

STEPHANIE WHITE, Individually
and as Personal Representative of the
ESTATE OF DENISE CROWE

3703 8th Street
Baltimore, MD 21225

And

LATRELL A. ROYSTER, JR., Individually
and by his grandmother, guardian and next
friend, STEPHANIE WHITE,

3703 8th Street
Baltimore, MD 21225

PLAINTIFFS,

Vs.

R.A. FERRER, M.D./GYNECARE, P.A.,
TRADING AS "GYNECARE CENTER"
877 Baltimore & Annapolis Blvd, Suite 300
Severna Park, MD 21146

Serve: Romeo A. Ferrer, Resident Agent
7310 Governor Ritchie Highway
Suite 714
Glen Burnie, MD 21061

And

ROMEO A. FERRER, M.D.
877 Baltimore & Annapolis Blvd, Suite 300
Severna Park, MD 21146

DEFENDANTS.

BEFORE THE

CIRCUIT COURT

FOR BALTIMORE CITY,

MARYLAND

CASE NO.

HC09-007342

FILED

Baldy, City
Council District
10

RECEIVED
CLERK OF COURT
BALTIMORE CITY
OCT 14 11 01 AM '07
CIVIL DIVISION

Case: 24-C-07-007342
CV File New 90.00
Appear Fee 20.00
NLSC 25.00
TOTAL \$135.00

COMPLAINT

NOW COME Plaintiffs Stephanie White, Individually and as Personal Representative of the Estate of Denise Crowe, and Latrell A. Royster, Jr., Individually and by his grandmother, legal guardian and next friend Stephanie White, and by and through their attorneys David M. Silbiger, Esquire and Mark R. Millstein, Esquire,

CONSENT
WHITE VS. FERRER

Receipt #20070002453
10/05/07 1:04pm

hereby respectfully file this claim against the Defendants R.A. Ferrer, M.D./Gynecare P.A., trading as "GynecareCenter" and Romeo A. Ferrer, M.D., as follows:

COUNT 1

1. That the amount of this claim exceeds Twenty-Five Thousand Dollars (\$25,000).
2. That the venue in this case is proper in Baltimore City, Maryland.
3. That Plaintiffs Stephanie White, individually and as personal representative of the Estate of Denise Crowe (hereinafter "Crowe" or Decedent"), and Latrell A. Royster, Jr., individually and by his grandmother, guardian and next friend, Stephanie White, are residents of the State of Maryland, City of Baltimore.
4. That at all relevant times, Defendant R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" (hereinafter the "Gynecare Center"), and any and all health care providers or agents employed at or associated with the Gynecare Center, or otherwise acting at said Gynecare Center, held themselves out to the general public and Plaintiffs, as experienced, competent and able physicians, anesthesiologists, surgical assistants, anesthesiologists, nurse anesthetists, and nurses with respect to the practice of medicine, pregnancy termination, abortion, surgery, anesthesiology and nursing (hereinafter collectively "medical care") and possessing and able to provide that degree of skill and knowledge of medical care ordinarily possessed by those who devote special study and attention to the practice of the said medical care, and, as such, owed to the Plaintiffs to render that degree of care and treatment which is ordinarily rendered by those who devote special study and attention to the practice of the said medical care.

5. That at all times the Defendant Gynecare Center advertises its abortion medical services in the Baltimore Metropolitan Region generally, and Baltimore City, specifically.

6. That at all times hereinafter set forth, Gynecare Center was and is a medical facility offering services to the general public including but not limited to, administrative, medical, pregnancy termination, abortion, surgery, general anesthesia, local anesthesia, post-abortion surgical care and nursing, from its outpatient surgical office in Anne Arundel County, Maryland. That the events giving rise to this claim occurred in Anne Arundel County, Maryland. Venue is proper in Baltimore City.

7. That at all times hereinafter set forth Gynecare Center provided medical services, including but not limited to, administrative, medical, pregnancy termination, abortion, surgery, general anesthesia, local anesthesia and post-abortion care, in connection with its abortion and pregnancy termination practice, which such services were offered to the general public, and in such capacity, its agents, servants and/or employees, medical staff administrators, physicians, surgical assistants, anesthetists, nurses and/or consultants held themselves out as practicing ordinary standards of medical care with respect to elective pregnancy termination, abortion, surgery, general anesthesia, local anesthesia, post-abortion care and nursing, and as such, owed a duty to the Plaintiffs to render and to provide health care within ordinary standards of care in providing medical services of pregnancy termination, abortion, surgery, general anesthesia, local anesthesia, post-abortion and nursing medical care, and to exercise reasonable care in the selection of its personnel to provide competent physicians, nurses, administrators, and other administrative and medical personnel, possessing that degree of skill and knowledge

which is ordinarily possessed by those who devote special study and attention to the practice of medicine and nursing, and to supervise and provide its patients with diagnostic, medical, and administrative services and treatment commensurate with the condition from which the patient suffers and for which a patient entered the Gynecare Center.

