SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER, deceased,

Index No.:

Plaintiffs,

SUMMONS

-against-

CARDINAL HEALTH 414, INC., AUTOMOTIVE RENTALS, INC, and ANTHONY W. GRANT,

Defendants.

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Plaintiff designates NASSAU County as the place of trial. The basis of venue is the plaintiff's residence. Plaintiff resides at 866 Southern Drive, Franklin Square, New York.

To the above-named Defendants:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete, if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
July 29, 2005

Yours, etc.,

By: Kenneth J. Halperin
WINGATE, RUSSOTTI & SHAPIRO, LLP.
Attorneys for Plaintiffs
420 Lexington Avenue
Suite 2750
New York, New York 10170
(212) 986-7353

Defendants' Addresses:

CARDINAL HEALTH 414, INC.
7000 Cardinal Place
Dublin, Ohio, 43017

AUTOMOTIVE RENTALS, INC.
9000 Midlantic Drive
Mt. Laurel, New York 08054

ANTHONY GRANT
728 Grand Terrace Avenue
Baldwin, New York 11510

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

----------X

MELISSA TUEBNER, as Administratrix, of the Estate of GLENN TUEBNER, deceased,

Index No.:

Plaintiffs,

VERIFIED COMPLAINT

-against-

CARDINAL HEALTH 414, INC., AUTOMOTIVE RENTALS, INC., and ANTHONY W. GRANT,

Defendants.

----------X

Plaintiffs, complaining of the defendants, by their attorneys, WINGATE, RUSSOTTI & SHAPIRO, LLP., respectfully alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF FOR THE WRONGFUL DEATH OF GLENN TUEBNER

1. That on June 11, 2004, GLENN TUEBNER died, and, on July 30, 2004, Letters of Administration were issued to MELISSA TUEBNER, and, as such, she will act as Administratrix.

2. GLENN TUEBNER had one child on the date of his death.

3. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., was a domestic corporation duly licensed to do business under the laws of the State of New York.

4. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., was a foreign corporation duly licensed to do business under the laws of the State of New York.

5. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC. was a partnership authorized to do business in the State of New York.

6. That at all times mentioned herein, the defendant, CARDINAL HEALTH 414, INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses of conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

7. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC., was a domestic corporation duly licensed to do business under the laws of the State of New York.

8. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC., was a foreign corporation duly licensed to do business under the laws of the State of New York.

9. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC. was a partnership authorized to do business in the State of New York.

10. That at all times mentioned herein, the defendant, AUTOMOTIVE RENTALS, INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses of conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts

have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

11. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., was the owner of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

12. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., was the lessee of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

13. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., operated the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

14. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

15. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., maintained the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

16. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC., was the owner of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

17. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC., was the lessor of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

18. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC., operated the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

19. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC., controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

20. At all times hereinafter mentioned, the defendant, AUTOMOTIVE RENTALS, INC., maintained the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

21. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, was the owner of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

22. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, operated the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

23. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

24. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, maintained the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

25. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, operated and controlled the aforesaid motor vehicle bearing New York State license plate

number CHF1853 for the year 2003 with the permission of defendant, CARDINAL HEALTH 414, INC.

26. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, operated and controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003 in the scope of his employment with defendant, CARDINAL HEALTH 414, INC.

27. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, operated and controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003 with the permission of defendant, AUTOMOTIVE RENTALS, INC.

28. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, operated and controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003 in the scope of his employment with defendant, AUTOMOTIVE RENTALS, INC.

29. At all times hereinafter mentioned, the defendant, ANTHONY W. GRANT, controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

30. At all times hereinafter mentioned, GLENN TUEBNER, owned, operated and controlled a motor vehicle bearing New York State license plate number AJB8543 for the year 2003.

31. That Franklin Avenue and Garvin Blvd in the County of NASSAU and State of New York, were a public roadways.

32. On July 22, 2003, at the intersection of Franklin Avenue and Garvin Blvd. in the County of NASSAU and State of New York, the aforesaid motor vehicles came into contact with each other.

33. That the aforesaid occurrence was caused by the negligence, carelessness and recklessness of the defendants, in the ownership, operation and control of their motor vehicles, without any negligence, carelessness or recklessness on the part of GLENN TUEBNER contributing thereto.

34. By reason of the foregoing occurrence, GLENN TUEBNER sustained a serious injury as defined in Sect. 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Sect. 5102(a) of the Insurance Law of the State of New York.

35. By reason of the foregoing occurrence, GLENN TUEBNER died.

36. This action falls within one or more of the exceptions set forth in section 1602 of the CPLR.

37. That as a result of the negligence of the defendant, MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER was obliged to and did necessarily employ medical, hospital services and funeral services and have further sustained substantial pecuniary loss as a result of the death of GLENN TUEBNER.

38. As a result of the foregoing, plaintiff, MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER, suffered injuries and damages and plaintiff requests an award of money damages in a sum which exceeds the jurisdictional limit of all lower courts which would otherwise have jurisdiction.

AS AND FOR AN SECOND CAUSE OF ACTION BEHALF OF THE PLAINTIFF, FOR THE CONSCIOUS PAIN AND SUFFERING OF DECEDENT, GLENN TUEBNER

39. Plaintiff realleges, repeats and reiterates each and every allegation of the complaint, paragraphs "1" through "38" set forth above with the same force and effect as if set forth below at length.

40. That as a result of the negligence of the defendants as aforesaid, plaintiff's decedent, GLENN TUEBNER, suffered severe conscious pain and suffering prior to his death on June 11, 2004.

