

ALICIA T. COOPER
3941 Dudley Avenue
Baltimore, Maryland 21213

and

MAJOR PAYNE, V
3941 Dudley Avenue
Baltimore, Maryland 21213

Plaintiffs

v.

ROBERT O. ATLAS, M.D.
345 Saint Paul Place
Baltimore, Maryland 21202

and

UNIVERSITY OF MARYLAND
OBSTETRICAL AND
GYNECOLOGICAL ASSOCIATES, P.A.
250 West Pratt Street, Suite 880
Baltimore, Maryland 21201

Serve on Resident Agent:
Adrian Bergin, Senior Administrator
250 West Pratt Street, Suite 880
Baltimore, Maryland 21201

and

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

Serve on Resident Agent:
Linda H. Jones
218 North Charles Street, Suite 400
Baltimore, Maryland 21201

Defendants

IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

Case No.:

24-C-16-004217

FILED
JUL 27 AM 10:09
CIVIL DIVISION

Case: 24-C-16-004217	
CV File No	
RIF-how Case	\$40.00
Appear Fee	\$40.00
MLSC	\$40.00
TOTAL	\$160.00

Receipt #20160014373
Cashier: RBJ CLBCX02
07/28/16 914016

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COMPLAINT

COUNT I

COMES NOW the Plaintiff, Alicia T. Cooper, by her attorneys, Jonathan Schochor, Philip C. Federico, and Schochor, Federico and Staton, P.A. and sues, Robert O. Atlas, M.D., University of Maryland Obstetrical and Gynecological Associates, P.A., and Mercy Medical Center, Inc., Defendants:

1. At all times of which the Plaintiff complains, the Defendant Robert O. Atlas, M.D. (hereinafter referred to as "Atlas") represented to the Plaintiff and the public that he possessed the degree of skill, knowledge and ability possessed by reasonably competent medical practitioners, practicing under the same or similar circumstances as those involving the Plaintiff and Minor Plaintiff.

2. The Plaintiff alleges that the Defendant Atlas herein, including duly authorized agents and/or employees of the Defendant Hospital, owed to the Plaintiff the duty to exercise the degree of care, skill and judgment expected of a competent medical practitioner acting in the same or similar circumstances, which duty included the performance of adequate and proper diagnostic tests and procedures to determine the nature and severity of the Plaintiff's condition, careful diagnosis of such condition, employment of appropriate procedures, surgery and/or treatment to correct such conditions without injury upon the Plaintiff, continuous evaluation of the Plaintiff's condition and the effects of such treatment, and adjustment of the course of treatment in response to such ongoing surveillance and evaluation -- all of which the Defendants failed to do.

3. The Defendant was negligent in that he failed to employ appropriate treatment, surgery, tests and/or procedures, failed to carefully and thoroughly evaluate the Plaintiff's condition, failed to properly and appropriately diagnose the Plaintiff's condition, failed to

thoroughly evaluate the effects and results of any tests and/or procedures performed, failed to properly evaluate the effects of chosen treatment, failed to adjust the Plaintiff's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Plaintiff's condition and treatment, failed to employ adequate and proper diagnostic procedures and/or tests to determine the nature and extent of the Plaintiff's condition, and was otherwise negligent.

4. The Plaintiff alleges that the Defendant University of Maryland Obstetrical and Gynecological Associates, P.A., through its agents, servants and employees, owed to the Plaintiffs a duty to exercise a degree of care, skill and judgment expected of a competent medical corporation acting in the same or similar circumstances, which duty included the performance of adequate and proper diagnostic tests and procedures to determine the nature and severity of the Plaintiff's condition, careful diagnosis of such condition, employment of appropriate procedures, tests, surgery and/or treatment to correct such conditions without inflicting injury upon the Plaintiff, continuous evaluation of the Plaintiff's condition and effects of such treatment, and the adjustment of the course of treatment in response to ongoing surveillance and evaluation -- all of which the Defendant failed to do.

5. The Defendant University of Maryland Obstetrical and Gynecological Associates, P.A., through its agents, servants and/or employees, was negligent in that it failed to employ appropriate treatment, surgery and/or procedures, failed to carefully and thoroughly evaluate the Plaintiff's condition, failed to thoroughly evaluate the effects and results of any tests, treatment and/or procedures performed, failed to adjust the Plaintiff's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Plaintiff's condition and treatment, failed to employ adequate and proper diagnostic procedures and/or tests

to determine the nature and extent of the Plaintiff's condition, failed to diagnose the Plaintiff's condition and was otherwise negligent.

