

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

VICTOR A. YOUNG
7906 Newbold Lane
Laverock, PA 19038

and

BRENDA J. YOUNG
7906 Newbold Lane
Laverock, PA 19038

Plaintiff

v.

Civil No.:

CASE: 24-CV-13-00340
CV FILE NEW

SUSAN L. GEARHART, M.D.
The Johns Hopkins Hospital
Dept. Of Surgery
600 N. Wolfe Street, Blalock 656
Baltimore, Maryland 21287

APPEAL Fee \$00.00
FILED \$20.00
TOTAL \$20.00

and

JOHNS HOPKINS UNIVERSITY
Charles & 34th Street
Baltimore, Maryland 21218

Receipt #24000014506
Cashier: not covered
07/01/13 11:39AM

Serve: Resident Agent
Frederick G. Savage
Interim General Counsel
3400 North Charles St.
113 Garland Hall
Baltimore, Maryland 21218

and

JOHNS HOPKINS HOSPITAL
3910 Keswick Rd. West Bldg
4th Floor, Suite 4300A
Baltimore, Maryland 21211

Serve: Resident Agent
Joanne Pollak, Esq.,
Administration 414
600 North Wolfe Street
Baltimore, Maryland 21205

Defendants

COMPLAINT

COMES NOW, the Plaintiffs, VICTOR A. YOUNG and BRENDA J. YOUNG, by and through counsel, AXELSON, WILLIAMOWSKY, BENDER & FISHMAN, P.C. and files suit against the Defendant, SUSAN GEARHART, M.D., JOHNS HOPKINS UNIVERSITY and JOHN HOPKINS HOSPITAL, and in support thereof states as follows:

1. The Plaintiffs, Victor Young and Brenda Young are over the age of 18 and are residents of Pennsylvania.
2. The Defendant, Susan Gearhart, M.D., is a physician who performs substantial business in Baltimore City, Maryland.
3. The Defendant Johns Hopkins University and Hospital is a University and Hospital providing medical services in Baltimore City, Maryland and all actions taken by Susan Gearhart, M.D. were within the course and scope of her employment as an employee of Johns Hopkins University and has a staff member at said hospital.
4. This Court has jurisdiction in this matter in accordance with Maryland Courts and Judicial Proceedings Code Annotated §1-501 and §6-103.
5. Venue is proper pursuant to Maryland Courts and Judicial Proceedings Code Annotated §6-201 as the Defendant performs substantial business in Baltimore City, Maryland.

COUNT I **(Professional Liability/Medical Malpractice)**

6. The allegations in paragraphs 1 through 5 of this Statement of Claim are incorporated herein by references as though repeated in full.

7. Plaintiff initially sought treatment with Dr. Arthur Burnett at Johns Hopkins University on March 16, 2010 for a consultation regarding recently diagnosed prostate cancer.
8. Dr. Burnett examined him on that date and recommended numerous treatment options including surgery.
9. The Plaintiff decided to undergo surgery and Dr. Burnett performed a radical retropubic prostatectomy and bilateral pelvic lymph node dissection on March 29, 2010.
10. The Plaintiff was discharged from the University on April 1, 2010.
11. On April 3, 2010, the Plaintiff called the urological service at Johns Hopkins and reported that air was coming through his penis and that he had not had a bowel movement. He was advised to take a laxative, milk of magnesia and no explanation or advice was given regarding the air coming through the penis.
12. On April 5, 2010, the Plaintiff spoke with Dr. Burnett and informed Dr. Burnett about the air coming through the penis as well as his phone call two days before with the urological service. Dr. Burnett did not comment on the passing of air through the penis.
13. On April 6, 2010, the Plaintiff noticed that he had feces coming through his penis and immediately called Dr. Burnett's office and reported same. He was informed to come to the University immediately where it was determined that he had developed a fistula from the rectum to the base of the bladder after a contrast CT cystogram was performed.
14. Thereafter, on April 6, 2010, Drs. Burnett and Susan Gearhart performed an exploratory laparotomy, and a diverting loop ileostomy.

