mental damages and to incur medical expenses before her death.

37. As a direct and proximate consequence of those negligent acts and omissions, the estate of Maria Leho was caused to incur funeral and burial expenses.

Wherefore Plaintiff Rodney Daumer, Individually and as Administrator of the Estate of Maria Leho, requests entry of judgment against defendants Family Planning Associates Medical Group, Inc., John Weitzner, M.D., Lawrence Hill, Tanya Hall, R.N., and Yvette Johnson, R.N., and each of them, pursuant to the Survival Act (755 ILCS 5/27-6) in an amount commensurate with the damages suffered by the decedent, and pursuant to the Family Expense Act for the funeral and burial expenses, which damages are in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

WILLIAM A. VLASEK
Attorney for Plaintiff

William A. Vlasek
William A. Vlasek, P.C.
3256 Ridge Road, Suite 201
Lansing, IL 60438
(708)

895-2221

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

RODNEY DAUMER, Individually and as)
Administrator of the Estate of MARIA)
L. LEHO, Deceased,)

Plaintiff,)

v.)

FAMILY PLANNING ASSOCIATES)
MEDICAL GROUP, INC., et al.)

Defendants.)

No. 01 L 6896

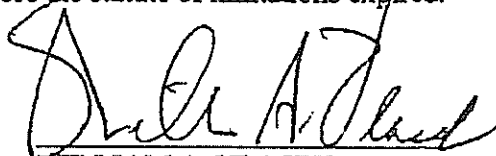
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JUN 11 11 1:57
COOK COUNTY ILLINOIS
LAW DIVISION

AFFIDAVIT OF COMPLIANCE WITH SECTION 2-622

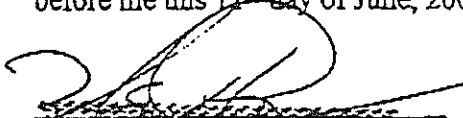
I, William A. Vlasek, being first duly sworn under oath, states:

- 1 I am an attorney for the plaintiff.
- 2 This action has not been previously filed and voluntarily dismissed.
- 3 I was unable to obtain a consultation as required by 755 ILCS 5/2-622(a)(1) because a statute of limitations would impair the action and the consultation required could not be obtained before the statute of limitations expired.

Further affiant sayeth not.


WILLIAM A. VLASEK

SUBSCRIBED AND SWORN TO
before me this 11th day of June, 2001.


"NOTARY PUBLIC SEAL"
MARY K. PETERS
Notary Public, State of Illinois
My Commission Expires 03/17/02

Firm No. 23895

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

RODNEY DAUMER, Individually and as)
Administrator of the Estate of)
MARIA LEHO, Deceased,)

Plaintiff,)

v)

No. 01 L 006896

FAMILY PLANNING ASSOCIATES)
MEDICAL GROUP, INC., a corporation,)
et al.,)

Defendants.)

NOTICE OF FILING

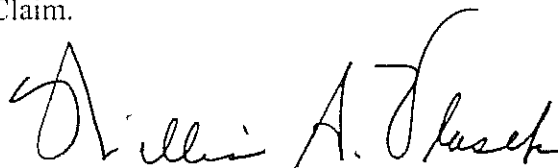
To: John K. Hughes
Gessler Hughes Socol Piers Resnick & Dym, Ltd.
70 West Madison Street, Suite 2200
Chicago, IL 60602

3/22/01
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01 SEP -6 PM 12:51

PLEASE TAKE NOTICE that we are filing with the Clerk of the Circuit Court of Cook County, Illinois, the following:

- 1 Attorneys Affidavit;
- 2 Physician's Certificate of a Meritorious Claim;
- 3 Nurse's Certificate of a Meritorious Claim.

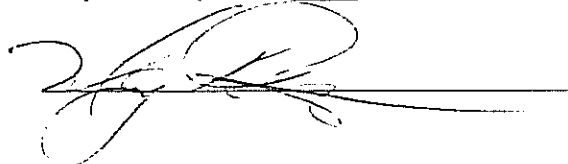
A copy of which is hereby served upon you.


WILLIAM A. VLASEK

PROOF OF SERVICE

Pursuant to Rule 1-109 of the Code of Civil Procedures, under penalties as provided by law, the undersigned states that a copy of the foregoing was served upon the above person(s) by depositing same in the U.S. Mail at Lansing, Illinois, with proper postage prepaid, before 5:00 p.m. on September 2001.

P.O. Box 675
Lansing, Illinois 60438
708-895-2221



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Firm No. 23895

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – LAW DIVISION

RODNEY DAUMER, Individually and as)
Administrator of the Estate of)
MARIA LEHO, Deceased,)
)
Plaintiff,)

v)

No. 01 L 006896

FAMILY PLANNING ASSOCIATES)
MEDICAL GROUP, INC., a corporation,)
FAMILY PLANNING ASSOCIATES)
MEDICAL GROUP, LTD., a corporation,)
DR. JOHN WEITZNER,)
LAWRENCE HILL, CRNA,)
TANYA HALL, R.N. and)
YVETTE JOHNSON, R.N.,)
)
Defendants.)

