

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NELSON FRANCOIS, as PERSONAL
Representative of the Estate of
CAROLINE FRANCOIS,

Plaintiffs,

08-21442-CIV-KING/BANDSTRA

v.

MEDICAL STAFFING NETWORK
HOLDINGS, INC., a Florida corporation;
ANGELICA MARTINEZ, R.N. a/k/a
ANGELICA LUZARRAGA, R.N.;
TENET HEALTHSYSTEM NORTH SHORE,
INC., a Florida corporation, d/b/a NORTH
SHORE MEDICAL CENTER; UNIVERSITY
OF MIAMI, a Florida corporation; SHERYL
FACEY, M.D.; and JESSIE TRICE COMMUNITY
HEALTH CENTER, INC., a Florida corporation
f/k/a ECONOMIC OPPORTUNITY FAMILY
HEALTH CENTER, INC.,

Defendants.

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**NOTICE OF REMOVAL BY UNITED STATES ATTORNEY
ON BEHALF OF JESSIE TRICE COMMUNITY HEALTH CENTER**

The United States, by and through the undersigned Assistant U.S. Attorney, files this Notice of Removal pursuant to 42 U.S.C. §233(c) and 28 U.S.C. 2679 (d)(2) and in support thereof, states as follows:

1. On March 21, 2008, the registered agent for the Jessie Trice Community Health Center, f/k/a Economic Opportunity Family Health Center (Center), was served with an Amended Complaint in the case Nelson Francois, as personal representative of the Estate of Caroline Francois v. Medical Staffing Network Holdings, Inc., et al. In Count XI of the Amended Complaint, plaintiff

alleges medical negligence by Sheryl Facey, M.D. In Count XII of the Amended Complaint, plaintiff alleges that the Center is vicariously liable for the medical negligence of “its agents, apparent agents, representatives and/or employees, including but not limited to, Defendant Facey.”¹

2. In October 1992, Congress passed the Federally Supported Health Centers Assistance Act. Pursuant to that statute, under certain circumstances public and non-profit clinics receiving federal grant funds under specific funding programs may be deemed to be employees of the Public Health Service. 42 U.S.C. §233(g)(1)(A). The exclusive remedy for personal injury or death as a result of medical negligence by an officer or employee of the Public Health Service is an action against the United States under the Federal Tort Claims Act. 42 U.S.C. §233(a).²

3. The Jessie Trice Community Health Center f/k/a Economic Opportunity Family Health Center (“Center”) was deemed eligible for medical negligence coverage under the Federal Tort Claims Act effective June 23, 1996.

4. 42 U.S.C. 233(c) provides as follows:

Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suite arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the

¹ Although this case was originally filed in February 2007, in the Circuit Court of the 11th Judicial Circuit in and for Dade County, Florida, neither Dr. Facey nor the Center were named as defendants in the original complaint. Government Exhibit No. 1. The first time Dr. Facey and the Center were named as defendants was in the March 2008, Amended Complaint. Government Exhibit No. 2. Neither the United States Attorney nor the Attorney General have been properly served with the Amended Complaint under Fed.R.Civ.P.4(i).

² Pursuant to the statute, any claim by a clinic for benefits under an insurance policy with respect to medical malpractice shall be subrogated to the United States. 42 U.S.C. 233(g)(2). By certifying that the Center is an employee of the United States the United States is not waiving its right of subrogation if the Center had insurance coverage during the time period at issue.

United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of Title 28 and all references thereto. (emphasis added). See also 28 U.S.C. §2679(d)(2).

5. The Attorney General has delegated to U.S. Attorneys the authority to make the required scope of employment certifications. 28 C.F.R. §§15.3 and 15.4. Attached as Exhibit No. 3 is a certification by U.S. Attorney R. Alexander Acosta that the Center was an employee of the Public Health Service eligible for medical negligence liability protection under the Federal Tort Claims Act, effective June 23, 1996. Mr. Acosta has also certified that the Center was an employee acting within the scope of its employment at the time of the medical negligence incidents alleged in the Amended Complaint and that Dr. Facey was an employee of the Center in July 2006. Accordingly, both the Center and Dr. Facey are covered for medical negligence under the Federal Tort Claims Act during the July 2006 time period set forth in the Amended Complaint.

6. As stated previously, plaintiff does not identify by name or describe in any detail the employees, agents or representatives of the Center that plaintiff contends were negligent, other than Sheryl Facey, M.D. The United States removes this case to the U.S. District Court on the ground that the Center was deemed eligible for coverage under the Federal Tort Claims Act during the period of time when the medical malpractice cause of action allegedly arose; that Dr. Facey was an employee of the Center during the relevant time period (July 2006); and that both Dr. Facey and the Center are named defendants in the state court action. However, only employees of a deemed entity and in some situations contractors are covered under the Federally Supported Health Center Assistance Act. The United States reserves the right to assert that it is not covering specific individuals who are later identified by the plaintiff or co-defendants as employees, agents or

contractors of the Center if the United States Attorney, in conjunction with the Department of Health and Human Services, determines that the individual is not covered.

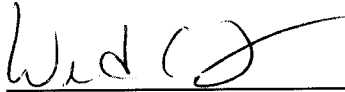
7. No pleadings or other documents have been served on the United States Attorney's office or the Attorney General as required by Fed.R.Civ.P. 4(i). Additionally, as set forth in 42 U.S.C. §233(c), upon certification by the Attorney General that the defendant was acting within the course and scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in State court *shall be removed without bond at any time before trial by the Attorney General to the district court of the United States.* (emphasis added.).

CONCLUSION

For the foregoing reasons, the Defendant United States removes the case Nelson Francois, as Personal Representative of the Estate of Caroline Francois v. Medical Staffing Network Holdings, Inc., a Florida corporation; Angelica Martinez, R.N. a/k/a Angelica Luzarraga, R.N.; Tenet Healthsystem North Shore, Inc., a Florida corporation, d/b/a North Shore Medical Center; University of Miami, a Florida corporation; Sheryl Facey, M.D.; and Jessie Trice Community Health Center, Inc., a Florida corporation, f/k/a Economic Opportunity Family Health Center, Inc., Case No. 07-3515-CA-23 which was filed in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, from state court to federal court.


Respectfully submitted,

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By: 
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 19th day of May, 2008 to: Loren I. Kreizinger, P.A., Attorney for Plaintiff, 101 NE Third Avenue, Tower 101, Suite 1810, Fort Lauderdale, FL 33301, F. Bryant Blevins, Esq., Butler, Pappas, Weihmuller, et al., LLP, Attorneys for Defendants Medical Staffing and Martinez, 80 S.W. 8th Street, Suite 3300, Miami, Florida 33130 and Christopher E. Knight, Esq., Helenemarie M. Blake, Esq., Marc J. Schleier, Esq., Fowler White Burnett P.A., Espirito Santo Plaza, 14th Floor, 1395 Brickell Avenue, Miami, FL 33131-3302.


Wendy A. Jacobus
Assistant U.S. Attorney

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
DADE COUNTY, FL

CASE NO: 07-3515-CA-23

NELSON FRANCOIS, as Personal
Representative of the Estate
of CAROLINE FRANCOIS,

Plaintiff,

vs.

MEDICAL STAFFING NETWORK HOLDINGS, INC.,
a Florida corporation; ANGELICA MARTINEZ,
R.N. a/k/a ANGELICA LUZARRAGA, R.N.;
TENET HEALTHSYSTEM NORTH SHORE, INC.,
a Florida corporation, d/b/a NORTH SHORE
MEDICAL CENTER; UNIVERSITY OF MIAMI, a
Florida corporation; SHERYL FACEY, M.D.;
and JESSIE TRICE COMMUNITY HEALTH CENTER,
INC., a Florida corporation, f/k/a ECONOMIC
OPPORTUNITY FAMILY HEALTH CENTER, INC.,

Defendants.

AMENDED COMPLAINT

COMES NOW the Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, by and through the undersigned attorneys, and files this Amended Complaint against the Defendants, MEDICAL STAFFING NETWORK HOLDINGS, INC., a Florida corporation; ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N.; TENET HEALTHSYSTEM NORTH SHORE, INC., a Florida corporation, d/b/a NORTH SHORE MEDICAL CENTER; UNIVERSITY OF MIAMI, a Florida corporation; SHERYL FACEY, M.D.; and JESSIE TRICE COMMUNITY HEALTH CENTER, INC., a Florida corporation, f/k/a ECONOMIC OPPORTUNITY FAMMILY HEALTH CENTER, INC., and alleges as follows:

**GOVERNMENT
EXHIBIT
No. 1**

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00).

2. At all times material hereto, the Plaintiff, NELSON FRANCOIS, was and is the Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased.

3. At all times material hereto, the Plaintiff, NELSON FRANCOIS, was the husband of the Decedent, CAROLINE FRANCOIS, and was and is a resident of Dade County, Florida, and is a survivor, pursuant to the Wrongful Death Statute F.S. § 768.18.

4. At all times material hereto, the minor, Jerryian Francois, born February 16, 1996, was and is the natural born son of NELSON FRANCOIS and the Decedent, CAROLINE FRANCOIS, and is a survivor, pursuant to the Wrongful Death Statute F.S. § 768.18.

5. At all times material hereto, the minor, Precious Francois, born September 20, 2000, was and is the natural born daughter of NELSON FRANCOIS, and the Decedent, CAROLINE FRANCOIS, and is a survivor, pursuant to the Wrongful Death Statute F.S. § 768.18.

6. At all times material hereto, the minor, Caroline Francois, born July 25, 2006, was and is the natural born daughter of NELSON FRANCOIS, and the Decedent, CAROLINE FRANCOIS, and is a survivor, pursuant to the Wrongful Death Statute F.S. § 768.18.

7. At all times material hereto, the Defendant, MEDICAL STAFFING NETWORK HOLDINGS, INC. (hereinafter known as "MEDICAL

STAFFING"), was and is a Florida corporation, organized and existing under the laws of the State of Florida and doing business in Dade County, Florida.

8. At all times material hereto, the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. (hereinafter known as "MARTINEZ"), was and is a resident of Broward County, Florida, duly licensed to practice nursing in the State of Florida.

9. At all times material hereto, the Defendant, TENET HEALTHSYSTEM NORTH SHORE, INC. (hereinafter known as "TENET"), was and is a Florida corporation, organized and existing under the laws of the State of Florida and doing business in Dade County, Florida, as NORTH SHORE MEDICAL CENTER.

10. At all times material hereto, the Defendant, UNIVERSITY OF MIAMI (hereinafter known as UNIVERSITY), was and is a Florida corporation, organized and existing under the laws of the State of Florida and doing business in Dade County, Florida.

11. At all times material hereto, the Defendant, SHERYL FACEY, M.D. (hereinafter known as "FACEY"), was and is a resident of Broward County, Florida, duly licensed to medicine in the State of Florida.

12. At all times material hereto, the Defendant, JESSIE TRICE COMMUNITY HEALTH CENTER, INC., f/k/a ECONOMIC OPPORTUNITY FAMILY HEALTH CENTER, INC. (hereinafter known as "ECONOMIC OPPORTUNITY"), was and is a Florida corporation, organized and existing under the

laws of the State of Florida and doing business in Dade County, Florida.

13. At all times material hereto, the Defendant, MEDICAL STAFFING, is vicariously responsible for its agents, apparent agents, representatives, employees and/or servants including, but not limited to, James Hall, R.N., and the Defendant, MARTINEZ.

14. At all times material hereto, the Defendant, TENET, is vicariously responsible for its agents, apparent agents, representatives, and/or employees including, but not limited to, the Defendants, MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY.

15. At all times material hereto, the Defendant, UNIVERSITY, is vicariously responsible for its agents, apparent agents, representatives, and/or employees including, but not limited to, Robert Kerns.

16. At all times material hereto, the Defendant, ECONOMIC OPPORTUNITY, is vicariously responsible for its agents, apparent agents, representatives, and/or employees including, but not limited to, Defendant FACEY.

17. At all times material hereto, the Plaintiff has complied with the presuit requirements of F.S. § 766.106, as a prerequisite of filing this lawsuit.

18. Plaintiff filed a Petition for a 90-Day Extension to the Statute of Limitations on February 5, 2007 (a copy of said Petition is attached hereto as Plaintiff's Exhibit "A").

19. On or about July 24, 2006, CAROLINE FRANCOIS, at the young age of 26, was admitted to North Shore Medical Center, located at 11100 N.W. 95th Street, Miami, Dade County, Florida, for the delivery of her third baby. During the time frame of July 24, 2006 through July 27, 2006, the aforementioned Defendants, by and through their agents, apparent agents, representatives and/or employees, provided care, treatment and services to CAROLINE FRANCOIS. As a direct result therefrom, by the aforementioned Defendants, CAROLINE FRANCOIS suffered a massive bleed in her brain, was removed from life support without the consent of her next-of-kin, her spouse, NELSON FRANCOIS, and died on July 27, 2006.

COUNT I

VICARIOUS LIABILITY OF DEFENDANT, MEDICAL STAFFING

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

20. At all times material hereto, the Defendant, MEDICAL STAFFING, is vicariously liable for any and all acts of negligence of the departures from the prevailing standards of care, by and through its agents, apparent agents, representatives, employees and/or servants, including, but not limited to James Hall, R.N., and the Defendant, MARTINEZ.

21. At all times material hereto, the agent, apparent agents, representatives, employees and/or servants of Defendant, MEDICAL STAFFING, including, but not limited to James Hall, R.N., and the Defendant, MARTINEZ, had a duty to exercise that degree of nursing care and treatment to CAROLINE FRANCOIS, commensurate with the prevailing nursing standard of care.

