

ORIGINAL

STATE OF OREGON
Marion County Circuit Courts
OCT 10 2011
ENTERED
IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

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Marion County Circuit Courts
OCT 10 2011
FILED

DERRICK RAMSEYER,, as Guardian Ad
Litem for his son and minor child,
MAVERICK RAMSEYER.
(a minor)

Plaintiff,

v.

DENIS J. DALISKY, M.D., and
WOMEN'S HEALTHCARE
PROFESSIONALS, LLC., MICHAEL D.
GABE, M.D., JAMES G. WALKER,
M.D., and SILVERTON FAMILY
CLINIC, and THE SILVERTON
HOSPITAL.

Defendants.

Case No.

11C2222

**COMPLAINT FOR PERSONAL
INJURY/MEDICAL MALPRACTICE**

Jury Trial Requested

**NOT SUBJECT TO MANDATORY
ARBITRATION**

CLAIM FOR RELIEF

I. INTRODUCTORY ALLEGATIONS

1.

Derrick Ramseyer is and at all times material hereto, the parent and Guardian Ad Litem of his son, Maverick Ramseyer.

2.

Maverick Ramseyer (hereinafter "plaintiff") is and at all times material hereto was a resident of Marion County, Oregon.

3.

The Silverton Hospital is and at all times material hereto was a corporation authorized to transact business in Oregon and employed nurses who were acting at all times Material hereto, in the course and scope of their employment.

4.

Denis J. Dalisky, M.D, is and at all times material hereto, a physician licensed to practice medicine in Oregon and was an agent or employee of women's Healthcare Professionals LLC,

1 and acting in the course and scope of that agency or employment at all relevant times herein.

2 5.

3 Women's Healthcare Professionals, LLC is and at all times material hereto was a
4 corporation authorized to transact business in Oregon.

5 6.

6 Michael D. Gabe, M.D., is and at all times material hereto, was a physician licensed to
7 practice medicine in Oregon.

8 7.

9 James G. Walker, M.D., is and at all times material hereto was a physician licensed to
10 practice medicine in Oregon and was an agent or employee of Sliverton Family Clinic, and
11 acting in the course and scope of his agency or employment at all relevant times herein.

12 8.

13 Sliverton Family Clinic at all times material hereto was a corporation and medical
14 practice authorized to transact business in Oregon.

15
16 **II. ALLEGATIONS OF MEDICAL NEGLIGENCE AGAINST DEFENDANT DALISKY**

17 9.

18 On December 11 and 12, 2007, defendant Denis Dalisky, M.D.'s, (hereinafter "defendant
19 Dalisky") had, as obstetric patients, Elizabeth Ramseyer and her unborn child (hereinafter
20 referred to as infant, newborn or fetus) Maverick Ramseyer. Defendant Dalisky's care and
21 treatment of the fetus and newborn, Maverick Ramseyer, fell below the standard of medical care
22 for an obstetrician practicing under the same or similar circumstances in the following respects:

- 23 A) Failing to obtain an ultrasound of the fetus just before the induction of
24 labor, or during induction, to more accurately determine estimated fetal
25 weight;
26 B) Failing to recognize and respond in a timely manner to a labor process that

1 portended a macrosomic infant, who could not be safely delivered
2 vaginal.

3 C) Failing to personally determine fetal station for approximately 16.5 hours
4 after the Oxytocin induction began;

5 D) Allowing and/or acquiescing in the Labor and Delivery staff administering
6 Oxytocin at levels above those permitted by Silverton Hospital's Oxytocin
7 Administration Protocol, without a physician approval order.

