

June

CONNIE CARRICO  
3 Ryan Frost Way  
Essex, Maryland 21221

\*

and

\*

MICHAEL CARRICO, II  
3 Ryan Frost Way  
Essex, Maryland 21221,  
Plaintiffs,

IN THE

\*

CIRCUIT COURT

v.

FOR

HANH THI-MY TRAN, M.D.  
1576 Merritt Boulevard, Suite 16  
Baltimore, Maryland 21222,

\*

BALTIMORE COUNTY

FRANKLIN SQUARE HOSPITAL CENTER, INC.  
Serve: The Corporation Trust, Incorporated  
2405 York Road, Suite 201  
Lutherville, Maryland 21093,

\*

Case No.:

QB-C-18-10898

\*

and

MEDSTAR HEALTH, INC.  
Serve: The Corporation Trust, Incorporated  
2405 York Road, Suite 201  
Lutherville, Maryland 21093,

\*

Defendants.

**COMPLAINT AND DEMAND FOR JURY TRIAL**

The Plaintiffs, Connie Carrico and Michael Carrico, II (hereafter collectively referred to as "the Carricos"), by and through their attorney, Jeff E. Messing, hereby sue the Defendants, Hanh Thi-My Tran, M.D., Franklin Square Hospital Center, Inc., and MedStar Health, Inc., and state as follows:

BALTIMORE COUNTY

2018 OCT 30 PM 2:02

FILED

cc: DAMH

me 1800

Case: 03-C-10-01050  
CF-Civil Filing

	\$90.00
Appearance Fee	\$10.00
RIF-New Case	\$30.00
MLSC	\$55.00
TOTAL	\$175.00

COMMENT:

Connie Carrico et al vs Hanki Ihi-Me

Receipt: #20130003464  
Cashier: TN CCBAC0X662  
10/31/10 9:42am

**PARTIES, VENUE, AND JURISDICTION**

1. At all times relevant hereto, the Plaintiff, Connie Carrico, has been an adult resident of Baltimore County, State of Maryland.

2. At all times relevant hereto, the Plaintiff, Michael Carrico, II ("Michael Carrico"), has been an adult resident of Baltimore County, State of Maryland.

3. At all times relevant hereto, Connie Carrico and Michael Carrico have been married to each other.

4. At all times relevant hereto, Defendant Hanh Thi-My Tran, M.D. ("Dr. Tran") has been a licensed physician engaged in the practice of medicine in Baltimore County, Maryland, acting individually and/or as the actual and/or apparent agent, servant, and/or employee of Defendant Franklin Square Hospital Center, Inc. and/or Defendant MedStar Health, Inc. and/or in furtherance of their financial interests, and provided health care services to Connie Carrico.

5. At all times relevant hereto, Defendant Franklin Square Hospital Center, Inc. has been a corporation in good standing organized under the laws of the State of Maryland with its principal office in Baltimore County, Maryland, and regularly conducts business in Baltimore County, Maryland, including providing hospital and related health care services to the public, including Connie Carrico.

6. At all times relevant hereto, Defendant Franklin Square Hospital Center, Inc. provided health care services to Connie Carrico through its actual and/or apparent agents, servants, and/or employees, including but not limited to Dr. Tran, and other health care providers and other

persons at MedStar Franklin Square Hospital Center (also known as MedStar Franklin Square Medical Center), at Women's Care at Dundalk ("Women's Care") that is located at 1576 Merritt Boulevard, Suite 16, Baltimore County, Maryland 21222, and elsewhere.

7. At all times relevant hereto, Defendant Franklin Square Hospital Center, Inc. owned, operated, managed, and had financial responsibility for MedStar Franklin Square Hospital Center (also known as MedStar Franklin Square Medical Center) and for Women's Care, which provided medical care and services to Connie Carrico.

8. At all times relevant hereto, Defendant MedStar Health, Inc. has been a corporation in good standing organized under the laws of the State of Maryland with its principal office in Howard County, Maryland, and regularly conducts business in Baltimore County, Maryland, including providing hospital and related health care services to the public, including Connie Carrico, in Baltimore County, Maryland.

9. At all times relevant hereto, Defendant MedStar Health, Inc. provided health care services to Connie Carrico through its actual and/or apparent agents, servants, and/or employees, including but not limited to Dr. Tran, and other health care providers and other persons at MedStar Franklin Square Hospital Center (also known as MedStar Franklin Square Medical Center), at Women's Care, and elsewhere.

