



IN THE STATE COURT OF FAYETTE COUNTY
STATE OF GEORGIA

CYNTHIA BENNETT and PAUL
BENNETT,

Plaintiffs,

vs.

JUDONN T. ADAMS, M.D., P.C., NEW
MILLENNIUM OBSTETRICS AND
GYNECOLOGY, L.L.C., and JUDONN
T. ADAMS, M.D., individually,
and as an agent and employee of
JUDONN T. ADAMS, M.D., P.C., and
NEW MILLENNIUM OBSTETRICS AND
GYNECOLOGY, L.L.C.,

Defendants.

CIVIL ACTION No.:

05 SV - 875

FILED IN OFFICE
CLERK OF STATE COURT
FAYETTE COUNTY, GA.
2005 NOV 21 PM 12 21
SHEILA STUDDARD, CLERK

COMPLAINT FOR DAMAGES

COMES NOW Cynthia Bennett and Paul Bennett, Plaintiffs in
the above-captioned action, and respectfully state their
Complaint for Damages as follows:

NATURE OF THE ACTION

1.

This is an action based upon allegations of professional
negligence, ordinary negligence or a combination of professional
and ordinary negligence arising out of the medical care and
treatment rendered to Cynthia Bennett in December 2003, while a
patient under the care of JuDonn T. Adams, MD, JuDonn T. Adams,
MD, PC and New Millennium Obstetrics and Gynecology, LLC
(hereinafter collectively "Defendants").

JURISDICTIONAL STATEMENT

2.

Plaintiffs Cynthia Bennett and Paul Bennett ("Plaintiffs") are residents of the State of Georgia and subject themselves to the jurisdiction of this Court.

3.

Defendant JuDonn T. Adams, MD ("Defendant Adams") is an individual who resides in Fayette County, Georgia.

4.

Defendant Adams is subject to the jurisdiction of this Court with proper venue.

5.

At all times material to this action, Defendant Adams was a licensed physician duly licensed under the laws of the State of Georgia to practice medicine and specialized in obstetrics and gynecology.

6.

Service of process may be made upon Defendant Adams at his place of residence, 130 Whitetail Court, Fairburn, Fayette County, Georgia, 30213. Alternatively, service may be made upon him at his present place of business, 83 Upper Riverdale Road, Building 2, Suite 135, Riverdale, Clayton County, Georgia, 30274. Alternatively, service may be made upon him at

his present place of business, 120 Carnegie Place, Suite 104, Fayetteville, Fayette County, Georgia 30214.

7.

JuDonn T. Adams, MD, PC ("Defendant JAPC") is a corporation organized and existing under the laws of the State of Georgia with its principal place of business being located at 120 Carnegie Place, Suite 104, Fayetteville, Georgia 30214.

8.

Service of process may be made upon Defendant JAPC by serving its registered agent, JuDonn T. Adams, MD, at 120 Carnegie Place, Suite 104, Fayetteville, Fayette County, Georgia 30214.

9.

Defendant JAPC is subject to the jurisdiction of this Court with proper venue.

10.

Defendant New Millennium Obstetrics and Gynecology, LLC ("Defendant New Millennium") is a limited liability corporation organized and existing under the laws of the State of Georgia with its principal place of business being located at 120 Carnegie Place, Suite 104, Fayetteville, Georgia 30214.

11.

Service of process may be made upon Defendant New Millennium by serving its registered agent, JuDonn T. Adams,

MD, at 120 Carnegie Place, Suite 104, Fayetteville, Fayette County, Georgia 30214.

12.

Defendant New Millennium is subject to the jurisdiction of this Court with proper venue.

AGENCY

13.

At all times material to this action, Defendant JAPC provided medical care and treatment to Plaintiff Cynthia Bennett through agents and employees acting incident to and within the course and scope of their agency or employment with Defendant JAPC.

14.

At all times material to this action, Defendant Adams conducted his medical practice by performing his medical services as the agent and employee of Defendant JAPC.

15.

At all times material to this action, Defendant Adams was an agent and employee of Defendant JAPC, the principal.

16.

At all times material to this action, Defendant Adams was acting within the scope of his agency and employment relationship with JAPC.

17.

