

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
UNIFORM CASE NUMBER: _____
REFERENCE NUMBER: _____

K.S., a minor, by and through his
parents, legal guardians and next friends,
CHRISTOPHER SMITH and KAMEIKA
SMITH; CHRISTOPHER SMITH, individually,
and KAMEIKA SMITH, individually,

Plaintiffs,

vs.

SUZANNE R. CLEMONS, M.D., and
WOMEN'S CARE FLORIDA, LLC,

Defendants.

COMPLAINT

COMES NOW the Plaintiffs, K.S., a minor, by and through his parents, natural guardians and next friends, CHRISTOPHER SMITH and KAMEIKA SMITH; CHRISTOPHER SMITH, individually; and KAMEIKA SMITH, individually, by and through their undersigned attorneys, and sue the Defendants, SUZANNE R. CLEMONS, M.D., and WOMEN'S CARE FLORIDA, LLC, and for cause of action allege and aver as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is a civil action for money damages which exceed the sum of Thirty Thousand Dollars (\$30,000.00), exclusive of costs, interest, and attorney's fees.
2. At all times material hereto, Plaintiffs, CHRISTOPHER SMITH and KAMEIKA SMITH, as well as the minor, K.S, were all residents of Hillsborough County, Florida.
3. At all times material hereto, Defendant, SUZANNE R. CLEMONS, M.D. ("DR. CLEMONS"), was a physician licensed to practice medicine in the State of Florida; and

Defendant, WOMEN'S CARE FLORIDA, LLC ("WOMEN'S CARE") was the medical group or practice that employed DR. CLEMONS.

4. At all times material hereto, Defendant, WOMEN'S CARE, was a Florida limited liability company providing medical services in Hillsborough County, Florida.

5. At all times material hereto, Defendant, WOMEN'S CARE, was the principal, master or employer of Defendant, DR. CLEMONS.

6. At all times material to this cause of action, the negligent acts or omissions as alleged herein arose from the birth and delivery medical care provided to K.S., a minor, and K.S.'s mother, Plaintiff, KAMEIKA SMITH.

7. Defendants substantially conducted relevant and material business affairs and/or resided in Hillsborough County, Florida. All incidents material hereto occurred in Hillsborough County, Florida.

8. Plaintiffs' counsel in good faith states that reasonable pre-suit investigation has been made; and that the acts or omissions of the aforesaid Defendants fell below the prevailing standards of care recognized as acceptable and appropriate by reasonable, prudent, similarly situated health care providers.

9. Plaintiffs have undertaken a thorough presuit investigation and complied in good faith with all of the provisions of section 766.106 of the Florida Statutes before filing this lawsuit. Plaintiffs provided counsel for Defendants with an affidavit from a respected expert in the same specialty as the Defendant-physician verifying her medical negligence; Plaintiffs provided Defendants with all responsive documents and materials requested by Defendants within Plaintiffs' possession; and further provided Defendants with an executed statutory medical authorization so Defendants could obtain Plaintiff's medical records.

10. Plaintiffs contend that the length, depth, and severity of K.S.'s disfiguring facial scar constitutes prima facie evidence of medical negligence.

FACTUAL ALLEGATIONS

11. On Tuesday, November 10, 2020, KAMEIKA SMITH had a cesarean section that was performed by surgeon and Defendant, DR. CLEMONS, at St. Joseph's Women's Hospital.

12. DR. CLEMONS' negligent performance of KAMEIKA SMITH's cesarean section resulted in baby, K.S., suffering a severe facial laceration injury from the sharp scalpel used by DR. CLEMONS during the surgery.

13. DR. CLEMONS used her scalpel to such unnecessary depth, force, and length that the scalpel improperly and injuriously entered through KAMEIKA SMITH's uterus, amniotic sac and into K.S.'s face. The laceration was so severe that it penetrated the facial fat and musculature layer extending approximately 6 centimeters in length.

14. DR. CLEMONS admitted in her operative report that she used a scalpel through the patient's uterus and into KAMEIKA SMITH's amniotic sac.

15. Authoritative medical literature has established for over a decade that the risk of facial laceration during cesarean section is reduced by: a) using blunt, not sharp, instruments to enter the amniotic sac; b) moving the uterine wall away from the fetus before incision; c) removing the abdominal wall away from retractors before delivery; and d) using blunt entry into the uterine cavity with fingers or bandage scissors.¹

16. Defendant, DR. CLEMONS, negligently failed to adhere to the established standards for safely performing cesarean section causing a large facial scar and disfigurement to baby, K.S.

¹ Fetal Laceration Injury at Caesarean Delivery; Mahbod Kaveh, M.D et al, Vol. 4, No. 3, September 2010 Journal of Family and Reproductive Health.

