

CIVIL ACTION COVER SHEET

DOCKET NUMBER

Trial Court of Massachusetts
The Superior Court



PLAINTIFF(S): ESTRELLA LUGO, PPA NATACHA HERNANDEZ
ADDRESS: 7675 Praver Drive East, Jacksonville, FL 32217

COUNTY Worcester

DEFENDANT(S): TARA KUMARASWAMI, M.D., BRIANNA SCHUMACHER, M.D.,,

LORI CLARK, R.N., NATHALIE GIBSON, R.N., LYNNE STARBARD, R.N.,

ATTORNEY: Andrew C. Meyer, Jr.
ADDRESS: LUBIN & MEYER, P.C.
100 City Hall Plaza, 4th Floor, Boston, MA 02108
Tel - 617 720-4447

SARAH DAHDOUH, R.N.,
ADDRESS:

BBO: 344300

TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)

CODE NO. TYPE OF ACTION (specify) TRACK HAS A JURY CLAIM BEEN MADE?
B06 Malpractice - Medical/Wrongful Death A [X] YES [ ] NO

\*If "Other" please describe:

Is there a claim under G.L. c. 93A?
[ ] YES [X] NO

Is this a class action under Mass. R. Civ. P. 23?
[ ] YES [X] NO

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff's counsel 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 below)

Subtotal (A): \$ > 50,000.00

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

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

: the minor plaintiff suffers from HIE leading to significant speech impairment and motor delays

TOTAL (A-F): \$ > 50,000.00

CONTRACT CLAIMS

(attach additional sheets as necessary)

[ ] This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).

Provide a detailed description of claim(s):

TOTAL: \$

Signature of Attorney/ Unrepresented Plaintiff: X

Date: Jan 8, 2021

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with 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 of dispute resolution.

Signature of Attorney of Record: X

Andrew C. Meyer, Jr.

Date: Jan 8, 2021

# CIVIL ACTION COVER SHEET INSTRUCTIONS

## SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

### AC Actions Involving the State/Municipality \*

AA1 Contract Action involving Commonwealth, Municipality, MBTA, etc. (A)  
 AB1 Tortious Action involving Commonwealth, Municipality, MBTA, etc. (A)  
 AC1 Real Property Action involving Commonwealth, Municipality, MBTA etc. (A)  
 AD1 Equity Action involving Commonwealth, Municipality, MBTA, etc. (A)  
 AE1 Administrative Action involving Commonwealth, Municipality, MBTA, etc. (A)

### CN Contract/Business Cases

A01 Services, Labor, and Materials (F)  
 A02 Goods Sold and Delivered (F)  
 A03 Commercial Paper (F)  
 A04 Employment Contract (F)  
 A05 Consumer Revolving Credit - M.R.C.P. 8.1 (F)  
 A06 Insurance Contract (F)  
 A08 Sale or Lease of Real Estate (F)  
 A12 Construction Dispute (A)  
 A14 Interpleader (F)  
 BA1 Governance, Conduct, Internal Affairs of Entities (A)  
 BA3 Liability of Shareholders, Directors, Officers, Partners, etc. (A)  
 BB1 Shareholder Derivative (A)  
 BB2 Securities Transactions (A)  
 BC1 Mergers, Consolidations, Sales of Assets, Issuance of Debt, Equity, etc. (A)  
 BD1 Intellectual Property (A)  
 BD2 Proprietary Information or Trade Secrets (A)  
 BG1 Financial Institutions/Funds (A)  
 BH1 Violation of Antitrust or Trade Regulation Laws (A)  
 A99 Other Contract/Business Action - Specify (F)

\* Choose this case type if ANY party is the Commonwealth, a municipality, the MBTA, or any other governmental entity UNLESS your case is a case type listed under Administrative Civil Actions (AA).

† Choose this case type if ANY party is an incarcerated party, UNLESS your case is a case type listed under Administrative Civil Actions (AA) or is a Prisoner Habeas Corpus case (E97).

