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**CIVIL ACTION COVER SHEET**

**DOCKET NUMBER**

24-1633

**Massachusetts Trial Court  
Superior Court**



**COUNTY** Middlesex Superior Court (Woburn)

<b>Plaintiff</b>	Dylan Balmes, PPA Marcelo Rocha Balmes	<b>Defendant:</b>	KATHERINE CALLAHAN, M.D.
<b>ADDRESS:</b>		<b>ADDRESS:</b>	
<b>Plaintiff Attorney:</b>	Andrew C. Meyer, Esq.	<b>Defendant:</b>	TARA KUMARASWAMI, M.D.
<b>ADDRESS:</b>	Lubin and Meyer, P.C.	<b>ADDRESS:</b>	
	100 City Hall Plaza		
	Boston, MA 02108		
<b>BBO:</b>	344300		
<b>Plaintiff Attorney:</b>	Robert M. Higgins, Esq.	<b>Defendant:</b>	DAVID KANTER, M.D.
<b>ADDRESS:</b>	Lubin and Meyer, P.C.	<b>ADDRESS:</b>	
	100 City Hall Plaza		
	Boston, MA 02108		
<b>BBO:</b>	567229		
<b>Plaintiff Attorney:</b>	Andrew H. Miller, Esq.	<b>Defendant:</b>	SEMONTI HOSSAIN, M.D.
<b>ADDRESS:</b>	Lubin and Meyer, P.C.	<b>ADDRESS:</b>	
	100 City Hall Plaza		
	Boston, MA 02108		
<b>BBO:</b>	682496		
<b>Plaintiff Attorney:</b>	Brooke E. Sheldon, Esq.	<b>Defendant:</b>	JORDAN TRUBIANO, M.D.
<b>ADDRESS:</b>	Lubin and Meyer, P.C.	<b>ADDRESS:</b>	
	100 City Hall Plaza		
	Boston, MA 02108		
<b>BBO:</b>	711628		
<b>Plaintiff Attorney:</b>		<b>Defendant:</b>	KARIN KNUTSON, M.D.
<b>ADDRESS:</b>		<b>ADDRESS:</b>	
<b>BBO:</b>			
<b>Plaintiff Attorney:</b>		<b>Defendant:</b>	UMASS MEMORIAL MEDICAL CENTER, INC.
<b>ADDRESS:</b>		<b>ADDRESS:</b>	
<b>BBO:</b>			

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

<b>CODE NO.</b>	<b>TYPE OF ACTION (specify)</b>	<b>TRACK</b>	<b>HAS A JURY CLAIM BEEN MADE?</b>
B06	Malpractice - Medical	A	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>*If "Other" please describe:</b>			

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

☐ YES ☒ NO

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

☐ YES ☒ 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
2. Total doctor expenses
3. Total chiropractic expenses
4. Total physical therapy expenses

6/20/24

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Date Filed 6/20/2024 4:17 PM

Superior Court - Middlesex

Docket Number

Total other expenses (describe below)		\$50,000.00
<div></div>		
Subtotal (1-5):		\$50,000.00
B. Documented lost wages and compensation to date		
C. Documented property damages to date		
D. Reasonably anticipated future medical and hospital expenses		
E. Reasonably anticipated lost wages		
F. Other documented items of damages (describe below)		
<div></div>		
TOTAL (A-F):		\$50,000.00
G. Briefly describe plaintiff's injury, including the nature and extent of the injury:		
<div></div>		
CONTRACT CLAIMS		
<input type="checkbox"/> This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).		
Item #	Detailed Description of Each Claim	Amount
1.		
Total		
Signature of Attorney/Self-Represented Plaintiff: X		Date:
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.		
<div></div>		
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 <i>Andrew C. Meyer, Jr.</i>		Date: June 20, 2024

## CIVIL ACTION COVER SHEET INSTRUCTIONS — SELECT A CATEGORY THAT BEST DESCRIBES YOUR CASE\*

### AC Actions Involving the State/Municipality†

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

### CN Contract/Business Cases

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

\* See Superior Court Standing Order 1-88 for an  
explanation of the tracking deadlines for each track  
designation: F, A, and X. On this page, the track  
designation for each case type is noted in  
parentheses.

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

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

### ER Equitable Remedies

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

### PA Civil Actions Involving Incarcerated Party ‡

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

### IR Torts

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

### RP Summary Process (Real Property)

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

### RP Real Property

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

### MC Miscellaneous Civil Actions

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

### AB Abuse/Harassment Prevention

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

### AA Administrative Civil Actions

E02 Appeal from Administrative Agency,  
G.L. c. 30A (X)  
E03 Certiorari Action, G.L. c. 249, § 4 (X)  
E05 Confirmation of Arbitration Awards (X)  
E06 Mass Antitrust Act, G.L. c. 93, § 9 (A)  
E07 Mass Antitrust Act, G.L. c. 93, § 8 (X)  
E08 Appointment of a Receiver (X)  
E09 Construction Surety Bond, G.L. c. 149,  
§§ 29, 29A (A)  
E10 Summary Process Appeal (X)  
E11 Worker's Compensation (X)  
E16 Auto Surcharge Appeal (X)  
E17 Civil Rights Act, G.L. c.12, § 11H (A)  
E24 Appeal from District Court  
Commitment, G.L. c.123, § 9(b) (X)  
E94 Forfeiture, G.L. c. 265, § 56 (X)  
E95 Forfeiture, G.L. c. 94C, § 47 (F)  
E99 Other Administrative Action (X)  
Z01 Medical Malpractice - Tribunal only,  
G.L. c. 231, § 60B (F)  
Z02 Appeal Bond Denial (X)

### SO Sex Offender Review

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

### RC Restricted Civil Actions

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

**TRANSFER YOUR SELECTION TO THE FACE SHEET**

### EXAMPLE:

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

### STATEMENT OF DAMAGES REQUIRED BY G.L. c. 212, § 3A

**DUTY OF THE PLAINTIFF** — On the face of the Civil Action Cover Sheet (or on attached additional sheets, if necessary), the plaintiff shall state the facts on which the plaintiff relies to determine money damages. A copy of the completed Civil Action Cover Sheet, including the statement concerning damages, shall be served with the complaint. A clerk-magistrate shall not accept for filing a complaint, except as otherwise provided by law, unless it is accompanied by such a statement signed by the attorney or self-represented litigant.

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

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT.  
IF THIS COVER SHEET IS NOT FILLED OUT THOROUGHLY AND  
ACCURATELY, THE CASE MAY BE DISMISSED.**

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Commonwealth of Massachusetts

MIDDLESEX, SS.

TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT  
CIVIL DOCKET NO. 2481CV01633

Dylan Balmes, PPA  
Mercalo Rocha Balmes, PLAINTIFF(S),

v.  
Tara Kumaraswami M.D., DEFENDANT(S)  
et al.