22. At all times material hereto, the agents, apparent agents, representatives, employees and/or servants of Defendant, MEDICAL STAFFING, including, but not limited to, James Hall, R.N., and the Defendant, MARTINEZ, were careless, negligent, and breached said duty as follows:

- 22-1. By failing to properly monitor CAROLINE FRANCOIS' blood pressure;
- 22-2. By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;
- 22-3. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;
- 22-4. By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;
- 22-5. By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;
- 22-6. By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;
- 22-7. By failing to timely monitor CAROLINE FRANCOIS' vital signs;
- 22-8. By failing to communicate with CAROLINE FRANCOIS' OB physician, Defendant FACEY;
- 22-9. By failing to properly monitor CAROLINE FRANCOIS' input and output;
- 22-10. By failing to assess CAROLINE FRANCOIS' neurological status;
- 22-11. By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 22-12. By failing to follow the magnesium sulphate protocol at Defendant TENET;

- 22-13. By failing to follow the magnesium sulphate policies and procedures at Defendant TENET;
- 22-14. By failing to inform Defendant FACEY of CAROLINE FRANCOIS' abnormal blood pressure;
- 22-15. By failing to call Defendant FACEY to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;
- 22-16. By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;
- 22-17. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;
- 22-18. By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;
- 22-19. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;
- 22-20. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;
- 22-21. By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;
- 22-22. By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;
- 22-23. By failing to recognize CAROLINE FRANCOIS' verbal concerns of her condition and take all appropriate nursing measures;
- 22-24. By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);
- 22-25. By failing to properly document CAROLINE FRANCOIS' condition;
- 22-26. By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;
- 22-27. By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;
- 22-28. By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;
- 22-29. By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 22-30. By failing to follow the physicians' orders;
- 22-31. By failing to administer medications timely;
- 22-32. By failing to administer medications in the dosage ordered;
- 22-33. By failing to administer medications in the manner ordered;

- 22-34. By failing to timely carry out physicians' orders;
- 22-35. By failing to timely obtain medications from the pharmacy as ordered;
- 22-36. By failing to administer STAT medications;
- 22-37. By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;
- 22-38. By failing to adequately document CAROLINE FRANCOIS' nurses' notes;
- 22-39. By failing to timely document CAROLINE FRANCOIS' nursing notes;
- 22-40. By failing to follow the JCAH nursing standards;
- 22-41. By failing to follow the policies and procedures of North Shore Medical Center;
- 22-42. By failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 22-43. By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 22-44. By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;
- 22-45. By failing to monitor hourly CAROLINE FRANCOIS' intake;
- 22-46. By failing to monitor hourly CAROLINE FRANCOIS' output;
- 22-47. By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;
- 22-48. By failing to monitor hourly CAROLINE FRANCOIS' deep tendon reflexes;
- 22-49. By making additions to the medical records of CAROLINE FRANCOIS;
- 22-50. By making changes to the medical records of CAROLINE FRANCOIS;
- 22-51. By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;
- 22-52. By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Defendant FACEY and any other health care providers;
- 22-53. By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;
- 22-54. By failing to insert a foley cathether;

- 22-55. By assisting in the removal of life support without consent from the next-of-kin;
- 22-56. By assuring Defendant FACEY that all documents were in order for the removal of life support;
- 22-57. By allowing Robert Kerns to enter into the hospital room of CAROLINE FRANCOIS without the consent of her next-of-kin;
- 22-58. By following through with the removal of life support, based upon a physician's order authored by Robert Kerns, who is and was not a physician;
- 22-59. By allowing Robert Kerns to touch CAROLINE FRANCOIS while still on life support;
- 22-60. By allowing Robert Kerns to touch CAROLINE FRANCOIS without consent;
- 22-61. By failing to protect CAROLINE FRANCOIS from being touched by Robert Kerns;
- 22-62. By allowing Robert Kerns to remove life support of CAROLINE FRANCOIS;
- 22-63. By allowing Robert Kerns to write an Order in the chart of CAROLINE FRANCOIS to stop all medical care and treatment and remove her from life support;
- 22-64. By failing to inform Defendant FACEY that CAROLINE FRANCOIS was having spontaneous respirations prior to the removal of life support;
- 22-65. By failing to follow the Statutory guidelines for the removal of life support;
- 22-66. By failing to follow the policies and procedures of the Defendant TENET regarding the removal of life support;
- 22-67. By failing to properly assess CAROLINE FRANCOIS; and
- 22-68. By failing to render proper nursing care and treatment under the circumstances.

23. At all times material hereto, the aforesaid acts on the part of the Defendant, MEDICAL STAFFING, by and through its agents, apparent agents, employees, representatives, servants, and/or nurses, including, but not limited to, James Hall, R.N., and the Defendant, MARTINEZ, fell below the standard of care, as required

by their training, experience, and the prevailing professional standard of care.

24. As a direct, proximate and foreseeable result of the negligence of the Defendant, MEDICAL STAFFING, by and through its agents, apparent agents, employees, representatives, servants and/or nurses, including, but not limited to, James Hall, R.N., and the Defendant, MARTINEZ, CAROLINE FRANCOIS suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

25. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

26. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

27. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition,

NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

28. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as CAROLINE FRANCOIS' surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

29. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon his mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

30. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the

replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

31. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, MEDICAL STAFFING, together with costs and demands a trial by jury of all issues triable as of right by jury.

COUNT II
NEGLIGENCE OF DEFENDANT MARTINEZ

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

32. At all times material hereto, the Defendant, MARTINEZ, agreed and undertook to render nursing care and treatment and attend to CAROLINE FRANCOIS.

33. At all times material hereto, the Defendant, MARTINEZ, had a duty to exercise that degree of nursing care and treatment in

treating CAROLINE FRANCOIS, commensurate with the prevailing nursing standard of care.

34. The Defendant, MARTINEZ, was careless, negligent, and breached said duty as follows:

- 34-1. By failing to properly monitor CAROLINE FRANCOIS' blood pressure;
- 34-2. By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;
- 34-3. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;
- 34-4. By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;
- 34-5. By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;
- 34-6. By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;
- 34-7. By failing to timely monitor CAROLINE FRANCOIS' vital signs;
- 34-8. By failing to communicate with CAROLINE FRANCOIS' OB physician, Defendant FACEY;
- 34-9. By failing to properly monitor CAROLINE FRANCOIS' input and output;
- 34-10. By failing to assess CAROLINE FRANCOIS' neurological status;
- 34-11. By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 34-12. By failing to follow the magnesium sulphate protocol at Defendant FACEY;
- 34-13. By failing to follow the magnesium sulphate policies and procedures at Defendant FACEY;
- 34-14. By failing to inform Defendant FACEY of CAROLINE FRANCOIS' abnormal blood pressure;
- 34-15. By failing to call Defendant FACEY to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;
- 34-16. By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;
- 34-17. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;
- 34-18. By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;
- 34-19. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;

- 34-20. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;
- 34-21. By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;
- 34-22. By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;
- 34-23. By failing to recognize CAROLINE FRANCOIS' verbal concerns of her condition and take all appropriate nursing measures;
- 34-24. By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);
- 34-25. By failing to properly document CAROLINE FRANCOIS' condition;
- 34-26. By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;
- 34-27. By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;
- 34-28. By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;
- 34-29. By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 34-30. By failing to follow the physicians' orders;
- 34-31. By failing to administer medications timely;
- 34-32. By failing to administer medications in the dosage ordered;
- 34-33. By failing to administer medications in the manner ordered;
- 34-34. By failing to timely carry out physicians' orders;
- 34-35. By failing to timely obtain medications from the pharmacy as ordered;
- 34-36. By failing to administer STAT medications;
- 34-37. By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;
- 34-38. By failing to adequately document CAROLINE FRANCOIS' nurses' notes;
- 34-39. By failing to timely document CAROLINE FRANCOIS' nursing notes;
- 34-40. By failing to follow the JCAH nursing standards;

- 34-41. By failing to follow the policies and procedures of Defendant TENET;
- 34-42. By failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 34-43. By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 34-44. By failing to inform CAROLINE FRANCOIS' next-of-kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;
- 34-45. By failing to monitor hourly CAROLINE FRANCOIS' intake;
- 34-46. By failing to monitor hourly CAROLINE FRANCOIS' output;
- 34-47. By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;
- 34-48. By failing to monitor hourly CAROLINE FRANCOIS' deep tendon reflexes;
- 34-49. By making additions to the medical records of CAROLINE FRANCOIS;
- 34-50. By making changes to the medical records of CAROLINE FRANCOIS;
- 34-51. By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;
- 34-52. By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Defendant FACEY and any other health care providers;
- 34-53. By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;
- 34-54. By failing to insert a foley catheter; and
- 34-55. By failing to render proper nursing care and treatment under the circumstances.

35. At all times material hereto, the aforesaid acts on the part of the Defendant, MARTINEZ, fell below the standard of care, as required by her training, experience and the prevailing professional standard of care.

36. As a direct, proximate and foreseeable result of the negligence of the Defendant, MARTINEZ, CAROLINE FRANCOIS suffered

a massive bleed in the brain, was taken off life support and died on July 27, 2006.

37. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

38. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

39. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS services.

40. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as CAROLINE FRANCOIS' surviving spouse, is entitled to recover for the loss of CAROLINE

FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

41. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon his mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

42. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

43. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support,

companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, MARTINEZ, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT III
NEGLIGENT HIRING, SUPERVISION AND RETENTION OF
THE AGENTS, APPARENT AGENTS, EMPLOYEES AND/OR REPRESENTATIVES
OF THE DEFENDANT, MEDICAL STAFFING

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

44. At all times material hereto, the Defendant, MEDICAL STAFFING, had a duty to exercise reasonable care in hiring, training, and supervising their agents, apparent agents, employees, representatives, servants and/or nurses, including, but not limited to, James Hall, R.N., and the Defendant, MARTINEZ.

45. At all times material hereto, the Defendant, MEDICAL STAFFING, was negligent and breached its duties as follows:

45-1. By failing to properly investigate the background, education and skills of their agents, apparent agents, employees and/or representatives;

- 45-2. By failing to properly train their agents, apparent agents, employees and/or representatives;
- 45-3. By failing to adequately supervise their agents, apparent agents, employees and/or representatives to be certain that the Decedent, CAROLINE FRANCOIS, would receive care commensurate with the prevailing professional standard of care;
- 45-4. By failing to institute proper policies and procedures to ensure appropriate care and treatment would be rendered to CAROLINE FRANCOIS; and
- 45-5. By failing to make certain that its agents, apparent agents, employees and/or representatives had the nursing skill and experience to render proper care and treatment to the patient, CAROLINE FRANCOIS.

46. As a direct, proximate and foreseeable result of the aforementioned breached duties by the Defendant, MEDICAL STAFFING, by and through its agents, apparent agents, employees, representatives, servants and/or nurses, including, but not limited to, James Hall, R.N., and the Defendant, MARTINEZ, CAROLINE FRANCOIS, suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

47. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

48. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors,

and other medical bills and funeral expenses incurred on behalf of the Decedent.

49. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

50. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as CAROLINE FRANCOIS' surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

51. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

52. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

53. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, MEDICAL STAFFING, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT IV
VICARIOUS LIABILITY OF DEFENDANT TENET

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

54. At all times material hereto, the Defendant, TENET, is vicariously liable for any and all acts of negligence of the departures from the prevailing standards of care, by and through its agents, apparent agents, representatives, employees, and/or servants, including, but not limited to, the Defendants, MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY.

55. At all times material hereto, the agents, apparent agents, representatives, employees and/or servants of the Defendant, TENET, including, but not limited to, the Defendants, MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY, had a duty to exercise that degree of care and treatment to CAROLINE FRANCOIS, commensurate with the prevailing professional standard of care.

56. At all times material hereto, the Defendant, TENET, by and through its agents, apparent agents, representatives, employees and/or servants, including, but not limited to the Defendants, MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY, was negligent and breached said duty as follows:

- 56-1. By failing to properly monitor CAROLINE FRANCOIS' blood pressure;
- 56-2. By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;
- 56-3. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;

- 56-4. By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;
- 56-5. By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;
- 56-6. By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;
- 56-7. By failing to timely monitor CAROLINE FRANCOIS' vital signs;
- 56-8. By failing to communicate with CAROLINE FRANCOIS' OB physician, Defendant FACEY;
- 56-9. By failing to properly monitor CAROLINE FRANCOIS' input and output;
- 56-10. By failing to assess CAROLINE FRANCOIS' neurological status;
- 56-11. By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 56-12. By failing to follow the magnesium sulphate protocol at Defendant TENET;
- 56-13. By failing to follow the magnesium sulphate policies and procedures at Defendant TENET;
- 56-14. By failing to inform Defendant FACEY of CAROLINE FRANCOIS' abnormal blood pressure;
- 56-15. By failing to call Defendant FACEY to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;
- 56-16. By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;
- 56-17. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;
- 56-18. By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;
- 56-19. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;
- 56-20. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;
- 56-21. By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;
- 56-22. By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;
- 56-23. By failing to recognize CAROLINE FRANCOIS' verbal concerns of her condition and take all appropriate nursing measures;
- 56-24. By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);

- 56-25. By failing to properly document CAROLINE FRANCOIS' condition;
- 56-26. By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;
- 56-27. By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;
- 56-28. By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;
- 56-29. By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 56-30. By failing to follow the physicians' orders;
- 56-31. By failing to administer medications timely;
- 56-32. By failing to administer medications in the dosage ordered;
- 56-33. By failing to administer medications in the manner ordered;
- 56-34. By failing to timely carry out physicians' orders;
- 56-35. By failing to timely obtain medications from the pharmacy as ordered;
- 56-36. By failing to administer STAT medications;
- 56-37. By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;
- 56-38. By failing to adequately document CAROLINE FRANCOIS' nurses' notes;
- 56-39. By failing to timely document CAROLINE FRANCOIS' nursing notes;
- 56-40. By failing to follow the JCAH nursing standards;
- 56-41. By failing to follow the policies and procedures of Defendant TENET;
- 56-42. By failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 56-43. By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 56-44. By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;
- 56-45. By failing to monitor hourly CAROLINE FRANCOIS' intake;
- 56-46. By failing to monitor hourly CAROLINE FRANCOIS' output;

- 56-47. By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;
- 56-48. By failing to monitor hourly CAROLINE FRANCOIS' deep tendon reflexes;
- 56-49. By making additions to the medical records of CAROLINE FRANCOIS;
- 56-50. By making changes/alterations to the medical records of CAROLINE FRANCOIS;
- 56-51. By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;
- 56-52. By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Defendant FACEY and any other health care providers;
- 56-53. By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;
- 56-54. By failing to insert a foley catheter;
- 56-55. By failing to render proper nursing care and treatment under the circumstances.
- 56-56. By assisting in the removal of life support without consent from the next-of-kin;
- 56-57. By assuring Defendant FACEY that all documents were in order for the removal of life support;
- 56-58. By failing to provide the computerized blood pressure read-out documents during the presuit medical malpractice period via Florida Statutes § 766.106, et al;
- 56-59. By failing to keep the computerized blood pressure read-out documents;
- 56-60. By destroying the computerized blood pressure read-out documents;
- 56-61. By failing to have dip sticks available in the CCU unit;
- 56-62. By failing to follow Florida Statute § 382.009;
- 56-63. By failing to inform the Dade Medical Examiner of CAROLINE FRANCOIS' underlying medical condition;
- 56-64. By allowing the removal of life support when CAROLINE FRANCOIS was having spontaneous respirations;
- 56-65. By allowing nurses to care for CAROLINE FRANCOIS, who did not have the experience with a magnesium sulfate drip;

