

Case: 2008 CV 09684
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FILED
COURT OF COMMON PLEAS

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GREGORY A. BRUSH
CLERK OF COURTS
MONTGOMERY CO. OHIO
IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

[REDACTED], MINOR, by and)
through her parents and legal guardians,)
HOLLIE GAYMAN AND)
BRIAN GRIZZLE)
1136 Pritz Avenue)
Dayton, Ohio 45410)
and)
HOLLIE GAYMAN,)
Individually and as Mother and Legal)
Guardian of Natalie Grizzle,)
1136 Pritz Avenue)
Dayton, Ohio 45410)
and)
BRIAN GRIZZLE,)
Individually and as the Father of)
Natalie Grizzle,)
1136 Pritz Avenue)
Dayton, Ohio 45410)
Plaintiffs,)
vs.)
MIAMI VALLEY HOSPITAL)
C/O Dale E. Creech, Jr., Statutory Agent)
40 West 4th Street, Suite 1800)
Dayton, Ohio 45402)
and)

CASE NO: 08 86 84

JUDGE

COMPLAINT -Affidavits Attached

JURY DEMAND ENDORSED HEREON

PREMIER HEALTH PARTNERS)
C/O Dale E. Creech, Jr., Statutory Agent)
One Wyoming Street)
Dayton, Ohio 45409)
)
and)
)
ERIN L. MATHEWS, M.D.)
101 Wyoming Street)
Dayton, Ohio 45409)
)
and)
)
ERICA ROESCH, M.D.)
101 Wyoming Street)
Dayton, Ohio 45409)
)
and)
)
BERRY FAMILY HEALTH CENTER)
101 Wyoming Street)
Dayton, Ohio 45409)
)
and)
)
BRUCE RYAN BALL, M.D.)
One Wyoming Street)
Dayton, Ohio 45409)
)
and)
)
JANICE M. DUKE, M.D.)
1 Wyoming Street, Suite 4130)
Dayton, Ohio 45409)
)
and)
)
UNIVERSITY WOMEN'S HEALTH)
CENTER)
1 Wyoming Street)
Dayton, Ohio 45409)
)
)
Defendants.)

FACTS

1. [REDACTED] was born on [REDACTED] at Miami Valley Hospital, Dayton, Ohio, Montgomery County.

2. Hollie Gayman is the Mother and Legal Guardian of [REDACTED]

3. Brian Grizzle is the Father and Legal Guardian of [REDACTED]

4. Erin Mathews, M.D., Erica Roesch, M.D., Bruce Ryan Ball, M.D. and Janice Duke, M.D. (hereinafter "Defendants") are and were physicians licensed to practice medicine in Ohio, who held themselves out to the public, Hollie Gayman, Brian Grizzle and [REDACTED] as competent to provide medical/obstetrical care.

5. Miami Valley Medical Center, Premier Health Partners, Berry Family Health Center and University Women's Health Center (hereinafter "Defendants") are and were duly organized corporations under the laws of Ohio, in the business of delivering medical and/or obstetrical care in Montgomery County, directly and/or through employees, agents and independent contractors.

6. As a result of the delivery Natalie Grizzle was injured and will continue to suffer, into the indefinite future permanent injuries including, but not limited to, hypoxic and/or traumatic brain injuries which result in an inability to perform activities of daily living.

7. The injuries to [REDACTED] are catastrophic as described in the Ohio Revised Code.

COUNT I

8. Plaintiffs incorporate herein by reference all of the statements and allegations made in Paragraphs 1 through 7, the same, as if fully rewritten herein.

9. Defendants undertook to provide medical/obstetrical care and treatment for Hollie Gayman and Natalie Grizzle.

10. Defendants owed a duty to Holly Gayman and [REDACTED] to provide care and treatment consistent with the standard of care for an OB/GYN.

11. On September 13, 2007, Natalie Grizzle was delivered at Miami Valley Hospital and said delivery was beneath the standard of care.

12. The care and treatment prenatally and in labor and delivery by all Defendants was beneath the standard of care.

13. As a proximate result of the negligent care and treatment, [REDACTED] suffered injuries, including but not limited, to severe neurologic injuries, pain and suffering, loss of services, and loss of enjoyment of life.

14. These injuries are permanent in nature, and will require ongoing medical care and treatment.

COUNT II

15. Plaintiffs incorporate herein by reference all of the statements and allegations made in Paragraph 1 through 14, the same, as if fully rewritten herein.

16. Now comes Plaintiff, Hollie Gayman, stating she is the Mother of Plaintiff Natalie Grizzle, and as a direct and proximate result of Defendants' negligence and the result of injuries to Plaintiff [REDACTED], she suffered a loss of her daughter's care, comfort, services and consortium in the past and will continue to suffer said emotional and economical losses in the future.

