

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

**DEFENDANT, BRIGHAM & WOMEN’S HOSPITAL’S ANSWER TO PLAINTIFFS’
COMPLAINT AND DEMAND FOR JURY TRIAL**

PARTIES

1. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs’ proof.
2. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph and leaves to Plaintiffs’ proof.
3. The Defendant, Brigham & Women’s Hospital, admits only that it is a non-profit corporation organized under G.L. c. 180 for a charitable purpose.
4. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
5. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
6. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
7. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

JURISDICTION AND VENUE

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

FACTUAL BACKGROUND

15. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
16. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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79. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
80. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

81. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
82. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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194. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
195. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
196. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
197. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
198. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
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200. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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205. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
206. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
207. This paragraph sets forth a conclusion of law to which no response is required.
208. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

COUNT 1
(MGB & BWH – BREACH OF CONTRACT)

209. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
210. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
211. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
212. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
213. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
214. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
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217. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

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

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

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

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

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

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

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

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

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

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

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

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

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

229. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
230. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
231. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
232. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
233. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
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239. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
240. The allegations set forth in this paragraph do not apply to this Defendant. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
241. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

243. The allegations set forth in these paragraphs do not apply to this Defendant. Therefore, no response is required.

244. The allegations set forth in these paragraphs do not apply to this Defendant. Therefore, no response is required.

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

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

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

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

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

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

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

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

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271. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
272. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
273. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
274. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

COUNT V

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

275. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
276. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
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280. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.

COUNT VI

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

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

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

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

COUNT VII

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

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

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

286. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby states that the allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

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

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

AFFIRMATIVE DEFENSES

First Affirmative Defense

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

Second Affirmative Defense

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

Third Affirmative Defense

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

Fourth Affirmative Defense

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

Fifth Affirmative Defense

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

Sixth Affirmative Defense

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

Seventh Affirmative Defense

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

Eighth Affirmative Defense

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

Ninth Affirmative Defense

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

Tenth Affirmative Defense

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

Eleventh Affirmative Defense

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

Twelfth Affirmative Defense

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

Thirteenth Affirmative Defense

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

Fourteenth Affirmative Defense

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

Fifteenth Affirmative Defense

The Defendant at all times relevant to the Plaintiffs' Complaint was and is a non-profit corporation duly organized under G.L.c. 180 for a charitable purpose and was acting in furtherance of its charitable purpose; the provisions of G.L.c. 231, §85K thereby operate to limit recovery, if any.

Sixteenth Affirmative Defense

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

Seventeenth Affirmative Defense

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

Eighteenth Affirmative Defense

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

Nineteenth Affirmative Defense

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

DEMAND FOR JURY TRIAL

The Defendant, Brigham & Women's Hospital, demands trial by jury.

Respectfully submitted,
Defendant,
Brigham & Women's Hospital,
By Counsel,



Christopher R. Lavoie, Esq. BBO# 638276
Allyson N. Hammerstedt, Esq. BBO# 678792
DUNN & DUNN, P.C.
11 Beacon Street – Ste 1100
Boston, MA 02108
(617) 523-2950
clavoie@dunnanddunn.com
ahammerstedt@dunnanddunn.com

DATED: 4/28/25

CERTIFICATE OF SERVICE

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

Gregory D. Henning, Esq.
Henning Strategies
141 Tremont St, Suite 300
Boston, MA 02111
greg.henning@henningstrategies.com

Patrick Driscoll, Esq.
Nicholas Scaptura, Esq.
Boyle Shaughnessy PC
88 Broad Street, 8th Fl.
Boston, MA 02110
pdriscoll@boyleshaughnessy.com
nscaptura@boyleshaughnessy.com



Allyson N. Hammerstedt, Esq.
BBO# 678792

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

**DEFENDANT MICHELLE SICILIANO’S ANSWER TO PLAINTIFFS’ COMPLAINT
AND DEMAND FOR JURY TRIAL**

PARTIES

1. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs’ proof.
2. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
3. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
4. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs’ proof.
5. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
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8. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
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JURISDICTION AND VENUE

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

FACTUAL BACKGROUND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

230. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
231. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
232. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
233. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
234. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
235. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
236. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
237. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
238. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
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241. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
242. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.