8. That at all relevant times, Defendant Romeo A. Ferrer, M.D. (hereinafter "Ferrer"), and any and all health care providers or agents employed by or associated with Ferrer, or otherwise acting and/or supervised under the direction of Ferrer, did hold and/or held themselves out to the general public and Plaintiffs, as experienced, competent and able physicians, anesthesiologists, surgical assistants, anesthesiologists, nurse anesthetists, and nurses with respect to the practice of said medical care, and possessing and able to provide that degree of skill and knowledge of medical care ordinarily possessed by those who devote special study and attention to the practice of the said medical care, and, as such, owed to the Plaintiffs to render that degree of care and treatment which is ordinarily rendered by those who devote special study and attention to the practice of the said medical care, and to exercise reasonable care in the selection of his personnel to provide competent physicians, nurses, administrators, and other administrative and medical personnel, possessing that degree of skill and knowledge which is ordinarily possessed by those who devote special study and attention to the practice of medicine and nursing, and to supervise and provide his patients with diagnostic, medical, and administrative services and treatment commensurate with the condition from which the patient suffers and for which a patient entered the Gynecare Center.

9. At all times hereinafter set forth, Ferrer was an agent, apparent agent, and/or servant of Gynecare Center.

10. At all times hereinafter set forth, N. Gibson, Surgical Assistant (hereinafter "Gibson") was an agent and/or apparent agent, servant, or employee of Ferrer and/or Gynecare Center.

11. At all times hereinafter set forth, T. Pirchalski, LPN (hereinafter "Pirchalski") was an agent and/or apparent agent, servant, or employee of Ferrer and/or Gynecare Center.

12. At all times hereinafter set forth, T. Battle, N.A. Surgical Assistant (hereinafter "Battle") was an agent and/or apparent agent, servant, or employee of Ferrer and/or Gynecare Center.

13. On or about February 3, 2006, twenty-one (21) year old Denise Crowe (hereinafter "Crowe"), presented to Gynecare Center for an elective abortion procedure, which was performed and/or supervised by Ferrer, with the assistance of Gibson, Pirchalski and Battle.

14. That on the said date, at approximately 1:30pm, the said abortion surgical procedure (hereinafter "abortion") commenced. That before and during the said abortion, Crowe was administered multiple doses of sedatives and pain medications by methods that included the intravenous push, or otherwise known as "IV push."

15. That during the abortion, Ferrer and/or assistants working under his supervision, administered to Crowe quantities of midazolam, meperidine and/or demoral (hereinafter "pain medications"), using the IV push method.

16. That at no time during the said abortion was a certified anesthesiologist present and physically available to Ferrer.

17. That at no time during the said abortion was a certified nurse anesthetist present and physically available to Ferrer.

18. That two times during the abortion, Ferrer and/or assistants working under his supervision, gave to Crowe IV pushes, including 125 mg demoral plus 5 mg midazolam.

19. That the quantity of the pain medications administered to Crowe was too large a quantity to be administered using the IV push method.

20. That when a dose of 125 mg demoral and 5 mg midazolam is to be administered to a patient, this combination and quantity must be "titrated" to effect and to ensure the doses are administered in a safe manner. It is crucial that competent and experienced health care providers carefully monitor the effect of such pain medications.

21. That at all times, a strict and conscious sedation protocol should have been followed when the pain medications were administered to Crowe, which did not occur.

22. That at no time did Ferrer or assistants working under Ferrer's supervision, titrate the pain medications administered to Crowe.

23. That during the abortion, Ferrer and/or agents of Gynecare Center, failed to properly administer the pain medications.

24. That Gynecare Center medical records reflect that immediately following the IV pushes, approximately two minutes after the procedure was over, "[at on or about 1:47], surgical assistant Gibson noticed that [Crowe's] fingernail beds appeared blue in color." That Ferrer and/or agents of Gynecare Center, failed to follow standards of care and

failed to follow appropriate protocol for the safe administration of pain medications before, during and/or after the said abortion.

25. That Ferrer and/or agents of Gynecare Center “[on or about 1:55] maintained [an] open airway by head chin lift and assessed compression,” which was inadequate, and there exist other and more effective methods that should have been employed to resuscitate Crowe.

26. That Ferrer and/or agents of Gynecare Center, before, during and after the abortion, failed to monitor Crowe’s respiration and ventilation.

27. That Ferrer and/or agents of Gynecare Center, before, during and after the abortion, failed to administer oxygen as required.

28. That Ferrer and/or agents of Gynecare Center, before, during and after the abortion, failed to use an “ambu” bag or “bag and mask device.”

