

JAYLA SPENCE, a minor, by her parents and next friends JACQUELINE SPENCE and JOHN SPENCE, and JACQUELINE SPENCE and JOHN SPENCE, individually
910 Ashbridge Drive Apt. F
Essex, Maryland 21221

CLAIMANTS

v.

FRANKLIN SQUARE HOSPITALCENTER, INC. d/b/a MEDSTAR FRANKLIN SQUARE MEDICAL CENTER
9000 Franklin Square Drive
Baltimore, Maryland 21237

Serve On: Resident Agent
The Corporation Trust, Inc.
351 West Camden Street
Baltimore, Maryland 21201

and

DAVID GHADISHA, M.D.
Department of Obstetrics and Gynecology
9000 Franklin Square Drive
Baltimore, Maryland 21237

and

STEFANIE RODWELL, M.D.
Greater Baltimore Medical Center
6565 N. Charles Street
Suite 406
Baltimore, Maryland 21204

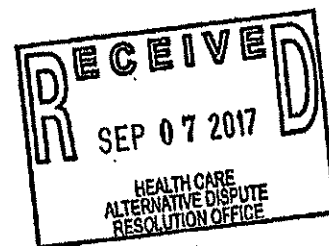
HEALTH CARE PROVIDERS

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AMENDED STATEMENT OF CLAIM

IN THE HEALTH CARE
ALTERNATIVE DISPUTE
RESOLUTION OFFICE

HCADRO NO.: 2017-114



COMES NOW Claimants, Jayla Spence, a minor, by her parents and Next Friends, Jacqueline Spence and John Spence, and Jacqueline Spence and John Spence, individually, by and through their attorneys, Sharon R. Morgan, and Janet, Jenner & Suggs, LLC, and hereby sue the following Health Care Providers, for cause: Franklin Square Hospital Center, Inc. d/b/a MedStar Franklin Square Medical Center, David Ghadisha, M.D., and Stefanie Rodwell, M.D. In support thereof, Claimant respectfully states as follows:

INTRODUCTION

1. This is a medical negligence action arising from acts and/or omissions related to the medical care and treatment of Jacqueline Spence and her daughter Jayla Spence by the following Health Care Providers: Franklin Square Hospital Center, Inc. d/b/a MedStar Franklin Square Medical Center (hereinafter "Franklin Square") directly and as the actual and/or apparent principal, master, and/or employer of physicians, midwives, nurses, and/or technicians, including, but not limited to, David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., who were responsible for rendering medical treatment to Jacqueline Spence and Jayla Spence; and David Ghadisha, M.D., and Stefanie Rodwell, M.D., each individually, and as actual and/or apparent agents, servants, and/or employees of Franklin Square.

On March 11, 2014, Jacqueline Spence, approximately 39 weeks pregnant, presented to Franklin Square at approximately 20:40 with contractions. At admission, it was noted that Ms. Spence was dilated 0.5 cm, 30% effaced, and the fetal station was 3 cm above the spine. Two days later, on March 13, 2014 at approximately 1:53, the infant Claimant Jayla Spence, was delivered via vacuum assisted vaginal delivery complicated by a shoulder dystocia, that caused a permanent brachial plexus nerve injury resulting in permanent dysfunction and limited use of her left arm,

and its sequelae. In violation of the applicable standard of care, the Health Care Providers failed to: properly manage the labor and delivery; failed to properly appreciate the increased risks of encountering a shoulder dystocia in a patient who was a gestational diabetic, with an infant estimated already suspected of being larger for gestational age, and having previously given birth to a 7.5 pound baby; failed to adequately inform the parents of the increased risks of injury if the labor continued toward a vaginal delivery verses risks and benefits associated with cesarean delivery so that they could make an informed choice for the safe delivery of their child; failed to timely perform a cesarean delivery hours earlier in the presence of multiple episodes of persistent and prolonged fetal heart rate decelerations down into the 90s and 80s; failed to perform a cesarean delivery hours before the vaginal delivery was complicated by a terminal bradycardia that required the use of a vacuum extractor to expedite the delivery; failed to timely deliver the infant via cesarean hours before the shoulder dystocia occurred that resulted in permanent brachial plexus nerve injury; and failed to safely delivery Jayla Spence without causing unnecessary harm.

The Health Care Providers' violations in the standard of care have caused Claimant Jayla Spence to suffer, among other things, severe, painful, permanent disabling injuries, including, but not limited to: permanent brachial plexus nerve injury; Erb's Palsy; motor dysfunction and limited use of her left arm; physical and mental pain, suffering, and mental anguish; diminished enjoyment and quality of life; and additional economic losses, including, but not limited to diminished earning capacity and extraordinary medical and surgical expenses necessitated by the injury that have been spent in the past and will be incurred throughout her lifetime.

Additionally, as a further direct and proximate result of the Health Care Providers' violations in the standard of care, Claimants Jacqueline Spence and John Spence have incurred, and will incur in the future, expenses for the medical, surgical, nursing, therapeutic, rehabilitative,

and services for their daughter, Claimant Jayla Spence, as well as for specialized equipment, and other needs to accommodate her medical condition, limitations and other losses.

