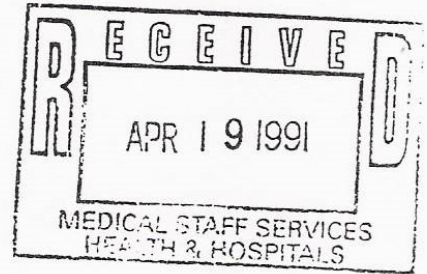


ST. LUKE'S ROOSEVELT

Hospital Center

Amsterdam Avenue at 114th Street, New York, NY 10025

April 9, 1991



TO: Medical Staff Coordinator
Boston City Hospital
818 Harrison Avenue
Boston, MA 02118

Name: Marcus Gordon, M.D.
Affiliation: PGY 3-4
Dates: 7/88 - 10/90

Dear Sir/Madam:

Dr. Gordon has applied for privileges at St. Luke's-Roosevelt Hospital Center. We have sent a clinical reference request to the Director of his Service at your institution. This request is more administrative in nature. We would appreciate your assistance in evaluating this applicant's performance at your Hospital.

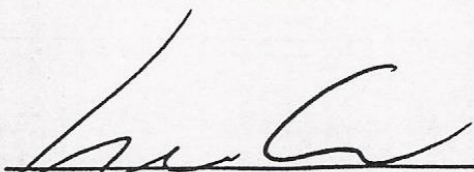
1. Is the information given above correct? Yes No. If not, please explain:
2. Were the applicant's privileges to admit or treat patients ever suspended, revoked or withdrawn at any time while on your staff? Yes No. If yes, please explain:
3. To your knowledge, has the applicant been named in any malpractice action while a member of your Staff? Yes No. If yes, please explain:
4. Has the applicant been subject to disciplinary action or investigation, for reasons other than failure to complete medical records, while at your Hospital? Yes No. If yes, please explain:

If your Hospital utilizes a medical records abstraction service which can produce a "physician's profile" showing number, type and general outcome of cases, we would appreciate receiving a copy. If there is a charge for this information, please let us know. Thank you for your cooperation.

Sincerely,

Christiane Abbott

Christiane Abbott
Medical Staff Office


Signature

Chairman, Department of Ob/Gyn

Title

Date

5/13/91

INDEX TO ATTACHMENTS

ATTACHMENT A Marcus Gordon Deposition

ATTACHMENT B Winnie Lee Affidavit

ATTACHMENT C Dr. Gordon's House Officer File (Certified, One Page Redacted Per Court Order).

ATTACHMENT D Dr. Gordon's Interrogatory Answers

ATTACHMENT E Dr. Gordon's Document Production (Rule 34)

ATTACHMENT F Certified Index Card Showing Dr. Gordon's Residency Appointments

ATTACHMENT G Certified Boston City Hospital Medical Bills

ATTACHMENT H Affidavit of Wendy Beth Kahn

ATTACHMENT I "Standard Contract" (Boston City Hospital and Boston University)

ATTACHMENT J Deposition of Adel Hamid, M.D.

ATTACHMENT K Deposition of Samuel P. Donegan, M.D.

BOSTON CITY HOSPITAL
NIGHT CALL SCHEDULE

SEPTEMBER 4, - OCTOBER 8, 1989

MONDAY	SEPT 4	DR. COPPEDGE
TUESDAY	SEPT 5	DR. COSTELLO
WEDNESDAY	SEPT 6	DR. HARRISON
THURSDAY	SEPT 7	DR. CHAUDHURI
FRIDAY	SEPT 8	DR. BRISCOE
SATURDAY	SEPT 9	DR. ROTMENSCH
SUNDAY	SEPT 10	DR. ABOAGYE
MONDAY	SEPT 11	DR. BRISCOE
TUESDAY	SEPT 12	DR. COSTELLO
WEDNESDAY	SEPT 13	DR. HARRISON
THURSDAY	SEPT 14	DR. CHAUDHURI
FRIDAY	SEPT 15	DR. ROTMENSCH
SATURDAY	SEPT 16	DR. LARRIEUX
SUNDAY	SEPT 17	DR. COPPEDGE
MONDAY	SEPT 18	DR. COSTELLO
TUESDAY	SEPT 19	DR. LARRIEUX
WEDNESDAY	SEPT 20	DR. CHAUDHURI
THURSDAY	SEPT 21	DR. ABOAGYE
FRIDAY	SEPT 22	DR. ROTMENSCH
SATURDAY	SEPT 23	DR. BRISCOE
SUNDAY	SEPT 24	DR. HARRISON
MONDAY	SEPT 25	DR. COPPEDGE
TUESDAY	SEPT 26	DR. ROTMENSCH
WEDNESDAY	SEPT 27	DR. LARRIEUX
THURSDAY	SEPT 28	DR. ABOAGYE
FRIDAY	SEPT 29	DR. DONEGAN
SATURDAY	SEPT 30	DR. COSTELLO
SUNDAY	OCTOBER 1	DR. HAMID
MONDAY	OCTOBER 2	DR. COPPEDGE
TUESDAY	OCTOBER 3	DR. LARRIEUX
WEDNESDAY	OCTOBER 4	DR. BRISCOE
THURSDAY	OCTOBER 5	DR. ABOAGYE
FRIDAY	OCTOBER 6	DR. HARRISON
SATURDAY	OCTOBER 7	DR. CHAUDHURI
SUNDAY	OCTOBER 8	DR. DONEGAN

266-7515
(DRS. COPPEDGE, HARRISON)
739-7889

Pl's Em Motion: Allowed

3/95

was pursuing information with respect to "borrowed servant" argument since the inception of the lawsuit.

Since the case was pending up until one month ago, defense counsel, in response to plaintiffs' Notices of Depositions, informed the plaintiffs that the obstetrical services attending physicians worked for a foundation that was formed between Boston University and Boston City Hospital, rather than for a private, professional corporation that was the old system/arrangement for obstetrical services, and that all information regarding that relationship should be directed to Boston University.

A great deal of wasted time and expense had been spent in performing discovery as to Boston University's relationship with the attending physicians who supervised Marcus Gordon, M.D. Only one month ago, defense counsel admitted that he was wrong, and that, in fact, he now believed that a private corporation known as GYN Associates of Boston had the contract for providing obstetrical services. Defense counsel further informed plaintiffs that he believed the organizations attending physicians would have been responsible for overseeing defendant, Dr. Gordon's care and treatment and that the supervising, attending physician he now believed was Dr. Abogye. Unsuccessful efforts were made to serve Dr. Abogye. This week, defense counsel informed the plaintiffs that Dr. Abogye was working at Boston City Hospital. (Exhibit No. 2).

5. Briefly, the background of the discovery of this issue relative to the borrowed servant theory began with the deposition of Dr. M. Adel Hamid, who was listed as the attending physician on the patient's chart and named as a party on the basis of his apparent role as attending to this delivery. Dr. Hamid was deposed and testified that he was not, in fact, the attending physician for this admission, but rather the head of the Obstetrics Department and had no involvement in the care and treatment of Ms. Padre or the supervision of Dr. Gordon and that he merely signed the medical chart on discharge from the hospital.

DEPARTMENT OF HEALTH AND HOSPITALS

818 HARRISON AVENUE
BOSTON, MASSACHUSETTS 02118



Tel. No. _____

Dear _____

In accordance with the current agreement between the City of Boston and the House Officers' Association the following, when signed by both parties, constitutes an individual contract.

The Boston City Hospital Ob/Gyn Program hereby appoints Marcus T. Gordon as a Junior Assist for the year beginning July 1, 1988 and ending June 30, 1989.

The job title of the appointment is Post Graduate Year 2.

There will be 0 months of elective time during the year. Each elective request is subject to approval by the residency training director. Although the Department of Health and Hospitals cannot guarantee absolutely the electives set forth herein, the Department guarantees, barring circumstances beyond its control, that at least two-thirds of the elective time due shall be available to the House Officer.

A PGY-2 will have relations as listed on attachment A.

All House Officers' will receive four weeks vacation as outlined in Article VI, Section 1 of the City of Boston/House Officers' Association Agreement.

The annual salary will be paid by Malden Hosp. for 2nd-year residents for the 1988-89 year.

Malpractice insurance will be provided by the City of Boston for the resident with limits of liability of \$1,000,000 per incident and \$3,000,000 per year.

If you need further information regarding this contract, please do not hesitate to call me. In order for this appointment to be binding, I will need your signature on the three copies, returned to me no later than _____.

I understand and agree to the terms of this Letter of Appointment.

Marcus T. Gordon
Signature

7/1/88
Date

[Signature]
Director of Dept.

7/1/88
Date

[Signature]
Residency Training
Program Director

7/1/88
Date

CITY OF BOSTON
DEPARTMENT OF HEALTH AND HOSPITALS

818 HARRISON AVENUE
BOSTON, MASSACHUSETTS 02118



Tel. No. _____

Dear _____

In accordance with the current agreement between the City of Boston and the House Officers' Association the following, when signed by both parties, constitutes an individual contract.

The Boston City Hospital Ob-Gyn Program hereby appoints Marcus Gordon as a Senior for the year beginning July 1, 1989 and ending June 30, 1990.

The job title of the appointment is Post Graduate Year 4.

There will be 0 months of elective time during the year. Each elective request is subject to approval by the residency training director. Although the Department of Health and Hospitals cannot guarantee absolutely the electives set forth herein, the Department guarantees, barring circumstances beyond its control, that at least two-thirds of the elective time due shall be available to the House Officer.

A PGY-4 will have relations as listed on attachment A.

All House Officers will receive four weeks vacation as outlined in Article VI, Section 1 of the City of Boston/House Officers' Association Agreement.

The annual salary will be \$29,780.00 for 4th-year residents for the 1989-1990 Year.

Malpractice insurance will be provided by the City of Boston for the resident with limits of liability of \$1,000,000 per incident and \$3,000,000 per year.

If you need further information regarding this contract, please do not hesitate to call me. In order for this appointment to be binding, I will need your signature on the three copies, returned to me no later than _____.

I understand and agree to the terms of this Letter of Appointment.

Signature _____

Date 1/5/89

Director of Dept. _____

Date _____

Residency Training
Program Director _____

Date _____

CITY OF BOSTON
DEPARTMENT OF HEALTH AND HOSPITALS

818 HARRISON AVENUE
BOSTON, MASSACHUSETTS 02118



Tel. No. _____

Date May 14, 1990

Dear Dr. Gordon :

In accordance with the current agreement between the City of Boston and the House Officers' Association, the following, when signed by both parties, constitutes an individual contract.

The Boston City Hospital OB/Gyn Program hereby appoints Marcus T. Gordon as a RESIDENT for the year beginning (intern, resident, fellow) July 1, 1990 and ending June 30, 1991. A reappointment is subject to the successful completion of the current year.

The job classification of the appointment is Post Graduate Year 4 (1-6)

The annual salary will be \$31,134.99 for the 1990-91 year.

