

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____ x
[REDACTED], an infant by her mother
& natural guardian, [REDACTED]
Individually,

Plaintiffs,

-against-

NEW YORK CITY HEALTH & HOSPITALS
CORPORATION, BELLEVUE HOSPITAL CENTER,
Yael ANTEBI, M.D., MIRIAM CREMER, M.D.,
M. HOPE, M.D. and A. DULAY, M.D.,

Defendants.

VERIFIED COMPLAINT

Index No.: 100234/07

Date Filed: JAN 08 2007

_____ x
Plaintiffs, above named, by their attorneys, FIGMAN & EPSTEIN, L.L.P.,
complaining of the defendants herein, respectfully show to this Court and allege as
follows, upon information and belief:

AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF INFANT PLAINTIFF ISABEL SLAUGHTER PENA:

FIRST: Defendant NEW YORK CITY HEALTH & HOSPITALS
CORPORATION, hereinafter referred to as "NYCHHC", was and still is body corporate
and politic constituting a public benefit corporation, duly-organized and existing under
and by virtue of the laws of the State of New York.

SECOND: At all times hereinafter mentioned, defendant NYCHHC owned
and operated a municipal general hospital known as BELLEVUE HOSPITAL CENTER,
said hospital being duly accredited as such by the State of New York and having a

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principal place of business at First Avenue and East 27th Street, New York, New York.

THIRD: Defendant NYCHHC, its agents, servants and/or employees, through its division known as BELLEVUE HOSPITAL CENTER, provided certain medical and hospital services, including, but not limited to, obstetrical, gynecological and surgical services.

FOURTH: That the plaintiffs herein have complied with all of the conditions precedent to the bringing of this action and in particular have on or about February 14, 2006, and within ninety (90) days after the causes of action herein had accrued, duly served upon defendant NYCHHC a Notice of Claim and Intention to Sue.

FIFTH: That on May 10, 2006, an oral examination pursuant to Section 50-H of the General Municipal Law was conducted of plaintiff [REDACTED] by defendant NYCHHC.

SIXTH: That no pre-suit physical examination was requested by defendant NYCHHC and, as such, has been waived.

SEVENTH: That more than thirty (30) days have elapsed since the presentation of the said Notice of Claim, and the claim remains unadjusted, defendant NYCHHC having wholly failed, neglected and refused to make adjustment of same.

EIGHTH: That this action is commenced with one (1) year and ninety (90) days of these causes of action having accrued.

NINTH: Defendant YAEL ANTEBI, M.D. was and still is a medical doctor duly licensed to practice medicine in the State of New York, with a specialty in the field of

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Obstetrics/Gynecology.

TENTH: At all times hereinafter mentioned, defendant YAEL ANTEBI, M.D. was an agent, servant and/or employee of defendant NYCHHC and was acting within the scope of and/or during the course of said employment.

ELEVENTH: Defendant MIRIAM CREMER, M.D. was and still is a medical doctor duly licensed to practice medicine in the State of New York, with a specialty in the field of Obstetrics/Gynecology.

TWELFTH: At all times hereinafter mentioned, defendant MIRIAM CREMER, M.D. was an agent, servant and/or employee of defendant NYCHHC and was acting within the scope of and/or during the course of said employment.

THIRTEENTH: Defendant M. HOPE, M.D. was and still is a medical doctor duly licensed to practice medicine in the State of New York, with a specialty in the field of Obstetrics/Gynecology.

FOURTEENTH: At all times hereinafter mentioned, defendant M. HOPE, M.D. was an agent, servant and/or employee of defendant NYCHHC and was acting within the scope of and/or during the course of said employment.

FIFTEENTH: Defendant A. DULAY, M.D. was and still is a medical doctor duly licensed to practice medicine in the State of New York, with a specialty in the field of Obstetrics/Gynecology.

SIXTEENTH: At all times hereinafter mentioned, defendant A. DULAY, M.D. was an agent, servant and/or employee of defendant NYCHHC and was acting within

the scope of and/or during the course of said employment.

SEVENTEENTH: From on or about September, 2005 through on or about December 16, 2005, plaintiff [REDACTED] was a patient of and was medically cared for and treated by defendants NEW YORK CITY HEALTH & HOSPITALS CORPORATION, BELLEVUE HOSPITAL CENTER, YAEL ANTEBI, M.D., MIRIAM CREMER, M.D., M. HOPE, M.D. and A. DULAY, M.D., their agents, servants and/or employees.