JURISDICTION AND VENUE

2. Venue as to all claims is proper in Baltimore County pursuant to Maryland Code Ann., Cts. & Jud. Proc. §6-201, *et seq.*, inasmuch as: Health Care Providers reside, conduct regular business, are employed, and/or habitually engage in vocation in Baltimore County, and/or the cause of action arose in Baltimore County, in that the injuries proximately caused by the alleged negligence of the Health Care Providers occurred at Franklin Square, located in Baltimore County.

3. Damages are in excess of the required jurisdictional amount under Maryland Code Ann., Cts. & Jud. Proc. § 3-2A-02.

THE PARTIES

4. At all times relevant to the events at issue, Claimant Jayla Spence and her parents, Claimants Jacqueline Spence and John Spence were residents and citizens of the State of Maryland, residing in Baltimore County, Maryland. At all relevant times pertinent hereto, Claimants Jayla Spence and Jacqueline Spence were patients of each of the Health Care Providers named herein, for the purpose of receiving medical care and treatment.

5. At all relevant times pertinent hereto, Franklin Square Hospital Center, Inc. d/b/a MedStar Franklin Square Medical Center, (hereinafter referred to as Franklin Square"), located in Baltimore County, a business entity organized under the laws of the State of Maryland, held itself out to the public as competent to provide medical and obstetrical services, and did provide such medical and obstetrical services to Mrs. Spence and her daughter, Jayla, directly, and by and through its actual and/or apparent agents, principals, servants, and/or employees, including, but not limited to, David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha

Bowerman, R.N., and Nashay Pressley, R.N., each of whom acted within the scope of his/her authority at all times.

6. At all relevant times pertinent hereto, Health Care Provider David Ghadisha, M.D. (hereinafter referred to as "Dr. Ghadisha") was licensed to practice medicine in the State of Maryland in the field of obstetrics and gynecology, held himself out as competent to provide medical care and treatment, including, but not limited to, management of obstetrical patients, and provided such medical services to Ms. Spence and her daughter, Jayla. Upon information and belief Dr. Ghadisha was an attending physician overseeing the labor and delivery of Mrs. Spence and her baby, and was responsible for educating, training and supervising resident physicians, including but not limited to Dr. Stefanie Rodwell and Dr. Kelli Gevas, and the labor and delivery nurses caring for Claimants including but not limited to Samantha Bowerman, R.N. and Nashay Pressley, R.N., who at all times relevant were acting within the scope of their actual and/or apparent agency, service and/or employment. At all relevant times pertinent hereto, Dr. Ghadisha was an actual and/or apparent agent, servant, and/or employee of Franklin Square, was acting within the scope and authority of his actual and/or apparent agency, service and/or employment, conducted his business, and habitually engaged in his vocation in Baltimore County, Maryland, among other places.

7. At all relevant times pertinent hereto, Health Care Provider Stefanie Rodwell, M.D. (hereinafter referred to as "Dr. Rodwell") was licensed to practice medicine in the State of Maryland in the field of obstetrics and gynecology, held herself out as competent to provide medical care and treatment, including, but not limited to, management of obstetrical patients, and provided such medical services to Mrs. Spence and her daughter, Jayla. Upon information and belief Dr. Rodwell was a Resident Physician directly managing and overseeing the labor and

delivery of Mrs. Spence and her baby, and was responsible for educating, training and supervising other resident physicians, including but not limited to Dr. Kelli Gevas, and the labor and delivery nurses caring for Claimants including but not limited to Samantha Bowerman, R.N. and Nashay Pressley, R.N., who at all times relevant were acting within the scope of their actual and/or apparent agency, service and/or employment. At all relevant times pertinent hereto, Dr. Rodwell was an actual and/or apparent agent, servant, and/or employee of Franklin Square, conducted her business, and habitually engaged in his vocation in Baltimore County, Maryland, among other places.

8. At all relevant times pertinent hereto, each of the Health Care Providers were masters, principals, agents, servants and/or employees of one another, acting within the scope of their respective authority.

FACTUAL BACKGROUND

9. On March 11, 2014, at or about 2040, Ms. Spence, approximately 39 weeks pregnant, presented to Franklin Square.

10. On admission, Ms. Spence's cervix was dilated 0.5 cm, 30% effaced, and the fetal station was still very high at -3 station.

11. The plan of care was to admit Mrs. Spence for an induction of labor due to her gestational diabetes, using Cytotec, to soften the cervix, and then administration of Pitocin to stimulate uterine contractions. The estimated fetal weight was 3100 gm, or 6 pounds 8 ounces. Dr. Kelli Gevas and Dr. Stefanie Rodwell were aware of the plan.

12. At 2224, a physician progress note reports that Ms. Spence received delivery routine counseling for shoulder dystocia risk, and she requested trial of labor. The progress note also states "informed consent for vaginal delivery hasn't been given."

13. At or about 2240, the fetal heart tracing had been continuously noted as Category I, indicative a healthy and neurologically intact fetus. The labor induction was initiated using Cytotec.

14. At 1008, RN Bowerman noted a concerning fetal heart rate pattern—a deceleration which lasted approximately 4.5 minutes with a nadir down into the 70s. RN Bowerman notified the physician. Mrs. Spence was repositioned and administered supplemental oxygen. The fetal heart rate improved after these interventions.

