

**CIRCUIT COURT OF MONTGOMERY COUNTY, MARYLAND**

**BARBARA S. SEMSKER, individually and  
as personal representative of the estate of  
RICHARD H. SEMSKER, \***  
**14039 Weeping Cherry Drive \***  
**Rockville, MD 20850-5469 \***

**and**

**MERYL SEMSKER  
14039 Weeping Cherry Drive  
Rockville, MD 20850-5469  
and**

**JULIA SEMSKER,  
14039 Weeping Cherry Drive  
Rockville, MD 20850-5469  
Plaintiffs, \***

**v. \***

**Case No.: 283674 - V  
Judge Debelius**

**NORMAN A. LOCKSHIN, M.D., P.A. \***  
**doing business as \***  
**DERM ASSOCIATES, P.C. \***  
**10313 Georgia Avenue \***  
**Suite 309 \***  
**Silver Spring, MD 20902 \***

**NORMAN A. LOCKSHIN, M.D. \***  
**10313 Georgia Avenue \***  
**Silver Spring, MD 20902 \***

**MICHAEL R. ALBERT, M.D. \***  
**VA Medical Center \***  
**555 Willard Ave. \***  
**Newington, CT 06111 \***

**LAWRENCE MARCUS, M.D. \***  
**10313 Georgia Avenue \***  
**Suite 207 \***  
**Silver Spring, MD 20902 \***

**and**

**LAWRENCE MARCUS, M.D., P.A.**  
**10313 Georgia Avenue**  
**Suite 207**  
**Silver Spring, MD 20902**

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**Defendants.**

**THIRD AMENDED COMPLAINT**  
**(Wrongful Death – Medical Negligence)**

1. This is a medical negligence case. The plaintiffs filed a claim in the Maryland Health Claims Alternative Dispute Resolution Office on March 30, 2007, and thereafter they waived arbitration pursuant to Md. Code Cts. & Jud. Proc. Section 3-2A-06B(b)(1).

2. The amount in controversy exceeds the concurrent jurisdictional limit of the District Court of Maryland. Venue is proper in Montgomery County, Maryland.

3. Richard H. Semsler died on October 15, 2007 at the Montgomery Hospice – Casey House, Rockville, Maryland, as a result of the negligence of the defendants.

4. Richard Semsler and Barbara S. Semsler were husband and wife. Barbara Semsler is the duly appointed personal representative of his estate. Richard Semsler is also survived by his twin daughters Meryl and Julia, age 18.

5. The defendants, Norman A. Lockshin and Michael R. Albert are physicians and dermatologists who practiced together and who saw Richard Semsler at various times relevant to this case.

6. Lockshin and Albert were employed at all relevant times by Norman A. Lockshin, M.D., P.A., (doing business as DermAssociates, P.C.), which is liable for any damages caused by these providers' negligence.

7. The defendant Lawrence Marcus was Mr. Semsker's internist at all times relevant to this case. Dr. Marcus was employed at all relevant times by Lawrence Marcus, M.D., P.A., which is liable for any damages caused by his negligence.

8. Richard Semsker went to the dermatology office in November and December 1998 on referral from his internist, Dr. Lawrence Marcus. On November 25, 1998, Dr. Lockshin removed an inflamed cyst from the upper part of Mr. Semsker's back. He wrote a letter at the time of a followup visit, on December 2, 1998, to Dr. Marcus (in suite 207 in the same building at 10313 Georgia Avenue) describing the procedure and adding: "Mr. Semsker has a 6mm dark brown nevus on the left lower part of his back. I feel that this should be excised."

9. Neither Dr. Lockshin nor Dr. Marcus mentioned this finding or the recommendation to Mr. Semsker.

10. Mr. Semsker returned to the dermatology office in September 2004 after he noticed that cysts on his upper back had enlarged, and earlier that year, someone who identified himself as a dermatologist had pointed out to him that he had a mole on his back that should be checked. Dr. Albert examined him and found two benign cysts on his back, a 7 mm atypical nevus on the right upper back and a 1.3 cm congenital nevus of the sacral region. The 1.3 cm congenital nevus was the same nevus that Dr. Lockshin had estimated to be 6mm on the 1998 examination.

11. In a letter to Dr. Marcus dated September 21, 2004, Dr. Albert recommended removal of the two cysts and the atypical nevus and said the congenital nevus should be followed "on a regular basis."

