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COURT OF COMMON PLEAS
2006 OCT 17 PM 2:49

DAN FOLEY
CLERK OF COURTS
MONTGOMERY CO., OHIO

SCANNED

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

EDDIE WILLIAMS, A MINOR, BY AND)
THROUGH HIS MOTHER AND NATURAL)
GUARDIAN, JANIS BROWN)
1601 Azalea Dr.)
Dayton, Ohio 45427)

CASE NO. 06 8179

PLAINTIFF)

vs.)

COMPLAINT FOR
MEDICAL NEGLIGENCE
WITH JURY DEMAND AND
AFFIDAVIT OF MERIT

MIAMI VALLEY HOSPITAL)
One Wyoming Street,)
Dayton, Ohio 45409)
SERVE ON:)
Dale E. Creech Jr., Esq.)
40 West Fourth Street)
Suite 1800)
Dayton, Ohio 45402)

KATHERINE LIN, M.D.)
One Wyoming Street,)
Dayton, Ohio 45409)

and)

MICHAEL PROFFITT, M.D.)
One Wyoming Street,)
Dayton, Ohio 45409)

and)

GREGORY BEAN, M.D.)
One Wyoming Street,)
Dayton, Ohio 45409)

and)

Gregory C. Gibson
Stephen P. O'Keefe
GIBSON & O'KEEFE
CO., L.P.A.
Attorneys At Law
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4. The Defendant, Miami Valley Hospital, is a medical corporation organized and existing under the laws of the State of Ohio, with its principal place of business at One Wyoming Street, Dayton, Ohio 45409

5. At all times of which Plaintiff Complains, the Defendants, Katherine Lin, M.D., Michael Proffitt, M.D., Gregory Bean, M.D., and Sheela Barhan, M.D., were licensed to provide medical services in the State of Ohio and represented to the public and to the Plaintiff's mother, Janis Brown, possession of that degree of skill, knowledge and ability ordinarily possessed by reasonably competent physicians providing obstetrical services.

6. At all times which the Plaintiff complains, the Defendant, Miami Valley Hospital, was a medical corporation licensed to provide medical and obstetrical services in the State of Ohio and represented to the public and to the Plaintiff's mother, Janis Brown, possession of that degree of skill, knowledge and ability ordinarily possessed by a reasonably competent medical corporation providing obstetrical services.

7. At all times of which Plaintiff complains, the Defendants Katherine Lin, M.D., Michael Proffitt, M.D., Gregory Bean, M.D., Sheela Barhan, M.D., and Jane and John Doe(s) were acting individually and/or as the actual and/or apparent agents, servants and/or employees of the Defendant, Miami Valley Hospital.

FIRST CLAIM FOR RELIEF

8. During the year 2000, Janis Brown, contracted with the Defendants for appropriate attention and medical treatment for the pre-natal care and birth of her baby, the Plaintiff, Eddie Williams.

9. Defendant, Miami Valley Hospital provided physicians nurses and other medical care providers including but not limited to, Defendants Katherine Lin, M.D.,

Michael Proffitt, M.D., Gregory Bean, M.D., and Sheela Barhan, M.D., to provide appropriate care to Plaintiff.

10. The Defendants, Miami Valley Hospital, Katherine Lin, M.D., Michael Proffitt, M.D., Gregory Bean, M.D., and Sheela Barhan, M.D., owed the Plaintiff a duty to exercise that degree of care, skill and judgment ordinarily expected of a reasonably competent practitioner and/or medical corporation in his/her chosen specialty acting in the same or similar circumstances; that duty included the performance of adequate and proper tests and procedures to determine the nature and severity of the conditions of the Plaintiff and/or his mother; the careful diagnosis of such condition(s); the employment and use of appropriate procedures and treatments to correct such condition(s); the continuous evaluation of the effects of such treatment(s); the adjustment of the course of treatment(s) in response to such evaluations(s); and the appropriate notification to the Plaintiff's mother, Janis Brown, of the various alternatives and risks involved in various modalities of treatment.

11. Defendants, jointly and severally, provided medical care and treatment that fell below the accepted standards of medical care in providing, diagnosis, attention and treatment to Plaintiff. Defendants' joint and several negligence included, but is not necessarily limited to, the failure to promptly deliver and prophylactic ally treat the Plaintiff, Eddie Williams.

12. As a direct and proximate result of Defendants' joint and several negligent acts and omissions, Plaintiff, Eddie Williams, has suffered and/or will suffer the following permanent injuries, among others:

- (A) Neurobehavioral abnormalities and neurological injuries;
- (B) Seizures;
- (C) Reduced cognitive and mental capabilities;

- (D) Severe delay in receptive language and expressive language delay;
- (E) He has incurred and will continue to incur substantial expenses for medical and other care and treatment of his medical condition for which he and his parents are incapable, unwilling and unable to pay;
- (F) His earning capacity has been severely diminished;
- (G) He has and will continue to suffer great pain and suffering;
- (H) Significant developmental disabilities and delays;
- (I) He is permanently dependent upon others for his care;
- (J) Birth asphyxia and hypoxia;
- (K) Perinatal depression and its sequelae;
- (L) He is mentally retarded; and
- (M) He has cerebral palsy;

13. The Plaintiff further alleges that all of these injuries and damages were caused by the negligent acts and omissions of the Defendants, without any negligence or want of due care on the part of the Plaintiff or his mother contributing thereto.