29. That Ferrer and/or agents of Gynecare Center, before, during and after the abortion, failed to employ standard methods of care and protocol to resuscitate Crowe.

30. That during the said resuscitative efforts, Ferrer and agents of the Gynecare Center gave Crowe a dose of epinephrine using the “intracardiac” method, which has been discontinued for many years.

31. That after called by Gynecare Center, at or about 2:00pm, paramedics arrived to attempt emergency resuscitative efforts and transport Crowe to the Anne Arundel County Medical Center. That paramedics and emergency personnel were unsuccessful in saving Crowe’s life.

32. That Crowe was soon pronounced dead at the Anne Arundel Medical Center.

33. That on or about March 16, 2006, the findings of a post-mortem examination of Crowe were published by the Office of the Chief Medical Examiner of the State of Maryland (hereinafter the "autopsy report").

34. That the autopsy report pathologic diagnosis indicated that the cause of death to Crowe was "meperidine intoxication."

35. That the pertinent part of the opinion of the Chief Medical Examiner of the State of Maryland, was as follows:

"[T]his 21 year old African American female, Denise Crowe, died of Meperidine Intoxication. By report the deceased had undergone an elective termination of a 16 week intrauterine pregnancy. Several minutes after the procedure, the deceased became unresponsive. The manner of death was **ACCIDENT**."

36. That Defendant, R.A. FERRER, M.D./GYNECARE, P.A., trading as "GYNECARE CENTER" was negligent and careless in the following respects:

- a. failed to manage fluids and otherwise follow appropriate standards and methods of intravenous anesthesia care administered to Crowe;
- b. failed to render proper anesthesia care in general;
- c. failed to monitor Crowe's physiological condition for identifiable reactions and initiate appropriate corrective actions as required;
- d. improperly used IV push method;
- e. failed to properly titrate pain medications administered to Crowe, including midazolam, meperidine and/or demoral;
- f. failed to follow accepted protocol for the safe administration of pain medications provided to Crowe, including midazolam, meperidine and/or demoral;

- g. failed to properly monitor and manage Crowe's respiratory care;
- h. failed to implement and adjust an anesthesia care plan as needed to adapt to Crowe's response to the anesthesia;
- i. failed to manage and/or properly administer to Crowe oxygen, supplementary oxygen, pulse oximetry, oxygen saturation, mechanical ventilatory assistance methods and equipment, cardiac monitoring methods and equipment, ambu bag, bag and mask device(s), epinephrine, and other emergency equipment and/or basic emergency life support equipment and services;
- j. failed to follow a strict and conscious sedation protocol when the pain medications were administered to Crowe, which did not occur;
- k. failed to titrate the pain medications administered to Crowe;
- l. failed to employ appropriate standards of care to resuscitate Crowe;
- m. failed to monitor Crowe's respiration and ventilation;
- n. used the "intracardiac" method to administer epinephrine, which has been discontinued for many years;
- o. failed to enter prompt, complete and keep accurate records of Crowe's medical documentation on patient records;
- p. failed to complete information on Crowe's medical records which should have been completed during and/or after the said abortion procedure;
- q. failed to sign Crowe's medical records as required;

- r. failed to follow guidelines for the presence and availability of a certified anesthesiologist during a surgical procedure in a freestanding surgical facility;
- s. failed to follow guidelines for the presence and availability of a certified nurse anesthetist during a surgical procedure for a freestanding surgical facility;
- t. and was otherwise negligent and careless.

37. The Defendant, ROMEO A. FERRER, M.D., was negligent and careless in the following respects:

- a. failed to manage fluids and otherwise follow appropriate standards and methods of intravenous anesthesia care administered to Crowe;
- b. failed to render proper anesthesia care in general;
- c. failed to monitor Crowe's physiological condition for identifiable reactions and initiate appropriate corrective actions as required;
- d. improperly used IV push method;
- e. failed to properly titrate pain medications administered to Crowe, including midazolam, meperidine and/or demoral;
- f. failed to follow accepted protocol for the safe administration of pain medications provided to Crowe, including midazolam, meperidine and/or demoral;
- g. failed to properly monitor and manage Crowe's respiratory care;

- h. failed to implement and adjust an anesthesia care plan as needed to adapt to Crowe's response to the anesthesia;
- i. failed to manage and/or properly administer to Crowe oxygen, supplementary oxygen, pulse oximetry, oxygen saturation, mechanical ventilatory assistance methods and equipment, cardiac monitoring methods and equipment, ambu bag, bag and mask device(s), epinephrine, and other emergency equipment and/or basic emergency life support equipment and services;
- j. failed to follow a strict and conscious sedation protocol when the pain medications were administered to Crowe, which did not occur;
- k. failed to titrate the pain medications administered to Crowe;
- l. failed to employ appropriate standards of care to resuscitate Crowe;
- m. failed to monitor Crowe's respiration and ventilation;
- n. used the "intracardiac" method to administer epinephrine, which has been discontinued for many years;
- o. failed to enter prompt, complete and keep accurate records of Crowe's medical documentation on patient records;
- p. failed to complete information on Crowe's medical records which should have been completed during and/or after the said abortion procedure;
- q. failed to sign Crowe's medical records as required;