8 E) Encouraging Elizabeth Ramseyer to push when the fetal head was not
9 engaged, thereby subjecting the fetus to additional and detrimental labor
10 stress, while at the same time unreasonably delaying a decision upon a C-
11 section;

12 F) After a fetal bradycardia lasting between five and nine minutes, and then
13 deciding upon a C-section, acquiescing in and/or ordering the labor and
14 delivery nurses to turn off continuous fetal heart monitoring for at least 17
15 minutes before the section incision was made;

16 G) Failing to determine in a timely manner that a C-section was required and
17 then delaying the incision time for an unreasonable time period after
18 anesthesia was adequate to permit the procedure to begin;

19 H) Failing to make such orders as were necessary and/or failing to take such
20 steps as were necessary to insure that a pediatrician, or other physician,
21 skilled in newborn resuscitation was present at the time of birth; and

22 I) Failing to prevent and/or ordering, and/or permitting, positive pressure
23 ventilation by bag and mask of the newborn, Maverick Ramseyer, and as
24 administered by labor and delivery nurses, when defendant Dalisky knew
25 or should have known that the aforementioned method of ventilation,
26 when employed without first clearing the airway of meconium, via deep

1 suction, would be detrimental to the health and well-being of the newborn
2 infant.

3 10.

4 As a direct and proximate result of defendant Dalisky's negligence set forth heretofore,
5 minor plaintiff Maverick Ramseyer suffered catastrophic neurologic injury resulting in
6 permanent and severe disability and impairment, including cerebral palsy, all to his non-
7 economic damage of \$15 million.

8 11.

9 As a further direct and proximate result of defendant Dalisky's negligence set forth
10 heretofore, minor plaintiff Maverick Ramseyer suffered catastrophic neurologic injury resulting
11 in permanent and severe disability and impairment, including cerebral palsy, and will incur
12 medical and hospital care and treatment, as well as life-time care and expense and has and will
13 continue to suffer impaired earning capacity all to plaintiff's economic damage in the sum of \$25
14 million.

15 **III. ALLEGATIONS OF MEDICAL NEGLIGENCE AGAINST DEFENDANT THE**
16 **SILVERTON HOSPITAL.**

17
18 12.

19 On December 11 and 12, 2007, defendant The Silverton Hospital's nursing staff
20 (hereinafter "defendant Hospital) by and through its labor and delivery nurses, was entrusted
21 with the care and treatment of Elizabeth Ramseyer, her fetus and ultimately the newborn infant,
22 Maverick Ramseyer. During the course of said care and treatment, the labor and delivery nurses
23 fell below the standard of care for labor and delivery nurses acting under the same or similar
24 circumstances in the following respects:

- 25 A) Running Oxytocin for 7 hours and 43 minutes at levels in excess of those
26 permitted without a specific attending physician order, in violation of

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- Silverton Hospital Oxytocin Administration Protocol;
- B) Failing to notify defendant Dalisky and/or reduce or halt Oxytocin administration when contraction frequency exceed that provided by the Silverton Hospital Oxytocin Administration Protocol;
- C) Failing to re-connect the fetal heart monitor after Mrs. Ramseyer was moved to the delivery room during the period of 0809 to 0826;
- D) Failing to obtain and record contemporaneous one minute APGAR scores, based upon the accepted criteria for APGAR scoring;
- E) Administering bag and mask positive pressure ventilation to a severely depressed newborn, without first clearing the airway of meconium via deep suction, and/or failing to determine if meconium was present at the time of birth before administering bag and mask ventilation;
- F) Failure of the labor and delivery nurses to deliver fetal cord blood to the laboratory for stat analysis and/or failing of the lab to conduct an analysis of cord blood in a stat manner;
- G) Failing to inform defendant Dr. Gabe in the special care nursery that meconium had been observed during the delivery process;
- H) Failing to record nine minutes of defendant Dr. Gabe's resuscitation efforts and the newborn's response to the same in the medical records;
- I) Failing to have a properly equipped crash cart for neonatal resuscitation in the delivery room, operating room and/or special care nursery;
- J) Failing to record in the medical records that delay in resuscitation occurred and was caused by nursing inability to find equipment requested by defendant Dr. Gabe;
- K) Failure to summon Respiratory Therapy assistance for the newborn in a timely manner;

- 1 L) Failing to summon a pediatrician or other physician, skilled in newborn
2 resuscitation, after the decision was made to perform a C-section, when
3 labor and delivery nurses knew or should have known, that a depressed
4 infant at delivery was a reasonable possibility; and
- 5 M) Failing to make sufficient and adequate notations of the newborn's
6 condition and medical care during a period of respiratory distress between
7 0900 and 0945.