6. The Plaintiff alleges that the Defendant Mercy Medical Center, Inc. (hereinafter referred to as "Hospital"), through its agents, servants and employees, owed to the Plaintiff a duty to exercise a degree of care, skill and judgment expected of a competent medical corporation acting in the same or similar circumstances, which duty included the performance of adequate and proper diagnostic tests and procedures to determine the nature and severity of the Plaintiff's condition, careful diagnosis of such condition, employment of appropriate procedures, tests, surgery and/or treatment to correct such conditions without inflicting injury upon the Plaintiff, continuous evaluation of the Plaintiff's condition and effects of such treatment, and the adjustment of the course of treatment in response to ongoing surveillance and evaluation -- all of which the Defendant failed to do.

7. The Defendant Hospital, through its agents, servants and/or employees, was negligent in that it failed to employ appropriate treatment, surgery and/or procedures, failed to carefully and thoroughly evaluate the Plaintiff's condition, failed to thoroughly evaluate the effects and results of any tests, treatment and/or procedures performed, failed to adjust the Plaintiff's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Plaintiff's condition and treatment, failed to employ adequate and proper diagnostic procedures and/or tests to determine the nature and extent of the Plaintiff's condition, failed to diagnose the Plaintiff's condition and was otherwise negligent.

8. At all times referred to herein, the Defendant Atlas acted for himself and as a duly authorized agent and/or employee of the Defendant University of Maryland Obstetrical and

Gynecological Associates, P.A. and/or the Defendant Hospital, acting within the scope of his authority.

9. As the direct and proximate result of the continuing negligence of these Defendants and each of them, the Plaintiff's child was permitted to be born in a severely injured and disabled condition, resulting in ongoing physical pain, emotional anguish as well as fear and anxiety on behalf of the Plaintiffs in addition to the millions of dollars which will be expended by the Plaintiff for the ongoing specialized care and treatment of the child.

10. It is alleged that on May 2, 2011, the Plaintiff, Alicia T. Cooper, was pregnant with twins and presented to the Defendant Hospital for specialized care and treatment to be provided by these Defendants. On May 2, 2011, at 10-3/7 weeks gestation, she underwent an ultrasound at the Defendant Hospital and came under the care of the Defendant Atlas. At all times referred to herein, the Defendant Atlas acted as a specialist in maternal fetal medicine, and was in charge of her care with respect to the ongoing twin pregnancy.

11. It is alleged that on June 28, 2011, the Plaintiff returned to the Defendant Hospital for an additional ultrasound. It is asserted that the ultrasound study completed on that date was significantly abnormal. Specifically, it is asserted that Baby B (Kennedy) had a head circumference that was significantly under the normal, projected circumference. Additionally, the biparietal diameter was significantly abnormal. It is alleged that the standards of care required the Defendant Atlas, as well as other hospital personnel, to note the abnormalities on the ultrasound, which they negligently failed to do. Additionally, it is alleged that the Plaintiff should have undergone additional studies (i.e., magnetic resonance imaging (MRI) of the baby's brain) for further evaluation which these Defendants negligently failed to do as well. Finally, it

is alleged that these Defendants were required by the standards of care to advise the Plaintiff of the abnormalities, which they failed to do on a continuing basis.

12. It is asserted that as time progressed, additional studies confirmed these Defendants' continuing negligence. Specifically, it is alleged that the Defendant Atlas, and other hospital personnel, continued to fail to obtain tests and studies necessary to further delineate the significant abnormality from which Baby B (Kennedy) continued to suffer. Further, it is alleged that these Defendants and each of them negligently failed to advise the parents (the Plaintiffs) of these significantly abnormal findings and counsel them on their options. It is alleged that the options included a timely selective reduction of this twin pregnancy. It is asserted that beginning on June 28, 2011, and through the remainder of the pregnancy, these Defendants continued to negligently fail to diagnose the significantly decreased head circumference of Twin B, and continued to negligently fail to counsel the parents on terminating the pregnancy.

