

DOCKET NUMBER

Massachusetts Trial Court  
Superior Court

2



CIVIL ACTION COVER SHEET

COUNTY

Plaintiff Kelly Omu & David Omu Defendant: Mass General Brigham, Brigham and Women's Hospital et al

ADDRESS: ADDRESS: 800 Boylston Street, Boston MA

Plaintiff Attorney: Patrick Driscoll, Gregory Henning Defendant Attorney:

ADDRESS: Boyle Shaughnessy Law, 88 Broad Street, 8th floor, Boston ADDRESS:

MA 02110

BBO: PD: 669560, GH: 663189 BBO:

TYPE OF ACTION AND TRACK DESIGNATION (see instructions section on next page)

CODE NO. B04 TYPE OF ACTION (specify) Negligence TRACK F HAS A JURY CLAIM BEEN MADE? [X] YES [ ] NO

\*If "Other" please describe:

Is there a claim under G.L. c. 93A?

[X] YES [ ] NO

Is there a class action under Mass. R. Civ. P. 23?

[ ] YES [X] NO

STATEMENT OF DAMAGES REQUIRED BY 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. (Note to plaintiff: for this form, do not state double or treble damages; indicate single damages only.)

TORT CLAIMS

A. Documented medical expenses to date

- 1. Total hospital expenses \$0.00
2. Total doctor expenses kg \$0.00
3. Total chiropractic expenses \$0.00
4. Total physical therapy expenses \$0.00
5. Total other expenses (describe below) \$0.00

Subtotal (1-5): \$0.00

B. Documented lost wages and compensation to date \$0.00

C. Documented property damages to date \$0.00

D. Reasonably anticipated future medical and hospital expenses \$0.00

E. Reasonably anticipated lost wages \$0.00

F. Other documented items of damages (describe below) \$1,000,000.00

For wrongfully losing and disposing of Baby Mariposa's body.

TOTAL (A-F): \$1,000,000.00

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

Mental and physical emotional distress caused by Defendant's acts and omissions in wrongfully losing and disposing of child's remains

CONTRACT CLAIMS

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

Table with 3 columns: Item #, Detailed Description of Each Claim, Amount. Row 1: 1. Breach of contract by hospital entities in failing to protect and safeguard Baby Mariposa's remains. Total

Signature of Attorney/Self-Represented Plaintiff: X /s/ Patrick Driscoll Date: 1/17/2025

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

Alana Ross. v. MGB, et al., No. 01419 (Suffolk); Madeleine Bothe v. MGB et al No. 02366 (Suffolk); Jodie Skrzat & Christian Noel v. MGB et al, No. 02863 (Suffolk); Lauren Emery & Michael Ward v. Mass General Brigham, et al., No. 00778 (Suffolk).

Docket Number

**CERTIFICATION UNDER S.J.C. RULE 1:18(5)**

I hereby certify that I have complied with requirements of Rule 5 of Supreme Judicial Court Rule 1:18: Uniform Rules on Dispute Resolution, requiring that I inform my clients about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney: X /s/ Patrick Driscoll

Date: 01/17/2025

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT  
DOCKET NO.: 2584CV00156

KELLY OMU and	)
DAVID OMU	)
Plaintiffs,	)
	)
v.	)
	)
MASS GENERAL BRIGHAM,	)
BRIGHAM AND WOMEN’S HOSPITAL,	)
JON C. ASTER, MICHELLE SICILIANO,	)
GEORGE LUTHER MUTTER, LAURENT	)
DELLI-BOVI, JOHN DOE #1,	)
JANE DOE #1.	)
Defendants.	)

**DEFENDANT LAURENT DELLI-BOVI’S (PROPERLY LAURENT DELLI-BOVI, M.D.)**  
**ANSWER TO PLAINTIFFS’ COMPLAINT AND**  
**DEMAND FOR JURY TRIAL**

**PARTIES**

1. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs’ proof.
2. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
3. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
4. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
5. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
6. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
7. The Defendant admits that she is a physician licensed to practice medicine in the Commonwealth of Massachusetts. The Defendant denies the remaining allegations of this paragraph and leaves to Plaintiffs’ proof.

8. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
9. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

### **JURISDICTION AND VENUE**

10. This paragraph sets forth a conclusion of law to which no response is required. To the extent that a response is required, the Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
11. This paragraph sets forth a conclusion of law to which no response is required. To the extent that a response is required, the Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
12. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
13. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
14. This paragraph sets forth a conclusion of law to which no response is required. To the extent that a response is required, the Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

### **FACTUAL BACKGROUND**

15. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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**COUNT 1**  
**(MGB & BWH – BREACH OF CONTRACT)**

209. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
210. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
211. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
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213. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
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215. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
216. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

217. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

218. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

219. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

220. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

**COUNT II**  
**(MGB & BWH – BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING)**

221. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.

222. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

223. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

224. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

225. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

226. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

227. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

**COUNT III**  
**DEFENDANTS ASTER, SICILIANO, MUTTER, DELI-BOVI, JOHN DOE #1, & JANE DOE #1 – NEGLIGENCE**

228. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.

229. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

230. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
231. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
232. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
233. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
234. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
235. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
236. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
237. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
238. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
239. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
240. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
241. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
242. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
243. The Defendant admits that she was a treating provider of Kelly Omu.
244. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
245. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to

this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph and leaves to Plaintiffs' proof.

246. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph and leaves to Plaintiffs' proof.

247. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

248. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

249. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

250. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

251. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph and leaves to Plaintiffs' proof.

**COUNT IV**  
**(MGB & BWH – VIOLATION OF M.G.L. c. 93A, § 9)**

252. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.

253. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

254. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

255. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

256. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

257. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

258. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

259. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

260. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

261. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

262. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

263. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

264. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

265. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

266. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

267. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

268. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

269. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

270. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

271. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

272. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

273. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

274. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

**COUNT V**

**(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE #1, & JANE DOE #1 – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

275. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.

276. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

277. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

278. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

279. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

280. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

**COUNT VI**

**(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE #1, & JANE DOE #1 – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)**

281. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.

282. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

283. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

**COUNT VII**

**(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE #1, JANE DOE #1 – TORTIOUS INTERFERENCE WITH HUMAN REMAINS)**

284. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
285. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
286. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
287. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
288. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
289. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

### **AFFIRMATIVE DEFENSES**

#### First Affirmative Defense

Plaintiffs' Complaint, and each count thereof, as against each Defendant must be dismissed for failure to state a cause of action upon which relief may be granted. Rule 12(b)(6), Mass. R. Civ. P.

#### Second Affirmative Defense

Plaintiffs' Complaint, and each count thereof, as against each Defendant must be dismissed under *Iannacchino v. Ford Motor Co.*, 451 Mass. 623 (2008) for failure to state a cause of action upon which relief may be granted. Rule 12(b)(6), Mass. R. Civ. P.

#### Third Affirmative Defense

Counts of Plaintiffs' Complaint founded in breach of contract and breach of warranty must be dismissed for failure to state a cause of action upon which relief may be granted as there was no contract; and/or as there was no promise of a specific result and/or as there was no contract and/or as there was no sale of goods and/or as the Uniform Commercial Code is not applicable to a patient-provider relationship. Rule 12(b)(6), Mass. R. Civ. P.

