

TYREESE BALLARD
900 Southerly Road, Apartment 115
Towson, MD 21204

Plaintiff

-vs-

DAVID SILVERMAN, M.D.
2435 W. Belvedere Ave. Ste. 33
Baltimore, MD 21215

AND

SINAI OB/GYN ASSOCIATES
2435 W. Belvedere Ave. Ste. 33
Baltimore, MD 21215

Defendants

* **IN THE**
*
* **CIRCUIT COURT**

* **FOR**

* **BALTIMORE CITY**

Case: 2010-00000000
CV File No:

Appear Fee

FILED

TOTAL

RECEIVED
CIVIL DIVISION
2013 JUL 25 PM 2:06
CIRCUIT COURT FOR
BALTIMORE CITY

* * * * *

COMPLAINT

NOW COMES, Tyreese Ballard, Plaintiff, by and through her attorney, Mark E. Herman, Esq., with her Complaint, and in support so states:

1. Plaintiff Tyreese Ballard, at all times pertinent, was a patient under the care of Obstetrician/Gynecologist Dr. David Silverman, M.D. (hereinafter "Dr. Silverman").
2. Dr. Silverman, at all times pertinent, was employed and associated with Sinai OB/GYN Associates, and held himself out to the public as a health care provider specializing in obstetrics and gynecology; possessing that degree of skill and knowledge which is ordinarily possessed by those who devote special study and attention to the practice of medicine, and especially of obstetrics and gynecology.
3. On or about March 24, 2010, Plaintiff went to the office of Dr. Silverman to receive a

routine annual gynecological exam. Dr. Silverman made note during this visit that Plaintiff was 30 years old, sexually active and wanted a prescription for oral contraception. Plaintiff was then 225.5 pounds, placing Plaintiff in a weight range categorized as morbidly obese. Plaintiff was also hypertensive. Dr. Silverman failed to acknowledge these conditions relative to her request, noting a post-assessment plan to prescribe the medication. Plaintiff was prescribed Balziva (28) Oral, an oral contraceptive, during this visit and began taking this medication following this visit.

4. Balziva (28) Oral is an oral contraceptive that prevents pregnancy through the use of two hormones, estrogen and progestin. It is recommended by the American Congress of Obstetricians and Gynecologists (“ACOG”) that women who are obese and hypertensive be placed on progestin only oral contraceptives, in order to minimize the risk of complications to the patient. Dr. Silverman failed to prescribe the safer alternative of a progestin only oral contraceptive.

5. On or about June 14, 2010, Plaintiff returned to Dr. Silverman’s office with complaints of abdominal pain in the right lower quadrant. During this visit, Dr. Silverman failed to perform a complete physical exam and review of symptoms. Dr. Silverman took Plaintiff’s blood pressure but failed to assess her pulse and respirations. Dr. Silverman’s assessment was that Plaintiff was presenting with symptoms of fibroids and scheduled Plaintiff for surgery excision in December, 2010. Dr. Silverman again failed to acknowledge or counsel Plaintiff regarding her hypertension, which had significantly increased since her previous visit on March 24, 2010.

COUNT ONE-INFORMED CONSENT

6. Plaintiff hereby incorporates the allegations contained in Paragraphs 1 through 5.

7. Oral contraceptives are known to increase blood pressure and increase the risk of vascular events in hypertensive patients. Oral contraceptives have also been shown to increase the risk of venous thromboembolism in obese women.

8. Dr. Silverman failed to advise Plaintiff regarding the risk of taking oral contraceptives in consideration of the known risk factors of obesity and hypertension.

9. On October 13, 2010, Plaintiff presented in the Emergency Department of Greater Baltimore Medical Hospital with chest pain on the right side, which worsened upon deep expiration, hypertension, and tachycardia. A computed tomography scan ("CT scan") was performed revealing bilateral pulmonary emboli. Plaintiff was admitted to the Coronary Care Unit.

