

PAUL J. FISHMAN  
United States Attorney  
ELIZABETH A. PASCAL  
Assistant U.S. Attorney  
Camden Federal Building  
and U.S. Courthouse  
401 Market Street  
P.O. Box 2098  
Camden, NJ 08101  
(856) 757-5105  
Attorneys for Defendant  
United States of America  
substituted for Defendants  
Eric Chang, D.O., Neil Kaplitz, M.D.,  
Eric K. Yahav, M.D.,  
Mercy Amua-Quarshie, M.D.,  
Antoinette Falconi McCahill, CNM,  
and CAMCare Health Corporation

Document Electronically Filed

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

MARY O. MENDEZ, Individually	:
and as Mother of the Decedent	:
in her own Right and as	:
Administratrix of the Estate	: HONORABLE
of Bryan Jadiel Mendez,	:
Deceased,	:
	:
and	: Civil Action No.
	:
EDWIN GALARZA, Individually in	:
His Own Right as Father of the	:
Deceased Minor, Bryan Jadiel	: NOTICE OF REMOVAL
Mendez, c/o Mary Mendez,	:
Administratrix of the Estate	:
of the Estate of Bryan Jadiel	:
Mendez, Deceased, et al.,	:
and	:
	:
MILATZY MENDEZ,	:
	:
Plaintiffs,	:
	:
v.	:
	:
ERIC CHANG, D.O.,	:
DR. C. AVES,	:
DR. CRAWFORD,	:

NEIL KAPLITZ, M.D., :  
ERIC K. YAHAV, M.D., :  
MERCY AMUA-QUARSHIE, M.D., :  
ANTOINETTE FALCONI MCCAHERILL, RNNP, :  
DHIREN SONI, D.O., :  
DR. JOHN/JANE DOE ANESTHESIOLOGIST, :  
SUZANNE PANAYIOTOU, :  
MS. MURPHY, R.N., :  
MS. KELLEY, R.N., :  
JOANNE KEALLY, R.N., :  
MS./MR. PROFICO, R.N., :  
MS./MR. CHAVOUS-GIBSON, R.N., :  
MS./MR. NECE, R.N., :  
MS. WARD, R.N., :  
MS./MR. ALICE, R.N., :  
MS./MR. HOLMES a/k/a :  
MS./MR. HELMES, R.N., :  
KELLYANN CARTER, R.N., :  
JOHN/JANE DOE, R.N., NOS. 1-10, :  
CAMCARE a/k/a CAMCARE OB/GYN, :  
COOPER UNIVERSITY HOSPITAL, :  
UNIVERSITY OF MEDICINE AND :  
DENTISTRY OF NEW JERSEY- :  
ROBERT WOOD JOHNSON MEDICAL SCHOOL :  
d/b/a COOPER UNIVERSITY HOSPITAL, :  
COOPER ANESTHESIA ASSOCIATES, P.C., :  
and COOPER UNIVERSITY PHYSICIANS, :  
: :  
Defendants. :  
:

---

TO: Loren Finesmith, Esquire  
2915 North 5th Street  
Philadelphia, PA 19133  
Attorneys for Plaintiffs

Carolyn R. Sleeper, Esquire  
Parker McCay, P.A.  
7001 Lincoln Drive West  
P.O. Box 974  
Marlton, NJ 08053

Attorneys for the Cooper Defendants:

DR. C. AVES, DHIREN SONI, D.O., MS. MURPHY, R.N., MS./MR.  
CHAVOUS-GIBSON, R.N., MS./MR. NECE, R.N., MS. WARD, R.N.,  
MS./MR. ALICE, R.N., MS./MR. HOLMES A/K/A MS./MR. HELMES,  
R.N., KELLYANN CARTER, R.N., COOPER UNIVERSITY HOSPITAL,  
COOPER ANESTHESIA ASSOCIATES, P.C., and COOPER UNIVERSITY  
PHYSICIANS

PLEASE TAKE NOTICE that this case, previously pending in the New Jersey Superior Court, Law Division, Camden County, Docket No. L-3214-12, is hereby removed to the United States District Court for the District of New Jersey, pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233(c). The United States of America is hereby substituted for removing Defendants Eric Chang, D.O., Neil Kaplitz, M.D., Eric K. Yahav, M.D., Mercy Amua-Quarshie, M.D., Antoinette Falconi McCahill, CNM, and CAMcare Health Corporation (collectively "Federal Defendants"), pursuant to 28 U.S.C. § 2679(d)(1) and 42 U.S.C. § 233(c) and (g), with respect to all of the claims set forth against those parties in the Complaint. The United States of America, by and through its undersigned attorneys, respectfully state the following in support of the removal of this matter:

1. The Complaint was filed in the New Jersey Superior Court, Law Division, Camden County, on or about July 20, 2012. See Exhibit A (State Court Summons and Complaint). Service of process has not been effected upon the Federal Defendants in the manner specified in and required under Fed. R. Civ. P. 4(i).

2. Plaintiffs have filed this civil action seeking damages from the Federal Defendants for damages they allegedly sustained as the direct and proximate result of the Federal Defendants' alleged negligence (i.e., medical malpractice).

3. At all times relevant to this Complaint, the Federal Defendants were deemed employees of the United States pursuant to 42 U.S.C. § 233(g). See Exhibit B (Declaration of Meredith Torres).

4. This action is deemed to be an action against the United States because the Federal Defendants were acting within the scope of employment as employees of the United States pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233(c). See Exhibit C (Certification of Scope of Employment).

5. Sections 233(a) and (g) of Title 42 of the United States Code, as amended by the Federally Supported Health Centers Assistance Act of 1995 (Public Law 104-73), and Section 2679(b) of Title 28 of the United States Code, as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (Public Law 100-694), provide that the Federal Tort Claims Act ("FTCA") is the exclusive remedy for tort claims against the United States.

6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. 28 U.S.C. § 1346(b).

7. This Notice of Removal will be filed with the Clerk of the New Jersey Superior Court, Law Division, Camden County, and will be served on all parties in accordance with 28 U.S.C. § 1446(d). See Exhibit D (Letter to Clerk of New

Jersey Superior Court).

PAUL J. FISHMAN  
United States Attorney

s/Elizabeth A. Pascal  
By: ELIZABETH A. PASCAL  
Assistant U.S. Attorney

Date: April 10, 2013

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MARY MENDEZ, EDWIN GALARZA, and MILATZY MENDEZ

(b) County of Residence of First Listed Plaintiff CAMDEN

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Loren Finesmith, Esquire
2915 North 5th Street
Philadelphia, PA 19133
(215) 291-5009

DEFENDANTS

ERIC CHANG, D.O., et al.

County of Residence of First Listed Defendant CAMDEN

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Elizabeth A. Pascal (Counsel for Def. United States)
Carolyn R. Sleeper, Esquire (Counsel for Cooper Defs.)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity): FTCA, 28 U.S.C. §§ 1346(b), 2401(b), 2671- 2680

Brief description of cause: TORT ACTION AGAINST UNITED STATES FOR MEDICAL MALPRACTICE

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S)

(See instructions): JUDGE Hon. LOUIS R. MELONI, J.S.C. DOCKET NUMBER CAM-L-3214-12

Explanation: State court case removed to federal court.

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/10/2013

s/Elizabeth A. Pascal, Assistant U.S. Attorney

PAUL J. FISHMAN  
United States Attorney  
ELIZABETH A. PASCAL  
Assistant U.S. Attorney  
Camden Federal Building  
and U.S. Courthouse  
401 Market Street  
P.O. Box 2098  
Camden, NJ 08101  
(856) 757-5105  
United States of America  
substituted for Defendants  
Eric Chang, D.O.,  
Neil Kaplitz, M.D.,  
Eric K. Yahav, M.D.,  
Mercy Amua-Quarshie, M.D.,  
Antoinette Falconi McCahill, CNM,  
and CAMCare Health Corporation

Document Electronically Filed

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

<hr/>	
MARY O. MENDEZ, Individually	:
and as Mother of the Decedent	:
in her own Right and as	:
Administratrix of the Estate	: HONORABLE
of Bryan Jadiel Mendez,	:
Deceased, et al.,	:
	:
Plaintiffs,	: Civil Action No.
	:
v.	:
	:
ERIC CHANG, D.O.,	: CERTIFICATE OF SERVICE
et al.,	:
	:
Defendants.	:
<hr/>	

I hereby certify that on April 10, 2013, I caused a copy of the Notice of Removal and exhibits attached thereto, Civil Cover Sheet, and this Certificate of Service on behalf of Defendants Eric Chang, D.O., Neil Kaplitz, M.D., Eric K. Yahav, M.D., Mercy Amua-Quarshie, M.D., Antoinette Falconi McCahill, CNM, and

CAMCare Health Corporation to be placed in the United States  
mail, first class, postage prepaid, addressed to the following:

Loren Finesmith, Esquire  
2915 North 5th Street  
Philadelphia, PA 19133  
Attorneys for Plaintiffs

Carolyn R. Sleeper, Esquire  
Parker McCay, P.A.  
7001 Lincoln Drive West  
P.O. Box 974  
Marlton, NJ 08053  
Attorneys for the Cooper Defendants

PAUL J. FISHMAN  
United States Attorney

s/Elizabeth A. Pascal  
By: ELIZABETH A. PASCAL  
Assistant U.S. Attorney



# Exhibit A

Attorney(s) Loren T. Finesmith, Esquire  
Office Address 2915 North 5th Street  
Town, State, Zip Code Philadelphia, PA 19133  
Telephone Number (215) 291-5009  
Attorney(s) for Plaintiff Loren T. Finesmith

**Superior Court of  
New Jersey**

Camden COUNTY  
LAW DIVISION

Mary C. Mendez, Individually and as Administratrix  
of the Estate of Bryan Jadel Mendez, Deceased, et al.  
Plaintiff(s)

Docket No: L-3214-12

Vs.  
Eric Chang, D.O., et al.  
Defendant(s)

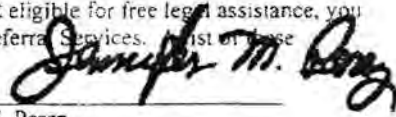
**CIVIL ACTION  
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.



Jennifer M. Perez,  
Clerk of the Superior Court



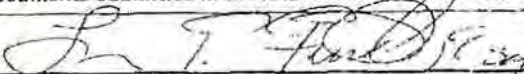
DATED: 08/02/2012

Name of Defendant to Be Served: CAMcare a/k/a CAMcare OB/GYN

Address of Defendant to Be Served: 817 Federal Street, Suite 101, Camden, NJ 08103

NOTE: The Case Information Statement is available at [www.njcourts.com](http://www.njcourts.com).

Appendix XII-B1

 <b>CIVIL CASE INFORMATION STATEMENT (CIS)</b> Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY	
		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	CHG/CK NO.
ATTORNEY / PRO SE NAME Lore: T. Finnesmith, Esquire		TELEPHONE NUMBER (215) 291-5009	COUNTY OF VENUE Camden
FIRM NAME (if applicable)		DOCKET NUMBER (when available) <b>L-3214-12</b>	
OFFICE ADDRESS 2915 N. 5th Street, Philadelphia, PA 19133		DOCUMENT TYPE Complaint	
		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) Mary O. Mendez, Individually and as Administratrix of the Estate of Bryan Jadel Mendez, Deceased, et al.	CAPTION Mary O. Mendez, Individually and as Administratrix of the Estate of Bryan Jadel Mendez, et al. v. Eric Chang, D.O., et al.		
CASE TYPE NUMBER (See reverse side for listing) 604	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, LIST DOCKET NUMBERS .		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, IS THAT RELATIONSHIP? <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION Large number of defendants may warrant individual management.			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, FOR WHAT LANGUAGE? Spanish		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).			
ATTORNEY SIGNATURE 			

**Directory of Superior Court Deputy Clerk's Offices  
County Lawyer Referral and Legal Services Offices**

**ATLANTIC COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division, Direct Filing  
1201 Bacharach Blvd., First Fl.  
Atlantic City, NJ 08401

LAWYER REFERRAL  
(609) 345-3444  
LEGAL SERVICES  
(609) 348-4200

**BERGEN COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division, Room 115  
Justice Center, 10 Main St.  
Hackensack, NJ 07601

LAWYER REFERRAL  
(201) 488-0044  
LEGAL SERVICES  
(201) 487-2166

**BURLINGTON COUNTY:**

Deputy Clerk of the Superior Court  
Central Processing Office  
Attn: Judicial Intake  
First Fl., Courts Facility  
49 Rancocas Rd.  
Mt. Holly, NJ 08060

LAWYER REFERRAL  
(609) 261-4862  
LEGAL SERVICES  
(800) 496-4570

**CAMDEN COUNTY:**

Deputy Clerk of the Superior Court  
Civil Processing Office  
Hall of Justice  
1st Fl., Suite 150  
101 South 5<sup>th</sup> Street  
Camden, NJ 08103

LAWYER REFERRAL  
(856) 964-4520  
LEGAL SERVICES  
(856) 964-2010

**CAPE MAY COUNTY:**

Deputy Clerk of the Superior Court  
9 N. Main Street  
Cape May Court House, NJ 08210

LAWYER REFERRAL  
(609) 463-0313  
LEGAL SERVICES  
(609) 465-3001

**CUMBERLAND COUNTY:**

Deputy Clerk of the Superior Court  
Civil Case Management Office  
60 West Broad Street  
P.O. Box 10  
Bridgeton, NJ 08302

LAWYER REFERRAL  
(856) 696-5550  
LEGAL SERVICES  
(856) 691-0494

**ESSEX COUNTY:**

Deputy Clerk of the Superior Court  
Civil Customer Service  
Hall of Records, Room 201  
465 Dr. Martin Luther King Jr. Blvd.  
Newark, NJ 07102

LAWYER REFERRAL  
(973) 622-6204  
LEGAL SERVICES  
(973) 624-4500

**GLOUCESTER COUNTY:**

Deputy Clerk of the Superior Court  
Civil Case Management Office  
Attn: Intake  
First Fl., Court House  
1 North Broad Street  
Woodbury, NJ 08096

LAWYER REFERRAL  
(856) 848-4589  
LEGAL SERVICES  
(856) 848-5360

**HUDSON COUNTY:**

Deputy Clerk of the Superior Court  
Superior Court, Civil Records Dept,  
Brennan Court House--1st Floor  
583 Newark Ave.  
Jersey City, NJ 07306

LAWYER REFERRAL  
(201) 798-2727  
LEGAL SERVICES  
(201) 792-6363

**HUNTERDON COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division  
65 Park Avenue  
Flemington, NJ 08822

LAWYER REFERRAL  
(908) 735-2611  
LEGAL SERVICES  
(908) 782-7979

**MERCER COUNTY:**

Deputy Clerk of the Superior Court  
Local Filing Office, Courthouse  
175 S. Broad Street, P.O. Box 8068  
Trenton, NJ 08650

LAWYER REFERRAL  
(609) 585-6200  
LEGAL SERVICES  
(609) 695-6249

**MIDDLESEX COUNTY:**

Deputy Clerk of the Superior Court,  
Middlesex Vicinage  
2nd Floor - Tower  
56 Paterson Street, P.O. Box 2633  
New Brunswick, NJ 08903-2633

LAWYER REFERRAL  
(732) 828-0053  
LEGAL SERVICES  
(732) 249-7600

**MONMOUTH COUNTY:**

Deputy Clerk of the Superior Court  
Court House  
P.O. Box 1269  
Freehold, NJ 07728-1269

LAWYER REFERRAL  
(732) 431-5544  
LEGAL SERVICES  
(732) 866-0020

**MORRIS COUNTY:**

Morris County Courthouse  
Civil Division  
Washington and Court Streets  
P. O. Box 910  
Morristown, NJ 07963-0910

LAWYER REFERRAL  
(973) 267-5882  
LEGAL SERVICES  
(973) 285-6911

**OCEAN COUNTY:**

Deputy Clerk of the Superior Court  
118 Washington Street, Room 121  
P.O. Box 2191  
Toms River, NJ 08754-2191

LAWYER REFERRAL  
(732) 240-3666  
LEGAL SERVICES  
(732) 341-2727

**PASSAIC COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division  
Court House  
77 Hamilton Street  
Paterson, NJ 07505

**LAWYER REFERRAL**

(973) 278-9223  
**LEGAL SERVICES**  
(973) 523-2900

**SALEM COUNTY:**

Deputy Clerk of the Superior Court  
Att.: Civil Case Management Office  
92 Market Street  
Salem, NJ 08079

**LAWYER REFERRAL**

(856) 935-5629  
**LEGAL SERVICES**  
(856) 451-0003

**SOMERSET COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division  
P.O. Box 3000  
40 North Bridge Street  
Somerville, N.J. 08876

**LAWYER REFERRAL**

(908) 685-2323  
**LEGAL SERVICES**  
(908) 231-0840

**SUSSEX COUNTY:**

Deputy Clerk of the Superior Court  
Sussex County Judicial Center  
43-47 High Street  
Newton, NJ 07860

**LAWYER REFERRAL**

(973) 267-5882  
**LEGAL SERVICES**  
(973) 383-7400

**UNION COUNTY:**

Deputy Clerk of the Superior Court  
1st Fl., Court House  
2 Broad Street  
Elizabeth, NJ 07207-6073

**LAWYER REFERRAL**

(908) 353-4715  
**LEGAL SERVICES**  
(908) 354-4340

**WARREN COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division Office  
Court House  
413 Second Street  
Belvidere, NJ 07823-1500

**LAWYER REFERRAL**

(973) 267-5882  
**LEGAL SERVICES**  
(908) 475-2010

Loren Finesmith, Esquire  
2915 North 5<sup>th</sup> Street  
Philadelphia, PA 19133  
Atty. I.D. #005251993  
(215) 291-5009

Attorney for Plaintiffs

Mary O. Mendez, Individually and as  
Mother of the Decedent in her own right and  
as Administratrix of the Estate of  
Bryan Jadiel Mendez, Deceased  
101 N. 22nd Street  
Camden, NJ 08105

SUPERIOR COURT OF NEW JERSEY  
CAMDEN COUNTY  
LAW DIVISION

DOCKET NO.:

L-3214-12

and

CIVIL ACTION

Edwin Galarza, Individually in  
His Own Right as Father of the Deceased  
Minor, Bryan Jadiel Mendez  
c/o Mary Mendez, Administratrix of the  
Estate of Bryan Jadiel Mendez, Deceased  
101 N. 22nd Street  
Camden, NJ 08105

and

Milatzey Mendez  
101 N. 22nd Street  
Camden, NJ 08105

Plaintiffs

vs.

