

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS SUPERIOR COURT

CIVIL ACTION NO: 20-1455A

MARISOL JACKSON, AND

DAVID JACKSON, AN INFANT

PLAINTIFFS

v.

THOMAS F. McELRATH, M.D., PH.D.

JULIANA SHANTZ-DUNN, M.D.

AMY H. GOH, CNM

ALEXANDRA M. SHEA, CNM

JOAN McDONALD, R.N.

ELIZABETH WILLIAMS-BROWN, R.N.

MARIA A. MARTINEZ, R.N.

SUNIL EAPPEN, MD, MBA

KATHRYN BRITTON, MD, MPH

CHARLES MORRIS, MD, MPH

ROBERT BARBIERI, MD

AND

PARTNERS HEALTHCARE SYSTEM, INC. D/B/A

BRIGHAM & WOMEN'S HOSPITAL

DEFENDANTS

COMPLAINT AND JURY DEMAND

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
FILED

JUL 07 2020

MICHAEL JOSEPH DONOVAN
CLERK OF COURT

COUNT I

1. Plaintiff Marisol Jackson (hereinafter “Ms. Jackson”), as mother and sole natural guardian of David Jackson, a minor, is an adult individual who resides at 3301 Abbeville Highway, Apt. E37, Anderson SC 29624-4365, Anderson County, South Carolina.
2. Plaintiff David Jackson (hereinafter “D.J.”), is a minor individual residing with his mother, Ms. Jackson, at 3301 Abbeville Highway, Apt. E37, Anderson SC 29624-4365, Anderson County, South Carolina.
3. Upon information and belief, that the defendant, Partners HealthCare System, Inc. d/b/a Brigham & Women’s Hospital, (hereinafter “Brigham & Women’s Hospital”) at all times relevant hereto, was a Massachusetts non-profit corporation and a licensed medical facility with offices in Suffolk County, Massachusetts and specifically has a business located in Boston, Massachusetts. Plaintiff is asserting a professional liability claim against this Defendant.
4. Upon information and belief, that the defendant, Thomas F. McElrath, M.D., Ph.D., at all times relevant hereto, was a physician duly licensed to practice medicine in the Commonwealth Massachusetts and maintains an office for the practice of medicine at Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts. At all times relevant hereto, the defendant, Thomas F. McElrath, M.D., Ph.D., held himself out as competent and a specialist in obstetrics and gynecology.
5. Upon information and belief, that the defendant, Juliana Shantz-Dunn, M.D., at all times relevant hereto, was a physician duly licensed to practice medicine in the Commonwealth Massachusetts and maintains an office for the practice of medicine at Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts. At all times relevant hereto, the defendant, Juliana Shantz-Dunn, M.D., held herself out as competent and a specialist in obstetrics and gynecology.

6. Upon information and belief, that the defendant, Amy H. Goh, CNM, at all times relevant hereto, was a Certified Nurse Midwife and maintains an office for the practice of nursing at Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts. At all times relevant hereto, the defendant Amy H. Goh, CNM held herself out as competent and a specialist in midwifery.
7. Upon information and belief, that the defendant, Alexandra M. Shea, CNM, at all times relevant hereto, was a Certified Nurse Midwife and maintains an office for the practice of nursing at Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts. At all times relevant hereto, the defendant Alexandra M. Shea, CNW held herself out as competent and a specialist in midwifery.
8. Upon information and belief, that the defendant, Joan McDonald, R.N., at all times relevant hereto, was a Registered Nurse and maintains an office for the practice of nursing at Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts.
9. Upon information and belief, that the defendant, Elizabeth Williams-Brown, R.N., at all times relevant hereto, was a Registered Nurse and maintains an office for the practice of nursing at Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts.
10. Upon information and belief, that the defendant, Maria A. Martinez, R.N., at all times relevant hereto, was a Registered Nurse and maintains an office for the practice of nursing at Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts.
11. Upon information and belief, that the defendant, Sunil Eappen, MD, MBA, was, and at all times relevant hereto, a physician and Senior Vice President, Medical Affairs; Chief Medical Officer of Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts.

