

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED

OCT 04 2004

MARIA BASILISA APOLINAR,
Individually and as Mother and Next Friend
of STEPHANIE HILARIO APOLINAR, a
Minor,

Plaintiff,

v.

NORTHWESTERN MEMORIAL
HOSPITAL; VIRGIL REID, III, M.D.;
R. FELTER WERNDORSER, Midwife; and
ERIE FAMILY HEALTH CENTER;

Defendants.

No. **04C 6378**

Formerly Case No. 04 L 2243, Circuit Court
of Cook County, Illinois.

JUDGE PALLMEYER

MAGISTRATE JUDGE MASON

NOTICE OF REMOVAL OF A CIVIL ACTION

TO: Dorothy A. Brown, Clerk
Circuit Court of Cook County
1001 Richard J. Daley Center
Chicago, Illinois 60602

Dr. Virgil C. Reid, III
1701 West Superior Street
Chicago, Illinois 60622

Arturo Jauregui
120 West Madison Street, Suite 400
Chicago, Illinois 60604

Mary L. Peterson
Manager, Claims & Litigation
Northwestern Memorial Hospital
240 East Ontario Street, Suite 500
Chicago, Illinois 60611

[Handwritten Signature]
2004 OCT - 10 PM 4:26
U.S. DISTRICT COURT
FILED-EDA

The United States of America, by its attorney, Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, submits this notice of removal of the above-captioned civil action from the Circuit Court of Cook County, Illinois, County Department, Law Division, to the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. § 2679 and, in support, states the following:

1. Plaintiff commenced the above civil action in the Circuit Court of Cook County against, among others, Erie Family Health Center and a midwife employed by Erie Family Health Center, Rebecca Felter-Wernsdorser, alleging, in part, that Felter-Wernsdorser acted negligently in connection with the labor and delivery of plaintiff's baby on March 5-6, 2002. Copies of the pleadings and orders served upon Erie Family Health Center are attached as Exhibit A.

2. This Notice of Removal is filed in accordance with 28 U.S.C. § 2679 upon certification by the designee of the Attorney General of the United States that Erie Family Health Center was a private entity receiving grant money from the Public Health Service pursuant to 42 U.S.C. § 233 and that Rebecca Felter-Wernsdorser was acting within the scope of her employment at Erie Family Health Center.


3. Notice of removal may be filed without bond at any time before trial. Trial has not yet been had in this action.

4. Pursuant to the certification by the Attorney General's designee and the filing of this Notice of Removal, the civil action against Erie Family Health Center and Rebecca Felter-Wernsdorser be deemed an action against the United States under 28 U.S.C. § 2679, and the United States shall be substituted as the party defendant for Erie Family Health Center and Rebecca Felter-Wernsdorser.

WHEREFORE, this action now pending in the Circuit Court of Cook County, Illinois, is properly removed to this court pursuant to 28 U.S.C. § 2679(d).

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: 
GINA E. BROCK
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-7919

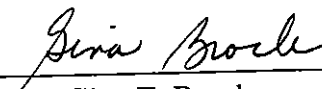
Certificate of Service

Gina E. Brock, one of the attorneys for the United States of America, certifies that a copy of the foregoing Notice of Removal was sent by first-class mail on October 1, 2004, to the following persons:

Arturo Jauregui
120 West Madison Street, Suite 400
Chicago, Illinois 60604

Mary L. Peterson
Manager, Claims & Litigation
Northwestern Memorial Hospital
240 East Ontario Street, Suite 500
Chicago, Illinois 60611

Dr. Virgil C. Reid, III
1701 West Superior Street
Chicago, Illinois 60622



Gina E. Brock

EX. A

Received by office

JUL 19 2004

of President & CEO

2120 - Served
2220 - Not Served
2320 - Served By Mail
2420 - Served By Publication
SUM MONS

2121 - Served
2221 - Not Served
2321 - Served By Mail
2421 - Served By Publication
ALIAS - SUMMONS

(Rev.12/3/01) CCG 0001

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

(Name all parties)

No. 04 L 002243

MARIA BASILISA APOLINAR, Individually, and as
mother, and Next Friend of Stephanie Hilario
Apolinar, a Minor, Plaintiffs

PLEASE SERVE:
Erie Family Health Center
1701 W. Superior
Chicago, Illinois 60622

North eastern Memorial Hospital, Virgil Reid, III,
M.D., J. Felter Wernsdorfer, Midwife, Erie Family
Health Center. Defendants.

SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is
hereby attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court at
the following location:

- Richard J. Daley Center, 50 W. Washington, Room _____, Chicago, Illinois 60602
- District 2 - Skokie
5600 Old Orchard Rd.
Skokie, IL 60077
- District 3 - Rolling Meadows
2121 Euclid
Rolling Meadows, IL 60008
- District 4 - Maywood
1500 Maybrook Ave.
Maywood, IL 60153
- District 5 - Bridgeview
10220 S. 76th Ave.
Bridgeview, IL 60455
- District 6 - Markham
16501 S. Kedzie Pkwy.
Markham, IL 60426

You must file within 30 days after service of this summons, not counting the day of service.
IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF
REQUESTED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with
evidence of service and fees, if any, immediately after service. If service cannot be made, this summons shall
be returned so endorsed. This summons may not be served later than 30 days after its date.

Atty. No.: 37050
Name: Arturo Jauregui
Atty for: Plaintiff
Address: 120 W. Madison St. Ste. 400
City/State/Zip: Chicago, Illinois 60604
Telephone: 312/781-9103

WITNESS, JUL 6 2004
ROBERTA GARCIA
Clerk of Circuit Court
[Signature]
Date of service: 7-19-04
(To be inserted by officer on copy left with defendant or other person)

Service by Facsimile Transmission will be accepted at:

(Area Code) (Facsimile Telephone Number)



2120 - Served
2220 - Not Served
2320 - Served By Mail
2420 - Served By Publication
SUMMONS

2121 - Served
2221 - Not Served
2321 - Served By Mail
2421 - Served By Publication
ALIAS - SUMMONS

(Rev.12/3/01) CCG 0001

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

(Name all parties)

No. 04 L 002243

MARIA BASILISA APOLINAR, Individually, and as
mothe, and Next Friend of Stephanie Hilario
Apoli ar, a Minor, Plaintiffs

PLEASE SERVE:
Erie Family Health Center
1701 W. Superior
Chicago, Illinois 60622

North eastern Memorial Hospital, Virgil Reid, III,
M.D., I. Felter Wernsdorser, Midwife, Erie Family
Health Center. Defendants.

SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is
hereo attached, or otherwise file your appearance, and pay the required fee, in the office of the Clerk of this Court at
the following location:

- Richard J. Daley Center, 50 W. Washington, Room _____, Chicago, Illinois 60602
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5600 Old Orchard Rd.
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IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF
REQUESTED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with
endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall
be returned endorsed. This summons may not be served later than 30 days after its date.

Att. No.: 37050
Name: Arturo Jauregui
Att. for: Plaintiff
Address: 120 W. Madison St. Ste. 400
City/State/Zip: Chicago, Illinois 60604
Telephone: 312/781-9103

WITNESS, JUL 6 2004
DOROTHY BROWN
CLERK OF CIRCUIT COURT
Date of service:
(To be inserted by officer on copy left with defendant
or other person)

Service by Facsimile Transmission will be accepted at:

(Area Code) (Facsimile Telephone Number)

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

MARIA BASILISA APOLINAR,)
Individually, and as mother, and Next)
Friend of STEPHANIE HILARIO)
APOLINAR, a Minor,)
)
Plaintiff)
)
vs.)
NORTHWESTERN MEMORIAL)
HOSPITAL, VIRGIL REID III, M.D.,)
R. FELTER WERNSDORFER, MIDWIFE,)
ERIE FAMILY HEALTH CENTER)
)
Defendants)

No. 04 L 002243
Medical Malpractice
Motion Call "D"