10. At all times relevant hereto, Defendant MedStar Health, Inc. owned, operated, managed, and had financial responsibility for MedStar Franklin Square Hospital Center (also known as MedStar Franklin Square Medical Center) and for Women's Care, which provided medical care and services to Connie Carrico.

11. At all times relevant hereto, Dr. Tran, Defendant Franklin Square Hospital Center, Inc., and Defendant MedStar Health, Inc. each held themselves out, including their health care agents, servants, and/or employees, to the public, including Connie Carrico and Michael Carrico, as competent, careful, highly skilled, and experienced in the provision of medical care, and treatment of patients, including obstetrics, gynecology, and gynecological surgery (including sterilization procedures and alternatives).

12. At all times relevant hereto, Dr. Tran, acting as an actual and/or apparent agent, servant, and/or employee of Defendant Franklin Square Hospital Center, Inc. and/or Defendant MedStar Health, Inc., and acting within the scope and authority of such relationship, held herself out and warranted to the public, including Connie Carrico and Michael Carrico, that she was competent, careful, highly skilled, and experienced in the provision of medical care and treatment of patients, including the performance of sterilization procedures.

13. At all times relevant hereto, a health care provider and patient relationship existed between Connie Carrico and Defendant Franklin Square Hospital Center, Inc. and Defendant MedStar Health, Inc., individually, and/or through their actual and/or apparent agents, servants, and/or employees, including but not limited to Dr. Tran, and Defendant Franklin Square Hospital Center, Inc. and Defendant MedStar Health, Inc. each owed a duty of care to Connie Carrico and Michael Carrico to provide competent hospital, medical, and surgical care in accordance with applicable standards of care.

14. Defendant Franklin Square Hospital Center, Inc. and Defendant MedStar Health, Inc. are jointly and severally liable for the negligent and intentional acts and omissions of their

physicians and other agents, servants, and employees, including but not limited to Dr. Tran, and all other person whom they represent as, or hold out as, their actual or apparent agents, servants, and employees.

15. On October 30, 2018, prior to the filing of this Complaint and Demand for Jury Trial, the Plaintiffs filed the following with the Health Care Alternative Dispute Resolution Office: their Claim Form signed by them and their attorney; their Statement Of Claim; the signed Certificate of Qualified Expert with the expert's signed report attached thereto; and, the Waiver Of Arbitration, a copy of which is attached hereto and is incorporated herein by reference.

16. The Plaintiffs have complied with all procedural and all other prerequisites prior to filing this Complaint and Demand for Jury Trial.

17. Venue is proper in Baltimore County, Maryland as Defendant Dr. Tran is employed in Baltimore County; Dr. Tran habitually engages in her vocation in Baltimore County; the causes of action arose in Baltimore County; Defendant Franklin Square Hospital Center, Inc. maintains its principal office in Baltimore County, Maryland; and, Defendant MedStar Health, Inc. regularly conducts business in Baltimore County, Maryland.

18. The Circuit Court for Baltimore County has jurisdiction over this matter in which the Plaintiffs seek damages in excess of Seventy Five Thousand Dollars (\$75,000.00).

#### **ALLEGED FACTS**

19. Connie Carrico had received gynecological and obstetrical care and services including but not limited to prenatal care and other medical services related to the delivery of

her two children, born on November 17, 2012 and December 6, 2015, respectively, from the Defendants.

20. Dr. Tran provided prenatal and other health care services to Connie Carrico with regard to her pregnancies involving her two children, although Dr. Tran did not participate in the delivery of either child.

21. On or about March 21, 2017, Connie Carrico sought medical care and treatment from Women's Care and Dr. Tran for permanent sterilization because Connie Carrico and Michael Carrico did not want additional children due to complications Connie Carrico had with her last pregnancy that required extended bed rest before delivery as well as delivery of her child in ICU, due to her pre-existing medical condition (supraventricular tachycardia ("SVT")), and for other reasons.

22. Dr. Tran agreed to perform a permanent sterilization procedure on Connie Carrico that Dr. Tran described as "cut, tie, and burn" her Fallopian tubes. Connie Carrico agreed to the sterilization procedure that was subsequently scheduled for April 12, 2017 (Connie Carrico required cardiac clearance before the procedure, due to her SVT).

