

At all relevant times, Dr. Witkowski was engaged in the provision of medical care and services to patients, including Nacaira Abraham and [REDACTED] at Thomas Jefferson University Hospital and/or Jefferson University Physicians. Plaintiffs are asserting a professional liability claim against this defendant.

11. Defendant Thomas A. Witkowski, M.D. ("Dr. Witkowski") is a physician duly licensed to practice medicine in the Commonwealth of Pennsylvania, specializing in anaesthesiology, with professional offices located at 834 Chestnut Street, Suite 300, Philadelphia, Pennsylvania 19107. At all relevant times, Dr. Witkowski was engaged in the provision of medical care and services to patients, including Nacaira Abraham and [REDACTED] at Thomas Jefferson University Hospital and/or Jefferson University Physicians. Plaintiffs are asserting a professional liability claim against this defendant.

12. Defendant Jefferson Anesthesia Group ("JAG") is a corporation or other legal entity organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with a business address of 100 College Building, 1025 Walnut Street, Philadelphia, Pennsylvania 19107. At all relevant times, JAG employed various physicians, residents and fellows who were engaged in the provision of medical care and services to patients at TJUH, including Nacaira Abraham and [REDACTED] specifically, defendants Drs. Caplan, Witkowski, Pham, and Beam. Plaintiffs are asserting a professional liability claim against this defendant for the professional negligence of its actual, apparent and/or ostensible agents, servants and employees, as described herein.

13. Defendant Katherine D. Lackritz, M.D. ("Dr. Lackritz") is a physician duly licensed to practice medicine in the Commonwealth of Pennsylvania, specializing in obstetrics and gynecology, with professional offices located at 834 Chestnut Street, Suite 300, Philadelphia, Pennsylvania 19107. At all relevant times, Dr. Lackritz was engaged in the provision of medical care and services to patients, including Nacaira Abraham and [REDACTED] at Thomas Jefferson University Hospital and/or Jefferson University Physicians. Plaintiffs are asserting a professional liability claim against this defendant.

14. Defendant Sarah Carlson, D.O. ("Dr. Carlson") is a physician duly licensed to practice medicine in the Commonwealth of Pennsylvania, specializing in obstetrics and gynecology, with professional offices located at 834 Chestnut Street, Suite 300, Philadelphia, Pennsylvania 19107. At all relevant times, Dr. Carlson was engaged in the provision of medical care and services to patients, including Nacaira Abraham and [REDACTED] at Thomas Jefferson University Hospital and/or Jefferson University Physicians. Plaintiffs are asserting a professional liability claim against this defendant.

15. Defendant Jonah D. Fleisher, M.D. ("Dr. Fleisher") is a physician duly licensed to practice medicine in the Commonwealth of Pennsylvania, specializing in obstetrics and gynecology, with professional offices located at 834 Chestnut Street, Suite 300, Philadelphia, Pennsylvania 19107. At all relevant times, Dr. Fleisher was engaged in the provision of medical care and services to patients, including Nacaira Abraham and [REDACTED] at Thomas Jefferson University Hospital and/or Jefferson University Physicians. Plaintiffs are asserting a professional liability claim against this defendant.

16. Defendant, Thomas Jefferson University Hospital, Inc. ("TJUH") a/k/a and/or d/b/a Thomas Jefferson University Hospital is a corporation or other legal entity organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with a principal place of business located at 111 S. 11<sup>th</sup> Street, Philadelphia, Pennsylvania 19107. At all relevant times, Thomas Jefferson University Hospital, Inc. owned, maintained, operated and controlled Thomas Jefferson University Hospital and various medical practices, including Jefferson University Physicians, and employed physicians, residents, fellows, interns, nurses, physician's assistants, technicians and other agents and employees to provide medical care and services to the general public, including Nacaira Abraham and her then-unborn son, [REDACTED] [REDACTED]  
[REDACTED], in particular. As stated more fully herein, a claim for corporate negligence under Thompson v. Nason, 527 Pa. 330, 591 A.2d 703 (1991) and its progeny is also asserted against this defendant. Plaintiffs are asserting a professional liability claim against this defendant.

17. Defendant Jefferson University Physicians ("JUP") is a corporation or other legal entity organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with a business address of 100 College Building, 1025 Walnut Street, Philadelphia, Pennsylvania 19107. At all relevant times, JUP employed various physicians, residents and fellows who were engaged in the provision of medical care and services to patients at TJUH, including Nacaira Abraham and [REDACTED] [REDACTED], specifically, defendants Drs. Caplan, Witowski, Pham, Beam, Lackritz, Carlson and Fleisher. Plaintiffs are asserting a professional liability claim against this defendant for the professional negligence of its actual, apparent and/or ostensible agents, servants and employees, as described herein.

18. Defendant Thomas Jefferson University d/b/a and/or a/k/a Jefferson Medical

College ("TJU") is a corporation or other legal entity, organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with offices and/or a principal place of business located at 1015 Walnut Street, Philadelphia, Pennsylvania 19107. At all relevant times, TJU owned, maintained, operated and/or controlled a medical school, TJUH, and/or various medical practices for the purpose of providing medical care and services to the public, and to Nacaira Abraham and [REDACTED] in particular. Plaintiffs are asserting a professional liability claim against this defendant for the professional negligence of its actual, apparent and/or ostensible agents, servants and employees, as described herein.

19. At all relevant times, defendants Drs. Caplan, Witowski, Beam, Pham, Lackritz, Carlson and Fleisher were the actual, apparent and/or ostensible agents and/or employees of the defendants TJUH, JUP, JAG and/or TJU acting within the course and scope of their agency and/or employment with one or more of these defendants while providing medical care and treatment to Nacaira Abraham and [REDACTED]. Accordingly, defendants TJUH, JUP, JAG and/or TJU are vicariously liable for the negligent acts and omissions of defendants Drs. Caplan, Witowski, Beam, Pham, Lackritz, Carlson and Fleisher, which occurred during their medical care and treatment of Nacaira Abraham and [REDACTED] under theories of *respondeat superior*, master-servant, agency, and right of control.