04 JUL -6 PM 3:09
CIRCUIT COURT OF COOK
COUNTY ILLINOIS
LAW DIVISION
DOROTHY BROWN CLERK

PLAINTIFF'S FIRST AMENDED COMPLAINT AT LAW

NOW COMES the Plaintiff, MARIA BASILISA APOLINAR, Special Administrator of the Estate of STEPHANIE HILARIO APOLINAR, ("Baby Apolinar,") a Minor, by and through her attorneys, JAUREGUI & ASSOCIATES, and complaining of the Defendants, NORTHWESTERN MEMORIAL HOSPITAL, its agents, employees, and representatives, and VIRGIL REID, M.D., and alleges as follows:

COUNT I

Negligence - Virgil Reid, M.D.

1. That on March 5, 2003, Defendant VIRGIL REID, M.D., (hereinafter referred to as "REID"), and for sometime prior and subsequent thereto, Defendant REID was practicing as an obstetrician licensed to engage in his profession in the State of Illinois and held himself out to the public, and to plaintiff as fully qualified and trained in the practice of medicine.
2. That On March 5, 2003, and for various dates thereafter, Plaintiff, MARIA

BASILISA APOLINAR received medical care from Defendant REID in connection with the labor and delivery of her daughter, BABY APOLINAR.

3. That at all times mentioned herein, it was the duty of Defendant REID to possess, apply and exercise a degree of skill and care ordinarily used by reasonably well qualified physicians providing care and treatment, and to use the degree of care and skill which physicians would or should have used toward the Plaintiff BABY APOLINAR; Yet notwithstanding, said duty, and in breach of said duty, Defendant REID was guilty of one or more of the following acts of negligence:

- a. Failed to recognize on a timely basis that BABY APOLINAR'S malpresentation would be a difficult delivery which would required constant monitoring by a qualified physician;
- b. Failed to monitor the work of the midwife at all times;
- c. Allowed a midwife to use forceps for the delivery of BABY APOLINAR thereby causing BABY APOLINAR a fractured skull, subdural hematoma, seizures and neurological injuries;
- d. Failed to monitor BABY APOLINAR's condition before, during, and after birth;
- e. Failed to place BABY APOLINAR in the neonatal intensive care unit immediately after her birth;
- f. Failed to recognize, diagnose and treat BABY APOLINAR's neurological injuries on a timely basis, notwithstanding her presentation at birth, including, her floppy appearance and mottled tone, the low APGAR scores at birth, low heart rate, the need to resuscitate her; and the injuries to BABY APOLINAR's head from the use of the forceps;
- g. Otherwise negligently managed plaintiff's labor and delivery.

4. That as a direct and proximate result of one or more of the aforesaid acts of negligence, BABY APOLINAR, did sustain serious injuries; that the aforementioned did directly or proximately cause or contribute to BABY APOLINAR's injuries, including weakness

in her legs and her right arm, lack of coordination and diminish vision in her right eye, and mental retardation; that BABY APOLINAR has suffered great pain, suffering, disability and will in the future continue to endure such pain, psychological and emotional injuries, and will incur large medical expenses; that the Plaintiff did sustain other pecuniary loss and other expenses and damages and will in the future incur other pecuniary loss and expense.

5. That as part of the filing of this Complaint, the Plaintiff, MARIA BASILISA APOLINAR, mother of BABY APOLINAR, was appointed Special Administrator of the Estate STEPHANIE HILARIO APOLINAR, and does bring this cause of action in that capacity and pursuant to 755 ILCS 5/27-6.

6. That pursuant to 735 ILCS 5/2-622 of the Illinois Code of Civil Procedure, there is attached hereto as Exhibit "A" a requisite Affidavit of Plaintiff's counsel and the written report of a health care professional or physician that there is a reasonable and meritorious basis for the filing of said action.

WHEREFORE, the Plaintiff, MARIA BASILISA APOLINAR, as Special Administrator of the Estate of STEPHANIE HILARIO APOLINAR, a Minor, prays that this court enter judgment against defendant VIRGIL REID III, M.D., in a sum in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS.

