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SHERONDA BRAKER, as Administratrix
and Administratrix ad Prosequendum of
the ESTATE OF DERRICK NELSON,

Plaintiff,

v.

JERRY M. BARATTA, D.O.; NEW
JERSEY HEALTHCARE SPECIALISTS,
P.C. d/b/a HACKENSACK
ANESTHESIOLOGY ASSOCIATES;
HACKENSACK UNIVERSITY
MEDICAL CENTER; THE JOHN
THEURER CANCER CENTER; JOHN
DOES 1-10; ABC CORPS. 1-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – UNION COUNTY
DOCKET NO.: UNN - L-

Civil Action

**COMPLAINT AND
JURY DEMAND**

Plaintiff Sheronda Braker as Administratrix and as Administratrix ad Prosequendum of the Estate of Derrick Nelson, a resident of Union County, New Jersey at the time of the negligence alleged herein and at the time of his death, by way of Complaint against the defendants says as follows:

FIRST COUNT

1. At all times relevant herein, defendant Jerry Baratta, D.O. (“Baratta”) was a physician duly licensed to practice medicine in the State of New Jersey, holding himself out as a specialist in anesthesiology. Dr. Baratta’s principal place of business is located in Hackensack, New Jersey.

2. At all times relevant herein, defendant New Jersey Healthcare Specialists, P.C. d/b/a Hackensack Anesthesiology Associates was an anesthesiology medical practice located in Hackensack, New Jersey.

3. At all times relevant herein, defendant Hackensack University Medical Center was a hospital located in Hackensack, New Jersey.

4. At all times relevant herein, defendant The John Theurer Cancer Center was an entity wholly owned by Hackensack University Medical Center.

5. At all times relevant herein, defendant John Does 1-10 were doctors, nurses, assistants and/or other medical professionals on the dates at issue involved in the treatment and care of plaintiff.

6. At all times relevant herein, defendants ABC Corps. 1-10 were entities which employed or were affiliated with any defendant in this matter.

7. Derrick Nelson was a beloved high school principal, a military veteran, a cherished member of society, and – most of all – a loving family man. Nothing gave Dr. Nelson more pleasure than helping others; it is that love for others that led to Dr. Nelson donating his bone marrow to an anonymous teenager who was suffering from cancer. On February 18, 2019, Dr. Nelson underwent the procedure at Hackensack University Medical Center, John Theurer Cancer Center. At the time of the procedure, Dr. Nelson was known to have sleep apnea and was overweight: two factors which made him a higher risk for undergoing anesthesia.

8. At the time anesthesia was induced, Dr. Nelson only had an oxygen saturation of 91. Despite Dr. Nelson having such a low oxygen saturation, defendants proceeded with the administration of anesthesia and also failed to supply any additional oxygen to him. This

was a breach of the standard of care. As the procedure progressed, Dr. Nelson began to deteriorate and became bradycardic. Despite this being a late sign of hypoxemia, no action was taken by the defendants for this emergent situation and therefore Dr. Nelson's oxygen saturation continued to plummet all the way down to a saturation of 31. This was yet another breach of the standard of care. Although late, when defendants finally recognized the bradycardia, they turned Mr. Nelson to supine position and placed a Laryngel Mask Airway ("LMA"). Despite placing an LMA, defendants continued to breach the standard of care by failing to provide adequate ventilation through the LMA; only providing a tidal volume of 122cc.

9. Defendants Jerry Baratta, D.O. and John Does 1-10 failed to exercise the degree of care commonly exercised by other medical and/or healthcare professionals in like cases having due regard to the existing state of knowledge of medicine. Specifically, Baratta and John Does 1-10 were negligent by, among other things, continuing with anesthesia once Dr. Nelson's oxygen saturation began to fall; by not continuously monitoring his oxygen saturation; by not taking timely action to remedy his hypoxemia; and by not providing adequate ventilation through the LMA once his vitals plummeted. These acts of negligence led to Dr. Nelson suffering a severe and permanent hypoxic injury. Dr. Nelson ultimately died from the hypoxic brain injury caused by defendants' negligence.

10. As a direct and proximate result of defendants' malpractice, Derrick Nelson experienced great pain, suffering and permanent injury, ultimately resulting in his untimely death.

11. Plaintiff seeks recovery against all defendants of all damages permitted pursuant to the New Jersey Wrongful Death Act and Survival Act.

WHEREFORE, plaintiff demands judgment against defendants for compensatory damages, attorney's fees, interest, costs of suit and for such other relief as the Court deems equitable and just.

SECOND COUNT

Plaintiff repeats and realleges the allegations heretofore plead.

1. At all relevant times, defendants Baratta, and John Does 1-10 are/were employees, agents, and/or servants of defendants, New Jersey Healthcare Specialists, P.C. d/b/a Hackensack Anesthesiology Associates, Hackensack University Medical Center, The John Theurer Cancer Center and/or ABC Corps. 1-10. Therefore, defendants New Jersey Healthcare Specialists, P.C. d/b/a Hackensack Anesthesiology Associates, Hackensack University Medical Center The John Theurer Cancer Center and/or ABC Corps. 1-10 are liable for the negligence of Baratta and John Does 1-10 pursuant to the doctrine of respondeat superior/agency/apparent agency.

