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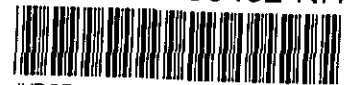
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

2008 JAN 10 A 10:57

ALAN VAN SICKLE, a Minor, by his Next Friend,  
DONIELLE VAN SICKLE,

BY: \_\_\_\_\_  
DEPUTY COUNTY CLERK

OAKLAND COUNTY 08-088482-NH



JUDGE JOHN J. MCDONALD  
VANSICKLE,ALA v HURON VALLEY

Plaintiff,

vs.

No. 08

HURON VALLEY-SINAI HOSPITAL, an assumed  
name for HURON VALLEY HOSPITAL, INC.;  
WALNUT LAKE OB/GYN, PLLC; STEVEN J.  
FRIEDMAN, D.O. and KAROLINE S. PUDER, M.D.,

Defendants.

\_\_\_\_\_  
JEFFREY N. SHILLMAN (P20373)  
SCOTT WEIDENFELLER (P56001)  
Attorneys for Plaintiff  
2000 Town Center, Suite 900  
Southfield, MI 48075  
(248) 355-0300  
\_\_\_\_\_

*There is no other pending or resolved civil  
action arising out of the transaction or occurrence  
alleged in the complaint.*

**COMPLAINT AND JURY DEMAND**

NOW COMES the Plaintiff, ALAN VAN SICKLE, a Minor, by his Next Friend, DONIELLE VAN SICKLE, by and through her attorneys, SOMMERS SCHWARTZ, P.C., and complaining against the above named Defendants, states as follows:

**GENERAL ALLEGATIONS**

1. That at all times pertinent hereto, Plaintiff was and still is a resident of the County of Oakland, State of Michigan.

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2. That at all times pertinent hereto, Plaintiff, DONIELLE VAN SICKLE was the natural parent of ALAN VAN SICKLE.

3. Plaintiff, DONIELLE VAN SICKLE, has been duly appointed Next Friend of ALAN VAN SICKLE, a minor under the age of (18) years.

4. That the amount in controversy in this cause of action exceeds Twenty-Five Thousand (\$25,000.00) Dollars, exclusive of interests and costs, and this cause otherwise is within the jurisdiction of this Court.

5. That at all times pertinent, hereto, Defendant, HURON VALLEY-SINAI HOSPITAL, (hereinafter, Huron Valley Hospital), was a non-profit corporation duly licensed to practice and conduct business in the County of Oakland, State of Michigan.

6. That at all times pertinent, Defendant, WALNUT LAKE OB/GYN, PLLC, (hereinafter Walnut Lake OB), was a corporation duly organized and existing under and by virtue of the laws of the State of Michigan and operated a facility in the County of Oakland, State of Michigan.

7. That at all times pertinent hereto, Defendant, KAROLINE S. PUDER, M.D., a duly licensed physician, licensed by the state of Michigan and was engaged in the practice of her profession in the County of Oakland and State of Michigan, who held herself out to the public and, in particular, to Plaintiff, as a skilled and competent medical physician, specializing in the field of maternal fetal medicine, and capable of properly and skillfully treating and caring for individuals seeking her services.

8. That at all times pertinent hereto, Defendant, KAROLINE S. PUDER, M.D., owed Plaintiff the duty to possess that reasonable degree of learning and skill that is ordinarily possessed by physicians specializing in the field of maternal fetal medicine throughout the

nation and to use reasonable care and diligence in the exercise of her skill and application of her learning in the care and treatment of Plaintiff in accordance with the standards prevailing throughout the nation.

9. That at all times pertinent hereto, Defendant, KAROLINE S. PUDER, M.D., undertook to examine, diagnose, treat, attend and care for Plaintiff, DONIELLE VAN SICKLE, and her then, unborn child, Plaintiff, ALAN VAN SICKLE .

10. That at all times pertinent hereto, Defendant, STEVEN J. FRIEDMAN, D.O., a duly licensed physician, licensed by the State of Michigan and was engaged in the practice of his profession in the County of Oakland and State of Michigan, who held himself out to the public and, in particular, to Plaintiff, as a skilled and competent medical physician, specializing in the field of Obstetrics and Gynecology, and capable of properly and skillfully treating and caring for individuals seeking his services.