12. Upon information and belief, that the defendant, Kathryn Britton, MD, MPH, was, and at all times relevant hereto, a physician and Associate Chief Medical Officer of Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts.
13. Upon information and belief, that the defendant, Charles Morris, MD, MPH, was, and at all times relevant hereto, a physician and Associate Chief Medical Officer of Brigham & Women's Hospital, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts.
14. Upon information and belief, that the defendant, Robert Barbieri, MD, was, and at all times relevant hereto, a physician and Chair of the Department of Obstetrics and Gynecology, 75 Francis Street, in the City of Boston in Suffolk County, Massachusetts.
15. Upon information and belief, that at all times relevant hereto, the employees, agents, servants, including physicians, physician assistants, nurse practitioners, residents, fellows, nurses, nurse midwives, and technicians who provided care to Ms. Jackson and her unborn child, D.J. between July 7, 2013 and July 11, 2013, including, but not limited to, Thomas F. McElrath, M.D., Ph.D., Juliana Shantz-Dunn, M.D., Amy H. Goh, CNM, Alexandra M. Shea, CNM, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N. were under the control and were acting within the course and scope of their employment and/or ostensible agency and/or professional relationship with the defendant Brigham & Women's Hospital.
16. At all times relevant hereto, Defendants, and each of them, individually or by and through their agents and employees, or as a joint venture, assumed the responsibility for the diagnosis, care, and treatment of Ms. Jackson and her unborn child, D.J.
17. On or about July 8, 2013, and for several months previously, the plaintiff, Marisol Jackson was pregnant.
18. On or about July 8, 2013, Plaintiff Marisol Jackson her unborn child, D.J., were in a patient-physician relationship with the defendant, Thomas F. McElrath, M.D., Ph.D. and received medical care from the defendant, Thomas F. McElrath, M.D., Ph.D.

19. On or about July 8, 2013, and subsequently, the defendant, Thomas F. McElrath, M.D., Ph.D., negligently and carelessly provided medical care to the plaintiff, D.J., at the Brigham & Women's Hospital in Boston, Suffolk County, Massachusetts, including, but not limited to, the following:
- a. negligent failure to comply with the standard of care of the average qualified physician taking into account advances in the profession, and/or negligent failure to comply with the standard of care of the average qualified obstetrician and gynecologist, taking into account advances in the profession in treating D.J.;
 - b. negligent failure to recognize, diagnose, treat, or arrange for appropriate diagnosis of the medical conditions affecting D.J., including, but not limited to, the need for a prompt Cesarean birth or other means to protect the life and health of Ms. Jackson and D.J.;
 - c. negligent failure to perform and/or negligent failure to perform properly diagnostic tests, including, but not limited to, fetal monitoring techniques to assess the condition of D.J.;
 - d. negligent failure to respond to symptoms and signs of Ms. Jackson. and D.J.;
 - e. negligently performing a traumatic birth of D.J.;
 - f. negligent failure to respond to the symptoms and signs exhibited by Ms. Jackson and D.J. and negligent failure to take adequate measures to insure a proper response; and
 - g. gross negligence in his treatment of Ms. Jackson and D.J.
20. As the direct and proximate result of the carelessness, unskillfulness, negligence, and improper care and treatment by the defendant as herein set forth, D.J. was caused to sustain severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendant, Thomas F. McElrath, M.D., Ph.D., together with interest and costs.

COUNT II

21. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through twenty (20) of Counts I of this complaint as if expressly rewritten and set forth herein.

22. As a direct and proximate result of the negligence and carelessness of the defendant, Thomas F. McElrath, M.D., Ph.D., the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson. demands judgment against the defendant, Thomas F. McElrath, M.D., Ph.D., together with interest and costs in actual and compensatory damages.

COUNT III

23. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through twenty-two (22) of Counts I through II of this complaint as if expressly rewritten and set forth herein.

24. On or about July 8, 2013, Plaintiff Marisol Jackson her unborn child, D.J., were in a patient-physician relationship with the defendant, Juliana Shantz-Dunn, M.D., and received medical care from the defendant, Juliana Shantz-Dunn, M.D.