41. That by reason of the foregoing, conscious pain and suffering, the plaintiff MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER, has suffered injuries and damages and plaintiff requests an award of money damages in a sum which exceeds the jurisdictional limit of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE DISTRIBUTEES OF THE DECEDENT, GLENN TUEBNER FOR LOSS OF SERVICES

42. That the plaintiff repeats, reiterates and realleges each and every allegation of the complaint, paragraphs 1-41 with the same force and effect as though each and every allegation were set forth more fully herein at length below.

43. That by reason of the foregoing conscious pain and suffering and wrongful death, the distributees of GLENN TUEBNER lost the love, aid, services, guidance and comfort of GLENN TUEBNER and requests an award of money damages.

WHEREFORE, the plaintiffs demand judgment against the defendants on the First, Second and Third causes of action in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Yours, etc.,

By: Kenneth J. Halperin
WINGATE, RUSSOTTI & SHAPIRO, LLP.
Attorneys for Plaintiffs
Office & P.O. Address
420 Lexington Avenue
New York, New York 10170
(212) 986-7353

VERIFICATION BY ATTORNEY

Kenneth J. Halperin, an attorney duly admitted to practice before the Courts in the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. That deponent is the attorney for the plaintiff(s) in the action within; that deponent has read the foregoing Summons and Verified Complaint and know the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

2. The reason that this verification is not made by plaintiff(s) and is made by deponent is that plaintiff(s) do(es) not reside in the county where the attorneys for the plaintiff(s) have their office.

3. Deponent further says that the source of deponent's information and the grounds of deponent's belief as to all matters not stated upon deponent's knowledge are from investigations made on behalf of said plaintiff(s).

Kenneth J. Halperin

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

MELISSA TUEBNER, as Administratix of the Estate of GLENN TUEBNER, deceased, Plaintiff, v. CARDINAL HEALTH 414, INC.; AUTOMOTIVE RENTALS, INC.; and ANTHONY W. GRANT, Defendants.	Index No. 12315/05 **SUMMONS**
CARDINAL HEALTH 414, INC.; AUTOMOTIVE RENTALS, INC.; and ANTHONY W. GRANT, Third-Party Plaintiffs, v. SEBASTIAN LATTUGA, M.D.; MICHAEL BRESNAHAN, P.A.; JOHN DOES 1-10; JAMES DOES 1-10; and, JEFF DOES 1-10, Third-Party Defendants.	

To the above-named Third-Party Defendants:

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon the Third-Party Plaintiffs' attorney an answer to the Verified Third-Party Complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New

York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the Verified Third-Party Complaint.

Plaintiff has designated Nassau County as the place of trial. The basis of the venue designated is the plaintiff's residence, which is 866 Southern Drive, Franklin Square, New York.

Dated: New York, New York
August 24, 2005

DRINKER BIDDLE & REATH LLP

By: _____
Daniel B. Carroll
140 Broadway, 39th Floor
New York, New York 10005-1116
(212) 248-3140
(212) 248-3141 (fax)

Attorneys for Third-Party Plaintiffs

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

MELISSA TUEBNER, as Administratix of the Estate of GLENN TUEBNER, deceased, Plaintiff, v. CARDINAL HEALTH 414, INC.; AUTOMOTIVE RENTALS, INC.; and ANTHONY W. GRANT, Defendants.	Index No. 12315/05 **CERTIFICATE OF MERIT**
CARDINAL HEALTH 414, INC.; AUTOMOTIVE RENTALS, INC.; and ANTHONY W. GRANT, Third-Party Plaintiffs, v. SEBASTIAN LATTUGA, M.D.; MICHAEL BRESNAHAN, P.A.; JOHN DOES 1-10; JAMES DOES 1-10; and, JEFF DOES 1-10, Third-Party Defendants.	

I, DANIEL B. CARROLL, attorney for the Third-Party Plaintiffs Cardinal Health 414, Inc., Automotive Rentals, Inc. and Anthony W. Grant do hereby certify that I have reviewed the facts of this case and have consulted with at least one physician who is licensed to practice in New York or any other state and who I reasonably believe is knowledgeable in the relevant

issues involved in this particular action and that I have concluded on the basis of that review and consultation that there is a reasonable basis for the commencement of this action.

Dated: New York, New York
August 29, 2005

DRINKER BIDDLE & REATH LLP

By: _____
Daniel B. Carroll
140 Broadway, 39th Floor
New York, New York 10005-1116
(212) 248-3140
(212) 248-3141 (fax)

Attorneys for Third-Party Plaintiffs

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

MELISSA TUEBNER, as Administratix of the Estate of GLENN TUEBNER, deceased, Plaintiff, v. CARDINAL HEALTH 414, INC.; AUTOMOTIVE RENTALS, INC.; and ANTHONY W. GRANT, Defendants.	Index No. 12315/05 **VERIFIED THIRD-PARTY COMPLAINT**
CARDINAL HEALTH 414, INC.; AUTOMOTIVE RENTALS, INC.; and ANTHONY W. GRANT, Third-Party Plaintiffs, v. SEBASTIAN LATTUGA, M.D.; MICHAEL BRESNAHAN, P.A.; JOHN DOES 1-10; JAMES DOES 1-10; and, JEFF DOES 1-10, Third-Party Defendants.	

