

Defendants, Gagandeep Brar, M.D., and Key-Chyang Liang, M.D., are directly liable to Plaintiff.

47. As a direct and proximate result of the Defendants' joint and several negligence, Minor Plaintiff [REDACTED] suffered permanent neurological damages as a result of an intrapartum hypoxic ischemic insult secondary to blood loss and asphyxia resulting from the rupture of fetal vessels during Michele Breech's labor. Had Michele Breech been admitted to the hospital at 28 weeks gestation for monitoring, an elective c-section could have been performed prior to the rupture of membranes, or in the alternative, a STAT c-section delivery could have been immediately performed following spontaneous rupture of her membranes, thereby avoiding an unnecessary delay in [REDACTED] delivery, which allowed for intrapartum blood loss and hypoxic ischemic insult. In addition, the failure of the Defendants' to timely recognize and treat [REDACTED] extremely low hemoglobin levels, resulted in further hypoxia and brain damage to this already severely damaged infant.

48. As a consequence of the Defendants' joint and several negligence, the Minor Plaintiff, [REDACTED] has sustained both economic and non-economic damages, including but not limited to extensive prescriptive, rehabilitative, nursing and hospital expenses, pain, suffering, emotional distress, humiliation, fright, depression, loss of enjoyment of life and other damages, all of which are past, present, and future. He has been denied a normal and independent adult life, and his potential for earning capacity has been destroyed. He will further require lifetime assistance with activities of daily living.

WHEREFORE, Plaintiff Michele Breech, as Next Friend of [REDACTED] a Minor, hereby requests an award of damages against the Defendants herein, jointly and severally, in whatever amount above Twenty-Five Thousand (\$25,000.00) Dollars Plaintiff is found

MAY 26 2015

to be entitled to, together with interest, costs and attorney fees, as well as all other damages allowed under Michigan Law.

COUNT V
NEGLIGENCE OF SINAI-GRACE HOSPITAL

49. Plaintiff hereby repeats, restates and realleges the allegations contained in paragraphs 1 through 48 of Plaintiff's Complaint as though fully incorporated herein.

50. Defendant, Sinai Grace Hospital, as employer and/or ostensible principal for Defendants, Lisa Lynn Cardwell, M.D., and Karoline Puder, M.D., was negligent, inter alia, in the following particulars in that a licensed and accredited health care facility, when encountering a patient exhibiting the history signs and symptoms such as those demonstrated by Michele Breech, owed a duty acting through its agents, servants and/or employees, to timely and properly:

- a. Timely and properly select, train and monitor its employees, servants, agents, actual or ostensible, and its staff of physicians, to insure that they were competent in all aspects of obstetrical care, including but not limited to the management of a patient with a history of preterm labor, shortened cervix, vasa previa and velamentous cord insertion, in compliance with the standard of care as described herein;
- b. Provide qualified medical staff with the proper training and ability to meet the patient's needs, including the ability to properly manage her care in accordance with the standard of care described herein;
- c. Adopt, implement and enforce policies and procedures for the management of a patient with a history of preterm labor, shortened cervix, vasa previa and velamentous cord insertion;
- d. Perform and appreciate a thorough history and physical examination;
- e. Provide proper obstetric services to a patient with a history of preterm labor, shortened cervix, vasa previa and VCI;
- f. Properly supervise and monitor the pregnancy of a patient with a history of preterm labor, shortened cervix, vasa previa and VCI;