- 56-66. By failing to have in place policies and procedures for the timely receipt of STAT medications from the pharmacy;
- 56-67. By failing to obtain from the pharmacy STAT medications;
- 56-68. By failing to write the accurate times when medical care and treatment was rendered to CAROLINE FRANCOIS;
- 56-69. By allowing agency nurses to care for CAROLINE FRANCOIS;
- 56-70. By failing to timely communicate abnormal lab work from the lab to the CCU;
- 56-71. By coercing Defendant FACEY to sign the "Certificate of Terminal Illness" document, without providing Defendant FACEY with the policies and procedures and legal documents to do so;
- 56-72. By allowing CAROLINE FRANCOIS to be removed from life support when she was not brain dead;
- 56-73. By developing an unconscionable scheme to rush and have CAROLINE FRANCOIS improperly declared brain dead;
- 56-74. By developing an unconscionable scheme to rush and have CAROLINE FRANCOIS improperly removed from life support;
- 56-75. By developing an unconscionable scheme to try and have NELSON FRANCOIS agree to an in-house autopsy of CAROLINE FRANCOIS;
- 56-76. By trying to coerce NELSON FRANCOIS to agree to an in-house autopsy of CAROLINE FRANCOIS;
- 56-77. By trying to cover up what happened to CAROLINE FRANCOIS while at TENET;
- 56-78. By failing to inform the Dade County Medical Examiner of the true details of the medical conditions of CAROLINE FRANCOIS so that they would not accept the case;
- 56-79. By intentionally altering the medical records of CAROLINE FRANCOIS;
- 56-80. By intentionally reconstructing the medical records of CAROLINE FRANCOIS;
- 56-81. By failing to timely carry out the Code protocol;
- 56-82. By failing to timely recognize that CAROLINE FRANCOIS was going to Code;
- 56-83. By failing to recognize that CAROLINE FRANCOIS would suffer from a brain bleed, if not timely and properly treated;

- 56-84. By failing to have in place policies and procedures to make certain that magnesium sulfate orders were carried out;
- 56-85. By failure of the Charge Nurses to recognize the severity of CAROLINE FRANCOIS' medical condition and take appropriate actions so that she would not suffer a brain bleed;
- 56-86. By failure of the Charge Nurses to inform the other personnel at TENET through their chain of command avenues of the severity of CAROLINE FRANCOIS' medical condition prior to her suffering a brain bleed;
- 56-87. By having health care providers and administrative personnel put pressure on Defendant FACEY to sign Termination documents of CAROLINE FRANCOIS;
- 56-88. By failing to document in the medical records of CAROLINE FRANCOIS the accuracy of her care and treatment;
- 56-89. By failing to document in the medical records of CAROLINE FRANCOIS the required documentation in order to disconnect her from life support;
- 56-90. By allowing Robert Kerns to practice medicine in the facility of Defendant TENET when he was not a licensed physician;
- 56-91. By allowing Robert Kerns to enter into the hospital room of CAROLINE FRANCOIS without the consent of her next-of-kin;
- 56-92. By following through with the removal of life support, based upon a physician's order authored by Robert Kerns, who is and was not a physician;
- 56-93. By allowing Robert Kerns to touch CAROLINE FRANCOIS while still on life support;
- 56-94. By allowing Robert Kerns to touch CAROLINE FRANCOIS without consent;
- 56-95. By failing to protect CAROLINE FRANCOIS from being touched by Robert Kerns;
- 56-96. By allowing Robert Kerns to remove life support of CAROLINE FRANCOIS;
- 56-97. By allowing Robert Kerns to write an Order in the chart of CAROLINE FRANCOIS to stop all medical care and treatment and remove her from life support;
- 56-98. By failing to inform Defendant FACEY that CAROLINE FRANCOIS was having spontaneous respirations prior to the removal of life support;

- 56-99. By failing to follow the Statutory guidelines for the removal of life support;
- 56-100. By failing to follow the policies and procedures of the Defendant TENET regarding the removal of life support;
- 56-101. By failing to properly assess CAROLINE FRANCOIS;
- 56-102. By failing to render proper nursing care and treatment under the circumstances.
- 56-103. By failing to determine CAROLINE FRANCOIS' respiratory function, including but not limited to, spontaneous respirations prior to her removal from life support;
- 56-104. By allowing Robert Kerns from Defendant UNIVERSITY to remove CAROLINE FRANCOIS from life support;
- 56-105. By allowing Robert Kerns from Defendant UNIVERSITY to remove CAROLINE FRANCOIS from life support without consent;
- 56-106. By failing to provide adequate security to the hospital room of CAROLINE FRANCOIS so as to prevent a trespasser to-wit: Robert Kerns from Defendant UNIVERSITY from removing CAROLINE FRANCOIS from life support; and
- 56-107. By failing to provide adequate security to the hospital room of CAROLINE FRANCOIS so as to prevent a trespasser to-wit: Robert Kerns from Defendant UNIVERSITY from removing CAROLINE FRANCOIS from life support, without consent;
- 56-108. By Defendant FACEY failing to properly treat CAROLINE FRANCOIS' hypertension;
- 56-109. By Defendant FACEY failing to timely treat CAROLINE FRANCOIS' hypertension;
- 56-110. By Defendant FACEY failing to properly monitor CAROLINE FRANCOIS;
- 56-111. By Defendant FACEY failing to timely monitor CAROLINE FRANCOIS;
- 56-112. By Defendant FACEY failing to recognize the severity of CAROLINE FRANCOIS' hypertension;
- 56-113. By Defendant FACEY failing to come to physically come to the hospital and check on CAROLINE FRANCOIS;
- 56-114. By Defendant FACEY abandoning the patient, CAROLINE FRANCOIS;
- 56-115. By Defendant FACEY failing to timely respond to telephone calls regarding CAROLINE FRANCOIS from other health care providers at TENET;

- 56-116. By Defendant FACEY failing to give proper physician's orders over the phone and check for accuracy of the orders with the health care provider taking the order over the phone;
- 56-117. By Defendant FACEY failing to timely check on the status of CAROLINE FRANCOIS after prescribing medication(s) over the telephone to other health care providers;
- 56-118. By Defendant FACEY failing to make certain that the nurses were properly carrying out the magnesium sulfate standing orders;
- 56-119. By Defendant FACEY failing to timely follow up on abnormal laboratory blood work of CAROLINE FRANCOIS;
- 56-120. By Defendant FACEY failing to timely call in other health care providers, including, but not limited to, physicians to properly care for CAROLINE FRANCOIS;
- 56-121. By Defendant FACEY failing to assess CAROLINE FRANCOIS' neurological status;
- 56-122. By Defendant FACEY failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 56-123. By Defendant FACEY failing to timely come to the hospital to care for CAROLINE FRANCOIS when she was in an apparent hypertensive crisis;
- 56-124. By Defendant FACEY prescribing the inappropriate hypertensive blood pressure medications for CAROLINE FRANCOIS;
- 56-125. By Defendant FACEY failing to order blood pressure checks to be done every 15 minutes;
- 56-126. By Defendant FACEY failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;
- 56-127. By Defendant FACEY failing to timely review the nurses' notes of CAROLINE FRANCOIS;
- 56-128. By Defendant FACEY failing to consult with qualified physicians who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 56-129. By Defendant FACEY failing to order STAT medications to CAROLINE FRANCOIS;
- 56-130. By Defendant FACEY failing to make certain that any STAT medications ordered were, in fact, given STAT to CAROLINE FRANCOIS;
- 56-131. By Defendant FACEY failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;

- 56-132. By Defendant FACEY failing to adequately document CAROLINE FRANCOIS' medical records;
- 56-133. By Defendant FACEY failing to follow the policies and procedures of TENET;
- 56-134. By Defendant FACEY failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 56-135. By Defendant FACEY failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 56-136. By Defendant FACEY failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;
- 56-137. By Defendant FACEY failing to timely monitor CAROLINE FRANCOIS' medical condition;
- 56-138. By Defendant FACEY failing to obtain informed consent from the next-of-kin, NELSON FRANCOIS, to remove CAROLINE FRANCOIS from life support;
- 56-139. By Defendant FACEY failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead;
- 56-140. By Defendant FACEY failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead and having her taken off life support;
- 56-141. By Defendant FACEY signing off on the "Certificate of Terminal Illness";
- 56-142. By Defendant FACEY signing off on the "Certificate of Terminal Illness" without personally determining that CAROLINE FRANCOIS was brain dead;
- 56-143. By Defendant FACEY failing to follow the Florida Statutory guidelines to remove CAROLINE FRANCOIS from life support;
- 56-144. By Defendant FACEY failing to perform a physical examination of CAROLINE FRANCOIS prior to writing in the medical chart that CAROLINE FRANCOIS was brain dead;
- 56-145. By Defendant FACEY failing to transfer CAROLINE FRANCOIS to Jackson Memorial Hospital, per the request of her next-of-kin and husband, NELSON FRANCOIS;
- 56-146. By Defendant FACEY failing to review all medical tests and the medical chart of Defendant TENET to determine whether or not CAROLINE FRANCOIS was, in fact, brain dead prior to declaring that she was brain dead;

- 56-147. By Defendant FACEY failing to consult with the neurologists who were treating CAROLINE FRANCOIS;
- 56-148. By Defendant FACEY signing documents in the medical chart of CAROLINE FRANCOIS at Defendant TENET when she was coerced to do so, so that CAROLINE FRANCOIS would be taken off of life support;
- 56-149. By Defendant FACEY following the instructions of Defendant TENET to declare that CAROLINE FRANCOIS was brain dead without having the medical knowledge to do so;
- 56-150. By Defendant FACEY allowing the removal of life support from CAROLINE FRANCOIS;
- 56-151. By Defendant FACEY failing to wait a "reasonable period of time" before the removal of life support from CAROLINE FRANCOIS;
- 56-152. By Defendant FACEY failing to timely call in other physicians to treat CAROLINE FRANCOIS' hypertension;
- 56-153. By Defendant FACEY failing to timely come to the hospital to render care and treatment to CAROLINE FRANCOIS;
- 56-154. By Defendant FACEY failing to timely recognize that CAROLINE FRANCOIS was preeclamptic;
- 56-155. By Defendant FACEY failing to recognize the abnormality and severity of CAROLINE FRANCOIS' vital signs and take appropriate actions;
- 56-156. By Defendant FACEY failing to timely treat CAROLINE FRANCOIS prior to her coding on 7/26/06;
- 56-157. By Defendant FACEY failing to make certain that the nurses were evaluating CAROLINE FRANCOIS' oxygen saturation levels;
- 56-158. By Defendant FACEY failing to follow Defendant TENET'S protocols/policies and procedures regarding brain death;
- 56-159. By Defendant FACEY failing to follow Defendant TENET'S protocols/policies and procedures regarding removal of life support;
- 56-160. By giving Robert Kerns an order over the telephone to write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;
- 56-161. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order over the telephone to

- write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;
- 56-162. By giving Robert Kerns an order of the phone to write in the medical records of CAROLINE FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 56-163. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order over the phone to write in the medical records of CAROLINE FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 56-164. By failing to review the respiratory therapists' notes of CAROLINE FRANCOIS that show she was having spontaneous respirations and prior to declaring her "brain dead" and prior to having her taken off of life support;
- 56-165. By failing to comply with Florida Statute § 382.009;
- 56-166. By failing to document the accurate times in the medical chart of CAROLINE FRANCOIS when she spoke to health care providers at Defendant TENET;
- 56-167. By allowing Robert Kerns to enter into the hospital room of CAROLINE FRANCOIS at TENET without the consent of her or her next-of-kin;
- 56-168. By allowing Robert Kerns to touch CAROLINE FRANCOIS without the consent of her or her next-of-kin;
- 56-169. By allowing Robert Kerns to write an Order in the Physician's Orders of CAROLINE FRANCOIS to stop all medical care and treatment and remove her from life support;
- 56-170. By allowing Robert Kerns to remove CAROLINE FRANCOIS from life support;
- 56-171. By allowing Robert Kerns to remove CAROLINE FRANCOIS from life support without consent;
- 56-172. By failing to prevent Robert Kerns from removing CAROLINE FRANCOIS from life support;
- 56-173. By failing to prevent Robert Kerns from removing CAROLINE FRANCOIS from life support, without consent;
- 56-174. By allowing Robert Kerns, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS;

- 56-175. By allowing Robert Kerns, who is not a physician, to write in the Physician's Orders of the chart of CAROLINE FRANCOIS, "patient pronounced brain dead at 1615 hours";
- 56-176. By allowing Robert Kerns, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS, which specifically state, "please discontinue all treatments including the ventilator"; and
- 56-177. By allowing Robert Kerns, into the facility of Defendant TENET, appearing as a physician, and allowing him to render care and treatment to CAROLINE FRANCOIS without a medical license.

57. At all times material hereto, the aforesaid acts on the part of the Defendant, TENET, by and through its agents, apparent agents, employees, representative and/or servants, including, but not limited to Defendants, MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY, fell below the standard of care, as required by their training, experience and the prevailing professional standard of care.

58. As a direct, proximate and foreseeable result of the negligence of the Defendant, TENET, by and through its agents, apparent agents, employees, representatives and/or servants, including, but not limited to, the Defendants, MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY, CAROLINE FRANCOIS suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

59. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of

net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

60. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

61. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as the surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

62. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

63. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon his mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support,

companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

64. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

65. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, TENET, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT V
NEGLIGENT HIRING, SUPERVISION AND RETENTION OF
THE AGENTS, APPARENT AGENTS, EMPLOYEES AND/OR REPRESENTATIVES
OF THE DEFENDANT, TENET

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

66. At all times material hereto, the Defendant, TENET, had a duty to exercise reasonable care in hiring, training, and supervising its agents, apparent agents, employees, representatives and/or servants including, but not limited to MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY.

67. At all times material hereto, the Defendant, TENET, was careless, negligent, and breached said duty as follows:

- 67-1. By failing to properly investigate the background, education and skills of their agents, apparent agents, employees and/or representatives;
- 67-2. By failing to properly train their agents, apparent agents, employees and/or representatives;
- 67-3. By failing to adequately supervise their agents, apparent agents, employees and/or representatives to be certain that the Decedent, CAROLINE FRANCOIS, would receive care commensurate with the prevailing professional standard of care;
- 67-4. By failing to institute proper policies and procedures to ensure appropriate care and

treatment would be rendered to CAROLINE FRANCOIS; and
67-5. By failing to make certain that its agents, apparent agents, employees and/or representatives had the nursing skill and experience to render proper care and treatment to the patient, CAROLINE FRANCOIS.

68. As a direct, proximate and foreseeable result of the aforementioned breached duties by the Defendant, TENET, by and through its agents, apparent agents, employees, representatives, and/or servants, including, but not limited to Defendants, MEDICAL STAFFING, MARTINEZ, UNIVERSITY, FACEY and ECONOMIC OPPORTUNITY, CAROLINE FRANCOIS, suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

69. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

70. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

71. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support

and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

72. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

73. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

74. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has

suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

75. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, TENET, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT VI
NON-DELEGABLE DUTY OF DEFENDANT TENET

Plaintiffs reallege and reaver paragraphs 1 through 19, inclusive, as if fully set forth herein, and would further state:

76. At all times material hereto, the Defendant, TENET, had a non-delegable duty to provide non-negligent, competent

obstetrical, medical and nursing care to the Decedent, CAROLINE FRANCOIS.