23. Dr. Tran prepared and electronically signed on April 3, 2017 an office visit note ("Final Report") dated April 3, 2017, in which Dr. Tran falsely described removing an IUD from Connie Carrico and showing her the device (Connie Carrico never had an IUD and an IUD was never removed from her by Dr. Tran or anyone else).

24. On April 12, 2017, Dr. Tran performed a "Bilateral laparoscopic tubal clipping" procedure on Connie Carrico. Dr. Tran stated, in part, in the Operative Report that she authenticated on April 26, 2017: "normal pelvic anatomy" "Starting on the right side, followed the fallopian tube to the fimbriated end. The mid portion of each tube was grasped with a Filshie clipper, and a Filshie clip was applied. Placement was confirmed with the camera." "Performed By: Hanh Thi-My Tran, MD"

25. The photos taken by Dr. Tran with the camera during the April 12, 2017 procedure clearly and unequivocally show that Dr. Tran wrongfully placed the right Filshie clip on Connie Carrico's right round ligament, and not on her right Fallopian tube. Therefore, Connie Carrico's right Fallopian tube was patent and she was not sterilized on the right side, which Connie Carrico did not know, Dr. Tran did not tell her, and Connie Carrico first became aware of on or about February 14, 2018.

26. A pregnancy test on April 12, 2017 (Beta hCG QI) before the sterilization procedure was performed was reported as "negative." Connie Carrico was instructed after the procedure to avoid sexual intercourse for "1-2 weeks."

27. The "Final Report" prepared by Dr. Tran for Connie Carrico's follow up appointment at Women's Care on May 2, 2017 states, in part: "Patient here for follow up s/p tubal ligation. No problems or complaints. Overdue for pap smear" "Postop check normal exam overdue for yearly."

28. Connie Carrico visited the Emergency Department ("ED") of MedStar Franklin Square Hospital Center on May 11, 2017, due to pain, at which time she was diagnosed with an ovarian cyst. A pregnancy test at that time was negative (Connie Carrico was not aware of the pregnancy test or its result). Dr. Tran discussed the May 11, 2017 ED visit with Connie Carrico, on May 15, 2017, but did not mention the pregnancy test; Dr. Tran told Connie Carrico to follow up with GI due to history of diverticulitis.



29. Connie Carrico was seen by Dr. Tran at Women's Care on June 20, 2017, for "Annual Exam." Connie Carrico told Dr. Tran during said office visit that she had symptoms of being pregnant. Dr. Tran documented in her "Final Report" for that visit "Amenorrhelic since having tubal ligation. Will check labs. Husband had vasectomy." Under Assessment/Plan, Dr. Tran documented "Visit for routine gyn exam Z01.419 pap done amenorrhrea work up Ordered: Pap IG Ct-Ng rfx HPV-hr ASCU" Orders Included Beta hCG Quantitative. Dr. Tran did not provide Connie Carrico with any "Patient Education," "Future Appointments," or "Future Scheduled Tests" at that time. Dr. Tran recorded "normal size" uterus.

30. Dr. Tran did not provide Connie Carrico on June 20, 2017 or at any time thereafter, with instructions, orders, or advice regarding testing for patency of her fallopian tubes or with regard to using other/additional birth control methods/abstinence.

31. On June 21, 2017, Dr. Tran telephoned Connie Carrico and told her (1) that she (Dr. Tran) had bad news for Connie; that Connie was pregnant; (2) that Connie was about eight and a half weeks pregnant; (3) that Connie must have been pregnant at the time of the April 12, 2017 sterilization procedure; (4) that the sterilization procedure was successful; and, (5) assured Connie that there was no problem with the sterilization procedure. Dr. Tran provided Connie with the name of an abortion clinic. Dr. Tran failed to document the June 21, 2017 telephone call in Connie Carrico's chart (although the chart documented a call from Connie on June 22, 2017, that "Dr. Tran called her back the other day after her appt").

32. The chart documented that Connie Carrico returned a telephone call from Dr. Tran on June 26, 2017, but Dr. Tran wrote in the chart the same day: "spoke with patient, I did not call her. Had TA last week, no problems."

