

ERIKA BOLICK
4115 Cutty Sark Road
Baltimore, Maryland 21220

and

STEVEN BOLICK
4115 Cutty Sark Road
Baltimore, Maryland 21220

Plaintiffs

v.

SAMUEL R. AKMAN, M.D.
1205 York Road, Suite 14
Lutherville, Maryland 21093

and

**OB/GYN SPECIALISTS OF
MARYLAND, LLC**
1205 York Road, Suite 14
Lutherville, Maryland 21093

SERVE ON:

Resident Agent
Harvey H. Kasner, M.D.
1205 York Road, Suite 14
Lutherville, Maryland 21093

Defendants

* * * * *

COMPLAINT AND ELECTION FOR JURY TRIAL

Plaintiffs, Erika Bolick and Steven Bolick, by their attorneys, Randal D. Getz, and Gershon, Willoughby, Getz & Smith, LLC, hereby bring this action against Defendants, Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC, and state:

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE
* COUNTY

Case No. C-09-12149

RECEIVED AND FILED
2009 OCT -6 PM 2:33
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

cc: State Board of Physicians

1000 Rm

JURISDICTION AND VENUE

1. Damages are in excess of the required jurisdictional amount under Md. Code, Cts. & Jud. Pro. Art § 3-2A-02.
2. Venue is appropriate in Baltimore County pursuant to Md. Code, Cts. & Jud. Pro. Art § 6-201, *et. seq.*
3. On September 29, 2009, Plaintiffs filed a Statement of Claim against Defendants in the Health Care Alternative Dispute Resolution Office (HCADRO) captioned as *Erika Bolick and Steven Bolick v. Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC*; HCADRO No. 2009-491.
4. Plaintiffs also filed with the HCADRO an Election to Waive Arbitration and the Certificate of Qualified Expert and Report of Richard Stokes, M.D., copies of which are attached hereto as Exhibits A and B, respectively. On October 2, 2009, the HCADRO issued an Order of Transfer to the Circuit Court for Baltimore County, attached hereto as Exhibit C.

THE PARTIES

5. Plaintiff, Erika Bolick, is the natural mother of Brooke Bolick, born on September 29, 2008. Steven Bolick is the natural father of Brooke Bolick. Mr. and Mrs. Bolick were and are married at all times pertinent hereto.
6. At all times pertinent hereto, Defendant Samuel R. Akman, M.D., was a physician engaged in the practice of medicine and holding himself out to the public as a specialist in obstetrics and gynecology competent to provide medical care to patients such as Erika Bolick.

7. At all times pertinent hereto, Defendant Ob/Gyn Specialists of Maryland, LLC, held itself out to the public as a competent provider of medical care.

8. At all times pertinent hereto, Defendant Ob/Gyn Specialists of Maryland, LLC, provided medical care to Erika Bolick through its servants, employees and agents (actual and/or apparent), each of whom acted within the scope of his or her authority.

9. At all times pertinent, Defendant Samuel R. Akman, M.D. acted as a servant, employee and/or agent (actual and/or apparent) of Defendant Ob/Gyn Specialists of Maryland, LLC, and did so within the scope of his authority.

FACTS RELEVANT TO ALL COUNTS

10. In or around 2007, Erika and Steven Bolick were the parents of two daughters aged two and five. For financial reasons, Mr. and Mrs. Bolick chose for Mrs. Bolick to undergo a permanent sterilization procedure to prevent future pregnancies and limit the size of their family.

11. On May 17, 2007, Mrs. Bolick presented to Defendant Dr. Akman for performance of a laparoscopic tubal ligation. During that procedure, Filshie clips were purportedly placed by Dr. Akman on both of Mrs. Bolick's fallopian tubes.

12. Subsequently, in and around February 2008, Mrs. Bolick found out that she was pregnant.

13. On September 29, 2008, Mrs. Bolick underwent a c-section, and delivered a baby girl, Brooke.

14. Also on September 29, 2008, Mrs. Bolick's new treating obstetrician, Kathleen Gotzman, M.D., examined Mrs. Bolick's fallopian tubes in an effort to determine why the prior sterilization attempt failed. The left tube was found to be

appropriately clipped. However, on the right side, the Filshie clip was not on the fallopian tube, but instead had been improperly placed on the ovarian ligament.

