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CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA
JOJO SCHWARZAUER, CLERK

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

NICKO SILAR, a minor, by and through
her mother and next friend, Teiranni
Kidd, and TEIRANNI KIDD, individually,

Plaintiffs,

v.

CIVIL ACTION NO. _____

SPRINGHILL HOSPITALS, INC., d/b/a
SPRINGHILL MEMORIAL HOSPITAL;
BAY AREA PHYSICIANS FOR WOMEN,
P.C.; KATELYN BRASWELL PARNELL,
MD; A, B, C, D, E, F and/or G, the
persons, firms or corporations
responsible for delivery of medical care,
nursing care, monitoring, diagnostics,
and/or treatment of NICKO SILAR or
TEIRANNI KIDD, at the times and places
made the basis of this lawsuit; H, I, J,
and/or K, the persons, firms and/or
corporations who owned, operated
and/or controlled the hospital known as
Springhill Hospitals, Inc. d/b/a Springhill
Memorial Hospital at the times and
places made the basis of this lawsuit, all
of whose true names and legal identities
are otherwise unknown to Plaintiffs at this
time, but who will be added by
amendment when ascertained,
individually and jointly,

Defendants.

COMPLAINT

COME NOW Plaintiffs, NICKO SILAR, a minor, by and through her mother and
next friend, Teiranni Kidd, and TEIRANNI KIDD, individually, and file this Complaint,
alleging as follows:

1. Plaintiff Nicko Silar (“Nicko”) is a minor resident of Mobile County, Alabama who was born at Springhill Memorial Hospital on July 17, 2019. Nicko brings this action by and through her mother and next friend, Teiranni Kidd.

2. Plaintiff Teiranni Kidd (“Teiranni”) is a resident of Mobile County, Alabama, and is the mother of Nicko Silar. She brings this action on behalf of her daughter, Nicko, as her next friend, and individually for her own injuries and damages, as more fully appears below.

3. Defendant Springhill Hospitals, Inc. d/b/a Springhill Memorial Hospital (“Springhill Memorial Hospital”) is presently and was at all times material hereto, a corporation doing business in Mobile County, Alabama.

4. Defendant Bay Area Physicians For Women, P.C. (“Bay Area Physicians”) is presently and was at all times material hereto, a corporation doing business in Mobile County, Alabama.

5. Defendant Katelyn Braswell Parnell, M.D. (“Dr. Parnell”) is a resident of Mobile County, Alabama. At all times material to the allegations set forth in this Complaint, Defendant Katelyn Braswell Parnell, M.D. was working within the line and scope of her employment as the agent, servant, or employee of Defendant Bay Area Physicians for Women, P.C. in Mobile County, Alabama.

6. Defendants A, B, C, D, E, F and/or G, are the persons, firms, or corporations responsible for the delivery of medical care, nursing care, monitoring, diagnostics, and/or treatment of Nicko Silar and/or Teiranni Kidd during their hospitalization at Springhill Memorial Hospital beginning on July 16, 2019.

7. Defendants H, I, J, and/or K, are the persons, firms and/or corporations who owned, operated and/or controlled the Defendant Springhill Memorial Hospital at the times and places made the basis of this lawsuit.

8. The true names and legal identities of the Defendants A, B, C, D, E, F, G, H, I, J, and/or K are unknown to Plaintiffs at this time, but will be substituted by amendment when ascertained.

FACTS

9. On July 9, 2019, Springhill Memorial Hospital suffered a serious ransomware attack that blocked and encrypted the hospital's computer systems, network systems, and data (hereinafter "cyberattack"). On the same day, Springhill Memorial Hospital told media outlets that it experienced a "network event" but that the issue "has not affected patient care."

10. On July 16, 2019, Springhill Medical Center released the following statement:

We are currently addressing a security incident affecting our internal network. After learning of this issue, we immediately shut down our network to contain the incident and protect all data, notified law enforcement, and engaged leading outside forensic experts to support our investigation. As we have worked diligently to investigate and remediate the incident, our staff has continued to safely care for our patients and will continue to provide the high quality of service that our patients deserve and expect.

11. On July 23, 2019, Springhill Medical Center released the following statement:

We'd like to assure our patients and the community that patient safety is always our top priority and we would never allow our staff to operate in an unsafe environment. After learning of the security incident, we promptly shut down our network to contain the incident and protect data. We continue to bring our network back up carefully to ensure our systems are operating normally and securely, and there is no truth to the claim that we have

experienced a second incident. We have provided employees with consistent updates about the status of our computer systems and we greatly appreciate their diligence in maintaining excellent care while utilizing downtime procedures.

12. Teiranni Kidd presented to Springhill Memorial Hospital on July 16, 2019 but was not told that the hospital's computer systems had been hacked, that they were not operating as needed, and that patient safety was implicated and could be compromised. Consequently, she was admitted to Springhill Memorial Hospital on July 16, 2019 for induction of her pregnancy due to gestational hypertension. At that time and throughout her admission, Teiranni had no knowledge of the effect that the cyberattack was having on Springhill Memorial Hospital, on hospital operations, or the quality of patient care.

