

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

ANDREW DEKRONEY, a minor, by and
Through his Parents and Next Friends,
EVRIDIKI DEKRONEY and
WILLIAM DEKRONEY
766 Fawn Elm Road
Severn, Maryland 21144

Plaintiff

v.

ERIKA NICHELSON, D.O.
6610 Tributary Street, Suite 206
Baltimore, Maryland 21204

and

ST. PAUL PLACE SPECIALISTS, INC.
301 Saint Paul Street
Baltimore, Maryland 21202

Serve On:

Linda H. Jones
Gallagher, Evelius & Jones, LLP
218 N. Charles Street, Suite 400
Baltimore, Maryland 21201

and

MERCY HEALTH SERVICES, INC.
301 Saint Paul Street
Baltimore, Maryland 21202

Serve On:

Linda H. Jones
Gallagher, Evelius & Jones, LLP
218 N. Charles Street, Suite 400
Baltimore, Maryland 21201

Defendants

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BALTIMORE CITY
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CIVIL DIVISION

Case No. 24-CV-00057-02
CIVIL DIVISION

RIF-New Case	\$61.00
APPROX Fee	\$30.00
WLEC	\$20.00
TOTAL	\$111.00

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COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Andrew Dekrone, a minor, by and through his Parents and Next Friends, Evridiki Dekrone and William Dekrone, by and through his undersigned attorneys, Keith D. Forman, Esquire and Wais, Vogelstein, Forman & Offutt, LLC, hereby sues Erika Nichelson, D.O., St. Paul Place Specialists, Inc., and Mercy Health Services, Inc., and for his cause of action states 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. The Plaintiff incorporates herein by reference the Certificate of Qualified Expert and Expert Report of Marshall W. Carpenter, M.D. The Plaintiff avers that he has satisfied all conditions precedent to the filing of this lawsuit, including, but not limited to, having filed a Statement of Claim, Certificate of Qualified Expert and Expert Report, and Waiver of Arbitration in the Health Care Alternative Dispute Resolution Office of Maryland.

4. Defendant Erika Nichelson, D.O. is, and at all times relevant hereto was, a physician licensed to practice obstetrics in the State of Maryland. At all times relevant hereto, Dr. Nichelson acted individually and/or as the actual and/or apparent agent, servant and/or employee of St. Paul Place Specialists, Inc. and/or Mercy Health Services, Inc.

5. Defendant St. Paul Place Specialists, Inc. is, and at all times relevant hereto was, a Maryland corporation engaged in the operation of a medical practice, providing obstetrical services and other health care services to individuals in need thereof. At all times relevant

hereto, St. Paul Place Specialists, Inc. acted directly and/or by and/or through its actual and/or apparent agents, servants, and/or employees, including, but not limited to, Erika Nichelson, D.O.

6. Defendant Mercy Health Services, Inc. is, and at all times relevant hereto was, a Maryland corporation engaged in the operation of a medical practice and/or medical facility, providing obstetrical services and other health care services to individuals in need thereof. At all times relevant hereto Mercy Health Services, Inc. acted directly and/or by and/or through its actual and/or apparent agents, servants, and/or employees, including, but not limited to, Erika Nichelson, D.O.

7. At all times relevant hereto, the Defendants held themselves out to Plaintiff and the Plaintiff's mother, Evridiki Dekronev, as health care providers who provided reasonable and competent care to individuals in need thereof.

8. On March 3, 2013, at approximately 20:00, Ms. Dekronev presented to labor and delivery at Mercy Medical Center with complaints of vaginal bleeding and pre-term contractions.

9. Ms. Dekronev was a 45 year old, G3, P0111, who was 30 weeks and 1 day gestation via IVF (*in vitro* fertilization) dating.

10. Ms. Dekronev had a history of a prior low transverse cesarean section and pre-eclampsia. It was also noted that she had a low-lying posterior placenta and a history of tachycardia. Ms. Dekronev reported that she had fallen the previous day, but without any "direct abdominal trauma." She reported contractions and vaginal bleeding since 17:30 on March 3rd and that she had experienced some right-sided pelvic pain. She also reported continued fetal movements.

