

MADELYN TROTTER, A MINOR, BY HER	:	SUPERIOR COURT
MOTHER AND NEXT FRIEND,	:	
ELIZABETH TROTTER,	:	
ELIZABETH TROTTER, INDIVIDUALLY and	:	
ERIK TROTTER	:	JUDICIAL DISTRICT
	:	OF NEW LONDON AT
V.	:	NEW LONDON
	:	
OB-GYN SERVICES, P.C., STEPHEN	:	
BRIGGS, M.D. and DAVID KALLA, M.D.	:	AUGUST 17, 2020

REVISED COMPLAINT

FIRST COUNT: **(Brought by Madelyn Trotter, a Minor, by her Mother and Next Friend, Elizabeth Trotter, as to the Defendants, OB-GYN Services, P.C. and Stephen Briggs, M.D.)**

1. The Plaintiff, Madelyn Trotter, a minor, brings this action by her mother and next friend, Elizabeth Trotter.

2. At all times mentioned herein, the Defendant, OB-GYN Services, P.C. [hereinafter "Defendant OB-GYN"], was a professional corporation organized and existing under the laws of the State of Connecticut and with a principal office in Norwich, Connecticut.

3. At all times mentioned herein, the Defendant OB-GYN held itself out to the general public and to patients as an obstetrical and gynecological practice engaged in

the practice of providing proper medical care to pregnant women and others with capable employees, physicians and staff and adequate facilities and equipment.

4. At all times mentioned herein, the Defendant, Stephen Briggs, M.D. [hereinafter "Defendant Dr. Briggs"], was licensed as a practitioner of medicine in the State of Connecticut holding himself out to the general public as a competent physician and as a physician skilled and capable of engaging in the practice of gynecology and obstetrics, including prenatal care.

5. At all times mentioned herein, the Defendant, David Kalla, M.D. [hereinafter "Defendant Dr. Kalla"], was licensed as a practitioner of medicine in the State of Connecticut holding himself out to the general public as a competent physician and as a physician skilled and capable of engaging in the practice of gynecology and obstetrics, including prenatal care.

6. At all times mentioned herein, the Defendant Dr. Briggs was and is a physician practicing medicine at the offices of Defendant OB-GYN and, acting as their agent, apparent agent, servant and/or employee and within the scope of this agency, apparent agency, employment and authority, treated the Plaintiff, Elizabeth Trotter.

7. At all times mentioned herein, the Defendant Dr. Kalla was and is a physician practicing medicine at the offices of Defendant OB-GYN and, acting as their

agent, apparent agent, servant and/or employee and within the scope of this agency, apparent agency, employment and authority, treated the Plaintiff, Elizabeth Trotter.

8. On or about June 17, 2016, the Plaintiff, Elizabeth Trotter, presented to Defendant OB-GYN for a dating ultrasound for her first pregnancy and, thereafter, became a patient of the Defendant OB-GYN, including its agents, apparent agents, servants and/or employees, for purposes of prenatal care through her pregnancy.

9. On or about June 17, 2016, the Plaintiff, Elizabeth Trotter, was seen at the offices of the Defendant OB-GYN and the Defendant Dr. Kalla noted that she planned a Cystic Fibrosis/fragile X/SMA screening.

10. At some time on or before July 22, 2016, a QNatal test was ordered by the Defendant Dr. Briggs to be performed at Quest Diagnostics, but no Cystic Fibrosis/fragile X/SMA screening was ordered by the Defendants, their staff, agents, apparent agents, employees and/or servants.

11. On or about July 22, 2016, the Plaintiff, Elizabeth Trotter, underwent a QNatal test at Quest Diagnostics, but underwent no Cystic Fibrosis/fragile X/SMA screening because none was ordered by the Defendants, their staff, agents, apparent agents, employees and/or servants.

12. At all times herein, the Plaintiff, Elizabeth Trotter, was unaware that no Cystic Fibrosis/fragile X/SMA screening had been ordered by the Defendants and drawn by Quest Diagnostics, but was under the belief that said screening had been ordered and performed.

13. On or about August 5, 2016 and August 15, 2016, the Plaintiff, Elizabeth Trotter, was informed by the staff, agents, apparent agents, servants and/or employees of the Defendants that the results of the tests performed on July 22, 2016 were normal. At no time was she told that said tests performed on July 22, 2016 did not include the Cystic Fibrosis/fragile X/SMA screening.

14. The Defendants, their staff, agents, apparent agents, employees and/or servants, failed to notify the Plaintiff, Elizabeth Trotter, that no Cystic Fibrosis/fragile X/SMA screening had been performed.