COUNT II

Negligence—Northwestern Hospital

1. That on or about March 5, 2002 NORTHWESTERN MEMORIAL

HOSPITAL, (hereinafter referred to as Defendant "HOSPITAL") was a general hospital located in the Chicago, County of Cook, and State of Illinois, and did hold itself out to the public as capable of providing care, services, and treatment to patients brought to the HOSPITAL.

2. That at all times mentioned herein, the Defendant HOSPITAL did retain agents, servants, and employees who, while acting within the course and scope of their employment or agency, did care, treat, and/or diagnose or undertake to care, treat and/or diagnose, or supervise the care and treatment and medical condition of the Plaintiff, BABY APOLINAR, a minor.

3. That on the aforesaid date, and for sometime prior and subsequent thereto, including March 5, 2002, R. FELTER WERNSDORSER, MIDWIFE (hereinafter "WERNSDORSER"), was practicing as a midwife at defendant HOSPITAL.

4. That on the aforesaid date, Defendant WERNSDORSER was a servant, employee, and/or agent of Defendant HOSPITAL and was acting within the scope of her duties at all times.

5. That on the aforesaid date, WERNSDORSER, was the midwife assigned to assist in the labor and delivery of BABY APOLINAR at Defendant's HOSPITAL, and in that capacity Defendant HOSPITAL did have the duty to supervise, monitor, and train members of the labor and delivery team that were involved in the care and treatment of Plaintiff, BABY APOLINAR.

6. That on March 5, 2002, and continuing through March 6, 2002, BABY APOLINAR, did receive medical care treatment, and attention from various employees and or agents of the Defendant HOSPITAL, including, its agent and or employee, Midwife WERNSDORSER.

7. That on March 5, 2002, and continuing through March 6, 2002, Plaintiff BABY APOLINAR, received medical care, treatment and attention from defendant

WERNSDORSER.

8. That on or about March 5, 2002, Plaintiff BASILISA APOLINAR, was admitted to Defendant Hospital through its agents, and she was at all times within the sole and explicit care, custody and control of the defendants, jointly, individually or by its authorized agents, servants, employees, and representatives, acting within the course and scope of their employment; that all care and treatment and facilities within the NORTHWESTERN MEMORIAL HOSPITAL, and the selections of persons and personnel whose custody and care of MARIA BASILISA APOLINAR and BABY APOLINAR, was made by Defendant HOSPITAL, jointly, individually or by its authorized agents, servants, employees, and representatives, acting within the course and scope of their employment.

9. That at all times mentioned herein, it was the duty of Midwife WERNSDORSER, individually and or as an agent, servant, employee of Defendant HOSPITAL, to exercise ordinary care toward the Plaintiff BABY APOLINAR, yet notwithstanding said duty, and in breach of said duty, the Defendant Hospital and its agents were negligent in one or more of the following acts of negligence:

- a. Failed to recognize on a timely basis that BABY APOLINAR'S malpresentation would be a difficult delivery that required constant monitoring and supervision by a qualified physician;
- b. Failed to monitor and supervise the work of the midwife at all times;
- c. Allowed a midwife to use forceps for the delivery of BABY APOLINAR thereby causing BABY APOLINAR a fractured skull, sudural hematoma, seizures and neurological injuries;
- d. Failed to monitor BABY APOLINAR's condition including her heart rate during and before birth;
- e. Failed to transfer BABY APOLINAR to the neonatal intensive care unit immediately after her birth;

f. Failed to recognize, diagnose and treat BABY APOLINAR's neurological injuries on a timely basis, notwithstanding her presentation at birth, including, her floppy appearance and mottled tone, the low APGAR scores at birth, low heart rate, the need to resuscitate her; and the injuries to Apolinar's head from the use of the forceps.

10. That as a direct and proximate result of one or more of the aforesaid acts of negligence, BABY APOLINAR, did sustain serious injuries; that the aforementioned did directly or proximately cause or contribute to BABY APOLINAR's injuries, including weakness in her legs and her right arm, lack of coordination and diminish vision in her right eye, and mental retardation; that BABY APOLINAR has suffered great pain, suffering, disability and will in future continue to endure such pain, psychological and emotional injuries, and will incur large medical expenses; that the Plaintiff did sustain other pecuniary loss and other expenses and damages and will in the future incur other pecuniary loss and expense.

