

FILED

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

2013 MAY 16 A 11:54

NO. 13-4685

CIVIL DISTRICT COURT DIVISION "1"

ANA AMAYA AND ROBERTO DE LOS SANTOS

VERSUS

CNA INSURANCE COMPANY, MIDTOWN MEDICAL, LLC
AND KEVIN G. WORK, MD

SECTION 6

CLERK, CIVIL DISTRICT COURT

402 CIVIL COURTS BUILDING

FILED: _____

DEPUTY CLERK LOYOLA AVENUE - ROOM 402

NEW ORLEANS, LA 70112

504-407-0000

PETITION FOR DAMAGES

The petition of Ana D. Amaya and Roberto De Los Santos, both persons of the full age of majority and domiciled in the Parish of Jefferson, State of Louisiana, respectfully represents:

DATE: 5/14/13

CASE#: 2013 - 04685 SEC.: 6

RECEIPT#: 384183

Made defendants herein are:

PRICE

PAID

BAL

A. CNA Insurance Company, a foreign insurer authorized to do and doing business

in the State of Louisiana;

PETITION FOR DAMAGES

\$ 444.50 \$ 444.50 \$ 0.00

B. Midtown Medical, LLC, a Louisiana Limited Liability Company authorized and

JSC

doing business in the State of Louisiana; and

\$ 22.50 \$ 22.50 \$ 0.00

C. Kevin G. Work, M.D., a person of the full age of majority and practicing medicine

INDIGENT LEGAL FEE

\$ 10.00 \$ 10.00 \$ 0.00

in the Parish of Orleans, State of Louisiana.

BUILDING FUND FEE

\$ 25.00 \$ 25.00 \$ 0.00

2.

The defendants are liable, jointly, severally, and *in solido* to the plaintiffs, Ana D. Amaya

and Roberto De Los Santos, for damages reasonable in the premises for the following reasons to

wit:

AMOUNT RECEIVED \$502.00

3.

CHANGE DUE \$.00

Ana D. Amaya, became pregnant in early 2011. Kevin G. Work, MD was her treating

OB/GYN and continued to treat Ana D. Amaya during her healthy pregnancy through Midtown

Medical, LLC.

Check #005012, Amt. \$502.00

5/24/13 Ana Amaya

59
5/24/13
Ana Amaya

4.

On or about November 13, 2011, plaintiff, Ana Amaya, reported to Dr. Kevin G. Work's office complaining of a sinus infection although she did not have a scheduled appointment.

5.

Dr. Kevin G. Work was not present on November 13, 2011. However, an unknown employee dispensed Phenylephrine/Chlorpheniramine Maleate to Ana D. Amaya.

6.

Ana D. Amaya ingested the medication. Shortly thereafter, Ana D. Amaya felt no fetal movement.

7.

On November 14, 2011, Ana D. Amaya reported to Dr. Kevin G. Work's office for her scheduled visit, wherein Dr. Kevin G. Work advised Ana D. Amaya that the baby was deceased.

8.

Midtown Medical, LLC and Kevin G. Work, M.D. was negligent by failing to ensure the well-being of his patient, Ana D.

9.

Midtown Medical, LLC and Kevin G. Work, M.D. was negligent by failing to provide or require adequate supervision over its employees during normal business hours by allowing employees to hand medication out to patients, thereby placing its patient, Ana D. Amaya, at "risk of harm".

10.

Kevin G. Work, M.D. breached his duty of care to his patient, Ana D. Amaya.

11.

The negligence of the defendants, Midtown Medical, LLC and Kevin G. Work, M.D., consists of, but is not limited to, the following:

- A. Failure to properly monitor the pregnancy of Ana D. Amaya;
- B. Failed to properly treat Ana D. Amaya;
- C. Negligent supervision of employees by authorizing staff to dispense medication which should not be dispensed during the third trimester of pregnancy, specifically Phenylephrine/Chlorpheniramine Maleate ;

- D. Failing to insure the safety of his patients;
- E. Failing to insure the well-being of its patient; and
- F. Any and all other acts of negligence which may be determined between now and the time of the trial and shown at the time of the trial.

All of which acts of negligence are in violation of the ordinances of the Parish of Orleans and the Statutes of Louisiana, that are specially pleaded herein as if copied *in extenso*.

12.