15. At about 1146 Mrs. Spence received an epidural for pain relief.

16. Variable decelerations were noted at 1150, lasting approximately 60 seconds with a nadir down into the 90s.

17. At 1226, a cervical examination revealed Mrs. Spence's cervix to be dilated 3.0 cm, effaced 50%, and the fetal station was still high at a -2 station.

18. At 1250, RN Bowerman noted a Category II fetal heart tracing with a deceleration lasting 80 seconds with a nadir down into the 80s. Mrs. Spence was repositioned and the physician was called to the bedside.

19. At approximately 1548, RN Bowerman notes late decelerations and category II tracing and that the physician was notified.

20. At 1653 an artificial rupture of membranes was performed. A fetal scalp electrode and an intrauterine pressure catheter were inserted at this time to enable a more accurate tracing of the fetal heart rate and the uterine contractions. About one hour later, at 1759, the Pitocin administration began to infuse.

21. At about 1904 Dr. Gevas and RN Bowerman were at Mrs. Spence's beside and noted a

prolonged, fifteen minute deceleration with the fetal heart rate dropping down into the 80's. Dr. Gevas called Drs. Rodwell and Ghadisha. The Pitocin was discontinued. Administration of Terbutaline slowed the contractions and IURMs successfully improved fetal status. Dr. Gevas requested an operating room be setup for cesarean delivery. Drs. Rodwell and Ghadisha arrived and were in the room as the fetal heart tracing slowly increased to baseline. Dr. Gevas noted Mrs. Spence would be "closely monitored with low threshold to cesarean delivery". Examination revealed Mrs. Spence's cervix to be dilated only 5 cm, 90% effaced, and the fetus was still high at a -1 station.

22. At about 2112 another deceleration occurred with the heart rate dropping into the 70s lasting for about three minutes, with slow recovery to baseline. The decision was made by Dr. Gevas not to resume Pitocin administration, and to let labor proceed naturally.

23. At about 2230, Dr. Gevas and RN Pressley witnessed another prolonged deceleration with the fetal heart rate dropping into the 80s and 90s, with minimal fetal heart rate variability, in the presence of unrelenting contractions, that persisted for about nine minutes. Important to note that this deceleration occurred in the absence of Pitocin. Dr. Gevas again administered Terbutaline which slowed the contractions, and implemented resuscitative measures of IV fluid bolus, Oxygen and maternal position change. Dr. Gevas informed Drs. Rodwell and Ghadisha of this event. RN Pressley incorrectly noted prolonged decelerations lasting seven and a half minutes.

24. At about 2333, Dr. Gevas noted another prolonged deceleration with gradual return to baseline. Dr. Gevas again changed Mrs. Spence's position and administered an IV fluid bolus and gave Oxygen to help improve fetal status. He wrote that Mrs. Spence was "making good cervical change" and that he anticipated spontaneous vaginal delivery soon. In fact, Jayla's delivery would not occur for almost two and a half more hours. Dr. Gevas discussed the clinical situation with Dr.

Ghadisha. Drs. Gevas and Rodwell were in operating room prepared for an emergency caesarean section.

25. On March 13, 2014 by about 0120 episodes of fetal heart rate decelerations returned. At about 0132, RN Pressley noted she had "considered the concerning fetal heart rate pattern and did not believe it to be clinically relevant at that time because the doctor was aware." In violation of the standard of care RN Pressley failed to advocate for a new plan and failed to ascend her chain of command to assist her in advocating for her patients.

26. At 0140, Drs. Gevas and Rodwell were present and had Mrs. Spence pushing with contractions. A prolonged deceleration with the fetal heart rate into the 90s began around 0140 and persisted through delivery at 0151. Drs. Ghadisha, Rodwell and Gevas were present and decided to expedite delivery by using a vacuum. A late entry was made by Dr. Rodwell at 0459 for events occurring at 0150, notes that Mrs. Spence "made it to fully dilated and that her labor was slow but not augmented by Pitocin. The fetus was making good descent with maternal pushing down to +3 station, however, the fetal heart tracing went down into the 90s without a return to baseline for eight minutes", prompting the use of the vacuum.

27. Dr. Rodwell noted that due to the concerning fetal heart pattern at 0140, a vacuum extractor was used to assist with delivery. Vacuum use was noted to be four pulls and one pop off. While attempting to deliver the baby using the vacuum a shoulder dystocia was encountered, wherein Jayla's shoulder became lodged under the mother's pubic bone. According to Dr. Rodwell there was "mild shoulder dystocia" to the left anterior shoulder that lasted one minute. Dr. Ghadisha also noted the shoulder dystocia lasted less than a minute and that Jayla was ultimately delivered after using suprapubic pressure, McRoberts maneuvers, and "controlled traction", to free Jayla from the shoulder dystocia and pull her from the birth canal.

28. Jayla Spence was delivered at 0151 weighing approximately 3731 grams or eight pounds two ounces, (a full two pounds larger than was estimated at the time of admission), and measuring at 52 cm tall. Her Apgar scores were 8 and 9 at one and five minutes of life. Her left arm was floppy and limp. Dr. Ghadisha noted the left shoulder range of motion was decreased but that Jayla was moving her fingers.

