

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

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CIRCUIT COURT FOR
BALTIMORE CITY

14 JUL -9 PM 1:17
CIVIL DIVISION

JORDAN FLOOD, a minor, by and through his
Mother and Next Friend, JULIA BARAHONA
3401 Callaway Avenue
Baltimore, Maryland 21215

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*

Plaintiff

v.

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*

MERCY MEDICAL CENTER, INC.
301 St. Paul Place
Baltimore, Maryland 21202

24-CV-004113

Serve On:

Linda H. Jones
218 N. Charles Street
Suite 400
Baltimore, Maryland 21201

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Case No. _____

Case: 24-cv-004113
CV File No

Appear Fee	\$80.00
FILE	\$70.00
TOTAL	\$150.00

and

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METROPOLITAN OB/GYN ASSOCIATES,
LLC
920-940 W. North Avenue
Baltimore, Maryland 21217

Receipt #201400016756
Cashier: RBT CCNCX82
07/10/14 9:55am

Serve On:

Cyrus Lawyer, III
11510 Homewood Road
Ellicott City, Maryland 21041

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and

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*

FAWN T. MANNING, D.O.
301 St. Paul Place
Suite 501
Baltimore, Maryland 21202

Defendants

* * * * *

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Jordan Flood a minor, by and through his Mother and Next Friend, Julia Barahona, and by and through his undersigned attorneys, hereby sues Mercy Medical Center, Inc., Metropolitan OB/GYN Associates, LLC, and Fawn T. Manning, D.O., and for his cause of action states as follows:

1. This medical negligence claim is instituted pursuant to Md. Cts. & Jud. Proc. §§ 3-2A-01 – 3-2A-10, for the recovery of damages in excess of Thirty Thousand Dollars (\$30,000.00).

2. Venue is proper in Baltimore City, Maryland

3. Plaintiff avers that he has satisfied all conditions precedent to the filing of this lawsuit, including the filing a Statement of Claim, Certificate of Merit and Expert Report, and Waiver of Arbitration in the Health Care Alternative Dispute Resolution of Maryland. Plaintiff hereby attaches and incorporates by reference the Certificate of Merit and Expert Report of A. Dean Cromartie, M.D.

4. Defendant Mercy Medical Center, Inc. is, and at all times relevant hereto was, a corporation engaged in the operation of a hospital, which provides obstetrical care and other medical services to individuals in need thereof. At all times material hereto, Mercy Medical Center, Inc. acted directly and/or by and/or through its actual and/or apparent agents, servants and/or employees, including, but not limited to, Metropolitan OB/GYN Associates, LLC and/or Fawn T. Manning, D.O.

5. Defendant Metropolitan OB/GYN Associates, LLC is, and at all times relevant hereto was, a limited liability corporation engaged in the operation of providing health care services, including obstetrical care and services, to individuals in need thereof. At all times

material hereto, Metropolitan OB/GYN Associates, LLC acted directly and/or by and/or through its actual and/or apparent agents, servants and/or employees, including, but not limited to, Fawn T. Manning, D.O.

6. Defendant Fawn T. Manning, D.O. is, and at all times relevant hereto was, a physician licensed to practice medicine, including obstetrics and gynecology, in the State of Maryland. At all times material hereto, Dr. Manning acted individually and/or as the actual and/or apparent agent, servant and/or employee of Defendant Mercy Medical Center, Inc. and/or Defendant Metropolitan OB/GYN Associates, LLC.

7. According to the medical records, the Plaintiff's mother, Julia Barahona, was sent to Mercy Medical Center on January 26, 2005 at 39 and 4/7 weeks gestation after there was suspicion of pre-eclampsia during an office visit.

8. After being triaged, Ms. Barahona was admitted to labor and delivery.

9. The plan upon admission was to complete pre-eclampsia labs and to induce with Pitocin.

10. After being admitted, Ms. Barahona was induced. Following the induction, Ms. Barahona labored throughout the evening of January 26, 2005 and during the day on January 27, 2005.