Eric Chang, D.O.  
817 Federal Street, Suite 101  
Camden, NJ 08103

and

Dr. C. Aves  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Dr. Crawford  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Neil Kaplitz, M.D.  
817 Federal Street, Suite 101  
Camden, NJ 08103

and

Eric K. Yahav, M.D.  
817 Federal Street, Suite 101  
Camden, NJ 08103

and

Mercy AmuaQuarshie, M.D.  
817 Federal Street, Suite 101  
Camden, NJ 08103

and

Antoinette Falconi McCahill, RNNP  
817 Federal Street, Suite 101  
Camden, NJ 08103

and

Dhiren Soni, D.O.  
Cooper Anesthesia Associates, P.C.  
One Cooper University Plaza  
Camden, NJ 08103

and

Dr. John/Jane Doe, Anesthesiologist  
Cooper University Hospital  
3 Cooper University Plaza  
Camden, NJ 08103

and

Suzanne Panayiotou  
Cooper University Hospital  
Department of Anesthesiology  
One Cooper University Plaza  
Camden, NJ 08103

and

Ms. Murphy, R.N.  
Department of Obstetrics and Gynecology



3 Cooper University Plaza  
Camden, NJ 08103

and

Ms. Kelley, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Joanne Keally, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Ms./Mr. Profico, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Ms./Mr. Chavous-Gibson, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Ms./Mr. Nece, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Ms. Ward, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Ms./Mr. Alice, R.N.  
3 Cooper University Plaza

Camden, NJ 08103

and

Ms./Mr. Holmes a/k/a Ms./MR. Helmes, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

Kellyann Carter, R.N.  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

John/Jane Doe, R.N., Nos. 1-10  
Department of Obstetrics and Gynecology  
3 Cooper University Plaza  
Camden, NJ 08103

and

CAMcare a/k/a CAMcare OB/GYN  
817 Federal Street, Suite 101  
Camden, NJ 08103

and

Cooper University Hospital  
3 Cooper University Plaza  
Camden, NJ 08103

and

University of Medicine and Dentistry of New  
Jersey - Robert Wood Johnson Medical School  
d/b/a Cooper University Hospital  
3 Cooper University Plaza  
Camden, NJ 08103

and

Cooper Anesthesia Associates, P.C.  
One Cooper University Plaza  
Camden, NJ 08103

and

Cooper University Physicians  
3 Cooper University Plaza  
Camden, NJ 08103

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COMPLAINT - CIVIL ACTION

This is a civil action for medical, nursing, educational and professional malpractice.

1. Plaintiff, Mary O. Mendez (hereinafter "Mendez"), was at all times relevant and material hereto, an adult individual residing at 101 N. 22nd Street, Camden, NJ 08105. She brings this action individually and as mother of the decedent in her own right and as the Administratrix of the Estate of Bryan Jadiel Mendez, her deceased son.

2. Plaintiff, Edwin Galarza (hereinafter "Galarza"), was at all times relevant and material hereto, an adult individual residing in Puerto Rico. His present address is unknown. He brings this action individually and in his own right as the father of the Decedent, Bryan Jadiel Mendez, his deceased son.

3. Plaintiff, Milatzy Hernandez, is the sister of Plaintiff, Mary O. Mendez, and was at all times relevant and material hereto, an adult individual residing at 101 N. 22nd Street, Camden, NJ 08105.

4. Defendant, Eric Chang, D.O. (hereinafter "Dr. Chang"), at all relevant and material times hereto was licensed to practice medicine in the State of New Jersey with an office therein at 817 Federal Street, Suite 101, Camden, NJ 08103, and at all times relevant and material hereto this defendant held himself out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

5. Defendant, Dr. C. Aves (hereinafter "Dr. Aves"), at all relevant and material times hereto was a doctor of osteopathic medicine licensed to practice medicine in the State of New Jersey with an office therein at 3 Cooper University Plaza, Camden, New Jersey

08103, and at times relevant and material hereto this defendant held himself out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

6. Defendant, Dr. Crawford, at all relevant and material times hereto was licensed to practice medicine in the State of New Jersey with an office therein at 3 Cooper University Plaza, Camden, NJ 08103, and at all times relevant and material hereto this defendant held himself out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

7. Defendant, Neil Kaplitz, M.D. (hereinafter "Dr. Kaplitz"), at all relevant and material times hereto was licensed to practice medicine in the State of New Jersey with an office therein at 817 Federal Street, Suite 101, Camden, NJ 08103, and at all times relevant and material hereto this defendant held himself out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

8. Defendant, Eric K. Yahav, M.D. (hereinafter "Dr. Yahav"), at all relevant and material times hereto was licensed to practice medicine in the State of New Jersey with an office therein at 817 Federal Street, Suite 101, Camden, NJ 08103, and at all times relevant and material hereto this defendant held himself out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

9. Defendant, Mercy AmuaQuarshie, M.D. (hereinafter "Dr. AmuaQuarshie"), at all relevant and material times hereto was licensed to practice medicine in the State of New Jersey with an office therein at 817 Federal Street, Suite 101, Camden, NJ 08103, and at all times relevant and material hereto this defendant held himself out as skillful and

qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

10. Defendant, Antoinette Falconi McCahill, RNNP (hereinafter "Nurse Practitioner McCahill"), at all relevant and material times hereto was a Registered Nurse/Nurse Practitioner duly licensed and authorized to provide prenatal care and treatment in the State of New Jersey with an office therein at One Cooper Plaza, Camden, NJ 08103, and at all times relevant and material hereto this defendant held herself out as skillful and qualified to render prenatal care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

11. Defendant, Dhiren Soni, D.O., at all relevant and material times hereto was licensed to practice medicine in the State of New Jersey with an office therein at One Cooper Plaza, Camden, NJ 08103, and at all times relevant and material hereto this defendant held himself out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

12. Defendant, Dr. John/Jane Doe, Anesthesiologist, at all relevant and material times hereto was licensed to practice medicine in the State of New Jersey with an office therein at 3 Cooper Plaza, Camden, NJ 08103, and at all times relevant and material hereto this defendant held himself/herself out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

13. Defendant, Suzanne Panayiotou, CRNA (hereinafter "CRNA Panayiotou") at all relevant and material times hereto were licensed Certified Registered Nurse Anesthetist in the State of New Jersey with an office therein at One Cooper Plaza, Camden, NJ 08103, and at all times material hereto held herself out as skillful and qualified to render nurse anesthetist care to patients such as the Plaintiff Mendez and plaintiffs' decedent herein.

14. Defendants, Ms./Mr. Murphy, R.N., Ms./Mr. Kelley, R.N., Joanne Keally, R.N., Ms. Profico, R.N., Ms. Shavous-Gibson, R.N., Ms. Nece, R.N., Ms. Ward, R.N., Ms. Alice, R.N., Ms. Holmes a/k/a Ms. Helmes, R.N., Kellyann Carter, R.N., and John/Jane Does, R.N., Nos. 1-10 (hereinafter the "Obstetrical Nurses") at all relevant and material times hereto were licensed registered nurses in the State of New Jersey with an office therein at 3 Cooper University Plaza, Camden, NJ 08103 and at all times material hereto held themselves out as skillful and qualified to render obstetrical nursing care to patients such as the Plaintiff, Mendez, and plaintiffs' decedent herein.

15. Defendant, CAMcare a/k/a CAMcare OB/GYN (hereinafter "CAMcare"), at all relevant and material times hereto was a non-profit organization and/or other business entity licensed in the State of New Jersey to provide medical care, with offices at 817 Federal Street, Suite 101, Camden, NJ 08103, and at all relevant and material times hereto this defendant held out itself and Defendants Dr. Chang, Dr. Kaplitz, Dr. Aves, Dr. Crawford, and Dr. Yahav as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

16. Defendant, Cooper University Hospital, at all relevant and material times hereto was a non-profit organization and/or other business entity licensed in the State of New Jersey to provide medical care, maintaining and operating a hospital and medical facility at 3 Cooper University Plaza, Camden, NJ 08103, and at all relevant and material times hereto this defendant held out itself and all of the defendant physicians and nurses herein as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

17. Defendant, University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School d/b/a Cooper University Hospital (hereinafter "UMDNJ") at all relevant and material times hereto was a non-profit organization and/or other business entity with offices located at 3 Cooper University Plaza, Camden, NJ 08103, licensed in the State of New Jersey to provide medical care, maintaining and operating a hospital, medical and/or educational facility at that address, and at all relevant and material times hereto this defendant held out itself and all of the defendants physicians and nurses herein as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

18. Defendant, Cooper Anesthesia Associates, P.C., at all relevant and material times hereto was a non-profit organization and/or other business entity licensed in the State of New Jersey to provide medical care, with offices at One Cooper Plaza, Camden, New Jersey 08103, and at all relevant and material times hereto held out itself, Defendant Dr. Soni, and Defendant CRNA Panayiotou as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

19. Defendant, Cooper University Physicians, at all relevant and material times hereto was a non-profit organization and/or other business entity licensed in the State of New Jersey to provide medical care, with offices at 3 Cooper Plaza, Camden, New Jersey 08103, and at all relevant and material times hereto this defendant held out itself and Defendants Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Kaplitz, Dr. Yahav, and Dr. Soni out as skillful and qualified to render medical care to patients such as Plaintiff, Mendez, and plaintiffs' decedent herein.

20. At all relevant and material times hereto, Mendez and the Decedent were under the treatment, care and attendance of the Defendants, individually, jointly and/or severally.

21. At all relevant and material times hereto, the defendants were acting by, through and on behalf of their agents, servants, ostensible agents, contractors, subcontractors, students, workers and/or employees acting within the course and scope of their employment, agency, duty and/or authority and under the control or right of control of defendants.

22. At all relevant and material times hereto, the defendants were vicariously liable for their agents, servants, ostensible agents, students, workers and/or employees acting within the course and scope of their employment, agency, duty and/or authority and under the control or right of control of defendants.

23. At all relevant and material times hereto, Defendants, Dr. Chang, Dr. Aves, and Dr. Crawford, were employees and/or ostensible agents of Defendants Cooper University Hospital, University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School d/b/a Cooper University Hospital, CAMcare, and Cooper University Physicians acting within the course and scope of their employment and/or ostensible agency and in furtherance of the business and affairs of their employer(s) and/or ostensible principal(s).

24. At all times relevant and material hereto, Defendants, Dr. Soni and Suzanne Panatiouyou, CRNA, were employees and/or ostensible agents of Defendants Cooper University Hospital, University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School d/b/a Cooper University Hospital, Cooper Anesthesia



Associates, P.C., and Cooper University Physicians acting within the course and scope of his employment and/or ostensible agency and in furtherance of the business and affairs of his employer(s) and/or ostensible principal(s).

25. At all times relevant and material hereto, Defendants, Ms./Mr. Murphy, R.N., Ms./Mr. Kelley, R.N., Joanne Keally, R.N., Ms./Mr. Profico, R.N., Ms./Mr. Chavous-Gibson, R.N., Ms./Mr. Nece, R.N., Ms./Mr. Ward, R.N., Ms./Mr. Alice, R.N., Ms./Mr. Holmes a/k/a Ms./Mr. Helmes, R.N., Kellyann Carter, R.N., and John/Jane Doe, R.N., Nos. 1-10 (i.e., the Defendant "Obstetrical Nurses") were employees and/or ostensible agents of Defendants Cooper University Hospital, University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School d/b/a Cooper University Hospital, and CAMcare, acting within the course and scope of his employment and/or ostensible agency and in furtherance of the business and affairs of his employer(s) and/or ostensible principal(s).

26. When the word "Defendants" is used, it shall refer to all defendants collectively and/or in the alternative to more than one group of defendants.

27. At all relevant and material times to this action, Plaintiff/Administratrix, Mendez and Decedent, whose father is Plaintiff, Galarza, was rendered medical care by all Defendants, personally and by and through their hospitals, schools, offices, officers, doctors, nurses, agents, ostensible, apparent agents, servants, workmen, and/or employees, and the Defendants and their hospitals, schools, offices, officers, doctors, nurses, agents, ostensible agents, apparent agents, servants, workmen, and/or employees and directly and/or impliedly agreed to exercise the degree of specialized care and skill in

their diagnosis, monitoring and treatment of Mendez and Decedent. Bryan Jadiel Mendez, as is/was expected of persons and facilities in their professional standing.

28. At all times relevant to this action, Mendez, was in labor and delivery with the plaintiffs' full term and viable son, Decedent, Bryan Jadiel Mendez.

29. At all times relevant to this action, All Defendants, the hospitals, schools, offices, officers, residents, interns, physicians, their officers, doctors, nurses, agents, servants, ostensible agents, workmen, and/or employees, knew or, with the exercise of even minimal medical knowledge, care and skill, would have known of the nature and extent of the condition of Mendez and Plaintiffs' Decedent.

30. As of July 20, 2010, Mendez was 34 years old and was carrying her second baby

31. Mendez was morbidly obese and suffered from gestational diabetes.

32. Mendez had multiple prenatal office visits with employees of Defendant, CAMcare, including, but not limited to, Defendants, Dr. Kaplitz, Dr. Chang, Dr. Yahav, Dr. AmuaQuarshie, and McCahill, RNNP. All of the doctors and nurses who examined Mendez during her office visits in June and July of 2010 were aware that Mendez had gestational diabetes and that the Decedent was large, especially for his gestational age.

33. Mendez's last office visit with Defendant, Dr. Kaplitz, occurred on or about July 6 or 9, 2010.

34. As of on or about July 9, 2010, the weight of the Decedent, Bryan Jadiel Mendez, was estimated at 3731 grams, placing him above the 90th percentile and making him large for his gestational age.

35. Mendez also had prenatal visits with Defendants Dr. AmuaQuarshie, Nurse Practitioner McCahill, Dr. Chang and Dr. Yahav in June and July of 2010.

36. On July 15, 2010, Defendant Dr. Chang told Mendez he would tell Dr. Kaplitz, who oversaw Mendez's prenatal care, that Mendez should have an elective cesarean section.

37. At no time, however, did Defendants Dr. Kaplitz, Dr. AmuaQuarshie, Nurse Practitioner McCahill, Dr. Chang or Dr. Yahav advise Mendez that she should elect to have a cesarean section and at no other time did any of them indicate to Mendez that they believed she should do so, nor did any of them schedule her for same.

38. On or about June 20, 2010, Mendez had a spontaneous rupture of her membranes around 4:45 p.m. and went to Defendants Cooper University Hospital and University of Medicine and Dentistry of New Jersey-Robert Wood Johnson Medical School d/b/a Cooper University Hospital (hereinafter collectively "the Hospital") for labor, medical care and the delivery of her baby.

39. Mendez arrived at the hospital at about 5:04 p.m. on July 10, 2010.

40. At the time that she presented to the hospital and the Defendants, Mendez was at approximately 37 and 5/7 weeks gestation, i.e., her baby was viable.

41. Mendez was moved to the Labor Room and placed on an electronic fetal and maternal heart rate monitor within a few minutes after arriving at the hospital.

42. Defendant Dr. Chang was Mendez's attending physician for her labor and delivery because Defendant Dr. Kaplitz was on vacation.

43. Defendant Dr. Chang told Mendez during her labor that she would have a vaginal delivery but might require suction. He did not recommend a cesarean section.

44. Frequent and ongoing non-reassuring tracings were recorded in the electronic fetal heart rate monitor tracings in Plaintiff, Mendez's, chart along with other signs and

symptoms of ongoing fetal distress and non-reassuring fetal status, including a failure to descend and a nuchal cord, but were not appropriately treated and/or were ignored by the Defendants Dr. Chang, Dr. Aves, and Dr. Crawford and by the Defendant Obstetrical Nurses throughout the course of Plaintiff, Mendez's labor.

