

NOV 1985

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IN THE CIRCUIT COURT FOR BALTIMORE CITY

VALENCIA DUGGINS *
 Plaintiff *
 v. *
 DR. MOSHE SALOMY, M.D. *
 and *
 HILLCREST CLINIC, INC. *
 Defendants *

Case # 85-319-014 CL 42659

*See 6 pages in -
Balt County
Case #*

CROSS-CLAIM

Moshe Salomy, M.D., one of the Defendants herein, files this Cross-Claim against Hillcrest Clinic, Inc., the other co-defendant, and says:

1. That a Declaration and Request for Jury Trial has been filed in the above-captioned case, naming Hillcrest Clinic, Inc. and Dr. Moshe Salomy as Defendants. A copy of this Declaration and Request for Jury Trial is attached hereto.

2. It is further alleged by Dr. Salomy that at all times pertinent hereto, his actions undertaken in the course of treatment of Valencia Duggins were in accordance with the terms, procedures and regulations established by the Cross-Defendant Hillcrest Clinic for the performance of elective abortions at Hillcrest Clinic, Inc.

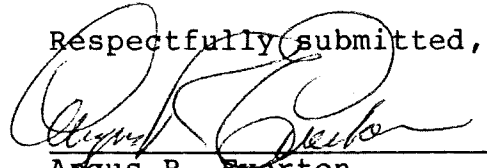
3. Consequently, to the extent that Dr. Salomy may be held liable in the above-captioned case as the result of his having treated the plaintiff Valencia Duggins in accordance with the terms, procedures and regulations established by Hillcrest

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 & Everton, P.A.**
 Suite 417, The Exchange
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 Towson, Maryland 21204
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Clinic, as alleged in Paragraph 7 of the "Declaration", Doctor Salomy is entitled to indemnification from the Clinic to that extent.

WHEREFORE, it is respectfully requested that, in the event that Judgment is entered against Dr. Salomy in the above-captioned case, he be entitled to recover Judgment against the Cross-Defendant, Hillcrest Clinic for either contribution or for complete indemnity as to the amount of any judgment against Dr. Salomy, depending upon which relief is appropriate.

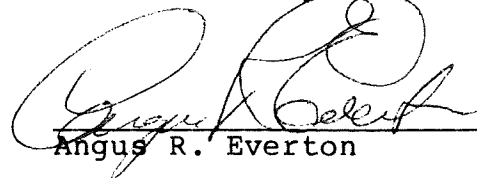
Respectfully submitted,



Angus R. Everton
Suite 417, The Exchange
1122 Kenilworth Drive
Towson, Maryland 21204
(301) 823-1420

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 21st of November, 1985, a copy of the foregoing Cross-Claim was mailed postage prepaid to: Mark E. Herman, Esquire, 14 W. Madison Street, Baltimore, Maryland 21201; and John L. Wood, Esquire, Niles, Barton & Wilmer, 929 N. Howard Street, Baltimore, Maryland 21201.



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(1)

NOV 15 1985 REC'D

VALENCIA DUGGINS
1663
Baltimore, Maryland 21217

Plaintiff

vs.

HILLCREST CLINIC, INC.
5602 Baltimore National Pike
Baltimore, Maryland 21228

and

DR. MOSHE SALOMY, M.D.
5602 Baltimore National Pike
Baltimore, Maryland 21228

Defendants

* IN THE
 * *85 319 014/cl*
 * *426 59*
 * CIRCUIT COURT
 *
 * FOR
 *
 * 12:06PM 11/15/85 001#8605 A ***
 * #0853190
 * BALTIMORE @000014
 * CIVIL \$70.00
 * LIBRA \$5.00
 * HCA *ITL \$75.00
 * Law No. CHECK 83-54 \$75.00
 * CHNG \$0.00

* * * * *

DECLARATION AND REQUEST FOR JURY TRIAL

ACTION TO NULLIFY AN AWARD

Valencia A. Duggins, Plaintiff, by and through her attorney Mark E. Herman sues the Health Care Providers, Defendants Hillcrest Clinic, Incorporated and Dr. Moshe Salomy, and in support thereof says:

1.- That at all times hereinafter set forth, the Health Care Provider Hillcrest Clinic, Incorporated held themselves out to the Plaintiff and to the general public as experienced, competent, capable and able health care providers, posing that degree of skill and knowledge which is ordinarily possessed by those who devote special study and attention to the practice of medicine, and attention to those services held out to the public as those of the clinic named herein, owed a duty to the Claimant, Valencia A. Duggins, to render that degree of care and treatment to her which is ordinarily rendered by those who devote special study and

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attention to the practice of medicine, and to the special particular services rendered by Hillcrest Clinic, Inc.