SUMMONS

THIS SUMMONS IS DIRECTED TO Tara Kumaraswami, M.D. (Defendant's name)

**You are being sued.** The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Middlesex Superior Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
2. **How to Respond.** To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
  - a. Filing your **signed original** response with the Clerk's Office for Civil Business, Middlesex Superior Court, 200 Trade Center (address), by mail or in person, **AND**
  - b. Delivering or mailing a **copy** of your response to the Plaintiff's Attorney/Plaintiff at the following address: Andrew C. Meyer, Jr., Esq., Rubin & Meyer P.C., 100 City Hall Plaza, Boston, MA 02108
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as **counterclaims**) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must **specifically** request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under **Mass. R. Civ. P. 12**. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov/courts/case-legal-res/rules of court.

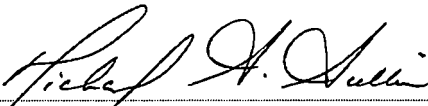
FILED  
IN THE OFFICE OF THE  
CLERK OF COURTS

JUL 26 2024

FOR MIDDLESEX COUNTY  
CLERK

4. **Legal Assistance.** You may wish to get legal help from a lawyer. If you cannot get legal help, some basic information for people who represent themselves is available at [www.mass.gov/courts/selfhelp](http://www.mass.gov/courts/selfhelp).
5. **Required information on all filings:** The "civil docket number" appearing at the top of this notice is the case number assigned to this case and must appear on the front of your Answer or Motion to Dismiss. You should refer to yourself as the "Defendant."

Witness Hon. Heidi Brieger, Chief Justice on July 1, 2024.

  
\_\_\_\_\_  
Michael A. Sullivan  
Clerk-Magistrate

Note: The number assigned to the Complaint by the Clerk-Magistrate at the beginning of the lawsuit should be indicated on the summons before it is served on the Defendant.

### PROOF OF SERVICE OF PROCESS

I hereby certify that on July 1, 2024, I served a copy of this summons, together with a copy of the complaint in this action, on the defendant named in this summons, in the following manner (See Mass. R. Civ. P. 4(d)(1-5)):

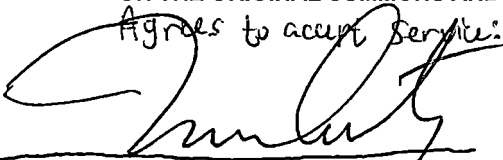
by mailing first class mail, postage pre-paid to Attorney Dennis Anti, Esq.  
at Morrison Mahoney LLP, 1500 Main Street, STE 2400 Springfield, MA 01115  
who agreed to accept service on behalf of their client Tara Kumaraswami, M.D.

Dated: July 1, 2024

Signature: A. C. Meyer Jr.  
Andrew C. Meyer, Jr. Esq.

N.B. TO PROCESS SERVER:

PLEASE ENTER THE DATE THAT YOU MADE SERVICE ON THE DEFENDANT IN THIS BOX - BOTH ON THE ORIGINAL SUMMONS AND ON THE COPY OF THE SUMMONS SERVED ON THE DEFENDANT.

Agrees to accept service:  
  
Dennis Anti, Esq.

July 18, 2024

COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

MIDDLESEX, ss.

CIVIL ACTION NO. 2481CV01633

DYLAN BALMES, PPA MERCELO ROCHA BALMES,  
Plaintiff,

v.

KATHERINE CALLAHAN, M.D.,  
TARA KUMARASWAMI, M.D.,  
DAVID KANTER, M.D.,  
SEMONTI HOSSAIN, M.D.,  
JORDAN TRUBIANO, M.D.,  
KARIN KNUTSON, M.D., and  
UMASS MEMORIAL MEDICAL CENTER, INC.,  
Defendants.

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8/21/2024

**ANSWER OF DEFENDANT TARA KUMARASWAMI, M.D.**  
**TO PLAINTIFF'S COMPLAINT AND JURY DEMAND**

**FIRST DEFENSE**

The plaintiff's Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

The defendant, Tara Kumaraswami, M.D. (hereinafter "the defendant"), responds to the allegations contained in the plaintiff's Complaint, paragraph by paragraph, as follows:

**COUNT I**

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count I of the plaintiff's Complaint as Count I is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

**COUNT II**

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count II of the plaintiff's Complaint as Count II is not directed to this defendant. To the extent

this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

### COUNT III

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count III of the plaintiff's Complaint as Count III is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

### COUNT IV

1. The defendant neither admits nor denies the allegations contained in Paragraph 1, Count IV of the plaintiff's Complaint as she is without sufficient knowledge or information to form a belief as to the truth of the matter asserted.
2. The defendant admits that at all relevant times she was a physician licensed to practice medicine in the Commonwealth of Massachusetts.
3. The defendant denies the allegations contained in Paragraph 3 of Count IV of the plaintiff's Complaint.
4. The defendant denies the allegations contained in Paragraph 4 of Count IV of the plaintiff's Complaint.
5. The defendant denies the allegations contained in Paragraph 5(a) through Paragraph 5(e) of Count IV of the plaintiff's Complaint.
6. The defendant denies the allegations contained in Paragraph 6 of Count IV of the plaintiff's Complaint.

### COUNT V

1. The defendant repeats and incorporates by reference each and every admission and denial as to each and every allegation contained in Count I through Count IV of the plaintiff's Complaint with the same force and effect as if each were separately set forth herein at length.
2. The defendant denies the allegations contained in Paragraph 2, Count V of plaintiff's Complaint.
3. The defendant denies the allegations contained in Paragraph 3, Count V of plaintiff's Complaint.
4. The defendant denies the allegations contained in Paragraph 4, Count V of plaintiff's Complaint.
5. The defendant denies the allegations contained in Paragraph 5, Count V of plaintiff's Complaint.

### COUNT VI

1. The defendant repeats and incorporates by reference each and every admission and denial as to each and every allegation contained in Count I through Count V of the plaintiff's Complaint with the same force and effect as if each were separately set forth herein at length.
2. The defendant denies the allegations contained in Paragraph 2, Count VI of the plaintiff's Complaint as an issue of fact to be determined at the time of trial.
3. The defendant denies the allegations contained in Paragraph 3, Count VI of the plaintiff's Complaint as an issue of fact to be determined at the time of trial.
4. The defendant denies the allegations contained in Paragraph 4, Count VI of plaintiff's Complaint.
5. The defendant denies the allegations contained in Paragraph 5, Count VI of the plaintiff's Complaint.
6. The defendant denies the allegations contained in Paragraph 6, Count VI of the plaintiff's Complaint.
7. The defendant denies the allegations contained in Paragraph 7, Count VI of plaintiff's Complaint.

### COUNT VII

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count VII of the plaintiff's Complaint as Count VII is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

### COUNT VIII

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count VIII of the plaintiff's Complaint as Count VIII is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

### COUNT IX

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count IX of the plaintiff's Complaint as Count IX is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.



