IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

M.L.T., a minor, by her Next Friend and mother, Shamia Lee and Shamia Lee, Individually,
Plaintiffs,

Civil No. 19-cv-10065
Hon. Paul D. Borman
Mag. Judge Stephanie Dawkins Davis

v.

United States of America,
Defendant,
_____/

United States of America,
Third-Party Plaintiff,
v.

DMC Hutzel Women's Hospital, an assumed Name of VHS Harper-Hutzel Hospital, Inc., VHS Harper-Hutzel Hospital, Inc., a Delaware Corporation, Elizabeth Bryant, M.D., Steven Dudick, M.D., Erica Louden, M.D., Karoline Puder, M.D., and Wayne State University Physician Group.
Third-Party Defendants
_____/

M.L.T., a minor, by her Next Friend and mother, Shamia Lee,
Plaintiffs,

v

VHS Harper-Hutzel Hospital, Inc, a Delaware Corp d/b/a DMC Hutzel Women's Hospital, Wayne State University Physician Group, a Mich Corp., Elizabeth Bryant, M.D., an individual Steven Dudick, M.D., an individual Erica Louden, M.D., an individual and Karoline Puder, M.D., an individual
Defendants,
_____/

PLAINTIFFS' SECOND AMENDED COMPLAINT, DEMAND FOR JURY AND AFFIDAVITS OF MERITORIOUS CLAIM

NOW COME the above-named Plaintiffs by their attorneys, GERALD E. THURSWELL and ARDIANA CULAJ, of THE THURSWELL LAW FIRM, and complaining against the above-named Defendant, its agents, servants and/or employees, either real or ostensible, and submit the Second Amended Complaint as follows:

JURISDICTION, PARTIES AND VENUE

[1]

1. That this is a medical malpractice case brought under the Federal Tort Claims Act for severe and permanent injuries arising out of negligent acts or omissions of employees, agents, apparent agents, servants or representatives of the United States while acting within the course and scope of their employment, agency, apparent agency, servitude, or representative capacity, under circumstances where the United States of America, if a private person, would be liable to the Plaintiffs under the laws of the State of Michigan where the acts and/or omissions occurred. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §1346 (b).
2. That at all times relevant and/or material to these matters, the employees, agents, apparent agents, servants or representatives of the United States were subject to the United States' right to control, including substantial supervision and direction over their day-to-day activities.

[1] Attached is a Glossary of Abbreviations of terms that may appear in this Complaint.

3. That Shamia Lee, as the mother of M.L.T, a minor, and Next Friend of M.L.T. is an individual residing in Detroit, Wayne County, Michigan.

4. That at all times relevant to this Complaint, the Defendant, the United States of America, was the employer of health care providers who administered care and treatment to Shamia Lee while she was pregnant with M.L.T. in 2016.

5. That the United States of America is a Defendant.

6. That Defendant United States of America may be served with process in accordance with Rule 4(i) of the Federal Rules of Civil Procedure by serving a copy of the Summons and Complaint on Daniel L. Lemisch Acting United States Attorney for the Eastern District of Michigan, 211 W. Fort Street, Suite 2001, Detroit, Michigan 48442 to the attention of the Civil Process Clerk and by serving a copy of the Summons and Complaint on Attorney General of the United States of America, by registered or certified mail, to the Attorney General's Office, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, to the attention of the Civil Process Clerk.

7. That venue is proper in the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1391(a)(1) and (c) as the United States is a Defendant and because all or part of the cause of action accrued in this District and because the Plaintiffs reside in this District.

8. That this medical malpractice claim is also against DMC Hutzel Women's Hospital, an assumed name of VHS Harper-Hutzel Hospital, Inc, a Delaware Corp., Elizabeth Bryant, M.D., Steven Dudick, M.D., Erica Louden, M.D., Wayne State University Physician Group, and Karoline Puder, M.D.

9. That Defendant, VHS Harper-Hutzel Hospital, Inc, a Delaware corporation, does business as DMC Hutzel Women's Hospital, and is authorized to do business in the City of Detroit, County of Wayne, and State of Michigan.

10. That Defendant University Physician Group, Inc., a Michigan Corp, does business as Wayne State Physician Group, and is authorized to do business in the City of Detroit, County of Wayne, and State of Michigan.

11. That this Court has supplemental jurisdiction over all claims asserted in this action against each and every Defendant under 28 USC § 1367 as they are so related to the claim asserted against Defendant United States of America that they form part of the same case or controversy.

II.

LIABILITY OF THE UNITED STATES OF AMERICA

12. That this case is commenced and prosecuted against the United States of America pursuant to and in compliance with Title 28 U.S.C. §§2671-2680, commonly referred to as the "Federal Tort Claims Act." Liability of the United States is predicated specifically on Title 28 U.S.C. §§1346(b)(1) and 2674

because the personal injuries and resulting damages of which complaint is made, were proximately caused by the negligence, wrongful acts or omissions of employees of the Detroit Community Health Connection, Detroit, Michigan while acting within the scope of their office or employment, under circumstances where the United States, if a private person, would be liable to the Plaintiffs in the same manner and to the same extent as a private individual under the laws of the State of Michigan.

13. That the United States Department of Health and Human Services is an agency of the United States of America. The United States of America, Defendant, through its agency, the United States Department of Health and Human Services, at all times material hereto, owned, operated and controlled the health care facility known as Detroit Community Health Connection, and though its agency, the United States Department of Health and Human Services, staffed the health care facility with agents, servants, and/or employees.

III.

JURISDICTIONAL PREREQUISITES

14. That on February 5, 2018, the Plaintiffs filed their administrative claims based on the facts alleged herein with the appropriate federal agency – The Department of Health and Human Services – for damages arising out of the personal injuries sustained by M.L.T. and her mother, Shamia Lee, based on the negligence of the

United States' employees, agents, apparent agents, servants or representatives, practicing in the course and scope of their employment at Detroit Community Health Connection, Detroit, Michigan.

15. That on August 22, 2018, the United States Department of Health and Human Services denied these claims. Accordingly, Plaintiffs have complied with all jurisdictional prerequisites and conditions precedent to the commencement and the prosecution of this litigation.

IV.

FACTS

16. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and **Dr. Theodore Graham.**

17. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and **Dr. Elizabeth Bryant.**

18. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and **Dr. Steven Dudick.**

19. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and **Dr. Erica Louden.**

20. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and **Dr. Karoline Puder.**

21. That at all times material herein **Dr. Theodore Graham was** board certified in obstetrics and gynecology.

22. That at all times material herein **Dr. Elizabeth Bryant was** a resident practicing obstetrics and gynecology.

23. That at all times material herein **Dr. Steven Dudick was** a resident practicing in obstetrics and gynecology.

24. That at all times material herein **Dr. Erica Louden was** a resident practicing in obstetrics and gynecology.

25. That at all times material herein **Dr. Karoline Puder was** board certified in obstetrics and gynecology.

26. That **attached hereto are the medical records** mentioned in this complaint, so Defendant can admit in its answer to this complaint the quotes from the medical records.

(Ex A, Ex B, Ex C, Ex D, Ex E).

27. That the **Birth Certificate** of M.L.T. is attached as **Ex F** herein.

28. The attending physician Dr. Theodore Graham had the ultimate responsibility to care for his patients, Shamia Lee and M.L.T. The attending physician had the ultimate responsibility to supervise and direct the care rendered to his patients by the residents.

29. That Dr. Theodore Graham at all times material herein was Shamia Lee and M.L.T.'s attending physician.

30. That the records of **Detroit Community Health Connection** on the **mother, Shamia Lee**, indicate:

> "Exam Date: **4/5/16** ultrasound. Indication: Fetal growth. EDC: **6/11/16**. Fetal growth appropriate." P46-47

31. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**Admitted: 5/2/16 9:41 PM. Discharge: 5/9/16 1352. Diagnosis: Antepartum non-reassuring fetal heart rate or rhythm affecting care of mother.**" P61

32. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**History & Physical 5/2/16 2144. Resident: Kathryn Welch, MD**. Chief Complaint: The patient is a 26 years old Female …**my water broke.** History: 26 yo G1 @ 34.2 wks by 18 wk US who comes to OB ED triage stating that she had a **large gush of fluid at 7pm tonight** and then continued to leak a little. …She is having some low pelvic pain consistent with contractions about every 10 minutes. … **+FM**, +LOF, -VB, +CTX." P91

33. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**Impression**: 26 year old G1 at 34.2 weeks by 18 weeks US in preterm labor with PPROM. Clear fluid **1900**." P94

34. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

> "**Plan**: Admit to L&D. Expectant management for BMZ, then initiate Pitocin per protocol. Plan of care **D/W Dr. Jordan**, Attending Physician. Created by **Kathryn C. Welch, MD, Resident**." P95

35. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/2/16 2243** Betamethasone 12 mg intramuscular. **2325 R. Nagy** @ bedside. SVE: 2 / 100 / -2." P392, P108

36. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

> **5/2/16 2230** FHR **tachycardia, above 160 bpm.**
> **5/2/16 2300 FHR 165.**
> **5/3/16 0000 FHR 165 tachycardia**. ROM date / time: **5/2/16 2000**.
> **5/3/16 0030 FHR 165, minimal variability.**
> **5/3/16 0100 FHR 160**, moderate variability.
> **5/3/16 0130** FHR 155, **minimal variability**." P241

37. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

> "**5/3/16 0200 FHR 160. 5/3/16 0330 FHR 160, minimal variability**." P242

38. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

> "**5/3/16 0530 FHR 160, prolonged deceleration, intermittent deceleration.** Notify primary health provider, **deceleration. Nurse Kristin M Vasiloff, RN. 0600 FHR 160.**" P243.

39. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 0545** Station: -1 / Dilation: 3. **0552 Provider at bedside Dr. Steven Dudick (Resident).** SVE: 3 / 100 / -1." P385

40. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/3/16 0545** Vaginal Exam performed by **Dr. Steven Dudick, MD – Resident.**" P116 That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate, "**5/3/16 0730 FHR late deceleration, intermittent deceleration. Nurse Kiara Greenidge, RN.**" P244

41. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 0735** patient on lateral side, fluid bolus of 300ml started, **Dr. Bryant (resident) notified** of BP and decel, **Dr. Theodore Graham (attending)** being paged to notify. **0747** patient **changed position** to right lateral, FHT and TOCO readjusted." P382

42. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/3/16 0800 FHR 160.**" P245

43. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

> "**5/3/16 1030** temperature 36.4(C)." P123

44. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

> "**5/3/16 0930** FHR **minimal variability. Nurse Kiara Greenidge, RN. 1000** FHR **minimal variability. Nurse Kiara Greenidge, RN. 1100 FHR 160. Nurse Elaine S Bashura, RN.**" P246

45. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1058 Dr. Theodore Graham** (attending) in room for SVE. **1100** Station: -2 / Dilation: 3 / Effacement: 100." P379 .

46. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

> "**5/3/16 1100** Vaginal exam performed by **Dr. Theodore K Graham, MD.**" P125

47. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1142 500cc bolus for tachycardia per Dr. Bryant started.**" P378

48. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

"**5/3/16 1200** temperature 36.9(C)." P126 .

49. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1331** Oxytocin 10 units/1 mL started @ 3 mL/hr." P376

50. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1400** Oxytocin 10 units/500 mL changed to 6 mL/hr. **1445** Oxytocin 10 units/500 mL changed to 12 mL/hr." P375.

51. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1200 FHR 160**. **5/3/16 1230** FHR 110-160, moderate variability. **Nurse Kiara Greenidge, RN**." P247

52. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1500** temperature 37.0(C)." P129

53. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1415 FHR 165**. **1430 FHR 165**. **1445 FHR 160**. **1500 FHR 165, tachycardia**." P249

54. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "C10: FHR Baseline Description: Corrected from bradycardia, under 110 bpm on **5/3/16 1546** by **Dawn Hatfield, RN**." P294

55. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1515 FHR 165**. Nurse Kiara Greenidge, RN. **1530 FHR 165. Nurse Kiara Greenidge, RN. 1545 FHR 165, tachycardia. Nurse Dawn Hatfield, RN.** " P250

56. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1630** Oxytocin 10 units/500 mL changed to 18 mL/hr." P372

57. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/3/16 1600 FHR 170, tachycardia**, above 160 bpm. **Nurse Dawn Hatfield, RN. 1615 FHR 165. 1630 FHR 170. 1645 FHR 165. 1700 FHR 165, tachycardia** above 160 bpm. **1745 FHR 175, tachycardia** above 160 bpm. **Nurse Dawn Hatfield, RN. 1800 FHR 175, tachycardia** above 160 bpm." P250-251

58. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

"**5/3/16 1800** Oxytocin 10 units/500 mL changed to 24 mL/hr." P371

59. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

5/3/16 1815 FHR 175, tachycardia above **160** bpm.
1830 FHR 175.
1900 FHR **180, tachycardia** above **160** bpm.
1900 FHR 170, tachycardia above **160** bpm. " P252

60. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

5/3/16 1915 FHR 170, **tachycardia** above 160 bpm.
1930 FHR 170, **tachycardia** above 160 bpm.
2000 FHR 165, **tachycardia** above 160 bpm.
2000 FHR 165, **tachycardia** above 160 bpm. " P252-253

61. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

5/3/16 2015 FHR 165, **tachycardia** above 160 bpm.
2030 FHR 170, **tachycardia** above 160 bpm.
2045 FHR 165, **tachycardia** above 160 bpm.
2130 FHR 180, **tachycardia** above 160 bpm. " P254

62. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

5/3/16 2145 FHR 180, **tachycardia.**
2200 FHR 185, **tachycardia.**
2215 FHR 185, **tachycardia.**
2245 FHR 185, **tachycardia, minimal variability.**
2245 FHR 180, **tachycardia.**" P255

63. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 2015** Station: -2 / Effacement: 100 / Dilation: 4. **2024 Provider at bedside**; **Vaginal Exam**: 4 / 100 / -2." P368, 281, 138

64. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 2026** IUPC placed by **Dr. Almario**. **2051** Oxytocin reduced to 2 milliunits/min. **2041** Oxytocin reduced to 5 milliunits/min." P367.

65. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "T71: **5/3/16** Provider at bedside. **Vaginal Exam**: 4 / 100 / -2. **5/3/16 2319** Oxytocin restarted @ 1 milliunit/min." P281 .

66. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/3/16 2319 Oxytocin restarted** @ 1 milliunit/min." P363, P144

67. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> **5/3/16 2300** FHR 180, **tachycardia** above 160 bpm.
> **2315** FHR 180, **tachycardia** above 160 bpm.
> **2330** FHR 180, **tachycardia**.
> **2345** FHR 180, **tachycardia**.

5/4/16 0000 FHR 180, **tachycardia**.
15 FHR 180, **tachycardia** above 160 bpm. " P256

68. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

"P**5/4/16 0003** See Below. (P281 Provider at bedside, vaginal exam.) 145

69. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

"**5/4/16 0030** FHR 175, **tachycardia** above 160 bpm.
100 FHR 180, **tachycardia** above 160 bpm.
0100 FHR 180, **tachycardia** above 160 bpm." P257

70. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

"**5/4/16 0115** FHR 180, **tachycardia** above 160 bpm.
0130 FHR 180, **tachycardia** above 160 bpm.
0145 FHR 180, **tachycardia** above 160 bpm.
200 FHR 180, **tachycardia** above 160 bpm. Fetal Activity: Present.
Nurse Maria Buia, RN." P258

71. That the records of **Hutzel Hospital** on the **mother, Shamia Lee,** indicate:

"**5/4/16 0215** FHR 180, **tachycardia** above 160 bpm.
0230 FHR 180, **tachycardia** above 160 bpm.
245 FHR 180, **tachycardia** above 160 bpm.
Nurse Maria Buia, RN." P259

72. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

73. "**5/4/16 0230** Cervical Exam: **5 / 100 / -2. Vaginal Exam performed by Leanne Almario, MD – Resident.**" P151, P152, P282, P359

74. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> **5/4/16** FHR 180, **tachycardia** above 160 bpm.
> **0315** FHR 175, **tachycardia** above 160 bpm.
> **0330** FHR 175, **tachycardia** above 160 bpm. **Minimal variability**.
> **345** F
> HR 175, **tachycardia** above 160 bpm. **Minimal variability**.
> **Nurse Maria Buia, RN**." P259-260

75. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0345** expectant management until Dr. Graham able to assess patient in person." P572

76. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> **5/4/16 0400** FHR 175, **tachycardia** above 160 bpm. **Minimal variability**. Late decelerations.
> **0415** FHR 175, **minimal variability**.
> **0430** FHR 175, **tachycardia** above 160 bpm. **Minimal variability**.

500 FHR 170, **tachycardia** above 160 bpm. **Minimal variability**.
Nurse Maria Buia, RN." P261.

77. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0408 Oxytocin off / per Dr. Puder**. Fetal Monitoring Annotations." P155

78. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0530** FHR 160. **Minimal variability**. **0600** FHR 160. **Minimal variability**. 615 FHR 160. **Minimal variability**. Late decelerations. **Nurse Maria Buia, RN**." P262

79. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0630** Cervical Exam: 5 / 100 / 0. Vaginal Exam performed by **Dr. Steven Dudick, MD – Resident**." P158-159

80. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "T89: **5/4/16 0637 Vaginal Exam**: 5 / 100 / 0. T91: **5/4/16 0720 Dr. Bryant** at bedside for evaluation. SVE 5 / 80 / -2. Scalp stimulation performed by Dr. E. Bryant. T92: **5/4/16 0727** TOCO and FHT readjusted, O2 applied at 10L non-rebreather face." P282.

81. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 SVE: 5 / 80 / -2. Scalp stimulation for minimal variability for approximately 2 minutes** at **0720**. **Dr. Elizabeth Bryant, MD – Resident**." P571 .

82. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0720** paged **Dr. Graham**. Tracing remained category II, baseline 160, minimal variability, intermittent late decelerations. Instructed by Dr. Graham (attending) to restart Oxytocin. Dr. Puder disagreed. Oxytocin not restarted." P572

83. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0630** FHR 160. **Minimal variability**. **0730** FHR 160. **Minimal variability**. **Nurse Kiara Greenidge, RN** FHR 155. **Minimal variability**. **Nurse Melissa Klein, RN**." P159, P263, P282

84. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0700** temperature 36.8(C)." P160

85. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "Author: DUDICK MD-Resident, STEVEN. Date of Service: **05/04/2016**. **Late entry due to meeting I had to**

> **attend immediately after board turnover. Incident Summary: Discussed fetal heart rate tracing with Dr. Puder and Dr. Graham at 0345. Fetal baseline varied between 160 and 180, minimal-to-moderate variability, no accels, intermittent late decels. Oxytocin discontinued at 0300. After discussion with Dr. Puder and Dr. Graham, the decision was made to not restart oxytocin and expectantly manage until Dr. Graham able to assess patient in person. Paged Dr. Graham at 0720, immediately following board turnover. Tracing remained Category II: baseline 160, minimal variability, intermittent late decels. Instructed by Dr. Graham (attending) to restart oxytocin. Dr. Puder disagreed. Oxytocin not restarted**." P572

86. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "Attestation Teaching Attestation: Attestation/ Supervisor Note: Attestation to Brief Incident Note, Participation (management reviewed and discussed, Tracing reviewed with Dr. Dudick. Category II, infrequent decels off oxytocin. Attending for this patient needs to assess the patient in person prior to restarting oxytocin. Dr. Graham informed. Per our earlier conversation, he stated that he would be on his way to Hutzel at 0700.), I agree with findings & plan, Provider Signature (PUDER MD, KAROLINE S, Beeper Number 3850, Maternal-Fetal Medicine Obstetrics & Gynecology). P573

87. That at approximately **0345** on **5/4/16** the standard of care required Dr. Graham to come to Hutzel Hospital and evaluate Shamia Lee and M.L.T., to evaluate M.L.T. and the fetal monitoring graphs. In addition, to then recommend and/or at least offer Shamia Lee a C-section, because a vaginal delivery was remote and there were non-reassuring fetal heart

tones. In violation of the standard of care this was not done by Dr. Graham.

88. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0721** Cervical Exam: 5 / 80 / -2. Vaginal exam performed by **Dr. Elizabeth Bryant, MD – Resident**." P160

89. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0720 Dr. Bryant** at bedside for evaluation. SVE: 5 / 80 / -2. Scalp stimulation performed by **Dr. Bryant**. **0727** patient repositioned to left lateral from right lateral, TOCO and FHT readjusted. O2 applied at 10L non-rebreather face mask." P160, P282, P352

90. That the standard of care required Dr. Graham at approximately **0740** to tell the residents to perform a stat C-section and deliver M.L.T. while he was en route to the hospital. If available to get a staff to participate in the delivery. In violation of the standard of care this was not done by Dr. Graham.

91. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "T89: **5/4/16 0637 Vaginal Exam**: 5 / 100 / 0. T91: **5/4/16 0720 Dr. Bryant** at bedside for evaluation. SVE 5 / 80 / -2. Scalp stimulation performed by **Dr. E. Bryant**. T92: **5/4/16 0727** TOCO and FHT readjusted, **O2 applied** at 10L non-rebreather face." P282.

92. That the records of Hutzel Hospital on the mother, Shamia Lee, indicate:

> "SSE (sterile speculum examination): os open, gross pooling, clear fluid, + Nitrazine
> - Last SVE: 5/80/-2 @ **08:19**
> - s/p BMZ x2 doses
> - CTX Q5 min external toco
> - Epidural in place
> -Consented for C-section: On chart review patient noted to have a CAT II tracing: baseline of 05's, **minimal variability, with occasional decels and a prolonged decel down to the 80's, irregular contractions. Fetus did not respond to scalp stimulation. Cervical exam unchanged. Pitocin has been off since 03:00. Dr. Graham notified overnight and this morning and is en route**. C-section is recommended. She was consented for pLTCS
> Patient verbalized understanding and wishes to proceed w/ cesarean section.
> Fetal status
> - FHT: Baseline 160, **minimal variability**, no accels, intermittent variable decels
> - BSUS: Singleton, Cephalic, EFW 2285g, MVP 0.4 cm
> Plan:
> - C-section, Scip orders
> - Epidural for pain control
> - Continuous fetal and toco monitoring
> Plan of care d/w (discussed with) **Dr. Graham**, attending physician. Dr. Loudin, resident." P591

93. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "T331: **5/3/16 0600** Deceleration Interventions: Cervical exam, Notify primary health provider.
> T336: **5/4/16 0800** Cesarean section, fetal intolerance to labor." P293

94. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "Author: LOUDEN MD-Resident, ERICA. Date of Service: **05/04/2016**. Basic Information: Ms. Lee is a 26 y/o at 34w4d by 18 wk US admitted to labor and delivery for management of PPROM. s/p BMZ x2. CAT II tracing: Dr. Graham notified@ **07:40 a.m.** and is en route. Consented for C-section: On chart review patient noted to have a CAT ll tracing: baseline of O5's, **minimal variability**, with occasional decels and a prolonged decel down to the 80's, irregular contractions. Fetus did not respond to scalp stimulation. Cervical exam unchanged. Pitocin has been off since **03:00**. Dr. Graham notified overnight and this morning and is en route. STAT C-section is recommended. She was consented for pLTCS. Patient verbalized understanding and wishes to proceed w/ cesarean section." P592-593

95. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 Indication:** Ms. Lee is a 26 y/o G1 PO at 34w4d by 18 wk US admitted to labor and delivery for management of PPROM. s/p BMZx2. CAT II tracing: **Dr. Graham notified@ 07:40 a.m. and is en route. Consented for C-section: On chart review patient noted to have a CAT ll tracing: baseline of 05's, minimal variability, with occasional decels and a prolonged decel down to the 80's, irregular contractions. Fetus did not respond to scalp stimulation** (at **0720**, P160). Dr. Manesha Puder." P634-635.

96. That the **fetal monitoring graphs / nurse's notes** from **Hutzel Hospital**, on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0742 Dr. Bryant (resident) at bedside discussing possible C-section and obtaining consent, awaiting Dr. Graham arrival for evaluation.**" P351

97. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "T103: **5/4/16 0742 Dr. Bryant** at bedside discussing possible C-section and obtaining consent, awaiting **Dr. Graham** arrival for evaluation. T106: **5/4/16 0838 Dr. Loudin at bedside**. STAT C-section called." P283

98. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0800** FHR 160. **Minimal variability**. **Nurse Kiara R Greenidge, RN**." P264

99. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate: "**5/4/16 0840** patient to OR." P165

100. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate: "Anesthesia Record: **8:42** to OR for STAT C-section." P621

101. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "Stat C-section. **8:43** patient moved to OR table. **8:46** delivery." P623

102. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

"Date of Surgery: **05/04/2016**. Performed by: GRAHAM MD, THEODORE K. Assistant: PUTRA MD-Resident, MANESHA.
Pre-Operative diagnosis: Antepartum non-reassuring fetal heart rate or rhythm affecting care of mother. Post-Operative diagnosis: Antepartum non-reassuring fetal heart rate or rhythm affecting care of mother. Procedure: Cesarean Section." P636

103. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

"5/4/16 0921 Dr. Theodore Graham. I was informed that the patient had redeveloped late decels with the pitocin off while I was in route. upon arrival to the hospital the patient was being transferred to the or for a stat c-section. a LTCCS was performed delivering a viable female infant." P593

104. That M.L.T. was born by C-section on **5/4/16** at **0846**.

105. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

"Author: ERICA LOUDEN MD-Resident. Date: **05/04/2016**. Incident Summary: Ms. Lee is a 26 yo G1P0101 s/p Stat C-section." P573

106. That the records of **Hutzel Hospital** on the **child, M.L.T.**, indicate:

"Delivery History:
Duration of rupture of membranes: 38 hours
Delivery: C/Section
Indication (if C/Section): **Fetal heart rate 40s**
Delivery: **5/4/16 0846**
Resuscitation: (include whether neowrap, neopuff, transwarmer mattress use, resuscitation done): Stimulation, bulb suction, PPV, intubation, neopuff

APGAR: 1min: 0
5 min: 4 (2 HR, 1 Resp, 1 color)
10 min: 5 (2 HR, 1 Resp, 1 reflex, 1 color)
15 min: 6 (2 HR, 2 Resp, 1 reflex, 1 color)
Birth weight (w/ percentiles)(g): 2300g, 50th
Birth Length (w/ percentiles)(cm): 45cm, 25th-50th
Birth Head Circumference (w/ percentiles)(cm): 31 cm, 25th-5oth
Cord Gases: Arterial: 6.741/124/14.6, BE(-) 24.2
Venous: 7.048/60/48, BE(-) 15.4
P45

107. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**5/4/16 0907** Arterial Cord **Blood Gases**: pH 6.741 / pCO_2 124 / pO_2 14.6 / BE -24.2. **5/4/16 0908** Venous Cord **Blood Gases**: pH 7.048 / pCO_2 60.0 / pO_2 48.0 / BE -15.4." P289

108. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "Infant weight: 6lb 2oz. **Apgar scores** 1 / 5 / 10 = 0 / 4 / 5. Preterm 34-3/7 weeks' gestation, **fetal distress**." P562.

109. That the records of **Hutzel Hospital** on the **mother, Shamia Lee**, indicate:

> "**Findings:** Female infant delivered, APGAR 0-4-5-6 at 1-5-10 and 15 minutes. Weight 2335g; meconium stained amniotic fluid. **Created by:** PUTRA MD-Resident, MANESHA." P635

110. That the records of **Hutzel Hospital** on the **child, M.L.T.**, indicate:

"**5/4/16 Birth Weight: 2.335kg**. Birth head circumference: 31cm. Patient is intubated and receiving bag-mask ventilation. There is no spontaneous movement of limbs, no eye opening. **Neurologic: Abnormal motor as evidence by lack of spontaneous limp movement, not alert**." P57

111. That the records of **Hutzel Hospital** on the **child, M.L.T.**, indicate:

"Capillary Blood Gas PH 6.916 <LLOW
Capillary Blood Gas PC02 75.7 mmHg >HHI
Capillary Blood Gas P02 34.1
Capillary Blood Gas HC03 14.6 mEq/L
Capillary Bld Gas Base -19.9
Excess
Capillary Blood Gas MetHgb 2.0 %
Capillary Blood Gas CoHgb 2.2 %
Capillary Blood Gas Hgb 13.3 gm/dL
Capillary 02 Hemoglobin 58.6
Capillary Blood Gas Temp 37.0 mEq/L
CAPILLARY BLOOD GAS
5/4/16 0936 Glucose by meter (unit based) 10mg/dL CRIT. P58

112. That the records of **Hutzel Hospital** on the **child, M.L.T.**, indicate:

"US head **5/7/16** History: 3-day-old born prematurely at 35 weeks' gestational age. FINDINGS: Sulcation pattern is appropriate for age. Small cavum septum pellucidum is seen. There are small focal frontal subependymal hyperechogenicity anterior to the level of the foramen of Monro seen on multiple images. No intraventricular or intraparenchymal hemorrhage is evident. Periventricular echogenicity is within normal limits. The posterior fossa as visualized unremarkable. There is no evidence of midline structural anomaly, mass effect, midline shift or abnormal extraaxial fluid collection. Impression: Small bilateral grade 1 germinal matrix hemorrhage." P1420-1421

113. That the records of **Hutzel Hospital** on the **child, M.L.T.**, indicate:

> "NEONATAL HISTORY -Peds paged 1, 1 to newborn delivery via **stat CS for fetal heart rate in the 40s**. Peds team along with NICU fellow arrived prior to the deliver. At time of delivery, team notified of thick meconium. **Late preterm female born without spontaneous cry, limp, cyanotic and without heart rate on auscultation or palpation. Bag mask ventilation was commenced within 30seconds of placement on warming table**. Stimulation was provided and pulse oximeter was attached to the right wrist. **Initial Apgar at 1 minute of life was zero. "00" was paged. Patient was provided positive pressure ventilation by bag mask, and heart rate increased to >100 by 1 minute 30seconds of life. Positive pressure ventilation was continued, with saturations in the 50s**. …baby was intubated at 3minutes 20seconds of life with a 3.0 ET tube with equal breath sounds. Saturations improved after intubation. Fi02 increased to 40% at 4 minutes of life. **Apgar at 5 minutes was 4, 2 for heart rate 1 for respiratory effort and 1 for acrocyanosis**. Fi02 was increased to 100% for continued saturations in the 80s. Notification of NICU admission was made. Positive pressure ventilation continued. **Apgar at 10 minutes of life was 5, 2 for heart rate, 1 for respiratory effort, 1 for reflex and 1 for color.** Apgar at 15 minutes was 6, 2 for color, 2 for respiratory effort, 1 for reflex and 1 for color. The incubator was brought into the delivery room and the baby was prepared for transportation. She was transported to the NICU in the incubator on Neopuff with pressures of 20/5.
> Procedures:
> Intubation
> UVC **5/4-5/6**
> UAC **5/4-5/6**
> PICC **5/6-**
> **Active problems:**
> Preterm at 34-*4/7* weeks' gestation, AGA
> **Perinatal Depression, HIE findings on MRI**
> Resolved problems:

Hypoglycemia
Hypotension
Renal insufficiency
Hyponatremia
Metabolic Acidosis
RDS
MSAF
Hyperbilirubinemia
Suspect Sepsis, PPROM
Preterm at 34 4/7 weeks gestation, AGA
Perinatal Depression, HIE findings on MRI." P37, P55

114. That the records of **Hutzel Hospital** on the **child, M.L.T.**, indicate:

"**HUS** (date/result): **5/7/16** small grade 1 hemorrhage B/L. MRI **5/18/16**: **IMPRESSION**: 1. Diffusion restriction involving the corpus callosum and cortex with diffuse abnormal signal involving the subcortical and periventricular white matter predominantly of the frontal lobes and occipital lobes. Non-visualization of the posterior limb of the internal capsule with abnormal signal in the thalami and basal ganglia. **The conglomeration of findings as described above is concerning for hypoxic ischemic encephalopathy**. 2. Mild prominence of the ventricular system and simplified sylvian fissures.
3. No obvious intracranial abscess.
Mother updated at bedside on results on **5/19** and **risk for dev delay**." P40, P1389, P1398

115. That the records of **Hutzel Hospital** on the **child, M.L.T.**, indicate:

"**Active problems:** Preterm at 34 4/7 weeks' gestation, AGA.
Perinatal Depression, **MRI abnormalities suggestive of hypoxic brain injury.**
Failed b/I hearing test
Resolved problems:
Hypoglycemia
Hypotension

Renal insufficiency
Hyponatremia
Metabolic Acidosis
RDS
MSAF
Hyperbilirubinemia
P46

116. That the records of **Children's Hospital of Michigan** on the **child,**

M.L.T., indicate:

"First Clinic Visit for Developmental Assessment.
Neonatal Diagnoses:
-Late Pre-Term Infant.
-Perinatal Depression.
-Failed Hearing Screen.
Current Diagnoses:
-Hearing Loss (Mild)
-Hypertonia of All Extremities (Suspect)
-Hypotonia (Trunk) P8

117. That the records of **Children's Hospital of Michigan** on the **child,**

M.L.T., indicate:

"Pt. ls a 10 month old female, presenting with **truncal hypotonia**. She presents with **delayed gross motor developmental milestones. M.L.T. presents with low tone in her trunk, as well as increased tone throughout her extremities**. She demonstrates fairly appropriate reaching and gross grasps, and is able to interact with cause and effect toys. Pt. is able to roll, but with difficulty and requires cueing and occasional assistance. She presents with poor trunk control, and is unable to sit unsupported. Pt. also demonstrates delayed protective responses and equilibrium reactions. M.L.T.'s deficits are affecting her ability to achieve age-appropriate milestones, and may result in unsafe mobility. She in an

excellent candidate for skilled, clinical OT services in order to address deficits." P34

118. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

"Response: Sideways Protecting Reaction
Result: **Delayed/ Weak**
Response: Forward Protecting Reaction
Result: **Delayed/ Weak**
Response: Prone Tilting Reaction
Result: **Delayed/ Weak**
- Equilibrium Reactions -
Reaction: Perturbation to front while in sitting
Result: **Delayed/ Weak**
Reaction: Perturbation to left while in sitting
Result: **Delayed/ Weak**
Reaction: Perturbation to rear while in sitting
Result: **Delayed/ Weak**
Reaction: Perturbation to right while in sitting
Result: **Delayed/ Weak**
Muscle Tone Comments: Increased muscle tone throughout BLE
Frequency of OT: Two times weekly
P35

119. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate: "**3/9/17** Patient has hypotonia. Needs OT and PT." P38

120. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

"**4/20/17 Neonatal Diagnoses**: Late Pre-Term Infant. Perinatal Depression. Failed Hearing Screen. **Current Diagnoses**: Prematurity.Hypertonia of bilateral upper extremities. Hypertonia of bilateral ankles. Hypotonia (Trunk). Sensorineural hearing loss. URI. Motor delay. Speech delay (Borderline)" P1

121. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

"**4/20/17** MRI on 5-18-16 shows diffusion restriction involving the corpus callosum and cortex with diffuse abnormal signal involving the subcortical and periventricular white matter predominantly or abnormal hearing and abnormal speech." P2

122. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

"**7/12/17** She had an MRI on 5/18 which showed diffusion restriction involving the corpus callosum and cortex with diffuse abnormal signal involving the subcortical and periventricular white matter predominantly in the frontal lobes and occipital lobes, non-visualization of the posterior limb of the internal capsule with abnormal signal in the thalami and the basal ganglia. The conglomeration of findings is described as concerning for **hypoxic-ischemic encephalopathy**, mild prominence of the ventricular system, no obvious intracranial abscess." P489.

123. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

"**7/12/17 IMPRESSION:** 1. Cerebral palsy secondary to hypoxic ischemic encephalopathy. 2. Developmental delay in all areas. 3. Increased tone in bilateral lower extremities causing decreased range of motion." P489

124. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

> "**9/14/17** Mei'a was born at 34 weeks gestational age by emergency C-section. She was identified with hearing loss "at birth" per her mother. ABR testing that this is sensorineural hearing loss with mild in her right ear and slight mild in her left ear. Per chart review, Mei'a also participated in **MRI testing shortly after birth that was remarkable for signs of hypoxic-ischemic encephalopathy**. Mee'a has been diagnosed with truncal hypotonia and currently is in physical therapy. She recently completed a course of therapy with occupational therapy. Her mother reported that she is also working with an Early On provider." P622

125. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

> "**3/6/18** Patient is a 22 month old female who presents with increased tone in bilateral lower extremities, limited ankle dorsiflexion range of motion and hamstring extensibility, and decreased lower extremity and core strength. These deficits affect age appropriate milestone acquisition. Patient requires assistance to stand and does not ambulate independently. Patient would benefit from physical therapy to address these issues and increase age appropriate functional mobility." P695

126. That the records of **Children's Hospital of Michigan** on the **child, M.L.T.**, indicate:

> "**4/26/18** **Receptive Language**: Patient presents with receptive language that is: Profoundly impaired…Does not demonstrate an age appropriate understanding of (single step direction, two step related directions, Two step unrelated directions, Yes/no questions, Referent present, "Wh" questions. **Expressive**

Language: the patient presents with expressive language that is: Mildly impaired. P824

V.

CLAIM FOR NEGLIGENCE OF DEFENDANTS

127. That Defendant, the United States of America, by and through its agents, apparent agents, employees, servants, representatives, and contractors, undertook duties to provide proper care to Shamia Lee, and her unborn child, M.L.T,. with the level of care, skill, and treatment that is recognized as acceptable and appropriate by reasonably prudent health care providers.

128. That at all times material herein **Dr. Theodore Graham was** the agent, servant and/or employee, either real or ostensible, of Detroit Community Health Connection, Michigan.

129. That at all times material herein, there was a patient-doctor relationship between doctors, nurses and/or medical assistants who cared for Plaintiffs at Hutzel Hospital and Detroit Community Health Connection, which doctors and nurses were the agents, servants or employees of **Detroit Community Health Connection**, either real or ostensible.

130. That when Plaintiffs were treated at Detroit Community Health Connection, Plaintiffs were staff patients and a doctor or doctors were assigned pursuant to Detroit Community Health Connection procedures, by **the Detroit**

Community Health Connection, to care for Plaintiffs and said doctors were the agents, servants and/or employees of said**, Detroit Community Health Connection,** either real or ostensible.