11. At approximately 7:20 p.m. on January 26, 2005 Ms. Barahona became completely dilated and she began pushing. During this time period, Ms. Barahona was under the care of Keisha Thomas, CNM.

12. At approximately 9:14 p.m., Nurse Midwife Thomas called Dr. Manning to assist in managing Ms. Barahona's delivery. Around this same time, the Pitocin was stopped and positive short term and long term variability were noted.

13. Dr. Manning arrived at the hospital at some point in time prior to 9:41 p.m. as the medical records reflect that she resumed the Pitocin at that point in time.

14. At 9:47 p.m., Dr. Manning applied a KIWI vacuum in an effort to deliver Ms. Barahona's baby. As of 9:47 p.m., Ms. Barahona had been in the second stage of labor for two hours and 27 minutes.

15. The first vacuum attempt failed.

16. At 9:48 p.m., Dr. Manning made a second attempt at a vacuum delivery with the KIWI vacuum.

17. The second attempt failed.

18. At 9:50 p.m., Dr. Manning made a third attempt to deliver Ms. Barahona's baby with a KIWI vacuum.

19. The third attempt failed.

20. At 9:51 p.m., Dr. Manning abandoned the KIWI vacuum and applied a MIGHTY vacuum.

21. At approximately 9:52 p.m., the fetal head finally delivered with the fourth vacuum attempt.

22. Dr. Manning's delivery note confirms the above delivery events and documents "4 applications" of the vacuum, which was applied at "2+ station."

23. After delivery of the fetal head, Dr. Manning encountered a shoulder dystocia.

24. Subrapubic pressure was applied, McRoberts maneuver was employed, and an episiotomy was cut.

25. Jordan Flood was delivered at 9:55 p.m. on January 27, 2005.

26. At delivery, Jordan's left arm was limp.

27. His Apgar scores were 6 and 9 at one minute and five minutes, respectively, and he was large for gestational age with a birth weight of 4495 grams.

28. The neonatal staff documented upon admission that Jordan had “no movement, tone or reflexes in left arm to hand.”

29. Ultimately, Jordan was diagnosed with an injury to his brachial plexus nerve and he suffers from Erbs palsy today.

30. In their care and treatment of the Plaintiff and Plaintiff’s mother, the Defendants, acting individually and/or by and/or through their actual and/or apparent agents, servants, and/or employees, owed Plaintiff and Plaintiff’s mother the duty to exercise that degree of care and skill which a reasonably competent hospital, obstetrician, physician, nurse-midwife, and/or similar healthcare provider would have exercised under the same or similar circumstances.

31. The Defendants, acting individually and/or by and/or through their actual and/or apparent agents, servants, and/or employees, breached the aforesaid duty of care, and were negligent in the following ways, among others:

- a. Failure to take a thorough medical history;
- b. Failure to conduct appropriate and timely examinations;
- c. Failure to appropriately deliver Jordan Flood;
- d. Failure to appropriately and timely estimate the fetal weight of Jordan Flood prior to delivery;
- e. Failure to appropriately use a vacuum device;
- f. Failure to convert to a cesarean section delivery after multiple failed attempts at a vacuum delivery;
- g. Failure to use appropriate maneuvers during delivery when shoulder dystocia occurred;

- h. Utilizing excessive force and/or traction during birth;
- i. Failing to perform a timely cesarean section;
- j. Causing, permitting, and allowing injury to Destiny Ogbonna's brachial plexus nerve; and
- k. Being otherwise negligent and careless.