20. At all relevant times, all defendants were acting individually and/or by and through their duly authorized actual and/or apparent agents and employees, as defined herein, who themselves were acting within the course and scope of their employment and/or agency with defendants.

21. Defendants are vicariously liable to Nacaira Abraham, Tyree Murphy and [REDACTED]

[REDACTED] for injuries they sustained as a result of the negligent acts or omissions of persons or entities whose conduct was under their supervision, control or right of control, and which conduct increased the risk of harm to plaintiffs and did, in fact, cause plaintiffs' injuries and losses.

22. At all relevant times, defendants herein were engaged in the practice of medicine, pursuing their specialties, and were obliged to bring to bear in the practice of their profession the professional skill, diligence, knowledge and care which they possessed, and to pursue their professions in accordance with reasonably safe and accepted standards of medicine, in general, and in their specialties, in particular, as well as institutional standards of care, in their care and treatment of Nacaira Abraham and [REDACTED]

23. At all relevant times, defendants TJUH, JUP, JAG and TJU engaged as its actual, apparent and/or ostensible agents, servants and employees, various healthcare providers, including: Drs. Caplan, Witowski, Beam, Pham, Lackritz, Carlson and Fleisher, as well as other physicians, residents, nurses and other medical or ancillary staff. The identities of other physicians, fellows, residents, nurses and other ancillary medical staff who participated in and/or were responsible for the obstetrical management, care and treatment of Naceira Abraham and [REDACTED] and her evaluation, diagnosis, management and treatment during her September 11, 2012 presentation to TJUH, leading up to the delivery of [REDACTED] on [REDACTED] 2012, whose names appear in the medical chart, but are indecipherable to plaintiffs, is information known only to defendants and not known or knowable to plaintiffs after reasonable investigation, and will require discovery from defendants.

24. Defendants TJUH, JUP, JAG and TJU are vicariously liable for the negligent acts

and omissions of the individually-named defendants as well as the negligent acts and omissions, as more particularly described herein, of those other physicians, fellows, residents, nurses and other ancillary medical staff who participated in and/or were responsible for the management, care and treatment of Nacaira Abraham and [REDACTED] and their evaluation, diagnosis, management and treatment during her presentation to TJUH, leading up to the delivery of [REDACTED] on [REDACTED] under theories of *respondeat superior*, master-servant, agency and right of control.

25. At all relevant times, TJUH, JUP, JAG and TJU also owed non-delegable legal duties directly to Nacaira Abraham and [REDACTED] pursuant to Thompson v. Nason, 591 A.2d 703 (Pa. 1991), and its progeny of case law, including Welsh v. Bulger, 698 A.2d 581 (Pa. 1997) and Whittington v. Woods, 768 A.2d 1144 (Pa. Super. 2001). These duties consisted of: (1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment; (2) a duty to select and retain only competent physicians; (3) a duty to oversee all persons who practice medicine within its walls as to patient care; and (4) a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for patients.

26. At all relevant times, Nacaira Abraham and [REDACTED] were under the medical care, treatment and attendance of defendants, their actual, apparent and/or ostensible agents and employees, as defined herein, all of whom were acting within the course and scope of their employment or agency with defendants, and under their control or right of control.

27. At all relevant times, a physician-patient relationship existed between Nacaira Abraham and [REDACTED], and defendants.

28. At all relevant times, defendants had actual or constructive knowledge of the medical care and treatment provided to Nacaira Abraham and [REDACTED] [REDACTED]
29. All defendants herein are vicariously liable to the plaintiffs for injuries sustained as a result of the negligence of persons or entities whose conduct was under their control or right to control, and which conduct directly and proximately caused plaintiffs' injuries.
30. At all relevant times hereto, the individually named physician and institutional health care provider defendants were engaged in the practice of medicine, pursuing their respective specialties and/or health care duties, and were obliged to use the professional skill, knowledge and care which they possessed and to pursue their professions in accordance with reasonably safe and accepted standards of medicine in general and in their specialties in particular, as well as institutional standards of medical care.
31. At all relevant times hereto, Nacaira Abraham and [REDACTED] [REDACTED] were under the medical care, treatment and attendance of defendants directly or through their agents, servants, and/or employees
32. At all relevant times, plaintiffs relied on the knowledge, care, skill, treatment and advice of the defendants.
33. The amount in controversy exceeds the prevailing local arbitration limits.
34. Venue is properly laid in Philadelphia County as all of the medical care at issue was rendered in Philadelphia County. See Pa. R. Civ. P. 1006, 2179(a).

### OPERATIVE FACTS

35. On September 11, 2012 at or about 10:10 a.m., Nacaira Abraham presented to Thomas Jefferson University Hospital for evaluation of her pregnancy at 40 weeks 3 days gestation.
36. On September 11, 2012, at or after 10:10 a.m., plaintiff Nacaira Abraham was admitted to Labor and Delivery for active labor under the care of attending obstetrician defendant Dr. Lackritz with a plan for a vaginal birth after cesarean ["VBAC"] delivery.
37. On September 11, 2012, at or about 10:50 a.m., Dr. Lackritz consulted anesthesiology for administration of an epidural injection.
38. On September 11, 2012, at or about 1:00 p.m., anesthesiologist defendants, Drs. Caplan, Pham, Beam and Witowski administered an epidural injection to Nacaira Abraham.
39. On September 11, 2012, at or about 2:00 p.m., Nacaira Abraham was noted to be, "feeling ctx, epidural is in place and working."
40. On September 11, 2012, at or about 2:45 p.m., Nacaira Abraham is noted to be, "feeling slightly more uncomfortable."
41. On September 11, 2012, at or about 9:45 p.m., defendant obstetrician Dr. Carlson noted, "pt uncomfortable."
42. On [REDACTED] 2012, at or about 12:05 a.m., Nacaira Abraham is noted to be, "uncomfortable w/contraction feels epidural wearing off."
43. On [REDACTED] 2012 at or about 1:00 a.m., defendant obstetrician Dr. Carlson noted, "pt w/ increased pain w/ ctx."
44. On [REDACTED] 2012, at or about 1:36 a.m., "anesthesia aware that pt is still in

pain. Last dose did not help, so anesthesia would like to replace epidural, but pt does not want to have it replaced at this time."