33. Dr. Tran did not tell Connie Carrico on April 12, 2017, or at any time thereafter, that the Filshie clip was placed on her right round ligament and not on her right Fallopian tube; Dr. Tran never

told Connie Carrico that she was not sterilized but assured her that she was sterilized; Dr. Tran never told Connie Carrico that the sterilization procedure on April 12, 2017 was not performed properly despite Dr. Tran knowing such; Dr. Tran never told Connie Carrico that she was fertile and could become pregnant after the April 12, 2017 sterilization procedure, although Dr. Tran knew such; Dr. Tran never ordered diagnostic testing to determine the patency of Connie Carrico's Fallopian tubes; Dr. Tran never told Connie Carrico that she should use other means of birth control or abstain from sexual intercourse (except for "1-2 weeks" after the April 12, 2017 sterilization procedure); Dr. Tran never scheduled Connie Carrico for a follow up appointment after June 20, 2017; Dr. Tran never communicated with Connie Carrico after June 21, 2017 regarding any of the above (Dr. Tran spoke with Connie Carrico on June 26, 2017, but did not discuss any of the above).

34. Dr. Tran knew, or was recklessly indifferent to the truth, during the sterilization procedure on April 12, 2017 that the Filshie clip on the right side had been wrongfully placed on Connie Carrico's right round ligament and not on her right Fallopian tube.

35. Dr. Tran knew, or was recklessly indifferent to the truth, in June 2017 that the right Filshie clip was wrongfully placed by her on Connie's right round ligament on April 12, 2017 and not on her right Fallopian tube, and therefore the right Fallopian tube was patent, but Dr. Tran intentionally, recklessly, and maliciously failed to discuss or disclose such information to Connie Carrico in June 2017 or at any time thereafter, to Connie Carrico's and Michael Carrico's detriment.

36. Despite such knowledge, Dr. Tran authenticated on April 26, 2017 the Operative Report for the April 12, 2017 sterilization procedure that falsely stated that the Filshie clip was placed on the right Fallopian tube and that the camera (and the photos taken during the procedure) confirmed same, knowing that such statements were false and that Connie Carrico and her health care providers would rely on such statements in diagnosing and providing medical care and treatment, and making health

care decisions for Connie Carrico, in the present and into the future, which threatened her physical and mental health and wellbeing.

37. Furthermore, Dr. Tran made the statements to Connie Carrico as set forth in paragraph 31 above, knowing such representations were false (Dr. Tran had reviewed the clear and unequivocal photos of the April 12, 2017 procedure contained in the medical records that depicted the Filshie clip on the right round ligament and not on the right Fallopian tube), or Dr. Tran made such statements to Connie Carrico with reckless indifference as to the truth of her statements because she failed to review the procedure photos before telephoning Connie Carrico on June 21, 2017 (after Dr. Tran became aware that Connie Carrico was pregnant) or thereafter.

38. Dr. Tran falsely told Connie Carrico during the June 21, 2017 telephone conversation that she must have been pregnant at the time of the April 12, 2017 sterilization procedure, knowing that such statement was false, or Dr. Tran made such statement with reckless indifference as to the truth of the statement, based on the number of weeks that Connie Carrico was pregnant at that time and the negative pregnancy test on May 11, 2017, and Dr. Tran having no reasonable basis for telling Connie Carrico on June 21, 2017 that she must have been pregnant at the time of the April 12, 2017 sterilization procedure.

39. Connie Carrico was seen in the ED of MedStar Franklin Square Hospital Center on June 22, 2017, for bleeding and cramping that began that morning (Connie Carrico feared that she may have an ectopic pregnancy). An ultrasound at that time confirmed an IUP of approximately 8.3 weeks (7.6 – 9.0).

40. On June 23, 2017, Connie Carrico had an abortion, which was emotionally devastating for her (Connie Carrico had only been pregnant twice before, which resulted in the birth of her two daughters) and Michael Carrico. Connie cried for two weeks after the abortion, and she and Michael

have continued from that time to the present and continuing, to suffer the trauma and mental anguish, inter alia, of having an abortion.

41. Connie Carrico became pregnant a second time after the April 12, 2017 sterilization procedure, during November 2017, which she discovered on or about December 28, 2017.

42. The second pregnancy was confirmed by another obstetrician in another medical office during the initial office visit on January 2, 2018. At first, Connie Carrico and Michael Carrico decided to have a second abortion, but they quickly changed their minds and began prenatal care with the new obstetrician.

