

RECEIVED
CIRCUIT COURT FOR
BALTIMORE CITY, MARYLAND
BALTIMORE CITY

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

ANDREA NANCY McLAUGHLIN
5032 Queensbury Avenue
Baltimore, Maryland 21215

1998 SEP 21 P 4: 28
* CIVIL DIVISION

Plaintiff

v.

Case No.:

HILLCREST CLINIC, INC. and/or its
agents, servants and/or
employees
5602 Baltimore National Pike
Suite 600
Baltimore, Maryland 21228

SERVE ON RESIDENT AGENT

Bonnie Bailey
5602 Baltimore National Pike
Suite 600
Baltimore, Maryland 21228

and

JOHN DOE, M.D., THE TRUE NAME BEING*
PRESENTLY UNKNOWN, Individually
and/or as an agent, servant and/or
employee of HILLCREST CLINIC, INC.
5602 Baltimore National Pike
Suite 600
Baltimore, Maryland 21228

*Discovered to be
Alan C. Gold, M.D.*

and

Edward Clifford Carroll, Jr.
3804 Woodhaven Avenue
Baltimore, Maryland 21216

Defendants

* * * * *

COMPLAINT AND PRAYER FOR JURY TRIAL

COMES NOW the Plaintiff, Andrea Nancy McLaughlin, by and through her attorneys

Joanne L. Suder and Suder & Suder, P.A., and sues Hillcrest Clinic, Inc. and John Doe, M.D., the true name being presently unknown, individually and/or as an agent, servant and/or employee of Hillcrest Clinic, Inc., and Edward Clifford Carroll, Jr., and in support of her claim state the following:

INTRODUCTORY STATEMENT

Andrea N. McLaughlin was engaged to be married to Edward Carroll, Jr. In early 1996, Ms. McLaughlin learned that she was pregnant. She rejoiced. Shortly after her first prenatal visit, Ms. McLaughlin learned to her horror that she was infected with HIV by Defendant, Edward Carroll, Jr. She was then informed by the health care provider that she would be alive long enough to raise the child and that the father would likely die before her. She was also advised that the child had a high probability of being born with HIV, and if so, she knew that this child, whom she already had begun to love, would suffer a terrible and horrid course of pain and suffering before the child's untimely death.

It was a very painful decision for Ms. McLaughlin to make to decide whether or not to bear the child she already loved, or to terminate the pregnancy. Although at the Ms. McLaughlin was morally opposed to abortion, and had love and affection for the child, she made the painful decision to terminate the pregnancy.

She was referred to Hillcrest Clinic. Upon arrival at Hillcrest, after certain tests were performed, information was given and payment tendered, Ms. McLaughlin was abandoned by the Clinic and its physician because she was HIV positive and the physician refused to treat her because she was HIV positive.

FACTS RELEVANT TO ALL COUNTS

1. The venue is in Baltimore City, Maryland.
2. The amount in controversy is in excess of Twenty Thousand Dollars (\$20,000.00).
3. This is a Waiver of Arbitration from the Health Claims Arbitration Office of Maryland (attached hereto as Exhibit "A" is a copy of the Election to Waive Arbitration).
4. At all times relevant to this claim, Defendant Hillcrest Clinic, Inc. (hereinafter referred to as Defendant Clinic), was a corporation and/or entity organized under the laws of the State of Maryland and licensed to provide medical services to the public and to the Plaintiff. At all times relevant to this claim, the Defendant Clinic, and yet to be identified agents, servants and/or employees of Defendant Clinic did undertake to render treatment and care to the Plaintiff and it therefore became the duty of the Defendant Clinic and its agents, servants and/or employees to exercise the degree of skill, knowledge, care, diligence and standard of medical services as ordinarily possessed and provided by a reasonably prudent medical clinic and its agents, servants and/or employees under the same and/or similar circumstances. The Defendant Clinic, its agents, servants, and/or employees were therefore bound to possess and practice at least ordinary and reasonable knowledge, skill and treatment in examining, treating and caring for Plaintiff.
5. At all times relevant to this claim, John Doe, M.D., the true name being presently unknown (hereinafter known as Defendant Doe), Individually and/or as an agent, servant and/or employee of Defendant Clinic, represented to the public and to Plaintiff that he/she was licensed and/or authorized to practice and provide medical services to the public and to the Plaintiff. At all times relevant to this claim, the Defendant Dr. Doe did undertake to render

treatment and care to the Plaintiff and it therefore became his/her duty to exercise the degree of skill, ordinarily possessed and provided by a reasonably prudent medical clinic and its agents, servants and/or employees under the same and/or similar circumstances. The Defendant Dr. Doe was therefore bound to possess and practice at least ordinary and reasonable knowledge, skill and treatment in examining, treating and caring for Plaintiff.