13. Prior to her July 16, 2019 admission, Teiranni had "routine prenatal care and an uneventful pregnancy," according to her medical records. An ultrasound performed on July 9, 2019 was normal, with the report indicating normal fetal cardiac rhythm, normal fetal abdomen, and normal biophysical profile (movements, breathing, tone, and amniotic fluid volume).

14. Beginning on July 16, 2019 between 11:05 a.m. and 11:15 a.m., Teiranni had Category 1 tracings for approximately 22 hours. There was a normal fetal heartrate baseline and moderate variability. Nicko was well oxygenated and had a normal acid base status during that time.

15. On July 17, 2019, two milliunits of Pitocin were administered at approximately 8:30 a.m.

16. Upon information and belief, the only fetal tracing that was available to healthcare providers during Teiranni's admission was the paper record at her bedside.

Because numerous electronic systems were compromised by the cyberattack, fetal tracing information was not accessible at the nurses' station or by any physician or other healthcare provider who was not physically present in Teiranni's labor and delivery room. As a result, the number of healthcare providers who would normally monitor her labor and delivery was substantially reduced and important safety-critical layers of redundancy were eliminated.

17. Upon information and belief, as a result of the cyberattack, nurses and other healthcare personnel were forced to use outdated paper charting methods and paper documentation to record and document Teiranni's labor and Nicko's delivery. Some of the paper forms used outdated terminology and had not been used in years.

18. Dr. Parnell performed an amniotomy (an artificial rupture of membranes) at approximately 8:40 a.m. on July 17, 2019. An intrauterine pressure catheter was also placed inside Teiranni's uterus around the same time for the purpose of monitoring her contractions.

19. At 8:45 a.m., the Pitocin was increased to 4 milliunits. At 9:00 a.m., the Pitocin was increased to 6 milliunits.

20. There was a Category 1 tracing at approximately 9:00 a.m. Nicko's heartrate baseline was 125 beats per minute (bpm), variability was moderate, and there were accelerations but no decelerations.

21. At approximately 9:30 a.m., Nicko began to have recurrent decelerations.

22. At approximately 9:45 a.m., Nicko's heartrate was 150 with moderate variability.

23. At approximately 10:10 a.m., the Pitocin was discontinued.

24. At approximately 10:29 a.m., Nicko was tachycardic and had minimal variability.

25. There are significant gaps in the fetal tracing on the monitoring strips between 10:31 a.m. and the time of delivery.

26. No fetal scalp monitor was used to monitor Nicko's heart rate at any point during Teiranni's labor or Nicko's delivery.

27. At approximately 10:34 a.m., a labor and delivery nurse documented: "monitor straps popped off adjusted monitor."

28. At approximately 10:39 a.m., a labor and delivery nurse documented: "adjusted monitor."

29. At approximately 10:50 a.m., the labor and delivery nurse contacted Dr. Parnell to report that Teiranni was fully dilated. According to the nursing notes, Teiranni was instructed to begin pushing at 10:50 a.m.

30. At no time was a Caesarian section ordered or performed.

31. Nicko was delivered with nuchal cord and terminal meconium at 11:23 a.m. or 11:25 a.m. on July 17, 2019, with an APGAR score of 1 at 1 minute, 0 at 5 minutes, 0 at 10 minutes, 0 at 15 minutes, and 1 at 20 minutes.

32. A neonatologist arrived at bedside at approximately 11:33 a.m.

33. Following her birth, Nicko was diagnosed with hypoxic ischemic encephalopathy, anuria, acute kidney injury, acute tubular necrosis, hyaline membrane disease, seizures, perinatal depression, transaminitis, hypocalcemia, hyponatremia, and a pneumothorax.

34. Nicko was transferred to USA Women's & Children's Hospital and spent months in the neonatal intensive care unit.

35. Nicko is profoundly brain-injured, requires frequent oxygen supplementation, feeds through a gastro-intestinal tube, and needs medication administration around the clock.

36. At the aforesaid times and places, Defendant Springhill Memorial Hospital, acting vicariously by and through its agents, servants and employees, and further independently and institutionally in its capacity as a health care provider, and/or A, B, C, D, E, F, G, H, I, J, and/or K, had undertaken to deliver and were responsible to deliver and provide medical care and services, nursing care and services, monitoring services, labor and deliver services, medical management and treatment, and critical medical records-keeping and safety related health care information management to and for the benefit of Plaintiffs Teirrani Kidd and Nicko Silar.

37. At the aforesaid times and places, Defendant Springhill Memorial Hospital, and/or A, B, C, D, E, F, G, H, I, J, and/or K, had the duty to provide reasonably proper and adequate medical care and services, nursing care and services, monitoring services, labor and deliver services, medical management and treatment, and critical medical records-keeping and safety related health care information management to and for the benefit of Plaintiffs Teiranni Kidd and Nicko Silar.

38. At the aforesaid times and places, Defendant Bay Area Physicians for Women, P.C., acting vicariously by and through its agents, servants and employees, and further independently and institutionally in its capacity as a health care provider, and Dr. Parnell, had undertaken to deliver and were responsible to deliver and provide medical

care and services, monitoring services, labor and deliver services, and medical management and treatment to and for the benefit of Plaintiffs Teirrani Kidd and Nicko Silar.

