

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

KEITH TRABUE, Individually and as *
Guardian of SHANNON MARIA TRABUE, *
and CERTUSBANK, N.A., as Conservator *
of SHANNON MARIA TRABUE, *

Plaintiffs, *

vs. *

Civil Action File No. _____

ATLANTA WOMEN'S SPECIALISTS LLC *
and STANLEY R. ANGUS, M.D. *

Defendant. *

COMPLAINT FOR DAMAGES

COME NOW Plaintiffs Keith Trabue, Individually and as Guardian of Shannon Maria Trabue, and CertusBank, N.A., as Conservator of Shannon Maria Trabue, by and through their counsel of record, and files this their Complaint for Damages against the above-referenced Defendants showing the Court as follows:

1. This action is a renewal of a civil action styled *Keith Trabue, Individually and as Guardian of Shannon Maria Trabue, v. Atlanta Women's Specialists, LLC and Stanley R. Angus, M.D.*, Civil Action No. 11EV013272E, in the State Court of Fulton County, Georgia. The Plaintiff voluntarily dismissed that action without prejudice on May 7, 2014, pursuant to O.C.G.A. § 9-11-41(a). All costs of that prior civil action in the State Court of Fulton County, Georgia, have been paid as demonstrated by the Clerk's certificate attached hereto as Exhibit "A". The Plaintiffs hereby timely renew that action within six (6) months of dismissal pursuant to O.C.G.A. §§ 9-2-61(a) and 9-11-41(a).

Identification of Parties, Jurisdiction and Venue

2. At all times material hereto, Shannon Maria Trabue was a resident of Gwinnett County, Georgia. She currently resides at 2915 Danzig Place #104, Louisville, Kentucky 40245.

3. At all times material hereto, Keith Trabue, was a resident of Gwinnett County, Georgia. He currently resides at 2915 Danzig Place #104, Louisville, Kentucky 40211.

4. At all times material hereto, Keith Trabue was and is the lawful spouse of Shannon Maria Trabue.

5. Shannon Maria Trabue has been incapacitated since the date of incident on August 25, 2009, and Keith Trabue was duly appointed Guardian and Conservator of Shannon Maria Trabue on January 5, 2010. Subsequently, CertusBank, N.A., was appointed as Successor Conservator of Shannon Maria Trabue on July 15, 2013.

6. Defendant Atlanta Women's Specialists LLC ("Defendant AWS") is a Georgia corporation. Defendant AWS's registered agent for service of process pursuant to O.C.G.A. § 9-11-4(e)(1) is John Taylor, III, 5780 Peachtree Dunwoody Road, Suite 300, Atlanta, Georgia 30342. Defendant AWS's principal place of business is located at 5780 Peachtree Dunwoody Road, Suite 300, Atlanta, Fulton County, GA 30342. Defendant AWS is subject to the jurisdiction of this Court. Venue of this action against Defendant AWS properly lies in this county.

7. Defendant Stanley R. Angus, M.D. ("Defendant Angus") is a resident of Fulton County, Georgia. Defendant Angus is subject to the jurisdiction of this Court. Venue of this action against Defendant Angus properly lies in this county. Defendant Angus may be personally served with process at his place of business, Atlanta Women's Specialists, LLC, 3400C Old Milton Parkway,

Suite 200, Alpharetta, Fulton County, GA 30005, or at his home, 8325 Jett Ferry Road, Atlanta, Fulton County, GA 30350.

Factual Allegations

8. Shannon Maria Trabue, a thirty-eight (38) year old female, was admitted to Defendant Hospital for induction of labor due to hypertension on August 21, 2009.

9. On August 22, 2009, the decision was made to perform a cesarean section due to failed induction.

10. The child was delivered at 6:54 p.m. by Juanita Wyatt-Hathaway, M.D. without complications. The APGAR Scores were 8 at one-minute and 9 at five-minutes.

11. While in the PACU, Shannon's blood pressure remained persistently elevated. At 8:43 p.m., an infusion of magnesium sulfate (MgSO₄) was started followed by a loading dose of 2 gm IV. At 8:55 p.m., Labetalol 10 mg IV was given. The total fluid volume received in the O.R. was 1,400 ml and in the PACU was 600 ml. At 9:55 p.m., Shannon was transferred out of PACU to the Obstetrics 24-Hour Observation Unit.

12. At 10:50 p.m., Shannon's blood pressure was 186/94 and Labetalol 40 mg IV was administered. At 11:20 p.m. Labetalol 80 mg IV push was administered for a persistently high blood pressure of 187/92. There were no complaints of headache, nausea, vomiting, blurred vision or epigastric pain recorded in the medical chart.