77. At all times material hereto, the Defendant, TENET, had both an expressed and/or implied and/or statutory non-delegable duty to provide non-negligent, competent obstetrical, medical and nursing care to the Decedent, CAROLINE FRANCOIS, consistent with the established standards.

78. The Defendant, TENET, by and through its agents, apparent agents, employees, representatives, servants, administrators and/or health care providers, including, but not limited to Defendants MEDICAL STAFFING, MARTINEZ, FACEY and ECONOMIC OPPORTUNITY, breached this non-delegable duty when they failed to provide appropriate obstetrical, medical and nursing care to the Decedent, CAROLINE FRANCOIS, and fell below the accepted standard of care by the following:

- 78-1. By failing to properly monitor CAROLINE FRANCOIS' blood pressure;
- 78-2. By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;
- 78-3. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;
- 78-4. By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;
- 78-5. By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;
- 78-6. By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;
- 78-7. By failing to timely monitor CAROLINE FRANCOIS' vital signs;
- 78-8. By failing to communicate with CAROLINE FRANCOIS' OB physician, Defendant FACEY;

- 78-9. By failing to properly monitor CAROLINE FRANCOIS' input and output;
- 78-10. By failing to assess CAROLINE FRANCOIS' neurological status;
- 78-11. By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 78-12. By failing to follow the magnesium sulphate protocol at Defendant TENET;
- 78-13. By failing to follow the magnesium sulphate policies and procedures at Defendant TENET;
- 78-14. By failing to inform Defendant FACEY of CAROLINE FRANCOIS' abnormal blood pressure;
- 78-15. By failing to call Defendant FACEY to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;
- 78-16. By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;
- 78-17. By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;
- 78-18. By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;
- 78-19. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;
- 78-20. By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;
- 78-21. By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;
- 78-22. By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;
- 78-23. By failing to recognize CAROLINE FRANCOIS' verbal concerns of her condition and take all appropriate nursing measures;
- 78-24. By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);
- 78-25. By failing to properly document CAROLINE FRANCOIS' condition;
- 78-26. By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;
- 78-27. By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;
- 78-28. By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;

- 78-29. By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 78-30. By failing to follow the physicians' orders;
- 78-31. By failing to administer medications timely;
- 78-32. By failing to administer medications in the dosage ordered;
- 78-33. By failing to administer medications in the manner ordered;
- 78-34. By failing to timely carry out physicians' orders;
- 78-35. By failing to timely obtain medications from the pharmacy as ordered;
- 78-36. By failing to administer STAT medications;
- 78-37. By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;
- 78-38. By failing to adequately document CAROLINE FRANCOIS' nurses' notes;
- 78-39. By failing to timely document CAROLINE FRANCOIS' nursing notes;
- 78-40. By failing to follow the JCAH nursing standards;
- 78-41. By failing to follow the policies and procedures of Defendant TENET;
- 78-42. By failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 78-43. By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 78-44. By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;
- 78-45. By failing to monitor hourly CAROLINE FRANCOIS' intake;
- 78-46. By failing to monitor hourly CAROLINE FRANCOIS' output;
- 78-47. By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;
- 78-48. By failing to monitor hourly CAROLINE FRANCOIS' deep tendon reflexes;
- 78-49. By making additions to the medical records of CAROLINE FRANCOIS;
- 78-50. By making changes/alterations to the medical records of CAROLINE FRANCOIS;
- 78-51. By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;

- 78-52. By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Defendant FACEY and any other health care providers;
- 78-53. By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;
- 78-54. By failing to insert a foley cathether;
- 78-55. By failing to render proper nursing care and treatment under the circumstances.
- 78-56. By assisting in the removal of life support without consent from the next-of-kin;
- 78-57. By assuring Defendant FACEY that all documents were in order for the removal of life support;
- 78-58. By failing to provide the computerized blood pressure read-out documents during the presuit medical malpractice period via Florida Statutes § 766.106, et al;
- 78-59. By failing to keep the computerized blood pressure read-out documents;
- 78-60. By destroying the computerized blood pressure read-out documents;
- 78-61. By failing to have dip sticks available in the CCU unit;
- 78-62. By failing to follow Florida Statute § 382.009;
- 78-63. By failing to inform the Dade Medical Examiner of CAROLINE FRANCOIS' underlying medical condition;
- 78-64. By allowing the removal of life support when CAROLINE FRANCOIS was having spontaneous respirations;
- 78-65. By allowing nurses to care for CAROLINE FRANCOIS, who did not have the experience with a magnesium sulfate drip;
- 78-66. By failing to have in place policies and procedures for the timely receipt of STAT medications from the pharmacy;
- 78-67. By failing to obtain from the pharmacy STAT medications;
- 78-68. By failing to write the accurate times when medical care and treatment was rendered to CAROLINE FRANCOIS;
- 78-69. By allowing agency nurses to care for CAROLINE FRANCOIS;
- 78-70. By failing to timely communicate abnormal lab work from the lab to the CCU;

- 78-71. By coercing Defendant FACEY to sign the "Certificate of Terminal Illness" document, without providing Defendant FACEY with the policies and procedures and legal documents to do so;
- 78-72. By allowing CAROLINE FRANCOIS to be removed from life support when she was not brain dead;
- 78-73. By developing an unconscionable scheme to rush and have CAROLINE FRANCOIS improperly declared brain dead;
- 78-74. By developing an unconscionable scheme to rush and have CAROLINE FRANCOIS improperly removed from life support;
- 78-75. By developing an unconscionable scheme to try and have NELSON FRANCOIS agree to an in-house autopsy of CAROLINE FRANCOIS;
- 78-76. By trying to coerce NELSON FRANCOIS to agree to an in-house autopsy of CAROLINE FRANCOIS;
- 78-77. By trying to cover up what happened to CAROLINE FRANCOIS while at TENET;
- 78-78. By failing to inform the Dade County Medical Examiner of the true details of the medical conditions of CAROLINE FRANCOIS so that they would not accept the case;
- 78-79. By intentionally altering the medical records of CAROLINE FRANCOIS;
- 78-80. By intentionally reconstructing the medical records of CAROLINE FRANCOIS;
- 78-81. By failing to timely carry out the Code protocol;
- 78-82. By failing to timely recognize that CAROLINE FRANCOIS was going to Code;
- 78-83. By failing to recognize that CAROLINE FRANCOIS would suffer from a brain bleed, if not timely and properly treated;
- 78-84. By failing to have in place policies and procedures to make certain that magnesium sulfate orders were carried out;
- 78-85. By failure of the Charge Nurses to recognize the severity of CAROLINE FRANCOIS' medical condition and take appropriate actions so that she would not suffer a brain bleed;
- 78-86. By failure of the Charge Nurses to inform the other personnel at TENET through their chain of command avenues of the severity of CAROLINE FRANCOIS' medical condition prior to her suffering a brain bleed;

- 78-87. By having health care providers and administrative personnel put pressure on Defendant FACEY to sign Termination documents of CAROLINE FRANCOIS;
- 78-88. By failing to document in the medical records of CAROLINE FRANCOIS the accuracy of her care and treatment;
- 78-89. By failing to document in the medical records of CAROLINE FRANCOIS the required documentation in order to disconnect her from life support;
- 78-90. By allowing Robert Kerns to practice medicine in the facility of Defendant TENET when he was not a licensed physician;
- 78-91. By allowing Robert Kerns to enter into the hospital room of CAROLINE FRANCOIS without the consent of her next-of-kin;
- 78-92. By following through with the removal of life support, based upon a physician's order authored by Robert Kerns, who is and was not a physician;
- 78-93. By allowing Robert Kerns to touch CAROLINE FRANCOIS while still on life support;
- 78-94. By allowing Robert Kerns to touch CAROLINE FRANCOIS without consent;
- 78-95. By failing to protect CAROLINE FRANCOIS from being touched by Robert Kerns;
- 78-96. By allowing Robert Kerns to remove life support of CAROLINE FRANCOIS;
- 78-97. By allowing Robert Kerns to write an Order in the chart of CAROLINE FRANCOIS to stop all medical care and treatment and remove her from life support;
- 78-98. By failing to inform Defendant FACEY that CAROLINE FRANCOIS was having spontaneous respirations prior to the removal of life support;
- 78-99. By failing to follow the Statutory guidelines for the removal of life support;
- 78-100. By failing to follow the policies and procedures of the Defendant TENET regarding the removal of life support;
- 78-101. By failing to properly assess CAROLINE FRANCOIS;
- 78-102. By failing to render proper nursing care and treatment under the circumstances.
- 78-103. By failing to determine CAROLINE FRANCOIS' respiratory function, including but not limited

- to, spontaneous respirations prior to her removal from life support;
- 78-104. By allowing Robert Kerns from Defendant UNIVERSITY to remove CAROLINE FRANCOIS from life support;
- 78-105. By allowing Robert Kerns from Defendant UNIVERSITY to remove CAROLINE FRANCOIS from life support without consent;
- 78-106. By failing to provide adequate security to the hospital room of CAROLINE FRANCOIS so as to prevent a trespasser to-wit: Robert Kerns from Defendant UNIVERSITY from removing CAROLINE FRANCOIS from life support; and
- 78-107. By failing to provide adequate security to the hospital room of CAROLINE FRANCOIS so as to prevent a trespasser to-wit: Robert Kerns from Defendant UNIVERSITY from removing CAROLINE FRANCOIS from life support, without consent;
- 78-108. By Defendant FACEY failing to properly treat CAROLINE FRANCOIS' hypertension;
- 78-109. By Defendant FACEY failing to timely treat CAROLINE FRANCOIS' hypertension;
- 78-110. By Defendant FACEY failing to properly monitor CAROLINE FRANCOIS;
- 78-111. By Defendant FACEY failing to timely monitor CAROLINE FRANCOIS;
- 78-112. By Defendant FACEY failing to recognize the severity of CAROLINE FRANCOIS' hypertension;
- 78-113. By Defendant FACEY failing to come to physically come to the hospital and check on CAROLINE FRANCOIS;
- 78-114. By Defendant FACEY abandoning the patient, CAROLINE FRANCOIS;
- 78-115. By Defendant FACEY failing to timely respond to telephone calls regarding CAROLINE FRANCOIS from other health care providers at TENET;
- 78-116. By Defendant FACEY failing to give proper physician's orders over the phone and check for accuracy of the orders with the health care provider taking the order over the phone;
- 78-117. By Defendant FACEY failing to timely check on the status of CAROLINE FRANCOIS after prescribing medication(s) over the telephone to other health care providers;
- 78-118. By Defendant FACEY failing to make certain that the nurses were properly carrying out the magnesium sulfate standing orders;

- 78-119. By Defendant FACEY failing to timely follow up on abnormal laboratory blood work of CAROLINE FRANCOIS;
- 78-120. By Defendant FACEY failing to timely call in other health care providers, including, but not limited to, physicians to properly care for CAROLINE FRANCOIS;
- 78-121. By Defendant FACEY failing to assess CAROLINE FRANCOIS' neurological status;
- 78-122. By Defendant FACEY failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 78-123. By Defendant FACEY failing to timely come to the hospital to care for CAROLINE FRANCOIS when she was in an apparent hypertensive crisis;
- 78-124. By Defendant FACEY prescribing the inappropriate hypertensive blood pressure medications for CAROLINE FRANCOIS;
- 78-125. By Defendant FACEY failing to order blood pressure checks to be done every 15 minutes;
- 78-126. By Defendant FACEY failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;
- 78-127. By Defendant FACEY failing to timely review the nurses' notes of CAROLINE FRANCOIS;
- 78-128. By Defendant FACEY failing to consult with qualified physicians who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 78-129. By Defendant FACEY failing to order STAT medications to CAROLINE FRANCOIS;
- 78-130. By Defendant FACEY failing to make certain that any STAT medications ordered were, in fact, given STAT to CAROLINE FRANCOIS;
- 78-131. By Defendant FACEY failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;
- 78-132. By Defendant FACEY failing to adequately document CAROLINE FRANCOIS' medical records;
- 78-133. By Defendant FACEY failing to follow the policies and procedures of TENET;
- 78-134. By Defendant FACEY failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 78-135. By Defendant FACEY failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 78-136. By Defendant FACEY failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS

- that CAROLINE FRANCOIS was moved to the CCU unit;
- 78-137. By Defendant FACEY failing to timely monitor CAROLINE FRANCOIS' medical condition;
- 78-138. By Defendant FACEY failing to obtain informed consent from the next-of-kin, NELSON FRANCOIS, to remove CAROLINE FRANCOIS from life support;
- 78-139. By Defendant FACEY failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead;
- 78-140. By Defendant FACEY failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead and having her taken off life support;
- 78-141. By Defendant FACEY signing off on the "Certificate of Terminal Illness";
- 78-142. By Defendant FACEY signing off on the "Certificate of Terminal Illness" without personally determining that CAROLINE FRANCOIS was brain dead;
- 78-143. By Defendant FACEY failing to follow the Florida Statutory guidelines to remove CAROLINE FRANCOIS from life support;
- 78-144. By Defendant FACEY failing to perform a physical examination of CAROLINE FRANCOIS prior to writing in the medical chart that CAROLINE FRANCOIS was brain dead;
- 78-145. By Defendant FACEY failing to transfer CAROLINE FRANCOIS to Jackson Memorial Hospital, per the request of her next-of-kin and husband, NELSON FRANCOIS;
- 78-146. By Defendant FACEY failing to review all medical tests and the medical chart of Defendant TENET to determine whether or not CAROLINE FRANCOIS was, in fact, brain dead prior to declaring that she was brain dead;
- 78-147. By Defendant FACEY failing to consult with the neurologists who were treating CAROLINE FRANCOIS;
- 78-148. By Defendant FACEY signing documents in the medical chart of CAROLINE FRANCOIS at Defendant TENET when she was coerced to do so, so that CAROLINE FRANCOIS would be taken off of life support;
- 78-149. By Defendant FACEY following the instructions of Defendant TENET to declare that CAROLINE FRANCOIS was brain dead without having the medical knowledge to do so;