15. Dr. Gotzman then performed another sterilization, this time appropriately blocking both fallopian tubes and preventing future pregnancy.

16. Mrs. Bolick did not receive proper care relating to her original sterilization procedure from Defendants Dr. Akman and Ob/Gyn Specialists of Maryland, LLC. Had she been appropriately cared for, her unintended pregnancy and subsequent delivery would have been avoided.

17. At all times relevant hereto, Defendants Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC (acting through its actual and/or apparent agents, servants and employees) owed Erika Bolick the duty to exercise that degree of care and skill which like health care providers would have exercised in meeting the applicable standards of care under the same or similar circumstances.

18. Defendants Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC, departed from the standards of care applicable to like health care providers under the same or similar circumstances and were negligent by their:

- a. failure to properly and adequately treat Erika Bolick;
- b. failure to properly and adequately perform the sterilization procedure;
- c. failure to clip the correct anatomic structures; and
- d. performance of other actions and omissions in the care and treatment of Erika Bolick.

COUNT 1

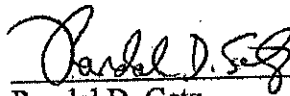
WRONGFUL BIRTH

19. Plaintiffs Erika Bolick and Steven Bolick, incorporate by reference and reallege paragraphs 1 through 18 as if fully set forth herein.

20. As a direct and proximate result of the negligence of the Defendants, and each of them, as aforesaid, Erika Bolick and Steven Bolick, incurred and will incur in the future significant child rearing costs, including but not limited to expenditures for care, food, shelter, clothing, welfare, maintenance, education, and health care, personal injuries including mental distress and emotional suffering, pain and suffering accompanying childbirth, medical and other expenses, loss of consortium, and loss of earnings and earning capacity.

WHEREFORE, Plaintiffs, Erika Bolick and Steven Bolick request that they be compensated with a fair, adequate, and just award of compensatory damages against Defendants, jointly and severally, plus costs.

Respectfully submitted,

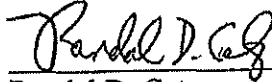


Randal D. Getz
Gershon, Willoughby, Getz & Smith, LLC
Hooks Village
25 Hooks Lane, Suite 304
Baltimore, Maryland 21208
Attorneys for Plaintiffs

ELECTION FOR JURY TRIAL

Plaintiffs hereby elect to exercise their constitutional right to trial by jury.

Respectfully submitted,



Randal D. Getz
Gershon, Willoughby, Getz & Smith, LLC
Hooks Village
25 Hooks Lane, Suite 304
Baltimore, Maryland 21208

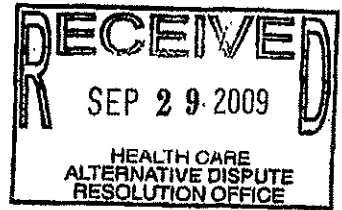
Attorneys for the Plaintiffs

Case: 83-C-89-012143
CF-Civil File

	\$80.00
Appearance Fee	
	\$10.00
MLSC	
	\$25.00
TOTAL	\$115.00

COMMENT:
Bolick, et al Vs. Akman, K.D., et al

Receipt: 4280900626159
Cashier: CFM CCRAC00000
10/07/83 5:32pm



**ERIKA BOLICK, and
STEVEN BOLICK**

Claimants

v.