### ER Equitable Remedies

D01 Specific Performance of a Contract (A)  
 D02 Reach and Apply (F)  
 D03 Injunction (F)  
 D04 Reform/ Cancel Instrument (F)  
 D05 Equitable Replevin (F)  
 D06 Contribution or Indemnification (F)  
 D07 Imposition of a Trust (A)  
 D08 Minority Shareholder's Suit (A)  
 D09 Interference in Contractual Relationship (F)  
 D10 Accounting (A)  
 D11 Enforcement of Restrictive Covenant (F)  
 D12 Dissolution of a Partnership (F)  
 D13 Declaratory Judgment, G.L. c.231A (A)  
 D14 Dissolution of a Corporation (F)  
 D99 Other Equity Action (F)

### PA Civil Actions Involving Incarcerated Party †

PA1 Contract Action involving an Incarcerated Party (A)  
 PB1 Tortious Action involving an Incarcerated Party (A)  
 PC1 Real Property Action involving an Incarcerated Party (F)  
 PD1 Equity Action involving an Incarcerated Party (F)  
 PE1 Administrative Action involving an Incarcerated Party (F)

### TR Torts

B03 Motor Vehicle Negligence - Personal Injury/Property Damage (F)  
 B04 Other Negligence - Personal Injury/Property Damage (F)  
 B05 Products Liability (A)  
 B06 Malpractice - Medical (A)  
 B07 Malpractice - Other (A)  
 B08 Wrongful Death - Non-medical (A)  
 B15 Defamation (A)  
 B19 Asbestos (A)  
 B20 Personal Injury - Slip & Fall (F)  
 B21 Environmental (F)  
 B22 Employment Discrimination (F)  
 BE1 Fraud, Business Torts, etc. (A)  
 B99 Other Tortious Action (F)

### RP Summary Process (Real Property)

S01 Summary Process - Residential (X)  
 S02 Summary Process - Commercial/ Non-residential (F)

### RP Real Property

C01 Land Taking (F)  
 C02 Zoning Appeal, G.L. c. 40A (F)  
 C03 Dispute Concerning Title (F)  
 C04 Foreclosure of a Mortgage (X)  
 C05 Condominium Lien & Charges (X)  
 C99 Other Real Property Action (F)

### MC Miscellaneous Civil Actions

E18 Foreign Discovery Proceeding (X)  
 E97 Prisoner Habeas Corpus (X)  
 E22 Lottery Assignment, G.L. c. 10 §28 (X)

### AB Abuse/Harassment Prevention

E15 Abuse Prevention Petition, G.L. c. 209A (X)  
 E21 Protection from Harassment, G.L. c. 258E(X)

### AA Administrative Civil Actions

E02 Appeal from Administrative Agency, G.L. c. 30A (X)  
 E03 Certiorari Action, G.L. c.249 §4 (X)  
 E05 Confirmation of Arbitration Awards (X)  
 E06 Mass Antitrust Act, G. L. c. 93 §9 (A)  
 E07 Mass Antitrust Act, G. L. c. 93 §8 (X)  
 E08 Appointment of a Receiver (X)  
 E09 Construction Surety Bond, G.L. c. 149 §§29, 29A (A)  
 E10 Summary Process Appeal (X)  
 E11 Worker's Compensation (X)  
 E16 Auto Surcharge Appeal (X)  
 E17 Civil Rights Act, G.L. c.12 §11H (A)  
 E24 Appeal from District Court Commitment, G.L. c.123 §9(b) (X)  
 E25 Pleural Registry (Asbestos cases) (X)  
 E95 Forfeiture, G.L. c.94C §47 (F)  
 E99 Other Administrative Action (X)  
 Z01 Medical Malpractice - Tribunal only, G.L. c. 231 §60B (F)  
 Z02 Appeal Bond Denial (X)

### SO Sex Offender Review

E12 SDP Commitment, G.L. c. 123A §12 (X)  
 E14 SDP Petition, G.L. c. 123A §9(b) (X)

### RC Restricted Civil Actions

E19 Sex Offender Registry, G.L. c.6 §178M (X)  
 E27 Minor Seeking Consent, G.L. c.112 §12S (X)

## TRANSFER YOUR SELECTION TO THE FACE SHEET

### EXAMPLE:

CODE NO.	TYPE OF ACTION (specify)	TRACK	HAS A JURY CLAIM BEEN MADE?
B03	Motor Vehicle Negligence-Personal Injury	F	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

## STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

**DUTY OF THE PLAINTIFF** - The plaintiff shall set forth, on the face of the civil action cover sheet (or attach additional sheets as necessary), a statement specifying the facts on which the plaintiff relies to determine money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served with the complaint. **A clerk-magistrate shall not accept for filing a complaint, except as otherwise provided by law, unless it is accompanied by such a statement signed by the attorney or self-represented litigant.**

**DUTY OF THE DEFENDANT** - If the defendant believes that the statement of damages filed by the plaintiff is inadequate, the defendant may file with his/her answer a statement specifying the potential damages which may result if the plaintiff prevails.