Malpractice insurance will be provided by the City of Boston for all House Officers' paid by the City of Boston with limits of liability of \$1,000,000 per incident and \$3,000,000 per year. Such malpractice coverage is applicable to all authorized residency rotations.

If you need further information regarding this contract, please do not hesitate to call your residency training program director. In order for this appointment to be binding, your signature is required on the three copies, returned to your residency training program director no later than May 18, 1990.

I understand and agree to the terms of this Letter of Appointment.

[Signature]
Signature of House Officer

[Signature]
Signature of Residency Training Program Director

Date

Date

MIDDLESEX, SS.

SUPERIOR COURT
CIVIL ACTION NO.
92-6275

PAULINE DARILUS, PPA PAULA
PADRE, ST. ARMAND DARILUS AND
PAULA PADRE INDIVIDUALLY
Plaintiffs

VS.

THE CITY OF BOSTON, MARCUS
TULIO GORDON, M.D. AND OZNAT
GEIFMAN-HOLTZMAN, M.D.,
Defendants

**OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION TO FURTHER
DELAY HEARING ON THE MOTION FOR SUMMARY JUDGMENT OF
MARCUS T. GORDON, M.D.**

Now comes the defendant, Marcus T. Gordon, M.D., and opposes plaintiff's Emergency Motion in so far as it seeks further delay of a hearing on the merits of his motion for summary judgment. As grounds for this opposition, the defendant, Dr. Gordon, states that the identity of attending physicians is a non material fact. Plaintiff's argument, as mentioned in the emergency motion, that Boston City Hospital residents are "borrowed servants" is a red-herring that has been repeatedly rejected by the Appeals Court, as discussed in Dr. Gordon's Memorandum In Support of Summary Judgment.

The situation is as follows. The City of Boston contracted with Boston University to provide attending physicians to staff various departments and supervise the activities of resident physicians in training at Boston City Hospital. Plaintiffs wish to show that the attendings did not perform their supervisory function in this case: that the residents provided all the medical care without any supervision. Plaintiffs would argue from this that if the attendings are paid without providing supervision, then they must be getting

STANDARD CONTRACT
CITY OF BOSTON - COUNTY OF SUFFOLK

CONTRACT NO. C66-90

DEPARTMENT - INVOICE MAILING ADDRESS
Boston City Hospital
Accounts Payable
818 Harrison Avenue
Boston, MA 02118

SERVICE LOCATION ADDRESS

Boston City Hospital
Physicians Services

CONTRACTOR'S NAME AND ADDRESS

Trustees of Boston University
Accounts Department
80 East Concord Street
Boston, MA 02118

PLEASE
INCLUDE
ZIP
CODE

Fund	Agency	Org	Object
011	510-0600	0290	
Activity		Sub-Object	
FH01			

CONTRACTOR'S F.L.N. #	S.S. #
04-213547N	

DESCRIPTION OF SERVICES FOR WHICH CITY/COUNTY AGREES TO PAY IF RENDERED IN ACCORDANCE WITH THESE CONTRACT DOCUMENTS ATTACHED AND/OR INCORPORATED BY REFERENCE (continue on separate 8 1/2" x 11" sheet if necessary)

UNIT

AMOUNT

To provide qualified physicians and other practitioners to serve in medico-administrative and supervisory staff positions in the division of Medicine, Obstetrics-Gynecology, Pediatrics, Dermatology, Surgery and Psychiatry of the Department of Health and Hospitals.

term:

July 1,
19 89
thru
June 30,
19 90

AMOUNT
TOTAL NOT TO
EXCEED

\$5,475,002.00

AUDITOR

CONTRACTOR

OFFICIAL

APPROVED AS TO AVAILABILITY OF APPROPRIATION OR PURSUANT TO ARTICLE 12.2 OF THE GENERAL CONDITIONS:

AGREES TO PROVIDE THE SERVICES AS INDICATED IN ACCORDANCE WITH THESE CONTRACT DOCUMENTS. (IF CORPORATION ATTACH AUTHORITY TO SIGN.)

ATTACH APPROVED LETTER OF AWARD AND OTHER REQUIRED DOCUMENTS.

IN THE AMOUNT OF

\$ 1,303,750.50 FH01

[Signature]
SIGNATURE

1/4/90
DATE

[Signature]
SIGNATURE

Assistant Treasurer
TITLE

December 18, 1989
DATE

[Signature]
SIGNATURE

1-29-90
DATE

Attachments

- | | | |
|--|---|--|
| <input type="checkbox"/> Award letter | <input type="checkbox"/> Specifications | <input type="checkbox"/> Contractor certification |
| <input type="checkbox"/> Advertisement | <input type="checkbox"/> Repetitive services | <input type="checkbox"/> Certificate of authority. |
| <input type="checkbox"/> Proposal/application | <input type="checkbox"/> Contract provisions | <input type="checkbox"/> Insurance certificates |
| <input type="checkbox"/> Performance Bond \$ _____ | <input type="checkbox"/> Check in lieu of bond \$ _____ | |

Approved as to form by Corporation Counsel June, 1981

No payment will be made until the original executed contract is filed with the Auditing Department

MIDDLESEX, SS.

SUPERIOR COURT
CIVIL ACTION NO.
92-6275

PAULINE DARILUS, PPA PAULA
PADRE, ST. ARMAND DARILUS AND
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Plaintiffs

VS.

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ATTENDING PHYSICIAN SCHEDULE

1989-90

DR. HAMID

MONDAY

AM: ONCOLOGY CLINIC

PM: *Campbell*

TUESDAY

AM:

PM: *DOB*

WEDNESDAY

AM: ED. MORNING

PM:

THURSDAY

AM: GYN CLINIC

PM: *DOB*

FRIDAY

AM: OR *BCH*

PM: OR *BCH*

DR. SOTREL

MONDAY

AM:

PM: F&E CLINIC

TUESDAY

AM: OR

PM: OR

WEDNESDAY

AM: ED. MORNING

PM:

THURSDAY

AM: F&E CLINIC

PM:

FRIDAY

AM:

PM:

DR. ABOAGYE

MONDAY

AM:

PM:

TUESDAY

AM: HIGH RISK CLINIC

PM:

WEDNESDAY

AM: ED. MORNING

THURSDAY

AM: OR

PM: OR

FRIDAY

AM: *ED*

PM: *ED*

DR. COSTELLO

MONDAY

AM: DSP/OR

PM: DSP/OR

TUESDAY

AM: OB CLINIC

PM: GYN CLINIC

WEDNESDAY

AM: ED. MORNING

PM: ADOLESCENT CENTER

THURSDAY

AM: ADOLESCENT CENTER

FRIDAY

AM:

PM: *OB clinic*

DR. LARRIEUX

MONDAY

AM: DSP/OR

PM: DSP/OR

TUESDAY

PM: GYN CLINIC

WEDNESDAY

AM: ED. MORNING

PM: *DOB*

THURSDAY

AM: MATTAPAN

PM: MATTAPAN

FRIDAY

AM: GYN CLINIC

PM: *OB clinic*

DR. ROTMENSCH

MONDAY

AM: OB CLINIC

PM: GYN CLINIC

TUESDAY

AM: *OB clinic*

WEDNESDAY

AM: ED. MORNING

PM: OR

THURSDAY

AM: *OB clinic*

PM: OB CLINIC

FRIDAY

AM: *JEW MEDICAL*

PM: OB CLINIC

REV/7/10/89

G-022
DW
NR
GG

Signature
7/10/89

May 4, 1993

Wendy Beth Kahn, Esq.
LUBIN & MEYER, P.C.
141 Tremont Street
Boston, MA 02111

RE: PAULINE DARILUS V. THE CITY OF BOSTON,
ET. AL., MIDDLESEX SUPERIOR COURT
C.A. NO. 92-6275

Dear Ms. Kahn:

This letter is a follow up on our telephone conference of May 4, 1993. Because we have located Dr. Gordon this department would like to withdraw the Motion to Dismiss that was filed on his behalf on February 25, 1993.

The purpose of withdrawing the Motion to Dismiss at this time is to afford your office an opportunity to conduct discovery as to Dr. Gordon's employment status that was not possible when his whereabouts were unknown. You will find that Dr. Gordon is a public employee and my experience with your firm indicates that you prefer to stipulate to the dismissal of a defendant once you become convinced that a valid defense exists.

The issues raised in the Motion to Dismiss are valid and we reserve the right to reassert those defenses in a dispositive motion after you have had the opportunity to complete your discovery. As to the issue of proper service, Dr. Gordon's response to the plaintiffs' Request for Production of Documents contains his curriculum vitae which shows that his residential address is 145 West 67th Street # 44C, New York, New York 10023.

Moreover, the documents produced all evidence the fact that Dr. Gordon was a public employee in 1989. The curriculum vitae references his residency at Boston City Hospital from 1988 to 1990. The Board of Registration in Medicine issued limited registration to Dr. Gordon during his residency. The City of

Boston provided medical malpractice insurance to Dr. Gordon and paid him a salary. All this information is in the documents produced.

I am attaching a letter I intend to send to the Middlesex Superior Court in order to withdraw the Motion to Dismiss. Please call if you have further comments or questions.

Sincerely,

Robert J. Boyle Jr.
Assistant Corporation Counsel
Tel. 635-4023

4074J
enclosure

BOSTON CITY HOSPITAL
MATTAPAN CHRONIC DISEASE HOSPITAL
LONG ISLAND CHRONIC DISEASE HOSPITAL



TO THE COMMISSIONER:

I HEREBY REQUEST RECOMMENDATION OF THE FOLLOWING STAFF APPOINTMENT, (INTERN, RESIDENT OR FELLOW) TO THE BOARD OF TRUSTEES.

DATE: 05-03-88 SERVICE: Obstetrics and Gynecology
FULL NAME OF CANDIDATE: Marcus Tulio Gordon MALE FEMALE
HOME ADDRESS: 5020 Lake Shore Drive, , #2312N Chicago, IL 60615 MARRIED SINGLE
MAILING ADDRESS: Same as above S.S. NO. 119-52-1654
MEDICAL SCHOOL GRADUATED: Albert Einstein MONTH June YEAR 1985

-IF NOT UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATE, HAS CERTIFICATION BY THE EDUCATIONAL COUNCIL FOR FOREIGN MEDICAL GRADUATES BEEN OBTAINED? YES NO

IF CERTIFICATION IS NOT ON FILE IN THE HOUSE OFFICERS REGISTRATION, PLEASE ATTACH COPY.