- 78-150. By Defendant FACEY allowing the removal of life support from CAROLINE FRANCOIS;
- 78-151. By Defendant FACEY failing to wait a "reasonable period of time" before the removal of life support from CAROLINE FRANCOIS;
- 78-152. By Defendant FACEY failing to timely call in other physicians to treat CAROLINE FRANCOIS' hypertension;
- 78-153. By Defendant FACEY failing to timely come to the hospital to render care and treatment to CAROLINE FRANCOIS;
- 78-154. By Defendant FACEY failing to timely recognize that CAROLINE FRANCOIS was preeclamptic;
- 78-155. By Defendant FACEY failing to recognize the abnormality and severity of CAROLINE FRANCOIS' vital signs and take appropriate actions;
- 78-156. By Defendant FACEY failing to timely treat CAROLINE FRANCOIS prior to her coding on 7/26/06;
- 78-157. By Defendant FACEY failing to make certain that the nurses were evaluating CAROLINE FRANCOIS' oxygen saturation levels;
- 78-158. By Defendant FACEY failing to follow Defendant TENET'S protocols/policies and procedures regarding brain death;
- 78-159. By Defendant FACEY failing to follow Defendant TENET'S protocols/policies and procedures regarding removal of life support;
- 78-160. By giving Robert Kerns an order over the telephone to write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;
- 78-161. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order over the telephone to write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;
- 78-162. By giving Robert Kerns an order of the phone to write in the medical records of CAROLINE FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 78-163. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order over the phone to write in the medical records of CAROLINE

- FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 78-164. By failing to review the respiratory therapists' notes of CAROLINE FRANCOIS that show she was having spontaneous respirations and prior to declaring her "brain dead" and prior to having her taken off of life support;
- 78-165. By failing to comply with Florida Statute § 382.009;
- 78-166. By failing to document the accurate times in the medical chart of CAROLINE FRANCOIS when she spoke to health care providers at Defendant TENET;
- 78-167. By allowing Robert Kerns to enter into the hospital room of CAROLINE FRANCOIS at TENET without the consent of her or her next-of-kin;
- 78-168. By allowing Robert Kerns to touch CAROLINE FRANCOIS without the consent of her or her next-of-kin;
- 78-169. By allowing Robert Kerns to write an Order in the Physician's Orders of CAROLINE FRANCOIS to stop all medical care and treatment and remove her from life support;
- 78-170. By allowing Robert Kerns to remove CAROLINE FRANCOIS from life support;
- 78-171. By allowing Robert Kerns to remove CAROLINE FRANCOIS from life support without consent;
- 78-172. By failing to prevent Robert Kerns from removing CAROLINE FRANCOIS from life support;
- 78-173. By failing to prevent Robert Kerns from removing CAROLINE FRANCOIS from life support, without consent;
- 78-174. By allowing Robert Kerns, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS;
- 78-175. By allowing Robert Kerns, who is not a physician, to write in the Physician's Orders of the chart of CAROLINE FRANCOIS, "patient pronounced brain dead at 1615 hours";
- 78-176. By allowing Robert Kerns, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS, which specifically state, "please discontinue all treatments including the ventilator"; and
- 78-177. By allowing Robert Kerns, into the facility of Defendant TENET, appearing as a physician, and allowing him to render care and treatment to CAROLINE FRANCOIS without a medical license.

79. As a direct, proximate and foreseeable result of the Defendant's, TENET, breach of the aforementioned duties, CAROLINE FRANCOIS, suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

80. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

81. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

82. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

83. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as surviving spouse,

is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

84. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

85. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

86. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and

will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, TENET, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT VII
NEGLIGENT SECURITY OF DEFENDANT TENET

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

87. At all times material hereto, the Defendant, TENET, had a duty to provide adequate security to its patients, including CAROLINE FRANCOIS, while admitted to Defendant TENET'S medical facility.

88. Defendant, TENET, breached said duty of providing adequate security by the following:

- 88-1. By allowing Robert Kerns from Defendant UNIVERSITY to enter into the hospital room of CAROLINE FRANCOIS at TENET without the consent of her or her next-of-kin;
- 88-2. By allowing Robert Kerns from the University of Miami to touch CAROLINE FRANCOIS without the consent of her or her next-of-kin;

- 88-3. By allowing Robert Kerns from the University of Miami to write an Order in the Physician's Orders of CAROLINE FRANCOIS to stop all medical care and treatment and remove her from life support;
- 88-4. By allowing Robert Kerns from the University of Miami to remove CAROLINE FRANCOIS from life support;
- 88-5. By allowing Robert Kerns from the University of Miami to remove CAROLINE FRANCOIS from life support without consent;
- 88-6. By failing to prevent Robert Kerns, from the University of Miami, from removing CAROLINE FRANCOIS from life support;
- 88-7. By failing to prevent Robert Kerns, from the University of Miami, from removing CAROLINE FRANCOIS from life support, without consent;
- 88-8. By allowing Robert Kerns from the University of Miami, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS;
- 88-9. By allowing Robert Kerns from the University of Miami, who is not a physician, to write in the Physician's Orders of the chart of CAROLINE FRANCOIS, "patient pronounced brain dead at 1615 hours";
- 88-10. By allowing Robert Kerns from the University of Miami, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS, which specifically state, "please discontinue all treatments including the ventilator";
- 88-11. By allowing Robert Kerns from the University of Miami, into the facility of Defendant TENET, appearing as a physician, and allowing him to render care and treatment to CAROLINE FRANCOIS without a medical license;
- 88-12. By failing to inquire or check the credentials of Roberts Kerns, from the University of Miami;
- 88-13. By failing to protect the privacy of CAROLINE FRANCOIS;
- 88-14. By failing to prevent non-health care providers to-wit: Robert Kerns, from the University of Miami, from rendering care and treatment to CAROLINE FRANCOIS;
- 88-15. By failing to report to the proper authorities that Robert Kerns, from the University of Miami, removed CAROLINE FRANCOIS from life

support without the consent of her next-of-kin;
and
88-16. By failing to report to the proper authorities that Robert Kerns, from the University of Miami, was not a medical doctor and was unlicensed to practice medicine in the State of Florida, and that he, in fact, held himself out as a physician, rendering care and treatment to CAROLINE FRANCOIS, at Defendant TENET.

89. As a direct, proximate and foreseeable result of Defendant's, TENET, negligent security, CAROLINE FRANCOIS, was taken off life support without consent of her next-of-kin, her husband, NELSON FRANCOIS, and died on July 27, 2006.

90. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

91. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

92. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and

services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

93. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

94. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

95. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the

replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

96. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, TENET, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT IX
VICARIOUS LIABILITY OF DEFENDANT UNIVERSITY

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

97. At all times material hereto, the Defendant, UNIVERSITY, is vicariously liable for any and all acts of negligence by and through its agents, apparent agents, representatives and/or employees, including, but not limited to, Robert Kerns.

98. At all times material hereto, Robert Kerns, was acting within the course and scope of his employment of the Defendant, UNIVERSITY, such that the Defendant, UNIVERSITY, is vicariously responsible for any and all acts of negligence by Robert Kerns.

99. At all times material hereto, the agents, apparent agents, representatives and/or employees of the Defendant, UNIVERSITY, including, but not limited to, Robert Kerns, had a duty to exercise reasonable care in carrying out his duties and responsibility on behalf of the Defendant, UNIVERSITY, so as not to cause unnecessary harm or injury.

100. Defendant, UNIVERSITY, by and through its agents, apparent agents, representatives and/or employees, including, but not limited to, Robert Kerns, breached said duty as follows:

- 100-1. By allowing Robert Kerns to enter into the hospital room of CAROLINE FRANCOIS at TENET without the consent of her or her next-of-kin;
- 100-2. By allowing Robert Kerns to touch CAROLINE FRANCOIS without the consent of her or her next-of-kin;
- 100-3. By allowing Robert Kerns to write an Order in the Physician's Orders of CAROLINE FRANCOIS to stop all medical care and treatment and remove her from life support;
- 100-4. By allowing Robert Kerns to remove CAROLINE FRANCOIS from life support;
- 100-5. By allowing Robert Kerns to remove CAROLINE FRANCOIS from life support without consent;
- 100-6. By failing to prevent Robert Kerns from removing CAROLINE FRANCOIS from life support;
- 100-7. By failing to prevent Robert Kerns from removing CAROLINE FRANCOIS from life support, without consent;
- 100-8. By allowing Robert Kerns, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS;

- 100-9. By allowing Robert Kerns, who is not a physician, to write in the Physician's Orders of the chart of CAROLINE FRANCOIS, "patient pronounced brain dead at 1615 hours";
- 100-10. By allowing Robert Kerns, who is not a physician, to write Physician's Orders in the chart of CAROLINE FRANCOIS, which specifically state, "please discontinue all treatments including the ventilator"; and
- 100-11. By allowing Robert Kerns, into the facility of Defendant TENET, appearing as a physician, and allowing him to render care and treatment to CAROLINE FRANCOIS without a medical license.

101. As a direct, proximate and foreseeable result of the negligent treatment by the agent, apparent agents, representatives and/or employees of the Defendant, UNIVERSITY, including, but not limited to Robert Kerns, CAROLINE FRANCOIS was brain dead and taken off life support on July 27, 2006, at which time she officially died.

102. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

103. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

104. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

105. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as CAROLINE FRANCOIS' surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

106. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon his mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

107. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as

well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

108. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, UNIVERSITY, together with costs and demands a trial by jury of all issues triable as of right by jury.

COUNT X
NEGLIGENT HIRING, SUPERVISION AND RETENTION OF
THE AGENTS, APPARENT AGENTS, EMPLOYEES AND/OR REPRESENTATIVES
OF THE DEFENDANT UNIVERSITY

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

109. At all times material hereto, the Defendant, UNIVERSITY, had a duty to exercise reasonable care in hiring, training, and supervising their agents, apparent agents, employees and/or representatives, including, but not limited to Robert Kerns.

110. At all times material hereto, the Defendant, UNIVERSITY, was careless, negligent, and breached said duty as follows:

- 110-1. By failing to properly investigate the background, education and skills of their agents, apparent agents, employees and/or representatives;
- 110-2. By failing to properly train their agents, apparent agents, employees and/or representatives;
- 110-3. By failing to adequately supervise their agents, apparent agents, employees and/or representatives to be certain that the Decedent, CAROLINE FRANCOIS, would receive care commensurate with the prevailing professional standard of care;
- 110-4. By failing to institute proper policies and procedures to ensure appropriate care and treatment would be rendered to CAROLINE FRANCOIS; and
- 110-5. By failing to make certain that its agents, apparent agents, employees and/or representatives had the nursing skill and experience to render proper care and treatment to the patient, CAROLINE FRANCOIS.

111. As a direct, proximate and foreseeable result of the aforementioned breached duties by the Defendant, UNIVERSITY, by and

through its agents, apparent agents, employees, representatives, and/or servants, including, but not limited to Robert Kerns, CAROLINE FRANCOIS, suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

112. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

113. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

114. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

115. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as surviving spouse,

is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

116. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

117. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

118. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and

will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, UNIVERSITY, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT XI
NEGLIGENCE OF DEFENDANT FACEY

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

119. At all times material hereto, the Defendant, FACEY, agreed and undertook to examine, diagnose, treat and attend the Decedent, CAROLINE FRANCOIS.

120. At all times material hereto, the Defendant, FACEY had a duty to exercise that degree of care and skill in examining, diagnosing, and treating the Decedent, CAROLINE FRANCOIS, commensurate with the prevailing professional standard of care.

121. The Defendant, FACEY, was careless, negligent, and breached said duty as follows:

- 121-1. By failing to properly treat CAROLINE FRANCOIS' hypertension;
- 121-2. By failing to timely treat CAROLINE FRANCOIS' hypertension;
- 121-3. By failing to properly monitor CAROLINE FRANCOIS;
- 121-4. By failing to timely monitor CAROLINE FRANCOIS;
- 121-5. By failing to recognize the severity of CAROLINE FRANCOIS' hypertension;
- 121-6. By failing to come to physically come to the hospital and check on CAROLINE FRANCOIS;
- 121-7. By abandoning the patient, CAROLINE FRANCOIS;
- 121-8. By failing to timely respond to telephone calls regarding CAROLINE FRANCOIS from other health care providers at TENET;
- 121-9. By failing to give proper physician's orders over the phone and check for accuracy of the orders with the health care provider taking the order over the phone;
- 121-10. By failing to timely check on the status of CAROLINE FRANCOIS after prescribing medication(s) over the telephone to other health care providers;
- 121-11. By failing to make certain that the nurses were properly carrying out the magnesium sulfate standing orders;
- 121-12. By failing to timely follow up on abnormal laboratory blood work of CAROLINE FRANCOIS;
- 121-13. By failing to timely call in other health care providers, including, but not limited to, physicians to properly care for CAROLINE FRANCOIS;
- 121-14. By failing to assess CAROLINE FRANCOIS' neurological status;
- 121-15. By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 121-16. By failing to timely come to the hospital to care for CAROLINE FRANCOIS when she was in an apparent hypertensive crisis;
- 121-17. By prescribing the inappropriate hypertensive blood pressure medications for CAROLINE FRANCOIS;
- 121-18. By failing to order blood pressure checks to be done every 15 minutes;
- 121-19. By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;

- 121-20. By failing to timely review the nurses' notes of CAROLINE FRANCOIS;
- 121-21. By failing to consult with qualified physicians who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 121-22. By failing to order STAT medications to CAROLINE FRANCOIS;
- 121-23. By failing to make certain that any STAT medications ordered were, in fact, given STAT to CAROLINE FRANCOIS;
- 121-24. By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;
- 121-25. By failing to adequately document CAROLINE FRANCOIS' medical records;
- 121-26. By failing to follow the policies and procedures of TENET;
- 121-27. By failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 121-28. By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 121-29. By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;
- 121-30. By failing to timely monitor CAROLINE FRANCOIS' medical condition;
- 121-31. By failing to obtain informed consent from the next-of-kin, NELSON FRANCOIS, to remove CAROLINE FRANCOIS from life support;
- 121-32. By failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead;
- 121-33. By failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead and having her taken off life support;
- 121-34. By signing off on the "Certificate of Terminal Illness";
- 121-35. By signing off on the "Certificate of Terminal Illness" without personally determining that CAROLINE FRANCOIS was brain dead;
- 121-36. By failing to follow the Florida Statutory guidelines to remove CAROLINE FRANCOIS from life support;
- 121-37. By failing to perform a physical examination of CAROLINE FRANCOIS prior to writing in the medical chart that CAROLINE FRANCOIS was brain dead;

- 121-38. By failing to transfer CAROLINE FRANCOIS to Jackson Memorial Hospital, per the request of her next-of-kin and husband, NELSON FRANCOIS;
- 121-39. By failing to review all medical tests and the medical chart of Defendant TENET to determine whether or not CAROLINE FRANCOIS was, in fact, brain dead prior to declaring that she was brain dead;
- 121-40. By failing to consult with the neurologists who were treating CAROLINE FRANCOIS;
- 121-41. By signing documents in the medical chart of CAROLINE FRANCOIS at Defendant TENET when she was coerced to do so, so that CAROLINE FRANCOIS would be taken off of life support;
- 121-42. By following the instructions of Defendant TENET to declare that CAROLINE FRANCOIS was brain dead without having the medical knowledge to do so;
- 121-43. By allowing the removal of life support from CAROLINE FRANCOIS;
- 121-44. By failing to wait a "reasonable period of time" before the removal of life support from CAROLINE FRANCOIS;
- 121-45. By failing to timely call in other physicians to treat CAROLINE FRANCOIS' hypertension;
- 121-46. By failing to timely come to the hospital to render care and treatment to CAROLINE FRANCOIS;
- 121-47. By failing to timely recognize that CAROLINE FRANCOIS was preeclamptic;
- 121-48. By failing to recognize the abnormality and severity of CAROLINE FRANCOIS' vital signs and take appropriate actions;
- 121-49. By failing to timely treat CAROLINE FRANCOIS prior to her coding on 7/26/06;
- 121-50. By failing to make certain that the nurses were evaluating CAROLINE FRANCOIS' oxygen saturation levels;
- 121-51. By failing to follow Defendant TENET'S protocols/ policies and procedures regarding brain death;
- 121-52. By failing to follow Defendant TENET'S protocols/ policies and procedures regarding removal of life support;
- 121-53. By giving Robert Kerns an order over the telephone to write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;

- 121-54. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order over the telephone to write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;
- 121-55. By giving Robert Kerns an order of the phone to write in the medical records of CAROLINE FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 121-56. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order of the phone to write in the medical records of CAROLINE FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 121-57. By failing to review the respiratory therapists' notes of CAROLINE FRANCOIS that show she was having spontaneous respirations and prior to declaring her "brain dead" and prior to having her taken off of life support;
- 121-58. By failing to comply with Florida Statute § 382.009;
- 121-59. By failing to document the accurate times in the medical chart of CAROLINE FRANCOIS when she spoke to health care providers at Defendant TENET; and
- 121-60. By failing to timely and appropriately treat CAROLINE FRANCOIS' medical conditions under the circumstances.