As a result of the herein above described incident and the defendant's negligence, plaintiff's, Ana D. Amaya and Roberto De Los Santos, suffered injuries and damages, including, but not limited to, the following:

- A. Past physical pain, suffering and discomfort;
- B. Past mental anguish, aggravation, and annoyance;
- C. Disability;
- D. Future physical pain, suffering, and discomfort;
- E. Future mental anguish, aggravation, and annoyance;
- F. Past medical expenses;
- G. Loss of enjoyment of life;
- H. Loss of use and/or function of parts of their body;
- I. Bodily disability;
- J. Impairment of psychological functioning;
- K. Disability from engaging in recreation;
- L. Destruction of earning capacity;
- M. Loss of support;
- N. Loss of society;
- O. Loss of consortium; and
- P. Any and all damages proved at the trial of this matter.

13.

The defendant is jointly, severally, and solidarily liable to the plaintiffs for the above damages.

14.

Plaintiffs reserve their right to trial by jury.

15.

Plaintiff reserves the right to amend and supplement this petition.

WHEREFORE, Plaintiffs, Ana D. Amaya and Roberto De Los Santos, pray that after all due proceedings are had that there be judgment in favor of the plaintiffs, Ana D. Amaya and Roberto De Los Santos and against the defendants, CNA Insurance, Midtown Medical, LLC and Kevin G. Work, M.D., jointly, severally, and *in solido*, for damages as are reasonable in the premises with legal interest thereon from date of judicial demand and for all costs of these proceedings, and all general and equitable relief deemed proper by this Honorable Court.

Respectfully Submitted:

BURGOS & EVANS L.L.C.

BY: 

ROBERT B. EVANS, III (#23473)
CESAR R. BURGOS (#24328)
GABRIEL O. MONDINO (#31514)
ROBERT J. DAIGRE (#23016)
3535 Canal Street
New Orleans, Louisiana 70119-6135
Telephone: (504) 488-3722
Facsimile: (504) 482-8525
Attorneys for Plaintiffs

SHERIFF PLEASE SERVE:

CNA INSURANCE COMPANY
Agent For Service of Process:
Louisiana Secretary of State
8585 Archives Ave.
Baton Rouge, LA 70809

MIDTOWN MEDICAL, LLC
Through Its Agent for Service
Maria P. Couevas
5144 Ethel St.
Lafitte, LA 70067

KEVIN G. WORK, M.D.
3500 St. Charles Avenue, Suite 100
New Orleans, LA 70115

KEVIN G. WORK, M.D.
Canal Women's Clinic
3316 Canal St
New Orleans, LA 70119

KEVIN G. WORK, M.D.
2316 ESPLANADE
NEW ORLEANS, LA 70119

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

FILED
2013 MAY 11: 54

NO. _____ DIVISION " _____ "

ANA AMAYA AND ROBERTO DE LOS SANTOS

VERSUS

**CNA INSURANCE, MIDTOWN MEDICAL, LLC
AND KEVIN G. WORK, MD**

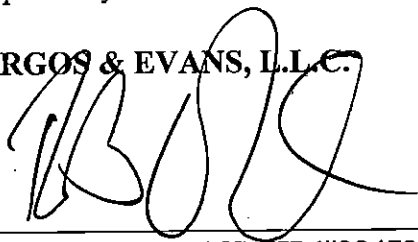
FILED: _____ **DEPUTY CLERK**

REQUEST FOR NOTICE

NOW INTO COURT, through undersigned counsel, comes, Ana D. Amaya and Roberto De Los Santos, who pursuant to the Louisiana Code of Civil Procedure Article 1572, respectfully move this Court for written notice fifteen (15) days in advance of the date fixed for the trial or hearing on any exception, motion, rule, or trial on the merits in the above captioned proceeding and, pursuant to Louisiana Code of Civil Procedure Articles 1913 and 1914, request immediate notice of all interlocutory and final orders and judgments on any exceptions, motions, rules or the trial on the merits in the captioned proceeding.

Respectfully submitted:

BURGOS & EVANS, L.L.C.



ROBERT B. EVANS, III (#23473)
CESAR R. BURGOS (#24328)
GABRIEL O. MONDINO (#31514)
ROBERT J. DAIGRE (#23016)
3535 Canal Street
New Orleans, Louisiana 70119-6135
Telephone: (504) 488-3722
Facsimile: (504) 482-8525
Attorneys for Plaintiffs