11. A 20:25, a midwife triage note described Ms. Dekronev's bleeding as "spotting." On speculum exam, Dr. Nichelson noted a "moderate amount of blood oozing" from the cervical

os. The fetal heart rate tracing was described as “Category I” by the midwife, and the “triage assessment” was “PTL” (i.e., pre-term labor), with vaginal bleeding of “? etiology.” Dr. Nicholson planned treating the patient with magnesium sulfate and betamethasone.

12. A Category I fetal heart rate tracing is indicative of a fetus who is healthy *in utero* and is strongly predictive of normal fetal acid-base status at the time of observation.

13. A vaginal exam was performed at approximately 22:18, which showed that Ms. Dekrone’s cervix was unchanged at 1 centimeter dilated and 70 percent effaced. Fundal height was measured at 33 centimeters and an estimated fetal weight of 2000 grams was documented via abdominal examination.

14. Around this same time an ultrasound was performed. The ultrasound indicated that there a singleton pregnancy with breech presentation. Specifically, the ultrasound documentation stated, “footling breech. Head on mat right, posterior placenta, BPP 8/10, (-2 for fetal tachycardia on NST”, but fetal monitoring in this time period was documented as showing moderate variability with 15 x 15 accelerations.

15. Accordingly, as of approximately 22:18 on March 3, 2013, the fetal status was completely reassuring with a Category I fetal heart rate tracing and an 8 out of 10 biophysical profile.

16. A 22:18 note entered by Diana Brill, M.D., the first year resident, described the assessment and plan as: “45 yo G3P0111 @30w1d by IVF dating presents with vaginal bleeding and preterm contractions concerning for preterm labor v abruption; she also presents with maternal tachycardia concerning for PE. Periods of fetal tachycardia also noted.” Dr. Brill also assessed the fetal status as “reassuring.” The plan was as follows: “Admit to labor and delivery, admission consents, admission labs including coags, KB, EKG, CTA [to r/o pulmonary embolus,

suggested by maternal tachycardia] , Magnesium 6g□3g/hr for tocolysis, betamethasone – continuous monitoring – d/w Dr. Nicholson.”

17. At approximately 22:40, the fetal heart rate tracing was described as “Category I”, with moderate variability, 15 x 15 accelerations, and no decelerations.

18. At approximately 22:56, a KB test was drawn and sent to the lab for analysis. A KB test, or Kleihauer Betke test, is a blood test used to estimate fetal blood loss to the maternal circulation, which sometimes occurs during a premature placental separation from the uterine wall, termed placental abruption.

19. At approximately 23:00, betamethasone was administered for fetal lung maturity, and magnesium sulfate was administered for tocolysis. As of 2013, it was well established that betamethasone therapy was efficacious in significantly and materially reducing the risk of intraventricular hemorrhage and periventricular leukomalacia in pre-term neonates, if a full-course (two doses) was administered.

20. At approximately 23:41, the fetal heart rate monitoring was again described as “Category I”, with moderate variability, 15 x 15 accelerations, and no decelerations.

21. At approximately 00:38 on March 4, 2013, the fetal heart rate monitoring was again described as “Category I”, with moderate variability, 15 x 15 accelerations, and no decelerations.

22. At approximately 01:59, the fetal heart rate monitoring was again described as “Category I”, with moderate variability, 15 x 15 accelerations, and no decelerations.

23. Again, at 02:41, the fetal heart rate monitoring was described as “Category I”, with moderate variability, 15 x 15 accelerations, and no decelerations.

24. Dr. Brill performed another vaginal exam at approximately 02:51. According to her note, Ms. Dekronev was 0.5 centimeters dilated and 80 percent effaced at this time.

25. At approximately 03:08, Ms. Dekronev was assessed by the third-year resident, Niloofar Ghassemzade, M.D. Dr. Ghassemzade documented that Ms. Dekronev was feeling “burning” and pelvic pain. She also documented that the fetal heart rate tracing was “Category I”.