#### Fourth Affirmative Defense

Counts of Plaintiffs' Complaint for recovery of medical expenses must be dismissed for failure to state a cause of action upon which relief may be granted to the extent such is non-recoverable under G.L.c. 231, §60G and/or to the extent Plaintiffs are not personally liable thereon and/or have not actually personally paid for such, and/or as the damages sought are repetitive of those sought in other counts. Rule 12(b)(6), Mass. R. Civ. P.

#### Fifth Affirmative Defense

To the extent Plaintiffs' Complaint, and each count therein, seeks recovery for alleged financial losses including but not limited to alleged lost wages and/or earning potential; and/or seeks recovery for alleged physician, hospital, nursing, pharmaceutical, rehabilitative and like costs and expenses, the Complaint and each count therein must be dismissed for failure to state a cause of action upon which relief may be granted as there is no such recovery per G.L.c. 231, §60G; and/or as there is no recovery to the extent such is paid for, reimbursed by and/or indemnified by a collateral source; and/or to the extent Plaintiffs have not actually paid therefore and/or are not personally liable thereon.

#### Sixth Affirmative Defense

The provisions of G.L.c. 231, §60B are applicable to this action.

#### Seventh Affirmative Defense

The provisions of G.L.c. 231, §§ 60L are applicable to this action.

#### Eighth Affirmative Defense

The provisions of G.L.c. 231, §§ 60G and/or 60H are applicable to this action.

#### Ninth Affirmative Defense

The Defendant raises and preserves the affirmative defense of failure to commence within the applicable statutes of limitations and/or repose.

#### Tenth Affirmative Defense

Each Plaintiff was her/himself negligent so as to reduce and/or bar recovery, if any, in this action.

#### Eleventh Affirmative Defense

Each Plaintiff, having been informed of the risks, benefits, potential complications, potential consequences, options, alternatives, treatment and/or decisions involved and/or available, consented and provided informed consent.

#### Twelfth Affirmative Defense

The conduct of each Plaintiff and/or of a third party was an independent intervening cause that resulted in a lack of causal relationship between the alleged negligence of the Defendant and the injuries and/or damages alleged by Plaintiffs.

Thirteenth Affirmative Defense

The injuries and/or damages alleged by each Plaintiff were caused, if at all, by the conduct of a third person for whose conduct this Defendant is not and was not responsible.

Fourteenth Affirmative Defense

This Defendant denies that it had any agent, servant and/or employee who was negligent.

Fifteenth Affirmative Defense

This Defendant reserves, as to each count within the Complaint, all rights and remedies under G.L.c. 231, §6F, including but not limited to attorneys fees and costs.

Sixteenth Affirmative Defense

And further answering, the Defendant states that it is immune from liability pursuant to Senate No. 2640, codified as Chapter 64 of the Acts of 2020, An Act to Provide Liability Protections for Health Care Workers and Facilities during the COVID-19 Pandemic.

Seventeenth Affirmative Defense

And further answering, the Defendant states that it is immune from civil suit and liability pursuant to the Public Readiness and Emergency Preparedness Act (PREP Act).

Eighteenth Affirmative Defense

This Defendant reserves the right to raise such additional affirmative defenses as become known and/or available during the course of this action.

**DEMAND FOR JURY TRIAL**

The Defendant, Laurent Delli-Bovi, M.D. demands a Jury Trial on all issues raised by this case.

Respectfully submitted,  
Defendant,  
Laurent Delli-Bovi, M.D.,  
By Counsel,



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DATED: 4/28/25

## CERTIFICATE OF SERVICE

I, Allyson N. Hammerstedt, Attorney for the Defendants, hereby certify that on this 28<sup>th</sup> day of April 2025, I caused a true and accurate copy of the foregoing documents to be filed through the eFileMA system and sent to all counsel of record via electronic mail:

Gregory D. Henning, Esq.  
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Allyson N. Hammerstedt, Esq.  
BBO# 678792

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT  
C.A.

KELLY OMU & DAVID OMU

Plaintiffs,

v.

kg

MASS GENERAL BRIGHAM, BRIGHAM &  
WOMEN'S HOSPITAL, MICHELLE SICILIANO,  
JON C. ASTER, GEORGE LUTHER MUTTER,  
LAURENT DELLI-BOVI, JOHN DOE #1, JANE  
DOE #1

Defendants.

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**COMPLAINT AND JURY DEMAND**

Plaintiffs, Kelly Omu (“Kelly”) and David Omu (“David) (collectively,  
“Plaintiffs”) state as follows for their complaint in this action:

**PARTIES**

1. Plaintiffs Kelly Omu and David Omu have, at all times relevant to this  
matter, resided in Jaffrey, New Hampshire.

2. Defendant Mass General Brigham (“MGB”) is, upon information and  
belief, a company with a principal place of business at 800 Boylston Street, Boston,  
Massachusetts in the county of Suffolk.

3. Defendant Brigham & Women’s Hospital (“BWH”) is, upon information and belief, a company with a principal place of business at 75 Francis Street, Boston, Massachusetts in the county of Suffolk.<sup>1</sup>

4. Defendant Michelle Siciliano is an individual who at all times relevant to this matter was an employee of Brigham & Women’s Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is Technical Operations Manager, Autopsy and Decedent Affairs.

5. Defendant John C. Aster is an individual who at all times relevant to this matter was an employee of Brigham & Women’s Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. His position was/is Interim Chair of Pathology.

6. Defendant George Luther Mutter is an individual who at all times relevant to this matter was an employee of Brigham & Women’s Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. His position was/is Doctor of Pathology.

7. Defendant Laurent Delli Bovi is an individual who at all times relevant to this matter was an employee of Brigham & Women’s Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Her position was/is Doctor of Obstetrics and Gynecology.

8. Defendant John Doe #1 is an individual who at all times relevant to this matter was an employee of Brigham & Women’s Hospital with a principal place of

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<sup>1</sup> Defendants MGB and BWH are hereinafter collectively referred to as, “The Brigham.”  
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employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Upon information and belief, his position was/is Pathologist.

9. Defendant Jane Doe #1 is an individual who at all times relevant to this matter was an employee of Brigham & Women's Hospital with a principal place of employment at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Upon information and belief, her position was/is Social Worker.

### **JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction over this action pursuant to G.L. c. 223A §§ 2, 3.

11. This Court has personal jurisdiction over each and every Defendant pursuant to G.L. c. 223 § 1. Defendants Mass General Brigham and Brigham and Women's Hospital transact business, trade, and commerce in Massachusetts, including in connection with the property involved in this action located at 75 Francis Street, Boston, Massachusetts in the county of Suffolk. Mass General Brigham and Brigham & Women's Hospital have their principal places of business in Massachusetts.

12. Each of the individually named Defendants has their principal place of employment at the Brigham & Women's Hospital located at 75 Francis Street in Boston, Massachusetts.

13. All the Defendants have engaged in a course of conduct which has caused harm and injury to Plaintiffs in Massachusetts.

