

FILED

2015 DEC - 1 P 3:26

DALE H. ATKINS  
CLERK, CIVIL DISTRICT COURT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS  
402 CIVIL COURTS BUILDING  
21 LOYOLA AVENUE - ROOM 402

STATE OF LOUISIANA  
NEW ORLEANS, LA 70112

504-407-0000

L

NO. 15 - 11392

DIV. SECTION 6

ROSALVO M. MARTINEZ, INDIVIDUALLY AND ON BEHALF OF THE MINOR  
CHILD, ALEXANDER MARTINEZ

DATE: 12/1/2015 at 15:34

VERSUS

CASE#: 2015 - 11392 SEC.: 6

OCHSNER MEDICAL CENTER - KENNER, L.L.C. AND KEVIN WORK, M.D.

RECEIPT#: 529847

PRICE PAID BAL

FILED: \_\_\_\_\_

DEPUTY CLERK  
PETITION FOR DAMAGES

29  
12/1/15  
Folson

PETITION FOR DAMAGES

\$ 444.50 \$ 444.50 \$ 0.00

TO THE HONORABLE CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

0.00

AND THE JUDGES THEREOF:

INDIGENT LEGAL FEE

\$ 10.00 \$ 10.00 \$ 0.00

Petitioners, Rosalvo M. Martinez, individually and on behalf of the minor child,

Alexander Martinez, hereby file this Petition for Damages and respectfully represent the

\$ 25.00 \$ 25.00 \$ 0.00

following:

JUDICIAL COLLEGE

\$ 0.50 \$ 0.50 \$ 0.00

PARTIES

SUPREME COURT - PROCESSING FEE

\$ 10.00 \$ 10.00 \$ 0.00

1.

Petitioner, Rosalvo M. Martinez, is of the full age of majority, and she is the mother of

Alexander Martinez, a minor child.

TOTAL PAID CASE # 201511392 \$514.00

RECEIPT TOTAL \$514.00

2.

AMOUNT RECEIVED \$514.00

Rosalvo M. Martinez and Alexander Martinez reside in the Parish of Jefferson, State of

Louisiana.

3.

Check #4945 Amt. \$514.00

Made Defendants herein are:

1. KEVIN GOVAN WORK, M.D., a physician who, upon information and belief, is licensed to practice medicine in the State of Louisiana and is residing in the Parish of Orleans; and
2. OCHSNER MEDICAL CENTER - KENNER, L.L.C., (Ochsner-Kenner), a Louisiana limited liability company.

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**VENUE**

4.

Venue is proper in this judicial district, for the Defendant, Dr. Kevin G. Work, resides in Orleans Parish.

**FACTUAL BACKGROUND**

5.

33 year-old, Rosalvo M. Martinez presented to Ochsner-Kenner on July 6, 2014.

6.

On July 6, 2014, Ms. Martinez's treating obstetrician, Dr. Kevin G. Work, induced Ms. Martinez's labor.

7.

During the birth of Ms. Martinez's son, Alexander Martinez, Dr. Work instructed his assistant or nurse to sit on top of Ms. Martinez with her back facing the patient.

8.

During Ms. Martinez's labor, Dr. Work told her that if she did not push, he would perform a cesarean section, and Ms. Martinez pleaded for a cesarean section because she was in so much pain.

9.

Ms. Martinez experienced pain so severe that she felt as though she were having a heart attack.

10.

In fact, Ms. Martinez's uterus had ruptured, causing the loss of effective uterine contractions.

11.

Ms. Martinez's delivery of her son, Alexander Martinez, was also complicated by shoulder dystocia.

12.

Alexander Martinez was born limp and taken from the room. He had Apgar scores of 2, 6 and 8 at 1 minute, 2 minutes, and 5 minutes, per Dr. Work.

13.

Ms. Martinez inquired as to her baby's health, but her questions were not answered.

14.

When Ms. Martinez awoke, she was in the Intensive Care Unit at Ochsner-Kenner, where the nurses informed her that she had undergone an emergency hysterectomy.

15.

Upon awakening, Ms. Martinez also learned that her baby boy, Alexander, had suffered a broken clavicle during the delivery.

16.

Upon information and belief, Ms. Martinez's uterine rupture was not diagnosed until after the delivery of baby Alexander, when abdominal contents were detected in Ms. Martinez's vagina.

17.

After abdominal contents were detected in Ms. Martinez's vagina, she was taken to the operating room.

18.

Dr. Work left Ms. Martinez's bedside for another delivery, but returned to Ms. Martinez's room and performed the hysterectomy on Ms. Martinez, who was then surgically closed and taken to the recovery room.

19.

After Ms. Martinez was moved to the recovery room, it became apparent that she was still bleeding internally. Dr. Work brought her back to the operating room, opened her up again, removed her left ovary, and re-closed Ms. Martinez.