- r. failed to follow guidelines for the presence and availability of a certified anesthesiologist during a surgical procedure in a freestanding surgical facility;
- s. failed to follow guidelines for the presence and availability of a certified nurse anesthetist during a surgical procedure for a freestanding surgical facility;
- t. and was otherwise negligent and careless.

38. As a direct result of the negligence of the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., the Decedent was caused to suffer painful and permanent injuries to her body, was caused to sustain severe mental anguish and emotional pain and suffering, was caused to incur hospital and other medical expenses, and was caused to incur other financial losses.

39. All of the losses, damages and injuries sustained by the Decedent were caused by the negligence of the Defendants without any negligence on part of the Decedent contributing thereto.

WHEREFORE, the Plaintiff, Stephanie White, individually and as Personal Representative of the Estate of Denise Crowe, claims damages against the Health Care Providers R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., jointly and severally, in an amount of \$10,000,000.00 (TEN MILLION DOLLARS), with all costs to be paid by the Defendants.

Count II

40. The Plaintiff, Stephanie White, individually, incorporates paragraphs 1 through 39 of this Complaint, as if the same were fully set forth at length herein.

41. That at the time of the death of the Decedent, Denise Crowe, the Plaintiff Stephanie White, was the mother of the Decedent.

42. That as a direct result of the negligence of the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., the Plaintiff, Stephanie White, individually suffered severe mental anguish, emotional pain and suffering, and has lost and has been deprived of the society, companionship, comfort, protection, care, attention, advice, counsel, and support which the Decedent, Denise Crowe, rendered while alive and could have and would have continued to afford and render had she continued to live.

43. By reasons of the negligence of the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., which culminated in the death of the Decedent, Denise Crowe, the Plaintiff Stephanie White, as the surviving mother of the Decedent, requests compensation to her for all of the damages, injuries, and losses past, present, and future which she has sustained, is sustaining and will in the future sustain, all of which were proximately caused by the negligence and carelessness of the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading "Gynecare Center" and Romeo A. Ferrer, M.D., without any negligence on the part of the Plaintiff or Decedent thereunto contributing.

WHEREFORE, the Plaintiff, Stephanie White, as the surviving mother of Denise Crowe, Decedent, claims damages against the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., jointly and severally, in an amount of \$10,000,000.00 (TEN MILLION DOLLARS), with all costs to be paid by the Defendants.

Count III

44. The Plaintiff, Latrell A. Royster, Jr., individually, and by and through his grandmother, legal guardian and next friend Stephanie White, incorporates paragraphs 1 through 43 of this Complaint, as if the same were fully set forth at length herein.

45. That at the time of death of the Decedent, Denise Crowe, the Plaintiff Latrell A. Royster, Jr., was the natural child of the Decedent.

46. That as a direct result of the negligence of the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., the Plaintiff Latrell A. Royster, Jr., individually suffered severe mental anguish, emotional pain and suffering, and has lost and has been deprived of the society, companionship, comfort, protection, care, attention, advice, counsel, and support which the Decedent, Denise Crowe, rendered while alive and could have and would have continued to afford and render had she continued to live.

47. By reasons of the negligence of the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., which culminated in the death of the Decedent, the Plaintiff Latrell A. Royster, Jr., as a surviving child of the Decedent, requests compensation to him for all of the damages, injuries, and losses past, present, and future which he has sustained, is sustaining and will

in the future sustain, all of which were proximately caused by the negligence and carelessness of the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading "Gynecare Center" and Romeo A. Ferrer, M.D., without any negligence on the part of the Plaintiff or Decedent thereunto contributing.

WHEREFORE, the Plaintiff Latrell A. Royster, Jr., individually and by and through his grandmother, legal guardian and next friend Stephanie White, claims damages against the Defendants R.A. Ferrer, M.D./Gynecare, P.A. and/or trading as "Gynecare Center" and Romeo A. Ferrer, M.D., jointly and severally, in an amount of \$10,000,000.00 (TEN MILLION DOLLARS), with all costs to be paid by the Defendants.

REQUEST FOR JURY TRIAL

That the Plaintiffs hereby request to proceed by jury trial as to all claims asserted in this case.