PROPOSED TITLE Junior Assistant Resident PAYROLL TITLE IF DIFFERENT _____
APPOINTMENT TO BEGIN July 1, 1988 APPOINTMENT TO END June 30, 1989
PROPOSED SALARY (B.C.H.) _____ SALARY BEING PAID BY Malden Hospital
TO REPLACE WHOM? Ozzie Geifman (Yearly) APPOINTMENT ENDED June 30, 1988

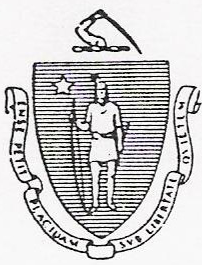
MASSACHUSETTS REGISTRATION YES LIMITED NO. _____ EXPIRES _____
NO FULL NO. _____ OBTAINED _____
U.S. CITIZEN: YES NO DATE OF BIRTH: 8/11/59
HAS THIS DOCTOR EVER BEEN EMPLOYED AT BOSTON CITY HOSPITAL? YES NO

PRESENT APPOINTMENT WITH DATES _____
TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT BOSTON CITY HOSPITAL None YEARS
TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT OTHER HOSPITALS One YEARS

[Signature] 6-2-88
DIRECTOR OF SERVICE (SIGNATURE) DATE

APPROVED BY THE COMMISSIONER BY DELEGATION OF AUTHORITY
BY THE BOARD OF HEALTH AND HOSPITALS

[Signature] JUN 21 1988
COMMISSIONER (Signature) DATE



Commonwealth of Massachusetts
Board of Registration in Medicine

Ten West Street
Boston, Massachusetts 02111

(617) 727-3086

ANDREW G. BODNAR, M.D., J.D.
CHAIRMAN

BARBARA NEUMAN
EXECUTIVE DIRECTOR

An Agency within the Executive Office of Consumer Affairs and Business Regulation

CERTIFICATE OF LIMITED REGISTRATION
(under G.L. c. 112, sec. 9)

LICENSE NUMBER: 90-5089-91

This is to certify that MARCUS GORDON ,MD
has been granted Limited Registration to serve as RESIDENT
with authority to practice medicine only in Boston City Hospital
and affiliates. Service at above hospital begins 07/01/90.
Expected date of completion of program will be 06/30/91. This license
automatically terminates at the end of each academic year, unless the
conditions for annual issuance are met pursuant to 243 CMR 2.02 (II).

THIS CERTIFICATE DOES NOT ENTITLE YOU TO PRACTICE IN
THE ABOVE HOSPITAL AFTER EXPIRATION.

DATE APPROVED BY BOARD: 06/27/90

Paul G. Gitlin, J.D.,
Secretary

Members of the Board:

Ralph A. Deterling, Jr., M.D.
Vice Chairman

Paul G. Gitlin, J.D.
Secretary

Marianne N. Prout, M.D.
Physician Member

Marian J. Ego, J.D., Ed.D.
Public Member

Donna M. Norris, M.D.
Physician Member

Ginesh Patel, M.D.
Physician Member

Massachusetts Board of Registration in Medicine Limited License Application, Page 2 of 2

B: To be completed and signed by the Designated Official of the Institution at which the Applicant has received an appointment.

ifies that Marcus Gordon has been appointed to the position of PGY 4 in

y) Obstetrics & Gynecology at Boston City Hospital

g July 1989 and ending June 1990

gram is accredited by the ACGME: Yes X No
have an ACGME approved training program in the applicant's specialty: Yes No Anticipated completion date of training

June 1990

ed Official's Signature: _____

Print Name and Title: Maxine E. Kessler
Adm. Director of Medical Affairs

Maxine E. Kessler (EM)

Date: 3/13/89

al, I hereby certify that the above-named physician is in good standing in the Residency/Fellowship indicated. Has the physician been subject to past or disciplinary action in this program? Yes No X

of Designated Official _____

Print Name and Title: Kenneth C. Edelin, Director Date: 3/13/89

N C: Sworn Statement to be Completed by Applicant (Complete Reverse Side Also)

or States where you are now licensed to practice

(ate): NY, IL

as where you previously were licensed to practice (This includes Residency Training Licenses) (Abbreviate): _____

ore than one year will have passed between the date of your graduation from medical school and the anticipated start date of your limited licensure in Massachusetts, please list your professional activities up to the present time, in chronological order. Please include employment experiences and training programs. Question 13 applies to me: Yes No X I have attached an explanation: Yes No

as you ever been enrolled in a residency training program(s) that you did not complete? Yes No X If yes, please attach an explanation detailing reasons for not completing the program(s). In addition, you must provide a letter from the Program Director at the training program that you did not complete, certifying the circumstances under which you left the program. This letter must be sent directly to the Board by the Program Director. I have checked an explanation: Yes No Program Director's Certification has been requested: Yes No

ns 15 through 24. Check either YES or NO (not N/A) to each question. Provide details on Form 15B, attached.

Yes No

any medical malpractice claim been made against you (whether or not a lawsuit was filed in relation to the claim)? ✓

as you been a defendant in any criminal proceeding other than a minor traffic offense? ✓

any formal disciplinary charges pending or has any disciplinary action (as defined by Board regulations; See Attached Form 15B) been taken against you by any governmental authority, hospital or other health care facility, or professional medical association (international, national, state or local)? ✓

your privilege to possess, dispense or prescribe controlled substances been suspended, revoked, denied, restricted, surrendered, or as you been called before or been warned by this state or any other jurisdiction including a federal agency? ✓

as you withdrawn an application for a medical license or been denied a medical license for any reason? Have you ever voluntarily surrendered a license to practice medicine or any healing art in lieu of disciplinary action (as defined by Board regulations; See Attached Form 15B)? ✓

as you had any mental illness which has impaired your ability to practice medicine or to function as a student of medicine? ✓

as you had any organic illness which has impaired your ability to practice medicine or to function as a student of medicine? ✓

as you now, or have you been in the past, dependent upon alcohol or drugs? ✓

as you ever been denied the privilege of taking or finishing an examination or been accused of cheating and/or improper conduct during an examination, or otherwise been subject to any disciplinary action (as defined by Board regulations; See Attached Form 15B) at an academic institution, since your graduation in college? ✓

as you ever had staff privileges, employment or appointment in a hospital or other health care institution denied, suspended or revoked, or have you been removed from a medical staff in lieu of disciplinary action (as defined by Board regulations; See Attached Form 15B)? ✓

Pl's Em Motion: Allowed

3/95

was pursuing information with respect to "borrowed servant" argument since the inception of the lawsuit.

Since the case was pending up until one month ago, defense counsel, in response to plaintiffs' Notices of Depositions, informed the plaintiffs that the obstetrical services attending physicians worked for a foundation that was formed between Boston University and Boston City Hospital, rather than for a private, professional corporation that was the old system/arrangement for obstetrical services, and that all information regarding that relationship should be directed to Boston University.

A great deal of wasted time and expense had been spent in performing discovery as to Boston University's relationship with the attending physicians who supervised Marcus Gordon, M.D. Only one month ago, defense counsel admitted that he was wrong, and that, in fact, he now believed that a private corporation known as GYN Associates of Boston had the contract for providing obstetrical services. Defense counsel further informed plaintiffs that he believed the organizations attending physicians would have been responsible for overseeing defendant, Dr. Gordon's care and treatment and that the supervising, attending physician he now believed was Dr. Abogye. Unsuccessful efforts were made to serve Dr. Abogye. This week, defense counsel informed the plaintiffs that Dr. Abogye was working at Boston City Hospital. (Exhibit No. 2).

5. Briefly, the background of the discovery of this issue relative to the borrowed servant theory began with the deposition of Dr. M. Adel Hamid, who was listed as the attending physician on the patient's chart and named as a party on the basis of his apparent role as attending to this delivery. Dr. Hamid was deposed and testified that he was not, in fact, the attending physician for this admission, but rather the head of the Obstetrics Department and had no involvement in the care and treatment of Ms. Padre or the supervision of Dr. Gordon and that he merely signed the medical chart on discharge from the hospital.

Marcus Gordon (con't)

4/91- present

Medical Director
Health Services for Women
Outpatient Surgical Services
38 East 30th Street
New York, NY 10016

MEMBERSHIPS AND HONORS

Pi Chi Honor Society	1981
Student Nat'l Medical Assoc. (Chapter President)	1983
American Red Cross Award for Outstanding Community Service	1981
NIH Fellowship for Undergraduate Research	1981
MD- With special distinction for Research in Orthopedic Surgery	
1985	
Premedical Research and Educational Program (Preceptor)	1985

RESEARCH

Metal Ion Activation of HGPTase	
Donald Sloan, Ph.D., City College of New York	1981

Porous Polysulfone Coated Femoral Prosthesis
Fixation By Bone Ingrowth
Richard Riggins, M.D., Myron Spector, Ph. D.
Department of Orthopedic Surgery
Emory University School of Medicine

SPECIAL INTERESTS

Photography - Tennis

CURRICULUM VITAE

NAME: Marcus T. Gordon, M.D.
ADDRESS: 145 West 67th Street #44C
New York, NY 10023
HOME TELEPHONE: (212) 496-1657
DATE OF BIRTH: August 11, 1959
New York, NY
SOC.SEC. NO: 119-52-1654

EDUCATION:

9/77-1/78 Psychology Major-Cheyney State College
Cheyney, PA
1/78-6/81 Psychology / Biochemistry-City College of New York
New York, NY - Degree BS
9/81-6/85 Albert Einstein College of Medicine
Bronx, NY - Degree M.D.

POST GRADUATE

7/85-7/86 Surgical Intern-Montefiore Hospital & Medical Center
Bronx, NY
10/86-6/87 Orthopedic House Physician - Woodhull Hospital
Brooklyn, NY
1/87-7/88 Ob/Gyn Resident - Mount Sinai Hospital
Chicago, IL
7/88-10/90 Ob/Gyn Resident - Boston City Hospital/Boston
University School of Medicine, Boston, MA 02118
4/91-present Ob/Gyn Attending-Manhattan Medical Group
425 East 61th St. New York, NY 10010
Junior Assistant Attending, St. Luke's -Roosevelt
Hospital ; New York, NY

EMPLOYEE NAME AND ADDRESS
GORDON, MARCUS
1195 2165 A 929 MASS AVE
CAMBRIDGE, MASS

EMPLOYMENT INFORMATION
EMPLOYMENT DATE: 07/02/89
TERMINATION DATE: 08/15/89
LEAVES OF ABSENCE: 00990

RECURRING ACCRUAL PLANS
CURRENT HRS ACC: 0
RECEIVED ACCRUED: 0
EARNED TAXES: 0

EMPLOYEE NUMBER: 1195216542
SOCIAL SECURITY NO: 1195 2165 A 929
CHECK ADDRESS: 1195 2165 A 929 MASS AVE
CAMBRIDGE, MASS

POSITION NUMBER: 707PGV-4/4TH YR RESIDENT
STATES WORKED IN AND PAY METHOD CODES: 903307070100043

REGISTRATION INFORMATION
REGISTRATION NO: 903307070100043
REGISTRATION DATE: 07/02/89

DATE	DESCRIPTION	AMOUNT	CURRENT	MO. TO DATE	QTR. TO DATE	YEAR TO DATE	LIMIT	TAXES	STOP DATE	COAT
07/02/89	CALL PAY HOA	1.2500	570	2280	6840	52500		111111		
08/15/89	HOA	5.70				6840		111111		