131. That **Dr. Theodore Graham** was the agent, servant or employee of Detroit Community Health Connection, either real or ostensible, and was acting in the course and scope of said employment when said doctor treated Plaintiffs and violated the standard of practice of her profession in the care and treatment of Plaintiffs as stated herein.

132. That **Detroit Community Health Connection** is liable to Plaintiffs herein under the doctrine of respondeat superior, either real or ostensible for the malpractice of Dr. Graham as alleged herein.

133. That **Detroit Community Health Connection** is a federally funded healthcare facility owned, operated and controlled by the United States of America through its agency, Department of Health and Human Services.

134. That at all times material hereto, **Dr. Theodore Graham,** when rendering health care services to Plaintiffs herein, was the agent, servant and/or employee of the Department of Health and Human Services of the United States of America, or some other agency thereof, and was at all times material hereto, acting within the course and scope of such employment.

135. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and Dr. Elizabeth Bryant.

136. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and Dr. Steven Dudick.

137. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and Dr. Erica Louden.

138. That at all times material herein, a patient-doctor relationship existed between Plaintiffs and Dr. Karoline Puder, M.D.

139. That at all times material herein, there was a patient-doctor relationship between doctors and nurses who cared for Plaintiffs at Defendant VHS Harper-Hutzel Hospital, Inc, d/b/a DMC Hutzel Women's Hospital, which doctors and nurses were the agents, servants or employees of Defendant VHS Harper-Hutzel Hospital, Inc., either real or ostensible.

140. That at all times material herein, Dr. Elizabeth Bryant, MD, was a physician duly licensed to practice medicine in the State of Michigan.

141. That at all times material herein, Dr. Steven Dudick, was a physician duly licensed to practice medicine in the State of Michigan.

142. That at all times material herein, Dr. Erica Louden, was a physician duly licensed to practice medicine in the State of Michigan.

143. That at all times material herein, Dr. Karoline Puder, was a physician duly licensed to practice medicine in the State of Michigan.

144. That when Plaintiffs were admitted to Defendant VHS Harper-Hutzel Hospital Inc., Plaintiffs were admitted as staff patients and a doctor or doctors or nurses were assigned pursuant to hospital procedures, by Defendant VHS Harper-Hutzel Hospital Inc , for Plaintiffs and said doctors and nurses were the agents, servants and/or employees of said Defendant VHS Harper-Hutzel Hospital Inc, either real or ostensible.

145. That Dr. Elizabeth Bryant, Dr. Steven Dudick, Dr. Erica Louden, and Dr. Karoline Puder, were the agents, servants or employees of Defendant VHS Harper-Hutzel Hospital Inc, either real or ostensible, and were acting in the course and scope of said employment when said doctors treated Plaintiffs and violated the standard of practice of their profession in the care and treatment of Plaintiff mother and/or Plaintiff minor as stated herein.

146. That Dr. Puder was the agent, servant or employee of Defendant University Physician Group, d/b/a Wayne State University Physician Group, either real or ostensible, and were acting in the course and scope of said employment when said doctor treated Plaintiff and violated the standard of practice of their profession in the care and treatment of Plaintiff mother and/or Plaintiff minor as stated herein.

147. That Defendants, and each of them, are liable to Plaintiffs herein under the doctrine of respondeat superior, either real or ostensible.

148. That Defendant VHS Harper-Hutzel Hospital Inc and/ or Defendant USA, are liable to Plaintiffs herein under the doctrine of respondeat superior, either real or ostensible.

149. That Defendant University Physician Group, d/b/a Wayne State University Physician Group is liable to Plaintiffs herein under the doctrine of respondeat superior, either real or ostensible.

STANDARD OF CARE AND BREACHES- DR. THEODORE GRAHAM, DR. KAROLINE PUDER

150. That at all times material herein, Defendants, through their employees and/or agents, Dr. Theodore Graham, and Dr. Karoline Puder, owed the following duties to Plaintiffs pursuant to the patient-doctor relationship that existed between them and pursuant to the standard of practice or care of his profession. That Dr. Theodore Graham and/or Dr. Karoline Puder breached the aforementioned duties in at least one and possibly more of the following particulars, so far as it is presently known, by failing:

a. To exercise reasonable skill and diligence to timely make himself/herself immediately available to evaluate Plaintiffs once the

doctor was notified of Plaintiff-minor's non-reassuring fetal heart tones, fetal distress.

b. To exercise reasonable skill and diligence to timely answer his/her cell phone immediately when called, respond to text messages immediately once received when the doctors designated themselves as being "on-call," and timely respond to residents' requests for the doctor to come to the hospital.

c. To exercise reasonable skill and diligence to immediately go to the hospital and evaluate Plaintiff mother, Shamia Lee, when requested by the residents.

d. To exercise reasonable skill and diligence that when the residents, Drs. Bryant, Dudick, and Louden and/or other residents called the doctors regarding Shamia Lee that the doctors inquire from the residents following their interpretation of the fetal monitoring graphs, their clinical evaluation of Shamia Lee their diagnosis; the results of the cervical examination performed on Shamia Lee, and the status of the fetal heart rate.

e. To exercise reasonable skill and diligence to timely proceed to delivery of M.L.T. as the mother Shamia Lee was at 34.2 weeks' gestation on

admission to Hutzel Hospital on 5/2/16 at 0848 with rupture of membranes having occurred at approximately 7:00 PM on 5/2/16.

f. To exercise reasonable skill and diligence and timely offer the mother a C-section in the presence of non-reassuring fetal heart tones with spontaneous rupture of membranes at 34.2 weeks' gestation when vaginal delivery was remote.

g. To exercise reasonable skill and diligence to timely obtain the informed consent of Plaintiff mother offering her a C-section versus offering her induction of labor.

h. To exercise reasonable skill and diligence to timely come to the hospital and review the fetal monitoring graphs, give the appropriately orders including, but not limited to, ordering and performing a timely stat C-section when non-reassuring fetal heart tones were communicated to him by the residents on duty.

i. To exercise reasonable skill and diligence to timely tell the residents to proceed with a stat C-section delivery, and not wait for his presence, as the attending physician, Dr. Graham.

j. To exercise reasonable skill and diligence to recognize that Plaintiffs had a high probability of sudden clinically significant deterioration,

which required the highest level of physician presence and preparedness to intervene timely with a stat C-section pursuant to the standard of care.

k. To exercise reasonable skill and diligence to timely diagnose non-reassuring fetal heart tones and/or fetal distress.

l. To exercise reasonable skill and diligence to timely order and/or timely perform intrauterine resuscitation with the administration of oxygen and IV hydration and/or turn the mother's position.

m. To exercise reasonable skill and diligence to timely and periodically, properly review and evaluate the fetal monitoring strip that was produced herein.

n. To exercise reasonable skill and diligence to timely order and/or timely perform a stat Cesarean section.

o. To exercise reasonable skill and diligence to recognize that Plaintiff mother was remote from a vaginal delivery with a type II tracing.

p. To exercise reasonable skill and diligence to timely diagnose an arrest of labor and/or arrest in dilatation and/or arrest in descent.

q. To exercise reasonable skill and diligence to timely order and/or timely administer tocolytics.

r. To exercise reasonable skill and diligence to timely recognize the significance of scalp stimulation failing to cause accelerations.

s. To exercise reasonable skill and diligence to timely order and timely perform a stat Cesarean section.

t. To exercise reasonable skill and diligence to timely order and tell the residents to perform a stat C-section and ask for a staff OB/GYN for assistance while en route to the hospital.

u. To exercise reasonable skill and diligence to timely recognize that a vaginal delivery was remote and therefore a timely C-section was required, based on the fetal heart rate tracings of tachycardia and/or minimal variability and/or late decelerations and/or bradycardia and/or the absence of reassuring accelerations of the fetal heart rate in the face of scalp stimulation.

v. To exercise reasonable skill and diligence to timely shut off / discontinue the administration of Pitocin / Oxytocin.

w. To exercise reasonable skill and diligence to timely and periodically review and/or timely evaluate properly the fetal monitoring graph that was produced herein to recognize non-reassuring fetal heart tones.

x. To exercise reasonable skill and diligence in the timely treatment and care of Plaintiffs' conditions, to-wit: timely order and/or timely perform delivery herein.

y. To timely request a crew and anesthesia to come stat so that a stat C-section could be timely performed.

z. To timely recognize the significance of the failure to obtain reassuring fetal heart rate variability and/or heart rate accelerations with 2-minute scalp stimulation.

aa. To timely request a crew and anesthesia be available for a stat C-section.

bb. To exercise reasonable skill and diligence to timely diagnose non-reassuring fetal heart tones / patterns and/or fetal distress.

cc. To exercise reasonable skill and diligence to timely order and/or timely perform intrauterine resuscitation with the administration of oxygen and IV hydration and/or turning position, mother position.

dd. To exercise reasonable skill and diligence to timely order and/or timely administer tocolytics to stop contractions.

ee. To exercise reasonable skill and diligence to timely order and/or timely perform a Cesarean section so as to prevent hypoxia and/or ischemia from resulting in brain damage while the fetus remained in the uterus.

ff. To exercise reasonable skill and diligence to timely and periodically review and/or timely evaluate properly the fetal monitoring graph that was produced herein to recognize non-reassuring fetal heart tones.

gg. To timely exercise reasonable skill and diligence to recognize decreases in fetal heart rate variability.

hh. To exercise reasonable skill and diligence to refrain from caring for the mother and baby on the phone, but to be at the bedside to evaluate and care for them, and interpret the fetal monitoring graph.

ii. To timely exercise reasonable skill and diligence to refrain from restarting the Oxytocin / Pitocin.

jj. To timely exercise reasonable skill and diligence to recognize fetal heart rate tachycardia and its significance regarding fetal well-being.

kk. To timely exercise reasonable skill and diligence to recognize absence of fetal heart rate accelerations and its significance regading fetal well-being.

ll. To timely exercise reasonable skill and diligence to recognize fetal heart rate late decelerations and its significance regarding fetal well-being.

mm. To timely exercise reasonable skill and diligence to recognize repetitive recurrent fetal heart rate variable and/or late decelerations.

nn. To exercise reasonable skill and diligence to timely order and/or timely perform a Cesarean section and/or timely offer the patient the opportunity to have a C-section.

oo. To exercise reasonable skill and diligence to timely diagnose Plaintiffs' conditions.

pp. To exercise reasonable skill and diligence to timely diagnose Plaintiffs' conditions, to-wit: fetal distress / non-reassuring fetal heart tones and order and perform a stat C-section.

qq. To exercise reasonable skill and diligence to timely treat Plaintiffs' conditions.

rr. To exercise reasonable skill and diligence to timely come to the hospital to evaluate mother and baby and the fetal monitoring graphs.

ss. To exercise reasonable skill and diligence in the timely treatment and care of Plaintiffs' conditions, to-wit: fetal distress / non-reassuring fetal heart tones.

tt. To exercise reasonable skill and diligence to timely diagnose late fetal heart rate decelerations and/or fetal heart rate variable decelerations on the fetal monitoring graph.

uu. To exercise reasonable skill and diligence to timely recognize decrease in fetal heart rate variability and/or the failure of scalp stimulation to increase variability.

vv. To exercise reasonable skill and diligence to offer Plaintiff mother a C-section when there was prolonged rupture of membranes, delivery was remote and chorioamnionitis may occur.

ww. To exercise reasonable skill and diligence to timely deliver Plaintiff minor.

xx. To exercise reasonable skill and diligence to timely order and/or timely place a fetal scalp electrode and/or intrauterine pressure catheter to more accurately monitor the fetal heart rate and pattern and to more accurately monitor the strength of the contractions.

yy. To timely recognize the signs and symptoms of fetal distress, non-reassuring fetal heart rate and/or patterns including, but not limited to, complaints of decreased fetal movement and/or minimal fetal heart rate variability and/or absent fetal heart rate variability and/or late decelerations and/or variable decelerations of the fetal heart rate and/or the absence of accelerations of the fetal heart rate and/or tachycardia and/or fetal tachycardia, which appeared on the fetal heart monitor tracing;

zz. To timely take the appropriate action when fetal distress, non-reassuring fetal heart rate and/or patterns were identified, including immediately notifying the attending physician that he needs to come in to evaluate

the mother's condition immediately and prep patient for a C-section, and ready a crew, nurses, anesthesia and physicians for an impending C-section.

aaa. To timely and properly seek reassurance when it became apparent that the fetal heart rates and/or patterns were showing signs of distress, non-reassuring fetal heart rate and/or patterns, including but not limited to performing external stimulation, vibroacoustic stimulation and/or a scalp stimulation test;

bbb. To timely institute measures aimed at improving fetal oxygenation and placental perfusion, including but not limited to, repositioning mother, starting oxygen, and initiating / increasing IV fluid;

ccc. To exercise reasonable skill and diligence to timely recognize that vaginal delivery / birth was remote that a stat C-section was required.

ddd. To timely exercise reasonable skill and diligence to timely have continuous interpretable electronic fetal monitoring of the fetal heart rate and/or contractions.

eee. To exercise reasonable skill and diligence to properly and adequately interpret the fetal monitoring graphs that showed fetal heart rate and/or contractions.

fff. To exercise reasonable skill and diligence to timely and periodically supervise and instruct residents and/or nurses in the care, treatment and monitoring of Plaintiffs.

ggg. To exercise reasonable skill and diligence to timely and continuously obtain a contraction pattern on the fetal monitoring graph.

hhh. To exercise reasonable skill and diligence to place a toco properly so as to be able to get contraction patterns and/or timely place an intrauterine pressure catheter.

iii. To exercise reasonable skill and diligence to obtain an interpretable fetal monitoring graph with fetal heart rate and pattern and contraction frequency and pattern.

jjj. To exercise reasonable skill and diligence to timely, continuously electronically monitor the fetal heart rate and pattern.

kkk. If Dr. Puder timely saw Plaintiff's non-reassuring fetal heart tones, and/or if Drs. Bryant, and/or Dudick, and/or Louden told Dr. Puder about Plaintiff's non-reassuring fetal heart tones, fetal distress, and the need for a stat C-section, and that Dr. Graham did not timely

show up at the hospital, the standard of care of Dr. Puder's profession required that she immediately show up to the bedside to evaluate the Plaintiffs, and perform a timely, stat C-section. Alternatively, if Dr. Puder could not immediately go to the operating room to perform a stat C-section, the standard of care of her profession required that she advise the OB/GYN residents to request the presence of another available OB/GYN immediately by using the chain of command.

lll. If Dr. Graham and/or Dr. Puder could not show up to the operating room to perform a timely C-section, the standard of care required they immediately notify the resident OB/GYNs to get an in house doctor to perform a C-section immediately.

STANDARD OF CARE AND BREACHES- DR. ELIZABETH BRYANT, DR. STEVEN DUDICK, AND DR. ERICA LOUDEN

151. That at all times material herein, Defendants, individually and through its agent or employee, Drs, Bryant, Dudick, and Louden owed the following duties to Plaintiffs pursuant to the patient-doctor relationship that existed between them and pursuant to the standard of practice or care of his profession. That Drs. Bryant, Dudick, and Louden breached the aforementioned duties in at least one and possibly more of the following particulars, so far as it is presently known, by failing:

a. To exercise reasonable skill and diligence to timely proceed to delivery of M.L.T. as the mother Shamia Lee was at 34.2 weeks' gestation on admission to Hutzel Hospital on 5/2/16 at 0848 with rupture of membranes having occurred at approximately 7:00 PM on 5/2/16.

b. To exercise reasonable skill and diligence and timely offer the mother a C-section in the presence of non-reassuring fetal heart tones with spontaneous rupture of membranes at 34.2 weeks' gestation when vaginal delivery was remote.

c. To exercise reasonable skill and diligence to timely obtain the informed consent of Plaintiff mother offering her a C-section versus offering her induction of labor.

d. To exercise reasonable skill and diligence to timely request that the attending physician, Dr. Theodore Graham, and/or Dr. Karoline Puder come to the hospital and review the fetal monitoring graphs, give the appropriately orders including, but not limited to, ordering and performing a timely stat C-section due to non-reassuring fetal heart tones.

e. To exercise reasonable skill and diligence after assessing Plaintiffs to timely call Dr. Graham and/or Dr. Puder, and/or an in house

OB/GYN and/or another doctor at once and tell him/her about the Plaintiff's fetal distress, non-reassuring fetal heart tones. .

f. To exercise reasonable skill and diligence to timely demand the presence of Dr. Graham and/or Dr. Puder and notify them of the need for an immediate and stat C-section, due Plaintiff's fetal distress, non-reassuring fetal heart tones and the need for a stat C-section.

g. To exercise reasonable skill and diligence when unable to reach Dr. Graham and/or Dr. Puder, to immediately demand the presence of the in-house OB- GYN physician and explain to him/her the need for an immediate and stat C- section because of the presence of fetal distress, non-reassuring fetal heart tones.

h. To exercise reasonable skill and diligence to tell Dr. Graham and/or Dr. Puder them a C-section was required immediately and to asking Dr. Dr. Graham and Dr. Puder how long it would take them to arrive at the hospital.

i. To timely take the appropriate action when fetal distress, non-reassuring fetal heart rate and/or patterns were identified, including immediately notifying the attending physician that he needs to come in to evaluate the mother's condition immediately and prep patient for a C-section,

and ready a crew, nurses, anesthesia and physicians for an impending C-section.

j. To timely recognize that there were non-reassuring fetal heart rates and/or patterns, and Plaintiff's minor health and life were in danger, and demand an immediate consultation and consideration for a stat C-section and/or by using the chain of command, ask for same.

k. To timely utilize the chain of command to ensure that the mother received timely an immediate evaluation for a stat C-section.

l. To exercise reasonable skill and diligence to recognize that Plaintiffs had a high probability of sudden clinically significant deterioration, which required the highest level of physician presence and preparedness to intervene timely with a stat C-section pursuant to the standard of care.

m. To exercise reasonable skill and diligence to timely diagnose non-reassuring fetal heart tones and/or fetal distress.

n. To exercise reasonable skill and diligence to timely order and/or timely perform intrauterine resuscitation with the administration of oxygen and IV hydration and/or turn the mother's position.

o. To exercise reasonable skill and diligence to timely and periodically, properly review and evaluate the fetal monitoring strip that was produced herein.

p. To exercise reasonable skill and diligence to timely order and/or timely perform a stat Cesarean section.

q. To exercise reasonable skill and diligence to recognize that Plaintiff mother was remote from a vaginal delivery with a type II tracing.

r. To exercise reasonable skill and diligence to timely diagnose an arrest of labor and/or arrest in dilatation and/or arrest in descent.

s. To exercise reasonable skill and diligence to timely order and/or timely administer tocolytics.

t. To exercise reasonable skill and diligence to timely recognize the significance of scalp stimulation failing to cause accelerations.

u. To exercise reasonable skill and diligence to timely order and timely perform a stat Cesarean section.

v. To exercise reasonable skill and diligence to timely recognize that a vaginal delivery was remote and therefore a timely C-section was required, based on the fetal heart rate tracings of tachycardia and/or minimal variability and/or late decelerations and/or bradycardia and/or the absence of reassuring accelerations of the fetal heart rate in the face of scalp stimulation.

