

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BROOME

SAMANTHA BATES,

Plaintiff,

COMPLAINT

-against-

Index No.:

Date filed:

AMY R. COUSINS, M.D.,

Defendant.

Plaintiff Samantha Bates, by and through her attorneys, The Law Office of Ronald R. Benjamin, hereby alleges:

1. Plaintiff is a resident at the Albion Correctional Facility, DIN 14G1094, 3595 State School Road, Albion, NY 14411-9399.

2. Upon information and belief, defendant Amy R. Cousins is a medical doctor, licensed in the State of New York and specializing in obstetrics and gynecology, with her office and practice located at 149 Vestal Parkway West, Vestal, New York 13850.

3. At all times hereinafter mentioned, defendant Amy R. Cousins held herself out as being competent in providing healthcare services to women and in particular, able to perform safe and successful terminations of pregnancies for women seeking the same.

4. At all times hereinafter mentioned, Amy R. Cousins was responsible for her own actions in treating patients, as well as for the actions and conduct of any and all staff members employed by her to assist and/or care for patients such as the plaintiff.

STATEMENT OF FACTS

5. On July 31, 2014, plaintiff Samantha Bates, then an inmate at the Broome County

Jail, went to the medical office of Amy R. Cousins, M.D., for the purpose of having an elective surgical procedure to terminate a pregnancy.

6. The plaintiff underwent the procedure for termination and believed that the pregnancy had indeed been terminated.

7. Within two weeks, the plaintiff complained of abdominal pain and stated that she was still nauseous and felt as if she was still pregnant; as the weeks passed and her abdomen grew, it was clear that she was still pregnant.

8. The plaintiff returned to the office of Amy R. Cousins on or about October 1, 2014, when she underwent an examination and was told that she was still pregnant.

9. The plaintiff was warned that her baby might now be missing a limb or have other problems due to the failed termination procedure as well as the medications she had been given in the interim for her ongoing pain.

10. The plaintiff was advised that she was past the time in which she could safely end the pregnancy; she chose to continue the pregnancy knowing that she had no genuine option.

11. The plaintiff was distraught and worried about the birth and the health of her baby; she had initially chosen to terminate the pregnancy because she was facing a prison sentence and did not want to have a baby that she could not raise.

12. Plaintiff continued to endure significant and unrelenting abdominal pain throughout the pregnancy.

13. On October 19th the plaintiff gave birth to a baby boy, who took a few breaths and then died.

14. Plaintiff was advised that she had been 22 to 23 weeks pregnant at the time of birth.

15. Plaintiff was told at Lourdes Hospital that Dr. Amy Cousins had punctured and

ruptured her uterus and that she had been bleeding internally throughout the entire pregnancy.

16. Drs. Warner and Shaw performed surgery on the plaintiff and were able to save her uterus.

17. The plaintiff had 41 staples, and underwent a significant period of painful healing.

AS AND FOR A FIRST CAUSE OF ACTION

(Medical Negligence for Failing to Properly Perform the Termination)

18. Defendant Amy Cousins, M.D., had a nondelegable duty of care to the plaintiff who came to her as a patient, and was assured that she could terminate her pregnancy safely and quickly, and would be able to resume her normal daily activities without further incident.

19. The plaintiff was not negligent in any manner; no conduct on her part contributed to the injuries alleged herein.

20. The defendant failed to properly terminate the pregnancy, failing to take appropriate precautions and safeguards to ensure that the procedure had been carried out properly.

21. The plaintiff sustained emotional anguish and trauma because of the negligence of the defendant in failing to properly complete the procedure. Plaintiff was forced to seek treatment repeatedly for a condition she believed had been resolved, and was distraught and upset for months because she did not know the nature or extent of the injuries to her unborn baby; did not know whether the baby would survive or would be born missing an arm or leg; did not know who would be able to care for the baby if she herself was incarcerated.

22. Plaintiff suffered from intense pain in the abdomen throughout the pregnancy, and attributes the same to the unsuccessful procedure begun, but not completed, by Amy Cousins.

23. The plaintiff has sustained significant injuries and is entitled to compensatory

damages in an amount to be proven at trial.

**AS AND FOR A SECOND CAUSE OF ACTION
(Puncturing the Uterus)**

24. The plaintiff was advised after the birth and immediate death of her newborn son that she required emergency surgery to repair her uterus, which had been punctured by Dr. Cousins during the failed abortion procedure.

25. She was told that she had been bleeding internally throughout the entire pregnancy because of the ruptured uterus.

26. The plaintiff was operated on by Doctors Warner and Shaw, who were able to repair and save her damaged uterus.

27. The plaintiff required 41 staples to close her wounds, and endured significant pain and suffering; plaintiff is unsure whether or not the injury to her uterus will impair her ability to have children in the future.

28. The plaintiff's uterus would not have been punctured or ruptured except for the negligence of Dr. Cousins.

29. None of the physical and emotional injuries sustained by the plaintiff would have occurred but for the negligence of Amy Cousins, M.D.,

RELIEF REQUESTED

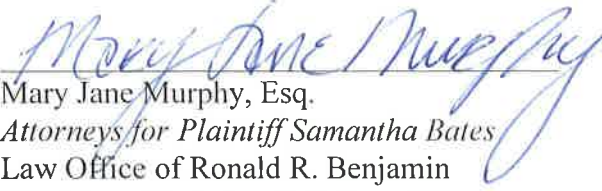
WHEREFORE, the plaintiff demands judgment against the defendant as follows:

- (1) Award plaintiff Samantha Bates compensatory damages on the first cause of action in an amount to be determined upon trial;
- (2) Award plaintiff compensatory damages on the second cause of action in an

amount to be proven at trial.

(3) Award plaintiff such other and further relief against the defendants as is just and proper under the circumstances, including the costs and disbursements of this action.

Dated: January 30, 2017
Binghamton, New York


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