10. Plaintiff was hospitalized from October 13, 2010 to October 19, 2010, prescribed anticoagulants, and discontinued oral contraceptives because she experienced a hypertensive event. A cardiology consultation including echocardiogram revealed Stage 1 Diastolic Function, indicating that hypertension would continue to be a serious chronic concern. Plaintiff's blood pressure gradually came under control with the discontinuation of the oral contraceptives.

11. Plaintiff was discharged from the hospital on October 19, 2010 with instructions to follow up with the Coumadin Clinic and a cardiologist for close management of hypertension.

12. Dr. Silverman's failure to advise regarding the particular risk factors presented by taking oral contraceptives deprived Plaintiff of the ability to make an informed decision to take oral contraceptives.

13. Plaintiff would not have taken the oral contraceptives knowing the particular risks involved with obesity and hypertension. Dr. Silverman further failed to advise Plaintiff about other methods of birth control that could be used in substitution of oral contraceptives, or of alternative progestin only oral contraceptives that were available.

14. Dr. Silverman's failure to disclose all relevant information led Plaintiff to an uninformed decision, resulting in severe and dangerous hypertension requiring emergency hospitalization.

15. As a direct and proximate result of Dr. Silverman's failure to secure Plaintiff's informed

consent, Plaintiff was injured and damaged as described above and in other respects.

COUNT TWO-PROFESSIONAL NEGLIGENCE

16. Plaintiff hereby incorporates the allegations contained in Paragraphs 1 through 5.

17. Dr. Silverman knew or should have known the risk factors associated with oral contraceptives and the particular risk to Plaintiff due to the conditions she presented.

18. Dr. Silverman breached the requisite standard of care by prescribing oral contraceptives despite known risk factors associated with the medication. Dr. Silverman knew Plaintiff presented with several risk factors and disregarded them.

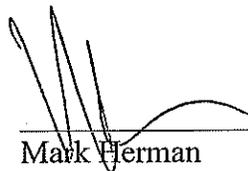
19. During the relevant time period, Dr. Silverman also failed to advise Plaintiff to follow up with her primary care physician for management of her blood pressure prior to prescribing oral contraceptives.

20. Dr. Silverman was otherwise negligent.

21. As a direct and proximate result, Plaintiff was injured and damaged as described above and in other ways.

22. This matter was submitted to Health Care Alternative Dispute Resolution Office and an Order dated July 8, 2013 transferred the matter to Circuit Court Baltimore City, based upon a Request for unilateral waiver, copy attached herein as **Exhibit A**.

WHEREFORE, Plaintiff sues the aforementioned health care providers and the claim exceeds \$30,000.00.



Mark Herman
14 West Madison Street
Baltimore, Maryland 21201
410-837-2144
Attorney for Plaintiff

TYREESE BALLARD

Plaintiff

-vs-

DAVID SILVERMAN, M.D.,
et al.

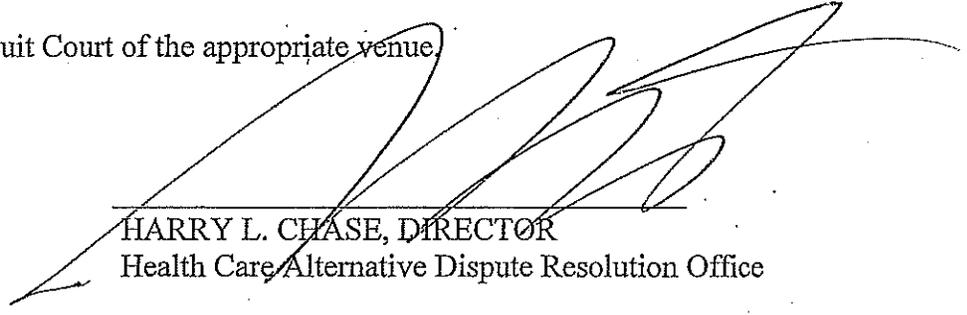
Defendants

* BEFORE THE
*
* HEALTH CARE
*
* ALTERNATIVE DISPUTE
*
* RESOLUTION OFFICE
*
* HCA No.: 2012-562
*
*

ORDER OF TRANSFER

The Plaintiff, by and through counsel, having elected a Waiver of Arbitration under the provisions of Annotated Code of Maryland, Courts and Judicial Proceedings, Art., § 3-2A-06B, it is this 7th day of July, 2013, by the Health Care Alternative Dispute Resolution Office,