Third-Party Plaintiffs Cardinal Health 414, Inc., Automotive Rentals, Inc. and Anthony W. Grant, by an through their attorneys, Drinker Biddle & Reath LLP, as and for their Verified Third-Party Complaint herein, allege:

PARTIES

1. Third-Party Plaintiff Cardinal Health 414, Inc. is a Delaware corporation.

2. Third-Party Plaintiff Automotive Rentals, Inc. is a New Jersey corporation.

3. Third-Party Plaintiff Anthony W. Grant is a resident of the State of New York.

4. Upon information and belief, Third-Party Defendant Sebastian Lattuga, M.D., is a resident of New York State.

5. Upon information and belief, Third-Party Defendant Sebastian Lattuga, M.D. is licensed to practice medicine in New York State.

6. Upon information and belief, Third-Party Defendant Michael Bresnahan, P.A. is a resident of New York State.

7. Upon information and belief, Third-Party Defendant Michael Bresnahan, P.A. is a licensed physician assistant in New York State.

8. Upon information and belief, Third-Party Defendant Michael Bresnahan, P.A. was an agent, servant and/or employee of Sebastian Lattuga, M.D. on June 8 and 9, 2004.

9. Third-Party Defendants John Does 1-10 (fictitious parties whose names are unknown) are licensed physicians who provided medical care and treatment to plaintiff's decedent, Glenn Tuebner, at Mercy Medical Center on June 8 and/or 9, 2004.

10. Third-Party Defendants James Does 1-10 (fictitious parties whose names are unknown) are agents, servants and/or employees of Sebastian Lattuga, M.D., and John Does 1-10, who assisted in the care and treatment of plaintiff's decedent, Glenn Tuebner, at Mercy Medical Center on June 8 and/or 9, 2004.

11. Third-Party Defendants Jeff Does 1-10 (fictitious parties whose names are unknown) are residents, physician assistants, nurses, technicians or other healthcare workers who assisted in the care and treatment of plaintiff's decedent, Glenn Tuebner, on June 8 and/or 9, 2004.

UNDERLYING ACTION

12. On or about August 4, 2005, Melissa Tuebner ("Plaintiff"), as Administratrix of the Estate of Glenn Tuebner, filed a Verified Complaint against Defendants Cardinal Health 414, Inc., Automotive Rentals, Inc. and Anthony W. Grant.

13. Plaintiff alleges the following: (i) on July 22, 2003, Anthony W. Grant was driving a vehicle with New York State license plate number CHF1853, (ii) Anthony W. Grant's vehicle came in contact with a vehicle bearing New York State license plate number AJB8543, and (iii) as a result of the aforementioned accident, Glenn Tuebner sustained a serious injury and died on June 11, 2004.

14. Plaintiff's Verified Complaint includes claims for wrongful death, pain and suffering and loss of services.

COUNT I
CONTRIBUTION

15. At approximately 11:00 a.m. on June 8, 2004, Glenn Tuebner underwent an anterior cervical diskectomy and fusion at Mercy Medical Center. The surgeon who performed the anterior cervical diskectomy and fusion on Glenn Tuebner was Sebastian Lattuga, M.D.

16. At approximately 3:00 a.m. on June 9, 2004, Mr. Tuebner went into cardiac arrest. At the time, Mercy Medical Center staff were attempting to intubate Glenn Tuebner. The "MD in charge" at the time was Michael Bresnahan, P.A.

17. Glenn Tuebner's heart did not begin beating on its own until approximately 3:21 a.m. on June 9, 2004.

18. On or before June 11, 2004, Glenn Tuebner was determined to be brain dead.

19. Glenn Tuebner died on June 11, 2004.

20. Sebastian Lattuga, M.D., Michael Bresnahan, P.A., John Does 1-10, James Does 1-10 and Jeff Does 1-10 (the "Third-Party Defendants"), acting through their agents and employees, undertook to render medical care and assistance to Glenn Tuebner during the relevant time period.

21. During the relevant period, the Third-Party Defendants had a duty to exercise due care in providing Glenn Tuebner with appropriate medical care, evaluation, diagnosis and treatment in a careful, prudent and timely manner and in accordance with accepted standards of medical practice.

22. The Third-Party Defendants breached their duty of care to Glenn Tuebner.

23. Glenn Tuebner's death and any pain and suffering he experienced following the June 8, 2004 surgery were the direct and proximate result of the negligence, carelessness, recklessness and professional misconduct of the Third-Party Defendants, and the negligence, if any, of the Third-Party Plaintiffs, was merely passive and secondary in nature.

WHEREFORE, the Third-Party Plaintiffs demand judgment against the Third-Party Defendants for the full amount of any judgment rendered herein in favor of the Plaintiff and against the Third-Party Plaintiffs, or in an amount equal to the excess over and above Third-Party Plaintiffs' equitable share of any such judgment, together with costs and disbursements plus the expenses incurred in defending the principal action, including attorney's fees.

Dated: New York, New York
August 24, 2005

DRINKER BIDDLE & REATH LLP

By: _____
Daniel B. Carroll
140 Broadway, 39th Floor
New York, New York 10005-1116
(212) 248-3140
(212) 248-3141 (fax)

- and -

Brenda N. Buonaiuto
50 Fremont Street
San Francisco, California 94105
(415) 591-7500
(415) 591-7510 (fax)

Attorneys for Third-Party Plaintiffs

VERIFICATION

Daniel B. Carroll affirms under penalty of perjury as follows:

1. I am an attorney-at-law of the State of New York and a partner with Drinker Biddle & Reath LLP, attorneys for Third-Party Plaintiffs Cardinal Health 414, Inc., Automotive Rentals, Inc., and Anthony W. Grant.