w. To exercise reasonable skill and diligence to timely shut off / discontinue the administration of Pitocin / Oxytocin.

x. To exercise reasonable skill and diligence to timely and periodically review and/or timely evaluate properly the fetal monitoring graph that was produced herein to recognize non-reassuring fetal heart tones.

y. To exercise reasonable skill and diligence in the timely treatment and care of Plaintiffs' conditions, to-wit: timely order and/or timely perform delivery herein.

z. To timely request a crew and anesthesia to come stat so that a stat C-section could be timely performed.

aa. To timely recognize the significance of the failure to obtain reassuring fetal heart rate variability and/or heart rate accelerations with 2-minute scalp stimulation.

bb. To timely request a crew and anesthesia be available for a stat C-section.

cc. To exercise reasonable skill and diligence to timely diagnose non-reassuring fetal heart tones / patterns and/or fetal distress.

dd. To exercise reasonable skill and diligence to timely order and/or timely perform intrauterine resuscitation with the administration of oxygen and IV hydration and/or turning position, mother position.

ee. To exercise reasonable skill and diligence to timely order and/or timely administer tocolytics to stop contractions.

ff. To exercise reasonable skill and diligence to timely order and/or timely perform a Cesarean section so as to prevent hypoxia and/or ischemia from resulting in brain damage while the fetus remained in the uterus.

gg. To exercise reasonable skill and diligence to timely and periodically review and/or timely evaluate properly the fetal monitoring graph that was produced herein to recognize non-reassuring fetal heart tones.

hh. To timely exercise reasonable skill and diligence to recognize decreases in fetal heart rate variability.

ii. To exercise reasonable skill and diligence to refrain from caring for the mother and baby on the phone, but to be at the bedside to evaluate and care for them, and interpret the fetal monitoring graph.

jj. To timely exercise reasonable skill and diligence to refrain from restarting the Oxytocin / Pitocin.

kk. To timely exercise reasonable skill and diligence to recognize fetal heart rate tachycardia and its significance regarding fetal well-being.

ll. To timely exercise reasonable skill and diligence to recognize absence of fetal heart rate accelerations and its significance regarding fetal well-being.

mm. To timely exercise reasonable skill and diligence to recognize fetal heart rate late decelerations and its significance regarding fetal well-being.

nn. To timely exercise reasonable skill and diligence to recognize repetitive recurrent fetal heart rate variable and/or late decelerations.

oo. To exercise reasonable skill and diligence to timely order and/or timely perform a Cesarean section and/or timely offer the patient the opportunity to have a C-section.

pp. To exercise reasonable skill and diligence to timely diagnose Plaintiffs' conditions.

qq. To exercise reasonable skill and diligence to timely diagnose Plaintiffs' conditions, to-wit: fetal distress / non-reassuring fetal heart tones and order and perform a stat C-section.

rr. To exercise reasonable skill and diligence to timely treat Plaintiffs' conditions.

ss. To exercise reasonable skill and diligence to timely come to the hospital to evaluate mother and baby and the fetal monitoring graphs.

tt. To exercise reasonable skill and diligence in the timely treatment and care of Plaintiffs' conditions, to-wit: fetal distress / non-reassuring fetal heart tones.

uu. To exercise reasonable skill and diligence to timely diagnose late fetal heart rate decelerations and/or fetal heart rate variable decelerations on the fetal monitoring graph.

vv. To exercise reasonable skill and diligence to timely recognize decrease in fetal heart rate variability and/or the failure of scalp stimulation to increase variability.

ww. To exercise reasonable skill and diligence to offer Plaintiff mother a C-section when there was prolonged rupture of membranes, delivery was remote and chorioamnionitis may occur.

xx. To exercise reasonable skill and diligence to timely deliver Plaintiff minor.

yy. To exercise reasonable skill and diligence to timely order and/or timely place a fetal scalp electrode and/or intrauterine pressure catheter to more accurately monitor the fetal heart rate and pattern and to more accurately monitor the strength of the contractions.

zz. To timely recognize the signs and symptoms of fetal distress, non-reassuring fetal heart rate and/or patterns including, but not limited to, complaints of decreased fetal movement and/or minimal fetal heart rate variability and/or absent fetal heart rate variability and/or late decelerations and/or variable decelerations of the fetal heart rate and/or

the absence of accelerations of the fetal heart rate and/or tachycardia and/or fetal tachycardia, which appeared on the fetal heart monitor tracing;

aaa. To timely take the appropriate action when fetal distress, non-reassuring fetal heart rate and/or patterns were identified, including immediately notifying the attending physician that he needs to come in to evaluate the mother's condition immediately and prep patient for a C-section, and ready a crew, nurses, anesthesia and physicians for an impending C-section.

bbb. To timely and properly seek reassurance when it became apparent that the fetal heart rates and/or patterns were showing signs of distress, non-reassuring fetal heart rate and/or patterns, including but not limited to performing external stimulation, vibroacoustic stimulation and/or a scalp stimulation test;

ccc. To timely institute measures aimed at improving fetal oxygenation and placental perfusion, including but not limited to, repositioning mother, starting oxygen, and initiating / increasing IV fluid;

ddd. To exercise reasonable skill and diligence to timely recognize that vaginal delivery / birth was remote that a stat C-section was required.

eee. To timely exercise reasonable skill and diligence to timely have continuous interpretable electronic fetal monitoring of the fetal heart rate and/or contractions.

fff. To exercise reasonable skill and diligence to properly and adequately interpret the fetal monitoring graphs that showed fetal heart rate and/or contractions.

ggg. To exercise reasonable skill and diligence to timely and periodically supervise and instruct residents and/or nurses in the care, treatment and monitoring of Plaintiffs.

hhh. To exercise reasonable skill and diligence to timely and continuously obtain a contraction pattern on the fetal monitoring graph.

iii. To exercise reasonable skill and diligence to place a toco properly so as to be able to get contraction patterns and/or timely place an intrauterine pressure catheter.

jjj. To exercise reasonable skill and diligence to obtain an interpretable fetal monitoring graph with fetal heart rate and pattern and contraction frequency and pattern.

kkk. To exercise reasonable skill and diligence to timely, continuously electronically monitor the fetal heart rate and pattern.

152. Defendant United States of America is liable herein by virtue of its independent negligence and/or under the doctrine of RESPONDEAT SUPERIOR for the acts and/or omissions of its agents, servants, and/or employees, and other persons who rendered care, treatment or medical services to Plaintiffs under some concession arrangement because of their apparent authority to be the agents, servants and/or employees of Detroit Community Health Connection.

153. Defendant United States of America is liable herein for negligence / malpractice under the doctrine of RESPONDEAT SUPERIOR for the acts and/or omissions of its agents, servants, and/or employees, and other persons who rendered care, treatment or medical services to Plaintiffs under some concession arrangement because of their apparent authority to be the agents, servants and/or employees of Defendant.

154. Defendant VHS Harper-Hutzel Hospital, d/b/a DMC Hutzel Women's Hospital is liable herein liable herein for negligence / malpractice under the doctrine of RESPONDEAT SUPERIOR for the acts and/or omissions of its agents, servants, and/or employees, and other persons who rendered care,

treatment or medical services to Plaintiffs under some concession arrangement because of their actual or apparent authority to be the agents, servants and/or employees of Defendant VHS Harper-Hutzel Hospital, d/b/a DMC Hutzel Women's Hospital.

155. Defendant University Physician Group, d/b/a Wayne State University Physician Group is liable herein liable herein for negligence / malpractice under the doctrine of RESPONDEAT SUPERIOR for the acts and/or omissions of its agents, servants, and/or employees, and other persons who rendered care, treatment or medical services to Plaintiffs under some concession arrangement because of their actual or apparent authority to be the agents, servants and/or employees of Defendant VHS Harper-Hutzel Hospital, d/b/a DMC Hutzel Women's Hospital.

156. That at all times material herein, the injuries and/or damages suffered by the Plaintiffs were more probably than not proximately caused by the negligence/malpractice of the Defendant, United States of America, its agents, servants and/or employees, either real or ostensible.

VI.

PLAINTIFFS' DAMAGES

157. That Plaintiff-minor, M.L.T., sustained personal injuries herein before and herein after alleged as a direct and proximate result of Defendant's agents, servants and/or employees, negligence and malpractice as herein alleged.

158. That as a direct and proximate result of the negligence and malpractice as herein alleged by Defendants' agents, servants and/or employees, either real or ostensible, as aforesaid, the injured Plaintiff-minor, M.L.T.:

A. sustained severe and permanent bodily injuries which were painful, disabling and necessitated medical care; and/or

B. suffered shock, mental anguish, fright and emotional damage; and/or

C. sustained possible aggravation of pre-existing conditions and/or reactivation of dormant conditions; and/or

D. was and/or may continue to be unable to attend to her usual affairs, daily activities, including, but not limited to, household chores, and personal needs; and/or

E. was and/or may continue to be unable to render services including, but not limited to, household chores, and personal needs; and/or

F. hampered said Plaintiff-minor in the enjoyment of the normal pursuit of life; and/or

G. said injuries are permanent to the degree that Plaintiff suffered a loss in ability to earn money and will have impaired earning capacity in the future; and/or

H. will continue to have pain and suffering in the future as well as permanent impairment and disabilities.

I. said injuries are permanent and Plaintiff-minor will continue to have said damages in the future; and/or

J. any other damages which are applicable and which are recoverable pursuant to statute, case law and Michigan court rules.

159. That at all times material herein, Plaintiff, Shamia Lee, was not at fault and/or was not negligent.

160. That at all times material herein, Plaintiff-minor, M.L.T., was not at fault and/or was not negligent.

161. That at all times material herein, as a direct and proximate result of the negligence of Defendant's agents, servants and/or employees, either real or ostensible:

A. Plaintiff-minor, M.L.T., has motor function impairment resulting in a total permanent functional loss of one or more limbs caused by injury to the brain and/or injury and/or

B. Plaintiff-minor, M.L.T, has permanently impaired cognitive capacity rendering her incapable of making independent, responsible life decisions and permanently incapable of independently performing the activities of normal daily living.

162. That as a direct and proximate result of the negligence / malpractice as herein alleged of Defendant's agents, servants and/or employees, either real or ostensible, the injured Plaintiff-minor, M.L.T., suffered and/or will continue to suffer damages, both past and future, permitted under the law, including, but not limited to, one or more of the following: attendant care, medical expenses, medical supplies, medicine and equipment, hospital expenses, nursing home expenses, loss of wages, loss of ability to work, loss of ability to care for self needs, loss of ability to care for family members, impaired earning capacity, past miscellaneous expenses, loss of ability to care for household needs, future miscellaneous expenses, loss of insurance benefits, loss of benefits, vocational rehabilitation expenses, special education expenses, home modification expenses, transportation expenses, supervision and any and all other damages which are applicable and are recoverable

pursuant to the statutes of the United States of America, the State of Michigan, case law and court rules.

163. That as a direct and proximate result of the negligence / malpractice of the Defendant's servants, agents and/or employees, either real or ostensible, and the resulting injuries to Plaintiff-minor, M.L.T., Plaintiffs did and may continue to incur expenses for hospitals, doctors, diagnostic tests, medical procedures, therapies, x-rays, medicines and other medical supplies, equipment, attention, rehabilitation, nursing, and attendant care.

164. That as a direct and proximate result of the negligence and malpractice of the Defendant's servants, agents and/or employees, either real or ostensible, and the resulting injuries to Plaintiff-minor, Plaintiff's mother did and may continue to incur expenses for hospitals, doctors, diagnostic tests, medical procedures, therapies, x-rays, medicines and other medical supplies, attention, rehabilitation, nursing, and attendant care.

165. That Shamia Lee is the mother of M.L.T.

166. That Plaintiff mother Shamia Lee witnessed the infliction of tortuous injuries upon her child by Defendant's servants, agents and/or employees and suffered from adverse consequential effects there from due to the negligence and malpractice of the Defendant's agents, servants and/or employees, either real or ostensible, including severe emotional, nervous, and mental

disturbances resulting in headaches, depression, and permanent emotional and nervous disturbances.

167. That as a direct and proximate result of the negligence and malpractice of Defendant's agents, servants and/or employees, either real or ostensible, and the resulting injuries to Plaintiff-minor, M.L.T., Plaintiff's mother did and/or may continue to incur expenses for and/or perform services, including, but not limited to, nursing services, attendant care, household chores, personal services, and personal care.

168. That Plaintiff, Shamia Lee, has been appointed by the United States District Court for the Eastern District of Michigan as Next Friend for Plaintiff-minor, M.L.T. a minor, born on 5/4/2016.

169. As relates to any and all claims against Defendants VHS Harper-Hutzel Hospital, Wayne State University Physician Group, a Mich Corp., Elizabeth Bryant, Steven Dudick, M.D., Erica Louden, M.D., and Karoline Puder, M.D., Plaintiff Shamia Lee is not an individual plaintiff but is only a Next Friend acting in a representative capacity for the Plaintiff-minor, M.LT.

WHEREFORE, Plaintiffs respectfully request that the Court grant judgment against Defendant, jointly and severally, in whatever amount Plaintiffs are found to be entitled to compensatory damages; and for penalties, and Plaintiffs' actual attorney fees, plus interests and costs.

THE THURSWELL LAW FIRM, P.L.L.C.

/s/ ARDIANA CULAJ
By: GERALD E. THURSWELL (P21448)
ARDIANA CULAJ (P71553)
For the Firm
Attorney for Plaintiffs
1000 Town Center, Suite 500
Southfield, MI 48075
(248) 354-2222

Dated: 9/20/19

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

M.L.T., a minor, by her Next Friend and
mother, Shamia Lee and
Shamia Lee, Individually,
Plaintiffs,

Civil No. 19-cv-10065
Hon. Paul D. Borman
Mag. Judge Stephanie Dawkins Davis

v.

United States of America,
Defendant,

_____/

United States of America,
Third-Party Plaintiff,

v.

DMC Hutzel Women's Hospital, an assumed
Name of VHS Harper-Hutzel Hospital, Inc., VHS
Harper-Hutzel Hospital, Inc., a Delaware Corporation,
Elizabeth Bryant, M.D., Steven Dudick, M.D.,
Erica Louden, M.D., Karoline Puder, M.D., and
Wayne State University Physician Group.
Third-Party Defendants

_____/

M.L.T., a minor, by her Next Friend and
mother, Shamia Lee,
Plaintiffs,

v

VHS Harper-Hutzel Hospital, Inc, a Delaware Corp
d/b/a DMC Hutzel Women's Hospital,
Wayne State University Physician Group, a Mich Corp.,
Elizabeth Bryant, M.D., an individual
Steven Dudick, M.D., an individual
Erica Louden, M.D., an individual
and Karoline Puder, M.D., an individual
Defendants,

_____/

DEMAND FOR JURY

NOW COME the above-named Plaintiffs, by and through their attorneys, THE THURSWELL LAW FIRM, P.L.L.C., and hereby make formal demand for a trial by jury of the facts and issues involved in this cause of action against the Defendants VHS Harper-Hutzel Hospital, Wayne State University Physician Group, a Mich Corp., Elizabeth Bryant, Steven Dudick, M.D., Erica Louden, M.D., and Karoline Puder, M.D.,

Respectfully Submitted,

THE THURSWELL LAW FIRM, P.L.L.C.

/s/ ARDIANA CULAJ
By: GERALD E. THURSWELL (P21448)
ARDIANA CULAJ (P71553)
For the Firm
Attorney for Plaintiffs
1000 Town Center, Suite 500
Southfield, MI 48075
(248) 354-2222

Dated: 9/20/19

CERTIFICATE OF SERVICE

I, Carolyn Young, hereby certify that on September 23, 2019I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all Plaintiff and Defense counsel.

s/ Carolyn Young
Thurswell Law
1000 Town Center, Suite 500
Southfield, MI 48075
(248) 354-2222
cyoung@thurswell.com

Glossary of Abbreviations

A/P – Assessment Plan
AB – Abortion
ABD – Abdomen
ABG – Arterial Blood Gas
ABN – Abnormal
ABX – Antibiotics
AF – Amniotic Fluid
AFI – Amniotic Fluid Index
AGA – Appropriate for Gestational Age
AKI – Acute Kidney Injury
ANAT – Anatomy
ANTI-BX - Antibiotics
APPT – Appointment
ATN – Acute Tubular Necrosis
B/P – Blood Pressure
B/L – Bilateral
BID – Twice a Day
BBO2 = Blow by oxygen
BBOW – Bulging Bag of Waters
BBP – Biophysical Profile
BC – Birth Certificate
BM – Bag and Mask
BOW – Bag of Waters
BPM – Beats per Minute
BPP – brachial plexus palsy
BS – Bowel Sounds
BWT – Birth Weight
C/B – Complicated by
CBC – Complete Blood Count
CC – Chief Complaint
CL – Cervical Length
CL – Closed
CNM – Certified Nurse Midwife
CNS – Central Nervous System
COPD - chronic obstructive pulmonary disease
CPAP – Continuous Positive Airway Pressure
CPD – Cephalopelvic Disproportion
CPR – Cardiopulmonary Resuscitation
CRL – Crown-Rump Length
CRP – C-Reactive Protein
CRRT – Continuous Renal Replacement Therapy
CSEC – Cesarean Section
CTX – Contraction
CX – Cervix or Cervical
CXR – Chest X-Ray
D/C – Discharge

D/W – Discussed with
Di-Di – Diamniotic – Dichorionic
DIC – Disseminated Intravascular Coagulation
DIL – Dilatation
DNC – Dilation and Curettage
DOL – Day of Life
DR – Delivery Room
DT – Due to
EBL – Estimated Blood Loss
EDC – Expected Date of Confinement (i.e. Due Date)
EDD – Expected Date of Delivery
EFG – Estimated Fetal Weight
EFM – Electronic Fetal Monitor
ETT – Endotracheal Tube
FB – Foley Balloon
FFP – Fresh Frozen Plasma
FHR – Fetal Heart Rate
FHT – Fetal Heart Tone
FMG – Fetal Monitoring Graph
FOB – Father of Baby
FREQ – Frequent
FSE – Fetal Scalp Electrode
FT – Fingertip
FT – Full Term
FTSVD – Full Term Spontaneous Vaginal Delivery
FU – Follow UP
FWB – Fetal Well-being
G – Gravida
GA – Gestational Age
GDM – Gestational Diabetes Mellitus
GEST – Gestation
GYN – Gynecology or Gynecologic
H & P – History & Physical
H/O – History of
HC – Head Circumference
HIE – Hypoxic Ischemic Encephalopathy
HPI – History of Present Illness
HRC (high risk clinic)
HTN - Hypertension
HUS – Head Ultrasound
HX – History
IAI – Intraamniotic Infection
ICH – Intracranial Hemorrhage
ICH – Intracerebral Hemorrhage
ID – Infectious Disease
IMV – intermittent mandatory veniltation
IOL – Induction of Labor
ISL – Internal Scalp Lead

