

NIMFA DELANOCHE MATIBAG, As
Personal Representative of the
Estate of GLADYSS DELANOCHE
ESTANISLAO

* IN THE
* CIRCUIT COURT

Plaintiffs

* FOR
* MONTGOMERY COUNTY

v.

THE WISCONSIN AVENUE WOMEN'S
HEALTH CARE CENTER, P.A.,
et al.

* Case no.: 112691-V

Defendants

MOTION TO APPROVE TRUST AGREEMENT

Plaintiff, Nimfa Matibag, as Next Friend of Jonathan M. Estanislao, by Daniel M. Clements and Israelson, Salsbury, Clements and Bekman, hereby files this Motion to Approve Trust Agreement and states as follows:

1. The parties settled the above-captioned case for a combination of cash and payments over time of \$525,000.00 and said settlement was approved by the Honorable S. Michael Pincus.

2. Jonathan Estanislao is eight years old and lives with his natural father in the Phillipines. Trustee Nimfa Matibag is Jonathan Estanislao's aunt (the decedent Gladys Estanislao's sister) and Trustee Daniel M. Clements is counsel of record. Therefore, Plaintiff has entered into a Trust Agreement which makes the Plaintiff and Plaintiff's counsel, Daniel M. Clements, co-Trustees to manage his share of the settlement proceeds. A copy of the Trust Agreement is attached hereto as Exhibit A.

3. The Trust Agreement provides that the Trustees shall invest and manage the money for the minor child until he attains the age of 35. Prior to that time, the Trustees are permitted to

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use the money for the minor child's economic support, education, or for health care. The minor child is also permitted to withdraw up to one-third of the money at age 25 and up to one-half of the money at age 30. Although Maryland law would permit the minor child to receive all monies at age 18, the Trustees request approval of these provisions of the trust as being in the best interests of the child.

4. The Trust Agreement complies with §§13-401 - 13-407 of the Estates and Trusts Article in the Annotated Code of Maryland, which governs recoveries by minors in tort. The purpose of requesting the approval of this agreement is to avoid the necessity of the trustees having to obtain approval of the Court for each acceptable expenditure. The trustees represent to the Court their understanding of the intentions and requirements of the applicable law and intend to expend monies only in accordance thereto. The Trustees are waiving any right to fees for the administration of the trust as provided in the trust agreement.

WHEREFORE, Plaintiff, Nimfa Matibag, as Next Friend of Jonathan M. Estanislao, a minor, respectfully requests that the Trust Agreement be approved by the Court.



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ISRAELSON, SALSURY, CLEMENTS
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Baltimore, Maryland 21201
(410) 539-6633

Attorney for Plaintiff

NIMFA DELANOCHÉ MATIBAG, as
Personal Representative of
the Estate of Gladys
Delanoche Estanislao
8209 James Street
Upper Marlboro, Maryland 20772

and

NIMFA DELANOCHÉ MATIBAG, as
Next Friend
of Jonathan Mitchel Estanislao,
Surviving Son of
Gladys Delanoche Estanislao,
Deceased
8209 James Street
Upper Marlboro, Maryland 20772

Plaintiff

v.

THE WISCONSIN AVENUE WOMEN'S
HEALTH CARE CENTER, P.A.
8311 Wisconsin Avenue
Suite C14
Bethesda, Maryland 20814

SERVE ON:
Scott Sonntag, Esquire
4601 Forbes Boulevard
Suite 200
Lanham, Maryland 20703-0040

and

ALAN J. ROSS, M.D.
8311 Wisconsin Avenue, Suite C14
Bethesda, Maryland 20814

SERVE ON:
Scott Sonntag, Esquire
4601 Forbes Boulevard
Suite 200
Lanham, Maryland 20703-0040

Defendants

* IN THE
* CIRCUIT COURT
* FOR
* MONTGOMERY COUNTY
* Case No.:

112691

NW CVL 80.1

* * * * *

COMPLAINT AND ELECTION FOR JURY TRIAL

Plaintiff, Nimfa Delanoche Matibag, as Personal Representative of the Estate of Gladyss Delanoche Estanislao, and as Next Friend of Jonathan Mitchel Estanislao, surviving son of Gladyss Delanoche Estanislao, deceased, by their attorneys, Daniel M. Clements and Israelson, Salsbury, Clements and Bekman, sues the Defendants, The Wisconsin Avenue Women's Health Care Center, P.A. and Alan J. Ross, M.D., and states as follows:

COUNT I

1. The amount of this claim exceeds Twenty Thousand Dollars (\$20,000.00).

2. The proper venue for this claim is Montgomery County, Maryland.

3. The claim falls within the specialty of obstetrics.

4. This claim was brought before the Health Claims Arbitration Office of Maryland, HCA No.: 91-240. The case proceeded to trial before a panel from September 9, 1993, through September 10, 1993, in Health Claims Arbitration. The Panel found in favor of the Plaintiff and awarded \$75,000. The Determination was served on Plaintiff's counsel on September 30, 1993, by certified letter dated September 27, 1993.

5. That the Plaintiff has filed a Notice of Rejection of Determination of the Health Claims Arbitration Panel pursuant to Md. Ann. Code, Cts. & Jud. Proc. Art., Sec. 3-2A-06 (1989 Repl. Vol.) in the Health Claims Arbitration Office and served copies of this Notice upon the Defendants, the Director of the Health Claims

Arbitration Office, and the Panel Chairman. A copy of this Notice is attached hereto as Exhibit A.

6. That the Plaintiff files herewith an Action to Nullify the Determination of the Health Claims Arbitration Panel pursuant to Section 3-2A-06 (1989 Repl. Vol.) and along with this Complaint and Election for Jury Trial serves copies of this action upon the Defendants and the Director of the Health Claims Arbitration Office. A copy of this Action to Nullify is attached hereto as Exhibit B.

7. That at all relevant time periods the Defendant, Alan J. Ross, M.D., held himself out to the Plaintiff's decedent and to the general public as an experienced, competent and able physician possessing or providing that degree of skill or knowledge which is ordinarily possessed by those who devote special study and attention to the practice of medicine, including the practice of obstetrics and as such, had a duty to the Plaintiff's decedent to render that degree of care and treatment to the Plaintiff's decedent which is ordinarily rendered by those who devote such special study and attention.

8. That for all relevant time periods, the Defendant, The Wisconsin Avenue Women's Health Care Center, P.A., was and is a medical facility offering medical and other related services to the general public and in such capacity said health center, its agents, servants and/or employees, medical staff and consultants, held themselves out as practicing ordinary standards of medical, surgical and nursing care, and owed a duty to the Plaintiff's decedent to render and provide health care within the ordinary

standards of medical, surgical and nursing care and to exercise reasonable skill and care in the selection of its personnel in order to provide competent physicians and health care providers possessing that degree of skill and knowledge which is ordinarily possessed by those who devote special study and attention to the practices of medicine and to supervise and provide its patient with diagnostic and medical services and treatment commensurate with the condition from which the patient suffers and for which the patient entered said medical facility.

9. That on or about April 25, 1989, the Plaintiff's decedent came under the care of the Defendant Ross at The Wisconsin Avenue Women's Health Care Center for the purpose of having an abortion.

10. The Defendant Ross examined the Plaintiff's decedent and performed an aspiration abortion. However, upon performing the procedure, said Defendant found that the tissue retrieved was abnormal and consisted of clots and he drew the conclusion that there had been a missed abortion. He then sent the Plaintiff's decedent home and prescribed medication instructing her as though the pregnancy had been terminated.

11. On May 12, 1989, the Plaintiff's decedent collapsed and was rushed by ambulance to the Greater Laurel Beltsville Hospital where she died after going into cardiac arrest. An autopsy revealed that the Plaintiff's decedent's death was caused by a ruptured tubal ectopic pregnancy.

12. That for all relevant time periods, the Defendant Ross was the agent, servant or employee of the Defendant, The Wisconsin

Avenue Women's Health Care Center, P.A.