2. I have read the foregoing Verified Third-Party Complaint and know the contents thereof. The same are true to my own knowledge except as to matters stated therein to be alleged upon information and belief; and, as to those matters, I believe them to be true.

3. The reason that this Verification is made by me rather than Cardinal Health 414, Inc., Automotive Rentals, Inc., and/or Anthony W. Grant is that said defendants reside outside of the county in which I have my offices.

4. The sources of my information and the grounds for my belief as to those matters in the foregoing Verified Answer alleged to be upon information and belief are the documents examined by me and the information transmitted by said defendants in relation to this matter.

Dated: New York, New York
August 31, 2005

Daniel B. Carroll

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

----------X

MELISSA TUEBNER, as Administratrix of the Estate of Glenn Tuebner, deceased, and MELISSA TUEBNER, individually,

Plaintiff,

-against-

CARDINAL HEALTH 414, INC., AUTOMOTIVE RENTALS, INC., ANTHONY W. GRANT, SEBASTIAN LATTUGA M.D., MICHAEL BRESNAHAN, P.A., MERCY MEDICAL CENTER,

Defendants.

CARDINAL HEALTH 414, INC., AUTOMOTIVE RENTALS, INC., and ANTHONY W. GRANT,

Third-Party Plaintiffs,

-against-

SEBASTIAN LATTUGA M.D., MICHAEL BRESNAHAN, P.A., JOHN DOES 1-10, JAMES DOES 1-10, and JEFF DOES, 1-10,

Third-Party Defendants.

----------X

AMENDED VERIFIED COMPLAINT

Index No.: 012315/05

Plaintiff, complaining of the defendants, by her attorneys, WINGATE, RUSSOTTI & SHAPIRO, LLP., respectfully alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF FOR THE WRONGFUL DEATH OF GLENN TUEBNER

1. That on June 11, 2004, GLENN TUEBNER died, and, on July 30, 2004, Letters of Administration were issued to MELISSA TUEBNER, and, as such, she will act as Administratrix.

2. GLENN TUEBNER had one child on the date of his death.

3. At all times hereinafter mentioned, the defendant, CARDINAL HEALTH 414, INC., ("CARDINAL") was a domestic corporation duly licensed to do business under the laws of the State of New York.

4. At all times hereinafter mentioned, defendant CARDINAL was a foreign corporation duly licensed to do business under the laws of the State of New York.

5. At all times hereinafter mentioned, defendant CARDINAL was a partnership authorized to do business in the State of New York.

6. That at all times mentioned herein, defendant CARDINAL transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses of conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

7. At all times hereinafter mentioned, defendant AUTOMOTIVE RENTALS, INC., ("AUTOMOTIVE") was a domestic corporation duly licensed to do business under the laws of the State of New York.

8. At all times hereinafter mentioned, defendant AUTOMOTIVE was a foreign corporation duly licensed to do business under the laws of the State of New York.

9. At all times hereinafter mentioned, defendant AUTOMOTIVE was a partnership authorized to do business in the State of New York.

10. That at all times mentioned herein, defendant AUTOMOTIVE transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses of conduct and/or derived substantial revenue from goods used or

consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

11. At all times hereinafter mentioned, defendant CARDINAL was the owner of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

12. At all times hereinafter mentioned, defendant, CARDINAL was the lessee of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

13. At all times hereinafter mentioned, defendant CARDINAL operated the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

14. At all times hereinafter mentioned, defendant CARDINAL controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

15. At all times hereinafter mentioned, defendant CARDINAL maintained the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

16. At all times hereinafter mentioned, defendant AUTOMOTIVE was the owner of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

17. At all times hereinafter mentioned, defendant AUTOMOTIVE was the lessor of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

18. At all times hereinafter mentioned, defendant AUTOMOTIVE operated the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

19. At all times hereinafter mentioned, defendant AUTOMOTIVE controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

20. At all times hereinafter mentioned, defendant AUTOMOTIVE maintained the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

21. At all times hereinafter mentioned, defendant, ANTHONY W. GRANT, ("GRANT") was the owner of a certain motor vehicle bearing New York license plate number CHF1853 for the year 2003.

22. At all times hereinafter mentioned, defendant, GRANT operated the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

23. At all times hereinafter mentioned, defendant GRANT controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

24. At all times hereinafter mentioned, defendant GRANT maintained the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

25. At all times hereinafter mentioned, defendant GRANT operated and controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003 with the permission of defendant, CARDINAL.

26. At all times hereinafter mentioned, defendant GRANT operated and controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003 in the scope of his employment with defendant, CARDINAL.

27. At all times hereinafter mentioned, defendant GRANT operated and controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003 with the permission of defendant, AUTOMOTIVE.

28. At all times hereinafter mentioned, defendant GRANT operated and controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003 in the scope of his employment with defendant, AUTOMOTIVE.

29. At all times hereinafter mentioned, defendant GRANT controlled the aforesaid motor vehicle bearing New York State license plate number CHF1853 for the year 2003.

30. At all times hereinafter mentioned, decedent GLENN TUEBNER, ("TUEBNER") owned, operated and controlled a motor vehicle bearing New York State license plate number AJB8543 for the year 2003.

31. That Franklin Avenue and Garvin Blvd in the County of NASSAU and State of New York, were a public roadways.

32. On July 22, 2003, at the intersection of Franklin Avenue and Garvin Blvd. in the County of NASSAU and State of New York, the aforesaid motor vehicles came into contact with each other.