ITEM	REG QTR	CURRENT	MONTH TO DATE	QUARTER TO DATE	YEAR TO DATE
REG QTR	01	570.00	2282.00	65037.00	65037.00
O/T O/R					
O/R O/R					
TOT O/R		570.00	2282.00	65037.00	65037.00
FED TAX		107.44	4297.60	121289.00	702870.00
FICA		828.00	3309.00	9431.00	10192.00
STATE TAX		3059.00	12233.60	33507.00	35939.00
TOTAL TAX		4174.44	16739.20	47930.00	51971.00
NET PAY		152.56	608.80	17107.00	13066.00
TOT CHD		570.00	2282.00	6840.00	6840.00
TOT PAY		1140.00	4570.80	13347.00	13347.00
TOT WADS		570.00	2282.00	6840.00	6840.00
TOT OTH		0.00	0.00	0.00	0.00

REG QTR	CURRENT	MONTH TO DATE	QUARTER TO DATE	YEAR TO DATE
REG QTR	01	570.00	2282.00	65037.00
O/T O/R				
O/R O/R				
TOT O/R		570.00	2282.00	65037.00
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TOT WADS		570.00	2282.00	6840.00
TOT OTH		0.00	0.00	0.00

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS. SUPERIOR COURT

- - - - - x

PAULINE DARILUS, PPA PAUL
PADRE, PAULA PADRE AND ST.
ARMAND DARILUS,

Plaintiffs

Civil Action

VS

No. 92-6275

M. ADEL HAMID, M.D., OZMAT
GEIFMAN-HOLTZMAN, M.D., MARCUS
T. GORDON, M.D., AND CITY OF
BOSTON,

Defendants

- - - - - x

DEPOSITION of MARCUS T. GORDON, M.D., a
witness called on behalf of the Plaintiffs, taken
pursuant to the Massachusetts Rules of Civil
Procedure, before Ani T. O'Malley, a Professional
Court Reporter and Notary Public, in and for the
Commonwealth of Massachusetts, at the offices of
Lubin & Meyer, P.C., 141 Tremont Street, Boston,
Massachusetts, 02111, on Monday, August 8, 1994,
commencing at 10:50 a.m.

(b) set forth all facts and circumstances surrounding your alleged employment with that public employer which you claim support your defense that you were a public employee when you treated the plaintiffs.

Answer No. 11

(a) The City of Boston.

(b) (1) On or about June 27, 1989 I was required to complete several forms in order to be placed on the City of Boston's payroll as an employee, including: an Internal Revenue Service Form W-4 ("Employee's Withholding Allowance Certificate"), a United States "Employment Eligibility Verification" form and a City of Boston Department of Health and Hospitals form regarding participation in the public employee retirement fund;

(2) On March 9, 1990 a needle punctured my right index finger and I filed a claim for injury with the City of Boston Worker's Compensation Service;

(3) From July 1, 1988 to June 30, 1989 the Malden Hospital paid my salary. However, during the remainder of my residency, from July 1, 1989 until October, 1990, Boston City Hospital paid my salary;

(4) I received certificates of limited registration in medicine from the Massachusetts Board of Registration in Medicine during my residency.

(5) See the attached Affidavit of Maxine E. Kessler, with Exhibits.

(6) My residency appointments were as follows:

- 6/21/88: Junior Assistant Resident,
OBS & GYN Service, from 7/1/88 to 6/30/89
(at Malden Hospital)
- 11/29/88: Senior Assistant Resident,
OBS & GYN Service from 11/28/88 to 6/30/89
(at Malden Hospital)
- 6/13/89: Resident (PG9-4), OBS & GYN Service, from
7/1/89 to 6/30/90 (at Boston City Hospital)
- 6/22/90: Resident (PG9-4), OBS & GYN Service, from
7/1/90 to 6/30/91 (at Boston City Hospital)

In responding to Interrogatory No. 11 I have relied upon the advice of counsel and copies of my employment records certified by Boston City Hospital. Copies of said employment records are attached.

Interrogatory No. 12

If you were during the period of the alleged negligence employed by any professional corporation or entity, please identify the full name and address of such entities, the period of the employment, and any office or position you held and the insurance coverage through such corporation and entity available for the alleged incident.

Answer No. 12

Please see the answer to Interrogatory No. 11 at subsection (5).

1 residency, right.

2 Q That was a full license to practice?

3 A Yes.

4 Q For how long did you hold that license?

5 MR. BOYLE: Did you understand the
6 question. Do you know full versus limited
7 license as a resident?

8 THE WITNESS: Yes.

9 MR. BOYLE: Okay. I just wanted to
10 make sure you understood the question.
11 Sorry.

12 THE WITNESS: How long. Well, it's
13 three years.

14 Q Did you let your New York license lapse?

15 A While I was in Boston, yes. I didn't renew
16 it.

17 Q When did you renew your New York license?

18 A When I moved back to New York which was '90.
19 '90, I guess.

20 Q You also held a license to practice medicine
21 in Massachusetts, is that correct?

22 A Yes.

23 Q You held that license during your residency?

24 A Correct.

1 Q Was that a limited type of license?

2 A Yes.

3 Q Do you have an understanding as to how that
4 license was limited?

5 A I was covered as a resident.

6 Q Was it your understanding that you could only
7 practice in the hospitals where you were
8 assigned?

9 A Yes.

10 Q Was that license, to your knowledge, ever
11 reviewed, suspended or revoked?

12 A No.

13 Q Have you ever held a license to practice
14 medicine in any other state?

15 A No.

16 Q Have you ever practiced as an attending OB-
17 GYN in Massachusetts?

18 A No.

19 Q Have you ever held a full license to practice
20 medicine in this state?

21 A No.

22 Q Are you board certified in any specialty?

23 A Board eligible.

24 Q What does that mean?

1 Q Were you ever a chief resident at the OB-GYN
2 Residency Program at Boston City Hospital?

3 A Yes.

4 Q When did you become a chief resident?

5 A My last year. July, '89, it would be.

6 Q It looks like your residency program at
7 Boston City Hospital was completed in October
8 of 1990?

9 A Yes.

10 Q Don't residencies usually finish up in July?

11 A I did actually less than the four years.

12 Q Why did you do less than four years?

13 A Because there was a resident in the year
14 above me who was sick or had to leave and
15 since I had done a year of general surgery,
16 they sort of skipped me. I just went from
17 second year to third year in the middle of
18 the year.

19 Q Was it unusual, to your knowledge, to have
20 residents stay on into the fall as opposed to
21 releasing them in July?

22 A Was that unusual?

23 Q Yes.

24 A It's unusual to go from a second year to the

1 Q Do you expect to offer an opinion at trial as
2 to the cause of the child's problems?

3 A No.

4 Q Do you claim that in September of 1989 you
5 were an employee of the City of Boston?

6 A Yes.

7 Q Tell me all the reasons why you believe that
8 you were an employee of the City of Boston at
9 that time?

10 MR. McTAGUE: Objection.

11 MR. BOYLE: Objection.

12 MS. ABELY: You can answer.

13 A Let's see. I guess they sent a contract to
14 me that I signed every year. They sent a
15 paycheck to me that I cashed every week. And
16 I guess that's it. Or every two weeks.
17 Whatever it was.

18 Q Do you remember if you got a W-2 Form?

19 MR. BOYLE: For what year?

20 MS. ABELY: During 1989.

21 THE WITNESS: I don't remember
22 specifically. I imagine I did.

23 Q Do you know what a 1099 is?

24 A Yes.

1 interviews to become a resident?

2 A No idea.

3 Q You don't remember?

4 A I don't remember.

5 Q Who offered you the job as a resident?

6 A I received a letter from the chairman or a
7 phone call. It was a phone call.

8 Q Who was the chairman?

9 A Kenneth Edelin.

10 Q And he hired you for the position of second
11 year resident?

12 A Yes.

13 Q Do you remember what your salary was?

14 A Not much.

15 Q Do you know what the source of your salary
16 was?

17 A The source of it?

18 Q Who paid you?

19 A The City of Boston.

20 Q Do you remember actually seeing checks with
21 the City of Boston on them?

22 A Yes.

23 Q Do you know how your salary was funded?

24 A In taxes, I imagine.

1 Q How did you get your check?

2 A I would pick it up. There was an office at
3 Boston City Hospital.

4 Q I think you said before you got it bi-weekly
5 or bi-monthly?

6 A I'm not certain. I don't recall. I think
7 that's correct.

8 Q Taxes were withheld from your salary, weren't
9 they?

10 A Yes.

11 Q As a resident you practiced in September of
12 1989 under a limited license?

13 A Yes.

14 Q Under whose supervision did you practice?

15 A The attending staff at Boston City.

16 Q To your knowledge, were those private
17 physicians or were they employees of the City
18 of Boston?

19 A I don't know what their status was in terms
20 of employment or who employed them.

21 Q Do you remember in 1989 who your attendings
22 were?

23 A Who my attendings were?

24 Q Yes.

1 A That would include any attending who was
2 faculty at Boston University Medical Center
3 in OB-GYN.

4 Q As a resident did you receive sick time?

5 A Sick time?

6 Q Yes.

7 A I don't think so, no.

8 Q You didn't talk about that in your contract
9 negotiations?

10 A I was never sick.

11 Q Do you know whether you were afforded sick
12 time by the City?

13 A I believe there was some provisions for sick
14 time.

15 Q Do you know how much you were supposed to
16 get?

17 A No.

18 Q Did you get vacation?

19 A Yes.

20 Q How much vacation did you get?

21 A Three or four weeks. I think four weeks.

22 Q Were you paid during your vacation?

23 A Yes.

24 Q Did you receive health insurance?

1 A Yes.

2 Q Did you have to pay any money towards your
3 health insurance?

4 A A sum is deducted from the check. I believe
5 so.

6 Q Who covered the remainder of your health
7 insurance? Who provided it to you?

8 A The City of Boston.

9 Q Did you receive malpractice insurance?

10 A Yes.

11 Q Do you know who paid for that?

12 A The City of Boston.

13 Q Do you know who paid the premiums for the
14 malpractice insurance?

15 A The City of Boston.

16 Q You didn't have to pay any premiums?

17 A No.

18 Q Were you a member of any unions while you
19 were a resident?

20 A Yes.

21 Q What union or unions was that?

22 A Just a resident union. I don't recall the
23 name of the residency.

24 Q Any other union?

1 A No.

2 Q Did you enter into any contract with the
3 union?

4 A No.

5 Q Did you ever have a position within the
6 union?

7 A No.

8 Q Who reviewed your job performance?

9 A The chairman, faculty. The rest of the
10 faculty.

11 Q Would you receive a job review once a year or
12 how was your job performance reviewed?

13 A Verbal, I guess. I guess it was pretty good.
14 They decided to skip me a year.

15 Q So, you got verbal evaluations?

16 A Yes.

17 Q No report cards?

18 A There were reports also. They were in your
19 record. I think after you did each rotation,
20 there was a report that was put in your
21 record that you could view if you wanted to.