14. Venue exists in Suffolk County pursuant to G.L. c. 223 § 1 because each of the Defendants have as their principal places of business, or principal places of employment, a location in Suffolk County.

### **FACTUAL BACKGROUND**

15. Kelly and David Omu were married in mid-2021.

16. In September of 2021, they conceived their first child, whom they named Mariposa.

17. Approximately four months into the pregnancy, Plaintiffs learned through doctors that Mariposa would have severe, life-limiting disabilities if she were delivered to term and survived outside of the womb.

18. At the time, Plaintiff Kelly Omu was being cared for by Dr. Laurent Delli-Bovi, an obstetrics and gynecology doctor at Brigham and Women's Hospital.

19. Plaintiffs consulted with Dr. Delli-Bovi and other health care providers, and made the difficult decision to terminate the pregnancy.

20. At roughly eighteen and a half weeks into the pregnancy, Plaintiffs traveled from New Hampshire to a women's health facility in Brookline, Massachusetts to undergo the procedure to end the pregnancy.

21. Due to the gestational age of the fetus, the procedure was to take two days, requiring an overnight stay in Massachusetts.

22. On the first day, January 20, 2022, Kelly was required to fill out multiple forms consenting to the procedure as well as a "Massachusetts Consent for Burial and/or Cremation" form regarding how she and David wished to handle the disposition of Mariposa's remains; and was required to speak on the phone with a receptionist from Defendant BWH in order to establish a patient account with BWH.

23. Notably, the "Consent for Burial and/or Cremation" form is separated into two sections, requiring the parents to indicate what they wanted to happen with their child's remains in addition to whether they approved of pathology testing.

24. Kelly and David were informed by clinic staff that genetic testing would be performed on Baby Mariposa's remains at Brigham and Women's Hospital and that the clinic would ship the remains to BWH after the procedure.

25. Accordingly, because pathology studies were needed, Kelly checked the box in the first section, indicating that she wished to assume responsibility for the handling of Mariposa's remains after the genetic testing was completed.

26. She wrote into the "Consent for Burial and/or Cremation" form the name of the Smith and Heald Funeral Home in Milford, New Hampshire, as well as their phone number and address.

27. Kelly chose this funeral home because her cousin, Patrick Brooks, worked there and would be handling the arrangements.

28. On January 21, 2022, Kelly underwent the traumatic procedure to end the pregnancy.

29. Kelly was informed again that the clinic was going to send Mariposa's remains to Brigham and Women's Hospital, where pathologists would perform genetic testing.

30. Kelly was informed by the clinic that someone from BWH would contact her when Mariposa's remains were ready to be transferred to the funeral home.

31. Nobody ever informed Kelly and David how long the genetic testing would take or when they could expect Baby Mariposa's remains to be ready.

32. Kelly provided the relevant documents to Mr. Brooks at Smith and Heald Funeral Home on January 21, 2022.

33. On that same day, January 21, 2022, Smith & Heald Funeral Home sent an authorization, on behalf of Plaintiff Kelly Omu, to permit the release of Plaintiffs' daughter's remains to the Smith & Heald Funeral Home. (see **Exhibit A**).

34. In addition to their oral representations prior to the procedures and their indications on the "Consent for Burial and/or Cremation" forms, the Plaintiffs relied upon Dr. Delli-Bovi to provide the fax authorization that was sent by Smith & Heald Funeral Home to the appropriate office and staff at the Brigham, where Dr. Delli-Bovi worked.

35. The authorization was sent via fax by Smith & Heald Funeral Home to the office of Defendant Dr. Delli-Bovi.

36. The recipient fax number was 617-227-3248.

37. This fax number belongs to the office of Dr. Laurent Delli-Bovi.

38. The fax was received by the office of Dr. Laurent Delli-Bovi.

39. The Plaintiffs then anxiously waited for the day that their daughter's remains would be ready for a proper funeral.

40. Mr. Brooks informed Plaintiffs that he would communicate with BWH about scheduling the pickup of Baby Mariposa.

41. Plaintiffs were informed by Mr. Brooks that someone at BWH told Mr. Brooks that the genetic testing would take "a few weeks."

42. Thereafter, every week, Kelly checked her online medical records portal to monitor whether there was any information regarding the results of the genetic testing.

43. Weeks went by and each time Kelly checked the portal, there was no information regarding Mariposa.

44. Kelly assumed the genetic testing was still ongoing since the hospital had not contacted her, or Mr. Brooks at the funeral home.

45. Then, approximately six weeks after sending Mariposa's remains to BWH, during one of her weekly reviews of the portal, Kelly noticed that the genetic testing results had been uploaded to her portal.

46. The testing report indicated that the testing was completed nearly a month prior, on February 7, 2022.

47. Nobody ever contacted Kelly, David, or the funeral home to inform them that the testing was completed, and Mariposa's remains were ready for transfer.

48. Upon seeing the testing results in her portal, on March 5, 2022, Kelly texted her cousin at Smith and Heald Funeral Home to tell him that it appeared the testing was completed, and that Mariposa's remains were ready to be picked up.

49. Mr. Brooks, an experienced funeral home director, was confused as to why the hospital never contacted him, when the hospital knew Smith and Heald was listed as the funeral home handling the arrangements for Baby Mariposa's remains.

50. Mr. Brooks immediately contacted Brigham and Women's Hospital on March 5, 2022, to arrange to transfer Baby Mariposa's remains.

51. Nobody from Brigham and Women's Hospital answered his calls and nobody called the funeral home back to arrange for the transfer.

52. Mr. Brooks told Kelly and David that despite repeated calls, the hospital was not giving him information, and he was getting the sense that something was wrong.

53. Mr. Brooks told Plaintiffs that the hospital was "giving him the run around" as by March 9, 2022, he had spoken to three different people at BWH and had still received no information regarding the whereabouts of Baby Mariposa's remains.

54. Mr. Brooks indicated that it was very unprofessional for the hospital to refuse to contact Kelly, David, or the funeral home immediately when Mariposa's remains were ready for transfer.

55. It was even more concerning to Mr. Brooks that the hospital was not answering their calls to transfer Mariposa's remains or to explain where her remains were.

56. Mr. Brooks was especially confused because he thought a renowned hospital like Brigham and Women's would understand how to handle the transfer of remains and would have policies in place to efficiently facilitate such transfers.

57. Shocked and confused, Plaintiffs called BWH to find an explanation for what happened to Mariposa.

58. On March 10th, 2022, Plaintiff Kelly Omu received an email from Dr. Laurent Delli-Bovi.

59. In her email, Dr. Delli-Bovi apologized for what the Plaintiffs had to endure.

60. Dr. Delli-Bovi said that the "Women's Health Services" department of Brigham & Women's Hospital acknowledged that Dr. Delli-Bovi "had indicated on the pathology requisition form that [Plaintiffs] planned [a] burial cremation."

61. This communication confirmed that the fax authorization form sent from Smith & Heald Funeral Home was received by Dr. Laurent Delli-Bovi.

62. This communication confirmed that Dr. Laurent Delli-Bovi provided the fax authorization form to the appropriate entities at BWH.