26. On examination, Dr. Ghassemzade identified “brownish-blood” on her glove. Her “Resident Assessment” was “Preterm Labor.” Dr. Ghassemzade then authored a progress note, which states as follows: “34yo G3P0111 @ 30w1d by IVF dating here with 1) vaginal bleeding, preterm contractions and concern for preterm labor v. abruption; Pt hemodynamically stable at this time, KB pending, coags wnl; however, cannot r/o abruption as ctx have become more painful and blood noted on exam[;] 2) maternal tachycardia, 110-120s, O2 94-95% Preliminary read of CTA-“negative for PE. No acute abnormalities of chest”.” The plan at the time was as follows: “1) PTL: Will draw magnesium level at this time and consider increasing mag to 3.5g/hr as pt is contracting more painfully at this time. Continue to monitor closely for s/sx of magnesium toxicity. Continue Mag @ 3g/hr – continuous monitoring with toco and EFM – pt understands she may need an urgent or stat cesarian [sic] section is she has PPROM and is at risk for cord prolapse[;] 2)Maternal Tachycardia – will f/u final read of CTA – if pt remains tachycardic, cards consult in AM, likely with echocardiogram[;] 3)CHTN- labetalol 100BID, first dose at 1000 am.”

27. At approximately 03:50, the fetal heart rate tracing was again documented as “Category I,” with moderate variability, 15 x 15 accelerations, and no decelerations.

28. Thereafter, Dr. Ghassemzade authored an “addendum” to her original plan above. The addendum stated, “Given increasingly painful contractions despite magnesium tocolysis, very high concern for placental abruption. Plan to proceed with delivery via cesarean section – history of LTCS x 1 and footling breech presentation. Discussed with attending, Dr. Nicholson, who is in-house and discussed this with the patient and her husband.”

29. At approximately 04:40, Dr. Nicholson documented the following: “d/w pt. and husband concern for abruption [sic] as contractions now painful and previously were not in the setting of VB is worrisome, therefore will proceed with LTCS. Pt. and husband agreeable with plan.”

30. Without any maternal or fetal indication, and in violation of the standard of care, Dr. Nicholson delivered Andrew Dekronev via cesarean section at 05:03 on March 4, 2013 at 30 weeks and 1 day, and without the benefit of a full course of betamethasone.

31. Andrew’s Apgar scores were 3 and 8, at one and five minutes, respectively.

32. The indication for delivery was placental abruption or suspected placental abruption. However, Dr. Nicholson’s operative report does not describe a placental abruption, and the placental pathology did not describe any findings consistent with an abruption.

33. Additionally, the KB test result, which was apparently resulted after Andrew was delivered, was negative.

34. At birth, Andrew was “limp [and] cyanotic, with no respiratory effort.” His airway was suctioned for secretions and he was intubated. He self-extubated and was maintained on CPAP and FI02.

35. In the immediate newborn period, Andrew suffered from respiratory distress syndrome, respiratory failure, grade IV intraventricular hemorrhage, and periventricular leukomalacia, amongst other conditions and illnesses.

36. Today, Andrew suffers from cerebral palsy and its sequelae.

37. Had the Defendants complied with the applicable standards of care, Andrew Dekronev would be a normal, healthy individual today.

Count I
(Medical Malpractice)

38. Plaintiff repeats, re-alleges, adopts, and incorporates by reference the above paragraphs of this Complaint as if fully set forth herein.

39. In their care and treatment of Evridiki Dekronev and Andrew Dekronev, the Defendants, acting directly, individually and/or by and/or through their actual and/or apparent agents, servants, and/or employees, owed to the Plaintiff and the Plaintiff's mother the duty to exercise that degree of care and skill which a reasonably competent hospital, obstetrician, and/or similar healthcare provider would have exercised under the same or similar circumstances.

40. The Defendants, acting directly, individually and/or by and/or through their actual and/or apparent agents, servants, and/or employees, breached the aforesaid duty of care to Evridiki Dekronev and Andrew Dekronev, and were negligent by:

- a. Failing to appropriately treat Evridiki Dekronev and Andrew Dekronev;
- b. Failing to appropriately manage and treat Evridiki Dekronev's suspected diagnoses of pre-term labor and/or placental abruption;
- c. Failing to appropriately manage and treat Evridiki Dekronev's complaints of pain and/or painful contractions prior to moving toward the delivery of Andrew Dekronev;

- d. Negligently delivering Andrew Dekronev at 30 weeks and 1 day gestation in the absence of any maternal or fetal indications for delivery; and
- e. Negligently delivering Andrew Dekronev prior to sufficiently long fetal betamethasone exposure, which has been proven to have material beneficial effects on preterm neonates.