45. On [REDACTED] 2012, at or about 2:19 a.m., Nacaira Abraham was "sitting up for another epidural" performed by anesthesiologist defendants, Drs. Caplan, Pham, Beam and Witowski.

46. On [REDACTED] 2012, at or about 2:36 a.m., anesthesiologist defendants, Drs. Caplan, Pham, Beam and Witowski administered spinal narcotics to Nacaira Abraham.

47. On [REDACTED] 2012, at or about 2:47 a.m., Nacaira Abraham was noted to be, "unresponsive" while "unmonitored"

48. On [REDACTED] 2012 at or about 2:51 a.m., Nacaira Abraham required intubation performed by defendant Dr. Caplan

49. On [REDACTED] 2012, at or about 2:54 a.m., a code was called for Nacaira Abraham as a result of the defendants improper use, technique and placement of epidural injections and spinal anesthesia.

50. On [REDACTED] 2012, at or about 2:55 a.m., resuscitation efforts were initiated for Nacaira Abraham.

51. Defendant Lackritz was the "leader" of the code, assisted by Drs. Caplan, Pham, Beam, Witkowski, Carlson and Fleisher.

52. During the code defendants carelessly, negligently and improperly conducted the code including the administration of chest compressions at 2:58 a.m., 2:59 a.m., 3:00 a.m. and 3:01 a.m.

53. In violation of the standard of care, a perimortem cesarean section delivery was not performed within five (5) minutes of Nacaira Abraham's cardiac arrest.

54. On [REDACTED] 2012, at or about 5:30 a.m., Maternal Fetal Medicine physician Dr. Baxter noted, "Given the timing in relation to the CSE placement pt most likely sustained high spinal."

55. On [REDACTED] 2012 at or about 3:56 a.m., resuscitation efforts concluded and Nacaira Abraham was transferred to the Surgical Intensive Care Unit, still without delivery of minor-plaintiff in violation of the standard of care.

56. As a direct result of the defendants improper use, technique and placement of epidural injections and spinal anesthesia, as well as the improper code and delay in delivering minor-plaintiff, Nacaira Abraham was caused to suffer permanent and catastrophic injuries including but not limited to, anoxic brain injury.

57. Plaintiff, Nacaira Abraham was transferred from Thomas Jefferson University Hospital to Magee Rehabilitation on September 19, 2012 and enrolled in the brain injury rehab program and her hospital course was outlined as follows:

At Magee the patient was seen and evaluated and enrolled in brain injury rehab program. She was assessed on a daily basis by rehab physicians, received 24 hour care from rehab nursing and worked regularly with a physical therapist, occupational therapist, speech language pathologist and psychologist where she made excellent gains. From a neurologic standpoint she had marked flattened affect at the time of admission. ... Insight remained poor along with other cognitive deficits including memory and problem solving skills.

At the time of discharge the patient was distant supervision with ADLs and mobility but required 24 hour supervision due to impairments in insight and problem solving.

58. On [REDACTED] 2012 at or about 3:03 a.m., defendant obstetrician Dr. Lackritz attempted to utilize ultrasound to trace the fetal heart tones.

59. On [REDACTED] 2012, at or about 2:55 a.m. or thereafter, the fetal heart rate of [REDACTED] was categorized as "Category III" demonstrating "absent - undetectable variability" and "absent accelerations"

60. On September 12, 2012, at or about 2:55 a.m., or thereafter, Drs. Witkowski, Caplan, Pham, Beam, Lackritz Carlson and Fleisher reviewed the fetal heart tracings for [REDACTED]  
[REDACTED]

61. On [REDACTED] 2012, at or about 4:17 a.m., despite ominous fetal heart tracings indicative of fetal distress, defendants Drs. Lackritz, Witkowski, and Fleisher "all discuss[ed] the delivery plan" but did not deliver [REDACTED] in violation of the standard of care.

62. On [REDACTED] 2012 at or about 4:55 a.m., over two (2) hours after fetal heart tracings mandated delivery [REDACTED], defendants Drs. Lackritz, Carlson and Fleisher moved Nacaira Abraham to the operating room for delivery.

63. On [REDACTED] 2012, at or about 5:17 a.m., defendants Drs. Lackritz, Fleisher, Carlson, Witkowski, Caplan and Pham performed a repeat low transverse cesarean section via Pfannenstiel on Nacaira Abraham as a result of "nonreassuring fetal heart tracings."

64. On [REDACTED] 2012 at or about 5:23 a.m., [REDACTED] was born via emergent cesarean section with Apgars of 2 at 1 minute and 5 at 5 minutes.

