

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

AKARRI JONES, a minor, by and
through his Parents and Next Friends,
BRITTANY COOLEY and PAUL JONES
811 Mt. Holly Street
Baltimore, Maryland 21229

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and

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BRITTANY COOLEY, Individually
811 Mt. Holly Street
Baltimore, Maryland 21229

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and

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PAUL JONES, Individually
811 Mt. Holly Street
Baltimore, Maryland 21229

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Plaintiffs

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Case No. 24C16W5857

v.

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MERCY MEDICAL CENTER, INC.
301 Saint Paul Place
Baltimore, Maryland 21202

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Serve On:
Linda Jones
218 N. Charles St., Suite 400
Baltimore, Maryland 21201

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And

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YVES-RICHARD DOLE, M.D.
315 N. Calvert Street, 2nd Floor
Baltimore, Maryland 21202

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And

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STEVEN W. TUCKER, M.D.
301 St. Paul Place, Suite 501
Baltimore, Maryland 21202

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FILED
2024 OCT 10 10:00 AM
CLERK OF COURT

Defendants

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COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, Akarri Jones, a minor, by and through his parents and next friends, Brittany Cooley and Paul Jones, Brittany Cooley, Individually, and Paul Jones, Individually, by and through their undersigned counsel, Keith D. Forman, Christopher S. Norman, and Wais, Vogelstein, Forman & Offutt, LLC, hereby sue Yves-Richard Dole, M.D., Steven W. Tucker, M.D., and Mercy Medical Center, Inc., and their agents and/or employees, and for their causes of action state as follows:

1. This medical negligence claim is instituted pursuant to Md. Cts. & Jud. Proc. §§ 3-2A-01 – 3-2A-10, for the recovery of damages in excess of Thirty Thousand Dollars (\$30,000.00).
2. Venue is proper in the Circuit Court for Baltimore City, Maryland.
3. Plaintiffs aver that they have satisfied all conditions precedent to the filing of this lawsuit, including the filing of a Statement of Claim, Certificate of Merit and Expert Report, and Waiver of Arbitration in the Health Care Alternative Dispute Resolution Office. The Plaintiffs hereby attach and incorporate by reference the Certificate of Qualified Expert and Expert Report of John P. Elliott, M.D.
4. Defendant Mercy Medical Center, Inc. (“Mercy”) is, and at all times relevant hereto was, a Maryland corporation engaged in the business of providing health care services to individuals in need thereof. At all times relevant hereto, Mercy acted directly and/or by and/or through its actual and/or apparent agents, servants, and/or employees, including, but not limited to, Yves-Richard Dole, M.D., Steven Tucker, M.D., Cescili Hopkins, M.D., Latasha Murphy, M.D., Julie Lubsky, M.D., Megan Donovan, PA-C, Dennis Abigail, M.D., Julie Hurvitz, M.D., Sarah Lynam, M.D., and Laura Young, M.D.

5. Defendant Healthcare Provider Yves-Richard Dole, M.D. is, and at all times relevant hereto was, a physician licensed to practice medicine in the State of Maryland. At all times relevant hereto, Dr. Dole acted individually and/or as the actual and/or apparent agent, servant and/or employee of Mercy.

6. Defendant Healthcare Provider Steven W. Tucker, M.D. is, and at all times relevant hereto was, a physician licensed to practice medicine in the State of Maryland. At all times relevant hereto, Dr. Tucker acted individually and/or as the actual and/or apparent agent, servant and/or employee of Mercy.

7. Ms. Cooley presented to the Center for Advanced Fetal Care on June 16, 2015. Fetal activity was present, and the fetal heart rate was noted to be 152 bpm. Amniotic fluid level was normal, and the placenta was anterior, with no previa. Fetal anatomy was visualized, and was noted to be normal. No measurable cervix was noted on transvaginal exam, and the providers documented that "internal os appears to be 3 cm dilated." The provider documented that the findings and clinical implications were discussed with Ms. Cooley, and with her physician, Dr. Hopkins, by telephone. Ms. Cooley was sent to labor and delivery for evaluation for preterm labor. The provider documents "recommend repeat eval for cervical length assessment in 1 week."

8. As instructed, Ms. Cooley presented to the labor and delivery unit at Mercy Medical Center at approximately 2:30 p.m. on June 16, 2015. She was noted to be 23 5/7 days pregnant at the time. The records from this admission indicate that, upon arrival to the hospital, a digital cervical exam revealed that she was 3 cm dilated and 90% effaced, in the -2 station. Her obstetrical history was noted to be significant for three therapeutic abortions, but later notes one spontaneous abortion. The reason for admission is noted to be "dilation and bulging bag."