COUNT X

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count X of the plaintiff's Complaint as Count X is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

COUNT XI

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XI of the plaintiff's Complaint as Count XI is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

COUNT XII

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XII of the plaintiff's Complaint as Count XII is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

COUNT XIII

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XIII of the plaintiff's Complaint as Count XIII is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

COUNT XIV

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XIV of the plaintiff's Complaint as Count XIV is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

COUNT XV

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XV of the plaintiff's Complaint as Count XV is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

COUNT XVI

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XVI of the plaintiff's Complaint as Count XVI is not directed to this defendant. To the

extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

#### COUNT XVII

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XVII of the plaintiff's Complaint as Count XVII is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

#### COUNT XVIII

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XVIII of the plaintiff's Complaint as Count XVIII is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

#### COUNT XIX

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XIX of the plaintiff's Complaint as Count XIX is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

#### COUNT XX

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XX of the plaintiff's Complaint as Count XX is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

#### COUNT XXI

The defendant, Tara Kumaraswami, M.D., does not respond to the allegations contained in Count XXI of the plaintiff's Complaint as Count XXI is not directed to this defendant. To the extent this Count infers liability on the part of this defendant, the defendant specifically denies said allegations.

WHEREFORE, the defendant denies that the plaintiff is entitled to recover in any amount and demands that the Complaint be dismissed and judgment be entered in favor of the defendant for the costs and disbursements of this action.

#### **THIRD DEFENSE**

By way of affirmative defense, the defendant states that the action is barred by the applicable statute of limitations and/or statute of repose.

#### **FOURTH DEFENSE**

By way of affirmative defense, the defendant states that the plaintiff was fully informed of the risks and benefits of all medical treatment provided and that she consented to undergo such treatment.

#### **FIFTH DEFENSE**

By way of affirmative defense, the defendant states that if the plaintiff suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct this defendant was not and is not legally responsible.

#### **SIXTH DEFENSE**

By way of affirmative defense, the defendant states that the negligence of the plaintiff was greater than the alleged negligence of the defendant and that such negligence of the plaintiff contributed to the alleged injuries, and therefore, the plaintiff is barred from recovery under M.G.L. c. 231, §85.

#### **SEVENTH DEFENSE**

By way of affirmative defense, the defendant states that the plaintiff was guilty of contributory negligence and that the damages, if any, recovered by the plaintiff from the defendant, should be reduced in proportion to the said negligence of the plaintiff in accordance with M.G.L. c. 231, §85.

#### **EIGHTH DEFENSE**

By way of affirmative defense, the defendant states that the injuries alleged were caused by the intervening and/or superseding acts of third persons for which the defendant is not liable.

#### **NINTH DEFENSE**

By way of affirmative defense, the defendant states that the plaintiff's recovery for pain and suffering, embarrassment and other items of general damages, if any, is limited pursuant to the provisions of M.G.L. c. 231, §60H.

#### **TENTH DEFENSE**

By way of affirmative defense, the defendant states that the plaintiff's recovery for past and future medical expenses is limited pursuant to the provisions of M.G.L., c. 231, §60G.

### **ELEVENTH DEFENSE**

By way of affirmative defense, the defendant states the plaintiff failed to mitigate the alleged damages and, therefore, the defendant is not liable for those portions of damages which could have reasonably been mitigated.

### **TWELFTH DEFENSE**

Pursuant to M.G.L. c. 231, §60B and Superior Court Rule 73, it is requested that an Offer of Proof be submitted within fifteen (15) days of this Answer to afford the plaintiff an opportunity to present substantiating evidence sufficient to raise a legitimate question of liability appropriate for judicial inquiry.

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

### **THE DEFENDANT REQUESTS A TRIAL BY JURY OF ALL ISSUES.**

Respectfully submitted,  
The Defendant,  
Tara Kumaraswami, M.D.

By Her Attorneys,

*/s/ Lindsey H. Campbell*

---

Dennis R. Anti, BBO #545898  
danti@morrisonmahoney.com  
Lindsey Hanson Campbell, BBO #684410  
lcampbell@morrisonmahoney.com  
MORRISON MAHONEY LLP  
120 Front Street, Suite 710  
Worcester, MA 01608  
Phone: 508-757-7777  
Fax: 508-752-6224

**CERTIFICATE OF SERVICE**

I, Lindsey Hanson Campbell, Esquire of MORRISON MAHONEY LLP, 120 Front Street, Suite 710, Worcester, MA 01608, hereby certify that on the 21<sup>st</sup> day of August 2024, I caused the foregoing document to be served upon the other party or parties in this action by sending a copy of same via electronic mail to:

Counsel for the Plaintiff:

Robert M. Higgins, Esq.  
Andrew C. Meyer, Jr.  
Lubin & Meyer, PC  
100 City Hall Plaza 4th Floor  
Boston, MA 02108

Counsel for Defendants Katherine Callaghan, M.D.,

David Kanter, M.D. & Karin Knutson, M.D.:

Ellen Epstein Cohen, Esq.  
Jacqueline B. Doherty, Esq.  
Adler, Cohen, Harvey, Wakeman and Guekguezian LLP  
75 Federal Street  
Boston, MA 02110  
ecohen@adlercohen.com  
jdoherty@adlercohen.com

*/s/ Lindsey H. Campbell*

---

Lindsey Hanson Campbell, Esquire

COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

MIDDLESEX, ss.

CIVIL ACTION NO. 2481CV01633

DYLAN BALMES, PPA MERCELO ROCHA BALMES,  
Plaintiff,

v.

KATHERINE CALLAHAN, M.D.,  
TARA KUMARASWAMI, M.D.,  
DAVID KANTER, M.D.,  
SEMONTI HOSSAIN, M.D.,  
JORDAN TRUBIANO, M.D.,  
KARIN KNUTSON, M.D., and  
UMASS MEMORIAL MEDICAL CENTER, INC.,  
Defendants.

RECEIVED  
9/20/2024

**DEMAND OF THE DEFENDANT, TARA KUMARASWAMI, M.D.,  
FOR MEDICAL MALPRACTICE TRIBUNAL**

NOW COMES the defendant, Tara Kumaraswami, M.D., who hereby demands the convening of a Medical Malpractice Tribunal pursuant to M.G.L. c. 231, § 60B and Superior Court Rule 73(2)(A). As grounds therefore, the defendant states the following:

1. The defendant submits this Demand for Medical Malpractice Tribunal pursuant to Superior Court Rule 73(2)(A).<sup>1</sup> As grounds for this demand, the defendant states that the Offer of Proof submitted by the plaintiff fails to present sufficient evidence to raise a legitimate question of liability appropriate for judicial inquiry; and, therefore, the plaintiff should be required to post the requisite \$6,000 statutory bond to proceed with litigation against this defendant.