- g. Timely refer a patient with a history of preterm labor, shortened cervix, vasa previa and VCI to a Maternal-Fetal-Medicine specialist for high risk prenatal care and delivery;
- h. Recognize the inherent dangers to the fetus upon the rupture of the mother's membranes, including tearing of fetal vessels, resulting in blood loss and oxygen deprivation;
- i. Recognize that once the fetal vessel ruptures, any delay in delivery is detrimental to the fetus, prolonging its' blood loss and oxygen deprivation;
- j. Take proper precautions to prevent a patient with a history of preterm labor, shortened cervix, vasa previa and VCI from recurrent preterm labor, such as oral medications or a terbutaline pump;
- k. Hospitalize a patient with a history of preterm labor, shortened cervix, vasa previa and VCI at her third trimester so as to avoid any delay in performing a STAT c-section delivery should her membranes rupture;
- l. Plan for and schedule a cesarian section delivery for a patient with a history of preterm labor, shortened cervix, vasa previa and VCI prior to the mother experiencing labor or rupture of membranes, so as to avoid any danger to the infant;
- m. Inform the patient of the potentially serious risks of vasa previa and VCI and recommend hospitalization, and further advise the patient of the increased risk of maternal fetal hemorrhage if she is not hospitalized; and
- n. Any and all acts of negligence as identified through additional discovery.

51. Defendant, Sinai-Grace Hospital, as the employer and/or ostensible principal for Defendants, Lisa Lynn Cardwell, M.D. and Karoline Puder, M.D., did none of these things, and such acts or omissions constitute professional negligence for which Defendant, Sinai-Grace Hospital, is directly liable to Plaintiff.

52. At all times relevant hereto, Lisa Lynn Cardwell, M.D. and Karoline Puder, M.D., were actual and/or ostensible agents, servants and/or employees of Sinai-Grace

Hospital, therefore, Sinai-Grace Hospital, is vicariously liable for their negligence, pursuant to the Doctrine of Respondeat Superior and ostensible agency.

53. Defendant, Sinai-Grace Hospital, as the employer and/or ostensible principal for Defendants, Gagandeep Brar, M.D., and Key-Chyang Liang, M.D., was negligent, inter alia, in the following particulars in that a licensed and accredited health care facility when encountering a patient exhibiting the history signs and symptoms such as those demonstrated by Michele Breech, owed a duty acting through its agents, servants and/or employees, to timely and properly:

- a. Timely and properly select, train and monitor its employees, servants, agents, actual or ostensible, and its staff of physicians and residents, to insure that they were competent in all aspects of neonatal care, including but not limited to the management of a patient with signs and symptoms of anemia secondary to a maternal-fetal hemorrhage in compliance with the standard of care as described herein;
- b. Provide qualified medical staff with the proper training and ability to meet the patient's needs, including the ability to properly manage his neonatal care in accordance with the standard of care described herein;
- c. Adopt, implement and enforce policies and procedures for the management of an infant with complications following a maternal fetal hemorrhage;
- d. Perform and appreciate a thorough history and physical examination;
- e. Provide proper neonatal services to an infant delivered via emergency c-section due to a maternal fetal hemorrhage;
- f. Recognize that an infant delivered via emergency c-section due to a maternal fetal hemorrhage will most likely have low hemoglobin levels and will require a blood transfusion;
- g. Timely review laboratory results for an infant whose delivery was complicated by maternal fetal hemorrhage so as to discover any abnormal values;
- h. Timely order for a blood transfusion in an infant who has low hemoglobin levels;

- g. Ensure that an order for a blood transfusion was timely entered and acted upon in an infant with low hemoglobin levels;
- h. Any and all acts of negligence as identified through additional discovery.

54. Defendant, Sinai-Grace Hospital, as the employer and/or ostensible principal for Defendants, Gagandeep Brar, M.D., and Key-Chyang Liang, M.D., did none of these things, and such acts or omissions constitute professional negligence for which Defendant, Sinai-Grace Hospital, is directly liable to Plaintiff.

55. At all times relevant hereto, Gagandeep Brar, M.D., and Key-Chyang Liang, M.D., were actual and/or ostensible agents, servants and/or employees of Sinai-Grace Hospital, therefore, Sinai-Grace Hospital, is vicariously liable for their negligence, pursuant to the Doctrine of Respondeat Superior and ostensible agency.