The acts and omissions of Defendant JAPC's agents and employees are imputed to Defendant JAPC as a matter of law.

18.

At all times material to this action, Defendant New Millennium provided medical care and treatment to Plaintiff Cynthia Bennett through agents and employees acting incident to and within the course and scope of their agency or employment with Defendant New Millennium.

19.

At all times material to this action, Defendant Adams conducted his medical practice by performing his medical services as the agent and employee of Defendant New Millennium.

20.

At all times material to this action, Defendant Adams was an agent and employee of Defendant New Millennium, the principal.

21.

At all times material to this action, Defendant Adams was acting within the scope of his agency and employment relationship with Defendant New Millennium.

22.

The acts and omissions of Defendant New Millennium's agents and employees are imputed to Defendant New Millennium as a matter of law.

FACTUAL STATEMENT

23.

At all times material to this action, Defendant Adams held himself out to Plaintiff Cynthia Bennett and to members of the general public as being competent to provide obstetrics and gynecology treatment and generally accepted care and treatment to those persons admitted as patients.

24.

In December 2003, in reliance upon the reputation of Defendant Adams, Plaintiff Cynthia Bennett became a patient of Defendant Adams.

25.

On December 26, 2003, Defendant Adams performed a laparotomy to remove an ovarian cyst.

26.

On December 26, 2003, Defendant Adams was responsible for providing Plaintiff Cynthia Bennett's care and treatment during the surgery.

27.

During Plaintiff Cynthia Bennett's care and treatment, Defendant Adams failed to recognize the likelihood of bowel injury during the surgery.

28.

During Plaintiff Cynthia Bennett's care and treatment, Defendant Adams also failed to timely treat Plaintiff Cynthia Bennett's bowel injury.

29.

Defendant Adams' failure to recognize and timely treat Plaintiff Cynthia Bennett's bowel injury was in direct breach of the standard of care.

30.

Defendant Adams' failure to adhere to the standard of care resulted in a delay in treatment of Plaintiff Cynthia Bennett's bowel injury.

31.

As a direct and proximate result of Defendant Adam's failure to exercise that degree of care, skill, and diligence required of him, Plaintiff Cynthia Bennett suffered from peritonitis, needed a colostomy, needed one month in-patient treatment, has endured and will continue to endure great pain of both body and mind, and has incurred and will continue to incur medical and other related expenses.

COUNT I - NEGLIGENCE

32.

Plaintiffs hereby incorporate, adopt and re-allege the above-referenced paragraphs of this Complaint as if fully set forth herein.

33.

At all times material to this action, Defendant Adams had a duty to exercise reasonable care in providing the care and treatment of Plaintiff Cynthia Bennett so as not to subject Plaintiff Cynthia Bennett to unreasonable and/or enhanced risk of injury.

34.

Defendant Adams is liable to Plaintiff Cynthia Bennett for the injuries and damages she sustained in that Defendant Adams' negligence was a direct and proximate cause of the injuries and damages sustained by Plaintiff Cynthia Bennett.

35.

Defendants are jointly and severally liable to Plaintiff Cynthia Bennett for all of Plaintiff Cynthia Bennett's injuries and damages resulting from the subject incident.

WHEREFORE, Plaintiff Cynthia Bennett demands judgment against Defendants, jointly and severally, on Count I in an amount in excess of Ten Thousand Dollars (\$10,000.00), plus all costs of this action.

COUNT II - PROFESSIONAL NEGLIGENCE

36.

Plaintiffs hereby incorporate, adopt and re-allege the above-referenced paragraphs of this Complaint as if fully set forth herein.

37.

At all times material to this action, Defendant Adams had a duty to exercise that degree of care, skill and diligence required of reasonably careful professionals under the same conditions and like circumstances.

38.

On or about December 26, 2003, Defendant Adams failed to exercise that degree of care, skill and diligence required of reasonably careful physicians under the same conditions and like circumstances.

39.

Defendant Adams is liable to Plaintiff Cynthia Bennett for the injuries and damages she sustained in that Defendant Adams' failure to exercise that degree of care, skill and diligence required of reasonably careful professionals and physicians under the same conditions and like circumstances was a direct and proximate cause of the injuries and damages sustained by Plaintiff Cynthia Bennett.