33. That the aforesaid occurrence was caused by the negligence, carelessness and recklessness of the defendants, in the ownership, operation and control of their motor vehicles, without any negligence, carelessness or recklessness on the part of decedent TUEBNER contributing thereto.

34. By reason of the foregoing occurrence, decedent TUEBNER sustained a serious injury as defined in Sect. 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Sect. 5102(a) of the Insurance Law of the State of New York.

35. By reason of the foregoing occurrence, GLENN TUEBNER died.

36. This action falls within one or more of the exceptions set forth in section 1602 of the CPLR.

37. That as a result of the negligence of the defendants, MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER was obliged to and did necessarily employ medical, hospital services and funeral services and have further sustained substantial pecuniary loss as a result of the death of GLENN TUEBNER.

38. As a result of the foregoing, plaintiff, MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER, suffered injuries and damages and plaintiff requests an award of money damages in a sum which exceeds the jurisdictional limit of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION
MEDICAL MALPRACTICE
FOR WRONGFUL DEATH

39. That the plaintiff repeats, reiterates and realleges each and every allegation of the complaint, paragraphs "1" through "38" with the same force and effect as though each and every allegation were set forth more fully herein at length below.

40. The within action falls within one or more of the exceptions set forth in CPLR §1602.

41. At all times mentioned herein, defendant MERCY MEDICAL CENTER ("MEDICAL CENTER") was and still is a non-profit corporation organized and existing under the laws of New York State.

42. At all times mentioned herein, defendant MEDICAL CENTER owned, operated, and managed clinical facilities located at 100 North Village Avenue, Rockville, New York 11570.

43. At all times mentioned herein, defendant MEDICAL CENTER employed physicians, nurses and other health care providers to care for, diagnose and treat patients for the conditions from which they were suffering.

44. At all times mentioned herein, defendant MEDICAL CENTER by its agents, servants and employees, treated the decedent, GLENN TUEBNER for the conditions from which he was suffering.

45. At all times mentioned herein, defendant MEDICAL CENTER was accredited by the Joint Commission on the Accreditation of Hospitals.

46. That on or about June 2, 2004 up to and including June 11, 2004, defendant MEDICAL CENTER, by its agents, servants and employees treated the decedent GLENN TUEBNER for the conditions from which he was suffering.

47. At all times mentioned herein, defendant NEW YORK SPINAL SPECIALISTS ("NY SPINAL") was a professional corporation organized and existing under the laws of the State of New York.

48. At all times mentioned herein, defendant NY SPINAL was a partnership organized and existing under the laws of the State of New York.

49. At all times mentioned herein, defendant NY SPINAL was a sole proprietorship.

50. At all times mentioned herein, defendant NY SPINAL was and still is located in the County of Nassau.

51. At all times mentioned herein, defendant NY SPINAL owned and operated a medical practice located at located at 2001 Marcus Ave, Lake Success NY 11042.

52. At all times mentioned herein, defendant NY SPINAL employed physicians, nurses and other health care providers to care for, diagnose and treat patients for the conditions from which they were suffering.

53. That from on or about June 2, 2004 up to and including June 11, 2004, defendant NY SPINAL provided medical care to and treated plaintiff for the conditions from which he was suffering.

54. At all times mentioned herein, defendant SEBASTIAN LATTUGA, M.D. ("LATTUGA") was a physician licensed to practice medicine in the State of New York.

55. At all times mentioned herein, defendant LATTUGA held himself out to the public and to the decedent, GLENN TUEBNER as a specialist in the field of orthopedic surgery.

56. At all times mentioned herein, defendant LATTUGA was an employee of defendant MEDICAL CENTER.

57. At all times mentioned herein, defendant LATTUGA was an employee of defendant NY SPINAL.

58. At all times mentioned herein, defendant LATTUGA was and still an owner of defendant NY SPINAL.

59. At all times mentioned herein, defendant LATTUGA was an agent and/or servant of defendant NY SPINAL.

60. At all times mentioned herein, defendant LATTUGA was an agent and/or servant of defendant MEDICAL CENTER.

61. At all times mentioned herein, defendant LATTUGA was a shareholder of defendant NY SPINAL.

62. At all times mentioned herein, defendant LATTUGA acted within the scope of his employment and/or agency.

63. That on or about June 2, 2004 up to and including June 11, 2004, defendant LATTUGA treated decedent GLENN TUEBNER for the conditions from which he was suffering.

64. At all times mentioned herein, defendant MICHAEL BRESNAHAN P.A., ("BRESNAHAN") was a physician's assistant licensed to practice medicine in the State of New York.

65. At all times mentioned herein, defendant BRESNAHAN held himself out to the public and to the decedent, GLENN TUEBNER as a physician's assistant in the field of orthopedic surgery.

66. At all times mentioned herein, defendant BRESNAHAN was an employee of defendant MEDICAL CENTER.

67. At all times mentioned herein, defendant BRESNAHAN was an employee of defendant NY SPINAL.

68. At all times mentioned herein, defendant BRESNAHAN was an agent and/or servant of defendant NY SPINAL.

69. At all times mentioned herein, defendant BRESNAHAN was an agent and/or servant of defendant MEDICAL CENTER.

70. At all times mentioned herein, defendant BRESNAHAN was a shareholder of defendant NY SPINAL.

71. That on or about June 2, 2004, up to and including June 11, 2004, defendant BRESNAHAN treated the decedent GLENN TUEBNER for the conditions from which he was suffering.

