

**AFFIDAVIT OF MAKUNDA ABDUL-MBACKE, MD, MPH**

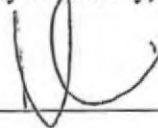
I, Makunda Abdul-Macke, MD, MPH, hereby declare and certify the following:

1. The following is a review of the care provided to Ms. Amanda Davis by Alice Mark, MD, at Planned Parenthood in Boston, Massachusetts, and by Joshua M. Mularella, MD, at CHA Cambridge Hospital, back in February and March of 2016. All opinions contained herein are expressed to a reasonable degree of medical certainty.
2. I am a graduate of Yale University School of Medicine and a board-certified practicing OB/GYN who has personally performed hundreds of first-trimester abortion procedures. A copy of my current *curriculum vitae* is attached hereto and incorporated herein by this reference.
3. I have reviewed medical records provided to me concerning the care of Ms. Davis at Planned Parenthood ("PP") in Boston, Massachusetts, on or about February 4, 2016, as well as records of her care thereafter at Cambridge Health Alliance Hospital(s) ("CHA") and at Massachusetts General Hospital ("MGH").
4. Based on my review of these records, Ms. Davis presented at PP on February 4, 2016, for a first-trimester surgical abortion performed by Alice Mark, MD. An initial transvaginal ultrasound performed that day confirmed a 10-week gestational age. The PP intake form indicates that Ms. Davis' phone number was recorded in the chart.
5. The procedure performed by Dr. Mark was by way of "paracervical suction" and was aided by "ultrasound guidance" due to "difficulty with dilation." The procedure took about fifteen minutes and was reported as "complete". The pregnancy was declared "terminated".
6. Given the 10-week gestational age of the pregnancy, the standard of medical care applicable to the average qualified Obstetrician-Gynecologist ("OB/GYN"), assuming a clinic setting where cost/accessibility is a permitted consideration, required at the very least that Dr. Mark confirm the removal of all products of conception *via* an examination employing the flotation of tissue and back lighting following the abortion procedure.
7. However, given the difficulty with dilation presented in Ms. Davis' case, and the necessity for ultrasound ("US") guidance during the procedure, and the risk of, e.g., a "false passage", the standard of medical care applicable to the average qualified OB/GYN required Dr. Mark to confirm removal of all products of conception in Ms. Davis' case *via* US (already employed in the procedure), and/or other heightened diagnostic testing.
8. The PP records here indicate that Dr. Mark only performed a "gross tissue exam" by viewing the removed contents before declaring the pregnancy terminated, and that nothing further was done to confirm the absence of retained products of conception ("RPOC"). The fact that US was not employed in Ms. Davis' case to confirm the absence of RPOC is a deviation from the applicable standard of medical care.
9. There is similarly no express indication in the PP records that flotation of tissue/back lighting was employed in connection with the gross tissue exam. Such would be a deviation(s) from the standard(s) of medical care applicable to the average qualified OB/GYN in a clinic setting where cost/accessibility is a permitted consideration, in a straightforward case without the incidents attendant to Ms. Davis' case.