01 SEP - 0 11:12:51
COURT CLERK
CLERK OF COURT

AFFIDAVIT

- 1 Your affiant has consulted with and reviewed the facts of the case with reviewing health professionals, who the affiant reasonably believes are knowledgeable in the relevant issues involved in this particular action, practices within the last six years in the same area of health care or medicine that is at issue in this particular action and is qualified by experience in the subject of this case.
- 2 The reviewing health professionals have determined in written reports, after a review of the medical records described in said reports that there is a reasonable and meritorious cause for the filing of such action.
- 3 The reviewing health professionals are licensed in Illinois to practice medicine and nursing respectively.

FURTHER YOUR AFFIANT SAITH NOT.

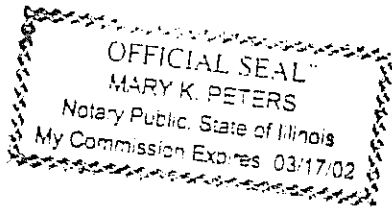


WILLIAM A. VLASEK

SUBSCRIBED AND SWORN
this 8th day of August, 2001.



Notary Public



Firm No.23895

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – LAW DIVISION

RODNEY DAUMER, Individually and as)
Administrator of the Estate of MARIA)
L. LEHO, Deceased,)
)
Plaintiff,)

v.)

No. 01 L 6896

FAMILY PLANNING ASSOCIATES)
MEDICAL GROUP, INC., et al.)
)
Defendants.

AFFIDAVIT

I, William A. Vlasek, being first duly sworn under oath, states:

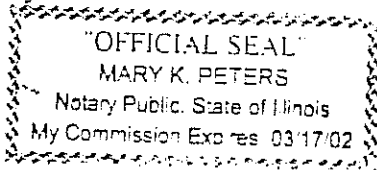
- 1 I am an attorney responsible for the above cause of action.
- 2 That upon information and belief, the money damages in this cause of action will exceed \$100,000.00.

Further affiant sayeth not.


WILLIAM A. VLASEK

SUBSCRIBED AND SWORN TO
before me this 8th day of August, 2001.


Notary Public



I am a board-certified anesthesiologist licensed to practice medicine in Illinois and Indiana. I have reviewed the medical records of Maria Leho provided me. These include the records of her admission to the Family Planning Associates Medical Group in Chicago, Illinois dated June 9, 1999, the records from Rush Presbyterian St. Luke's Medical Center on her admission on June 9, 1999 and subsequent days, and the records of a consult from the Indiana University School of Medicine. Based upon my review, I feel that there is a reasonable and meritorious cause to believe that deviations from accepted medical practices exist and that these deviations led to the demise of Ms. Leho. Therefore, I believe cause exists to file action against the Family Planning Associates Medical Group, Dr. John Weitzner and Mr. Lawrence Hill, a Certified Registered Nurse Anesthetist.

The deviations include the Failure of Dr. Weitzner and CRNA Hill to properly evaluate Ms. Leho's past medical history. The failure is evident by the apparent disregard for her history of seizure activity and her assignment of an ASA physical class I status. Consistent with this failure is the choice to use Brevital, also known as Methohexital, as an anesthetic agent. Methohexital has been well documented to excite seizure foci.

In the consent forms, there is a failure to adequately disclose the risks associated with this or any anesthetic. The wording is inconsistent with the accepted and known risks of an anesthetic. Full disclosures of these risks were obviously not made to Ms. Leho.

The chart also supports a failure to properly monitor Ms. Leho in the immediate post operative period and shows that Dr. Weitzner and CRNA Hill both improperly left the patient to begin another procedure prior to establishing the status of Ms. Leho in the recovery area.

A Registered Nurse has described the deviations from the nursing perspective and I concur that the Nursing staff of the Family Planning Associates Medical Group failed to properly assess Ms. Leho immediately upon her arrival in the recovery area. Subsequent to this failure, there is a delay in the institution of appropriate basic and advanced life support and these failures are deviations from the standard of care.

The medical records also support that the Family Planning Associated Medical Group failed to provide adequate and properly functioning resuscitation supplies.

Therefore, it is my opinion that the aforementioned series of deviations are a proximate cause of the death of Maria Leho.

I am a registered nurse licensed in the State of Illinois. I have reviewed the chart of Maria Leho provided me. This includes the records of her admission to the Family Planning Associates Medical Group in Chicago, Illinois dated June 9, 1999, the records from Rush Presbyterian St. Lukes Medical Center on her subsequent admission on June 9, 1999 and records of a consult from Indiana University School of Medicine. Based upon my review, I am of the opinion that deviations from acceptable nursing practices led to the death of Ms. Leho.

The deviations are rooted in a failure of the Family Planning Associates Medical Group through its recovery room staff to perform an inadequate patient assessment upon arrival to the PACU; noting limited/absent respirations, they failed to perform the standard assessment in basic life support; the recovery room staff deviated from the standard of care in that they did not assess for breathing by taking a pulse and feeling and visualizing/feeling for respirations, at the same time, feeling for a carotid pulse, calling for help and starting CPR.

The PACU staff failed to summon anesthesia or anyone else for help; failed to start CPR or facilitate respirations using an ambu bag and oxygen; and did not determine if pulses were present.

The staff also deviated from the standard of care regarding resuscitation, delay in intubation, delay in getting a crash cart, insufficient medical and resuscitation supplies in the PACU, improperly working resuscitative drugs, improperly run code, and delay in calling for an ambulance.