6. At all times relevant to this claim, Edward Clifford Carroll, Jr., was and is a resident of Baltimore City, Maryland. At all times relevant to this claim, Defendant Carroll and Plaintiff were involved in an intimate relationship. At all times relevant to this claim, Plaintiff was only having sexual relations with Defendant Carroll and therefore could only have been infected by him.

7. At all times relevant to this claim, Defendant Carroll knew or should have known that he was infected with HIV. Defendant Carroll had a duty to act as a reasonably prudent individual would act in not exposing Plaintiff to the infection. Defendant Carroll infected Plaintiff with HIV.

8. When Plaintiff discovered that she was pregnant, she was also advised to her horror that she had been infected with HIV. Plaintiff desperately deliberated for three weeks over the choice between having the baby, whom she may not live to take care of, or terminating the pregnancy. Plaintiff also feared bearing a child with HIV because of the consequences to the child.

9. On or about February 23, 1996, Plaintiff made the difficult decision to terminate the pregnancy notwithstanding the fact that she was morally opposed to abortion, and in an effort to terminate her pregnancy by abortion, made an appointment at the Defendant Clinic.

10. While at Defendant Clinic, Plaintiff voluntarily disclosed to the Defendants that she was HIV positive. At that time, Plaintiff had no AIDS related symptoms.

11. Plaintiff had been examined by Defendants and/or their agents, servants and/or employees; had her vital signs noted; had her blood sample taken; had an ultrasound performed; and had paid.

12. Plaintiff advised a nurse at the Defendant Clinic that she was HIV positive. The nurse advised Plaintiff that if she told Defendant Dr. Doe of her status, Defendant Dr. Doe would refuse to treat Plaintiff.

13. Plaintiff, being a morally responsible person, advised the nurse that she would inform everyone who was to be involved in the termination procedure that she was HIV positive.

14. Defendant Dr. Doe, upon learning of Plaintiff's HIV status, refused to perform an abortion procedure on the Plaintiff.

COUNT I - NEGLIGENCE

Plaintiff, Andrea Nancy McLaughlin, hereby incorporates by reference paragraphs one (1) through fourteen (14) of the Complaint and Prayer for Jury Trial as if set forth herein, and further alleges:

15. Defendant Carroll was negligent and breached his duty to Plaintiff when he knew or should have known that he was infected with HIV by failing to take the necessary precautions to prevent Plaintiff from being exposed to HIV and/or to warn Plaintiff that he was infected with HIV, and was otherwise negligent.

16. Defendant Clinic and/or its agents, servants, and/or employees, including but not limited to Defendant Dr. Doe, were negligent and did breach their duty to Plaintiff to use ordinary and reasonable care, skill and judgment in that they failed to perform medical procedures; failed to recognize and take into consideration the increased risks of not performing the abortion; and were otherwise negligent in the care and treatment of Plaintiff.

17. Defendant Dr. Doe was negligent and did breach his/her duty to Plaintiff to use ordinary and reasonable care, skill and judgment in that he/she failed to perform medical procedures; failed to recognize and take into consideration the increased risks of not performing the abortion; and was otherwise negligent in the care and treatment of Plaintiff.

18. As a direct and proximate result of the negligence of each one of the Defendants named herein, Plaintiff has been severely and permanently damaged, became infected with HIV, has suffered severe emotional distress, mental anguish, and has incurred medical and other expenses, all in the past and continuing into the future, was forced to carry the child longer and thereby making the decision more difficult and was otherwise damaged.

19. At all times relevant to this claim, the damages complained of occurred without contributory negligence on the part of the Plaintiff.