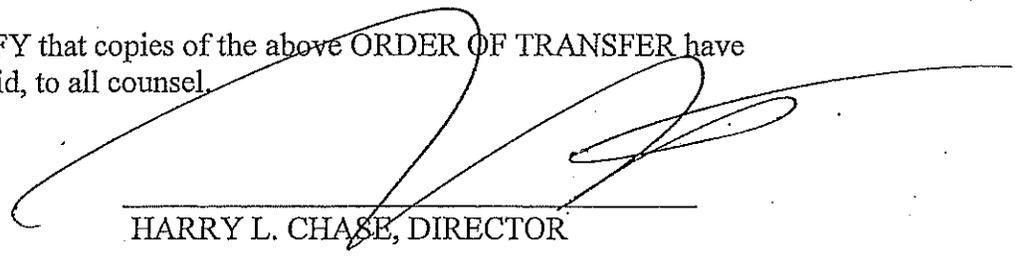
ORDERED, that this case shall be and is hereby, transferred to the United States District Court, or to the Circuit Court of the appropriate venue.



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

CERTIFICATE OF SERVICE

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



HARRY L. CHASE, DIRECTOR

TYREESE BALLARD

* **IN THE**

Plaintiff

* **CIRCUIT COURT**

-vs-

*

DAVID SILVERMAN, M.D.

* **FOR**

AND

*

SINAI OB/GYN ASSOCIATES

* **BALTIMORE CITY**

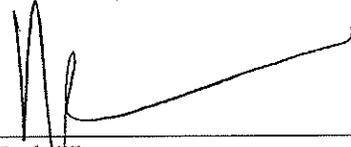
*

Defendants

* * * * *

REQUEST FOR JURY TRIAL

The Plaintiff herein elects to have her case tried before a jury.



Mark Herman
14 West Madison Street
Baltimore, Maryland 21201
410-837-2144
Attorney for Plaintiff

RECEIVED
CIRCUIT COURT FOR
BALTIMORE CITY

2013 JUL 25 PM 2:06

Circuit Court for Baltimore City City or County

CIVIL NON-DOMESTIC CASE INFORMATION REPORT

CIVIL DIVISION

Directions:
Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a). A copy must be included for each defendant to be served.
Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS AN ANSWER OR RESPONSE.

FORM FILED BY: PLAINTIFF DEFENDANT CASE NUMBER: _____

CASE NAME: Tyrese Ballard v David Silverman, M.D., et al (Click to insert)

JURY DEMAND: Yes No Anticipated length of trial: _____ hours or 2 days

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

Special Requirements? Interpreter/communication impairment Which language _____
 (Attach Form 1-332 if Accommodation or Interpreter Needed) Which dialect _____
 ADA accommodation: _____