**SAMUEL R. AKMAN, M.D., and
OB/GYN SPECIALISTS OF
MARYLAND, LLC**

Defendant Health Care Providers

* **IN THE**
* **HEALTH CARE**
* **ALTERNATIVE DISPUTE**
* **RESOLUTION OFFICE**
* **CLAIM NO.**

* * * * *

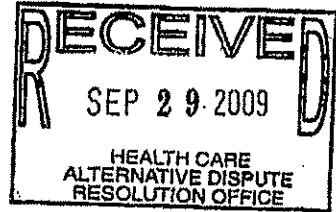
ELECTION TO WAIVE ARBITRATION

Claimants, Erika Bolick and Steven Bolick, by their attorneys, Randal D. Getz, and Gershon, Willoughby, Getz & Smith, LLC, pursuant to Maryland Code, Cts. & Jud. Proc. Art., § 3-2A-06B, hereby waive the arbitration of this above-captioned claim.

Randal D. Getz
Gershon, Willoughby, Getz & Smith, LLC
Hooks Village
25 Hooks Lane, Suite 304
Baltimore, Maryland 21208

Attorneys for the Claimants





**ERIKA BOLICK and
STEVEN BOLICK**

Claimants

v.

SAMUEL R. AKMAN, M.D., et al.

Defendant Health Care Providers

* **IN THE**
* **HEALTH CARE**
* **ALTERNATIVE DISPUTE**
* **RESOLUTION OFFICE**
* **OF MARYLAND**
* **CLAIM NO.**

* * * * *

CERTIFICATE OF MERIT AND REPORT

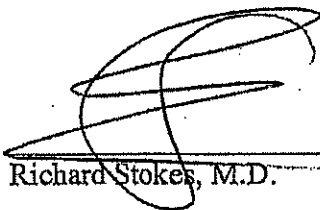
I, Richard Stokes, M.D., do hereby certify and affirm that:

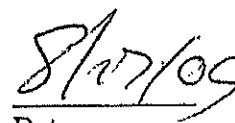
1. I am licensed to practice medicine in Virginia and have practiced medicine for approximately 35 years.
2. I am Board Certified in Obstetrics and Gynecology.
3. I have had clinical experience, provided consultation relating to clinical practice, and/or taught medicine in the field of obstetrics and gynecology or a related field of health care within five (5) years of the date of the acts or omissions giving rise to this claim.
4. I do not devote annually more than 20% of my professional activities to activities that directly involve testimony in personal injury claims.
5. Based upon my knowledge, training and experience, and my review of the medical records of Erika Bolick, including those pertaining to the care rendered by the Defendant Health Care Providers, it is my opinion to a reasonable degree of medical certainty that the Defendant Health Care Providers, Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC, its actual and/or apparent agents, servants, and/or employees, including, but not limited to Samuel R. Akman, M.D., violated the applicable standards of care, as



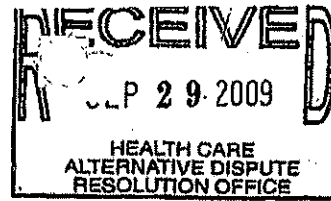
described in the appended report.

6. It is also my opinion to a reasonable degree of medical certainty that those violations of the standard of care by the Defendant Health Care Providers, Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC, and its actual and/or apparent agents, servants, and/or employees, directly and proximately caused the damages sustained by Erika Bolick and her husband, Steven Bolick.


Richard Stokes, M.D.


Date

RE: ERIKA BOLICK



By way of background, I am licensed to practice medicine in Virginia and have practiced medicine for approximately 35 years. I am Board Certified in obstetrics and gynecology. I have had clinical experience, provided consultation relating to clinical practice, and/or taught medicine in the field of obstetrics and gynecology or a related field of health care within five (5) years of the date of the acts or omissions giving rise to this claim. I do not devote annually more than 20% of my professional activities to activities that directly involve testimony in personal injury claims.

I have reviewed the medical records regarding the care rendered to Erika Bolick, including the care rendered by the Defendant Health Care Providers Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC. Those records reflect, in part, that on May 17, 2007, Mrs. Bolick underwent an elective laparoscopic tubal ligation under the care of Dr. Akman. During that procedure, Dr. Akman attempted to place Filshie clips on Mrs. Bolick's fallopian tubes. Mrs. Bolick subsequently became pregnant and delivered a baby girl on September 29, 2008.