29. Jayla's left arm continued to be limp with decreased movement. She was later diagnosed by a Neurosurgeon at Johns Hopkins Hospital with brachial plexus nerve injury and Erb's Palsy.

30. On March 26, 2015, Jayla underwent surgery for left brachial plexus repair, with nerve transfer. Jayla continues to suffer from limited use of her left arm due to the nerve injury caused during her delivery.

31. Jayla has minimal use of her left arm and hand. The normal position of her left arm is held up against her chest. She struggles with balance issues and cannot out stretch her left arm to brace her falls.

32. As a result of the violations in the standard of care by the Health Care Providers, Jayla Spence suffered a severe and permanent brachial plexus injury affecting her left arm and hand. Today, Jayla suffers from the sequellae of that permanent nerve injury, including, but not limited to physical and motor disabilities, physical and mental pain and suffering and mental anguish, decreased enjoyment of life, extraordinary lifetime medical and other related expenses after age eighteen, and diminished earning capacity.

33. Additionally Mrs. And Mr. Spence have incurred in the past and will continue to incur extraordinary medical and other related expenses until Jayla reaches age eighteen. Further, they have in the past and will continue in the future to suffer loss of services that Jayla may have

provided, and physical and mental pain and suffering and mental anguish associated with the preventable injury inflicted upon their daughter.

34. The risks and dangers to Jayla were obvious and should have been apparent to the Health Care Providers, and they all knew or should have known that the failure to implement timely and appropriate interventions, and/or to perform a cesarean delivery would expose Jayla to serious and obvious risks, including, but not limited to permanent and severe disability.

35. Had the Health Care Providers complied with the standard of care and converted to a cesarean delivery shortly after 2230, when they knew or should have known that continuing with a course of labor toward vaginal delivery increased the risk of serious injury to Jayla, delivery would have been accomplished about three hours before the eight minute prolonged fetal heart rate deceleration at 0140 that necessitated the Health Care Providers to use the vacuum, the baby's shoulder would not have gotten "stuck" behind mom's pubic bone, there would have been no shoulder dystocia requiring the use of suprapubic pressure, McRoberts and Woods corkscrew maneuvers and "controlled traction" to pull Jayla from the birth canal, and Jayla more likely than not would have avoided the permanent brachial plexus nerve injury, Erb's Palsy and its sequelae.

36. The foregoing negligent acts and omissions, as more particularly set forth below, directly and proximately caused Jayla to suffer severe and permanent brachial plexus nerve injury, resulting in severe and permanent disability and impairment, including, but not limited to brachial plexus nerve injury, Erb's Palsy, limited function of her left arm and hand, physical and mental pain and suffering, diminished earning capacity, extraordinary medical and other related expenses, and damages.

COUNT I – MEDICAL NEGLIGENCE

37. Claimants hereby restate and re-allege paragraphs 1 through 36, as if fully set forth herein,

and further allege as follows:

38. Health Care Provider Franklin Square, Inc., d/b/a Medstar Franklin Square Medical Center directly and by and through its actual and/or apparent agents, servants and/or employees, including, but not limited to David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., and Dr. Ghadisha and Dr. Rodwell each individually, owed Claimants the non-delegable duty to exercise that degree of care and skill which reasonably competent like Health Care Providers would have exercised under the same or similar circumstances.

39. Health Care Provider Franklin Square is vicariously liable for the acts and omissions of its actual and/or apparent agents, servants and/or employees, including, but not limited to Dr. Ghadisha, Dr. Rodwell, Dr. Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., who provided care to Claimants Jacqueline Spence and Jayla Spence, and were acting within the scope of their respective authority.

40. Health Care Providers Franklin Square Inc., d/b/a Medstar Franklin Square Medical Center acting through its actual and/or apparent agents, servants and/or employees including but not limited to Dr. Ghadisha, Dr. Rodwell, and Dr. Gevas, and Dr. Ghadisha and Dr. Rodwell acting individually, and as the actual and/or apparent agents, servants and/or employees of Health Care Providers Franklin Square Inc., d/b/a Medstar Franklin Square Medical Center, breached their non-delegable duty to the Claimants by failing to exercise such degree of skill and diligence required of Health Care Providers acting under the same or similar circumstances, breached their duties and violated the applicable standards of care, and were negligent in at least the following:

- a. Failing to accurately determine the estimated fetal weight and/or the likelihood of safe vaginal delivery;

- b. Failing to appreciate fetal intolerance to labor as evidenced by multiple prolonged fetal heart rate decelerations and worrisome bradycardias during the several hours prior to delivery;
- c. Failing to convert to a cesarean section delivery at about 2230 following a ten minute bradycardia with the fetal heart rate into the 90s, especially when they had noted previously at 1928 "low threshold to cesarean delivery" following a fifteen minute deceleration into the 80s requiring aggressive intrauterine resuscitative measures in a patient who was remote from delivery;
- d. Failing to abandon the plan toward vaginal delivery in the presence of repeated episodes of fetal intolerance when they knew or should have known that the continued stress of labor under these circumstances increased the risk of injury;
- e. Failing to appreciate the risk of delivering a large for gestational age infant of a mother who had gestational diabetes and had previously delivered a 7.5 pound baby;
- f. Failing to deliver via cesarean section before a prolonged deceleration necessitated a vacuum assisted delivery;
- g. Failing to deliver via cesarean section prior to when the shoulder dystocia occurred, which resulted in brachial plexus nerve injury;
- h. Failing to adequately inform Mrs. And Mr. Spence of the risks of injury associated with the continued plan toward vaginal delivery, verses cesarean section delivery so that she and her husband could make an informed choice about the safety of the plan and whether to accept such risks or choose delivery via cesarean ;