65. Minor-plaintiff was admitted to The Children's Hospital of Philadelphia on October 22, 2012 where his hospital course was outlined as follows:

**Hospital Course:**

1. **ID:** On admissions to OSH, his labs in the emergency room were concerning for  $35.1 > 8.4 / 24 < 397$ , and lactic acid 7.1, repeat 5.1. His CSF was concerning for protein 57, and glucose 31, but WBC and RBC counts were not sent. He received 1 dose of Ceftriaxone prior to transfer to CHOP. Given his concerning clinical presentation, a repeat LP was performed on admission to CHOP NICU. He was started on broad spectrum antibiotics (Vancomycin, Ampicillin, Gentamicin, Acyclovir), which were appropriately weaned to IV Cefazolin after urine and blood culture results were found to be positive E.coli, and likely contaminant coagulase negative Staph aureus. His CSF cultures were negative. He completed 14 days of antibiotic therapy for urosepsis.
2. **Cardiovascular:** He received multiple NS boluses with concerns for tachycardia and hypotension on admission.
3. **GI/Conjugated hyperbilirubinemia:** On admission, he was jaundiced with scleral icterus on exam, with an elevated conjugated bilirubin. He was continued on his home Ursodiol, but was discontinued with normalized bilirubin.
4. **Neuro:** Concern for significant hypertonicity on exam, which was likely secondary to a hypoxic injury associated with Mom's cardiac arrest prior to his delivery. Neurology was consulted. Was recommended to follow up with Jefferson Neurology and Special Babies as an outpatient.

66. Defendants acknowledge that minor-plaintiff suffered substantial oxygen deprivation during labor and delivery as a result of a "concerning and abnormal" EEG and neurological examination.

67. Despite late efforts to minimize neurological damages occasioned by defendants careless and negligent conduct as stated herein, minor-plaintiff suffered permanent, irreversible and catastrophic injury to his brain.

68. As a direct result of the defendants delay in delivering [REDACTED], he suffered from, and continues to suffer from permanent and catastrophic hypoxic-ischemic brain injury, respiratory failure, respiratory distress, hypotension, sepsis, anemia, and seizure disorders.

69. [REDACTED] remained at Thomas Jefferson University Hospital until his discharge on October 17, 2012.

70. Nacaira Abraham and her son [REDACTED] [REDACTED] injuries and damages as set forth below were caused solely and wholly by reason of the negligence and carelessness of the defendants, as set forth above and more fully below, and were not caused or contributed thereto by any negligence on the part of the plaintiffs.

71. The injuries and damages sustained by plaintiffs are the direct and proximate result of the negligence of all defendants, their agents, servants, and employees.

72. The defendants negligent and careless placement of epidural blocks and spinal epidural injections, negligently and carelessly performed code and delay in delivery of minor-plaintiff caused injuries and damages to both mother-plaintiff and minor-plaintiff as set forth more fully below.

73. As a direct result of all defendants' negligently and carelessly performed resuscitation/code and the negligent and careless delay in delivering minor-plaintiff after fetal heart tracings were nonreassuring and ominous, minor-plaintiff was caused to suffer anoxic brain accompanied by catastrophic injuries requiring his extended admission to the hospital, followed by a lifetime of care.

74. As a direct and proximate result of defendants' more particularly described herein, [REDACTED] Abraham-Murphy was exposed to an increased risk of harm and did, in fact, suffer the following catastrophic injuries, some or all of which are permanent in nature:

- a. fetal distress;
- b. fetal bradycardia;
- c. fetal heart rate decelerations;
- d. absent fetal heart rate accelerations;
- e. intubation;
- f. hypoxic-ischemic encephalopathy;
- g. category III fetal heart tracings;
- h. pulmonary hypertension;
- i. respiratory distress;
- j. hypotension;
- k. sepsis;
- l. anemia;
- n. seizure disorder;
- m. physical, cognitive and/or neurodevelopmental deficits, disabilities and delays;
- o. delayed growth and development;
- p. multiple interventions producing physical pain and discomfort;
- q. past and future physical pain and suffering;
- r. past and future mental anguish;
- s. past and future loss of life's pleasures;
- t. disfigurement and disability;
- u. embarrassment and humiliation;
- v. future loss of earnings and earnings capacity; and
- w. past and future medical expenses; and other such other injuries documented in the medical records and evaluative reports of physicians and other health care professionals treating [REDACTED] from birth to present.

75. As a direct and proximate result of defendants' more particularly described herein, Nacaira Abraham was exposed to an increased risk of harm and did, in fact, suffer the following catastrophic injuries, some or all of which are permanent in nature:

- a. anoxic brain injury;
- b. pulseless electrical activity code;
- c. requirement for hypothermia protocol for brain protection;
- d. intubation;
- e. physical, cognitive and/or neurodevelopmental deficits, disabilities;
- f. multiple interventions producing physical pain and discomfort;
- g. past and future physical pain and suffering;
- h. past and future mental anguish;
- i. past and future loss of life's pleasures;
- j. disfigurement and disability;
- k. embarrassment and humiliation;
- l. future loss of earnings and earnings capacity; and
- m. past and future medical expenses; and other such other injuries documented in the medical records and evaluative reports of physicians and other health care professionals treating Nacaria Abraham from [REDACTED] 2012 to present.

76. As a direct and proximate result of defendants' more particularly described herein, Tyree Murphy and Nacaira Abraham did, in fact, suffer the following damages:

- a. past and future medical expenses for treatment of [REDACTED] from birth to present.

77. Defendants undertook and/or assumed a duty to plaintiffs to provide timely and appropriate medical care and to take appropriate measures to ensure the safety and physical well-being of mother-plaintiff and mother-plaintiff's then-unborn son, [REDACTED] and to avoid the risk of harm and injury to them.

78. Plaintiffs relied on the medical knowledge, training, skill, advice and treatment of defendants.

79. Defendants treated Nacaira Abraham and [REDACTED] without the appropriate knowledge, training, skill or advice.

80. The carelessness and negligence of defendants and each of them, jointly and severally, as described herein, increased the risk of harm to Nacaira Abraham and [REDACTED]  
[REDACTED] and did, in fact, cause them both catastrophic and permanent harm.

