

OAKLAND COUNTY

10-107319-NH



JUDGE D. LANGFORD MORRIS
LANQUA, MARCIA v HODARI, ALBERT

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MARCIA LANQUA,

Plaintiff,

-vs-

NO. 10

NH

ALBERTO HODARI, M.D. and
WOMANCARE OF SOUTHFIELD, P.C.,
Jointly and Severally,

Defendants.

HOWARD J. VICTOR (P27811)
Attorney for Plaintiff
30445 Northwestern Highway, Suite 380
Farmington Hills, MI 48334
(248) 737-9101

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There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred or otherwise disposed of after having been assigned to a judge in this Court.


HOWARD J. VICTOR (P27811)

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, by and through counsel, WORSHAM & VICTOR, P.C.,
and complains against the Defendants as follows:

COUNT I

1. That Plaintiff, MARCIA LANQUA, is a resident of the City of Southfield, County of Oakland, State of Michigan.

2. That the Defendant, ALBERTO HODARI, M.D., is a physician licensed to practice medicine in the State of Michigan and at all times herein was practicing his

specialty of obstetrics and gynecology at his office located within the City of Lathrup Village, County of Oakland, State of Michigan.

3. That at all times herein ALBERTO HODARI, M.D. was the owner and/or an agent, servant or employee of co-defendant WOMANCARE OF SOUTHFIELD, P.C., a Michigan corporation doing business within the City of Lathrup Village, County of Oakland, State of Michigan.

4. That the amount in controversy exceeds Twenty-five Thousand (\$25,000.00) Dollars.

5. That Plaintiff, MARCIA LANQUA, is a 33-year old married woman who on or about February of 2009 began dealing as if she might be pregnant. Plaintiff took a home pregnancy test that was positive and decided to terminate that pregnancy and contacted an abortion clinic in Dearborn, Michigan.

6. That on or about March 4, 2009, Plaintiff, MARCIA LANQUA, did go to an abortion clinic located in Dearborn and they confirmed that she was pregnant with a gestational age of approximately five to six weeks. Her Beta hCG at that time was 41,431 and that said Beta was in excess of the discriminatory zone. That notwithstanding the former, an ultrasound was performed and the technician was unable to locate any intrauterine pregnancy which is certainly consistent with the sign or symptom of an ectopic pregnancy. That abortion clinic would not perform the procedure and advised Plaintiff that she should return at a later date.

7. That Plaintiff, MARCIA LANQUA, decided to contact WOMANCARE OF SOUTHFIELD as she was still not feeling well and on March 5, 2009 she made an appointment to see doctors at that office on March 6, 2009.

8. That on or about March 6, 2009, doctors at WOMANCARE OF SOUTHFIELD, by and through their agents, servants or employees did perform an ultrasound and then Plaintiff, after having the ultrasound performed, did have a procedure performed by ALBERTO HODARI, M.D. to terminate the pregnancy.

9. That said agents, servants or employees of WOMANCARE OF SOUTHFIELD knew, or should have known, that there did not exist an intrauterine pregnancy when the surgery was performed and that said doctor committed an assault and battery on Plaintiff by doing a procedure that he knew was not indicated, specifically a termination, and further never advised the Plaintiff that in fact she did not have an intrauterine pregnancy which said doctors knew or should have known was the case. Instead said ALBERTO HODARI, M.D. came into the examining room and performed a termination.

10. Later that same evening, Plaintiff was still not feeling well and contacted her doctor's office and was informed that she needed to wait; that her body may still be thinking that she is pregnant and to give it a week to settle down.

11. That Plaintiff returned to work and to her own life, even though she wasn't feeling well, until Plaintiff finally came back or called DR. HODARI'S office explaining that she wasn't feeling well and she was advised to return for blood work.

12. That Plaintiff returned to WOMANCARE OF SOUTHFIELD on March 15, 2009 and was informed that her Beta values were 67,981 and was advised to go to the hospital. That Plaintiff was going to go to Henry Ford Hospital but Plaintiff was advised by agents, servants or employees of the Defendant that she should go to William Beaumont Hospital for care.

13. That Plaintiff went to the emergency room at William Beaumont Hospital and an ultrasound was performed, which revealed a "left adnexal region mass, roughly 4.8 x 3.0

x. 5.5 cm.” That this structure obviously was an ectopic pregnancy and Plaintiff was scheduled for surgery and underwent a left salpingectomy.

14. That as a result of the Defendants’ failure to properly diagnose this pregnancy at an earlier stage, Plaintiff lost her fallopian tube and had incurred an unnecessary abortion for a fetus that was never located in the uterus.

15. That ALBERTO HODARI, M.D. did breach of the applicable standards of practice by way of illustration and not of limitation the following:

- a. by failing to have the proper training and ability to meet the patient’s needs, including the ability to timely diagnose and treat an ectopic pregnancy;
- b. by failing to recognize the signs and symptoms of ectopic pregnancy;
- c. by failing to perform and properly interpret the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;
- d. by failing to refrain from performing an unnecessary abortion;
- e. by failing to timely and properly treat Marcia Lanqua’s ectopic pregnancy; and
- f. by failing to provide the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

16. That as a result of the negligence of the Defendant, ALBERTO HODARI, M.D., Plaintiff has suffered pain, suffering, and loss of her fallopian tube including the need for unnecessary surgeries.

