

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS

SUPERIOR COURT DEPARTMENT
C.A. NO. 07-0909 H

MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

2007 MAR -1 PM 2:40

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE

Jennifer Raper ,
Plaintiff,
vs.
Planned Parenthood League of
Massachusetts, Inc.,
Allison Bryant, M.D.,
and Benjamin Eleonu, M.D.
Defendants

**PLAINTIFF'S
COMPLAINT**

NATURE OF CLAIM

The Plaintiff is seeking to recover damages for the wrongful birth of her child.

THE PARTIES

1. The Plaintiff, Jennifer Raper, is a resident of Charlestown, Suffolk County, MA.
2. The Defendant, Planned Parenthood League of Massachusetts, Inc. (hereinafter Planned Parenthood) is a Massachusetts corporation which provides pregnancy counseling and pregnancy termination services to females.
3. The defendant, Allison Bryant, M.D. is a physician who at the time giving rise to the complaint was licensed to practice medicine in the Commonwealth of Massachusetts and was employed at Planned Parenthood.
4. The defendant, Benjamin Eleonu, M.D. is a physician who at the time giving rise to the plaintiff's complaint was licensed to practice medicine in the Commonwealth of Massachusetts and was an employee of the Boston Medical Center.

GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS

5. In March 2004 the plaintiff learned she was pregnant.

6. Due to economic reasons, the plaintiff made an appointment with the defendant, Planned Parenthood, in order to terminate her pregnancy.
7. On or about April 9, 2004 an abortion was performed on the plaintiff at Planned Parenthood's Boston facility.
8. The physician performing the abortion was the defendant, Allison Bryant, M.D.
9. Following her discharge, the plaintiff was instructed to follow up with her primary care provider.
10. Unbeknown to the plaintiff, the abortion performed by the defendant, Allison Bryant, M.D., was not done properly causing the plaintiff to remain pregnant.
11. On July 16, 2004 the plaintiff was seen and treated medically by the defendant, Benjamin Eleonu, M.D.
12. On that date defendant Eleonu, M.D. conducted a full pelvic exam on the plaintiff.
13. Defendant Eleonu, M.D., reported the pelvic exam as being normal including a normal uterus.
14. In actuality, the plaintiff was in her 20th week of pregnancy.
15. The plaintiff first learned that she was still pregnant following an emergency room visit to the New England Medical Center for pelvic pain on or about September 26, 2004.
16. On December 7, 2004 the plaintiff delivered a baby girl at the New England Medical Center.

COUNT I:

NEGLIGENCE OF DEFENDANT PLANNED PARENTHOOD

17. On and subsequent to April 9, 2004 the defendant, Planned Parenthood through its agents and/or employees departed from acceptable standards of medical care in failing to properly terminate the plaintiff's pregnancy.
18. As a result of the foregoing negligence of the defendant, Planned Parenthood, the plaintiff delivered a child and requests that the defendant compensate her for the damages associated with the birth, including but not limited to the economic expense of rearing the child, the plaintiff's pain and suffering, as well as her medical expenses.

COUNT II:

NEGLIGENCE DEFENDANT ALLISON BRYANT, M.D.

19. On and subsequent to April 9, 2004 the defendant, Allison Bryant, M.D. departed from acceptable standards of medical care in failing to properly terminate the plaintiff's pregnancy.
20. As a result of the foregoing negligence of the defendant, Allison Bryant, M.D., the plaintiff delivered a child and requests that the defendant compensate her for the damages associated with the birth, including but not limited to the economic expense of rearing the child, the plaintiff's pain and suffering, as well as her medical expenses.

COUNT III:

NEGLIGENCE OF DEFENDANT BENJAMIN ELEONU, M.D.

21. On and subsequent to July 16, 2004 the defendant, Benjamin Eleonu, M.D., departed from acceptable standards of medical care in failing to recognize and inform the plaintiff that she was still pregnant.
22. As a result of the foregoing negligence of the defendant, Benjamin Eleonu, M.D., the plaintiff delivered a child and requests that the defendant compensate her for the damages associated with the birth, including but not limited to the economic expense of rearing the child, the plaintiff's pain and suffering, as well as her medical expenses.

WHEREFORE, the plaintiff demands judgment against the defendants together with the interests and costs.

THE PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES.

The plaintiff,
by her attorney,



Barry C. Reed, Jr.
BBO #542281
Reed & Giordano
101 Tremont Street
Boston, MA 02108
(617) 426-1166

CIVIL ACTION COVER SHEET	Trial Court of Massachusetts SUPERIOR COURT DEPARTMENT County: <u>Suffolk</u>	Docket Number 07-09094
PLAINTIFF(S) <u>Jennifer Rader</u>	DEFENDANT(S) <u>Planned Parenthood League of Mass. Inc., Allison Bryant, M.D. and Benjamin Eleonu, M.D.</u>	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <u>Barry C. Reed, Jr. Reed & Giordano PA</u> <u>101 Tremont Street, Boston, MA 02108</u> Board of Bar Overseers number: <u>542281</u>	ATTORNEY (if known)	
<u>Origin code and track designation</u>		
Place an x in one box only:		
<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)	
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. c. 231, s.104 (Before trial) (F)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/ Order (Mass.R.Civ.P. 60) (X)	
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 6. E10 Summary Process Appeal (X)	
CODE NO. <u>B06</u>	TYPE OF ACTION (specify) <u>Med-Mal</u>	TRACK <u>(A)</u>
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side) IS THIS A JURY CASE?		
(X) Yes () No		
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses		\$10,000
2. Total Doctor expenses		\$
3. Total chiropractic expenses		\$
4. Total physical therapy expenses		\$
5. Total other expenses (describe)		\$
Subtotal		\$10,000
B. Documented lost wages and compensation to date		
C. Documented property damages to date		
D. Reasonably anticipated future medical and hospital expenses		
E. Reasonably anticipated lost wages		
F. Other documented items of damages (describe) Cost to rear child		
		\$2 million
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)		
Wrongful birth		
TOTAL:		\$2,010,000
CONTRACT CLAIMS (Attach additional sheets as necessary)		
Provide a detailed description of claim(s):		
TOTAL		\$
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record <u>John Reed</u>		DATE: <u>2/28/07</u>