56. As a direct and proximate result of the Defendants' joint and several negligence, Minor Plaintiff [REDACTED] suffered permanent neurological damages as a result of an intrapartum hypoxic ischemic insult secondary to blood loss and asphyxia resulting from the rupture of fetal vessels during Michele Breech's labor. Had Michele Breech been admitted to the hospital at 28 weeks gestation for monitoring, an elective c-section could have been performed prior to the rupture of membranes, or in the alternative, a STAT c-section delivery could have been immediately performed following spontaneous rupture of her membranes, thereby avoiding an unnecessary delay in Kelvin's delivery, which allowed for intrapartum blood loss and hypoxic ischemic insult. In addition, the failure of the Defendants' to timely recognize and treat [REDACTED] extremely low hemoglobin levels, resulted in further hypoxia and brain damage to this already severely damaged infant.

57. As a consequence of the Defendants' joint and several negligence, the Minor Plaintiff, [REDACTED] has sustained both economic and non-economic damages, including but not limited to extensive prescriptive, rehabilitative, nursing and hospital expenses, pain, suffering, emotional distress, humiliation, fright, depression, loss of enjoyment of life and other damages, all of which are past, present, and future. He has been denied a normal and independent adult life, and his potential for earning capacity has been destroyed. He will further require lifetime assistance with activities of daily living.

WHEREFORE, Plaintiff Michele Breech, as Next Friend of [REDACTED] a Minor, hereby requests an award of damages against the Defendants herein, jointly and severally, in whatever amount above Twenty-Five Thousand (\$25,000.00) Dollars Plaintiff is found to be entitled to, together with interest, costs and attorney fees, as well as all other damages allowed under Michigan Law.

Respectfully submitted:

McKEEN & ASSOCIATES, P.C.

BY: 

BRIAN J. McKEEN (P34123)

Attorney for Plaintiff

645 Griswold Street, Suite 4200

Detroit, MI 48226
[REDACTED]

MAY 26 2015

McKeen & Associates, P.C. • 645 Griswold Street, Suite 4200 • Detroit, MI 48226 • (313) 961-4400

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

MICHELE BREECH, as Next Friend
of [REDACTED] a Minor,

Plaintiff,

Case No. 09-

NH

vs.

Hon.

LISA LYNN CARDWELL, M.D.,
DMC PRIMARY CARE SERVICE II
d/b/a NORTHWEST WOMEN'S CARE,
KAROLINE PUDEK, M.D.,
GAGANDEEP BRAR, M.D.,
KEY-CHYANG LIANG, M.D.
SINAI HOSPITAL OF GREATER DETROIT
D/B/A SINAI-GRACE HOSPITAL and
THE DETROIT MEDICAL CENTER,
Jointly and Severally,

Defendants.

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, Michele Breech, as Next Friend of [REDACTED] a Minor,
by and through her attorneys, McKEEN & ASSOCIATES, P.C., and hereby demands a
trial by jury in the above matter.

Respectfully submitted:

McKEEN & ASSOCIATES, P.C.

BY: 

BRIAN J. McKEEN (P34123)

Attorney for Plaintiff

645 Griswold, Suite 4200

Detroit, MI 48226
[REDACTED]

MAY 26 2015

McKeen & Associates, P.C. • 645 Griswold Street, Suite 4200 • Detroit, MI 48226 • (313) 961-4400

MICHELE BREECH, as Next Friend
of [REDACTED] JR., a Minor,

Case No. 09- NH

Hon.

Defendants.

BRIAN J. McKEEN (P34123)
McKEEN & ASSOCIATES, P.C.
Attorneys for Plaintiff
645 Griswold Street, Suite 4200
Detroit, Michigan 48226

STATE OF NEW JERSEY)
)ss.
COUNTY OF CAPE MAY)

