

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

TREVA C. FLOWERS, TRISTAN FLOWERS, and ASHLEY GRACE FLOWERS, an infant under the age of fourteen (14) years, by and through her next friends, TREVA C. FLOWERS and TRISTAN FLOWERS

CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

BANG N. GIEP, M.D. , and SPARTANBURG & PELHAM OB-GYN, P.A. (formerly SPARTANBURG OB-GYN, P.A.),

Defendant(s)

RECEIVED 2012 CP-42-1144

NOV 13 2017

SC Court of Appeals

SC Bar #: 8068

Telephone #: (803)-252-4050

Fax #: (803) 254-7513

Other:

E-mail: charles.henshaw@fholaw.com

NOTE: The cover sheet 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 cover sheet 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 # 2011-CP-42-4281, 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)
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), Other (799)
Administrative Law/Relief: Reinstate Driver's License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
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 Commission (990), Employment Security Commission (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: March 12, 2012

FILED CLERK OF COURT SPARTANBURG COUNTY 2012 MAR 12 PM 1:20 HOPE BLACKLEY

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

[Handwritten Initials]

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

TREVA C. FLOWERS, TRISTAN
FLOWERS, and ASHLEY GRACE
FLOWERS, an infant under the age of
fourteen (14) years, by and through her
next friends, TREVA C. FLOWERS and
TRISTAN FLOWERS,

Plaintiffs,

vs.

BANG N. GIEP, M.D., and
SPARTANBURG & PELHAM OB-GYN,
P.A. (formerly SPARTANBURG OB-
GYN, P.A.),

Defendants.

IN THE COURT OF COMMON PLEAS

C/A No. 2012-CP-42-1144

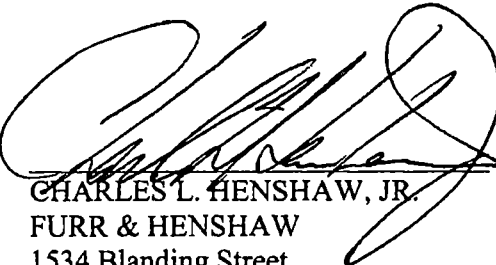
SUMMONS
(Jury)

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint upon the undersigned to his office at 1534 Blanding Street, Columbia, South Carolina 29201, within thirty (30) days after service, exclusive of the day of such service, and if you fail to answer the Complaint within thirty days, judgment by default will be rendered against you for the relief demanded in the Complaint.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 MAR 12 PM 1:20
M. HOPE BLACKLEY

By:



CHARLES L. HENSHAW, JR.
FURR & HENSHAW
1534 Blanding Street
Columbia, South Carolina 29201
Telephone (803)-252-4050
Facsimile (803) 254-7513
Email charles.henshaw@fholaw.com
ATTORNEY FOR PLAINTIFFS

March 12, 2012

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 MAR 12 PM 1:20
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

TREVA C. FLOWERS, TRISTAN
FLOWERS, and ASHLEY GRACE
FLOWERS, an infant under the age of
fourteen (14) years, by and through her
next friends, TREVA C. FLOWERS and
TRISTAN FLOWERS,

Plaintiffs,

vs.

BANG N. GIEP, M.D., and
SPARTANBURG & PELHAM OB-GYN,
P.A. (formerly SPARTANBURG OB-
GYN, P.A.),

Defendants.

IN THE COURT OF COMMON PLEAS

C/A No.

2012-CP-42-1144
RECEIVED

NOV 13 2017

SC Court of Appeals

COMPLAINT
(Jury)

The plaintiffs complaining of the above-named defendants allege the following:

1. That the plaintiffs are residents of Greenville County, South Carolina.
2. That Ashley Grace Flowers is an infant under the age of fourteen (14) years, and she pursues this action by and through her next friends, Treva A. Flowers and Tristan Flowers, who are her parents.
3. That plaintiffs are informed and believe that defendant Bang N. Giep, M.D. is a resident of Spartanburg County, South Carolina.
4. That plaintiffs are informed and believe that defendant Spartanburg & Pelham Ob-Gyn, P.A. (formerly Spartanburg Ob-Gyn, P.A.) is a business organization organized and existing under the laws of South Carolina with its principal place of business being in Spartanburg County, South Carolina.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 MAR 12 PM 1:20
MICHOE BLACKLEY

5. That plaintiffs are informed and believe that at all times mentioned herein defendant Giep was an agent and employee of Spartanburg & Pelham Ob-Gyn, P.A. (formerly Spartanburg Ob-Gyn, P.A.).