17. As a direct, proximate, and foreseeable result of the negligence of the Defendants, Plaintiff, K.S., a minor, has sustained serious bodily injuries and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and loss the ability to earn money. These losses are either permanent or continuing, and Plaintiff, K.S., a minor, will continue to suffer these losses in the future. Additionally, Plaintiff, K.S., a minor, has suffered severe mental and emotional distress in the past, and will continue to suffer severe mental and emotional distress in the future. Further, due to K.S.'s permanent injuries, CHRISTOPHER SMITH and KAMEIKA SMITH have suffered loss of filial consortium damages, which include but may not be limited to, the loss of companionship, society, love, attention, and solace in the past and in the future.

COUNT I: NEGLIGENCE (SUZANNE R. CLEMONS, M.D.)

18. Plaintiffs repeat and reallege all allegations set forth in paragraphs 1 through 17 above, as if each paragraph was fully repeated verbatim herein.

19. Plaintiff, KAMEIKA SMITH presented to St. Joseph's Women's Hospital on November 10, 2020, for a cesarean section to be performed by her doctor, Defendant, DR. CLEMONS.

20. Defendant, DR CLEMONS owed a duty to Plaintiffs, KAMEIKA SMITH and K.S., a minor, to provide an appropriate level of professional care, skill, and service in delivering KAMEIKA SMITH's baby.

21. At all times material hereto, Defendant, DR. CLEMONS, negligently breached her duty to Plaintiffs and the prevailing professional standard of care by not using the necessary precautions when performing Plaintiff, KAMEIKA SMITH's, cesarean section.

22. Defendant, DR. CLEMONS, was negligent and deviated from the standard of care by not using necessary standard precautions during the performance of KAMEIKA SMITH's cesarean section. These standards include the use of blunt entry when at the interface between the baby and the lowest uterine muscle layer and the amniotic sac as specifically set forth above.

23. As a direct, proximate, and foreseeable result of the negligence of the Defendant, DR. CLEMONS, Plaintiff, K.S., a minor, has sustained serious bodily injuries and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and loss the ability to earn money. These losses are either permanent or continuing, and Plaintiff, K.S., a minor, will continue to suffer these losses in the future. Additionally, Plaintiff, K.S., a minor, has suffered severe mental and emotional distress in the past, and will continue to suffer severe mental and emotional distress in the future. Further, due to K.S.'s permanent injuries, CHRISTOPHER SMITH and KAMEIKA SMITH have suffered loss of filial consortium damages, which include but may not be limited to, the loss of companionship, society, love, attention, and solace in the past and in the future.

WHEREFORE, Plaintiffs, K.S., a minor, by and through his parents, natural guardians and next friends, CHRISTOPHER SMITH and KAMEIKA SMITH; CHRISTOPHER SMITH, individually; and KAMEIKA SMITH, individually, hereby demand judgement for damages as stated above against Defendant, SUZANNE R. CLEMONS, M.D., and further demand a trial by jury of all issues so triable.

COUNT II: VICARIOUS LIABILITY (WOMEN'S CARE FLORIDA, LLC)

24. Plaintiffs repeat and reallege all allegations set forth in paragraphs 1 through 17 above, as if each paragraph was fully repeated verbatim herein.

25. At all material times, Defendant, DR. CLEMONS, was an agent or employee of Defendant, WOMEN'S CARE.

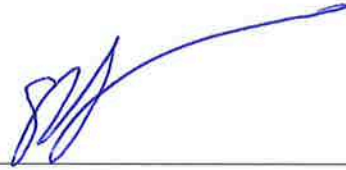
26. At all material times, under the doctrine of respondent superior, Defendant, WOMEN'S CARE, is liable for the negligence of its agent or employee, Defendant, DR. CLEMONS. DR. CLEMONS was negligent in the provision of medical care to Plaintiffs causing a facial laceration, scarring and disfigurement to the baby, K.S.

27. Defendant, WOMEN'S CARE, is vicariously liable for the damages caused by Defendant, DR. CLEMONS, as such injuries and damages were caused by the negligent acts incorporated above and which were committed in the course and scope of DR. CLEMONS employment and/or agency.

28. As a direct, proximate, and foreseeable result of the negligence of the Defendant, WOMEN'S CARE, Plaintiff, K.S., a minor, has sustained serious bodily injuries and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, and loss the ability to earn money. These losses are either permanent or continuing, and Plaintiff, K.S., a minor, will continue to suffer these losses in the future. Additionally, Plaintiff, K.S., a minor, has suffered severe mental and emotional distress in the past, and will continue to suffer severe mental and emotional distress in the future. Further, due to K.S.'s permanent injuries, CHRISTOPHER SMITH and KAMEIKA SMITH have suffered loss of filial consortium damages, which include but may not be limited to, the loss of companionship, society, love, attention, and solace in the past and in the future.

WHEREFORE, Plaintiffs, K.S., a minor, by and through his parents, natural guardians and next friends, CHRISTOPHER SMITH and KAMEIKA SMITH; CHRISTOPHER SMITH, individually; and KAMEIKA SMITH, individually, hereby demand judgement for damages as

stated above against Defendant, WOMEN'S CARE FLORIDA, LLC, and further demand a trial by jury of all issues so triable.



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