22 Q The verbal evaluations, can you remember -- I
23 think you said the chairman would give you
24 verbal evaluations?

1 A He was the chairman.

2 MS. ABELY: Let's mark that.

3
4 (Exhibit Number 8, Residency
5 Contract, between Marcus T.
6 Gordon and Kenneth Edelin, was
7 Marked for Identification.)
8

9 Q Do you remember ever seeing this? You can
10 flip through it if you want.

11 A Yes.

12 Q What is it?

13 A House Officers Association Agreement with the
14 City of Boston.

15 Q You were a member of the House Officer's
16 Union?

17 A Yes.

18 MS. ABELY: Let's mark this. It's
19 dated July 1, 1989. Expires June 30, 1992.

20 (Exhibit Number 9, House
21 Officer's Association
22 Agreement, dated 7/1/89 to
23 6/30/92, was Marked for
24 Identification.)

1 Hospital?

2 A No.

3 MS. ABELY: I'd like to mark the W-
4 4 Form, which is the 1989 Employees
5 Withholding Allowance Certificate.

6 MR. BOYLE: That has got his
7 signature on it, right?

8 MS. ABELY: Yes.

9
10 (Exhibit Number 5, W-4 Form,
11 dated 1989, was Marked for
12 Identification.)

13
14 Q I'll just have you identify it. Is that your
15 signature?

16 A Yes.

17 MS. ABELY: And it's a two page
18 form. It looks like this must be the back.
19 I'd like to mark the Request for
20 Recommendation for Staff Appointment, which
21 doesn't have the Doctor's signature on it.

1 (Exhibit Number 6, Request for
2 Recommendation for Staff
3 Appointment, was Marked for
4 Identification.)

5
6 MS. ABELY: I'd like to mark the
7 Certificate of Limited Registration, which
8 states that it begins July 1, 1989.

9
10 (Exhibit Number 7, Certificate
11 of Limited Registration, dated
12 7/1/89, was Marked for
13 Identification.)

14
15 Q I'm just going to ask you if you recognize
16 this?

17 A Yes, that's my signature.

18 Q Do you know what that is?

19 A It looks like a resident contract.

20 Q Do you remember signing that?

21 A I remember signing a resident contract.

22 Q Who was the other party to this contract?

23 A Kenneth Edelin.

24 Q To your knowledge, who was he?

LUBIN & MEYER, P.C.

ATTORNEYS AT LAW

ANDREW C. MEYER, JR.
PHILIP J. CROWE, JR.
KATHLEEN A. SULLIVAN
ANN MARIE MAGUIRE
ELIZABETH N. MULVEY*
BARBARA M. WELCH**
MARIANNE ABELY
WENDY BETH KAHN***
ELIZABETH A. GARIEPY
CELINE M. BOYLE
ROBERT M. HIGGINS

DONALD M. LUBIN (1945-1990)

141 TREMONT STREET
BOSTON, MASSACHUSETTS 02111
Telephone (617) 426-6006
Facsimile (617) 426-8779

* Also admitted in Connecticut,
New Hampshire, Rhode Island
and Maine

** Also admitted in Rhode Island

*** Also admitted in New York
and Washington, D.C.

January 9, 1995

Civil Clerk's Office
Middlesex Superior Court
40 Thorndike Street
East Cambridge, Massachusetts 02141
Attn: Fran

RE: DARILUS
VS: GORDON, ET AL
NO: 92-6275

Dear Fran:

With reference to the above-captioned action, this letter shall serve to confirm that the Judgment of Dismissal entered as to Marcus Gordon, M.D and the City of Boston was erroneously entered and that the entry of judgment as to Marcus Gordon, M.D. and the City of Boston has been vacated.

Very truly yours,


WENDY B. KAHN

WBK/sb

cc: Robert Boyle, Esquire

II. STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF SUMMARY JUDGMENT

(NOTE: Citations are to the documents contained in the Appendix that accompanies this Memorandum).

A. Marcus T. Gordon, M.D.

1. On September 29, 1989, Dr. Gordon was enrolled in the residency program of Boston City Hospital in its obstetrics and gynecology department and was working at Boston City Hospital in his capacity as Senior Resident;
 - Gordon Deposition, Page 19, Line 5 (Attachment A);
 - Gordon's House Officer's File (Attachment C);
 - Gordon Answers to Interrogatories, Answer No. 11, Pages 7 through 8 (Attachment D);
 - Affidavit of Maxine Kessler dated May 3, 1993, Page 3, Paragraph 10, (this Affidavit is attached to Gordon Answers to Interrogatories: Attachment D);
 - Record of Residency Appointments (Attachment F).

2. Dr. Gordon was a member of the House Officer's Association, a collective bargaining unit organized for the purposes of collective bargaining pursuant to the procedures and authority contained in M.G.L. c. 150E (Labor Relations: Public Employees).
 - Affidavit of Maxine Kessler, Page 3, Paragraph 11 (in Attachment D).

3. Dr. Gordon rendered patient care pursuant to the terms of the collective bargaining agreement between the City of Boston and the House Officer's Association.
 - Affidavit of Maxine Kessler, supra.

4. During his residency, Dr. Gordon filed a worker's compensation claim with the City of Boston Worker's Compensation Service when a needle punctured his right index finger.
 - Gordon Answers to Interrogatories, Answer No. 11, Page 7, and 8 (Attachment D)
 - Affidavit of Winnie Lee (Attachment B)

5. The City of Boston's Worker's Compensation Service compensates house officers injured at Boston City Hospital.
 - Affidavit of Winnie Lee (Attachment B)

6. At all relevant times, the City of Boston paid Dr. Gordon's salary.

- Affidavit of Maxine Kessler, Page 4, Paragraph 12 and see actual payroll records attached to the affidavit as "Exhibit D" (in Attachment D)
- Gordon Deposition, Page 149, Lines 18 to 24 (Attachment A)

7. On or about June 27, 1989, Dr. Gordon completed several forms in order to be placed on the City of Boston's payroll as an employee, including: an Internal Revenue Service Form W-4 ("Employees Withholding Allowance Certificate"), a United States "Employment Eligibility Verification" form and a City of Boston Department of Health and Hospitals form regarding participation in the public employee retirement fund.

- Gordon's House Officer's File (Attachment C)
- Gordon Deposition, Page 156, Lines 3 to 16 (Attachment A)

B. The House Officer's Association

8. At all relevant times, appointment to the Boston City Hospital house staff was made by the Commissioner of Health and Hospitals.

- St. 1965, c. 656 § 2
- Affidavit of Maxine Kessler, Page 1, Paragraph 1 (in Attachment D)

9. At all relevant times, the collective bargaining agreement provided that grievances were to be resolved by the City's Department of Health and Hospitals and / or its office of Labor Relations. The City reserved all management rights, including the right to issue reasonable rules and regulations governing the conduct of the Department.

- "Agreement Between City of Boston and House Officer's Association", Articles IV and VIII (hereinafter "House Officer's Agreement". This "Agreement" is attached to Maxine Kessler's Affidavit as "Exhibit C". See Attachment D of the Appendix)

10. The House Officer's Agreement regulated and limited the house officer's work hours. (Article XIV)

11. The City retained the right to discipline and discharge house officers "for just cause". (House Officer's Agreement, Article XI)

12. Professional or clinical misconduct of house officers was reviewed by a "Departmental Review Board" convened by the City's Department of Health and Hospitals. (House Officer's Agreement, Article XI, Section 3, Pages 18 and 19)

13. The House Officers were provided with medical malpractice self-insurance, sick leave and parental leave under the terms of the Agreement. (Articles VII, XII and XIII)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. 92-6275

PAULINE DARILUS, PPA PAULA)
PADRE, PAULA PADRE AND)
ST. ARMAND DARILUS,)
) Plaintiffs,)
))
) v.)
))
MARCUS T. GORDON, M.D.,)
ET AL,)
) Defendants)

AFFIDAVIT OF MAXINE E. KESSLER

10. During the period from July 1, 1989 to June 30, 1990, including September 1989, Marcus T. Gordon was a house officer and provided clinical services to patients at Boston City Hospital within the structure and guidelines of its house officers program. [See Exhibit "B" which is a true and accurate copy of Marcus T. Gordon's appointment as a house officer at Boston City Hospital for that period.]

11. House officers are organized for the purposes of collective bargaining pursuant to the procedures and authority contained in M.G.L. c. 150E (Labor Relations: Public Employee) and as the "House Officers Association" bargain with the City in regard to compensation, benefits, discipline, grievances, vacation time, sick leave, hours, and other conditions of employment. The City provides house officers continuous health coverage, sick leave and vacation benefits comparable to benefits received by all Department employees. [See Exhibit "C" which is a true and accurate copy of the contract between the City and the House Officers Association in effect from July 1, 1989 to June 30, 1992] During the period from July 1, 1989 to June 30, 1990, Marcus T.

Gordon was a member of the House Officers Association and entitled to all the rights and obligations accorded therein.

12. House officers are compensated by the City for the performance of clinical services and are not permitted to independently bill the patients they serve. House officers are on the hospital payroll and receive weekly salaries from the City. During the period from July 1, 1989 to June 30, 1990, Marcus T. Gordon was directly paid by the City to participate in the rendering of clinical services to patients. [See Exhibit "D" which is a true and accurate copy of the monthly payroll records of Boston City Hospital for the period covering September 1989.]

I hereby certify that the above stated facts are true, accurate and of my own personal knowledge or belief.

Signed under the pains and penalties of perjury this 3rd day of May, 1993.



Maxine E. Kessler
Administrative Director of Medical
Affairs

→ WARNING: ALTERATION, ADDITION OR MUTILATION OF ENTRIES IS PROHIBITED.
ANY UNOFFICIAL CHANGE WILL RENDER THIS PASSPORT INVALID.

NAME—NOM MARCUS TULLIO GORDON	
SEX—SEXE M	BIRTHPLACE—LIEU DE NAISSANCE NEW YORK, U.S.A.
BIRTH DATE—DATE DE NAISSANCE AUG. 11, 1959	ISSUE DATE—DATE DE DELIVRANCE JULY 9, 1986
NATIONALITY—NATIONALITÉ UNITED STATES OF AMERICA	EXPIRES ON—EXPIRE LE JULY 8, 1996

Marcus Gordon
SIGNATURE OF BEARER—SIGNATURE DU TITULAIRE
NOT VALID UNTIL SIGNED



List A

Identity and Employment Eligibility

- United States Passport
- Certificate of United States Citizenship
- Certificate of Naturalization
- Unexpired foreign passport with attached Employment Authorization
- Alien Registration Card with photograph

Document Identification
6627264

Expiration Date (if any)

List B

Identity

- A State issued driver's license or I.D. card with a photograph, or information, including name, sex, date of birth, height, weight, and color of eyes.
(Specify State) _____
- U.S. Military Card
- Other (Specify document and issuing authority)

Document Identification

Expiration Date (if any)

List C

Employment Eligibility

- Original Social Security Number Card (other than a card stating it is not valid for employment)
- A birth certificate issued by State, county, or municipal authority bearing a seal or other certification
- Unexpired INS Employment Authorization
Specify form # _____

Document Identification

Expiration Date (if any)

CERTIFICATION: I attest, under penalty of perjury, that I have examined the documents presented by the above individual, that the individual named, and that the individual is the same as the individual named in the documents presented.