13. As the result of the ongoing negligence of these Defendants and each of them, the Plaintiff carried the twin pregnancies to term. Accordingly, on October 28, 2011, at approximately 9:10 p.m., Alicia Cooper presented to the Defendant Hospital at 36-6/7 weeks gestation with contractions. The labor continued and at 4:16 a.m, the Plaintiff's child, Kennedy Payne, was born via spontaneous vaginal delivery. Her twin, Courtney, was likewise born via spontaneous vaginal delivery and was normal. It was at the time that Kennedy was born that these Defendants made a diagnosis of microcephaly for the first time. As referred to hereinabove, had these Defendants acted in accordance with the standards of care, the diagnosis would have been made shortly after June 28, 2011.

14. On October 31, 2011, Kennedy was discharged to her home with her parents. Approximately one week later, she began to shake and foam at the mouth. She was rushed back

to the Defendant Hospital and was diagnosed with a severe, developmental malformation of the brain which resulted in athetoid cerebral palsy.

15. Tragically, Kennedy cannot sit up independently, cannot crawl, walk or communicate. Additionally, she requires braces on both feet secondary to bilateral foot drop. She suffers with severe and irreversible brain damage due to her microcephaly which should have been diagnosed beginning on June 28, 2011.

16. It is alleged that Kennedy will not enjoy a normal childhood; will not grow into a normal adult; will not attend normal schools; will not marry; will not be normally educated; and will not take her place as a productive member of society. Rather, it is alleged that due to her severe brain damage due to microcephaly and genetic abnormalities, she will be dependent upon her parents and others for all of her most basic activities for the remainder of her life. She will require specialized care and treatment on a 24/7/365 basis. Further, it is alleged that she and her parents have in the past, are presently, and will in the future continue to suffer with severe physical pain, emotional anguish as well as fear and anxiety over her condition. Additionally, it is alleged that her parents have in the past, are presently, and will in the future continue to incur hospital, surgical, physiotherapeutic, pharmacological, nursing, custodial, and other losses and expenses for which claim is made.

17. It is asserted that had these Defendants acted in accordance with the standards of care, the pregnancy with regard to Twin B would have been terminated on a timely basis, with all of the physical pain, emotional anguish, fear, anxiety, as well as all of the past and present economic loss avoided.

18. The Plaintiff refers to the negligence of these Defendants and each of them as the sole and proximate cause of all of the injuries and damages suffered -- with the Plaintiff being in no way contributorily negligent.

19. The negligence complained of occurred in Baltimore City. Venue is claimed in Baltimore City. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00).



Jonathan Schochor



Philip C. Federico

Schochor, Federico & Staton, PA

Schochor, Federico and Staton, P.A.

The Paulton

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Attorneys for the Plaintiffs

COUNT II

COMES NOW the Plaintiff, Alicia T. Cooper, by her attorneys, Jonathan Schochor, Philip C. Federico and Schochor, Federico and Staton, P.A. and sues, Mercy Medical Center, Inc., Robert O. Atlas, M.D., and University of Maryland Obstetrical and Gynecological Associates, P.A., Defendants:

1. The Plaintiff incorporates in this Count those facts set forth in Count I hereinabove by reference thereto intending that each and every allegation hereinabove be deemed part hereof as if the same were repeated herein.

2. As the direct and proximate result of the ongoing negligence of these Defendants and each of them, the Plaintiff has in the past, is presently, and will in the future continue to incur hospital, surgical, physiotherapeutic, pharmacological, nursing, custodial and other losses and expenses for which claim is made.

3. The negligence complained of occurred in Baltimore City. Venue is claimed in Baltimore City. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00).



Jonathan Schochor



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Attorneys for the Plaintiffs

COUNT III

COMES NOW the Plaintiff, Major Payne, V, by his attorneys, Jonathan Schochor, Philip C. Federico and Schochor, Federico and Staton, P.A. and sues, Mercy Medical Center, Inc., Robert O. Atlas, M.D., and University of Maryland Obstetrical and Gynecological Associates, P.A., Defendants:

1. The Plaintiff incorporates in this Count those facts set forth in Counts I and II hereinabove by reference thereto intending that each and every allegation hereinabove be deemed part hereof as if the same were repeated herein.