25. On or about July 8, 2013, and subsequently, the defendant, Juliana Shantz-Dunn, M.D., negligently and carelessly provided medical care to the plaintiff, D.J., at the Brigham & Women's Hospital in Boston, Suffolk County, Massachusetts, including, but not limited to, the following:

- a. negligent failure to comply with the standard of care of the average qualified physician taking into account advances in the profession, and/or negligent failure to comply with the standard of care of the average qualified obstetrician and gynecologist, taking into account advances in the profession in treating D.J.;

- b. negligent failure to recognize, diagnose, treat, or arrange for appropriate diagnosis of the medical conditions affecting D.J., including, but not limited to, the need for a prompt Cesarean birth or other means to protect the life and health of Ms. Jackson and D.J.;
- c. negligent failure to perform and/or negligent failure to perform properly diagnostic tests, including, but not limited to, fetal monitoring techniques to assess the condition of D.J.;
- d. negligent failure to respond to symptoms and signs of Ms. Jackson. and D.J.;
- e. negligently performing a traumatic birth of D.J.;
- f. negligent failure to respond to the symptoms and signs exhibited by Ms. Jackson and D.J. and negligent failure to take adequate measures to insure a proper response; and
- g. gross negligence in his treatment of Ms. Jackson and D.J.

26. As the direct and proximate result of the carelessness, unskillfulness, negligence, and improper care and treatment by the defendant as herein set forth, D.J. was caused to sustain severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendant, Juliana Shantz-Dunn, M.D., together with interest and costs.

COUNT IV

27. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through twenty-six (26) of Counts I through III of this complaint as if expressly rewritten and set forth herein.

28. As a direct and proximate result of the negligence and carelessness of the defendant, Juliana Shantz-Dunn, M.D., the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She

has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson, demands judgment against the defendant, Juliana Shantz-Dunn, M.D., together with interest and costs in actual and compensatory damages.

COUNT V

29. The plaintiffs reallege, repeat, and reaver the allegations of paragraphs one (1) through twenty-eight (28) of Count I through Count IV of this Complaint as if expressly rewritten and set forth herein.

30. At all times relevant hereto, the employees, agents, servants, including physicians, physician assistants, nurse practitioners, residents, fellows, nurses, nurse midwives, and technicians who provided care to Ms. Jackson and her unborn child, D.J. between July 7, 2013 and July 11, 2013, including, but not limited to, Thomas F. McElrath, M.D., Ph.D., Juliana Shantz-Dunn, M.D., Amy H. Goh, CNM, Alexandra M. Shea, CNM, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N. were under the control and were acting within the course and scope of their employment and/or ostensible agency and/or professional relationship with Defendant Brigham & Women's Hospital.

31. As a direct and proximate result of the negligence and carelessness of the defendants Thomas F. McElrath, M.D., Ph.D., Juliana Shantz-Dunn, M.D., Amy H. Goh, CNM, Alexandra M. Shea, CNM, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N. the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson demands judgment as shall seem just to the trier of fact, against the defendants, Thomas F. McElrath, M.D., Ph.D., Juliana Shantz-Dunn, M.D., Amy H. Goh, CNM, Alexandra M. Shea, CNM, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A.

Martinez, R.N. and against the defendant Brigham & Women's Hospital, and each of them, individually or by and through their agents and employees, or as a joint venture, for the full amount of the damage caused them, including interests and costs together with interest and costs in actual and compensatory damages.

COUNT VI

32. The plaintiffs reallege, repeat, and reaver the allegations of paragraphs one (1) through thirty-one (31) of Count I through Count VI of this Complaint as if expressly rewritten and set forth herein.

33. At all times relevant hereto, the employees, agents, servants, including physicians, physician assistants, nurse practitioners, residents, fellows, nurses, nurse midwives, and technicians who provided care to Ms. Jackson and her unborn child, D.J. between July 7, 2013 and July 11, 2013, including, but not limited to, Thomas F. McElrath, M.D., Ph.D., Juliana Shantz-Dunn, M.D., Amy H. Goh, CNM, Alexandra M. Shea, CNM, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N., Maria A. Martinez, R.N., Sunil Eappen, MD, MBA, Kathryn Britton, MD, MPH, Charles Morris, MD, MPH, and Robert Barbieri, MD, were under the control and were acting within the course and scope of their employment and/or ostensible agency and/or professional relationship with Defendant Brigham & Women's Hospital.