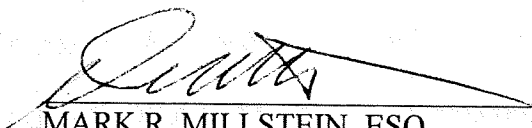
ORDER OF TRANSFER

That the Plaintiffs were issued an Order of Transfer from the Health Care Alternative Dispute Resolution Office, and jurisdiction is proper for this case to be heard in this Court. Please see copy of said Order issued on September 18, 2007, attached hereto and incorporated herein.

Respectfully submitted,

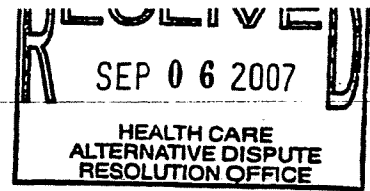


DAVID M. SILBIGER, ESQ.
SILBIGER LAW OFFICES
110 E. LEXINGTON STREET
SUITE 100
BALTIMORE, MARYLAND 21202
(410) 685-1616



MARK R. MILLSTEIN, ESQ.
MILLSTEIN LAW OFFICES
110 E. LEXINGTON STREET
SUITE 400
BALTIMORE, MARYLAND 21202
(410) 752-5920

ATTORNEYS FOR PLAINTIFFS



AFFIDAVIT OF DR. JASON BRAJER

I, Jason Brajer, M.D., being of lawful age and of sound mind, hereby depose, affirm, certify and state as follows:

1. That I am a board certified licensed physician in both Anesthesiology and Pain Management in good standing. I am Associate Chairman of the Department of Anesthesiology and Director of the Montgomery Pain Center at the Montgomery Hospital Medical Center, which is located at 1301 Powell Street Norristown, PA 19404. I have residency in the field of Anesthesiology and fellowship in cardiovascular anesthesia and obstetrical anesthesia from the Thomas Jefferson University Philadelphia, PA. I am a member of professional societies including the American Medical Association and American Society of Anesthesiology.
2. That I reviewed the medical records of Denise Crowe (hereinafter "Crowe"), including her medical records from the Gynecare Center, Maryland Ambulance Information Systems, Anne Arundel Hospital and Medical Center, and her Post Mortem Examination Report from the Office of the Chief Medical Examiner of the State of Maryland.
3. That based on my examination of the records of this case, including my review of the said records and report referenced above, it is my opinion that the health care providers Gynecare Center and Dr. R.A. Ferrer departed from reasonable standards of medical care when the said health care providers treated Crowe, and that such departures from reasonable standards of medical care were the proximate cause of her death.
4. That I prepared a four (4) page report dated November 5, 2006, which includes my findings, professional opinion and summary of the health care services administered to Denise Crowe by Dr. R.A. Ferrer and Gynecare Center, a copy of my report is attached hereto and incorporated herein as Exhibit 1.
5. That I do not devote annually more than twenty (20) percent of my professional activities to activities that directly involve testimony in personal injury claims.

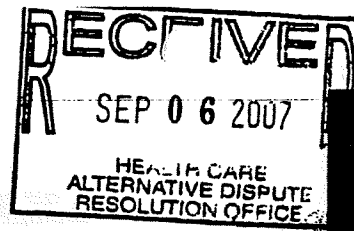
I solemnly swear and affirm under penalties of perjury that the above statements are true and accurate and the statements above are based on my own personal knowledge, information and belief.

12/22/06

DATE

Jason Brajer

DR. JASON BRAJER



MONTGOMERY HOSPITAL
www.montgomeryhospital.com

Jason Brajer, M.D.
Vice Chairman Department of Anesthesiology
Director, Montgomery Pain Center

November 5, 2006

Mark R. Millstein, Esq.
Millstein & Shin
110 East Lexington Street
Suite 220
Baltimore MD 21202
410.752.5920 phone
410.752.7676 fax
millsteinandshin@aol.com

RECEIVED
SEP 06 2007
CIVIL DIVISION
MONTGOMERY HOSPITAL
DEPT. OF ANESTHESIOLOGY
PAIN CENTER

Dear Mr. Millstein:

I am in receipt of the file information of Denise Crowe including:

Gynecare Center
Anne Arundel Medical Center
Autopsy Report

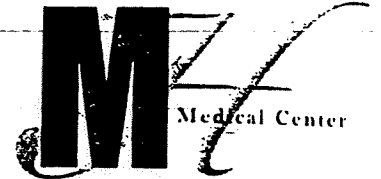
SUMMARY

Denise Crowe was a 21 year Afro-American female who came to Gynecare Center of Severna Park MD on February 3, 2006 for an elective second semester abortion by Dr. RA Ferrer. During the course of the procedure, meperidine [demerol] and midazolam [versed] were given for "sedation". At the conclusion of the procedure, it was noted that Ms. Crowe was not breathing. The personnel were unable to obtain a pulse or blood pressure. Simple resuscitative efforts were unsuccessful and 911 was called. EMT arrived, instituted ACLS, and took the patient to Anne Arundel Medical Center where, despite continued ACLS, she was pronounced dead at 1457 [2:57 PM].