45. Likewise, mother, Plaintiff, Mendez, had signs and symptoms that were non-reassuring that were not diagnosed and/or appropriately treated and/or were ignored by Defendants Dr. Chang, Dr. Aves, and Dr. Crawford and by the Defendant Obstetrical Nurses throughout the course of Plaintiff, Mendez's labor.

46. The records do not include the Operative Report, the Anesthesia Chart, the Labor and Delivery Chart, or the Placental Pathology Report. Therefore, it is alleged that these records no longer exist and that the Defendants have destroyed evidence.

47. At some time during the early morning of July 21, 2012, Defendant Dr. Chang told Mendez that she probably would need a cesarean section, but he made no recommendation.

48. Finally, at approximately 3:54 a.m. on July 21, 2012, Defendants Dr. Chang, Dr. Aves and Dr. Crawford decided that an emergency cesarean section had to be performed due to the Decedent, Bryan Jadiel Mendez's, non-reassuring fetal heart rate, failure to descend, and nuchal cord. At this time, all monitors were removed.

49. At approximately 4:00 a.m., Plaintiff, Mendez, apparently was moved from the labor and delivery room to an operating room.

50. Between 4:00 a.m. and 4:25 a.m., a monitor (believed to be either a scalp electrode monitor or a TOCO monitor) was put in place to monitor Decedent, Bryan Jadiel Mendez's, fetal heart rate.

51. Defendants Dr. Chang and/or Dr. Aves decided to perform a Pfannenstiel incision.

52. At approximately 4:00 a.m. to 4:11 a.m., Defendants, Dr. Soni and CRNA Panayiotou, began administering spinal anesthesia.

53. At approximately 4:11 a.m., according to Plaintiff, Mendez's chart, anesthesia was ready.

54. Neither continuous nor regular monitoring of the Decedent, Bryan Jadiel Mendez's, fetal heart rate was performed after 3:54 a.m.

55. At some time between 4:00 a.m. and 4:25 a.m., the monitor showed that the Decedent's fetal heart rate had dropped to 50 beats per minute, but no change was made in the type of anesthetic being used or the type of Cesarean Section that would be performed.

56. At approximately 4:25 a.m., Dr. Chang or Dr. Aves made the Pfannenstiel abdominal incision of Plaintiff, Mendez.

57. The abdominal incision was inadequate, improper and not the correct incision that should have been used to successfully deliver the Decedent.

58. At approximately 4:30 a.m., Dr. Chang or Dr. Aves made the uterine incision of Plaintiff, Mendez.

59. Between 4:30 and 4:35 a.m., Dr. Chang and/or Dr. Aves made repeated attempts to deliver the Decedent, Bryan Jadiel Mendez, finding delivery extremely difficult.

60. At 4:35 a.m., the Decedent, Bryan Jadiel Mendez, was finally delivered.

61. Plaintiff, Mendez's, hospital chart, states that the Decedent, Bryan Jadiel Mendez, had a heart rate of approximately 10 to 20 beats per minute upon delivery and no heart

sounds 30 seconds after birth. His Apgar scores were recorded as 0,0,0 and 0 for 1, 5, 10 and 20 minutes respectively.

62. The baby had no movement and was limp at birth, and his skin was cyanotic.

63. All attempts to resuscitate the baby unsuccessfully ended at 4:47 a.m., and he was pronounced dead at 5:00 a.m. on July 21, 2010.

64. The infant's birth weight was 4515 grams.

65. The baby did not have any congenital anomalies.

66. Plaintiff, Mendez, gave consent for an autopsy, but none was performed.

67. Plaintiff, Milatzy Mendez, was present with Plaintiff, Mendez, in the labor and delivery room at all times until Mendez was moved to the operating room. Milatzy Mendez was not permitted to enter the operating room.

68. Shortly after the Decedent, Bryan Jadiel Mendez, was declared dead, a nurse took his corpse out of the operating room and showed it to Plaintiff, Milatzy Mendez.

69. All defendants deviated from good and acceptable standards of care.

70. Furthermore, these deviations directly caused the death of Decedent, Bryan Jadiel Mendez.

71. Based upon information and belief, some records are missing and/or were never created or maintained.

72. All Defendants failed to monitor and/or properly monitor Mendez and Decedent while they were under the care of the Defendants.

73. The emergent need for a Cesarean Section that existed prior to and at 3:54 a.m. on July 21, 2010, required that the procedure be performed with a general anesthetic, a local anesthetic to the uterus, or, ultimately, without anesthetic, and not a spinal

anesthetic. It also required a midline incision, a classical Cesarean Section, or a DeLee-Beck Cesarean Section.

74. When Decedent, Bryan Jadiel Mendez's, heart rate dropped to 50 beats per minute, the need to perform a different or additional, fast acting anesthetic, or no anesthetic, became even more urgent.

75. The lag time from 4:00 a.m. to 4:25 a.m. to make the abdominal incision upon Plaintiff, Mendez, was unconscionably long.

76. Numerous errors, omissions, actions, failures to act, gross negligence, recklessness, willful and wanton conduct, gross negligence and otherwise led to Mendez's overly prolonged and excruciating labor; the overly prolonged and unnecessary fetal distress of the in utero baby; the improper delivery of the baby; the demise of the baby/Decedent who was viable at the time of labor; and the trauma, both physically and emotionally to Mendez.

77. As a direct result of the Defendants' actions and inactions, both negligent and intentional, during the course of Mendez's labor and upon seeing her baby delivered stillborn, Mendez, suffered severe emotional shock to her nerves and nervous system, humiliation, embarrassment and depression and caused her to suffer great mental anguish, loss of life's pleasures, loss of general health, strength, and vitality, and physical pain, all of which will continue for an indefinite time into the future.

78. The actions and inactions, both negligent and intentional, by all Defendants during the course of Mendez's labor and the delivery of the decedent were extreme and outrageous and intolerable in society causing the Plaintiff Mendez and Decedent, and

Plaintiff Milatzy Mendez as well, to suffer physical harms and/or severe emotional shock to their nerves and nervous systems and/or death.

**COUNT 1**

**MEDICAL MALPRACTICE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez, Deceased, and MARY O. MENDEZ, in her own right; V. DEFENDANT, ERIC CHANG, D.O.**

79. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

80. At all relevant and material times hereto, Defendant, Dr. Chang, disregarded his duty to provide Mendez and her in utero son (hereinafter the "Decedent") with proper medical care in his capacity as the attending physician during the course of Mendez's labor, delivery and thereafter from July 20 through 21, 2010, while Mendez was a patient at Defendant, Cooper University Hospital and/or Defendant UMDNJ.

81. During the aforementioned hospitalization of Mendez and her baby, the medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, omissions and failures to comply with the applicable standards of medical care and conduct evidencing defendant's reckless indifference to the rights of Mendez and the Decedent, of Defendant, Dr. Chang, his offices, officers, doctors, nurses, agents, servants, workmen and/or employees, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by attending physicians;
- (b) Failing to conform to all applicable standards of medical care under the circumstances;
- (c) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save her life;
- (d) Failing to properly and adequately recognize and treat Mendez's deteriorating conditions during labor in the face of obvious signs and symptoms.



- (e) Failing to properly and adequately recognize and treat the decedent's deteriorating conditions in the face of obvious signs and symptoms;
- (f) Failing to perform necessary medical testing;
- (g) Failing to perform his duties as attending physician by intentionally and knowingly failing to attend to Mendez and the decedent and leaving their care to an unqualified resident;
- (h) Failing to recognize and properly treat the decedent's non-reassuring fetal status;
- (i) Failing to recognize the signs and symptoms indicative of a baby in fetal distress;
- (j) Failing to appreciate the signs and symptoms of a baby in fetal distress and the possible consequences of the same;
- (k) Failing to employ available appropriate methods of treatment for a baby in fetal distress;
- (l) Failing to monitor, interpret, properly interpret, read, properly read and/or otherwise understand the fetal heart rate tracing strips;
- (m) Failing to observe and/or know Mendez's and/or the baby's signs and symptoms of hypoxia or asphyxia;
- (n) Failing to follow fetal/uterine monitoring procedures;
- (o) Failing to consider all options for this delivery;
- (p) Failing to effect a rapid delivery to avoid neonatal and/or maternal morbidity;
- (q) Failing to timely consider any options for delivery;
- (r) Failing to improve fetal oxygenation;
- (s) Failing to recommend a non-emergency cesarean section to Mendez;
- (t) Failing to require and perform a non-emergency cesarean section;
- (u) Failing to timely perform an emergency cesarean section;
- (v) Ordering or acquiescing in the use of spinal anesthesia where the need for an emergency c-section required a faster form of anesthesia;
- (w) Failing to use general anesthesia, local anesthesia to the abdomen, other faster-acting anesthesia, or no anesthesia where there was an need to perform the c-section immediately;
- (x) Failing to use general anesthesia, local anesthesia to the abdomen, other faster-acting anesthesia, or no anesthesia where there was an need to complete the c-section immediately;
- (y) Ordering, using, or acquiescing in the use of a Pfannenstiel incision;
- (z) Ordering, using, or acquiescing in the use of a Pfannenstiel incision where a midline incision, a classical c-section, or a DeLee-Beck c-section was required;
- (aa) Failing to promptly perform the abdominal and uterine incisions;
- (bb) Failing to follow appropriate shoulder dystocia, umbilical cord prolapse, and abruptio placenta treatment procedures and protocols and thus failing to render proper treatment of the same;
- (cc) Failing to follow umbilical cord prolapse procedures;
- (dd) Failing to follow abruptio placenta procedures;
- (ee) Failing to properly relieve the umbilical cord compression;

- (ff) Failing to properly administer amnioinfusion;
- (gg) Failing to recognize eclampsia and to treat the same appropriately;
- (hh) Failing to recognize pre-eclampsia;
- (ii) Leaving Mendez in labor too long so as to avoid any complications and/or problems or otherwise compromising the health, safety, welfare and/or life of the mother or the baby;
- (jj) Failing to follow the recommendations, and/or protocols of the American College of Obstetrician and Gynecologists for labor fetal distress a/k/a non reassuring fetal status, and delivery;
- (kk) Failing to recognize uteroplacental insufficiency;
- (ll) Failing to recognize signs and symptoms suggesting cord compression;
- (mm) Failing to take a fetal scalp PH;
- (nn) Failing to utilize a fetal acoustic stimulator or a fetal scalp stimulator;
- (oo) Failing to take in utero resuscitative measures;
- (pp) Practicing outside his area or limits of expertise and/or competence;
- (qq) Failing to properly train the residents and interns who participated in the care of Mendez and the decedent, and the physicians assistants, nurses, and nursing assistants who participated in their care;
- (rr) Failing to keep appropriate, accurate and/or any records pertaining to Mendez and/or the Decedent;
- (ss) Failing to produce and/or destroying some or all of the medical chart pertaining to Mendez, the Decedent and any subsequent medical treatment, care and/or analysis;
- (tt) Intentionally or recklessly disregarding the obvious signs and symptoms of nonreassuring fetal status, thus allowing Mendez and the decedent to suffer for a prolonged period, and taking the risk of harm to Mendez and her baby's health, welfare, safety and/or life allowing the baby to die;
- (uu) Failing to follow the chain of command;
- (vv) Failing to render appropriate medical care to Mendez and the decedent;
- (ww) Failing to recognize the contraindications for the administration of medications given and thus prolonging labor and delivery and causing a substantial risk of harm to Mendez and her baby;
- (xx) Failing to examine and/or properly examine Mendez;
- (yy) Failing to improve fetal oxygenation through any number of techniques, procedures and/or devices;
- (zz) Failing to administer appropriate and timely medications to treat Mendez and the Decedent during the course of labor and delivery;
- (aaa) Failing to make a decision which mandated operative delivery and/or as to how urgently the same should have been performed;
- (bbb) Failing to call for further medical associates when needed whether from the same specialty or others, another department, another attending, the CMO and/or any other appropriate medical personnel, staff, contractors and/or otherwise;
- (ccc) Failing to consider and/or order, perform an episiotomy;
- (ddd) Failing to assure appropriate medical orders and/or instructions to those in whose care the defendant left Mendez and the decedent;

- (eee) Failing to perform any maneuvers for shoulder dystocia and to aid in the safe delivery of the baby;
- (fff) Failing to be trained in proper labor and delivery procedures;
- (ggg) Failing to consider any and all maneuvers possible to alleviate any labor or delivery problems;
- (hhh) Failing to know how to monitor, manage and/or properly monitor and/or manage Mendez's care; labor and the delivery of her baby;
- (iii) Causing the preventable death of the Decedent and loss of Plaintiffs' child;
- (jjj) Failing to know how to monitor, manage and/or properly monitor and/or manage the Decedent's care and delivery;
- (kkk) Failing to follow hospital protocols, rules, regulations, procedures, policies and requirements;
- (lll) Failing to treat in accordance with the standards of acceptable medical care, prudence and practice;
- (mmm) Failing to keep accurate and complete proper medical records;
- (nnn) Maintaining improper and/or incomplete medical records;
- (ooo) Changing and/or falsifying medical records;
- (ppp) Failing to properly manage the baby's airway;
- (qqq) Failing to perform a proper physical examination of the plaintiff and/or the infant;
- (rrr) Failing to obtain informed consent of the plaintiffs;
- (sss) Failing to properly manage the patient's physiological conditions;
- (ttt) Failing to completely, accurately and timely document all pertinent information on the patient's medical record;
- (uuu) Failing to transfer the responsibility for the care of Mendez and/or the Decedent to other qualified providers in a manner which would have assured, quality, continuity of care and patient safety;
- (vvv) Failing to monitor and/or properly monitor Mendez and the Decedent;
- (www) Failing to take precautions to minimize the risk of injuries and/or death to the baby and/or the mother;
- (xxx) Failing to respect and maintain the basic rights of the patient, the plaintiff;
- (yyy) Failing to incorporate any hospital and/or medical standards into defendants' practice;
- (zzz) Reckless conduct causing emotional distress which renders the defendant liable as if he had acted intentionally.
- (aaaa) Committing numerous and/or current deviations from the standards of care which substantially increased the risk of the baby's death;
- (bbbb) Committing numerous and recurring deviations from the standards of care resulting in delayed labor, pain and suffering to the mother;
- (cccc) Committing numerous and recurring deviations from the standards of care which were substantial cause of Decedent's death;
- (dddd) Falling below the acceptable standards of care from an obstetrical standpoint and failing to take action to see that the Decedent was timely delivered and/or that a c-section was performed;

- (eeee) Failing to act in a timely manner so that Mendez would have had a successful delivery and the Decedent would be alive today and causing Mendez to suffer a prolonged labor and with unnecessary complications of pregnancy to incur the loss of her child;
- (ffff) Negligently and/or intentionally ignoring the signs and symptoms presented by Mendez and the in utero baby and failing to take all steps necessary to deliver the Decedent alive;
- (gggg) Failing to deliver the Decedent before its condition was life threatening;
- (hhhh) Relinquishing control and care of the plaintiffs as "captain of the ship" to an unqualified resident/doctor and/or the nurses;
- (iiii) Failing in their responsibility to promptly act in face of major risk factors during the course of delivery while the mother was under the obstetrical care of the defendants;
- (jjjj) Acting in such a manner as to subsequently increase the risk of complications, injury, and of death to Mendez and/or Decedent;
- (kkkk) Having actual and/or constructive notice of the problems during Mendez's care and that of her unborn child which establishes corporate negligence;
- (llll) Knowing and/or failing to recognize the mistake and or deficiencies;
- (mmmm) Failing to employ, recognize available methods of treatment;
- (nnnn) Failing to monitor the fetal heart rate tracing strips;
- (oooo) Failing to properly read and/or interpret the fetal heart rate tracing strips;
- (pppp) Failing to appreciate the signs and symptoms of fetal distress and the possible consequences of the same;
- (qqqq) Failing to promptly act when noting fetal decelerations by placing an electronic fetal monitor on the baby and yet failing to recognize the sign and symptoms that the fetus was at risk for neurological injuries, other consequences and/or death;
- (rrrr) Failing to take timely and appropriate intervention before the underlying conditions, signs and symptoms of the baby caused irreversible damage and/or death;
- (ssss) Failing to be properly trained interpreting FHR monitoring strips and the results;
- (tttt) Failing to timely intervene before the fetal death occurred;
- (uuuu) Failing to administer oxygen to the Decedent;
- (vvvv) Failing to prevent asphyxia and the baby's death.
- (wwww) Failing to notify the attending physician and/or other qualified senior physicians of the signs and symptoms of the decedent's fetal distress.
- (xxxx) Failing to notify the attending physician and/or other qualified senior physicians of signs and symptoms of decedent's fetal distress in a timely manner.
- (yyyy) Failing to notify the attending physician of the signs and symptoms of fetal distress.
- (zzzz) Failing to notify the attending physician of the signs and symptoms of fetal distress in a timely manner.
- (aaaaa) Failure to appropriately consult with other medical personnel and/or providers caring for the plaintiff.