20.

Ms. Martinez spent another six days at Ochsner-Kenner recovering and was caused to suffer excruciating pain.

21.

Upon information and belief, Ms. Martinez lacked the risk factors associated with uterine rupture (e.g., previous C-section, myomectomy, grand multi-parity, etc.), and nothing in her prenatal care or intrapartum care would have indicated a rupture.

22.

Kevin G. Work, M.D., is an obstetrician/gynecologist licensed to practice medicine in the State of Louisiana.

23.

On March 16, 2009, the Louisiana State Board of Medical Examiners ("LSBME"), through its Director of Investigations ("DOI"), placed Dr. Work's Louisiana medical license on probation for one year, after investigating and discovering that, while working at Tulane University Health Center, Dr. Work had made unwelcome and inappropriate sexual comments or advances to a nurse. The LSBME also noted a focused peer review finding, which had concluded that Dr. Work failed to timely present to the delivery unit on six separate occasions.

24.

Dr. Work was fined \$1,000.00 in connection with his March 16, 2009 probation.

25.

On October 20, 2014, the LSBME, through its DOI, suspended Dr. Work's Louisiana medical license for three months. However, the suspension was stayed, and Dr. Work's license was placed on probation for one year, after LSBME investigated and discovered that Dr. Work's digital signature had appeared on the medical records of patients whom he had never seen and that he had performed at least two surgical procedures without writing an operative note. Upon information and belief, the reprehensible conduct referenced in this paragraph occurred prior to Ms. Martinez's labor and delivery at Ochsner-Kenner.

26.

Dr. Work was fined \$5,000.00 in connection with his October 20, 2014 suspension and probation.

27.

Additionally, upon information and belief, Dr. Work was named a defendant in a medical malpractice lawsuit, in which he had crushed a baby's skull. Upon information and belief, the negligent conduct referenced in this paragraph occurred prior to Ms. Martinez's delivery and occurred on the campus of Ochsner-Kenner.

28.

Upon information and belief, Ochsner-Kenner knew or should have known, when considering Dr. Works's application or re-application for credentials or privileges, that Dr. Work had been the subject of multiple LSBME investigations and that he had been disciplined by his licensing organization.

29.

Upon information and belief, Ochsner-Kenner negligently credentialed and/or privileged Dr. Kevin Work to perform gynecologic and/or obstetric procedures on its campus, at some time prior to Ms. Martinez's delivery.

30.

Based on information provided by the Louisiana Patient's Compensation Fund, Dr. Kevin Work was not a qualified healthcare provider on July 6, 2014, even though he was actively delivering babies on the campus of Ochsner-Kenner at that time.

**CAUSES OF ACTION**

**COUNT I: THE LOUISIANA MEDICAL MALPRACTICE ACT**

31.

Petitioner, Rosalvo M. Martinez, suffered injuries and damages that were caused, contributed to, and/or precipitated by the negligence and/or departures from the proper standard of medical care of Defendant, Dr. Kevin Work, and those for whom he was responsible, all of whom are liable to Petitioner for the following reasons:

32.

Defendant, Dr. Kevin Work, is liable unto Petitioner because Rosalvo M. Martinez's injuries and damages were proximately and legally caused by the fault, including negligence, of Dr. Work and his officers, agents, and/or employees, and those for whom he is legally responsible, including the following negligent acts of omission and commission, among others, which may be shown at trial:

- a. Failure to properly manage Ms. Martinez's delivery of baby Alexander;
- b. Failure to monitor Ms. Martinez during her delivery of baby Alexander;
- c. Failure to monitor baby Alexander during Ms. Martinez's delivery of him; and/or
- d. Failure to convert Ms. Martinez's delivery of baby Alexander to a cesarean section timely or appropriately.

33.

Petitioner, Alexander Martinez, suffered injuries and damages that were caused, contributed to, and/or precipitated by the negligence and/or departures from the proper standard of medical care of Defendant, Dr. Kevin Work, and those for whom he is responsible, all of whom are liable to Petitioner for the following reasons:

34.

Defendant, Dr. Kevin Work, is liable unto Petitioner, Alexander Martinez, because his injuries and damages were proximately and legally caused by the fault, including negligence, of Dr. Work and his officers, agents, and/or employees, and those for whom he is legally responsible, including the following negligent acts of omission and commission, among others, which may be shown at trial:

- a. Failure to properly manage the delivery of Alexander Martinez;
- b. Failure to properly prevent, diagnose, and/or mitigate Alexander's shoulder dystocia;
- c. Negligently injuring Alexander Martinez's clavicle; and/or
- d. Failure to convert the delivery of Alexander Martinez to a cesarean section timely or appropriately.