2. As the direct and proximate result of the ongoing negligence of these Defendants and each of them, the Plaintiff has in the past, is presently, and will in the future continue to incur hospital, surgical, physiotherapeutic, pharmacological, nursing, custodial and other losses and expenses for which claim is made.

3. The negligence complained of occurred in Baltimore City. Venue is claimed in Baltimore City. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00).



Jonathan Schochor



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Attorneys for the Plaintiffs

ALICIA T. COOPER, et al. : IN THE
Plaintiffs : CIRCUIT COURT
v. : FOR
MERCY MEDICAL CENTER, INC., et al. : BALTIMORE CITY
Defendants : Case No.:

: : : : : : : : : : : :

ELECTION FOR JURY TRIAL

The Plaintiffs in this case elect to try their case before a Jury.



Jonathan Schochor



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Attorneys for the Plaintiffs

WILSON COUNTY
BALTIMORE CITY

2016 JUL 27 AM 10:09

Circuit Court for Baltimore City

City or County

CIVIL - NON-DOMESTIC CASE INFORMATION REPORT

CIVIL DIVISION

DIRECTIONS:
Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a). A copy must be included for each defendant to be served.
Defendant: You must file an Information Report as required by Rule 2-323(h).
THIS INFORMATION REPORT CANNOT BE ACCEPTED AS AN ANSWER OR RESPONSE.

FORM FILED BY: PLAINTIFF DEFENDANT CASE NUMBER _____ (Clerk to insert)

CASE NAME: Cooper, et al. vs. Mercy Medical Center, Inc., et al.
Plaintiff Defendant


JURY DEMAND: Yes No Anticipated length of trial: _____ hours or 10 days
RELATED CASE PENDING? Yes No If yes, Case #(s), if known: _____

Special Requirements? Interpreter (Please attach Form CC-DC-041)
 ADA accommodation (Please attach Form CC-DC-049)

NATURE OF ACTION (CHECK ONE BOX)		DAMAGES/RELIEF	
TORTS <input type="checkbox"/> Motor Tort <input type="checkbox"/> Premises Liability <input type="checkbox"/> Assault & Battery <input type="checkbox"/> Product Liability <input checked="" type="checkbox"/> Professional Malpractice <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Business & Commercial <input type="checkbox"/> Libel & Slander <input type="checkbox"/> False Arrest/Imprisonment <input type="checkbox"/> Nuisance <input type="checkbox"/> Toxic Torts <input type="checkbox"/> Fraud <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Lead Paint <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____	LABOR <input type="checkbox"/> Workers' Comp. <input type="checkbox"/> Wrongful Discharge <input type="checkbox"/> EEO <input type="checkbox"/> Other _____ CONTRACTS <input type="checkbox"/> Insurance <input type="checkbox"/> Confessed Judgment <input type="checkbox"/> Other _____ REAL PROPERTY <input type="checkbox"/> Judicial Sale <input type="checkbox"/> Condemnation <input type="checkbox"/> Landlord Tenant <input type="checkbox"/> Other _____ OTHER <input type="checkbox"/> Civil Rights <input type="checkbox"/> Environmental <input type="checkbox"/> ADA <input type="checkbox"/> Other _____	A. TORTS Actual Damages <input type="checkbox"/> Under \$7,500 <input type="checkbox"/> \$7,500 - \$50,000 <input type="checkbox"/> \$50,000 - \$100,000 <input checked="" type="checkbox"/> Over \$100,000 <input type="checkbox"/> Medical Bills \$ _____ <input type="checkbox"/> Property Damages \$ _____ <input type="checkbox"/> Wage Loss \$ _____	B. CONTRACTS <input type="checkbox"/> Under \$10,000 <input type="checkbox"/> \$10,000 - \$20,000 <input type="checkbox"/> Over \$20,000 C. NONMONETARY <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____ D. EQUITY <input type="checkbox"/> See Addendum

ALTERNATIVE DISPUTE RESOLUTION INFORMATION
Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)
A. Mediation Yes No C. Settlement Conference Yes No
B. Arbitration Yes No D. Neutral Evaluation Yes No

TRACK REQUEST
With the exception of Baltimore County and Baltimore City, please fill in the estimated LENGTH OF TRIAL.
THIS CASE WILL THEN BE TRACKED ACCORDINGLY.
 1/2 day of trial or less 3 days of trial time
 1 day of trial time More than 3 days of trial time
 2 days of trial time