COUNT III

17. Plaintiffs incorporate herein by reference all of the statements and allegations made in Paragraph 1 through 16, the same, as if fully rewritten herein.

18. Now comes Plaintiff, Brian Grizzle, stating he is the Father of Plaintiff [REDACTED], and as a direct and proximate result of Defendants' negligence and the result of injuries to Plaintiff Natalie Grizzle, he suffered a loss of his daughter's care, comfort, services and consortium in the past and will continue to suffer said emotional and economical losses in the future.

COUNT IV

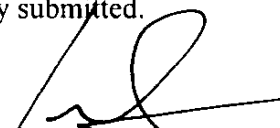
19. Plaintiffs incorporate herein by reference all of the statements and allegations made in Paragraph 1 through 18, the same, as if fully rewritten herein.

WHEREFORE, as to Count I, Plaintiffs demand judgment against Defendants Miami Valley Hospital, Premier Health Partners, Berry Family Health Center, University Women's Health Center, Erin Mathews, M.D., Erica Roesch, M.D., Bruce Ryan Ball, M.D., and Janice Duke, M.D. jointly and severally, in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00) for compensatory damages, together with interest, reasonable attorney fees, and the costs of this action; and

WHEREFORE, as to Counts II through IV, Plaintiffs demand judgment against Defendants Miami Valley Hospital, Premier Health Partners, Berry Family Health Center, University Women's Health Center, Erin Mathews, M.D., Erica Roesch, M.D., Bruce Ryan Bell, M.D. and Janice Duke, M.D., jointly and severally, in an amount in excess of Twenty Five Thousand Dollars (\$25,000.00) on each individual claim for loss of consortium, together with

interest, reasonable attorney fees, and the costs of this action.

Respectfully submitted.



JAMES M. KELLEY, III #0061990
STEPHEN S. CRANDALL #0063810
Elk & Elk Co., L.P.A.
6105 Parkland Boulevard
Mayfield Hts., Ohio 44124
(440) 442-6677
Attorneys for Plaintiffs

Plaintiffs demand a trial by jury on all issues so triable.



JAMES M. KELLEY, III #0061990
STEPHEN S. CRANDALL #0063810
Attorneys for Plaintiffs

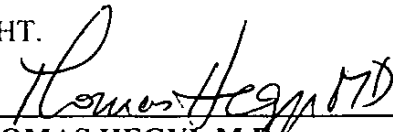
STATE OF NEW JERSEY)
)
MONMOUTH COUNTY)

AFFIDAVIT

Now comes Affiant, Thomas Hegyi, M.D., who swears and affirms the following information is true to the best of his knowledge:

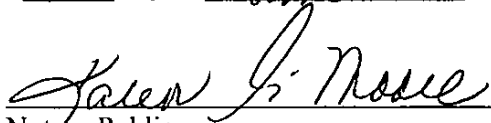
1. Affiant is a physician licensed to practice medicine in the state of New Jersey.
2. Affiant is a Board certified neonatologist who dedicates more than 75% of his time to the active clinical practice of medicine and/or teaching the same.
3. Affiant is familiar with the diagnosis and treatment of birth injuries related to both hypoxic and traumatic causes.
4. Affiant further states he has reviewed the medical records from Berry Family Practice, Miami Valley Hospital, Dayton Children's Medical Center and Dayton Children's Medical Center outpatient records regarding the delivery and follow up care of [REDACTED]
5. Affiant states to a reasonable degree of medical probability that the injuries suffered by [REDACTED] are the proximate result of the birthing process.

FURTHER AFFIANT SAYETH NAUGHT.



THOMAS HEGYI, M.D.

Sworn to and subscribed before me this 9 day of June, 2008.



Notary Public

KAREN E. MOORE
Notary Public, State of New Jersey
My Commission Expires March 29, 2011 2011

STATE OF NEW YORK)
)
 Bronx COUNTY)

AFFIDAVIT

Now comes Affiant, Shlomo Shinnar, M.D, who swears and affirms the following information is true to the best of his knowledge:

1. Affiant is a physician licensed to practice medicine in the state of New York.
2. Affiant is a Board certified neurologist who dedicates more than 75% of his time to the active clinical practice of medicine and/or teaching the same.
3. Affiant is familiar with the diagnosis and treatment of birth injuries, including hypoxic ischemic and traumatic causes.
4. Affiant further states he has reviewed the medical records from Berry Family Practice, Miami Valley Hospital, Dayton Children's Medical Center and Dayton Children's Medical Center outpatient records regarding the delivery and follow up care of [REDACTED]
5. Affiant states to a reasonable degree of medical probability that the injuries suffered by [REDACTED] are the proximate result of the birthing process.
6. Affiant states to a reasonable degree of medical probability [REDACTED] would have not been injured had delivery occurred earlier and/or if excess force was not

applied to the patient's skull resulting in compression injury.

FURTHER AFFIANT SAYETH NAUGHT.