63. This communication confirmed that Brigham and Women's Hospital and the Women's Health Services Department of BWH was in possession of appropriately completed paperwork indicating that Plaintiffs would be receiving Baby Mariposa's remains for cremation at the completion of genetic testing.

64. In short, the Plaintiffs did everything in their power to make arrangements for the receipt of their daughter's remains at the completion of genetic testing.

65. Dr. Delli-Bovi said she'd spoken to a doctor in the pathology department, and identified him as Dr. George Mutter.

66. Dr. Delli-Bovi also wrote to Kelly: "I know Brigham Pathology is taking steps to prevent this from happening again."

67. This communication constituted an admission that BWH, and the Brigham Pathology Department, had mishandled the process for keeping and transferring Baby Mariposa to Plaintiffs.

68. Approximately five days after Plaintiffs discovered, on their own, that the testing had been completed a month prior, they received a call from Dr. George Mutter, the pathologist who performed the genetic testing of Mariposa.

69. Dr. Mutter told Kelly and David that Mariposa's remains were "misplaced" and apparently discarded.

70. Dr. Mutter said he never saw the form indicating how Kelly and David wished to handle Mariposa's remains.

71. Dr. Mutter apologized on behalf of BWH and admitted that it was an egregious failure to not honor Plaintiffs' wish to have a proper burial for their child.

72. Dr. Mutter's statements to Plaintiff's constituted an admission that Dr. Mutter and BWH staff failed in their obligations to the Plaintiffs by improperly disposing of the remains of their daughter, Baby Mariposa.

73. Dr. Mutter explained that the only remnant of Mariposa's remains that were still in the possession of BWH were the small tissue samples that were kept for genetic testing.

74. Dr. Mutter offered to send the small remnants of tissue samples to Plaintiffs as a consolation.

75. While Kelly and David had envisioned a beautiful memorial for their child, allowing them to visit her and remember her in a respectful manner, Dr. Mutter proposed that Kelly and David turn the tissue sample into a candle.

76. Kelly and David never received any answers regarding how or why the Brigham discarded Baby Mariposa's remains.

77. Plaintiffs have been forever deprived of any opportunity to grieve and bury their daughter.

78. After enduring the grief caused by the Brigham's inexcusable mishandling of their child's remains coupled with MGB's callous and outrageous response to the situation, Plaintiff Kelly Omu remains in therapy nearly 3 years later.

79. Baby Mariposa has never been recovered.

### **Baby Everleigh**

80. The Brigham was aware of problems in its Pathology Department dating back more than a year.

81. In August 2020, the Brigham inexcusably discarded the remains of Baby Everleigh Ross. *See generally, Alana Ross, et al. v. Mass General Brigham, et al.*, No. 01419 (Suffolk County Superior Court, filed June 23, 2022). **(See Attached as Exhibit B)**

82. In the *Everleigh* matter, the plaintiffs' daughter was born at BWH and died 12 days later on August 6, 2020.

83. When plaintiffs sent a funeral home to pick up their daughter's body at BWH four days later on August 10, 2020, they learned that Baby Everleigh was missing.

84. Baby Everleigh's remains have still never been located.

85. During the Brigham's investigation into the loss of Baby Everleigh, Pathologist John Gryzb unloaded on Brigham investigators about the conditions of the morgue and inaction by hospital administrators when they were notified of these problems.

86. Gryzb noted that it was "common practice" for him to "pick up slings, linens, and trash left in the morgue by others who have access in there."

87. Gryzb told investigators that the pathology department had "filed safety reports and complaints about how other departments leave their workspace."

88. Gryzb told investigators that he had "learned to work with the other departments' mistakes," but he also acknowledged that he had "spoken to his boss, Michelle [Siciliano], about these complaints."

89. Gryzb was hardly alone; Sheila Cox, a transport employee at BWH, was interviewed by Brigham security in the Baby Everleigh matter and remembered that it was "a mess" on the day of Everleigh's disappearance.

90. Another pathologist, Jacob Plaisted, had put Brigham on notice about the conditions of the morgue prior to the loss of Baby Everleigh.

91. Unlike Gryzb, Plaisted had lodged formal complaints with hospital administrators prior to the disappearance of Baby Everleigh and informed Brigham investigators of this fact after the loss of Baby Everleigh.

92. Notably, while the Brigham touted its "transparency" in sharing information with patients' families, in the *Everleigh* matter, the Brigham has refused to disclose pertinent information regarding their investigation, including, but not limited to, complaints about the morgue levied by hospital employees and complete video surveillance of the morgue on the relevant dates.

93. Regardless of what caused the Brigham's loss of Baby Everleigh, by August of 2020 the hospital was aware of problems in its morgue and Pathology Department related to the care, handling, and transfer of infant and pre-natal remains.

**Baby Oliver Bothe**

94. In November 2020, three months after they lost Baby Everleigh, the Brigham discarded Baby Oliver Bothe's remains without contacting the parents. *See generally, Madeleine Bothe, et al. v. Mass General Brigham, et al.*, No. 02366 (Suffolk County Superior Court, filed October 18, 2023). **(See attached Exhibit C).**

95. Like the Plaintiffs in the case at bar, the plaintiffs in *Bothe* underwent a traumatic, pregnancy-ending procedure because of medical complications.

96. When authorizing the procedure to end the pregnancy, Madeleine Bothe and Ed Felstead were required to sign paperwork, including forms indicating how they wished to handle Baby Oliver's remains.

97. Like the Plaintiffs in the case at bar, Madeleine and Ed checked off the box on a form indicating that they would assume the responsibility for the burial or cremation of Baby Oliver's remains.

98. They reiterated to the medical staff and social workers they interacted with, including social worker Jessica Marks, that their final wish for Oliver's remains was to perform a cremation after the completion of the visual autopsy.

99. One of the forms Madeleine and Ed were provided involved the disposition of Oliver's remains.

100. Madeleine and Ed's selection on the disposition of remains form stated:

I will assume the responsibility for burial or cremation of the remains following any necessary examination by a pathologist, and I will make the necessary arrangements. If I have not done so within fourteen (14) days, I

agree that Brigham and Women's Hospital will handle disposal in accordance with its hospital policy.

101. About a week after undergoing the procedure, Madeleine received a call from MGB social worker Jessica Marks.

102. While Madeleine and Ed had previously communicated their wishes for the disposal of Baby Oliver verbally, and in writing, to Marks, Marks again asked Madeleine what she intended to do with Baby Oliver's remains.

103. Madeleine confirmed her intent to have Baby Oliver cremated.

104. Marks provided Madeleine with the names of funeral homes to contact.

105. Madeleine specifically asked Marks how much time they had to decide and make arrangements.

106. Marks assured Madeleine and Ed that they had "six months, so plenty of time" to decide, and that Baby Oliver's remains would be safely kept in the hospital morgue until arrangements were made.

107. Relying on this assertion, Madeleine and Ed took a few weeks to grieve their loss, prior to making arrangements for Oliver's remains.

108. On December 7, 2020, a few weeks after her phone call with Marks, Madeleine called a funeral home to arrange to pick up Baby Oliver's remains and prepare him for cremation.

109. The funeral home called the hospital and immediately called Madeleine and Ed with horrifying news: Baby Oliver was missing.