39. At the aforesaid times and places, Defendant Bay Area Physicians for Women, P.C., acting vicariously by and through its agents, servants and employees, and further independently and institutionally in its capacity as a health care provider, and Dr. Parnell, had the duty to provide reasonably proper and adequate medical care and services, monitoring services, labor and deliver services, and medical management and treatment to and for the benefit of Plaintiffs Teiranni Kidd and Nicko Silar.

**FIRST CAUSE OF ACTION
(Fraudulent Non-Disclosure – Springhill Memorial Hospital
and Defendants A Through K)**

Plaintiff Nicko Silar, by and through her mother and next friend Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, allege against Springhill Memorial Hospital and A, B, C, D, E, F, G, H, I, J, and K, as follows:

40. Plaintiffs adopt and reallege the allegations contained in all the previous paragraphs hereinabove.

41. On July 16, 2019, Plaintiff Teiranni Kidd presented to Springhill Memorial Hospital. At that time, Teiranni was not told of the following material facts, of which Defendant Springhill Memorial Hospital and/or Defendants A, B, C, D, E, F, G, H, I, J, and/or K had a duty to disclose:

- a. That the hospital's computer and network systems had been crippled by a cyberattack for days;
- b. That the hospital's computer and network systems, used for patient care and safety, had been rendered ineffective and inoperable;

- c. That the cyberattack on the hospital's computer and network systems implicated, and placed at risk, patient safety.

42. Had the above disclosures been made, Plaintiff Teiranni Kidd would have gone to a different and safer hospital for labor and delivery.

43. On or about July 17, 2019, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, while patients at Springhill Memorial Hospital in Mobile County, Alabama, were caused to suffer injuries during Teiranni's labor and Nicko's delivery.

44. Defendant Springhill Memorial Hospital planned, orchestrated, and implemented a scheme by hospital management and ownership in which they conspiratorially hid, suppressed, and failed to disclose critical patient safety-related information, and further created a false, misleading, and deceptive narrative concerning the July 2019 cyberattack by deliberately failing to disclose critical factual information known to Springhill Memorial Hospital and to Springhill Memorial Hospital's key managerial and ownership personnel, including that hospital operations and patient safety were compromised by the cyberattack.

45. Defendant Springhill Memorial Hospital had a duty to disclose all material facts regarding the July 2019 cyberattack.

46. In connection with Plaintiffs' July 16, 2019 admission, Springhill Memorial Hospital, through its managers and with the blessings, acquiescence, ratification, guidance, and/or direction of other hospital personnel, intentionally or negligently withheld information and wrongfully concealed and suppressed from Plaintiffs, from Plaintiffs' physicians and other medical providers, and from the general public all the following:

- a. The severity of the cyberattack;

- b. The crippling nature of the cyberattack on hospital operations;
- c. The lack of access to critical services and information caused by the cyberattack;
- d. The inability of hospital departments and hospital personnel to communicate internally and/or with other departments and personnel as a result of the cyberattack;
- e. The lack of adequate preparation and training for a cyberattack;
- f. The effect of the cyberattack on the hospital's electronic systems and data;
- g. The specific electronic systems and data that were compromised by the cyberattack;
- h. The scope of the electronic systems and data that were compromised by the cyberattack;
- i. The extent to which layers of redundancy and other safeguards typically in place as part of normal hospital operations were compromised by the cyberattack; and
- j. The discomfort and concern expressed internally by hospital agents, servants, employees, and other personnel about the dangers to which patients were exposed as a result of continued operations following the cyberattack.

47. As a proximate consequence of the fraudulent non-disclosure as set forth hereinabove, Plaintiff Nicko Silar was caused to suffer personal injuries and general damages, including permanent injury, as follows:

- a. Hypoxic ischemic encephalopathy, anuria, acute kidney injury, acute tubular necrosis, hyaline membrane disease, seizures, perinatal depression, transaminitis, hypocalcemia, hyponatremia, and a pneumothorax;
- b. Severe past, present, and future physical pain and suffering;
- c. Severe past, present, and future mental and emotional suffering;
- d. Permanent maiming, scarring, and disfigurement of her body;
- e. Additional inpatient treatment, surgical procedures, and home nursing care;

- f. Past and future medical expenses necessary to treat Nicko's injuries alleged herein; and
- g. Other injuries and damages that may be revealed in discovery.

48. As a proximate consequence of the fraudulent non-disclosure set forth hereinabove, Plaintiff Teiranni Kidd was caused to suffer personal injuries and general damages as follows:

- a. Physical injuries including vaginal laceration and tearing;
- b. Severe past, present, and future mental and emotional suffering.
- c. Past and future medical expenses necessary to treat Nicko's injuries alleged herein;
- d. The monetary value of the past and future nursing services provided to Nicko; and
- e. Other injuries and damages that may be revealed in discovery.

49. At all times material hereto, the aforesaid hospital management and personnel were working with the line and scope of their employment as agents, servants, or employees of Springhill Memorial Hospital.

WHEREFORE, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Teiranni Kidd, individually, demand judgment against Defendants Springhill Memorial Hospital and/or A through K, individually and jointly, and damages, including punitive damages, in an amount deemed appropriate by the jury, plus costs.