9. Uterine activity was assessed on the hour throughout this admission, and the providers consistently document “no contractions, relaxed” and “irritability” noted rarely. The fetal status was also noted to be category I and II throughout the admission.

10. Dr. Latasha Murphy (a 4th year resident, who evaluated Ms. Cooley in conjunction with Dr. Cescili Hopkins) performed a cervical exam at 3:13 p.m., and documented her findings as follows: 3/90/-4. At 3:43 p.m., Dr. Murphy documents that Ms. Cooley reported weeks of feeling the fetus “ball up” multiple times an hour, but that she denied vaginal pressure, etc. Dr. Murphy’s plan was to “admit to labor and delivery, bedrest, mag and betamethasone, mag for tocolysis.”

11. Dr. Murphy goes on to document “as of now, not a candidate for cerclage secondary to the fact that she is contracting and she is 23.5 wga.” Dr. Murphy documents that she discussed her plan with Dr. Hopkins and Dr. [Yves-Richard] Dole.

12. The first dose of betamethasone was administered at 4 p.m. Magnesium sulfate was initiated at 5 p.m. At approximately 9 p.m., the providers document that Ms. Cooley “still feels the baby ‘balling up,’ but nothing she would describe as contractions.” Of note, at this time magnesium sulfate had been started, there were no contractions noted on the tocometer, and Ms. Cooley, who had given birth twice previously, did not report feeling contractions during this admission.

13. A fetal fibronectin test was ordered by Dr. Murphy at 17:00, but was apparently cancelled one hour later.

14. Dr. Lubsky performed a cervical exam at approximately 3:45 a.m. on June 17, 2015, at which time she documented her findings as follows: 2.5/50/-4. At 4 a.m., Dr. Lubsky documented “at this time, no s/s of advancing preterm labor.”

15. At approximately 2 p.m., PA-C Megan Donovan documented "consider discontinuing mag as pt is not contracting." Indocin was started at 9 a.m. The second dose of betamethasone was administered that afternoon. The mag was turned down at 3:45 p.m. At approximately 4 p.m., Dr. Shahrukh Chaudhary documented that the providers would continue the magnesium sulfate for neuroprotection. At that time, the providers documented that no contractions were appreciated on the tocometer. The attending at the time was noted to be Yves-Richard Dole, M.D., who agreed with the resident's assessment and plan.

16. Orders were placed at 8:41 for Ms. Cooley to start a regular diet the next morning (she was previously NPO), and to stop the magnesium sulfate.

17. Ms. Cooley was evaluated at 5:31 a.m. on June 18, 2015 by Dr. Julie Hurvitz and Dr. Dennis Abigail (who was then noted to be Ms. Cooley's attending). The providers documented that there was no evidence of advancing pre-term labor, however, given the early gestation and advanced cervical dilation and high risk for preterm delivery, the decision was made to maintain inpatient admission, at least through the weekend. Again, it is documented that Ms. Cooley had no complaints, and no contractions were noted on the monitor. A repeat cervical exam was performed by Dr. Murphy at 12:24 p.m., the results of which were documented to be 3/50/high (unchanged). Ms. Cooley was again noted to be asymptomatic, and the plan was to transfer her to MBU when a bed became available. This afternoon/evening, membranes were still intact, Ms. Cooley states that she was not feeling any contractions, and the providers document "pt able to come off monitors."

18. During the morning of June 19, Ms. Cooley was cared for by Dr. Jennifer Lin and Sara Rankin (attending). At 6:31 a.m., it is documented that she was resting comfortably with no complaints. At 8:42 a.m., a nurse documents that Ms. Cooley reported feelings something bulgy in her vagina after having a bowel movement. She denied loss of fluid, bleeding, pelvic pain, or

contractions. A repeat exam at 8:48 showed cervical dilation of 3 cm (unchanged), and a bulging bag (unchanged). The nurse documented that "strict bedrest was discussed with pt."

19. An exam was performed by Dr. Rankin at approximately 9:20 a.m. An SVE was performed, which showed membranes extending 1 cm beyond the external os. No pooling, fluid, bleeding, or lesions were noted. The plan was for strict bedrest, and to resume continuous monitoring and mag sulfate. The fetal status remained reassuring.

20. At 6:10 p.m. on June 19, Ms. Cooley was noted to be sitting up eating dinner. At 6:18 p.m. she reported lower uterine cramping – this was the first time that pain or cramping was reported during this admission. Orders were given to increase the magnesium sulfate, but the providers were later told to "hold off on increasing mag." At 6:26 p.m., it is noted that Ms. Cooley was "up to bathroom."