11. That at all times pertinent hereto, Defendant, STEVEN J. FRIEDMAN, D.O., owed Plaintiff the duty to possess that reasonable degree of learning and skill that is ordinarily possessed by physicians throughout the nation and to use reasonable care and diligence in the exercise of his skill and application of his learning in the care and treatment of Plaintiff in accordance with the standards prevailing throughout the nation.

12. That at all times pertinent hereto, Defendant, STEVEN J. FRIEDMAN, D.O., undertook to examine, diagnose, treat, attend and care for Plaintiff, DONIELLE VAN SICKLE, and her then unborn child, Plaintiff, ALAN VAN SICKLE.

13. At all times pertinent hereto, Defendant, KAROLINE S. PUDER, M.D., was an actual or ostensible agent and/or employee of Defendants, HURON VALLEY HOSPITAL, thereby imposing vicarious liability upon Defendant, HURON VALLEY HOSPITAL, for the

negligent conduct of Defendant, KAROLINE S. PUDER, M.D., by virtue of the doctrine of *Respondeat Superior*.

14. At all times pertinent hereto, Defendant, STEVEN J. FRIEDMAN, D.O., was an actual or ostensible agent and/or employee of Defendants, WALNUT LAKE OB/GYN, PLLC and HURON VALLEY HOSPITAL, thereby imposing vicarious liability upon Defendants, WALNUT LAKE OB/GYN, PLLC and HURON VALLEY HOSPITAL, for the negligent conduct of Defendant, STEVEN J. FRIEDMAN, D.O., by virtue of the doctrine of *Respondeat Superior*

**COUNT I**

15. Plaintiff incorporates herein by reference each and every allegation set forth in the Paragraphs above, the same as if set forth in full herein.

16. That at all times pertinent hereto, Defendant, HURON VALLEY HOSPITAL, operated and maintained said Hospital and was responsible for its hospital, the selection of its medical staff and for the quality of care rendered in said hospital where persons afflicted with illness and disease are given care and treatment for consideration pursuant to MCL 333.21513 and MCL 333.20141.

17. That at all times pertinent hereto, Defendant, HURON VALLEY HOSPITAL, represented and held out to the public, and in particular to DONIELLE VAN SICKLE, and her then unborn child, Plaintiff, ALAN VAN SICKLE, that its hospital was equipped, qualified and prepared to receive the public and, in particular, DONIELLE VAN SICKLE, and her then unborn child, Plaintiff, ALAN VAN SICKLE, for treatment and care, and that they employed and maintained on their staff skilled and competent physicians, obstetrical physicians, residents, interns, nurses and in general, competent help otherwise in the conduct and operation of said hospital.

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18. That at all times pertinent hereto, Defendant, HURON VALLEY HOSPITAL, and its staff of physicians, obstetrical physicians, residents, surgeons and nurses assumed responsibility for Plaintiff, DONIELLE VAN SICKLE'S well being, and the well being of her then unborn child, Plaintiff, ALAN VAN SICKLE.

19. That at all times pertinent hereto, Defendant, HURON VALLEY HOSPITAL, and its staff of physicians, obstetrical physicians, residents, surgeons and nurses undertook to examine, attend and care for Plaintiff, DONIELLE VAN SICKLE, and her then unborn child, Plaintiff, ALAN VAN SICKLE.

20. That on or about December 26, 2002, and for a period of time thereafter, Plaintiff, DONIELLE VAN SICKLE, received pre-natal care by the physicians, obstetrical physicians, obstetricians, gynecologists, residents and nurses at Defendants, HURON VALLEY HOSPITAL and WALNUT LAKE OB-GYN, and that it was known that in 1999, Plaintiff, DONIELLE VAN SICKLE, delivered a 3 pound baby at 29 weeks gestation.

21. That prior to March 17, 2003, Plaintiff, DONIELLE VAN SICKLE, had an elevated MSAFP and was referred by Dr. Steven Friedman to the maternal fetal medicine department at HURON VALLEY HOSPITAL.

