

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND
CIVIL DIVISION

KATHY A. SMITH
14130 Grand Pre Road
Apartment #34
Wheaton, Maryland 20906

Plaintiff

v.

V. SUBA VINAYAKOM, M.D.
8607 2nd Avenue, #307
Silver Spring, MD 20910

and

CYGMA HEALTH CENTER, INC.
3835 Farragut Avenue
Kensington, MD 20895

Defendants.

Civil Action No.

134812

CASE: 10-012	
FILED: 10-012	
CY: 10-012	
TOTAL	
RECEIVED	
FILED	
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COMPLAINT
(Medical Malpractice)

Plaintiff, Kathy A. Smith, by and through her counsel, Margolius, Mallios, Davis, Rider & Tomar, and Gary A. Stein, Esquire, brings this Complaint against V. Suba Vinayakom, M.D., and Cygma Health Center, Inc., and for her cause states as follows:

1. Plaintiff previously filed a claim against the defendants in the Maryland Health Claims Arbitration Office pursuant to the requirements of the Maryland Courts and Judicial Proceedings rules concerning "Health Care Malpractice Claims." Pursuant to Md. Cts. & Jud. Proc. Code Ann. §3-2A-06A (Suppl. 1989), the parties, after having selected a panel chairman and after having completed substantial discovery, agreed to waive

arbitration, and duly filed the waiver with the Director of the Health Claims Arbitration Office on March 31, 1995 (attached hereto as Exhibit A).

2. Venue for this claim is proper in Montgomery County, Maryland, in that the actions and omissions complained of occurred in Montgomery County at the Cygma Health Center in Kensington, Maryland, and both defendants are Montgomery County residents.

3. V. Suba Vinayakom, M.D., is a duly licensed physician who practices obstetrics and gynecology in Montgomery County, Maryland, and at all times relevant to this claim, held herself out to the public as a competent physician capable of safely performing elective abortions.

4. Cygma Health Center, Inc., at all times relevant to this claim, was a Maryland corporation which owned and operated a medical facility located in Kensington, Montgomery County, Maryland. The facility was called Cygma Health Center, and it provided medical, nursing and related care to women seeking abortions. At all times relevant to this statement of claim, Cygma Health Center held itself out as a reasonably safe facility for performing elective abortions and providing follow-up care.

6. The plaintiff, Kathy A. Smith, is an adult citizen of the United States and a resident of Montgomery County, Maryland.

7. On or about January 2, 1992, the plaintiff, Kathy A. Smith, reported to Cygma Health Center and underwent an elective abortion performed under the care and supervision of V. Suba

Vinayakom, M.D.

8. At all times relevant to this Complaint, Dr. Vinayakom and the nurses and/or other staff members of Cygma Health Center who assisted her were acting as employees and/or agents of Cygma Health Center, Inc., and were acting in the course and scope of their employment and/or agency.

9. At all times relevant to this statement of claim, V. Suba Vinayakom, M.D. and all nurses and/or staff members of Cygma Health Center who assisted in the elective abortion of Kathy A. Smith and who participated in her post-procedure care and case management, had a duty to perform their functions within the appropriate standard of care.

10. The health care providers who performed the elective abortion on Kathy A. Smith and who provided her post procedure care and case management breached their standard of care in that they discharged Kathy A. Smith on January 2, 1992 having performed an incomplete abortion and thereafter failed to manage her post-operative care appropriately.

11. As a proximate result of the negligence of the defendants and without any negligence or assumption of risk on the part of the plaintiff causing or contributing to her injuries, plaintiff was caused to suffer and did suffer extensive infection, septic shock, internal bleeding, permanent injury to vital organs, and was caused to undergo a hysterectomy such that she is permanently sterilized, suffered extreme physical pain and emotional distress, and was hospitalized for approximately one

month. Moreover, plaintiff was caused to incur significant medical expenses, and suffered the loss of wages for an extended period of time. Many of plaintiff's injuries and damages are permanent in nature.

WHEREFORE, the plaintiff, Kathy A. Smith demands judgment against the defendants, jointly and severally, in the amount of \$2,000,000 (Two Million Dollars).

Respectfully submitted,

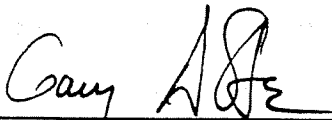
MARGOLIUS, MALLIOS, DAVIS
RIDER & TOMAR

By: 

Gary A. Stein, Esquire
1828 L Street, NW, Suite 500
Washington, D.C. 20036
(202) 296-1000
Counsel for Plaintiff

CERTIFICATION OF COUNSEL

The undersigned counsel hereby certifies, pursuant to Rule 1-313, that he is duly admitted to the bar of the state of Maryland and qualified to appear in the courts of this state and, although he has an office for the practice of law in Rockville, Maryland, he prefers to receive all pleadings and correspondence related to this matter at the Washington, D.C. address set forth above.



Gary A. Stein

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

KATHY A. SMITH,

*

Plaintiff,

*

vs.

*

Civil Action No. 134812
Judge Michael D. Mason

V. SUBA VINAYAKOM, M.D., et al.,

*

Defendants.