110. According to the funeral home, Brigham informed the funeral home that Baby Oliver's remains were no longer in the morgue because the Brigham had made "other arrangements."

111. The Brigham never disclosed to Madeleine and Ed what “hospital policy” it was referring to or the firm date that Baby Oliver’s remains needed to be retrieved after the completion of the genetic testing and autopsy.

112. Instead, Jessica Marks, a Brigham representative, assured Madeleine and Ed after Baby Oliver’s death that his remains would be kept safely in the morgue for up to six months.

113. When Ed called the hospital and Jessica Marks to ask what happened, Marks told him she would find out and get back to them.

114. Marks never called back.

115. Neither Marks, nor the Brigham ever informed Madeleine and Ed about who made the decision to discard Baby Oliver or why it had occurred.

116. Madeleine also called BWH numerous times but received no answers.

117. Finally, Madeleine reached Lynn Blech, the Director of Patient/Family Relations at Brigham and Women’s Hospital and spoke with her.

118. Blech informed Madeleine that the hospital discarded Baby Oliver’s remains because more than fourteen days had passed, and the hospital followed its policy.

119. Madeleine could not believe that the hospital did not call her or Ed to verify their intent on the disposition of Baby Oliver’s remains, especially where Marks stated to them that Baby Oliver would remain in the morgue for the foreseeable future.

120. Blech told Madeleine that BWH used to call parents of deceased children to verify the intended disposition of remains, but found that it “caused more harm than good,” re-traumatizing people about their deceased child.

121. Rather than make a phone call to ensure that the plaintiffs' wishes were honored, and Baby Oliver's remains respected, Brigham chose to discard Baby Oliver without telling anyone.

122. Blech's communications to Bothe clearly established that the improper disposal of babies at BWH was a "policy" decision, and not an isolated incident.

### **Baby Katherine Noel**

123. In December 2020, the Brigham threw away Baby Katherine Noel's remains without contacting the parents. *See generally, Jodie Skrzat & Christian Noel v. Mass General Brigham, et al.*, No. 02863 (Suffolk County Superior Court, filed December 15, 2023). (See attached Exhibit D).

124. On December 28, 2020, due to medical complications, Plaintiff Jodie Skrzat underwent a procedure to terminate her pregnancy at Brigham and Women's Hospital.

125. Like the Plaintiffs in the case at bar and *Bothe*, Jodie had multiple conversations with MGB medical professionals regarding how to handle Katherine's remains after the procedure.

126. The resident obstetrician told Jodie she had three options for the handling of Katherine's remains: (1) remains returned to Jodie and Christian; (2) remains donated to science; or (3) remains destroyed by the hospital.

127. Jodie is a medical doctor, and was fully aware of the concept of informed consent.

128. Jodie indicated on the forms and in conversation with the resident obstetrician assisting her that she wanted Baby Katherine to be returned to her.

129. Jodie was never informed that the hospital would dispose of Katherine's remains if they were not collected within two weeks.

130. On the contrary, Jodie was told by the resident obstetrician that before the remains can be returned, the pathology department first must complete an autopsy and genetic testing.

131. Jodie was told that these procedures would take "some time," and that the hospital would contact Jodie and Christian when Katherine's remains were ready to be picked up.

132. Jodie left BWH nervously awaiting the phone call from BWH telling her she could finally bury her daughter.

133. During that month, Jodie and Christian never received a phone call or received any information from BWH regarding Katherine's remains.

134. Once she recovered from additional surgeries due to complications from the procedure, as it had been over a month since Katherine had passed with no contact from the hospital, Jodie asked her partner, Chrisitan Noel, to call the social worker at BWH.

135. When Christian called the social worker to ask when they could pick up Katherine's remains, he was shocked and appalled at the answer: "I don't know if we can still track that down; it's usually two weeks and then no recourse."

136. Nobody had ever contacted Jodie and Christian to tell them Katherine's remains were ready to be picked up, as BWH and the resident obstetrician had promised they would.

137. Instead, BWH unilaterally disposed of Katherine's remains without ever informing Jodie and Christian or contacting them for pickup.

138. Christian told the social worker what Jodie was told by BWH and the resident obstetrician – that they would be contacted when the remains were ready to be picked up.

139. In response, the social worker said: “That’s a story I’ve heard multiple times before. This isn’t an isolated incident.”

140. Jodie went looking for help. She joined support groups on social media to see if anyone else had dealt with something like this.

141. As a radiologist at UMASS Medical, Jodie also sought information in a social media group for female physicians.

142. Jodie found out that one of her high school acquaintances, Dr. Beth Harrison, worked in the pathology department at Brigham and Women’s Hospital.

143. Jodie told Harrison her story and Harrison said she would investigate it and get back to her.

144. Jodie reached out the following day and Harrison told her she was working on it and relaying concerns to the appropriate people.

145. From then on, Jodie never heard from Harrison again. Jodie tried to contact her multiple times and Harrison never responded.

146. Christian continued calling the social worker who had told him that this was “not an isolated incident.”

147. The two communicated a few times but once concerns started to arise, the social worker stopped returning calls from Christian.

148. As the communications from BWH ceased, Jodie sought help in one of her social media support groups – a group for people that terminated their pregnancies due to lethal diagnoses for their unborn children.

149. In that support group, Jodie met Madeleine Bothe.

150. Jodie learned from Madeleine that BWH told Madeleine and her husband, Ed, that they would be contacted when the remains of their child, Oliver, were ready for pickup – only for BWH to unilaterally discard the remains of Baby Oliver without any prior communication with Madeleine and Ed.

151. Finding out that their child’s remains were discarded by BWH was devastating to Jodie and Christian. It compounded their grief and made them feel like they lost their daughter all over again.

152. Jodie and Christian’s grief was exacerbated when they discovered that this tragedy was entirely preventable; BWH had done this to other families and was clearly not instituting any changes to ensure it never happened again.

### **Baby Kaylee Emery**

153. In March of 2021, Brigham threw away Baby Kaylee Emery’s remains against the wishes of her parents. *See generally, Lauren Emery & Michael Ward v. Mass General Brigham, et al.*, No. 00778 (Suffolk County Superior Court, filed March 21, 2024). **(See attached Exhibit E).**

154. On March 1, 2021, Lauren Emery and Michael Ward made the difficult decision to terminate their pregnancy due to medical complications.

155. Those plaintiffs chose The Brigham to have the procedure because the Brigham held itself out and represented itself to consumers through marketing, advertising, and its online presence as “the most trusted name in women’s health...a world leader in helping women live longer, healthier lives.”

156. Just like the plaintiffs in *Bothe*, *Skrzat*, and the case at bar, Lauren and Michael were required to fill out multiple forms regarding their decision to terminate the

pregnancy, including forms regarding how they would like the hospital to handle Baby Kaylee's remains.

157. Lauren and Michal indicated multiple times, on the forms and in conversations with the MGB social worker assisting them, that they wished to have Baby Kaylee's remains returned to them and then cremated.

158. While Lauren and Michael completed the paperwork, hospital staff updated Lauren and Michael's contact information to ensure that they could contact them when Baby Kaylee's remains were ready to be picked up.