BOSTON CITY HOSPITAL
MATTAPAN CHRONIC DISEASE HOSPITAL
LONG ISLAND CHRONIC DISEASE HOSPITAL



TO THE COMMISSIONER:

I HEREBY REQUEST RECOMMENDATION OF THE FOLLOWING STAFF APPOINTMENT, (INTERN, RESIDENT OR FELLOW) TO THE BOARD OF TRUSTEES.

DATE: 3/22/90 SERVICE: Obstetrics & Gynecology

FULL NAME OF CANDIDATE: Marcus T. Gordon MALE FEMALE

HOME ADDRESS: 929 Mass Ave #PHA, Cambridge, MA 02139 MARRIED SINGLE

MAILING ADDRESS: Same S.S. NO. 119-52-1654

MEDICAL SCHOOL GRADUATED: Albert Einstein College of Medicine MONTH 6 YEAR 1985

IF NOT UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATE, HAS CERTIFICATION BY THE EDUCATIONAL COUNCIL FOR FOREIGN MEDICAL GRADUATES BEEN OBTAINED? YES NO

IF CERTIFICATION IS NOT ON FILE IN THE HOUSE OFFICERS REGISTRATION, PLEASE ATTACH COPY.

PROPOSED TITLE Resident PAYROLL TITLE IF DIFFERENT PGY 4

APPOINTMENT TO BEGIN July 1, 1990 APPOINTMENT TO END June 30, 1991

PROPOSED SALARY (B.C.H.) 31,134.99 SALARY BEING PAID BY BCH

(Yearly)
TO REPLACE WHOM? Marcus Gordon APPOINTMENT ENDED 6/30/90

MASSACHUSETTS REGISTRATION YES LIMITED NO. 95479 EXPIRES 6/30/90

NO FULL NO. _____ OBTAINED _____

U.S. CITIZEN: YES NO DATE OF BIRTH: 8/11/59

HAS THIS DOCTOR EVER BEEN EMPLOYED AT BOSTON CITY HOSPITAL? YES NO

PRESENT APPOINTMENT WITH DATES 7-01-89 to 6/30/90 - Resident

TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT BOSTON CITY HOSPITAL One YEARS

TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT OTHER HOSPITALS Two YEARS

DIRECTOR OF SERVICE (SIGNATURE)

DATE

APPROVED BY THE COMMISSIONER BY DELEGATION OF AUTHORITY
BY THE BOARD OF HEALTH AND HOSPITALS

COMMISSIONER (Signature)

JUN 22 1990

DATE

BOSTON CITY HOSPITAL
MATTAPAN CHRONIC DISEASE HOSPITAL
LONG ISLAND CHRONIC DISEASE HOSPITAL

Physician Status



*AL
Lynn*

TO THE COMMISSIONER:

I HEREBY REQUEST RECOMMENDATION OF THE FOLLOWING STAFF APPOINTMENT, (INTERN, RESIDENT OR FELLOW) TO THE BOARD OF TRUSTEES.

DATE: 11/21/88 SERVICE: Obstetrics and Gynecology
FULL NAME OF CANDIDATE: Marcus Tulio Gordon MALE FEMALE
HOME ADDRESS: 929 Mass Avenue #PHA, Cambridge, MA MARRIED SINGLE
MAILING ADDRESS: Same as above S.S. NO. 119-52-1654
MEDICAL SCHOOL GRADUATED: Albert Einstein MONTH June YEAR 1985

IF NOT UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATE, HAS CERTIFICATION BY THE EDUCATIONAL COUNCIL FOR FOREIGN MEDICAL GRADUATES BEEN OBTAINED? YES NO

IF CERTIFICATION IS NOT ON FILE IN THE HOUSE OFFICERS REGISTRATION, PLEASE ATTACH COPY.

PROPOSED TITLE Senior Assistant Resident PAYROLL TITLE IF DIFFERENT _____
APPOINTMENT TO BEGIN 11/28/88 APPOINTMENT TO END June 30, 1989
PROPOSED SALARY (B.C.H.) \$28,362.00 SALARY BEING PAID BY Malden Hospital
TO REPLACE WHOM? Andrew Rucks (Yearly) APPOINTMENT ENDED 10/31/88

MASSACHUSETTS REGISTRATION YES LIMITED NO. 95479 EXPIRES 6/30/89
NO FULL NO. _____ OBTAINED _____
U.S. CITIZEN: YES NO DATE OF BIRTH: 8/11/59
HAS THIS DOCTOR EVER BEEN EMPLOYED AT BOSTON CITY HOSPITAL? YES NO

PRESENT APPOINTMENT WITH DATES _____
TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT BOSTON CITY HOSPITAL None YEARS
TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT OTHER HOSPITALS One YEARS

[Signature] 11-22-88
DIRECTOR OF SERVICE (SIGNATURE) DATE

APPROVED BY THE COMMISSIONER BY DELEGATION OF AUTHORITY
BY THE BOARD OF HEALTH AND HOSPITALS

[Signature] 11/29/88
COMMISSIONER (Signature) DATE

BOSTON CITY HOSPITAL
MATTAPAN CHRONIC DISEASE HOSPITAL
LONG ISLAND CHRONIC DISEASE HOSPITAL



TO THE COMMISSIONER:

I HEREBY REQUEST RECOMMENDATION OF THE FOLLOWING STAFF APPOINTMENT, (INTERN, RESIDENT OR FELLOW) TO THE BOARD OF TRUSTEES.

DATE: 3/31/89 SERVICE: Obstetrics & Gynecology
FULL NAME OF CANDIDATE: Marcus T. Gordon MALE FEMALE
HOME ADDRESS: 929 Mass Ave #PHA, Cambridge, MA 02139 MARRIED SINGLE
MAILING ADDRESS: Same S.S. NO. 119-52-1654
MEDICAL SCHOOL GRADUATED: Albert Einstein College of Medicine MONTH 6 YEAR 1985

IF NOT UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATE, HAS CERTIFICATION BY THE EDUCATIONAL COUNCIL FOR FOREIGN MEDICAL GRADUATES BEEN OBTAINED? YES NO

IF CERTIFICATION IS NOT ON FILE IN THE HOUSE OFFICERS REGISTRATION, PLEASE ATTACH COPY.

PROPOSED TITLE Senior Resident PAYROLL TITLE IF DIFFERENT PGY 4
APPOINTMENT TO BEGIN July 1, 1989 APPOINTMENT TO END June 30, 1990
PROPOSED SALARY (B.C.H.) \$29,730 SALARY BEING PAID BY Boston City Hospital
(Yearly)
TO REPLACE WHOM? Warren Briscoe APPOINTMENT ENDED June 30, 1989

MASSACHUSETTS REGISTRATION YES LIMITED NO. 89-1020-90 EXPIRES 6/30/89 6/30/90
NO FULL NO. _____ OBTAINED _____

U.S. CITIZEN: YES NO DATE OF BIRTH: 8/11/59

HAS THIS DOCTOR EVER BEEN EMPLOYED AT BOSTON CITY HOSPITAL? YES NO

PRESENT APPOINTMENT WITH DATES 7/1/88 to 6/30/89

TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT BOSTON CITY HOSPITAL one YEARS

TOTAL ACCUMULATED YEARS OF PRIOR RESIDENCIES AT OTHER HOSPITALS two YEARS

[Signature]
DIRECTOR OF SERVICE (SIGNATURE)

5/18/89
DATE

APPROVED BY THE COMMISSIONER BY DELEGATION OF AUTHORITY
BY THE BOARD OF HEALTH AND HOSPITALS

[Signature]

JUN 13 1989

COMMISSIONER (Signature) [Signature]

DATE

RECEIVED

COMMONWEALTH OF MASSACHUSETTS

97 JUN 23 AM 9:35

MIDDLESEX, SS.

SUPERIOR COURT
CIVIL ACTION
NO. 92-6275

MIDDLESEX SUPERIOR COURT
EDWARD J. SULLIVAN
CLERK MAGISTRATE

PAULINE DARILUS, PPA PAULA)
PADRE, PAULA PADRE AND)
ST. ARMAND DARILUS,)
Plaintiffs,)
V.)
CITY OF BOSTON)
Defendant.)

F
81

Agreement for Judgment and Request for Execution

Now come the parties to the above entitled action and hereby respectfully request that Judgment be entered on behalf of the Plaintiffs against the Defendant in the amount of \$100,000.00, without interest or costs, all rights of appeal are hereby waived; and, Execution to be issued forthwith in the amount of: \$100,000.00.

19 97 Vol 2 Filed in Court
Assistant Clerk

The Plaintiffs,
By Their Attorney,

Philip J. Crowe Jr
PHILIP J. CROWE, JR.
Lubin & Meyer, P.C.
141 Tremont Street
Boston, MA 02111
BBO# 106860

The Defendant,
By Their Attorney,

Robert Boyle
ROBERT BOYLE
City of Boston Law Department
Room 615
Boston City Hall
Boston, MA 02201

dystocia because of the clearly indicated suspicion of macrosomia; failure to alert the potential delivering physicians to employ the McRobert's position and suprapubic pressure prophylactically, if cesarean section was not elected; and failure to provide informed consent.

The plaintiffs further allege that the care and treatment rendered to the minor plaintiff Pauline Darilus by the defendants, Dr. M. Adel Hamid and Dr. Marcus T. Gordon, fell far below the acceptable standards of medical care labor and delivery of the minor plaintiff, Pauline Darilus, in the defendants' failure to appropriately recognize, diagnose and treat signs and symptoms of shoulder dystocia; failure to deliver a macrosomic infant in accordance with the standard of care; failure to recognize the significant risk for shoulder dystocia in a mother whose weight exceeded 250 pounds at delivery; failure to offer the plaintiff, Paula Padre, the opportunity to deliver by cesarean section; failure to appreciate the significant risk of shoulder dystocia because of the clearly indicated suspicion of macrosomia; failure to offer an ultrasound and cesarean section or barring that, failure to employ the McRobert's position and suprapubic pressure

60

Pauline Darilus, PPA Paula Padre,)
Paula Padrea and St. Armand Darilus,)
Plaintiffs)
)
V.)
)
The City of Boston, Et. Al.,)
Defendants)

**JOINT MOTION OF THE DEFENDANTS FOR AN ORDER FOR THE
RELEASE OF SPECIAL EDUCATION RECORDS**

Now come the defendants, the City of Boston and Marcus T. Gordon, M.D., and request that the Court issue an order that the special education records of the minor plaintiff, Pauline Darilus, in the custody of the Somerville Public Schools Department of Special Education, be released for the purposes of this proceeding only. A proposed order accompanies this motion.

In support of this motion the defendants state that this is a medical malpractice case arising from the birth and delivery of Pauline Darilus at Boston City Hospital on September 29, 1989. The minor plaintiff incurred a shoulder separation at birth requiring surgical procedures to correct it. Among the allegations in the lawsuit is that the plaintiff retains a disability.