81. As a direct result of the negligence of defendants and each of them, jointly and severally, as described herein, Nacaira Abraham failed to receive proper epidural blocks and spinal epidural injections which negligence exposed her and her then-unborn baby to an increased risk of harm.

82. As a direct result of the negligence of defendants and each of them, jointly and severally, as described herein, [REDACTED] failed to receive proper medical care and was delayed delivery in the fact of ominous fetal heart tracings which negligence exposed her minor-plaintiff to an increased risk of harm.

83. As a direct result of the negligence of defendants and each of them, jointly and severally, as described herein, Nacaira Abraham and [REDACTED] both needlessly suffered catastrophic and permanent injuries to the nerves, vessels, tissues, muscles and vital organs of their body, including the brain.

84. Had defendants acted in accordance with accepted standards of care and appropriately administered epidural blocks and spinal epidural injections, appropriate conducted resuscitation efforts, and appropriately and timely delivered minor-plaintiff, Nacaira Abraham and minor plaintiff would not have suffered the catastrophic physical injuries, neurologic devastation, and other injuries and losses described herein.

85. Had defendants acted in accordance with accepted standards of care and appropriately and timely delivered minor [REDACTED] would not have suffered the catastrophic physical injuries, neurologic devastation, and other injuries and losses described herein.

86. The catastrophic and permanent injuries and losses of plaintiffs were caused solely and exclusively by the negligent acts and omissions of defendants, their agents, servants and employees, as described more specifically herein, jointly and severally, and were not caused by any act or failure to act on the part of plaintiffs.

WHEREFORE, plaintiffs demand of defendants, jointly and severally, damages in an amount in excess of Fifty Thousand Dollars (\$50,000.00), and in excess of the prevailing arbitration limits, exclusive of pre-judgment interest, and post-judgment interest and costs.

**COUNT I - NEGLIGENCE**  
Plaintiffs v. Ashley Caplan, D.O.  
and, derivatively and vicariously as to this defendant, against  
Thomas Jefferson University Hospital,  
Jefferson Anesthesia Group  
Jefferson University Physicians, and  
Thomas Jefferson University

87. The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

88. Defendant Dr. Caplan, and derivatively and vicariously for his/her conduct, the entities set forth above, was careless and negligent in their care of Nacaira Abrahams and [REDACTED] Abrahams-Murphy as follows:

- a. failing to properly position and insert the needle when performing a epidural block;

- b. failing to properly position and insert the needle when performing a epidural spinal injection;
- c. Failure to appreciated that epidural block(s) were not properly positioned and inserted prior to administering additional epidural injections;
- d. Failure to appreciated that epidural block(s) were not properly positioned and inserted prior to administering additional epidural spinal injections;
- e. Failing to use proper technique in administration of epidural blocks and spinal injections;
- f. Improper intrathecal injection of local anaesthetic dose intended for the epidural space;
- g. Failure to properly position mother-plaintiff prior to administration of epidural/spinal injections;
- h. Injection of hyperbaric solution and placing the parturient in steep Trenelenburg position;
- i. Injection of a hypobaric solution and positioning the parturient in a seated position;
- j. improper dosage and administration of anesthetics delivered via epidural/spinal injections;
- k. Negligently and carelessly administering epidural injections and a "high spinal" injection;
- l. Negligently and carelessly conducting resuscitation efforts and code;
- m. failing to appropriately and timely delivery minor-plaintiff after mother-plaintiff was unresponsive and code initiated;
- n. negligently and carelessly administering chest compressions on mother-plaintiff
- o. Failing to appreciate the significance of abnormal and ominous fetal heart tracings;
- p. failing to appropriately and timely deliver minor-plaintiff via emergent cesarean section in the face of Category III, non-reassuring fetal heart tracings;
- q. negligently and carelessly delaying the delivery of minor-plaintiff;
- r. Failing to obtain adequate, continuous external monitoring through the time of delivery;
- s. negligent mismanagement of mother-plaintiff and her viable pregnancy;
- t. failure to provide adequate supervisory oversight in order to insure that proper care was rendered;
- u. failure to identify and treat a high spinal;
- v. failure to properly monitor mother plaintiff;
- w. failure to properly and adequately supervise agents, servants and/or employees who examined and treated mother-plaintiff;
- x. failing to get timely and appropriate specialist consultations
- y. negligent mismanagement of mother-plaintiff's resuscitation/code; and
- z. negligent mismanagement of the timing of delivery of minor-plaintiff

89. Defendants, TJUH, JUP, JAG and TJU are derivatively and vicariously liable for the negligent conduct of their agent, servant, and/or employee, defendant Dr. Caplan, as stated above, pursuant to the principles of agency, vicarious liability, and/or respondeat superior.

90. As a direct and proximate result of the negligence of defendant Dr. Caplan, plaintiffs suffered severe injuries and damages as set forth above.

WHEREFORE, plaintiffs demand damages against defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, exclusive of prejudgment interest, post-judgment interest and costs.