159. On March 2, 2021, Lauren underwent the medical procedure at BWH.

160. Hospital staff at the Brigham requested to perform an autopsy on Baby Kaylee and to perform genetic testing to research the "rare disease" that the hospital told Lauren and Michael that Baby Kaylee suffered from.

161. Lauren and Michael agreed to an autopsy to determine whether there was a connection between their prior miscarriages and the complications affecting Baby Kaylee, and to assess whether there was a genetic condition causing pregnancy complications.

162. Lauren and Michael once again made sure to officially designate that they wanted to have Baby Kaylee's remains returned to them and cremated by way of a funeral home after the hospital performed the autopsy.

163. Plaintiffs were familiar with this procedure, having previously gone through two miscarriages.

164. A social worker from the Brigham read off a list of names of funeral homes in the area and asked Lauren to indicate which funeral home the hospital should contact to arrange for the transfer of Kaylee's remains.

165. Lauren selected a funeral home in Brockton, Massachusetts.

166. The social worker informed Lauren and Michael that she would contact the funeral home and take care of everything once Baby Kaylee's remains were ready to be picked up.

167. The social worker assured Lauren and Michael that the hospital would call them after the autopsy and that the results of the autopsy would be shared with them.

168. No one from the hospital ever called and Lauren and Michael never received documentation of the autopsy results.

169. Approximately one week after leaving the Brigham, Lauren called the social worker who had promised to call her, but did not receive a reply.

170. Lauren called the funeral home but did not receive any information.

171. Lauren called the Brigham and was simply told that they would call her back with information.

172. Lauren never received a call back from anyone at the Brigham.

173. In mid-April of 2021, after calling the Brigham more than ten times without getting any answers regarding where Baby Kaylee's remains were, Lauren and Michael received a call from a doctor at BWH who identified herself as "Dr. Reimer."

174. Upon information and believe, the person calling Lauren and Michael was Dr. Rebecca Reimers, who practiced in Maternal-Fetal Medicine and was a Medical Genetics Fellow at BWH.

175. Upon information and belief, the Maternal-Fetal Medicine department is a part of the "Women's Health Services" department at BWH.

176. Dr. Reimers informed Lauren and Michael that the hospital did not have Baby Kaylee's remains because it had been more than fourteen days since Baby Kaylee

passed, and after remains have been in the morgue for more than fourteen days, it is the hospital's practice to discard them.

177. Dr. Reimers specifically indicated to Lauren and Michael that the "morgue" was the place where fetal remains are stored

178. Dr. Reimers stated that the BWH pathology department never received a call from anyone to arrange to transport Baby Kaylee's remains to a funeral home.

179. Lauren and Michael asked Dr. Reimers whether that meant the social worker failed to do her job, as they were told that everything would be taken care of by the hospital and that they should simply wait until the hospital contacted them.

180. Dr. Reimers responded that she did not have all the necessary information but that it appeared that "a communication did not get to the right people."

181. Dr. Reimers acknowledged and agreed that Lauren and Michael indicated in conversations with MGB staff and on a disposition of remains form that they wanted Baby Kaylee's remains returned to them.

182. Dr. Reimers stated that the BWH pathology department was expecting someone to contact their department within fourteen days to arrange for a funeral, but that did not happen.

183. Dr. Reimers explained that after fourteen days the hospital will "take care of the remains" and it appeared that Baby Kaylee "went down that route."

184. Lauren and Michael asked if this meant that the hospital discarded Baby Kaylee's remains in the trash.

185. Dr. Reimers responded that she didn't believe Kaylee was "thrown away" but she acknowledged that Kaylee was not respected and cremated the way Lauren and Michael wished.

186. Dr. Reimers further assured Lauren and Michael that she would find out what the hospital was doing to ensure that this mistake never happened again.

187. Dr. Reimers assured Lauren and Michael that Lauren and Michael did not input the wrong selection on the disposition of remains form, and that the Plaintiffs had consistently expressed their desire to have Kaylee cremated and buried, and the hospital did not honor that request.

188. Dr. Reimers stated that someone from BWH attempted to call Lauren and Michael, but the hospital did not have their correct contact information and were unable to reach them.

189. This was shocking to Lauren and Michael, as they specifically remembered updating their contact information at the hospital on March 1, 2021.

190. Dr. Reimers admitted that mistakes were made by MGB staff, and told Lauren and Michael that she filed a “major complaint” within the hospital and would be meeting with the department heads to find out what happened.

191. Dr. Reimers assured Lauren and Michael that she would call them with an update after her meeting with the department heads.

192. Dr. Reimers never called back.

193. Lauren and Michael never received Kaylee’s remains, nor have they ever been told by MGB staff what happened to Kaylee’s remains.

194. Instead, their memory of Baby Kaylee is enshrined on Michael’s forearm:



### **A Missing Baby Problem at Brigham and Women's Hospital**

195. In total, during an approximately 18-month period from August 2020 until early 2022, the Brigham threw away the remains of 5 children in violation of the expressed wishes of the parents.

196. If each of those five cases, the plaintiffs made BWH and its staff aware of their desire to receive the remains of their children either in writing, orally, or both.

197. In each of those five cases, the babies are still missing to this day.

198. By at least August of 2020, the Brigham and the Pathology Department was on notice that there was a problem within the morgue with how infant remains were stored and kept.

199. By at least the middle of December of 2020, BWH was aware that its policies and procedures for genetic testing and handling fetal and infant remains were inconsistent and misleading; led to the improper disposal of human remains; and were traumatizing the parents of deceased children.

200. In November of 2020, a social worker in *Bothe* told those plaintiffs that they had “six months, so plenty of time” to contact BWH to arrange for the pickup of their child, Baby Oliver.

201. In late December of 2020, a resident obstetrician informed plaintiff Jodie Skrzat that genetic testing procedures would take “some time,” and that the hospital would contact Jodie and Christian when Baby Katherine’s remains were ready to be picked up.

202. At some point in early January of 2021, a social worker at BWH speaking to plaintiff Christian Noel about the improper disposal of his daughter, Baby Katherine, disclosed: “That’s a story I’ve heard multiple times before. This isn’t an isolated incident.”

203. In March of 2021, a social worker informed plaintiffs Lauren Emery and Michael Ward that she would contact the funeral home and take care of everything once Baby Kaylee’s remains were ready to be picked up.

204. In December of 2020, Lynn Blech – Director of Patient/Family Relations at Brigham and Women’s Hospital and a witness in the *Everleigh* matter – told Madeleine Bothe that BWH had a policy of *not* calling parents to confirm their desired intent on how their child’s remains would be disposed.

205. In April of 2021, Dr. Reimers’ acknowledgement that someone from BWH attempted to call Lauren and Michael in the *Baby Kaylee* matter was directly contradictory to the stated policy position of BWH from Lynn Blech, Director of Patient and Family Relations.

206. Over the relevant 18-month period, BWH staff repeatedly told families that they had no obligation to do anything in order to receive the remains of their child, and that the hospital would contact them for pickup of the remains.

