

STATE OF MAINE  
Hillsborough, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO.: 226-2020-CV-00555

ERMA HASU, INDIVIDUALLY AND \*  
AS P/N/F OF LILITH HASU-BELAND, \*

Plaintiff \*

v. \*

**FIRST AMENDED COMPLAINT**

SOUTHERN NEW HAMPSHIRE \*  
MEDICAL CENTER, MARCUS \*  
HERMANSEN MD, SUMANA \*  
MYNENI MD, CAITLIN MORGAN \*  
MD, DIPAK PATEL MD, and \*  
FOUNDATION MEDICAL \*  
PARTNERS, INC. \*

Defendants \*

NOW COMES Lilith Hasu-Beland by her mother, Erma Hasu and Erma Hasu individually, by and through counsel Benjamin R. Gideon, Esq. of Gideon Asen, LLC, and in support of this Complaint state as follows:

1. Plaintiffs demand trial by jury.

2. The plaintiffs, Lilith Hasu-Beland and her mother Erma Hasu reside together in Milford, New Hampshire in the County of Hillsborough.

3. Defendant SNHMC is located in Nashua, New Hampshire in the County of Hillsborough.

4. Defendant Foundation Medical Partners, Inc. is located in Nashua, New Hampshire in the County of Hillsborough.

5. Jurisdiction in this Court is proper as all parties reside or maintain facilities or conduct business within Hillsborough County New Hampshire. At all times relevant to this cause of action, the individual defendants worked as medical doctors at SNHMC and were involved

with Lilith's care.

6. Lilith was born prematurely on November 2, 2017 and was taken to SNHMC.

7. Lilith's gestational age was 32 weeks.

8. Premature babies, like Lilith was, are at increased risk of developing necrotizing enterocolitis. Additional significant risk factors for developing necrotizing enterocolitis include exposure to non-human milk and antibiotics. Lilith was exposed to both at SNHMC.

9. On November 4, 2017, Lilith had bilious emesis. An x-ray performed on November 4<sup>th</sup> showed characteristic findings of pneumatosis intestinalis. The reported findings of the x-ray imaging were suggestive of pneumatosis intestinalis. If present, pneumatosis intestinalis is a diagnostic finding of necrotizing enterocolitis, and indicates a significant risk of necrotizing enterocolitis progressing to severe systemic illness if not treated. Therefore, the radiologist's recommendation, based on the November 4<sup>th</sup> x-ray, was to perform repeat imaging in the morning and perform serial imaging to monitor for necrotizing enterocolitis.

10. On the evening of November 4<sup>th</sup>, according to the chart, the neonatology team had discussed the x-ray with the radiologist and planned to have repeat x-rays performed in the morning as recommended. However, there was no follow up imaging performed as recommended. The clinical notes following the x-ray imaging and radiology report do not mention pneumatosis, do not mention monitoring for necrotizing enterocolitis and there was no treatment instituted for necrotizing enterocolitis. Instead, contrary to the standard of care, feeds were restarted.

11. On November 7, 2017, Lilith suffered a gastrointestinal hemorrhage. Then repeat x-ray imaging was performed which demonstrated more extensive pneumatosis. Lilith

was in critical condition and transferred to the Elliot Hospital on November 8, 2017 where Lilith suffered a hypoxic brain injury due to a cardiopulmonary arrest requiring CPR, and she underwent treatment and surgery for necrotizing enterocolitis. Over the course of the next several weeks, Lilith underwent additional procedures as a result of Defendants' negligence. The procedures Lilith underwent included bedside exploratory laparotomy which confirmed necrotizing enterocolitis. Lilith's right and transverse colon were completely necrotic, requiring surgeons to perform an extended right ileocelectomy with creation of a distal ileostomy. Lilith underwent further surgery to reopen the laparotomy with lysis adhesion, closely examine proximal small bowel, and close the abdominal wall. Thereafter, Lilith underwent a third exploratory laparotomy for takedown of the ileostomy, mobilization of residual left colon with confirmation of patency, ileocolic anastomosis. As a result of Defendants' negligence, Lilith suffered from hypoxic ischemic encephalopathy. As a result of Defendants' negligence, Lilith has been under the care of several medical providers because of the serious and permanent nature of her injuries.