IUGR – Intrauterine Growth Retardation
IUP – Intrauterine Pregnancy
IUPC – Intrauterine Pressure Catheter
IV – Intravenous
IVH – Intraventricular Hemorrhage
IVPB – Intravenous Piggyback
LD – Labor / Delivery
LMP – Last Menstrual Period
LOA – Left Occipitoanterior
LOF – Loss of Fluid
LP – Lumbar Puncture
LR – Labor Room
LT AC (long-term acute care)
LTV – Long Term Variability
MAG – Magnesium Sulfate
MEC – Meconium
MgSO4 – Magnesium Sulfate
MN – midnight
MOL – minutes of life
NAS – Neonatal abstinence syndrome
NEG – Negative
NICU – Neonatal Intensive Care Unit
NL – Normal
NNP – Neonatal Nurse Practitioner
NOB – New Obstetric
NP – Nurse Practitioner
NPO – Nothing by Mouth
NRB – Non-Rebreather Mask
NRP – Neonatal Resuscitation Protocol
NS – Normal Saline
NSG – Nursing
NSVD – Normal Spontaneous Delivery
NT – Not Tender
O_2 – Oxygen
OB – Obstetric or Obstetrician
OBS – Observation
OP – Operative Report
OR – Operating Room
OS – Opening of Uterine Cervix
OSH – Outside Hospital
P – Para
PCA (posterior cerebral artery)
PGY – Post Graduate Year
PIH – Pregnancy Induced Hypertension
PIV – Peripheral Intravenous Line
PM – Past Medical
PMA – Post Menstrual Age
PMH – Past Medical History

PNC – Prenatal Care
PO – Orally or By Mouth
POB – Past Obstetric History
POC – Plan of Care
POD – Post Operative Day
PPD – Postpartum Day
PPV – Positive Pressure Ventilation
PRBC – Packed Red Blood Cells
PROM – Passive Range of Motion
PSHX – Past Surgical History
PT – Patient
PTD – Preterm Delivery
PTL – Preterm Labor
PVL – Periventricular Hemorrhage
Q – Every
QD – Once a Day
RESP – Respiratory
REV – Review
ROA – Right Occipitoanterior
ROM – Rupture of Membranes
RT – Respiratory Therapy
S/P – Status Post
S/SX – Signs Symptoms
SATS – Saturation
SCN – Special Care Nursery
SI/SX – Signs Symptoms
SIADH – Syndrome of Inappropriate Antidiuretic Hormone Secretion
SICU (surgical Intensive Care Unit) staff
SIMV – synchronized intermittent mandatory ventilation
SO_2 – Oxygen Saturation
SO – Significant Other
SPEC – Speculum
SROM – Spontaneous Rupture of Membranes
SSE – Sterile Speculum Exam
SVE – Sterile Vaginal Exam
SW – Social Worker
S=D (Size = Dates)
TID – Three Times a Day
TOCO – Tocodynameter: An instrument for measuring contractions
TR – Trace
TV – Transvaginal
UA – Urinalysis
UAC – Umbilical Arterial Catheter
US – Ultrasound
UVC – Umbilical Venous Catheter
VB – Vaginal Bleeding
VBAC – Vaginal Birth After Cesarean
VC – Vessel Cord

VE – Vaginal Exam
VENT – Ventilator
VIP – Voluntary Interruption of Pregnancy
VTE – Venous Thromboembolism
W/ – With
WBC – White Blood Count
WNL – Within Normal Limits
YO – Year Old

INDEX OF EXHIBITS

Exhibit	Title/Description
A	Affidavit of Merit of Health Care Professional, Dr. Ronald Zack;
B	Affidavit of Merit of Health Care Professional, Dr. James Ducey.

EXHIBIT A

State of Michigan)
)SS:
County of Oakland)

AFFIDAVIT OF MERIT OF HEALTH CARE PROFESSIONAL

I, Dr. Ronald Zack, being first duly sworn, depose and state the following:

1. I am a licensed health care professional.

2. I certify that I have reviewed the Notice of Intent to File Claim and the statements set forth in the Notice of Intent to File Claim are within my area of specialty (which specialty I spent the majority of my professional time in the active practice of my specialty), and were on the dates of the malpractice, and one year prior to the dates of the alleged malpractice. In addition, I have reviewed all of the medical records provided by the Plaintiffs' attorney concerning the allegations contained in the notice. I further state that the opinions in this Affidavit are preliminary as I have not had an opportunity to review deposition testimony and may, in the future, be provided with additional medical records and other evidence. In the event additional information is made available, I reserve the right to amend the opinions stated in this Affidavit.

   I have reviewed the following medical records regarding:

   - Children's Hospital of Michigan Rehabilitation Institute
   - Children's Hospital of Michigan Specialty Center
   - CHM Developmental Assessment Clinic
   - Detroit Community Hospital Health Connection
   - DMC Rehab
   - Hutzel Hospital - MLT
   - Hutzel Hospital Shamia Lee Fetal Monitor Strips
   - Hutzel Hospital – Shamia Lee
   - Plaintiffs' Complaint and Third Party Complaint

Facts

3. Shamia Lee was a 26-year-old gravida 1 Para 0 (pregnant for the first time) with an untested pelvis, who was admitted to Hutzel Hospital on 5/2/16 at 34 weeks and 2 days gestation with the diagnosis of –

    a. Premature Rupture of Membranes (PPROM) at 7:00 PM.
    b. The fluid that was leaking was noted to be clear.
    c. Sterile speculum exam revealed the cervical os to be open with gross pooling.
    d. Sterile vaginal examination revealed the cervix to be 2 cm dilated / 80% effaced with the vertex at -1 station.
    e. She was noted to be contracting about every 10 minutes.

    Her antepartum care had taken place at the Detroit Community Health Connection. Her antepartum course was significant for a history of chronic thrombocytopenia that had been treated with oral prednisone. She had most recently been taking 60mg daily. Her prenatal labs were essentially normal.

    A bedside sonogram revealed a single intrauterine pregnancy with an estimated fetal weight of 2285 grams. The plan was to start betamethasone for lung maturity followed by Pitocin per protocol. She was also given stress steroids.

    Consent was obtained for the use of oxytocin.

Brief Summary

Tuesday
5/3/16 at 0735
Attending Dr. Theodore Graham

On 5/3/16 at 0735, Dr. Bryant (resident) notified of blood pressure and fetal heart rate decelerations. Dr. Theodore Graham (attending) being paged to notify. P382

On 5/3/16 at 1058, Dr. Theodore Graham (attending) in room for sterile vaginal examination. At 1100 station -2 / dilatation 3 / effacement 100. P379, 125

Wednesday
5/4/16
Discussed fetal tracing with attending Dr. Graham at 0345

On 5/4/16 at 09:36, Dr. Steven Dudick (resident) notes in a **"late entry"** that the **fetal tracing had been discussed** with Dr. Puder (Maternal Fetal Medicine) and **Dr.**

Graham at 03:45. The fetal baseline varied between 160-180 (fetal tachycardia) with minimal-moderate variability, no accelerations and intermittent late decelerations. Oxytocin was discontinued at **0300**. Dr. Steven Dudick noted in the record: "**After discussion with Dr. Puder (MFM) and Dr. Graham, the decision was made to not restart oxytocin and expectantly manage Ms. Lee until Dr. Graham was able to assess the patient in person. (P572) Dr. Graham did not come to that hospital at that time (0345) despite the concerns on the fetal tracing.**"

0543
Discussed with Dr. Graham

On 5/4/16 at 05:43, Dr. Steven Dudick, a PGY 3 (third year resident) noted that the fetal heart tracing showed a baseline of 160 beats per minute (BPM) with minimal variability, and intermittent late decelerations. He categorized this tracing as a Category II tracing. **Dr. Dudick noted that the care plan was discussed with the attending physician Dr. Theodore Graham.**

0700
Attending needs to access patient prior to re-staring Oxytocin. Dr. Graham said he would be on his way to Hutzel.

Dr. Karoline Puder MFM documents that Ms. Lee's management was reviewed and discussed with Dr. Dudick (resident). The tracing was reviewed and revealed a Category II tracing with infrequent decelerations off oxytocin. **She (Dr. Puder MFM) states that the attending for this patient needs to assess this patient in person prior to restarting the oxytocin. Dr. Graham was informed. "Per our earlier conversation, he (Dr. Graham) stated that he would be on his way to Hutzel at 0700. I agree with findings and plan." P573**

0720
Minimal variability. No response to scalp stimulation.

That on 5/4/16 at 0720, Shamia Lee was 5cm / 80% / -2. She was remote from delivery. Scalp stimulation had been performed by Dr. Elizabeth Bryant (resident) for minimal variability for approximately 2 minutes at 0720-0721. (P571, 160) The fetus **did not** respond to scalp stimulation. (P160, 634-635)

Of most concern was the fact that at 0720 – 0721, Dr. Bryant (resident) performed scalp stimulation for 2 minutes, and there was no response. This scalp stimulation maneuver (which when performed is meant to demonstrate fetal well-being and normal oxygenation if it causes an acceleration) is one of the best indicators of a lack of hypoxia.

Late Entry

Paged Dr. Graham at 0720.
Baseline FHR 160, minimal variability with intermittent late decelerations.

0720 Dr. Dudick (resident) further notes in this late entry that **Dr. Graham was paged at 07:20** immediately following board turnover. The tracing had remained Category II: **The baseline was 160 BPM and the variability was noted to be minimal with intermittent late decelerations. Despite the tracing concerns, Dr. Graham was noted to desire to restart oxytocin.** Dr. Karoline Puder MFM disagreed. Oxytocin was not restarted. P572

The fact that there was NO response to scalp stimulation in the face of persistent fetal tachycardia, minimal variability and intermittent late decelerations, the standard of care required Dr. Graham order a stat C-section. In violation of the standard of care Dr. Graham failed to do so. Instead, Dr. Graham **from home** argued that Pitocin should be restarted. In addition, Dr. Graham still did not come to the hospital at once, as required by the standard of care.

0740
Dr. Graham notified and en route.

CAT II tracing: **Dr. Graham notified@ 07:40 a.m. and is en route. Consented for C-section: On chart review patient noted to have a CAT II tracing: baseline of 05's, minimal variability, with occasional decels (declarations) and a prolonged decel (deceleration) down to the 80's, irregular contractions. Fetus did not respond to scalp stimulation** (at 0720, P160). P634-635

0742
Awaiting Dr. Graham arrival for evaluation.

5/4/16 0742 Dr. Bryant (resident) at bedside discussing possible C-section and obtaining consent, awaiting Dr. Graham arrival for evaluation. (User name: Krstep – unknown). P351

0819

5/4/16 08:19, Dr. Elizabeth Bryant (resident) notes that the patient was 5 cm dilated, 80% effaced with the vertex at the -2 station.

0821

5/4/16 08:21, Dr. Erica Louden (resident) notes that the patient was consented for a cesarean section. Patient was noted to have minimal variability with occasional

decelerations and a prolonged deceleration down to 80 BPM, with irregular contractions. Dr. Erica Louden (resident) notes that the fetus did not respond to scalp stimulation, and the cervical examination was unchanged. Dr. Erica Louden (resident) notes that Pitocin had been off since 0300 and that **Dr. Graham had been notified overnight and that morning and is en route**. A cesarean section was recommended. Ms. Lee had consented and agreed to a cesarean section.

Baby M.L.T. was allowed to continue in this state of hypoxia until the baby could no longer support a normal heart rate. There was prolonged fetal heart rate decelerations to the 80's and decelerations to the 40's. The baby was delivered at 0846 via a stat cesarean section after the baby demonstrated bradycardia. The baby was born with an Apgar of 0 at 1 minute and 4 at 5 minutes. The cord gases revealed severe metabolic acidosis consistent with hypoxia.

At 09:21 (after the delivery / birth at 0846), Dr. Graham notes that he was informed that the patient had redeveloped late decelerations with the Pitocin off while he was en route. Upon his arrival to the hospital, the patient was being transferred to the operating room for a stat cesarean section. He notes that a Cesarean section was performed delivering a viable female infant.

0842 to OR
Birth: 0846
Apgar scores 0 / 4 / 5

At 08:42, Ms. Lee was brought to the **OR,** as per the anesthesia record. The baby was **delivered at 08:46**. The **APGAR scores were 0/4/5 at 1 minute, 5 minutes and 10 minutes** respectively.

Cord Blood Gases

***Arterial* cord blood gas** revealed a severely acidotic state with a pH = 6.471 and a BASE EXCESS OF -24.

***Venous* cord blood gas** revealed a pH = 7.048 with a BASE EXCESS = -15.4.

Baby M.L.T.'s active problems were listed as perinatal depression and HIE findings on MRI.

The baby M.L.T. was discharged on 5/19/2016.

Rehabilitation Institute of Michigan, M.L.T. is noted to have delayed developmental milestones with Truncal Hypotonia and Hypertonia of the extremities.

STANDARD OF CARE

The care provided to Ms. Lee and her unborn child fell below accepted standards of care of an OB/GYN. As early as 21:38 on 5/3/2016, the fetal tracing revealed

evidence of a fetal tachycardia with minimal variability. This is not tracing that is considered normal. There was no contemplation as to why there was a fetal tachycardia or minimal variability. Maternal temperature was normal. There was noted to be intermittent late decelerations which also indicated that there were episodes of fetal hypoxia. It is well accepted that a premature baby (34 weeks' gestation) will have a decreased reserve to tolerate prolonged stress and hypoxia.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)

That the standard of care required exercising reasonable skill and diligence to recognize that Plaintiffs had a high probability of sudden clinically significant deterioration, which required the highest level of physician presence and preparedness to intervene timely with a stat C-section pursuant to the standard of care. In violation of the standard of care Dr. Graham managed the care of Plaintiffs from home, although the records stated Dr. Graham's presence was necessary, and he had said he would be on his way to the hospital at 0700. At 0345 he was told of concerns of the fetal heart tracing, and Oxytocin was not going to be restarted until he came and evaluated the patient.

The persistence of a Category II fetal heart rate tracing for one hour that does not exhibit moderate variability or accelerations but does exhibit late decelerations represents a significant probability of metabolic acidosis and requires delivery of the fetus. The Category II fetal heart rate pattern identifies a fetus in jeopardy. The goal of intrapartum care is delivery of the fetus prior to the development of damaging degrees of hypoxic acidemia.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)
0345

After Midnight on 5/4/2016, the fetal tracing consistently revealed a fetal tachycardia with minimal variability and intermittent late decelerations. Despite having been told by the resident of this ominous tracing in a premature baby at 34 weeks, Dr. Graham, in violation of the standard of care did not come to the hospital to personally assess, evaluate his patients, and plan management of the labor and time of delivery. This is a deviation from accepted standards of care. Even after he was notified at 0300 - 0345 that the fetal tracing remained of concern with fetal tachycardia at 180 bpm with minimal variability and intermittent late decelerations, Dr. Graham continued to remain at home, in violation of the standard of care of his profession. It is clear the standard of care required that Dr. Graham be at the hospital to evaluate Shamia Lee and her baby, and the fetal heart rate tracing shortly after 3:45am on 5/4/16. In violation of the standard of care Dr. Graham failed to do so.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)
After 0345 offer C-section

If Dr. Graham had come to the hospital shortly after 0345 on 5/4/16, the standard of care required that Dr. Graham, after reviewing the fetal monitoring graphs and seeing cervical dilatation (5cm / 100%), offer Shamia Lee a C-section, knowing she was a gravida 1 at 34 weeks' gestation with PROM, and explain to her that there had been non-reassuring fetal heart tones, and that vaginal delivery was remote. In violation of the standard of care, Dr. Graham did not do so.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)
0740
Order stat C-section

Dr. Graham was notified at around 0740 of the fetal condition, and said that he was en route to the hospital. Based on minimal variability, previous tachycardia, decelerations, and prolonged deceleration to the 80's, and a fetus that did not respond to scalp stimulation at 0720 (P160, P634-635), the standard of care required that Dr. Graham order the resident to proceed immediately with a stat C-section while he was en route to the hospital, and not wait for him. In violation of the standard of care, Dr. Graham failed to do so.

Had this baby been delivered by cesarean section no later than 08:10am, she would not have been born hypoxic and close to death, and would not have suffered the injuries consistent with hypoxic-ischemic encephalopathy.

STANDARD OF CARE- DR. BRYANT, DR. DUDICK, AND DR. LOUDEN (OB/GYNS) AND ALL OTHER OB/GYN RESIDENTS INOLVED IN THE CARE AND TREATMENT OF PLAINTIFFS

The OB/GYN residents, including but not limited to Drs, Bryant, Dudick, and Louden owed the following duties to Plaintiffs pursuant to the patient-doctor relationship that existed between them and pursuant to the standard of practice or care of their profession. That Drs. Bryant, Dudick, and Louden breached the aforementioned duties in at least one and possibly more of the following particulars, so far as it is presently known, by failing:

a. To exercise reasonable skill and diligence to timely request that the attending physician, Dr. Theodore Graham, and/or Dr. Karoline Puder and/or another available

attending OB/GYN to come to the bedside and review and correctly interpret the fetal monitoring graphs, give the appropriately orders including, but not limited to, ordering and performing a timely stat C-section due to non-reassuring fetal heart tones, when the mother was remote from vaginal delivery.

b. To exercise reasonable skill and diligence after assessing Plaintiffs and the fetal monitoring graphs to timely call Dr. Graham and/or Dr. Puder, and/or an in house OB/GYN and/or another doctor at once and tell him/her about the Plaintiff's fetal distress, non-reassuring fetal heart tones.

c. To exercise reasonable skill and diligence to timely demand the presence of Dr. Graham and/or Dr. Puder and notify them of the need for an immediate and stat C-section, due Plaintiff's fetal distress, non-reassuring fetal heart tones and the need for a stat C-section.

d. To exercise reasonable skill and diligence when unable to reach Dr. Graham and/or Dr. Puder, to immediately demand the presence of the in-house OB- GYN physician and explain to him/her the need for an immediate and stat C- section because of the presence of fetal distress, non-reassuring fetal heart tones, with vaginal delivery being remote.

e. To exercise reasonable skill and diligence to tell Dr. Graham and/or Dr. Puder them a C-section was required immediately and to asking Dr. Dr. Graham and Dr. Puder how long it would take them to arrive at the hospital.

f. To timely take the appropriate action when fetal distress, non-reassuring fetal heart rate and/or patterns were identified, including immediately notifying the attending physician that he needs to come in to evaluate the mother's condition immediately and prep patient for a C-section, and ready a crew, nurses, anesthesia and physicians for an impending C-section.

g. To timely recognize that there were non-reassuring fetal heart rates and/or patterns, and Plaintiff's minor health and life were in danger, and demand an immediate consultation and consideration for a stat C-section and/or by using the chain of command, ask for same.

h. To timely utilize the chain of command to ensure that the mother received timely an immediate evaluation for a stat C-section.

i. To timely perform a stat c-section and refrain from waiting for Dr. Graham to arrive.

When Drs. Bryant, Dudick, and Louden saw that Dr. Graham failed to timely show up at the hospital to perform the C-section, the standard of care of Drs. Bryant, Dudick,

and Louden required that they immediately tell Dr. Puder that Dr. Graham failed to timely come to the hospital, and that there was fetal distress, non-reassuring fetal heart tones with vaginal delivery being remote mandating a stat C-section, and demand Dr. Puder's presence to the operating room to perform the stat C-section. If Dr. Puder refused or was unable to go immediately to the operating room upon demand, the standard of care of Drs. Bryant, Dudick and Louden, required that they use the chain of command to ensure that an OB/GYN come and be present to perform the stat C-section.