**SECOND CAUSE OF ACTION
(Wantonness – Springhill Memorial Hospital
and Defendants A Through K)**

Plaintiff Nicko Silar, by and through her mother and next friend Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, allege against the Defendants Springhill Memorial Hospital and/or A, B, C, D, E, F, G, H, I, J, or K. as follows:

50. Plaintiffs adopt and reallege the allegations contained in all the previous paragraphs hereinabove.

51. On or about July 17, 2019, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, while patients at Springhill Memorial Hospital in Mobile County, Alabama, were caused to suffer injuries during Teiranni's labor and Nicko's delivery.

52. Plaintiffs further allege that both prior and subsequent to the time of the injuries described herein, they were under the care and treatment of the Defendants, Springhill Memorial Hospital and/or A, B, C, D, E, F, G, H, I, J, or K. At that same time and place, the above described defendants were under a duty to provide appropriate medical care, appropriate nursing care, appropriate and timely medical monitoring, labor and delivery services, medical, diagnostic, therapeutic, and emergency services to the Plaintiffs, and to actively seek and obtain specialized care and treatment for Plaintiffs should facts and evidence become reasonably available and known to these Defendants that would suggest Plaintiffs would be injured or their lives in jeopardy in the absence of prompt diagnostic intervention and surgical care.

53. At all times made the basis of this Complaint, various nurses working at Springhill Memorial Hospital on the dates and times in question and while under a duty to provide medical care, monitoring, assessment services, labor and delivery services, and other services and care to Plaintiffs were working within the line and scope of their employment as agents, servants or employees of Springhill Memorial Hospital.

54. Plaintiffs further allege that Defendants Springhill Memorial Hospital and/or A, B, C, D, E, F, G, H, I, J, or K wantonly departed from the accepted standard of care

applicable to similarly situated health care providers that was in effect at the times and places described herein in one or more of the following respects:

- a. Wantonly failing to use a fetal scalp monitor during the labor and delivery of Nicko Silar on July 17, 2019.
- b. Wantonly causing or allowing the loss of substantial fetal tracing information during the hour before Nicko's birth on July 17, 2019 as a result of the failure to use a fetal scalp monitor.
- c. Wantonly failing to consult with or notify an obstetrician in a timely and efficient manner when adequate fetal tracing could not be obtained.
- d. Wantonly failing to timely recognize, suspect, report, and/or diagnose the presence, existence, and/or the development of a life-threatening nuchal cord and terminal meconium with respect to Nicko Silar.
- e. Wantonly failing to adequately monitor, observe, report, treat, and respond to exigent circumstances that should have been known to nursing personnel based on Nicko's fetal tracings and/or would have been known to nursing personnel had adequate fetal tracing been performed with a fetal scalp monitor.
- f. Wantonly failing to adequately seek appropriate treatment of Nicko Silar or Teiranni Kidd in a timely manner.
- g. Wantonly failing to adequately document and emergently report the true condition and emergent circumstances afflicting Nicko Silar during the delivery at a point in time when emergent medical, diagnostic, and surgical care would have altered the ultimate outcome for her.
- h. Wantonly failing to consult with an obstetrician in a timely and efficient manner.
- i. Wantonly failing to notify an obstetrician in a timely and efficient manner of circumstances that required the attention of a physician.
- j. Wantonly failing to adhere to hospital policies, procedures, protocols and guidelines addressing Pitocin administration.
- k. Wantonly failing to adhere to hospital policies, procedures, protocols and guidelines addressing Caesarian sections.
- l. Wantonly failing to adequately assess Nicko Silar and Teiranni Kidd under the circumstances attending the labor and delivery on July 17, 2019.

- m. Wantonly failing to provide adequate emergency services to Nicko Silar and Teiranni Kidd.
- n. Wantonly failing to respond or intervene in an appropriate manner and/or within an appropriate time frame when Nicko Silar exhibited signs and symptoms of fetal distress during the labor and delivery of July 17, 2019.
- o. Wantonly failing to employ appropriate precautions and safeguards to minimize the risk that Nicko Silar would suffer injuries during her delivery on July 17, 2019.
- p. Wantonly failing to timely deliver Nicko Silar in the face of signs and symptoms of fetal distress.
- q. Wantonly withholding critical healthcare and other information that would have prevented Teiranni's admission and/or caused her to elect to deliver Nicko at another hospital had it been disclosed in accordance with hospital standards of care, policies and procedures, and general rules and regulations governing the prompt delivery of critical healthcare-related information to patients or caregivers who would thereby be enabled to act upon the information to prevent serious life-threatening injury or death to a patient.
- r. Wantonly failing to warn and inform Teiranni Kidd and/or her family members and physicians, before and during Teiranni's admission beginning July 16, 2019, of the severity of the cyberattack; the crippling nature of the cyberattack on hospital operations; the lack of access to critical services and information caused by the cyberattack; the inability of hospital departments and hospital personnel to communicate internally and/or with other departments and personnel as a result of the cyberattack; the lack of adequate preparation and training for a cyberattack; the effect of the cyberattack on the hospital's electronic systems and data; the specific electronic systems and data that were compromised by the cyberattack; the scope of the electronic systems and data that were compromised by the cyberattack; the extent to which layers of redundancy and other safeguards typically in place as part of normal hospital operations were compromised by the cyberattack; and the profound discomfort and concern expressed internally by hospital agents, servants, employees, and other personnel about the dangers to which patients were exposed as a result of continued operations following the cyberattack.
- s. Wantonly failing to seek and obtain house supervisory assistance, training, and guidance when electronic systems were unavailable due to the cyberattack.