WHEREFORE, Plaintiff, Andrea Nancy McLaughlin, by and through her attorneys, Joanne L. Suder and Suder & Suder, P.A., brings this action against the Defendants and claims compensatory damages in excess of Twenty Thousand Dollars (\$20,000.00), plus costs and such other and further relief as the Court may deem necessary and proper.

COUNT II - ABANDONMENT

Plaintiff, Andrea Nancy McLaughlin, hereby incorporates by reference paragraphs one (1) through nineteen (19) of the Complaint and Prayer for Jury Trial as if set forth herein, and further allege:

20. Defendant Clinic and/or its agents, servants, and/or employees, including but not limited to Defendant Dr. Doe, breached a duty to their patient by failing to provide Plaintiff with an abortion procedure.

21. Defendant breached a duty to his/her patient by failing to provide Plaintiff with an abortion procedure.

22. Defendants inaction constitutes an abandonment of their patient.

23. As a direct and proximate result of each one of the Defendants' abandonment of their patient, Plaintiff has been severely and permanently damaged, has suffered severe emotional distress, mental anguish, and has incurred medical and other expenses, all in the past and continuing into the future, was forced to carry the child longer and thereby making the decision more difficult and was otherwise damaged.

WHEREFORE, Plaintiff, Andrea Nancy McLaughlin, by and through her attorneys, Joanne L. Suder and Suder and Suder, P.A., brings this action against the Defendants and claims compensatory damages in excess of Twenty Thousand Dollars (\$20,000.00), plus costs and such other and further relief as the Court may deem necessary and proper.

COUNT III - BATTERY

Plaintiff, Andrea Nancy McLaughlin, hereby incorporates by reference paragraphs one

(1) through twenty-four (24) of the Complaint and Prayer for Jury Trial as if set forth herein, and further allege:

25. At the time Defendant Carroll and Plaintiff entered into an intimate sexual relationship, Defendant Carroll knew that he was infected with HIV and did not disclose this information to Plaintiff.

26. Defendant Carroll intended to have sexual intercourse with Plaintiff knowing that he was infected with HIV, and that she was not aware of this fact.

27. Defendant Carroll admitted, after Plaintiff discovered that she was infected, that he was HIV positive.

28. The sexual contact was intentional, harmful and offensive, and Plaintiff did not consent to having sexual intercourse with Defendant Carroll when he was infected with HIV.

29. Defendant Carroll's battery on Plaintiff did, with no act on the part of Plaintiff contributing thereto, directly and/or proximately cause her to become infected with HIV, and caused her great and permanent mental anguish, pain and suffering, medical and other expenses, psychological damages, and other damages, all in the past and continuing in the future. It is alleged that as a result of Defendant Carroll's conduct that he further damaged Plaintiff to such a great extent that it is not foreseeable that she will ever recover.

30. Each of the injuries and damages described herein occurred without any negligence on the part of Plaintiff contributing thereto.

WHEREFORE, Plaintiff, Andrea Nancy McLaughlin, by and through her attorneys, Joanne L. Suder and Suder and Suder, P.A., brings this action against the Defendants and claims compensatory damages in excess of One Million Dollars (\$1,000,000.00), plus costs

and such other and further relief as the Court may deem necessary and proper.

COUNT IV - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Plaintiff, Andrea Nancy McLaughlin, hereby incorporates by reference paragraphs one (1) through thirty (30) of the Complaint and Prayer for Jury Trial as if set forth herein, and further allege:

31. The conduct described herein by Defendant Carroll was intentional, done with actual malice, done with an intent to injure Plaintiff, done with ill will and evil motive and/or was extreme and outrageous and was designed, calculated and intended to harm Plaintiff, and to inflict emotional distress upon Plaintiff.

32. Defendant Carroll knew or should have known that Plaintiff would die as a result of his actions.

33. As a direct and/or proximate result of Defendant Carroll's intentional, malicious, evil and/or extreme and outrageous conduct, Plaintiff was caused to become infected with HIV, and caused her great and permanent mental anguish, pain and suffering, medical and other expenses, psychological damages, and other damages, all in the past and continuing in the future. It is alleged that as a result of Defendant Carroll's conduct that he further damaged Plaintiff to such a great extent that it is not foreseeable that she will ever recover.

