

jury

MICHAEL HUNDT and
HEATHER HUNDT,
Parents and Next Friends of
GRAYSON HUNDT, Minor
9822 Forge Park Road
Perry Hall, Maryland 21182

Plaintiffs

v.

MARGARET ANN CYZESKI, M.D.
6565 North Charles Street, Suite 406
Baltimore, Maryland 21204

and

HARROLD T. ELBERFELD, M.D.
6565 North Charles Street, Suite 406
Baltimore, Maryland 21204

and

PERINATAL ASSOCIATES, LLC
6565 North Charles Street, Suite 406
Baltimore, Maryland 21204

Serve on Resident Agent:
Victor Khouzami, M.D.
6565 North Charles Street, Suite 406
Baltimore, Maryland 21204

and

GREATER BALTIMORE
MEDICAL CENTER, INC.
6701 North Charles Street
Baltimore, Maryland 21204

Serve on Resident Agent:
John B. Chessare
6701 North Charles Street
Baltimore, Maryland 21204

Defendants

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Case No.:

03C-18-12539

RECEIVED AND FILED
12018 DEC 14 A 10 011
CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

cc: MD Dept
of Health

JUS

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Case: 03-C-18-012533
CF-Civil Filing \$50.00
Overage \$10.00
Appearance Fee \$10.00
RIF-New Case \$30.00
MLSC \$55.00
TOTAL \$185.00

COMMENT:
Michael Hudot, et al vs Margaret Ann
al

Receipt: #201800038798
Cashier: TN CCBACX002
12/14/18 10:52am

COMPLAINT

COUNT I

COME NOW the Plaintiffs, Michael Hundt and Heather Hundt, Parents and Next Friends of Grayson Hundt, Minor, by their attorneys, Jonathan Schochor, Scott P. Kurlander, and Schochor, Federico and Staton, P.A. and sue, Margaret Ann Cyzeski, M.D., Harrold T. Elberfeld, M.D., Perinatal Associates, LLC, and Greater Baltimore Medical Center, Inc., Defendants:

1. At all times of which the Plaintiffs complain, the Defendants, Margaret Ann Cyzeski, M.D. (hereinafter referred to as "Cyzeski"), and Harrold T. Elberfeld, M.D. (hereinafter referred to as "Elberfeld"), represented to the Plaintiffs and the public that they 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 Maternal Plaintiff and Minor Plaintiff.

2. The Plaintiffs allege that the Defendant s Cyzeski and Elberfeld herein, including duly authorized agents and/or employees of the Defendant Perinatal Associates, LLC and/or the Defendant Hospital, owed to the Plaintiffs 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 and Minor Plaintiff's condition, careful diagnosis of such condition, employment of appropriate procedures, surgery and/or treatment to correct such conditions without injury upon the Minor Plaintiff, continuous evaluation of the Plaintiff's and Minor 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 Defendants Cyzeski and Elberfeld were negligent in that they failed to employ appropriate treatment, surgery, tests and/or procedures, failed to carefully and thoroughly evaluate the Plaintiff's and Minor Plaintiff's condition, failed to properly and appropriately diagnose the Plaintiff's and Minor 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 and Minor Plaintiff's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Plaintiff's and Minor 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 and Minor Plaintiff's condition, and were otherwise negligent.

4. The Plaintiffs allege that the Defendant Perinatal Associates, LLC, 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 and Minor 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 Minor Plaintiff, continuous evaluation of the Plaintiff's and Minor 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 Perinatal Associates, LLC, 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 and Minor 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 and Minor Plaintiff's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Plaintiff's and Minor 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 and Minor Plaintiff's condition, failed to diagnose the Plaintiff's and Minor Plaintiff's condition and was otherwise negligent.

6. The Plaintiffs allege that the Defendant Greater Baltimore Medical Center, Inc. (hereinafter referred to as "Hospital"), 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 and Minor 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 Minor Plaintiff, continuous evaluation of the Plaintiff's and Minor 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 and Minor 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 and Minor Plaintiff's treatment in response to appropriate evaluation of the effects of treatment, failed to properly monitor the course of the Plaintiff's and Minor

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 and Minor Plaintiff's condition, failed to diagnose the Plaintiff's and Minor Plaintiff's condition and was otherwise negligent.