MAY 26 2015

1. That I have read the Notice of Intent to File Claim prepared on behalf of [REDACTED] a Minor.
2. That I have reviewed all of the medical records supplied to me by the law firm of McKeen & Associates, P.C. in connection with the allegations set forth in the Notice of Intent to File a Claim, including:
 - a. Prenatal Records;
 - b. Sinai-Grace Hospital 11/16/04 Admission;
 - c. Sinai-Grace Hospital - Labor & Delivery Admission;
 - d. Sinai-Grace Hospital - NICU Records.
3. That I have reviewed the Affidavit of Merit of Boris Petrikovsky, M.D., and the Affidavit of Merit of Michael Berke, M.D.
4. As to Gagandeep Brar, M.D., and Key-Chyang Liang, M.D., as a duly licensed and practicing physicians and/or residents, practicing and/or specializing in Neonatology, when presented with a patient exhibiting signs and symptoms such as those demonstrated by [REDACTED] owed a duty to:
 - a. Perform and appreciate a thorough history and physical examination;
 - b. Provide proper neonatal services to an infant delivered via emergency c-section due to a maternal fetal hemorrhage;
 - c. Recognize that an infant delivered via emergency c-section due to a maternal fetal hemorrhage will most likely have low hemoglobin levels and will require a blood transfusion;
 - d. Timely review laboratory results for an infant whose delivery was complicated by maternal fetal hemorrhage so as to discover any abnormal values;
 - e. Timely order a blood transfusion in an infant who has low hemoglobin levels;

MAY 26 2015

- f. Ensure that an order for a blood transfusion was timely entered and acted upon in an infant with low hemoglobin levels;
- g. Any and all acts of negligence as identified through additional discovery.

5. As to Sinai-Grace Hospital and The Detroit Medical Center, duly licensed and accredited health care institutions, by and through their agents, actual and/or ostensible, servants, and/or employees, including but not limited to Gagandeep Brar, M.D., and Key-Chyang Liang, M.D., which hold themselves out to the public as being competent of rendering medical services, when presented with a patient exhibiting signs and symptoms such as those demonstrated by [REDACTED] owed a duty to:

- a. Timely and properly select, train and monitor its employees, servants, agents, actual or ostensible, and its staff of physicians and residents, to insure that they were competent in all aspects of neonatal care, including but not limited to the management of a patient with signs and symptoms of anemia secondary to a maternal-fetal hemorrhage in compliance with the standard of care as described herein;
- b. Provide qualified medical staff with the proper training and ability to meet the patient's needs, including the ability to properly manage his neonatal care in accordance with the standard of care described herein;
- c. Adopt, implement and enforce policies and procedures for the management of an infant with complications following a maternal fetal hemorrhage;
- d. Perform and appreciate a thorough history and physical examination;
- e. Provide proper neonatal services to an infant delivered via emergency c-section due to a maternal fetal hemorrhage;
- f. Recognize that an infant delivered via emergency c-section due to a maternal fetal hemorrhage will most likely have low hemoglobin levels and will require a blood transfusion;
- g. Timely review laboratory results for an infant whose delivery was complicated by maternal fetal hemorrhage so as to discover any abnormal values;


- h. Timely order for a blood transfusion in an infant who has low hemoglobin levels;
- g. Ensure that an order for a blood transfusion was timely entered and acted upon in an infant with low hemoglobin levels;
- h. Any and all acts of negligence as identified through additional discovery.

6. It is my opinion that the staff and physicians of Sinai-Grace Hospital and The Detroit Medical Center, including but not limited to, Gagandeep Brar, M.D., and Key-Chyang Liang, M.D., failed to comply with the standard of care as enumerated above, and that said acts or omissions constitute a violation of the standard of care.

7. In order to have complied with the applicable standard of care, the above-named Defendants should have timely and properly done those things set forth in paragraphs 4 and 5 above.

8. Within a reasonable degree of medical certainty, as a direct and proximate result of the Defendants' joint and several negligence, as set forth in the Affidavit of Merit of Boris Petrikovsky, M.D., and Michael Berke, M.D., Minor Plaintiff [REDACTED] suffered permanent neurological damages including but not limited to cerebral palsy (spastic quadriplegia), a seizure disorder, speech delays and severe cognitive impairment, as a result of an intrapartum hypoxic ischemic insult secondary to blood loss and asphyxia. In addition, the failure of the Defendants' to timely recognize and treat [REDACTED] extremely low hemoglobin levels, resulted in further hypoxia and brain damage to this already severely damaged infant.