THE MANNER IN WHICH THE BREACH OF THE STANDARD OF PRACTICE OR CARE WAS THE PROXIMATE CAUSE OF THE INJURY

That failure to perform a timely C-section was the direct and proximate cause of minor Plaintiff's brain damage, as during this delay in delivering minor Plaintiff, he suffered from progressive, prolonged and cumulative hypoxia and ischemia (decrease in oxygen rich blood and blood flow)..Brain cells need blood and oxygen to live and as a result of the failure to receive the oxygen, brain cells of minor Plaintiff died and minor Plaintiff sustained permanent and severe brain damage.

Had the ob/gyn residents timely followed the chain of command as stated herein, one or more OB/GYN physicians would have been present to perform a timely stat S-section. Had the standard of care had been followed as described herein, Dr. Graham and or other physicians would have been present to perform a timely stat C-section. Had this baby been delivered by cesarean section no later than 08:10am, she would not have

been born hypoxic and close to death, and would not have suffered the injuries consistent with hypoxic-ischemic encephalopathy.

4. My opinions in this Affidavit of Merit are preliminary and are based upon the specific information contained in the medical records in this particular case provided to me prior to signing this Affidavit of Merit. As additional information is obtained through additional medical records and throughout the course of discovery, including depositions, I reserve the right to modify and/or alter and/or change my opinions. The opinions expressed herein are based solely on the medical records supplied to me, as well as my knowledge, training, skill and experience. The above is meant to serve as a summary of my opinions, and may not include each and every opinion I have formulated.
5. That this is a meritorious case.

Further, affiant saith not.

Dr. Ronald Zack

Subscribed and sworn to before me this
25th day of July, 2019.

Notary Public
County: Livingston acting in Oakland
My Commission Expires: 5-11-2022

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

I-Views

Result	Procedure	Units	Reference Range	Recorded By	Data Source	Recorded Date/Time
1- Awake, Cooperative, Oriented	Level of Sedation-Neuro			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Manual	Cervical Exam Type			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
3	Cervix Dilation			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
100	Cervix Effacement			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
-2	Fetal Station			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
GRAHAM MD, THEODORE K	Vaginal Exam Performed By			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
External toco	Uterine Contraction Monitoring Method			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
No	Uterine Contractions Perceived by Pt			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
irreg	Uterine Contraction Frequency			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Normal	Uterine Activity			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Relaxed	Uterine Contraction Rest Tone,External			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Right tilt	Patient Position, OB			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
See Below T50	Fetal Monitoring Annotations				Monitoring	5/3/2016 11:00 EDT
See Below T51	Fetal Monitoring Annotations				Monitoring	5/3/2016 11:16 EDT
Pt in right tilt	Fetal Monitoring Annotations				Monitoring	5/3/2016 11:18 EDT
129 H	Heart Rate (bpm)	bpm	[60-100]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
99	O2 Saturation	%	[92-100]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
120	Systolic Blood Pressure	mmHg	[90-140]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
61	Diastolic Blood Pressure	mmHg	[55-90]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
80 R1	Mean Arterial Blood Pressure	mmHg		SYSTEM, SYSTEM	PowerChart	5/3/2016 11:30 EDT

Report Request ID: 48429005
Requester: NEWSOME,KATY

Printed On: 4/6/2017 10:50 EDT
Page 80 of 592

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

I-Views

Result	Procedure	Units	Reference Range	Recorded By	Data Source	Recorded Date/Time
95	Heart Rate (bpm)	bpm	[60-100]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
36.8	Temperature (C)	DegC	[35.7-37.5]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
106	Systolic Blood Pressure	mmHg	[90-140]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
57	Diastolic Blood Pressure	mmHg	[55-90]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
73 [R1]	Mean Arterial Blood Pressure	mmHg		SYSTEM, SYSTEM	PowerChart	5/4/2016 07:00 EDT
Automated (cuff)	Method of BP Measurement			BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
Intrauterine pressure catheter	Uterine Contraction Monitoring Method			BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
Yes	Uterine Contractions Perceived by Pt			BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
See Below [T01]	Fetal Monitoring Annotations				Monitoring	5/4/2016 07:20 EDT
Manual	Cervical Exam Type			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
5	Cervix Dilation			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
80	Cervix Effacement			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
-2	Fetal Station			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
BRYANT MD-Resident, ELIZABETH	Vaginal Exam Performed By			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
See Below [T02]	Fetal Monitoring Annotations				Monitoring	5/4/2016 07:27 EDT
0	Pain Score (Rest)			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
6	Pain Score (Activity)			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
2+ Normal	Radial Pulse,Left			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
VAS	Adult Pain Scale			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
Back lower	Primary Pain Location			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
PCEA/Epidural	Primary Pain Interventions			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT

Patient Name: LEE, SHAMIA V

Patient ID:957073530

Date	Summary	User Name	Revision Date
Wed May 04 08:08:33 EDT 2016	pt complaining of increase vaginal discomfort. pt repositioning herself in bed	krstep	Wed May 04 09:52:29 EDT 2016
Wed May 04 08:07:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 08:07:07 EDT 2016
Wed May 04 08:02:48 EDT 2016	BP 152/108	system vitals	Wed May 04 08:02:49 EDT 2016
Wed May 04 08:02:06 EDT 2016	SpO2 100%	system vitals	Wed May 04 08:02:07 EDT 2016
Wed May 04 07:57:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:57:07 EDT 2016
Wed May 04 07:52:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:52:07 EDT 2016
Wed May 04 07:47:07 EDT 2016	IUPC zero out	krstep	Wed May 04 10:02:49 EDT 2016
Wed May 04 07:47:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:47:07 EDT 2016
Wed May 04 07:42:43 EDT 2016	Dr. Bryant at bedside discussing possible c-section and obtaining consent. awaiting Dr. Grahm arrival for evaluation	krstep	Wed May 04 09:57:44 EDT 2016
~~Wed May 04 07:42:43 EDT 2016~~	~~Dr. Bryant at bedside discussing possible c-section and obtaining consent~~	~~krstep~~	~~Wed May 04 07:44:56 EDT 2016~~
Wed May 04 07:42:06 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:42:07 EDT 2016
Wed May 04 07:37:25 EDT 2016	EFM readjusted	krstep	Wed May 04 09:50:53 EDT 2016
Wed May 04 07:37:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:37:07 EDT 2016
Wed May 04 07:33:09 EDT 2016	EFM readjusted	krstep	Wed May 04 09:50:29 EDT 2016
Wed May 04 07:32:35 EDT 2016	BP 127/83, MHR 91	system vitals	Wed May 04 07:32:37 EDT 2016

Patient Name: LEE, SHAMIA V
Patient ID:957073530

Date	Summary	User Name	Revision Date
Tue May 03 11:07:06 EDT 2016	SpO2 100%	system vitals	Tue May 03 11:07:08 EDT 2016
Tue May 03 11:03:11 EDT 2016	BP 120/73, MHR 128	system vitals	Tue May 03 11:03:13 EDT 2016
Tue May 03 11:02:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 11:02:07 EDT 2016
Tue May 03 11:00:16 EDT 2016	Peri care provided, pt in Right tilt	ebashu	Tue May 03 11:07:29 EDT 2016
Tue May 03 11:00:00 EDT 2016	Station: -2	EBASHU	Tue May 03 11:04:04 EDT 2016
Tue May 03 11:00:00 EDT 2016	Dilation: 3	EBASHU	Tue May 03 11:04:04 EDT 2016
Tue May 03 11:00:00 EDT 2016	penicillin G potassium 2.5 MillionUnits IVPB	EBASHU	Tue May 03 11:03:04 EDT 2016
Tue May 03 11:00:00 EDT 2016	Effacement: 100	EBASHU	Tue May 03 11:04:04 EDT 2016
Tue May 03 10:58:24 EDT 2016	Dr Graham in room for SVE	ebashu	Tue May 03 10:59:05 EDT 2016
Tue May 03 10:57:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:57:07 EDT 2016
Tue May 03 10:52:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:52:07 EDT 2016
Tue May 03 10:47:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:47:07 EDT 2016
Tue May 03 10:42:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:42:07 EDT 2016
Tue May 03 10:38:00 EDT 2016	predniSONE 60 mg By Mouth	EBASHU	Tue May 03 10:40:50 EDT 2016
Tue May 03 10:37:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:37:07 EDT 2016

Date	Summary	User Name	Revision Date
Tue May 03 08:22:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:22:07 EDT 2016
Tue May 03 08:17:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:17:07 EDT 2016
Tue May 03 08:12:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:12:07 EDT 2016
Tue May 03 08:07:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:07:07 EDT 2016
Tue May 03 08:03:16 EDT 2016	BP 116/60, MHR 86	system vitals	Tue May 03 08:03:18 EDT 2016
Tue May 03 08:02:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:02:07 EDT 2016
Tue May 03 07:57:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:57:07 EDT 2016
Tue May 03 07:53:00 EDT 2016	Lactated Ringers 1000 mL started @ 125 mL/hr	KRSTEP	Tue May 03 07:58:18 EDT 2016
Tue May 03 07:52:11 EDT 2016	BP 112/66, MHR 96	system vitals	Tue May 03 07:52:13 EDT 2016
Tue May 03 07:52:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:52:07 EDT 2016
Tue May 03 07:47:23 EDT 2016	pt changed position to right lateral, FHT and TOCO readjusted	krstep	Tue May 03 07:48:12 EDT 2016
Tue May 03 07:47:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:47:07 EDT 2016
Tue May 03 07:42:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:42:07 EDT 2016
Tue May 03 07:37:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:37:07 EDT 2016
Tue May 03 07:35:55 EDT 2016	pt on left lateral side, fluid bolus of 300ml started, dr. bryant notified of BP and decel, Dr, grahm being paged to notify	krstep	Tue May 03 07:38:19 EDT 2016

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Progress Notes

Created by
ALMARIO MD-Resident, LEANNE. Beeper number 8939. Service ObGyn. Resident.

DOCUMENT NAME:	Brief Incident Note
SERVICE DATE/TIME:	5/4/2016 08:18 EDT
RESULT STATUS:	Unauthenticated/Unsigned
PERFORM INFORMATION:	BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT)
SIGN INFORMATION:	BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT); BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT)
AUTHENTICATED BY:	BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT)

SVE
"If completed by a medical trainee this document will be reviewed and amended by a supervisor. * This document should not be used for physician billing if completed by a MLP unless employed by/or under a shared services agreement with that physician" ****

Patient: **LEE, SHAMIA** **MRN: H-844123976** **FIN: 500002334679**
Age: **26 years** Sex: **Female** DOB: **01/05/1990**
Associated Diagnoses: **None**
Author: **BRYANT MD-Resident, ELIZABETH**

Document Created
Document Creation: 05/04/16 08:19

Date of Service
Date of Service: 05/04/2016.

Incident Summary
SVE 5/80/-2
Scalp stim for minimal variability for approximately 2 min at 07:20

OB team aware
Created by
BRYANT, ELIZABETH B. Beeper number 8940. Service OB/GYN. Resident.

DOCUMENT NAME:	Brief Incident Note
SERVICE DATE/TIME:	5/4/2016 09:36 EDT
RESULT STATUS:	Auth (Verified)
PERFORM INFORMATION:	DUDICK MD-Resident,STEVEN (5/4/2016 09:42 EDT)
SIGN INFORMATION:	PUDER MD,KAROLINE S (5/9/2016 09:51 EDT); DUDICK MD-Resident,STEVEN (5/4/2016 09:44 EDT); DUDICK MD-Resident,STEVEN (5/4/2016 09:42 EDT)
AUTHENTICATED BY:	PUDER MD,KAROLINE S (5/9/2016 09:51 EDT); PUDER MD,KAROLINE S (5/9/2016 09:51 EDT); DUDICK MD-Resident,STEVEN (5/4/2016 09:44 EDT)

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Progress Notes

DMC Brief Incident Note
"If completed by a medical trainee this document will be reviewed and amended by a supervisor. * This document should not be used for physician billing if completed by a MLP unless employed by/or under a shared services agreement with that physician" ****

Patient: **LEE, SHAMIA V** **MRN: H-844123976** **FIN: 500002334679**
Age: **26 years** Sex: **Female** DOB: **01/05/1990**
Associated Diagnoses: **None**
Author: **DUDICK MD-Resident, STEVEN**

Document Created
Document Creation: 05/04/16 09:36
.

Date of Service
Date of Service: 05/04/2016.

Late entry due to meeting I had to attend immediately after board turnover

Incident Summary
Discussed fetal heart rate tracing with Dr. Puder and Dr. Graham at 0345. Fetal baseline varied between 160 and 180, minimal-to-moderate variability, no accels, intermittent late decels. Oxytocin discontinued at 0300. After discussion with Dr. Puder and Dr. Graham, the decision was made to not restart oxytocin and expectantly manage until Dr. Graham able to assess patient in person.

Paged Dr. Graham at 0720, immediately following board turnover. Tracing remained Category II: baseline 160, minimal variability, intermittent late decels. Instructed by Dr. Graham to restart oxytocin. Dr. Puder disagreed. Oxytocin not restarted.

Objective
VS/Measurements

Most recent Vital Signs last 24 hours:

Temperature: 36.8 using method Oral
BP: 127/83
Pulse: 91
Respiration Rate: 20
SpO2: 100
FIO2: ---
24Hr Tmax: 37.5 using method ---

Weight:

Initial Weight: 98.6 kg 217 lb 05/02
Current Weight: 98.6 kg 217 lb 05/02

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Progress Notes

Created by
Steven Dudick, M.D. (PGY-3)
Obstetrics and Gynecology
Beeper 7560

Attestation
Teaching Attestation
Attestation/ Supervisor Note: Attestation to Brief Incident Note, Participation (management reviewed and discussed, Tracing reviewed with Dr. Dudick. Category II, infrequent decels off oxytocin. Attending for this patient needs to assess the patient in person prior to restarting oxytocin. Dr. Graham informed. Per our earlier conversation, he stated that he would be on his way to Hutzel at 0700.), I agree with findings & plan, Provider Signature (PUDER MD, KAROLINE S, Beeper Number 3850, Maternal-Fetal Medicine Obstetrics & Gynecology).

DOCUMENT NAME:	Brief Incident Note
SERVICE DATE/TIME:	5/4/2016 09:55 EDT
RESULT STATUS:	Auth (Verified)
PERFORM INFORMATION:	LOUDEN MD-Resident,ERICA (5/4/2016 10:06 EDT)
SIGN INFORMATION:	GRAHAM MD,THEODORE K (5/5/2016 06:19 EDT); LOUDEN MD-Resident,ERICA (5/4/2016 10:06 EDT)
AUTHENTICATED BY:	GRAHAM MD,THEODORE K (5/5/2016 06:19 EDT)

Chronic ITP Steroid dose Brief Incident Note
"If completed by a medical trainee this document will be reviewed and amended by a supervisor. * This document should not be used for physician billing if completed by a MLP unless employed by/or under a shared services agreement with that physician" ****

Patient: **LEE, SHAMIA** **MRN: H-844123976** **FIN: 500002334679**
Age: **26 years** Sex: **Female** DOB: **01/05/1990**
Associated Diagnoses: **None**
Author: **LOUDEN MD-Resident, ERICA**

Document Created
Document Creation: 05/04/16 09:55

Date of Service
Date of Service: 05/04/2016.

Incident Summary
Ms. Lee is a 26 yo G1P0101 s/p Stat c-section with history of chronic ITP on Prednisone 60 mg antepartum. In labor receiving stress dose of steroids 100mg Hydrocortisone TID.
Hematology Dr. Nagaska: continue stress dose and then switch to previous regmine of Prednisone 60mg qd on POD # 2, discharge home on Prednisone 60mg
F/u with her Hematologist in 1 week post delivery or f/u in Benign Hematology Clinic UHC-7B 313-745-2554

Patient seen and plan to be discussed w/ Attending.

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Surgical Documents

Author: **PUTRA MD-Resident, MANESHA**

Document Created
Document Creation: 05/04/16 09:33

Date of Service
Date of Service: 05/04/2016.

Procedure

Procedure
Date of Surgery
05/04/2016.
Confirmed
Patient, procedure, side, and site are correct.
Performed by
GRAHAM MD, THEODORE K.
Attending physician.
Assistant
PUTRA MD-Resident, MANESHA.
Resident.
Pre-Operative diagnosis
Antepartum non-reassuring fetal heart rate or rhythm affecting care of mother (ICD10-CM O76, Admitting, Medical).
Post-Operative diagnosis
Antepartum non-reassuring fetal heart rate or rhythm affecting care of mother (ICD10-CM O76, Admitting, Medical).
Procedure performed
Procedure
Cesarean Section (U000108)..
Estimated Blood Loss
600 ml.
Intravenous Fluids
1,000 ml crystalloid.
Urine output
225 ml.
Specimen obtained
None.
Anesthesia
Regional: Epidural.
Complications
None apparent.
Indication
Ms. Lee is a 26 y/o G1P0 at 34w4d by 18 wk US admitted to labor and delivery for management of PPROM.
s/p BMZ x2
CAT II tracing: Dr. Graham notified @ 07:40a.m and is in route

Consented for c-section: On chart review patient noted to have a CATII tracing: basline of 05's, minimal variability, with occassional decels and a prolonged decel down to the 80's, irregular contractions. Fetus did not respond to

Surgical Documents

scalp stimulation. Cervical exam unchanged. Pitocin has been off since 03:00. Dr. Graham notified overnight and this morning and is in route. STAT C-section is recommended

Informed consent
Signed by patient.
Preparation and technique
Sterile preparation of site.
Intra-Operative Details

The patient was taken to the operating room where epidural anesthesia was found to be adequate. The patient was placed in the dorsal supine position with a leftward tilt and prepared and draped in the normal sterile fashion. The mandatory time out was not performed due to emergent nature of the procedure. A Pfannenstiel skin incision was made 2 cm above the pubic symphysis with scalpel and carried through to the underlying layer of fascia. The fascia was incised in the midline and the incision extended laterally with blunt traction. The rectus muscle was then seprated bluntly. peritoneal layer was then also entered bluntly. The peritoneal incision was then extended superiorly and inferiorly with good visualization of the bladder. The bladder blade was then inserted.

The lower uterine segment was incised in a transverse fashion with the scalpel. The uterine incision was then extended laterally with cephalad caudad traction. Meconium amniotic fluid was noted. The bladder blade was removed. The surgeon's hand was placed in the uterine cavity. The fetus was in cephalic presentation. The head was elevated into the abdomen and delivered through the uterine incision to the level of the scapula with the assistance of fundal pressure. No nuchal cord noted. The remainder of the fetus was delivered with gentle traction. The umbilical cord was clamped and cut and the infant was handed off to the waiting the nurse for further care. Cord gases were sent. The placenta and amniotic membranes were then manually removed from the uterine cavity. Oxytocin was administered by IV infusion to enhance uterine contractions. The uterus was exteriorized and cleared of all clots and remaining products of conception with a moist lap sponge. The uterine incision was closed in one locked layer with an 0 Vicryl suture. Good hemostasis was confirmed. Wound was examined and sponge count was observed and found to be correct x1.
The uterus was replaced into the abdomen. peritoneum was closed using 2-0 vicryl in running fashion. muscle was then also reapproximated using0-vicryl in a continous running fashion. The fascia was reapproximated using 0 Vicryl suture in a running, nonlocking fashion. Sponge count was observed and found to be correct x2. The subcutaneous tissue was cleansed with a wet lap sponge. Hemostasis was obtained with Bovie electrocautery and noted to be good. The skin was reapproximated using 4-0 Vicryl on a Keith needle. The skin was cleansed and a sterile bandage dressing was applied.
The patient tolerated the procedure well. Sponge, lap, and needle counts were correct times two. The patient was taken to the recovery room in stable condition.
Dr. graham was present for and participated in the entire procedure.