8. At all times referred to herein, the Defendants Cyzeski and Elberfeld acted for themselves and as duly authorized agents and/or employees of the Defendants, Perinatal Associates, LLC and/or the Defendant Hospital, acting within the scope of their respective authority. Both Defendants held themselves out to be experts in obstetrics.

9. As a direct and proximate result of the negligence of these Defendants and each of them, the Minor Plaintiff suffered unending physical pain, emotional anguish as well as severe disability as is more fully described, hereinbelow.

10. It is alleged that the Plaintiff, Heather Hundt, was 42 years of age at the time of her pregnancy with the Minor Plaintiff, Grayson Hundt. It is asserted that she had a maternal history significant for a preterm delivery at 35 weeks' gestation previously. At all times referred to herein, the prenatal care was being managed by the Defendant Cyzeski and the Defendant Perinatal Associates, LLC. Prenatal care began on December 5, 2013, at which time the Defendant Cyzeski identified the Plaintiff's significant history which included advanced maternal age, with a history of preterm delivery. It is alleged that, due to the history of preterm delivery, the standards of care required the Defendant Cyzeski to utilize progesterone therapy (i.e., 17 P Therapy) beginning at an appropriate time (i.e., gestation week 16, and continuing through week 36). It is alleged that had the Defendant Cyzeski complied with the standards of care and utilized the appropriate progesterone therapy, the Plaintiff's pregnancy would have been extended beyond 25 weeks gestation, and the preterm delivery would have been avoided. Tragically, this never occurred in continuing violation of the standards of care.

11. Predictably, on March 28, 2014, at 23-1/7 weeks gestation, the Plaintiff presented to the Defendant Hospital with cramping 5 minutes apart. She also reported some loss of fluid and light vaginal bleeding. A speculum vaginal exam revealed a bulging bag of water (BBOW), and apparent full dilation. It was at this time that she was under the care of the Defendant Elberfeld. It is alleged that the standards of care required the Defendant and/or other hospital personnel to place the Plaintiff in the Trendelenburg position to avoid pressure on the cervix by the amniotic sac. Rather than placing the Plaintiff in the Trendelenburg position to extend the pregnancy, these Defendants ruptured the membranes and proceeded with a vaginal delivery. As indicated, had the Trendelenburg position been utilized in addition to adjuvant therapy, the pregnancy would have been extended, permitting the Plaintiff's unborn baby to mature *in utero* as required.

12. Due to the ongoing negligence of these Defendants and each of them, the Minor Plaintiff was born on March 28, 2014 at 3:16 p.m. Apgar scores were 1, 3, 5, and 6 at minutes one, five, ten and fifteen, respectively. Because of immaturity, the Minor Plaintiff was intubated and transferred to the neonatal intensive care unit (NICU) where he remained through August 12, 2014. In the NICU, the Minor Plaintiff suffered a host of complications resulting from his prematurity due to these Defendants' continuing failure to conform with the applicable standards of care. Additionally, head ultrasound performed on March 29, 2014, revealed bilateral bleeds due to immaturity. A follow-up head ultrasound on March 31, 2014, confirmed extensive bilateral germinal matrix bleeds. Due to his immaturity and all of the conditions resulting therefrom, the Minor Plaintiff was transferred to a specialty hospital for further care. He remained there until November 18, 2014. He has been subsequently followed by a neurodevelopmental pediatrician at the specialty institute, for his brain injury and other sequelae.

13. It is alleged that the Defendant Cyzeski's ongoing and continuing failure to provide the progesterone therapy, and the fact that the Defendant Elberfeld negligently ruptured membranes upon presentation to the Defendant Hospital thereby precipitating delivery -- all directly and proximately resulted in the immaturity at birth, injuries, disability, and severe and irreversible brain injury sustained by the Minor Plaintiff.

14. It is alleged that had these Defendants and each of them conformed with the applicable standards of care, the Plaintiff's gestation would have been extended, the Minor Plaintiff would have been afforded an opportunity to mature *in utero* as necessary, and would have been born without the severe injuries, disability and brain injury complained of.