10. As was confirmed at Ms. Davis' presentation at MGH about 2 months after the procedure at PP, the abortion procedure at PP was revealed to have allowed significant RPOC to remain. Had Dr. Mark not deviated from the applicable standards of medical care and confirmed the removal of products of conception *via* the available US, she would have likely discovered Ms. Davis' RPOC and been able to take remedial action, e.g., immediately performing a second procedure that same day or shortly thereafter, and/or treating Ms. Davis medically.
11. Moreover, given the reported use and availability of US during the procedure, there appears to be no compelling reason, medical or otherwise, for Dr. Mark's not utilizing US to confirm that all products of conception were removed and that the abortion procedure was successful.
12. As a result of Dr. Mark's deviations, Ms. Davis was caused to unnecessarily suffer significant pain, bleeding, morbidity and hospitalization due to RPOC.
13. In addition, there is no indication in Ms. Davis' PP chart that a post-procedure follow-up was scheduled for her with PP. My understanding is that Ms. Davis represents that PP verbally advised her on the day of her procedure that they would call her to schedule a follow-up appointment. It is my further understanding that the phone number that appears for Mr. Davis in the PP chart is her correct contact number. It is also my understanding that, according to Ms. Davis, neither Dr. Mark nor anyone else from PP ever called her after the procedure.
14. There is similarly no record in the PP chart that Ms. Davis was advised to contact PP in the event that she experienced significant bleeding and/or abdominal pain/cramping following the procedure, and/or that such symptoms could be indicative of RPOC. It is my understanding that Ms. Davis represents that she called PP several times after she had continuously suffered such symptoms during the two weeks immediately following the procedure, but that she was directed by the person(s) answering the phone at PP to leave a voicemail on each occasion, and that neither Dr. Mark nor anyone else at PP returned her calls.
15. At all times material hereto, the standard of medical care applicable to the average qualified OB/GYN required that the OB/GYN schedule a follow-up appointment with a patient following a first-trimester abortion within one to two weeks following the procedure, or at least contact the patient to ascertain her condition, and, of course, return her calls. Moreover, the standard of medical care applicable to the average qualified OB/GYN required that an OB/GYN examine a patient who presents post-procedure with heavy bleeding, cramping and/or abdominal pain for RPOC (i.e., *via* US).
16. Considering Ms. Davis' representations, Dr. Mark deviated from the applicable standards of medical care in failing to cause a follow-up appointment to be scheduled for Ms. Davis, for failing to cause a follow up phone call to be placed with her within one to two weeks, and/or failing to cause Ms. Davis' calls to be returned. Had a follow-up examination been scheduled, or if Dr. Mark had caused Ms. Davis to be contacted by PP and/or her calls to be returned, Dr. Mark would have been advised that Ms. Davis was suffering symptoms consistent with RPOC and could have confirmed the diagnosis by way of exam and taken early remedial action.

17. As a result of these additional deviation(s), Ms. Davis was caused to continue to unnecessarily suffer pain, bleeding, morbidity, and hospitalization due to RPOC.
18. My further understanding is that after about thirty (30) days of hearing nothing from PP, Ms. Davis presented to the CHA Cambridge Hospital Emergency Department on March 15, 2016, where she was seen by Joshua M. Mularella, MD. Ms. Davis presented with symptoms of "heavy vaginal bleeding" and "lower abdominal cramping". Dr. Mularella confirmed vaginal bleeding and blood clots *via* a pelvic exam. Dr. Mularella also noted that Ms. Davis was "status post abortion at Planned Parenthood last month."
19. Given Ms. Davis' confirmed symptoms and known recent medical history, the differential diagnosis for her condition on her presentation at CHA Cambridge plainly included RPOC, and in fact suggested the same. The standard of medical care applicable to the average qualified emergency medicine physician called for confirmation/ruling out of this diagnosis by way of US, and/or ordering a gynecological consultation. According to its website (<https://www.challiance.org/location/cambridge-hospital>), the hospital has an US/Imaging department on its campus at 1493 Cambridge Street, and it offers on-site Gynecological and Women's Health services there.
20. Dr. Mularella deviated from the applicable standard of care when he failed to order a US and/or a gynecological consultation, instead misdiagnosing Ms. Davis with "dysfunctional uterine bleeding" "most likely due to the change in hormones following the abortion last month," and discharging her from the hospital. The chart further reveals that Dr. Mularella specifically advised and educated Ms. Davis of this [wrong] diagnosis. Although he advised her to follow up with "Women's Health" (without setting an appointment), he should have confirmed her diagnosis by US or OB/GYN consultation prior to her discharge.<sup>1</sup>
21. As a result of Dr. Mularella's deviations and misdiagnosis, Ms. Davis was caused to continue to suffer unnecessary pain, bleeding, morbidity, and hospitalization due to RPOC.
22. Finally, on or about April 4, 2016, her symptoms/condition having not resolved, Ms. Davis presented at MGH where a gynecological consultation advised the need for a pelvic US which revealed the RPOC. She was thereafter treated medically. In brief, the providers at MGH acted in accordance with the applicable standards of care as Dr. Mularella should have done in March.
23. I reserve the right to amend this affidavit should any further information become available.