**A CIVIL COVER SHEET MUST BE FILED WITH EACH COMPLAINT.  
 FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY  
 MAY RESULT IN DISMISSAL OF THIS ACTION.**

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

SUPERIOR COURT  
CIVIL ACTION  
NO.

ESTRELLA LUGO, PPA NATACHA HERNANDEZ ,  
Plaintiff,

V.

TARA KUMARASWAMI, M.D.,  
BRIANNA SCHUMACHER, M.D.,  
LORI CLARK, R.N.,  
NATHALIE GIBSON, R.N.,  
LYNNE STARBARD, R.N., AND  
SARAH DAHDOUH, R.N.,  
Defendants.

**COMPLAINT**

**Count I.**

1. The plaintiff, Estrella Lugo, is a minor who brings this action through her Mother and next friend, Natacha Hernandez, a resident of Florida.
2. The defendant, Tara Kumaraswami, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts with a principal place of business in Worcester County, Massachusetts.
3. At all times relevant to this complaint, the defendant, Tara Kumaraswami, 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 minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014.
4. On or about 2/18/2014-2/19/2014, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Tara Kumaraswami, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Estrella Lugo, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Tara Kumaraswami, M.D., including, but not limited to the following:

- a) Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014;
  - b) Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 2/18/2014-2/19/2014, 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 minor plaintiff and her 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 minor plaintiff and her 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 minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Tara Kumaraswami, M.D., the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Tara Kumaraswami, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

## **Count II.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count I of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, the defendant, Tara Kumaraswami, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's medical care and treatment.
3. The defendant, Tara Kumaraswami, M.D., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that she would possess and exercise that

degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.

4. On or about 2/18/2014-2/19/2014, the defendant, Tara Kumaraswami, M.D., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
5. As a direct and proximate result of the defendant, Tara Kumaraswami, M.D.'s breach of express and implied warranties, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Tara Kumaraswami, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count III.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count I and Paragraphs One through Five of Count II of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
3. On or about 2/18/2014-2/19/2014, the defendant, Tara Kumaraswami, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
4. On or about 2/18/2014-2/19/2014, the defendant, Tara Kumaraswami, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother.
5. If the defendant, Tara Kumaraswami, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.

7. As a direct and proximate result of the defendant, Tara Kumaraswami, M.D.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Tara Kumaraswami, M.D., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count IV.**

1. The plaintiff, Estrella Lugo, is a minor who brings this action through her Mother and next friend, Natacha Hernandez, a resident of Florida.
2. The defendant, Brianna Schumacher, M.D. , was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Brianna Schumacher, 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 minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014.
4. On or about 2/18/2014-2/19/2014, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Brianna Schumacher, M.D. , who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Estrella Lugo, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Brianna Schumacher, M.D. , including, but not limited to the following:
  - a) Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014;
  - b) Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 2/18/2014-2/19/2014, 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 minor plaintiff and her 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 minor plaintiff and her 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 minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Brianna Schumacher, M.D. , the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Brianna Schumacher, M.D. , in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

## **Count V.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count IV of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, the defendant, Brianna Schumacher, M.D. , contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's medical care and treatment.
3. The defendant, Brianna Schumacher, M.D. , expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
4. On or about 2/18/2014-2/19/2014, the defendant, Brianna Schumacher, M.D. , breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
5. As a direct and proximate result of the defendant, Brianna Schumacher, M.D. 's breach of express and implied warranties, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical,

surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Brianna Schumacher, M.D. , in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

## **Count VI.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count IV and Paragraphs One through Five of Count V of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
3. On or about 2/18/2014-2/19/2014, the defendant, Brianna Schumacher, M.D. , knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
4. On or about 2/18/2014-2/19/2014, the defendant, Brianna Schumacher, M.D. , did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother.
5. If the defendant, Brianna Schumacher, M.D. , had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Brianna Schumacher, M.D. 's failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.



WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Brianna Schumacher, M.D. , in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

## **Count VII.**

1. The plaintiff, Estrella Lugo, is a minor who brings this action through her Mother and next friend, Natacha Hernandez, a resident of Florida.
2. The defendant, Lori Clark, R.N., was at all times relevant to this complaint a nurse licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Lori Clark, R.N., represented and held herself out to be a nurse, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014.
4. On or about 2/18/2014-2/19/2014, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Lori Clark, R.N., who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Estrella Lugo, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Lori Clark, R.N., including, but not limited to the following:
  - a) Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014;
  - b) Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 2/18/2014-2/19/2014, 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 minor plaintiff and her 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 minor plaintiff and her mother with acceptable nursing 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 nursing profession practicing her specialty; and

- e) Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Lori Clark, R.N., the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Lori Clark, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count VIII.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count VII of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, the defendant, Lori Clark, R.N., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's nursing care and treatment.
3. The defendant, Lori Clark, R.N., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of nursing, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
4. On or about 2/18/2014-2/19/2014, the defendant, Lori Clark, R.N., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of nursing, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
5. As a direct and proximate result of the defendant, Lori Clark, R.N.'s breach of express and implied warranties, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Lori Clark, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count IX.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count VII and Paragraphs One through Five of Count VIII of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, average qualified members of the nursing profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
3. On or about 2/18/2014-2/19/2014, the defendant, Lori Clark, R.N., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
4. On or about 2/18/2014-2/19/2014, the defendant, Lori Clark, R.N., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother.
5. If the defendant, Lori Clark, R.N., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Lori Clark, R.N.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Lori Clark, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count X.**

1. The plaintiff, Estrella Lugo, is a minor who brings this action through her Mother and next friend, Natacha Hernandez, a resident of Florida.

2. The defendant, Nathalie Gibson, R.N., was at all times relevant to this complaint a nurse licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Nathalie Gibson, R.N., represented and held herself out to be a nurse, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014.
4. On or about 2/18/2014-2/19/2014, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Nathalie Gibson, R.N., who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Estrella Lugo, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Nathalie Gibson, R.N., including, but not limited to the following:
  - a) Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014;
  - b) Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 2/18/2014-2/19/2014, 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 minor plaintiff and her 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 minor plaintiff and her mother with acceptable nursing 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 nursing profession practicing her specialty; and
  - e) Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Nathalie Gibson, R.N., the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Nathalie Gibson, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count XI.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count X of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, the defendant, Nathalie Gibson, R.N., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's nursing care and treatment.
3. The defendant, Nathalie Gibson, R.N., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of nursing, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
4. On or about 2/18/2014-2/19/2014, the defendant, Nathalie Gibson, R.N., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of nursing, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
5. As a direct and proximate result of the defendant, Nathalie Gibson, R.N.'s breach of express and implied warranties, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Nathalie Gibson, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count XII.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count X and Paragraphs One through Five of Count XI of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, average qualified members of the nursing profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.

3. On or about 2/18/2014-2/19/2014, the defendant, Nathalie Gibson, R.N., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
4. On or about 2/18/2014-2/19/2014, the defendant, Nathalie Gibson, R.N., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother.
5. If the defendant, Nathalie Gibson, R.N., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Nathalie Gibson, R.N.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez, prays judgment against the defendant, Nathalie Gibson, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count XIII.**

1. The plaintiff, Estrella Lugo, is a minor who brings this action through her Mother and next friend, Natacha Hernandez, a resident of Florida.
2. The defendant, Lynne Starbard, R.N., was at all times relevant to this complaint a nurse licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Lynne Starbard, R.N., represented and held herself out to be a nurse, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014.
4. On or about 2/18/2014-2/19/2014, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Lynne Starbard, R.N., who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being,

treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.