43. An ultrasound on January 11, 2018 determined that the fetus was viable. A still photograph from the January 11, 2018 ultrasound presently remains on the Carricos' refrigerator door.

44. On or about January 25, 2018, the Carricos traded in their vehicle for a larger vehicle, to accommodate their growing family.

45. The Carricos told their older daughter about the pregnancy, and their daughter told her classmates and teachers.

46. On February 13, 2018, an ultrasound found fetal demise after Connie Carrico had spotting and bleeding since February 9, 2018.

47. Connie Carrico had D&C Suction and Laparoscopic Salpingectomy bilateral procedures on February 14, 2018. The surgeon noted in his Operative Report: "nml tubes and ovaries with left filshie clip in proper position and right filshie clip on round ligament. Bilateral salpingectomy performed with removal of left filshie clip. Right filshie clip left in place on the round ligament."

COUNT ONE

**(Medical Malpractice (Health Care Malpractice Claim) – Medical Injury Involving Botched Sterilization Procedure On April 12, 2017, The Resulting Pregnancy, And Abortion On June 23, 2017)**

48. The allegations stated in paragraphs 1 through 28, 33 (limited to: "Dr. Tran did not tell Connie Carrico on April 17, 2017, or at any time thereafter [before she became pregnant the first time after the sterilization procedure] , that the Filshie clip was placed on her right round ligament and not on her right Fallopian tube; ... Dr. Tran never told Connie Carrico that the sterilization procedure on April 17, 2017 was not performed properly despite Dr. Tran knowing such; Dr. Tran never told Connie Carrico that she was fertile and could become pregnant after the April 12, 2017 sterilization procedure, although Dr. Tran knew such"), 34, 36, 39, and 40 are incorporated herein by reference as if fully set forth herein.

49. Dr. Tran, individually and as actual or apparent agent, servant, and/or employee of the other Defendants, and the other Defendants, each owed Connie Carrico and Michael Carrico a duty to exercise reasonable care in the care and treatment of Connie Carrico.

50. Dr. Tran, individually and as actual or apparent agent, servant, and/or employee of the other Defendants, and the other Defendants, each owed a duty of care to give care to Connie Carrico and Michael Carrico in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities at the time of the alleged act giving rise to the cause of action, which duty they each breached (i.e., botched sterilization procedure on April 12, 2017, resulting in the first pregnancy, the abortion on June 23, 2017, the Laparoscopic Salpingectomy bilateral on February 14, 2018, and sequela).

51. Dr. Tran and the other Defendants each breached the above-described duty of care, thereby deviating from the applicable standards of care, and were otherwise negligent in that they, among other things:

- a. Failed to properly treat Connie Carrico;
- b. Failed to properly perform the sterilization surgery on Connie Carrico on April 12, 2017 by failing to confirm the proper structure at the time of applying the Filshie clip on the right side;
- c. Failed to place the right Filshie clip on the right Fallopian tube and instead placed the Filshie clip on the right round ligament;
- d. Failed to confirm proper placement of the Filshie clip on the right Fallopian tube after the Filshie clip was applied;
- e. Failed to recognize and diagnose during the April 12, 2017 sterilization procedure that the Filshie clip was placed on the right round ligament;
- f. Signed and authenticated the Operative Report from the April 12, 2017 sterilization procedure that falsely stated that the right Filshie clip was placed on the right Fallopian tube, falsely described how the right Fallopian tube was identified and the Filshie clip placed on same, and falsely stated that the placement was "confirmed by the camera";
- g. Failed to exercise that degree of skill and learning of a health care provider with similar training and experience acting under the same or similar circumstances;
- h. And committed other negligent acts and/or omissions that breached the duty of care owed to the Carricos in other ways, thereby deviating from the applicable standards of care, and they were otherwise negligent.

52. As a direct result of the above-described deviations from the standards of care and breaches of duties by Dr. Tran and the other Defendants, Connie Carrico and Michael Carrico sustained serious, painful, and permanent injuries to Connie's body, Connie Carrico became pregnant, Connie Carrico had an abortion, Connie Carrico underwent a bilateral laparoscopic salpingectomy on February 14, 2018, and Connie Carrico and Michael Carrico both suffered mental anguish, pain, suffering, and other injuries and damages, past, present, and future, as a result of the first pregnancy, the abortion, and the bilateral laparoscopic salpingectomy.