- (bbbbbb) Failing to know the signs and symptoms of a baby in fetal distress.
- (cccccc) Failing to know the signs and symptoms of hypoxia or asphyxia.
- (dddddd) Failing to know how to properly read and/or interpret fetal heart rate tracing strips;
- (eeeeee) Failing to know the signs and symptoms of hypoxia or asphyxia;
- (ffffff) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician providing prenatal care;
- (gggggg) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician providing prenatal care;
- (hhhhh) Failing to conform to all applicable standards of medical care under the circumstances in providing prenatal care;
- (iiiiii) While providing prenatal care, failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (jjjjj) While providing prenatal care, failing to recommend and/or require a non-emergency cesarean section;
- (kkkkk) Destroying medical records;
- (lllll) Failing to render appropriate medical care and treatment to Mendez and the Decedent;
- (mmmmm) Failing to prevent the baby's death;
- (nnnnn) The actions and inactions of Defendant, Dr. Chang, resulted in the death of the Decedent, his failure to be delivered timely and health, and the loss of their son to Plaintiffs. Mendez and Galarza.
- (ooooo) Dr. Chang's delays in performing the emergency cesarean section demonstrated a reckless indifference to the health and safety of Plaintiff, Mendez, and the health, safety and survival of the Decedent.

82. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. Chang, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

83. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Chang, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and

vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

84. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

85. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Chang, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

86. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

87. As a result of the aforesaid actions and/or inactions of Defendant, Dr. Chang, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

88. The aforesaid wrongful acts and omissions of Defendant, Dr. Chang, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT II  
MEDICAL MALPRACTICE.**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased, and MARY O. MENDEZ, in her own right; V.  
DEFENDANT, DR. C. AVES**

89. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

90. At all relevant and material times hereto, Defendant, Dr. Aves, disregarded his duty to provide Mendez and her in utero son (hereinafter the "Decedent") with proper medical care in his capacity as a treating and/or attending obstetrician during the course of Mendez's labor, delivery and thereafter from July 20 through 21, 2010, while Mendez was a patient at Defendant, Cooper University Hospital and/or Defendant UMDNJ.

91. During the aforementioned hospitalization of Mendez and her baby, the medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, omissions and failures to comply with the applicable standards of medical care and conduct evidencing defendant's reckless indifference to the rights of Mendez and the Decedent, of Defendant, Dr. Aves, his offices, officers, doctors, nurses, agents, servants, workmen and/or employees, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by treating and/or attending physicians;
- (b) Failing to conform to all applicable standards of medical care under the circumstances;
- (c) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save her life;
- (d) Failing to properly and adequately recognize and treat Mendez's deteriorating conditions during labor in the face of obvious signs and symptoms;
- (e) Failing to properly and adequately recognize and treat the decedent's deteriorating conditions in the face of obvious signs and symptoms;
- (f) Failing to perform necessary medical testing;

- (g) Failing to perform his duties as a treating and/or attending physician by intentionally and knowingly failing to attend to Mendez and the decedent and leaving their care to an unqualified resident;
- (h) Failing to recognize and properly treat the decedent's non-reassuring fetal status;
- (i) Failing to recognize the signs and symptoms indicative of a baby in fetal distress;
- (j) Failing to appreciate the signs and symptoms of a baby in fetal distress and the possible consequences of the same;
- (k) Failing to employ available appropriate methods of treatment for a baby in fetal distress;
- (l) Failing to monitor, interpret, properly interpret, read, properly read and/or otherwise understand the fetal heart rate tracing strips;
- (m) Failing to observe and/or know Mendez's and/or the baby's signs and symptoms of hypoxia or asphyxia;
- (n) Failing to follow fetal/uterine monitoring procedures;
- (o) Failing to consider all options for this delivery;
- (p) Failing to effect a rapid delivery to avoid neonatal and/or maternal morbidity;
- (q) Failing to timely consider any options for delivery;
- (r) Failing to improve fetal oxygenation;
- (s) Failing to recommend a non-emergency cesarean section to Mendez;
- (t) Failing to require and perform a non-emergency cesarean section;
- (u) Failing to timely perform an emergency cesarean section;
- (v) Ordering or acquiescing in the use of spinal anesthesia where the need for an emergency c-section required a faster form of anesthesia;
- (w) Failing to use general anesthesia, local anesthesia to the abdomen, other faster-acting anesthesia, or no anesthesia where there was a need to perform the c-section immediately;
- (x) Failing to use general anesthesia, local anesthesia to the abdomen, other faster-acting anesthesia, or no anesthesia where there was a need to complete the c-section immediately;
- (y) Ordering, using, or acquiescing in the use of a Pfannenstiel incision;
- (z) Ordering, using, or acquiescing in the use of a Pfannenstiel incision where a midline incision, a classical c-section, or a DeLee-Beck c-section was required;
- (aa) Failing to promptly perform the abdominal and uterine incisions;
- (bb) Failing to follow appropriate shoulder dystocia, umbilical cord prolapse, and abruptio placenta treatment procedures and protocols and thus failing to render proper treatment of the same;
- (cc) Failing to follow umbilical cord prolapse procedures;
- (dd) Failing to follow abruptio placenta procedures;
- (ee) Failing to properly relieve the umbilical cord compression;
- (ff) Failing to properly administer amnioinfusion;
- (gg) Failing to recognize eclampsia and to treat the same appropriately;
- (hh) Failing to recognize pre-eclampsia;



- (ii) Leaving Mendez in labor too long so as to avoid any complications and/or problems or otherwise compromising the health, safety, welfare and/or life of the mother or the baby;
- (jj) Failing to follow the recommendations, and/or protocols of the American College of Obstetrician and Gynecologists for labor fetal distress a/k/a non reassuring fetal status, and delivery;
- (kk) Failing to recognize uteroplacental insufficiency;
- (ll) Failing to recognize signs and symptoms suggesting cord compression;
- (mm) Failing to take a fetal scalp PH;
- (nn) Failing to utilize a fetal acoustic stimulator or a fetal scalp stimulator;
- (oo) Failing to take in utero resuscitative measures;
- (pp) Practicing outside his area or limits of expertise and/or competence;
- (qq) Failing to properly train the residents and interns who participated in the care of Mendez and the decedent, and the physicians assistants, nurses, and nursing assistants who participated in their care;
- (rr) Failing to keep appropriate, accurate and/or any records pertaining to Mendez and/or the Decedent;
- (ss) Failing to produce and/or destroying some or all of the medical chart pertaining to Mendez, the Decedent and any subsequent medical treatment, care and/or analysis;
- (tt) Intentionally or recklessly disregarding the obvious signs and symptoms of nonreassuring fetal status, this allowing Mendez and the decedent to suffer for a prolonged period, and taking the risk of harm to Mendez and her baby's health, welfare, safety and/or life allowing the baby to die;
- (uu) Failing to follow the chain of command;
- (vv) Failing to render appropriate medical care to Mendez and the decedent;
- (ww) Failing to recognize the contraindications for the administration of medications given and thus prolonging labor and delivery and causing a substantial risk of harm to Mendez and her baby;
- (xx) Failing to examine and/or properly examine Mendez;
- (yy) Failing to improve fetal oxygenation through any number of techniques, procedures and/or devices;
- (zz) Failing to administer appropriate and timely medications to treat Mendez and the Decedent during the course of labor and delivery;
- (aaa) Failing to make a decision which mandated operative delivery and/or as to how urgently the same should have been performed;
- (bbb) Failing to call for further medical associates when needed whether from the same specialty or others, another department, another attending, the CMO and/or any other appropriate medical personnel, staff, contractors and/or otherwise;
- (ccc) Failing to consider and/or order, perform an episiotomy;
- (ddd) Failing to assure appropriate medical orders and/or instructions to those in whose care the defendant left Mendez and the decedent;
- (eee) Failing to perform any maneuvers for shoulder dystocia and to aid in the safe delivery of the baby;
- (fff) Failing to be trained in proper labor and delivery procedures;

- (ggg) Failing to consider any and all maneuvers possible to alleviate any labor or delivery problems;
- (hhh) Failing to know how to monitor, manage and/or properly monitor and/or manage Mendez's care; labor and the delivery of her baby;
- (iii) Causing the preventable death of the Decedent and loss of Plaintiffs' child;
- (jjj) Failing to know how to monitor, manage and/or properly monitor and/or manage the Decedent's care and delivery;
- (kkk) Failing to follow hospital protocols, rules, regulations, procedures, policies and requirements;
- (lll) Failing to treat in accordance with the standards of acceptable medical care, prudence and practice;
- (mmm) Failing to keep accurate and complete proper medical records;
- (nnn) Maintaining improper and/or incomplete medical records;
- (ooo) Changing and/or falsifying medical records;
- (ppp) Failing to properly manage the baby's airway;
- (qqq) Failing to perform a proper physical examination of the plaintiff and/or the infant;
- (rrr) Failing to obtain informed consent of the plaintiffs;
- (sss) Failing to properly manage the patient's physiological conditions;
- (ttt) Failing to completely, accurately and timely document all pertinent information on the patient's medical record;
- (uuu) Failing to transfer the responsibility for the care of Mendez and/or the Decedent to other qualified providers in a manner which would have assured, quality, continuity of care and patient safety;
- (vvv) Failing to monitor and/or properly monitor Mendez and the Decedent;
- (www) Failing to take precautions to minimize the risk of injuries and/or death to the baby and/or the mother.
- (xxx) Failing to respect and maintain the basic rights of the patient, the plaintiff;
- (yyy) Failing to incorporate any hospital and/or medical standards into defendants' practice;
- (zzz) Reckless conduct causing emotional distress which renders the defendant liable as if he had acted intentionally;
- (aaaa) Committing numerous and/or current deviations from the standards of care which substantially increased the risk of the baby's death;
- (bbbb) Committing numerous and recurring deviations from the standards of care resulting in delayed labor, pain and suffering to the mother;
- (cccc) Committing numerous and recurring deviations from the standards of care which were substantial cause of Decedent's death;
- (dddd) Falling below the acceptable standards of care from an obstetrical standpoint and failing to take action to see that the Decedent was timely delivered and/or that a c-section was performed;
- (eeee) Failing to act in a timely manner so that Mendez would have had a successful delivery and the Decedent would be alive today and causing Mendez to suffer a prolonged labor and with unnecessary complications of pregnancy to incur the loss of her child;

- (ffff) Negligently and/or intentionally ignoring the signs and symptoms presented by Mendez and the in utero baby and failing to take all steps necessary to deliver the Decedent alive;
- (gggg) Failing to deliver the Decedent before its condition was life threatening;
- (hhhh) Relinquishing control and care of the plaintiffs as "captain of the ship" to an unqualified resident/doctor and/or the nurses;
- (iiii) Failing in their responsibility to promptly act in face of major risk factors during the course of delivery while the mother was under the obstetrical care of the defendants;
- (jjjj) Acting in such a manner as to subsequently increase the risk of complications, injury, and of death to Mendez and/or Decedent;
- (kkkk) Having actual and/or constructive notice of the problems during Mendez's care and that of her unborn child which establishes corporate negligence;
- (llll) Knowing and/or failing to recognize the mistake and or deficiencies;
- (mmmm) Failing to employ, recognize available methods of treatment;
- (nnnn) Failing to monitor the fetal heart rate tracing strips;
- (oooo) Failing to properly read and/or interpret the fetal heart rate tracing strips;
- (pppp) Failing to appreciate the signs and symptoms of fetal distress and the possible consequences of the same;
- (qqqq) Failing to promptly act when noting fetal decelerations by placing an electronic fetal monitor on the baby and yet failing to recognize the sign and symptoms that the fetus was at risk for neurological injuries, other consequences and/or death;
- (rrrr) Failing to take timely and appropriate intervention before the underlying conditions, signs and symptoms of the baby caused irreversible damage and/or death;
- (ssss) Failing to be properly trained interpreting FHR monitoring strips and the results;
- (tttt) Failing to timely intervene before the fetal death occurred;
- (uuuu) Failing to administer oxygen to the Decedent;
- (vvvv) Failing to prevent asphyxia and the baby's death.
- (wwww) Failing to notify the attending physician and/or other qualified senior physicians of the signs and symptoms of the decedent's fetal distress.
- (xxxx) Failing to notify the attending physician and/or other qualified senior physicians of signs and symptoms of decedent's fetal distress in a timely manner.
- (yyyy) Failing to notify the attending physician of the signs and symptoms of fetal distress.
- (zzzz) Failing to notify the attending physician of the signs and symptoms of fetal distress in a timely manner.
- (aaaa) Failure to appropriately consult with other medical personnel and/or providers caring for the plaintiff;
- (bbbb) Failing to know the signs and symptoms of a baby in fetal distress.
- (cccc) Failing to know the signs and symptoms of hypoxia or asphyxia.
- (dddd) Failing to know how to properly read and/or interpret fetal heart rate tracing strips;

- (eeee) Failing to know the signs and symptoms of hypoxia or asphyxia.
- (ffff) Destroying medical records;
- (ggggg) Failing to render appropriate medical care and treatment to Mendez and the Decedent;
- (hhhhh) Failing to prevent the baby's death;
- (iiii) The actions and inactions of Defendant, Dr. Chang, resulted in the death of the Decedent, his failure to be delivered timely and health, and the loss of their son to Plaintiffs, Mendez and Galarza;
- (jjjj) Dr. Ave's delays in performing the emergency cesarean section demonstrated a reckless indifference to the health and safety of Plaintiff, Mendez, and the health, safety and survival of the Decedent

92. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. Aves, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

93. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Aves, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

94. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

95. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Aves, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer

great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

96. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

97. As a result of the aforesaid actions and/or inactions of Defendant, Dr. Aves, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

98. The aforesaid wrongful acts and omissions of Defendant, Dr. Aves, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT III  
MEDICAL MALPRACTICE  
MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased, and MARY O. MENDEZ, in her own right; V.  
DEFENDANT, DR. CRAWFORD**

99. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

100. At all relevant and material times hereto, Defendant, Dr. Crawford, disregarded his duty to provide Mendez and her in utero son (hereinafter the "Decedent") with proper medical care in his capacity as a treating and/or attending physician during the course of

Mendez's labor, delivery and thereafter from July 20 through 21, 2010, while Mendez was a patient at Defendant, Cooper University Hospital and/or Defendant UMDNJ.

103. During the aforementioned hospitalization of Mendez and her baby, the medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, omissions and failures to comply with the applicable standards of medical care and conduct evidencing defendant's reckless indifference to the rights of Mendez and the Decedent, of Defendant, Dr. Crawford, his offices, officers, doctors, nurses, agents, servants, workmen and/or employees, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by treating and/or attending physicians;  
Failing to conform to all applicable standards of medical care under the circumstances;  
Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save her life;
- (b) Failing to properly and adequately recognize and treat Mendez's deteriorating conditions during labor in the face of obvious signs and symptoms;
- (c) Failing to properly and adequately recognize and treat the decedent's deteriorating conditions in the face of obvious signs and symptoms;
- (d) Failing to perform necessary medical testing;
- (e) Failing to perform his duties as a treating and/or attending physician by intentionally and knowingly failing to attend to Mendez and the decedent and leaving their care to an unqualified resident;
- (f) Failing to recognize and properly treat the decedent's non-reassuring fetal status;
- (g) Failing to recognize the signs and symptoms indicative of a baby in fetal distress;
- (h) Failing to appreciate the signs and symptoms of a baby in fetal distress and the possible consequences of the same;
- (i) Failing to employ available appropriate methods of treatment for a baby in fetal distress;
- (j) Failing to monitor, interpret, properly interpret, read, properly read and/or otherwise understand the fetal heart rate tracing strips;
- (k) Failing to observe and/or know Mendez's and/or the baby's signs and symptoms of hypoxia or asphyxia;
- (l) Failing to follow fetal/uterine monitoring procedures;