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

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

252. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
253. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
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271. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

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

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

COUNT V

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

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

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

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

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

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

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

COUNT VI

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

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

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

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

COUNT VII

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

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

285. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

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

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

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

AFFIRMATIVE DEFENSES

First Affirmative Defense

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

Second Affirmative Defense

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

Third Affirmative Defense

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

Fourth Affirmative Defense

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

Fifth Affirmative Defense

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

Sixth Affirmative Defense

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

Seventh Affirmative Defense

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

Eighth Affirmative Defense

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

Ninth Affirmative Defense

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

Tenth Affirmative Defense

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

Eleventh Affirmative Defense

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

Twelfth Affirmative Defense

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

Thirteenth Affirmative Defense

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

Fourteenth Affirmative Defense

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

Fifteenth Affirmative Defense

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

Sixteenth Affirmative Defense

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

Seventeenth Affirmative Defense

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

Eighteenth Affirmative Defense

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

DEMAND FOR JURY TRIAL

The Defendant, Michelle Siciliano demands a Jury Trial on all issues raised by this case.

Respectfully submitted,
Defendant,
Michelle Siciliano,
By Counsel,



Christopher R. Lavoie, Esq. BBO# 638276
Allyson N. Hammerstedt, Esq. BBO# 678792
DUNN & DUNN, P.C.
11 Beacon Street – Ste 1100
Boston, MA 02108
(617) 523-2950
clavoie@dunnanddunn.com
ahammerstedt@dunnanddunn.com

DATED: 4/28/25

CERTIFICATE OF SERVICE

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

Gregory D. Henning, Esq.
Henning Strategies
141 Tremont St, Suite 300
Boston, MA 02111
greg.henning@henningstrategies.com

Patrick Driscoll, Esq.
Nicholas Scaptura, Esq.
Boyle Shaughnessy PC
88 Broad Street, 8th Fl.
Boston, MA 02110
pdriscoll@boyleshaughnessy.com
nscaptura@boyleshaughnessy.com



Allyson N. Hammerstedt, Esq.
BBO# 678792

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

**DEFENDANT JON C. ASTER, PH.D., M.D.,’S ANSWER TO PLAINTIFFS’
COMPLAINT AND DEMAND FOR JURY TRIAL**

PARTIES

1. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs’ proof.
2. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
3. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
4. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
5. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs’ proof.
6. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
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8. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
9. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

JURISDICTION AND VENUE

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

15. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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208. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.

COUNT 1
(MGB & BWH – BREACH OF CONTRACT)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

230. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
231. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
232. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
233. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
234. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
235. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
236. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
237. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
238. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
239. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
240. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
241. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
242. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
243. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
244. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

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

252. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
253. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
254. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
255. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
256. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

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

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

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

COUNT V

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

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

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

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

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

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

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

COUNT VI

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

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

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

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

COUNT VII

(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE #1, JANE

DOE #1 – TORTIOUS INTERFERENCE WITH HUMAN REMAINS)

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

285. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

286. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

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

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

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

AFFIRMATIVE DEFENSES

First Affirmative Defense

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

Second Affirmative Defense

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

Third Affirmative Defense

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

Fourth Affirmative Defense

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

Fifth Affirmative Defense

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

Sixth Affirmative Defense

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

Seventh Affirmative Defense

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

Eighth Affirmative Defense

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

Ninth Affirmative Defense

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

Tenth Affirmative Defense

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

Eleventh Affirmative Defense

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

Twelfth Affirmative Defense

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

Thirteenth Affirmative Defense

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

Fourteenth Affirmative Defense

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

Fifteenth Affirmative Defense

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

Sixteenth Affirmative Defense

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

Seventeenth Affirmative Defense

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

Eighteenth Affirmative Defense

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

DEMAND FOR JURY TRIAL

The Defendant, Jon C. Aster, M.D., Ph. D., demands a Jury Trial on all issues raised by this case.

Respectfully submitted,
Defendant,
Jon C. Aster, Ph.D., M.D.,
By Counsel,



Christopher R. Lavoie, Esq. BBO# 638276
Allyson N. Hammerstedt, Esq. BBO# 678792
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(617) 523-2950
clavoie@dunnanddunn.com
ahammerstedt@dunnanddunn.com

DATED: 4/28/25

CERTIFICATE OF SERVICE

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

Gregory D. Henning, Esq.
Henning Strategies
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greg.henning@henningstrategies.com

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Nicholas Scaptura, Esq.
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nscaptura@boyleshaughnessy.com



Allyson N. Hammerstedt, Esq.
BBO# 678792

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

**DEFENDANT GEORGE LUTHER MUTTER’S (PROPERLY GEORGE LUTHER
MUTTER, M.D.) ANSWER TO PLAINTIFFS’ COMPLAINT AND
DEMAND FOR JURY TRIAL**

PARTIES

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

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

JURISDICTION AND VENUE

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

FACTUAL BACKGROUND

15. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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207. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
208. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.