21. Dr. Sarah Lynam performed a cervical exam at approximately 8 p.m., which was reported as follows: 3/50/high. It is noted that Ms. Cooley had a "partial bath" at around this time.

22. The magnesium sulfate was discontinued at 9 p.m.

23. At 5:12 a.m. on June 20, Ms. Cooley was without complaints. She saw some dark spotting with wiping after urination, but her cramping had resolved. Repeat cervical exam was unchanged x4 per Dr. Hurvitz.

24. At 9:11 a.m. on June 20, Ms. Cooley told her nurse that she was feeling contractions and having an urge to have a bowel movement. This was the first time during this admission that Ms. Cooley, who had given birth twice previously, reported contractions. Dr. Chaudhary was notified.

25. At 9:33 a.m. the providers note the presence of a bulging bag and no remaining cervix - Dr. Perkins and the NICU staff were called to the bedside. Ms. Cooley's membranes

spontaneously ruptured at 9:45 a.m. – the fluid was clear and without odor. By 9:48 a.m. the providers documented that the baby was lying transversely, and the decision was made to proceed to a cesarean section.

26. Akarri Jones was 670 grams (1 lb and 7.6 ounces) at birth. His APGARS were 3 and 8. He was intubated for surfactant administration and admitted to the NICU on a ventilator. Akarri suffered from significant respiratory distress syndrome, infections/sepsis, hypotension, shock, metabolic acidosis, patent ductus arteriosus, patent foramen ovale, spontaneous intestinal perforation, anemia and other conditions necessitating at least twelve blood product transfusions, and jaundice, among other things. He was maintained on a fentanyl drip, morphine sulfate, and versed for pain and sedation.

27. A neonatal head ultrasound was ordered on June 22, 2015, the indication for which was noted to be “prematurity, intraventricular hemorrhage.” The impression was of right-sided germinal matrix hemorrhage, an intraventricular component of which could not be excluded. A hypoechoic area was also noted in the left germinal matrix, which was noted to be compatible with old/involved hemorrhage. A repeat head ultrasound was performed on June 29, which was reported to show bilateral grade 1 hemorrhages with little interval change on the left except the left germinal matrix cystic space was slightly more hyperechoic. Another head ultrasound was performed on July 6, which was reported to show an evolving left germinal matrix hemorrhage, and no significant abnormality of the right germinal matrix. A repeat head ultrasound was performed on July 13, 2015, the impression of which is documented as “continued evolution of the changes on the left with slightly larger cystic space adjoining the left frontal horn.” On July 23, 2015, another head ultrasound was performed, which showed cystic changes in the bifrontal periventricular white matter, corresponding to the areas of prior hemorrhage.

28. Akarri remained in the NICU at Mercy until July 24, 2015, when he was transferred to the University of Maryland, and then to the Mount Washington Pediatric Hospital for continued care.

29. Ms. Cooley had a post-partum visit with Dr. Steven Tucker on July 15, 2015. Dr. Tucker documented that Ms. Cooley “delivered at 24 weeks due to short cervix with prolapsed membranes per pt.” Dr. Tucker documented that Ms. Cooley had a “disorder of the uterine cervix”, among other things. He also documented that Ms. Cooley was aware of the role of cerclage in future pregnancies at 14-16 weeks.

Count I
(Medical Malpractice – Minor’s Claim)

30. Plaintiffs repeat, re-allege, adopt, and incorporate by reference the above paragraphs of this Complaint as if fully set forth herein.

31. In their care and treatment of Brittany Cooley and Akarri Jones, the Defendants, acting directly and/or by and/or through their actual and/or apparent agents, servants, and/or employees, owed to the Plaintiffs the duty to exercise that degree of care and skill which a reasonably competent hospital, nurse, obstetrician, and/or similar health care provider would have exercised under the same or similar circumstances.

32. The Defendants, acting directly and/or by and/or through their actual and/or apparent agents, servants, and/or employees, breached the aforesaid duty of care to Brittany Cooley and Akarri Jones, and were negligent by:

- a. Failing to take an appropriately detailed history from Ms. Cooley regarding her gynecological, obstetrical, and general health;

- b. Failing to appropriately assess Ms. Cooley's level of risk for preterm delivery and cervical insufficiency;
- c. Failing to perform a rescue cerclage shortly after Ms. Cooley's presentation to the hospital on June 16, 2015, and otherwise manage her cervical insufficiency;
- d. Failing to appropriately manage Ms. Cooley while on labor and delivery, including, but not limited to, ensuring that she remained on strict bedrest, performing a fetal fibronectin test (which likely would have helped to quickly rule out preterm labor), and appropriately administering and managing magnesium sulfate for neuroprotection;
- e. Failing to otherwise appropriately treat Brittany Cooley and her unborn child;
- f. Failing to maintain adequate and/or appropriate written policies, procedures and/or protocols;
- g. Failing to appropriately follow written policies, procedures and/or protocols;
- h. Failing to appropriately supervision interns, residents, fellows, and other medical providers in training;
- i. And were in other ways negligent.