122. At all times material hereto, the aforesaid acts or omissions on the part of the Defendant, FACEY, fell below the standard of care required of her by his training, experience and the prevailing professional standard of care.

123. As a direct, proximate and foreseeable result of the negligence of the Defendant, FACEY, CAROLINE FRANCOIS was brain dead and taken off life support on July 27, 2006, at which time she officially died.

124. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

125. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

126. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS services.

127. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as CAROLINE FRANCOIS' surviving spouse, is entitled to recover for the loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

128. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon his mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

129. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

130. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a

result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, FACEY, together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT XII
VICARIOUS LIABILITY OF DEFENDANT ECONOMIC OPPORTUNITY

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

131. At all times material hereto, the Defendant, ECONOMIC OPPORTUNITY, is vicariously liable for any and all acts of negligence by and through its agents, apparent agents, representatives and/or employees, including, but not limited to, Defendant FACEY.

132. At all times material hereto, Defendant FACEY was acting within the course and scope of her employment of the Defendant, ECONOMIC OPPORTUNITY, such that the Defendant, ECONOMIC OPPORTUNITY, is vicariously responsible for any and all acts of negligence by its agents, apparent agents, employees, representatives, and/or servants, including, but not limited to Defendant FACEY.

133. At all times material hereto, the agents, apparent agents, representatives, employees and/or servants of the Defendant,

ECONOMIC OPPORTUNITY, including, but not limited to, Defendant FACEY, had a duty to exercise reasonable care in carrying out their duties and responsibilities on behalf of the Defendant, ECONOMIC OPPORTUNITY, so as not to cause unnecessary harm or injury.

134. Defendant, ECONOMIC OPPORTUNITY, by and through its agents, apparent agents, representatives, employees and servants, including, but not limited to, Defendant FACEY, breached said duty as follows:

- 134-1. By failing to properly treat CAROLINE FRANCOIS' hypertension;
- 134-2. By failing to timely treat CAROLINE FRANCOIS' hypertension;
- 134-3. By failing to properly monitor CAROLINE FRANCOIS;
- 134-4. By failing to timely monitor CAROLINE FRANCOIS;
- 134-5. By failing to recognize the severity of CAROLINE FRANCOIS' hypertension;
- 134-6. By failing to come to physically come to the hospital and check on CAROLINE FRANCOIS;
- 134-7. By abandoning the patient, CAROLINE FRANCOIS;
- 134-8. By failing to timely respond to telephone calls regarding CAROLINE FRANCOIS from other health care providers at TENET;
- 134-9. By failing to give proper physician's orders over the phone and check for accuracy of the orders with the health care provider taking the order over the phone;
- 134-10. By failing to timely check on the status of CAROLINE FRANCOIS after prescribing medication(s) over the telephone to other health care providers;
- 134-11. By failing to make certain that the nurses were properly carrying out the magnesium sulfate standing orders;
- 134-12. By failing to timely follow up on abnormal laboratory blood work of CAROLINE FRANCOIS;
- 134-13. By failing to timely call in other health care providers, including, but not limited to, physicians to properly care for CAROLINE FRANCOIS;

- 134-14. By failing to assess CAROLINE FRANCOIS' neurological status;
- 134-15. By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;
- 134-16. By failing to timely come to the hospital to care for CAROLINE FRANCOIS when she was in an apparent hypertensive crisis;
- 134-17. By prescribing the inappropriate hypertensive blood pressure medications for CAROLINE FRANCOIS;
- 134-18. By failing to order blood pressure checks to be done every 15 minutes;
- 134-19. By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;
- 134-20. By failing to timely review the nurses' notes of CAROLINE FRANCOIS;
- 134-21. By failing to consult with qualified physicians who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;
- 134-22. By failing to order STAT medications to CAROLINE FRANCOIS;
- 134-22. By failing to make certain that any STAT medications ordered were, in fact, given STAT to CAROLINE FRANCOIS;
- 134-23. By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;
- 134-24. By failing to adequately document CAROLINE FRANCOIS' medical records;
- 134-25. By failing to follow the policies and procedures of TENET;
- 134-26. By failing to communicate with CAROLINE FRANCOIS' family as to her condition;
- 134-27. By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;
- 134-28. By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;
- 134-29. By failing to timely monitor CAROLINE FRANCOIS' medical condition;
- 134-30. By failing to obtain informed consent from the next-of-kin, NELSON FRANCOIS, to remove CAROLINE FRANCOIS from life support;
- 134-31. By failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead;

- 134-32. By failing to recognize that CAROLINE FRANCOIS was having spontaneous respirations prior to declaring her brain dead and having her taken off life support;
- 134-33. By signing off on the "Certificate of Terminal Illness";
- 134-34. By signing off on the "Certificate of Terminal Illness" without personally determining that CAROLINE FRANCOIS was brain dead;
- 134-35. By failing to follow the Florida Statutory guidelines to remove CAROLINE FRANCOIS from life support;
- 134-36. By failing to perform a physical examination of CAROLINE FRANCOIS prior to writing in the medical chart that CAROLINE FRANCOIS was brain dead;
- 134-37. By failing to transfer CAROLINE FRANCOIS to Jackson Memorial Hospital, per the request of her next-of-kin and husband, NELSON FRANCOIS;
- 134-38. By failing to review all medical tests and the medical chart of Defendant TENET to determine whether or not CAROLINE FRANCOIS was, in fact, brain dead prior to declaring that she was brain dead;
- 134-39. By failing to consult with the neurologists who were treating CAROLINE FRANCOIS;
- 134-40. By signing documents in the medical chart of CAROLINE FRANCOIS at Defendant TENET when she was coerced to do so, so that CAROLINE FRANCOIS would be taken off of life support;
- 134-41. By following the instructions of Defendant TENET to declare that CAROLINE FRANCOIS was brain dead without having the medical knowledge to do so;
- 134-42. By allowing the removal of life support from CAROLINE FRANCOIS;
- 134-43. By failing to wait a "reasonable period of time" before the removal of life support from CAROLINE FRANCOIS;
- 134-44. By failing to timely call in other physicians to treat CAROLINE FRANCOIS' hypertension;
- 134-45. By failing to timely come to the hospital to render care and treatment to CAROLINE FRANCOIS;
- 134-46. By failing to timely recognize that CAROLINE FRANCOIS was preeclamptic;
- 134-47. By failing to recognize the abnormality and severity of CAROLINE FRANCOIS' vital signs and take appropriate actions;

- 134-48. By failing to timely treat CAROLINE FRANCOIS prior to her coding on 7/26/06;
- 134-49. By failing to make certain that the nurses were evaluating CAROLINE FRANCOIS' oxygen saturation levels;
- 134-50. By failing to follow Defendant TENET'S protocols/ policies and procedures regarding brain death;
- 134-51. By failing to follow Defendant TENET'S protocols/ policies and procedures regarding removal of life support;
- 134-52. By giving Robert Kerns an order over the telephone to write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;
- 134-53. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order over the telephone to write in the physician's orders of CAROLINE FRANCOIS, "patient pronounced brain dead at 16:15 hours", on 7/27/06;
- 134-54. By giving Robert Kerns an order of the phone to write in the medical records of CAROLINE FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 134-55. By giving Robert Kerns, who was not a physician, nurse or even a health care provider caring for CAROLINE FRANCOIS at Defendant TENET, an order of the phone to write in the medical records of CAROLINE FRANCOIS, "please disconnect all treatment, including the ventilator" on 7/27/06;
- 134-56. By failing to review the respiratory therapists' notes of CAROLINE FRANCOIS that show she was having spontaneous respirations and prior to declaring her "brain dead" and prior to having her taken off of life support;
- 134-57. By failing to comply with Florida Statute § 382.009;
- 134-58. By failing to document the accurate times in the medical chart of CAROLINE FRANCOIS when she spoke to health care providers at Defendant. TENET; and
- 134-59. By failing to timely and appropriately treat CAROLINE FRANCOIS' medical conditions under the circumstances.

135. As a direct, proximate and foreseeable result of the negligent treatment by the agent, apparent agents, representatives, employees and/or servants of the Defendant, ECONOMIC OPPORTUNITY, including, but not limited to Defendant FACEY, CAROLINE FRANCOIS suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

136. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

137. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

138. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

139. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as CAROLINE FRANCOIS' surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

140. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon his mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

141. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

142. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, ECONOMIC OPPORTUNITY, together with costs and demands a trial by jury of all issues triable as of right by jury.

COUNT XIII
NEGLIGENT HIRING, SUPERVISION AND RETENTION OF
THE AGENTS, APPARENT AGENTS, EMPLOYEES AND/OR REPRESENTATIVES
OF THE DEFENDANT ECONOMIC OPPORTUNITY

Plaintiff realleges and reavers Paragraphs 1 through 19 as if fully set forth herein, and would further state:

143. At all times material hereto, the Defendant, ECONOMIC OPPORTUNITY, had a duty to exercise reasonable care in hiring, training, and supervising their agents, apparent agents, employees and/or representatives, including, but not limited to Defendant FACEY.

144. At all times material hereto, the Defendant, ECONOMIC OPPORTUNITY, was careless, negligent, and breached said duty as follows:

- 144-1. By failing to properly investigate the background, education and skills of their agents, apparent agents, employees and/or representatives;
- 144-2. By failing to properly train their agents, apparent agents, employees and/or representatives;
- 144-3. By failing to adequately supervise their agents, apparent agents, employees and/or representatives to be certain that the Decedent, CAROLINE FRANCOIS, would receive care commensurate with the prevailing professional standard of care;
- 144-4. By failing to institute proper policies and procedures to ensure appropriate care and treatment would be rendered to CAROLINE FRANCOIS; and
- 144-5. By failing to make certain that its agents, apparent agents, employees and/or representatives had the nursing skill and experience to render proper care and treatment to the patient, CAROLINE FRANCOIS.

145. As a direct, proximate and foreseeable result of the aforementioned breached duties by the Defendant, ECONOMIC OPPORTUNITY, by and through its agents, apparent agents, employees, representatives, and/or servants, including, but not limited to Defendant, FACEY, CAROLINE FRANCOIS, suffered a massive bleed in the brain, was taken off life support and died on July 27, 2006.

146. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the Deceased, loss of earnings of the Deceased, loss of

net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

147. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the Decedent.

148. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as surviving spouse, the value of loss of support and services from the date of CAROLINE FRANCOIS' injury due to medical malpractice, with interest, and future loss of support and services from the date of CAROLINE FRANCOIS' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the Decedent's, CAROLINE FRANCOIS, services.

149. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself as surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

150. Jerryian Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support,

companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the Decedent's, CAROLINE FRANCOIS, services.

151. Precious Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

152. Caroline Francois, minor child of the Decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the Decedent's, CAROLINE FRANCOIS, services.

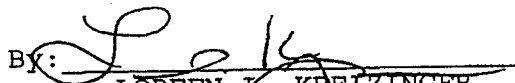
WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, Deceased, demands judgment for damages against the Defendant, ECONOMIC OPPORTUNITY, together with costs and demands trial by jury of all issues triable as of right by jury.

CERTIFICATION OF ATTORNEY
UNDER FLORIDA STATUTE §768.495 RENUMBERED AS 766.104(1)

The undersigned attorney does hereby certify that a reasonable investigation as permitted by the circumstances has been conducted. Said investigation has given rise to the good faith belief that grounds exist for an action against each of the named Defendants.

I HEREBY CERTIFY that a copy of the foregoing has been furnished by mail to F. Bryant Blevins, Esquire, BUTLER, PAPPAS, WEIHMULLER, ET AL., LLP, Attorneys for Defendants Medical Staffing and Martinez, 80 S.W. 8th Street, Suite 3300, Miami, Florida, 33130 on this 4th day of March, 2008.

LOREEN I. KREIZINGER, P.A.
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BY: 
LOREEN I. KREIZINGER
FLA. BAR NO. 855588

IN THE CIRCUIT COURT OF
THE 11th JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FL

CASE NO:

07-03515 CA 23

NELSON FRANCOIS, as Personal
Representative of the Estate
of CAROLINE FRANCOIS,

Plaintiff,

vs.

STAR ONE STAFFING, INC., NELIA
WILLIAMS, R.N., MEDICAL STAFFING
NETWORK HOLDINGS, INC., and ANGELICA
MARTINEZ, R.N.a/k/a ANGELICA LUZARRAGA, R.N.

Defendants.

4 issue
256
510/5679
FILED FOR RECORD
2007 FEB - 7 AM 10:05
CLERK CIRCUIT COURT
DADE COUNTY FLA.
NDJC 231/2 735

COMPLAINT

COMES NOW the Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, by and through the undersigned attorneys, and files this Complaint against the Defendants, STAR ONE STAFFING, INC., NELIA WILLIAMS, R.N., MEDICAL STAFFING NETWORK HOLDINGS, INC., and ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. and alleges as follows:

YVONNE LOPEZ

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00).