11. That as part of the filing of this Complaint, the Plaintiff, MARIA BASILISA APOLINAR, mother of BABY APOLINAR, was appointed Special Administrator of the Estate STEPHANIE HILARIO APOLINAR, and does bring this cause of action in that capacity and pursuant to 755 ILCS 5/27-6.

12. That pursuant to 735 ILCS 5/2-622 of the Illinois Code of Civil Procedure, there is attached hereto as Exhibit "A" a requisite Affidavit of Plaintiff's counsel and the written report of a health care professional or physician that there is a reasonable and meritorious basis for the filing of said action.

WHEREFORE, the Plaintiff, MARIA BASILISA APOLINAR, as Special Administrator of the Estate of STEPHANIE HILARIO APOLINAR, a Minor, prays that this court enter judgment against Defendant HOSPITAL and its agents, in a sum in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS.

COUNT III

Negligence—Erie Family Health Center

1. That on or about March 5, 2002 Erie Family Health Center ,(hereinafter referred to as Defendant "HEALTH CENTER") was a health clinic located in the Chicago, County of Cook, and State of Illinois, and did hold itself out to the public as capable of providing prenatal care, services, and treatment to patients brought to the HOSPITAL.

2. That at all times mentioned herein, the Defendant HEATH CENTER did retain agents, servants, and employees who, while acting within the course and scope of their employment or agency, did care, treat, and/or diagnose or undertake to care, treat and/or diagnose, or supervise the care, including prenatal treatment, and medical condition of the Plaintiff, BABY APOLINAR, a minor.

3. That on the aforesaid date, and for sometime prior and subsequent thereto, including March 5, 2002, R. FELTER WERNSDORSER, MIDWIFE (hereinafter "WERNSDORSER"), was practicing as a midwife at defendant HEALTH CENTER.

4. That on the aforesaid date, Defendant WERNSDORSER was a servant, employee, and/or agent of HEALTH CENTER and was acting within the scope of her duties at all times.

5. That on the aforesaid date, WERNSDORSER, was the midwife

assigned to assist in the labor and delivery of BABY APOLINAR at Defendant's HEALTH CENTER, and in that capacity Defendant HEALTH CENTER did have the duty to supervise, monitor, and train members of the labor and delivery team that were involved in the care and treatment of Plaintiff, BABY APOLINAR.

6. That prior March 5, 2002, and continuing through March 6, 2002, BABY APOLINAR, did receive medical care treatment, and attention from various employees and or agents of the Defendant HEALTH CENTER, including, its agent and or employee, Midwife WERNSDORSER.

7. That at all times mentioned herein, it was the duty of Midwife WERNSDORSER, individually and or as an agent, servant, employee of Defendant HEALTH CENTER, to exercise ordinary care toward the Plaintiff BABY APOLINAR, yet notwithstanding said duty, and in breach of said duty, the Defendant HEALTH CENTER and its agents were negligent in one or more of the following acts of negligence:

- a. Failed to recognize on a timely basis that BABY APOLINAR'S malpresentation would be a difficult delivery that required constant monitoring and supervision by a qualified physician;
- b. Failed to monitor and supervise the work of the midwife at all times;
- c. Allowed a midwife to use forceps for the delivery of BABY APOLINAR thereby causing BABY APOLINAR a fractured skull, sudural hematoma, seizures and neurological injuries;
- d. Failed to monitor BABY APOLINAR's condition including her heart rate during and before birth;
- e. Failed to transfer BABY APOLINAR to the neonatal intensive care unit immediately after her birth;
- f. Failed to recognize, diagnose and treat BABY APOLINAR's neurological injuries on a timely basis, notwithstanding her presentation at birth, including, her floppy appearance and mottled tone, the low APGAR scores at birth, low

heart rate, the need to resuscitate her; and the injuries to Apolinar's head from the use of the forceps.