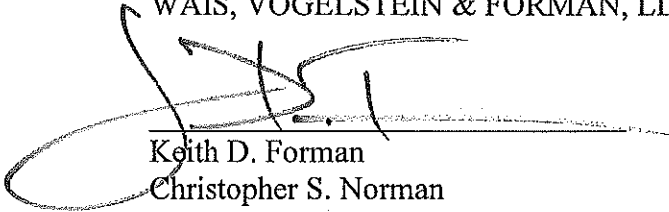
32. As a direct and proximate result of the above-mentioned deviations from the applicable standards of care by the Defendants, the Plaintiff, Jordan Flood, suffered and/or will suffer the following permanent injuries, among others:

- a. Brachial plexus injury;
- b. Erb's Palsy;
- c. Disfigurement;
- d. He has undergone serious and painful medical procedures;
- e. He has and will continue to incur large medical and other care expenses for which he and his parents were in the past, are presently, and in the future are financially unable to pay or incapable of paying;
- f. He will not grow into a normal child, will not enjoy a normal childhood, nor will he enjoy a normal adulthood;
- g. He has in the past, is presently, and will in the future continue to suffer excruciating physical pain, emotional anguish, fear, anxiety, humiliation, and embarrassment over his condition;
- h. He has suffered a loss of earning capacity;
- i. He will require assistance from others throughout the course of his daily life; and
- j. Other injuries and damages.

WHEREFORE, Plaintiff, Jordan Flood, a minor, by and through his Mother and Next Friend, Julia Barahona, brings this action against the Defendants and seeks damages that will adequately and fairly compensate him, costs, and such other and further relief as may be deemed appropriate.

Respectfully submitted,

WAIS, VOGELSTEIN & FORMAN, LLC



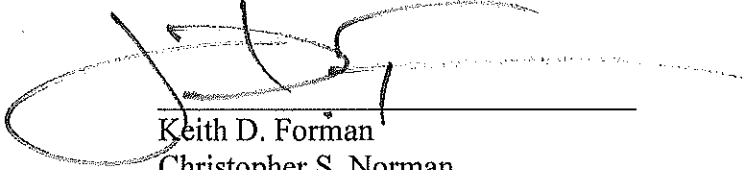
Keith D. Forman
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1829 Reisterstown Road, Suite 425
Baltimore, Maryland 21208
(410) 998-3600
(410) 998-3680 fax
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

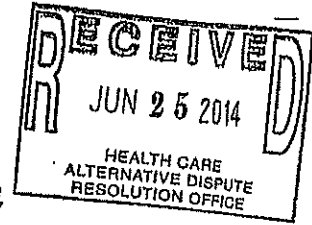
The Plaintiff hereby demands a trial by jury on all issues raised herein.

Respectfully submitted,

WAIS, VOGELSTEIN & FORMAN, LLC



Keith D. Forman
Christopher S. Norman
1829 Reisterstown Road, Suite 425
Baltimore, Maryland 21208
(410) 998-3600
(410) 998-3680 fax
Attorneys for Plaintiffs



IN THE HEALTH CARE ALTERNATIVE DISPUTE
RESOLUTION OFFICE OF MARYLAND

JORDAN FLOOD, a minor, *

Claimant *

v. * HCA No. _____

MERCY MEDICAL CENTER, INC., et al. *

Defendant Health Care Providers *

* * * * *

CERTIFICATE OF MERIT

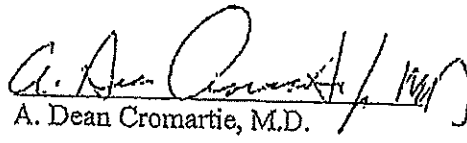
I, A. DEAN CROMARTIE, M.D., hereby certify that the following statements are true and accurate:

1. I, A. DEAN CROMARTIE, M.D., am a board-certified obstetrician licensed to practice medicine in the State of Mississippi.

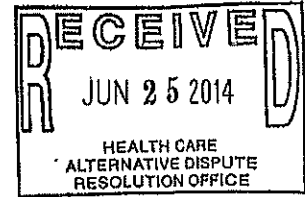
2. In addition to being board-certified in obstetrics and gynecology, I have clinical experience, have provided consultation relating to clinical practice, and/or taught medicine in the Defendant Health Care Providers' specialty and/or sub-specialties of medicine, or the specialty and/or sub-specialties of medicine practiced by the Defendant Health Care Providers' agents, servants and/or employees, or a related field of health care, within five (5) years of the date of the alleged act or omission giving rise to the underlying cause of action.