2. At all times material hereto, the Plaintiff, NELSON FRANCOIS, was and is the Personal Representative of the Estate of CAROLINE FRANCOIS, deceased.

3. At all times material hereto, the Plaintiff, NELSON FRANCOIS, was the husband of the Decedent, CAROLINE FRANCOIS, and

GOVERNMENT
EXHIBIT
No. 2

was and is a resident of Dade County, Florida, and is a survivor pursuant to the Wrongful Death Statute F.S. 768.18.

4. At all times material hereto, the minor, Jerryian Francois, born February 16, 1996, was and is the natural born son of NELSON FRANCOIS, and the decedent, CAROLINE FRANCOIS and is a survivor pursuant to the Wrongful Death Statute F.S. 768.18.

5. At all times material hereto, the minor, Precious Francois, born September 20, 2000, was and is the natural born daughter of NELSON FRANCOIS, and the decedent, CAROLINE FRANCOIS and is a survivor pursuant to the Wrongful Death Statute F.S. 768.18.

6. At all times material hereto, the minor, Caroline Francois, born July 25, 2006, was and is the natural born daughter of NELSON FRANCOIS, and the decedent, CAROLINE FRANCOIS and is a survivor pursuant to the Wrongful Death Statute F.S. 768.18.

7. At all times material hereto, the Defendant, STAR ONE STAFFING, INC., (hereinafter known as STAR) was and is a Florida Corporation, organized and existing under the laws of the State of Florida and doing business in Dade County, Florida.

8. At all times material hereto, the Defendant, NELIA WILLIAMS, R.N., was and is a resident of Broward County, Florida, duly licensed to practice nursing in the State of Florida.

9. At all times material hereto, the Defendant, MEDICAL

STAFFING NETWORK HOLDINGS, INC., (hereinafter known as MEDICAL STAFFING) was and is a Florida Corporation, organized and existing under the laws of the State of Florida and doing business in Dade County, Florida.

10. At all times material hereto, the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. was and is a resident of Broward County, Florida, duly licensed to practice nursing in the State of Florida.

11. At all times material hereto, the Defendant, STAR, is vicariously responsible for its agents, apparent agents, representatives, and/or employees including, but not limited to, the Defendant, NELIA WILLIAMS, R.N..

12. At all times material hereto, the Defendant, MEDICAL STAFFING, is vicariously responsible for its agents, apparent agents, representatives, and/or employees including, but not limited to, the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N..

13. At all times material hereto, the Plaintiff has complied with F.S. 766.106 as a prerequisite of filing this lawsuit.

14. At all times material hereto the presuit period for the Defendants, STAR, NELIA WILLIAMS, R.N., MEDICAL STAFFING, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. pursuant to F.S. 766.106 ended on Tuesday, February 6, 2007.

15. On or about July 24, 2006, CAROLINE FRANCOIS, at the

young age of 26, was admitted to North Shore Medical Center located at 11100 N.W. 95th Street, Miami, Dade County, FL for the delivery of her third baby. During the time frame of July 25, 2006 through July 26, 2006, the aforementioned Defendants, provided nursing care and treatment to CAROLINE FRANCOIS. As a direct result of the nursing care and/or lack thereof by the aforementioned Defendants, CAROLINE FRANCOIS became brain dead on July 26, 2006. All life support was terminated on July 27, 2006 at which time CAROLINE FRANCOIS was officially dead.

**COUNT I: VICARIOUS LIABILITY OF
DEFENDANT, STAR**

Plaintiff realleges and reavers Paragraphs 1 through 15 as if fully set forth herein, and would further state:

16. At all times material hereto, the Defendant, STAR, is vicariously liable for any and all acts of negligence of the departures from the prevailing standards of care, by and through its agents, apparent agents, representatives and/or employees including, but not limited to the Defendant, NELIA WILLIAMS, R.N.

17. At all times material hereto, the agents, apparent agents, representatives and/or employees of the Defendant, STAR, including, but not limited to, the Defendant, NELIA WILLIAMS, R.N., had a duty to exercise that degree of nursing care and treatment to CAROLINE FRANCOIS, commensurate with the prevailing nursing standard of care.

18. At all times material hereto, the agents, apparent

agents, representatives and/or employees of the Defendant, STAR, including, but not limited to, NELIA WILLIAMS, R.N., was careless, negligent, and breached said duty as follows:

(A) By failing to properly monitor CAROLINE FRANCOIS' blood pressure;

(B) By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;

(C) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;

(D) By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;

(E) By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;

(F) By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;

(G) By failing to timely monitor CAROLINE FRANCOIS' vital signs;

(H) By failing to communicate with CAROLINE FRANCOIS' OB physician, Dr. Sheryl Facey;

(I) By failing to properly monitor CAROLINE FRANCOIS' input and output;

(J) By failing to assess CAROLINE FRANCOIS' neurological status;

(K) By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;

(L) By failing to follow the magnesium sulphate protocol at North Shore Medical Center;

(M) By failing to follow the magnesium sulphate policies and procedures at North Shore Medical Center;

(N) By failing to inform Dr. Sheryl Facey of CAROLINE FRANCOIS' abnormal blood pressure;

(O) By failing to call Dr. Sheryl Facey to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;

(P) By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;

(Q) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;

(U) By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;

(R) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;

(S) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;

(T) By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;

(U) By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the

brain;

(V) By failing to recognize CAROLINE FRANCOIS' verbal concerns of her condition and take all appropriate nursing measures;

(W) By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);

(X) By failing to properly document CAROLINE FRANCOIS' condition;

(Y) By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;

(Z) By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;

(AA) By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;

(BB) By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;

(CC) By failing to follow the physicians' orders;

(DD) By failing to administer medications timely;

(EE) By failing to administer medications in the dosage order;

(FF) By failing to administer medications in the manner ordered;

(GG) By failing to timely carry out physicians' orders;

(HH) By failing to timely obtain medications from the pharmacy as ordered;

(II) By failing to administer STAT medications;

(JJ) By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;

(KK) By failing to adequately document CAROLINE FRANCOIS' nurses' notes;

(LL) By failing to timely document CAROLINE FRANCOIS' nursing notes;

(MM) By failing to follow the JCAH nursing standards;

(NN) By failing to follow the policies and procedures of North Shore Medical Center;

(OO) By failing to communicate with CAROLINE FRANCOIS' family as to her condition;

(PP) By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;

(QQ) By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;

(RR) By failing to monitor hourly CAROLINE FRANCOIS' intake;

(SS) By failing to monitor hourly CAROLINE FRANCOIS' output;

(TT) By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;

(UU) By failing to monitor hourly CAROLINE FRANCOIS' deep tendon reflexes;

(VV) By making additions to the medical records of CAROLINE FRANCOIS;

(WW) By making changes to the medical records of CAROLINE FRANCOIS;

(XX) By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;

(YY) By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Dr. Facey and any other health care providers;

(ZZ) By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;

(AAA) By failing to insert a foley cathether; and,

(BBB) By failing to render proper nursing care and treatment under the circumstances.

19. As a direct, proximate and foreseeable result of the negligent treatment by the agent, apparent agents, representatives and/or employees, of the Defendant, STAR, including, but not limited to, the Defendant, NELIA WILLIAMS, R.N., CAROLINE FRANCOIS was brain dead and taken off life support on July 27, 2006, at

which time she officially died.

20. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

21. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the decedent.

22. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for himself, NELSON FRANCOIS, as the surviving spouse, the value of loss of support and services from the date of Caroline Francois' injury due to medical malpractice, with interest, and future loss of support and services from the date of Caroline Francois' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the decedent, CAROLINE FRANCOIS', services.

23. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of himself, NELSON FRANCOIS, surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

24. Jerryian Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon his mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, he has suffered and will continue to suffer mental pain and anguish as a result of his mother's death. Also, he is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

25. Precious Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the decedent, CAROLINE FRANCOIS', services.

26. Caroline Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a

result of her mother's death. Also, she is entitled to the replacement value of her mother, the decedent, CAROLINE FRANCOIS', services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, deceased, demands judgment for damages against the Defendant, STAR ONE, together with costs and demands trial by jury of all issues triable as of right by jury.

**COUNT II - NEGLIGENCE OF DEFENDANT,
NELIA WILLIAMS, R.N.**

Plaintiff realleges and reavers Paragraphs 1 through 15 as if fully set forth herein, and would further state:

27. At all times material hereto, the Defendant, NELIA WILLIAMS, R.N., agreed and undertook to render nursing care and treatment and attend to CAROLINE FRANCOIS.

28. At all times material hereto, the Defendant, NELIA WILLIAMS, R.N., had a duty to exercise that degree of nursing care and treatment in treating CAROLINE FRANCOIS, commensurate with the prevailing nursing standard of care.

29. The Defendant, NELIA WILLIAMS, R.N., was careless, negligent, and breached said duty as follows:

(A) By failing to properly monitor CAROLINE FRANCOIS' blood pressure;

(B) By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;

(C) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;

(D) By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;

(E) By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;

(F) By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;

(G) By failing to timely monitor CAROLINE FRANCOIS' vital signs;

(H) By failing to communicate with CAROLINE FRANCOIS' OB physician, Dr. Sheryl Facey;

(I) By failing to properly monitor CAROLINE FRANCOIS' input and output;

(J) By failing to assess CAROLINE FRANCOIS' neurological status;

(K) By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;

(L) By failing to follow the magnesium sulphate protocol

at North Shore Medical Center;

(M) By failing to follow the magnesium sulphate policies and procedures at North Shore Medical Center;

(N) By failing to inform Dr. Sheryl Facey of CAROLINE FRANCOIS' abnormal blood pressure;

(O) By failing to call Dr. Sheryl Facey to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;

(P) By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;

(Q) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;

(U) By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;

(R) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;

(S) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;

(T) By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;

(U) By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;

(V) By failing to recognize CAROLINE FRANCOIS' verbal concerns of her condition and take all appropriate nursing

measures;

(W) By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);

(X) By failing to properly document CAROLINE FRANCOIS' condition;

(Y) By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;

(Z) By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;

(AA) By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;

(BB) By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;

(CC) By failing to follow the physicians' orders;

(DD) By failing to administer medications timely;

(EE) By failing to administer medications in the dosage order;

(FF) By failing to administer medications in the manner ordered;

(GG) By failing to timely carry out physicians' orders;

(HH) By failing to timely obtain medications from the pharmacy as ordered;

(II) By failing to administer STAT medications;

(JJ) By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;

(KK) By failing to adequately document CAROLINE FRANCOIS' nurses' notes;

(LL) By failing to timely document CAROLINE FRANCOIS' nursing notes;

(MM) By failing to follow the JCAH nursing standards;

(NN) By failing to follow the policies and procedures of North Shore Medical Center;

(OO) By failing to communicate with CAROLINE FRANCOIS' family as to her condition;

(PP) By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;

(QQ) By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;

(RR) By failing to monitor hourly CAROLINE FRANCOIS' intake;

(SS) By failing to monitor hourly CAROLINE FRANCOIS' output;

(TT) By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;

(UU) By failing to monitor hourly CAROLINE FRANCOIS' deep

tendon reflexes;

(VV) By making additions to the medical records of CAROLINE FRANCOIS;

(WW) By making changes to the medical records of CAROLINE FRANCOIS;

(XX) By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;

(YY) By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Dr. Facey and any other health care providers;

(ZZ) By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;

(AAA) By failing to insert a foley catheter; and,

(BBB) By failing to render proper nursing care and treatment under the circumstances.

30. At all times material hereto, the aforesaid acts or omissions on the part of the Defendant, NELIA WILLIAMS, R.N., fell below the nursing standard of care required of her by her training, experience and the prevailing nursing standard of care.

31. As a direct, proximate and foreseeable result of the negligent treatment by the Defendant, NELIA WILLIAMS, R.N., CAROLINE FRANCOIS was brain dead and taken off life support on July 27, 2006, at which time she officially died.

32. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

33. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the decedent.

34. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for CAROLINE FRANCOIS, surviving spouse, the value of loss of support and services from the date of Caroline Francois' injury due to medical malpractice, with interest, and future loss of support and services from the date of Caroline Francois' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the decedent, CAROLINE FRANCOIS', services.

35. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of CAROLINE FRANCOIS, surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS' companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

36. Jerryian Francois, minor child of the decedent, CAROLINE

FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, he is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

37. Precious Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of her mother, the decedent, CAROLINE FRANCOIS', services.

38. Caroline Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the

replacement value of her mother, the decedent, CAROLINE FRANCOIS', services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, deceased, demands judgment for damages against the Defendant, NELIA WILLIAMS, R.N., together with costs and demands trial by jury of all issues triable as of right by jury.

COUNT III: VICARIOUS LIABILITY OF DEFENDANT,
MEDICAL STAFFING

Plaintiff realleges and reavers Paragraphs 1 through 15 as if fully set forth herein, and would further state:

39. At all times material hereto, the Defendant, MEDICAL STAFFING, is vicariously liable for any and all acts of negligence of the departures from the prevailing standards of care, by and through its agents, apparent agents, representatives and/or employees including, but not limited to the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N..

40. At all times material hereto, the agent, apparent agents, representatives and/or employees of Defendant, MEDICAL STAFFING, including, but not limited to the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. had a duty to exercise that degree of nursing care and treatment to CAROLINE FRANCOIS, commensurate with the prevailing nursing standard of care.

41. At all times material hereto, the agent, apparent agents,

representatives and/or employees of Defendant, MEDICAL STAFFING, including, but not limited to, the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. was careless, negligent, and breached said duty as follows:

(A) By failing to properly monitor CAROLINE FRANCOIS' blood pressure;

(B) By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;

(C) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;

(D) By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;

(E) By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;

(F) By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;

(G) By failing to timely monitor CAROLINE FRANCOIS' vital signs;

(H) By failing to communicate with CAROLINE FRANCOIS' OB physician, Dr. Sheryl Facey;

(I) By failing to properly monitor CAROLINE FRANCOIS' input and output;

(J) By failing to assess CAROLINE FRANCOIS' neurological

status;

(K) By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;

(L) By failing to follow the magnesium sulphate protocol at North Shore Medical Center;

(M) By failing to follow the magnesium sulphate policies and procedures at North Shore Medical Center;

(N) By failing to inform Dr. Sheryl Facey of CAROLINE FRANCOIS' abnormal blood pressure;

(O) By failing to call Dr. Sheryl Facey to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;

(P) By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;

(Q) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;

(U) By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;

(R) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;

(S) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;

(T) By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;

(U) By failing to recognize that with CAROLINE FRANCOIS'

on-going hypertensive state that she would suffer a bleed in the brain;

(V) By failing to recognize CAROLINE FRANCOIS' verbal concerns of her condition and take all appropriate nursing measures;

(W) By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);

(X) By failing to properly document CAROLINE FRANCOIS' condition;

(Y) By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;

(Z) By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;

(AA) By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;

(BB) By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;

(CC) By failing to follow the physicians' orders;

(DD) By failing to administer medications timely;

(EE) By failing to administer medications in the dosage order;

(FF) By failing to administer medications in the manner

ordered;

(GG) By failing to timely carry out physicians' orders;

(HH) By failing to timely obtain medications from the pharmacy as ordered;

(II) By failing to administer STAT medications;

(JJ) By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;

(KK) By failing to adequately document CAROLINE FRANCOIS' nurses' notes;

(LL) By failing to timely document CAROLINE FRANCOIS' nursing notes;

(MM) By failing to follow the JCAH nursing standards;

(NN) By failing to follow the policies and procedures of North Shore Medical Center;

(OO) By failing to communicate with CAROLINE FRANCOIS' family as to her condition;

(PP) By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;

(QQ) By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;

(RR) By failing to monitor hourly CAROLINE FRANCOIS' intake;

(SS) By failing to monitor hourly CAROLINE FRANCOIS'

output;

(TT) By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;

(UU) By failing to monitor hourly CAROLINE FRANCOIS' deep tendon reflexes;

(VV) By making additions to the medical records of CAROLINE FRANCOIS;

(WW) By making changes to the medical records of CAROLINE FRANCOIS;

(XX) By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;

(YY) By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Dr. Facey and any other health care providers;

(ZZ) By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;

(AAA) By failing to insert a foley catheter; and,

(BBB) By failing to render proper nursing care and treatment under the circumstances.