13. That the Defendant Ross, as the agent, servant and/or employee of the Defendant, The Wisconsin Avenue Women's Health Care Center, P.A., was careless and negligent in the following respects:

a. In failing to properly diagnose the condition of the Plaintiff's decedent, specifically the ectopic pregnancy;

b. In failing to properly treat the Plaintiff's decedent for the condition that she was suffering, to wit: an ectopic pregnancy;

c. In failing to take and provide the medically reasonable and necessary medical procedures, steps and tests to treat the Plaintiff's decedent including the performance of appropriate post surgical pathological examination of the contents of the aspirated tissues;

d. In failing to refer the Plaintiff's decedent for proper follow-up testing including an ultrasound and treatment including surgery;

e. In failing to warn the Plaintiff's decedent of the fact that the products of the aspiration were abnormal and of the possibility that she may have had an ectopic pregnancy;

f. in failing to send the contents of the aspiration abortion to an appropriate pathologist for evaluation;

g. and was otherwise careless and negligent.

14. That as a result of the negligence and carelessness of the Defendants which culminated in the death of the decedent, the Plaintiff, Nimfa Delanoche Matibag, as Personal Representative of

the Estate of Gladyss Delanoche Estanislao, further states that she is empowered to commence and prosecute this action as one which the decedent could have commenced or prosecuted for all of the damages recoverable by her had she survived, including excruciating pain and suffering and fear of impending death during her last hours, in addition to the funeral and medical expenses allowed by law.

15. That the Plaintiff, Nimfa Delanoche Matibag, as Personal Representative of the Estate of Gladyss Delanoche Estanislao, deceased, says that all of the injuries, damages and losses complained of were solely caused by the negligence of the Defendants herein, without any negligence on the part of the Plaintiff or the Plaintiff's decedent thereunto contributing.

WHEREFORE, the Plaintiff claims such sums as may be proper under the circumstances in excess of \$20,000.00 against the Defendants.

COUNT II

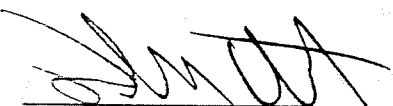
16. The Plaintiff, Nimfa Delanoche Matibag, Next Friend of Jonathan Mitchel Estanislao, surviving son of Gladyss Delanoche Estanislao, deceased, adopts and incorporates by reference herein all of the allegations of fact, duty and negligence, injury and damages as are more fully set forth in Count I.

17. That the Plaintiff, Nimfa Delanoche Matibag, Next Friend of Jonathan Mitchel Estanislao, surviving son of Gladyss Delanoche Estanislao, deceased, says further that as a result of the negligence and carelessness of the Defendants herein, which culminated in the death of the decedent, the minor Plaintiff,

Jonathan Mitchel Estanislao, as surviving son, has suffered and will continue to suffer severe mental anguish and emotional pain and suffering, pecuniary loss, has lost and will be deprived of the society, companionship, comfort, care, attention, advice, counsel, services and support which the decedent could have and would have afforded and rendered had she continued to live.

18. That by reasons of the negligence of Defendants herein, which culminated in the death of the decedent, a cause of action has accrued within three years of the date of death of the decedent in accordance with the Annotated Code of Maryland, Courts and Judicial Proceedings Article, Section 3-901, et seq., to the minor Plaintiff, the surviving son of the decedent for 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 of the Defendants herein, without any negligence on the part of the Plaintiff or the Plaintiff's decedent hereunto contributing.

WHEREFORE, the Plaintiff claims such sums as may be proper under the circumstances in excess of \$20,000.00 against the Defendants.



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NIMFA DELANOCHÉ MATIBAG, As
Personal Representative of the
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ESTANISLAO

Plaintiffs

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* Case No.: 112691-11

Case: 112691
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STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff, Nimfa Matibag, as Next Friend of Jonathan M. Estanislao, and Defendants, Alan Ross, M.D. and The Wisconsin Avenue Women's Health Care Center, P.A., hereby stipulate to the dismissal of the above-captioned case with prejudice.

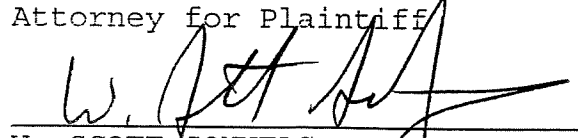
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