40.

Pursuant to the contemporaneous filing requirement of O.C.G.A. § 9-11-9.1(a), Plaintiff Cynthia Bennett has attached to this Complaint the Affidavit of Larry Griffin, MD, said Affidavit identifying at least one act or omission and the factual basis for each such claim being attached hereto as Exhibit "A" and by reference made a part hereof.

41.

Pursuant to the contemporaneous filing requirement of O.C.G.A. § 9-11-9.2, Plaintiffs have attached to this Complaint a medical authorization, said authorization being attached hereto as Exhibit "B" and by reference made a part hereof.

WHEREFORE, Plaintiff Cynthia Bennett demands judgment against Defendants, jointly and severally, on Count II in an amount in excess of Ten Thousand Dollars (\$10,000.00), plus all costs of this action.

COUNT III - LOSS OF CONSORTIUM

42.

Plaintiffs hereby incorporate, adopt and re-allege the above-referenced paragraphs of this Complaint as if fully set forth herein.

43.

At all times pertinent and relevant to the incidents described in this Complaint for Damages, Plaintiff Paul Bennett has been the lawful husband of Plaintiff Cynthia Bennett.

44.

As a direct and proximate result of the injuries suffered by Plaintiff Cynthia Bennett, Plaintiff Paul Bennett has been deprived of the love, society, companionship and consortium of his wife, Plaintiff Cynthia Bennett.

45.

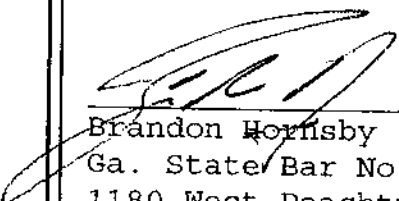
Defendants are liable to Plaintiff Paul Bennett in that Defendants are liable and responsible for the injuries and damages suffered by Plaintiff Cynthia Bennett as hereinbefore set forth in Counts I and II of this Complaint.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, on Count III in an amount in excess of Ten Thousand Dollars (\$10,000.00), plus all costs of this action.


TRIAL BY JURY DEMANDED ON ALL COUNTS.

BRANDON HORNSBY, P.C.

PAUL S. WEINER ATTORNEY AT LAW



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Co-Counsel for Plaintiff



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Co-Counsel for Plaintiff
*(signed with express permission by
Brandon Hornsby)*

EXHIBIT B

To

Plaintiffs' Complaint for Damages

Bennett v. Adams, et al.

IN THE STATE COURT OF FAYETTE COUNTY
STATE OF GEORGIA

CYNTHIA BENNETT and PAUL
BENNETT,

Plaintiffs,

vs.

JUDONN T. ADAMS, M.D., P.C., NEW
MILLENNIUM OBSTETRICS AND
GYNECOLOGY, L.L.C., and JUDONN
T. ADAMS, M.D., individually,
and as an agent and employee of
JUDONN T. ADAMS, M.D., P.C., and
NEW MILLENNIUM OBSTETRICS AND
GYNECOLOGY, L.L.C.,

Defendants.

CIVIL ACTION No.:

COMPULSORY O.C.G.A. § 9-11-9.2 MEDICAL
AUTHORIZATION FOR ADVERSE ATTORNEY

COME NOW Plaintiffs, by and through their undersigned
counsel, pursuant to O.C.G.A. § 9-11-9.2, and
contemporaneously with their Complaint, file this Compulsory
O.C.G.A. § 9-11-9.2 Medical Authorization for Adverse
Attorney, as follows:

NOTICE

NOTE "A": Please be advised that Plaintiffs have executed
this document in order to comply with the compulsory
requirement of O.C.G.A. § 9-11-9.2 to provide an unknown and
adverse attorney with an authorization to obtain and disclose
certain protected health information subject to the provisions
described herein.

NOTE "B": By providing this authorization, Plaintiffs do not waive the right to challenge the validity of this law and specifically invokes all rights to privacy provided by the Constitutions of the United States of America and of the State of Georgia and duly enacted federal privacy law, including but not limited to the provisions of the Health Insurance Portability and Accountability Act of 1996, otherwise known as HIPAA.