Shlomo Shinnar

SHLOMO SHINNAR, M.D.

Sworn to and subscribed before me this 11th day of August, 2008.

Deborah Keyes

Notary Public



Deborah Keyes
Notary Public, State of New York
No. 01KE8098291
Qualified in Bronx County
Commission Expires September 8, 2011

STATE OF NEW YORK)
)
Onondaga COUNTY)

AFFIDAVIT

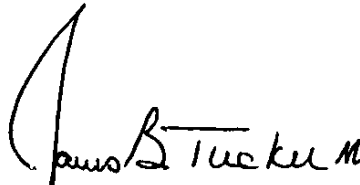
Now comes Affiant, James Tucker, M.D., who swears and affirms the following information is true to the best of his knowledge:

1. Affiant is a physician licensed to practice medicine in the state of New York who is Board Certified in family medicine.
2. Affiant further states he dedicates more than 75% of his professional time to the active clinical practice of medicine and/or teaching the same.
3. Affiant further states he is familiar with the standard of care for physicians, residents and nurses involved in labor and delivery, including but not limited to, vaginal delivery, forcep assisted vaginal delivery and low transverse cesarean sections.
4. Affiant further states he has reviewed the medical records from Berry Family Practice July 31, 2007 through September 14, 2007, Miami Valley Hospital from September 13 - 14, 2007, Dayton Children's Medical Center of September 14, 2007 through October 15, 2007, and Dayton Children's Medical Center outpatient records.
5. Affiant states the care and treatment provided during the course of labor and delivery by the family practitioners, OB-Gyn resident, OB-Gyn nursing staff and other attendant health care personnel at Miami Valley Hospital between September 12 and the date of delivery on September 13, 2007 was beneath accepted standards of care.
6. Affiant further states based upon his review of the medical records, education, training, and experience to a reasonable degree of medical probability that [REDACTED]

██████ suffered permanent injury as a direct and proximate result of these deviations from the standard of care.

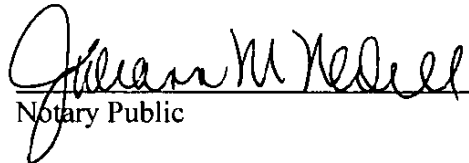
7. Affiant reserves the right to state additional opinions and/or basis following review of additional materials, including depositions during the course of the litigation process.

FURTHER AFFIANT SAYETH NAUGHT.

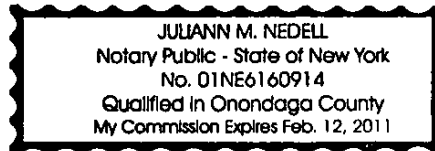


JAMES TUCKER, M.D.

Sworn to and subscribed before me this 17th day of July, 2008.



Notary Public



STATE OF NEW YORK)
)
New York COUNTY)

AFFIDAVIT

Now comes Affiant, Martin Gubernick, M.D., who swears and affirms the following information is true to the best of his knowledge:

1. Affiant is a physician licensed to practice medicine in the state of New York who is Board Certified in the specialty of Obstetrics and Gynecology.
2. Affiant further states he dedicates more than 75% of his professional time to the active clinical practice of medicine and/or teaching the same.
3. Affiant further states he is familiar with the standard of care for physicians, residents and nurses involved in labor and delivery, including but not limited to, vaginal delivery, forcep assisted vaginal delivery and low transverse cesarean sections.
4. Affiant further states he has reviewed the medical records from Berry Family Practice July 31, 2007 through September 14, 2007, Miami Valley Hospital from September 13 - 14, 2007, Dayton Children's Medical Center of September 14, 2007 through October 15, 2007, and Dayton Children's Medical Center outpatient records.
5. Affiant states the care and treatment provided during the course of labor and delivery by the family practitioners, OB-Gyn resident, OB-Gyn nursing staff and other attendant health care personnel at Miami Valley Hospital between September 12 and the date of delivery on September 13, 2007 was beneath accepted standards of care.
6. Affiant further states based upon his review of the medical records, education, training, and experience to a reasonable degree of medical probability that [REDACTED]

_____ suffered permanent injury as a direct and proximate result of these deviations from the standard of care.

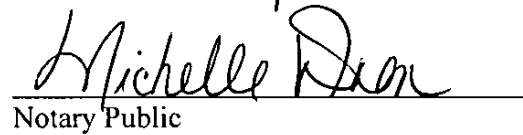
7. Affiant reserves the right to state additional opinions and/or basis following review of additional materials, including depositions during the course of the litigation process.

FURTHER AFFIANT SAYETH NAUGHT.



MARTIN GUBERNICK, M.D.

Sworn to and subscribed before me this 11th day of September, 2008.



Notary Public

MICHELLE WREN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN KING COUNTY
NO. 01WR8182218
MY COMMISSION EXPIRES 02-19-2012