- (m) Failing to consider all options for this delivery;
- (n) Failing to effect a rapid delivery to avoid neonatal and/or maternal morbidity;
- (o) Failing to timely consider any options for delivery;
- (p) Failing to improve fetal oxygenation;
- (q) Failing to recommend a non-emergency cesarean section to Mendez;
- (r) Failing to require and perform a non-emergency cesarean section;
- (s) Failing to timely perform an emergency cesarean section;
- (t) Ordering or acquiescing in the use of spinal anesthesia where the need for an emergency c-section required a faster form of anesthesia;
- (u) Failing to use general anesthesia, local anesthesia to the abdomen, other faster-acting anesthesia, or no anesthesia where there was an need to perform the c-section immediately;
- (v) Failing to use general anesthesia, local anesthesia to the abdomen, other faster-acting anesthesia, or no anesthesia where there was an need to complete the c-section immediately;
- (w) Ordering, using, or acquiescing in the use of a Pfannenstiel incision;
- (x) Ordering, using, or acquiescing in the use of a Pfannenstiel incision where a midline incision, a classical c-section, or a DeLee-Beck c-section was required;
- (y) Failing to promptly perform the abdominal and uterine incisions;
- (z) Failing to follow appropriate shoulder dystocia, umbilical cord prolapse, and abruptio placenta treatment procedures and protocols and thus failing to render proper treatment of the same;
- (aa) Failing to follow umbilical cord prolapse procedures;
- (bb) Failing to follow abruptio placenta procedures;
- (cc) Failing to properly relieve the umbilical cord compression;
- (dd) Failing to properly administer amnioinfusion;
- (ee) Failing to recognize eclampsia and to treat the same appropriately;
- (ff) Failing to recognize pre-eclampsia;
- (gg) Leaving Mendez in labor too long so as to avoid any complications and/or problems or otherwise compromising the health, safety, welfare and/or life of the mother or the baby;
- (hh) Failing to follow the recommendations, and/or protocols of the American College of Obstetrician and Gynecologists for labor fetal distress a/k/a non reassuring fetal status, and delivery;
- (ii) Failing to recognize uteroplacental insufficiency;
- (jj) Failing to recognize signs and symptoms suggesting cord compression;
- (kk) Failing to take a fetal scalp PH;
- (ll) Failing to utilize a fetal acoustic stimulator or a fetal scalp stimulator;
- (mm) Failing to take in utero resuscitative measures;
- (nn) Practicing outside his area or limits of expertise and/or competence;
- (oo) Failing to properly train the residents and interns who participated in the care of Mendez and the decedent, and the physicians assistants, nurses, and nursing assistants who participated in their care;

- (pp) Failing to keep appropriate, accurate and/or any records pertaining to Mendez and/or the Decedent;
- (qq) Failing to produce and/or destroying some or all of the medical chart pertaining to Mendez, the Decedent and any subsequent medical treatment, care and/or analysis;
- (rr) Intentionally or recklessly disregarding the obvious signs and symptoms of nonreassuring fetal status, this allowing Mendez and the decedent to suffer for a prolonged period, and taking the risk of harm to Mendez and her baby's health, welfare, safety and/or life allowing the baby to die;
- (ss) Failing to follow the chain of command;
- (tt) Failing to render appropriate medical care to Mendez and the decedent;
- (uu) Failing to recognize the contraindications for the administration of medications given and thus prolonging labor and delivery and causing a substantial risk of harm to Mendez and her baby;
- (vv) Failing to examine and/or properly examine Mendez;
- (ww) Failing to improve fetal oxygenation through any number of techniques, procedures and/or deceives;
- (xx) Failing to administer appropriate and timely medications to treat Mendez and the Decedent during the course of labor and delivery;
- (yy) Failing to make a decision which mandated operative delivery and/or as to how urgently the same should have been performed;
- (zz) Failing to call for further medical associates when needed whether from the same specialty or others, another department, another attending, the CMO and/or any other appropriate medical personnel, staff, contractors and/or otherwise;
- (aaa) Failing to consider and/or order, perform an episiotomy;
- (bbb) Failing to assure appropriate medical orders and/or instructions to those in whose care the defendant left Mendez and the decedent;
- (ccc) Failing to perform any maneuvers for shoulder dystocia and to aid in the safe delivery of the baby;
- (ddd) Failing to be trained in proper labor and delivery procedures;
- (eee) Failing to consider any and all maneuvers possible to alleviate any labor or delivery problems;
- (fff) Failing to know how to manage and/or properly manage Mendez's care; labor and the delivery of her baby;
- (ggg) Causing the preventable death of the Decedent and loss of Plaintiffs' child;
- (hhh) Failing to know how to monitor, manage and/or properly monitor and/or manage the Decedent's care and delivery;
- (iii) Failing to follow hospital protocols, rules, regulations, procedures, policies and requirements;
- (jjj) Failing to treat in accordance with the standards of acceptable medical care, prudence and practice;
- (kkk) Failing to keep accurate and complete proper medical records;
- (lll) Maintaining improper and/or incomplete medical records;
- (mmm) Changing and/or falsifying medical records;



- (nnn) Failing to properly manage the baby's airway;
- (ooo) Failing to perform a proper physical examination of the plaintiff and/or the infant;
- (ppp) Failing to obtain informed consent of the plaintiffs;
- (qqq) Failing to properly manage the patient's physiological conditions;
- (rrr) Failing to completely, accurately and timely document all pertinent information on the patient's medical record;
- (sss) Failing to transfer the responsibility for the care of Mendez and/or the Decedent to other qualified providers in a manner which would have assured, quality, continuity of care and patient safety;
- (ttt) Failing to monitor and/or properly monitor Mendez and the Decedent;
- (uuu) Failing to take precautions to minimize the risk of injuries and/or death to the baby and/or the mother;
- (vvv) Failing to respect and maintain the basic rights of the patient, the plaintiff;
- (www) Failing to incorporate any hospital and/or medical standards into defendants' practice;
- (xxx) Reckless conduct causing emotional distress which renders the defendant liable as if he had acted intentionally;
- (yyy) Committing numerous and/or current deviations from the standards of care which substantially increased the risk of the baby's death;
- (zzz) Committing numerous and recurring deviations from the standards of care resulting in delayed labor, pain and suffering to the mother;
- (aaaa) Committing numerous and recurring deviations from the standards of care which were substantial cause of Decedent's death;
- (bbbb) Falling below the acceptable standards of care from an obstetrical standpoint and failing to take action to see that the Decedent was timely delivered and/or that a c-section was performed;
- (cccc) Failing to act in a timely manner so that Mendez would have had a successful delivery and the Decedent would be alive today and causing Mendez to suffer a prolonged labor and with unnecessary complications of pregnancy to incur the loss of her child;
- (dddd) Negligently and/or intentionally ignoring the signs and symptoms presented by Mendez and the in utero baby and failing to take all steps necessary to deliver the Decedent alive;
- (eeee) Failing to deliver the Decedent before its condition was life threatening;
- (ffff) Relinquishing control and care of the plaintiffs as "captain of the ship" to an unqualified resident/doctor and/or the nurses;
- (gggg) Failing in their responsibility to promptly act in face of major risk factors during the course of delivery while the mother was under the obstetrical care of the defendants;
- (hhhh) Acting in such a manner as to subsequently increase the risk of complications, injury, and of death to Mendez and/or Decedent;
- (iiii) Having actual and/or constructive notice of the problems during Mendez's care and that of her unborn child which establishes corporate negligence;
- (jjjj) Knowing and/or failing to recognize the mistake and or deficiencies;
- (kkkk) Failing to employ, recognize available methods of treatment;

- (llll) Failing to monitor the fetal heart rate tracing strips;
- (mmmm) Failing to properly read and/or interpret the fetal heart rate tracing strips;
- (nnnn) Failing to appreciate the signs and symptoms of fetal distress and the possible consequences of the same;
- (oooo) Failing to promptly act when noting fetal decelerations by placing an electronic fetal monitor on the baby and yet failing to recognize the sign and symptoms that the fetus was at risk for neurological injuries, other consequences and/or death;
- (pppp) Failing to take timely and appropriate intervention before the underlying conditions, signs and symptoms of the baby caused irreversible damage and/or death;
- (qqqq) Failing to be properly trained interpreting FHR monitoring strips and the results;
- (rrrr) Failing to timely intervene before the fetal death occurred;
- (ssss) Failing to administer oxygen to the Decedent;
- (tttt) Failing to prevent asphyxia and the baby's death.
- (uuuu) Failing to notify the attending physician and/or other qualified senior physicians of the signs and symptoms of the decedent's fetal distress.
- (vvvv) Failing to notify the attending physician and/or other qualified senior physicians of signs and symptoms of decedent's fetal distress in a timely manner.
- (wwww) Failing to notify the attending physician of the signs and symptoms of fetal distress.
- (xxxx) Failing to notify the attending physician of the signs and symptoms of fetal distress in a timely manner.
- (yyyy) Failure to appropriately consult with other medical personnel and/or providers caring for the plaintiff;
- (zzzz) Failing to know the signs and symptoms of a baby in fetal distress.
- (aaaa) Failing to know the signs and symptoms of hypoxia or asphyxia.
- (bbbb) Failing to know how to properly read and/or interpret fetal heart rate tracing strips;
- (cccc) Failing to know the signs and symptoms of hypoxia or asphyxia.
- (dddd) Destroying medical records;
- (eeee) Failing to render appropriate medical care and treatment to Mendez and the Decedent;
- (ffff) Failing to prevent the baby's death;
- (ggggg) The actions and inactions of Defendant, Dr. Chang, resulted in the death of the Decedent, his failure to be delivered timely and health, and the loss of their son to Plaintiffs, Mendez and Galarza;
- (hhhhh) Dr. Crawford's delays in performing the emergency cesarean section demonstrated a reckless indifference to the health and safety of Plaintiff, Mendez, and the health, safety and survival of the Decedent

104. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. Crawford, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

105. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Crawford, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

106. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

107. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Crawford, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

108. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

109. As a result of the aforesaid actions and/or inactions of Defendant, Dr. Crawford, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

110. The aforesaid wrongful acts and omissions of Defendant, Dr. Crawford, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT IV  
MEDICAL MALPRACTICE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased and MARY O. MENDEZ, in her own right V.  
DEFENDANT, NEIL KAPLITZ, M.D.**

111. Plaintiffs incorporate herein by reference all prior paragraphs the same as if set forth herein at length.

112. At all relevant and material times hereto, Defendant, Dr. Kaplitz, disregarded his duty to provide Mendez and her in utero son with proper medical care in his capacity as an ob/gyn specialist during the course of Mendez's prenatal care.

113. During the aforementioned prenatal care of Mendez and her baby, the medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, and conduct evidencing defendant's reckless indifference to the rights of Mendez and Decedent on the part of Defendant, Dr. Kaplitz, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician;
- (b) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician;

- (c) Failing to conform to all applicable standards of medical care under the circumstances;
- (d) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (e) Failing to recommend and/or require a non-emergency cesarean section;
- (f) Destroying medical records.

114. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. Kaplitz, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

115. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Kaplitz, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

116. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

117. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Kaplitz, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

118. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

119. As a result of the aforesaid actions and/or inactions of Defendant, Dr. Kaplitz, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

120. The aforesaid wrongful acts and omissions of Defendant, Dr. Kaplitz, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual case of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT V**  
**MEDICAL MALPRACTICE**  
**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,**  
**Deceased and MARY O. MENDEZ, in her own right V.**  
**DEFENDANT, ERIC K. YAHAV, M.D.**

121. Plaintiffs incorporate herein by reference all prior paragraphs the same as if set forth herein at length.

122. At all relevant and material times hereto, Defendant, Dr. Yahav, disregarded his duty to provide Mendez and her in utero son with proper medical care in his capacity as an ob/gyn specialist during the course of Mendez's prenatal care.

123. During the aforementioned prenatal care of Mendez and her baby, the medical/professional malpractice, negligence, carelessness, recklessness, willful and

wanton conduct, and conduct evidencing defendant's reckless indifference to the rights of

Mendez and Decedent on the part of Defendant, Dr. Yahav, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician;
- (b) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician;
- (c) Failing to conform to all applicable standards of medical care under the circumstances;
- (d) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (e) Failing to recommend and/or require a non-emergency cesarean section;
- (f) Destroying medical records.

124. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. Yahav, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

125. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Yahav, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

126. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

127. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Yahav, the Decedent sustained severe physical injuries and all of which

rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

128. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

129. As a result of the aforesaid actions and/or inactions of Defendant, Dr. Yahav, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

130. The aforesaid wrongful acts and omissions of Defendant, Dr. Yahav, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT VI**

**MEDICAL MALPRACTICE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased and MARY O. MENDEZ, in her own right V.  
DEFENDANT, MERCY AMUAQUARSHIE, M.D.**

131. Plaintiffs incorporate herein by reference all prior paragraphs the same as if set forth herein at length.



132. At all relevant and material times hereto, Defendant, Dr. AmuaQuarshie, disregarded her duty to provide Mendez and her in utero son with proper medical care in her capacity as an ob/gyn specialist during the course of Mendez's prenatal care.

133. During the aforementioned prenatal care of Mendez and her baby, the medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, and conduct evidencing defendant's reckless indifference to the rights of Mendez and Decedent on the part of Defendant, Dr. AmuaQuarshie, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician;
- (b) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by an ob/gyn physician;
- (c) Failing to conform to all applicable standards of medical care under the circumstances;
- (d) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (e) Failing to recommend and/or require a non-emergency cesarean section;
- (f) Destroying medical records.

134. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. AmuaQuarshie, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

135. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. AmuaQuarshi, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and

vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

136. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

137. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. AmuaQuarshie, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

138. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

139. As a result of the aforesaid actions and/or inactions of Defendant, Dr. AmuaQuarshie, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

140. The aforesaid wrongful acts and omissions of Defendant, Dr. AmuaQuarshie, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT VII  
NURSING MALPRACTICE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadel Mendez,  
Deceased and MARY O. MENDEZ, in her own right V.  
DEFENDANT, ANTOINETTE FALCONI McCahill, RNNP**

141. Plaintiffs incorporate herein by reference all prior paragraphs the same as if set forth herein at length.

142. At all relevant and material times hereto, Defendant, McCahill, RNNP, disregarded her duty to provide Mendez and her in utero son with proper prenatal care in her capacity as a nurse practitioner providing ob/gyn care during the course of Mendez's prenatal care.

143. During the aforementioned prenatal care of Mendez and her baby, the nursing/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, and conduct evidencing defendant's reckless indifference to the rights of Mendez and Decedent on the part of Defendant, McCahill, RNNP, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by a nurse practitioner;
- (b) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by a nurse practitioner;
- (c) Failing to conform to all applicable standards of medical care under the circumstances;
- (d) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (e) Failing to recommend and/or require a non-emergency cesarean section;
- (f) Destroying medical records.

144. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, McCahill, RNNP, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and

flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

145. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, McCahill, RNNP, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

146. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

147. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, McCahill, RNNP, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

148. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

149. As a result of the aforesaid actions and/or inactions of Defendant, McCahill, RNNP, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning

capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

150. The aforesaid wrongful acts and omissions of Defendant, McCahill, RNNP, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT VIII  
MEDICAL MALPRACTICE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased; and MARY O. MENDEZ, in her own right V.  
DEFENDANT, DIHREN SONI, D.O.**

151. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

152. At all relevant and material times hereto, Defendants, Dr. Soni, disregarded his duty to provide Mendez and her in utero son with proper medical care in his capacity as an anesthesiologist during the course of Mendez's emergency cesarean section on July 21, 2012.

153. During the aforementioned operation, the medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, and conduct evidencing defendant's reckless indifference to the rights of Mendez and the Decedent of Defendant, Dr. Soni, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by ob/gyn physicians;
- (b) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by ob/gyn physicians;
- (c) Failing to conform to all applicable standards of medical care under the circumstances;

- (d) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (e) Ordering and/or administering spinal anesthesia where the emergent circumstances required a faster form of anesthesia such as general anesthesia and/or local anesthesia of the abdomen;
- (f) Administering spinal anesthesia at the wrong spinal level;
- (g) Failing to administer anesthesia in a timely manner;
- (h) Administering inadequate dose(s) of anesthesia;
- (i) Otherwise improperly administering anesthesia;
- (j) Failing to order or administer a faster form of anesthesia such as general anesthesia and/or local anesthesia of the abdomen when the circumstances requiring a cesarean section became increasingly emergent;
- (k) Failing to obtain the informed consent for the planned anesthetic intervention from the patient;
- (l) Destroying medical records.

154. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. Soni, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

155. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Soni, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

156. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

157. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. Soni, the Decedent sustained severe physical injuries and all of which

rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

158. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

159. As a result of the aforesaid actions and/or inactions of Defendant, Dr. Soni, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

160. The aforesaid wrongful acts and omissions of Defendant, Dr. Soni, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT IX  
MEDICAL MALPRACTICE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased; and MARY O. MENDEZ, in her own right V.  
DEFENDANT, DR. JOHN/JANE DOE, ANESTHESIOLOGIST**

161. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

162. At all relevant and material times hereto, Defendant, Dr. John/Jane Doe, Anesthesiologist, disregarded his duty to provide Mendez and her in utero son with

proper medical care in his capacity as an anesthesiologist during the course of Mendez's emergency cesarean section on July 21, 2012.

163. During the aforementioned operation, the medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, and conduct evidencing defendant's reckless indifference to the rights of Mendez and the Decedent of Defendant, Dr. John/Jane Doe, Anesthesiologist, consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by ob/gyn physicians;
- (b) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by ob/gyn physicians;
- (c) Failing to conform to all applicable standards of medical care under the circumstances;
- (d) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (e) Ordering and/or administering spinal anesthesia where the emergent circumstances required a faster form of anesthesia such as general anesthesia and/or local anesthesia of the abdomen;
- (f) Administering spinal anesthesia at the wrong spinal level;
- (g) Failing to administer anesthesia in a timely manner;
- (h) Administering inadequate dose(s) of anesthesia;
- (i) Otherwise improperly administering anesthesia;
- (j) Failing to order or administer a faster form of anesthesia such as general anesthesia and/or local anesthesia of the abdomen when the circumstances requiring a cesarean section became increasingly emergent;
- (k) Failing to obtain the informed consent for the planned anesthetic intervention from the patient;
- (l) Destroying medical records.

164. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant, Dr. John/Jane Doe, Anesthesiologist, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.



165. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. John/Jane Doe, Anesthesiologist, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

166. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

167. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant, Dr. John/Jane Doe, Anesthesiologist, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

168. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

169. As a result of the aforesaid actions and/or inactions of Defendant, Dr. John/Jane Doe, Anesthesiologist, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

170. The aforesaid wrongful acts and omissions of Defendant, Dr. John/Jane Doe, Anesthesiologist, increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT X**

**NURSING/PROFESSIONAL MALPRACTICE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez, Deceased, and MARY O. MENDEZ, in her own right; V.**

**DEFENDANTS, MS./MR. MURPHY, R.N.; MS./MR. KELLY, R.N.; JOANNE KEALLY, R.N.; MS./MR. PROFICO, R.N.; MS./MR. CHAVOUS-GIBSON, R.N.; MS./MR. NECE, R.N.; MS./MR. WARD, R.N.; MS./MR. ALICE, R.N.; MS./MR. HOLMES A/K/A MS./MR. HELMES, R.N.; KELLYANN CARTER, R.N.; AND JOHN/JANE DOES, R.N. NOS. 1-10**

171. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

172. At all relevant and material times hereto, Defendants, Ms./Mr. Murphy, R.N., Ms./Mr. Kelley, R.N., Joanne Keally, R.N., Ms./Mr. Profico, R.N., Ms./Mr. Chavous-Gibson, R.N., Ms./Mr. Nece, R.N., Ms./Mr. Ward, R.N., Ms./Mr. Alice, R.N., Ms./Mr. Holmes a/k/a Ms./Mr. Helmes, R.N., Kellyann Carter, R.N., and John/Jane Doe, R.N., Nos. 1-10 (hereinafter the "Obstetrical Nurses") disregarded their duty to provide Mendez and her in utero son, the Decedent, with proper nursing care during the course of Mendez's labor, delivery and thereafter from July 20 through July 21, 2010, while Mendez was at Defendantz, Cooper University Hospital and/or UMDNJ.

173. During the aforementioned hospitalization of Mendez and her baby, the nursing/professional malpractice, negligence, carelessness, recklessness, willful and

wanton conduct, and conduct evidencing defendants' reckless indifference to the rights of Mendez and the Decedent of the Defendant Obstetrical Nurses consisted of the following:

- (a) Failing to possess and exercise the degree of nursing knowledge, care and skill ordinarily exercised in similar cases by nursing supervisors and nurses;
- (b) Failing to conform to the applicable standards of nursing and medical care under the circumstances;
- (c) Failing to exercise reasonable care in collecting and reporting information to assist the Physicians in the diagnosis of Decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save her life;
- (d) Failing to properly and adequately recognize, report to the Physicians and provide nursing care for Mendez's deteriorating conditions during labor in the face of obvious signs and symptoms;
- (e) Failing to properly and adequately recognize, report to the Physicians and provide nursing care for Decedent's deteriorating conditions in the face of obvious signs and symptoms;
- (f) Failing to report timely or at all to the Physicians the Decedent's non-reassuring heart rates;
- (g) Failing to continuously, or even repeatedly, monitor the Decedent's heart rate in the operating room;
- (h) Failing to perform necessary testing;
- (i) Failing to perform her nursing duties by intentionally and knowingly failing to attend to Mendez and Decedent;
- (j) Failing to recognize the signs and symptoms of Decedent's non-reassuring fetal status and properly report and treat same to her supervisor;
- (k) Failing to recognize the sign and symptoms indicative of a baby in fetal distress;
- (l) Failing to appreciate the signs and symptoms of a baby in fetal distress and the possible consequences of the same;
- (m) Failing to employ available appropriate methods of nursing care for a baby in fetal distress;
- (n) Failing to monitor, interpret, properly interpret, read, properly read and/or otherwise understand the fetal heart rate tracing strips;
- (o) Failing to observe and/or know Mendez's and/or the baby signs and symptoms of hypoxia or asphyxia;
- (p) Failing to follow fetal/uterine monitoring procedures;
- (q) Failing to consider and call to the Physicians' attention all options for delivery and the timeliness of the same;
- (r) Failing to assist in effecting a rapid delivery to avoid neonatal and/or maternal morbidity;

- (s) Failing to timely consider and call to the attention of the resident, the attending physician, and/or any other qualified senior physicians and options for delivery;
- (t) Failing to timely consider and call to the attention of the resident, the attending physician, and/or any other qualified senior physicians the need for a timely delivery of the baby;
- (u) Failing to improve fetal oxygenation;
- (v) Failing to timely consider and call to the attention of the resident, the attending physician, and/or any other qualified senior physicians the need for an emergency cesarean section;
- (w) Failing to follow and/or be knowledgeable about appropriate shoulder dystocia, umbilical cord prolapsed, abruption placenta treatment procedures and umbilical cord compression procedures and protocols and thus failing to render proper treatment of the same;
- (x) Failing to properly administer amnioinfusion;
- (y) Failing to recognize eclampsia and to provide appropriate nursing care for the same;
- (z) Participating in leaving Mendez in labor too long, creating complications and/or problems or otherwise compromising the health, safety, welfare and/or life of the mother of her baby, the Decedent ;
- (aa) Failing to take a fetal scalp PH;
- (bb) Failing to utilize a fetal acoustic stimulator or a fetal scalp stimulator;
- (cc) Failing to take and/or know in utero resuscitative measures;
- (dd) Practicing outside her areas or limits of nursing competence;
- (ee) Failing to properly train the other nurses and the nursing assistants who participated in the care of mother or her baby, the Decedent;
- (ff) Failing to keep appropriate, accurate and/or any records pertaining to Mendez and/or the Decedent;
- (gg) Failing to produce and/or destroying portions of the medical chart pertaining to Mendez and her baby, the Decedent, and to any subsequent medical treatment, care and/or analysis;
- (hh) Intentionally or recklessly disregarding the obvious signs and symptoms of non-reassuring fetal status and prolonged labor, this intentionally or recklessly permitting Mendez and the decedent to suffer for a prolonged period and risking highly probable substantial harm to Mendez and to her baby's health, welfare, safety and/or life;
- (ii) Failing to follow the chain of command and utilize the chain of command protocol;
- (jj) Failing to render appropriate nursing care to Mendez and Decedent;
- (kk) Failing to recognize the contraindications for the administration of medications given and thus prolonging labor and delivery and

- causing and increasing the substantial risk of substantial harm and/or death to Mendez and her baby;
- (ll) Failing to examine and/or properly examine Mendez and/or baby;
  - (mm) Failing to improve fetal oxygenation through any of appropriate and available techniques, procedures and/or devices;
  - (nn) Failing to administer appropriate and timely medications to Mendez for the benefit of Mendez and her baby, the Decedent, during the course of labor and delivery;
  - (oo) Failing to make a decision which mandated operative delivery and/or as to how urgently the same should have been performed;
  - (pp) Failing to call for further medical or nursing personnel when needed, whether from the same specialty or others, another department, an attending, the CMO and/or any other appropriate medical personnel, staff, contractors and/or otherwise;
  - (qq) Failing to consider and/or order or perform an episiotomy;
  - (rr) Failing to deliver to the Physicians the appropriate medical orders and/or instructions to those in whose care the Defendant left Mendez and the decedent;
  - (ss) Failing to perform any maneuvers for shoulder dystocia and to aid in the safe delivery of the baby;
  - (tt) Failing to be trained in proper labor and delivery procedures;
  - (uu) Failing to consider any and all maneuvers possible to alleviate any labor or delivery problems;
  - (vv) Failing to know how to assist in Mendez's care, her labor and the delivery of her baby;
  - (ww) Causing the preventable death of the Decedent and loss of Plaintiffs' child;
  - (xx) Failing to know, understand, and/or be educated in how to assist in managing and/or properly managing the Decedent's care and delivery;
  - (yy) Failing to follow hospital protocols, rules, regulations, procedures, policies and requirements;
  - (zz) Failing to provide nursing care in accordance with the standards of acceptable nursing care, prudence and practice;
  - (aaa) Failing to keep accurate and complete proper medical records;
  - (bbb) Maintaining improper and/or incomplete medical records;
  - (ccc) Changing and/or falsifying medical records;
  - (ddd) Failing to properly manage the baby's airway;
  - (eee) Failing to perform a proper physical examination of the plaintiff and/or the infant;
  - (fff) Failing to obtain informed consent of plaintiffs;
  - (ggg) Failing to properly help the Nurse Supervisors, Nurses and Physicians manage the patient's physiological conditions;
  - (hhh) Failing to completely, accurately and timely document all pertinent information on the patient's medical record;

- (iii) Failing to transfer the responsibility for the care of Mendez and/or the Decedent to other nurses and medical providers in a manner which would have assured, quality, continuity of care and patient safety;
- (jjj) Failing to monitor and/or properly monitor Mendez and the Decedent;
- (kkk) Failing to take precautions to minimize the risk of injuries and/or death to the baby and/or the mother;
- (lll) Failing to respect and maintain the basic rights of the patient, the plaintiff;
- (mmm) Failing to incorporate any hospital and/or nursing standards into defendants' nursing care of plaintiff and her baby, the Decedent;
- (nnn) Reckless conduct causing emotional distress which renders the defendant liable as if he had acted intentionally;
- (ooo) Committing numerous and/or current deviations from the standards of nursing care which substantially increased the risk of the baby's death;
- (ppp) Committing numerous and recurring deviations from the standards of nursing care resulting in delayed labor, pain and suffering to the mother;
- (qqq) Committing numerous and recurring deviations from the standards of nursing care which were substantial cause of Decedent's death;
- (rrr) Falling below the acceptable standards of care from an obstetrical nursing standpoint and failing during labor and/or delivery including, but not limited to, taking action to see that the Decedent was timely delivered and/or that a c-section was performed;
- (sss) Failing to act in a timely manner so that Mendez would have had a successful delivery and the Decedent would be alive today causing Mendez to suffer a prolonged labor and with unnecessary complications of pregnancy to incur the loss of her child;
- (ttt) Negligently and/or intentionally ignoring the signs and symptoms presented by Mendez and the in utero baby and failing to take all steps necessary to deliver the Decedent alive;
- (uuu) Failing to deliver the Decedent before its condition was life threatening;
- (vvv) Failing in their responsibility to promptly act in the face of major risk factors during the course of delivery while the mother was under the obstetrical care of the defendants;
- (www) Acting in such a manner as to increase the risk of complications, injury, and of death to Mendez and/or Decedent;
- (xxx) Failing to employ, recognize available methods of nursing care;
- (yyy) Failing to monitor the fetal heart rate tracing strips;
- (zzz) Failing to properly read and/or interpret the fetal heart rate tracing strips;
- (aaaa) Failing to appreciate the signs and symptoms of fetal distress and the possible consequences of the same.

- (bbbb) Failing to promptly act when noting fetal decelerations by placing an electronic fetal monitor on the baby and yet failing to recognize the signs and symptoms that the fetus was at risk for neurological injuries, other consequences and/or death;
- (cccc) Failing to take timely and appropriate intervention before the underlying conditions, signs and symptoms of the baby caused irreversible damage and/or death;
- (dddd) Failing to be properly trained interpreting FHR monitoring strips and the results;
- (eeee) Failing to timely intervene before the fetal death occurred;
- (ffff) Failing to administer oxygen to the Decedent;
- (gggg) Failing to prevent asphyxia and the baby's death;
- (hhhh) Failing to notify the nurses, including nurse supervisors, and the Physicians of the signs and symptoms of fetal distress in a timely manner;
- (iiii) Failure to appropriately consult with other medical personnel and/or providers caring for the plaintiff;
- (jjjj) Failing to know the signs and symptoms of hypoxia or asphyxia;
- (kkkk) Failing to know how to properly read and/or interpret fetal heart rate tracing strips;
- (llll) Failing to monitor and/or properly monitor Mendez and her baby, the Decedent and/or properly during labor;
- (mmmm) Failing to be educated in, know and/or follow the chain of command, as well as all Defendants' protocols, procedures, rules, and regulation.
- (nnnn) Destroying medical records.

174. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant Obstetrical Nurses, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

175. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant Obstetrical Nurses, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and

vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

176. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

177. As the direct and proximate result of the aforesaid actions and/or inactions of the Defendant Obstetrical Nurses, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

178. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

179. As a result of the aforesaid actions and/or inactions of the Defendant Obstetrical Nurses, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

180. The aforesaid wrongful acts and omissions of the Defendant Obstetrical Nurses increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.



**COUNT XI**  
**NURSING/PROFESSIONAL MALPRACTICE**  
**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,**  
**Deceased, and MARY O. MENDEZ, in her own right; V.**  
**DEFENDANT, SUZANNE PANAYIOTOU, CRNA**

181. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

182. At all relevant and material times hereto, Defendant, Suzanne Panayiotou, CRNA (hereinafter the "Panayiotou") disregarded her duty to provide Mendez and her in utero son, the Decedent, with proper CRNA nursing care during the course of Mendez's delivery by c-section on July 21, 2010, while Mendez was at Defendantz, Cooper University Hospital and/or UMDNJ.

183. During the aforementioned c-section delivery, the nursing/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, and conduct evidencing defendants' reckless indifference to the rights of Mendez and the Decedent of the Defendant Panayiotou consisted of the following:

- (a) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by a CRNA;
- (b) Failing to possess and exercise the degree of knowledge, care and skill ordinarily exercised in similar cases by CRNAs;
- (c) Failing to conform to all applicable standards of CRNA care under the circumstances;
- (d) Failing to exercise reasonable care in the diagnosis of the decedent's condition for which prompt diagnosis and treatment were critical for effective medical treatment and to save the life of her baby;
- (e) Ordering, recommending, administering or acquiescing in the use of spinal anesthesia where the emergent circumstances required a faster form of anesthesia such as general anesthesia and/or local anesthesia of the uterus;
- (f) Administering spinal anesthesia at the wrong spinal level;
- (g) Failing to administer anesthesia in a timely manner;

- (h) Administering inadequate dose(s) of anesthesia;
- (i) Otherwise improperly administering anesthesia;
- (j) Failing to order, recommend and/or administer a faster form of anesthesia such as general anesthesia and/or local anesthesia of the uterus when the circumstances requiring a cesarean section became increasingly emergent;
- (k) Failing to obtain the informed consent for the planned anesthetic intervention from the patient;
- (l) Destroying medical records;

184. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant Panayiotou, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

185. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant Panayiotou, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

186. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

187. As the direct and proximate result of the aforesaid actions and/or inactions of Defendant Panayiotou, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

188. As a result of the aforesaid actions and/or inactions, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

189. As a result of the aforesaid actions and/or inactions of the Defendant Obstetrical Nurses, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

190. The aforesaid wrongful acts and omissions of Defendant Panayiotou increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual case of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XII**

**NEGLIGENT AND INTENTIONAL MISREPRESENTATIONS**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez, Deceased, and MARY O. MENDEZ, in her own right; V. DEFENDANTS, DR. CHANG; DR. C. AVES; DR. CRAWFORD; DR. SONI; DR. JOHN/JANE DOE, ANESTHESIOLOGIST;; MS./MR. MURPHY, R.N.; MS./MR. KELLY, R.N.; JOANNE KEALLY, R.N.; MS./MR. PROFICO, R.N.; MS./MR. CHAVOUS-GIBSON, R.N.; MS./MR. NECE, R.N.; MS./MR. WARD, R.N.; MS./MR. ALICE, R.N.; MS./MR. HOLMES A/K/A MS./MR. HELMES, R.N.; KELLYANN CARTER, R.N.; JOHN/JANE DOES, R.N. NOS. 1-10; AND SUZANNE PANAYIOTOU, CRNA**

191. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

192. Mendez and Decedent justifiably relied upon all Defendant's negligent or intentional representations and/or misrepresentations, both explicitly stated and implied

by words or silence, concerning numerous matters during the course of Mendez's and Decedent's care, labor, and delivery as follows:

- (a) That Dr. Chang was overseeing the care of Mendez and the Decedent;
- (b) That Dr. Chang was aware of Mendez and the Decedent's condition;
- (c) That Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Soni, and Dr. John/Jane Doe, Anesthesiologist, were practicing within the limits of their expertise and/or competence;
- (d) That Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Soni, and Dr. John/Jane Doe, Anesthesiologist, were trained in, knew and were following the chain of command procedures;
- (e) That the Defendant Obstetrical Nurses were sufficiently knowledgeable, experienced and capable to provide proper obstetrical nursing care to Mendez and the baby (the Decedent);
- (f) That the Defendant Obstetrical Nurses were keeping the Physicians properly informed of Mendez's and the baby's condition;
- (g) That the Defendant Obstetrical Nurses knew the chain of command procedures and were following them;
- (h) That all defendants were properly trained in, knew of, and followed any and all necessary and appropriate protocols, rules, regulations, procedures, policies and requirements were being followed;
- (i) That Mendez and the baby were being properly examined, treated, tested, monitored, cared for and delivered;
- (j) That the Decedent was not in severe fetal distress;
- (k) That the Decedent was not in a non-reassuring fetal status;
- (l) That an emergency C-section was not necessary;
- (m) That an episiotomy was not necessary;
- (n) That the Decedent's fetal heart rate were not a cause for concern or emergent delivery;
- (o) That the Decedent's fetal heart tracing strips were being properly monitored and interpreted;
- (p) That senior ob/gyn and/or other specialists would be promptly summoned if their assistance was required;
- (q) That the baby's FHR monitoring strips were being monitored and interpreted by qualified personnel;
- (r) That the baby's FHR monitoring strips were being timely and/or properly monitored and interpreted;
- (s) That the staff, nurses, residents and all defendants were trained in and knowledgeable about all ob/gyn protocols, both medical and procedurally;
- (t) That Dr. Chang, Dr. Aves, and Dr. Crawford did not need assistance, direction, guidance, monitoring, tutelage and/or

oversight in treating a baby in fetal distress and/or in delivering the same;

- (u) That Dr. Chang was overseeing the care, treatment, monitoring and/or care of the Decedent baby and/or her Plaintiff mother;
- (v) That Dr. Chang, Dr. Aves, and Dr. Crawford knew and/or followed all hospital protocols, policies and procedures pertaining to the care of the Decedent and/or her Plaintiff mother;
- (w) That the mere use of a fetal monitor was enough to ascertain the health of the baby and ensure a successful delivery of a perfectly viable baby;
- (x) That trained, educated, knowledgeable and experienced doctors were in charge of Mendez and the Decedent's medical care, treatment, monitoring and delivery;
- (y) That sufficient and appropriate medical providers, doctors, nurses, residents and other medical providers were available to treat, monitor, care for and deliver the Decedent and Mendez at all times during the plaintiffs' presence at defendant hospital and while under the care of all defendant entities;
- (z) Offering false excuses for reasons why the baby was not and/or could not have been safely delivered alive;
- (aa) Leading Mendez to believe that anything other than medical negligence, whether gross negligence or otherwise, was at fault for the baby's demise;
- (bb) Failing to order an autopsy;
- (cc) preventing or obstructing an autopsy from being performed;

193. Said defendants knew or in the exercise of reasonable care should have known that Mendez would justifiably rely upon these misrepresentations.