PERTINENT INFORMATION

The "Patient Interview" form addresses the "Possible risks and complications" which includes, but is not limited to, death. Also written in is "aware of risk increased" and that "demerol with midazolam" IV push was explained. This form was completed by nursing assistant T. Battle. Both T. Battle and Ms. Crowe signed this form, as well as several others. Another form titled "Second Trimester Operative Consent" was signed by Ms. Crowe; however this one was witnessed by surgical assistant N. Gibson. The "Procedure Sheet" was signed by RA Ferrer MD. Handwritten is the notation "Complex. Addendum: Cardiac/ Resp. arrest" and indicates that meperidine 250 mg IV and midazolam 10 mg IV were given in total.

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Crowe

Jason Brajer, M.D.
Vice Chairman Department of Anesthesiology
Director, Montgomery Pain Center

The "Procedure / Recovery Room Record" is NOT signed. The 7th line "Monitored:" has spaces for ECG, BP cuff and Pulse – NONE of which is checked off, and a space for Dr./Nurse signature, which is also BLANK.

Notation does indicate that a 500 cc bag of D5LR with 20 units pitocin added was hung at 1:25 and given through a 22 gauge catheter placed by Dr. Ferrer. Two marks for BP [blood pressure] and perhaps a dot for one HR [heart rate] are on a standard grid. The "Medications" column states that at 1:30 125 mg demerol plus 5 mg midazolam with 8 cc NSS [normal saline solution] was given IVP [intravenous push] by Dr. Ferrer. At 1:35 an additional 125 mg demerol and 5 mg midazolam are given "as patient was still reacting ...pain" by Dr. Ferrer. It is interesting to note that nowhere on this form is there any indication that supplementary oxygen is ever used with the sedation during the procedure, or even later during the feeble attempt at resuscitation. Also, pulse oximetry [oxygen saturation] monitoring is not utilized in this facility.

An additional [unlabeled lined] form is used to enter information as to what then occurred. Two minutes after the procedure was over [1:47] "surgical assistant N. Gibson noticed pt's [patient's] fingernail beds to appear blue in color."

1:48 – T. Battle NA unable to obtain BP or pulse [no mention of ECG trace].

Second attempt to obtain BP or pulse by T. Pirchalski LPN...Dr. Ferrer made aware.

1:49 – V.O. [verbal order] Narcan 0.4 mg IVP by RA Ferrer given by T. Battle

1:50 – CPR given by RA Ferrer MD. Emergency crash medicine opened ... CPR switch with Dr. Ferrer by T. Pirchalski and T. Battle.

1:51 – Epinephrine 1:10,000 Intracardiac 1 mg given by RA Ferrer MD

1:52 – Dr. Ferrer resumed CPR from T. Pirchalski LPN and T. Battle NA

1:52 – 911 called by T. Pirchalski LPN

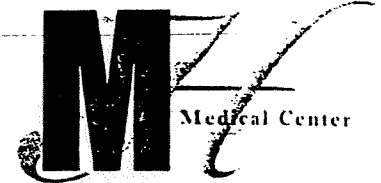
1:55 – maintained open airway by head tilt chin lift and assessed compression during CPR by RA Ferrer MD by T. Pirchalski LPN and T. Battle NA

2:00 – Paramedics arrived and took over care of pt

The Ambulance Note and Emergency Physician Note indicate that resuscitative efforts were continued thoroughly and sequentially by both parties according to ACLS protocol. Unfortunately these heroic efforts were unsuccessful. Ms. Denise Crowe was soon pronounced dead at Anne Arundel Medical Center.

Finally, the Autopsy Report findings showed significant gross and microscopic evidence of pulmonary congestion and edema. The Toxicology report only showed meperidine, not midazolam. The Pathologic diagnosis was "Meperidine Intoxication." The manner of death was "Accident."

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Crowe

Jason Brajer, M.D.
Vice Chairman Department of Anesthesiology
Director, Montgomery Pain Center

DISCUSSION - PRELIMINARY

The State of Maryland has written standards for care rendered to patients in Ambulatory Surgery Centers and office settings when a patient is given sedation, conscious sedation or general anesthesia. This standard may or may not require the presence of an anesthesiologist or CRNA [certified registered nurse anesthetist] which may or may not depend on the training and qualifications of the surgeon or proceduralist. It is imperative that a written copy of these standards be reviewed to determine if or where Dr. RA Ferrer and Gynecare Center failed to maintain or provide the necessary care.