- i. Failing to advocate for a change in the plan of care including going up the chain of command by about 2230 in the presence of concerning fetal heart tracing;
- j. failing to properly train, oversee, and/or supervise the resident physicians and labor and delivery nurses providing care to Mrs. Spence and her baby; and delivery; and
- k. Other negligent acts or omissions which may become apparent throughout the course of discovery.

41. Health Care Providers Franklin Square Inc., d/b/a Medstar Franklin Square Medical Center acting through its actual and/or apparent agents, servants and/or employees including but not limited to Samantha Bowerman, R.N., and Nashay Pressley, R.N., breached their non-delegable duty to the Claimants by failing to exercise such degree of skill and diligence required of Health Care Providers acting under the same or similar circumstances, breached their duties and violated the applicable standards of care, and were negligent in at least the following:

- a. Failing to accurately determine the estimated fetal weight and/or the likelihood of safe vaginal delivery;
- b. Failing to appreciate fetal intolerance to labor as evidenced by multiple prolonged fetal heart rate decelerations and worrisome bradycardias during the several hours prior to delivery;
- c. Failing to advocate for a change in the plan of care to a cesarean section delivery at about 2230 following a ten minute bradycardia with the fetal heart rate into the 90s, especially when the physician had noted previously at 1928 "low threshold to cesarean delivery" following a fifteen minute deceleration into the 80s requiring

aggressive intrauterine resuscitative measures in a patient who was remote from delivery;

- d. Failing to advocate for and/or go up the chain of command to advocate for a change in the plan toward vaginal delivery in the presence of repeated episodes of fetal intolerance when they knew or should have known that the continued stress of labor under these circumstances increased the risk of injury;
- e. Failing to advocate for a change in the plan of care including going up the chain of command by about 2230 following multiple episodes concerning prolonged fetal heart decelerations;
- f. Failing to appreciate the risk of delivering a large for gestational age infant of a mother who had gestational diabetes and had previously delivered a 7.5 pound baby;
- g. Failing to advocate for or go up the chain of command to ensure delivery via cesarean section before a prolonged 0140 fetal heart rate deceleration that necessitated a vacuum assisted delivery;
- h. Failing to advocate for or go up the chain of command to ensure delivery via cesarean section prior to when the shoulder dystocia occurred, which resulted in brachial plexus nerve injury;
- i. Failing to advocate for or go up the chain of command to ensure that Mrs. And Mr. Spence were adequately informed of the risks of injury associated with the continued plan toward vaginal delivery, verses cesarean section delivery so that she and her husband could make an informed choice about the safety of the plan and whether to accept such risks or choose delivery via cesarean ; and

- j. Other negligent acts or omissions which may become apparent throughout the course of discovery.

42. In addition, Health Care Provider Franklin Square, directly and through its actual and/or apparent agents, servants, and/or employees, including, but not limited to Dr. Ghadisha, Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., Nashay Pressley, R.N., and/or the labor and delivery staff caring for Mrs. Spence and her baby Jayla, were negligent by failing to exercise such degree of skill and diligence required of Health Care Providers acting under the same or similar circumstances in the community of the health care providers or a similar community and by failing in the following particulars, among others, as may be determined through legal discovery in this action:

- a. Failing to adequately instruct, train, and/or supervise its actual and/or apparent agents, servants, and/or employees;
- b. Failing to provide appropriately trained and skilled personnel to care for Mrs. Spence and Jayla during labor and delivery period;
- c. Failing to establish and/or follow and/or enforce appropriate policies, procedures, guidelines and/or protocols for the management of patients in the same or similar circumstances of Mrs. Spence and Jayla, including but not limited to managing obstetrical patients, fetal monitoring and recognizing and managing obstetrical complications, including but not limited to recognizing fetal intolerance to labor, and shoulder dystocia so as to prevent injury;
- d. Failing to properly credential, supervise, and/or provide adequate training to agents, principals, servants, and/or employees, including, but not limited to, the supervision

of Dr. Ghadisha, Dr. Rodwell, Dr. Gevas, RN Bowerman, RN Pressley, and/or the labor and delivery staff caring for Mrs. Spence and Jayla;

- e. Failing to establish and/or promote and/or enforce appropriate chain of command policies, procedures, and/or practices in response to physicians' actions or inactions that increase the risk of injury;
- f. Failing to educate, train, and/or supervise labor and delivery staff, including, but not limited to RN Bowerman and RN Pressley, on knowing how and when to invoke the chain of command to advocate for a change in the plan of care when they know or should know of an increased risk of injury to their patients;
- g. Failing to educate, train, and/or supervise labor and delivery staff, including, but not limited to RN Bowerman and RN Pressley, to immediately advocate for the cesarean delivery of patients in the same or similar circumstances as Mrs. Spence;
- h. Failing to educate, train, and/or supervise labor and delivery staff, including, but not limited to RN Bowerman and RN Pressley, on managing Mrs. Spence's condition and that of her unborn child in accordance with the applicable standards of care;
- i. Failing in other ways to implement and/or enforce policies, procedures, guidelines, drills, and training for identifying and safely treating obstetrical complications or emergencies, including, but not limited to fetal heart rate abnormalities, obstetrical complications and shoulder dystocia;
- j. Failing in other ways to implement and/or enforce policies, procedures, guidelines, drills, and training for the preparation and performance of urgent, emergency, cesarean sections; and

- k. Other negligent acts or omissions, which may become apparent throughout the course of discovery.