194. Mendez did justifiably rely upon these misrepresentations by permitting the Defendants to continue to provide Mendez and the Decedent the substandard care which resulted in plaintiffs' injuries and damages, the loss of Mendez and Galarza's child and the death of the Decedent.

195. As the direct and proximate result of the aforesaid negligent and/or intentional misrepresentations, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of

which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

196. As the direct and proximate result of the aforesaid negligent and/or intentional misrepresentations, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

197. As a result of the aforesaid negligent and/or intentional misrepresentations, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

198. As the direct and proximate result of the aforesaid negligent and/or intentional misrepresentations, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures; loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

199. As a result of the aforesaid negligent and/or intentional misrepresentations, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

200. As a result of the aforesaid negligent and/or intentional misrepresentations, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning

capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

201. The aforesaid negligent and/or intentional misrepresentations increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual case of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XIII**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

**MILATZY HERNANDEZ V. DEFENDANTS, DEFENDANTS, DR. CHANG; DR. C. AVES; DR. CRAWFORD; DR. SONI; DR. JOHN/JANE DOE, ANESTHESIOLOGIST; MS./MR. MURPHY, R.N.; MS./MR. KELLY, R.N.; JOANNE KEALLY, R.N.; MS./MR. PROFICO, R.N.; MS./MR. CHAVOUS-GIBSON, R.N.; MS./MR. NECE, R.N.; MS./MR. WARD, R.N.; MS./MR. ALICE, R.N.; MS./MR. HOLMES A/K/A MS./MR. HELMES, R.N.; KELLYANN CARTER, R.N.; JOHN/JANE DOES, R.N. NOS. 1-10; AND SUZANNE PANAYIOTOU, CRNA**

202. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

203. As a direct and proximate result the negligent, careless, and reckless acts, omissions, and breaches of the applicable standards of care on the part of Defendants Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Soni, Dr. John/Jane Doe, Anesthesiologist, Ms./Mr. Murphy, R.N., Ms./Mr. Kelley, R.N., Joanne Keally, R.N., Ms./Mr. Profico, R.N., Ms./Mr. Chavous-Gibson, R.N., Ms./Mr. Nece, R.N., Ms./Mr. Ward, R.N., Ms./Mr. Alice, R.N., Ms./Mr. Holmes a/k/a Ms./Mr. Helmes, R.N., Kellyann Carter, R.N., and John/Jane Doe, R.N., Nos. 1-10, and Suzanne Panayioutou, CRNA, and of her observations of these acts, omissions, and breaches of the applicable standards of care, of the resulting pain and suffering of Plaintiff, Mendez, and of the corpse of the Decedent immediately following his

death, Plaintiff, Milatzy Hernandez, sustained severe emotional distress and physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Hernandez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

204. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

205. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

206. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

207. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.



**COUNT XIV  
LACK OF INFORMED CONSENT**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased; MARY O. MENDEZ, in her own right V. DEFENDANTS DR. CHANG,  
DR. AVES, DR. CRAWFORD, DR. SONI, AND DR. JOHN/JANE DOE,  
ANESTHESIOLOGIST**

208. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

209. At all times relevant, Mendez was in full possession of her faculties and in such mental and physical health as to be able to understand and consult regarding her care and treatment and for that of Decedent.

210. No emergency obviated the need of the Defendant, Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Soni, and Dr. John/Jane Doe, Anesthesiologist, to adequately advise Mendez of the possible consequences and risks of the care being rendered, any testing and/or any procedure.

211. Said Defendants knowingly failed to fully and adequately inform Mendez of the risks and complications which were potentially involved in labor, care and delivery of her baby, the Decedent, both to her as the mother and to the baby.

212. Mendez never gave her informed consent to proceed with a vaginal delivery.

213. Mendez never gave her informed consent to proceed with spinal anesthesia.

214. Mendez never gave her informed consent to proceed with a Pfannenstiel incision or the use of suction or a kiwi to delivery the Decedent.

215. Defendants failed to warn Mendez and Decedent of the possible risks and complications of, and alternative to the course of treatment to them, and in failing to obtain Mendez's intelligent and informed consent, both on her behalf and on behalf of her baby, to the course of treatment.

216. Defendants failed to warn Mendez and Decedent of the possible risks and complications of, and alternatives to any labor, procedures, medications, tests, and/or delivery procedures, and in failing to obtain Mendez's intelligent and informed consent, both for herself and her baby, to those chosen by the defendants.

217. The any labor, procedures, medications, tests, and/or delivery procedures performed on Mendez and the baby were an unwanted, unprivileged and tortuous interference with the personal bodily integrity of Mendez and Decedent, at all times while the baby was in utero, in the birthing canal and thereafter, and thus, constitute battery.

218. The batteries committed by Defendants were in no manner due to any act or failure to act on the part of Mendez either for herself or for Decedent.

219. The batteries committed by Defendants were the proximate cause of Mendez's and Decedent's pain, suffering and overly delayed labor, and the death of Decedent and damages.

220. Pursuant to statute, N.J. Stat. Ann. § 2A: 31:1, Decedent's cause of action for battery against said Defendants survived his death and is properly brought on behalf of his Estate by Mendez, as the Administratrix of her Estate.

221. As a direct and proximate result of the batteries committed by Defendants, the plaintiffs sustained the injuries and damages set forth at length hereinabove, which are incorporated by reference herein.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XV**  
**VICARIOUS LIABILITY FOR MEDICAL MALPRACTICE AND OTHER**  
**NEGLIGENT, RECKLESS, INTENTIONAL,**  
**WILLFUL AND/OR WANTON ACTS AND FAILURES TO ACT**  
**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,**  
**Deceased; MARY O. MENDEZ, in her own right; and MILATZY HERNANDEZ**  
**V. DEFENDANT, CAMCARE A/K/A CAMCARE OB/GYN**

222. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

223. At all relevant and material times hereto, Defendants Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Kaplitz, Dr. Yahav, Dr. AnuaQuarshie, and McCahill, RNNP, were employees, agents and/or ostensible agents of Defendant, CAMcare a/ka/ CAMcare OB/GYN, which is vicariously liable for the aforesaid malpractice and other negligent, reckless, intentional, willful, and/or wanton acts and/or failures to act and/or failures to obtain informed consent of said Defendants, who at all times relevant and material hereto were acting within the course and scope of their employment, agency, and/or ostensible agency and in furtherance of the business and affairs of said Defendant.

224. As a direct and proximate result of the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act, and or failures to obtain informed consent of said Defendants, for which Defendant CAMCare a/k/a CAMCare OB/GYN is vicariously liable, the plaintiffs sustained the injuries and damages set forth at length hereinabove, which are incorporated by reference herein.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XVI**  
**VICARIOUS LIABILITY FOR MEDICAL/NURSING/PROFESSIONAL**  
**MALPRACTICE AND OTHER NEGLIGENT, RECKLESS, INTENTIONAL,**  
**WILLFUL AND/OR WANTON ACTS AND FAILURES TO ACT**  
**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,**  
**Deceased; MARY O. MENDEZ, in her own right; and MILATZY HERNANDEZ**  
**V. DEFENDANT, COOPER UNIVERSITY HOSPITAL**

225. Plaintiffs incorporate by reference: all prior paragraphs the same as though set forth herein at length.

226. At all relevant and material times hereto, Defendants Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Kaplitz, Dr. Yahav, Dr. AmuaQuarshie, McCahill, RNNP, Dr. Soni, Dr. John/Jane Doe, Anesthesiologist, CRNA Panayioutou, Ms./Mr. Murphy, R.N., Ms./Mr. Kelley, R.N., Joanne Keally, R.N., Ms./Mr. Profico, R.N., Ms./Mr. Chavous-Gibson, R.N., Ms./Mr. Neece, R.N., Ms./Mr. Ward, R.N., Ms./Mr. Alice, R.N., Ms./Mr. Holmes a/k/a Ms./Mr. Helmes, R.N., Kellyann Carter, R.N., and John/Jane Doe, R.N., Nos. 1-10, were employees, agents and/or ostensible agents of Defendant, Cooper University Hospital, which is vicariously liable for the aforesaid malpractice and other negligent, reckless, intentional, willful, and/or wanton acts and/or failures to act and/or failures of obtain informed consent of said Defendants, who at all times relevant and material hereto were acting within the course and scope of their employment, agency, and/or ostensible agency and in furtherance of the business and affairs of said Defendant.

227. As a direct and proximate result of the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act and/or failures to obtain informed consent of said Defendants, for which Defendant Cooper University Hospital, is vicariously liable, the plaintiffs sustained the injuries and damages set forth at length hereinabove, which are incorporated by reference herein.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XVII**  
**VICARIOUS LIABILITY FOR MEDICAL/NURSING/PROFESSIONAL**  
**MALPRACTICE AND OTHER NEGLIGENT, RECKLESS, INTENTIONAL,**  
**WILLFUL AND/OR WANTON ACTS AND FAILURES TO ACT**  
**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,**  
**Deceased; MARY O. MENDEZ, in her own right; and MILATZY HERNANDEZ**  
**V. DEFENDANT, UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW**  
**JERSEY - ROBERT WOOD JOHNSON MEDICAL SCHOOL D/B/A COOPER**  
**UNIVERSITY HOSPITAL**

228. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

229. At all relevant and material times hereto, Defendants Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Kaplitz, Dr. Yahav, Dr. AmuaQuarshie, McCahill, RNNP, Dr. Soni, Dr. John/Jane Doe, Anesthesiologist, CRNA Panayioutou, Ms./Mr. Murphy, R.N., Ms./Mr. Kelley, R.N., Joanne Keally, R.N., Ms./Mr. Profico, R.N., Ms./Mr. Chavous-Gibson, R.N., Ms./Mr. Nece, R.N., Ms./Mr. Ward, R.N., Ms./Mr. Alice, R.N., Ms./Mr. Holmes a/k/a Ms./Mr. Helmes, R.N., Kellyann Carter, R.N., and John/Jane Doe, R.N., Nos. 1-10, were employees, agents and/or ostensible agents of Defendant, University of Medicine and Dentistry of New Jersey - Robert Wood Johnson Medical School d/b/a Cooper University Hospital, which is vicariously liable for the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act and/or failures to obtain informed consent of said Defendants, who at all times relevant and material hereto were acting within the course and scope of their employment, agency, and/or ostensible agency and in furtherance of the business and affairs of said Defendant.

230. As a direct and proximate result of the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act and/or failures to obtain informed consent of said Defendants, for which Defendant, University of Medicine and Dentistry of New Jersey - Robert Wood Johnson Medical School d/b/a Cooper University Hospital, is vicariously liable, the plaintiffs sustained the injuries and damages set forth at length hereinabove, which are incorporated by reference herein.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XVIII**

**VICARIOUS LIABILITY FOR MEDICAL/NURSING/PROFESSIONAL MALPRACTICE AND OTHER NEGLIGENT, RECKLESS, INTENTIONAL, WILLFUL AND/OR WANTON ACTS AND FAILURES TO ACT**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadel Mendez, Deceased; MARY O. MENDEZ, in her own right; and MILATZY HERNANDEZ V. DEFENDANT, COOPER ANESTHESIA ASSOCIATES, P.C.**

231. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

232. At all relevant and material times hereto, Defendants, Dr. Soni, Dr. John/Jane Doe, Anesthesiologist, and Panayiotou, CRNA, were employees, agents and/or ostensible agents of Defendant, Cooper Anesthesia Associates, P.C., which is vicariously liable for the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act and/or failures to obtain informed consent of said Defendants, who at all times relevant and material hereto were acting within the course and scope of their employment, agency, and/or ostensible agency and in furtherance of the business and affairs of said Defendant.

233. As a direct and proximate result of the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act and/or failures to obtain informed consent of said Defendants, for which Defendant, Cooper Anesthesia Associates, P.C., is vicariously liable, the plaintiffs sustained the injuries and damages set forth at length hereinabove, which are incorporated by reference herein.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest costs and delay damages.

**COUNT XIX**  
**VICARIOUS LIABILITY FOR MEDICAL MALPRACTICE AND OTHER**  
**NEGLIGENT, RECKLESS, INTENTIONAL,**  
**WILLFUL AND/OR WANTON ACTS AND FAILURES TO ACT**  
**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,**  
**Deceased; MARY O. MENDEZ, in her own right; and MILATZY HERNANDEZ**  
**V. DEFENDANT, COOPER UNIVERSITY PHYSICIANS**

234. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

235. At all relevant and material times hereto, Defendants Dr. Chang, Dr. Aves, Dr. Crawford, Dr. Kaplitz, Dr. Yahav, Dr. AmuaQuarshie, Dr. Soni, and Dr. John/Jane Doe, Anesthesiologist, were employees, agents and/or ostensible agents of Defendant, Cooper University Physicians, which is vicariously liable for the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act and/or failures to obtain informed consent of said Defendants, who at all times relevant and material hereto were acting within the course and scope of their employment, agency, and/or ostensible agency and in furtherance of the business and affairs of said Defendant.

236. As a direct and proximate result of the aforesaid malpractice and other negligent, reckless, intentional willful, and/or wanton acts and/or failures to act of said Defendants, for which Defendant, Cooper University Physicians, is vicariously liable, the plaintiffs sustained the injuries and damages set forth at length hereinabove, which are incorporated by reference herein.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XX  
CORPORATE NEGLIGENCE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased; MARY O. MENDEZ, in her own right; and MILATZY HERNANDEZ  
V. DEFENDANTS, COOPER UNIVERSITY HOSPITAL, UNIVERSITY OF  
MEDICINE AND DENTISTRY OF NEW JERSEY- ROBERT WOOD JOHNSON  
MEDICAL SCHOOL D/B/A COOPER UNIVERSITY HOSPITAL, CAMCARE  
A/K/A CAMCARE OB/GYN, COOPER ANESTHESIA ASSOCIATES, P.C., AND  
COOPER UNIVERSITY PHYSICIANS**

237. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

238. The corporate negligence, malpractice, actions and inactions, both intentional and negligent, of Defendants, Cooper University Hospital, University of Medicine and Dentistry of New Jersey - Robert Wood Johnson Medical School d/b/a Cooper University Hospital, CAMcare a/k/a CAMcare OB/GYN, Cooper Anesthesia Associates, P.C., and Cooper University Physicians, in addition to all allegations set forth above and incorporated herein, consisted of the following:

- (a) Hiring and retaining and/or extending staff privileges to attending physicians and residents lacking the requisite levels of knowledge, skill and dedication;
- (b) Failing and neglecting to employ or hire doctors with adequate experience, qualifications and skills to properly treat persons



- exhibiting the signs, symptoms and complaints as were present in Mendez and Decedent;
- (c) Failing and neglecting to employ or hire doctors with adequate experience, qualifications and skills to properly perform surgical procedures upon persons exhibiting symptoms and complaints as were exhibited by Mendez and Decedent;
  - (d) Extending staff privileges to doctors who were not sufficiently qualified by experience, research and educational background to adequately diagnose, treat and attend to Mendez and Decedent for the conditions then affecting Mendez and Decedent;
  - (e) Hiring and retaining physicians, attending physicians, residents, interns, physician assistants, nursing supervisors, nurses and nursing assistants lacking the requisite levels of education, knowledge, skill and dedication;
  - (f) Failing and neglecting to employ physicians, attending physicians, residents, interns, physician assistants, nursing supervisors, nurses, and nursing assistants who were sufficiently qualified by experience and education background to adequately treat and attend to Mendez and Decedent for the conditions then affecting Mendez and Decedent;
  - (g) Hiring and retaining or affiliating with the individual defendants herein when they knew or, in the exercise of reasonable care, should have known that they lacked the requisite levels of knowledge, skill and dedication;
  - (h) Failing to institute and/or enforce adequate chain of command procedures;
  - (i) Failing to properly supervise and oversee the patient care within their walls by physicians, attending physicians, residents, interns, physician assistants, nursing supervisors, nurses, and nursing assistants;
  - (j) Failing to provide adequate supervision of their staff and employees to insure that proper hospital practices and procedures are followed;
  - (k) Failing to properly train physicians, attending physicians, residents, interns, physician assistants, nursing supervisors, nurses, and nursing assistants and/or others in any chain of command;
  - (l) Failing to enact, institute, teach, promulgate, and/or enforce any chain in command policies;
  - (m) Failing to enact, institute, teach, or promulgate, or if enacted or promulgated, in failing to enforce sufficient rules and regulations relating to the treatment and care of patients in the conditions of Mendez and Decedent;
  - (n) Failing to enact, institute, teach, or promulgate, or if enacted or promulgated, in failing to enforce sufficient rules and regulations relating to the creation and retention of medical records, including medical records indicating medical and/or nursing malpractice.