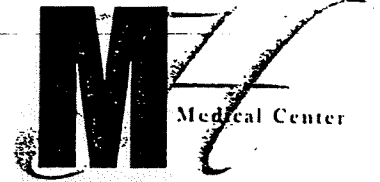
Supplementary oxygen is either required or suggested any time a patient is given intravenous sedation. The adequacy of the supplementary oxygen is assessed by the use of peripheral oxygen saturation monitoring – pulse oximetry. Notation for oxygen administration and monitoring are both absent on the Procedure Record.

Conscious sedation is the current terminology used to describe administration of sedation for procedures. The intent of this term is that the patient is sedated but conscious enough to follow command and breathe on their own. Knowledge of the pharmacologic and physiologic effects of the medications administered is required. Dr. Ferrer gave Ms. Crowe 125 mg demerol plus 5 mg midazolam as a push. This is too large of a dose to simply be "pushed" – it must be given slowly and titrated to effect by monitoring their effect. In our institution we have a Conscious Sedation protocol for non-anesthesia care providers to follow. Demerol is to be 25 – 50 mg per IVP to start [loading dose], then 12.5 – 25 mg IVP thereafter, maximum 200 mg. Midazolam is to be given 1 – 2 mg IVP to start [loading dose], then 1 mg IVP, maximum 5 mg. Dr. Ferrer gave these same drugs five minutes later in the same manner are given, this time with deadly results.

The Gynecare file states that two minutes after the procedure was over [1:47] "surgical assistant N. Gibson noticed pt's [patient's] fingernail beds to appear blue in color." What was the responsibility of each person in the room? Was anyone actually monitoring the patient such that the lack of respiration / ventilation would have been noticed before cyanosis set in?

In the description of their resuscitation efforts, it is never mentioned whether supplementary oxygen was given. Was an Ambu bag or bag and mask device for ventilation not available? Why wasn't it used? The statement that at 1:55 "maintained open airway by head tilt chin lift and assessed compression during CPR by RA Ferrer MD by T. Pirchalski LPN and T. Battle NA" is horribly inadequate on this setting.

[go to page four]



MONTGOMERY HOSPITAL
www.montgomeryhospital.com

Page four
Crowe

Jason Brajer, M.D.
Vice Chairman Department of Anesthesiology
Director, Montgomery Pain Center

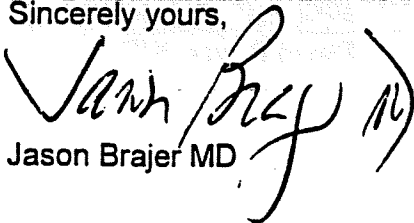
Finally, was Dr. Ferrer ACLS certified? He obviously did not follow any protocol for drug administration. When he did give epinephrine, he chose to give it "intracardiac" a means that has been discontinued for many years.

EXPERT OPINION

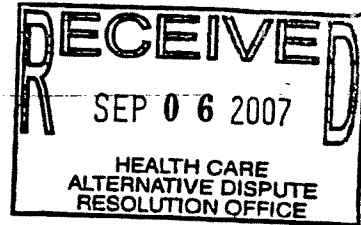
In conclusion, after careful review of the materials sent as evidenced by the above narrative, it is my professional expert opinion, based on a reasonable degree of medical certainty, that Dr. RA Ferrer and Gynecare Center deviated from the proper standards of care and patient management and these deviations were causative to the death of Ms. Denise Crowe. The medications meperidine and midazolam were improperly administered and their failure to adequately provide BCLS and ACLS directly lead to her death.

Thank you for the opportunity to review this interesting case. I reserve the right to change my opinion if additional documentation is provided. Please feel free to contact me further, as necessary for this or any other case.

Sincerely yours,



Jason Brajer MD



Affidavit of Dr. David Priver

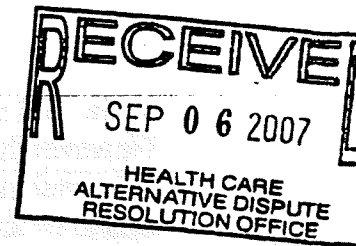
I, David Priver, MD, hereby state as follows:

1. That I am a licensed physician board-certified in the specialty of Obstetrics and Gynecology. I am a fellow of the American College of Obstetrics and Gynecology.
2. I have clinical experience in the defendant's specialty within 5 years of the alleged act or omission giving rise to the cause of action. I have provided care to patients receiving abortions for more than 30 years.
3. That I have reviewed the medical records of plaintiff Denise Crowe as they relate to the incident under review.
4. That, based upon this record review, I have determined that the care to Ms. Crowe rendered by Gynecare Center and Dr. R. A. Ferrer failed to meet the standards of care which are applicable in cases of this sort. Moreover, the departure from standards was the proximate cause of the patient's demise.
5. That I have prepared a written report summarizing my findings and professional opinion regarding the care rendered in this case.
6. That I do not devote annually more than twenty (20) percent of my professional activities to activities that directly involve testimony in personal injury claims.