15. On or about January 26, 2017, the Plaintiff, Elizabeth Trotter, delivered her first baby, which was healthy.

16. Thereafter, the Plaintiff, Elizabeth Trotter, attempted to become pregnant, did become pregnant with her second baby and continued to treat as a patient of the Defendants throughout her second pregnancy.

17. At no time during the second pregnancy did the Defendants, their staff, agents, apparent agents, employees and/or servants, offer or perform a Cystic Fibrosis/fragile X/SMA screening on the Plaintiff, Elizabeth Trotter.

18. On or about November 21, 2018, the Plaintiff, Elizabeth Trotter, gave birth to her second baby, the Plaintiff, Madelyn Trotter, who was thereafter diagnosed with Cystic Fibrosis.

19. Had a Cystic Fibrosis test been performed on the Plaintiff, Elizabeth Trotter, it would have revealed that she was a carrier for the gene.

20. Had the Plaintiff, Elizabeth Trotter, and her husband, the Plaintiff, Eric Trotter, known that one and/or both were carriers for Cystic Fibrosis, Elizabeth never would have attempted to become pregnant or become pregnant with her second child, Madelyn.

21. The injuries and damages to the Plaintiff, Madelyn Trotter, were due to the negligence, carelessness and deviations from the accepted standards of care by the Defendants, their agents, apparent agents, servants and/or employees, in one or more of the following respects, in that they:

- a. Failed to administer carrier screening for Cystic Fibrosis on the Plaintiff, Elizabeth Trotter;

- b. Failed to order carrier screening for Cystic Fibrosis for the Plaintiff, Elizabeth Trotter;
- c. Failed to order carrier screening for Cystic Fibrosis for the Plaintiff, Elizabeth Trotter, when it was planned that the testing would occur and was requested by the Plaintiff;
- d. Failed to follow up to determine whether the carrier screening for Cystic Fibrosis was performed by the laboratory;
- e. Failed to offer carrier screening for Cystic Fibrosis to the Plaintiff, Elizabeth Trotter, during her second pregnancy; and
- f. Failed to inform the Plaintiff, Elizabeth Trotter, that the carrier screening for Cystic Fibrosis was never ordered or performed.

22. During the care and treatment of the Plaintiff, Elizabeth Trotter, the Defendants deviated from the accepted standards of care incumbent upon physicians and nurses purportedly skilled in the field of obstetrics and gynecology, including prenatal care.

23. As a result of the negligence, carelessness and deviations from the accepted standard of care by the Defendants, the Plaintiff's parents were deprived of the right to make an informed decision regarding whether to conceive a child.

24. As a result of the negligence, carelessness and deviations from the accepted standard of care by the Defendants, the Plaintiff, Elizabeth Trotter, gave birth to the Plaintiff, Madelyn Trotter, who was born with Cystic Fibrosis.

25. As a result of the negligence, carelessness and deviations from the accepted standard of care by the Defendants, the Plaintiff, Madelyn Trotter, and has suffered, and will continue to suffer throughout her life, extreme pain due to her condition.

26. As a further result, the Plaintiff, Madelyn Trotter, has required, and will in the future require, significant medical treatment, surgeries, therapies and procedures to treat her condition.

27. As a further result of the negligence, carelessness and deviations from the accepted standard of care by the Defendants, the Plaintiff, Madelyn Trotter, has been forced to endure a life with Cystic Fibrosis, wherein she has suffered, and will continue in the future to suffer, the loss of the enjoyment of all of life's activities, including the enjoyment of her family and friends and her personal, recreational and social relationships and activities.

SECOND COUNT: **(Brought by Madelyn Trotter, a Minor, by her Mother and Next Friend, Elizabeth Trotter, as to the Defendants, OB-GYN Services, P.C. and David Kalla, M.D.)**

1-27. Paragraphs One (1) through Twenty-seven (27) of the First Count are hereby incorporated and made paragraphs One (1) through Twenty-seven (27) of this the Second Count as if more fully set forth herein.

THIRD COUNT: **(Brought by the Plaintiffs, Elizabeth Trotter and Erik Trotter, as to the Defendants, OB-GYN Services, P.C. and Stephen Briggs, M.D.)**

1- 21. Paragraphs One (1) through Twenty-One (21) of the First Count are hereby incorporated and made Paragraphs One (1) through Twenty-One (21) of this the Third Count as if more fully set forth herein.

22. As a result of the negligence of the Defendants, the Plaintiffs, Elizabeth and Erik Trotter, were deprived of the right to make an informed decision regarding whether to conceive a child.