2. More specifically, the plaintiffs' Offer of Proof is insufficient to support the claim that Dr. Kumaraswami deviated from the applicable the standard of care. The plaintiff alleges in his Offer of Proof that Dr. Kumaraswami was negligent in failing to recognize a "prolonged induction" and in failing to order and/or perform a cesarean section in light of same. In support thereof, the plaintiff submitted the affidavit of Jose Carugno, M.D. Dr. Carugno defines a

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<sup>1</sup> Notwithstanding the terms of Superior Court Rule 73, the defendant asserts that he has an absolute statutory right to a Medical Malpractice Tribunal pursuant to M.G.L. c. 231, § 60B. By its terms, Superior Court Rule 73 impermissibly limits and/or circumvents the statutory right to the convening of a Tribunal under § 60B. As such, the defendant objects to the terms of Superior Court Rule 73 and reserves the right to appeal or otherwise challenge the implementation of this rule to the extent that it impermissibly limits the defendant's statutory rights.

prolonged induction as the lack of cervical change during labor induction. However, the medical records demonstrate that at the time of Dr. Kumaraswami's involvement in this labor, the patient was actively making cervical change. Therefore, plaintiff's Offer of Proof and expert opinions related to the alleged breach of the standard of care are inconsistent with the facts and are not derived from the evidence as required by the standards which govern an Offer of Proof. See Mackenzie v. Lee, 2012 WL 832282 1 (Mass. App. Ct. 2012); Gugino v. Harvard Community Health Plan, 380 Mass. 464, 467-68 (1980); Bradford v. Baystate Med. Center, 415 Mass. 202, 206 n. 5 (1993); McCarthy v. Hauck, 15 Mass. App. Ct. 603, 610 (1983); Cooper v. Cooper-Ciaccarelli, 77 Mass. App. Ct. 86, 93 (2010). As a result, the plaintiff's Offer of Proof is insufficient as to Dr. Kumaraswami.

Furthermore, the Offer of Proof is insufficient to meet plaintiff's burden on causation because plaintiff's expert opinions are speculative and do not recognize the break in causation between Dr. Kumarawami's alleged negligence and the plaintiff's claimed damages. At the tribunal phase, a plaintiff is required to set forth a causal connection between an alleged breach of the standard of care and the purported damages. See Kulas v. Weeber, 482 N.E.2d 885, 886 (Mass. App. Ct. 1985) ("The statute requires that 'the plaintiff present, not mere allegations or an oral offer of proof by counsel, but 'evidence' to be 'properly substantiated' at trial.'" (internal citation omitted)).<sup>2</sup> "A plaintiff does not satisfy her burden if the proffered expert testimony is based upon conjecture or speculation." Gusher v. Turner, 22 Mass. App. Ct. 491, 497 (1986); see also Sullivan v. Old Colony St. Ry. Co., 197 Mass. 512, 515 (1908) (Proximate cause is a critical element of the plaintiff's burden and "cannot be left to conjecture, surmise or speculation, but must rest upon a firm foundation of proof."). Here, Dr. Kumaraswami's involvement in the labor course ended approximately twelve hours prior to the minor plaintiff's delivery and the labor course was managed by subsequent providers. When Dr. Kumaraswami ceased care of the patient, the labor induction was continued for a number of hours before the decision was made to move towards cesarean section, resulting in a break in causation as to the claims against Dr. Kumaraswami. Therefore, any causal connection between Dr. Kumaraswami's alleged negligence and the damages claimed by plaintiff are wholly speculative.

3. Based on the foregoing, it is the defendant's position that plaintiff's Offer of Proof is insufficient as to the allegations against Dr. Kumaraswami.

4. The field of medicine in which the alleged injury occurred is **Obstetrics**.

5. The defendant, Tara Kumaraswami, M.D., resides in **Worcester County** and practices medicine in **Worcester County**.

Simultaneous with filing this Demand for Tribunal, the defendant certifies that on the 20<sup>th</sup> day of September 2024, a true copy of the foregoing will be served on all other parties of record in this action and the Massachusetts Medical Society (the "Society") as follows:

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<sup>2</sup> The defendant reserves the right to expand upon this argument and assert additional arguments at the time of the tribunal hearing.

Name	Contact
Plaintiff: Dylan Balmes, ppa Mercelo Rocha Balmes	Robert M. Higgins, Esq. Andrew H. Miller, Esq. Lubin & Meyer, PC 100 City Hall Plaza 4th Floor Boston, MA 02108 rhiggins@lubinandmeyer.com amiller@lubinandmeyer.com
Katherine Callaghan, M.D., David Kanter, M.D. & Karin Knutson, M.D.	Ellen Epstein Cohen, Esq. Jacqueline B. Doherty, Esq. Adler, Cohen, Harvey, Wakeman and Guckguezian LLP 75 Federal Street Boston, MA 02110 ecohen@adlercohen.com jdoherty@adlercohen.com
Semonti Hossain, M.D. & Jordan Trubiano, M.D.	[represented by the undersigned]
MASSACHUSETTS MEDICAL SOCIETY	<a href="mailto:tribunal@massmed.org">tribunal@massmed.org</a> with hard copy to:  Tribunal Demand Massachusetts Medical Society 860 Winter Street Waltham MA 02451-1411

With respect to the Massachusetts Medical Society (the “Society”), the defendant hereby states that a Medical Malpractice Tribunal will occur if the Society timely (within thirty (30) days of receipt of this Demand for Tribunal) submits a case-specific list to the below-named Superior Court as follows:

**Civil Clerk’s Office  
Attn: Tribunal Clerk  
Worcester Superior Court  
225 Main Street  
Worcester, MA 01608**

consisting of the name(s) of physicians representing the field of medicine in which the alleged injury occurred and licensed to practice medicine in the Commonwealth of Massachusetts under the provisions of section two of chapter one hundred and twelve. Such list shall consist only of physicians who practice outside any county where the defendant practices or resides.



Under Massachusetts Rule of Civil Procedure 11, by signing below, I certify that to the best of my knowledge, information, and belief, this Demand for Medical Malpractice Tribunal: (1) has good grounds to support it; and (2) is not being interposed for delay.

WHEREFORE the defendant, Tara Kumaraswami, M.D., requests the convening of a Medical Malpractice Tribunal pursuant to M.G.L. c. 231, § 60B and Superior Court Rule 73 (2) (A).

Respectfully submitted,  
The Defendant,  
Tara Kumaraswami, M.D.,

By His Attorneys,

*/s/ Lindsey H. Campbell*

---

Dennis R. Anti, BBO #545898  
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Lindsey Hanson Campbell, BBO #684410  
lcampbell@morrisonmahoney.com  
MORRISON MAHONEY LLP  
120 Front Street, Suite 710  
Worcester, MA 01608  
Phone: 508-757-7777  
Fax: 508-752-6224

**CERTIFICATE OF SERVICE**

I, Lindsey Hanson Campbell, Esquire of MORRISON MAHONEY LLP, 120 Front Street, Suite 710, Worcester, MA 01608, hereby certify that on the 20<sup>th</sup> day of September 2024, I caused the foregoing document to be served upon the other party or parties in this action by sending a copy of same via electronic mail to:

Counsel for the Plaintiff:

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Counsel for Defendants Katherine Callaghan, M.D.,

David Kanter, M.D. & Karin Knutson, M.D.:

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jdoherty@adlercohen.com

*/s/ Lindsey H. Campbell*

---

Lindsey Hanson Campbell, Esquire

2481CV01633 Balmes, Dylan et al vs. Callahan, MD, Katherine et al

- Case Type:
- Torts
- Case Status:
- Open
- File Date
- 06/20/2024
- DCM Track:
- A - Average
- Initiating Action:
- Malpractice - Medical
- Status Date:
- 06/20/2024
- Case Judge:
- 
- Next Event:
- 

All InformationPartyTicklerDocketDisposition

Party Information

Balmes, Dylan  
- Plaintiff

Alias

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**Hossain, MD, Semonti**  
- Defendant

