

JURY FEE PAID

THIS DATE:

NOV 29 1989

9667

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

BY: THERESA ROBINSON, and
JOHN ROBINSON,

Plaintiff,

vs.

89-929667 NH 11/29/89
JDG: SHARON TEVIS FINCH
ROBINSON THERESA
VS
CHOI YOUL MI

YOUL CHOI, M.D., DR. HAMDOL,
WHS LIQUIDATING COMPANY, INC.,
d/b/a WOMAN'S HEALTH SERVICES
and WOMANS HEALTH SERVICES,
and WOMAN'S HEALTH CENTER;
WOMAN'S HEALTH SERVICES, INC.,
d/b/a WOMAN'S HEALTH SERVICES
OF DETROIT and WOMAN'S HEALTH
CENTER, HARPER/GRACE HOSPITAL,
Grace Hospital Division,
jointly and severally,

Handwritten initials and scribbles on the left margin.

Defendants.

CAROLINE B. BUTZU P 39206
MICHAEL T. MATERNA
607 Shelby, 3rd Floor
Detroit, Michigan 48226
(313) 962-3825

COMPLAINT AND DEMAND FOR TRIAL BY JURY

COUNT I

NOW COME the Plaintiffs, THERESA ROBINSON and JOHN ROBINSON,
by and through their attorney, CAROLINE B. BUTZU, and as their
Complaint state as follows:

1. That the Plaintiff, THERESA ROBINSON is a resident of the
City of Detroit, County of Wayne State of Michigan.
2. That the Plaintiff, JOHN ROBINSON, is a resident of the
City of Detroit, County of Wayne, State of Michigan.
3. That the Plaintiff, THERESA ROBINSON and JOHN ROBINSON,
are legally married husband and wife.

4. That the Defendants, WHS LIQUIDATING COMPANY, INC., d/b/a WOMAN'S HEALTH SERVICES and WOMANS HEALTH SERVICES, and WOMAN'S HEALTH CENTER; WOMAN'S HEALTH SERVICES, INC., d/b/a WOMAN'S HEALTH SERVICES OF DETROIT and WOMAN'S HEALTH CENTER, (hereinafter CLINIC) are an entity holding itself out to the public as a clinic located at 16401 Grand River, in the City of Detroit, County of Wayne, State of Michigan, capable of furnishing reasonable and appropriate medical care, equipment, medical facilities and staff.

5. That Defendant, YOUL CHOI, M.D., is a physician practicing in the City of Detroit, County of Wayne, State of Michigan.

6. That Defendant, YOUL CHOI, M.D., is an agent and/or of the Defendant CLINIC and that Defendant CLINIC is responsible for its agents, servants, and/or employees including Defendant Choi.

7. That Defendant, HARPER/GRACE HOSPITAL, Grace Hospital Division (hereinafter HOSPITAL), is a health care facility doing business in the City of Detroit, County of Wayne, State of Michigan holding itself out to the public as a capable of furnishing reasonable and appropriate medical care, equipment, medical facilities and staff.

8. That Defendant, DR. HAMDOL, is a physician practicing in the City of Detroit, County of Wayne, State of Michigan.

9. That the Defendants, DR. HAMDOL and CHOI, are agents, employees and/or servants of the Defendant Hospital and that Defendant Hospital is responsible for the negligent acts of its

employees, agents, and/or servants including Defendants, HAMDOL and CHOI.

10. That the amount in controversy exceeds the sum of Ten Thousand (\$10,000.00) dollars exclusive with costs and attorneys fees.

12. That at all times pertinent to this litigation, Plaintiffs did look to and rely upon the Defendant Clinic and Hospital through its staff physicians, nursing personnel and other employees, agents and/or servants to provide reasonable and appropriate and competent medical care and treatment to the Plaintiff, THERESA ROBINSON.

13. That on November 30, 1987, Plaintiff, THERESA ROBINSON, presented to Defendant Clinic with a last menstrual period of July 15, 1987 and presented for a voluntary abortion.

14. That an ultrasound report taken on this date noted a pregnancy of thirteen weeks.

15. That according to Plaintiff, THERESA ROBINSON's last menstrual period, on November 30, 1987 Theresa Robinson presented with a pregnancy of seventeen weeks.

16. That on this date, a dilatation and curettage and a vacuum aspiration abortion was performed.

17. That the tissue obtained from procedure corresponded to a thirteen week pregnancy.

18. That Defendant Dr. Choi performed the abortion procedure upon Plaintiff Theresa Robinson on November 30, 1987.

19. That at no time prior to the abortion procedure, or

during the abortion procedure, was a pelvic exam performed on Theresa Robinson.

20. That although bleeding heavily after the procedure was performed, Theresa Robinson was bleeding heavily, she was sent home.

21. That on December 6, 1987, Plaintiff Theresa Robinson began hemorrhaging and was taken at 6:46 a.m. to Redford Community Hospital.

22. That upon admission to Redford Community Hospital, Plaintiff Theresa Robinson was experiencing brisk vaginal bleeding and upon examination her vagina was noted to be filled with blood and clots.