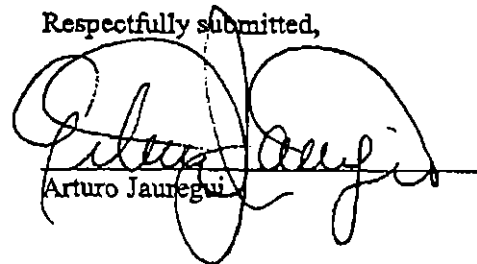
8. That as a direct and proximate result of one or more of the aforesaid acts of negligence, BABY APOLINAR, did sustain serious injuries; that the aforementioned did directly or proximately cause or contribute to BABY APOLINAR's injuries, including weakness in her legs and her right arm, lack of coordination and diminish vision in her right eye, and mental retardation; that BABY APOLINAR has suffered great pain, suffering, disability and will in future continue to endure such pain, psychological and emotional injuries, and will incur large medical expenses; that the Plaintiff did sustain other pecuniary loss and other expenses and damages and will in the future incur other pecuniary loss and expense.

9. That as part of the filing of this Complaint, the Plaintiff, MARIA BASILISA APOLINAR, mother of BABY APOLINAR, was appointed Special Administrator of the Estate STEPHANIE HILARIO APOLINAR, and does bring this cause of action in that capacity and pursuant to 755 ILCS 5/27-6.

10. That pursuant to 735 ILCS 5/2-622 of the Illinois Code of Civil Procedure, there is attached hereto as Exhibit "A" a requisite Affidavit of Plaintiff's counsel and the written report of a health care professional or physician that there is a reasonable and meritorious basis for the filing of said action.

WHEREFORE, the Plaintiff, MARIA BASILISA APOLINAR, as Special Administrator of the Estate of STEPHANIE HILARIO APOLINAR, a Minor, prays that this court enter judgment against ERIE FAMILY HEALTH CENTER and its agents, in a sum in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS.

Respectfully submitted,


Arturo Jauregui

Firm No. 37050
Jauregui & Associates
120 West Madison Street
Suite 400
Chicago, Illinois 60602
(312) 781-9103

**CERTIFICATE OF REVIEWING HEALTH PROFESSIONAL
ILLINOIS CODE OF CIVIL PROCEDURE
705 ILCS 5/2-622**

RE: MARIA BASILISA APOLINAR, as the Special Administrator of STEPHANIE HILARIO APOLINAR, Minor vs. Northwestern Memorial Hospital and Virgil Reid III, M.D.

I am a physician licensed to practice medicine in all of its branches. I have reviewed the records, facts and other relevant materials pertaining to the above-captioned matter. I am knowledgeable in the relevant issues of this case. I am qualified by experience, I am certified in the field of obstetrics medicine, and I have practiced in the relevant area in question for the last six years. I am of the opinion, which I hold to a reasonable degree of medical certainty, that the acts to follow below reasonably caused and contributed to the chain of events which ultimately led to Plaintiff's injuries. For the reasons to follow below, I find that there is a reasonable and meritorious basis for suit in medical negligence against Northwestern Memorial Hospital and Virgil Ried III, M.D.

On March 5, 2002, and for sometime thereafter, VIRGIL REID III, M.D., by and through their agents, negligently failed to properly manage, monitor and supervise the birth of Stephanie Hilario Apolinar. Maria Basilisa Apolinar, presented to Defendants on March 5, 2002, in active labor for the birth of her daughter.

Defendants VIRGIL REID III, M.D., Northwestern Memorial Hospital, and Erie Family Health Center, through their agents and employees, including Midwife R. FELTER WERNSDORSER, deviated from the standard of care by failing to recognize on a timely basis that Stephanie's malpresentation would require constant monitoring and supervision by a qualified physician during the birthing process; failed to monitor and supervise the work of the midwife at all times; allowed a midwife to use forceps, thereby causing Stephanie's injuries including a fractured skull, subdural hematoma, seizures and other neurological injuries.