22. That on or about March 17, 2003, Plaintiff, DONIELLE VAN SICKLE, did deliver and submit herself and her then unborn child, Plaintiff, ALAN VAN SICKLE, to Defendant, Dr. Puder at the Huron Valley Perinatology Department for an ultrasound. Plaintiff, DONIELLE VAN SICKLE, did then and there, impliedly and expressly hire and employ said Defendants, its agents, servants, and/or employees, to do that which was proper and necessary in the premises and in accordance with the standards of hospitals prevailing throughout the nation and that Defendant, HURON VALLEY HOSPITAL, then and there, impliedly and/or expressly

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represented to use due, reasonable and proper skill in the care and treatment of Plaintiff, DONIELLE VAN SICKLE, and her then unborn child, Plaintiff, ALAN SICKLE, in accordance with the standards of hospitals then prevailing throughout the nation.

23. That the Defendants ["Defendants" refers to all named Defendants], and each of them, through their duly authorized agents, servants and/or employees in disregard of their duties and obligations owed to Plaintiff, DONIELLE VAN SICKLE, and her then unborn child, Plaintiff ALAN VAN SICKLE, and in violation of the applicable standards of care, were guilty of negligence and medical malpractice in the following particulars:

- a. Employing physicians, obstetrical physicians, maternal-fetal medicine physicians, obstetricians, gynecologists, surgeons, residents, interns, nurses and other personnel who were unskilled, incompetent and unfit for such employment and in permitting them to attend, advise, diagnose and treat Plaintiff, DONIELLE VAN SICKLE, and her unborn child, ALAN VAN SICKLE;
- b. Failing and neglecting to provide and furnish Plaintiff, DONIELLE VAN SICKLE and her unborn child, ALAN VAN SICKLE, with the proper and necessary medical care and treatment for which they had contracted, all of which could and should have been accomplished;
- c. Failing and neglecting to draft, promulgate, adopt and/or enforce the appropriate rules, regulations, policies, procedures, bylaws, orders and constitutional provisions which could and should have prevented the acts of negligence and medical malpractice committed against the Plaintiff and which also could and should have prevented the injuries which Plaintiff have suffered, all of which should and could have been accomplished;
- d. Failing to have the physicians, obstetrical physicians, professional nursing, technical and support personnel, and the technical diagnostic and treatment services equipment necessary to ensure the safe performance of the health care undertaken at Defendant Hospitals pursuant to MCL 333.20141;
- e. Failing and neglecting to draft, promulgate, adopt, implement, and/or enforce the appropriate rules, regulations, policies, procedures, and orders which would and should have resulted in the appropriate and timely treatment of the Plaintiff, DONIELLE VAN SICKLE and her unborn

child, ALAN VAN SICKLE, as alleged and set forth above, all of which could and should have been accomplished;

- f. Defendants failing and neglecting to consider the pregnancy at issue high risk based upon Plaintiff, DONIELLE VAN SICKLE'S previous pregnancy history and her ultrasound of March 17, 2003, which could and should have been accomplished;
- g. Defendants failing and neglecting to obtain and review DONIELLE VAN SICKLE'S previous pregnancy medical records, which could and should have been accomplished;
- h. DEFENDANT, STEVEN J. FRIEDMAN, D.O., by failing and neglecting to refer the patient to a maternal-fetal medicine specialist prior to March 17, 2003, as well as WALNUT LAKE OB/GYN, PLLC based on her previous pregnancy history;
- i. DEFENDANT, KAROLINE S. PUDER, M.D., by failing and neglecting to advise Defendant, STEVEN J. FRIEDMAN, D.O. of the high risk nature of Plaintiff's condition, the evidence on the March 17, 2003 ultrasound of cervical funneling, and to recommend increased monitoring and cerclage placement for the Plaintiff, DONIELLE VAN SICKLE;
- j. Defendants failing and neglecting to arrive at a differential diagnosis of incompetent cervix and/or a silent laborer and make the appropriate recommendations to Plaintiff, DONIELLE VAN SICKLE, based on her previous pregnancy history and the March 17, 2003 ultrasound, all of which could and should have been accomplished;
- k. Defendants failing and neglecting to realize the significance of the March 17, 2003 ultrasound which showed funneling of the cervix during the stress test, as well as the cervical length, all of which could and should have been accomplished;
- l. Defendants failing and neglecting to counsel and recommend cerclage placement to Plaintiff, DONIELLE VAN SICKLE, based on her previous pregnancy history, which could and should have been accomplished;
- m. Defendants failing and neglecting to perform fetal fibronectin testing, which could and should have been accomplished;
- n. Defendants failing and neglecting to recommend bedrest, preterm surveillance, no intercourse or heavy lifting, weekly cervical checks, home contraction monitoring and telephone contacts with an obstetrical nurse, all of which could and should have been accomplished;

- o. Defendants failing and neglecting to instruct Plaintiff, DONIELLE VAN SICKLE, on the signs and symptoms of pre-term labor, which could and should have been accomplished;
- p. Failing and neglecting to properly, fully and completely refrain from other acts or omissions constituting malpractice and professional negligence to be discovered;
- q. Other acts and/or omissions, which may be revealed through discovery.