72. The defendants, their agents, servants and/or employees, were negligent and departed from accepted standards of medical and surgical practice in the care and treatment rendered to decedent, GLENN TUEBNER.

73. As a result of the malpractice of the defendants, their agents, servants and/or employees, the decedent GLENN TUEBNER was caused to suffer severe pain and suffering, emotional distress, medical expenses, and ultimately, his death.

74. As a result of the foregoing, MELISSA TUEBNER requests an award of money damages.

AS AND FOR AN THIRD CAUSE OF ACTION BEHALF OF THE PLAINTIFF, FOR THE CONSCIOUS PAIN AND SUFFERING OF DECEDENT, GLENN TUEBNER

75. Plaintiff realleges, repeats and reiterates each and every allegation of the complaint, paragraphs "1" through "74" set forth above with the same force and effect as if set forth below at length.

76. That as a result of the negligence of the defendants, their agents, servants and/or employees, decedent, GLENN TUEBNER, suffered severe conscious pain and suffering prior to his death on June 11, 2004.

77. That by reason of the foregoing, conscious pain and suffering, the plaintiff MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER, has suffered injuries and damages and plaintiff requests an award of money damages.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF THE DISTRIBUTES OF THE DECEDENT, GLENN TUEBNER FOR LOSS OF SERVICES

78. That the plaintiff repeats, reiterates and realleges each and every allegation of the complaint, paragraphs "1" through "76" with the same force and effect as though each and every allegation were set forth more fully herein at length below.

79. That by reason of the foregoing conscious pain and suffering and wrongful death, the DISTRIBUTEES of GLENN TUEBNER lost the love, aid, services, guidance and comfort of GLENN TUEBNER and requests an award of money damages.

WHEREFORE, plaintiff demand judgment against the defendants on the First, Second and Third causes of action in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York

October 19, 2005

Yours, etc.,

Colleen Kirchoff
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

...TE OF NEW YORK

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MELISSA TUEBNER, as Administratrix of the Estate of GLENN TUEBNER, deceased and MELISSA TUEBNER, Individually,

Plaintiffs,

-against-

CARDINAL HEALTH 414, INC., AUTOMOTIVE RENTALS, INC., N.Y. SPINAL SPECIALISTS, ANTHONY W. GRANT, SEBASTIAN LATTUGA, M.D., MICHAEL BRESNAHAN, P.A., and MERCY MEDICAL CENTER,

Defendants.

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CARDINAL HEALTH 4145, INC., AUTOMOTIVE RENTALS, INC., and ANTHONY W. GRANT,

Third Party Plaintiffs,

-against-

SEBASTIAN LATTUGA, M.D., MICHAEL BRESNAHAN, P.A., JOHN DOES 1 - 10, JAMES DOES 1 - 10, AND JEFF DOES 1-10,

Third Party Defendants

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PLAINTIFF'S VERIFIED BILL OF PARTICULARS AS TO DEFENDANT SEBASTIAN LATTUGA, M.D.

Index No.: 012315/05

Plaintiffs by their attorneys, WINGATE, RUSSOTTI & SHAPIRO, LLP, respond to the demand of the Defendant SEBASTIAN LATTUGA, M.D., for a Verified Bill of Particulars, upon information and belief as follows:

1. The answering defendant was negligent and careless from June 8, 2004 through June 11, 2004.

2. The negligent acts took place at Mercy Medical Center, 1000 North Village Ave. Rockville Centre, NY.

3. The Defendant, SEBASTIAN LATTUGA, M.D., his agents, servants and/or

unskillful, and committed acts and omissions of malpractice and treatment of the Plaintiff, GLENN TUEBNER, in that he failed to take a proper and complete history; failed to do proper and complete physical examinations; failed to timely and appropriately evaluate the patient's condition; failed to administer proper care following his surgery; improperly treated him when he had difficulty breathing following his surgery; neglected to come to the hospital when plaintiff was having post-operative difficulties; failed to have plaintiff properly intubated; failed to verify that plaintiff was receiving proper care at the hospital following his surgery and once notified of post-operative symptoms; failed to timely return to the hospital to treat his patient post operatively; failed to use and employ the indicated and proper tests, procedures and modalities of treatment, based on the patient's physical condition, complaints, signs and symptoms, thereby causing and creating serious injuries and damage to the patient's cervical spine as well as his lungs and heart and brain and surrounding tissues; caused, permitted and allowed serious injuries including cardiopulmonary arrest and damage to the patient's cervical spine as well as his lungs and heart and brain and surrounding tissues; failed to guard against the causation and creation of the aforesaid injuries and damage to the patient's heart, lungs and brain and surrounding tissues; failed to timely diagnose the aforesaid injuries and damage to the patient's cervical spine as well as his lungs and heart and brain and surrounding tissues; failed to timely and properly institute appropriate care and treatment for the aforesaid injuries and damage to the patient's cervical spine as well as his lungs and heart and brain and surrounding tissues; failed to use and exercise his best clinical judgment and surgical skills in the management of the patient's condition; caused, permitted and allowed indicated and necessary treatment to be, become and remained delayed; failed to properly supervise the medical personnel who attended to and treated the patient; failed to properly and appropriately treat the patient's cervical spine as well as his lungs and heart and brain and surrounding tissues; failed to render proper and appropriate preoperative, operative and