2.- That at all times hereinafter set forth the Health Care Provider Hillcrest Clinic, Inc., through its agents, servants, employees, medical staff and nursing staff and in all matters pertaining to the malfeasance and/or misfeasance herein complained of was under a duty to exercise reasonable skill and ability in the selection of their personnel, nurses and competent physicians, surgeons, lab technicians, nurses and other health providers possessing that degree of skill and knowledge which is ordinarily possessed by those who devote special duty and attention to the practice of medicine and surgery, and to supervise its patients and provide them with such care, treatment, diagnosis, medical and surgical services as are ordinarily rendered by such health care facilities and provided by their personnel.

3.- That at all times hereinafter set forth the Health Care Provider Dr. Moshe Salomy held himself's out to the Plaintiff and to the general public as experienced, competent, capable and able health care providers possessing that degree and knowledge which is ordinarily possessed by those who devote special study and attention to the practice of medicine, and attention to those services held out to the public and to those of the specialty to which Dr. Moshe Salomy practices, in the area of Obstetrics and Gynecology and therefore owed a duty to the Claimant, Valencia A. Duggins, to render that degree of treatment and care to her which is ordinarily rendered by those who devote special study and attention to the practice of medicine in the area of specialty of

the Defendant Dr. Moshe Salomy.

4.- That on or about September 3, 1982, Ms. Duggins enlisted the services of Hillcrest Clinic, Inc., because she was not ready for the responsibility of a child, either financially or emotionally, she wished to terminate her pregnancy. After consultation with the Health Care Provider, Ms. Duggins underwent an abortion. At the time, Ms. Duggins was approximately six (6) weeks into her pregnancy and after the abortion, Dr. Moshe Salomy visually identified the "placenta," but did not send the tissue for pathological study.

5.- That on or about September 6, 1982, after experiencing excruciating pain, Ms. Duggins was taken to Lutheran Hospital by ambulance where she was admitted to the hospital and immediate surgery was performed based on the finding of ectopic pregnancy. As a result of the ectopic pregnancy, her right tube was removed.

6.- That said Health Care Provider Dr. Moshe Salomy, was negligent and careless with respect to the above occurrence in that the clinic failed to properly recognize the tissue upon performance of the abortion, failed to submit the tissue to pathology, failed to take other steps and assurances that there was not an ectopic pregnancy and were in other respects negligent and careless.

7.- That Hillcrest Clinic, Inc. was negligent in that they failed to enact policies requiring staff gynecologists to perform therapeutic abortion in women of 6 to 8 weeks gestationally pregnant to pathology, failed to put Ms. Duggins on an ectopic watch, and failed to take other steps to assure that there was not



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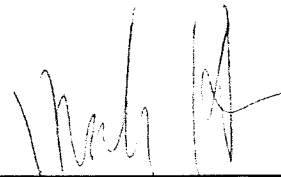
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an ectopic pregnancy and were in other respect negligent careless.

8.- That as a result thereof, the Claimant was caused to sustain aggravated, serious permanent and painful injuries to her body, including the removal of her right tube, shock to her nervous system and great mental sufferings; thereby she was precluded from engaging in her usual employment, activities and pursuits, was caused to incur expenses for medical and hospital care and was otherwise injured and damaged, and Claimant says that all injuries and damages complained of were caused solely by the negligence of the Health Care Provider without any negligence on the part of the Claimant thereunto contributing.

9.- That the Plaintiff did not contribute to her injuries as described herein.