53. The injuries and damages herein complained of were directly and proximately caused by the negligence of Dr. Tran and the other Defendants with no negligence on the part of Connie Carrico or Michael Carrico contributing thereto.

WHEREFORE, Connie Carrico and Michael Carrico, both individually and jointly, request that judgment be entered against Dr. Tran and the other Defendants, both severally and jointly, for compensatory damages, attorney's fees, costs, and interest in excess of Seventy Five Thousand Dollars (\$75,000.00).

#### **COUNT TWO**

**(Medical Malpractice (Health Care Malpractice Claim) – Medical Injury Involving Failures On June 21, 2017 And Thereafter To Order Proper Medical Testing And To Appropriately Treat, Advise And Instruct The Claimants, Resulting In Second Pregnancy And Miscarriage)**

54. The allegations stated in paragraphs 1 through 20, 29 through 32, 33 (limited to: "Dr. Tran never told Connie Carrico [on June 21, 2017 or thereafter] that she was not sterilized but assured her that she was sterilized; ... Dr. Tran never told Connie Carrico [on June 21, 2017 or thereafter] that she was fertile and could become pregnant ... , although Dr. Tran knew such; Dr. Tran never ordered [on June 21, 2017 or thereafter] diagnostic testing to determine the patency of Connie

Carrico's Fallopian tubes; Dr. Tran never told Connie Carrico [on June 21, 2017 or thereafter] that she should use other means of birth control or abstain from sexual intercourse; Dr. Tran never scheduled Connie Carrico for a follow up appointment after June 20, 2017; Dr. Tran never communicated with Connie Carrico after June 21, 2017 regarding any of the above (Dr. Tran spoke with Connie Carrico on June 26, 2017, but did not discuss any of the above"), 35, 37, 38, and 41 through 47 are incorporated herein by reference as if fully set forth herein.

55. Dr. Tran, individually and as actual or apparent agent, servant, and/or employee of the other Defendants, and the other Defendants, each owed Connie Carrico and Michael Carrico a duty to exercise reasonable care in the care and treatment of Connie Carrico.

56. Dr. Tran, individually and as actual or apparent agent, servant, and/or employee of the other Defendants, and the other Defendants, each owed a duty of care to give care to Connie Carrico and Michael Carrico in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities at the time of the alleged act giving rise to the cause of action, which duty they each breached (i.e., failure to order appropriate medical testing and to advise and instruct Connie Carrico and Michael Carrico on June 21, 2017 and thereafter, resulting in the second pregnancy, the miscarriage, the D & C Suction on February 14, 2018, and sequela).

57. Dr. Tran and the other Defendants each breached the above-described duty of care, thereby deviating from the applicable standards of care, and were otherwise negligent in that they, among other things:

- a. Failed to properly treat Connie Carrico;
- b. Failed on June 21, 2017 (after Dr. Tran found out that Connie Carrico was pregnant) to evaluate Connie Carrico for a possible ectopic pregnancy;



c. Failed on June 21, 2017 (after Dr. Tran found out that Connie Carrico was pregnant) and thereafter to determine the length of gestation of the pregnancy;

d. Assumed on June 21, 2017 (after Dr. Tran found out that Connie Carrico was pregnant) that Connie was pregnant at the time of the April 12, 2017 tubal ligation and advised Connie on that date that she must have been pregnant at the time of the April 12, 2017 tubal ligation;

e. Failed on June 21, 2017 (after Dr. Tran found out that Connie Carrico was pregnant) and thereafter to advise Connie Carrico that she needed to be evaluated with regard to the failure of the April 12, 2017 tubal ligation;

f. Failed on June 21, 2017 (after Dr. Tran found out that Connie Carrico was pregnant) and thereafter to advise Connie Carrico to use other means of contraception, or abstinence, to avoid a future pregnancy;

g. Failed on June 21, 2017 (after Dr. Tran found out that Connie Carrico was pregnant) and thereafter to consider that the April 12, 2017 tubal ligation had failed;

h. Failed on June 21, 2017 (after Dr. Tran found out that Connie Carrico was pregnant) and thereafter to investigate and diagnose why Connie Carrico became pregnant after the April 12, 2017 sterilization procedure;

i. And breached the duty of care owed to the Carricos in other ways, thereby deviating from the applicable standards of care, and they were otherwise negligent.