13. On August 23, 2009 at 12:30 a.m., another dose of Labetalol 80 mg IV was administered. Shannon was advised to change position from side-to-side.

14. At 1:30-1:32 p.m., Shannon's serum magnesium level was returned at 4.1 mg/dL and Dr. Hathaway's plan included discontinuation of the MgSO₄ infusion on August 24, 2009 at 6:00 a.m. Labetalol 200 mg b.i.d. was also ordered.

15. At 8:50 p.m., Dr. Hathaway was notified that Shannon had elevated blood pressures of 171/92 and 175/74. Labetalol was ordered per protocol and 10 mg was given IV.

16. At the beginning of August 23, 2009, Shannon's fluid balance was approximately -79 cc.

17. On August 24, 2009 at 6:00 a.m., the MgSO₄ infusion was discontinued.

18. At 6:15 a.m., Shannon's blood pressure was 182/86. She complained of shortness of breath during position change. Her cough was noted to be productive with clear sputum. She continued to receive intravenous fluids at 125 ml/hr.

19. By 6:50 a.m., Shannon's blood pressure was 151/70. At 1:30 p.m., Dr. Rebecca Simonsen was informed of the recent blood pressures, shortness of breath, decreased urinary output, and pulse oxymetry of 95%. Dr. Simonsen ordered incentive spirometry per respiratory therapy. Respiratory therapy noted clear lungs.

20. At 10:45 p.m., Shannon was again seen by Dr. Simonsen, who noted blood pressures of 149/58, 157/65, 175/73, 155/48, 151/68, 174/77 and hourly urine output of 50cc/35cc/55cc/28cc/25cc/36cc. She noted the lungs were clear and ordered the infusion of normal saline bolus of 500 ml.

21. At the beginning of August 24, 2009, Shannon's fluid balance was approximately +643 cc.

22. On August 25, 2009 at 12:50 a.m., Dr. Simonsen was informed of the urine output for the last 12 hours and an order was received for an additional bolus of 1000 ml of normal saline.

23. At 7:00 a.m., Shannon's blood pressure was 177/85 and Labetalol 10 mg IV was given. At 8:00 a.m., Shannon's blood pressure was 172/85 and Labetalol 20 mg IV was given. At 8:30 a.m., Shannon's blood pressure was 186/72 and Labetalol 40 mg IV was given. By 9:00 a.m., Shannon's blood pressure was 150/75. At 10:40 a.m., Defendant Angus evaluated Shannon and ordered an increase in Labetalol to 200 mg to t.i.d. He noted clear lungs to auscultation and 2+ edema.

24. By 3:00 p.m., Shannon's IV intake was approximately 1,500 ml and urine output 1,010 ml.

25. At 4:00 p.m., Shannon complained of shortness of breath while up to the bathroom. Her pulse oxymetry was 88%. Right lower lobe wheezing was noted by the nurse. Defendant Angus was notified and he ordered a chest x-ray and oxygen by mask.

26. At 4:52 p.m., Shannon's blood pressure rose to 202/105 and Defendant Angus came to evaluate the patient.

27. At 5:00 p.m., Defendant Angus ordered the reinsertion of an intravenous line with the initiation of the Hydralazine protocol, PIH labs to be drawn, and a Spiral CT scan to rule-out pulmonary embolism.

28. At 5:05 p.m., Shannon's intravenous line was re-inserted and Hydralazine 5 mg IV was given.

29. At 5:20 p.m., Shannon's blood pressure was 151/79 and pulse oxymetry was 98%. She was transported via wheelchair to Radiology for a CT scan.

30. Shannon then sustained a respiratory arrest which progressed to a full cardiopulmonary arrest. A code was initiated at 5:43 p.m. and resuscitation was begun.

31. At 5:51 p.m., the chest x-ray was completed and showed findings consistent with pulmonary edema.

32. By 6:01 p.m., the first blood gases emerge after endotracheal intubation revealing severe acidosis: pH 6.9, pCO₂ 82, pO₂ 136, HCO₃ 17.1, BE 17.1 on 100% oxygen.

33. A BNP of 359 drawn at 8:30 p.m. revealed mild heart failure.

34. As a result, Shannon Maria Trabue suffered an hypoxic brain injury. After being discharged from the Defendant Hospital on September 28, 2009, she underwent long-term care at the Shepherd Center. Today, Shannon is totally disabled.