failed to properly treat plaintiff's open wound after surgery; in [redacted] patient to undergo further spinal surgery; in causing, permitting and allowing the patient's spine to be, become and remain unstable; failed to properly perform spinal surgery; failed to perform adequate radiographic studies of the patient's spine; failed to timely and properly diagnose the patient's condition; failed to undertake a proper and appropriate plan of treatment; failed to consider a proper and appropriate differential diagnosis; failed to appreciate the signs and symptoms of the patient's true condition; failed to make proper and appropriate observations; failed to order and obtain proper and appropriate tests; failed to properly and appropriately evaluate all tests results; caused, permitted and allowed the patient to be improperly cared for and treated, and to continue under the improper management of his condition so that his bodily systems were compromised, traumatized and damaged; failed to recognize and diagnose the signs and symptoms of the developing situation with respect to the patient's deteriorating physical condition; failed to properly follow the patient's clinical course; failed to have adequate communication amongst the medical personnel treating the patient; failed to properly coordinate the care being rendered to this patient; failed to keep and maintain proper, complete and accurate records.

4. Improper demand seeking evidentiary information, however, Dr. Sebastian Lattuga, was assisted by personnel from anesthesia, nursing, and other ancillary health care providers. Vicarious liability is claimed with respect to the hospital, specifically the nursing staff, doctors, residents and all those failing to provide treatment or negligently treating plaintiff.

5. See response #4.

6. Plaintiff is not claiming the violation of any statutes, laws or ordinances at this time, however, plaintiff will as the court to take judicial notice of any applicable statutes, laws and/or ordinances at the time of trial.

negligence and medical malpractice of the defendants, the [redacted] GLENN TUEBNER sustained serious injuries which were caused, aggravated, activated and exacerbated, which include the following: cardiopulmonary arrest, brain death; loss of life; hematoma at surgical area; loss of breath; loss of consciousness; ; pain, suffering, and loss of enjoyment of life;

The foregoing caused pain, suffering, disability, restriction, and limitation of use and movement, loss of strength, loss of use and movement of the injured parts and such other body parts and systems as are connected thereto and reliant thereon, and such other symptomatology as are the natural sequella thereof.

That the above injuries have directly and indirectly adversely affected the nerves, tissues, blood vessels, blood supply, muscles, ligaments, cartilage, tendons, bones, and soft parts in and about the sites of the above described injured areas, including injury to the central nervous system, circulatory system, muscular system, skeletal system, respiratory, cardiovascular system, and skin.

That all of the above injuries are claimed to be permanent in nature, and resulted in the death of plaintiff.

8. Plaintiff was confined to bed in the hospital from June 8, 2004 until his death on 6/11/04.

9. Plaintiff was employed by Herricks Stamp Company, 301 Mill Road, Hewlett, New York 11577, earning $26,000.00 per year at the time of his death, which is claimed as lost earnings and future lost earnings. Plaintiff claims lost earnings/benefits in the amount of approximately $850,000. Plaintiff was incapacitated from his employment from June 8, 2004.

10. (a) Physicians' Services: Approximately $45,000.00 to date and continuing.

(b) Medical expenses: Mercy Medical Center, approximately $50,000.00.

(c) Loss of earnings: Plaintiff claims lost earnings/benefits in the amount of approximately $850,000.

(d) Funeral expenses: $8,230.00

11. Collateral source information: Plaintiffs' medical expenses were paid for by No-Fault carrier, State Farm Mutual Automobile Insurance Company. An authorization will be provided.

12. This request is palpably improper and asks for material which is evidentiary in nature and beyond the scope of a bill of particulars. An authorization will be provided.

13. (a) GLENN TUEBNER, deceased, was born on February 26, 1956;

(b) MELISSA TUEBNER, was born on December 19, 1968.

(c) Samantha Tuebner, daughter of plaintiff and decedent; was born on February 15, 1989.

(d) Not applicable.

14. Plaintiffs resided at 866 Southern Drive, Franklin Square, NY at the time of the incident. Melissa Tuebner still resides at that address.

15. Decedent died on June 11, 2004.

16. Decedent died at Mercy Medical Center, 1000 North Village Ave. Rockville Centre, NY.

17. MELISSA TUEBNER, wife of decedent was born on December 19, 1968 and resides at 866 Southern Drive, Franklin Square, NY.

Samantha Tuebner, daughter of plaintiff and decedent; resides at 866 Southern Drive, Franklin Square, NY , Date of Birth: February 15, 1989.

18. (a) see response #17.

palpably improper and asks for material which is evidentiary in nature and beyond the scope of a bill of particulars.

(c) This request is palpably improper and asks for material which is evidentiary in nature and beyond the scope of a bill of particulars.

19. This demand is objected to as improper. The names of physicians is not a proper subject of a Bill of Particulars. The purpose of a Bill of Particulars is to amplify the pleadings; a Bill of Particulars is not a discovery device. See Hanlon v. Geary, 19 Misc.2d 827, 190 N.Y.S.2d 20 (1959) Sager v. Rochester General Hospital, 170 A.D.2d 949; 566 N.Y.S.2d 122 (4th Dep't). The names and addresses of all plaintiff's physicians are provided in plaintiff's Response to Discovery and Inspection.

20. To be provided if applicable.

21. MELISSA TUEBNER, social security number is 111-56-9036.

22. GLENN TUEBNER, deceased, social security number is 117-50-4356.

23. Improper demand seeking evidentiary information, however, the aforementioned surgery was performed by defendant Dr. Sebastian Lattuga, who was assisted by personnel from anesthesia, nursing, and other ancillary health care providers. Vicarious liability is claimed with respect to the hospital, specifically the nursing staff, doctors, residents and all those failing to provide treatment or negligently treating plaintiff.

