

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

2015-11832
DOCKET NO.

STATE OF LOUISIANA

CHANGE DUE \$.00

SECTION

DIVISION

Check #10666 Amt. \$539.00

WILFREDO ANTONIO RIVERA AND DINA RAMIREZ, INDIVIDUALLY AND ON
BEHALF OF THEIR MINOR CHILD, GISELLE RAMIREZ

VERSUS

SECTION 5

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

DALE M. ATKINS

FILED: _____

CLERK, CIVIL DISTRICT COURT

DEPUTY CLERK

402 CIVIL COURTS BUILDING

PETITION FOR DAMAGES

421 LOYOLA AVENUE - ROOM 402

NEW ORLEANS, LA 70112

504-407-0000

TO THE HONORABLE JUDGES OF THE CIVIL DISTRICT COURT FOR THE PARISH OF
ORLEANS, STATE OF LOUISIANA:

The petition of Wilfredo Antonio Rivera and Dina Ramirez, individually on behalf of their
minor child, Giselle Ramirez, appearing through undersigned counsel, with respect represents that:

DATE: 12/14/2015 at 14:58

CASE#: 2015 - 11832 SEC.: 5

RECEIPT#: 532699

I.

Petitioners are persons of the full age of majority, reside in Louisiana, and are the natural
parents of the minor, Giselle Ramirez.

PRICE PAID BAL

II.

PETITION FOR DAMAGES

\$ 444.50 \$ 444.50 \$ 0.00

Made defendants herein are:

FAX FEES

A. OCHSNER MEDICAL CENTER - KENNER, L.L.C., a Louisiana limited liability company, which upon information and belief, through its employees or agents, was at all times pertinent herein doing business in the State of Louisiana; and

\$ 25.00 \$ 25.00 \$ 0.00

\$ 24.00 \$ 24.00 \$ 0.00

INDIGENT LEGAL FEE

B. KEVIN GOVAN WORK, a person of the full age of majority, who upon information and belief was at all times pertinent herein and is currently a resident of Orleans Parish and doing business in the State of Louisiana.

\$ 10.00 \$ 10.00 \$ 0.00

\$ 25.00 \$ 25.00 \$ 0.00

III.

JUDICIAL COLLEGE

Venue is proper in this judicial district as defendant Kevin Govan Work resides in Orleans Parish.

\$ 0.00 \$ 0.00 \$ 0.00

SUPREME COURT - PROCESSING FEE

\$ 10.00 \$ 10.00 \$ 0.00

IV.

Defendants are justly and truly indebted, jointly, severally, and *in solido*, to Petitioner for
all damages reasonable under the premises for the following reasons to wit:

TOTAL PAID CASE # 201511832: \$539.00

RECEIPT TOTAL \$539.00

VERIFIED
12/18/2015

V.

On September 23, 2014, Ms. Dina Ramirez gave birth to her baby daughter, Giselle, at Ochsner Medical Center – Kenner. Dr. Kevin G. Work, ob-gyn, assisted by third-year LSU resident Dr. Sudeep Singh and the nursing staff of Ochsner Medical Center – Kenner, handled the delivery.

VI.

Prior to the delivery, Dr. Work had followed Ms. Ramirez's obstetrical care and progress during her pregnancy. Ms. Ramirez had a documented history of gestational diabetes.

VII.

On September 23, 2014, during the delivery a shoulder dystocia occurred. Baby Giselle became lodged in the birth canal and her progress in delivery stopped.

VIII.

Dr. Work noted to the family that the baby had become stuck in the vaginal canal. The baby's head had emerged, but her shoulders were caught.

IX.

Baby Giselle started to experience decreased fetal heart tones. Dr. Work urged Ms. Ramirez to hurry while pushing. He then pulled on the baby's head to complete the delivery of the shoulder and body.

X.

Dr. Work did not perform any other maneuvers to relieve the shoulder dystocia before putting traction on the baby's head to complete the delivery.

XI.

As a result of the traumatic delivery, Ms. Ramirez suffered a 1st degree perineal laceration that required suturing for repair.

XII.

Dr. Work failed to take proper measures to timely diagnose the shoulder dystocia condition and safely deliver the child, resulting directly in a brachial plexus injury to Giselle due to unnecessary traction used on the infant's head to deliver her.

XIII.

Dr. Work departed from the standard of care and was negligent by failing to take proper measures to timely diagnose the shoulder dystocia condition and safely deliver the child, to perform alternative delivery maneuvers to reduce the dystocia, and/or to timely alter the delivery plans and coordinate on the transition to a Caesarian section. More specifically, Dr. Work was negligent and a departure from the standard of care occurred as a result of, but not limited to, any and/or all of the following:

1. Failure to properly treat;
2. Failure to timely treat;
3. Dr. Work's failure to recognize and act on the warnings signs and risk factors associated with Ms. Ramirez's pregnancy;
4. Dr. Work's choice not to change or modify his delivery plans to protect Baby Giselle from harm and provide the best chance for an optimal outcome;
5. Dr. Work's choice not to perform the customary and accepted methods of reducing a shoulder dystocia to protect Baby Giselle from injury; and
6. Any and all acts of negligence that may further be determined upon additional investigation and discovery of the matter through trial.