I solemnly swear and affirm under penalty of perjury that the above statements are true and accurate and are based upon my personal knowledge and beliefs.

4/23/07
Date

David Priver, MD
David Priver, MD



David M. Priver, MD, FACOG
4282 Genesee Avenue
Suite 201

San Diego, CA 92117

858-268-7324

April 18, 2007

Mark R. Millstein, Esq.
Millstein & Shin
110 East Lexington Street
Suite 220
Baltimore MD, 21202

Re: Crowe v. R. A. Ferrer, MD/Gynecare Center

Dear Mr. Millstein:

I am writing in my capacity as an expert medical witness retained by you to provide an opinion as to the care rendered in the above-entitled action. You have provided to me and I have thoroughly reviewed the following documents in the formulation of my opinion:

Gynecare Center
Anne Arundel Medical Center
Autopsy Report

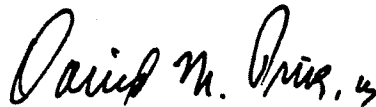
Denise Crowe was a 21 y/o African/American female who presented to Gynecare Clinic on February 3, 2006 for the performance of an abortion at approximately 16 weeks gestation. Prior to the procedure, she signed appropriate and witnessed consent forms. During the procedure she was administered a total of 250 mg. Demerol and 1.0 mg Versed by IV push over a period of 5 minutes. Soon thereafter, the medical assistant reported that the patients nails were blue, she was not breathing, and blood pressure could not be obtained. Following a brief effort at resuscitation, paramedics arrived, revival attempts were continued and the patient was transferred to the emergency room at Anne Arundel Hospital. The patient did not respond to any therapeutic efforts and was pronounced dead in the emergency room. A coroner's report concluded that the death was the direct result of an overdose of meperidine (Demerol)..

It is my considered opinion that the care rendered by the defendant to Ms. Crowe constituted a significant departure from the standard of care required of physicians in this type of clinical scenario. The departure consisted, primarily, of the administration of an excessive dosage of Demerol over a very brief period of time. As an obstetrician-gynecologist with many years and thousands of cases experience in this issue, it is my belief that the standard dosage in this period of time should not exceed 125-150 mg. The

initial 125 mg. dosage of Demerol administered by Dr. Ferrer was clinically acceptable. However, his decision to administer another dose of Demerol was based upon his observation that the patient was continuing to show signs of reacting to pain. I consider this to be an inappropriate basis for administering more drug. Patients under this form of analgesia, often referred to as "twilight sleep", are still conscious and customarily do continue to respond to painful stimuli, albeit at a much lower level of intensity. This does not constitute an indication to add more drug. Additional dosages run a serious risk of depression of respiration, which is what occurred in this case. Concerns about the quality of resuscitative efforts which were rendered have been addressed by other experts.

It is, therefore, my opinion that the standards of care for an obstetrician-gynecologist were not met and that the civil action under consideration is meritorious.

Sincerely,


David M. Priver, MD, FACOG

STEPHANIE WHITE, Individually
and as Personal Representative of the
ESTATE OF DENISE CROWE

And

LATRELL A. ROYSTER, JR., Individually
and by his grandmother, guardian and
next friend, STEPHANIE WHITE,

PLAINTIFFS,

Vs.

R.A. FERRER, M.D./GYNECARE, P.A.,
TRADING AS "GYNECARE CENTER"

And

ROMEO A. FERRER, M.D.

DEFENDANTS.

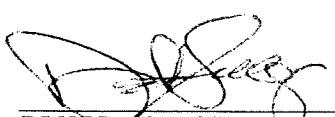
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* BEFORE THE
*
* CIRCUIT COURT FOR
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* BALTIMORE CITY, MARYLAND
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* CASE NO. 24-C-07-7342
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CIVIL DIVISION
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Baltimore City

NOTICE OF DISMISSAL

NOW COME Plaintiffs Stephanie White, Individually and as Personal Representative of the Estate of Denise Crowe, and Latrell A. Royster, Jr., Individually and by his grandmother, legal guardian and next friend Stephanie White, and by and through their attorneys David M. Silbiger, Esquire and Mark R. Millstein, Esquire, hereby request that the above captioned case be dismissed without prejudice.

Respectfully submitted,



DAVID M. SILBIGER, ESQ.
SILBIGER LAW OFFICES
110 E. LEXINGTON STREET
SUITE 100
BALTIMORE, MARYLAND 21202
(410) 685-1616

APPEARANCE
BY
DAVID M. SILBIGER
ESQ.
MARK R. MILLSTEIN
ESQ.
NOV 29 2007
15.00
TOTAL
15.00