58. As a direct result of the above-described deviations from the standards of care and breaches of duties by Dr. Tran and the other Defendants, Connie Carrico and Michael Carrico sustained serious, painful, and permanent injuries to Connie's body, Connie Carrico became

pregnant a second time and subsequently had a miscarriage, Connie Carrico underwent a D & C Suction on February 14, 2018, and Connie Carrico and Michael Carrico both suffered mental anguish, pain, suffering, and other injuries and damages, past, present, and future, as a result of the second pregnancy, the miscarriage, and the D & C Suction on February 14, 2018.

59. The injuries and damages herein complained of were directly and proximately caused by the negligence of Dr. Tran and the other Defendants with no negligence on the part of Connie Carrico or Michael Carrico contributing thereto.

WHEREFORE, Connie Carrico and Michael Carrico, both individually and jointly, request that judgment be entered against Dr. Tran and the other Defendants, both severally and jointly, for compensatory damages, attorney's fees, costs, and interest in excess of Seventy Five Thousand Dollars (\$75,000.00).

### **COUNT THREE**

#### **(Fraud By Intentional Misrepresentation)**

60. The allegations stated in paragraphs 1 through 59 are incorporated herein by reference as if fully set forth herein.

61. Dr. Tran made the following false statements (representations) to Connie Carrico during the telephone conversation on June 21, 2017:

A. That Connie must have been pregnant at the time of the April 12, 2017 sterilization procedure;

B. That the sterilization procedure was successful; and,

C. That there was no problem with the sterilization procedure.

62. Dr. Tran and the other Defendants either knew that such statements were false at the time the statements were made, or such statements were made to Connie Carrico by Dr. Tran with reckless indifference as to the truth of those statements at the time the statements were made, which none of the Defendants, including Dr. Tran, ever corrected, to wit:

A. Dr. Tran knew that the number of weeks of the pregnancy (gestation) that she advised Connie Carrico on June 21, 2017 (i.e., about eight and a half weeks pregnant) meant that Connie Carrico was not pregnant on April 12, 2017;

B. Dr. Tran knew the result of the pregnancy test on May 11, 2017 at the ED of Franklin Square Hospital was negative, which meant that Dr. Tran knew that Connie Carrico was not pregnant on April 12, 2017;

C. Dr. Tran told Connie Carrico on June 21, 2017 that the April 12, 2017 sterilization procedure had been successful, knowing that such statement was false and/or Dr. Tran was recklessly indifferent to the truth of that statement when made;

D. Dr. Tran told Connie Carrico on June 21, 2017 that there was no problem with the April 12, 2017 sterilization procedure, knowing that such statement was false and/or Dr. Tran was recklessly indifferent to the truth of that statement when made.

63. Dr. Tran made such statements to Connie Carrico with the purpose of defrauding and deceiving Connie Carrico into believing that Dr. Tran had properly and successfully performed the April 12, 2017 sterilization procedure and that she was properly sterilized, with the intent to deceive and hide from the Carricos Dr. Tran's failure to perform the April 12, 2017 sterilization procedure properly, to deceive and hide from the Carricos that Connie's right Fallopian tube was patent, that Connie could become pregnant if she failed to use other means of contraception, to intentionally deceive and mislead

the Carricos in order to avoid a potential medical malpractice claim being made against Dr. Tran and the other Defendants for Dr. Tran's negligently performed sterilization procedure that led to Connie's post-sterilization pregnancy(ies), and engaged in self-dealing at the expense of the Carricos by placing Dr. Tran's professional and financial interests above the Carricos' right to know that Connie Carrico's sterilization procedure was a failure, with the attendant risk of pregnancy(ies), which Dr. Tran knew.

64. As the patient of Dr. Tran and the other Defendants, Connie Carrico and Michael Carrico had a right to rely on the false statements and in fact relied on the false statements, without knowing their falsity, for Connie Carrico's gynecological and other health care treatment and services and with regard to Dr. Tran's and the other Defendants' opinions, advice, and recommendations, which the Defendants knew and intended.

65. As a direct result of Dr. Tran and the other Defendants intentional false representations as set forth above, Connie Carrico and Michael Carrico each suffered compensable injuries including but not limited to the second post-sterilization pregnancy, the subsequent miscarriage, the D & C Suction procedure on February 14, 2018, and sequela.

