

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

KIMBERLY BURGESS,

Plaintiff(s)

vs.

PLANNED PARENTHOOD HEALTH SYSTEMS, INC., AND

HARVEY N. BROWN, MD

Defendant(s)

Submitted By: Charles J. Hodge

Address: 229 Magnolia Street, Spartanburg, SC 29306

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015-CP - 40- 01476

SC Bar #: 02537
Telephone #: 864-585-3873
Fax #: 864-585-6485
Other:
E-mail: hodgecharles@hotmail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 14-CP- 43 - 0192, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature:

[Handwritten Signature]

Date: 2/19/15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Kimberly Burgess,)
)
 Plaintiff,)
)
 vs.)
)
 Planned Parenthood Health Systems, Inc., and)
 Harvey N. Brown, MD,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 (JURY TRIAL REQUESTED)

SUMMONS
 C.A. NO. 2015-CP-40-

2015 MAR -9 AM 11:44
 CHARLOTTE M. HODGE
 C.C.F. & G.S.
 RICHLAND COUNTY

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is attached herewith served upon you, and to serve a copy of you Answer to said Complaint on the subscribers at their office at Post Office Box 2765, 229 Magnolia Street, Spartanburg, South Carolina, 29304, within thirty (30) day after such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in this Complaint.

HODGE & LANGLEY LAW FIRM, P.C.



Charles J. Hodge
 Attorney for the Plaintiff
 Post Office Box 2765
 Spartanburg, SC 29304
 (864)585-3873

Dated: 3/4, 2015
 Spartanburg, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Kimberly Lowery Burgess,

Plaintiff,

vs.

Planned Parenthood Health Systems,
Inc. and Harvey N. Brown, MD,

Defendants.

COURT OF COMMON PLEAS

COMPLAINT

CA No.: 2015-CP-

RICHLAND COUNTY
FILED
2015 MAR -9 AM 11:45
DEANETTE W. HOBBS
C.C.P. & C.S.
RICHLAND COUNTY
FILED
2015 MAR 23 PM 12:46
DEANETTE W. HOBBS
C.C.P. & C.S.

TO: PLANNED PARENTHOOD HEALTH SYSTEMS, INC., AND HARVEY N. BROWN,
MD, DEFENDANTS.

The Plaintiffs, complaining of the Defendants, would respectfully show unto the Court as follows:

1. That the Plaintiffs are citizens and residents of the county of Sumter, State of South Carolina.
2. That upon information and belief, the Defendant is a corporation organized, existing, and operating under the laws of the State of South Carolina and all times herein mentioned did provide healthcare services including emergency room services for the Plaintiff Kimberly Lowery Burgess and the public in general.
3. That this court therefore has jurisdiction over the parties and the subject matter to this action.

GENERAL ALLEGATIONS

4. Ms. Burgess underwent an ultrasound on January 7, 2012, through the Tuomey Healthcare System. Multiple sonographic images were obtained through the pelvis. There was an intrauterine fetal pole noted with a crown rump length measuring 1.4 cm which

corresponded to an estimated gestational age of 7 weeks, 6days. A persistent cystic lesion was noted within the left ovary as well as a corpus luteum. The embryo heart rate measured 149 beats per minute. At the time the patient was 24 years old with a history of 3 previous vaginal deliveries.

5. On February 3, 2012, Ms. Burgess went to Planned Parenthood in Sumter, South Carolina, and completed a registration form. Paperwork was executed which included requests for surgery or special procedure, client information for informed consent witnessed by Alethia Parr, HCA, requests for medical services, client bill of rights, and a document outlining right to review printed materials prepared by the state of South Carolina, witnessed by Alethia Parr, HCA, and Harvey N. Brown, MD.
6. On February 3, 2012, Planned Parenthood performed an ultrasound on Ms. Burgess. The findings included a yolk sac, single, cardiac motion, fetal pole, CRL 4.7 cm, BPD 1.7, EGA U/S 12WOD. Mild sedation was noted to have been given after the consent process was completed. The note reflects no contraindications and Harvey N. Brown, MD, proceeded to a suction abortion. The surgical abortion record reflects the uterus was evacuated. There was an estimated blood loss of 50-100 ml and tissue examination revealed villi, sac, fetal parts and reflects that all fetal parts were examined consistent with 12 weeks gestation. The procedure began at 12:18 and concluded at 12:27 p.m. Ms. Burgess was discharged at 12:51 p.m.
7. On February 9, 2012, notes from Planned Parenthood reflect the patient's family called the clinic indicating she was bleeding, clotting and having cramps after having been seen on February 3, 2012, for SAB.