EIGHTEENTH: During the aforesaid times, while plaintiff, [REDACTED] was a patient of defendants, their agents, partners, servants, and/or employees, said defendants departed from accepted and proper medical, hospital and obstetrical practices and standards, were negligent and committed malpractice upon plaintiff, [REDACTED] and infant plaintiff, [REDACTED] in, amongst other things, failing to timely and properly deliver the infant plaintiff; failing to timely and properly perform a Caesarean Section; in causing, permitting and/or allowing to occur shoulder dystocia; in failing to anticipate the potential for shoulder dystocia based upon prenatal findings; in causing, permitting and/or allowing the infant plaintiff to sustain an Erb's Palsy of the left arm, all without any fault, lack of care or negligence on the plaintiffs' part contributing thereto.

NINETEENTH: As a result of the foregoing, the infant plaintiff, [REDACTED] [REDACTED] was caused to suffer severe and serious personal injuries, neurological damage and pain and suffering and will be required to continue to receive medical care, all of which conditions, injuries and disabilities are claimed to be permanent and lasting in nature, and all to her damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

AS AND FOR A SECOND CAUSE OF ACTION ON
BEHALF OF ISABEL SLAUGHTER PENA, AN INFANT:

TWENTIETH: Plaintiff [REDACTED] repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

TWENTY-FIRST: Upon information and belief, at all times hereinafter mentioned, defendants, their agents, partners, servants and/or employees, failed to disclose to plaintiff, ROSA PENA, the alternatives to and the reasonably foreseeable risks and benefits of the medical treatment hereinbefore mentioned as reasonable medical practitioners under similar circumstances would have disclosed, in a manner permitting the plaintiff to make a knowledgeable evaluation; failed to disclose the risks and hazards of the medical treatment hereinbefore set forth in a manner that would have permitted plaintiff to make a knowledgeable decision regarding the medical treatment; and had defendants disclosed the alternatives to and the risks and benefits of said medical treatment, plaintiff, as a reasonable person, would not have undergone said medical treatment; and the failure of defendants, their agents, servants, partners and/or employees, to obtain an informed consent was a proximate cause of the injuries sustained by infant plaintiff, [REDACTED], herein; that in failing to obtain plaintiff's informed consent in the manner set forth above, defendants, their agents, servants, partners and/or employees violated the provisions of Public Health Law, Section 2805-d (1) and (3).

TWENTY-SECOND: By reason of the foregoing, the infant plaintiff, [REDACTED] [REDACTED], was caused to suffer and sustain, without any fault, lack of care or negligence on her part contributing thereto, serious personal injuries, all to her damage in a sum

of money exceeding the monetary jurisdictional limits of all lower courts.

AS AND FOR A THIRD CAUSE OF ACTION
ON BEHALF OF ROSA PENA:

TWENTY-THIRD: Plaintiff repeats, reiterates and realleges each and every allegation contained hereinabove with the same force and effect as if hereinafter set forth at length.

TWENTY-FOURTH: At all times hereinafter mentioned, plaintiff, [REDACTED], was and is the natural mother and natural and legal guardian of the infant plaintiff, [REDACTED]

TWENTY-FIFTH: As a result of the departures, aforesaid negligence and malpractice by the defendants herein, their agents, servants and/or employees, plaintiff, [REDACTED], has lost and been deprived of the services of the infant plaintiff, [REDACTED], has been required to provide nursing and other care and chores, has been caused to expend and/or been obligated to expend sums of money for the infant plaintiff's medical care and treatment, all to her damage in a sum of money exceeding the monetary jurisdiction of all lower courts.

STATEMENT REGARDING ARTICLE 16 OF THE
CIVIL PRACTICE LAW AND RULES:

One of more of the exceptions set forth in Article 16 of the CPLR apply to one or more of the causes of action herein, such that defendants are jointly and severally liable with all other tortfeasors, whether parties to this action or not.

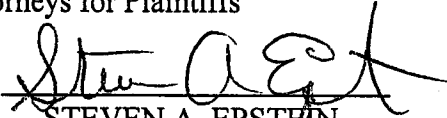
WHEREFORE, infant plaintiff, [REDACTED], an infant, by her mother and natural guardian, [REDACTED], demands judgment against the defendants herein, in the First and Second Causes of Action in sums of money exceeding the monetary jurisdictional limits of all lower Courts, and plaintiff, [REDACTED], individually, demands judgment against the

defendants herein in the Third Cause of Action in a sum of money exceeding the monetary jurisdictional limits of all lower Courts, together with interest, costs and disbursements of this action.