XIV.

As a result of any or all of these departures, Baby Giselle suffered a brachial plexus injury leading to longstanding deficits. In the alternative, she lost the chance of a better medical outcome.

XV.

A medical review panel claim was filed against the providers involved in Baby Giselle's delivery. The Louisiana Patient's Compensation Fund advised that Dr. Work is not qualified under the Act for this incident.

XVI.

Separate claims of medical negligence have been maintained against defendants Dr. Sudeep Singh and Ochsner Medical Center – Kenner and its staff, and those claim are proceeding

through a medical review panel.

XVII.

At the time of the incident, Dr. Work was a physician licensed by the Louisiana State Board of Medical Examiners ["LSBME"]. Furthermore, Dr. Work held himself out to be a competent and qualified obstetrician and gynecologist. Petitioners had no knowledge or suspicion of Dr. Work's lack of qualifications at that time.

XVIII.

Subsequent to the filing of their Request for a Medical Review Panel on September 22, 2015, Petitioners were notified on October 8, 2015 that Dr. Work was not qualified under the Louisiana Medical Malpractice Act.

XIX.

Notice of Dr. Work's lack of qualification under the Act prompted a further investigation into his qualifications to practice medicine. That investigation revealed the following:

1. Dr. Work had other pending medical malpractice claims against him arising out of incidents that preceded the instant claim by Petitioners;
 - a. Upon information and belief, one of those claim involved the improper use of forceps to deliver a child, crushing the infant's skull;
 - b. Upon information and belief, another claim involved Dr. Work rushing the delivery of another child vaginally, instead of opting for conversion to a caesarian section, which lead to a shoulder dystocia, uterine rupture in the mother necessitating a hysterectomy, and a fractured clavicle in the child;
2. Dr. Work had his privileges suspended from another area hospital in 2008 following an investigation including findings that he failed to timely present to the delivery unit on six (6) occasions;
3. In 2009, Dr. Work had his license placed under probation by the LSBME for one year and received a fine;
4. Following the delivery of Baby Giselle, Dr. Work had his licensed suspended by the LSBME for three months and received a fine. The LSBME investigation revealed that

Dr. Work's digital signature appeared on the medical records of patients that he had never seen and that he had performed at least two surgical procedures without writing an operative note. The suspension was subsequently stayed. Upon knowledge and belief, the incidents leading to this discipline all occurred prior to the delivery of Baby Giselle.

XX.

Upon information and belief, Ochsner Medical Center – Kenner, LLC knew, or reasonably should have known upon reasonable inquiry when considering Dr. Work's application or reapplication for credentials and/or privileges, that Dr. Work had been the subject of multiple malpractice claims, multiple investigations by the LSBME, and had in fact been disciplined by the LSBME for acts potentially placing patients at risk, all prior to the delivery involving Baby Giselle.

XXI.

Upon information and belief, Ochsner Medical Center – Kenner, LLC knew, or reasonably should have known upon reasonable inquiry, that Dr. Work had a history of failing to present timely to his patient's bedside for delivery, rushed deliveries to attend to other patients, and otherwise provided substandard care, all prior to the delivery involving Baby Giselle.

XXII.

Ochsner Medical Center – Kenner, LLC, and those for whom it is responsible, was negligent in failing to develop, maintain, and implement policies and procedures to ensure proper credentialing and/or granting of privileges to physicians and to perform continuous monitoring of its credentialed physicians, including specifically Dr. Kevin Govan Work, to provide reasonably safe obstetrical services at its facility.

XXIII.

Ochsner Medical Center - Kenner, as employer of its officers, administrators, credentialing committees, or other employees involved in the credentialing process for giving Dr. Work privileges to perform health care services at its facility, is responsible for its employees' acts and/or omissions, pursuant to the doctrine of *respondeat superior*.

XXIV.

As a result of its negligence, Ochsner Medical Center – Kenner, LLC endangered its patients and the general public, including specifically Petitioners and Baby Giselle, causing the injuries to Baby Giselle as identified herein.

XXV.

As a result of the Defendants' negligence, individually or jointly, Petitioners suffered emotional pain and suffering, loss of consortium damages for the impact of their daughter's disabilities, past and future medical expenses for their daughter's care and needs, and other related expenses.

XXVI.

As a result of the Defendants' negligence, individually or jointly, Baby Giselle has suffered and will continue to suffer loss of enjoyment of life, mental anguish, physical pain and suffering, disfigurement, embarrassment and humiliation, and other harms, likely for the duration of her life.

XXVII.

In the alternative to the general damages noted above, Baby Giselle lost the chance of a better medical outcome.

XXVIII.

As a result of the Defendants' negligence, individually or jointly, Dina Ramirez has suffered and will continue to suffer loss of enjoyment of life, mental anguish, physical pain and suffering, disfigurement, embarrassment and humiliation, past medical expenses for her own care, and other harms, likely for the duration of her life.

XXIX.

In the alternative to the general damages noted above, Dina Ramirez lost the chance of a better medical outcome.