15. As the direct and proximate result of the negligence of these Defendants, the Minor Plaintiff has in the past, is presently, and will in the future continue to suffer severe physical pain, emotional anguish, as well as fear and anxiety over his condition. Moreover, it is alleged that the Minor Plaintiff has in the past, is presently, and will in the future continue to incur hospital, medical, surgical, physiotherapeutic, pharmacological, nursing, custodial, and other losses and expenses for which claim is made.

16. As the direct and proximate result of the negligence of these Defendants, the Minor Plaintiff will not enjoy a normal childhood; will not enjoy a normal adolescence or adulthood; will not take his place as a productive member of society; will not attend normal schools; will not marry and have children; will not be gainfully employed; and will be dependent upon others for his activities of daily living on a permanent basis.

17. The Plaintiffs and Minor Plaintiff refer to the negligence of these Defendants and each of them as the sole and proximate cause of all of the injuries, damages, disability and

permanent brain injury from which the Minor Plaintiff suffers -- with the Plaintiffs and Minor Plaintiff being in no way contributorily negligent.

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



Jonathan Schochor #7406010179



Scott P. Kurlander #9412140137

Schochor, Federico & Staton, P.A.

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jschochor@sfspsa.com
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Attorneys for the Plaintiffs

COUNT II

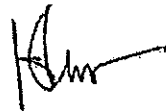
COME NOW the Plaintiffs, Michael Hundt and Heather Hundt, Parents and Next Friends of Grayson Hundt, Minor, by their attorneys, Jonathan Schochor, Scott P. Kurlander, and Schochor, Federico and Staton, P.A. and sue, Margaret Ann Cyzeski, M.D., Harrold T. Elberfeld, M.D., Perinatal Associates, LLC, and Greater Baltimore Medical Center, Inc., Defendants:

1. The Plaintiffs incorporate 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. The Plaintiffs allege that the Defendants negligently failed to fully and properly inform and advise the Plaintiff of the material risks associated with the procedure/care that they intended to utilize, in violation of the standards of care.

3. It is alleged that the Plaintiff, as well as other reasonable and prudent individual, would have refused the care procedures performed by the Defendants had they been advised, as required by the standards of care, as to the injuries, damages and/or disability which could result from their care. It is alleged that had the Defendants conformed with the applicable standards of care, and accurately described the risks and/or damages associated with their planned care, the Plaintiff, as well as other reasonable and prudent individuals similarly situated would have refused their care and proceeded with obstetricians who would have cared for them in conformity with the standards of care. Had the Defendants complied with the Doctrine of Informed Consent, it is alleged that the Plaintiffs would have proceeded with other practitioners, and all of the injuries, damages and the disability of the Minor Plaintiff would have been avoided.

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



Jonathan Schochor #7406010179



Scott P. Kurlander #9412140137

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Attorneys for the Plaintiffs

MICHAEL HUNDT and
HEATHER HUNDT,
Parents and Next Friends of
GRAYSON HUNDT, Minor

Plaintiffs

v.

MARGARET ANN CYZESKI, M.D., et al

Defendants

: IN THE
:
: CIRCUIT COURT
:
: FOR
:
: BALTIMORE COUNTY
:
: Case No.:

ELECTION FOR JURY TRIAL

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

Jonathan Schochor #7406010179

Scott P. Kurlander #9412140137

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Attorneys for the Plaintiffs

RECEIVED AND FILED
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CLERK OF CIRCUIT COURT
BALTIMORE COUNTY

MICHAEL HUNDT and
HEATHER HUNDT,
Parents and Next Friends of
GRAYSON HUNDT, Minor

Plaintiffs

v.

MARGARET ANN CYZESKI, M.D., et al

Defendants

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

Case No.:

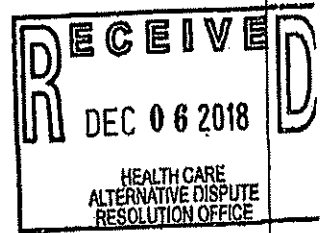
CERTIFICATE OF DISCOVERY

I HEREBY CERTIFY that Interrogatories, Request for Production of Documents, and Notice to Take Deposition will be served along with the Complaint, and that I will retain the original of this document in my possession, without alteration, until the case is concluded in this Court, the time for noting an appeal has expired, and any appeal noted has been decided.