COUNT 1
(MGB & BWH – BREACH OF CONTRACT)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

230. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
231. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
232. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
233. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
234. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
235. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
236. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
237. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
238. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
239. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
240. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
241. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
242. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
243. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
244. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

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

252. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
253. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
254. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
255. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
256. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

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

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

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

COUNT V

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

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

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

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

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

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

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

COUNT VI

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

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

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

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

COUNT VII

(DEFENDANTS ASTER, SICILIANO, MUTTER, DELLI-BOVI, JOHN DOE #1, JANE

DOE #1 – TORTIOUS INTERFERENCE WITH HUMAN REMAINS)

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

285. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

286. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

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

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

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

AFFIRMATIVE DEFENSES

First Affirmative Defense

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

Second Affirmative Defense

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

Third Affirmative Defense

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

Fourth Affirmative Defense

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

Fifth Affirmative Defense

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

Sixth Affirmative Defense

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

Seventh Affirmative Defense

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

Eighth Affirmative Defense

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

Ninth Affirmative Defense

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

Tenth Affirmative Defense

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

Eleventh Affirmative Defense

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

Twelfth Affirmative Defense

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

Thirteenth Affirmative Defense

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

Fourteenth Affirmative Defense

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

Fifteenth Affirmative Defense

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

Sixteenth Affirmative Defense

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

Seventeenth Affirmative Defense

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

Eighteenth Affirmative Defense

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

DEMAND FOR JURY TRIAL

The Defendant, George Luther Mutter, M.D. demands a Jury Trial on all issues raised by this case.

Respectfully submitted,
Defendant,
George Luther Mutter, M.D.,
By Counsel,



Christopher R. Lavoie, Esq. BBO# 638276
Allyson N. Hammerstedt, Esq. BBO# 678792
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11 Beacon Street – Ste 1100
Boston, MA 02108
(617) 523-2950
clavoie@dunnanddunn.com
ahammerstedt@dunnanddunn.com

DATED: 4/28/25

CERTIFICATE OF SERVICE

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

Gregory D. Henning, Esq.
Henning Strategies
141 Tremont St, Suite 300
Boston, MA 02111
greg.henning@henningstrategies.com

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Nicholas Scaptura, Esq.
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Boston, MA 02110
pdriscoll@boyleshaughnessy.com
nscaptura@boyleshaughnessy.com



Allyson N. Hammerstedt, Esq.
BBO# 678792

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

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

PARTIES

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

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

JURISDICTION AND VENUE

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

FACTUAL BACKGROUND

15. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
16. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
17. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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69. The Defendant denies the allegations contained in this paragraph as applied to this Defendant and leaves to Plaintiffs' proof.
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119. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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203. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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207. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
208. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.

COUNT 1
(MGB & BWH – BREACH OF CONTRACT)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

258. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
259. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
260. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
261. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
262. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
263. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
264. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
265. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
266. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
267. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
268. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
269. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
270. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
271. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
272. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

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

COUNT V

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

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

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

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

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

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

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

COUNT VI

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

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

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

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

COUNT VII

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

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

AFFIRMATIVE DEFENSES

First Affirmative Defense

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

Second Affirmative Defense

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

Third Affirmative Defense

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

Fourth Affirmative Defense

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

Fifth Affirmative Defense

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

Sixth Affirmative Defense

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

Seventh Affirmative Defense

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

Eighth Affirmative Defense

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

Ninth Affirmative Defense

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

Tenth Affirmative Defense

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

Eleventh Affirmative Defense

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

Twelfth Affirmative Defense

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

Thirteenth Affirmative Defense

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

Fourteenth Affirmative Defense

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

Fifteenth Affirmative Defense

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

Sixteenth Affirmative Defense

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

Seventeenth Affirmative Defense

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

Eighteenth Affirmative Defense

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

DEMAND FOR JURY TRIAL

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

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



Christopher R. Lavoie, Esq. BBO# 638276
Allyson N. Hammerstedt, Esq. BBO# 678792
DUNN & DUNN, P.C.
11 Beacon Street – Ste 1100
Boston, MA 02108
(617) 523-2950
clavoie@dunnanddunn.com
ahammerstedt@dunnanddunn.com