At the time of delivery, it was found that the Filshie clip had not been properly placed on Mrs. Bolick's right fallopian tube. Instead the clip had been placed by Dr. Akman on Mrs. Bolick's right ovarian ligament.

As a consequence of Dr. Akman's improper and negligent placement of the Filshie clip on Mrs. Bolick's ovarian ligament, instead of her right fallopian tube, Mrs. Bolick became pregnant.

Based upon my review of the medical records and my knowledge, training and experience, I am of the opinion to a reasonable degree of medical certainty that the Defendant Health Care Providers, Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC, violated the applicable standards of care in acts and/or omissions in medical care and treatment provided to Erika Bolick as follows:

1. Dr. Akman, individually and as the agent, servant, and/or employee of Ob/Gyn Specialists of Maryland, LLC:

- a) Failed to properly and adequately treat Erika Bolick;
- b) Failed to properly and adequately perform the sterilization procedure;
- d) Failed to clip the correct anatomic structures; and
- e) Was otherwise negligent in his acts and omissions in the care and treatment of Erika Bolick.

2. Defendant Health Care Provider Ob/Gyn Specialists of Maryland, LLC, through its actual and/or apparent agents, servants and employees (including Dr. Akman):

- a) Failed to properly and adequately treat Erika Bolick;
- b) Failed to properly and adequately perform the sterilization procedure;
- d) Failed to clip the correct anatomic structures; and
- e) Was otherwise negligent in his acts and omissions in the care and treatment of Erika Bolick.

Based upon my knowledge, training and experience and review of the medical records, it is also my opinion to a reasonable degree of medical certainty that the violations of the standard of care by the Defendant Health Care Providers, Samuel R. Akman, M.D., and Ob/Gyn Specialists of Maryland, LLC, directly and proximately caused the damages sustained by Erika Bolick and her husband, Steven Bolick.

This report is based solely on the information currently available in the medical records of Erika Bolick. I reserve the right to amend, expand or modify my opinions as additional information becomes available.


Richard Stokes, M.D.

8/17/09
Date

IN THE HEALTH CARE ALTERNATIVE DISPUTE RESOLUTION OFFICE

*

ERIKA BOLICK, et al.

*

Claimants

HCA No.: 2009-491

Vs.

*

SAMUEL R. AKMAN, MD, et al.

*

Health Care Providers

* * * * *

ORDER OF TRANSFER

The Claimants, having elected a Waiver of Arbitration under the provisions of the Annotated Code of Maryland, Courts and Judicial Proceedings Article, Section 3-2A-06B it is this 2nd Day of October, 2009, by the Health Care Alternative Dispute Resolution Office,

ORDERED that this case shall be and is hereby, transferred to the Circuit Court for Baltimore County.



HARRY L. CHASE, DIRECTOR
Health Care Alternative Dispute Resolution Office

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the above ORDER OF TRANSFER have been mailed, postage prepaid, to all counsel.



HARRY L. CHASE, DIRECTOR



LAW OFFICES

GERSHON & WILLOUGHBY
GETZ SMITH, LLC

Wayne M. Willoughby, P.A.*
Zev T. Gershon, M.D., J.D., P.C.*
Randal D. Getz, M.D., J.D., P.A.
Robin R. Smith, R.N., J.D., P.A.*

October 6, 2009

**also admitted in the District of Columbia*

VIA HAND DELIVERY

Ms. Suzanne Mensh, Clerk of the Court
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Erika Bolick and Steven Bolick v. Samuel R. Akman, M.D., and Ob/Gyn
Specialists of Maryland, LLC

Dear Ms. Mensh:

Enclosed for filing in the above-referenced matter is an original Complaint and Election for Jury Trial, along with the information report. I have enclosed an additional copy to be date stamped and returned to our messenger for delivery back to this office. Also enclosed is a check in the amount of \$115.00 for the filing fee.

When you issue the summonses, would you kindly have them sent to my office so that we may accomplish service on Defendants by private process server?

Thank you.

Sincerely,



Randal D. Getz, M.D., J.D.

RDG/jmb
Enclosures