8. On February 9, 2012, Ms. Burgess was seen at the Tuomey Hospital for abdominal and back pain. She reported pelvic pain and vaginal bleeding with clots and “pieces of my baby” since having an abortion on February 3, 2012. She presented to the emergency department with complaints of abdominal pain, cramping, passing of clots and tissue. She was noted to have had an abortion on February 3, 2012, and stated she had been bleeding since and that day passed what looked like her fetus.
9. A record from Planned Parenthood dated February 9, 2012, reflects the patient’s mother called indicating she had passed baby part, head, arm, and eye. A note of instruction to collect “parts” and bring them to Tuomey Regional Medical Center was made.
10. A record from Sumter Family Health Center dated February 10, 2012, reflects Ms. Burgess was seen in the emergency room on February 9, 2012, after heavy vaginal bleeding and passage of fetus. That record notes after passing large clots and fetal tissue on February 9, 2012, she went to the ER. Discussions by Dr. Giselle Chandler with Ms. Burgess were held regarding options of medical versus surgical management of her incomplete abortion. She desired the latter.
11. On February 11, 2012, the Tuomey Healthcare System operation note by Dr. Chandler reflects suction, dilation and curettage, retroverted uterus approximately 10 weeks in size with products of conception were evacuated. She was discharged on February 11, 2012, from the Tuomey Healthcare System.
12. Records from Sumter Family Health Center, Dr. Carol Allen, dated February 16, 2012, reflects Ms. Burgess presented for follow up after a D&C was performed for retained products of conception after the patient had undergone an elective abortion.

13. The affidavit from Ms. Burgess reflects at no time did Dr. Brown or any other doctor discuss the procedure with her. She states she was given a tablet to insert in her vagina before the procedure and shortly after that her legs felt numb. She states she was alarmed and by that time the doctor had walked in but had not begun the procedure. Ms. Burgess indicated she expressly told Dr. Brown she did not want to go through with the procedure and for it to be stopped. She states Dr. Brown slapped her on the thigh three times very hard and said, "Shut up before you run off my clients." Ms. Burgess said he then stuck some type of vacuum device inside her and then started the procedure.

FOR A FIRST CAUSE OF ACTION

(Negligence/Wrongful Death)

14. That the defendant acting through its agents and doctors was negligent and/or reckless, willful, and wanton in its care and treatment of Kimberly Lower Burgess in that it failed to exercise that degree of care and skill ordinarily employed under similar circumstances by emergency rooms which treat patients with similar problems and it failed to exercise that degree of care and skill which it professes to possess in conducting its treatment and care of Kimberly Lowey Burgess and it failed to use reasonable care and diligence in its treatment and care of Kimberly Lowery Burgess and one or more of the following particulars to wit:

- a) In failing to have the physician give and obtain proper informed consent;
- b) In failing to abandon the procedure prior to it beginning at the express request of the patient;
- c) in slapping the patient on her thigh and stating, "Shut up before you run off my

clients;"

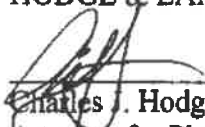
- d) In misrepresenting that all fetal parts were removed on February 3, 2012;
- e) In failing to exercise due care to Ms. Burgess.

15. The Plaintiff believes Planned Parenthood Health Systems through its doctors and nurses who treated Kimberly Lowery Burgess did not use such care as a reasonable and prudent healthcare provider practicing in the same field and the same and/or similar locality would have provided under similar circumstances.

WHEREFORE Plaintiffs pray judgment against the Defendant as follows:

- 1. For actual damages found to be fair and equitable within the discretion of the fact finder.
- 2. For the cost and disbursements of this action.
- 3. For such other and further relief as this Court may deem just and proper.

HODGE & LANGLEY LAW FIRM, P.C.



Charles J. Hodge
Attorney for Plaintiff
P.O. Box 2765
Spartanburg, SC 29304-2765
(864) 585-3873

Dated: 2/19, 2015
Spartanburg, SC

AND

Willie H. Brunson
Weeks Law Office
35 S. Sumter Street
Sumter, SC 29150
Co-Counsel for Plaintiff

HODGE & LANGLEY LAW FIRM, P.C.

Attorneys at Law

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NBTA CERTIFIED CIVIL TRIAL SPECIALIST

T. RYAN LANGLEY

E-MAIL: RLangley@hodgelawfirm.com

LICENSED IN SOUTH CAROLINA AND GEORGIA

February 19, 2015

Ms. Jeanette W. McBride
Richland County Clerk of Court
1701 Main Street
Room 205
Columbia, SC 29202

RE: Kimberly Burgess v. Planned Parenthood Health System, Inc. and Harvey N. Brown, MD
CA No.: 2015-CP-40-_____


Dear Ms. McBride:

You will find enclosed the original and two copies of the Summons and Complaint in the above referenced matter. The Notice of Intent for this case was filed in Sumter County. Pre-suit mediation was conducted on January 19, 2015 and it was discovered that Richland County was in fact the proper jurisdiction for this case. Therefore, we would appreciate your clocking the Summons and Complaint and returning the clocked copies to me in the enclosed self-addressed stamped envelope.

Additionally, I have copied the Sumter County Clerk of Court on this letter so that they can update their file accordingly.

If you have any questions, please do not hesitate to contact me.

Yours very truly,


Charles J. Hodge
CJH/abk

cc: Mr. James C. Campbell
Sumter County Clerk of Court
Via US Mail

Mr. Will H. Brunson, Esq.
Via US Mail

Mr. G. Murrell Smith, Jr., Esq.
Via US Mail

*not enclosed
2/23/15*