NATURE OF ACTION (CHECK ONE BOX) DAMAGES/RELIEF

<p>TORTS</p> <input type="checkbox"/> Motor Tort <input type="checkbox"/> Premises Liability <input type="checkbox"/> Assault & Battery <input type="checkbox"/> Product Liability <input checked="" type="checkbox"/> Professional Malpractice <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Business & Commercial <input type="checkbox"/> Libel & Slander <input type="checkbox"/> False Arrest/Imprisonment <input type="checkbox"/> Nuisance <input type="checkbox"/> Toxic Torts <input type="checkbox"/> Fraud <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Lead Paint <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____	<p>LABOR</p> <input type="checkbox"/> Workers' Comp. <input type="checkbox"/> Wrongful Discharge <input type="checkbox"/> EEO <input type="checkbox"/> Other _____	<p>A. TORTS</p> <p>Actual Damages</p> <input type="checkbox"/> Under \$7,500 <input type="checkbox"/> Medical Bills \$ _____ <input type="checkbox"/> \$7,500 - \$50,000 <input type="checkbox"/> Property Damages \$ _____ <input type="checkbox"/> \$50,000 - \$100,000 <input type="checkbox"/> Wage Loss \$ _____ <input checked="" type="checkbox"/> Over \$100,000
<p>REAL PROPERTY</p> <input type="checkbox"/> Judicial Sale <input type="checkbox"/> Condemnation <input type="checkbox"/> Landlord Tenant <input type="checkbox"/> Other _____	<p>CONTRACTS</p> <input type="checkbox"/> Insurance <input type="checkbox"/> Confessed Judgment <input type="checkbox"/> Other _____	<p>B. CONTRACTS</p> <input type="checkbox"/> Under \$10,000 <input type="checkbox"/> \$10,000 - \$20,000 <input type="checkbox"/> Over \$20,000
<p>OTHER</p> <input type="checkbox"/> Civil Rights <input type="checkbox"/> Environmental <input type="checkbox"/> ADA <input type="checkbox"/> Other _____	<p>C. NONMONETARY</p> <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____	

ALTERNATIVE DISPUTE RESOLUTION INFORMATION
 Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)
 A. Mediation Yes No C. Settlement Conference Yes No
 B. Arbitration Yes No D. Neutral Evaluation Yes No

TRACK REQUEST
 With the exception of Baltimore County and Baltimore City, please fill in the estimated LENGTH OF TRIAL. THIS CASE WILL THEN BE TRACKED ACCORDINGLY.
 1/2 day of trial or less 3 days of trial time
 1 day of trial time More than 3 days of trial time
 2 days of trial time

PLEASE SEE PAGE TWO OF THIS FORM FOR INSTRUCTIONS PERTAINING TO THE BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM AND ADDITIONAL INSTRUCTIONS IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE COUNTY, BALTIMORE CITY, OR PRINCE GEORGE'S COUNTY.

Date 7/24/2013 Signature _____

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

For all jurisdictions, if Business and Technology track designation under Md. Rule 16-205 is requested, attach a duplicate copy of complaint and check one of the tracks below.

Expedited
Trial within 7 months of
Defendant's response

Standard
Trial - 18 months of
Defendant's response

EMERGENCY RELIEF REQUESTED _____
Signature _____ Date _____

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE COUNTY, BALTIMORE CITY, OR PRINCE GEORGE'S COUNTY PLEASE FILL OUT THE APPROPRIATE BOX BELOW.

CIRCUIT COURT FOR BALTIMORE CITY (check only one)

- Expedited Trial 60 to 120 days from notice. Non-jury matters.
- Standard-Short Trial seven months from Defendant's response. Includes torts with actual damages up to \$7,500; contract claims up to \$20,000; condemnations; injunctions and declaratory judgments.
- Standard-Medium Trial 12 months from Defendant's response. Includes torts with actual damages over \$7,500 and under \$50,000, and contract claims over \$20,000.
- Standard-Complex Trial 18 months from Defendant's response. Includes complex cases requiring prolonged discovery with actual damages in excess of \$50,000.
- Lead Paint Fill in: Birthdate of youngest plaintiff _____.
- Asbestos Events and deadlines set by individual judge.
- Protracted Cases Complex cases designated by the Administrative Judge.

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

To assist the Court in determining the appropriate Track for this case, check one of the boxes below. This information is not an admission and may not be used for any purpose other than Track Assignment.

- Liability is conceded.
- Liability is not conceded, but is not seriously in dispute.
- Liability is seriously in dispute.

CIRCUIT COURT FOR BALTIMORE COUNTY

- Expedited (Trial Date-90 days) Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
- Standard (Trial Date-240 days) Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, Intentional Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
- Extended Standard (Trial Date-345 days) Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
- Complex (Trial Date-450 days) Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.