3. From my review of the pertinent medical records, I have concluded with reasonable medical probability that there were deviations from the accepted and applicable standards of care on the part of the Defendant Health Care Providers, Mercy Medical Center, Inc., Metropolitan OB/GYN Associates, LLC, and Fawn T. Manning, D.O.

4. I have also concluded with reasonable medical probability that these deviations were the direct and proximate cause of the Claimants' alleged injuries and damages.
5. Attached is a brief statement of my opinions in this matter.
6. Less than twenty percent (20%) annually of my professional activities involves testimony in personal injury claims.


A. Dean Cromartie, M.D.

A. Dean Cromartie, Jr., M.D.,M.S.
204 40th Place
Hattiesburg, MS 39402
June 15, 2014



Keith, D. Forman, Esq.
Wais, Vogelstein & Forman, LLS
1829 Reistertown Road
Suite 425
Baltimore, MD 21208

Dear Mr. Foreman:

At your request, I have reviewed the submitted medical records and materials on Julia Barahone's antenatal and intrapartem care in 2004-5 culminating in the delivery of her son, Jordan Flood, on January 27, 2005. I am a board-certified- obstetrician gynecologist and I have been practicing obstetrics and gynecology continuously since the completion of my residency in 1978. My curriculum vitae is attached. I have reviewed the submitted materials specifically in regard to the expected standard of obstetrical care, any deviations from that standard, and, if any such deviations are found, any injury(ies) which may have occurred to either Julia Barahone or Jordan Flood as a direct and proximate consequence of any such deviation(s).

Ms. Barahone's early antenatal care was in Georgia but she transferred in the third trimester to the care of Dr. Manning in Baltimore, Maryland. Her antenatal course had been complicated by hemoglobin AC and a group B strep urinary tract infection. In the 39th week, oxytocin induction was undertaken because of concern over increased blood pressures. Initial fetal heart rate pattern was read as reassuring.

Her initial intrapartum care was managed by a certified nurse midwife - Keisha Thomas. Ms. Thomas had become concerned about variations in the fetal heart rate tracing and had discontinued Pitocin and requested that Dr. Manning come to the hospital. At approximately 9:14 PM. Dr. Manning arrived and oxytocin was subsequently restarted at 9:41 (2141). According to Dr. Manning's note, a vacuum-assisted vaginal delivery was initiated with delivery at 2155. The post-delivery diagnosis was "management of shoulder dystocia-mild"- and there was a comment about poor maternal pushing effort. According to Dr. Manning's handwritten notes there were 4 applications and 2 pop offs. Vacuum was applied at +2 station and she described a mild shoulder dystocia requiring McRoberts maneuver and extension of the episiotomy. There were 3 attempts was a Kiwi vacuum which was then changed to a Mighty Vac.

The Mighty Vac was placed at 2151:25 and removed at 2152:40 with the delivery at 2155 with a notation of "mild shoulder dystocia" Apgar scores were 6 and 9 at one and 5 minutes respectively and weight was 4495 g. Pediatric evaluation noted a brachial plexus injury.

In my opinion, the persistence of attempts at vacuum delivery - a total of 4- along with the change of vacuum instruments constitute a substantive and significant deviation from the expected standard of care which, in my opinion, to a reasonable degree of medical certainty, were the direct and proximate cause of the brachial plexus injury suffered by Jordan flood. It is my further opinion that had, as the standard of care required, attempts at vaginal delivery

been abandoned after the 3 attempts with the Kiwi before the substitution for a Mighty Vac vacuum, and had Dr. Manning, at that time, proceeded to cesarean section, then, again to a reasonable degree of medical certainty, the brachial plexus injury to Jordan would have been prevented.

These opinions are based upon the clinical information presented to me thus far and should any additional information be made available to me I will review that and make any changes as might be warranted by such additional information should, in fact, any such information be forthcoming.

If I can be of any further assistance, please feel free to call me.

Sincerely,


A. Dean Cromartie Jr, M.D., M.S.

Diplomate, American Board of Obstetrics and Gynecology