

CIVIL ACTION COVER SHEET TRIAL COURT OF MASSACHUSETTS
 SUPERIOR COURT DEPARTMENT
 COUNTY OF SUFFOLK DOCKET NO. 13-3671A

PLAINTIFF(S) Margaret McKinney, Personal Representative of the Estate of Kali McKinney
DEFENDANT(S)

Plaintiff Atty Andrew C. Meyer, Jr.
 Address Lubin & Meyer, P.C., 100 City Hall Plaza
 City Boston State MA Zip Code 02108
 Tel. +1 (617) 720-4447 BBO#
 Type Defendant's Attorney Name
 Defendant Atty
 Address
 City State Zip Code

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)
 CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE?
 B08 Wrongful Death G L c 229, s 2A - Average Track Yes No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS
 (Attach additional sheets as necessary)

A. Documented medical expenses to date:
 1. Total hospital expenses
 2. Total doctor expenses
 3. Total chiropractic expenses
 4. Total physical therapy expenses
 5. Total other expenses (describe) Total Medical Expenses in excess of Subtotal \$25,000

B. Documented lost wages and compensation to date
 C. Documented property damages to date
 D. Reasonably anticipated future medical expenses
 E. Reasonably anticipated lost wages and compensation to date
 F. Other documented items of damages (describe)

G. Brief description of plaintiff=s injury, including nature and extent of injury (describe)
 Death of 3 day old infant from brain bleed following improper labor & delivery. Total \$ in excess of \$25,000.00

CONTRACT CLAIMS
 (Attach additional sheets as necessary)
 Provide a detailed description of claim(s):
 TOTAL \$.....

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

AI hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods.@
 Signature of Attorney of Record Andrew C. Meyer, Jr. Date: Oct 11, 2013
 A.O.S.C. 3-2007

SUPERIOR COURT
 CLERK/MAGISTRATE
 OCT 15 PM 2:34
 JAMES JOSEPH...

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION

NO. 13-3671A

MARGARET MCKINNEY, PERSONAL REPRESENTATIVE
OF THE ESTATE OF KALI MCKINNEY,

Plaintiff,

V.

SUSAN HELLERSTEIN, M.D.,
KATERINE POCIUS, M.D.,
JILL DOYLE, C.N.M.,
CATRINA PITTS, R.N., AND
GISVEL PENA, R.N.,

Defendants.

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2013 OCT 15 PM 2:34
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

COMPLAINT

Count I.

1. The plaintiff, Margaret McKinney, is the duly appointed Personal Representative of the Estate of Kali McKinney and is a resident of Canton, Norfolk County, Massachusetts.
2. The defendant, Susan Hellerstein, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts, and practicing in Suffolk County.
3. This action is brought to recover for the wrongful death of Kali McKinney for the benefit of his next of kin, pursuant to M.G.L.A. c. 229 §1 et seq.
4. At all times relevant to this complaint, the defendant, Susan Hellerstein, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the plaintiff's decedent's parents that she was knowledgeable, competent, and qualified to diagnose and treat the plaintiff's decedent's condition and his mother's condition on or about 1/9/13.
5. On or about 1/9/13, the plaintiff's decedent's parents submitted the plaintiff's decedent and his mother to the care and treatment of the defendant, Susan Hellerstein, M.D., who negligently, carelessly, and without regard for the plaintiff's decedent's and his mother's health and well-being, treated the plaintiff's decedent and his mother in a manner resulting in the plaintiff's decedent's death on 1/11/13.

2. This action is brought to recover for the conscious pain and suffering of the decedent, Kali McKinney.
3. As the direct and proximate result of the defendant, Susan Hellerstein, M.D.'s failure to inform the plaintiff's decedent's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the decedent, Kali McKinney, was caused to suffer consciously up to and until his time of death.

WHEREFORE, the plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, prays judgment against the defendant, Susan Hellerstein, M.D., in an amount to be determined by a jury, together with interest and costs.

Count IX.

1. The plaintiff, Margaret McKinney, is the duly appointed Personal Representative of the Estate of Kali McKinney and is a resident of Canton, Norfolk County, Massachusetts.
2. The defendant, Katerine Pocius, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts, and practicing in Suffolk County.
3. This action is brought to recover for the wrongful death of Kali McKinney for the benefit of his next of kin, pursuant to M.G.L.A. c. 229 §1 et seq.
4. At all times relevant to this complaint, the defendant, Katerine Pocius, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the plaintiff's decedent's parents that she was knowledgeable, competent, and qualified to diagnose and treat the plaintiff's decedent's condition and his mother's condition on or about 1/9/13.
5. On or about 1/9/13, the plaintiff's decedent's parents submitted the plaintiff's decedent and his mother to the care and treatment of the defendant, Katerine Pocius, M.D., who negligently, carelessly, and without regard for the plaintiff's decedent's and his mother's health and well-being, treated the plaintiff's decedent and his mother in a manner resulting in the plaintiff's decedent's death on 1/11/13.
6. The death of Kali McKinney and the damage to his estate, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Katerine Pocius, M.D., including, but not limited to the following:
 - a. Defendant's misrepresentations to the plaintiff's decedent's parents that she was knowledgeable, skillful, and competent to diagnose and treat the plaintiff's decedent's and his mother's medical condition on or about 1/9/13;
 - b. Defendant's failure to adequately and properly diagnose the plaintiff's decedent's and his mother's medical condition on or about 1/9/13, and her failure to prescribe proper and timely treatment for said condition;