Signed under the pains and penalties of perjury this 22 day of January, 2019.



Makunda Abdul-Mbacke, MD, MPH

<sup>1</sup>Ms. Davis' CHA chart indicates that she similarly presented at the CHA Cambridge ER a month later on 04/13/2016, with vaginal bleeding, and the ER physician in fact ordered an OB/GYN consultation before her discharge.

**Makunda Abdul-Mbacke, MD, MPH**

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Place of Birth        Detroit, Michigan

**Education:**

**Yale University School of Medicine, New Haven, CT.**

MD received May 1998

**Harvard University School of Public Health, Boston, MA**

Major: Public Management and Community Health

MPH received June 1998

**Yale University, New Haven, CT.**

Major: Biology

BS received May 1992

**Postgraduate Training:**

**University of Pittsburgh/Magee-Women's Hospital, Pittsburgh, PA**

Residency in Department of Obstetrics, Gynecology & Reproductive Sciences, 1998-2002

**Hospital Appointments:**

**Martinsville Memorial Hospital, Martinsville, VA.**

Attending Staff 2007-present

**Morhead Memorial Hospital, Eden, NC**

Attending Staff 2007-present

**Our Lady of Lourdes, Camden, NJ.**

Attending Staff 2005-2007

**Capital Health System, Trenton, NJ.**

Attending Staff 2002-2005

**University Medical Center at Princeton, Princeton, NJ**

Attending Staff 2002-2005

**Employment:**

**Piedmont Preferred Women's Healthcare Associates,**

Ridgeway, VA and Eden, NC

Obstetrics and Gynecology practice specializing in high risk pregnancy, urinary incontinence, and minimally invasive surgical approaches. Office



procedures include colposcopy, hysteroscopy, endometrial ablation, urodynamics, and leep. 2007-present

**Lourdes Medical Associates**, Camden, NJ.

Attending physician in high volume clinic practice, responsible for management of high-risk pregnancies, complex gynecologic cases, and resident and medical student education. 2005-2007

**Delaware Valley Obstetrics, Gynecology and Infertility Group, P.C.**,

Lawrenceville, NJ and Plainsboro, NJ. 2002-2005

Private Practice Obstetrician Gynecologist in high volume practice with two locations.

### **Certifications & Licensure**

Medical License: North Carolina, Virginia, Pennsylvania, and New Jersey

Board Certified in Obstetrics and Gynecology 2004, Recertification in 2010, 2011

National Board of Medical Examiners 1998

### **Research**

**Researcher**, 2001-2002

Magee-Women's Hospital                      Research Supervisor-Richard Guido, MD

Primary investigator in randomized controlled trial studying the use of vasopressin at the time of vaginal hysterectomy to decrease blood loss.

**Researcher**, 1995-1998

Yale University School of Medicine   Research Supervisor-David L. Katz, MD,  
MPH

"Psychosocial factors associated with high-risk behavior among New Haven public school adolescents." Final Results presented in MD thesis, nominated for honors.

**Policy Consultant Intern**, Winter-Spring 1997

Boston Public Health Commission   Research Supervisor-Lilliane Shirley

Conducted a strategic audit of the Healthy Baby/ Healthy Child program, including an analysis of the external healthcare environment, internal management recommendations, and the calculation of a cost-per-unit service.

**Researcher**, Spring 1997

Harvard School of Public Health                      Research Supervisor-Dan Moriarity, MBA

Developed, researched, and co-authored case report on the future of academic medical centers. Case report was published and integrated into the curriculum of the Harvard School of Public Health.

**Research Assistant**, Spring 1994

University of Medicine and Dentistry of New Jersey      Research Supervisor-  
Michael Lewis, PhD

Conducted research on the response to stress of infants exposed to cocaine in utero.

**Research Assistant, Summer 1994**

United States Agency for International Development      Research Supervisors-  
Charles Finch, MD and Mark Wilson, PhD

"Patient perceptions of modern and traditional approaches to healing in Fatick, Senegal." Results presented at the International Health Research Symposium.