It is anticipated that the extent of remaining disability will be a disputed issue at the trial of this matter. The defendants have obtained some of the records of medical treatment related to the minor plaintiff. The special education records sought are of a similar nature.

The plaintiff will offer expert testimony from physicians and other experts relative to the plaintiff's injury. In response to interrogatories, the plaintiff has indicated the

*January 17
Filed in court and allowed
Withdrawn by court
may be removed
court clerk*

STATEMENT OF ISSUE

1. Whether the defendants, obstetrical residents participating in a delivery at Boston City Hospital, are protected from individual liability by G.L. c.258 §2 where they were practicing under the direction and control of a physician who was not a public employee?

STATEMENT OF THE CASE

This medical malpractice action was brought to recover for the severe brain damage suffered by the minor plaintiff, Thomas Hixon as a result of the negligence of the defendants, Dr. Kimberly Heller, Dr. Nina Carroll and Dr. Jung-Ming Chen. Thomas Hixon, now five years old, suffers from severe cerebral palsy, which the plaintiffs allege was due to an infection and lack of oxygen suffered during labor and delivery. The plaintiffs allege that this infection and hypoxic event would have been avoided if a timely cesarean section had been performed in accordance with the accepted medical standards prevailing at the time.

1989 Form W-4



Department of the Treasury
Internal Revenue Service

Purpose. Complete Form W-4 so that your employer can withhold the correct amount of Federal income tax from your pay.

Exemption From Withholding. Read line 6 of the certificate below to see if you can claim exempt status. If exempt, only complete the certificate, but do not complete lines 4 and 5. No Federal income tax will be withheld from your pay.

Basic Instructions. Employees who are not exempt should complete the Personal Allowances Worksheet. Additional worksheets are provided on page 2 for employees to adjust their withholding allowances based on itemized deductions, adjustments to income, or two-earner/two-job situations. Complete all worksheets that apply to your situation. The worksheets will help you figure the number of withholding allowances you are

entitled to claim. However, you may claim fewer allowances than this.

Head of Household. Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the cost of keeping up a home for yourself and your dependent(s) or a qualifying individual.

Nonwage Income. If you have a large amount of nonwage income (such as interest or dividends), your amount of withholding is based on total payments using Form 1099-ES. Otherwise, you may find that you owe additional tax at the end of the year.

Two-Earner/Two-Jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form

W-4. This total should be divided among all jobs. Your withholding will usually be most accurate when all allowances are claimed on the W-4 filed for the highest paying job and zero allowances are claimed for the others.

Advance Earned Income Credit. If you are eligible for this credit, you can receive it added to your paycheck throughout the year. For details, obtain Form W-5 from your employer.

Check Your Withholding. After your W-4 takes effect, you can use Publication 919, Is My Withholding Correct for 1989?, to see how the dollar amount you are having withheld compares to your estimated total annual tax. Call 1-800-424-3676 (in Hawaii and Alaska, check your local telephone directory) to obtain this publication.

Personal Allowances Worksheet

A	Enter "1" for yourself if no one else can claim you as a dependent.	A	<u>1</u>	
B	Enter "1" if:	1. You are single and have only one job; or	B	<u>1</u>
		2. You are married, have only one job, and your spouse does not work; or		
		3. Your wages from a second job, or your spouse's wages (or the total of both) are \$2,500 or less.		
C	Enter "1" for your spouse. But, you may choose to enter "0" if you are married and have either a working spouse or more than one job (this may help you avoid having too little tax withheld).	C	<u>0</u>	
D	Enter number of dependents (other than your spouse or yourself) whom you will claim on your tax return.	D	<u>2</u>	
E	Enter "1" if you will file as a head of household on your tax return (see conditions under "Head of Household," above).	E	<u>0</u>	
F	Enter "1" if you have at least \$1,500 of child or dependent care expenses for which you plan to claim a credit.	F	<u>0</u>	
G	Add lines A through F and enter total here.	G	<u>4</u>	

For accuracy, do all worksheets that apply.

- If you plan to itemize or claim adjustments to income and want to reduce your withholding, turn to the Deductions and Adjustments Worksheet on page 2.
- If you are single and have more than one job and your combined earnings from all jobs exceed \$25,000 OR if you are married and have a working spouse or more than one job, and the combined earnings from all jobs exceed \$40,000, then turn to the Two-Earner/Two-Job Worksheet on page 2 if you want to avoid having too little tax withheld.
- If neither of the above situations applies to you, stop here and enter the number from line G on line 4 of Form W-4 below.

----- Cut here and give the certificate to your employer. Keep the top portion for your records. -----

Form W-4 Department of the Treasury Internal Revenue Service	Employee's Withholding Allowance Certificate ▶ For Privacy Act and Paperwork Reduction Act Notice, see reverse.	OMB No. 1545-0046 1989
1 Type or print your first name and middle initial: <u>MARCUS T GORDON</u>		Last name: _____
Home address (number and street or rural route): <u>925 Mass Ave #PHA-</u>		2 Your social security number: <u>114 52 1654</u>
City or town, state, and ZIP code: <u>Cambridge Ma 02139</u>		3 Marital Status: <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note: If married, but legally separated or spouse is a nonresident alien, check the Single box.
4 Total number of allowances you are claiming (from line G above or from the Worksheets on back if they apply):		<u>4</u>
5 Additional amount, if any, you want deducted from each pay:		<u>0</u>
6 I claim exemption from withholding and I certify that I meet ALL of the following conditions for exemption:		
<ul style="list-style-type: none"> • Last year I had a right to a refund of ALL Federal income tax withheld because I had NO tax liability; AND • This year I expect a refund of ALL Federal income tax withheld because I expect to have NO tax liability; AND • This year if my income exceeds \$500 and includes nonwage income, another person cannot claim me as a dependent. 		
If you meet all of the above conditions, enter the year effective and "EXEMPT" here: <u>6 19</u>		
7 Are you a full-time student? (Note: Full-time students are not automatically exempt.) <u>Yes</u> <input checked="" type="checkbox"/> <u>No</u> <input type="checkbox"/>		
Under penalties of perjury, I certify that I am entitled to the number of withholding allowances claimed on this certificate or entitled to claim exempt status.		
Employee's signature: <u>Marcus Gordon</u>	Date: <u>6/27</u>	198 <u>9</u>
8 Employer's name and address (Employer: Complete 8 and 10 only if sending to IRS): <u>Boston City Hospital</u>	9 Office code: _____	10 Employer identification number: _____

CITY OF BOSTON
Workers' Compensation Service

ROOM 817 — CITY HALL BOSTON, MA 02201

(617) 725-3193

ACCIDENT REPORTING AND TREATMENT FORM

INSTRUCTIONS:

1. Part I of this form must be completed by the employee and signed by *both* the employee and his/her supervisor.
2. Part II of this form should be signed by the injured employee in order to allow the Workers' Compensation Service to obtain any relevant medical records.
3. To avoid delays in processing, *both* sections of this form should be completed.
4. Completed forms should be brought *immediately* to the Workers' Compensation Service along with any pertinent medical information.

PART I — REPORT OF INJURY:

Name: MARCUS T. GORDON S.S.# 119 52 16542 Phone #: (617) 869 3578
 Home Address: 429 Mass Ave #1011 City/Town: Cambridge State: MA Zip Code: 02139
 Date of Hire: 7/88 Date of Birth: 8/11/59 Sex: M F Date of Injury: 3/9/90
 Occupation: Physician (Resident) Dept: OB/GYN

NATURE OF INJURY:

STRAIN/SPRAIN (310) _____
 BURN (120) _____
 BRUISE (160) _____
 LACERATION (170) _____
 PUNCTURE (170)
 FRACTURE (210) _____
 SCRATCH (300) _____
 RASH (180) _____
 OTHER (NEC) _____

BODY PART(S) AFFECTED:

HEAD (100) _____ SHOULDER (450) _____
 EYE (130) _____ ARM (310) _____
 EAR (120) _____ LEG (510) _____
 MOUTH (144) _____ FOOT (530) _____
 NECK (200) _____ HAND (330)
 BACK (420) _____ FACE (140) _____
 HIP (440) _____ NOSE (146) _____
 WRIST (320) _____ OTHER (NEC) _____

DESCRIBE FULLY HOW ACCIDENT OCCURRED:

to (R) index finger with needle puncture
use anesthetic during surgical delivery
use anesthetic during surgical delivery

HOURLY WAGE: _____ # HRS. WORKED PER WEEK: _____ # DAYS WORKED PER WEEK: _____ AVE. 52 WEEK WAGE: _____
 TIME OF INJURY: 9:44 a.m. p.m. ADDRESS WHERE INJ. OCCURRED: 818 HARRISON AVE BOSTON CITY HOSP.
 ON EMPLOYER'S PREMISES? Y N 4 OR MORE HOURS LOST ON DATE OF INJURY? Y N
 DATE OF FIRST LOST WORK DAY: 0 DATE OF FIFTH LOST WORK DAY: 0
 SOURCE OF INJURY (e.g. MACHINE, VEHICLE, ETC.) _____
 PERFORMING REGULAR OCCUPATION WHEN INJURED? Y N
 TO WHOM WAS INJURY REPORTED? _____ PHONE #: _____ DATE REPORTED: _____
 NAME AND ADDRESS OF TREATING PHYSICIAN (IF ANY): _____

NAME AND ADDRESS OF TREATING HOSPITAL (IF ANY): _____

FOR INTERNAL USE ONLY:	
OC _____	EE _____
AA _____	FF _____
BB _____	GG _____
CC _____	HH _____
DD _____	II _____

MARITAL STATUS: S _____ M _____ # of DEPENDENT CHILDREN: _____
 ARE YOU A VETERAN? Y _____ N _____
 HAVE YOU EVER FILED A WORKERS' COMPENSATION CLAIM WHILE NOT EMPLOYED BY THE CITY? Y _____ N

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY:

EMPLOYEE: Marcus T. Gordon DATE: 3/9/90
 SUPERVISOR: Richard M. [Signature] DATE: 3/10/90

PART II — MEDICAL RELEASE:

I hereby authorize the City of Boston Workers' Compensation Service (or any of its representatives) to be furnished any information and facts regarding this injury, including reports and records, results of diagnosis, treatment and prognosis, estimates of disability, and recommendations for further treatment.
 This information is to be used for the purpose of evaluating and handling my claim for injury as a result of the incident occurring on or about

SIGNED (employee) Marcus T. Gordon DATE: 3/9/90

AFFIDAVIT

1. I, Winnie Lee, do hereby depose and say that I am presently a claims adjuster for the City of Boston Worker's Compensation Service, Room 613, Boston City Hall. The Worker's Compensation Service administers Chapter 152 of the General Laws on behalf of the City of Boston.
2. Attached hereto is a true and accurate copy of the complete file of the Worker's Compensation Service regarding the March 9, 1990 claim for compensation filed by Marcus T. Gordon.
3. No documentation of lost work or medical expenses was ever submitted on behalf of Marcus Gordon.
4. I know of another file in the Worker's Compensation Service in which a Boston City Hospital intern filed a claim for compensation under Chapter 152 of the General Laws and received compensation under the Act for her medical expenses.
5. As far as I am aware, the City of Boston's worker's compensation agent has never denied compensation under the Act to a resident or intern who was on the City of Boston's payroll, working at Boston City Hospital, on the ground that the intern or resident was not an "employee" under the Act.

