

TIA MELTON, M.D.)
 27155 Chardon Rd.)
 Department of OB/GYN)
 Richmond Medical Office Building)
 Suite 101)
 Richmond Heights, OH 44143)
)
 and)
)
 HONOR WOLFE, M.D.)
 11100 Euclid Ave.)
 Cleveland, OH 44106)
)
 and)
)
 UNIVERSITY HOSPITALS)
 CLEVELAND MEDICAL CENTER,)
 dba, UNIVERSITY HOSPITALS)
 CASE MEDICAL CENTER)
 % Statutory Agent)
 Janet Miller)
 3605 Warrensville Center Road)
 MSC 9110)
 Shaker Heights, Ohio 44122)
)
 Defendants.)

NOW COMES Plaintiff, by and through counsel, and states for her Complaint as follows:

INTRODUCTION

1. Plaintiff Nykia Foster is the natural mother of the minor child, Anthony Jordan, III, now deceased, and the Administrator of his Estate as appointed by the Cuyahoga County Probate Court, Case No. 2015 EST 208671.

2. Plaintiff's decedent, Anthony Jordan, III, was stillborn on July 22, 2013, at University Hospitals Case Medical Center (hereinafter "University Hospitals") as the result of an intrauterine fetal demise.

3. At all times relevant, Lisa Perriera, M.D. was a physician licensed to practice medicine in the state of Ohio, and held herself out to the public, including Plaintiff Nykia Foster, as a specialist in obstetrics. Dr. Perriera provided medical care to Plaintiff Nykia Foster and her unborn child, Anthony Jordan, III, in Cuyahoga County, and in so doing had a duty to Plaintiff and her unborn child to provide prudent and safe care.

4. At all times relevant, Angelina Gangestad, M.D. was a physician licensed to practice medicine in the state of Ohio, and held herself out to the public, including Plaintiff Nykia Foster, as a specialist in obstetrics. Dr. Gangestad provided medical care to Plaintiff Nykia Foster and her unborn child, Anthony Jordan, III, in Cuyahoga County, and in so doing had a duty to Plaintiff and her unborn child to provide prudent and safe care.

5. At all times relevant, Tia Melton, M.D. was a physician licensed to practice medicine in the state of Ohio, and held herself out to the public, including Plaintiff Nykia Foster, as a specialist in obstetrics. Dr. Melton provided medical care to Plaintiff Nykia Foster and her unborn child, Anthony Jordan, III, in Cuyahoga County, and in so doing had a duty to Plaintiff and her unborn child to provide prudent and safe care.

6. At all times relevant, Honor Wolfe, M.D. was a physician licensed to practice medicine in the state of Ohio, and held herself out to the public, including Plaintiff Nykia Foster, as a specialist in obstetrics. Dr. Wolfe provided medical care to Plaintiff Nykia Foster and her unborn child, Anthony Jordan, III, in Cuyahoga County, and in so doing had a duty to Plaintiff and her unborn child to provide prudent and safe care.

7. At all times relevant, University Hospitals was a hospital located in Cuyahoga County, Ohio, and licensed by the state of Ohio to provide medical care to its patients through its employees, agents, and/or servants, both actual and apparent including but not limited to Drs. Perriera, Gangestad, Melton and Wolfe.

8. At all times relevant, Defendant University Hospitals provided care to Nykia Foster and her unborn child, Anthony Jordan, III, by and through its employees, actual or apparent agents, and/or servants including but not limited to, Dr. Perriera, Dr. Gangestad, Dr. Melton and Dr. Wolfe, all of whom were acting within the course and scope of their agency/master servant relationship/employment, in rendering said care. Defendant University Hospitals is vicariously liable for the negligent conduct of its employees, servants and/or agents, both actual and apparent, including, but not limited to, Dr. Lisa Perriera, Dr. Angelina Gangestad, Dr. Tia Melton and Dr. Honor Wolfe.

COUNT I - MEDICAL MALPRACTICE

9. Plaintiff incorporates the allegations set forth in paragraphs 1 through 8 of this Complaint as though fully set forth herein.

10. On or about July 18, 2013, Plaintiff Nykia Foster presented to University Hospital's emergency room at 23 6/7 weeks gestation with complaints of vaginal bleeding. Thereafter she was admitted to the labor and delivery unit at University Hospitals.

11. Defendants and/or officers, directors, employees, servants and agents, actual and apparent, of Defendant University Hospitals fell below the standard of care and were otherwise negligent in their care and treatment of Nykia Foster, said deviation from the standard of care and negligence, includes, but is not limited to, failure to appropriately manage Plaintiff's preterm labor, failure to appropriately monitor Plaintiff's unborn son, Anthony Jordan, III, and failure to timely deliver Anthony Jordan, III.

12. Plaintiff remained an inpatient at University Hospitals and on July 22, 2013, was found to have suffered the demise of her unborn son, Anthony Jordan, III.

13. As a direct and proximate result of the aforesaid deviations from the standard of care/negligence of these Defendants, Nykia Foster suffered a prolapsed umbilical cord, resulting in the death of her unborn son, Anthony Jordan, III, for which these Defendants, their employees, servants and agents, actual and apparent, are liable.

COUNT II – WRONGFUL DEATH

14. Plaintiff incorporates the allegations set forth in paragraphs 1 through 13 of this Complaint as though fully set forth herein.

15. Plaintiff further alleges and avers that she brings this wrongful death action under O.R.C. §2125 for the exclusive benefit of the next of kin of Plaintiff's decedent, Anthony Jordan, III.

16. As a direct and proximate result of the wrongful death of Plaintiff's decedent, the next of kin have suffered, among other things, mental anguish, loss of economic support, loss of prospective inheritance, loss of services, society and comfort, and other such damages as are enumerated under O.R.C. §2125.

COUNT III – UNCONSTITUTIONALITY OF CIVIL RULE 10

17. Plaintiff incorporates the allegations set forth in Paragraphs 1 through 16 of this Complaint as if fully set forth herein.

18. Plaintiff alleges that the requirements of Civil Rule 10, as amended, effective July 1, 2005 are unconstitutional and are in violation of the Ohio and Federal Constitution on the basis of equal protection of the law and due process, and that said Rule imposes an undue burden on the class of Plaintiffs bringing medical claims in the State of Ohio.

IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

NYKIA FOSTER, Individually)
and as Administrator of the Estate)
of Anthony Jordan, III, Deceased,)
471 East 123rd Street)
Cleveland, Ohio 44108)

Plaintiff,)

vs.)

LISA PERRIERA, M.D.)
833 Chestnut Street)
1st Floor)
Philadelphia, PA 19107)

and)

ANGELINA GANGESTAD, M.D.)
11100 Euclid Ave.)
Cleveland, OH 44106)

and)

CASE NO.

JUDGE

COMPLAINT WITH
AFFIDAVIT OF MERIT
ATTACHED HERETO

(Jury Demand Endorsed Hereon)