Findings
Female infant delivered, APGAR 0-4-5-6 at 1-5-10 and 15 minutes
weight 2335g
me onium stained amniotic fluid
normal appearing pelvic irgans
three vessel cord.
Condition
Good.
Procedure tolerated
Well.

Created by
PUTRA MD-Resident, MANESHA. Beeper number #9102 for Hutzel OB, #5741 for Harper/Hutzel GYN, #5150 for Sinai Grace GYN, #7643 for personal pager. Service OBGYN. Resident.

EXHIBIT B

State of New York)
)SS:
County of Richmond)

AFFIDAVIT OF MERIT OF HEALTH CARE PROFESSIONAL

I, Dr. James Ducey, being first duly sworn, depose and state the following:

1. I am a licensed health care professional.

2. I certify that I have reviewed the Notice of Intent to File Claim and the statements set forth in the Notice of Intent to File Claim are within my area of specialty (which specialty I spent the majority of my professional time in the active practice of my specialty), and were on the dates of the malpractice, and one year prior to the dates of the alleged malpractice. In addition, I have reviewed all of the medical records provided by the Plaintiffs' attorney concerning the allegations contained in the notice. I further state that the opinions in this Affidavit are preliminary as I have not had an opportunity to review deposition testimony and may, in the future, be provided with additional medical records and other evidence. In the event additional information is made available, I reserve the right to amend the opinions stated in this Affidavit.

   I have reviewed the following medical records regarding:

   - Children's Hospital of Michigan Rehabilitation Institute
   - Children's Hospital of Michigan Specialty Center
   - CHM Developmental Assessment Clinic
   - Detroit Community Hospital Health Connection
   - DMC Rehab
   - Hutzel Hospital - MLT
   - Hutzel Hospital Shamia Lee Fetal Monitor Strips
   - Hutzel Hospital – Shamia Lee
   - Plaintiffs' Complaint and Third Party Complaint

Facts

3. Shamia Lee was a 26-year-old gravida 1 Para 0 (pregnant for the first time) with an untested pelvis, who was admitted to Hutzel Hospital on 5/2/16 at 34 weeks and 2 days gestation with the diagnosis of –

    a. Premature Rupture of Membranes (PPROM) at 7:00 PM.
    b. The fluid that was leaking was noted to be clear.
    c. Sterile speculum exam revealed the cervical os to be open with gross pooling.
    d. Sterile vaginal examination revealed the cervix to be 2 cm dilated / 80% effaced with the vertex at -1 station.
    e. She was noted to be contracting about every 10 minutes.

    Her antepartum care had taken place at the Detroit Community Health Connection. Her antepartum course was significant for a history of chronic thrombocytopenia that had been treated with oral prednisone. She had most recently been taking 60mg daily. Her prenatal labs were essentially normal.

    A bedside sonogram revealed a single intrauterine pregnancy with an estimated fetal weight of 2285 grams. The plan was to start betamethasone for lung maturity followed by Pitocin per protocol. She was also given stress steroids.

    Consent was obtained for the use of oxytocin.

Brief Summary

Tuesday
5/3/16 at 0735
Attending Dr. Theodore Graham

On 5/3/16 at 0735, Dr. Bryant (resident) notified of blood pressure and decelerations. Dr. Theodore Graham (attending) being paged to notify. P382

On 5/3/16 at 1058, Dr. Theodore Graham (attending) in room for sterile vaginal examination. At 1100 station -2 / dilatation 3 / effacement 100. P379, 125

Wednesday
5/4/16
Discussed fetal tracing with attending Dr. Graham at 0345

On 5/4/16 at 09:36, Dr. Steven Dudick (resident) notes in a **"late entry"** that the **fetal tracing had been discussed** with Dr. Puder (Maternal Fetal Medicine) and **Dr.**

Graham at 03:45. The fetal baseline varied between 160-180 (fetal tachycardia) with minimal-moderate variability, no accelerations and intermittent late decelerations. Oxytocin was discontinued at 0300. **After discussion with Dr. Puder (MFM) and Dr. Graham, the decision was made to not restart oxytocin and expectantly manage Ms. Lee until Dr. Graham was able to assess the patient in person. (P572) Dr. Graham did not come to that hospital at that time (0345) despite the concerns on the fetal tracing.**

0543
Discussed with Dr. Graham

On 5/4/16 at 05:43, Dr. Steven Dudick, a PGY 3 (third year resident) noted that the fetal heart tracing showed a baseline of 160 beats per minute (BPM) with minimal variability, and intermittent late decelerations. He categorized this tracing as a Category II tracing. **Dr. Dudick noted that the care plan was discussed with the attending physician Dr. Theodore Graham.**

0700
Attending needs to access patient prior to re-staring Oxytocin. Dr. Graham said he would be on his way to Hutzel.

Dr. Karoline Puder MFM documents that Ms. Lee's management was reviewed and discussed with Dr. Dudick (resident). The tracing was reviewed and revealed a Category II tracing with infrequent decelerations off oxytocin. **She (Dr. Puder MFM) states that the attending for this patient needs to assess this patient in person prior to restarting the oxytocin. Dr. Graham was informed. "Per our earlier conversation, he (Dr. Graham) stated that he would be on his way to Hutzel at 0700. I agree with findings and plan." P573**

0720
Minimal variability. No response to scalp stimulation.

That on 5/4/16 at 0720, Shamia Lee was 5cm / 80% / -2. She was remote from delivery. Scalp stimulation had been performed by Dr. Elizabeth Bryant (resident) for minimal variability for approximately 2 minutes at 0720-0721. (P571, 160) The fetus **did not** respond to scalp stimulation. (P160, 634-635)

Of most concern was the fact that at 0720 – 0721, Dr. Bryant (resident) performed scalp stimulation for 2 minutes, and there was no response. This maneuver (which when performed is meant to demonstrate fetal well-being and normal oxygenation if it causes an acceleration) is one of the best indicators of a lack of hypoxia.

Late Entry

Paged Dr. Graham at 0720.
Baseline FHR 160, minimal variability with intermittent late decelerations.

0720 Dr. Dudick (resident) further notes in this late entry that **Dr. Graham was paged at 07:20** immediately following board turnover. The tracing had remained Category II: **The baseline was 160 BPM and the variability was noted to be minimal with intermittent late decelerations. Despite the tracing concerns, Dr. Graham was noted to desire to restart oxytocin.** Dr. Karoline Puder MFM disagreed. Oxytocin was not restarted. P572

The fact that there was NO response to scalp stimulation in the face of persistent fetal tachycardia, minimal variability and intermittent late decelerations, the standard of care required Dr. Graham order a stat C-section. In violation of the standard of care Dr. Graham failed to do so. Instead, Dr. Graham **from home** argued that Pitocin should be restarted. In addition, Dr. Graham still did not come to the hospital at once, as required by the standard of care.

0740
Dr. Graham notified and en route.

CAT II tracing: **Dr. Graham notified@ 07:40 a.m. and is en route. Consented for C-section: On chart review patient noted to have a CAT II tracing: baseline of 05's, minimal variability, with occasional decels (declarations) and a prolonged decel (deceleration) down to the 80's, irregular contractions. Fetus did not respond to scalp stimulation** (at 0720, P160). P634-635

0742
Awaiting Dr. Graham arrival for evaluation.

5/4/16 0742 Dr. Bryant (resident) at bedside discussing possible C-section and obtaining consent, awaiting Dr. Graham arrival for evaluation. (User name: Krstep – unknown). P351

0819

5/4/16 08:19, Dr. Elizabeth Bryant (resident) notes that the patient was 5 cm dilated, 80% effaced with the vertex at the -2 station.

0821

5/4/16 08:21, Dr. Erica Louden (resident) notes that the patient was consented for a cesarean section. Patient was noted to have minimal variability with occasional decelerations and a prolonged deceleration down to 80 BPM, with irregular contractions. Dr. Erica Louden (resident) notes that the fetus did not respond to scalp

stimulation, and the cervical examination was unchanged. Dr. Erica Louden (resident) notes that Pitocin had been off since 0300 and that **Dr. Graham had been notified overnight and that morning and is en route.** A cesarean section was recommended. Ms. Lee had consented and agreed to a cesarean section.

Baby M.L.T. was allowed to continue in this state of hypoxia until the baby could no longer support a normal heart rate. There was prolonged fetal heart rate decelerations to the 80's and decelerations to the 40's. The baby was delivered at 0846 via a stat cesarean section after the baby demonstrated bradycardia. The baby was born with an Apgar of 0 at 1 minute and 4 at 5 minutes. The cord gases revealed severe metabolic acidosis consistent with hypoxia.

At 09:21 (after the delivery / birth at 0846), Dr. Graham notes that he was informed that the patient had redeveloped late decelerations with the Pitocin off while he was en route. Upon his arrival to the hospital, the patient was being transferred to the operating room for a stat cesarean section. He notes that a Cesarean section was performed delivering a viable female infant.

0842 to OR
Birth: 0846
Apgar scores 0 / 4 / 5

At 08:42, Ms. Lee was brought to the **OR,** as per the anesthesia record. The baby was **delivered at 08:46. The APGAR scores were 0/4/5 at 1 minute, 5 minutes and 10 minutes** respectively.

Cord Blood Gases

***Arterial* cord blood gas** revealed a severely acidotic state with a pH = 6.471 and a BASE EXCESS OF -24.

***Venous* cord blood gas** revealed a pH = 7.048 with a BASE EXCESS = -15.4.

Baby M.L.T.'s active problems were listed as perinatal depression and HIE findings on MRI.

The baby M.L.T. was discharged on 5/19/2016.

Rehabilitation Institute of Michigan, M.L.T. is noted to have delayed developmental milestones with Truncal Hypotonia and Hypertonia of the extremities.

STANDARD OF CARE

The care provided to Ms. Lee and her unborn child fell below accepted standards of care of an OB/GYN. As early as 21:38 on 5/3/2016, the fetal tracing revealed evidence of a fetal tachycardia with minimal variability. This is not tracing that is considered normal. There was no contemplation as to why there was a fetal

tachycardia or minimal variability. Maternal temperature was normal. There was noted to be intermittent late decelerations which also indicated that there were episodes of fetal hypoxia. It is well accepted that a premature baby (34 weeks' gestation) will have a decreased reserve to tolerate prolonged stress and hypoxia.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)

That the standard of care required exercising reasonable skill and diligence to recognize that Plaintiffs had a high probability of sudden clinically significant deterioration, which required the highest level of physician presence and preparedness to intervene timely with a stat C-section pursuant to the standard of care. In violation of the standard of care Dr. Graham managed the care of Plaintiffs from home, although the records stated Dr. Graham's presence was necessary, and he had said he would be on his way to the hospital at 0700. At 0345 he was told of concerns of the fetal heart tracing, and Oxytocin was not going to be restarted until he came and evaluated the patient.

The persistence of a Category II fetal heart rate tracing for one hour that does not exhibit moderate variability or accelerations but does exhibit late decelerations represents a significant probability of metabolic acidosis and requires delivery of the fetus. The Category II fetal heart rate pattern identifies a fetus in jeopardy. The goal of intrapartum care is delivery of the fetus prior to the development of damaging degrees of hypoxic acidemia.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)
0345

After Midnight on 5/4/2016, the fetal tracing consistently revealed a fetal tachycardia with minimal variability and intermittent late decelerations. Despite having been told by the resident of this ominous tracing in a premature baby at 34 weeks, Dr. Graham, in violation of the standard of care did not come to the hospital to personally assess, evaluate his patients, and plan management of the labor and time of delivery. This is a deviation from accepted standards of care. Even after he was notified at 0300 - 0345 that the fetal tracing remained of concern with fetal tachycardia at 180 bpm with minimal variability and intermittent late decelerations, Dr. Graham continued to remain at home. It is clear the standard of care required that Dr. Graham be at the hospital to evaluate Shamia Lee and her baby, and the fetal heart rate tracing shortly after 3:45am on 5/4/16. In violation of the standard of care Dr. Graham failed to do so.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)
After 0345 offer C-section

If Dr. Graham had come to the hospital shortly after 0345 on 5/4/16, the standard of care required that Dr. Graham, after reviewing the fetal monitoring graphs and seeing cervical dilatation (5cm / 100%), offer Shamia Lee a C-section, knowing she was a gravida 1 at 34 weeks' gestation with PROM, and explain to her that there had been non-reassuring fetal heart tones, and that vaginal delivery was remote. In violation of the standard of care, Dr. Graham did not do so.

STANDARD OF CARE- DR. GRAHAM (OB/GYN)
0740
Order stat C-section

Dr. Graham was notified at around 0740, and said that he was en route to the hospital. Based on minimal variability, previous tachycardia, decelerations, and prolonged deceleration to the 80's, and a fetus that did not respond to scalp stimulation at 0720 (P160, P634-635), the standard of care required that Dr. Graham order the resident to proceed immediately with a stat C-section while he was en route to the hospital, and not wait for him. In violation of the standard of care, Dr. Graham failed to do so.

Had this baby been delivered by cesarean section no later than 08:10am, she would not have been born hypoxic and close to death, and would not have suffered the injuries consistent with hypoxic-ischemic encephalopathy.

STANDARD OF CARE- DR. BRYANT, DR. DUDICK, AND DR. LOUDEN (OB/GYNS)

The OB/GYN residents, Drs, Bryant, Dudick, and Louden owed the following duties to Plaintiffs pursuant to the patient-doctor relationship that existed between them and pursuant to the standard of practice or care of their profession. That Drs. Bryant, Dudick, and Louden breached the aforementioned duties in at least one and possibly more of the following particulars, so far as it is presently known, by failing:

a. To exercise reasonable skill and diligence to timely request that the attending physician, Dr. Theodore Graham, and/or Dr. Karoline Puder come to the bedside and review and correctly interpret the fetal monitoring graphs, give the appropriately orders including, but not limited to, ordering and performing a timely stat C-section due to non-reassuring fetal heart tones, when the mother was remote from vaginal delivery.

b. To exercise reasonable skill and diligence after assessing Plaintiffs and the fetal monitoring graphs to timely call Dr. Graham and/or Dr. Puder, and/or an in house OB/GYN and/or another doctor at once and tell him/her about the Plaintiff's fetal distress, non-reassuring fetal heart tones.

c. To exercise reasonable skill and diligence to timely demand the presence of Dr. Graham and/or Dr. Puder and notify them of the need for an immediate and stat C-section, due Plaintiff's fetal distress, non-reassuring fetal heart tones and the need for a stat C-section.

d. To exercise reasonable skill and diligence when unable to reach Dr. Graham and/or Dr. Puder, to immediately demand the presence of the in-house OB- GYN physician and explain to him/her the need for an immediate and stat C- section because of the presence of fetal distress, non-reassuring fetal heart tones, with vaginal delivery being remote.

e. To exercise reasonable skill and diligence to tell Dr. Graham and/or Dr. Puder them a C-section was required immediately and to asking Dr. Dr. Graham and Dr. Puder how long it would take them to arrive at the hospital.

f. To timely take the appropriate action when fetal distress, non-reassuring fetal heart rate and/or patterns were identified, including immediately notifying the attending physician that he needs to come in to evaluate the mother's condition immediately and prep patient for a C-section, and ready a crew, nurses, anesthesia and physicians for an impending C-section.

g. To timely recognize that there were non-reassuring fetal heart rates and/or patterns, and Plaintiff's minor health and life were in danger, and demand an immediate consultation and consideration for a stat C-section and/or by using the chain of command, ask for same.

h. To timely utilize the chain of command to ensure that the mother received timely an immediate evaluation for a stat C-section.

i. To timely perform a stat c-section and refrain from waiting for Dr. Graham to arrive.

When Drs. Bryant, Dudick, and Louden saw that Dr. Graham failed to timely show up at the hospital to perform the C-section, the standard of care of Drs. Bryant, Dudick, and Louden required that they immediately tell Dr. Puder that Dr. Graham failed to timely come to the hospital, and that there was fetal distress, non-reassuring fetal heart tones with vaginal delivery being remote mandating a stat C-section, and demand Dr.

Puder's presence to the operating room to perform the stat C-section. If Dr. Puder refused to go immediately to the operating room upon demand, the standard of care of Drs. Bryant, Dudick and Louden, required that they use the chain of command to ensure that an OB/GYN be present to perform the stat C-section.

STANDARD OF CARE- DR. KAROLINE PUDER (MFM)

If Dr. Puder timely saw Plaintiff's non-reassuring fetal heart tones, and/or if Drs. Bryant, and/or Dudick, and/or Louden told Dr. Puder about Plaintiff's non-reassuring fetal heart tones, fetal distress, and the need for a stat C-section, and that Dr. Graham did not timely show up at the hospital, the standard of care of Dr. Puder's profession required that she immediately show up to the bedside to evaluate the Plaintiffs, and perform a timely, stat C-section. Alternatively, if Dr. Puder could not immediately go to the hospital to perform a stat C-section, the standard of care of her profession required that she advise the OB/GYN residents to request the presence of another available OB/GYN immediately by using the chain of command.

THE MANNER IN WHICH THE BREACH OF THE STANDARD OF PRACTICE OR CARE WAS THE PROXIMATE CAUSE OF THE INJURY

That failure to perform a timely C-section was the direct and proximate cause of minor Plaintiff's brain damage, as during this delay in delivering minor Plaintiff, he suffered from progressive, prolonged and cumulative hypoxia (decrease in oxygen rich blood) and/or ischemia Brain cells need oxygen to live and as a result of the failure to receive the oxygen,

brain cells of minor Plaintiff died and minor Plaintiff sustained permanent and severe brain damage.

Had the standard of care had been followed as described herein, one or more physicians would have been present to perform a timely stat C-section. Had this baby been delivered by cesarean section no later than 08:10am, she would not have been born hypoxic and close to death, and would not have suffered the injuries consistent with hypoxic-ischemic encephalopathy.

4. My opinions in this Affidavit of Merit are preliminary and are based upon the specific information contained in the medical records in this particular case provided to me prior to signing this Affidavit of Merit. As additional information is obtained through additional medical records and throughout the course of discovery, including depositions, I reserve the right to modify and/or alter and/or change my opinions. The opinions expressed herein are based solely on the medical records supplied to me, as well as my knowledge, training, skill and experience. The above is meant to serve as a summary of my opinions, and may not include each and every opinion I have formulated.
5. That this is a meritorious case.

Further, affiant saith not.

James Ducey

Dr. James Ducey

Subscribed and sworn to before me this
18th day of June, 2019.