24. That the acts and/or omissions constituting negligence and/or medical malpractice of the Defendants, and each of them, as hereinbefore alleged, directly and proximately caused Plaintiff, ALAN VAN SICKLE, to be born prematurely at 29 weeks as a result of an undiagnosed high risk pregnancy and incompetent cervix and/or pre-term labor.

25. That the acts and/or omissions constituting negligence and/or medical malpractice of the Defendants, and each of them, as hereinbefore alleged, were the direct and proximate causes of Plaintiff, ALAN VAN SICKLE'S severe and grievous injuries, including, but not limited to the following:

- a. Severe and extensive neurologic impairments, including impairment of motor and cognitive functions;
- b. Blindness;
- c. Developmental delays;
- d. Hydrocephalus;
- e. Cerebral palsy;
- f. VP shunt;
- g. Asthma;
- h. Congenital blindness laterally;
- i. Seizures;



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- j. Apnea;
- k. Bradycardia;
- l. Kidney and ureter disorder;
- m. Respiratory distress syndrome;
- n. Intense physical and mental pain, suffering, humiliation and embarrassment;
- o. Numerous medical procedures, surgeries and extended hospitalizations;
- p. Significant risk for further complications in the future;
- q. Loss of earnings and/or loss of earning capacity;
- r. Significant medical expenses, past, present and future.

26. The acts and/or omissions constituting negligence and/or medical malpractice of the Defendants, and each of them, as hereinbefore alleged, were the direct and proximate cause of the deprivation of Plaintiff's normal enjoyments of life as well as and including but not limited to: pain and suffering, humiliation, embarrassment, diminution of earning capacity, mental and emotional anguish and anxiety. All of these conditions are consequences of the Defendants' negligence and malpractice, and are permanent and will continue indefinitely into the future.

27. The acts and/or omissions constituting negligence and/or medical malpractice of the Defendants, and each of them, as hereinbefore alleged, were the direct and proximate causes of the Plaintiff incurring expenses, including, but not limited to, expenditures for extensive medical, psychiatric and psychological care and treatment; expenditures for repeated hospitalizations, surgeries, and appointments with physicians, therapists and nurses, expenditures for training including special education, speech, occupational and physical


therapy, wheelchair, appliances, home construction adaptations, 24 hour attendant care, a van for transportation, medical substances and other items. All of these expenditures became necessary partially or totally as a consequence of Defendants' negligence and medical malpractice and Plaintiff, ALAN VAN SICKLE'S, condition which requires these expenditures and is permanent in nature and will continue indefinitely into the future thus requiring Plaintiff, DONIELLE VAN SICKLE, to incur similar sums and incur similar obligations.

28. That as a further direct and proximate result of the negligence and medical malpractice of the Defendants, and each of them, Plaintiff, DONIELLE VAN SICKLE, has been required to expend extraordinary time and energy and money for the special care and attention rendered to and for her son, minor Plaintiff, ALAN VAN SICKLE, including, but not limited to: nursing care, physical therapy, special education and training. That as a consequence directly thereof, Plaintiff requests compensation for the value of such extraordinary services rendered.

WHEREFORE, Plaintiff claims judgment against each of the named Defendants, jointly and severally, for whatever amount Plaintiff is found to be entitled, as determined by the trier of fact together with interest, costs, and attorney fees

**DEMAND FOR TRIAL BY JURY IS HEREBY MADE**

SOMMERS SCHWARTZ, P.C.

By:   
 \_\_\_\_\_  
 JEFFREY SHILLMAN (P20373)  
 SCOTT WEIDENFELLER (P56001)  
 Attorneys for Plaintiff  
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Dated: January 9, 2008

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