43. The above negligence of Health Care Provider Franklin Square, Inc. d/b/a Medstar Franklin Square Medical Center, directly and by and through its actual and/or apparent agents, servants and/or employees, including, but not limited to Dr. Ghadisha, Dr. Rodwell, Dr. Gevas, RN Bowerman, and RN Pressley, and Dr. Ghadisha and Dr. Rodwell, individually, jointly and severally, and without any negligence on the part of the Claimants contributing thereto, directly and proximately caused Jayla to suffer severe, painful, permanent and disabling injuries, including, but not limited to:

- a. Permanent Brachial Plexus nerve injury;
- b. Erb's Palsy;
- c. Left arm and hand motor dysfunction;
- d. Physical pain, suffering, and mental anguish;
- e. Diminished enjoyment and quality of life;
- f. Diminished earning capacity; and
- g. Other and additional injuries as reflected in Claimant's medical records.

44. As a further direct and proximate cause of the individual, successive, concurrent, joint and several negligence of these Health Care Providers, Franklin Square, Inc. d/b/a Medstar Franklin Square Medical Center, directly and by and through its actual and/or apparent agents, servants and/or employees, including, but not limited to Dr. Ghadisha, Dr. Rodwell, Dr. Gevas, RN Bowerman, and RN Pressley, and Dr. Ghadisha and Dr. Rodwell, individually, and each of them, Claimant Jayla Spence has received, and will continue to require, substantial medical and related care, various types of therapies such as physical, occupational, rehabilitation, psychological, and

pharmaceutical, and other care including specialized devices, equipment, all for which significant sums of money have been and will continue to be expended. Claimant Jayla Spence has further sustained a loss of future wage earning capacity. Had these Health Care Providers adhered to the applicable standard of care, Claimant Jayla Spence would not have suffered as she has in the past and will continue to suffer in the future, both economically and noneconomically.

WHEREFORE, Claimants request that judgment be entered against Health Care Providers, David Ghadisha, M.D., Stefanie Rodwell, M.D., and Franklin Center, jointly and severally, in an amount that is fair, adequate and just, together with prejudgment interest and other costs and damages available under Maryland law.

COUNT II – MEDICAL NEGLIGENCE/FAMILY EXPENSES

45. Claimants hereby restate and re-allege paragraphs 1 through 44, as if fully set forth herein, and further allege as follows:

46. As a further direct and proximate cause of the individual, successive, concurrent, joint and several negligence of these Health Care Providers, Franklin Square, Inc. d/b/a Medstar Franklin Square Medical Center, directly and by and through its actual and/or apparent agents, servants and/or employees, including, but not limited to Dr. Ghadisha, Dr. Rodwell, Dr. Gevas, RN Bowerman, and RN Pressley, and Dr. Ghadisha and Dr. Rodwell, individually, and each of them, resulting in severe and permanent damages to their daughter, Claimants Jacqueline Spence and John Spence have incurred, and will incur in the future, expenses for the medical, surgical, therapeutic, and rehabilitative, care for their daughter, minor Claimant Jayla Spence, as well as for specialized equipment, and other needs to accommodate her medical conditions and limitations.

WHEREFORE, Claimants request that judgment be entered against Health Care Providers, Franklin Square, Inc. d/b/a Medstar Franklin Square Medical Center, and Dr. Ghadisha and Dr.

Rodwell, jointly and severally, in an amount that is fair, adequate and just, together with
prejudgment interest and other costs and damages available under Maryland law.



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Middle River, Maryland 21220

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CERTIFICATE OF MERIT



1. I, Fred Duboe, M.D., am a licensed physician and am board certified in Obstetrics and Gynecology, the same specialty in which Health Care Provider, David Ghadisha M.D., and Stefanie Rodwell, M.D., are certified, and in which Health Care Providers, David Ghadisha, M.D. and Stefanie Rodwell, M.D. individually, and Franklin Square Hospital Center, Inc. d/b/a MedStar Franklin Square Medical Center (hereinafter "Franklin Square") directly and through its actual and/or apparent agents, servants and/or employees, including, but not limited to, David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., were engaged that gave rise to this claim. I have training and experience in obstetrics in general and more specifically in management of labor and delivery patients in a variety of hospital settings. I am routinely engaged in the same area of practice as were the Health Care Providers in this claim. I have extensive experience collaborating and working closely with all members of the labor and delivery team caring for obstetrical patients including physicians, resident physicians and registered nurses. Additionally, I am familiar with and routinely recognize and diagnose complications associated with obstetrical care. I am routinely engaged in interpreting fetal monitor tracings, recognizing fetal intolerance to labor and managing the labor and the delivery of routine, and high risk patients, and in managing a broad range of complications that occur during labor and delivery including but not limited to non-reassuring Category II and III fetal monitor tracings, fetal heart rate decelerations and bradycardias, and shoulder dystocia. Further, I routinely implement treatment plans and interventions including but not limited to intrauterine resuscitative measures, vacuum assisted deliveries, shoulder dystocia and cesarean sections.

