

and *

LEVIN, DIENER & HERBST, P.A. *
821 North Eutaw Street, Suite 102 *
Baltimore, Maryland 21201 *

Serve on: *
Ned Himmelrich *
Gordan, Feinblatt, Rothman, *
Hoffberger & Hollander, LLC *
233 East Redwood Street *
Baltimore, Maryland 21202 *

Respondents *

* * * * *

COMPLAINT

Plaintiffs, by their attorneys, Joseph E. Dever and Dever & Feldstein, LLC, hereby file this Complaint against Defendant Health Care Providers, Sinai Hospital of Baltimore, Inc., David B. Silverman, M.D. and Levin, Deiner & Herbst, P.A., and in support thereof state as follows:

PARTIES AND JURISDICTION

1. At all times material to this case, Plaintiffs have been citizens and residents of the State of Maryland.

2. At all times material to this case, Sinai Hospital of Baltimore, Inc. ("Sinai Hospital") has been a hospital existing under the laws of the State of Maryland, engaging in the practice of

medicine at 2401 West Belvedere Avenue, Baltimore, Maryland 21204, and acting through actual and apparent agents, servants and employees, including but not limited to David B. Silverman, M.D. and Tanya Foster, M.D.

3. At all times material to this case, David B. Silverman, M.D. ("Dr. Silverman") was a physician engaged in the practice of medicine in Baltimore City as a duly authorized agent and/or employee of Sinai Hospital and Levin, Diener & Herbst, P.A.

4. At all times material to this case, Levin, Diener & Herbst, P.A. has been a professional association existing under the laws of the State of Maryland, engaging in the practice of medicine at 821 North Eutaw Street, Baltimore, Maryland 21201, and acting through actual and apparent agents, servants and employees, including but not limited to David B. Silverman, M.D.

5. The venue for this claim is proper in Baltimore City, Maryland. The amount in controversy exceeds Twenty-Five Thousand Dollars (\$25,000.00).

FACTS COMMON TO ALL COUNTS

6. At all times mentioned and relevant herein, Sinai Hospital was a licensed hospital in the State of Maryland, holding itself and its

agents, servants and employees out to the general public as experienced, competent and capable providers of medical services, and in such capacity owed a duty to Plaintiffs to render that degree of medical care and skill which is ordinarily rendered by those who devote special study and attention to the practice of medicine.

7. At all times mentioned and relevant herein, all individuals at Sinai Hospital, including but not limited to Dr. Silverman and Dr. Foster, who participated in the care provided to Plaintiffs were acting on behalf of Sinai Hospital and within the scope of their employment and/or agency with Sinai Hospital.

8. At all times mentioned and relevant herein, Dr. Silverman was a licensed medical doctor in the State of Maryland, holding himself out to the general public as an experienced, competent and capable health care provider, possessing that degree of skill and knowledge which is ordinarily possessed by those who devote special study and attention the practice of medicine and obstetrics and gynecology, and in such capacity owed a duty to Plaintiffs to render that degree of medical care and skill which is ordinarily rendered by those who devote special study and attention to the practice of medicine and obstetrics and gynecology.

9. At all times mentioned and relevant herein, Levin, Diener & Herbst, P.A. was a professional association in the State of Maryland, holding itself and its agents, servants and employees out to the general public as experienced, competent and capable providers of medical services, and in such capacity owed a duty to Plaintiffs to render that degree of medical care and skill which is ordinarily rendered by those who devote special study and attention to the practice of medicine and obstetrics and gynecology.

10. At all times mentioned and relevant herein, all individuals at Levin, Diener & Herbst, P.A., including but not limited to Dr. Silverman, who participated in the care provided to Plaintiffs were acting on behalf of Levin, Diener & Herbst, P.A. and within the scope of their employment and/or agency with Levin, Diener & Herbst, P.A.

11. On or about February 14, 2006, Julie Mahoney presented to Sinai Hospital for a scheduled cesarean section delivery of her second child. (Ms. Mahoney had delivered her first child by cesarean section in November of 2003). Ms. Mahoney was examined by Dr. Neelima Katragadda, an ob-gyn resident, at approximately 4:59 a.m. and signed a consent form for the cesarean section delivery at 5:30 a.m. Shortly thereafter, it was recommended to Ms. Mahoney and her husband that they attempt a trial of labor and vaginal delivery rather than a cesarean section. Ms. Mahoney ultimately agreed and

signed a consent form for a VBAC (vaginal birth after cesarean) at 6:30 a.m.