33. As a direct and proximate result of the above-mentioned deviations from the applicable standards of care by the Defendants, Akarri Jones suffered and/or will suffer the following injuries, among others:

- a. Respiratory distress syndrome;
- b. Infections/sepsis;
- c. Hypotension;
- d. Shock;

- e. Metabolic acidosis;
- f. Patent ductus arteriosus;
- g. Patent foramen ovale;
- h. Spontaneous intestinal perforation;
- i. Anemia and other conditions necessitating at least twelve blood product transfusions;
- j. Jaundice;
- k. Periventricular leukomalacia;
- l. Intraventricular hemorrhage;
- m. Global developmental delay;
- n. Cognitive and mental impairment;
- o. Neurological disabilities;
- p. Physical impairment;
- q. Significant conscious pain and suffering;
- r. Emotional distress;
- s. He is and will be permanently dependent upon others for his care;
- t. He has and will continue to undergo serious and painful medical procedures;
- u. He has and will continue to incur significant medical and other care expenses;
- v. His earning capacity has been severely diminished; and
- w. Other injuries and damages.

WHEREFORE, Plaintiff, Akarri Jones, a minor, by and through his parents and next friends, brings this action against the Defendants and seeks damages that will adequately and fairly compensate him, costs, and such other and further relief as may be deemed appropriate.

Count II
(Medical Malpractice – Parental Claim)

34. Plaintiffs repeat, re-allege, adopt, and incorporate by reference the above paragraphs of this Complaint as if fully set forth herein.

35. As a further direct and proximate result of the above-mentioned deviations from the applicable standard of care by the Defendants, Brittany Cooley and Paul Jones suffered and/or will suffer the following injuries, among others:

- a. They have incurred and will continue to incur substantial expenses for medical treatment and other care of Akarri Jones;
- b. They have suffered and will continue to suffer the loss of services, companionship, labor, assistance, etc. from her child, Akarri Jones; and
- c. They have suffered and will continue to suffer great emotional anguish and pain and suffering as a consequence of the Defendant Health Care Provider's negligence as described above.

WHEREFORE, Plaintiffs, Brittany Cooley and Paul Jones, bring this action against the Defendants and seek damages that will adequately and fairly compensate them, costs, and such other and further relief as may be deemed appropriate.

Count III
(Informed Consent)

36. Plaintiffs repeat, re-allege, adopt, and incorporate by reference the above paragraphs of this Complaint as if fully set forth herein.

37. The Defendants, acting directly and/or by and/or through their actual and/or apparent agents, servants, and/or employees, owed the Plaintiffs the duty to appropriately notify

Brittany Cooley of the various alternatives and material risks involved in the various modalities of treatment given her specific presentation.

38. The Defendants, acting by directly and/or by and/or through their actual and/or apparent agents, servants, and/or employees, failed to adequately and appropriately obtain informed consent from Brittany Cooley regarding her presentation, and their chosen course of treatment.

39. Had the Defendants appropriately counseled and informed Brittany Cooley of the material risks, benefits and alternatives of the various treatment options and courses of treatments given her presentation, Brittany Cooley, like any reasonable person, would have elected to undergo a cerclage in a timely, efficient, and definitive manner.

40. As a direct and proximate result of the Defendants failure to properly obtain informed consent, by and through their actual and/or apparent agents, servants and/or employees, the Plaintiffs have suffered the injuries described in Counts I and II above.

WHEREFORE, Plaintiffs, Akarri Jones, a minor, by and through his parents and next friends, Brittany Cooley and Paul Jones, Brittany Cooley, Individually, and Paul Jones, Individually, bring this action against the Defendants and seek damages that will adequately and fairly compensate them, costs, and such other and further relief as may be deemed appropriate.

Respectfully submitted,

WAIS, VOGELSTEIN, FORMAN & OFFUTT, LLC

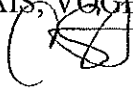


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DEMAND FOR JURY TRIAL

The Plaintiffs, by and through undersigned counsel, hereby demand a trial by jury on all issues raised herein.

WAIS, VOGELSTEIN, FORMAN & OFFUTT, LLC



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