207. Discovery remains open in the *Everleigh* matter.

208. In the *Everleigh* matter, the Brigham has never produced any information regarding the loss Baby Oliver, Baby Katherine, Baby Kaylee, and Baby Mariposa, even though each of those incidents is irrefutably responsive to the Baby Everleigh Plaintiffs' discovery requests.

**COUNT I**  
**(MGB & BWH - BREACH OF CONTRACT)**

209. The Plaintiffs incorporate all the foregoing paragraphs of the complaint as if set forth in full below.

210. Plaintiffs and MGB/BWH signed an agreement whereby the hospital, its staff, and its employees would care for Baby Mariposa until her remains could be picked up.

211. This care included safeguarding Baby Mariposa's body and returning it to the family for burial after her passing, in accordance with the documented request of the Plaintiffs.

212. BWH assured the Plaintiffs that Baby Mariposa's remains would be safely kept in the morgue until BWH contacted the family to retrieve her body.

213. BWH and its agents, including the resident obstetrician, did not tell the Plaintiffs that the BWH morgue has a history of erroneously discarding infant remains.

214. BWH knew, as of at least August 2020, that their faulty morgue operation had caused the hospital to lose the remains of at least four other deceased children: (1) Baby Everleigh (2) Baby Oliver (3) Baby Katherine (4) Baby Kaylee. *See generally, Alana Ross, et al. v. Mass General Brigham, et al.*, No. 01419 (Suffolk County Superior Court, filed June 23, 2022); *Madeleine Bothe, et al. v. Mass General Brigham, et al.*, No. 02366 (Suffolk County Superior Court, filed October 18, 2023); *See generally, Jodie Skrzat &*

*Christian Noel v. Mass General Brigham, et al.*, No. 02863 (Suffolk County Superior Court, filed December 15, 2023); *See generally, Lauren Emery & Michael Ward v. Mass General Brigham, et al.*, No. 00778 (Suffolk County Superior Court, filed March 21, 2024).

215. The Plaintiffs fulfilled all their obligations under the contract between the parties.

216. The Plaintiffs made arrangements with a funeral home and communicated those arrangements to their physician at BWH, who acknowledged receiving the communications.

217. The contract between Defendants BWH and MGS and the Plaintiffs was supported by valid consideration.

218. By their actions, and inaction, the Defendants have breached the contract.

219. The Defendants' breach is material and goes to the heart of the contract between the parties.

220. The Defendants' breach has caused injury, damage and harm to the Plaintiffs.

**COUNT II**  
**(MGB & BWH - BREACH OF THE COVENANT OF GOOD FAITH AND  
FAIR DEALING)**

221. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

222. The contract between the Plaintiffs and Defendants MGB and BWH includes an implied covenant of good faith and fair dealing.

223. The covenant requires that neither party act to deprive the other party of the fruits and benefits of the contract.

224. MGB and BWH promise each of their patients “superior care that is patient- and family-centered, accessible, and equitable.”

225. In accepting the care and treatment of Baby Mariposa, MGB and BWH accepted responsibility to live up to that promise which was supported by the consideration they received in the form of the fees they charged to the Plaintiffs and their insurance carriers.

226. By its actions, and inaction, the Defendants failed to abide by the terms of this agreement and have breached the covenant of good faith and fair dealing.

227. The Defendants’ breach has caused injury, damage, and harm to the plaintiff.

**COUNT III**  
**(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE #1, JANE DOE #1 – NEGLIGENCE)**

228. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

229. Defendant Aster was the Interim Chair of the Pathology Department since at least August of 2020.

230. Upon information and belief, as Chair of the Pathology Department, Defendant Aster was responsible for creating, drafting, revising, and enforcing the policies and procedures governing the Pathology Department and the morgue.

231. Upon information and belief, the Chair of the Pathology Department would be informed of “major incidents” involving the loss, improper disposal, and failure to safeguard infant remains by his department.

232. Plaintiffs' physician, Defendant Delli-Bovi, indicated in writing to Plaintiffs that "Brigham Pathology is taking steps to prevent this from happening again."

233. A fair inference from this admission is that the Department responsible for the loss of Baby Mariposa was the Pathology Department.

234. Upon information and belief, the Chair of the Pathology Department would be aware of an investigation of the Pathology Department by the Boston Police Department when Baby Everleigh was lost in August of 2020.

235. A fair inference to draw from all of the above facts is that the Chair of the Pathology Department would be aware – as BWH admitted to impacted families – that this had happened "multiple" times before, and that losing babies at BWH was "not an isolated incident."

236. The loss of four other babies prior to Baby Mariposa was a result of a pattern and practice at BWH and the BWH Pathology Department, overseen by Defendant Aster.

237. At all relevant times, Defendant Siciliano was the Technical Operations Manager, Autopsy and Decent Affairs at BWH.

238. Defendant Siciliano worked closely with the morgue staff, pathologists, and the department of Patient and Family Services.

239. Defendant Siciliano's office was next door to the morgue cooler.

240. The families in all five missing baby cases were told, at various times by hospital staff and providers, that their loved ones were being kept in or handled by the "morgue."

241. Defendant Siciliano was aware of the loss of Baby Everleigh's remains in August of 2020 and was interviewed as part of the investigation by both BWH and the Boston Police Department.

242. Defendant Siciliano was one of the BWH staff responsible for ensuring that human remains were properly handled after death and any subsequent genetic testing, and coordinating with families for the safe return of those remains.

243. Defendant Delli-Bovi was a treating physician of Plaintiff Kelly Omu.

244. Defendant Delli-Bovi was responsible for coordinating with "Women's Health Services" and other staff at BWH to ensure that the wishes of Plaintiffs were properly conveyed to, and honored by, the Pathology Department at BWH.

245. The Defendants owed the Plaintiffs a duty of care in the handling and safeguarding of Baby Mariposa.

246. The Defendants failed to use reasonable care by mishandling Baby Mariposa and throwing her body away.

247. Defendant Aster failed to use reasonable care to ensure that the Pathology Department established and complied with policies that would actually safeguard the remains of deceased infants and fetuses at BWH and safely return them to their families.

248. Defendant Aster failed to investigate repeated failures of his staff and Department in strikingly similar situations during the 18-months leading up to the loss of Baby Mariposa.

249. Defendant Aster failed to revise or amend the policies of the Pathology Department, which could have prevented the loss of Baby Mariposa.

250. Defendant Delli-Bovi failed to ensure that the wishes of Plaintiffs were honored by the Pathology Department and failed to ensure that the Pathology Department acknowledged the wishes of Plaintiffs.

251. The Defendants' failure to use reasonable care caused injury, damage, and harm to the Plaintiffs.

**COUNT IV**  
**(MGB & BWH - VIOLATION OF M.G.L. c. 93A, § 9)**

252. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

253. Plaintiffs were told that Baby Mariposa's remains would be safely kept in the morgue until they were contacted by the Brigham to retrieve them.

254. The Brigham's failure to properly care and account for the body of Baby Mariposa – knowing that Kelly, David, and their family relied upon the Brigham's promises to keep Baby Mariposa's body safely in the morgue – constitutes an unfair and deceptive practice in violation of Chapter 93A.