23. That at this time Plaintiff Theresa Robinson's hemoglobin was noted as 8.1 grams.

24. That Dr. Larson, who examined Plaintiff Theresa Robinson at Redford Community Hospital, contacted Dr. Choi and transferred Plaintiff Theresa Robinson to Defendant Hospital.

25. That at 10:00 a.m. Plaintiff was seen by Defendant Dr. Hamdol at Defendant Hospital.

26. That at this time, Plaintiff Theresa Robinson's uterus was noted to be "boggy" and that her hemoglobin was 7.5 grams.

27. That Defendant Choi was paged on three separate occasions and failed to respond to said pages.

28. Plaintiff was not admitted to Defendant Hospital on 12/6/87, but rather was sent home.

29. That on 12/11/87 Plaintiff again began hemorrhaging and

at 8:05 a.m. was admitted to Defendant Hospital.

30. That at this time, Plaintiff Theresa Robinson was noted to have heavy vaginal bleeding and lower abdominal cramping and that upon examination her pulse was 120 beeps per minute, blood pressure 80/40 temperature of 100.5 and hemoglobin of 6.9 grams.

31. That approximately two (2) hours after admission, Plaintiff Theresa Robinson's became very profuse and a DNC procedure was performed.

32. That the pathology report from this procedure revealed an aggregate mass of tissue 3 by 2 1/2 by .5 centimeters corresponding to decidual tissue which was degenerated and necrotic.

33. That on December 12, 1987, Defendant Choi visited with Plaintiff Theresa Robinson in the morning but did not examine her.

34. That on the evening of December 12, 1987, Plaintiff Theresa Robinson again began bleeding profusely; this profuse bleeding continued for approximately five (5) hours.

35. That a total abdominal hysterectomy was performed upon Plaintiff Theresa Robinson.

36. That the pathology report from this procedure revealed an endometrium totally absent except for minimal focal residual basal layer that showed necrosis and high hyalinization extensive acute hemorrhage.

37. That Plaintiff Theresa Robinson's subsequent hospital course was marred by post operative temperature spikes, plural effusion and multiple blood transfusions.

38. That Plaintiff Theresa Robinson was discharged from Defendant Hospital on December 19, 1987.

39. That Defendant Clinic and Defendant Choi breached applicable standard of care in the following instances:

- a) failing to have a proper license to perform outpatient abortion procedures contrary to Michigan Statutes and Ordinances;
- b) failing to retain and preserve tissue cultures and slides from the products of abortions;
- c) failing to adequately record and preserve pathology materials from abortions;
- d) failing to perform a pelvic examine either before or during the abortion procedure.
- e) failing to correlate tissue obtained from the abortion to the patients dates and to further assess the patients uterus in response to what this correlation between tissue and dates would have revealed;
- f) failing to properly interpret ultrasound findings particularly when a discrepancy exists between ultrasound findings and obtained tissue;
- g) failing to perform repeat ultrasound to rule out retained products of conception;
- h) failing to properly and completely perform the abortion;
- i) failing to properly care for and treat plaintiff following the abortion procedure.

40. That Defendant Clinic is responsible for the negligent acts of agents, servants and/or employees including Defendant Choi and the individual performing the ultrasound on November 30, 1987.

41. That the Defendants Hamdol, Choi and Defendant Hospital were negligent and breached the applicable standard of care in the following instances:

- a. that defendant Choi failed to be available to examine and admit Plaintiff Theresa Robinson on 12/6/89;
- b. failing to admit for evaluation and treatment, a plaintiff with a

history of abortion, severe anemia and bleeding who was transferred from another hospital;

- c. failing to perform a DNC to remove infected and necrotic degenerating products of conception on each day from December 6, 1987 until December 12, 1987;
- d. failing to properly care and treat the plaintiff Theresa Robinson;
- e. failing to render proper nursing care;
- f. failing to have adequate and competent medical staff;
- g. failing to adopt rules, regulations, and policies governing the professional work of the hospital and the eligibility and qualifications of its medical staff contrary to MCLA 331.206;
- h. failing to deny hospital privileges to physicians and/or other employees who disobey rules, regulations, policies and procedures contrary to MCLA 331.161;
- i. failing to have the health care personnel necessary to ensure the safe performance of health care undertaken by the hospital contrary to MCLA 333.20141;
- j. failing to keep full and complete medical records contrary to MCLA 333.20175 and R. 325.1028 1979 Michigan Administration Code;
- k. failing to adopt a policy concerning the rights and responsibilities of patients contrary to MCLA 333.20201;
- l. failing to ensure that doctors admitted to practice are granted privileges consistent with their training, experience and other qualifications, contrary to MCLA 333.21513;
- m. failing to organize its medical staff to promote effective review and reduce morbidity and mortality and prevent complications and deaths, contrary to MCLA 333.21513;
- n. failing to carry out practices to protect public health and safety, alleviate pain and disability and prevent premature death, contrary to MCLA 333.21521;
- o. failing to comply with minimum standards of patient care contrary to R. 325.1027 1979 Michigan Administrative Code;
- p. failing to ensure that its facility was adequately staffed by physicians, nurses, aides, and other employees of reasonable skill and competence;
- q. failing to grant hospital privileges consistent with the training, experience and competence of those physicians, nurses, aides, and

other employees rendering medical and nursing care within the facility;