- t. Wantonly failing to have adequate rules, policies, procedures, and/or standards related to cyberattacks, including, but not limited to, specific standards associated with disclosure to the public, disclosure to physicians, appropriate assessment and risk analysis, training of hospital personnel, identification of potential hazards, and/or taking action regarding patients who are at risk when hospital electronic systems are not operational.
- u. Wantonly hiring, training, and/or retaining nursing staff who were unprepared or inadequately prepared to performing basic nursing duties and responsibilities without the assistance of the electronic systems that were rendered inoperable as a result of the cyberattack.
- v. Wantonly concealing and/or failing to reveal the true facts related to the cyberattack and its effect on the hospital's ability to provide patient services for the benefit of the hospital and to the detriment of Plaintiffs and the general public.
- w. Wantonly concealing and/or failing to reveal the true facts and circumstances surrounding the cyberattack and its effect on the hospital's ability to provide patient services to Plaintiffs' treating physicians and medical consultants.

55. As a proximate consequence of the wantonness as set forth hereinabove, Plaintiff Nicko Silar was caused to suffer personal injuries and general damages, including permanent injury, as follows:

- a. Hypoxic ischemic encephalopathy, anuria, acute kidney injury, acute tubular necrosis, hyaline membrane disease, seizures, perinatal depression, transaminitis, hypocalcemia, hyponatremia, and a pneumothorax;
- b. Severe past, present, and future physical pain and suffering;
- c. Severe past, present, and future mental and emotional suffering;
- d. Permanent maiming, scarring, and disfigurement of her body;
- e. Additional inpatient treatment, surgical procedures, and home nursing care;
- f. Past and future medical expenses necessary to treat Nicko's injuries alleged herein; and
- g. Other injuries and damages that may be revealed in discovery.

56. As a proximate consequence of the wantonness as set forth hereinabove, Plaintiff Teiranni Kidd was caused to suffer personal injuries and general damages as follows:

- a. Physical injuries including vaginal laceration and tearing;
- b. Severe past, present, and future mental and emotional suffering.
- c. Past and future medical expenses necessary to treat Nicko's injuries alleged herein;
- d. The monetary value of the past and future nursing services provided to Nicko; and
- e. Other injuries and damages that may be revealed in discovery.

WHEREFORE, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Teiranni Kidd, individually, demand judgment against Defendants Springhill Memorial Hospital and/or A through K, individually and jointly, and damages, including punitive damages, in an amount deemed appropriate by the jury, plus costs.

**THIRD CAUSE OF ACTION
(Negligence – Springhill Memorial Hospital
and Defendants A Through K)**

Plaintiff Nicko Silar, by and through her mother and next friend Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, allege against Defendants Springhill Memorial Hospital and/or A, B, C, D, E, F, G, H, I, J, or K. as follows:

57. Plaintiffs adopt and reallege the allegations contained in all the previous paragraphs hereinabove.

58. On or about July 17, 2019, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, while patients at

Springhill Memorial Hospital in Mobile County, Alabama, were caused to suffer injuries during Teiranni's labor and Nicko's delivery.

59. Plaintiffs further allege that both prior and subsequent to the time of the injuries described herein, they were under the care and treatment of Defendants Springhill Memorial Hospital and/or A, B, C, D, E, F, G, H, I, J, or K. At that same time and place, the above described Defendants Springhill Memorial Hospital and/or A through K were under a duty to provide appropriate medical care, appropriate nursing care, appropriate and timely medical monitoring, labor and delivery services, medical, diagnostic, therapeutic, and emergency services to the Plaintiffs, and to actively seek and obtain specialized care and treatment for Plaintiffs should facts and evidence become reasonably available and known to these Defendants that would suggest Plaintiffs would be injured or their lives in jeopardy in the absence of prompt diagnostic intervention and surgical care.

60. At all times made the basis of this Complaint, various nurses working at Springhill Memorial Hospital on the dates and times in question and while under a duty to provide medical care, monitoring, assessment services, labor and delivery services, and other services and care to Plaintiffs were working within the line and scope of their employment as agents, servants or employees of Springhill Memorial Hospital.

61. Plaintiffs further allege that the Defendants Springhill Memorial Hospital and/or A, B, C, D, E, F, G, H, I, J, or K negligently departed from the accepted standard of care applicable to similarly situated health care providers that was in effect at the times and places described herein in one or more of the following respects:

- a. Negligently failing to use a fetal scalp monitor during the labor and delivery of Nicko Silar on July 17, 2019.