Yours, etc.

FIGMAN & EPSTEIN, L.L.P.
Attorneys for Plaintiffs

BY:

A handwritten signature in black ink, appearing to read "Steven A. Epstein", written over a horizontal line.

STEVEN A. EPSTEIN

Office & P.O. Address
11 Broadway, Suite 868
New York, New York 10004
(212) 248-7800

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____^x
[REDACTED], an infant by her mother
& natural guardian, [REDACTED]
Individually,

Plaintiffs,

-against-

Certificate of Merit

Index No.: _____

NEW YORK CITY HEALTH & HOSPITALS
CORPORATION, BELLEVUE HOSPITAL CENTER,
Yael ANTEBI, M.D., MIRIAM CREMER, M.D.,
M. HOPE, M.D. and A. DULAY, M.D.,

Defendants.

_____^x

STEVEN A. EPSTEIN, ESQ., an attorney duly admitted to practice before the Courts of
the State of New York, affirms the following to be true under penalty of perjury:

I am a member of FIGMAN & EPSTEIN, LLP, attorneys for the plaintiffs in the within
matter, and I am fully familiar with all of the facts and circumstances heretofore had herein.

Your affirmant has reviewed the facts of this matter, and has consulted with a physician
about the case, and I have concluded on the basis of such review and consultation that there is a
reasonable basis for the commencement of an action.

Dated: New York, New York
January 5, 2007



STEVEN A. EPSTEIN

ATTORNEY'S VERIFICATION

STEVEN A. EPSTEIN, an attorney duly admitted to practice before the Courts of the State of New York affirms the following to be true under penalty of perjury:

That he is the attorney for the plaintiffs in the within action.

That he has read the within **VERIFIED COMPLAINT** and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters, he believes it to be true.

That the sources of his information and knowledge are investigations and records on file.

That the reason his verification is made by deponent, and not by the plaintiffs, is that the plaintiffs are not within the County where the attorney has his office.

Dated: New York, New York
January 5, 2007


STEVEN A. EPSTEIN

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.: 100234/07

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-against-

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BELLEVUE HOSPITAL CENTER, YAEL ANTEBI, M.D.,
MIRIAM CREMER, M.D., M. HOPE, M.D. and A. DULAY, M.D.

Defendants.

SUMMONS and VERIFIED COMPLAINT

FIGMAN & EPSTEIN, LLP
Attorneys for Plaintiffs
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New York, New York 10004
(212) 248-7800

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Defendants.

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SUPREME COURT OF THE STATE OF NEW YORK
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[REDACTED] an infant by her mother
& natural guardian, [REDACTED]
Individually,
Plaintiffs,

Date Filed: JAN 08 2007

Plaintiff designates
NEW YORK
County as the place of trial

-against-

The basis of venue is
Place of Occurrence

NEW YORK CITY HEALTH & HOSPITALS
CORPORATION, BELLEVUE HOSPITAL CENTER,
Yael ANTEBI, M.D., [REDACTED], M.D.,
M. HOPE, M.D. and A. DULAY, M.D.,

SUMMONS

Plaintiff resides at 804
Ashford Street, Apt. 2D
Brooklyn, New York 11207

Defendants.

-----X
To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: New York, New York
January 5, 2007

Defendants' Address:

NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, 125 Worth Street, Suite 514,
New York, New York 10013.
BELLEVUE HOSPITAL CENTER, First Avenue & 27th Street, New York, New York 10016.
Yael ANTEBI, M.D., c/o BELLEVUE HOSPITAL CENTER, First Avenue & 27th Street, New York, New York 10016.
MIRIAM CREMER, M.D., c/o BELLEVUE HOSPITAL CENTER, First Avenue & 27th Street, New York, New York 10016.
M. HOPE, M.D., c/o BELLEVUE HOSPITAL CENTER, First Avenue & 27th Street, New York, New York 10016.
A. DULAY, M.D., c/o BELLEVUE HOSPITAL CENTER, First Avenue & 27th Street, New York, New York 10016.

2007 JAN - 9 P 12: 22
FOR Miriam Cremer
SSK MANAGEMENT DEP

FIGMAN & EPSTEIN, L.L.P.

BY: Steven A. Epstein
STEVEN A. EPSTEIN

Attorney(s) for Plaintiff(s)
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OCT 21 2010

**NEW YORK
COUNTY CLERK'S OFFICE
JAN 08 2007**

**NOT COMPARED
WITH COPY FILED**