SECOND CLAIM FOR RELIEF

14. Plaintiff Williams incorporates by reference the allegations contained in the preceding paragraphs, as though specifically restated herein.

15. At all times material hereto, Plaintiff Williams by and through his mother placed himself in the care of the Defendant Hospital and relied upon the Hospital for the appropriate medical diagnosis and treatment. Specifically, Plaintiff Williams relied upon the Defendant Hospital to provide Obstetric and Gynological services as provided by Defendants Katherine

Lin, M.D., Michael Proffitt, M.D., Gregory Bean, M.D., and Sheela Barhan, M.D. As such, Defendants Katherine Lin, M.D., Michael Proffitt, M.D., Gregory Bean, M.D., and Sheela Barhan, M.D., are employees, servants and/or agents of the hospital.

16. Therefore, Defendant Hospital is liable and responsible for the negligence of Defendants Katherine Lin, M.D., Michael Proffitt, M.D., Gregory Bean, M.D., and Sheela Barhan, M.D.

THIRD CLAIM FOR RELIEF

17. Plaintiff Williams incorporates the references and the allegations contained in the preceding paragraphs as though specifically restated herein.

18. Plaintiff Williams by and through his mother placed himself in the professional care of the Defendants Jane and John Doe(s) physicians, nurses, businesses, or corporations or entities whose identities and addresses could not be ascertained with due diligence. Defendants Jane and John Doe(s) physicians, nurses, businesses, corporations or other entities whose identities and addresses could not be ascertained with due diligence were negligent in providing diagnosis, care and treatment to Plaintiff Williams.

19. As a direct and proximate result of the negligence of Defendants Jane and John Doe(s) physicians, nurses, businesses, corporations or other entities whose identities and addresses could not be ascertained with due diligence, Plaintiff Williams incurred past and future damages including but not limited to, those damages listed in paragraphs twelve and thirteen of this Complaint.

FOURTH CLAIM FOR RELIEF
(Informed Consent – All Defendants)

20. The Plaintiff, Eddie Williams, a minor by his mother and next friend, Janis Brown, repeats, realleges, adopts and incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

21. The Defendant Health Care Providers, owed to the Plaintiff and to the Plaintiff's mother, Janis Brown, the duty of appropriate notification to the Plaintiff's mother, Janis Brown, of the various alternatives and risks involved in various modalities of treatment.

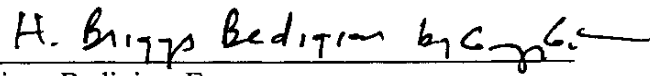
22. The Defendant Health Care Providers, were negligent in failing to adequately and appropriately obtaining an informed consent from the Plaintiff's mother, Janis Brown and were otherwise negligent.

23. The Plaintiff further alleges that as result of the negligent and careless acts and omissions of the Defendant Health Care Providers as well as their agents, servants, and/or employees, the Plaintiff, Eddie Williams, experienced a severe shock to his nerves and nervous system, pain, mental anguish, the loss of the ability to enjoy the normal pleasures of life, the loss of the ability to engage in life's usual activities, unnecessary procedures, unnecessary hospital and medical care and expenses, loss of earnings and earning capacity and was otherwise injured and damaged.

24. All of these injures and damages were caused by the negligence of the Defendant Health Care Providers individually, and through their actual and or apparent agents, servants and/or employees, without any negligence or want of due care on the part of the Plaintiff or his mother contributing thereto.

WHEREFORE, Plaintiff, individually prays for damages against the Defendants, jointly and severally, in excess of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), together with interest and costs expended herein and for such other and further relief as this Court deems proper.

Respectfully Submitted,



H. Briggs Bedigian, Esq.
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Attorney for Plaintiff
**Pro-Hoc Vice Motion To
Be Filed for Admission in Ohio**



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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(B) of the Ohio Rules of Civil Procedure, Plaintiff demands a jury composed of the maximum number of jurors permitted by law hereby.



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Attorney for Plaintiff

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NEGLIGENT MEDICAL CARE

)

AFFIDAVIT OF

WILLIAM S. FLOYD, M.D.

DEFENDANTS

)

STATE OF: OHIO

COUNTY OF: MONTGOMERY

Now comes Affiant, William S. Floyd, M.D., and being duly cautioned and sworn according to law, deposes and states:

- 1) I am a physician licensed to practice obstetrical medicine in the State of Michigan.
- 2) I am familiar with the standards of care for physicians and nurses regarding obstetrical care;
- 3) I devote at least seventy-five percent (75%) of my professional time to the active clinical and educational practice of obstetrical medicine and gynecology;
- 4) I have reviewed the relevant medical records of Eddie Williams and his mother, Janis Brown pertaining to the prenatal care, labor and delivery and other related birth records.
- 5) Based on my training, experience, research and education and further based on my review of the medical records, I believe the physicians and staff at Miami Valley Hospital, specifically Katherine Lin, M.D., Michael Proffitt, M.D., Gregory Bean, M.D., and Sheela Barhan, M.D., deviated from acceptable standards of medical practice, resulting in severe injuries including, but not limited to, cerebral palsy, mental retardation, severe physical injuries and related deformities and brain damage to Eddie Williams.

FURTHER AFIANT SAYETH NAUGHT.

William S. Floyd

Sworn to and subscribed by the said William S. Floyd On this 3rd day of October 2006

Barbara Jean Greaves
Notary Public

BARBARA JEAN GREAVES
Notary Public, State of Michigan
County of Oakland
My Commission Expires Oct. 7, 2011
Acting in the County of Oakland