34. As the direct and proximate result of the carelessness, unskillfulness, negligence, and improper care and treatment by the defendant as herein set forth, D.J. was caused to sustain severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendants, Thomas F. McElrath, M.D., Ph.D., Juliana Shantz-Dunn, M.D., Amy H. Goh, CNM, Alexandra M. Shea, CNM, Joan McDonald, R.N., Elizabeth

Williams-Brown, R.N., Maria A. Martinez, R.N., Sunil Eappen, MD, MBA, Kathryn Britton, MD, MPH, Charles Morris, MD, MPH, and Robert Barbieri, MD, and against the defendant Brigham & Women's Hospital, and each of them, individually or by and through their agents and employees, or as a joint venture, for the full amount of the damage caused them, including interests and costs together with interest and costs in actual and compensatory damages.

COUNT VII

35. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through thirty-four (34) of Counts I through VI of this complaint as if expressly rewritten and set forth herein.

36. On or about July 8, 2013, the plaintiff, Ms. Jackson and her unborn child, D.J., was in a patient-nurse midwife relationship with and received midwife and nursing care from the defendant, Amy H. Goh, CNM and Alexandra M. Shea, CNM.

37. On or about July 8, 2013, and subsequently, the defendants, Amy H. Goh, CNM and Alexandra M. Shea, CNM, negligently and carelessly provided medical care to the plaintiff Ms. Jackson at the Brigham & Women's Hospital, Boston, Suffolk County, Massachusetts, including, but not limited to, the following:

- a. negligent failure to comply with the standard of care and skill of the average qualified member of the profession practicing nursing, taking into account advances in the profession;
- b. negligent failure to recognize, diagnose, treat, or arrange for appropriate diagnosis of the medical conditions effecting Ms. Jackson, including but not limited to, the need for a prompt Cesarean birth or other means to protect the life and health of Ms. Jackson and D.J.;
- c. negligent failure to perform and/or negligent failure to perform properly diagnostic tests, including but not limited to, fetal monitoring techniques to assess the condition of D.J.;

- d. negligent failure to respond to symptoms or the signs of Ms. Jackson and D.J. and negligent failure to carry out physicians' orders;
- e. negligent failure to respond to the symptoms or the signs exhibited by Ms. Jackson and D.J. and negligent failure to take adequate measures to insure a proper response;
- f. gross negligence in the treatment of Ms. Jackson and D.J.

38. As a direct and proximate result of negligence and carelessness of the defendants, Amy H. Goh, CNM and Alexandra M. Shea, CNM, the plaintiff D.J. was caused to suffer severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against defendants, Amy H. Goh, CNM and Alexandra M. Shea, CNM, and each of them, individually or by and through their agents and employees, or as a joint venture, together with interest and costs.

COUNT VIII

39. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through thirty-eight (38) of Counts I through VII of this complaint as if expressly rewritten and set forth herein.

40. As a direct and proximate result of the negligence and carelessness of the defendant, Amy H. Goh, CNM and Alexandra M. Shea, CNM, the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson. demands judgment against the defendants, against defendants, Amy H. Goh, CNM and Alexandra M. Shea, CNM, and each of them, individually or by and through their agents and employees, or as a joint venture, together with interest and costs.