WHEREFORE, plaintiff demands judgment against defendants, New Jersey Healthcare Specialists, P.C. d/b/a Hackensack Anesthesiology Associates, Hackensack University Medical Center, The John Theurer Cancer Center and ABC Corps. 1-10, for compensatory damages, interests, attorney's fees, costs and such other relief as the Court seems equitable and just.

JURY DEMAND

Please take notice that the plaintiffs demand a trial by jury as to all issues in the above matter.

DESIGNATION OF TRIAL COUNSEL

David A. Mazie, Esq. is hereby designated as trial counsel in the above captioned matter.

DEMAND FOR MEDICAL SPECIALTY

Pursuant to R. 4:5-3, provide the exact field of medicine you were practicing at the time of the alleged malpractice, and whether your treatment of the plaintiff involved that specialty.

DEMAND FOR INSURANCE COVERAGE

In accordance with R. 4:10-2, defendants are demanded to provide a complete copy of their applicable insurance policies and declaration sheets demonstrating coverage within thirty (30) days of service of this Complaint.

DISCOVERY DEMANDS

Plaintiff hereby demands that each defendant serve certified answers to Form C and Form C(3) Interrogatories within thirty (30) days of service of this Complaint. Plaintiff further demands that each defendant produce complete copies of the following documents within 30 days of service of the Complaint:

1. True copies or original of all medical reports or records in the possession of the defendants with regard to any medical condition or illness, at any time, of plaintiff.
2. All electronic data from the electronic medical record.
3. True copies or original of all photographs, videos, charts, or diagrams in the possession of the defendants or under defendants' control regarding any matter relevant to the subject matter of this case.

4. True copies or originals of any statements (written, oral or recorded), in the possession or control of the defendants from any party or witness regarding any matter relevant to the subject matter of this case.

5. True copies or original of all documents in the possession of the defendants which support any defense or cross-claim being asserted by the defendants in the within litigation.

6. True copies of any documents which defendants may utilize at trial, either as an exhibit marked for identification, cross-examination or as evidence.

7. True copies or originals of all contracts or agreements between defendants and any other individuals, entities or other defendants, which touch on or relate to any matter relevant to the subject matter of this case.

8. Provide original or true copies of each and every learned treatise, article, or any other scholarly or informational matter which defendants may utilize at the trial of this case either for use in defendants' case in chief, on cross-examination, on rebuttal, or at any other stage of the trial of this case.

9. Provide original or true copy of each and every statement given by plaintiff, at any time, either written or recorded.

10. Provide original or true copy of any and all discovery material with regard to any accident, injury, or lawsuit involving plaintiff, including but not limited to answers to interrogatories, deposition transcripts, and admissions.

11. Produce copies of all correspondence between defendants and any anyone else regarding the treatment of plaintiff.

12. True copies or original of any and all communications between defendants and any other individuals involved in the treatment of the plaintiff.

13. True copies or original of any communications between defendants and any other entity regarding any matter relevant to the subject matter of this case.

14. True copies of any documents in defendants' possession with regard to the criminal history of any party, witness, or person with knowledge relevant to this action.

15. Copies of all reports or documents received from the Central Index Bureau (CIB) with regard to the plaintiff, decedent or defendant.

16. A transcription of any handwritten office notes or treatment record maintained by defendant.

17. Copies of all insurance policies (primary and excess) they may provide coverage for the allegations made in this Complaint.

18. Copies of all pleadings, deposition transcripts, trial transcripts and discovery responses related to any other medical malpractice action where you were a defendant.

19. The complete electronic records, documents, and information with regard to the plaintiff, or the plaintiff's medical care, regardless of how titled, described, or categorized, including but not limited to, (1) medical records including but not limited to progress notes, nursing records, laboratory testing, and imaging, (2), orders, (3) documentation of who was involved in any way, and when that occurred, (4) financial information, (5) charge sheets, and (6) legal records or notes. Produce in hard copy and native, electronic format.

20. True copies of any contracts of employment involving Dr. Jerry Baratta, D.O.

MAZIE SLATER KATZ & FREEMAN, LLC
Attorneys for Plaintiff

BY: /s/David A. Mazie
DAVID A. MAZIE

Dated: July 22, 2019

RULE 4:5-1 CERTIFICATION

I hereby certify that to the best of my knowledge the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding. I do not know of any other parties who should be joined in this action at this time.

I hereby certify that the foregoing statements made by me are true. I am aware that if the statements made by me are willfully false, I am subject to punishment.

MAZIE SLATER KATZ & FREEMAN, LLC
Attorneys for Plaintiff

BY: /s/David A. Mazie
DAVID A. MAZIE

Dated: July 22, 2019