9. This Affidavit of Meritorious Claim is based upon information which has been presently reviewed and is subject to change or modification upon receipt of additional materials or information.


Carolyn Crawford, M.D.

Subscribed and sworn to before me
on this 11 day of March, 2009

Dennis Howe
Notary Public, of New Jersey County Atlantic
My Commission Expires: 8/26/11

Dennis J. House
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 8/26/2011

McKeen & Associates, P.C. • 645 Griswold Street, Suite 4200 • Detroit, MI 48226 • (313) 961-4400

MAY 26 2015

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

MICHELE BREECH, as Next Friend
of [REDACTED] JR., a Minor,

Plaintiff,

Case No. 09-

NH

vs.

Hon.

LISA LYNN CARDWELL, M.D.,
DMC PRIMARY CARE SERVICE II
d/b/a NORTHWEST WOMEN'S CARE,
KAROLINE PUDEK, M.D.,
GAGANDEEP BRAR, M.D.,
KEY-CHYANG LIANG, M.D.
SINAI HOSPITAL OF GREATER DETROIT
D/B/A SINAI-GRACE HOSPITAL and
THE DETROIT MEDICAL CENTER,
Jointly and Severally,

Defendants.

BRIAN J. McKEEN (P34123)
McKEEN & ASSOCIATES, P.C.
Attorneys for Plaintiff
645 Griswold Street, Suite 4200
Detroit, Michigan 48226
(313) 961-4400

AFFIDAVIT OF MERITORIOUS CLAIM

STATE OF NEW YORK)
)ss.
COUNTY OF KINGS)

I, BORIS PETRIKOVSKY, M.D., by this Affidavit, state that during the relevant time period at issue in this matter, I was a licensed and practicing physician, specializing in and devoting the majority of my clinical practice to Maternal/Fetal Medicine, and attest to the following:

1. That I have read the Notice of Intent to File Claim prepared on behalf of [REDACTED]

[REDACTED] a Minor.

MAY 26 2015

2. That I have reviewed all of the medical records supplied to me by the law firm of McKeen & Associates, P.C. in connection with the allegations set forth in the Notice of Intent to File a Claim, including:

- a. Prenatal Records
- b. Sinai-Grace Hospital 11/16/04 Admission
- c. Sinai-Grace Hospital - Labor & Delivery Admission
- d. Sinai-Grace Hospital - Partial NICU Records

3. As to Karoline Puder, M.D., as a duly licensed and practicing physician, specializing in Maternal/Fetal Medicine, when presented with a patient exhibiting signs and symptoms such as those demonstrated by Michele Breech, owed a duty to:

- a. Perform and appreciate a thorough history and physical examination;
- b. Provide proper obstetric services to a patient with a history of preterm labor, shortened cervix, vasa previa and velamentous cord insertion (VCI);
- c. Recognize the inherent dangers to the fetus upon rupture of the mother's membranes, including tearing of fetal vessels, resulting in blood loss and oxygen deprivation;
- d. Recognize that once the fetal vessels rupture, any delay in delivery is detrimental to the fetus, prolonging its' blood loss and oxygen deprivation;
- e. Take proper precautions to prevent a patient with a history of preterm labor, shortened cervix, vasa previa and VCI from recurrent preterm labor, such as oral medications or a terbutaline pump;
- f. Hospitalize a patient with a history of preterm labor, shortened cervix, vasa previa and VCI at her third trimester so as to avoid any delay in performing a STAT c-section delivery should her membranes rupture;
- g. Plan for and schedule a cesarian section delivery for a patient with a history of preterm labor, shortened cervix, vasa previa and VCI prior to the mother experiencing labor or rupture of membranes, so as to avoid any danger to the infant;