34. Each of the injuries and damages described herein occurred without any negligence on the part of Plaintiff contributing thereto.

WHEREFORE, Plaintiff, Andrea Nancy McLaughlin, by and through her attorneys, Joanne L. Suder and Suder and Suder, P.A., brings this action against the Defendants and

claims compensatory damages in excess of One Million Dollars (\$1,000,000.00), plus costs and such other and further relief as the Court may deem necessary and proper.

PRAYER FOR JURY TRIAL

The Plaintiff respectfully requests a jury trial in this matter.



Joanne L. Suder
Suder & Suder, P.A.
210 E. Lexington Street
Suite 100
Baltimore, MD 21202
(410) 727-8177

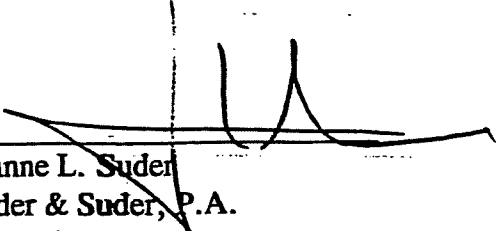
Attorneys for Plaintiff

BEFORE THE HEALTH CLAIMS ARBITRATION OFFICE OF MARYLAND

Andrea McLaughlin	:	
	:	
Claimant	:	
	:	
v.	:	HCA No.:
	:	
Hillcrest Clinic, Inc., et al.	:	
	:	
Health Care Providers	:	
	:	
:	:	
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ELECTION TO WAIVE ARBITRATION

Pursuant to Maryland Courts & Judicial Proceedings Code Annotated § 3-2A-06B, the Claimant, Andrea McLaughlin, hereby elects to waive arbitration in the above-captioned matter.



 Joanne L. Suder
 Suder & Suder, P.A.
 Suite 100
 210 East Lexington Street
 Baltimore, Maryland 21202
 (410) 727-8177

 Attorneys for Claimant

Circuit Court for Baltimore City

City or County

CIVIL—NON-DOMESTIC CASE INFORMATION REPORT

Directions:

Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111. A copy must be included for each defendant to be served.

Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS AN ANSWER OR RESPONSE.

FORM FILED BY: PLAINTIFF DEFENDANT

CASE NUMBER: _____

CASE NAME: Andrea McLaughlin

Plaintiff

v. Hillcrest Clinic, Inc., et al.

Defendant

JURY DEMAND: Yes No

Anticipated length of trial: _____ hours or 5 days

RELATED CASE PENDING? Yes No

If yes, Case #(s), if known: _____

HAS ALTERNATIVE DISPUTE RESOLUTION (ADR):

Been Tried?

Yes

No

Requested?

Yes

No

If yes, specify: _____

Special Requirements? Interpreter/communication impairment

Other ADA accommodation: _____

NATURE OF ACTION: (CHECK ONE BOX)		DAMAGES / RELIEF	
TORTS <input type="checkbox"/> Motor Tort <input type="checkbox"/> Premises Liability <input type="checkbox"/> Assault & Battery <input type="checkbox"/> Product Liability <input checked="" type="checkbox"/> Professional Malpractice <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Business & Commercial <input type="checkbox"/> Libel & Slander <input type="checkbox"/> False Arrest/Imprisonment <input type="checkbox"/> Nuisance <input type="checkbox"/> Toxic Torts <input type="checkbox"/> Fraud <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Lead Paint <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____	LABOR <input type="checkbox"/> Workers' Comp. <input type="checkbox"/> Wrongful Discharge <input type="checkbox"/> EEO <input type="checkbox"/> Other _____ CONTRACTS <input type="checkbox"/> Insurance <input type="checkbox"/> Confessed Judgment <input type="checkbox"/> Other _____ REAL PROPERTY <input type="checkbox"/> Judicial Sale <input type="checkbox"/> Condemnation <input type="checkbox"/> Landlord Tenant <input type="checkbox"/> Other _____ OTHER <input type="checkbox"/> Civil Rights <input type="checkbox"/> Environmental <input type="checkbox"/> ADA <input type="checkbox"/> Other _____	A. TORTS Actual Damages <input type="checkbox"/> Under \$7,500 <input type="checkbox"/> \$7,500 - \$50,000 <input type="checkbox"/> \$50,000 - \$100,000 <input checked="" type="checkbox"/> Over \$100,000 B. CONTRACTS <input type="checkbox"/> Under \$10,000 <input type="checkbox"/> \$10,000 - \$20,000 <input type="checkbox"/> Over \$20,000	<input type="checkbox"/> Medical Bills \$ _____ <input type="checkbox"/> Property Damages \$ _____ <input type="checkbox"/> Wage Loss \$ _____ C. NONMONETARY RELIEF <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____