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**Trubiano, MD, Jordan**  
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- Defendant

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**Umass Memorial Medical Center, Inc.**  
- Defendant

Alias

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• (413)737-4373










[More Party Information](#)











### Ticklers

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Service	06/20/2024	09/18/2024	90	
Answer	06/20/2024	10/18/2024	120	
Rule 12/19/20 Served By	06/20/2024	10/18/2024	120	
Rule 12/19/20 Filed By	06/20/2024	11/18/2024	151	
Rule 12/19/20 Heard By	06/20/2024	12/17/2024	180	
Rule 15 Served By	06/20/2024	08/14/2025	420	
Rule 15 Filed By	06/20/2024	09/15/2025	452	
Rule 15 Heard By	06/20/2024	09/15/2025	452	
Discovery	06/20/2024	06/10/2026	720	
Rule 56 Served By	06/20/2024	07/10/2026	750	
Rule 56 Filed By	06/20/2024	08/10/2026	781	
Final Pre-Trial Conference	06/20/2024	12/07/2026	900	
Judgment	06/20/2024	06/21/2027	1096	


### Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/20/2024	Complaint electronically filed.	1	
06/20/2024	Civil action cover sheet filed.	2	
06/21/2024	Trial Assignment Tickler per Rule 73.		
06/21/2024	Case assigned to: DCM Track A - Average was added on 06/21/2024		
06/21/2024	Demand for jury trial entered.		
07/12/2024	Service Returned for Defendant Callahan, MD, Katherine: Service accepted by counsel;  Ellen E. Cohen on 7/2/2024	3	
07/12/2024	Attorney appearance On this date Ellen Epstein Cohen, Esq. added as Private Counsel for Defendant Katherine Callahan, MD		
07/12/2024	Service Returned for Defendant Kanter, MD, David: Service accepted by counsel;  Ellen E. Cohen on 7/2/2024	4	
07/12/2024	Attorney appearance On this date Ellen Epstein Cohen, Esq. added as Private Counsel for Defendant David Kanter, MD		
07/12/2024	Service Returned for Defendant Knutson, MD, Karin: Service accepted by counsel;  Ellen E. Cohen on 7/2/2024	5	
07/12/2024	Attorney appearance On this date Ellen Epstein Cohen, Esq. added as Private Counsel for Defendant Karin Knutson, MD		
07/22/2024	Received from Defendant Callahan, MD, Katherine: 1st Answer in Medical Malpractice  Applies To: Callahan, MD, Katherine (Defendant)	6	
07/22/2024	Received from Defendant Knutson, MD, Karin: 1st Answer in Medical Malpractice	7	

<a href="#">Docket Date</a>	<a href="#">Docket Text</a>	<a href="#">File Ref Nbr.</a>	<a href="#">Image Avail.</a>
	Applies To: Knutson, MD, Karin (Defendant)		
07/22/2024	Received from Defendant Kanter, MD, David: 1st Answer in Medical Malpractice  Applies To: Kanter, MD, David (Defendant)	8	 <a href="#">Image</a>
07/22/2024	Attorney appearance On this date Jacqueline B Doherty, Esq. added as Private Counsel for Defendant Katherine Callahan, MD		
07/22/2024	Attorney appearance On this date Jacqueline B Doherty, Esq. added as Private Counsel for Defendant Karin Knutson, MD		
07/22/2024	Attorney appearance On this date Jacqueline B Doherty, Esq. added as Private Counsel for Defendant David Kanter, MD		
07/26/2024	Service Returned for Defendant Hossain, MD, Semonti: Service accepted by counsel;  Dennis Anti on 7/18/2024	9	 <a href="#">Image</a>
07/26/2024	Attorney appearance On this date Dennis Robert Anti, Esq. added as Private Counsel for Defendant Semonti Hossain, MD		
07/26/2024	Service Returned for Defendant Trubiano, MD, Jordan: Service accepted by counsel;  Dennis Anti on 7/18/2024	10	 <a href="#">Image</a>
07/26/2024	Attorney appearance On this date Dennis Robert Anti, Esq. added as Private Counsel for Defendant Jordan Trubiano, MD		
07/26/2024	Service Returned for Defendant Umass Memorial Medical Center, Inc.: Service accepted by counsel;  Dennis Anti on 7/18/2024	11	 <a href="#">Image</a>
07/26/2024	Attorney appearance On this date Dennis Robert Anti, Esq. added as Private Counsel for Defendant Umass Memorial Medical Center, Inc.		
07/26/2024	Service Returned for Defendant Kumaraswami, MD, Tara: Service accepted by counsel;  Dennis Anti on 7/18/2024	12	 <a href="#">Image</a>
07/26/2024	Attorney appearance On this date Dennis Robert Anti, Esq. added as Private Counsel for Defendant Tara Kumaraswami, MD		
07/29/2024	Plaintiff files offer of proof (Hard Copy Only)  Applies To: Balmes, Dylan (Plaintiff)	13	 <a href="#">Image</a>
08/21/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. added as Private Counsel for Defendant Umass Memorial Medical Center, Inc.		
08/21/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. added as Private Counsel for Defendant Tara Kumaraswami, MD		
08/21/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. added as Private Counsel for Defendant Semonti Hossain, MD		
08/21/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. added as Private Counsel for Defendant Jordan Trubiano, MD		
08/21/2024	Attorney appearance electronically filed.		 <a href="#">Image</a>
08/21/2024	Received from Defendant Trubiano, MD, Jordan: 1st Answer in Medical Malpractice  Applies To: Trubiano, MD, Jordan (Defendant)	14	 <a href="#">Image</a>
08/21/2024	Received from Defendant Hossain, MD, Semonti: 1st Answer in Medical Malpractice	15	 <a href="#">Image</a>