- c. Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the plaintiff's decedent and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her inability and failure to properly and skillfully provide the plaintiff's decedent and his mother with acceptable medical and diagnostic services;
- d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing her specialty; and
- e. Defendant's failure to inform and to warn of the risks involved in or associated with the plaintiff's decedent's and his mother's condition and failure to inform and to warn about the treatment of said condition.

WHEREFORE, the plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, prays judgment against the defendant, Katerine Pocius, M.D., for the above-described wrongful death and damage to the estate, together with interest and costs.

Count X.

1. The plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, repeats and reavers all of the allegations contained in Paragraphs One through Six of Count IX above, as if expressly rewritten and set forth herein.
2. This action is brought to recover for the conscious pain and suffering of the decedent, Kali McKinney.
3. As the direct and proximate result of the carelessness and negligence of the defendant, Katerine Pocius, M.D., the decedent, Kali McKinney, was caused to suffer consciously up to and until his time of death.

WHEREFORE, the plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, prays judgment against the defendant, Katerine Pocius, M.D., in an amount to be determined by a jury, together with interest and costs.

Count XI.

1. The plaintiff, Margaret McKinney, is the duly appointed Personal Representative of the Estate of Kali McKinney and is a resident of Canton, Norfolk County, Massachusetts.
2. The defendant, Katerine Pocius, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts, and practicing in Suffolk County.
3. This action is brought to recover for the wrongful death of Kali McKinney for the benefit of his next of kin, pursuant to M.G.L.A. c. 229 §1 et seq.

4. At all times relevant to this complaint, the defendant, Katerine Pocius, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the plaintiff's decedent's parents that she was knowledgeable, competent, and qualified to diagnose and treat the plaintiff's decedent's and his mother's condition on or about 1/9/13.
5. On or about 1/9/13, the plaintiff's decedent's parents submitted the plaintiff's decedent and his mother to the care and treatment of the defendant, Katerine Pocius, M.D., who negligently, carelessly, and without regard for the plaintiff's decedent's and his mother's health and well-being, treated the plaintiff's decedent and his mother in a manner resulting in the plaintiff's decedent's death on 1/11/13.
6. The death of Kali McKinney and the damage to his estate, including, but not limited to his funeral and burial expenses, were the direct and proximate result of the malicious, willful, wanton or reckless conduct of the defendant, Katerine Pocius, M.D., or by the gross negligence of the defendant on or about 1/9/13.

WHEREFORE, the plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, prays judgment against the defendant, Katerine Pocius, M.D., for the above-described wrongful death and damage to the estate, together with punitive damages, interest and costs.

Count XII.

1. The plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, repeats and reavers all of the allegations contained in Paragraphs One through Six of Count XI above, as if expressly rewritten and set forth herein.
2. This action is brought to recover for the conscious pain and suffering of the decedent, Kali McKinney.
3. As the direct and proximate result of the malicious, willful, wanton or reckless conduct of the defendant, Katerine Pocius, M.D., the decedent, Kali McKinney, was caused to suffer consciously up to and until his time of death.

WHEREFORE, the plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, prays judgment against the defendant, Katerine Pocius, M.D., for the above-described wrongful death and damage to the estate, together with punitive damages, interest and costs.

Count XIII.

1. The plaintiff, Margaret McKinney, as duly appointed Personal Representative of the Estate of Kali McKinney, repeats and reavers all of the allegations contained in Paragraphs One through Six of Count IX above, as if expressly rewritten and set forth herein.

PROOF OF SERVICE OF PROCESS



Suffolk County Sheriff's Department • 132 Portland Street, Boston, MA 02114 • (617) 704-6999

Suffolk, ss.

January 15, 2014

I hereby certify and return that on 1/9/2014 at 3:20 PM I served a true and attested copy of the Summons and Complaint in this action in the following manner: To wit, by delivering in hand to Clara McGowen, risk management, agent, and person in charge at the time of service for Katerine Pocius, M.D., Brigham & Women's Hospital 75 Francis Street Boston, MA 02115. Attest/Copies (\$5.00) Postage and Handling (\$1.00) Travel (\$1.00) Basic Service Fee (IH) (\$30.00) Total: \$37.00

Deputy Sheriff Terrance Williams

Terrance Williams

Deputy Sheriff

,2014

13625958

Commonwealth of Massachusetts

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION

SUFFOLK, ss.

No. _____

_____, Plff(s).

v.

_____, Deft(s).

SUMMONS
(Mass. R. Civ. P. 4)
(AFFIX FILING STAMP HERE)