DATED: 4/28/25

CERTIFICATE OF SERVICE

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

Gregory D. Henning, Esq.
Henning Strategies
141 Tremont St, Suite 300
Boston, MA 02111
greg.henning@henningstrategies.com

Patrick Driscoll, Esq.
Nicholas Scaptura, Esq.
Boyle Shaughnessy PC
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Boston, MA 02110
pdriscoll@boyleshaughnessy.com
nscaptura@boyleshaughnessy.com



Allyson N. Hammerstedt, Esq.
BBO# 678792

PO

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

NOTICE OF APPEARANCE

To the Clerk of the Superior Court:

Kindly enter the appearance of Christopher R. Lavoie in the above-entitled matter on behalf of Defendants, Mass General Brigham, Brigham & Women’s Hospital, Jon C. Aster, Ph.D., M.D., Michelle Siciliano, George Luther Mutter, M.D. and Laurent Delli-Bovi, M.D.

Respectfully submitted,
The Defendants, Mass General Brigham, Brigham & Women’s Hospital, Jon C. Aster, Ph.D., M.D., Michelle Siciliano, George Luther Mutter, M.D., and Laurent Delli-Bovi, M.D.,
By their attorneys,

/s/ Christopher R. Lavoie

Christopher R. Lavoie, Esquire
BBO# 638276
clavoie@dunnanddunn.com
DUNN & DUNN, P.C.
11 Beacon Street – Ste 1100
Boston, MA 02108
(617) 523-2950

Date: 4/29/25

CERTIFICATE OF SERVICE

I, Christopher R. Lavoie, Attorney for the Defendants, hereby certify that on this 29th day of April 2025, I caused a true and accurate copy of the foregoing documents to be filed through the eFileMA system and sent to all counsel of record via electronic mail:

Gregory D. Henning, Esq.
Henning Strategies
141 Tremont St, Suite 300
Boston, MA 02111
greg.henning@henningstrategies.com

Patrick Driscoll, Esq.
Nicholas Scaptura, Esq.
Boyle Shaughnessy PC
88 Broad Street, 8th Fl.
Boston, MA 02110
pdriscoll@boyleshaughnessy.com
nscaptura@boyleshaughnessy.com

/s/ Christopher R. Lavoie

Christopher R. Lavoie, Esq.
BBO# 638276

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
C.A. NO.: 2584CV00156

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

NOTICE OF THE APPEARANCE OF NICHOLAS M. SCAPTURA, ESQ.

In accordance with Mass. R. Civ. P. 11(b)(2), I hereby enter my appearance as counsel for the Plaintiffs, Kelly Omu and David Omu, in the above-captioned action.

THE PLAINTIFFS,
KELLY OMU and DAVID OMU,
BY THEIR ATTORNEYS,

/s/ Nicholas M. Scaptura

DATED: December 22, 2025

Patrick Driscoll, Esq., BBO# 669560
Nicholas M. Scaptura, Esq., BBO#696581
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88 Broad Street, 8th Floor
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Phone: (617) 451-2000
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CERTIFICATE OF SERVICE

Pursuant to Mass. R. Civ. P. 5(a) and/or Sup. Ct. R. 9A, I, the undersigned, do hereby certify that a copy of the foregoing document has been served via first-class mail postage pre-paid on all parties or their representatives in this action as listed below on this 22nd day of December 2025:

Counsel for the Plaintiffs, Kelly and David Omu:

Greg Henning, Esq., BBO # 663189
Henning Strategies
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**Counsel for the Defendants, Mass General Brigham,
Brigham & Women's Hospital, Michelle Siciliano, John
C. Aster, George Luther Mutter, Laurent Delli Bovi,**

John Doe #1, Jane Doe #1
Allyson N. Hammerstedt, Esq., BBO#
Christopher Lavoie, Esq., BBO#
Partner | Dunn & Dunn, P.C.
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Boston, MA 02108
Email: ahammerstedt@dunnanddunn.com