8 13.

9 As a direct and proximate result of defendant Hospital's negligence set forth heretofore,
10 minor plaintiff Maverick Ramseyer suffered catastrophic neurologic injury resulting in
11 permanent and severe disability and impairment, including cerebral palsy, all to his non-
12 economic damage of \$15 million.

13 14.

14 As a further direct and proximate result of defendant Hospital's negligence set forth
15 heretofore, minor plaintiff Maverick Ramseyer suffered catastrophic neurologic injury resulting
16 in permanent and severe disability and impairment, including cerebral palsy, and will incur
17 medical and hospital care and treatment, as well as life-time care and expense and has and will
18 continue to suffer impaired earning capacity all to plaintiff's economic damage in the sum of \$25
19 million.

20 **IV. ALLEGATIONS OF MEDICAL NEGLIGENCE AGAINST DEFENDANTS**

21 **MICHAEL D. GABE, M.D.**

22 15.

23 On December 12, 2007, defendant Michael D. Gabe, M.D.'s (hereinafter "defendant
24 Gabe") was called upon to resuscitate newborn infant, Maverick Ramseyer, after said newborn
25 was brought to the special care nursery. During the course of defendant Gabe's care and
26 treatment of Maverick Ramseyer, defendant Gabe fell below the standard of care for an internal

1 **V. ALLEGATIONS OF MEDICAL NEGLIGENCE AGAINST DEFENDANTS JAMES**

2 **G. WALKER, M.D.**

3 18.

4 On December 12, 2007, James G. Walker, M.D. (hereinafter "defendant Walker") took
5 over for defendant Gabe and was responsible for the care and treatment of Maverick Ramseyer
6 between shortly before 0900 and the arrival of the Oregon Health Science University PANDA
7 transport team. During the course of defendant Walker's care and treatment, he fell below the
8 standard of care for an internal medicine physician acting under the same or similar
9 circumstances in the following respects:

- 10 A) Failing to order and administer sodium bicarbonate despite newborn
11 metabolic acidosis;
- 12 B) Pulling out the endotracheal tube, despite Maverick Ramseyer being at
13 obvious risk of regression to severe respiratory difficulty, de-oxygenation,
14 added metabolic acidosis, and consequential neurologic injury; and
- 15 C) Failing to re-intubate in a timely manner between 0900 and 0945, despite
16 obvious and severe newborn respiratory distress.

17 19.

18 As a direct and proximate result of defendants Gabe's and Walker's negligence set forth
19 heretofore, minor plaintiff Maverick Ramseyer suffered catastrophic neurologic injury resulting
20 in permanent and severe disability and impairment, including cerebral palsy, all to his non-
21 economic damage in the sum of \$15 million.

22 20.

23 As a further direct and proximate result of defendants Gabe's and Walker's negligence
24 set forth heretofore, minor plaintiff Maverick Ramseyer suffered catastrophic neurologic injury
25 resulting in permanent and severe disability and impairment, including cerebral palsy, and will
26 incur medical and hospital care and treatment, as well as life-time care and expense and has and

1 will continue to suffer impaired earning capacity all to plaintiff's economic damage in the sum of
2 \$25 million.

3 WHEREFORE, plaintiff prays for judgment against defendants and each of them jointly
4 and severely as follows:

- 5 1) For Non-economic damages in the sum of \$15 million;
- 6 2) For Economic damages in the sum of \$25 million; and
- 7 3) For plaintiff's costs and disbursements.

8 Dated this 6th day of October, 2011.

9 KALUR LAW OFFICE, LLC

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11 By: 

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Trial Attorney for Plaintiff