Joanna Barbagallo
Notary Public
County: Richmond
My Commission Expires: 2/16/22

JOANNA BARBAGALLO
NOTARY PUBLIC STATE OF NEW YORK
RICHMOND COUNTY
LIC. #01BA4898596
COMM. EXP. FEBRUARY 16, 2022

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

I-Views

Result	Procedure	Units	Reference Range	Recorded By	Data Source	Recorded Date/Time
1- Awake, Cooperative, Oriented	Level of Sedation-Neuro			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Manual	Cervical Exam Type			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
3	Cervix Dilation			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
100	Cervix Effacement			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
-2	Fetal Station			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
GRAHAM MD, THEODORE K	Vaginal Exam Performed By			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
External toco	Uterine Contraction Monitoring Method			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
No	Uterine Contractions Perceived by Pt			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
irreg	Uterine Contraction Frequency			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Normal	Uterine Activity			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Relaxed	Uterine Contraction Rest Tone,External			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
Right tilt	Patient Position, OB			BASHURA RN, ELAINE S.	PowerChart	5/3/2016 11:00 EDT
See Below T50	Fetal Monitoring Annotations				Monitoring	5/3/2016 11:00 EDT
See Below T51	Fetal Monitoring Annotations				Monitoring	5/3/2016 11:16 EDT
Pt in right tilt	Fetal Monitoring Annotations				Monitoring	5/3/2016 11:18 EDT
129 H	Heart Rate (bpm)	bpm	[60-100]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
99	O2 Saturation	%	[92-100]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
120	Systolic Blood Pressure	mmHg	[90-140]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
61	Diastolic Blood Pressure	mmHg	[55-90]	GREENIDGE RN,KIARA R	PowerChart	5/3/2016 11:30 EDT
80 R1	Mean Arterial Blood Pressure	mmHg		SYSTEM, SYSTEM	PowerChart	5/3/2016 11:30 EDT

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

I-Views

Result	Procedure	Units	Reference Range	Recorded By	Data Source	Recorded Date/Time
95	Heart Rate (bpm)	bpm	[60-100]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
36.8	Temperature (C)	DegC	[35.7-37.5]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
106	Systolic Blood Pressure	mmHg	[90-140]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
57	Diastolic Blood Pressure	mmHg	[55-90]	BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
73 [R1]	Mean Arterial Blood Pressure	mmHg		SYSTEM, SYSTEM	PowerChart	5/4/2016 07:00 EDT
Automated (cuff)	Method of BP Measurement			BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
Intrauterine pressure catheter	Uterine Contraction Monitoring Method			BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
Yes	Uterine Contractions Perceived by Pt			BUIA RN,MARIA	PowerChart	5/4/2016 07:00 EDT
See Below [T01]	Fetal Monitoring Annotations				Monitoring	5/4/2016 07:20 EDT
Manual	Cervical Exam Type			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
5	Cervix Dilation			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
80	Cervix Effacement			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
-2	Fetal Station			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
BRYANT MD-Resident, ELIZABETH	Vaginal Exam Performed By			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:21 EDT
See Below [T02]	Fetal Monitoring Annotations				Monitoring	5/4/2016 07:27 EDT
0	Pain Score (Rest)			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
6	Pain Score (Activity)			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
2+ Normal	Radial Pulse,Left			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
VAS	Adult Pain Scale			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
Back lower	Primary Pain Location			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT
PCEA/Epidural	Primary Pain Interventions			GREENIDGE RN,KIARA R	PowerChart	5/4/2016 07:30 EDT

Date	Summary	User Name	Revision Date
Wed May 04 08:08:33 EDT 2016	pt complaining of increase vaginal discomfort. pt repositioning herself in bed	krstep	Wed May 04 09:52:29 EDT 2016
Wed May 04 08:07:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 08:07:07 EDT 2016
Wed May 04 08:02:48 EDT 2016	BP 152/108	system vitals	Wed May 04 08:02:49 EDT 2016
Wed May 04 08:02:06 EDT 2016	SpO2 100%	system vitals	Wed May 04 08:02:07 EDT 2016
Wed May 04 07:57:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:57:07 EDT 2016
Wed May 04 07:52:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:52:07 EDT 2016
Wed May 04 07:47:07 EDT 2016	IUPC zero out	krstep	Wed May 04 10:02:49 EDT 2016
Wed May 04 07:47:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:47:07 EDT 2016
Wed May 04 07:42:43 EDT 2016	Dr. Bryant at bedside discussing possible c-section and obtaining consent. awaiting Dr. Grahm arrival for evaluation	krstep	Wed May 04 09:57:44 EDT 2016
~~Wed May 04 07:42:43 EDT 2016~~	~~Dr. Bryant at bedside discussing possible c-section and obtaining consent~~	~~krstep~~	~~Wed May 04 07:44:56 EDT 2016~~
Wed May 04 07:42:06 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:42:07 EDT 2016
Wed May 04 07:37:25 EDT 2016	EFM readjusted	krstep	Wed May 04 09:50:53 EDT 2016
Wed May 04 07:37:05 EDT 2016	SpO2 100%	system vitals	Wed May 04 07:37:07 EDT 2016
Wed May 04 07:33:09 EDT 2016	EFM readjusted	krstep	Wed May 04 09:50:29 EDT 2016
Wed May 04 07:32:35 EDT 2016	BP 127/83, MHR 91	system vitals	Wed May 04 07:32:37 EDT 2016

Patient Name: LEE, SHAMIA V

Patient ID:957073530

Date	Summary	User Name	Revision Date
Tue May 03 11:07:06 EDT 2016	SpO2 100%	system vitals	Tue May 03 11:07:08 EDT 2016
Tue May 03 11:03:11 EDT 2016	BP 120/73, MHR 128	system vitals	Tue May 03 11:03:13 EDT 2016
Tue May 03 11:02:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 11:02:07 EDT 2016
Tue May 03 11:00:16 EDT 2016	Peri care provided, pt in Right tilt	ebashu	Tue May 03 11:07:29 EDT 2016
Tue May 03 11:00:00 EDT 2016	Station: -2	EBASHU	Tue May 03 11:04:04 EDT 2016
Tue May 03 11:00:00 EDT 2016	Dilation: 3	EBASHU	Tue May 03 11:04:04 EDT 2016
Tue May 03 11:00:00 EDT 2016	penicillin G potassium 2.5 MillionUnits IVPB	EBASHU	Tue May 03 11:03:04 EDT 2016
Tue May 03 11:00:00 EDT 2016	Effacement: 100	EBASHU	Tue May 03 11:04:04 EDT 2016
Tue May 03 10:58:24 EDT 2016	Dr Graham in room for SVE	ebashu	Tue May 03 10:59:05 EDT 2016
Tue May 03 10:57:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:57:07 EDT 2016
Tue May 03 10:52:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:52:07 EDT 2016
Tue May 03 10:47:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:47:07 EDT 2016
Tue May 03 10:42:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:42:07 EDT 2016
Tue May 03 10:38:00 EDT 2016	predniSONE 60 mg By Mouth	EBASHU	Tue May 03 10:40:50 EDT 2016
Tue May 03 10:37:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 10:37:07 EDT 2016

Patient Name: LEE, SHAMIA V

Patient ID:957073530

Date	Summary	User Name	Revision Date
Tue May 03 08:22:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:22:07 EDT 2016
Tue May 03 08:17:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:17:07 EDT 2016
Tue May 03 08:12:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:12:07 EDT 2016
Tue May 03 08:07:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:07:07 EDT 2016
Tue May 03 08:03:16 EDT 2016	BP 116/60, MHR 86	system vitals	Tue May 03 08:03:18 EDT 2016
Tue May 03 08:02:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 08:02:07 EDT 2016
Tue May 03 07:57:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:57:07 EDT 2016
Tue May 03 07:53:00 EDT 2016	Lactated Ringers 1000 mL started @ 125 mL/hr	KRSTEP	Tue May 03 07:58:18 EDT 2016
Tue May 03 07:52:11 EDT 2016	BP 112/66, MHR 96	system vitals	Tue May 03 07:52:13 EDT 2016
Tue May 03 07:52:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:52:07 EDT 2016
Tue May 03 07:47:23 EDT 2016	pt changed position to right lateral, FHT and TOCO readjusted	krstep	Tue May 03 07:48:12 EDT 2016
Tue May 03 07:47:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:47:07 EDT 2016
Tue May 03 07:42:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:42:07 EDT 2016
Tue May 03 07:37:05 EDT 2016	SpO2 100%	system vitals	Tue May 03 07:37:07 EDT 2016
Tue May 03 07:35:55 EDT 2016	pt on left lateral side, fluid bolus of 300ml started, dr. bryant notified of BP and decel, Dr, grahm being paged to notify	krstep	Tue May 03 07:38:19 EDT 2016

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Progress Notes

Created by
ALMARIO MD-Resident, LEANNE. Beeper number 8939. Service ObGyn. Resident.

DOCUMENT NAME:	Brief Incident Note
SERVICE DATE/TIME:	5/4/2016 08:18 EDT
RESULT STATUS:	Unauthenticated/Unsigned
PERFORM INFORMATION:	BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT)
SIGN INFORMATION:	BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT); BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT)
AUTHENTICATED BY:	BRYANT MD-Resident,ELIZABETH (5/4/2016 08:20 EDT)

SVE
"If completed by a medical trainee this document will be reviewed and amended by a supervisor. * This document should not be used for physician billing if completed by a MLP unless employed by/or under a shared services agreement with that physician" ****

Patient: **LEE, SHAMIA** **MRN: H-844123976** **FIN: 500002334679**
Age: **26 years** Sex: **Female** DOB: **01/05/1990**
Associated Diagnoses: **None**
Author: **BRYANT MD-Resident, ELIZABETH**

Document Created
Document Creation: 05/04/16 08:19

Date of Service
Date of Service: 05/04/2016.

Incident Summary
SVE 5/80/-2
Scalp stim for minimal variability for approximately 2 min at 07:20

OB team aware
Created by
BRYANT, ELIZABETH B. Beeper number 8940. Service OB/GYN. Resident.

DOCUMENT NAME:	Brief Incident Note
SERVICE DATE/TIME:	5/4/2016 09:36 EDT
RESULT STATUS:	Auth (Verified)
PERFORM INFORMATION:	DUDICK MD-Resident,STEVEN (5/4/2016 09:42 EDT)
SIGN INFORMATION:	PUDER MD,KAROLINE S (5/9/2016 09:51 EDT); DUDICK MD-Resident,STEVEN (5/4/2016 09:44 EDT); DUDICK MD-Resident,STEVEN (5/4/2016 09:42 EDT)
AUTHENTICATED BY:	PUDER MD,KAROLINE S (5/9/2016 09:51 EDT); PUDER MD,KAROLINE S (5/9/2016 09:51 EDT); DUDICK MD-Resident,STEVEN (5/4/2016 09:44 EDT)

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Progress Notes

DMC Brief Incident Note
"If completed by a medical trainee this document will be reviewed and amended by a supervisor. * This document should not be used for physician billing if completed by a MLP unless employed by/or under a shared services agreement with that physician" ****

Patient: **LEE, SHAMIA V** MRN: H-844123976 FIN: 500002334679
Age: **26 years** Sex: **Female** DOB: **01/05/1990**
Associated Diagnoses: **None**
Author: **DUDICK MD-Resident, STEVEN**

Document Created
Document Creation: 05/04/16 09:36

Date of Service
Date of Service: 05/04/2016.

Late entry due to meeting I had to attend immediately after board turnover

Incident Summary
Discussed fetal heart rate tracing with Dr. Puder and Dr. Graham at 0345. Fetal baseline varied between 160 and 180, minimal-to-moderate variability, no accels, intermittent late decels. Oxytocin discontinued at 0300. After discussion with Dr. Puder and Dr. Graham, the decision was made to not restart oxytocin and expectantly manage until Dr. Graham able to assess patient in person.

Paged Dr. Graham at 0720, immediately following board turnover. Tracing remained Category II: baseline 160, minimal variability, intermittent late decels. Instructed by Dr. Graham to restart oxytocin. Dr. Puder disagreed. Oxytocin not restarted.

Objective
VS/Measurements

Most recent Vital Signs last 24 hours:

Temperature: 36.8 using method Oral
BP: 127/83
Pulse: 91
Respiration Rate: 20
SpO2: 100
FIO2: —
24Hr Tmax: 37.5 using method —

Weight:

Initial Weight: 98.6 kg 217 lb 05/02
Current Weight: 98.6 kg 217 lb 05/02

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Progress Notes

Created by
Steven Dudick, M.D. (PGY-3)
Obstetrics and Gynecology
Beeper 7560

Attestation
Teaching Attestation
Attestation/ Supervisor Note: Attestation to Brief Incident Note, Participation (management reviewed and discussed, Tracing reviewed with Dr. Dudick. Category II, infrequent decels off oxytocin. Attending for this patient needs to assess the patient in person prior to restarting oxytocin. Dr. Graham informed. Per our earlier conversation, he stated that he would be on his way to Hutzel at 0700.), I agree with findings & plan, Provider Signature (PUDER MD, KAROLINE S, Beeper Number 3850, Maternal-Fetal Medicine Obstetrics & Gynecology).

DOCUMENT NAME:	Brief Incident Note
SERVICE DATE/TIME:	5/4/2016 09:55 EDT
RESULT STATUS:	Auth (Verified)
PERFORM INFORMATION:	LOUDEN MD-Resident,ERICA (5/4/2016 10:06 EDT)
SIGN INFORMATION:	GRAHAM MD,THEODORE K (5/5/2016 06:19 EDT); LOUDEN MD-Resident,ERICA (5/4/2016 10:06 EDT)
AUTHENTICATED BY:	GRAHAM MD,THEODORE K (5/5/2016 06:19 EDT)

Chronic ITP Steroid dose Brief Incident Note
"If completed by a medical trainee this document will be reviewed and amended by a supervisor. * This document should not be used for physician billing if completed by a MLP unless employed by/or under a shared services agreement with that physician" ****

Patient: **LEE, SHAMIA** **MRN: H-844123976** **FIN: 500002334679**
Age: **26 years** Sex: **Female** DOB: **01/05/1990**
Associated Diagnoses: **None**
Author: **LOUDEN MD-Resident, ERICA**

Document Created
Document Creation: 05/04/16 09:55

Date of Service
Date of Service: 05/04/2016.

Incident Summary
Ms. Lee is a 26 yo G1P0101 s/p Stat c-section with history of chronic ITP on Prednisone 60 mg antepartum. In labor receiving stress dose of steroids 100mg Hydrocortisone TID.
Hematology Dr. Nagaska: continue stress dose and then switch to previous regmine of Prednisone 60mg qd on POD # 2, discharge home on Prednisone 60mg
F/u with her Hematologist in 1 week post delivery or f/u in Benign Hematology Clinic UHC-7B 313-745-2554

Patient seen and plan to be discussed w/ Attending.

Patient Name: LEE, SHAMIA V
FIN: 500002334679

Admit Date: 5/2/2016

Surgical Documents

Author: **PUTRA MD-Resident, MANESHA**

Document Created
Document Creation: 05/04/16 09:33

Date of Service
Date of Service: 05/04/2016.

Procedure

Procedure
Date of Surgery
05/04/2016.
Confirmed
Patient, procedure, side, and site are correct.
Performed by
GRAHAM MD, THEODORE K.
Attending physician.
Assistant
PUTRA MD-Resident, MANESHA.
Resident.
Pre-Operative diagnosis
Antepartum non-reassuring fetal heart rate or rhythm affecting care of mother (ICD10-CM O76, Admitting, Medical).
Post-Operative diagnosis
Antepartum non-reassuring fetal heart rate or rhythm affecting care of mother (ICD10-CM O76, Admitting, Medical).
Procedure performed
Procedure
Cesarean Section (U000108)..
Estimated Blood Loss
600 ml.
Intravenous Fluids
1,000 ml crystalloid.
Urine output
225 ml.
Specimen obtained
None.
Anesthesia
Regional: Epidural.
Complications
None apparent.
Indication
Ms. Lee is a 26 y/o G1P0 at 34w4d by 18 wk US admitted to labor and delivery for management of PPROM.
s/p BMZ x2
CAT II tracing: Dr. Graham notified @ 07:40a.m and is in route

Consented for c-section: On chart review patient noted to have a CATII tracing: basline of 05's, minimal variability, with occassional decels and a prolonged decel down to the 80's, irregular contractions. Fetus did not respond to

Surgical Documents

scalp stimulation. Cervical exam unchanged. Pitocin has been off since 03:00. Dr. Graham notified overnight and this morning and is in route. STAT C-section is recommended

Informed consent
Signed by patient.
Preparation and technique
Sterile preparation of site.
Intra-Operative Details

The patient was taken to the operating room where epidural anesthesia was found to be adequate. The patient was placed in the dorsal supine position with a leftward tilt and prepared and draped in the normal sterile fashion. The mandatory time out was not performed due to emergent nature of the procedure. A Pfannenstiel skin incision was made 2 cm above the pubic symphysis with scalpel and carried through to the underlying layer of fascia. The fascia was incised in the midline and the incision extended laterally with blunt traction. The rectus muscle was then seprated bluntly. peritoneal layer was then also entered bluntly. The peritoneal incision was then extended superiorly and inferiorly with good visualization of the bladder. The bladder blade was then inserted.

The lower uterine segment was incised in a transverse fashion with the scalpel. The uterine incision was then extended laterally with cephalad caudad traction. Meconium amniotic fluid was noted. The bladder blade was removed. The surgeon's hand was placed in the uterine cavity. The fetus was in cephalic presentation. The head was elevated into the abdomen and delivered through the uterine incision to the level of the scapula with the assistance of fundal pressure. No nuchal cord noted. The remainder of the fetus was delivered with gentle traction. The umbilical cord was clamped and cut and the infant was handed off to the waiting the nurse for further care. Cord gases were sent. The placenta and amniotic membranes were then manually removed from the uterine cavity. Oxytocin was administered by IV infusion to enhance uterine contractions. The uterus was exteriorized and cleared of all clots and remaining products of conception with a moist lap sponge. The uterine incision was closed in one locked layer with an 0 Vicryl suture. Good hemostasis was confirmed. Wound was examined and sponge count was observed and found to be correct x1.
The uterus was replaced into the abdomen. peritoneum was closed using 2-0 vicryl in running fashion. muscle was then also reapproximated using0-vicryl in a continous running fashion. The fascia was reapproximated using 0 Vicryl suture in a running, nonlocking fashion. Sponge count was observed and found to be correct x2. The subcutaneous tissue was cleansed with a wet lap sponge. Hemostasis was obtained with Bovie electrocautery and noted to be good. The skin was reapproximated using 4-0 Vicryl on a Keith needle. The skin was cleansed and a sterile bandage dressing was applied.
The patient tolerated the procedure well. Sponge, lap, and needle counts were correct times two. The patient was taken to the recovery room in stable condition.
Dr. graham was present for and participated in the entire procedure.

Findings
Female infant delivered, APGAR 0-4-5-6 at 1-5-10 and 15 minutes
weight 2335g
me onium stained amniotic fluid
normal appearing pelvic irgans
three vessel cord.
Condition
Good.
Procedure tolerated
Well.

Created by
PUTRA MD-Resident, MANESHA. Beeper number #9102 for Hutzel OB, #5741 for Harper/Hutzel GYN, #5150 for Sinai Grace GYN, #7643 for personal pager. Service OBGYN. Resident.