<a href="#">Docket Date</a>	<a href="#">Docket Text</a>	<a href="#">File Ref Nbr.</a>	<a href="#">Image Avail.</a>
	Applies To: Hossain, MD, Semonti (Defendant)		
08/21/2024	Received from Defendant Umass Memorial Medical Center, Inc.: 1st Answer in Medical Malpractice  Applies To: Umass Memorial Medical Center, Inc. (Defendant)	16	 <a href="#">Image</a>
08/21/2024	Received from Defendant Kumaraswami, MD, Tara: 1st Answer in Medical Malpractice  Applies To: Kumaraswami, MD, Tara (Defendant)	17	 <a href="#">Image</a>
08/21/2024	Request for medical malpractice tribunal filed by party for:  Internal Medicine  Applies To: Knutson, MD, Karin (Defendant)	18	
08/21/2024	Request for medical malpractice tribunal filed by party for:  Obstetrics  Applies To: Callahan, MD, Katherine (Defendant)	19	 <a href="#">Image</a>
08/21/2024	Request for medical malpractice tribunal filed by party for:  Obstetrics  Applies To: Kanter, MD, David (Defendant)	20	 <a href="#">Image</a>
09/10/2024	Attorney appearance On this date Jennifer A Rymarski, Esq. added as Private Counsel for Defendant Umass Memorial Medical Center, Inc.		
09/10/2024	Attorney appearance On this date Jennifer A Rymarski, Esq. added as Private Counsel for Defendant Tara Kumaraswami, MD		
09/10/2024	Attorney appearance On this date Jennifer A Rymarski, Esq. added as Private Counsel for Defendant Semonti Hossain, MD		
09/10/2024	Attorney appearance On this date Jennifer A Rymarski, Esq. added as Private Counsel for Defendant Jordan Trubiano, MD		
09/10/2024	Attorney appearance electronically filed.		 <a href="#">Image</a>
09/20/2024	Defendant Tara Kumaraswami, MD's Request for For Medical Malpractice Tribunal	21	 <a href="#">Image</a>
09/20/2024	Defendant Semonti Hossain, MD's Request for For Medical Malpractice Tribunal	22	 <a href="#">Image</a>
09/20/2024	Defendant Jordan Trubiano, MD's Request for For Medical Malpractice Tribunal	23	 <a href="#">Image</a>
09/24/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. dismissed/withdrawn as Private Counsel for Defendant Umass Memorial Medical Center, Inc.		
09/24/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. dismissed/withdrawn as Private Counsel for Defendant Tara Kumaraswami, MD		
09/24/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. dismissed/withdrawn as Private Counsel for Defendant Semonti Hossain, MD		
09/24/2024	Attorney appearance On this date Lindsey Hanson Campbell, Esq. dismissed/withdrawn as Private Counsel for Defendant Jordan Trubiano, MD		
09/24/2024	Attorney appearance electronically filed.		 <a href="#">Image</a>
10/21/2024	Medical Malpractice Tribunal list filed. OB/GYN  Applies To: Kumaraswami, MD, Tara (Defendant); Hossain, MD, Semonti (Defendant); Trubiano, MD, Jordan (Defendant)	24	 <a href="#">Image</a>



<a href="#">Docket Date</a>	<a href="#">Docket Text</a>	<a href="#">File Ref Nbr.</a>	<a href="#">Image Avail.</a>
02/26/2025	Pleading titled, Application for Medical Records from Thom Mystic Village Early Intervention and Alliance Home Care VNA, with a check of \$5.00, filed with the court on 02/25/2025, returned to Jennifer A Rymarski, Esq. These requests must be done by Motion only. Please re-file accordingly		
02/26/2025	Attorney appearance electronically filed.		
02/26/2025	Attorney appearance On this date Dennis Robert Anti, Esq. dismissed/withdrawn as Private Counsel for Defendant Umass Memorial Medical Center, Inc.		<a href="#">Image</a>
02/26/2025	Attorney appearance On this date Dennis Robert Anti, Esq. dismissed/withdrawn as Private Counsel for Defendant Tara Kumaraswami, MD		
02/26/2025	Attorney appearance On this date Dennis Robert Anti, Esq. dismissed/withdrawn as Private Counsel for Defendant Semonti Hossain, MD		
02/26/2025	Attorney appearance On this date Dennis Robert Anti, Esq. dismissed/withdrawn as Private Counsel for Defendant Jordan Trubiano, MD		

**Case Disposition**

<a href="#">Disposition</a>	<a href="#">Date</a>	<a href="#">Case Judge</a>
Pending		

Case-Specific List from the Massachusetts Medical Society

Middlesex County, Docket No.: 2481CV01633

Name	Email	Phone	Specialty	County
Allan M. Rashba, M.D.	allan_rashba@yahoo.com	(617)964-7814	OBSTETRICS & GYNECOLOGY	Middlesex
Ana-Cristina Vasilescu, M.D.	anacvbel@gmail.com	(617)484-6873	OBSTETRICS & GYNECOLOGY	Middlesex
Anne Dixon, M.D.	anne_dixon@vmed.org	(617)559-8252	OBSTETRICS & GYNECOLOGY	Norfolk
Dr. Henry Klapholz, M.D.	henry@klapholz.org	(508)277-8930	OBSTETRICS & GYNECOLOGY	Middlesex
Dr. Stephen A. Metz, M.D.	metz45@icloud.com	(413)567-8697	OBSTETRICS & GYNECOLOGY	Hampden
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1  
COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT  
CIVIL ACTION  
NO.

DYLAN BALMES, PPA MERCELO ROCHA BALMES,  
Plaintiff,

V.

KATHERINE CALLAHAN, M.D.,  
TARA KUMARASWAMI, M.D.,  
DAVID KANTER, M.D.,  
SEMONTI HOSSAIN, M.D.,  
JORDAN TRUBIANO, M.D.,  
KARIN KNUTSON, M.D., AND  
UMASS MEMORIAL MEDICAL CENTER, INC.,  
Defendants.

24-1633  
6/20/24 RECEIVED

**COMPLAINT**

**Count I.**

1. The plaintiff, Dylan Balmes, is a minor who brings this action through his father and next friend, Marcelo Rocha Balmes, a resident of Woburn, Middlesex County, Massachusetts.
2. The defendant, Katherine Callahan, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Katherine Callahan, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19.
4. On or about 9/2/19 through 9/4/19, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Katherine Callahan, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and his mother's health and well being, treated the minor plaintiff and his mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Dylan Balmes, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Katherine Callahan, M.D., including, but not limited to the following:

- a. Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19;
  - b. Defendant's failure to adequately and properly diagnose the minor plaintiff's and his mother's medical condition on or about 9/2/19 through 9/4/19, and her failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the minor plaintiff and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her inability and failure to properly and skillfully provide the minor plaintiff and his mother with acceptable medical and diagnostic services;
  - d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing her specialty; and
  - e. Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and his mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Katherine Callahan, M.D., the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Katherine Callahan, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **Count II.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count I of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, the defendant, Katherine Callahan, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and his mother's medical care and treatment.
3. The defendant, Katherine Callahan, M.D., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that she would possess and exercise that

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

4. On or about 9/2/19 through 9/4/19, the defendant, Katherine Callahan, M.D., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
5. As a direct and proximate result of the defendant, Katherine Callahan, M.D.'s breach of express and implied warranties, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Katherine Callahan, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count III.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count I and Paragraphs One through Five of Count II of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
3. On or about 9/2/19 through 9/4/19, the defendant, Katherine Callahan, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
4. On or about 9/2/19 through 9/4/19, the defendant, Katherine Callahan, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother.
5. If the defendant, Katherine Callahan, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.