WHEREFORE, Plaintiff prays Judgment against each Defendant jointly and severally in the amount of five hundred thousand dollars (\$500,000.00).



MARK E. HERMAN
14 West Madison Street
Baltimore, Maryland 21201
837-2144

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5 day of June, 1985, a copy of the above Declaration and Request for Jury Trial Action to Nulify and Award, was first class mailed, postage pre-

8-1

VALENCIA DUGGINS

Plaintiff

vs.

HILLCREST CLINIC, INC, et al.

Defendants

* IN THE
 * CIRCUIT COURT
 * FOR BALTIMORE COUNTY
 * MARYLAND
 * Case No. 86 CG 1573/25/163

* * * * *

ANSWERS TO INTERROGATORIES

TO: Hillcrest Clinic Inc.

BY: Valencia Duggins

Valencia Duggins, Plaintiff, by and through her attorney, Mark E. Herman, and in response to the Interrogatories propounded to her by Hillcrest Clinic, Inc., Defendant, states as follows:

The information supplied in these Answers to Interrogatories is not based solely on the knowledge of the executing party, but includes the knowledge of the party's agents, representatives, and attorneys, unless privileged.

The word usage and sentence structure is that of the attorney and does not purport to be the exact language of the executing party.

INTERROGATORY #1: Identify all expert witnesses you intend to call at the trial of this matter and state the subject matter on which the expert is expected to testify, the substance of the findings and opinions to which the expert is expected to testify and the summary of the grounds for each opinion and produce any written report made by the expert concerning those findings and opinions.

ANSWER: (A) Robert Lee Smith, M.D., pathologist, will testify on the subject matter of ability of identifying placenta during 6-8 weeks gestation, the substance of his opinion is that between 6-8 weeks on visual observation of an elective abortion, a physi-

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cian cannot identify fetal parts on visible examination with any reasonable degree of certainty and must submit the products to pathology. The grounds for his opinion are that given what the mass looks like after going through the suction procedure and given the early stages of the embriological development, it is scientificallly known that visual identification of fetal parts cannot be done with any reasonable degree of certainty between 6-8 weeks gestation. No written report.

Dr. Smith also will testify that if the pathology request was issued stet, information could have been relayed to the Defendant within a twenty-four (24) hour period.

(B) Dr. Robert Coplan will testify that the failure to give an ectopic watch and to submit the products to pathology on a staff basis was the cause of Plaintiff's ruptured tube. His opinion is based on the fact that Plaintiff left Friday September 3, 1982 from the Defendant Clinic, was available Saturday, September 4, to be contacted to be advised of a ectopic watch, was available Sunday, September 5, and up to noon Monday, September 6, 1982, when the rupture took place.

INTERROGATORY #2: State all facts upon which you rely to support your contention that this Defendant was negligent.

ANSWER: The Defendant was negligent herein by:

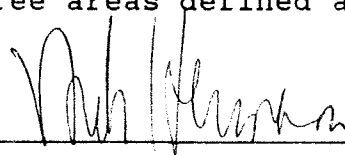
1. failing to establish a policy or procedure and/or to require Dr. Salomy to submit the products of an elective abortive procedure with a gestational period of 8 weeks or under to pathology,

to submit the produces of an elective abortion procedure, in a patient 6 to 8 weeks along, to pathology in order to determine whether the patient had an interuterine pregnancy, and not an ectopic pregnancy.

The defendant is expected to introduce expert testimony that in a hospital setting this may be the standard, but it not the standard when an elective abortion is performed in a clinic such as Hillcrest, where this procedure was performed.

Defendant is attempting to substitute the requirements of the hospital for thoses of the physicians. All tissue taken from a patient in a hospital, in accordance with the accreditation that hospital enjoys, must be submitted to path. That is the requirement of the hospital, not a standard of care regarding physicians. Therefore, defendant should not be allowed to mix apples with oranges. Since this dicotomy has no application in this case, given that the procedure did not occure in a hospital and no hospital is a party to this action, testimony on this issue should not be allowed.

WHEREFORE, the plaintiff prays this Honorable Court to exclude from trial testimony in the three areas defined above.



Mark Herman
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Attorney for the Plaintiff