COUNT II - NEGLIGENCE

Plaintiffs v. Thao Pham, M.D.  
and, derivatively and vicariously as to this defendant, against  
Thomas Jefferson University Hospital,  
Jefferson Anesthesia Group  
Jefferson University Physicians, and  
Thomas Jefferson University

91. The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

92. Defendant Dr. Pham, and derivatively and vicariously for his/her conduct, the entities set forth above, was careless and negligent in their care of Nacaira Abrahams and [REDACTED]

[REDACTED] as follows:

- a. failing to properly position and insert the needle when performing a epidural block;
- b. failing to properly position and insert the needle when performing a epidural spinal injection;
- c. Failure to appreciated that epidural block(s) were not properly positioned and inserted prior to administering additional epidural injections;

- d. Failure to appreciate that epidural block(s) were not properly positioned and inserted prior to administering additional epidural spinal injections;
- e. Failing to use proper technique in administration of epidural blocks and spinal injections;
- f. Improper intrathecal injection of local anaesthetic dose intended for the epidural space;
- g. Failure to properly position mother-plaintiff prior to administration of epidural/spinal injections;
- h. Injection of hyperbaric solution and placing the parturient in steep Trenelenburg position;
- i. Injection of a hypobaric solution and positioning the parturient in a seated position;
- j. improper dosage and administration of anesthetics delivered via epidural/spinal injections;
- k. Negligently and carelessly administering epidural injections and a "high spinal" injection;
- l. Negligently and carelessly conducting resuscitation efforts and code;
- m. failing to appropriately and timely deliver minor-plaintiff after mother-plaintiff was unresponsive and code initiated;
- n. negligently and carelessly administering chest compressions on mother-plaintiff
- o. Failing to appreciate the significance of abnormal and ominous fetal heart tracings;
- p. failing to appropriately and timely deliver minor-plaintiff via emergent cesarean section in the face of Category III, non-reassuring fetal heart tracings;
- q. negligently and carelessly delaying the delivery of minor-plaintiff;
- r. Failing to obtain adequate, continuous external monitoring through the time of delivery;
- s. negligent mismanagement of mother-plaintiff and her viable pregnancy;
- t. failure to provide adequate supervisory oversight in order to insure that proper care was rendered;
- u. failure to identify and treat a high spinal;
- v. failure to properly monitor mother plaintiff;
- w. failure to properly and adequately supervise agents, servants and/or employees who examined and treated mother-plaintiff;
- x. failing to get timely and appropriate specialist consultations
- y. negligent mismanagement of mother-plaintiff's resuscitation/code; and
- z. negligent mismanagement of the timing of delivery of minor-plaintiff

93. Defendants, TJUH, JUP, JAG and TJU are derivatively and vicariously liable for the negligent conduct of their agent, servant, and/or employee, defendant Dr. Pham, as stated above, pursuant to the principles of agency, vicarious liability, and/or respondeat superior.

94. As a direct and proximate result of the negligence of defendant Dr. Pham, plaintiffs suffered severe injuries and damages as set forth above.

WHEREFORE, plaintiffs demand damages against defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, exclusive of prejudgment interest, post-judgment interest and costs.

COUNT III - NEGLIGENCE

Plaintiffs v. Michelle R. Beam, D.O.  
and, derivatively and vicariously as to this defendant, against  
Thomas Jefferson University Hospital,  
Jefferson Anesthesia Group  
Jefferson University Physicians, and  
Thomas Jefferson University

95. The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

96. Defendant Dr. Beam, and derivatively and vicariously for his/her conduct, the entities set forth above, was careless and negligent in their care of Nacaira Abrahams and Tyler Abrahams-Murphy as follows:

- a. failing to properly position and insert the needle when performing a epidural block;
- b. failing to properly position and insert the needle when performing a epidural spinal injection;
- c. Failure to appreciated that epidural block(s) were not properly positioned and inserted prior to administering additional epidural injections;
- d. Failure to appreciated that epidural block(s) were not properly positioned and

- e. inserted prior to administering additional epidural spinal injections;
- e. Failing to use proper technique in administration of epidural blocks and spinal injections;
- f. Improper intrathecal injection of local anaesthetic dose intended for the epidural space;
- g. Failure to properly position mother-plaintiff prior to administration of epidural/spinal injections;
- h. Injection of hyperbaric solution and placing the parturient in steep Trendelenburg position;
- i. Injection of a hypobaric solution and positioning the parturient in a seated position;
- j. improper dosage and administration of anesthetics delivered via epidural/spinal injections;
- k. Negligently and carelessly administering epidural injections and a "high spinal" injection;
- l. Negligently and carelessly conducting resuscitation efforts and code;
- m. failing to appropriately and timely deliver minor-plaintiff after mother-plaintiff was unresponsive and code initiated;
- n. negligently and carelessly administering chest compressions on mother-plaintiff
- o. Failing to appreciate the significance of abnormal and ominous fetal heart tracings;
- p. failing to appropriately and timely deliver minor-plaintiff via emergent cesarean section in the face of Category III, non-reassuring fetal heart tracings;
- q. negligently and carelessly delaying the delivery of minor-plaintiff;
- r. Failing to obtain adequate, continuous external monitoring through the time of delivery;
- s. negligent mismanagement of mother-plaintiff and her viable pregnancy;
- t. failure to provide adequate supervisory oversight in order to insure that proper care was rendered;
- u. failure to identify and treat a high spinal;
- v. failure to properly monitor mother plaintiff;
- w. failure to properly and adequately supervise agents, servants and/or employees who examined and treated mother-plaintiff;
- x. failing to get timely and appropriate specialist consultations
- y. negligent mismanagement of mother-plaintiff's resuscitation/code; and
- z. negligent mismanagement of the timing of delivery of minor-plaintiff

97. Defendants, TJUH, JUP, JAG and TJU are derivatively and vicariously liable for the negligent conduct of their agent, servant, and/or employee, defendant Dr. Beam, as stated above, pursuant to the principles of agency, vicarious liability, and/or respondeat superior.

98. As a direct and proximate result of the negligence of defendant Dr. Beam, plaintiffs suffered severe injuries and damages as set forth above.

WHEREFORE, plaintiffs demand damages against defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, exclusive of prejudgment interest, post-judgment interest and costs.