COUNT IX

41. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through forty (40) of Counts I through VIII of this complaint as if expressly rewritten and set forth herein.
42. On or about July 8, 2013, the plaintiff, Ms. Jackson and her unborn child, D.J., was in a patient-nurse relationship with and received nursing care from the defendants, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N.
43. On or about July 8, 2013, and subsequently, the defendant, Amy H. Goh, CNM negligently and carelessly provided medical care to the plaintiff Ms. Jackson at the Brigham & Women's Hospital, Boston, Suffolk County, Massachusetts, including, but not limited to, the following:
- a. negligent failure to comply with the standard of care and skill of the average qualified member of the profession practicing nursing, taking into account advances in the profession;
 - b. negligent failure to recognize, diagnose, treat, or arrange for appropriate diagnosis of the medical conditions effecting Ms. Jackson, including but not limited to, the need for a prompt Cesarean birth or other means to protect the life and health of Ms. Jackson and D.J.;
 - c. negligent failure to perform and/or negligent failure to perform properly diagnostic tests, including but not limited to, fetal monitoring techniques to assess the condition of D.J.;
 - d. negligent failure to respond to symptoms or the signs of Ms. Jackson and D.J. and negligent failure to carry out physicians' orders;
 - e. negligent failure to respond to the symptoms or the signs exhibited by Ms. Jackson and D.J. and negligent failure to take adequate measures to insure a proper response;
 - f. gross negligence in the treatment of Ms. Jackson and D.J.
44. As a direct and proximate result of negligence and carelessness of the defendants, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N., the plaintiff, D.J. was caused

to suffer severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendants, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N. and each of them, individually or by and through their agents and employees, or as a joint venture, together with interest and costs.

COUNT X

45. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through forty-four (44) of Counts I through IX of this complaint as if expressly rewritten and set forth herein.

46. As a direct and proximate result of the negligence and carelessness of the defendants, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N., the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson. demands judgment against the defendants, against defendants, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N. and Maria A. Martinez, R.N., and each of them, individually or by and through their agents and employees, or as a joint venture, together with interest and costs.

COUNT XI

47. The plaintiffs reallege, repeat, and reaver the allegations of paragraphs one (1) through forty-six (46) of Counts I through X of this complaint as if expressly rewritten and set forth herein.

48. The defendant, Sunil Eappen, MD, MBA, as Senior Vice President, Medical Affairs; Chief Medical Officer of Brigham & Women's Hospital, 75 Francis Street, Boston, MA 02115 in Suffolk County, Massachusetts owed a duty to persons receiving health care from health care

providers employed by and/or in a professional relationship with Brigham & Women's Hospital, including, but not limited to, patients of the Brigham & Women's Hospital Obstetrics and Gynecology Department to use due care in the selection, employment, and supervision of care providers.

49. The defendant, Sunil Eappen, MD, MBA, his agents, servants, and employees were negligent with respect to the medical care rendered to Ms. Jackson and D.J. and the manner in which this incident was investigated including, but not limited to, the following ways:

- a. negligence, including gross negligence, in the hiring, training, supervision, screening, and review of physicians and health care providers employed by Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital;
- b. vicarious liability for the actions of the health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital, specifically Ms. Jackson and D.J.; and
- c. negligent failure to follow the guidelines, rules, and regulations of the Brigham & Women's Hospital.

50. As a direct and proximate result of negligence and carelessness of the defendant, Sunil Eappen, MD, MBA, his agents, servants, and employees, the plaintiff D.J., was caused to suffer severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendant, Sunil Eappen, MD, MBA, together with interest and costs.

COUNT XII

51. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through fifty (50) of Counts I through XI of this complaint as if expressly rewritten and set forth herein.

52. As a direct and proximate result of the negligence and carelessness of the defendant, Sunil Eappen, MD, MBA, the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson, demands judgment against the defendants, against defendant, Sunil Eappen, MD, MBA individually or by and through his agents and employees, or as a joint venture, together with interest and costs.

COUNT XIII

53. The plaintiffs reallege, repeat, and reaver the allegations of paragraphs one (1) through fifty-two (52) of Counts I through XII of this complaint as if expressly rewritten and set forth herein.

54. The defendant, Kathryn Britton, MD, MPH, as Associate Chief Medical Officer of Brigham & Women's Hospital, 75 Francis Street, Boston, MA 02115 in Suffolk County, Massachusetts owed a duty to persons receiving health care from health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital, including, but not limited to, patients of the Brigham & Women's Hospital Obstetrics and Gynecology Department to use due care in the selection, employment, and supervision of care providers.

55. The defendant, Kathryn Britton, MD, MPH, her agents, servants, and employees were negligent with respect to the medical care rendered to Ms. Jackson and D.J. and the manner in which this incident was investigated including, but not limited to, the following ways:

- a. negligence, including gross negligence, in the hiring, training, supervision, screening, and review of physicians and health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital;

- b. vicarious liability for the actions of the health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital, specifically Ms. Jackson and D.J.; and
- c. negligent failure to follow the guidelines, rules, and regulations of the Brigham & Women's Hospital.