**Research Assistant, Winter 1992-Spring 1993**

L'Institut Pasteur, Senegal      Research Supervisor-Christopher Rogier,  
MD

Conducted intensive field research on the duration and predictive value of malarial symptoms in children.

#### **Honors & Awards**

Virginia Museum of Natural History  
Board of Trustees, July 2015-June 2020  
Appointed by Governor McAuliffe to Board

The Clinical Training Fellowship Program in Substance Abuse Research and Treatment, 1998

Pew Charitable Trust-Urban Health Initiative Grant, 1997

The Betty Ford Center Fellowship for Medical Students, 1996

National Medical Association Merit-Scholar, 1995

National Medical Fellowships/Bristol-Myers Squibb Academic Medicine Fellow, 1995

Society for Pediatric Research Fellowship, 1994

Yale Disadvantaged Merit Scholarship, 1993-1998

Roosevelt L. Thompson Prize, 1992  
Awarded to a graduating senior for commitment to and capacity for public service.

Herbert and Jean Cahoon Prize, 1992

Awarded for commitment to community service.

### **Memberships**

American College of Obstetrics and Gynecology-Fellow

### **Leadership & Community Service**

**Clinical Adjunct Assistant Professor in the Division of Obstetrics & Gynecology Liberty University College of Osteopathic Medicine** March 2016-February 2018

Proctor and mentor students during their clinical rotation in Obstetrics and gynecology

**Preceptor** Duke University School of Nursing 2010-2014  
Work with Nurse Practitioner students in their women's health clerkship.

**New Jersey State Maternal Mortality Case Review Team** 2004-2007  
Appointed to serve as Public Health Physician on state committee that investigates and reviews all maternal deaths.

**Association of Yale Alumni** 2002-present  
Assist in interviewing local applicants for undergraduate admission and speaking at college fairs.

**Advisor to The Urban League of Pittsburgh** 1999-2000  
Assisted in developing health policy initiatives to improve the lives of African-Americans in Pittsburgh.

**President and Delegate of American Medical Association (Yale Chapter)** 1994-1995  
Authored first AMA policy advocating syringe and needle exchange programs to decrease the transmission of HIV.

**Student Representative** 1994-1995  
Served on committee that plans the Yale School of Medicine's Martin Luther King Jr. symposium

**Coordinator for Adolescent Substance Abuse Prevention Program** 1993-1994  
Conducted intervention program with seventh graders at the Roberto Clemente Middle School.

**Site Coordinator for Children's Defense Fund Summer 1992**

Established a Freedom School in Hartford, Ct., responsibilities included recruiting children for this educational summer program, training teachers, and coordinating fundraising efforts.

**Co-Chair of the New Haven AIDS Memorial Quilt Committee Summer 1991**

Coordinated community outreach projects to build support and raise money to display the Quilt

**Big Sibling 1988-2000**

Serve as friend and mentor to children from a troubled family in New Haven

**Lectures & Seminars**

**Talk Show Host-"The Doctor Is In"**

Hosted a call in show featuring local doctors and highlighting public health concerns. 2007-2009

**Panelist "Women, Race, Health and Public Policy"**

Yale University Feb. 2003

**Lecturer "Taking Care of Sisters"**

A discussion of breast and cervical cancer screening  
University Medical Center at Princeton Oct. 2003

**Lecturer "What you need to know about urinary incontinence"**

Monroe Senior Center March 2004

**Lecturer "Taking Care of Sisters: Time to wake up: HIV/AIDS in our Community"**

University Medical Center at Princeton May 2004

**Lecturer "Speak up when your down: perinatal mood disorder, psychiatric illnesses during pregnancy/postpartum"**

Involved in statewide campaign to educate healthcare providers on the prevalence and importance of screening and treating perinatal mood disorders. Oct. 2005-present

**Essence magazine advisor**

Invited to dialogue with the editorial board on the important health issues facing African-American women. June 2004

**Specialties & Interest**



Cancer Screening, Healthcare Disparities, Adolescent medicine,  
Sexually Transmitted Infections and Minimally Invasive Surgery.

**References available upon request**