12. Ms. Mahoney remained in labor for the remainder of the day until she finally delivered her baby in the early morning hours of February 15, 2006. During the delivery, Dr. Silverman encountered a shoulder dystocia and applied a vacuum extraction device to the baby's head. Dr. Silverman subsequently applied excessive manual traction to the baby's head while Dr. Foster applied fundal pressure to Ms. Mahoney's abdomen. At approximately 12:16 a.m., Dr. Silverman finally delivered Margaret Mahoney and immediately noted that she had suffered a severe brachial plexus injury on the left side.

13. The next day, Margaret Mahoney was evaluated by a pediatric neurologist who diagnosed a neonatal brachial plexus injury.

14. On August 10, 2006, Margaret Mahoney underwent an MRI study which demonstrated an avulsion of the C7 nerve root, along with a pseudomeningocele on the left side from C7 to T1. Based upon the results of this study, Margaret's doctors recommended major nerve graft and reconstruction surgery.

15. On September 12, 2006, Margaret underwent nerve graft and reconstruction surgery at Johns Hopkins Hospital. Since this surgery, Margaret has continued to suffer significant disability and loss of function in her left shoulder, arm and hand. At present, Margaret is continuing with physical therapy and receives regular follow-up examinations at Johns Hopkins Hospital.

COUNT I
(Professional Negligence)

16. The Plaintiffs incorporate all of the allegations contained in the above paragraphs as if those allegations are set forth in this Count.

17. The Defendant Health Care Providers, individually and through their actual and/or apparent agents, servants and/or employees, owed a duty to Plaintiffs to exercise reasonable care in their treatment of them.

18. The Defendant Health Care Providers, individually and through their actual and/or apparent agents, servants and/or employees, breached the above-described duty of care to Plaintiffs, thereby deviating from the applicable standards of care, and were otherwise negligent, careless and reckless in that they, among other things:

- a. failed to properly plan and manage the delivery of Margaret Mahoney;
- b. failed to properly manage and resolve the shoulder dystocia using recognized and accepted techniques and instead used unacceptable techniques that exacerbated the shoulder dystocia and caused Margaret Mahoney to suffer severe and disabling brachial plexus injuries; and
- c. were otherwise negligent and violated the applicable standards of care.

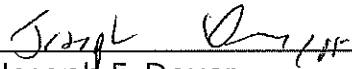
19. As a direct and proximate result of the above-described deviations from the standards of care and breaches of duty by the Defendant Health Care Providers, Plaintiffs were caused to sustain physical and mental pain and suffering and will continue to suffer physical and mental pain and suffering in the future.

20. As a further direct and proximate result of the above-described deviations from the applicable standards of care and breaches of duty by the Defendant Health Care Providers, Plaintiffs, among other things, were forced to undergo medical treatment, and, as a result, were obliged to expend sums of money for medical, hospital, and rehabilitative care and treatment, and were precluded from engaging in their normal and usual pursuits and activities, among other injuries and damages. Plaintiffs will also be obliged to expend sums of money for future medical, rehabilitative, and educational services for Margaret Mahoney as a result of her injuries and disabilities related to her traumatic birth injuries.

21. Had the Defendant Health Care Providers followed the appropriate and applicable standards of care, Plaintiffs would not have suffered the above-identified injuries and damages.

22. The injuries and damages herein complained of were directly and proximately caused by the negligence and want of care of the Defendant Health Care Providers, with no negligence on the part of Plaintiffs contributing thereto.

WHEREFORE, Plaintiffs request that judgment be entered against the Defendant Health Care Providers for compensatory damages in excess of Twenty-Five Thousand Dollars (\$25,000.00) and any other relief to which this Court finds them entitled.



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Attorneys for Plaintiffs

MARGARET MAHONEY, By Her Mother *
And Next Friend, JULIE MAHONEY *
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Severna Park, Maryland 21146 *

and *

JULIE MAHONEY *
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Severna Park, Maryland 21146 *

and *

SHAUN MAHONEY *
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Severna Park, Maryland 21146 *

Plaintiffs *

v. *

SINAI HOSPITAL OF BALTIMORE, INC. *
2401 West Belvedere Avenue *
Baltimore, Maryland 21204 *

Serve on: *
Joel Suldán *
2401 West Belvedere Avenue *
Baltimore, Maryland 21215 *

and *

DAVID B. SILVERMAN, M.D. *
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IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

CASE NO.

and

LEVIN, DIENER & HERBST, P.A.
821 North Eutaw Street, Suite 102
Baltimore, Maryland 21201

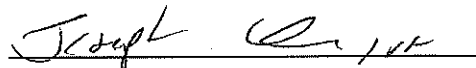
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* * * * *

ELECTION FOR JURY TRIAL

The Plaintiffs elect to try this case before a jury.



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Attorneys for Plaintiffs