23. As a result of the negligence of the Defendants, the Plaintiff, Elizabeth Trotter, gave birth to the Plaintiff, Madelyn Trotter, who was born with Cystic Fibrosis.

24. As a result of the negligence of the Defendants, the Plaintiffs, Elizabeth and Erik Trotter, have incurred, and will incur in the future, medical expenses for their daughter, Madelyn Trotter.

25. As a result of the negligence of the Defendants, the Plaintiffs, Elizabeth and Erik Trotter, have incurred, and will incur in the future, the extraordinary costs of rearing their daughter, Madelyn Trotter, made necessary as a result of her birth defects and Cystic Fibrosis.

26. As a further result of the negligence of the Defendants, the Plaintiffs, Elizabeth and Erik Trotter, have experienced, and will experience in the future, extreme mental and emotional injury.

27. As a further result of the negligence of the Defendants, the Plaintiffs, Elizabeth and Erik Trotter, have experienced a diminished ability to enjoy life's activities and will continue to experience it in the future.

28. As a further result of the negligence of the Defendants, the Plaintiffs, Elizabeth and Erik Trotter, will be required to provide care and assistance to their daughter, the Plaintiff, Madelyn Trotter, for the rest of her life, thereby requiring them to withdraw from or limit their own activities and responsibilities, including their ability to

engage in employment, pursue career opportunities and enjoy the pleasures of raising a normal, healthy child.

FOURTH COUNT: **(Brought by the Plaintiffs, Elizabeth Trotter and Erik Trotter, as to the Defendants, OB-GYN Services, P.C. and David Kalla, M.D.)**

1-28. Paragraphs One (1) through Twenty-eight (28) of the Third Count are hereby incorporated and made paragraphs One (1) through Twenty-eight (28) of this the Fourth Count as if more fully set forth herein.

WHEREFORE, the Plaintiffs claim fair, just and reasonable monetary damages.

THE PLAINTIFFS,

By: /s/ 440117

Laura Ann Raymond, Esq.

THE REARDON LAW FIRM, P.C.

Their Attorneys

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STATEMENT RE: AMOUNT IN DEMAND

The amount in demand is greater than Fifteen Thousand and No/100 (\$15,000.00) Dollars, exclusive of interest and costs, pursuant to §52-91 of the Connecticut General Statutes.

THE PLAINTIFFS,

By: /s/ 440117
 Laura Ann Raymond, Esq.
 THE REARDON LAW FIRM, P.C.
 Their Attorneys

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CERTIFICATION

I hereby certify that I have made reasonable inquiry, as permitted by the circumstances, to determine whether there are grounds for a good faith belief that there has been negligence in the care and treatment of the Plaintiff, Elizabeth Trotter. This inquiry has given rise to a good faith belief on my part that grounds exist for an action against each of the named defendants in this lawsuit. I base this belief, in part, on the written and signed medical opinion of a similar health care provider, attached hereto as Exhibits A and B in accordance with §52-190a of the Connecticut General Statutes (as amended).

/s/ 440117

 Laura Ann Raymond, Esq.
 Commissioner of the Superior Court

EXHIBIT A

Diplomat, American of Board of Obstetrics and Gynecology

June 27, 2019

Reardon Law Firm
160 Hempstead Street
PO Drawer 1430
New London, Connecticut 06320

Re: Trotter

Dear Ms. Reardon,

Thank you for the opportunity to review this matter.

Presented for evaluation were the following documents:

1. Records from OB/GYN services
2. Records form Quest Diagnostics

I have been an actively practicing OB/Gyn since 1980. I performed my internship and residency in the Ob/Gyn at

from 1976-1980, immediately entering private practice in

I have been board certified in Ob/Gyn since 1982 (Lifetime certification) and voluntarily recertified in 2013.

I passed all my examinations on the first attempt.

I served as the director of gynecology at the from 2014-2017.

I have been a resident instructor in Ob/gyn at for almost 40 years.

During my career, I have managed over ten thousand (10,000) pregnancies and delivered over six thousand (6,000) infants. As such, I am totally familiar with the standards of care concerning prenatal obstetrical management, prenatal radiology and laboratory testing, as well as intra partum obstetrical management.

After having reviewed all documents forwarded it is readily apparent that the Ob/Gyn providers in this case failed to perform Cystic Fibrosis screening

prior to or during Ms. Elizabeth Trotter's 2016 pregnancy. This fact is clear in her Ob/Gyn medical records (Bates page MED 000216) where it states, "Review of the medtech chart reveals she in fact accept carrier screening including CF, this testing was not performed and unclear if not ordered or if not drawn at the lab."