17. That Plaintiff has suffered from fright, shock, humiliation and mortification including pain, suffering and disability, past, present and future.

18. That Plaintiff has suffered wage loss, economic expenses and medical expenses as a result of the negligence of the Defendants.

WHEREFORE Plaintiff claims judgment against the Defendants in an amount in excess of Twenty-five Thousand Dollars (\$25,000.00) plus costs, fees and interest.

COUNT II

19. Plaintiff incorporates by reference all the allegations of Count I as if fully set forth herein.

20. That Defendant WOMANCARE OF SOUTHFIELD did employ various healthcare personnel including various doctors, nurses and technician. That said Defendant WOMANCARE OF SOUTHFIELD is vicariously liable for any and all acts of negligence of any and all of these individuals.

21. That Defendant WOMANCARE OF SOUTHFIELD did breach various applicable standards of practice including by way of illustration, not of limitation, the following:

- a. by failing to timely and properly select, train and monitor its employees, servants, agents, actual or ostensible, or its staff of physicians, to ensure that they were competent;
- b. by failing to have the proper training and ability to meet the patient's needs, including the ability to timely diagnose and treat an ectopic pregnancy;
- c. by failing to recognize the signs and symptoms of ectopic pregnancy;
- d. by failing to perform and properly interpret the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;
- e. by failing to refrain from performing an unnecessary abortion;
- f. by failing to timely and properly treat Marcia Lanqua's ectopic pregnancy; and
- g. by failing to provide the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

22. That as a result of the negligence of the Defendant, Plaintiff has suffered injuries as set forth in other Counts of this Complaint.

WHEREFORE, Plaintiff claims judgment against Defendants in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars which the trier of fact determines

Plaintiff has suffered, together with costs, fees and interest that she has so wrongfully been caused to sustain.

WORSHAM & VICTOR, P.C.

BY: Howard J. Victor
HOWARD J. VICTOR (P27811)
Attorney for Plaintiff
30445 Northwestern Hwy., #380
Farmington Hills, MI 48334
(248) 737-9101

DEMAND FOR JURY TRIAL

Plaintiffs, by and through counsel, WORSHAM & VICTOR, P.C., hereby demand a trial by jury on all issues so triable herein.

WORSHAM & VICTOR, P.C.

BY: Howard J. Victor
HOWARD J. VICTOR (P27811)
Attorney for Plaintiff
30445 Northwestern Hwy., #380
Farmington Hills, MI 48334
(248) 737-9101

AFFIDAVIT OF MERIT

**IN RE: THE MEDICAL MALPRACTICE CLAIM OF
MARCIA LANQUA**

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND)

I, MICHAEL L. BERKE, M.D., being first duly sworn, depose and state as follows:

- 1. That I am a Board Certified physician in Obstetrics and Gynecology.
- 2. That I have reviewed the Notice of Intent to File a Claim prepared by the law firm of WORSHAM & VICTOR, P.C., on behalf of MARCIA LANQUA.
- 3. That I have reviewed all of the medical records supplied to me by the law firm of WORSHAM & VICTOR, P.C., in connection with the allegations set forth in the Notice of Intent to File a Claim.
- 4. That I have formed the following opinions with regard to the Medical Malpractice Claim of MARCIA LANQUA.

THE APPLICABLE STANDARD OF CARE:

1. Alberto Hodari, M.D.

- A. The standard of care required that Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, owed a duty to have the proper training and ability to meet the patient’s needs, including the ability to timely diagnose and treat an ectopic pregnancy;
- B. The standard of care required that Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, owed a duty to recognize the signs *and symptoms of ectopic pregnancy*;
- C. The standard of care required that Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a

patient such as Marcia Lanqua, owed a duty to perform and properly interpret the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;

- D. The standard of care required that Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, owed a duty to refrain from performing an unnecessary abortion;
- E. The standard of care required that Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, owed a duty to timely and properly treat Marcia Lanqua's ectopic pregnancy; and
- F. The standard of care required that Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, owed a duty to provide the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

2. Womancare of Southfield

- A. The standard of care required that Womancare of Southfield, a health care provider, owed a duty to timely and properly select, train and monitor its employees, servants, agents, actual or ostensible, or its staff of physicians, to ensure that they were competent;
- B. The standard of care required that Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, owed a duty to have the proper training and ability to meet the patient's needs, including the ability to timely diagnose and treat an ectopic pregnancy;
- C. The standard of care required that Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, owed a duty to recognize the signs and symptoms of ectopic pregnancy;
- D. The standard of care required that Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, owed a duty to perform and properly interpret the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;
- E. The standard of care required that Womancare of Southfield, a health care provider, via its agents and employees, when presented with a

patient such as Marcia Lanqua, owed a duty to refrain from performing an unnecessary abortion;