5. The injuries sustained by the minor plaintiff, Estrella Lugo, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Lynne Starbard, R.N., including, but not limited to the following:
  - a) Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014;
  - b) Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 2/18/2014-2/19/2014, 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 minor plaintiff and her 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 minor plaintiff and her mother with acceptable nursing 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 nursing profession practicing her specialty; and
  - e) Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Lynne Starbard, R.N., the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Lynne Starbard, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

#### **Count XIV.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count XIII of this complaint as if each were set forth here in its entirety.

2. On or about 2/18/2014-2/19/2014, the defendant, Lynne Starbard, R.N., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's nursing care and treatment.
3. The defendant, Lynne Starbard, R.N., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of nursing, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
4. On or about 2/18/2014-2/19/2014, the defendant, Lynne Starbard, R.N., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of nursing, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
5. As a direct and proximate result of the defendant, Lynne Starbard, R.N.'s breach of express and implied warranties, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Lynne Starbard, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count XV.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count XIII and Paragraphs One through Five of Count XIV of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, average qualified members of the nursing profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
3. On or about 2/18/2014-2/19/2014, the defendant, Lynne Starbard, R.N., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
4. On or about 2/18/2014-2/19/2014, the defendant, Lynne Starbard, R.N., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother.
5. If the defendant, Lynne Starbard, R.N., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the



minor plaintiff and her mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.

6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Lynne Starbard, R.N.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Lynne Starbard, R.N., in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count XVI.**

1. The plaintiff, Estrella Lugo, is a minor who brings this action through her Mother and next friend, Natacha Hernandez, a resident of Florida.
2. The defendant, Sarah Dahdouh, R.N. , was at all times relevant to this complaint a nurse licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Sarah Dahdouh, R.N. , represented and held herself out to be a nurse, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014.
4. On or about 2/18/2014-2/19/2014, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Sarah Dahdouh, R.N. , who negligently, carelessly, and without regard for the minor plaintiff's and her mother's health and well being, treated the minor plaintiff and her mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Estrella Lugo, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Sarah Dahdouh, R.N. , including, but not limited to the following:
  - a) Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and her mother on or about 2/18/2014-2/19/2014;

- b) Defendant's failure to adequately and properly diagnose the minor plaintiff's and her mother's medical condition on or about 2/18/2014-2/19/2014, 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 minor plaintiff and her 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 minor plaintiff and her mother with acceptable nursing 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 nursing profession practicing her specialty; and
  - e) Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and her mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Sarah Dahdouh, R.N. , the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Sarah Dahdouh, R.N. , in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count XVII.**

- 1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count XVI of this complaint as if each were set forth here in its entirety.
- 2. On or about 2/18/2014-2/19/2014, the defendant, Sarah Dahdouh, R.N. , contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and her mother's nursing care and treatment.
- 3. The defendant, Sarah Dahdouh, R.N. , expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of nursing, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.
- 4. On or about 2/18/2014-2/19/2014, the defendant, Sarah Dahdouh, R.N. , breached her express and implied warranties by failing to perform and render professional services in accordance with

accepted standards for the practice of nursing, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the nursing profession practicing her specialty.

5. As a direct and proximate result of the defendant, Sarah Dahdouh, R.N. 's breach of express and implied warranties, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Sarah Dahdouh, R.N. , in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

### **Count XVIII.**

1. The minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , repeats and reavers fully herein Paragraphs One through Six of Count XVI and Paragraphs One through Five of Count XVII of this complaint as if each were set forth here in its entirety.
2. On or about 2/18/2014-2/19/2014, average qualified members of the nursing profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
3. On or about 2/18/2014-2/19/2014, the defendant, Sarah Dahdouh, R.N. , knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and her mother.
4. On or about 2/18/2014-2/19/2014, the defendant, Sarah Dahdouh, R.N. , did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother.
5. If the defendant, Sarah Dahdouh, R.N. , had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and her mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Sarah Dahdouh, R.N. 's failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Estrella Lugo, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for her medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of

body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and her ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Estrella Lugo, through her Mother and next friend, Natacha Hernandez , prays judgment against the defendant, Sarah Dahdouh, R.N. , in an amount which is just and appropriate to compensate her for her injuries, together with interest and costs.

PLAINTIFF CLAIMS TRIAL BY JURY.

Respectfully submitted,  
The plaintiff,  
By her attorneys,

/s/ Andrew C. Meyer, Jr.

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