- b. Negligently causing or allowing the loss of substantial fetal tracing information during the hour before Nicko's birth on July 17, 2019 as a result of the failure to use a fetal scalp monitor.
- c. Negligently failing to consult with or notify an obstetrician in a timely and efficient manner when adequate fetal tracing could not be obtained.
- d. Negligently failing to timely recognize, suspect, report, and/or diagnose the presence, existence, and/or the development of a life-threatening nuchal cord and terminal meconium with respect to Nicko Silar.
- e. Negligently failing to adequately monitor, observe, report, treat, and respond to exigent circumstances that should have been known to nursing personnel based on Nicko's fetal tracings and/or would have been known to nursing personnel had adequate fetal tracing been performed with a fetal scalp monitor.
- f. Negligently failing to adequately seek appropriate treatment of Nicko Silar or Teiranni Kidd in a timely manner.
- g. Negligently failing to adequately document and emergently report the true condition and emergent circumstances afflicting Nicko Silar during the delivery at a point in time when emergent medical, diagnostic, and surgical care would have altered the ultimate outcome for her.
- h. Negligently failing to consult with an obstetrician in a timely and efficient manner.
- i. Negligently failing to notify an obstetrician in a timely and efficient manner of circumstances that required the attention of a physician.
- j. Negligently failing to adhere to hospital policies, procedures, protocols and guidelines addressing Pitocin administration.
- k. Negligently failing to adhere to hospital policies, procedures, protocols and guidelines addressing Caesarian sections.
- l. Negligently failing to adequately assess Nicko Silar and Teiranni Kidd under the circumstances attending the labor and delivery on July 17, 2019.
- m. Negligently failing to provide adequate emergency services to Nicko Silar and Teiranni Kidd.

- n. Negligently failing to respond or intervene in an appropriate manner and/or within an appropriate time frame when Nicko Silar exhibited signs and symptoms of fetal distress during the labor and delivery of July 17, 2019.
- o. Negligently failing to employ appropriate precautions and safeguards to minimize the risk that Nicko Silar would suffer injuries during her delivery on July 17, 2019.
- p. Negligently failing to timely deliver Nicko Silar in the face of signs and symptoms of fetal distress.
- q. Negligently withholding critical healthcare and other information that would have prevented Teiranni's admission and/or caused her to elect to deliver Nicko at another hospital had it been disclosed in accordance with hospital standards of care, policies and procedures, and general rules and regulations governing the prompt delivery of critical healthcare-related information to patients or caregivers who would thereby be enabled to act upon the information to prevent serious life-threatening injury or death to a patient.
- r. Negligently failing to warn and inform Teiranni Kidd and/or her family members and physicians, before and during Teiranni's admission beginning July 16, 2019, of the severity of the cyberattack; the crippling nature of the cyberattack on hospital operations; the lack of access to critical services and information caused by the cyberattack; the inability of hospital departments and hospital personnel to communicate internally and/or with other departments and personnel as a result of the cyberattack; the lack of adequate preparation and training for a cyberattack; the effect of the cyberattack on the hospital's electronic systems and data; the specific electronic systems and data that were compromised by the cyberattack; the scope of the electronic systems and data that were compromised by the cyberattack; the extent to which layers of redundancy and other safeguards typically in place as part of normal hospital operations were compromised by the cyberattack; and the profound discomfort and concern expressed internally by hospital agents, servants, employees, and other personnel about the dangers to which patients were exposed as a result of continued operations following the cyberattack.
- s. Negligently failing to seek and obtain house supervisory assistance, training, and guidance when electronic systems were unavailable due to the cyberattack.
- t. Negligently failing to have adequate rules, policies, procedures, and/or standards related to cyberattacks, including, but not limited to, specific standards associated with disclosure to the public, disclosure to physicians, appropriate assessment and risk analysis, training of hospital personnel,

identification of potential hazards, and/or taking action regarding patients who are at risk when hospital electronic systems are not operational.

- u. Negligently hiring, training, and/or retaining nursing staff who were unprepared or inadequately prepared to performing basic nursing duties and responsibilities without the assistance of the electronic systems that were rendered inoperable as a result of the cyberattack.
- v. Negligently concealing and/or failing to reveal the true facts related to the cyberattack and its effect on the hospital's ability to provide patient services for the benefit of the hospital and to the detriment of Plaintiffs and the general public.
- w. Negligently concealing and/or failing to reveal the true facts and circumstances surrounding the cyberattack and its effect on the hospital's ability to provide patient services to Plaintiffs' treating physicians and medical consultants.

62. As a proximate consequence of the medical negligence as set forth hereinabove, Plaintiff Nicko Silar was caused to suffer personal injuries and general damages, including permanent injury, as follows:

- a. Hypoxic ischemic encephalopathy, anuria, acute kidney injury, acute tubular necrosis, hyaline membrane disease, seizures, perinatal depression, transaminitis, hypocalcemia, hyponatremia, and a pneumothorax;
- b. Severe past, present, and future physical pain and suffering;
- c. Severe past, present, and future mental and emotional suffering;
- d. Permanent maiming, scarring, and disfigurement of her body;
- e. Additional inpatient treatment, surgical procedures, and home nursing care;
- f. Past and future medical expenses necessary to treat Nicko's injuries alleged herein; and
- g. Other injuries and damages that may be revealed in discovery.