PLEASE SEE PAGE TWO AND THREE OF THIS FORM FOR INSTRUCTIONS PERTAINING TO THE BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM AND COMPLEX SCIENCE AND/OR MEDICAL CASE MANAGEMENT PROGRAM (ASTAR), AS WELL AS ADDITIONAL INSTRUCTIONS IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, BALTIMORE COUNTY, OR PRINCE GEORGE'S COUNTY.
Date 7/26/16 Signature 

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

For all jurisdictions, if Business and Technology track designation under Md. Rule 16-205 is requested, attach a duplicate copy of complaint and check one of the tracks below.

Expedited
Trial within 7 months
of Filing

Standard
Trial within 18 months
of Filing

EMERGENCY RELIEF REQUESTED _____

Signature

Date

**COMPLEX SCIENCE AND/OR MEDICAL CASE
MANAGEMENT PROGRAM (ASTAR)**

*FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO AN ASTAR RESOURCE JUDGE under Md. Rule 16-202.
Please check the applicable box below and attach a duplicate copy of your complaint.*

Expedited - Trial within 7 months of Filing

Standard - Trial within 18 months of Filing

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, BALTIMORE COUNTY, OR PRINCE GEORGE'S COUNTY PLEASE FILL OUT THE APPROPRIATE BOX BELOW.

CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)

- Expedited Trial 60 to 120 days from notice. Non-jury matters.
- Standard-Short Trial 210 days.
- Standard Trial 360 days.
- Lead Paint Fill in: Birth Date of youngest plaintiff _____.
- Asbestos Events and deadlines set by individual judge.
- Protracted Cases Complex cases designated by the Administrative Judge.

CIRCUIT COURT FOR BALTIMORE COUNTY

- Expedited (Trial Date-90 days) Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
- Standard (Trial Date-240 days) Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, International Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
- Extended Standard (Trial Date-345 days) Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
- Complex (Trial Date-450 days) Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

To assist the Court in determining the appropriate Track for this case, check one of the boxes below. This information is not an admission and may not be used for any purpose other than Track Assignment.

- Liability is conceded.
- Liability is not conceded, but is not seriously in dispute.
- Liability is seriously in dispute.

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY ONLY

Section D. Equity Cases — Addendum

<input type="checkbox"/> Accounting	<input type="checkbox"/> Adverse Possession	<input type="checkbox"/> Appointment of a Trustee
<input type="checkbox"/> Assumption of Jurisdiction	<input type="checkbox"/> Authorized Sale	<input type="checkbox"/> Breach of Covenant
<input type="checkbox"/> Constructive Trust	<input type="checkbox"/> Declaratory Judgment (Equity)	<input type="checkbox"/> Declaratory Relief (Equity)
<input type="checkbox"/> Detinue	<input type="checkbox"/> Disciplinary Action	<input type="checkbox"/> Ejectment
<input type="checkbox"/> Equitable Relief	<input type="checkbox"/> Establishment of Trust	<input type="checkbox"/> Foreclosure Land Installment
<input type="checkbox"/> Foreclosure Lien	<input type="checkbox"/> Foreclosure Right of Redemption	<input type="checkbox"/> Foreclosure Statement Condo
<input type="checkbox"/> Foreclosure of Deed Trust	<input type="checkbox"/> Foreclosure Mortgage	<input type="checkbox"/> Forfeiture of Prop. / Personal Item
<input type="checkbox"/> Foreclosure of Currency or Vehicle	<input type="checkbox"/> Fraudulent Conveyance	<input type="checkbox"/> Injunctive Relief (Equity)
<input type="checkbox"/> Mandamus (Equity)	<input type="checkbox"/> Mechanic's Lien	<input type="checkbox"/> Notice of Lis Pendens
<input type="checkbox"/> Part / Sale in Lieu of Part	<input type="checkbox"/> Quiet Title	<input type="checkbox"/> Receiverships
<input type="checkbox"/> Removal of Trustee	<input type="checkbox"/> Set Aside Deed	<input type="checkbox"/> Specific Performance
<input type="checkbox"/> Specific Transaction	<input type="checkbox"/> Structured Settlement	<input type="checkbox"/> Trust