6. That plaintiffs are informed and believe that Spartanburg & Pelham Ob-Gyn, P.A., is liable for the acts and omissions of its agents and employees pursuant to the law of respondeat superior.

7. That plaintiffs gave notice of intent to file suit on October 7, 2011, as required by S.C. Code Ann. § 15-79-125, in the Spartanburg County Court of Common Pleas, where the notice of intent was filed under docket number 2011-CP-42-4281.

8. That the matter could not be resolved through mediation, and a mediator declared an impasse between the parties on or about January 16, 2012.

9. That at all times mentioned herein defendant Giep was a medical doctor licensed by the State of South Carolina, and he held himself out as a specialist in obstetrics/gynecology.

10. That on October 7, 2008, at Spartanburg Regional Medical Center in Spartanburg, South Carolina, defendant Giep undertook to medically manage the labor of Treva A. Flowers and the birth of her viable, female child, Ashley Grace Flowers.

11. That the birth of Ashley Grace Flowers on October 7, 2008, was complicated by shoulder dystocia.

12. That in the course of delivery Ashley Grace Flowers suffered an injury to the brachial plexus nerve bundle on her left side and the C5, C6, and C7 nerve roots were severely damaged.

13. That plaintiffs are informed and believe that the defendant Giep deviated from generally recognized and accepted standards of care, failed to render medical care expected of a

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 MARCH 2 PM 1:20
MEHOPE BLACKBERRY

reasonably competent medical practitioner under the same or similar circumstances, and was negligent, wanton, willful, reckless, and grossly negligent in at least one of the following ways:

- a. In applying excessive traction while delivering the baby;
- b. In failing to recommend cesarean section delivery to the mother;
- c. In failing to deliver the baby by cesarean section;
- d. In failing to use timely and appropriate maneuvers to release the baby from shoulder dystocia during delivery.

Any and all of which defendant Giep knew or should have known was contrary to the health and well being of the mother and child.

FOR A FIRST CAUSE OF ACTION
(On behalf of Ashley Grace Flowers)

14. That plaintiffs incorporate the allegations of paragraphs 1–13 as if stated herein verbatim.

15. That plaintiffs are informed and believe that as a direct and proximate result of the acts and omissions of the defendants Ashley Grace Flowers suffered extensive damage to the C5, C6, and C7 nerve roots of her spine, resulting in permanent physical disability of her left shoulder, arm, and hand and causing her to endure physical pain and suffering; mental anguish and emotional distress; physical disability and impairment and loss of enjoyment of life; physical disfigurement; loss of income and earning capacity; and medical, hospital, and caretaking expenses.

16. That plaintiffs are informed and believe that Ashley Grace Flowers is entitled to recover compensation from the defendants for her actual losses and damages and to recover punitive damages as allowed by law.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 MAR 12 PM 1:20
M. HOPE BLAKLEY

FOR A SECOND CAUSE OF ACTION

(On behalf of Treva C. Flowers and Tristan Flowers)

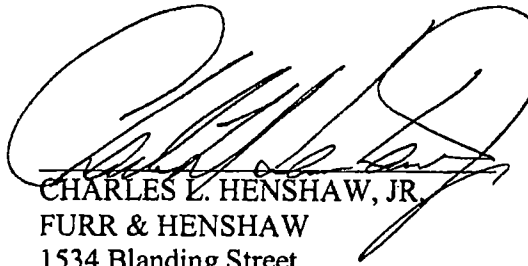
17. That plaintiffs incorporate the allegations of paragraphs 1-13 as if stated herein.

18. That plaintiffs are informed and believe that as a direct and proximate result of the acts and omissions of the defendants Ashley Grace Flowers suffered extensive damage to the C5, C6, and C7 nerve roots of her spine, resulting in permanent physical disability of her left shoulder, arm, and hand and Treva C. Flowers and Tristan Flowers, as parents of the child, have suffered and will suffer extraordinary financial losses related to Ashley Grace Flowers's medical, hospital, special needs, and caretaking expenses during the period of her childhood.

19. That plaintiffs are informed and believe that Treva C. Flowers and Tristan Flowers are entitled to recover compensation from the defendants for actual losses and damages and to recover punitive damages as allowed by law.