NOTE "C": Plaintiffs insists upon full compliance with C.F.R. § 160.203 of HIPAA before any protected health information may be disclosed to any person or entity by use of this authorization. Plaintiffs will consider 45 C.F.R. § 160.203 complied with only if this authorization is submitted to you attached to a Non-Party Request for Production of Documents pursuant to O.C.G.A. § 9-11-34(c) providing notice to the attorney for Plaintiffs and an opportunity to object to any improper disclosures of protected information. Plaintiffs object to and do not authorize any communication concerning themselves with the adverse attorney(s), their agents, or representatives, outside of the presence of and without reasonable notice to, Brandon Hornsby, P.C., Atlantic Center Plaza, 1180 West Peachtree St., Suite 1110, Atlanta, Georgia, 30309. 404-577-1505. See 45 C.F.R. § 160.203; See also King v. State, 272 Ga. 788 (2000).

NOTE "D": Be advised that the provisions O.C.G.A. § 9-11-9.2 have been held to be preempted by federal law by several Georgia Superior and State trial courts in the cases of Branyon v. Bell-Minor Home, Inc., Superior Court of Hall County, C.A.F. No. 05CV260B (Honorable Kathlene F. Gosselin), Ibrahim v. Furie et al., State Court of Fulton County, C.A.F. No. 05VS077614J (Honorable Diane Bessen), Queen v. Allied Foot and Ankle Care Centers, Inc. et al., State Court of DeKalb County, C.A.F. No. 05A30517-6 (Honorable Edward E. Carrier, Jr.), Davidson v. Cory et al., State Court of Fulton County, C.A.F. No. 03VS050911 (Honorable John R. Mather), and Lockard v. Weisberg, State Court of Fulton County, C.A.F. No. 05VS5078568D (Honorable Henry M. Newkirk), the Orders of which are incorporated herein by reference. It is suggested that you seek independent legal advice before disclosing any protected health information to any person or entity using this authorization without first receiving a properly executed HIPAA authorization.

AUTHORIZATION

1.

Plaintiffs hereby authorize the attorney representing the adverse parties, JUDONN T. ADAMS, M.D., P.C., NEW MILLENNIUM OBSTETRICS AND GYNECOLOGY, L.L.C., and JUDONN T. ADAMS, M.D., individually, and as an agent and employee of JUDONN T. ADAMS, M.D., P.C., and NEW MILLENNIUM OBSTETRICS AND GYNECOLOGY, L.L.C., to obtain and disclose protected health information contained in the medical records to facilitate the investigation, evaluation, and defense of the claims and allegations set forth in Plaintiffs' Complaint which pertain to Cynthia Bennett and Paul Bennett. This authorization includes said adverse attorney's right to discuss the care and treatment of Cynthia Bennett and Paul Bennett with all of Cynthia Bennett's and Paul Bennett's treating physicians.

2.

This authorization provides for the release of all protected health information except information that is considered privileged, and authorizes release of such information to said adverse attorney by any physician or health care facility by which health care records of Cynthia Bennett and Paul Bennett are maintained.

3.

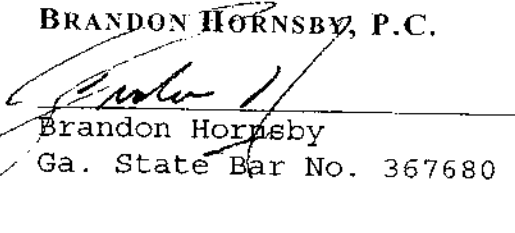
This authorization shall expire six (6) months from November 21, 2005, the date Plaintiffs' Complaint was filed in the State Court of Fayette County.

4.

Pursuant to 45 C.F.R. § 164.528, Plaintiffs reserve the right to request an accounting of disclosures of any protected health information. In the event of an unauthorized disclosure, Plaintiffs reserve the right to file a Complaint with the Secretary of Health and Human Services pursuant to 45 C.F.R. § 160.306 and to pursue all other remedies provided by applicable state or federal law.

This 21st day of November, 2005.

BRANDON HORNSBY, P.C.



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Ga. State Bar No. 367680

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Attorney for Plaintiffs