Unfortunately, during Ms. Trotter's 2018 pregnancy, the infant was born with Cystic Fibrosis.

Had Ms. Trotter been aware of her carrier status, she would have had the opportunity to have her husband tested and been able to determine the fetal status.

Since 2001 CF prenatal testing is the standard of care being offered to all women, as part of routine obstetrical testing in the USA.

The failure to properly test for CF in this case denied Ms. Trotter and her husband the opportunity to make an informed decision regarding whether to conceive a second child.

I will be available for further review of documents, deposition or trial testimony, as needed.

Thank you.

Respectfully,

Diplomat, American
Board of Obstetrics and
Gynecology

EXHIBIT B

Ms. Kelly Reardon, Esq.
The Reardon Law Firm
160 Hempstead Street
New London, CT 06320
kreardon@reardonlaw.com

Dear Ms. Reardon:

I received the records for this expert review of the Elizabeth Trotter case on April 22, 2019. I received and reviewed:

1. Antepartum records OBGYN Services, PC
2. Quest Diagnostic lab requisitions

I am a registered nurse with 36 years of experience, and 34 of those years as a staff nurse in obstetrical services. I also work as a women's health nurse practitioner in both a private office and health department clinic, providing prenatal services to women of all child bearing ages and of all gestational ages in their pregnancy. I am a member of AWHONN and certified in women's health, maternal newborn nursing, inpatient obstetrics and electronic fetal monitoring.

As a focused review of the facts, Ms. Trotter had a dating ultrasound on 6/6/2016 that put her EDC at 1/31/2017. On 6/17/2016, it is documented that Ms. Trotter plans Cystic Fibrosis/fragile X/SMA screening by DK. On 8/15/2016, patient was given a copy of her cell free DNA results and they were normal. She had previously called 2 days in a row for result and no one got back to her. She was happy with conversation the next day with Nicole and she got 2 more calls with result. On 8/16/2016 her QNatal screen is documented as normal. On 12/7/2018, Dr. Kellen Sikora, MD documented that Ms. Trotter has been told that her daughter has CF and she is in the hospital. Husband is coping and patient is upset and concerned regarding her maternal genetic carrier screening. States this may have been avoided if she knew the carrier screening results previously. Review of the meditech chart reveals she in fact accepted carrier screening regarding CF, this testing was not performed and unclear if not ordered or if not drawn at the lab (patient also had CF DNA results done).

A review of the Quest requisitions demonstrated on 7/22/2016, the QNatal was ordered and microdeletions was opted out. This test returned normal on 7/29/2016. On 8/15/2016, a maternal serum AFP was ordered. This resulted on 8/17/2016 as normal. For a future child, a maternal AFP was received on 7/17/2018 and was normal. The cystic fibrosis/fragile X/SMA screening was never ordered and therefore, never drawn.

The ACOG recommendations that were in effect at this time was "Update on Carrier Screening for Cystic Fibrosis," ACOG committee opinion, Number 486, April 2011. These recommendations state that carrier screening for CF "should be offered to all women who are considering pregnancy or are currently pregnant."

CF screening was offered to Ms. Trotter on 6/17/2016, however it was never requisitioned for, nor was it ever drawn per the Quest documentation. Therefore, Ms. Trotter did not receive any

screening. By having 3 conversations with the office regarding normal testing, it is easy to conclude that Ms. Trotter assumed testing was completed and everything was normal.

On 12/7/2018, it is admitted in the chart by Dr. Kellen Sikora, MD that the physician reviewed the chart and in fact accepted screening, but it was never completed.

The failure to perform and/or order a Cystic Fibrosis test on or after June 17, 2016, which was planned by the patient during her first pregnancy, was deviation from the standard of care on behalf of the staff at OB-GYN Services. The failure to offer screening for Cystic Fibrosis to the patient during her second pregnancy was an additional deviation from the standard of care on behalf of the staff at OB-GYN Services. These deviations resulted in harm to the patient because of her delivery of her second baby, which was diagnosed with Cystic Fibrosis.

It is my belief that this opinion would be supported as acceptable and appropriate by reasonably prudent licensed prenatal care providers.

I reserve the right to amend my opinions if/when additional material and/or information is produced during the course of discovery.

Sincerely,

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed, faxed or electronically delivered on this the 17th day of August, 2020 to all counsel and pro se parties of record and that written consent for electronic delivery was received from all counsel and pro se parties of record who were electronically serviced as follows:

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