2. I have clinical experience and have provided consultation relating to clinical practice in the area of Obstetrics, the same specialty in which Health Care Provider, David

Ghadisha M.D., and Stefanie Rodwell, M.D., are certified, and in which Health Care Providers, David Ghadisha, M.D. and Stefanie Rodwell, M.D., individually, and Franklin Square directly and through its actual and/or apparent agents, servants and/or employees, including, but not limited to, David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., are certified, or practice, within five years of the date of the acts and/or omissions giving rise to this cause of action. I also have clinical experience rendering Obstetrical health care in hospital settings and am familiar with the rendering of Obstetric related health care under the auspices of medical and hospital corporate structures, the same as Health Care Providers, David Ghadisha, M.D., and Stefanie Rodwell, M.D., individually, and Franklin Square, directly and through its actual and/or apparent agents, servants, and/or employees, including, but not limited to David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., were engaged, within five years of the date of the acts and omissions giving rise to this cause of action.

3. Based upon my education, training, and experience, and my review of the medical records pertaining to this claim, it is my opinion to a reasonable degree of medical probability that the care and treatment of Jacqueline Spence and her daughter Jayla Spence rendered by Health Care Providers, Health Care Providers, David Ghadisha, M.D., and Stefanie Rodwell, M.D., individually, and Franklin Square, directly and through its actual and/or apparent agents, servants, and/or employees, including, but not limited to David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., violated the applicable standard of care in at least the following ways: (1) failing to appreciate fetal intolerance to labor as evidenced by multiple prolonged fetal heart rate decelerations and worrisome bradycardias during the hours prior to delivery; (2) failing to convert to a cesarean section delivery at about

2230 following a ten minute bradycardia with the fetal heart rate into the 90s, especially when they had noted previously at 1928 "low threshold to cesarean delivery" following a fifteen minute deceleration into the 80s requiring aggressive intrauterine resuscitative measures in a patient who was remote from delivery; and (3) failing to abandon the plan toward vaginal delivery in the presence of repeated episodes of fetal intolerance when they knew or should have known that the continued stress of labor under these circumstances increased the risk of injury; (4) failing to appreciate the risk of delivering a large for gestational age infant of a mother who had gestational diabetes and had previously delivered a 7.5 pound baby; (5) failing to deliver via cesarean section before a prolonged deceleration necessitated a vacuum assisted delivery; (6) failing to deliver via cesarean section prior to when the shoulder dystocia occurred, which resulted in brachial plexus nerve injury; (7) failing to adequately inform Mrs. Spence of the risks associated with the continued plan toward vaginal delivery so that she and her husband could make an informed choice; (8) failing to advocate for a change in the plan of care including going up the chain of command by about 2230 in the presence of concerning fetal heart tracing; (9) failing to properly train, oversee, and/or supervise those rendering care throughout the labor and delivery; and (10) failing to establish, implement, and/or enforce policies, procedures and/or guidelines managing obstetrical patients, fetal monitoring and recognizing and managing obstetrical complications, including but not limited to recognizing fetal intolerance to labor, and shoulder dystocia, so as to prevent injury.

In my opinion, the standard of care for a patient such as Jacqueline Spence and her daughter Jayla Spence required any reasonable Health Care Provider, practicing in the same or similar field and under the same or similar circumstances as David Ghadisha, M.D., and Stefanie Rodwell M.D., individually and/or Franklin Square, directly and through its actual and/or apparent agents,

servants, and/or employees, including, but not limited to David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., to: (1) properly monitor fetal well-being; (2) recognize fetal monitor tracings indicative of fetal intolerance to labor; (3) recognize the risks associated with continuing toward vaginal delivery with an infant who had already displayed multiple prolonged fetal heart rate decelerations, bradycardias and periods of minimal heart rate variability; (4) recognize the increased potential of delivering a larger infant and thus the potential increased risk for shoulder dystocia; (5) properly inform Mrs. Spence of her delivery options and the risks associated with each; (6) nurses must advocate for the safety of their patients and ascend the chain of command for expedited delivery when the circumstances required delivery shortly after 2230; (7) oversee and supervise resident physicians to ensure the delivery of safe and appropriate health care; (8) convert to a cesarean delivery shortly after 2230, approximately three hours before Jayla encountered the shoulder dystocia and suffered a brachial plexus nerve injury; and (9) to establish, implement and enforce policies, procedures and/or guidelines in managing obstetrical patients, fetal monitoring and recognizing and managing obstetrical complications, including but not limited to recognizing fetal intolerance to labor, and shoulder dystocia, so as to prevent injury.