- F. The standard of care required that Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, owed a duty to timely and properly treat Marcia Lanqua's ectopic pregnancy; and
- G. The standard of care required that Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, owed a duty to provide the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

THE MANNER IN WHICH IT IS CLAIMED THAT THE APPLICABLE STANDARD OF PRACTICE OR CARE WAS BREACHED:

1. Alberto Hodari, M.D.

- A. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to have the proper training and ability to meet the patient's needs, including the ability to timely diagnose and treat an ectopic pregnancy;
- B. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to recognize the signs and symptoms of ectopic pregnancy;
- C. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to perform and properly interpret the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;
- D. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to refrain from performing an unnecessary abortion;
- E. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to timely and properly treat Marcia Lanqua's ectopic pregnancy; and

- F. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to provide the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

2. Womancare of Southfield

- A. Womancare of Southfield, a health care provider, breached the standard of care by failing to timely and properly select, train and monitor its employees, servants, agents, actual or ostensible, or its staff of physicians, to ensure that they were competent;
- B. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to have the proper training and ability to meet the patient's needs, including the ability to timely diagnose and treat an ectopic pregnancy;
- C. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, *breached the standard of care by failing to recognize the signs and symptoms of ectopic pregnancy;*
- D. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to perform and properly interpret the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;
- E. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to refrain from performing an unnecessary abortion;
- F. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to timely and properly treat Marcia Lanqua's ectopic pregnancy; and
- G. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, breached the standard of care by failing to provide the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

THE ACTION WHICH SHOULD HAVE BEEN TAKEN TO ACHIEVE COMPLIANCE WITH THE STATUTE:

1. Alberto Hodari, M.D.

- A. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, should have had the proper training and ability to meet the patient's needs, including the ability to timely diagnose and treat an ectopic pregnancy;
- B. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, should have recognized the signs and symptoms of ectopic pregnancy;
- C. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, should have performed and properly interpreted the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;
- D. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with patient such as Marcia Lanqua, should have refrained from performing an unnecessary abortion;
- E. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, should have timely and properly treated Marcia Lanqua's ectopic pregnancy; and
- F. Alberto Hodari, M.D., as a reasonable and prudent licensed physician, when presented with a patient such as Marcia Lanqua, should have provided the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

2. Womancare of Southfield

- A. Womancare of Southfield, a health care provider, should have timely and properly selected, trained and monitored its employees, servants, agents, actual or ostensible, or its staff of physicians, to ensure that they were competent;
- B. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua,

should have had the proper training and ability to meet the patient's needs, including the ability to timely diagnose and treat an ectopic pregnancy;

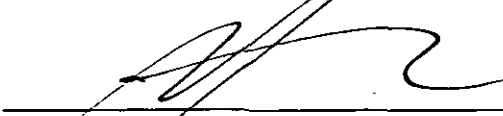
- C. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, should have recognized the signs and symptoms of ectopic pregnancy;
- D. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, should have performed and properly interpreted the appropriate diagnostic tests, including but not limited to ultrasound films, to rule out or confirm an ectopic pregnancy;
- E. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, should have refrained from performing an unnecessary abortion;
- F. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, should have timely and properly treated Marcia Lanqua's ectopic pregnancy; and
- G. Womancare of Southfield, a health care provider, via its agents and employees, when presented with a patient such as Marcia Lanqua, should have provided the appropriate follow up care and treatment for Marcia Lanqua based on the information that was or should have been available.

THE MANNER IN WHICH THE BREACH OF THE STANDARD OF PRACTICE OR CARE WAS THE PROXIMATE CAUSE OF INJURY:

The failure of Alberto Hodari, M.D., and the medical staff of Womancare of Southfield, to timely diagnose and properly treat Marcia Lanqua's ectopic pregnancy, resulted in the need for emergency surgery and the removal of her left fallopian tube. She also suffered an unnecessary abortion, severe pain, discomfort, disability, residual scarring, economic loss and disability, as well as permanent damage to her reproductive organs.

If there had been a proper diagnosis, timely notification and treatment had been timely administered; surgical intervention and the loss of the fallopian tube could have been avoided.

THIS AFFIDAVIT OF MERIT IS BASED UPON INFORMATION WHICH HAS BEEN PRESENTLY REVIEWED AND IS SUBJECT TO CHANGE OR MODIFICATION UPON RECEIPT OF ADDITIONAL OR FURTHER INFORMATION.



MICHAEL L. BERKE, M.D.
Board Certified, Obstetrics & Gynecology

Subscribed and sworn to before me
on this 25 day of January, 2010

Elizabeth K. Mann
Notary Public, Oakland County, MI
My commission expires: 3/13/13
Acting in Oakland County, MI

ELIZABETH K. MANN
Notary Public, State of Michigan
County of Oakland
My Commission Expires Mar. 13, 2013
Acting in the County of _____