Defendants further deviated from the standard of care by failing to diagnosed and treat BABY APOLINAR's neurological injuries on a timely basis, notwithstanding her presentation at birth, including, her floppy appearance and mottled tone, the low APGAR scores at birth, low heart rate, the need to resuscitate her; and the injuries to BABY APOLINAR's head from the use of the forceps; and failed to place Stephanie in the neonatal intensive care unit immediately after her birth.

The breach in the standard of care by the defendants caused or contributed to Stephanie's injuries.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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

MARIA BASILISA APOLINAR,
Individually, and as mother, and Next
Friend of STEPHANIE HILARIO
APOLINAR, a Minor,

Plaintiff

vs.
NORTHWESTERN MEMORIAL
HOSPITAL, VIRGIL RIED III, M.D.

Defendants

)
)
)
)
) No.
)
) Medical Malpractice
)
)
)
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AFFIDAVIT

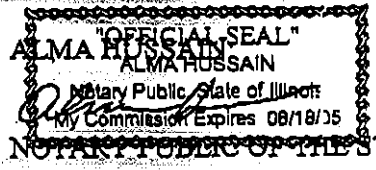
NOW COMES the Affiant, ARTURO JAUREGUI, after being duly sworn under oath,
states as follows:

1. That I am one of the attorneys for the Plaintiff.
2. That I have consulted and reviewed the facts of this case with a health professional who I reasonably believe is knowledgeable in the relevant issues involved in this particular action; is a licensed medical doctor practicing in all its branches and has practiced in the same area of health care medicine that is at issue in this particular matter within the last six years; and who has demonstrated confidence in the subject of the case.
3. That said health professional has determined in a written report, after review of the medical records, that there is a reasonable and meritorious cause for the filing of this action.
4. That as a result, Affiant, ARTURO JAUREGUI, has concluded on the basis of the reviewing health professional's review and consultation that there is a reasonable and meritorious cause for filing this action against defendants NORTHWESTERN MEMORIAL HOSPITAL, and VIRGIL RIED III, M.D. That a copy of the written report of the reviewing health professional is attached hereto.

FURTHER AFFIANT SAYETH NOTH.

Arturo Jauregui
Arturo Jauregui

SUBSCRIBED and SWORN to
before me this 6TH, of July 2004.



NOTARY PUBLIC OF THE STATE OF ILLINOIS

JAUREGUI & ASSOCIATES
120 West Madison Street
Suite 400
Chicago, Illinois 60601
(312)781-9103
Firm No. 37050

Master Calendar Motion Courtrooms Case Management Order (Rev. 2/21/03) CCL 0601

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

A. Solinger Plaintiff(s)
Northwestern Memorial Hospital Defendant(s)
Case No. 04 L 2243
Motion Call "0" Line #: 5

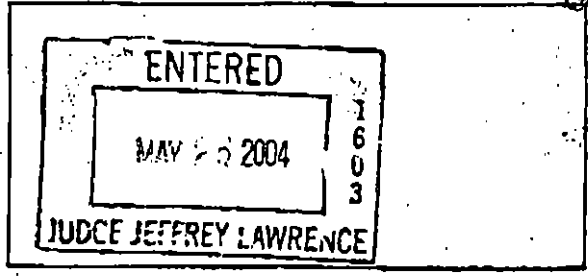
MASTER CALENDAR MOTION COURTROOMS CASE MANAGEMENT ORDER
(Please check off all pertinent paragraphs and circle proper party name.)

- (8231) 1. Category #1 (12 month Discovery) (8232) 1a. Category #2 (28 Month Discovery)
- (4296) 2. Written discovery & 213(f)(1) and (2) disclosures to be completed by 9/14/04
- (4218) 3. Oral Discovery & 213(f)(1) and (2) depositions to be completed by 10/12/04
- (4218) 4. Treating physicians depositions to be completed by _____
- (4288) 5. Subpoenas for treating physicians depositions to be issued by _____
- (4296) 6. _____ shall complete outstanding written discovery by _____
- (4218) 7. _____ shall be presented for deposition by _____
- (4206) 8. Plaintiff/Defendant/Add. Party shall answer 213: (f)(3) Interrogatories by _____
- (4218) 9. Plaintiff's 213(f)(3) witnesses to be deposed by _____
- (4218) 10. Defendant's 213(f)(3) witnesses to be deposed by _____
- (4218) 11. Additional party's 213(f)(3) witnesses to be deposed by _____