15. Plaintiff was discharged from the University on April 12, 2010 with a foley catheter and said catheter was removed by Dr. Burnett on May 5, 2010.
16. As of May 5, 2010, Plaintiff only had mild incontinence and felt his ability to have an erection was progressing. Plaintiff was improving daily with both urinary continence and erectile function.
17. Plaintiff was examined again by Dr. Gearhart on May 5, 2010 and she recommended that he still needed to undergo a surgery to repair the fistula.
18. Dr. Gearhart performed surgery on May 21, 2010 to attempt to repair an alleged recto urethral fistula.
19. However, prior to said surgery, Dr. Gearhart failed to performed any radiological studies including but not limited to a repeat CT cystogram and cystoscopy and retrograde urethrogram to determine if the fistula was in fact still present.
20. Dr. Gearhart performed said surgery on May 21, 2010 and was not able to even document that the fistula existed during her surgery.
21. Dr. Gearhart injured and damaged nerves and damaged the urethra during said May 21, 2010 surgery which caused the Plaintiff to develop severe urinary incontinence and erectile dysfunction thereafter.
22. Plaintiff has underwent significant treatment consisting of multiple surgeries and is still suffering severe urinary incontinence and erectile dysfunction.
23. Prior to retaining the services of the Defendants, the Defendants represented to the Plaintiff, that they were competent to undertake, care for, treat and diagnose all conditions related to Plaintiff's prostate condition and therefore assumed the duties owed to patients by any reasonable competent medical practitioners in the State of Maryland undertaking to diagnose and treat Plaintiff's conditions in the

- same or similar circumstances.
24. Said duties included the careful assessment of the signs, symptoms and severity of Plaintiff's prostate condition and the efficacy of various treatment.
 25. Once an appropriate diagnosis had been formed, said duties also included the appropriate notification of the Plaintiff of various alternatives and risks involved in various modalities and treatment and the proper implementation of necessary medical procedures as well as appropriate monitoring, follow up care and referral to any necessary specialists.
 26. Moreover, the Defendants owed a duty to the Plaintiff to provide reasonable and proper medical care and treatment to Plaintiff.
 27. The Defendants acted negligently and breached said applicable duties and standard of care owed to the Plaintiff as well as the applicable standard of medical care in the State of Maryland including but not limited to the following:
 - a) by failing to perform appropriate radiological studies prior to the May 21, 2010 surgery including a repeat CT cystogram and cystoscopy and retrograde urethrogram;
 - b) by performing the surgery of May 21, 2010 as the surgery was an unnecessary surgery since the fistula was probably healed and closed off;
 - c) even if the fistula was not fully closed off and healed as of May 21, 2010, the Defendants breached the standard of care by failing to wait for a longer period of time to let the fistula close by itself without performing an unnecessary dangerous surgery.
 28. If the Defendants had performed the proper testing and allowed sufficient time to

pass, the fistula would have healed on its own and the Plaintiff would not have needed the surgery on May 21, 2010. Instead, the Plaintiff underwent a very extensive unnecessary surgery, that was fraught with difficulty because the anatomical landmarks had been altered due to the initial radical prostatectomy dissection and fistula formation which are extremely close to the muscles responsible for urinary continence as well as the nerves responsible for erections.

29. As a direct and proximate result of the Defendant's negligence, breaches of duty and violations of the applicable standards of care, without any negligence on the part of the Plaintiff contributing thereto, the Defendants caused damage to the nerves which led to erectile dysfunction as well as urinary incontinence in the Plaintiff.
30. As a further direct and proximate result of the Defendant's negligence, breaches of duty and violations of the applicable standards of care, without any negligence on the part of the Plaintiff contributing thereto, Plaintiff has required substantial medical treatment in the past and will continue to do so in the future and has incurred substantial medical expenses in the past and will continue to incur substantial medical expenses in the future.
31. As a further direct and proximate result of the Defendant's negligence, breaches of duty and violations of the applicable standard of care, without any negligence on the part of the Plaintiff contributing thereto, Plaintiff has lost significant wages in the past and will continue to lose wages in the future as a direct and proximate result of the Defendant's negligence.
32. As a further direct and proximate result of the Defendant's negligence, breaches