WHEREFORE, Connie Carrico and Michael Carrico, both individually and jointly, request that judgment be entered against Dr. Tran and the other Defendants, both severally and jointly, for both compensatory damages and punitive damages, attorney's fees, costs, and interest in excess of Seventy Five Thousand Dollars (\$75,000.00).

#### **COUNT FOUR**

##### **(Intentional Infliction Of Emotional Distress)**

66. The allegations stated in the above paragraphs are incorporated herein by reference as if fully set forth herein.

67. The conduct, actions, and statements perpetrated by Dr. Tran and the Defendants' agents, servants, and employees, on June 21, 2017 (including but not limited to those set forth in paragraphs 31 and 61 above) and thereafter, all of which were committed within the scope of their employment, for which the Defendants are responsible, were extreme and outrageous and beyond the bounds of decency in society.

68. Such conduct and actions were malicious, willful, wanton, and intentional, and were intended to harm Connie Carrico and Michael Carrico.

69. As a result of such conduct and actions, Connie Carrico and Michael Carrico have suffered and will continue to suffer in the future severe and extreme emotional distress.

WHEREFORE, Connie Carrico and Michael Carrico, both individually and jointly, request that judgment be entered against Dr. Tran and the other Defendants, both severally and jointly, for both compensatory damages and punitive damages, attorney's fees, costs, and interest in excess of Seventy Five Thousand Dollars (\$75,000.00).

#### **COUNT FIVE**

#### **(Loss of Consortium)**

70. The allegations stated in the above paragraphs are incorporated herein by reference as if fully set forth herein.

71. The conduct of Dr. Tran and the other Defendants, as set forth above, which directly and proximately caused the above-described injuries and damages, also directly and proximately caused injury to the marital relationship of Connie Carrico and Michael Carrico, including loss of society, affection, assistance, companionship, and intimate relations.

72. Connie Carrico's and Michael Carrico's injuries and damages were directly and proximately caused by the negligence and/or recklessness of Dr. Tran and the other

Defendants, with no negligence on the part of Connie Carrico and Michael Carrico contributing thereto.

WHEREFORE, Connie Carrico and Michael Carrico, both individually and jointly, request that judgment be entered against Dr. Tran and the other Defendants, both severally and jointly, for compensatory damages, attorney's fees, costs, and interest in excess of Seventy Five Thousand Dollars (\$75,000.00).



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Attorney for Plaintiffs



Connie Carrico, Plaintiff



Michael Carrico, II, Plaintiff

**DEMAND FOR JURY TRIAL**

The Plaintiffs demand that their Complaint, all Counts, and their causes of action be tried before a jury.

BALTIMORE COUNTY

2010 OCT 30 PM 2:04

FILED



Jeff E. Messing, Attorney for Plaintiffs

CONNIE CARRICO  
3 Ryan Frost Way  
Essex, Maryland 21221

and

MICHAEL CARRICO, II  
3 Ryan Frost Way  
Essex, Maryland 21221,  
Claimants,

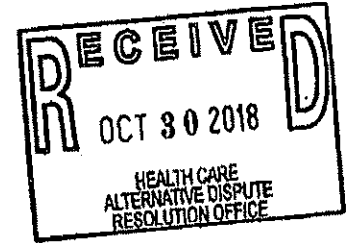
v.

HANH THI-MY TRAN, M.D.  
1576 Merritt Boulevard, Suite 16  
Baltimore, Maryland 21222,

FRANKLIN SQUARE HOSPITAL CENTER, INC.  
Serve: The Corporation Trust, Incorporated  
2405 York Road, Suite 201  
Lutherville, Maryland 21093,

and

MEDSTAR HEALTH, INC.  
Serve: The Corporation Trust, Incorporated  
2405 York Road, Suite 201  
Lutherville, Maryland 21093,  
Defendant Health Care Providers.



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IN THE

HEALTH CARE

ALTERNATIVE DISPUTE

RESOLUTION OFFICE

Case No.:

**WAIVER OF ARBITRATION**

The Claimants, by their attorney, Jeff E. Messing, hereby unilaterally waive arbitration in this matter and elect to proceed directly to the Circuit Court for Baltimore County, pursuant to section 3-2A-06B of the Courts and Judicial Proceedings Article of the Annotated Code of

Maryland.



Jeff E. Messing

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Attorney for Claimants



Connle Carrico, Claimant



Michael Carrico, II, Claimant