- r. failing to establish and enforce policies and procedures to ensure that patients such as the Plaintiff would not be exposed to unreasonable risks of incompetent medical, surgical and nursing care;
- s. failing to ensure that the policies, procedures, rules and regulations of the facility applicable to the medical staff, physician personnel, the nursing staff, and all departments within the facility were followed;
- t. failing to organize its medical staff in such a manner which would provide adequate review of the quality of medical care rendered to patients such as the Plaintiffs so as to reduce negligence and to protect the health and safety of persons looking to that facility for medical and surgical care and treatment;
- u. failing to establish and enforce appropriate consultation procedures for its agents, employees and/or servants regarding the management of patients such as the Plaintiffs;
- v. failing to do and/or doing other acts which future discovery shall reveal.

42. That the Defendant Hospital is responsible for the negligent acts of its agents, servants and/or employees including Defendant Hamdol and Defendant Choi.

43. That as a direct and proximate result of the negligence of the defendants, the Plaintiff Theresa Robinson has suffered and will continue to suffer the following damages:

- a. total abdominal hysterectomy;
- b. hospitalization marred by temperature spikes, plural effusion and multiple blood transfusions;
- c. physical pain and suffering;
- d. mental anguish;
- e. fright and shock;
- f. denial of social pleasures and enjoyments;
- g. embarrassment, humiliation and mortification;

herein, together with interest, costs, and reasonable attorney fees so wrongfully incurred.

COUNT II

45. That Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 43 of Count I as though the same were set forth herein, word for word and paragraph by paragraph.

46. That the Plaintiff John Robinson is the lawful husband of Theresa Robinson and hereby makes a claim for loss of consortium love and companionship.

WHEREFORE, Plaintiffs pray that this Honorable Court enter a judgment in their favor and against all Defendants that in just and reasonable and in accord with all proofs to be presented herein, together with interest, costs, and reasonable attorney fees so wrongfully incurred.

COUNT III

47. That Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 46 of Count II as though the same were set forth herein, word for word and paragraph by paragraph.

48. That the Defendants herein did agree to accept Plaintiff Theresa Robinson as a patient and to properly care for and treat her.

49. That Plaintiffs did agree to pay Defendants to perform such services.

50. That it was contemplated by the parties that any medical

h. other damages.

Furthermore, as a direct and proximate result of the negligence of Defendants, Plaintiff has been subjected to multiple surgical procedures and suffered considerable pain, anguish, deformity, disability, anxiety and loss of enjoyment of life. In addition to the substantial medical and surgical expenses already incurred on behalf of the Plaintiff, Theresa Robinson, continuing need for substantial medical care and treatment will require that sums be expended for an indefinite period into the future. As a direct and proximate result of the negligence of the Defendants, the Plaintiff Theresa Robinson's pain, suffering, anxiety and loss of enjoyment of life and loss of earning capacity will continue indefinitely into the future.

44. That the negligent acts of the Defendants, as fully set forth above, constitutes gross negligence in that the Defendants, jointly and severally, knew that the medical, surgical and nursing care and treatment rendered to the Plaintiff Theresa Robinson would cause grievous injury and that, although all Defendants had the ability to avoid the harmful consequences to the Plaintiff Theresa Robinson, they failed to exercise that ability and that failure was apparent and disastrous to the Plaintiff Theresa Robinson. Furthermore, the conduct of all Defendants was willful and wanton and in blatant disregard for human life.

WHEREFORE, Plaintiffs pray that this Honorable Court enter a judgment in their favor and against all Defendants that in just and reasonable and in accord with all proofs to be presented

care rendered, would be performed in all particulars, for the maximum medical benefit and future enjoyment of life of Plaintiff, Theresa Robinson.

51. That the agreement between Plaintiffs and Defendants intimately involved the health and directly affected the concern and peace of mind of Plaintiff Theresa Robinson.

52. That Defendant failed to meet their obligations by failing to properly treat and care for Plaintiff Theresa Robinson.

53. That it was within the contemplation of the Plaintiffs and the Defendants that, in the event that Defendants failed to meet its obligations, grievous harm, including severe mental pain and suffering would be suffered by the Plaintiffs.

54. That as a direct and proximate result of the negligence of the Defendants, Plaintiffs suffered the damages above described in Count I and Count II of this Complaint.

WHEREFORE, Plaintiffs pray that this Honorable Court enter an judgment in his favor and against Defendant that is just and reasonable in accord with all the proofs to be presented herein, together with interest, costs and reasonable attorney fees so wrongfully sustained.

Respectfully Submitted,

MICHAEL T. MATERNA

BY: *C. Butzu*

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Dated: November 29, 1989