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

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Katherine Callahan, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

#### **Count IV.**

1. The plaintiff, Dylan Balmes, is a minor who brings this action through his father and next friend, Marcelo Rocha Balmes, a resident of Woburn, Middlesex County, Massachusetts.
2. The defendant, Tara Kumaraswami, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Tara Kumaraswami, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19.
4. On or about 9/2/19 through 9/4/19, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Tara Kumaraswami, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and his mother's health and well being, treated the minor plaintiff and his mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Dylan Balmes, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Tara Kumaraswami, M.D., including, but not limited to the following:
  - a. Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19;
  - b. Defendant's failure to adequately and properly diagnose the minor plaintiff's and his mother's medical condition on or about 9/2/19 through 9/4/19, and her failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the minor plaintiff and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her

inability and failure to properly and skillfully provide the minor plaintiff and his mother with acceptable medical and diagnostic services;

- d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing her specialty; and
  - e. Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and his mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Tara Kumaraswami, M.D., the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Tara Kumaraswami, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count V.**

- 1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count IV of this complaint as if each were set forth here in its entirety.
- 2. On or about 9/2/19 through 9/4/19, the defendant, Tara Kumaraswami, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and his mother's medical care and treatment.
- 3. The defendant, Tara Kumaraswami, M.D., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
- 4. On or about 9/2/19 through 9/4/19, the defendant, Tara Kumaraswami, M.D., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
- 5. As a direct and proximate result of the defendant, Tara Kumaraswami, M.D.'s breach of express and implied warranties, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical,

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

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Tara Kumaraswami, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **Count VI.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count IV and Paragraphs One through Five of Count V of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
3. On or about 9/2/19 through 9/4/19, the defendant, Tara Kumaraswami, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
4. On or about 9/2/19 through 9/4/19, the defendant, Tara Kumaraswami, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother.
5. If the defendant, Tara Kumaraswami, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Tara Kumaraswami, M.D.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.



WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Mercelo Rocha Balmes, prays judgment against the defendant, Tara Kumaraswami, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **Count VII.**

1. The plaintiff, Dylan Balmes, is a minor who brings this action through his father and next friend, Mercelo Rocha Balmes, a resident of Woburn, Middlesex County, Massachusetts.
2. The defendant, David Kanter, M.D., was at all times relevant to this complaint a physician licensed to practice his profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, David Kanter, M.D., represented and held himself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that he was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19.
4. On or about 9/2/19 through 9/4/19, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, David Kanter, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and his mother's health and well being, treated the minor plaintiff and his mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Dylan Balmes, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, David Kanter, M.D., including, but not limited to the following:
  - a. Defendant's misrepresentations to the minor plaintiff's parents that he was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19;
  - b. Defendant's failure to adequately and properly diagnose the minor plaintiff's and his mother's medical condition on or about 9/2/19 through 9/4/19, and his failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize his inability and lack of skill to diagnose and treat the minor plaintiff and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of his inability and failure to properly and skillfully provide the minor plaintiff and his mother with acceptable medical and diagnostic services;
  - d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing his specialty; and

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

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, David Kanter, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count VIII.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count VII of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, the defendant, David Kanter, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and his mother's medical care and treatment.
3. The defendant, David Kanter, M.D., expressly and impliedly warranted to the minor plaintiff's parents that he would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that he would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing his specialty.
4. On or about 9/2/19 through 9/4/19, the defendant, David Kanter, M.D., breached his express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing his specialty.
5. As a direct and proximate result of the defendant, David Kanter, M.D.'s breach of express and implied warranties, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, David Kanter, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count IX.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count VII and Paragraphs One through Five of Count VIII of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
3. On or about 9/2/19 through 9/4/19, the defendant, David Kanter, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
4. On or about 9/2/19 through 9/4/19, the defendant, David Kanter, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother.
5. If the defendant, David Kanter, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, David Kanter, M.D.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, David Kanter, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## Count X.

1. The plaintiff, Dylan Balmes, is a minor who brings this action through his father and next friend, Marcelo Rocha Balmes, a resident of Woburn, Middlesex County, Massachusetts.
2. The defendant, Semonti Hossain, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Semonti Hossain, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19.
4. On or about 9/2/19 through 9/4/19, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Semonti Hossain, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and his mother's health and well being, treated the minor plaintiff and his mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Dylan Balmes, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Semonti Hossain, M.D., including, but not limited to the following:
  - a. Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19;
  - b. Defendant's failure to adequately and properly diagnose the minor plaintiff's and his mother's medical condition on or about 9/2/19 through 9/4/19, and her failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the minor plaintiff and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her inability and failure to properly and skillfully provide the minor plaintiff and his mother with acceptable medical and diagnostic services;
  - d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing her specialty; and
  - e. Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and his mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Semonti Hossain, M.D., the minor plaintiff, Dylan Balmes, was caused to sustain

severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Semonti Hossain, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count XI.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count X of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, the defendant, Semonti Hossain, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and his mother's medical care and treatment.
3. The defendant, Semonti Hossain, M.D., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
4. On or about 9/2/19 through 9/4/19, the defendant, Semonti Hossain, M.D., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
5. As a direct and proximate result of the defendant, Semonti Hossain, M.D.'s breach of express and implied warranties, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Semonti Hossain, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **Count XII.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count X and Paragraphs One through Five of Count XI of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
3. On or about 9/2/19 through 9/4/19, the defendant, Semonti Hossain, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
4. On or about 9/2/19 through 9/4/19, the defendant, Semonti Hossain, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother.
5. If the defendant, Semonti Hossain, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Semonti Hossain, M.D.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Semonti Hossain, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **Count XIII.**

1. The plaintiff, Dylan Balmes, is a minor who brings this action through his father and next friend, Marcelo Rocha Balmes, a resident of Woburn, Middlesex County, Massachusetts.
2. The defendant, Jordan Trubiano, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts.

3. At all times relevant to this complaint, the defendant, Jordan Trubiano, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19.
4. On or about 9/2/19 through 9/4/19, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Jordan Trubiano, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and his mother's health and well being, treated the minor plaintiff and his mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Dylan Balmes, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Jordan Trubiano, M.D., including, but not limited to the following:
  - a. Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19;
  - b. Defendant's failure to adequately and properly diagnose the minor plaintiff's and his mother's medical condition on or about 9/2/19 through 9/4/19, and her failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the minor plaintiff and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her inability and failure to properly and skillfully provide the minor plaintiff and his mother with acceptable medical and diagnostic services;
  - d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing her specialty; and
  - e. Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and his mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Jordan Trubiano, M.D., the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Jordan Trubiano, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

#### **Count XIV.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count XIII of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, the defendant, Jordan Trubiano, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and his mother's medical care and treatment.
3. The defendant, Jordan Trubiano, M.D., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
4. On or about 9/2/19 through 9/4/19, the defendant, Jordan Trubiano, M.D., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
5. As a direct and proximate result of the defendant, Jordan Trubiano, M.D.'s breach of express and implied warranties, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Jordan Trubiano, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

#### **Count XV.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count XIII and Paragraphs One through Five of Count XIV of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.



3. On or about 9/2/19 through 9/4/19, the defendant, Jordan Trubiano, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
4. On or about 9/2/19 through 9/4/19, the defendant, Jordan Trubiano, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother.
5. If the defendant, Jordan Trubiano, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Jordan Trubiano, M.D.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Jordan Trubiano, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count XVI.**

1. The plaintiff, Dylan Balmes, is a minor who brings this action through his father and next friend, Marcelo Rocha Balmes, a resident of Woburn, Middlesex County, Massachusetts.
2. The defendant, Karin Knutson, M.D., was at all times relevant to this complaint a physician licensed to practice her profession in the Commonwealth of Massachusetts.
3. At all times relevant to this complaint, the defendant, Karin Knutson, M.D., represented and held herself out to be a physician, skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that she was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19.
4. On or about 9/2/19 through 9/4/19, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, Karin Knutson, M.D., who negligently, carelessly, and without regard for the minor plaintiff's and his mother's health and well being,

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

5. The injuries sustained by the minor plaintiff, Dylan Balmes, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, Karin Knutson, M.D., including, but not limited to the following:
  - a. Defendant's misrepresentations to the minor plaintiff's parents that she was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19;
  - b. Defendant's failure to adequately and properly diagnose the minor plaintiff's and his mother's medical condition on or about 9/2/19 through 9/4/19, and her failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize her inability and lack of skill to diagnose and treat the minor plaintiff and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of her inability and failure to properly and skillfully provide the minor plaintiff and his mother with acceptable medical and diagnostic services;
  - d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing her specialty; and
  - e. Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and his mother's condition and failure to inform and to warn about the treatment of said condition.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, Karin Knutson, M.D., the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Karin Knutson, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **Count XVII.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count XVI of this complaint as if each were set forth here in its entirety.