*

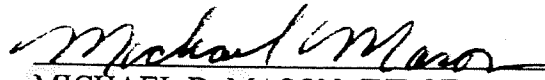
JUDGMENT

Upon consideration of the Plaintiff's Motion To Reduce Order of Default Against Cygma Health Center, Inc. to Judgment, there being no opposition filed thereto, and upon the testimony presented and exhibits received at the trial on July 8 - 10, 1996, it is this 25th day of August, 1996, by the Circuit Court for Montgomery County, Maryland,

ORDERED, that the Motion be and it hereby is granted, and it is further,

ORDERED, that judgment be and hereby is entered against the Defendant, Cygma Health Center, Inc., in favor of the Plaintiff, Kathy A. Smith, in the amount of

- a. Past Medical Expenses \$ 91,332.90
- b. Past Loss of Earnings \$ 4,649.96
- c. Non-Economic Damages \$250,000.00


MICHAEL D. MASON, JUDGE
Circuit Court for Montgomery County,
Maryland

P 404 291 782

P 404 291 783

FILED

AUG 29 1996

Clerk of the Circuit Court
Montgomery County, Md.

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

KATHY A. SMITH

Plaintiff,

vs

SUBA VINAYOKOM, M.D., et al.

Defendants

Civil No. 134812

Judge Michael D. Mason

ORDER CONDEMNING FUNDS and APPROVING SETTLEMENT

This matter came before the Court on the motion of the plaintiff praying that this Court condemn funds of the Defendant admitted to be held by Crestar Bank.

This Court finds that the motion should be and it hereby is GRANTED;

IT IS THEREFORE ORDERED that the funds should be, and hereby are properly condemned and ordered paid to Kathy A. Smith, in care of her counsel Edward M. Kimmel, and to report such payment to this Court.

dated: 8/18/98

Michael Mason
Judge of the Circuit Court of Montgomery County, Maryland

MICHAEL D. MASON

SERVE:

Edward M. Kimmel
Evans Evans Kimmel & Johnson
8455 Colesville Road, Suite 1080
Silver Spring, Maryland 20910

Karen Nash-Goetz, Esquire
Gordon Feinblatt Rothman
233 East Redwood Street
Baltimore, MD 21202

FILED

AUG 20 1998

Clerk of the Circuit Court
Montgomery County, Md.

| TRIAL ELECTION : JURY Status: CLOSED as of: 08/20/1998 |
| SUBTYPE: OTHER TORTS TRACK: 4 CALENDAR: 4 |
| NEGLIGENCE - MEDICAL MALPRACTICE |

| P KATHY A SMITH 11/11/1111 GARY A STEIN 5468 |
| 14130 GRAND PRE ROAD #34 1828 L STREET NW SUITE 500 |
| SILVER SPRING, MD 20906 WASHINGTON, DC 20036 |
| PHONE# (202) 296-1000 |
| EDWARD M KIMMELL 8709 |
| 215 SOUTH MANOR CIRCLE |
| TAKOMA PARK, MD 20912 |
| PHONE# (301) 891-8454 |

-VS.-

D V SUBA VINAYAKOM MD
8607 2ND AVENUE #307
SILVER SPRING, MD 20910

04/21/1995 ROBERT J FARLEY 9509
WHARTON, LEVIN, EHRMANTRAUT, K
& NASH, P.A.
104 W. ST., P.O. BOX 551
ANNAPOLIS, MD 21404-0551
PHONE# (410) 263-5900

D CYGMA HEALTH CENTER INC
(JUDGMENT: see JUDGMENTS)
3835 FARRAGUT AVENUE
KENSINGTON, MD 20895

04/24/1995 LESLIE SCHERR 4090
SCHWEITZER & SCHERR
7315 WISCONSIN AVENUE 601N
BETHESDA, MD 20814
PHONE# (301) 961-6464

ELISABETH JILL LYONS 16768
4410 LELAND STREET
CHEVY CHASE, MD 20815
PHONE# (301) 986-5909

DOCKET INFORMATION

CASE ID: 134812V
KATHY A SMITH

Reference Case: (none)
VS. V SUBA VINAYAKOM MD

08/29/1996 #65 JUDGMENT

98 DD

JUDGMENT ENTERED ON THE JUDGMENT INDEX IN FAVOR OF THE PLAINTIFF
KATHY A. SMITH AGAINST THE DEFENDANT CYGMA HEALTH CENTER, INC. IN THE
AMOUNT OF NINETY ONE THOUSAND THREE HUNDRED THIRTY TWO DOLLARS AND
NINETY CENTS (\$91,332.90) FOR PAST MEDICAL EXPENSES, IN THE AMOUNT OF
FOUR THOUSAND SIX HUNDRED FORTY NINE DOLLARS AND NINETY SIX CENTS
(\$4,649.96) FOR PAST LOSS OF EARNINGS, AND IN THE AMOUNT OF TWO
HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) FOR NON-ECONOMIC
DAMAGES FILED.
TYPE: DOCKET

DOCKET INFORMATION

CASE ID: 134812V Reference Case: (none)
KATHY A SMITH VS. V SUBA VINAYAKOM MD

05/13/1998 #78 AS
PLAINTIFF'S MOTION FOR CONDEMNATION OF FUNDS, FILED.
JUDGE: M MASON
TYPE: MOTION STATUS: GRANTED RULING: 79

08/20/1998 #79 AS
ORDER OF COURT (MASON, J.) THAT THE FUNDS SHOULD BE, AND HEREBY ARE
PROPERLY CONDEMNED AND ORDERED PAID TO KATHY S. SMITH, C/O HER COUNSEL
EDWARD KIMMEL, AND TO REPORT SUCH PAYMENT TO THIS COURT, FILED.
(COPIES MAILED)
JUDGE: M MASON
TYPE: RULING STATUS: GRANTED MOTION: 78

*** Docket Information Completed ***