WHEREFORE, the plaintiffs demand a jury trial and pray for judgment against the defendants for actual and punitive damages and for the costs of this action and for such further relief as the Court deems them entitled.

By:



CHARLES L. HENSHAW, JR.
FURR & HENSHAW
1534 Blanding Street
Columbia, South Carolina 29201
Telephone (803)-252-4050
Facsimile (803) 254-7513
Email charles.henshaw@fholaw.com
ATTORNEY FOR PLAINTIFFS

March 12, 2012

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 MAR 12 PM 1:20
M. HOPE BLACKLEY

F&H

FURR & HENSHAW ATTORNEYS AT LAW

O. Fayrell Furr, Jr.
*Board Certified Civil Trial Advocate
by the National Board of Trial Advocacy
Also Board Certified by American Board
of Professional Liability Attorneys*
Pamela M. Secrest, RN, BSN, JD

--
1900 North Oak Street (29577)
P.O. Box 2909
Myrtle Beach, SC 29578
Telephone: (843) 626-7621
Fax: (843) 448-6445
E-mail: fho@sc.rr.com

A Partnership of Professional Corporations
www.scmedicalmalpractice.com

Charles L. Henshaw, Jr.

--
1534 Blanding Street
Columbia, SC 29201
Telephone: (803) 252-4050
Fax: (803) 254-7513
E-mail: charles.henshaw@fholaw.com

RECEIVED

NOV 13 2017

November 8, 2017

SC Court of Appeals

Reply To:

COLUMBIA

Ms. V. Claire Allen
Deputy Clerk
The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: Treva C. Flowers, Tristan Flowers, and Ashley F., an infant under the age of fourteen (14) years, by and through her next friends, Treva C. Flowers and Tristan Flowers, Appellants, v. Bang N. Giep, M.D., and Spartanburg & Pelham OB-GYN, P.A. (formerly Spartanburg Ob-Gyn, P.A.), Respondents
Appellate Case No. 2017-002299

Dear Ms. Allen:

I am in receipt of your letter of November 6, 2017. Please find enclosed a copy of the original summons and complaint that was filed with the Spartanburg County Court of Common Pleas showing the full caption of the case.

As to the orders issued during the trial of October 9 through 13, 2017, they were verbal orders and have not been issued in writing. They will appear in the trial transcript which has been requested. The only written order involved in the appeal was the Order of Judgment submitted with the Notice of Appeal.

Also, because the appeal includes a constitutional issue, I intended to file in the Supreme Court. My staff inadvertently filed the Notice of Appeal in the Court of Appeals. Please advise whether the file can now be transferred to the Supreme Court.

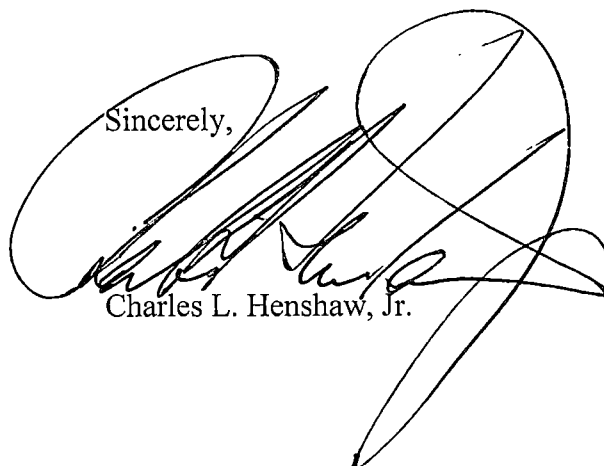
November 8, 2017

Flowers

Page 2

With kind regards, I am

Sincerely,

A handwritten signature in black ink, appearing to read "Charles L. Henshaw, Jr.", written over the word "Sincerely,". The signature is highly stylized and cursive, with large loops and flourishes.

Charles L. Henshaw, Jr.

CLHJr/akh

Enclosure

cc: D. Gary Lovell, Jr.

F&H
FURR & HENSHAW
ATTORNEYS AT LAW

1534 Blanding Street • Columbia, SC 29201



02 1P
\$ 000.67⁰
0001756675 NOV 08 2017
MAILED FROM ZIP CODE 29201

Ms. V. Claire Allen
Deputy Clerk
The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RECEIVED
NOV 13 2017
SC Court of Appeals