COUNT I

Claim for Vicarious or Imputed Liability as to Defendant AWS

35. Plaintiffs incorporate herein by reference paragraphs 1 through 34 above.

36. At all times applicable to this Complaint, Defendant Angus was the actual, apparent, or ostensible agent or employee of Defendant AWS, acting within the scope of his agency or employment, in pursuit of Defendant AWS's business so that his wrongful acts and omissions are imputed to Defendant AWS and Defendant AWS is subject to liability for injuries and harm proximately caused by his wrongful acts or omissions.

37. At all times applicable to this Complaint, Juanita Wyatt-Hathaway, M.D. and Rebecca Simonsen, M.D. were the actual, apparent, or ostensible agents or employees of Defendant AWS, acting within the scope of their agency or employment, in pursuit of Defendant AWS's business

so that their wrongful acts and omissions are imputed to Defendant AWS and Defendant AWS is subject to liability for injuries and harm proximately caused by their wrongful acts or omissions.

38. Defendant AWS and Drs. Wyatt-Hathaway and Simonsen are hereby put on notice, by copy of this complaint, that in the event Defendant Angus and/or Defendant AWS allege that the actions of Dr. Wyatt-Hathaway, Dr. Simonsen, or any other person acting within the scope of his/her agency or employment with Defendant AWS, proximately or legally caused or contributed to the injuries suffered by Plaintiffs, Plaintiffs reserve the right to add said doctor as a defendant herein.

COUNT II

Claim for Negligence as to Defendant Angus

39. Plaintiffs incorporate herein by reference paragraphs 1 through 34 above.

40. At all times relevant to the Complaint, Defendant Angus held himself out to the public, and to Shannon Maria Trabue in particular, as a duly licensed physician, specializing in obstetrics and gynecology, practicing within the standard of care required of physicians generally under such circumstances.

41. Defendant Angus owed a duty to Shannon Maria Trabue to bring to the exercise of his profession a reasonable degree of care and skill.

42. Defendant Angus failed to exercise that degree of care and skill required of physicians generally under similar conditions and like surrounding circumstances, and his failure to exercise the appropriate degree of care and skill proximately caused or contributed to the injuries suffered by Shannon Maria Trabue.

43. The medical care, treatment, and services provided by Defendant Angus to Shannon Maria Trabue fell below the standard of care required of physicians generally under similar conditions and like surrounding circumstances in at least the following respects: Defendant Angus failed to recognize Shannon Maria Trabue, an obese, post-partum patient with a history of pre-eclampsia, elevated blood pressure, shortness of breath, decreased oxygen saturation and right lower lobe wheezing, as a very sick patient and failed to appropriately monitor and manage Shannon Maria Trabue's post-partum hypertension.

44. These breaches of the standard of care by Defendant Angus constitute negligence which proximately caused or contributed to Shannon Maria Trabue's hypoxic brain injury.

Conditions Precedent

45. All conditions precedent to the filing of this action and to the Plaintiffs' right to the relief sought have occurred, have been performed, or have been excused.

46. This is an action for medical malpractice and negligence under O.C.G.A. § 51-1-27 and 9-11-9.1. Pursuant to said sections, Plaintiffs attach hereto, as **Exhibit "B"**, the Affidavit of Eric D. Lichter, M.D., an expert medical witness competent to testify in this matter as to the activity of physicians. His affidavit sets forth specifically at least one of the negligent acts and omissions which form the basis of this complaint against Defendants, as well as the factual basis for such claims against Defendants as set forth herein. This paragraph applies to all claims stated in this complaint.

Damages

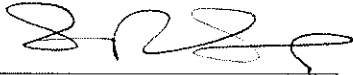
As a proximate result of the Defendants' wrongful acts and omissions described above, Shannon Maria Trabue has sustained, and will sustain, serious personal injuries, many of which

are permanent and catastrophic; has suffered, and will suffer, serious physical pain and mental distress, much of which is permanent; has been, and will be, prevented from transacting her business; has suffered, and will suffer, a diminished capacity to enjoy life, most of which is permanent; has sustained a diminished earning capacity, all of which is permanent; has incurred expenses for medical and other care and treatment in the past and will incur such expenses in the future in excess of \$10,000.00; will be compelled to hire additional services; and will sustain other special damage, the nature and extent of which is not yet determined.

As a proximate result of Defendants' wrongful acts and omissions described above, Keith Trabue was caused to suffer the following injuries and damages: he was caused to lose the society, companionship, consortium, enjoyment and services of his wife and will further incur such loss of consortium in the future; and he has provided valuable care and services to his wife for which he should be compensated.

WHEREFORE, PLAINTIFFS DEMAND trial by jury and judgment against Defendants for such sums in excess of \$10,000 in compensatory damages as the evidence shows they are justly entitled to recover, together with interest and litigation expenses including attorney's fees, if applicable, and all costs of this action.

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