

MALPRACTICE

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COMMONWEALTH OF MASSACHUSETTS

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SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION
NO. 08-1652

MUNACHI OKOLI, PPA NNEENA MUOMAH,
NNEENA MUOMAH, AND
CHUKWUDERA OKOLI,

Plaintiff,

V.
ALICE MARK, M.D.,
BETH BUTLER, R.N., AND
KATHY TRAINOR, R.N.,

Defendants.

*Jan 26, 2009
Filed
called:
Jane M. Mahox
Court Clerk*

Stamp:
SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2009 JAN 22 PM 12:53
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

FIRST AMENDED COMPLAINT

Count I.

1. The plaintiff, Munachi Okoli, is a minor who brings this action through her mother and next friend, Nneena Muomah, a resident of Jamaica Plain, Suffolk County, Massachusetts.
2. The defendant, Alice Mark, M.D., was at all times relevant to this complaint a physician licensed to practice his profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Alice Mark, M.D., represented and held himself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that he was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 1/18/07.
4. On or about 1/18/07, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Alice Mark, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Munachi Okoli, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Alice Mark, M.D., including, but not limited to the following:

Defendant's misrepresentations to the minor plaintiff's parents that he was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 1/18/07;

Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 1/18/07, and his failure to prescribe proper and timely treatment for said condition;

Defendant's failure to recognize, or have the knowledge to recognize his inability and lack of skill to diagnose and treat the minor plaintiff and her mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of his inability and failure to properly and skillfully provide the minor plaintiff and her mother with acceptable medical and diagnostic services;

Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing his specialty; and

Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.

6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Alice Mark, M.D., the minor plaintiff, Munachi Okoli, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, prays judgment against the defendant, Alice Mark, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

Count II.

1. The minor plaintiff, Munachi Okoli, through her mother and next friend, Nneena Muomah, repeats and reavers fully herein Paragraphs One through Six of Count I of this complaint as if each were set forth here in its entirety.
2. On or about 1/18/07, the defendant, Alice Mark, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's medical care and treatment.
3. The defendant, Alice Mark, M.D., expressly and impliedly warranted to the minor plaintiff's parents that he would perform and render said professional services in