42. As a direct, proximate and foreseeable result of the negligent treatment by the agent, apparent agents, representatives and/or employees of the Defendant, MEDICAL STAFFING, including, but not limited to the Defendant, ANGELICA MARTINEZ, R.N. a/k/a

ANGELICA LUZARRAGA, R.N., CAROLINE FRANCOIS was brain dead and taken off life support on July 27, 2006, at which time she officially died.

43. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

44. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the decedent.

45. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for CAROLINE FRANCOIS, surviving spouse, the value of loss of support and services from the date of Caroline Francois' injury due to medical malpractice, with interest, and future loss of support and services from the date of Caroline Francois' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the decedent, CAROLINE FRANCOIS', services.

46. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of CAROLINE FRANCOIS, surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS'

companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

47. Jerryian Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, he is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

48. Precious Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

49. Caroline Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support,

companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, deceased, demands judgment for damages against the Defendant, MEDICAL STAFFING, together with costs and demands trial by jury of all issues triable as of right by jury.

**COUNT IV - NEGLIGENCE OF DEFENDANT,
ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N.**

Plaintiff realleges and reavers Paragraphs 1 through 15 as if fully set forth herein, and would further state:

50. At all times material hereto, the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N., agreed and undertook to render nursing care and treatment and attend to CAROLINE FRANCOIS.

51. At all times material hereto, the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. had a duty to exercise that degree of nursing care and treatment in treating CAROLINE FRANCOIS, commensurate with the prevailing nursing standard of care.

52. The Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. was careless, negligent, and breached said duty as

follows:

(A) By failing to properly monitor CAROLINE FRANCOIS' blood pressure;

(B) By failing to inform CAROLINE FRANCOIS' physicians of her abnormal blood pressure;

(C) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal blood pressure;

(D) By failing to inform the nursing supervisor of CAROLINE FRANCOIS' abnormal blood pressure;

(E) By failing to recognize the severity of CAROLINE FRANCOIS' abnormal blood pressure;

(F) By failing to take all nursing precautions available to prevent CAROLINE FRANCOIS' blood pressure from remaining hypertensive;

(G) By failing to timely monitor CAROLINE FRANCOIS' vital signs;

(H) By failing to communicate with CAROLINE FRANCOIS' OB physician, Dr. Sheryl Facey;

(I) By failing to properly monitor CAROLINE FRANCOIS' input and output;

(J) By failing to assess CAROLINE FRANCOIS' neurological status;

(K) By failing to recognize the hypertensive state CAROLINE FRANCOIS exhibited;

(L) By failing to follow the magnesium sulphate protocol at North Shore Medical Center;

(M) By failing to follow the magnesium sulphate policies and procedures at North Shore Medical Center;

(N) By failing to inform Dr. Sheryl Facey of CAROLINE FRANCOIS' abnormal blood pressure;

(O) By failing to call Dr. Sheryl Facey to inform her of CAROLINE FRANCOIS' abnormal signs and symptoms;

(P) By failing to recognize CAROLINE FRANCOIS' abnormal laboratory values;

(Q) By failing to inform the charge nurse of CAROLINE FRANCOIS' abnormal laboratory values;

(U) By failing to inform the nurse supervisor of CAROLINE FRANCOIS' abnormal laboratory values;

(R) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal blood pressure;

(S) By failing to inform any physician(s) of CAROLINE FRANCOIS' abnormal laboratory values;

(T) By failing to inform any physician(s) of CAROLINE FRANCOIS' on-going uncontrolled hypertensive state;

(U) By failing to recognize that with CAROLINE FRANCOIS' on-going hypertensive state that she would suffer a bleed in the brain;

(V) By failing to recognize CAROLINE FRANCOIS' verbal

concerns of her condition and take all appropriate nursing measures;

(W) By abandoning CAROLINE FRANCOIS during portions of the nursing shift(s);

(X) By failing to properly document CAROLINE FRANCOIS' condition;

(Y) By failing to review the previous nursing shift's medical records of CAROLINE FRANCOIS;

(Z) By accepting an OB patient on a magnesium sulphate drip to-wit: CAROLINE FRANCOIS when there was a lack of experience to care for this type of patient;

(AA) By failing to recognize the severity of CAROLINE FRANCOIS' condition and take all nursing precautions available;

(BB) By failing to consult with qualified nurses who had the experience to recognize the severity of CAROLINE FRANCOIS' condition;

(CC) By failing to follow the physicians' orders;

(DD) By failing to administer medications timely;

(EE) By failing to administer medications in the dosage order;

(FF) By failing to administer medications in the manner ordered;

(GG) By failing to timely carry out physicians' orders;

(HH) By failing to timely obtain medications from the

pharmacy as ordered;

(II) By failing to administer STAT medications;

(JJ) By failing to communicate with other health care providers regarding CAROLINE FRANCOIS' condition;

(KK) By failing to adequately document CAROLINE FRANCOIS' nurses' notes;

(LL) By failing to timely document CAROLINE FRANCOIS' nursing notes;

(MM) By failing to follow the JCAH nursing standards;

(NN) By failing to follow the policies and procedures of North Shore Medical Center;

(OO) By failing to communicate with CAROLINE FRANCOIS' family as to her condition;

(PP) By failing to timely communicate with CAROLINE FRANCOIS' family as to her condition;

(QQ) By failing to inform CAROLINE FRANCOIS' next of kin to wit: NELSON FRANCOIS that CAROLINE FRANCOIS was moved to the CCU unit;

(RR) By failing to monitor hourly CAROLINE FRANCOIS' intake;

(SS) By failing to monitor hourly CAROLINE FRANCOIS' output;

(TT) By failing to monitor hourly CAROLINE FRANCOIS' urine protein dip stick;

(UU) By failing to monitor hourly CAROLINE FRANCOIS' deep tendon reflexes;

(VV) By making additions to the medical records of CAROLINE FRANCOIS;

(WW) By making changes to the medical records of CAROLINE FRANCOIS;

(XX) By failing to make certain that CAROLINE FRANCOIS' magnesium sulphate blood draws were timely drawn;

(YY) By failing to recognize CAROLINE FRANCOIS' severe signs and symptoms and report to Dr. Facey and any other health care providers;

(ZZ) By failing to inform other health care providers via the nursing chain of command of CAROLINE FRANCOIS' severe signs and symptoms that she was exhibiting;

(AAA) By failing to insert a foley catheter; and,

(BBB) By failing to render proper nursing care and treatment under the circumstances.

53. At all times material hereto, the aforesaid acts or omissions on the part of the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N. fell below the nursing standard of care required of her by her training, experience and the prevailing nursing standard of care.

54. As a direct, proximate and foreseeable result of the negligent treatment by the Defendant, ANGELICA MARTINEZ, R.N. a/k/a

ANGELICA LUZARRAGA, R.N., CAROLINE FRANCOIS was brain dead and taken off life support on July 27, 2006, at which time she officially died.

55. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for the Estate of the deceased, loss of earnings of the Deceased, loss of net accumulations beyond death, and medical and funeral expenses due to Decedent's injuries and death.

56. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, has been, and will continue to be, obliged to expend considerable sums of money for hospitals, doctors, and other medical bills and funeral expenses incurred on behalf of the decedent.

57. Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, is entitled to recover for CAROLINE FRANCOIS, surviving spouse, the value of loss of support and services from the date of Caroline Francois' injury due to medical malpractice, with interest, and future loss of support and services from the date of Caroline Francois' death. In addition, NELSON FRANCOIS, is entitled to the replacement value of the decedent, CAROLINE FRANCOIS', services.

58. NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, and on behalf of CAROLINE FRANCOIS, surviving spouse, is entitled to recover for loss of CAROLINE FRANCOIS'

companionship and protection, and for mental pain and suffering from the date of the medical malpractice injury.

59. Jerryian Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, he is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

60. Precious Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support, companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, he is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

61. Caroline Francois, minor child of the decedent, CAROLINE FRANCOIS, was dependent upon her mother for financial support as well as companionship, instruction and guidance, and has been and will continue to be deprived of that financial support,

companionship, instruction, and guidance. In addition, she has suffered and will continue to suffer mental pain and anguish as a result of her mother's death. Also, she is entitled to the replacement value of his mother, the decedent, CAROLINE FRANCOIS', services.

WHEREFORE, Plaintiff, NELSON FRANCOIS, as Personal Representative of the Estate of CAROLINE FRANCOIS, deceased, demands judgment for damages against the Defendant, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA, R.N., together with costs and demands trial by jury of all issues triable as of right by jury.

CERTIFICATION OF ATTORNEY
UNDER FLORIDA STATUTE §768.495 RENUMBERED AS 766.104(1)

The undersigned attorney does hereby certify that a reasonable investigation as permitted by the circumstances has been conducted. Said investigation has given rise to the good faith belief that grounds exist for an action against each of the named Defendants.

WHEREFORE, the Plaintiff, NELSON FRANCOIS, as personal Representative of the Estate of CAROLINE FRANCOIS, demands judgment for damages against the Defendants, STAR, NELIA WILLIAMS, R.N.,

MEDICAL STAFFING, ANGELICA MARTINEZ, R.N. a/k/a ANGELICA LUZARRAGA,
R.N., together with costs and demands trial by jury of all issues
triable as of right by jury.

LOREEN I. KREIZINGER, P.A.
Attorney for Plaintiff
101 N.E. Third Avenue
101 Tower, Suite 1810
Fort Lauderdale, FL 33301
Phone: 954-766-8875
Fax: 954-728-3485

BY: 

LOREEN I. KREIZINGER
FLA. BAR NO. 855588

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NELSON FRANCOIS, as PERSONAL
Representative of the Estate of
CAROLINE FRANCOIS,

Plaintiff,

v.

MEDICAL STAFFING NETWORK
HOLDINGS, INC., a Florida corporation;
ANGELICA MARTINEZ, R.N. a/k/a
ANGELICA LUZARRAGA, R.N.;
TENET HEALTH SYSTEM NORTH SHORE,
INC., a Florida corporation, d/b/a NORTH
SHORE MEDICAL CENTER; UNIVERSITY
OF MIAMI, a Florida corporation; SHERYL
FACEY, M.D.; and JESSIE TRICE COMMUNITY
HEALTH CENTER, INC., a Florida corporation
f/k/a ECONOMIC OPPORTUNITY FAMILY
HEALTH CENTER, INC.,

Defendants.

CERTIFICATION OF SCOPE OF
EMPLOYMENT UNDER 42 U.S.C. §233(c) and 28 U.S.C. §2679(d)


I, R. Alexander Acosta, am the United States Attorney for the Southern District of Florida (USAO), and personnel in the USAO are responsible for defending the medical negligence claims brought against the Jessie Trice Community Health Center, f/k/a Economic Opportunity Family Health Center, Inc. ("Center"), in the above captioned action. In this case, Plaintiff alleges that the Center, acting through its "agents, apparent agents, representatives and/or employees, including, but not limited to Defendant Facey," was medically negligent in July 2006. (Counts XII). Plaintiff also alleges that Dr. Sheryl Facey was an employee of the Center, and in Count XI of the Amended

Complaint alleges medical negligence by Dr. Facey in July 2006.

Pursuant to the provisions of 42 U.S.C. §233(c) and 28 U.S.C. §2679(d), and by virtue of the authority vested in me by the Attorney General under 28 C.F.R. §§15.3 and 15.4, I hereby find that the Center was deemed by the Department of Health and Human Services to be eligible for medical negligence coverage under the Federal Tort Claims Act effective June 23, 1996. Accordingly, I certify that pursuant to 42 U.S.C. §233(g), the Center is deemed to be an employee of the United States under the Federal Tort Claims Act for the acts of medical negligence alleged in the Amended Complaint. I further certify that the Center was acting within the scope of employment at the time of the medical negligence alleged in the Amended Complaint. I also find that Dr. Facey was an employee of the Center in July 2006. Accordingly, Dr. Facey is also covered under the Federal Tort Claims Act, during the July 2006, time period set forth in the Amended Complaint.

The only Center employee that the plaintiff identified by name in the Amended Complaint is Sheryl Facey, M.D. This document is not intended to constitute a certification that all individuals who were working at the Center in July 2006, and who came in contact with Caroline Francois are covered under the Federal Tort Claims Act. Rather, this certification is limited to the terms set forth herein.

Done this 19 day of May, 2008



R. ALEXANDER ACOSTA
United States Attorney
Southern District of Florida

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

May 19, 2008

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIAMI

I. (a) PLAINTIFFS

DEFENDANTS

Nelson Francois, as Personal Representative of the Estate of Caroline Francois,

MEDICAL STAFFING NETWORK HOLDINGS, INC., a Florida corporation; ANGELICA MARTINEZ, R.N. a/k/a , et al.

(b) County of Residence of First Listed Plaintiff Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Loreen I. Kreizinger, P.A., Esq.,
101 N.E. Third Avenue, 101 Tower, Suite 1810
Fort Lauderdale, FL 33301

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Wendy A. Jacobus, Assistant U.S. Attorney
U.S. Attorney's Office
99 NE 4th Street, Suite 300, Miami, FL 33132

(d) Check County Where Action Arose: DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen of Foreign Nation	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

Dade Co. 08cv21442 King/Bandstra

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §233(c)

LENGTH OF TRIAL via _____ days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** 0.00 **CHECK YES only if demanded in complaint:** **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

Wendy A. Jacobus *5/19/08*

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____