Had Health Care Providers David Ghadisha, M.D., and Stefanie Rodwell M.D., individually, and Franklin Square, directly and through its actual and/or apparent agents, servants, and/or employees, including, but not limited to: David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., complied with the applicable standard of care, it is my opinion to a reasonable degree of medical probability that Jayla Spence would have been delivered approximately three hours earlier, and thus would have avoided the complication of shoulder dystocia and the resulting brachial plexus nerve injury. It is

further my opinion to a reasonable degree of medical probability that all of the above mentioned departures from the standard of care directly and proximately caused Jayla Spence to suffer severe, painful, permanent, and disabling injuries, including, but not limited to brachial plexus nerve injury, Erb's Palsy, and its sequelae including but not limited to motor dysfunction, pain, suffering, and mental anguish.

Additionally, it is my opinion to a reasonable degree of medical probability that had Health Care Providers, David Ghadisha, M.D., and Stefanie Rodwell M.D., individually, and Franklin Square, directly and through its actual and/or apparent agents, servants, and/or employees, including, but not limited to: David Ghadisha, M.D., Stefanie Rodwell, M.D., Kelli Gevas, M.D., Samantha Bowerman, R.N., and Nashay Pressley, R.N., complied with the applicable standard of care, Jayla Spence's severe, painful, permanent, and disabling injuries and related sequelae would have been avoided.

4. Attached is a brief report of my opinions, which is incorporated herein by reference. I reserve the right to alter, amend, modify, expand upon or to otherwise revise my opinions as discovery progresses and new or additional information becomes available to me.

5. I do not annually devote more than 20% of my professional activities to activities that directly involve testimony in personal injury claims.

6. I hereby certify and affirm that the above is accurate and true and correct to the best of my ability and based upon my personal knowledge.



Fred Duboe, M.D.

JAYLA SPENCE, a minor, by her parents
JACQUELINE SPENCE and JOHN SPENCE, as
next friends, and JACQUELINE SPENCE and
JOHN SPENCE, individually
304 Holly Drive - Apt A
Middle River, Maryland 21220

CLAIMANTS

v.

FRANKLIN SQUARE HOSPITAL
CENTER, INC. d/b/a MEDSTAR FRANKLIN
SQUARE MEDICAL
CENTER
9000 Franklin Square Drive
Baltimore, Maryland 21237

Serve On: Resident Agent
The Corporation Trust, Inc.
351 West Camden Street
Baltimore, Maryland 21201

And

DAVID GHADISHA, M.D.
Department of Obstetrics and Gynecology
9000 Franklin Square Drive
Baltimore, Maryland 21237

And

STEFANIE RODWELL, M.D.
6565 N. Charles Street, Suite 406
Baltimore, MD 21204

HEALTH CARE PROVIDERS

IN THE HEALTH CARE
ALTERNATIVE DISPUTE
RESOLUTION OFFICE

HCADRO NO.: 2017-114

* * * * *

ORDER OF TRANSFER



Claimants, Jayla Spence, a minor by her parents Jacqueline Spence and John Spence, as next friends, and Jacqueline Spence and John Spence, Individually, by and through counsel, having elected a Waiver of Arbitration under the provisions of the Annotated Code of Maryland, Courts and Judicial Proceedings Article §3-2A-06B, it is this 21 day of August, 2017, by the Health Care Alternative Dispute Resolution Office, ORDERED, that this case shall be and is hereby, transferred to the United States District Court, or to the Circuit Court of the appropriate venue.


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

CERTIFICATE OF SERVICE

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


HARRY L. CHASE, DIRECTOR

J|J|S
Janet, Jenner & Suggs, LLC
Attorneys at Law

Howard A. Janet, P.C.* | Kenneth M. Suggs* | Robert K. Jenner, P.C.* & ☐
Dov Apfel* & | Giles H. Manley, M.D., J.D.* | Gerald D. Jowers, Jr.* | Brian D. Ketterer &
Sharon R. Morgan* | Justin A. Browne* | Jason D. Peon* & ☐

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Adam R. Janet* §* | Kathleen H. Kerner*

OF COUNSEL

John C. Hensley, Jr.* | Steven J. German §* & | Joel M. Rubenstein §*

BAR MEMBERSHIPS

* Maryland | * South Carolina | ☐ Massachusetts | ± District of Columbia | Δ Pennsylvania
† Florida | * North Carolina | § New York | * New Jersey | ‡ Illinois | § Minnesota

November 6, 2017

VIA HAND DELIVERY

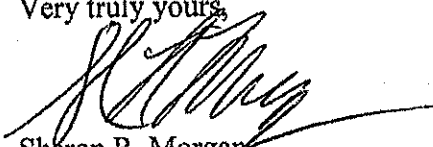
Clerk, Civil Division
Circuit Court of Maryland for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Jayla Spence, a minor, et al. v. Franklin Square Hospital Center, Inc. et al.

Dear Sir/Madam:

Enclosed for filing in the above-referenced matter, please find an original, plus one (1) copy of Plaintiffs' Complaint (with attached exhibits) and Election for Jury Trial. Kindly date-stamp the copy and return to our office in the enclosed envelope. Also enclosed, please find a check in the amount of \$175.00, constituting payment of the requisite filing fee.

Very truly yours,


Sharon R. Morgan

SRM/llw
Enclosures

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