COUNT IV - NEGLIGENCE

Plaintiffs v. Thomas A. Witkowski, M.D.  
and, derivatively and vicariously as to this defendant, against  
Thomas Jefferson University Hospital,  
Jefferson Anesthesia Group  
Jefferson University Physicians, and  
Thomas Jefferson University

99. The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

100. Defendant Dr. Witkowski, and derivatively and vicariously for his/her conduct, the entities set forth above, was careless and negligent in their care of Nacaira Abrahams and [REDACTED] Abrahams-Murphy as follows:

- a. failing to properly position and insert the needle when performing a epidural block;
- b. failing to properly position and insert the needle when performing a epidural spinal injection;
- c. Failure to appreciated that epidural block(s) were not properly positioned and inserted prior to administering additional epidural injections;
- d. Failure to appreciated that epidural block(s) were not properly positioned and inserted prior to administering additional epidural spinal injections;

- e. Failing to use proper technique in administration of epidural blocks and spinal injections;
- f. Improper intrathecal injection of local anaesthetic dose intended for the epidural space;
- g. Failure to properly position mother-plaintiff prior to administration of epidural/spinal injections;
- h. Injection of hyperbaric solution and placing the parturient in steep Trenelenburg position;
- i. Injection of a hypobaric solution and positioning the parturient in a seated position;
- j. improper dosage and administration of anesthetics delivered via epidural/spinal injections;
- k. Negligently and carelessly administering epidural injections and a "high spinal" injection;
- l. Negligently and carelessly conducting resuscitation efforts and code;
- m. failing to appropriately and timely deliver minor-plaintiff after mother-plaintiff was unresponsive and code initiated;
- n. negligently and carelessly administering chest compressions on mother-plaintiff
- o. Failing to appreciate the significance of abnormal and ominous fetal heart tracings;
- p. failing to appropriately and timely deliver minor-plaintiff via emergent cesarean section in the face of Category III, non-reassuring fetal heart tracings;
- q. negligently and carelessly delaying the delivery of minor-plaintiff;
- r. Failing to obtain adequate, continuous external monitoring through the time of delivery;
- s. negligent mismanagement of mother-plaintiff and her viable pregnancy;
- t. failure to provide adequate supervisory oversight in order to insure that proper care was rendered;
- u. failure to identify and treat a high spinal;
- v. failure to properly monitor mother plaintiff;
- w. failure to properly and adequately supervise agents, servants and/or employees who examined and treated mother-plaintiff;
- x. failing to get timely and appropriate specialist consultations
- y. negligent mismanagement of mother-plaintiff's resuscitation/code; and
- z. negligent mismanagement of the timing of delivery of minor-plaintiff

101. Defendants, TJUH, JUP, JAG and TJU are derivatively and vicariously liable for the negligent conduct of their agent, servant, and/or employee, defendant Dr. Witkowski, as stated above, pursuant to the principles of agency, vicarious liability, and/or respondeat superior.

102. As a direct and proximate result of the negligence of defendant Dr. Witkowski, plaintiffs suffered severe injuries and damages as set forth above.

WHEREFORE, plaintiffs demand damages against defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, exclusive of prejudgment interest, post-judgment interest and costs.

**COUNT V - NEGLIGENCE**

Plaintiffs v. Katherine D. Lackritz M.D.  
and, derivatively and vicariously as to this defendant, against  
Thomas Jefferson University Hospital,  
Jefferson University Physicians, and  
Thomas Jefferson University

103. The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

104. Defendant Dr. Lackritz, and derivatively and vicariously for his/her conduct, the entities set forth above, was careless and negligent in their care of Nacaira Abrahams and [REDACTED] Abrahams-Murphy as follows:

- a. Negligently and carelessly conducting resuscitation efforts and code;
- b. failing to appropriately and timely deliver minor-plaintiff after mother-plaintiff was unresponsive and code initiated;
- c. negligently and carelessly administering chest compressions on mother-plaintiff
- d. Failing to appreciate the significance of abnormal and ominous fetal heart tracings;
- e. failing to appropriately and timely deliver minor-plaintiff via emergent cesarean section in the face of Category III, non-reassuring fetal heart tracings;

- f. negligently and carelessly delaying the delivery of minor-plaintiff;
- g. Failing to obtain adequate, continuous external monitoring through the time of delivery;
- h. negligent mismanagement of mother-plaintiff and her viable pregnancy;
- i. failure to provide adequate supervisory oversight in order to insure that proper care was rendered;
- j. failure to identify and treat a high spinal;
- k. failure to properly monitor mother plaintiff;
- l. failure to properly and adequately supervise agents, servants and/or employees who examined and treated mother-plaintiff;
- m. negligent mismanagement of mother-plaintiff's resuscitation/code; and
- n. negligent mismanagement of the timing of delivery of minor-plaintiff
- o. failing to get timely and appropriate specialist consultations

105. Defendants, TJUH, JUP and TJU are derivatively and vicariously liable for the negligent conduct of their agent, servant, and/or employee, defendant Dr. Lackritz, as stated above, pursuant to the principles of agency, vicarious liability, and/or respondeat superior.

106. As a direct and proximate result of the negligence of defendant Dr. Lackritz, plaintiffs suffered severe injuries and damages as set forth above.

WHEREFORE, plaintiffs demand damages against defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, exclusive of prejudgment interest, post-judgment interest and costs.