2. On or about 9/2/19 through 9/4/19, the defendant, Karin Knutson, M.D., contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and his mother's medical care and treatment.
3. The defendant, Karin Knutson, M.D., expressly and impliedly warranted to the minor plaintiff's parents that she would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that she would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
4. On or about 9/2/19 through 9/4/19, the defendant, Karin Knutson, M.D., breached her express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing her specialty.
5. As a direct and proximate result of the defendant, Karin Knutson, M.D.'s breach of express and implied warranties, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Karin Knutson, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count XVIII.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count XVI and Paragraphs One through Five of Count XVII of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
3. On or about 9/2/19 through 9/4/19, the defendant, Karin Knutson, M.D., knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
4. On or about 9/2/19 through 9/4/19, the defendant, Karin Knutson, M.D., did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother.

5. If the defendant, Karin Knutson, M.D., had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother, neither the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.
6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, Karin Knutson, M.D.'s failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, Karin Knutson, M.D., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count XIX.**

1. The plaintiff, Dylan Balmes, is a minor who brings this action through his father and next friend, Marcelo Rocha Balmes, a resident of Woburn, Middlesex County, Massachusetts.
2. The defendant, UMass Memorial Medical Center, Inc., was at all times relevant to this complaint a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, with a principal place of business at One Biotech, 365 Plantation Street, Worcester, MA 01605, in Worcester County, Massachusetts.
3. At all times relevant to this complaint, the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, represented and held itself out to be skilled in the treatment of various illnesses and conditions and, in particular, represented to the minor plaintiff's parents that it was knowledgeable, competent, and qualified to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19.
4. On or about 9/2/19 through 9/4/19, the minor plaintiff's mother submitted herself and the minor plaintiff to the care and treatment of the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, who negligently, carelessly, and without regard for the minor plaintiff's and his mother's health and well being, treated the minor plaintiff and his mother in a manner resulting in the minor plaintiff's severe personal injuries.
5. The injuries sustained by the minor plaintiff, Dylan Balmes, were the direct and proximate result of the carelessness, unskillfulness, negligence and improper care and treatment by the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, including, but not limited to the following:

- a. Defendant's misrepresentations to the minor plaintiff's parents that it was knowledgeable, skillful, and competent to diagnose and treat the minor plaintiff and his mother on or about 9/2/19 through 9/4/19;
  - b. Defendant's failure to adequately and properly diagnose the minor plaintiff's and his mother's medical condition on or about 9/2/19 through 9/4/19, and its failure to prescribe proper and timely treatment for said condition;
  - c. Defendant's failure to recognize, or have the knowledge to recognize its inability and lack of skill to diagnose and treat the minor plaintiff and his mother, when the defendant knew or should have known in the exercise of due care, the foreseeable consequences of its inability and failure to properly and skillfully provide the minor plaintiff and his mother with acceptable medical and diagnostic services;
  - d. Defendant's failure to possess or negligent failure to exercise that degree of skill, training, and care as is possessed and exercised by average qualified members of the medical profession practicing its specialty;
  - e. Defendant's failure to inform and to warn of the risks involved in or associated with the minor plaintiff's and his mother's condition and failure to inform and to warn about the treatment of said condition; and
  - f. Defendant's failure to exercise reasonable care in hiring, supervising, employing and/or continuing to employ its agents, servants, or employees.
6. As a direct and proximate result of the negligence, carelessness, and unskillfulness of the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, UMass Memorial Medical Center, Inc., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

## **Count XX.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count IX of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, contracted with the minor plaintiff's parents to provide professional services related to the minor plaintiff's and his mother's medical care and treatment.

3. The defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, expressly and impliedly warranted to the minor plaintiff's parents that it would perform and render said professional services in accordance with accepted standards for the practice of medicine, and that it would possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing its specialty.
4. On or about 9/2/19 through 9/4/19, the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, breached its express and implied warranties by failing to perform and render professional services in accordance with accepted standards for the practice of medicine, and by failing to possess and exercise that degree of skill and care possessed and exercised by the average qualified members of the medical profession practicing its specialty.
5. As a direct and proximate result of the defendant, UMass Memorial Medical Center, Inc., by its agents', servants', or employees' breach of express and implied warranties, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, UMass Memorial Medical Center, Inc., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

### **Count XXI.**

1. The minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, repeats and reavers fully herein Paragraphs One through Six of Count IX and Paragraphs One through Five of Count XX of this complaint as if each were set forth here in its entirety.
2. On or about 9/2/19 through 9/4/19, average qualified members of the medical profession practicing the defendant's specialty knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
3. On or about 9/2/19 through 9/4/19, the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, knew or should have known of the risks, potential consequences and alternatives to the defendant's choice of treatment of the minor plaintiff and his mother.
4. On or about 9/2/19 through 9/4/19, the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, did not inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother.
5. If the defendant, UMass Memorial Medical Center, Inc., by its agents, servants, or employees, had informed the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's choice of treatment of the minor plaintiff and his mother, neither

the minor plaintiff's parents nor a reasonable person in their position would have elected the defendant's choice of treatment.

6. The alternatives to and the risks and potential consequences of the defendant's choice of treatment were material to a decision by the minor plaintiff's parents and a reasonable person in their position as to whether to undergo the defendant's choice of treatment.
7. As a direct and proximate result of the defendant, UMass Memorial Medical Center, Inc., by its agents', servants', or employees' failure to inform the minor plaintiff's parents of the alternatives to and risks and potential consequences of the defendant's treatment, the minor plaintiff, Dylan Balmes, was caused to sustain severe and permanent personal injuries; has incurred and will continue to incur great expense for his medical, surgical, and hospital care and treatment; has suffered and will continue to suffer great pain of body and anguish of mind; has been and will continue to be hospitalized; has been and will continue to be unable to pursue normal activities; and his ability to enjoy life has been permanently adversely affected.

WHEREFORE, the minor plaintiff, Dylan Balmes, through his father and next friend, Marcelo Rocha Balmes, prays judgment against the defendant, UMass Memorial Medical Center, Inc., in an amount which is just and appropriate to compensate him for his injuries, together with interest and costs.

PLAINTIFFS CLAIM TRIAL BY JURY.

Respectfully submitted,  
The plaintiffs,  
By their attorney,

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