of duty and violations of the applicable standard of care without any negligence on the part of the Plaintiff contributing thereto, Plaintiff has suffered in the past and will continue to experience in the future, severe pain, mental anguish, embarrassment, humiliation and the loss of his ability to fully enjoy his life in the past and in the future, as a result of the severe urinary incontinence and permanent erectile dysfunction caused by Defendant's negligence, all of which are permanent in nature.

WHEREFORE, the Plaintiff, VICTOR A. YOUNG demands judgment from and against the Defendants, SUSAN GEARHART, M.C., JOHNS HOPKINS UNIVERSITY and JOHNS HOPKINS HOSPITAL for compensatory damages in an amount exceeding the jurisdictional limit of the District Court plus interests and costs and such other and further relief as being necessary and proper.

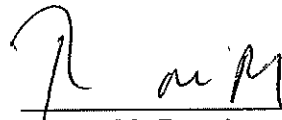
**COUNT II
(Loss of Consortium)**

33. The allegations in paragraphs 1 through 32 of this Complaint are incorporated herein by reference as though repeated in full.
34. That throughout the course of treatment rendered to Plaintiff, Victor Young by the Defendants and their agents, Victor and Brenda Young were husband and wife and currently are husband and wife.
35. As a result of the subject negligence of the Defendants and their agents and employees, Plaintiff, Victor Young sustained severe and permanent physical injuries.
36. As a result of the aforesaid negligence and breaches of the applicable standard of care and as a result of the severe and permanent physical injuries sustained

by the Plaintiff, Victor Young, the Plaintiffs' marital relationship was severely and permanently injured and the Plaintiffs sustained a mutual loss of society, affection, assistance and conjugal fellowship.

WHEREFORE, the Plaintiffs, VICTOR A. YOUNG and BRENDA J. YOUNG demands judgment from and against the Defendants, SUSAN GEARHART, M.C., JOHNS HOPKINS UNIVERSITY and JOHNS HOPKINS HOSPITAL for compensatory damages in an amount exceeding the jurisdictional limit of the District Court plus interests and costs and such other and further relief as being necessary and proper.

Respectfully submitted,
**AXELSON, WILLIAMOWSKY,
BENDER & FISHMAN, P.C.**



Bruce M. Bender
401 N. Washington Street, Suite 550
Rockville, Maryland 20850
(301) 738-7660 Office
(301) 424-0124 Fax
E-mail: bmb@awbflaw.com

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

VICTOR A. YOUNG, et. ux. :

Plaintiff :

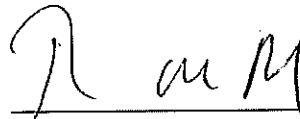
v. : Civil No.:

SUSAN L. GEARHART, M.D., et. al. :

DEMAND FOR JURY TRIAL

Plaintiffs demands a jury trial on all issues in the instant case.

Respectfully submitted,
AXELSON, WILLIAMOWSKY,
BENDER & FISHMAN, P.C.



Bruce M. Bender
401 N. Washington Street, Suite 550
Rockville, Maryland 20850
(301) 738-7660 Office
(301) 424-0124 Fax
e-mail: bmb@awbflaw.com

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

VICTOR A. YOUNG :

and :

BRENDA J. YOUNG :

Plaintiff :

v. :

Civil No.:

SUSAN L. GEARHART, M.D. :

The Johns Hopkins Hospital :

Dept. Of Surgery :

600 N. Wolfe Street, Blalock 656 :

Baltimore, Maryland 21287 :

and :

JOHNS HOPKINS UNIVERSITY :

Charles & 34th Street :