12. Dr. Kendall Hash, another employee of the Lockshin group, removed the

atypical nevus on October 6, 2004 and removed the two cysts on November 3, 2004. Mr. Semsker returned to the dermatologist for followup visits after both of these procedures. Dr. Hash did not remark in her records on the congenital nevus in the lower back.

13. If the nevus on his lower back had been removed at any time from 1998 through the examinations and treatments in the fall of 2004, Mr. Semsker would have been cured and would be alive today.

14. In the summer of 2006, his wife noticed a change in the mole on his lower back. Around the same time, Mr. Semsker noticed a bump in his groin. Mr. Semsker went to Dr. Marcus on August 2, who referred him to the same dermatology office. He went there on August 3, 2006. A 1 cm x 2.2 cm lesion was documented on his left lower back and was excised by Dr. Benjamin Lockshin. This was the same lesion, although now much larger, that had been seen by Dr. Norman Lockshin in 1998 and by Drs. Albert and Hash in 2004.

15. The pathologist reported it was malignant melanoma, nodular type, with Clarks Level IV and Breslow thickness of 2.0mm, with focal regression pattern and absence of ulceration.

16. Mr. Semsker underwent a wide excision of the back lesion and groin dissection in September 2006, whereupon 22 of 34 lymph nodes were found to be positive for melanoma, including all 15 deep nodes that were removed from the left groin. He was staged as having a Stage III-C melanoma. Mr. Semsker had radiation of the groin and Interleukin II therapy and also took Temodar and Nexavar. In February 2007, he was discovered to have metastatic lesions in his brain, for which he underwent additional radiation and several Gamma-knife procedures. The brain lesions eventually

overwhelmed his body despite aggressive treatment.

17. Before August 2006, none of the defendant health care providers – Norman Lockshin, Albert, or Marcus – had ever recommended to Mr. Semsker that the nevus on his lower back should be removed. No one had ever told him that it had grown since 1998. If they had recommended removal, he would have followed their advice.

18. The defendants – Norman Lockshin, Albert, and Marcus – were negligent and failed to use the degree of care and skill that reasonably competent health care providers, engaged in a similar practice and acting in similar circumstances, would have used. They failed to tell Mr. Semsker about the nevus on his lower back and failed to tell him it had grown and that it needed to be removed. As a result of their negligence, a highly curable condition of localized cancer or a pre-cancerous lesion progressed to fatal metastatic melanoma.

19. In addition, Norman A. Lockshin, M.D., P.A., and the individual defendants Lockshin and Albert, were negligent in failing to have a system in place to maintain records, track skin lesions over time, and advise patients of needed followup.

20. As a direct and proximate result of the negligence of the defendants, and the resulting death of Richard Semsker, plaintiff Barbara Semsker has been deprived of the services, earnings, income, society, companionship, comfort, protection, marital care, attention, advice, counsel, training, guidance and education of her deceased husband. She has suffered mental anguish on account of his death.

21. As a direct and proximate result of the negligence of the defendants, and the resulting death of Richard Semsker, plaintiffs Meryl Semsker and Julia Semsker have been deprived of the services and financial support they would have received from their

father if he had lived. They also have been deprived of his society, companionship, comfort, protection, parental care, attention, advice, counsel, training, guidance and education. Meryl and Julia Semsker have suffered mental anguish on account of his death.

22. The plaintiffs Barbara Semsker, individually, and Meryl and Julia Semsker make claim for all damages recoverable under the Maryland Wrongful Death Act, Maryland Code, Courts and Judicial Proceedings Article, § 3-904, such claims having been timely made within the three-year statute of limitations.

23. As a result of the negligence of the defendants, Richard Semsker experienced conscious pain and suffering, lost consortium with his wife Barbara, and incurred medical and related expenses for which he would have been entitled to make a claim during his lifetime. Barbara Semsker, as personal representative of Richard Semsker's estate, makes claim for all these and other damages that Richard Semsker could have recovered in his lifetime, pursuant to the Maryland Survival Act, Maryland Code, Estates and Trusts Article, § 7-401(x). In addition, the plaintiff makes claim for funeral expenses to the full extent allowed by law.

24. The plaintiffs demand judgment of the defendants, jointly and severally, in an amount in excess of the concurrent jurisdictional limits of the district courts of Maryland.

Respectfully submitted,

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Patrick A. Malone

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*Attorneys for Barbara, Meryl & Julia  
Semsler*

**Jury Demand**

The plaintiffs demand trial by jury.

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Patrick A. Malone