WHEREFORE, petitioners, Wilfredo Antonio Rivera and Dina Ramirez, individually on behalf of their minor child, Giselle Ramirez, respectfully pray that defendants, Ochsner Medical Center – Kenner, L.L.C. and Kevin Govan Work, be cited and served with a copy of this petition, and be required to answer within the delays allowed by law, and after all legal delays and due

proceedings are had, there be judgment herein in favor of Petitioners and against Defendants, in an amount reasonable in the premises, plus all costs of these proceedings, as well as legal interest due until paid, and for all other general and equitable relief to which petitioner may be entitled, in law, equity, or otherwise.

Respectfully submitted,

BIALOUS LAW FIRM, L.L.C.



TODD J. BIALOUS (#26201)

1100 Poydras St., Suite 2900

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Facsimile: (504) 910-9008

Email: tbialous@bialouslawfirm.com

PLEASE SERVE:

Ochsner Medical Center – Kenner, L.L.C.

Through its registered agent:

Pete November

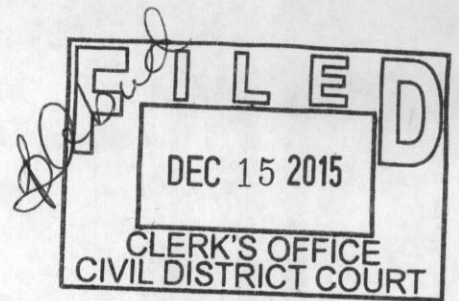
1514 Jefferson Highway

New Orleans, LA 70121

Kevin Govan Work

3316 Canal Street

New Orleans, LA 70119



CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

DOCKET NO.

SECTION

DIVISION “ ”

WILFREDO ANTONIO RIVERA AND DINA RAMIREZ, INDIVIDUALLY AND ON
BEHALF OF THEIR MINOR CHILD, GISELLE RAMIREZ

VERSUS

OCHSNER MEDICAL CENTER – KENNER, L.L.C. AND KEVIN GOVAN WORK

FILED: _____
DEPUTY CLERK

REQUEST FOR NOTICE

NOW INTO COURT, through undersigned counsel, come Wilfredo Antonio Rivera and Dina Ramirez, individually on behalf of their minor child, Giselle Ramirez, who make the following Request for Notice:

I.

Pursuant to Louisiana Code of Civil Procedure Article 1572, Petitioners request written notice ten (10) days in advance of the date fixed for trial or hearing of any exceptions, motions, and rules on the merits of the above-captioned suit.


II.

Pursuant to Louisiana Code of Civil Procedure Articles 1913 and 1914, Petitioners request immediate notice of all interlocutory and final orders and judgments on any exceptions, motions, and rules on the merits of the above-captioned suit.

WHEREFORE, Petitioners request that they be provided with the above notices.

Respectfully submitted,

BIALOUS LAW FIRM, L.L.C.



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Attorneys for Petitioners

VERIFIED
Office of the Clerk of Court
12/18/2015

CLERK OF CIVIL DISTRICT COURT
421 Loyola Avenue, Rm. 402
New Orleans, LA 70112



Dale N. Atkins
CLERK OF COURT

Telephone: (504) 407-0000
Fax: (504) 592-9128
Email: cdcclerk@orleanscdc.com

FACSIMILE TRANSMISSION CONFIRMATION

TO: Todd Bina Lou

FROM: HON. DALE N. ATKINS
CLERK, CIVIL DISTRICT COURT

DATE: 12-15-15 TIME: _____ FAX #: 910-9008

DATE PLEADING FILED: 12-15-15

DEPUTY CLERK: Thomas C. Gues, Jr.

FAX FEE: \$5.00 FILING FEE: \$ 504.00 + 20.00

EXTRA PAGES: \$ 20.00 TOTAL FEE DUE: \$ 539.00

CASE TITLE: Wilfredo Antonio Rivea

VERSUS

Ochsner Medical Center

CASE NUMBER: 15-11832 DIVISION: J-5

COMMENTS: Petition

IN ACCORDANCE WITH L.S.A.R.S. 13:850, THE FOLLOWING MUST BE RECEIVED WITHIN SEVEN (7) DAYS EXCLUSIVE OF LEGAL HOLIDAYS FOR THE FACSIMILE FILING TO HAVE THE FULL FORCE AND EFFECT. (eff. 8-1-12)

1. THE ORIGINAL DOCUMENT MUST BE SIGNED.
2. ALL APPLICABLE FILING FEES MUST BE RECEIVED WITH THE ORIGINAL.
3. AN ADDITIONAL \$5.00 FACSIMILE TRANSMISSION FEE MUST BE ENCLOSED FOR EACH DOCUMENT TRANSMITTED PLUS AN ADDITIONAL \$2.50 PER PAGE FOR TRANSMISSIONS IN EXCESS OF TWO (2) PAGES.

- IN FORMA PAUPERIS APPLICANTS, FEDERAL, STATE, AND LOCAL AGENCIES ARE NOT EXEMPT.

pd
#539.00
12-16-15
[Signature]

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12-16-15