- (o) Condoning or directing the destruction of medical records;
- (p) Destroying medical records.

239. As the direct and proximate result of the corporate negligence of Defendants, Cooper University Hospital, University of Medicine and Dentistry of New Jersey - Robert Wood Johnson Medical School d/b/a Cooper University Hospital, CAMcare a/k/a CAMcare OB/GYN, Cooper Anesthesia Associates, P.C., and Cooper University Physicians, as aforesaid, Plaintiff, Mendez, sustained severe physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Mendez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

240. As the direct and proximate result of the said Defendants' corporate negligence, Plaintiff, Mendez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures: loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

241. As the direct and proximate result of the said Defendants' corporate negligence, Plaintiff, Mendez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

242. As the direct and proximate result of the said Defendants' corporate negligence, the Decedent sustained severe physical injuries and all of which rendered him sick, sore, lame, prostrate, disabled and disordered and forced him to suffer great mental anguish, loss of life's pleasures: loss of general health, strength and vitality; humiliation and physical pain until the time that he passed away.

243. As the direct and proximate result of the said Defendants' corporate negligence, Plaintiff, Mendez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

244. As the direct and proximate result of the said Defendants' corporate negligence, Plaintiff, Mendez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

245. As the direct and proximate result of the said Defendants' corporate negligence, Plaintiff, Milatzy Hernandez, sustained severe emotional distress and physical and psychological injuries including, but not limited to, severe depression, insomnia and flashbacks, all of which have rendered Plaintiff, Hernandez, sick, sore, lame, prostrate, disabled and disordered, some or all of which may continue for an indefinite time into the future.

246. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has been forced to endure great pain and suffering, mental anguish, loss of life's pleasures; loss of general health, strength and vitality; embarrassment, humiliation and physical pain, some or all of which are permanent and may continue for an indefinite time into the future.

247. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has been prevented her from performing her usual and customary daily activities and occupations, which may continue for an indefinite time into the future to her great detriment and loss.

248. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has been or will be obliged to receive and undergo medical attention and care and to expend various expenses for the injuries she and the decedent have suffered and will continue to incur expenditures for an indefinite time in the future to her great detriment and loss.

249. As the direct and proximate result of the aforesaid Plaintiff, Hernandez, has sustained loss and depreciation of her earnings and earning capacity, and she may continue to endure the same for an indefinite time into the future to her great detriment and loss.

250. The aforesaid corporate negligence of said Defendants increased the risk of harm to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XXI  
WRONGFUL DEATH**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased; MARY O. MENDEZ, in her own right; and EDWIN GALARZA V.  
ALL DEFENDANTS**

251. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

252. The medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, omissions and failures to comply with the applicable standards of medical/nursing care and conduct evidencing the Defendants' recklessness and conscious indifference to the consequences and rights of Mendez and

Decedent during the aforementioned hospitalization of Mendez and her baby are stated herein before and after and incorporated by reference herein.

253. The above-described wrongful acts and omissions of the Defendants herein increased the risk of harm and death to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of his death.

254. As a result of the above-described wrongful acts and omissions of Defendants, individually and by and through their employees, agents and/or ostensible agents, plaintiffs' Decedent, Bryan Jadiel Mendez, died, and the Plaintiffs sustained serious and permanent injuries and damages.

255. Plaintiff, Mary O. Mendez, as Administratrix of the Estate of Bryan Jadiel Mendez, Deceased, brings this action on behalf of the survivors of plaintiffs' Decedent under and by virtue of the laws of the State of New Jersey, N.J. Stat. Ann § 2A:31:4. In the alternative, the survivors of plaintiffs' decedent bring this action in their own rights pursuant to

256. Plaintiffs' Decedent left surviving her the following persons entitled to recover damages, and on their behalf this action is brought:

Mary O. Mendez, Mother  
101 N. 22nd Street  
Camden, NJ 08105

and

Edwin Galarza, Father  
c/o Mary O. Mendez, Administratrix of the Estate of  
Bryan Jadiel Mendez, Deceased  
101 N. 22nd Street  
Camden, NJ 08105

257. Mendez as Administratrix of the Estate of Bryan Jadiel Mendez, deceased, and, in the alternative, the survivors of the Decedent in their own rights, claim(s) damages for the pecuniary losses suffered by the Decedent's survivors by reason of his death, as well as reimbursement for the medical bills, funeral expenses, and other expenses incurred in connection therewith, and all other damages allowed by law.

258. As a result of the death of the Decedent, his survivors have been deprived of the earnings, maintenance, guidance, support and comfort they would have received from him for the rest of his natural life.

259. At no time during his lifetime did the Decedent bring an action for his personal injuries and no other action(s) for his death has been commenced against defendants.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**.COUNT XXII  
SURVIVAL ACTION**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased; MARY O. MENDEZ, in her own right; and EDWIN GALARZA V.  
ALL DEFENDANTS**

260. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

261. The medical/professional malpractice, negligence, carelessness, recklessness, willful and wanton conduct, omissions and failures to comply with the applicable standards of medical/nursing care and conduct evidencing the Defendants' recklessness and conscious indifference to the consequences and rights of Mendez and Decedent during the aforementioned hospitalization of Mendez and her baby are stated herein before and after and incorporated by reference herein.

262. The above-described wrongful acts and omissions of the Defendants herein, and any of Defendants' employees, agents, and ostensible agents, and the other Defendants herein, increased the risk of harm and death to the Decedent, Bryan Jadiel Mendez, and were a direct and substantial factor in causing and/or an actual cause of her death.

263. As a result of the above-described wrongful acts and omissions of Defendants herein, and any of Defendants' employees, agents, and ostensible agents, and the other Defendants herein, Plaintiffs' Decedent, Bryan Jadiel Mendez, sustained pain and suffering; loss of life's pleasures; loss of general health, strength and vitality; loss of earnings and earning capacity; serious injuries and death.

264. Plaintiff, Mary O. Mendez, as Administratrix of the Estate of Plaintiffs' Decedent, brings this action on behalf of the Estate of Plaintiffs' Decedent under and by virtue of the laws of the State of New Jersey, N.J. Stat. Ann § 2A: 31:1.

265. As a direct and proximate cause of the aforesaid wrongful acts and omissions of Defendants herein and any of Defendants' employees, agents, and ostensible agents, and the other Defendants herein, Decedent suffered and Defendants are liable for the following damages:

- (a) Decedent's pain and suffering between the time of his injuries and the time of death;
- (b) Decedent's total estimated future earning power less his estimated cost of personal maintenance through the time of his life expectancy;
- (c) Decedent's loss of retirement and social security income;
- (d) Decedent's other financial losses suffered as a result of his death;
- (e) Decedent's loss of wages, earnings and earning power for the period of time beginning on the date of death and continuing throughout the remainder of the Decedent's life expectancy, which earnings and earning power would have continued for the said period of time but for the aforesaid tortious conduct;
- (f) Decedent's loss of life and life's pleasures;

- (g) For expenses incident to the administration of the estate of the Decedent;
- (h) For expenses incident to the administration of the estate of the Decedent;
- (i) For other losses to the last illness and death of the Decedent;
- (j) For funeral and burial expenses;
- (k) For all other damages allowed by the law.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**COUNT XXIII  
SPOILIATION OF EVIDENCE**

**MARY O. MENDEZ, as Administratrix of the Estate of Bryan Jadiel Mendez,  
Deceased; MARY O. MENDEZ, in her own right; EDWIN GALARZA, and  
MILATZY HERNANDEZ V. ALL DEFENDANTS**

266. Plaintiffs incorporate by reference all prior paragraphs the same as though set forth herein at length.

267. The absence of the the Operative Report, the Anesthesia Chart, the Labor and Delivery Chart, or the Placental Pathology Report from the records of Plaintiff, Mendez, and the Decedent indicates that some or all Defendants, individually or through their agents or employees destroyed relevant and material medical records after the death of the Decedent, in order to assist themselves or other Defendants from avoiding liability for acts and omissions constituting medical and nursing malpractice and other negligent, reckless, willful, and/or intentional acts set forth relating to the prenatal care, labor and delivery of Plaintiff, Mendez, and the Decedent, which caused the injuries and damages to the parties set forth in this Complaint.

268. By reason of the spoliation of relevant and material evidence by themselves as individuals or by their agents and/or employees, Defendants are liable to the Plaintiffs for



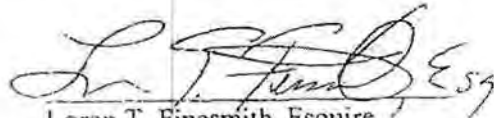
all injuries and damages sustained by the plaintiffs set forth hereinabove and incorporated by reference herein.

WHEREFORE, Plaintiffs demand compensatory and punitive damages from Defendants, jointly and severally, plus interest, costs and delay damages.

**DEMAND FOR JURY TRIAL**

A jury trial is hereby demanded.

Respectfully submitted,



Loren T. Finesmith, Esquire  
Attorney for Plaintiffs

# Exhibit B

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Mary O. Mendez and Edwin Galarza,  
Individually and Parents of the Decedent for the  
Estate of Bryan Jadiel Mendez, Deceased  
and Milatzy Mendez,

Plaintiffs,

v.

Case No.

Eric Chang, D.O.,  
Dr. C. Aves,  
Dr. Crawford,  
Neil Kaplitz, M.D.,  
Eric K. Yahav, M.D.,  
Mercy Amua-Quarshie, M.D.,  
Antoinette Falconi McCahill, RNNP,  
Dhiren Soni, D.O.,  
Dr. John/Jane Doe Anesthesiologist,  
Suzanne Panayiotou,  
Ms. Murphy, R.N.,  
Ms. Kelley, R.N.,  
Joanne Keally, R.N.,  
Ms./Mr. Profico, R.N.,  
Ms./Mr. Chavous-Gibson, R.N.,  
Ms./Mr. Nece, R.N.,  
Ms. Ward, R.N.,  
Ms./Mr. Alice, R.N.,  
Ms./Mr. Holmes a/k/a Ms./Mr. Helmes, R.N.,  
Kellyann Carter, R.N.,  
John/Jane Doe., R.N., Nos. 1-10,  
Camcare a/k/a Camcare OB/GYN,  
Cooper University Hospital,  
University of Medicine and  
Dentistry of New Jersey-Robert Wood Johnson  
Medical School d/b/a Cooper University Hospital,  
Cooper Anesthesia Associates, P.C.,  
and Cooper University Physicians,

Defendants.

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**DECLARATION OF  
MEREDITH TORRES**

1. I am a Senior Attorney in the General Law Division, Office of the General Counsel, Department of Health and Human Services (the "Department"). I am familiar with the official records of administrative tort claims maintained by the Department as well as with the system by which those records are maintained.

2. The Department has a Claims Branch that maintains in a computerized database a record of administrative tort claims filed with the Department, including those filed with respect to federally supported health centers that have been deemed to be eligible for Federal Tort Claims Act malpractice coverage.

3. As a consequence, if a tort claim had been filed with the Department with respect to Camcare Health Corporation, its approved delivery sites, or its employees or qualified contractors, a record of that filing would be maintained in the Claims Branch's database.

4. I caused a search of the Claims Branch's database to be conducted and found no record of an administrative tort claim filed by Mary O. Mendez, Edwin Galarza, Milatzy Mendez, Bryan Jadiel Mendez, or an authorized representative relating to Camcare Health Corporation, Dr. Mercy Amua-Quarshie, Dr. Eric Chang, Antoinette Falconi-McCahill, CNM, Dr. Neil Kaplitz and/or Dr. Eric Yahav.

5. I have also reviewed official agency records and determined that Camcare Health Corporation was deemed eligible for Federal Tort Claims Act malpractice coverage effective January 1, 2009, and that its coverage has continued without interruption since that time. The Secretary of Health and Human Services' authority to deem entities as Public Health Service


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employees under 42 U.S.C. § 233(g) has been delegated to the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration. Copies of the notifications by the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration, Department of Health and Human Services, to Camcare Health Corporation are attached to this declaration as Exhibit 1.

6. Official agency records further indicate that Dr. Mercy Amua-Quarshie, Dr. Eric Chang, Antoinette Falconi-McCahill, CNM, Dr. Neil Kaplitz and Dr. Eric Yahav, were employees of Camcare Health Corporation at all times relevant to the complaint in this case.

I declare under penalty of perjury that the foregoing is true and correct. 28 U.S.C. § 1746.

Dated at Washington, D.C., this 14<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
MEREDITH TORRES  
Senior Attorney, Claims and Employment Law Branch  
General Law Division  
Office of the General Counsel  
Department of Health and Human Services

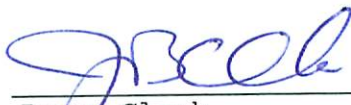
# Exhibit C

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MARY O. MENDEZ, Individually	:	
and as Mother of the Decedent	:	
in her own Right and as	:	
Administratrix of the Estate	:	HONORABLE
of Bryan Jadiel Mendez,	:	
Deceased, et al.,	:	
	:	
Plaintiffs,	:	Civil Action No.
	:	
v.	:	
	:	
ERIC CHANG, D.O.,	:	CERTIFICATION OF SCOPE OF EMPLOYMENT
et al.,	:	
	:	
Defendants.	:	
	:	

I, James Clark, Chief, Civil Division, United States Attorney's Office for the District of New Jersey, acting pursuant to the provisions of 28 U.S.C. § 2679, as amended by Public Law 100-694, and 42 U.S.C. § 233(c), as amended by Public Law 104-73, and by virtue of the authority vested in me by 28 C.F.R. § 15.4, certify that I have read the Complaint in this action. On the basis of the information now available with respect to the allegations therein, I find that Defendants Eric Chang, D.O., Neil Kaplitz, M.D., Eric K. Yahav, M.D., Mercy Amua-Quarshie, M.D., Antoinette Falconi McCahill, CNM, and CAMCare Health Corporation were acting within the scope of their employment as employees of the United States at the time of the conduct alleged in the Complaint.

PAUL J. FISHMAN  
United States Attorney

By:   
James Clark  
Chief, Civil Division

Dated: April 10, 2013

# Exhibit D





**U.S. Department of Justice**  
*United States Attorney*  
*District of New Jersey*

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April 10, 2013

**Via Overnight Delivery**

New Jersey Superior Court  
Clerk, Law Division  
Civil Processing  
Hall of Justice  
101 South 5th Street, Suite 150  
Camden, NJ 08103-4001

RE: Mendez, et al. v. Chang, et al.  
Docket No. CAM-L-3412-12

Dear Sir or Madam:

Pursuant to 28 U.S.C. § 1446(d), I enclose two copies of the Notice of Removal filed in this matter with the United States District Court for the District of New Jersey at Camden. Kindly file the Notice and return a stamped copy to this Office in the enclosed self-addressed stamped envelope.

Effective upon the filing of the Notice in the New Jersey Superior Court, the action is removed to the District Court and by statutory directive the state court "shall proceed no further . . ." Id. Thank you for your assistance in this regard.

Respectfully submitted,

PAUL J. FISHMAN  
United States Attorney

s/Elizabeth A. Pascal  
By: ELIZABETH A. PASCAL  
Assistant U.S. Attorney

Enclosures

cc: Loren T. Finesmith, Esquire (via regular mail w/encls.)  
Carolyn R. Sleeper, Esquire (via regular mail w/encls.)