63. As a proximate consequence of the medical negligence as set forth hereinabove, Plaintiff Teiranni Kidd was caused to suffer personal injuries and general damages as follows:

- a. Physical injuries including vaginal laceration and tearing;
- b. Severe past, present, and future mental and emotional suffering.
- c. Past and future medical expenses necessary to treat Nicko's injuries alleged herein;
- d. The monetary value of the past and future nursing services provided to Nicko; and
- e. Other injuries and damages that may be revealed in discovery.

WHEREFORE, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Teiranni Kidd, individually, demand judgment against Defendants Springhill Memorial Hospital and/or A through K, individually and jointly, and damages in an amount deemed appropriate by the jury, plus costs.

**FOURTH CAUSE OF ACTION
(Breach of Implied Contract – Springhill Memorial Hospital and Defendants A Through K)**

Plaintiff Nicko Silar, by and through her mother and next friend Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, allege against Springhill Memorial Hospital, A, B, C, D, E, F, G, H, I, J, and K, as follows:

64. Plaintiffs adopt and reallege the allegations contained in all the previous paragraphs hereinabove.

65. On or about July 16, 2019, Teiranni Kidd, individually, and on behalf of her unborn child, Nicko Silar, entered into an agreement with Springhill Memorial Hospital

and/or Defendants A through K by which the Defendants promised to safely nurse and provide medical treatment and medical care for Teiranni and Nicko.

66. On or about July 16, 2019, Springhill Memorial Hospital promised Teiranni and Nicko, among other things, that its staff has continued to safely care for patients and will continue to provide the high quality of service that patients deserve and expect.

67. Defendants breached the agreement by failing to properly nurse and provide medical treatment and medical care for Teiranni and Nicko during Teiranni's labor and Nicko's delivery, and failing to safely care for Teiranni and Nicko and provide a high quality of service to them, as described in detail in the preceding paragraphs and causes of action in this Complaint.

68. As a proximate consequence of the breach of implied contract as set forth hereinabove, Plaintiff Nicko Silar was caused to suffer personal injuries and general damages, including permanent injury, as follows:

- a. Hypoxic ischemic encephalopathy, anuria, acute kidney injury, acute tubular necrosis, hyaline membrane disease, seizures, perinatal depression, transaminitis, hypocalcemia, hyponatremia, and a pneumothorax;
- b. Severe past, present, and future physical pain and suffering;
- c. Severe past, present, and future mental and emotional suffering;
- d. Permanent maiming, scarring, and disfigurement of her body;
- e. Additional inpatient treatment, surgical procedures, and home nursing care;
- f. Past and future medical expenses necessary to treat Nicko's injuries alleged herein; and
- g. Other injuries and damages that may be revealed in discovery.

69. As a proximate consequence of the breach of implied contract as set forth hereinabove, Plaintiff Teiranni Kidd was caused to suffer personal injuries and general damages as follows:

- a. Physical injuries including vaginal laceration and tearing;
- b. Severe past, present, and future mental and emotional suffering.
- c. Past and future medical expenses necessary to treat Nicko's injuries alleged herein;
- d. The monetary value of the past and future nursing services provided to Nicko; and
- e. Other injuries and damages that may be revealed in discovery.

WHEREFORE, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Teiranni Kidd, individually, demand judgment against Defendants Springhill Memorial Hospital and/or A through K, individually and jointly, and damages in an amount deemed appropriate by the jury, plus costs.

**FIFTH CAUSE OF ACTION
(Negligence – Bay Area Physicians for Women, P.C.
and Dr. Katelyn Braswell Parnell)**

Plaintiff Nicko Silar, by and through her mother and next friend Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, allege against Defendants Bay Area Physicians for Women, P.C. and Dr. Katelyn Braswell Parnell, as follows:

70. Plaintiffs adopt and reallege the allegations contained in all the previous paragraphs hereinabove.

71. On or about July 17, 2019, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Plaintiff Teiranni Kidd, individually, while patients at

Springhill Memorial Hospital in Mobile County, Alabama, were caused to suffer injuries during Teiranni's labor and Nicko's delivery.

72. Plaintiffs further allege that both prior and subsequent to the time of the injuries described herein, they were under the care and treatment of the Defendants Bay Area Physicians for Women, P.C. and Dr. Katelyn Braswell Parnell. At that same time and place, the above described defendants were under a duty to provide appropriate medical care, appropriate and timely medical monitoring, labor and delivery services, medical, diagnostic, therapeutic, and emergency services to the Plaintiffs, and to actively seek and obtain specialized care and treatment for Plaintiffs should facts and evidence become reasonably available and known to these Defendants that would suggest Plaintiffs would be injured or their lives in jeopardy in the absence of prompt diagnostic intervention and surgical care.

73. Plaintiffs further allege that Defendants Bay Area Physicians for Women, P.C. and Dr. Parnell negligently departed from the accepted standard of care applicable to similarly situated health care providers that was in effect at the times and places described herein in one or more of the following respects:

- a. Negligently failing to use a fetal scalp monitor during the labor and delivery of Nicko Silar on July 17, 2019.
- b. Negligently causing or allowing the loss of substantial fetal tracing information during the hour before Nicko's birth on July 17, 2019 as a result of the failure to use a fetal scalp monitor.
- c. Negligently failing to timely recognize, suspect, report, and/or diagnose the presence, existence, and/or the development of a life-threatening nuchal cord and terminal meconium with respect to Nicko Silar.
- d. Negligently failing to adequately monitor, observe, report, treat, and respond to exigent circumstances that should have been known based on

Nicko's fetal tracings and/or would have been known had adequate fetal tracing been performed with a fetal scalp monitor.