Dated: New York, New York
March 21, 2006

Yours, etc.,

William P. Hepner
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue
Suite 2750
New York, NY 10170
(212) 986-7353

EXHIBIT F

...ch, Gerspach, DeCorato & Cohen, LLP.
Attorneys for Defendant
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(212) 742-8700

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MERCY MEDICAL CENTER AND
MICHAEL BRESNAHAN, P.A.
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(516) 542-1000

Drinker Biddle & Reath, LLP
Attorneys for Defendants
CARDINAL HEALTH 414, INC.,
AUTOMOTIVE RENTALS AND
ANTHONY GRANT
500 Campus Drive
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(973) 549-7265

EXHIBIT F

ATTORNEYS VERIFICATION

WILLIAM P. HEPNER, an attorney admitted to practice before the Courts of this State, affirms the following under the penalties of perjury:

1. I am a member of the law firm of WINGATE, RUSSOTTI & SHAPIRO, LLP., attorneys for the plaintiffs in the within action, and make this verification pursuant to C.P.L.R. §3020(d)(3) in that plaintiffs do not reside in the county where our office is located.

2. I have read the foregoing **BILL OF PARTICULARS** and know the contents thereof. The same is true to my knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.

3. My belief as to the matters not stated upon my own knowledge is grounded upon information supplied to me by the plaintiff and information in the files maintained by this office.

Dated: New York, New York
March 21, 2006

WILLIAM P. HEPNER

EXHIBIT F

OF THE STATE OF NEW YORK
OF NASSAU

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MELISSA TUEBNER, as Administratrix of the Estate of Glenn Tuebner, deceased and MELISSA TUEBNER, Individually,

Plaintiff,

-against-

CARDINAL HEALTH 414, INC., AUTOMOTIVE RENTALS, INC., NY SPINAL SPECIALISTS, ANTHONY W. GRANT, SEBASTIAN LATTUGA, M.D., MICHAEL BRESNAHAN, P.A., and MERCY MEDICAL CENTER,

Defendant.

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CARDINAL HEALTH 4145, INC., AUTOMOTIVE RENTALS, INC., and ANTHONY W. GRANT,

Third Party Plaintiffs,

-against-

SEBASTIAN LATTUGA, M.D., MICHAEL BRESNAHAN, P.A. JOHN DOES 1 - 10, JAMES DOES 1 - 10, AND JEFF DOES 1-10,

Third Party Defendants

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PLAINTIFFS' SUPPLEMENTAL VERIFIED BILL OF PARTICULARS AS TO DEFENDANT LATTUGA

Index No.: 012315/05

Plaintiffs, by their attorneys WINGATE, RUSSOTTI & SHAPIRO, LLP, as and for their supplemental Verified Bill of Particulars states as follows:

3. Supplementing what was previously pled, defendant Lattuga was negligent, unskillful, and committed acts and omissions of malpractice in his care and treatment of the Plaintiff, GLENN TUEBNER as follows: in Dr. Lattuga's failure to timely diagnose and treat post-operative hemorrhage once the decedent arrived on the floor; the failure to diagnose excessive bleeding, which saturated the neck dressing; the failure to timely and immediately

when the decedent had signs and symptoms of partial airway obstruction due to excessive bleeding around the operative site, post anterior cervical fusion; the failure to appreciate, diagnose and treat the excessive bleeding, clots, difficulty swallowing and swelling in the neck post- anterior cervical fusion surgery; the failure to order and immediately return to decedent back to the operating room; abandonment of the decedent by failing to come back to the hospital when the decedent was experiencing post-operative excessive bleeding and hemorrhage; the failure to exam the decedent in the hospital post-operatively, when the decedent had evidence of post-operative excessive bleeding and hemorrhage in his neck at the operative site; the failure to obtain a stat surgical suite with an anesthesiologist to perform immediate surgery; the failure to request a prompt surgical evaluation and surgery; the failure to properly supervise and direct the physician's assistant; the failure to diagnose and treat the known complication of post-operative hemorrhage following an anterior cervical fusion surgery ; the failure to request the physician's assistant to obtain an immediate surgical consult to drain and cauterize the operative site in the decedent's neck; the failure the follow-up with the decedent's unstable excessive post-operative bleeding; the failure to direct and supervise staff to immediately treat the decdent's excessive bleeding with clots; failure to discuss with the hospital nurses as to the decedent's post-operative excessive bleeding; negligently and recklessly allowing the physician's assistant to administer Ativan, Morphine, and Vistaril which were clearly contraindicated in the presence of severe obstructive respiratory distress; recklessly and negligently brought the decedent back to surgery following his respiratory and cardiac arrest when there was clear and unequivocal evidence of brain death, negligently performed surgery on the brain dead

medical and ethical standards in performing surgery on the brain

dead decedent.

As a result of Dr. Lattuga's negligence, the decedent experienced extreme difficulty swallowing, pain and suffering, shortness of breath, respiratory distress, obstructive airway, hemorrhage, suffocation, brain damage, brain death, no brain waves, and ultimately, death.

Dr. Lattuga, as the attending physician, directing the decedent's care is vicariously liable for the supervision and direction of the hospital nurses and physician's assistant during the entire post-operative period..

Dated: New York, New York
June 27, 2006

Yours, etc.,

William P. Hepner
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff(s)Melissa Tuebner
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

TO:

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EXHIBIT F