(4619) 12. The matter is continued for subsequent Case Management Conference on 7/25/04
at 9:30 AM/PM in Room 2208 for:
(A) Proper Service (B) Appearance of Defendants (C) Case Value
(D) Pleading Status (E) Discovery Status (F) Pre-Trial/Settlement
(G) Other: Plaintiff is given leave to add Eric Family Health Center as a defendant. Plaintiff is given leave to appoint United Process Inc as special Process server to serve R. Felix W. Wankowski.

(4005) 13. Case is dismissed for want of prosecution. (4040) The case is voluntarily dismissed under 735 ILCS 5/1200. NOTICE: A.D. R. 118

- * Failure of any party to comply with this Case Management Order will be a basis for Rule 219(c) sanctions.
- * Failure of any party to enforce this Case Management Order will constitute a waiver of such discovery by that party.
- * All cases arriving on the Trial Call in Courtroom 2005 must have all discovery in Lines 2 through 11 completed.
- * A copy of this order is to be sent to each party by his/her counsel within 10 (ten) days of the initial Case Management Date.



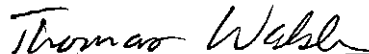
Atty. No: 3705
Name: Solinger & Associates
Atty. for: Plaintiff
Address: 130 W. Madison St. 400
City/State Zip: Chicago, IL 60602
Telephone: 312 781 9105

ENTERED: _____ Judge
Judge's No. _____

EX. B

CERTIFICATION

Pursuant to the provisions of 42 U.S.C. § 233, and by virtue of the authority delegated to me by the Attorney General under 28 C.F.R. § 15.3 and through the United States Attorney for the Northern District of Illinois, I hereby certify that I have read the complaint in *Maria Basilisa Apolinar, etc. v. Northwestern Memorial Hospital, et al.*, No. 04 L 002243 (Circuit Court of Cook County, Illinois), and all attachments thereto. On the basis of the information now available, I find that at the relevant times, the Erie Family Health Center was a private entity receiving grant money from the Public Health Service pursuant to 42 U.S.C. § 233. Further, I certify that Rebecca M. Felter-Wernsdorfer was acting within the scope of her employment at the Erie Family Health Center with respect to the incidents referred to in the complaint. Accordingly, for purposes of the above case, the Erie Family Health Center and Rebecca M. Felter-Wernsdorfer are deemed to be employees of the United States pursuant to 42 U.S.C. § 233, for Federal Tort Claims Act purposes only.



THOMAS P. WALSH
Chief, Civil Division
Office of the United States Attorney
for the Northern District of Illinois

Date: October 1, 2004



CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MARIA BASILISA APOLINAR, individually and as Mother and Next Friend of STEPHANIE HILARIO APOLINAR, a Minor

DEFENDANTS

NORTHWESTERN MEMORIAL HOSPITAL; VIRGIL REID, III, M.D.; R. FELTER WERNDORSER, Midwife; and ERIE FAMILY HEALTH CENTER

(b) County of Residence of First Listed Plaintiff Cook
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant 04C 6378
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. **JUDGE PALLMEIER**

(c) Attorney's (Firm Name, Address, and Telephone Number) **DOCKETED**
Arturo Jauregui
120 West Madison Street, Suite 400
Chicago, Illinois 60604
(312) 781-9103
OCT 04 2004

Attorneys (If Known)
Gina E. Brock, Assistant United States Attorney
Office of the United States Attorney
219 South Dearborn Street, Suite 500
Chicago, Illinois 60604
PROSECUTE JUDGE MASON

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | |
|---|---|---|
| | DEF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefit <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input checked="" type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 38 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 - Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

FTCA, 42 U.S.C. §2679

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE _____ DOCKET NUMBER _____

DATE 10-01-2004 SIGNATURE OF ATTORNEY OF RECORD

Gina E. Brock, AUSA *Gina Brock*

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____