TRACK REQUEST

With the exception of Baltimore County, Baltimore City, and Prince George's County, please fill in the estimated LENGTH OF TRIAL. THIS CASE WILL THEN BE TRACKED ACCORDINGLY.

1/2 day of trial or less

3 days of trial time

1 day of trial time

More than 3 days of trial time

2 days of trial time

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE COUNTY, BALTIMORE CITY, OR PRINCE GEORGE'S COUNTY, PLEASE SEE REVERSE SIDE OF FORM FOR INSTRUCTIONS.

Date: 9/21/98

Signature: _____

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RECEIVED
CIRCUIT COURT IN THE
BALTIMORE CITY

ANDREA NANCY MCLAUGHLIN
Plaintiff

00 JUN 16 AM 10:57
CIRCUIT COURT
CIVIL DIVISION FOR

v.

HILLCREST CLINIC, INC., et al.

* BALTIMORE CITY

Defendants

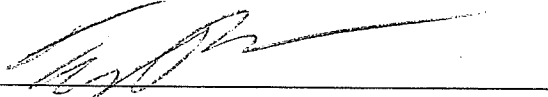
* Case No: 98264144/CC8332

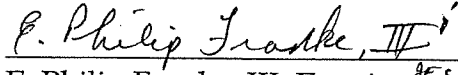
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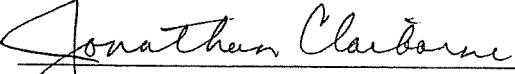
Case: 24-CV-99-264144
CV Admit Fee 15.00
Appear Fee 20.00
TOTAL 35.00
Receipt: 20000001235
06/16/00 11:49am

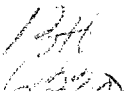
STIPULATION OF DISMISSAL

The Plaintiff, Andrea McLaughlin, and the Defendants, Hillcrest Clinic, Inc. and Alan C. Gold, M.D., by their undersigned attorneys, hereby stipulate to the dismissal with prejudice of all pending claims and cross-claims in the above captioned matter.


T. Christine Pham, Esquire
Suder & Suder, P.A.
210 E. Lexington Street
Suite 100
Baltimore, Maryland 21202
Attorney for Plaintiff
Andrea McLaughlin


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Attorneys for Defendant
Hillcrest Clinic, Inc.


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Whiteford, Taylor & Preston L.L.P.
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Attorneys for Defendant,
Alan C. Gold, M.D.



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TELEPHONE 703 836-5742
FAX 703 836-0265

June 15, 2000

Frank M. Conaway, Clerk
Circuit Court for Baltimore City
111 North Calvert Street
Room 462
Baltimore, Maryland 21202

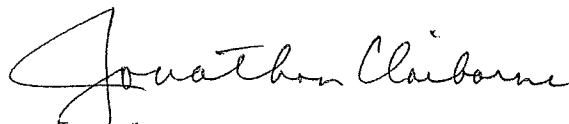
Re: **McLaughlin v. Hillcrest Clinic**
Case No.: 98264144/CC8332
Our File No.: 06596/00152

Dear Mr. Conaway:

Enclosed for filing please find the executed Stipulation of Dismissal in connection with the above referenced matter, along with our firm's check in the amount of \$35.00 to cover the costs of filing and open court costs.

Thank you for your attention. Call me if you should have any questions.

Sincerely,


Jonathan E. Claiborne

JEC/kml
Enclosure

cc: T. Christine Pham, Esquire (w/encl.)
E. Philip Franke, III, Esquire (w/encl.)
Ms. Cathy E. Knight (w/encl.) (Claim No.: PIE-0518-0-002)

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