56. As a direct and proximate result of negligence and carelessness of the defendant, Kathryn Britton, MD, MPH, her agents, servants, and employees, the plaintiff D.J., was caused to suffer severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendant, Kathryn Britton, MD, MPH, together with interest and costs.

COUNT XIV

57. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through fifty-six (56) of Counts I through XIII of this complaint as if expressly rewritten and set forth herein.

58. As a direct and proximate result of the negligence and carelessness of the defendant, Kathryn Britton, MD, MPH, the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson, demands judgment against the defendants, against defendant, Kathryn Britton, MD, MPH, individually or by and through her agents and employees, or as a joint venture, together with interest and costs.

COUNT XV

59. The plaintiffs reallege, repeat, and reaver the allegations of paragraphs one (1) through fifty-eight (58) of Counts I through XIV of this complaint as if expressly rewritten and set forth herein.
60. The defendant, Charles Morris, MD, MPH, as Associate Chief Medical Officer of Brigham & Women's Hospital, 75 Francis Street, Boston, MA 02115 in Suffolk County, Massachusetts owed a duty to persons receiving health care from health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital, including, but not limited to, patients of the Brigham & Women's Hospital Obstetrics and Gynecology Department to use due care in the selection, employment, and supervision of care providers.
61. The defendant, Charles Morris, MD, MPH, his agents, servants, and employees were negligent with respect to the medical care rendered to Ms. Jackson and D.J. and the manner in which this incident was investigated including, but not limited to, the following ways:
- d. negligence, including gross negligence, in the hiring, training, supervision, screening, and review of physicians and health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of the Brigham & Women's Hospital;
 - e. vicarious liability for the actions of the health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital, specifically Ms. Jackson and D.J.; and
 - f. negligent failure to follow the guidelines, rules, and regulations of the Brigham & Women's Hospital.

62. As a direct and proximate result of negligence and carelessness of the defendant, Charles Morris, MD, MPH, his agents, servants, and employees, the plaintiff D.J., was caused to suffer severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendant, Charles Morris, MD, MPH, together with interest and costs.

COUNT XVI

63. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through sixty-two (62) of Counts I through XV of this complaint as if expressly rewritten and set forth herein.

64. As a direct and proximate result of the negligence and carelessness of the defendant, Charles Morris, MD, MPH, the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson. demands judgment against the defendants, against defendant, Charles Morris, MD, MPH, individually or by and through his agents and employees, or as a joint venture, together with interest and costs.

COUNT XVII

65. The plaintiffs reallege, repeat, and reaver the allegations of paragraphs one (1) through sixty-four (64) of Counts I through XVI of this complaint as if expressly rewritten and set forth herein.

66. The defendant, Robert Barbieri, MD, as Chair of the Department of Obstetrics and Gynecology at Brigham & Women's Hospital, 75 Francis Street, Boston, MA 02115 in Suffolk County, Massachusetts owed a duty to persons receiving health care from health care providers employed

by and/or in a professional relationship with Brigham & Women's Hospital, including, but not limited to, patients of the Brigham & Women's Hospital Obstetrics and Gynecology Department to use due care in the selection, employment, and supervision of care providers.

67. The defendant, Robert Barbieri, MD, his agents, servants, and employees were negligent with respect to the medical care rendered to Ms. Jackson and D.J. and the manner in which this incident was investigated including, but not limited to, the following ways:

- g. negligence, including gross negligence, in the hiring, training, supervision, screening, and review of physicians and health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital Hospital;
- h. vicarious liability for the actions of the health care providers employed by and/or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital Hospital, including Ms. Jackson and D.J.; and
- i. negligent failure to follow guidelines, rules, and regulations of Brigham & Women's Hospital.