/s/ Nicholas M. Scaptura

-
- Patrick Driscoll, Esq. (BBO# 669560)
 Nicholas M. Scaptura, Esq. (BBO# 696581)

Counsel for the Plaintiffs, Kelly Omu and David Omu



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April 7, 2025

VIA EMAIL ONLY

Gregory D. Henning, Esq.
Henning Strategies
greg.henning@henningstrategies.com

Patrick Driscoll, Esq.
Boyle Shaughnessy PC
pdriscoll@boyleshaughnessy.com

RE: Kelly Omu & David Omu v. Mass General Brigham & Brigham and Women's Hospital

Dear Attorneys Henning and Driscoll:

Enclosed please find the Affidavit of Service on behalf of Defendants Defendants Mass General Brigham, Brigham and Women's Hospital, Jon C. Aster (properly "Jon C. Aster, Ph.D., M.D."), Michelle Siciliano, George Luther Mutter (properly George Luther Mutter, M.D.) and Laurent Deli-Bovi (properly Laurent Delli-Bovi, M.D.)

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Allyson N. Hammerstedt".

Allyson N. Hammerstedt, Esq.

ANH/kph
Enclosures

Charles J. Dunn, Jr. (cdunn@dunnanddunn.com)
+*Christopher R. Lavoie (clavoie@dunnanddunn.com)
Toby M. Jesson (tjesson@dunnanddunn.com)
*Mathew G. Dunn (mdunn@dunnanddunn.com)
Joseph D. Delisi (jdelisi@dunnanddunn.com)
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Christine A. Guiney (cguiney@dunnanddunn.com)
Jordan D. Spiegel (jspiegel@dunnanddunn.com)
Sarah Q. LaFleur (slafleur@dunnanddunn.com)

* Also admitted to practice in New Hampshire
+ Also admitted to practice in Rhode Island

MASSACHUSETTS

NEW HAMPSHIRE

RHODE ISLAND

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

AFFIDAVIT OF ACCEPTANCE OF SERVICE OF PROCESS ON BEHALF OF DEFENDANTS MASS GENERAL BRIGHAM, BRIGHAM & WOMEN’S HOSPITAL, JON C. ASTER, PH.D., M.D., MICHELLE SICILIANO, GEORGE LUTHER MUTTER, M.D., AND LAURENT DELLI-BOVI, M.D.

I, Allyson N. Hammerstedt, counsel for Defendants Mass General Brigham, Brigham and Women’s Hospital, Jon C. Aster (properly “Jon C. Aster, Ph.D., M.D.”), Michelle Siciliano, George Luther Mutter (properly George Luther Mutter, M.D.) and Laurent Deli-Bovi (properly Laurent Delli-Bovi, M.D.) in the above matter and duly authorized by said Defendants, hereby accept service of Plaintiffs’ “Complaint and Jury Demand,” dated January 16, 2025.

By accepting service of process, the above Defendants do not waive any rights in, or defenses to this action, and explicitly reserve all such rights and defenses except those regarding service of process and/or sufficiency of service of process.

**Respectfully submitted,
Defendants,**

Mass General Brigham, Brigham &
Women's Hospital, Jon C. Aster, Ph.D.,
M.D., Michelle Siciliano, George Luther
Mutter, M.D. and Laurent Delli-Bovi, M.D.,
By Counsel,



Christopher R. Lavoie, Esq. BBO# 638276
Allyson N. Hammerstedt, Esq. BBO# 678792
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(617) 523-2950
clavoie@dunnanddunn.com
ahammerstedt@dunnanddunn.com

DATED: 4/7/25

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

To the Clerk of the Superior Court:

Kindly enter the appearance of Allyson N. Hammerstedt in the above-entitled matter on behalf of Defendants, Mass General Brigham, Brigham & Women’s Hospital, Jon C. Aster, Ph.D., M.D., Michelle Siciliano, George Luther Mutter, M.D. and Laurent Delli-Bovi, M.D.