**COUNT VI -NEGLIGENCE**

Plaintiffs v. Sarah Carlson, D.O.  
and, derivatively and vicariously as to this defendant, against  
Thomas Jefferson University Hospital,  
Jefferson University Physicians, and  
Thomas Jefferson University

107. . The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

108. Defendant Dr. Carlson, and derivatively and vicariously for his/her conduct, the entities set forth above, was careless and negligent in their care of Nacaira Abrahams and [REDACTED] Abrahams-Murphy as follows:

- a. Negligently and carelessly conducting resuscitation efforts and code;
- b. failing to appropriately and timely delivery minor-plaintiff after mother-plaintiff was unresponsive and code initiated;
- c. negligently and carelessly administering chest compressions on mother-plaintiff
- d. Failing to appreciate the significance of abnormal and ominous fetal heart tracings;
- e. failing to appropriately and timely deliver minor-plaintiff via emergent cesarean section in the face of Category III, non-reassuring fetal heart tracings;
- f. negligently and carelessly delaying the delivery of minor-plaintiff;
- g. Failing to obtain adequate, continuous external monitoring through the time of delivery;
- h. negligent mismanagement of mother-plaintiff and her viable pregnancy;
- i. failure to provide adequate supervisory oversight in order to insure that proper care was rendered;
- j. failure to identify and treat a high spinal;
- k. failure to properly monitor mother plaintiff;
- l. failure to properly and adequately supervise agents, servants and/or employees who examined and treated mother-plaintiff;
- m. negligent mismanagement of mother-plaintiff's resuscitation/code; and
- n. negligent mismanagement of the timing of delivery of minor-plaintiff
- o. failing to get timely and appropriate specialist consultations

109. Defendants, TJUH, JUP and TJU are derivatively and vicariously liable for the negligent conduct of their agent, servant, and/or employee, defendant Dr. Carlson, as stated above, pursuant to the principles of agency, vicarious liability, and/or respondeat superior.

110. As a direct and proximate result of the negligence of defendant Dr. Carlson, plaintiffs suffered severe injuries and damages as set forth above.

WHEREFORE, plaintiffs demand damages against defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, exclusive of prejudgment interest, post-judgment interest and costs.

**COUNT VII - NEGLIGENCE**

Plaintiffs v. Jonah Fleisher, M.D.  
and, derivatively and vicariously as to this defendant, against  
Thomas Jefferson University Hospital,  
Jefferson University Physicians, and  
Thomas Jefferson University

111. The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

112. Defendant Dr. Fleisher, and derivatively and vicariously for his/her conduct, the entities set forth above, was careless and negligent in their care of Nacaira Abrahams and [REDACTED] Abrahams-Murphy as follows:

- a. Negligently and carelessly conducting resuscitation efforts and code;
- b. failing to appropriately and timely delivery minor-plaintiff after mother-plaintiff was unresponsive and code initiated;
- c. negligently and carelessly administering chest compressions on mother-plaintiff
- d. Failing to appreciate the significance of abnormal and ominous fetal heart tracings;
- e. failing to appropriately and timely deliver minor-plaintiff via emergent cesarean section in the face of Category III, non-reassuring fetal heart

- tracings;
- f. negligently and carelessly delaying the delivery of minor-plaintiff;
  - g. Failing to obtain adequate, continuous external monitoring through the time of delivery;
  - h. negligent mismanagement of mother-plaintiff and her viable pregnancy;
  - i. failure to provide adequate supervisory oversight in order to insure that proper care was rendered;
  - j. failure to identify and treat a high spinal;
  - k. failure to properly monitor mother plaintiff;
  - l. failure to properly and adequately supervise agents, servants and/or employees who examined and treated mother-plaintiff;
  - m. negligent mismanagement of mother-plaintiff's resuscitation/code; and
  - n. negligent mismanagement of the timing of delivery of minor-plaintiff
  - o. failing to get timely and appropriate specialist consultations

113. Defendants, TJUH, JUP and TJU are derivatively and vicariously liable for the negligent conduct of their agent, servant, and/or employee, defendant Dr. Fleisher, as stated above, pursuant to the principles of agency, vicarious liability, and/or respondeat superior.

114. As a direct and proximate result of the negligence of defendant Dr. Fleisher, plaintiffs suffered severe injuries and damages as set forth above.

WHEREFORE, plaintiffs demand damages against defendants in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, exclusive of prejudgment interest, post-judgment interest and costs.

**COUNT VIII -CORPORATE (DIRECT) NEGLIGENCE**  
Plaintiffs v. Thomas Jefferson University Hospital

115. The previous paragraphs are incorporated herein by reference and made a part hereof as if set forth in full.

116. Defendant TJUH, individually, and acting through its authorized agents, servants, and employees, was negligent as follows:

- a. failing to select and retain physicians, nurses and technicians appropriate in number, training, and experience to recognize, diagnose, attend to, and treat Mother-plaintiff arrest and code, delivery and administration of pain medications including epidural and spinal injections, and to make appropriate and timely decisions regarding the diagnosis, treatment and proper management after her code including timing of delivery of minor plaintiff;
- b. failing to select and retain physicians, nurses, and technicians competent and able to properly treat an obstetrical patient who requires pain medications including epidural and spinal injections and management of code in a term pregnancy and timing of delivery of baby;
- c. failing to use reasonable care in the maintenance of safe and adequate facilities and equipment for the treatment of mother-plaintiff including the equipment required for pain medications including epidural and spinal injections, emergency cesarean delivery kits, and such facilities and equipment as computers, computer software, and facsimile machines, that would ensure the timely and complete recording and transmission of all reports, consultations, laboratory results, and radiology reports to health care providers taking care of mother -plaintiff;
- d. failure to adopt and/or enforce appropriate rules, guidelines, procedures or protocols with respect to the management of patients such as mother-plaintiff by appropriately trained physicians, including the need to promptly and properly treat obstetrical patients who requires pain medications including epidural and spinal injections and management of code in a term pregnancy and timing of delivery of baby, and the need to involve attending physicians in clinical decision making, to ensure proper continuity of care, to ensure that clinical consults are followed up and/or performed, and to ensure that the appropriate guidelines for evaluation and treatment of code in pregnancy are properly followed;
- e. failing to oversee all persons who practice medicine within its walls as to patient care, including the medical personnel listed above, and other medical personnel whose names cannot at this time be determined from the medical records and who were responsible for the care and treatment of mother-plaintiff, to ensure appropriate reporting of medical information about the condition of a patient to her attending physicians.