255. Moreover, the Brigham's employees' shocking disregard and dismissal of phone calls by grieving parents (and their agents) looking for information is a wanton behavior tantamount to a deceptive practice.

256. Neither the Brigham nor its agents informed the Plaintiffs that the Brigham morgue has a history of erroneously discarding infant remains.

257. Neither the Brigham, nor its agents, informed the Plaintiffs that the hospital and its Pathology Department had a "policy" of not calling parents of deceased children to confirm their wishes prior to disposing of infant or fetal remains.

258. BWH knew, as of at least March 2022, that their faulty morgue operation had caused the hospital to lose at least four other deceased child's remains – Baby Everleigh, Baby Oliver, Baby Katherine, and Baby Kaylee.

259. Rather than institute changes to the morgue to ensure that the hospital never discarded another deceased child's remains against the wishes of the parents, Brigham's morgue again discarded a deceased child's remains – Baby Mariposa.

260. The Brigham has deliberately attempted to conceal the ineptitude of its Pathology Department and morgue operations for financial gain.

261. By August of 2020, at the time Baby Everleigh Ross was thrown away by Brigham staff, the Brigham was already on notice that its Pathology Department and leadership were ill equipped to safely retain child remains in its morgue.

262. Notwithstanding this knowledge, the Brigham continued to allow its agents to falsely represent to grieving parents that their child's remains would be safely kept in the morgue until hospital staff contacted the family to retrieve the bodies.

263. The Brigham attempted to conceal the discarding of Baby Mariposa by not responding to inquiries from the Plaintiffs' designated funeral home; and not providing answers about how this happened once the Plaintiffs were finally able to speak to representatives from The Brigham.

264. No one explained to Plaintiffs who discarded Baby Mariposa, and why the family was told she would be kept safe until the Brigham contacted the Plaintiffs to retrieve her body.

265. The Brigham's refusal to provide answers can only be explained by the Brigham's hopes that no one will ever ask what happened to Baby Mariposa and why.

266. The Brigham's repeated attempts to cover-up the loss of Baby Everleigh, Baby Oliver, Baby Katherine, Baby Kaylee, and Baby Mariposa is evidence of their unfair and deceptive conduct, as they continued to represent to the public that it was the premiere hospital for women's health despite the ineptitude of its morgue operation and Pathology Department.

267. On or about October 16, 2023, the Plaintiffs, through counsel, delivered a demand letter to the Defendants containing the specific allegations of conduct by the Defendants that constituted violations of Massachusetts General Laws c. 93A, § 9. (*See Exhibit F*, Chapter 93A Demand Letter).

268. Plaintiffs' demand letter satisfied the required written notice of claim provision of Massachusetts General Laws c. 93A, §9.

269. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants were engaged in trade and commerce.

270. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants held themselves out as the "most trusted name in women's health," and promised to provide "superior care that is patient- and family-centered, accessible, and equitable."

271. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants' actions were unfair and deceptive.

272. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants acted willfully and intentionally.

273. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, the Defendants' actions occurred primarily and substantially in Massachusetts.

274. As outlined above and in Plaintiffs' Chapter 93A Demand Letter, as a result of the Defendants' unfair and deceptive actions, the Plaintiffs have been injured, harmed, and damaged to an extent that will be proven at trial.

**COUNT V**  
**(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE**  
**#1, JANE DOE #2 –**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

275. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

276. The Defendants knew, or should have known, that their conduct would cause emotional distress.

277. The conduct of the Defendants was extreme and outrageous.

278. The conduct of the Defendants caused emotional distress to the Plaintiffs.

279. The emotional distress suffered by the Plaintiffs as a result of the conduct of the Defendants was severe.

280. As a result of the Defendants' actions, the Plaintiffs have been injured, harmed, and damaged to an extent that will be proven at trial.

**COUNT VI**  
**(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE**  
**#1, JANE DOE #2 - NEGLIGENT INFLICTION OF EMOTIONAL**  
**DISTRESS)**

281. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

282. As a direct and proximate result of the Defendants' negligence, Plaintiffs have suffered severe emotional distress and anguish, and have suffered physical

manifestations and harms as a result of the severe and profound emotional distress inflicted upon them by Defendants' negligence.

283. A reasonable person in the same position as the Plaintiffs would have suffered severe and profound emotional distress due to Defendants' negligence.

**COUNT VII**  
**(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE #1, JANE DOE #2 - TORTIOUS INTERFERENCE WITH HUMAN REMAINS)**

284. The Plaintiffs incorporate all the foregoing paragraphs of this complaint as if set forth in full below.

285. The Defendants were responsible for caring for the human remains of Baby Mariposa.

286. The Plaintiffs were entitled to a peaceful disposition of Baby Mariposa.

287. The conduct of the Defendants was intentional, reckless, and/or negligent.

288. The conduct of the Defendants prevented the proper interment or cremation of Baby Mariposa.

289. As a result of the Defendants' actions, the Plaintiffs have been injured, harmed, and damaged to an extent that will be proven at trial.

**JURY DEMAND**

The Plaintiffs demand a jury trial on all claims and issues triable by jury.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs hereby request that the Court enter the following relief:

- I. Enter judgment for the Plaintiffs on all counts of this Complaint.

- II. Order the Defendants to pay damages, legal fees, costs, and expenses as appropriate, including double or treble damages under G.L. c. 93A.
- III. Award the Plaintiffs such other and further relief as is just and appropriate in the circumstances.

Respectfully Submitted  
For the Plaintiffs,

/s/ Gregory D. Henning  
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Respectfully Submitted  
For the Plaintiffs,

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Date: 1.16.25

# EXHIBIT A

## Massachusetts Consent for Burial and/or Cremation

Massachusetts Law, Chapter III, Section 202 provides that the disposition of fetal remains, irrespective of duration of pregnancy, may be made at the discretion of the parent in either of the following ways: (1) the parents may make arrangements for burial in an approved cemetery, or for cremation with a licensed crematorium (Women's Health Services will provide the documentation required to obtain the necessary burial permit) or (2) the remains may be released for disposition in a manner which does not create a hazard to public health.

- 1. If pathology studies are indicated, fetal tissue will be sent to Brigham & Women's Hospital or ConVerge Diagnostic Services. If you are making burial/cremation arrangements please check in the appropriate space below.

I wish to assume the responsibility for the disposition of the remains and will make the necessary arrangements. If this has not occurred within fourteen (14) days, I agree that Brigham & Women's Hospital or ConVerge Diagnostic Services will handle disposal.

Funeral arrangements at Smith and Heald (63 Elm St. Milford NH)  
603 673 1422 03065

I release the remains to Brigham & Women's Hospital or ConVerge Diagnostic Services for immediate disposal.

- 2. If pathology studies are not indicated, if you are making burial/cremation arrangements please check in the appropriate space below.

I wish to assume the responsibility for the disposition of the remains and will make the necessary arrangements. If this has not occurred within fourteen (14) days, Women's Health Services will handle disposal.

Funeral arrangements at \_\_\_\_\_

I release the remains to Women's Health Services for immediate disposal.

Nelly L Omm  
Patient Signature

1/20/22  
Date

[Signature]  
Witness

1-20-22  
Date