Respectfully submitted,
The Defendants, Mass General Brigham, Brigham & Women’s Hospital, Jon C. Aster, Ph.D., M.D., Michelle Siciliano, George Luther Mutter, M.D., and Laurent Delli-Bovi, M.D.,
By their attorneys,



Allyson N. Hammerstedt, Esquire
BBO# 678792
ahammerstedt@dunnanddunn.com
DUNN & DUNN, P.C.
11 Beacon Street – Ste 1100
Boston, MA 02108
(617) 523-2950

Date: 4/28/25

CERTIFICATE OF SERVICE

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

Gregory D. Henning, Esq.
Henning Strategies
141 Tremont St, Suite 300
Boston, MA 02111
greg.henning@henningstrategies.com

Patrick Driscoll, Esq.
Nicholas Scaptura, Esq.
Boyle Shaughnessy PC
88 Broad Street, 8th Fl.
Boston, MA 02110
pdriscoll@boyleshaughnessy.com
nscaptura@boyleshaughnessy.com



Allyson N. Hammerstedt, Esq.
BBO# 678792

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO.: 2584CV00156

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

**DEFENDANT MASS GENERAL BRIGHAM’S ANSWER TO PLAINTIFFS’
COMPLAINT AND DEMAND FOR JURY TRIAL**

PARTIES

1. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs’ proof.
2. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs’ proof.
3. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant admits only that Brigham and Women’s Hospital is a non-profit corporation organized under G.L. c. 180 for a charitable purpose.
4. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
5. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
6. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
7. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

JURISDICTION AND VENUE

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

FACTUAL BACKGROUND

15. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
16. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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79. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
80. The allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

81. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
82. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
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178. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
179. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
180. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
181. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
182. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
183. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
184. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
185. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
186. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.

187. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
188. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
189. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
190. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
191. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
192. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
193. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
194. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
195. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
196. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
197. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
198. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
199. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
200. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
201. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.

202. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
203. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
204. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
205. The Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and leaves to Plaintiffs' proof.
206. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
207. This paragraph sets forth a conclusion of law to which no response is required.
208. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

COUNT 1
(MGB & BWH – BREACH OF CONTRACT)

209. The Defendant repeats and restates fully herein all paragraphs above as if set forth fully herein.
210. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
211. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
212. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
213. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
214. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
215. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.
216. The Defendant denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

229. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
230. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
231. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
232. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
233. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
234. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
235. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
236. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
237. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
238. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
239. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.
240. The allegations set forth in this paragraph do not apply to this Defendant. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby denies the allegations as set forth in this paragraph.
241. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required.

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

243. The allegations set forth in these paragraphs do not apply to this Defendant. Therefore, no response is required.

244. The allegations set forth in these paragraphs do not apply to this Defendant. Therefore, no response is required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COUNT V

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

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

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

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

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

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

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

COUNT VI

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

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

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

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

COUNT VII

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

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

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

286. The allegations set forth in this paragraph do not apply to this Defendant. Therefore, no response is required. To the extent that these allegations may be construed to apply to this Defendant, the Defendant hereby states that the allegations set forth in this paragraph are so vague, ambiguous, and non-specific as to deny Defendant the ability to respond in a meaningful and proper manner. The Defendant therefore denies the allegations contained in this paragraph and leaves to Plaintiffs' proof.

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

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

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

AFFIRMATIVE DEFENSES

First Affirmative Defense

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

Second Affirmative Defense

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

Third Affirmative Defense

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

Fourth Affirmative Defense

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

Fifth Affirmative Defense

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

Sixth Affirmative Defense

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

Seventh Affirmative Defense

Sixth Affirmative Defense

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

Eighth Affirmative Defense

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

Ninth Affirmative Defense

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

Tenth Affirmative Defense

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

Eleventh Affirmative Defense

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

Twelfth Affirmative Defense

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

Thirteenth Affirmative Defense

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

Fourteenth Affirmative Defense

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

Fifteenth Affirmative Defense

The Defendant at all times relevant to the Plaintiffs' Complaint was and is a non-profit corporation duly organized under G.L.c. 180 for a charitable purpose and was acting in furtherance of its charitable purpose; the provisions of G.L.c. 231, §85K thereby operate to limit recovery, if any.

Sixteenth Affirmative Defense

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

Seventeenth Affirmative Defense

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

Eighteenth Affirmative Defense

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

Nineteenth Affirmative Defense

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

DEMAND FOR JURY TRIAL

The Defendant, Mass General Brigham, demands trial by jury.

Respectfully submitted,
Defendant,
Mass General Brigham,
By Counsel,



Christopher R. Lavoie, Esq. BBO# 638276
Allyson N. Hammerstedt, Esq. BBO# 678792
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ahammerstedt@dunnanddunn.com

DATED: 4/28/25

CERTIFICATE OF SERVICE

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

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