- e. Negligently failing to adequately seek appropriate treatment of Nicko Silar or Teiranni Kidd in a timely manner.
- f. Negligently failing to adequately document and emergently report the true condition and emergent circumstances afflicting Nicko Silar during the delivery at a point in time when emergent medical, diagnostic, and surgical care would have altered the ultimate outcome for her.
- g. Negligently failing to adhere to hospital policies, procedures, protocols and guidelines addressing Pitocin administration.
- h. Negligently failing to adhere to hospital policies, procedures, protocols and guidelines addressing Caesarian sections.
- i. Negligently failing to adequately assess Nicko Silar and Teiranni Kidd under the circumstances attending the labor and delivery on July 17, 2019.
- j. Negligently failing to provide adequate emergency services to Nicko Silar and Teiranni Kidd.
- k. Negligently failing to respond or intervene in an appropriate manner and/or within an appropriate time frame when Nicko Silar exhibited signs and symptoms of fetal distress during the labor and delivery of July 17, 2019.
- l. Negligently failing to employ appropriate precautions and safeguards to minimize the risk that Nicko Silar would suffer injuries during her delivery on July 17, 2019.
- m. Negligently failing to timely deliver Nicko Silar in the face of signs and symptoms of fetal distress.

74. As a proximate consequence of the medical negligence as set forth hereinabove, Plaintiff Nicko Silar was caused to suffer personal injuries and general damages, including permanent injury, as follows:

- a. Hypoxic ischemic encephalopathy, anuria, acute kidney injury, acute tubular necrosis, hyaline membrane disease, seizures, perinatal depression, transaminitis, hypocalcemia, hyponatremia, and a pneumothorax;

- b. Severe past, present, and future physical pain and suffering;
- c. Severe past, present, and future mental and emotional suffering;
- d. Permanent maiming, scarring, and disfigurement of her body;
- e. Additional inpatient treatment, surgical procedures, and home nursing care;
- f. Past and future medical expenses necessary to treat Nicko's injuries alleged herein; and
- g. Other injuries and damages that may be revealed in discovery.

75. As a proximate consequence of the medical negligence as set forth hereinabove, Plaintiff Teiranni Kidd was caused to suffer personal injuries and general damages as follows:

- a. Physical injuries including vaginal laceration and tearing;
- b. Severe past, present, and future mental and emotional suffering.
- c. Past and future medical expenses necessary to treat Nicko's injuries alleged herein;
- d. The monetary value of the past and future nursing services provided to Nicko; and
- e. Other injuries and damages that may be revealed in discovery.

WHEREFORE, Plaintiff Nicko Silar, by and through her mother and next friend, Teiranni Kidd, and Teiranni Kidd, individually, demand judgment against Defendants Bay Area Physicians for Women, P.C. and Dr. Katelyn Braswell Parnell, individually and jointly, and damages in an amount deemed appropriate by the jury, plus costs.

CUNNINGHAM BOUNDS, LLC

Attorneys for Plaintiffs

BY: /s/ George W. Finkbohner, III
 GEORGE W. FINKBOHNER, III (FIN011)
 LUCY E. TUFTS (TUF004)

Post Office Box 66705
Mobile, Alabama 36660
(251) 471-6191 PHONE
(251) 479-1031 FAX
gwf@cunninghambounds.com
let@cunninghambounds.com

BRASWELL MURPHY, LLC

BY: /s/ D. Brian Murphy
D. BRIAN MURPHY (MUR059)
105 N. Conception Street
Suite 100
Mobile, Alabama 36602
(251) 438-7503 PHONE
(251) 438-7949 FAX
brian@braswellmurphy.com

PLAINTIFFS RESPECTFULLY DEMAND TRIAL BY JURY OF THIS CAUSE.

/s/ George W. Finkbohner, III
GEORGE W. FINKBOHNER, III

DEFENDANT SPRINGHILL HOSPITALS, INC., d/b/a SPRINGHILL MEMORIAL HOSPITAL MAY BE SERVED VIA CERTIFIED MAIL AS FOLLOWS:

Springhill Hospitals, Inc. d/b/a Springhill Memorial Hospital
Gerald L. Wallace, Jr.
Registered Agent
3719 Dauphin Street
Mobile, AL 36608

DEFENDANT BAY AREA PHYSICIANS FOR WOMEN, P.C. MAY BE SERVED VIA ITS COUNSEL BY AGREEMENT AS FOLLOWS:

D. Brent Baker
Frazer Greene
Post Office Box 1686
Mobile, AL 36633
(251) 431-6020 (phone)
(251) 431-6030 (fax)
dbb@frazergreene.com

**DEFENDANT KATELYN BRASWELL PARNELL, MD MAY BE SERVED VIA HER
COUNSEL BY AGREEMENT AS FOLLOWS:**

D. Brent Baker
Frazer Greene
Post Office Box 1686
Mobile, AL 36633
(251) 431-6020 (phone)
(251) 431-6030 (fax)
dbb@frazergreene.com