SUBSCRIBED UNDER THE PENALTIES OF PERJURY THIS 13
DAY OF December, 1994,

Winnie Lee

Gordon, Marcus T.		119-52-1654	
(Last Name)	(First)	(Middle)	(S. S.)
Med. Sch. Grad.	Albert Einstein	Mo.	June Yr. 1985
Date of Birth:	8/11/59	Married	Single X
Place of Birth:		Male X	Female
Citizenship:	USA	VISA: Permanent	Exchange
ECFMG. Certif.:	Temp.	Standard	Date:
LICENSE: Full #		Temporary # 90-5089-91	6/30/91 Date Exp.
Permanent Address:	929 Mass. Ave., Cambridge, MA.		
Local Address:			
Forwarding Address:			
PR-3012			

Appt. 6/21/88: Jr. Assist. Resident Obs. & Gyn. Serv.
from 7/1/88 to 6/30/89 (Malden).

Appt. 11/29/88: Sr. Assist. Res. Obs. & Gyn. Service from
11/23/88 to 6/30/89 (Malden).

Appt. 6/13/89: Resident (PGY-4) Obs. & Gyn. Service from
from 7/1/89 to 6/30/90 \$ 584.76.

Appt. 6/22/90: Resident (PGY-4), Obs. & Gyn. from
7/1/90 to 6/30/91 \$596.45 wk.

RECEIVED
93 MAR 24 AM 9:31
MINNAPOLIS
DEPARTMENT OF HEALTH
COMMUNITY HEALTH SERVICES

Volume: I
Pages: 1-162
Exhibits: 9

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT

----- x

PAULINE DARILUS, PPA PAUL
PADRE, PAULA PADRE AND ST.
ARMAND DARILUS,

Plaintiffs

Civil Action

VS

No. 92-6275

M. ADEL HAMID, M.D., OZMAT
GEIFMAN-HOLTZMAN, M.D., MARCUS
T. GORDON, M.D., AND CITY OF
BOSTON,

Defendants

----- x

DEPOSITION of MARCUS T. GORDON, M.D., a
witness called on behalf of the Plaintiffs, taken
pursuant to the Massachusetts Rules of Civil
Procedure, before Ani T. O'Malley, a Professional
Court Reporter and Notary Public, in and for the
Commonwealth of Massachusetts, at the offices of
Lubin & Meyer, P.C., 141 Tremont Street, Boston,
Massachusetts, 02111, on Monday, August 8, 1994,
commencing at 10:50 a.m.

JILL BENJOYA
COURT REPORTING SERVICES
110 Manet Road
Chestnut Hill, Massachusetts 02167
(617) 244-2016

Volume: I
Pages: 1-162
Exhibits: 9

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT

----- x

PAULINE DARILUS, PPA PAUL
PADRE, PAULA PADRE AND ST.
ARMAND DARILUS,

Plaintiffs

Civil Action

VS

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T. GORDON, M.D., AND CITY OF
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----- x

DEPOSITION of MARCUS T. GORDON, M.D., a
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Commonwealth of Massachusetts, at the offices of
Lubin & Meyer, P.C., 141 Tremont Street, Boston,
Massachusetts, 02111, on Monday, August 8, 1994,
commencing at 10:50 a.m.

JILL BENJOYA
COURT REPORTING SERVICES
110 Manet Road
Chestnut Hill, Massachusetts 02167
(617) 244-2016

OB/GYN
 BU/BCH PHYSICIANS CONTRACT
 COST CENTER 9033

	ANNUAL	MONTHLY	% TIME
David Acker, M.D. Director, OB/GYN (11/1/89-6/30/90)	60,000	7,500.00	40
M. Adel Hamid, M.D. Acting Director, OB/GYN (7/1/89-10/31/89) Associate Director, OB/GYN (11/1/89-6/30/90)	60,000	5,000.00	60
Kwabena Kyei-Aboagye, M.D. Associate Director	30,734	2,561.17	40
Ginter Sotrel, M.D. Dir., Endocrinology & Infertility	42,500	3,541.67	50
Edward Rotmensch, M.D. Staff OB/GYN	38,150	3,179.17	60
Leonard Cibley, M.D. Dir., Colonoscopy Clinic	16,200	1,350.00	20
Laurence Cibley, M.D. Staff OB/GYN	14,700	1,225.00	20
Carol Costello, M.D. Staff OB/GYN	38,150	3,179.17	60
Jean-Robert Larrieux, M.D. Acting Dir., GYN	43,150	3,595.83	60
Dick A.J. Brown, M.D. Staff OB/GYN	47,250	3,937.50	50
Patrick Donegan, M.D. Staff OB/GYN	22,825	1,902.08	25
Anjan Chadhury, M.D. Dir. of Perinatology	60,000	5,000.00	50
Warren Briscoe, M.D. Staff OB/GYN	12,500	1,041.67	20
To Be Named Staff OB/GYN	50,000		50
SALARIES TOTAL	536,159	43,013	
FRINGE BENEFIT @ 23.2%	124,389	9,979.07	
GRAND TOTAL	660,548	55,045.66	

Post Graduate Training (Obstetrics & Gynecology)

Internship:

1983-1984 (12 months)

Golda Meir Medical Center
Department of Obstetrics & Gynecology
at Tel-Hashomer-Sheba Medical Center
Supervisors: Professor Nashiach,
Professor Serr and Professor Zehavi

Residency:

1984-1985 (12 months)

Obstetrics & Gynecology - Wolfson Hospital
Affiliated with Sackler School of
Medicine, Tel-Aviv University.

1986-1987 (5 months)

Obstetrics & Gynecology - University of
Massachusetts Medical Center
Worcester, Massachusetts

1987-present

Obstetrics & Gynecology - Boston City
Hospital
Affiliated with Boston University
Boston, Massachusetts

Clinical Research:

1986

Tufts University School of Medicine
St. Margaret's Hospital for Women
Boston, Massachusetts
Department of Maternal-Fetal Medicine
Department of Obstetrics & Gynecology
Supervisors: Professor Certrulo and
Dr. Feingold
Subject: Blood Flow Velocimetry in
Pregnant Women
Multiple Birth of Higher Order
Management of PROM

1986 (1 month)

Student in the MPH Program
Harvard University School of Public Health
Boston, Massachusetts

Certificates

- 1986 FMGM Examination Passed basic and clinical sciences portions
- 1987 ECFMG Certificate Valid indefinitely #395-009-4
- 1987 FLEX Examination Passed all parts

Medical Licenses

- Israel
- Massachusetts

Memberships

- 1982 International Federation of Medical Students Association
- 1984 Israel Medical Association

Military Service

- 1975-1978 Served in the Air Force and was released as a Lieutenant in the Israeli Defense Force.

Supplementary

- April 1981 Representative of the Israel Medical Student's Association at a conference of the International Medical Student's Association (IFMSA) in ICM and
- Summer 1981 Chairman of SCOME (Standing Committee on Medical Education) of the IFMSA (International Federation of Medical Student's Association) and representative of IFMSA in Sydney, Australia.

AMA PHYSICIAN PROFILE

AMERICAN MEDICAL ASSOCIATION
515 NORTH STATE STREET
CHICAGO, ILLINOIS 60610

DIVISION OF SURVEY AND DATA RESOURCES
DEPARTMENT OF PHYSICIAN DATA SERVICES

DATE: 01-21-93

ME: GORDON, MARCUS T, JR M.D.
ADDRESS: 144 70 41ST AVE, NO 2R
RTHDATE: 08/11/59

FLUSHING NY

11355

DICAL EDUCATION (SCHOOL YEAR):

A EINSTEIN COLL OF MED OF YESHIVA UNIV, BRONX NY 10461
CENSE: NY 1986

1985

IMARY SPECIALTY: OBSTETRICS AND GYNECOLOGY
CONDARY SPECIALTY: UNSPECIFIED
RTIARY SPECIALTY: UNSPECIFIED

EICIALTY BOARD CERTIFICATION: NONE REPORTED TO DATE
TIONAL SCIENTIFIC MEDICAL SOCIETIES: NONE REPORTED TO DATE
OFESSORIAL APPOINTMENT: NONE REPORTED TO DATE
N--MEMBER OF AMA

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Last Name:

Gordon, M.D.

First Name:

Marcus T.

Address:

145 West 67th Street

Address:

125 Pleasant Street #308

Zip Code:

10023

Zip Ext:

City:

New York

State:

NY

Telephone:

Last Name:

Gelfman-Holtzman, M.D.

First Name:

Oznat

Address:

Zip Code:

City:

Telephone:

Brookline

State:

MA

10/13/1995

14:00

Conf: final pre-trial

Medical Tribunal Demand of Marcus T. Gordon, M.D.

Motion to dismiss (12b) by Marcus T. Gordon, M.D. Pliffs' opposition

to def't's motion

F

MI CV-1992-06275

Motion of Def. Marcus T. Gordon, M.D. To File A Late Answer To The Amended Complaint.

Docket Entry:

Medical malpractice tribunal report: On Marcus T. Gordon, M.D.: The Tribunal upon its consideration determine that there is sufficient evidence to raise a legitimate question of liability appropriate for judicial inquiry. (Graham, J.) notices sent 6/7/93

Motion # 47 of defts, Marcus T. Gordon, M.D. and the City of Boston,

For A Protective Order, is after hearing DENIED AS TO certain documents indicated in Court, and ALLOWED AS TO certain "peer review" document. Para II of motion, DENIED and para III of motion, DENIED.
(Fremont Smith, J.) notices sent 7/9/93

10 Parties Associated with Docket: MICV1992-06275 | [Click last name to view contact information](#)

No.	Last Name:	First Name:	Party Role:	Party Status:
1	<u>Boston</u>	City of	Defendant	Active
2	<u>Cousins, M.D.</u>	Sheronette A.	Defendant	Dismissed by agreement of parties
3	<u>Daley, M.D.</u>	Hearthher A.	Defendant	Dismissed by agreement of parties
4	<u>Darilus, ppa</u>	Pauline	Plaintiff	Active
5	<u>Darilus</u>	St. Armand	Plaintiff	Active
6	<u>Geifman-Holtzman, M.D.</u>	Oznat	Defendant	Dismissed by agreement of parties
7	<u>Gordon, M.D.</u>	Marcus T.	Defendant	Dismissed by agreement of parties
8	<u>Hamid, MD</u>	M Adel	Defendant	Dismissed by agreement of parties
9	<u>Joseph, M.D.</u>	Robert R.	Defendant	Dismissed by agreement of parties
10	<u>Padre, Indiv & Mother</u>	Paula	Plaintiff	Active