68. As a direct and proximate result of negligence and carelessness of the defendant, Robert Barbieri, MD, his agents, servants, and employees, the plaintiff D.J., was caused to suffer severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. His ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

WHEREFORE, the plaintiff, Ms. Jackson., as guardian of D.J., demands judgment as shall seem just to the trier of fact, on behalf of D.J., against the defendant, Robert Barbieri, MD, together with interest and costs.

COUNT XVIII

69. The plaintiffs reallege, repeat, and reaver the allegations in paragraphs one (1) through sixty-eight (68) of Counts I through XVII of this complaint as if expressly rewritten and set forth herein.

70. As a direct and proximate result of the negligence and carelessness of the defendant, Robert Barbieri, MD, the plaintiff, Ms. Jackson, has suffered grievous pain of body and mind. She has been forced to expend great sums of money for medical treatment and will be forced to expend additional sums in the future.

Wherefore, the plaintiff, Ms. Jackson. demands judgment against the defendants, against defendant, Robert Barbieri, MD, individually or by and through his agents and employees, or as a joint venture, together with interest and costs.

COUNT XIX

71. The plaintiffs reallege, repeat, and reaver the allegations of paragraphs one (1) through seventy (70) of Counts I through XVIII of this complaint as if expressly rewritten and set forth herein.

72. On or about July 8, 2013, the plaintiff, Ms. Jackson and her unborn child, D.J. received medical treatment from employees of the Brigham & Women's Hospital.

73. The physicians and other health care providers who provided care to patients, including Ms. Jackson and D.J. were employed by and/or under the direction of and/or in a professional relationship with Brigham & Women's Hospital

74. The physicians and other health care providers who provided care to the plaintiff, Ms. Jackson and D.J., including, but not limited to Thomas F. McElrath, M.D., Ph.D., Juliana Shantz-Dunn, M.D., Amy H. Goh, CNM, Alexandra M. Shea, CNM, Joan McDonald, R.N., Elizabeth Williams-Brown, R.N., Maria A. Martinez, R.N., Sunil Eappen, MD, MBA, Kathryn Britton, MD, MPH, Charles Morris, MD, MPH, and Robert Barbieri, MD, were negligent as herein alleged.

75. The defendant, Brigham & Women's Hospital, its agents, servants, and employees were negligent with respect to the medical care rendered to Ms. Jackson and D.J. and the manner in which this incident was investigated including, but not limited to, the following ways:

- d. negligence, including gross negligence, in the hiring, training, supervision, screening, and review of physicians and health care providers employed by or were in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital;
- e. vicarious liability for the actions of the health care providers employed by or in a professional relationship with Brigham & Women's Hospital or who provided care to patients of Brigham & Women's Hospital; and
- f. negligent failure to follow the guidelines, rules, and regulations of the Brigham & Women's Hospital.

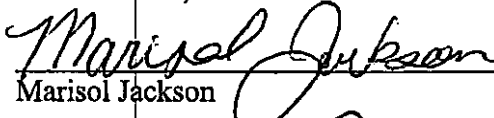
76. As a direct and proximate result of the negligence of the Brigham & Women's Hospital, its agents, servants, and employees, the plaintiff D.J., was caused to suffer severe brain damage, autism, and become permanently mentally retarded. He has been permanently incapacitated emotionally and mentally, and physically disfigured. He will never be able to care for himself, work, or earn income. Her ability to mature and develop, and to lead and enjoy a normal childhood and life have been permanently impaired.

Complaint and Jury Demand

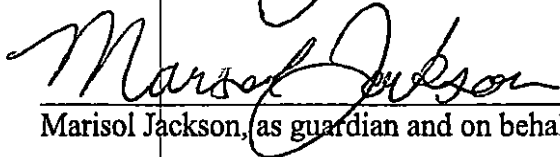
WHEREFORE, the plaintiff, Ms. Jackson., individually and as guardian of Baby D.J., demands judgment as shall seem just to the trier of fact, on behalf of Baby D.J., against the defendant, Brigham & Women's Hospital, together with interest and costs.

THE PLAINTIFFS CLAIM TRIAL BY JURY ON ALL COUNTS OF THEIR COMPLAINT

The Plaintiffs,




Marisol Jackson



Marisol Jackson, as guardian and on behalf of, David Jackson

By Their Attorney,



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