Baltimore, Maryland 21218 :

Serve: Resident Agent :

Frederick G. Savage :

Interim General Counsel :

3400 North Charles St. :

113 Garland Hall :

Baltimore, Maryland 21218 :

and :

JOHNS HOPKINS HOSPITAL :

3910 Keswick Rd. West Bldg :

4th Floor, Suite 4300A :

Baltimore, Maryland 21211 :

Serve: Resident Agent :

Joanne Pollak, Esq., :

Administration 414 :

600 North Wolfe Street :

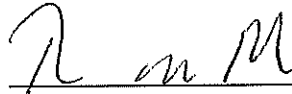
Baltimore, Maryland 21205 :

Defendants :

LINE

PLEASE issue Summons on the above named Defendants and return to the undersigned for service by private process.

Respectfully submitted,
AXELSON, WILLIAMOWSKY,
BENDER & FISHMAN, P.C.



Bruce M. Bender
401 N. Washington Street, Suite 550
Rockville, Maryland 20850
(301) 738-7660 Office
(301) 424-0124 Fax
e-mail: bmb@awbflaw.com

CIVIL - NON-DOMESTIC CASE INFORMATION REPORT

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: Victor Young, et ux vs. Susan L. Gearhart, M.D., et al
Plaintiff Defendant

JURY DEMAND: Yes No Anticipated length of trial: _____ hours or 5 days

RELATED CASE PENDING? Yes No If yes, Case #(s), if known: _____

Special Requirements? Interpreter (Please attach Form CC-DC 41)
 ADA accommodation (Please attach Form CC-DC 49)

NATURE OF ACTION (CHECK ONE BOX)		DAMAGES/RELIEF	
<p style="text-align: center;">TORTS</p> <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 _____	<p style="text-align: center;">LABOR</p> <input type="checkbox"/> Workers' Comp. <input type="checkbox"/> Wrongful Discharge <input type="checkbox"/> EEO <input type="checkbox"/> Other _____	<p style="text-align: center;">A. TORTS</p> <p style="text-align: center;">Actual Damages</p> <input type="checkbox"/> Under \$7,500 <input type="checkbox"/> Medical Bills \$ _____ <input type="checkbox"/> \$7,500 - \$50,000 <input type="checkbox"/> Property Damages \$ _____ <input type="checkbox"/> \$50,000 - \$100,000 <input type="checkbox"/> Wage Loss \$ _____ <input checked="" type="checkbox"/> Over \$100,000	
	<p style="text-align: center;">CONTRACTS</p> <input type="checkbox"/> Insurance <input type="checkbox"/> Confessed Judgment <input type="checkbox"/> Other _____	<p style="text-align: center;">B. CONTRACTS</p> <input type="checkbox"/> Under \$10,000 <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> \$10,000 - \$20,000 <input type="checkbox"/> Injunction <input type="checkbox"/> Over \$20,000 <input type="checkbox"/> Other _____	
	<p style="text-align: center;">REAL PROPERTY</p> <input type="checkbox"/> Judicial Sale <input type="checkbox"/> Condemnation <input type="checkbox"/> Landlord Tenant <input type="checkbox"/> Other _____	<p style="text-align: center;">C. NONMONETARY</p> <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____	
	<p style="text-align: center;">OTHER</p> <input type="checkbox"/> Civil Rights <input type="checkbox"/> Environmental <input type="checkbox"/> ADA <input type="checkbox"/> Other _____		

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 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, PRINCE GEORGE'S COUNTY, OR BALTIMORE COUNTY.

Date 5/24/13 Signature [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, PRINCE GEORGE'S COUNTY, OR BALTIMORE 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 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 BALTIMORE COUNTY

- | | |
|---|---|
| <input type="checkbox"/> Expedited
(Trial Date-90 days) | Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus. |
| <input type="checkbox"/> 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. |
| <input type="checkbox"/> 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. |
| <input type="checkbox"/> Complex
(Trial Date-450 days) | Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases. |