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

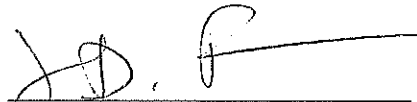
- a. Premature birth at 30 weeks and 1 day gestation;
- b. Respiratory distress;
- c. Respiratory failure;
- d. Apnea;
- e. Bradycardia;
- f. Severe intraventricular hemorrhage;
- g. Periventricular leukomalacia
- h. Cerebral palsy;
- i. Brain damage;
- j. Multi-organ injury;
- k. Developmental delay;
- l. Cognitive and mental impairment;
- m. Tone abnormalities;
- n. Neurological disabilities;
- o. Physical impairment;

- p. Significant conscious pain and suffering;
- q. Emotional distress;
- r. Permanent dependence upon others for his care;
- s. Serious and painful medical procedures;
- t. Significant medical and other care expenses, past, present and future, for which he and his parents are incapable of paying;
- u. Severely diminished earning capacity; and
- v. Other injuries and damages.

WHEREFORE, Plaintiff, Andrew Dekrone, a minor, by and through his Parents and Next Friends, Evridiki Dekrone and William Dekrone, 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.

Respectfully submitted,

WAIS, VOGELSTEIN, FORMAN & OFFUTT, LLC



Keith D. Forman, Esquire
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Attorneys for Plaintiff

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

ANDREW DEKRONEY, a minor, et al.

*

Plaintiff

*

Case No. 24-c-19-005762

v.

*

ERIKA NICHELSON, D.O., et al.

*

Defendant

*


* * * * *

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

WAIS, VOGELSTEIN, FORMAN & OFFUTT, LLC



Keith D. Forman, Esquire
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Attorneys for Plaintiff

IN THE HEALTH CARE ALTERNATIVE DISPUTE
RESOLUTION OFFICE OF MARYLAND

ANDREW DEKRONEY, a minor, *

Claimant *

v. *

HCA No. _____

ERIKA L. NICHELSON, D.O., et al. *

Defendant Health Care Providers *

* * * * *

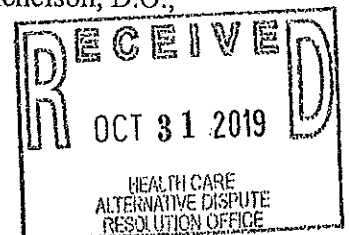
CERTIFICATE OF QUALIFIED EXPERT

I, Marshall W. Carpenter, M.D., hereby certify that the following statements are true and accurate:

1. I, Marshall W. Carpenter, am a board-certified obstetrician and maternal fetal medicine specialist licensed to practice medicine in the States of Massachusetts and Rhode Island.

2. In addition to being board-certified in obstetrics and gynecology and maternal fetal medicine, I have clinical experience, have provided consultation relating to clinical practice, and/or taught medicine in the Defendant Health Care Providers' specialty and/or sub-specialties of medicine, or the specialty and/or sub-specialties of medicine practiced by the Defendant Health Care Providers' agents, servants and/or employees, or a related field of health care, within five (5) years of the date of the alleged act or omission giving rise to the underlying cause of action.

3. From my review of the pertinent medical records, I have concluded with reasonable medical probability that there were deviations from the accepted and applicable standards of care on the part of the Defendant Health Care Providers, Erika L. Nicholson, D.O.,

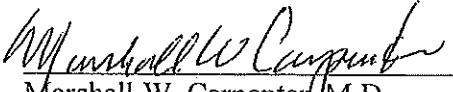


St. Paul Place Specialists, Inc. and Mercy Health Services, Inc.

4. I have also concluded with reasonable medical probability that these deviations were the direct and proximate cause of the Claimant's alleged injuries and damages.

5 Attached is a brief statement of my opinions in this matter.

6. Less than twenty percent (20%) annually of my professional activities involves testimony in personal injury claims.


Marshall W. Carpenter, M.D.