#### COUNT 1 - MEDICAL MALPRACTICE

12. All prior paragraphs are incorporated here. Defendants owed Plaintiffs a duty to conform to the applicable medical standards of care. Those duties of conforming to the medical standards of care included recognizing that Lilith was at increased risk of developing necrotizing enterocolitis given that Lilith was born prematurely, fed non-human milk and given antibiotics. Defendants owed Plaintiffs a duty to closely and carefully monitor Lilith for signs of necrotizing enterocolitis given that Lilith was at increased risk of developing necrotizing enterocolitis. Defendants owed Plaintiffs a duty to stop feeds given that Lilith had radiographic findings of pneumatosis and necrotizing enterocolitis. Defendants owed Plaintiffs a duty to follow

recommendations and perform repeat imaging and serial imaging. Defendants owed Plaintiffs a duty to treat Lilith for necrotizing enterocolitis by November 4<sup>th</sup> after the radiographic evidence demonstrating pneumatosis. Defendants owed Plaintiffs a duty to treat Lilith for pneumatosis and necrotizing enterocolitis given that Lilith was born prematurely, was fed non-human milk, was given antibiotics, had bilious emesis and radiographic findings suggesting pneumatosis. Given the clinical and radiographic evidence, Defendants owed Plaintiffs a duty to timely diagnose and treat Lilith for pneumatosis and necrotizing enterocolitis.

13. All prior paragraphs are incorporated here. Defendants breached and deviated from the above-mentioned standards of care by failing to take steps that demonstrated the medical providers were on heightened alert for the development of necrotizing enterocolitis given that Lilith was born prematurely, was fed non-human milk and given antibiotics. Defendants breached and deviated from the standard of care by failing to take reasonable steps to treat necrotizing enterocolitis. Defendants breached and deviated from the standard of care by failing to closely and carefully monitor Lilith for signs of necrotizing enterocolitis. Defendants breached and deviated from the standard of care by restarting feeds after Lilith exhibited bilious emesis and after radiology images and results suggested pneumatosis and concern for necrotizing enterocolitis. Defendants breached and deviated from the standard of care by failing to follow the recommendations of repeat imaging after the November 4, 2017 radiology images and results. Defendants breached and deviated from the standard of care by failing to timely diagnose and treat Lilith earlier.

14. All prior paragraphs are incorporated here. As a proximate cause of Defendants' violations and deviations from the standard of care, Plaintiffs have suffered significant and permanent damages that otherwise could have been avoided but for the breaches of the standards

of care. Plaintiffs are entitled to all damages available according to New Hampshire common law and statutory law and the general common law. Such damages include past, present and future medical bills and expenses, and past, present and future life care plan expenses, and past, present and future home health aid expenses, temporary and permanent pain and suffering, loss of enjoyment of certain life activities, and damages for temporary and permanent neurological, cognitive and physical injuries.

#### COUNT 2 - RESPONDEAT SUPERIOR (SNHMC)

15. All prior paragraphs are incorporated here. To the extent that any of the medical providers involved were employees of SNHMC, SNHMC is liable for the negligence of the involved providers based on the doctrine of respondeat superior. To the extent that any of the medical providers involved were not employees of SNHMC, SNHMC is liable for their negligence according to the laws of agency. At all times relevant, the medical providers were discharging their work under the direction of SNHMC and pursuant to SNHMC's authority and within SNHMC's facilities. According to the laws of agency, a principal (SNHMC) is liable for the acts of its agents when the agent is performing duties pursuant to the principal's direction and authority.

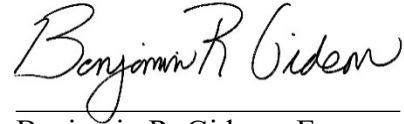
#### COUNT 3 - RESPONDEAT SUPERIOR (FOUNDATION MEDICAL PARTNERS)

16. All prior paragraphs are incorporated here. To the extent that any of the medical providers involved were employees of Foundation Medical Partners, Foundation Medical Partners is liable for the negligence of the involved providers based on the doctrine of respondeat superior. To the extent that any of the medical providers involved were not employees of Foundation Medical Partners, Foundation Medical Partners is liable for their negligence according to the laws of agency. At all times relevant, the medical providers were

discharging their work under the direction of Foundation Medical Partners and pursuant to Foundation Medical Partners' authority and within Foundation Medical Partners' facilities. According to the laws of agency, a principal (Foundation Medical Partners) is liable for the acts of its agents when the agent is performing duties pursuant to the principal's direction and authority.

RESPECTFULLY SUBMITTED,  
Lilith Hasu-Beland, by her mother Erma  
Hasu and Erma Hasu individually  
By their Attorney,

Date: February 2, 2022



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**CERTIFICATE OF SERVICE**

I hereby certify that on February 2, 2022, I electronically filed FIRST AMENDED COMPLAINT with the Clerk of Courts using the electronic filing system, which will send notification of such filing to all counsel on record, including Todd J. Hathaway, Esq., counsel for Defendants, and Stephen Reck, Esq, co-counsel for Plaintiff.



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Benjamin R. Gideon, Esq.