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Attorneys for the Plaintiffs



MICHAEL HUNDT and
HEATHER HUNDT,
Parents and Next Friends of
GRAYSON HUNDT, Minor

Claimants

v.

MARGARET ANN CYZESKI, M.D., et al

Defendants

BEFORE THE
HEALTH CARE
ALTERNATIVE DISPUTE
RESOLUTION OFFICE
HCA No.:

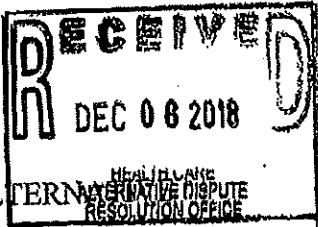
ELECTION FOR WAIVER OF ARBITRATION

COME NOW the Claimants, Michael Hundt and Heather Hundt, Parents and Next Friends of Grayson Hundt, Minor, by their attorneys, Jonathan Schochor, Scott P. Kurlander and Schochor, Federico and Staton, P.A., and file this Election for Waiver of Arbitration pursuant to the Annotated Code of Maryland, Courts and Judicial Proceedings Article, Section 3-2A-06B. For reasons in support thereof, the Claimants respectfully represent:

1. The Claimants have elected to waive arbitration in the above-captioned case to save time and expense associated herewith.
2. That after filing, this election shall be binding on all parties.

Jonathan Schochor #7406010179

Scott P. Kurlander #9412140137
Schochor, Federico and Staton, P.A.
1211 St. Paul Street
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(410) 234-1000 - office
Attorneys for the Claimants



MICHAEL HUNDT, *et al*

Claimants

v.

MARGARET A. CYZESKI, M.D., *et al*

Defendants

* BEFORE THE
* HEALTH CARE ALTERNATIVE DISPUTE RESOLUTION
* OFFICE OF MARYLAND
* Case No.:

* * * * *

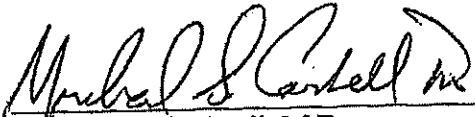
CLAIMANTS' CERTIFICATE OF MERIT

I HEREBY CERTIFY and acknowledge that I have reviewed the hospital records, medical records and other documentation pertaining to the facts and circumstances in the above captioned case.

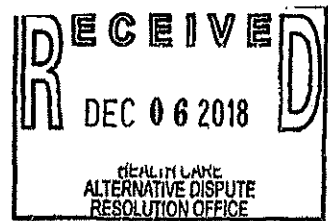
I hereby certify and acknowledge that there were violations of the standards of care by Margaret A. Cyzeski, M.D., Harrold T. Elberfeld, M.D. and duly authorized agents, servants and/or employees of Perinatal Associates, LLC and Greater Baltimore Medical Center, Inc. which have directly and proximately resulted in injuries and damages to the Minor Claimant.

I certify that I am a board-certified expert in obstetrics and gynecology as well as maternal fetal medicine. I further certify that I have had clinical experience, provided consultation relating to clinical practice and/or taught medicine in the Defendants' specialty or a related field of health-care, or in the field of health care in which the Defendants provided care or treatment to the Minor Claimant, within five (5) years of the date of the alleged act or omission giving rise to the case of action.

I acknowledge that less than 20% of my annual professional time directly involves testimony in personal injury claims. My report in the above-referenced case is attached hereto.


Michael S. Cardwell, M.D.

Jonathan Schochor, Esquire
Schochor, Federico, and Staton, P.A.
1211 St. Paul Street
Baltimore, Maryland 21202



Re: Grayson Hundt, Minor

Dear Mr. Schochor:

This is to acknowledge that after a review of the medical records and other materials involved in the above-referenced case, I have concluded that there were breaches and/or violations in the standards of care by Margaret A. Cyzeski, M.D., Harrold T. Elberfeld, M.D. and duly authorized agents, servants and/or employees of Perinatal Associates, LLC and Greater Baltimore Medical Center, Inc. which have directly and proximately resulted in injuries and damages to the Minor Claimant.

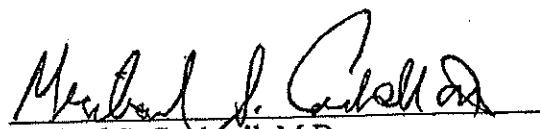
It is my opinion that Defendant Cyzeski, acting for herself and as a duly authorized agent, servant and/or employee of Defendant Perinatal Associates, LLC breached the standards of care in failing to start Mrs. Hundt on progesterone therapy at no later than sixteen (16) weeks gestation, given her history of preterm labor. Had the standard of care been met, the Minor Claimant would have been delivered at a later gestational age.

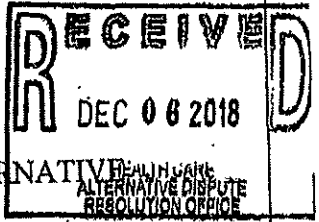
It is also my opinion that Defendant Elberfeld, acting for himself and as a duly authorized agent, servant and/or employee of Defendant Perinatal Associates, LLC and Defendant Greater Baltimore Medical Center, Inc. breached the standards of care on March 28, 2014 in negligently artificially rupturing the membranes, causing near immediate delivery. Had the standard of care been met, the membranes would have been left intact, and Mrs. Hundt would have been admitted and placed on bedrest in Trendelenburg position. This would have allowed the pregnancy to continue, would have allowed time for steroids to be administered prior to delivery, and the Minor Claimant would have been delivered at a later gestational age. Had all of these Defendants complied with the applicable standards of care, the Minor Claimant would have avoided the catastrophic brain bleeds that caused his permanent brain injury.

I certify that I am a board-certified expert in obstetrics and gynecology as well as maternal fetal medicine. I further certify that I have had clinical experience, provided consultation relating to clinical practice and/or taught medicine in the Defendants' specialty or a related field of health-care, or in the field of health care in which the Defendants provided care or treatment to the Claimant, within five (5) years of the date of the alleged act or omission giving rise to the cause of action.

Accordingly, I have concluded that the case filed before the Health Care Alternative Dispute Resolution Office of Maryland is meritorious. I also acknowledge that less than 20% of my annual professional time directly involves testimony in personal injury claims.

This report represents a broad summary of my opinions for purposes of certifying the merit of this matter. I specifically reserve the right to modify, amend and/or supplement my opinions as further information about this case is made available to me through the discovery process.


Michael S. Cardwell, M.D.



MICHAEL HUNDT, *et al*

Claimants

v.

MARGARET A. CYZESKI, M.D., *et al*

Defendants

* BEFORE THE
* HEALTH CARE ALTERNATIVE
* DISPUTE RESOLUTION
* OFFICE OF MARYLAND
* Case No.:

* * * * *

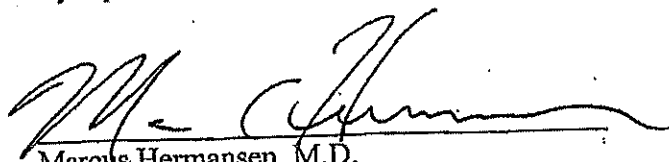
CLAIMANTS' CERTIFICATE OF MERIT

I HEREBY CERTIFY and acknowledge that I have reviewed the hospital records, medical records and other documentation pertaining to the facts and circumstances in the above captioned case.

I hereby certify and acknowledge that the violations of the standards of care identified by the Claimants' standard of care expert against Margaret A. Cyzeski, M.D., Harrold T. Elberfeld, M.D. and duly authorized agents, servants and/or employees of Perinatal Associates, LLC and Greater Baltimore Medical Center, Inc. have directly and proximately resulted in injuries and damages to the Minor Claimant.

I certify that I am a board-certified expert in neonatology. I further certify that I have had clinical experience, provided consultation relating to clinical practice and/or taught medicine in the Defendants' specialty or a related field of health-care, or in the field of health care in which the Defendants provided care or treatment to the Minor Claimant, within five (5) years of the date of the alleged act or omission giving rise to the case of action.

I acknowledge that less than 20% of my annual professional time directly involves testimony in personal injury claims. My report in the above-referenced case is attached hereto.


Marcus Hermansen, M.D.